

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

APRIL 8, 2019 CITY COUNCIL AGENDA

EXECUTIVE SESSION:

The Portland City Council will meet in Executive Session at 5:00 p.m. in Room 208 to discuss bargaining guidance for Portland Firefighters Local 740 pursuant to 1MRSA Sec. 405(6)(D).

SPECIAL CITY COUNCIL MEETING:

The Portland City Council will hold a Special City Council meeting at 5:30 p.m. in City Council Chambers. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the March 18, 2019 Draft City Council Meeting Minutes

PROCLAMATIONS:

Proclamation 24-18/19 Honoring Mr. Steve Luttrell and Cafe Review 30th Anniversary - Sponsored by Mayor Ethan K. Strimling

Proclamation 25-18/19 Recognizing the Week of April 22nd - 26th as Community Development Week - Sponsored by Mayor Ethan K. Strimling

APPOINTMENTS:

Order 194-18/19 Appointing Councilor Kim Cook to the Early Childhood Revenue Task Force - Sponsored by Mayor Ethan K. Strimling

This order is to appoint Councilor Kim Cook to the Early Childhood Revenue Task Force.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 195-18/19 Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Hamza Sharifshoble– Sponsored by Jon P. Jennings, City Manager

This order authorizes the City Council to approve the transfer of \$736.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Hamza Sharifshoble.

The money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

Order 196-18/19 Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Ronald Matthew Francis – Sponsored by Jon P. Jennings, City Manager

This order authorizes the City Council to approve the transfer of \$913.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Ronald Matthew Francis.

The money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

Order 197-18/19 Declaring August 9, 10 and 11, 2019 the 94th Annual St. Peters Bazaar and Italian Street Festival – Sponsored by Jon P. Jennings, City Manager

This order declares Friday, Saturday and Sunday, August 9, 10 and 11, 2019 the 94th Annual St. Peter's Bazaar and Italian Street Festival.

The Festival area shall be Federal Street (India Street to Franklin Street), and the adjoining sidewalks.

Further details about the event are included in the agenda backup.

Order 198-18/19 Declaring August 24, 2019 the Portland Fine Craft Show Festival – Sponsored by Jon P. Jennings, City Manager

This order declares Saturday, August 24, 2019 the Portland Fine Craft Show Festival.

The Portland Fine Craft Show Festival area shall be Congress Street and the abutting side streets, sidewalks and squares between and including High Street to State Street.

Further details about the event are included in the agenda backup.

Order 199-18/19 Declaring May 1 to October 31, 2019 the In the Square Festival – Sponsored by Jon P. Jennings, City Manager

This order declares May 1 to October 31, 2019 the Friends of Congress Square Park In the Square Festival, at Congress Square Park.

The In the Square Festival area shall be all of Congress Square Park and sidewalks bordering the park.

Further details about the event are included in the agenda backup.

Order 200-18/19 Declaring June 23 and 30, and August 6 and 13, 2019 the Friends of Lincoln Park LoveLincolnPark Summer Concert Series Festival – Sponsored by Jon P. Jennings, City Manager

This order declares June 23 and 30, and August 6 and 13, 2019 the Friends of Lincoln Park LoveLincolnPark Summer Concert Series Festival, running for four Tuesdays.

Further details about the event are included in the agenda backup.

Order 201-18/19 Declaring July 18 through August 10, 2019 Shakespeare in the Park Festival – Sponsored by Jon P. Jennings, City Manager

This order declares July 18 through August 10, 2019 Fenix Theatre Company's Shakespeare in the Park Festival, at Deering Oaks Park.

Further details about the event are included in the agenda backup.

Order 202-18/19 Declaring July 11 - August 29, 2019 the Friends of Eastern Promenade Summer Community Concert Series Festival - Sponsored by Jon P. Jennings, City Manager

This order declares July 11 - August 29, 2019 the Friends of Eastern Promenade Summer Community Concert Series Festival, scheduled for Thursday evenings at Fort Allen Park.

Further details about the event are included in the agenda backup.

Order 203-18/19 Declaring June 15, 2019 the Pride Portland! Parade and Festival - Sponsored by Jon P. Jennings, City Manager.

This order declares June 15, 2019 the Portland Pride! Parade and Festival.

Further details about the event are included in the agenda backup.

Five affirmative votes are required for passage of the Consent Calendar after public comment.

LICENSES:

Order 204-18/19 Granting Municipal Officers' Approval of AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street - Sponsored by Jon P. Jennings, City Manager

AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street. This item must be read on two separate days.

Application was filed on 3/11/2018. New City and State applications. This is a change of ownership of an existing business.

Five affirmative votes are required for passage after public comment.

Order 205-18/19 Granting Municipal Officers' Approval of Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with Outdoor Dining on Public Property at 52 Wharf Street.- Sponsored by Jon P. Jennings, City Manager

Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with Outdoor Dining on Public Property at 52 Wharf Street.

Application was filed on 2/22/2019. New City application. Applicant currently holds a Class XI at this location.

Five affirmative votes are required for passage after public comment.

Order 206-18/19 Granting Municipal Officers' Approval of Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue- Sponsored by Jon P. Jennings, City Manager

Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue.

Application was filed on 3/5/2019. New City application. Applicant currently holds a Class I FSE with Entertainment with Dance.

Five affirmative votes are required for passage after public comment.

Order 207-18/19 Granting Municipal Officers' Approval of Harry and Maries LLC dba Shay's Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square - Sponsored by Jon P. Jennings, City Manager

Harry and Maries LLC dba Shay's Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square.

Application was filed on 3/18/2019. New City Application. Applicant currently holds a Class I FSE.

Five affirmative votes are required for passage after public comment.

Order 208-18/19 Granting Municipal Officers' Approval of MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street- Sponsored by Jon P. Jennings, City Manager

MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street.

Application was filed on 3/19/2019. New City and State Applications. Applicant currently holds a Class III & IV FSE with Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

Order 209-18/19 Granting Municipal Officers' Approval of NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue -Sponsored by Jon P. Jennings, City Manager

NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue.

Application was filed on 3/19/2019. New City and State Applications. Location was previously Hella Good Tacos.

Five affirmative votes are required for passage after public comment.

Order 210-18/19 Granting Municipal Officers' Approval of Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street - Sponsored by Jon P. Jennings, City Manager

Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street.

Application was filed on 3/13/2019. New City applications. Location was previously a warehouse.

Five affirmative votes are required for passage after public comment.

Order 211-18/19 Granting Municipal Officers' Approval of Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street -Sponsored by Jon P. Jennings, City Manager

Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street.

Application was filed on 3/19/2019. New City and State Applications. Applicant currently holds a FSE with Prep.

Five affirmative votes are required for passage after public comment.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

BUDGET ITEMS:

Order 212-18/19 Receiving and Referring City Manager's Fiscal Year 2020 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on the Fiscal Year 2020 Municipal Budget and Fiscal Year 2020 Appropriation Resolve - Sponsored by Jon P. Jennings, City Manager

Under this order the City Council receives the City Manager's proposed budget and refers it to the Finance Committee for review. The Finance Committee will review the budget starting on April 9, at 5:30 p.m. in Room 209.

The City Manager will present an overview of the budget followed by the Mayor's comments as required in the City Charter.

Budget material will be distributed at the City Council meeting.

The first read of the FY20 Appropriation Resolve and Public Hearing will be May 6th at 5:30 p.m. at City Hall, in City Council Chambers.

A City Council workshop to discuss the Municipal Budget will be held on May 13th at 5:30 p.m. at City Hall, in City Council Chambers.

Final City Council action on the Municipal Budget will take place at the City Council meeting on May 20, 2019, at 5:30 p.m. at City Hall in City Council Chambers.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 96-18/19 Approving Revised Purchase and Sale Agreement with Waterstone Properties Group, Inc. - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

Economic Development Committee meeting on March 19, 2019, and voted was unanimously (4-0) to forward this item to the City Council with a recommendation for approval.

A REVISED Purchase and Sale Agreement is presented to the City Council for approval to sell a City-owned 4.82 acre vacant “land locked” parcel to the Waterstone Properties Group, Inc., for the new sale price of \$100,000.

Despite the extensive easement restrictions and wetlands which cross this property, the buyer hopes to develop this property in the future. Based upon the buyer’s interest to possibly develop this property, in the future, a new property sale price was negotiated in the amount of \$100,000.

At the February 20, 2019 City Council meeting, this item was postponed to the February 20, 2019 meeting. Five affirmative votes are required for passage after public comment.

Order 186-18/19 Approving Communications Union Contract - Sponsored by Jon P. Jennings, City Manager

Staff has reached a tentative agreement with the Communications Employee Association on a successor two (2) year contract. The prior collective bargaining agreement expired June 30, 2018.

The Communications Employee Association, which is comprised of 32 Telecommunicators and Telecommunications Supervisors, one Fire Alarm Specialist and one Radio Systems Specialist, has reached a tentative agreement with the City. The Administration is requesting a first reading on March 18, 2019. The tentative agreement is within the guidance received by the City Council on November 5, 2018.

The City and the Communications Unit have reached a tentative agreement on a two (2) year contract with a 3.0% general wage increase for Fiscal Year (FY) 2019 retroactive to July 1, 2018 and a 3.0% general wage increase effective July 7, 2019. The duration of the contract and the COLA recommendations are consistent with the bargaining strategy previously discussed with the Council.

Other economic items tentatively agreed to are:

- Employees will receive Holiday premium pay for actual hours scheduled for the day of the Holiday, either eight (8) hours or twelve (12) hours.
- \$.10 per hour increase to educational stipends
- \$.10 per hour increase to all shift differentials.
- Add \$.75 per hour to each step of the Supervisor pay scale after implementing 1st year of COLA to provide incentive to become a supervisor
- Increase Field Training stipend from \$1.00 per hour to \$1.35 per hour
- Increase on call pay from \$15 per day weekdays and \$22.50 per day weekends and Holidays to \$16 per day weekdays and \$23.50 weekends and Holidays

The union has voted to approve this Agreement, and once approved by Council the Agreement will govern the rights of the parties from July 1, 2018 through June 30, 2020.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct costs for the two (2) year agreement is approximately \$145,000.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

Order 187-18/19 Appropriating \$550,000 for Automated Exit Portals at the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

The Portland International Jetport is proposing to make the following improvements.

- Supply and installation of two automated secure exit portals \$375,000
- Security staffing for exit lane during construction \$ 35,000
- Building improvements necessary to accept secure exit portals \$140,000
- Total \$550,000

These improvements will update and replace the existing automated secure exit portal with two new units providing higher throughput, lower operating costs, and greater security.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes re required for passage after public comment.

Order 188-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Cumberland Avenue, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Cumberland Avenue. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$99,275.00, and an additional \$14,000.00 for manhole adjustments from a water resources fund.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

Order 189-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Danforth Street - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Danforth Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Danforth Street. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$176,650.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

Order 190-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to India Street - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill India Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves India Street. The agreement obligates the City to pay MaineDOT for \$289,000.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

Order 191-18/19 Amendment to the Portland City Code Chapter 35 Re: Earned Paid Sick Leave - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Belinda Ray, Chair

The Health and Human Services Committee met on February 26, 2019, and voted unanimously to forward this item to the City Council with a recommendation for passage.

Over the past 12 years, 47 municipalities, counties, and states have enacted Earned Paid Sick Leave Ordinances (including 13 New Jersey municipalities which were later pre-empted when the state law passed in 2018).

On September 18, 2017, the City Council referred a proposed Earned Paid Sick Time Ordinance, which was brought forward by Mayor Strimling in collaboration with the Southern Maine Workers' Center and the Maine Women's Lobby, to the Council's Health & Human Services and Public Safety committee. On November 27, 2017, the committee had an initial discussion of the ordinance and began working to craft a version of the ordinance designed specifically for Portland.

The committee spent nearly 15 months examining ordinances from other municipalities and states, talking with constituents and area businesses, receiving public comment via email, phone, and in person, and holding two public hearings. On February 26th, the HHS & PS Committee voted 3-0 to forward the ordinance on to the Council with a recommendation for passage.

The ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked. Employees would begin earning paid sick time on their first day of employment and would be able to begin using their accrued time after their 70th day of employment or the date this ordinance becomes applicable, whichever is later.

Employees would be eligible to use up to 40 hours of their accrued time annually for the purposes and under the conditions described in the ordinance.

Businesses of all sizes are covered by the ordinance, as are all employees who work at least 120 hours annually for an employer, whether they are full-time, part-time, or seasonal. There are, however, exemptions for some per diem employees, Federal Work Study students, and new businesses, which are exempt from the ordinance for one year from the date of hire of their first employee.

As written, the ordinance would become applicable 180 days after the date of passage.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

Order 192-18/19 Amendment to Portland City Code Chapter 18 Parks, Recreation and Public Buildings and Ground Re: Formalizing the Boundaries of Boyd Street Gardens - Sponsored by Councilor Belinda Ray

Boyd Street Gardens (a.k.a., Franklin Reserve, a.k.a., Boyd Street Urban Farm) was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203-13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that the properties would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

A review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides a solid case for including the entire parcel (022 F023) in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

Order 193-18/19 Amendment of Portland City Code Chapter 25 Streets, Sidewalks, and Other Public Places Re: Outdoor Dining Permits - Sponsored by Jon P. Jennings, City Manager

Historically, state law has prohibited the off-site sale of liquor by a licensed establishment unless the sale was on public or privately owned property immediately adjacent to the licensed establishment. It is for this reason that all outdoor dining permits issued by the City for dining on City sidewalks have historically required that outdoor dining areas be limited to the sidewalk space immediately adjacent to the restaurant. That state law was recently amended and now allows establishments with liquor licenses to serve alcohol on municipally owned property not immediately adjacent to the licensed establishment if the municipality has given its approval.

In response to this change in the law, this amendment will create a new outdoor dining permit and set fees for “parklet” outdoor dining spaces that utilize dedicated City parking spaces when sidewalk space immediately adjacent to a licensed eating establishment does not permit outdoor dining. The Amendment is to City Code Section 25-27. It is proposed as a pilot project with a limited number of available spaces initially to allow careful monitoring by staff to ensure public safety and to ensure that initial guidelines and restrictions constitute best practices when it comes to regulation of these spaces.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 213-18/19 Approving Modification of the Three-Party Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Congress Street Intersection Improvements - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT), the City of Portland, and Portland Area Comprehensive Transportation System, WIN 022132.00, obligates MaineDOT to update traffic signal controls, technology and communications, as well as a number of new signal structures and related ADA ramp updates. Lastly, the work will allow for this section of Congress Street to be transit priority ready. The agreement obligates the City to pay \$158,562.50, or 25% of the total cost of the estimated \$634,250.00.

This item must be read on two separate days. This is its first reading.

Order 214-18/19 Approving Assignment of Tax Increment Financing Credit Enhancement Agreement held by Portland Public Market LLC to East End Corporation - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair

On March 19, 2019, the Economic Development Committee voted 4-0 to forward this item to the City Council with an recommendation for approval.

This order would approve the assignment of a City of Portland Tax Increment Financing (TIF) Credit Enhancement Agreement (CEA) from the Portland Public Market, LLC to East End Corporation because of a change of property ownership.

In 2009, the City Council approved a TIF District to stimulate new private sector investment in the former Portland Public Market to support the Portland relocation and retention of the former Power Pay Company (credit card transaction company) to purchase and redevelop the site for their company headquarters. The TIF CEA included a thirty-year term with a 75% capture rate for the first eight years, followed by a 50% capture rate for the remainder of the term. It is noted that this property had a declining municipal assessed value while vacant before the property purchase and redevelopment. Additionally, it is noted that this building was redeveloped to a LEED Gold design standard.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

Order 215-18/19 Amendment to Portland City Code Chapter 6 Re: Rental Housing Advisory Committee - Sponsored by the Housing Committee, Council Jill C. Duson, Chair

The Housing Committee met on March 27 and voted 2-0 (Cook absent) to forward this item to the City Council with a recommendation for passage.

Several attempts have been made to recruit members for the Rental Housing Advisory Committee. To facilitate appointments to the committee, amendments to the ordinance have been proposed to clarify legislative intent and to expand the applicant pool for the Rental Housing Advisory Committee. The following amendments to Chapter 6, Section 6-225 are recommended:

1. Pine Tree Legal Assistance and Southern Maine Landlord Association can propose a name for the tenant and landlord legal representatives;
2. The Nominating Committee can move forward without a recommendation from either group if they do not present a name or endorse a candidate that has applied; and
3. The legal representative can live or work in the City of Portland.

This item must be read on two separate days. This is its first reading.

MINUTES ARE DRAFT UNTIL APPROVED BY THE CITY COUNCIL AT THE FOLLOWING MEETING.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Strimling called the meeting to order at 5:35P .M. (Councilor Costa arrived during the announcements.)

ANNOUNCEMENTS:

Councilor Ali announced that on March 11, 2019 he traveled to Washington D.C. and spoke with the Maine delegation to discuss current municipal issues and how they could help advocate for the State. It is important for the municipality to maintain a healthy working relationship with the National delegates to provide continued support.

Councilor Ray announced that Tuesday March 19, 2109 there would be a Health and Human Services meeting in Room 24 of City Hall.

Councilor Batson announced that a friend and colleague who sits to his left (Councilor Thibodeau) birthday is today. He wished him a happy birthday.

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the City Council draft minutes of February 20, 2019 and March 4, 2019.

Motion was made by Councilor Costa and seconded by Councilor Ray for approval of the minutes. Passage 9-0.

PROCLAMATIONS:

APPOINTMENTS:

Order 175-18/19 Appointing Hanna Pickering as the Information Technology Director - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Cook and seconded by Councilor Duson for passage as an emergency. Passage 9-0.

CONSENT ITEMS:

LICENSES:

Order 176-18/19 Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Costa for passage. Passage 9-0.

Order 177-18/19 Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for passage. Passage 9-0.

Order 178-18/19 Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage. Passage 9-0.

Order 179-18/19 Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Batson for passage. Passage 9-0.

Order 180-18/19 Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Batson for passage. Passage 9-0.

Order 182-18/19 Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 9-0.

Order 183-18/19 Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Thibodeau and seconded by Councilor Batson for passage. Passage 9-0.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Mayor Stimling took Resolution 13 out of order to be taken up with Order 173.

**Resolution 12-18/19 Supporting Banning All Non-Medical Vaccination Exemptions -
- Sponsored by Mayor Ethan Strimling**

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for passage. Passage 8-1 (Cook).

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

UNFINISHED BUSINESS:

Order 172-18/19 Approving Federal Aviation Administration Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 9-0.

ORDERS:

Order 184-18/19 Dedicating Tax-Acquired Land on Holbrook Street as a Land Bank Property Interest - Sponsored by Patrizia Bailey/Co-Chair, Land Bank Commission.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage.
Passage 7-2 (Strimling, Cook).

Order 185-18/19 Approving Parking Division Daily Parking Fees for the Queuing Lanes at Ocean Gateway - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Batson and seconded by Councilor Ray for passage.
Passage 8-0 (Ali out)

Order 186-18/19 Approving Communications Union Contract - Sponsored by Jon P. Jennings, City Manager

First Reading

Order 187-18/19 Appropriating \$550,000 for Automated Exit Portals at the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

First Reading.

Order 188-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager

First Reading.

Order 189-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Danforth Street - Sponsored by Jon P. Jennings, City Manager

First Reading.

Order 190-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to India Street - Sponsored by Jon P. Jennings, City Manager

First Reading.

AMENDMENTS:

Order 191-18/19 Amendment to the Portland City Code Chapter 35 Re: Earned Paid Sick Leave - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Belinda Ray, Chair

First Reading.

Order 192-18/19 Amendment to Portland City Code Chapter 18 Parks, Recreation and Public Buildings and Ground Re: Formalizing the Boundaries of Boyd Street Gardens - Sponsored by Councilor Belinda Ray

First Reading.

Order 193-18/19 Amendment of Portland City Code Chapter 25 Streets, Sidewalks, and Other Public Places Re: Outdoor Dining Permits - Sponsored by Jon P. Jennings, City Manager

First Reading.

Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager

Motion was made by Mayor Strimling and seconded by Councilor Costa to reconsider Order 173. Passage 7-0 (Ray, Batson out).

Motion was made by Mayor Strimling and seconded by Councilor Cook to change the date to April 22, 2019. Passage 7-0 (Ray, Batson out).

Motion was made by Councilor Costa and seconded by Councilor Thibodeau for passage as amended. Passage 7-0 (Ray, Batson out).

Resolution 11-18/19 Adopting the Fiscal Year 2020 Annual Action Plan including appropriations for Community Development Block Grant Program, HOME Program, and Emergency Solutions Grant Program and certifications pertaining thereto -- Sponsored by Jon P. Jennings, City Manager

Public Comment was taken.

EXECUTIVE SESSION:

PROCLAMATION

HONORING
Mr. Steve Luttrell
Café Review 30th Anniversary

WHEREAS, The Café Review, dedicated to Maine Poetry and Artwork, turns 30 years old this year; and

WHEREAS, Mr. Steve Luttrell and his amazing staff, all volunteers, have been at the forefront of Maine Poetry all these years; and

WHEREAS, Mr. Steve Luttrell, former poet laureate of Portland has advanced and spread poetry in Maine, Ireland, Great Britain, Canada and Iceland; and

WHEREAS, The Café Review continues to publish art and poetry, enhancing the Maine Art Scene

NOW, THEREFORE, BE IT RESOLVED, THAT I Ethan K. Strimling, Mayor of the City of Portland and members of the City Council, do hereby honor Mr. Steve Luttrell and Café Review on their 30th anniversary.

Signed and sealed this 14th day of March, 2019



Ethan K. Strimling, Mayor
City of Portland, Maine

PROCLAMATION

COMMUNITY DEVELOPMENT WEEK

WHEREAS: Community Development Week is the time of year where we highlight the impact the Community Development Block Grant (CDBG) and the HOME Investment Partnership Program have in our community; and

WHEREAS: since 1975, the CDBG program has provided annual funding and flexibility to the city of Portland to provide decent affordable housing, ensure services are available to the most vulnerable in our communities, fund public infrastructure improvements, and create jobs through the expansion and retention of businesses; and

WHEREAS: HOME is the largest Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households, its flexibility empowers people and communities to design and implement strategies tailored to their own needs and priorities; and

WHEREAS: The city of Portland has used CDBG and HOME funds to support numerous social service organizations, improve public infrastructure and facilities, create affordable housing, and create economic opportunities; and

WHEREAS: These programs have made a difference in the lives of thousands of people in Portland;

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim the week of April 22nd -26th as Community Development Week and acknowledge the activities scheduled this week will highlight the importance of and tremendous contributions the Community Development Block Grant and the HOME Investment Partnership Program have in the City of Portland.

BE IT FURTHER RESOLVED, that we urge Congress and the Administration to recognize the outstanding work being done locally with CDBG and HOME funds by providing increased funding for both programs in FY 2020.

Signed and sealed this ___th day of April, 2019

**Ethan K. Strimling, Mayor
City of Portland, Maine**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 28, 2019

SUBJECT: Order 194-18/19 Appointing Councilor Kim Cook to the Early Childhood Revenue Task Force - Sponsored by Mayor Ethan K. Strimling

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This order is to appoint Councilor Kim Cook to the Early Childhood Revenue Task Force.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Councilor Cook appointed to Early Childhood Revenue Task Force 4.8.2019

Prepared by:

Date: 3/28/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPOINTING COUNCILOR COOK TO
THE EARLY CHILDHOOD REVENUE TASK FORCE**

ORDERED, that Councilor Kim Cook is hereby appointed to the Early Childhood Revenue Task Force organized by Starting Strong at ConnectEd Portland.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TRANSFER OF FUNDS
UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: HAMZA SHARIFSHOBLE**

ORDERED, that the City Council hereby accepts \$736.00in forfeited assets in the case of State of Maine vs. Hamza Sharifshoble from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached “Approval of Transfer.”

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-18-2215

State of Maine

v.

Hamza Sharifshoble
Defendant

\$736.00 U.S. CURRENCY
Defendant In Rem

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City of Portland
Approval of Transfer
15 M.R.S. §5824(3)
and §5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant *In Rem*, namely \$736.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the portion of the Defendant *In Rem*, namely \$736.00, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6) on April 8, 2019.

Dated: _____

Mayor
(Impress Legislative Body Seal Here)

AARON M. FREY
ATTORNEY GENERAL



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

March 12, 2019

REGIONAL OFFICES
84 HARLOW ST. 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

415 CONGRESS ST., STE. 301
PORTLAND, MAINE 04101
TEL: (207) 822-0260
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

TEL: (207) 626-8800
TTY USERS CALL MAINE RELAY 711

Portland Police Department
Interim Chief Vern Malloch
109 Middle Street
Portland, ME 04101

RE: State of Maine vs. Hamza Sharifshoble
Cumberland County Unified Criminal Court Doc. No. CR-18-2215
Criminal Forfeiture
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Malloch:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) **if subsequently ordered forfeited by the Court;**

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture "approval" and a "continuing resolution" of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) *In Rem* will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body's approval only signifies that, if the Defendant(s) *In Rem* are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) *In Rem* to a Department, Agency, County or Municipality based upon the "substantial contribution" of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) *In Rem* or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or

municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are **cautioned** that they **should not encumber** funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is "embossed" with the seal of the municipality. Then, please return the **original** to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Johanna Gauvreau for".

Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure

STATE OF MAINE
Cumberland, ss

UNIFIED CRIMINAL COURT
Docket No. CR-18-2215

State of Maine	}	
	}	
v.	}	City of Portland
	}	Approval of Transfer
	}	15 M.R.S. §5824(3) and §5826
Hamza Sharifshoble,	}	
Defendant;	}	
	}	
And	}	
	}	
\$736.00 U.S. Currency	}	
Defendant(s) In Rem	}	

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and §5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant *In Rem* namely \$736.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City of Portland, Maine pursuant to 15 M.R.S. § 5824(3) and §5826(6) as approved on _____ 2019.

Mayor

(Impress municipal legislative body seal here)

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING TRANSFER OF FUNDS
UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: RONALD MATTHEW FRANCIS

ORDERED, that the City Council hereby accepts \$913.00 in forfeited assets in the case of State of Maine vs. Ronald Matthew Francis from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached “Approval of Transfer.”

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-19-3

State of Maine

v.

Ronald Matthew Francis
Defendant

\$913.00 U.S. CURRENCY
Defendant In Rem

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}

City of Portland
Approval of Transfer
15 M.R.S. §5824(3)
and §5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant *In Rem*, namely \$913.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the portion of the Defendant *In Rem*, namely \$913.00, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6) on April 8, 2019.

Dated: _____

Mayor
(Impress Legislative Body Seal Here)

AARON M. FREY
ATTORNEY GENERAL



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

TEL: (207) 626-8800
TTY USERS CALL MAINE RELAY 711

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14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

March 12, 2019

Portland Police Department
Interim Chief Vern Malloch
109 Middle Street
Portland, ME 04101

RE: State of Maine vs. Ronald Matthew Francis
Cumberland County Unified Criminal Court Doc. No. CR-19-3
Criminal Forfeiture
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Malloch:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) **if subsequently ordered forfeited by the Court;**

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture "approval" and a "continuing resolution" of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) *In Rem* will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body's approval only signifies that, if the Defendant(s) *In Rem* are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) *In Rem* to a Department, Agency, County or Municipality based upon the "*substantial contribution*" of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) *In Rem* or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or

municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are **cautioned** that they **should not encumber** funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is "embossed" with the seal of the municipality. Then, please return the **original** to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Johanna Gauvreau for".

Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure

STATE OF MAINE
Cumberland, ss

UNIFIED CRIMINAL COURT
Docket No. CR-19-3

State of Maine	}	
	}	City of Portland
v.	}	Approval of Transfer
	}	15 M.R.S. §5824(3) and §5826
Ronald Matthew Francis,	}	
Defendant;	}	
	}	
And	}	
	}	
\$913.00 U.S. Currency	}	
Defendant(s) In Rem	}	

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and §5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant *In Rem* namely \$913.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City of Portland, Maine pursuant to 15 M.R.S. § 5824(3) and §5826(6) as approved on _____ 2019.

Mayor

(Impress municipal legislative body seal here)

MEMORANDUM
City Council Agenda Item

FROM: Ted Musgrave
DATE: March 22, 2019
SUBJECT: **Order 197-18/19 Declaring August 9, 10 and 11, 2019 the 94th Annual St. Peters Bazaar and Italian Street Festival – Sponsored by Jon P. Jennings, City Manager**

SPONSOR: City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/8/2019 **Final Action 4/8/2019**

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: none

I. SUMMARY

Order declaring Friday, Saturday and Sunday, August 9, 10 and 11, 2019 as “94th Annual St. Peter’s Bazaar and Italian Street Festival.”

II. AGENDA DESCRIPTION

This order declares Friday, Saturday and Sunday, August 9, 10 and 11, 2019 the 94th Annual St. Peter’s Bazaar and Italian Street Festival.

The Festival area shall be Federal Street (India Street to Franklin Street), and the adjoining sidewalks.

Further details about the event are included in the agenda backup.

III. BACKGROUND

St. Peter’s Church and Friary has sponsored this Bazaar & Festival for many years. The festival blends Italian epicurean delights with games for children and teenagers, games of chance and music and dancing in the evening hours. Attendance at the festival is estimated at 1,500 per night.

Those attending the 3-day Festival may purchase meals and desserts. Games of chance will also cost a nominal fee. Proceeds are to benefit the church. The stage area, activities and booths are set up in the street (parking lanes). Organizers may request that a Festival banner be hung across Congress Street at the City Hall location.

In order for this festival to be held, a portion of Federal Street (India Street to Franklin Street) needs to be closed to vehicular traffic on Friday, Saturday and Sunday, August 9, 10, and 11, 2019, from 12 noon to 12 midnight and posted “No Parking.” Vehicles in violation of the “No Parking” signs shall be towed at owner’s expense.

Hours for the festival are: Friday, Saturday + Sunday: 5pm – 9pm. Some setup for the festival on the street and sidewalks takes place on Friday morning/afternoon.

There are no rain dates.

The festival zone is Federal Street (India to Franklin Street) and the adjoining sidewalks. The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of St. Peter's Church, for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the St. Peter's Festival organizers for the use of the above-described area for said Festival, subject to the following conditions:

St. Peter's Festival organizers shall be responsible for any costs incurred by City departments for the purposes of facilitating the Festival, including, but not limited to: Police Department charges, Public Assembly Facility Division

fees, Parking Control fees, Building Inspections fees, and Business Licensing fees;

The St. Peter's Festival organizers shall be solely responsible for trash cleanup at the festival and shall be required to leave a Park Security Deposit (amount determined by the Public Assembly Facility Division Director or designee) on file at the PAFD Office;

Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival;

The St. Peter's Festival organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;

Conditions for use of grounds and requirements for food service, vending sales, tent and stage installations, and other items specified in a permit issued from PAFD Office, shall be adhered to; and

The St. Peter's Festival organizers shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the "St. Peter's Bazaar and Italian Street Festival" activities, and the City be endorsed on the policy.

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Declare event a Festival.

V. FINANCIAL IMPACT

Festival organizer covers cost of any associated permit fees, license fees, and city staff assistance.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Recommend passage.

VIII. LIST ATTACHMENTS

1. St. Peters Bazaar 4.8.2019
2. St. Peter's Bazaar 2019 - Fed. St. - AP (council)

Prepared by:

Ted Musgrave

Date: 3/22/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING AUGUST 9, 10 AND 11, 2019
THE 94th ANNUAL ST. PETER'S BAZAAR
AND ITALIAN STREET FESTIVAL**

ORDERED, that August 9, 10 and 11 is hereby declared to be the 94th Annual St. Peter's Bazaar and Italian Street Festival, sponsored by the St. Peter's Church and Friary; and

BE IT FURTHER ORDERED, that the 94th Annual St. Peter's Bazaar and Italian Street Festival area shall be Federal Street (India Street to Franklin Street) and the adjoining sidewalks from 12 noon until 12 midnight for all three days; and

BE IT FURTHER ORDERED, that a portion of Federal Street (India Street to Franklin Street) may be posted No Parking on Festival days from 12 noon until 12 midnight; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival Area shall be towed at owner's expense; and

BE IT FURTHER ORDERED, that the 94th Annual St. Peter's Bazaar and Italian Street Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to St. Peter's Church and Friary under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. St. Peter's Church and Friary shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. St. Peter's Church and Friary shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;
3. St. Peter's Church and Friary shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. St. Peter's Church and Friary shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the 94th Annual St. Peter's Bazaar and Italian Street Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors St. Peter's Church and Friary has agreed shall participate; and
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.

MEMORANDUM
City Council Agenda Item

FROM: Ted Musgrave
DATE: March 22, 2019
SUBJECT: **Order 198-18/19 Declaring August 24, 2019 the Portland Fine Craft Show Festival – Sponsored by Jon P. Jennings, City Manager**
SPONSOR: City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/8/2019 **Final Action 4/8/2019**

Can action be taken at a later date: Yes

PRESENTATION: none

I. SUMMARY

Order declaring the Portland Fine Craft Show, scheduled for Saturday, August 24, 2019 as a Festival.

II. AGENDA DESCRIPTION

This order declares Saturday, August 24, 2019 the Portland Fine Craft Show Festival.

The Portland Fine Craft Show Festival area shall be Congress Street and the abutting side streets, sidewalks and squares between and including High Street to State Street.

Further details about the event are included in the agenda backup.

III. BACKGROUND

Please note: again this year, the WCSH Sidewalk Art Festival (which would usually take place on this same date: Saturday, August 24, and extend down Congress Street, from High to Elm Street) has been canceled, so only the west side of Congress Street (from High Street to State Street) will be closed to vehicular traffic.

The Portland Fine Craft Show is organized by the Maine Crafts Association (MCA). This is the fifth year their event will be held here on Congress Street. Festival organizers are requesting that Congress Street (from High Street to State Street) be closed to vehicular traffic; High Street, at the intersection of Congress Street, would stay open to commuters (same with State Street). Individual vendors will set up 110 10'x10' canopy booth spaces on Congress Street. Sidewalks remain open for pedestrians. Emergency Lane kept open in the middle of street. 5000 attendees are expected for this event. Vendors will sell their crafts to the general public. Organizers will invite 2 or 3 Food Trucks into the festival zone (park on Congress Street near Longfellow Square).

In order for this festival to be held, a portion of Congress Street and abutting side streets need to be closed to vehicular traffic and posted "No Parking." The street closures will extend along Congress Street - High Street to State Street (Longfellow Square) and also include the following side streets: Avon St., Park St., and Vernon Pl. leading up to Congress Street. Streets would be closed from 6am – 7pm on Saturday, August

24, 2019 (**Festival runs 9am – 5pm**). The parking ban would extend the same distance and continue from 5am until 7pm, Saturday, August 24, 2019.

The Festival area (Congress Street itself and the abutting side streets, sidewalks and squares between and including High Street to State Street) will be closed to street vendors and artists pursuant to Section 19-17 of the Portland City Code and is reserved for the use of MCA, for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the “no parking” signs in the Festival Zone (interior roadways) shall be towed at owner’s expense.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the MCA Portland Downtown Craft Show organizers for the use of the above-described area for said Festival, subject to the following conditions:

MCA shall be responsible for reimbursing the Police Dept. and Parking Control Office for services, the Public Works Dept. for services, the Public Assembly Facilities Division for staff fees, barricade fees, and permit fee for use of the street, and the Business Licensing Office for license fees;

The MCA Portland Fine Craft Show organizers shall be solely responsible for trash cleanup at the festival and shall be required to leave a Park Security Deposit (amount determined by the Public Assembly Facilities Director or designee) on file at the PAFD Event Office;

Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival;

The MCA Portland Fine Craft Show organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;

Conditions for use of grounds and requirements for food service, vending sales, tent and stage installations, and other items specified in a permit issued from PAFD Office, shall be adhered to; and

The MCA Portland Fine Craft Show organizers shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the “MCA Portland Fine Craft Show” activities, and the City be endorsed on the policy.

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Festival Declaration

V. FINANCIAL IMPACT

Festival organizer covers cost of any associated permit fees, license fees, and city staff assistance.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Recommend passage.

VIII. LIST ATTACHMENTS

1. Portland Fine Craft Show 4.8.2019
2. Portland Fine Craft Show 2019 - Aug 24 - AP (council)

Prepared by:

Ted Musgrave

Date: 3/22/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING AUGUST 24, 2019
THE PORTLAND FINE CRAFT SHOW FESTIVAL**

ORDERED, that Saturday, August 24, 2019, from 9 a.m. to 5 p.m., is hereby declared to be the Portland Fine Craft Show Festival, sponsored by the Maine Crafts Association; and

BE IT FURTHER ORDERED, that the Portland Fine Craft Show Festival area shall be Congress Street and the abutting side streets, sidewalks and squares between and including High Street to State Street; and

BE IT FURTHER ORDERED, that a portion of Congress Street and abutting side streets may be closed to vehicular traffic from 6:00 a.m. to 7:00 p.m., and may be posted No Parking from 5:00 a.m. to 7:00 p.m. on the Festival day, August 24, 2019; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Portland Fine Craft Show Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Maine Crafts Association under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Maine Crafts Association shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Maine Crafts Association shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;
3. The Maine Crafts Association shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. The Maine Crafts Association shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Portland Fine Craft Show Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors the Maine Crafts Association has agreed shall participate; and
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (5 pages)
 212 Canco Rd. • Portland • ME • 04103 • (207) 808-5400 x0
 Ted Musgrave tvm@portlandmaine.gov

APPLICATION FEE \$25.00

PAYMENT MUST BE MADE WHEN SUBMITTING APPLICATION

(This is a transferrable/non-refundable fee. If your event is permitted, the \$25.00 will be credited toward your permit fee.)

For uses of city property, there are typically: 1) fees charged for use of the area, 2) a security deposit required, and 3) insurance required.
 There may be fees due and applications required from other City Departments.

TODAY'S DATE		2/7/2019 Revised: 2-7		ORGANIZATION NAME		Maine Crafts Association	
ADDRESS (Street/City/State/Zip)		PO Box 342 Gardiner, ME 04345					
CONTACT NAME(S)		Sadie Bliss Dorothy Royle		TITLE(S)		MCA Executive Director Show Manager	
PHONE		PHONE		PHONE		PHONE	
EMAIL	sadie@mainecrafts.org		EMAIL	dorothy@mainecrafts.org		EMAIL	

PARK AREA / PUBLIC SPACE REQUESTED		Congress Street - BOTH Lanes closed to vehicles between HIGH and STATE	
EVENT DAY(S) & DATE(S)		8/24/2019 SAT	RAIN DAY(S) & DATE(S) (50% added fee) none
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)		5am-7pm	EVENT START & END TIME 9am-5pm (for 2019 – one hour longer than 2018, which ended at 4pm)

EVENT NAME	EXPECTED ATTENDANCE
2019 Portland Fine Craft Show - 5 th Annual https://mainecrafts.org/programs/portland-fine-craft-show/	5000 throughout the day

DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe Event in detail.

A public and free craft show/festival. Event will go before City Council for Festival Declaration status.

PFCS will have 110 exhibitors in their own individual booths selling their handmade goods. Individual vendors will set up 10x10 booth spaces on Congress street (closed to vehicular traffic from 5am-7pm) between High and State streets.
 Vernon Place and Avon Street residents, will be able to access their vehicles into this closed off section of street (from the State Street side) via assistance from PCO at that intersection.

A parking ban along Congress Street is needed, from 5am to 7pm. Set up begins at 6am. Cars will be towed between 5 and 6am. Vehicles in violation of the "no parking" signs in the Festival Zone (interior roadways) shall be towed at owner's expense.

Sidewalks remain open for pedestrians. EMERGENCY LANE kept open in middle of street.

Organizer will coordinate with city regarding hiring of PCOs and police for morning towing and throughout the day.
Additional safety + fortification measures will be required – the city will work with organizer to implement these. Organizer is to cover the cost of these safety measures.

Porta-restrooms rented by organizer, placed at various locations along Congress St.
 If any Food Trucks are participating, they will be parked at least 100 feet back from State Street, so that Vernon Place residents can have easier access to that street.
 There may be a live music performance at Congress Sq. (arranged and coordinated by Friends of Congress Sq.) in the afternoon.

Organizer will contact **UHAUL SHARED CAR** organization to discuss getting car relocated for the day, and will contact METRO.

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT? Not to attend, but vendors pay to participate.	Please check: ☒ FEE ☐ PLEDGES	
	FEE	\$165 -200 per vendor. Some vendors do not pay if they qualify for our "outreach" educational program.
IF YES FOR FEES, HOW MUCH?	STUDENT FEE	\$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?

Parking will be in lots and on the street. Maine Med lot is reserved for vendors. Many attendees also use public transportation or walk.

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

		X-YES	X-NO	X-NOT SURE
*	Are you setting up a canopy(s) ? (10'x10' size or smaller) How many? 110	X		
*	Do you wish to set up a tent(s) and/or stage(s) ? A canopy/tent or stage larger than 10'x10' needs a Temporary Tent or Stage Permit issued by Building Inspections. For permit application, please go to: http://portlandmaine.gov/DocumentCenter/Home/View/2317 or contact the Permitting and Inspections Department at buildinginspections@portlandmaine.gov or 874-8703 for more information. PLEASE apply at least 2-weeks before your event. Tent/Stage Size(s): Exact Location(s) of Tent/Stage Placement Requested: *** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. ***		X	
*	Will you be setting up tables and/or chairs ? How many tables: chairs: <i>NO, BUT: Individual exhibitors will have tables and chairs within their 10x10 tents</i>		X	
*	Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:		X	
*	Will there be refreshments at the event? Do you wish to sell food ? If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office. PLEASE provide them at least 2 weeks advance notice (874-8557). List food and drink / Food Trucks, etc.: PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served A TFSL is needed when food vendors are not licensed or when food is being prepared and cooked at the event.		X	
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, please apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. List items you wish to sell: Craft – for example: handmade cermaics, jewelry, clothing, glass, etc (we will submit a list of all craft vendors needing permits in August)	X		
*	Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band? DJ? Boom Box? If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.		X	
*	Will your event require electricity ? Electricity is available at Deering Oaks Park, Monument		X	
*	Are you planning on bringing a Grill for a Barbecue ? Grilling is subject to weather conditions and possibly Fire Dept. review.		X	
*	Will the event require reserved parking spaces / parking meters ? How many? 40 "No Parking" signs may be purchased at the PAFD Office, 212 Canco Rd.	X		
*	Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow/rent: Limited orange vests, cones & barricades may be borrowed/rented from PAFD Office. Traffic signs may be borrowed/rented from Public Works if needed (874-8493).	X		
*	Will your event require street closures ? (Please be specific under "Description of Event") Will your event affect METRO BUS ROUTES ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gfonton@gpmetro.org) to discuss.	X		
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To reserve & hire an Officer(s) to be on site at your event, please call Sgt. Nevins (874-8554) or Police Shift Command (874-8855/8556) well in advance to arrange.	X		
*	Will your event require Fire/EMS assistance? (For a large walk/race, it may be required.) To hire or inquire about hiring city Fire/EMS staff to be on site, please email fireprevention@portlandmaine.gov well in advance of the event. For general questions, you may also call 874-8400.		X	
*	Will your event require Parking Control assistance? To hire a Parking Control Officer(s) to be on site at your event, please call 874-8910 well in advance to arrange.	X		
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.				

*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated Septic.	X		
*	Do you wish to have a banner over the street to advertise your event? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to PAFD: 808-5400 x0.		X	

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X		
♦ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions. ♦ Both the Certificate of Insurance and Additional Insured Endorsement shall be sent to tvm@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).				

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

EVENT REVIEW

The PAFD Office holds a monthly meeting where proposed events are discussed and reviewed by City Departments. For some events, organizers will be asked to present before the committee. Some potential factors may necessitate your event receive City Council approval.

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements. If a generator is used, please take all necessary measures to ensure safe operation. Bring a fire extinguisher, set generator up away from activities (and combustibles), store fuel source away from the generator and keep children away from the generator.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by PAFD Office and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where refreshments are being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannaford's, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach - Winter & Early Spring: Just EEB.) If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Please DO NOT mark city property in any permanent way. DO NOT use SPRAY PAINT or SPRAY CHALK. DO NOT STAPLE or NAIL anything to trees. Children's Art Chalk can be used on hardscape areas with permission from PAFD Office. Tape may also be used. If markings remain for more than a few rain storms, event organizers are responsible for removing them. If city staff or contractors need to remove the markings, event organizers are responsible for the cost of staff time and materials. You may also place signs on stakes in the grass areas bordering trails/race routes (when applicable). Please remove all signage immediately following the event.

USE OF CANDLES

It is preferred that LED lighted candles or glow sticks are used. If flammable candles are used, please make sure all candles have drip protectors to prevent wax from dripping on hardscape surfaces, which may cause permanent stains/damage. Please make sure all candles are extinguished before being thrown away. Please collect all spent candles so there is no trash left behind. Please take safety precautions: bring a fire extinguisher, gallon of water, etc. in case of fire. **Any damage** (dripped wax absorbed into hardscape causing stains, etc.) **will result in a**

forfeiture of your security deposit.

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Vehicles are prohibited from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$20 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas will result in a forfeiture of your security deposit.**

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs (\$20 each*). You will need to label signs and tape them to meters or signposts AT LEAST 24 HOURS PRIOR TO YOUR EVENT. (NOTE: If event is on a Sunday or Monday, NP Signs may need to be posted on the preceding Friday by Noon.) Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to sign posts, utility poles, trees, or orange cones (placed on the sidewalk beside the street). The PAFD Office has cones it can rent to you (see fee structure below) if needed. To ensure you can have vehicles (illegally parked at signs you've posted) towed, please complete and fax/email/hand deliver to city departments a "No Parking Authorization Form," which you can get from staff when you pick up NP signs. Please make sure signs are removed once the event is complete. ***Under certain conditions, the reserved parking fee may be reduced. Upon review of your application, PAFD will advise if your event qualifies for a reduction. If paying a reduced rate, towing may not be enforceable. PAFD will advise regarding these parameters as well.**

ALCOHOL / SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Consumption of alcohol is prohibited in public spaces unless specifically approved by City Council. Please inform all participants / attendees.

AMPLIFIED SOUND POLICY

Outdoor events with amplified sound may require a Concert License from the PAFD Office.
If the Police Dept./City Staff receive noise complaints, they will respond accordingly.
PA System up with speakers facing away from businesses/residences to lessen impact.
Please keep volume levels low out of consideration for nearby residents and businesses.
The Permittee (organizer) shall not allow the sound emanating from the event to exceed an A-weighted 92 decibels. One verbal warning shall be issued if the sound has been found to have exceeded 92 decibels. The warning may be given to the sound board operator or the organizer/organizer's designee. If the 92 decibel limit is found to have been exceeded a second time during the same event, the single event concert permit (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELATION POLICY

Event must be cancelled with PAFD prior to event date in order to be eligible for a refund.
If cancelled within 2 weeks of scheduled event date, a \$75 cancellation fee may be charged.

NOTIFICATION

Please keep a copy of your event permit on site at all times. City staff may require proof of permit.
If there are members of the public in the reserved space upon arrival, please present the permit as proof of reservation & approved usage. If you need assistance, please contact the Police Department at (207) 874-8574.
Please ask Portland newspapers to run an article alerting the public to the event.
You may put up temporary A-frame signs to alert the public to your event or place signage on orange cones, etc. Signs are to be up DAY OF EVENT ONLY. Please remove all signage immediately following the event.
Please call Portland Police Dept. (874-8574) on the day of your event to remind them it is taking place.
Please notify any nearby businesses, including restaurants that may have tables out for dining, to alert them to your event.

STREET CLOSURE NOTIFICATION

Should event involve a Street Closure, lasting longer than an hour, PAFD Office requires organizers to give advanced notification to area businesses, residents and bus companies (in the form of a "Street Closure Sign Off Sheet"). If event impacts METRO Buses, organizer (in advance) must discuss detour plans with METRO.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.
- ♦ Police or City Staff on site may use their discretion to revise conditions of use.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES

TYPE INITIALS

SB

DATE

2/7/2019

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	SB	DATE	2/7/2019
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PLEASE INITIAL & DATE HIGH-LIGHTED YELLOW BOXES ABOVE.

FEE SCHEDULE – UPDATED JULY 1, 2018

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$75/hour	Electricity (activation/de-activation) Fee: \$40/flat
Event with registration or pledges & attendance 25 - 300: \$125/hr	Porta Restroom User Fee (if attendance is 150+): \$25
Event with registration or pledges & attendance 301+: \$225/hr	Single Concert License: \$38
Public Space/Park Security Deposit: \$100 - \$1000	Barricades: \$5/ea. Rental Fee + \$25/ea. Security Deposit
Sound Security Deposit: \$100 - \$1,000	Bike Racks: \$10/ea. Rental Fee + \$25/ea. Security Deposit
Impact/Street Closure Fee (variable based on impact): \$100-\$500	Flashing Lights: \$10/ea. Rental Fee + \$40/ea. Security Deposit
Staff Fee (on site event support): \$37/hour	Cones: \$2/ea. Rental Fee + \$15/ea. Security Deposit
Administrative Fee (event coordination support): \$40/hour or more	Safety Vests: \$15/ea. Security Deposit
"No Parking" Signs: \$1 / \$20 each	Keys: \$50/ea. Security Deposit
Cancellation Fee: \$75	Equipment Delivery Fee: \$100

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)			
Permit Fee for use of area:	\$ 3150	Single Concert (Amplified Sound) License Fee:	\$ 0
Number of Hours of Use: Approx. 14 5am-7pm	CC to be charged	Equipment Rental Fee:	\$ TBD
Staff Fee (on site event support):	\$ TBD	Public Space / Park / Sound Security Deposit:	\$ 0
Admin. Fee (event coordination support):	\$ TBD	Borrowed / Rented Equipment Deposit:	\$ TBD
Electricity Fee (activation/de-activation):	\$ 0	Additional Fees:	\$ 40 TBD
Impact/Street Closure Fee (variable based on impact):	\$ 500 CC fo be charged	(Porta-Restroom User Fee, "No Parking" Signs, etc.)	TBD
		Safety Measures.....	

FOR OFFICE USE ONLY

DATE APPLICATION RECEIVED: 2-7-2019

APPLICATION FEE:	\$ 25.00	PERMIT FEE:	\$ CC to be charged	SECURITY DEPOSIT:	\$ CC on file	INSURANCE NEEDED?	Yes
DATE RECEIVED:	TB charged	DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:	2-7-19

PAYMENT TYPE

VISA / MC NUMBER:			0414	CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD AMOUNT:	\$25	CREDIT CARD EXP. DATE:	05/21	CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE RETURN FORM (WORD DOC) AT LEAST 30 DAYS IN ADVANCE TO:

♦ Public Assembly Facilities Div. ~ 212 Canco Rd. ~ Portland ~ ME ~ 04103 **EMAIL PREFERRED:** tvm@portlandmaine.gov

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING APRIL 20 TO OCTOBER 31, 2019
THE IN THE SQUARE FESTIVAL**

ORDERED, that April 20-October 31, 2019 is hereby declared to be the In the Square Festival, sponsored by the Friends of Congress Square Park; and

BE IT FURTHER ORDERED, that the In the Square Festival area shall be the all of Congress Square Park and the sidewalks bordering the park (Congress Street & High Street sidewalks); and

BE IT FURTHER ORDERED, that some areas of the parking land on Congress Street (directly beside the park) may be posted No Parking on Festival days (most events will be held on Wednesdays, Fridays & Saturdays, with some Sundays being used; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the In the Square Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Friends of Congress Square Park under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Friends of Congress Square Park shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Friends of Congress Square Park shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;
3. The Friends of Congress Square Park shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. The Friends of Congress Square Park shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the In the Square Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors the Friends of Congress Square Park has agreed shall participate;
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level;

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Sally L. DeLuca

Director

Department of Parks, Recreation & Facilities

Andrew J. Downs

Director

Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: Feb. 28, 2019
RE: **Council Agenda Item – Friends of Congress Square Park
“In the Square Festival”**

I am requesting that the following order be placed on
the next City Council agenda (Mon. Mar. 18):

**Order declaring Friends of Congress Square Park “In the Square Festival”
as a weekly festival event: April 20 – October 31, 2019.**

Since 2014, the Friends of Congress Square Park have scheduled and organized on-going events for Congress Square Park. Last year's events were very well received by the public. Visitor attendance to the park has increased dramatically since the friends began organizing events there; organizers estimate 80,000+ people have enjoyed the programming there since its inception in 2014.

This year the Friends of Congress Square Park have again submitted a request to organize and host events at the park (titled: “In the Square Festival”). The event season (Spring, Summer & Fall) will include a wide variety of community activities such as art interactions, dance performances, live music, films and community gatherings. Most events will be held on Wednesday, Friday & Saturdays (with some Sundays being used: Movies in the Park). A complete calendar of events will be published by April 1st. Dances and concerts at the park will end by 9pm. The Friends of Congress Square Park - through the city's Public Assembly Facilities Division, will work with other groups during this time so that other agencies and events, other than FoCSP organized activities, may take place in the park.

Funds for running the “In the Square Festival” will come directly from fundraising efforts by the Friends of Congress Square Park. There is no admission charge to the events: concerts and activities/events are free to the public.

The festival zone for the “In the Square Festival” is all of Congress Square Park and the sidewalks bordering the park (Congress Street & High Street sidewalks).

The Order should include the following items:

Friends of Congress Square Park “In the Square Festival” be authorized for Spring, Summer & Fall (April 20 – October 31, 2019), at Congress Square Park area.

(continued)



Sally L. DeLuca

Director

Department of Parks, Recreation & Facilities

Andrew J. Downs

Director

Public Assembly Facilities Division

This festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of festival organizers for the purpose of conducting the "In the Square Festival," subject to the direction and control of the City Manager.

In order to hold the events on city property, some areas of the parking lane on Congress Street (directly beside the park), need to be posted "No Parking" on event days. Vehicles in violation of the "No Parking" signs shall be towed at owner's expense.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Friends of Congress Square Park for the use of the above-described area for said Festival subject to the following conditions:

- The Friends of Congress Square Park shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the "In the Square Festival", and the City be endorsed on the policy;
- The Friends of Congress Square Park shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the "In the Square Festival;"
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division, shall be adhered to;
- Under no circumstances may alcoholic beverages be consumed or sold on the streets or park areas of said area during said festival;
- Any and all amplified music/public announcements shall be maintained at a reasonable level (under 92dBs) and be configured by the event organizer to focus volume away from residential housing and neighboring businesses, limiting any sound impacts in the area; and
- Public Assembly Facility Division permit fees for use of the area are waived; other fees to city departments may be due (as specified in the 2018 Memorandum of Understanding between City of Portland and Friends of Congress Square Park).

(continued)

Portland, Maine



Yes. Life's good here.

Sally L. DeLuca

Director

Department of Parks, Recreation & Facilities

Andrew J. Downs

Director

Public Assembly Facilities Division

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

Document prepared by Ted Musgrave, PAFD Event Coordinator

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER DECLARING JULY 23 AND 30, AUGUST 6 AND 13, 2019
THE LOVELINCOLNPARK SUMMER CONCERT SERIES FESTIVAL

ORDERED, that Tuesday evenings, July 23 and 30 and August 6 and 13, from 6 to 7:30 pm, are hereby declared to be the LoveLincolnPark Summer Concert Series Festival, sponsored by the Friends of Lincoln Park; and

BE IT FURTHER ORDERED, that the LoveLincolnPark Summer Concert Series Festival area shall be Lincoln Park; and

BE IT FURTHER ORDERED, that some parking spaces on Congress Street and on Federal Street, directly beside the park, may be posted No Parking on Festival days; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the LoveLincolnPark Summer Concert Series Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Friends of Lincoln Park under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Friends of Lincoln Park shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Friends of Lincoln Park shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;

3. The Friends of Lincoln Park shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. The Friends of Lincoln Park shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the LoveLincolnPark Summer Concert Series Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors the Friends of Lincoln Park has agreed shall participate; and
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (5 pages)
 212 Canco Rd. • Portland • ME • 04103 • (207) 808-5400 x0
 Ted Musgrave tvm@portlandmaine.gov

APPLICATION FEE \$25.00

PAYMENT MUST BE MADE WHEN SUBMITTING APPLICATION

(This is a transferrable/non-refundable fee. If your event is permitted, the \$25.00 will be credited toward your permit fee.)

For uses of city property, there are typically: 1) fees charged for use of the area, 2) a security deposit required, and 3) insurance required.
 There may be fees due and applications required from other City Departments.

TODAY'S DATE		2/5/2019 REVISED: 2-6		ORGANIZATION NAME		FRIENDS OF LINCOLN PARK, INC	
ADDRESS (Street/City/State/Zip)		168 York Street, Portland, ME 04101					
CONTACT NAME(S)		Frank & Sharon Reilly		TITLE(S)		President, Secretary/Treasurer	
PHONE		PHONE		PHONE		PHONE	
EMAIL	fsreilly@aol.com	EMAIL		EMAIL		EMAIL	

PARK AREA / PUBLIC SPACE REQUESTED		Lincoln Park (the entire park)	
EVENT DAY(S) & DATE(S)		Tuesdays: 7/23, 7/30, 8/6, 8/13 2019	RAIN DAY(S) & DATE(S) (50% added fee)
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)		4-8pm	EVENT START & END TIME Concert runs 6-7:30pm

EVENT NAME	EXPECTED ATTENDANCE
LoveLincolnPark Summer Concert Series Website: LoveLincolnPark.org	75—200

DESCRIPTION OF EVENT: Please be specific regarding **area of public space/park** and **describe EVENT in detail**. Please include a detailed MAP of the proposed EVENT AREA, proposed ROUTE (road race) &/or proposed STREET CLOSURE (parade, March, rally, etc.), as these will need to be approved by City Departments. Please provide a link(s) to social media sites being used to publicize the event.

Band to be set up by the fountain, facing west. Sound gear and musical equip. set up – on concrete sidewalk (most likely). Audience will occupy any space they wish (and may bring in chairs, blankets, picnics). ELEC will come from the ELEC BOX at Lincoln Park.

During performance, fountain will be shut off (lights will still stay on – but water turned off). Some Food Trucks may be invited to sell at the concerts (Trucks parked at designated FT parking spaces on Congress Street). FT's will be currently licensed FT's.

Some parking spaces on Congress and on Federal Street will need to be reserved (cones to be borrowed). Sponsor Banners / Signs to be hung off the wrought iron fence surrounding the park. No porta-restroom will be available. City Council to declare concert series a Festival (festival declaration status).

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT? NO	Please check: _____ FEE _____ PLEDGES	
	FEE	\$
IF YES FOR FEES, HOW MUCH?	STUDENT FEE	\$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?
We anticipate needing 3-8 parking spaces along Federal at the east end for band members and FOLP volunteers.

PLEASE CHECK OFF AND ANSWER:
PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (10'x10' size or smaller) How many?		X	
* Do you wish to set up a tent(s) and/or stage(s) ? A canopy/tent or stage larger than 10'x10' needs a Temporary Tent or Stage Permit issued by Building Inspections. For permit application,		X	

	please go to: http://portlandmaine.gov/DocumentCenter/Home/View/2317 or contact the Permitting and Inspections Department at buildinginspections@portlandmaine.gov or 874-8703 for more information. PLEASE apply at least 2-weeks before your event. Tent/Stage Size(s): Exact Location(s) of Tent/Stage Placement Requested: *** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. ***			
*	Will you be setting up tables and/or chairs ? How many tables: chairs:			X
*	Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:		X	
*	Will there be refreshments at the event? Only food trucks Do you wish to sell food? NO If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office. PLEASE provide them at least 2 weeks advance notice (874-8557). List food and drink / Food Trucks, etc.: PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served A TFSL is needed when food vendors are not licensed or when food is being prepared and cooked at the event.	?	X	
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, please apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. List items you wish to sell:		X	
*	Are you setting up a PA (sound) system? Are you planning on having Amplified Music? yes Band? yes DJ? Boom Box? If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.	X		
*	Will your event require electricity ? Electricity is available at Deering Oaks Park, Monument Square, Congress Square, Tommy's Park, Post Office Park, Payson Park, Preble Street Grass Area, Eastern Prom, Fort Allen Park, and Lincoln Park. A \$40 activation fee is required.	X		
*	Are you planning on bringing a Grill for a Barbecue ? Grilling is subject to weather conditions and possibly Fire Dept. review.		X	
*	Will the event require reserved parking spaces / parking meters ? How many? 3-8 estimated "No Parking" signs may be purchased at the PAFD Office, 212 Canco Rd.	X		
*	Will your event need safety vests, signs, barricades and/or cones? Please list what you would like to borrow/rent: Cones for no parking signs Limited orange vests, cones & barricades may be borrowed/rented from PAFD Office. Traffic signs may be borrowed/rented from Public Works if needed (874-8493).	X		
*	Will your event require street closures ? (Please be specific under "Description of Event")		X	
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To reserve & hire an Officer(s) to be on site at your event, please call Sgt. Nevins (874-8554) or Police Shift Command (874-8855/8556) well in advance to arrange.		X	
*	Will your event require Fire/EMS assistance? (For a large walk/race, it may be required.)		X	
*	Will your event require Parking Control assistance? To hire a Parking Control Officer(s) to be on site at your event, please call 874-8910 well in advance to arrange.		X	
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.				
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated Septic.		X	

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	?		
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♦ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions.

♦ Both the **Certificate of Insurance** and **Additional Insured Endorsement** shall be sent to tvm@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

EVENT REVIEW

The PAFD Office holds a monthly meeting where proposed events are discussed and reviewed by City Departments. For some events, organizers will be asked to present before the committee. Some potential factors may necessitate your event receive City Council approval.

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements. If a generator is used, please take all necessary measures to ensure safe operation. Bring a fire extinguisher, set generator up away from activities (and combustibles), store fuel source away from the generator and keep children away from the generator.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by PAFD Office and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where refreshments are being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannaford's, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach - Winter & Early Spring: Just EEB.) If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Please DO NOT mark city property in any permanent way. DO NOT use SPRAY PAINT or SPRAY CHALK. DO NOT STAPLE or NAIL anything to trees. Children's Art Chalk can be used on hardscape areas with permission from PAFD Office. Tape may also be used. If markings remain for more than a few rain storms, event organizers are responsible for removing them. If city staff or contractors need to remove the markings, event organizers are responsible for the cost of staff time and materials. You may also place signs on stakes in the grass areas bordering trails/race routes (when applicable). Please remove all signage immediately following the event.

USE OF CANDLES

It is preferred that LED lighted candles or glow sticks are used. If flammable candles are used, please make sure all candles have drip protectors to prevent wax from dripping on hardscape surfaces, which may cause permanent stains/damage. Please make sure all candles are extinguished before being thrown away. Please collect all spent candles so there is no trash left behind. Please take safety precautions: bring a fire extinguisher, gallon of water, etc. in case of fire. **Any damage** (dripped wax absorbed into hardscape causing stains, etc.) **will result in a forfeiture of your security deposit.**

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Vehicles are prohibited from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$20 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas will result in a forfeiture of your security deposit.**

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs (\$20 each*). You will need to label signs and tape them to meters or signposts AT LEAST 24 HOURS PRIOR TO YOUR EVENT. (NOTE: If event is on a Sunday or Monday, NP Signs may need to be posted on the preceding Friday by Noon.) Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to sign posts, utility poles, trees, or orange cones (placed on the sidewalk beside the street). The PAFD Office has cones it can rent to you (see fee structure below) if needed. To ensure you can have vehicles (illegally parked at signs you've posted) towed, please complete and fax/email/hand deliver to city departments a "No Parking Authorization Form," which you can get from staff when you pick up NP signs. Please make sure signs are removed once the event is complete. ***Under certain conditions, the reserved parking fee may be reduced. Upon review of your application, PAFD will advise if your event qualifies for a reduction. If paying a reduced rate, towing may not be enforceable. PAFD will advise regarding these parameters as well.**

ALCOHOL / SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Consumption of alcohol is prohibited in public spaces unless specifically approved by City Council. Please inform all participants / attendees.

AMPLIFIED SOUND POLICY

Outdoor events with amplified sound may require a Concert License from the PAFD Office.
If the Police Dept./City Staff receive noise complaints, they will respond accordingly.
PA System up with speakers facing away from businesses/residences to lessen impact.
Please keep volume levels low out of consideration for nearby residents and businesses.
The Permittee (organizer) shall not allow the sound emanating from the event to exceed an A-weighted 92 decibels. One verbal warning shall be issued if the sound has been found to have exceeded 92 decibels. The warning may be given to the sound board operator or the organizer/organizer's designee. If the 92 decibel limit is found to have been exceeded a second time during the same event, the single event concert permit (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELLATION POLICY

Event must be cancelled with PAFD prior to event date in order to be eligible for a refund.
If cancelled within 2 weeks of scheduled event date, a \$75 cancellation fee may be charged.

NOTIFICATION

Please keep a copy of your event permit on site at all times. City staff may require proof of permit.
If there are members of the public in the reserved space upon arrival, please present the permit as proof of reservation & approved usage. If you need assistance, please contact the Police Department at (207) 874-8574.
Please ask Portland newspapers to run an article alerting the public to the event.
You may put up temporary A-frame signs to alert the public to your event or place signage on orange cones, etc. Signs are to be up DAY OF EVENT ONLY. Please remove all signage immediately following the event.
Please call Portland Police Dept. (874-8574) on the day of your event to remind them it is taking place.
Please notify any nearby businesses, including restaurants that may have tables out for dining, to alert them to your event.

STREET CLOSURE NOTIFICATION

Should event involve a Street Closure, lasting longer than an hour, PAFD Office requires organizers to give advanced notification to area businesses, residents and bus companies (in the form of a "Street Closure Sign Off Sheet"). If event impacts METRO Buses, organizer (in advance) must discuss detour plans with METRO.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.
- ♦ Police or City Staff on site may use their discretion to revise conditions of use.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	FER/SSR	DATE	2/5/19
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ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	FER/SSR	DATE	2/5/19
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PLEASE INITIAL & DATE HIGH-LIGHTED YELLOW BOXES ABOVE.

FEE SCHEDULE – UPDATED JULY 1, 2018

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$75/hour	Electricity (activation/de-activation) Fee: \$40/flat
Event with registration or pledges & attendance 25 - 300: \$125/hr	Porta Restroom User Fee (if attendance is 150+): \$25
Event with registration or pledges & attendance 301+: \$225/hr	Single Concert License: \$38
Public Space/Park Security Deposit: \$100 - \$1000	Barricades: \$5/ea. Rental Fee + \$25/ea. Security Deposit
Sound Security Deposit: \$100 - \$1,000	Bike Racks: \$10/ea. Rental Fee + \$25/ea. Security Deposit
Impact/Street Closure Fee (variable based on impact): \$100-\$500	Flashing Lights: \$10/ea. Rental Fee + \$40/ea. Security Deposit
Staff Fee (on site event support): \$37/hour	Cones: \$2/ea. Rental Fee + \$15/ea. Security Deposit
Administrative Fee (event coordination support): \$40/hour or more	Safety Vests: \$15/ea. Security Deposit
"No Parking" Signs: \$1 / \$20 each	Keys: \$50/ea. Security Deposit
Cancellation Fee: \$75	Equipment Delivery Fee: \$100

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

- ♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)			
Permit Fee for use of area: Number of Hours of Use: Approx. 4 hours each day	\$ waived Friends event	Single Concert (Amplified Sound) License Fee:	\$ 100 flat fee for licenses charged
		Equipment Rental Fee:	\$
Staff Fee (on site event support):	\$	Public Space / Park / Sound Security Deposit:	\$ waived
Admin. Fee (event coordination support):	\$	Borrowed / Rented Equipment Deposit:	\$ NEED if items borrowed
Electricity Fee (activation/de-activation):	\$ waived	Additional Fees:	\$ waived
Impact/Street Closure Fee (variable based on impact):	\$	(Porta-Restroom User Fee, "No Parking" Signs, etc.)	

FOR OFFICE USE ONLY									
DATE APPLICATION RECEIVED:									
APPLICATION FEE:	\$ 25.00	PERMIT FEE:	\$ NEED License Fee	SECURITY DEPOSIT:	\$ TBD	INSURANCE NEEDED?	TBD		
DATE RECEIVED:	waived	DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:			
PAYMENT TYPE									
VISA / MC NUMBER:				CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD AMOUNT:	\$	CREDIT CARD EXP. DATE:		CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED									

PLEASE RETURN FORM (WORD DOC) AT LEAST 30 DAYS IN ADVANCE TO:

♦ Public Assembly Facilities Div. ~ 212 Canco Rd. ~ Portland ~ ME ~ 04103 **EMAIL PREFERRED:** tvm@portlandmaine.gov

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER DECLARING JULY 18 THROUGH AUGUST 10, 2019
THE SHAKESPEARE IN THE PARK FESTIVAL

ORDERED, that July 18 through August 10 is hereby declared to be the Shakespeare in the Park Festival, sponsored by the Fenix Theater Company; and

BE IT FURTHER ORDERED, that the Shakespeare in the Park Festival area shall be Deering Oaks Park Ravine & Reflecting Pool areas, grass and hillside areas bordering the ravine, and Farmers Market Roadway; and

BE IT FURTHER ORDERED, that streets in the Shakespeare in the Park festival area may be posted No Parking on Festival days; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Shakespeare in the Park Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Fenix Theater Company under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Fenix Theater Company shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Fenix Theater Company shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;

3. The Fenix Theater Company shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. The Fenix Theater Company shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Shakespeare in the Park
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors the Fenix Theater Company has agreed shall participate;
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (4 pages)
 212 Canco Rd. • Portland • ME • 04103 • (207) 808-5400 x0
 Ted Musgrave tvm@portlandmaine.gov

APPLICATION FEE \$25.00

PAYMENT MUST BE MADE WHEN SUBMITTING APPLICATION

(This is a transferrable/non-refundable fee. If your event is permitted, the \$25.00 will be credited toward your permit fee.)

For uses of city property, there are typically: 1) fees charged for use of the area, 2) a security deposit required, and 3) insurance required.
 There may be fees due and applications required from other City Departments.

TODAY'S DATE		2/27/19 Revised: 3-1, 3-5		ORGANIZATION NAME		Fenix Theatre Company	
ADDRESS (Street/City/State/Zip)		28 Woodmoor Rd, So Portland ME 04106					
CONTACT NAME(S)		Robert Cameron/Peter Brown			TITLE(S)		Co-Artistic Directors
PHONE		PHONE		PHONE		PHONE	
EMAIL	rob@fenixtheatre.com		EMAIL	Peter3brown@gmail.com		EMAIL	

PARK AREA / PUBLIC SPACE REQUESTED		The area around the reflecting pool (Ravine Area)	
EVENT DAY(S) & DATE(S)		Sun- Wed 7/14-7/17 for dress rehearsals and Thurs-Sat 7/18 - 8/10/19 performances EXCEPTION Sat 7/27 for FON, instead we request Sunday 7/28.	
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)		6pm-8:30pm	
		RAIN DAY(S) & DATE(S) (50% added fee)	No rain dates.
		EVENT START & END TIME	6:30pm-8:00pm

EVENT NAME		EXPECTED ATTENDANCE
"A Midsummer Night's Dream" by William Shakespeare.		75-125 people per performance.
DESCRIPTION OF EVENT:		
Fenix will be producing Shakespeare's classic comedy in and around the reflecting pool in Deering Oaks. Electricity is need for the small PA system used on site.		
IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?		NO

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? N/A

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (10'x10' size or smaller) How many?		X	
* Do you wish to set up a tent(s) and/or stage(s) ? A canopy/tent or stage larger than 10'x10'		X	
* Will you be setting up tables and/or chairs ? How many tables: chairs:		X	
* Are other items or equipment being placed on City property?		X	
* Will there be refreshments at the event?		X	
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)?		X	
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band? DJ? Boom Box? If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.	X		

*	Will your event require electricity ? Electricity is available at Deering Oaks Park, Monument Square, Congress Square, Tommy's Park, Post Office Park, Payson Park, Preble Street Grass Area, Eastern Prom, Fort Allen Park, and Lincoln Park. A \$40 activation fee is required.	X		
*	Are you planning on bringing a Grill for a Barbecue ?		X	
*	Will the event require reserved parking spaces / parking meters ?		X	
*	Will your event need safety vests, signs, barricades and/or cones ?		X	
*	Will your event require street closures ?		X	
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To reserve & hire an Officer(s) to be on site at your event, please call Sgt. Nevins (874-8554) or Police Shift Command (874-8555)		X	
*	Will your event require Fire/EMS assistance?		X	
*	Will your event require Parking Control assistance?		X	
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.				
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated Septic.	X		

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X		
♦ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions. ♦ Both the Certificate of Insurance and Additional Insured Endorsement shall be sent to tvm@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).				

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

EVENT REVIEW

The PAFD Office holds a monthly meeting where proposed events are discussed and reviewed by City Departments. For some events, organizers will be asked to present before the committee. Some potential factors may necessitate your event receive City Council approval.

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements. If a generator is used, please take all necessary measures to ensure safe operation. Bring a fire extinguisher, set generator up away from activities (and combustibles), store fuel source away from the generator and keep children away from the generator.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where refreshments are being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannaford's, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach - Winter & Early Spring: Just EEB.) If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Please DO NOT mark city property in any permanent way.
DO NOT use SPRAY PAINT or SPRAY CHALK. DO NOT STAPLE or NAIL anything to trees.
Children's Art Chalk can be used on hardscape areas with permission from PAFD Office. Tape may also be used.
If markings remain for more than a few rain storms, event organizers are responsible for removing them.
If city staff or contractors need to remove the markings, event organizers are responsible for the cost of staff time and materials.
You may also place signs on stakes in the grass areas bordering trails/race routes (when applicable).
Please remove all signage immediately following the event.

USE OF CANDLES

It is preferred that LED lighted candles or glow sticks are used. If flammable candles are used, please make sure all candles have drip protectors to prevent wax from dripping on hardscape surfaces, which may cause permanent stains/damage. Please make sure all candles are extinguished before being thrown away. Please collect all spent candles so there is no trash left behind. Please take safety precautions: bring a fire extinguisher, gallon of water, etc. in case of fire. **Any damage** (dripped wax absorbed into hardscape causing stains, etc.) **will result in a forfeiture of your security deposit.**

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Vehicles are prohibited from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$20 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas will result in a forfeiture of your security deposit.**

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs (\$20 each*). You will need to label signs and tape them to meters or signposts AT LEAST 24 HOURS PRIOR TO YOUR EVENT. (NOTE: If event is on a Sunday or Monday, NP Signs may need to be posted on the preceding Friday by Noon.) Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to sign posts, utility poles, trees, or orange cones (placed on the sidewalk beside the street). The PAFD Office has cones it can rent to you (see fee structure below) if needed. To ensure you can have vehicles (illegally parked at signs you've posted) towed, please complete and fax/email/hand deliver to city departments a "No Parking Authorization Form," which you can get from staff when you pick up NP signs. Please make sure signs are removed once the event is complete. ***Under certain conditions, the reserved parking fee may be reduced. Upon review of your application, PAFD will advise if your event qualifies for a reduction. If paying a reduced rate, towing may not be enforceable. PAFD will advise regarding these parameters as well.**

ALCOHOL / SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Consumption of alcohol is prohibited in public spaces unless specifically approved by City Council. Please inform all participants / attendees.

AMPLIFIED SOUND POLICY

Outdoor events with amplified sound may require a Concert License from the PAFD Office.
If the Police Dept./City Staff receive noise complaints, they will respond accordingly.
PA System up with speakers facing away from businesses/residences to lessen impact.
Please keep volume levels low out of consideration for nearby residents and businesses.
The Permittee (organizer) shall not allow the sound emanating from the event to exceed an A-weighted 92 decibels. One verbal warning shall be issued if the sound has been found to have exceeded 92 decibels. The warning may be given to the sound board operator or the organizer/organizer's designee. If the 92 decibel limit is found to have been exceeded a second time during the same event, the single event concert permit (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELLATION POLICY

Event must be cancelled with PAFD prior to event date in order to be eligible for a refund.
If cancelled within 2 weeks of scheduled event date, a \$75 cancellation fee may be charged.

NOTIFICATION

Please keep a copy of your event permit on site at all times. City staff may require proof of permit.
If there are members of the public in the reserved space upon arrival, please present the permit as proof of reservation & approved usage. If you need assistance, please contact the Police Department at (207) 874-8574.
Please ask Portland newspapers to run an article alerting the public to the event.
You may put up temporary A-frame signs to alert the public to your event or place signage on orange cones, etc. Signs are to be up DAY OF EVENT ONLY. Please remove all signage immediately following the event.
Please call Portland Police Dept. (874-8574) on the day of your event to remind them it is taking place.
Please notify any nearby businesses, including restaurants that may have tables out for dining, to alert them to your event.

STREET CLOSURE NOTIFICATION

Should event involve a Street Closure, lasting longer than an hour, PAFD Office requires organizers to give advanced notification to area businesses, residents and bus companies (in the form of a "Street Closure Sign Off Sheet"). If event impacts METRO Buses, organizer (in advance) must discuss detour plans with METRO.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.
- ♦ Police or City Staff on site may use their discretion to revise conditions of use.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	RC	DATE	2/27/19
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ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement

TYPE INITIALS

RC

DATE

2/27/19

FEE SCHEDULE – UPDATED JULY 1, 2018

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$75/hour
 Event with registration or pledges & attendance 25 - 300: \$125/hr
 Event with registration or pledges & attendance 301+: \$225/hr
 Public Space/Park Security Deposit: \$100 - \$1000
 Sound Security Deposit: \$100 - \$1,000
 Impact/Street Closure Fee (variable based on impact): \$100-\$500
 Staff Fee (on site event support): \$37/hour
 Administrative Fee (event coordination support): \$40/hour or more
 "No Parking" Signs: \$1 / \$20 each
 Cancellation Fee: \$75

Electricity (activation/de-activation) Fee: \$40/flat
 Porta Restroom User Fee (if attendance is 150+): \$25
 Single Concert License: \$38
 Barricades: \$5/ea. Rental Fee + \$25/ea. Security Deposit
 Bike Racks: \$10/ea. Rental Fee + \$25/ea. Security Deposit
 Flashing Lights: \$10/ea. Rental Fee + \$40/ea. Security Deposit
 Cones: \$2/ea. Rental Fee + \$15/ea. Security Deposit
 Safety Vests: \$15/ea. Security Deposit
 Keys: \$50/ea. Security Deposit
 Equipment Delivery Fee: \$100

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)

Permit Fee for use of area:	\$ WAIVED	Single Concert (Amplified Sound) License Fee:	\$ N/A
Number of Hours of Use: Approx.		Equipment Rental Fee:	\$ N/A
Staff Fee (on site event support):	\$ N/A	Public Space / Park / Sound Security Deposit:	\$ 100 DUE
Admin. Fee (event coordination support):	\$ N/A	Borrowed / Rented Equipment Deposit:	\$ 100 DUE
Electricity Fee (activation/de-activation):	\$ WAIVED	Additional Fees:	\$ N/A
Impact/Street Closure Fee (variable based on impact):	\$ N/A	(Porta-Restroom User Fee, "No Parking" Signs, etc.)	

FOR OFFICE USE ONLY

DATE APPLICATION RECEIVED:

APPLICATION FEE:	\$ WAIVED	PERMIT FEE:	\$ WAIVED	SECURITY DEPOSIT:	\$ NEED (\$200 DUE)	INSURANCE NEEDED?	YES
DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:	

PAYMENT TYPE

VISA / MC NUMBER:		CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD AMOUNT:	\$	CREDIT CARD EXP. DATE:		CHECK NUMBER:		CHECK AMOUNT:	\$

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
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**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
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NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JULY 11 TO AUGUST 29, 2019
THE FRIENDS OF EASTERN PROMENADE SUMMER COMMUNITY
CONCERT SERIES FESTIVAL**

ORDERED, that every Thursday from July 11 to August 29, 2019 is hereby declared to be the Friends of Eastern Promenade 2019 Summer Community Concert Series Festival, sponsored by the Friends of Eastern Promenade; and

BE IT FURTHER ORDERED, that the Friends of Eastern Promenade 2019 Summer Community Concert Series Festival area shall be all of Fort Allen Park, sidewalks bordering the park, the park roadway, and parking spaces on the Eastern Promenade, directly beside and bordering the park; and

BE IT FURTHER ORDERED, that some areas of the parking lot at Fort Allen Park and some parking spaces on the Eastern Promenade roadway may be posted No Parking on Festival days; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Friends of Eastern Promenade 2019 Summer Community Concert Series Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Friends of Eastern Promenade under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Friends of Eastern Promenade shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Friends of Eastern Promenade shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;
3. The Friends of Eastern Promenade shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. The Friends of Eastern Promenade shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Friends of Eastern Promenade 2019 Summer Community Concert Series Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors the Friends of Eastern Promenade has agreed shall participate; and
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: March 8, 2019
RE: **Council Agenda Item – Friends of Eastern Promenade “2019 Summer Community Concert Series”**

I am requesting that the following order be placed on
the next City Council agenda (Mon. April 8):

Order declaring “Friends of Eastern Promenade 2019 Summer Community Concert Series” as a weekly festival event: every Thursday evening, July 11 – August 29, 2019, 5 – 9pm.

For many decades, the city organized and sponsored a weekly, summer concert series at Fort Allen Park, with assistance from the Friends of Eastern Promenade. Since 2017, the Friends of Eastern Promenade have completely taken over the series. For 2019, 8 concerts will be held at the Fort Allen Park Gazebo Bandstand, Thursday evenings (July 11 – August 29, 6:00 – 7:30pm). Styles of music will include: jazz, rock, blues, folk, and marching tunes (Chandler’s Community Band). At each concert, a variety of Food Trucks will be on site to sell refreshments and dinner to spectators. During some of the concerts, the park roadway may need to be closed down to vehicles. Funds for running the concert series will come mainly from fundraising efforts by the Friends of Eastern Promenade; the city will fund 2 of the concerts via The Willey Trust and the Betty Winterhalder Trust (city’s gift catalog). Attendance at the concerts is usually 500+ people. There is no admission charge to the concerts: concerts are free to the public.

The festival zone for the concert series is all of Fort Allen Park, sidewalks bordering the park, the park roadway, and parking spaces on the Eastern Prom, directly beside and bordering the park.

The Order should include the following items:

Friends of Eastern Promenade 2019 Summer Community Concert Series Festival be authorized for Thursday evenings, July 11 – August 29, 5 – 9pm, at the Eastern Prom, Fort Allen Park area.

This festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of festival organizers for the purpose of conducting the Summer Community Concert Series, subject to the direction and control of the City Manager.

(continued)



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

In order to hold the event on city property, some areas of the parking lot at Fort Allen Park and some parking spaces on the Eastern Prom roadway need to be posted "No Parking" on concert days. Vehicles in violation of the "No Parking" signs shall be towed at owner's expense.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Friends of Eastern Promenade for the use of the above-described area for said Festival subject to the following conditions:

- The Friends of Eastern Promenade shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the "Summer Community Concert Series" activities, and the City be endorsed on the policy;
- Summer Community Concert Series organizers shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the Summer Community Concert Series;
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division, shall be adhered to;
- Under no circumstances may alcoholic beverages be consumed or sold on the streets or park areas of said area during said festival;
- Any and all amplified music/public announcements shall be maintained at a reasonable level (under 92dBs) and be configured by the event organizer to focus volume away from residential housing, limiting any sound impacts to neighbors nearby; and
- Public Assembly Facility Division permit fees for use of the area are waived; other fees to city departments may be due.

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

Document prepared by Ted Musgrave, PAFD Event Manager

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JUNE 15, 2019
THE PRIDE PORTLAND! PARADE AND FESTIVAL**

ORDERED, that June 15, 2019, from 11:00 am to 6:00 pm is hereby declared to be the Pride Portland! Parade and Festival, sponsored by Pride Portland!; and

BE IT FURTHER ORDERED, that the Pride Portland! Parade and Festival area shall be Monument Square, One City Center sidewalk, Preble Street (from Cumberland Ave. to Congress Street), Federal Street Ext., and Center Street (Free Street to Congress Street) for the Parade, 11 am-1:00 pm, and Deering Oaks Park for the Festival, 2 pm-6 pm; and

BE IT FURTHER ORDERED, that Congress Street (Elm Street to High Street), High Street (Congress Street to Park Avenue), Park Avenue (from High Street to Deering Ave.) and State Street Ext. may be posted No Parking on Festival day for the Parade, 9 am – 12 pm and; and Deering Oaks Park (Park Avenue Side of the Park) for the Festival from 10 am to 6 pm; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Pride Portland! Parade and Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to Pride Portland! under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Pride Portland! shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Pride Portland! shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. Pride Portland! wishes to operate a Beer Garden in Deering Oaks Park, vending wine and beer, from 2 pm to 5 pm on the day of the Festival, Equality Maine is the sponsor applying for the Off-Premises Liquor Catering License;
3. Pride Portland! shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;
4. Pride Portland! shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Pride Portland! Parade and Festival;
5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors Pride Portland! has agreed shall participate; and
6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (5 pages)
 212 Canco Rd. • Portland • ME • 04103 • (207) 808-5400 x0
 Ted Musgrave tvm@portlandmaine.gov
 Tony Alves talves@portlandmaine.gov

APPLICATION FEE \$25.00
PAYMENT MUST BE MADE WHEN SUBMITTING APPLICATION

(This is a transferrable/non-refundable fee. If your event is permitted, the \$25.00 will be credited toward your permit fee.)

For uses of city property, there are typically: 1) fees charged for use of the area, 2) a security deposit required, and 3) insurance required. There may be fees due and applications required from other City Departments.

TODAY'S DATE	1-18-2019 Revised: 1-18, 2-19, 3-25	ORGANIZATION NAME	Pride Portland!
ADDRESS (Street/City/State/Zip)	511 Congress St Portland ME 04101		
CONTACT NAME(S)	Rebecca Tanous Kelly Locke Jan Wilkinson Cybele Brandow Sebastiane Sacerdoti-Ravenscroft		festival@portlandpride.org parade@portlandpride.org treasurer@portlandpride.org cochair@portlandpride.org cochair@portlandpride.org

PARK AREA / PUBLIC SPACE REQUESTED	Parade: Portland Streets, Monument Square & Congress Squared Park Parade: Deering Oaks Park (South side of Pond & Ravine) & Portland Streets		
EVENT DAY(S) & DATE(S)	SAT, June 15 2019	RAIN DAY(S) & DATE(S) (50% added fee)	none
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)	7:00am - 7:00pm (festival) 11:00am - 3pm (parade)	EVENT START & END TIME	1pm- 2:30 pm (parade) 2:00pm-6:00pm (festival)

EVENT NAME	EXPECTED ATTENDANCE
Pride Portland! Parade & Festival https://prideportland.org/ https://www.facebook.com/portmepride/	Parade: 1,500 marchers, 3,000+ Spectators Festival: 5,000+ throughout the day

DESCRIPTION OF EVENT: Please be specific regarding **area of public space/park** and **describe EVENT in detail**. Please include a detailed MAP of the proposed EVENT AREA, proposed ROUTE (road race) &/or proposed STREET CLOSURE (parade, march, rally, etc.), as these will need to be approved by City Departments. Please provide a link(s) to social media site(s) being used to publicize the event.

Pride Parade: Saturday, June 15, 2019, 1pm kick-off Parade forms up on Preble St (between Cumberland and Congress) and Center St (from Free to Congress) and Monument Square (Fed St EXT). Brown Street will also be used for Parade Formation. Parade **starts at 1pm** at Mon Square, west up Congress ST to RT to High St, to LT to Park Ave to Mellen Street intersection, onto sidewalk + pathway into Deering Oaks.

Organizer will hire some Police Officers and PCO's to assist with traffic control. Many volunteers will staff the parade route intersections (barricades). City Staff will put out Barricades at intersections.

A few of the streets will need to be posted "No Parking." Parking Spaces along Park Ave. and State Street Ext. need to be reserved for Floats & Motorcycles.

At Congress Square sidewalk, there will be a reviewing stand (with PA system). ELEC needed. Some Parking beside Congress Square Park, will need to be reserved.

A couple thousand people watch from the sidewalks.

Pride Festival: Saturday, June 15, 2019, 2 – 6pm Festival is held in Deering Oaks Park (located on the Park Avenue and Bowling Green Path side of the Oaks) and includes the use of the grass areas and Bowling Green Path, a large stage erected on the grass beside the path (near the pond), and electricity at nearby green box for entertainment (DJ's and bands). **CONCERT LICENSE** needed.

Stage set up on SAT morning, hoped to be removed on SAT night. (Could be postponed to Sunday or Monday.)

Many tables set up on the grass, some canopies set up.

A Kids Area (Moon Bounce / Kids Games) will be set up on the grass area off Bowling Green Path, under shade trees. A generator will be used to power the Moon Bounce.

There will be food and non-food vendors at the festival. Some gas grills will be used for cooking. **The food trucks will need to park in other areas (NOT on grass near trees) – WILL LIKELY park on Bowling Green Path (so that bicycle lane on Park Ave. can still stay open to bicycles). This parking on BG Path has already been approved by the Park Manager.**

The Bowling Green itself, will NOT be used for any formal events (other than recreation + socializing and blanket seating). Organizer will rent a number of porta-restrooms (10+) to be positioned on grass area just to the side of the Bowling Green Path.

Parking spaces all along Park Ave. (park side, from State Street Ext. to Deering Ave.) need to be set aside for the festival (most importantly dropping off and picking up of supplies for festival). The new bicycle lane will stay open, except when folks are unloading and loading items into and out of the park, and then it will just be closed down for a minute or two.

*** we are requesting parking spaces to be reserved on State Street Ext., between Farmers Market Road and Park Ave. (for volunteers, vendors, stage performers and some motorcycle parking).**

A **Beer Garden** will be set up in the park, past the vendor tables, separate from the stage area (Treed Section of Park, near Park Ave.). The festival organizers will secure a licensed vendor to serve alcohol. Only guests 21+ will be admitted to the beer garden. It will run from 2:00-5:00pm, with a last call. Additionally, 2 porta-restrooms will be inside of the beer garden. A small riser for a DJ will be set up on grass. Generator for power.

The city's PAFD Staff will need to be hired by organizers to oversee the security / ID checking for this area.

PAFD Staff (Event Managers) will also be hired by Pride Portland for the Festival (and parade coming into) the Oaks.

PA System and stage at Oaks and at Congress Square Park sidewalk will be provided by Eric Sawyer & Co. (After Hours Production).

Organizers will also hire some Police Officers for the Festival portion of the day.

The Farmers Market will also be in Deering Oaks (at their usual location on Farmers Market Rd), therefore the area could be congested with pedestrians as well as vehicles. In addition, there are the State High School Lacrosse Tournaments taking place at Fitzpatrick Stadium all day long.

A banner may be requested to be hung over Congress Street at the City Hall location.

There may be street and sidewalk construction taking place in vicinity of festival and parade grounds.

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT? (no charge for spectators / audience)	Please check: ☒ FEE ☐ PLEDGES	
IF YES FOR FEES, HOW MUCH?	FEE	\$ Parade floats and marching units pay a fee to participate Food vendors and organization booths pay a fee to set up at the festival
	STUDENT FEE	\$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?

Reserved parking is needed for some vehicles... at Deering Oaks (Park Avenue – north side) as well as around the Parade Formation Area & parking spaces on State Street between Farmers Market Road and Park Ave.

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

		X-YES	X-NO	X-NOT SURE
*	Are you setting up a canopy(s) ? (10'x10' size or smaller) How many?	x		
*	Do you wish to set up a tent(s) and/or stage(s) ? A canopy/tent or stage larger than 10'x10'	x		

	needs a Temporary Tent or Stage Permit issued by Building Inspections. For permit application, please go to: http://portlandmaine.gov/DocumentCenter/Home/View/2317 or contact the Permitting and Inspections Department at buildinginspections@portlandmaine.gov or 874-8703 for more information. PLEASE apply at least 2-weeks before your event. Tent/Stage Size(s): Exact Location(s) of Tent/Stage Placement Requested: *** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. ***	Festival Stage		
*	Will you be setting up tables and/or chairs ? How many tables: apprx 135 chairs: 250	x		
*	Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:	x Moon Bounce Kids Games Beer Garden		
*	Will there be refreshments at the event? Do you wish to sell food ? If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office. PLEASE provide them at least 2 weeks advance notice (874-8557). List food and drink / Food Trucks, etc.: PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served A TFSL is needed when food vendors are not licensed or when food is being prepared and cooked at the event.	x Food Trucks Push Carts Harbor Masters		
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, please apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. List items you wish to sell:	x T-shirts Crafts Artwork		
*	Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band? DJ? Boom Box? If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.	x Amplified Music Band DJ		
*	Will your event require electricity ? Electricity is available at Deering Oaks Park, Monument Square, Congress Square, Tommy's Park, Post Office Park, Payson Park, Preble Street Grass Area, Eastern Prom, Fort Allen Park, and Lincoln Park. A \$40 activation fee is required.	x Deering Oaks Congress Square Generator		
*	Are you planning on bringing a Grill for a Barbecue ? Grilling is subject to weather conditions and possibly Fire Dept. review.	x		
*	Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at the PAFD Office, 212 Canco Rd.	x		
*	Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow/rent: Limited safety vests, cones & barricades may be borrowed/rented from PAFD Office. Traffic signs may be borrowed/rented from Public Works if needed (874-8493).	x Barricades Cones		
*	Will your event require street closures ? (Please be specific under "Description of Event") Will your event affect METRO BUS ROUTES ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gffenton@gpmetrobus.com) to discuss.	x		
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To reserve & hire an Officer(s) to be on site at your event, please call Sgt. Nevins (874-8554) or Police Shift Command (874-8855/8556) well in advance to arrange.	x		
*	Will your event require Fire/EMS assistance? (For a large walk/race, it may be required.) To hire or inquire about hiring city Fire/EMS staff to be on site, please email fireprevention@portlandmaine.gov well in advance of the event. For general questions, you may also call 874-8400.			X
*	Will your event require Parking Control assistance? To hire a Parking Control Officer(s) to be on site at your event, please call 874-8910 well in advance to arrange.	x		
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.				
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated Septic.	x Rentals		
*	Do you wish to have a banner over the street to advertise your event? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to PAFD: 808-5400 x0.			x

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance?	X		
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(Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	NEED		
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♦ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions.

♦ Both the **Certificate of Insurance** and **Additional Insured Endorsement** shall be sent to tvm@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

EVENT REVIEW
The PAFD Office holds a monthly meeting where proposed events are discussed and reviewed by City Departments. For some events, organizers will be asked to present before the committee. Some potential factors may necessitate your event receive City Council approval.
ELECTRICITY
All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you not use electricity, unless all connections and equipment are covered and protected from the elements. If a generator is used, please take all necessary measures to ensure safe operation. Bring a fire extinguisher, set generator up away from activities (and combustibles), store fuel source away from the generator and keep children away from the generator.
BARBECUES - GAS GRILLS ONLY
Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by PAFD Office and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You are required to have a fire extinguisher with in the grilling area.
PORTA-RESTROOMS / BATHROOM FACILITIES
Porta-Restrooms are required for large events and events where refreshments are being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannaford's, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach - Winter & Early Spring: Just EEB.) If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Porta-restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.
TRASH
All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!
MARKING OF GROUNDS
Please DO NOT mark city property in any permanent way. DO NOT use SPRAY PAINT or SPRAY CHALK. DO NOT STAPLE or NAIL anything to trees. Children's Art Chalk can be used on hardscape areas with permission from PAFD Office. Tape may also be used. If markings remain for more than a few rain storms, event organizers are responsible for removing them. If city staff or contractors need to remove the markings, event organizers are responsible for the cost of staff time and materials. You may also place signs on stakes in the grass areas bordering trails/race routes (when applicable). Please remove all signage immediately following the event.
USE OF CANDLES
It is preferred that LED lighted candles or glow sticks are used. If flammable candles are used, please make sure all candles have drip protectors to prevent wax from dripping on hardscape surfaces, which may cause permanent stains/damage. Please make sure all candles are extinguished before being thrown away. Please collect all spent candles so there is no trash left behind. Please take safety precautions: bring a fire extinguisher, gallon of water, etc. in case of fire. Any damage (dripped wax absorbed into hardscape causing stains, etc.) will result in a forfeiture of your security deposit.
ADA COMPLIANCE
Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Vehicles are prohibited from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$20 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas will result in a forfeiture of your security deposit.**

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs (\$20 each*). You will need to label signs and tape them to meters or signposts AT LEAST 24 HOURS PRIOR TO YOUR EVENT. (NOTE: If event is on a Sunday or Monday, NP Signs may need to be posted on the preceding Friday by Noon.) Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to sign posts, utility poles, trees, or orange cones (placed on the sidewalk beside the street). The PAFD Office has cones it can rent to you (see fee schedule below) if needed. To ensure you can have vehicles (illegally parked at signs you've posted) towed, please complete and fax/email/hand deliver to city departments a "No Parking Authorization Form," which you can get from staff when you pick up NP signs. Please make sure signs are removed once the event is complete. ***Under certain conditions, the reserved parking fee may be reduced. Upon review of your application, PAFD will advise if your event qualifies for a reduction. If paying a reduced rate, towing may not be enforceable. PAFD will advise regarding these parameters as well.**

ALCOHOL / SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Consumption of alcohol is prohibited in public spaces unless specifically approved by City Council. Please inform all participants / attendees.

AMPLIFIED SOUND POLICY

Outdoor events with amplified sound may require a Concert License from the PAFD Office.
If the Police Dept./City Staff receive noise complaints, they will respond accordingly.
Please set the PA System up with speakers facing away from businesses/residences to lessen impact.
Please keep volume levels low out of consideration for nearby residents and businesses.
The Permittee (organizer) shall not allow the sound emanating from the event to exceed an A-weighted 92 decibels. One verbal warning shall be issued if the sound has been found to have exceeded 92 decibels. The warning may be given to the sound board operator or the organizer/organizer's designee. If the 92 decibel limit is found to have been exceeded a second time during the same event, the single event concert permit (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELATION POLICY

Event must be cancelled with PAFD prior to event date in order to be eligible for a refund.
If cancelled within 2 weeks of scheduled event date, a \$75 cancellation fee may be charged.

NOTIFICATION

Please keep a copy of your event permit on site at all times. City staff may require proof of permit.
If there are members of the public in the reserved space upon arrival, please present the permit as proof of reservation & approved usage. If you need assistance, please contact the Police Department at (207) 874-8574.
Please ask Portland newspapers to run an article alerting the public to the event.
You may put up temporary A-frame signs to alert the public to your event or place signage on orange cones, etc. Signs are to be up DAY OF EVENT ONLY. Please remove all signage immediately following the event.
Please call Portland Police Dept. (874-8574) on the day of your event to remind them it is taking place.
Please notify any nearby businesses, including restaurants that may have tables out for dining, to alert them to your event.

STREET CLOSURE NOTIFICATION

Should event involve a Street Closure, lasting longer than an hour, PAFD Office requires organizers to give advanced notification to area businesses, residents and bus companies (in the form of a "Street Closure Sign Off Sheet"). If event impacts METRO Buses, organizer (in advance) must discuss detour plans with METRO.

REVOCABLE PERMIT

- ◆ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ◆ The City reserves the unconditional right to revoke or revise an issued permit.
- ◆ Police or City Staff on site may use their discretion to revise conditions of use.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES**TYPE INITIALS**

KL

DATE

1/23/19

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement**TYPE INITIALS**

KL

DATE

1/23/19

PLEASE INITIAL & DATE HIGH-LIGHTED YELLOW BOXES ABOVE.

FEE SCHEDULE – UPDATED JULY 1, 2018

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$75/hour	Electricity (activation/de-activation) Fee: \$40/flat
Event with registration or pledges & attendance 25 - 300: \$125/hr	Porta Restroom User Fee (if attendance is 150+): \$25
Event with registration or pledges & attendance 301+: \$225/hr	Single Concert License: \$38
Film/Photo Shoot: \$100/day	Barricades: \$5/ea. Rental Fee + \$25/ea. Security Deposit
Public Space/Park Security Deposit: \$100 - \$1000	Bike Racks: \$10/ea. Rental Fee + \$25/ea. Security Deposit
Sound Security Deposit: \$100 - \$1,000	Flashing Lights: \$10/ea. Rental Fee + \$40/ea. Security Deposit
Impact/Street Closure Fee (variable based on impact): \$100-\$500	Cones: \$2/ea. Rental Fee + \$15/ea. Security Deposit
Staff Fee (on site event support): \$37/hour	Safety Vests: \$15/ea. Security Deposit
Administrative Fee (event coordination support): \$40/hour or more	Keys: \$50/ea. Security Deposit
"No Parking" Signs: \$20 each	Equipment Delivery Fee: \$100 or more
Cancellation Fee: \$75	

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

◆ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)

Permit Fee for use of area:	\$ tentative	Single Concert (Amplified Sound) License Fee:	\$ 38 due
Number of Hours of Use: Approx. 12 hours (festival setup, festival, breakdown) No charge for Parade (use of streets)	900 due (still up for review)	Equipment Rental Fee:	\$ TBD
Staff Fee (on site event support):	\$ TBD	Public Space / Park / Sound Security Deposit:	\$ 1000 + \$250 due
Admin. Fee (event coordination support):	\$ TBD	Borrowed / Rented Equipment Deposit:	\$ TBD
Electricity Fee (activation/de-activation):	\$ TBD	Additional Fees:	\$ TBD
Impact/Street Closure Fee (variable based on impact):	\$ waived for Parade	(Porta-Restroom User Fee, "No Parking" Signs, etc.)	

FOR OFFICE USE ONLY

DATE APPLICATION RECEIVED: 1-18-2019

APPLICATION FEE:	\$ 25 pd by CK	PERMIT FEE:	\$ need	SECURITY DEPOSIT:	\$ need	INSURANCE NEEDED?	Y due
DATE RECEIVED:	2-13-19	DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:	

PAYMENT TYPE

VISA / MC NUMBER:		CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD AMOUNT:	\$	CREDIT CARD EXP. DATE:		CHECK NUMBER:		CHECK AMOUNT:	\$

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE RETURN FORM (WORD DOC) AT LEAST 30 DAYS IN ADVANCE TO:

◆ Public Assembly Facilities Div. ~ 212 Canco Rd. ~ Portland ~ ME ~ 04103 **EMAIL PREFERRED:** tvm@portlandmaine.gov

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 204-18/19 Granting Municipal Officers' Approval of AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street. This item must be read on two separate days.

Application was filed on 3/11/2018. New City and State applications. This is a change of ownership of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20190320102627005

2. Embassy Suites

Prepared by:

Date: 3/20/2019



Real Estate Investment & Management

March 1, 2019

Mayor Ethan K. Strimling
Portland City Council
389 Congress Street
Portland, ME 04101

**Re: Application for City Food Establishment with Alcoholic Beverages License
AAM Portland Servers, LLC (the "Company")**

Dear Mayor Strimling and City Council Members:

I am writing to inform you that the Company intends to apply for, and receive, a City Food Service Establishment with Alcoholic Beverages License in connection with the Company's and its affiliate's recent purchase of the hotel known as Embassy Suites by Hilton located at 1050 Westbrook Street. The Company and/or its affiliate also intend to apply for a City Entertainment and Dancing License, a City Outdoor Dining on Private Property Permit, a State On-Premises Retail Liquor License, a State Municipal Eating and Lodging License, and a State Food and Fuel License.

Accordingly, please find enclosed for your review, consideration, and anticipated approval the following documents in connection with the application for the City Food Service Establishment with Alcoholic Beverages License, together with the applications for the related state and local licenses and permits:

1. Application for City Food Service Establishment with Alcoholic Beverages License (Class I-A)

- (a) Diagram of Retail Premises (8 ½" x 11")
- (b) **[Lease Agreement]**
- (c) Payment of Fees
 - (i) New Application Fee – \$45
 - (ii) Health Inspection Fee – \$150
 - (iii) Criminal History Check Fee – \$21/person
 - (iv) Innholder (41+ Rooms) License Fee (I-A) – \$2,239
 - (v) Legal Advertisement Deposit Fee – \$100

2. Supplemental Application for Entertainment with Dancing License

- (a) Payment of Fees
 - (i) License Fee – \$529

3. Supplemental Application for Outdoor Dining on Private Property Permit

- (a) Plot Plan (8 ½" x 11") – Lot Lines and Street Location
- (b) Location of Proposed Outdoor Dining Area and its Components
 - (i) Space Dimensions, including Square Footage
 - (ii) Tables/Chairs
 - (iii) Fences/Barriers
 - (iv) Egress Dimensions



Real Estate Investment & Management

- (c) Drawing, Photo, or Specifications of Any Proposed Barrier
- (d) Payment of Fees
 - (i) License Fee – \$125

4. Application for State On-Premises Retail Liquor License (Hotel) (Class I-A)

- (a) Diagram of Retail Premises (8 ½" x 11")
- (b) Corporate Information Supplemental Form – AAM Portland Servers, LLC
- (c) Corporate Information Supplemental Form – AAM 15 Management, LLC
- (d) Payment of Fees
 - (i) Filing Fee – \$10
 - (ii) Spirituous, Vinous, Malt, Optional Food (Hotels Only) License Fee (I-A) – \$1,100

Thank you very much for your time and consideration, and I very much look forward to receiving your anticipated approval of the enclosed applications and issuance of the related licenses and permits.

Sincerely,



Name: David R. Masse, Manager

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Embassy Suites by Hilton	Phone:	207-775-2200
Location Address:	1050 Westbrook St. Portland, ME		Zip: 04102
If new, what was formerly at this location:			
Mailing Address:	78 Blanchard Rd. Suite 100, Burlington, MA		Zip: 01803
Contact Person:	Frank Vento	Phone:	781-222-4150 x103
Contact Person Email:	fvento@aam15.com		
Manager of Establishment:	David R. Masse	Date of Birth: 1/16/63	Phone: 781-222-4150 x101
Owner of Premises (Landlord):	AAM Portland Hotel, LLC		
Address of Premises Owner:	78 Blanchard Rd. Suite 100, Burlington, MA		Zip: 01803

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
AAM Portland Servers, LLC		78 Blanchard Rd. Suite 100, Burlington, MA	Zip: 01803
Contact Person:	Frank Vento	Phone:	781-222-4150 x103
Principal Officers	Title	Date of Birth	Residence Address
Anthony Librot	CFO	8/3/72	24 Queens Circle Sharon, MA 02067
Frank Vento	EVP	1/20/55	9 Ohio St. Wilmington, MA 01887

About Your Establishment

Class of Liquor License:	I-A
Type of food served:	complimentary breakfast, evening reception, & hotel restaurant
Please circle all that will be served:	Beer Wine Liquor
Projected percentage of sales:	Generated from Food: 59% Generated from Alcohol: 21%
Hours & days of operation:	Mon-Fri: 6:30a-9:30a & 11:30am-10p Sat-Sun: 7am-10a & 11:30a-10p

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y/N
Will you permit dancing on the premises?	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	Y/N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N
If Yes, please explain:	

Frank Vento

I, Frank Vento do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Frank Vento Title EVP Date 3-1-19

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and
M.R.S.A. Title 28-A at www.maine.gov.

2/28

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

Michael A. Russell, MS, Director

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov**Supplemental Application for Dancing and Entertainment License**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☐ Entertainment without Dancing: \$295
 ☒ Entertainment with Dancing: \$529
 ☐ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information			
Business Name (d/b/a):	Embassy Suites by Hilton	Phone:	207-775-2200
Location Address:	1050 Westbrook St. Portland, ME		Zip: 04102

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: Hotel with function space which could host various types of events throughout the year which could include some entertainment and music		
Will music be electric, acoustical, or both? (Circle)		
Will amplification be used?		(Y/N)
If yes, where and at what level? All public spaces @ background levels		
Will music be played (Circle all that apply): (Inside) Outside		
Will you permit dancing on the premises?		(Y/N)
Will you permit dancing after 1:00 a.m.?		(Y/N)
What is your targeted opening date? Ownership change 3/18/19		
Does the Issuance of this license directly or indirectly benefit any City employee(s)?		(Y/N)
If Yes, list name(s) of employee(s) and department(s):		

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title Manager Date 3-1-19

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Private Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Embassy Suites by Hilton	Phone:	207-775-2200
Location Address:	1050 Westbrook St. Portland, ME	Zip:	04102
Mailing Address:	78 Blanchard Rd. Suite 100, Burlington, MA	Zip:	01803
Contact Person:	Frank Vento	Phone:	781-222-4150 x103
Contact Person Email:	fvento@aam15.com		
Manager of Establishment:	David R. Masse	Date of Birth: 1/16/63	Phone: 781-222-4150 x101
Owner of Premises (Landlord):	AAM Portland Hotel, LLC		
Address of Premises Owner:	78 Blanchard Rd. Suite 100, Burlington, MA	Zip:	01803

Owner Information

Corporate Name		Corporate Mailing Address	
AAM Portland Servers, LLC		78 Blanchard Rd. Suite 100, Burlington, MA Zip: 01803	
Contact Person:	Frank Vento	Phone:	781-222-4150 x103
Principal Officers	Title	Date of Birth	Residence Address
Anthony Librot	CFO	8/3/72	24 Queens Circle Sharon, MA 02067
Frank Vento	EVP	1/20/55	9 Ohio St. Wilmington, MA 01887

About Your Establishment

Class of License:	I-A
Type of food served:	complimentary breakfast, evening reception & hotel restaurant
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>
Hours & days of operation:	Mon-Fri: 6:30a-9:30a & 11:30a-10p Sat-Sun: 7a-10a & 11:30am-10p
Number of Tables	4
Number of Chairs	16

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature  Title EVP Date 3-1-19

For Administrative Use Only

Amount: _____	Request Date /	Approval	Notes: _____
Date Paid: _____	FD: _____	/	_____
CC _____ CA _____ CK _____	Health: _____	/	_____
	PD: _____	/	_____
Amount: _____	PR: _____	/	_____
Date Paid: _____	Treasury: _____	/	_____
CC _____ CA _____ CK _____	Zoning: _____	/	_____

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008 (Regular Mail)
10 WATER STREET, HALLOWELL, ME 04347 (Overnight Mail)
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

PRESENT LICENSE EXPIRES: _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: 3/18/2019

Requested inspection (New Licensees/ Ownership Changes Only) Date : ASAP Business hours: 24 hours a day

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☐ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☒ HOTEL, FOOD OPTIONAL (Class I-A) ☐ BED & BREAKFAST (Class V)
☐ GOLF COURSE (Class I,II,III,IV) ☐ TAVERN (Class IV) ☐ QUALIFIED CATERING
☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: AAM Portland Servers, LLC			Business Name (D/B/A) Embassy Suites by Hilton Portland Maine		
APPLICANT(S) –(Sole Proprietor) DOB:			Physical Location: 1050 Westbrook Street		
DOB:			City/Town Portland	State Maine	Zip Code 04102
Address 78 Blanchard Rd Suite 100			Mailing Address 78 Blanchard Rd Suite 100		
City/Town Burlington	State MA	Zip Code 01803	City/Town Burlington	State MA	Zip Code 01803
Telephone Number 781-222-4150 x103		Fax Number	Business Telephone Number 781-222-4150		Fax Number
Federal I.D. # 83-3499094			Seller Certificate #: or Sales Tax #: 1155561		
Email Address: Please Print fvento@aam15.com			Website: https://hiltongardeninn3.hilton.com/en/hotels/maine/hilton-garden-inn-portland-downtown-waterfront-PWMDHGI/index.html		

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: 119

2. State amount of gross income from period of last license:

ROOMS \$ ~~\$5,811,554~~ FOOD \$ ~~\$499,201~~ LIQUOR \$ ~~\$174,708~~

3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐

5. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

HOT-2018-1087 Hilton Garden Inn Freeport

License # _____ Name of Business _____
5 Park St. _____ Freeport, ME 04032
Physical Location _____ City / Town _____

6. If manager is to be employed, give name: Scott McKenney

7. Business records are located at: _____

8. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
David R Masse	1/16/63	MA
Anthony Librot	8/3/72	MA
Frank Vento	1/20/55	OH
11. Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Name: David R Masse	City: Georgetown	State: MA
Name: Anthony Librot	City: Sharon	State: MA
Name: Frank Vento	City: Wilmington	State: MA

12. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

14. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

15. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: _____

AAM Portland Hotel, LLC

16. Describe in detail the premises to be licensed: (On Premise Diagram Required) Hilton hotel with complimentary breakfast
as well as hotel restaurant that serves lunch & dinner along with beer, wine & spirit beverages

17. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☐ Applied for: 2/27/2019

18. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? _____

Which of the above is nearest? _____

19. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: East Boston Savings Bank

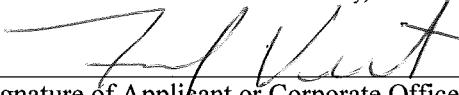
The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Burlington, MA on February 28, 2019

Town/City, State

Date


Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

FRANK VENTURA

Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be <u>included</u> on all applications).....	\$ 10.00
Class I Spirituous, Vinous and Malt	\$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.	
Class II Spirituous Only	\$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III Vinous Only	\$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV Malt Liquor Only	\$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III & IV Malt & Vinous Only	\$ 440.00
CLASS III & IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
CLASS V: Clubs without catering privileges.	
Class X Spirituous, Vinous and Malt – Class A Lounge	\$2,200.00
CLASS X: Class A Lounge	
Class XI Spirituous, Vinous and Malt – Restaurant Lounge	\$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.	



State of Maine
Division of Alcoholic Beverages and
Lottery Operations
Division of Liquor Licensing and Enforcement

Corporate Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752. Please clearly complete this form in its entirety.

1. Exact legal name: AAM Portland Servers, LLC
2. Doing Business As, if any: Embassy Suites by Hilton
3. Date of filing with Secretary of State: 1/28/19 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
David R. Masse	6 Chaplin Hill Rd. Georgetown, MA 01833	1/16/63	Manager	
AAM 15 Management, LLC	78 Blanchard Rd. Suite 100 Burlington, MA 01803	N/A	Member	100%

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States? ☐ Yes ☒ No

8. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Owner or Corporate Officer

3-1-19

Date

FRANK VENTURO

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

Bureau of Alcoholic Beverages

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, Me 04333-0008 (Regular address)

10 Water Street, Hallowell, ME 04347 (Overnight address)

Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434

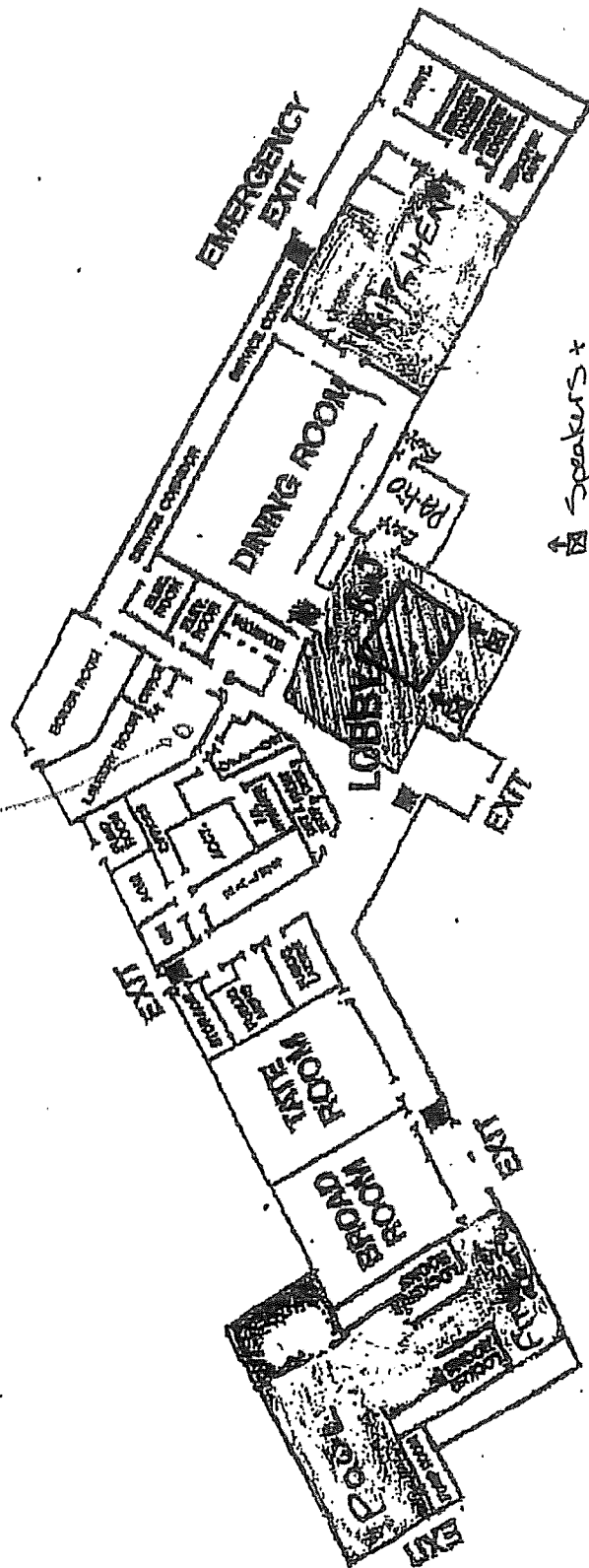
Email Inquiries: MaineLiquor@Maine.gov

Jim McG. port land manager, 9/9/98

EMBASSY SUITES

LOBBY LEVEL FLOOR PLAN

PROPOSED
RECEPTION
AREA



Speakers +
direction

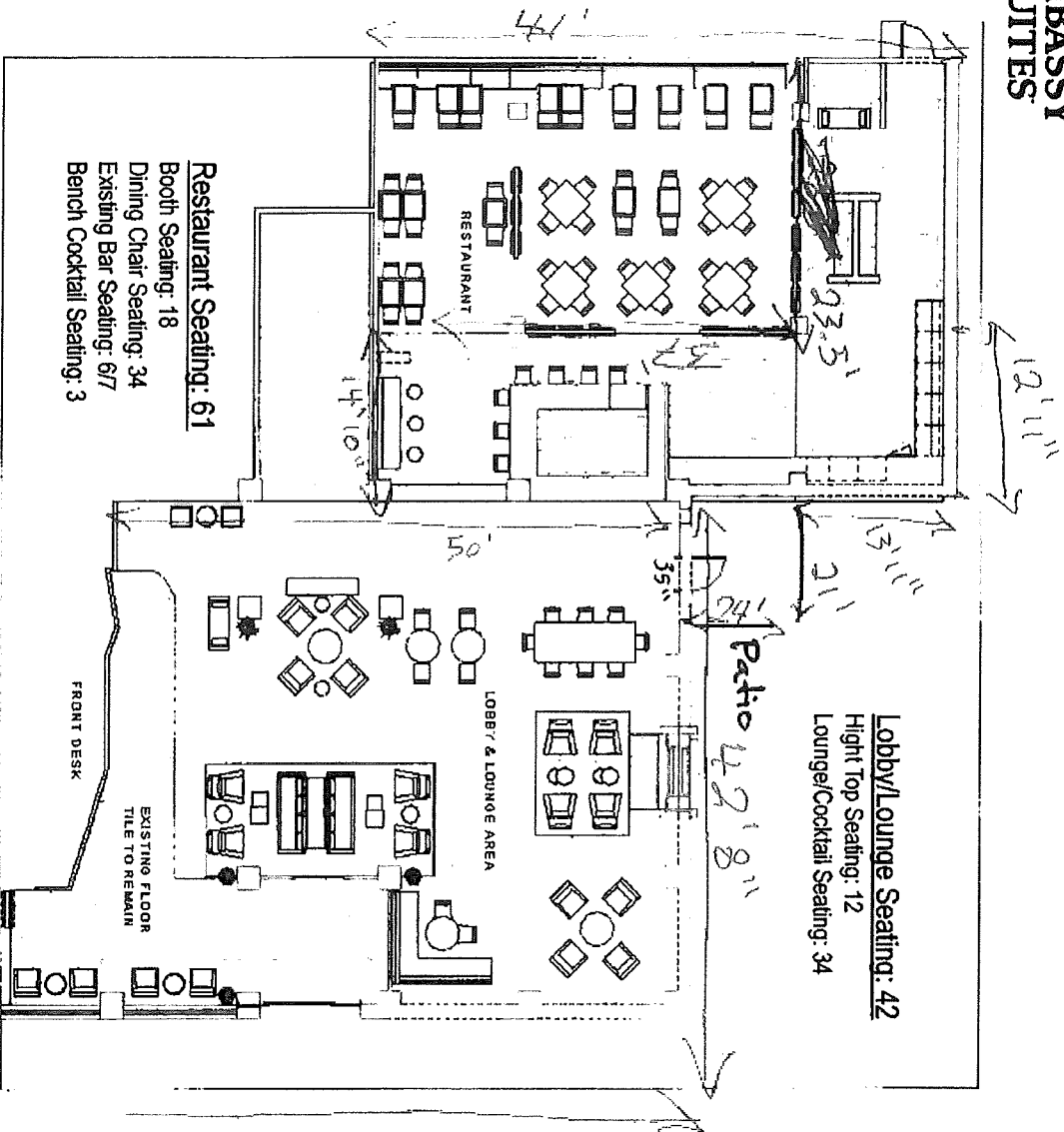
- Permitted dancing Managers Reception Area
- FIRE PULL STATIONS



EMBASSY SUITES

EMBASSY SUITES PORTLAND, ME

LOBBY FF&E LAYOUT

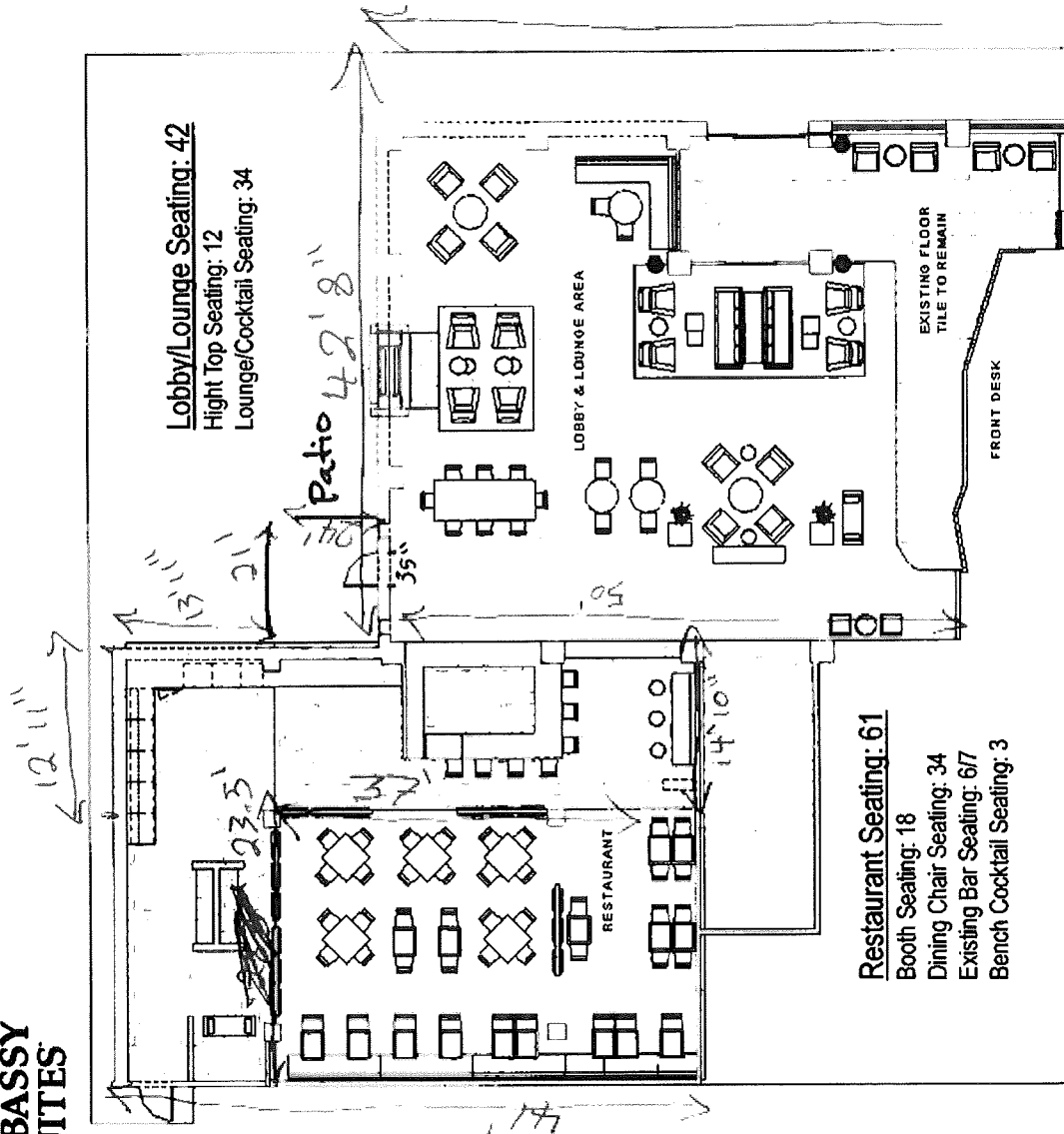


KSA DESIGN STUDIO

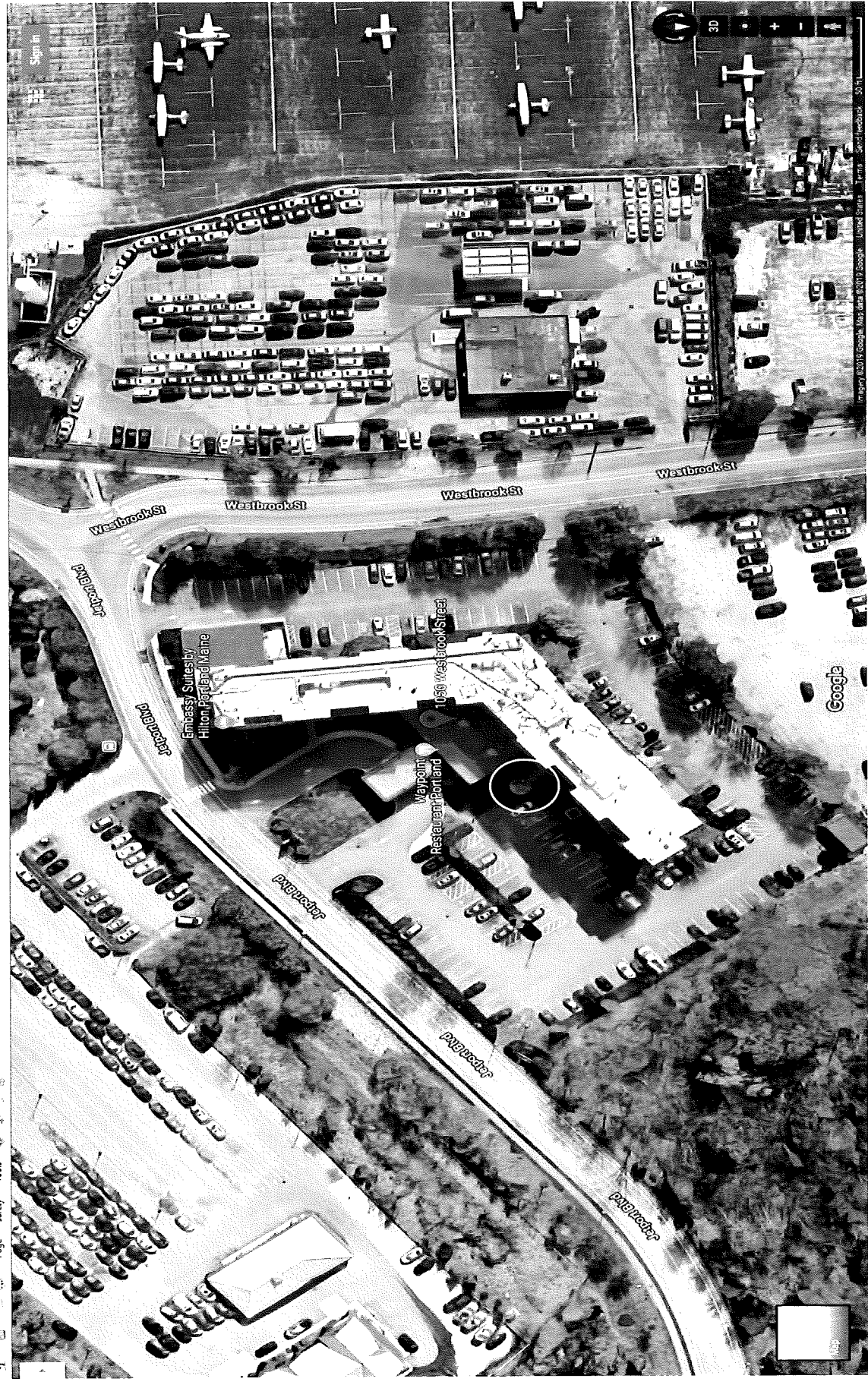
DATE: 11/21/2016



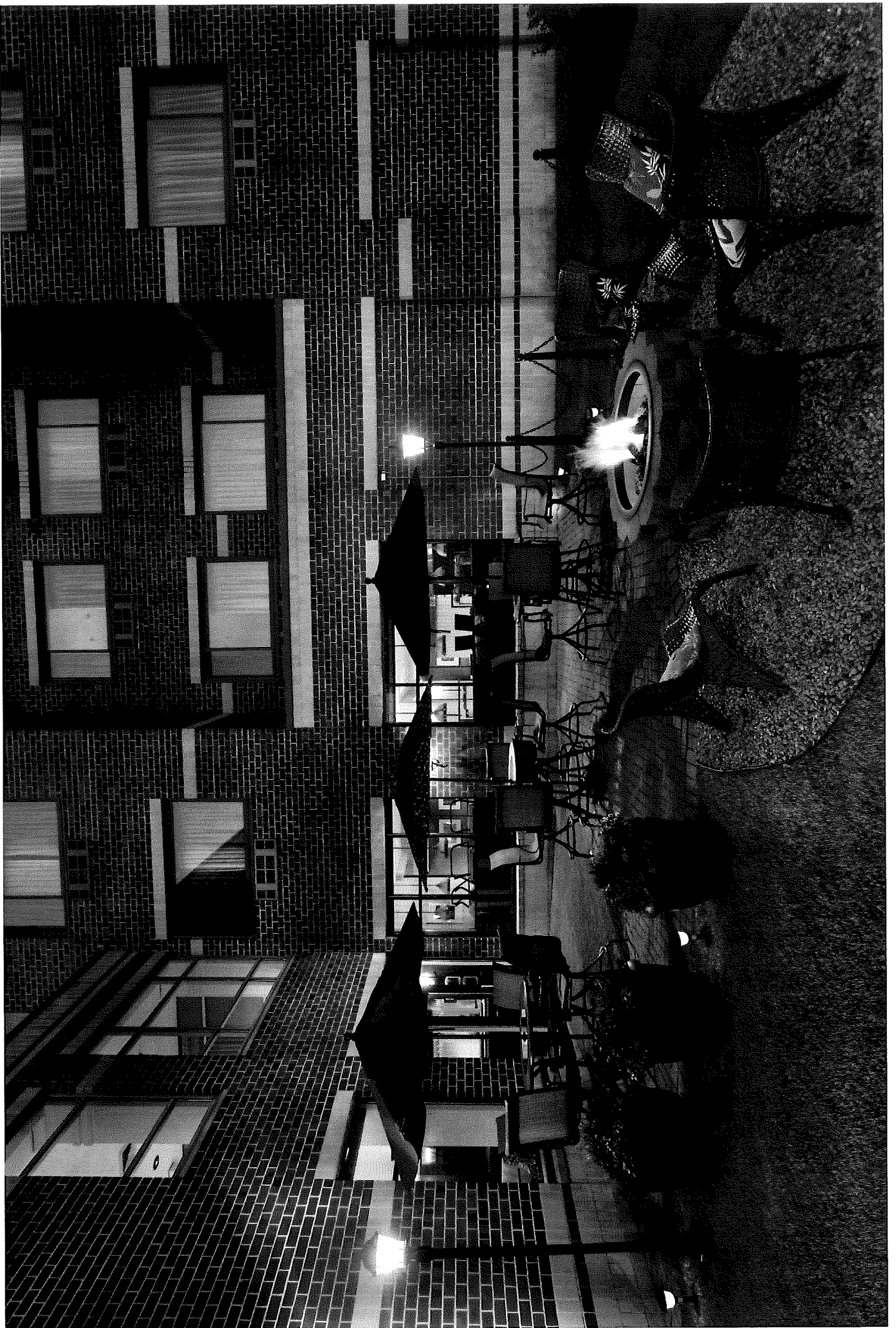
LOBBY FF&E LAYOUT



K&A DESIGN STUDIO
DATE: 11/21/2016





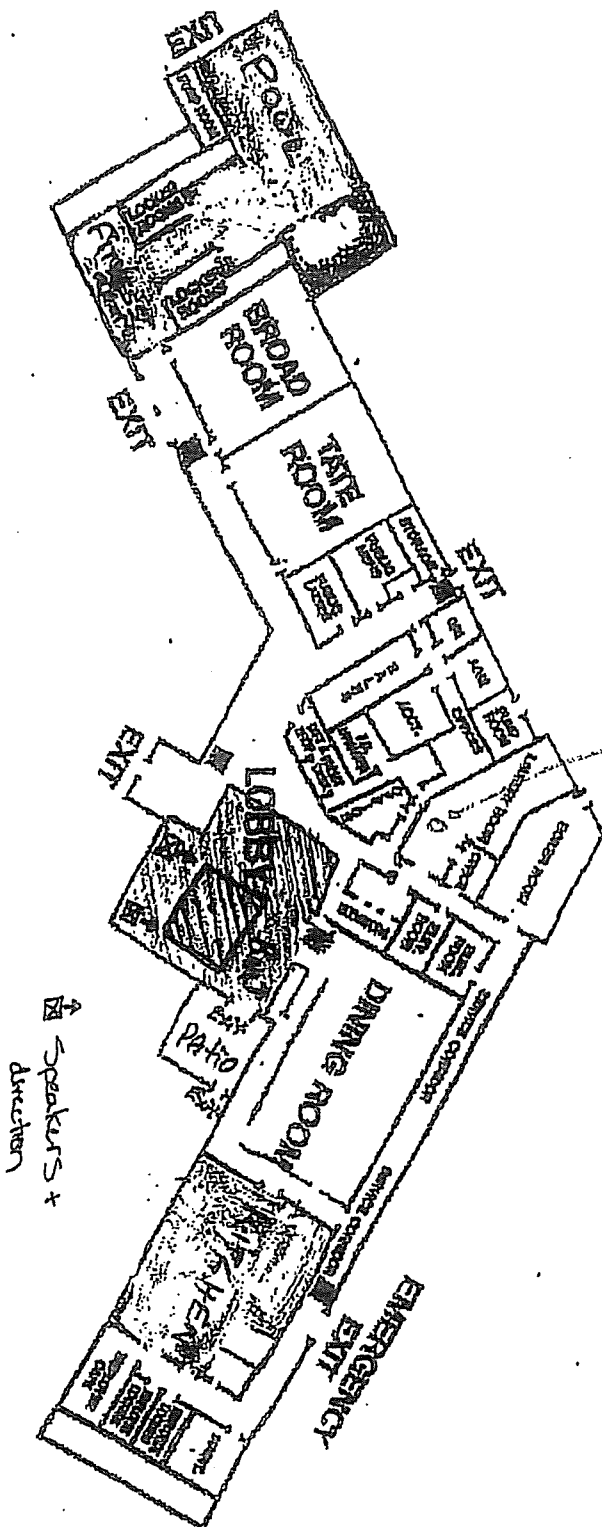


3-16-68 Portland, Oregon

EMBASSY SUITES

Lobby Level Floor Plan

PROPOSED
Lobby Level
Floor Plan



FIRE PULL STATIONS

Permitted

denying

Managers Reception Area

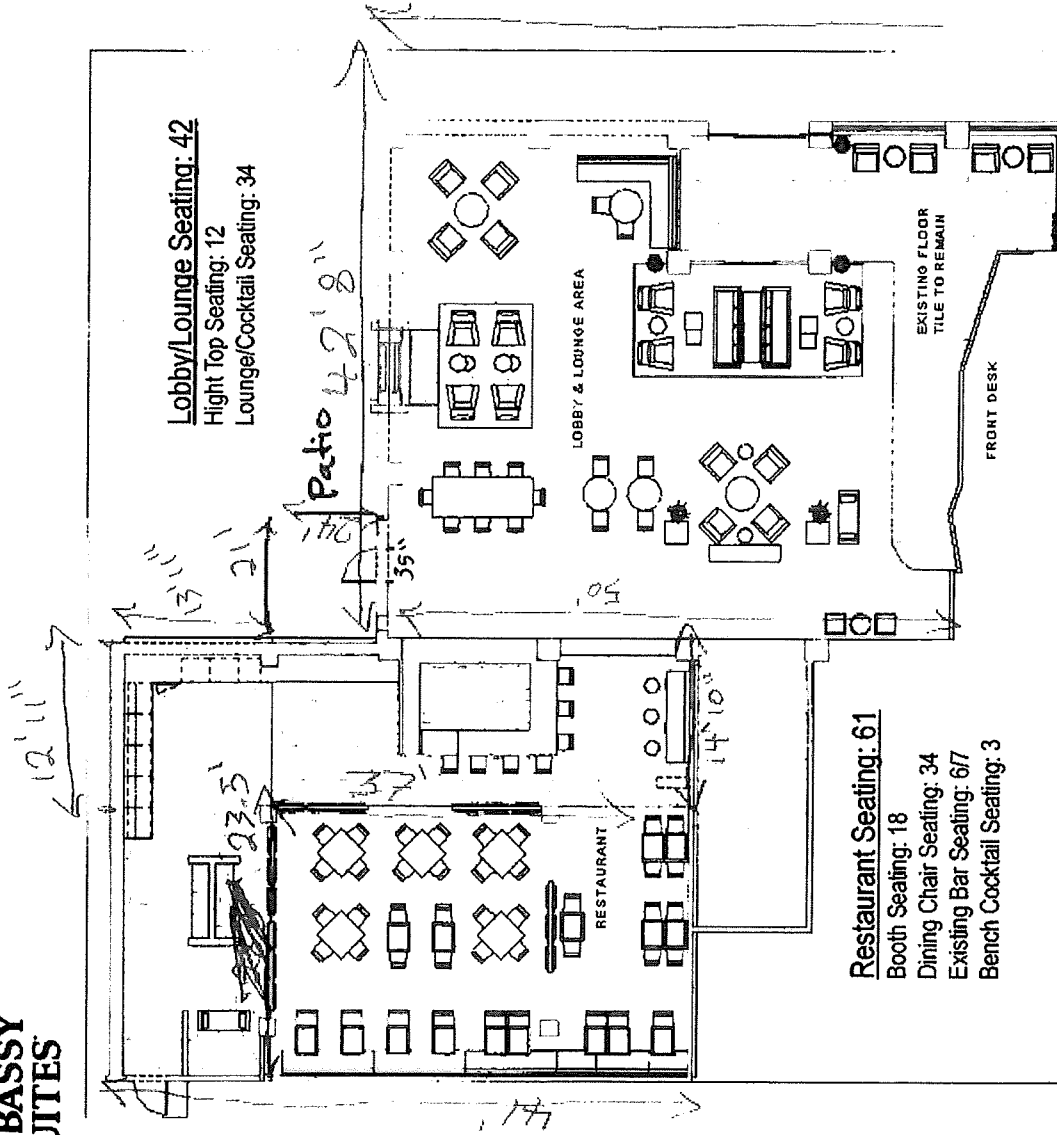
Speakers + direction



EMBASSY
SUITES

EMBASSY SUITES PORTLAND, ME

LOBBY FF&E LAYOUT





ARRIVALS

CHOWDAH 7 // 9

Chopped New England clams, Maine potatoes, bacon, celery, onion, & butter simmered in heavy cream

SOUP OF THE DAY 5 // 7

PORTLAND

HOUSE SALAD 5 // 9

House salad with fresh lettuce, cucumbers, grape tomatoes, & red onions w/ choice of balsamic vinaigrette, bleu cheese, honey mustard, Italian or ranch dressing

CONGRESS SQUARE

CAESAR SALAD 5 // 9

Traditional Caesar salad with crisp romaine lettuce, croûtons, parmesan cheese, & Caesar dressing

STROUDWATER

SPINACH SALAD 5 // 9

Baby spinach, dried cranberries, cucumbers, red onion, bacon, feta cheese & finished w/ balsamic vinaigrette

WILLARD

WEDGE SALAD // 9

A fresh wedge of iceberg lettuce served whole w/ bacon crumbles, grape tomatoes, red onions, & topped w/ bleu cheese dressing

THOMPSON

CHEF SALAD // 14

Romaine lettuce, crumbled bacon, roasted turkey, diced ham, hard boiled egg, onions, tomatoes & cucumbers

ADD THE FOLLOWING TO ANY SALAD

CHICKEN // 4 STEAK* // 8
SHRIMP // 8 SALMON* // 9 LOBSTER // (MKT)

SHARES

MOZZARELLA STICKS // 8

Deep fried mozzarella sticks w/ a side of marinara for dipping

♥ NACHOS // 9

Crispy corn tortilla chips, melted sharp white cheddar cheese, house made pico de gallo, black olives and jalapeños
- add chicken (\$4) or beef* (\$6)

♥ MUSSELS * // 12

Locally sourced rope cultured black mussels steamed in local beer, served w/ grilled bread on the side

VEGGIE QUESADILLA // 8

White tortilla quesadilla filled with fresh salsa and black beans, w/ a side of sour cream
- add chicken (\$4), steak* (\$8) or shrimp (\$8)

♥ LOADED TATER TOTS // 8

An American favorite served w/ cheddar cheese sauce, bacon crumbles, fresh scallions & side of sour cream

WINGS OR TENDERS 8 // 13

Bone-in chicken wings or boneless tenders, fried to a golden perfection, served w/ choice of house made Maine blueberry barbecue sauce, buffalo, or traditional barbecue

CRAB CAKES // 10

Deep fried Maine crab cakes drizzled w/ roasted red pepper remoulade

SPINACH & ARTICHOKE DIP // 11

A warm crock of creamy spinach, tender artichokes, & melted cheeses served w/ crispy tortilla chips

ONION RINGS // 8

Served w/ your choice of dipping sauces: banana pepper aioli, honey mustard, Maine blueberry barbecue sauce, or ketchup

♥ CHEF POINTS - RECOMMENDED SELECTIONS FROM THE CHEF

CHART YOUR OWN PIZZA

12" PAN STYLE

CLASSIC CHEESE // 9

TOPPINGS

SPECIALTY PIZZA

BLT PIZZA

BLT = A Bacon Lover's Treat // 12
Ranch dressing base, shredded mozzarella, diced tomatoes, & bacon crumbles garnished w/ shredded lettuce

VEGGIE PIZZA

Vegetables are an important staple of a healthy diet...so is pizza // 14
Marinara base w/ feta, mozzarella, peppers, onions, tomatoes, & mushrooms

CLASSIC SUPREME

DELI DESTINATIONS

ALL SANDWICHES ARE SERVED W/ CHIPS & A PICKLE - SUBSTITUTE FRENCH FRIES, TATER TOTS OR ONION RINGS FOR \$3

📍 THE WHARF STREET OPEN FACED TURKEY SANDWICH // 11

Just as tourists & locals are drawn to the cobblestone streets of downtown, this sandwich has its own gravitational pull
- Oven roasted turkey smothered in house made gravy atop toast & served w/ cranberry sauce

📍 THE COMMERCIAL STREET LOBSTER ROLL // MKT

Fresh Maine lobster claw & knuckle meat lightly tossed in mayo w/ shredded lettuce served on a butter toasted roll
- a sandwich worthy of the street it's named after

THE LONGFELLOW STEAK & CHEESE SANDWICH // 14

Steak tips, flat top grilled, w/ American cheese, onions, green peppers, & mushrooms served on a toasted roll
- such poetry never sounded so good

THE EAST ENDER HADDOCK SANDWICH // 11

A "wicked good" New England style reuben - Fried haddock topped w/ Swiss cheese, coleslaw, thousand island dressing on a toasted brioche roll

THE CHEBEAGUE CHICKEN SANDWICH // 12

Grilled chicken breast topped w/ melted pepper jack cheese, lettuce, tomato & red onion
- Why Chebeague? Well, because chicken on an island sounds pretty good right now...

📍 THE MAINE MARINER MEATLOAF GRILLED CHEESE // 11

Thin sliced meatloaf on grilled Texas toast w/ American cheese
- because like hockey in Maine, these two things simply belong together

THE MECA VEGGIE BURGER // 10

A real masterpiece of its own, this veggie burger is made w/ local ingredients from Blue Mango & is topped w/ cheese, lettuce, tomato, red onion, & banana pepper aioli on a brioche roll

THE CASCO BAY BURGER * // 13

Locally sourced 6 oz ground black angus beef burger, cooked to order, topped w/ cheese, lettuce, tomato, shaved red onion, on a local butter toasted brioche bun - a real "whale" of a burger - for \$3 add bacon, sautéed mushrooms or onions

📍 CHEF POINTS - RECOMMENDED SELECTIONS FROM THE CHEF

APPROACH PLATES

📍 MACARONI & CHEESE // 14

Home-style cavatappi pasta, creamy cheddar cheese, served w/ garlic bread
- add lobster // mkt

📍 STEAK TIPS * // 24

Marinated tenderloin tips served w/ mashed potatoes & seasonal vegetables

CHICKEN MARSALA // 18

Fried chicken breast in house made marsala wine sauce w/ sautéed mushrooms over linguine & served w/ garlic bread

MEATLOAF // 16

A hearty serving of home-style meatloaf baked and served w/ gravy, mashed potatoes, and seasonal vegetables

GRILLED PORK CHOP* // 18

House cut pork loin chop w/ seasonal chutney, mashed potatoes & seasonal vegetables

SEAFOOD ALFREDO

// 30

Fresh Maine lobster & shrimp tossed in a creamy Alfredo sauce w/ broccoli over linguine

SEAFOOD PLATTER

// 26



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D907027

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-03-12) :

Inquiries Name(s) ANTHONY LIBROT (1972-08-03)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D907024

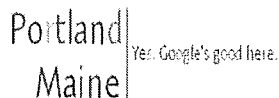
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-03-12) :

Inquiries Name(s) **FRANK VENTO (1955-01-20)**

NO MATCH WAS FOUND FOR YOUR REQUEST.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Embassy Suites

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Mar 12, 2019 at 4:39 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Jeanie Bourke <jmb@portlandmaine.gov>

PD has no objections.

Kevin C.

On Tue, Mar 12, 2019 at 9:16 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Embassy Suites for a Change of Ownership. This will be going before council on 4/8. Please advise. Thanks Jess

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman

Portland Police Department

Patrol Division

109 Middle St

Portland, Maine 04101

(O) 207-756-8294

kevindc@portlandmaine.gov.

Hours - Saturday thru Tuesday (4pm-2am)



Permitting and Inspections Department

March 19, 2019

AAM Portland Servers, LLC
78 Blanchard Rd Suite 100
Burlington MA 01803

Re: AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street.

Dear Frank Vento,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street. Sponsored by Jon P. Jennings, City Manager.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

AAM Portland Servers, LLC dba Embassy Suites by Hilton. Application for a Class I-A with Entertainment with Dancing and Outdoor Dining on Private Property at 1050 Westbrook Street.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 205-18/19 Granting Municipal Officers' Approval of Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with Outdoor Dining on Public Property at 52 Wharf Street.- Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with Outdoor Dining on Public Property at 52 Wharf Street.

Application was filed on 2/22/2019. New City application. Applicant currently holds a Class XI at this location.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. The Independent Ice Co.docx
2. 20190320103048538

Prepared by:

Date: 3/20/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
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PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with
Outdoor Dining on Public Property at 52 Wharf Street.**



City Council Members:

We opened The Independent Ice Company in July of 2018 at the corner of Union and Wharf St. The building has seen frequent turnover and business failure over the last decade, but we saw an opportunity to bring a more upscale establishment to Wharf St. Since opening in July of 2018, we have worked with the city to enact a street shut down to vehicular traffic during the summer months, our landlord has made exterior façade improvements to the building and we've organized a Wharf St tenant association. The "buzz" around the direction of Wharf St. has been positive and The Independent Ice Co has been well received by customers, nearby hotels and surrounding businesses.

We are also applying for outdoor seating & dining on Wharf St. The Wharf St. "patio" will have 4-6 tables with seating for up to 24-30 people enclosed within an iron railing. Our goal is to create a European street café experience that will enhance our end of Wharf street during the daytime.

The ongoing change in tenant mix, the seasonal street shut down, additional outdoor seating and other changes will make Wharf St. a unique area in already vibrant district. If you have any questions or would like a tour of our facility and discuss the changes on Wharf St, please don't hesitate to contact us. Thank you.

Larry Constantin (Owner)

Larry@Independenceice.com

Brian Hanson (Owner)

Brian@Independenceice.com

Gary Savage (General Manager)

Gary@Independenceice.com

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Public Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☐ Legal Advertisement Deposit \$100.00
☒ Outdoor Dining on Public Property \$84.00 plus \$2.00 per Square foot \$2.00 X <u>385</u> SF = _____
☐ Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X _____ SF = _____

Business Information	THE INDEPENDENT ICE CO.		
Business Name (d/b/a):	Bourbon Ventures LLC	Phone:	207-450-6475
Location Address:	52 Wharf St. Portland	Zip:	04101
Mailing Address:	217 Commercial St. Suite 300	Zip:	Portland ME 04112
Contact Person:	BRIAN HANSON	Phone:	207-450-6475
Contact Person Email:	BRIAN@INDEPENDENTICE.COM		
Manager of Establishment:	GARY SAVAGE	Date of Birth:	4/17/62
		Phone:	207-357-6311
Owner of Premises (Landlord):	Wharf St LLC, JOE COOPER		
Address of Premises Owner:	4 Milk St. #103 Portland	Zip:	04101

Owner Information

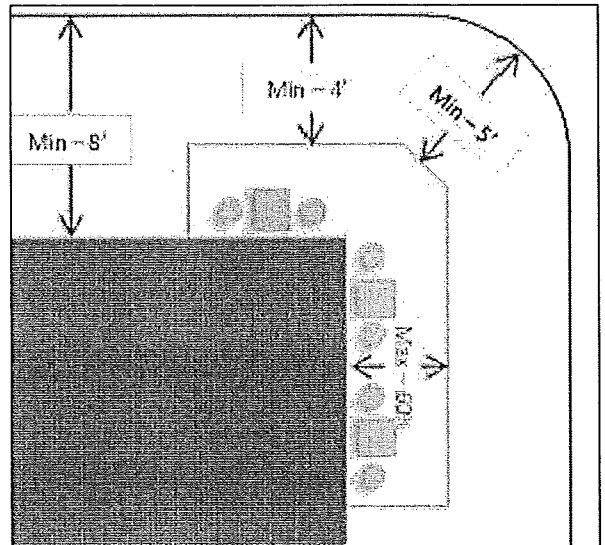
Corporate Name		Corporate Mailing Address	
Bourbon Ventures LLC		217 Commercial St Suite 300 04112	
Contact Person:	BRIAN HANSON	Phone:	207-450-6475
Principal Officers	Title	Date of Birth	Residence Address
BRIAN HANSON	OWNER	10/3/69	13 Hillcrest West Portland ME 04103
Lawrence Constantin	Owner	3/20/73	5175 Mine Way PALM HARBOR FL 34685

About Your Establishment

Class of License:	CLASS XI FSE
Type of food served:	APPS, snacks, sandwiches, salads, desserts
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	MON-THURS 4-Close, FRI-SUN 1/2-Close
Number of Tables	6
Number of Chairs	24

Design and Construction

Existing Sidewalk Width (property line to curb)	Sidewalk Dining Allowed?
< 8'0"	No
≥ 8'0"	Yes – up to 60% of sidewalk
Sidewalk Type	Sidewalk Passage Width (Min)
Standard sidewalk	4'0"
Street corner	5'0"

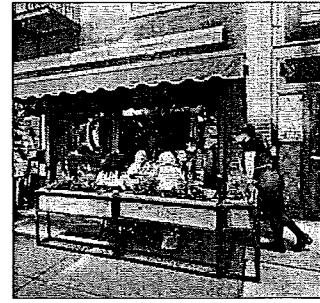
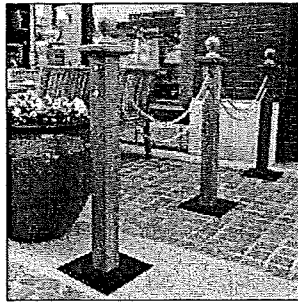
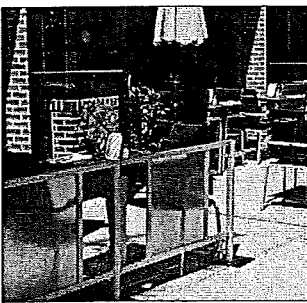


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes to existing straight passage is at the discretion of the City.
- Egress must be maintained free of obstruction.
- Permanent fixtures, such as awnings, require a building permit separate from the Outdoor Dining permit and subject to approval by the Building Authority.
- Umbrellas do not require a permit.
- Umbrellas must be secured and maintain the height clearance for sidewalk passage.

Barriers

- If barriers are proposed, they must be free-standing. Physical attachments to a building are not allowed.
- Stanchions and ropes are encouraged. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
- Shall not exceed 42" in height and may not include commercial signage.

Example barrier types that meet regulation

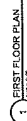


Independent Ice Co.

Outdoor Patio(s)

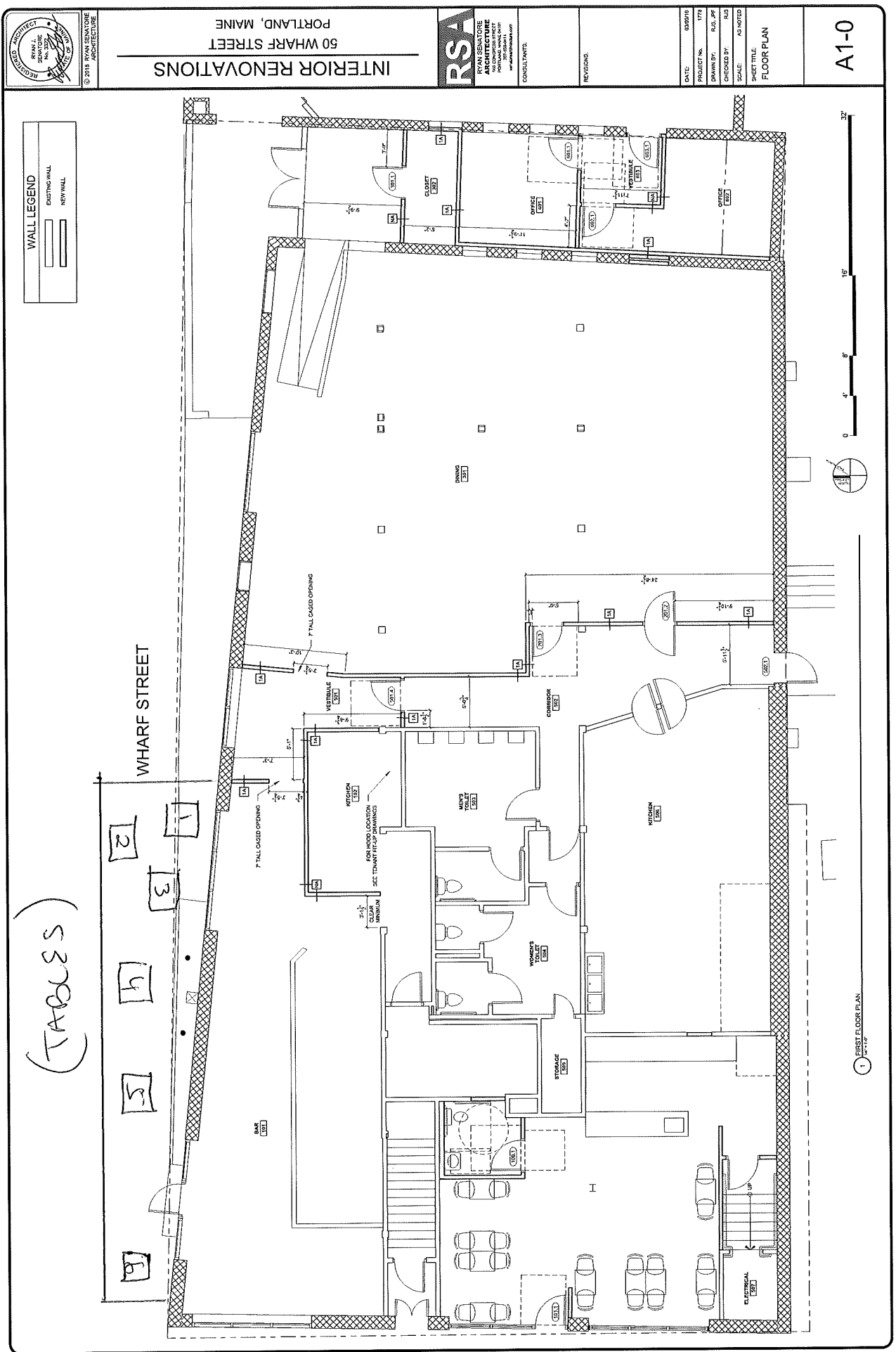
Wharf St.

1. The seating area is trapezoidal due to the angle of the front of the building.
2. On the Union St. end the patio is 7' from the building. This still allows more than the 10' street way required by the city for emergency vehicles.
3. On the Dana St. end the patio side is 11'. 7' of city street and 4' of private patio.
4. There will be 6 4-top tables with estimated seating of 24. (It could be less due to space constraints—some tables may only have 2 or 3 chairs).
5. Each table will have an umbrella mounted at center.
6. The existing iron wrought fencing will be used to enclose the patio. Square footings will be welded to the fence pots so fencing will be free floating on the street surface.
7. Exterior corners may have whiskey barrels for aesthetics.
8. Planters will be installed on the edges of the fence and corners.



OUTDOOR SEATING - 34 ARE ST.





OUT DOOR SEATING - WHARF ST



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/21/2019

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

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

PRODUCER	CONTACT NAME: Melissa Cox, AAI
GHM Agency	PHONE (A/C, No, Ext): (207) 873-5101
51 Main Street	FAX (A/C, No): (207) 873-5784
PO Box 649	E-MAIL ADDRESS: melissa@ghmagency.com
Waterville	INSURER(S) AFFORDING COVERAGE
ME 04903-0649	INSURER A: Acceptance Indemnity Ins Co
INSURED	INSURER B:
Bourbon Ventures, LLC, DBA: Independent Ice Co.	INSURER C:
217 Commercial St Suite 300	INSURER D:
Portland	INSURER E:
ME 04112	INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		CL00253883	06/15/2018	06/15/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$ OCCUR CLAIMS-MADE						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	LIQUOR LIABILITY			CL00253883	06/15/2018	06/15/2019	EA OCCURE 1,000,000 AGGREGATE 2,000,000

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

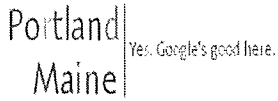
certificate holder is additional insured in regards to general liability.

CERTIFICATE HOLDER

CANCELLATION

City of Portland 389 Congress Street Portland ME 04101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Chelsea Gallagher
---	--

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Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Independent ice Co

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 26, 2019 at 6:28 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Jeanie Bourke <jmb@portlandmaine.gov>

PD has no objections

Kevin C.

On Tue, Feb 26, 2019 at 9:17 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached applications which will go before council on 3/18. They are applying for Outdoor Dining on Public Property, Outdoor Dining on Private Property and Entertainment with dance. I will be walking down to measure the distance as this business falls in the overlay zone.

Please advise. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)



Permitting and Inspections Department

March 19, 2019

Bourbon Ventures LLC
217 Commercial Street Suite 300
Portland ME 04112

Re: Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with Outdoor Dining on Public Property.

Dear Brian Hanson,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Class XI with Outdoor Dining on Public Property at 52 Wharf Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Bourbon Ventures LLC dba The Independent Ice Co. Application for a Class XI with Outdoor Dining on Public Property at 52 Wharf Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 206-18/19 Granting Municipal Officers' Approval of Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue- Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue.

Application was filed on 3/5/2019. New City application. Applicant currently holds a Class I FSE with Entertainment with Dance.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20190320103323180
2. Italian Heritage Center.docx

Prepared by:

Date: 3/20/2019

February 28, 2019

The Honorable Ethan Strimling, Mayor of Portland
and Members of the City Council
Portland City Hall
301 Congress Street
Portland, ME 04101

Subject: Italian Heritage Center Outdoor Patio Request

Dear Mayor Strimling and Members of the City Council:

I am writing to respectfully request your endorsement and approval of a request by the Italian Heritage Center, a well-established Portland Business, to set up a 20' by 80' outdoor patio and dining space in an area of our existing parking lot that abuts the building.

With hundreds of surrounding businesses in the Greater Portland area offering outdoor dining/seating options during the warmer months, we believe that this step is vital to the sustainability of our seasonal business. We also feel it would enhance future business opportunities for the variety of events that are hosted at our facility.

We have attached the necessary forms and drawings to support this change and look forward to your favorable response to our request.

Sincerely,

Carmela Reali
President



Darlene Napolitano
Activities Director



Attachments

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Private Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Outdoor Dining on Private Property \$125.00 ☐ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Italian Heritage Center	Phone:	207 772-2500
Location Address:	40 Westland Ave Portland, ME	Zip:	04102
Mailing Address:	Same	Zip:	
Contact Person:	Kathleen Guzman	Phone:	207 400-4794
Contact Person Email:	KGuzman1655@gmail.com		
Manager of Establishment:	Carmella Reali, President	Date of Birth:	
		Phone:	207 939-8570
Owner of Premises (Landlord):	Italian Heritage Center		
Address of Premises Owner:	40 Westland Ave, Portland, ME	Zip:	04102

Owner Information

Corporate Name		Corporate Mailing Address	
Same as Above		Same as Above	
Contact Person:	Carmella Reali	Phone:	207 939-8570
Principal Officers		Title	Date of Birth
Carmella Reali	President		
Albert DiMillo	Treasurer		
Residence Address			
Caprice St, Portland		04102	

About Your Establishment

Class of License:	
Type of food served:	<u>Pub food</u>
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>
Hours & days of operation:	<u>Tues - Sat</u> <u>10:00 AM - 12:00 AM</u> <u>4:00 PM - 11:00 PM</u>
Number of Tables	<u>12</u>
Number of Chairs	<u>96</u>

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature [Signature] Title Acting Director Date 2/28/2019

For Administrative Use Only

Amount: _____	Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____ / _____	
CC _____ CA _____ CK _____	Health: _____ / _____	
	PD: _____ / _____	
Amount: _____	PR: _____ / _____	
Date Paid: _____	Treasury: _____ / _____	
CC _____ CA _____ CK _____	Zoning: _____ / _____	

City of Portland Maine Parcel Viewer

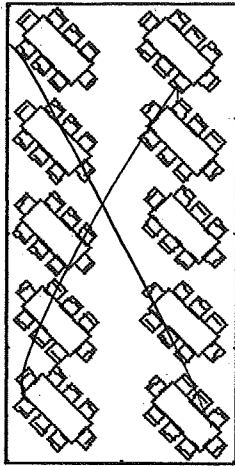


IHC - Outdoor Dining Area

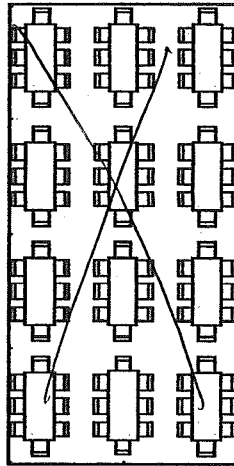
25 X 80 Total AREA

20 X 40 Ft.

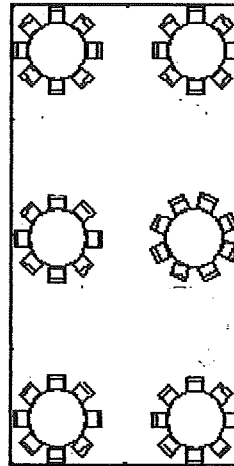
Total Sq Ft.
1600



10 - 6' TABLES
80 - CHAIRS



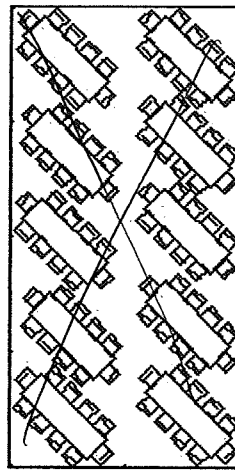
12 - 6' TABLES
96 - CHAIRS



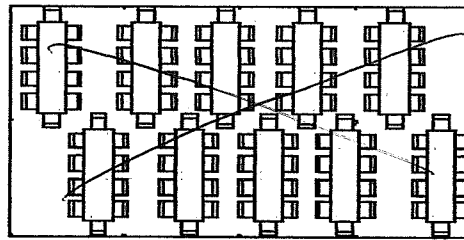
~~10 - 60" TABLES~~
~~80 - CHAIRS~~

1/2

6 - 60" Tables
48 - Chairs



10 - 8' TABLES
100 - CHAIRS



10 - 8' TABLES
100 - CHAIRS

20' X 40'

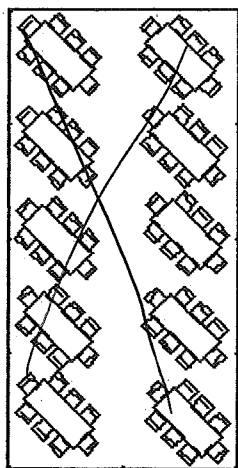
Americ Equipment Rental, Inc
Hartselle: (256) 773-3051 or Athens: (256) 233-5747

IHC - Outdoor Dining Area

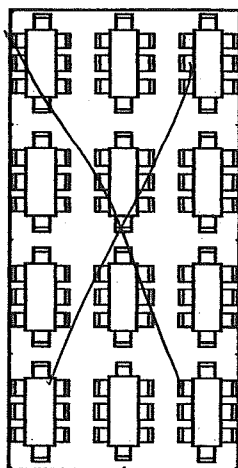
20 X 80 Total AREA

20 X 40 FT.

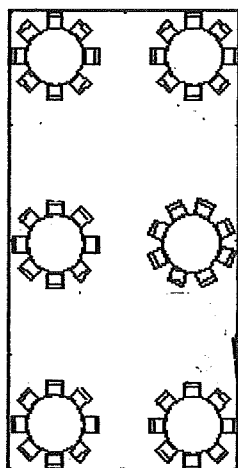
Total Sq Ft.
1600



10 - 6' TABLES
80 - CHAIRS

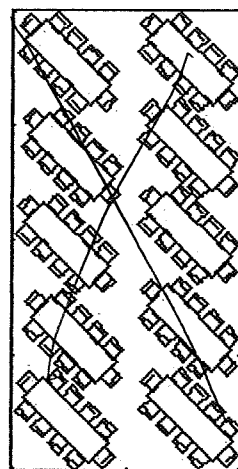


12 - 6' TABLES
96 - CHAIRS

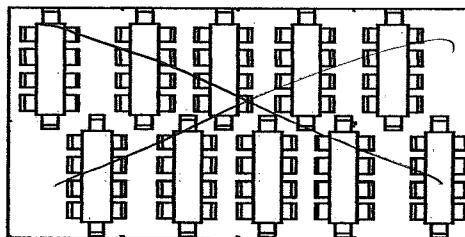


~~10 - 60" TABLES~~
~~80 - CHAIRS~~

6 - 60" Tables
48 - Chairs



10 - 8' TABLES
100 - CHAIRS



10 - 8' TABLES
100 - CHAIRS

20' X 40'

Americ Equipment Rental, Inc
Hartselle: (256) 773-3051 or Athens: (256) 233-5747



Skip to main content



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Portland 04101

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Orders

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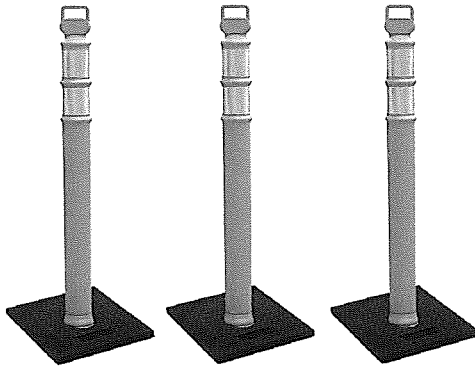
Cart

amazonbasics

Shop Safety Cones and Warning Signs



Industrial & Scientific › Occupational Health & Safety Products › Safety Signs & Signals › Safety Barriers › Rope Barriers



Cortina#03-747RBC-3 - 3 PACK 45" Orange Delineator Post Kit

by Cortina

2 customer reviews

Price: \$68.81 & FREE Shipping. Details

Size: 3 Pack

- Portable, light, easy to set up and relocate. UV stabilized, highly visible. Two high intensity prismatic reflective collars. Use on construction sites, facility management, pedestrian safety, etc
- NCHRP-350 certified. The product measures 45 inch to the base of the handle, 49 inch to the top of the handle
- 100 percent impact resistant polyethylene
- UV inhibitors resist fading
- 2 high intensity reflective stripes on each delineator

› See more product details

Used & new (2) from \$63.47 & FREE shipping. Details

Share

\$68.81

& FREE Shipping. Details

Want it Saturday, March 2? Order within 3 hrs 8 mins and choose Standard Shipping at checkout. Details

In Stock.

Ships from and sold by Amazon.com.

Qty: 1

Add to Cart

Buy Now

Deliver to Portland 04101

Add to List

Exciting Deals for Work by AmazonBasics



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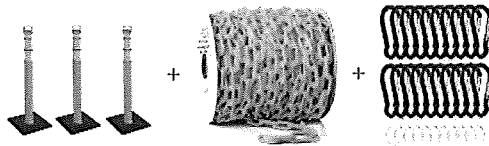
Other Sellers on Amazon

& new (2) from \$63.47 & FREE shipping. Details

Have one to sell?

Sell on Amazon

Frequently bought together



Total price: \$151.55

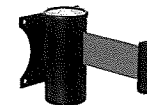
Add all three to Cart

Add all three to List

These items are shipped from and sold by different sellers. Show details

- ☒ This item: Cortina#03-747RBC-3 - 3 PACK 45" Orange Delineator Post Kit \$68.81
- ☒ US Weight ChainBoss Plastic Chain - 125 Feet, Orange \$73.75
- ☒ 20PCS 2.5"/6CM Aluminum Carabiner Clip with 10PCS Keyring,Durable Spring-Loaded Keychain Hook Pack... \$8.99

Sponsored products related to this item

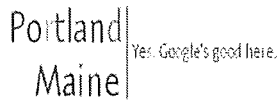


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Mount Today

Retractable Wall Mount Barrier with 96" (Inches) Retractable Belt (1, Black w/ R...

1
\$29.99 ✓prime

Ad feedback



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Italian Heritage Center

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Mar 5, 2019 at 5:15 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Jeanie Bourke <jmb@portlandmaine.gov>

PD has no objections.

Kevin C.

On Tue, Mar 5, 2019 at 3:26 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Outdoor dining. This will go before council on 4/8. Please advise.

Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman

Portland Police Department

Patrol Division

109 Middle St

Portland, Maine 04101

(O) 207-756-8294

kevindc@portlandmaine.gov.

Hours - Saturday thru Tuesday (4pm-2am)



Permitting and Inspections Department

March 19, 2019

Italian Heritage Center
40 Westland Avenue
Portland ME 04102

Re: Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue.

Dear Kathleen Guzman,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue. Sponsored by Jon P. Jennings, City Manager.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Italian Heritage Center dba Italian Heritage Center. Application for a Class I FSE with Outdoor Dining on Private Property at 40 Westland Avenue.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 207-18/19 Granting Municipal Officers' Approval of Harry and Maries LLC dba Shay's Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Harry and Maries LLC dba Shay's Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square.

Application was filed on 3/18/2019. New City Application. Applicant currently holds a Class I FSE.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Shays Grill Pub Outdoor Dining.docx
2. 20190320103849215

Prepared by:

Date: 3/20/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Harry and Maries LLC dba Shay’s Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square.

March 14, 2019

City of Portland

389 Congress street

Portland, Me, 04101

To whom it may concern, as new owners of Shays Grill Pub we are applying for our patio for the 2019 season. We feel as though Shays Grill pub patio is an integral part of Monument Square and the summer time experience for locals and tourists.



Permitting and Inspections Department
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Outdoor Dining Permit on Public Property Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Legal Advertisement Deposit \$100.00
☐ Outdoor Dining on Public Property \$84.00 plus \$2.00 per Square foot \$2.00 X <u>210</u> SF = <u>420⁰⁰</u>
☐ Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X _____ SF = _____

Business Information	
Business Name (d/b/a):	Shay's Grill Pub Phone: 207-772-2626
Location Address:	18 Monument Square Portland ME Zip: 04101
Mailing Address:	18 Monument Square Portland ME Zip: 04101
Contact Person:	Cooper Gilbert Phone: 207-387-3917
Contact Person Email:	shaysgp@gmail.com
Manager of Establishment:	Megan Toomey Date of Birth: 9/26/92 Phone: 207-405-1796
Owner of Premises (Landlord):	CHILIS ACETO (ASM PROPERTIES)
Address of Premises Owner:	PO BOX 8211 LEWISTON ME Zip: 04243

Owner Information

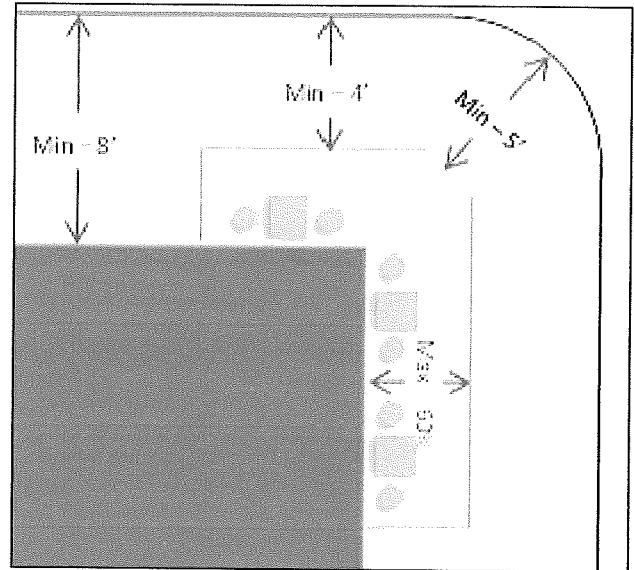
Corporate Name		Corporate Mailing Address	
Harry and Maries LLC		20 Melbourne Street Apt B Portland ME Zip: 04101	
Contact Person:	Cooper Gilbert	Phone:	207-387-3917
Principal Officers	Title	Date of Birth	Residence Address
Cooper Gilbert	Owner	04/28/1986	20 Melbourne St Apt B Portland ME 04101

About Your Establishment

Class of License:	CLASS A
Type of food served:	PUB FARE
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	M-W M-T 11:30-9 / W-SAT 11:30-10:00 / SUN CL
Number of Tables	5
Number of Chairs	20

Design and Construction

Existing Sidewalk Width (property line to curb)	Sidewalk Dining Allowed?
< 8'0"	No
≥ 8'0"	Yes – up to 60% of sidewalk
Sidewalk Type	Sidewalk Passage Width (Min)
Standard sidewalk	4'0"
Street corner	5'0"

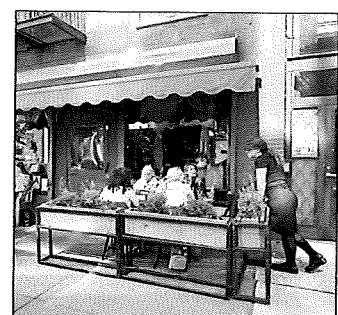
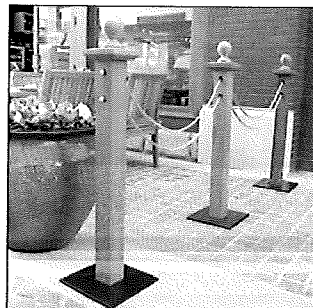


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes to existing straight passage is at the discretion of the City.
- Egress must be maintained free of obstruction.
- Permanent fixtures, such as awnings, require a building permit separate from the Outdoor Dining permit and subject to approval by the Building Authority.
- Umbrellas do not require a permit.
- Umbrellas must be secured and maintain the height clearance for sidewalk passage.

Barriers

- If barriers are proposed, they must be free-standing. Physical attachments to a building are not allowed.
- Stanchions and ropes are encouraged. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
- Shall not exceed 42" in height and may not include commercial signage.

Example barrier types that meet regulation



Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- The permit holder is responsible for keeping the outdoor seating area clean.
- No food shall be prepared in the designated outdoor dining area.
- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- Request for the use of adjacent on street parking space for outdoor dining installations requires Parking Office and Building Authority review and approval.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of this establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature Casper Gilbert Title Owner Date 3/8/19

For Administrative Use Only

Amount: _____

Date Paid: _____

CC _____ CA _____ CK _____

Amount: _____

Date Paid: _____

CC _____ CA _____ CK _____

FD: _____

Health: _____

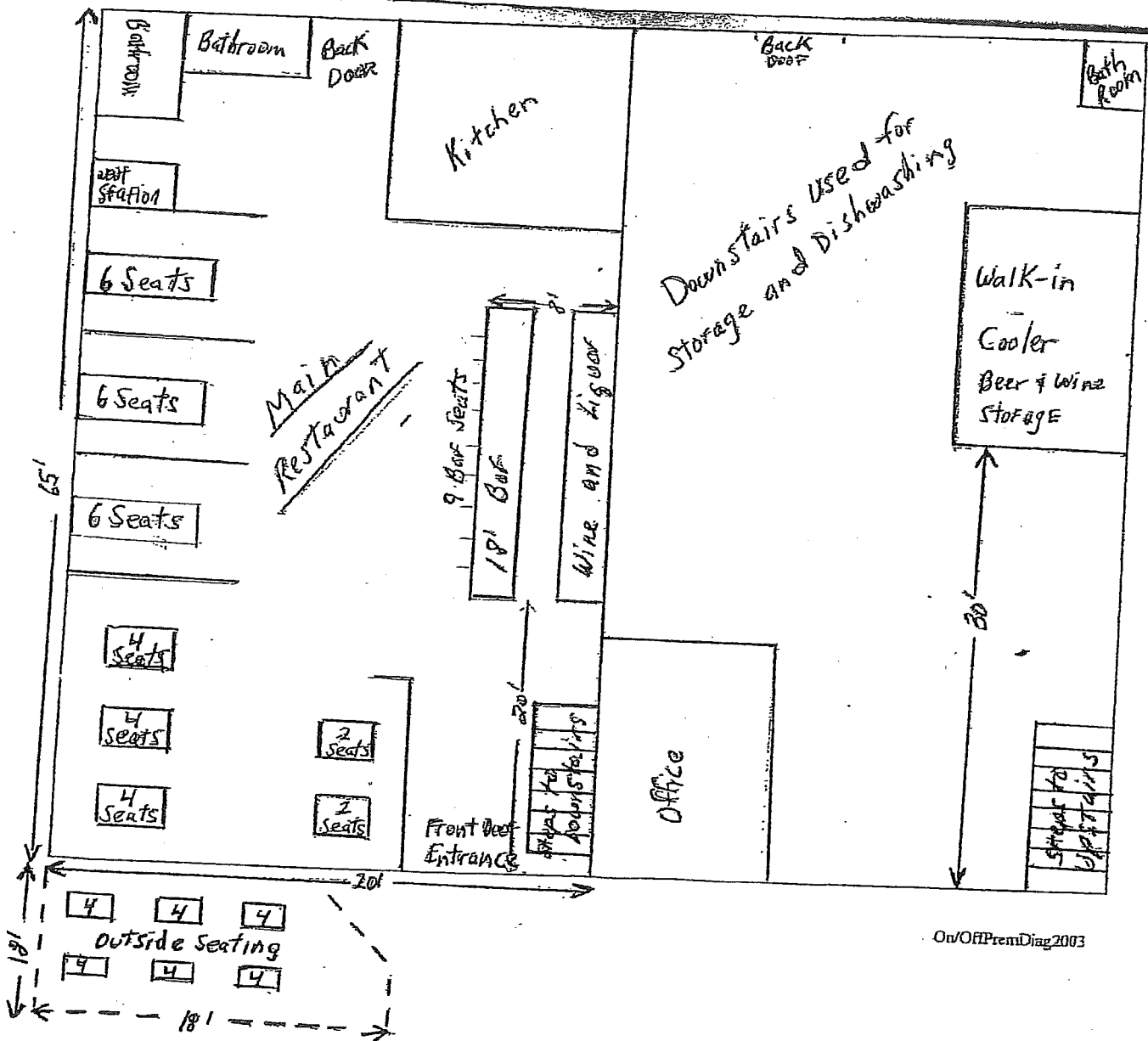
PD: _____

Treasury: _____

Zoning: _____

Request Date / Approval

Notes: _____



On/Off Prem Diag 2003



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/08/2018

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

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

PRODUCER Old Port Insurance PO Box 2272 S Portland, ME 04116	CONTACT NAME:	
	PHONE (A/C, No, Ext): 207-730-1099	FAX (A/C, No): 1-866-274-0373
INSURED Harry & Maries LLC, DBA - Shay's Grill Pub 18 Monument Square Portland, ME 04101	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Lloyds Insurance Company	
	INSURER B: Capitol Specialty Insurance Corporation	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY ☐ PRO-JECT ☐ LOC OTHER:			CS18006947-01	11/09/2018	11/09/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Liquor Liability-Occ&Aggregate \$ 1,000,000
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$ ☐			CS18006947-01	11/09/2018	11/09/2019	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Commercial Property RC-Special Causes Of Loss			WSBA976620-01	11/09/18	11/09/19	3% Wind/Hail, \$1K deductible \$250,000
A	Business Income Limit			WSBA976620-01	11/09/18	11/09/19	80% Coinsurance Clause \$650,000

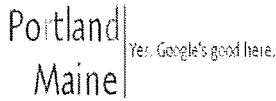
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Restaurant/Tavern Policy. Hired & non-owned auto liability included.

CERTIFICATE HOLDER

CANCELLATION

City Of Portland Maine 389 Congress St Portland, ME 04101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Shays Grill Pub

Nicholas Goodman <nickg@portlandmaine.gov>

Tue, Mar 19, 2019 at 3:29 PM

To: David Nichols <nicholsd@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Petruccelli

<petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Jessica Hanscombe

<jhanscombe@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>

PD has no objections

NG

On Tue, Mar 19, 2019 at 11:47 AM David Nichols <nicholsd@portlandmaine.gov> wrote:

Fire is OK with this.

On Tue, Mar 19, 2019 at 10:40 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Shays Grill Pub to add Outdoor Dining on Public Property. They currently hold a Class I FSE. The previous owners had the same Outdoor Dining footprint. This will go before council on 4/8. Please advise. Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Captain David Nichols

Portland Fire Department

Fire Prevention & Community Outreach Bureau

380 Congress Street

Portland, ME. 04101

Office: (207) 874-8405

Fax: (207) 874-8410

nicholsd@portlandmaine.gov



Permitting and Inspections Department

March 19, 2019

Harry and Maries LLC
18 Monument Square
Portland ME 04101

Re: Harry and Maries LLC dba Shay's Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square.

Dear Cooper Gilbert,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Harry and Maries LLC dba Shay's Grill Pub. Application for a Class I FSE with Outdoor Dining on Public Property at 18 Monument Square. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 208-18/19 Granting Municipal Officers' Approval of MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street- Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street.

Application was filed on 3/19/2019. New City and State Applications. Applicant currently holds a Class III & IV FSE with Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20190320104425946
2. Maine Oyster Company upgrade.docx

Prepared by:

Date: 3/20/2019

3/19/19

To the City Council of Portland

My name is John Herrigel, the owner of Maine Oyster Company, an oyster raw bar and food establishment located at 38 Portland Street.

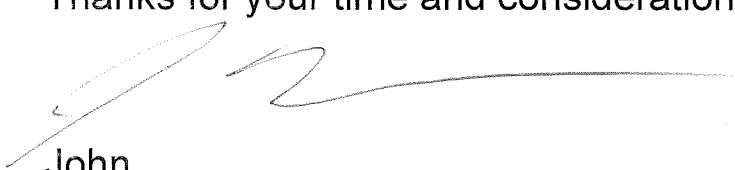
We recently opened on Oct 12th, 2018 and have been running along smoothly.

We would like to change our liquor license from beer/wine to beer/wine/liquor.

The reason being our customers have provided feedback that it would be nice to have a mixed drink whilst eating their meals and to offer a bit more variety.

Given our smaller size and earlier closing time we don't envision having a wide selection of options... simply a few mixed cocktail options to complement our menu of oysters/food/beer & wine.

Thanks for your time and consideration,



John

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	MOC Raw Bar LLC d/b/a Maine Oyster Company 1 Phone: 207-650-5383
Location Address:	38 Portland St Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	Same Zip:
Contact Person:	John Herrigel Phone:
Contact Person Email:	John.Herrigel@gmail.com
Manager of Establishment:	John Herrigel Date of Birth: 04/10/79 Phone: 207-650-5383
Owner of Premises (Landlord):	Scot Herrigel
Address of Premises Owner:	34 Oliver St, Bath ME Zip: 04530

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
MOC Raw Bar LLC		38 Portland St, Portland ME 04101 Zip:	
Contact Person:	John Herrigel	Phone:	207 650 5383
Principal Officers	Title	Date of Birth	Residence Address
John Herrigel	owner	04/10/79	40 Hanover St, Portland

About Your Establishment

Class of Liquor License:			
Type of food served:	oysters, lobster rolls, grilled cheese, soups, salads, desserts		
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor ☒		
Projected percentage of sales:	Generated from Food: 70%	Generated from Alcohol: 30%	
Hours & days of operation:	Wed - Sat 11:00 - 9:00 Sunday 11 - 5:00		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒
If yes, give the distance: 100 ft Bapiste School	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒
Will you permit dancing on the premises?	☒
Will you permit dancing after 1:00 a.m.?	☒
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one). Private	
Will you have any amusement devices (pinball, video games, juke box)?	☒
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? opened Oct 2018	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒
If Yes, please explain: OUI's 2002, 2007, 2014 unregistered vehicle - 207	

I John Herrigel do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title owner Date 3/19/19

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and
M.R.S.A. Title 28-A at www.maine.gov.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Private Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☐ Outdoor Dining on Private Property \$125.00 ☐ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Name Oyster Company		Phone: 207-650-5383
Location Address:	38 Portland St Portland		Zip: 04101
Mailing Address:	Same		Zip:
Contact Person:	John Herrigel		Phone: 207-650-5383
Contact Person Email:	JohnHerrigel@gmail.com		
Manager of Establishment:	John Herrigel	Date of Birth: 04/10/79	Phone: 207-650-5383
Owner of Premises (Landlord):	Scot Herrigel		
Address of Premises Owner:	34 Oliver St Bath ME		Zip: 04530

Owner Information

Corporate Name		Corporate Mailing Address	
MOC Raw Bar, LLC		38 Portland St, Portland ME 04101	
Contact Person:	John Herrigel	Phone:	207-650-5383
Principal Officers	Title	Date of Birth	Residence Address
John Herrigel	owner	04/10/79	40 Hanover St, Portland ME

About Your Establishment

Class of License:	Class 1
Type of food served:	oysters, lobster rolls, grilled cheese, soup, scallops, salads
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor
Hours & days of operation:	Thur-Sat 11:00-9:00 11:00-9:00, private events
Number of Tables	2-3 outside, 7-8 inside
Number of Chairs	4-6 outside, 20-22 inside

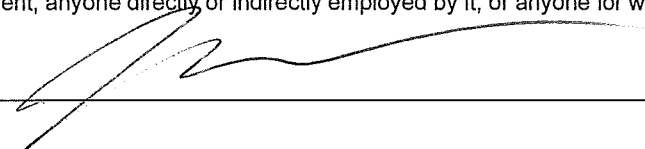
Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature  Title _____ Date 03/19/19

For Administrative Use Only

Amount: _____	Request Date /	Approval	Notes: _____
Date Paid: _____	FD: _____	_____	_____
CC _____ CA _____ CK _____	Health: _____	_____	_____
	PD: _____	_____	_____
Amount: _____	PR: _____	_____	_____
Date Paid: _____	Treasury: _____	_____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____	_____

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash	Ck Mo:

PRESENT LICENSE EXPIRES _____

NEW application: ☐ Yes ☒ No

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: _____ Business hours: _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>MOC Raw Bar LLC</u>		Business Name (D/B/A) <u>Maine Oyster Company</u>	
APPLICANT(S) –(Sole Proprietor)		Physical Location:	
DOB: <u>04/10/79</u>		DOB:	
Address <u>38 Portland St</u>		Mailing Address	
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>	
Telephone Number <u>207-650-5383</u>	Fax Number	Business Telephone Number	Fax Number
Federal I.D. # <u>82-5223998</u>	Seller Certificate #: or Sales Tax #:		
Email Address: Please Print <u>John Herrigel@gmail.com</u>	Website: <u>themaineoystercompany.com</u>		

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
- State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

 License # 38 Name of Business Maine Oyster Company
 Physical Location Portland St, Portland City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

6. If manager is to be employed, give name: _____

7. Business records are located at: _____

8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐

9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
John Herrigel	04/10/79	Summit, NJ
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
40 Hanover St, Portland, ME 04101		

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☒ NO ☐

Name: John Herrigel Date of Conviction: 2002, 2008, 2014
Offense: OUI, OUI, OUI ^{Unregistered} vehicle Location: Phippsburg, Freeport, Portland
Disposition: 2002 2008 2014 2007 (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Scot Herrigel (brother) 39 Oliver St, Bath, ME 04530

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES ☒ NO ☐ Applied for: _____

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 100 ft approximately
Which of the above is nearest? School

18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: Loan with Bangor Savings Bank

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland on 03/18/19, 20 19
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)	\$ 10.00
Class I Spirituous, Vinous and Malt	\$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.	
Class II Spirituous Only	\$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III Vinous Only	\$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV Malt Liquor Only	\$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
CLASS V: Clubs without catering privileges.	
Class X Spirituous, Vinous and Malt – Class A Lounge	\$2,200.00
CLASS X: Class A Lounge	
Class XI Spirituous, Vinous and Malt – Restaurant Lounge	\$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.	

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: MOC Raw Bar, LLC
- Doing Business As, if any: Maine Oyster Company I
- Date of filing with Secretary of State: 4/19/17 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
John Hprvigel	410 Hanover St Portland, ME 04100	04/10/79	Owner	100

(Stock ownership in non-publicly traded companies must add up to 100%.)

- If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☒ No ☐

8. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: John Herrigel

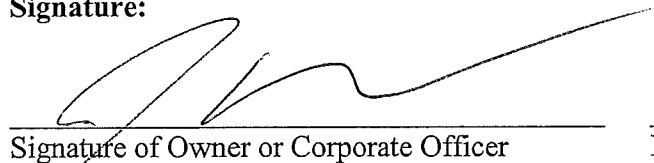
Date of Conviction: _____

Offense: 2002 - DUI Phippsburg 2007 unregistered vehicle/DUI - Free port

Location of Conviction: 2014 - DUI Portland

Disposition: _____

Signature:


Signature of Owner or Corporate Officer

3/19/19
Date

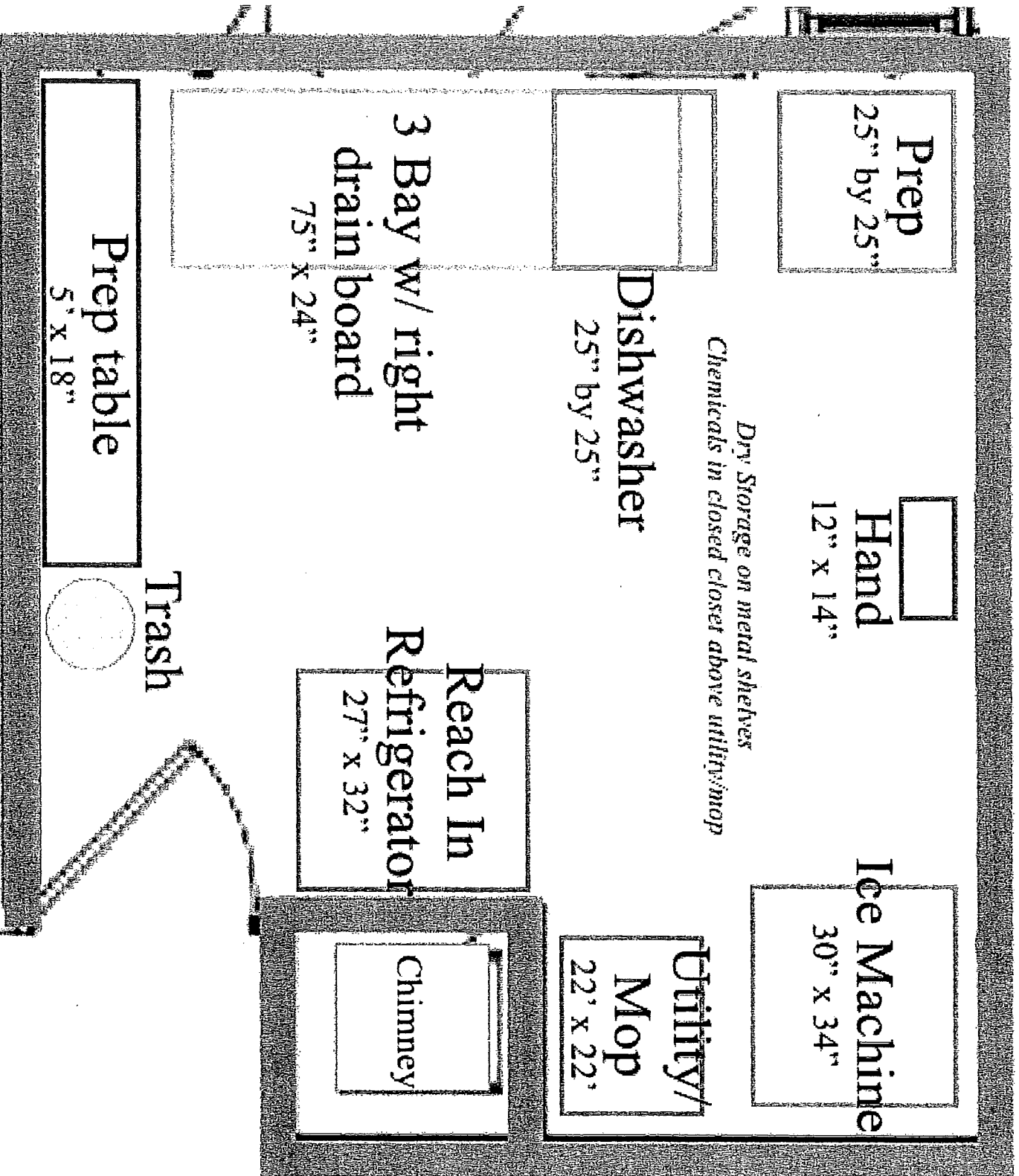
John Herrigel

Print Name of Owner or Corporate Officer

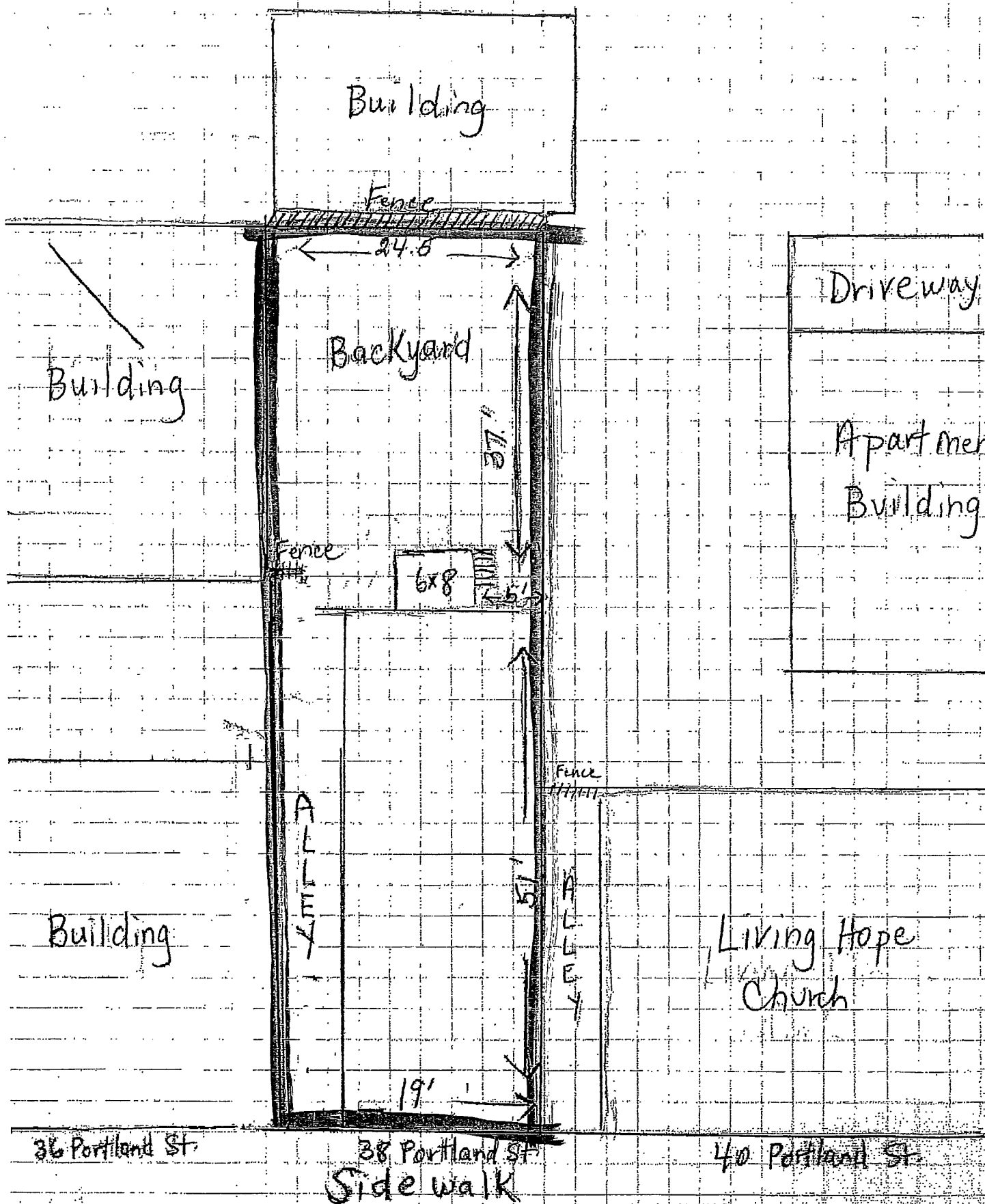
Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

12'



12'





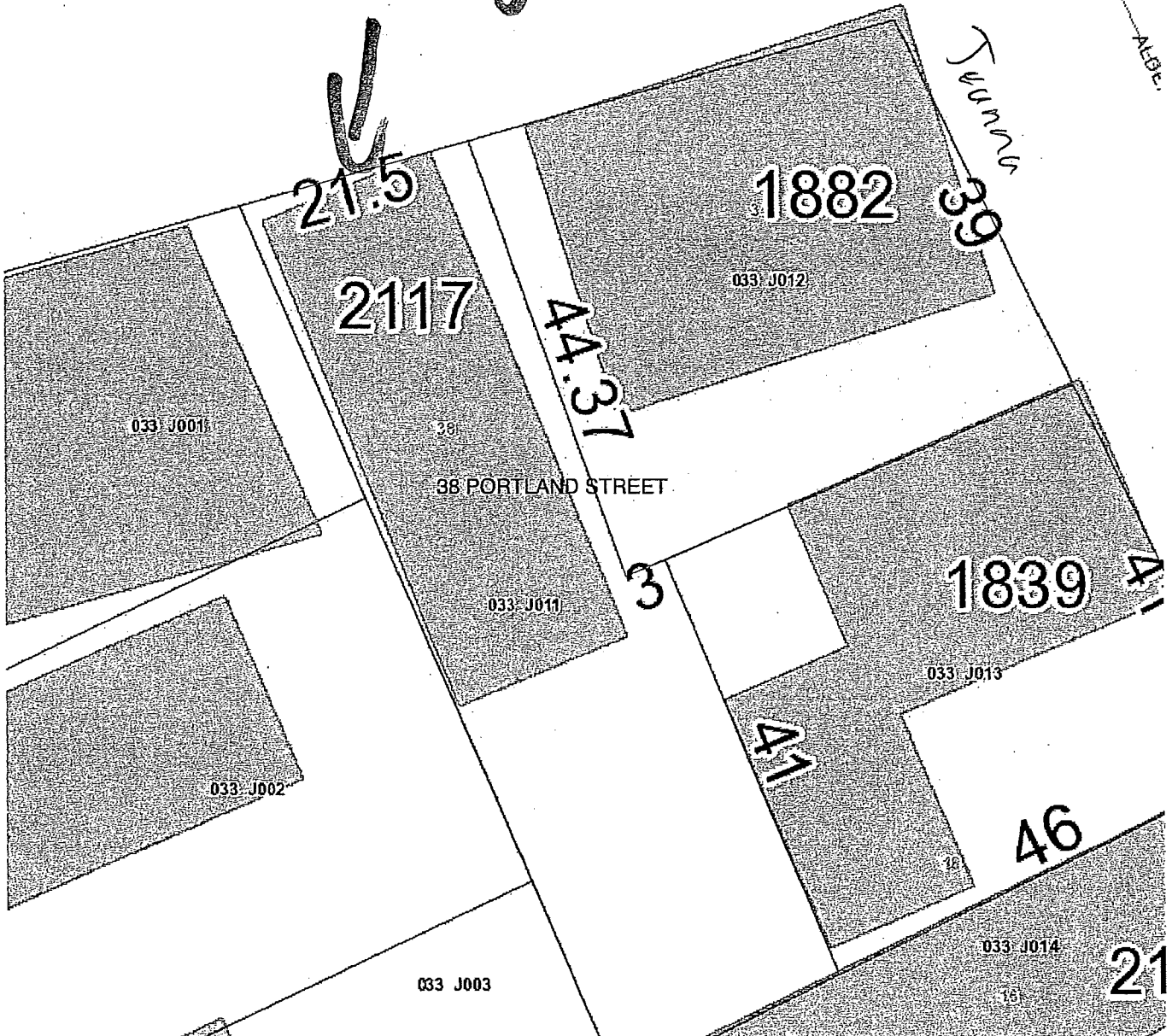
38 portland



Show search results for 38 portl...

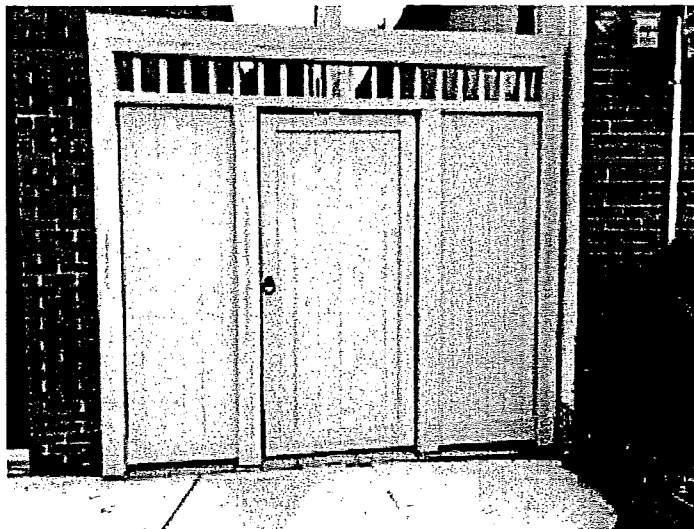
RTLAND

subject

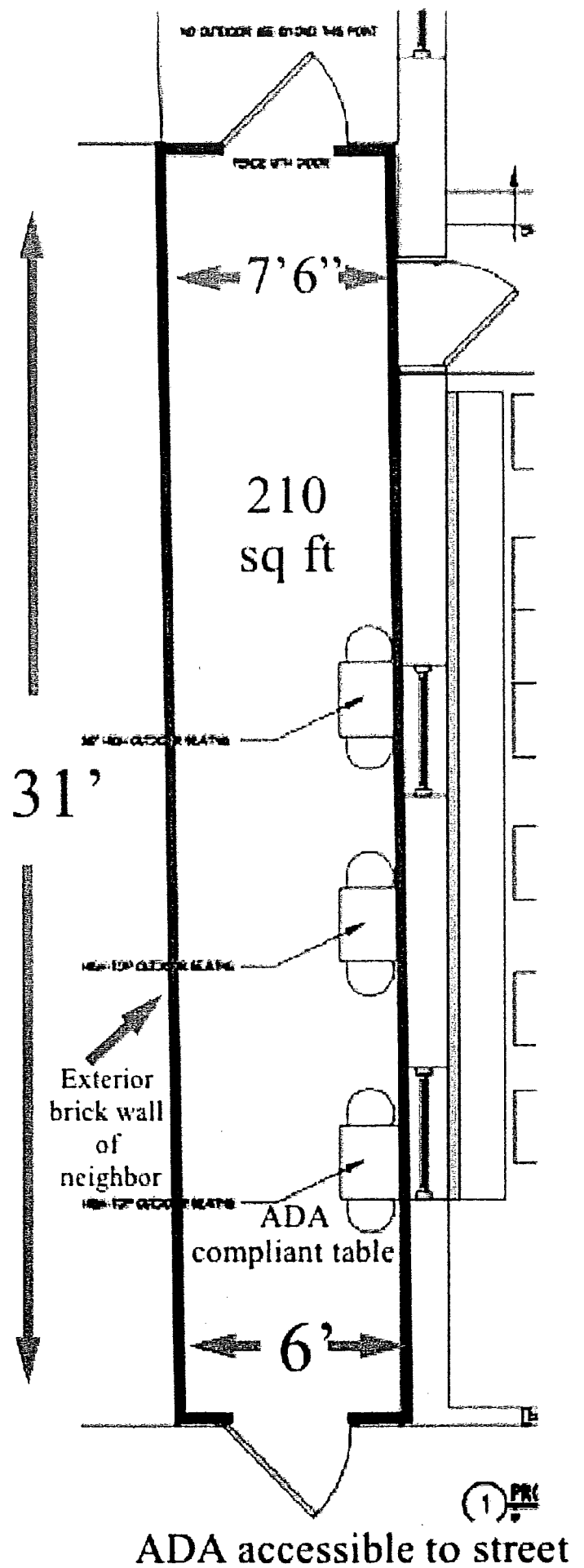


0 10 20ft

2,927,286.815 300,682.203 Feet



proposed fence/doorway
on both sides of alleyway



Beyond Oysters

West Bayside Lobster Roll \$19

Traditional lobster roll dressed in a light lemonaise w/ hint of dill sauce

Lobster Grilled Cheese \$13

Havarti dill cheese w/ diced lobster meat

Lobster Crostini \$12

Dressed lobster meat piled onto 4 crostini's w/ spring greens mix

Roasted Beet/Goat Cheese Salad \$9

Over fresh bed of greens w/ tarragon mustard seed vinaigrette

Ultimate Grilled Cheese \$7

Applewood smoked gruyere w/ caramelized onion & fig

Scallop Ceviche \$15

With Avocado Crema & Chipotle Mango sauces served w/ blue corn chips

Cheese Plate \$12

Locally crafted w/ caramelized onion & fig marmalade, nuts & crostinis.

Clam Chowder \$6

Kamasoupra's special recipe (gluten free)

Pickled Crudite \$5

Selection of pickled vegetables & spices

The Boom Shuck-a-Lucka \$33

1/2 dozen oysters, lobster roll & cup of soup

The Stonebreaker \$35

1 dozen oysters, chocolate cheesecake or ice cream sandwich & espresso

Dessert

Chocolate Cheese Cake \$6

Topped with fresh raspberries & whipped cream

Ice Cream Sandwich \$6

Created by C Love Cookie Project. 21% of the profits are returned to the community!

Espresso \$3

Both decaf and regular

On The Tap

Prosecco - Zardetto \$9

Check out our chalkboard for 3 locally rotating craft beers to choose from

By the Glass

House White - Oyster River \$6

Warren, Maine - 2018

Muscadet - Domaine de Haut \$8

Loire Valley, France - 2016

Sauv Blanc - Guy Mardon \$9

Touraine Loire, France - 2017

Pinot Grigio - Il Cavaliere \$7

Bertolo, Italy - 2018

Rose - Diamarine \$8

Provence, France - 2017

Pinot Noir- Girasole \$9

Mendocino, CA - 2017

Sancerre - Prieu (1/2 bottle) \$35

Loire Valley, France 2017, CA - 2017

By the Can

Salad Daze Lager \$6

Bunker - 4.7%

Allagash White \$5

Allagash - 5.2%

Miller High Life \$4

Miller - 4.6%

The Dirty Mayor (Cider) \$6

Citizen Cider - 5.2%

Breaking the Sour Barrier \$7

Fight Deck - 7.5%

Blue Lobster Wine (12 oz cans) \$12

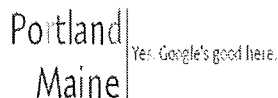
East Bayside, Portland (red, white, rose)

Maine Root \$3

Berwick, ME

Polar Seltzer \$2

Plain & Grapefruit flavors



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Maine Oyster Company

Nicholas Goodman <nickg@portlandmaine.gov>

Tue, Mar 19, 2019 at 3:30 PM

To: David Nichols <nicholsd@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Jessica Hanscombe <jhanscombe@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections
NG

On Tue, Mar 19, 2019 at 3:02 PM David Nichols <nicholsd@portlandmaine.gov> wrote:

Fire is OK with this.

On Tue, Mar 19, 2019 at 1:54 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Maine Oyster Company, 38 Portland Street. They currently hold a Class III & IV license and are upgrading to a Class I. This will be going before council on 4/8. Please advise. Thanks Jess

Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Captain David NicholsPortland Fire Department
Fire Prevention & Community Outreach Bureau
380 Congress Street
Portland, ME. 04101
Office: (207) 874-8405
Fax: (207) 874-8410
nicholsd@portlandmaine.gov



Permitting and Inspections Department

March 19, 2019

MOC Raw Bar LLC
38 Portland Street
Portland ME 04101

Re: MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street.

Dear John Herrigel,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 38 Portland Street. Sponsored by Jon P. Jennings, City Manager.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class I FSE with
Outdoor Dining on Private Property at 38 Portland Street.**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 209-18/19 Granting Municipal Officers' Approval of NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue -Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue.

Application was filed on 3/19/2019. New City and State Applications. Location was previously Hella Good Tacos.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Other Side Diner.docx
2. 20190320132655106

Prepared by:

Date: 3/20/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
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PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue.

To the Mayor of the City of Portland and Members of the City Council:

We intend to open Other Side Diner at 500 Washington Ave in Portland. The Diner will serve breakfast and lunch six days per week from 7:30 a.m. to 3 p.m. We will be closed Tuesdays to start, and eventually open seven days.

Thank you,

Peter Sueltenfuss

Owner

Other Side Diner
500 Washington Ave
Portland ME, 04103

Other Side Delicatessen
164 Veranda St.
Portland ME, 04103
(207) 761-9650

Other Side Delicatessen
235 Vaughan St.
Portland ME, 04102
(207) 874-7414

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	OTHER SIDE DINER	Phone:	207 772-0002
Location Address:	500 WASHINGTON AVE	Zip:	04103
If new, what was formerly at this location:	HELLA GOOD TACOS		
Mailing Address:	143 PLYMOUTH ST.	Zip:	04103
Contact Person:	PETER SUELTENFUSS	Phone:	207 415-2666
Contact Person Email:	INFO@OTHERSIDEDINER.COM		
Manager of Establishment:	PETER SUELTENFUSS	Date of Birth:	7/4/79
		Phone:	207 415-2666
Owner of Premises (Landlord):	A&M PARTNERS		
Address of Premises Owner:	170 EXCHANGE ST. #100	Zip:	04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
NJS PRODUCTIONS LLC		143 PLYMOUTH ST. 04103	
Contact Person:	PETER SUELTENFUSS	Phone:	207 415-2666
Principal Officers	Title	Date of Birth	Residence Address
PETER SUELTENFUSS	OWNER	7/4/79	143 PLYMOUTH ST. PORTLAND ME 04103

About Your Establishment

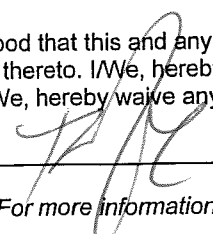
Class of Liquor License:	III & IV		
Type of food served:	BREAKFAST & LUNCH		
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor		
Projected percentage of sales:	Generated from Food: 85	Generated from Alcohol: 15	
Hours & days of operation:	CLOSED TUESDAYS open 7:30 am - 3 pm.		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☐ Y ☒ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☐ Y ☒ N
Will you permit dancing on the premises?	☐ Y ☒ N
Will you permit dancing after 1:00 a.m.?	☐ Y ☒ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☐ Y ☒ N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☐ Y ☒ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	4/25/19
Does the issuance of this license directly or indirectly benefit any City employee(s)?	☐ Y ☒ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☐ Y ☒ N
If Yes, please list business name(s) and location(s):	
OTTERSIDE DELICATESSEN 164 VERANDA ST. 04103 OTTERSIDE DELICATESSEN 235 MARGHAN ST. 04102	
Is any principal officer under the age of 21?	☐ Y ☒ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☐ Y ☒ N
If Yes, please explain:	

I PETER SULLIVAN do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature  Title OWNER Date 3/18/19

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov.

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: 4/23/19 Business hours: 7:30am - 3pm

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>NTS PRODUCTIONS LLC</u>			Business Name (D/B/A) <u>OTHERSIDE DINER</u>		
APPLICANT(S) -(Sole Proprietor)			DOB:		
DOB:			Physical Location: <u>500 WASHINGTON AVE</u>		
Address			Mailing Address		
<u>143 PLYMOUTH ST</u>			<u>143 PLYMOUTH ST.</u>		
City/Town	State	Zip Code	City/Town	State	Zip Code
<u>PORTLAND</u>	<u>ME</u>	<u>04103</u>	<u>PORTLAND</u>	<u>ME</u>	<u>04103</u>
Telephone Number		Fax Number	Business Telephone Number		Fax Number
<u>207-415-2666</u>			<u>207-772-0002</u>		
Federal I.D. #			Seller Certificate #:		
<u>46-5704715</u>			or Sales Tax #: <u>R271461</u>		
Email Address:			Website:		
Please Print <u>INFO@OTHERSIDEDINER.COM</u>			<u>OTHERSIDEDINER.COM</u>		

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
- State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
 If Yes, please complete the Corporate Information required for Business Entities who are licensees.

- Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No
 If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

RET-2015-2315 OTHERSIDE DELICATESSEN (Use an additional sheet(s) if necessary.)
 License # _____ Name of Business _____
104 WASHINGTON ST. PORTLAND ME 04103
 Physical Location _____ City / Town _____

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

6. If manager is to be employed, give name: PETER SULTENFUSS

7. Business records are located at: 143 PLYMOUTH ST. PORTLAND ME 04103

8. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
PETER SULTENFUSS	7/4/79	BOSTON, MA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
PORTLAND, ME		

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: _____

A & M PARTNERS 120 EXCHANGE ST. #100 PORTLAND ME 04101

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☒ Applied for: 3/25/19

17. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? ABOUT 1 MILE

Which of the above is nearest? SCHOOL

18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: PORTLAND ME on 3/18, 20 19
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

PETER SULTENFUS
Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be <u>included</u> on all applications)	\$ 10.00
Class I Spirituous, Vinous and Malt	\$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.	
Class II Spirituous Only	\$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III Vinous Only	\$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV Malt Liquor Only	\$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
CLASS V: Clubs without catering privileges.	
Class X Spirituous, Vinous and Malt – Class A Lounge	\$2,200.00
CLASS X: Class A Lounge	
Class XI Spirituous, Vinous and Malt – Restaurant Lounge	\$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.	

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347 (overnight)
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

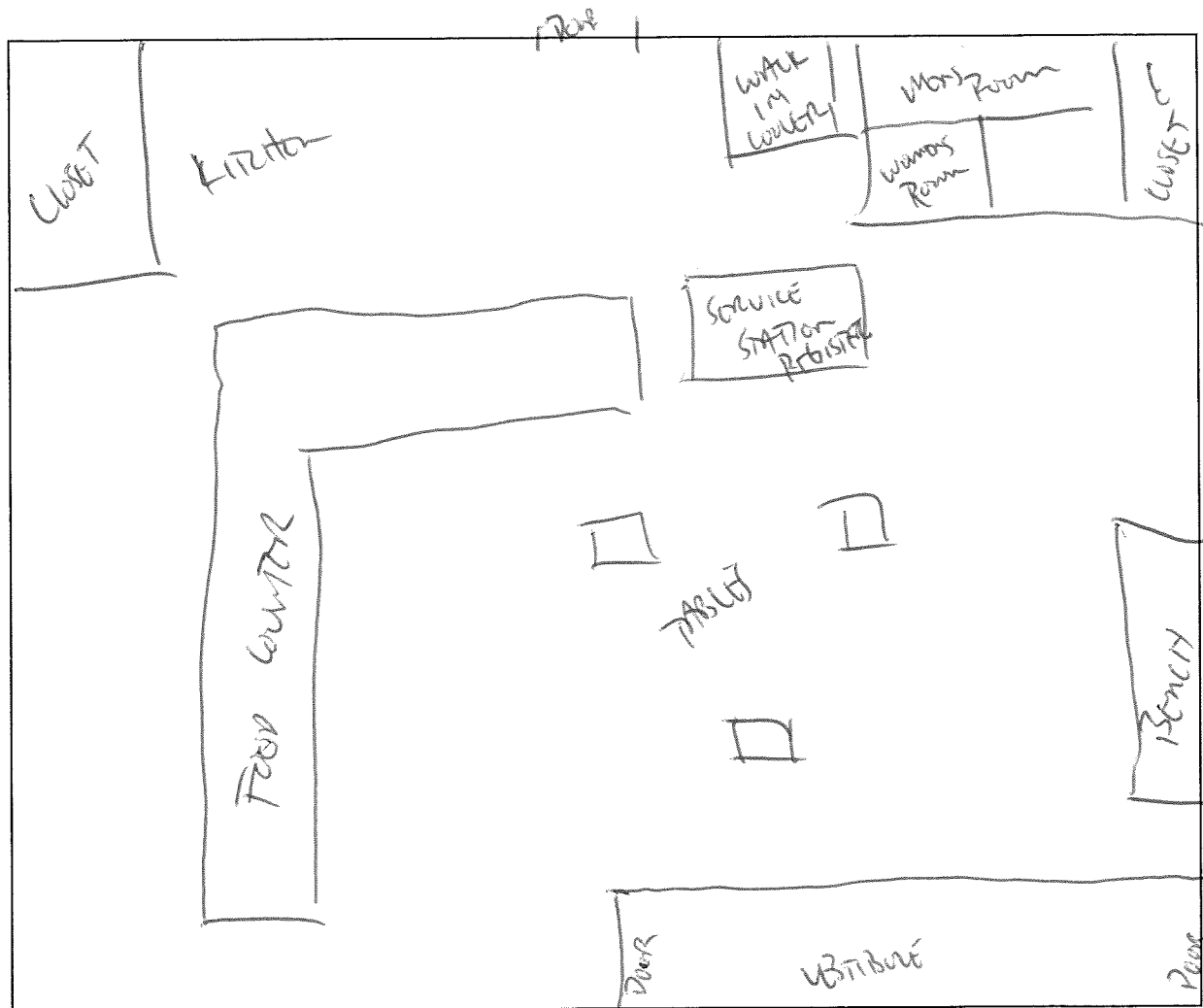


ON PREMISE DIAGRAM

(Facility Drawing/ Floor Plan)

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • Entrances • Office area • Kitchen • Storage Areas • Dining Rooms • Lounges • Function Rooms • Restrooms • Decks • All Inside and Outside areas that you are requesting approval.





Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: NJS PRODUCTIONS LLC
2. Doing Business As, if any: OTHER SIDE DINER
3. Date of filing with Secretary of State: 5/1/14 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
PETER SUZEMFUS	PORTLAND ME	7/4/79	OWNER	100

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

8. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

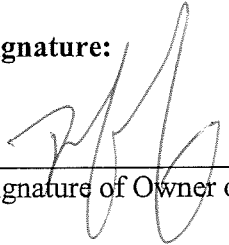
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Owner or Corporate Officer

3/18/19

Date

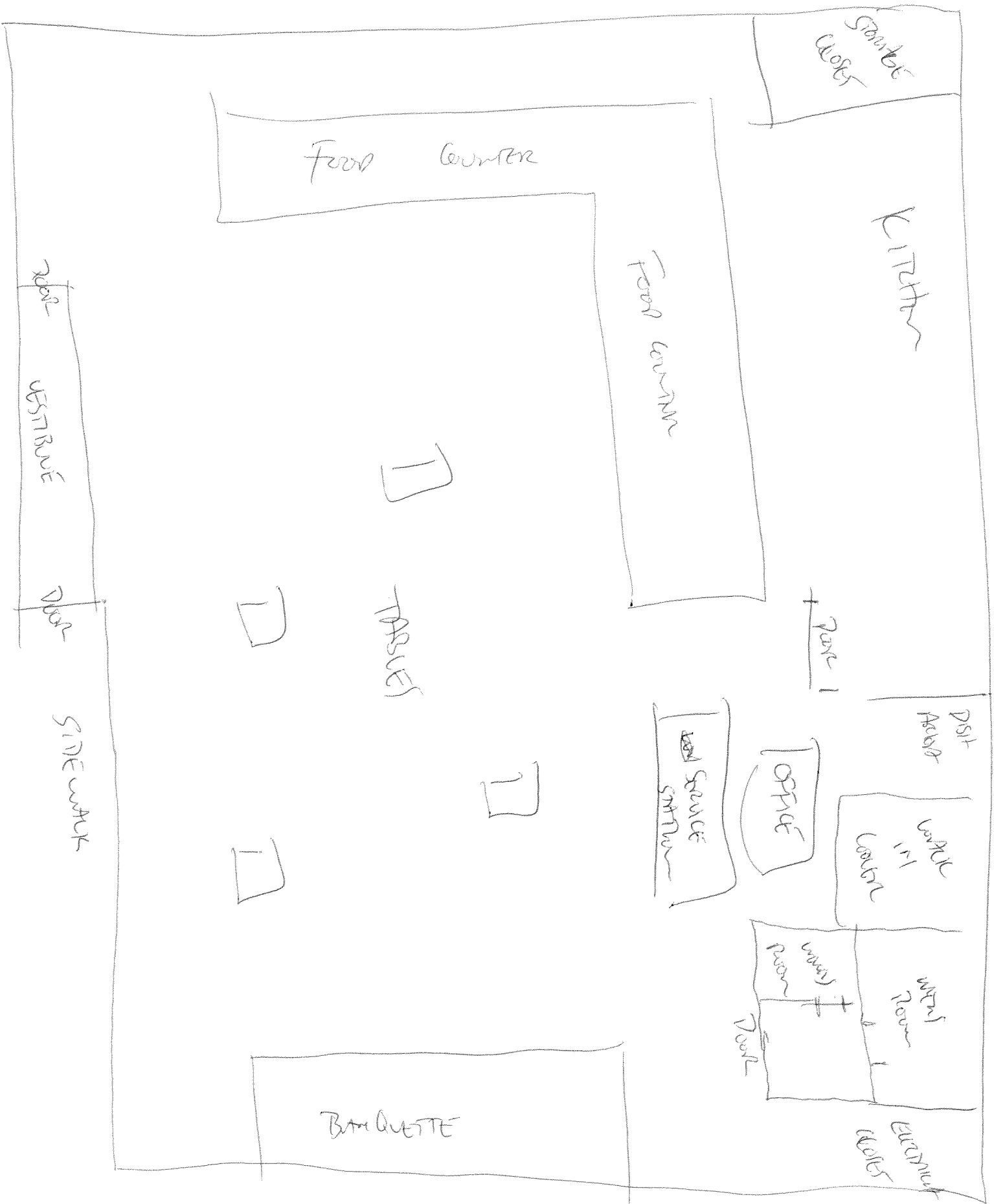
PETER SUELTFUSS

Print Name of Owner or Corporate Officer

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov



Other Side Diner Menu
Breakfast & Lunch Served All Day

BREAKFAST

- 2 Eggs any Style w/Toast, Hash
Browns & Meat \$9
- Omelette with Spinach and Cheddar
\$12
w/Toast & Hash Browns
- Corned Beef Hash with Potatoes and
Onions
w/ 2 Eggs and Toast
\$14
- Pancakes with Maine Maple \$11
- French Toast with Whipped Butter
\$10
- Lumberjack Breakfast \$16
2 Eggs, 2 Pancakes, Meat, Toast, Hash
Browns
- Granola with Winter Hill Yogurt \$8

LUNCH

- Roast Lamb Pocket \$14
w/Greek Salad
- Crab Meat Melt \$15
w/Fries
- BLT \$12
w/Fries
- Grilled Cheese \$9
w/House Salad
- Patty Melt \$13
W/Fries
- Grilled Chicken Club \$13
w/Fries

Sides

\$5

Fries

Hash Browns

Orzo Salad

Chop Salad

Greek Salad

Belly

\$6

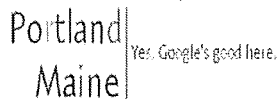
Bacon

Ham

Sausage

Scrapple

Crispy Pork



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Other Side Diner

Nicholas Goodman <nickg@portlandmaine.gov>

Wed, Mar 20, 2019 at 8:03 AM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

Pd has no objections
NG

On Tue, Mar 19, 2019 at 4:09 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for a Class III & IV license. This is currently Hella Good Tacos with the same classification. This will go before council on 4/8/2019. Please advise Thanks Jess

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D915997

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-03-20) :

Inquiries Name(s) PETER SUELTFUSS (1979-07-04)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

March 19, 2019

NJS Productions
143 Plymouth Street
Portland ME 04103

Re: NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue.

Dear Peter Sueltenfuss

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Class III & IV FSE at 500 Washington Avenue. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., NJS Productions LLC dba Other Side Diner. Application for a Class III & IV FSE at 500 Washington Avenue. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2019

SUBJECT: Order 210-18/19 Granting Municipal Officers' Approval of Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street.

Application was filed on 3/13/2019. New City applications. Location was previously a warehouse.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20190320132915154
2. Three of Strong Spirits.docx

Prepared by:

Date: 3/20/2019



**Comfortable Waters, LLC
D/B/A Three of Strong Spirits
35B Diamond Street
Portland, Maine 04101-2515**

March 11, 2019

The Honorable Mayor Ethan K. Strimling
City of Portland
389 Congress St.
Portland, ME 04101

Re: Comfortable Waters, LLC d/b/a Three of Strong Spirits' Application for a Distillery with Food Service, Entertainment with Dance and Outdoor Dining on Private Property at 35B Diamond Street

Dear Mayor Strimling and Council Members:

I am pleased to submit an application for a Distillery with Food Service, Entertainment with Dance and Outdoor Dining on Private Property on behalf of Comfortable Waters, LLC d/b/a Three of Strong Spirits ("Three of Strong"). Our name derives from a colonial-era punch recipe ("One of sour, two of sweet, three of strong and four of weak") and it speaks to the sense of community that we are trying to honor in all that we do.

The business is located at 35B Diamond Street is in the I-Lb zone. Section 14-232(a) of the City's Land Use Code permits a distillery with accompanying accessory uses. We are incredibly excited to join the vibrant East Bayside community, home to a growing number of artists and craft food and beverage makers.

I am proud to have founded Three of Strong with my friend, Sam Pierce. I have practiced law with the Portland law firm of Perkins Thompson for the past 23 years, advising many craft beverage makers along with other small businesses. Sam founded IdealsWork (later IW Financial) a Portland-based software service that provided investors with information about corporate social responsibility and governance, allowing them to align their investment goals with their ideals. "Success" is also more than a financial metric to Three of Strong. Simply put, we want to do business the right way - treating team members, customers, governmental and business partners and the entire community with respect.

We have leased approximately 6,200 s.f. of space in an existing building on Diamond Street for a 5 year term with the option for two additional 5 year extensions. The building is owned by Rockingham Electric, which uses (and will continue to use) about half of the building for retail, wholesale and warehousing of electrical equipment.

Like us, the former tenant in this space had a manufacturing facility. However, we want to do more than just change the sign on the door. East Bayside has become a magnet for both visitors and locals seeking outstanding food and beverage experiences. Building a safe, beautiful and welcoming space is a critical first step to a unique and educational guest experience. In addition to making high-quality spirits, we want to offer a fun and approachable way to learn more about distilling and Portland's rich history of making rum. Following a tour, we hope that our guests will try our spirits and some light snacks in the



**Comfortable Waters, LLC
D/B/A Three of Strong Spirits
35B Diamond Street
Portland, Maine 04101-2515**

tasting room. Before leaving, we hope that they will check out our adjacent retail space, featuring quality Maine-made packaged food and other merchandise. Both the tasting room and the retail space will give us an added opportunity to boost other local makers. Finally, we hope to host periodic events, including “percentage of sales” opportunities for local non-profits.

We have already invested a significant amount of time, effort and money into making Three of Strong the kind of place that will be a credit to Portland. We hope that you will vote in favor of our application so that we can take the additional steps required to bring our vision to life.

Sam and I are pleased to attend the Council meeting when this item is scheduled for hearing to answer any questions that you, staff or members of the public may have about our application.

Sincerely,

Dave McConnell

Member, Comfortable Waters, LLC d/b/a Three of Strong Spirits

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Application for Brewery, Winery and Distillery Alcohol Service License

License expiration date concurrent with that of State of Maine Dept. of Liquor Licensing & Enforcement License.

Business Information	
Business Name (d/b/a):	Three of Strong Spirits Phone: (207) 650-2008
Location Address:	35B Diamond Street, Portland, Maine Zip: 04101
If new, what was formerly at this location:	Warehouse and manufacturing facility
Mailing Address:	35B Diamond Street, Portland, Maine Zip: 04101
Contact Person:	David McConnell Phone: (207) 650-2008
Contact Person Email:	dave@threeofstrongspirits.com
Manager of Establishment:	David McConnell Date of Birth: 08/18/1966 Phone: (207) 650-2008
Owner of Premises (Landlord):	Rockingham Electric Supply
Address of Premises Owner:	437 Shattuck Way, Newington, NH Zip: 03801

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Comfortable Waters, LLC		35B Diamond Street, Portland, Maine Zip: 04101	
Contact Person:	David McConnell	Phone:	(207) 650-2008
Principal Officers	Title	Date of Birth	Residence Address
David McConnell	Member	08/18/1966	131 Ridgewood Drive, Falmouth, ME 04105
Samuel Pierce	Member	04/21/1968	6 Waites Landing Road, Falmouth, Maine 04105

About Your Establishment

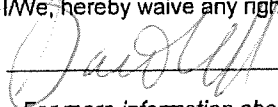
Type of Establishment:	☐ Brewery ☐ Winery ☒ Distillery
Hours & days of operation:	Winter T-F 4-7, Sat 11:30-7, Sun 11:30-5 Summer M-F 11:30-8 Sat 11:30-8, Sun 11:30-6

QUESTIONS	Y/N
Will food be made, served, and/or sold on the premise by this establishment?	☒ Y ☐ N
If yes, please submit a City of Portland Food Service Establishment license application.	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☐ Y ☒ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☐ Y ☒ N
Will you permit dancing on the premises?	☐ Y ☒ N
Will you permit dancing after 1:00 a.m.?	☐ Y ☒ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☐ Y ☒ N
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☐ Y ☒ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	May 15, 2019
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☐ Y ☒ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☐ Y ☒ N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☐ Y ☒ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☐ Y ☒ N
If Yes, please explain:	

I, David McConnell do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature  Title Member Date March 11, 2019

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Supplemental Application for Dancing and Entertainment License

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☐ Entertainment without Dancing: \$295 ☒ Entertainment with Dancing: \$529 ☐ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information			
Business Name (d/b/a):	Three of Strong Spirits	Phone:	(207) 650-2008
Location Address:	35B Diamond Street, Portland, Maine		Zip: 04101

About Your Establishment

Small distillery w/accessory tasting room and retail. We would like to offer occasional live music, kept under the applicable Db limits. We would also like to host occasional private events.

Will music be electric, acoustical, or both? (Circle) Primarily acoustic. At all times under Db limits.

Will amplification be used? Occasionally.

☒ Y/N

If yes, where and at what level? Most performances will be inside, although some may be outside in the summer. At all times, sound will be less than A-weighted 92 Db.

Will music be played (Circle all that apply): Inside Outside See above. Almost always inside.

Will you permit dancing on the premises?

☒ Y/N

Will you permit dancing after 1:00 a.m.?

☒ Y/N

What is your targeted opening date? May 15, 2019

Does the Issuance of this license directly or indirectly benefit any City employee(s)?

☒ Y/N

If Yes, list name(s) of employee(s) and department(s):

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature

[Handwritten Signature]

Title

Manager

Date

March 11, 2019

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov



Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Outdoor Dining Permit on Private Property Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Three of Strong Spirits	Phone:	(207) 650-2008
Location Address:	35B Diamond Street, Portland, Maine	Zip:	04101
Mailing Address:	35B Diamond Street, Portland, Maine	Zip:	04101
Contact Person:	David McConnell	Phone:	(207) 650-2008
Contact Person Email:	dave@threeofstrongspirits.com		
Manager of Establishment:	David McConnell	Date of Birth:	08/18/1966
		Phone:	(207) 650-2008
Owner of Premises (Landlord):	Rockingham Electric Supply		
Address of Premises Owner:	437 Shattuck Way, Newington, NH	Zip:	03801

Owner Information

Corporate Name		Corporate Mailing Address																					
Comfortable Waters, LLC		35B Diamond Street Portland, Maine																					
		Zip:	04101																				
Contact Person:	David McConnell	Phone:	(207) 650-2008																				
<table border="1"> <thead> <tr> <th>Principal Officers</th> <th>Title</th> <th>Date of Birth</th> <th>Residence Address</th> </tr> </thead> <tbody> <tr> <td>David McConnell</td> <td>Member</td> <td>08/18/1966</td> <td>131 Ridgewood Drive, Falmouth, ME 04105</td> </tr> <tr> <td>Samuel Pierce</td> <td>Member</td> <td>04/21/1968</td> <td>6 Waites Landing, Falmouth, ME 04105</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				Principal Officers	Title	Date of Birth	Residence Address	David McConnell	Member	08/18/1966	131 Ridgewood Drive, Falmouth, ME 04105	Samuel Pierce	Member	04/21/1968	6 Waites Landing, Falmouth, ME 04105								
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About Your Establishment

Class of License:	Small Distillery
Type of food served:	Food truck offerings, limited menu of non-hood
Please circle all that will be served:	Beer Wine ☒ Liquor
Hours & days of operation:	Winter T-F 4-7, Sat 11:30-7, Sun 11:30-5 Summer M-F 11:30-8, Sat 11:30-8,
Number of Tables	Sun 11:30-6 5
Number of Chairs	10

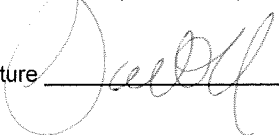
Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature  Title Member Date March 11, 2019

For Administrative Use Only

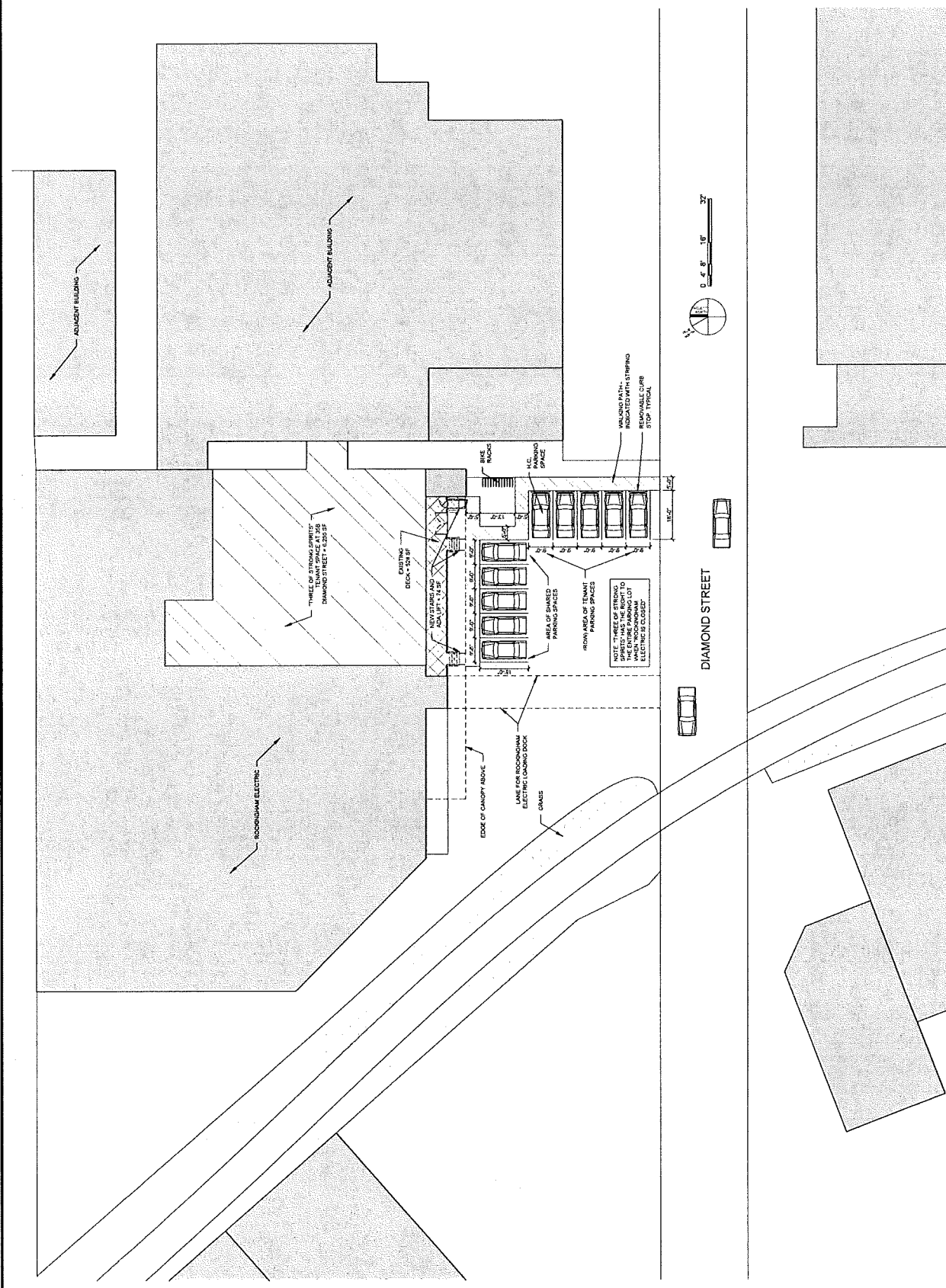
Amount: _____	Request Date /	Approval	Notes: _____
Date Paid: _____	FD: _____	_____	_____
CC _____ CA _____ CK _____	Health: _____	_____	_____
	PD: _____	_____	_____
Amount: _____	PR: _____	_____	_____
Date Paid: _____	Treasury: _____	_____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____	_____

CODE REVIEW LEGEND

	1 HOUR SEPARATION
	EXIT SIGN
	FIRE EXTINGUISHER



1 LIFE SAFETY PLAN



1 SITE PLAN



THREE
OF
STRONG
SPIRITS

SAMPLE MENU

SAVORY

Popcorn -seasoned with your choice of Maine sea salt, Canceaux hot sauce, Maine Sea Coast kelp, maple syrup or Three of Strong spice mix

Standard Baking bread - your choice of Kate's butter on its own or mixed with Swallowtail Farm honey or any of our popcorn seasonings. If you are all about toast, we can do that.

Seasonal local veggies. Served with your choice of Ameera hummus and/or Baharat baba ganoush.

Ameera flatbread. Served with your choice of Ameera hummus and/or Baharat baba ganoush.

Madawaska meatballs. An Aroostook County recipe made with Maine-raised pork and beef and flavored with the same molasses that we use in our rum.

SWEET

Dean's chocolates. Because chocolate.

Holy Donuts. Rotating flavors.

Rum cake. Made by a local bakery with our silver rum.

Seasonal local fruit. If you want to feel virtuous.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D915998

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-03-20) :

Inquiries Name(s) DAVID MCCONNELL (1966-08-18)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D916002

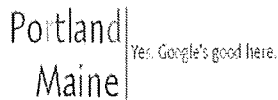
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-03-20) :

Inquiries Name(s) **SAMUEL PIERCE (1968-04-21)**

NO MATCH WAS FOUND FOR YOUR REQUEST.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Three of Strong Waters

Kevin Cashman <kevindc@portlandmaine.gov>

Sun, Mar 17, 2019 at 1:59 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Jeanie Bourke <jmb@portlandmaine.gov>

PD has no objections.

Kevin C.

On Fri, Mar 15, 2019 at 3:18 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

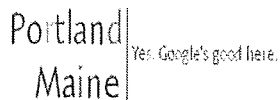
Please see the attached applications for Three of Strong Spirits. This will go before council on 4/8/2019.
Please advise. Thanks Jessica

Tom/Eric/Scott Please note they have 2 licenses in Energov for approval.

Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Three of Strong Waters

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Mon, Mar 18, 2019 at 1:06 PM

A distillery is a permitted use in the I-Lb Zone under section 14-232. Entertainment events are allowed but limited to 16 hours per week. Outdoor dining OK.

Thanks,
Chris

On Friday, March 15, 2019 at 3:19:01 PM UTC-4, Jessica Hanscombe wrote:

Good Afternoon

Please see the attached applications for Three of Strong Spirits. This will go before council on 4/8/2019.
Please advise. Thanks Jessica

Tom/Eric/Scott Please note they have 2 licenses in Energov for approval.

Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov



Permitting and Inspections Department

March 19, 2019

Comfortable Waters LLC
35B Diamond Street
Portland ME 04101

Re: Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street.

Dear David McConnell,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street. Sponsored by Jon P. Jennings, City Manager.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Comfortable Waters, LLC Three of Strong Spirits. Application for a Distillery with Entertainment with Dancing and Outdoor Dining on Private Property at 35B Diamond Street.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 21, 2019

SUBJECT: Order 211-18/19 Granting Municipal Officers' Approval of Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street.

Application was filed on 3/19/2019. New City and State Applications. Applicant currently holds a FSE with Prep.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. The Cider House.docx
2. 20190322081711229

Prepared by:

Date: 3/21/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
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NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street.

Monday, March 18, 2019 4:07 PM

Dear Mayor Strimling and Council Members,

My name is Michael Vassallo, I'm the owner of Good News Coffee & Package, located at 28 Brackett St. Good News serves coffee and breakfast as well as beer and wine sold at retail.

I've determined that a change of concept is the best business option for me at this time and I'm proposing to you a "Cider House", in fact, that's the name I'd be using for the business, "The Cider House".

I'd serve nothing but ciders, with an emphasis on Maine and New England hard cider, as well as imports and other domestic ciders.

Part of my plan is to also serve fresh, local, non-alcoholic apple cider, including hot spiced cider during the cold weather months.

I'd have a compact, tapas-style menu with a few larger items and be open for dinner service, and lunch on the weekends.

With two more cafes poised to open in the Danforth/Brackett area this spring, a "Cider House" would allow me to carve out my own unique niche in the city and generate the sales I need to stay in business.

I'm excited to make this change, and I appreciate your consideration.

Sincerely,

Michael Vassallo

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	The Cedar House	Phone:	808-8257
Location Address:	28 Brackett St.	Zip:	04102
If new, what was formerly at this location:			
Mailing Address:	28 Brackett St.	Zip:	04102
Contact Person:	Michael Vassallo	Phone:	207 899-7158
Contact Person Email:	mbvassallo@gmail.com		
Manager of Establishment:	Michael Vassallo	Date of Birth:	Phone: 207 808-8257
Owner of Premises (Landlord):	Ashley Salisbury		
Address of Premises Owner:	26 Brackett St.	Zip:	04102

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Printed Rock L.L.C.		2 Summer St # A Portland 04102	
Contact Person:	Michael Vassallo	Phone:	207 899-7158
Principal Officers	Title	Date of Birth	Residence Address
Michael Vassallo	owner	3/10/71	2 Summer St. # A 04102

About Your Establishment

Class of Liquor License:	III		
Type of food served:	TAPAS, SANDWICHES, PIZZA		
Please circle all that will be served:	Beer	☒ Wine	Liquor ☒ CIDER
Projected percentage of sales:	Generated from Food:	40%	Generated from Alcohol: 60%
Hours & days of operation:	Wed - Thurs - Fri 4-9 Sat - Sun 12-9		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N
If No, please explain: Mostly food you can eat w/ hands (PIZZA, SANDWICHES, CHEESE PLATE, ETC.)	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	NO
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y/N
Will you permit dancing on the premises?	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? APRIL 24	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s):	
GOOD NEWS COFFEE + PAULACKE 28 Bradlett St.	Y/N
Is any principal officer under the age of 21?	Y/N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N
If Yes, please explain:	

I NICHOLAS VASSILO do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title OWNER Date 3/18/19

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and
M.R.S.A. Title 28-A at www.maine.gov.

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: APRIL 21 Business hours: W-T-F 4-9 Sat-Sun 12-9

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>PAYNTER ROCK L.L.C.</u>		Business Name (D/B/A) <u>THE LIDER HOUSE</u>	
APPLICANT(S) –(Sole Proprietor) <u>MICHAEL VASSALLO</u>		DOB: <u>3/10/71</u>	
DOB:		City/Town <u>PORTLAND</u>	State <u>ME</u>
Address <u>2 SUMMER ST. # A</u>		Zip Code <u>04107</u>	
City/Town <u>PORTLAND</u>		State <u>ME</u>	
Zip Code <u>04107</u>		Mailing Address "	
Telephone Number <u>207-899-7158</u>		Fax Number	
Business Telephone Number <u>207-808-8257</u>		Fax Number	
Federal I.D. # <u>82-464-3394</u>		Seller Certificate #: or Sales Tax #:	
Email Address: Please Print <u>mbvassallo@gmail.com</u>		Website:	

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
- State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.
(Use an additional sheet(s) if necessary.)

License #	Name of Business	Physical Location	City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
6. If manager is to be employed, give name: MICHAEL VASSALLO
7. Business records are located at: 28 BRAKETT ST. PORTLAND, ME 04102
8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
MICHAEL VASSALLO	3/16/71	BOSTON

Residence address on all of the above for previous 5 years (Limit answer to city & state)

PORTLAND, ME

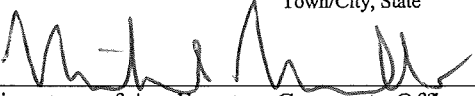
ATLINGTON, MA

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒
- Name: _____ Date of Conviction: _____
- Offense: _____ Location: _____
- Disposition: _____ (use additional sheet(s) if necessary)
12. Will any law enforcement official benefit directly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____
13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐
14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: _____
15. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____
16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____
17. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.3 MILES
- Which of the above is nearest? SCHOOL
18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒
- If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: PORTLAND, ME on MARCH 18, 20 19
Town/City, State Date


Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

MICHAEL VASSALLO
Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ <u>220.00</u>
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ <u>220.00</u>
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: PAINTED ROCK L.L.C.
2. Doing Business As, if any: THE LIDER HOUSE
3. Date of filing with Secretary of State: Feb 13 2018 State in which you are formed: MAINE
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
MICHAEL VASSILO	2 SUMMER ST. #A PORTLAND, ME 04102	3/10/71	OWNER	100
	819 Congress St. #12 PORTLAND, ME 04102			
	67 MARY ST. ARLINGTON, MA 02174			

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

8. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Owner or Corporate Officer

3/18/19
Date

MICHAEL VASSANO

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347 (overnight)
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

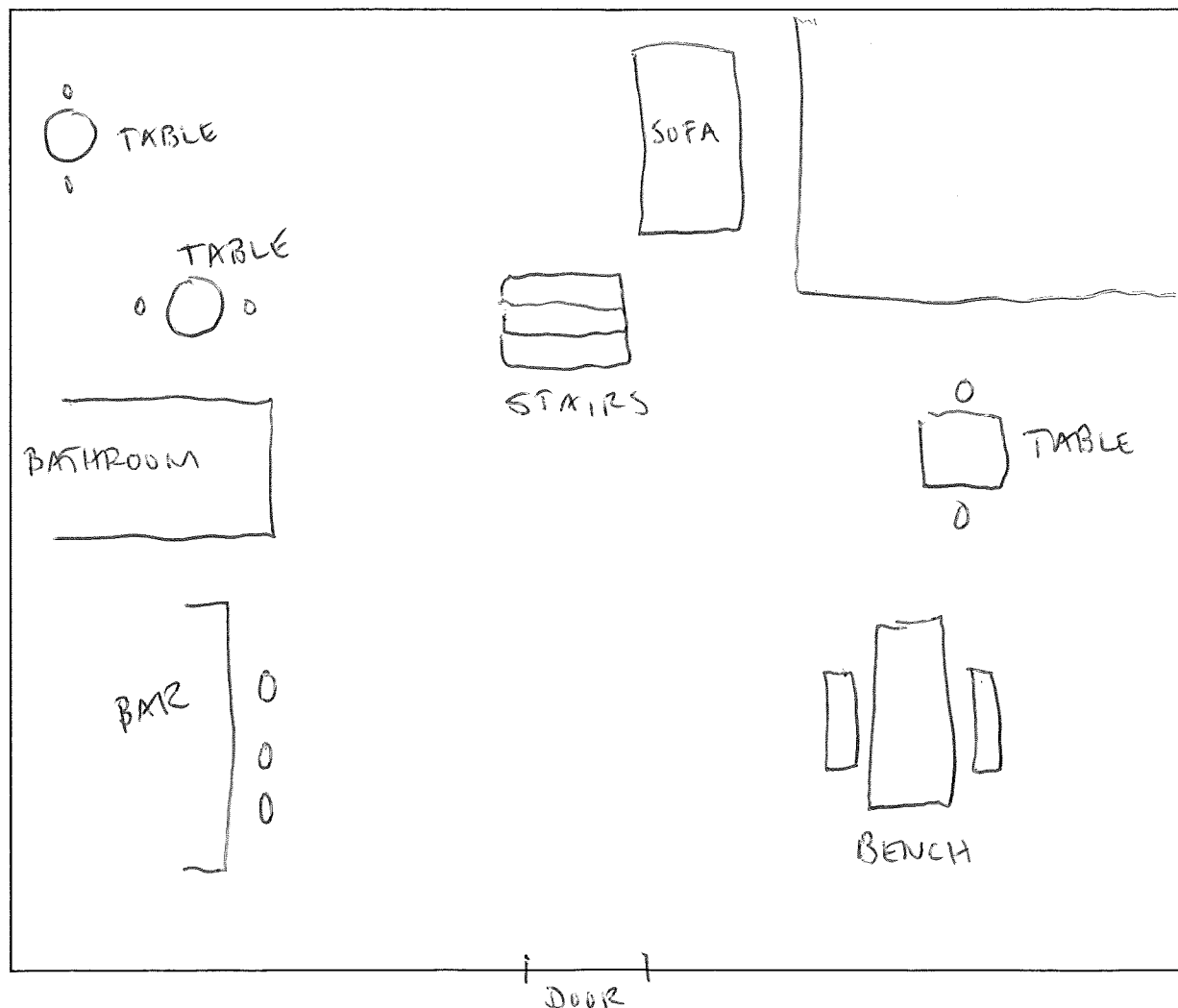


ON PREMISE DIAGRAM

(Facility Drawing/ Floor Plan)

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • Entrances • Office area • Kitchen • Storage Areas • Dining Rooms • Lounges • Function Rooms • Restrooms • Decks • All Inside and Outside areas that you are requesting approval.



Monday, March 18, 2019 4:07 PM

Menu

Cheese Plate
Charcuterie Plate
Maine Ham & Maine Cheddar Sandwich
Pita Bread Pizza
Marinated Olives
Roasted Garlic
Warm Baguette
Warm Curried Cashews
Hummus Plate
Figs and Dates
Rotating Desserts



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D916000

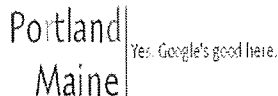
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-03-20) :

Inquiries Name(s) **MICHAEL VASSALLO (1971-03-10)**

NO MATCH WAS FOUND FOR YOUR REQUEST.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: The Cider House

Nicholas Goodman <nickg@portlandmaine.gov>

Wed, Mar 20, 2019 at 8:03 AM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

Pd has no objections - NG

On Tue, Mar 19, 2019 at 4:05 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for a Class III License. They currently have a FSE with Prep and this is an upgrade. This will go before council on 4/8/2019. Please advise. Thanks Jessica

Jessica Blais Hanscombe

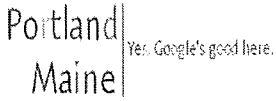
Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Fwd: The Cider House

Jessica Hanscombe <jhanscombe@portlandmaine.gov>
To: Jess Work <jhanscombe@portlandmaine.gov>

Fri, Mar 22, 2019 at 8:11 AM

From: **cstacey** <cstacey@portlandmaine.gov>
Date: Fri, Mar 22, 2019 at 7:45 AM
Subject: Re: The Cider House
To: Zoning <zoning@portlandmaine.gov>
Cc: <jhanscombe@portlandmaine.gov>

Jess,

A Class III License for this existing retail establishment is a permitted use in the B-1 Zone under section 14-162 of the Chapter 14, City Code of Ordinances, with the condition that they do not operate between the hours of 11 PM and 6 AM. The applicant has been advised that they are limited to 9 customer seats under their current retail use. Should they wish to increase to 10 or more customer seats, a change of use approval for a restaurant shall be required, with the limitations of 1) 2,000 square feet maximum floor area; 2) Hours of operation limited to 6 AM to 11 PM daily; and 3) Food service and consumption must be the primary function of the restaurant, also under section 14-162.

Let me know if you need anything else.

Thanks,
Chris

----- Forwarded message -----

From: **Jessica Hanscombe** <jhanscombe@portlandmaine.gov>

Date: Tue, Mar 19, 2019 at 4:05 PM

Subject: The Cider House

To: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Nicholas Goodman <nickg@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

Good Afternoon

Please see the attached application for a Class III License. They currently have a FSE with Prep and this is an upgrade. This will go before council on 4/8/2019. Please advise. Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



Permitting and Inspections Department

March 19, 2019

Painted Rock LLC
2 Summer Street #4
Portland ME 04102

Re: Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street.

Dear Michael Vassallo

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday April 8, 2019 at 5:30 p.m.**, for the review of application for a **Class III FSE at 28 Brackett Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.**

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on April 8, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Painted Rock LLC dba The Cider House. Application for a Class III FSE at 28 Brackett Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM: Brendan T. O'Connell

DATE: March 27, 2019

SUBJECT: **Order 212-18/19 Receiving and Referring City Manager's Fiscal Year 2020 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on the Fiscal Year 2020 Municipal Budget and Fiscal Year 2020 Appropriation Resolve - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Under this order the City Council receives the City Manager's proposed budget and refers it to the Finance Committee for review. The Finance Committee will review the budget starting on April 9, at 5:30 p.m. in Room 209.

The City Manager will present an overview of the budget followed by the Mayor's comments as required in the City Charter.

Budget material will be distributed at the City Council meeting.

The first read of the FY20 Appropriation Resolve and Public Hearing will be May 6th at 5:30 p.m. at City Hall, in City Council Chambers.

A City Council workshop to discuss the Municipal Budget will be held on May 13th at 5:30 p.m. at City Hall, in City Council Chambers.

Final City Council action on the Municipal Budget will take place at the City Council meeting on May 20, 2019, at 5:30 p.m. at City Hall in City Council Chambers.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. A. Receiving and Referring the Manager's Budget 4.8.2019

Prepared by:

Brendan T. O'Connell

Date: 3/27/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER RECEIVING AND REFERRING
CITY MANAGER'S FISCAL YEAR 2020 MUNICIPAL BUDGET
TO THE FINANCE COMMITTEE
AND SETTING DATE OF PUBLIC HEARING ON THE
FISCAL YEAR 2020 MUNICIPAL BUDGET AND
FISCAL YEAR 2020 APPROPRIATION RESOLVE**

ORDERED, that the City Manager's Fiscal Year 2020 Municipal Budget is hereby received and referred to the Finance Committee for review; and

BE IT FURTHER ORDERED, that the City Council will hold a Public Hearing on the Fiscal Year 2020 Municipal Budget and on the Fiscal Year 2020 Appropriation Resolve on Monday, May 6, 2019, in City Council Chambers, 389 Congress Street, at 5:30 p.m.

MEMORANDUM
City Council Agenda Item

FROM: Greg Mitchell, Director

DATE: February 21, 2019

SUBJECT: **Order 96-18/19 Approving Revised Purchase and Sale Agreement with Waterstone Properties Group, Inc. - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

SPONSOR: Economic Development Committee, Councilor Costa, Chair; meeting held on March 19, 2019, and vote was unanimous (4-0).

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: Greg Mitchell, Economic Development Director/5 Minutes.

I. SUMMARY

A REVISED Purchase and Sale Agreement is presented to the City Council for approval to sell a City-owned 4.82 acre vacant “land locked” parcel to the Waterstone Properties Group, Inc., for the new sale price of \$100,000.

II. AGENDA DESCRIPTION

Economic Development Committee meeting on March 19, 2019, and voted was unanimously (4-0) to forward this item to the City Council with a recommendation for approval.

A REVISED Purchase and Sale Agreement is presented to the City Council for approval to sell a City-owned 4.82 acre vacant “land locked” parcel to the Waterstone Properties Group, Inc., for the new sale price of \$100,000.

Despite the extensive easement restrictions and wetlands which cross this property, the buyer hopes to develop this property in the future. Based upon the buyer’s interest to possibly develop this property, in the future, a new property sale price was negotiated in the amount of \$100,000.

At the February 20, 2019 City Council meeting, this item was postponed to the February 20, 2019 meeting. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The City determined that the 4.82-acre vacant parcel, located in Portland, is not needed for municipal use and should be sold. The process included City-wide department surveys, including staff to the Land Bank and Parks Commissions. City staff double-checked with the staff to the Land Bank and Parks Commission and were informed that there are no current or future plans to use this property as a park or open space because it is landlocked and encumbered with no build easements and wetlands.

On October 16, 2018 the EDC recommended approval of the ORIGINAL Purchase and Sale Agreement (PSA) to the City Council. The City Council, on November 5, 2018, postponed action on the ORIGINAL PSA to determine the buyer's planned use of the City property.

Additionally, the EDC held a public hearing and executive session on February 19, 2019 to discuss this property sale and directed staff to have follow up questions with Waterstone officials.

Despite the extensive easement restrictions and wetlands which cross this property, the buyer hopes to develop this property in the future. Based upon the buyer's interest to possibly develop this property, in the future, a new property sale price was negotiated in the amount of \$100,000.

The interested buyer for this property is the Westbrook mixed use project developer (Waterstone Properties Group, Inc.).

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

City Council approval of the REVISED Purchase and Sale Agreement between the City of Portland and Waterstone Properties Group, Inc.

V. FINANCIAL IMPACT

An overview of the Proposed REVISED Purchase and Sale Agreement includes the following:

Parcel Size: 4.82 acres.

Parcel Location and Environmental Constraints. The parcel is located in Portland, between the Maine Turnpike and the proposed large scale mixed-use project in Westbrook. The developer of the mixed use project (Waterstone Properties Group, Inc.) is the buyer for this property. The site is not a legal conforming parcel to develop because it lacks street frontage and there is no access to public utilities. The only option for the City to sell this property is to the property abutter because the site is not a legal conforming property.

Additionally, the site is encumbered by 1.81 acres of wetlands and two CMP easements (including 1.48 acres) which prohibit erecting or maintaining structures of any kind. Also, it is noted that the upland areas, estimated to be 1.53 acres (excluding the no-build CMP easements), are not contiguous, and access to these areas would require crossing wetlands on-site and wetlands located on the adjacent privately owned Westbrook mixed use project property. See attached map showing the location of wetlands, CMP no-build easements, and uplands.

Property Value and Sale Price. The new sale price is \$100,000. It is noted that the property appraisal determined the value of this property to be \$0. See attached excerpt of the Property Appraisal.

Environmental Indemnification. Buyer agrees to indemnify the City regarding any environmental issues, and the property is sold in an "AS IS WHERE IS" condition.

It is noted that the Buyer paid for all costs associated with the property survey and appraisal.

VI. STAFF ANALYSIS AND BACKGROUND

Based on the above, staff recommends approval of the attached REVISED Purchase and Sale Agreement.

VII. RECOMMENDATION

At its meeting on March 19, 2019, the EDC voted unanimously (4-0) to forward to the City Council with a recommendation of approval.

VIII. LIST ATTACHMENTS

1. Order 96-FY19 Waterstone Properties Group P&S 2.20.2019
2. Costa amendment to Order 96 P&S to Waterstone Properties Group, Inc. 11.5.2018
3. CC Memo 3-26-19 - Waterstone Attachments

Prepared by:

Greg Mitchell, Director

Date: 2/21/2019

Order 96-18/19

Motion to postpone to December 17, 2018: 9-0 on 11/5/2018

Motion to postpone to February 20, 2019: 8-0 (Batson absent) on 12/17/2018

Motion to postpone to April 8, 2019: 8-0 (Mavodones absent) on 2/20/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING PURCHASE AND SALE AGREEMENT WITH
WATERSTONE PROPERTIES GROUP, INC.**

ORDERED, that the Purchase and Sale Agreement with Waterstone Properties Group, Inc. for 4.82 acres of city land at Westbrook Arterial and along the Maine Turnpike, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.

**AMENDMENT TO ORDER 96-18/19
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR COSTA
RE: CHANGE TO P&S ATTACHMENT INCREASING SALE PRICE**

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BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this ____ day of _____, 201~~98~~ by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as “Seller” or “City”), and **WATERSTONE PROPERTIES GROUP, INC.**, a Massachusetts corporation having a mailing address of 322 Reservoir Street, Needham, MA 02494 or nominee or designee (hereinafter referred to as “Buyer”).

RECITALS

WHEREAS, the City is the owner of approximately 4.82 acres of land at Westbrook Arterial and along the Maine Turnpike, Portland, Maine as generally depicted on the boundary survey attached hereto as Exhibit A (the “Survey”) and incorporated herein, and more particularly described in Exhibit B attached hereto and incorporated herein (the “Premises”); and

WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.
2. **CONSIDERATION.** The purchase price for the Premises shall be ~~One Hundred Eleven~~ Thousand ~~Two Hundred Twenty~~ Dollars (\$~~100,000~~~~1,220~~.00) (the “Purchase Price”), subject to the following cost adjustments and conditions:
 - a. The Buyer shall pay the City for the cost of the City’s appraisal for the Premises (“Appraisal Cost”) within 3 business days after the full execution of this Agreement; and
 - b. The Buyer shall pay the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.
3. **TITLE AND DUE DILIGENCE.**
 - a. Due Diligence Period. Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is one hundred eighty (180) days after the date of this Agreement (the “Due Diligence Period”) to complete any survey, environmental review and title examinations.
 - b. Title and Survey Objections. Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified in subsection d below) that

affect Buyer's intended use of the Premises as contemplated by this Agreement, including the terms of Section 12 below. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing.

- c. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (i) terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement), (ii) waive the objection and close, or (iii) undertake the cure of such objection at its own expense (in which case it shall have thirty (30) days to do so).
- d. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good and insurable title, free and clear of all encumbrances except (i) the easements on the Survey or otherwise described herein; (ii) easements for all public improvements now on, under or over the Premises and for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine. All of the laws and regulations applicable to the payment of real estate taxes and personal property taxes, except those governing property tax exemptions, shall apply to any such payments in lieu of taxes including, without limitation, how such taxes are calculated and the right to seek abatements and appeals.

4. INSPECTIONS

- a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, it is sole discretion, to be required to

determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and commercial general liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement. The City acknowledges and agrees that Buyer shall be entitled to terminate this Agreement for any reason or for no reason during the Due Diligence Period by providing written notice of such election to the City during the Due Diligence Period.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Premises is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Premises shall be prorated as of the closing. Buyer's fifty percent (50%) share of the Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.
6. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the Appraisal Cost as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance.
7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated and excluding any alterations made to the Premises by Buyer. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
8. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer, at Closing, will have had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.
9. **ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of

hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.

10. INTENTIONALLY OMITTED.

11. CLOSING. Time is of the essence in the performance of this Agreement. The closing shall be held at the offices of Buyer's counsel in Portland, Maine at a time agreeable to the parties on the date that is thirty (30) days following the expiration of the Due Diligence Period or such other date as is mutually agreed upon by the parties.

At the Closing:

- a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and marketable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein.
- b. Buyer shall deliver the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and
- c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals closing and executing documents on behalf of Buyer are authorized to do so.

12. ENTIRE AGREEMENT. This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Premises hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.

13. NON-WAIVER. No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

14. HEADINGS AND CAPTIONS. The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

15. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

16. TIME. The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

17. GOVERNING LAW. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

18. NOTICE. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR The City: City of Portland
ATTN: City Manager
389 Congress Street
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

FOR Buyer: Waterstone Properties Group, Inc.
322 Reservoir Street
Needham, MA 02494

With a copy to: Hinckley Allen
650 Elm Street, Suite 500
Manchester, NH 03101
Attention: John H. Sokul, Esq.

19. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

20. BROKERS. City and Buyer represent and warrant to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this

transaction or in any way with respect to the Premises. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through City. Buyer agrees to defend, indemnify and hold City harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Buyer. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

21. RECITALS INCORPORATED BY REFERENCE. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

CITY OF PORTLAND

WITNESS

Jon P. Jennings
Its City Manager

**WATERSTONE PROPERTIES GROUP,
INC.**

WITNESS

Its:

Approved as to Form:

Approved as to Funds:

City Corporation Counsel's Office

City Finance Department

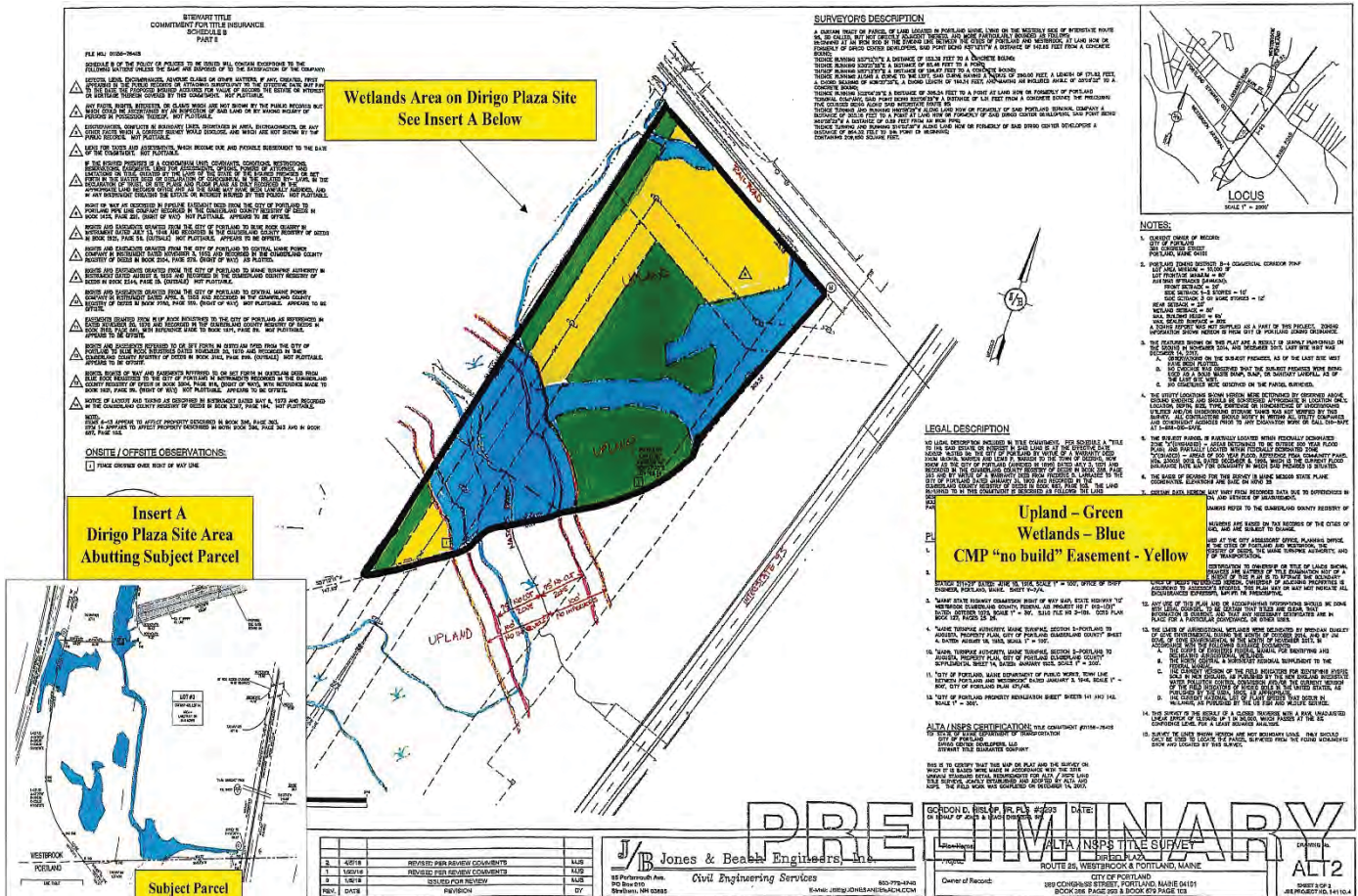
Exhibit A
Survey

Exhibit B
Legal Description

The land described in Warranty Deeds recorded in Book 386, Page 393 and in Book 687, Page

Appraisal Report

Appraisal Report of the contributory value of a 4.82± acre non-access land parcel in the City of Portland, Maine. This parcel is located adjacent to a development site referred to as the Dirigo Plaza which is referenced on Map 42B, Lot 14 and located in the City of Westbrook. GA File Reference: 2753.



Effective Date of Contributory Market Value Estimate
July 10, 2018

Prepared for:
City of Portland
389 Congress Street
Portland, Maine 04101

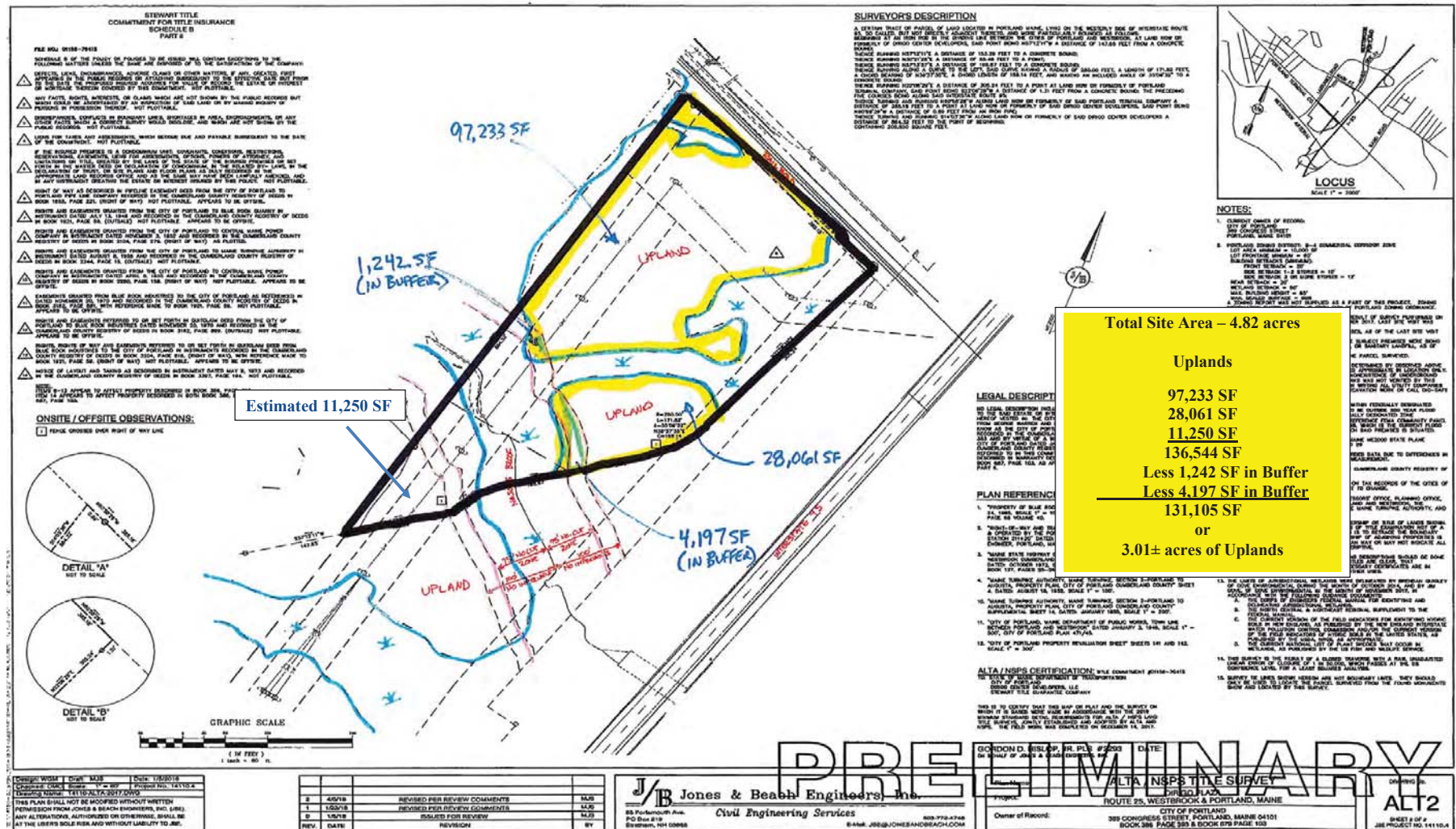
Prepared by:
Goulet & Associates, Inc.
183 Main Street
Lewiston, Maine 04240

Summary of Salient Facts and Conclusions

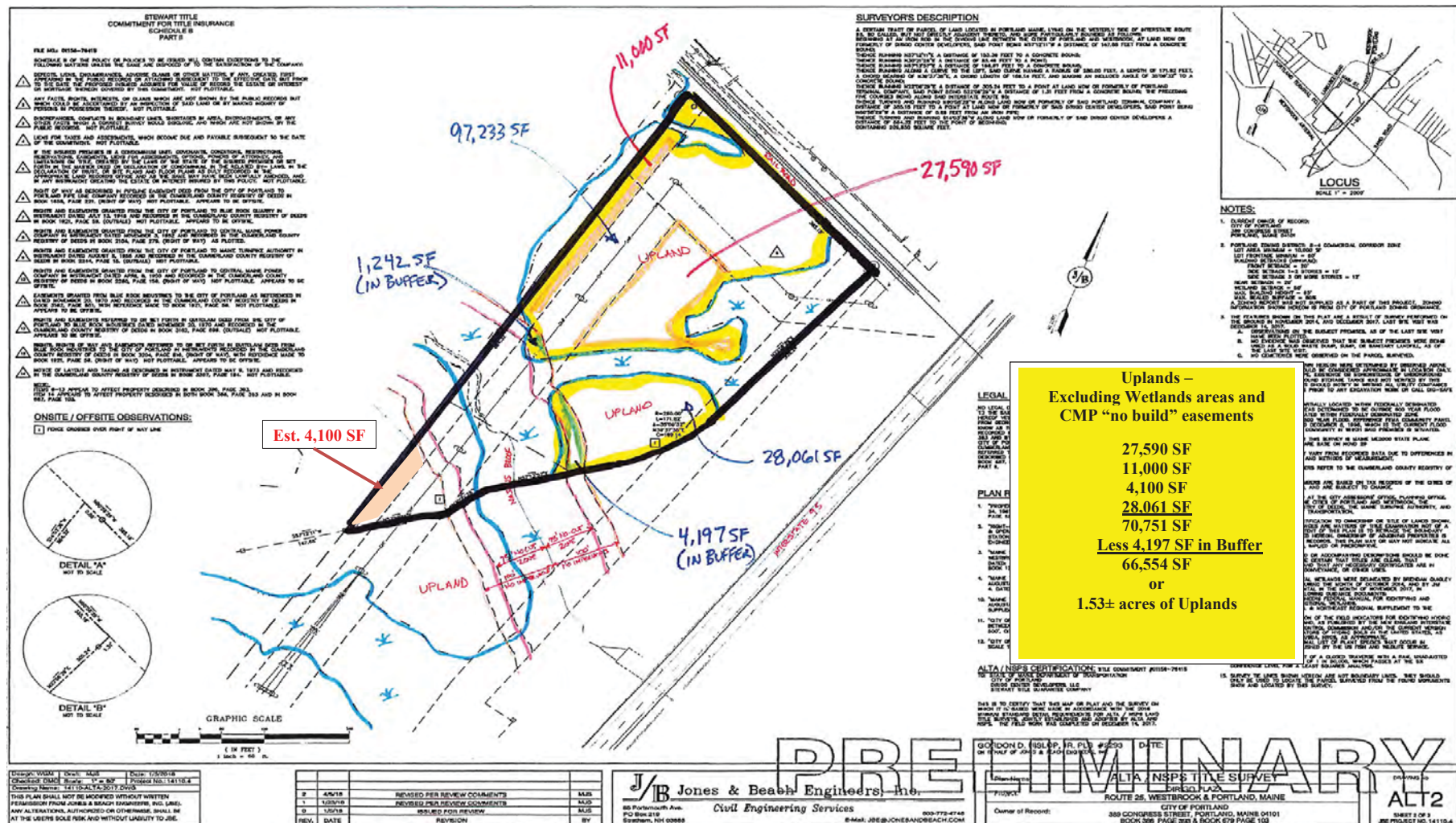
Appraisal Purpose:	The purpose of this appraisal report is to estimate the bulk contributory value of the subject property in light of its assemblage with the abutting Dirigo Plaza site. The intended use is to aid our named client, the City of Portland, in formulating a purchase price for the subject property.
Date of Inspection:	July 10, 2018.
Date of Value:	July 10, 2018.
Date of the Report:	August 8, 2018.
Property Rights Appraised:	Fee Simple Estate.
Property Location:	The property is an interior lot located to the north of Rand Road and to the west of the Maine State Turnpike in the City of Portland. The site represents a portion of Map 243, Lot B-1, Map 244, Lot A-1, Map 252, Lot A-1 and Map 253, Lot A-1. However, the City of Portland's map and lot references are not accurate as they do not reflect the land areas that were previously acquired by the Maine DOT. Refer to extraordinary assumptions.
Title/Owner of Record:	Title to the subject property is referenced to the City of Portland per Cumberland County Registry of Deeds (CCRD) as a portion of Book 386, Page 393 dated July 3, 1871 and CCRD Book 687, Page 103 dated January 31, 1900 per the submitted survey. The subject parcel is the portion of the land area remaining to the north of the 10.33± acres previously acquired by the State of Maine by condemnation by way of a Notice of Layout and Taking recorded in CCRD Book 3397, Page 194 dated May 17, 1973. No specific legal description of the subject parcel is available therefore, the submitted survey was relied upon.

Land Area:	The subject property contains 4.82± acres and has no road frontage. The site has 1.81± acres of wetland areas and 3.01± acres of uplands areas based on the wetlands survey provided by Jones & Beach Engineers, Inc. The site is also subject to two easements granted to Central Maine Power (CCRD Book 2104, Page 279 dated November 3, 1952 and CCRD Book 2365, Page 181 dated July 12, 1957). Both of these CMP easements prohibit erecting or maintaining any structure of any kind on the easement. Based on the submitted site survey, the upland areas are estimated to be 1.53± acres excluding areas within the no-build CMP easements.
Zoning:	The site is located in the Industrial (I-L) zoning district in Portland. The site has no minimum lot size requirement. However, the minimum road frontage requirement is not met as the subject has no road frontage. The City of Portland does not currently map the subject site. For the purpose of this analysis, it is assumed the site is in a lawful status. Assemblage of the same would be legal and appropriate given the site's Highest and Best use.
Highest and Best Use:	As Vacant – assemblage as open space with the abutting development land parcel, or retention for open space by the local municipality or affiliated non-profits.
Conclusion of Value	Based on the analyses developed within this report, it is our opinion that, as of July 10, 2018, the subject property has <u>no determinable contributory market value</u>. Refer to extraordinary assumptions and scope of work detailed in the Transmittal Letter and engagement.

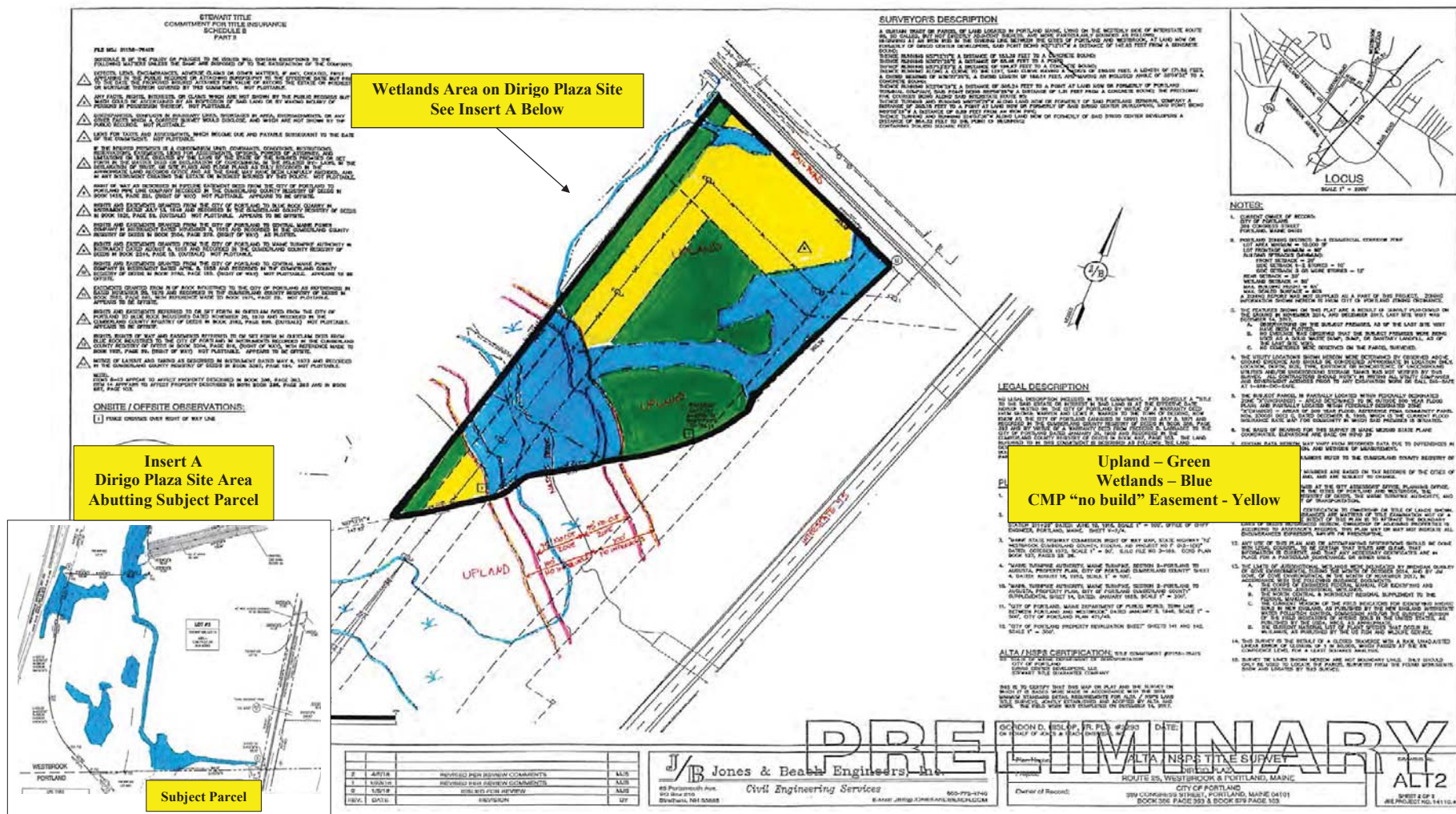
**Subject Parcel Upland Areas
(prior to illustration of the CMP “no-build” easement)**



**Subject Parcel with Upland Areas
(excluding Wetland Areas and CMP “no-build” easement)**



Subject Parcel



PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this ____ day of _____, 201~~98~~ by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as “Seller” or “City”), and **WATERSTONE PROPERTIES GROUP, INC.**, a Massachusetts corporation having a mailing address of 322 Reservoir Street, Needham, MA 02494 or nominee or designee (hereinafter referred to as “Buyer”).

RECITALS

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WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

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 - a. The Buyer shall pay the City for the cost of the City’s appraisal for the Premises (“Appraisal Cost”) within 3 business days after the full execution of this Agreement; and
 - b. The Buyer shall pay the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.
3. **TITLE AND DUE DILIGENCE.**
 - a. **Due Diligence Period.** Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is one hundred eighty (180) days after the date of this Agreement (the “Due Diligence Period”) to complete any survey, environmental review and title examinations.
 - b. **Title and Survey Objections.** Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified in subsection d below) that

affect Buyer's intended use of the Premises as contemplated by this Agreement, including the terms of Section 12 below. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing.

- c. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (i) terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement), (ii) waive the objection and close, or (iii) undertake the cure of such objection at its own expense (in which case it shall have thirty (30) days to do so).
- d. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good and insurable title, free and clear of all encumbrances except (i) the easements on the Survey or otherwise described herein; (ii) easements for all public improvements now on, under or over the Premises and for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine. All of the laws and regulations applicable to the payment of real estate taxes and personal property taxes, except those governing property tax exemptions, shall apply to any such payments in lieu of taxes including, without limitation, how such taxes are calculated and the right to seek abatements and appeals.

4. INSPECTIONS

- a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, it is sole discretion, to be required to

determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and commercial general liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement. The City acknowledges and agrees that Buyer shall be entitled to terminate this Agreement for any reason or for no reason during the Due Diligence Period by providing written notice of such election to the City during the Due Diligence Period.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Premises is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Premises shall be prorated as of the closing. Buyer's fifty percent (50%) share of the Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.
6. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the Appraisal Cost as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance.
7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated and excluding any alterations made to the Premises by Buyer. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
8. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer, at Closing, will have had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.
9. **ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of

hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.

10. INTENTIONALLY OMITTED.

11. CLOSING. Time is of the essence in the performance of this Agreement. The closing shall be held at the offices of Buyer's counsel in Portland, Maine at a time agreeable to the parties on the date that is thirty (30) days following the expiration of the Due Diligence Period or such other date as is mutually agreed upon by the parties.

At the Closing:

- a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and marketable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein.
- b. Buyer shall deliver the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and
- c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals closing and executing documents on behalf of Buyer are authorized to do so.

12. ENTIRE AGREEMENT. This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Premises hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.

13. NON-WAIVER. No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

14. HEADINGS AND CAPTIONS. The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

15. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

16. TIME. The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

17. GOVERNING LAW. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

18. NOTICE. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR The City: City of Portland
ATTN: City Manager
389 Congress Street
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

FOR Buyer: Waterstone Properties Group, Inc.
322 Reservoir Street
Needham, MA 02494

With a copy to: Hinckley Allen
650 Elm Street, Suite 500
Manchester, NH 03101
Attention: John H. Sokul, Esq.

19. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

20. BROKERS. City and Buyer represent and warrant to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this

transaction or in any way with respect to the Premises. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through City. Buyer agrees to defend, indemnify and hold City harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Buyer. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

21. RECITALS INCORPORATED BY REFERENCE. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

CITY OF PORTLAND

WITNESS

Jon P. Jennings
Its City Manager

**WATERSTONE PROPERTIES GROUP,
INC.**

WITNESS

Its:

Approved as to Form:

Approved as to Funds:

City Corporation Counsel's Office

City Finance Department

Exhibit A
Survey

Exhibit B
Legal Description

The land described in Warranty Deeds recorded in Book 386, Page 393 and in Book 687, Page 103.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 25, 2019

SUBJECT: Order 186-18/19 Approving Communications Union Contract - Sponsored by
Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Staff has reached a tentative agreement with the Communications Employee Association on a successor two (2) year contract. The prior collective bargaining agreement expired June 30, 2018.

The Communications Employee Association, which is comprised of 32 Telecommunicators and Telecommunications Supervisors, one Fire Alarm Specialist and one Radio Systems Specialist, has reached a tentative agreement with the City. The Administration is requesting a first reading on March 18, 2019. The tentative agreement is within the guidance received by the City Council on November 5, 2018.

The City and the Communications Unit have reached a tentative agreement on a two (2) year contract with a 3.0% general wage increase for Fiscal Year (FY) 2019 retroactive to July 1, 2018 and a 3.0% general wage increase effective July 7, 2019. The duration of the contract and the COLA recommendations are consistent with the bargaining strategy previously discussed with the Council.

Other economic items tentatively agreed to are:

- Employees will receive Holiday premium pay for actual hours scheduled for the day of the Holiday, either eight (8) hours or twelve (12) hours.
- \$.10 per hour increase to educational stipends
- \$.10 per hour increase to all shift differentials.
- Add \$.75 per hour to each step of the Supervisor pay scale after implementing 1st year of COLA to provide incentive to become a supervisor
- Increase Field Training stipend from \$1.00 per hour to \$1.35 per hour
- Increase on call pay from \$15 per day weekdays and \$22.50 per day weekends and Holidays to \$16 per day weekdays and \$23.50 weekends and Holidays

The union has voted to approve this Agreement, and once approved by Council the Agreement will govern the

rights of the parties from July 1, 2018 through June 30, 2020.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct costs for the two (2) year agreement is approximately \$145,000.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please see attached Fiscal Note and Cost Sheet.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Communications Employee Association contract 3.18.2019
2. Communications Cost Sheet
3. Communications Pay Plan
4. Fiscal Impact Note

Prepared by:

Date: 3/25/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH
COMMUNICATIONS EMPLOYEE ASSOCIATION**

ORDERED, that the attached Collective Bargaining Agreement with the Communications Employee Association for July 1, 2018 through June 30, 2020 is hereby approved.

COMMUNICATION - ADMINISTRATIVE RECOMMENDATION

ITEM	BASE COST	YEAR 1		YEAR 2		NOTES:
		(FY)	% INCR	(FY)	% INCR	
Base Wages	1,584,523	47,536	3.0%	48,962	3.0%	Add \$.75 to each step in pay plan Increase all NSD by \$.10 Increase training stipend by \$.35 Holiday credit based on scheduled hours (12 Hrs x 11 EE's) Increase Education Stipends by \$.10
Supervisor Pay Plan Adj.	-	7,800	0.5%			
Night Shift Differential	19,032	3,744	19.7%			
Higher Class Pay (Training Stipend)	4,331	1,516	35.0%			
Holiday Credit	23,163	11,581	50.0%			
Specialty Pay	15,662	3,536	22.6%			
Stand By Pay	5,993					
Sub-Total Wages	1,652,704	75,713	4.6%	48,962	2.8%	
Overtime	327,634	9,829	3.0%	10,124	3.0%	Based on increase in base wages
Clothing Allowance	9,900					
Total Direct Costs	1,990,238	85,542	4.3%	59,086	2.8%	
Health Insurance	304,428	30,443	10.0%	33,487	10.0%	Inflationary increase only
Pension	198,034	8,554.20	4.3%	5,909	2.9%	Based on increase in total wages
Workers' Compensation	45,284	1,359	3.0%	1,399	3.0%	Based on increase in total wages
Total Indirect Costs	547,746	40,356	7.4%	40,795	6.9%	
Total	2,537,984	125,898	5.0%	99,881	3.7%	

APPENDIX H - COMMUNICATIONS PAY PLAN 2018-2020

Job Classification	Steps	Effective 07/02/17 CURRENT	Effective 7/1/2018 3%	Effective 7/7/2019 3%
Telecommunicator C04				
	1 Recruit	\$19.47	\$20.05	\$20.65
	2 6 mos.	\$20.92	\$21.55	\$22.20
	3 3 yrs.	\$22.38	\$23.05	\$23.74
	4 4 yrs.	\$23.86	\$24.58	\$25.32
	5 6 yrs.	\$24.43	\$25.16	\$25.91
Telecommunications Supervisor C08				
	1 Recruit	\$25.12	\$26.62 *	\$27.42
	2 1 yr.	\$25.86	\$27.39 *	\$28.21
	3 3 yrs.	\$26.59	\$28.14 *	\$28.98
	4 5 yrs.	\$27.37	\$28.94 *	\$29.81
Fire Alarm Technician Radio System Specialist C02				
	1 Recruit	\$24.05	\$24.77	\$25.51
	2 1 yr.	\$24.79	\$25.53	\$26.30
	3 3 yrs.	\$25.28	\$26.04	\$26.82
	4 5 yrs.	\$26.30	\$27.09	\$27.90

* 3% COLA plus \$.75/hour as incentive to become a supervisor

TA

T/A

TAC 2-14-19

(CUT)

2-14-19

FISCAL IMPACT NOTE		Year 1		Year 2		Year 3	
Communications Union - 2 Year Contract		City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u>							
ADD: NEW ITEM ANNUAL EXPENDITURES			\$125,898		\$225,779		\$0
LESS: TOTAL NEW ITEM ANNUAL REVENUES			\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION		\$125,898	\$125,898	\$225,779	\$225,779	\$0	\$0
New Program Impact to the Mil Rate		\$0.0159	\$0.0159	\$0.0286	\$0.0286	\$0.0000	\$0.0000
New Program % Impact on Mil Rate		0.1405%	0.0709%	0.2520%	0.1271%	0.0000%	0.0000%
Mil Rate Including New Program		\$11.3559	\$22.4959	\$11.3686	\$22.5086	\$11.3400	\$22.4800

Notes: The Communications Union signed a new 2 year contract which increases City expenses by \$125,898 in Year 1 of the contract and an additional \$99,881 in Year 2. There is no impact in Year 3 as it is only a 2 year contract.

MEMORANDUM
City Council Agenda Item

FROM: Paul Bradbury, Jetport Director

DATE: March 25, 2019

SUBJECT: **Order 187-18/19 Appropriating \$550,000 for Automated Exit Portals at the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: Paul Bradbury will introduce as needed, and answer any Council questions on this item.

I. SUMMARY

The Portland International Jetport is requesting a \$550,000 appropriation from its unrestricted fund balance to install two new automated secure exit portal lanes from the gate concourse to baggage claim.

II. AGENDA DESCRIPTION

The Portland International Jetport is proposing to make the following improvements.

- Supply and installation of two automated secure exit portals \$375,000
- Security staffing for exit lane during construction \$ 35,000
- Building improvements necessary to accept secure exit portals \$140,000
- Total \$550,000

These improvements will update and replace the existing automated secure exit portal with two new units providing higher throughput, lower operating costs, and greater security.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes re required for passage after public comment.

III. BACKGROUND

The Portland International Jetport began construction of the Vertical Circulation Project in December of 2018. This project when complete in the spring will provide a new escalator, two new elevators, and new finishes to improve passenger flow from the gate concourse to baggage claim. The original plan under this project was to simply reconfigure the existing secure exit portal as part of this project, but after further review this is not recommended since the existing technology is outdated and less secure. So, although it is possible to reconfigure the current system, the best practice at airports is to replace with newer self contained single manufacturer technology. This technology provides higher throughput, lower operating costs, and greater security.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals.

Approval of this project allows the Portland Jetport to make needed investment in Jetport infrastructure to better serve the over 2.1 million passengers using it annually.

V. FINANCIAL IMPACT

The Jetport's unrestricted cash fund balance was \$22,358,719 as of January 30, 2019. If approved, the Jetport will use \$550,000 of unrestricted cash fund balance to complete these improvements.

The Jetport is an enterprise fund of the City that is fiscally self-sustaining. FAA grant assurances and the covenants for the Jetport's General Airport Revenue Bonds (GARBs) require all revenues generated at the Jetport be pledged to cover only Jetport expenses. The approval of this appropriation has no impact to the City of Portland's general fund or tax rate.

VI. STAFF ANALYSIS AND BACKGROUND

The existing exit portal system was developed at the Jetport over many years using a variety of different manufacturers and equipment with no single manufacturer for support. It does not meet the current industry standards for reliability since it has multiple failure points. When it is down contract security staff must be assigned to guard the exit. Although serviceable it is not the best option moving forward considering the extensive improvements to this area as part of the Vertical Circulation Project. Approval of this request will provide the appropriate technology to match the life cycle of the current improvements and meet the growing passenger volumes that were up 15.9% in 2018.

VII. RECOMMENDATION

Jetport staff recommends City Council approval of this \$550,000 appropriation from Jetport unrestricted cash fund balance to proceed with the purchase and installation of two automated exit portal lanes from the gate concourse.

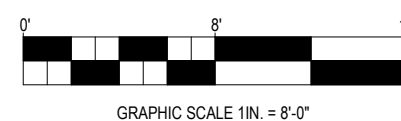
VIII. LIST ATTACHMENTS

1. 17030-Jetport Portal Reconfiguration-3-4-19

Prepared by:

Paul Bradbury, Jetport Director

Date: 3/25/2019



MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 25, 2019

SUBJECT: **Order 188-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager by 4/8/19 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave Cumberland Avenue between State Street and Elm Street in 2019.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Cumberland Avenue, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Cumberland Avenue. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$99,275.00, and an additional \$14,000.00 for manhole adjustments from a water resources fund.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The Cumberland Avenue paving project is part of MaineDOT's 2018-2020 work plan. The scope of work include milling and paving with a 1 ½ inch hot mix asphalt overlay. Construction work on this project is scheduled to begin after July 8, 2019 and be completed in 2019. This project is classified as a pavement preservation project on an urban collector street. As such, PACTS will pay 75% of the cost of paving as part of its Collector Paving Program. The City will be responsible for 25% of the paving cost and 100% of the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Cumberland Avenue paving project will improve the pavement surface and ride quality on a regionally important major urban collector street. PACTS funds will pay for 75% of the paving costs.

V. FINANCIAL IMPACT

The City is obligated to pay 25% of the total construction cost and 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The total City cost of this work, estimated to be \$99,275.00, would be paid from a FY20 CIP account established for this project and \$14,000.00 from a water resources account. Please see the attached fiscal impact note for additional information.

VI. STAFF ANALYSIS AND BACKGROUND

Urban collector paving projects such as this one, where MPO pays 75% of the paving costs, are one of the best alternatives for the City in terms of getting the most street paving done for the least expense of City funds. This is an important location in the City of Portland due to its high AADT and designation as a major collector; without this work, Cumberland Avenue will continue to deteriorate.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave approximately 0.46 miles of Cumberland Avenue (from State Street to Elm Street) in 2019.

VIII. LIST ATTACHMENTS

1. Paving Cumberland Avenue MDOT 3.18.2019
2. Cumberland Ave Two Party Agreement
3. Cumberland Ave - Fiscal Impact Note - Fiscal Impact Note
4. CumberlandAveImprovements Project Limits

Prepared by:

Date: 3/25/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO CUMBERLAND AVENUE**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for improvements to Cumberland Avenue with State Work Identification Number 022164.00 is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO CUMBERLAND AVENUE

(MaineDOT Use Only)

Project Location: <u>Portland</u>	Estimated Municipal Share: <u>\$113,275.00</u>
State WIN #: <u>022164.00</u>	Vendor Customer #: <u>17A12144</u>
Federal Aid Project #: <u>2216400</u>	Agreement Begin Date: _____
	Agreement End Date: <u>(5 years from the date last signed below)</u>

This Agreement is entered into between the Maine Department of Transportation (hereafter the MaineDOT) and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (collectively hereinafter the “Parties”).

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to Cumberland Avenue, beginning at State Street and extending north 0.46 of a mile to Elm Street, in Portland, Maine, (hereafter the “Project”).
- B. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project’s Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

4. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

5. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).
 - ii. The Municipality will comment on their concerns/issues related to the Traffic Control Plan within two (2) weeks of receipt.

- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

H. Utilities:

- 6. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 7. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 8. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 9. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 10. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 11. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the

time of such termination. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

12. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
13. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
14. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
15. When applicable, the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
16. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

17. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
18. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to MaineDOT's satisfaction.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those ***provisions that by their very nature are intended to survive.***

L. Miscellaneous Provisions:

19. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

20. All provisions of this Agreement, ***except those that by their very nature are intended to survive***, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
21. **State of Maine's Rights of Set-Off.** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
22. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
23. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
24. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
 389 Congress St
 Portland, ME 04101
 Attn.: Jon Jennings
 Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO CUMBERLAND AVENUE

FEDERAL AID PROJECT NO. 2216400

STATE PROJECT IDENTIFICATION NUMBER (WIN) 22164.00

Project Scope:

Mill and Fill on Cumberland Avenue, beginning at State Street and extending north 0.46 of a mile to Elm Street. PACTS sponsored.

Funding Outline:

The Total Project Estimated Cost is \$ 411,100.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			MPO	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25.0%	\$ 4,963.75	75.0%	\$ 14,891.25	0.0%	\$ -	\$ 19,855.00
Right of Way	25.0%	\$ 125.00	75.0%	\$ 375.00	0.0%	\$ -	\$ 500.00
Construction	25.0%	\$ 84,258.75	75.0%	\$ 252,776.25	0.0%	\$ -	\$ 337,035.00
Construction Engineering	25.0%	\$ 9,927.50	75.0%	\$ 29,782.50	0.0%	\$ -	\$ 39,710.00
PROJECT SHARES		\$ 99,275.00		\$ 297,825.00		\$ -	\$ 397,100.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 14,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 113,275.00					

(Check if applicable)

☒ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Sewer Manhole Adjustments - 14 @ \$1,000 ea.		\$	14,000.00
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	14,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$66,182.00	5/1/2019
City of Portland	\$47,093.00	6/30/2019
City of Portland	Remaining balance if any	1/1/2020
Total Receivable Amount:	\$113,275.00	

Project Information

Municipality Name: Portland

Federal Aid Project #: 02216400

WIN: 22164.00

APPENDIX C

ADDITIONAL WORK

MAINE DEPARTMENT OF TRANSPORTATION

Transportation Improvement Project

1. Description of Work Being Added to Project by the Municipality:

Adjust 14 sewer manholes to grade.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

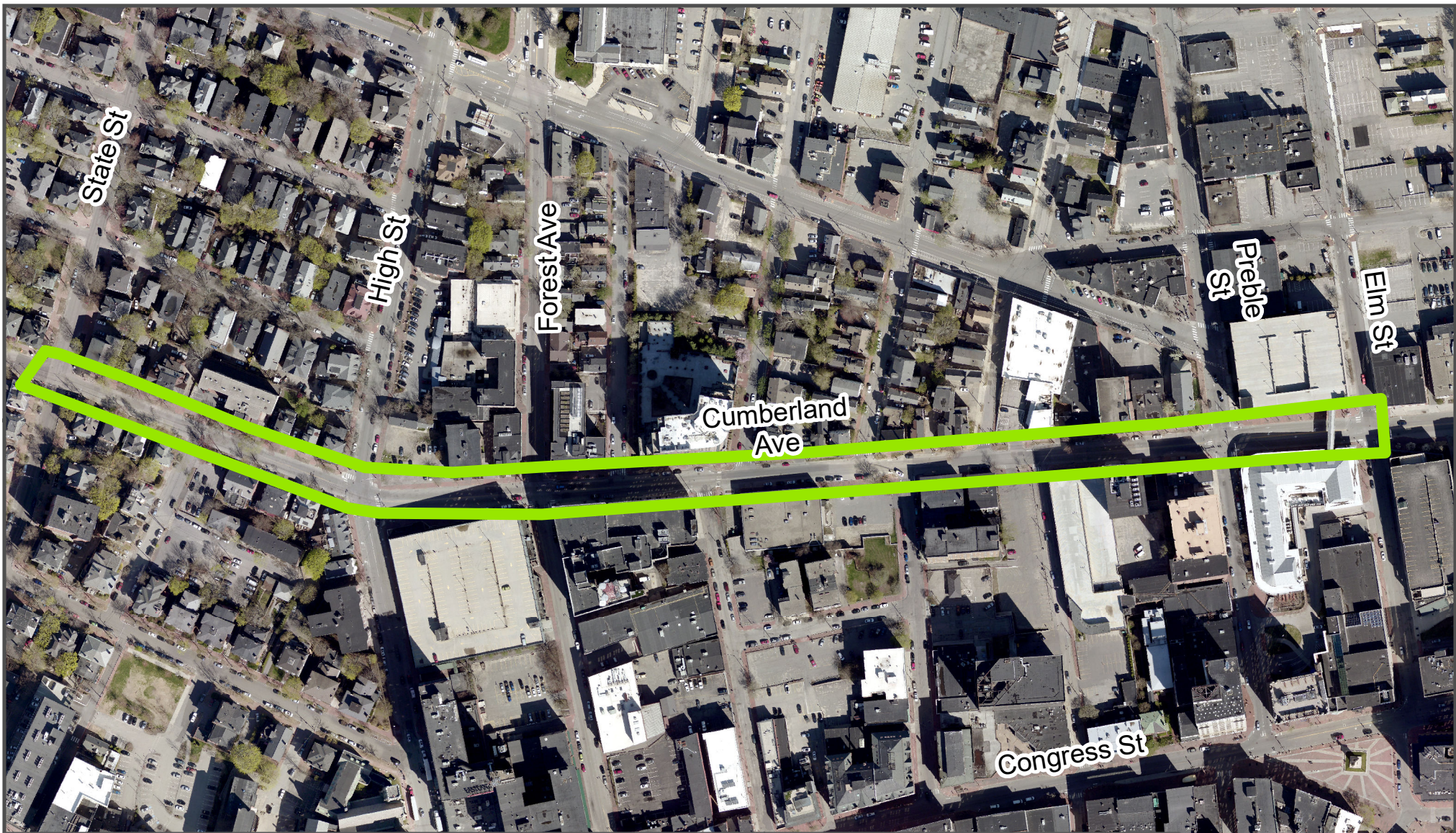
- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details"* and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u>						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$8,496		\$8,496
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$8,496	\$8,496	\$8,496	\$8,496
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0011	\$0.0011	\$0.0011	\$0.0011
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0095%	0.0048%	0.0095%	0.0048%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3411	\$22.4811	\$11.3411	\$22.4811

Notes: The CIP impact will actually begin in 2020 and remain for the 20 year life of the bond.

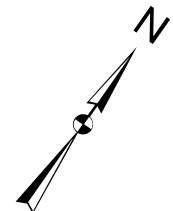


CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Cumberland Avenue Improvements

Mill and Fill on approximately
0.46 miles of Cumberland Ave
and pedestrian improvements
within these limits.

Legend



March 6, 2019

0 0.025 0.05
Miles

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 25, 2019

SUBJECT: **Order 189-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Danforth Street - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager by 4/8/19 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave Danforth Street between High Street and Vaughan Street in 2019.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Danforth Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Danforth Street. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$176,650.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The Danforth Street paving project is part of MaineDOT's 2018-2020 work plan. The scope of work include milling and paving with a 1 ½ inch hot mix asphalt overlay. Construction work on this project is scheduled to begin after July 8, 2019 and be completed in 2019. This project is classified as a pavement preservation project on an urban collector street. As such, PACTS will pay 75% of the cost of paving as part of its Collector Paving Program. The City will be responsible for 25% of the paving cost and the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Danforth Street paving project will improve the pavement surface and ride quality on a regionally important major urban collector street. PACTS funds will pay for 75% of the paving costs.

V. FINANCIAL IMPACT

Please see attached fiscal note.

VI. STAFF ANALYSIS AND BACKGROUND

Urban collector paving projects such as this one, where MPO pays 75% of the paving costs, are one of the best alternatives for the City in terms of getting the most street paving done for the least expense of City funds. This is an important location in the City of Portland due to its downtown location. Most of the street has not been worked on since 2003 and is in need of repair.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave Danforth Street (from High Street to 0.05 miles north of Vaughan) in 2019.

VIII. LIST ATTACHMENTS

1. Danforth St Two-Party MDOT 3.18.2019
2. Danforth St Two Party Agreement
3. Danforth St Fiscal Impact Note
4. DanforthSt_Improvements Project Location Map

Prepared by:

Date: 3/25/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO DANFORTH STREET**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for improvements to Danforth Street with State Work Identification Number 022170.00 is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
PROPOSED IMPROVEMENTS TO DANFORTH STREET

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 022170.00
Federal Aid Project #: 2217000

Estimated Municipal Share: \$186,650.00
Vendor Customer #: 17A12144
Agreement Begin Date: _____
Agreement End Date: (5 years from the date last signed below)

This Agreement is entered into between the Maine Department of Transportation (hereafter the MaineDOT) and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (collectively hereinafter the “Parties”).

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to Danforth Street, beginning at High Street and extending southwest 0.78 of a mile to 0.05 of a mile north of Vaughan Street, in Portland, Maine, (hereafter the “Project”).
- B. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project’s Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

4. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

5. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).
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- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

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- 6. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 7. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 8. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 9. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 10. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 11. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the

time of such termination. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

12. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
13. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
14. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
15. When applicable, the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
16. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

17. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
18. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to MaineDOT's satisfaction.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those ***provisions that by their very nature are intended to survive.***

L. Miscellaneous Provisions:

19. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

20. All provisions of this Agreement, ***except those that by their very nature are intended to survive***, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
21. **State of Maine's Rights of Set-Off.** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
22. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
23. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
24. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
 389 Congress St
 Portland, ME 04101
 Attn.: Jon Jennings
 Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO DANFORTH STREET

FEDERAL AID PROJECT NO. 2217000

STATE PROJECT IDENTIFICATION NUMBER (WIN) 22170.00

Project Scope:

Mill and Fill on Danforth Street, beginning at High Street and extending southwest 0.78 of a mile to 0.05 of a mile north of Vaughan Street.
PACTS sponsored.

Funding Outline:

The Total Project Estimated Cost is \$ 716,600.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			MPO	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25.0%	\$ 8,832.50	75.0%	\$ 26,497.50	0.0%	\$ -	\$ 35,330.00
Right of Way	25.0%	\$ 125.00	75.0%	\$ 375.00	0.0%	\$ -	\$ 500.00
Construction	25.0%	\$ 150,027.50	75.0%	\$ 450,082.50	0.0%	\$ -	\$ 600,110.00
Construction Engineering	25.0%	\$ 17,665.00	75.0%	\$ 52,995.00	0.0%	\$ -	\$ 70,660.00
PROJECT SHARES		\$ 176,650.00		\$ 529,950.00		\$ -	\$ 706,600.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 10,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 186,650.00					

(Check if applicable)

☒ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Sewer Manhole Adjustments - 10 @ \$1,000		\$	10,000.00
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	10,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$109,179.00	5/1/2019
City of Portland	\$77,471.00	6/30/2019
City of Portland	Remaining balance if any	1/1/2020
Total Receivable Amount:	\$186,650.00	

Project Information

Municipality Name: Portland

Federal Aid Project #: 02217000

WIN: 22170.00

APPENDIX C

ADDITIONAL WORK

MAINE DEPARTMENT OF TRANSPORTATION

Transportation Improvement Project

1. Description of Work Being Added to Project by the Municipality:

Adjust 10 sewer manholes to grade.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

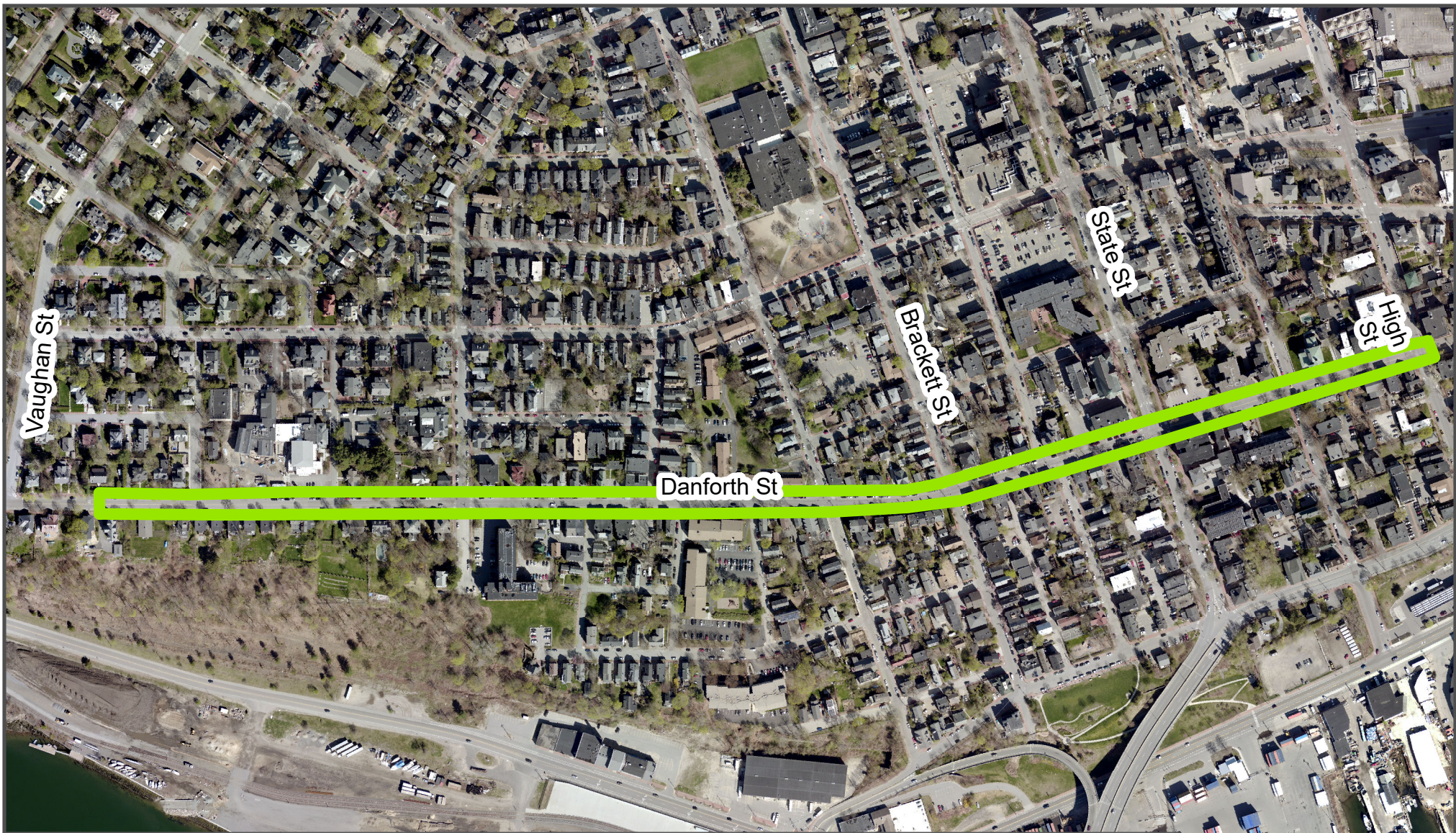
- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its "*Highway Design Guide*" and "*Standard Details*" and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$13,988		\$13,988
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$13,988	\$13,988	\$13,988	\$13,988
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0018	\$0.0018	\$0.0018	\$0.0018
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0156%	0.0079%	0.0156%	0.0079%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3418	\$22.4818	\$11.3418	\$22.4818

Notes: The CIP impact will actually begin in 2020 and remain for the 20 year life of the bond.

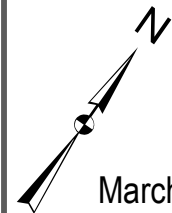


CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Danforth St Improvements

Mill and Fill on approximately
0.78 miles of Danforth St
and pedestrian improvements
within these limits.

Legend



March 6, 2019

0 0.025 0.05 0.1
Miles

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 25, 2019

SUBJECT: **Order 190-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to India Street - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager by 4/8/19 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave India Street between Congress Street and Commercial Street in 2019.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill India Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves India Street. The agreement obligates the City to pay MaineDOT for \$289,000.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The India Street paving project is part of MaineDOT's Cyclical Paving Resurfacing (CPR) work plan. The scope of work includes milling and paving with a 1 ¼ inch hot mix asphalt overlay and ADA improvements with curb adjustments as needed. The CPR program is a state-funded maintenance program that allocates \$200,000 of state funding per mile. Therefore, MaineDOT will contribute \$58,000.00 as part of the CPR program contribution. The City will be responsible for the remainder of the project cost and 100% of the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The India Street paving project will improve the pavement surface and ride quality on a regionally important major urban collector street and improve pedestrian facilities on this road.

V. FINANCIAL IMPACT

The City is obligated to pay for the additional cost required on top of the CPR allocation, new ADA improvements, and 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The total City cost of this work, estimated to be \$289,000.00, would be paid from a FY20 CIP account established for this project and \$10,000.00 from a water resources account. Please see attached fiscal impact note for additional information.

VI. STAFF ANALYSIS AND BACKGROUND

Although the CPR program is a good program and works on some minor roads, the condition of India Street and development in the area is much more suited to a more intensive repair such as a mill and fill. Although the City must cover the cost to change the scope, because MaineDOT is still contributing to this project makes this a good time to improve the road and a good use of City funds.

This is an important location in the City of Portland due to its increasing development and designation as a minor arterial. The street is in need of resurfacing and the improvement of ADA ramps will provide safer routes for pedestrians.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave approximately 0.29 miles of India Street (from Congress Street to Commercial Street) in 2019.

VIII. LIST ATTACHMENTS

1. Paving India Street MDOT 3.18.2019
2. India St Two Party Agreement
3. Fiscal Impact - India Street - Fiscal Impact Note
4. India_Street_Improvements Project Location Map

Prepared by:

Date: 3/25/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO INDIA STREET**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for improvements to India Street with State Work Identification Number 024037.00 is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
PROPOSED IMPROVEMENTS TO INDIA STREET

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 024037.00
Federal Aid Project #: 2403700

Estimated Municipal Share: \$299,000.00
Vendor Customer #: 17A12144
Agreement Begin Date: _____
Agreement End Date: (5 years from the date last signed below)

This Agreement is entered into between the Maine Department of Transportation (hereafter the MaineDOT) and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (collectively hereinafter the “Parties”).

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to India Street, beginning at Congress Street and extending south 0.29 of a mile to Commercial Street, in Portland, Maine, (hereafter the “Project”).
- B. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project’s Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

4. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

5. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).
 - ii. The Municipality will comment on their concerns/issues related to the Traffic Control Plan within two (2) weeks of receipt.

- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

H. Utilities:

- 6. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 7. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 8. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 9. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 10. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 11. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the

time of such termination. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

12. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
13. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
14. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
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16. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

17. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
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In the event of Project termination, all provisions of this Agreement shall become null and void except for those ***provisions that by their very nature are intended to survive.***

L. Miscellaneous Provisions:

19. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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21. **State of Maine's Rights of Set-Off.** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
22. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
23. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
24. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
 389 Congress St
 Portland, ME 04101
 Attn.: Jon Jennings
 Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF **PORTLAND**

PROPOSED IMPROVEMENTS TO **INDIA STREET**

FEDERAL AID PROJECT NO. **2403700**

STATE PROJECT IDENTIFICATION NUMBER (WIN) **24037.00**

Project Scope:

Mill and Fill India Street, beginning at Congress Street and extending south 0.29 miles to Commercial Street.

Funding Outline:

The Total Project Estimated Cost is \$ 357,000.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			Federal	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 872.00	\$ 872.00
Right of Way	0.0%	\$ -	0.0%	\$ -	100.0%	\$ -	\$ -
Construction	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 56,260.00	\$ 56,260.00
Construction Engineering	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 868.00	\$ 868.00
PROJECT SHARES		\$ -		\$ -		\$ 58,000.00	\$ 58,000.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 299,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 299,000.00					

(Check if applicable)

☒ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Change Scope of Work from CPR to Mill & Fill		\$	289,000.00
Adjust Sewer Manholes - 10 @ \$1,000 ea.		\$	10,000.00
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	299,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$225,000.00	5/1/2019
City of Portland	\$74,000.00	6/30/2019
City of Portland	Balance remaining if any	1/1/2020
Total Receivable Amount:	\$299,000.00	

Project Information

Municipality Name: Portland

Federal Aid Project #: 2403700

WIN: 24037.00

APPENDIX C

ADDITIONAL WORK

MAINE DEPARTMENT OF TRANSPORTATION

Transportation Improvement Project

1. Description of Work Being Added to Project by the Municipality:

Change the scope of work from a CPR, capped at \$58,000 for MaineDOT, to a 1 1/4" Mill and Fill, with variable depth shim, and other incidentals, including adjusting sewer manholes.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

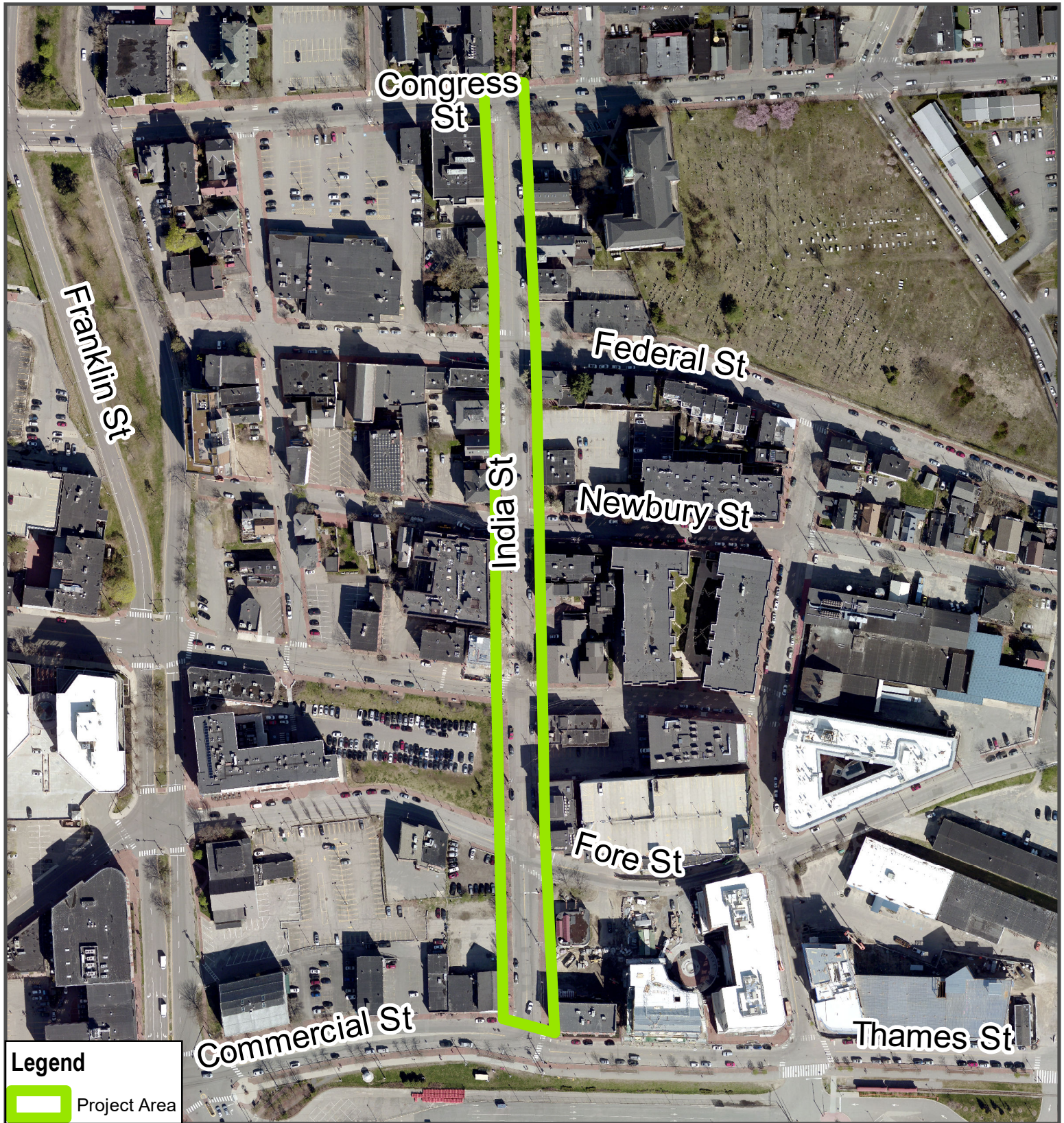
- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its "*Highway Design Guide*" and "*Standard Details*" and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$22,425		\$22,425
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$22,425	\$22,425	\$22,425	\$22,425
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0028	\$0.0028	\$0.0028	\$0.0028
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0250%	0.0126%	0.0250%	0.0126%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3428	\$22.4828	\$11.3428	\$22.4828

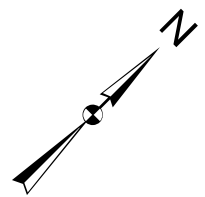
Notes: The CIP impact will actually begin in 2020 and remain for the 20 year life of the bond.



CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

India Street Improvements

Mill and fill on approximately
0.29 miles of India St and
pedestrian improvements
within these limits.



March 6, 2019

0 0.025 0.05
Miles

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 22, 2019

SUBJECT: Order 191-18/19 Amendment to the Portland City Code Chapter 35 Re: Earned Paid Sick Leave - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Belinda Ray, Chair

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

This ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all of their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked, to use up to 40 hours of accrued time annually, and to begin using this accrued sick time after their 70th day of employment or the date this ordinance becomes applicable, whichever is later.

II. AGENDA DESCRIPTION

The Health and Human Services Committee met on February 26, 2019, and voted unanimously to forward this item to the City Council with a recommendation for passage.

Over the past 12 years, 47 municipalities, counties, and states have enacted Earned Paid Sick Leave Ordinances (including 13 New Jersey municipalities which were later pre-empted when the state law passed in 2018).

On September 18, 2017, the City Council referred a proposed Earned Paid Sick Time Ordinance, which was brought forward by Mayor Strimling in collaboration with the Southern Maine Workers' Center and the Maine Women's Lobby, to the Council's Health & Human Services and Public Safety committee. On November 27, 2017, the committee had an initial discussion of the ordinance and began working to craft a version of the ordinance designed specifically for Portland.

The committee spent nearly 15 months examining ordinances from other municipalities and states, talking with constituents and area businesses, receiving public comment via email, phone, and in person, and holding two public hearings. On February 26th, the HHS & PS Committee voted 3-0 to forward the ordinance on to the Council with a recommendation for passage.

The ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked. Employees would begin earning paid sick time on their first day of employment and would be able to begin using their accrued time after their 70th day of employment or

the date this ordinance becomes applicable, whichever is later.

Employees would be eligible to use up to 40 hours of their accrued time annually for the purposes and under the conditions described in the ordinance.

Businesses of all sizes are covered by the ordinance, as are all employees who work at least 120 hours annually for an employer, whether they are full-time, part-time, or seasonal. There are, however, exemptions for some per diem employees, Federal Work Study students, and new businesses, which are exempt from the ordinance for one year from the date of hire of their first employee.

As written, the ordinance would become applicable 180 days after the date of passage.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please see attached Fiscal Impact Note.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Chapter 35 Earned Paid Sick Time 3.18.2019
2. States, Cities with EPSL laws
3. Earned Paid Sick Leave Accrual Chart
4. Paid Sick Leave Costs to City (3-13 for Council) (1)
5. EST Memo re Cost Analysis
6. A Health Impact of Paid Sick Days - Public Health Perspective
7. Paid Sick Improve Public Health

Prepared by:

Date: 3/22/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 35 RE: EARNED PAID SICK LEAVE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That the Portland City Code is hereby amended by adding a section, to be numbered Chapter 35, Sections 35-1 to 35-14, which said Sections read as follows:*

Chapter 33 EARNED PAID SICK LEAVE

Sec. 35-1. Definitions.

The following definitions shall apply for purposes of this Chapter:

Child shall mean a biological, adopted, or foster child of the employee; stepchild or legal ward of the employee; child of a domestic partner of the employee; or a child for whom the employee stands in loco parentis.

Earned paid sick time shall mean paid sick time accrued and awarded pursuant to section 35-2.

Employee shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Chapter, Employee shall not include the following:

1. Any employee who meets all of the following criteria:
 - a. Is licensed pursuant to Title 32, Chapters 31, 97, or 103;
 - b. Is employed by a health care facility, as defined in 22 M.R.S. § 328(8);
 - c. Is under no obligation to work a regular schedule;

- d. Works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and
 - e. Has waived earned sick leave benefits as provided under this Chapter under terms of employment for alternative benefits or consideration.
- 2. Employees who work less than 120 hours per year for that employer.
- 3. Any Federal Work-Study (FWS) student who is enrolled in an educational institution and who is performing work for that institution, provided that such student shall be considered an Employee and shall not be exempt from accruing earned paid sick leave in accordance with this ordinance when working for any employer other than the educational institution in which the student is enrolled.

Employer shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Chapter, Employer shall not include any employer for a period of one year after the employer hires its first employee.

Family member shall mean a child, grandchild, sibling, spouse, domestic partner, parent, or grandparent of an employee; a spouse or domestic partner of a parent or grandparent of the employee; a sibling of a spouse or domestic partner of an employee; or any other person related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.

Health care professional shall have the same meaning as in 26 M.R.S. § 843.

Hours worked shall mean all hours worked where the employee is located at, or based out of, an employer's place of business located in Portland.

Parent shall mean a biological, adoptive, or foster parent of the employee or employee's spouse or domestic partner; a stepparent or legal guardian of the employee or employee's spouse or domestic partner; or a person who stood in loco parentis of the employee or the employee's spouse or domestic partner when that person was a minor child.

Year shall mean a regular and consecutive 12-month period as determined by the employer.

Sec. 35-2. Accrual of Earned Paid Sick Time.

(a) Rates of Accrual. Subject to the limitations in subsection (2), employers must allow employees to accrue earned paid sick time pursuant to one of the following methods, which may be chosen by the employer.

1. Employees will accrue a minimum of one hour of earned paid sick time for every 30 hours worked. Hours worked shall not include vacation, sick, or other time for which an employee is paid but no actual work is performed.
2. Employees will accrue earned paid sick time in the amount of 40 hours in one lump sum at the beginning of each calendar year or the beginning of the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.
3. Employees will accrue earned paid sick time in the following amounts at the end of each calendar month worked, starting with the first month of the calendar year or the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.

<u>Employee's average hours/week</u>	<u>Earned paid sick time accrued</u>
<u>46 or more</u>	<u>8 hrs/month</u>
<u>36-45</u>	<u>6 hrs/month</u>
<u>29-35</u>	<u>5 hrs/month</u>
<u>22-28</u>	<u>4 hrs/month</u>
<u>15-21</u>	<u>3 hrs/month</u>
<u>8-14</u>	<u>2 hrs/month</u>
<u>Up to 7</u>	<u>1 hr/month</u>

(b) Limitations on Accruals. An employer is not required to allow an employee to accrue earned paid sick time in excess of 72 hours.

(c) Conditions of Accrual. The accrual of earned paid sick time shall be subject to the following conditions.

1. Employees who are exempt from overtime requirements under the Fair Labor Standards Act will be deemed to work 40 hours in each work week for purposes of earned paid sick time accrual, unless their normal work week is less than 40 hours, in which case earned paid sick time

accrues based upon that normal work week.

2. Employees shall begin to accrue earned paid sick time at the commencement of employment or on the date this law goes into effect, whichever is later.
3. Employees accruing earned paid sick time may roll over any unused earned paid sick time, up to a maximum of 72 hours, at the end of a benefit year.
4. If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within one year of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.
5. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(d) Employers are not required to allow employees to take earned paid sick time in the employee's first 70 days of employment. However, employees who return to the same employer within one year of termination shall not have to complete an additional 70-day period to be eligible to take earned paid sick time.

(e) Nothing in this Chapter shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

(f) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

(g) An Employer may substitute its own paid leave policy (e.g. paid time off ("PTO"), vacation leave, sick leave, etc.)

that meets or exceeds the requirements of this ordinance, including but not limited to:

1. Accrue at the rate of at least one hour of paid time off for every 30 hours worked;
2. May use up to 40 hours per year of earned or awarded paid time off;
3. Are paid for their paid time off at least the amount that would be required for earned paid sick leave under this ordinance;
4. Can use paid time off for all the purposes and under all the conditions described in sections 35-3 and 35-4 of this Chapter;
5. Receive a notice of their rights under the law; and
6. Receive the same job protections afforded by this ordinance.

(h) If an Employer provides paid time off to employees under a PTO, vacation or other policy that complies with this Earned Paid Sick Leave ordinance, the Employer is not required to track and keep a separate record of accrual and use of earned sick time.

Sec. 35-3. Use of Earned Paid Sick Time.

(a) Employees may use earned paid sick time for any of the following:

1. Job protected leave provided pursuant to the Maine Employment Leave for Victims of Violence statute;
2. Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
3. Time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member; or
4. Leave to attend a school meeting necessitated by the family member's health condition or disability.

(b) An employee may take earned paid sick time for any hours worked.

(c) An employee may only take earned paid sick time for hours the employee has been scheduled to work.

(d) Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

(e) If an employee uses earned paid sick time for an entire day or shift, earned paid sick time must be paid for the hours the employee was otherwise scheduled to work.

(f) Employees may not use more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.

(g) Earned paid sick time shall be paid out at the employee's base hourly rate, not including bonuses, commissions, etc.

(h) Earned paid sick time for tipped workers shall be paid out at the higher of the employee's regular base hourly rate or the highest applicable minimum wage for non-tipped employees.

Sec. 35-4. Procedures for Taking Earned Paid Sick Time.

(a) Earned paid sick time shall be provided upon the request of an employee.

1. An employer may not require more than seven days' notice for an employee to use earned paid sick time, when the need is foreseeable.
2. When the need for use of earned paid sick time is not foreseeable, an employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case
3. An employer that requires notice of the need to use earned paid sick time shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.
4. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide

notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

(b) An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

(c) An employer may require certification when earned paid sick time is used subject to the following restrictions.

1. An employer may require an employee to personally verify in writing that the employee has used earned paid sick time only for allowable purposes under this Chapter using the form provided by the City.
2. Where the need for earned paid sick time covers more than 24 consecutively scheduled work hours, an employer may require reasonable documentation signed by a health care provider, where applicable, indicating the need for the earned paid sick time taken.

Employees who do not have healthcare coverage, or Employees with healthcare coverage that does not cover office visits without first meeting a deductible, or Employees with healthcare coverage that requires a co-pay for office visits that exceeds an amount equal to four hours of that employee's base hourly pay, or Employees using EPSL where the need for leave is not health related, may instead provide a signed, written statement evidencing the need for the use of earned sick time using the form provided by the City.

3. An employer may not require that any documentation explain the nature of the illness or the details of the domestic violence.
4. The employer shall not delay the taking of earned sick time or delay pay for the period in which earned sick time was taken on the basis that the employer has not yet received the certification. However, where an employee requests to take earned sick time in his/her last two weeks of employment, the employer may require the employee to submit documentation prior to approving and/or paying for the earned sick time.
5. Certifications under this subsection shall be kept

confidential, except as required by business necessity.

Sec. 35-5. Exercise of Rights Protected; Retaliation Prohibited.

(a) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

(b) It shall be unlawful for an employer or any other person to retaliate against an employee for exercising his or her rights under this Chapter, including requesting or using earned paid sick time; filing a complaint or otherwise complaining about an employer's alleged violation of this Chapter; participating in an investigation or other proceeding under this Chapter; or informing others of their rights under this Chapter.

(c) It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under this Act as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

(d) Nothing in this Chapter shall be construed to prohibit an employer from taking disciplinary action against an employee who uses earned paid sick time for purposes other than those described in this Chapter.

(e) Protections of this section shall apply to any person who mistakenly but reasonably alleges a violation of this Chapter.

Sec. 35-6. Notice of Rights.

(a) Employers shall both display a poster notifying employees of their rights under this Chapter, and give employees written notice at the commencement of employment or the effective date of this ordinance, whichever is later. The poster and notice shall be consistent with this section.

(b) The notice and poster shall contain the following information: that employees are entitled to earned paid sick time and the amount of earned paid sick time; the terms of its use guaranteed under this Act; that retaliation is prohibited; that each employee has the right to file a complaint or bring a civil action if earned paid sick time as required by this Act is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time, and the contact information for the City of Portland where questions about rights and responsibilities under this Act can be answered.

(c) The notice and poster shall be provided in any language that is the first language spoken by any member of the employer's workforce, provided that such notice has been created by the City of Portland. Where the City of Portland has not created the notice in any language readily understood by an employee, the employer must ensure that the contents of the notice are read and/or explained to the employee in a language the employee can readily understand.

(d) The City of Portland shall create and make available to employers, in the five most prevalent languages spoken by the City's workforce and any language deemed appropriate by the City of Portland, model notices and posters meeting the requirements of this section. This requirement may be satisfied by posting the model notices and posters on the City's website and making them available for download.

(e) The amount of earned paid sick time available to the employee, the amount of earned paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be provided to the employee in writing at least once per month, and upon request of the employee.

(f) An employer who willfully violates this section shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense. Each day that an employer allows a violation of this section to continue shall be a separate offense.

Sec. 35-7. Recordkeeping Requirements.

(a) Employers shall retain records documenting hours worked by employees and earned paid sick time earned and taken by employees for a period of three (3) years. Separate records of earned paid sick time need not be kept if earned paid sick time is not tracked separately by the employer.

(b) Employers shall allow the City of Portland access to the records required by this section, with appropriate notice and at a mutually agreeable time.

Sec. 35-8. Enforcement.

(a) Enforcement.

1. This Chapter may be enforced by the City Manager or his or her designee.

2. A violation of this Chapter is a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(b) Complaint Process.

1. Any Employee, alleging a violation of this ordinance may file a written complaint with the City Manager's office.
2. The City Manager or his or her designee shall contact the Employer and review the rules of the ordinance and the Employer's obligations under the ordinance. The City Manager or his or her designee may investigate and/or attempt to mediate a mutually agreeable resolution between the employer and employee.
3. After reviewing the rules of the ordinance with the Employer, the City Manager or his or her designee shall issue a letter to both parties summarizing the conversation and stating his or her determination with respect to whether this Chapter has been violated.

(c) Private Cause of Action.

1. Any employee aggrieved by a violation of this Chapter may bring an action in a Court of competent jurisdiction against the employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Such action may be brought by a person aggrieved by a violation of this Chapter without first filing a complaint with the City Manager. Actions brought pursuant to this section may be brought as a class action pursuant to the laws of Maine.
2. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.
3. Where applicable, remedies shall also include equitable relief, including reinstatement and back pay, and injunctive relief.
4. The City of Portland shall annually report on the City of Portland website the number and nature of the complaints received pursuant to this ordinance, the results of investigations undertaken pursuant to this

ordinance, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this ordinance, and the average time for a complaint to be resolved pursuant to this chapter.

Sec. 35-9. Confidentiality and Nondisclosure.

If an employer possesses health information or information pertaining to domestic violence, sexual assault, harassment or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee, with the permission of the affected employee, as required for the administration of the leave, or as otherwise required by law.

Sec. 35-10. Encouragement of More Generous Earned Paid Sick Time Policies; No Effect on More Generous Policies or Laws.

(a) Nothing in this Act shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

(b) Nothing in this Act shall be construed as diminishing the obligation of an employer to comply with any law, regulation, contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.

Sec. 35-11. Public Education and Outreach.

The City of Portland shall develop and implement a multilingual outreach program to inform employees and employers about the availability of earned paid sick time under this ordinance.

Sec. 35-12. Regulations.

The City Manager, or his or her designee, shall be authorized to coordinate implementation and enforcement of this Chapter and shall promulgate appropriate guidelines or regulations for such purposes.

Sec. 35-13. Severability.

If any provision of this Act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Sec. 35-14. Effective Date.

This Chapter will be applicable 180 days after passage.

States and Municipalities with Earned Paid Sick Leave Laws or Ordinances

States

Arizona
California
Connecticut
District of Columbia
Massachusetts
Maryland
Michigan
New Jersey
Oregon
Rhode Island
Vermont
Washington

New Jersey Cities (pre-empted when state law took effect in 2018)

2013
Jersey City

2014
Newark
Passaic
East Orange
Paterson
Irvington
Trenton
Montclair

California Cities

Berkeley
Emeryville
Los Angeles
Oakland
San Diego
San Francisco
Santa Monica

2015
Bloomfield
Elizabeth
New Brunswick

2016
Plainfield
Morristown

Other Counties & Cities (Outside California)

Cook County and Chicago, IL
Montgomery County, MD
Duluth, MN
Minneapolis, MN
Saint Paul, MN
New York City, NY
Westchester County, NY
Philadelphia, PA
Pittsburgh, PA
Austin, TX
San Antonio, TX
Seattle, WA
Tacoma, WA

Earned Paid Sick Time Accrual Chart

Accrual Rate = 0.033
(1 hour for every 30 hours worked)

Week #	Hours Per Week									# Days
	10	15	20	25	30	35	40	45	50	
1	0.3	0.5	0.7	0.8	1.0	1.2	1.3	1.5	1.7	7
2	0.7	1.0	1.3	1.7	2.0	2.3	2.6	3.0	3.3	14
3	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	21
4	1.3	2.0	2.6	3.3	4.0	4.6	5.3	6.0	6.6	28
5	1.7	2.5	3.3	4.2	5.0	5.8	6.6	7.5	8.3	35
6	2.0	3.0	4.0	5.0	5.9	7.0	7.9	8.9	9.9	42
7	2.3	3.5	4.6	5.8	6.9	8.1	9.2	10.4	11.6	49
8	2.6	4.0	5.3	6.6	7.9	9.3	10.6	11.9	13.2	56
9	3.0	4.5	5.9	7.5	8.9	10.4	11.9	13.4	14.9	63
10	3.3	5.0	6.6	8.3	9.9	11.6	13.2	14.9	16.5	70
11	3.6	5.5	7.3	9.1	10.9	12.8	14.5	16.4	18.2	77
12	4.0	6.0	7.9	10.0	11.9	13.9	15.8	17.9	19.8	84
13	4.3	6.5	8.6	10.8	12.9	15.1	17.2	19.4	21.5	91
14	4.6	7.0	9.2	11.6	13.9	16.2	18.5	20.9	23.1	98
15	5.0	7.5	9.9	12.5	14.9	17.4	19.8	22.4	24.8	105
16	5.3	8.0	10.6	13.3	15.8	18.6	21.1	23.8	26.4	112
17	5.6	8.5	11.2	14.1	16.8	19.7	22.4	25.3	28.1	119
18	5.9	9.0	11.9	14.9	17.8	20.9	23.8	26.8	29.7	126
19	6.3	9.5	12.5	15.8	18.8	22.0	25.1	28.3	31.4	133
20	6.6	10.0	13.2	16.6	19.8	23.2	26.4	29.8	33.0	140
21	6.9	10.5	13.9	17.4	20.8	24.4	27.7	31.3	34.7	147
22	7.3	11.0	14.5	18.3	21.8	25.5	29.0	32.8	36.3	154
23	7.6	11.5	15.2	19.1	22.8	26.7	30.4	34.3	38.0	161
24	7.9	12.0	15.8	19.9	23.8	27.8	31.7	35.8	39.6	168
25	8.3	12.5	16.5	20.8	24.8	29.0	33.0	37.3	41.3	175
26	8.6	13.0	17.2	21.6	25.7	30.2	34.3	38.7	42.9	182
27	8.9	13.5	17.8	22.4	26.7	31.3	35.6	40.2	44.6	189
28	9.2	14.0	18.5	23.2	27.7	32.5	37.0	41.7	46.2	196
29	9.6	14.5	19.1	24.1	28.7	33.6	38.3	43.2	47.9	203
30	9.9	15.0	19.8	24.9	29.7	34.8	39.6	44.7	49.5	210
31	10.2	15.5	20.5	25.7	30.7	36.0	40.9	46.2	51.2	217
32	10.6	16.0	21.1	26.6	31.7	37.1	42.2	47.7	52.8	224
33	10.9	16.5	21.8	27.4	32.7	38.3	43.6	49.2	54.5	231
34	11.2	17.0	22.4	28.2	33.7	39.4	44.9	50.7	56.1	238
35	11.6	17.5	23.1	29.1	34.7	40.6	46.2	52.2	57.8	245
36	11.9	18.0	23.8	29.9	35.6	41.8	47.5	53.6	59.4	252
37	12.2	18.5	24.4	30.7	36.6	42.9	48.8	55.1	61.1	259
38	12.5	19.0	25.1	31.5	37.6	44.1	50.2	56.6	62.7	266
39	12.9	19.5	25.7	32.4	38.6	45.2	51.5	58.1	64.4	273
40	13.2	20.0	26.4	33.2	39.6	46.4	52.8	59.6	66.0	280
41	13.5	20.5	27.1	34.0	40.6	47.6	54.1	61.1	67.7	287
42	13.9	21.0	27.7	34.9	41.6	48.7	55.4	62.6	69.3	294
43	14.2	21.5	28.4	35.7	42.6	49.9	56.8	64.1	71.0	301
44	14.5	22.0	29.0	36.5	43.6	51.0	58.1	65.6	72.6	308
45	14.9	22.5	29.7	37.4	44.6	52.2	59.4	67.1	74.3	315
46	15.2	23.0	30.4	38.2	45.5	53.4	60.7	68.5	75.9	322
47	15.5	23.5	31.0	39.0	46.5	54.5	62.0	70.0	77.6	329
48	15.8	24.0	31.7	39.8	47.5	55.7	63.4	71.5	79.2	336
49	16.2	24.5	32.3	40.7	48.5	56.8	64.7	73.0	80.9	343
50	16.5	25.0	33.0	41.5	49.5	58.0	66.0	74.5	82.5	350
51	16.8	25.5	33.7	42.3	50.5	59.2	67.3	76.0	84.2	357
52	17.2	26.0	34.3	43.2	51.5	60.3	68.6	77.5	85.8	364



Department

Brendan T. O'Connell, Director

TO: Members of the City Council

FROM: Brendan T. O'Connell – Finance Director

DATE: March 13, 2019

SUBJECT: **Fiscal Impact Estimate – Proposed Paid Sick Leave Ordinance**

Members of the City Council,

Over the last several months the Health and Human Services Committee (“the Committee”) debated and made many amendments to a proposed paid sick leave ordinance for the City of Portland. This memo summarizes staff estimates on the fiscal impact of the current municipal proposal as approved by the Committee on February 26, 2019. This memo does not address potential costs of compliance with LD 369, *An Act to Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees* which is currently being considered by the State of Maine legislature and does not address likely additional cost implications and staff time related to conflicting ordinances at the municipal and State level. In total the estimated fiscal impact of the proposal would be just under approximately 7 cents on the mil rate (rounded) in FY20. See below for detailed fiscal impact note estimate.

FISCAL IMPACT NOTE: PAID SICK LEAVE	Year 1	Year 2	Year 3
New Program Cost Data:	City / Sch Combined Rate	City / Sch Combined Rate	City / Sch Combined Rate
Example:			
ADD: NEW ITEM ANNUAL EXPENDITURES	\$526,603	\$469,103	\$469,103
LESS: TOTAL NEW ITEM ANNUAL REVENUES	\$0	\$0	\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$526,603	\$469,103	\$469,103
New Program Impact to the Mil Rate	\$0.0667	\$0.0594	\$0.0594
New Program % Impact on Mil Rate	0.30%	0.26%	0.26%
Mil Rate Including New Program	\$22.5467	\$22.5394	\$22.5394

Notes: This fiscal note assumes calendar year adoption of the ordinance (Year 1 = 2020)
See detailed backup memo for additional cost information.

The estimated costs to the City can generally be divided into four categories:

1. Increase in payroll related expenses as a result of additional paid time off (approximately \$164,878 in new accrued sick time and \$48,621 in additional staff costs which would not have been incurred under existing City benefits policy)
NOTE: There is the potential for additional revenue losses as a result of additional time off taken but this amount cannot be reasonably estimated.
2. Increase in payroll expenses as a result of new staff required to enforce the ordinance (estimated to be approximately \$211,603)
3. Increase in other budgeted expenses as a result of required advertising and educational outreach effort including outside legal counsel (estimated at \$67,500)
4. Pass on of costs related to the proposed ordinance from Portland based vendors we utilize (estimate of \$34,000)

See the “**Additional Detail – Cost Categories #1 Through #4**” section of this memo for additional details on each major cost category. As noted previously, this cost could potentially rise if there are conflicting municipal and State level ordinances.

FREQUENTLY ASKED QUESTIONS

Question #1: Why are both the “newly accrued sick time” and the “additional staff costs” included in the fiscal impact note? Isn’t this double counting the same cost?

Answer #1: The “additional staff costs” would only be incurred when replacement workers are brought in at overtime rates and City staff estimates the time would NOT have been taken off under current rules. The ordinance as proposed provides for many examples of when sick time could be used even when the employee isn’t sick (i.e. if the employee leaves to care for a close friend, if the employee leaves for a meeting, if the employee has a family member who is sick, etc.) Many of our Department Heads and Division Directors felt very strongly that the ordinance provides enough grey area and allows a very broad interpretation of when a sick day is appropriate – a much broader interpretation than under current rules. Thus, days off would occur under the proposed ordinance and new overtime would be incurred by replacement staff.

Question #2: What accrual rate is being used in the fiscal impact note?

Answer #2: The Committee made a direct inquiry of Human Resources Director Gina Tapp about whether the City would use our existing rate of accrual for paid sick leave or whether we would change our policy to use the lower rate of accrual per the ordinance. Her answer was clear, the City would not want to change our existing benefit levels regarding sick time and we would likely continue to accrue all sick time at the same rate both before and after the proposed ordinance going into effect. The fiscal impact note was calculated based on this response.

However, recognizing the potential cost savings which could exist if a lower accrual rate were used, this memo includes details of the calculation under both accrual rates. (See Cost Category #1 in the “Additional Detail” section for more information.)

Question #3: When the City passed its minimum wage ordinance all enforcement / investigation work was handled by existing staff. Why can’t this be done with this ordinance?

Answer #3: Despite the minor amendments which were made to the enforcement section of the proposed ordinance, the City Manager and City staff feel strongly that additional staff will be required to deal with enforcement of this ordinance. The ordinance is significantly more complex than the minimum wage ordinance and cost estimates in this category are based on research of actual enforcement expenses / staffing levels in other municipalities. (See cost category #3 in the “Additional Detail” section for more information.) It is worth noting that the City Council has the authority to accept or reject staffing requests made by the City Manager during the annual budget approval process.

Additional Detail – Cost Categories #1 Through #4

Cost Category #1 – Increase in payroll expenses as a result of additional paid sick time

Using data from calendar year 2017, City payroll staff compiled all of the hours worked by temporary, seasonal, on-call, and tipped workers who were not benefit eligible. In total there were just over 1100 workers in this category across a variety of City departments and divisions including the Schools. The classes of employees who do not work 120 hours in a year (a specific exemption within the ordinance) were removed from the list.

Each Department / Division has unique requirements for their workers and different practices / procedures for when workers call out. For example, within the City Clerk’s office, the non-benefit eligible employees are the election workers who work only during elections (2-3 days per year). If an employee happened to be unable to work during a particular election, they would simply not work on that particular election day, and the City Clerk would call the next election worker on their list who would be paid at straight time. Based on revisions which occurred at the Committee level, the City Clerk employees were removed from the fiscal impact calculation as they would never work 120 hours in a calendar year.

A more complex example is within Parks and Recreation, a department with a wide variety of divisions and activities. Within the Public Assembly division, the procedures are somewhat similar to those at the City Clerk. Workers are scheduled in advance for event days, and if a worker was unable to work on a particular event night, the next employee on the list would be contacted and that employee would likely be paid at straight time or overtime. Contrast that with the Parks & Recreation Ice Arena, Recreation and Aquatics Divisions. A limited number of temporary and seasonal staff within these divisions are actively teaching lessons (a revenue generating activity) on a daily basis. If staff within these divisions calls out, other staff is required to pick up the workload. If no other staff is available, the activity (in some cases private or group lessons) may be canceled. It is worth noting that the Parks & Rec Director and their

Department admin officer both noted that finding replacement staff is not always a certainty and they also noted the ordinance would definitely result in time being taken off which was previously not being taken off under existing City rules.

Another example worth highlighting is HHS. These figures are almost entirely related to security staff at the Oxford Street and Family Shelters. If staff calls out, they are occasionally replaced by another employee working on straight time and in most instances are replaced by workers working on overtime. It is worth noting that the figures related to HHS (non-Barron Center) will likely change for 2018 due to increased security required at Oxford Street related to the new day shelter operations – an addition of 7 new non-benefit eligible staff to cover all shifts. At the Barron Center, our “per diem” workers (Physical Therapists) are all contracted with a third party so none are included in the fiscal impact note calculation. CNA’s are also not included in the fiscal impact note calculation as they are all full or part time. The very limited amount of cost impact related to the Barron Center comes from “Support Team” workers (laundry, facilities, kitchen).

Total cost of the newly accrued paid sick leave across all City Departments including the Schools at the existing City sick time accrual rate would be \$164,878. Total estimated cost of additional staff costs at the existing City sick time accrual rate would be \$48,622. If the City opted to change its sick time policy and accrue paid sick leave at the lower rate of accrual per the ordinance (1 hour of paid sick leave per 30 hours worked) the cost of the newly accrued sick time would be \$119,079 (a reduction of \$45,799) and the estimated cost of the newly incurred additional staff costs would be \$35,116 (a reduction of \$13,506). Using the lower accrual rate, the City could reduce the impact to the mil rate by 1 cent, resulting in the revised fiscal impact note below. Staff will explore all possibilities as the FY20 budget is developed and as we work towards our final implementation of new payroll software (Tyler/Munis Executime and Advanced Scheduling) on July 1, 2019.

FISCAL IMPACT NOTE: PAID SICK LEAVE	Year 1	Year 2	Year 3
New Program Cost Data:	City / Sch Combined Rate	City / Sch Combined Rate	City / Sch Combined Rate
Example:			
ADD: NEW ITEM ANNUAL EXPENDITURES	\$467,297	\$409,797	\$409,797
LESS: TOTAL NEW ITEM ANNUAL REVENUES	\$0	\$0	\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$467,297	\$409,797	\$409,797
New Program Impact to the Mil Rate	\$0.0592	\$0.0519	\$0.0519
New Program % Impact on Mil Rate	0.26%	0.23%	0.23%
Mil Rate Including New Program	\$22.5392	\$22.5319	\$22.5319

Notes: This fiscal note assumes calendar year adoption of the ordinance (Year 1 = 2020)
See detailed backup memo for additional cost information.

Cost Category #2 – Increase in City of Portland payroll expenses as a result of new staff required to enforce the ordinance

Another significant new expense related to the proposed paid sick leave ordinance is the new staff required to enforce the ordinance. During her presentation on May 8th, Associate Corporation Counsel Anne Torregrossa shared some very helpful information around staffing requirements within several other municipalities nationwide. Many of the “early adopters” of mandatory paid sick leave ordinances are much larger cities with significantly more resources than the City of Portland (i.e. San Francisco, Seattle, Minneapolis). However, several small and medium sized cities within California, Washington and New Jersey have also adopted local paid sick leave ordinances and have shared their staffing requirements / average investigations data.

Municipality	Responsible Department (new/existing)	Staff Requirements	Average investigations per year
San Francisco, CA	Office of Labor Standards Enforcement (existing)	5.5 FTE for paid sick time and minimum wage	33
Emeryville, CA	Economic Development and Housing Division (existing)	1 FTE plus two consultants	6
Trenton, NJ	Health Department (existing)	2 FTE	Few investigations dictated by lack of resources
Tacoma, WA	Employment Standards Office (new)	2.5 FTE for paid sick time and minimum wage	28
Seattle, WA	Office of Labor Standards (new)	12 FTE for paid sick time, minimum wage, wage theft, fair chance employment, and secure scheduling	50

Trenton, NJ has a similarly sized population (84k in Trenton compared to 67k in Portland), but noted that although they have 2 dedicated FTE they do not have adequate resources to conduct full investigations into complaints received on their paid sick leave ordinance. Similar feedback was received from the City of Elizabeth, NJ (population 129k) who routes their complaints directly to the local courts – which would not be an option for Portland if we chose to pass a local ordinance prior to State action. Tacoma, WA is another slightly larger comparable City who currently utilizes 2.5 FTE to support both their minimum wage ordinance and their paid sick leave ordinance.

As Associate Corporation Counsel has noted, the ordinance presents many challenges based on its intricacies and many questions which are difficult to answer (i.e. whether an employee took sick leave for a proper purpose, whether existing policies within the City meet the requirements of the ordinance, etc.) We agree with her assessment that several new FTE would be required for City to adequately enforce the ordinance, and that one new investigator, one new staff support person, and one half time attorney would be required.

We took the Associate Corporation Counsel’s analysis one step further and assigned non-union position grades to each employee along with salary figures. The investigator would likely be a non-union grade 8, with estimated salary and benefits of \$83,462. The new support staff would likely be classified as a non-union grade 5, with estimated salary and benefits of \$63,330. The half time attorney would be classified as a non-union grade 13 with estimated salary and benefits

of \$64,811. The total of these 2.5 FTE would trigger an increase to future City budgets of approximately \$211,603.

It is critical to note the volume of questions which would be received by the City would significantly increase if the City had an ordinance that conflicted with a State ordinance. We anticipate there would be some public confusion about dueling ordinances and that additional staff time would be required for outreach, education and potential mapping of each rule and its specific requirements. No cost estimates have been included in this document related to potential dueling ordinances.

Cost Category #3 – Increase in other budgeted expenses as a result of required advertising and educational outreach effort

The City could also incur costs advertising and educating the public on the ordinance. There would likely be no cost related to posters (for the Minimum Wage posters are simply posted on the City website for download). However, we would likely spend between \$5,000 and \$10,000 on a mailing / outreach campaign similar to mailings related to Minimum Wage, where the City incurs approximately \$5,000 each time there is a change. This cost category is being estimated at \$10,000 for purposes of an initial fiscal impact memo. As noted in cost category #2, this cost would likely increase if the City and State had differing ordinances as more educational outreach would be required.

[A custom designed website with educational information](#) would cost between \$0 and \$15,000 depending on level of detail desired. [The City of Minneapolis website](#) is one of the best and most informational of any we found during our review. The City could simply opt for a zero / minimal cost option of simply adding a web page onto the existing City site. (This is what was done with [Minimum Wage](#).) For purposes of this final memo a website cost of \$2,500 has been estimated (as suggested during the Committee discussions).

Finally, the City may incur some outside legal expenses during the final drafting of the ordinance, or during any potential amendments to the ordinance arising as a result of legal challenges. Several Cities who passed a municipal ordinance prior to a State ordinance being in place faced (or are currently still facing) legal challenges, most notably Austin and Minneapolis. In Austin, the City is using 3 internal staff (2 lawyers plus a paralegal who worked on the local court case) and an outside firm to address the legal challenge. The challenge has already gone through local courts and is on to the appellate court. Based on our discussions with multiple other municipalities including March 2019 discussions with Austin we feel that \$55,000 is a best estimate of potential legal costs in Portland should a challenge be brought forward. A challenge is more likely if Portland passes a local ordinance which is in conflict with any State level requirements.

Cost Category #4 – Pass on of costs related to the proposed ordinance from Portland based vendors we utilize

Portland uses outside contractors for tens of millions of dollars of work each fiscal year. In the FY19 general fund budget alone, there are \$62M of contractual services with outside vendors. That figure does not include the \$40M of capital improvement plan work authorized in the CIP (or any other CIP work from previous fiscal years which remains to be completed). My Purchasing staff has noted that during our “pre-bid” meetings with vendors, nearly every outside vendor notes that City specific bid requirements which result in increased costs to the vendor are simply passed along to the City as part of overall bid prices. This includes specific labor / wage requirements, bid timing requirements (i.e. the job must be done by a specified date) and would certainly include any costs related to the mandatory paid sick leave ordinance.

Making the very conservative assumption that 1% of the \$102M in contractual services / projects would be impacted by the increased cost of labor (i.e. 1 newly accrued hour of paid sick leave per 30 hours worked) there would be an increase on \$102M in contracts of approximately \$34,000 ($\$102\text{M} * 1\% * (1/30) = \34k).

**Office of the Mayor, Ethan K. Strimling****MEMORANDUM****To:** HHS and Public Safety Committee**From:** Ethan K. Strimling, Mayor**Date:** Feb 25, 2019**Subject:** Earned Paid Sick Time Cost Analysis

I will not be able to attend your meeting on Tuesday when you are expecting to take a final vote on Earned Sick Time as I am out of the country. Please pass on my apologies to the community that I was not able to attend your final deliberations.

First and foremost, thank you again for all your hard work on the initiative. You have built a compromise that does a very good job balancing concerns from the business community with public health and worker needs. I am sure the balance you have found will garner substantial public support. Once enacted, this will be a monumental step forward for our city.

In regard to the fiscal note, I do still have a few concerns. As it is currently written, it still appears to greatly overstate the impact the amended ordinance will have on the city budget and hence I have listed my questions/concerns below. I don't expect these will necessarily be resolved before you vote on Tuesday, but I wanted to make sure they were at least aired prior to the ordinance coming before the full council. Hopefully, the issues can be addressed before then.

1) The memo assumes that both the current cost of an employee who calls out sick and the replacement employee costs are new. Only one, the employee that will now receive paid sick time, should be calculated as a new expense. The cost of the replacement employee would have occurred regardless. This should reduce the cost by at least \$51,254.

2) According to the memo, the analysis accrues PST for city employees at the rate all city employees receive. That rate is 1.38 hours per 30 hours worked, with an annual cap of 86 hours. This is an accrual rate 38% higher and 2.5 times more annually than the ordinance requires. Should the city choose to propose this level of accrual, I will certainly support it during the budget process, but the fiscal impact statement should only reflect the mandated cost of the ordinance. This should further reduce the city personnel cost by tens of thousands of dollars.

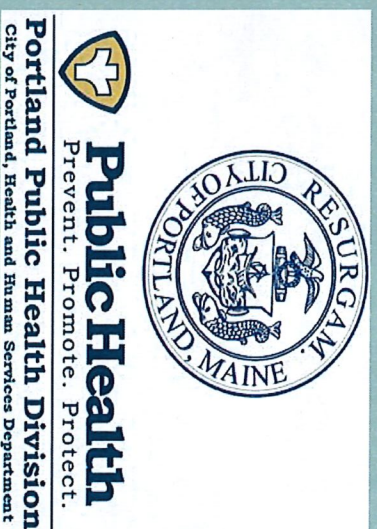
3) The \$210,000 cost to create a new Division of Labor is no longer needed. This original estimate was based on a proposal which had a 15 day investigation into every complaint and the issuance/enforcement of penalties and escalating fines if an offense was determined. The 15 day timeframe was eliminated, as was the requirement for the city to issue and enforce escalating fines and back wage penalties. At the meeting when this enforcement section was discussed, the committee specifically asked for these changes in order to eliminate the projected staffing costs.

As a point of comparison, the minimum wage ordinance took no additional staff to implement, and the enforcement mechanism here is very similar. In fact, the minimum wage enforcement section still has the 15 day expectation for the issuance of a letter of finding (the PST ordinance has no timeline). Plus, the minimum wage ordinance allows the City manager to issue penalties and backwages should his/her investigation determine it is necessary, something the PST ordinance no longer does. While I certainly could support creating a division of labor to ensure labor laws in Portland are being enforced, the provisions of this ordinance that were cited as causing us to need to hire two and half people, no longer exist.

4) We still need detail explaining each of the line items in the personnel section of the fiscal note. As an example, Parks and Rec says there will be a \$14K increase in personnel costs. Please break down for us how that number was reached. How many employees, what they do, at what wages, and how many hours. We should get this for each item.

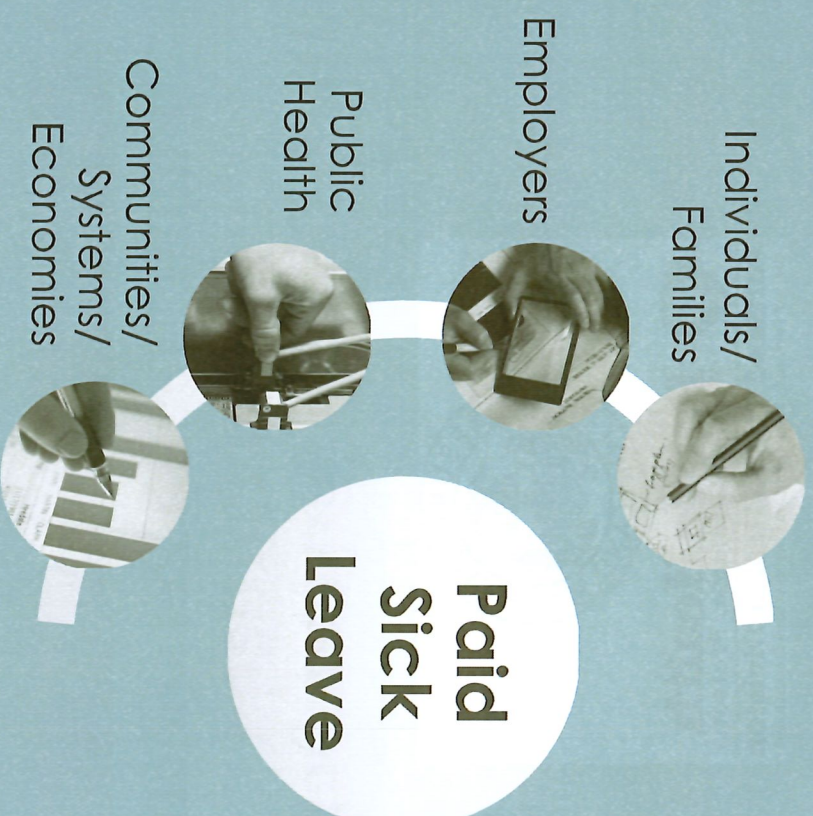
All told, the above changes should cut the cost to the city by more than half. Please let me know if you have any questions. Thanks for your attention to this matter.

A Health Impact of Paid Sick Days Public Health Perspective City of Portland Health & Human Services Department

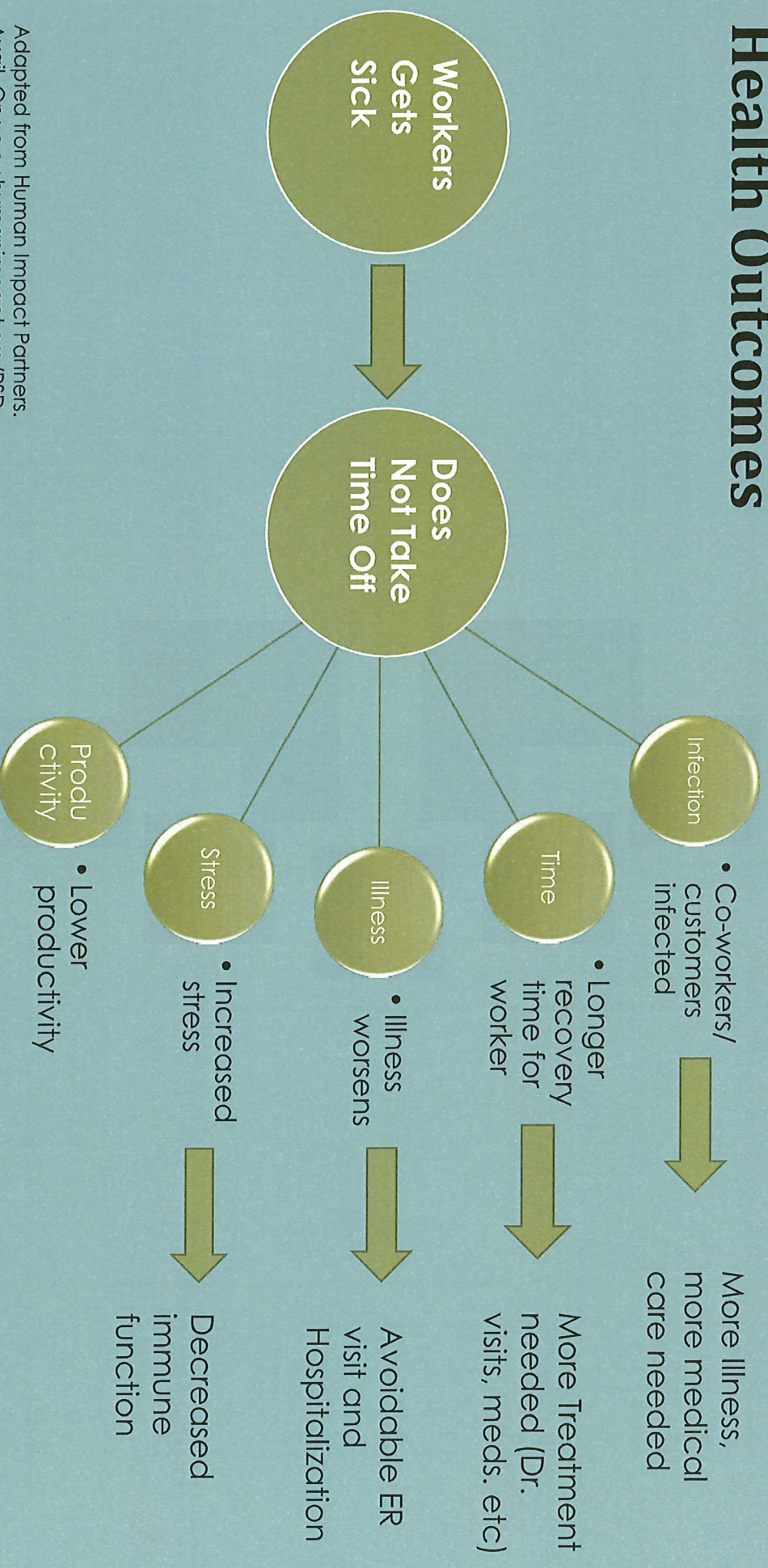


Kolawole Bankole, MD, MS, MBA
Director, Public Health Division

A Health Impact of Paid Sick Days Public Health Perspective

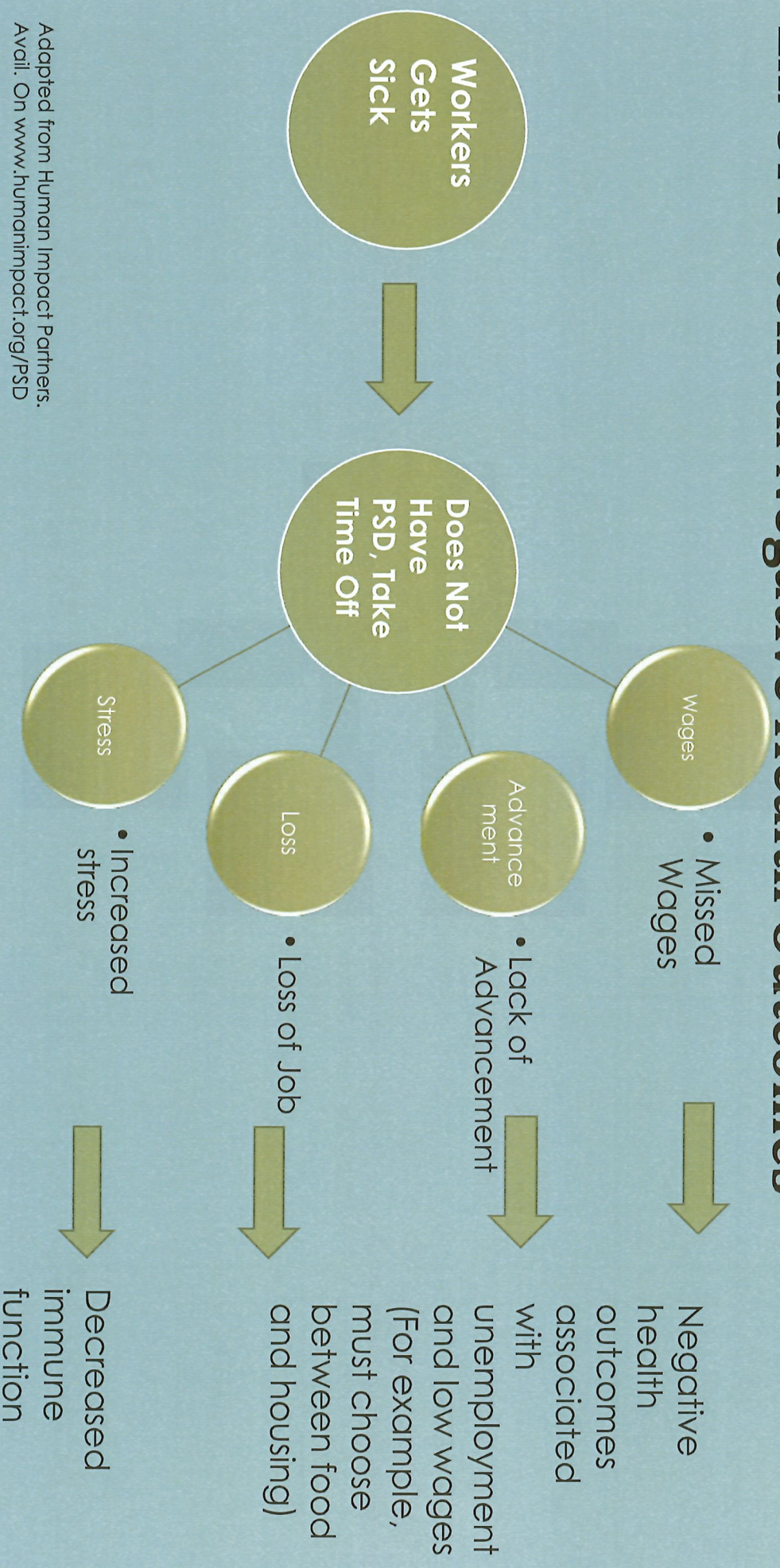


Taking No Time off When Sick: EX. Of Potential Negative Health Outcomes



Adapted from Human Impact Partners.
Avail. On www.humanimpact.org/PSD

Taking Time Off When Sick, Without Paid Sick Days: Ex. Of Potential Negative Health Outcomes

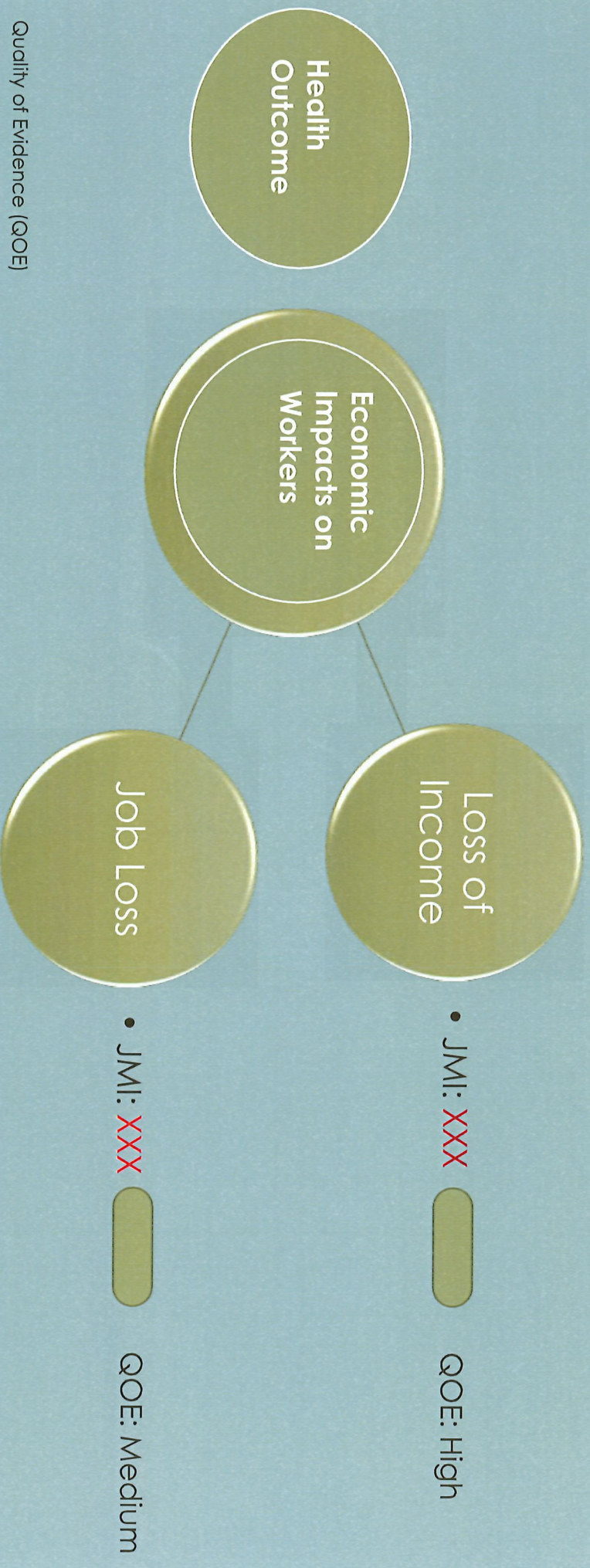


Adapted from Human Impact Partners.
Avail. On www.humanimpact.org/PSD

Health Outcomes and Judgement of Magnitude of Impacts (JMI)



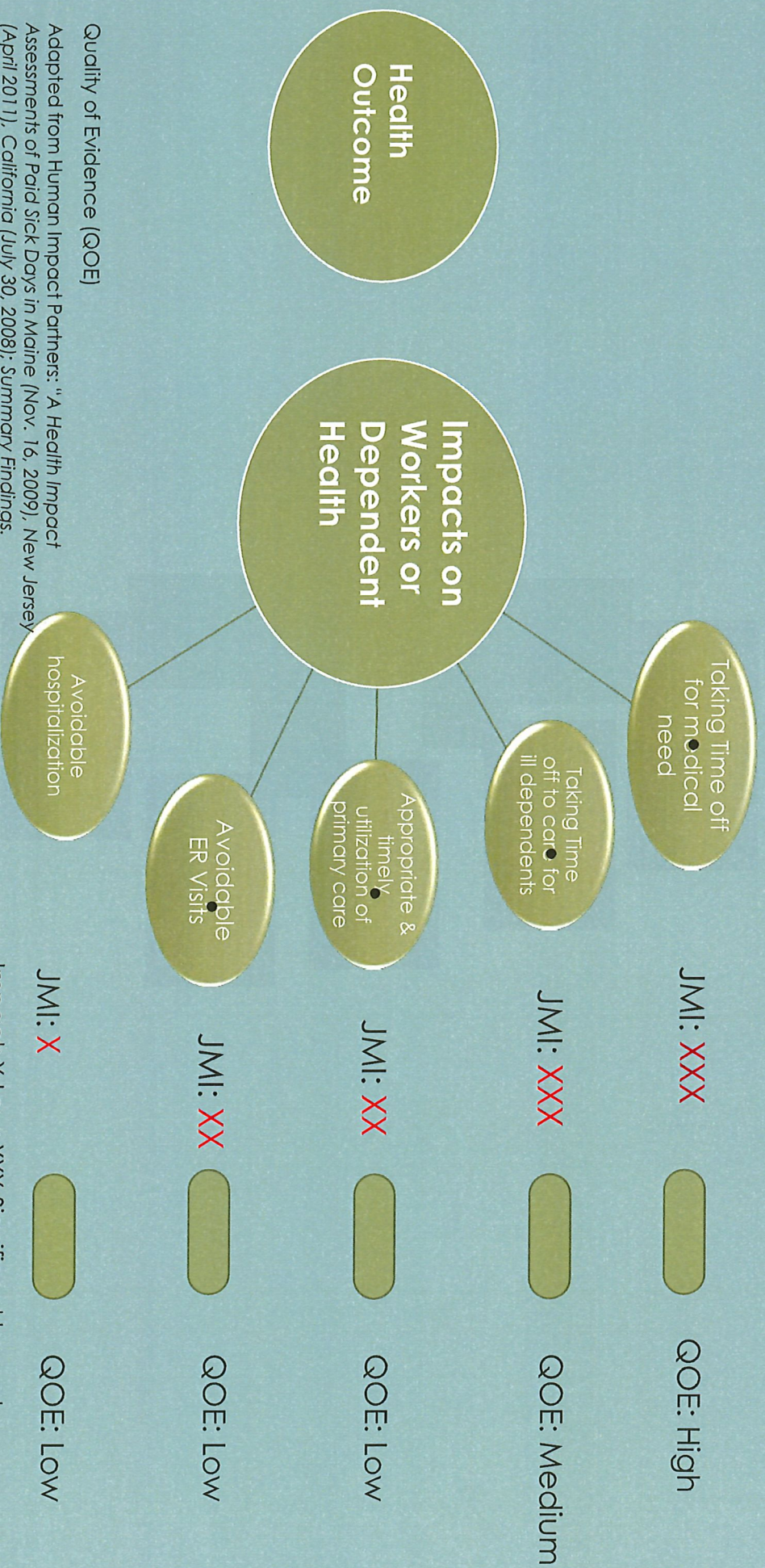
Health Outcomes and Judgement of Magnitude of Impacts (JMI)



Quality of Evidence (QOE)
Adapted from Human Impact Partners: "A Health Impact
Assessments of Paid Sick Days in Maine (Nov. 16, 2009), New Jersey
(April 2011), California (July 30, 2008); Summary Findings.
www.humanimpact.org/PSD

Impact: X-Low; XXX-Significant Impact

Health Outcomes and Judgement of Magnitude of Impacts (JMI)



Quality of Evidence (QOE)
 Adapted from Human Impact Partners: "A Health Impact Assessments of Paid Sick Days in Maine (Nov. 16, 2009), New Jersey (April 2011), California (July 30, 2008): Summary Findings."
www.humanimpact.org/PSD

JMI: X QOE: Low
 Impact: X-Low; XXX-Significant Impact

Paid Sick Days Improve Public Health

FEBRUARY 2019

Everyone gets sick, but not everyone has time to get better. Every day, millions of working people in the United States face an impossible choice when they are sick: stay home and risk their economic stability or go to work and risk their health and the public's health. A national paid sick days standard would give workers the time they need to recover from illness or care for an ill family member, in ways that would help improve public health.

Too many people must go to work sick because they cannot earn paid sick time.

- ▶ Nearly three in 10 private sector workers – and nearly seven in 10 of the lowest-income workers – don't have access to even a single paid sick day.¹ Millions more don't have access to paid sick days because they are too new to their jobs to be eligible for their employers' policies. In total, more than 34 million U.S. workers don't have access to this basic protection.²
- ▶ People without paid sick days are 1.5 times more likely than those with paid sick days to report going to work with a contagious illness like the flu or a viral infection.³
- ▶ Many people go to work sick because they fear workplace discipline or losing their jobs. Nearly one in four workers has reported either losing a job or being threatened with job loss for needing to take a sick day.⁴

"With both dual-earner and single-parent households on the rise in the United States, it is increasingly challenging for workers to juggle family and work ... Paid sick leave keeps our homes, offices and communities healthier while ensuring the family's economic security."

— Dr. Barbara L. McAneny, Former Board Chair, American Medical Association

There Are Significant Public Health Costs When People Cannot Earn Paid Sick Days

Lack of access to paid sick days leads to an increased risk of community contagion.

- ▶ Workers who interact the most with the public are often the least likely to have paid sick days: The vast majority of people working in food service (81 percent) and at child care centers (75 percent) lack access to paid sick days.⁵ Workers in these occupations are also more likely to be exposed to contagious illnesses and, therefore, to spread illnesses to the public when they are forced to go to work sick.
- ▶ Service workers who have certain illnesses, including the flu or norovirus, are required by the Food and Drug Administration to work on a restricted basis until 24 hours after symptoms subside,⁶ yet these workers typically can't afford to take unpaid

sick time. In fact, nearly 60 percent of food service workers surveyed in a Centers for Disease Control and Prevention study reported working while sick, and nearly half of those workers said they went to work because they didn't have paid sick days.⁷

- ▶ Nearly half (46 percent) of restaurant-associated illness outbreaks involve an infected food service worker,⁸ and there are approximately 48 million cases of foodborne illness in the United States each year.⁹

People without paid sick days are less likely to access medical care, resulting in delayed and often costlier treatments.

- ▶ Workers without paid sick days are more likely to delay needed medical care, which can lead to prolonged illnesses and turn minor health problems into major, more costly ones.¹⁰ Workers who do not have paid sick days are three times more likely than those with paid sick days to neglect medical care for themselves, and they are nearly two times more likely to forgo medical care for their families.¹¹ And workers who lack paid sick days are less likely to be able to afford health care goods and services, more likely to incur high medical expenses and more likely to have a family income below the poverty threshold than those who have paid sick days.¹²
- ▶ Not having sick days remains a significant barrier to health care access, despite increased affordability of preventive health care services under the Affordable Care Act. Workers without paid sick days are less likely to go to the doctor or access preventive care, such as cancer screenings, annual physicals, Pap smears and flu shots.¹³
- ▶ A recent study found that workers without paid sick days are 61 percent less likely than those with paid sick days to have received a flu shot.¹⁴
- ▶ When workers cannot take time off to seek medical care during normal work hours, they are left with few choices for care and are more likely to resort to costly emergency room visits. Working people with paid sick days are 32 percent less likely than people without paid sick days to visit the emergency department recurrently.¹⁵
- ▶ It is estimated that preventable emergency room visits among workers without paid sick days cost the United States more than \$1.1 billion per year, with nearly half of the costs coming from taxpayer-funded programs like Medicaid, Medicare and the State Children's Health Insurance Program.¹⁶ If all workers had paid sick days, 1.3 million emergency room visits could be prevented and public and private costs would be saved.¹⁷

Children whose parents don't have paid sick days face negative health consequences.

- ▶ Working parents without paid sick days are nearly twice as likely as those with paid sick days to send a sick child to school or day care.¹⁸ As a result, they are forced to put the health of their children and their children's classmates and teachers at risk.
- ▶ Working parents without paid sick days are 2.5 times more likely than those with paid sick days to report taking a child or family member to the emergency room because they were unable to take time off during their normal job hours.¹⁹
- ▶ Children whose parents have paid sick days are more likely to receive preventive health care – specifically, they are 13 percent more likely to receive a flu vaccine and 13 percent more likely to have an annual checkup, compared to children whose parents do not have paid sick days.²⁰ Children whose mothers lack paid sick days are also less likely to receive routine well-child checkups, dental care and flu shots.²¹

Paid Sick Days for All Would Reduce Costs and Promote Healthier Families and Communities

A national paid sick days standard would benefit working people and their families, businesses and our public health.

- ▶ Public policies that guarantee a minimum number of earned paid sick days provide working people the time they need to recover from an illness or care for a sick family member without compromising their financial stability. And they benefit public health: A recent study found that the general flu rate in jurisdictions with paid sick days laws decreased by 5.5 to 6.5 percent after the laws took effect.²²
 - ▶ Already, 32 jurisdictions nationwide have adopted such paid sick days laws, including 10 states: Arizona, California, Connecticut, Maryland, Massachusetts, New Jersey, Oregon, Rhode Island, Vermont and Washington.
 - ▶ At the federal level, it is estimated that a proposed paid sick days law would enable more than 30 million additional workers – including six million food service workers and more than one million personal care workers – to earn paid sick time, expanding access to more than 90 percent of the private sector workforce.²³
- “[P]aid sick day legislation would be a practical and evidence-based public health policy to prevent communicable disease and to enable timely, preventative care for ourselves, our children and our elders.... [A] paid sick day law has potential to reduce health disparities and control health care costs.”**

— Dr. Rajiv Bhatia, Director, Occupational & Environmental Health, San Francisco Department of Public Health

The evidence is clear: When workers have access to paid sick days, everyone benefits. **Learn more at PaidSickDays.org.**

1 U.S. Bureau of Labor Statistics (2018, July). *National Compensation Survey: Employee Benefits in the United States, March 2018* (Table 5). Retrieved 4 October 2018, from <https://www.bls.gov/news.release/pdf/ebs2.pdf>

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4 Ibid.

5 Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016, February). *Paid Sick Days Access and Usage Rates Vary by Race/Ethnicity, Occupation, and Earnings*. Institute for Women's Policy Research Publication. Retrieved 4 October 2018, from <https://iwpr.org/publications/paid-sick-days-access-and-usage-rates-vary-by-raceethnicity-occupation-and-earnings/>

6 U.S. Department of Health and Human Services, U.S. Food and Drug Administration. (2013). *FDA Food Code 2013 (Chapter 2.2, Employee Health)*. Retrieved 4 October 2018, from <https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM374510.pdf>

7 Carpenter, L.R., Green, A. L., Norton, D. M., Frick, R., Tobin-D'Angelo, M., Reimann, D. W.,... Le, B. (2013, August 4) Food Workers Experiences with and Beliefs about Working While Ill. *Journal of Food Protection*, 76(12), 2146–2154. Retrieved 4 October 2018, from <https://www.cdc.gov/nceh/ehs/ehsnet/docs/jfp-foodworker-beliefs-working-ill.pdf>

8 DeBurgh, K. & Jacobson, D. (2017, September). Association of Paid Sick Leave Laws With Foodborne Illness Rates. *American Journal of Preventive Medicine*. Retrieved 4 October 2018 from <http://phlr.org/product/association-paid-sick-leave-laws-foodborne-illness-rates>

9 U.S. Centers for Disease Control and Prevention. (2016, July 15). *Estimates of Foodborne Illness in the United States*. Retrieved 4 October 2018, from <http://www.cdc.gov/foodborneburden/2011-foodborne-estimates.html>

10 Miller, K., Williams, C., & Yi, Y. (2011, November 14). *Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits*. Institute for Women's Policy Research Publication. Retrieved 4 October 2018, from <http://www.iwpr.org/publications/pubs/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits>

11 DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016, March). Workers Without Paid Sick Leave Less Likely To Take Time Off For Illness Or Injury Compared To Those With Paid Sick Leave. *Health Affairs*, 35(3), 520-527. Retrieved 4 October 2018, from <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2015.0965>

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- 12 Stoddard-Dare, P., DeRigne, L., Mallett, C., & Quinn, L. (2018, March). How does paid sick leave relate to health care affordability and poverty among US workers? *Social Work in Health Care*, 57(5), 376-392, DOI: 10.1080/00981389.2018.1447532
- 13 Peipins, L. A., Soman, A., Berkowitz, Z., & White, M. C. (2012, July 12). The lack of paid sick leave as a barrier to cancer screening and medical care-seeking: results from the National Health Interview Survey. *BMC Public Health*, 12. Retrieved 4 October 2018, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3433348/>; DeRegine, L., Stoddard-Dare, P., Collins, C., & Quinn, L., (2017, February 9) Paid sick leave and preventative health care service use among U.S. working adults. *Preventive Medicine*, 99, 58-62. Retrieved 4 October 2018 from <https://www.ncbi.nlm.nih.gov/pubmed/28189802>
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- 15 Bhuyan, S.S., et al. (2016, May). Paid sick leave is associated with fewer ED visits among US private sector working adults. *American Journal of Emergency Medicine*, 34(5), 784-789. Retrieved 4 October 2018, from [http://www.ajemjournal.com/article/S0735-6757\(16\)00007-3/abstract](http://www.ajemjournal.com/article/S0735-6757(16)00007-3/abstract)
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- 17 Ibid.
- 18 See note 3.
- 19 See note 3.
- 20 Afsaw, A., & Colopy, M., (2017, March). Association between Parental Access to Paid Sick Leave and Children's Access to and Use of Healthcare Services (Table II). *American Journal of Industrial Medicine* 60, 276-284.
- 21 Shepherd-Banigan, M., Bell, J. F., Basu, A., Booth-LaForce, C., Harris, J. R. (2016, February 28). Mothers' Employment Attributes and Use of Preventive Child Health Services. *Medical Care Research and Review*, 74(2), 208-226. Retrieved 4 October 2018, from <http://journals.sagepub.com/doi/abs/10.1177/1077558716634555>
- 22 Pichler, S., & Ziebarth, N. R. (2017, December). The Pros and Cons of Sick Pay Schemes: Testing for Contagious Presenteeism and Noncontagious Absenteeism Behavior. *Journal of Public Economics*, 156, 14-33. Retrieved 4 October 2018 from <https://www.sciencedirect.com/science/article/pii/S0047272717301056>
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The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at NationalPartnership.org.

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MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 25, 2019

SUBJECT: **Order 192-18/19 Amendment to Portland City Code Chapter 18 Parks, Recreation and Public Buildings and Ground Re: Formalizing the Boundaries of Boyd Street Gardens - Sponsored by Councilor Belinda Ray**

SPONSOR: Councilor Belinda Ray

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

This amendment formalizes the boundaries of the Boyd Street Gardens, which was dedicated as a park and/or public grounds in Chapter 18 of the City Code via Order 203 13/14, and updates the name of Lobsterman Park, which was recently renamed John Menario Plaza.

II. AGENDA DESCRIPTION

Boyd Street Gardens (a.k.a., Franklin Reserve, a.k.a., Boyd Street Urban Farm) was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203-13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that the properties would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

A review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides a solid case for including the entire parcel (022 F023) in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the

entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Prior to 1969, the land that currently comprises Boyd Street Gardens was a neighborhood of single-family homes, duplexes, and tenement buildings. During the 1900s, this neighborhood was home to people from diverse cultural backgrounds. At various times the neighborhood included Jewish, Italian, Lithuanian, and Armenian enclaves living in these residences.

The residential buildings in this neighborhood were taken by eminent domain in 1960 by the Slum Clearance and Redevelopment Authority. Over the next several years, inhabitants vacated the properties and the buildings were eventually demolished in 1969 to make way for Franklin Arterial, new housing, and public open space.

The Boyd Street Gardens parcel (022 F023), and what is now an abutting parcel at 58 Boyd Street (022 F001)—as well as the parcel that is now Fox Street Field (023 B001)—were largely designated as public open space as part of the Bayside Park Renewal Project as shown on a 1958 map associated prepared for the Slum Clearance and Redevelopment Authority.

A follow-up map from 1967 shows the city’s continued intention to establish this area as a public park. This plan for the “Construction of the Mall” included the planting of 29 Sugar Maples, the addition of multiple cement and wood-slat benches, the installation of a plaza with a drinking fountain, and a watering system for the plantings and open space.

It is unclear why this vision of benches and trees on “the mall” never materialized, but in 1972, the parcel was subdivided and the lower portion (022 F001) was conveyed to Portland Housing Authority, leaving the upper portion (022 F023) to remain a vacant, grassy field for many years.

In 2003, the Armenian Cultural Association of Maine, working with the City of Portland and its Public Art Committee, created a plaza at the top of the parcel on Cumberland Avenue across from the Cathedral of the Immaculate Conception. There, they erected a monument that honors both the state’s original Armenian settlers and those who were lost in the Armenian Genocide of 1915-1923.

The monument faces the Bayside/East Bayside area where many Armenian families settled between 1896 and 1925—an area the Armenian Cultural Association of Maine refers to on its website as, “the heart of Maine’s original Armenian settlement” (www.armeniansofmaine.com). Additionally, there are four other footings established in the plaza ready to support future sculptures of a similar nature.

In 2004, Cultivating Community, through an agreement with the City, founded the Boyd Street Urban Farm and began preparing the land to grow food as part of its mission to “grow sustainable communities by expanding access to healthy, local food; empowering children, youth, and adults to play diverse roles in

restoring the local, sustainable food systems; and modeling, teaching, and advocating for ecological food production” (www.cultivatingcommunity.org).

After testing the soil and finding high levels of lead, the organization planted large crops of sunflowers for several successive years in order to leech the remaining lead from the soil. When the land was finally ready for food production, the organization began with one large garden near the discontinued section of Oxford Street, and since then Cultivating Community has expanded operations on the parcel.

Today, in collaboration with the City, Cultivating Community manages over 30 community garden plots at this site as well as a large herb and vegetable garden, numerous perennial crops, multiple fruit trees, a compost staging area, and rainwater collection equipment.

Additionally, the Boyd Street Urban Farm has become “a major learning and growing site for youth...and a base for new initiatives such as food forests and free farm stands” (www.cultivatingcommunity.org).

In 2014, Boyd Street Gardens was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203 13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that they would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

However, a review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides evidence that the parcel containing Boyd Street Gardens has long been part of an open space plan for the City, and that the entire parcel (022 F023), between Franklin and Boyd Streets and from Cumberland Avenue to the edge of what was once Heath Street, should be included in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

1. Preservation of open space, community gardens.
2. Establishing clearer boundaries for dedicated public grounds.
3. Respecting the history of parcel 022 F023 which was taken by eminent domain in 1960 as part of an urban renewal project and intended to be a public park
4. Respecting the placement of the Armenian Genocide Memorial, which overlooks parcel 022 F023, and was placed there in 2003 as a memorial to “the survivors of the Armenian Genocide who settled in Bayside.”

V. FINANCIAL IMPACT

This amendment has no financial impact.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Formalizing boundaries of parks 3.18.2019
2. Attachments 1 to 10 Boyd Street Gardens Park Boundary for 3.18.19

Prepared by:

Date: 3/25/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO CITY CODE CHAPTER 18
PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS
Re: FORMALIZING THE BOUNDARIES OF BOYD STREET GARDENS

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Section 18-11 is amended to read as follows:*

...

Sec. 18-11. Parks and Public Grounds Dedicated. The following parks and public grounds are hereby subject to the provisions within this Article:

Andrews Square;
Back Cove Park and Trail;
Barrow's Park/Baxter Sundial;
Bayside Park/Stone Street Playground;
Bayside Trail;
Baxter Pines;
Baxter Woods;
Bedford Park;
Bell Buoy Park;
Belmeade Park;
Boothby Square;

Boyd Street Gardens/Franklin Reserve (022 F023);
Bramhall Square;
Capisic Pond Park;
Caldwell Square;
Clark Street Park;
Congress Square (specifically the remaining 1/3 of Congress Square);
Clark Street Playground;
Deering Oaks Park;
Dougherty Field;
Eastern Promenade Park(including East End Beach and

Trail);

Fessenden Park;
Fort Allen Park;
Fort Gorges;
Fort Sumner Park;
Fox Field/Kennedy Park;
Harborview View and Tate-Tyng Park and Playground;
Heseltine Park;
Lincoln Park;
Longfellow Park;
Longfellow Square;
Lobsterman Park/John Menario Plaza;
Marada Adams Playground;
Martin's Point Park;
Monument Square;
Munjoy South Playground;
Nason's Corner Park;
Payson Park;
Peppermint Park;
Pedro Field;
Pleasant Street Park and Playground;
Post Office Park;
Quaker Park;
Riverside Golf Course;
Riverton Trolley Park;
South Street Playground;
Stroudwater Park (Waldo Street and Westbrook Street);
Taylor Street Park;
Tommy's Park;
Trinity Park;
Western Promenade Park; and
Winslow Park.

Attachment 1 - Amendment to Chapter 18, Section 11

**AMENDMENT TO CITY CODE CHAPTER 18
PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS**

**RE: CHANGE TO 18-11 TO REFLECT CLEAR BOUNDARIES FOR BOYD STREET
GARDENS AND UPDATE THE NAME OF LOBSTERMAN PARK**

SPONSORED BY COUNCILOR BELINDA RAY

Sec. 18-11. Parks and Public Grounds Dedicated. The following parks and public grounds are hereby subject to the provisions within this Article:

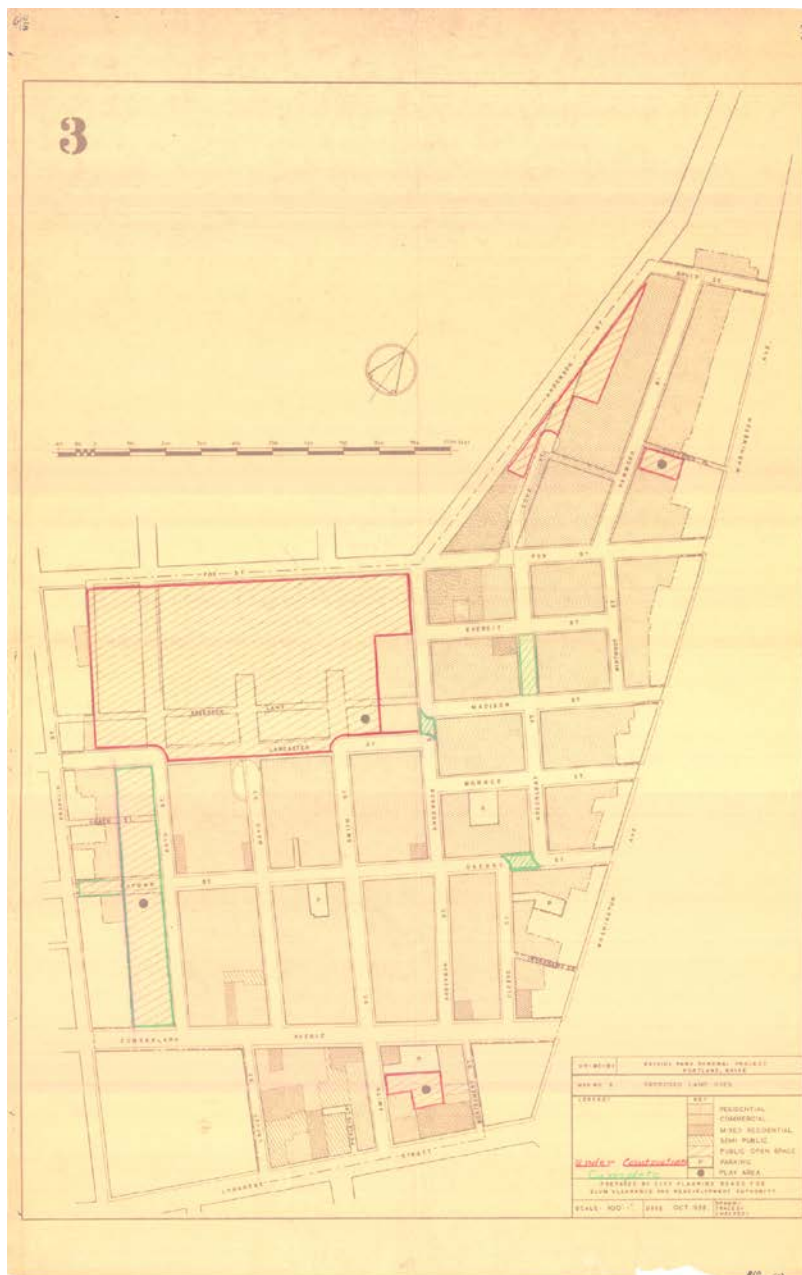
Andrews Square;
Back Cove Park and Trail;
Barrow's Park/Baxter Sundial;
Bayside Park/Stone Street Playground;
Bayside Trail;
Baxter Pines;
Baxter Woods;
Bedford Park;
Bell Buoy Park;
Belmeade Park;
Boothby Square;
Boyd Street Gardens/[Franklin Reserve \(Parcel 022 F023 in its entirety\)](#);
Bramhall Square;
Capisic Pond Park;
Caldwell Square;
Clark Street Park;
Congress Square (specifically the remaining 1/3 of Congress Square);
Clark Street Playground;
Deering Oaks Park;
Dougherty Field;
Eastern Promenade Park (including East End Beach and Trail);
Fessenden Park;
Fort Allen Park;
Fort Gorges;
Fort Sumner Park;
Fox Field/Kennedy Park;
Harborview View and Tate-Tyng Park and Playground;
Heseltine Park;
Lincoln Park;

Longfellow Park;
Longfellow Square;
Lobsterman Park/[John Menario Plaza](#);
Marada Adams Playground;
Martin's Point Park;
Monument Square;
Munjoy South Playground;
Nason's Corner Park;
Payson Park;
Peppermint Park;
Pedro Field;
Pleasant Street Park and Playground;
Post Office Park;
Quaker Park;
Riverside Golf Course;
Riverton Trolley Park;
South Street Playground;
Stroudwater Park (Waldo Street and Westbrook Street);
Taylor Street Park;
Tommy's Park;
Trinity Park;
Western Promenade Park; and
Winslow Park.

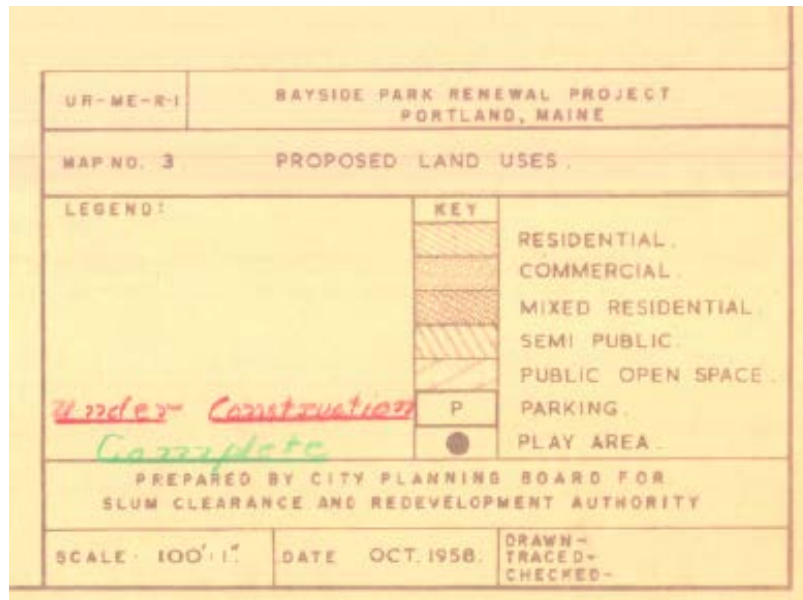
Attachment 2 - Exhibit A: Bayside Park Renewal Project Map

Prepared in 1958 by the City Planning Board for the Slum Clearance and Redevelopment Authority, this map shows that a large swath of the parcel, extending from the former Lancaster Street to Cumberland Avenue, and including a former extension of Oxford Street, was intended to be preserved as Public Open Space as part of the Franklin Street Arterial project.

Fox Street Field was also established as part of this urban renewal project. Then, like the Boyd Street Gardens, Fox Street Field/Kennedy Field was dedicated as a Park/Public Ground in Chapter 18 of the City Code in 2014 to ensure it would enjoy the protections provided in Chapter 18.



Attachment 3 - Exhibit B: Insets from Bayside Park Renewal Project Map



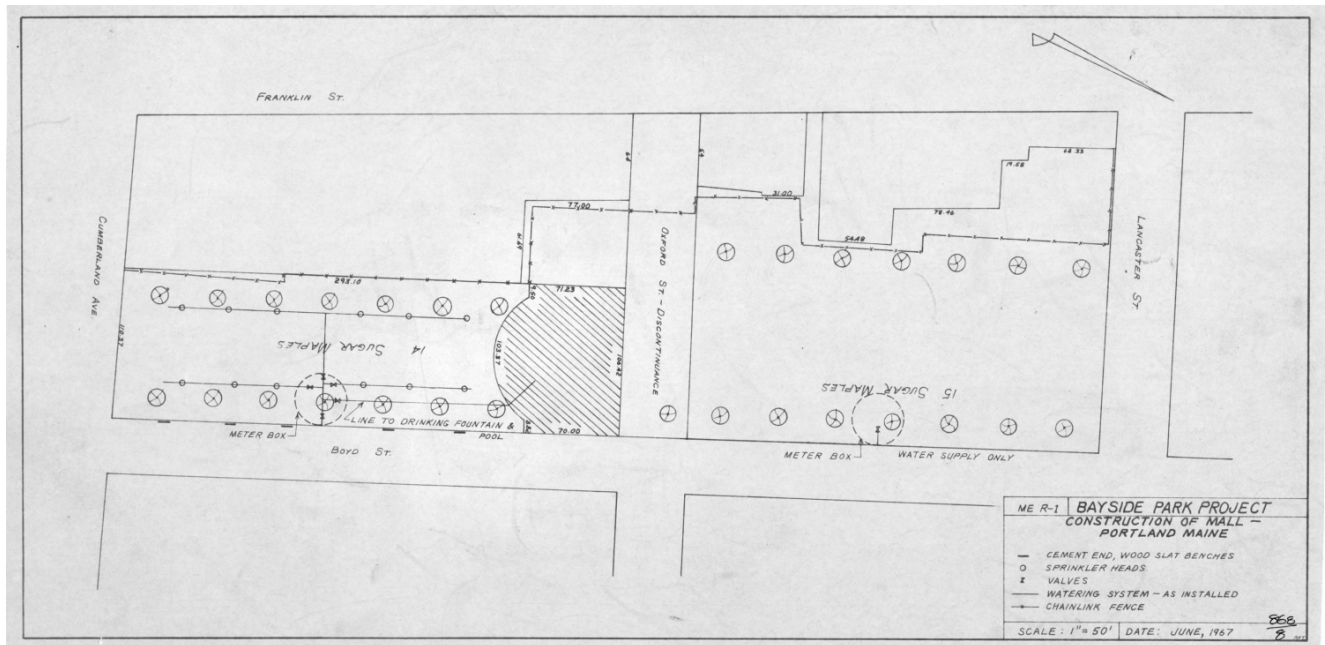
The legend from the 1958 map shows that Public Open Space is designated by the wide cross-hatching, and that a large dot indicates an intended play area.



This section of the map clearly shows a large portion of Parcel 022 F023, extending from Lancaster Street to Cumberland Avenue, was preserved as Public Open Space in 1958.

When this area was dedicated as a Public Park/Ground in Chapter 18 of the City Code by Order 203 13/14, however, the name "Boyd Street Gardens" was used along with the notation "Franklin @ Cumberland," implying that the entire parcel was intended for designation. (See Exhibits E & F for the dedication detail.)

Attachment 4 - Exhibit C: Follow-up Park Plaza Plan from 1967



At some point prior to 1972, when the Portland Housing Authority administration building was built at 54 Lancaster Street (now 58 Boyd Street), the bottom segment of this parcel (where 8 sugar maples were to be planted) was conveyed to the PHA. Since part of the bottom portion of the parcel was intended to be residential, per Exhibit B, it's reasonable to assume it was conveyed to meet that purpose.

Attachment 5 - Exhibit D: The Current Boyd Street Gardens



This picture, from the Wayside Food Programs Facebook page, shows the Boyd Street Gardens in 2017. Currently, the entire parcel, from Lancaster Street up to Cumberland, is taken up with plantings and infrastructure including: community garden plots, a large community garden maintained by Cultivating Community, perennial raspberry bushes, compost area, garden shed and arbor, rain barrel collection, and established fruit trees.

The fruit trees, while not densely clustered, extend to the upper portion of the parcel at Cumberland Avenue.

Attachment 6 - Exhibit E: List of properties to be dedicated as Parks and Public Grounds per Order 203 13/14.

#	Area	Zoning	Notes
1	Post Office Park	B3	
2	Tommy's Park	B3	
3	Bell Buoy Park	WC2	
4	Lobsterman's Park	B3	
5	Lincoln Park	B3	
6	Eastern Promenade	ROS	(Fort Allen Park is IN Eastern Prom)
7	Fort Sumner Park	R6	
8	Fox Field	ROS	Bayside & Kennedy Park names
9	Deering Oaks	ROS	Deed Restrictions Protecting
10	Western Promenade	ROS	Council Order and State Law Protecting
11	Taylor Street Park	R6	
12	Harbor View Memorial Park	ROS	
13	Back Cove	ROS	
14	Winslow Park	ROS	Preble St Ext @ Baxter Boulevard
15	Pedro Field	ROS	Oakleigh Park?
16	Baxter Boulevard	ROS	Only official Parkway
17	Burrow's Park (Preble St) no longer a park	R5 (inc w street)	Lost most of land to Preble Street Ext.
18	Belmeade Park	R5	
19	Baxter Sundial Park	ROS	Barrows Park alternative name
20	Bedford Park	R5	Deed Restrictions Protecting
21	Fessenden Park	R5	Deed Restrictions Protecting
22	Longfellow Park	R5	
23	Payson Park & Arbor	ROS	Deed Restrictions Protecting
24	Dougherty Field	ROS & R5	
25	Stroudwater Park - Waldo Street	R2	Deed Restrictions Protecting
26	Stroudwater Park - Westbrook Street	R2	Deed Restrictions Protecting
27	Capisic Pond Park	ROS & R3	area south of Macy Street nic (update map)
28	Baxter Pines	ROS	Deed Restrictions Protecting
29	Mayor Baxter Woods	ROS	Deed Restrictions Protecting
30	University Park	R3	Deed Restrictions/Planning Bd Approval Protecting
31	Heseltine Park	R5	
32	Trinity Park	B2b	Forest Ave @ Coyle St (PK RR deed protected)
33	Quaker Park	IM	Forest Ave @ Industrial PW / DEED Protected
34	Oatnuts Park	RP2	
36	Riverton Trolley Park	ROS	
37	Martin's Point Park	RP	National Park Service Easement Protecting
38	Nayson's Corner Park	R3	Breakwater School
39	Pine Grove Park	ROS	add Land Bank lots to or create RPZ space
40	Riverside Golf Course	ROS	Grant Restrictions Protecting
41	Boyd Street Gardens	R6	Franklin @ Cumberland Ave
	Playground		
42	Stone Street Playground	R6	
43	South Street Playground	R6	
44	Peppermint Park	R6	
45	Pleasant Street Playground	B3	
46	Tyng Tate Playground	R6	
47	Clark Street Playground	R6	
	Trails		
48	Eastern Prom Trail	ROS & WSUZ	
49	Bayside Trail	B5	
50	Back Cove Trail	ROS	
	Land Bank		
51	Hobart Street - Fore River Park	R5 & RPZ	
52	Ocean Avenue Open Space	ROS	
53	Presumpscot River Preserve	RPZ	
54	Letson's Purchase (see LB list)	IM	Across from Riverside GC / near range
	Squares		
55	Andrews Square	R6	Pine @ West (former school)

This list was included with the backup materials for the April 28, 2014 meeting of the City Council.

Attachment 7 - Exhibit F: Inset from Exhibit E

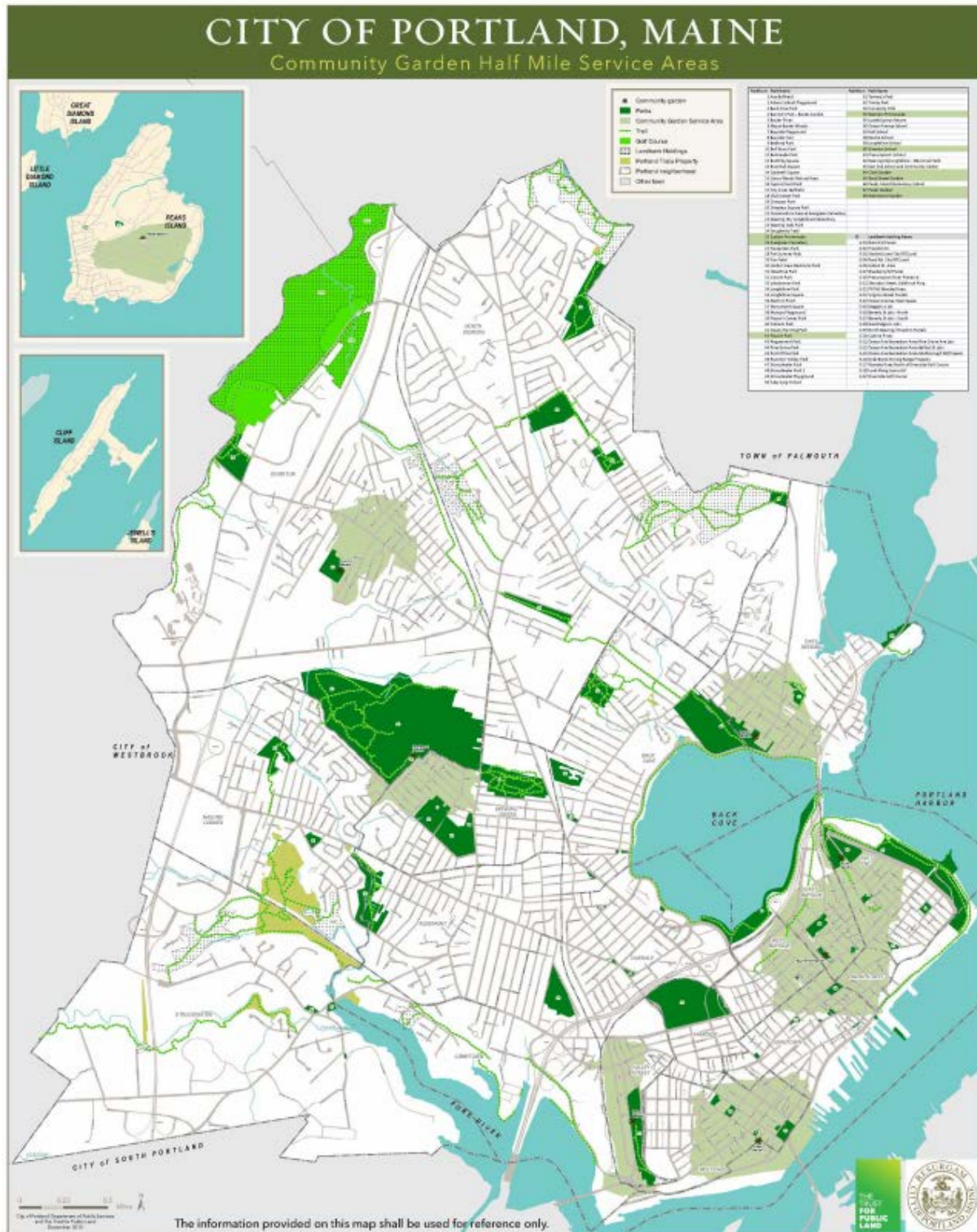
40	Riverside Golf Course	ROS	Grant Restrictions Protecting
41	Boyd Street Gardens Playground	R6	Franklin @ Cumberland Ave
42	Franklin Park Playground	BC	

Boyd Street Gardens is Listed as Property #41.

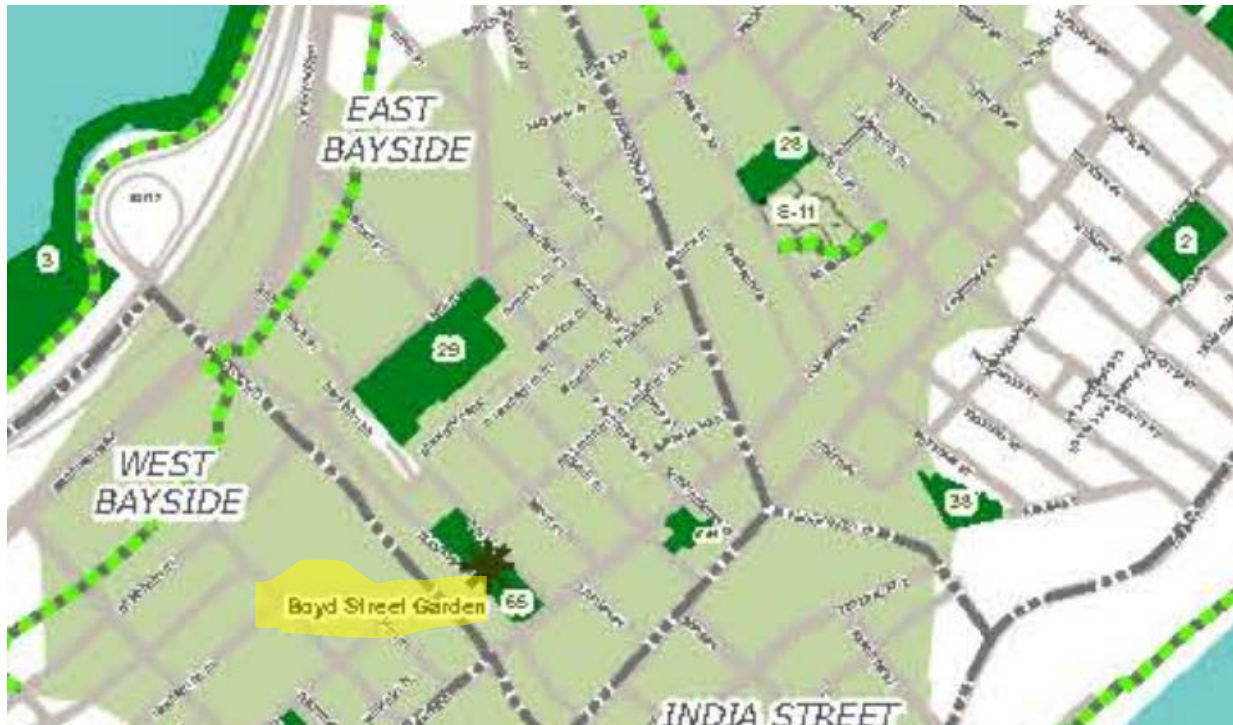
In the “Notes” section in the right column, it is specified that this property is located at “Franklin @ Cumberland Avenue,” which is a reference to the topmost part of the parcel.

This note indicates that the entire parcel was dedicated in Chapter 18—not just the lower segment, where the gardens and their associated uses were most prominent at the time of the parks referendum which gave us this list.

Attachment 8 - Exhibit G: Map of Community Gardens from Portland's Open Space Vision and Implementation Plan, 2016 (Appendix 6; page 35)



Attachment 9 - Exhibit H: Inset from Portland's *Open Space Vision and Implementation Plan*, 2016 (Appendix 6; page 35)



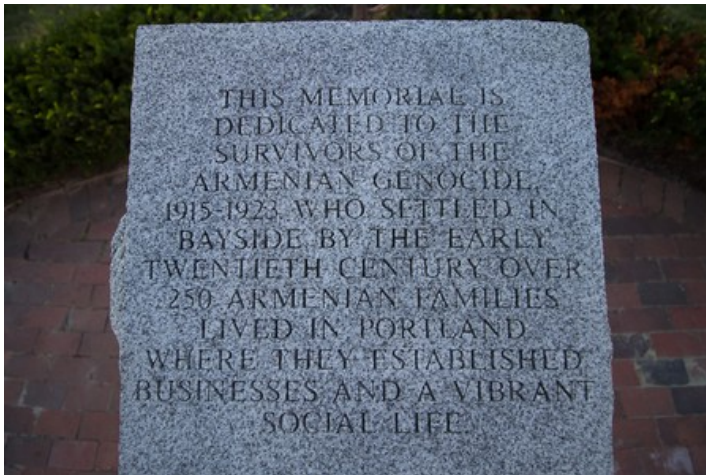
Portland's *Open Space Vision and Implementation Plan* was produced in 2016 through a collaboration between the City of Portland and the Trust for Public Land.

The map of community gardens, which are considered part of Portland's network of parks and open spaces, clearly shows Boyd Street Gardens taking up the entire parcel at Cumberland/Franklin (Parcel 022 F023).

Attachment 10 - Exhibit I: The Armenian Genocide Memorial



The Armenian Genocide Memorial, which was dedicated in 2003, as seen from Cumberland Avenue, near the corner of Cumberland and Boyd.



The inscription on the top of the monument reads:

“This memorial is dedicated to the survivors of the Armenian Genocide, 1915-1923, who settled in Bayside. By the early twentieth century, over 250 Armenian families lived in Portland where they established businesses and a vibrant social life.”



The monument faces the Bayside area where many Armenian families settled between 1900 and 1925, an area the Armenian Cultural Association of Maine refers to as, “the heart of Maine’s original Armenian settlement” on its website (www.armeniansofmaine.com).

Additionally, there are four other footings in the plaza ready to support future sculptures of this nature.



Above and Below:

People gathered at the memorial to commemorate the Centennial of the Armenian Genocide in June of 2015.



MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 25, 2019

SUBJECT: Order 193-18/19 Amendment of Portland City Code Chapter 25 Streets, Sidewalks, and Other Public Places Re: Outdoor Dining Permits - Sponsored by Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings, City Manager

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

This amendment will set the fees for “parklet” outdoor dining spaces that utilize parking spaces when sidewalk space does not permit outdoor dining.

II. AGENDA DESCRIPTION

Historically, state law has prohibited the off-site sale of liquor by a licensed establishment unless the sale was on public or privately owned property immediately adjacent to the licensed establishment. It is for this reason that all outdoor dining permits issued by the City for dining on City sidewalks have historically required that outdoor dining areas be limited to the sidewalk space immediately adjacent to the restaurant. That state law was recently amended and now allows establishments with liquor licenses to serve alcohol on municipally owned property not immediately adjacent to the licensed establishment if the municipality has given its approval.

In response to this change in the law, this amendment will create a new outdoor dining permit and set fees for “parklet” outdoor dining spaces that utilize dedicated City parking spaces when sidewalk space immediately adjacent to a licensed eating establishment does not permit outdoor dining. The Amendment is to City Code Section 25-27. It is proposed as a pilot project with a limited number of available spaces initially to allow careful monitoring by staff to ensure public safety and to ensure that initial guidelines and restrictions constitute best practices when it comes to regulation of these spaces.

This item must be read on two separate days. It received its first reading on March 18, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

On 2/12/18 the Council’s Economic Development Committee discussed the possibility of a change to the City’s outdoor dining regulations that would permit use of a limited number of parking spaces as “parklet” areas. These “parklets” would provide locations in existing parking spaces where outdoor dining could be provided when there is no sufficient sidewalk space. After an initial discussion, the Committee asked City staff to conduct outreach with relevant stakeholders. Staff met with both restaurant operators and other downtown

businesses to hear their ideas and concerns. On 11/078/18 staff brought back a slightly amended version of the draft regulations that would limit the number of parklets and add additional safeguards. The Economic Development Committee supported these revised regulations to be finalized and issued.

While the City Manager can issue these regulations, the Council needs to set the fee for a parklet. That fee has been proposed at \$5,520, or the revenue that would be gained from a typical downtown parking space were it not for its use as a parklet.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

This proposal will allow regulations to be issued consistent with the Economic Development Committee's goal of working on outdoor dining regulations.

V. FINANCIAL IMPACT

None, as the fee will be set at the amount expected to be raised by a parking space typically.

VI. STAFF ANALYSIS AND BACKGROUND

Based on the response from the Economic Development Committee, as well as the outreach conducted by staff, there appears to be general support for this pilot. It will provide restaurants and patrons with an additional dining option, but also limits the number of parklets to ensure that parking loss is minimal.

VII. RECOMMENDATION

Staff recommends approval of these amendments.

VIII. LIST ATTACHMENTS

1. Sec. 25-27 Re Outdoor Dining Permits 2.28.2019
2. Outer Dining Final Regs and Application 3.18.2019

Prepared by:

Date: 3/25/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT OF PORTLAND CITY CODE CHAPTER 25.
STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES
RE: OUTDOOR DINING PERMITS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE, IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That Chapter 25, Section 25-27 of the Portland City Code is hereby amended to read:

Sec. 25-27. Fees and fines.

(a) The following fees are hereby established for the issuance of a revocable street and sidewalk occupancy permit:

...

(b) The following fees are hereby established for the issuance of a revocable outdoor dining permit:

- (1) Outdoor dining on ~~streets,~~ sidewalks or ~~other~~ public ways other than dedicated City parking spaces, eighty-four dollars (\$84.00) plus two dollars (\$2.00) per square foot of dining area per fiscal year or any portion thereof.
- (2) Outdoor dining in parks, eighty-four dollars (\$84.00) plus six dollars and thirty cents (\$6.30) per square foot of dining area per fiscal year or any portion thereof. In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the director of parks and recreation or his or her designee. For the purposes of this section, the area abutting the buildings which border Monument Square and extending ten (10) feet from the façade of said buildings shall be considered a sidewalk. The ten (10) foot area shall be measured from that portion of the façade that protrudes furthest into the sidewalk. The area beyond the ten

(10) foot sidewalk shall be considered park space.

(3) Outdoor dining in dedicated City parking spaces, \$5,520
for a full season (April 15-October 31).

...



Permitting and Inspections Department
389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Outdoor Dining on Public Property Supplemental Application Process

What is Needed to Apply:

- ☐ Letter of intent addressed to the Mayor and members of the City Council (if serving alcohol).
- ☐ 8 ½" x 11" Plot Plan showing: (see design and construction section)
 - Lot lines, where the building sits on the lot and dimensions of the building and lot.
 - Street location and the intersecting streets.
 - Sidewalk location, width, and curbing location.
 - Setback dimension from the sidewalk to the building.
 - Location of proposed outdoor dining area and its components (tables, chairs, barriers, etc.), including dimensions and total outdoor dining area in square feet. An outdoor dining installation cannot prevent a clear passageway for pedestrians (4 feet minimum and 5 feet for a street corner).
- ☐ A drawing, photo or specifications of any required barrier solutions. Please request additional information if located on Wharf Street.
- ☐ Proof of Public Liability insurance coverage. The permit holder is required to produce at the time of submission and maintain public liability insurance coverage of not less than four hundred thousand dollars (\$400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured, or one million dollars (\$1,000,000) if requesting a parklet.
- ☐ City application for food & alcohol
- ☐ Outdoor Dining Supplemental application
- ☐ Payment of fees (see application)

The application must be complete in order to be accepted and processed. Applications must be submitted at least three (3) weeks prior to the Council meeting. There will be no liquor applications heard by the City Council in May due to fiscal items on the agenda.

After you submit your application to the Business Licensing Division:

- We will mail you a letter confirming the date, time, and location of the City Council meeting.
- Please proceed with arranging for inspections when your establishment is ready.

After you have been approved by City Council:

- When the Business Licensing Division has received all approvals from the required departments, we will issue your license. We will call you when the license is ready and any remaining balance is due. You may contact us for a license status update, but please note that we must receive approvals directly from all departments on the accompanying "Steps to Approval" sheet before issuing your license.

Outdoor Dining License – Steps to Approval

In order for the Business Licensing Office to issue your license, we must receive approvals directly from the following departments:

- Permitting and Inspections (Code Enforcement, Health Inspections and Zoning)
- Fire
- Treasury
- Police

Your responsibilities include:

- ☐ Contacting the Zoning Division (Room 315) at zoning@portlandmaine.gov or 207-874-8703 to determine if the address of your business is zoned for the intend use.
- ☐ Contacting Health Department at tw@portlandmaine.gov or 207-756-8365 to arrange for an inspection of the outdoor space.
- ☐ Contacting the Treasury Department at treasury@portlandmaine.gov or 207-874-8490 to determine if you, the owner of your business premises, or the previous business tenant, owe any outstanding taxes to the City of Portland. We cannot issue a license if there are delinquencies on the part of the business owner or landlord.

Once we have received approvals from the departments listed above, we will issue your license and contact you. Any balance of the license fee will be due before you receive the license.

If you have any questions about this process, please contact the Business Licensing Division:

Jessica Hanscombe, Licensing and Registration Coordinator at jhanscombe@portlandmaine.gov or 207-874-8783



Permitting and Inspections Department
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Outdoor Dining Permit on Public Property Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

- ☐ Legal Advertisement Deposit \$100.00
- ☐ Outdoor Dining on Public Property \$84.00 plus \$2.00 per Square foot \$2.00 X _____ SF = _____
- ☐ Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X _____ SF = _____
- ☐ Parklet Outdoor Dining \$5,520

Business Information	
Business Name (d/b/a):	Phone:
Location Address:	Zip:
Mailing Address:	Zip:
Contact Person:	Phone:
Contact Person Email:	
Manager of Establishment:	Date of Birth: Phone:
Owner of Premises (Landlord):	
Address of Premises Owner:	Zip:

Owner Information

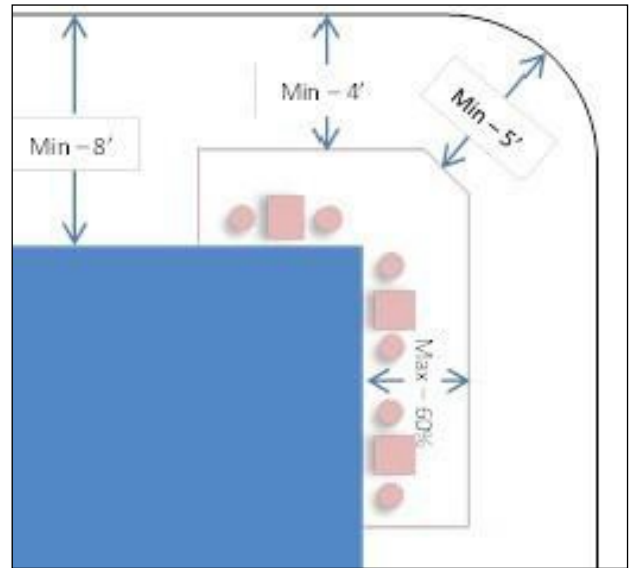
Corporate Name		Corporate Mailing Address	
		Zip:	
Contact Person:		Phone:	
Principal Officers	Title	Date of Birth	Residence Address

About Your Establishment

Class of License:	
Type of food served:	
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	
Number of Tables	
Number of Chairs	

Design and Construction

Existing Sidewalk Width (property line to curb)	Sidewalk Dining Allowed?
< 8'0"	No
≥ 8'0"	Yes – up to 60% of sidewalk
Sidewalk Type	Sidewalk Passage Width (Min)
Standard sidewalk	4'0"
Street corner	5'0"

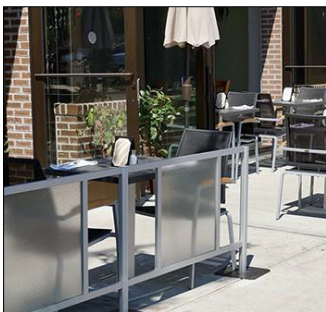


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes to existing straight passage is at the discretion of the City.
- Egress must be maintained free of obstruction.
- Permanent fixtures, such as awnings, require a building permit separate from the Outdoor Dining permit and subject to approval by the Building Authority.
- Umbrellas do not require a permit.
- Umbrellas must be secured and maintain the height clearance for sidewalk passage.

Barriers

- If barriers are proposed, they must be free-standing. Physical attachments to a building are not allowed.
- Stanchions and ropes are encouraged. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
- Shall not exceed 42" in height and may not include commercial signage.

Example barrier types that meet regulation



Dining Areas in Public Spaces other than Sidewalks or Public Parks ("Parklets")

The City has determined that, in some areas of the City where there are businesses that are unable to locate outdoor dining on City sidewalks or public parks abutting their businesses and there is adequate space in the street to accommodate outdoor dining without compromising safety, dining may be offered in public parking or other public spaces.

Pursuant to Chapter 25 of the City's Code of Ordinances, a permit is required for expanding food service to the outside of all properties. Outdoor dining permits for parking and other alternative public spaces will be issued under Chapter 25 and these regulations pursuant to the following requirements.:

- ② Any food service operation located on City property pursuant to a permit issued hereunder must comply with state and local laws with respect to service of food and/or alcohol;
- ② For any outdoor dining operation located in a public parking space, the permit holder shall construct a platform, on which tables and chairs will sit. The platform must be built of durable, slip resistant materials such as composite plastic or construction-grade lumber. This platform may remain for the entire outdoor dining season (April 15- October 31) but must be removed upon conclusion;
- ② Any space occupied hereunder must be laid out in such a way that it complies with the requirements of the Americans with Disabilities Act. The required platform must be flush with any abutting sidewalk.
- ② Any movable items on the outdoor dining area must be secured against wind and theft and locked or removed when the business is closed.;
- ② Any outdoor dining spaces permitted hereunder must be located immediately in front of the business. Where parking spaces are not striped (such as in multispace meter areas) the location of any outdoor dining space must be located to minimize loss of effective parking spaces. The precise boundaries of outdoor dining spaces will be determined by the City in its sole discretion.
- ② Any outdoor dining space must provide railings or other substantive barriers *along the edges* to protect patrons;
- ② Wheel stops satisfactory to the Permitting & Inspections Director must be placed at the front and rear sides of the outdoor dining platform, no less than 4 feet from the edges of the platform. In addition, flexible bollards shall be provided at the corners of the platform (see illustration);
- ② Construction of the platform must allow water runoff to easily flow under platform;
- ② No attachments to the pavement or curbing are permitted;
- ② No covers are permitted over the outdoor dining space other than umbrellas;
- ② No advertising other than labels identifying the business is permitted on the outdoor dining space;
- ② No permit shall be issued for outdoor dining in these locations if there is a feasible alternative space on the sidewalk or an appropriate public park;
- ② No outdoor dining space in the vehicular right of way is permitted within 15' of an intersection;
- ② No outdoor dining space will be permitted within the vehicular right of way on a high traffic street, as determined by Public Works. Generally, these streets have a speed limit of over 25 miles per hour, a traffic volume of over 5,000 AADT, or a functional classification of Arterial or above;
- ② No outdoor dining space will be permitted on a street that does not have 12' clear in the middle after all parking and platforms are accounted for; and
- ② In any street that is entirely closed to traffic at certain times of the day, the street may be used for outdoor dining subject to relevant requirements listed above, adjusting for the unique condition of an entirely closed street.

Method of Review

No more than 5 of these locations shall be permitted at one time. Identification of appropriate locations for outdoor dining is ultimately at the discretion of the Director of Permitting & Inspections. Permits issued under these regulations are revocable at the City's discretion for any reason, including but not limited to, the permit-holder's failure to comply with these regulations, any unforeseen safety concerns, and City operational concerns or needs. No more than one of these spaces will be permitted on each side of a city block.

Renewal applications will get priority, provided the requested space satisfies the City's public safety review and the applicant has complied with the requirements outlined herein. After that, applications will be approved on a first come, first-served basis.

Additional Requirements: If a location is approved under this section, the following financial and insurance requirements shall apply:

1. The permit fee shall be \$5520 for the season in addition to any other applicable fees;
2. The Applicant shall procure and maintain occurrence-based Commercial General Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, naming the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law. With respect to the Liability Insurance, the Applicant shall name the City as additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the City under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. The Applicant will provide the City and thereafter maintain a certificate of insurance evidencing such coverage, which certificate shall guarantee thirty days' notice to the City of termination of insurance from the insurance provider or agent. The Applicant shall also provide a copy of any endorsement naming the City as additional insured. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees.



Sample Parklet in Bethlehem, PA (Source: <https://www.lehighvalleylive.com>)

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- The permit holder is responsible for keeping the outdoor seating area clean.
- No food shall be prepared in the designated outdoor dining area.
- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- Request for the use of adjacent on street parking space for outdoor dining installations requires Parking Office and Building Authority review and approval.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature _____ Title _____ Date _____

For Administrative Use Only

Amount: _____		Request Date / Approval	Notes: _____
Date Paid: _____		FD: _____ / _____	_____
CC CA CK _____		Health: _____ / _____	_____
		PD: _____ / _____	_____
Amount: _____		Treasury: _____ / _____	_____
Date Paid: _____		Zoning: _____ / _____	_____
CC CA CK _____			

MEMORANDUM
City Council Agenda Item

FROM: Jeremiah Bartlett

DATE: March 18, 2019

SUBJECT: **Order 213-18/19 Approving Modification of the Three-Party Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Congress Street Intersection Improvements - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 4/8/2019

Final Action 4/22/2019

Can action be taken at a later date: No This agreement modification must be approved by City Council and signed by the City Manager as soon as possible to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached update to a Three-Party Municipal/State/ PACTS Agreement and authorize the City Manager to sign it, which will allow MaineDOT to move ahead with its plans to advertise and construct improvements to traffic signals and ADA facilities at the following intersections:

Congress Street at Forest Avenue
Congress Street at Preble Street
Congress Street at Elm Street
Congress Street at Temple Street

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT), the City of Portland, and Portland Area Comprehensive Transportation System, WIN 022132.00, obligates MaineDOT to update traffic signal controls, technology and communications, as well as a number of new signal structures and related ADA ramp updates. Lastly, the work will allow for this section of Congress Street to be transit priority ready. The agreement obligates the City to pay \$158,562.50, or

25% of the total cost of the estimated \$634,250.00.

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

The Congress Street Intersection project is part of MaineDOT's 2018-2020 work plan. Construction work on this project is scheduled to be completed this year. The Council originally approved this project as part of Order 202-15/16, on April 4, 2016.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The project will update signal operations and improve ADA access, through improved technology and infrastructure, thus improving mobility for multiple modes. Several new structures will ensure that structural integrity and safety are maintained at these locations. PACTS and DOT funds will pay for 75% of the project costs, so the majority of funding will be leveraged.

V. FINANCIAL IMPACT

The City is obligated to pay 25% of the total construction cost, so the fiscal impact is relatively low. The total cost of this work is expected to be paid from CIP accounts C18012 and C20112. A fiscal impact note is included to provide additional information.

VI. STAFF ANALYSIS AND BACKGROUND

The cost of the project, originally estimated at \$480,700 has gone up due to the determination that more signal structures needed replacement, as well as project delays due to long internal reviews and related impacts at DOT.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to improve the intersections of Congress Street with Forest, Preble, Elm and Temple.

VIII. LIST ATTACHMENTS

1. Three-party MDOT, PACTS and Portland re Modification Congress Street Intersection 4.2.2019
2. CongressStIntersectionImprovements_Map
3. WIN22132PortlandCongressStIntersectionModKE_3_6_19 (1)
4. Fiscal Impact Note Congress Bus Signals

Prepared by:

Jeremiah Bartlett

Date: 3/18/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

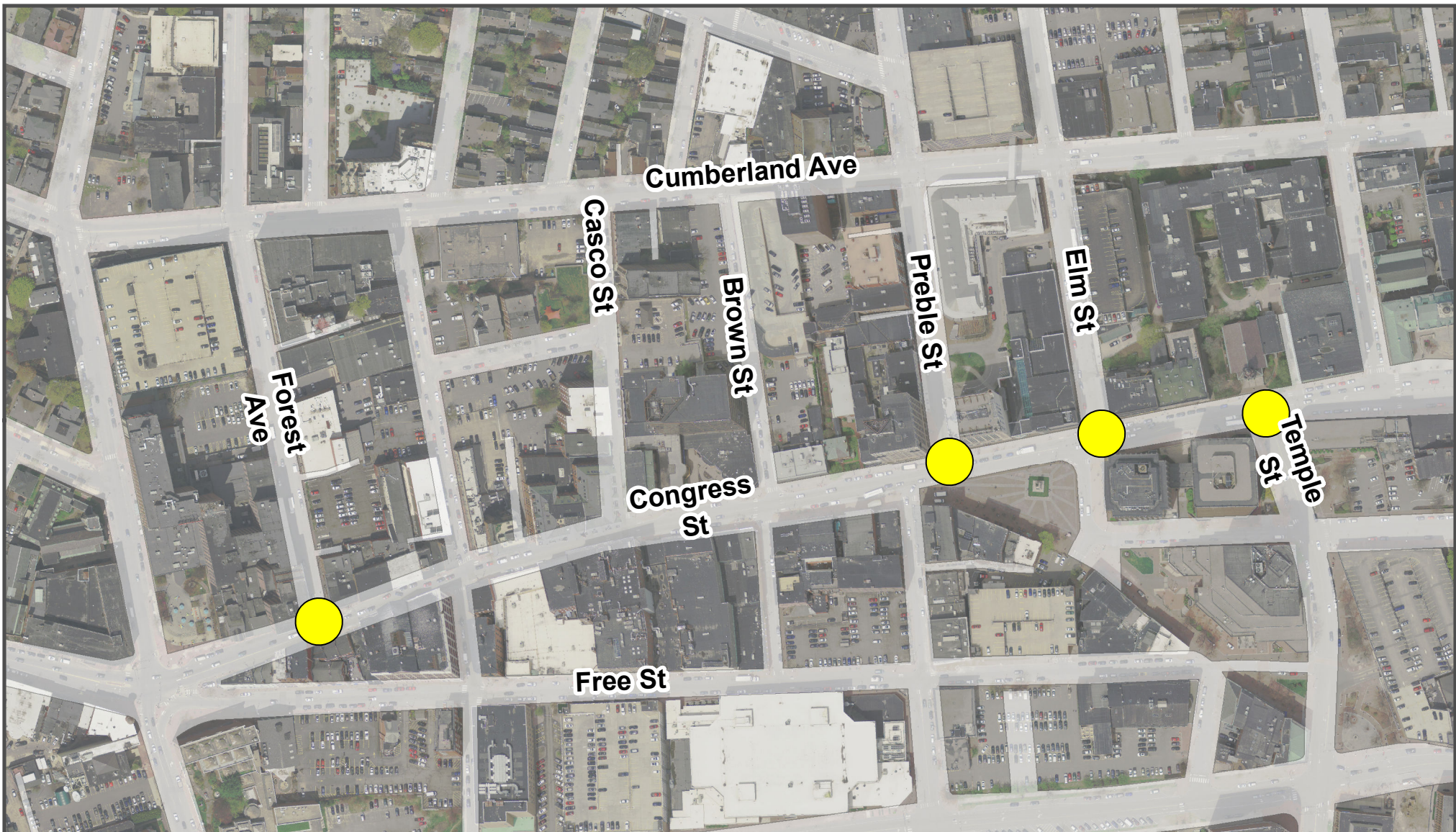
CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING MODIFICATION OF THE THREE-PARTY AGREEMENT
BETWEEN PORTLAND, THE PORTLAND AREA COMPREHENSIVE
TRANSPORTATION SYSTEM
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: CONGRESS STREET INTERSECTION IMPROVEMENTS**

ORDERED, that the modification of three-party Municipal Partnership Initiative Program Agreement between the Maine Department of Transportation, the Portland Area Comprehensive Transportation System and the City of Portland for Congress Street Intersection Improvements, with WIN 022132, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.

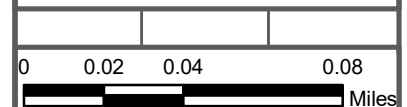
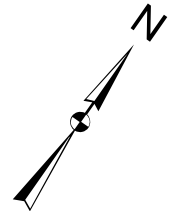


CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

CONGRESS ST INTERSECTION IMPROVEMENTS

WIN 22132.00

Legend





Internal Use Only

TEDOCS #:
AMS Advantage #: DOT1116-37022 PACTS &
DOT1116-37023 Portland
CSN#: 37022 PACTS & 37023 Portland

**MAINE DEPARTMENT OF TRANSPORTATION
MODIFICATION # 1 TO THREE-PARTY PARTNERSHIP AGREEMENT**

Project Location: Portland
State W.I.N. #: 022132.00
Federal W.I.N. #: 2213200
Customer ID#: PACTS
Customer ID#: PORTLAND

Original Estimated Project Amount: \$83,750.00
Current Estimated Project Amount: \$83,750.00
Modified Estimated Project Amount: \$634,260.00
Current Agreement Expiration Date: 12/30/2019
Modified Agreement Expiration Date: 12/31/2021 ☐ N/A

This Modification hereby amends a Three-Party Partnership Agreement that was executed by MaineDOT on 11/8/2016, with the Portland Area Comprehensive Transportation System (PACTS) and the City of Portland (Municipality), hereinafter the "Parties" for Congress Street Intersection Improvements (Project) as follows:

- ☒ **Increased Estimated Project Amount.** The maximum amount of the Agreement shall be increased by: \$550,510.00 from \$83,750.00 to \$634,260.00. Reason: The preliminary engineering phase is completed; the Project is to move forward with full development.
- ☒ **Expiration Date.** The Contract Expiration Date of the Project Contract shall be extended from 12/30/2019 to 12/31/2021. Reason: Additional time needed to complete the project.

The following attachments are hereby incorporated into this Modification:

☒ **Appendix A – Agreement Revisions**

All other terms and conditions of the original Agreement shall remain in effect. This Modification hereby becomes part of the Agreement. The Parties, by their duly authorized representatives, have executed this modification to said original Agreement, which shall become effective on the date last signed below.

**PORTLAND AREA COMPREHENSIVE
TRANSPORTATION SYSTEM**

By: [Signature]
Kristina Egan, Executive Director*
Greater Portland Council of Governments
For Portland Area Comprehensive Transportation System

3/6/19
Date

MUNICIPALITY OF PORTLAND

By: [Signature]
Jon Jennings, City Manager*

Date

MAINE DEPARTMENT OF TRANSPORTATION

By: [Signature]
Andrew T. Bickmore, Acting Director*
Bureau of Planning

Date

**I certify that the foregoing signature is true and accurate, and if electronic, I further certify that it (a) is intended to have the same force as a manual signature, (b) is unique to myself, (c) is capable of verification, (d) is under the sole control of myself, and (e) is linked to data in such a manner that it is invalidated if the data are changed. 10 M.R.S.A. §9502, et seq.*

APPENDIX A

Replace Project Cost with the following:

Project Cost Sharing and Payment Schedule:

- a. **Financial Obligations:** The total estimated cost of the Project is \$634,260.00 (the "Project Estimate"). The Parties agree to share in all Project costs associated with the Project phases outlined in the table below. Each Party's share of the Project's actual costs associated with each phase shall be allocated as follows, unless otherwise negotiated by mutual agreement of the Parties.
- i. **Federal Share** (provided by MaineDOT through PACTS Federal Allocation) - 75% of eligible Project costs, up to a maximum of \$475,687.50.
 - ii. **State Share** (provided by MaineDOT through PACTS State Allocation) - 0% of eligible Project costs, up to a maximum of \$0.00.
 - iii. **Municipality's Share** (provided by the Municipality through the Municipality's obligation of funds) - 25% of eligible Project costs, which is estimated at \$158,562.50, plus 100% of the following:
 1. Any costs deemed ineligible for federal and state participation.
 2. Any costs associated with additional work requested by the Municipality that is outside the Project scope of work.
 3. All Project costs exceeding the Project Estimate after the above referenced Party Shares have been applied, unless otherwise agreed to in writing by the Parties through a written modification to this Agreement.

Work Phase	Estimated PACTS Federal Share		Estimated PACTS State Share		Estimated Municipality's Share		Estimated Total Cost
	%	\$	%	%	%	\$	\$
Preliminary Engineering	75%	\$ 67,500.00	0%	\$ -	25%	\$ 22,500.00	\$ 90,000.00
Right of Way	75%	\$ 375.00	0%	\$ -	25%	\$ 125.00	\$ 500.00
Construction	75%	\$ 378,237.00	0%	\$ -	25%	\$ 126,079.00	\$ 504,316.00
Construction Engineering	75%	\$ 29,575.50	0%	\$ -	25%	\$ 9,858.50	\$ 39,434.00
TOTALS:		\$ 475,687.50		\$ -		\$ 158,562.50	\$ 634,250.00

Payment Schedule: The PACTS Share will be disbursed by MaineDOT in accordance with the allocations outlined above. If the Parties elect to move forward with full development of the Project as contemplated in this Agreement, the Municipal Share will be invoiced by MaineDOT in accordance with the payment schedule outlined in the Municipal-State Agreement described herein. If the Parties choose not to proceed to full Project development and no Municipal-State Agreement is executed, the Municipal share, based on the allocations outlined above, will be invoiced as promptly as practicable upon that decision having been made. Upon receipt of such invoice, the Municipality shall submit payment to MaineDOT within thirty (30) days.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u> ADD: NEW ITEM ANNUAL EXPENDITURES LESS: TOTAL NEW ITEM ANNUAL REVENUES =NEW ITEM NET TAX RATE IMPACT PROJECTION		\$8,273		\$11,892		\$11,892
New Program Impact to the Mil Rate	\$0.0010	\$0.0010	\$0.0015	\$0.0015	\$0.0015	\$0.0015
New Program % Impact on Mil Rate	0.0092%	0.0047%	0.0133%	0.0067%	0.0133%	0.0067%
Mil Rate Including New Program	\$11.3410	\$22.4810	\$11.3415	\$22.4815	\$11.3415	\$22.4815

Notes: \$110,313.00 of the total City share comes from C18102, which was previously bonded and, thus, already has fiscal impacts. The remaining \$48,249.50 of the cost is from C20112, so the full impact with this amount will start in Year 2.

MEMORANDUM
City Council Agenda Item

FROM: Greg Mitchell, Director

DATE: March 26, 2019

SUBJECT: **Order 214-18/19 Approving Assignment of Tax Increment Financing Credit Enhancement Agreement held by Portland Public Market LLC to East End Corporation - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair**

SPONSOR: Economic Development Committee, Councilor Costa/Chair; Meeting held on March 19, 2019, the vote was unanimous (4-0).

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 4/8/2019

Final Action 4/8/2019

Can action be taken at a later date: No East End Corporation would like to close on the purchase of the Public Market real estate as soon as possible.

PRESENTATION: Greg Mitchell/5 Minutes

I. SUMMARY

Proposed assignment of a City of Portland Tax Increment Financing (TIF) Credit Enhancement Agreement (CEA) from the Portland Public Market, LLC to East End Corporation because of a change of property ownership.

II. AGENDA DESCRIPTION

On March 19, 2019, the Economic Development Committee voted 4-0 to forward this item to the City Council with an recommendation for approval.

This order would approve the assignment of a City of Portland Tax Increment Financing (TIF) Credit Enhancement Agreement (CEA) from the Portland Public Market, LLC to East End Corporation because of a change of property ownership.

In 2009, the City Council approved a TIF District to stimulate new private sector investment in the former Portland Public Market to support the Portland relocation and retention of the former Power Pay Company (credit card transaction company) to purchase and redevelop the site for their company headquarters. The TIF CEA included a thirty-year term with a 75% capture rate for the first eight years, followed by a 50% capture rate for the remainder of the term. It is noted that this property had a declining municipal assessed value while vacant before the property purchase and redevelopment. Additionally, it is noted that this building was redeveloped to a LEED Gold design standard.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

In 2009, the City Council approved a TIF District to stimulate new private sector investment in the former Portland Public Market to support the Portland relocation and retention of the former Power Pay Company

(credit card transaction company) to purchase and redevelop the site for their company headquarters. The TIF CEA included a thirty-year term with a 75% capture rate for the first eight years, followed by a 50% capture rate for the remainder of the term. The original estimate of the TIF District property tax share agreement is included as Table #2 to the attached Portland Public Market, LLC TIF District CEA, and the actual to date property tax share is attached.

It is noted that this property had a declining municipal assessed value while vacant before the property purchase and redevelopment. Additionally, it is noted that this building was redeveloped to a LEED Gold design standard.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

City Council approval of the TIF CEA Assignment to East End Corporation.

V. FINANCIAL IMPACT

There is no financial impact to the City related to the TIF CEA Assignment.

VI. STAFF ANALYSIS AND BACKGROUND

Assignment of TIF CEAs are routine matters when property ownership changes and assignments are allowed, with the consent of the City, per Section 7.2. of the attached TIF CEA.

VII. RECOMMENDATION

At its March 19, 2019, the EDC voted unanimously (4-0) to forward this item to the City Council with a recommendation of approval.

VIII. LIST ATTACHMENTS

1. TIF CEA Assignment from Portland Public Market LLC to East End Corporation 4.2.2019
2. CC Att - Proposed Assignment
3. CC Att - CEA Btw City and Portland Public Market LLC
4. CC Att - Actual Prop Tax Share FY11 through FY19

Prepared by:

Greg Mitchell, Director

Date: 3/26/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING ASSIGNMENT OF TAX INCREMENT FINANCING DISTRICT
CREDIT ENHANCEMENT AGREEMENT HELD BY
PORTLAND PUBLIC MARKET LLC TO EAST END CORPORATION**

ORDERED, that the City Council hereby approves the assignment of the Tax Increment Financing District Credit Enhancement Agreement held by Portland Public Market LLC to East End Corporation; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents.

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This **ASSIGNMENT AND ASSUMPTION OF AGREEMENT** is entered into by and between **PORTLAND PUBLIC MARKET LLC**, a Maine limited liability company (“Assignor”) and **EAST END CORP.**, a Maine corporation (“Assignee”), and the City of Portland, Maine, a Maine municipal corporation (“City”).

RECITALS:

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate and did designate in July, 2009 (as finalized by Council action on June 1, 2009), specified areas within the municipal boundaries of the City as the PowerPay/Portland Public Market Municipal Development and Tax Increment Financing District (“**District**”) and adopted a development program and financial plan for tax increment financing for the District, as described in the PowerPay/Portland Public Market Municipal Development Tax Increment Financing Program Application dated May 14, 2009 (the “**TIF Development Program**”); and

WHEREAS, the Maine Department of Economic and Community Development approved the District and the TIF Development Program on July 9, 2009; and

WHEREAS, in furtherance of the goals of the TIF Development Program and the creation of the District, City and Assignor entered into that certain Credit Enhancement Agreement between the City and Assignor dated as of July 1, 2009 (the “**TIF Agreement**”, which together with the TIF Development Program are called herein the “**TIF Documents**”); and

WHEREAS, Assignor has completed the development that is contemplated by the TIF Development Program and owns, and/or holds leasehold or easement rights in, the Property (as that term is defined in the TIF Agreement) that is included within the District; and

WHEREAS, Assignor is now preparing to sell and transfer to Assignee ownership of the Property; and

WHEREAS, Assignor, for and in consideration of the parties’ mutual agreement pursuant to said transfer, has agreed to assign all of its right, title, and interest in, and its duties and obligations under, the TIF Documents as they relate to and concern the District to the Assignee; and

WHEREAS, Assignee wishes to, and hereby does, accept such assignment and agrees to assume Assignor’s obligations under the TIF Documents.

AGREEMENTS:

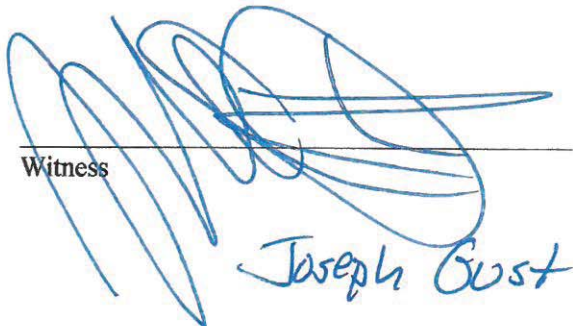
NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Review.** Assignee hereby represents and warrants that Assignee has received and fully reviewed a copy of the TIF Documents, which documents are incorporated herein by reference.
2. **Assumption.** Assignee hereby assumes Assignor's right, title, interest, duties, and obligations under, and agrees to be bound by, the terms and conditions set forth in the TIF Documents.
3. **Effect of Assignment.** All parties hereto agree that the TIF Documents remain in full force and effect notwithstanding this Agreement.
4. **Release.** All parties hereto agree that upon execution of this Agreement, Assignor shall be released from any actual or potential liability arising from or related to the District, the TIF Agreement and/or the TIF Development Program arising after the date of this Agreement (Assignor remaining liable to the City for the performance and observance of the obligations, terms, conditions, provisions and covenants in the TIF Agreement to be performed and observed prior to the date of this Agreement. Assignor represents, and City acknowledges, that all of Assignor's obligations, terms, conditions, provisions and covenants in the TIF Agreement have been fully performed). The Assignor's obligations to defend, indemnify, and hold the City harmless set forth in Section 8.12 of the TIF Agreement shall survive this assignment to Assignee as to any matter arising prior to the date hereof.
5. **Further Assurances.** In furtherance of the agreements set forth herein, each of the parties hereto shall execute and deliver such additional instruments and documents required to confirm and assure the rights and obligations provided for herein, and render effective the consummation of the transactions contemplated hereby.
6. **City Consent.** The City hereby executes this Assignment and Assumption to evidence its consent to this agreement, as required under the TIF Documents.

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption as of this 14 day of March, 2019.

ASSIGNOR
PORTLAND PUBLIC MARKET LLC

Witness

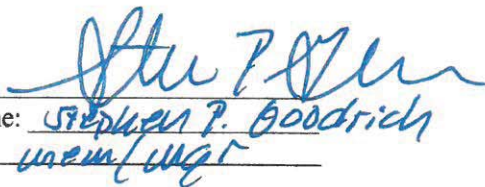


Joseph Gust

By:

Name:

Its:



Stephen P. Goodrich



Witness Joseph Porta

**ASSIGNEE
EAST END CORP.**



By: Stephen Whittier
Its President

CITY OF PORTLAND

Witness

By: _____
Jon P. Jennings, its City Manager

CREDIT ENHANCEMENT AGREEMENT

between

CITY OF PORTLAND, MAINE

And

PORTLAND PUBLIC MARKET LLC

Dated as of

July 1, 2009

TABLE OF CONTENTS

Dated as of _____ i

ARTICLE I DEFINITIONS	1
Section 1.1. <u>Definitions</u>	1
Section 1.2. <u>Interpretation and Construction</u>	3
ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS..	4
Section 2.1. <u>Creation of Development Program Fund</u>	4
Section 2.2. <u>Deposits into Account</u>	4
Section 2.3. <u>Use of Monies in Account</u>	4
Section 2.4. <u>Monies Held in Trust</u>	5
Section 2.5. <u>Investments</u>	5
Section 2.6. <u>Tax Payments</u>	5
ARTICLE III PAYMENT OBLIGATIONS.....	5
Section 3.1. <u>Captured Assessed Value; Retained Tax Increment</u>	5
Section 3.2. <u>Completion of Development Program</u>	5
Section 3.3. <u>Revaluation</u>	6
Section 3.4. <u>Credit Enhancement Payments</u>	6
Section 3.5. <u>Failure to Make Payment</u>	6
Section 3.6. <u>Manner of Payments</u>	6
Section 3.7. <u>Obligations Unconditional</u>	6
Section 3.8. <u>Limited Obligation</u>	7
Section 3.9. <u>Administrative Fee</u>	7
ARTICLE IV PLEDGE AND SECURITY INTEREST.....	7
Section 4.1. <u>Pledge of Company TIF Account</u>	7
Section 4.2. <u>Further Instruments</u>	7
Section 4.3. <u>Liens</u>	8
Section 4.4. <u>Access to Books and Records</u>	8
ARTICLE V DEFAULTS AND REMEDIES.....	8
Section 5.1. <u>Events of Default</u>	8
Section 5.2. <u>Remedies on Default</u>	9
Section 5.3. <u>Remedies Cumulative</u>	9
Section 5.4. <u>Enforcement Rights</u>	9
ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION.....	9
Section 6.1. <u>Effective Date and Term</u>	9
Section 6.2. <u>Cancellation and Expiration of Term</u>	10
ARTICLE VII ASSIGNMENT AND PLEDGE OF COMPANY'S INTEREST	10
Section 7.1. <u>Consent to Pledge, Collateral Assignment Or Grant of a Security Interest</u> ..	10
Section 7.2. <u>No Assignment</u>	10
ARTICLE VIII MISCELLANEOUS.....	11

Section 8.1. <u>Successors</u>	11
Section 8.2. <u>Parties in Interest</u>	11
Section 8.3. <u>Severability</u>	11
Section 8.4. <u>No Personal Liability</u>	11
Section 8.5. <u>Counterparts</u>	12
Section 8.6. <u>Governing Law</u>	12
Section 8.7. <u>Notices</u>	12
Section 8.8. <u>Amendments</u>	13
Section 8.9. <u>Net Agreement</u>	13
Section 8.10. <u>Integration</u>	13
Section 8.11. <u>Project Responsibility</u>	13
Section 8.12. <u>Indemnification</u>	13
Section 8.13. <u>Waiver of Recapture if Agreement Found Void</u>	14

THIS CREDIT ENHANCEMENT AGREEMENT dated as of July 1, 2009, 2009, between the City of Portland, Maine (the "City"), a municipal body corporate and politic and a political subdivision of the State of Maine, a corporation duly organized and existing under the laws of the State of Maine, with a place of business in Portland, Maine and PORTLAND PUBLIC MARKET LLC (the "Company"), a Maine limited liability company, having an office at 320 Cumberland Avenue, Portland, Maine 04101.

WITNESSETH THAT

WHEREAS, the City designated the PowerPay/Portland Public Market Municipal Development District and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Portland City Council on June 1, 2009 (the "Vote"), and pursuant to the same Vote adopted a development program and financial plan for the District (the "Development Program"); and

WHEREAS, upon submission of an application to DECD, the City expects DECD to review and approve the District and the Development Program; and

WHEREAS, the City designated the District, adopted the Development Program and entered into this Agreement in order to induce the Company to build the Project by enabling the City to contribute toward the capital cost of the Project the amounts contemplated by the Development Program and this Agreement; and

WHEREAS, in connection with the Development Program, and as contemplated thereby, the City and the Company have agreed to execute and deliver this Agreement; and

WHEREAS, the City and the Company desire and intend that this Agreement be and constitute the credit enhancement agreement contemplated by and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise. All other capitalized terms not otherwise defined herein shall have the meaning given such terms in the Development Program.

"Account" shall mean the Company TIF Account, also known as the PowerPay/Portland Public Market Development Program Account.

“Act” means Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

“Affiliate” means, with respect to any specified entity, any other entity in which the specified entity has a more 50% ownership interest or of which the specified entity controls more than 50% of the voting power.

“Agreement” shall mean this Credit Enhancement Agreement dated as of the date set forth above between the City and the Company, as such may be amended by the parties from time to time.

“Captured Assessed Value” means the annual percentage of Increased Assessed Value retained in the District in each tax year during the term of the District, as specified in Section 3.1 hereof.

“City” shall have the meaning given such term in the recitals hereto.

“City Tax Increment Revenues” means in each year this Agreement is in effect, an amount of money equal to the percentage of Retained Tax Increment Revenues allocated to the City at the time and according to the schedule specified in Section 3.1 hereof.

“Company” shall have the meaning given such term in the first paragraph hereto, and shall also mean and include any assignee, successor, or Affiliate thereof.

“Company TIF Account” means the account described in the Financial Plan section of the Development Program and established and maintained pursuant to the Development Program and Article II hereof.

“Company Tax Increment Revenues” means in each year this Agreement is in effect an amount of money equal to the percentage of Retained Tax Increment Revenues allocated to the Company at the times and according to the schedule specified in Section 3.1 hereof.

“Current Assessed Value” means the then current assessed value of the Property located within the District to be determined by the City’s Assessor as of April 1 of each year that this Agreement remains in effect.

“DECD” means the State of Maine Department of Economic and Community Development.

“Development Program” means the development program and financial plan for the District adopted by the City as described in the document entitled “Proposal to Create a Tax Increment Financing District” presented to the City on behalf of the Company, a copy of which is attached hereto as Appendix A.

“District” shall have the meaning given such term in the recitals hereto.

“Financial Plan” means the financial plan described in the “Financial Plan” section of the Development Program.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any year, there is no Increased Assessed Value in that year.

"Original Assessed Value" means, the assessed value of the District as of March 31, 2009.

"Project" means the renovations of the former approximately 34,000 square foot Portland Public Market building into approximately 46,350 square feet of office space and a retail café space.

"Project Cost Account" means the account in the Development Program Fund described in Section 2.01 of the Development Program and established and maintained pursuant to the Development Program and Article II hereof.

"Project Costs" means all costs incurred by the Company on the Project within the meaning set forth in 30-A M.R.S.A. § 5222(14), as amended.

"Property" means all real property, including but not limited to the Project, now or hereafter located within the District, whether or not the Company owns such Property or is otherwise liable for property taxes imposed and assessed thereon by the City.

"Property Taxes" means any and all ad valorem property taxes levied, charged or assessed against the Property by the City or on its behalf and actually paid to the City, but excluding any county, state or special district taxes that are separately levied, charged or assessed against the Property.

"Qualified Investments" shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law, and which are of the same type and tenor as the investments in which the City invests its own funds.

"Retained Tax Increment Revenues" means that portion of Property Taxes assessed by the City on the Captured Assessed Value.

"Tax Payment Date" means the later of the date(s) on which Property Taxes assessed by the City with respect to the Property are due or are paid, or if any such day is not a business day, the next succeeding business day.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

- a. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Agreement.

b. Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

c. Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

d. Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

e. All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

f. If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof except as expressly provided in Section 3.4.

ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund.

The City hereby confirms the creation and establishment of a segregated account in the name of the City designated as the "PowerPay/Portland Public Market Development Program Account" pursuant to, and in accordance with the terms and conditions of, the Development Program.

Section 2.2. Deposits into Account.

There shall be deposited into the Account contemporaneously with each payment of property tax by the Company an amount equal to that portion of the property tax payment constituting Company Tax Increment Revenues for the period to which the payment relates. Any and all revenues, if any, resulting from investment of monies on deposit shall be retained by the City and withdrawn from the Account contemporaneously with payment to the Company.

Section 2.3. Use of Monies in Account.

Monies deposited in the Account shall be used and applied exclusively to fund the City's payment obligation described in Article III hereof.

Section 2.4. Monies Held in Trust.

All monies required to be paid into the Account under the provisions hereof and the provisions of the Development Program, other than investment earnings thereon, shall be held by the City, in trust, for the benefit of the Company.

Section 2.5. Investments.

Any monies in the Account shall be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are at all times invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Account.

Section 2.6. Tax Payments.

The Company shall pay when due all Property Taxes assessed by the City unless contested by the Company by appropriate proceedings pursuant to Maine law. No payments shall be made by the City under this Agreement at any time any such taxes or amounts are due and unpaid.

**ARTICLE III
PAYMENT OBLIGATIONS**

Section 3.1. Captured Assessed Value; Retained Tax Increment.

Annually, the following percentages of Increased Assessed Value shall be retained as Captured Assessed Value and the Tax Increment on such Captured Assessed Value shall be retained as Retained Tax Increment which Retained Tax Increment shall be deposited when received by the City into the Company TIF Account pursuant to the following allocation percentages, in accordance with the provisions of Section 2.2 of this Agreement and the priorities established by 30-A M.R.S.A. § 5227(3)(B), starting with taxes assessed as of April 1, 2010 and continuing for each of the next 29 years, ending with taxes assessed as of April 1, 2039, said percentage being 75 percent for taxes assessed as of April 1, 2010 through and including taxes assessed as of April 1, 2017 and being 50 percent for all remaining years, all as indicated on Tables Nos. 1 and 2, attached hereto as Exhibits.

Section 3.2. Completion of Development Program.

Prior to receiving the first payment under this Agreement, the Company shall provide evidence reasonably satisfactory to the City of the Company's ability to complete the Project in accordance with State law. Reasonably satisfactory evidence shall include the Company's having closed on the financing for the Project.

Section 3.3. Revaluation.

If, at any time during the life of the District, the assessed value of the District increases by reason of a revaluation, the percentage of Retained Tax Increment paid into the Company TIF Account shall be adjusted so that the retained tax increment revenues attributable to such revaluation, after giving due consideration to any change in the tax rate resulting from such revaluation, is eliminated from the calculation of retained tax increment revenues, it being the intention of the parties that any such revaluation shall not result in the increase in the amount of taxes to be deposited into the Company TIF Account.

Section 3.4. Credit Enhancement Payments.

Within thirty (30) days following the end of each Fiscal Year, the City shall pay to the Company all Retained Tax Increment Revenues due the Company and then on deposit in the Company TIF Account. The obligation of the City to make such payment shall be limited obligation payable solely out of monies on deposit in the Company TIF Account and shall not constitute a general debt or obligation on the part of the City or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine or any political subdivision thereof.

Section 3.5. Failure to Make Payment.

In the event the City should fail to, or be unable to, make any of the payments to the Company required under the foregoing provisions of this Article III, the item or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Company shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation establish and maintain the Account and to deposit Company Tax Increment Revenues to the Account and its obligation to make required payment to the Company.

Section 3.6. Manner of Payments.

The payments provided for in this Article III shall be paid in immediately available funds directly to the Company in the manner provided hereinabove for its own use and benefit. Notwithstanding the above, no payments shall be made unless used to satisfy debt service on indebtedness incurred to finance qualified "Project Costs" as that term is defined under Chapter 206 of Title 30-A of the Maine Revised Statutes and as described as part of the Project in the Development Program or used to pay directly, or to reimburse the Company for payment of such Project Costs. The City shall make required payments in response to requests for payment submitted by the Company setting forth the amount of the payment and containing a certification in the form attached hereto as Exhibit B.

Section 3.7. Obligations Unconditional.

Except as otherwise expressly provided in this Agreement, the obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be

absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Company. Notwithstanding the above, the City reserves the right to terminate this Agreement upon a final judgment by a court of competent jurisdiction to the effect that the Agreement or Development Program adopted in connection herewith or any payment made thereunder is or would be illegal or invalid. In such event, the termination shall relate back to the original date of the Agreement which shall be deemed void ab initio, and neither party shall have any obligations or liability hereunder, under the Development Program or in respect of any of the transactions contemplated thereby, and shall be left in whatever positions, financial or otherwise, they may be in as of the date of termination. Such termination shall not, however, affect the Company's obligation to defend and indemnify the City, which obligation shall survive any such termination.

Section 3.8. Limited Obligation.

The City's obligations of payment hereunder shall be limited obligations of the City payable solely from Retained Tax Increment Revenues and any earnings thereon, pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation on the part of the City or a charge against or pledge of the faith and credit or taxing power of the City, but shall be payable solely from the Retained Tax Increment Revenues received by the City, and any earnings thereon. This Agreement shall not directly or indirectly or contingently obligate the City to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the City's obligation to assess property taxes upon the Project and the pledge of the Retained Tax Increment Revenues established under this Agreement.

Section 3.9. Administrative Fee.

The Company shall pay to the City an annual administrative fee to the City equal to 1% of the Retained Tax Increment (net of any penalties) paid by the City to the Company. Such payment shall be made by the City deducting the 1% fee from the Company TIF Payment.

**ARTICLE IV
PLEDGE AND SECURITY INTEREST**

Section 4.1. Pledge of Company TIF Account.

In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Company by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge to the Company the Company TIF Account and all sums of money and other securities and investments therein.

Section 4.2. Further Instruments.

The City and the Company shall, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry

out the provisions of this Agreement, provided, however that no such instruments or agreements shall pledge the credit of the City.

Section 4.3. Liens.

Except as permitted hereunder, the City shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.4. Access to Books and Records.

All books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Account shall at all reasonable times be open to inspection by the Company, its agents and employees.

**ARTICLE V
DEFAULTS AND REMEDIES**

Section 5.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

- a. Any failure by the City to pay any amounts due to Company when the same shall become due and payable;
- b. Any failure by the City to make deposits into the Company TIF Account as and when due;
- c. Other than as provided in paragraph (a) and (b) above, any failure by the City or the Company to observe and perform in all material respects any respective covenant, condition, agreement or provision contained herein on the part of the City or the Company respectively to be observed or performed, including any failure of the Company to use payments made under this Agreement as required in Section 3.6 of this Agreement, which failure is not cured within thirty (30) days following written notice thereof; provided, however, that this subsection (c) shall not be construed to include the Company's failure to pay Property Taxes on the Property in the District for any reason as an Event of Default hereunder; and
- d. If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises shall appoint a conservator or receiver or liquidator for the City, or if any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings for the winding up or liquidation of the City's affairs shall have been entered against the City or if the City shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the City or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the City

or the failure by the City to have a petition in bankruptcy dismissed within a period of 90 consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the City.

Section 5.2. Remedies on Default.

Whenever any Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the non-defaulting party may take any one or more of the following remedial steps: (a) the non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect any amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the non-defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder; and (b) Portland Public Market LLC shall also have the right to exercise any rights and remedies available to a secured party under the laws of the State of Maine. Neither party has the right to terminate this Agreement.

Section 5.3. Remedies Cumulative.

No remedy herein conferred upon or reserved by any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to the remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default or to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

Section 5.4. Enforcement Rights.

The City and the Company agree that each party hereto shall have the right to initiate a legal proceeding to enforce the specific performance of this Agreement, it being understood and agreed that this Agreement is a material inducement to the Company continuing its pursuit of the Project. The parties agree that in the event of any dispute or disagreement hereunder the Company and the City shall continue to make payment of all amounts due hereunder in the manner and at the times specified herein until final resolution of such dispute, whether by mutual agreement or final decision of a court, arbitrator or other dispute resolution mechanism.

ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term.

This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire on the later of the end of the 2039-2040 fiscal year of the City or upon the performance of all obligations on the part of the City and the Company hereunder, including without limitation payment of all amounts to be paid to Company, unless sooner terminated under Section 3.7 or 7.2 hereof.

Section 6.2. Cancellation and Expiration of Term.

At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and the Company shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

**ARTICLE VII
ASSIGNMENT AND PLEDGE OF COMPANY'S INTEREST**

Section 7.1. Consent to Pledge, Collateral Assignment Or Grant of a Security Interest.

The City hereby acknowledges that the Company may pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Company to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment of all the Company's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Company hereunder, to third parties as collateral or security for indebtedness related to the Project, on one or more occasions during the term hereof. The City agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as it may deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2. No Assignment.

Except as provided in Section 8.1, this Agreement and the obligations of the City hereunder are personal to the Company and may not be assigned or transferred by the Company or Tenant without the consent of the City which consent may be withheld for any reason or for no reason; *provided, however*, that the City will not unreasonably withhold, condition or delay its consent to a transfer of the rights of Company hereunder to a subsequent owner of the Property.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Successors.

In the event the City or the Company are dissolved, merged into or consolidated with another entity, or undergo any form of corporate reorganization, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties in Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and the Company any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and the Company; provided, however, that if the payment obligations of the City to the Company hereunder are held by a final and binding proceeding to be illegal or invalid, this Agreement shall terminate. In such event all obligations of the parties shall terminate, and no party shall have any further liability to the other hereunder.

Section 8.3. Severability.

Except as otherwise provided herein, in case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability.

(a) No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity and neither the members of the City Council of the City, or any official, officer, agent, servant or employee of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Company contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future director, member, officer, agent, servant or employee of the Company in his or her individual capacity and neither the directors, members, officers, agents, servants or employees of the Company shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement in all respects.

Section 8.7. Notices.

All notices, certificates, requests, requisitions or other communications by the City or the Company pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, or, for any notice of an Event of Default, by registered or certified mail, return receipt requested, addressed as follows:

If to the City:

City of Portland
389 Congress Street
Portland, ME 04101
Attn: City Attorney

If to the Company:

Portland Public Market LLC
320 Cumberland Avenue
Portland, ME 04101
Attn: Stephen P. Goodrich, Manager
and James D. Goodrich, Manager

With copies to:

PowerPay, LLC
320 Cumberland Avenue
Portland, ME 04101
Attn: Richard Borts, Chief Financial Officer

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments.

Neither this Agreement nor the Development Program may be amended without the express written consent of all of the parties hereto, which consent shall not be unreasonably withheld. Provided, however, the parties agree to amend this Agreement in order to fulfill such reasonable requirement that a lender may require in connection with financing of the Project. This Agreement may only be amended in compliance with the provisions of 30-A M.R.S.A. §5211 et seq., as amended.

Section 8.9. Net Agreement.

This Agreement shall be deemed and construed to be a "net agreement," and the City shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without abatement, or setoffs; provided, it is understood that the City's payment obligations are to be satisfied solely from Retained Tax Increment Revenues actually paid in by the Company and received by the City, and earnings thereon and provided further that the City may offset the administrative fee described in Section 3.9 hereof.

Section 8.10. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and the Company relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.11. Project Responsibility.

The Company and the City agree, and the City hereby acknowledges that the Company shall have no obligation to go forward with the Project referred to herein or in the Development Program. Such Project is subject to final approval by the Company.

Section 8.12. Indemnification.

a. The Company agrees to defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claims and expenses, including its attorney fees, arising out of or associated with the City's approval of the District and its preparation of and participation in this Agreement, including expenses arising from any default hereunder by the Company but excluding any such claims or expenses as may relate to actions or proceedings resulting from a default hereunder by the City. This indemnification obligation shall survive termination of this Agreement or a finding that this Agreement is void or invalid.

b. The City agrees to defend, indemnify and hold harmless the Company, its officers, agents and employees from any and all claims and expenses, including its attorney fees, arising out of or associated with any default hereunder by the City. This indemnification obligation shall survive termination of this Agreement or a finding that this Agreement is void or invalid.

Section 8.13. Waiver of Recapture if Agreement Found Void.

In the event this Credit Enhancement Agreement is found void "ab initio" by a Court of law with final jurisdiction over this Agreement City agrees to waive its rights to recapture all TIF proceeds paid to Company pursuant to this Agreement.

IN WITNESS WHEREOF, the City and the Company have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers or members, as the case may be, all as of the date first above written.

WITNESS

CITY OF PORTLAND, MAINE

Sonia Bean

By: *Joseph E. Gray, Jr.*
Joseph E. Gray, Jr.
Its City Manager

Portland Public Market, LLC
(Company Name)

Richard Bost

By: *James B. Goodrich*
(Print Name)
JAMES B. GOODRICH
Its MANAGER

Exhibit A to Credit Enhancement Agreement

Table No. 1

A Year No.	B Tax Year	C Estimated Increased Assessed Value Retained as Captured Assessed Value	D Allocation of Retained Tax Increment		E
			% to Company	% to City	
1	April 1, 2010	\$5,000,000.	75%	25%	
2	April 1, 2011	\$5,000,000.	75%	25%	
3	April 1, 2012	\$5,000,000.	75%	25%	
4	April 1, 2013	\$5,000,000.	75%	25%	
5	April 1, 2014	\$5,000,000.	75%	25%	
6	April 1, 2015	\$5,000,000.	75%	25%	
7	April 1, 2016	\$5,000,000.	75%	25%	
8	April 1, 2017	\$5,000,000.	75%	25%	
9	April 1, 2018	\$5,000,000.	50%	50%	
10	April 1, 2019	\$5,000,000.	50%	50%	
11	April 1, 2020	\$5,000,000.	50%	50%	
12	April 1, 2021	\$5,000,000.	50%	50%	
13	April 1, 2022	\$5,000,000.	50%	50%	
14	April 1, 2023	\$5,000,000.	50%	50%	
15	April 1, 2024	\$5,000,000.	50%	50%	
16	April 1, 2025	\$5,000,000.	50%	50%	
17	April 1, 2026	\$5,000,000.	50%	50%	
18	April 1, 2027	\$5,000,000.	50%	50%	
19	April 1, 2028	\$5,000,000.	50%	50%	
20	April 1, 2029	\$5,000,000.	50%	50%	
21	April 1, 2030	\$5,000,000.	50%	50%	
22	April 1, 2031	\$5,000,000.	50%	50%	
23	April 1, 2032	\$5,000,000.	50%	50%	
24	April 1, 2033	\$5,000,000.	50%	50%	
25	April 1, 2034	\$5,000,000.	50%	50%	
26	April 1, 2035	\$5,000,000.	50%	50%	
27	April 1, 2036	\$5,000,000.	50%	50%	
28	April 1, 2037	\$5,000,000.	50%	50%	
29	April 1, 2038	\$5,000,000.	50%	50%	
30	April 1, 2039	\$5,000,000.	50%	50%	

Exhibit A to Credit Enhancement Agreement

Table No. 2

Portland Public Market TIF Spreadsheet

TIF Years	Tax Year	Estimated Increased Assessed Value (Cumulative)	Est. Tax Rate (plus 2% per year)	Est. Increased Real Estate Taxes from Captured Value	TIF Revenue to Developer	Revenue to City	Developer Share at 50%	City General Fund at 50%
1	April 1, 2010	5,000,000	0.01809	90,450	75%	25%	67,838	22,613
2	April 1, 2011	5,000,000	0.01846	92,300	75%	25%	69,225	23,075
3	April 1, 2012	5,000,000	0.01883	94,150	75%	25%	70,613	23,538
4	April 1, 2013	5,000,000	0.01920	96,000	75%	25%	72,000	24,000
5	April 1, 2014	5,000,000	0.01959	97,950	75%	25%	73,463	24,488
6	April 1, 2015	5,000,000	0.01998	99,900	75%	25%	74,925	24,975
7	April 1, 2016	5,000,000	0.02038	101,900	75%	25%	76,425	25,475
8	April 1, 2017	5,000,000	0.02079	103,950	75%	25%	77,963	25,988
9	April 1, 2018	5,000,000	0.02120	106,000	50%	50%	53,000	53,000
10	April 1, 2019	5,000,000	0.02162	108,100	50%	50%	54,050	54,050
11	April 1, 2020	5,000,000	0.02206	110,300	50%	50%	55,150	55,150
12	April 1, 2021	5,000,000	0.02250	112,500	50%	50%	56,250	56,250
13	April 1, 2022	5,000,000	0.02295	114,750	50%	50%	57,375	57,375
14	April 1, 2023	5,000,000	0.02341	117,050	50%	50%	58,525	58,525
15	April 1, 2024	5,000,000	0.02388	119,400	50%	50%	59,700	59,700
16	April 1, 2025	5,000,000	0.02435	121,750	50%	50%	60,875	60,875
17	April 1, 2026	5,000,000	0.02484	124,200	50%	50%	62,100	62,100
18	April 1, 2027	5,000,000	0.02534	126,700	50%	50%	63,350	63,350
19	April 1, 2028	5,000,000	0.02584	129,200	50%	50%	64,600	64,600
20	April 1, 2029	5,000,000	0.02636	131,800	50%	50%	65,900	65,900
21	April 1, 2030	5,000,000	0.02689	134,450	50%	50%	67,225	67,225
22	April 1, 2031	5,000,000	0.02743	137,150	50%	50%	68,575	68,575
23	April 1, 2032	5,000,000	0.02797	139,850	50%	50%	69,925	69,925
24	April 1, 2033	5,000,000	0.02853	142,650	50%	50%	71,325	71,325
25	April 1, 2034	5,000,000	0.02910	145,500	50%	50%	72,750	72,750
26	April 1, 2035	5,000,000	0.03027	151,350	50%	50%	75,675	75,675
27	April 1, 2036	5,000,000	0.03087	154,350	50%	50%	77,175	77,175
28	April 1, 2037	5,000,000	0.03148	157,400	50%	50%	78,700	78,700
29	April 1, 2038	5,000,000	0.03210	160,500	50%	50%	80,250	80,250
30	April 1, 2039	5,000,000	0.03274	163,700	50%	50%	81,850	81,850
TOTAL							2,036,775	1,648,475
NPV @8%							\$818,068	

EXHIBIT B to Credit Enhance Agreement

Request for Payment

The undersigned does hereby request payment in the amount of \$_____ from the Development Program Fund and does hereby certify that the amount requested will be used to pay Project costs as that term is defined in Chapter 206 of Title 30-A of the Maine Revised Statutes, as follows: (indicate applicable provisions)

- Debt service on indebtedness incurred to finance project costs contemplated by the Development Program ("Project Costs"), in the amount of \$_____; and/or
- Direct payment of Project Costs in the amount of \$_____; and/or
- Reimbursement to the undersigned for Project Costs previously incurred, in the amount of \$_____.

There are attached hereto invoices showing the incurring by the undersigned of Project Costs in the amount of \$_____. None of these invoices has been the subject of a previous request for payment from the Development Program Fund.

(Company Name)

Date: _____

By: _____
Its

Power Pay TIF - YEARS 1-8 75%/25% DEVELOPER/CITY; YEARS 9-30 50%/50%

TIF PLAN	CITY	REAL	PERSONAL	TOTAL	ORIGINAL	CAPTURED	TAX	PERCENT	PROCEEDS	OAV AND NON-CAPTURED TAXES
YEAR	FY	ESTATE	PROPERTY	ASSESSED	ASSESSED	VALUE	RATE	APPLIED	TO OWNER	TO CITY GENERAL FUND
1	2011	5,723,400	0	5,723,400	1,862,600	3,860,800	0.01792	75	51,889	50,674
2	2012	6,236,600	0	6,236,600	1,862,601	4,373,999	0.01828	75	59,968	54,038
3	2013	6,236,600	0	6,236,600	1,862,601	4,373,999	0.01882	75	61,739	55,634
4	2014	6,236,600	0	6,236,600	1,862,601	4,373,999	0.01941	75	63,674	57,378
5	2015	6,259,500	0	6,259,500	1,862,601	4,396,899	0.02000	75	65,953	59,237
6	2016	6,259,500	0	6,259,500	1,862,601	4,396,899	0.02063	75	68,031	61,102
7	2017	6,259,500	0	6,259,500	1,862,601	4,396,899	0.02111	75	69,614	62,524
8	2018	6,259,500	0	6,259,500	1,862,601	4,396,899	0.02165	75	71,395	64,124
9	2019	6,259,500	0	6,259,500	1,862,601	4,396,899	0.02248	50	49,421	91,292
Total To Date:									561,684	556,002

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: March 26, 2019

SUBJECT: **Order 215-18/19 Amendment to Portland City Code Chapter 6 Re: Rental Housing Advisory Committee - Sponsored by the Housing Committee, Council Jill C. Duson, Chair**

SPONSOR: Housing Committee, Councilor Jill C. Duson, Chair
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 4/8/2019

Final Action 4/22/2019

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation) Mary Davis will be available for questions.

I. SUMMARY

Amendment to City Ordinance Chapter 6 Section 6-225 Rental Housing Advisory Committee membership.

II. AGENDA DESCRIPTION

The Housing Committee met on March 27 and voted 2-0 (Cook absent) to forward this item to the City Council with a recommendation for passage.

Several attempts have been made to recruit members for the Rental Housing Advisory Committee. To facilitate appointments to the committee, amendments to the ordinance have been proposed to clarify legislative intent and to expand the applicant pool for the Rental Housing Advisory Committee. The following amendments to Chapter 6, Section 6-225 are recommended:

1. Pine Tree Legal Assistance and Southern Maine Landlord Association can propose a name for the tenant and landlord legal representatives;
2. The Nominating Committee can move forward without a recommendation from either group if they do not present a name or endorse a candidate that has applied; and
3. The legal representative can live or work in the City of Portland.

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

In August 2018, at the recommendation of the Housing Committee, the City Council approved changes to the composition and duties of the Rental Housing Advisory Committee. The duties of the committee include providing the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City's housing ordinance or policies and identifying educational opportunities, seminars, and materials that would be useful to landlords and tenants.

Under the 2018 amendments, the Rental Housing Advisory Committee will have nine (9) members, who are

Portland residents, appointed by the City Council. Membership includes:

Three (3) members who are landlords

Three (3) members who are tenants

One (1) member who is neither a landlord nor a tenant

One (1) member experienced in legal rights/interests of tenants

One (1) member experienced in legal rights/interests of landlords

The legislative intent was for Pine Tree Legal Assistance (PTLA) to nominate the member experienced in legal rights/interests of tenants and the Southern Maine Landlord Association (SMLA) to nominate the member experienced in legal rights/interests of landlords. However, the current ordinance language does not specify that intent. While attempting to recruit members for the committee, staff recognized that the ordinance language was not specific and that neither PTLA nor SMLA nominated or endorsed applicants for the legal representative position.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

These amendments will clarify the legislative intent for the membership of the Rental Housing Advisory Committee and expand the applicant pool for members with the appropriate legal experience.

V. FINANCIAL IMPACT

No fiscal impact anticipated.

VI. STAFF ANALYSIS AND BACKGROUND

Staff reached out to both PTLA and SMLA to notify each organization that they could submit a name for one of the representatives from their respective communities and also notified them of the positions available for members experienced in legal rights/interests of their communities (tenants and landlords). In addition staff reached out to the Cumberland County Legal Clinic, the Maine Community Law Center and the Volunteer Lawyers Project.

The City Clerk advertised openings to the Rental Housing Advisory Committee beginning November and running through January. After reviewing the applications received, staff determined no applications were received that met the criteria for the members "experienced in legal rights/interests" of tenants and landlords. As these are key members of the Rental Housing Advisory Committee, the decision was made to postpone committee appointments until all positions could be filled.

To facilitate appointments to the committee, the staff is recommending the proposed ordinance amendment .

VII. RECOMMENDATION

Staff recommends passage of this amendment. The Housing Committee met on March 27 and recommended approval by the City Council of this amendment (vote 2-0 Cook Absent)

VIII. LIST ATTACHMENTS

1. Chapter 6-225 Rental Housing Advisory Committee 03.18.2019 (amt)

Prepared by:

Mary Davis, Division Director

Date: 3/26/2019

6-225. Rental Housing Advisory Committee

(a) There is hereby created a Rental Housing Advisory Committee (the "Committee").

(b) The Committee shall be comprised of nine (9) members, including three (3) members who are landlords, three (3) members who are tenants, one (1) member who is not a landlord or a tenant, one (1) member experienced in legal rights/interest of tenants, and one (1) member ~~with~~ experienced in legal rights/interests of landlords.

(1) All members of the Committee, excluding the members experienced in legal rights/interests of tenants and landlords, shall be residents of the City of Portland. The members experienced in legal rights/interests of tenants and landlords shall be either a resident of or work in the City of Portland.
~~and~~

(2) All members shall be appointed by the City Council to serve staggered terms set by City Council order.

(3) The Southern Maine Landlord Association will may submit one name for consideration for the member experienced in legal rights/interests of landlords representative position. If the Southern Maine Landlord Association fails to do so, the City Council may appoint the member without the Association's recommendation or approval.

(4) Pine Tree Legal Assistance will may submit one name for the member experienced in legal rights/interests of tenants representative position. If Pine Tree Legal Assistance fails to do so, the City Council may appoint the member without Pine Tree's recommendation or approval.

(c) The Committee shall be co-chaired by one (1) landlord representative and one (1) tenant representative as agreed to by the members of the Committee.

(d) The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues; and
2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

(Ord. No. 76-16/17, 11-21-2016; Ord. No. 32-18/19, 8-13-2018)