Portland, Maine — Yes. Life's good here.

PORTLAND DEVELOPMENT CORPORATION
Board Meeting

DATE: Thursday, August 20, 2015 **TIME:** 4:00 p.m.
LOCATION: Room 209, Second Floor - Portland City Hall

A G E N D A

1. President's comments.
   a) *Mainebiz – Women to Watch* – See attached article.
   b) Committee formation per enclosed memorandum:
      - Possible Bylaw Amendments
      - DAG Guidelines Review
      - Process for Review of Loan/Grant applications with staff's recommendation to establish a committee to review PEDPIP eligibility criteria.
   c) Committee formation for Annual Awards
   d) Annual Board Meeting September 17, including Officer Appointments
   e) FAME REDLP Grant Application/See FAME Approval Letter Enclosed
   f) Communication: Article Regarding Museum of African Culture/Enclosed

2. Review and accept Minutes of previous meeting held on July 16, 2015.

3. 65 Munjoy Street - Review and recommendation to City Council to authorize the following documents in substantially the form as presented, as well as any other documents approved by Corporation Counsel to effectuate the purpose of the Agreements listed below:
   a) Purchase and Sale Agreement between City and PDC;
   b) Purchase and Sale Agreement between PDC and Adams Apple;
   c) Grant Agreement between PDC (subgrantee) and Greater Portland Council of Governments;
   d) Development Services Agreement between Adams Apple and PDC for the oversight of the environmental remediation work; and,
   e) PDC Corporation Resolution.
   NOTE: The PDC may go into executive session pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119—A to discuss real estate negotiations.

4. Treasurer's Report – July 2015 – Drew Swenson
   a) Monthly Administrative Budget Report
   b) Loan Receivables Report
   c) Cash Management Report
   d) Delinquency Report (Note: Pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119—A, the Board may go into executive session discussion any of the loans listed on the delinquency report.)

5. Other items to be discussed/brought up by Board Directors.

6. Next Meeting Date: September 17, 2015

Barry Sheff, Board President

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Mainebiz
MAINE'S BUSINESS NEWS SOURCE

WOMEN TO WATCH

Mainebiz Women to Watch Reception

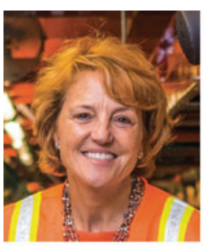
Event information

Date: September 15, 2015
Time: 5:00pm-7:00pm
Location: The Westin Portland Harborview
157 High St, Portland

EVENT REGISTRATION

Congratulations to the Mainebiz 2015 Women to Watch!

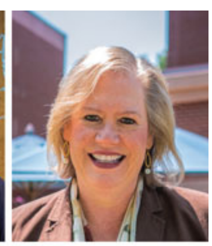
Every year Mainebiz honors Maine's most influential business women. Women who have made a difference in their communities, and who have truly excelled, not only in their professional lives, but as leaders and role models.



Gena Canning
Managing partner, Pine State Trading Co.

Kristen Miale
President, Good Shepherd Food-Bank

Heather Sanborn
Director of business operations, Rising Tide Brewing



Lois Skillings
President and CEO, Mid Coast Health Services

Congratulations to **Gena Canning,** Managing Partner of Pine State Trading Company; **Kristen Miale**, President of Good Shepherd Food Bank; **Heather Sanborn**, Director of business operations and co-owner of Rising Tide Brewing, and **Lois Skillings**, President & CEO of Mid Coast Health Services!

Join us September 15th at the Westin Harborview Hotel in celebration of these four outstanding women!

In addition to a special presentation, guests will enjoy passed hors d'oeuvres, a cash bar, and great face-to-face networking with past and present honorees as well as other business executives. Price of ticket includes 1 free drink!

Help us spread the word! Tweet us @MBEvents and use the hashtag #MBW2W15

Check out the 2015 Women to Watch profiles here

Be sure to register before August 21st to take advantage of the Early Bird discount!

#MBW2W15

Click here to see honorees from previous years

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Portland, Maine Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

To: PDC President Sheff and Board Members

From: Nelle Hanig, Business Programs Manager

Date: August 17, 2015

Re: PDC By-Laws - Recommendation to Establish a Committee to Discuss Possible PDC By-Law Amendments

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OVERVIEW

This memo is in response to a Portland Developmemt Corporation (PDC) Board member expressing an interest in amending PDC By-Laws to possibly address residency and attendance requirements. Currently, the PDC By-Laws do not require Board member residency, employment, or business ownership in the City of Portland. There is also no Board meeting attendance requirement.

An overview of other City of Portland Boards relative to these issues follows:

Portland Planning Board: Must be resident of Portland; no attendance requirement.

Creative Portland Board: Two-thirds of Board members must either reside, work, or own a business in Portland; no attendance requirement.

Portland Historic Preservaton Board: Must be resident of Portland; no attendance requirement.

Portland Land Bank Commission: Must be resident of Portland; no attendance requirement.

Portland Downtown District Board: Must be resident of Portland (with exception of 2 appointments); attendance is required at at least 50% of Board meetings in a fiscal year, or automatically terminated.

RECOMMENDATION

Staff recommends establishment of a PDC Board committee to consider whether any modifications to the PDC By-Laws are warranted.

Attachment: PDC By-Laws

BYLAWS OF PORTLAND DEVELOPMENT CORPORATION

ARTICLE 1
NAME, PRINCIPAL OFFICE, CORPORATE SEAL

Section 1.1. Name. The name of this corporation shall be the Portland Development Corporation.

Section 1.2. Principal Office. The principal office for the conduct of the activities of the corporation shall be located at Portland City Hall, 389 Congress Street, Portland, Maine.

Section 1.3. Corporate Seal. The corporate seal of the corporation shall be circular in form and shall bear the words and figures "Portland Development Corporation," the word "Maine" and the year of the corporation's incorporation. The form of such seal may be altered from time to time by the Board of Directors.

Section 1.4. Registered Office. The Registered Office of the Corporation is at 389 Congress Street, Portland, Maine. The address of the Registered Office may be changed from time to time by the Board of Directors or by the Registered Agent.

Section 1.5. Registered Agent. The Registered Agent of the Corporation is the person designated in the Articles of Incorporation, as amended from time to time by the Board of Directors.

ARTICLE II
PURPOSES

Section 2.1. General Purposes. The Corporation is organized and shall be operated on a non-profit basis to receive donations and contributions in support of the City of Portland economic development efforts that enhance and create business and employment opportunities including:

A. Implement and administer economic development programs which enhance business opportunities in the City of Portland and combat community deterioration;

B. Enhance employment opportunities for members of the Portland community by offering education and counseling services which support businesses in the City of Portland, thereby lessening the burdens of government;

C. Make recommendations to the City Council with respect to, but not limited to, bond and tax increment financing and the management, acquisition, disposal and general land use of City of Portland property;

D. Refer requests to acquire property via eminent domain to the City Council; and

E. Acquire, hold, own, manage, dispose or liquidate property, upon City Council approval, for the purpose of advancing economic development and promoting employment opportunities in the City of Portland;

Section 2.2. Powers. This Corporation shall have all such powers as are authorized to non-profit corporations by the Maine Nonprofit Corporations Act. The corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended.

Section 2.3. Prohibition of the Inurement of Assets and Income to Private Persons. The corporation is not organized for pecuniary profit and shall not have any capital stock. No part of its net earnings or of its principal shall inure to the benefit of any officer or director of the corporation, or any other individual, partnership or corporation, but reimbursements for expenditures or the payment of reasonable compensation for services rendered shall not be deemed to be a distribution of earnings or principal.

Section 2.4. Dissolution. If this Corporation is dissolved or its legal existence terminated, either voluntarily or involuntarily, or upon final liquidation of the Corporation, none of its assets shall inure to the benefit of any private individual, and all of its assets remaining after payment of all of its liabilities shall be distributed to one or more organizations which the Board of Directors then determines is qualified both as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as an organization engaged in activities substantially similar to those of this Corporation (within the meaning of 13-B M.R.S.A. §407).

Section 2.5 Tax exempt Status. It is intended that the Corporation shall have and continue to have the status of a corporation which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended, or successor provisions of federal tax law (the "Internal Revenue Code") as an organization described in Section 501(c)(3) of such Code, and to which contributions are deductible under Section 170(c)(2) and 2055(a)(2) of the Internal Revenue Code which is other than a private foundation as defined in Section 509(A) of the Internal Revenue Code. The Articles of Incorporation and these Bylaws shall be construed accordingly, and all powers and activities shall be limited accordingly.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; provided that the Corporation shall have the power to make an election under Section 501(h) of the Internal Revenue Code. Likewise, the Corporation shall not participate or intervene in any manner or to any extent in any political campaign on behalf of any candidate for public office. Furthermore, the Corporation shall not engage in any activities that are unlawful under applicable federal, state or local laws, including, but not limited to, activities prohibited for an exempt organization under Section

501(c)(3) of the Internal Revenue Code and regulations thereunder as they now exist or as they may hereafter be amended.

ARTICLE III
MEMBERSHIP

Section 3.1. Member. The sole member of the Corporation shall be the City of Portland, Maine. The sole member of the Corporation shall be referred to as the "Corporator" for the purposes of the Articles of Incorporation and these Bylaws.

Section 3.2 General. In addition to the other powers of the Corporator listed in Section 3.3 hereof, the Corporator shall have the responsibility for the election of the Board of Directors of the Corporation, which Board has the ultimate responsibility for governing the Corporation. The rights and responsibilities of the Corporator, may be changed from time to time by an amendment to the Articles of Incorporation (to the extent required by law) and by these Bylaws.

Section 3.3. Powers. The Corporator shall have only those rights set forth in the Articles of Incorporation, as restated in these Bylaws. Such rights are as follows:

A. The establishment of the size of the Board of Directors within the limits described in Section 4.2 hereof;

B. The election of Directors pursuant to Article IV hereof, with the exception of filling of a vacant Board seat as provided in Section 4.5 hereof;

C. The removal of Directors from the Board of Directors;

D. The amendment, restatement, or modification of the Articles of Incorporation or of the Bylaws of this Corporation;

E. The approval of the sale, lease, or other disposition (excluding by mortgage or pledge for purposes of security) of all, or substantially all, of the assets and property of the Corporation;

F. The dissolution of the Corporation or its merger with or consolidation with another corporation; and

G. Any other matter which a majority of the Board of Directors voting on the matter votes to submit to the Member.

Section 3.4 Annual Meetings. The Annual Meeting of the Corporator shall be held on such day in the month of September of each year at such place and time as shall be fixed by the Board of Directors. In the event of a failure for any reason to hold an Annual Meeting as aforesaid, any business which may properly be transacted at an Annual Meeting, including the election of Directors, may be transacted at a Special Meeting.

Section 3.5 Special Meetings. Special Meetings of the Corporator may be called at any time by the President or a majority of the Directors.

Section 3.6. Notice of Meetings. Notice of all meetings of the Corporator shall be given by the Secretary or in his or her absence or disability by the President, by mailing or emailing to the Corporator a written notice specifying the time and place of the meeting, such notice to be addressed to the Corporator and emailed or mailed (postage prepaid) at least five (5) but not more than fifty (50) days before the meeting.

Section 3.7. Action by Unanimous Consent. Any action required or permitted to be taken at a meeting of the Corporator may be taken without a meeting as long as consent in writing, setting forth the action so taken shall be signed by the Corporator, and filed with the minutes of the meetings of the Corporator.

Section 3.8. Manner of Acting. The act of the Corporator, present in person or by proxy at a meeting, shall be the valid act of the Corporator.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1. Management by Board. The affairs of the Corporation shall be managed by its Board of Directors, which may exercise all powers of the Corporation and do all lawful acts and things necessary or appropriate to carry out the purposes of the Corporation.

Section 4.2. Number of Directors; Eligibility. The Board of Directors shall consist of eleven (11) individuals, nine (9) of whom shall be Directors appointed by the Corporator through the Portland City Council and two (2) of whom shall be ex officio members of the Board pursuant to Section 4 of this Article.

Section 4.3. Nomination. The Corporator shall receive nominations from the Portland City Council Appointments Committee, which shall supplement its regular Committee recruitment efforts by advertising in the local media and by otherwise publicizing the vacancies as widely as possible.

Section 4.4. Ex Officio Members of the Board of Directors. There shall be two (2) individuals who shall each be deemed an ex officio member of the Board of Directors by virtue of his or her holding the position of (1) Mayor or City Council member of the City of Portland as appointed by the Corporation; and (2) City Manager of the City of Portland.

The provisions of these Bylaws contained in Section 5 regarding term of office, Section 3 regarding nomination of directors and Section 7 regarding vacancies shall not apply to said ex officio members. The City Manager shall be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and the Mayor or City Council member shall be appointed annually; and said members shall enjoy all the rights, privileges and responsibilities of all other member of the Board of Directors, including, without limitation, voting privileges, except, however that no ex officio member may serve as President of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex officio member. Ex officio members shall be counted as Directors for purposes of determination of residency requirements in Section I of this Article. Ex officio members shall be entitled to the same indemnification rights available to all Directors under the law, these Bylaws or otherwise.

Section 4.5. Terms of Office. One (1) Director shall be initially appointed by the Corporator to hold office until the Second Annual Meeting of the Corporation following the incorporation of this Corporation; two (2) Directors shall be initially appointed by the Corporator to hold office until the Third Annual Meeting of the Corporator following the incorporation of this Corporation; and two (2) Directors shall be initially appointed by the Corporator to hold office until the fourth Annual Meeting of the Corporation following the incorporation of this Corporation. The Corporator shall specify the term of office for which each Director is initially appointed. Thereafter, Directors shall be appointed by the Corporator at Annual Meetings of the Corporation to serve as such for a term of three (3) years. Each Director shall serve until his or her successor shall be duly qualified and appointed. Directors shall be nominated prior to the Annual Meeting of the Corporation. No Director shall succeed himself or herself for more than two (2) full consecutive terms, provided that no term of less than three (3) years which is served directly in advance thereof shall be counted for purposes of this limitation.

Section 4.6. Voting. Each Director shall be entitled to one (1) vote.

Section 4.7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the Corporator by appointment of an individual qualifying and eligible for such position. A person appointed to fill a vacancy which occurs other than by reason of an increase in the number of Directors shall serve until the next Annual Meeting of the Corporator.

Section 4.8. Resignation. Any Director may resign at any time by giving written notice to the President of the Corporation. Such resignation shall take effect on the date of receipt or at any later time specified therein.

ARTICLE V
MEETINGS

Section 5.1. Annual Meeting. The Annual Meeting of the Board of Directors shall be held without call at the Board's Regular Meeting in the month of September, at the principal office of the Corporation or at some other place fixed by the President.

Section 5.2. Regular Meeting. Other Regular Meetings of the Board of Directors may be held, without call, at such place, date and time as shall be fixed from time to time by resolution of the Board of Directors.

Section 5.3. Special Meetings. Special Meetings of the Board of Directors may be called by such persons as are authorized by law to call Special Meetings. The place, date and time of the Special Meeting shall be fixed in the call therefor.

Section 5.4. Notice of Meetings. Notice of each Annual, Regular or Special Meeting of the Board of Directors shall be given by the person or persons calling the same or by the President or Secretary at least three (3) days in advance thereof. Notice may be given in writing, by email, by telephone, by oral statement or by any other means to the Directors in person or by delivery of a writing to the Director's residence or business address. Notice given in writing by mail shall be deemed given on the day that the same is deposited in the U.S. mails as first class mail, postage prepaid. Neither the business to be transacted thereat, nor the purposes of any Annual, Regular or Special Meeting of the Board of Directors need to be specified in the notice of such meeting, except when otherwise provided by law.

Section 5.5. Conduct of Meetings. The final actions of the Board of Directors shall be taken openly, and subject to provisions of the Maine Freedom of Access Act, deliberations of the Board shall be conducted openly, and the records of their actions shall be open to public inspection.

Section 5.6. Quorum. Six (6) Directors shall constitute a quorum for the transaction of business. The act of at least four (4) of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors.

Section 5.7. Informal Action by Directors. Action of the Directors may be taken in accordance with the provisions of Section 708 of the Maine Nonprofit Corporations Act, Title 13-B M.R.S.A. In amplification of, and not in limitation of the foregoing, action taken by agreement of a majority of Directors shall be deemed action of the Board of Directors if all Directors know of the action taken and no Director makes prompt objection to such action. Objection by a Director shall be effective if written objection to any specific action so taken is filed with the Secretary of this Corporation within thirty (30) days of such specific action.

Section 5.8. Notice. Whenever under the provisions of the statutes, Articles of Incorporation or these Bylaws notice is required to be given to any Director, such notice must be given in writing by personal delivery, by email, mail, or by telephone, addressed to such Director at his or her address as it appears on the records of the Corporation, with postage or other delivery fees prepaid, or at his or her telephone number as it appears on the records of the Corporation. Notice by mail shall be deemed to be given at the time it is deposited in the United States mail.

Section 5.9. Indemnification. This corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, officer, employee or agent of this corporation, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. §714 as it may be amended from time to time, and acts additional thereto and supplementary thereof, to which reference is made.

ARTICLE VI
OFFICERS AND AGENTS

Section 6.1. Officers. The officers of the corporation shall be chosen annually at the Annual Meeting of the Board of Directors, and shall be a President, a Treasurer and a Secretary. One individual may serve in more than one such office. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers.

Section 6.2. Term. Officers shall be elected for a term of one (1) year to serve until the next Annual Meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years. The initial officers shall be appointed by the Board of Directors at their first meeting following incorporation to serve as such until the first Annual Meeting of the Board of Directors.

Section 6.3. Removal. Any officer of the corporation may be removed by the Board of Directors whenever in their judgment the best interests of the corporation will be served thereby.

Section 6.4. Vacancies. Any vacancy in any office (except the office of Director) may be filled by the Board of Directors.

Section 6.5. President. The President of the Corporation shall be elected from among the members of the Board of Directors, provided however that no ex officio member may be permitted to serve as President.

Section 6.6. Treasurer. The Treasurer shall be the chief financial officer of the corporation and, together with the Assistant Treasurer, shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be.

Section 6.7. Secretary. The Secretary shall attend all meetings of Corporation and the Board of Directors and keep minutes of all meetings of the Corporation and the Board of Directors in a book or books kept for that purpose. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. The Secretary, and any Assistant Secretaries, shall have authority to affix the corporate seal to any instrument which requires it, and when so affixed, it may be attested by the Secretary or by any Assistant Secretary.

Section 6.8. The Assistant Treasurer and Assistant Secretary. One (1) Assistant Secretary shall be appointed by the Board of Directors. The individual appointed Assistant Secretary shall be the Director of Economic Development Department of the City of Portland and shall be the principal staff person for the Corporation. The Assistant Secretary will have authority to execute documents on behalf of the Corporation should a Board officer not be available to do so. One (1) Assistant Treasurer shall be appointed by the Board of Directors. The individual appointed as the Assistant Treasurer shall be that individual who holds the position of Treasurer for the

City of Portland. The Assistant Treasurer shall, together with the Treasurer, have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Assistant Treasurer shall have such other powers and duties as may be prescribed from time to time by the Board of Directors. Assistant Secretaries and Assistant Treasurers shall not be members of the Board of Directors.

Section 6.9. Other Employees. Other employees of the Corporation may be appointed by the Board of Directors, and if so appointed, shall be supervised by, and shall serve under the direction of the Assistant Secretary.

ARTICLE VII
ADOPTION, AMENDMENT

Section 7.1. Generally. These Bylaws may be amended or repealed or new Bylaws adopted only by the affirmative vote of the Corporator, provided, however, that the Bylaws may not be amended in such a way as to cause the Corporation to lose its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended, or (iii) as a corporation described in Section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, as amended.

Section 7.2. Amendments. These Bylaws may be amended solely by the Corporator.

ARTICLE IX
CONFLICT OF INTEREST

Section 8.1. Avoidance of Conflict or the Appearance of such Conflict. Every Director shall endeavor to avoid conflicts of interest or the appearance of such conflicts or impropriety as provided by state statute, by full disclosure at all times and by abstention in the appropriate circumstances.

Section 8.1. Disclosure. Any Director who has a direct interest in any matter to be considered by the Board shall fully disclose that interest to the Board. If a Director is unsure whether a direct interest exists in a particular matter or if the issue is otherwise raised in good faith, the Director shall disclose the pertinent facts to the Board, and the Board shall determine the issue.

Section 8.3. Abstention. When the Director has so disclosed and is deemed to have a direct interest in a matter, the Director shall abstain from voting on the matter and from otherwise participating in the decision-making process on the matter. Notation of the disclosure and abstention of the Director shall be recorded in the minutes.

Section 8.4. Direct Interest. For purposes of this Article, direct interest in a matter shall mean:

A. A substantial financial interest of the Director or of the spouse or dependent child of the Director;

B. A substantial financial interest of any employer, partner, associate, co-shareholder or other co-venturer of the Director;

C. A substantial financial interest of the Director in any entity which has a substantial financial interest in the matter; or

B. Any other substantial interest of the Director which the Director or the Board believes might reasonably impair the Director's ability to act independently.

ATTEST:

Gregory A. Mitchell

Gregory A. Mitchell DATE: October 28, 2011
Assistant Secretary

Economic Development Department
Gregory A. Mitchell, Director

To: PDC President Barry Sheff and Board Members

From: Nelle Hanig, Business Programs Manager

CC: Greg Mitchell, Economic Development Director

Date: August 14, 2015

RE: Development Action Program Recommendation to Establish a Committee to Update Program Guidelines

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OVERVIEW

Over the last few years, issues have been raised regarding the Portland Development Action Program that provides grant assistance for public infrastructure. The acronym for this part of the program is known as DAG, short for Development Action Grant. (The other component of the Program is for loan assistance through bond issues to stimulate major development projects on the Peninsula, and used only once to assist the Maine College of Art with acquisition of the school's building on Congress St.)

The purpose of this memo is to present to the PDC a range of issues for consideration relative to possible modifications/updates to the DAG section of the Program. Some years ago, the loan guidelines also received review. Modifications to ensure they were meeting the needs of Portland businesses were recommended to the Council, which it approved. Staff is recommending that a PDC committee review the Development Action Program guidelines as they pertain to infrastructure grants, to determine whether they are fine as they are or if there are opportunities to improve the program's effectiveness to incent private investment in development and job creation.

The intent of both components of the Development Action Program (grants and loans) as expressed in the guideline objectives is as follows:

- Encourage major rehabilitation of prominent buildings;
- Promote new construction in support of job retention and creation;
- Expand worker and shopper populations in commercial and mixed use districts;
- Create incentives for private investment in commercial districts.

DAG ISSUES FOR CONSIDERATION

The PDC is welcome to consider the following DAG issues and any others that may be of interest.

Public Infrastructure Definition

Throughout the guidelines the term "public infrastructure" is used. For example, the program goal related to the grants states "Provide public infrastructure grants in support of private commercial developments on the

Peninsula." Does the definition of public infrastructure mean city-owned infrastructure or does it also include infrastructure owned by public utilities? When development projects need financial assistance with infrastructure, should the purpose of the DAG be to assist with both city-owned and public utility-owned infrastructure? If so, then the term "infrastructure in the public right-of-way" might better describe the uses that are eligible for a DAG, whether it be City-owned (e.g., sewer, sidewalks, trees, streetlights) or utility-owned (e.g., electric, water and natural gas lines, fiber optic cable). To date, the vast majority of approved grants have been for City-owned infrastructure, with just a few for infrastructure owned by public utilities. As times change and new technologies becomes vital to businesses, such as fiber optic cable, does such infrastructure merit a City grant? With respect to City code, there are an increasing number of development projects that are being required to have sprinkler systems, which often require new water lines from a main.

Multiple Users of Grant Funded Infrastructure
In previous PDC discussions, some have expressed a concern that DAG funded infrastructure should be anticipated and able to serve more than just the applicant seeking the grant. This is not an issue when grant assistance is requested for on the ground infrastructure such as sidewalks, streetlights and trees. However, when requests are for funding infrastructure such as sewer, water and electric power lines, there is the potential that it may serve just the applicant. Currently, there is no language in the guidelines that requires more than one entity be served by infrastructure that will receive DAG assistance.

City Requirement for Infrastructure Improvement
Currently, the guidelines require that in order for infrastructure improvements to receive DAG assistance, the infrastructure should be required by the Planning Authority (Planning Board or Director of the Planning and Urban Development Department). While large projects generally require Planning review, smaller ones, such as those that will undergo interior fit-up below 10,000 sf, would not. Those projects would, however, still need to meet City codes. For example, a recent DAG assisted with the installation of a water line from the main to support a sprinkler system, as was required by the City's Fire Inspector. Yet a different situation is with telecommications infrastructure, such as fiber optic cable. It would rarely, if ever, be required by any agency at the City or State level, however, would it be worthwhile to provide infrastructure grants to help companies gain access to fiber optic cable.

Location Eligibility
The guidelines specify that projects be located on the Peninsula. This focus on the Peninsula was the result of a change to the guidelines back in 2011. Prior to that change, projects were eligible only if they were in the 1) Downtown District, 2) Downtown or 3) On or in close proximity to the Peninsula and is a commercial development important to the stability of the downtown. Given that brick sidewalks were being required everywhere on the Peninsula, that likely contributed to the judgement to expand the Development Action Program beyond the Downtown. Also, it was challenging to determine eligibility based on Item 3. The issue for the PDC's consideration is whether it would be of value to expand the program to include other areas of the City, the entire City or keep the program focus on the Peninsula.

Needs Test for DAG Funding
Past PDC discussions have also touched on whether to require a financial needs test for an infrastructure grant. If a needs test were of interest to the PDC, one option would be to use particular financial criteria from a grant applicant to determine need. Another option, used by the State, is to require a "but for" letter signed by a company seeking financial benefits through a particular program. The letter states that the project could not go forward but for the program's financial assistance. It is essentially an honor system. If the company signs the letter, that is considered sufficient to meet the needs test.

Attachments: Current Development Action Program Guidelines

Portland Development Action Program

As amended by Portland City Council on 7/15/02.
As amended by Portland City Council on 10/17/11.

Program Goal

- Provide public infrastructure grants in support of private commercial developments on the Peninsula; and,

- Provide loan assistance through bond issues for project specific development activity to stimulate major development on the Peninsula and improve the area's regional competitiveness.

Program Objectives

- Encourage major rehabilitation of prominent buildings;
- Promote new construction in support of job retention and creation;
- Expand worker and shopper populations in commercial and mixed use districts ;
- Create incentives for private investment in commercial districts.

Program Description

This program is designed to encourage economic development in commercial districts on the Peninsula by providing grants for needed public infrastructure and/or loans to projects meeting program criteria. Projects may be eligible for both components of this program. This program will improve the economic feasibility of significant commercial projects on the Peninsula, but not where a project's unfeasibility is the result of self-created economic hardship.

> Development Action Grant: Public infrastructure improvements required as part of a project, such as sewer and storm water lines and new sidewalk construction.
>
> Project-Specific Bond Issue: Authorization of bonds to provide loans to enhance the competitiveness of an eligible project or projects. The City Council will receive recommendations from the Portland Development Corporation (PDC) for projects and funding levels. The City Council will then review the project, modify or approve the recommended funding level, and authorize the bonds, which may include a referendum vote. Loan terms are to be negotiated on a project-by-project basis.

Project Threshold Requirements

1. The project is located on the Peninsula;

2. The requested loan amount generally is no more than 25% of the total project cost; or the requested grant amount does not exceed 50% of the cost of the public

improvements as required by the Planning Authority, or $25,000, whichever is less. [City Council approved this amendment on 7/15/02.]

3. The project applicant and project property owner (if not the applicant) must owe no outstanding property taxes, fees, judgments, or liens to the City.

Eligible Entities

Sole proprietorships, partnerships, limited liability companies, and corporations which own, lease, or rent commercial property within the program boundaries and are seeking to:

1. Develop or redevelop private commercial property on the Peninsula;

2. Prepare space for lease to new or existing businesses.

Eligible Activities

1. Land and building acquisition, new construction, renovation, improvement, reconstruction, or restoration;

2. Soft costs related to a larger project including architectural, engineering, legal, accounting, and other professional services;

3. Equipment purchase;

4. Public infrastructure construction or reconstruction specific to a project.

Ineligible Activities

Ineligible activities include, but are not limited to,

1. Refinancing existing debt;

2. Working capital;

3. Speculative acquisition; and

4. Financing for work already underway or contracted for prior to PDC approval of public funding.

Application Review Criteria

The PDC, with assistance from the Economic Development Division, will review project proposals to determine eligibility and negotiate with applicant(s) to determine the least amount of public resources necessary to make the project(s) feasible. In the case of a project-specific bond issue, the PDC will recommend projects and funding levels to the City Council for approval. The Council may, from time to time, instruct the PDC to solicit proposals in anticipation of available funding.

Project review will include, but not be limited to, the following:

- Has a positive impact on creating or retaining jobs and businesses on the Peninsula;
- Private investment, relative to public dollars, is maximized;
- Necessity of public funds to make the project economically feasible;
- Project has a high potential for economic success;
- Return on public investment in the form of property taxes or, in the case of a tax exempt entity, fees in lieu of property taxes; and, when applicable, appropriate profit-sharing commensurate with the City's risk and investment level;
- Highest level of lease or occupancy commitments;
- Prior to closing on any City loan funds or appropriation of grant funds, the City must see in place all private investment, leases, ownership of land with marketable title, any other grant funds necessary to the project, and other requirements determined by the City to be necessary.

The following information will be required for consideration of a funding request:

1. Development Action Program application;
2. Statement of project scope, including relevant plans and specifications ;
3. Option on land, title opinion letter, or lease agreement;
4. Letters of commitment for all financing spelling out terms and conditions;
5. Pro forma construction and operating budgets;
6. If applicable, letters of intent from prime tenants to lease with rates and terms;
7. Any available market data demonstrating project economic feasibility including, if necessary, appraisals; and,
8. Appraisals to determine the value of real estate when those assets are securing the loan.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: President Barry Sheff and PDC Board Members

FROM: Nelle Hanig, Business Programs Manager

CC: Greg Mitchell, Economic Development Director

DATE: August 14, 2015

RE: Staff Process from Intake to Presentation of Loan and Grant Requests; Recommendation to Establish a Committee to Update PEDPIP Program Guidelines

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OVERVIEW

This memo is in response to a PDC board member's request to better understand the staff process from intake of grant and loan requests to determination of eligibility and ultimately presentation to the PDC Board. Most often the process begins with staff receiving an email, phone call or walk-in from someone inquiring about a particular program.

From that starting point, Nelle, who handles intake for the programs, usually meets with the potential applicant to learn more about the project. The determination of eligibility is based on the specific program guidelines, PDC policies, and often discussions with Greg Mitchell and Vin DiCara (the City's consulting underwriter). For those that staff determines to be eligible, Nelle provides guidance to the applicant on the materials that are needed for the City's review and compiles them as they are submitted. In the case of BAP grant requests and loan requests, the materials are provided to the consulting underwriter for review. Subsequently, a staff summary memo and underwriter's report is presented to the PDC Board for its consideration. For several of the grant programs that do not require underwriting, the Board receives a staff memo with appropropriate attachments.

LOANS

Staff filters all loan requests, often receiving input from the consulting underwriter and oversight from the Finance Authority of Maine for projects that may be eligible for State Small Business Credit Initiative (SSBCI) and Regional Economic Development Revolving Loan Program (REDRLP) funds. The applicant's ability to support the debt and repay the loan are crucial. However, problematic credit history, insufficient collateral and, to some extent, insufficient equity are not issues for which staff would turn away a loan request out of hand. As the City is a community lender, staff 's perspective is that the City's Revolving Loan Programs exist to provide more flexibility for those that don't have a stellar history or situation, but have a gap in bank financing or are not presently bankable at all. Applicants that are discouraged are often not ready for business loans having no business plan or financial projections to support the request.

GRANTS

The PDC grant programs for which inquiries are received include the Business Assistance Program for Job Creation (BAP), the Portland Economic Development Plan Implementation Program (PEDPIP) and the Development Action Program (DAG) providing grants for public infrastructure. For most PDC loan and grant requests, determining eligibility is fairly straightforward, with the exception of PEDPIP, which is the most challenging.

BAP: In the case of **BAP,** for which the guidelines have specificity, eligibility becomes clear once staff has gained an understanding of the project. For example, if only seasonal rather than full-time jobs will be created, or a job will only be created for the owner of the business, or the business is not located in Portland, then staff explains to the business owner the pertinent guideline(s) and why the project is not eligible. Often a link to the program on the City's website and/or a hard copy of the guidelines are provided, should business conditions change, making it eligible at some point in the future. It is noted that a policy recommended by staff, that received consensus from the board, is applied when applications are received from restaurants and bars. That policy is to not provide $10,000 grants to businesses for tipped positions (i.e., waiters and bartenders). The reason being that a business owner pays well below minimum wage for such positions, and therefore a $10,000 grant is difficult to justify.

If staff is presented with an unusual situation in which eligibility isn't clear and has a need to understand the pertinent federal guidelines, since the Community Development Block Grant (CDBG) is the source for BAP funding, the City's CDBG staff are consulted. If the project is then determined to be eligible, staff requests an application with required back up materials from the applicant. These materials are provided to Vin DiCara for underwriting to determine the project's financial feasibility and potential sustainability, and the likelihood of its creating the jobs proposed. He then prepares a report for the PDC Board, staff prepares a summary cover memo and these materials are presented to the Board for its consideration. It is noted that in instances where Nelle has viewed project materials for a start-up and feels that the project is more than a year away from job creation, she will discuss it with Greg Mitchell and/or Vin Dicara. If there is agreement on this point, then the staff concern is explained to the applicant, who is encouraged to return at a later date when the project is farther along.

DAG: A similar process is used for potential applicants for **DAG,** with a few exceptions. If there is a question about eligibility, Nelle will research the issue based on previous DAGs that were approved and then discuss it with Greg for a final determination on whether the project meets the straight face test for eligibility. Sometimes the question rests on whether the infrastructure is deemed to be under public ownership. It is noted that staff is recommending the PDC Board establish a committee to update DAG Program Guidelines per its memo to the Board dated August 14, 2015.

PEDPIP: For **PEDPIP** requests, the program guidelines, the Portland Economic Development Vision and Plan as well as the current Work Plan, and PDC policies are used to determine eligibility. PEDPIP grant requests are the most challenging with respect to determining eligibility. The PEDPIP guidelines, which are fairly general, include:

The purpose:

> … to fund planning studies and other "soft" costs associatied with economic development projects and programs that advance the initiatives spelled out in the plan [Portland Economic Development Vision and Plan].

Eligible applicants:

Not-for-profit and public entities that are working to implement the City of Portland's Economic Development Plan with direct benefit to the City.

Eligible activities:

- Planning that evaluates economic development opportunities;
- Business recruitment activities that focus on targeted industries;
- Marketing plans/strategies for the city;
- Programs that enhance the climate in downtown business districts and access to them.

With respect to PDC policy, when the PEDPIP guidelines were written, a view that brought consensus among PDC board members was that a program grant could be used to seed an eligible project but not be used for sustained/repeat funding.

Requests to fund events are particularly challenging. East year, there are hundreds of events in Portland presented by non-profits that promote the City and may enhance the downtown climate. The questions that staff considers include: is the request for seed money for a new event, does the event provide direct benefit to the City, and does it advance the initiatives spelled out in the Plan? If the event has previously received a PEDPIP grant, and/or been held in Portland before then is it really seed money being requested or sustaining support? On this point, staff has viewed it to be sustaining support and considered it not eligible for funding. For each PEDPIP grant request, Nelle and Greg have an eligibility discussion, and on some of the most difficult to determine, input is requested from the PDC Board President.

SUMMARY/RECOMMENDATION

Eligibility is relatively clear for PDC loan and grant programs with the exception of PEDPIP, which presents challenges. Staff recommends that a PDC Committee take up the issue of clarifying eligibility for PEDPIP whether through guideline modifications or policies. It is noted that there is a total of **$52,130** in available funds for PEDPIP grant requests in FY2015-2016 (July 1, 2015 – June 30, 2016). This represents the cap that was approved by the PDC and the City Council. The PEDPIP cap equals 10% of the PDC's Unrestricted Funds, determined at the beginning of each fiscal year (July 1st).

Attachment:

Current PEDIP Guidelines

Portland Economic Development Plan
Implementation Program (PEDPIP)
Program Guidelines

Description

This Program provides grant monies to invest in economic development projects and programs that carry-out Portland's Economic Development Vision and Plan. Its purpose is to fund planning studies and other "soft" costs associated with economic development projects and programs that advance the initiatives spelled out in the Plan. The Grant Program does not invest in "hard" costs for public infrastructure or private development projects. Its focus is on expenditures for economic development projects and programs.

Objectives

- Facilitate the expansion of industry sectors with high value/high job growth potential;
- Support job creation and retention;
- Facilitate opportunities for start-ups and expansion of small businesses;
- Enhance the City's image as a center for innovation, entrepreneurship and business growth; and
- Strengthen the economic health and vitality of commercial districts.

Eligible Activities

- Planning that evaluates economic development opportunities;
- Business recruitment activities that focus on targeted industries;
- Marketing plans/strategies for the City;
- Programs that enhance the climate in downtown business districts and access to them.

Funding Requirements

- Maximum grant request is $15,000;
- Grants must be matched by an equal or greater dollar amount from funding sources other than the Portland Development Corporation.

Funding Source

- The Portland Development Corporation (PDC) will utilize up to 10% of its Unrestricted Funds to fund PEDPIP grants. This 10% will be set at the beginning of each fiscal year (or July 1) to determine that year's amount to be allotted for PEDPIP grants.

Eligible Applicants

Not-for-profit and public entities that are working to implement the City of Portland's Economic Development Plan with direct benefit to the City.

Application and Approval Process

Submit applications to the City's Economic Development Department, City Hall, Room 308. The Portland Development Corporation reviews and approves all qualified grant requests.

FAME
FINANCE AUTHORITY OF MAINE

July 29, 2015

Gregory A. Mitchell, Director
City of Portland
389 Congress Street
Portland, ME 04101

RE: Regional Economic Development Revolving Loan Program - Award Notification

Dear Mr. Mitchell:

Congratulations! On behalf of the Finance Authority of Maine ("FAME"), I am pleased to inform you that City of Portland has been approved for $600,000 in new funding under the Regional Economic Development Revolving Loan Program ("REDRLP" or the "program") for use in connection with your agency's REDRLP revolving loan fund.

In determining REDRLP award amounts, FAME took several factors into account:

In the 2015 round of proposal solicitations, FAME received 15 applications seeking a total of $12,300,000 in funding. Of the 15, 14 agencies were approved for funding from State bond proceeds in the amount of $8,000,000.

FAME sought to secure the broadest possible distribution of REDRLP funds to eligible agencies, making sure that businesses in every area of the State would have access to these funds.

FAME awarded funds based on: the population of each applicant's service area; the applicant's level of utilization of prior loan funds under the program (if applicable); the amount of new funding requested by the applicant; as well as any overlap or duplication of geographic region or sub-region.

Upon receipt of signature on the enclosed addendum to the Disbursement and Pledge Agreement by an authorized official of City of Portland, you may begin to request funds for REDRLP loans under this new allocation. (Agencies with funds remaining from prior allocations should use those allocations first.) The recent statutory changes to the program and the amendment to the REDRLP Rule (Chapter 314 of FAME's Rules) are effective as of June 30, 2015.

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Also enclosed is a complete list of the organizations awarded funds under the 2015 allocation, and an updated list of all participating agencies and their REDRLP service areas. Because REDRLP funding is limited, FAME encourages regional cooperation among participating organizations to insure maximum loan availability for potential borrowers.

Charlie Emmons, Senior Commercial Loan Officer at FAME, is available to work with you as you begin to request new funds. You should feel free to contact him at (207) 620-3510.

Once again, congratulations. All of us at FAME look forward to continued successful operation of the program.

Sincerely,

B. E. Wagner

Bruce E. Wagner
Chief Executive Officer

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African museum holding fundraiser, marking anniversary this evening

pressherald.com/2015/08/06/fundraiser-for-african-museum-begins-at-530-p-m-thursday/

By Bob Keyes Staff Writer | @pphbkeyes | 207-791-6457

Friends and supporters of the Museum of African Art and Culture will help the museum celebrate its 17th anniversary Thursday night as the museum transitions to a digital format and explores the possibility of moving its collection to the African Burying Ground in Portsmouth, New Hampshire.

The fundraiser begins at 5:30 p.m. at the museum's home at 13 Brown St.

Museum founder Oscar Mokeme said the museum is attempting to sell the building, which it owns. The museum will close in Portland if a sale is completed, and the museum will use the money to pay off debt and digitize its collection.

The museum is asking $250,000 for the building.

"It's a very emotional thing for me to leave the space," Mokeme said. "It wasn't an easy decision. If it takes until the end of the year to sell the place, the museum will remain the same until then."

The museum has about 1,500 items in its collection, including hundreds of masks used in tribal ceremonies. Items range from large, carved wooden masks to small figures, textiles and domestic objects. The oldest mask in the collection dates to 1600 AD.

The museum will continue its outreach programs, which involve school visits with the masks.

Mokeme is discussing moving the collection to Portsmouth. The New Hampshire city recently dedicated the African Burying Ground Memorial Park to honor slaves buried there. Mokeme participated in the dedication ceremony and said he felt called to share his collection with New Hampshire.

Bob Keyes can be contacted at 791-6457 or:

Twitter: pphbkeyes

Minutes

Portland Development Corporation

July 16, 2015

A meeting of the Board of Directors of the Portland Development Corporation was held on Thursday, July 16, 2015 at 4:00 p.m. in Room 209 of Portland City Hall. Present from the Board was its President Barry Sheff and Directors Tim Agnew, Shelley Carvel, Neil Kiely, Jess Knox, Chip Martin, Heather Sanborn, and Jere Shaw. Director Mayor Michael Brennan joined the meeting at 4:20 and Director City Manager Jon Jennings joined the meeting at 4:25. Director not able to attend was Drew Swenson. Present from the City staff were Business Programs Manager Nelle Hanig and Economic Development Director Greg Mitchell. Also present was Underwriter Consultant Vin DiCara.

NOTE: The meeting was taped, so this is an abbreviated version of Minutes.

Item #1: President's Comments

President Sheff noted that item #5 on the Agenda regarding 65 Munjoy Street was being postponed.

Item #2: Review and accept minutes of previous meeting held on June 18, 2015.

On motion made and seconded, the Board voted 6-0-2 (Kiely and Shaw abstained) to accept the Minutes as presented.

Item #3: Review and vote on loan request from Billdot.com Properties, LLC at 220 Riverside Street. NOTE: Pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119-A, the Board may go into executive session to review proprietary information for this loan request.

Ms. Hanig provided a brief overview of the Billdotcom loan request in the amount of $195,000 for building acquisition. She then introduced Bill Morrell, business owner, and Jeff Bellino.

Messrs. Morrell and Bellino discussed the business, its growth, and their interest in acquiring a building to accommodate that growth.

(Mayor and City Manager arrived at this time.)

Mr. Sheff noted that the Board would next hear in public session the grant requested from Cooperative Development Institute, after which the Board would go into executive session to review both.

Item #4: Review and vote on previously tabled PEDPIP Grant request:

a) Cooperative Development Institute

Ms. Hanig provided an overview of the CDI grant request for $15,000 and why it was tabled. She then introduced Jonah Fertig and Ron Adams.

On motion made and seconded, the Board voted unanimously at 5:00 p.m., pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119-A, to go into executive session to review proprietary information for Item #3 and #4 above.

President Sheff had to leave the meeting at 5:30.

At approximately 5:38, the Board came out of executive session.

On motion made by Mr. Martin, seconded by Mr. Kiely, the Board voted 7-0-1 (Jennings abstained) to approve the loan request from Billdotcom, LLC as recommended with the additional conditions of: (1) key man life insurance; and, (2) any new debt or acquisitions to be reviewed and approved by the PDC.

On motion made by Mr. Knox, seconded by Mr. Kiely, to approve the grant request from Cooperative Development Institute as recommended, with the condition that all data from the project be released to the public and be provided to City Hall by October 15th. A vote was then taken and the motion passed 7-2 (Carvel, Martin).

Due to the time, the consensus of the Board was to table the remaining items.

There being no further business, the meeting adjourned at approximately 5:45.

Respectfully,

Nelle Hanig

Portland, Maine — Yes. Life's good here.

Economic Development Department Gregory
A. Michell, Director

MEMORANDUM

TO: President Sheff and PDC Board Members

FROM: Greg Mitchell, Economic Development Director
Nelle Hanig, Business Programs Manager
Mary Davis, Housing and Community Development Director

DATE: August 14, 2015

RE: **Review and Recommendation to City Council to authorize the following documents in substantially the form as presented, as well as any other documents approved by Corporation Counsel to effectuate the purpose of the Agreements listed below:**

- Purchase and Sale Agreement between City and PDC;
- Purchase and Sale Agreement between PDC and Adam's Apple, LLC;
- Grant Agreement between PDC (subgrantee) and GPCOG, including appropriation of GPCOG Brownfields Grant funds with conditions;
- Development Services Agreement between PDC and Adam's Apple, LLC for oversight of the environmental remediation work and all costs and administration associated with that work and with meeting all conditions of the Grant Agreement;

I. Summary of Issue

The City advertised an RFP for the sale of 65 Munjoy Street which resulted in a developer (Adam's Apple, LLC) being selected to purchase the property to construct an 8-unit affordable condominium housing project. A complicating factor in making this affordable housing project financially feasible is that the property is contaminated. It is estimated that remediation will cost about $240,000.

As discussed with the PDC Board previously, and staff receiving consensus to move forward, a source to cover the cost to remediate the site was found to be available through the Greater Portland Council of Governments (GPCOG) Brownfields Cleanup Grant Fund. GPCOG advised the City and Adam's Apple that they would not qualify for GPCOG's Brownfields grants if the City sold the property directly to Adam's Apple because they may both be potentially responsible parties for the environmental contaminants. GPCOG also advised the City, however, that as a non-profit, the PDC would be eligible for these grant funds as long as it owns the site during environmental remediation.

The Agreements provided with this memo would effectuate the PDC taking ownership of this vacant, contaminated City-owned property to facilitate site remediation utilizing the federal Brownfields cleanup funds available through GPCOG. This would be at no cost to the PDC and the PDC would ultimately sell the property to Adam's Apple, LLC to support construction of the 8-unit affordable condominium housing project.

II. Reason for Submission

This is being submitted to the PDC for its review and recommendation to the City Council to authorize Agreements in substantially the form as provided, as well as any other documents approved by Corporation Counsel to effectuate the purpose of the Agreements. These agreements would provide for the City to transfer the property to the PDC for the period of the remediation. Once remediated, the PDC would sell the property to Adam's Apple, LLC based on the terms and conditions set forth in the P&S between the PDC and Adam's Apple, LLC.

III. Intended Result

The intended result is for the site to be remediated through the PDC's ownership, and then the PDC selling the property to Adam's Apple, LLC to be used for the construction of an 8-unit affordable condominium housing project. This project is consistent with the City's original vision for affordable housing in the neighborhood and on the former Adam's School property.

IV. Council Goal Addressed

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

V. Financial Impact

There is no financial impact to the PDC in taking ownership of the property, nor in having the site remediated, as the latter will be funded through the GPCOG Grant.

Once the site is transferred to the PDC and then remediated, the PDC will sell the property to Adam's Apple, LLC based on the terms that that the City's negotiated with the developer. These terms are contained in the P&S Agreement between the PDC and Adam's Apple, LLC.

VI. Staff Analysis

Per the P&S Agreement between the City and the PDC, the City (Seller) agrees to defend, indemnify and hold harmless the PDC (Buyer), its officers, agents and employees from and against any and all claims, demands, liability, loss, cost or expense. On page 4 of the attached P&S between the City and the PDC, is the full text of No.8 - INDEMNIFICATION. Indemnification provisions are also included in the Development Services Agreement, pursuant to which Adam's Apple will oversee the remediation work and the administration of the GPCOG grant.

This economic development project is solely about housing. To date, staff is not aware of the PDC being involved in housing projects without there being some commercial component (e.g., retail, industrial or office uses). While involvement in this project would broaden the PDC's focus, facilitating new housing development is economic development and, therefore, staff feels it is consistent with the PDC's by-laws.

At its meeting on July 8, 2015, the City Council's Housing and Community Development Committee voted 4-0 to support and recommend to the City Council approval of (1) the sale of the property, and, (2) the financial assistance as outlined in the Proposal for the Sale and Reuse of Property located at 65 Munjoy Street, submitted by Adam's Apple, LLC dated January 13, 2015. The developer is requesting financial assistance in the amount of $175,000 from the City's Housing Trust Fund to subsidize the creation of an 8-unit affordable condominium housing project which will be affordable to households earning between 100% and 120% of the area median income.

VII. Recommendation

In summary, staff recommends that the PDC recommend to the City Council, as the incorporator of the PDC, that it transfer 65 Munjoy Street to the PDC for the purpose of accessing a GPCOG Brownfields grant to remediate the environmental contamination on the property, after which the PDC will sell the property to Adam's Apple, LLC. The PDC recommendations will be brought forward simultaneously with the recommendations of the Housing and Community Development Committee and presented to the City Council for approval.

Specifically, the documents needing PDC recommendation to Council for approval in substantially the form as presented, as well as any other documents approved by Corporation Counsel to effectuate the purpose of the Agreements include the following:

- Purchase and Sale Agreement between City and PDC;
- Purchase and Sale Agreement between PDC and Adam's Apple, LLC;
- Grant Agreement between PDC (subgrantee) and GPCOG, including appropriation of GPCOG Brownfields Grant funds with conditions;
- Development Services Agreement between PDC and Adam's Apple, LLC for oversight of the environmental remediation work and all costs and administration associated with that work and with meeting all conditions of the Grant Agreement;

Attachments

1. Purchase and Sale Agreement between City and PDC;
2. Purchase and Sale Agreement between PDC and Adam's Apple, LLC;
3. Grant Agreement between PDC and GPCOG;
4. Development Services Agreement between Adam's Apple, LLC and PDC.

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PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made this ______ day of ______________, 2015 by and between the CITY OF PORTLAND, a body politic and corporate located in Cumberland County, Maine, (hereinafter referred to as "SELLER"), and the PORTLAND DEVELOPMENT CORPORATION, a Maine nonprofit corporation ("BUYER" or "PDC"), both with a mailing address of 389 Congress Street, Portland, Maine.

W I T N E S S E T H:

WHEREAS, the SELLER is the owner of certain land known as the Adams School Parking Lot located at 65 Munjoy Street in Portland, Maine, as more specifically described in Exhibit A, attached hereto and incorporated herein (the "Premises"), and as generally depicted in the plan attached as Exhibit B and incorporated herein; and

WHEREAS, the SELLER desires to sell the Premises and published a November 19, 2014 "Request for Proposals For the Sale and Reuse of Property Located at 65 Munjoy Street, RFP #4115," as amended by Addendum #1, dated December 18, 2014, copies of which are attached hereto and collectively marked Exhibit C and incorporated herein (the Request for Proposals and Addendum #1 are collectively referred to herein as the "RFP"); and

WHEREAS, Adam's Apple, LLC, a Maine limited liability company ("Adam's Apple") submitted a proposal in response to the RFP (the "Proposal"), a copy of which is attached hereto as Exhibit D and incorporated herein; and

WHEREAS, after reviewing all proposals submitted in response to the RFP, the SELLER selected Adam's Apple as the successful bidder; and

WHEREAS, Adam's Apple desires to purchase the Premises and construct affordable housing on it in accordance with the terms of the Proposal and the RFP (the "Proposed Development"), and the SELLER desires that Adam's Apple do so; and

WHEREAS, the Premises is impacted by certain environmental contaminants as described in a July 1, 2014 Phase I Environmental Site Assessment and an August 8, 2014 Phase II Environmental Site Assessment, both by Credere Associates, LLC, copies of which are attached hereto and collectively marked Exhibit E and incorporated herein by reference (collectively, the "ESAs"); and

.

WHEREAS, prior to constructing the Proposed Development, certain environmental remediation work must be completed as described in a certain September 17, 2014 Voluntary Response Action Program Work Plan and September 17, 2014 Soil Management Plan prepared by Credere Associates, LLC (collectively, the "VRAP Work Plan"), copies of which are attached hereto and collectively marked Exhibit F and incorporated herein by reference; and

WHEREAS, in order to finance the VRAP Work Plan, Adams Apple consulted with the Greater Portland Council of Governments ("GPCOG") regarding the availability of brownfields cleanup grants that might be available to cover the cost of the VRAP Work Plan; and

WHEREAS, GPCOG advised Adams Apple and SELLER that they would not qualify for GPCOG's Brownfields Remediation grants because SELLER may be a potentially responsible party for the environmental contaminants and Adams Apple is not a public or nonprofit entity, but that BUYER, as a nonprofit corporation, would qualify for a grant if it were the owner of the Premises; and

WHEREAS, BUYER, with the assistance of Adams Apple, applied for and has been awarded a brownfields cleanup grant from the Greater Portland Council of Governments ("GPCOG") in order to finance the VRAP Work Plan as set forth in the June ___, 2015 _____________, a copy of which is attached hereto and marked Exhibit G and incorporated herein by reference; and

WHEREAS, BUYER and GPCOG have entered into a GPCOG Brownfields Program Subgrant Agreement of near or even date herewith (the "Grant Agreement"), a copy of which is attached hereto and marked Exhibit H and incorporated herein by reference; and

WHEREAS, SELLER, BUYER, and Adams Apple have agreed that in order to complete the VRAP Work Plan prior to the conveyance of the Property to Adams Apple, SELLER would first convey the Premises to BUYER, provided that BUYER shall then convey the Premises to Adams Apple after completion of the VRAP Work Plan; and

WHEREAS, Adam's Apple and BUYER have entered into a Development Consulting Agreement of near or even date herewith pursuant to which Adam's Apple shall act as BUYER's agent to oversee the VRAP Work Plan during BUYER's ownership of the Premises and administer the Grant Agreement at no cost to BUYER; and

WHEREAS, SELLER desires to convey the Premises to BUYER provided that BUYER conveys the Premises to Adams Apple in accordance with the terms and conditions of this Agreement and those of a separate Purchase and Sale Agreement between BUYER and Adams Apple of near or even date herewith.

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. **RECITALS INCORPORATED BY REFERENCE**. The recitals set forth above are hereby incorporated herein by reference and made a part of this Agreement. The restatement in this document of any term of any of its attachments shall not be deemed to waive any term not so restated. If any disagreement is found between the RFP or the Proposal and this document, then this document shall govern; and the RFP shall govern over the Proposal, to the extent they disagree; provided, however, that this document and all of its attachments shall be construed to be supplemental to one another to the extent possible.

2. **SALE.** SELLER agrees to sell the Premises to BUYER, and BUYER agrees to buy the Premises in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.

3. **CONSIDERATION**. The consideration for the Premises shall be One Dollar ($1.00) (the "Purchase Price").

4. **TITLE.** SELLER shall convey the Premises to BUYER at the closing in fee simple with good and marketable or insurable title by quitclaim deed without covenant acceptable to BUYER. If SELLER is unable to convey title to the Premises in accordance with the provisions of this paragraph, then SELLER shall have a reasonable time period, not to exceed 30 days from the time SELLER receives written notice of the defect, unless otherwise agreed to by both parties, during which it shall make a good faith effort to remedy the title, after which time, if such defect is not corrected so that there is marketable and insurable title, BUYER may within 2 days thereafter, at BUYER's option, terminate this Agreement, and neither party shall have any further obligation hereunder.

5. **POSSESSION.** Full possession of the Property will be delivered to Buyer at the transfer of title, free and clear of all tenancies or occupancies by any person or entity.

6. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire or otherwise, until transfer of title hereunder, is assumed by the SELLER. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated.

7. **PROPERTY SOLD "AS IS, WHERE IS**." BUYER acknowledges that BUYER has 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." SELLER, 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 SELLER of every agreement and obligation contained herein.

8. **INDEMNIFICATION**. Subject to and limited by the defenses, immunities and limitations of liability available to the SELLER under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq., SELLER hereby agrees to defend, indemnify and hold harmless the BUYER, its officers, agents, and employees from and against any and all claims, demands, liability, loss, cost or expense (including but not limited to attorneys' fees and other costs of litigation) that may be incurred by the BUYER arising out of or in any way related to its ownership, use, or maintenance of the Premises, or the ownership, use, or maintenance of the Premises by the BUYER'S predecessors in title or any other third party.

9. **CLOSING**. Time is of the essence in the performance of this Agreement. The closing shall be held at City Hall, within sixty (60) days after the date first set forth above.

10. **RIGHTS OF SELLER TO REPURCHASE PROPERTY**. In the event that the Maine DEP does not issue a Certificate of Completion of Remedial Actions ("COC") for the Premises on or before that date that is 12 months after the date of execution of the Purchase and Sale Agreement for the Premises between BUYER and Adam's Apple of near or even date herewith, the SELLER shall have the right, but not the obligation, to repurchase the Premises at the Purchase Price. This right to repurchase shall be included in SELLER's deed to BUYER.

11. **COVENANTS, RESTRICTIONS, AND OPTION TO REPURCHASE IN BUYER'S DEED TO ADAMS APPLE.** Within 30 days after the Maine DEP issues a COC, BUYER shall convey the Premises to Adam's Apple in accordance with the terms of the Purchase and Sale Agreement between BUYER and Adams Apple of near or even date herewith. This paragraph shall survive the closing of this Agreement. BUYER's deed to Adams Apple shall contain a declaration of covenants and restrictions that shall include, without limitation, the following provisions, which shall survive closing of that Agreement and run with the land:

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a. Grantee shall construct eight (8) new affordable ownership housing units on the Premises in substantially the form and for the affordable housing uses set forth in the Proposal and in the RFP, with Grantee's compliance with this provision to be satisfied by: (1) Grantee recording a subdivision plan for the Premises approved by the Planning Board of the City of Portland showing 8 housing units, and (2) with regard to a unit proposed to be conveyed, the City of Portland having issued a certificate of occupancy for that particular unit. At the request of Grantee, the City of Portland shall duly execute, from time to time, a verification of subdivision approval and issuance of certificates of occupancy in recordable form.

b. The parties agree that the units shall be subject to an "Affordability Declaration" which shall be established by the due execution and recording of the following documents in substantially the same form as those attached hereto and incorporated herein by reference: (i) Declaration of Covenants, Conditions and Restrictions, <u>Exhibit J</u>, (ii) Affordability Agreement, <u>Exhibit K</u>, and (iii) Declaration of Condominium, Affordability of Units provision, <u>Exhibit L.</u>

c. If Grantee has not started and diligently pursued construction of eight (8) new affordable ownership housing units as provided above by July 31, 2017, Grantor or the City of Portland shall have the right, but not the obligation, to repurchase the Premises at the Purchase Price, provided, however, that Grantor or the City of Portland must notify Grantee of its intent to repurchase the Premises in writing by August 15, 2017, and if the Grantor or the City of Portland fails to so notify Grantee, this provision, and the rights thereunder are waived. At the request of Grantee, Grantor and the City of Portland shall promptly duly execute, from time to time, verification of the exercise or non-exercise of this right in recordable form.

d. <u>Environmental Indemnification</u>. Grantee covenants and agrees to indemnify, defend, and hold Grantor and the City of Portland 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 Grantor 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, including without limitation the environmental matters identified in the RFP, the ESAs, and the VRAP Work Plan. This duty to indemnify, defend, and hold harmless shall run with the land herein conveyed and be

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binding upon Grantee's successors, assigns, and transferees until such date as Grantee, its successors, assigns or transferees obtain a Certificate of Completion of Remedial Actions ("COC") from the Maine DEP for the Project as described in a Development Consulting Agreement between Seller and Buyer of even or near even date herewith; upon that date, the Environmental Indemnification described in this paragraph (d) shall no longer run with the land to subsequent successors, assigns or transferees of Grantee.

e. Payment In Lieu Of Property Taxes. Grantee agrees 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 of Portland 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. Grantee 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. This covenant shall run with the land herein conveyed and be binding upon Grantee's successors, assigns, and transferees.

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 Property hereunder. This Agreement cannot be amended except by written instrument executed by Seller and Buyer.

13. 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.

14. **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.

15. TIME. The SELLER and BUYER each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

16. **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.

17. **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 SELLER:	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:	Portland Development Corporation Attention: Greg Mitchell 389 Congress Street Portland, Maine 04101
With a copy to:	The Office of the Corporation Counsel at the same address

18. 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. A signature in a faxed, pdf or other reproduced or electronic document shall be considered the equivalent of an original signature.

19. BROKERS. Seller and Buyer each represents and warrants that neither has dealt with a real estate broker in connection with this transaction. Buyer agrees to indemnify and hold harmless Seller from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, Seller agrees to indemnify and hold harmless Buyer from any claims made by any broker should Seller's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

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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

WITNESS

PORTLAND DEVELOPMENT CORPORATION

____

By:____________________________________
Printed Name:
Its:

Approved as to Form:

____
Corporation Counsel's Office

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PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made this ______ day of ______________, 2015 by and between the PORTLAND DEVELOPMENT CORPORATION, a Maine nonprofit corporation ("SELLER" or "PDC"), and ADAM'S APPLE, LLC, a Maine limited liability company with a place of business in Portland, Maine and mailing address of 17 Chestnut Street, 3rd Floor, Portland, Maine 04101("BUYER").

W I T N E S S E T H:

WHEREAS, pursuant to the terms of a Purchase and Sale Agreement between SELLER and the City of Portland (the "City") of near or even date herewith, the City intends to convey to SELLER certain land known as the Adams School Parking Lot located at 65 Munjoy Street in Portland, Maine, as more specifically described in Exhibit A, attached hereto and incorporated herein (the "Premises"), and as generally depicted in the plan attached as Exhibit B and incorporated herein; and

WHEREAS, the City published a November 19, 2014 "Request for Proposals For the Sale and Reuse of Property Located at 65 Munjoy Street, RFP #4115," as amended by Addendum #1, dated December 18, 2014, copies of which are attached hereto and collectively marked Exhibit C and incorporated herein (the Request for Proposals and Addendum #1 are collectively referred to herein as the "RFP"); and

WHEREAS, BUYER submitted a proposal in response to the RFP (the "Proposal"), a copy of which is attached hereto as Exhibit D and incorporated herein; and

WHEREAS, after reviewing all proposals submitted in response to the RFP, the City selected BUYER as the successful bidder; and

WHEREAS, BUYER desires to purchase the Premises and construct affordable housing on it in accordance with the terms of the Proposal and the RFP (the "Proposed Development"), and the City desires that BUYER do so; and

WHEREAS, the Premises is impacted by certain environmental contaminants as described in a July 1, 2014 Phase I Environmental Site Assessment and an August 8, 2014 Phase II Environmental Site Assessment, both by Credere Associates, LLC, copies of which are

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attached hereto and collectively marked Exhibit E and incorporated herein by reference (collectively, the “ESAs”); and

WHEREAS, prior to constructing the Proposed Development, certain environmental remediation work must be completed as described in a certain September 17, 2014 Voluntary Response Action Program Work Plan and September 17, 2014 Soil Management Plan prepared by Credere Associates, LLC (collectively, the “VRAP Work Plan”), copies of which are attached hereto and collectively marked Exhibit F and incorporated herein by reference; and

WHEREAS, in order to finance the VRAP Work Plan, BUYER consulted with the Greater Portland Council of Governments (“GPCOG”) regarding the availability of brownfields cleanup grants that might be available to cover the cost of the VRAP Work Plan; and

WHEREAS, GPCOG advised BUYER and the City that they would not qualify for GPCOG’s Brownfields Remediation grants because the City may be a potentially responsible party for the environmental contaminants and Adam’s Apple is not a public or nonprofit entity, but that SELLER, as a nonprofit corporation, would qualify for a grant if it were the owner of the Premises; and

WHEREAS, SELLER, with the assistance of BUYER, applied for and has been awarded a Brownfields Remediation Program grant from GPCOG in order to finance the VRAP Work Plan as set forth in GPCOG’s June 15, 2015 letter to SELLER, a copy of which is attached hereto and marked Exhibit G and incorporated herein by reference; and

WHEREAS, SELLER, BUYER, and the City have agreed that in order to complete the VRAP Work Plan prior to the conveyance of the Property to BUYER, the City would first convey the Premises to SELLER, provided that SELLER would then convey the Premises to BUYER after completion of the VRAP Work Plan; and

WHEREAS, SELLER and BUYER have entered into a Development Consulting Agreement of near or even date herewith pursuant to which BUYER shall act as SELLER’s agent to oversee the VRAP Work Plan during SELLER’s ownership of the Premises at no cost to SELLER; and

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WHEREAS, the SELLER desires to convey the Premises to BUYER in accordance with the terms and conditions of this Agreement, provided that the CITY conveys the Premises to SELLER pursuant to a Purchase And Sale Agreement between the City and SELLER of near or even date herewith (the "City-PDC Agreement"), a copy of which is attached hereto as Exhibit H and incorporated herein by reference).

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. **RECITALS INCORPORATED BY REFERENCE**. The recitals set forth above are hereby incorporated herein by reference and made a part of this Agreement. The restatement in this document of any term of any of its attachments shall not be deemed to waive any term not so restated. If any disagreement is found between the RFP or the Proposal and this document, then this document shall govern; and the RFP shall govern over the Proposal, to the extent they disagree; provided, however, that this document and all of its attachments shall be construed to be supplemental to one another to the extent possible.

2. **SALE.** SELLER agrees to sell the Premises to BUYER, and BUYER agrees to buy the Premises in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.

3. **CONSIDERATION**. The consideration for the Premises shall be One Dollar ($1.00) (the "Purchase Price").

4. **TITLE.** SELLER shall convey the Premises to BUYER at the closing in fee simple with good and marketable or insurable title by quitclaim deed without covenant acceptable to BUYER. If SELLER is unable to convey title to the Premises in accordance with the provisions of this paragraph, then SELLER shall have a reasonable time period, not to exceed 30 days from the time SELLER receives written notice of the defect, unless otherwise agreed to by both parties, during which it shall make a good faith effort to remedy the title, after which time, if such defect is not corrected so that there is marketable and insurable title, BUYER may within 2 days thereafter, at BUYER's option, terminate this Agreement, and neither party shall have any further obligation hereunder.

5. **POSSESSION.** Full possession of the Property will be delivered to Buyer at the transfer of title, free and clear of all tenancies or occupancies by any person or entity.

6. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire or otherwise, until transfer of title hereunder, is assumed by the SELLER. Except to the extent that the Premises may be altered by the work performed under the VRAP Work Plan, the

Premises is to be delivered in substantially the same condition as of the date of this Agreement.

7. BUYER acknowledges that BUYER has had an opportunity to inspect the Premises, and to hire professionals to do so, and that the Premises will be sold "as is, where is" and "with all faults." SELLER, 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. Furthermore, SELLER and its agents make no representations or warranties regarding the number, quantity, quality, or count of any items of personal property. 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 SELLER of every agreement and obligation contained herein.

8. **COVENANTS, RESTRICTIONS, AND OPTION TO REPURCHASE IN SELLER'S DEED TO BUYER.** SELLER's deed to BUYER shall contain a declaration of covenants and restrictions that shall include, without limitation, provisions in substantially the form set forth below, which shall survive the closing of this Agreement and run with the land:

    a. Grantee shall construct eight (8) new affordable ownership housing units on the Premises in substantially the form and for the affordable housing uses set forth in the Proposal and in the RFP, with Grantee's compliance with this provision to be satisfied by: (1) Grantee recording a subdivision plan for the Premises approved by the Planning Board of the City of Portland showing 8 housing units, and (2) with regard to a unit proposed to be conveyed, the City of Portland having issued a certificate of occupancy for that particular unit. At the request of Grantee, the City of Portland shall duly execute, from time to time, a verification of subdivision approval and issuance of certificates of occupancy in recordable form.

    b. The parties agree that the units shall be subject to an "Affordability Declaration" which shall be established by the due execution and recording of the following documents in substantially the same form as those attached hereto and incorporated herein by reference: (i) Declaration of Covenants, Conditions and Restrictions, Exhibit I, (ii) Affordability Agreement, Exhibit J, and (iii) Declaration of Condominium, Affordability of Units provision, Exhibit K.

    c. If Grantee has not started and diligently pursued construction of eight (8) new affordable ownership housing units as provided above by July 31, 2017, Grantor or the City of Portland shall have the right, but not the obligation, to repurchase the Premises at the Purchase Price, provided, however, that Grantor or the City of Portland must notify Grantee of its intent to repurchase the Premises in writing by August 15, 2017, and if the Grantor or the City of Portland fails to so notify Grantee, this provision, and the rights thereunder are waived. At the request of Grantee, Grantor and the City of Portland shall promptly duly execute, from time to time, verification of the exercise or non-exercise of this right in recordable form.

d. Environmental Indemnification. Grantee covenants and agrees to indemnify, defend, and hold Grantor and the City of Portland 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 Grantor 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, including without limitation the environmental matters identified in the RFP, the ESAs, and the VRAP Work Plan. This duty to indemnify, defend, and hold harmless shall run with the land herein conveyed and be binding upon Grantee's successors, assigns, and transferees until such date as Grantee, its successors, assigns or transferees obtain a Certificate of Completion of Remedial Actions ("COC") from the Maine DEP for the Project as described in a Development Consulting Agreement between Seller and Buyer of even or near even date herewith; upon that date, the Environmental Indemnification described in this paragraph (d) shall no longer run with the land to subsequent successors, assigns or transferees of Grantee.

e. Payment In Lieu Of Property Taxes. Grantee agrees 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 of Portland 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. Grantee 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. This covenant shall run with the land herein conveyed and be binding upon Grantee's successors, assigns, and transferees.

9. **CLOSING**. Time is of the essence in the performance of this agreement. The closing shall be held at the office of BUYER's counsel, within thirty (30) days after the Maine DEP issues a Certificate of Completion of Remedial Actions ("COC") for the Premises. Buyer acknowledges that pursuant to the City-PDC Agreement, the

City has an option to repurchase the Premises from SELLER in the event that the COC is not issued on or before that date which is twelve (12) months after the date of execution of this Purchase and Sale Agreement. In the event that the City exercises that option, this Agreement shall terminate and neither party shall have any liability to the other or any further obligation under this Agreement. Similarly, Seller acknowledges that pursuant to Paragraph 8 of the Development Consulting Agreement between Seller and Buyer of even or near even date herewith, in the event of a termination of that Agreement for reasons as specified therein, Developer/BUYER, at its option, has a right to require PDC/SELLER to convey the Property to BUYER, in accordance with the terms of this Agreement, in the same condition it is in as of the date of termination or a better condition if BUYER opts to proceed with the Development, provided, however, that PDC/SELLER shall have no obligation to improve or otherwise alter the condition of the Property prior to such conveyance.

10. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Any real estate taxes and utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. SELLER 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.

11. **TIME.** The SELLER and BUYER each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

12. **DEFAULT AND REMEDIES**. In the event that BUYER defaults hereunder for a reason other than the default of the SELLER, SELLER may pursue all legal or equitable remedies available to it. In the event SELLER defaults under this Agreement, and if BUYER is not then in default hereunder, BUYER shall have the right to pursue specific performance as its sole remedy.

13. **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 Property hereunder. This Agreement cannot be amended except by written instrument executed by Seller and Buyer.

14. Notwithstanding anything to the contrary in this Agreement or any of its attachments, it is the intent of both parties that the BUYER shall develop the Premises in substantially the form and for the affordable housing uses set forth in the RFP and the Proposal. Accordingly, the parties covenant and agree that, prior to closing, they will execute such additional documents as are not inconsistent herewith, including but not limited to Exhibits H, I and J, and as may be reasonably necessary to effectuate such intent.

15. **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.

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16. **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.

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 SELLER:	Portland Development Corporation Attention: Greg Mitchell 389 Congress Street Portland, Maine 04101
With a copy to:	The Office of the Corporation Counsel at the same address.
FOR BUYER:	Adam's Apple, LLC 17 Chestnut Street, 3rd Floor Portland, Maine 04101
With a copy to:	Barbara Vestal, Esq. Chester & Vestal, P.A. 107 Congress Street Portland, Maine 04101

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. A signature in a faxed, pdf or other reproduced or electronic document shall be considered the equivalent of an original signature.

20. **BROKERS.** Seller and Buyer each represents and warrants that neither has dealt with a real estate broker in connection with this transaction. Buyer agrees to indemnify and hold harmless Seller from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, Seller agrees to indemnify and hold harmless Buyer from any claims made by any broker should Seller's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

WITNESS **PORTLAND DEVELOPMENT CORPORATION**

_________________________ By:__________________________________
Printed Name:
Its:

ADAM'S APPLE, LLC

_________________________ By:__________________________________
WITNESS Printed Name:
Its:

Approved as to Form:

____
Corporation Counsel's Office

GPCOG BROWNFIELDS PROGRAM
SUBGRANT AGREEMENT

THIS AGREEMENT is made and entered into on this ________ day of __________ _____, by and between the Portland Development Corporation (hereinafter referred to as "Subgrantee"), and the Greater Portland Council of Governments (GPCOG) a recipient of a Brownfiields Cleanup Revolving Loan Fund (BCRLF) capitalization grant from the U.S. Environmental Protection Agency (hereinafter referred to a the "Grantor") under Agreement Number BF96175401.

WITNESSETH:

WHEREAS, GPCOG is authorized under Comprehensive Environmental Response Compensation and Liability Act (CERCLA) 104(k)(3)(B)(ii) and the terms and conditions of (EPA Grant Number BF96175401) to make subgrants to eligible entities and non-profit organizations from these funds ("Grant Funds"); and

WHEREAS, the Subgrantee is (an eligible entity under CERCLA 104(k)(1) or a non-profit organization as defined in 31 USC 6101, Note) owns by way of fee simple title certain real property located 65 Munjoy Street in Portland, Maine, (the "Property"), which property is more particularly described in Exhibit 1, attached hereto; and

WHEREAS, the Grantor has agreed to grant to Subgrantee certain of the Grant Funds which will be used by the Subgrantee for a portion of the remediation of the Property (the "Remediation Work"); which is more particularly described in Exhibit 2, and attached hereto; and

WHEREAS, the Property is not listed, or proposed for listing on the National Priorities List of the U. S. Environmental Protection Agency ("EPA"); and

WHEREAS, the Subgrantee is not a generator or transporter of any contamination located at the Property; and

WHEREAS, the Subgrantee is not and has never been subject to any penalties resulting from environmental non-compliance at or on the Property nor is the Subgrantee, or, to the best of its knowledge, its Project contractors or subcontractors currently suspended, debarred, or otherwise declared ineligible for participation in this federal program or from the receipt of these funds; and

WHEREAS, a claim has not been asserted against the Subgrantee for liability under CERCLA §107 at the Property.

NOW, THEREFORE, in consideration of the covenants and promises contained herein, it is mutually agreed by and between the parties as follows:

1. Grantor agrees to grant to Subgrantee the sum of not more than $200,000 to be used by the Subgrantee for the Remediation Work (the "Project Grant Funds") subject to the terms and conditions herein. The Subgrantee is accountable to the Grantor for using EPA funds only for eligible and allowable costs under CERCLA 104(k) and the terms and conditions of Agreement

Number BF96175401.

2. Subgrantee agrees to provide a cost share of $40,000 consisting of eligible and allowable costs under CERCLA 104(k) and the terms and conditions of Agreement Number BF96175401. Subgrantee may meet this requirement by contributing cash, materials or labor to the cleanup project.

3. Subgrantee shall carry out the Remediation Work in accordance with CERCLA 104 (k) and applicable terms and conditions of Grant Number BF96175401. These requirements include those prohibitions on the use of Project Grant Funds found at CERCLA 104(k)(4)(B) for administrative costs, and response costs for which the Subgrantee is potentially liable at the Property under CERCLA 107.

4. The Subgrantee will comply with (Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations 40 CFR Part 30 or Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments, 40 CFR Part 31) and all other applicable provisions of federal, state or local law.

5. The Subgrantee will provide the Grantor with all reports and other documents required for subgrantees or subawardees by 40 CFR Part 30 or 40 CFR Part 31, as applicable.

6. The Subgrantee will adhere to OMB Cost Principles found at (2 CFR Part 230 for Non-profits or 2 CFR Part 225 for State, Local or Tribal Governments or 2 CFR Part 220 for Educational Institutions).

7. Subgrantee shall carry out the Remediation Work in accordance with the Davis-Bacon Act of 1931 (CERCLA 104(g)(1), 40 U.S.C. 276a-276a-5 and 42 U.S.C. 3222). CERCLA compliance with Davis Bacon requires payment of Federal prevailing wage rates for construction, repair or alteration work funded in whole or in part with Grant Funds. The Subgrantee must obtain recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the remediation construction contract. In addition, the Subgrantee must maintain records verifying compliance with the Davis Bacon Act. Subgrantee will work with Grantor to ensure Grantor's Davis-Bacon requirements are met.

4. The Subgrantee shall provide the Grantor with a copy of the Phase I and Phase II Environmental Assessment of the Property performed according to the American Society for Testing and Materials (ASTM) standards (collectively, the "Assessment"). The Subgrantee shall be responsible for the payment of all costs and expenses related to the Assessment. The Subgrantee agrees that the Project Grant Funds shall not be used for the payment of any cost or expense related to the Assessment. The Assessment shall include, but is not limited to site background, the threat posed to by the contaminant to public health, welfare and the environment and all past enforcement activities conducted by any governmental agency, and the site testing results.

5. The Grantor shall designate an environmental project manager who shall review and approve of the proposed cleanup and coordinate the work to be performed using Project Grant Funds. The

Grantor's environmental project manager will review the Subgrantee's remedial planning, design, and engineering documents and review the cleanup activities as they are on-going to ensure that the cleanup is being completed in accordance with all local, State, and Federal requirements and is protective of human health and the environment.

6. The Subgrantee shall prepare a Community Relations Plan ("CRP") with the assistance and cooperation of the Grantor. The CRP shall include, where applicable, the following:

   a. Copies of interviews or meetings conducted with residents and community leaders, local officials, and public interest groups.
   b. Copies of news releases and other information that explains the proposed project, such releases and information to be disseminated throughout the area surrounding the affected area.
   c. Procedures for the establishment of a local information repository at or near the Property that includes public information supplied by both the Subgrantee and the Grantor related to the proposed Remediation Work. The Subgrantee shall supply the Grantor with any additional information that would assist the Grantor in documenting the Remediation Work.

7. After the Subgrantee has prepared the CRP, the Subgrantee shall draft an analysis of brownfields cleanup alternatives that will include information about the Property and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, implementability, and the cost of the cleanup proposed. The Subgrantee shall submit copies of the draft analysis of brownfields cleanup alternatives to the Grantor for approval. The Subgrantee agrees to accept advice and suggestions from the Grantor and to incorporate those suggestions or requests for revisions as appropriate.

8. After the Grantor has approved the draft analysis of brownfields cleanup alternatives, the Subgrantee shall make the document available for review and public comment for a period of not less than thirty (30) days from the date of publication of the public notice.

9. After the public comment period, the Subgrantee shall incorporate all appropriate comments, in the reasonable discretion of Subgrantee, into a final analysis of brownfields cleanup alternatives document and prepare a written response to the public comments, if appropriate.

10. After the analysis of brownfields cleanup alternative has been finalized, the Subgrantee shall prepare a scope of work containing detailed design and construction plans and specifications for the Remediation Work including a budget and work schedule; a health and safety plan (OSHA 1910-120 - 126) and a quality assurance project plan which sets forth the manner and method of collecting samples to assure the complete removal of all hazardous substances that are located at the Property and are to be removed as a part of the Remediation Work (collectively, such documents are referred to as the "Project Documents") and submit same to Grantor for approval.

11. Prior to the initiation of the Remediation Work, including any cleanup activities, the Subgrantee

must provide to the Grantor copies of all of the state required remedial planning documents and the state's approval of those documents, if required, as well as evidence of enrollment in the Maine's Voluntary Remediation Action Program.

12. The Subgrantee understands and agrees that all of the Project Grant Funds provided by Grantor to Subgrantee shall be used by the Subgrantee towards the cleanup and remediation of the Property identified in Exhibit 1. Subgrantee shall supply the Grantor with design and construction plan and specifications for the redevelopment of the Property and evidence of a firm commitment for a construction loan and permanent financing from an accredited lending institution. Subgrantee shall complete a public competitive bidding process for the Project Grant Funds.

13. The Subgrantee further understands and agrees that any and all work performed on the Property for which the Project Grant Funds are used and the receipt of any Project Grant Funds under this Agreement is conditioned upon the Subgrantee's full compliance with the terms and provisions of the Project Documents and this Agreement.

14. The Project Grant Funds shall be payable to the Subgrantee as reimbursement for eligible and allowable expenses incurred by the Subgrantee based upon (for Part 31 subgrantees actual disbursements for costs incurred for Remediation Work for Part 30 subgrantees based on progress in accordance with the approved cleanup project budget (the "Budget"), attached hereto and made a part hereof as Exhibit 2 or actual disbursements for costs incurred or Remediation Work at the discretion of the Grantor). No reimbursement shall be made to the Subgrantee without the written approval of the Grantor. The Grantor shall not advance nor be obligated to advance any Project Grant Funds to the Subgrantee prior to the receipt of properly executed lien waivers. Reimbursement of Project Grant funds to the Subgrantee will take place after the receipt of invoices for costs incurred for Remediation work, the receipt of a copy of the check used to pay the invoice, and review of all information, documents and back up information to support the reimbursement request.

15. Subgrantee agrees must keep all expenditures from the Project Grant Funds within the approved Budget. Subgrantee shall not exceed any of the costs enumerated in the approved Project Budget without the prior written approval of the Grantor.

16. The Grantor may withhold up to twenty (20%) percent of each payment requested as a retainage until the Subgrantee has completed the Remediation Work.

17. The awarding of this Grant shall be subject to:

    a. The Grantor's receipt of a property appraisal from the Subgrantee.
    b. Opinion of the Subgrantee's Counsel that the Subgrantee, if a corporation, is in good standing and that all documents executed by the Subgrantee are valid and enforceable in accordance with their respective terms.
    c. Written authorization in the form of a resolution, if a corporation, authorizing the Subgrantee to accept the Project Grant Funds and authorizing Subgrantee's representative to execute this Grant Agreement on behalf of the Subgrantee.
    d. Evidence by the Subgrantee that no outstanding taxes, fees, charges, mortgages, liens, encumbrances or other assessments have been filed or are recorded against the

Property.

e. Evidence of insurance coverage with limits of liability as determined by the Grantor's site manager. All insurance coverage required by this section shall remain in full force and effect during the term of this Agreement.

f. Identification of the contractor and subcontractor selected by the Subgrantee for the Remediation Work.

g. The Grantor's receipt of cleanup project cost breakdown based upon estimates and prices supplied by the Subgrantee.

The Grantor reserves the right to waive any or all requirements of this section.

18. Subgrantee shall commence work on the Remediation Work within 150 days from the date of execution of this Agreement and shall complete and perform all of the Remediation Work within 365 days in accordance with the approved Schedule of Work attached hereto and made a part hereof as Exhibit 3.

19. All Remediation Work performed pursuant to this Agreement and with Project Grant Funds shall be performed in a good and workmanlike manner.

20. All material changes or modification to the Remediation Work or the Project Documents shall be approved in writing by the Grantor prior to such change or modification becoming effective. All additional costs incurred, as the result of any change orders shall be the responsibility of the Subgrantee. In the event that unforeseen conditions are discovered during the implementation of the Remediation Work, the Subgrantee reserves the right to revise the cleanup action and the Project Documents.

21. Subgrantee, at its sole cost and expense, and from sources other than Grant Funds, shall be responsible for obtaining all permits, licenses, approvals, certifications and inspections required by federal, state or local law and to maintain such permits, licenses, approvals, certifications and inspections in current status during the term of this Agreement.

22. The Subgrantee shall:

a. Notify the Grantor when the Remediation Work is complete. The notice shall contain certification or documentation that the Remediation Work is complete and has been performed in accordance with the terms of this Agreement. This notice shall summarize the actions taken, the resources committed and the problems encountered in completion of the project, if any, and shall be submitted to the Grantor for review and approval before it is finalized.

b. Perform all of its obligations and agreements under this Agreement, and any other agreements or instruments to which the Subgrantee is a party and which relate to the Project Grant Funds and the Remediation Work.

23. The Subgrantee agrees to protect, indemnify, defend and hold harmless, the Grantor, its officers, administrators, agents, servants, employees and all other persons or legal entitles to whom the Grantor may be liable from, for or against any and all claims, demands, suits, losses,

damages, judgments, costs and expenses, whether direct, indirect or consequential and including, but not limited to, all reasonable fees, expenses and charges of attorneys and other professionals, court costs, and other reasonable fees and expenses for bodily injury, including death, personal injury and property damage, arising out of or in connection with the performance of any work or any responsibility or obligation of the Subgrantee as provided herein and caused in whole or in part by any act, error, or omission of the Subgrantee, its agents, servants, employees or assigns.

24. The Subgrantee shall erect a sign on the Property stating that the Remediation Work is being financed in part by BCRLF Grant Funds and the Grantor and providing the appropriate contacts for obtaining information on activities being conducted at the site and for reporting suspected criminal activities. The sign erected on the Property site shall comply with all requirements of the state and local law applicable to on-premise outdoor advertising.

25. If the Subgrantee sells or transfers the Property to another non-related or affiliated business, entity or corporation prior to completion of the Remediation Work, then, in that event, the Subgrantee shall immediately repay the entire amount of Project Grant Funds advanced to Subgrantee to the Grantor. Any change in use of the property from the original agreement needs to be approved by the Grantor.

26. Any forbearance by the Grantor with respect to any of the terms and conditions of this Agreement shall in no way constitute a waiver of any of Grantor's rights or privileges granted hereunder.

27. In the event of a default of any of the terms or conditions of this Agreement then, in that event, the entire amount of Project Grant Funds disbursed to Subgrantee shall become immediately due and payable without the necessity of demand from Grantor. The Subgrantee shall be deemed to be in default under this Agreement upon the occurrence of any or more of the following events (each and "Event of Default"):

    a. The Subgrantee assigns this Agreement or any Project Grant Funds advanced hereunder or any interest herein to a third party or if the Property or any interest is conveyed, assigned or otherwise transferred without the prior written consent of the Grantor.
    b. Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.
    c. The Subgrantee defaults in the performance of any term, covenant or condition to be performed hereunder and such default is not remedied within thirty (30) days, unless a longer period of time is reasonably required to cure the default, from and after receipt of written notice by certified mail, return receipt requested, from the Grantor to the Subgrantee, specifying said default, of, if such default cannot be remedied within that period and remedial effort is not commenced within that period and diligently and continuously pursued, the Grantor shall have the right to proceed by appropriate judicial proceedings to enforce performance or observation of the applicable provisions of this Agreement and/or terminate this Agreement and recover damages from the Subgrantee to the extent allowed by law.
    d. Any proceeding involving the Subgrantee or the Property, commenced under any

bankruptcy or reorganization arrangement, probate, insolvency, readjustment of debt, dissolution or liquidation law of the United States, or any state, but if such proceedings are instituted, no Event of Default shall be deemed to have occurred hereunder unless the Grantor either approves, consents to, or acquiesces in such proceedings, or such proceedings are not dismissed within sixty (60) days.

e. An order, judgment or decree is entered, without the application, approval or consent of the Grantor, by any court of competent jurisdiction approving the appointment of a receiver, trustee or liquidator of the Subgrantee of all or a substantial part of its assets, and such order, judgment or decree shall continue in effect for a period of sixty (60) days.

Upon the occurrence of any one or more of the Events of Default enumerated above, all amounts of Project Grant Funds disbursed to Subgrantee by Grantor pursuant to this Agreement shall become due and payable, without presentment, demand, protest or notice of any kind to the Grantor, all of which are hereby expressly waived by the Subgrantee.

28. The Subgrantee agrees to maintain financial and programmatic records pertaining to all matters relative to this Agreement in accordance with 40 CFR Part 30 or Party 31, as applicable and generally accepted accounting principles and procedures and to retain all of its records and supporting documentation applicable to this Agreement for a period of 3 years following the completion and close out of Agreement Number BF96175401 except as follows:

a. Records that are subject to audit findings shall be retained three (3) years after such findings have been resolved.

b. All available records and supporting documents shall be made available, upon request, for inspection or audit by the Grantor or its representatives or representatives of EPA, EPA's Office of Inspector General, the Comptroller General, or other authorized representatives of the Federal Government.

29. The Subgrantee agrees to permit the Grantor or its designated representative to inspect and/or audit its records and books relative to this Agreement at any time during normal business hours and under reasonable circumstances, upon reasonable notice and to copy therefrom any information that the Grantor desires relevant to this Agreement. The Grantor shall provide written notice to the Subgrantee prior to the execution of this provision. The Subgrantee agrees to deliver the records or have the records delivered to the Grantor or its designated representative at an address designated by such party. If the Grantor or its representative finds that the records delivered by the Subgrantee are incomplete, the Subgrantee agrees to pay the Grantor or its representative's costs to travel to the Subgrantee's office or other location where the books or records are located to audit or retrieve the complete records.

30. The Subgrantee will comply with the statutes prohibiting discrimination on the grounds of race, color, national origin, sex and disability. In addition, the Subgrantee will undertake good faith efforts in compliance with 40 CFR Part 33 to give opportunities for qualified Small Business Enterprises (SBE), Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE)

31. The Subgrantee shall not assign or attempt to assign directly or indirectly, any of its rights under

this Agreement or under any instrument referred to herein without the prior written consent of the Grantor. The Subgrantee shall not assign all or any portion of the Property made the subject of this Agreement without the prior written consent of the Grantor.

32. This Agreement is not intended to create or vest any rights in any third party or to create any third party beneficiaries.

33. All amendments to this Agreement shall be in writing and signed by both parties hereto.

34. It is expressly understood that a failure or delay on the part of the Subgrantee in the performance, in whole or in part, or any of the terms of this Agreement, if such failure is attributable to an Act of God, fire, flood, riot, insurrection, embargo, emergency or governmental orders, regulations, priority, or other limitations or restrictions, or other similar unforeseen causes beyond the reasonable control of such party, the failure or delay shall not constitute a breach or Event of Default under this Agreement; however, the Subgrantee shall use its best effort to insure that the Project is completed in a reasonable time without unnecessary delay.

35. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

36. No failure of either party to exercise any power or right given it hereunder or to insist on strict compliance by the other party with its obligations hereunder, and so custom of practice of the parties at variance with the terms hereof shall constitute a waiver of the other party’s right to demand at any time exact compliance with the terms hereof.

37. All notices, requests, instructions or other documents to be given hereunder to either party by the other shall be in writing and delivered personally or sent by certified or registered mail, postage prepaid, to the addresses set forth in this Agreement. Any such notice, request, instruction or other document shall be conclusively deemed to have been received and be effective on the date on which personally delivered or, if sent by certified or registered mail, on the day mailed to the parties as follows:

TO THE GRANTOR:
Caroline Paras, Economic and Community Planner
Greater Portland Council of Governments
970 Baxter Boulevard, Suite 201
Portland, Maine 04103

TO THE SUBGRANTEE:
Greg Mitchell, Director of Economic Development
Portland Development Corporation
Portland City Hall
389 Congress Street, Room 308
Portland, ME 01401

or to such other address as a party may subsequently specify in writing to the other party.

38. If any provision or item of this Agreement is held invalid, such invalidity shall not affect other provisions or items of this Agreement that can be given effect without the invalid provisions or items, and to this end, the provisions of this Agreement are hereby declared severable.

39. Except for any exhibits, attachments, plats or other documents as may be affixed hereto, made a part hereof, and properly identified herewith, this Agreement constitutes the entire contract between the parties, and shall not be otherwise affected by any other purported undertaking, whether written or oral.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed in the name and on behalf of each of them (acting individually or by their respective officers or appropriate legal representatives, as the case may be, hereunto duly authorized) as of the day and year first written above.

WITNESS: SUBGRANTEE:

WITNESS: GRANTOR:

Exhibit 1

Evidence that the Portland Development Corporation owns by way of **fee simple title** certain real property located at 65 Munjoy Street, Portland, Maine (Map 3, Block M, Lot 5).

Exhibit 2

Draft scope of remediation work

Exhibit 3

Draft schedule for remediation work

Other documents to be provided at closing

- $500 application fee
- A **zoning determination** by the City of Portland that the project is allowed by right in the zone proposed, subject to Planning Board approval.
- Demonstration of a firm commitment by Adam's Apple, LLC for **100% of project financing**.

DEVELOPMENT CONSULTING AGREEMENT

THIS AGREEMENT is made as of the _____ day of ___________, 2015, by and between Portland Development Corporation, a Maine nonprofit corporation with a place of business and mailing address of 389 Congress Street, Portland, Maine 04101 ("PDC"), and Adam's Apple, LLC, a Maine limited liability company with a place of business in Portland, Maine and mailing address of 17 Chestnut Street, 3rd Floor, Portland, Maine 04101 (the "Developer"), (collectively, the "Parties).

WITNESSETH:

WHEREAS, PDC, provides a continuum of financial assistance to business and industry throughout the city of Portland and works to institute economic development programs in Portland to ensure compliance with the city's goals, objectives, and requirements; and

WHEREAS, PDC wishes to acquire an approximately .15 acre property in the vicinity of 65 Munjoy Street in Portland (the "Property") and contract for the remediation of onsite soils known to contain environmental contaminants and thus classified as "special waste" under the Maine DEP's Maine Solid Waste Management Rules: Chapter 400 (the "Project"); and

WHEREAS, the Project is described in a certain September 17, 2014 Voluntary Response Action Program Work Plan and September 17, 2014 Soil Management Plan prepared by Credere Associates, LLC (collectively, the "VRAP Work Plan"), copies of which are attached hereto and collectively marked Exhibit F and incorporated herein by reference; and

WHEREAS, the Maine Department of Environmental Protection ("DEP") has issued to the City of Portland a December 8, 2014 No Action Assurance Letter (the "NAAL") in response to the VRAP Work Plan; and

WHEREAS, PDC wishes to contract with Developer to act as its agent to oversee aspects of the Project on behalf of PDC as further described herein; and

WHEREAS, PDC wishes to complete the Project for the purpose of preparing the Property for eventual transfer to Developer for the purpose of developing a three-story residential development consisting of at least (eight) 8 units of affordable ownership housing as further described in the Developer's January 13, 2015 development proposal to the City of Portland (the "Development"); and

WHEREAS, the Project, upon completion of construction, is expected to achieve multiple housing and economic development goals of the City of Portland;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Appointment. PDC hereby appoints the Developer as its agent to render specific services in overseeing the Project as described herein, with Developer's duties to be subject to and limited by the terms of this Agreement.

2. <u>Services</u>. The Developer shall perform certain services relating to the acquisition, permitting, and remediation of the Property as set forth in this Agreement and Developer shall consult with PDC as necessary to see the Project through to final completion. Developer shall use commercially reasonable efforts in the performance of its duties under this Agreement. Developer has performed or shall perform, on behalf of and at no cost to PDC, the following duties:

a. <u>Perform Environmental Due Diligence</u>
Update previous environmental assessments prior to PDC's acquisition of the Property; and

b. <u>Develop Projects Plans, Budgets and Timelines</u>
Develop a complete Project budget including balanced sources and uses, subject to approval of PDC as specified in l. below. Develop an overall Project plan in accordance with the NAAL to be performed by others, and prepare a comprehensive Project timeline; and

c. <u>Secure Project Funding</u>
Secure grants, loans, and/or private equity for PDC in an amount sufficient to fully capitalize the expenses of the Project; and

d. <u>Procure and Oversee Professional Services</u>
Negotiate and secure professional services at competitive market cost as required by the Project including but not limited to such professional services as: (1) environmental study, planning, monitoring, and reporting, (2) insurance services, (3) site assessment services, and (4) site design and engineering services.

e. <u>Secure Required Regulatory Approvals</u>
Secure for PDC approval any additional environmental plans (ABCA, CRP, SSQAPP) and permits as required by all applicable state, local and Federal standards from such entities as the Environmental Protection Agency, Maine Department of Environmental Protection and the City of Portland.

f. <u>Procure and Oversee Remediation Services</u>
Secure through a competitive process, a remediation contractor to perform the remediation of the site in conformance with the VRAP Work Plan and the NAAL. Negotiate a contract on behalf of PDC in a form satisfactory to the City of Portland's Corporation Counsel, and once executed, administer and oversee said remediation services on behalf of PDC; and

g. <u>Community Outreach</u>
Facilitate open and effective communications with neighborhood groups, local organizations, abutters and other parties affected by or interested in the remediation of the Property on behalf of PDC and in its capacity as Developer; and

h. <u>Changes</u>
Submit suggestions or requests for reasonable changes which might improve the feasibility, efficiency, or efficacy of the Project, with any changes to executed contracts to be made only by written change order signed by Developer, PDC and any other party to the contract being modified; and

i. Insurance And Indemnification

i. Prior to the execution of this Agreement, the Developer shall, at its own expense, carry Professional Liability Insurance for errors, omissions and negligence, in the amount of One Million Dollars ($1,000,000.00) per claim. The Developer will also procure and maintain Automobile Insurance, General Liability Insurance, and Pollution liability 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 PDC and City of Portland as an additional insured thereon, and also Workers' Compensation Insurance coverage. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the PDC and City of Portland, its officers or employees. For all coverages, the Developer shall furnish the PDC and thereafter maintain certificates evidencing all such coverages in a form satisfactory to the PDC, which certificates shall guarantee thirty (30) days' notice to the PDC of termination of insurance from insurance company or agent.

ii. To the fullest extent permitted by law, Developer shall defend, indemnify and hold harmless the PDC and the City of Portland, their officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney's fees arising out of or resulting from the performance of this Agreement, 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 property, including the loss of use therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Developer, anyone directly or indirectly employed by it, or anyone for whose act it may be liable. This provision shall survive termination of this Agreement.

iii. Environmental Indemnification. To the fullest extent permitted by law, Developer shall defend, indemnify, and hold PDC and the City of Portland 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 PDC 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 Property, including without limitation the environmental matters identified in the July 1, 2014 Phase I Environmental Site Assessment and August 8, 2014 Phase II Environmental Site Assessment, both by Credere Associates, LLC, and the VRAP Work Plan. This provision shall survive termination of this Agreement.

j. Submit Applications for Financing
Prepare and submit on behalf of PDC financing applications including but not limited to the Greater Portland Council of Government's (GPCOG) Brownfield Cleanup Revolving Loan Fund (RLF) program and the City of Portland's Housing Trust Fund (HTF); and

k. Record Keeping
Assemble and retain all contracts, agreements, approvals, accounting ledgers, reports and other records and data as may be necessary to carry out the Developer's functions hereunder; and

l. Budgeting
Prepare and revise from time to time the development budget showing all sources and uses of funds implementing the Project (the "Development Budget"). PDC shall have the right to approve the Development Budget. The Development Budget shall include a reasonable project "Development Fee" payable to the Developer in connection with the Project as further described in Section 7 below. The Development Budget shall not include any direct expense to PDC and all Project expenses, including any Development Fee, will be fully capitalized by sources from entities other than PDC.

m. Accounting
Assist PDC staff with the management of project accounting including intake of project sources and payment of project expenses, budgeting as described in Section 2. l above, the preparation and submission of monthly requisitions, and preparation and presentation of final project accounting.

3. Term. The term of this Agreement shall begin on the date hereof and shall terminate on the date that the Maine DEP issues a certificate of completion for the Project. Provided, however, that if the DEP does not issue a certificate of completion on or before that date which is twelve (12) months after the date of execution of the Purchase and Sale Agreement between PDC and Developer, this Agreement shall automatically terminate unless extended by mutual agreement of the parties.

4. Duties of PDC. PDC is responsible for the following, and hereby authorizes its staff to take such action as is necessary to carry out these duties, all with Developer's recommendations and assistance as outlined in Paragraph 2, above:

a. Obtain all funding for the Project; furnish all guarantees required by funders; and execute proper agreements with funders.

b. Procure all professional and physical (construction) remediation services; and execute proper contracts with the providers of such services.

c. Oversee construction administration over the term of the Project as well as the monthly requisition process for payment of Project remediation related expenses.

d. Account for all project revenues and expenses in the financial records of PDC and manage related accounting functions.

PDC acknowledges that failure to fulfill its obligations set forth in subsections a. through d. above could adversely affect the viability of the Project and the Development. PDC agrees to use reasonable commercial efforts to fulfill all its said obligations.

Provided the other party is not in default of the terms and conditions of this Agreement, both PDC and Developer agree that neither of them shall hire any consultants who are to be paid from the Development Fee or otherwise commit to or cause any expenditure of Development Fee unless the other party consents thereto.

5. Limitations on Authority. In performing its duties under Section 2 above, Developer shall have the discretion and authority to determine the means and methods of undertaking the Project activities and expenditures necessary to bring the Project to final and successful completion of the VRAP Work Plan. Notwithstanding anything to the contrary in this Agreement, Developer covenants and agrees that all of its services provided hereunder shall be consistent with the terms and conditions of GPCOG's Brownfields Cleanup grant program, and all federal, state, and local laws, regulations, rules, and ordinances.

6. Books and Records. PDC, with assistance of the Developer, shall keep reasonably detailed and accurate financial records substantiating all costs expended by PDC in connection with the Project. To the extent Developer incurs Project-related expenditures for which it expects to be reimbursed, Developer shall keep reasonably detailed and accurate records of such expenditures and shall furnish the same to PDC upon request and in any event contemporaneously with any reimbursement request for such expenses.

7. Development Fee. For the development services to be performed by the Developer under this Agreement, PDC shall pay the Developer Fee presented in the Project budget which shall not exceed 10% of project costs and shall be due and payable only to the extent that there are GPCOG Brownfield Cleanup grant funds available to pay such Developer Fee after all other Project expenses are paid and that the Developer Fee is allowable under the grant.

Provided the other party is not in default of the terms and conditions of this Agreement, both PDC and the Developer agree not to voluntarily or knowingly take actions that may result in a reduction of the Development Fee. Nothwithstanding anything to the contrary in this Agreement, both parties also recognize such reductions may be unavoidable due to circumstances beyond their control. The parties agree to consult in connection with events or circumstances that may result in a reduction of the Development Fee, but PDC shall not be obligated to accept reductions in other budget items that will otherwise have an adverse effect on PDC or the viability of the Project.

8. Default; Remedies.

a. Default by Developer. If the Developer shall be in significant and material default in the performance of any of its covenants or obligations under this Agreement and such default shall continue unremedied for a period of thirty (30) days after its receipt of written notice thereof from PDC to the Developer, then PDC may terminate this Agreement for cause by written notice to the Developer.

Notwithstanding any termination of this Agreement by PDC for cause, Developer shall nonetheless be entitled to be paid an equitable amount of Developer's Fee as described in Section 7 which is commensurate with the reasonable value of the Developer's services through the date of Developer's receipt of PDC's notice of default, provided that such amount is available and allowable under the GPCOG Brownfields Cleanup grant, less any actual money damages incurred by PDC that directly arise from Developer's default, excluding consequential damages. Developer shall also be entitled to be reimbursed for any legitimate Project expenses, as evidenced by written invoices, actually paid by Developer prior to the date of Developer's receipt of PDC's notice of default, provided that funds for such expenses are available and allowable under the GPCOG Brownfields Cleanup grant.

b. Default by PDC. If PDC shall be in significant and material default in the performance of any of its covenants or obligations under this Agreement and such default shall continue unremedied for a period of thirty (30) days after its receipt of written notice thereof from Developer to PDC, then Developer may terminate this Agreement for cause by written notice to PDC, but such termination shall not terminate PDC's obligation to pay any earned Developer's Fee to Developer, provided that such amount is available and allowable under the GPCOG Brownfields Cleanup grant.

In the event Developer terminates this Agreement pursuant to Section 8 b. due to default by PDC or in the event PDC terminates this Agreement for a reason other than that specified in Section 8 a. above, Developer shall be entitled to collect all of its legitimate Project expenses, as evidenced by written invoices, actually paid by Developer prior to the date of termination, plus an equitable amount of Developer's Fee as described in Section 7 which is commensurate with the reasonable value of the Developer's services through the date of termination, provided that such amounts are available and allowable under the GPCOG Brownfields Cleanup grant and shall, at Developer's option, also have the right to require PDC to convey the Property to Developer, in accordance with the terms of the Purchase and Sale Agreement between the parties, in the same condition it is in as of the date of termination or a better condition if Developer opts to proceed with the Development, provided, however, that PDC/SELLER shall have no obligation to improve or otherwise alter the condition of the Property prior to such conveyance.

9. Notwithstanding anything to the contrary in this Agreement, in the event that GPCOG does not disburse the GPCOG Brownfields Cleanup grant funds, this Agreement shall be null and void and neither party shall have any obligation or liability to the other hereunder

10. Burden and Benefit; Entire Agreement. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto. Neither party may assign this Agreement without the consent of the other party. This Agreement contains the entire agreement between the parties hereto with respect to the matters set forth herein and is intended to be an integration of all prior agreements, conditions or undertakings between the parties hereto with respect to such matters. Except as expressly set forth in this Agreement, there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between the parties hereto with respect to the matters set forth herein.

11. Third-Party Beneficiary. Nothing in this Agreement shall be construed to make any of the parties hereto liable for any of the debts or other obligations of any other party hereto, and the parties hereto specifically acknowledge, agree and declare that no person is intended to be a third-party beneficiary of this Agreement.

12. General. This Agreement shall be construed and enforced in accordance with the laws of Maine, without regard to principles of conflicts of laws. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. No purported or alleged waiver of any of the provisions of this Agreement shall be binding and effective unless in writing and signed by the party against whom it is sought to be enforced. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same Agreement. All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section. All personal pronouns used in this Agreement, whether used in the masculine, feminine and neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

WITNESS: Portland Development Corporation

_____________________________ By:_____________________________
Barry Sheff, its President

Adams Apple, LLC

_____________________________ By:_____________________________
Ethan Boxer-Macomber, its Managing Member

Portland Development Corporation
Operating Report FY16
For Month Ending
7/31/2015

Operating transfer from EDF	**28,522**

Total Funds Available	**28,522**

FY14 Expenditures	**Budget**	**Current Month**	**Year to Date**	**Percent of Budget**	**Balance**
Administrative Services	575	0	0	0.0%	575
Postage	300	14	14	4.7%	286
Travel, Training, Meetings	4,000	0	0	0.0%	4,000
Contractual services	10,500	0	0	0.0%	10,500
Operating Transfer to Fin.	9,647	0	0	0.0%	9,647
Advertising	2,000	0	0	0.0%	2,000
Auto Expense Reimb.	100	0	0	0.0%	100
Printing & Binding	650	26	26	4.0%	624
Office Supplies	750	0	0	0.0%	750
Total FY16 Expenditures	**28,522**	**40**	**40**	**0.1%**	**28,482**

Expenditures:

Postage	U.S. Postal Charges
Printing and Binding	Name plate and delivery

Downtown Portland Corporation
Schedule of Loans Receivable
For the Month Ending July 31, 2015

Cust #	Ln #	Account No. & Name	Date of Loan	Maturity Date	Original Loan	Not Yet Disb.	Total Disb.	Outstanding Princ. Bal.
					----Committed/Disbursed Funds-----			
		Portland Business Fund 271 (UDAG/Unrestricted):						
6762	1482	Nova Star Cruises Limited	3/20/2014	5/1/2020	165,411	0	165,411	158,358
		Sub-Total PBF (UDAG)						**158,358**
		Portland Business Fund 272 (Restricted - CIP):						
4500	1127	Tomaks, LLC	3/27/2008	3/27/2016	75,000	0	75,000	60,661
5496	1288	Museum of African Culture	10/3/2011	10/1/2016	15,500	0	15,500	13,693
3763	955	Eastman Industries	4/19/2012	4/6/2017	34,800	0	34,800	29,208
3826	1007	Kennebec St. Properties	04/25/06	10/1/2018	67,500	0	67,500	36,326
6502	1436	Portland Food Cooperative	6/4/2014	10/1/2021	130,000	0	130,000	120,979
		Sub-Total PBF (Bonds/CIP Restricted)						**260,866**
		Portland Micro Capital Fund 271 (UDAG/Unrestricted):						
5708	1438	Veranda Asian Market LLC	4/19/2012	4/1/2017	50,000	0	50,000	23,423
5837	1341	Back Bay Skate	9/10/2012	9/1/2017	12,500	0	12,500	$6,094
6113	1379	EcoHome Studio, LLC	4/11/2013	4/1/2018	15,000	0	15,000	8,661
6120	1380	Portland Trading Co. LLC	4/26/2013	8/1/2018	15,000	0	15,000	13,836
6133	1381	Maine Bio-Fuels, Inc.	5/24/2013	6/1/2018	25,000	0	25,000	14,857
6180	1382	Undefeated Enterprises, Inc.	6/27/2013	7/1/2018	25,000	0	25,000	22,130
6302	1411	Pachanga, LLC	11/6/2013	1/1/2016	14,000	0	14,000	7,697
6501	1435	Sur Lie Wine Bar, LLC	5/2/2014	9/1/2021	37,335	0	37,335	33,625
6635	1464	Damiak's Bakery, LLC	10/16/2014	11/1/2019	25,000	0	25,000	21,657
		Sub-Total Micro Capital Fund						**151,979**
		Portland Business Fund Fund 274 (CIP/Unrestricted):						
6597	1458	Back Cove School	8/29/2014	9/1/2019	55,000	0	55,000	49,539
6784	1485	SB & LC Properties, LLC	4/6/2015	5/1/2020	101,200	0	101,200	100,991
6786	1487	RAIN Management, LLC	4/16/2015	7/1/2020	60,000	0	60,000	60,000
6828	1500	Poplar & Co., LLC	6/5/2015	10/1/2022	37,500	0	37,500	37,500
		Sub-Total PBF (Bonds/CIP Unrestricted)						**248,030**
		Creative Economy Fund 271 (UDAG/Unrestricted):						
5615	1308	Studio Management Corp.	1/20/2012	2/1/2017	26,000	0	26,000	10,248
		Sub-Total Creative Economy Fund						**10,248**
		FAME Fund 277:						
5862	1351	Peaks Island Fuel	10/1/2012	10/1/2017	61,000	0	61,000	54,732
3763	956	Eastman Industries	4/19/2012	4/6/2017	34,800	0	34,800	29,208
6531	1450	North Atlantic, Inc.	6/23/2014	1/1/2020	75,000	0	75,000	50,925
6598	1459	Browne Trading CO.	9/3/2014	10/1/2019	83,333	0	83,333	72,658
6692	1475	Maine & Loire LLC	12/30/2014	1/1/2020	45,000	0	45,000	41,057
6485	1429	Evo Rock & Fitness Portland	4/14/2014	11/1/2024	132,954	0	132,954	126,113
		Sub-Total FAME Fund						**374,693**
		FAME SSBCI 279:						
5836	1340	251 Woodford Street LLC	8/31/2012	9/1/2017	165,000	0	165,000	151,219
5939	1356	Apothecary By Design LLC	11/8/2012	11/1/2017	200,000	0	200,000	146,293
5748	1327	Fermentation & Distillation	4/25/2012	10/1/2017	165,000	0	165,000	84,564
6199	1390	Inn at Diamond Cove LLC	7/10/2013	7/1/2018	200,000	0	200,000	179,238
		Sub-Total FAME SSBCI						**561,313**
		Real Estate Investment Fund 271(UDAG/Unrestricted):						
6104	1378	McCuda, LLC	4/19/2013	4/1/2018	200,000	0	200,000	185,054
		Sub-Total RE Invest						**185,054**
		Brownfields Loan Fund 278						
6555	1457	Forefront Partners, LP	7/30/2014	2/1/2020	200,000	0	200,000	192,987
		Sub-Total Brownfields						**192,987**
		Grand Total Loans				**0**	**2,548,833**	**2,143,530**
		Allowance for uncollectable loans at 15%						321,529
		Total with Allowance for uncollectable loans:						**1,822,000**

CITY OF PORTLAND, MAINE
PORTLAND DEVELOPMENT CORPORATION
DELINQUENCY REPORT
MONTH ENDING JULY 31, 2015

ao 8/11/2015

Loan	Payment Past Due	# of Payments	# of Days Past Due[1]	Outstanding Principal Balance	# of Times Past Due In Last 12 Reports (excluding present mo.)
Back Bay Skate	$239	1	31	$6,094	9
Eastman Industries	$1,335	3	92	$29,208	5
Eastman Industries	$1,335	3	92	$29,208	5
Kennebec Street Properties	$1,039	1	24	$36,326	8
Museum of African Culture	$2,069	19	546	$13,693	12
Portland Trading Co.	$4,348	15	457	$13,836	12
SB & LC	$725	1	20	$101,079	0
Studio Management Corp.	$987	2	61	$10,248	12
TOMAKS, LLC	$559	1	20	$60,661	8
Undefeated Enterprises	$5,730	12	364	$22,130	12
Veranda Asian Market[2]	$955	1	31	$22,589	12
251 Woodfords Street LLC[3]	$1,089	1	31	$151,071	1
TOTALS:	**$18,367**			**$496,142**	

[1] Reflects number of days after 1st of month due date. Also, this report lists only loans that have not paid by the 15th of each month.
[2] Paid July's payment on 8/5/2015
[3] Paid July's payment on 8/5/2015

Portland Development Corporation
Preliminary Cash Management Report
For Month Ending July 31, 2015

	CIP		UDAG	FAME	FAME	Brown-		Year-to-Date Principal/Interest						Business Assistance Grant Prgrm for Job Creation-FY12**	Business Assistance Grant Prgrm for Job Creation-FY14
	272	274	271	277	SSBCI 279	field 278		CIP		UDAG					
	Restricted	Unrestricted	(Unrestricted) Loans/Grants			(PET)	TOTAL	Restricted	Unrestricted	Unrestricted	FAME	SSBCI	Brnfld		
Beginning Cash Bal. June 1 1, 2015	128,029	84,390	756,323	143,918	247,546	309,595	1,669,801							100,000	100,000
Plus:															
Principal payments received	2,855	1,119	8,955	3,367	5,574	1,418		2,855	1,119	8,955	3,367	5,574	1,418		
Interest payments received	1,098	1,569	2,098	1,713	3,797	559		1,098	1,569	2,098	1,713	3,797	559		
Interest Income					64							64			
Other Income/Adjustments															
Pass Through From FAME SSCBI															
Sub-Total Cash Available	131,982	87,078	767,377	148,998	256,982	311,573	1,703,990	3,953	2,688	11,054	5,080	9,436	1,978		
Less:															
FAME Annual Admin. Fee: Invoices							-								
Disbursements - Loans/PDAP Grants			(1,807)												
FY15 Interest Income for PDC Budget			(20,805)												
Sub-Total Cash Available 6/30/2015:	131,982	87,078	744,765	148,998	256,982	311,573	1,681,378								
Less Reserves for:															
Beautification Program (EC0301)			(72,000)												
PEDPIP Fund FY15 Commitments not yet paid			(124,525)												
PEDPIP Fund FY16 Commitments not yet paid (capped at $52,130)			-												
Portland Dev. Action Grant (EC0302)			(93,287)												
Transfers not yet recorded (UDAG Int)			(2,098)												
BAP Grants														-100,000	-92,281
Used for Administration															-2,243
Total Ending Loan/Grant Cash Bal.	131,982	87,078	452,854	148,998	256,982	311,573	1,389,467							0	5,476

Loan Commitments:	
Nova Star Cruises	31,321
Total:	31,321

DAG Cmtmts:	93,287	(DAG Bal.)
Press Hotel	25,000	
Cow Plaza/Hyat	25,000	
Total:	50,000	
Balance:	43,287	

Bal. of Unrestricted Funds ao 7/1/15:	521,299	(Unrestricted CIP and UDAG, less Nova Star commitments)
PEDPIP Cap for FY16 at 10% of above:	52,130	