AGENDA

Portland Fish Pier Authority
Board of Directors

Monday, August 11, 2014
3:00 pm
Room 209
Portland City Hall

1. Portland Fish Pier Authority Agenda For August 11, 2014

   Documents: AGENDA AND MEETING MATERIALS FOR 11-AUG-14 FPA MEETING.PDF

AGENDA

PORTLAND FISH PIER AUTHORITY
BOARD OF DIRECTORS

Monday, August 11, 2014
3:00 p.m.
Room 209
Portland City Hall

1) Approval of Minutes from the June 9th meeting

2) Approval on Assignment of Lease for Lot 12A

3) Discussion on Lot 12 Lease to Waterfront Maine/Browne Trading

4) Update from Sebago Technics on Lot 12 testing

5) Discussion and Vote Portland Fish Exchange Lease

6) Fish Exchange Report

7) Financial Update

8) Facilities Update

9) Other business

Portland Fish Pier Authority
Board of Directors
Meeting Minutes
June 9, 2014

Attendees: Chair, Rob Elder; members, Ray Swenton, Terry Stockwell, Mark Rees
Others attending were Ellen Sanborn, Rhonda Girard, Bert Jongerden, John Peverada, Lawrence Walden, Alan Tracy

1. Welcome and introductions

2. Approval of minutes from April 14, 2014

   Motion made by Mark Rees to approve minutes of April 14, 2014, seconded by Rob Elder. Motion passed 3-0.

3. Other Business

   Lease – The Board took a straw poll to indicate pending approval of an extension of the Portland Fish Exchange lease to 2030. The updated lease will be included in the meeting materials for the August meeting. The next meeting August 11.

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Rob Elder, Chair
Members of the Fish Pier Authority

FROM: Ellen Sanborn, Finance Director ES

DATE: August 7, 2014

RE: Assignment of Lease to Freedom Fish

This item on your agenda asks to make an assignment of the land lease for Lot 12A from Atlantic Resource Enterprise, LLC, to Freedom Fish, LLC, to facilitate the sale of the building on that lot to Freedom Fish, LLC. This lease, which started in January 25, 2001, had an initial 10 year term (Jan 2011) with four options on additional 10 year renewal terms (40 years). This lease was renewed in 2011 and is now in its first renewal term. A copy of the lease is included here.

You also have a copy of a license agreement, which relates to the "public amenity" area in front of the building. Part of the original site plan approval included the requirement to improve this area, and keep it available to the public. Maintenance is the responsibility of the FPA, which is managed by our Facilities staff. This license is coterminous with the lease.

If approved, the effective date of the assignment would be upon the closing to transfer the building ownership, at which time Freedom Fish will become responsible for the lease terms and payments.

ASSIGNMENT AND ASSUMPTION
OF LEASE AGREEMENT

THIS AGREEMENT made as of this ___ day of August, 2014 by and between **ATLANTIC RESOURCE ENTERPRISE, LLC**, a Maine limited liability company with a place of business in Portland, Maine (the "Assignor"), **FREEDOM FISH, LLC**, a Maine limited liability company ("Assignee") and the **PORTLAND FISH PIER AUTHORITY**, a Maine non-profit development authority with a place of business in Portland, Maine ("Landlord").

WITNESSETH:

WHEREAS, Assignor is a Tenant under a certain Commercial Lease with Landlord dated January 25, 2001, a copy of which is annexed hereto (the "Lease"); and

WHEREAS, Assignor desires to assign and Assignee desires to acquire, the rights and obligations of Assignor under the Lease.

NOW, THEREFORE, in consideration of One Dollar and other valuable consideration the sufficiency and receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment. Assignor hereby sells, assigns and transfers to Assignee all of Assignor's right, title and interest as Tenant in and to the Lease, subject to all obligations, agreements, encumbrances and restrictions effecting Assignor's interest in the Lease.

2. Acceptance. Assignee hereby accepts this assignment and transfer and promises and agrees to perform faithfully all covenants, stipulations, agreements and obligations of the Tenant under the Lease. Assignee hereby agrees to indemnify and hold Assignor harmless from any and all losses, claims, demands, actions, causes of actions, suits, proceedings, damages, liabilities and other costs and expenses of every nature whatsoever, incurred by Assignor and arising out of, caused by, or as a result of Assignee's use and occupation of the leased premises or Assignee's breach of any covenant, stipulation, agreement or obligation set forth in the Lease, including without limitation, reasonable attorneys' fees which Assignor may incur by virtue of any claim asserted against Assignor related to the Lease.

3. Landlord's Consent and Release of Atlantic Resource Enterprises, Inc. Landlord hereby consents to the assignment by Assignor to Assignee of its rights as Tenant under the Lease and acknowledges that Assignee shall become the sole responsible party as Tenant under the Lease. Landlord hereby fully and unconditionally releases Assignor from any and all obligations, past, present and/or future of the Tenant under the Lease and agrees to look solely to Assignee for Tenant's obligations under the Lease.

4. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption of Lease the day and year first above written.

FREEDOM FISH, LLC

By:__________________________
William Denley
Its: ____________

____
Witness

ATLANTIC RESOURCE ENTERPRISE, LLC

By:__________________________
Gerald C. Knecht
Its: ______________

____
Witness

PORTLAND FISH PIER AUTHORITY,

By:_________________________

Its: _________________

____
Witness

LEASE BETWEEN
PORTLAND FISH PIER AUTHORITY
AND
ATLANTIC RESOURCE ENTERPRISES, LLC

This AGREEMENT made from and after the 25 day of January, 2001, by and between the Portland Fish Pier Authority, a Maine non-profit local development authority, having a place of business in the City of Portland, County of Cumberland, and State of Maine, and acting pursuant to the terms of a lease between the City of Portland and the Portland Fish Pier Authority, dated April 30, 1990 (hereinafter "LANDLORD"), Atlantic Resource Enterprises, LLC, a Maine limited liability company, having a place of business in Portland, Maine(hereinafter "TENANT").

In consideration of the mutual covenants and agreements contained herein and intending to be legally bound hereby, LANDLORD and TENANT agree as follows:

Section 1. Definitions

Unless the context shall otherwise require, the terms defined in this Section 1 shall, for all purposes of this AGREEMENT and for any amendments or supplements hereto, have the meanings specified herein, with the following definitions to be equally applicable to both the single and plural forms of any of the terms herein defined.

(a) Common Areas. The words "Common Areas" shall mean those areas in the Fish Pier Complex which are available for the common use of all tenants of LANDLORD at the Fish Pier Complex, including but not limited to cable stretching areas, driveways, truckways, delivery passages, truck loading areas, access and egress navigational channels, breakwaters, bulkheads, roadways, walkways, sidewalks, landscaped and planted areas, and bus stops. These areas are delineated in Exhibit A, a copy of the Amended Recording Plat "Portland Fish Pier Complex," dated January 9, 2001, and recorded in the Cumberland County Registry of Deeds in Plan Book 201, Page 18.

(b) Director. The word "Director" shall mean the Director of Transportation and Waterfront Facilities of the City of Portland, or his/her successor or authorized representative.

(c) Facility. The word "Facility" shall mean any structure, building, parking area, machinery, walkways and fixtures constructed or located by TENANT or its agents, employees or contractors on the Premises, including any subsequent additions or modifications thereto.

(d) Fish Pier Complex. The words "Fish Pier Complex" shall mean the real property and any site improvements constructed or located thereon by LANDLORD.

(e) Plans and Specifications. The words "Plans and Specifications" shall mean the Plans and Specifications as submitted by TENANT or its designated representative, and as approved by LANDLORD and Director for the design and construction of the Facility. The approved Plans and Specifications shall become a part of this AGREEMENT upon said approval as if fully set forth herein.

(f) Premises. The word "Premises" shall mean the real property identified as "Parcel 12A" on Exhibit A. Any site improvements made thereon by LANDLORD, including the water, sewer, fuel and electrical connections, together with all rights of way, accretions, easements, tenements, hereditaments and appurtenances, rights, privileges, and immunities thereunto belonging or pertaining. When the "Facility" described herein has been constructed and where appropriate, "Premises" shall include both the "Premises" as well as the "Facility".

(g) Term. The word "Term" shall mean and include the original term of this AGREEMENT and any extension permitted by it.

Section 2. Granting of Leasehold.

(a) LANDLORD does hereby lease and let to TENANT, and TENANT does hereby lease of and from LANDLORD, upon the terms and conditions hereinafter recited, the Premises known as Parcel 12A of the Portland Fish Pier Complex, situated in the City of Portland, County of Cumberland, State of Maine, as set forth in Exhibit B, attached hereto and incorporated by reference herein, and the use of the Common Areas described more particularly in said Exhibit A.

(b) TENANT will improve the Public Amenity Area in conformity with the requirements of Site Plan Approval. After that work has been accepted by the City of Portland, TENANT will grant a license to LANDLORD authorizing it to maintain and use the said Public Amenity Area, including, but not limited to, the right to grant both use and access to it by the public. The license will be in effect for the term of the Lease and any extensions for renewals thereof. The license will be reflected in a separate document to be executed between the parties. During the time when a license is in effect, LANDLORD will maintain commercial general liability insurance on the public amenity area in the minimum amounts required by the Maine Tort Claims Act.

(c) Parcel 12-A consists of approximately Twenty Two Thousand Three Hundred Fifty Two (22,352) square feet.

(d) LANDLORD states that this AGREEMENT has been duly and legally authorized and that it does not violate any agreements with other parties.

Section 3. Construction of the Facility.

(a) Scope. TENANT shall construct and operate, for the Term of the AGREEMENT and in accordance with the covenants and provisions contained herein, a building of not less than Five Thousand (5,000) nor exceeding Ten Thousand (10,000) square feet for the primary purposes of receiving, warehousing, processing, grading, packaging and shipping seafood, including but not limited to, whole fish, shellfish of any type, crabs, lobster, shrimp, urchin and kelp.

(b) Geotechnical Reports. To the extent that it may do so, LANDLORD agrees to provide to TENANT at no cost any geotechnical reports performed to date in its possession, but it makes no representation nor warranty as to the reliability of such reports.

In the event that TENANT should perform geotechnical borings at its own cost and expense and the results of such borings should require that the proposed facility be constructed on pilings, then, within sixty (60) days after its receipt of such a report, TENANT may terminate this AGREEMENT by giving notice in writing to LANDLORD of its intention to do so. Upon such termination, LANDLORD will purchase such report from TENANT, either at its cost or for $5,500.00, whichever amount is the lesser. A condition of the purchase by LANDLORD, however, is that TENANT be able to convey all its rights, including, but not limited to, warranties, which it obtained from the Testing Agency, so that, after the transfer, the LANDLORD will possess those same rights against the Testing Agency which the TENANT had possessed.

(c) Commencement and Completion Dates. TENANT shall submit Plans and Specifications for the construction of the Facility to the Director for approval within sixty (60) days of execution of this AGREEMENT. The Director shall either approve or reject such plans within twenty (20) days of submission. TENANT shall commence actual construction of Facility within sixty (60) days of Director's approval or such later date when TENANT has obtained all necessary governmental approvals, provided TENANT shall diligently proceed to obtain such approvals, but not later than the six (6) month period provided in §3(f), unless the LANDLORD and TENANT have mutually agreed to an extension. TENANT shall complete such construction within twelve (12) months of such commencement.

(d) Bonds. The TENANT shall furnish to the LANDLORD upon execution of the contract a performance bond and a labor and material payment bond each for the full amount of the of the proposed construction and issued by a surety company or surety companies authorized to do business in the State of Maine and approved by the LANDLORD. The bonds shall name both the LANDLORD and also the City of Portland as owners.

The Bonds shall remain in effect for one year after final acceptance of the work, protect the LANDLORD's interest in the one-year guarantee of workmanship and materials and also insure settlement of claims, for the payment of all bills for labor, materials and equipment by the TENANT.

Any mechanic's lien or any other lien which may be filed against the Premises which are the subject of this AGREEMENT shall be defended (by counsel reasonably acceptable to the LANDLORD) and promptly discharged by the TENANT at its own expense. If the TENANT should fail either to defend the LANDLORD against the lien or to discharge it, then the LANDLORD may do so at the TENANT's expense. In the event of such an undertaking by the LANDLORD, the TENANT will promptly reimburse the LANDLORD for all its costs and expenses in so doing including, but not limited to, reimbursement of the LANDLORD's reasonable counsel fees, as well as costs which may be incurred by it in substituting a bond in place of the lien.

(e) Alterations. TENANT may, at its own expense, place office and trade fixtures, office equipment, and the like in the Premises and make non-structural alterations, improvements, or additions ("Alterations") to the Premises, provided such work shall be performed in a good and workmanlike manner, in compliance with laws, rules, orders, and regulations of governmental entities having authority over the Premises, and provided such Alterations shall not unreasonably interfere with the use and enjoyment of the Building by its other tenants. LANDLORD's approval shall be required for any structural alterations, additions, or improvements. The conditions of approval will include, but not be limited to, adjustments in the rent and other expenses to be paid by TENANT. All Alterations made by TENANT to the Premises shall remain therein; and, at termination of this AGREEMENT, shall be surrendered as a part thereof, except for fixtures and equipment installed at TENANT's cost, which fixtures and equipment may be removed by TENANT. TENANT shall, at its own expense, promptly repair all damage to the Premises or the Building resulting from any such removal.

(f) Permits and Approvals. TENANT agrees to bear the sole responsibility and entire cost of obtaining required permits and approvals prior to commencement of construction of Facility or any alteration or modification, including, but not limited to, any permit or approval required for the intake and discharge of seawater.

If, after the exercise of due diligence, the TENANT has been unable to secure all the permits necessary for the work to go forward within six months from the date of this AGREEMENT, then, within thirty days from the expiration of the said six month period, upon notice to the Landlord in writing of its intention to do so, the TENANT may terminate this AGREEMENT. Such termination shall be without recourse and without damages of any kind, including, but not limited to, consequential damages.

Section 4. Term.

(a) The submission of this document for examination and negotiation does not constitute an offer to lease the Premises, and this document shall become effective and binding only upon the execution and delivery hereof by both LANDLORD and TENANT. This AGREEMENT shall be deemed to have been executed by TENANT when an original thereof, signed by TENANT, has been delivered to LANDLORD for its acceptance; and at the same time TENANT shall furnish LANDLORD with the certificates of insurance and the bonds required by this AGREEMENT, and the Letters of Credit required by Subdivision and Site Plan approval.

(b) The initial term of this AGREEMENT shall be ten years from and after the date of execution, unless it should be terminated for any of the reasons set forth herein.

(c) Provided it is not in default of any term or condition of this AGREEMENT, TENANT shall have the option to renew the Lease Term for Four (4) additional Ten (10) year renewal terms, (the "Renewal Terms"), on the following terms and conditions. Such option shall be automatically exercised, unless, (not later than three (3) months before the expiration of the then current Lease Term), TENANT gives LANDLORD written notice (the "Cancellation Notice") of TENANT's election not to renew this AGREEMENT; provided, however, that LANDLORD shall give TENANT written notice (the "Reminder Notice") not less than thirty (30) days nor more than ninety (90) days before the expiration of TENANT's right to send a Cancellation Notice, and the time for TENANT to send a Cancellation Notice shall be extended, if necessary, to the date which is thirty (30) days after TENANT receives the Reminder Notice. Such renewal shall be upon the same terms and conditions contained in this AGREEMENT, except that for each Renewal term the Rent shall be at a rate required by Section 5 below.

Section 5. Rent.

TENANT covenants and agrees to pay LANDLORD for its use of the Premises, without offset or deduction, except as provided herein and without previous demand therefor the following:

(a) Annual rent in the amount of Four Thousand Nine Hundred

Fifty Dollars ($4,950.00) payable in equal monthly installments, each of which shall be one-twelfth (1/12) of said annual rent, in advance on the first day of each and every calendar month during the term. The first rental year shall commence on either 1) the date upon which TENANT obtains beneficial occupancy or 2) is granted a certificate of occupancy by the City, whichever is earlier.

(b) Beginning in the second year of the term, the annual rent shall be adjusted by multiplying the base rent by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the Index") for the first calendar month of the Rental Year, and the numerator of which shall be the Index for the same month in each subsequent Lease year during the Lease Term ("the Base Index"). The Annual Base Rent, however, shall in no event be less than the Annual Base Rent during the immediately prior Lease year of the Lease Term. In the event that the Index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence; or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the Index. If the Index shall cease to use the 1982-84 average of 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Index, the Base Index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. It is understood that the determination of the Annual Base Rent for each subsequent Lease year may be delayed until after the commencement of any given Lease year; and, in such event, TENANT shall continue to pay Annual Base Rent at the rate applicable to the immediately prior Lease year until such determination is made, at which time TENANT shall pay, as additional rent, such unpaid Annual Base Rent as is then accrued.

Notwithstanding anything herein to the contrary, the Annual Base Rent for each Lease year after the first year of the Term shall not be less than three percent (3%) nor exceed seven percent (7%).

(c) A late charge of one and one-half percent (1 1/2%) per month shall be charged and applied to any charge not paid within ten (10) days of when it is due hereunder. Collection costs, legal fees, and administrative costs associated with collection of late payments shall also be charged to TENANT, who shall pay such costs within ten (10) days of receipt of a bill for such costs as additional rent.

(d) During the term of this AGREEMENT, TENANT may park, or cause to be parked, four (4) vehicles on Premises. TENANT agrees that the spaces provided shall be used only for those conducting business at the Premises or employees of TENANT. TENANT may lease a minimum of eight (8) additional parking spaces and LANDLORD will attempt to provide such spaces in the lower parking area, so long as such spaces are available, within the constraints of actual and projected uses of these lots, at the prevailing market rate.

Section 6. Net Lease.

It is the intention of the parties that all amounts payable hereunder shall be net to LANDLORD, so that this AGREEMENT shall yield to LANDLORD the net annual payment specified herein during the Term.

Section 7. Purposefully Omitted.

Section 8. TENANT's Share of Operating and Maintenance Expenses

(a) During the term, in addition to other payments required herein, TENANT shall pay and discharge punctually all taxes and governmental assessments; all utility expenses, including, but not limited to, water and sewer user charges; charges for heat, gas, hot water, electricity, relating to the Premises.

(b) In the years in which the Term commences or terminates, all taxes, charges and utilities shall be apportioned pro rata between LANDLORD and TENANT according to the time remaining in the rental year. TENANT's share of such taxes, charges and utilities shall be paid prior to their due date.

(c) TENANT shall have the right to contest or review all payments referenced herein by legal proceedings, or in such other manner as it may deem suitable (which, if instituted, TENANT or its designees shall conduct promptly at its own cost and expense and at no expense to LANDLORD; and, if required by law, in the name of and with the cooperation of LANDLORD, and LANDLORD shall execute all documents reasonably necessary to accomplish the foregoing.) Notwithstanding the foregoing, TENANT shall make all such payments if at any time the Premises, Facility improvements, or any part of them shall be imminently subject to forfeiture or if LANDLORD shall be subject to any criminal or civil liability arising out of the nonpayment thereof. The legal proceedings referred to in this subsection shall include appropriate proceedings and appeals from orders therein and appeal from any judgements, decrees, or orders. In the event of any reduction, cancellation, or discharge of taxes not theretofore paid, TENANT shall pay the amount finally levied or assessed or adjudicated to be due and payable on any such contested taxes with all applicable penalty and interest before further penalty and interest shall accrue. LANDLORD covenants and agrees that if there should be any refunds or rebates on account of the taxes paid by TENANT under the provisions of this AGREEMENT, such refund or rebate shall belong to TENANT and be received by LANDLORD in trust to be paid to TENANT forthwith. LANDLORD will, upon the request of TENANT, sign any receipt which may be necessary to secure the payment of any such refund or rebate, and will pay over to TENANT such refund or rebate as received by LANDLORD.

(d) Notwithstanding the foregoing, TENANT shall not be obligated to pay hereunder any portion of the following expenses or governmental impositions:

(i) costs for which LANDLORD has been reimbursed;

(ii) costs of site work on or renovation of any portion of the Fish Pier Complex which is tenanted or available for tenancy;

(iii) legal fees incurred in connection with leasing to or disputes with tenants, other than the TENANT referred to herein; and

(iv) costs and fees incurred in connection with environmental clean-up, provided, however, that TENANT shall be obligated to pay costs and fees in connection with environmental cleanup if TENANT has contributed in whole or in part to the conditions requiring the remedial environmental action.

Section 9. Use of Premises.

(a) TENANT shall use and occupy Premises only for the purposes outlined in this AGREEMENT throughout the term hereof.

(b) TENANT shall use and occupy Premises for the primary purposes of receiving, warehousing, processing, grading, packaging and shipping seafood, including, but not limited to, whole fish, clams, crabs, lobster, shrimp, urchins and kelp.

Activities may include, but are not limited to:

(1) Scheduling the arrival, unloading, loading, and departure of trucks at the Premises;
(2) Supervising loading and unloading of seafood from the trucks arriving at the Premises;
(3) Grading seafood received at the Premises;
(4) Packaging for reshipment seafood received at the Premises;
(5) Conducting all necessary sales at the Premises;
(6) Transporting seafood to loading areas on the Premises for pickup by others pursuant to sale or disposal agreements as well as loading seafood onto trucks;
(7) Maintaining all records required by good business practice, including but not limited to, records on the amount and species of seafood unloaded at the Premises and sold;
(8) Installation and maintenance of lobster tanks for sorting and storage of lobsters, provided however, that TENANT does not conduct a lobster auction at any time upon the Premises;
(9) Ensuring compliance with the operating rules governing activities at the Fish Pier Complex.

(c) TENANT shall neither sell nor provide ice or transportation fuel from Premises except pursuant to Section 9 of the AGREEMENT entered into by The City of Portland and Vessel Services, Inc., dated February 23, 1983, incorporated by reference herein.

(d) Customer Relations. TENANT recognizes that the maintenance of good relations with customers, co-tenants and users of the Fish Pier Complex, as well as a positive LANDLORD image to visitors of the complex, are of the utmost importance to LANDLORD and TENANT, therefore, agrees to use its best efforts to hire only competent and experienced managers, capable of assuring competent operation of the Premises.

(e) Custodial Service. TENANT shall maintain and provide sufficient custodial care for all areas of the Premises at its own expense, and shall not cause or suffer any waste to the Premises, Common Areas, or abutting leasehold areas.

(f) No Discrimination. It is understood and agreed that funds for the construction of the Fish Pier Complex has been provided in part by grant money from the United States Economic Development Administration, and that it is essential that use by the fishing industry of the Common Areas be preserved and protected and that service to vessels be provided according to reasonable and lawful rules and regulations and without discrimination and without preference.

(g) Purposefully Omitted.

(h) Signage. TENANT's right to erect signs shall be subject to applicable provisions of the City of Portland's Code of Ordinances, including, but not limited to, its Land Use Ordinances and Historic Preservation Ordinance. Placement, content, and design of all signs by TENANT shall require LANDLORD's approval.

(i) Dumpster. TENANT shall have the right to maintain a dumpster for non-fish waste rubbish on the Premises.

Section 10. Laws and Requirements of Public Authorities.

(a) Subject to the provisions of Section 35, during the Term and any renewal thereof, TENANT shall, at its own cost and expense, promptly observe and comply with all existing and future laws, ordinances, requirements, orders, directives, rules and regulations of the federal, state, and county and city governments, including the Fish Pier Rules, and of all other governmental authorities affecting the Fish Pier Complex or appurtenances thereto, to the extent that such laws or regulations are directly related to the Premises, while such laws or regulations are in force, regardless of when enacted. TENANT shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, which may arise directly out of TENANT's failure to comply with the covenants of this Section.

(b) TENANT shall have the right, but not the obligation, to contest by appropriate legal proceeding, conducted diligently and in good faith, in the name of TENANT or LANDLORD (if legally required), or both (if legally required), without cost or expense to LANDLORD, the validity or application of any law, ordinance, rule, regulation, or requirement of the nature referred to in the preceding sub-section, and if by the terms of any such law, ordinance, order, rule, regulation or requirement compliance therewith may be legally delayed without imminent risk of forfeiture or lien on the Premises or the Fish Pier Complex, or penalty to LANDLORD, pending the prosecution of such law, order, rule, regulation, or requirement, TENANT may delay such compliance therewith until the final determination of such proceeding.

(c) LANDLORD agrees to execute and deliver any appropriate papers or other instruments which may be reasonably necessary or proper to permit TENANT so to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement.

Section 11. Status Report; Modification, Consent.

Recognizing that both parties may find it necessary to establish to third parties, such as accountants, mortgagees or the like, the then current status of performance hereunder, either party, on the request of the other made from time to time, will promptly furnish a statement of the status of any matter pertaining to this AGREEMENT.

Section 12. Repairs and Maintenance.

(a) TENANT shall during the Term, at its sole expense, keep the Facility and Premises in as good order and repair as on the date of execution of this Lease or upon the completion of construction, whichever may be applicable, reasonable wear and tear excepted.

(b) LANDLORD during the Term shall keep the Common Areas, including, but not limited to, the service piers, bulkheads, pilings, roadways, and water, sewer, and electrical connections to where TENANT connects for its exclusive use, in good order and repair subject to TENANT's obligation in subsection (a) of this Section.

(c) TENANT will be responsible for plowing and snow removal on its Premises. LANDLORD shall plow and remove snow on the Common

Areas sufficient to allow TENANT to conduct its business.

(d) TENANT will not be subject to the special assessment of costs of capital improvements initiated by LANDLORD without TENANT's prior consent, unless said capital improvements are necessary to comply with laws, ordinances, requirements, orders, directives, rules and regulations of federal, state and local governments.

Section 13. Subletting and Assignment.

(a) TENANT shall neither assign nor encumber this AGREEMENT nor sublet, nor sell the demised Premises or any part thereof without on each occasion obtaining the written consent of LANDLORD, which consent shall not be unreasonably withheld. In the event of any assignment, subletting, or sale, TENANT shall remain fully liable under this AGREEMENT.

(b) Assignment or Subletting by LANDLORD. Any assignment, sublease or conveyance by LANDLORD of its interest in the Premises or the Facility shall be expressly subject to this AGREEMENT.

Section 14. Indemnity.

To the fullest extent permitted by law, TENANT shall at its own expense defend, indemnify, and hold harmless LANDLORD, its officers, agents, and employees from and against any and all liability, claims, damages, penalties, losses, expenses, or judgments, just or unjust, arising from injury or death to any person, property, or environmental damage sustained by anyone in and about the Fish Pier Complex or as a result of activities or service at the Fish Pier Complex, including, but not limited to, the intake and discharge of seawater by TENANT at the Fish Pier Complex, resulting from any act or omission of TENANT, its officers, agents, servants, employees, or persons in privity with TENANT, except to the extent that such injury, death, or property damage results from any negligent act or omission of LANDLORD, its officers, agents, employees, or servants. TENANT shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against LANDLORD or in which LANDLORD may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. In cases in which LANDLORD is a party, LANDLORD shall have the right to participate at its own discretion and expense and no such suit or action shall be settled without prior written consent of LANDLORD. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to LANDLORD which would otherwise exist.

Section 15. Insurance.

(a) TENANT shall provide at its own expense and keep in force during the Term, or any renewal thereof, commercial general liability insurance in a good and solvent insurance company or companies licensed to do business in the State of Maine, selected by TENANT, in the amount of at least $1,000,000.00 with respect to injury or death to any one person and $1,000,000.00 with respect to injury or death to more than one person in any accident or other occurrence, and $1,500,000.00 with respect to damages to property, naming any leasehold or Facility mortgagee as an additional insured thereon. TENANT agrees to deliver copies of certificates of such insurance to LANDLORD prior to the execution by LANDLORD of this AGREEMENT and thereafter not less than thirty (30) days prior to the expiration of any such policy. The amount of insurance required shall be subject to renegotiation at the close of every fifth (5th) rental year, but shall not be less than the amount set forth herein.

(b) During the Term, TENANT shall keep Premises insured for the benefit of TENANT and any mortgagee(s) against all risks, including earthquake and loss or damage by fire or flood, and customary extended coverage in an amount not less than Eighty percent (80%) of the full insurable value thereof by policies containing the usual co-insurance clause. The term "insurable value" shall be deemed to mean the cost of replacement of the Premises, including the cost of demolition of damaged structures in the event of a loss. LANDLORD shall, at TENANT's cost and expense, cooperate fully with TENANT in order to obtain the largest possible recovery and execute any and all consents and other instruments and take all other actions reasonably necessary or desirable in order to effectuate the same and to cause such proceeds to be paid and managed as hereinbefore provided. The full insurable value of Premises shall be determined and coverage adjusted in accordance therewith at least once every two (2) years in accordance with a professional insurance update obtained by and at the expense of TENANT. If LANDLORD should disagree with the valuation provided, it may have an appraisal performed at its own expense and the determination of such appraiser shall be binding upon the parties for the purposes of insurance valuation, and insurance coverage will be immediately increased in conformity therewith.

(c) During the Term, LANDLORD shall maintain insurance, or self-insure, against claims arising out of the use or condition of the Common Areas.

(d) LANDLORD and TENANT mutually agree that, with respect to any hazard which is covered by casualty or property insurance then being carried by them, or required to be carried hereunder (whether or not such insurance is then in effect), the one carrying or required to carry such insurance and suffering such loss releases the other from any and all claims with respect to such loss; and they, further, mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. If the release of either party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer.

(e) The TENANT will provide LANDLORD with either certificates of insurance or certified copies of the applicable policies, showing that it has complied with these provisions, and such certificates shall provide that thirty (30) days' written notice of non-renewal, material modification, or cancellation must be given to the LANDLORD, prior to the effective date of such non-renewal, material modification, or cancellation.

Section 16. Destruction.

(a) If at any time during the Term, the Facility constructed, erected, or installed by TENANT on the Premises shall be damaged or destroyed by fire or any other cause, to an extent in excess of fifty percent (50%) of its then insurable value, then TENANT shall have the right to terminate this AGREEMENT within thirty (30) days after the date of such damage or destruction. If such right is exercised by TENANT, this AGREEMENT shall expire when the Facility has been demolished or cleaned up in preparation for re-letting at the election of LANDLORD, and insurance proceeds shall be distributed in accordance herewith.

(b) In the event of partial or complete destruction described herein which does not result in termination of the AGREEMENT as provided in the preceding subsection, rent for the Premises shall be abated in the same proportion of the dollar amount of damage to the Facility represents to the then-insurable value of the Premises, provided such figure exceeds ten percent (10%).

(c) Insurance proceeds paid because of damage to Facility shall be paid jointly to TENANT and the mortgagee(s) as co-insureds, and shall be applied to paying in full the cost of such restoration; or, in the alternative, to amounts due to mortgagee(s) secured by the Facility, with the surplus, if any, applied to the cost of demolition or clean up of the remaining Facility.

(d) Any insurance proceeds left after termination under Paragraph (a) and satisfaction of said indebtedness and expenses of demolition or clean up as aforesaid, shall be paid to TENANT. TENANT shall not be entitled to termination payments set forth in Section 24.

(e) Any appraisals required pursuant to this Section shall be conducted by an appraiser selected by LANDLORD from a list of three (3) appraisers from within the State of Maine selected by TENANT, each of whom shall be licensed by the State of Maine and have an MAI designation, unless the LANDLORD should accept a different qualification.

Section 17. Eminent Domain.

(a) If all or substantially all of the Premises shall be taken by the City of Portland for any public or quasi-public use under any statute or by right of eminent domain or by purchase in lieu thereof (hereinafter called a "total taking"), then this AGREEMENT may be terminated at the option of TENANT as of the date the possession has been taken with the same force and effect as if said date had originally been fixed herein as the expiration of the Term. For the purposes of this Section, and without limiting the generality of the foregoing, a total taking shall have occurred if as a result of any taking, there is a loss of thirty percent (30%) of the entire Premises. Notwithstanding such loss, TENANT may elect to continue in possession of the remainder of the Premises for the balance of the Term upon the same terms and conditions set forth herein, if it gives notice of such election to LANDLORD within thirty (30) days of the taking of possession by the public or quasi-public body. In the event this AGREEMENT is terminated pursuant to the provisions of this Section, the rental paid by TENANT to LANDLORD hereunder shall be equitably adjusted to the day TENANT is relieved of possession of the Premises.

In the event of a "total taking" under the City of Portland's municipal authority, resulting in the termination of this AGREEMENT, the City shall pay a condemnation award to TENANT as compensation for the loss of TENANT's leasehold interest. The amount of the award shall be the then fair market value of the leasehold taken, including leasehold improvements, if not removed by TENANT, as determined by an appraiser selected in accordance with the provisions of Section 16(e).

(b) In the event of a "total taking" by a governmental entity other than the City of Portland, resulting in the termination of this AGREEMENT, the parties hereto agree to cooperate in applying for and prosecuting any claims for such taking; and, further, agree that TENANT shall be entitled to collect from the taking entity the amount of compensation, if any, assigned by the taking entity to TENANT's interests in the leasehold. TENANT shall not be entitled to any termination payment from LANDLORD.

(c) In the event of a partial taking (which term partial taking shall include any purchase in lieu thereof), not resulting in the termination of this AGREEMENT, pursuant to the provisions of this section, LANDLORD shall, if requested in writing by TENANT, within ninety (90) days of the date of said taking, negotiate with TENANT regarding each parties' financial responsibility for undertaking repairs to the portions of Facility on the Premises affected by such taking to the extent necessary to restore the same to usable condition taking into consideration the amount of land remaining and conditions existing after such taking. In the event of a partial taking under this section or an election to continue in possession pursuant to subsection (a), in addition to the condemnation award, the rental amount shall be reduced in proportion to the Premises taken. The amount of the condemnation award shall be determined in accordance with Section 17(a), including consideration of the value of leasehold improvements to the extent said improvements are affected by the partial taking.

(d) In the event of a taking for temporary use, this AGREEMENT shall continue unaffected, and TENANT shall be entitled to receive the entire proceeds apportioned to its leasehold interest from the date of such taking until the period of the taking shall end.

Section 18. Mortgages.

TENANT may mortgage its interest in this AGREEMENT and the Premises and Facility for the purpose of obtaining capital for improvements on the Premises, subject to LANDLORD's prior written consent and subject to the terms of this AGREEMENT. If LANDLORD should consent to such mortgage or mortgages, the following provisions shall apply:

(a) There shall be no cancellation, surrender, acceptance of surrender, or modification of this AGREEMENT, without the prior written consent of the mortgagee.

(b) LANDLORD shall, upon giving to TENANT any notice of default, termination, or any other notice under this AGREEMENT, simultaneously send a copy of such notice to the mortgagees of record, and no notice of such default or termination shall be deemed to affect such mortgagee's interest unless and until a copy thereof has been sent. The mortgagee shall thereupon have the same time within which either to remedy or cause to be remedied all the defaults complained of as is allowed to TENANT, and LANDLORD shall accept such performance by or at the instigation of the mortgagee as if such performance had been accomplished by TENANT.

(c) If LANDLORD should elect to terminate this AGREEMENT by reason of any default of TENANT, the leasehold mortgagee shall not only have and be subrogated to all rights of TENANT with respect to curing such default, but shall also have the right to postpone and extend the specified date of the termination of this AGREEMENT as fixed by LANDLORD in its notice of termination, for a period of not more than six (6) months, provided that:

(i) within thirty (30) days after date of notice of termination, pursuant to Section 24, the mortgagee shall proceed to cure any then-existing default;

(ii) mortgagee observes all the terms and conditions of the AGREEMENT as though it were the TENANT; and

(iii) no further default shall accrue hereunder during such extended period.

(d) Upon foreclosure or assignment in lieu of foreclosure, TENANT's interest in this AGREEMENT may be assigned, with the consent of LANDLORD, provided that the Facility continues to be operated for the purposes provided in Section 9 and assignee is in the business of providing such uses. Any such assignment by mortgagee shall relieve mortgagee of any future obligation or responsibility thereafter accruing or arising under the terms of this AGREEMENT.

Section 19. Utility Easements.

TENANT shall have the right, at its own expense, to enter into reasonable agreements with utility companies, municipal corporations, and other governmental agencies to create easements in favor of such companies as are required in order to service the Premises. The location of such easements shall require approval of the Director. LANDLORD will assist TENANT in obtaining permission to establish such easements.

Section 20. Default by LANDLORD.

(a) Incidents of Default. For purposes of this Section, events of Default by LANDLORD shall include only the following, provided that such Default materially affects TENANT's ability to operate the Premises as specified in Section 9:

(1) Failure of LANDLORD to provide the Premises to TENANT for TENANT's quiet use and enjoyment, during the Term, without hindrance or molestation by LANDLORD or any person claiming by or through LANDLORD;

(2) Lack of LANDLORD's power and authority to execute and deliver this AGREEMENT and to carry out and perform all covenants to be performed by it hereunder;

(3) If the Premises should not be free from all encumbrances, liens, defects in title, leases, tenancies, and

agreements, with the exception of those expressly stated in this AGREEMENT, and such burden adversely affects TENANT's business;

(4) LANDLORD is unable to secure or provide at the time of the commencement of the Term and at all times thereafter, free and adequate means of ingress and egress to the Premises for TENANT;

(5) If LANDLORD should fail to perform or observe any term or condition contained in this Lease and not commence to cure such failure within fifteen (15) days after notice from TENANT thereof and promptly and diligently complete the curing of the same;

(6) LANDLORD's failure to make the Fish Pier Complex site available for use as a Fish Pier;

(7) TENANT's ouster from the Premise by any entity claiming ownership rights of the Premises; or

(8) LANDLORD's failure to provide essential Common Area functions, including but not limited to bulkheads and navigational channel.

(b) Remedy for Default. If LANDLORD should be in Default under this Section, TENANT shall give LANDLORD written notice of such default and an opportunity to cure.

In the event LANDLORD fails or refuses to cure such Default within fifteen (15) days of notice, TENANT may proceed to cure LANDLORD's Default, provided TENANT shall give LANDLORD notice of its intent to cure on LANDLORD's behalf. TENANT may thereafter proceed to cure and deliver receipts and records reflecting the costs of cure. LANDLORD shall reply in writing as to its position on the reasonableness of the steps and costs of curing. TENANT shall be entitled to a credit toward its next subsequent rental obligation of the costs of curing which LANDLORD agrees are reasonable. All disputes arising under this subsection, including those as to the reasonableness of the costs of curing not resolved by mutual agreement, shall be submitted for arbitration pursuant to Section 29. Although TENANT proceeds at its own risk as to the reasonableness of the methods and costs of cure, TENANT is not required to submit to arbitration prior to taking action to cure default under this section.

In the alternative, if a Default hereunder continues for sixty (60) days, TENANT may, at its election, give LANDLORD written notice of such Default as aforesaid and its intention to terminate this AGREEMENT on a date specified in said notice, which date shall not be earlier than ten (10) days after the notice is given. If such Default has not been cured on the date so specified and with or without entry of LANDLORD, this AGREEMENT, the Term, and TENANT's rent obligations hereunder shall thereupon terminate in accordance with the provisions of Section 24.

In addition to the other remedies provided herein, in the event that LANDLORD fails to cure a Default within sixty (60) days of notice, TENANT may take whatever action, at law or in equity, may appear necessary or desirable to enforce performance and observation of any obligation or covenant of LANDLORD under this AGREEMENT.

(c) General Provisions. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or any power may be exercised from time to time and as often as may be deemed expeditious; and, unless otherwise expressly provided herein, the exercise of any one right or remedy shall not impair the right of TENANT to any or all of the remedies.

<u>Section 21. Default by TENANT</u>.

(a) Incidents of Default. For purposes of this Section, events of Default by TENANT shall include only the following:

(1) TENANT fails to pay when due any amount or installment of Rent, or any other payments specified herein;

(2) TENANT fails to observe or perform any material covenants, agreements, or obligations of this AGREEMENT;

(3) There shall occur the dissolution of TENANT; or TENANT shall file any petition or institute any proceedings under the Bankruptcy Code, either as such Code now exists or under any amendment thereof which may hereafter be enacted, or under any act or acts, state or federal, dealing with, or relating to the subject or subjects of bankruptcy or insolvency, or under any amendment of such act or acts, either as a bankrupt or as an insolvent, or as a debtor, or in any similar capacity; or any involuntary petition in bankruptcy is filed against TENANT and the same is not stayed or discharged within sixty (60) days from such filing; or any other petition

or any other proceedings of the foregoing or similar kind or character is filed or instituted or taken against TENANT, or a receiver of the business or of the property or assets of TENANT is appointed by any court, except a receiver appointed at the insistence or request of LANDLORD; or TENANT makes a general or any assignment for the benefit of TENANT's creditors;

(4) TENANT shall substantially abandon or vacate the Premises or fail to use the Premises or Facility for the purposes set forth in Section 9; or

(5) TENANT shall use Premises or Facility for uses not set forth herein.

(b) Remedy for Default. If TENANT should be in Default under this Section, LANDLORD shall give TENANT written notice of such Default, and an opportunity to cure. Notwithstanding any other provision of this AGREEMENT, Defaults in the payment of Rent, including parking fees and additional payments, must be cured within thirty (30) days of the Notice of Default or this AGREEMENT and the Term thereof shall thereupon terminate in accordance with the provisions of Section 23.

LANDLORD may proceed to cure TENANT's Default provided LANDLORD shall give TENANT fifteen (15) additional days notice of its intent to cure on TENANT's behalf. LANDLORD may thereafter proceed to cure and deliver receipts and records reflecting the costs of cure. TENANT shall reply in writing as to its position on the reasonableness of the steps and the costs of curing. LANDLORD shall be entitled to reimbursement of those costs of curing which TENANT agrees are reasonable with TENANT's next subsequent rent. All disputes arising under this subsection, including those as to the reasonableness of the costs of curing, not resolved by mutual agreement shall be submitted for arbitration pursuant to Section 25.

In the alternative, if a Default hereunder continues for sixty (60) days, LANDLORD may, at its election, give TENANT written notice of its intention to terminate this AGREEMENT on a date specified in said notice, which date shall not be earlier than ten (10) days after such notice is given. If such Default has not been cured on the date so specified, then with or without the entry of LANDLORD, this AGREEMENT and the term hereof shall thereupon terminate and LANDLORD may then re-enter and take possession of the Premises and the Facility and TENANT shall forwith surrender possession of the Premises. TENANT shall be, and shall remain, liable for all rental and other charges accrued hereunder to the date such termination becomes effective.

In that event, LANDLORD may, but shall be under no obligation so to do, relet all or any part of the Premises for such rent and upon such terms as shall be satisfactory to LANDLORD (including the right to relet the Premises and Facility for a term greater or lesser than that remaining under the Lease Term, the right to relet the Premises and Facility as a part of a larger area, and the right to change the character or use made of the Premises and Facility). For the purpose of such reletting, LANDLORD may decorate and make any repairs, changes, alterations or additions in or to the Premises and Facility that may be necessary or convenient. If the Premises and Facility should be relet and a sufficient sum should not be realized from such reletting (after paying all of the expenses of such decorations, repairs, changes, alterations, and additions, and the other expenses of such reletting, including, but not limited to, broker's commission), to satisfy the rent herein provided to be paid for the remainder of the Term, TENANT shall pay to LANDLORD on demand any deficiency.

In addition to the other remedies herein for Default, in the event TENANT fails or refuses to cure such Default within sixty (60) days of notice, LANDLORD may take whatever action, at law or in equity, may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of TENANT under this AGREEMENT.

(c) No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expeditious, and unless otherwise expressly provided herein the exercise of any one right or remedy shall not impair the right of LANDLORD to any or all of the remedies.

Section 22. Management of Fish Pier Complex.

LANDLORD shall use its best efforts to provide for coordination of all activities and operations on the Fish Pier Complex to allow the orderly operation of business at the Complex.

Section 23. Termination and Expiration.

(a) Termination. TENANT may terminate the leasehold granted herein at the end of any year anniversary of the date of execution hereof, provided that TENANT provides LANDLORD with notice of such intent one full year in advance.

Upon termination by TENANT pursuant to this Section, TENANT shall:

(i) offer to convey the leasehold improvements to LANDLORD;

(ii) if LANDLORD fails to purchase at the fair market value, then TENANT may sell the leasehold improvements to successor lessees.

Prior to the effective date of termination as set forth in Section 23, TENANT shall have the opportunity to assign the remaining leasehold and sell in-place the Facility, all in accordance with the terms of this AGREEMENT. TENANT may remove any component part of the Facility in lieu of sale in-place in accordance with the provisions of this subsection.

If TENANT removes any of its Facility from the Premises, it shall cause the remaining Facility and the Premises to be left in good repair and safe condition or LANDLORD may do so on TENANT's behalf and shall within ninety (90) days of TENANT's removal, charge TENANT the expense which TENANT agrees to assume.

(d) Termination for LANDLORD's Default. Upon termination resulting from default of LANDLORD, except in the event of continued operation of the Facility by TENANT or another person, firm or corporation pursuant to Section 23, the Facility shall vest as the property of LANDLORD free and clear of encumbrances upon payment of the fair market value as of termination of the AGREEMENT. Such fair market value shall take into consideration the age and condition of the Facility, TENANT's removal of any portion of the Facility, the value of the remaining leasehold, and the value of TENANT's business considering the remainder of that Term. Payment shall be made to TENANT upon the simultaneous submission of proof of discharge of all liens and mortgages on the Facility. Fair market value shall be determined by an appraiser selected in accordance with the provisions of Section 16(e). The selection of appraiser, appraisal and payment shall be completed within ninety (90) days of the termination date.

Section 24. Force Majeure.

In the event LANDLORD or TENANT shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of riots, insurrection, the act, failure to act, or Default of the other party, war or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided that the party asserting such delay notify the other in writing within thirty (30) days of the commencement of said delay, setting forth the nature and date of commencement of the delay, and any and all steps taken to mitigate the effect of such delay. If the delayed party fails to provide such written notice of delay within thirty (30) days of the commencement of the delay, the relief provided in this Section shall be deemed waived for the purposes of this AGREEMENT.

Section 25. Arbitration.

All claims, disputes, and other matters in question between the parties arising out of or relating to this AGREEMENT or the breach thereof shall be decided by Arbitration in accordance with the General Arbitration Rules of the American Arbitration Association then obtaining (hereinafter "Rules"), and the Maine Uniform Arbitration Act, except as modified by this AGREEMENT, unless the parties mutually agree otherwise. Notwithstanding the foregoing, any claims, disputes, and other matters in question arising out of this AGREEMENT which are reserved for binding resolution by means other than arbitration shall not be arbitrable.

In the event that the parties should not resolve an arbitrable dispute within the time reserved for resolution by the terms of this AGREEMENT, either may request in writing that the dispute be submitted to arbitration. LANDLORD and TENANT shall mutually agree on an arbitrator within ten (10) days of said request. Thereafter, arbitration shall be had in accordance with the Rules. The Arbitrator shall have no authority to add to, subtract from, or modify the provisions of this AGREEMENT. The Arbitrator may order reasonable discovery. The Arbitrator's decision shall be final and binding on the parties. The Arbitrator may award the costs of Arbitration to the prevailing party if she/he should determine that the other party acted in bad faith. Each party shall be responsible for the cost of presenting its own case.

Section 26. Notices.

Every notice, demand, request, approval, consent, or other communication authorized or required by this AGREEMENT shall be in writing and shall be deemed to have been properly given when delivered in hand or sent postage pre-paid by United States Registered or Certified Mail, return receipt requested, addressed as follows:

LANDLORD: Portland Fish Pier Authority
c/o Captain Jeffrey W. Monroe
Director of Waterfront and Transportation
Suite 307, Two Portland Fish Pier
Portland, Maine 04101

and

Joseph E. Gray
Acting City Manager
Portland City Hall
389 Congress Street
Portland, Maine 04101-3509

TENANT: Gerald C. Kencht, Sole Member
Atlantic Resource Enterprises, LLC.
82 Seaborne Drive
Yarmouth, ME 04096

or such other persons or addresses as such party may designate by notice given from time to time in accordance with this Section. The rent payable by TENANT hereunder shall be paid to LANDLORD at the same place where a notice to LANDLORD is herein required to be directed.

Section 27. Governing Law.

This AGREEMENT and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of

Maine. Any proceeding for interpretation or enforcement of this AGREEMENT or arising out of performance of this AGREEMENT shall be brought in the courts of the State of Maine or in the U.S. District Court for the State of Maine.

Section 28. No Merger.

The fee title of the premises and the leasehold estate granted by this AGREEMENT shall not merge, but shall always remain separate and distinct notwithstanding the union of said estates either in TENANT or in a third-party by purchase or otherwise.

Section 29. Partial Invalidity.

If any term, covenant, condition, or provision of this AGREEMENT, or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this AGREEMENT, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this AGREEMENT shall be valid and be enforced to the fullest extent permitted by law.

Section 30. Memorandum of Lease.

LANDLORD and TENANT agree not to record this AGREEMENT, but each party agrees, at the request of the other, to execute, acknowledge, and deliver a memorandum of lease. In no event shall such document set forth the rent or other charges payable by TENANT under this AGREEMENT and any such document shall expressly state that it is executed pursuant to the provisions contained in this AGREEMENT, and is not intended to vary the terms and conditions of this AGREEMENT.

Section 31. Entire AGREEMENT.

In entering into this AGREEMENT, the TENANT warrants that it has not acted in reliance on any statement of representation made by any employee, officer, director or counsel of either the LANDLORD or the City of Portland which statement or representation is not stated herein, set forth in the subordinate agreement relating to the Public Amenity Area or reflected in the public records of the City of Portland.

Except as limited above, this AGREEMENT expresses the entire understanding and all agreements of the LANDLORD and TENANT with each other in regard to Parcel 12-A.

This AGREEMENT may be modified only by a written amendment signed by both parties.

Section 32. Parties.

Except as herein otherwise expressly provided, the covenants, conditions, and agreements contained in this AGREEMENT shall bind and inure to the benefit of LANDLORD and TENANT and their respective successors, and assigns.

Section 33. Waivers.

Failure of LANDLORD or TENANT to complain of any act or omission on the part of the other party no matter how long the same may continue, shall not be deemed to be a waiver by said party of its rights hereunder. No waiver by LANDLORD or TENANT at any time, express or implied, of any breach of any provision of this AGREEMENT shall be deemed a waiver or a breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision.

Section 34. Federal and State AGREEMENT.

All terms and obligations under this AGREEMENT shall be subordinate to the provisions of the existing agreement between the City of Portland and the State of Maine and United States Government and any future agreements between the same relative to the funding and construction of the Fish Pier Complex. TENANT agrees to execute any amendment to this AGREEMENT whenever requested by LANDLORD which is required to bring either LANDLORD or the City into compliance with any labor regulation relating the development and operation of its Fish Pier Complex project. TENANT may terminate this AGREEMENT if compliance with this Section would materially affect its ability to operate the Premises as specified in Section 9.

Section 35. Right to Enter and Inspect.

LANDLORD, by its authorized officers, employees, or agents, shall have the right, at such times as may be reasonable under the circumstances and with as little interruption of TENANT's operations as is reasonably practicable, to enter upon and in the Premises and Facility without charge to inspect the Premises and Facility to determine compliance with City ordinances and the terms of this AGREEMENT.

IN WITNESS WHEREOF, the Portland Fish Pier Authority has caused this AGREEMENT to be signed in its corporate name by Joseph E. Gray, Jr., Acting City Manager of the City of Portland and duly authorized agent of the Portland Fish Pier Authority and Atlantic Resource Enterprises, LLC, has caused this AGREEMENT to be signed by Gerald C. Knecht, its sole member, as of the day and date first stated above.

WITNESS:

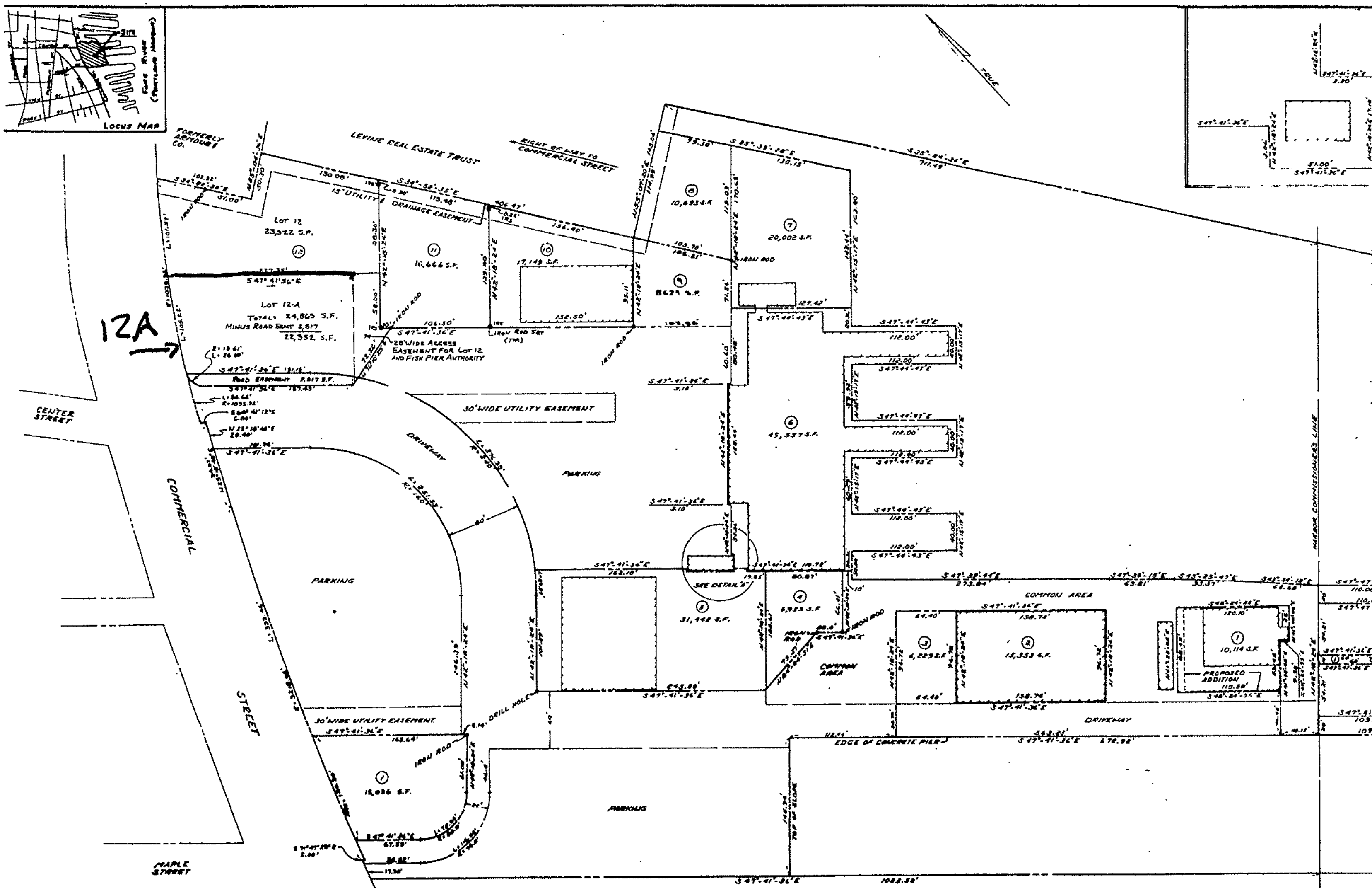
PORTLAND FISH PIER AUTHORITY

Sonia T. Bean

by: Joseph E. Gray

Joseph E. Gray, Acting City Manager of the City of Portland, Maine and duly authorized agent of the Portland Fish Pier Authority

Charles A. Lane



PLAN REFERENCE:

1) RECORDING PLAT "PORTLAND FISH PIER COMPLEX" IN PORTLAND, MAINE FOR THE CITY OF PORTLAND BY OWEN HASKELL INC., DATED 8/15/83, RECORDED IN PLAN BOOK 161, PG. 10.
2) STATE OF MAINE DEPT OF TRANSPORTATION RIGHT OF WAY MAP, COMMERCIAL ST, PORTLAND, FEDERAL AID PROJECT NO M-0685(4) DATED JUNE 1991, SHTS 2 AND 3
3) M.D.O.T. TAKINGS FOR FISH PIER COMPLEX RECORDED IN PLAN BOOK 137, PGS. 34-85.
4) AMENDED RECORDING PLAT, PORTLAND FISH PIER COMPLEX FOR THE CITY OF PORTLAND BY OWEN HASKELL, INC. DATED 2/5/90, REVISED 2/10/92 RECORDED 2/13/92 IN PLAN BOOK 132, PG. 32.

NOTES:

1) CITY RESERVES THE RIGHT TO RELOCATE PROPOSED DRIVEWAYS, UTILITIES, PARKING & OTHER COMMON AREAS, AND PROVIDE REASONABLE SUBSTITUTE FACILITIES TO ANY AFFECTED TENANT
2) ALL POWER LINES ARE TO BE INSTALLED OVERHEAD

STATE OF MAINE, CUMBERLAND ss
REGISTRY OF DEEDS
RECEIVED Jan 18 2001
AT 1 H 22 M P m AND RECORDED
IN PLAN BOOK 201 PAGE 18
ATTEST John B O'Brien
REGISTRAR

0 12.5 25 50 100 150 200 FEET
GRAPHIC SCALE

APPROVED BY THE CITY OF PORTLAND PLANNING BOARD

DATE: 1-9-01

SEAL
STATE OF MAINE PROFESSIONAL LAND SURVEYOR

10-12-00	DIVIDE LOT 12
6-15-94	EXPANDED LOT 11
2-10-92	REVISED COMMERCIAL STREET RIGHT OF WAY

AMEMDED RECORDING PLAT
"PORTLAND FISH PIER COMPLEX"
IN
PORTLAND, MAINE
FOR
THE CITY OF PORTLAND CONGRESS ST. PORTLAND, ME

Owen Haskell, Inc.
Civil Engineers — Land Surveyors
South Portland - Kennebunk, Maine

Drawn By DBP	Date	Job No.
Trace By DBP	2-5-90	8008 P
Check By JWS ✓	Scale	Drwg. No.
Bk No 208,272,457	1" = 50 FEET	2

LICENSE AGREEMENT BETWEEN
ATLANTIC RESOURCE ENTERPRISES, LLC
AND
THE PORTLAND FISH PIER AUTHORITY
IN REGARD TO THE PUBLIC AMENITY AREA

This Agreement made this 2nd day of February 2001, by and between the Portland Fish Pier Authority, a Maine non-profit local development authority, having a place of business in the City of Portland, County of Cumberland, and State of Maine, and acting pursuant to the terms of a lease between the City of Portland and the Portland Fish Pier Authority, dated April 30, 1990 (hereinafter "FPA"), and Atlantic Resource Enterprises, LLC, a Maine limited liability company having a place of business in Portland, Maine(hereinafter "TENANT").

W I T N E S S E T H

WHEREAS, TENANT has leased Parcel 12 A of the Portland Fish Pier all as more fully set forth in the document entitled lease between Portland Fish Pier Authority and TENANT, dated January 25 ,2001 (hereinafter "Lease"); and

WHEREAS, part of the lease premises include an area described as the Public Amenity Area which is more fully depicted on Exhibits A and B (Site Plan drawings of Tenant's proposed building) attached hereto; and

WHEREAS, TENANT has agreed to improve the Public Amenity Area in conformity to the conditions of Site Plan Approval of its proposal, all as more fully set forth in Section 2 (b) of the Lease; and

WHEREAS, pursuant to section 2(b) of the Lease, the FPA has agreed to maintain the said Public Amenity Area, including, but not limited to, making it available for use by the public:

NOW, THEREFORE, in consideration of their mutual promises, covenants and agreements, and other good and valuable consideration, receipt of which is hereby acknowledged, the said parties agree as follows:

1. Term.

The rights granted under this Agreement will be coterminous with the term of the Lease.

2. Rental.

TENANT will not charge rental nor assess fees of any kind for FPA's exercise of the rights granted herein.

3. Insurance.

FPA shall provide at its own expense and keep in force during the term or any renewal thereof, commercial general liability insurance in a good and solvent insurance company or companies licensed to do business in the State of Maine, selected by it, in the amount of at least $1,000,000.00 with respect to injury or death to any one person and any $1,000,000.00 with respect to injury or death to more than one person in any accident or other occurrence, and $1,500,000.00 with respect to damages to property, naming Atlantic Resource Enterprises, LLC ~~North Atlantic, Inc.~~, as ~~assignee of~~ TENANT, as an additional insured thereon. FPA agrees to deliver copies of certificates of such insurance to ~~North~~ Atlantic Resource Enterp. prior to its taking possession and control of the Public Amenity Area and thereafter not less than thirty (30) days prior to the expiration of any such policy. The amount of insurance required shall be subject to renegotiation at the close of every fifth (5^{th}) rental year, but shall not be less than the amount set forth herein.

4. Conformity to Lease.

This Agreement shall be interpreted to be consistent with and in support of the terms and obligations set forth in the Lease.

IN WITNESS WHEREOF, the Portland Fish Pier Authority has caused this Agreement to be signed in its corporate name by Joseph E. Gray, Jr., Acting City Manager of the City of Portland, Maine and duly authorized agent of the Portland Fish Pier Authority, and Atlantic Resource Enterprises, LLC, has caused this Agreement, to be signed by Gerald C. Knecht, its sole member, as of the day and date first stated above.

WITNESS:

PORTLAND FISH PIER AUTHORITY

by: ______________________
Joseph E. Gray, Acting City Manager of the City of Portland, Maine and duly authorized agent of the Portland Fish Pier Authority

WITNESS:

ATLANTIC RESOURCE ENTERPRISES, LLC

by: ______________________
Gerald C. Knecht
Its sole member

January 15, 2001

STATE OF MAINE
Cumberland, ss.

Personally appeared before me the above named Gerald C. Kentch, sole member of Atlantic Resource Enterprises, LLC, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and free act and deed of Atlantic Resource Enterprises, LLC.

Before me,

Timothy H. Norton
Notary Public/Attorney at Law

Timothy H. Norton
Printed Name

STATE OF MAINE
Cumberland, ss.

January _____, 2001

Personally appeared before me the above named Joseph E. Gray, Jr., Acting City Manager of the City of Portland, Maine, duly authorized agent of Portland Fish pier Authority, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Portland Fish Pier Authority.

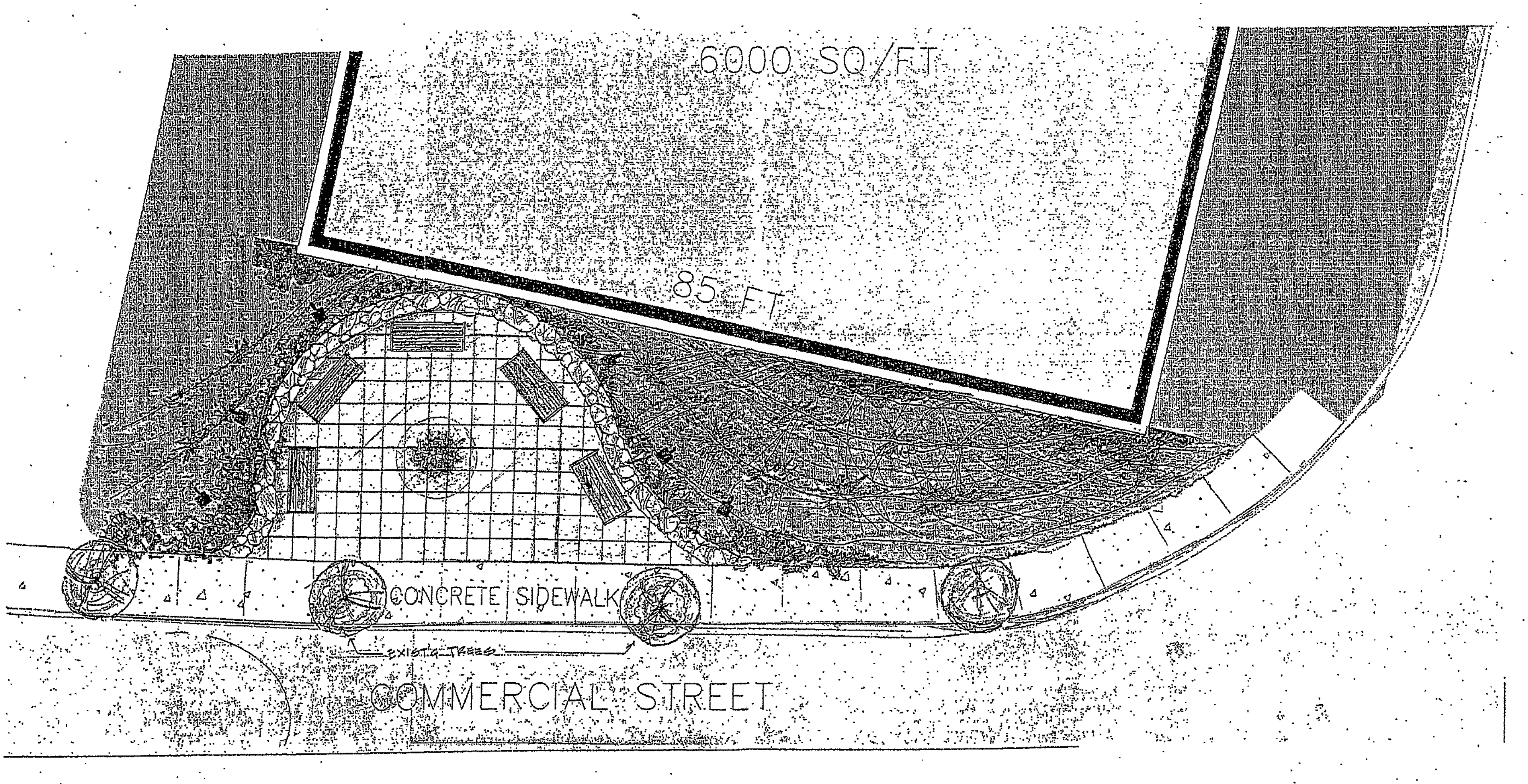
Before me,

Sonia T. Bean
Notary Public~~/Attorney at Law~~

SONIA T. BEAN
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES [illegible]
Printed Name

O:\OFFICE\CONTRACT\Atlantic Holdings License Agreement CAL.doc

Exhibit
A



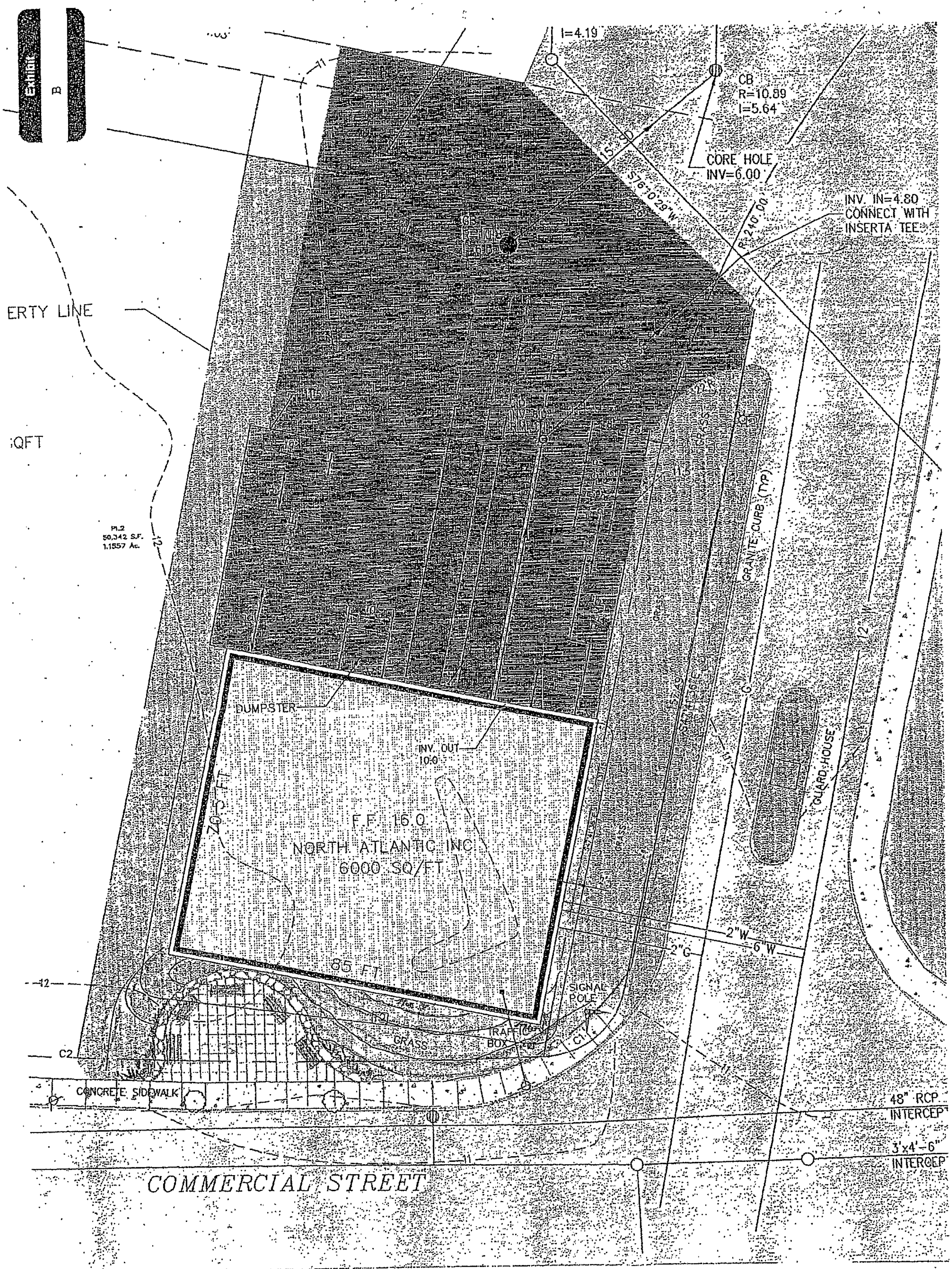
SCALE : AS SHOWN	NORTH ATLANTIC INC. PROPOSED BUILDING LOCATION PORTLAND, MAINE
DATE : 01 OCTOBER 2000	
DESIGNED: PD	
DRAWN : SLO	ENLARGED (PARTIAL) PROPOSED SITE PLAN
CHECKED: AD	
APPROVED:	

SHEET NO.

PROJ 000-012

SHT 1 OF

Exhibit B



SCALE : AS SHOWN	NORTH ATLANTIC INC. PROPOSED BUILDING LOCATION PORTLAND, MAINE
DATE : 01 OCTOBER 2000	
DESIGNED: PJD	
DRAWN : SLD	PROPOSED SITE PLAN
CHECKED: PJD	
APPROVED:	

SHEET NO. PROJ 000-012 SHT 1 OF

REVIS'N	DESCRIPTION	DRAWN	CHECKED	APPROVED
A	PORTLAND PLANNING BOARD SUBMISSION	SLD	PJD	

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Rob Elder, Chair
Members of the Fish Pier Authority Board

FROM: Ellen Sanborn, Finance Director EJS

DATE: August 4, 2014

RE: Lease with Waterfront Maine/Browne Trading

I wanted to provide some history on this lease for your reference as you discuss this item.

Browne Trading Company (BTC) originally leased Lot 12 from the FPA beginning January, 2001, for parking of employees and customers, and a trash receptacle. It also allowed access across the Lot 12A paved area. BTC owned the building contiguous to Lot 12 just off the Fish Pier property. That lease also included the option for BTC to negotiate a lease to build a building on that lot.

BTC sold their building to Waterfront Maine, which prompted a new lease for Lot 12. This, the current, lease included the ability to put a loading dock on the property, and removed the option to negotiate a lease to build on the lot, with the understanding that the lease term was for a defined period of two years with no renewal.

The FPA has been interested in marketing Lot 12 for development for some time. This spring, you authorized having environmental testing done to inform the process of offering the lot for lease, which is being done through Sebago Technics, Inc. This effort is what dictated the terms of the current lease because the Board's expectation is that we will be able to develop Lot 12 in the very near future.

The immediate issue is that BTC does have a trash receptacle on the lot and utilizes it for parking. While the lease allows 90 days for BTC to remove any improvements or structures on the property, the expiration date of August 31, 2014, does not allow much time to secure other parking arrangements. As indicated in the attached email from Rod Mitchell, owner of BTC, he would like to discuss options with the Board, and will be in attendance on the 11th.

Ellen Sanborn - FPA lease request

From: "Rod Mitchell" <rodmitchell@brownetrading.com>
To: "Ellen Sanborn" <els@portlandmaine.gov>
Date: 8/4/2014 12:48 PM
Subject: FPA lease request
CC: "'Nelle Hanig'" <NRH@portlandmaine.gov>, "'Chris Pachios'" <CPachios@wfn...

Hi Ellen,

As per our conversation today, I would like make a presentation to the Portland Fish Pier Authority ,requesting a new lease for lot 12 at the next meeting on August 11
At 3pm. Please confirm if the board will allow time for me to make the presentation. Thank you for your help on this matter.

Very best regards,

Rod Browne Mitchell
President, Browne Trading Co.
e: rodmitchell@brownetrading.com
twitter @RodBMitchell
p: 207.358.7537
c: 207.252.7737
www.brownetrading.com

Browne Trading

LEASE AGREEMENT BETWEEN

PORTLAND FISH PIER AUTHORITY

AND BROWNE TRADING CO.

AND WATERFRONT, MAINE LIMITED PARTNERSHIP

THIS AGREEMENT made this 9th day of November, 2012, by and between the **PORTLAND FISH PIER AUTHORITY**, a Maine non-profit local development authority, having a place of business in the City of Portland, County of Cumberland, and State of Maine, and acting pursuant to the terms of a Lease between the City of Portland and the Portland Fish Pier Authority (hereinafter "AUTHORITY"), dated April 30, 1990, and **BROWNE TRADING CO.**, a corporation organized under the laws of Maine and having a place of business in said Portland (hereinafter "BROWNE"), and **WATERFRONT, MAINE LIMITED PARTNERSHIP**, a limited partnership organized under the laws of Maine and having a place of business in said Portland (hereinafter "WATERFRONT MAINE"); BROWNE and WATERFRONT MAINE are hereinafter together and jointly referred to as "TENANT", and both BROWNE and WATERFRONT MAINE shall be severally (and jointly) liable for duties and obligations ascribed to TENANT, hereunder.

W I T N E S S E T H:

WHEREAS, AUTHORITY operates the Portland Fish Pier Complex, pursuant to the terms of a Management Agreement between it and the City of Portland, dated September 24, 1990; and

WHEREAS, BROWNE has been leasing certain property situated on the said complex pursuant to a lease dated

September 14, 2009, and before that pursuant to a lease dated December 30, 2005; and

WHEREAS, BROWNE has sold its real estate adjacent to the Portland Fish Pier Complex to WATERFRONT MAINE, and now leases that same adjacent real estate from WATERFRONT MAINE; and

WHEREAS, the parties hereto wish enter into a new Lease Agreement;

NOW, THEREFORE, in consideration of their mutual promises, covenants and agreements, and other good and valuable consideration, receipt of which is hereby acknowledged, the said parties agree, as follows:

1. **DESCRIPTION OF PREMISES**. The premises which are the subject of this lease contain 23,922 square feet, more or less, and are more fully described on the plan designated "Amended Recording Plat 'Portland Fish Pier Complex'," dated January 9, 2001, and recorded in the Cumberland County Registry of Deeds in Plan Book 201, Page 18, on January 18, 2001, as Parcel 12. A copy of the Plat is attached hereto as Exhibit A.

2. **TERM**. The term of the lease shall be from September 1, 2012 through August 31, 2014.

3. **RENT**. The rental for the premises will be One Thousand Five Hundred Eighty-Six Dollars and Fifty-Nine Cents ($1,586.59) per month, for a yearly total of Nineteen Thousand Thirty-Nine Dollars and Eight Cents ($19,039.08) during the first year, and during the second year The rental for the premises will be One Thousand Six Hundred Twenty-Six Dollars and Twenty-six Cents ($1,626.26) per

month, for a yearly total of Nineteen Thousand Five Hundred Fifteen Dollars and Twelve Cents ($19,515.12). TENANT will pay AUTHORITY, without demand and in advance of the first (1st) day of each month. The parties acknowledge that as of the date of the signing of this Lease all rents due and payable have been paid through November 31, 2012, and that the first payment due under this Lease shall be on December 1, 2012.

4. **PERMITTED USES**. TENANT may use and occupy the premises which are the subject of this lease only for the uses which are described below:

(a) placement and operation of a loading dock and a trash compactor, or other receptacle for trash, supported on a cement pad;

(b) use and improvement of the existing gravel road which crosses the property for vehicular traffic;

(c) BROWNE employee only parking for no more than ten vehicles;

(d) parking for customers of BROWNE's retail operations via the existing Commercial Street curb cut, subject to approval by the Portland planning authority and the AUTHORITY. Such parking, if approved, shall only be permitted during the normal business hours of the retail operation and shall be regulated by TENANT or their agent(s) accordingly;

(e) right of access across the paved areas of Lot 12a as shown on Exhibit A, for vehicles and pedestrians who are either business

Corrected page 3, substituted on 12/12/12, with the consent of all parties - L Walden invitees, other than retail customers, or employees of BROWNE;

(f) landscaping and fencing, subject to the approval of the City of Portland Director of Public Buildings; and

(g) outdoor seating for BROWNE's customers and associated landscaping, subject to approval of the City of Portland Director of Public Buildings.

5. **APPROVAL OF AUTHORITY**. Notwithstanding any other provisions of this lease to the contrary, TENANT may not make any improvements to the premises, including, but not limited to, those described in Paragraph 4 above, without the prior written approval of the AUTHORITY. TENANT will be responsible for procuring all approvals and permits necessary to make any improvements to the premises.

6. **INSURANCE**. As a condition of this lease, TENANT agrees to maintain, at its own expense, from the time it begins exercising the rights granted by this lease until its termination, a policy of commercial general liability insurance, written on an occurrence basis, and including broad form contractual liability coverage, insuring against all claims for injury to or death of persons or destruction of or damage to property, on or about the licensed area, or arising out of the use of the license by TENANT, its officers, agents, employees or invitees, as well as fire legal liability insurance. Such policies will name the Fish Pier Authority and the City of Portland as additional insureds. The minimum limits of liability of for the commercial general liability insurance will be a combined

single limit of One Million Dollars ($1,000,000.00), and the minimum limits of liability for the fire legal liability insurance will be a combined single limit of One Hundred Thousand Dollars ($100,000.00).

Such insurance coverage will be effected upon terms reasonably available from insurers authorized to do business in Maine and having a Bests' rating of A or better, and under valid and enforceable policies which shall be non-amendable and non-cancelable without thirty (30) days prior notice to the AUTHORITY.

Certificates or other evidence of insurance coverages required of TENANT in this Section, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the AUTHORITY prior to use of the Premises.

7. **LESSEE'S INDEMNITY**. TENANT will indemnify and save harmless both the AUTHORITY and also the City of Portland, their officers, agents, and employees, from and against all claims, expenses, losses, or liability of whatever nature, arising, directly or indirectly, from any accident or injury, however caused, to any person on or about the area which is the subject of this Lease, where such accident or injury results from any act, omission, or negligence on the part of TENANT or TENANT's contractors, licensees, agents, servants, employees, customers, or anyone claiming by or through TENANT; provided, however, that in no event shall TENANT be obligated under this Section to indemnify AUTHORITY, its officers, agents and employees, to the extent that such claim, expense, loss, or liability results from any omission, fault, negligence, or other misconduct of AUTHORITY or its officers, agents or employees, on or

about the area which is the subject of this revocable license.

This indemnity and hold harmless provision includes indemnity against all reasonable expenses and liabilities incurred by or in connection with any claim or proceeding brought thereon, as well as the defense thereof with counsel reasonably acceptable to AUTHORITY and to the City of Portland.

8. <u>NO ASSIGNMENT</u>. The rights granted to TENANT herein may not be assigned, transferred, encumbered or sublet in whole or in part by it.

9. <u>REMOVAL OF IMPROVEMENTS MADE BY TENANT</u>. TENANT agrees, at its own expense, to remove any improvements or structures which it may place in the leased premises within ninety (90) days after August 31, 2014 and to restore the area to the same condition it was in prior to the granting of the lease. Should TENANT fail to so remove such improvements, the AUTHORITY may at any time after said ninety (90) days have passed caused such improvements to be removed, and TENANT shall thereafter to liable to all costs related to such removal.

10. <u>SURVIVAL OF CERTAIN PROVISIONS</u>. The provisions of Article 7 (indemnification) and Article 9 (removal and restoration) shall survive termination of this lease and remain enforceable against TENANT in regard to events which occurred prior to the date of termination and TENANT's surrender of the premises to AUTHORITY.

11. **MAINTENANCE**. TENANT is responsible for all maintenance of the leased premises, including, but not limited to, snowplowing and sanding, as circumstances may require, and, further, agrees to keep them in a neat and orderly condition to the satisfaction of the City of Portland Director of Public Buildings.

12. **LAWS AND REQUIREMENTS**. During the term, TENANT shall, at its own cost and expense, promptly observe and comply with all existing and future laws, of the federal, state, and county and city governments, including the Fish Pier rules, and of all other governmental authorities affecting the Fish Pier Complex or appurtenances thereto, to the extent that such laws or regulations are directly related to the Premises, while such laws or regulations are in force, regardless of when enacted.

13. **DEFAULT.** The AUTHORITY may cancel and terminate this Lease in the event any monthly rental payment is in arrears, and remains unpaid for a period of fifteen (15) days after the payment is due, upon the giving of fifteen (15) days written notice to TENANT of its intention to so terminate, at the end of which time all the rights of TENANT shall terminate unless the rental payment owed shall have been tendered to the AUTHORITY within such fifteen (15) day period.

Upon thirty (30) days' prior written notice, either party may cancel and terminate this Lease in the event of any default of the other unless the default, which shall be specified in such written notice, is cured within the said thirty (30) days or, if said default cannot reasonably be cured within said 30 days, the defaulting party has diligently begun to cure said default and continues to do so, in which case such termination shall not take effect.

14. <u>OPTION TO RENEW</u>. There is no option to renew.

IN WITNESS WHEREOF, the **PORTLAND FISH PIER AUTHORITY** has caused this Agreement to be signed by Robert Elder ~~Kevin Rousseau~~, its President; and **BROWNE TRADING COMPANY**, has caused this Agreement to be signed by ROD B. Mitchell, its Chief Executive Officer thereunto duly authorized and **WATERFRONT, MAINE LIMITED PARTNERSHIP**, has caused this Agreement to be signed by Anthony Gatti, its General Partner thereunto duly authorized, all as of the day and date first above-written.

Signed, Sealed and
Delivered in presence of

PORTLAND FISH PIER AUTHORITY

Joan L. Morgan

By: ____________
Robert Elder
Its President

BROWNE TRADING CO

By: ____________
ROD B. Mitchell
Its: President

WATERFRONT, MAINE LIMITED PARTNERSHIP

By: ____________
Anthony Gatti
Its General Partner

STATE OF MAINE
~~Cumberland~~, ss.
Kennebec

11-5, 2012

Personally appeared before me the above-named Robert D. Elder, and acknowledged the foregoing instrument to be his free act and deed in his capacity as President of the Portland Fish Pier Authority, and the free act and deed of said corporation.

JEAN A. STEWART
Notary Public State of Maine
My commission expires August 15, 2013

Before me,

Jean A Stewart
Notary Public/~~Attorney at Law~~

STATE OF MAINE
Cumberland, ss.

11-13, 2012

Personally appeared before me the above-named Anthony Gatti, and acknowledged the foregoing instrument to be his/her free act and deed in his/her capacity as General Partner of Waterfront, Maine Limited Partnership, and the free act and deed of said entity.

Before me,

MARTHA A. KNEELAND
Notary Public-Maine
My Commission Expires
March 27, 2019

Martha A Kneeland
Notary Public/~~Attorney at Law~~

STATE OF MAINE
Cumberland, ss.

12-5, 2012

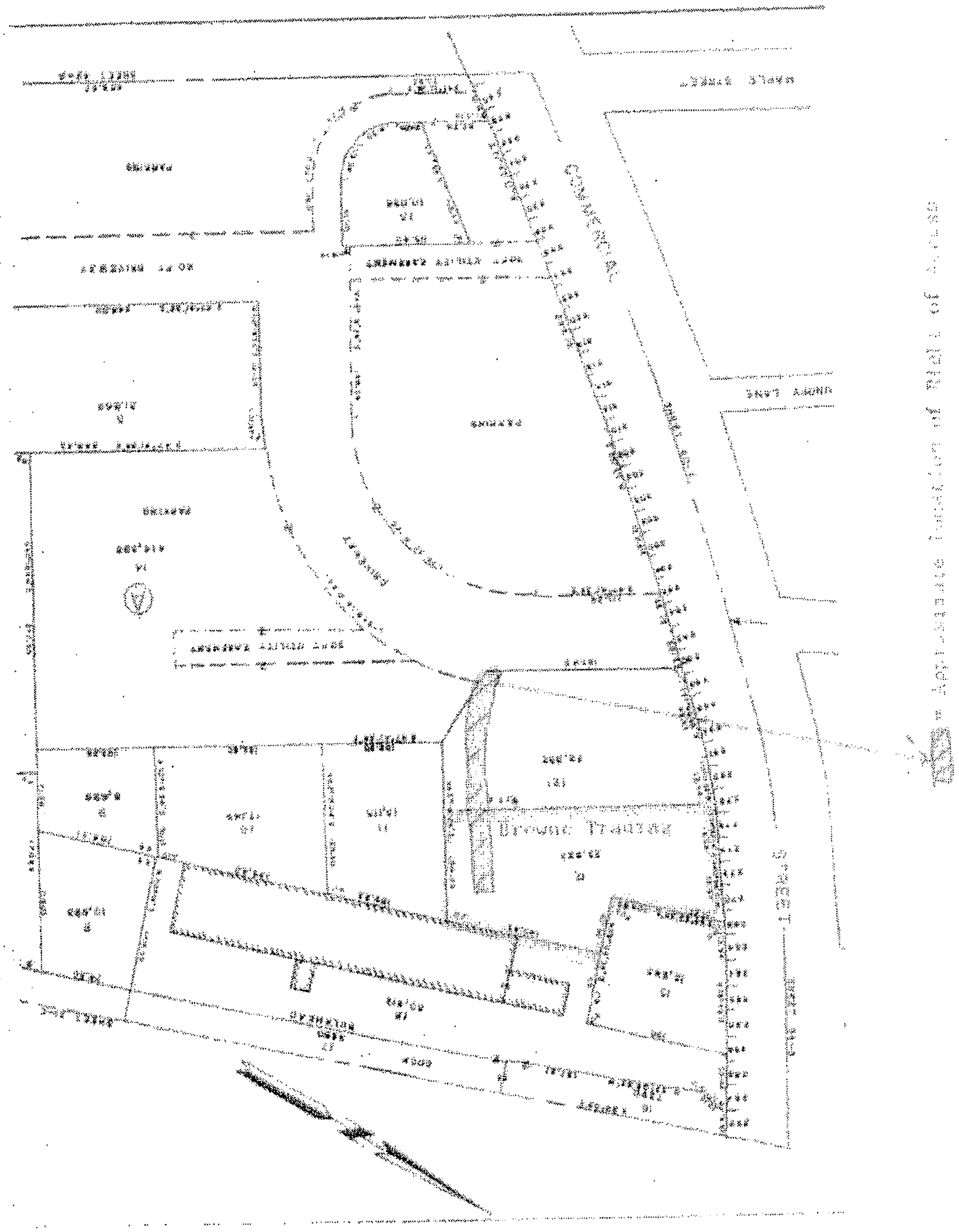
Personally appeared before me the above-named ROD B. MITCHELL, and acknowledged the foregoing instrument to be her free act and deed in ~~her~~ his CPA capacity as President of Browne Trading Company, and the free act and deed of said corporation.

Chanterelle P. Atkins
Notary Public, State of Maine
My Commission Expires on January 30, 2019

Before me,

Chanterelle Atkins
Notary Public/Attorney at Law

EXHIBIT A


COMMERCIAL STREET
MAPLE STREET
Browne Trading
= Approximate Location of Right of Access

PORTLAND FISH EXCHANGE
LEASE AGREEMENT

THIS AGREEMENT made as of the 1st day of September, 2014, by and between the **PORTLAND FISH PIER AUTHORITY**, a Maine non-profit local development authority, having a place of business in the City of Portland, County of Cumberland, and State of Maine, (hereinafter "Landlord"), and **PORTLAND FISH EXCHANGE**, a Maine non-profit corporation, incorporated under the provisions of the Maine Non-Profit Corporation Act, 13-B M.R.S.A. §101, et. seq., and doing business in Portland, County of Cumberland, State of Maine, (hereinafter "Tenant").

In consideration of their mutual covenants, promises and agreements, and other good and valuable consideration, receipt of which is hereby acknowledged, the said parties agree as follows:

1.03 Definitions.

Unless the context shall otherwise require, the terms defined in this Section 1 shall, for all purposes of this Agreement and for any amendments or supplements hereto, have the meanings specified herein. Words of the singular number may include the plural; and words of the plural number may include the singular.

(a) Common Areas. The words "Common Areas" shall mean those areas in the Fish Pier Complex which are available for the common use of all tenants at the Fish Pier Complex, including cable stretching areas, driveways, truckways, delivery passages, truck loading areas, access and egress navigational channels, breakwaters, bulkheads, roadways, walkways, sidewalks, landscapes, and planted areas, and bus stops and which are shown as shaded areas on Exhibit A of this Agreement.

(b) Director. The term "Director" shall mean the Director of Recreation and Facilities Management of the City of Portland, or successor or authorized representative.

(c) Facility. The word "Facility" shall mean the Cooler-Auction Building and finger-pier Sorting Sheds constructed on the premises, and trailer-office situated on Lot #7.

(d) Fish Pier Complex. The words "Fish Pier Complex" shall mean the real property and any site improvements thereon as shown in Exhibit A of this Agreement.

(e) Plans and Specifications. The term "Plans and Specifications" shall mean the Plans and Specifications submitted by the Tenant or its designated representative to the Director regarding proposed alterations or modifications to the Premises.

Kate 7-30-14

(f) Premises. The term “Premises” shall mean the real property identified in Exhibit A as Parcel 4, Parcel 6 and Parcels 7 and 8 (which include the so-called “Net Yard”) and any improvements made thereon; and all berthing adjacent to Parcels 6, 7, and 8, including three (3) finger piers (including the Pier 1 extension), and bulkheads, subsurface pilings, and water, sewer, fuel and electrical connections together with all rights of way, accretions, easements, tenements, hereditaments and appurtenances, rights, privileges and immunities thereunto belonging or pertaining. Parking privileges, at a monthly rate, on portion of Parcel 9, and also on a portion of the common area adjacent to Parcel 4 are also hereby granted, in section 4, below.

SECTION 2. SUBJECT OF LEASE

Landlord hereby leases to Tenant and Tenant hereby accepts from Landlord upon the terms and conditions herein the Premises, situated in the City of Portland and described in section 1.03 subsection (f), and a license to pump fish from Parcel 7; Tenant’s leasehold rights include the right to place and maintain a trailer-office on Parcel 7.

SECTION 3. TERM

3.01 Except as provided in subsection 3.03 below, the period of this Agreement shall be from the effective date of this Agreement, and ending on May 1, 2030, unless sooner terminated by the Landlord or Tenant, pursuant to the terms of this Agreement.

3.02 On or after October 1, 2029, at Tenant's request, the parties shall begin good faith negotiations regarding a new agreement for operation of the Facility and the terms of such an agreement. Negotiations shall continue until an agreement has been concluded or the term expires, as provided in subsection 3.01, whichever should occur first.

SECTION 4. RENT

In accordance with Section 3.03 above, the Tenant will pay rent and other charges, as set forth below, for its occupation and use of the Premises and the right to pump fish from Parcel 7. Except as described otherwise in this section, Tenant shall make rental payments in equal installments on the fifteenth (15th) day of each month.

4.01 Premises and Facility. Tenant covenants and agrees to pay rent of:

(a) For the period from September 1, 2014 to December 31, 2019, Thirty Thousand Dollars ($30,000.00) annually, in monthly payments of Two Thousand Five Hundred Dollars ($2,500.00).

(b) For the period from January 1, 2020 to December 31, 2025, Thirty Thousand-Two Five Hundred Dollars ($32,500.00) annually, in monthly payments of Two Thousand Seven Hundred Eight and 33/100 Dollars ($2,708.33).

(c) For the period from January 1, 2026 to May 1, 2030, Thirty-Five Thousand Dollars ($35,000.00) annually, in monthly payments of Two Thousand Nine Hundred, Sixteen and 66/100 Dollars ($2,916.66).

4.02 Fish-Pumping for Lot #7. The Landlord hereby grants Tenant a revocable license to pump fish between vessels and Parcel 7. Tenant agrees to pay Landlord, separate from and in addition to the rent stated above, $.75 per ton for each ton (or portion thereof) of fish so pumped.

4.03 Parking. In addition to parking on any portion of the Premises (including Lot 4, Tenant is hereby granted permission to use up to11 parking spaces on common area southeasterly of, and adjacent to, Parcel 4, which spaces it has traditionally used. In addition, Tenant shall pay Landlord for the use of a total of 23 parking spaces at a monthly rent of Twenty Five Dollars ($25.00) each, subject to adjustment in number and location as deemed necessary by Landlord, such parking spaces to be located: (a) 11 parking spaces in common "Parking" area front of the Fish Exchange main building, and (b) 12 parking spaces in Parcel 9.

SECTION 5. CONDITION OF PREMISES

The Tenant accepts and takes the Premises in their present "AS IS" condition. All Tenant improvements, additions and alterations shall be at Tenant's sole cost and expense and Landlord shall have no responsibilities therefor. Landlord makes no representations or warranties in regard to the physical condition of the Premises, nor any other matter concerning the Premises. Tenant has inspected the Premises and is familiar with their condition and is not relying upon any representations or warranties of the Landlord.

SECTION 6. TRANSIENT BERTH MANAGEMENT

The Tenant agrees as a condition and term of this Agreement to manage the transient berth located on the Portland Fish Pier at S47-36'-15' running 69.81 to S45-25'-47', consistent with rules of the Fish Pier Authority, and at rates mutually agreed to by Landlord and Tenant, and also commercially reasonable. Tenant my offer a .025% rebate on auction fees applied against these berthing fees. Landlord and Tenant shall share all paid revenue from the transient berth, 75% to Tenant, 25% to Landlord. This element of this Agreement may be cancelled, separate from the remainder of the Agreement, by either party upon 30 days written notice.

SECTION 7. USE OF PREMISES

7.01 The Tenant shall use and occupy the Premises throughout the term hereof for the purpose of maintaining a market for the purchase and sale of fish. Permitted activities shall include, but not be limited to:

(a) Scheduling the arrival, berthing, unloading and departure of fishing vessels and trucks at the Premises, and berthing vessels;

(b) Supervising the unloading of fish from the fishing vessels berthed at the Premises;

(c) Transporting fish from the finger piers of the Facility to appropriate locations in the Cooler-Auction Building, including packing, icing, and culling of such fish;

(d) Conducting all necessary sales transactions authorized at the Facility including, but not limited to, a daily display auction; trip auctions; and contract sales of fish handled at the Premises;

(e) Transporting fish to loading areas on the Premises for pickup by others pursuant to sale or disposal agreement as well as loading those fish on vessels and trucks;

(f) Handling and maintaining miscellaneous fishing equipment, including but not limited to net drying, folding and repair;

(g) Any other marine-related uses;

(h) Providing parking space;

(i) Maintaining all records required by good business practice and/or the Landlord, including but not limited to, records on the amount and species of fish unloaded at the Premises and sold through each authorized sale method; and

(j) Ensuring compliance with the operating rules governing activities at the Fish Pier Complex, in general, and the Premises in particular.

7.02 Customer Relations. Tenant recognizes that the maintenance of good customer relations and the maintenance of good relations among the other tenants and users of the Fish Pier Complex, as well as the image of the Landlord to visitors to the Complex, are of the utmost importance to the Landlord and Tenant, therefore, agrees to hire only proper and experienced managers capable of assuring competent operation of the Premises.

SECTION 8. LAWS AND REQUIREMENTS OF PUBLIC AUTHORITIES

8.01 During the Term, Tenant shall, at its own cost and expense, promptly observe and comply with all existing and future laws, ordinances, rules and regulations of the Federal, State, County and City Governments including Fish Pier Rules, as well as any other government authority having jurisdiction over the premises or any part thereof, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future. Tenant shall pay all costs, including reasonable counsel fees, which may in any manner arise out of or be imposed on Landlord because of the failure of the Tenant to comply with the requirements of this Section.

8.02 Tenant shall have the right, but not the obligation, to contest, without cost or expense to Landlord, the validity or application of any law, ordinance, rule, regulation, or requirement of the type referred to in the preceding subsection. If by the terms of any such provision, compliance may be legally delayed without risk of forfeiture or lien on the Premises or penalty to the Landlord, pending resolution of the legal challenge, Tenant may delay compliance therewith until final determination of such proceeding.

8.03 Landlord agrees to execute and deliver any appropriate papers or other instruments which may be reasonably necessary or proper to permit Tenant to contest the validity or application of any such provision.

SECTION 9. ALTERATIONS

9.01 Tenant may, at its own expense, place office and trade fixtures, office equipment, and the like in the Premises and make non-structural alterations, improvements, or additions ("Alterations") to the Premises, provided such work shall be performed in a good and workmanlike manner, in compliance with laws, rules, orders, and regulations of governmental entities having authority over the Premises, and provided such Alterations shall not unreasonably interfere with the use and enjoyment of the Fish Pier complex by Landlord's other tenants.

Landlord's approval shall be required for any structural alterations, additions, or improvements. Any mechanic's lien filed against the Premises or the Building by reason of any such work done by or on behalf of Tenant shall be promptly discharged by Tenant, at its own expense, by bonding or otherwise. If Tenant should fail to discharge any such lien, Landlord may do so at Tenant's expense, and Tenant shall promptly reimburse Landlord its reasonable costs and expenses in to doing. All Alterations made by Tenant to the Premises shall remain therein; and, at termination of this Lease, shall be surrendered as a part thereof, except for fixtures and equipment installed at Tenant's cost, which fixtures and equipment may be removed by Tenant. Tenant shall, at its own expense, promptly repair all damage to the Premises or the building resulting from any such removal.

9.02 The Tenant shall submit Plans and Specifications for any alteration or structural changes to the Director for review. The Director shall have the authority to approve Plans and Specifications proposing non-structural alterations. In the case of structural alterations, the Director shall submit such Plans and Specifications, together with his recommendations, to the Landlord's Board of Directors for its approval.

SECTION 10. REPAIRS AND MAINTENANCE

10.01 Tenant's Repairs and Maintenance.

(a) During the term of this Agreement and any extension thereof, Tenant will, at its sole expense, keep the Facility and the Premises in as good order and repair as they are on the date of execution of this Lease, reasonable wear and tear excepted.

(b) Tenant's responsibilities under this section shall include, but not be limited to, repair and maintenance of the plumbing, electrical, heating, refrigeration, and communication and alarm systems; roof patching on the Facility; repairs to doors and windows of the Facility; sealing and painting of floors in the Facility; repair of dents in the Facility; and the repair and replacement of exterior lighting.

(c) Tenant shall also be obligated to repair, at its own cost and expense, any casualty damage or destruction, other than normal wear and tear, caused to the finger piers and berths, including, but not limited to, the Pier One Extension, by vessels using the same in connection with Tenant's operations.

(d) Tenant shall keep the Premises in good order. Not withstanding this provision, Tenant shall not be responsible for damages caused by reasonable wear and tear; by fire or other casualty which is not the result of acts by Tenant, its agents, contractors, employees, or business invitees; made necessary as a result of a taken by condemnation or right of eminent domain; losses covered by insurance which is required to be carried by Landlord as well as matters for which Landlord is responsible by the terms of this Lease; or conditions caused by the acts or negligence of Landlord, its agents, contractors, or employees. Tenant shall surrender the Premises at the end of the Lease Term in good order, condition, and repair.

10.02 Landlord's Repairs and Maintenance.

(a) During the term of this Agreement and any extension thereof, Landlord will maintain all utility services to the Facility to the point where Tenant connects with them for its use.

(b) The Landlord shall also be obligated to repair and maintain, at its sole expense, any structural design or defect occurring or discovered during the Term. Structural repairs shall include, but not be limited to, repair of the Facility's foundation, interior load-bearing walls and floors, as well as Facility roof replacement, if necessary.

(c) The Landlord shall also, at its sole cost and expense, keep the service piers, bulkheads, pilings, and roadways to the boundaries of the Premises, and the common areas of the Fish Pier Complex in good order and repair.

(d) The Landlord shall also, at its sole cost and expense, remove accumulated debris from the Net Yard area as necessary.

10.03 Snow and Ice Removal. The Tenant shall be responsible for removal of snow and ice from the Premises, except that the Landlord shall be responsible for removal of snow and ice from the Net Yard area. The Landlord also shall remove such now and ice from the common areas, as in its judgment, is sufficient to allow Tenant to conduct its normal business operations.

10.04 Custodial Services. Tenant shall maintain and provide sufficient custodial care for all areas immediately adjacent to the Premises, and shall not cause nor suffer any waste generated by its operations to accumulate on either the Premises or the Common Areas.

10.05 Trash Collection. Tenant shall be responsible for the cost of waste dumpsters on the Premises and services related to the same.

10.06 Allocation of Responsibility for Repairs and Replacement. The chart set forth below is intended to supplement the provisions of Section 10.

Item	City Share	PFE Share
Roof replacement	100%	0%
Roof repairs	0%	100%
Pile repair	100%	0%
Pile replacement	100%	%
Pile chocks	100%	0%
Exterior paint	100%	0%

Structural, load bearing	100%	0%
Sealing and painting of floors	0%	100%
Plumbing repair & replacement	0%	100%
Electrical repair & replacement	0%	100%
Heating, cooling repair & replacement	0%	100%
Doors and windows repair and replacement	0%	100%

SECTION 11. SUBLETTING AND ASSIGNMENT

Tenant shall neither assign nor encumber this Lease nor sublet the Premises or any part thereof without on each occasion obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. In the event of any assignment or subletting, Tenant shall remain fully liable under this Lease. Such assignment, sublease, or conveyance is expressly subject to this Agreement.

SECTION 12. TENANT'S INDEMNITY

12.01 To the fullest extent permitted by law, Tenant shall at its own expense defend, indemnify, and hold harmless Landlord, its officers, agents, and employees from and against any and all liability, claims, damages, penalties, losses, expenses, or judgements, just or unjust, arising from injury or death to any person or property damage sustained by any one in and about the Fish Pier Complex, or as a result of activities or service at the Fish Pier Complex, resulting from any act or omission of Tenant, its officers, agents and employees, except to the extent that such injury, death, or property damage results from any negligent act or omission of Landlord, its officers, agents, employees or servants. Tenant shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. Landlord shall have the right to participate in such suits and no action shall be settled without prior consent of the Landlord. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the Landlord which would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein. This indemnity and hold harmless obligation includes indemnity against all reasonable expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the Landlord.

12.02 Each party shall provide the other party with prompt notice of any claim filed against it as a result of or arising from activities under this Lease.

SECTION 13. INSURANCE

13.01 Minimum coverage. The Tenant shall obtain and cause to be kept in force at all times during the term of this Lease and any extension thereof, insurance in the types and in the minimum amounts set forth below:

	Description	Type	Amount
(i)	Commercial General Liability, including Stevedore's Liability Coverage	B.I./P.D.	$2,000,000
(ii)	Worker's Compensation	Statutory Requirements	Statutory Limits
(iii)	To the extent required by law or applicable, US Longshoremen & Harbor Workers		Statutory Limits, but if none exist, $2,000,000

13.02 Landlord protected. The Landlord and the City of Portland shall each be named as an additional insured under items (i) and (ii) above. In the event that excess insurance becomes available at a reasonable cost to Tenant, Tenant agrees to increase the limits of liability under the items above.

13.03 Notice to Landlord. All policies of insurance required herein shall be in a form and issued by a company or companies satisfactory to the Landlord, and approved to do insurance business in the State of Maine. Each such policy shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Landlord. Each liability policy required to be obtained hereunder shall be on an occurrence basis. In the event that policies are not available on an occurrence basis, Tenant shall purchase a "tail" which provides coverage hereunder for a minimum of six (6) years after termination of this Agreement. All policies required hereunder shall be primary to any insurance or self-insurance which Landlord or City may maintain for its own benefit. Liability insurance coverage shall also extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, and caused by, or resulting from negligent acts, operations, or omissions of Tenant, its officers, agents, employees, invitees, and/or contractors.

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

13.05 Casualty Insurance. During the Term and any Renewal Term, Tenant shall keep the Premises insured for the benefit of Landlord and Tenant against all risks, including earthquake and loss or damage by fire or flood, and customary extended coverage, in an amount equal to 100% of the full insurable value thereof by policies containing the usual co-insurance clause. The term "insurable value" shall be deemed to mean the cost of replacement of the Premises, including the cost of demolition of damaged structures in an amount sufficient to avoid the effect of co-insurance in the event of a loss. All proceeds, payable at any time and from time to time by any insurance company under such policy, shall be payable to an escrow agent mutually agreeable to the parties for the benefit of the Landlord and Tenant for the purpose of repair or replacement. Landlord shall, at Tenant's cost and expense, cooperate fully with Tenant in order to obtain the largest possible recovery and execute any and all consents and other instruments and take all other actions reasonably necessary or desirable in order to effectuate the same and to cause such proceeds to be paid and managed as cost and expense. The full insurable value of Premises shall be determined and coverage adjusted in accordance therewith at least once every two (2) years in accordance with a professional insurance update obtained by and at the expense of Tenant. If the Landlord should disagree with the valuation provided, it may have an appraisal performed at its own expense by a qualified appraiser acceptable to Tenant. The determination of such appraiser shall be binding upon the parties for the purpose of insurance valuation, and insurance coverage will be immediately increase in conformity therewith.

13.06 State law. The endorsement naming the Landlord and the City as additional insureds shall provide that it is expressly agreed that no protection is afforded to either of them under the policy for any claim or suit against which, except for their status as additional insureds, they would be able to assert immunity under Maine Law, including but not limited to, the immunity afforded governmental entities by 14 M.R.S.A. §8101, et seq., the Maine Tort Claims Act and 14 M.R.S.A. §158 (the Charitable Immunity Act).

13.07 Release. Landlord and Tenant mutually agree that, with respect to any hazard which is covered by casualty or property insurance then being carried by them, or required to be carried hereunder (whether or not such insurance is then in effect), the one carrying or required to carry such insurance and suffering such loss releases the other from any and all claims with respect to such loss to the extent of such coverage; and they, further, mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. If the release of the party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer. For purposes of this provision, self-insurance shall not be considered "covered by insurance."

13.08 Coverage of City of Portland. All of the terms of this section shall apply to and benefit both the Landlord and also the City of Portland as owner of the Premises.

SECTION 14. PROHIBITION ON MORTGAGES

The Tenant may not mortgage what interest, if any, it has in this Agreement and the Premises and Facility.

SECTION 15. UTILITY EASEMENTS

Tenant shall have the right to enter into reasonable agreements with utility companies, municipal corporations, and other government agencies creating easements in favor of such companies as are required in order to service the Premises and Landlord covenants and agrees to consent thereto and to execute any and all documents, agreements, and instruments and to take all other actions in order to effectuate the same, all at Tenant's cost and expense.

SECTION 16. TENANT'S DEFAULT

16.01. The Tenant shall be deemed to be in default in the event any of the following conditions should occur:

(a) Tenant fails to pay, when due, any amount or installment of Rent, or any other payment specified herein;

(b) Tenant fails to observe or to perform any covenant, agreement, or obligation of this Agreement;

(c) There shall occur the dissolution of the Tenant or the Tenant shall file any petition or institute any proceedings under the Bankruptcy Code, either as such Code now exists or under any amendment thereof which may hereafter be enacted, or under any act or acts, state or federal, dealing with, or relation to the subject or subjects of bankruptcy or insolvency, or under any amendment of such act or acts, either as a bankrupt or as an insolvent, or as a debtor; or in any similar capacity, or any involuntary petition in bankruptcy is filed against the Tenant and the same is not stayed or discharged within thirty (30) days from such filing or any other petition or any other proceedings of the foregoing or similar kind or character filed or instituted or taken against the Tenant, or a receiver of the business or of the property or assets of the Tenant shall be appointed by any court, except a receiver appointed at the insistence or request of the City; or Tenant shall make a general or any other assignment for the benefit of the Tenant's creditors;

(d) The Tenant shall substantially abandon or vacate the Premises or fail to use the Premises or Facility for the purposes set forth in Section 7.

16.02 Remedies for Tenant's Default. If Tenant should be in default for any reason, except the reasons stated in Subsections 16.01 (a) and (c) above, then the Landlord shall provide reasonable notice of such default, and the Tenant shall undertake to cure such default within thirty (30) days from receipt of such notice, except as the time may be extended by the Section below entitled "Force Majeure."

SECTION 17. LANDLORD'S SELF-HELP/ATTORNEY'S FEES

17.01 If Tenant should default in the performance or observance of any agreement or condition in this Lease required to be performed or observed by it, other than an obligation to pay money, and should not cure such default as provided herein, Landlord may, at its option, without waiving any claim for damages for breach of this Lease, at any time thereafter, cure such default for the account of Tenant. Any amount paid or any liability incurred by Landlord in so doing shall be deemed paid or incurred for the account of Tenant, and Tenant agrees either to reimburse Landlord therefor, as additional rent within ten (10) days after being invoiced by Landlord, or save Landlord harmless therefrom.

17.02 Attorney's Fees. Tenant agrees to pay Landlord's expenses, including, but not limited to, its reasonable attorney's fees, which it may incur in enforcing any obligation of this Lease which Tenant has failed to observe.

SECTION 18. LANDLORD'S DEFAULT

18.01 The Landlord shall be deemed to be in default in the event any of the following conditions should occur:

(a) It is determined that the Landlord does not have the power and authority to execute and deliver this Agreement and to carry out and perform all covenants to be performed by it hereunder.

(b) The Premises are not free from encumbrances, liens, defects in title, violations of law, lease, tenancies, easement, or other restrictions, with the exception of those expressly stated in this Agreement, which prevent Tenant from carrying on its business.

(c) The Landlord is unable to secure or provide, at the time of the commencement of the Term and at all times thereafter, free and adequate means of ingress and egress to the Premises for Tenant.

(d) The Landlord fails to observe or perform any covenants, agreements, or obligations of this Agreement.

18.02 Remedies for Landlord's Default. If Landlord should be in default for any reason, except the reasons stated in Section 18.01 (a) and (c) above, then the Tenant shall provide reasonable notice of such default, and the Landlord shall undertake to cure such default within thirty (30) days from receipt of such notice, except as the time may be extended by the Section below entitled "Force Majeure."

SECTION 19. FORCE MAJEURE

19.01 In the event that either Tenant or Landlord should provide the other with a Notice of Default of such a nature that it cannot be cured within a reasonable period of time, then such default shall be deemed to be temporarily abated, provided the party charged with effecting a cure, gives written notice to the other of:

(a) its inability to cure the default within the specified time;
(b) the detailed reasons for the delay;
(c) its plans for remedying the default and the anticipated date of completion of the remedy; and
(d) its diligent efforts to continue to take all steps necessary to complete the remedy within the time estimated in subsection (c) above.

19.02 This section shall not apply to default in the payment of rent or other charges required to be paid by the Tenant under the terms of this Agreement.

SECTION 20. COMPLIANCE WITH ENVIRONMENTAL LAWS

20.01 The Tenant will comply in all respects with all applicable federal, state and local laws and regulations, including, without limitation, those relating to "hazardous materials," as defined herein.

20.02 The term "hazardous materials" shall mean any substance, material, or waste which is or becomes regulated by any governmental authority, including, but not limited to : (i) petroleum; (ii) friable or non-friable asbestos; (iii) polychlorinated biphenyls; (iv) those substances, materials or wastes designated as a "hazardous substance," pursuant to Section 311 of the Clean Water Act or listed pursuant to Section 307 of the Clean Water Act or any amendments or replacements to these statutes; (v) those substances, materials or wastes defined as a "hazardous waste," pursuant to Section 1004 of the Resource Conservation and Recovery Act or any amendments or replacements to that statute; (vi) those substances, materials or wastes defined as a "hazardous substance," pursuant to Section 101 of the Comprehensive Environmental Response, Compensation an Liability Act, or any amendments or replacement to that statute or any other similar statute, rule, regulation or ordinance now or hereafter in effect; or (vii) any "hazardous waste," "hazardous substance" or "chemical substance or mixture" or similarly regulated substances or material as such phrases are defined in or regulated pursuant to any applicable state or local law, regulation or ordinance governing the generation, storage, discharge, transportation or disposal of the same.

20.03 The Tenant, at its own cost and expense, will promptly take all actions which may be necessary to abate, remove, clean up, and otherwise cure any violation of environmental laws caused by any hazardous materials used, generated, released, discharged, stored, or disposed of on the Premises during its tenancy.

20.04 Tenant will defend, indemnify and hold the Landlord harmless from any cost, expense, claims or liability resulting from violations of any environmental laws hereunder by Tenant.

20.05 The Terms of this section shall expressly survive the expiration or earlier termination of the Lease.

SECTION 21. TERMINATION AND EXPIRATION

Upon expiration of the Term or termination pursuant to the provisions hereof, the Tenant shall yield and deliver to the Landlord possession of the Premises and Facility in good repair and condition, reasonable wear and tear excepted. If the Tenant should fail to yield the Premises and Facility in the required condition, the Landlord may undertake whatever repairs or work required to restore the Premises and Facility to good repair and condition and the Tenant shall pay the cost thereof upon presentation of the Landlord of an itemization of such costs incurred.

SECTION 22. HOLDING OVER

Any holding over by Tenant after the expiration of the Lease Term or any renewal thereof shall be treated as a tenancy from month-to-month terminable upon sixty (60) days notice by either Landlord or Tenant to the other and otherwise on the terms and conditions set forth in this Lease, so far as applicable.

SECTION 23. INVALIDITY OF PARTICULAR PROVISIONS

If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

SECTION 24. RECORDING MEMORANDUM

Landlord and Tenant agree not to record this Lease, but each party agrees, at the request of the other, to execute, acknowledge, and deliver a memorandum of lease. In no event shall such document set forth the rent or other charges payable by Tenant under this Lease and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

SECTION 25. PROVISIONS BINDING

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant.

Each term and each provision of this Lease to be performed by Tenant and Landlord shall be construed to be both a covenant and a condition.

SECTION 26. WAIVERS

Failure of the Landlord or Tenant to complain of any act or omission on the part of the other party no matter how long the same may continue, shall not be deemed to be a waiver by said party of its rights hereunder. No waiver by the Landlord or Tenant at any time, expressed or implied, of any breach of any provision of this Agreement shall be deemed an waiver or a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision.

SECTION 27. FEDERAL AND STATE AGREEMENT

32.01 All terms and obligations under this Agreement shall be subordinate to the provisions of the existing agreement between the City of Portland and the State of Maine and United States Government, and any future agreements between the same, relative to the funding and construction of the Fish Pier Complex. Tenant agrees to execute any amendment to this Agreement whenever requested by the City of Portland which is required to bring the City into compliance with any law or regulation relating to the development and operation of the Fish Pier Complex project.

32.02 No Discrimination. It is understood and agreed that funds for the construction of the Complex by City and its assignees have been provided in part by grant money from the United States Economic Development Administration, and that it is essential that use by the fishing industry of Common Areas be preserved and protected and that service to vessels be provided according to reasonable and lawful rules and regulation and without discrimination and without preference.

SECTION 28. LANDLORD'S RIGHT TO ENTER, INSPECT AND REPAIR

The Landlord, by its authorized officers, employees, agents, contractors, sub-contractors and other representatives, shall have the right, at such times as may be reasonable under the circumstances and with as little interruption of Tenant's operations as is reasonable practicable, to enter upon and in the Premises and Facility without charge for the following purposes:

(a) Inspection. To inspect the Premises and Facility to determine whether tenant has complied and is complying with the terms and conditions of this Agreement.

(b) Maintenance. To perform maintenance and make repairs in any case where it has an obligation to do so or where Tenant has failed to carry out its obligation to do so, but only after the Landlord has given Tenant reasonable notice to perform its maintenance obligation. In that event, Tenant shall promptly, upon demand, reimburse the Landlord for the reasonable cost of the Landlord performing Tenant's maintenance or repair obligation as Additional Rental.

SECTION 29. COVENANT OF QUIET ENJOYMENT

Subject to the terms and provisions of this Lease and on payment of the Rent and compliance with all of the terms and provisions of this Lease, Tenant shall lawfully, peaceably, and quietly have, hold, occupy, and enjoy the Premises during the Lease Term.

SECTION 30. NOTICES

Whenever, by the terms of this Lease, a notice shall or may be given either to Landlord or to Tenant, such notice shall be in writing and shall be delivered by hand, or sent by Federal Express or a similar reputable express delivery service, or by registered or certified mail, return receipt requested, postage prepaid. If intended for Landlord, addressed to Landlord, at the address set forth below; and if intended for Tenant, addressed to Tenant at the Premises.

All such notices shall be effective upon receipt.

Notices to Landlord shall be sent to:

Portland Fish Pier Authority
c/o City Manager
389 Congress Street
Portland, Maine 04101

and

Director of Recreation and Facilities Management
389 Congress Street
Portland, Maine 04101

Notices to Tenant shall be sent to:

Portland Fish Exchange
6 Portland Fish Pier
Portland, Maine 04101
Attn: General Manager

SECTION 31. COMPLIANCE WITH EDA REQUIREMENTS

The parties acknowledge that several portions of the Premises has been developed or improved with Economic Development Administration grant funds, and both parties agree to comply with all terms and conditions of all grants agreements between EDA and Landlord or Tenant to the extent that those terms and conditions apply to this Lease; and to comply with all applicable terms and conditions of all grant agreements for any future governmental funding for improvements to or development of the Premises.

SECTION 32. ENTIRE AGREEMENT

This Agreement (including exhibits hereto) expresses the entire understanding and all agreements of the Landlord and the Tenant with each other, and neither the Landlord not the Tenant has made or shall be bound by any agreement with or any representation to the other which is not expressly set forth in this Agreement (including the exhibits hereto). This Agreement and its Exhibits may be modified only by a written amendment approved by the governing bodies of both parties and signed by the Landlord and the Tenant.

SECTION 33. GOVERNING LAWS

This Agreement shall be governed by the laws of Maine.

[signatures on next page]

IN WITNESS WHEREOF, the PORTLAND FISH PIER AUTHORITY has caused this AGREEMENT to be signed in its corporate name and sealed with its corporate seal by Robert Elder, its President, thereunto duly authorized, and the PORTLAND FISH EXCHANGE has caused this AGREEMENT to be signed in its corporate name by Ray Swenton, its President, thereunto duly authorized, as of the day and date first stated above.

WITNESS: PORTLAND FISH PIER AUTHORITY

_______________________________ BY:_____________________________
Robert Elder
Its President

WITNESS: PORTLAND FISH EXCHANGE

_______________________________ BY:_____________________________
Ray Swenton
Its President

APPROVED AS TO LEGALITY:

____

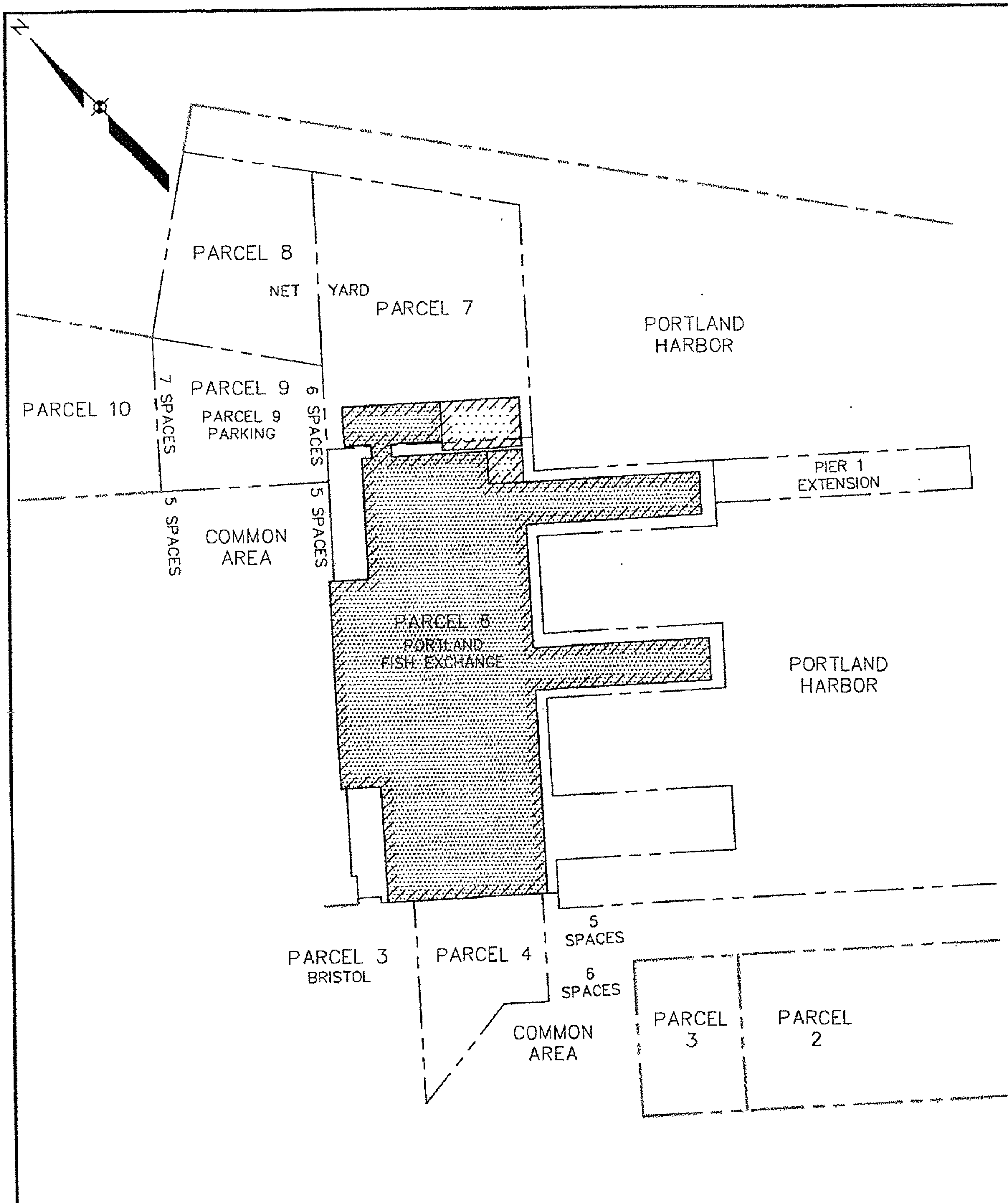
STATE OF MAINE
Cumberland, ss. ____________, 2014

Personally appeared the above-named Robert Elder, President of the Portland Fish Pier Authority, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the Portland Fish Pier Authority.

Before me,

____
Notary Public/Attorney at Law

O:\OFFICE\LARRY\Fish Authority Exchange or Waterfront\Fish Exchange 2014-2030.doc



SEBAGO TECHNICS
WWW.SEBAGOTECHNICS.COM
75 John Roberts Rd. - Suite 1A
South Portland, ME 04106
Tel. 207-200-2100
250 Goddard Rd. - Suite B
Lewiston, ME 04240
Tel. 207-783-5656

EXHIBIT A OF PORTLAND FISH EXCHANGE LEASE LOT		SCALE: N.T.S.
		DATE: 07/30/14
LOCATION: PORTLAND FISH PIER PORTLAND, MAINE	FOR: PORTLAND FISH EXCHANGE PORTLAND, MAINE	SHEET: 1 OF 1

14283L.dwg, TAB: EXH A

Fish Pier Authority
FY14 Budget Status
As of June 30, 2014

	FY14 Budget	YTD	Balance	%	FY13 YTD	FY14 vs. FY13	%
Revenue:							
Miscellaneous	39,800	49,030	(9,230)	123.2%	42,605	6,425	15.1%
Berthing	32,484	29,376	3,108	90.4%	31,847	(2,471)	-7.8%
Parking	299,787	288,181	11,606	96.1%	271,042	17,139	6.3%
Ground Rent (Leases)	155,152	141,553	13,599	91.2%	149,032	(7,479)	-5.0%
Total Revenue	527,223	508,140	19,083	96.4%	494,526	13,614	2.8%
Expenditures:							
Admin. and Maint. Services	39,179	34,744	4,435	88.7%	34,517	227	0.7%
Travel/Training/Meetings	1,000	120	880	12.0%	80	40	50.0%
Contractual Services	20,500	12,555	7,945	61.2%	18,573	(6,018)	-32.4%
Engineering Services	3,000	9,779	(6,779)	326.0%	8,949	830	9.3%
Printing/Copying	400	0	400	0.0%	0	0	0.0%
Equipment Repair	4,850	2,471	2,379	50.9%	2,834	(363)	-12.8%
Land/Pier/Building Repair	40,000	1,802	38,198	4.5%	5,134	(3,332)	-64.9%
Insurance	12,454	12,370	84	99.3%	11,945	425	3.6%
Supplies	15,500	8,608	6,892	55.5%	15,286	(6,678)	-43.7%
Electricity	12,371	13,850	(1,479)	112.0%	13,147	703	5.3%
Capital	30,000	24,905	5,095	0.0%	176,512	(151,607)	-85.9%
Debt Service	77,561	77,560	1	100.0%	90,224	(12,664)	-14.0%
Total Expenditures	256,815	198,763	58,052	77.4%	377,201	(178,438)	-47.3%
Net Revenues Over(Under) Expenditure	270,408	309,377	(38,969)		117,325	192,052	163.7%
CIP Projects							
C07 Anode Replacement	250,000	250,000	-	100.0%			

Fish Pier Authority
FY15 Budget Status
As of July 31, 2014

	FY15 Budget	YTD	Balance	%	FY14 YTD	FY15 vs. FY14	%
Revenue:							
Miscellaneous	13,970	273	13,697	2.0%	678	(405)	-59.8%
Berthing	29,376	2,448	26,928	8.3%	2,448	0	0.0%
Parking	294,420	31,455	262,965	10.7%	26,433	5,022	19.0%
Ground Rent (Leases)	158,447	12,620	145,827	8.0%	12,372	248	2.0%
Total Revenue	496,213	46,796	449,417	9.4%	41,931	4,865	11.6%
Expenditures:							
Admin. and Maint. Services	43,629	702	42,927	1.6%	1,998	(1,296)	-64.8%
Travel/Training/Meetings	1,200	0	1,200	0.0%	0	0	0.0%
Contractual Services	21,219	653	20,566	3.1%	653	0	0.1%
Engineering Services	3,000	0	3,000	0.0%	0	0	0.0%
Printing/Copying	400	0	400	0.0%	0	0	0.0%
Equipment Repair	4,850	0	4,850	0.0%	750	(750)	-100.0%
Land/Pier/Building Repair	50,000	0	50,000	0.0%	0	0	0.0%
Insurance	11,768	0	11,768	0.0%	0	0	0.0%
Supplies	15,500	179	15,321	1.2%	223	(44)	-19.6%
Electricity	12,371	0	12,371	0.0%	0	0	0.0%
Capital	40,000	0	40,000	0.0%	0	0	0.0%
Debt Service	74,408	0	74,408	0.0%	0	0	0.0%
Total Expenditures	278,345	1,535	276,810	0.6%	3,624	(2,089)	-57.6%
Net Revenues Over(Under) Expenditures	217,868	45,261	172,607		38,307	6,954	18.2%