

KATE SNYDER (MAYOR)
PIOUS ALI (A/L)
APRIL FOURNIER (A/L)
ROBERTO RODRÍGUEZ (A/L)



ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK N. DION (5)

CITY COUNCIL MEETING - MARCH 6, 2023 AT 5:00 PM

The Portland City Council will hold a City Council Meeting in Council Chambers. The Honorable Kate Snyder, Mayor, will preside.

To submit written public comment on an agenda item, email publiccomment@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Council meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the order number (see below).

REMOTE ACCESS INFORMATION:

The City Council will conduct this meeting from Council Chambers, located on the second floor of City Hall. The public may attend the meeting in person, however space in Council Chambers is limited. The public is therefore strongly encouraged to participate remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/84536489671?pwd=R0NHMmlyRXdPWXVKYUNYdDBoVIU3UT09>

Passcode: 649486

Or One tap mobile :

US: +19292056099,,84536489671#,,,,*649486# or +13017158592,,84536489671#,,,,*649486#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 646 931 3860 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 669 444 9171 or +1 669 900 6833 or +1 689 278 1000 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 360 209 5623

Webinar ID: 845 3648 9671

Passcode: 649486

International numbers available: <https://portlandmaine-gov.zoom.us/j/84536489671?pwd=R0NHMmlyRXdPWXVKYUNYdDBoVIU3UT09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

5:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ANNOUNCEMENTS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of Minutes from the Meeting of February 27, 2023

PROCLAMATIONS:

Proclamation 14-22/23 Recognizing March as Women's History Month - Sponsored by Kate Snyder, Mayor

COMMUNICATIONS:

Communication 26-22/23 Updating Permitting & Inspections Rules - by Jessica Hanscombe, Director of Permitting & Inspections

Section 25-28 of City Code authorizes the city manager (or his or her designee) "to promulgate such other installations or structures in or use of the public ways, and for outdoor dining on streets, ways or other public places." As such, the Department of Permitting & Inspections has:

- Made one minor change to rules related to outdoor dining, clarifying that the area licensed for outdoor dining may not be used for food preparation, walk-up services, or take-out services, and
- Formalized rules related to the City's parklet program (previously, these were available only on the parklet permit application).

As a communication this item requires no public comment or formal Council action.

ORDERS:

Order 145-22/23 Setting a Public Hearing on a Citizen Initiative Re: An Act to Improve Tenant Protections - Sponsored by Ashley Rand, City Clerk

This order sets a public hearing date of March 20, 2023, 5:00 p.m., in Portland City Council Chambers, to set an election date on a Citizen Initiative called, "An Act to Improve Tenant Protections".

Five affirmative votes are required for passage after public comment.

Order 146-22/23 Approving the Purchase and Sale Agreement between 144 Fore St. OZ LLC and Portland Re: Thames Street property - Sponsored by the Housing and Economic Development Committee, Councilor Pious Ali, Chair

The Housing and Economic Development Committee reviewed this purchase and sale agreement at its February 21, 2023, meeting and voted 4-0 to forward it to the City Council for approval.

The City Council is asked to approve the proposed Purchase and Sale Agreement with 144 Fore St. OZ LLC for the sale of the remaining portion of City-owned property on Thames Street, which will bring the City a net of \$1.15 million, including a cash contribution for public restrooms and five (5) free parking spaces for four (4) years, along with the City accepting ownership of the portion of Freedom Way that is privately owned.

Five affirmative votes are required for passage after public comment.

Order 147-22/23 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2024 Capital Improvement Program in an Amount not to Exceed \$17,455,000 - Sponsored by the Finance Committee, Mark Dion, Chair

The Finance Committee met on February 9, 2023 and voted (3-0) to recommend the funding appropriation and bond authorization to the full City Council.

The Fiscal Year 2024 Capital Improvement Plan (FY24 CIP) has been in development since early 2022. The FY24 CIP will not increase net debt service related to CIP projects in future City budgets as it was sized to simply offset other CIP debt being retired. The list of 2024 CIP calls for \$24,530,000 of new projects but only \$10,600,000 of this total will have a net impact to debt service in the general fund operating budget. A variety of other funding sources including the enterprise funds (for sewer and stormwater projects) are being used to finance the remainder. The \$10.6M was a borrowing target set by Finance staff in order to simply offset general fund CIP being retired. An additional \$6,855,000 of new general obligation bonds will be repaid via sewer user fees and stormwater service charges. Two orders are required related to the CIP: one authorizing the FY24 CIP bonds; and a second appropriating the proceeds and other funding sources providing City staff with spending authority for the upcoming projects. A complete listing of the projects being authorized is included within the orders.

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

Order 148-22/23 Appropriating Bond Proceeds and other Funds in an Amount not to Exceed \$24,530,000 for the City's Fiscal Year 2024 Capital Improvement Program - Sponsored by the Finance Committee, Mark Dion, Chair

This is a companion order to the bond authorization order above.

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

AMENDMENTS:

Order 149-22/23 Amendment to Zoning Map Re: IM-b Industrial-Moderate Impact on Industrial Way - Sponsored by the Planning Board, Maggie Stanley, Chair

On January 24, 2023, the Planning Board voted (6-1; Silk opposed) to find the proposed zoning map amendment from I-M Industrial-Moderate Impact to I-Mb Industrial-Moderate Impact to be consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the zoning map amendment for the area of land that includes 50 Industrial Way and parcels 326 B001001, 326 B005001, 326 B007001, 326 B008001, 327A A001001, 327A A007001, 327A A008001, 327A A009001, and 326 C005001. The proposed zoning map amendment application was submitted by 50 Industrial Way LLC. on behalf of Allagash Brewery. This application would facilitate the expansion of Allagash Brewery to accommodate future growth and operations over the coming decade at 50 Industrial Way in the Riverton neighborhood.

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

ADJOURNMENT:

ZOOM INFORMATION:

The City Council will conduct this meeting from Council Chambers, located on the second floor of City Hall. The public may attend the meeting in person, however space in Council Chambers is limited. The public is therefore strongly encouraged to participate remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/89911473409?pwd=NllpZXRiWms3Nm9HQTNwaVZSWHlhZz09>

Passcode: 115765

Or One tap mobile :

US: +19292056099,,89911473409#,,,*,115765# or +13017158592,,89911473409#,,,*,115765#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 646 931 3860 or +1 253 215 8782 or +1 346 248 7799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 669 444 9171 or +1 669 900 6833 or +1 689 278 1000 or +1 719 359 4580 or +1 253 205 0468

Webinar ID: 899 1147 3409

Passcode: 115765

International numbers available: <https://portlandmaine-gov.zoom.us/j/koJo6UgHX>

PLEDGE OF ALLEGIANCE:

Mayor Snyder led all present in the Pledge of Allegiance.

ROLL CALL:

Mayor Snyder called the meeting to order at 5:03pm.

City Councilors Present: Councilor Fournier, Councilor Rodriguez (Via Zoom), Councilor Dion, Councilor Ali (Via Zoom), Councilor Zarro, Councilor Trevorrow, Councilor Phillips, Mayor Snyder.

City Councilors Absent: Councilor Pelletier

SPECIAL MEETING:

5:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Mayor Snyder opened the floor for public comment.

No one spoke.

ANNOUNCEMENTS:

Mayor Snyder opened the floor for announcements.

No announcements were made.

RECOGNITIONS:

Recognizing the Excellence of Portland's First Responders - Kate Snyder, Mayor

Mayor Snyder recognized the Portland Fire Department first responders excellence work from a medical call on December 28, 2022.

Recognizing the 15th Anniversary of Maine Restaurant Week - Kate Snyder, Mayor

Mayor Snyder recognized the 15th Anniversary of Maine Restaurant Week.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Minutes from the City Council Meeting of February 6, 2023

Motion was made by Councilor Ali and seconded by Councilor Zarro for approval of the City Council Meeting minutes, February 6, 2023. Passage 8-0-1. Councilor Pelletier was absent.

APPOINTMENTS:

Order 136-22/23 Appointing Members to Various Boards & Committees - Sponsored by the Legislative/Nominating Committee, Mayor Kate Snyder, Chair

Motion was made by Councilor Snyder and seconded by Councilor Fournier for passage. Passage 8-0-1, Councilor Pelletier was absent.

Mayor Snyder, Chair of the nominating and legislative committee gave an overview of the item.

Mayor Snyder opened the floor for public comment. The following individuals spoke: Councilor Zarro, Michael Goldman (Corporation Counsel)

Order 137-22/23 Appointing Troy Moon to the Pest Management Advisory Committee - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Zarro and seconded by Councilor Fournier for passage. Passage 8-0-1, Councilor Pelletier was absent.

Danielle West, Interim City Manager gave an overview of the item.

Mayor Snyder opened the floor for public comment. No one spoke.

LICENSES:

Order 138-22/23 Granting Municipal Officers' Approval of Volcano LLC, dba Volcano. Application for Indoor Entertainment at 155 Riverside Street - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Fournier for passage. Passage 8-0-1, Councilor Pelletier was absent.

Danielle West, Interim City Manager gave an overview of the item.

Mayor Snyder opened the floor for public comment. No one spoke.

Order 139-22/23 Granting Municipal Officers' Approval of Bread and Friends, LLC, dba Bread and Friends. Application for Class III & IV FSE with Outdoor Dining on Public Property at 505 Fore Street - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Zarro for passage. Passage 8-0-1, Councilor Pelletier was absent.

Danielle West, Interim City Manager gave an overview of the item.

Mayor Snyder opened the floor for public comment. No one spoke.

Order 140-22/23 Granting Municipal Officers' Approval of DBH Portland, LLC, dba Portland Sea Dogs. Application for Civic Auditorium with Combined Entertainment at 271 Park Avenue - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Zarro for passage.

Passage 8-0-1, Councilor Pelletier was absent.

Danielle West, Interim City Manager gave an overview of the item.

Mayor Snyder opened the floor for public comment. The following individuals spoke:

George Rheault (Hanover Street), Michael Goldman (Corporation Counsel)

COMMUNICATIONS:

Communication 24-22/23 Regarding the Sustainable Neighborhood Pilot Program - Troy Moon, Sustainability Director

Troy Moon (Sustainability Director) gave a communication update on the Sustainable Neighborhood Pilot Program. As a communication, no formal action is required.

Communication 25-22/23 - Update re: Asylum Seekers in Portland - Danielle P. West, Interim City Manager

Danielle West (Interim City Manager) gave a communication update on the Asylum Seekers in Portland. As a communication, no formal action is required.

The following Councilors commented on the communication: Councilor Fournier, Councilor Ali, Councilor Dion, Mayor Snyder

UNFINISHED BUSINESS:

Order 135-22/23 Approving the Purchase and Sale Agreement with The Trust for Public Land for North Deering Park - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Dion for passage.

Passage 8-0-1, Councilor Pelletier was absent.

Ethan Hipple (Director of Parks & Recreation) and Phil Dube (The Trust for Public Land) gave an overview of the item.

Mayor Snyder opened the floor for public comment. The following individuals spoke:

Jon Kachmar (Parks Commission), George Rheault (Hanover Street), Nan Cumming (Portland Public Parks Conservancy), Katie West, Councilor Fournier, Councilor Dion, Councilor Rodriguez, Councilor Ali, Mayor Snyder

ORDERS:

Order 141-22/23 Approving the Memorandum of Understanding for Mutual Aid with the City of Westbrook - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Dion for passage.

Keith Gautreau (Fire Chief) gave an overview of the item.

Mayor Snyder opened the floor for public comment. No one spoke.

Motion was made by Mayor Snyder and seconded by Councilor Fournier to amend the order as presented in the packet. Passage 8-0-1. Councilor Pelletier was absent.

Mayor Snyder opened the floor for public comment on the amendment. No one spoke.
Passage 8-0-1 as amended. Councilor Pelletier was absent.

Order 142-22/23 Accepting the 2022 Annual Land Bank Report - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Fournier for passage.
Passage 8-0-1, Councilor Pelletier was absent.
Jon Kachmar (Land Bank Commission) gave an overview of the item.
Mayor Snyder opened the floor for public comment. The following individuals spoke:
George Rheault (Hanover Street)

Order 143-22/23 Approving the Winchester Woods Boundary Line Agreement - Sponsored by Michael Goldman, Associate Corporation Counsel

Motion was made by Councilor Zarro and seconded by Councilor Fournier for passage.
Passage 8-0-1, Councilor Pelletier was absent.
Michael Goldman (Corporation Counsel) gave an overview of the item.
Mayor Snyder opened the floor for public comment. No one spoke.

Order 144-22/23 Accepting and Appropriating a \$10,000 Anonymous Donation to the National EMS Appreciation Week Fund - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Ali and seconded by Councilor Fournier for passage.
Passage 8-0-1, Councilor Pelletier was absent.
Keith Gautreau (Fire Chief) gave an overview of the item.
Mayor Snyder opened the floor for public comment. The following individuals spoke:
Mayor Snyder

EXECUTIVE SESSION:

Motion to go into Executive Session pursuant to 1 M.R.S.A. section 405(6)(E) to discuss the City Council's legal rights and duties concerning the First Amendment.

Motion was made by Councilor Dion and seconded by Councilor Rodriguez for passage.
Passage 8-0-1, Councilor Pelletier was absent.
Mayor Snyder opened the floor for public comment. The following individuals spoke:
Connor Clark (East Bayside)
Adjourned into executive session at 6:56pm.
Motion was made by Councilor Ali and seconded by Councilor Zarro to adjourn executive session. Passage 9-0. At 8:30pm

ADJOURNMENT:

Motion was made by Councilor Ali and seconded by Councilor Zarro to adjourn. Passage 9-0 at 8:30pm

A TRUE RECORD

Ashley Rand, City Clerk

PROCLAMATION

RECOGNIZING THE MONTH OF MARCH AS WOMEN'S HISTORY MONTH

WHEREAS, women of all races, classes, ethnic backgrounds, and beliefs have made historic contributions to the growth, economic vitality, and overall quality of life in the City of Portland; and

WHEREAS, throughout the history of our city and despite a history of hardship, exclusion, and discrimination, women have strived and sacrificed for equity and equality to ensure that the daughters of Portland have the same opportunities as our sons; and

WHEREAS, despite their numerous contributions and as described in a 2020 report issued by Maine's Permanent Commission on the Status of Women, Maine women still disproportionately struggle for economic security, experience domestic and sexual violence, lack access to healthcare; and

WHEREAS, throughout history and still today, Portland women have led and lead endeavors to create a more fair and just society for all; and

WHEREAS, for the first time in the history of the City of Portland, a majority of the members of the 2023 City Council are women, helping the Council body better represent the needs and priorities of this population; and

NOW, THEREFORE, BE IT PROCLAIMED, that I, Kate Snyder, Mayor of the City of Portland, Maine, and the members of the Portland City Council, do hereby recognize March 1st through March 31st, 2023 as

WOMEN'S HISTORY MONTH

Signed and sealed this sixth day of March, 2023



**Kate Snyder, Mayor
City of Portland**

City of Portland | Permitting & Inspections Department
 Jessica Hanscombe, *Director*



Outdoor Dining on Public Property Administrative Rules

I. Design and Construction

- Location of proposed space must be on a sidewalk that is at least 8' in width.
- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes to existing straight passage is at the discretion of the City.

Existing Side Width (Property line to curb)	Sidewalk Dining Allowed?	
< 8'-0"	No	
≥ 8'-0"	Yes - up to 60%	
Sidewalk Type	Required Passage Width	
Straight Section	4'-0"	
Corner Section	5'-0"	

- Egress from buildings must be maintained free of obstruction.
- Permanent fixtures, such as awnings, require a building permit separate from the Outdoor Dining permit and subject to approval by the Building Authority.
- Umbrellas do not require a permit.
- Umbrellas must be secured and maintain the height clearance for sidewalk passage.

II. Barriers

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

Example barrier types that meet regulation



III. Maintenance and Operations

- Operation of outdoor dining space is allowed beginning on April 1st and ends November 15th of every year. All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area. Outdoor dining areas are expressly designated for dining and dining service. Walk-up and take-out services are not allowed in outdoor dining spaces on public property.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- The permit holder is responsible for keeping the outdoor seating area clean.

Approved:

1/23/2023

Date

DocuSigned by:

Danielle West

ACEE67828A27428...

Signed: Danielle P. West, Interim City Manager

City of Portland | Permitting & Inspections Department

Jessica Hanscombe, *Director*



**Parklet
Administrative Rules**

I. Parklet Regulations

- Any food service operation located on City property pursuant to a permit issued hereunder must comply with state and local laws with respect to service of food and/or alcohol.
- For any outdoor dining operation located in a public parking space, the permit holder shall construct a platform, on which tables and chairs will sit. The platform must be built of durable, slip resistant materials such as composite plastic or construction-grade lumber. This platform may remain for the entire outdoor dining season (April 15-October 31) but must be removed upon conclusion.
 - A Temporary Tent/Stage Permit must be applied for and approved annually before the platform is put in place.
- Any space occupied hereunder must be laid out in such a way that it complies with the requirements of the Americans with Disabilities Act, including the requirement that at least 5% of total seating be accessible. The required platform must be flush with any abutting sidewalk.
- Any movable items on the outdoor dining area must be secured against wind and theft and locked or removed when the business is closed.
- Any outdoor dining spaces permitted hereunder must be located immediately in front of the licensed business. Where parking spaces are not striped (such as in multi-space meter areas) the location of any outdoor dining space must be situated to minimize loss of available parking spaces.
- Only 2-hour, metered parking spots can be utilized. Requests for exceptions will be considered on a case-by-case basis. Parking spot size is 8 feet by 20 feet.
- Barricades will be placed at the front and rear sides of the outdoor dining platform by the Department of Public Works.
- Construction of the platform must allow water runoff to easily flow under the platform.
- No attachments to the pavement or curbing are permitted.
- No covers are permitted over the outdoor dining space other than umbrellas.
- No advertising other than labels identifying the business is permitted on the outdoor dining space.
- No outdoor dining space in the vehicular right of way is permitted within 15' of an intersection.

- No outdoor dining space will be permitted within the vehicular right of way on a high traffic street, as determined by Public Works. Generally, these streets have a speed limit of over 25 miles per hour, a traffic volume of over 5,000 AADT, or a functional classification of Arterial or above.
- No outdoor dining space will be permitted on a street that does not have 12' clear in the middle after all parking and platforms are accounted for.
- In any street that is entirely closed to traffic at certain times of the day, the street may be used for outdoor dining subject to relevant requirements listed above, and to reasonable adjustments for the unique condition of an entirely closed street.
- Street Closures include: Wharf Street, Dana Street, and Milk Street (between Exchange and Market only).
- The City may require a permit holder to remove its outdoor dining platform for some or part of the outdoor dining season if Public Works determines it necessary to complete work on any City infrastructure.

II. **Barriers**

- Shall not include commercial signage.
- Any outdoor dining space must provide railings or other substantive barriers along the edges to protect patrons.

III. **Maintenance and Operations**

- Operation of Parklets in the City right of way are allowed beginning on April 15th and ends October 31st of every year. All Parklet components and furniture shall be removed by November 1st. The City will not be responsible for damage to any property that is not removed prior to road maintenance.
- The permit holder is responsible for keeping the outdoor seating area clean.
- No food shall be prepared in the designated outdoor dining or parklet area. Outdoor dining areas are expressly designated for dining and dining service. Walk-up and take-out services are not allowed in outdoor dining spaces on public property.
- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations, and accessible seating is required.

A permit holder's failure to follow any of these Parklet Outdoor Dining Administrative Rules may result in fines as outlined in the City Code and/or revocation of the outdoor dining permit.

Approved:

2/27/2023

Date

DocuSigned by:

Danielle West

ACEE67828A27428...

Signed: Danielle P. West, Interim City Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 27, 2023

SUBJECT: Order 145-22/23 Setting a Public Hearing on a Citizen Initiative Re: An Act to Improve Tenant Protections - Sponsored by Ashley Rand, City Clerk

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

**Final
Action**

Can action be taken at a later date: No If action cannot be taken at a later date, please explain why. Do NOT write yes or no; that will be automatically generated by the checkbox.

Does this item involve a new contract with the City: NO

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

I. SUMMARY

II. AGENDA DESCRIPTION

This order sets a public hearing date of March 20, 2023, 5:00 p.m., in Portland City Council Chambers, to set an election date on a Citizen Initiative called, "An Act to Improve Tenant Protections".

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Public Hearing on Citizen Initiative Re An Act to Improve Tenant Protections 3.6.2023
2. An Act to Improve Tenant Protections
3. An Act to Proect Tenant Protections-Signature Cetification- 2023.03.01

4. Citizen Initiative Referendum Memo re Options fo an Act to Improve Tenant Protections 03.02.2023

Prepared by:

Date: 02/27/2023

KATE SNYDER (MAYOR)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK DION (5)

**ORDER SETTING A PUBLIC HEARING
ON A CITIZEN INITIATIVE AMENDMENT TO PORTLAND CITY CODE
RE: AN ACT TO IMPROVE TENANT PROTECTIONS**

ORDERED, that the Portland City Council will hold a public hearing on the attached proposed amendment to Chapter 6, Sections 6-233 and 6-234 of the Portland City Code on March 20, 2023 at 5:00 p.m. in the Council Chambers at Portland City Hall, said amendment to be placed upon the June 13, 2023 ballot if submission to the voters is approved by the Council.

An Act to Improve Tenant Protections

An Act to Improve Tenant Protections maintains all tenant protections established in the existing Rent Control and Tenant Protections ordinance. The Act removes incentives for landlords to increase rents for existing tenants and discourages no-cause evictions by allowing for the establishment of new Base Rents at the time of a new tenancy, but only in instances when the prior tenant moves out voluntarily. The Act also brings Portland's rent stabilization ordinance into alignment with most local and national rent stabilization ordinances.

BE IT ORDAINED:

That Chapter 6, Sections 6-233 and 6-234 of the Portland City Code are hereby amended to read as follows:

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151. Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance, except as otherwise provided within this section.

(b) Base rent for Discontinued Covered Units. (i) If a Covered Unit was not required to be registered with the City as of April 1, 2021, but is required to be registered with the City after such date, the Base Rent shall be the amount of Rent charged 120 days prior to the date when the Covered Unit became required to be registered, or if no Rent was charged at such time, the first Rent charged by the Landlord any time thereafter. The Base Rent for any new Covered Unit entering the rental housing market for the first time shall be the City of Portland Buildings and Building Regulations Code of Ordinances Chapter 6 Sec. 6-233 Rev. 11-8-2022 6-84 Rent charged to the first Tenant, as set by the Landlord. (ii) If a Covered Unit was required to be registered with the City as of April 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the time the Covered Unit was removed from the rental housing market. (iii) If a Covered Unit was required to be registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of at least sixty (60) months, the Base Rent for such a Covered Unit shall be the Rent charged to the first Tenant upon reentry into the rental housing market, as set by the Landlord.

(c) Base rent upon new tenancy following voluntary termination. If the Tenancy of a Covered Unit is terminated voluntarily by a tenant, the landlord may establish a new Base Rent at their discretion. Voluntary termination occurs when a tenant decides to return the leased premises to the landlord before the expiration of the lease or determines not to renew a lease. The Housing Safety Office shall investigate any report that a tenancy was not terminated voluntarily by the tenant, or that the tenant was coerced or unreasonably influenced by the landlord to terminate the tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the tenant voluntarily terminated the tenancy.

(~~de~~) Base rent following major renovation or reconfiguration of Covered Units. Upon a major renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increased Base Rent. When determining the appropriate increased Base Rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, the amount necessary to ensure a fair return on investment, and any other factor determined relevant in the opinion of the Rent Board; the Rent Board may consider any amount of Banked Rent accrued for that unit, but after determining the appropriate Base Rent, all previously accrued Banked Rent shall be forfeited.

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage for the following calendar year, and shall announce City of Portland Buildings and Building Regulations Code of Ordinances Chapter 6 Sec. 6-234 Rev. 11-8-2022 6-85 and explain the methodology for calculating the Allowable Increase Percentage at the first meeting of the Rent Board following such publication. The Rent Board shall hear public comment after such announcement.

(b) A Landlord may not increase the rent charged for a Covered Unit within twelve (12) months following a previous Rent increase. After twelve (12) months, the Landlord may only increase the rent charged for a Covered Unit by an amount that conforms to the following specifications:

1. Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.

~~2. New Tenancy. A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit, but only if the previous Tenancy was terminated voluntarily by the previous Tenant, without coercion or unreasonable influence from the Landlord. This increase may be applied at most once per twelve (12) months, regardless of the number of new tenancies. The Housing Safety Office shall investigate any report that the Tenancy was not terminated voluntarily by the Tenant, or that the Tenant was coerced or unreasonably influenced by the Landlord to terminate the Tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the previous tenant voluntarily terminated the tenancy.~~

23. Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.

43. Additional Rent Board Approved Increases necessary to ensure a fair return on investment. In addition to the above rent adjustments, upon receipt of an application submitted by the Landlord, the Rent Board may approve additional rent increases necessary to ensure a fair return on investment. To

calculate what amount is necessary to ensure a fair return on investment, the Rent Board shall employ generally acceptable Maintenance of Net Operating Income methodology, and may not consider any valuation based or capitalization-based methodology or any calculation or methodology factoring market rent or market value of the Covered Unit. Rent board approval under this provision is intended to ensure a fair rate of return under abnormal, unexpected, or irregular circumstances, including, but not limited to, capital improvements and minor renovations, uninsured repairs, the provision of new housing services, revaluation for property tax assessment, or other unusual expenses. The Rent Board shall presume that the Allowable Increase Percentage will be sufficient to satisfy all regular increases in operating costs, routine maintenance expenses, and other normal or regular costs or expenses, allowing the Landlord to maintain a fair return on investment. The Landlord submitting an application for an additional rent increase bears the burden of proof, including the burden of providing all necessary documentation, to demonstrate that the increase is necessary to receive a fair return on investment. Such documentation shall include, but is not limited to: historical net operating income, revenue and expenses; the costs and expenses requiring Rent board approval of an additional increase; and what portion of shared costs and expenses can be fairly attributed to each individual covered unit.

(c) At no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for later use.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than ninety (90) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, the amount of the increase, any remaining Banked Rent that has not been included in the Rent increase, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article, and any notice not containing all such documentation shall be void.

(e) Tenants, individually or collectively, who receive notice of a rent increase that they believe does not conform with this Section may file a complaint with the Housing Safety office. The Housing Safety office shall promptly investigate such complaint and take appropriate action. If, within fourteen (14) days of filing such a complaint, the notice is not rescinded by the Landlord, an appeal of said rent increase may be filed with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider de novo the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. An increase determined by the Board to be more than is allowed by this Article shall be considered a violation and the Board may determine the appropriate penalty for any such violation in a manner consistent with the provisions of this Code. Multiple tenants collectively alleging the same or similar violations against a single Landlord, including but not limited to a Tenants Union or members of or participants in a Tenants Union, may file their complaints or appeals collectively as a single document, and the Rent Board shall hear all such matters together as a single complaint or appeal; but notwithstanding such consolidated hearing the Rent Board may elect to issue separate decisions. f) A landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand,

accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute.

Office of the City Clerk
Ashley Rand
City of Portland City Clerk
March 1, 2023



CLERK'S CERTIFICATION OF CITIZEN INITIATIVES:

An Act to Improve Tenant Protections

RE: Amendments to Portland City Code of Ordinances:

Chapter 6 Buildings and Building Regulations

I HEREBY CERTIFY that the petitions filed on February 16, 2023 in my office regarding amendments to the Portland City Code of Ordinances: Chapter 6: Buildings and Building Regulations contained a total of Four Thousand Thirteen (4,013) signatures for verification, the signatures of Three Thousand Eighty Seven (3,087) registered voters of the City of Portland have been verified, with an additional Nine Hundred Twenty Six (926) signatures that were rejected. The required number of signatures to put this question on the ballot is One Thousand Five Hundred (1500) and deem these petitions sufficient for placement on the June 13, 2023 Municipal Ballot.

A handwritten signature in black ink, appearing to read "Ashley Rand".

Ashley Rand

City Clerk

CITY OF PORTLAND

MEMORANDUM

TO: Mayor Snyder and Members of the City Council
FROM: Michael Goldman, Acting Corporation Counsel *MG*
SUBJECT: **Citizen Initiative Referendum Options and Procedures; An Act to Improve Tenant Protections**
DATE: March 2, 2023

As you know, the City Clerk has certified that the petitioners for An Act to Improve Tenant Protections (the “Initiative”) have gathered sufficient signatures for the citizen initiative process set forth in Chapter 9 of the City Code. A copy of the Initiative is attached for your convenience. The Initiative includes amendments to sections 6-233 and 6-234 in the Rent Control and Tenant Protections ordinance contained in Article XII of Chapter 6 of the City Code. This memorandum describes the options that the City Council has in addressing the Initiative in accordance with the following procedural requirements:

1. Section 9-36(f) provides that at the City Council’s first regular meeting after receipt of a report from the Clerk that a citizen initiative petition is sufficient and has at least one thousand five hundred (1,500) valid signatures (the “Clerk’s Report”), the Council must set a date for a public hearing on the Initiative within thirty (30) calendar days (the “Public Hearing”).
 - a. The Council received the Clerk’s Report on March 1, 2023 (see attached copy). Accordingly, at its meeting on March 6, the Council must set a date for a public hearing on the Initiative on or before April 5.
 - b. The proposed order in the Agenda for the Council’s March 6 meeting sets the public hearing date for the Initiative as March 20, 2023.
2. After the Council holds the Public Hearing, Chapter 9 provides the Council with three options as to how to proceed:
 - a. The first option is that the Council can send the Initiative out to the voters for their review and approval by setting an election date during the first regular Council meeting after the Public Hearing.
 - i. The election date must be held not less than sixty (60) and not more than one hundred fifty (150) calendar days after the Council meeting at which the election date is set. (Portland

City Code Sec. 9-36(f), 9-39). If, however, the next regularly scheduled election falls between 60 and 180 days after that Council meeting, then the Initiative shall be included on the ballot for that regular election, and no special election is required.

- ii. The first regular Council meeting after the March 20 Public Hearing will be on April 3, 2023, and the next regularly scheduled election is set for June 13, 2023. Because that election falls within the 60 to 180-day time frame, no special election should be required.
- b. The second option is that the Council could pass, in their entirety, the ordinance amendments included in the Initiative. This would put an end to all proceedings under the petition. (Portland City Code Sec. 9-36(f)).
- c. The third option is for the Council to send both the Initiative and a competing measure (an alternative ordinance approved by the Council) to the voters for their review. The ballot would then ask the voters if they favor the Initiative or the competing measure, or if both measures should be rejected. (Portland City Code Sec. 9-41).
 - i. If the Council wishes to offer a competing measure, please let me know as soon as possible so that we have time to draft it and include it in the backup materials before the Public Hearing on March 20.

If you have any questions regarding the proposed options and the procedural requirements discussed above, please do not hesitate to contact me directly, or we can discuss them further at the Council's next meeting.

An Act to Improve Tenant Protections

An Act to Improve Tenant Protections maintains all tenant protections established in the existing Rent Control and Tenant Protections ordinance. The Act removes incentives for landlords to increase rents for existing tenants and discourages no-cause evictions by allowing for the establishment of new Base Rents at the time of a new tenancy, but only in instances when the prior tenant moves out voluntarily. The Act also brings Portland's rent stabilization ordinance into alignment with most local and national rent stabilization ordinances.

BE IT ORDAINED:

That Chapter 6, Sections 6-233 and 6-234 of the Portland City Code are hereby amended to read as follows:

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151. Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance, except as otherwise provided within this section.

(b) Base rent for Discontinued Covered Units. (i) If a Covered Unit was not required to be registered with the City as of April 1, 2021, but is required to be registered with the City after such date, the Base Rent shall be the amount of Rent charged 120 days prior to the date when the Covered Unit became required to be registered, or if no Rent was charged at such time, the first Rent charged by the Landlord any time thereafter. The Base Rent for any new Covered Unit entering the rental housing market for the first time shall be the City of Portland Buildings and Building Regulations Code of Ordinances Chapter 6 Sec. 6-233 Rev. 11-8-2022 6-84 Rent charged to the first Tenant, as set by the Landlord. (ii) If a Covered Unit was required to be registered with the City as of April 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the time the Covered Unit was removed from the rental housing market. (iii) If a Covered Unit was required to be registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of at least sixty (60) months, the Base Rent for such a Covered Unit shall be the Rent charged to the first Tenant upon reentry into the rental housing market, as set by the Landlord.

(c) Base rent upon new tenancy following voluntary termination. If the Tenancy of a Covered Unit is terminated voluntarily by a tenant, the landlord may establish a new Base Rent at their discretion. Voluntary termination occurs when a tenant decides to return the leased premises to the landlord before the expiration of the lease or determines not to renew a lease. The Housing Safety Office shall investigate any report that a tenancy was not terminated voluntarily by the tenant, or that the tenant was coerced or unreasonably influenced by the landlord to terminate the tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the tenant voluntarily terminated the tenancy.

(~~de~~) Base rent following major renovation or reconfiguration of Covered Units. Upon a major renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increased Base Rent. When determining the appropriate increased Base Rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, the amount necessary to ensure a fair return on investment, and any other factor determined relevant in the opinion of the Rent Board; the Rent Board may consider any amount of Banked Rent accrued for that unit, but after determining the appropriate Base Rent, all previously accrued Banked Rent shall be forfeited.

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage for the following calendar year, and shall announce City of Portland Buildings and Building Regulations Code of Ordinances Chapter 6 Sec. 6-234 Rev. 11-8-2022 6-85 and explain the methodology for calculating the Allowable Increase Percentage at the first meeting of the Rent Board following such publication. The Rent Board shall hear public comment after such announcement.

(b) A Landlord may not increase the rent charged for a Covered Unit within twelve (12) months following a previous Rent increase. After twelve (12) months, the Landlord may only increase the rent charged for a Covered Unit by an amount that conforms to the following specifications:

1. Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.

~~2. New Tenancy. A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit, but only if the previous Tenancy was terminated voluntarily by the previous Tenant, without coercion or unreasonable influence from the Landlord. This increase may be applied at most once per twelve (12) months, regardless of the number of new tenancies. The Housing Safety Office shall investigate any report that the Tenancy was not terminated voluntarily by the Tenant, or that the Tenant was coerced or unreasonably influenced by the Landlord to terminate the Tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the previous tenant voluntarily terminated the tenancy.~~

23. Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.

43. Additional Rent Board Approved Increases necessary to ensure a fair return on investment. In addition to the above rent adjustments, upon receipt of an application submitted by the Landlord, the Rent Board may approve additional rent increases necessary to ensure a fair return on investment. To

calculate what amount is necessary to ensure a fair return on investment, the Rent Board shall employ generally acceptable Maintenance of Net Operating Income methodology, and may not consider any valuation based or capitalization-based methodology or any calculation or methodology factoring market rent or market value of the Covered Unit. Rent board approval under this provision is intended to ensure a fair rate of return under abnormal, unexpected, or irregular circumstances, including, but not limited to, capital improvements and minor renovations, uninsured repairs, the provision of new housing services, revaluation for property tax assessment, or other unusual expenses. The Rent Board shall presume that the Allowable Increase Percentage will be sufficient to satisfy all regular increases in operating costs, routine maintenance expenses, and other normal or regular costs or expenses, allowing the Landlord to maintain a fair return on investment. The Landlord submitting an application for an additional rent increase bears the burden of proof, including the burden of providing all necessary documentation, to demonstrate that the increase is necessary to receive a fair return on investment. Such documentation shall include, but is not limited to: historical net operating income, revenue and expenses; the costs and expenses requiring Rent board approval of an additional increase; and what portion of shared costs and expenses can be fairly attributed to each individual covered unit.

(c) At no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for later use.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than ninety (90) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, the amount of the increase, any remaining Banked Rent that has not been included in the Rent increase, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article, and any notice not containing all such documentation shall be void.

(e) Tenants, individually or collectively, who receive notice of a rent increase that they believe does not conform with this Section may file a complaint with the Housing Safety office. The Housing Safety office shall promptly investigate such complaint and take appropriate action. If, within fourteen (14) days of filing such a complaint, the notice is not rescinded by the Landlord, an appeal of said rent increase may be filed with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider de novo the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. An increase determined by the Board to be more than is allowed by this Article shall be considered a violation and the Board may determine the appropriate penalty for any such violation in a manner consistent with the provisions of this Code. Multiple tenants collectively alleging the same or similar violations against a single Landlord, including but not limited to a Tenants Union or members of or participants in a Tenants Union, may file their complaints or appeals collectively as a single document, and the Rent Board shall hear all such matters together as a single complaint or appeal; but notwithstanding such consolidated hearing the Rent Board may elect to issue separate decisions. f) A landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand,

accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute.

Office of the City Clerk
Ashley Rand
City of Portland City Clerk
March 1, 2023



CLERK'S CERTIFICATION OF CITIZEN INITIATIVES:

An Act to Improve Tenant Protections

RE: Amendments to Portland City Code of Ordinances:

Chapter 6 Buildings and Building Regulations

I HEREBY CERTIFY that the petitions filed on February 16, 2023 in my office regarding amendments to the Portland City Code of Ordinances: Chapter 6: Buildings and Building Regulations contained a total of Four Thousand Thirteen (4,013) signatures for verification, the signatures of Three Thousand Eighty Seven (3,087) registered voters of the City of Portland have been verified, with an additional Nine Hundred Twenty Six (926) signatures that were rejected. The required number of signatures to put this question on the ballot is One Thousand Five Hundred (1500) and deem these petitions sufficient for placement on the June 13, 2023 Municipal Ballot.

A handwritten signature in black ink, appearing to read "Ashley Rand".

Ashley Rand

City Clerk

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: February 27, 2023

SUBJECT: Order 146-22/23 Approving the Purchase and Sale Agreement between 144 Fore St. OZ LLC and Portland Re: Thames Street property - Sponsored by the Housing and Economic Development Committee, Councilor Pious Ali, Chair

SPONSOR: Housing and Economic Development Committee, Councilor Pious Ali/Chair. Meeting held on February 21, 2023, and the vote was 4-0 to recommend forwarding the proposed Purchase and Sale Agreement to the City Council for approval.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 3/6/2023

Final Action 3/6/2023

Can action be taken at a later date: Yes

Does this item involve a new contract with the City: Yes and Corporation Counsel has reviewed and approved the Agreement.

PRESENTATION: Mary Davis/3 Minutes

I. SUMMARY

The City Council is being requested to hold a public hearing to review and vote to authorize the City Manager to execute the proposed Purchase and Sale Agreement, and any other documents as necessary, to sell the remaining portion of City-owned property on Thames Street.

II. AGENDA DESCRIPTION

The Housing and Economic Development Committee reviewed this purchase and sale agreement at its February 21, 2023, meeting and voted 4-0 to forward it to the City Council for approval.

The City Council is asked to approve the proposed Purchase and Sale Agreement with 144 Fore St. OZ LLC for the sale of the remaining portion of City-owned property on Thames Street, which will bring the City a net of \$1.15 million, including a cash contribution for public restrooms and five (5) free parking spaces for four (4) years, along with the City accepting ownership of the portion of Freedom Way that is privately owned.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The City issued a Request for Proposals (RFP - copy attached) under the past direction of the Housing and Economic Development Committee (HEDC) and City Council during 2021. One proposal was received to acquire this property, also attached.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is approval of the proposed Thames Street Property Purchase and Sale Agreement.

The proposed development would be a mixed-use multi-tenant office building for WEX. The development is consistent with the Eastern Waterfront Master Plan to support development along Portland's waterfront

adjacent to WEX’s headquarters on Thames Street, together with an existing second office building occupied by WEX and the Roux Institute located at 100 Fore Street.

V. FINANCIAL IMPACT

There are no City financial incentives to support the proposed +/-70,000 SF mixed use office building which will house WEX as a primary tenant. This proposed property sale will net the City \$1.15 million, including a cash contribution for public restrooms, five (5) free parking spaces for four (4) years, along with accepting ownership of the portion of Freedom Way which is privately owned.

Lastly, this new building, when complete, is estimated to generate \$170,000 annually in new property taxes which will be reserved in the Waterfront TIF District for City Council approved City investment in eligible waterfront investments. ***City staff recommends that any financial appropriation actions associated with the net sale proceeds be handled separately from the City Council action on the Proposed Purchase and Sale Agreement.***

VI. STAFF ANALYSIS AND BACKGROUND

Property Appraisal. The per square market value for this property is in the range of \$40 to \$42 dollars per “buildable square foot”. The proposed 70,000 SF building is located on both the entire City property and adjacent Developer-Owned property. Also, an existing License Agreement limits the developable acreage of the City site, which also limits the value of the property. Therefore, it would not be possible to build a 70,000 SF building only on the City property. The market value for the land required for the 70,000 SF building is \$2.8 - \$2.94 million.

Business Financial Terms Overview

CITY-OWNED THAMES STREET PROPERTY SALE TERMS

RFP Requirements	Negotiated Terms
- Property Sale Price	\$1.1 million*
- Connector Road Value	\$1.2 million**
- Connector Road Sidewalk	Cash contribution of \$30,000***
- Public Restroom in Building	Cash contribution of \$50,000
- Easements for Mountfort Street Extension and Hancock to Connector Road and Mountfort Street Improvements	Provided at no cost. A value of over \$300,000
- Free City Parking (5 spaces for 4 years) in 100 Fore and 167 Fore St. Garages	\$43,200
- TOTAL Value to City	\$2.69 million

* Original offer was \$840,000.

**Original costs totaled \$1.4 million and were reduced by the City Engineer.

***Developer is in the process of constructing this sidewalk so no cash contribution is needed. This amount is not included in the value calculations.

PUBLIC BENEFITS

- New construction to complete the Eastern Waterfront Master Plan.
- Constructing a third building for WEX.
- Easements for pedestrians through Mountfort Street Extension (from Thames to Fore Street) and Hancock Street to the Connector Road.

- Developer investment in Mountfort Street access road and sidewalks estimated to cost over \$300,000.
- City ownership transfer of Connector Road and access to 13 on-street parking spaces.
- Cash for public restroom investment.
- Environmentally sustainable building and site.
- New commercial construction and quality jobs to generate an estimated \$170,000 a year in new property taxes retained by the City in the Waterfront TIF District.

VII. RECOMMENDATION

Staff recommended to the HEDC that it vote to forward the proposed Purchase and Sale Agreement to the City Council for approval. The HEDC reviewed this at its February 21, 2023, meeting and vote 4-0 to forward this to the City Council for approval.

VIII. LIST ATTACHMENTS

1. Order P&S 144 Fore St. OZ LLC for Thames Street Property 3.6.2023
2. P&S Draft PSA Thames St clean for Council 030323

Prepared by:

Mary Davis, Division Director

Date: 02/27/2023

KATE SNYDER (MAYOR)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

CITY OF PORTLAND
IN THE CITY COUNCIL

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK DION (5)

**ORDER APPROVING THE PURCHASE AND SALE AGREEMENT
BETWEEN 144 FORE ST. OZ LLC AND PORTLAND
RE: THAMES STREET PROPERTY**

ORDERED, that the Purchase and Sale Agreement with 144 Fore St. OZ LLC for Thames Street property is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this ____ day of _____, 2023 (the “Effective Date”) by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as “City”), and **144 FORE ST. OZ LLC**, a Maine limited liability company having a mailing address of One Portland Square, Suite 6A, Portland, ME 04101 (hereinafter referred to as “Buyer”).

RECITALS

WHEREAS, the CITY is the owner of approximately 42,569 square feet of land located at 0 Thames Street, Portland, Maine (the “Premises”) and did advertise RFP #22021 dated September 24, 2021, entitled Request for Proposals, Sale of Remaining Portion of City Owned Thames Street Property, a copy of which is attached hereto as Exhibit A and made a part hereof (the “Request for Proposals”) (the Premises is identified in the City’s tax records as a portion of CBL 019 A002001 and is generally depicted on the diagram attached hereto as Exhibit B (the “Site Plan”) and further described in Exhibit C, both Exhibits B and C being incorporated herein); and

WHEREAS, Buyer submitted a proposal dated October 21, 2021 in response to the Request for Proposals, a copy of which is attached hereto as Exhibit D (the “Proposal”)¹; and

WHEREAS, the Proposal includes, among other things, the conveyance to the City of a private road and sidewalk known as Freedom Way as generally depicted on Exhibit B (“Freedom Way”), which is a portion of property that abuts the Premises and is currently owned by Buyer’s affiliate, 100 Fore Street, LLC, and which the Buyer intends to purchase and then convey to the City for acceptance as a town way; and

WHEREAS, Buyer desires to purchase the Premises from the City, the City desires to convey the Premises to Buyer, Buyer desires to convey Freedom Way to the City for acceptance as a town way, and the City desires to obtain Freedom Way from Buyer and accept it as a town way, subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. SALE; CONSIDERATION.

- a. City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement.

¹ Although the Proposal is attached to this Agreement as an exhibit, it is not incorporated into and made a part of this agreement. The City has not approved or agreed to the contents of the Proposal except to the extent specified in this Agreement.

- b. The purchase price for the Premises shall be One Million, One Hundred and Fifty Thousand Dollars (\$1,150,000.00) (the “Purchase Price”).
- c. In addition to the Purchase Price:
 - i. Buyer shall convey to the City the real property comprising Freedom Way as generally depicted on Exhibit B and more particularly described in Exhibit E, including, without limitation, the road, sidewalk, and related fixtures, improvements, and infrastructure, which conveyance, however, shall contain (x) a reservation of rights until Freedom Way is accepted as a public way for Buyer and 100 Fore Street, LLC, and their successors and assigns, to access and use Freedom Way at no cost or expense, and (y) a reservation of rights for Buyer and 100 Fore Street, LLC to access, use, maintain, and repair, at their own cost or expense, and subject to the City’s Technical Manual and applicable laws, regulations, ordinances, and rules, the fixtures, improvements, infrastructure and other utilities located within Freedom Way at the time of closing.
 - ii. Buyer shall operate the Premises as a parking lot from the date of closing until the date that Buyer commences construction of the Project (as that term is defined below), which operation shall include the right for Buyer to charge any third parties for the right to park on the Premises at market rates determined by Buyer, in its sole discretion.
 - iii. Buyer shall convey or cause to be conveyed to the City a public easement in form and substance satisfactory to the City for public access and utilities running generally west to east from Hancock Street to Freedom Way or City-owned property known as the Connector Road on, over, under, through and across the Premises and land owned by Buyer and/or its affiliate, 144 Fore St. LLC (hereinafter referred to as “144 Affiliate”), their successors and assigns, as generally depicted on Exhibit B and more particularly described in Exhibit F (the “Hancock Street Easement”). To the extent that all or a portion of the Hancock Street Easement area is located on the Premises, the City may, in its discretion, reserve such rights and easements in the deed conveying the Premises to the Buyer. Prior to obtaining a certificate of occupancy for the Project (as that term is defined below), Buyer shall make, or shall cause to be made by or with the permission of the owner of the burdened property, improvements to the Hancock Street Easement area as depicted and described in Exhibit B. To the extent that any conditions in the Planning Board’s approval of a site plan for the development of the Premises or the property that is located westerly of the Premises known as 144 Fore Street and identified as Tax Map 19 Lot A-8 as shown on Exhibit B (the “144 Fore St. Property”), are contrary to Exhibit B, the Planning Board’s approval will govern. Notwithstanding the foregoing, all improvements in

Hancock Street Easement area shall be consistent with the City's Technical Manual and all applicable laws, regulations, ordinances, and rules. Buyer's obligation to make, or cause to be made, such improvements to the Hancock Street Easement area shall survive the closing of this Agreement.

- iv. Buyer shall convey or cause to be conveyed to the City a public easement in form and substance satisfactory to the City for public access (including access by motor vehicles) and utilities running generally north to south connecting Thames Street to the Public Access Easement granted by 100 Fore Street, LLC to the City dated April 10, 2019, recorded in the Cumberland County Registry of Deeds, Book 38299, Page 218 (the "100 Fore Street Easement"), on, over, under, through, and across the Premises and land owned by Buyer and/or 144 Affiliate, their successors and assigns, as described and depicted on Exhibit B and more particularly described in Exhibit G (the "Thames Street Easement"). To the extent that all or a portion of the Thames Street Easement area is located on the Premises, the City may, in its discretion, reserve such rights and easements in the deed conveying the Premises to the Buyer. Prior to obtaining a certificate of occupancy for the Project, Buyer shall make, or shall cause to be made by or with the permission of the owner of the burdened property, improvements to the Thames Street Easement area as depicted and described in Exhibit B. To the extent that any conditions in the Planning Board's approval of a site plan for the development of the Premises or the 144 Fore St. Property are contrary to Exhibit B, the Planning Board's approval will govern. Notwithstanding the foregoing, all improvements in Hancock Street Easement area shall be consistent with the City's Technical Manual and all applicable laws, regulations, ordinances, and rules. Buyer's obligation to make, or cause to be made, such improvements to the Thames Street Easement area shall survive the closing of this Agreement.
- v. Buyer shall cause 100 Fore Street, LLC and 167 Fore Street LLC, or their successors or assigns, to execute an amendment (in substantially the form attached hereto as Exhibit H) to that certain May 26, 2021 Parking Agreement (the "Parking Agreement") between the City, 100 Fore Street, LLC, and 167 Fore Street LLC, which amendment will increase the number of parking spaces provided to the City under the Parking Agreement to 25 and extend the term of the Parking Agreement to four years after the Closing Date, as that term is defined below. A copy of the Parking Agreement is attached hereto as Exhibit I.
- vi. In conjunction with Buyer's development of the Project, upon Buyer's receipt of all requisite permits and approvals for the Project, Buyer shall construct a brick sidewalk, at Buyer's sole expense, in accordance with the City's brick sidewalk construction requirements,

along the portions of Thames Street, the Connector Road, and Freedom Way that abut the Premises (the “New Sidewalk”), as generally depicted on Exhibit B. Construction of the sidewalk shall be complete prior to Buyer’s receipt of a certificate of occupancy for the Project. Buyer’s obligations under this paragraph shall survive the closing of this Agreement. Prior to commencing construction of the New Sidewalk, the parties shall execute a standard City license agreement in substantially the form attached hereto as Exhibit J allowing Buyer and its contractors to enter onto City property with equipment and personnel to construct the New Sidewalk. Upon completion and acceptance of the New Sidewalk, title to the New Sidewalk shall automatically vest in the City of Portland without the need for a bill of sale or any other conveyance documents. Buyer’s obligation to construct the New Sidewalk shall survive the closing of this Agreement.

- vii. The City shall be entitled to recover all costs it incurs in enforcing the terms of Subsections (iii), (iv), and (vi) hereof regarding Buyer’s obligations to improve the Hancock Street and Thames Street Easement areas and construct the New Sidewalk, including, without limitation, court costs and reasonable attorneys’ fees. Buyer’s obligations under this subsection shall survive the closing of this Agreement.
- d. Buyer shall deposit with the City the sum of One Hundred Thousand Dollars (\$100,000.00) (the “Deposit”) within 3 business days after the full execution of this Agreement, which the parties agree will be held by the City in escrow as of the date of this Agreement, in a non-interest-bearing account. The Deposit shall be applied to the Purchase Price at closing but shall be fully refundable until closing, as further described herein; and
- e. The Buyer shall pay the remainder of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.

2. TITLE AND DUE DILIGENCE.

- a. Due Diligence Period. Buyer and City will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on that day that is twelve (12) months after the Effective Date of this Agreement (the “Due Diligence Period”) to complete any survey, environmental review, inspections, and title examinations. During the Due Diligence Period, the Buyer shall be responsible for applying for and obtaining any subdivision approval, plan approval and any other necessary approvals and permits for the Project (as defined in Section 10 herein) and as are required in connection with the conveyances contemplated by this Agreement.

- b. Property Description. The legal descriptions to be contained in the deeds for the Premises (Exhibit C), the Thames Street Easement (Exhibit G), the Hancock Street Easement (Exhibit F), and Freedom Way (Exhibit E) are survey descriptions based upon the Site Plan (Exhibit B) that more specifically describes the Premises, the Thames Street Easement, the Hancock Street Easement, and Freedom Way.
- c. Title Objections. Each party will have until closing to deliver to the other any written objections to title matters that affect the parties' intended use of the Premises, the Thames Street Easement, the Hancock Street Easement, or Freedom Way. Objections not made prior to closing will be deemed waived.
- d. Option to Cure. In the event of a title objection, the non-objecting party will have the option, but not the obligation, to cure the objection and will notify the objecting party of its election within ten (10) business days after receipt of the objection. In the event that the non-objecting party elects to cure the objection, it will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the non-objecting party does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to the other's reasonable satisfaction, the objecting party will have the option to (i) terminate this Agreement, in which case the Buyer will obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (ii) waive the objection and close, or (iii) undertake the cure of such objection at its own expense (in which case it shall have thirty (30) days to do so). If any objection and the time to cure the same shall exceed the Closing Date, then closing shall occur no later than ten (10) days after the objection is cured or the objecting party has elected to waive the objection.
- e. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good, marketable and insurable title, free and clear of all encumbrances except (i) easements of record and easements described in this Agreement, (ii) zoning ordinances, and (iii) real estate taxes not yet due and payable. City specifically acknowledges and agrees that: (i) the Premises shall be conveyed to Buyer free and clear of any tenants, occupants, leases or other occupancy agreements. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine.

- f. Buyer shall convey Freedom Way to City at the closing in fee simple by a quitclaim deed with covenant. Title shall be good, marketable and insurable title, free and clear of all encumbrances except (i) easements of record and easements described in this Agreement, (ii) zoning ordinances, and (iii) real estate taxes not yet due and payable. Buyer specifically acknowledges and agrees that: (i) Freedom Way shall be conveyed to the City free and clear of any tenants, occupants, leases or other occupancy agreements.
- g. To the extent not reserved in the City's deed for the Premises, Buyer shall convey the Thames Street Easement and the Hancock Street Easement to the City in form and substance satisfactory to the City. Title to the easement areas shall be good, marketable and insurable title, free and clear of all encumbrances except (i) easements of record and easements described in this Agreement, (ii) zoning ordinances, and (iii) real estate taxes not yet due and payable. Buyer will cause any mortgagees or other parties holding liens on the easement areas to execute agreements consenting to the easements and subordinating their interests in their liens to the rights and easements granted to the City.
- h. The parties shall exchange drafts of the deeds prior to the Closing Date and shall in good faith endeavor to agree on the form and substance of the deeds prior to the Closing Date.

3. INSPECTIONS.

- a. Prior to closing, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, in its sole discretion, to be required to determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.
- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.

- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and general public liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then the City shall refund to Buyer the Deposit, if previously paid, without interest, within five (5) days after receipt of Buyer's termination notice, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

4. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Premises is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Buyer shall be responsible for paying all taxes assessed on Freedom Way through the last day of the tax year during which Closing occurs. Any utilities for the Premises shall be prorated as of the closing. Buyer's fifty percent (50%) share of the Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed for the Premises and any expenses relating to Buyer's financing or closing shall be paid for by Buyer. The recording fee for the deed for Freedom Way shall be paid for by the City.

5. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, the City may terminate this Agreement and

retain the Deposit, and neither party shall have any further obligation to the other. In the event that Buyer defaults on any matters addressed in this Agreement that survive Closing, City may pursue all available legal and equitable remedies, except as otherwise expressly stated in Section 10 herein. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance, but at all times may elect in substitution therefor, as its sole remedy, the right to a return of its Deposit.

6. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement and receive a refund of the Deposit without interest, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement. The risk of loss or damage to Freedom Way by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the Buyer. Freedom Way is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event Buyer is not able to deliver Freedom Way as stated, City may terminate this Agreement, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
7. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer has had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein. City acknowledges that City has had an opportunity to inspect Freedom Way, and to hire professionals to do so, and that Freedom Way will be conveyed "as is, where is" and "with all faults." Buyer and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of Freedom Way, or as to the fitness of Freedom Way for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of Freedom Way. Acceptance by City of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by Buyer of every agreement and obligation contained herein, except for matters that survive closing.

8. **ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed to the Premises and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.
9. **CLOSING.** Time is of the essence in the performance of this agreement. The closing shall be held at the offices of Buyer's counsel at a time agreeable to the parties on or before the day that is 30 days after the expiration of the Due Diligence Period hereof (the "Closing Date"). At the Closing:
- a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and marketable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein, along with an assignment from the City to Buyer of any existing state, federal, and local permits and approvals for the Premises, including, but not limited to, any site location of development permits for the Premises, to the extent such permits exist and are assignable by law and by their terms.
 - b. Buyer shall deliver the balance of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and
 - c. Buyer shall execute, acknowledge, and deliver to the City a quitclaim deed with covenant for Freedom Way conveying to City good and marketable and insurable title to Freedom Way, free and clear of all encumbrances except as otherwise set forth herein.
 - d. Buyer shall execute, acknowledge, and deliver to the City the Hancock Street Easement and the Thames Street Easement, except to the extent that the City reserves such easements in the deed to the Premises.
 - e. The parties shall execute an amendment to the Parking Agreement in substantially the form attached hereto.

- f. Each party shall deliver to the other such other documents, certificates, subordination agreements, and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- g. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals acting to closing and executing documents on behalf of Buyer are authorized to do so.

10. BUYER'S POST CLOSING OBLIGATIONS; RIGHTS OF CITY TO REPURCHASE PROPERTY.

Buyer agrees, within twelve (12) months after Closing, to commence construction (the "Construction Start Period") of a multitenant use commercial office building project with at least seventy thousand (70,000) square feet on the Premises, of which approximately 46,000 square feet shall be leased to WEX as generally described in the Proposal (the "Project"). For purposes of this Agreement, "commence construction" means physically undertaking significant construction activity pursuant to a fully executed construction contract between Buyer and a contractor for the complete construction of the Project. Buyer agrees to diligently pursue all permits and approvals for the Project. If Buyer fails to commence construction of the Project in the Construction Start Period, the City shall have the right as its sole remedy, but not the obligation, to repurchase the Premises at the Purchase Price free and clear of all encumbrances, and the City must exercise such repurchase right by providing notice to Buyer (the "Repurchase Notice") within six (6) months after the end of the Construction Start Period and must close on the repurchase of the Premises no later than thirty (30) days after providing the Repurchase Notice, and upon such repurchase, Buyer shall transfer fee in the Premises to the City free and clear of all encumbrances; it being the intent hereof, however, that so long as Buyer diligently commences construction within the Construction Start Period, then the Buyer shall be deemed to have satisfied its obligations under this Section 10 and the City shall have no right to repurchase the Premises. Should the City exercise its right to repurchase the Premises pursuant to this paragraph, then, to the extent that the Premises are encumbered by any mortgages, leases, licenses, or other encumbrances not expressly permitted under this Agreement, Buyer shall cause the same to be discharged at its own expense prior to conveying the same to the City. Notwithstanding the foregoing, if Buyer commences construction after the Construction Start Period has lapsed but before the City provides the Repurchase Notice to Buyer, then the Buyer shall still be deemed to have satisfied its obligations under this Section 10 and the City shall have no right to repurchase the Premises or to pursue any legal or equitable remedies for Buyer's delay in commencing construction after the Construction Start Period. Upon Buyer having satisfied its obligations under this Section 10, if requested by Buyer, the City shall execute a release or other reasonable documentation requested or required by Buyer or by Buyer's lender or title company, in form reasonably satisfactory to the City, confirming in writing such satisfaction of Buyer's obligations under this Section and releasing any claims that the City has to repurchase the Premises pursuant to this Section 10. The provisions of this section will survive closing and will be included in greater detail in the City's deed to Buyer or in a declaration of covenants, conditions

and restrictions executed before or at the time of closing, which shall be recorded in the Cumberland County Registry of Deeds.

11. **ENTIRE AGREEMENT.** This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Premises hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.
12. **NON-WAIVER.** No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.
13. **HEADINGS AND CAPTIONS.** The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.
14. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.
15. **TIME.** The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.
16. **GOVERNING LAW.** This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.
17. **NOTICE.** All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR THE City:

City of Portland
ATTN: City Manager
389 Congress Street
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

FOR Buyer: 144 Fore St. OZ LLC

With a copy to: Bernstein Shur
Attention Hawley R. Strait, Esq.
100 Middle Street
P.O. Box 9729
Portland, Maine 04104-5029

18. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

19. BROKERS. Buyer shall pay its broker at closing a brokerage commission, and also at closing cause to the fully paid any broker which performed services for WEX and which could place a proper and true lien on the Premises. The City represents that it has not dealt with a real estate broker of its own in connection with this transaction. Buyer agrees to indemnify and hold harmless City from any claims made by any broker should the assumptions and representations in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to indemnify and hold harmless Buyer from any claims made by any broker should City's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

20. ASSIGNMENT. Buyer shall have the right, prior to closing, without the need to obtain the consent of the City, to assign this Agreement to an affiliated entity to take title to the Premises, provided that the assignee assumes all of Buyer's obligations under this Agreement.

Signature page follows.

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

CITY OF PORTLAND

WITNESS

Danielle P. West
Its Interim City Manager

144 FORE ST. OZ, LLC

WITNESS

Jonathan Cohen
Its Manager

The undersigned 144 Fore St. LLC has seen, consents to, and joins in this Purchase & Sale Agreement on this _____ day of _____, 2023:

144 FORE ST. LLC

WITNESS

Name:
Its Manager

Approved as to Form:

Corporation Counsel's Office

Approved as to Funds

City Finance Director

EXHIBIT A
Copy of Request for Proposals

City of Portland, Maine

Request for Proposals

“Sale of Remaining Portion of City Owned Thames Street Property”

RFP #22021

NOTICE AND SPECIFICATIONS

The City of Portland, Maine seeks proposals related to the “Sale of City-Owned Thames Street Property,” as specified herein. Proposals addressed to the Purchasing Office, Room 103, City Hall, 389 Congress Street, Portland, Maine 04101, shall be submitted electronically to bidssubmit@portlandmaine.gov with the name of the Proposer, Contract Name and RFP number in the subject line will be received until **3:00 p.m., Thursday, October 21, 2021** at which time they will be opened and read. Proposals can also be submitted via USPS, UPS or FedEx to the address listed above. In-person submission is not currently allowed due to City Hall being closed to the public. All proposals shall be held open to acceptance for ninety days from opening.

Copies of the above documents will be available by contacting the City of Portland Purchasing Office either via e-mail at jrl@portlandmaine.gov, or phone (207) 874-8654. Each prospective bidder will be required to obtain from the City each copy of the proposal forms.

Proposals that are late, unsigned or submitted via fax shall not be accepted. Proposals from individuals not registered with the Purchasing Office may be rejected; receipt of this document directly from the City of Portland indicates registration. Should a person receive this Request from a source other than the City, please contact 207-874-8654 to ensure that you are listed as a recipient for this proposal.

All questions **must** be submitted in writing to the Purchasing Office. Questions may be mailed, faxed to (207) 874-8652 or e-mailed to slchapin@portlandmaine.gov and must be received no later than five (5) business days prior to the opening date. Questions received after this time will not be addressed. Any interpretation, correction or change of this document will be made only by written addenda. Changes in any other manner will not be binding on the City and cannot be relied upon by proposers. Proposers cannot have contact with any City staff with regard to this Request for Proposals except to obtain general public information as specified in the document.

The disposal of this real estate shall be on the basis of a negotiated agreement, with the City of Portland reserving the right to refuse any and all proposals. *All proposers are advised that the property will be sold “as-is” and “where is,” in its existing condition, with no warranties to be expressed or implied.* The City makes no representations or warranties about any of the information about the property set forth herein, which is provided to proposers for their convenience only. The City, and its agents, make no representations or warranties with respect to the title of the property, the accuracy of any statements as to boundaries or acreage, or as to any other matters contained in any description of the property, or as to the fitness of the property for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without

limitations, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the property. The City disclaims any and all responsibility for injury to proposers, their agents or others while examining the property or at any other time. The City will not be responsible for any broker's commission. The property will be conveyed by quitclaim deed without covenant.

Any and all improvements made to said property must be done in accordance with existing City Codes and Ordinances.

CONFIDENTIALITY

The City of Portland is subject to Maine's Freedom of Access Act (FOAA). Under this law, the City is required to make public information that we receive in the solicitation of proposals. FOAA does, however, have exceptions applicable to certain confidential information. In the event that you believe that the proposal you submit contains any confidential information, you must submit such information in a separate sealed envelope to the City along with your sealed proposal. The outside of this envelope must clearly be marked "Proprietary information/confidential." Such confidential information will only be reviewed by Portland City officials, and only on a "need to know" basis. The City will not disclose such information to a third party, unless it determines that such disclosure is required by law. Prior to disclosing such information, the City will provide you with a reasonable opportunity to seek an injunction or other court order, at your own expense, to prevent such disclosure. The City will not be liable to any proposer or any third party for any disclosure of confidential information.

RESERVATION OF RIGHTS

The City reserves the right, at its sole discretion, to reject any and all proposals for the property, based on the quality and merits of the proposals received, or when it is determined to be in the public interest to do so. Furthermore, the city may extend deadlines and timeframes, as needed. The City Council may accept any proposer's proposal, and negotiate a purchase and sale agreement with that proposer even if the proposer does not receive the highest score from the Evaluation Committee.

The City reserves the right to substantiate any Proposer's qualifications, capability to perform, availability, past performance records and to verify that the proposer is current in its financial obligations to the City.

The City reserves the right to waive any informalities in proposals, to accept any proposal or portion thereof, and to reject any and all proposals, should it be in the best in the best interest of the City to do so.

September 24, 2021

Samantha L. Chapin
Purchasing & Controls Manager

PROPOSAL FORM
“Sale of Remaining Portion of City Owned Thames Street Property”
RFP #22021

**** THIS SHEET MUST BE INCLUDED IN YOUR PROPOSAL ****

The undersigned hereby declares that he/she or they are the only person(s), firm or corporation interested in this proposal as principal, that it is made without any connection with any other person(s), firm or corporation submitting a proposal for the same, and that no person acting for or employed by the City of Portland is directly or indirectly interested in this proposal or in any anticipated profits which may be derived there from.

The undersigned hereby declares that they have read and understand all conditions as outlined in this Request for Proposals, and that the proposal is made in accordance with the same.

The bidder acknowledges the receipt of Addenda numbered: _____

COMPANY NAME: _____

AUTHORIZED SIGNATURE: _____

DATE: _____

PRINT NAME & TITLE: _____

ADDRESS: _____

E-MAIL ADDRESS: _____

PHONE NUMBER: _____ FAX NUMBER: _____

TYPE OF ORGANIZATION - PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, INDIVIDUAL, OTHER:

STATE OF INCORPORATION OR ORGANIZATION, IF APPLICABLE:

FEDERAL TAX IDENTIFICATION NUMBER (Required): _____

NOTE: Proposals must bear the handwritten signature of a duly authorized member or employee of the organization submitting a proposal.

Purchase Price: _____ (Points Award Basis)

INTRODUCTION

The Eastern Waterfront Master Plan (EWMP) envisioned the build-out of the area establishing a new neighborhood based on a new street grid, with over a half-million square feet of additional office, retail and residential construction to be supported by additional structured parking. The full EWMP, including design guidelines, can be found here:

<https://www.portlandmaine.gov/DocumentCenter/View/3391/Eastern-Waterfront--Master-Plan>

The sale of a portion of the City-owned Thames Street property, through this Request for Proposals, will further the EWMP.

Use of additional land, either contiguous or non-contiguous to the City property being made available through this RFP, is encouraged in order to best fulfill the development goals described in the EWMP.

Thames Street Property Overview

The property the City is considering selling includes an approximately 24,500 square foot buildable parcel located along Thames Street between the Proposed Mountfort Street Extension and the New Connector Road, which is generally depicted on the attached map (the “Property”).

Existing Zoning Summary

This property is located in the B-6 zoning district, which permits a variety of uses, including residential, office, retail and hospitality. The zoning allows heights of 45 feet as regulated by the B6 Building Height Overlay and Building Envelope Map (B6 Height Overlay.) As shown on the B6 Height Overlay, there are portions of the subject parcel - at the corners of Proposed Mountfort Street Extension and the New Connector Road intersections with Thames Street - that lie outside of the “Key Building Envelope” established within the Overlay. These areas are intended to preserve and create view corridors from public streets to the water. While not available for buildings, these areas may be used for landscaping, plaza space, outside dining, or other similar use.

The B6 Zone is additionally subject to Design Guidelines for the Eastern Waterfront.

Note: All respondents are responsible for understanding zoning and other requirements for proposed projects prior to submission of proposal. Information included in this RFP is for convenience only, and, to the extent that the information included herein conflicts with applicable laws, rules, ordinances, and regulations, those laws, rules, ordinances, and regulations control. Full zoning requirements are contained in the City’s Land Use Code:

<https://www.portlandmaine.gov/DocumentCenter/View/1080/Chapter-14-Land-Use-ReCode---Revised-3152021> and the latest B-6 height overlay is available here:

<https://www.portlandmaine.gov/DocumentCenter/View/4866/B6-Zone-Building-Height-Overlay>

Site Utilities

The selected developer(s) will be responsible for installing all required utilities (including but not limited to water, sanitary sewer, natural gas, electric, phone, and cable) to support development on the Property.

SELECTION PROCESS

Proposals will be reviewed by a city staff Evaluation Committee that will score the proposals based upon the best opportunity for negotiating the highest quality and most appropriate use of the property. The highest scoring respondents to the RFP may be selected for an interview at the discretion of the Evaluation Committee. These firms may be re-scored after the Evaluation Committee has completed its interview process and reviews any additional information. The staff Committee's scoring will be forwarded to the Portland City Council Housing and Economic Development Committee for its deliberation and subsequent recommendation to the City Council. Any agreement for the sale or other disposition of the Property will be subject to the approval of the Portland City Council.

Key Proposal Goals (3)

1. ***Private Sector Investment.*** The city desires to further the build-out of private sector investment to meet City goals as outlined in the Eastern Waterfront Master Plan, economic development efforts, and community development goals.
2. ***Parking.*** The majority of the Property should be utilized for development. The majority of any new structured parking, located within the Property, if needed, shall be surrounded by active uses and screened from view. All parking facilities, located in the Eastern Waterfront area (not on the Property) should be located within a reasonable walking distance from the Property. ***All proposals shall address City replacement parking needs and accommodate parking requirements for new proposed private investment.***
3. ***Future Streets (New Connector Road and Mountfort Street Extension).*** The area of the Mountfort Street Extension does not allow for new buildings, and is reserved for protection of public views and to retain the possibility of the future extension of the public street network. At this time, the City is not prepared to provide commitments to design and construct Mountfort Street Extension. However, all proposals should address the need for Mountfort Street Extension as a future public right-of-way to support proposed private investment on the Property, to provide for public space amenities and connectivity, and to help fulfill the goals of the EWMP on the portion of City property located between Mountfort Street Extension and the New Connector Road. A public easement has already been provided for a portion of the Mountfort Street Extension off of Fore Street, and the section that is associated with the subject parcel of this RFP shall be designed for compatibility with the public easement. Alternatively, ***creative approaches to meeting the goals of permeability, future easements and accessibility across this block will be considered.***

GENERAL INFORMATION

1. **City Property Location:** Corner of Thames Street and New Connector Road (See attached

map.)

2. **General Dimensions:** Portion site under consideration for sale includes 24,500 +/- square feet.
3. **Current use:** Unimproved municipal parking lot.
4. **Condition of the Property at the time of sale:** The Property is within a B-6 Eastern Waterfront Mixed Zone and is being used as a municipal parking lot.
5. **Environmental Conditions:** The City of Portland does not have any specifics with regard to environmental conditions and makes no representations or warranties with respect to the environmental condition of the Property.
6. **License Agreement with adjacent property owner Jack Rabbit, LLC (copy attached):** The City acknowledges the existing License Agreement with Jack Rabbit, LLC which needs to be addressed with the sale of the Property.
7. **Road Extensions (Thames Street, New Connector Road and Possible Mountfort Street Extension):** See attached plan showing the area referred to as the Mountfort Street Extension. Proposals for improvements to the segment of Mountfort Street Extension included in the subject parcel, need to be designed, funded, and constructed by the future property owner.

PROPOSAL REQUIREMENTS

1. All proposers shall signify, by signing the attached proposal form, that the proposer has read and understands all conditions concerning the development of the land being offered, as outlined in this request for proposals, and that the proposal is made in accordance with this request.
2. Each proposal submitted must specifically outline the proposed development or re-use of the Property and indicate the intended end use(s). At a minimum, the proposal shall include:
 - **Site Concept Plan.** Concept for the proposed use of the Property including end use(s);
 - **Project Timeline.** Timetable from beginning to completion of the development of the Property;
 - **Future Mountfort Street Rights-of-Way.** Any future streets right-of-way needed and offer of property or easements, if applicable;
 - **New Connector Road (from Fore Street to City Thames Street connection).** Proposals should address the commitment to provide the City the necessary right-of-way for the privately owned portion of the New Connector Road for this to be accepted as a

public street.

- ***Parking (located on the Property).*** Sale of Property will displace upwards of twenty-five (25) parking spaces utilized by City staff and others. Construction of suitable City “replacement parking” must be located within a reasonable walking distance in the Eastern Waterfront Area from the Property along with plans for all new parking to accommodate new private sector investment. A parking management plan shall be provided showing the proposed locations for all new parking options, including costs, to accommodate City replacement parking needs at no cost for twenty-five (25) City parking spaces. The parking management plan should address public access to parking, weekend/evening hour use of parking, and snow ban parking.
3. Each proposer must present the City with evidence of its financial ability to undertake and complete the project as outlined in its proposal.
 4. Responses should include a clear demonstration of the proposer’s ability to complete all elements of the project as described in the proposal including a description of the development team and past experience with similar projects, project readiness and timeframe for completion as evidenced by lease commitments or the like, and financial feasibility analyses detailing a development budget, operating pro-formas, and any other provided information.
 5. If submitting by US Mail, FedEx, or UPS; submissions must include one paper copy, and one electronic copy.
 6. Additional data, exhibits, statements, drawings, renderings of buildings, etc., are invited to insure a total understanding and proper evaluation of each proposal by the City.

SELECTION CRITERIA (5)

1. Community Integration as Guided by the Eastern Waterfront Master Plan

As described above, development proposals should be guided by the Eastern Waterfront Master Plan, which envisioned the build-out of over a half-million square feet of additional office, retail and residential construction. The B6 height overlay map includes requirements for connectivity as well as view creation and preservation at the Proposed Mountfort Street and New Connector Road Thames Street intersections. The B-6 Height Overlay also contains view splays that are meant to aid alignment of existing in new construction for maximum view protection and to aid in creating vibrant public spaces. Proposals should address these requirements. Additionally, the building site/building should incorporate climate change resilient design so the site can accommodate increasing inundation in the coming years. Any successful response to this Request for Proposals will fulfill those goals.

Document link: <http://www.portlandmaine.gov/DocumentCenter/Home/View/3391-totheEasternWaterfrontMasterPlan>

2. Public Benefit to the City

The City would like to obtain the most favorable public benefit associated with the sale of this property, and will rate proposals based upon that return. This will mean that a proposal will score higher as it ascribes the greatest value to the city-owned land and offers the greatest public benefit to the City. In addition, other factors could include, but are not limited to:

- **Net new jobs to the city.** The city desires to attract new full-time, quality (wage compensation, and access to benefits) jobs to the city. Proposals should include estimates of the numbers and types of full-time jobs associated with project private sector investment.
- **Future Possible Mountfort Street Extension Rights-of-Way.** Proposals should address the need for Mountfort Street Extension as a future public right-of-way to support proposed private investment on the City property, to provide for public space amenities and connectivity, along with all required utility easements and to fulfill the goals of the EWMP on the portion of City property located between Mountfort Street Extension and the New Connector Road. Alternative approaches to meeting the goals of permeability and accessibility across this block will be considered.
- ***New Connector Road (from Fore Street to City Thames Street connection).*** Proposals should address the commitment to provide the City the necessary right-of-way for the privately owned portion of the New Connector Road for this to be accepted as a public street.
- **One Public Restroom shall be included in the building concept design.** The selected Developer shall enter into an agreement with the City relating to the provision of a public restroom at the Project site on terms to be negotiated.

3. Purchase Price

The City expects to receive Fair Market Value (“FMV”) for the property. A purchase price which is less than fair market value or any request for city support may result in a lower score.

4. Additional Financial Benefit to the City

In addition to purchase price, the City will consider other factors providing financial benefit to the City, including but not limited to:

- **Net new property tax revenue.** Estimates for the value of new private construction should be provided with each proposal. The City will review this information to determine an estimated total municipal assessed value for the proposed project and associated property taxes.
- **Parking.** The City replacement parking shall be located in the Eastern Waterfront Area (preferably not on the Thames Street property) to support City replacement parking and to provide opportunities for continued growth of the land side of the Eastern Portland Waterfront. A parking management plan shall be provided showing the proposed locations for all new parking and options including accommodating City replacement parking needs for upwards of twenty-five (25) City parking spaces at no-cost to the City. The parking management plan should address public access to parking, weekend/evening hour use of

parking, and snow ban parking.

5. Proposers Proven Capacity and Relevant Experience

Responses should clearly demonstrate the proposer's ability to complete all elements of the project as described in the proposal including a description of the development team and past experience with similar projects, project readiness and timeframe for completion as evidenced by lease commitments or the like and financial feasibility analyses detailing a development budget, operating pro-forma, and any other provided information. The City will consider its experiences with any proposer's performance on prior projects in its evaluation of the proposals.

EVALUATION CRITERIA

Subject to the Reservation of Rights as described herein below, the City Council Housing and Economic Development Committee will recommend to the City Council the proposal which in its judgment offers the best opportunity for negotiating the highest quality and most appropriate use of the property, even though such proposal may not contain the highest purchase price offered.

The criteria used for the rating of the Proposals by the Evaluation Committee will include:

1. Community Integration as Guided by the Eastern Waterfront Master Plan (25 Points)
2. Public Benefit to the City (25 Points)
3. Purchase Price (20 Points)
4. Additional Financial Benefits to the City (15 Points)
5. Proposers Proven Capacity and Relevant Experience (15 Points)

RFP Evaluation and Timeframe

The following process will be used:

1. Upon closing of the Request for Proposal application period, all proposals will be reviewed for completeness.
2. All complete proposals will be reviewed under the scoring factors and preference guidelines as described herein. The proposal evaluation committee **may** confer with the applicants and/or third parties to clarify or verify information and request additional information for the purpose of allowing the evaluation committee to ask questions of the finalists and to further clarify any Proposer's written responses.
3. All complete proposals and scoring information will be forwarded to the City Council's Housing and Economic Development Committee for review and negotiation of a purchase and sale agreement assuming developer selection. The Committee **may** hold interviews with

any, all or none of the proposers. Upon successful negotiation of a purchase and sale agreement, the final recommendation will be forwarded to the full City Council for its review and approval.

Proposers will be notified of the scoring results and all pertinent meeting review dates.

LEGAL REQUIREMENTS

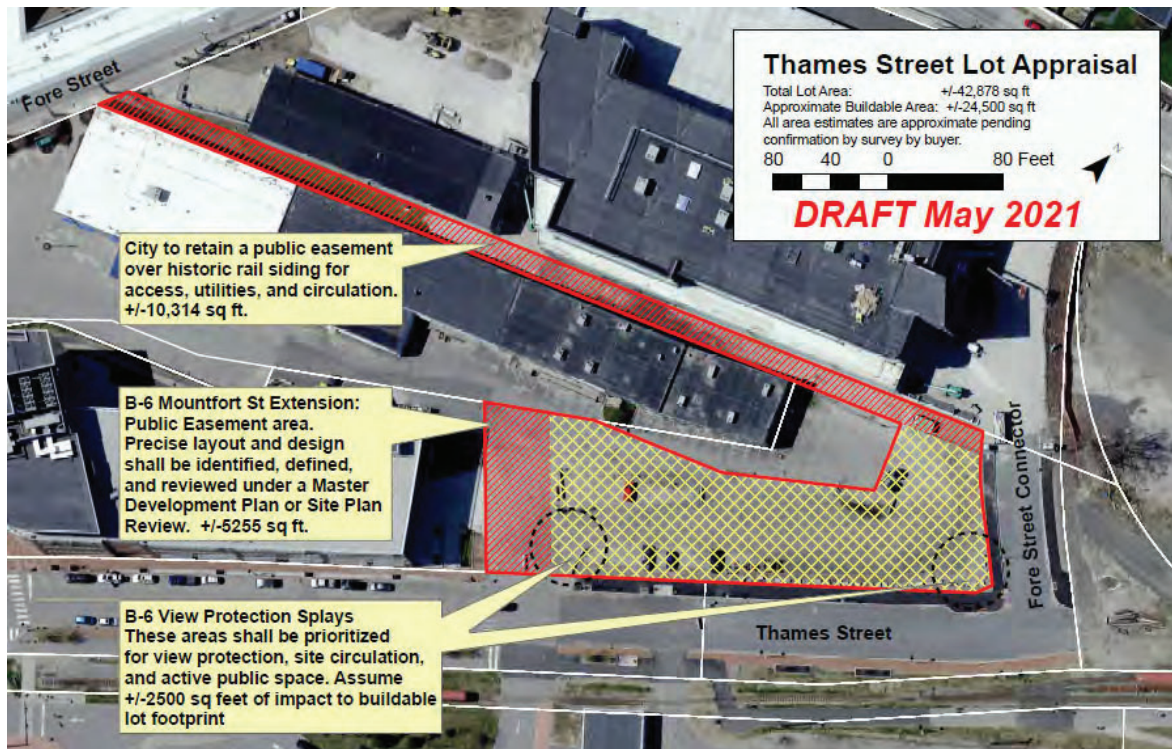
The Purchase and Sale Agreement for the sale of the Property will be executed only after satisfactory review and final approval by the City Council. At closing, the City shall convey the property by quitclaim deed. There will also be covenants that restrict the re-sale of the property, requires City Council approval of any new owners within a negotiated period of time, or allows the City to repurchase the property in the case of non-performance.

Attachments

- A. Remaining City Thames Street Property Map
- B. City and Jack Rabbit, LLC License Agreement



Subject property site with new WEX office building and parking garage complex in the background



Subject site identified as 24,500 sf.

IDENTIFICATION OF THE REAL ESTATE

The subject property is located at the northwest corner of Thames Street and the Fore Street Connector in the Eastern Waterfront neighborhood. The subject consists of a hypothetical 24,500 sf. buildable parcel that represents a portion of a larger city-owned tax parcel referenced by the assessor's office as Map 19, Block A, Lot 2. The subject site currently consists of a gravel parking lot. The immediate subject neighborhood represents the epicenter of new development activity within downtown Portland.

LICENSE AGREEMENT

This **LICENSE AGREEMENT** is made between the **City of Portland**, a body corporate and politic located at 389 Congress Street, Portland, Maine (hereinafter the "City"), and **JACKRABBIT, LLC**, a Maine limited liability company with a mailing address of 44 Oak Street, Portland, Maine, 04101 (hereinafter "Jackrabbit").

WHEREAS, the City and Jackrabbit each own property adjacent to Jackrabbit's building located at 144 Fore Street in the City of Portland, Maine; and

WHEREAS, the City wishes to have access to a portion the Jackrabbit's above-described property (hereinafter the "Jackrabbit Property"), and Jackrabbit wishes to have access to a portion of the City's above-described property (hereinafter the "City Property") for the purposes of vehicular traffic, travel and parking as described in the Agreement;

NOW THEREFORE, the City does hereby grant to Jackrabbit, its successors and assigns in ownership of the Jackrabbit Property, a revocable license to enter upon and to use the City Property for the purpose of vehicular traffic and travel, and Jackrabbit does hereby grant to the City, its successors and assigns in ownership of the City Property a revocable license to enter upon and use the Jackrabbit Property for the purpose of vehicular traffic, travel and parking, subject to the following terms and conditions:

1. **Location.** The City Property and Jackrabbit Property are described and delineated in Exhibit A, attached hereto and incorporated herein by reference.

2. **Use of City Property by Jackrabbit.** The City Property shall be used by Jackrabbit as shown on Exhibit A attached hereto for vehicular traffic, travel and minimal parking related to Jackrabbit's ownership and Jackrabbit's and his tenants' and invitees' use of Jackrabbit's building located at 144 Fore Street, only. All of Jackrabbit's parking shall be immediately adjacent to the building located at 144 Fore Street and at either end of the building, as shown on Exhibit A attached hereto. Vehicles shall not block the flow of traffic in the shared travel lane. Any vehicles that park on City Property not in accordance with this paragraph and do not display a City hang tag or permit will be subject to ticketing, booting and towing at the City's discretion. All use of the City's Property by Jackrabbit must be in compliance with state and federal law, and local ordinance, including but not limited to local land use ordinances.

3. **Use of Jackrabbit Property by the City.** The Jackrabbit Property shall be used by the City as shown on Exhibit A attached hereto for vehicular traffic, travel and parking related to the City's activities, including but not limited to providing parking for users of the Eastern Promenade Trail after 5:00 p.m. Monday through Friday and all day on weekends and holidays. All use of the Jackrabbit Property by the City must be in compliance with state and federal law, and local ordinance, including but not limited to local land use ordinances.

4. **Signage.** Jackrabbit agrees to post signs on or around its building located at 144 Fore Street, at its own expense, indicating that parking adjacent to the building is reserved for tenants and customers of the building.

5. **Maintenance.** Jackrabbit shall be responsible for maintenance and repair,

including snow plowing and removal, of the Jackrabbit property and the shared travel lane indicated on Exhibit A. City shall be responsible for maintenance and repair, including snow plowing and removal, of the City property.

6. **No Fees.** Jackrabbit shall be liable for no fees for its use of the City Property in accordance with this License Agreement, and the City shall be liable for no fees for its use of the Jackrabbit Property in accordance with this License Agreement.

7. **Event Revenue.** Jackrabbit shall retain any revenue from parking for special events only for parking spaces located on Jackrabbit property. The City shall retain any revenue from parking for special events for parking spaces located on City property.

8. **Insurance: City.** City is self insured and any claims which are the responsibility of the City under this agreement shall be covered by said self insurance fund.

9. **Insurance: Jackrabbit.** Jackrabbit shall procure and maintain throughout the term of this License Agreement, or provide through its contractor(s), comprehensive general liability insurance in the minimum amount of Four Hundred Thousand Dollars (\$400,000) covering Jackrabbit's activities hereunder and naming the City as an additional insured thereon. In addition, Jackrabbit shall provide evidence of automobile liability insurance in said minimum amount, and workers compensation insurance in the statutory amount, if applicable. All contractors to Jackrabbit performing work under this License shall provide the City with evidence of the above insurance coverages with the City as an additional insured, and workers compensation and employers liability insurance in the statutory amounts which shall have an endorsement waiving subrogation against the City. Such contractor insurance may be in place of that required of Jackrabbit so long as it remains in effect and names the City as an additional insured.

Certificates evidencing such insurance policies shall be delivered to City and shall provide the City with no less than thirty (30) days prior notice of cancellation or non-renewal.

All insurance policies hereunder shall be primary to any insurance, or self-insurance, maintained by City.

10. **Effective Date.** This License is effective as of the date of execution.

11. **Term.** This license shall have a term of ten (10) years and shall automatically continue for successive ten year periods unless the parties agree upon and establish functionally equivalent access to the Jackrabbit Property or the affected portion of it on terms similar to this Agreement as mutually agreed upon by Jackrabbit and the City. If the parties fail to agree, then on written notice from either party any dispute shall first be submitted to nonbinding mediation by a single mediator. If no mediation occurs or if no agreement is reached within 30 days thereafter, then on written notice from either party the dispute shall be submitted to arbitration, to a single arbitrator to be agreed upon within 20 days of the date on which the notice is served. If the parties cannot agree on a single arbitrator then on written notice from either part the dispute shall be submitted to a panel of three arbitrators and the notice shall specify the name and address of the person designated to act as an arbitrator on its behalf. Within 20 days after the service of such notice, the other party shall specify the name and

address of the person designated to act an arbitrator on its behalf. If the other party fails to notify the initiating party of the appointment of its arbitrator within the time above specified, then the appointment of the second arbitrator shall be made by the first arbitrator. The two arbitrators so chosen shall meet within 15 days after the second arbitrator is appointed and if, by 30 days after the date of the appointment of the second arbitrator, the two arbitrators shall not agree upon a resolution of the dispute, they shall together appoint a third arbitrator. The three arbitrators shall meet and render a decision within 30 days after the date of the appointment of the third arbitrator. The decision of a majority of the arbitrators shall be final. All arbitrators appointed must be employed or active in the real estate industry, including without limitation, as managers, real estate brokers, bankers, attorneys, developers, investors or otherwise.

The party's shall share the costs of providing a functionally equivalent access equally, but if the City's proportionate share based on the original square footage of the portion of the access relocated on its land to all of the original square footage of the access from the City to Jackrabbit access is less, then it shall pay the lesser share.

12. Termination. In the event either party does not comply with the terms of this Agreement, the aggrieved party must first request the other party to cure the problem. In the event the problem is not cured within thirty (30) days, the party can terminate the Agreement upon thirty (30) days written notice.

Any notice of an Event of Default delivered pursuant section 12 of this license agreement must be sent by certified mail, return receipt requested to Jackrabbit at the address for Jackrabbit set forth above, or at such other address as Jackrabbit may provide to the City in writing from time to time. In addition following a notice sent to the City by certified mail, return receipt requested, by a party identifying itself as the holder of a mortgage on Jackrabbit's Property, the City shall concurrently send such mortgagee a copy of any notice of an Event of Default which the City sends to Jackrabbit.

Notwithstanding any other provision herein, in the event that a notice of an Event of Default is delivered to Jackrabbit pursuant to section 12 hereof, any mortgagee of Jackrabbit's Property who has identified itself to the City shall be entitled to cure such default within the time frames set forth above, and the City agrees to accept such performance by any such mortgagee of Jackrabbit's obligations hereunder.

In the event the adjacent Thames Street Lot, owned by the City, is redeveloped and the use of City Property by Jackrabbit pursuant to this Agreement presents an encumbrance to redevelopment of said lot, the City shall provide Jackrabbit and any mortgagee of Jackrabbit's Property who has identified itself to the City one (1) years notice of termination of this Agreement, provided that the City must provide functionally equivalent access to the Jackrabbit Property on terms similar to this Agreement in order for such notice of termination to be effective.

In the event the City takes by eminent domain proceedings a portion of the Jackrabbit Property necessary for a future extension of Mountfort Street, then this License shall terminate with respect to that portion of the License area necessary for such extension of Mountfort Street, and the City shall not be required to pay damages for such partial

termination or for any increased value of the portion of the Jackrabbit Property so taken attributable to this License Agreement.

12.No Interest in Land. The City shall have no authority to modify or make any changes to the Jackrabbit Property subject to this License without the prior consent of Jackrabbit, and Jackrabbit shall have no authority to modify or make any changes to the City Property subject to this License without the prior consent of the City, provided that the parties hereby consent to the changes identified in the City's minor site plan approval issued on August 16, 2010.

13. This Agreement amends and restates in its entirety a prior License Agreement between the parties dated October 14, 2010.

Dated as of January 21st, 2011

JACKRABBIT, LLC

By: [Signature]
name: Mike Marino
its Gen.

CITY OF PORTLAND

By: [Signature]
name: Joseph C. Gray, Jr.
its City Manager

STATE OF MAINE
CUMBERLAND, ss.

January 21, 2011

PERSONALLY APPEARED before me the above named mike marino in his said capacity, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

[Signature]
Notary Public/Attorney at Law
Print name: Barbara J Brewer

STATE OF MAINE
CUMBERLAND, ss.

January 21, 2011

PERSONALLY APPEARED before me the above named Joseph E. Gray, Jr. in his/her said capacity, and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of the City of Portland.

[Signature]
Notary Public/Attorney at Law
Print name:

License City of Portland Jackrabbit REV LRC 1-11-2011
1/20/2011 12:10 PM

SONIA T. BEAN
Notary Public, Maine
My Commission Expires January 10, 2017

Exhibit A

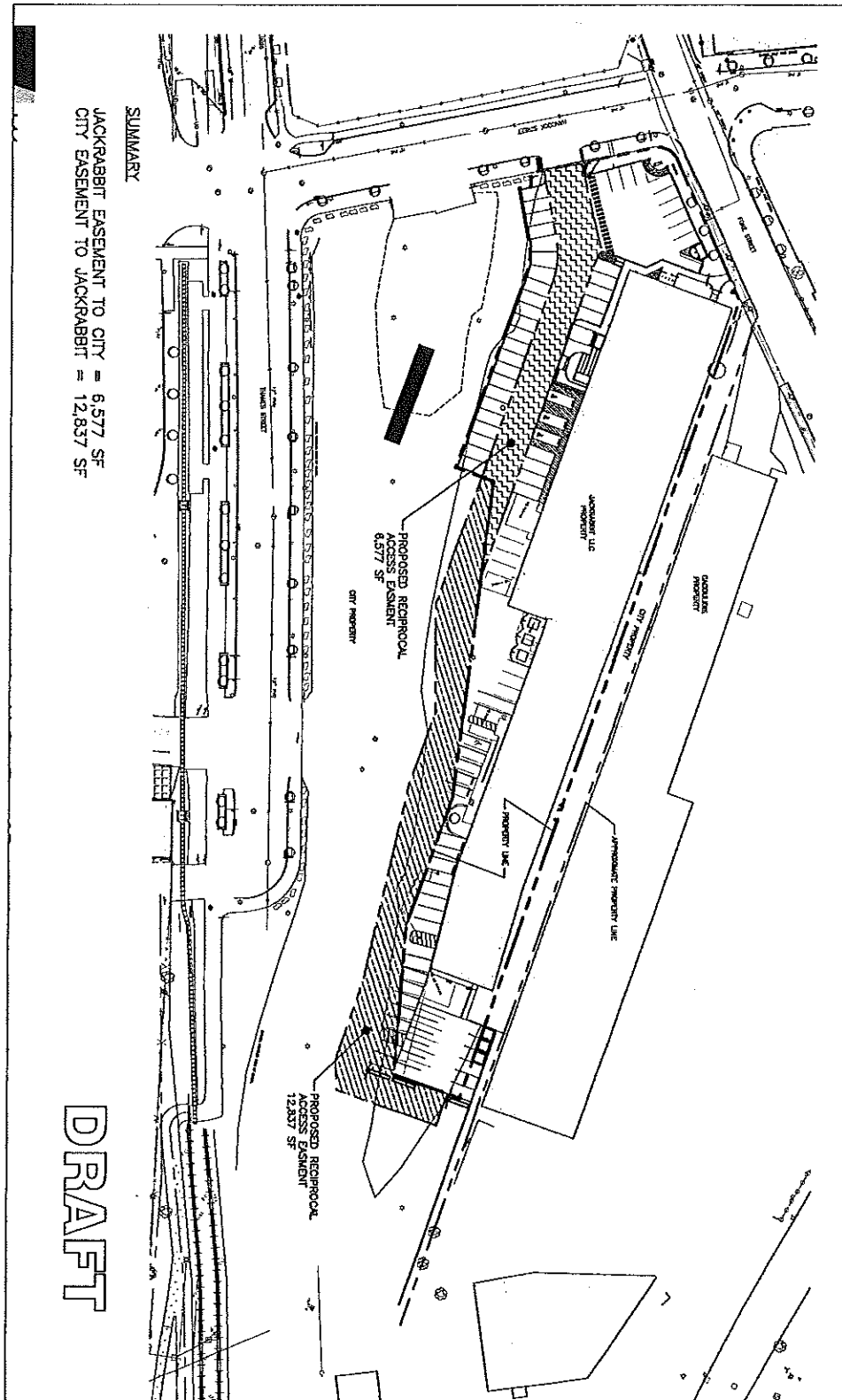
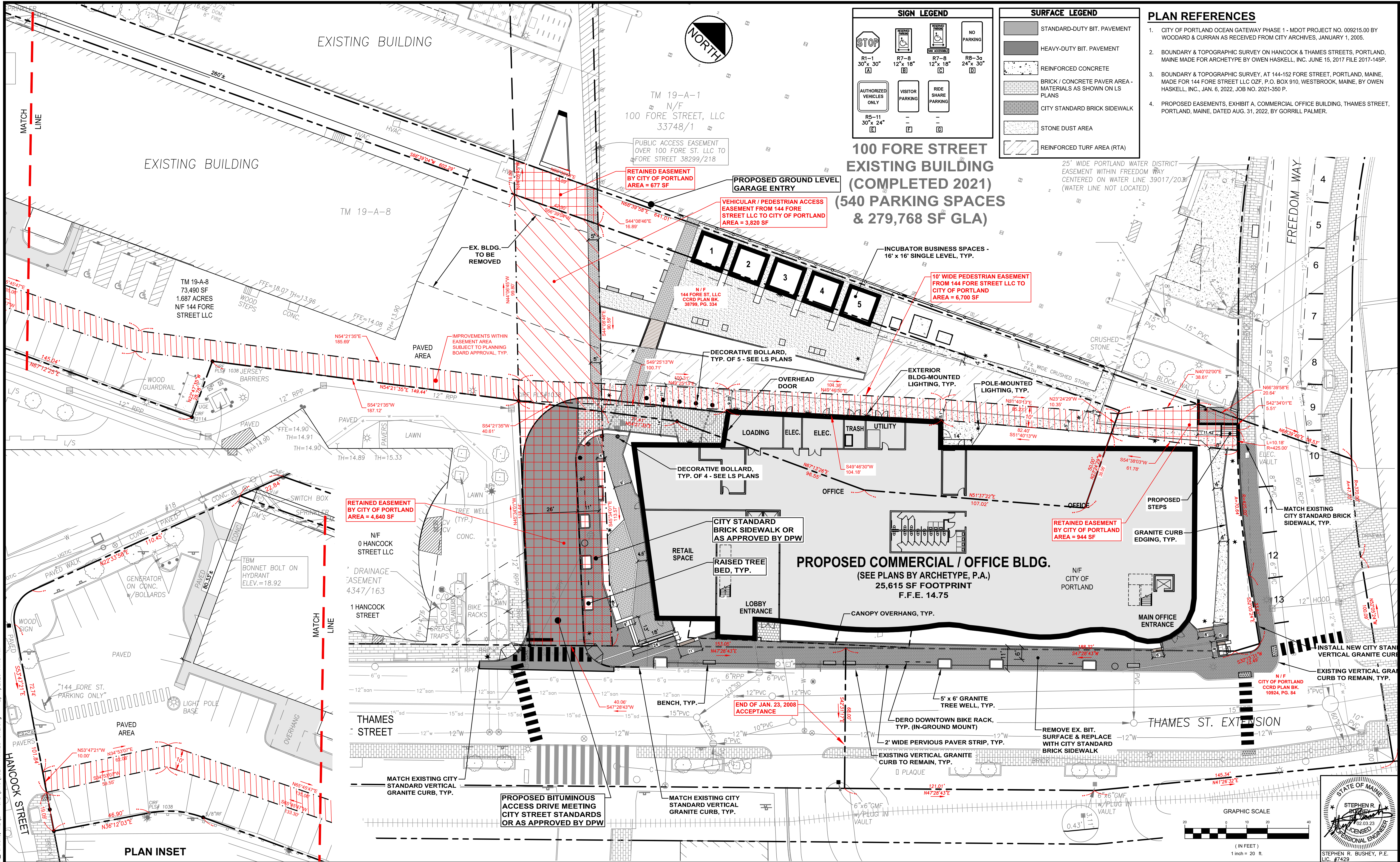


EXHIBIT B
Site Plan



SIGN LEGEND			
	R1-1 30" x 30" [A]		R7-8 12" x 18" [B]
	R5-11 30" x 24" [E]		R7-9 12" x 18" [C]
	R8-30 24" x 30" [D]		

SURFACE LEGEND	
	STANDARD-DUTY BIT. PAVEMENT
	HEAVY-DUTY BIT. PAVEMENT
	REINFORCED CONCRETE
	BRICK / CONCRETE PAVER AREA - MATERIALS AS SHOWN ON LS PLANS
	CITY STANDARD BRICK SIDEWALK
	STONE DUST AREA
	REINFORCED TURF AREA (RTA)

- PLAN REFERENCES**
- CITY OF PORTLAND OCEAN GATEWAY PHASE 1 - MDOT PROJECT NO. 009215.00 BY WOODARD & CURRAN AS RECEIVED FROM CITY ARCHIVES, JANUARY 1, 2005.
 - BOUNDARY & TOPOGRAPHIC SURVEY ON HANCOCK & THAMES STREETS, PORTLAND, MAINE MADE FOR ARCHETYPE BY OWEN HASKELL, INC. JUNE 15, 2017 FILE 2017-145P.
 - BOUNDARY & TOPOGRAPHIC SURVEY, AT 144-152 FORE STREET, PORTLAND, MAINE, MADE FOR 144 FORE STREET LLC OZF, P.O. BOX 910, WESTBROOK, MAINE, BY OWEN HASKELL, INC. JAN. 6, 2022, JOB NO. 2021-350 P.
 - PROPOSED EASEMENTS, EXHIBIT A, COMMERCIAL OFFICE BUILDING, THAMES STREET, PORTLAND, MAINE, DATED AUG. 31, 2022, BY GORRILL PALMER.

U:\3924-Thames Street-WEX-Portland, ME\2 - CAD\DWG\3924-THAMES-SITE.dwg 2/14/2023 11:18 AM

Rev.	Date	Revision
1	2022.07.21	INITIAL MAJOR SITE PLAN SUBMISSION / RELEASED FOR PHASING
2	2023.02.03	REVISED ACCESS DRIVE ALIGNMENT

Design: SRR	Draft: CDD	Date: JAN. 2022
Checked: SRR	Scale: AS NOTED	Job No.: 3924
File Name: 3924-THAMES-SITE.dwg		
This plan shall not be modified without written permission from Gorrill Palmer. Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to Gorrill Palmer.		

GORRILL PALMER

Relationships. Responsiveness. Results.
www.gorrillpalmer.com
207.772.2515
707 Sables Oaks Drive - Suite 30
South Portland, ME 04106

Drawing Name: EASEMENT OVERLAY PLAN

Project: Commercial Office Building
Thames Street, Portland, Maine

Client: 144 Fore Street, OZ, LLC
PO Box 910, Westbrook, Maine 04098-0910

Drawing No. C-3.3

EXHIBIT C
Premises – Legal Description



OWEN HASKELL, INC.

PROFESSIONAL LAND SURVEYORS

390 U.S. ROUTE ONE, UNIT 10 FALMOUTH, MAINE 04105

SEPTEMBER 21, 2022

CITY PARCEL TO BE CONVEYED 42,858 SF

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE NORTHERLY SIDE OF THAMES STREET IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "BOUNDARY & TOPOGRAPHIC SURVEY AT 144 FORE STREET, PORTLAND, MAINE MADE FOR 144 FORE STREET LLC OZF" DATED JAN. 24, 2022 REVISED THROUGH 7/14/22, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTHERLY SIDELINE OF THAMES STREET AS ACCEPTED ON JANUARY 23, 2008 AT THE SOUTHEASTERLY CORNER OF LAND NOW OR FORMERLY OF 0 HANCOCK STREET LLC AS DESCRIBED IN DEED BOOK 34347, PAGE 163 ;

THENCE, N 45° 34' 01" W ALONG LAND OF SAID 0 HANCOCK STREET LLC A DISTANCE OF 118.44 FEET TO LAND NOW OR FORMERLY OF 144 FORE STREET LLC AS DESCRIBED IN DEED BOOK 38799, PAGE 334;

THENCE, THE FOLLOWING COURSES AND DISTANCES ALONG LAND OF SAID 144 FORE STREET LLC:

N 54°21'35" E A DISTANCE OF 77.41 FEET;

N 67°13'26" E A DISTANCE OF 96.55 FEET;

N 51°37'22" E A DISTANCE OF 107.02 FEET;

N 23°24'29" W A DISTANCE OF 50.00 FEET;

S 66°39'04" W A DISTANCE OF 602.28 FEET TO A POINT ON THE SOUTHERLY SIDELINE OF FORE STREET, SAID POINT IS LOCATED N 22°33'58" E A DISTANCE OF 110.48' FEET ALONG THE SOUTHERLY SIDELINE OF SAID FORE STREET FROM THE POINT OF CURVATURE NEAR THE NORTHERLY SIDELINE OF HANCOCK STREET;

THENCE, N 22°33'58" E ALONG THE SOUTHERLY SIDELINE OF SAID FORE STREET A DISTANCE OF 22.84 FEET TO A POINT ON THE SOUTHERLY LINE OF LAND NOW OR FORMERLY OF 100 FORE STREET, LLC AS DESCRIBED IN DEED BOOK 33748, PAGE 1;

THENCE, N 66°39'58" E ALONG SAID 100 FORE STREET, LLC A DISTANCE OF 641.01 FEET TO THE REMAINING LANDS OF THE CITY OF PORTLAND AS DESCRIBED IN A DEED DATED AUGUST 30, 1993 AND RECORDED IN DEED BOOK 10924, PAGE 84 AND TO THE SOUTHERLY SIDELINE OF THE PROPOSED THAMES STREET EXTENSION AS SHOWN ON PLAN TITLED "PROPOSED EASEMENTS COMMERCIAL OFFICE BUILDING THAMES STREET, PORTLAND, MAINE 144 FORE STREET, OZ, LLC" BY GORRILL PALMER DATED JULY, 2022;

THENCE, THE FOLLOWING COURSES AND DISTANCES ALONG SAID PROPOSED THAMES STREET EXTENSION:

S 42°34'01" E A DISTANCE OF 5.51 FEET;

ALONG A TANGENT CURVE TURNING TO THE LEFT HAVING A RADIUS OF 425.00 FEET, AN ARC LENGTH OF 70.64 FEET, A CHORD BEARING OF S 47°19'42" E AND A CHORD LENGTH OF 70.56 FEET;

S 52°05'24" E A DISTANCE OF 33.61 FEET;

S 30°15'31" W A DISTANCE OF 12.49 FEET;

S 47°28'43" W A DISTANCE OF 188.32 FEET TO THE NORTHERLY END OF THAMES STREET AS
ACCEPTED ON JANUARY 23, 2008;

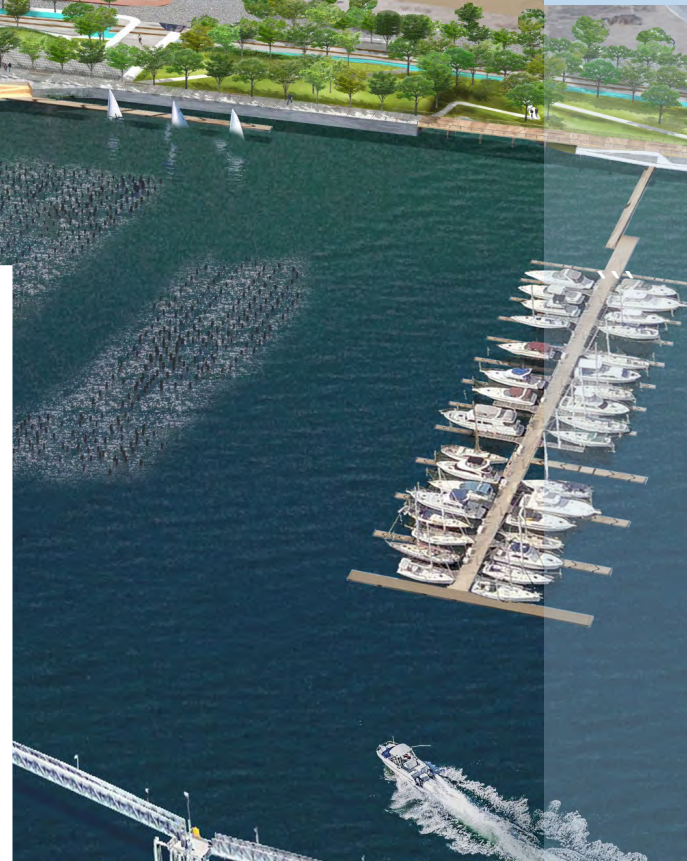
THENCE, S 47°28'43" W ALONG THE NORTHERLY LINE OF SAID ACCEPTED PORTION OF THAMES STREET A
DISTANCE OF 153.05 FEET TO THE POINT OF BEGINNING, CONTAINING 42,858 S.F. OR 0.984 ACRES, MORE
OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.

MEANING AND INTENDING TO DESCRIBE A PORTION OF THE PREMISES CONVEYED TO THE CITY OF
PORTLAND BY VIRTUE OF A QUITCLAIM DEED GRANTED BY THE CANADIAN NATIONAL RAILWAY COMPANY
DATED AUGUST 30, 1993 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEED IN BOOK 10924,
PAGE 84.

EXHIBIT D
Copy of the Proposal

City of Portland, Maine
Thames Street Property Proposed Development
RFP #22021



Submitted to:
Matthew F. Fitzgerald
Purchasing Manager
City of Portland

Submitted by:
Jonathan Cohen
Dan Smith
144 Fore St. OZ, LLC



Letter of Interest

1. Proposal Requirements

- A. Proposal Form
- B. Outline of Proposed Development
 - Site Plan Concept
 - Project Timeline
 - Future Mountfort Street Rights-of-Way
 - New Connector Road
 - Parking
- C. Evidence of Financial Ability
- D. Team's Ability to Complete Project Elements

2. Selection Criteria

- A. Integration of Eastern Waterfront Master Plan (EWMP)
- B. Public Benefit to the City
 - Net New Jobs to the City
 - Future Possible Mountfort Street Extension Rights-of-Way
 - New Connector Road
 - Public Restroom Requirements
- C. Preliminary Design Proposal as informed by the EWMP

3. Purchase Price

4. Additional Financial Benefit to the City

- Net new property tax revenue
- Parking

5. Proposer's Proven Capacity and Relevant Experience

October 21, 2021

Matthew F. Fitzgerald
Purchasing Manager
City of Portland
389 Congress Street
Portland, Maine 04101

RE: RFP #22021 - Sale of Portion of City Owned Thames Street Property

Dear Mr. Fitzgerald:

I am pleased to provide you with 144 Fore St. OZ LLC. attached response to the City of Portland's Request for Proposal for the sale of a portion of the City owned Thames Street property (the "Property").

We have entered in an agreement with WEX Inc. ("WEX"), one of Maine's leading technology companies, to propose a mixed-use development of the Property that will serve as WEX's offices.. This project will bring hundreds of new jobs to Portland's Eastern Waterfront and will serve as a catalyst for future development and job creation. We also expect that this project will enhance Portland's growing reputation as an innovative, business-friendly city.

As you will see in our detailed response, our proposal will successfully address all of the goals of the City's RFP.

We thank you for the opportunity to respond to this proposal. We are available to answer any questions and would welcome the opportunity to contribute to further growth of this great city.

Thank you,

Jonathan Cohen, Manager
Dan Smith, Manager
144 Fore St. OZ LLC

LETTER FROM WEX VP Real Estate



Portland City Council and Economic Development Council:

Please note that we have been working very closely on the design and RFP submittal for the city lot on Thames Street. As the primary occupants of the adjacent properties, we are interested in a future expansion of our Portland campus in order to consolidate our Maine offices and provide for future expansion capacity. The adjacent lot would provide for a natural extension and connector to the buildings we currently occupy.

Sincerely,
Safet Cobaj
VP, Global Real Estate

PROPOSAL FORM
"Sale of Remaining Portion of City Owned Thames Street Property"
RFP #22021

**** THIS SHEET MUST BE INCLUDED IN YOUR PROPOSAL ****

The undersigned hereby declares that he/she or they are the only person(s), firm or corporation interested in this proposal as principal, that it is made without any connection with any other person(s), firm or corporation submitting a proposal for the same, and that no person acting for or employed by the City of Portland is directly or indirectly interested in this proposal or in any anticipated profits which may be derived there from.

The undersigned hereby declares that they have read and understand all conditions as outlined in this Request for Proposals, and that the proposal is made in accordance with the same.

The bidder acknowledges the receipt of Addenda numbered: _____

COMPANY NAME: 144 Fore St. OZ, LLC

AUTHORIZED SIGNATURE: _____

DATE: 10/21/2021

PRINT NAME & TITLE: Jonathan Cohen, Manager

ADDRESS: P.O. Box 910 Westbrook, Me 04098-0910

E-MAIL ADDRESS: jcohen1@maine.rr.com

PHONE NUMBER: 207-776-0304 FAX NUMBER: 207-775-4367

TYPE OF ORGANIZATION - PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, INDIVIDUAL, OTHER:

Limited Liability Company

STATE OF INCORPORATION OR ORGANIZATION, IF APPLICABLE:

Maine

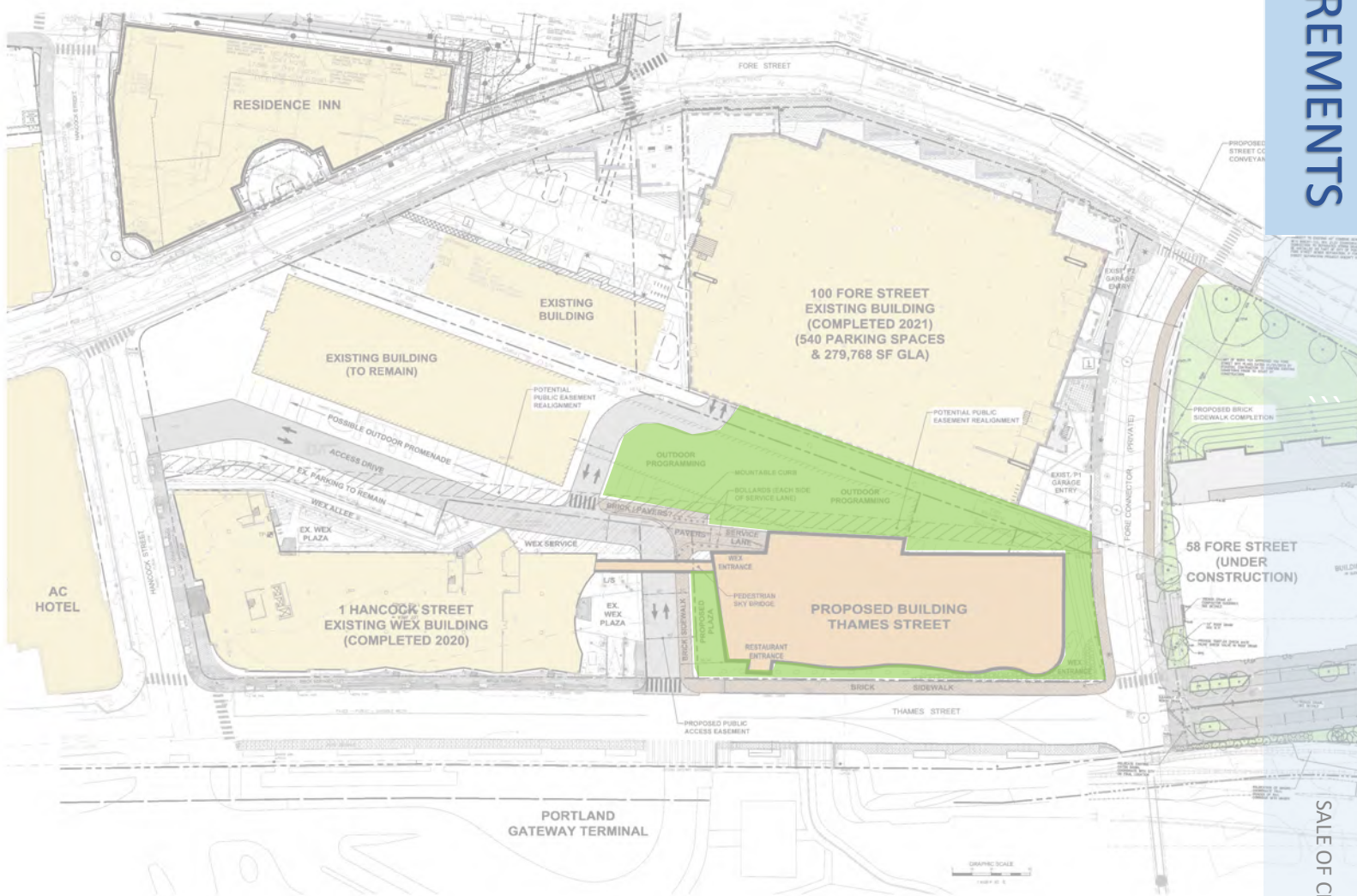
FEDERAL TAX IDENTIFICATION NUMBER (Required): 85-3620686

NOTE: Proposals must bear the handwritten signature of a duly authorized member or employee of the organization submitting a proposal.

Purchase Price: 24,000 sq ft at \$35.00 sq ft=\$840,000.00 Plus Connector Road (Freedom Way) If it is possible to build a larger building under current restrictions we will pay based on the buildable square footage (Points Award Basis)

SITE PLAN ANALYSIS AND SITE CONCEPT PLAN

The Thames Street Lot will become part of a campus that has already been established by the applicant both in its uses, site layout and design. The footprint of the proposed building and the parkscape included in the proposal are strengthened and the campus appropriately connected due to the applicant's recent acquisition of the portion of the city block previously owned by Jackrabbit LLC. This portion of the block and the easements attached to it sliced through the interior of the site and greatly reduced the ability to build on the Thames Street Lot or connect the pedestrian circulation and view corridors that are both defined by the Eastern Waterfront Master Plan (EWMP) and sought after by the applicant and the partnering businesses currently utilizing the site.

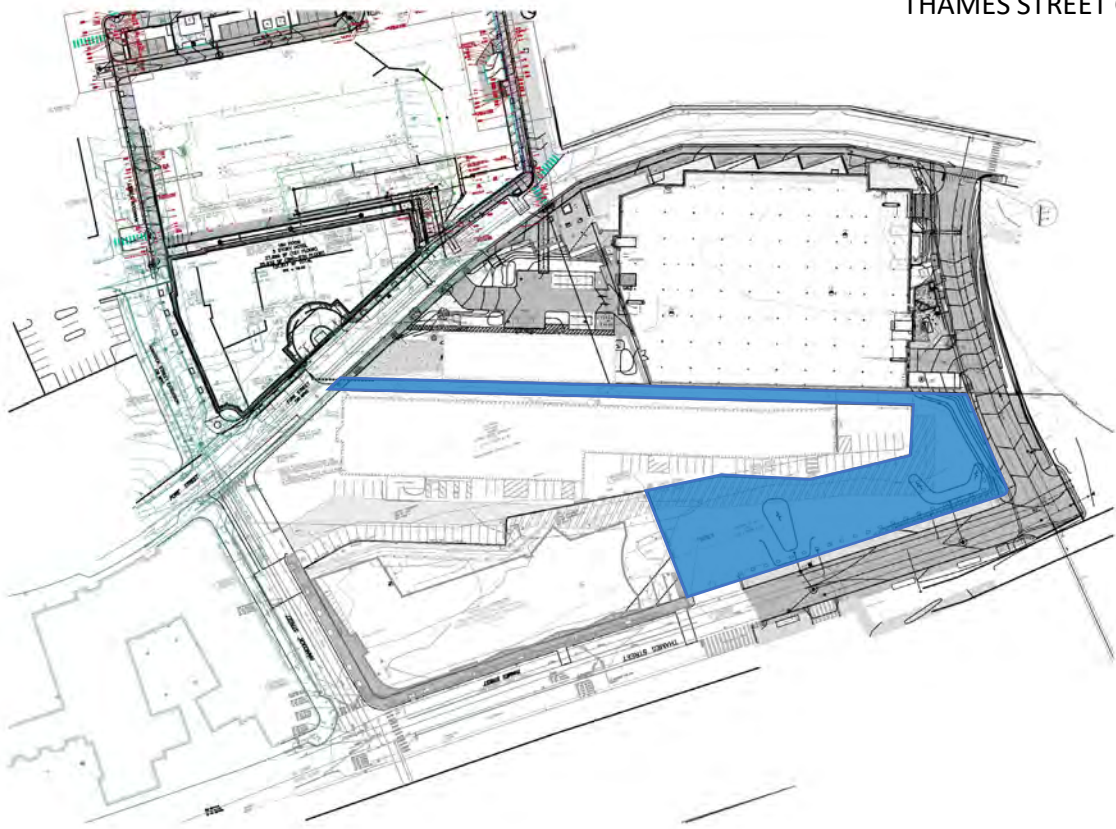


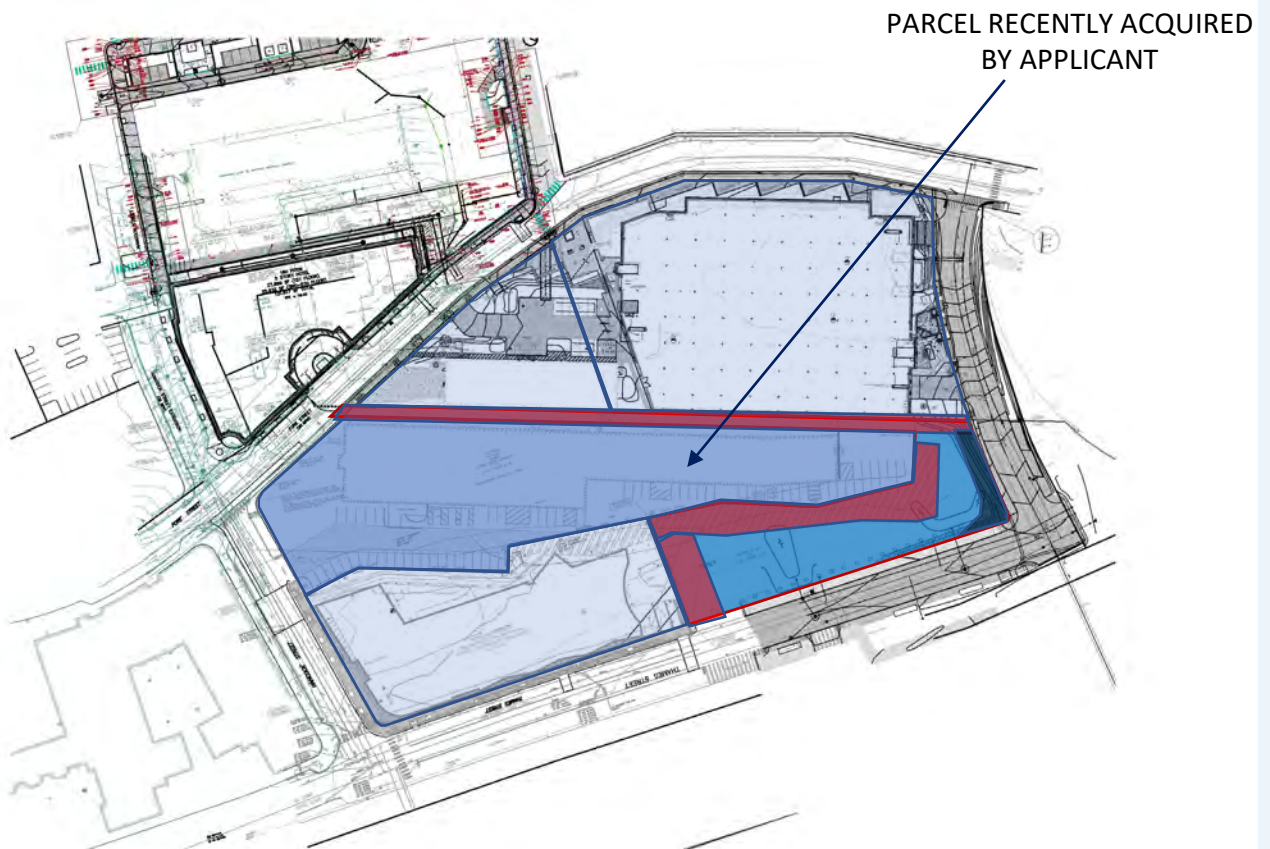
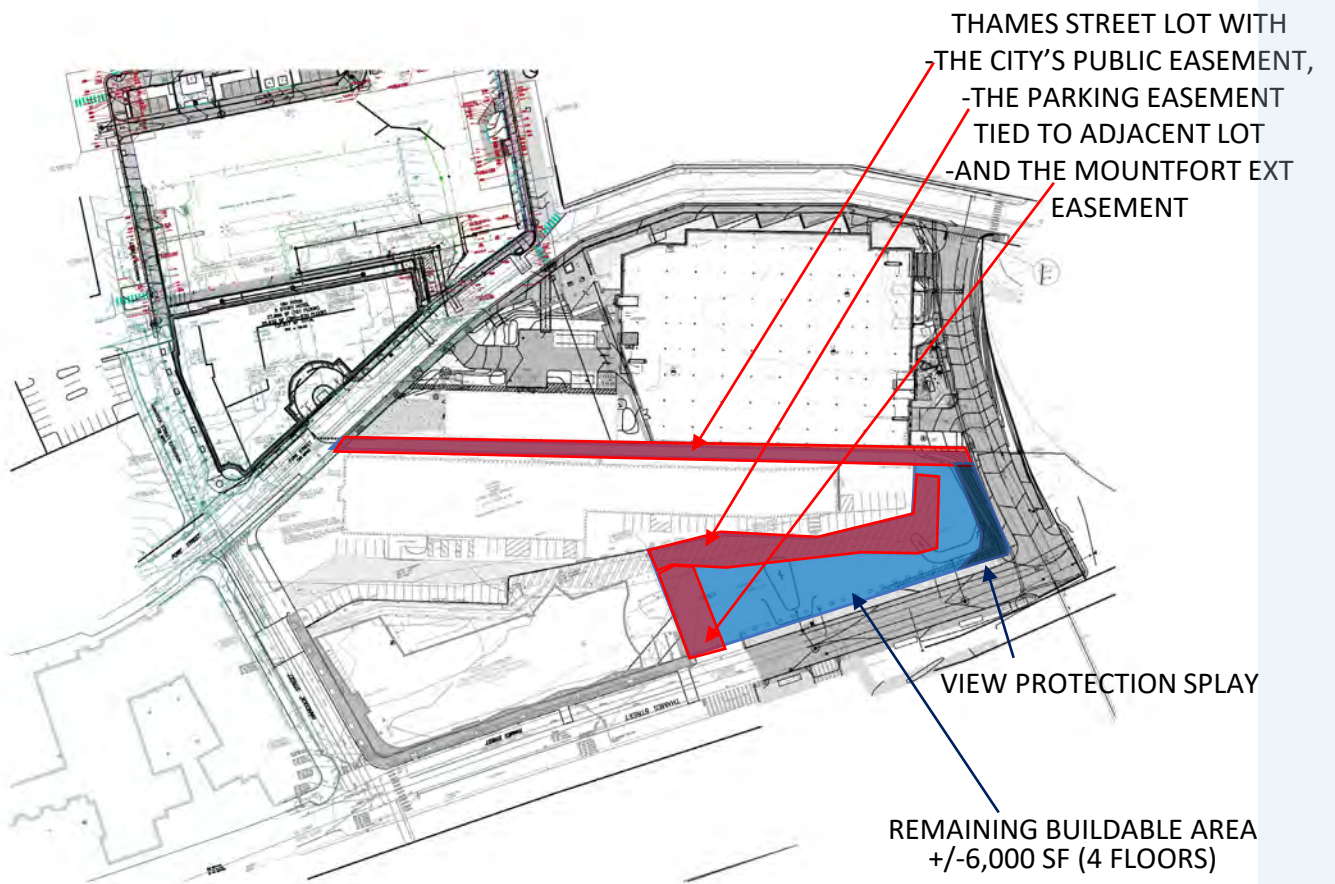
The proposed development includes +/- 70,000 SF of mixed-use interior and exterior space housed in a 3-story building that includes two full stories of interior space as well as a third story with both indoor and outdoor opportunities for the users. The building is surrounded by designed streetscape, plazas and park spaces which are home to opportunities for incubator business locations.

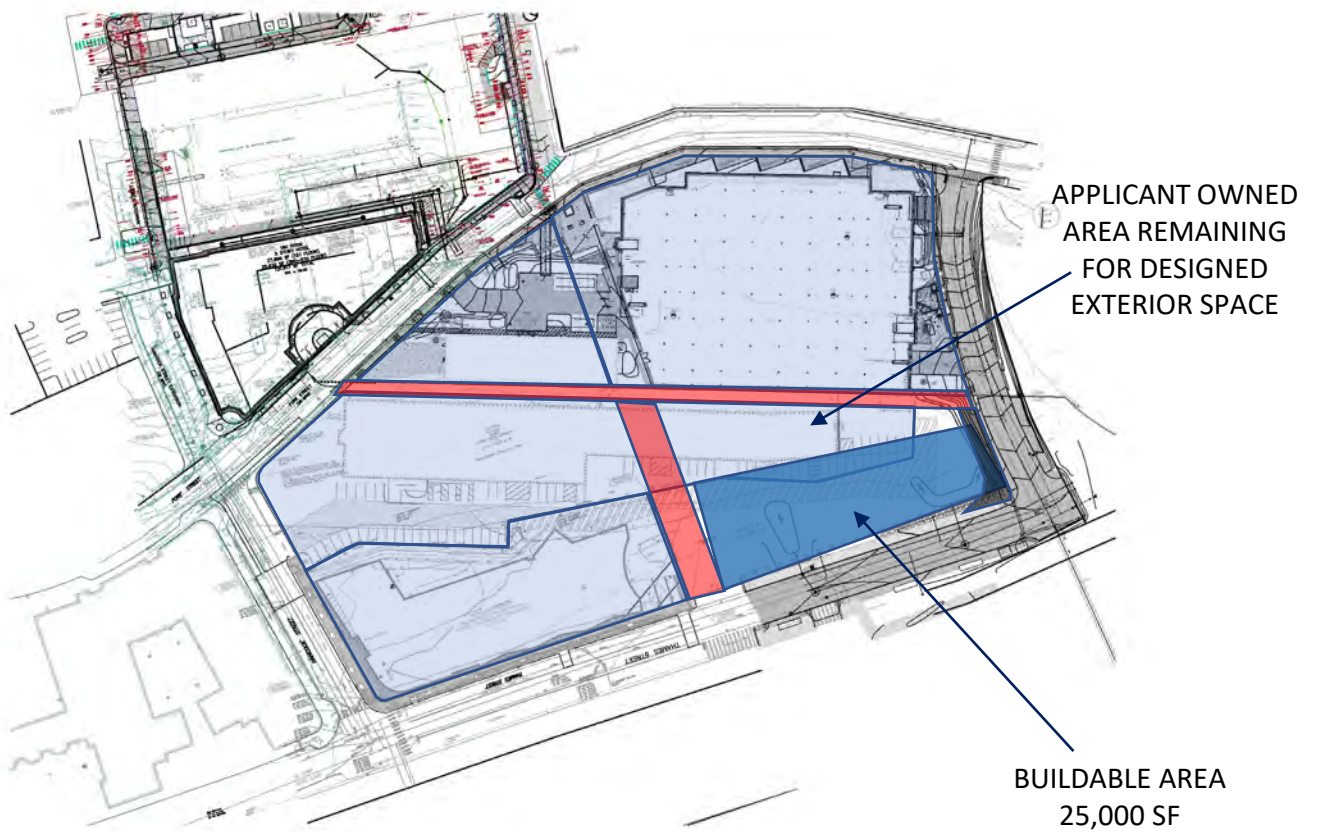
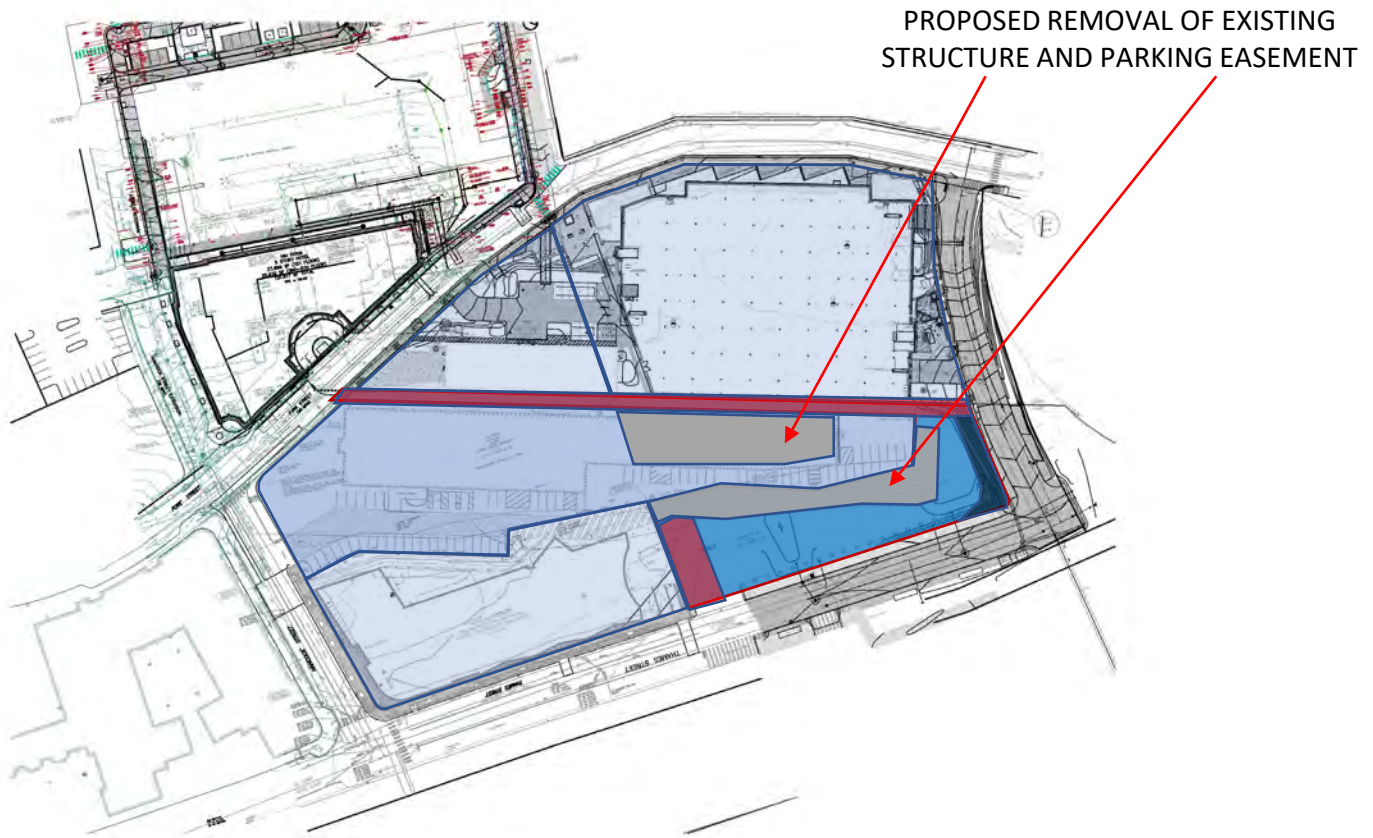
PROPOSED AREA OF WORK

The following diagrams break down the ownership within the city block on which the Thames City Lot is located and break down how the ownership of the lot previously owned by Jackrabbit LLC makes the proposal more successful in its ability to have an adequately sized build out and exterior spaces linking the design to the block and surrounding neighborhood.

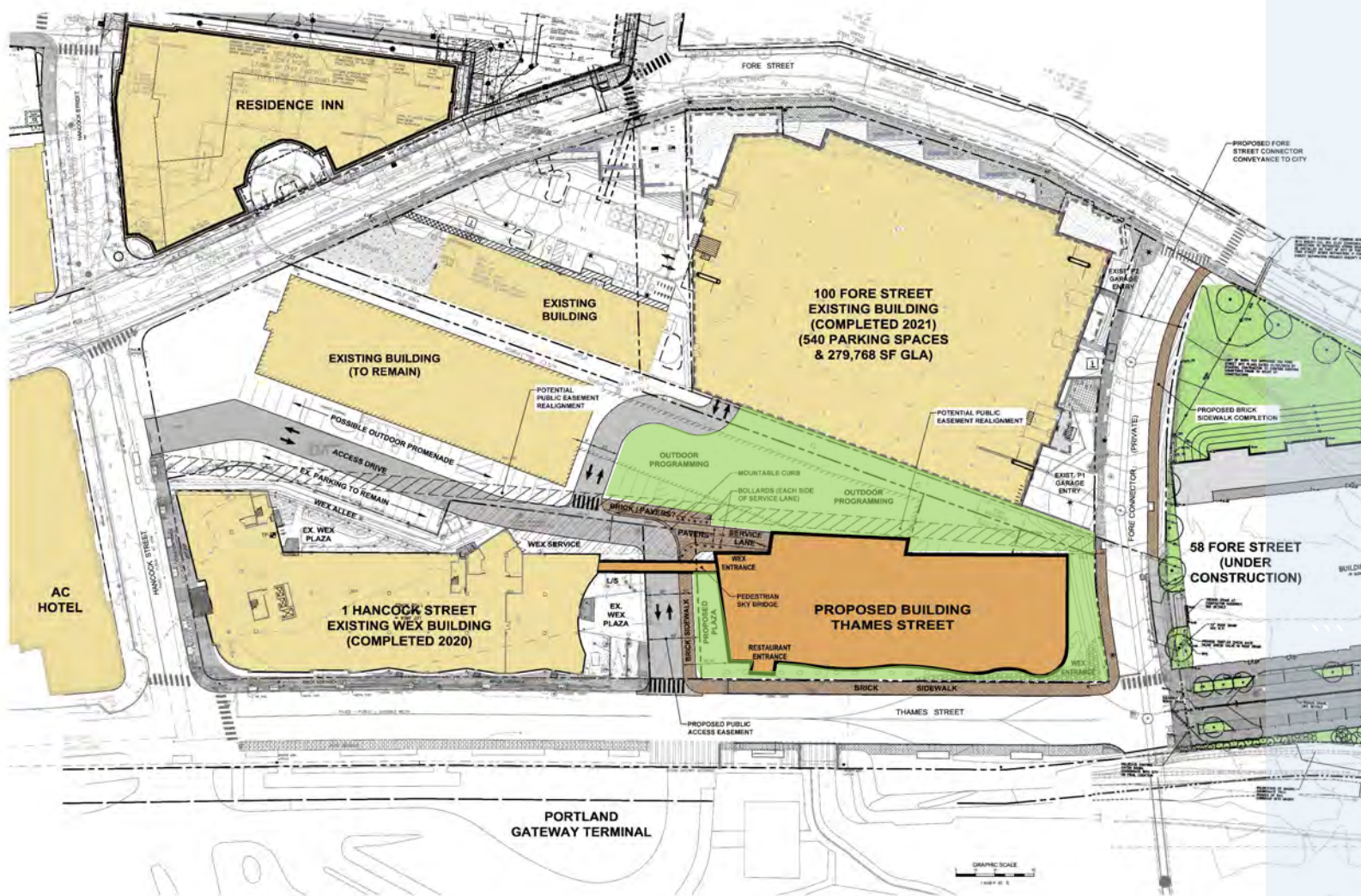
THAMES STREET CITY OWNED LOT





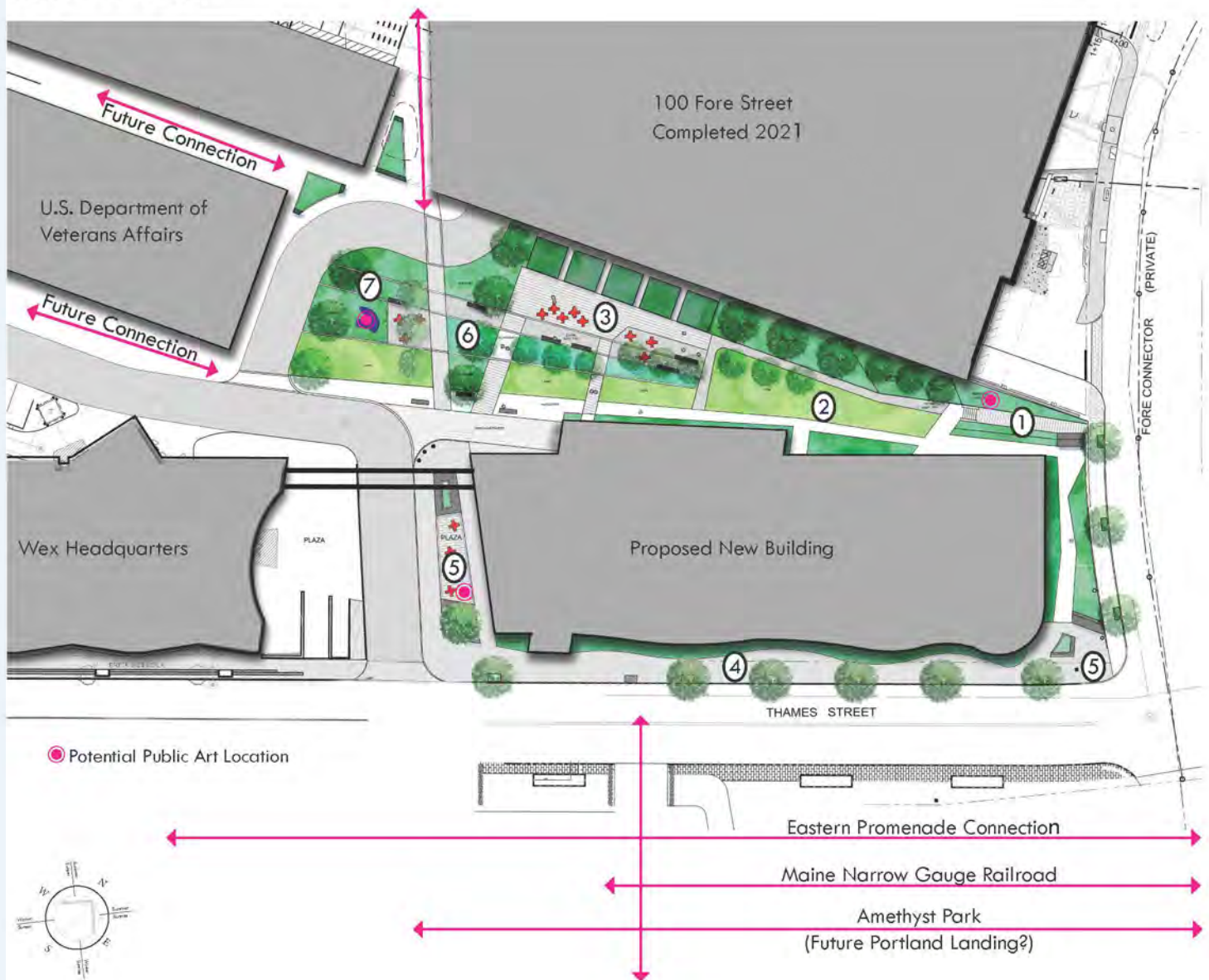


SITE PLAN CONCEPT



By adjusting the easements on the property that cut through the middle of the block, the proposed development can relate to the WEX Headquarters neighboring it on Thames Street. The proposed sky bridge between the two creates a physical connection between the existing and proposed buildings. The design of this building is a balance of relating to its neighboring campus buildings while creating individual design appeal. The footprint draws datum directly from the Headquarters and 100 Fore Street while expansion of the site lines pulls the footprint back further as it reaches Thames Street.

Site Plan



Legend

- ① Elevated Plaza & Terraced Seating
- ② Lawn, Typ.
- ③ Incubator Shops with Green Roofs & Plaza
- ④ "Complete Street" Sidewalk
- ⑤ Gateway & View Splay Plazas
- ⑥ Bio-swale & Stormwater Management
- ⑦ Stone Dust Plaza & Pollinator Gardens



The Grand Trunk Railroad & Design Context

When approaching a site rich in history - we look to its past to better understand its future. The Grand Trunk's Railroad history tells the story of Portland's industrial past - we believe it should not be forgotten.

Inspired by the sites history, the proposed programming and design elements play off the Grand Trunk Railroad India Street Terminal layout (pictured above). The linear quality of the design feels at home on the site helping to organize the proposed and existing buildings while providing a unique open space unlike anything along the waterfront.



PROJECT TIMELINE

- Design and Planning Board Approval
 - Pending Purchase, PB approval by June 22nd, 2022
- Permitting
 - Submit for permit immediately following PB Approval
 - Anticipate 4-6 week permitting process
 - Permit by late July 2022/early August 2022
- Construction
 - Following issuance of permit construction to commence immediately
 - Anticipated construction from August 2022 through October 2023
- Occupancy
 - January 1, 2024

Oct 2021
RFP Submission

June 2022
PB Approval

July 2022
Permit Issuance

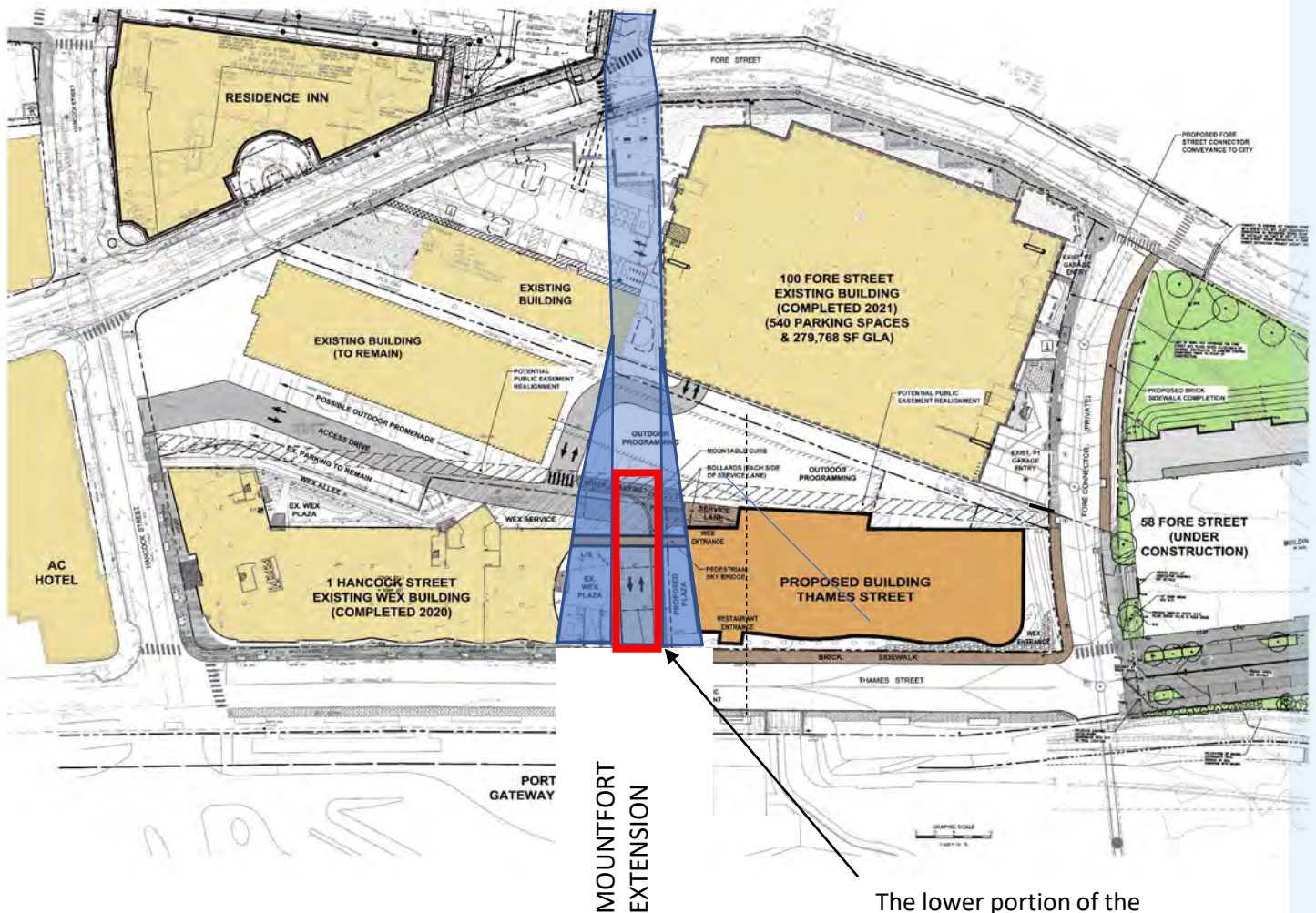
August 2022
Construction
Commences

October 2023
Construction
Complete

January 2024
Occupancy

MOUNTFORT STREET RIGHTS-OF-WAY

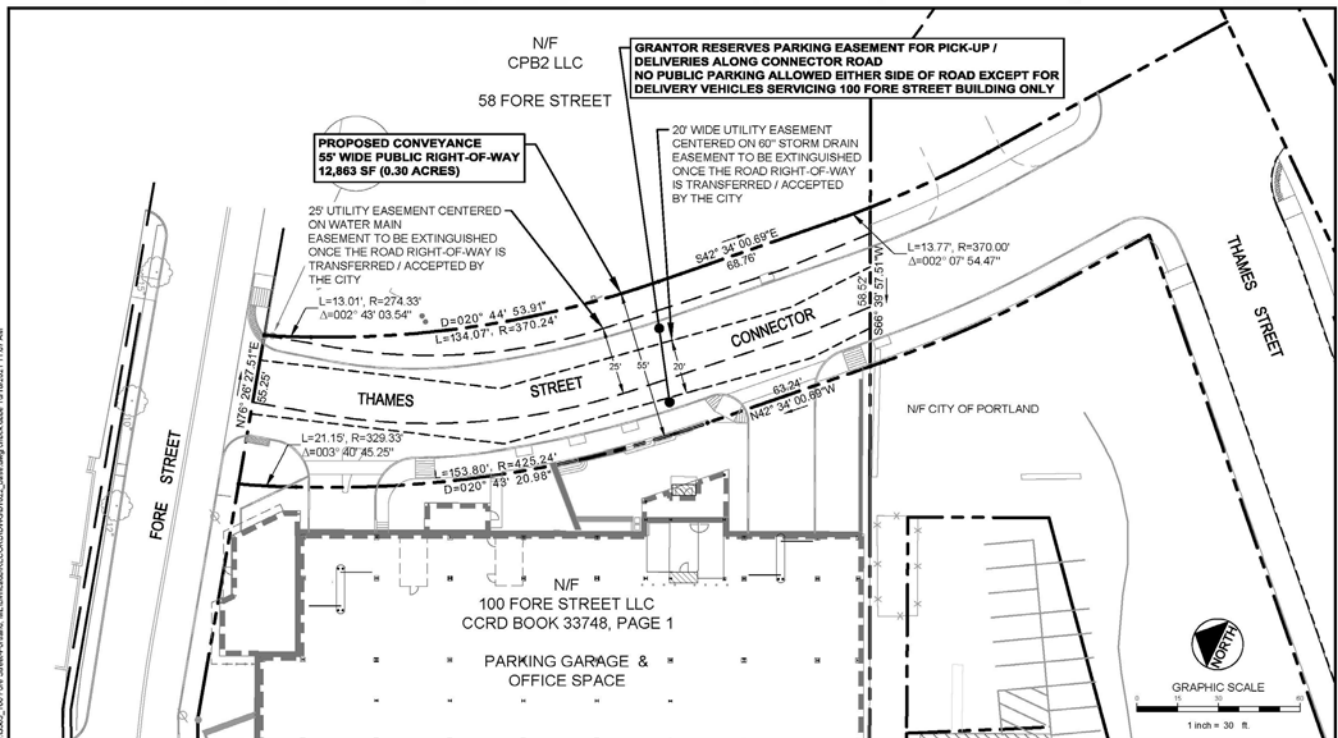
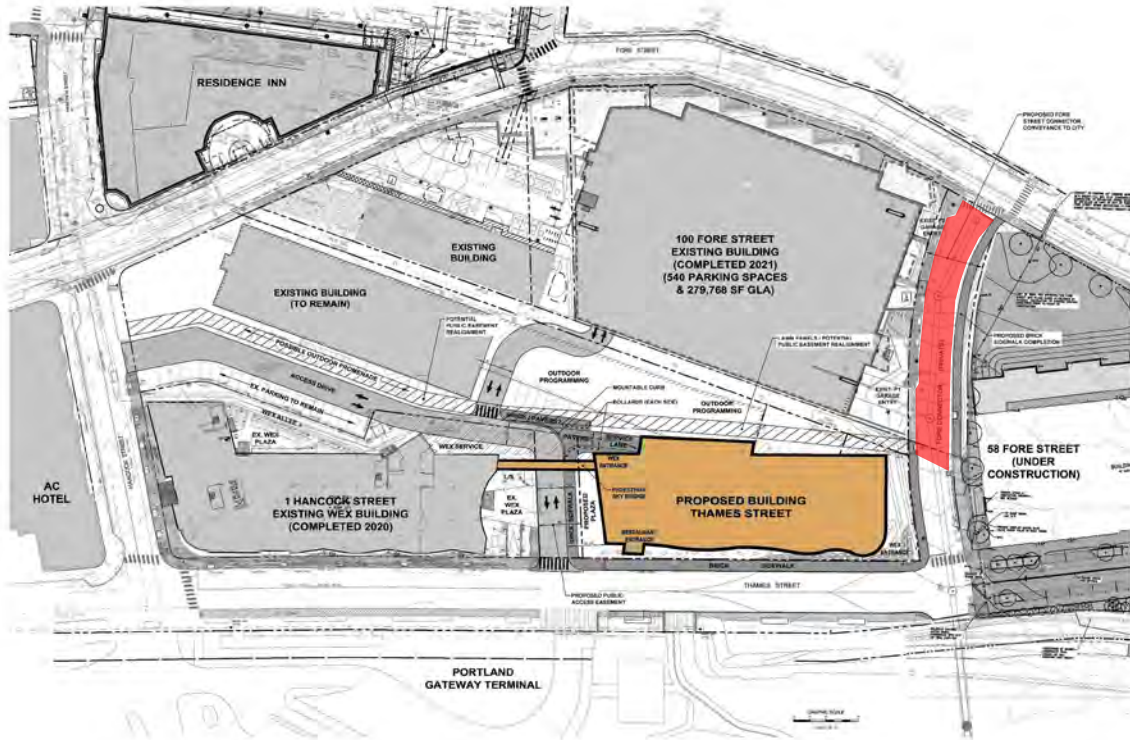
Just as the 50' wide Mountfort Extension was fully respected and designed outdoor space extended beyond the required boundaries in the design of 100 Fore Street and the WEX Headquarters, the boundary is part of a movement system for pedestrians and vehicles in this proposal. Not only is the designated boundary in-tact for the rights-of-way and view splays, but the diagrams below depicts how, just as the Headquarters were held back at an angle, the Thames Street proposal mirrors that angle to open up the Mountfort Extension as it approaches the water and the Portland Landing.



The lower portion of the Mountfort Extension outlined in red will be paved and turned over to the city

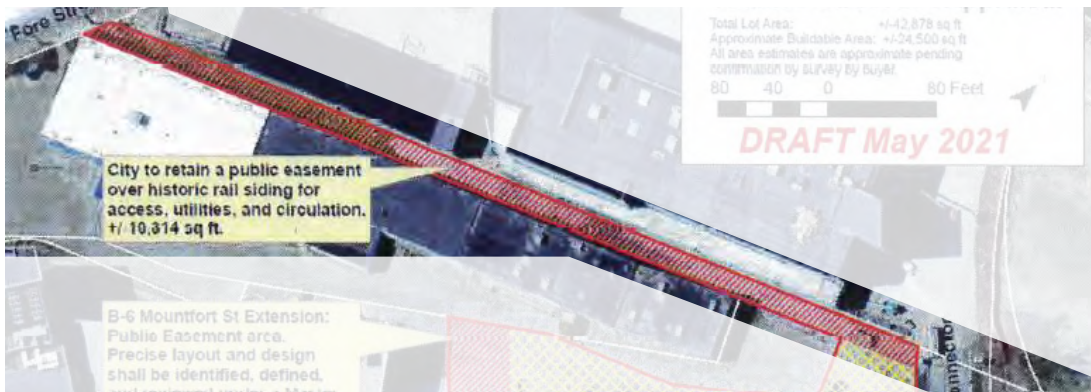
NEW CONNECTOR ROAD/FREEDOM WAY

The upper portion of the Connector Road constructed by 100 Fore Street LLC is owned by the applicant. Upon purchase of the Thames Street Lot, 100 Fore Street LLC will deed the road to the city as part of the purchase price. \$30,000 will be escrowed for the completion, in the spring, of the sidewalk on the east side of the Connector Road on the portion owned by the applicant. Below is the deed drawing for the portion of the Connector Road in discussion.



RFP

PROPOSED PUBLIC EASEMENT FOR ACCESS, UTILITIES AND CIRCULATION



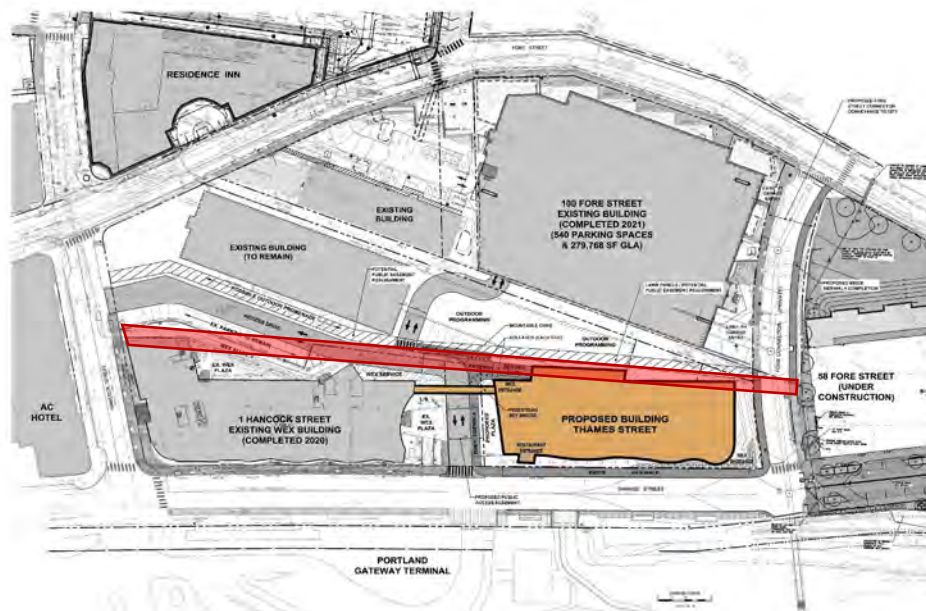
EWMP

PEDESTRIAN ALLEY DIAGRAM



PROPOSED

EASEMENT LOCATION AS INFORMED BY THE EWMP



Proposed location allows the most flexibility for future development of the southwest corner of the block

PARKING REQUIREMENTS & MANAGEMENT PLAN

City Parking – Clarification – the city parking noted in the RFP was actually displaced during the construction of the WEX Headquarters and has already been relocated in the parking garages owned by the applicant.

For the existing parking lease agreement between the applicant and the city, a portion of which is included on page 43 of this document, the applicant plans to amend the agreement to 25 spaces and allow that increase of 5 spaces to be 24 hours a day at the 167 Fore Street Ocean Gateway Garage.



USE	PARKING REQUIRED BY ZONING	PARKING SUPPLIED	COMMENTS
OFFICE	0	125	100 FORE GARAGE
RESTAURANT	0	25	100 FORE GARAGE
INCUBATOR SPACE	0	10	100 FORE GARAGE

For the proposed uses in the project, the applicant will provide parking as indicated above.



September 22, 2021

City of Portland
389 Congress Street
Portland, Maine 04101

Re: City Lot – Thames Street and 110 Fore Street, Portland

To Whom it May Concern:

NBT Bank, N.A. has a strong relationship with Jonathan Cohen and his business entities who are customers in good standing of the Bank. We enjoy a great relationship with this group, having completed numerous successful projects together over the past several years. Mr. Cohen and his business entities have both the financial capacity as well as the industry experience necessary to complete the proposed project on the currently City-owned Lot on Thames Street and 110 Fore Street in Portland, Maine. Should there be any questions on this matter, please do not hesitate to contact me at (207) 229-7100 or via e-mail at jdeering@nbtbank.com.

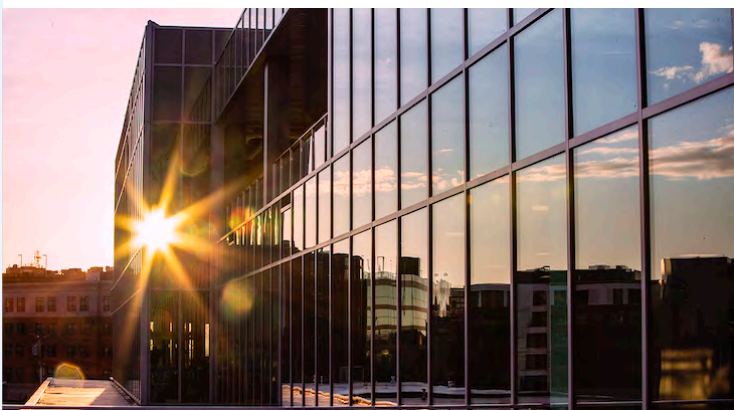
Sincerely,

A handwritten signature in black ink, reading "Jeremiah C. Deering", is written over a horizontal line.

Jeremiah C. Deering
Senior Vice President
Regional Commercial Banking
Manager
NBT Bank

NBT Bank, N.A.
Maine Regional Headquarters
5 Widgery Wharf, 3rd Floor
Portland, Maine
04101

TEAM'S DEMONSTRATION OF ABILITY



Applicant Throughout Jonathan's 25+ years as a developer he has been involved with more than 6,300 projects from design and budget from construction through completion as well as with occupancy and sale or retention. Mr. Cohen currently owns and manages more than 1,250,000 SF of real estate in Maine. A few of Mr. Cohen's current projects underway include: the development of 52,000 SF at Falmouth Center in Falmouth, ME, completion of an 84,000 SF office building and approximately 5,000 SF of retail sitting on a 543 car garage at 100 Fore Street in Portland, ME.

Mr. Cohen was also integral to the design, budget and construction of 167 Fore Street in Portland, ME – the Ocean Gateway Garage Offices, 1 Hancock Street in Portland, ME – the WEX World Headquarters, 10 Exchange Street in Portland, ME – 27 condominiums, 416-420 Fore Street in Portland, ME – the rehab and renovation of 12,000 SF of mixed-use space.

Mr. Cohen has numerous financial institutions which have committed to working with him on this and any other project he wishes to undertake. Archetype will serve as the architect on the project and the development team will include a Maine-based GC or CM and almost all Maine-based trades.

Archetype has been designing buildings of all types for clients throughout New England for over 40 years, including large scale office spaces, affordable and market rate housing, commercial retail spaces and mixed-use developments. The firm has worked with Jonathan Cohen on multiple projects, including the WEX Headquarters, 100 Fore Street and the addition to the Ocean Gateway Garage within close proximity to the Thames Street Property as well as others in downtown Portland and in Falmouth, ME. Aside from work with the applicant, Archetype has designed, permitted and run CA on Luminato and Verdante on Marginal Way, the Shipyard Complex just west of this proposal and the condo and retail buildings at 387 Congress Street all within the past few years.

Gorrill Palmer is an integrated land development, transportation and municipal engineering consulting firm providing quality professional services to clients throughout New England since 1998. Since its founding, GP has been consistently recognized for its expertise, experience and responsiveness providing outstanding value for its clients. The office has designed and permitted over 500 projects within the City of Portland which have included a mix of commercial, retail and office spaces; industrial warehousing, institutional and municipal projects, and residential developments. The firm has worked for Jonathan Cohen and collaborated with Archetype on more recent projects including 100 Fore Street, WEX Headquarters and the redevelopment work at Falmouth Center in Falmouth, ME.

In addition to the projects listed above, Gorrill Palmer has designed and permitted for Shipyard Brewing Redevelopment (Covetrus), Canal Landing, VA Community Based Outpatient Clinic, the Mercy Hospital Expansion, Forefront at Thompson's Point, 191 Marginal Way Commercial Building and 185 Fore & 16 Middle Street Commercial Developments. These are some examples of GP's experience and expertise in providing the highest quality of private sector land development services within the City of Portland.

Mitchell & Associates is a landscape architecture and planning firm founded in Portland in 1975. M&A offers decades of experience helping Maine communities develop difficult urban site solutions, master plans, open space and trail plans, historic redevelopment plans, and other public space enhancements. We have developed dynamic, rewarding collaborative strategies for partnering with municipal staff, stakeholder committees to craft beloved public landscapes.

Principals John Mitchell and Bob Metcalf have both worked on numerous urban sites, park master plans and subsequent project implementation, including Fort Williams Park in Cape Elizabeth & South Portland's Wainright Recreation Complex. Senior landscape architects Julia Frederick and Braden Drypolcher contribute their experience developing award-winning, cultural destination master plans and urban site development, including the Emerald Necklace Tree Master Plan in Boston and the Florence Griswold Museum and Historic Landscape Master Plan in Connecticut.



MEETING THE PRIORITIES OF THE EWMP AND CREATING PUBLIC BENEFITS TO THE CITY

Economic Responsibility

Private Sector Providing Quality Jobs

Mixed-Use Project

Year-Round Uses

Attention to Easements & View Corridors & Pedestrian System



- Increase in real estate tax

 - Approximately \$170,000 per year in new taxes.

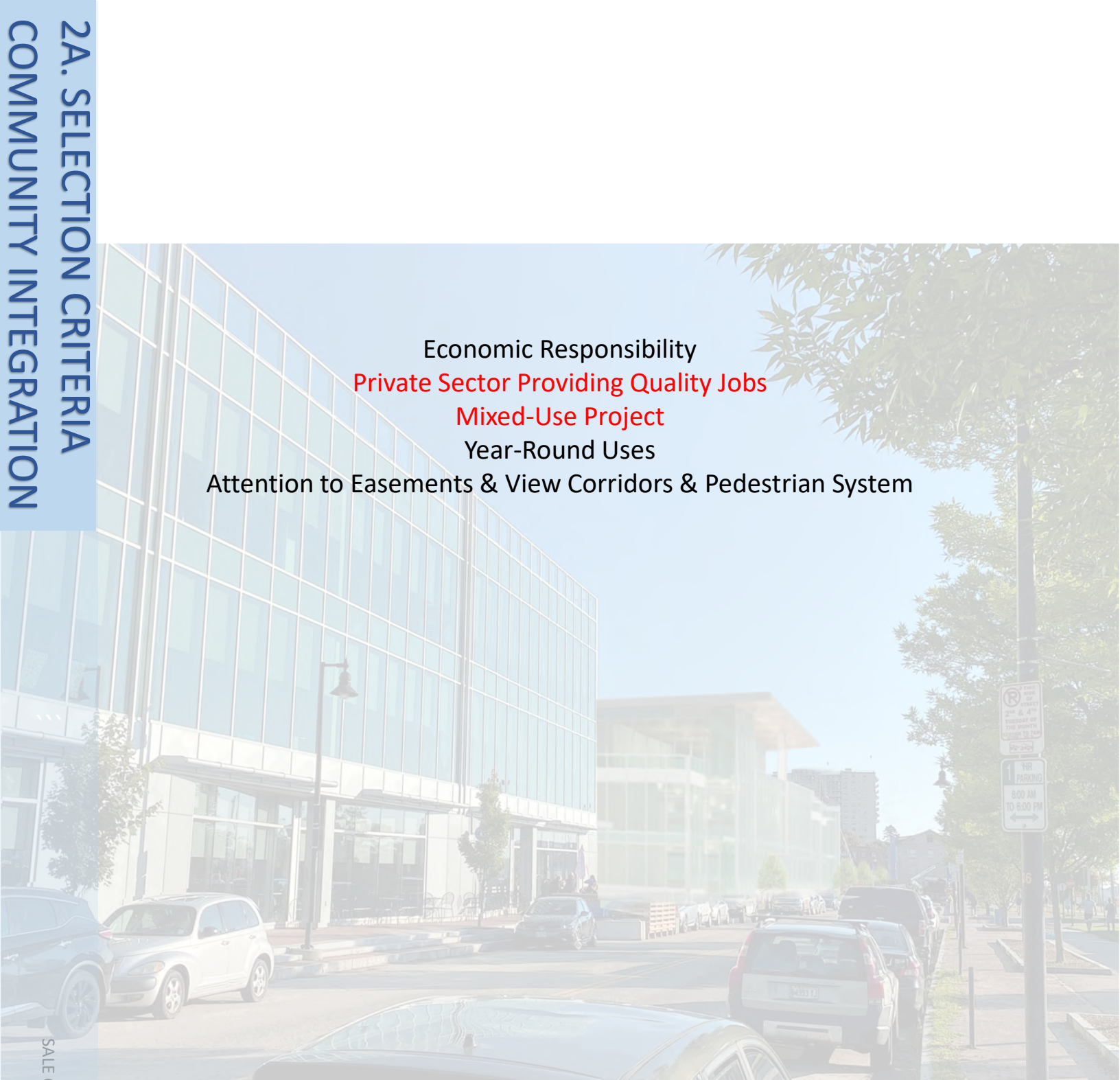
- Improving the aesthetics of the site which is beneficial to the tourist industry approaching the area by water, street or pedestrian and bike path

- Creating a public draw with the third floor use that will help to invigorate the retail efforts in the area that are currently just beyond the heavier consumer foot traffic

- Incubator spaces allow for smaller and newer businesses to get a foothold in the currently high rent retail scene. Businesses that succeed in the incubator spaces also feed into other downtown retail spaces as they grow and help to fill the storefronts

- Office employees create a year-round consumer base for the Old Port

- The proposal includes both year-round and day and evening uses



Economic Responsibility
Private Sector Providing Quality Jobs
Mixed-Use Project
Year-Round Uses

Attention to Easements & View Corridors & Pedestrian System



This proposal offers 50,000 SF of prime office space in one of the best sites in the city with its proximity to residential hot spots and the Old Port commercial district. This quantity of square footage would accommodate approximately 130 new jobs.



In addition to the office space, the proposal includes 8,000 interior SF for commercial use and +/- 10,000 SF of roof deck for commercial use. This use would provide approximately 75-100 jobs.



Proposed incubator spaces will provide opportunities to multiple small local businesses to test their ability to grow in the thriving urban fabric of Portland. Such spaces have proven successful on Washington Ave and in the short time that the spaces have been available, there have been multiple instances of turnover due to success of a business and its need to move to a larger space. The applicant has the ability to provide space for expansion due to having multiple retail spaces of varying sizes at properties in the area.



30,000 SF of plaza and park space and 5,000 SF of streetscape are being planned to benefit both the users of the proposed building as well as adjacent developments and the public.

Economic Responsibility
Private Sector Providing Quality Jobs
Mixed-Use Project
Year-Round Uses

Attention to Easements & View Corridors & Pedestrian System





The office space will add approximately 130 jobs that will add to the vibrancy of the site year-round.



Portland's restaurant scene thrives year-round and the views from this location would place it at the top of the dining destination list all months of the year.



Portland's commercial scene benefits from the charm of the city in all months and draws tourists and local patrons and foot traffic even as the snow flies.

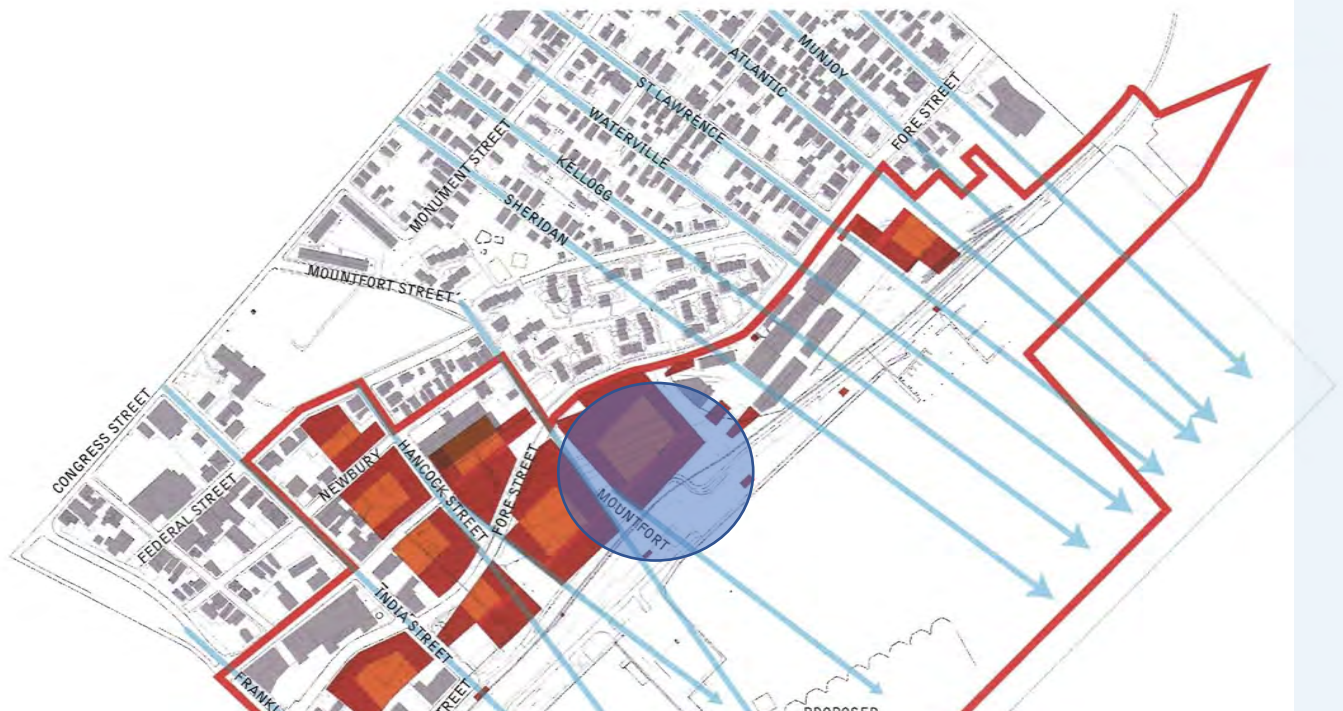


Heated foot paths through the site will encourage the foot traffic through the site year-round for those accessing the incubator spaces, locals passing from their homes on the east end to work or commuters walking from the adjacent garage.

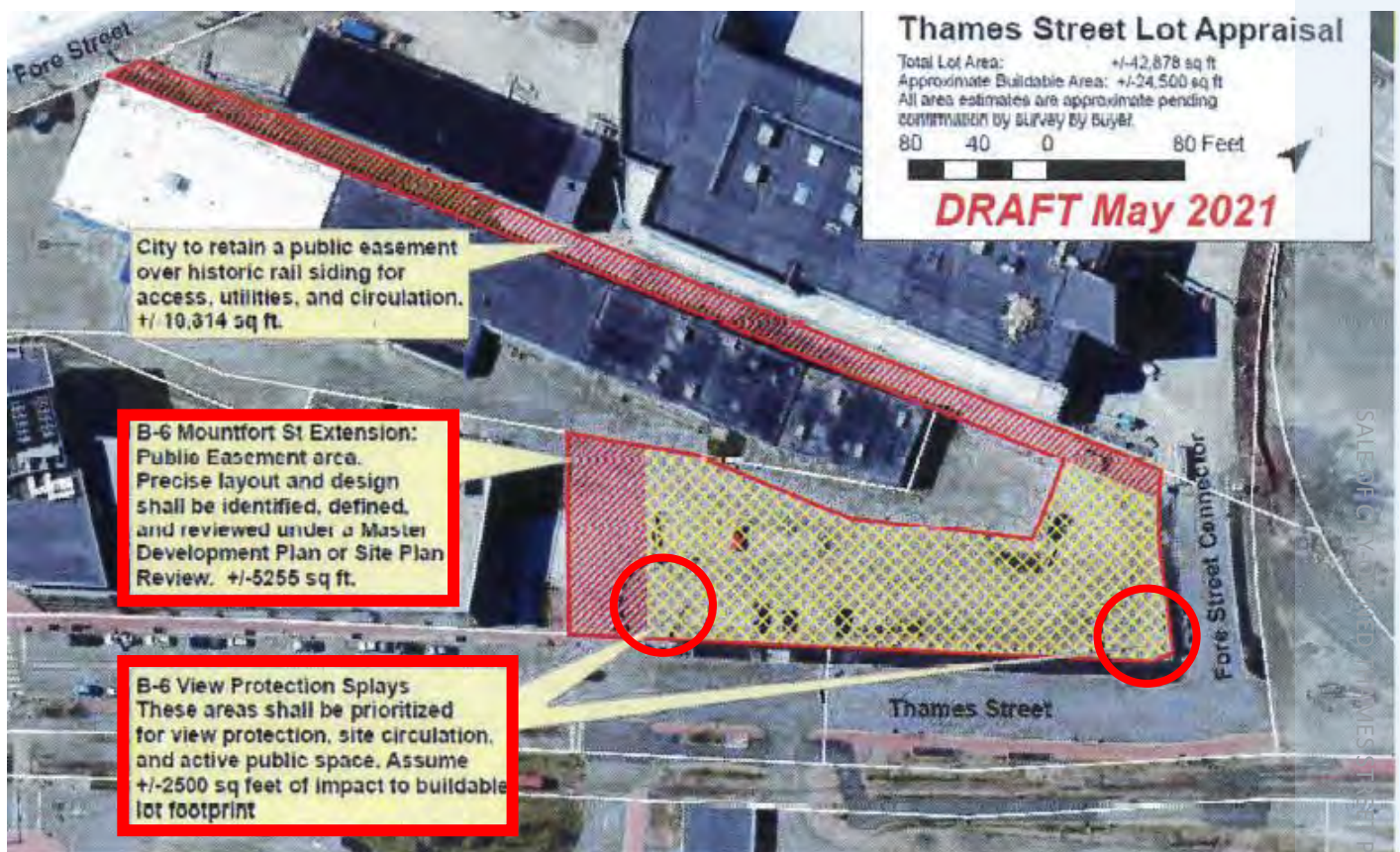
Economic Responsibility
Private Sector Providing Quality Jobs
Mixed-Use Project
Year-Round Uses

Attention to Easements & View Corridors & Pedestrian System

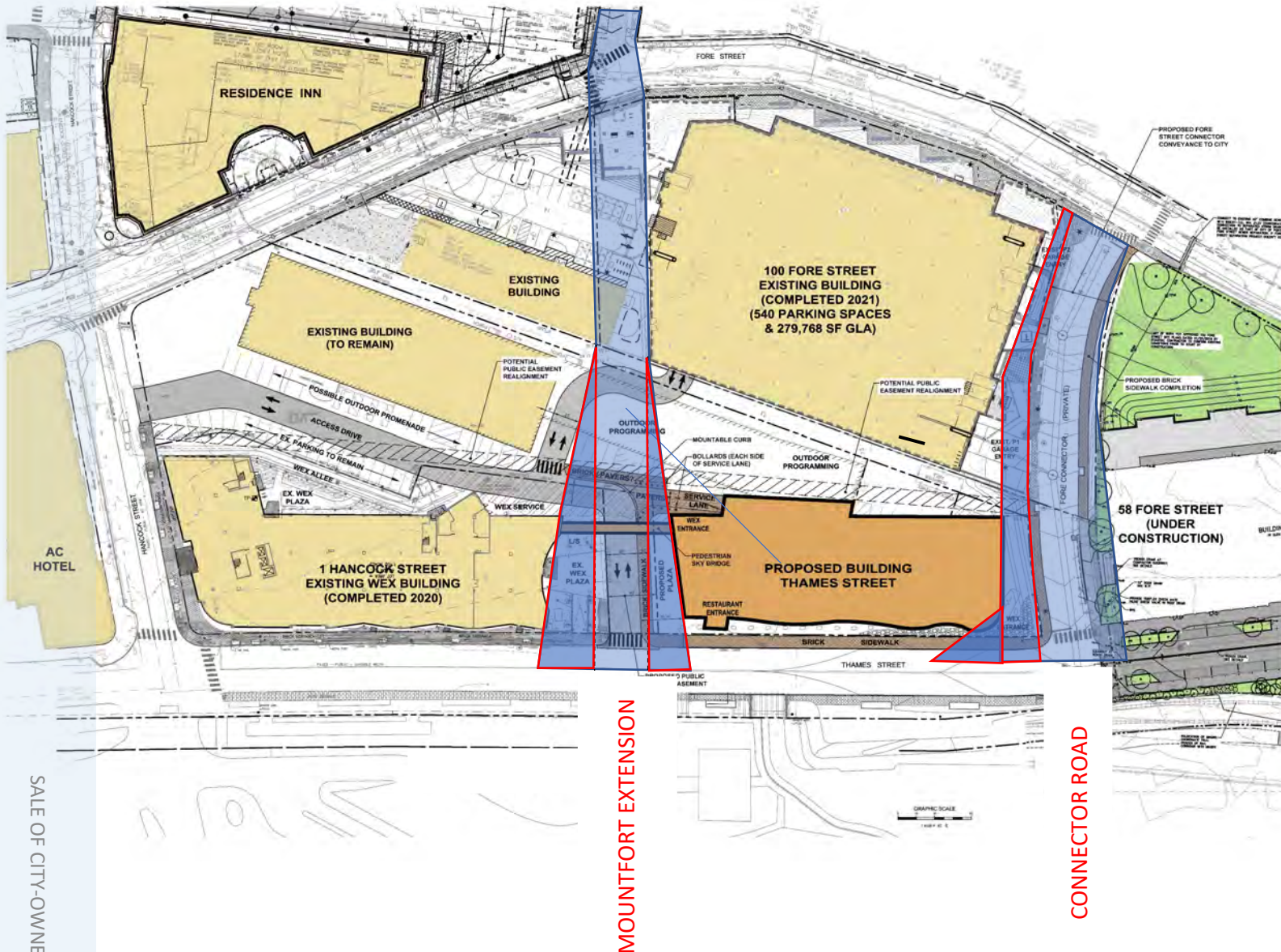


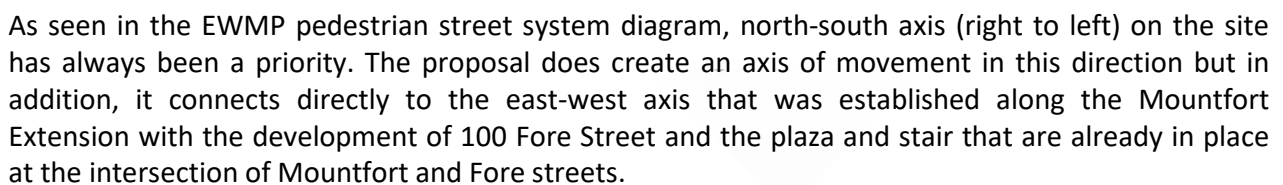


RFP
EASEMENTS AND VIEW PROTECTION SPLAYS



As mentioned when discussing the Mountfort Extension Rights-of-Way, the view corridor plays are exaggerated as one gets closer to the water. The same treatment to the view corridor is maintained at the Connector Road with both the footprint of 100 Fore Street and the design for the Thames Street development holding back a significant amount from the buildable area to respect the views. The built edge of the Thames Street proposal is drawn directly from the entry tower of 100 Fore Street so as to respect the site line already in place.





SUMMARY

A. NET NEW JOBS TO THE CITY

Based on the jobs provided by the combination of the office used, the third-floor restaurant and the incubator spaces the project would provide between 200 and 250 full-time positions in multiple job fields.

B. FUTURE POSSIBLE MOUNTFORT STREET EXTENSIONS RIGHTS-OF-WAY

The Mountfort Extension, within the area of discussion, will be both paved for vehicular access into the site as well as landscaped along the proposed building development for pedestrian access into the site. The vehicular route will allow for access to the lowest level of the 100 Fore Street Parking Garage as well as to the service access behind both the WEX Headquarters and the building that is to go on the city lot. The pedestrian route allows for access into the landscaped portions of the site that feeds the garage, the office buildings and the incubator spaces and allows for public passage through the site on either the east-west or north-south axis. The pedestrian skyway across the extension will provide safe movement for the users connecting between the two buildings.

C. NEW CONNECTOR ROAD (FROM FORE STREET TO CITY THAMES STREET CONNECTION)

As stated previously, the portion of the Connector Road currently owned by the applicant will be turned over to the city as part of the purchase price for the Thames Street City Lot and a brick sidewalk will be added to the Connector Road/Freedom Way in the spring.

PUBLIC RESTROOM REQUIREMENTS

Per the items for public benefit of the city in the Selection Criteria portion of the RFP, it is requested that the applicant provide one public restroom in the concept design and it is noted that the terms of this requirement are to be negotiated. The applicant is proposing to contribute \$50,000 toward new bathrooms to be constructed on the Amethyst Park/Portland Landing site of which portions have begun. Page 18 of the city document on the Portland Landing states that improvements including restroom access are part of the early plans for the park.



Photo Credit: Larry Tomlinson

EXISTING AMETHYST LOT

Design Vision

Portland Landing will provide the City of Portland with a signature waterfront amenity that functionally, visually, and symbolically connects people with the city's maritime heritage and provides a vital public connection to Casco Bay. The redeveloped lot will provide Portland citizens and visitors of all ages and interests a new and permanent place to interact year-round with the water for a myriad of passive and active uses. Advocates and City officials envision the Amethyst lot as the threshold to the Casco Bay. Proposed uses will benefit neighboring residents and businesses and complement the Eastern Promenade Trail, Moon Tide Park, public infrastructure, multi-modal transportation, and mixed-use development.

Our design vision is characterized by the following goals:

Reflect the City. The City of Portland and the Eastern Waterfront have a rich history. Relics and artifacts integrated into the design will commemorate the site's history and provide elements of surprise and education throughout the landscape.

Give access to the shoreline. The more ways to experience the water, the better; sailing, tour boats and water taxis, tidal pools, fishing and wildlife observation are waterfront attractions that provide something for everyone for a cost that need not be significant. Many of these activities also provide opportunity for private-public partnerships and revenue generation

through voluntary participation. Access to the water allows for a dynamic and diverse recreation program and will effectively expand the physical upland limits of the Amethyst lot.

Create a new open space destination. The new waterfront should serve not only its own neighborhood, but the entire community, drawing visitors from the region. It should provide enough range and frequency of activities that it is well worth a day trip.

Allow for programmatic diversity. Vendors, concessionaires, commercial boating, and others each provide a valued service to the visiting public, contributing to the vibrancy of the space and enrichment of the recreational opportunities. Shoreline and water access, people-watching, wading, fishing, strolling, boat launching, open air events, eating and nature observation are key attractions. Every visitor should find multiple opportunities to enjoy the space from season to season.

Prioritize program elements. Understand the full range of programming goals and provide support facilities for a four-season interconnected waterfront and public space destination.

Provide multi-use capacity. Create a plan that allows many activities to happen at the same time, without compromising the experience of any activity. The desired program includes many complementary passive recreational amenities.

Complement adjacent land uses, rail corridor and activities that already activate the space. The lot should be enhanced to support current uses on site and adjacent -- as well as activities associated with planned development and rail service adaptations.

Recognize the magnitude of the Amethyst lot location. Planning should recognize aspects of the site that make it special: a generous waterfront with broad views of the Bay, the presence of historic piles on the water, ease of access to the water, proximity to downtown and new development, and transient boating and water access.

Support water-dependent uses. Programming should focus on accommodating a range of water-dependent uses alongside upland recreational activities.

Create a sustainable park. The park should be designed with an emphasis on sustainability, resiliency, operations, maintenance and utilization. Key opportunities to enhance site sustainability include:

- Renewable energy use and energy conservation;
- Sourcing of local and/or recycled materials;
- Native plant material selection;
- Habitat enhancement;
- Permeable and low-reflectivity pavement systems;
- Water conservation;
- Stormwater management;
- Erosion control;
- Evaluation of remaining service life of critical waterfront infrastructure;
- Adaptive reuse of existing infrastructure; and
- Construction staging provisions.

Cultivate Open Space stewardship. Stewardship begins with leadership and partnerships and a community-supported revenue stream with reinvestment of this revenue into perpetual park maintenance and continued capital improvements. The Study Workgroup and the Stakeholders have developed a strong framework for ongoing stewardship and success for the study area.

Respond to Sea Level Rise. Design alternatives must respond to the impacts of sea level rise and ever-more frequent and intense storm events through resilient and responsible design. Design should also implement green infrastructure enhancements to improve water quality and reduce stormwater run-off.

Take early action. Integrate basic improvements (restroom access, parking and handicapped accessibility) and anticipate future, permanent installations so that cost efficiencies and space allocations are considered early.

Take early action. Integrate basic improvements (restroom access, parking and handicapped accessibility) and anticipate future, permanent installations so that cost efficiencies and space allocations are considered early.

PRELIMINARY DESIGN AS INFORMED BY THE EWMP

Stitching the City Together
Design Sensitive to Surroundings
Climate Change Resilient Design





The landscaped space being proposed and currently developed within the site and block are helping to link green spaces that exist within the city along major routes of foot traffic both from larger green spaces within the city to the commercial Old Port as well as from developing commercial routes to the green spaces currently being developed at Amethyst Park.

The site and proposal are at the heart of the new waterfront that is developing quickly, outlined in red below and designs in this area must be sensitive to their ability to tie the residential (orange) and commercial (blue) districts together along the city's most important asset – the water and the views across it. The sensitivity must be embodied through the uses proposed as well as the design of both the built structures and landscaped areas.

The campus this proposal is part of brings year-round and day and evening uses giving multiple reasons for people to be drawn to and through the site. Both residents and tourists have reason to use the site and it links the permanent residents to the waterfront and the Old Port as well as being located at a major point of entry for visitors accessing the city from the water.

The materials and form are sensitive to the development of, views from and transparency needed for this special area within Portland.



EXISTING VIEW



PROPOSED VIEW



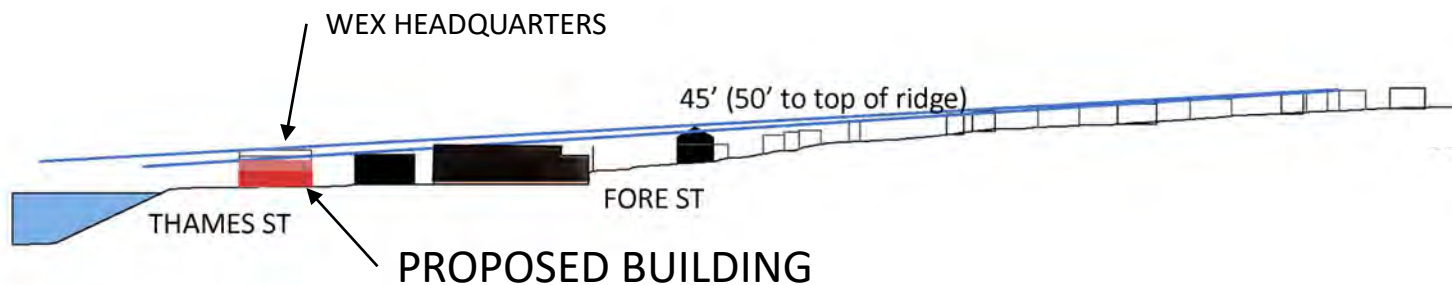
One element of the proposal worth addressing is the pedestrian footbridge spanning from the second level of the existing WEX Headquarters to the second level of the proposed building over the mouth of the Mountfort Extension. The Extension, at grade, is available for parking access to the lowest level of 100 Fore Street, deliveries, drop-offs and any other vehicular traffic into the site. It would also be used for bike access and additional foot traffic going into the site or passing through on the east-west axis. If office users add perpendicular traffic against what has already been described, it crowds the outdoor spaces and creates more dangerous movement patterns. In addition to this concern, it would be more appropriate to have interior access between the buildings in colder months and inclement weather. As shown below, the RFP includes a note about alternative approaches to permeability across the Mountfort Extension, which is exactly what is being proposed with the footbridge. In order to be as sensitive as possible to the view corridor, the bridge would be minimized in sectional depth and the glass would be clear so that it disappears as much as possible. Attention to multiple modes of traffic moving in different directions is an important part of both urban and campus design.

- **Future Possible Mountfort Street Extension Rights-of-Way.** Proposals should address the need for Mountfort Street Extension as a future public right-of-way to support proposed private investment on the City property, to provide for public space amenities and connectivity, along with all required utility easements and to fulfill the goals of the EWMP on the portion of City property located between Mountfort Street Extension and the New Connector Road. Alternative approaches to meeting the goals of permeability and accessibility across this block will be considered.

Stitching the City Together
Design Sensitive to Surroundings
Climate Change Resilient Design & Practices



EAST END SIGHT LINE DIAGRAM – DEMONSTRATES THAT PROPOSED STRUCTURE IS IN KEEPING WITH OR BELOW SIGHT LINES ALREADY CREATED BY EXISTING STRUCTURES FOR VIEWS FROM THE EAST END TO THE WATER



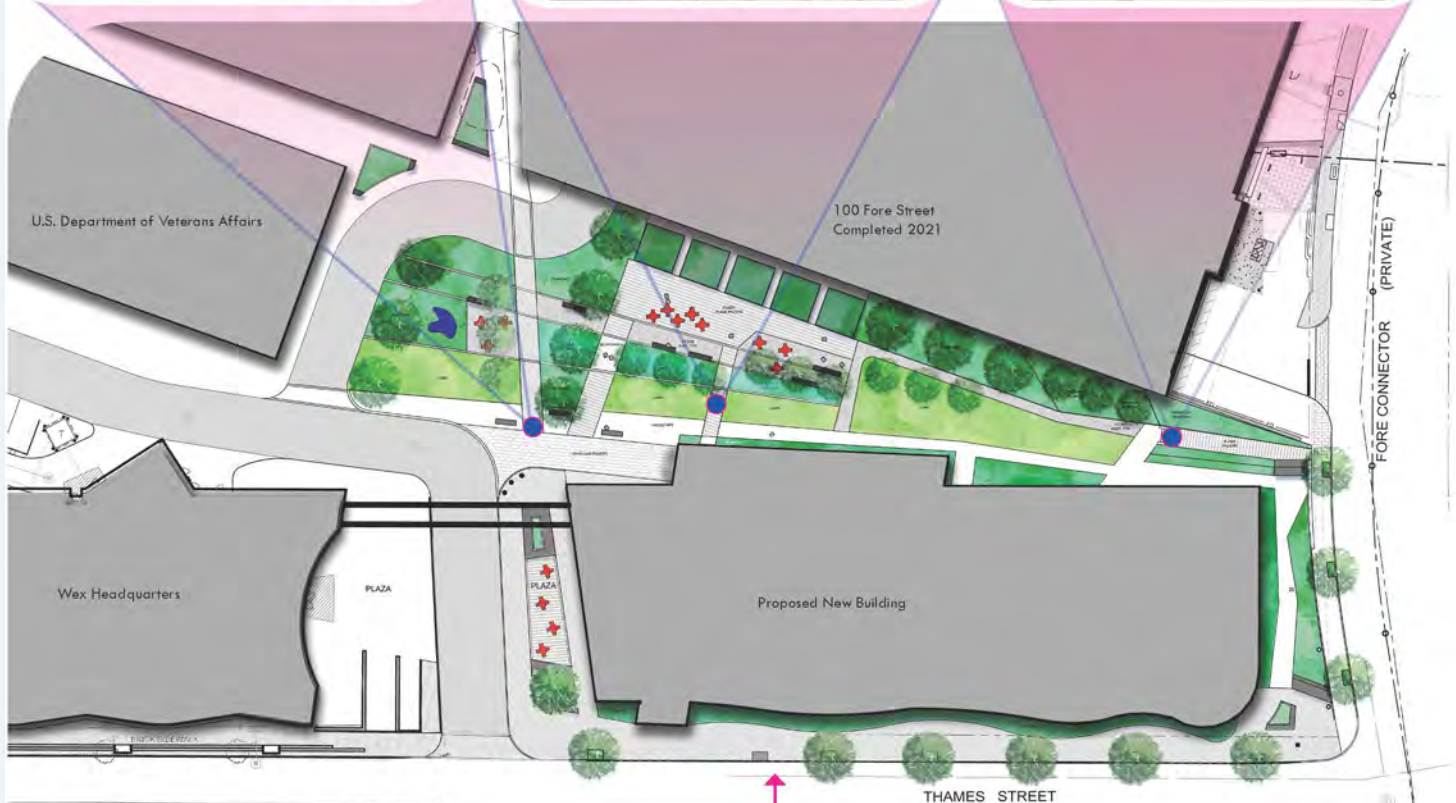
The design approach is to enhance the campus that has been started through the construction of the WEX headquarters and 100 Fore Street and tie the design to its surroundings. Certain elements clearly reference the existing buildings and therefore respect the views and access of its neighbors.

The material choices tie directly into the existing buildings of the campus while the building is responding formally to the specifics of the zoning, the relationship to the neighboring buildings and the uses inside. This area within Portland has developed quickly in the past few years and contemporary architecture dominated by glass and steel has become a key part of the fabric. In keeping with A consistent material language such as the brick that ties the historic old port together, glass and steel are the language of the New Waterfront. The transparent and reflective qualities of glass create an interaction with the surroundings that tie into the goal of permeability and sensitivity to surroundings.

The design also creates a building that has distinct features allowing it to stand on its own visually and further the contemporary architectural style that has become part of the new waterfront within Portland.

Not only does the design respect the view corridors of the EWMP but by creating much of the 3rd level exterior as outdoor habitable space, and orienting the indoor portion of this level toward the south, the water views from the occupiable levels of buildings to the west are maintained.





Site Programming

35,000 SF of Open Space

25 + Street Trees & Under-story Trees

2 Preserved & Enhanced View Corridors

Public Plazas

Activated Sidewalks

Enhanced Connections to the Surrounding Amenities

Bioswales & Best Management Practices

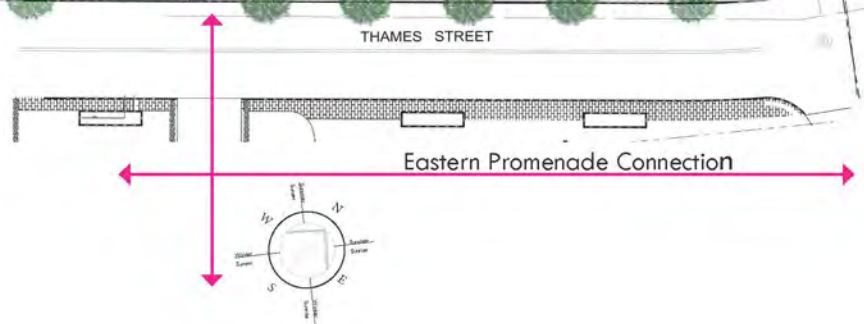
Open Space Connectivity & Pollinator Gardens

Incubator Shops

3 Potential Locations for Public Art

5 Preserved & Enhanced Gateway Connections & Future Connections

1 Site Design Integrating the key covenants of the EWMP



Stitching the City Together Design Sensitive to Surroundings Climate Change Resilient Design & Practices

Building Elements –

- LED light fixtures – minimal fixture use needed due to amount of glazing
- Automated light systems to prevent light usage when not required, and dimming based on natural light levels
- Automatic shades systems will balance the lighting with heating and cooling loads
- Curtainwall systems contain recycled content
- White EPDM roof on third story enclosed structure decreasing cooling loads
- Light colored roof deck pavers decrease cooling loads
- Keeping the project team local means commuting needs are greatly lowered during the design and construction process
- A Construction waste management plan will be in place
- Open concept structural and floor systems allow for space and usage flexibility with minimal waste and energy
- Building commissioning will be implemented
- Low flow plumbing fixtures to be installed
- Building level water metering to be incorporated
- Building level energy metering to be incorporated

Site Elements –

- Bike Parking and storage to encourage alternative commuting
- Parking provided in stacked garages owned by applicant reduce the users parking footprint
- Charging stations are available at 100 Fore garage for office users
- High ratio of pervious/planted surface
- Uses are a higher density and better use than the existing single level gravel parking lot
- Site location encourages foot and bike commuting

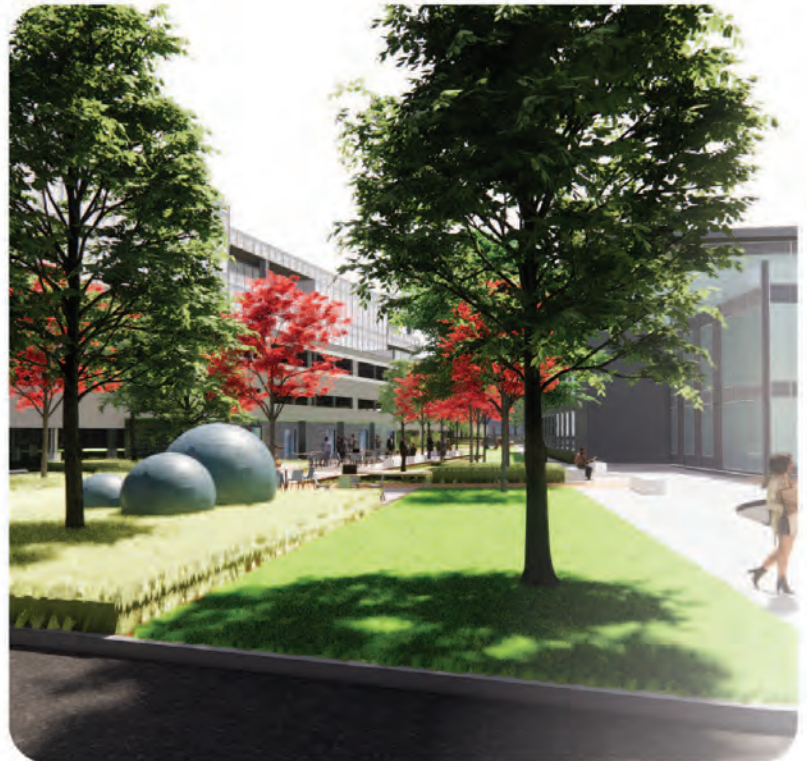
Office User Practices –

- Interiors designed to minimize energy consumption and reduce energy consumption
- In-office single stream recycling system will be implemented



Resilient Design Principles & Proposed Design Approach

1. Resilient systems provide for basic human needs
Design Approach:
Provide safe accessible, clean and inclusive public space.
2. Locally available, renewable, or reclaimed resources are more resilient.
Design Approach:
Source local durable materials and introduce reclaimed material where suitable.
3. Find and promote resilience in nature.
Design Approach:
Integrate best management practices and low impact design methodologies.
4. Durability strengthens resilience
Design Approach:
Model critical systems to withstand inundation and extreme weather.



5. Simple, passive, and flexible
Systems are more resilient
Design Approach:
Design with nature - mimic systems for stormwater that double as gathering nodes and place-making.

The applicant is offering \$35.00 per square foot for 24,000 SF equaling \$840,000.00 and in addition is proposing to hand over the ownership of the portion of the connector road currently under the applicant's ownership. Along with ownership of the road, the applicant will put in escrow, \$30,000 for the completion of the east sidewalk along the applicant-owned portion of the connector road in the spring as well as \$50,000 toward the city's installation of public restrooms on the Amethyst Park site.

A. NET PROPERTY TAX REVENUE

It is estimated that the new construction would provide \$170,000 in annual taxes for the City of Portland

B. PARKING

City Parking – Clarification – the city parking noted in the RFP was actually displaced during the construction of the WEX Headquarters and has already been relocated in the parking garages owned by the applicant.

For the existing parking lease agreement between the applicant and the city, a portion of which is shown on the next page, the applicant plans to amend the agreement to 25 spaces and allow that increase of 5 spaces to be 24 hours a day at the 167 Fore Street Ocean Gateway Garage.

PARKING AGREEMENT BY AND BETWEEN
CITY OF PORTLAND
AND
100 Fore Street, LLC and 167 Fore Street LLC

THIS AGREEMENT is made as of the ^{26th} ____ day of May, 2021, by and between the **CITY OF PORTLAND**, a municipal corporation with a mailing address of 389 Congress Street, Portland, Maine 04101 (hereinafter the "**CITY**") and **100 FORE STREET, LLC**, a Maine limited liability company doing business at 100 Fore Street in Portland, Maine (hereinafter "**100 FORE**") and **167 FORE STREET LLC**, a Maine limited liability company doing business at 167 Fore Street in Portland, Maine (hereinafter "**167 FORE**")

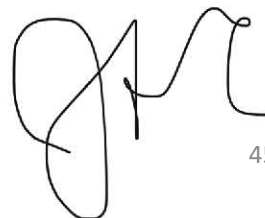
W I T N E S S E T H:

WHEREAS, 100 FORE is constructing and developing property located at 100 Fore Street in Portland, Maine pursuant to a site plan approved by the Portland Planning Board on January 8, 2019 and identified as a Project ID (the "100 FORE project"); and

WHEREAS, the 100 FORE project includes a 543-space parking garage with 16 traditional parking spaces located outside of the garage; and

WHEREAS, the Planning Board's approval of the 100 FORE project includes the following condition: "Parking garages (100 Fore Street and Ocean Gateway Garage) shall provide up to a combined total 20 municipal parking space, with 12 of those dedicated primarily for the use of the City of Portland Police Department, personal officer vehicles, at no cost to the City for five years. These spaces are to offset the loss of municipal parking in the area due to recent development projects;" and

WHEREAS, 167 FORE is an affiliated entity of 100 FORE and the owner of said Ocean Gateway Garage referenced above, which Garage contains 705 parking spaces; and



5. Proposers Proven Capacity and Relevant Experience

Development Team and Past Experience: Lead project developer and principal, Jonathan S. Cohen, was born and raised in Portland. He graduated from Deering High School and received his B.B.A. from The George Washington University. This project and similar projects are very important to Mr. Cohen as he believes strongly in creating as much opportunity as possible to keep Maine's talented youth in the state, and to create opportunities to attract talented employers and employees from other states.

Mr. Cohen is the President and CEO of AD&W, still Maine based, family owned, and the largest and oldest commercial installer and fabricator of storefront, curtain wall and commercial entrances north of Boston. Throughout Jonathan's 25+ years he has been involved with more than 6,300 construction projects, from design, budget, and construction through to completion, occupancy and sale or retention.

Mr. Cohen currently owns and manages more than 1,250,000 square feet of real estate in Maine. A few of Mr. Cohen's current projects underway include: the development of 52,000 square feet at Falmouth Center Falmouth, Maine; completion of a 84,000 square foot office building, approx. 5,000 sq ft of retail and 543 car garage at 100 Fore street Portland, Maine.

Mr. Cohen was also integral to the design, budget and construction of 167 Fore Street Portland, Maine Ocean Gateway Garage Offices, 1 Hancock Street Portland, Maine, Wex World Headquarters, 10 Exchange Street Portland, renovate and reopen 27 condominiums, 416-420 Fore street Portland, Maine, rehab and renovate 12,000 sq ft mixed use building.

Mr. Cohen has numerous financial institutions which have committed to working with him on this and any other project he wishes to undertake. Archetype will serve as the architect for this project, and the development team will include a Maine based GC or CM and almost all Maine Based trades..

Dan Smith/(SHP) Subsidized Housing Partners

1838 Sir Tyler Drive, Suite 210 • Wilmington NC 28405 • (910) 509-1781

Dan Smith is a principal of Subsidized Housing Partners (SHP) and SHP Management Corp. with offices in Cumberland Foreside, Maine and Wilmington, North Carolina. Dan is a graduate of Cheverus High School and attended The University of Southern Maine. Having grown up in Maine, Dan feels very strongly about creating opportunities for the next generation, and that is one of the reasons why he has turned his attention to Greater Portland. Dan has been active in various real estate deals for more than 30 years and is invested in over 7,500 units of affordable housing in Connecticut, Rhode Island, Maine, Massachusetts, Maryland, New York, and New Jersey and has strong bank relationships with many banks. No stranger to development, Dan has over 3,000 residential lots in development and an additional 1,000 apartment units under construction in North Carolina. Dan has various holdings including 270,000 square feet of Class A offices in Wilmington, NC.



EXHIBIT E
Freedom Way – Legal Description



OWEN HASKELL, INC.

PROFESSIONAL LAND SURVEYORS

390 U.S. ROUTE ONE, UNIT 10 FALMOUTH, MAINE 04105

September 21, 2022

FREEDOM WAY – THAMES STREET CONNECTOR DESCRIPTION
FOR 100 FORE STREET LLC

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE SOUTHERLY SIDE OF FORE STREET IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "THAMES STREET CONNECTOR PROPOSED PUBLIC RIGHT-OF-WAY MADE FOR 100 FORE STREET LLC" BY GORRILL PALMER DATED JUNE 15, 2022, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHEASTERLY SIDELINE OF FORE STREET AT THE NORTHWESTERLY CORNER OF LAND NOW OR FORMERLY OF PF LAND LLC AS DESCRIBED IN DEED BOOK 37397, PAGE 78, SAID POINT IS LOCATED N 76°26'28" E A DISTANCE OF 143.30 FEET FROM THE FOURTH ANGLE POINT IN FORE STREET LOCATED NORTHEASTERLY OF HANCOCK STREET;

THENCE, ALONG THE LAND ON SAID PF LAND LLC THE FOLLOWING COURSES AND DISTANCES:

ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 274.33 FEET, AN ARC LENGTH OF 13.01 FEET, A CHORD BEARING OF S 20°51'48" E AND A CHORD DISTANCE OF 13.01 FEET;

ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 370.24 FEET, AN ARC LENGTH OF 134.07, A CHORD BEARING OF S 32°11'34" E AND A CHORD LENGTH OF 133.34 FEET;

S 42°34'01" E A DISTANCE OF 68.76 FEET;

ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 370.00 FEET, AN ARC LENGTH OF 13.77 FEET, A CHORD BEARING OF S 43°37'58" E AND A CHORD DISTANCE OF 13.77 FEET TO THE SOUTHERLY LINE OF THE GRANTORS AS DESCRIBED IN A DEED DATED JANUARY 6, 2017 AND RECORDED IN DEED BOOK 33748, PAGE 1 OF THE CUMBERLAND COUNTY REGISTRY OF DEEDS;

THENCE, S 66°39'58" W ALONG THE SOUTHERLY LINE OF THE SAID GRANTORS A DISTANCE OF 58.52 FEET;

THENCE, THE FOLLOWING COURSES AND DISTANCE THROUGH THE LAND OF THE SAID GRANTORS;

N 42°34'01" W A DISTANCE OF 63.24 FEET;

ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 425.24 FEET, AN ARC LENGTH OF 153.80, A CHORD BEARING OF N 32°12'20" W AND A CHORD DISTANCE OF 152.96 FEET;

ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 329.33 FEET, AN ARC LENGTH OF 21.14 FEET, A CHORD BEARING OF N 20°20'55" W AND A CHORD DISTANCE OF 21.14 FEET TO THE SOUTHERLY SIDELINE OF SAID FORE STREET;

THENCE, N 76°26'28" E ALONG THE SOUTHERLY SIDELINE OF FORE STREET A DISTANCE OF 55.25 FEET TO THE POINT OF BEGINNING, CONTAINING 12,863 S.F. OR 0.30 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.

MEANING AND INTENDING TO CONVEY A PORTION OF LAND NOW OR FORMERLY OF 100 FORE STREET, LLC AS DESCRIBED IN A DEED DATED JANUARY 6, 2017 AND RECORDED IN DEED BOOK 33748, PAGE 1 OF THE CUMBERLAND COUNTY REGISTRY OF DEEDS.

EXHIBIT F
Hancock Street Easement

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that **144 FORE ST. OZ LLC**, a Maine limited liability company having a mailing address of One Portland Square, Suite 6A, Portland, ME 04101 (“Grantor”) in consideration of One Dollar (\$1.00) and other valuable consideration paid by the **CITY OF PORTLAND**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (“Grantee”), does hereby grant, with quitclaim covenants, to the said City of Portland the certain nonexclusive easements and rights of way described below, and on, over, under, through, and across the real property described in Exhibit A attached hereto and shown on the diagram attached hereto as Exhibit B (the “Easement Area”), both of which are incorporated herein by reference and made a part hereof, which Easement Area is a portion of Grantor’s real property described in a deed recorded in the Cumberland County Registry of Deeds in Book ___, Page ___ (the “Property”).

- 1) A public access easement, which shall be ADA compliant, to enter the Easement Area by pedestrians, bicycles, and other non-motorized pedestrian uses. Grantor, its successors and assigns shall be responsible for reasonable maintenance and repair, and all costs thereof, of the Easement Area, except to the extent that the need for such maintenance and repair is due to damage caused by Grantee. Grantor shall also be responsible for removal of snow and ice from the Easement Area and to otherwise comply with all laws, rules, regulations, and ordinances governing the removal of snow and ice. Notwithstanding the foregoing, Grantee shall have the right, but not the obligation, to maintain or repair the Easement Area, or to remove snow therefrom, when Grantee, in its sole discretion, deems such maintenance, repair or snow removal necessary to ensure public safety and Grantor has failed to perform the same within a reasonable time after notice from Grantee. Grantor shall reimburse Grantee for all reasonable costs incurred by Grantee in performing such maintenance or repair work within 30 days after Grantor’s receipt of demand from Grantee. Notwithstanding anything to the contrary in this paragraph, emergency vehicles as well as motorized snow removal vehicles and equipment shall be permitted in the Easement Area in accordance with applicable federal and/or state laws regulating accessibility for such devices, vehicles, or equipment.

- 2) An easement and right of way for the purpose of, and conveying the right, but not the obligation, to enter the Easement Area with workers, equipment, and vehicles, and to construct, install, and perpetually maintain on, under, through, and across the Easement Area, conduits and/or pipelines, together with all necessary fixtures and appurtenances, for retaining, channeling, or conveying storm water, sewer water, electricity, gas, communications, and other utilities; together with the right, but not the obligation, to lay, relay, replace, repair, maintain, clean, and remove said conduit and/or pipelines and related fixtures and appurtenances; together with the right, but not the obligation, at all times to make connections with said utility systems on land adjoining the Easement Area by means of pipes or other services; and together with the right, but not the obligation, to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind to such extent as Grantee determines is reasonably necessary or appropriate for any of the above purposes; and to enter upon said Easement Area at any and all times for any of the foregoing purposes; provided, however, that Grantee, their successors and assigns, shall (i) give reasonable notice to Grantor, their heirs, successors and assigns, prior to each such entry onto the Easement Area, (ii) exercise their rights granted hereunder in a commercially reasonable manner, and (iii) restore the surface of the Easement Area as soon as practicable following each such entry to substantially the condition that existed thereon just prior to such entry.

The easements given herein are qualified by the following terms and conditions limiting or affecting the easement rights granted and created hereunder:

- a. The rights and easements granted herein shall be subject to the right of the Grantor to prohibit any noisome or offensive use that disturbs the peaceful enjoyment of the use of the Easement Area and the Property.
- b. Grantor may temporarily close public access to portions of the Easement Area in the event of unsafe conditions or for purposes of maintenance and repair, but only to the extent necessary to remedy such unsafe conditions or perform such maintenance or repairs.
- c. The consumption of alcoholic beverages by members of the general public shall not be permitted within the Easement Area, provided, however, that the foregoing prohibition on the consumption of alcoholic beverages shall not in any way apply to nor otherwise restrict the use of the Property, including the Easement Area, by any of Grantor's tenants and licensees and such tenants' and licensees' customers and guests, provided that such use does not unreasonably interfere with the Grantee's and public's rights described herein.
- d. The rights and easements granted herein shall be subject to Grantor's reservation of rights for Grantor to access, use and enjoy the Easement Area in any manner that shall not unreasonably interfere with the Grantee's and public's rights described herein, to improve the Easement Area in accordance with Grantor's development of its Property and the Planning Board approvals regarding the

same, and to install, use, maintain, and repair Grantor's fixtures, improvements, infrastructure and other utilities located or to be located within the Easement Area.

Grantor agrees not to use or permit any use, condition or state of disrepair in the Easement Area that would be contrary to or otherwise unreasonably interfere with the use of the Easement Area by the City and the public in the manner contemplated herein.

The public access easement granted herein is given for recreational use and the Grantor and Grantee claim the rights and protections against liability in accordance with Title 14 M.R.S. §159-A to the maximum extent permitted by law.

[End of Page / Signature Page Follows]

IN WITNESS WHEREOF, the said _____ has hereunto caused this instrument to be signed by _____, its _____, duly authorized, this _____ day of _____, 2023.

WITNESS:

GRANTOR

Print Name: _____
Its _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2023

Personally appeared the above-named _____ in their capacity as _____ of _____ and acknowledged the foregoing instrument to be their free act and deed and the free act and deed of _____.

Before me,

Notary Public/Attorney-at-Law

Print Name

Exhibit A



OWEN HASKELL, INC.

PROFESSIONAL LAND SURVEYORS

390 U.S. ROUTE ONE, UNIT 10 FALMOUTH, MAINE 04105

SEPTEMBER 21, 2022

10' WIDE PEDESTRIAN EASEMENT FROM
144 FORE STREET LLC TO CITY OF PORTLAND

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE EASTERLY SIDE OF HANCOCK STREET IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "PROPOSED EASEMENTS COMMERCIAL OFFICE BUILDING THAMES STREET, PORTLAND, MAINE 144 FORE STREET, OZ, LLC" BY GORRILL PALMER DATED JULY, 2022, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING ON THE EASTERLY SIDELINE OF HANCOCK STREET AT THE FIRST POINT OF CURVATURE LOCATED SOUTHEASTERLY OF FORE STREET, SAID POINT OF CURVATURE IS WITNESSED BY A MONUMENT LOCATED ON A 3 FOOT OFFSET;

THENCE, S 53°47'21" E ALONG THE EASTERLY SIDELINE OF SAID HANCOCK STREET A DISTANCE OF 72.74 FEET TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING IS LOCATED N 53°47'21" W A DISTANCE OF 19.09 FEET FROM THE MOST WESTERLY CORNER OF LAND NOW OR FORMERLY OF 0 HANCOCK STREET, LLC AS DESCRIBED IN A DEED DATED SEPTEMBER 28, 2017 AND RECORDED IN DEED BOOK 34347, PAGE 163, CUMBERLAND COUNTY REGISTRY OF DEEDS;

THENCE, FROM SAID POINT OF BEGINNING N 53°47'21" W CONTINUING ALONG THE EASTERLY SIDELINE OF SAID HANCOCK STREET A DISTANCE OF 10.00 FEET;

THENCE, THE FOLLOWING COURSES AND DISTANCES THROUGH THE LAND OF THE GRANTOR AS DESCRIBED IN A DEED DATED OCTOBER 20, 2021 AND RECORDED IN DEED BOOK 38799, PAGE 334, CUMBERLAND COUNTY REGISTRY OF DEEDS:

N 34°53'07" E A DISTANCE OF 62.08 FEET;
N 65°45'47" E A DISTANCE OF 135.06 FEET;
N 54°21'35" E A DISTANCE OF 185.69 FEET;
N 49°25'13" E A DISTANCE OF 100.31 FEET;
N 49°46'30" E A DISTANCE OF 104.38 FEET;

THENCE, N 51°40'13" E A DISTANCE OF 85.23 FEET TO LAND NOW OR FORMERLY THE CITY OF PORTLAND AS DESCRIBED IN DEED DATED AUGUST 30, 1993 AND RECORDED IN DEED BOOK 10924, PAGE 84;

THENCE, S 23°24'29" E ALONG THE LAND OF SAID CITY OF PORTLAND A DISTANCE OF 10.35 FEET TO A POINT THAT IS LOCATED N 23°24'29" W A DISTANCE OF 38.06 FROM THE EASTERLY CORNER OF LAND NOW OR FORMERLY OF THE SAID CITY OF PORTLAND;

THENCE, THE FOLLOWING COURSES AND DISTANCES THROUGH THE LAND OF THE SAID GRANTOR:

S 51°40'13" W A DISTANCE OF 82.40 FEET;
S 49°46'30" W A DISTANCE OF 104.18 FEET;
S 49°25'13" W A DISTANCE OF 100.71 FEET TO LAND NOW OR FORMERLY OF SAID O HANCOCK STREET, LLC;

THENCE, S 54°21'35" W ALONG LAND OF O HANCOCK STREET AND THROUGH THE LAND OF THE SAID GRANTOR A DISTANCE OF 187.12 FEET;

THENCE, S 65°45'47" W CONTINUING THROUGH THE LAND OF THE GRANTOR A DISTANCE OF 133.30 FEET;

THENCE, S 34°53'07" W CONTINUING THROUGH THE LAND OF THE GRANTOR A DISTANCE OF 59.55 FEET TO THE POINT OF BEGINNING, CONTAINING 6,700 S.F. OR 0.15 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.



JULY 13, 2022

RETAINED EASEMENT BY CITY OF PORTLAND 944 SF

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE WESTERLY SIDE OF THAMES STREET EXTENSION IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "PROPOSED EASEMENTS COMMERCIAL OFFICE BUILDING THAMES STREET, PORTLAND, MAINE 144 FORE STREET, OZ, LLC" BY GORRILL PALMER DATED JULY, 2022, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LAND NOW OR FORMERLY OF 100 FORE STREET LLC AS DESCRIBED IN DEED BOOK 33748, PAGE 1, AND ON THE LINE OF REMAINING LANDS OF THE CITY OF PORTLAND AS DESCRIBED IN A DEED DATED AUGUST 30, 1993 AND RECORDED IN DEED BOOK 10924, PAGE 84 AND ON THE SOUTHWESTERLY SIDELINE OF THE PROPOSED THAMES STREET EXTENSION AS SHOWN ON SAID "PROPOSED EASEMENTS" PLAN;

THENCE, S 42° 34' 01" E ALONG THE SOUTHWESTERLY SIDELINE OF SAID PROPOSED THAMES STREET EXTENSION A DISTANCE OF 5.51 FEET;

THENCE, CONTINUING ALONG THE SOUTHWESTERLY SIDELINE OF SAID PROPOSED THAMES STREET EXTENSION AND ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 425.00 FEET, AN ARC LENGTH OF 10.18 FEET;

THENCE, S 54° 38' 03" W THROUGH LAND OF THE CITY OF PORTLAND AS DESCRIBED IN A DEED DATED AUGUST 30, 1993 AND RECORDED IN DEED BOOK 10924, PAGE 84 A DISTANCE OF 61.78 FEET TO LAND NOW OR FORMERLY OF 144 FORE STREET LLC AS DESCRIBED IN DEED BOOK 38799, PAGE 334;

THENCE, N 23° 24' 29" W ALONG THE LAND OF SAID 144 FORE STREET LLC A DISTANCE OF 10.35 FEET;

THENCE, N 40° 02' 00" E THROUGH LAND OF SAID CITY OF PORTLAND 38.61 FEET TO LAND OF SAID 100 FORE STREET LLC;

THENCE, N 66° 39' 58" E ALONG 100 FORE STREET LLC A DISTANCE OF 20.64 FEET TO THE POINT OF BEGINNING CONTAINING 944 S.F. OR 0.02 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.

EXHIBIT G
Thames Street Easement

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that **144 FORE ST. OZ LLC**, a Maine limited liability company having a mailing address of One Portland Square, Suite 6A, Portland, ME 04101 (“Grantor”) in consideration of One Dollar (\$1.00) and other valuable consideration paid by the **CITY OF PORTLAND**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (“Grantee”), does hereby grant, with quitclaim covenants, to the said City of Portland the certain nonexclusive easements and rights of way described below, and on, over, under, through, and across the real property described in Exhibit A attached hereto and shown on the diagram attached hereto as Exhibit B (the “Easement Area”), both of which are incorporated herein by reference and made a part hereof, which Easement Area is a portion of Grantor’s real property described in a deed recorded in the Cumberland County Registry of Deeds in Book ___, Page ___ (the “Property”).

- 1) A public access easement to enter the Easement Area, which shall be ADA compliant, by motor vehicles, pedestrians, bicycles, and other non-motorized pedestrian uses. Grantor, its successors and assigns shall be responsible for reasonable maintenance and repair, and all costs thereof, of the Easement Area, except to the extent that the need for such maintenance and repair is due to damage caused by Grantee. Grantor shall also be responsible for removal of snow and ice from the Easement Area and to otherwise comply with all laws, rules, regulations, and ordinances governing the removal of snow and ice. Notwithstanding the foregoing, Grantee shall have the right, but not the obligation, to maintain or repair the Easement Area, or to remove snow therefrom, when Grantee, in its sole discretion, deems such maintenance, repair or snow removal necessary to ensure public safety and Grantor has failed to perform the same within a reasonable time after notice from Grantee. Grantor shall reimburse Grantee for all reasonable costs incurred by Grantee in performing such maintenance or repair work within 30 days after Grantor’s receipt of demand from Grantee.
- 2) An easement and right of way for the purpose of, and conveying the right, but not the obligation, to enter the Easement Area with workers, equipment, and vehicles, and to construct, install, and perpetually maintain on, under, through,

and across the Easement Area, conduits and/or pipelines, together with all necessary fixtures and appurtenances, for retaining, channeling, or conveying storm water, sewer water, electricity, gas, communications, and other utilities; together with the right, but not the obligation, to lay, relay, replace, repair, maintain, clean, and remove said conduit and/or pipelines and related fixtures and appurtenances; together with the right, but not the obligation, at all times to make connections with said utility systems on land adjoining the Easement Area by means of pipes or other services; and together with the right, but not the obligation, to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind to such extent as Grantee determines is reasonably necessary or appropriate for any of the above purposes; and to enter upon said Easement Area at any and all times for any of the foregoing purposes; provided, however, that Grantee, their successors and assigns, shall (i) give reasonable notice to Grantor, their heirs, successors and assigns, prior to each such entry onto the Easement Area, (ii) exercise their rights granted hereunder in a commercially reasonable manner, and (iii) restore the surface of the Easement Area as soon as practicable following each such entry to substantially the condition that existed thereon just prior to such entry.

The easements given herein are qualified by the following terms and conditions limiting or affecting the easement rights granted and created hereunder:

- a. The rights and easements granted herein shall be subject to the right of the Grantor to prohibit any noisome or offensive use that disturbs the peaceful enjoyment of the use of the Easement Area and the Property.
- b. Grantor may temporarily close public access to portions of the Easement Area in the event of unsafe conditions or for purposes of maintenance and repair, but only to the extent necessary to remedy such unsafe conditions or perform such maintenance or repairs.
- c. The consumption of alcoholic beverages by members of the general public shall not be permitted within the Easement Area, provided, however, that the foregoing prohibition on the consumption of alcoholic beverages shall not in any way apply to nor otherwise restrict the use of the Property, including the Easement Area, by any of Grantor's tenants and licensees and such tenants' and licensees' customers and guests, provided that such use does not unreasonably interfere with the Grantee's and public's rights described herein.
- d. The rights and easements granted herein shall be subject to Grantor's reservation of rights for Grantor to access, use and enjoy the Easement Area in any manner that shall not unreasonably interfere with the Grantee's and public's rights described herein, to improve the Easement Area in accordance with Grantor's development of its Property and the Planning Board approvals regarding the same, and to install, use, maintain, and repair Grantor's fixtures, improvements, infrastructure and other utilities located or to be located within the Easement Area.

Grantor agrees not to use or permit any use, condition or state of disrepair in the Easement Area that would be contrary to or otherwise unreasonably interfere with the use of the Easement Area by the City and the public in the manner contemplated herein.

The public access easement granted herein is given for recreational use and the Grantor and Grantee claim the rights and protections against liability in accordance with Title 14 M.R.S. §159-A to the maximum extent permitted by law.

[End of Page / Signature Page Follows]

IN WITNESS WHEREOF, the said _____ has hereunto caused this instrument to be signed by _____, its _____, duly authorized, this _____ day of _____, 2023.

WITNESS:

GRANTOR

Print Name: _____
Its _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2023

Personally appeared the above-named _____ in their capacity as _____ of _____ and acknowledged the foregoing instrument to be their free act and deed and the free act and deed of _____.

Before me,

Notary Public/Attorney-at-Law

Print Name

Exhibit A



JULY 13, 2022

VEHICULAR-PEDESTRIAN ACCESS EASEMENT FROM 144 FORE STREET LLC TO CITY OF
PORTLAND 3,820 SF

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE NORTHERLY SIDE OF, BUT NOT ADJACENT TO THAMES STREET IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "PROPOSED EASEMENTS COMMERCIAL OFFICE BUILDING THAMES STREET, PORTLAND, MAINE 144 FORE STREET, OZ, LLC" BY GORRILL PALMER DATED JULY, 2022, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTHERLY SIDELINE OF THAMES STREET AS ACCEPTED ON JANUARY 23, 2008 AT THE SOUTHEASTERLY CORNER OF LAND NOW OR FORMERLY OF 0 HANCOCK STREET LLC AS DESCRIBED IN DEED BOOK 34347, PAGE 163;

THENCE, N 45° 34' 01" W ALONG LAND OF SAID 0 HANCOCK STREET LLC A DISTANCE OF 118.44 FEET TO THE POINT OF BEGINNING AT LAND NOW OR FORMERLY OF 144 FORE STREET LLC AS DESCRIBED IN DEED BOOK 38799, PAGE 344;

THENCE, FROM SAID POINT OF BEGINNING N 44° 06' 45" W THROUGH LAND OF SAID 144 FORE STREET LLC A DISTANCE OF 99.80 FEET TO LAND NOW OR FORMERLY CITY OF PORTLAND AS DESCRIBED IN A DEED DATED AUGUST 30, 1993 AND RECORDED IN DEED BOOK 10924, PAGE 84 CUMBERLAND COUNTY REGISTRY OF DEEDS;

THENCE, N 66° 39' 04" E ALONG SAID CITY OF PORTLAND A DISTANCE OF 42.90 FEET;

THENCE, S 44° 08' 46" E THROUGH THE LAND OF SAID 144 FORE STREET LLC A DISTANCE OF 90.58 FEET TO LAND NOW OR FORMERLY OF SAID CITY OF PORTLAND;

THENCE, S 54° 21' 35" W ALONG LAND OF SAID CITY OF PORTLAND 40.61 FEET TO THE POINT OF BEGINNING. CONTAINING 3,820 S.F. OR 0.09 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.

MEANING AND INTENDING TO CONVEY AN EASEMENT OVER, UNDER AND THROUGH A PORTION OF LAND NOW OR FORMERLY OF 144 FORE STREET, LLC AS DESCRIBED IN A DEED DATED OCTOBER 20, 2021 AND RECORDED IN DEED BOOK 38799, PAGE 334. SAID EASEMENT IS TO BE USED IN CONCERT WITH SEVERAL OTHER SURROUNDING AND ABUTTING EASEMENTS, BOTH EXISTING AND PROPOSED, THAT PROVIDE ACCESS TO NEARBY PUBLIC STREETS.



JULY 13, 2022

RETAINED EASEMENT BY CITY OF PORTLAND 677 SF

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE NORTHERLY SIDE OF, BUT NOT ADJACENT TO THAMES STREET IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "PROPOSED EASEMENTS COMMERCIAL OFFICE BUILDING THAMES STREET, PORTLAND, MAINE 144 FORE STREET, OZ, LLC" BY GORRILL PALMER DATED JULY, 2022, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTHERLY SIDELINE OF THAMES STREET AS ACCEPTED ON JANUARY 23, 2008 AT THE SOUTHEASTERLY CORNER OF LAND NOW OR FORMERLY OF O HANCOCK STREET LLC AS DESCRIBED IN DEED BOOK 34347, PAGE 163;

THENCE, N 45° 34' 01" W ALONG LAND OF SAID O HANCOCK STREET LLC A DISTANCE OF 118.44 FEET TO LAND NOW OR FORMERLY OF 144 FORE STREET LLC AS DESCRIBED IN DEED BOOK 38799, PAGE 334;

THENCE, N 44° 06' 45" W THROUGH LAND OF SAID 144 FORE STREET LLC A DISTANCE OF 99.80 FEET TO THE POINT OF BEGINNING AT LAND NOW OR FORMERLY CITY OF PORTLAND AS DESCRIBED IN DEED DATED AUGUST 30, 1993 AND RECORDED IN DEED BOOK 10924, PAGE 84, CUMBERLAND COUNTY REGISTRY OF DEEDS;

THENCE, FROM SAID POINT OF BEGINNING N 44° 06' 45" W THROUGH SAID LAND OF CITY OF PORTLAND A DISTANCE OF 16.89 FEET TO LAND NOW OR FORMERLY OF 100 FORE STREET LLC AS DESCRIBED IN DEED BOOK 33748, PAGE 1;

THENCE, N 66° 39' 58" E ALONG THE LAND OF SAID 100 FORE STREET LLC A DISTANCE OF 42.89 FEET;

THENCE, S 44° 08' 46" E THROUGH LAND OF SAID CITY OF PORTLAND 16.89 FEET TO LAND OF SAID 144 FORE STREET LLC ;

THENCE, S 66° 39' 04" W ALONG LAND OF 144 FORE STREET LLC A DISTANCE OF 42.90 FEET TO THE POINT OF BEGINNING CONTAINING 677 S.F. OR 0.02 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.



JULY 13, 2022

RETAINED EASEMENT BY CITY OF PORTLAND 4,640 SF

A CERTAIN LOT OR PARCEL OF LAND SITUATED ON THE NORTHERLY SIDE OF THAMES STREET IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, AS SHOWN ON PLAN TITLED "PROPOSED EASEMENTS COMMERCIAL OFFICE BUILDING THAMES STREET, PORTLAND, MAINE 144 FORE STREET, OZ, LLC" BY GORRILL PALMER DATED JULY, 2022, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTHERLY SIDELINE OF THAMES STREET AS ACCEPTED ON JANUARY 23, 2008 AT THE SOUTHEASTERLY CORNER OF LAND NOW OR FORMERLY OF 0 HANCOCK STREET LLC AS DESCRIBED IN DEED BOOK 34347, PAGE 163;

THENCE, N 45° 34' 01" W ALONG LAND OF SAID 0 HANCOCK STREET LLC A DISTANCE OF 118.44 FEET TO LAND NOW OR FORMERLY OF 144 FORE STREET LLC AS DESCRIBED IN DEED BOOK 38799, PAGE 334;

THENCE, N 54° 21' 35" E ALONG LAND OF SAID 144 FORE STREET LLC A DISTANCE OF 40.61 FEET;

THENCE, S 45° 34' 01" E THROUGH LAND OF SAID CITY OF PORTLAND A DISTANCE OF 113.57 FEET TO THE NORTHERLY SIDELINE OF SAID THAMES STREET;

THENCE, S 47° 28' 43" W ALONG THE NORTHERLY SIDELINE OF SAID THAMES STREET A DISTANCE OF 40.06 FEET TO THE POINT OF BEGINNING, CONTAINING 4,640 S.F. OR 0.11 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD 83.

EXHIBIT H
Form of Amendment to the Parking Agreement

**FIRST AMENDMENT
TO
PARKING AGREEMENT**

THIS FIRST AMENDMENT TO PARKING AGREEMENT is made as of the ____ day of _____, 2023, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 ("City") and 100 FORE STREET, LLC, a Maine limited liability company doing business at 100 Fore Street in Portland, Maine (hereinafter "100 FORE") and 167 FORE STREET LLC, a Maine limited liability company doing business at 167 Fore Street in Portland, Maine (hereinafter "167 FORE")

WITNESSETH:

WHEREAS, City, 100 FORE and 167 FORE entered into a certain Parking Agreement dated May 26, 2021 (the "Agreement") with respect to the City's use of parking spaces at the 100 FORE GARAGE and the 167 FORE GARAGE; and

WHEREAS, City and Licensee wish to amend the Agreement in order to extend its term and increase the number of parking spaces provided to the City as provided herein:

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

1. Unless otherwise defined in this Amendment, capitalized terms used in this Amendment have the same meaning as those terms have in the Agreement.
2. In section 1 of the Agreement, "twenty (20)" is hereby deleted and replaced with "twenty-five (25)," meaning and intending to increase the number of Parking Spaces provided to the City under the Agreement from 20 to 25.
3. Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

"This Agreement shall be effective as of the date the 100 FORE GARAGE opens for business and shall continue until _____, 20__, unless earlier terminated as outlined herein." *[insert date that is 4 years after the closing of the Purchase and Sale Agreement between the City and 144 Fore St. OZ LLC]*.

4. Any and all terms of the Agreement not herein amended shall remain in full force and effect for the duration of the Agreement as amended hereby and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the

Agreement and any exhibits thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the date first set forth above.

WITNESS:

CITY OF PORTLAND

By: _____
Danielle P. West
Its Interim City Manager

WITNESS:

100 FORE STREET LLC

By: _____
Jonathan Cohen
Its: Manager

WITNESS:

167 FORE STREET LLC

By: _____
Jonathan Cohen
Its: Manager

EXHIBIT I
Copy of Parking Agreement

**PARKING AGREEMENT BY AND BETWEEN
CITY OF PORTLAND
AND
100 Fore Street, LLC and 167 Fore Street LLC**

THIS AGREEMENT is made as of the ^{26th} ____ day of May, 2021, by and between the **CITY OF PORTLAND**, a municipal corporation with a mailing address of 389 Congress Street, Portland, Maine 04101 (hereinafter the "**CITY**") and **100 FORE STREET, LLC**, a Maine limited liability company doing business at 100 Fore Street in Portland, Maine (hereinafter "**100 FORE**") and **167 FORE STREET LLC**, a Maine limited liability company doing business at 167 Fore Street in Portland, Maine (hereinafter "**167 FORE**")

W I T N E S S E T H:

WHEREAS, 100 FORE is constructing and developing property located at 100 Fore Street in Portland, Maine pursuant to a site plan approved by the Portland Planning Board on January 8, 2019 and identified as a Project ID (the "100 FORE project"); and

WHEREAS, the 100 FORE project includes a 543-space parking garage with 16 traditional parking spaces located outside of the garage; and

WHEREAS, the Planning Board's approval of the 100 FORE project includes the following condition: "Parking garages (100 Fore Street and Ocean Gateway Garage) shall provide up to a combined total 20 municipal parking space, with 12 of those dedicated primarily for the use of the City of Portland Police Department, personal officer vehicles, at no cost to the City for five years. These spaces are to offset the loss of municipal parking in the area due to recent development projects;" and

WHEREAS, 167 FORE is an affiliated entity of 100 FORE and the owner of said Ocean Gateway Garage referenced above, which Garage contains 705 parking spaces; and

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a series of loops and a final horizontal stroke.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **100 FORE** and **167 FORE** agree to provide parking to **CITY** on the following terms:

1. Spaces

100 FORE AND 167 FORE shall provide the **CITY** with twenty (20) parking spaces for the exclusive use by **CITY** employees (the "City Parking Spaces") pursuant to the terms and conditions of this Agreement. The City Parking Spaces will be located in the garage located at 100 Fore Street ("100 FORE GARAGE") and constructed as part of the 100 FORE project and/or at the garage located at 167 Fore Street known as said Ocean Gateway Garage referenced above ("167 FORE GARAGE") (collectively "**GARAGES**"). The City Parking Spaces will not be assigned or reserved for the exclusive use by **CITY**. The **CITY** and/or its employees will be permitted to access and utilize the City Parking Spaces using an EZPass or Proximity Card (up to a limit of twenty (20)) purchased by **CITY** at its expense for use with the Flash™ Parking Systems in the **GARAGES**. Consistent with its management practices and leasing arrangements with other long term parking tenants at the **GARAGES**, **100 FORE** reserves the right to shift the **CITY** spaces between **GARAGES**, during the Agreement term. **CITY** shall distribute and assign parking passes for access to the City Parking Spaces to **CITY** employees as it sees fit and in its sole discretion but will ensure that parking passes for fourteen (14) of the City Parking Spaces are distributed for the exclusive use of the Portland Police Department.

2. Term

This Agreement shall be effective as of the date the 100 FORE GARAGE opens for business and shall continue for a period of five (5) years, unless earlier terminated as outlined herein.

3. Rent

During the term of this Agreement, **100 FORE** and **167 FORE** agree to provide the City Parking Spaces to **CITY** at no charge, except that **CITY** and/or its employees shall be responsible for the cost and replacement of any parking pass or card issued by **100 FORE** and **167 FORE**, its agents or assigns for access to and use of the City Parking Spaces and **GARAGES**. The price



charged to and paid by **CITY** for parking passes or cards providing access to the City Parking Spaces and the **GARAGES** pursuant to this Agreement shall be the same price charged to all other holders of parking passes to the **GARAGES**.

4. Purposes

CITY shall use the City Parking Spaces solely for the parking of vehicles for its employees for the duration of this Agreement and for no other purpose. **CITY** employees will abide by the rules and regulations of the **GARAGES** as outlined in the registration form attached hereto as **Attachment A**. A failure of any **CITY** employee to abide by such rules and regulations shall be a default hereunder and in the event such employee fails to remedy such default within twenty-four (24) hours of receipt of notice of the same from **100 FORE**, **167 FORE** and/or the manager of the **GARAGES**, then, in the case of the foregoing, **100 FORE**, **167 FORE**, as the case may be, shall have the right to terminate such employee's parking rights pursuant to this Agreement. Overnight parking in the City Parking Spaces by no more than six (6) **CITY** card holders, which may include **CITY** police officers, will be allowed in the 167 FORE GARAGE but not in the 100 FORE GARAGE.

5. Assignment

This Agreement may not be assigned without all parties' prior written consent.

6. Termination

CITY party may terminate this Agreement with or without cause at any time upon prior written notice to **100 FORE** and **167 FORE**.

7. Default

In the event that **100 FORE** and **167 FORE** shall be in default of any term or condition herein agreed to, such violations may be deemed a violation of the Site Plan Approval granted to **100 FORE** by the Portland Planning Board dated January 8, 2019 and subject to enforcement action and the imposition of penalties pursuant to 30-A M.R.S. 4452.



8. Notices

Any notices which are required hereunder, or which either **100 FORE** and **167 FORE** or **CITY** may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to **100 FORE** and **167 FORE** at P.O. Box 910 Westbrook, Me 04098-0910 or addressed to **CITY** at City Manager, 389 Congress Street, Portland, ME 04101 with a copy to John Peverada, Parking Manager.

9. Waiver

Waiver by either party of any default in performance by the other of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

10. Compliance with Laws

This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court.

11. Counterparts

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. A signature in a pdf or electronic document shall be considered the equivalent of an original signature.

IN WITNESS WHEREOF, the said **CITY OF PORTLAND** has caused this Parking Agreement to be signed in its corporate name and sealed with its corporate seal by Jon P. Jennings,



its City Manager, thereunto duly authorized, **100 FORE STREET, LLC** has caused this Parking Agreement to be signed by Jonathan Cohen, Manager, thereunto duly authorized, and **167 FORE STREET LLC** has caused this Parking Agreement to be signed by Jonathan Cohen, Manager, as of the day and date first set forth above.

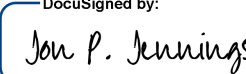
[SIGNATURES ON FOLLOWING PAGE]

A handwritten signature in black ink, appearing to be "Jre" or similar, located in the bottom right corner of the page.

WITNESS:

CITY OF PORTLAND

DocuSigned by:

By: 
4F521A7E920344B

Jon P. Jennings

City Manager

WITNESS:

100 FORE STREET, LLC

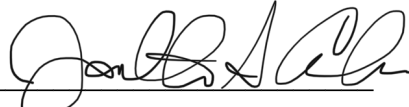
By: 

Name: Jonathan Cohen

Its: Manager

WITNESS:

167 FORE STREET LLC

By: 

Name: Jonathan Cohen

Its: Manager

Attachment A

[See Attached Card Holder Agreement and Rules and Regulations for the GARAGES]



167 Fore Street, LLC Unified Parking Partners Ocean Gateway Parking Garage Card # _____

AGREEMENT for MONTHLY PARKING – Terms and Conditions

Unified Parking Partners (UPP), managing agent of the Ocean Gateway Parking Garage (OGG), and the undersigned cardholder (Account Holder), hereby agree that the Account Holder may use the OGG on an unreserved basis subject to the following terms and conditions:

1. UPP manages the garage. Any questions concerning billing, new cards, etc., should be directed to the garage management at (207) 747-4230 or emailed to ogg@unifiedparkingpartners.com
2. Monthly Parking fees are **DUE IN ADVANCE**, without notice, on the **FIRST DAY OF EACH MONTH**. A **5% LATE FEE** will be charged if the parking fee is not paid by the fifth day of the month. Checks returned for insufficient funds will incur a fee of \$35.00. A month is defined as the 1st day of a calendar month through and including the last day of a calendar month.
3. WE ACCEPT CHECKS OR CREDIT CARDS. Checks must include your garage in the memo line, include the account holder's name, and be made payable to Unified Parking Partners and mailed to Unified Parking Partners 496 Congress St. Suite 3, Portland, ME 04101.
4. OWNERS PARK AT THEIR OWN RISK. UPP will not be liable for any destruction, loss or damage to the Owner's vehicle or any other property or for any injury to the owner or any other person resulting from use of the garage.
5. The card issued to the undersigned is solely for that persons' use. Any card used by persons other than agreed may be revoked. This agreement may be terminated 30 days before the first of the month by the Account Holder by returning the card and a filling out cancellation form to the UPP management office located on the third floor of the corporate office or by UPP at any time. Parking may be terminated immediately by UPP if Account Holder is found in violation of the terms of this Agreement. This Agreement is immediately terminated if the Account Holder leaves the firm listed below and the card is not transferred, with permission of UPP, to someone else in the firm.
6. The Parking garage is not to be used as storage. Any vehicle which has remained parked for more than 5 parking days without permission of UPP will be considered stored and may be towed at Owner's expense.
7. Parking cards are very fragile. Please handle them with care and avoid heat or cold as they may warp and crack. Lost cards must be reported immediately. Lost cards will be replaced at a cost of \$35.00. The \$35.00 fee must be paid when the replacement card is picked up. If the card is broken, all pieces of the broken card must be returned.
8. By accepting a card, the Account Holder agrees to be responsible for adhering to these policies. This contract remains in effect if the original card has been replaced due to loss or breakage, or upon transfer of the card within the firm.
9. \$25.00 Card Activation Fee and First Month's rent of \$182.00 must be paid when this contract is completed and submitted.
10. UPP holds the right to terminate this agreement as well as increase the monthly fee by giving a 30 day notice.

Unified Parking Partners does not divulge personal information. We collect the following as contact information in case of emergency.

Name: _____

Email (contact and/or billing): _____

Phone: _____

Organization (if applicable): _____

Year/Make/Model: _____

Plate#/State/Color _____

ACCOUNT HOLDER OR ITS REPRESENTATIVE HEREBY ACKNOWLEDGES AND AGREES TO THE ABOVE TERMS AND CONDITIONS AND RETAINS ONE COPY OF THIS AGREEMENT:

Signature: Date:

Your safety is our top priority and we appreciate your cooperation. If you have any questions or comments regarding any of the above-mentioned rules, please don't hesitate to contact our corporate office at **207-747-4230**

Unified Parking Partners management will never divulge personal information. We collect the following as contact information in case of emergency.

Cardholder Information

Parker Name(please print): _____
Daytime Phone: _____
Daytime Email: _____
Work Phone: _____
Employer: _____
Last 7 digits of EZPASS: _____

Account Information

Billing Name: _____
Billing Address: _____
City/State/Zip: _____
Billing Phone: _____
Billing email: _____
Contact Name: _____
Parking Start Date: _____

Vehicle Information: Please enter information for every vehicle (if more than one) that you drive.

Vehicle Information:

Make _____
Model _____
Color _____
State _____
Plate no _____

Vehicle Information

Make _____
Model _____
Color _____
State _____
Plate no. _____

ACCOUNT HOLDER OR ITS REPRESENTATIVE HEREBY ACKNOWLEDGES AND AGREES TO THE ABOVE TERMS AND CONDITIONS AND RETAINS ONE COPY OF THIS AGREEMENT:

Signature: _____

Date: _____

**167 FORE ST
COVETRUS**

Ocean Gateway Garage

Card # _____

OCEAN GATEWAY GARAGE PARKING AGREEMENT

Unified Parking Partners (UPP), managing agent of the Ocean Gateway Garage, and the undersigned cardholder (Owner), hereby agree that the undersigned may use the Ocean Gateway Garage on an unreserved basis, subject to the following terms and conditions:

1. Unified Parking Partners manages the garage. Any questions concerning billing, new cards, etc., should be directed to the garage management at (207) 747-4230 or emailed to karla@unifiedparkingpartners.com
2. Monthly Parking fees are **DUE IN ADVANCE**, without notice on the **FIRST DAY OF EACH MONTH**. A **5% LATE FEE** will be charged if the parking fee is not paid by the first day of the month. Checks returned for insufficient funds will incur a fee of \$25.00. A month is defined as the 1st day of a calendar month through and including the last day of a calendar month. Cards will be shut off on or before the 5th of the month if payment is not received. If payment is not received by the 5th of each month the parking card will be deactivated. The easiest way to avoid late fees or deactivation is to fill out our credit card authorization form.
3. Reserved spaces are for authorized parkers only. Any unauthorized person who parks in a reserved space is subject to towing at the vehicle owner's expense.
4. All reserved spaces are billed at double the posted rate. The posted rate can be found in the first-floor lobby office. This rate is subject to change 30 days' notice.
5. **WE ACCEPT CHECK OR CREDIT CARD for initial payment. Checks must be made payable to: Unified Parking Partners LLC.** All future payments must be made by submitting credit card information to be held on file and billed recurring each month.
6. **OWNERS PARK AT THEIR OWN RISK.** Neither Unified Parking Partners, nor 167 Fore Street LLC will be liable for any destruction, loss or damage to Owner's vehicle or any other property or for any injury to owner or any other person resulting from the use of the garage.
7. The card issued to the undersigned is solely for that person's use. Any card used by persons other than agreed may be revoked. This agreement may be terminated by ACCOUNT HOLDER returning card to the UPP management office located on the ground floor of the garage, on the last business day of any month or by UPP giving 30-day notice in writing to Account Holder. Garage management and ownership reserve the right to terminate or limit access to the parking garage at any time.
8. The speed limit in the parking garage is 5 mph.
9. If you are storing a vehicle in the garage for longer than 48hrs, then we ask you contact garage management via email and identify the owner, vehicle information and the reason why it is being stored.
10. There are trash barrels on each level of the garage. Please be courteous to your neighbors and do not litter. The garage staff appreciates your assistance in this matter.
11. Remember to lock your vehicles. Unified Parking Partners and garage ownership are not liable for stolen, damaged or lost items.
12. Vandalism of any type will not be tolerated in the garage. Anyone found in violation of this will be subject to immediate eviction.
13. All vehicles driving in the garage must use their headlights. This is for both your safety and others.
14. Parking cards are very fragile. Please handle them with care and avoid heat or cold, as they warp and crack. Lost cards must be reported immediately. Lost cards will be replaced at a cost of \$35.00. **The \$35.00 fee must be paid when the replacement card is picked up.** All pieces of broken card must be returned.
15. By accepting a card, user agrees to be responsible for adhering to these policies. This contract remains in effect if the original card has been replaced due to loss or breakage, or upon transfer of the card within the firm.
16. There is a \$25.00 card activation fee due with first month's rent must be paid when this contract is completed and submitted.
17. When exiting the garage please be mindful of pedestrians crossing on the sidewalk, use caution and drive slowly.
18. Please contact the garage Manager On Duty at 207-712-1235 if you are unable to find a parking space or notice any issues of concern within the parking garage.
19. Everyone is required to park in one space. Please be mindful of others and park between the lines.
20. Please back into parking spaces when possible. This ensures the safety of all parties while exiting the garage.
21. While driving in the garage, please stay to the right. DO NOT drive in the center of the drive lane.
22. A copy of each monthly parker/lease holder vehicle registration **MUST** be submitted to garage management.

Excluded and Prohibited from the garage

- Parking in **Any** designated restricted areas
- Vehicle without current state registration/plates or inspection stickers
- Vehicle repairs (exceptions: AAA flat tires/batteries)
- Motorcycles/mopeds/bicycles/scooters & related
- Skateboards/rollerblades/roller-skates /Segway's
- Drug and/or alcohol consumption
- Propane tanks
- Loitering/soliciting/ pan-handling, etc.



CONSUMER / BUSINESS AUTHORIZATION FOR DIRECT PAYMENT VIA Credit Card / Debit Card Parking

Location: _____

Direct Payment via credit/debit card is the transfer of funds from a consumer account for the purpose of making a payment. I (we) authorize Unified Parking Partners to electronically debit my (our) account (And, if necessary, electronically credit my (our) account to correct erroneous debits¹) as follows:

Credit/Debt Card Information:

Name on Card: _____

Credit Card No. _____

Billing Address: _____

Expiration Date: _____

CVV: _____

I authorize electronic debit / credits to the depository financial institution named below ("DEPOSITORY"). I (we) agree that credit transactions I (we) authorize comply with all applicable law.

Date(s) and/or frequency of debit(s):

Recurring monthly One Time Payment

Number of Months _____ Dollar Amount Authorized _____ (please enter the monthly invoiced amount) I

(we) understand that this authorization will remain in full force and effect until I (we) notify Unified Parking Partners

In writing, by mail at 496 Congress Street Suite 2B Portland, Maine 04101, that I (we) wish to revoke this authorization. I (we) understand that Unified Parking Partners requires at least 30 days prior notice in order to cancel this authorization.

Name(s)

_____ (Please

Print)

Date _____ Signature(s) _____

EXHIBIT J
Form of City License Agreement

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 21, 2023

SUBJECT: Order 147-22/23 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2024 Capital Improvement Program in an Amount not to Exceed \$17,455,000 - Sponsored by the Finance Committee, Mark Dion, Chair

SPONSOR: The Finance Committee met on February 9, 2023 and voted unanimously (3-0) to recommend the funding appropriation and bond authorization to the full City Council.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 3/6/2023

Final

Action 3/20/2023

Can action be taken at a later date: No The City needs to move forward with bidding and awarding projects slated for 2023 and 2024 construction.

Does this item involve a new contract with the City: no

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

I. SUMMARY

This order authorizes, and the companion order appropriates, the issuance of general obligation bonds to fund the FY24 Capital Improvement Plan projects as recommended by the City Manager.

II. AGENDA DESCRIPTION

The Finance Committee met on February 9, 2023 and voted (3-0) to recommend the funding appropriation and bond authorization to the full City Council.

The Fiscal Year 2024 Capital Improvement Plan (FY24 CIP) has been in development since early 2022. The FY24 CIP will not increase net debt service related to CIP projects in future City budgets as it was sized to simply offset other CIP debt being retired. The list of 2024 CIP calls for \$24,530,000 of new projects but only \$10,600,000 of this total will have a net impact to debt service in the general fund operating budget. A variety of other funding sources including the enterprise funds (for sewer and stormwater projects) are being used to finance the remainder. The \$10.6M was a borrowing target set by Finance staff in order to simply offset general fund CIP being retired. An additional \$6,855,000 of new general obligation bonds will be repaid via sewer user fees and stormwater service charges. Two orders are required related to the CIP: one authorizing the FY24 CIP bonds; and a second appropriating the proceeds and other funding sources providing City staff with spending authority for the upcoming projects. A complete listing of the projects being authorized is included within the orders.

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

III. BACKGROUND

Approval of these orders is a critical component of the City Manager's CIP process. All bond authorization and spending authority must be approved by City Council. City staff is working towards earlier approval of

the CIP as this allows the City to get projects out to bid sooner before many of the best contractors have already filled calendars with spring, summer and fall work.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Intended Result: Approval of the FY24 CIP will allow staff to move forward immediately with the included projects, including many City, School and Sewer/Storm water projects which are slated to begin during 2023 including many which are mandated for completion by year end.

City Council Goal Addressed: See detailed list of projects to be funded.

V. FINANCIAL IMPACT

No net fiscal impact to property tax rates as the debt service was sized to offset debt service coming off the books in FY24. Debt service related to CIP will remain flat.

VI. STAFF ANALYSIS AND BACKGROUND

The Capital Improvement Plan is a comprehensive process which began back in early summer 2022. Each Department (including the School Department) performs a comprehensive analysis of their capital needs over the upcoming five or ten years. Each Department then ranks their needs based on priority and submits each project. The complete list of citywide needs is then reviewed as a whole, compared to available funding, and a one and five year CIP recommendation is produced. The current FY24 CIP represents the City Manager's recommended CIP after review and presentation of all Department submissions and consideration of input submitted by elected officials.

VII. RECOMMENDATION

We recommend approval of the FY24 CIP Bond Authorization order.

VIII. LIST ATTACHMENTS

1. Portland FY24 CIP Bonds - Authorization Order 3.6.2023 (15793221.1)

Prepared by:

Date: 02/21/2023

KATE SNYDER (MAYOR)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK DION (5)

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S FISCAL YEAR FY24 CAPITAL
IMPROVEMENT PROGRAM IN AN AMOUNT NOT TO EXCEED \$17,455,000**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Seventeen Million Four Hundred Fifty-Five Thousand Dollars (\$17,455,000) to finance the items identified in the City's FY24 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED:

1. That the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City of Portland, to prepare, issue, and sell such bonds and notes in the name of and on behalf of the City, in the aggregate amount of \$17,455,000 (the "Bonds" and the "Notes") at one time, or from time to time, as one or more separate bond issues or consolidated with any other issue of bonds and notes authorized to be issued by the City Council, as term bonds or serial bonds, through a public offering or a private placement, on a competitive or negotiated basis, or some combination of any of the foregoing, all as the Director of Finance shall determine to be appropriate in his sole discretion.

2. That the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to establish, determine and approve the form, dates, maturities (with the last maturity not to exceed the maximum term permitted by law), denominations, interest rates, places of payment, provisions for early redemption, with or without a premium, prior to the stated maturity date(s), and all other details, including the timing and manner of their sale and award, such approval to be conclusively evidenced by the execution thereof.

3. That the Bonds and Notes shall be executed in the name of and on behalf of the City by the Director of Finance and the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, and shall bear the City seal thereon, attested by its Clerk.

4. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental

remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

5. That in lieu of physical certificates of the Bonds and Notes, the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to undertake all acts necessary to provide for the issuance and transfer of such Bonds or Notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, and to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or Notes for and participate in the Depository Trust Company Book-Entry Only System.

6. That the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to select an underwriter, registrar, paying agent and transfer agent for the Bonds or Notes and to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or Notes heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with any offering of the Bonds or Notes for sale be and hereby is approved.

7. That if the Bonds or Notes, or any part of them, are issued on a tax-exempt basis, the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to covenant and certify that no part of the Projects shall be used directly or indirectly, in a manner that would cause the Bonds or Notes to be “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the “Code”), and that no part of the proceeds of the Bonds and Notes shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which or the investment yield on which would cause such Bonds or Notes to be “arbitrage bonds” within the meaning of Section 148 of the Code.

8. That if the Bonds or Notes, or any part of them, are issued on a tax-exempt basis, the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to covenant and agree, for the benefit of the holders of such Bonds or Notes, that the City will file any required reports and take any other action that may be necessary to insure that interest on the Bonds and Notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or Notes to be subject to federal income taxation.

9. That the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to covenant, certify and agree, for the benefit of the holders of such Bonds or Notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

10. That the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, to do or cause to be done all such acts and things, including to approve,

execute and deliver such contracts, agreements, loan agreements, investment agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments, assignments and other documents (the “ Bond Documents”), as may be necessary or advisable in order to accomplish the issuance of the Bonds and Notes, which Bond Documents may be in such form and contain such terms, conditions and provisions including, without limitation, the waiving of the City’s sovereign or governmental immunity with respect to the enforceability of any of the forgoing, as may be approved by the Director of Finance, such approval to be conclusively evidenced by his execution thereof.

11. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of such Project or for any other reason, the Director of Finance be and hereby is authorized and empowered, in the name of and on behalf of the City, in his discretion, to reallocate proceeds of the Bonds and Notes to any other Project listed on the attached Exhibit A, or to any other project or improvement that the City Council has approved or may in the future approve as part of the City’s annual capital improvement plan.

12. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or Notes or any other Bond Document necessary or convenient to the issuance, execution and delivery of the Bonds or Notes, the person or persons then acting in such capacity, whether on an interim or acting basis, as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

13. That if any of the officers or officials of the City who have signed or sealed the Bonds or Notes shall cease to be such officers or officials before the Bonds or Notes so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or Notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or Notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or Notes, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or Notes any such person shall not have been such officer or official.

14. That the Bonds or Notes authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes.

15. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any Notes issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or Notes is extinguished.

16. That if any of the Bonds or Notes are issued through the State of Maine Clean Water Revolving Loan Fund (CWSRF), the following resolutions required by Section C(4)(e) of the CWSRF Rules, Chapter 595 (the “SRF Regulations”), administered by the Department of Environmental Protection and the Maine Municipal Bond Bank (the “Bond Bank”), be and hereby are adopted:

- a. That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established;
- b. That the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards;

- c. That a final accounting shall be made to the Bond Bank of the total cost of each Project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built;
- d. That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan;
- e. That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee;
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged;
- g. That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment;
- h. That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient;
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project; and
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

17. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

18. That the City may pay certain costs of the Projects prior to the issuance of the Bonds and Notes (referred to as "original expenditures"); to that end, the City hereby declares its official intent to reimburse itself for such original expenditures from the proceeds of such bonds and notes, and this Resolution shall constitute the City's declaration of official intent pursuant to Treasury Regulation §1.150-2.

FY24 Capital Improvement Plan
New Project Authorizations & Funding Sources

Exhibit A

GENERAL FUND PROJECTS		FY2024	New Bond	Other	
EQUIPMENT & TECHNOLOGY		Appropriation	Authorization	Funding	
Information Technology	Server VM Storage Expansion	40,000	40,000		
Information Technology	DR Server Host New and Refresh	120,000	120,000		
Information Technology	City Hall Data Center Network Backbone	25,000	25,000		
Information Technology	UPS Battery refresh for servers across city	25,000	25,000		
Information Technology	Core Switch Replacement (Ref-C22E03)	100,000	100,000		
Information Technology	Replace 50 Enterasys Edge switches	300,000	300,000		
Parks, Rec & Public Assembly	Longfellow Playground Replacement	450,000		450,000	(1)
Police Department	New Body Cams (Hardware & Software)	515,000		515,000	(2)
FACILITIES					
Barron Center	Back Entrance Door Replacement	25,000	25,000		
Barron Center	Greenhouse Glass Replacement	32,000	32,000		
Fire Department	Riverton - Renovation Phase 2	125,000	125,000		
Fire Department	Central Fire Restroom Renovation	100,000	100,000		
Fire Department	Regional Training Facility	110,000	110,000		
Parking / Garages	Temple St Garage Brick Façade Repairs	230,000	230,000		
Parking / Garages	Temple St Deck Membrane Recoat and concrete repairs	470,000	470,000		
Parking / Garages	Elm St. Garage Sealants and Concreate Repairs levels 4 & 5	200,000	200,000		
Parks, Rec & Public Assembly	Ice Arena Foundation Leak Fix	133,000	133,000		
Parks, Rec & Public Assembly	Golf Course Improvements - Tee boxes & new ADA cart paths	150,000	150,000		
Public Buildings & Waterfront	Waterfront - P2B2 Recommended Fender system Modifications	500,000		500,000	(1)
Public Buildings & Waterfront	Passenger Elevator Modernization	300,000	300,000		
Public Buildings & Waterfront	Anderson St Facilities	150,000	150,000		
Public Buildings & Waterfront	Peaks Island - Vaulted Toilets Little John Park	130,000	130,000		
Library	Library Chiller Project	500,000	500,000		
Public Buildings & Waterfront	Waterfront - On going pile/pier work at OG and P.O.T	225,000	225,000		
PARKS & RECREATION					
Parks, Rec & Public Assembly	Deering Oaks ADA Sidewalks and Curbing - Tennis Court Rd (State to D	335,000	335,000		
Parks, Rec & Public Assembly	Preble Field Fitness Course	30,000	20,000	10,000	(3)
Parks, Rec & Public Assembly	Great Diamond Island Basketball Court Reconstruction	35,000	35,000		
Parks, Rec & Public Assembly	Clark Street, Tyng-Tate Playground Replacement and Reiche Design	150,000	150,000		
Parks, Rec & Public Assembly	Evergreen Cemetery Expansion Plan - Phase III	100,000	100,000		
Parks, Rec & Public Assembly	Riverton Tennis Conversion to Pickleball Courts	150,000		150,000	(3)
Parks, Rec & Public Assembly	Court Resurfacing: Various Tennis/Pickleball & Basketball Courts	50,000		50,000	(3)
Parks, Rec & Public Assembly	Dougherty Athletic Field - Additional Funding for Completion	145,000		145,000	(3)
Parks, Rec & Public Assembly	Lyseth Playground - Additional Funding for Completion	80,000	80,000		
Planning & Urban Developme	Congress Square Redesign	700,000	500,000	200,000	(3)
SCHOOL DEPARTMENT FACILITIES & VEHICLES					
Public Buildings & Waterfront	PPS HVAC - Steam Pipe Replacement - MMS	250,000		250,000	(4)
Schools	3 New Buses	415,000		415,000	(4)

Schools	PHS Roof and Masonry	590,000	590,000	(4)
PUBLIC WORKS				
Planning & Urban Developme	Parkside to Libbytown Pathway Phase II	140,000	140,000	
Public Works	Congress Square Intersection Delays	200,000		200,000 (5)
Public Works	Pavement Preservation Program	1,800,000	1,650,000	150,000 (5)
Public Works	Sidewalk & ADA Compliance Program	730,000	730,000	
Public Works	PACTS - MPI- Preble Street Ext from Baxter to Forest	500,000		500,000 (1)
Public Works	Libbytown Neighborhood Renewal Project	100,000	100,000	
Public Works	PACTS RTMS - Regional Signals, Communications, and Match Money fc	70,000	70,000	
Public Works	Traffic Signal Upgrades with Paving Programs	150,000	50,000	100,000 (5)
Public Works	Bike Facility Safety Improvements	50,000	50,000	
Public Works	Arterial Crossing Program	150,000	150,000	
Public Works	Water Resource Project Ineligibles (CSO Compliance-SRF Ineligibles)	300,000	300,000	
Public Works	DOT MPI - Congress St Paving (Pearl to Washington)	550,000		550,000 (1)
Public Works	Traffic Signals Upgrade Program	300,000		300,000 (5)
Public Works	Islands Improvement Program	100,000	100,000	
Public Works	RR Quiet Zone Compliance Program	10,000	10,000	
Public Works	Pedestrian and Urban Scale Street Lighting and Safety Program	140,000	140,000	
Public Works	Street Rehabilitation Program	100,000	100,000	
<u>FLEET VEHICLES</u>				
Vehicle Maintenance	PW-LR 64R - W/ McNeilus 25 Yard Rear Loader - Trash Packer	330,000	330,000	
Vehicle Maintenance	PW-Floor Scrubber / Washer - Fleet Services	35,000	35,000	
Vehicle Maintenance	PW-Tandem Axle Roll Off Truck w/ Pusher Axle - Islands	245,000	245,000	
Vehicle Maintenance	Rec.Fac.-Wide Area Mower (Toro Groundmaster or suitable equivalent	110,000	110,000	
Vehicle Maintenance	PW-Bobcat / Tool Cat - Waterfront	90,000	90,000	
Vehicle Maintenance	Rec.Fac.-Forklift for Expo	45,000	45,000	
Vehicle Maintenance	Rec.Fac.-6500 Hook 'n Go Body System w/ chip box, plow, salt/sander, dump body - Forestry	155,000	155,000	
Vehicle Maintenance	Rec.Fac.-Pump Truck for Public Restroom Cleaning	140,000	140,000	
Vehicle Maintenance	Rec.Fac.-Golf Course Applicator Sprayer REPLACEMENT	65,000	65,000	
Vehicle Maintenance	PW-Skidsteer / Bobcat Type 773T or Equivalent	120,000	120,000	
Vehicle Maintenance	Police Cruisers (07 EA) Replacement - Police - 2 Canine and 5 Patrol.	380,000	380,000	
Vehicle Maintenance	Fire Department - Remount of 2019 Ford E450 - "Medcu #3"	280,000	280,000	
Vehicle Maintenance	Parking/Garages-Small SUV AWD	40,000	40,000	
Vehicle Maintenance	Rec.Fac.-0.75 Ton Extended Cab Pickup w/ Utility Body and Lift Gate	85,000	85,000	
Vehicle Maintenance	Fire Department - 0.5 Ton Crew Cab - Short Box and Cap - "Car #9"	80,000	80,000	
Sub-Total - CIP		15,575,000	10,500,000	#####
	Public Art	50,000	50,000	
	Land Bank	50,000	50,000	
Sub-Total - General Fund Projects		15,675,000	10,600,000	#####
<u>ENTERPRISE FUND PROJECTS</u>				
<u>WATER RESOURCES - SEWER & STORMWATER</u>				
Water Resources	CMOM - Pump Station Rehabilitation	1,220,000	1,220,000	
Water Resources	CSO- Close CSO #42	750,000	750,000	
Water Resources	CSO- Hersey St and Irving St Sewer Separation	2,000,000		##### (4)

Water Resources	CSO- West End Sewer Separation	200,000	200,000	
Water Resources	CSO-Non SRF Sewer / Storm Consulting and Inspection Services	500,000	500,000	
Water Resources	ESRI Conversion to Utility Network	200,000	200,000	
Water Resources	Inflow and Infiltration Phase 3 Mitigation	1,100,000	1,100,000	
Water Resources	Center St Storm Drain - Engineering	250,000	250,000	
Water Resources	Green Infrastructure	200,000	200,000	
Water Resources	Palmer Ave Detention Basin	70,000	70,000	
Water Resources	Sagamore Village Green Infrastructure Project	375,000	375,000	
Water Resources	Western Prom Storm Drain Improvements	1,650,000	1,650,000	
Vehicle Maintenance	Pickup truck 1/2 ton O&M	50,000	50,000	
Vehicle Maintenance	Pump Station/CSO Tank Service Truck - Replacement	105,000	105,000	
Vehicle Maintenance	Low bed trailer	40,000	40,000	
Vehicle Maintenance	Fork Lift Truck	45,000	45,000	
Vehicle Maintenance	MS4 / Inspector portable camera system compatable with IBAK truck	100,000	100,000	
Sub-Total - Enterprise Fund Projects		8,855,000	6,855,000	#####
TOTAL		24,530,000	17,455,000	#####

TOTAL APPROPRIATIONS AND FUNDING SOURCES

(1)	Assigned Surplus Fund Balance	2,000,000	
(2)	Asset Forfeiture Funds	515,000	
(3)	Parks & Recreation Impact Fees	555,000	
(4)	Reallocation of available prior year CIP funds	3,255,000	
(5)	Transportation Impact Fees	750,000	
(6)	New borrowing (Enterprise Fund Debt Service Repayment)	6,855,000	
ALL OTHER	New Borrowing (General Fund Debt Service Repayment)	10,600,000	
TOTAL		24,530,000	

KATE SNYDER (MAYOR)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK DION (5)

**ORDER APPROPRIATING BOND PROCEEDS AND OTHER FUNDS IN AN AMOUNT
NOT TO EXCEED \$24,530,000 FOR
THE CITY'S FY2024 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT

1. Subject to paragraph 2 and 3 below, the sum of \$24,530,000 be and hereby is appropriated to finance the projects more particularly described in the project list for the City's FY24 Capital Improvement Program attached hereto as Exhibit A (the "FY24 CIP Project List"), as follows:
 - a. An amount not to exceed \$10,600,000 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs of the General Fund projects included in the FY24 CIP Project List;
 - b. An amount not to exceed \$6,855,000 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs of the Enterprise Fund projects included in the FY24 CIP Project List;
 - c. An additional amount not to exceed \$7,075,000 is appropriated as follows;
 - i. An amount not to exceed \$2,000,000 is appropriated from the City's Assigned Surplus Fund Balance – Capital Improvement to finance a portion of the projects so indicated in the FY24 CIP Project List;
 - ii. An amount not to exceed \$515,000 is appropriated from the City's asset forfeiture funds from the FBI to finance a portion of the projects so indicated in the FY24 CIP Project List;
 - iii. An amount not to exceed \$555,000 is appropriated from the City's Parks & Recreation Impact Fees to finance a portion of the projects so indicated in the FY24 CIP Project List;
 - iv. An amount not to exceed \$3,255,000 is appropriated and reallocated from available prior year CIP funds, to finance a portion of the projects so indicated in the FY24 CIP Project List;
 - v. An amount not to exceed \$750,000 is appropriated from the City's Transportation Impact Fees, to finance a portion of the projects so indicated in the FY24 CIP Project List;

2. The appropriations set forth in paragraphs 1(a) & (b) above are and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated in said paragraph 1(a) & (b) to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds (or notes in anticipation thereof) for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. If the actual cost of any project included in the FY24 CIP Project List differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Director of Finance is authorized, in his discretion, to reallocate proceeds of the bonds issued therefore or the other funds appropriated therefore to any other project listed on the FY24 CIP Project List or to any prior CIP project the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

FY24 Capital Improvement Plan
New Project Authorizations & Funding Sources

Exhibit A

GENERAL FUND PROJECTS		FY2024	New Bond	Other	
EQUIPMENT & TECHNOLOGY		Appropriation	Authorization	Funding	
Information Technology	Server VM Storage Expansion	40,000	40,000		
Information Technology	DR Server Host New and Refresh	120,000	120,000		
Information Technology	City Hall Data Center Network Backbone	25,000	25,000		
Information Technology	UPS Battery refresh for servers across city	25,000	25,000		
Information Technology	Core Switch Replacement (Ref-C22E03)	100,000	100,000		
Information Technology	Replace 50 Enterasys Edge switches	300,000	300,000		
Parks, Rec & Public Assembly	Longfellow Playground Replacement	450,000		450,000	(1)
Police Department	New Body Cams (Hardware & Software)	515,000		515,000	(2)
FACILITIES					
Barron Center	Back Entrance Door Replacement	25,000	25,000		
Barron Center	Greenhouse Glass Replacement	32,000	32,000		
Fire Department	Riverton - Renovation Phase 2	125,000	125,000		
Fire Department	Central Fire Restroom Renovation	100,000	100,000		
Fire Department	Regional Training Facility	110,000	110,000		
Parking / Garages	Temple St Garage Brick Façade Repairs	230,000	230,000		
Parking / Garages	Temple St Deck Membrane Recoat and concrete repairs	470,000	470,000		
Parking / Garages	Elm St. Garage Sealants and Concreate Repairs levels 4 & 5	200,000	200,000		
Parks, Rec & Public Assembly	Ice Arena Foundation Leak Fix	133,000	133,000		
Parks, Rec & Public Assembly	Golf Course Improvements - Tee boxes & new ADA cart paths	150,000	150,000		
Public Buildings & Waterfront	Waterfront - P2B2 Recommended Fender system Modifications	500,000		500,000	(1)
Public Buildings & Waterfront	Passenger Elevator Modernization	300,000	300,000		
Public Buildings & Waterfront	Anderson St Facilities	150,000	150,000		
Public Buildings & Waterfront	Peaks Island - Vaulted Toilets Little John Park	130,000	130,000		
Library	Library Chiller Project	500,000	500,000		
Public Buildings & Waterfront	Waterfront - On going pile/pier work at OG and P.O.T	225,000	225,000		
PARKS & RECREATION					
Parks, Rec & Public Assembly	Deering Oaks ADA Sidewalks and Curbing - Tennis Court Rd (State to D	335,000	335,000		
Parks, Rec & Public Assembly	Preble Field Fitness Course	30,000	20,000	10,000	(3)
Parks, Rec & Public Assembly	Great Diamond Island Basketball Court Reconstruction	35,000	35,000		
Parks, Rec & Public Assembly	Clark Street, Tyng-Tate Playground Replacement and Reiche Design	150,000	150,000		
Parks, Rec & Public Assembly	Evergreen Cemetery Expansion Plan - Phase III	100,000	100,000		
Parks, Rec & Public Assembly	Riverton Tennis Conversion to Pickleball Courts	150,000		150,000	(3)
Parks, Rec & Public Assembly	Court Resurfacing: Various Tennis/Pickleball & Basketball Courts	50,000		50,000	(3)
Parks, Rec & Public Assembly	Dougherty Athletic Field - Additional Funding for Completion	145,000		145,000	(3)
Parks, Rec & Public Assembly	Lyseth Playground - Additional Funding for Completion	80,000	80,000		
Planning & Urban Developme	Congress Square Redesign	700,000	500,000	200,000	(3)
SCHOOL DEPARTMENT FACILITIES & VEHICLES					
Public Buildings & Waterfront	PPS HVAC - Steam Pipe Replacement - MMS	250,000		250,000	(4)
Schools	3 New Buses	415,000		415,000	(4)

Schools	PHS Roof and Masonry	590,000	590,000	(4)
PUBLIC WORKS				
Planning & Urban Developme	Parkside to Libbytown Pathway Phase II	140,000	140,000	
Public Works	Congress Square Intersection Delays	200,000		200,000 (5)
Public Works	Pavement Preservation Program	1,800,000	1,650,000	150,000 (5)
Public Works	Sidewalk & ADA Compliance Program	730,000	730,000	
Public Works	PACTS - MPI- Preble Street Ext from Baxter to Forest	500,000		500,000 (1)
Public Works	Libbytown Neighborhood Renewal Project	100,000	100,000	
Public Works	PACTS RTMS - Regional Signals, Communications, and Match Money fc	70,000	70,000	
Public Works	Traffic Signal Upgrades with Paving Programs	150,000	50,000	100,000 (5)
Public Works	Bike Facility Safety Improvements	50,000	50,000	
Public Works	Arterial Crossing Program	150,000	150,000	
Public Works	Water Resource Project Ineligibles (CSO Compliance-SRF Ineligibles)	300,000	300,000	
Public Works	DOT MPI - Congress St Paving (Pearl to Washington)	550,000		550,000 (1)
Public Works	Traffic Signals Upgrade Program	300,000		300,000 (5)
Public Works	Islands Improvement Program	100,000	100,000	
Public Works	RR Quiet Zone Compliance Program	10,000	10,000	
Public Works	Pedestrian and Urban Scale Street Lighting and Safety Program	140,000	140,000	
Public Works	Street Rehabilitation Program	100,000	100,000	
<u>FLEET VEHICLES</u>				
Vehicle Maintenance	PW-LR 64R - W/ McNeilus 25 Yard Rear Loader - Trash Packer	330,000	330,000	
Vehicle Maintenance	PW-Floor Scrubber / Washer - Fleet Services	35,000	35,000	
Vehicle Maintenance	PW-Tandem Axle Roll Off Truck w/ Pusher Axle - Islands	245,000	245,000	
Vehicle Maintenance	Rec.Fac.-Wide Area Mower (Toro Groundmaster or suitable equivalent	110,000	110,000	
Vehicle Maintenance	PW-Bobcat / Tool Cat - Waterfront	90,000	90,000	
Vehicle Maintenance	Rec.Fac.-Forklift for Expo	45,000	45,000	
Vehicle Maintenance	Rec.Fac.-6500 Hook 'n Go Body System w/ chip box, plow, salt/sander, dump body - Forestry	155,000	155,000	
Vehicle Maintenance	Rec.Fac.-Pump Truck for Public Restroom Cleaning	140,000	140,000	
Vehicle Maintenance	Rec.Fac.-Golf Course Applicator Sprayer REPLACEMENT	65,000	65,000	
Vehicle Maintenance	PW-Skidsteer / Bobcat Type 773T or Equivalent	120,000	120,000	
Vehicle Maintenance	Police Cruisers (07 EA) Replacement - Police - 2 Canine and 5 Patrol.	380,000	380,000	
Vehicle Maintenance	Fire Department - Remount of 2019 Ford E450 - "Medcu #3"	280,000	280,000	
Vehicle Maintenance	Parking/Garages-Small SUV AWD	40,000	40,000	
Vehicle Maintenance	Rec.Fac.-0.75 Ton Extended Cab Pickup w/ Utility Body and Lift Gate	85,000	85,000	
Vehicle Maintenance	Fire Department - 0.5 Ton Crew Cab - Short Box and Cap - "Car #9"	80,000	80,000	
Sub-Total - CIP		15,575,000	10,500,000	#####
	Public Art	50,000	50,000	
	Land Bank	50,000	50,000	
Sub-Total - General Fund Projects		15,675,000	10,600,000	#####
<u>ENTERPRISE FUND PROJECTS</u>				
<u>WATER RESOURCES - SEWER & STORMWATER</u>				
Water Resources	CMOM - Pump Station Rehabilitation	1,220,000	1,220,000	
Water Resources	CSO- Close CSO #42	750,000	750,000	
Water Resources	CSO- Hersey St and Irving St Sewer Separation	2,000,000		##### (4)

Water Resources	CSO- West End Sewer Separation	200,000	200,000	
Water Resources	CSO-Non SRF Sewer / Storm Consulting and Inspection Services	500,000	500,000	
Water Resources	ESRI Conversion to Utility Network	200,000	200,000	
Water Resources	Inflow and Infiltration Phase 3 Mitigation	1,100,000	1,100,000	
Water Resources	Center St Storm Drain - Engineering	250,000	250,000	
Water Resources	Green Infrastructure	200,000	200,000	
Water Resources	Palmer Ave Detention Basin	70,000	70,000	
Water Resources	Sagamore Village Green Infrastructure Project	375,000	375,000	
Water Resources	Western Prom Storm Drain Improvements	1,650,000	1,650,000	
Vehicle Maintenance	Pickup truck 1/2 ton O&M	50,000	50,000	
Vehicle Maintenance	Pump Station/CSO Tank Service Truck - Replacement	105,000	105,000	
Vehicle Maintenance	Low bed trailer	40,000	40,000	
Vehicle Maintenance	Fork Lift Truck	45,000	45,000	
Vehicle Maintenance	MS4 / Inspector portable camera system compatable with IBAK truck	100,000	100,000	
Sub-Total - Enterprise Fund Projects		8,855,000	6,855,000	#####
TOTAL		24,530,000	17,455,000	#####

TOTAL APPROPRIATIONS AND FUNDING SOURCES

(1)	Assigned Surplus Fund Balance	2,000,000	
(2)	Asset Forfeiture Funds	515,000	
(3)	Parks & Recreation Impact Fees	555,000	
(4)	Reallocation of available prior year CIP funds	3,255,000	
(5)	Transportation Impact Fees	750,000	
(6)	New borrowing (Enterprise Fund Debt Service Repayment)	6,855,000	
ALL OTHER	New Borrowing (General Fund Debt Service Repayment)	10,600,000	
TOTAL		24,530,000	

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 9, 2023

SUBJECT: Order 149-22/23 Amendment to Zoning Map Re: IM-b Industrial-Moderate Impact on Industrial Way - Sponsored by the Planning Board, Maggie Stanley, Chair

SPONSOR: Maggie Stanley, Chair, City of Portland Planning Board

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 3/6/2023

Final

Action 3/20/2023

Can action be taken at a later date: Yes If action cannot be taken at a later date, please explain why. Do NOT write yes or no; that will be automatically generated by the checkbox.

Does this item involve a new contract with the City: no

PRESENTATION: Maggie Stanley, Chair Planning Board; Christine Grimando, Director Planning & Urban Development; Kevin Kraft, Deputy Director Planning & Urban Development (5 minutes)

I. SUMMARY

The Planning Board recommends a zoning map amendment for 50 Industrial Way and several adjacent parcels from I-M Industrial-Moderate Impact to I-Mb Industrial-Moderate Impact to facilitate the expansion of Allagash Brewery.

II. AGENDA DESCRIPTION

On January 24, 2023, the Planning Board voted (6-1; Silk opposed) to find the proposed zoning map amendment from I-M Industrial-Moderate Impact to I-Mb Industrial-Moderate Impact to be consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the zoning map amendment for the area of land that includes 50 Industrial Way and parcels 326 B001001, 326 B005001, 326 B007001, 326 B008001, 327A A001001, 327A A007001, 327A A008001, 327A A009001, and 326 C005001. The proposed zoning map amendment application was submitted by 50 Industrial Way LLC. on behalf of Allagash Brewery. This application would facilitate the expansion of Allagash Brewery to accommodate future growth and operations over the coming decade at 50 Industrial Way in the Riverton neighborhood.

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

III. BACKGROUND

50 Industrial Way, LLC. is seeking a zoning map amendment on behalf of Allagash Brewery to change an existing I-M Industrial-Moderate impact zone to an I-Mb Industrial-Moderate Impact zone onto an approximately 4.4-acre site located at 50 Industrial Way (CBL: 326 B008001) in the Riverton neighborhood. As part of the Planning Board's review of the proposed zoning map amendment, additional parcels including 326 B001001, 326 B005001, 326 B007001, 326 B008001, 327A A001001, 327A A007001, 327A A008001, 327A A009001, and 326 C005001 were added to the proposed rezoning area, in addition to 50 Industrial Way, to establish a contiguous I-Mb zone and to provide additional development capacity for smaller industrial lots. As a result of the proposed zoning map amendment, the maximum permitted impervious surface ratio

would increase from 75% to 100%, enabling Allagash Brewery to expand its building and operations at 50 Industrial Way.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intent of the proposed zoning map amendment is to facilitate expansion of Allagash Brewery's buildings and operations at 50 Industrial Way and to provide future expansion opportunities for nearby industrial businesses. The zoning map amendment supports many of the shared goals expressed in *Portland's Plan 2030*, including economic goals such as valuing and nurturing Portland-based businesses, and promoting an economic climate that increases job opportunities and overall economic well-being. Moreover, the proposed zoning map amendment furthers economic goals of investing in, attracting, and retaining human capital to support a growing economy as well as creating economic prosperity by growing Portland's tax and employment base.

V. FINANCIAL IMPACT

The proposed code amendment will have no financial impact to the City.

VI. STAFF ANALYSIS AND BACKGROUND

A City Council Report is included as part of the City Council packet.

VII. RECOMMENDATION

At the public hearing on January 24, 2023, the Planning Board voted 6-1 (Silk opposed) to find that the proposed zoning map amendment from I-M Industrial Moderate-Impact to I-Mb Industrial Moderate-Impact is consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the Zoning Map amendment for the area of land that includes 50 Industrial Way and adjacent parcels including 326 B001001, 326 B005001, 326 B007001, 326 B008001, 327A A001001, 327A A007001, 327A A008001, 327A A009001, and 326 C005001.

VIII. LIST ATTACHMENTS

1. Industrial Way - 50 (City Council Report)
2. Attachment A - zoning map amendment boundary
3. Attachment B - Planning Board Report
4. Amendment to Zoning Map Re IM-b Industrial on Industrial Way 3.6.2023

Prepared by:

Date: 02/09/2023

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



50 Industrial Way
ZN-002236-2022
50 Industrial Way, LLC; Allagash Brewery, Applicant

Submitted to:	Mayor Snyder & City Councilors	Prepared By:	Austen Torres Davis, Planner
Council 1st Read	March 6, 2023	Date:	March 2, 2023
Council Public Hearing	March 20, 2023		

I. INTRODUCTION

50 Industrial Way, LLC. is seeking a zoning map amendment on behalf of Allagash Brewery to change an existing I-M Industrial-Moderate impact zone (I-M) to an I-Mb Industrial-Moderate Impact zone (I-Mb) for an area consisting of nine contiguous parcels as shown on the proposed zoning map amendment (Attachment A), in the Riverton neighborhood. This action is being sought to facilitate the future expansion and growth of Allagash Brewery at 50 Industrial Way.

The subject area for the rezoning consists of approximately 18 acres on nine contiguous parcels within the Turnpike Industrial Park, which includes 50 Industrial Way (CBL: 326 Boo8001). Other parcels included within the rezoning area are improved with industrial buildings containing breweries and manufacturers, as well as accessory parking and loading areas.

II. PLANNING BOARD RECOMMENDATION

On January 24, 2023 the Planning Board voted 6-1 (Silk Opposed) to recommend to the City Council adoption of the zoning map amendment (Attachment A), which includes Allagash Brewery's property located at 50 Industrial Way as well as eight adjacent parcels. In its review of the application, the Planning Board found the proposed zoning map amendment to be consistent with the City's Comprehensive Plan, *Portland's Plan 2030*. The Planning Board believed that the proposed I-Mb zone is an appropriate zone for the subject area and would add appropriate density and bulk to lots that are currently improved with industrial buildings, and accessory parking and loading areas, as well as having relatively high impervious surface ratios on smaller lots within proximity to public transit.

Over the course of the review, the Board requested that Planning staff considering expanding the I-Mb zone to encompass more lots within the Turnpike Industrial Park. At the recommendation of the Planning Board, Planning staff analyzed the existing land use and business activity of the nearby parcels including lot sizes, current development pattern, and impervious surface coverage. Staff recommended including nearby parcels that have smaller lot sizes, less than 90,000 square feet, with the exception of 81 Industrial Way (141,134 square feet), that have more intense development, and greater levels of impervious surface than adjacent parcels excluded from the proposed zoning boundary. Without providing additional development capacity through the proposed zone change, expansions or enlargements of existing businesses on these smaller lots can be physically difficult due to dimensional constraints. Nearby parcels that were excluded were larger, over 200,000 square feet, with lower levels of lot coverage and can be

expanded under the existing I-M zoning. Therefore, the Board ultimately agreed that the I-Mb zone should be expanded to encompass the smaller, more intensely developed lots and to exclude the larger lots. Board member Silk, expressed concern about the zone change because portions of the proposed zone boundary are located within the Dole Brook Urban Impaired Streams Watershed and voted not to recommend the proposed zoning map amendment. The six other present members of the Board expressed support due to the limited nature of the proposed zoning boundary encompassing the smaller more intensely developed lots, and leaving the larger lots to remain under the existing I-M zone. Additionally, the Board acknowledged that any future development would be subject to the City's water quality, stormwater management, and erosion control regulations, which were established to ensure future development improves water quality within Portland's urban environment.

III. BACKGROUND

The site, known as 50 Industrial Way was created as Lots 17, 18, and 19 as part of the Turnpike Industrial Park in 1986. The property was purchased in 2011 by 50 Industrial Way, LLC, and subsequently operated by Allagash Brewery.

Most recently, an addition to expand the brewery was approved on December 12, 2018 (PL-000063-2018).



Figure 1: 50 Industrial Way | Allagash Brewery

The intent of the rezoning is to allow Allagash to remain and expand to keep up with anticipated growth over the coming decade at their current location and to allow industrial businesses on smaller lots flexibility for future expansion. The applicant provided a conceptual development plan (Figure 2) showing possible future expansion on the site that would be facilitated by the proposed rezoning. The development contemplated is conceptual at this stage and would be subject to the city's Site Plan regulations.



Figure 2: Allagash Conceptual Development Plan

IV. EXISTING CONDITIONS AND SURROUNDING AREA

The subject property is located within the Turnpike Industrial Park and is comprised of three parcels at 50 Industrial Way, improved with a brewery, tasting room, and parking for Allagash. The site is within and bordered on all sides by the I-M zone. There are a variety of businesses nearby including four breweries (Foundation Brewing, Austin Street Brewery, Definitive Brewery, Battery Steele Brewing), a distillery, warehouses, an electrical supply store, Maine Bay Canvas, an office supply facility, and Eimskip cargo handling, and a bowling alley. The site has approximately 1,000 feet of frontage on Industrial Way, which intersects with Riverside Street about 300 feet from the western edge of the property. Riverton Trolley Park, Riverside Recycling Center, and Riverside Golf Course are nearby across Riverside Street to the west. The Turnpike Industrial Park is adjacent to Interstate I-95 to the east. The overall character of the surrounding area is industrial, though commercial uses are clustered to the south around the intersection of Riverside Street and Forest Avenue and include a Hannaford's grocery store, gas station with associated convenient store, and auto body shop. The site is accessible to public transportation along Forest Avenue including GP Metro routes 2 and 3, as well as the Lakes Region Bus. Portions of the rezoning area are located within the Dole Brook Urban Impaired Streams Watershed.

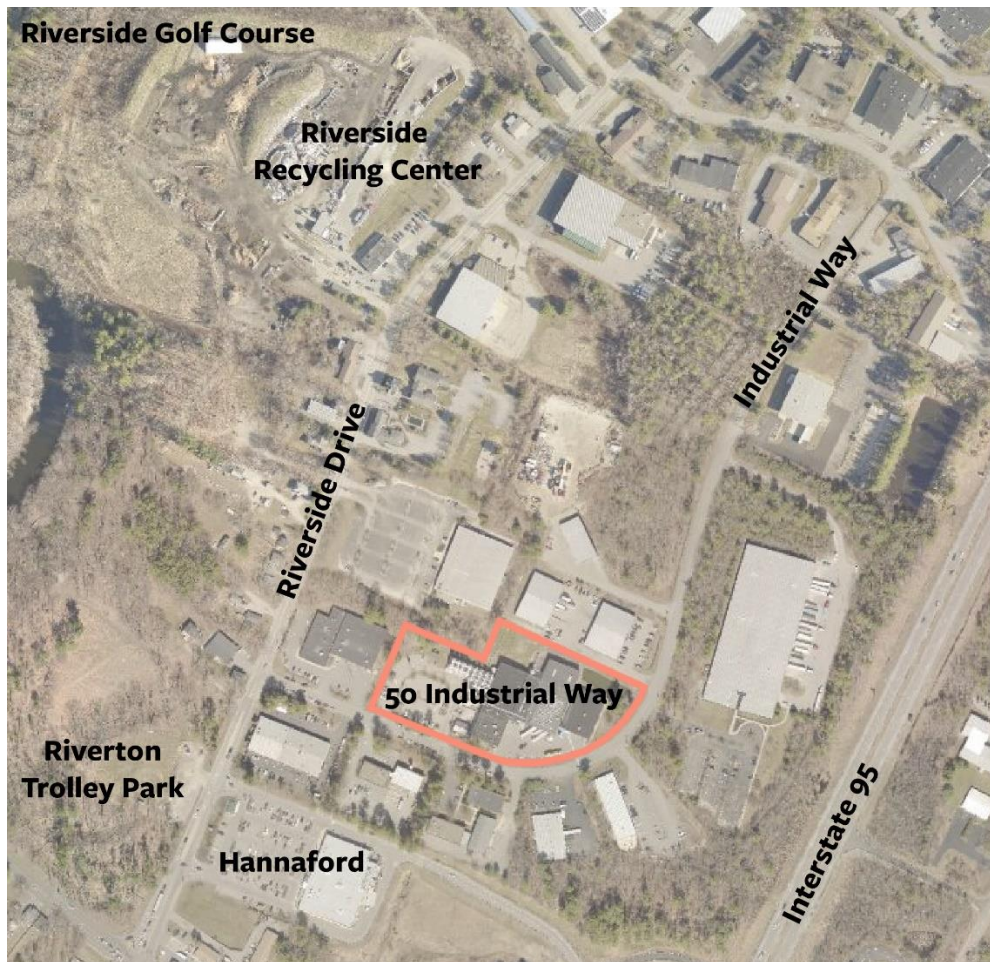


Figure 3: 50 Industrial Way & Surrounding Context



Figure 4: Adjacent Businesses at 1 Industrial Way

V. PROPOSED MAP AMENDMENT

The proposed zoning map amendment would change an existing I-M Industrial-Moderate impact zone (I-M) to an I-Mb Industrial-Moderate Impact zone (I-Mb) for an area consisting of nine contiguous parcels as shown on the proposed zoning map amendment (Attachment A).

The existing I-M Industrial-Moderate Impact zone is a moderate-density industrial zone mapped in locations throughout the city, primarily off-peninsula close to arterials and highway connections, particularly along the I-95 corridor and Riverside Street. The I-M zone permits a variety of industrial, commercial/services, and institutional uses, including low-impact industrial uses (bakeries and breweries), as well as warehousing and distribution, and laboratory and research facilities. Buildings have a maximum height of 75 feet, with a front setback of one foot for each foot of building height, and rear and side setbacks of one foot for each foot of building height up to 25 feet or 35 feet when abutting a residential zone. The maximum impervious surface ratio is 75 percent and the minimum pavement setback is 10 feet.

The proposed I-Mb zone is currently mapped within the Valley Street neighborhood in the southwestern portion of the Portland Peninsula along St. John Street and Valley Street. In the I-Mb zone, the same uses are permitted as the I-M zone, except for correctional pre-release facilities, which are not permitted in the I-Mb zone. Buildings have a maximum height of 75 feet. There are no front setback requirements. Rear and side setbacks are not required except when abutting a residential zone, buildings shall be setback 25 feet. The maximum impervious surface ratio is 100 percent and the minimum pavement setback is 10 feet. Additionally, uses in both I-M and I-Mb zones are subject to performance standards in Section 6.8 of the City's Land Use Code.

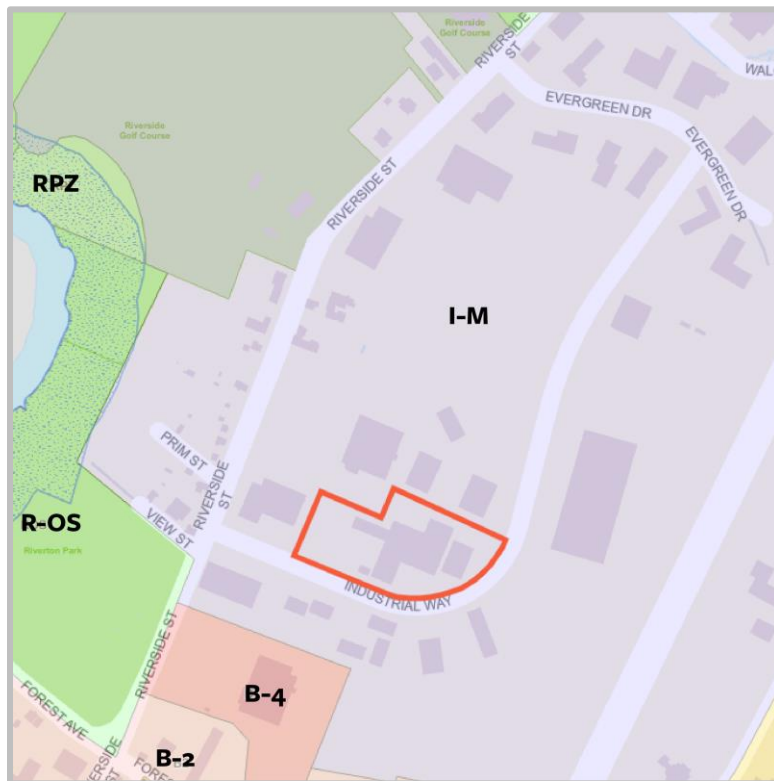


Figure 5: Existing Zoning Map & 50 Industrial Way Parcel

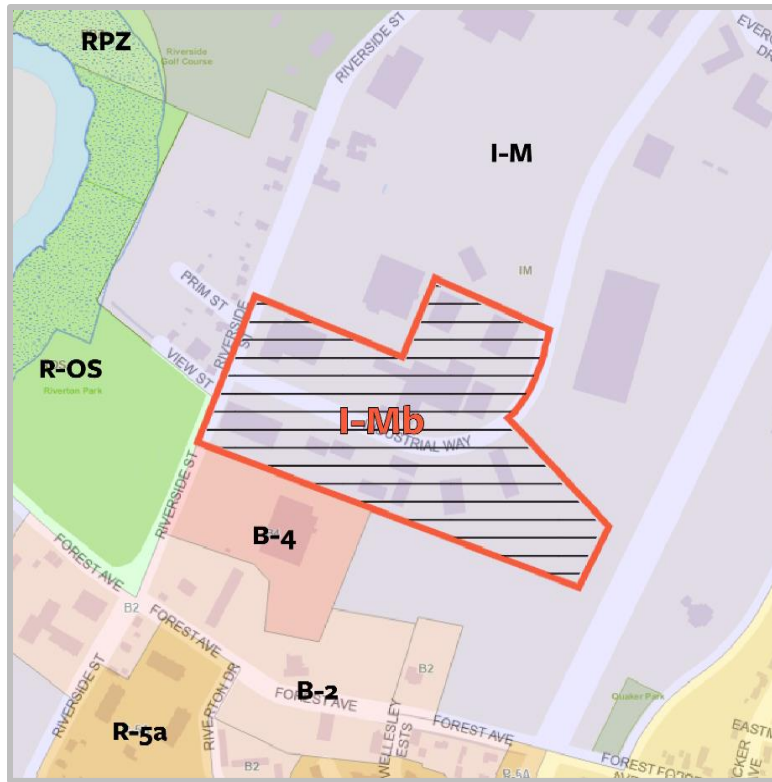


Figure 6: Proposed Zoning Map Boundary to I-Mb

I-M and I-Mb Industrial Moderate-Impact Zone

In 1996, a series of changes to all the city's industrial zones led to the establishment of the I-M and I-Mb zones. The I-Mb zone was created to accommodate sites that were more intensely developed and built out. At that time the I-Mb zone was mapped along the St. John Street corridor. The City's Land Use Code describes the purpose of the I-M and I-Mb Industrial-Moderate Impact zones as:

"To provide zones in areas of the city in which low- and moderate-impact industries and transportation-related uses will coexist. I-M and I-Ma zones are located on arterials or collectors. The I-Mb zone is similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The purpose of the I-M, I-Ma and I-Mb industrial zones is also to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in these moderate-impact industrial zones may require separation from higher-impact uses."

The table below shows a side-by-side comparison of the dimensional requirements of each zone. The highlighted rows indicate where the two zones have different dimensional requirements.

DIMENSIONAL STANDARDS	I-M	I-Mb
Lot area (min.)	None	None
Street frontage (min.)	60 ft.	60 ft.
Lot width (min.)	None	None

Front setback (min.)	(1 ft. for each ft. of building height)	None
Rear setback (min.)	(1 ft. for each ft. of building height up to 25 ft., except 35 ft. when abutting residential zones)	None, except 25 ft. when abutting residential zones
Side setback (min.)	(1 ft. for each ft. of building height up to 25 ft., except 35 ft. when abutting residential zones)	None, except 25 ft. when abutting residential zones
Structure height (max.)	75 ft.	75 ft.
Lot coverage (max.)	None	None
Impervious surface ratio (max.)	75%	100%
Pavement setback (min.)	10 ft.	10 ft.

VI. COMPREHENSIVE PLAN CONSISTENCY

Portland's Plan 2030

Several aspects of the proposed map amendment to I-Mb Industrial-Moderate Impact are consistent with the Comprehensive Plan. The Comprehensive Plan highlights the importance of creating prosperity by growing the tax and employment base, as well as valuing and nurturing Portland-based businesses and supporting industries with high-growth/high-value potential. The Comprehensive Plan also acknowledges that physically integrated transportation systems provide for the city's growth, and a well-connected system is more efficient and resilient. Riverside Street and along the I-95 corridor are areas where industrial businesses have been able to grow and thrive in Portland while having access to multiple transportation networks. By increasing the ability for industrial businesses to expand the proposed rezoning supports future land use goals of encouraging orderly growth and development in appropriate areas of each community, while protecting the state's rural character, making efficient use of public services, and preventing development sprawl (*Portland's Plan 2030, pg. 78*). Relevant Comprehensive Plan goals have been excerpted below:

Economic:

- State Goal: Promote an economic climate that increases job opportunities and overall economic well-being.
- Promote an economic climate that increases job opportunities and overall economic well-being.
- Value and nurture Portland-based businesses.
- Value innovation and creativity as cornerstones of the local economy and as central to Portland's uniqueness and diversity.
- Invest in, attract, and retain human capital to support a growing economy.
- Create economic prosperity by growing Portland's tax and employment base.
- Respect that our unique quality of place is key to our current and future economic success

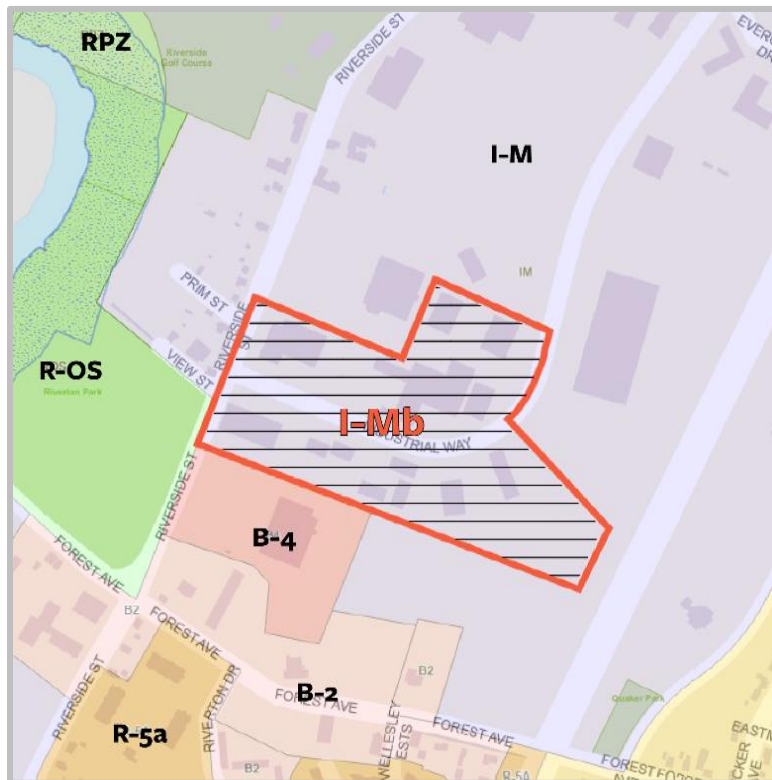
Transportation:

- Support the economic vitality by ensuring the efficient movement of goods, services, and people.

VII. PLANNING BOARD RECOMMENDATION

Following a workshop held on December 13, 2022, the Planning Board considered the proposed Zoning Map Amendment at a public hearing on January 24, 2023. After deliberation, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted 6-1 (Silk opposed) to find that the proposed Zoning Map Amendment from I-M to I-Mb is consistent with the Comprehensive Plan and recommended adoption to the City Council:

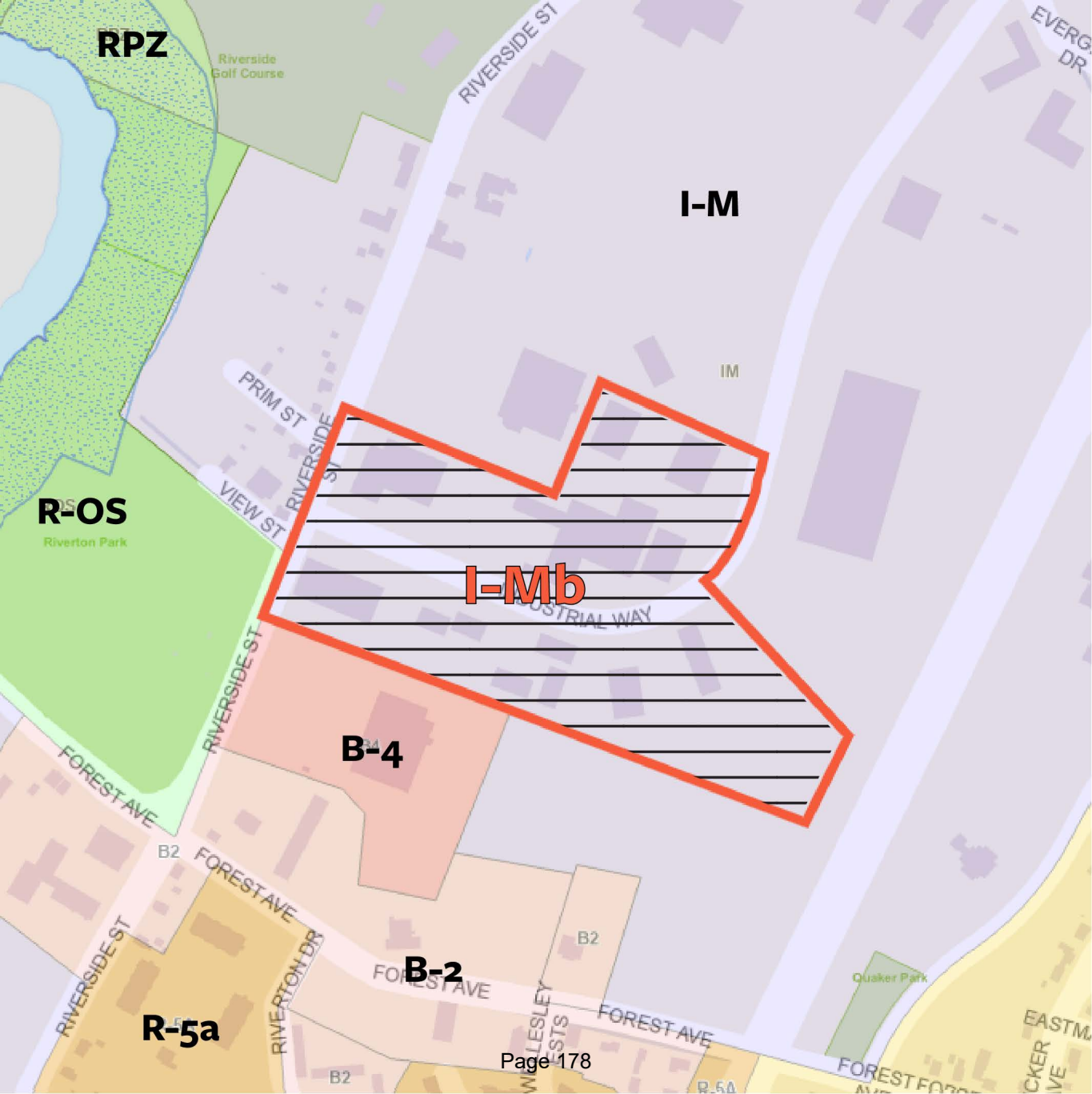
1. Zoning Map Amendment from I-M to I-Mb for the area of land as shown below:



VIII. ATTACHMENTS

Staff Attachments

- A. Proposed Zoning Map Amendment
- B. Planning Board Report



RPZ

Riverside
Golf Course

RIVERSIDE ST

I-M

IM

PRIM ST

RIVERSIDE ST

VIEW ST

R-OS

Riverton Park

I-Mb

INDUSTRIAL WAY

B-4

FOREST AVE

B2

FOREST AVE

B-2

FOREST AVE

B2

R-5a

RIVERSIDE ST

RIVERTON DR

Page 178

WILLESLEY STS

FOREST AVE

Quaker Park

FOREST AVE

EASTM

CKER
VE

50 Industrial Way Rezoning from IM to I-Mb
50 Industrial Way
Zoning Map Amendment
ZN-002236-2022
50 Industrial Way, LLC.; Allagash Brewery, Applicant

Submitted to:	Portland Planning Board	Prepared By:	Austen Torres Davis
Public Hearing Date:	January 24, 2023	Date:	January 20, 2023



Figure 1: Aerial Image of 50 Industrial Way Showing Property Line.

I. INTRODUCTION

50 Industrial Way, LLC. is seeking a zoning map amendment on behalf of Allagash Brewery to change an existing I-M Industrial-Moderate impact zone to an I-Mb Industrial-Moderate Impact zone onto an approximately 4.4 acre site located at 50 Industrial Way (CBL: 326 0008001) in the Riverton neighborhood. This action is being sought as Allagash Brewery is approaching the maximum allowable impervious surface ratio for the I-M zone as prescribed in Land Use Code Article 7 Table 7-G. The maximum allowable impervious ratio in the I-M zone is 75%, while the maximum in the I-Mb is 100%. Therefore, in order to expand operations and accommodate future growth on-site this change is being sought.

The Planning and Urban Development Department mailed 44 notices advertising this meeting to interested parties and property owners within 1,000 feet of the site. The legal advertisement ran in the January 13 and 14, 2023 editions of the *Portland Press Herald*.

Planning Board Workshop December 13, 2022

The Planning Board held a workshop on the proposed zoning map amendment on December 13, 2022. The Planning Board, in its deliberations, expressed broad support for the proposed zoning map amendment from I-M to I-Mb for the subject parcel as well as the proposed expanded boundary that included adjacent parcels. In reviewing the proposed expanded boundary, the Planning Board questioned why more parcels

were not included and requested that Planning staff consider expanding the I-Mb zone boundary to encompass additional properties within the Turnpike Industrial Park. At the recommendation of the Planning Board, Planning staff analyzed the existing land use and business activity of the nearby parcels including lot size, current development pattern, and impervious area coverage and subsequently added one adjacent parcel, 81 Industrial Way, which is also operated by the applicant. The included parcels have smaller lot sizes, less than 90,000 square feet, with the exception of 81 Industrial Way (141,134 square feet), and have more intense development, and greater rates of impervious surface than adjacent excluded parcels. Without providing additional development capacity through the proposed zone change, expansions or enlargements of existing businesses on these smaller lots can be physically difficult due to dimensional standard constraints. Nearby parcels including 125 Industrial Way (480,918 square feet), 126 Industrial Way (241,321 square feet), 867 Riverside Street (234,222 square feet), 921 Riverside Street (282,704 square feet), and 969 Riverside Street (230,868 square feet) have larger lots with lower levels of lot coverage and can be expanded under the existing I-M zoning. Therefore, for parcels outside of the proposed zone boundary it is recommended to maintain the existing I-M zone at this time.

The included parcels are similar in impervious surface ratio, averaging 55.15%, as compared to 44.38% within the Turnpike Industrial Park. The parcels included in the staff's map amendment recommendation include:

Included Parcels	Impervious Surface Ratio
326 B001001	73%
326 B005001	3%
326 B007001	71%
326 B008001	61%
327A A001001	65%
327A A007001	67%
327A A008001	55%
327A A009001	37%
326 C005001	63%

Additionally, a member of the public requested clarification on how the concept of a pavement setback works. In response, Planning staff explained that a pavement setback is a space on a lot which is required to be maintained open, and unoccupied from impervious surfaces such as asphalt, for parking, or interior site circulation purposes. Pavement setback requirements do not apply to entrance drives or buildings.

Applicant: 50 Industrial Way, LLC.; Allagash Brewery

Applicant Representative: Kylie Mason, Stefanie Nichols; Sebago Technics

II. PROJECT DATA

Existing Zoning	I-M Industrial – Moderate Impact
Proposed Zoning	I-Mb Industrial – Moderate Impact
Existing Use	Manufacturing – Brewery
Proposed Use	Manufacturing – Brewery

III. BACKGROUND & EXISTING CONDITIONS

The site now known as 50 Industrial Way was created as Lots 17, 18, and 19 as part of the Turnpike Industrial Park in 1986. The property was purchased in 2011 by 50 Industrial Way, LLC, and subsequently operated by Allagash Brewery. Most recently, an addition to the brewery was approved on December 12, 2018 (PL-000063-2018).

The subject property is comprised of three parcels at 50 Industrial Way, improved with a brewery, tasting room, and parking. The site is within and bordered on all sides by the I-M zone. There are a variety of businesses nearby including four breweries, a distillery, warehouses, and a bowling alley. The site has frontage on Industrial Way, which intersects with Riverside Street about 300 feet from the western edge of the property. Riverton Trolley Park, Riverside Recycling Center, and Riverside Golf Course are nearby across Riverside Street to the west. The Turnpike Industrial Park is adjacent to Interstate I-95 to the east. The overall character of the surrounding area is industrial, though commercial uses are clustered to the south around the intersection of Riverside Street and Forest Avenue and include a Hannaford's grocery store and gas station with associated convenient store. The site is accessible to public transportation along Forest Avenue including GP Metro routes 2 and 3, as well as the Lakes Region Bus.



Figure 2: 50 Industrial Way in Neighborhood Context



Figure 3: 50 Industrial Way Conceptual Site Plan

IV. CONCEPTUAL DEVELOPMENT PROPOSAL

The proposed rezoning from I-M to I-Mb would facilitate the expansion of the Allagash Brewery building and operations. The intent of this rezoning is to allow Allagash to remain at their current location and expand to keep up with anticipated growth over the coming decade, rather than requiring relocation of their operations elsewhere. This action is being sought as Allagash Brewery is approaching the maximum allowable impervious surface ratio for the I-M zone as prescribed in Land Use Code Article 7 Table 7-G. The maximum allowable impervious ratio in the I-M zone is 75%, while the maximum in the I-Mb is 100%. Therefore, in order to expand operations on-site this change is being sought.

The development contemplated in this application is conceptual at this stage – no site plan application has yet been submitted - though the current 50 Industrial Way map amendment application package submitted by the applicant includes a conceptual plan showing the potential expansion that this map amendment would facilitate. (See attached Plan 3). Should the proposed rezoning be approved by the City Council, a site plan application would be submitted by the applicant addressing applicable land use standards.

V. PROPOSED ZONING MAP AMENDMENT

Allagash Brewing Company has submitted an application requesting a zoning map amendment to change their 50 Industrial Way property from an I-M Industrial-Moderate Impact zone to an I-Mb Industrial-Moderate Impact zone (Compare Figures 4 and 5).

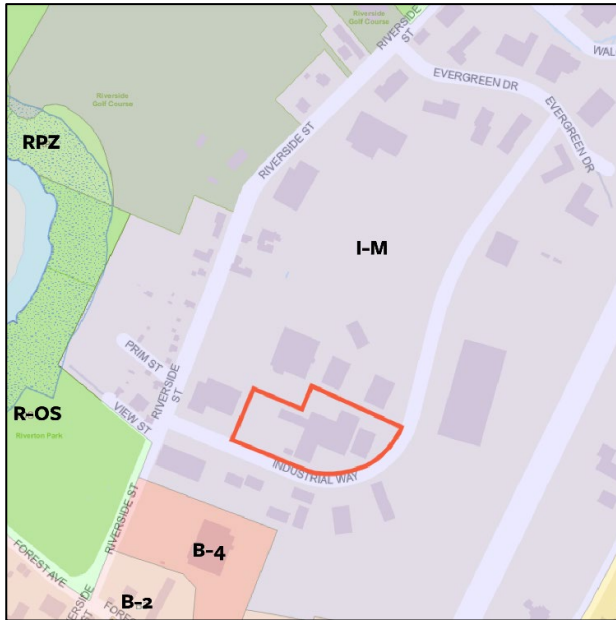


Figure 5: 50 Industrial Way Existing Zoning Context

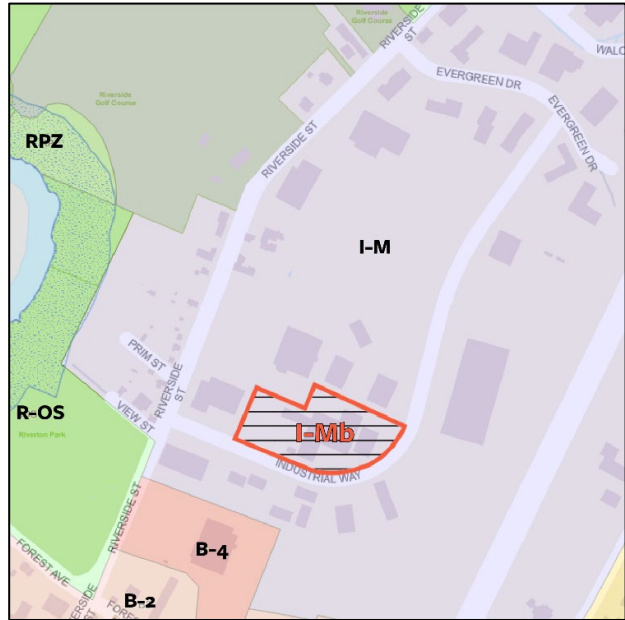


Figure 4: 50 Industrial Way Proposed Map Amendment

At the Planning Board's December 13th workshop, Planning staff recommended that the Board consider expanding the zoning map amendment to include the following adjacent parcels: 326 B001001, 327A A009001, 327A A008002, 327A A007001, 327A A001001, 326 B007001, 326 B005001, and 326 C005001 (See Figure 6). Subsequently, the applicant requested an additional parcel, 326 C005001, be included in the map amendment (Figure 7). Therefore, the proposed zoning map amendment before the Board is shown in

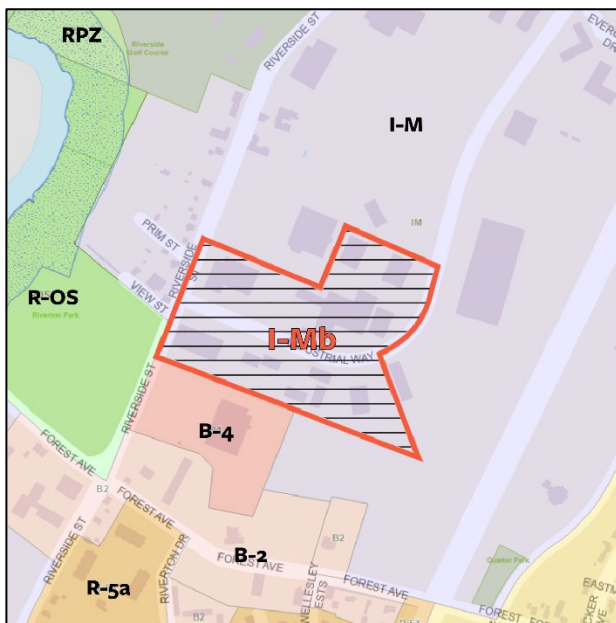


Figure 6: Recommendation as of December 13 Workshop

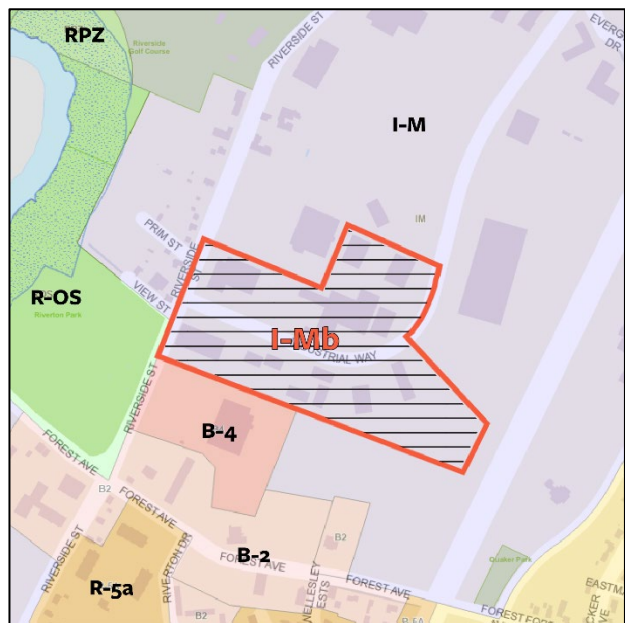


Figure 7: Recommendation as of January 24 Hearing

Figure 7 and includes both the staff recommendation at the December 13th workshop and the addition of parcel, 326 Co05001.

VI. ZONING ANALYSIS

Existing Versus Proposed Zoning: I-M Industrial-Moderate Impact, and I-Mb Industrial-Moderate Impact

The I-M Industrial-Moderate Impact zone is a moderate-density mixed-use zone mapped in locations throughout the city, primarily off-peninsula close to arterials and highway connections, particularly along the I-95 corridor. Throughout Portland, the I-M zone totals about 1,308 acres. The I-Mb zone is significantly less widespread throughout the city, existing only within the Valley Street neighborhood in the southwestern portion of the Portland Peninsula. The I-Mb zone is also significantly smaller than the I-M zone, totaling about 20.77 acres. In 1996, a series of changes to all the city's industrial zones led to the establishment of the I-Mb zone to accommodate sites that were more intensely developed and built out. At that time the I-Mb zone was mapped along the St. John Street corridor.

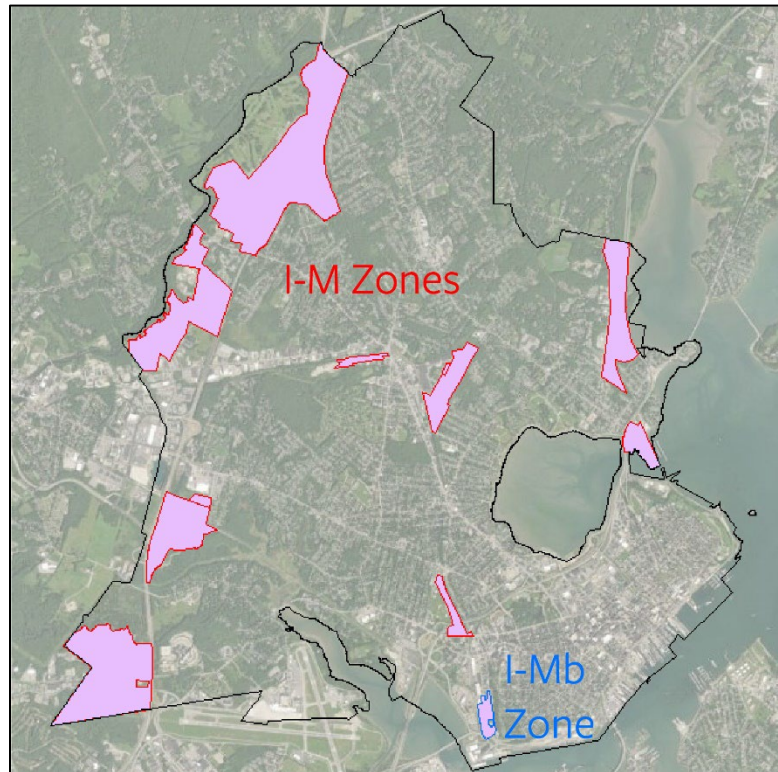


Figure 6: Distribution and Size of I-M & I-Mb Zones

The I-M and I-Mb zones allow a variety of industrial, commercial/services, and institutional uses, including low-impact industrial (bakeries and breweries), as well as warehousing and distribution, and laboratory and research facilities. However, they vary in terms of building form that is promoted through the dimensional requirements.

The City's zoning code describes the purpose of the I-M and I-Mb Industrial-Moderate Impact zones as:

"To provide zones in areas of the city in which low- and moderate-impact industries and transportation-related uses will coexist. I-M and I-Ma zones are located on arterials or collectors. The I-Mb zone is similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The purpose of the I-M, I-Ma and I-Mb industrial zones is also to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in these moderate-impact industrial zones may require separation from higher-impact uses."

The purpose statement of the I-M and I-Mb promotes moderate-impact industries and transportation-related uses that can coexist and are in locations that provide for direct access onto arterials. While the purpose statement references that the I-Mb zone is mapped on the peninsula, the intention does not preclude the zone from being expanded in appropriate areas. Staff have conducted an analysis comparing the proposed I-Mb zone requirements with the existing I-M zone and have highlighted the differences in the tables below.

Use Summary:

The existing I-M zoning district permits a range of institutional, commercial, and industrial uses. These include low-impact industrial uses, which do not include the processing of raw materials or salvaging operations. Instead, low-impact industrial uses involve manufacturing, packaging, assembly, and distribution of previously processed materials. Businesses that fit in this category range in operations from bakeries and breweries to machine shops and tree nurseries. In addition to these industrial operations that are generally compatible with adjacent residential and commercial zones, the I-M zone allows miscellaneous uses such as solar and wind generation, general office, laboratory and research facilities, and lumber yards. The I-Mb zone permits the same uses as the I-M zone except for correctional pre-release facilities, which are not permitted in the I-Mb zone.

Table 1 provides a comparison of the permitted uses between existing and proposed zone. Uses marked with a 'P', are permitted uses in the zone. A 'C' indicates a conditional use, otherwise uses are not permitted. Highlighted in yellow shows any changes between zones

TABLE 1: PERMITTED AND CONDITIONAL USES IN I-L Industrial & B-2 Business Community Zones		I-M	I-Mb
Institutional	Airports		
	Preschool facilities	P	P
	Emergency shelters	C	C
	Intermediate care facilities	P	P
	Places of assembly (<10,000 SF)		
Commercial	Bars		
	General offices (<5,000 SF)	P	P
	General offices (>5,000 SF)	P	P
	General services (<5,000 SF)		
	General services (>5,000 SF)		
	Hotels		
	Recreation and amusement centers	P	P
	Repair services	P	P
	Restaurants		
Industrial	Animal-related services		
	Construction & engineering services	P	P
	Dairies	P	P
	Fish waste processing		
	Food & seafood processing, packing, and distribution	P	P
	High-impact industrial uses		

	Intermodal transportation facilities	P	P
	Laboratory and research facilities	P	P
	<i>Low-impact industrial</i>	P	P
	Lumber yards	P	P
	Marijuana cultivation facility (<2,000 SF plant canopy)	P	P
	Marijuana cultivation facility (2,000-7,000 SF plant canopy)	P	P
	Marijuana cultivation facility (>7,000 SF plant canopy)	P	P
	Marijuana manufacturing facility	P	P
	Marijuana testing facility	P	P
	Printing and publishing	P	P
	Recycling and solid waste disposal facilities	P	P
	Studios for artists and craftspeople	P	P
	Telecommunication towers (ground-mounted)	P	P
	Tow lots	P	P
	Warehousing, storage, and distribution facilities	P	P
Other	Correctional pre-release facilities	P	
	Marinas	P	P
	Solar energy system (minor)	P	P
	Solar energy system (major)	P	P
	Utility substations	P	P
	Wind energy system (minor)	P	P
	Wind energy system (major)	P	P

Dimensional Requirement Summary:

The bulk of the difference between the I-M and I-Mb moderate-impact industrial zones are related to dimensional standards. Generally the I-Mb zone allows for greater lot coverage in the form of less restrictive setback and impervious surface ratio requirements.

Buildings in the I-M zone have a minimum front setback of one foot distance for every one foot of building height, while there are no front setback requirements in the I-Mb zone. Similarly, rear and side setbacks in the I-M zone are one foot in distance per one foot of building height, with 35 foot minimums if abutting residential zones. Structures in the I-Mb zone differ in that there are no rear or side setbacks unless abutting residential zones, in which case a setback of 25 feet is required. Both zones have a maximum building height of 75 feet.

The most pertinent difference between zones as related to the applicant's conceptual development proposal is that the I-M requires a maximum impervious surface ratio of 75%, whereas 100% is allowable in the I-Mb zone.

Table 2 provides a comparison of the dimensional requirements between existing and proposed zone. Highlighted in yellow shows any changes between zones

TABLE 2: Zoning Requirements by Use	I-M	I-Mb
Lot area (min.)	None	None
Street frontage (min.)	60 ft.	60 ft.
Lot width (min.)	None	None
Front setback (min.)	(1 ft. for each ft. of building height)	None
Rear setback (min.)	(1 ft. for each ft. of building height up to 25 ft., except 35 ft. when abutting residential zones)	None, except 25 ft. when abutting residential zones
Side setback (min.)	(1 ft. for each ft. of building height up to 25 ft., except 35 ft. when abutting residential zones)	None, except 25 ft. when abutting residential zones
Structure height (max.)	75 ft.	75 ft.
Lot coverage (max.)	None	None
Impervious surface ratio (max.)	75%	100%
Pavement setback (min.)	10 ft.	10 ft.

VII. COMPREHENSIVE PLAN ANALYSIS

Portland's Plan 2030

Comprehensive Plan goals and policies (state and local) relevant to the proposed zoning map amendment are included below as well as provided in the analysis submitted by the applicant (Attachment D). In the provided analysis the applicant lays out various portions of Portland's Plan 2030 that their proposal adheres to.

Several aspects of the proposed map amendment to I-Mb Industrial-Moderate Impact are consistent with the Comprehensive Plan. The Comprehensive Plan highlights the importance of creating prosperity by growing the tax and employment base, as well as valuing and nurturing Portland-based businesses and supporting industries with high-growth/high-value potential. The Comprehensive Plan also acknowledges that physically integrated transportation systems, utilities, and open spaces provide for the city's growth, and a well-connected system is more efficient and resilient. Riverside Street and along the I-95 corridor has been an area where industrial businesses have been able to grow and thrive while having access to multiple transportation networks. Relevant Comprehensive Plan goals have been excerpted below:



Figure 7: Visions of Portland's Plan 2030

Economic:

- State Goal: Promote an economic climate that increases job opportunities and overall economic well-being.
- Promote an economic climate that increases job opportunities and overall economic well-being.
- Value and nurture Portland-based businesses.
- Value innovation and creativity as cornerstones of the local economy and as central to Portland's uniqueness and diversity.
- Invest in, attract, and retain human capital to support a growing economy.
- Create economic prosperity by growing Portland's tax and employment base.
- Respect that our unique quality of place is key to our current and future economic success

Transportation:

- Support the economic vitality by ensuring the efficient movement of goods, services, and people.

VIII. NEIGHBORHOOD MEETING & PUBLIC COMMENT

As of the writing of this report no public comments have been received. A neighborhood meeting was held on December 12, 2022, with no members of the public in attendance.

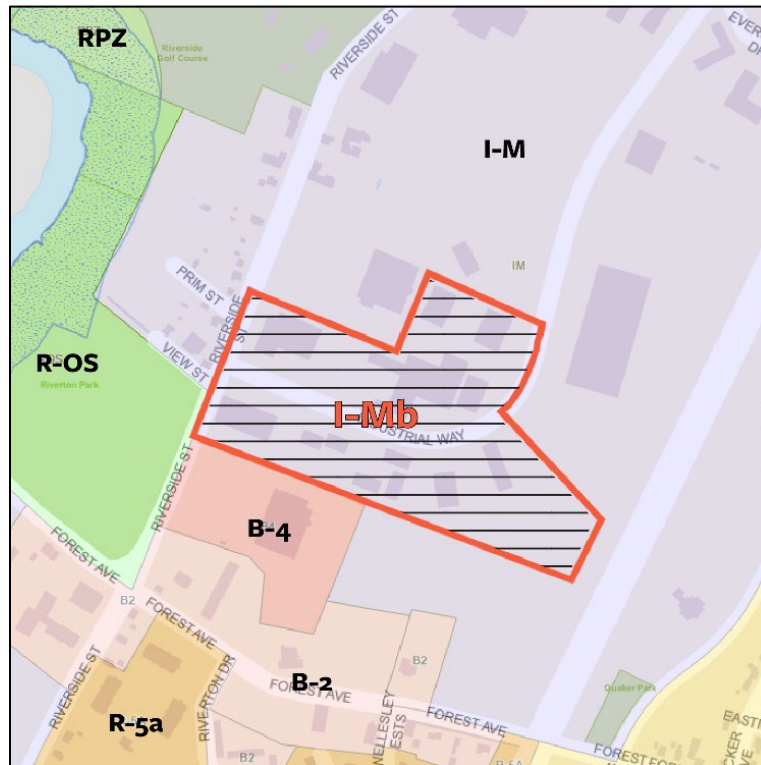
IX. REQUISITE COUNCIL ACTION

Any proposed rezoning, regardless of whether it is recommended by the Planning Board, must be approved by City Council vote in order to take effect.

X. PROPOSED MOTIONS

- On the basis of materials submitted by the applicant, the City of Portland Land Use Code, Portland's Comprehensive Plan, public comment, and the information provided in the public hearing on January 24, 2023 for the application ZN-002236-2022 (50 Industrial Way), and/or other findings, the Planning Board finds that the proposed zoning map amendment **[is/is not]** consistent with the Comprehensive Plan for the city of Portland; and therefore, the Planning Board **[recommends/does not recommend]** to the City Council adoption of the Zoning Map Amendment for the area of land that includes 50 Industrial Way and the following parcels as listed and shown below:

Parcels to be included are 326 B001001, 326 B005001, 326 B007001, 326 B008001, 327A A001001, 327A A007001, 327A A008001, 327A A009001, and 326 C005001.



Area zoning map to be amended outlined in red.

XI. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

- Review Comments & Email Correspondence

APPLICANT'S SUBMITTAL

- Project Cover Letter
- Map Amendment Application Checklist
- Right, Title, and Interest
- Consistency with Comprehensive Plan Analysis

PLANS

Plan 1. 50 Industrial Way Vicinity Maps
Plan 2. Proposed Map Amendment
Plan 3. Conceptual Master Plan

PUBLIC COMMENT

Pc1. George Rheault

KATE SNYDER (MAYOR)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

CITY OF PORTLAND IN THE CITY COUNCIL

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK DION (5)

AMENDMENT TO ZONING MAP RE: I-M TO I-Mb INDUSTRIAL MODERATE IMPACT ON INDUSTRIAL WAY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into Portland City Code Chapter 14, the Zoning Ordinance, by §1.2, be and hereby is amended pursuant to §1.10.1 by adopting the attached map amendment and specifically rezoning property in an I-M Zone to a I-Mb Industrial Moderate Impact Zone on portions of Industrial Way, as depicted in the map below.

