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 - APRIL 10, 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/88404478367?pwd=VU9GUkxzUS95bmJ5YXVOVzkrd3lMUT09
Passcode: 920275
Or One tap mobile :
US: +13052241968,,88404478367#,,,,*920275# or +13092053325,,88404478367#,,,,*920275#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 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: 884 0447 8367
Passcode: 920275
International numbers available: https://portlandmaine-gov.zoom.us/u/khqyOUONk

PLEDGE OF ALLEGIANCE:

ROLL CALL:

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

ANNOUNCEMENTS:

RECOGNITIONS:

1

APPROVAL OF MINUTES OF PREVIOUS MEETING:

City Council Meeting Minutes - March 27, 2023

PROCLAMATIONS:

Proclamation 19-22/23 Recognizing April 9-15, 2023 as Community Development Week - Sponsored by Kate Snyder, Mayor

Proclamation 20-22/23 Recognizing April 9-15, 2023 as Telecommunicator Appreciation Week - Sponsored by Danielle P. West, Interim City Manager

APPOINTMENTS:

Order 158-22/23 Appointing Patrick Ferraiolo a Constable for 2023 - Sponsored by Danielle P. West, Interim City Manager

This order appoints Patrick Ferraiolo, a Park Ranger with the Parks, Recreation & Facilities Department, a Constable for 2023, in order to enforce ordinances in the Portland City Code.

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This appointment is effective from 12:01 a.m. on January 1, 2023 until 12:00 midnight, December 31, 2023, and is made pursuant to Portland City Code, Sections 2019 and 2019.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets.

Five affirmative votes are required for passage after public comment.

Order 159-22/23 Appointing Elisa A. Marr Tax Assessor - Sponsored by Danielle P. West, Interim City Manager

Elisa A. Marr would be appointed Tax Assessor by this order at a salary of $116,467.00, with an appointment start date of April 24, 2023.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 160-22/23 Declaring April 29 to October 31, 2023 the In the Square Festival - Sponsored by Danielle P. West, Interim City Manager

With approval of this order, the Friends of Congress Square Park may organize and host events in Congress Square Park in 2023. The event season - late April through late October - will include a wide variety of community activities such as art interactions, dance performances, live music, films and community gatherings.

Five affirmative votes are required for passage after public comment.

LICENSES:

Order 161-22/23 Granting Municipal Officers' Approval of Quanto Basta, LLC, dba Quanto Basta. Application for Class I FSE with Outdoor Dining on Private Property at 249 Congress Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 3/15/23. New City and State applications. Location was previously LB Kitchen.

Five affirmative votes are required for passage after public comment.

Order 162-22/23 Granting Municipal Officers' Approval of Freedom's Edge LLC, dba Freedom's Edge Cider. Application for B/W/D On Premise Consumption with Outdoor Dining on Private Property at 31 Diamond Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 3/17/23. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 163-22/23 Granting Municipal Officers' Approval of Tangible Alchemy, LLC, dba Urban Farm Fermentory. Application for Class A Lounge with Outdoor Dining on Private Property at 200 Anderson Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 3/20/23. New City and State applications. Establishment currently holds Class III & IV FSE with Combined Entertainment and Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

Order 164-22/23 Granting Municipal Officers' Approval of LOPBURI, LLC, dba Thai Esaan. Application for Class III & IV FSE at 65 Portland Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 3/17/23. New City and State applications. Location was previously Back Bay Grill.

Five affirmative votes are required for passage after public comment.

Order 165-22/23 Granting Municipal Officers' Approval of Yam Tamblin, LLC, dba The End. Application for Class A Lounge at 229 Congress Street - Sponsored by Danielle P. West, Interim City Manager

Application was filed on 3/20/23. New City and State applications. Location was previously Dirty Dove.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

Communication 29-22/23 Regarding a Portland Board of Harbor Commissioners Rulemaking Notice - Danielle P. West, Interim City Manager

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

Communication 30-22/23 Update re: Implementation of the November 2022 Referenda - Danielle P. West, Interim City Manager

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

Communication 31-22/23 Updated Numbers re: Asylum Seeker Arrivals - by Danielle P. West, Interim City Manager

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

Communication 32-22/23 Regarding Police Response on April 1, 2023 - Interim Chief Heath Gorham, Police Department

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

RESOLUTIONS:

Resolution 7-22/23 Adopting the Fiscal Year 2023-2024 Housing and Community Development Annual Action Plan including Appropriations for the Community Development Block Grant, HOME, and Emergency Solutions Grant Programs and Certifications Pertaining Thereto - Sponsored by Danielle P. West, Interim City Manager

The 2023-2024 Housing and Community Development Program Annual Action Plan reports to the U.S Department of Housing and Urban Development (HUD) a total estimated budget of $7,025,091 (Community Development Block Grant ("CDBG") Entitlement Funds $1,843,198, $30,000 Downtown TIF funding, $20,000 Cotton St proceeds, HOME Program Grant $1,037,237, Program Income and Recapture $119,312; Lead Safe Housing Program Income $13,827; local Housing Trust Fund $3,704,156; $162,241 Emergency Solutions Grant ("ESG")funds).

The CDBG Annual Allocation Committee, appointed by the City Council, reviewed each application and made funding recommendations that will be presented to the Council. The City Manager reviewed the Committee's recommendations and submitted her funding recommendations to the Council which include recommendations for CDBG-CV funding. The Housing and Economic Development Committee reviewed the Housing Program Budget at their meeting on February 22, 2023 and voted unanimously (4-0) to recommend City Council approval of the budget.

The City's public participation process requires two public hearings to consider the City's Housing and Community Development Program proposal. The hearings allow the public to comment on the City's Consolidated Annual Action Plan. Public hearings for FY24 are set for March 20 and April 10.

This item must be read on two separate days. It received its first reading and first public hearing on March 20, 2023. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 166-22/23 Approving the Administrative Fee Increase for Parking in the Ocean Gateway Parking Lot - Sponsored by Danielle P. West, Interim City Manager

This order increases the daily parking rate in the Ocean Gateway lot from $15 to $20 per day, effective April 11, 2023. This is expected to generate an additional $120,000 in revenue each fiscal year.

To make this item effective immediately, staff is requesting that this item be passed as an

emergency. Seven affirmative votes are required for passage as an emergency after public comment.

Order 167-22/23 Accepting and Adopting the 2023 Jill C. Duson Housing Trust Fund Annual Plan - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

The Housing and Economic Development Committee met on March 21, 2023 and voted unanimously (4-0) to forward this item to the City Council with a recommendation for passage.

The Housing Trust Fund is established by Section 18.3 of the City's Code of Ordinances; Section 14-489 (e) states that "each fiscal year the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action". Issuance of the *2023 Jill C. Duson Housing Trust Annual Plan* supports the City of Portland's goal of developing affordable housing as a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth. The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing Housing Trust Funds will be accepted until all budgeted funds are allocated. Housing development recommendations will be forwarded to the City Council's Housing and Economic Development Committee for review. The Housing and Economic Development Committee recommendations will then be forwarded to the City Council for final review and approval.

Housing Trust Fund resources should focus on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income (i.e. $55,850 for a four person household) or projects designated to create housing affordable to households earning up to 100% of the area median income (i.e. up to $111,700 for a four person household) with a preference for households earning up to 50% of the area median income. Housing project recommendations will be forwarded to the City Council's Housing and Economic Development Committee for review.

The funding budget is based on the balance of $4,204,156 in the Housing Trust Fund as of March 1, 2023. The Housing Trust Fund designs to maintain a minimum balance of $500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. In addition to the funding noted above, the Portland City Council allocated $1,000,000 from the first tranche of American Rescue Plan Act (ARPA) funding and $4,110,000 from the second tranche of ARPA funding for housing development. These funds are to be administered through the Jill C. Duson Housing Trust Fund.

The funding available from the Jill C. Duson Housing Trust Fund is $3,704,156 ($4,204,156 less $500,000) plus $5,110,000 for a total of $8,814,156.

Five affirmative votes are required for passage after public comment.

Order 168-22/23 Approving the 2023 Affordable Housing Development and Tax Increment Financing Application - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

The Housing and Economic Development Committee met on March 21, 2023 and voted unanimously (4-0) to forward this item to the City Council with a recommendation for passage.

The City of Portland has made the development of affordable housing a priority, as identified in the City of Portland's 2022-2026 HUD 5-year Consolidated Plan, City Council Common Goals, and the Comprehensive Plan. To accomplish this priority, the City of Portland issues the *Affordable Housing Development and Tax Increment Financing Application* RFP for the allocation of city resources budgeted for the development of affordable housing. The application establishes the goals for distribution of funds and/or the designation of an affordable housing TIF.

The goal for the distribution of HOME and HTF funds, or the designation of an Affordable Housing TIF district, is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Priority for the use of HOME Program funds is for rental housing for households earning at or below 50% of the area median income (i.e. $55,850 for a four-person household). Priority for the use of the Jill C. Duson Housing Trust Funds is to support public/private partnerships that create units affordable for households earning up to 100% of the area median income (i.e. $111,700 for a four-person household) with preference for households earning 50% of the area median income or below. Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) is to support projects receiving assistance through the Low Income Financing Program (LIHTC) or projects that create units affordable for households earning up to 100% of the area median income with preference for households earning 50% of the area median income or below.

Issuance of the 2023 Affordable Housing and Tax Increment Financing Application supports the City of Portland's goal of developing affordable housing as a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth. The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing HOME and/or Housing Trust Funds will be accepted until all budgeted funds are allocated.

The City of Portland is making available a combination of FY 2023-2024 HUD Home Investment Partnership Program (HOME) funds and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval. The estimated total funding available is $9,272,426 ($458,270 (HOME) + $8,814,56 (HTF)).

Five affirmative votes are required for passage after public comment.

Order 169-22/23 Granting an Easement to Central Maine Power at Portland Ocean Terminal for Casco Bay Lines Expansion - Sponsored by Danielle P. West, Interim City Manager

Traffic and pedestrian management at the entrance of Casco Bay Road from Commercial Street was recently expanded to accommodate better traffic and pedestrian flow. In order to expand the entrance, Casco Bay Lines demolished the utility "Finger Building" portion of the Portland Ocean Terminal (POT), which was located on City property. The Finger Building was the utility building that housed electrical, water, gas, and some telecommunications utilities. As a result of the demolition, all of those utilities were relocated into the side of the warehouse building at the POT. This easement to Central Maine Power is required in order upgrade the electrical utilities that will provide power for the Casco Bay Lines hybrid electric ferry. The Casco Bay Lines expansion project is currently under construction.

To make this item effective immediately, staff is requesting that this item be passed as an emergency. Seven affirmative votes are required for passage as an emergency after public comment.

Order 170-22/23 Accepting and Appropriating Federal Aviation Administration Administered Airport Improvement Program and Airport Infrastructure Federal Fiscal Year 2023 Grants - Sponsored by Danielle P. West, Interim City Manager

This item accepts and appropriates entitlement grant funding of approximately $8.96 million in Airport Infrastructure Grant (AIG) and Airport Improvement Program (AIP) funds administered by the Federal Aviation Administration (FAA) for federal fiscal year 2023. The AIG and AIP program grants will cover 90 percent of eligible project costs; the remaining 10 percent or $896,000 of eligible project costs will be split equally between the state of Maine and local Jetport funds. Additionally, the Jetport is requesting $940,000 be appropriated from the Jetport's unrestricted fund balance to cover ineligible expenses associated with these projects. The Jetport will use this appropriation, totaling $10.8 million, for the following projects:

- Air Rescue and Fire Fighting (ARFF) station improvements;
- replacement of an Air Rescue and Fire Fighting (ARFF) 1,500 gallon truck;
- design for taxiway A rehabilitation;
- northwest terminal apron extension;
- south general aviation apron extension;
- central air handler replacement;
- inbound baggage carousel replacement; and
- passenger boarding bridge replacement.

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

AMENDMENTS:

Order 171-22/23 Amendment to Portland City Code Chapter 9 Re: Clean Elections - Sponsored by Kate Snyder, Mayor

In November 2022, voters passed a referendum (City Charter Revision Question 3) requiring the City Council to establish and fully fund a Clean Election Fund, as well as to enact a Campaign Finance ordinance.

If passed, Article V would establish a Clean Election Fund, available on a voluntary basis to candidates for the municipal offices of mayor, city council and school board, subject to the terms and requirements of this ordinance.

If passed, Article VI would enact campaign finance requirements, including: a prohibition on business entity contributions to candidates for municipal office; a prohibition on ballot question contributions and expenditures by any entity that is substantially under foreign influence; and a directive to the City Clerk to establish a searchable, online and publicly-accessible database of registrations and campaign finance reports filed with the City Clerk.

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

Order 172-22/23 Amendment to Zoning Map Re: R-6 Residential to B-3 Downtown Business at 211 Cumberland Avenue - Sponsored by the Planning Board, Maggie Stanley, Chair

On February 28, 2023, the Planning Board unanimously voted 4-0 (Stanley, Silk absent; Barker recused) to find the proposed zoning map amendment changing the parcel at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business and adding the parcel to the Downtown Height Overlay Map and eliminating it from the Bayside Height Overlay Map to be consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the proposed amendments. This application would bring the existing Franklin Towers building into conformance with zoning and allow for future renovation of the building.

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

Order 173-22/23 Amendment to Downtown Height Overlay and Bayside Height Overlay Maps Re: 211 Cumberland Avenue - Sponsored by the Planning Board, Maggie Stanley, Chair

This is a companion order to the order above.

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

Order 174-22/23 Amendment to Zoning Map Re: Repealing the C-5 Conditional Zone Agreement at 22 Park Avenue - Sponsored by the Planning Board, Maggie Stanley, Chair

On February 28, 2023 the Planning Board unanimously voted 5-0 (Stanley, Silk absent) to find the proposed zoning map amendment changing the parcel at 22 Park Avenue to a B-2b Community Business zone and terminating the existing Contract Zone to be consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the Zoning Map Amendment. This application would remove the existing residential density limitations imposed by the Contract Zone and would allow Community Housing of Maine (CHOM) to utilize all existing dwelling units within the existing building at 22 Park Avenue.

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

EXECUTIVE SESSION:

ADJOURNMENT:

ZOOM INFORMATION:

In accordance with the Remote Meeting Policy adopted by the Portland City Council, the City Council will conduct this meeting remotely. The public may attend and/or participate only remotely via Zoom.

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/84798832475?pwd=VDFzQjRRMGNXclBicm1lUm95SHphZz09
Passcode: 294734
Or One tap mobile :
US: +13052241968,,84798832475#,,,,*294734# or +13092053325,,84798832475#,,,,*294734#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 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 or +1 386 347 5053 or +1 507 473 4847
Webinar ID: 847 9883 2475
Passcode: 294734
International numbers available: https://portlandmaine-gov.zoom.us/u/kdMuxsV5bv

PLEDGE OF ALLEGIANCE:

Mayor Snyder led all present in the Pledge of Allegiance.

ROLL CALL:

Mayor Snyder called the meeting to order at 4:30pm via zoom.
City Councilors Present: Councilor Fournier, Councilor Rodriguez, Councilor Dion, Councilor Ali, Councilor Zarro, Councillor Trevorrow, Councilor Pelletier, Councilor Phillips, Mayor Snyder.

PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Mayor Snyder opened the floor for public comment. The following individuals spoke:
George Rheault (Hanover Street), Steve Woods (CEO TideSmart)

APPROVAL OF MINUTES OF PREVIOUS MEETING:

City Council Meeting Minutes- March 20, 2023

Motion was made by Councilor Zarro and seconded by Councilor Rodriguez for approval of the City Council Meeting minutes, March 27, 2023. Passage 9-0.

COMMUNICATION:

Communication 28-22/23 Regarding the Temporary/Emergency Housing Plan - Danielle P. West, Interim City Manager

Danielle West (Interim City Manager) gave a communication update regarding the Temporary/Emergency Housing Plan. As a communication, this requires no formal council action.

ADJOURNMENT:
Motion was made by Councilor Dion and seconded by Councilor Ali to adjourn. Passage 9-0 at 4:55pm.

A TRUE RECORD

_____

Ashley Rand, City Clerk

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

PROCLAMATION RECOGNIZING NATIONAL COMMUNITY DEVELOPMENT WEEK APRIL 9-15, 2023

WHEREAS, the week of April 9-15, 2023 has been designated as National Community Development Week to celebrate the Community Development Block Grant (CDBG) Program; and

WHEREAS, the CDBG Program provides annual funding and flexibility to local communities to provide decent, safe and affordable housing, a suitable living environment, and economic opportunities to low and moderate income people; and

WHEREAS, over the past three years, this community has received a total of $5,637,922 in CDBG funds and has funded numerous projects that have directly benefited Portland's citizens and neighborhoods; and

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

WHEREAS, over the past three years Portland has received a total of $3,099,593 in HOME funds and has funded a variety of housing development projects that have directly benefited citizens and neighborhoods in Portland and throughout Cumberland County;

NOW, THEREFORE, BE IT RESOLVED, that I, Kate Snyder, Mayor of the City of Portland, Maine and members of the City Council do hereby recognize the week of April 10-15, 2023, as National Community Development Week in support of these valuable programs that have made tremendous contributions to the viability of housing stock, infrastructure, public services, and the economic wellbeing of our community.

BE IT FURTHER RESOLVED, that our community urges Congress and the Biden Administration to recognize the outstanding work being done locally and nationally with CDBG by supporting increased funding for the program in the Federal Fiscal Year 2024.

Signed and sealed this 10th day of April, 2023

Kate Snyder, Mayor

City of Portland

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

PROCLAMATION RECOGNIZING APRIL 9-15, 2023 AS NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

WHEREAS, Emergencies that require police, fire or emergency medical services can occur any time; and

WHEREAS, When an emergency occurs, the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, The safety and responsiveness of Portland's police officers and firefighters is dependent upon the quality and accuracy of information obtained from residents who telephone the emergency communications center that serves the Portland, South Portland and Cape Elizabeth, Maine communities; and

WHEREAS, Public Safety Telecommunicators are the first and most critical contact our residents have with emergency services; and

WHEREAS, Public Safety Telecommunicators are a critical and vital link for our police officers and firefighters by monitoring their activities by radio, providing them with timely information, and ensuring their safety; and

WHEREAS, Public Safety Telecommunicators of the Portland Regional Communications Center have contributed substantially to protecting the public health, safety, and welfare of our community by facilitating the report of crimes, concerns about community members' welfare, treatment of medical emergencies, apprehension of criminals, and suppression of fires all while exhibiting compassion and professionalism;

NOW, THEREFORE, BE IT RESOLVED, that I, Kate Snyder, Mayor of the City of Portland, Maine and members of the City Council do hereby recognize the week of April 9 through 15, 2023 as National Public Safety Telecommunicators Week in the City of Portland in honor of those whose diligence and professionalism keep our City and citizens safe.

Signed and sealed this 10th day of April, 2023

Kate Snyder, Mayor

City of Portland

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 APPOINTING
PATRICK FERRAIOLO CONSTABLE FOR 2023

ORDERED, that Patrick Ferraiolo of the Parks, Recreation & Facilities Department is hereby appointed constable for the 2023 calendar year; and

BE IT FURTHER ORDERED, that this appointment shall be effective from the effective date of this order until 12:00 midnight, December 31, 2023; and

BE IT FURTHER ORDERED, that this appointment is pursuant to Sections 20-19 and 20-19.5, Portland City Code, and this constable is not allowed to carry a firearm, concealed or unconcealed, in the performance of duties, or to make arrests or issue parking tickets.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 30, 2023

SUBJECT: Order 159-22/23 Appointing Elisa A. Marr Tax Assessor - Sponsored by Danielle P. West, Interim City Manager

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: n/a

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

I. SUMMARY

II. AGENDA DESCRIPTION

Elisa A. Marr would be appointed Tax Assessor by this order at a salary of $116,467.00, with an appointment start date of April 24, 2023.

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. Appointing Elisa A. Marr Assessor 4.10.2023
2. Marr Resume

Prepared by:
Date: 03/30/2023

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 APPOINTING ELISA A. MARR
TAX ASSESSOR

ORDERED, that Elisa A. Marr is hereby appointed City of Portland Tax Assessor at an annual salary of $116,467.

Elisa A. Marr, CMA II #757

[redacted]

Skills

Assessing - Appraisal Software: CAMA, Northern Data Systems, Vision 6.5 – 8.1.1

Cartographic map creation - GIS Software: AutoCAD 2000i – Autodesk Map 3D, Arc View 8.0 – ArcMap 10.5, ArcPRO, ArcIMS 9.0, Trimble Geo XH, Trimble Ranger, Trimble GPS Pathfinder Office applications and collection, Terrasync, Electronic Total Station (ETS), Trimble 5700 Dual Frequency L1/L2 Receiver and Survey Controller (RTK surveying), Trimble GeoExplorer GeoXT GPS, Deed Plotter/Greenbrier Graphics, KGI Viewer

Other Software: MUNIS, MS Office Suite, VERITAS Backup Exec, Civic Plus, Legistar5, Microsoft Front Page, Article Manager, Libre Office, Open Office, MyGov.

Typing 90 WPM, Transcription

Education

University of Southern Maine – Muskie School of Public Service
September 2012-Current

- Geography/Anthropology Degree - Candidate
- GIS Certificate – 2014
- Digital Mapping – Geologic Survey – Schoodic Point - 2013
- Remote Sensing and Imaging – 2012

University of Maine Machias
January 2011

- Municipal Applications of GIS – 2011

Southern Maine Community College
October 2010

- Intro to AutoCAD

University of Southern Maine
January 2007

- Center for Real Estate Education - National USPAP

Property Tax School – Maine Revenue Services

- Certified Maine Assessor #757 – August 4, 2006
- Certified Maine Assessor Level 2 - 2018

ESRI – Acadia Research, LLC – Augusta, Maine

- ArcGIS Level I and Level II Certification - 2004

Andover College, Portland, Maine
July 1982 – May 1984

- Associate Degree
- Andover Honor Society – Member/Secretary
- National Business Honor Society – Member

Publications

- Trepanier, Elisa "Building Footprint Extraction: A Land Use Classification Comparison of Satellite Imagery vs. Orthoimagery" (2014). *Thinking Matters*. Paper 23. https://digitalcommons.usm.maine.edu/cgi/viewcontent.cgi?article=1022&context=thinking_matters

- Trepanier, Elisa "Identifying High Crime Areas Using Spatial Analysis" (2014). *Thinking Matters*. Paper 24. https://digitalcommons.usm.maine.edu/thinking_matters/24/
- Greater Portland Council of Governments and Trepanier, Elisa A., "Town of Windham, Maine Zoning Map" (2012). *Maine Town Documents*. Paper 2670. https://digitalcommons.library.umaine.edu/towndocs/2670/

Experience

Town of Windham, Maine
Assessor
December 2015- Present

- Management of the Assessing Department providing administrative and technical work valuing real estate and personal property.
- Budget and department policy development.
- Supervision of department employees (3 or 4 staff) and GIS internships.
- Conduct sales ratio studies; analyze and research market trends taking corrective action when necessary to maintain equity.
- Commercial assessments.
- Prepare municipal valuation returns, turnaround documents and tax commitment.
- Meet and correspond with taxpayers to answer questions and resolve problems; review requests for abatement; process supplemental tax bills.
- Oversee processing of all property tax programs and exemption requests.
- Interact and coordinate with other department heads, employees, the town manager, elected officials, state and federal agencies and the general public for overall management effectiveness with respect to programs and policies of the Town.
- Formally managed all GIS functions of the Town as GIS Coordinator in addition to position of Assessor.
- Conducted Town-wide revaluation: 2018; 2019; 2021; 2022.

Town of Windham, Maine
Assistant Tax Assessor/GIS Technician
April 2006 – December 2015

- Assist the tax assessor in carrying out activities within the Assessing Department. Determine assessed valuations of real and personal property; administration of personal property accounts including BETE and BETR tax programs. Meet and correspond with taxpayers to answer questions, resolve issues, analyze and research trends in property values. In the tax assessor's absence, assume all duties and responsibilities of that position. Coordinate and supervise assessing staff.
- In-house revaluation 2006. In-house update 2011.
- Develop GIS coverages, collect GPS data, and develop specialized maps as requested by various departments and committees. Maintain GIS coverages and databases including parcel data, zoning and storm water management.
- 2010-2012 – Contracted as GIS Technician to the Town of Raymond.
- Board of Assessment Review recording secretary.
- Update the Assessing and GIS web pages.
- Member Web Design Committee; Review Committee Comprehensive Plan Survey Services RFP and Facilitation Services RFP.

Town of Raymond, Maine
July 2001 – April 2006
GIS Coordinator/Information Systems Administrator

- Various administrative, clerical and technical work operating the town's computer network and updating related databases, executive assistant to town manager,

gathered information for the town's local newspaper, web site, and annual report. Acted as liaison between the town and various boards and committees;

- Maintained GIS coverages, databases and town tax maps. Comprehensive Plan maps 2004.
- Awarded three (3) GIS grants from Maine GeoLibrary Board.
- Board of Assessment Review recording secretary.
- Maintained the town website.

Town of Raymond, Maine
July 1998 – July 2001
Technical Assistant

- Technical and administrative work assisting the planning and code enforcement functions of the Town of Raymond. Met with citizens and developers to provide information, maintained accurate records and files, conducted research projects for various committees and department heads. Assessing Assistant, Recording Secretary for planning board and zoning board of appeals. Prepared and redrafted town zoning ordinances. Maintain town maps and surveys.
- Technical work operating the town's computer network and updating related databases. Maintain GIS data, maps and aerial photographs, create and print maps as requested. Assisted Web and Technology Committee.
- Appointed Deputy Clerk and Deputy Registrar.
  Promoted to Information Systems Administrator/GIS Coordinator.

Preti, Flaherty, Beliveau & Pachios, Portland, Maine
January 1986 – July 1990
Legal Secretary

- Administrative duties in corporate, commercial, real estate, securities, worker's compensation, environmental, overseas and various other areas of law. Set up corporations, prepared documents for commercial and residential real estate closings, preparation of contracts and commercial legal forms. Filed litigation documents with various court houses. Billing, transcription, arranged appointments, and retrieved information from various registries of deeds. June 1987 promoted to secretary to senior partner Richard H. Spencer, Esq.

Memberships

- MEGUG – Maine GIS Users Group
- MAAO – Maine Association of Assessing Officers – *Elected to Board of Directors 2020*
- IAAO – International Association of Assessing Officials
- NEURISA – New England Chapter of the Urban & Regional Information Systems
- Notary Public – My commission expires October 7, 2027

References

Available upon request.

References:

MEMORANDUM
City Council Agenda Item

FROM: Rusty Groh

DATE: March 16, 2023

SUBJECT: Order 160-22/23 Declaring April 29 to October 31, 2023 the In the Square Festival - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Danielle P West, Interim City Manager

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

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/10/2023 **Final Action 4/10/2023**

Can action be taken at a later date: No Organizer needs approval for planning purposes.

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

PRESENTATION: Andrew J Downs, Director of Public Assembly Facilities will be available to answer any questions.

I. SUMMARY

Order declaring Friends of the Congress Square Park "In the Square" Festival as a seasonal festival event April 29th thru October 31st 2023.

II. AGENDA DESCRIPTION

With approval of this order, the Friends of Congress Square Park may organize and host events in Congress Square Park in 2023. The event season - late April through late October - will include a wide variety of community activities such as art interactions, dance performances, live music, films and community gatherings.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Since 2014, Friends of the Congress Square Park have scheduled and organized ongoing events for Congress Square Park. Events held in the park are free to the public and have been very well received over the past decade. Visitor attendance to the park has increased dramatically since the riebnds began organizing events there. Organizers estimate more than 100,000 people have enjoyed the programming in the park since the inception of this partnership.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

For the City Council to pass the order declaring "In the Square" as a festival.

V. FINANCIAL IMPACT

Ortganizers will pay for all appropriate permit fees.

VI. STAFF ANALYSIS AND BACKGROUND

City Staff are confident that Friends of Congress Square Park can host another successful season of "In the Square".

VII. RECOMMENDATION

It is recommended that the order be declared.

VIII. LIST ATTACHMENTS

1. In the Square festival 4.10.2023

2. FOCSP Calendar
3. FOCSP Application
4. FoCSP Current Entertainment License
5. FoCSP Sound Locations In Congress Sq
6. FoCSP Sound Mitigation Plan 2023
7. FoCSP c Memo 2023 - In The Square Festival

Prepared by:
Rusty Groh
Date: 03/16/2023

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 DECLARING APRIL 29 TO OCTOBER 31, 2023 THE IN THE SQUARE FESTIVAL

ORDERED, that April 29 to October 31, 2023 is hereby declared to be the In the Square Festival, sponsored by the Friends of Congress Square Park; and

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

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

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

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

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

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

City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;

3. The Friends of Congress Square Park shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, and all Public Assembly Facilities Division fees shall apply;

4. The Friends of Congress Square Park shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the In the Square Festival;

5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, and street goods vendors for the Festival to those vendors the Friends of Congress Square Park has agreed shall participate;

6. Public Assembly Facilities Division concert license conditions shall be complied with and any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level;

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

Season Calendar-All By Date (1)

Performance	Status	Category	Day	Start Time	End Time
Public Health Week	HOLD	Wellness	First Friday	4/7/2023 5:00pm	
Classical Uprising	HOLD	Meet,Music	Saturday	4/29/2023 2:00pm	4/29/2023 4:00pm
Season Kickoff featuring Maine Ideal Band	PENDING	Music	Sunday	4/30/2023 12:00pm	
Taiko Maine Dojo (FF)	CONFIRMED	Music	First Friday	5/5/2023 5:00pm	
Jane's Walk	CONFIRMED	Meet	Saturday	5/6/2023 10:00am	
Congress Square Market	CONFIRMED	Shop	Sunday	5/7/2023 11:00am	5/7/2023 3:00pm
Pet Fashion Show	CONFIRMED		Saturday	5/13/2023 11:00am	5/13/2023 12:00pm
Queer Makers Market	CONFIRMED	Shop	Sunday	5/14/2023 11:00am	5/14/2023 3:00pm
Bike to Work Day	HOLD	Meet	Friday	5/19/2023 8:00am	5/19/2023 10:00am
Yellow Tulip Project	CONFIRMED	Meet	Saturday	5/20/2023 10:00am	5/20/2023 11:00am
Congress Square Market	CONFIRMED	Shop	Sunday	5/21/2023 11:00am	5/21/2023 3:00pm
Bookbinding Workshop	CONFIRMED	Art	Saturday	5/27/2023 1:00pm	5/27/2023 3:00pm
Silent Movie Sunday	HOLD	Film	Sunday	5/28/2023 8:30pm	
Apparatus Arts / Circus in the Square	HOLD	Circus	First Friday	6/2/2023 5:00pm	
Bookbinding Workshop rain date	HOLD	Art	Saturday	6/3/2023 1:00pm	6/3/2023 3:00pm
Congress Square Market	CONFIRMED	Shop	Sunday	6/4/2023 11:00am	6/4/2023 3:00pm
Pet Fashion Show rain date	HOLD		Saturday	6/10/2023 11:00am	6/10/2023 12:00pm
Queer Makers Market	CONFIRMED	Shop	Sunday	6/11/2023 11:00am	6/11/2023 3:00pm
Congress Square Market (do not book previous few days)	CONFIRMED	Shop	Sunday	6/18/2023 11:00am	6/18/2023 3:00pm
Hip Hop in the Park	CONFIRMED	Music	Monday	6/19/2023 6:00pm	6/19/2023 8:00pm
World Refugee Day performance	HOLD	Music		6/20/2023 5:00pm	
Swing Dancing feat. Ragtime Destroyers	CONFIRMED	Dance	Thursday	6/22/2023 8:00pm	
Juneteenth	HOLD	Meet,Art,Food	Friday	6/23/2023 11:00am	
Juneteenth	HOLD	Meet,Art,Food	Saturday	6/24/2023 11:00am	
Silent Movie Sunday	HOLD	Film	Sunday	6/25/2023 8:30pm	
Concert w/ One Longfellow Square	HOLD	Music	Thursday	6/29/2023 6:00pm	
Hula Hooping Workshop	CONFIRMED	Dance	Saturday	7/1/2023 3:00pm	7/1/2023 4:00pm
Hula Hooping Workshop rain date	HOLD	Dance	Saturday	7/2/2023 3:00pm	7/2/2023 4:00pm
Concert w/ Immigrant Welcome Center	HOLD	Music	First Friday	7/7/2023 5:00pm	
Congress Square Market	CONFIRMED	Shop	Sunday	7/9/2023 5:00pm	7/9/2023 9:00pm
Preservation Pages: Walkable City by Jeff Speck	HOLD	Meet	Tuesday	7/11/2023 6:00pm	
Circus in the Square	HOLD	Circus	Friday	7/14/2023 5:00pm	
Queer Makers Market	CONFIRMED	Shop	Sunday	7/16/2023 5:00pm	7/16/2023 9:00pm
Hip Hop in the Park	CONFIRMED	Music	Monday	7/17/2023 6:00pm	7/17/2023 8:00pm
Music / Food Festival (org. by Athena Lynch)	HOLD	Music,Food	Friday	7/21/2023 12:00pm	7/21/2023 8:00pm
Music / Food Festival (org. by Athena Lynch)	HOLD	Music,Food	Saturday	7/22/2023 12:00pm	7/22/2023 8:00pm
Congress Square Market	CONFIRMED	Shop	Sunday	7/23/2023 5:00pm	7/23/2023 9:00pm
Concert w/ One Longfellow Square	HOLD	Music	Thursday	7/27/2023 6:00pm	
Music / Food Festival (org. by Athena Lynch) rain date	HOLD	Music,Food	Friday	7/28/2023 12:00pm	7/28/2023 8:00pm
Music / Food Festival (org. by Athena Lynch) rain date	HOLD	Music,Food	Saturday	7/29/2023 12:00pm	7/29/2023 8:00pm
Silent Movie Sunday	HOLD	Film	Sunday	7/30/2023 8:30pm	
Concert w/ Immigrant Welcome Center	HOLD	Music	First Friday	8/4/2023 5:00pm	
Swing Dancing feat. Annie & The Fur Trappers	HOLD	Dance	Saturday	8/5/2023 6:00pm	
Congress Square Market	CONFIRMED	Shop	Sunday	8/6/2023 5:00pm	8/6/2023 9:00pm
50 Years of Hip-Hop presented by Graphic Melee	HOLD	Music	Friday	8/11/2023 6:00pm	

Queer Makers Market	CONFIRMED	Shop	Sunday	8/13/2023 5:00pm	8/13/2023 9:00pm
Circus in the Square	HOLD	Circus	Friday	8/18/2023 5:00pm	
Congress Square Market	CONFIRMED	Shop	Sunday	8/20/2023 5:00pm	8/20/2023 9:00pm
Hip Hop in the Park	CONFIRMED	Music	Monday	8/21/2023 6:00pm	8/21/2023 8:00pm
Silent Movie Sunday	HOLD	Film	Sunday	8/27/2023 7:30pm	
Concert w/ One Longfellow Square	HOLD	Music	Thursday	8/31/2023 6:00pm	
Concert w/ Immigrant Welcome Center	HOLD	Music	First Friday	9/1/2023 5:00pm	
Congress Square Market	CONFIRMED	Shop	Sunday	9/3/2023 11:00am	9/3/2023 3:00pm
Queer Makers Market	CONFIRMED	Shop	Sunday	9/10/2023 11:00am	9/10/2023 3:00pm
Circus in the Square	HOLD	Circus	Friday	9/15/2023 5:00pm	
Congress Square Market	CONFIRMED	Shop	Sunday	9/17/2023 11:00am	9/17/2023 3:00pm
Hip Hop in the Park	CONFIRMED	Music	Monday	9/18/2023 6:00pm	9/18/2023 8:00pm
The Shank Painters (Talk Like a Pirate Day)	CONFIRMED	Music	Tuesday	9/19/2023 6:00pm	
Tender Table	CONFIRMED	Food,Art	Saturday	9/23/2023 5:00pm	
Silent Movie Sunday	HOLD	Film	Sunday	9/24/2023 6:30pm	
Concert w/ One Longfellow Square	HOLD	Music	Thursday	9/28/2023 6:00pm	
Tender Table rain date	HOLD	Food,Art	Saturday	9/30/2023 5:00pm	
Queer Makers Market	CONFIRMED	Shop	Sunday	10/15/2023 11:00am	10/15/2023 3:00pm
All Hallows' Market	CONFIRMED	Shop	Sunday	10/22/2023 11:00am	10/22/2023 3:00pm
Costume Tea Party	HOLD	Meet	Saturday	10/28/2023 3:00pm	
Silent Movie Sunday	HOLD	Film	Sunday	10/29/2023 6:00pm	
Cozy Winter Market	CONFIRMED	Shop	Sunday	12/10/2023 11:00am	12/10/2023 3:00pm

USE of PUBLIC SPACE

APPLICATION

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

$25 APPLICATION FEE MUST BE PAID WHEN SUBMITTING APPLICATION

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

TODAY'S DATE	**3/3/2023**	**ORGANIZATION NAME**	**Friends of Congress Square Park**		
ADDRESS (Street/City/State/Zip)	PO Box 5056, Portland, ME, 04101				
CONTACT NAME(S)	**C.J. Opperthauser**	**TITLE(S)**	**Executive Director**		
PHONE	**248-961-1554**	**PHONE**		**PHONE**	
EMAIL	cjopperthauser@congresssquarepark.org	**EMAIL**		**EMAIL**	

PARK AREA / PUBLIC SPACE REQUESTED	**Congress Square Park**		
EVENT DAY(S) & DATE(S)	**April 29 - Oct 31, 2023**	**RAIN DAY(S) & DATE(S) (50% added fee)**	
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)	**Varies (see attached)**	**EVENT START & END TIME**	**Varies (see attached)**

EVENT NAME	EXPECTED ATTENDANCE

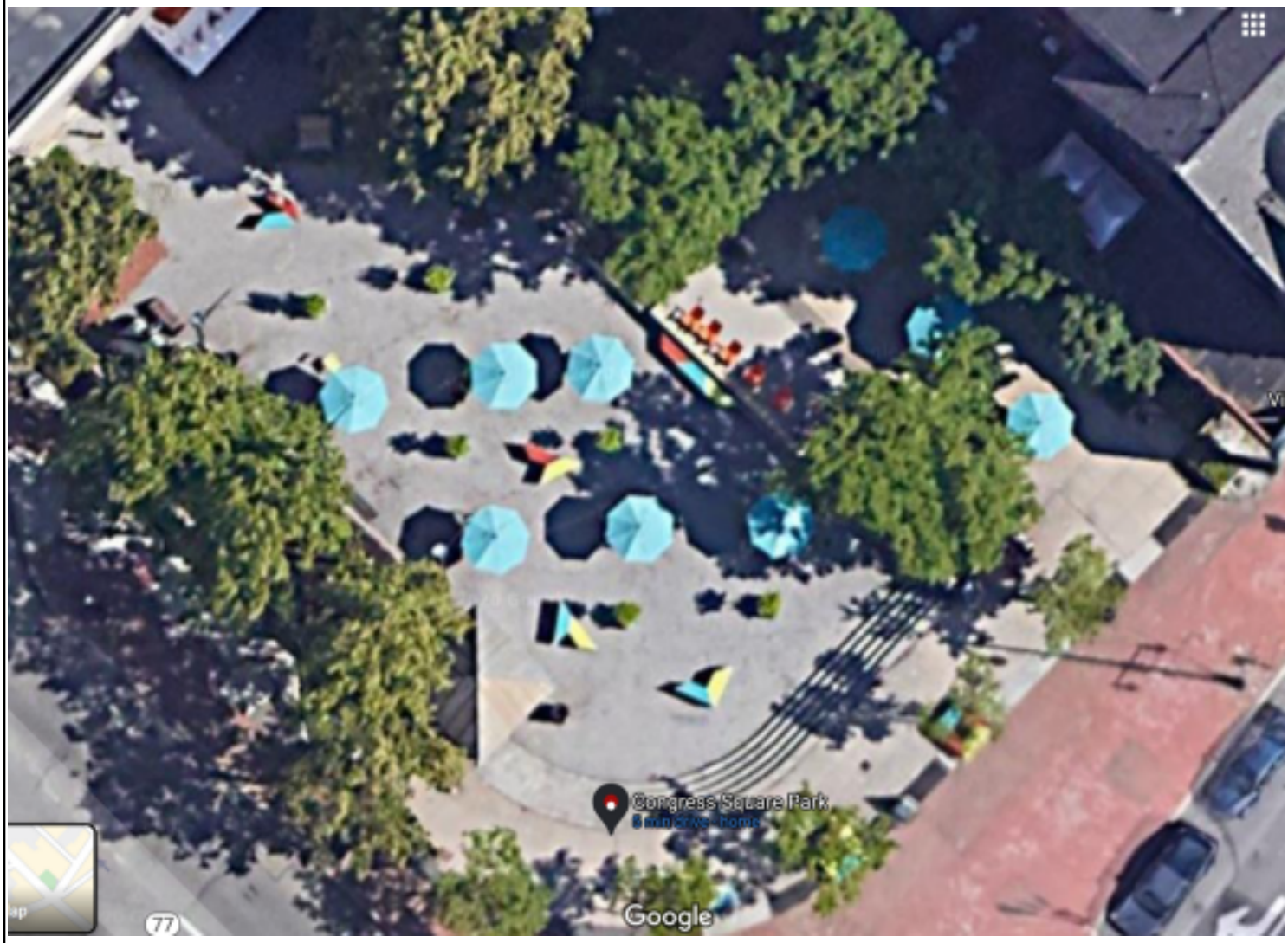
DESCRIPTION OF EVENT: Please be specific regarding area of public space/park requested and describe EVENT in detail. Please include a detailed map of the proposed event area, proposed route &/or proposed street closures when applicable.

The Friends of Congress Square Park will program a series of events and activities to occur between May 1 and October 31, 2023 primarily on Thursday, Friday, and Sunday evenings and Saturdays throughout the day. Additional daytime and evening events will occur on variable days during the week. The events and activities will be free to the public (no charge for admittance to the square).

This is the tenth season for FoCSP and continues the community led creative placemaking that has successfully activated Congress Square Park through free public amenities and events. The event season will include a wide variety of community activities such as live music, films, Tai-Chi, literary events, and community gatherings. All activities will be scheduled in advance with the PAFD Office. A complete calendar of events will be published by April 15th. A draft schedule is attached to this application. Organizers will also work with other groups during the permit period so that other agencies or events, other than FoCSP events, will also take place in the square/park.

Similar to previous years (and under the Memorandum of Understanding between City of Portland and Friends of Congress Square Park), tables and chairs will be set up on the sunken plaza area, portable planters brought into the park, temporary art will be placed with the approval of the Portland Public Art Committee, banners will be placed, and festive lights hung in the trees.

Electricity will be needed during some events. Musical equipment and PA (and movie screen) set up on the stage area. Events and concerts at the park will end by 8pm. Film screenings will go later, ending by (at the very latest) 10pm. A concert license (covering the season's events) will be procured from the PAFD Office for $100.
Events will be promoted on: Congresssquarepark.org Facebook.com/congresssquare
Instagram.com/congresssquare Twitter.com/congresssquare
A map of the space follows:



IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?	**Please check: _____ FEE _____PLEDGES**	
IF YES FOR FEES, HOW MUCH?	**FEE**	$
	STUDENT FEE	$

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

PLEASE CHECK OFF AND ANSWER:

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

		X-YES	X-NO	X-NOT SURE
*	Are you setting up a **canopy(s)?** (10'x10' size or smaller) **How many?**	x (VARIES)		
*	Do you wish to set up a **tent(s)** and/or **stage(s)?** A canopy/tent or stage larger than 10'x10' needs a Temporary Tent or Stage Permit issued by Building Inspections. For permit application, please go to: http://portlandmaine.gov/DocumentCenter/Home/View/2317 or contact the Permitting and Inspections Department at buildinginspections@portlandmaine.gov or 874-8703 for more information. PLEASE apply at least 2-weeks before your event. **Tent/Stage Size(s):** **Exact Location(s) of Tent/Stage Placement Requested:** *** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. ***		x	
*	Will you be setting up **tables and/or chairs?** How many tables: 10 chairs: 40	x		
*	Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List: A/V equipment, inflatable movie screen	x		
*	Will there be **refreshments** at the event? Do you wish to **sell food?** If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office. PLEASE provide them at least 2 weeks advance notice (874-8557). **List food and drink / Food Trucks, etc.:** PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served A TFSL is needed when food vendors are not licensed or when food is being prepared and cooked at the event.		x	
*	Do you wish to sell **non-food items** (like T-shirts, crafts, cd's, etc.)**?** If so, please apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. **List items you wish to sell:**		x	
*	Are you setting up a **PA (sound) system?** Are you planning on having **Amplified Music? Band? DJ? Boom Box?** If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.	x		
*	Will your event require **electricity**? Electricity is available at Deering Oaks Park, Monument Square, Congress Square, Tommy's Park, Post Office Park, Payson Park, Preble Street Grass Area, Eastern Prom, Fort Allen Park, and Lincoln Park. A $40 activation fee is required.	x		
*	Are you planning on bringing a **Grill for a Barbecue**? Grilling is subject to weather conditions and possibly Fire Dept. review.		x	
*	Will the event require **reserved parking spaces / parking meters**? How many**?** "No Parking" signs may be purchased at the PAFD Office, 212 Canco Rd.		x	
*	Will your event need **safety vests, signs, barricades and/or cones**? **Please list what you would like to borrow/rent:** Limited safety vests, cones & barricades may be borrowed/rented from PAFD Office. Traffic signs may be borrowed/rented from Public Works if needed (874-8493).		x	
*	Will your event require **street closures**? (Please be specific under "Description of Event") Will your event affect **METRO BUS ROUTES**? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gfenton@gpmetro.com) to discuss.		x	
*	Will your event require **Police** assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To reserve & hire an Officer(s) to be on site at your event, please visit: https://www.portlandmaine.gov/FormCenter/Police-Department-3/Portland-Police-Overtime-Request-128		x	
*	Will your event require **Fire/EMS** assistance? (For a large walk/race, it may be required.) To hire or inquire about hiring city Fire/EMS staff to be on site, please email fireprevention@portlandmaine.gov well in advance of the event. For general questions, you may also call 874-8400.		x	
*	Will your event require **Parking Control** assistance? To hire a Parking Control Officer(s) to be on site at your event, please call 874-8910 well in advance to arrange.		x	
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.				
*	Will your event require **porta-restroom** rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a $25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated Septic.		x	

INSURANCE CERTIFICATE INFORMATION				
*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	x		

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

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

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

EVENT REVIEW

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

ELECTRICITY

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

BARBECUES - GAS GRILLS ONLY

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

PORTA-RESTROOMS / BATHROOM FACILITIES

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

TRASH

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

MARKING OF GROUNDS

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

USE OF CANDLES

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

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to

provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Vehicles are prohibited from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). $25 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas will result in a forfeiture of your security deposit.**

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs ($32.50/each*). You will need to label signs and tape them to meters or signposts AT LEAST 24 HOURS PRIOR TO YOUR EVENT. (NOTE: If event is on a Sunday or Monday, NP Signs may need to be posted on the preceding Friday by Noon.) Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to sign posts, utility poles, trees, or orange cones (placed on the sidewalk beside the street). Please make sure signs are removed once the event is complete.

ALCOHOL / SMOKE-FREE ZONES

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

AMPLIFIED SOUND POLICY

Outdoor events with amplified sound may require an Entertainment License from the PAFD Office.
If the Police Dept./City Staff receive noise complaints, they will respond accordingly.
Please set the PA System up with speakers facing away from businesses/residences to lessen impact.
Please keep volume levels low out of consideration for nearby residents and businesses.
The Permittee (organizer) shall not allow the sound emanating from the event to exceed an A-weighted 85 decibels / C-weighted 95 decibels. One verbal warning shall be issued if the sound has been found to have exceeded those limits. The warning may be given to the sound board operator or the organizer/organizer's designee. If the decibel limit is found to have been exceeded a second time during the same event, the entertainment license (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELATION POLICY

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

NOTIFICATION

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

STREET CLOSURE NOTIFICATION

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

REVOCABLE PERMIT

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

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	**TYPE INITIALS**	**CO**	**DATE**	**3/3/2023**

ASSUMPTION OF RISK & LIABILITY

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

I have read the Assumption of Risk & Liability Agreement	**TYPE INITIALS**	CO	**DATE**	3/3/2023

PLEASE INITIAL & DATE HIGH-LIGHTED YELLOW BOXES ABOVE.

FEE SCHEDULE – UPDATED JULY 1, 2019 **Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.**	
Simple Event (no registration fee): $75/hour Event with registration or pledges & attendance 25 - 300: $125/hr. Event with registration or pledges & attendance 301+: $225/hr. Film/Photo Shoot: $150/day Public Space/Park Security Deposit: $100 - $1000 Sound Security Deposit: $100 - $1,000 Impact/Street Closure Fee (variable based on impact): $100-$500 Staff Fee (on site event support): $37/hr. Administrative Fee (event coordination support): $40/hr. (or more) "No Parking" Signs: $32.50/ea. Event Cancelation Fee: $75	Electricity (activation/de-activation) Fee: $40/flat Porta Restroom User Fee (if attendance is 150+): $25 Entertainment License: $50 Barricades: $5/ea. Rental Fee + $25/ea. Security Deposit Bike Racks: $10/ea. Rental Fee + $25/ea. Security Deposit Flashing Lights: $10/ea. Rental Fee + $40/ea. Security Deposit Cones: $2/ea. Rental Fee + $15/ea. Security Deposit Safety Vests: $15/ea. Security Deposit Keys: $50/ea. Security Deposit Equipment Delivery Fee: $100 (or more) Fortification Fee: TBD

CITY OF PORTLAND ACCEPTS CASH, CHECK, MONEY ORDER AND CREDIT / DEBIT CARDS FOR PAYMENT
Checks should be made payable to City of Portland There will be a 2.65% processing fee added to all Debit / Credit Card transactions.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)			
Permit Fee for use of area: Number of Hours of Use: **Approx.**	**$ waived**	Entertainment License Fee:	**$ 100 due**
		Equipment Rental Fee:	**$0**
Staff Fee (on site event support):	**$0**	Public Space / Park / Sound Security Deposit:	**$ waived**
Admin. Fee (event coordination support):	**$0**	Borrowed / Rented Equipment Deposit:	**$0**
Electricity Fee (activation/de-activation):	**$ waived**	Additional Fees: (Porta-Restroom User Fee, "No Parking" Signs, etc.)	**$ waived**
Impact/Street Closure Fee (variable based on impact):	**$0**		

FOR OFFICE USE ONLY							
APPLICATION FEE:	**$ 25.00**	PERMIT FEE:	**$**	SECURITY DEPOSIT:	**$**	INSURANCE NEEDED?	**Y / N**
DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:	

City of Portland

Permitting and Inspections Department

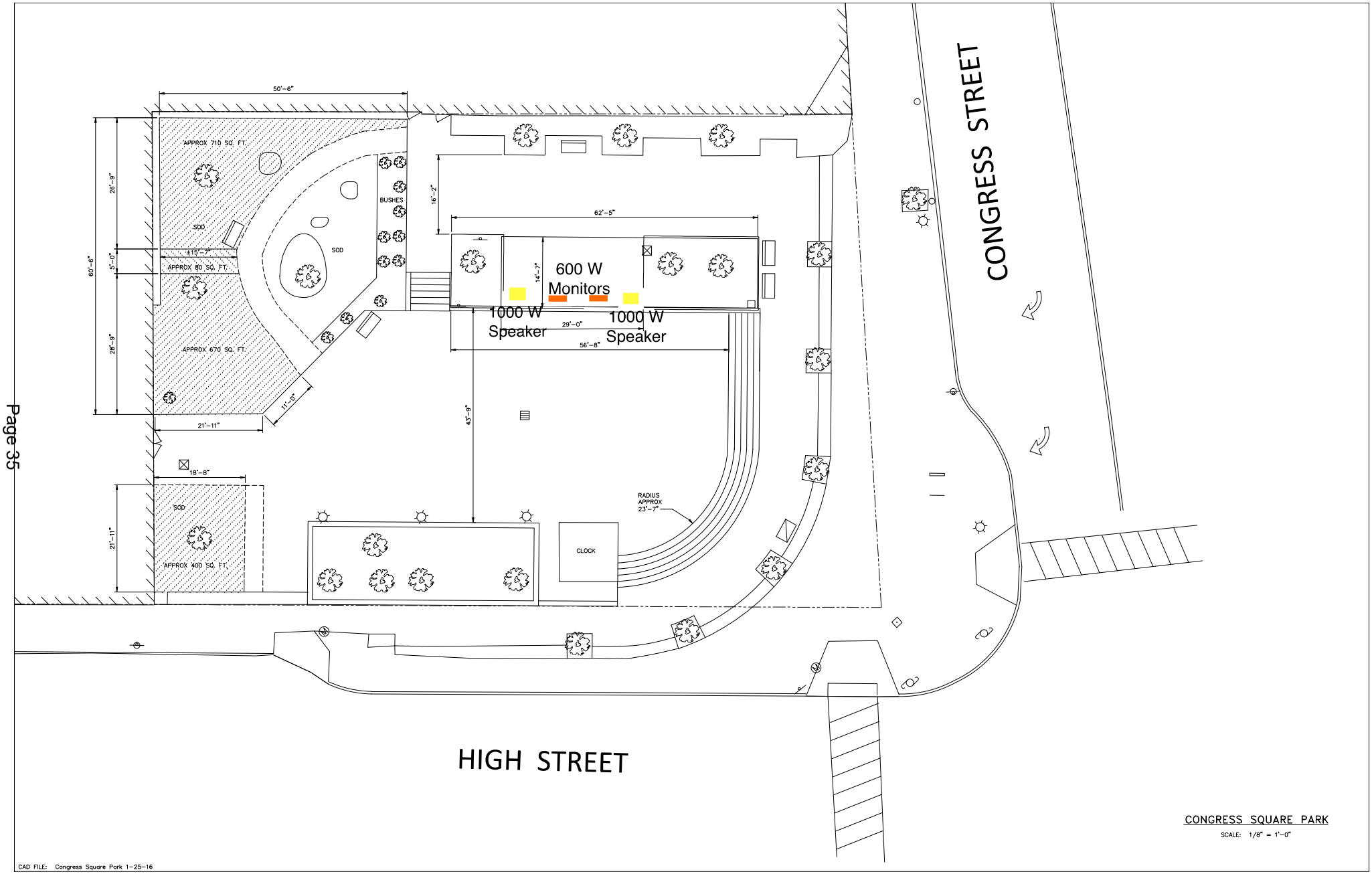
Business Name:	Congress Square Park	**Classification:**	Outdoor Entertainment
Business Location:	8 Congress Sq Portland, ME 04101	**Description:**	Fees waived
Owner:	City of Portland, PAFD		
License Number:	AMUSE-003377-2021		
Issued Date:	9/19/2022		
Expiration Date:	6/7/2023		

Jessica Blais Hanscombe,
Director of Permitting and Inspections

THIS LICENSE IS NOT TRANSFERRABLE
PLEASE POST IN A CONSPICUOUS PLACE

BILLING CONTACT

City of Portland, PAFD
212 Canco Rd
Portland, Me 04103



CONGRESS SQUARE PARK

SCALE: 1/8" = 1'-0"

CAD FILE: Congress Square Park 1-25-16

Sound Mitigation Plan
The Friends of Congress Square Park
March 2023

As part of our sound mitigation plan, the Friends of Congress Square Park (FoCSP) will take sound readings using our decibel monitoring device during all FoCSP-coordinated amplified events in Congress Square Park. We will work with our sound technicians and/or musicians, performers, or speakers to ensure compliance with the Portland City Code.

In the event that we receive a complaint related to the volume of our amplified events, we will consider the timing of the event and what we might do to satisfy the complaint in the future.

i) The Friends of Congress Square Park is the 501(c)(3) non-profit place manager of Congress Square Park, an urban public open space in downtown Portland. We seek to create an inclusive, welcoming and vibrant community gathering place accessible to all through neighborhood engagement, programming, and the arts.

Ethan Hipple
Director
Department of Parks, Recreation & Facilities Management

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Danielle West, Interim City Manager
FROM: Andrew Downs, Director of Public Assembly Facilities Division
DATE: March 14, 2023
RE: Friends of Congress Square Park "In The Square" Festival

I am requesting that the following order be placed on the next City Council agenda:

Order declaring Friends of Congress Square Park "In the Square" Festival as a seasonal festival event: April 29 – October 31, 2023.

Since 2014, the Friends of Congress Square Park have scheduled and organized ongoing events for Congress Square Park. Events held in the park are free to the public and have been very well received over the past decade. Visitor attendance to the park has increased dramatically since the Friends began organizing events there. Organizers estimate more than 100,000 people have enjoyed the programming in the park since the inception of this partnership in 2014.

This year, the Friends of Congress Square Park have again submitted a request to organize and host events at the park (titled: "In the Square"). The event season (Spring, Summer & Fall) will include a wide variety of community activities such as art interactions, dance performances, live music, films and community gatherings. Most events will be held on Thursday, Friday & Sunday evenings (with Saturdays primarily being programmed with daytime activities. Dances and concerts at the park will end by 9pm. A complete calendar of events will be published by April 15th. A draft schedule is attached to this application. The Friends of Congress Square Park - through the city's Public Assembly Facilities Division, will work with other groups during this time so that other agencies and events, other than FoCSP organized activities, may take place in the park.

Funds for running the "In the Square" Festival will come directly from fundraising efforts by the Friends of Congress Square Park. There is no admission fee to attend these events. All activities/events are free to the public.

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

(continued)

Ethan Hipple
Director
Department of Parks, Recreation & Facilities Management

Andrew J. Downs
Director
Public Assembly Facilities Division

The Order should include the following items:

Friends of Congress Square Park "In the Square" Festival will be authorized for Spring, Summer & Fall (April 29 – October 31, 2023) at the Congress Square Park area.

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

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

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

- The Friends of Congress Square Park shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This
insurance certificate will also list the City of Portland as an additional insured in regards to the **"**In the Square Festival", and the City be endorsed on the policy;

- The Friends of Congress Square Park shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the **"**In the Square Festival;"

- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division, shall be adhered to;

(continued)

Ethan Hipple
Director
Department of Parks, Recreation & Facilities Management

Andrew J. Downs
Director
Public Assembly Facilities Division

• Under no circumstances may alcoholic beverages be consumed or sold on the streets or park areas of said area during said festival;

• Any and all amplified music/public announcements shall be maintained at a reasonable level (less than an A-weighted 85 decibels / C-weighted 95 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring businesses, limiting any sound impacts in the area; and

• Public Assembly Facility Division permit fees for use of the area are waived; other fees to city departments may be due (as specified in the 2018 Memorandum of Understanding between City of Portland and Friends of Congress Square Park).

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

Document prepared by Rusty Groh, PAFD Booking Coordinator

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 23, 2023

SUBJECT: Order 161-22/23 Granting Municipal Officers' Approval of Quanto Basta, LLC, dba Quanto Basta. Application for Class I FSE with Outdoor Dining on Private Property at 249 Congress Street - Sponsored by Danielle P. West, Interim City Manager

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: N/A

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 3/15/23. New City and State applications. Location was previously LB Kitchen.

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. 2023.04.10_Quanto Basta
2. Quanto Basta_Council Packet

Prepared by:
Date: 03/23/2023

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Quanto Basta, LLC, dba Quanto Basta. Application for Class I FSE with Outdoor Dining on Private Property at 249 Congress Street

To: Mayor Snyder and Council Members
From: Quanto Basta LLC
Re: City of Portland Permitting and Inspections Department
Liquor License & Outdoor Dining Permit on Private Property
Date: March 13, 2023

Thank you for your consideration of the application for Liquor License for a Food Establishment, as well as Outdoor Dining on Private Property in the city of Portland. Quanto Basta has been operating as a food truck for the last two years, and will now be transitioning to a brick and mortar location at 249 Congress St., serving it's classic Neapolitan sourdough pizza, natural wines and spritzes, and gelato. Quanto Basta hopes to be open for business by end of May 2023.

Thank You,

Elizabeth English
Owner & Operator
Quanto Basta LLC

CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Establishment Name (d/b/a):	Quanto Basta, LLC	Phone:	(309) 231-8178
Location Address:	249 Congress St., Portland, ME	Zip:	04101
If new, what was formerly at this location:	LB Kitchen		
Mailing Address:	87 Quebec St., Portland, ME	Zip:	04101
Contact Person:	Elizabeth English	Phone:	(309) 231-8178
Contact Person Email:	info@quantobasta.me		
Manager of Establishment:	Elizabeth English Date of Birth: 02/09/88	Phone:	(309) 231-8178
Owner of Premises (Landlord):	Bryna Gootkind, BLAH Realty, LLC		
Address of Premises Owner (Landlord):	2 High Bluff Lane, Scarborough, ME	Zip:	04074

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name	Corporate Mailing Address		
Quanto Basta, LLC	87 Quebec St., Portland, ME	Zip:	04101
Contact Person:	Elizabeth English	Phone:	(309) 231-8178

Principal Officers	Title	Date of Birth	Residence Address
Elizabeth English	Owner/Operator	02/09/88	87 Quebec St., Portland, ME 04101

Class of Liquor License: ~~CLASS A Restaurant~~ (Class I) FSE

CITY OF PORTLAND

Permitting and Inspections Department

Type of food served:	PIZZA, SALAD, GELATO
Please circle all that will be served:	(Beer) (Wine) (Liquor)
Projected percentage of sales:	Generated from Food: 65% Generated from Alcohol: 35%
Hours & days of operation:	4PM - 9PM, Thurs-Sat., 11AM-3PM, Sunday, 4-9PM Mondays

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	(Y)/N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	Y(N)
Will you permit dancing after 1:00 a.m.?	Y(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	(Y)N
If yes, will the outside dining be on PUBLIC or (PRIVATE) property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y(N)
If yes, please list: # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? May 15, 2023	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	(Y)N
If Yes, please list business name(s) and location(s): Quanto Basta LLC - Mobile Food Truck	
Is any principal officer under the age of 21?	Y(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y(N)
If Yes, please explain:	

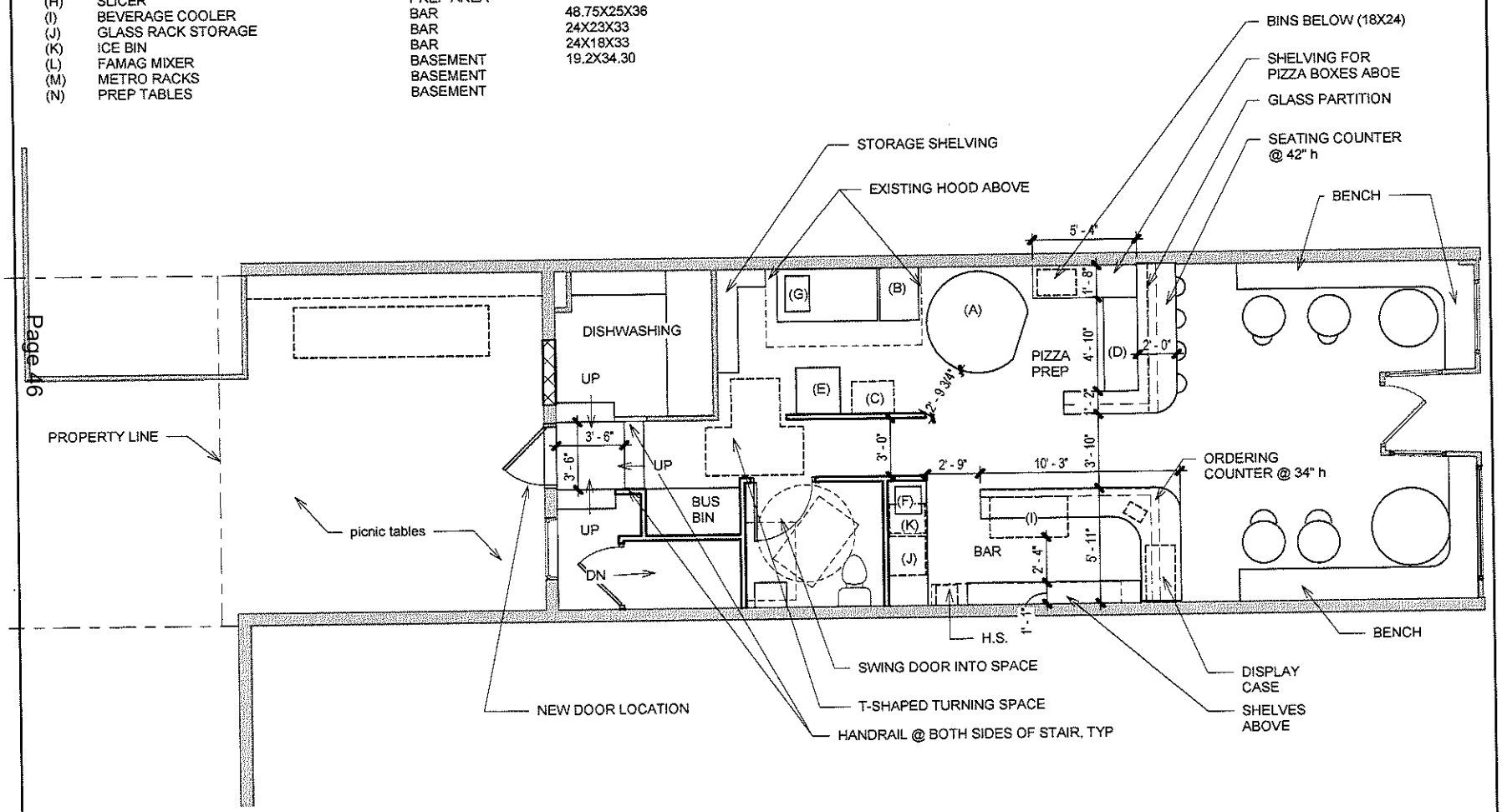
I Elizabeth English **do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require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

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

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

Signature _____ Title Owner, Operator Date 1/23/23

TAG	ITEM	LOCATION	SIZE (LXWXH)	NOTES
(A)	FORZA FORNI RPM 120 PIZZA OPEN	PIZZA AREA	63 X 59	
(B)	4 BURNER GAS STOVE	COOKING AREA	24X32.5X60.5	
(C)	MINI SPEED RACK	COOKING AREA	26X20X38	
(D)	UNDERCOUNTER LOWBOY	PIZZA AREA	71.5x29.5X35.5	**** MAX 65" WIDTH HERE*****
(E)	UNDERCOUNTER FREEZER	COOKING AREA	27X29.5X35.25	
(F)	ESPRESSO MACHINE	BAR		
(G)	COUNTERTOP ELECTRIC FRYER	COOKING AREA		
(H)	SLICER	PREP AREA		
(I)	BEVERAGE COOLER	BAR	48.75X25X36	
(J)	GLASS RACK STORAGE	BAR	24X23X33	
(K)	ICE BIN	BAR	24X18X33	
(L)	FAMAG MIXER	BASEMENT	19.2X34.30	
(M)	METRO RACKS	BASEMENT		
(N)	PREP TABLES	BASEMENT		



1 PLAN OPTION 1
3/16" = 1'-0"

choice lipham architecture | design

QUANTO BASTA INTERIOR FIT UP

SCALE:
As indicated

ISSUE
12/8/22

TITLE
PLAN OPTION 1

SHEET
A-1

DRAFT FOOD MENU - QUANTO BASTA

Spuntino (Snackies)

Giardiniera della Casa
pickled cauliflower, carrots, onions, assorted olives, celery, preserved lemon

Supplì - Cacio e Pepe
fried rice balls: carnaroli rice, onions, pecorino romano, black pepper - 2 per order

Bagna Cauda
seasonally rotating vegetable crudo, warm anchovy, lemon & butter bath
-add pizza bianca

Sourdough Napoletana Pizza

(all pizzas are roughly 12")

Pizza Rossa
tomato, garlic, parsley, marjoram, peperoncini, evool (vegan)

Margherita di Bufala
tomato, buffalo mozzarella, basil, evoo (veg)

Salsiccia
garlic confit, spicy italian sausage, broccolini ripassata, buffalo mozzarella

L'Amatriciana
concentrated tomato sauce, onions, crispy guanciale, mozzarella, black pepper, grated pecorino

The Leo
spinach cream, pickled red onions, spring onions, mozzarella, ricotta salata, lemon zest

Dolci

Espresso Granita
bay leaf gelato, pizzelle

Cookie Plate
pinoli, brutti ma buoni, biscotti

DRAFT DRINK MENU - QUANTO BASTA

SPRITZ

Aperol spritz
Negroni
Negroni Sbagliato
Rotating Seasonal Spritz

VINO NATURALE

glass pours of red, white, orange, rosato

ON DRAFT

prosecco, lambrusco, peroni, moretti, oxbow, sparkling water

ESPRESSO

ESPRESSO CON PANNA

AMARI

CITY OF PORTLAND
Permitting and Inspections Department

Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☑ Outdoor Dining on Private Property $125.00 ☑ Legal Advertisement Deposit $100.00

Business Information			
Business Name (d/b/a):	Quanto Basta, LLC	Phone:	(309) 231-8178
Location Address:	249 Congress St., Portland, ME	Zip: 04101	
Mailing Address:	87 Quebec St., Portland, ME	Zip: 04101	
Contact Person:	Elizabeth English	Phone:	(309) 231-8178
Contact Person Email:	info@quantobasta.me		
Manager of Establishment:	Elizabeth English Date of Birth: 02/09/88	Phone:	(309) 231-8178
Owner of Premises (Landlord):	Bryna Gootkind, BLAH Realty, LLC		
Address of Premises Owner:	2 High Bluff Lane, Scarborough, ME Zip: 04074		

Owner Information

Corporate Name	Corporate Mailing Address		
Quanto Basta LLC	87 Quebec St., Portland, ME Zip: 04101		
Contact Person:	Elizabeth English	Phone:	(309) 231-8178

Principal Officers	Title	Date of Birth	Residence Address
Elizabeth English	Owner, Operator	02/09/88	87 Quebec St., Portland, ME 04101

CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	~~Class A Restaurant~~ & Class I & FSE
Type of food served:	PIZZA, SALAD, GELATO
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	4-9 PM, Mon, Thurs-SAT, 11AM-3PM, Sundays
Number of Tables	
Number of Chairs	

Design and Construction

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

Maintenance and Operations

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

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

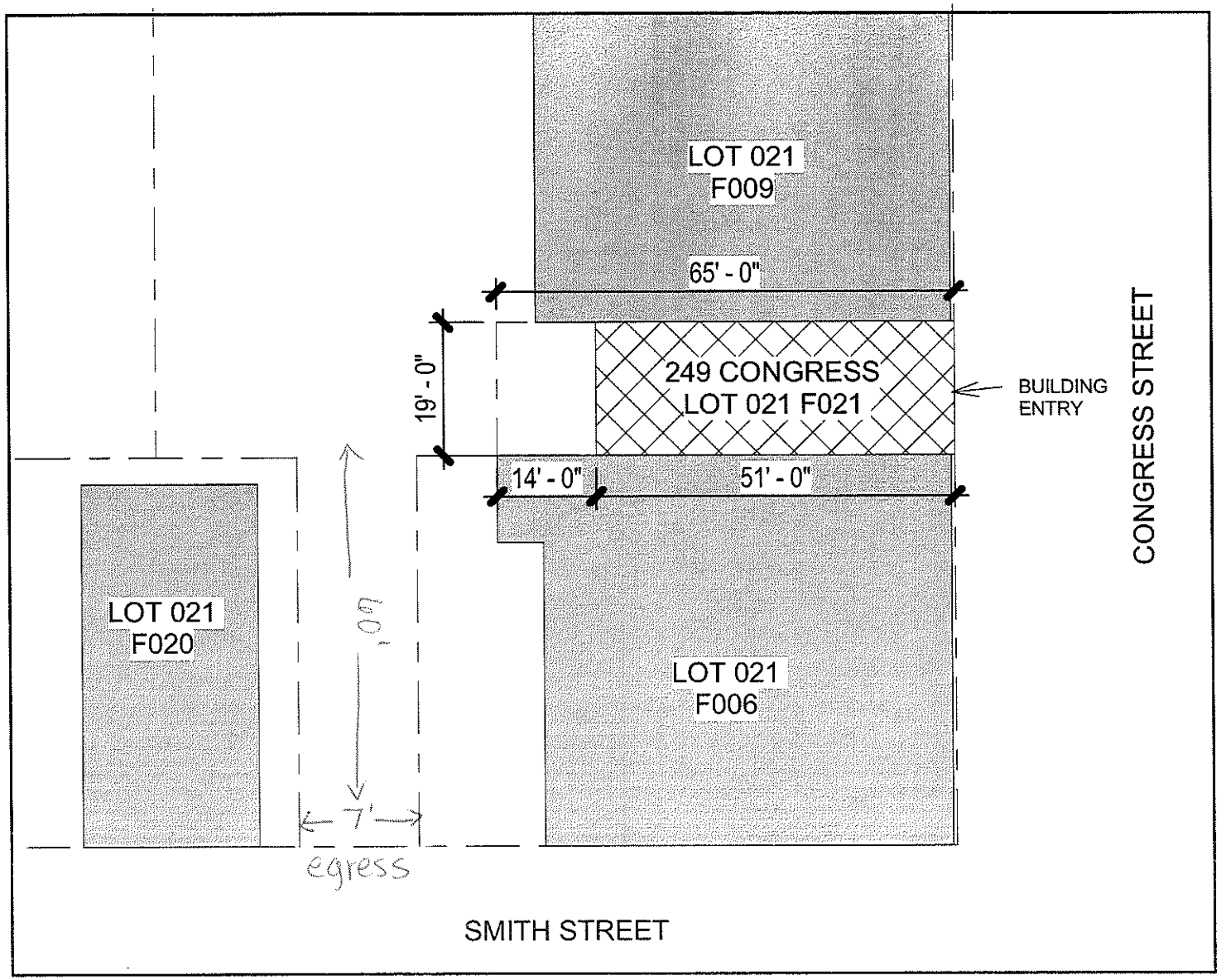
Signature _____ Title Owner Date 1/28/23

For Administrative Use Only

Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

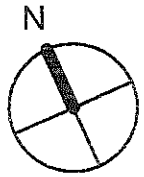
Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

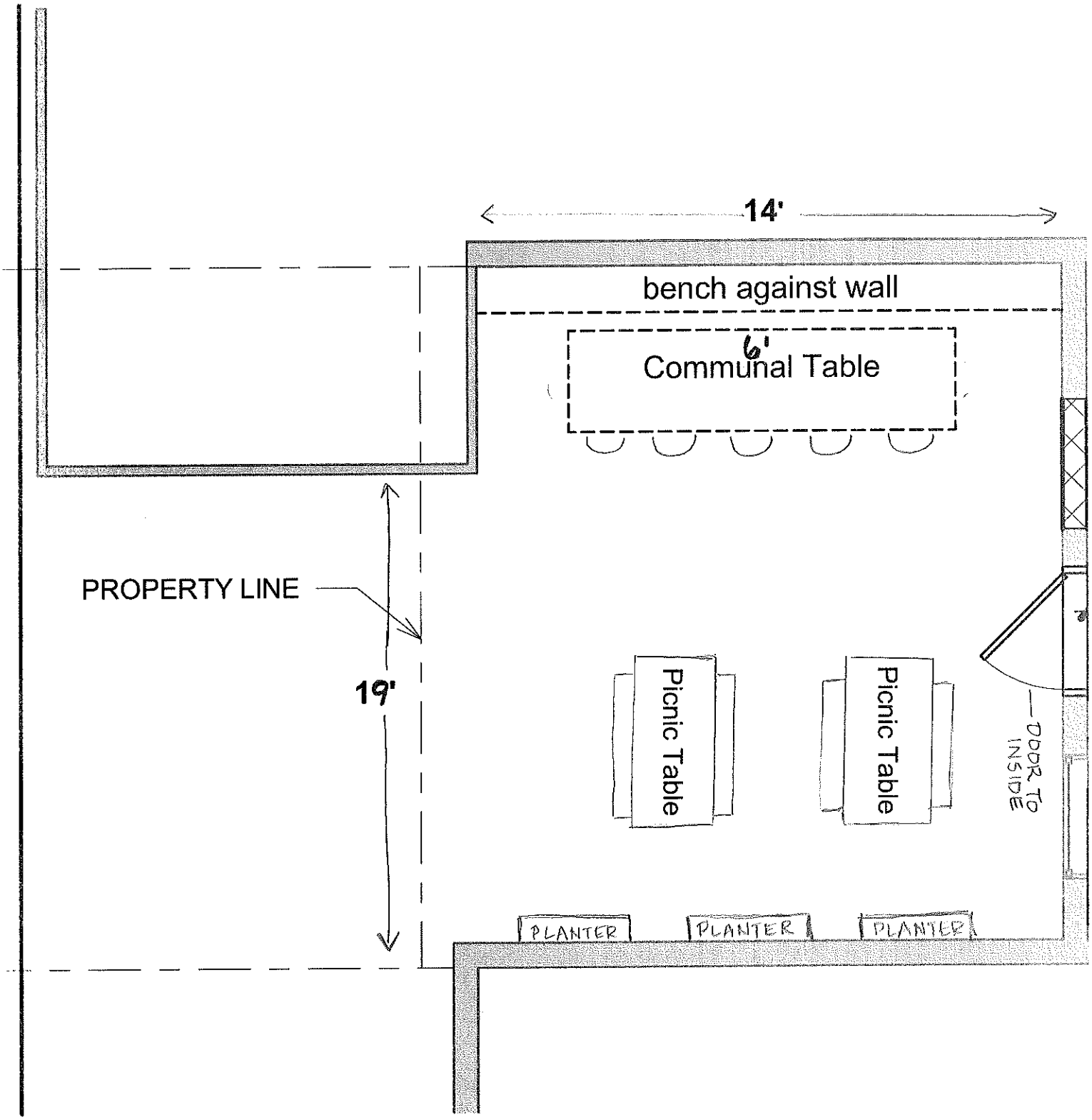
	Request Date / Approval	Notes:
FD:	/	
Health:	/	
PD:	/	
PR:	/	
Treasury:	/	
Zoning:	/	



SITE PLAN IS SCHEMATIC IN NATURE.

1 PLOT PLAN
1" = 30'-0"




14'
bench against wall
6'
Communal Table
PROPERTY LINE
19'
Picnic Table
Picnic Table
DOOR TO INSIDE
PLANTER
PLANTER
PLANTER

Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on April 10, 2023 at 5:00 P.M., virtually Quanto Basta, LLC, dba Quanto Basta. Application for Class I FSE with Outdoor Dining on Private Property at 249 Congress Street - Sponsored by Danielle P. West, Interim City Manager

City of Portland | Permitting and Inspections
Zachary Lenhert, Licensing and Housing Safety Manager

April 5, 2023

Quanto Basta, LLC
87 Quebec Street
Portland, ME 04101

Re: Quanto Basta, LLC, dba Quanto Basta. Application for Class I FSE with Outdoor Dining on Private Property at 249 Congress Street

Dear Quanto Basta:

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday April 10, 2023 at 5:00 p.m., for the review of application for Class I FSE with Outdoor Dining on Private Property at 249 Congress Street. The meeting will take place in person and virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on March 17, 2023.

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

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

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

Quanto Basta - 249 Congress

Matthew Coldwell <mcoldwell@portlandmaine.gov> Thu, Mar 30, 2023 at 8:26 AM
To: Zoning <zoning@portlandmaine.gov>
Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Eric Nevins <ericn@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, cstacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Good Morning,

The legal use of the space is restaurant. Zoning approves.

Thank you,

Mac

Mac Coldwell

City of Portland
Zoning Specialist
Permitting & Inspections Department
389 Congress ST, Room #315
Email: mcoldwell@portlandmaine.gov
he/him

[Quoted text hidden]

Zachary Lenhert <zlenhert@portlandmaine.gov>

Quanto Basta - 249 Congress

Eric Nevins <ericn@portlandmaine.gov> Tue, Mar 28, 2023 at 5:58 PM
To: Zachary Lenhert <zlenhert@portlandmaine.gov>
Cc: Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Christina Stacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Approved
[Quoted text hidden]
[Quoted text hidden]

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Division Use Only
License No:
Class: By:
Deposit Date:
Amt. Deposited:
Payment Type:
OK with SOS: Yes ☐ No ☐

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Section I: Licensee/Applicant(s) Information; Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): QUANTO BASTA LLC	Business Name (D/B/A): Quanto Basta
Individual or Sole Proprietor Applicant Name(s):	Physical Location: 249 Congress St., Portland, ME 04101
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: 87 Quebec St., Portland, ME 04101
Mailing address, if different from DBA address:	Email Address: info@quantobasta.me
Telephone # Fax #:	Business Telephone # Fax #: (309)231-8178
Federal Tax Identification Number: 86-3333220	Maine Seller Certificate # or Sales Tax #: 1218461
Retail Beverage Alcohol Dealers Permit:	Website address: www.quantobasta.me

1. New license or renewal of existing license? ☑ New Expected Start date: May 2023
   ☐ Renewal Expiration Date: May 2024

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

   Food: $ ~~[illegible]~~ $318,289 Beer, Wine or Spirits: $ ~~[illegible]~~ $232,567 Guest Rooms: —

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

   ☑ Malt Liquor (beer) ☑ Wine ☑ Spirits

4. Indicate the type of license applying for: (choose only one)

☑ Restaurant (Class I, II, III, IV)
☐ Class A Restaurant/Lounge (Class XI)
☐ Class A Lounge (Class X)

☐ Hotel (Class I, II, III, IV)
☐ Hotel – Food Optional (Class I-A)
☐ Bed & Breakfast (Class V)

☐ Golf Course (included optional licenses, please check if apply) (Class I, II, III, IV)
☐ Auxiliary
☐ Mobile Cart

☐ Tavern (Class IV)
☐ Other: _____

☐ Qualified Caterer
☐ Self-Sponsored Events (Qualified Caterers Only)

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

87 Quebec St., Portland, ME 04101

6. Is the licensee/applicant(s) citizens of the United States? ☑ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☑ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☑ Yes ☐ No If **Yes**, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☑ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☑ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☑ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Elizabeth English (Grzywa)	02/09/88	Peoria, Illinois

Residence address on all the above for previous 5 years

Name Elizabeth English	Address: 87 Quebec St., Portland, ME 04101
Name	Address: 33 Howard St., Portland, ME 04101
Name	Address:
Name	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☑ No

If **Yes**, provide name of law enforcement officer and department where employed:

_____

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☑ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☑ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☑ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☑ No

If No, please provide the name and address of the owner:

BLAH Realty LLC, 2 High Bluff Lane, Scarborough, ME 04074

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Front of the restaurant where 20 seats will exist.
Outdoor Private Patio which will accomodate roughly 15 seats via picnic tables. Patio will be gated.

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

Name: Cathedral of the Immaculate Conception

Distance: .2 miles

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to $2,000 or by both.

Please sign and date in blue ink.

Dated: 3/1/23

Signature of Duly Authorized Person

Signature of Duly Authorized Person

Elizabeth English
Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

This Application will Expire 60 Days from the date of Municipal or County Approval unless submitted to the Bureau

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
    - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of $10.00 must be included with all applications.

Please note: For Licensees/Applicants in unorganized territories in Maine, the $10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
Class I	**For the sale of liquor (malt liquor, wine and spirits)**	$ 900.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	
Class I-A	**For the sale of liquor (malt liquor, wine and spirits)**	$1,100.00
	This class includes only hotels that do not serve three meals a day.	
Class II	**For the Sale of Spirits Only**	$ 550.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	**For the Sale of Wine Only**	$ 220.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	**For the Sale of Malt Liquor Only**	$ 220.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III and IV	**For the Sale of Malt Liquor and Wine Only**	$ 440.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class V	**For the sale of liquor (malt liquor, wine and spirits)**	$ 495.00
	This class includes only a Club without catering privileges.	
Class X	**For the sale of liquor (malt liquor, wine and spirits)**	$2,200.00
	This class includes only a Class A Lounge	
Class XI	**For the sale of liquor (malt liquor, wine and spirits)**	$1,500.00
	This class includes only a Restaurant Lounge	

GENERAL ARCHITECTURAL NOTES

1. MAINTAIN MINIMUM MANEUVERING CLEARANCES AT DOORS IN COMPLIANCE WITH THE ADA ACCESSIBILITY GUIDELINES (ADAAG)

2. ALL MOUNTING HEIGHTS AND CLEARANCES AT TOILET ROOMS AND ELSEWHERE SHALL COMPLY WITH THE LATEST VERSION OF THE ADA ACCESSIBILITY GUIDELINES (ADAAG).

- BARRIER-FREE CLEARANCES ARE GIVEN. THESE CLEAR DIMENSIONS SHALL BE MAINTAINED IN CASES OF DISCREPANCY
- ALL DIMENSIONS GIVEN FOR FIXTURE AND ACCESSORY LOCATIONS ARE CLEAR DIMENSIONS FROM FINISHED SURFACES. UNLESS NOTED OTHERWISE. COORDINATE ACTUAL DIMENSIONS WITH WALL CONSTRUCTION AND FINISHES.
- LOCATE ALL CONTROLS, FLUSH VALVES, SHUTOFFS AND SIMILAR ITEMS IN ACCORDANCE WITH THE LATEST VERSION OF THE ADA ACCESSIBILITY GUIDELINES (ADAAG).

3. MAINTAIN CLEAR DIMENSIONS IN ACCORDANCE WITH THE LATEST VERSION OF THE ADA ACCESSIBILITY GUIDELINES (ADAAG).

4. ALL GRAB BAR COMPONENTS SHALL BE ABLE TO WITHSTAND A LOAD OF 250LBS AT ANY POINT.

5. INSTALL BLOCKING BEHIND ALL SURFACE-APPLIED FIXTURES, TRIM, GRAB BARS, SHELVES, CHAIR RAILS, PICTURE RAILS, BASE MOLDINGS, TACK OR MARKER BOARDS, WINDOW TREATMENT, WALL OR BASE CABINETS OR COUNTERS, AND MISCELLANEOUS ACCESSORIES MOUNTED ON STUD WALLS.

6. FLOORING AND FLOOR FINISHES SHALL BE INSTALLED TO A MAXIMUM DIFFERENTIAL OF 1/18" BETWEEN DISSIMILAR MATERIALS. PROVIDE TRANSITION STRIPS OR THRESHOLDS (1/2" MAXIMUM) OF SAME MATERIAL AS FLOORING AND/OR AS NOTED ON THE DRAWINGS, BETWEEN DISSIMILAR FLOORING MATERIALS

7. ALL EXPOSED PIPES UNDER LAVATORIES AND SINKS SHALL BE INSULATED OR OTHERWISE CONFIGURED TO PROTECT AGAINST CONTACT.

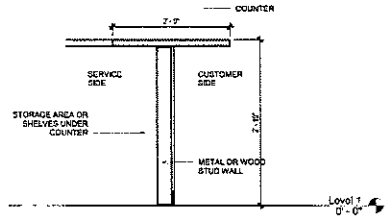
GENERAL MEP NOTES

1. ALL M.E.P. WORK SHALL COMPLY WITH LOCAL CODES. SEPARATE PERMITS SHALL BE PROCURED FOR EACH TRADE.

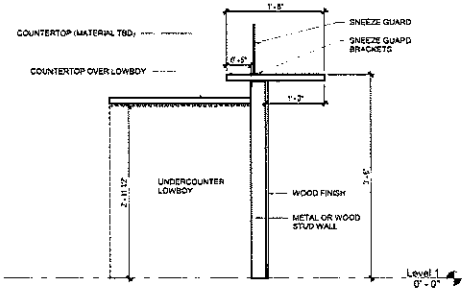
2. HEATING SYSTEM TO BE RELOCATED OR REPLACED AS NEEDED.

3. PROVIDE ELECTRICAL OUTLETS AT ALL RENOVATED AREAS PER NEC.

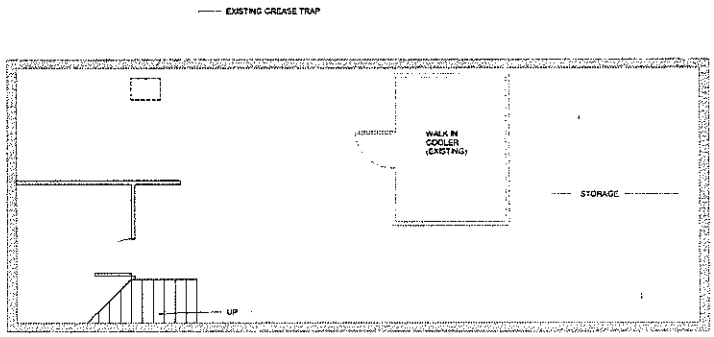
4. HOOD VENT TO BE PROVIDED OVER COOKING EQUIPMENT PER NFPA 96.



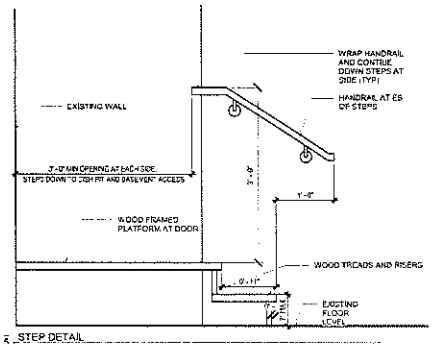
4 SECTION AT ORDERING COUNTER
1" = 1'-0"



3 SECTION AT SEATING COUNTER
1" = 1'-0"



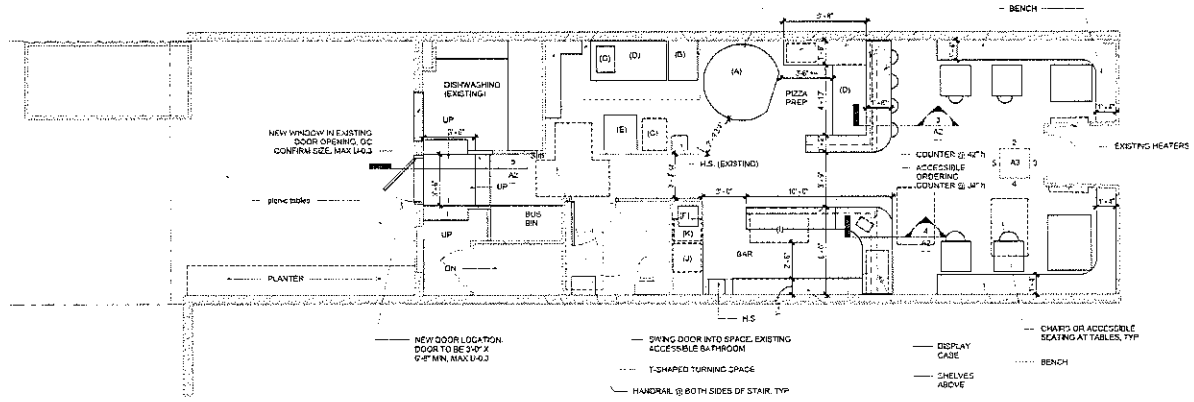
2 PROPOSED BASEMENT PLAN
1/4" = 1'-0"



5 STEP DETAIL
1" = 1'-0"

NOTES:

1. EQUIPMENT HAS BEEN GENERALLY LOCATED IN PLAN WITH LETTERS CORRESPONDING TO FIXTURE SCHEDULE (A). SEE EQUIPMENT SCHEDULE FOR ALL EQUIPMENT INFORMATION
2. ALL EXISTING EXIT SIGNS, EMERGENCY LIGHTING, FIRE ALARM DEVICES TO REMAIN UNLESS OTHERWISE NOTED.
3. IMPROVEMENT SHALL MEET NFPA 101 AND NFPA 72 FOR BUSINESS OCCUPANCY.
4. ALL EXISTING PLUMBING TO REMAIN. 1 NEW HAND SINK ADDED AT BAR, TIE INTO EXISTING WASTE AND WATER LINES IN BASEMENT.
5. EXISTING HVAC SYSTEMS TO REMAIN, NO CHANGE. NEW PIZZA OEN TO TIE INTO EXISTING ROOF VENT DUCTWORK.



1 PROPOSED PLAN
1/4" = 1'-0"

EQUIPMENT LIST

TAG	ITEM	LOCATION	SIZE (LXWXH)	NOTES
(A)	FORZA FORNI RPM 120 PIZZA OPEN	PIZZA AREA	63 X 61	
(B)	4 BURNER GAS STOVE	COOKING AREA	24X32.5X60.5	
(C)	WIRE SPEED RACK	COOKING AREA	20X20X20	
(D)	UNDERCOUNTER LOWBOY	PIZZA AREA	118.5X28.5X35.5	
(E)	UNDERCOUNTER FREEZER	COOKING AREA	27X29.3X35.25	
(F)	ESPRESSO MACHINE	BAR		
(G)	COUNTERTOP ELECTRIC FRYER	COOKING AREA		
(H)	SLICER	PREP AREA		
(I)	BEVERAGE COOLER	BAR	46.75X25X36	
(J)	GLASS RACK STORAGE	BAR	34X23X33	
(K)	ICE BIN	BAR	34X18X33	
(L)	FAMACO MIXER	BASEMENT	19.25X14.25	
(M)	METRO RACKS	BASEMENT		
(N)	PREP TABLES	BASEMENT		

CHELSEA LIPHAM
ARCHITECTURE & DESIGN

741 Stevens Ave
Portland ME 04103
207-615-6366

www.chelsealipham.com

LICENSED ARCHITECT
CHELSEA LYNN LIPHAM
ARC4299
STATE OF MAINE

QUANTO BASTA
INTERIOR FIT UP

DWG NO.

JOB NO.
2138

DRWN. CHK
CL

SCALE:
As Indicated

ISSUE
12/19/22

TITLE
PLANS

SHEET
A2

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Quanto Basta LLC
2. Doing Business As, if any: "
3. Date of filing with Secretary of State: 4/13/21 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Elizabeth English	87 Quebec St., Portland, ME 33 Howard St., Portland, ME	02/09/88	Owner	100 %

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

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 23, 2023

SUBJECT: Order 162-22/23 Granting Municipal Officers' Approval of Freedom's Edge LLC, dba Freedom's Edge Cider. Application for B/W/D On Premise Consumption with Outdoor Dining on Private Property at 31 Diamond Street - Sponsored by Danielle P. West, Interim City Manager

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: N/A

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 3/17/23. New City and State applications.

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. 2023.04.10_Freedoms Edge
2. Freedoms Edge_Council Packet

Prepared by:
Date: 03/23/2023

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Freedom's Edge LLC, dba Freedom's Edge Cider. Application for B/W/D On Premise Consumption with Outdoor Dining on Private Property at 31 Diamond Street

PERKINS THOMPSON

Mailing Address
PO Box 426
Portland, ME 04112
Office 207.774.2635
Fax 207.871.8026

Physical Address
One Canal Plaza
Portland, ME 04101

www.perkinsthompson.com

March 17, 2023

Mayor Kate Snyder and Portland City Council
389 Congress Street
Portland, Maine 04101

Dear Mayor Snyder and City Councilors,

On behalf of our client, Freedom's Edge LLC (" Freedom's Edge") please find attached to this letter the following applications:

1. Brewery, Winery, and Distillery Manufacturing License
2. Brewery, Winery, and Distillery On-Premise Consumption License
3. Outdoor Dining on Private Property

Freedom's Edge is a family owned cidery located in Albion, Maine owned by brothers-in-law Ned Ervin and Andy Kaplan. Freedom's Edge has recently leased space located at 31 Diamond Street and are looking to expand their cidery into Portland. You can learn more about Freedom's Edge Cider at www.freedomsedgecider.com.

Freedom's Edge plans on having a barreling program at their Portland location along with a small tasting room where patrons will be able to sample Freedom's Edge's variety of ciders.

We look forward to answering any questions you may have and we thank you very much for your consideration of our application.

Kind Regards,

Brandon J. Mazer, Esq.
Attorney on behalf of Freedom's Edge LLC

{P2128295.1}

CITY OF PORTLAND

Permitting and Inspections Department

Application for Brewery, Winery and Distillery On Premise Consumption License

License expiration date concurrent with that of State of Maine Dept. of Liquor Licensing & Enforcement License.

Business Information			
Business Name (d/b/a):	Freedom's Edge Cider	Phone:	
Location Address:	31 Diamond Street	Zip: 04101	
If new, what was formerly at this location:			
Mailing Address:	31 Diamond Street, Portland, Maine	Zip: 04101	
Contact Person:	Brandon J. Mazer, Esq.	Phone:	207-400-8125
Contact Person Email:	bmazer@perkinsthompson.com		
Manager of Establishment:	Andrew Kaplan Date of Birth: 5/22/65	Phone:	917-282-5186
Owner of Premises (Landlord):	31 Diamond Street LLC		
Address of Premises Owner:	50 Monument Square, 2nd Fl., Portland, ME	Zip: 04101	

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name	Corporate Mailing Address	
Freedom's Edge LLC	420 Quaker Hill Road, Albion, Maine Zip: 04910	
Contact Person: Andrew Kaplan	Phone:	917-282-5186

Principal Officers	Title	Date of Birth	Residence Address
Andrew Kaplan	Member	5/22/65	45 Shermans Point Rd, Camden, ME 04843
Ned Ervin	Member	3/30/82	6 Taylor Ave, Waterville, ME 04901

CITY OF PORTLAND

Permitting and Inspections Department

Type of Establishment:	Brewery (Winery) Distillery
Hours & days of operation:	11:00 A.M. - 10:00 P.M. Sunday through Saturday

QUESTIONS	Y/N
Will food be made, served, and/or sold on the premise by this establishment?	Y/(N)
If yes, please submit a City of Portland Food Service Establishment license application.	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	Y/(N)
Will you permit dancing after 1:00 a.m.?	Y/(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	(Y)N
If yes, will the outside dining be on PUBLIC or (PRIVATE) property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/(N)
If yes, please list: # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	6/1/23
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y/(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/(N)
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	Y/(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/(N)
If Yes, please explain:	

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

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

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

Signature _____ Title Member Date 3/16/23

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

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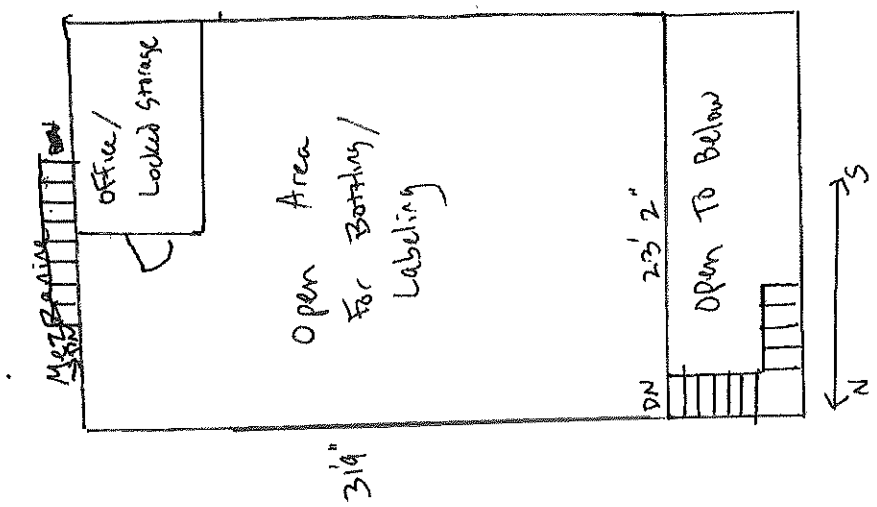
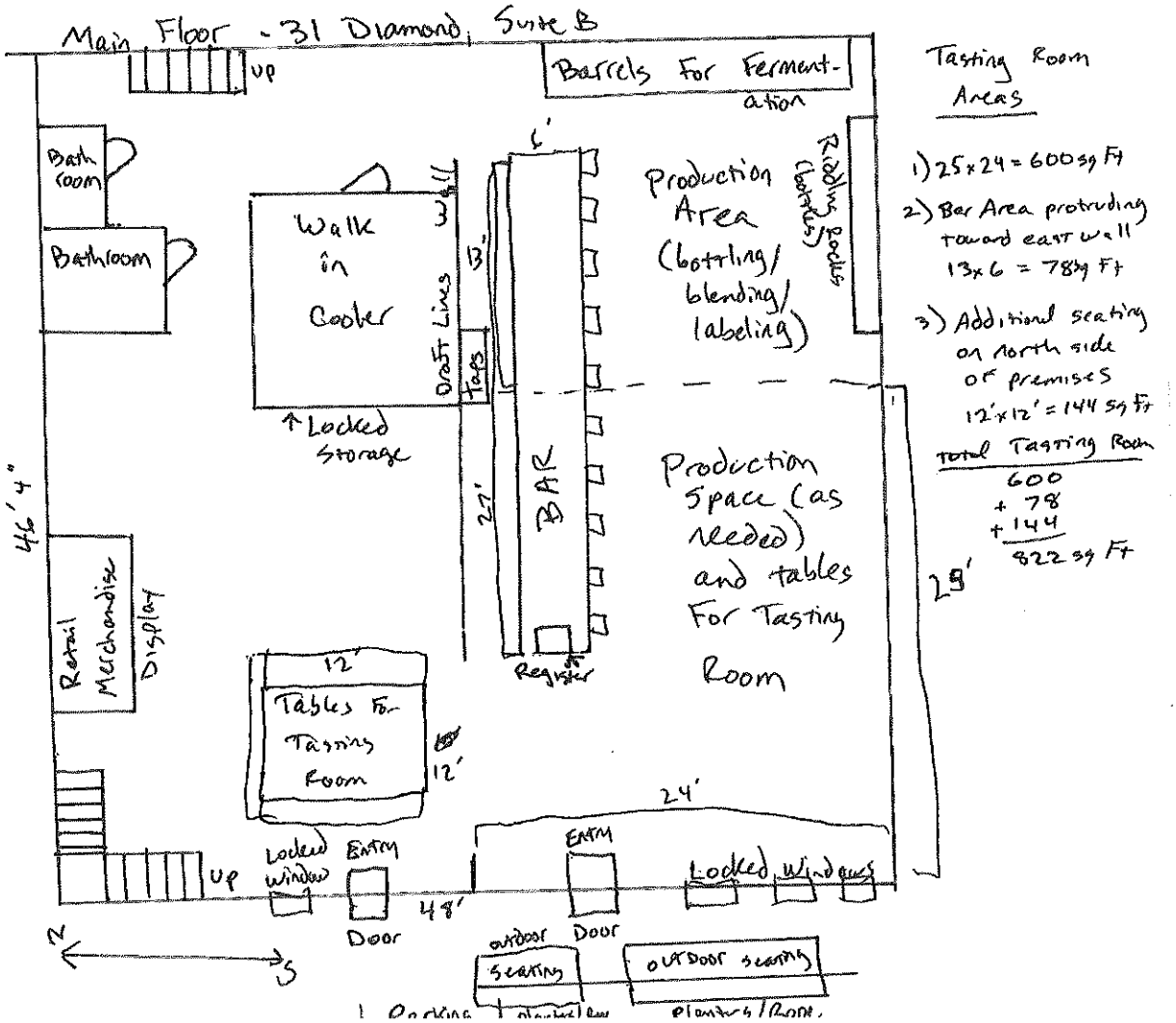
bl@portlandmaine.gov • www.portlandmaine.gov


Office/ Locked Storage
Open Area For Bottling/ Labeling
Open To Below
23' 2"
31' 4"
DN
S
N


Main Floor - 31 Diamond, Suite B
UP
Barrels For Fermentation
Bath room
Bathroom
Walk in Cooler
Draft Lines
Taps
Locked Storage
Production Area (bottling/ blending/ labeling)
Rolling Racks (barrels)
BAR
Register
Production Space (as needed) and tables For Tasting Room
Retail Merchandise Display
Tables For Tasting Room
Locked window
Entry Door
Locked Windows
outdoor seating
46' 4"
29'
48'
24'
13'
27'
12'
N
S
Tasting Room Areas
1) 25x24 = 600 sq Ft
2) Bar Area protruding toward east wall 13x6 = 78 sq Ft
3) Additional seating on north side of premises 12'x12' = 144 sq Ft
Total Tasting Room
600
+ 78
+ 144
822 sq Ft

CITY OF PORTLAND
Permitting and Inspections Department

Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

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

Business Information			
Business Name (d/b/a):	Freedom's Edge Cider	Phone:	
Location Address:	31 Diamond Street	Zip: 04101	
Mailing Address:	31 Diamond Street, Portland, Maine	Zip: 04101	
Contact Person:	Brandon J. Mazer, Esq.	Phone:	207-400-8125
Contact Person Email:	bmazer@perkinsthompson.com		
Manager of Establishment:	Andrew Kaplan Date of Birth: 5/22/65	Phone:	971-282-5186
Owner of Premises (Landlord):	31 Diamond Street LLC		
Address of Premises Owner:	50 Monument Sq. 2nd Floor Portland, Maine	Zip: 04101	

Owner Information

Corporate Name	Corporate Mailing Address		
Freedom's Edge LLC	420 Quaker Hill Road, Albion, Maine Zip: 04910		
Contact Person:	Andrew Kaplan	Phone:	917-282-5186

Principal Officers	Title	Date of Birth	Residence Address
Andrew Kaplan	Member	5/22/65	54 Shermans Point Rd., Camden ME 04843
Ned Ervin	Member	3/30/82	6 Taylor Ave, Waterville, ME 04901

CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	Winery Alcohol Service License
Type of food served:	N/A
Please circle all that will be served:	Beer (Wine) Liquor
Hours & days of operation:	11:00 A.M.-10:00 P.M. Sunday through Saturday
Number of Tables	5
Number of Chairs	20

Design and Construction

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

Maintenance and Operations

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

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

Signature _____ Title Member Date 3/16/23

For Administrative Use Only

Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

	Request Date /	Approval	Notes:
FD:	/		
Health:	/		
PD:	/		
PR:	/		
Treasury:	/		
Zoning:	/		

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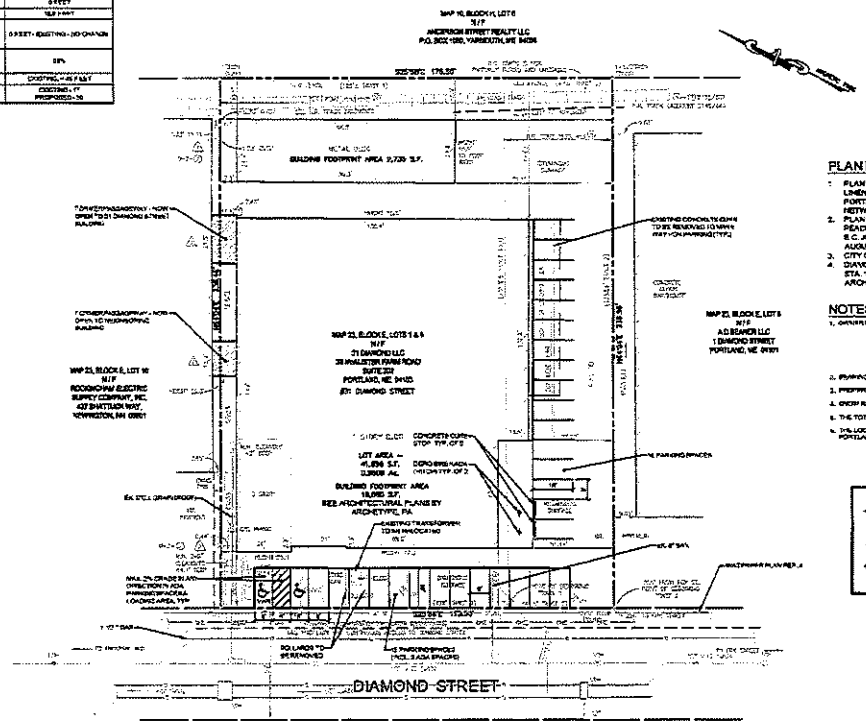
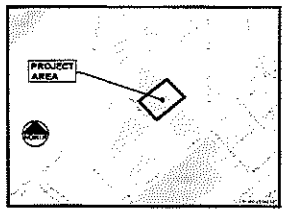
bl@portlandmaine.gov • www.portlandmaine.gov

DIMENSIONAL REQUIREMENTS FOR INDUSTRIAL ZONING DISTRICT ILB		
ITEM DESCRIPTION	LAND USE ORDINANCE REQUIREMENT	EXISTING/PROPOSED
MIN. LOT SIZE	NONE	[illegible]
MIN. STREET FRONTAGE	40 FEET	[illegible] FEET
MIN. FRONT SETBACK	NONE	[illegible] FEET±
MIN. SIDE SETBACK	NONE	[illegible] FEET
MIN. REAR SETBACK	NONE	[illegible]
PAVEMENT SETBACK FROM LOT BOUNDARY; DRIVEWAYS, PARKING LOTS AND OTHER PARTS OF CIRCULATION AREAS	15 FEET	[illegible] FEET - EXISTING - NO CHANGE
MAXIMUM IMPERVIOUS AREA, SURFACE RATIO	100%	[illegible]
MAX. BLDG. HEIGHT	45 FEET	EXISTING - [illegible] FEET
TOTAL EXISTS PARKING SPACES	------	EXISTING - 17 PROPOSED - 36





VICINITY MAP
N.T.S.

PLAN REFERENCES:

1. PLAN ENTITLED "ALTA/ACSM LAND TITLE SURVEY, FOR: NATIONAL LINEN SERVICE, BMC SITE NO. 07660/30, 31 DIAMOND STREET, PORTLAND, MAINE", BY BOCK & CLARK'S NATIONAL SURVEYORS NETWORK / OWEN HASKELL, INC., DATE OF LAST REVISION 08/12/04.
2. PLAN ENTITLED "OWNER NATIONAL SERVICE INDUSTRIES, INC. 1420 PEACHTREE STREET NE, ATLANTA, GA 30309," OF THIS LOT BY HJ. A. E.C. JORDAN, SURVEYORS DATED JULY, 1960, REVISED APRIL 25, 1961, AUGUST 10, 1962 AND DECEMBER 24, 1969.
3. CITY OF PORTLAND ASSESSORS MAP 23, BLOCK E.
4. DIAMOND STREET OVERFLOW SEWER PLAN AND PROFILE STA. 4+00 TO STA. 10+30 (FORCE) BY METCALF & EDDY MAY 1961 PORTLAND ARCHIVES 40B0H-CP644 SHEET 2 OF 6

NOTES:

1. OWNER OF RECORD: 31 DIAMOND STREET LLC
   30 WALLSTEN PARK ROAD, SUITE 200
   PORTLAND, ME 04103
   TAX MAP 23, BLOCK E, LOTS 1 & 6
   C.C.R.D. BOOK 36751, PAGE 129
   LOT AREA = 41,694 SF (0.9573 ACRES)
2. BEARING IS MAGNETIC 1994 BASED ON PLAN REFERENCE #2.
3. PROPERTY IS LOCATED IN THE CITY OF PORTLAND ILB INDUSTRIAL ZONE.
4. OVER REMOVAL AND PROPERTY MAINTENANCE SHALL BE BY THE OWNER.
5. THE TOTAL AREA OF THE LOT IS 41,694.0 SQUARE FEET.
6. THE LOCUS IS IN ZONE C, AREA OF MINIMAL FLOODING, AS SHOWN ON FIRM PANEL 0010 E, CITY OF PORTLAND, EFFECTIVE JULY 17, 1986.

LEGEND

[illegible]	EDGE OF PAVEMENT
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
MONITORING WELL	

NOTE: THIS PLAN SET IS ISSUED FOR PERMITTING PURPOSES & SHALL NOT BE USED FOR CONSTRUCTION.

City of Portland
Approved Site Plan
Subject to Conditions of Approv
and Standard Conditions

Date of Approval: 3/14/2022

Planner: Austen Torres Davis

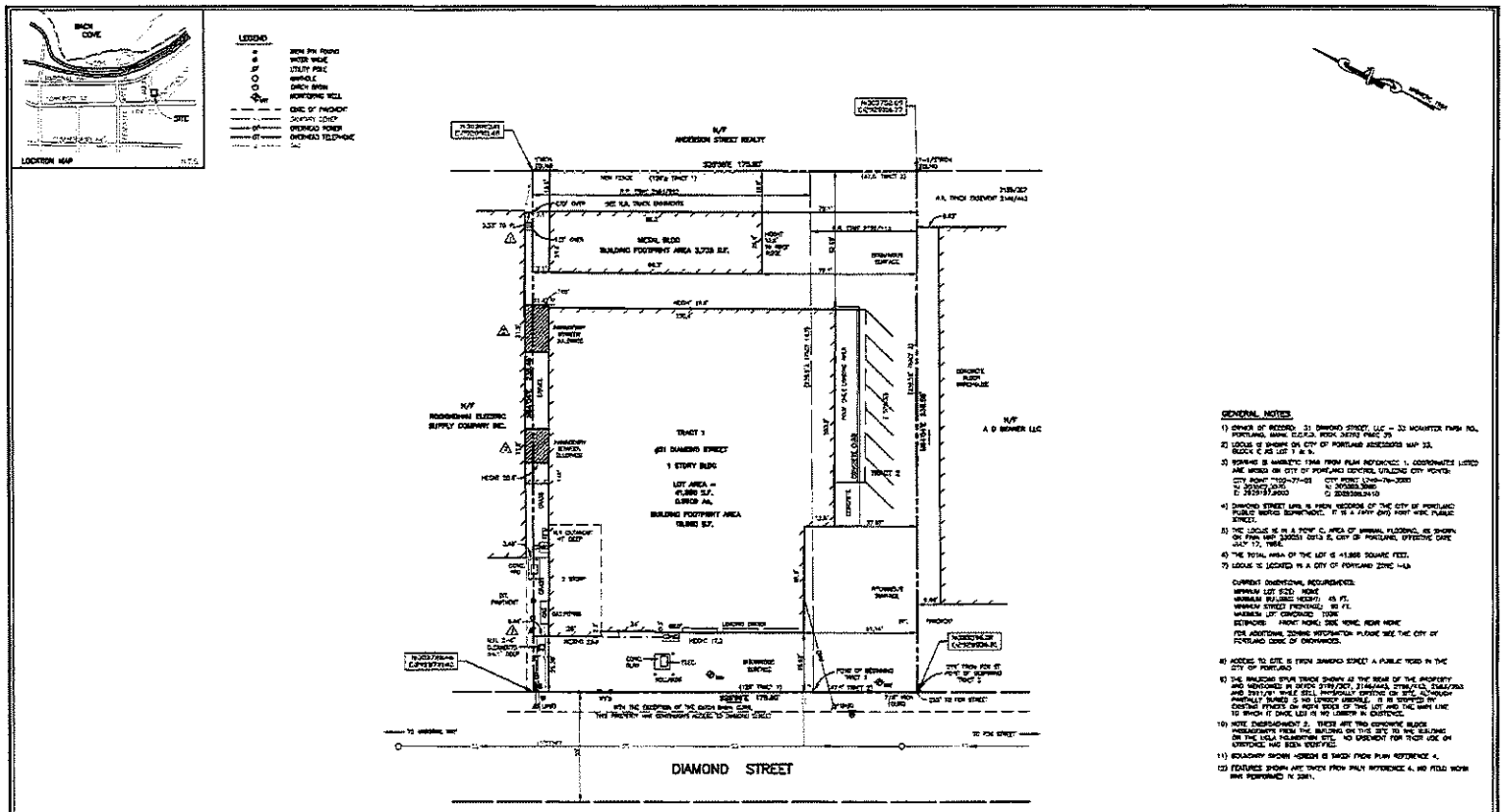
Project No: PL-001873-2021

Rev.	Date	Revision
1	10/4/21	MINOR SITE PLAN APPLICATION SUBMISSION

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

Drawing Name: [illegible]
Project: MINOR SITE PLAN A
31 Diamond
Client: PK REALTY MANAGEMENT
380 Riverside St

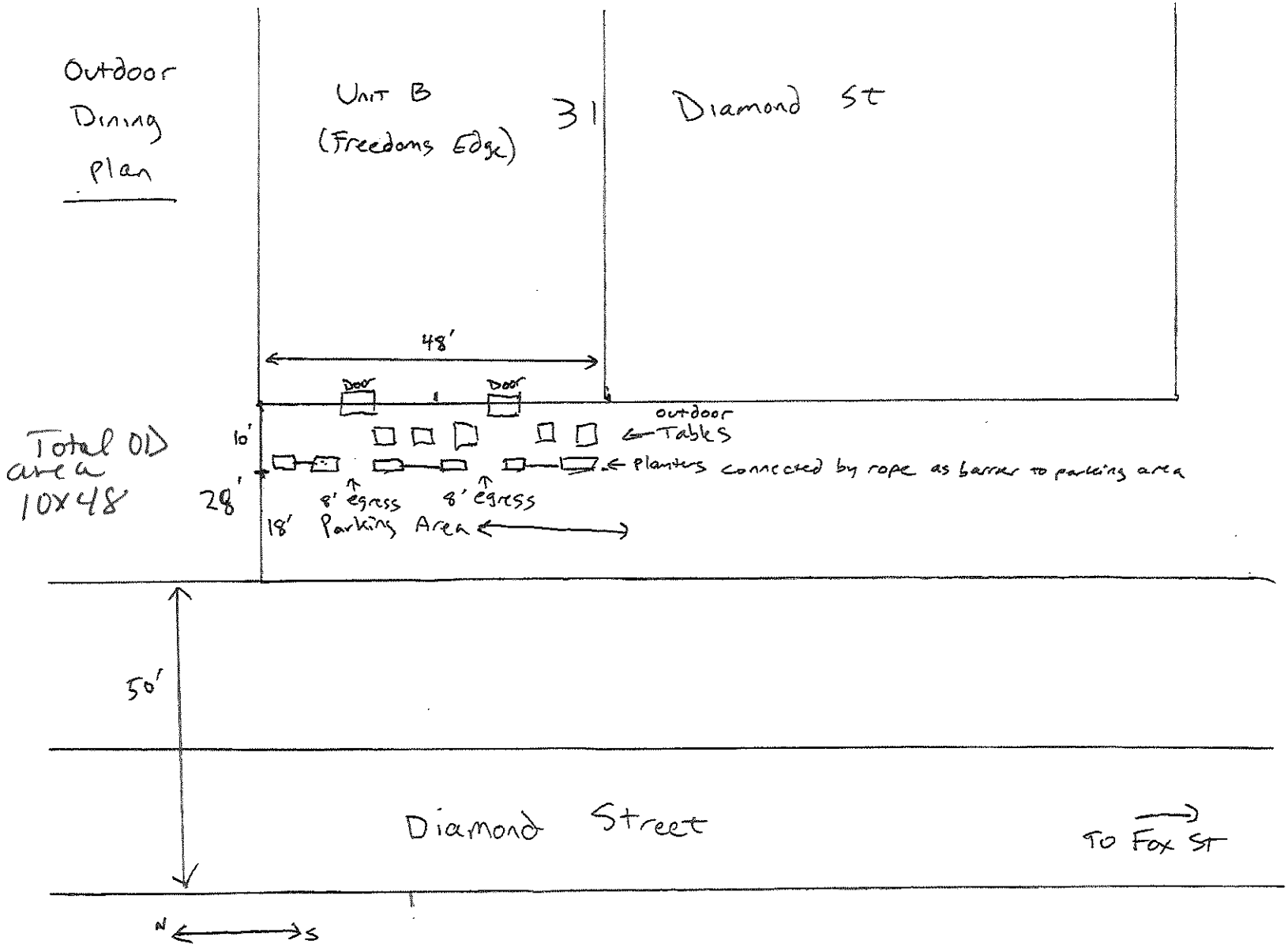


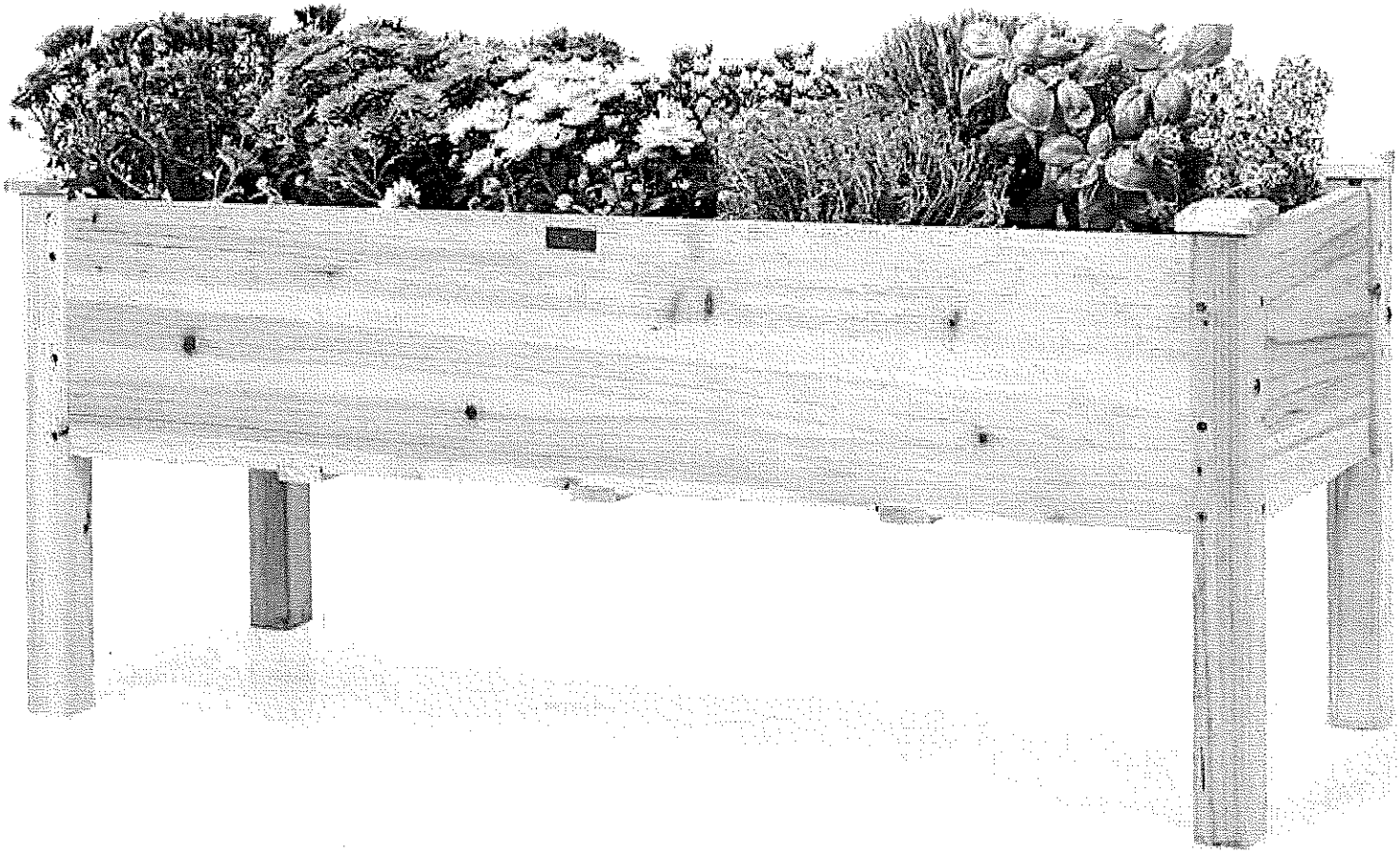
City of Portland
Approved Site Plan
Subject to Conditions of Approv
and Standard Conditions

Date of Approval: 3/14/2022

Planner: Austen Torres Davis

Project No: PL-001873-2021


Outdoor Dining Plan
Unit B (Freedoms Edge)
31
Diamond St
48'
Door
Door
outdoor Tables
Total OD area 10x48
10'
28'
Planters connected by rope as barrier to parking area
8' egress
8' egress
18' Parking Area
50'
Diamond Street
To Fox St
N
S



Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on April 10, 2023 at 5:00 P.M., virtually Freedom's Edge LLC, dba Freedom's Edge Cider. Application for B/W/D On Premise Consumption at 31 Diamond Street- Sponsored by Danielle P. West, Interim City Manager

City of Portland | Permitting and Inspections
Zachary Lenhert, Licensing and Housing Safety Manager

April 5, 2023

Freedom's Edge LLC
31 Diamond Street
Portland, ME 04101

Re: Freedom's Edge LLC, dba Freedom's Edge Cider. Application for B/W/D On Premise Consumption at 31 Diamond Street

Dear Freedom's Edge:

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday April 10, 2023 at 5:00 p.m., for the review of application for B/W/D On-Premise Consumption at 31 Diamond Street with Outdoor Dining on Private Property. The meeting will take place in person and virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on April 7, 2023.

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

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

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

Zachary Lenhert <zlenhert@portlandmaine.gov>

Freedom's Edge - 31 Diamond

Eric Nevins <ericn@portlandmaine.gov> Fri, Mar 24, 2023 at 2:57 PM
To: Zachary Lenhert <zlenhert@portlandmaine.gov>
Cc: Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Christina Stacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Approved.
[Quoted text hidden]
--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513

Freedom's Edge - 31 Diamond

Matthew Coldwell <mcoldwell@portlandmaine.gov> Tue, Mar 28, 2023 at 8:09 AM
To: Zoning <zoning@portlandmaine.gov>
Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Eric Nevins <ericn@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, cstacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Good Morning,

Low-impact Industrial use with an accessory tasting room is a permitted use in The IL-b zone. They will need to apply for a change of use before Zoning can sign off on the liquor license review. There appears to be 2 license reviews in Energov, 002420-2023 and 002410-2023.

Thank you,

Mac

Mac Coldwell

City of Portland
Zoning Specialist
Permitting & Inspections Department
389 Congress ST, Room #315
Email: mcoldwell@portlandmaine.gov
he/him

[Quoted text hidden]

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 23, 2023

SUBJECT: Order 163-22/23 Granting Municipal Officers' Approval of Tangible Alchemy, LLC, dba Urban Farm Fermentory. Application for Class A Lounge with Outdoor Dining on Private Property at 200 Anderson Street - Sponsored by Danielle P. West, Interim City Manager

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: N/A

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 3/20/23. New City and State applications. Establishment currently holds Class III & IV FSE with Combined Entertainment and Outdoor Dining on Private Property.

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. 2023.04.10_Urban Farm

2. UFF_Council Packet

Prepared by:
Date: 03/23/2023

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Tangible Alchemy, LLC, dba Urban Farm Fermentory. Application for Class A Lounge with Combined Entertainment and Outdoor Dining on Private Property at 200 Anderson Street

March 20, 2023

Dear Mayor Snyder and Members of the Portland City Council,

Urban Farm Fermentory (Tangible Alchemy, LLC) is under new management and would like to upgrade our license to a Class A Lounge License from our current restaurant license. We have been operating our tasting room and brewery/winery space at 200 Anderson Street for over a decade, and wish to update our offerings to better match current market demands. Our goals with this change include:

- The desire to alter our model to a lounge style business.
- Under our new management we have addressed past noise issues and have incoming requests to host new types of events that we are required to be open later for, including weddings.
- The desire to sell speciality cocktails that highlight our non-alcoholic and low-alcohol products (jun and kombucha) as the base ingredients but also include liquor

Given the ever changing landscape of East Bayside, we hope that you will approve our request so that we can continue to thrive and grow in Portland.

Thank you for your consideration and your dedicated service to our beautiful community.

All the Best,

Kayla Tilton
(Office Manager)

200 Anderson St.
Portland, Maine 04101
207.468.2639

CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Establishment Name (d/b/a):	Urban Farm Fermentory	Phone:	207 808 9921
Location Address:	200 Anderson Street	Zip:	04101
If new, what was formerly at this location:			
Mailing Address:	200 Anderson Street	Zip:	04101
Contact Person:	Kayla Tilton	Phone:	207 808 9921
Contact Person Email:	Kayla@mainestandardbiofuels.com		
Manager of Establishment:	James Kallsis Date of Birth: 11-18-74	Phone:	207 808 9921
Owner of Premises (Landlord):	184 Anderson LLC		
Address of Premises Owner (Landlord):	200 Anderson St, Portland, ME	Zip:	04101

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name	Corporate Mailing Address		
Tangible Alchemy	200 Anderson St	Zip:	04101
Contact Person:	Kayla Tilton	Phone:	207 808 9921

Principal Officers	Title	Date of Birth	Residence Address
Eli Cooper	Owner	7-5-73	173 State St. Portland, ME

Class of Liquor License:	A Lounge

CITY OF PORTLAND

Permitting and Inspections Department

Type of food served:	Pizza, Salad, Soup
Please circle all that will be served:	Beer Wine Liquor
Projected percentage of sales:	Generated from Food: 10% Generated from Alcohol: 90%
Hours & days of operation:	varies, proposed: Sun-Sat 10am-1am

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

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

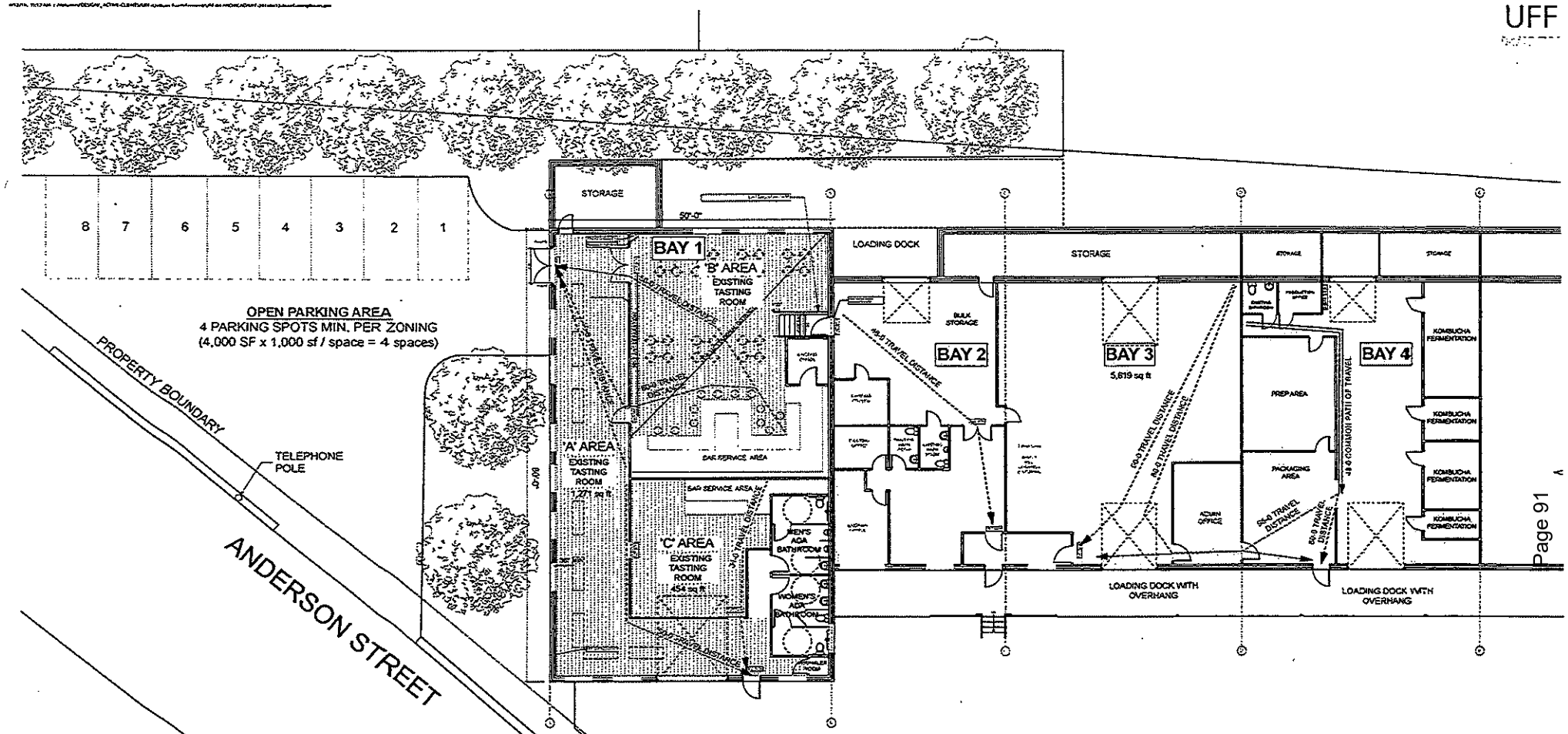
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts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

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

Signature _____ Title Office Manager Date 3-20-23

outdoor

UFF



PORTLAND ZONING NOTES	IBC OCCUPANCY KEY NOTES	NFPA OCCUPANCY KEY NOTES
I-Lb ZONE TASTING RM: Ancillary Use Low impact industrial use: brewery. Tues - Sat, 12pm - 7pm	BAY 1 A-2 ASSEMBLY USE (TASTING ROOM) Rm A 1,271 SF / 15 = 85 Occupants Rm B 1,000 SF / 15 = 67 Occupants Rm C 454 SF / 15 = 30 Occupants Total 2,725 SF / 15 = 182 Occupants	BAY 1 A-2 ASSEMBLY USE (TASTING ROOM) Rm A 1,271 SF / 15 = 85 Occupants Rm B 1,000 SF / 15 = 67 Occupants Rm C 454 SF / 15 = 30 Occupants Total 2,725 SF / 15 = 182 Occupants
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1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
102 Exchange St, Portland, ME 04101
207-842-2348

CODE REVIEW: NEW TASTING ROOM

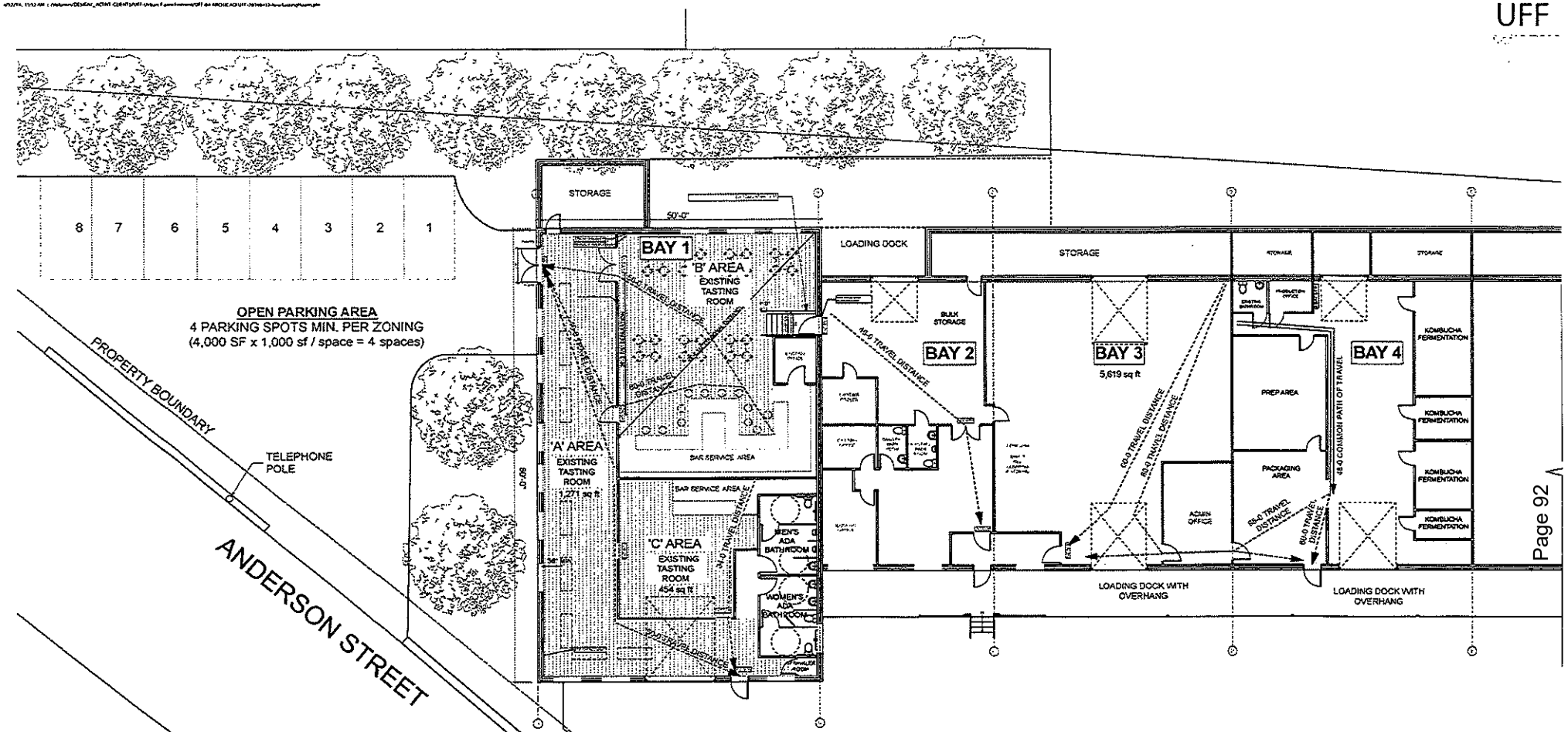
Project: Renovation
URBAN FARM FERMENTARY
200 ANDERSON ST
PORTLAND, ME

Drawing: CODE REVIEW FLOOR PLAN
Scale: 1/8" = 1'-0"
Date: APRIL 12, 2018, 2015
Revised:

A-1.

Indoor

UFF



PORTLAND ZONING NOTES	IBC OCCUPANCY KEY NOTES	NFPA OCCUPANCY KEY NOTES
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N

LICENSED ARCHITECT JAMES JESSE THOMPSON No. 3273 STATE OF MAINE

1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
102 Exchange St, Portland, ME 04101
207-842-2888

CODE REVIEW: NEW TASTING ROOM

Project: Renovation
URBAN FARM FERMENTARY
200 ANDERSON ST
PORTLAND, ME

Drawing: CODE REVIEW FLOOR PLAN
Scale: 1/8" = 1'-0"
Date: APRIL 12, 2018, 2015
Revised:

A-1.1

Urban Farm Fermentory, Proposed Menu

Pizza (with variety of toppings)

Salads (grilled chicken, caesar, house classic)
Dressings (italian, caesar, blue cheese, ranch)

Soup of the Day

CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☐ Indoor Entertainment $500.00 ☐ Outdoor Entertainment $700.00 ☒ Combined Entertainment $800.00

☐ Sound Mitigation Fee $150.00

Business Information			
Establishment Name (d/b/a):	Urban Farm Fermentary	Phone:	2078089921
Location Address:	200 Anderson Street	Zip:	04101
Owner Name:	Eli Cayer	Phone:	207 653-7406
Owner Email:	eli@fermentary.com		
Contact Person responsible for Entertainment:	James Kaltsas	Phone:	207 975 3113
Contact Person Email:	Jarmin@fermentary.com		
Manager of Establishment:	James Kaltsas	Phone:	207 975-3113
Manager Email:	Jaemin@fermentary.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

tasting room w/ small stage space, local bands, classes

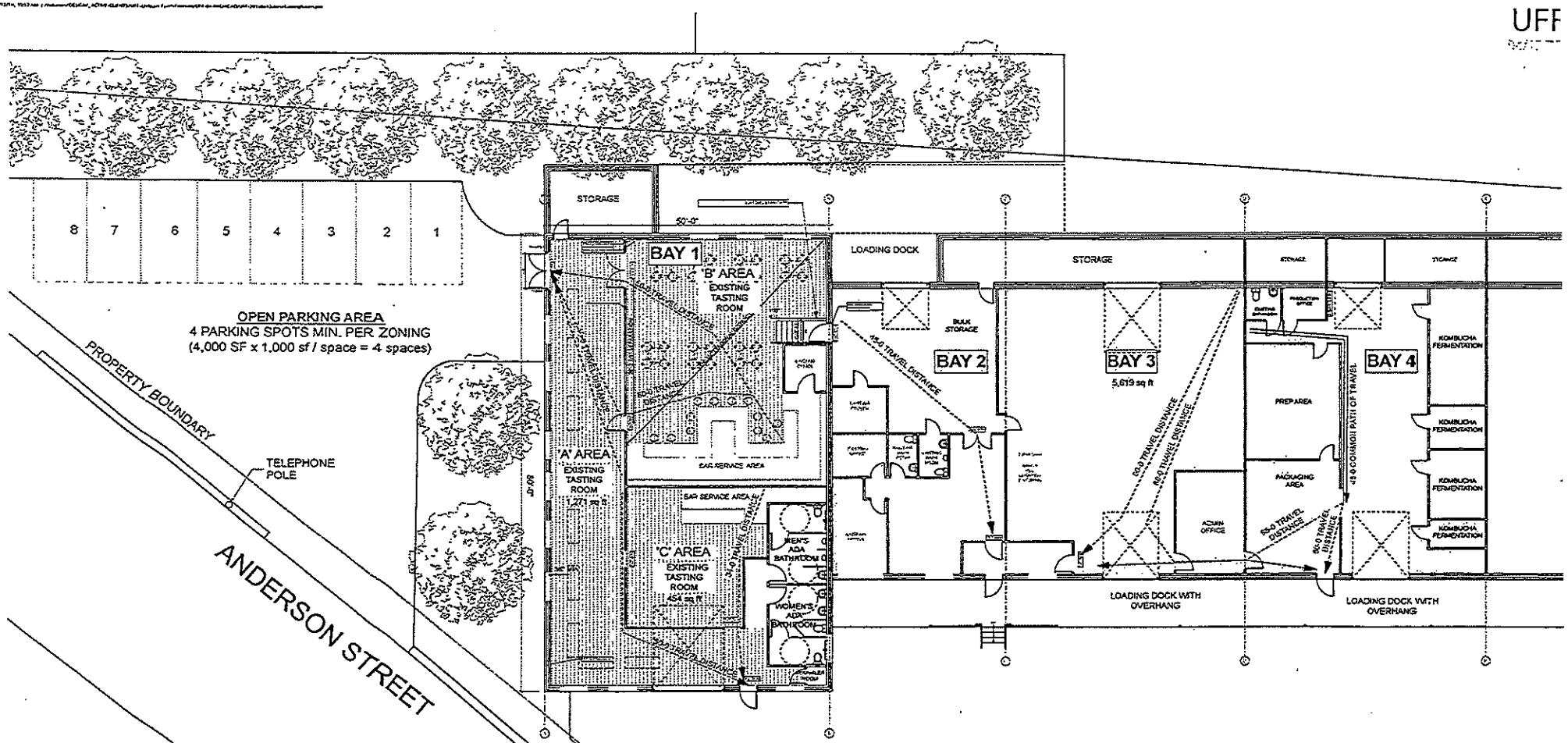
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts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

Signature _____ Title Office Manager Date 3-20-23

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

outdoor

UFF



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N

LICENSED ARCHITECT JAMES E. THOMPSON STATE OF MAINE

1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
102 Exchange St, Portland, ME 04101
207-842-0384

CODE REVIEW: NEW TASTING ROOM

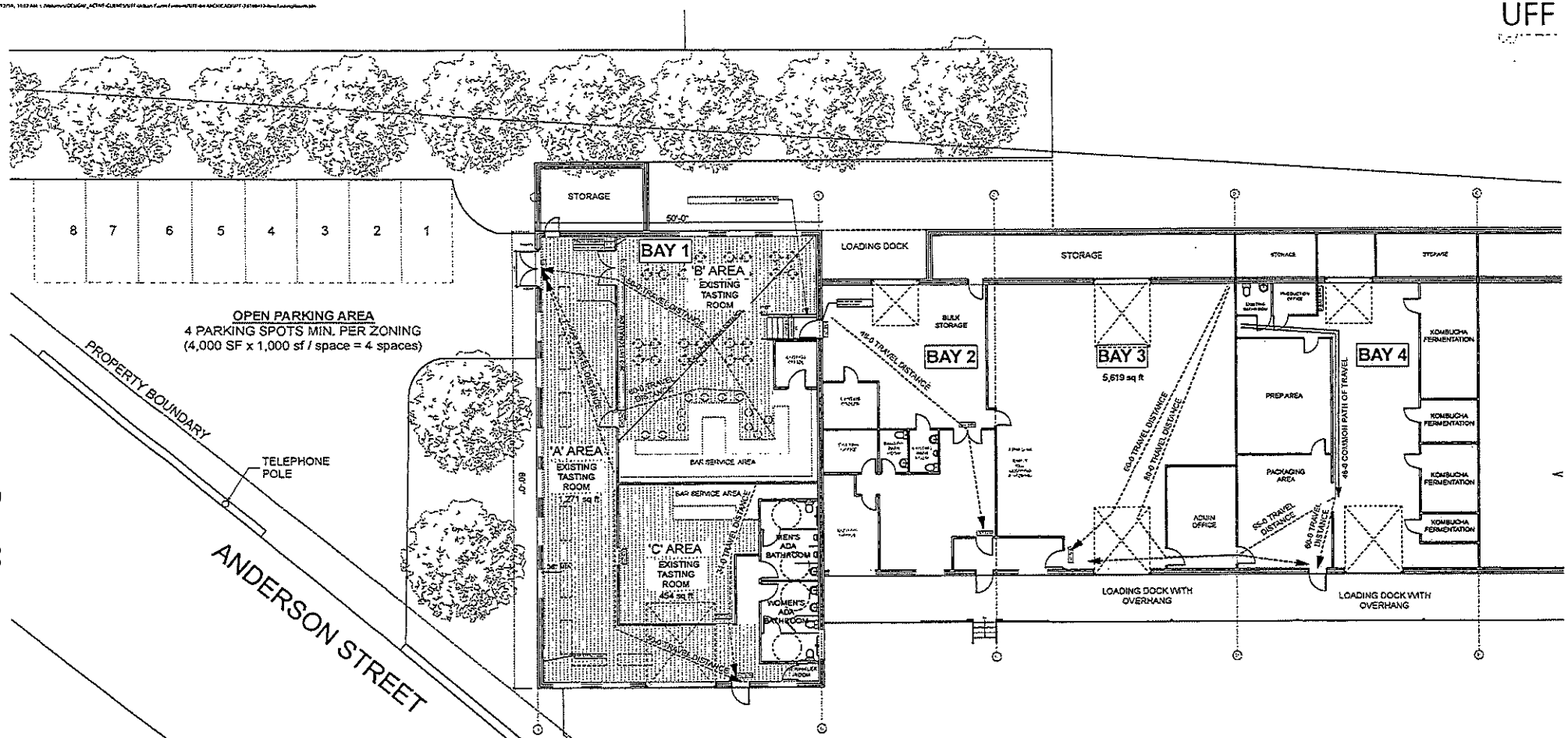
Project: Renovation
URBAN FARM FERMENTARY
200 ANDERSON ST
PORTLAND, ME

Drawing: CODE REVIEW FLOOR PLAN
Scale: 1/8" = 1'-0"
Date: APRIL 12, 2018, 2015
Revisions:

A-1

Indoor

UFF



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N

LICENSED ARCHITECT JAMES JESSE THOMPSON STATE OF MAINE

1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
102 Exchange St., Portland, ME 04101
207-842-2444

CODE REVIEW: NEW TASTING ROOM

Project:
Renovation
URBAN FARM FERMENTARY
200 ANDERSON ST
PORTLAND, ME

Drawing:	CODE REVIEW FLOOR PLAN
Scale:	1/8" = 1'-0"
Date:	APRIL 12, 2010, 2015
Revised:	

A-1.

CITY OF PORTLAND
Permitting and Inspections Department

Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

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

Business Information			
Business Name (d/b/a):	Urban Farm Fermentory	Phone:	207 808 9921
Location Address:	200 Anderson St.	Zip:	04101
Mailing Address:	200 Anderson St	Zip:	04101
Contact Person:	Kayla Tilton	Phone:	207 808 9921
Contact Person Email:	Kayla@mainestandardbiofuels.com		
Manager of Establishment:	James Kaltsas 11-18-74	Phone:	207 975 3113
Owner of Premises (Landlord):	Eli Cayer		
Address of Premises Owner:	173 State St. Portland	Zip:	04101

Owner Information

Corporate Name	Corporate Mailing Address		
Tangible Alchemy	200 Anderson St	Zip:	04101
Contact Person:	Kayla Tilton	Phone:	207 808 9921

Principal Officers	Title	Date of Birth	Residence Address
Eli Cayer	owner	7-5-73	173 State St. 04101

CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	A
Type of food served:	Pizza, Salad, Soup
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	varies, projected: Sun-Sat 10am-1am
Number of Tables	15
Number of Chairs	69

Design and Construction

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

Maintenance and Operations

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

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

Signature _____ Title Office Manager Date 3-20-23

For Administrative Use Only

Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

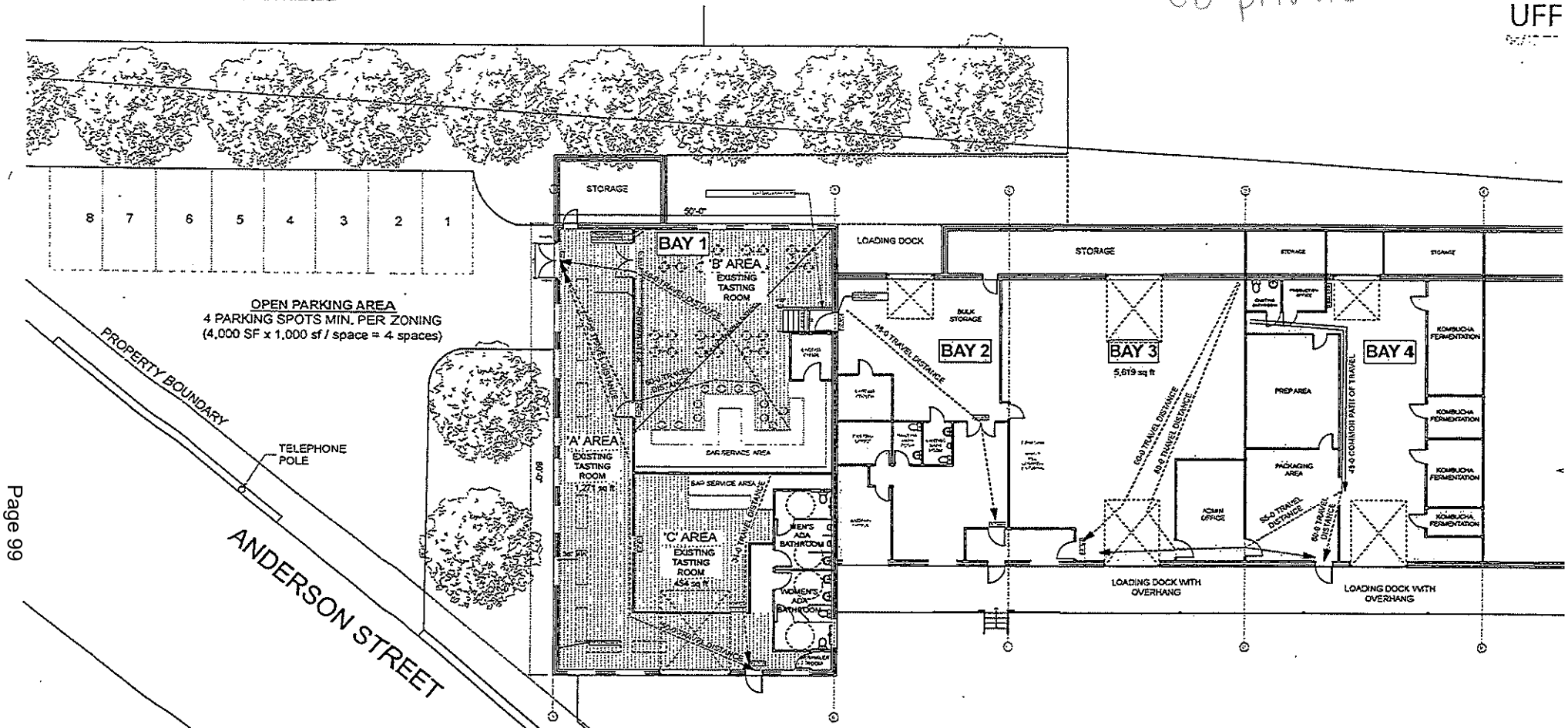
Amount: _____
Date Paid: _____
CC _____ CA _____ CK _____

	Request Date / Approval	Notes:
FD:	/	
Health:	/	
PD:	/	
PR:	/	
Treasury:	/	
Zoning:	/	

Outdoor

Same SQ ft = 1,845
OD private

UFF



PORTLAND ZONING NOTES	IBC OCCUPANCY KEY NOTES	NFPA OCCUPANCY KEY NOTES
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N

LICENSED ARCHITECT
JAMES E. JESSE THOMPSON
STATE OF MAINE

1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
100 Exchange St, Portland, ME 04101
207-842-2448

CODE REVIEW: NEW TASTING ROOM

Project: Renovation
URBAN FARM FERMENTARY
249 ANDERSON ST
PORTLAND, ME

Drawing: CODE REVIEW FLOOR PLAN
Scale: 1/8" = 1'-0"
Date: APRIL 12, 2016, 2015
Revised:

A-1.

Tasting Room

UFF
05/11/2015

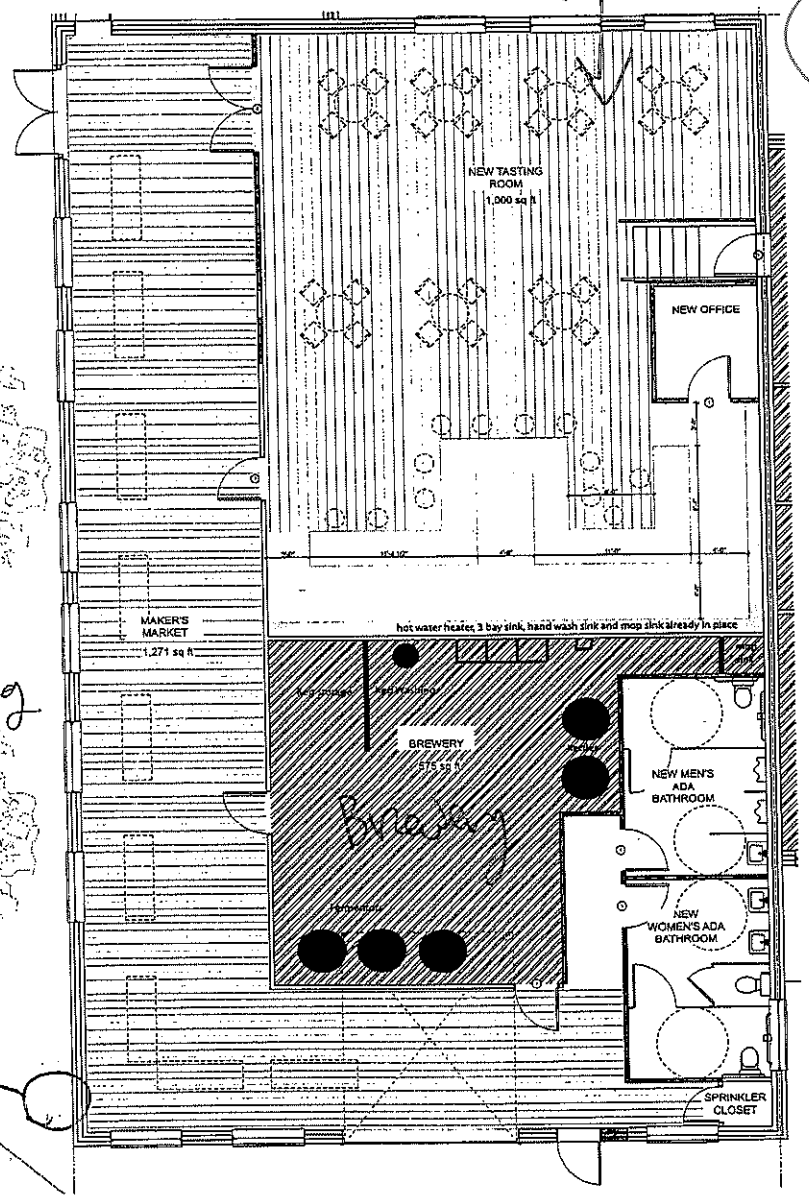
Remove out Door seating.

Tables

OUT Door Seating

Ropes.

Barrels



1 MAIN LEVEL
SCALE: 1/4" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
434 fore st., portland, me 04101
207-842-2888 fax 842-2828

LICENSED ARCHITECT JAMES JESSE THOMPSON 7082-3276 STATE OF MAINE

CODE REVIEW: NEW TASTING ROOM

Project: Renovation
URBAN FARM FERMENTARY
202 ANDERSON ST
PORTLAND, ME

Drawing: SEATING PLAN
Scale: NOT TO SCALE
Date: MAY 11, 2015
Revised:

A-1.3

Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on April 10, 2023 at 5:00 P.M., virtually Tangible Alchemy, LLC, dba Urban Farm Fermentory. Application for Class A Lounge with Combined Entertainment and Outdoor Dining on Private Property at 200 Anderson Street - Sponsored by Danielle P. West, Interim City Manager

City of Portland | Permitting and Inspections
Zachary Lenhert, Licensing and Housing Safety Manager

April 5, 2023

Tangible Alchemy, LLC
200 Anderson Street
Portland, ME 04101

Re: Tangible Alchemy, LLC, dba Urban Farm Fermentory. Application for Class A Lounge with Combined Entertainment and Outdoor Dining on Private Property at 200 Anderson Street

Dear Tangible Alchemy, LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday April 10, 2023 at 5:00 p.m., for the review of application for Class A Lounge with Combined Entertainment and Outdoor Dining on Private Property at 200 Anderson Street. The meeting will take place in person and virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on April 7, 2023.

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

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

Sincerely,

Z Lenhert

Zachary J. Lenhert
Licensing and Housing Safety Manager

Zachary Lenhert <zlenhert@portlandmaine.gov>

Urban Farm Fermentory - 200 Anderson

Eric Nevins <ericn@portlandmaine.gov> Sat, Mar 25, 2023 at 12:49 PM
To: Zachary Lenhert <zlenhert@portlandmaine.gov>
Cc: Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Christina Stacey <cstacey@portlandmaine.gov>, Kevin Schneck <kschneck@portlandmaine.gov>, Glen McGary <glenm@portlandmaine.gov>

Approved
[Quoted text hidden]
--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513

Zachary Lenhert <zlenhert@portlandmaine.gov>

Urban Farm Fermentory - 200 Anderson

Zoning <zoning@portlandmaine.gov> Tue, Apr 4, 2023 at 1:47 PM
To: Zoning <zoning@portlandmaine.gov>
Cc: Zoning <zoning@portlandmaine.gov>, Zachary Lenhert <zlenhert@portlandmaine.gov>, Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Eric Nevins <ericn@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, cstacey <cstacey@portlandmaine.gov>, Kevin Schneck <kschneck@portlandmaine.gov>, Glen McGary <glenm@portlandmaine.gov>

Sorry,

Zoning approves with the agreed memo.

Thank you,

Mac

Mac Coldwell

City of Portland
Zoning Specialist
Permitting & Inspections Department
389 Congress ST, Room #315
Email: mcoldwell@portlandmaine.gov
he/him

[Quoted text hidden]

City of Portland | Permitting and Inspections
Ann Machado, Zoning Administrator

TO: **Mayor Snyder, Danielle West and the City Council**

FROM: **Matthew Coldwell, Zoning Specialist**

SUBJECT: **Alcoholic Beverage License – Urban Farm Fermentory**

DATE: **04/04/2023**

The applicant, Urban Farm Fermentory, is applying for a Class A Lounge (Class X) license with the condition that the license allows no more than 10% of their beverage menu to be produced or manufactured off-site. Most recently, Urban Farms Fermentory, operated under a Class III/IV license approved by the City Council and issued on 12/28/2020. The Zoning Division cannot approve a Class A Lounge (Class X) license because a "bar" is not a permitted use in the IL-b Industrial Zone. If the City Council grants the Class A Lounge (Class X) license with the condition that 90% of the beverage menu for Urban Farms Fermentory must be produced or manufactured on-site, then the Zoning Division would be able to approve the license.

Matthew A. Coldwell, Zoning Specialist
Permitting and Inspections Department
City of Portland, Maine

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Division Use Only
License No:
Class: By:
Deposit Date:
Amt. Deposited:
Payment Type:
OK with SOS: Yes ☐ No ☐

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Section I: Licensee/Applicant(s) Information; Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): Tangible Alchemy, LLC	Business Name (D/B/A): Urban Farm Fermentory
Individual or Sole Proprietor Applicant Name(s): Eli Cayer	Physical Location: 200 Anderson Street
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address:	Email Address: operations@fermentory.com
Telephone # (207) 808-9921 Fax #: (207) 221-1314	Business Telephone # (207) 808-9921 Fax #: (207) 221-1314
Federal Tax Identification Number: 27-1928078	Maine Seller Certificate # or Sales Tax #: 1146651
Retail Beverage Alcohol Dealers Permit:	Website address: Fermentory.com

1. New license or renewal of existing license? ☒ New Expected Start date: _____

   ☐ Renewal Expiration Date: _____

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

   Food: _____ Beer, Wine or Spirits: _____ Guest Rooms: _____

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

   ☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

☐	Restaurant (Class I, II, III, IV)	☐	Class A Restaurant/Lounge (Class XI)	☒	Class A Lounge (Class X)
☐	Hotel (Class I, II, III, IV)	☐	Hotel – Food Optional (Class I-A)	☐	Bed & Breakfast (Class V)
☐	Golf Course (included optional licenses, please check if apply) (Class I, II, III, IV)	☐	Auxiliary	☐	Mobile Cart
☐	Tavern (Class IV)	☐	Other: _____		
☐	Qualified Caterer	☐	Self-Sponsored Events (Qualified Caterers Only)		

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

200 Anderson St. Portland, ME 04101

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If **Yes**, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
Grovit LLC	SMB-2016-58	200 Anderson St. Portland, ME

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
James Jolmin Kaltsas	11-18-74	Regina, Saskatchewan
Benjamin Kidson	09-29-78	Attleboro, MA
Kayla Kittrick	10-27-92	Lincoln, ME

Residence address on all the above for previous 5 years

Name: James Kaltsas Address: 44 Cathy Lane, Cumberland, ME

Name: Benjamin Kidson Address: Windham, ME

Name: Address:

Name: Kayla Kittrick Address: South Portland, ME

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If **Yes**, provide name of law enforcement officer and department where employed:

_____

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☒ Yes ☐ No

If No, please provide the name and address of the owner:

_____

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Tasting Room, brewery space, outside/parking lot + picnic area

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

Name: East End Community School

Distance: .6 miles

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to $2,000 or by both.

Please sign and date in blue ink.

Dated: 3/21/23

Signature of Duly Authorized Person

Signature of Duly Authorized Person

Bill Cayer

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

This Application will Expire 60 Days from the date of Municipal or County Approval unless submitted to the Bureau

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
    - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of $10.00 must be included with all applications.

Please note: For Licensees/Applicants in unorganized territories in Maine, the $10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
Class I	**For the sale of liquor (malt liquor, wine and spirits)**	$ 900.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	
Class I-A	**For the sale of liquor (malt liquor, wine and spirits)**	$1,100.00
	This class includes only hotels that do not serve three meals a day.	
Class II	**For the Sale of Spirits Only**	$ 550.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	**For the Sale of Wine Only**	$ 220.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	**For the Sale of Malt Liquor Only**	$ 220.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III and IV	**For the Sale of Malt Liquor and Wine Only**	$ 440.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class V	**For the sale of liquor (malt liquor, wine and spirits)**	$ 495.00
	This class includes only a Club without catering privileges.	
Class X	**For the sale of liquor (malt liquor, wine and spirits)**	$2,200.00
	This class includes only a Class A Lounge	
Class XI	**For the sale of liquor (malt liquor, wine and spirits)**	$1,500.00
	This class includes only a Restaurant Lounge	

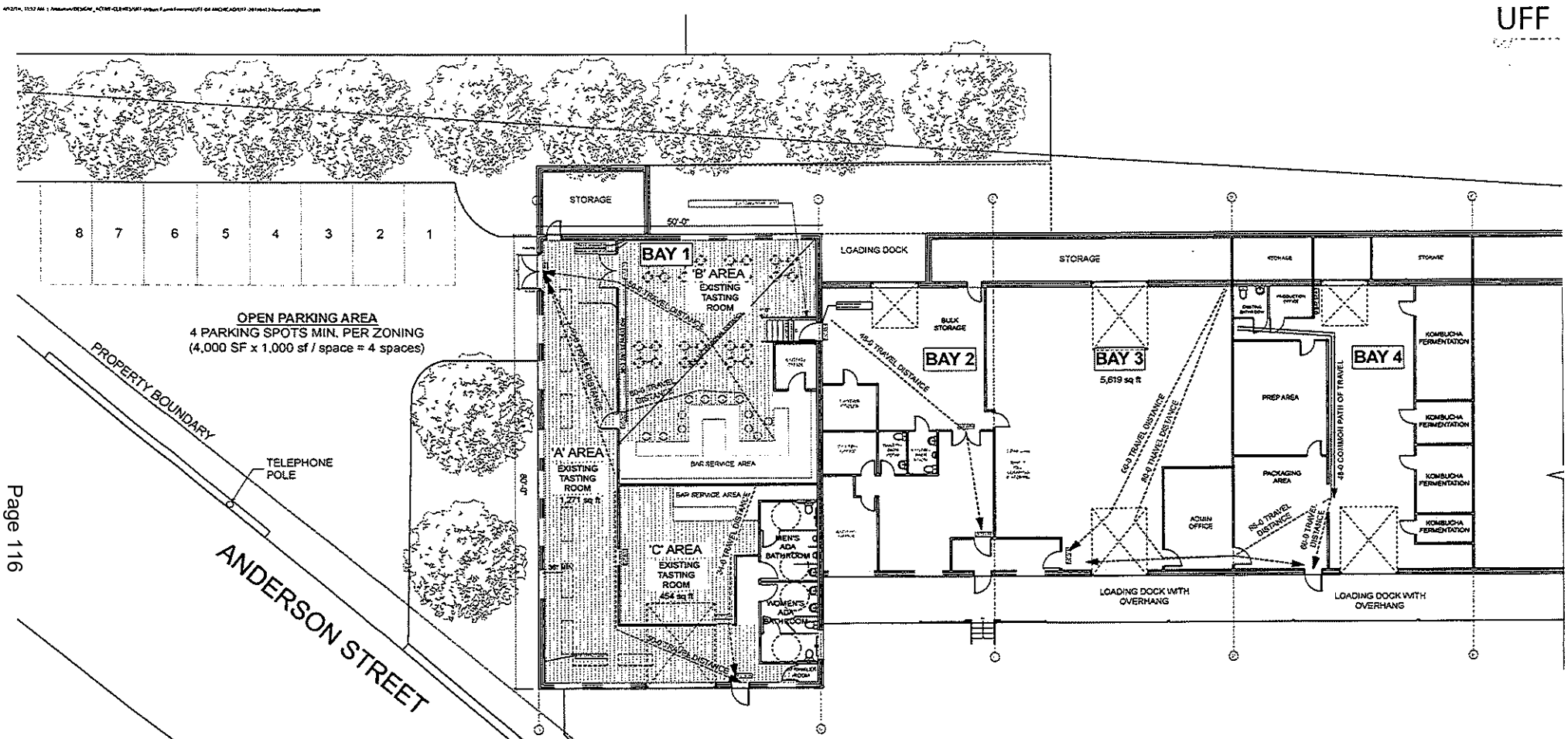
Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.

Indoor

UFF



PORTLAND ZONING NOTES	IBC OCCUPANCY KEY NOTES	NFPA OCCUPANCY KEY NOTES
I-Lb ZONE TASTING RM: Ancillary Use Low impact industrial use: brewery. Tues - Sat, 12pm - 7pm	**BAY 1** A-2 ASSEMBLY USE (TASTING ROOM) Rm A 1,271 SF / 15 = 85 Occupants Rm B 1,000 SF / 15 = 67 Occupants Rm C 454 SF / 15 = 30 Occupants Total 2,725 SF / 15 = 182 Occupants	**BAY 1** A-2 ASSEMBLY USE (TASTING ROOM) Rm A 1,271 SF / 15 = 85 Occupants Rm B 1,000 SF / 15 = 67 Occupants Rm C 454 SF / 15 = 30 Occupants Total 2,725 SF / 15 = 182 Occupants
BAY 2, 3 & 4 F-2 Low impact industrial use: Brewery (no change to layout or use)	**BAY 2, 3 & 4** F-2: FACTORY, LOW HAZARD 5,624 SF / 100 = 57 Occupants (no change to layout or use)	**BAY 2, 3 & 4** INDUSTRIAL 5,624 sf / 100 = 57 Occupants (no change to layout or use)

N

LICENSED ARCHITECT JAMES JESSE THOMPSON STATE OF MAINE

1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
102 Exchange St., Portland, ME 04101
207-842-2388

CODE REVIEW: NEW TASTING ROOM

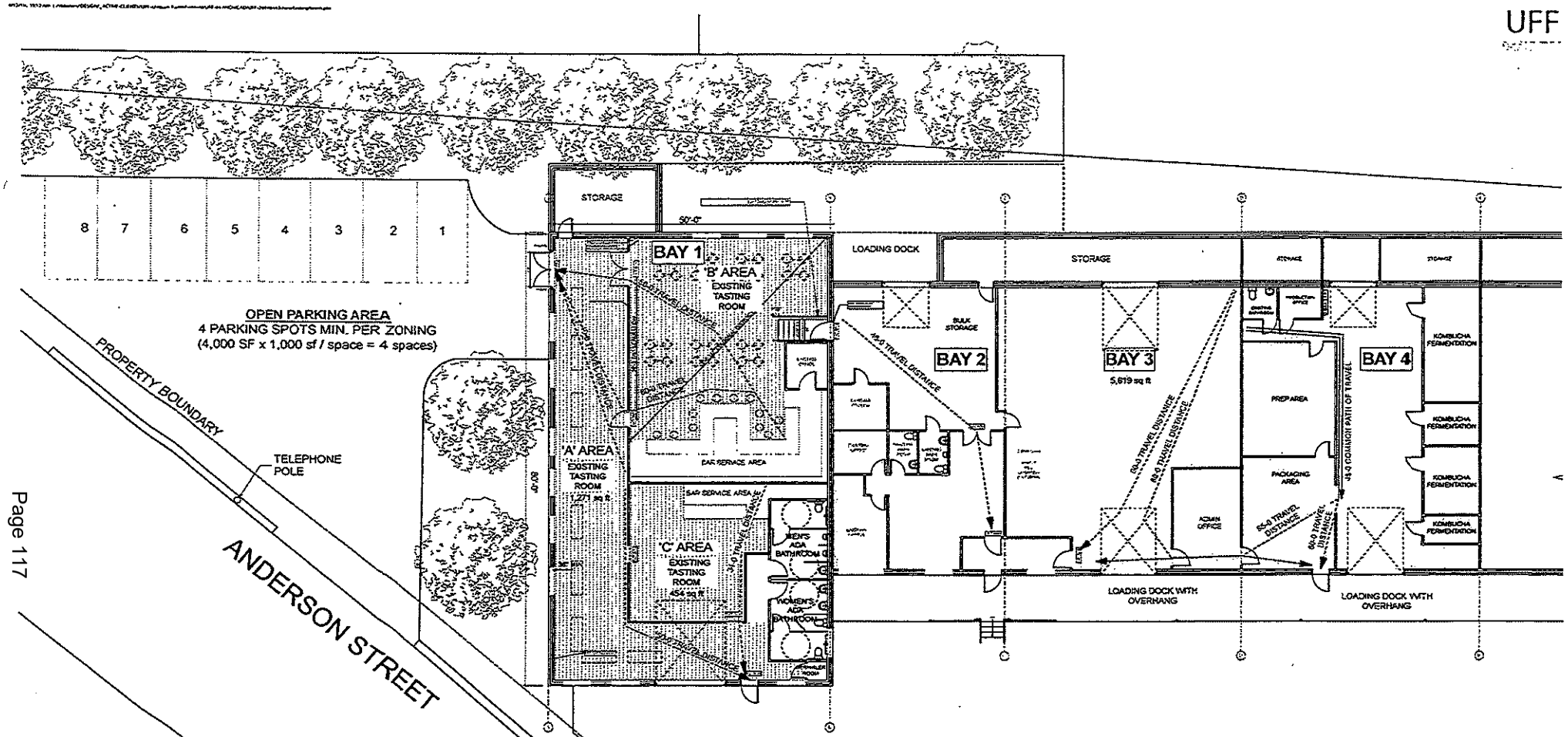
Project: Renovation
URBAN FARM FERMENTARY
200 ANDERSON ST
PORTLAND, ME

Drawing: CODE REVIEW FLOOR PLAN
Scale: 1/8" = 1'-0"
Date: APRIL 12, 2018, 2015 Revised:

A-1.

outdoor

UFF



PORTLAND ZONING NOTES	IBC OCCUPANCY KEY NOTES	NFPA OCCUPANCY KEY NOTES
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BAY 2, 3 & 4 F-2 Low impact industrial use: Brewery (no change to layout or use)	**BAY 2, 3 & 4** F-2: FACTORY, LOW HAZARD 5,624 SF / 100 = 57 Occupants (no change to layout or use)	**BAY 2, 3 & 4** INDUSTRIAL 5,624 sf / 100 = 57 Occupants (no change to layout or use)

N

LICENSED ARCHITECT JAMES JESSE THOMPSON STATE OF MAINE

1 MAIN LEVEL
SCALE: 1/8" = 1'-0"

KAPLAN THOMPSON ARCHITECTS
162 Exchange St, Portland, ME 04101
207-842-2888

CODE REVIEW: NEW TASTING ROOM

Project: Renovation
URBAN FARM FERMENTARY
200 ANDERSON ST
PORTLAND, ME

Drawing: CODE REVIEW FLOOR PLAN
Scale: 1/8" = 1'-0"
Date: APRIL 12, 2018, 2015
Revised:

A-1.

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Tangible Alchemy, LLC
2. Doing Business As, if any: Urban Farm Fermentory
3. Date of filing with Secretary of State: 2-17-2010 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Eli Cayer	173 State St. Portland ME	07/05/73	President	100%

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

INVOICE

CITY OF PORTLAND
LICENSING & REGISTRATION
389 Congress Street
Portland, Maine 04101
(207) 756-8131

INVOICE NUMBER	INVOICE DATE	INVOICE DUE DATE	INVOICE STATUS	INVOICE DESCRIPTION
INV-00081019	03/20/2023	03/20/2023	Due	NONE

REFERENCE NUMBER	FEE NAME	TOTAL
LL-005285-2023	Class A Lounge	$2,774.00
	Combined Entertainment	$800.00
	Legal Advertisement Deposit	$100.00
	New Application Fee	$45.00
Urban Farm Fermentory - 200 Anderson St Portland, ME 04101	**SUB TOTAL**	$3,719.00

TOTAL **$3,719.00**

BILLING CONTACT

ELI CAYER
TANGIBLE ALCHEMY LLC
200 Anderson St
Portland, Me 04101

Make checks payable to the City of Portland, ATTN: Licensing & Registration, 389 Congress Street, Portland, ME 04101

City of Portland
Permitting & Inspections
389 Congress St
Portland, ME 04101
207 874-8490
Welcome

017463-0001 Katlyn S. 03/20/2023 04:40PM

INVOICE
CAYER, ELI (TANGIBLE ALCHEMY LLC)
LL-005285-2023
2023 Item: INV-00081019

New Application Fee	45.00
Class A Lounge	2,774.00
Legal Advertisement Deposit	100.00
Combined Entertainment	800.00

	3,719.00
Subtotal	**3,719.00**
Total	**3,719.00**
CHECK	3,719.00
Check Number 5167	

Change due	**0.00**

Paid by: URBAN FARM FERMENTORY

Thank you for your payment

CUSTOMER COPY

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 24, 2023

SUBJECT: Order 164-22/23 Granting Municipal Officers' Approval of LOPBURI, LLC, dba Thai Esaan. Application for Class III & IV FSE at 65 Portland Street - Sponsored by Danielle P. West, Interim City Manager

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: N/A

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 3/17/23. New City and State applications. Location was previously Back Bay Grill.

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. 2023.04.10_Thai Esaan
2. Thai Esaan_Council Packet

Prepared by:
Date: 03/24/2023

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

LOPBURI, LLC, dba Thai Esaan. Application for Class III & IV FSE at 65 Portland Street

Somphon Boonseng
65 Portland St.
Portland, ME 04101

To: Mayor and City council members,

My name is Somphon Boonseng and I have acquired a space to re-open my restaurant. We intend to open our restaurant again under, "Thai Esaan" at 65 Portland St. Portland, ME. We intend to incorporate beer and wine into our menu. Thank you.

Sincerely,
Somphon Boonseng
Owner
Thai Esaan
207.776.8434

CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Establishment Name (d/b/a):	THAI ESAAN	Phone:	207 536 0752
Location Address:	65 PORTLAND ST. PORTLAND, ME	Zip:	04101
If new, what was formerly at this location:	BACK BAY GRILL		
Mailing Address:	755 STACKPOLE ROAD DURHAM, ME	Zip:	04222
Contact Person:	SOMPHON BOONSENG	Phone:	207 776 8434
Contact Person Email:	S.BOONSENG@GMAIL.COM s.boonseng@gmail.com		
Manager of Establishment:	SOMPHON BOONSENG Date of Birth: 02/24/1986	Phone:	207 776 8434
Owner of Premises (Landlord):	SANDZOH LLC.		
Address of Premises Owner (Landlord):	62 PORTLAND ST. PORTLAND, ME	Zip:	04101

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name	Corporate Mailing Address		
LOPBURI LLC	775 STACKPOLE ROAD DURHAM.	Zip:	04222
Contact Person:	SOMPHON BOONSENG	Phone:	207 776 8434

Principal Officers	Title	Date of Birth	Residence Address
SOMPHON BOONSENG	OWNER	02/24/1986	755 STACKPOLE RD, DURHAM, ME 04222

Class of Liquor License:	3 & 4

CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	Thai food
Please circle all that will be served:	Beer Wine Liquor
Projected percentage of sales:	Generated from Food: 85 % Generated from Alcohol: 15 %
Hours & days of operation:	

QUESTIONS	**Y/N**
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N
If No, please explain: Take-out N/A	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/N
If yes, give the distance: 1000 feet school	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? ASAP	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s): Thai E-Saan 849 Forest Ave (had fire)	
Is any principal officer under the age of 21?	Y/N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N
If Yes, please explain:	

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

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

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

Signature _____ Title OWNER Date 03/06/2023

APPETIZERS

V **EGG ROLLS** 8
four homemade crispy rolls, taro, vermicelli

V GF **SPRING ROLLS** 8
two rolls, veggies, noodles and mint wrapped in rice paper

CRAB RANGOON 9
Five crispy wontons, cream cheese, Maine crab meat

DUMPLINGS 8
six *steamed* or *pan-fried* pork dumplings

🕒 **THAI SAUSAGE** 8
spicy, thai herbs, fresh ginger

GF 🕒 **CHICKEN SATAY** 9
four marinated chicken skewers

GF 🕒 **MOO PING** 9
four marinated pork skewers

SALADS

GF 🕒 **PAPAYA SALAD** 16
green papaya, tomatoes, lime juice, crushed peanuts

GF 🕒 **LAAB GAI** 18
ground chicken, thai herbs, lime juice and chili

GF 🕒 **NAHM THOK** 19
beef or pork tossed in chili, lime, mint and lemongrass

SOUP

GF **TOM YUM**
hot and spicy, lemongrass, onions, mushrooms, lime leaves 7

GF **TOM KHA**
coconut milk, lemongrass, onions, mushrooms 7

NOODLES

chicken, pork, tofu or vegetables 18

beef, duck, shrimp or crispy chicken 21

GF **PAD THAI**
egg, scallions, peanuts and bean sprouts

🕒 **BA MEE**
egg noodles, sweet barbecue pork and sprouts tossed in sauce

THAI LOMEIN
egg noodles, broccoli, peppers, carrots, onions and scallion

DRUNKEN NOODLE
flat noodles, spicy thai basil, broccoli, peppers, carrots and onions

PAD SE EW
flat noodles, broccoli and carrots

🕒 **LAD NAH**
flat noodles, broccoli, carrots and mushrooms in homemade gravy

SIGNATURE

KHAO MUN GAI 20
steamed chicken over seasoned rice with homemade sauce

🕒 **KANAA MOO GROB** 23
Chinese broccoli, carrots and crispy pork

🕒 **KRAH POW MOO GROB** 23
spicy Thai basil, green beans, onions and crispy pork

We are happy to accommodate your spice level!
Please let us know if you'd prefer mild, medium or HOT!

🕒 Requires a little extra time to prepare! Thank you for your patience!

ENTREES

chicken, pork, tofu or vegetables 18

beef, duck, shrimp or crispy chicken 21

KRAH POW (choice of ground pork or chicken)
spicy thai basil, sautéed peppers, onions, green beans

BROCCOLI
choice of protein, broccoli, carrots, mushrooms

CASHEW
choice of protein, peppers, onions and pineapples

FRIED RICE
choice of protein, carrots, onions and broccoli

GARLIC
choice of protein, broccoli, carrots, onions, sautéed garlic

GINGER
choice of protein, ginger, peppers, onions, mushrooms and

GF RED
choice of protein, bamboo, peppers, green beans and basil

GF YELLOW
choice of protein, pineapple, potatoes, onions and carrots

GF GREEN
choice of protein, bamboo, peppers green beans and basil

GF PANANG
choice of protein, green beans and carrots

esaan

thai home cooking

207 · 536 · 0752
TAKE OUT · DINE IN
65 PORTLAND ST · PORTLAND MAINE

11 AM TO 9 PM
TUESDAY TO SUNDAY
closed mondays

@thaiesaanportland
thaiesaanportland@gmail.com
www.thaiesaan.com

Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on April 10, 2023 at 5:00 P.M., virtually LOPBURI, LLC, dba Thai Esaan. Application for Class III & IV FSE at 65 Portland Street - Sponsored by Danielle P. West, Interim City Manager

City of Portland | Permitting and Inspections
Zachary Lenhert, Licensing and Housing Safety Manager

April 5, 2023

LOPBURI, LLC
755 Stackpole Road
Durham, ME 04222

Re: LOPBURI, LLC, dba Thai Esaan. Application for Class III & IV FSE at 65 Portland Street

Dear LOPBURI, LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday April 10, 2023 at 5:00 p.m., for the review of application for Class III & IV FSE at 65 Portland Street. The meeting will take place in person and virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on April 7, 2023.

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

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

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

Thai Esaan

Eric Nevins <ericn@portlandmaine.gov> Fri, Mar 24, 2023 at 2:54 PM
To: Zachary Lenhert <zlenhert@portlandmaine.gov>
Cc: Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Christina Stacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Approved.
[Quoted text hidden]
--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513

Zachary Lenhert <zlenhert@portlandmaine.gov>

Thai Esaan

Matthew Coldwell <mcoldwell@portlandmaine.gov> Tue, Mar 28, 2023 at 8:28 AM
To: Zoning <zoning@portlandmaine.gov>
Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Eric Nevins <ericn@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, cstacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Good Morning,

The legal use of the 1st floor of 65 Portland ST is restaurant. Zoning approves.

Thank you,

Mac

Mac Coldwell

City of Portland
Zoning Specialist
Permitting & Inspections Department
389 Congress ST, Room #315
Email: mcoldwell@portlandmaine.gov
he/him
[Quoted text hidden]

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Division Use Only
License No:
Class: By:
Deposit Date:
Amt. Deposited:
Payment Type:
OK with SOS: Yes ☐ No ☐

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Section I: Licensee/Applicant(s) Information; Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): LOPBURI LLC	Business Name (D/B/A): THAI ASIAN
Individual or Sole Proprietor Applicant Name(s): SOMPHON BOONSENG	Physical Location: 65 PORTLAND ST. PORTLAND, ME 04101
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address:	Email Address: S.BOONSENG@GMAIL.COM
Telephone # 207 776 8434 Fax #:	Business Telephone # 207 536 0752 Fax #:
Federal Tax Identification Number:	Maine Seller Certificate # or Sales Tax #:
Retail Beverage Alcohol Dealers Permit:	Website address: THAIASIAN.COM

1. New license or renewal of existing license? ☑ New Expected Start date: ASAP.
   ☐ Renewal Expiration Date: _____

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

   Food: _____ Beer, Wine or Spirits: _____ Guest Rooms: _____

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

   ☑ Malt Liquor (beer) ☑ Wine ☐ Spirits

4. Indicate the type of license applying for: (choose only one)

☑ Restaurant (Class I, II, III, IV)
☐ Class A Restaurant/Lounge (Class XI)
☐ Class A Lounge (Class X)

☐ Hotel (Class I, II, III, IV)
☐ Hotel – Food Optional (Class I-A)
☐ Bed & Breakfast (Class V)

☐ Golf Course (included optional licenses, please check if apply) (Class I, II, III, IV)
☐ Auxiliary
☐ Mobile Cart

☐ Tavern (Class IV)
☐ Other: _____

☐ Qualified Caterer
☐ Self-Sponsored Events (Qualified Caterers Only)

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

65 PORTLAND ST, PORTLAND ME 04101

6. Is the licensee/applicant(s) citizens of the United States? ☑ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☑ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☑ Yes ☐ No If **Yes**, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☑ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☑ No

If yes, please provide details: _____

_____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☑ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Somphon Boonsanh	02/24/1986	Bangkok, Thailand

Residence address on all the above for previous 5 years

Name	Address:
Somphon Boonsanh	755 Stackpole Rd, Durham, ME 04222
Name	Address:
Name	Address:
Name	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☑ No

If **Yes**, provide name of law enforcement officer and department where employed:

_____

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☑ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☑ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☑ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☑ No

If No, please provide the name and address of the owner:

_____

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: N/A

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Area where alcohol stored
+ dining area

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

Name: ~~ME Academy of Arts~~ PORTLAND HIGH SCHOOL

Distance: ~~Across the street~~ 1000 YARD AWAY

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to $2,000 or by both.

Please sign and date in blue ink.

Dated: 03/06/2023

Signature of Duly Authorized Person

Signature of Duly Authorized Person

Sompron Boonsenh

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

This Application will Expire 60 Days from the date of Municipal or County Approval unless submitted to the Bureau

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
    - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of $10.00 must be included with all applications.

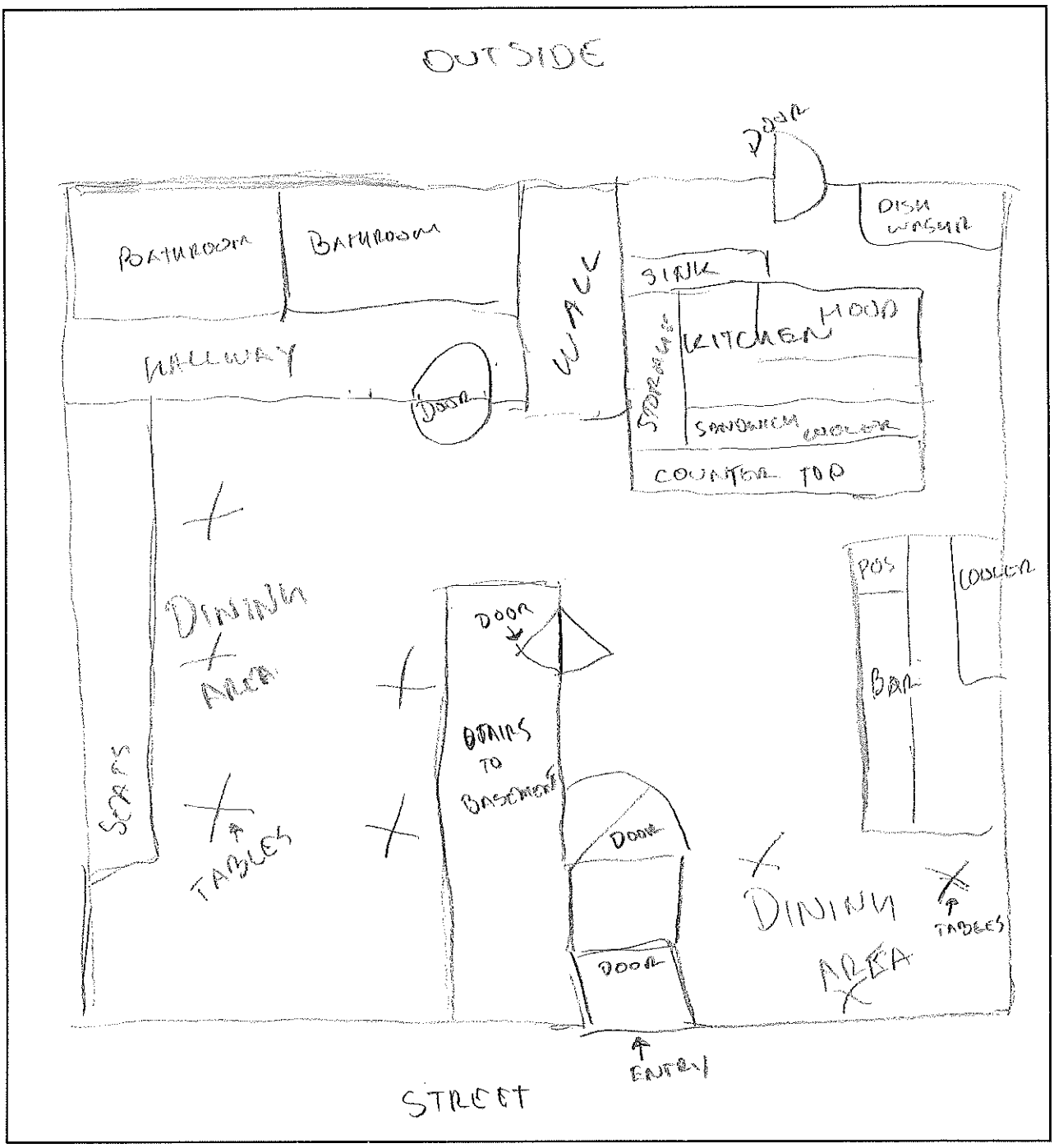
Please note: For Licensees/Applicants in unorganized territories in Maine, the $10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
Class I	**For the sale of liquor (malt liquor, wine and spirits)**	$ 900.00
This class includes: Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers		
Class I-A	**For the sale of liquor (malt liquor, wine and spirits)**	$1,100.00
This class includes only hotels that do not serve three meals a day.		
Class II	**For the Sale of Spirits Only**	$ 550.00
This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.		
Class III	**For the Sale of Wine Only**	$ 220.00
This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.		
Class IV	**For the Sale of Malt Liquor Only**	$ 220.00
This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.		
Class III and IV	**For the Sale of Malt Liquor and Wine Only**	$ 440.00
This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.		
Class V	**For the sale of liquor (malt liquor, wine and spirits)**	$ 495.00
This class includes only a Club without catering privileges.		
Class X	**For the sale of liquor (malt liquor, wine and spirits)**	$2,200.00
This class includes only a Class A Lounge		
Class XI	**For the sale of liquor (malt liquor, wine and spirits)**	$1,500.00
This class includes only a Restaurant Lounge		

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: LOPBURI LLC
2. Doing Business As, if any: THAI ESAAN
3. Date of filing with Secretary of State: 2016 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
SOUMPHON BOONSOAK	755 STREKPOLE RD DURHAM MAINE 04222	02/24/1996	OWNER	100%

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

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 24, 2023

SUBJECT: Order 165-22/23 Granting Municipal Officers' Approval of Yam Tamblin, LLC, dba The End. Application for Class A Lounge at 229 Congress Street - Sponsored by Danielle P. West, Interim City Manager

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: N/A

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

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 3/20/23. New City and State applications. Location was previously Dirty Dove.

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. 2023.04.10_The End
2. The End_Council Packet

Prepared by:
Date: 03/24/2023

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA PHILLIPS (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Yam Tamblin, LLC, dba The End. Application for Class A Lounge at 229 Congress Street

March 8, 2023

Dear Mayor Snyder and Members of Portland City Council,

We, Yam Tamblin LLC, owned and operated by Andrew Roseman, are assuming the lease at 229 Congress Street, previously the Dirty Dove/ Saint Joe Restobar. Yam Tamblin LLC plans to continue running the space as a small lounge, named the End, without any major change to the scope. Celeste Parke, treasurer of Yam Tamblin LLC, together with Benjamin Sawyer and John Althoff, stakeholders, will manage the day-to-day operations of the End.

We have decades of combined experience in the food and beverage industry and hope our friendly, well-curated neighborhood bar will compliment the lively community of Munjoy Hill and Washington Ave.

The estimated open date is late April 2023 or as soon as possible. Please reach out with any questions or concerns. We look forward to presenting to you at a future City Council meeting.

Sincerely,

Celeste Parke
Treasurer
Yam Tamblin LLC

(207)-210-2415
yam.tamblin@gmail.com

CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Establishment Name (d/b/a):	The End	Phone: TBD	
Location Address:	229 Congress St	Zip: 04101	
If new, what was formerly at this location:	Dirty Dove / Saint Joe Restobar		
Mailing Address:	87 Douglass St. Portland	Zip: 04102	
Contact Person:	Celeste Parke	Phone: 207 210 2415	
Contact Person Email:	yam.tamblin@gmail.com		
Manager of Establishment:	Benjamin Sawyer Date of Birth: 08-26-81	Phone: 310 909 6867	
Owner of Premises (Landlord):	I-95 Portland Portfolio LLC		
Address of Premises Owner (Landlord):	135 Chadwick st. Ste B	Zip: 04101	

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

Name of Owner(s)	Date of Birth	Residence Address

Corporate Name	Corporate Mailing Address
Yam Tamblin LLC	87 Douglass St. Portland ME Zip: 04102

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

Contact Person: Celeste Parke		Phone: 207 210 2415	
Principal Officers	**Title**	**Date of Birth**	**Residence Address**
Andrew Roseman	CEO	06-18-1992	87 Douglass St Portland
Celeste Parke	treasurer	02-25-1985	87 Douglass St Portland

Class of Liquor License: A Lounge

CITY OF PORTLAND

Permitting and Inspections Department

Type of food served:	Snacks, sandwiches, small plates, desserts
Please circle all that will be served:	Beer Wine Liquor
Projected percentage of sales:	Generated from Food: TBD less than 25% Generated from Alcohol: TBD more than 75%
Hours & days of operation:	W-Sa 5p-12am

QUESTIONS	**Y/N**
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N
If No, please explain: The food options will include snacks, sandwiches + sharing plates	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? End of April 2023	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s): Blue, 650 Congress St.	
Is any principal officer under the age of 21?	Y/N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N
If Yes, please explain:	

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

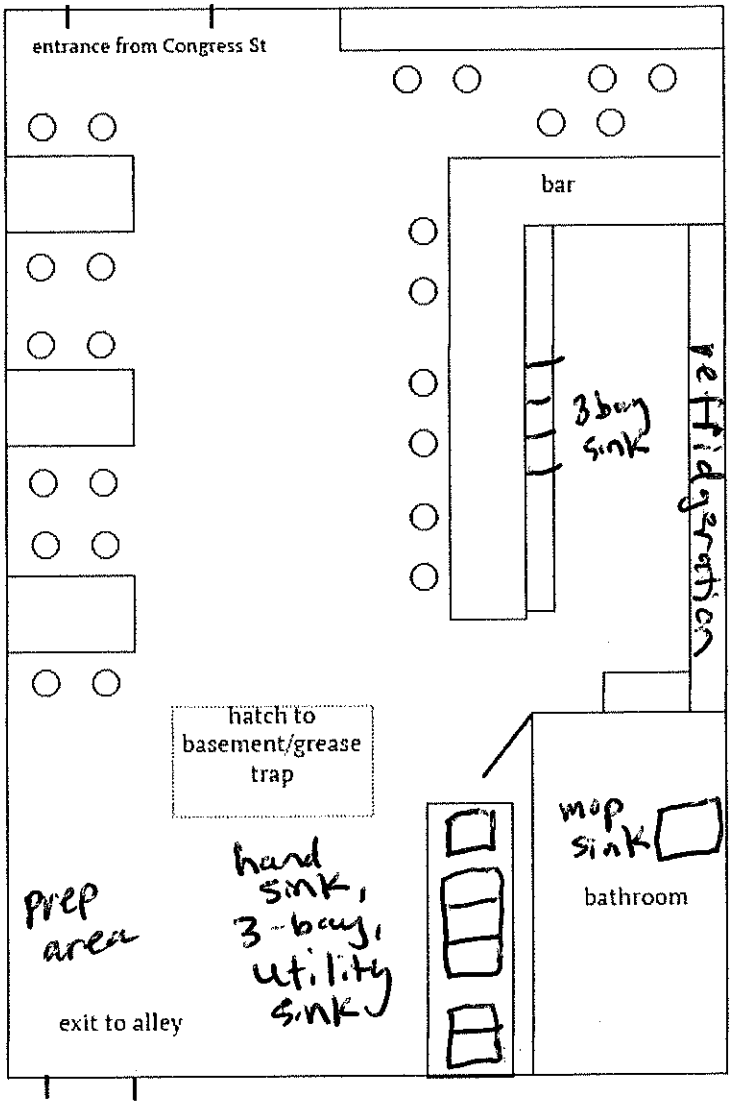
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts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

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

Signature _____ Title Treasurer Date 3/10/23

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov



the End
229 Congress Street
Portland, ME 04101

the End.

eats

House-made Snack Mix
$4

Pickle Plate
Classics, and seasonal pickles, rye crackers
$6

Mediterranean Plate
Hummus, naan, muhammarra, dolmas
$13

Open-faced Cheese Melt
Sourdough, cheddar, pimento sauce
$7

Bowl of Veggie Chili
$7

Cupcake
rotating flavor
$5

Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on April 10, 2023 at 5:00 P.M., virtually Yam Tamblin, LLC, dba The End. Application for Class A Lounge at 229 Congress Street - Sponsored by Danielle P. West, Interim City Manager - Sponsored by Danielle P. West, Interim City Manager

City of Portland | Permitting and Inspections
Zachary Lenhert, Licensing and Housing Safety Manager

April 5, 2023

Yam Tamblin, LLC
87 Douglas Street
Portland, ME 04101

Re: Yam Tamblin, LLC, dba The End. Application for Class A Lounge at 229 Congress Street

Dear Yam Tamblin, LLC:

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday April 10, 2023 at 5:00 p.m., for the review of application for Class A Lounge at 229 Congress Street. The meeting will take place in person and virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on April 7, 2023.

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

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

Sincerely,

Zachary J. Lenhert
Licensing and Housing Safety Manager

Zachary Lenhert <zlenhert@portlandmaine.gov>

The End - 229 Congress

Eric Nevins <ericn@portlandmaine.gov> Fri, Mar 24, 2023 at 2:52 PM
To: Zachary Lenhert <zlenhert@portlandmaine.gov>
Cc: Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Christina Stacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Approved.
[Quoted text hidden]
--
Eric Nevins
Lieutenant
Portland Police Department
(207) 874-8513

Zachary Lenhert <zlenhert@portlandmaine.gov>

The End - 229 Congress

Matthew Coldwell <mcoldwell@portlandmaine.gov> Tue, Mar 28, 2023 at 8:17 AM
To: Zoning <zoning@portlandmaine.gov>
Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, Ron Kelton <rkelton@portlandmaine.gov>, Fire Prevention <fireprevention@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Katlyn Sawyer <ksawyer@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Eric Nevins <ericn@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, cstacey <cstacey@portlandmaine.gov>, Business Licensing <bl@portlandmaine.gov>

Good Morning,

The legal use for this tenant space is restaurant and bar. Zoning approves.

Thank you,

Mac

Mac Coldwell

City of Portland
Zoning Specialist
Permitting & Inspections Department
389 Congress ST, Room #315
Email: mcoldwell@portlandmaine.gov
he/him

[Quoted text hidden]

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Division Use Only
License No:
Class: By:
Deposit Date:
Amt. Deposited:
Payment Type:
OK with SOS: Yes ☐ No ☐

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Section I: Licensee/Applicant(s) Information; Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): Yam Tamblin LLC	Business Name (D/B/A): the End
Individual or Sole Proprietor Applicant Name(s):	Physical Location: 229 Congress St.
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: 87 Douglass St
Mailing address, if different from DBA address: Portlnd ME 04102	Email Address: yam.tamblin@gmail.com
Telephone # 207-210-2415 Fax #:	Business Telephone # Fax #:
Federal Tax Identification Number: 88-3530369	Maine Seller Certificate # or Sales Tax #: in process
Retail Beverage Alcohol Dealers Permit:	Website address: TBD

1. New license or renewal of existing license? ☑ New Expected Start date: End of 4/23
   ☐ Renewal Expiration Date: _____

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:
   Food: TBD Beer, Wine or Spirits: TBD Guest Rooms: NA

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)
   ☑ Malt Liquor (beer) ☑ Wine ☑ Spirits

4. Indicate the type of license applying for: (choose only one)

☐ Restaurant (Class I, II, III, IV)
☐ Class A Restaurant/Lounge (Class XI)
☑ Class A Lounge (Class X)

☐ Hotel (Class I, II, III, IV)
☐ Hotel – Food Optional (Class I-A)
☐ Bed & Breakfast (Class V)

☐ Golf Course (included optional licenses, please check if apply) (Class I, II, III, IV)
☐ Auxiliary
☐ Mobile Cart

☐ Tavern (Class IV)
☐ Other: _____

☐ Qualified Caterer
☐ Self-Sponsored Events (Qualified Caterers Only)

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

87 Douglass St, Portland ME 04102

6. Is the licensee/applicant(s) citizens of the United States? ☑ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☑ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☑ Yes ☐ No If **Yes**, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☑ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☑ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☑ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
Blue	CAL-2022-14677	650 Congress St Portland

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Andrew Roseman	6-18-92	CT
Celeste Parke	2-25-85	VT
~~[illegible]~~ Benjamin Sawyer	8-26-81	ME
John Althoff	5-20-71	IN

Residence address on all the above for previous 5 years

Name Andrew Roseman Address: 87 Douglass St. Portland

Name Celeste Parke Address: 87 Douglass St Portland

Name Benjamin Sawyer Address: 299 Brackett St. #1 Portland

Name John Althoff Address: 299 Brackett St. #1 Portland

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☑ No

If **Yes**, provide name of law enforcement officer and department where employed:

_____

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☑ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☑ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☑ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☑ No

If No, please provide the name and address of the owner:

I-95 Portland Portfolio, 135 Chadwick St Ste B
Portland, 04101

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

The bar area consists of bar, window area and (3) high top tables. A small prep area is in the back of the space.

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

Name: Etz Chaim Synagogue

Distance: 469 ft.

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to $2,000 or by both.

Please sign and date in blue ink.

Dated: 3/12/23 3/12/23

Signature of Duly Authorized Person

Signature of Duly Authorized Person

Celeste Parke Celeste Parke

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

This Application will Expire 60 Days from the date of Municipal or County Approval unless submitted to the Bureau

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

E. A violation of any provision of this Title;

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. Repealed

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. Repealed

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
    - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers for more information.

Section V: Fee Schedule

Filing fee required. In addition to the license fees listed below, a filing fee of $10.00 must be included with all applications.

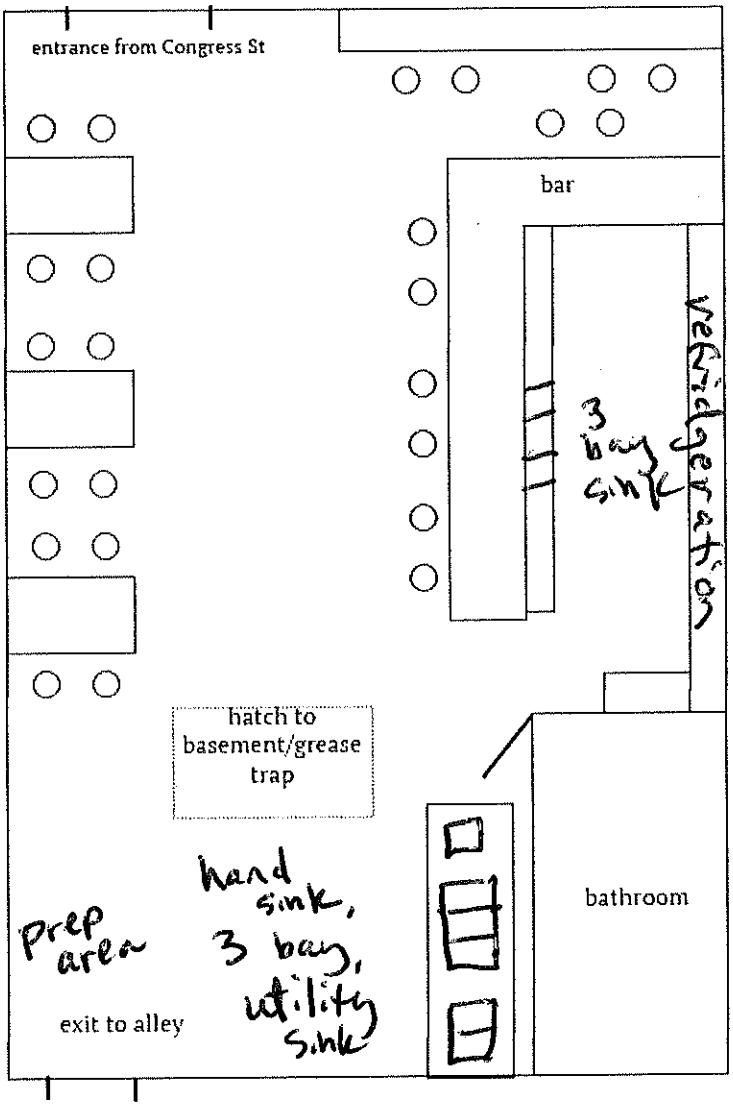
Please note: For Licensees/Applicants in unorganized territories in Maine, the $10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

Class of License	Type of liquor/Establishments included	Fee
Class I	**For the sale of liquor (malt liquor, wine and spirits)**	$ 900.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	
Class I-A	**For the sale of liquor (malt liquor, wine and spirits)**	$1,100.00
	This class includes only hotels that do not serve three meals a day.	
Class II	**For the Sale of Spirits Only**	$ 550.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	**For the Sale of Wine Only**	$ 220.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	**For the Sale of Malt Liquor Only**	$ 220.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III and IV	**For the Sale of Malt Liquor and Wine Only**	$ 440.00
	This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class V	**For the sale of liquor (malt liquor, wine and spirits)**	$ 495.00
	This class includes only a Club without catering privileges.	
Class X	**For the sale of liquor (malt liquor, wine and spirits)**	$2,200.00
	This class includes only a Class A Lounge	
Class XI	**For the sale of liquor (malt liquor, wine and spirits)**	$1,500.00
	This class includes only a Restaurant Lounge	

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



the End
229 Congress Street
Portland, ME 04101

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Yam Tamblin LLC
2. Doing Business As, if any: Blue
3. Date of filing with Secretary of State: 10/1/22 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Andrew Roseman	87 Douglass St Portland	6-18-92	CEO	100%
Celeste Parke	" "	2-25-85	Treasurer	0%

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

Board of Harbor Commissioners
for the Harbor of Portland, Maine

Marine Trade Center, 2 Portland Fish Pier, Suite 105, Portland, ME 04101

Danielle West, Interim City Manager
City of Portland
389 Congress St.
Portland, ME 04101

Scott Morelli, City Manager
City of South Portland
25 Cottage Road
South Portland, ME 04106

March 6, 2023

RE: Portland Board of Harbor Commissioners Rulemaking Notice

Dear City Managers and Councilors:

Pursuant to Section 6 of P. & S.L. 1981, ch. 98, as amended by P. & S.L. 1993, ch. 34, the Portland Board of Harbor Commissioners (the "Commissioners") is required to send notice of rulemaking to the City Mangers and Councils. This letter serves as notice of the following rule:

The Commissioners voted on February 9, 2023 to make two changes to the Portland Pilots Schedule of Rates. Said changes were considered by the Commissioners at the request of Portland Pilots, due to a significant decrease in vessel traffic in the harbor as a result of the COVID-19 pandemic, as well as the recent rate of inflation. The changes to the rate structure are as follows:

1. The rate per pilot unit is increased from $13.00 to $13.39.
2. The capital construction fee is increased from $175 to $250 per vessel each way.

The Portland Pilots submitted significant financial information to support their request.

The above changes will take effect 45 days from today, unless either City Council takes official action to disapprove the rule.

Thank you for your consideration. Please feel free to contact me directly should you have any questions.

Sincerely,

Daniel Haley, Chair
Portland Board of Harbor Commissioners

Harbor Commission/ Harbor Master Telephone (207) 772-8121 - Fax (207) 772-2367

DECISION OF THE BOARD OF HARBOR COMMISSIONERS
FOR PORTLAND HARBOR

RE: RATES FOR DOCKING PILOT SERVICES IN PORTLAND HARBOR AS OF APRIL 2023

I. Procedural Background

The Board of Harbor Commissioners for Portland Harbor (hereinafter, the "Board") is charged with responsibility for the regulation of navigation and commerce within Portland Harbor. The Board is authorized, pursuant to the private and special laws of the State of Maine, to approve changes in the rates that pilots operating in Portland Harbor charge to vessels requiring their pilotage services. Specifically, the Maine law provides that "the commission may fix and establish by rule the compensation for the services of the pilots as may, from time to time, be deemed just and reasonable" (See P.&S.L. 1981, ch. 98, §5.2)

On January 9, 2023, the Portland Pilots requested a rate change in the pilot unit charge from $13.00 to $14.14 and a change in the capital construction fee from $175 to $250 per trip. The request stated that the reason for the requested increase was an annual Cost of Living Adjustment ("COLA") to the pilotage rates and fees applicable in the Port of Portland based on the 2023 COLA rate set by the Social Security Administration on October 13, 2022 at 8.7% . The Pilots provided the following exhibits to support their request:

Public Exhibits

Exhibit A: Northeast five port comparison of rates (Port Vessel Rate Comparison at $14.14 / 8.7%)
Exhibit B: Maintenance Estimates for necessary repairs to pilot boats (supporting CCF request)
Exhibit C: Vessel Category Summary (with historical data, 2019 - 2022)

Confidential Exhibits

Exhibit D: Portland Pilots comparable ship rates (including ship names) (under seal)
Exhibit E: Portland Pilots QuickBooks 2022 year-end report (under seal)
Exhibit F: Pilot Income, Expense, and Budget Projection for 2023
Exhibit G: Additional information pertaining financial documents previously submitted and information pertaining to outstanding loans.
Exhibit H: Portland Pilots 2021 1120S Tax Return
Exhibit I: Portland Pilots Charter Corp 2021 1120S Tax Returns

The Board held a publicly noticed workshop on January 31, 2023. At the workshop the Board heard from the representatives of the Portland Pilots and reviewed and discussed the requested cost of living increase and supporting documentation. The Board held a public hearing on February 9, 2023, where the Board discussed the request and deliberated. The Portland Pilots provided additional comments at the hearing. There were no comments from members of the public on the application.

At the hearing, the Board voted 4-1 to increase the pilot unit charge from $13.00 to $13.39, and to increase the capital construction fee from $175 to $250 per trip. On March 6, 2022, the Board sent notice of its decision to the cities of Portland and South Portland.

II. Factual Findings

The Harbor Commission requires that every foreign vessel and all American vessels drawing more than nine feet of water are required to take a pilot. To that end, the Port of Portland needs skilled, experienced, and at-the-ready pilots to fulfill that requirement. Having an economically sustainable pilot operation in Portland meets that need. The Board considered the following factors to determine whether the proposed new pilot rates requested are just and reasonable in an effort to ensure safe, reliable and expert pilotage services in Portland Harbor and to balance the needs of the pilots with the vessels they serve, while maintaining a competitive port environment:

1. Based on documents provided, and testimony given, the two Pilots' vessels are aged and in need of significant upkeep and maintenance. Based on the need to update, maintain, and ensure pilot and crew safety to and from ships requiring pilotage, the capital fund increase is justified.
2. The experience, training, and continuing education of pilots necessary to meet the licensure for Portland Harbor.
4. Reasonable expenses incurred in providing pilotage services mandated by State statute.
5. Gross revenues associated with providing pilotage services in the port as well as the projected impact of the proposed rate change on gross revenues.
6. The rates charged in other ports in the region, both as a measure of fairness and to protect the affordability of Portland harbor.
7. Increase in staffing to enhance operations in 'Safe Mode.'
8. Recent increases in Pilot rates.
9. Forecasted rate of inflation for 2023.
10. Increased number of vessel trips expected in 2023.
11. Debt will be retired July 2023 and in 2025
12. Expense line items appear in line with a 3% increase.

III. Decision

Based on the evidence presented and the above factors, the Board finds that the rate of $13.39 per pilot unit and $250 per trip for the capital construction fund (to be effective upon conclusion of the 45-day statutory notice period to cities of Portland and South Portland) are just and reasonable.

Based on information provided by the Pilots, we find this to be a fair and reasonable increase to the Pilot Unit and the Pilot Boat Capital Construction Fund.

Date: _____

BOARD OF HARBOR COMMISSIONERS
FOR PORTLAND HARBOR

Daniel T Haley

Commissioner Daniel Haley, Chair

City of Portland | Executive Department
Danielle West, *Interim City Manager*

To: Mayor Snyder and City Councilors
From: Danielle West, Interim City Manager
Date: April 7, 2023
Re: Implementation of the November 2022 Citizen Initiatives and Charter Commission Proposals

In response to a March 3, 2023 request by Mayor Snyder for information on next steps, implementation, and budgeting for the Citizen initiative and Charter amendments approved by voters in November 2022, we have prepared the following memo.

A total, annual increase of $590,000 is expected to be included in the City Manager's FY24 Recommended Budget to support the various mandates.

Costs and processes associated with each individual proposal are outlined in more detail below.

- **Question C (An Act to Protect Tenants in Portland)**

  Implementation
  This amendment took effect December 5, 2022, and is currently being implemented by Permitting & Inspections staff. Implementation requires a significant increase in administrative tasks related to the regulation and oversight of long term rentals, including notifications, enforcement, and record keeping.

  FY24 Budget Impact: approximately $300,000
  Staff estimate that up to four additional staff would be required to effectively implement Question C, carrying a total cost of up to approximately $300,000 (salaries and benefits). The City Manager's Recommended FY24 Budget is expected to include funding for additional staff.

- **Question 1 (Preamble and Land Acknowledgment)**

  Next Steps
  On July 1, 2023, staff will replace the existing Preamble in the Charter with the language approved by the voters in Question 1. No further action by the Council is required.

- **Question 3 (Clean Elections Recommendation)**

  Next Steps
  The Council will consider an ordinance to establish and fully fund a Clean Election Fund, as well as prohibit foreign contributions and provide for rules to address compliance and enforcement of the same. Once an ordinance is approved, the City Clerk intends to make paperwork for November 2023 candidates available in June or July 2023.

  Workshop 1: March 13, 2023
  Workshop 2: March 27, 2023
  Workshop 3: April 3, 2023
  Council Vote: April 24, 2023

  On July 1, 2023, staff will add the language included in Question 3 to Article IV of the Charter.

  Implementation
  The City Clerk is also responsible for creating a searchable, online, and publicly-accessible database of all information contained in all candidate registrations and campaign finance reports. An RFP soliciting a vendor to create this database was recently released.

  FY24 Budget Impact: $290,000
  This total is expected to be included in the City Manager's FY24 Recommended Budget, and includes staffing costs and public campaign funds for qualifying candidates. However, the total spent each year will depend on the number of eligible candidates in any given election cycle.

- **Question 4 (Proportional Ranked Choice Voting)**

  Next Steps
  On July 1, 2023, staff will add the language included in Question 4 to Article II of the Charter. That language requires that the Council adopt an ordinance establishing a proportional ranked choice voting system. The City Clerk and Corporation Counsel are in the process of drafting the required ordinance, which will be presented to the Council for consideration in the near future.

- **Question 6 (Charter Commission; Peaks Island Council)**

  Next Steps
  On July 1, 2023, staff will add the language included in Question 6 to Article VIII of the Charter. That language requires that the Council maintain an ordinance establishing the Peaks Island Council. That ordinance already exists in Chapter 9 of the City Code. No further action is required by the Council.

- **Question 7 (Charter Commission Civilian Police Review Board Recommendation)**

  Next Steps
  On July 1, 2023, staff will add the language included in Question 7 to Article IX of the Charter.

  As of July 1, 2023, the Council will be required to appoint a Civilian Police Review Board (CPRB), as well as implement other requirements of the Charter modification by ordinance (including the adoption of an appeal process). A workshop to discuss this matter is tentatively scheduled for June 2023, and the Office of the Corporation Counsel plans to prepare a draft of the required ordinances for the Council's consideration in fall 2023.

  In addition, the Council is required to fund at least two new or existing professional staff positions to support the work of the CPRB, as well as make available the services of a technical advisor, as needed by the board. At this time, the City Manager intends to identify existing positions to fulfill the required roles, so no new positions are expected as a result of this referendum.

  Prior to board members assuming their duties but after the CPRB is established by ordinance, City staff will train board members in accordance with the requirements of the referendum.

  A second workshop on this matter will be scheduled for fall 2023 to allow time for staff preparation and the possibility of negotiations to the extent required.

  FY24 Budget Impact: unknown
  Establishing the CPRB may require impact bargaining with the Portland Police Benevolent Association and the Portland Superior Officers Association. Whether any negotiations will result in a budget increase will not be known until after negotiations occur and, as such, are not expected to be reflected in the City Manager's FY24 Recommended Budget.

- **Question 8 (Ethics Commission Recommendation)**

  Next Steps
  Beginning in FY24, the Council is required to form an ethics commission by ordinance. Once the commission is established, the Council's Legislative/Nominating Committee will solicit and consider applications for ethics commissioners.

  With input from the ethics commission, the Council is then required to adopt a code of ethics ordinance, at which time the Council's existing Code of Ethics Resolution will be repealed.

  A workshop on this matter is tentatively scheduled for June 26, 2023. On July 1, 2023, staff will add the language included in Question 8 to Article VIII of the Charter.

  FY24 Budget Impact: $0 - $137,500
  While the ethics commission may recommend that the Council hire an Accountability Officer, it is unknown at this time whether that recommendation will be made in FY24, or whether the Council would accept the recommendation. For that reason, funding for the new position is not expected to be included in the City Manager's FY24 Recommended Budget.

City of Portland | Executive Department
Danielle P. West, *Interim City Manager*

To: Mayor Snyder and Members of the Portland City Council
From: Danielle P. West, Interim City Manager
Date: April 7, 2023
Re: Update on Asylum Seekers and Emergency Shelter Response

This memo is intended to provide the City Council with an update on the number of asylum seekers arriving in the City of Portland, as well as the current status of our city-run emergency shelters.

Current Numbers

Since January 1, 2023, more than 1,030 new asylum seekers have arrived requesting services and shelter from the City of Portland. We have every reason to believe that this influx will continue in the coming months, especially with the anticipated ending of Title 42 in May. This unprecedented demand for shelter and services has pushed our shelters far beyond capacity and overwhelmed staff, community resources, and funding.

Current City Shelter Operations

Facility	Capacity	Status*
Homeless Services Center	208	At capacity
Family Shelter	146	At capacity
Portland Expo (opening 4/10/23)	300	Expected to be at capacity within first week
Saco Hotel**	328	At capacity
GA Hotels***	159	At capacity

*As of April 6, 2023.

**The Saco Hotel is a COP contract hotel with MaineHousing for asylum seeking families that is operated by Catholic Charities.

***We no longer place individuals or families in hotels outside of Portland. These families remain from before that change was made. Additionally, FEMA reimbursement for non congregate shelter ends April 11, 2023.

Draft

The City operates the Homeless Services Center (HSC) and the Family Shelter (FS), both of which are at capacity (as shown in the table above). Due to the continued arrival of significant numbers of asylum seekers, on April 10, 2023, we will be opening the Expo building as a temporary emergency shelter for up to 300 people. The Expo will need to be decommissioned as an emergency shelter by mid-August due to a variety of factors including cost, limited resources, conflicting needs and uses of the space, and the planned opening of an alternate emergency shelter space in the area.

As noted in the above table, we fully expect the Expo to be at capacity almost immediately upon opening, and there is no other publicly-owned-and-operated space in the City of Portland that can serve as shelter space. In fact, city staff, our community partners, and overall systems are at a critical juncture. Support and systems like food, medical care, and schools are currently being stretched far beyond their capacity in our city.

We continue to work with local, state and federal partners to advocate for necessary changes and additional support. While we are hopeful that change and long term solutions are on the horizon, the urgency of meeting the immediate needs of those arriving has reached a critical stage and is now beyond what we can do as one municipality. As such, once capacity is reached at the Expo, we will no longer be able to guarantee shelter to families and individuals into our emergency shelter system and we will be meeting our General Assistance obligation by issuing landlord forms so individuals can complete a self directed housing search. As was done in May of last year, we will be communicating this to our partners locally and nationally.

Draft

Portland Police Department
F. Heath Gorham
Interim Chief of Police

To: Mayor Snyder and Members of the Portland City Council
CC: Danielle P. West, Interim City Manager
From: F. Heath Gorham, Interim Chief of Police
Date: April 7, 2023
Re: Police Response to April 1, 2023 Rally

On Saturday, April 1, 2023 a Neo-Nazi group known as the National Socialist Club (NSC131) held a rally in Portland. The group of approximately 15-20 individuals marched on the sidewalks downtown, carrying a large banner and yelling derogatory slogans and statements to people in the area.

The Portland Police Department was not previously informed of the rally, but were made aware by concerned residents who called the Portland Regional Communications Center when they observed the rally already underway. Officers were dispatched to the area at approximately 12:57 p.m. and monitored the rally from a distance. At approximately 1:36 p.m., when the group was in front of City Hall (389 Congress Street), a fight broke out.

From their vantage point, officers were not able to see who or what started the fight. When the first officer arrived seconds later, he was faced with a large, agitated crowd. He drew his weapon and began giving verbal commands to the group. The involved individuals were separated, and the PPD supervisor, who had just arrived on scene, consulted with the first officer to arrive.

The officer relayed that he had observed a fight taking place, but did not know its cause. Due to the need to deescalate the agitated crowd and an inability to take enforcement action (explained in additional detail below), the sergeant allowed the groups to separate, and advised those involved that they could leave.

The sergeant on scene also asked the smaller group if they had been punched and if they were injured, and told them he would like to get a statement from them. They stated that they did not want to write a statement or report and asked if they were free to leave. The conversation was cordial and one member stated that he appreciated the offer to take a statement or file a report.

Officers continued to monitor the rally until it ended. No additional violence was observed.

Due to officers' vantage point at the start of the fight, their inability to observe how the fight was initiated or which individuals were directly involved, and individuals' unwillingness to provide statements describing what had occurred, officers were unable to take any enforcement action related to this incident.

The speech and actions of NSC131 are not in keeping with the values of the Portland Police Department, and we condemn that group's hateful views. During rallies or protests on public property (whether permitted or not)[1], the Department's role is to facilitate a group or individual's ability to exercise their First Amendment right to express themselves freely, as well as to ensure such events are executed safely and lawfully regardless of our personal opinions. The officers who responded to this rally and fight did so fairly, safely, and in accordance with the high standards and values of our Department and City.

[1] In this case, in accordance with Sec. 18-40(a) of City Code, no event permit was obtained or required.

Cumberland County District Attorney's Office

142 Federal Street, Portland, ME 04101
Phone: 207-871-8384 Fax: 207-775-3561

Jacqueline A. Sartoris
District Attorney

Jennifer Ackerman
Deputy District Attorney

FOR IMMEDIATE RELEASE
Monday, April 10, 2023

Cumberland County DA statement:
We must defend our communities from hateful violence
Response to the incident with NSC-131, a decentralized, regional Neo-Nazi group

The article posted by the Portland Press Herald 4/8/2023 well and accurately represented my concerns and questions in the aftermath of the very troubling events during a Neo-Nazi march in Portland by NSC-131 on April Fools Day, 4/1/23. However, the headline, "District attorney: Police mishandled neo-Nazi rally that led to fight" is neither what I believe I conveyed to the reporter nor reflects my view. The unfortunate language ("mishandled") is a disservice to the fine work of our police officers, whom I respect and trust, under uniquely challenging circumstances.

Our law enforcement personnel acted on April 1st to keep the peace in a very fluid, very difficult, and fast-paced situation. I am grateful for their presence and mindful of how constantly dangerous and tough is their work. Critically, I oppose any distraction from the important task we now face: ensuring that we learn from this event such that any future incursions upon our tolerant and peace-loving community by hate groups, including Neo-Nazis, prevent violations of the law including acts of violence, and immediately holds them accountable if they step over that line.

Rather than engaging in Monday-morning quarterbacking, Interim Chief Gorham and I met last week to clarify how we can best support one another's work given this unanticipated and appalling event. I deeply appreciate his willingness to talk through some apparent misunderstandings about what my office would prosecute and the evidence required. I believe we emerged from that brief and cordial meeting united against the only actual bad guys: the masked Neo-Nazis who engaged in a hateful gathering which included an apparent violent and sudden assault, the hate they represent, and the fear these events brought to our community.

Chief Gorham's lengthy public service and willingness to stand up to public scrutiny illustrate his profound care for this City. Going forward, I believe we both want to prevent Neo-Nazis or any other hate group from harming our citizens in any way that contravenes the law or instills fear. What matters now is to learn from what happened on April 1 to better prepare for the future.

To that end there are several takeaways and recommendations in light of this experience:

1. **We should anticipate violence and plan accordingly.** Although frankly unsurprising in retrospect given this hateful group and their frighteningly violent rhetoric, Neo-Nazis are known to engage in substantial violence with seemingly little provocation, as occurred on April 1. We must plan accordingly.
2. **We should respond to any potential violations by speedily identifying perpetrators and develop a protocol to do so.** Neo-Nazis use their masked anonymity to perpetrate hate while avoiding being held accountable before the community or the law. Carefully adhering to the law, we must identify these people whenever appropriate, and hold them to account whenever possible.
3. **We should ensure accountability through investigations and charges - even when absent cooperative victims.** While Neo-Nazis use their anonymity to perpetrate violence, counter-protesters are also often unwilling to be identified, even when victimized, because they legitimately fear repercussions from groups organized by hate and known for their violent extremism. Law enforcement must be prepared to collect evidence for any and all other applicable charges and to be nimble in how that occurs. We will work with our law enforcement partners to clarify possible charges, the needed evidence to support them, and strategies for successful investigations;
4. **We should consider forming a hate crimes unit with a hate crimes rapid response capacity, modeled on successful collaborations in other communities.** The work in other communities that have grappled with the rise in crimes involving hate such as we are experiencing in Maine can ensure we are better able to collaborate and respond when such events occur in Cumberland County. My office would be willing to participate in or lead this initiative.
5. **We should ensure that outreach to vulnerable populations who are likely targets of hate crime is adequate, coordinated, and includes those specially trained as victim witness advocates.** It is often hard to develop trust in communities that feel targeted by hate. While Portland PD is doing incredible work with their community policing officers and victim advocates, additional coordinated efforts could help increase the ties to vulnerable communities and facilitate greater cooperation.
6. **We should follow other best practices to fight the rise of hate.** My office will identify one lead prosecutor to be the point of contact for all criminal conduct informed by hate, to ensure we are noticing possible connections across the County, and that we consistently share strategies and trainings with our law enforcement partners. We will make sure we are coordinating with our federal and Attorney General partners. This is a best practice and one I intended to implement later in 2023, my first year in office. However, given this incident, I will identify an appropriate ADA after internal consultation and coordinate with our law enforcement partners to share this point of contact as soon as possible.

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: March 13, 2023

SUBJECT: Resolution 7-22/23 Adopting the Fiscal Year 2023-2024 Housing and Community Development Annual Action Plan including Appropriations for the Community Development Block Grant, HOME, and Emergency Solutions Grant Programs and Certifications Pertaining Thereto - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Danielle West, City Manager

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 3/20/2023 **Final Action 4/10/2023**

Can action be taken at a later date: No A public notice of these meetings and public hearings has been published in the Press Herald as required.

Does this item involve a new contract with the City: This involves a grant agreement that will be sent to the City when the Annual Action Plan is approved.

PRESENTATION: The Chair of the CDBG Annual Allocation Committee will present the Allocation Committee's recommendations. The City Manager will present her recommendations. HCD Staff are available for questions.

I. SUMMARY

The resolution adopts the 2023-2024 Annual Action Plan including appropriations for Community Development Block Grant, HOME, and Emergency Solutions Grant Programs.

II. AGENDA DESCRIPTION

The 2023-2024 Housing and Community Development Program Annual Action Plan reports to the U.S Department of Housing and Urban Development (HUD) a total estimated budget of $7,025,091 (Community Development Block Grant ("CDBG") Entitlement Funds $1,843,198, $30,000 Downtown TIF funding, $20,000 Cotton St proceeds, HOME Program Grant $1,037,237, Program Income and Recapture $119,312; Lead Safe Housing Program Income $13,827; local Housing Trust Fund $3,704,156; $162,241 Emergency Solutions Grant ("ESG")funds).

The CDBG Annual Allocation Committee, appointed by the City Council, reviewed each application and made funding recommendations that will be presented to the Council. The City Manager reviewed the Committee's recommendations and submitted her funding recommendations to the Council which include recommendations for CDBG-CV funding. The Housing and Economic Development Committee reviewed the Housing Program Budget at their meeting on February 22, 2023 and voted unanimously (4-0) to recommend City Council approval of the budget.

The City's public participation process requires two public hearings to consider the City's Housing and Community Development Program proposal. The hearings allow the public to comment on the City's Consolidated Annual Action Plan. Public hearings for FY24 are set for March 20 and April 10.

This item must be read on two separate days. It received its first reading and first public hearing on March 20, 2023. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The CDBG Annual Allocation Committee reviewed all applications and made funding recommendations to the City Manager; both sets of recommendations are included in the attached backup materials. Please see attachments for additional details about individual program funding.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The activities supported by these grants address housing and homelessness, as well as infrastructure improvements that may impact climate change and sustainability.

V. FINANCIAL IMPACT

Please see attached budgets for each program. Funding for these activities will be provided through grants from the US Department of Housing and Urban Development.

VI. STAFF ANALYSIS AND BACKGROUND

For additional details, reference is made to the attachments included in the backup materials.

VII. RECOMMENDATION

Staff recommends that the City Council vote to approve the 2023-2024 Annual Action Plan.

VIII. LIST ATTACHMENTS

1. CDBG 2024 Resolution 3.20.2023
2. 1. Memo to Council budget 23-24
3. 2. Memo budget and cap calculations background 2023-2024
4. 3. City Manager Recommendation Letter 2023 3.9.2023 (1)
5. 4. Committee Rec and Allocations
6. 5. Housing Program Budget Memo 3.2.2023
7. 6. HOUSING BUDGET 2023-2024 Draft 3.3.2023
8. 7. ESG Budget 2023-2024 DRAFT
9. Resolution 7 Public Comment V1

Prepared by:
Mary Davis, Division Director
Date: 03/13/2023

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)

RESOLUTION ADOPTING THE FISCAL YEAR 2023-2024 ANNUAL ACTION PLAN INCLUDING APPROPRIATIONS FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, HOME PROGRAM, AND EMERGENCY SOLUTIONS GRANT PROGRAM AND CERTIFICATIONS PERTAINING THERETO

WHEREAS, the City of Portland, Maine has determined that there are pressing community and neighborhood needs for further federal assistance for housing and community development activities; and

WHEREAS, activities for the Fiscal Year 2023-2024 Annual Action Plan have been recommended; and

WHEREAS, the City of Portland will receive an estimated annual allocation from the United States Department of Housing and Urban Development (HUD) of $1,843,198 of Community Development Block Grant ("CDBG") Entitlement Funds, for the program year 2023-2024; and the City has also received Community Development funds in the amount of $68,332 in Housing Development Fund Program income, along with $20,000 in Cotton Street Proceeds, which is subject to the same regulations as the entitlement funds; and $120,000 in TIF funds; a HOME Program Grant allocation of $1,037,237, HOME Program Income and Recaptured Funds of $119,312; Lead Safe Housing Program Income of $13,827; local Housing Trust Funds of $3,704,156; and $162,241 of Emergency Shelter Grant funds; and

WHEREAS, the City Council of the City of Portland, Maine, desires to utilize these funds to support housing and community development activities;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Portland, Maine, hereby adopts the FY 2023-2024 Annual Action Plan in substantially the same form as attached; and the estimated annual sums of $1,843,198 of Community Development Block Grant ("CDBG") Entitlement Funds, Community Development funds in the amount of $68,332 in Housing Development Fund Program income, along with $20,000 in Cotton Street Proceeds, and $120,000 in TIF funds; a HOME Program Grant allocation of $1,037,237, HOME Program Income and Recaptured Funds of $119,312; Lead Safe Housing Program Income of

$13,827; local Housing Trust Funds of $3,704,156; and $162,241 of Emergency Shelter Grant Program are hereby appropriated for the purposes approved in the attached Plan and budgets as provided in the Attached Exhibits; and

BE IT FURTHER RESOLVED, that the City of Portland, Maine, possesses legal authority to apply for the above referenced Community Development Block Grant Program Funds, HOME Program funds and Emergency Shelter Grant Program funds for the Program Year 2023-2024; and

BE IT FURTHER RESOLVED, that the City Manager or designee be authorized to:

1) Apply for, accept, and expend the estimated annual Community Development Block Grant Entitlement Funds of $1,843,198 and to expend $68,332 in CDBG housing program income funds, $120,000 in TIF, and $20,000 in Cotton Street proceeds; $1,037,237 of HOME Program funds and to expend $119,312 of program income and recaptured funds; $13,827 in Lead Safe Housing program income; $3,704,156 in local Housing Trust Funds; and $162,241 of Emergency Shelter Grant funds; and

2) Officially represent the City of Portland, Maine, in connection with the application, including the execution of contracts on behalf of the City; and

3) Act as the certifying officer for HUD environmental documents related to these grants and to execute said documents and any other related documents necessary or convenient to carry out the intent of said grants; and

4) Make adjustments to all proposed activities' budgets as noted below:

   (a). If estimated allocations decrease, activities under the CDBG, HOME and ESG Programs be proportionately decreased from the estimated funding levels to match the actual allocation amounts;

   (b). If estimated allocations increase, activities under the HOME and ESG Programs be proportionately increased to match the actual allocation amounts; and

   (c). If the estimated CDBG allocation increases, any partially funded projects will be proportionately increased until fully funded. Once all recommended projects are fully funded, any remaining balance will be allocated to fully funding unfunded projects from greatest score to least, unless another funding source can be identified for the next eligible project; and

BE IT FURTHER RESOLVED, that the City of Portland, Maine certifies that it will comply with all of the attached assurances and provide such additional information as may be required by the U.S. Department of Housing and Urban Development; and

BE IT FURTHER RESOLVED, that the foregoing FY 2023-2024 Annual Action Plan funds are hereby appropriated pursuant to the Budget attached hereto.

City of Portland | Housing and Economic Development Department
Mary P. Davis, Interim Director

Memorandum

To: Mayor Snyder and the Portland City Council
Cc: Danielle West, Interim City Manager
From: Mary Davis, Interim Director Housing and Economic Development Department
Date: March 2, 2023
Re: **HUD's Annual Action Plan 2023-2024**

The Annual Action Plan includes budgets for the Community Development Block Grant, HOME Program, and the Emergency Solutions Grant. The final allocations have been provided by the U.S. Department of Housing and Urban Development and are reflected in the amounts below. The City of Portland is proposing to allocate in the Annual Action Plan $7,025,091, which includes allocations from the Department of Housing and Urban Development, program income, and our local funding sources, detailed below:

1. CDBG

$ 1,843,198	Estimated HUD Allocation 2023-2024
$ 13,666	CDBG HDF Program Income for Administration
$ 54,666	CDBG Program Income
$ 30,000*	TIF Funds for Administration ($30,000)
$ 20,000*	Cotton Street Proceeds for Social Service Activities
$ 26,788*	CDBG CARES Act Reprogrammed Funds
$ 1,988,318	Total Expected CDBG funds to Allocate for 2023-2024

CDBG Funds by Category for HUD Budget(does not include TIF, Cotton St, CARES Act proceeds)*

$ 382,306	Administration and Planning
$ 618,505	Social Services
$ 910,7196	Development Activity
$ 1,911,530	

Attachments: CDBG recommendation letter from the City Manager; Recommendation Letter from the CDBG Allocation Committee; Spreadsheet summarizing the recommendations of the Allocation Committee and City Manager; Budget and Cap Calculation Background Memo

2. HOME

$ 1,037,237	Estimated HUD Allocation 2023-2024
$ 89,415	HOME Program Income 2022
$ 29,897	HOME Recaptured Funds 2022
$ 1,156,549	Total Estimated HOME funds to Allocate for 2023-2024

Other Housing Funding

LEAD	$ 13,827	Lead Safe Housing Program Income Funds
Trust	$ 3,704,156	Local Housing Trust Funds
	$ 3,717,983	

Attached you will find a Memo to the Mayor and City Council from Mary Davis explaining the Housing Budget (2 Housing Budget).

3. Emergency Solutions Grant:

$162,241 Estimated HUD Allocation 2023-2024

Attached you will find the proposed Emergency Solutions Grant budget (3 ESG Budget).

City of Portland | Housing and Economic Development Department
Mary P. Davis, Interim Director

Memorandum

To:	City Council
Cc:	Danielle West, City Manager
From:	Mary Davis, Interim Director Housing and Economic Development Department
Date:	March 3, 2023
Subject:	**2023-2043 CDBG Budget and Cap Calculations**

In past years, the CDBG budget submitted as part of the HCD Annual Action Plan matched the local CDBG budget presented on the allocation summary sheet. Starting in 2018, the budget differs due to the replacement of program income with TIF funds and Cotton Street proceeds. Staff would like to take the opportunity to address how these changes impact the overall CDBG budget and cap calculations.

CDBG budget and cap calculations: Each year staff calculate the HUD mandated funding caps for the following CDBG funding categories; Planning and Admin, Development Activities, and Social Services. The budget for our local CDBG program is created once the HUD mandated funding caps have been determined. The CDBG budget combines the CDBG entitlement funds with program income, reprogramed funds, and available local funds. These local resources are not included in the cap calculations nor are they required to be included in the HUD CDBG budget.

In past years, the CDBG program received program income from a parcel of land known as the Cotton Street garage. Following the HUD cap calculations, 20% of the program income went to Planning and Admin, 33% went to Social Services, and 47% went to Development Activities. In 2017 the City sold the Cotton Street parcel. In order to make up the loss of program income funds for each category, the City Council allocated $120,000 of TIF revenue to be used for Planning and Administration ($30,000) and for TIF-eligible public infrastructure projects ($90,000). In addition, the City Council allocated $20,000 from the Cotton Street proceeds to be used for social service activities.

The budget submitted to HUD in the HCD Annual Action Plan excludes local funding for the purposes of HUD mandated cap calculations. The TIF and Cotton Street funds are excluded from the HUD CDBG budget. The difference in the two budgets will be shown on the HUD's Annual Action Plan 2023-2024 memo to the City Council.

Executive Department
Danielle West
Interim City Manager
March 9, 2023

Mayor Snyder and Members of the Portland City Council:

I am pleased to submit to you my recommendations for the Community Development Block Grant (CDBG) Program for the fiscal year beginning July 1, 2023 to June 30, 2024. I would like to note that the U.S. Department of Housing and Urban Development (HUD) has released the final allocations for the 2023-2024 Community Development Block Grant (CDBG) , HOME, and Emergency Solutions Grant Programs (ESG).

To begin, I would like to thank the CDBG Allocation Committee for their dedication and work over the last few months. They began their work at the end of December 2022 and have met almost weekly since then to discuss each application. I reviewed their recommendations and acknowledged the difficult task they had. After reviewing the CDBG applications, I met with Housing and Community Development staff and carefully considered the Allocation Committee's recommendations before forming my attached recommendations. *[City Manager's Recommendations A1.]* As you can see, I made changes to the Allocation Committee's recommendations, which I believe align with the City's goals and will assist the City's efforts to meet the many needs within our community.

1) ***Social Services.*** As in past years, the City received a wide variety of competitive social service applications. Due to the significant needs identified, in addition to the annual CDBG allocation for social services, I am recommending that CDBG Coronavirus Aid, Relief and Economic Security Act (CARES Act) funding be re-programmed to fund some of the remaining CDBG applications.

There is currently $106,531 remaining in CDBG-CV funding. Of this funding, $79,743 is currently allocated to additional public restrooms. I recommend that the restrooms be funded with ARPA funding, and the CDBG-CV funding be moved to fund eligible social service applications. The ARPA funding would be made available by reducing the recent housing program/Housing Trust Fund allocation by $79,743. Therefore, the total funding available is as follows:

CDBG Amount: $618,505
CDBG-CV Amount: $106,531
Cotton St Amount: $20,000

Additionally, as suggested by the CDBG Allocation Committee, I recommend that the $150,000 necessary to fund Community Policing be moved from CDBG to the General Fund, allowing this money to be allocated toward other social services. In this case, I recommend that Catholic Charities ILAP and Catherine Morrill Day Nursery Childcare Vouchers be fully funded with this funding. Lastly, I recommend that the remaining $30,000, along with the $20,000 available from Cotton Street, be used for Preble Street's Emergency Food program. The following is a full list of my social services recommendations:

Program	Amount of Funding	Type of Funding
COP PD - Community Policing (set-aside)	$150,000	General Fund
Quality Housing Coalition	$57,165	CDBG
Wayside Food Program - Direct Service Program	$32,250	CDBG
Through These Doors - DV for Bayside	$94,432	CDBG
Hope Acts - Support for Homeless and LMI Asylum Seekers	$125,000	CDBG
Greater Portland Family Promise - Homeless Prevention	$61,500	CDBG
Milestone Recovery - HOME	$120,000	$106,531 CDBG-CV $13,469 CDBG
Preble St - Emergency Food	$50,000	$30,000 CDBG $20,000 Cotton St
Catholic Charities - Immigrant Legal Services	$120,413	CDBG
Catherine Morrill Day Nursery - Childcare Voucher Collaborative	$81,295	CDBG

2) ***Development Activities.*** Funds in this category are used to improve and invest in the physical infrastructure and the economic development of our city. This year, we received 9 applications in this category requesting $1,098,191 in funding. A total of $910,719 is available in this category, a gap of $187,472. This represents the amount available from the HUD allocation alone, as there were no projects which fit the eligibility criteria for the annual $90,000 in Downtown TIF funding. Currently, five projects are fully funded, with one partially

funded. I recommend the fully funded projects be approved, but the partial funding for Coastal Enterprises Inc instead be used to fully fund the Hope Acts *Waterproofing Hope House* project.

3) ***Administration and Planning.*** The Housing and Economic Development Department is required to submit a non-competitive application to the Allocation Committee. The Housing and Economic Development Department submitted an initial request of $378,016. With the release of the HUD allocation, the CDBG amount available is $382,306, with an additional $30,000 from the Downtown TIF for a total of $412,306. These funds are used to administer the program. I recommend full funding of this application to administer the program.

The above funding recommendations comply with the regulatory requirements set forth by HUD, while also helping to address the critical needs and gaps in services in our community. I thank you for the opportunity to share my recommendations, and I hope you join me in commending all of the good work being done in our city.

Sincerely,

Danielle P. West
Interim City Manager

CDBG Allocations 2023-2024 **CITY MANAGER'S RECOMMENDATIONS 03.08.2023**

Administration and Planning

	Type	Priority	Organization	Program/ Project	Request	Priority Impact/ Goal 30 pts	Guiding Principles 30 pts	Capacity to Deliver 25 pts	Partner/ Collaboration 15 pts	Point Deductions	Total		Committee Recommendation	City Manager Recommendation	Council Allocation
1	AP	All	Housing and Economic Devlopment	CDBG Admin and Planning	$378,016								$378,016	$382,306	
					$382,306							TIF		$30,000	
				Total Admin & Planning Available	$412,306						***Subtotal:***		**$378,016**	**$412,306**	**# $0**

Development, Economic Development and Construction

	Type	Priority	Organization	Program/ Project	Request	30 pts	30 pts	25 pts	15 pts	Point Deductions					
8	Con	NI	Preble Street	Food Security Hub	$250,000.00	26.18	27.75	23.00	13.25		90.18		$250,000	$250,000	
3	Con	NI	City of Portland, Public Works Dept.	Sagamore Village Sidewalk Improvement Project – Phase II	$199,000.00	23.66	26.50	23.50	12.25		85.91		$199,000	$199,000	
5	Con	HA	Alpha One	Critical Access Ramp Program	$42,000.00	26.68	25.75	19.67	11.88		83.98		$42,000	$42,000	
2	Con	NI	City of Portland, Parks And Recreation	Bayside Street Tree Planting Surge, Phase 2	$185,191.00	22.67	25.58	20.92	12.08		81.25		$185,191	$185,191	
4	Con	NI	City of Portland, Public Works Dept.	Woodford Street between Forest Ave And Beacon Street.	$199,000.00	22.28	24.33	21.33	12.13		80.07		$199,000	$199,000	
10	DEV	EO	Coastal Enterprise Inc.	Portland Microenterprise Assistance Program	$50,000.00	25.01	23.22	19.75	10.50		78.48		$35,528		
6	Con	NI	Hope Acts	Waterproofing Hope House	$35,000.00	22.67	25.58	18.42	11.63		78.30			$35,000	
9	Con	HA	Port Resources	Emery Street Group Boiler Replacement and Kitchen Renovation	$50,000.00	24.33	23.17	17.75	8.25		73.50				
7	Con	NI	Trustees of the First Parish Church	Historic Window Restoration for Increased Energy and Efficiency and Community Use	$88,000.00	16.49	20.33	21.50	11.40		69.72				
				Estimated Total Development, Econ Dev. & Construction Requests	$1,098,191.00										
				Estimated Total HUD Allocated Development Funds Available	$910,719						**Subtotal:**		**$910,719**		
				Estimated Total Funds Available to City Manager and Council (HUD Funds + TIF*)	$910,719									**$910,191**	**$0**
				** TIF Funding = $90,000; there are no projects eligible for this funding*										*$528 moved to contingency*	

CDBG Recommendations 2023-2024 CITY MANAGER'S RECOMMENDATIONS 03.08.2023																
Social Service						Priority Impact/ Goal	Guiding Principles	Capacity to Deliver	Partner/ Collaboration	Point Deductions	Total	Committee Recommendation	City Manager Recommendation		Council Allocation
	Type	Priority	Organization	Program/ Project	Request						Total				
11	SS	NI	Police Department	Community Policing	$150,000	26.42	24.75	21.96	14.50		87.63	$150,000	$0		
24	SS	EO*	Quality Housing Coalition	Project HOME Mothers Trust	$90,165.00	27.00	25.47	19.13	9.90		81.50	$57,165	$57,165		
14	SS	ANGHP	Wayside Food Program	Direct Service Program	$32,250.00	29.67	26.37	22.17	14.50		92.71	$32,250	$32,250		
12	SS	ANGHP	Through These Doors	Community Based Domestic Violence Services for Bayside	$94,432.00	28.67	27.33	22.17	14.50		92.67	$94,432	$94,432		
18	SS	ANGHP	Hope Acts	Support for Homeless and Low Income Asylum Seekers	$125,000.00	28.42	28.50	21.33	14.00		92.25	$125,000	$125,000		
19	SS	ANGHP	Greater Portland Family Promise	Homelessness Prevention & Housing Services	$61,500.00	29.17	27.95	20.33	14.50		91.95	$61,500	$61,500		
22	SS	ANGHP	Milestone Recovery	HOME Team	$120,000.00	28.33	26.68	22.87	14.00		91.88	$98,158	$120,000	**	
15	SS	ANGHP	Preble Street	Emergency Food Program	$50,000.00	28.83	27.00	21.58	14.00		91.41		$50,000	*	
23	SS	ANGHP	Amistad	HSC Peer Recovery Services	$70,000.00	28.67	27.17	20.58	14.00		90.42				
21	SS	ANGHP	Preble Street	Preble Street Adult Wellness Shelters	$75,000.00	29.17	25.33	21.67	13.50		89.67				
17	SS	EO	Catholic Charities	Immigrant Legal Services	$120,413.00	28.33	27.00	20.54	13.25		89.12		$120,413		
13	SS	EO	Catherine Morrill Day Nursery	Portland CDBG Childcare Voucher Collaborative	$81,295.00	28.67	26.00	22.17	12.25		89.09		$81,295		
20	SS	ANGHP	Preble Street	Joe Kreisler Teen Shelter	$30,000.00	28.17	26.75	21.42	12.63		88.97				
16	SS	ANGHP	Furniture Friends	Basic Needs Expansion	$35,000.00	24.67	25.33	21.08	14.50		85.58				
				Total Social Service	**$1,135,055**										
				Total Estimated HUD allocated social service funds available	$618,505							**$618,505**			
				Total estimated funds available to the City Manager HUD +Cotton Street+ Remaining CDBG-CV)	**$745,036**								**$742,055**		**$0**
				** Cotton Street funding ($20,000 available)*									*$2,981 moved to contingency*		
				*** Remaining CDBG-CV funding ($106,531 available)*											
				new program set aside available amount of $129,763											

Date February 16 , 2023

Danielle West Interim City Manager

City Hall

389 Congress Street

Portland, Maine 04101

Dear Danielle:

We are pleased to submit the Community Development Block Grant (CDBG) Allocation Committee's recommended budget for the 2023-2024 program year.

This letter includes a description of this year's process, how the applications were reviewed and scored, and our recommendations for funding.

The U.S. Department of Housing and Development (HUD) has not released the 2023-2024 allocations, but this information should be available in the coming weeks and we are hopeful that the funding will remain at least level with the previous year's funding.

The need for CDBG funds, in general, exceeds the available resources.

The Planning Administration submission was joined by 9 Development Activities projects (up from 8 last year) and 14 Social Service projects (down from 15 last year). The Committee's allocation recommendation, the funding requested, and the resulting difference are represented in the following table.

CDBG Funding	**ALLOCATION**	**REQUEST**	**DEFICIT**
	Year 49	Year 49	Year 49
	FY 23-24	FY 23-24	FY 23-24

Planning and Administration	$378,016	$378,016	0
Social Service Activities	$615,787	$1,135,055	-$472,480
Development Activities	$860,989	$1,098,191	-$237,202
TOTAL	$1,854,792	$2,611,262	-$756,470

APPLICATION PROCESS AND REVIEW

The Allocation Committee Review and Funding Methods

The mandatory applicant's video was released on the City's website on November 1, 2023. CDBG Applications were made available on November 8, 2022, and submissions were due Monday, December 9, 2022, by 4:00pm.

The Committee met 7 times between January 5, 2023, and February 16, 2023, to discuss Administration and Planning, Development Activities, and Social Service applications. The Committee members read each application individually prior to the meeting and discussed each as a group. When questions about the applications arose, staff documented the questions and forwarded them to the applicant to respond, and the applicant's responses were then shared with the Committee and reviewed. Allocation Committee members then scored each application individually, using the scoring matrix structured in accordance with the priorities established by the City Council.

After all the scores were received from Allocation Committee members, staff organized the applications by score from the highest to the lowest within each application category. The City

Council has directed the Committee to recommend full funding based on the request of each applicant; therefore, each applicant was awarded full funding in descending order, by total score, until the anticipated funding was exhausted.

Funding Caps

The funding caps for individual projects are set at $150,000 for Social Service applicants and $250,000 for Development activities. Administration and Planning funding is limited to 20% of the entire CDBG budget. The 85% Rule for Development Activities specifies that a maximum of 85% of the Development Activity funding can go to fund City applicants, with a minimum 15% reserved for outside organizations. In addition to the 85% rule, a public infrastructure set aside of up to 60% of the City's maximum 85% request remains in effect. The 45% Rule for Social Services specifies that a maximum of 45% of the Social Service funding can go to fund City applications, and a minimum of 55% must go to outside requests.

New Applicant Set Aside (20%)

This year's allocations again features a structure where 20% of funding for both Development Activities and Social Services is set aside for any new projects submitted by applicants that have not previously applied for CDBG funding. These projects must receive a minimum average score of 75 points but then are ranked among the subset of new applicants for the 20% funding set aside.

This year 1 applicant met this criteria: a Social Service project.

RECOMMENDATIONS

Administration and Planning Funding

The Committee reviews information regarding Administration and Planning but does not score the application competitively. Administration funding is essential for operating the CDBG program and reporting to HUD. The Housing and Economic Development Department submitted a budget of $378,016 with the understanding that Administration and Planning funding is limited to 20% of the entire CDBG budget. This year, the 20% cap is estimated to be $378,016.

Development Activities Funding

The Committee received 9 Development Activity applications requesting $1,098,191 which includes both construction activities and economic development initiatives. For 2023-2024, $860,989 is available for Development Activity funding. The following table lists in descending scoring point order the applicant organization, program, funding request, and committee recommendation. There is a deficit of $237,202 needed to fund all development Activities.

If there are contingency funds available the committee recommends allocating funds to the next highest score in Development Activities.

Organization	Program	Request	Points	Committee Recommendation
Planning & Urban Dev Dept.	CDBG Admin and Planning	$378,016		$378,016
Preble St.	Food Security Hub	$250,000	90.18	$250,000
City of Portland, Dept of Public Works	Sagamore Village Sidewalk Improvement Project- Phase 11	$199,000	85.91	$199,000
Alpha One	Critical Access Ramp Program	$42,000	83.97	$42,000
City of Portland, Parks and Recreation	Bayside Street Tree Planting Surge, Phase 2	$185,191	81.74	$185,191
City of Portland, Public Works Dept.	Woodford Street between Forest Ave And Beacon Street.	$199,000	80.07	$184,798
Coastal Enterprise Inc.	Portland Microenterprise Assistance Program	$50,000	78.48	

Organization	Program	Request	Points	Committee Recommendation
Hope Acts	Waterproofing Hope House	$35,000	78.29	
Port Resources	Emery Street Group Boiler Replacement and Kitchen Renovation	$50,000	73.50	
Trustees of First Parish Church	Historic Window Restoration for Increased Energy and Efficiency and Community Use	$88,000	69.73	

Social Service Funding

The Committee received fourteen (14) Social Service applications, including a $150,000 request from Community Policing, which will be funded through a set-aside. A total of $1,135,055 in Social Service requests were received with an estimated $615,787 in available funding. The following table lists in descending scoring point order the applicant organization, program, funding request, and committee recommendation.

Organization	Program	Request	Points	Committee Recommendation
Police Department	Community Policing	$150,000	87.63	$150,000

Organization	Program	Request	Points	Committee Recommendation
Quality Housing Coalition	Project HOME Mothers Trust	$90,165	81.49	$57,165
Wayside Food Program	Direct Service Program	$32,250	92.71	$32,250
Through These Doors	Community Based Domestic Violence Services for Bayside Neighborhood	$94,432	92.67	$94,432
Hope Acts	Support for Homeless and Low Income Asylum Seekers	$125,000	92.25	$125,000
Greater Portland Family Promise	Homelessness Prevention & Housing Services	$61,500	91.95	$61,500
Milestone Recovery	HOME Team	$120,000	91.88	$95,440
Preble Street	Emergency Food Program	$50,000	91.42	
Amistad	HSC Peer Recovery Services	$70,000	90.42	

Organization	Program	Request	Points	Committee Recommendation
Preble Street	Preble Street Adult Wellness Shelters	$75,000	89.67	
Catholic Charities	Immigrant Legal Services	$120,413	89.13	
Catherine Morrill Day Nursery	Portland CDBG Childcare Voucher Collaborative	$81,295	89.08	
Preble Street	Joe Kreisler Teen Shelter	$30,000	88.96	
Furniture Friends	Basic Needs Expansion	$35,000	85.58	

ADDITIONAL CONSIDERATIONS

There are three points related to Social Service projects that deserve additional consideration beyond the scoring rubric we have applied in the above allocations.

First, there is a strong consensus within the Committee that the limits of the scoring system and funding availability mean that we are leaving competitive applications and critical services unfunded. While each year we highlight the difficulty in evaluating worthwhile social services, both this year as opposed to last year only 1 applicant scoring above 90 failed to receive funding. There are two types of potential remedies to this that we'd like to suggest:

- There have been motions in recent years to adjust funding caps or reduce existing set-asides (or both). The committee believes that these should be reconsidered in light of a post-Covid environment where need continues to increase.

- The other potential remedy is an allocation that is either more widely distributed or gives some proportion of funding to the entire group of highest scoring applicants. In practice, this would mean either partial funding above a threshold score, perhaps 90 points; alternatively, all projects scoring above 90 would be selected for funding based on a lottery.

Second, the 'New Program' set aside by the Committee was met with positive but somewhat mixed results. Having any new applicants is evidence of a healthy program and our expectation is that this set aside will increase interest going forward. The one new applicant scored well enough to meet the 75-point minimum threshold. This program would provide services that would benefit the City of Portland.

The score of 81.49 for the Quality Housing Coalition, Project HOME Mothers Trust project meets the minimum threshold for the new program, but it did not compare well with the rest of the Social Service applicants. Seven other unfunded projects scored higher. The 'New Program' set aside is seeking a balance with established applicants and it is expected that organizations new to CDBG may not score as high. The committee also notes that Through These Doors was a first time applicant last year (2021-22) and this year submitted the second highest ranked proposal which we take as evidence that the new applicant process yielded positive results this year.

Third, the Committee is aware that the City Council can authorize an allocation of $20,000 from the Cotton Street parking lot sales proceeds towards CDBG Social Service Activities. In its advisory capacity, the CDBG Allocation Committee recommends applying these funds toward the Preble Street Emergency Food Program.

Finally, the CDBG Allocation Committee would like to call attention to the *2020 CDBG Priority Task Force Report* recommendation to fund a set aside for Community Policing for 5 years. The task force recommended that planning begin immediately for the city to fund the administration of Community Policing over time. The proposal submitted for Community Policing this year is compelling and should be funded as the services being provided are vital to the community. However, with the increase in demand for services evidenced by the proposals submitted, the CDBG Allocation Committee is noting the fact that $150,000 would fund several additional programs if it were to be added to the funds to be allocated. For example, an additional $150,000 would fund high scoring applicants this year like Preble Street's Food Program and Amistad's Peer Recovery Service. Therefore as we look toward fiscal year 2025, the CDBG Allocation Committee is hoping the city is planning for the transition of this set aside and potentially consider a transition prior to 2025. As the demand for services will likely increase and the diversity of programs available also increases then we believe it is imperative to provide as much funding to those organizations as possible.

The specific recommendation from the *2020 CDBG Priority Task Force Report* is: "The Task Force believes the City's Community Policing efforts are valuable and successful, and should remain a high priority. However, a majority of the Task Force believes that the City should begin to plan for funding the Community Policing administration from the City's budget, both to ensure stability of ongoing critical services, and to free up additional CDBG funds for human services that complement these efforts."

We respect that you may have different priorities from those reflected in the Committee's allocation recommendations, and that you have the flexibility that is not afforded by the structure of the Committee's scoring system. We look forward to learning of your and the City Council's conclusions regarding CDBG allocations.

SUMMARY

Portland is fortunate to have a diverse and talented community of organizations seeking the development of the City and the redress of the needs of its residents. All projects that applied to the program would benefit our City, but scarce funding prevents us from benefitting all of them. This is a competitive process; each applicant competes against all other applicants in their respective Development and Social Services categories.

We thank you for your commitment to this program and hope you are satisfied with the results. We take the opportunity to serve on this committee with the utmost seriousness and diligence and feel the outcomes above reflect our best adherence to the rules and guidance provided.

We offer our recommendations for your consideration. We look forward to seeing you on March 9th and hearing your response.

Sincerely,

The CDBG Annual Allocation Committee for Program Year 2023-2024

Lawson Condrey, Chair	Janice Hastings, Vice Chair
Elinor Higgins	Mounir Majid
Barbara Ginley	Claire Swingle

Attachments: CDBG Allocation Committee Funding Recommendations 2023-2024 (spreadsheet)

REVISED 3.2.2023 CDBG Allocations 2023-2024

Administration and Planning

	Type	Priority	Organization	Program/ Project	Request	Priority Impact/ Goal 30 pts	Guiding Principles 30 pts	Capacity to Deliver 25 pts	Partner/ Collaboration 15 pts	Point Deductions	Total	Committee Recommendation	City Manager Recommendation	Council Allocation
1	AP	All	Housing and Economic Devlopment	CDBG Admin and Planning	$382,306							$382,306		
					$382,306									
				Total Admin & Planning Available	$412,306						***Subtotal:***	**$382,306**	**$0 #**	**$0**

Development, Economic Development and Construction

	Type	Priority	Organization	Program/ Project	Request	30 pts	30 pts	25 pts	15 pts	Point Deductions				
8	Con	NI	Preble Street	Food Security Hub	$250,000.00	26.18	27.75	23.00	13.25		90.18	$250,000		
3	Con	NI	City of Portland, Public Works Dept.	Sagamore Village Sidewalk Improvement Project – Phase II	$199,000.00	23.66	26.50	23.50	12.25		85.91	$199,000		
5	Con	HA	Alpha One	Critical Access Ramp Program	$42,000.00	26.68	25.75	19.67	11.88		83.98	$42,000		
2	Con	NI	City of Portland, Parks And Recreation	Bayside Street Tree Planting Surge, Phase 2	$185,191.00	22.67	25.58	20.92	12.08		81.25	$185,191		
4	Con	NI	City of Portland, Public Works Dept.	Woodford Street between Forest Ave And Beacon Street.	$199,000.00	22.28	24.33	21.33	12.13		80.07	$199,000		
10	DEV	EO	Coastal Enterprise Inc.	Portland Microenterprise Assistance Program	$50,000.00	25.01	23.22	19.75	10.50		78.48	$35,528		
6	Con	NI	Hope Acts	Waterproofing Hope House	$35,000.00	22.67	25.58	18.42	11.63		78.30			
9	Con	HA	Port Resources	Emery Street Group Boiler Replacement and Kitchen Renovation	$50,000.00	24.33	23.17	17.75	8.25		73.50			
7	Con	NI	Trustees of the First Parish Church	Historic Window Restoration for Increased Energy and Efficiency and Community Use	$88,000.00	16.49	20.33	21.50	11.40		69.72			
				Estimated Total Development, Econ Dev. & Construction Requests	$1,098,191.00									
				Estimated Total HUD Allocated Development Funds Available	$910,719						**Subtotal:**	**$910,719**		
				Estimated Total Funds Available to City Manager and Council (HUD Funds + TIF*)	$910,719								**$0**	**$0**
				** TIF Funding = $90,000; there are no projects eligible for this funding*										

REVISED 3.2.2023 CDBG Recommendations 2023-2024

Social Service	Type	Priority	Organization	Program/ Project	Request	Priority Impact/ Goal	Guiding Principles	Capacity to Deliver	Partner/ Collaboration	Point Deductions	Total	Committee Recommendation	City Manager Recommendation	Council Allocation
											Total			
11	SS	NI	Police Department	Community Policing	$150,000	26.42	24.75	21.96	14.50		87.63	$150,000		
24	SS	EO*	Quality Housing Coalition	Project HOME Mothers Trust	$90,165.00	27.00	25.47	19.13	9.90		81.50	$57,165		
14	SS	ANGHP	Wayside Food Program	Direct Service Program	$32,250.00	29.67	26.37	22.17	14.50		92.71	$32,250		
12	SS	ANGHP	Through These Doors	Community Based Domestic Violence Services for Baysid	$94,432.00	28.67	27.33	22.17	14.50		92.67	$94,432		
18	SS	ANGHP	Hope Acts	Support for Homeless and Low Income Asylum Seekers	$125,000.00	28.42	28.50	21.33	14.00		92.25	$125,000		
19	SS	ANGHP	Greater Portland Family Promise	Homelessness Prevention & Housing Services	$61,500.00	29.17	27.95	20.33	14.50		91.95	$61,500		
22	SS	ANGHP	Milestone Recovery	HOME Team	$120,000.00	28.33	26.68	22.87	14.00		91.88	$98,158		
15	SS	ANGHP	Preble Street	Emergency Food Program	$50,000.00	28.83	27.00	21.58	14.00		91.41			
23	SS	ANGHP	Amistad	HSC Peer Recovery Services	$70,000.00	28.67	27.17	20.58	14.00		90.42			
21	SS	ANGHP	Preble Street	Preble Street Adult Wellness Shelters	$75,000.00	29.17	25.33	21.67	13.50		89.67			
17	SS	EO	Catholic Charities	Immigrant Legal Services	$120,413.00	28.33	27.00	20.54	13.25		89.12			
13	SS	EO	Catherine Morrill Day Nursery	Portland CDBG Childcare Voucher Collaborative	$81,295.00	28.67	26.00	22.17	12.25		89.09			
20	SS	ANGHP	Preble Street	Joe Kreisler Teen Shelter	$30,000.00	28.17	26.75	21.42	12.63		88.97			
16	SS	ANGHP	Furniture Friends	Basic Needs Expansion	$35,000.00	24.67	25.33	21.08	14.50		85.58			
				Total Social Service	**$1,135,055**									
				Total Estimated HUD allocated social service funds available	$618,505							**$618,505**		
				Total estimated funds available to the City Manager HUD +Cotton Street+ Remaining CDBG-CV)	**$665,293**								**$0**	**$0**
				** Cotton Street funding ($20,000 available)*										
				*** Remaining CDBG-CV funding ($26,788)*										
				new program set aside available amount of $129,763										

MEMORANDUM

TO: Mayor Kate Snyder
Members of the City Council
FROM: Mary Davis, Interim Director
Housing and Economic Development Department
DATE: March 3, 2023
SUBJECT: **2023-2024 Housing Program Budget**

SUMMARY OF ISSUE
Review and recommendation to the City Council of the 2023-2024 Housing Program Budget.

REASON FOR SUBMISSION
On February 21, 2023, the Housing and Economic Development Committee voted 4-0 to recommend approval of this budget by the City Council.

The Housing and Economic Development Committee recommends the Housing Program Budget to the City Council for final approval.

HOME Program: The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received over $25 million dollars in HOME funding. In 2009 the City became the lead entity in the Cumberland County HOME Consortium (CCHC). The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the "Lead Entity" and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County's Municipal Oversight Committee controls the allocation of the County's portion of the HOME funds.

When the Consortium was formed in 2009, it included a "hold harmless" clause to ensure that the City, as an existing HOME grantee, would continue to receive funding equal to its allocation prior to the formation of the consortium. The "hold harmless" formula was based on a comparison ratio to the HOME funding for the Lewiston/Auburn (L/A) Consortium. The formula identified Portland's "hold harmless" amount at 118% of the HOME allocation for the L/A Consortium. The Cumberland County HOME Agreement did allow for adjustments to be made if the current level of funding to the L/A HOME Consortium varied from historic levels. Over the years the L/A allocation has decreased which has resulted in the Portland "hold harmless" amount to decrease. As a result, by

agreement with the other members of the CCHC, the annual allocation is divided with 57% of the allocation, after the administrative set-aside, to the City and 43% of the allocation to the County.

As a point of reference, if the City were a stand-alone grantee, the estimated HOME allocation for Portland (using a HUD HOME Allocation estimated calculation) would be approximately $528,440. Of that amount 10% would be set aside for administrative costs ($52,844) leaving $475,596 for program funding. Under the current consortium agreement, the city receives the administrative set-aside ($107,068) along with approximately $549,257 in program funds. Participation in the HOME consortium benefits Portland as well as the county as a whole.

On February 27, 2023, HUD announced the allocation amount for FY 2023-2024. The HUD HOME allocation is $1,037,237, which is $33,440 less than the FY 2022-2023 allocation. $401,411 is reserved for County projects. The budget proposal was developed after a historical review of HOME funding allocations, previous year's budget allocations, program expenditures and program income (loan repayments) received. Currently, the City's HOME Program is divided into three funding categories:

1. Administration
2. Tenant Based Rental Assistance (TBRA)
3. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

HOME Program Budget	FY 2022-2023 Budgeted (entitlement + program income)	**FY 2023-2024 Budget proposal (entitlement + program income)**
Administration	$123,262	$112,665
Tenant Based Rental Assistance	$136,392	$136,392
Affordable Housing Development includes CHDO requirement	$498,796	$395,711

LEAD SAFE HOUSING (Program Income): Lead Safe Housing Program Income is generated through repayment of loans given under prior Lead Safe Housing Grants. These funds can only be used for lead safe housing eligible activities. The City also has a Lead Hazard Reduction Grant of $2,038,041 (over 42 months 1/2/2020-6/30/2023*) in funding for lead paint remediation and $503,655 in funding to assist with code and life safety improvements

Lead Safe Housing Program Income	FY 2022-2023 Budgeted	**FY 2023-2024 Budget Proposal**
	$45,397	$13,827

*Due to delays caused by the Covid-19 pandemic, contractor capacity, and a staff vacancy, the City will request a one-year extension to complete the unit goals associated with this grant.

HOUSING TRUST FUND: Revenue for the Housing Trust Fund is generated from fees triggered by the City's Housing Preservation and Replacement Ordinance, fee-in-lieu contributions from the Inclusionary Zoning Ordinance and Hotel Inclusionary Zoning fee. Including the current balance of the Housing Trust Fund in the Housing Program Budget gives budget authority for the use of the funds. There are no projects or activities currently identified for these funds. The amount budgeted is the *maximum* that might be expended in FY24. However, staff continues to recommend a minimum balance in the Trust, so the *effective budget would be $3,704,156* ($4,204,156 less $500,000.) If additional funds are allocated to the Trust based on current discussions, this number might be adjusted based on the outcome.

Housing Trust Fund (HTF) Budget	FY 2022-2023 Budgeted	**FY 2023-2024 Budget Proposal**
	$2,172,194	$3,704,156

STAFF ANALYSIS AND RECOMMENDATION – The proposed Housing Program Budget has been adjusted to reflect the final HUD fiscal year allocation for the Cumberland County HOME Consortium. The budget will be reviewed by the City Council at two Public Hearings (March 20 and April 10), as part of the overall HCD budget. The approved budget and Annual Action Plan are submitted to HUD 45 days in advance of the start of the fiscal year (May 15 for the fiscal year beginning July 1, 2023).

At this time staff is requesting Council approval of the FY 23/24 Housing Program Budget as outlined above and summarized in the attached spreadsheet.

FY 23/24 Housing Program Budget - Attached

2023-2024 HOUSING PROGRAM BUDGET

03.03.2023

Total HUD HOME Entitlement Allocation	1,037,237	Recommended by HEDC (4-0) 02.21.2023
Portland Program Portion	532,103	Approved by Council XX.XX.2023
Portland Admin Portion	103,724	**HUD Allocation Date: 02.27.2023**
County Program Portion	401,411	

REVENUES- Housing Programs	*HOME*	*LEAD Safe Housing Program Income***	*Housing Trust Fund*	***TOTAL BUDGET***
2023-24 HOME Consortium Admin (10% of allocation)	103,724			*103,724*
2023-24 HOME Consortium Programming	532,103			*532,103*
2022 Calendar Year HOME Program Income*	89,415			*89,415*
2022 Calendar Year HOME Program Income Recaptured Funds*	29,897			*29,897*
2022 Calendar Year HOME Program Income and Recapture Deduction for County*	-110,371			*-110,371*
2022-2023 Housing Trust Fund			3,704,156	*3,704,156*
2022 Lead Safe Housing Program Income		13,827		*13,827*
REVENUE TOTALS (Portland)	644,768	13,827	3,704,156	***4,362,751***

*For FY24 budget PI & Recapture based on actuals from Jan -Dec 2022

2022-23 HOUSING Budget by Activity (Portland)	*HOME*	*Housing*	*Housing Trust Fund*	***TOTAL BUDGET***
Administration 243023QQ01 (includes 10% of PI)	112,665			*112,665*
Tenant-Based Rental Assistance 443024QT01	136,392			*136,392*
Affordable Housing Development 243024QA00	307,027		3,704,156	*4,011,183*
CHDO 243024QA00	88,684			*88,684*
Lead Safe Housing 243019PLL1 (PLL036)	0	13,827		*13,827*
EXPENDITURE TOTALS (Portland)	644,768	13,827	3,704,156	***4,362,751***

2023-24 HOME Consortium COUNTY - approved by MOC on XX.XX.2023

County HOME Program budget provided for reference only; adjusted for final HUD Allocation 02.27.2023

Allocation of County funds is done by the County's Municipal Oversight Committee

REVENUES- Housing Programs	*County*
2023-24 HOME Consortium Non-Portland Programming	401,411
2022 HOME County Program Income and Recapture	110,371
	511,781

2023-24 HOUSING Budget by Activity	*County*
Affordable Housing Development 243024QC00	444,880
CHDO 243024QC00	66,902
	511,781

Proposed 2023-2024 Budget for ESG

Emergency Solutions Grant 2022-2026

rev. 02.27.2022

	ESG Budgeted Funding Amount by Fiscal Year				
Program	FY 22-23 (Y1)	**FY 23-24 (Y2)**	FY 24-25 (Y3)	FY25-26 (Y4)	FY26-27 (Y5)
Operations: Homeless Health	$0	**$0**			
Essential Services: Family Shelter	$82,216	**$81,427**			
Homeless Prevention: Family Shelter	$0	**$0**			
Homeless Prevention: Oxford Street	$16,102	**$15,948**			
Rapid Rehousing: Oxford Street	$54,803	**$54,277**			
Administration and HMIS	$10,692	**$10,589**			
Total (Actual)	$163,813	$162,241			
Admin/HMIS cap	$12,286	$12,168			

Explanation (FY23)

Operations: Homeless Health	This program is no longer administered by the City of Portland
Essential Services: Family Shelter	Funds pay for staff who provides housing assistance by seeking affordable units, applying for eligible subsidies and accessing transitional housing opportunities and follow-up case management services by assisting with life skills training, budgets, tenant/ landlord negotiations, and connecting to area resources. There is a need in Portland to expand the essential services with the high number of families arriving. The budget is adjusted to cover 1 .25 FTE, this will allow the case manager to work with 5-10 families (17-34 individuals).
Homeless Prevention: Oxford Street Shelter	Oxford Street Shelter: Funds pay for staff who assist in preventing individuals from becoming homeless and providing necessary case management and referrals.
Rapid Rehousing: Oxford Street Shelter	Funds pay for staff who assist persons who have become homeless by quickly moving them into permanent housing and providing the necessary case management and referrals to address individual needs.
Administration and HMIS	Funding goes to pay administration
Budget Notes	

NOTE:
City Council will take public comment on this budget

City of Portland, Emergency Solutions Grants (ESG) Program

The ESG program provides funding to: (1) engage homeless individuals and families living on the street;
(2) improve the number and quality of emergency shelters for homeless individuals and families; (3) help operate these shelters; (4) provide essential services to shelter residents, (5) rapidly rehouse homeless individuals and families, and (6) prevent families/individuals from becoming homeless. Eligible recipients generally consist of states, metropolitan cities, urban counties, and territories, as defined in 24 CFR 576.2. Each recipient must consult with the local Continuum(s) of Care operating within the jurisdiction in determining how to allocate ESG funds.

Dena Libner <dlibner@portlandmaine.gov>

Public Comment for City Council Resolution 7-22/23

Laura Simocko <lsimocko@ilapmaine.org> Fri, Apr 7, 2023 at 10:49 AM
To: "publiccomment@portlandmaine.gov" <publiccomment@portlandmaine.gov>

To the Mayor and Councilors:

My name is Laura Simocko and I'm the Development Director at the Immigrant Legal Advocacy Project, also known as "ILAP." With Catholic Charities, we submitted a joint application for CDBG funding to provide immigration legal services to Portland residents with low incomes. We deeply appreciate that we have been recommended for funding this year, especially given the critically important services provided by our fellow applicants.

I'd like to take this opportunity to share a bit about our work and the impact that CDBG funding will have on the services we're able to provide to Portland residents. Founded in 1993, ILAP advances justice and equity for immigrants in Maine through direct immigration legal services, community legal education, and systemic advocacy. Each year, we help more than 3,000 people from all 16 counties, with the majority living in Portland. Our work helps immigrants and asylum seekers gain legal status and work authorization, the first steps toward finding safety, securing employment, and building stability.

A recent case story illustrates why accessible immigration legal services are so important. Note that names and other identifying details have been changed to protect client confidentiality:

> *A mother and her two teenage daughters came to ILAP after being referred by the local shelter where they were staying. The family were survivors of domestic violence and had struggled to maintain stable housing for years before arriving in Portland. Like many other immigrants, it was incredibly complicated for them to get legal status, with many complex steps and processes that had to be completed over several years. But once connected to an ILAP attorney, they were able to file their case under the protections available for domestic violence survivors.*

> *Having access to expert legal guidance opened new opportunities for the family. They found permanent housing and were able to start working while their case was pending. And after three years of ups and downs, starts and stops, they learned that they had been granted green cards. With the stability of this permanent legal status, they were able to pursue educational opportunities, move forward with their lives, and continue on a pathway to citizenship.*

Funding through the CDBG program will allow us to continue to provide high-quality immigration legal services to more families like this one, like we have for the last thirty years, and welcome more new arrivals to our state. Thank you again.

All the best,

Laura Simocko *(she/her)*

Development Director

Immigrant Legal Advocacy Project (ILAP)

P.O. Box 17917 (mailing)

489 Congress Street, 3rd Floor (physical)

Portland, ME 04112

Wabanaki land

lsimocko@ilapmaine.org

207-699-4407 (direct line)

Immigrant Legal Advocacy Project (www.ilapmaine.org) advances justice and equity for immigrants and their families through direct legal services, community education, and systemic advocacy. Sign up for our e-news at signup.ilapmaine.org and follow us on Facebook and Twitter!

CDBG Public Hearing April 2023

Testimony Submitted by Catholic Charities Maine

Members of the CDBG Allocation Committee, Mayor Snyder, the Portland City Council, City Manager West, thank you for your time and effort reviewing proposals and for the opportunity to address you. We deeply appreciate your recommendation of CDBG funding for our joint program with ILAP. My name is Elias Kann, and I am a Department of Justice Accredited Representative for Immigration Legal Services at Catholic Charities Maine.

CCM and ILAP provide free and low-cost qualified legal advice and representation to support family re-unification, citizenship applications, green card applications, work authorization, consultations, and representation before USCIS and the Immigration Court in Boston.

With expanding immigrant populations in Portland including Afghans, Ukrainians, Cubans, Haitians, and asylum seekers from many nations, Immigrant Legal Services has increased our range of services. At Catholic Charities, we've expanded our team to 10, including 2 additional part time staff and 6 volunteers, two of whom are former attorneys. We provide direct multilingual legal services covering 11 different languages. We continue to collaborate with Maine Immigrant Assistance Providers (MIAP) – to address emerging trends, gaps in service and access to intakes. In response to the crisis in Afghanistan, Ukraine, and Haiti, CCM and ILAP were able to quickly address the community legal needs by offering in person legal workshops. We also support Hope Acts' work permit program and host monthly immigration legal orientations and workshops.

These new initiatives to respond to the needs of the moment matter. At present, there are only three agencies in Maine, including CCM and ILAP, that are nationally recognized by US Department of Justice to provide immigration legal services. Together, we more efficiently serve clients through close and regular coordination, information sharing and consultation.

DOJ-recognized organizations deliver accurate, trustworthy, and affordable immigrant legal services. At a time when immigrants can be compelled to attempt these legal applications without proper legal support, we provide crucial trauma-informed services in immigration law to the local immigrant population. Mistakes during the immigration law process can be catastrophic for families, leading to lack of status, inability to work and, at worst, deportation.

A recent success story highlights the importance of this work for our community:

Early this year, our client C successfully received permanent resident status. A victim of torture whose family was murdered; C overcame many barriers. During the long journey to the US through South and Central America, C witnessed many atrocities and was detained in multiple countries before arriving in Mexico. C waited at the border for months, avoiding human traffickers, drug cartels, and violent crime. Once in the US, they were detained for 8 months before receiving asylum. As a result of these traumatic experiences C, who is in their mid-twenties, suffers from severe PTSD.

At ILS, we worked with C using a trauma informed approach to prepare their application for adjustment. We helped them procure evidence and gave them resources to help treat their PTSD. At every step of the process ILS was there providing multilingual representation and advocacy on C's behalf and ensuring that

C understood the process. I am proud to say that C received their Green Card, is fully employed, and maintains a stable apartment close to their community.

ILAP and Catholic Charities continue to provide our immigration legal services both remotely and in person in the face of growing need in the community. We are grateful for your time and consideration.
m

Thank you.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2023

SUBJECT: Order 166-22/23 Approving the Administrative Fee Increase for Parking in the Ocean Gateway Parking Lot - Sponsored by Danielle P. West, Interim City Manager

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: n/a

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

I. SUMMARY

II. AGENDA DESCRIPTION

This order increases the daily parking rate in the Ocean Gateway lot from $15 to $20 per day, effective April 11, 2023. This is expected to generate an additional $120,000 in revenue each fiscal year.

To make this item effective immediately, staff is requesting that this item be passed as an emergency. Seven affirmative votes are required for passage as an emergency 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

This fee increase will provide $64,000 in revenues to the City of Portland.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Order Administrative Fee for Ocean Gateway Parking Lot 4.10.2023

Prepared by:
Date: 03/20/2023

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 ADMINISTRATIVE FEE INCREASE FOR PARKING IN THE OCEAN GATEWAY PARKING LOT

ORDERED, that the fee of $20 per day in the Ocean Gateway Parking Lot, as shown in the schedule attached hereto from the Parking Division, is hereby approved; and

BE IT FURTHER ORDERED, that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately.

REVENUE FEE SCHEDULE CHANGE
3/23/23

GARAGES, LOTS & METERS– ADMIN FEE

Department: Parking

Account #	Revenue Description		Current Fee	Proposed Fee
100-18-100-364071	Garages, Lots, Meters	**Ocean Gateway Parking Lot**	$15/day	$20/day*

***Increase effective April 11, 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 ACCEPTING AND ADOPTING THE 2023 JILL C. DUSON HOUSING TRUST FUND ANNUAL PLAN

ORDERED, that the 2023 Jill C. Duson Housing Trust Fund Annual Plan, attached hereto, is hereby accepted and adopted.

JILL C. DUSON HOUSING TRUST FUND
2023 ANNUAL PLAN

The Jill C. Duson Housing Trust Fund (also referred to as Housing Trust Fund or HTF) is established by Chapter 14, Section 18.3 of the City's Code of Ordinances. Section 18.3.4 states that "each fiscal year the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The Annual Plan establishes the priorities in which the current balance of the Housing Trust Fund would be allocated and should be in conformity with the 2023 City Council Common Goal *"Housing is a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, promote self-determination and economic growth."*

2023 ANNUAL PLAN

City Ordinance requires that the Jill C. Duson Housing Trust Fund Annual Plan include a description of funding priorities, the amount of funds budgeted, and a description of how funds will be distributed among very-low, low, and moderate income households.

Funding Budget

The funding budget is based on the balance of $4,204,156 in the Housing Trust Fund as of March 1, 2023. The Housing Trust Fund designs to maintain a minimum balance of $500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. This right to cure will be included in the affordable housing covenants that are recorded in the Cumberland County Registry of Deeds for each affordable unit.

In addition to the funding noted above, the Portland City Council allocated $1,000,000 from the first tranche of American Rescue Plan Act (ARPA) funding and $4,110,000 from the second tranche of ARPA funding for housing development. These funds are to be administered through the Jill C. Duson Housing Trust Fund.

The funding available from the Jill C. Duson Housing Trust Fund is **$3,704,156 (**$4,204,156 less $500,000) plus **$5,110,000** for a total of **$8,814,156.**

Funding Priorities

Housing Trust Fund resources should focus on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income (i.e. $55,850 for a four person household), or projects designed to create housing affordable to households earning up to 100% of the area median income (i.e. $ 111,700 for a four person household).

Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning up to 100% of the area median income with preference for households earning 50% of the area median income and below. Shovel ready projects with a mix of bedroom size are strongly encouraged.

The term shovel ready is defined as a project that has received other funding approvals from federal, state, local, or private sources and demonstrates the ability to move to a construction loan closing by January 2024.

Funding Distribution

Housing Trust Funds will be distributed through a competitive application process. The *Affordable Housing Development and Tax Increment Financing Application* will be issued, at a minimum, on an annual basis to notify potential applicants that the application is available. Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in Attachment #1 as well as the 2023 City Council Common Goal requirement to use a lens that prioritizes racial, social and justice equity in order to recommend the most qualified application based on the information submitted.

Recommendations will be forwarded to the City Council's Housing and Economic Development Committee for review. Housing and Economic Development Committee recommendations will be forwarded to the City Council for final review and approval.

Goals for Distribution

The goal for the distribution of these funds is for the "promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city" (Chapter 14 Section 18.3.B of the City's Code of Ordinances). Development should be consistent with the Annual City Council Common Goals, the City's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Projects

Projects receiving Housing Trust Funds must create housing units that promote economic diversity with the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible

In this Plan, adaptive reuse is defined as creating housing in an existing building that was originally built or designed for a use other than housing.

Housing Trust Fund resources are also intended to promote the retention of affordable housing. Housing Trust Fund resources should also be made available, if necessary, to exercise the City's right of first refusal in connection with potential foreclosure issues with affordable homeownership units. The City shall have a right of first refusal if an affordable unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats to the Unit's affordability restrictions. The City shall also have the option of using Housing Trust Funds to support affordable units facing large special assessments that may pose a risk to the owner household's ability to maintain their unit's affordability. The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit owner. The intent is to ensure affordability of the unit for eligible households.

Financing Parameters

Housing Trust Funds should be a resource of last resort and should be focused on opportunities where other funding sources do not work or are not effective. Applicants requesting financial assistance from the Housing Trust Fund must provide documented efforts made to obtain other private, federal, state or local resources for the project.

Form of Awards

A variety of funding mechanisms will be utilized including no-interest loans, below-market loans, forgivable loans, and grants. Type of funding will be determined after review of a number of factors including amount necessary to make the project feasible, the project type, income targeting, number of affordable units, and duration of the affordability period.

Maximum Award Amount

Awards will be determined on a per affordable unit basis. The average City investment per unit, excluding TIF financing, is approximately $10,000. The City contribution per unit will not exceed $18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied into the goals outlined in the City's Comprehensive Plan.

Affordability Restrictions

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit, which is presumed to be a minimum of thirty

(30) years but may be longer. In the case of ownership housing, the units must remain affordable for the longest feasible time while maintaining an equitable balance between the interests of the owner and the interest of the City of Portland. These restrictions must be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds

Affordable Housing Agreement

In the case of ownership housing, the owner of each affordable unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the City and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability in homeownership units, this recorded covenant will limit increases in sales price according to the calculation defined by the City as defined in the implementation regulations. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will also provide a right of first refusal and other purchase rights to the City or its designee (e.g. another eligible household, or a nonprofit corporation).

Sales must be made through an arms-length arrangement. No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for a unit financed with Housing Trust Funds or receive any benefit related in any way to the administration or compliance with the conditions contained therein.

Affordability

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Right of First Refusal

The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit's owner. The intent is to ensure affordability of the unit for eligible households.

Implementing Regulations

Regulations to further specify the details of the parameters outlined in this Annual Plan, maybe developed, including, but not limited to:

1. Specific methodology for income verification; and
2. Underwriting criteria.

Attachments

1) Point System for Evaluating and Scoring Applications
2) Sources and Uses of Jill C. Duson Housing Trust Fund

Attachment 1
Point System for Evaluating and Scoring Applications (Max 115)

Policy Objectives: Total 50 Points
Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 26 points
Maximum points will be awarded for those applications that:

1. Market Demand - 4 points
    a. 4 points - high demand, meets the City's income targeting and rental housing priority,
    b. 1 point - moderate demand, sufficiently meets the City's income targeting priority
    c. 0 points - does not demonstrate sufficient market demand, does not meet the City's income targeting priority
2. Zoning - 8 points
    a. 8 points - development requires no zoning amendments or contract or conditional zone
    b. 5 points - development requires a zoning amendment which is consistent with the City Comprehensive Plan
    c. 0 points - development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity - 6 points
    a. 6 points - creates housing options which promote economic diversity within the development **<u>and</u>** within in the neighborhood in which the development is located
    b. 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located
    c. 4 points – creates housing options which promote economic diversity within the development (a mixed-income development)
    d. 0 points does not promote economic diversity
4. CHDO - 2 points
    a. 2 points - developer and owner are both controlled by CHDO
    b. 1 points - either developer or owner are controlled by CHDO
    c. 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy - 6 points
    a. 6 points - investment from City is <$10,000/unit
    b. 5 points - investment from City is > or = $10,000 and <$12,000/unit
    c. 4 points - investment from City is > or = $12,000 and <$14,000/unit
    d. 3 points - investment from City is > or = $14,000 and <$16,000/unit
    e. 2 points - investment from City is > or = $16,000 and <$18,000/unit
    f. 0 points - investment from City is > or = $18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. 24 points
Maximum points will be awarded for those applications where:

1. Site Selection - 7 points

a. 7 points – fully appropriate for use, project supports Comprehensive Plan goal for development along transit nodes and corridors
b. 5 point – appropriate, some concerns
c. 0 points – significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors

2. Exterior Design - 5 points
    a. 5 points - the design is fully consistent with neighborhood design characteristics,
    b. 3 points - the design is an adequate fit with the neighborhood design,
    c. 0 points - the design is a significant outlier
3. Amenities and unit design - 7 points
    a. 7 points -amenities & unit design are well thought out and appropriate for residents,
    b. 5 points - amenities & unit design are adequate,
    c. 0 points -amenities and unit design raise significant concerns that resident needs will not be adequately addressed
4. Environmental - 5 points
    a. 5 points – Phase I identifies no environmental issues
    b. 3 points - Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets;
    c. 0 points - there are significant unresolved environmental issues, or no Phase I has been received.

Underwriting Criteria: Total 65 Points
Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

1. Development budget & sources and uses - 10 points
    a. 10 points - EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
    b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary";
    c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary";
    d. 0 points - more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"
2. Operating pro forma – 10 points
    a. 10 points - EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
    b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary";
    c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary";

d. 0 points - more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"

Applicant's ability to complete and operate project, including development team experience, capacity, property management track record, project readiness and timeframe for completion. 45 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed - 10 points
    a. 10 points – project meets the shovel ready definition noted in the Funding Priorities section above.
    b. 7 points - at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City's prior experience with the funder.
    c. 5 points - ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City's prior experience with this funder.
    d. 0 points - one or more sources are projected on terms that are not consistent with the City's prior experience with the funder and are not documented by letter(s) from funder(s).
2. Construction Time Line – 5 points
    a. 5 points – There is a strong likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents;
    b. 2 points -There is a small likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents;
    c. 0 points -it is unlikely the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
3. Track record of development team - 10 points
    a. 10 points - every development team member has a successful track record with this type of project and at this scale
    b. 7 points - all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
    c. 3 points - two development team members, while having relevant experience, are new to this type of project or this scale of development
    d. 0 points - the development team does not meet the criteria above
4. Current Capacity of development team - 10 points
    a. 10 points - development team members have exceptional depth of human and financial resources to complete this project;
    b. 8 points - development team members have the human and financial resources to complete this project;
    c. 3 points - development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward;

d. 0 points - the development team does not meet the criteria described above

5. Sound Property Management - 10 points
    a. 10 points – property manager agent demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored above average or better in physical inspection scores;
    b. 5 points -property manager agent demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored satisfactory in physical inspection scores;
    c. 0 points – the property manager agent has either on-going violations, or has been issued an IRS form 8823 in the last three years, or has scored below average or lower

Attachment 2

	Sources and Uses of Jill C. Duson Housing Trust Fund				
YEAR	**DEPOSITS**		**YEAR**	**EXPENDITURES**	
2002/03	Maine Medical Center HRO	$ 315,580.00	2011	Avesta Oak Street Lofts	$ (380,585)
2002	Sportsman's Grill HRO	$ 40,000.00	2014	Housing First Pre-Development RFP	$ (75,000)
2009	Berlin City Auto HRO	$ 116,000.00	2015	65 Hanover & 52 Alder Sts Feasibility Study	$ (9,250)
2010	Stop n Shop HRO 2010	$ 289,250.00	2017	65 Munjoy Street	$ (175,000)
2012	Rockbridge/Eastland Park HRO	$ 42,500.00	2018	37 Front Street (not yet spent)	$ (55,500)
2012	Riverwalk/Ocean Gateway HRO	$ 250,000.00	2018	63 Front Street (not yet spent)	$ (370,000)
2012	118 Congress LLC Easement	$ 3,500.00	2018	977 Brighton Avenue (Wessex Woods)	$ (300,000)
2017	91 & 97 Belfort Street (sale of TAP)	$ 86,423.99	2019	60 Parris Terr. Downpayment Assistance	$ (24,000)
2017	116 Upper A Street (sale of TAP)	$ 78,526.74	2019	83 Middle Street (not yet spent)	$ (136,734)
2017	443 Congress Street IZ	$ 280,000.00	2019	18 Luther Street	$ (36,000)
2018	62 India Street IZ	$ 276,500.00	2020	200 Valley Street (not yet spent)	$ (49,154)
2018	Short Term Rental Fee transfer	$ 33,138.80	2022	200 Valley Street	$ (442,386)
2018	0 Thames Street (WEX) sale	$ 1,000,000.00	2020	Affordable Rental Housing Incentive Program	$ (1,000)
2019	20 Thames Street IZ & Easement	$ 270,000.00	2021	66 State/155 Danforth (not yet spent)	$ (150,000)
2019	20 Thames Street (for balcony overhang)	$ 7,500.00	2022	37 Front Street	$ (499,500)
2019	Short Term Rental Penalty	$ 15,200.00		Total Expenditures	$ (2,704,109)
2020	Short Term Rental Penalty	$ 200.00			
2020	Short Term Rental Penalty	$ 7,500.00			
2019	Short Term Rental Fee transfer	$ 176,118.00			
2019	56 Hampshire Street Easement fee	$ 12,123.00			
2019	121 Middle Street HOTEL IZ	$ 41,866.00			
2019	17 Sumac Street (sale of TAP)	$ 79,617.86			
2020	99 Capisic Street (sale of TAP)	$ 163,168.93			
2020	Short Term Rental Fee transfer	$ 122,964.50			
2020	22 Bramhall Street (MMC overhang)	$ 3,799.00			
2020	50 Monument Square IZ	$ 222,789.00			
2020	121 Middle Street HOTEL IZ	$ 30,448.00			
2020	Order 89 20/21 Appropriation	$ 500,000.00			
2021	56 Hampshire Street IZ	$ 198,928.00			
2021	40 Free Street IZ	$ 10,609.00			
2021	1 Center Street HOTEL IZ	$ 513,810.00			
2021	Short Term Rental Fee transfer	$ 109,681.26			
2021	Newell Street sale	$ 900.00			
2021	10 Hammond Street (IZ)	$ 169,744.00			
2021	22 Hope Avenue (IZ)	$ 150,000.00			
2021	ARP Allocation Order 84 21/22	$ 1,000,000.00			
2022	5 India Street (IZ)	$ 261,086.40			
2022	18 Luther Street (repayment of loan)	$ 36,000.00			
2022	Short Term Rental Fee transfer	$ 79,459.60			
2022	City Manager Allocation	$ 250,000.00			
2022	ARP Allocation Order 100 22/23	$ 4,110,000.00			
2022	Newell Street (sale of TAP)	$ 8,100.00			
2022	Stroudwater (partial IZ fee)	$ 16,233.90			
2022	75 Chestnut IZ	$ 587,444.00			
	Previous INTEREST EARNED	$ 51,555.81			
	Total Deposits	**$12,018,265.79**		**BALANCE**	**$9,314,156.79**
HRO - Housing Replacement Ordinance; IZ = Inclusionary Zoning Fee-in-lieu; TAP = Tax Acquired Property					
as of 3-15-23					

MEMORANDUM
City Council Agenda Item

FROM: Victoria Volent, Housing Program Manager

DATE: March 22, 2023

SUBJECT: Order 168-22/23 Approving the 2023 Affordable Housing Development and Tax Increment Financing Application - Sponsored by the Housing & Economic Development Committee, Councilor Pious Ali, Chair

SPONSOR: Housing and Economic Development Committee, Councilor Pious Ali, Chair
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/10/2023 **Final Action 4/10/2023**

Can action be taken at a later date: No

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

PRESENTATION: Mary Davis will be available for questions

I. SUMMARY

The *2023 Affordable Housing Development and Tax Increment Financing Application* is presented for City Council approval.

II. AGENDA DESCRIPTION

The Housing and Economic Development Committee met on March 21, 2023 and voted unanimously (4-0) to forward this item to the City Council with a recommendation for passage.

The City of Portland has made the development of affordable housing a priority, as identified in the City of Portland's 2022-2026 HUD 5-year Consolidated Plan, City Council Common Goals, and the Comprehensive Plan. To accomplish this priority, the City of Portland issues the *Affordable Housing Development and Tax Increment Financing Application* RFP for the allocation of city resources budgeted for the development of affordable housing. The application establishes the goals for distribution of funds and/or the designation of an affordable housing TIF.

The goal for the distribution of HOME and HTF funds, or the designation of an Affordable Housing TIF district, is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Priority for the use of HOME Program funds is for rental housing for households earning at or below 50% of the area median income (i.e. $55,850 for a four-person household). Priority for the use of the Jill C. Duson Housing Trust Funds is to support public/private partnerships that create units affordable for households earning up to 100% of the area median income (i.e. $111,700 for a four-person household) with preference for households earning 50% of the area median income or below. Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) is to support projects receiving assistance through the Low Income Financing Program (LIHTC) or projects that create units affordable for households earning up to 100% of the area median income with preference for households earning 50% of the area median income or below.

Issuance of the 2023 Affordable Housing and Tax Increment Financing Application supports the City of Portland's goal of developing affordable housing as a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic

growth. The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing HOME and/or Housing Trust Funds will be accepted until all budgeted funds are allocated.

The City of Portland is making available a combination of FY 2023-2024 HUD Home Investment Partnership Program (HOME) funds and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval. The estimated total funding available is $9,272,426 ($458,270 (HOME) + $8,814,56 (HTF)).

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Issuance of the *2023 Affordable Housing and Tax Increment Financing Application* supports the City of Portland's goal of developing affordable housing as a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth. The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing HOME and/or Housing Trust Funds will be accepted until all budgeted funds are allocated.

The City of Portland is making available a combination of FY 2023-2024 HUD Home Investment Partnership Program (HOME) funds and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval. The estimated total funding available is $9,272,426 ($458,270 (HOME) + $8,814,156 (HTF)).

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Issuance of the *2023 Affordable Housing and Tax Increment Financing Application* establishes the priorities of funding allocation and should be in conformity with the 2023 City Council Common Goal "housing is a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth."

V. FINANCIAL IMPACT

The issuance of the *2023 Affordable Housing and Tax Increment Financing Application* does not create any financial impact.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Staff is requesting City Council approval of the proposed *2023 Affordable Housing and Tax Increment Financing Application* for the balance of $9,272,426.

VIII. LIST ATTACHMENTS

1. AHD and TIF Application for Council approval 4-10-23

Prepared by:
Victoria Volent, Housing Program Manager
Date: 03/22/2023

Overview

Case Id:
Name:
Address:

Overview

Please provide the following information.

City of Portland Affordable Housing Development and Tax Increment Financing Application

Housing & Economic Development Department
Victoria Volent
389 Congress St
Portland, ME 04101
207-874-5028
Vvolent@portlandmaine.gov

GENERAL INFORMATION

Availability of Funding

Housing is a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth.

- The City of Portland has made the development of affordable housing a priority, as identified in the City of Portland's 2022-2026 HUD 5-year Consolidated Plan, City Council Common Goals, and the Comprehensive Plan. To accomplish this priority, the City of Portland will accept applications for financial assistance that facilitate the development of affordable housing in the City of Portland.
- Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply. The HUD definition of a CHDO organization is **Available Here**
- The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing HOME and/or Housing Trust Funds will be accepted until all budgeted funds are allocated.
- The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria. Material changes to the application after approval of the award of funds may result in the cancellation of award and recapture of awarded funds. Cancellation shall be at the sole discretion of the City of Portland.
- The approval process to establish an Affordable Housing Tax Increment Financing (AHTIF) District involves three steps. First, the City Council's Housing and Economic Development Committee provides a recommendation to the City Council regarding the establishment of an Affordable Housing TIF district. If the City Council approves the recommendation, the City submits an application to the Maine State Housing Authority. MaineHousing reviews the application from the City to ensure compliance with MRS Title 30-A, §5245-5250-G. The process begins with the submission of a completed Affordable Housing Development and Tax Increment Financing application to the City of Portland.
- The City of Portland is making available a combination of FY 2023-2024 HUD Home Investment Partnership Program (HOME) funds (which includes a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval.
- Estimated Total Funding Available: $458,270 (HOME) + $8,814,156(HTF) = $9,272,426

General Guidelines

- Developments shall provide decent, safe, and sanitary dwellings such as single-family homes, apartments, condominiums, or other living accommodations for households whose income does not exceed 100% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing does not include facilities such as shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, student dormitories, or unattached mobile homes, regardless of income level. Projects must show that the development meets an identified community housing need, the City's participation is financially necessary in order for the project to proceed, and the applicant has the financial capacity to support their project.

View % Median Income adjusted for household size **HERE**

- Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning 50% of the area median income and below ($55,850 for a four-person household). Priority for the use of Housing Trust Funds will be to support public/private partnerships that create units affordable to households earning up to 100% of the area median income ($111,700 for a four-person household) with preference for households earning 50% of the area median income and below. Shovel ready projects with mixed income targeting and a mix of bedroom size are strongly encouraged. The minimum term of affordability depends on the funding source, but is not generally less than 30 years, and in some cases may be 90 years. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. HOME and HTF resources cannot be used to finance a developer's minimum obligations under the city's Inclusionary Zoning ordinance.
  The term shovel ready is defined as a project that has received other funding approvals from federal, state, local or private sources and demonstrates the ability to move to a construction loan closing by January 2024.
- Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) will be to support projects receiving assistance through the Low Income Housing Tax Credit Program or projects that create housing units affordable to households earning up to 100% of the area median income with preference for households earning 50% of the area median income or below. At a minimum, to comply with MRS Title 30-A, §5250, at least 33% of the housing units in the district shall be affordable housing. Tax increment financing cannot be used to finance the requirements of the City's Inclusionary Zoning ordinance. However, tax increment financing can be used to provide affordability that exceeds Inclusionary Zoning requirements. The ongoing affordability period will match the length of the term of the district. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. A minimum of $500,000 in new taxable investment property value for affordable housing development is needed to qualify for an Affordable Housing TIF.
- For purposes of this application and the use of Housing Trust Funding or the AHTIF, affordable means that the percentage of income a household is charged in rent and other housing expenses including utilities, or must pay in monthly mortgage payments (including real estate taxes, mortgage insurance, condominium/HOA fees, insurance and utilities), does not exceed 30% of a household's gross income, or other amount established in city regulations that does not vary significantly from this amount. See Exhibit #2 **Available Here**.

Federal Requirements

The following requirements apply for any project that is awarded HOME or other federal funding.

- Environmental Review Requirements

  Projects receiving HOME funding are subject to environmental review, clearance, and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted to the City of Portland, the applicant cannot take any "choice limiting actions" prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received from the U.S. Department of Housing and Urban Development. *A Phase I ESA along with a lead and asbestos testing report is required before HUD Environmental Review Requirements can be completed.*

  Choice limiting actions include, *but are not limited to*, (1) actions having an adverse impact – e.g. demolition, dredging, filling, excavation, including soliciting bids for these activities; (2) actions limiting the choice of reasonable alternatives – e.g. execution of a legally binding agreement; signing a purchase and sale agreement; signing an option agreement that does not allow the purchaser to elect to terminate the option agreement if the property is not desirable; entering into real property acquisition (including making bids on auctioned properties); leasing, rehabilitation, demolition, environmental remediation, related site improvements, relocating buildings or structures, conversion of land or buildings/structures (including

soliciting bids to undertake these activities).

- Federal Labor Standards and Other Wage Rate Requirements

  As may be applicable, projects receiving HOME or AHTIF funding must ensure that they and all contractors and subcontractors meet requirements for federal or state prevailing wage rates specified under the Davis-Bacon Act and the City's TIF policy, respectively. The Davis-Bacon and Related Acts require all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over $2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon and Related Acts. Any project approved for a site-specific tax increment financing district (AHTIF) utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S. §1306, or Portland City Ordinance Ch. 33 §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates.

- Section 3

  All HOME projects must comply with Section 3 regulations at 24 CFR Part 75. Contractors and subcontractors performing work on Section 3 covered projects must provide, to the greatest extent feasible, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to the businesses that provide economic opportunities to low- and very low-income persons. Projects that utilize over $200,000 in HUD federal funding from any source or combination of sources, including MaineHousing, must report on Section 3 accomplishments. Developers can search for Section 3 eligible workers and business concerns at **https://hudapps.hud.gov/OpportunityPortal/**.

- Minority and Women Owned Business (MWBE) Participation

  All HOME projects must complete, track, and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Women's Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor, and management agent. Forms will be provided to the developer for tracking.

- Lead-Based Paint

  All HOME funded residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

- Access to the Internet

  All new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

- Fair Housing and Equal Opportunity

  [Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115(; Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

  The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national

origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

- Affirmative Marketing

  Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

- Violence Against Women Act

  Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. . The Violence Against Women Act was reauthorized in 2022 with increased protections for victims of domestic violence, dating violence, sexual assault, and stalking. HUD is currently formulating guidance on compliance with the reauthorization. Projects receiving funding during this program year will be required to follow this guidance, regardless of whether it is released after award.

- Relocation and Displacement

  Developers must comply with all applicable federal requirements, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, for any persons or businesses displaced at any point during the project.

- Equal Employment Opportunity

  All projects shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

Conditions for Approval

Designation of an Affordable Housing Development TIF District is subject to the following conditions.

1. Projects must comply with the City of Portland's Tax Increment Financing Policy.
2. At least 25%, by area, of the real property within an Affordable Housing Development district must be suitable for residential use; be a blighted area; or in need of rehabilitation or redevelopment.
3. The Affordable Housing Development program must show that the development meets an identified community housing need.
4. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable for households at or below 100% of Area Median Income (AMI) and that may be designed to be

compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.

5. Projects approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates. Projects that are required to meet the local TIF policy wage rate requirements and federal Davis-Bacon wage requirements must use the higher wage rate based on job classification.

Goals for the Distribution of HOME and Jill C. Duson Housing Trust Funds (HTF) or the Designation of an Affordable Housing TIF District

The goal for the distribution of HOME and HTF funds, or the designation of an Affordable Housing TIF district, is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Development should be consistent with the Annual City Council Common Goals, the City's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicant's funding request; may impact scoring outcome. Developments should incorporate quality, sustainable design. The City will prioritize rental housing projects with a preference for projects that create units affordable at or below 50% of the area median income.

Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in the Scoring Section as well as the 2023 City Council Common Goal requirement to use a lens that prioritizes racial, social and justice equity in order to recommend the most qualified application based on the information submitted.

Disbursement of Funds

The developer may not request disbursement of funds until the funds are needed for the payment of specified and actual costs. The amount of each request must be limited to the amount needed for the payment of actual costs. The City will disburse up to 90% of the loan proceeds during construction at 50% of completion. The remaining 10% will be disbursed upon receipt of an architect's certificate of substantial completion of the project. Any modification to the disbursement schedule must be agreed to by the City in writing prior to closing.

SCOPE OF SERVICES

All applications submitted for this funding must meet the following criteria to be considered further in the review process.

Eligible Projects

- Projects receiving HOME funding must create rental housing units which promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing, and rehabilitation of existing rental units that creates accessible or maintains affordable units is eligible. Projects that have previously received HOME funds are not eligible for additional HOME assistance.
- Projects receiving HTF Funds or an AHTIF District Credit Enhancement Agreement must create housing units

that promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible.

- All projects must meet the affordability targets referenced in Section I.B. along with all applicable income and rent restrictions of the City's funding source (HOME, HTF or AHTIF Programs).
- Projects must ensure that the affordable units within a mixed income development will be equal in square footage and comparable to the market rate units.
- Housing First developments are encouraged.
- Alternative housing models, such as Cooperative Housing and Land Trust models are encouraged
- Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.
- Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.
- HOME eligible projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.
- Projects receiving assistance through this application are encouraged to participate in the Public Housing Authority Family Self Sufficiency Program.

Site Information and Criteria

- Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2023.
- Local Approvals: Local land use approval is not required prior to submission of the application, however approval is required before the City Council will approve the funding request or AHTIF request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility; the analysis must include the completion of the Site Information and Criteria Table available as **Exhibit #3**.
- Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request or Affordable Housing TIF request.

Financial Feasibility

- Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- Use of Funds: All projects will be reviewed for the proposed use of funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding. The average City investment per unit, excluding TIF financing, is approximately $10,000. The City contribution per unit will not exceed $18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed.

In those cases, the higher cost per unit ratio must be tied to the goals outlined in the City's Comprehensive Plan.

Market Demand

- Applicants must show that the development meets an identified community housing need and provide an analysis and discussion of market demand justifying the need for the proposed project.

Applicant Capacity

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed time frame.
- An architect, general contractor, and professionals on the team with the experience and capacity to complete the project.
- A management team with qualified personnel and the capacity and experience to operate, manage, and maintain the affordable rental property of size and mix of the proposed project. Applicant should demonstrate that properties under the property management team's responsibility are violation free, have not been issued an IRS form 8823 within the last three years and have scored above average or better in physical inspection scores.
- Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting, and oversight of management and maintenance.
- A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

Term of Affordability

- Rental housing projects funded with HOME and/or Housing Trust Funds must have a minimum affordability period of 90 years, secured by a land use restriction covenant in the deed.
- Projects receiving HOME funding may be charged an annual fee to cover the actual costs of federally required HOME monitoring, per 24 CFR 92.214(b)(1)(i).
- AHTIF projects must have an affordability period that matches the term of the district and is secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

Financing Terms

The following are general guidelines and the City reserves the right to partially fund application requests or deny any application that does not meet the application criteria, and adjust the terms of funding on a case-by-case basis based on changes in conventional lending and other financing sources.

The City's funding is generally in the form of soft "gap" financing. To allow for future investment in affordable and workforce housing, the City seeks to achieve a reasonable return of capital and where possible a return on investment based on the financing features of each funding request. The City allows flexibility for creativity by development teams by establishing funding terms based on the financial structure of each development project.

Funding in the form of loans may range from 30 years non-amortizing, deferred at 0% interest, to 30 year, amortizing loans based on a financial analysis of the development project. A key tool used to perform the financial analysis is the Debt Coverage Ratio (DCR). Projects with a DCR greater than or equal to 1.25 will be considered for a fully amortizing loan with a corresponding rate that either achieves a DCR of 1.15.

Other DCR features are as such:

- Projects that have a DCR of less than 1.25 will be considered for interest only loans. The interest rate will be set at a percentage rate that will achieve a DCR of 1.15.
- Projects that are submitted at a DCR of 1.15 will be considered for a deferred cash flow loan.
- Grants may be considered when a project serves a substantially underserved population.
- A project with a sustained DCR greater than 1.5, after the application of a fully amortizing loan will be considered over subsidized. The funding request will be reduced to achieve a sustained DCR of no more than 1.4. This may result in the funding request being reduced to zero. Projects of this nature are candidates for private financing.

Affordable Housing TIF: During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be used to pay authorized project costs. Authorized project costs are noted in 30-A M.R.S.A. §5249, a list of which is attached. Tax increment revenues will be paid by the City to the Project owner pursuant to a Credit Enhancement Agreement to be entered into by and between the City and the Project owner.

Design Compatibility

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

MUST comply with all applicable City Codes and Ordinances, including but not limited to the City's Green Building Code (Chapter 6, Article VII, Sec. 6-165, as amended by Referendum, 11-3-2020) and the Affordable Housing Section of the City's Land Use Ordinance (Chapter 14 Article 18.2, as amended by Referendum, 11-3-2020). Please note that the Green Building Code may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual. Applicants must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Code.

PLEASE NOTE: An application for a building permit must include the documentation outlined in the Green Building Code Section 6-168. A Certificate of Occupancy will not be issued until the terms of Section 6-169 of the Green Building Code have been met.

Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.

Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.

MUST meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.

Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

Time Frame

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

APPLICANT REQUIREMENTS

The City of Portland will consider applications on a rolling basis. Those who require a conditional commitment of

funds as part of other financing applications must apply as soon as possible because the application process can be lengthy. Applicants may contact the City of Portland to confirm the availability of funds prior to submitting an application.

Planning Board approval will be required before a funding award can be made. Applicants are *highly encouraged*to file the required Major Site Plan and Subdivision application with the Planning Department as soon as possible, in order to provide sufficient time for the local land use approval process to occur. Applicants should budget approximately four months from the date of application filing to Planning Board approval and submit all materials accordingly. Please be advised that timelines may be impacted based on the quality of application materials received and reviewed by the Planning Department. Please contact Kevin Kraft, Deputy Director, at kkraft@portlandmaine.gov for additional specifics on the land use approval process.

MEMORANDUM
City Council Agenda Item

FROM: Philip DiPierro

DATE: March 24, 2023

SUBJECT: Order 169-22/23 Granting an Easement to Central Maine Power at Portland Ocean Terminal for Casco Bay Lines Expansion - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: City Manager

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action 4/10/2023**

Can action be taken at a later date: No The easement must be approved prior to CMP moving forward with construction. The Casco Bay Lines expansion project is currently under construction, and CMP will not move forward with electrical utility construction until the easement is approved.

Does this item involve a new contract with the City: The easement has been reviewed and approved by Corporation Counsel.

PRESENTATION: Waterfront and Public Buildings Director Kathy Alves will attend to answer any questions.

I. SUMMARY

A CMP easement is needed in order to rebuild and improve electrical connections following changes in the power supply requirements at Casco Bay Lines, and in connection with right sizing the incoming power for its facility.

II. AGENDA DESCRIPTION

Traffic and pedestrian management at the entrance of Casco Bay Road from Commercial Street was recently expanded to accommodate better traffic and pedestrian flow. In order to expand the entrance, Casco Bay Lines demolished the utility "Finger Building" portion of the Portland Ocean Terminal (POT), which was located on City property. The Finger Building was the utility building that housed electrical, water, gas, and some telecommunications utilities. As a result of the demolition, all of those utilities were relocated into the side of the warehouse building at the POT. This easement to Central Maine Power is required in order upgrade the electrical utilities that will provide power for the Casco Bay Lines hybrid electric ferry. The Casco Bay Lines expansion project is currently under construction.

To make this item effective immediately, staff is requesting that this item be passed as an emergency. Seven affirmative votes are required for passage as an emergency after public comment.

III. BACKGROUND

Central Maine Power requires this easement from their pole to their transformers, which will be located on City property. Electrical upgrades at the POT have already been completed in coordination with the Casco Bay Lines expansion project that is currently under construction. Casco Bay Lines demolished the City of Portland's utility building in order to expand its facility. All the utilities that were located in the former utility building (including electrical utilities) have been rerouted into the Portland Ocean Terminal building (the Maine State Pier warehouse building). Underground power lines were rerouted and power was fed to the POT via a new

transformer that was relocated and set. This easement is required so that CMP can install a second transformer for Casco Bay Line use. The new transformer for Casco Bay Lines, will be used for charging their new hybrid ferry. Both transformers will be located on City property, next to each other, near the head of the Compass Park Pier.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Better traffic and pedestrian flow at the entrance of busy Casco Bay Road have improved residents' and visitors' experiences of the ferry service, and schooner tours. Public access to the water has also been improved. Also, the new charging station that will be powered by the new CMP transformer, will be used to charge the batteries for Casco Bay Lines new hybrid ferry, therefore reducing the use of fossil fuel, in addition to promoting the City's and State's "Green" agenda.

V. FINANCIAL IMPACT

The cost of this work is being paid for by Casco Bay Lines. There is no financial impact to the City.

VI. STAFF ANALYSIS AND BACKGROUND

Taking advantage of the site work that is part of Casco Bay Lines Phase II project allows for better pedestrian and vehicular flows as well as opening up the front of the Portland Ocean Terminal, which reduces the fence line (105 Secure Area). Also, and as previously stated, the new charging station powered by the new CMP transformer, will be used to charge the batteries for Casco Bay Lines new hybrid ferry, therefore reducing the use of fossil fuel, in addition to promoting the City's and State's "Green" agenda.

VII. RECOMMENDATION

Approval is recommended.

VIII. LIST ATTACHMENTS

1. Order Granting a CMP Easement to CMP at Casco Bay Lines 4.10.2023
2. City of Portland_Easement_to CMP Casco Bay Lines as approved by CMP 4.10.2023

Prepared by:
Philip DiPierro
Date: 03/24/2023

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 GRANTING AN EASEMENT TO CENTRAL MAINE POWER AT PORTLAND OCEAN TERMINAL FOR CASCO BAY LINES EXPANSION

ORDERED, that an easement for Central Maine Power at Portland Ocean Terminal, in substantially the form attached hereto, is hereby approved; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order; and

BE IT FURTHER ORDERED, that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and allow work to be done at the site of the easement.

WO# 10300833553 **Easement**
Form 1199, Rev. 02/20 *Underground Line*

City of Portland, a Maine Municipality with a mailing address of 389 Congress Street, Portland, ME, 04101 (Grantor), for consideration given, grants to CENTRAL MAINE POWER COMPANY, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336, and its successors and assigns (collectively Grantees), with quitclaim covenants, the right and easement, in common with others, to erect, bury, maintain, rebuild, respace, patrol, operate, and remove and do all other actions involving electric and communication distribution equipment and facilities, consisting of wires and cables, together with all necessary fixtures and appurtenances under a portion of the surface of the land of the Grantor in the City of Portland, Cumberland County, Maine. The said equipment and facilities are attached to a line commencing at Pole/Pad /Manhole 3, Casco Bay Ferry Line, Portland and extending to include Pole/Pad 3.01, Casco Bay Ferry Line, Portland. This easement affects land conveyed to the Grantor in a deed from State of Maine, dated February 02, 1982, and recorded in the Cumberland County Registry of Deeds in Book 4916 Page 26. This easement is an easement in gross and is not for the sole purpose of serving the Grantor or Grantor's land. The rights granted herein include the right to keep the surface of ground above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor for any and all of the foregoing purposes.

Grantee shall promptly remove all waste, tools, and all material and equipment after each permitted entry upon the Grantor's property pursuant to this easement.

The rights herein granted are subject to any leases, easements, rights, restrictions, and/or mortgages of record, insofar as the same are now in force and applicable.

WITNESS the hand and seal of Grantor duly authorized representatives on _____, 2023.
Signed, Sealed and Delivered in the presence of:

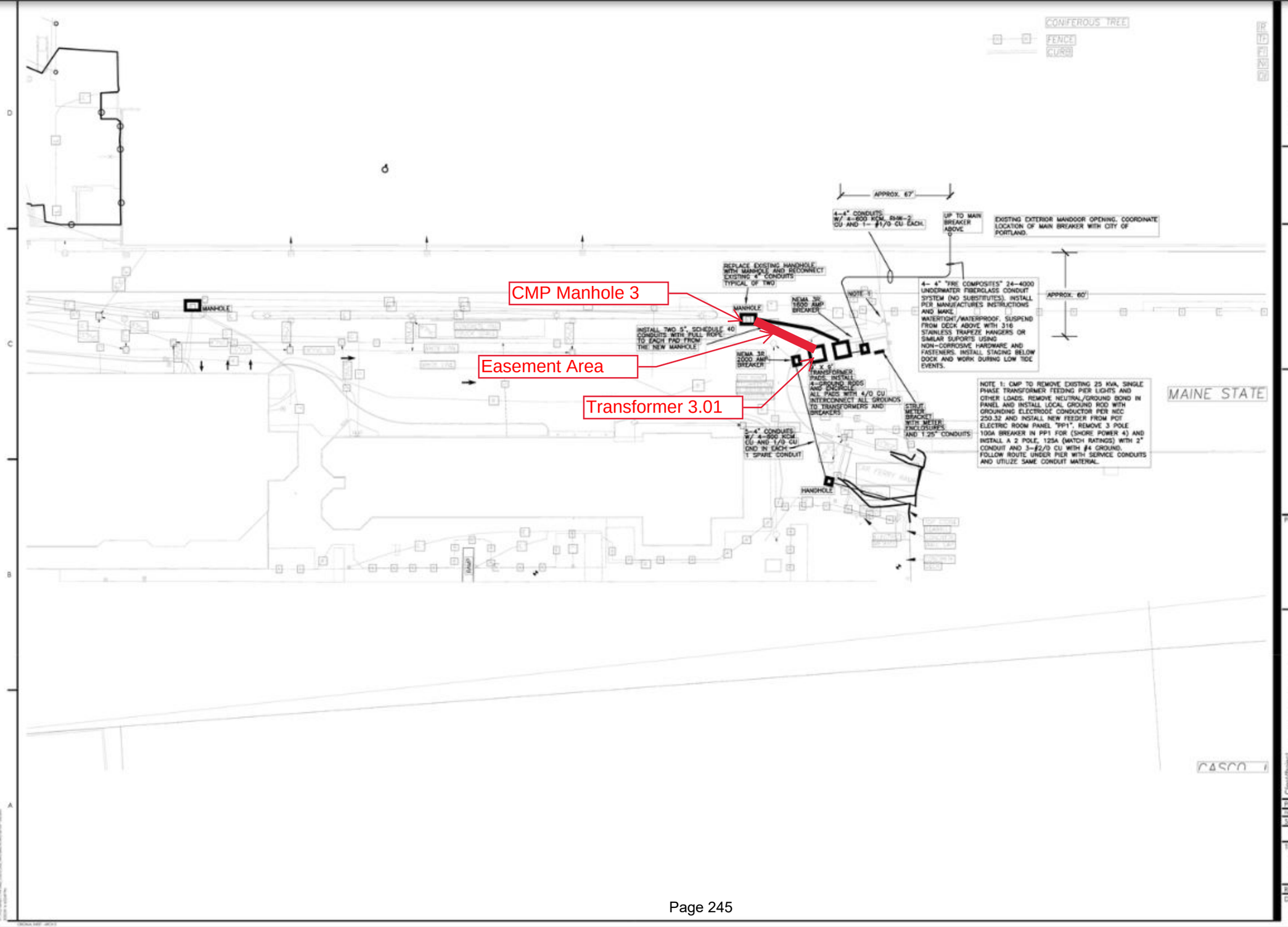
City of Portland

_____
Danielle West, Interim City Manager

State Of Maine
County Of Cumberland

The above-named Danielle P. West, Interim Manager of the City of Portland, personally appeared before me this _____ day of _____, 2023 and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said City of Portland.

_____
Notary Public/Attorney
Printed Name:
My Commission Expires:



Stantec

Client/Project
CASCO BAY ISLAND TRANSIT DISTRICT
CASCO BAY FERRY TERMINAL RENOVATIONS AND ADDITIONS PHASE II
FTA # ME-2016-018 / WIN # 22765.00
PORTLAND, MAINE

Project No. FTA# ME-2016-018

Scale: 1" = 25'

Title
FERRY CHARGER FEEDER SITE PLAN

Revision 0 Sheet of 37

Drawing No.
ES104

Permit/Seal

MEMORANDUM
City Council Agenda Item

FROM: Paul Bradbury, Jetport Director

DATE: March 27, 2023

SUBJECT: Order 170-22/23 Accepting and Appropriating Federal Aviation Administration Administered Airport Improvement Program and Airport Infrastructure Federal Fiscal Year 2023 Grants - Sponsored by Danielle P. West, Interim City Manager

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

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/10/2023 **Final Action 4/24/2023**

Can action be taken at a later date: Yes

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

PRESENTATION: Paul Bradbury will introduce this item as needed, and answer any Council questions.

I. SUMMARY

The Portland International Jetport is requesting approval and appropriation of federal fiscal year 2023 Airport Infrastructure Grants (AIG) and Airport Improvement Program (AIP) grants totaling $4.82 and $4.14 million, respectively, matching funds of $896,000 split equally between the Jetport and the state of Maine, and Jetport unrestricted funds of $940,000 to cover ineligible expenses for a total appropriation of $10.8 million.

II. AGENDA DESCRIPTION

This item accepts and appropriates entitlement grant funding of approximately $8.96 million in Airport Infrastructure Grant (AIG) and Airport Improvement Program (AIP) funds administered by the Federal Aviation Administration (FAA) for federal fiscal year 2023. The AIG and AIP program grants will cover 90 percent of eligible project costs; the remaining 10 percent or $896,000 of eligible project costs will be split equally between the state of Maine and local Jetport funds. Additionally, the Jetport is requesting $940,000 be appropriated from the Jetport's unrestricted fund balance to cover ineligible expenses associated with these projects. The Jetport will use this appropriation, totaling $10.8 million, for the following projects:

- Air Rescue and Fire Fighting (ARFF) station improvements;
- replacement of an Air Rescue and Fire Fighting (ARFF) 1,500 gallon truck;
- design for taxiway A rehabilitation;
- northwest terminal apron extension;
- south general aviation apron extension;
- central air handler replacement;
- inbound baggage carousel replacement; and
- passenger boarding bridge replacement.

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

III. BACKGROUND

The FAA requires approval of the Airport Improvement Program (AIP) and Airport Infrastructure Grant (AIG) programs by the airport sponsor's governing body, which for the Portland International Jetport is the Portland

City Council. Additionally, it requires the governing body to name the official representative for those grants, which for the Portland International Jetport is the Airport Director. The projects being proposed for federal fiscal year 2023 are included and scheduled within the 20-year capital program developed as part of the Jetport's Sustainable Airport Master Plan that was accepted by the City Council in November 2016.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The approval and appropriation of the federal fiscal year 2023 AIG, AIP, state of Maine grants and Jetport funds will provide for needed equipment replacements and infrastructure improvements at the Portland International Jetport.

V. FINANCIAL IMPACT

If approved, the Portland International Jetport will be eligible to receive its federal fiscal year 2023 entitlement allocation of $8.96 million in Airport Improvement Program (AIP) and Airport Infrastructure Grant (AIG) program funds. These programs will fund 90% of eligible project costs. The remaining 10% or $896,000 of eligible project costs not covered by the federal AIP and AIG grants will be covered equally by the Jetport and state of Maine grants in the amount of $448,000 each. Ineligible expenses of $940,000 would come from the Jetport's unrestricted fund balance. Approval of these grants has no impact on the City of Portland's general fund or the tax rate.

VI. STAFF ANALYSIS AND BACKGROUND

Approval of the federal fiscal year 2023 AIP and AIG entitlement and state of Maine grants will provide needed infrastructure investment in the Portland International Jetport, consistent with the Jetport's Sustainable Airport Master Plan.

VII. RECOMMENDATION

Portland International Jetport staff recommends the approval and appropriation of the federal fiscal year 2023 AIP and AIG entitlement grants of $8.96 million, state and local Jetport funds of $896,000, and $940,000 in funds from the Jetport's unrestricted fund balance for a total of $10.8 million.

VIII. LIST ATTACHMENTS

1. Order FAA AIP Grants and Authorizing Dir. of Jetport 4.10.2023
2. FAA_Grant Assurances for airport-sponsors-2022-05

Prepared by:
Paul Bradbury, Jetport Director
Date: 03/27/2023

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 AND APPROPRIATING A FEDERAL AVIATION ADMINISTRATION ADMINISTERED AIRPORT IMPROVEMENT PROGRAM AND AIRPORT INFRASTRUCTURE FEDERAL FISCAL YEAR 2023 GRANTS

ORDERED, that approximately $8.96 million dollars from the Federal Aviation Administration (FAA) administered Airport Infrastructure Grant (AIG) and Airport Improvement Program (AIP) grants for federal fiscal year 2023 entitlement is hereby approved for the Portland International Jetport (Jetport), as well as funding of $896,000 split equally between the Jetport and the state of Maine, and $940,000 of Jetport funds to cover ineligible expenses providing approximately $10.8 million in total funding for the following projects:

- Air Rescue and Fire Fighting (ARFF) station improvements;
- Replacement of an Air Rescue and Fire Fighting (ARFF) 1,500 gallon truck;
- Design for taxiway A rehabilitation;
- Northwest terminal apron extension;
- South general aviation apron extension;
- Central air handler replacement;
- Inbound baggage carousel replacement; and
- Passenger boarding bridge replacement; and

BE IT FURTHER ORDERED, that the funds for said projects are hereby appropriated from federal and state grant funding, and the local share and ineligible portions of the projects shall be appropriated from the Jetport's unrestricted fund balance; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Director of the Jetport to be the official representative for these AIP and AIG grants, as required by the FAA, and to execute grant documents and any other related documents necessary or convenient to carry out the intent of said documents.

FAA
Airports

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

   The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

   The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

   Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and

assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

a. 49 U.S.C. subtitle VII, as amended.

b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.[1]

c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.

d. Hatch Act – 5 U.S.C. § 1501, et seq.[2]

e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.[1, 2]

f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.[1]

g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.[1]

h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.

i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.

j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.

k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.[1]

l. 49 U.S.C. § 303, (formerly known as Section 4(f)).

m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.

n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).

o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).

p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.

q. American Indian Religious Freedom Act, P.L. 95-341, as amended.

r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.[1]

s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.[1]

t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.[1]

u. Copeland Anti-kickback Act – 18 U.S.C. § 874.[1]

v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.[1]

w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.

x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.[2]

y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.

z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

aa. Civil Rights Restoration Act of 1987, P.L. 100-259.

bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

a. Executive Order 11246 – Equal Employment Opportunity[1]

b. Executive Order 11990 – Protection of Wetlands

c. Executive Order 11998 – Flood Plain Management

d. Executive Order 12372 – Intergovernmental Review of Federal Programs

e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction[1]

f. Executive Order 12898 – Environmental Justice

g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency

h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation

j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America's Workers

k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).

b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [4, 5]

c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.

d. 14 CFR Part 13 – Investigative and Enforcement Procedures.

e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.

f. 14 CFR Part 150 – Airport Noise Compatibility Planning.

g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.

h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.

i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.[1]

j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.[1]

k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).[1]

l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).[1]

m. 49 CFR Part 20 – New Restrictions on Lobbying.

n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.

o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.

p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.[1, 2]

q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.[1]

s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.

t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.

u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).

w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.

x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall

apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

[4] Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

[5] Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere

with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.**

   It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.**

   In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.**

   In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Metropolitan Planning Organization.**

    In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. **Pavement Preventive Maintenance-Management.**

    With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.**

    For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The

accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of $2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

   1. Operating the airport's aeronautical facilities whenever required;

   2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

   3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or

facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:

   1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

   2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable

classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for

which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

   1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

   2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor’s acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

   3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the

public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

    1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

    2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:

1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:

1. eliminate such adverse effect in a manner approved by the Secretary; or
2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.

b. Applicability

   1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.

   2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

   3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

   The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

   1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or

   2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

   "The (**[Selection Criteria: Sponsor Name]**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award."

e. Required Contract Provisions.

   1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
    a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
    b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
    1. Reinvestment in an approved noise compatibility project;
    2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
    3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
    4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
    5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

    If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development

project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

   1. Reinvestment in an approved noise compatibility project;
   2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
   3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
   4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
   5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by

the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf) for AIP projects as of [Selection Criteria: Project Application Date].

35. Relocation and Real Property Acquisition.

a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.

b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.

c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:

   1. Describes the requests;
   2. Provides an explanation as to why the requests could not be accommodated; and
   3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 28, 2023

SUBJECT: Order 171-22/23 Amendment to Portland City Code Chapter 9 Re: Clean Elections - Sponsored by Kate Snyder, Mayor

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: N/A

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

I. SUMMARY

II. AGENDA DESCRIPTION

In November 2022, voters passed a referendum (City Charter Revision Question 3) requiring the City Council to establish and fully fund a Clean Election Fund, as well as to enact a Campaign Finance ordinance.

If passed, Article V would establish a Clean Election Fund, available on a voluntary basis to candidates for the municipal offices of mayor, city council and school board, subject to the terms and requirements of this ordinance.

If passed, Article VI would enact campaign finance requirements, including: a prohibition on business entity contributions to candidates for municipal office; a prohibition on ballot question contributions and expenditures by any entity that is substantially under foreign influence; and a directive to the City Clerk to establish a searchable, online and publicly-accessible database of registrations and campaign finance reports filed with the City Clerk.

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

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. Order Ch 9 Clean Elections Articles V and VI 4.10.2023
2. Memo To City Council 4-7-2023 (P2136442-2x9F873)
3. 2023.04.07 DRAFT ARTICLE V CLEAN ELECTIONS ORDINANCE (P2130421-2x9F873)
4. COUNCILOR TREVORROW PROPOSAL DOCUMENT (P2136381x9F873)
5. Clean Elections Funding Projection (P2136363x9F873)
6. 2023.04.05 DRAFT ARTICLE VI CAMPAIGN FINANCE ORDINANCE (P2128658-3x9F873)

Prepared by:

Date: 03/28/2023

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)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 9
RE: CLEAN ELECTIONS PROGRAM AND RULES

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

1. That Chapter 9, Articles V. and VI. of the Portland City Code are hereby amended to add Articles V. and VI, Sections 9-61 to 9-95, which said Sections read as follows:

ARTICLE V. CLEAN ELECTIONS

Section 9-61. Applicability.

This Article applies to candidates running for mayor, city council, and the school board who choose to participate in the City of Portland Clean Election Fund established by Article IV, Section 12 of the City Charter ("Portland's Clean Election Fund"). Candidate participation in the Portland's Clean Election Fund is voluntary. Candidates who choose to participate in Clean Elections must comply with this Article and all applicable State of Maine election and campaign laws and regulations. Some sections of this Article also apply to and impose obligations on privately financed candidates and political committees that raise contributions and make expenditures in races involving Clean Election candidates.

Section 9-62. Definitions.

As used in this Article, the following terms have the following meanings:

(a) *Bank Account*. The word "Bank Account" shall mean a federally insured bank account established by a Candidate for Election campaign purposes.

(b) *Candidate.* The word "Candidate" shall mean any individual who seeks election in the City of Portland for mayor, city council, or the school board. An individual shall be a Candidate when they:

1) Register as a Candidate with the City Clerk;
2) Obtain nomination petitions; or

3) Receive Contributions or make Expenditures with the intent of qualifying as a Candidate by the submittal of nomination petitions and consents pursuant to Article IV of the City Charter.

(c) *Certified Candidate*. The term "Certified Candidate" shall mean a Candidate running for mayor, city council, or the school board who chooses to participate in Portland's Clean Election Fund and who is certified pursuant to section 9-64.

(d) *Contested Race.* The term "Contested Race" shall mean a race in which there are at least two (2) Candidates for the office or seat sought.

(e) *Contribution.* The word "Contribution" shall be as defined in 21-A M.R.S. §1012(2).

(f) *Election.* The word "Election" shall mean any regular or special City of Portland municipal election for elected municipal offices.

(g) *Election Cycle*. The word "Election Cycle" shall mean the period beginning January 1st of a given year and ending on the day of an Election in that same year.

(h) *Expenditure.* The word "Expenditure" shall be as defined in 21-A M.R.S. § 1012(3).

(i) *Fund.* The word "Fund" shall mean the Portland Clean Election Fund created by section 9-65(a).

(j) *Non-participating Candidate.* The term "Non-participating Candidate" shall mean a Candidate who does not choose to participate in Portland's Clean Election Fund and who is not seeking to be certified as a Certified Candidate under Section 9-64.

(k) *Participating Candidate.* The term "Participating Candidate" shall mean a Candidate who has chosen to participate in Portland's Clean Election Fund but who has not yet been deemed a Certified Candidate under section 9-64.

(l) *Qualified Elector*. The term "Qualified Elector" shall mean a person who is registered to vote in the city of Portland and, in any district Race, is also a resident of such district.

(m) *Qualifying Contribution.* The term "Qualifying Contribution" shall mean a donation of no more and no less than five dollars ($5.00) that is received from a Qualified Elector during the Qualifying Period by a Participating Candidate seeking to become a Certified Candidate. A Candidate running for a district-specific seat on the city council or the school board shall only receive Qualifying Contributions from Qualified Electors registered to vote in the district in which the Candidate is running.

(n) *Qualifying Period.* The term "Qualifying Period" shall mean the period during which a Participating Candidate seeking to become a Certified Candidate is permitted to collect Qualifying Contributions and to apply for certification as a Certified Candidate. For Elections in FY 2023-2024, the Qualifying Period begins on June 1, 2023 and ends September 11, 2023. For subsequent Elections, the Qualifying Period begins on the date an individual registers as a Candidate with the City Clerk and files a Declaration of Intent under section 9-63 and ends fifty-seven (57) days before the Election. In no event shall the Qualifying Period for such subsequent Elections begin earlier than January 1 of the election year for the office and seat (at-large or district) the Candidate is seeking.

(o) *Race.* The word "Race" shall mean the electoral process in which one (1) or more Candidates run and one (1) Candidate is elected to a municipal office -- the office of mayor, city councilor, or school board member.

(p) *Seed Money Contribution.* The term "Seed Money Contribution" shall mean a Contribution made and accepted in compliance with the provisions of section 9-63(c) and used exclusively for expenses incurred in obtaining Qualifying Contributions and seeking certification as a Certified Candidate.

(q) *Seed Money Period.* The term "Seed Money Period" shall mean the period during which a Candidate seeking to become a Certified Candidate is permitted to collect Seed Money Contributions. For Elections in FY 2023-2024, the Seed Money Period begins on June 1, 2023 and ends September 11, 2023. For subsequent Elections, the Seed Money Period begins on the date on which an individual registers as a Candidate with the City Clerk and files a Declaration of Intent under section 9-63 and ends fifty-seven (57) days before the Election. In no event shall the Seed Money Period begin earlier than January 1 of the election year for the office and seat (at-large or district) the Candidate is seeking.

(r) *Uncontested Race.* The term "Uncontested Race" shall mean a race in which there is only one (1) Candidate for the office or seat sought.

Section 9-63. Procedures for Participation.

(a) *Eligibility for Participating Candidates.* To qualify as a Certified Candidate eligible to receive and retain payments from the Fund pursuant to section 9-66, a Candidate must:

1) Meet the requirements to be listed on the ballot as a Candidate for mayor, city council, or the school board pursuant to the provisions of Article IV of the City Charter, respectively;
2) File a Declaration of Intent pursuant to section 9-63(b) below;

3) Collect the requisite number of Qualifying Contributions pursuant to section 9-63(d) below;
4) File the requisite documentation and reports pursuant to section 9-63(c) and (d) below; and
5) Receive certification pursuant to section 9-64.

(b) *Declaration of Intent.* A Candidate who intends to seek certification as a Certified Candidate must file, on a form provided by the City Clerk, a "Declaration of Intent" during the Qualifying Period and prior to collecting any Seed Money Contributions or Qualifying Contributions. The individual must register as a Candidate with the City Clerk prior to or concurrent with filing the Declaration of Intent. The Declaration of Intent form must include the following affirmations:

1) that the Candidate is seeking certification as a Certified Candidate;
2) that the Candidate understands that any Contributions, Seed Money Contributions, or Qualifying Contributions collected before filing the Declaration of Intent will not be counted toward the required number of Qualified Contributions under section 9-63(d)(2) and shall disqualify such Candidate from becoming a Certified Candidate;
3) that the Candidate has not accepted any Contributions as of the date(s) of registering as a Candidate and filing the Declaration of Intent;
4) that the Candidate has disposed of campaign surplus funds in accordance with the requirements of Title 21-A §1017(8), including donating such surplus to the Fund; provided, however, that a Candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Article regarding Seed Money Contributions. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that Candidate's personal Seed Money Contribution limit pursuant to subsection (c)(2) below;
5) that if the Candidate has any campaign debt from previous campaigns in which the Candidate participated in, that the Candidate will not accept Contributions to repay that debt as a Participating Candidate or Certified Candidate, except that the Candidate may forgive any campaign loans to himself or herself made during any previous campaigns;
6) that the Candidate will continue to comply with applicable Seed Money Contribution restrictions and other requirements of the Fund including, but not limited to, procedures for collecting Qualifying Contributions;
7) that the Candidate has read and will comply with this Article;
8) that the Candidate will participate in at least one (1) City-sponsored forum or voter education event;
9) that the Candidate has established a Bank Account; and
10) that the Candidate authorizes the City, its agents or representative, to conduct financial audits of the Candidate's campaign financial records and accounts.

(c) *Seed Money Contributions.* After registering as a Candidate and filing a Declaration of Intent but prior to certification as a Certified Candidate, a Participating Candidate may collect and spend only Seed Money Contributions as provided by subsection (c)(3) below. A Participating Candidate may not solicit, accept, or collect Seed Money Contributions after becoming a Certified Candidate. The restrictions on Seed Money Contributions apply to both cash and in-kind Contributions.

1) Seed Money Contribution Form. Each Seed Money Contribution shall be accompanied by a form signed by the contributor which shall include the contributor's name, home address, telephone number.

2) Total. The aggregate amount of Seed Money Contributions from any one contributor, including the Candidate or the candidate's spouse or domestic partner, to any one Candidate shall not exceed one hundred dollars ($100.00), and the aggregate amount of Seed Money Contributions accepted by a Candidate shall not exceed the following amounts:

   i. $5,000.00 for a Mayoral Candidate;
   ii. $2,500.00 for an at-large City Council Candidate;
   iii. $500.00 for a district City Council Candidate;
   iv. $1,500.00 for an at-large School Board Candidate; or
   v. $500.00 for a district School Board Candidate.

3) Seed Money Restrictions. The following restrictions shall apply to Seed Money Contributions:

   i. All goods and services received by a Participating Candidate prior to certification as a Certified Candidate must be paid for with Seed Money Contributions, except for goods and services that are excluded from the definition of Contribution in in 21-A M.R.S. § 1012(2)(B). It is a violation of this Article for a Certified Candidate to use Fund revenues received after certification to pay for goods and services received prior to certification.

   ii. Prior to certification, a Participating Candidate may obligate an amount greater than the Seed Money Contributions collected, but may only receive that portion of goods and services that has been paid for or will be paid with Seed Money Contributions.

   iii. A Participating Candidate who has accepted Contributions or made Expenditures that do not comply with the Seed Money Contributions restrictions or the prohibited Expenditures under this Article may petition

the City Clerk to remain eligible for certification as a Certified Candidate, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

iv. Upon requesting certification, a Participating Candidate shall file a report, on a form provided by the City Clerk, of all Seed Money Contributions and Expenditures. The report shall disclose the amount of any Seed Money Contributions along with the name and address of the individual contributor. If the Candidate is certified, any unspent Seed Money Contributions will be deducted from the amount distributed to the Candidate as provided in Section 9-66 and the Candidate shall be allowed to spend such unspent Seed Money Contributions on campaign Expenditures allowed under this Article.

v. If a Candidate has accepted Contributions that are not Seed Money Contributions as defined herein or do not comply with these Seed Money Contributions restrictions, the Candidate is ineligible to be a Certified Candidate in the same Election Cycle.

4) Bank Account Required. Seed Money Contributions shall be deposited into the Candidate's Bank Account. A Candidate shall not solicit or accept any such Contributions until such Bank Account is established and shall not comingle any Seed Money Contributions with any personal funds. All Expenditure of Seed Money Contributions shall be made from such Bank Account.

(d) *Qualifying Contributions.* A Candidate may collect Qualifying Contributions only during the Qualifying Period for certification. Qualifying Contributions must be acknowledged by the person making the contribution and reported on forms provided by the City Clerk.

1) Qualifying Contribution Forms. The Qualifying Contribution forms must include:

i. The name, residential address, signature and telephone number of the contributor;
ii. An affirmation by the contributor that the Contribution was made with his or her personal funds, in support of the Candidate and that the contributor did not receive anything of value in exchange for his or her signature and Contribution;
iii. A clear and conspicuous statement that the Candidate is collecting signatures and Qualifying Contributions in order to obtain public funding to finance the Candidate's campaign;
iv. A confirmation that the contributor is a Qualified Elector; and

v. A notarized affirmation by the person who circulated the form that the circulator collected the Contribution, that to the best of the circulator's knowledge and belief the Contribution came from the personal funds of the contributor, that nothing was provided to the contributor in exchange for the Contribution, and any additional information required by the city clerk in order to protect the reliability of the qualification process.

2) Required Number of initial Qualifying Contributions. A Participating Candidate must obtain the number of initial Qualifying Contributions for certification during the Qualifying Period as follows:

   i. For a Candidate running for the office of Mayor, 200 Qualifying Contributions from separate Qualified Electors;
   ii. For a Candidate running for the office of City Councilor at-large, 100 Qualifying Contributions from separate Qualified Electors;
   iii. For a Candidate running for the office of City Councilor for a specified district, 50 Qualifying Contributions from separate Qualified Electors registered to vote in the district in which the Candidate is running;
   iv. For a Candidate running for the School Board at-large, 60 Qualifying Contributions from separate Qualified Electors;
   v. For a Candidate running for the School Board for a specified district, 40 Qualifying Contributions from separate Qualified Electors registered to vote in the district in which the Candidate is running.

3) Exchanges for Qualifying Contributions Prohibited. A Candidate or an agent of that Candidate may not give or offer to give a payment, gift, or anything of value in exchange for a Qualifying Contribution.

4) Form of Contributions. All Qualifying Contributions shall be in the form of cash, check or money order payable to the Fund and signed by the contributor in support of a Candidate. The City Clerk may establish, at his or her discretion, an online service for members of the public to make qualifying contributions in support of Candidates seeking certification as a Certified Candidate and for candidates to use to verify voter registration and submit contributor lists.

5) Check or Money Order Contributions. A contributor making a Qualifying Contribution by check or money order shall sign the check or money order. If the contributor has made a check or money order payable to a Participating Candidate in error, the Candidate may remedy the error by endorsing the check or money order to the Fund.

6) Cash Contributions. A contributor may make a Qualifying Contribution to a Participating Candidate in the form of cash, as long as the contributor signs a

form prepared by the City Clerk affirming that the contributor made the Contribution with personal funds. A Candidate receiving Qualifying Contributions in cash shall submit the Contributions to the City Clerk in the aggregate in the form of a cashier's check or money order payable to the Fund. The Candidate may not deposit Qualifying Contributions received in cash into the Candidate's campaign Bank Account.

7) Additional Qualifying Contributions. Participating or Certified Candidates may collect and submit to the City Clerk additional Qualifying Contributions at the times specified in section 9-66. The City Clerk shall credit a Candidate with either one Qualifying Contribution or one additional Qualifying Contribution, but not both, from any one contributor during the same election cycle. If any Candidate collects and submits to the City Clerk Qualifying Contributions or additional Qualifying Contributions that cannot be credited pursuant to this subsection, those Qualifying Contributions or additional Qualifying Contributions may be refunded to the contributor or deposited into the Fund at the discretion of the Candidate. The procedures and restrictions set out in this section apply to Qualifying Contributions and additional Qualifying Contributions.

Section 9-64. Certification of Participating Candidates.

(a) *Request for Certification.* A Participating Candidate may submit a request certification as a Certified Candidate by submitting a completed request for certification form to the City Clerk at any time during the Qualifying Period but not later than 5:00 p.m. on the last day of the Qualifying Period. The form, which will be provided by the City Clerk, shall identify the Candidate and the office and seat (at-large or district) that the Candidate is seeking, and shall set forth:

1) The Candidate's affirmation under oath that the Candidate has accepted no Contributions to the Candidate's current Election campaign other than Qualifying Contributions and Seed Money Contributions solicited and accepted pursuant to section 9-63;
2) The Candidate's affirmation under oath that the Candidate has made no Expenditures for his or her current Election campaign from any source other than Seed Money Contributions;
3) The Candidate's agreement that his or her current Election campaign will not solicit, direct, or accept any further Contributions or make any further Expenditures from any sources other than payments received from the Fund;
4) The Candidate's reaffirmation that he or she has established a Bank Account;
5) The Candidate's affirmation that, if applicable, any person who circulated receipt and acknowledgement forms and collected Qualifying Contributions acted with the Candidate's knowledge and consent; and

6) Any other information relevant to the certification process as determined by the City Clerk.

(b) *Accompanying Documentation.* The request for certification will be deemed complete and considered for certification only when the Candidate has submitted to the City Clerk:

1) A valid nomination petition with the requisite the number of signatures specified for the office sought pursuant to Article IV of the City Charter and the required consent, or, if the Candidate is seeking certification prior to qualifying for the ballot, the Candidate shall sign an affidavit stating that the Candidate will return all unspent funds distributed under section 9-66 and personally repay any such spent funds in the event the Candidate fails to qualify for the ballot;
2) A list of all individuals making Qualifying Contributions and their address, in a format specified by the City Clerk and sorted alphabetically by the contributor's last name;
3) Reports listing all Seed Money Contributions and Qualifying Contributions received by the Candidate and all Expenditures of Seed Money Contributions made by the Candidate, and showing the aggregate amounts of all such Contributions and Expenditures and the aggregate amounts of all Contributions received from each contributor;
4) Copies of forms signed by contributors for all Seed Money Contributions and Qualifying Contributions received by the Candidate; and
5) A check or checks issued to the Fund from the contributors except:

    i. Amounts previously spent for the purposes specified in Section 9-62(p); and

    ii. The amount, if any, that has been temporarily retained by the Candidate for the purpose of keeping open the Candidate's Bank Account.

(c) *Certification.* The City Clerk will certify a Candidate as a Certified Candidate upon the Participating Candidate's satisfaction of the requirements of this section.

(d) *Revocation of Certification.* The certification of a Certified Candidate may be revoked at any time if the City Clerk determines that the Candidate or an agent of the Candidate:

1) Did not submit the required number of valid Qualifying Contributions;
2) Failed to qualify for the ballot;
3) Submitted any fraudulent Qualifying Contributions or Qualifying Contributions that were not made by the named contributor;

4) Misrepresented to a contributor the purpose of the Qualifying Contribution or failed to obtain the contributor's signature on the Qualifying Contribution form;
5) Failed to fully comply with the Seed Money Contribution restrictions;
6) Knowingly accepted any Contributions, including any in-kind Contributions, or used funds other than Fund revenues distributed under this Article to make campaign-related Expenditures;
7) Knowingly made a false statement or material misrepresentation in any form, report, or other document required to be filed under this Article; or
8) Otherwise substantially violated the provisions of this Article.

(e) *Procedures for revocation*. The determination to revoke the certification of a Candidate shall be made by the City Clerk after at least 24 hours written notice to the Candidate and an opportunity for a hearing before the City Clerk. A Candidate whose certification is revoked shall return all unspent funds distributed under this Article to the City Clerk within three (3) days of the City Clerk's decision and may be required to return all funds distributed to the Candidate under this Article. In addition to the requirement to return funds, the Candidate may be subject to a fine. The Candidate may appeal the City Clerk's decision to revoke certification in the manner provided in section 9-70.

Section 9-65. Fund Administration.

(a) *Establishing the Fund.* A City of Portland Clean Election Fund is established to be administered by the City Clerk for the purpose of providing public campaign funds to Certified Candidates for elected municipal offices.

(b) *Sources of Funding.* The following must be deposited in the fund:

1) Each fiscal year, the sum of $500,000.00 shall be budgeted for and deposited in the Fund. The City Council shall appropriate and deposit in the Fund such additional sums, if any, as may be necessary to ensure the Fund is sustained at a level that facilitates competitive campaigns for Certified Candidates who meet qualifying criteria;
2) Qualifying Contributions when submitted to the City;
3) Fund revenues that were distributed to a Certified Candidate and that remain unspent after the Election;
4) Other unspent Fund revenues distributed to any Certified Candidate who does not remain a Certified Candidate throughout the Election Cycle;
5) Voluntary donations made directly to the Fund, including any Candidate's prior campaign surplus;
6) All fines levied and collected under this Article by the Clean Elections Review Board or as decreed by a court of competent jurisdiction;
7) Such other appropriations to the Fund as may be made by the City Council as necessary to fulfill the requirements of this Article.

(c) *Deposit limit.* The above notwithstanding, a deposit to the Fund pursuant to subsection (b)(1) of this section shall not be made if the balance in the Fund prior to the deposit exceeds eight hundred thousand dollars ($800,000.00). If a deposit to the Fund pursuant to subsection (b)(1) of this section would cause the balance in the Fund to exceed eight hundred thousand dollars ($800,000.00), only so much of the deposit shall be made as will increase the balance to that amount and no more.

Section 9-66. Distribution of Funds to Certified Candidates.

(a) *Amounts to be distributed.* Distributions from the Fund to Certified Candidates shall be made as follows:

CONTESTED RACES

1) Mayor
   i. The initial distribution of revenues is $40,000.00;
   ii. For each increment of 115 additional Qualifying Contributions a Candidate for Mayor collects and submits pursuant to subsection 9-66(b), not to exceed a total of 345 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $26,666.00;
   iii. The total amount of revenues distributed to a Candidate for Mayor shall not exceed $120,000.00 per Certified Candidate.

2) City Council At-Large
   i. The initial distribution of revenues is $10,000.00;
   ii. For each increment of 70 additional Qualifying Contributions a Candidate for City Council at-large collects and submits pursuant to subsection 9-66(b), not to exceed a total of 210 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $10,000.00;
   iii. For Certified Candidates for City Council at-large, the total distribution of revenues is $40,000.00 per Certified Candidate;

3) City Council District
   i. The initial distribution of revenues is $4,000.00;
   ii. For each increment of 40 additional Qualifying Contributions a Candidate for City Council for a specified district collects and submits pursuant to subsection 9-66(b), not to exceed a total of 120 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is 2,666.00;
   iii. For Certified Candidates for City Council for a specified district, the total distribution of revenues is $12,000.00 per Certified Candidate.

4) School Board At-Large

i. The initial distribution of revenues is $5,000.00;
ii. For each increment of 55 additional Qualifying Contributions a Candidate for School Board at-large collects and submits pursuant to subsection 9-66(b), not to exceed a total of 165 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $3,333.00;
iii. For Certified Candidates for the School Board at-large, the total distribution of revenues is $15,000.00 per Certified Candidate.

5) School Board District
   i. The initial distribution of revenues is $2,000.00;
   ii. For each increment of 25 additional Qualifying Contributions a Candidate for School Board for a specified district collects and submits pursuant to subsection 9-66(b), not to exceed a total of 75 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $1,000.00;
   iii. For Certified Candidates for the School Board for a specified district, the total distribution of revenues is $5,000.00 per Certified Candidate.

UNCONTESTED RACES

1) For Certified Candidates for Mayor, the total distribution of revenues is $10,000.00 per Certified Candidate;
2) For Certified Candidates for City Council at-large, the total distribution of revenues is $2,500.00 per Certified Candidate;
3) For Certified Candidates for City Council for a specified district, the total distribution of revenues is $1,000.00 per Certified Candidate;
4) For Certified Candidates for the school board at-large, the total distribution of revenues is $1,250.00 per Certified Candidate; and
5) For Certified Candidates for the school board for a specified district, the total distribution of revenues is $500.00 per Certified Candidate.

(b) *Collection and Submission of Additional Qualifying Contributions*. Participating or Certified Candidates may collect and submit additional Qualifying Contributions to the City Clerk at any time during the Qualifying Period in any amounts in accordance with the schedules in this Article. The City Clerk shall make supplemental distributions from the Fund to Candidates in the amounts and in accordance with the increments specified in subsection (a) of this section.

(c) *Timing of Initial Distribution.* The City Clerk shall distribute to Certified Candidates revenues from the Fund in amounts specified in subsection (a) of this section no later than one hundred thirteen (113) days before the Election. In the event that the initial disbursement is prior to Candidates being able to qualify for the ballot, the amount of the initial distribution shall be the amounts specified for Uncontested Races in

subsection (a). To receive this initial distribution, a Certified Candidate must sign the affidavit required in Section 9-64(b)(1) if the Certified Candidate has not qualified for the ballot and has no opponent. The remaining balance owed the Certified Candidate for the initial distribution shall be distributed by the City Clerk as soon as practicable once both the Certified Candidate and an opponent qualify for the ballot.

(d) *Timing of Supplemental Distributions.* The City Clerk shall authorize distribution of supplemental Fund revenues to Certified Candidates by the most expeditious means practicable after certification by the City Clerk of the required number of additional Qualified Contributions. The distribution of supplemental Fund amounts shall begin no earlier than eighty-five (85) days before the Election and end twenty-three (23) days before the Election.

(e) *Manner of Distribution.* The City Clerk shall distribute revenues from the Fund to Certified Candidates by checks payable to the Certified Candidate which shall be deposited into the Certified Candidate's Bank Account.

(f) *Shortfall Provisions.* The City Clerk may not distribute revenues to Certified Candidates in excess of the total amount of money deposited in the Fund. If the City Clerk determines that the amounts required to be distributed to Candidates under subsection (a) of this section exceed the total amount available in the Fund, the City Clerk shall distribute the funds on a first come-first served basis based on when a Candidate is certified for either initial or supplemental distributions. If the Fund is depleted, any Candidate that does not receive either an initial or supplemental distribution after being certified by the City Clerk may collect funds from private sources up to the total amount the Candidate would have otherwise received from the Fund and limited to the maximum single contribution amount allowed by law. For any initial or supplemental distributions, a Certified Candidate shall still be required to collect and submit to the City Clerk all necessary Qualifying Contributions in order to be entitled to collect funds from private sources after the Fund is depleted. Any Certified Candidate that collects funds from private sources pursuant to this subsection shall continue to be considered a Certified Candidate.

(g) *Use of Distributions from the Fund.* All distributions received by a Certified Candidate from the Fund shall be deposited in the Candidate's Bank Account. The distributions must be segregated from, and may not be commingled with, any other funds. A Certified Candidate shall:

1) Limit the Candidate's campaign Expenditures and obligations to the applicable Fund distribution amounts;
2) Not accept any Contributions;
3) Use Fund distribution amounts only for campaign-related purposes and not for any prohibited expenditure as further described in Section 9-67 below;

4) Not use Fund distribution amounts to purchase goods to sell for profit;
5) Not spend more than $500.00 of Fund distribution amounts on post-Election parties, thank you notes, or advertising to thank supporters or voters; however, a Candidate may use his or her personal funds for these purposes;
6) Not use Fund distribution amounts for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the City; and
7) Not make any payments of more than $50.00 in cash. Payments of more than $50.00 in Fund distribution amounts must be made by check, debit or credit card or wire transfer.

(h) *Return of Unused Funds.* Upon the filing of the 42-day post-Election report for a general or special Election, all Candidates must return all unspent Fund distribution amounts to the City Clerk by check or money order payable to the Fund.

Section 9-67. Prohibited Expenditures.

Seed Money Contributions and Fund distribution amounts shall not be used for any non-campaign-related purposes, including, but not limited to, the following:

(a) The Certified Candidate's personal living expenses, including cell phone or internet service regularly purchased by the Candidate apart from the campaign, or compensation to the Certified Candidate or the Certified Candidate's family for non-campaign related purposes;
(b) A Contribution to another campaign of the Candidate or a payment to retire debt from another such campaign;
(c) A Contribution to the campaign of another Candidate or to a political party or political committee or to a campaign supporting or opposing a referendum;
(d) An Expenditure supporting the election or defeat of another Candidate other than an opponent of the Certified Candidate;
(e) Payment of legal expenses or any fine levied under this Article;
(f) Any gift or transfer for which compensating value is not received; and
(g) Reimbursement to the Candidate or any other person for campaign Expenditures made from personal funds or with a personal credit card.

Section 9-68. Record Keeping and Reporting.

(a) *Record Keeping by Participating and Certified Candidates.* Participating and Certified Candidates and their treasurers must comply with applicable record keeping requirements set forth in 21-A M.R.S.A. §§ 1016, 1125 and the City Charter.

(b) *Restrictions on Serving as* Treasurer. A Participating or Certified Candidate may not serve as a treasurer or deputy treasurer for that Candidate's campaign, except that the

Candidate may serve as a treasurer or deputy treasurer for up to 14 days after filing the Declaration of Intent until the Candidate identifies another person to serve as treasurer.

(c) *Failure to Keep Records*. Failure to keep or produce the records required under Title 21-A and this Article is a violation of Portland's Clean Election Fund for which penalties may be imposed. The City Clerk may also require the return of distributed funds for Expenditures lacking supporting documentation if a Participating or Certified Candidate or treasurer is found in violation of the record keeping requirements. The Participating or Certified Candidate or the treasurer shall have an opportunity to be heard by the Clean Elections Review Board prior to any decision imposing a penalty or requiring the return of distributed funds under this section.

(d) *Reporting by Participating and Certified Candidates.* Participating and Certified Candidates must comply with applicable reporting requirements set forth in 30-A M.R.S. §2502 and the City Charter.

(e) *Reports and Forms.* All reports and forms that are required by this Article shall be signed under oath and on forms prescribed by the City Clerk. The City Clerk is authorized to reject any incomplete report or form. The City Clerk shall notify a Participating or Certified Candidate that the report or form is incomplete. The City Clerk shall assess a late filing fee of $50.00 for unexcused late filing of reports or forms.

Section 9-69. Recounts, Vacancies, Write-in Candidates, Special Elections.

(a) *Recounts.* Certified Candidates may not spend any Funds for purposes of recount or a court challenge to the results of a recount, but they may receive donations for these purposes in accordance with the donation limitations for Non-participating Candidates pursuant to 21-A M.R.S.A. §1015. However, for the purposes of a recount or a court challenge, the aggregate contribution limit in support of any Candidate shall be reset for Non-participating Candidates.

(b) *Death, Withdrawal, or Disqualification of a Candidate During Campaign*. If a Certified Candidate dies, withdraws, or is disqualified, all unspent funds shall be returned to the City Clerk. If such death, withdrawal or disqualification occurs after the Qualifying Period, no other Candidates may apply for certification as a Certified Candidate.

(c) *Write-In Candidates.* Write-in Candidates may not participate in the Portland Clean Election Fund.

(d) *Special Elections*. If a vacancy occurs in the office of mayor, city council, or school board because an incumbent dies, resigns, becomes disqualified, or changes residence that results in a disqualification, and a special Election will be held to fill the vacant office or seat, the following provisions apply:

a. The City Clerk will establish a qualifying period during which any Candidate in a special Election may decide to become a Participating Candidate, collect Qualifying Contributions, and apply to become a Certified Candidate; and

b. Any Candidate in a special Election must otherwise comply with the requirements of this Article, including but not limited to Seed Money Contribution limits and Qualifying Contribution requirements. The City Clerk will notify any Candidates of the opportunity to participate in the Fund and the procedures for compliance with this Article during a special Election.

Section 9-70. Clean Elections Review Board.

(e) *Creation; Composition.* There shall be a Clean Elections Review Board of three (3) members. Members of the Clean Elections Review Board shall be residents of the City and shall not be officers or employees of the City or any of its agencies or departments. All members shall be appointed to fill at-large seats, and may reside in any part of the City.

(f) *Appointment; Terms*. For the initial members of the Clean Elections Review Board one member shall be appointed by the City Council for a term of one (1) year, another member for a term of two (2) years, and the third member for a term of three (3) years; thereafter, the City Council shall appoint members for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified.

(g) *Vacancies*. Permanent vacancies on the Clean Elections Review Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

(h) *Removal of Members*. Any member of the Clean Elections Review Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

(i) *Compensation*. Members of the Clean Elections Review Board shall serve without compensation.

(j) *Chair*; *minutes, public records*. The members of the Clean Elections Review Board shall annually elect one (1) of their members as chair to preside at all meeting and hearings and to fulfill the customary functions of that office.

(k) *Staff Secretary*; *minutes, public records.* The City Manager shall designate a member of his or her staff to serve as staff secretary of the Clean Elections Review Board and attend all of its proceedings. The staff secretary shall keep the minutes of the proceedings of the Clean Elections Review Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the Clean Elections Review Board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

(l) *Quorum and Necessary Vote*. As to any matter requiring a hearing, no business shall be transacted by the Clean Elections Review Board without a quorum, consisting of two (2) members being present. The concurring vote of at least two (2) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding ten (10) business days at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

(m) *Meetings, Hearings, and Procedures*.

a. Regular meetings of the Clean Elections Review Board shall be held at the call of the chair or as provided by the rules of the Board. Special meetings shall be called by the chair at the request of any member of the Board or at the request of the City Clerk or City Council. All meetings and hearings of the Board shall be open to the public.

b. The Clean Elections Review Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the State of Maine and this Article. Such rules shall be filed with the staff secretary and with the City Clerk. Any rule so adopted which relates to the conduct of hearings, and which is not required by the statutes of the State of Maine or by this Article, may be waived by the Board upon good cause being shown.

(n) *Public Hearings; Standard of Review*.

a. A public hearing shall be set, advertised and conducted by the Clean Elections Review Board as required by various state statutes, codes, and ordinances pursuant to which matters are brought before the Clean Elections Review

Board and shall be conducted in accordance with relevant State law, the City Code, and the rules of the Board.

b. The Board shall hear all appeals *de novo*. The appellant shall bear the burden of proof.

(o) *Record and Decisions*.

a. The minutes of the staff secretary, and the transcript, if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Clean Elections Review Board, and the decision of the Board shall constitute the record.

b. Every final decision of the Clean Elections Review Board shall include written findings of fact, and shall specify the reason or reasons for such decision.

c. The staff secretary shall mail notice of any decision of the Clean Elections Review Board to the appellant and any designated interested parties within five (5) days of such decision.

(p) *Conflicts*. No member of the Clean Elections Review Board shall participate in the hearing or disposition of any matter in which they have an interest, as defined by 30-A M.R.S. §2605, as amended, and common law.

(q) *Appeals to Superior Court*. An appeal from any final decision of the Clean Elections Review Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(r) *Jurisdiction and Authority*. In addition to the jurisdiction conferred on it by other sections of this Article and in accordance therewith, the Clean Elections Review Board shall have the following jurisdiction and authority:

a. To hear, review, and approve or deny a petition by a Participating Candidate who has accepted Contributions or made Expenditures that do not comply with the Seed Money Restrictions or prohibited Expenditures under this Article to remain eligible for certification as a Certified Candidate;
b. To hear, review, and approve or deny any appeal by a Candidate who has been denied certification as a Certified Candidate by the City Clerk, the opponent of a Candidate who has been granted certification as a Certified Candidate or other interested persons;

c. To hear, review, and approve or deny any appeal by a Certified Candidate or other interested persons regarding the revocation of the certification of a Certified Candidate by the City Clerk;
d. To hear, review, and approve or deny any appeal by a Certified Candidate or other interested persons regarding the enforcement of violations pursuant to section 9-71; and
e. To require a Candidate whose certification as a Certified Candidate is reversed on appeal or a Candidate whose revocation is upheld on appeal to return to the Fund any unspent Fund revenues distributed.

Section 9-71. Violations.

In addition to any other penalties that may be applicable, a person who violates any provision of this Article is subject to a fine not to exceed $1,000.00 per violation payable to the Fund. In addition to any fine, for good cause shown, a Candidate, treasurer, or consultant or other agent of the Candidate or the political committee authorized by the Candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the Candidate from the Fund or any funds not used for campaign-related purposes. The City Clerk's determination that a violation of this Article has occurred and any fines assessed may be appealed to the Clean Elections Review Board. Fines paid under this Article must be deposited in the Fund. In determining whether or not a Candidate is in violation of the expenditure limits of this Article, the City Clerk may consider as a mitigating factor any circumstances out of the Candidate's control.

Section 9-72. Severability.

The provisions of this article and each of its sections, subsections, paragraphs, subparagraphs, sentences and clauses are severable. In the event that any such provision is held to be invalid or unenforceable by any judicial or administrative tribunal, it is the intent of the governing body that all other provisions thereof shall remain in full force and effect.

Section 9-73. Effective date.

This ordinance shall go into effect on _____, 2023.

ARTICLE VI. CAMPAIGN FINANCE

Sec. 9-91. Definitions.

As used in this Article, the following terms have the following meanings:

(s) *Business Entity*. The word "business entity" means any firm, partnership, corporation, incorporated association, limited liability company, or other organization, whether organized as a for-profit or a nonprofit entity.

(t) *Business Entity that is substantially under foreign influence*. The term "business entity that is substantially under foreign influence" means a business entity for which at least one of the following conditions is met:

1) A single foreign owner holds, owns, controls, or otherwise has direct or indirect beneficial ownership of one percent (1%) or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interest of the business entity;

2) Two or more foreign owners, in aggregate, hold, own, control, or otherwise have direct or indirect beneficial ownership of five percent (5%) or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interest of the business entity; or

3) A foreign owner participates directly or indirectly in the business entity's decision-making process with respect to the business entity's political activities in the United States.

(u) *Campaign.* The word "campaign" means any course of activities to influence the nomination or election of a candidate or to initiate or influence any municipal referendum or initiative.

(v) *Candidate.* The word "candidate" shall be defined in Article V, Section 9-62 of this Chapter.

(w) *Contribution.* The word "contribution" shall be as defined in 21-A M.R.S. §1012(2).

(x) *Expenditure.* The word "expenditure" shall be as defined in 21-A M.R.S. §1012(3).

(y) *Foreign investor.* The word "foreign investor" means a person or entity that:

1) Holds, owns, controls, or otherwise has direct or indirect beneficial ownership of equity, outstanding voting shares, membership units, or other applicable ownership interests of a Business Entity; and

2) Is a government of a foreign country; a foreign political party; a partnership, association, corporation, organization, or other combination of persons organized under the laws or having its principal place of business in a foreign country; or an

individual who is not a citizen of the United States or a national of the United States and who is not lawfully admitted for permanent residence.

(z) *Foreign owner.* The word "foreign owner" means (1) a foreign investor; or (2) a Business Entity wherein a foreign investor holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares in an amount that is equal to or greater than 50 percent of the total equity or outstanding voting shares.

(aa) *Municipal Office.* The term "municipal office" means the office of mayor, city council, or school board.

(bb) *Political action committee.* The term "political action committee" shall be defined in 21-A M.R.S. §1052(5)

(cc) *Separate Segregated Fund Committee.* The term "separate segregated fund committee" means a Political Action Committee described in section 9-91(j) above.

Sec. 9-92. Business Entity Contributions to Candidates Prohibited. A Business Entity may not make Contributions to any Candidate for municipal office. A Separate Segregated Fund Committee may not make Contributions to any Candidate for municipal office using funds that derive, in whole or in part, from a Business Entity. Where a Business Entity establishes a Separate Segregated Fund Committee, that Business Entity may provide the Separate Segregated Fund Committee with the use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the Business Entity.

Sec. 9-93. Foreign Contributions to Initiative or Referendum Campaigns. A Business Entity that is substantially under foreign influence shall be prohibited from making any Contribution or Expenditures for or against any initiative or referendum Campaign.

Sec. 9-94. Additional Rules by Ordinance. The City Council may adopt additional regulations and ordinances governing Campaign spending, not inconsistent with Article IV, Section 13 of the Charter.

Sec. 9-95. Campaign Contributions Reporting. All contributions to Campaigns must be reported to the City Clerk, in conformance with any applicable State law. The City Clerk must establish a searchable, online, and publicly-accessible database of all information included in all registrations and campaign finance reports filed with the City Clerk.

PERKINS THOMPSON

Mailing Address
PO Box 426
Portland, ME 04112
Office 207.774.2635
Fax 207.871.8026

Physical Address
One Canal Plaza
Portland, ME 04101

www.perkinsthompson.com

MEMORANDUM

TO: Mayor Kate Snyder; Portland City Council; Danielle West, Interim City Manager; Michael Goldman, Acting Corporation Counsel; Ashley Rand, City Clerk

FROM: Jim Katsiaficas, Esq.; Brandon Mazer, Esq.

DATE: April 7, 2023

RE: Portland Clean Elections Ordinance Draft, Funding Proposal, and Funding Projection

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At the April 3, 2023 Portland City Council workshop regarding the draft Portland Clean Elections Ordinance, the Council discussed proposals for changing the number of Qualifying Contributions required to qualify as a Certified Candidate under Portland's Clean Election Fund, and the amount of funds distributed to Certified Candidates in Contested and Uncontested Races. The Council eventually reached consensus by a straw poll in favor of Councilor Trevorrow's Proposal 1 (greater total distribution amounts) amended by her Proposal 2 (three funding rounds). We have attempted to capture those consensus features in the attached "Councilor Trevorrow Proposal Document".

The attached Ordinance drafts of Chapter 9, Article V (Clean Elections) and Article VI (Campaign Finance) incorporate that Council workshop consensus and Acting Corporation Counsel Goldman's suggested technical changes.

This latest draft Clean Elections Ordinance:

- Maintains the initially proposed Seed Money limits;
- Reduces the number of Qualifying Contributions needed for the initial round of funding;
- Provides for up to three rounds of supplemental funding in equal increments, obtained by collecting and submitting additional Qualifying Contributions;
- Moves the first date on which initial distributions can be made from August 25 or September 8 in previous draft to as soon as July17, but Participating Candidate must sign

affidavit and amount of distribution is limited to "uncontested" amount until known if race is contested;

- Qualifying Contributions are made by check to the Fund;

- Pro rata reduction of all Candidate distributions in the event of a Fund shortfall is eliminated; funding is first come, first served and if Fund is depleted before all Candidates receive their full distributions, Candidate(s) with shortfall may raise funds by traditional method (private funding) to the limit of the total Fund Distribution amount for the office and seat under Ordinance. However, a Candidate would still have to obtain additional Qualifying Contributions in order to "unlock" the ability to raise funds to the limits of supplemental funding levels.

- The Uncontested Race distribution amounts are now 25% of the initial distribution amounts for a Contested Race.

As requested, we have prepared a projection of Fund distributions ("Clean Elections Funding Projection"), assuming: numbers of Candidates equal to average in races during last ten years; all run as Clean Election candidates; and full Seed Money and Distribution amounts are paid. This Funding Projection shows that the amount needed from the Fund for full campaign funding at the amounts specified in the ordinance draft would be $578,000. Councilor Trevorrow proposes $500,000 for the Fund in the City budget. (This $500,000 does not include the cost of the new City Clerk searchable database for campaign contributions.) With $20,775 in Qualifying Contributions collected by Candidates and paid into the Fund, the Fund would have $520,775 to distribute, or approximately 90% of the estimated need in this Projection.

ARTICLE V. CLEAN ELECTIONS

Section 9-61. Applicability.

This Article applies to candidates running for mayor, city council, and the school board who choose to participate in the City of Portland Clean Election Fund established by Article IV, Section 12 of the City Charter ("Portland's Clean Election Fund"). Candidate participation in the Portland's Clean Election Fund is voluntary. Candidates who choose to participate in Clean Elections must comply with this Article and all applicable State of Maine election and campaign laws and regulations. Some sections of this Article also apply to and impose obligations on privately financed candidates and political committees that raise contributions and make expenditures in races involving Clean Election candidates.

Section 9-62. Definitions.

As used in this Article, the following terms have the following meanings:

(a) *Bank Account*. The word "Bank Account" shall mean a federally insured bank account established by a Candidate for Election campaign purposes.

(b) *Candidate.* The word "Candidate" shall mean any individual who seeks election in the City of Portland for mayor, city council, or the school board. An individual shall be a Candidate when they:

1) Register as a Candidate with the City Clerk;
2) Obtain nomination petitions; or
3) Receive Contributions or make Expenditures with the intent of qualifying as a Candidate by the submittal of nomination petitions and consents pursuant to Article IV of the City Charter.

(c) *Certified Candidate*. The term "Certified Candidate" shall mean a Candidate running for mayor, city council, or the school board who chooses to participate in Portland's Clean Election Fund and who is certified pursuant to section 9-64.

(d) *Contested Race.* The term "Contested Race" shall mean a race in which there are at least two (2) Candidates for the office or seat sought.

(e) *Contribution.* The word "Contribution" shall be as defined in 21-A M.R.S. §1012(2).

(f) *Election.* The word "Election" shall mean any regular or special City of Portland municipal election for elected municipal offices.

(g) *Election Cycle*. The word "Election Cycle" shall mean the period beginning January 1st of a given year and ending on the day of an Election in that same year.

(h) *Expenditure.* The word "Expenditure" shall be as defined in 21-A M.R.S. § 1012(3).

(i) *Fund.* The word "Fund" shall mean the Portland Clean Election Fund created by section 9-65(a).

(j) *Non-participating Candidate.* The term "Non-participating Candidate" shall mean a Candidate who does not choose to participate in Portland's Clean Election Fund and who is not seeking to be certified as a Certified Candidate under Section 9-64.

(k) *Participating Candidate.* The term "Participating Candidate" shall mean a Candidate who has chosen to participate in Portland's Clean Election Fund but who has not yet been deemed a Certified Candidate under section 9-64.

(l) *Qualified Elector*. The term "Qualified Elector" shall mean a person who is registered to vote in the city of Portland and, in any district Race, is also a resident of such district.

(m) *Qualifying Contribution.* The term "Qualifying Contribution" shall mean a donation of no more and no less than five dollars ($5.00) that is received from a Qualified Elector during the Qualifying Period by a Participating Candidate seeking to become a Certified Candidate. A Candidate running for a district-specific seat on the city council or the school board shall only receive Qualifying Contributions from Qualified Electors registered to vote in the district in which the Candidate is running.

(n) *Qualifying Period.* The term "Qualifying Period" shall mean the period during which a Participating Candidate seeking to become a Certified Candidate is permitted to collect Qualifying Contributions and to apply for certification as a Certified Candidate. For Elections in FY 2023-2024, the Qualifying Period begins on June 1, 2023 and ends September 11, 2023. For subsequent Elections, the Qualifying Period begins on the date an individual registers as a Candidate with the City Clerk and files a Declaration of Intent under section 9-63 and ends fifty-seven (57) days before the Election. In no event shall the Qualifying Period for such subsequent Elections begin earlier than January 1 of the election year for the office and seat (at-large or district) the Candidate is seeking.

(o) *Race.* The word "Race" shall mean the electoral process in which one (1) or more Candidates run and one (1) Candidate is elected to a municipal office -- the office of mayor, city councilor, or school board member.

(p) *Seed Money Contribution.* The term "Seed Money Contribution" shall mean a Contribution made and accepted in compliance with the provisions of section 9-63(c) and used exclusively for expenses incurred in obtaining Qualifying Contributions and seeking certification as a Certified Candidate.

(q) *Seed Money Period.* The term "Seed Money Period" shall mean the period during which a Candidate seeking to become a Certified Candidate is permitted to collect Seed Money Contributions. For Elections in FY 2023-2024, the Seed Money Period begins on June 1, 2023 and ends September 11, 2023. For subsequent Elections, the Seed Money Period begins on the date on which an individual registers as a Candidate with the City Clerk and files a Declaration of Intent under section 9-63 and ends fifty-seven (57) days before the Election. In no event shall the Seed Money Period begin earlier than January 1 of the election year for the office and seat (at-large or district) the Candidate is seeking.

(r) *Uncontested Race.* The term "Uncontested Race" shall mean a race in which there is only one (1) Candidate for the office or seat sought.

Section 9-63. Procedures for Participation.

(a) *Eligibility for Participating Candidates.* To qualify as a Certified Candidate eligible to receive and retain payments from the Fund pursuant to section 9-66, a Candidate must:

1) Meet the requirements to be listed on the ballot as a Candidate for mayor, city council, or the school board pursuant to the provisions of Article IV of the City Charter, respectively;
2) File a Declaration of Intent pursuant to section 9-63(b) below;
3) Collect the requisite number of Qualifying Contributions pursuant to section 9-63(d) below;
4) File the requisite documentation and reports pursuant to section 9-63(c) and (d) below; and
5) Receive certification pursuant to section 9-64.

(b) *Declaration of Intent.* A Candidate who intends to seek certification as a Certified Candidate must file, on a form provided by the City Clerk, a "Declaration of Intent" during the Qualifying Period and prior to collecting any Seed Money Contributions or Qualifying Contributions. The individual must register as a Candidate with the City Clerk prior to or concurrent with filing the Declaration of Intent. The Declaration of Intent form must include the following affirmations:

1) that the Candidate is seeking certification as a Certified Candidate;
2) that the Candidate understands that any Contributions, Seed Money Contributions, or Qualifying Contributions collected before filing the Declaration of Intent will not be counted toward the required number of Qualified Contributions under section 9-63(d)(2) and shall disqualify such Candidate from becoming a Certified Candidate;

3) that the Candidate has not accepted any Contributions as of the date(s) of registering as a Candidate and filing the Declaration of Intent;
4) that the Candidate has disposed of campaign surplus funds in accordance with the requirements of Title 21-A §1017(8), including donating such surplus to the Fund; provided, however, that a Candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Article regarding Seed Money Contributions. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that Candidate's personal Seed Money Contribution limit pursuant to subsection (c)(2) below;
5) that if the Candidate has any campaign debt from previous campaigns in which the Candidate participated in, that the Candidate will not accept Contributions to repay that debt as a Participating Candidate or Certified Candidate, except that the Candidate may forgive any campaign loans to himself or herself made during any previous campaigns;
6) that the Candidate will continue to comply with applicable Seed Money Contribution restrictions and other requirements of the Fund including, but not limited to, procedures for collecting Qualifying Contributions;
7) that the Candidate has read and will comply with this Article;
8) that the Candidate will participate in at least one (1) City-sponsored forum or voter education event;
9) that the Candidate has established a Bank Account; and
10) that the Candidate authorizes the City, its agents or representative, to conduct financial audits of the Candidate's campaign financial records and accounts.

(c) *Seed Money Contributions.* After registering as a Candidate and filing a Declaration of Intent but prior to certification as a Certified Candidate, a Participating Candidate may collect and spend only Seed Money Contributions as provided by subsection (c)(3) below. A Participating Candidate may not solicit, accept, or collect Seed Money Contributions after becoming a Certified Candidate. The restrictions on Seed Money Contributions apply to both cash and in-kind Contributions.

1) Seed Money Contribution Form. Each Seed Money Contribution shall be accompanied by a form signed by the contributor which shall include the contributor's name, home address, telephone number.

2) Total. The aggregate amount of Seed Money Contributions from any one contributor, including the Candidate or the candidate's spouse or domestic partner, to any one Candidate shall not exceed one hundred dollars ($100.00), and the aggregate amount of Seed Money Contributions accepted by a Candidate shall not exceed the following amounts:

   i. $5,000.00 for a Mayoral Candidate;

ii. $2,500.00 for an at-large City Council Candidate;
iii. $500.00 for a district City Council Candidate;
iv. $1,500.00 for an at-large School Board Candidate; or
v. $500.00 for a district School Board Candidate.

3) Seed Money Restrictions. The following restrictions shall apply to Seed Money Contributions:

i. All goods and services received by a Participating Candidate prior to certification as a Certified Candidate must be paid for with Seed Money Contributions, except for goods and services that are excluded from the definition of Contribution in in 21-A M.R.S. § 1012(2)(B). It is a violation of this Article for a Certified Candidate to use Fund revenues received after certification to pay for goods and services received prior to certification.

ii. Prior to certification, a Participating Candidate may obligate an amount greater than the Seed Money Contributions collected, but may only receive that portion of goods and services that has been paid for or will be paid with Seed Money Contributions.

iii. A Participating Candidate who has accepted Contributions or made Expenditures that do not comply with the Seed Money Contributions restrictions or the prohibited Expenditures under this Article may petition the City Clerk to remain eligible for certification as a Certified Candidate, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

iv. Upon requesting certification, a Participating Candidate shall file a report, on a form provided by the City Clerk, of all Seed Money Contributions and Expenditures. The report shall disclose the amount of any Seed Money Contributions along with the name and address of the individual contributor. If the Candidate is certified, any unspent Seed Money Contributions will be deducted from the amount distributed to the Candidate as provided in Section 9-66 and the Candidate shall be allowed to spend such unspent Seed Money Contributions on campaign Expenditures allowed under this Article.

v. If a Candidate has accepted Contributions that are not Seed Money Contributions as defined herein or do not comply with these Seed Money Contributions restrictions, the Candidate is ineligible to be a Certified Candidate in the same Election Cycle.

4) Bank Account Required. Seed Money Contributions shall be deposited into the Candidate's Bank Account. A Candidate shall not solicit or accept any such Contributions until such Bank Account is established and shall not comingle any Seed Money Contributions with any personal funds. All Expenditure of Seed Money Contributions shall be made from such Bank Account.

(d) *Qualifying Contributions.* A Candidate may collect Qualifying Contributions only during the Qualifying Period for certification. Qualifying Contributions must be acknowledged by the person making the contribution and reported on forms provided by the City Clerk.

1) Qualifying Contribution Forms. The Qualifying Contribution forms must include:

   i. The name, residential address, signature and telephone number of the contributor;
   ii. An affirmation by the contributor that the Contribution was made with his or her personal funds, in support of the Candidate and that the contributor did not receive anything of value in exchange for his or her signature and Contribution;
   iii. A clear and conspicuous statement that the Candidate is collecting signatures and Qualifying Contributions in order to obtain public funding to finance the Candidate's campaign;
   iv. A confirmation that the contributor is a Qualified Elector; and
   v. A notarized affirmation by the person who circulated the form that the circulator collected the Contribution, that to the best of the circulator's knowledge and belief the Contribution came from the personal funds of the contributor, that nothing was provided to the contributor in exchange for the Contribution, and any additional information required by the city clerk in order to protect the reliability of the qualification process.

2) Required Number of initial Qualifying Contributions. A Participating Candidate must obtain the number of initial Qualifying Contributions for certification during the Qualifying Period as follows:

   i. For a Candidate running for the office of Mayor, 200 Qualifying Contributions from separate Qualified Electors;
   ii. For a Candidate running for the office of City Councilor at-large, 100 Qualifying Contributions from separate Qualified Electors;
   iii. For a Candidate running for the office of City Councilor for a specified district, 50 Qualifying Contributions from separate Qualified Electors registered to vote in the district in which the Candidate is running;
   iv. For a Candidate running for the School Board at-large, 60 Qualifying Contributions from separate Qualified Electors;

v. For a Candidate running for the School Board for a specified district, 40 Qualifying Contributions from separate Qualified Electors registered to vote in the district in which the Candidate is running.

3) Exchanges for Qualifying Contributions Prohibited. A Candidate or an agent of that Candidate may not give or offer to give a payment, gift, or anything of value in exchange for a Qualifying Contribution.

4) Form of Contributions. All Qualifying Contributions shall be in the form of cash, check or money order payable to the Fund and signed by the contributor in support of a Candidate. The City Clerk may establish, at his or her discretion, an online service for members of the public to make qualifying contributions in support of Candidates seeking certification as a Certified Candidate and for candidates to use to verify voter registration and submit contributor lists.

5) Check or Money Order Contributions. A contributor making a Qualifying Contribution by check or money order shall sign the check or money order. If the contributor has made a check or money order payable to a Participating Candidate in error, the Candidate may remedy the error by endorsing the check or money order to the Fund.

6) Cash Contributions. A contributor may make a Qualifying Contribution to a Participating Candidate in the form of cash, as long as the contributor signs a form prepared by the City Clerk affirming that the contributor made the Contribution with personal funds. A Candidate receiving Qualifying Contributions in cash shall submit the Contributions to the City Clerk in the aggregate in the form of a cashier's check or money order payable to the Fund. The Candidate may not deposit Qualifying Contributions received in cash into the Candidate's campaign Bank Account.

7) Additional Qualifying Contributions. Participating or Certified Candidates may collect and submit to the City Clerk additional Qualifying Contributions at the times specified in section 9-66. The City Clerk shall credit a Candidate with either one Qualifying Contribution or one additional Qualifying Contribution, but not both, from any one contributor during the same election cycle. If any Candidate collects and submits to the City Clerk Qualifying Contributions or additional Qualifying Contributions that cannot be credited pursuant to this subsection, those Qualifying Contributions or additional Qualifying Contributions may be refunded to the contributor or deposited into the Fund at the discretion of the Candidate. The procedures and restrictions set out in this section apply to Qualifying Contributions and additional Qualifying Contributions.

Section 9-64. Certification of Participating Candidates.

(a) *Request for Certification.* A Participating Candidate may submit a request certification as a Certified Candidate by submitting a completed request for certification form to the City Clerk at any time during the Qualifying Period but not later than 5:00 p.m. on the last day of the Qualifying Period. The form, which will be provided by the City Clerk, shall identify the Candidate and the office and seat (at-large or district) that the Candidate is seeking, and shall set forth:

1) The Candidate's affirmation under oath that the Candidate has accepted no Contributions to the Candidate's current Election campaign other than Qualifying Contributions and Seed Money Contributions solicited and accepted pursuant to section 9-63;
2) The Candidate's affirmation under oath that the Candidate has made no Expenditures for his or her current Election campaign from any source other than Seed Money Contributions;
3) The Candidate's agreement that his or her current Election campaign will not solicit, direct, or accept any further Contributions or make any further Expenditures from any sources other than payments received from the Fund;
4) The Candidate's reaffirmation that he or she has established a Bank Account;
5) The Candidate's affirmation that, if applicable, any person who circulated receipt and acknowledgement forms and collected Qualifying Contributions acted with the Candidate's knowledge and consent; and
6) Any other information relevant to the certification process as determined by the City Clerk.

(b) *Accompanying Documentation.* The request for certification will be deemed complete and considered for certification only when the Candidate has submitted to the City Clerk:

1) A valid nomination petition with the requisite the number of signatures specified for the office sought pursuant to Article IV of the City Charter and the required consent, or, if the Candidate is seeking certification prior to qualifying for the ballot, the Candidate shall sign an affidavit stating that the Candidate will return all unspent funds distributed under section 9-66 and personally repay any such spent funds in the event the Candidate fails to qualify for the ballot;
2) A list of all individuals making Qualifying Contributions and their address, in a format specified by the City Clerk and sorted alphabetically by the contributor's last name;
3) Reports listing all Seed Money Contributions and Qualifying Contributions received by the Candidate and all Expenditures of Seed Money Contributions made by the Candidate, and showing the aggregate amounts of all such Contributions and Expenditures and the aggregate amounts of all Contributions received from each contributor;

4) Copies of forms signed by contributors for all Seed Money Contributions and Qualifying Contributions received by the Candidate; and
5) A check or checks issued to the Fund from the contributors except:

    i. Amounts previously spent for the purposes specified in Section 9-62(p); and

    ii. The amount, if any, that has been temporarily retained by the Candidate for the purpose of keeping open the Candidate's Bank Account.

(c) *Certification.* The City Clerk will certify a Candidate as a Certified Candidate upon the Participating Candidate's satisfaction of the requirements of this section.

(d) *Revocation of Certification.* The certification of a Certified Candidate may be revoked at any time if the City Clerk determines that the Candidate or an agent of the Candidate:

1) Did not submit the required number of valid Qualifying Contributions;
2) Failed to qualify for the ballot;
3) Submitted any fraudulent Qualifying Contributions or Qualifying Contributions that were not made by the named contributor;
4) Misrepresented to a contributor the purpose of the Qualifying Contribution or failed to obtain the contributor's signature on the Qualifying Contribution form;
5) Failed to fully comply with the Seed Money Contribution restrictions;
6) Knowingly accepted any Contributions, including any in-kind Contributions, or used funds other than Fund revenues distributed under this Article to make campaign-related Expenditures;
7) Knowingly made a false statement or material misrepresentation in any form, report, or other document required to be filed under this Article; or
8) Otherwise substantially violated the provisions of this Article.

(e) *Procedures for revocation*. The determination to revoke the certification of a Candidate shall be made by the City Clerk after at least 24 hours written notice to the Candidate and an opportunity for a hearing before the City Clerk. A Candidate whose certification is revoked shall return all unspent funds distributed under this Article to the City Clerk within three (3) days of the City Clerk's decision and may be required to return all funds distributed to the Candidate under this Article. In addition to the requirement to return funds, the Candidate may be subject to a fine. The Candidate may appeal the City Clerk's decision to revoke certification in the manner provided in section 9-70.

Section 9-65. Fund Administration.

(a) *Establishing the Fund.* A City of Portland Clean Election Fund is established to be administered by the City Clerk for the purpose of providing public campaign funds to Certified Candidates for elected municipal offices.

(b) *Sources of Funding.* The following must be deposited in the fund:

1) Each fiscal year, the sum of $500,000.00 shall be budgeted for and deposited in the Fund. The City Council shall appropriate and deposit in the Fund such additional sums, if any, as may be necessary to ensure the Fund is sustained at a level that facilitates competitive campaigns for Certified Candidates who meet qualifying criteria;
2) Qualifying Contributions when submitted to the City;
3) Fund revenues that were distributed to a Certified Candidate and that remain unspent after the Election;
4) Other unspent Fund revenues distributed to any Certified Candidate who does not remain a Certified Candidate throughout the Election Cycle;
5) Voluntary donations made directly to the Fund, including any Candidate's prior campaign surplus;
6) All fines levied and collected under this Article by the Clean Elections Review Board or as decreed by a court of competent jurisdiction;
7) Such other appropriations to the Fund as may be made by the City Council as necessary to fulfill the requirements of this Article.

(c) *Deposit limit.* The above notwithstanding, a deposit to the Fund pursuant to subsection (b)(1) of this section shall not be made if the balance in the Fund prior to the deposit exceeds eight hundred thousand dollars ($800,000.00). If a deposit to the Fund pursuant to subsection (b)(1) of this section would cause the balance in the Fund to exceed eight hundred thousand dollars ($800,000.00), only so much of the deposit shall be made as will increase the balance to that amount and no more.

Section 9-66. Distribution of Funds to Certified Candidates.

(a) *Amounts to be distributed.* Distributions from the Fund to Certified Candidates shall be made as follows:

CONTESTED RACES

1) Mayor
   i. The initial distribution of revenues is $40,000.00;
   ii. For each increment of 115 additional Qualifying Contributions a Candidate for Mayor collects and submits pursuant to subsection 9-66(b), not to exceed a total of 345 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $26,666.00;

iii. The total amount of revenues distributed to a Candidate for Mayor shall not exceed $120,000.00 per Certified Candidate.

2) City Council At-Large
   i. The initial distribution of revenues is $10,000.00;
   ii. For each increment of 70 additional Qualifying Contributions a Candidate for City Council at-large collects and submits pursuant to subsection 9-66(b), not to exceed a total of 210 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $10,000.00;
   iii. For Certified Candidates for City Council at-large, the total distribution of revenues is $40,000.00 per Certified Candidate;

3) City Council District
   i. The initial distribution of revenues is $4,000.00;
   ii. For each increment of 40 additional Qualifying Contributions a Candidate for City Council for a specified district collects and submits pursuant to subsection 9-66(b), not to exceed a total of 120 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is 2,666.00;
   iii. For Certified Candidates for City Council for a specified district, the total distribution of revenues is $12,000.00 per Certified Candidate.

4) School Board At-Large
   i. The initial distribution of revenues is $5,000.00;
   ii. For each increment of 55 additional Qualifying Contributions a Candidate for School Board at-large collects and submits pursuant to subsection 9-66(b), not to exceed a total of 165 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is $3,333.00;
   iii. For Certified Candidates for the School Board at-large, the total distribution of revenues is $15,000.00 per Certified Candidate.

5) School Board District
   i. The initial distribution of revenues is $2,000.00;
   ii. For each increment of 25 additional Qualifying Contributions a Candidate for School Board for a specified district collects and submits pursuant to subsection 9-66(b), not to exceed a total of 75 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is **$**1,000.00;
   iii. For Certified Candidates for the School Board for a specified district, the total distribution of revenues is $5,000.00 per Certified Candidate.

UNCONTESTED RACES

1) For Certified Candidates for Mayor, the total distribution of revenues is $10,000.00 per Certified Candidate;
2) For Certified Candidates for City Council at-large, the total distribution of revenues is $2,500.00 per Certified Candidate;
3) For Certified Candidates for City Council for a specified district, the total distribution of revenues is $1,000.00 per Certified Candidate;
4) For Certified Candidates for the school board at-large, the total distribution of revenues is $1,250.00 per Certified Candidate; and
5) For Certified Candidates for the school board for a specified district, the total distribution of revenues is $500.00 per Certified Candidate.

(b) *Collection and Submission of Additional Qualifying Contributions*. Participating or Certified Candidates may collect and submit additional Qualifying Contributions to the City Clerk at any time during the Qualifying Period in any amounts in accordance with the schedules in this Article. The City Clerk shall make supplemental distributions from the Fund to Candidates in the amounts and in accordance with the increments specified in subsection (a) of this section.

(c) *Timing of Initial Distribution.* The City Clerk shall distribute to Certified Candidates revenues from the Fund in amounts specified in subsection (a) of this section no later than one hundred thirteen (113) days before the Election. In the event that the initial disbursement is prior to Candidates being able to qualify for the ballot, the amount of the initial distribution shall be the amounts specified for Uncontested Races in subsection (a). To receive this initial distribution, a Certified Candidate must sign the affidavit required in Section 9-64(b)(1) if the Certified Candidate has not qualified for the ballot and has no opponent. The remaining balance owed the Certified Candidate for the initial distribution shall be distributed by the City Clerk as soon as practicable once both the Certified Candidate and an opponent qualify for the ballot.

(d) *Timing of Supplemental Distributions.* The City Clerk shall authorize distribution of supplemental Fund revenues to Certified Candidates by the most expeditious means practicable after certification by the City Clerk of the required number of additional Qualified Contributions. The distribution of supplemental Fund amounts shall begin no earlier than eighty-five (85) days before the Election and end twenty-three (23) days before the Election.

(e) *Manner of Distribution.* The City Clerk shall distribute revenues from the Fund to Certified Candidates by checks payable to the Certified Candidate which shall be deposited into the Certified Candidate's Bank Account.

(f) *Shortfall Provisions.* The City Clerk may not distribute revenues to Certified Candidates in excess of the total amount of money deposited in the Fund. If the City Clerk determines that the amounts required to be distributed to Candidates under

subsection (a) of this section exceed the total amount available in the Fund, the City Clerk shall distribute the funds on a first come-first served basis based on when a Candidate is certified for either initial or supplemental distributions. If the Fund is depleted, any Candidate that does not receive either an initial or supplemental distribution after being certified by the City Clerk may collect funds from private sources up to the total amount the Candidate would have otherwise received from the Fund and limited to the maximum single contribution amount allowed by law. For any initial or supplemental distributions, a Certified Candidate shall still be required to collect and submit to the City Clerk all necessary Qualifying Contributions in order to be entitled to collect funds from private sources after the Fund is depleted. Any Certified Candidate that collects funds from private sources pursuant to this subsection shall continue to be considered a Certified Candidate.

(g) *Use of Distributions from the Fund.* All distributions received by a Certified Candidate from the Fund shall be deposited in the Candidate's Bank Account. The distributions must be segregated from, and may not be commingled with, any other funds. A Certified Candidate shall:

1) Limit the Candidate's campaign Expenditures and obligations to the applicable Fund distribution amounts;
2) Not accept any Contributions;
3) Use Fund distribution amounts only for campaign-related purposes and not for any prohibited expenditure as further described in Section 9-67 below;
4) Not use Fund distribution amounts to purchase goods to sell for profit;
5) Not spend more than $500.00 of Fund distribution amounts on post-Election parties, thank you notes, or advertising to thank supporters or voters; however, a Candidate may use his or her personal funds for these purposes;
6) Not use Fund distribution amounts for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the City; and
7) Not make any payments of more than $50.00 in cash. Payments of more than $50.00 in Fund distribution amounts must be made by check, debit or credit card or wire transfer.

(h) *Return of Unused Funds.* Upon the filing of the 42-day post-Election report for a general or special Election, all Candidates must return all unspent Fund distribution amounts to the City Clerk by check or money order payable to the Fund.

Section 9-67. Prohibited Expenditures.

Seed Money Contributions and Fund distribution amounts shall not be used for any non-campaign-related purposes, including, but not limited to, the following:

(a) The Certified Candidate's personal living expenses, including cell phone or internet service regularly purchased by the Candidate apart from the campaign, or compensation to the Certified Candidate or the Certified Candidate's family for non-campaign related purposes;
(b) A Contribution to another campaign of the Candidate or a payment to retire debt from another such campaign;
(c) A Contribution to the campaign of another Candidate or to a political party or political committee or to a campaign supporting or opposing a referendum;
(d) An Expenditure supporting the election or defeat of another Candidate other than an opponent of the Certified Candidate;
(e) Payment of legal expenses or any fine levied under this Article;
(f) Any gift or transfer for which compensating value is not received; and
(g) Reimbursement to the Candidate or any other person for campaign Expenditures made from personal funds or with a personal credit card.

Section 9-68. Record Keeping and Reporting.

(a) *Record Keeping by Participating and Certified Candidates.* Participating and Certified Candidates and their treasurers must comply with applicable record keeping requirements set forth in 21-A M.R.S.A. §§ 1016, 1125 and the City Charter.

(b) *Restrictions on Serving as* Treasurer. A Participating or Certified Candidate may not serve as a treasurer or deputy treasurer for that Candidate's campaign, except that the Candidate may serve as a treasurer or deputy treasurer for up to 14 days after filing the Declaration of Intent until the Candidate identifies another person to serve as treasurer.

(c) *Failure to Keep Records*. Failure to keep or produce the records required under Title 21-A and this Article is a violation of Portland's Clean Election Fund for which penalties may be imposed. The City Clerk may also require the return of distributed funds for Expenditures lacking supporting documentation if a Participating or Certified Candidate or treasurer is found in violation of the record keeping requirements. The Participating or Certified Candidate or the treasurer shall have an opportunity to be heard by the Clean Elections Review Board prior to any decision imposing a penalty or requiring the return of distributed funds under this section.

(d) *Reporting by Participating and Certified Candidates.* Participating and Certified Candidates must comply with applicable reporting requirements set forth in 30-A M.R.S. §2502 and the City Charter.

(e) *Reports and Forms.* All reports and forms that are required by this Article shall be signed under oath and on forms prescribed by the City Clerk. The City Clerk is authorized to reject any incomplete report or form. The City Clerk shall notify a

Participating or Certified Candidate that the report or form is incomplete. The City Clerk shall assess a late filing fee of $50.00 for unexcused late filing of reports or forms.

Section 9-69. Recounts, Vacancies, Write-in Candidates, Special Elections.

(a) *Recounts.* Certified Candidates may not spend any Funds for purposes of recount or a court challenge to the results of a recount, but they may receive donations for these purposes in accordance with the donation limitations for Non-participating Candidates pursuant to 21-A M.R.S.A. §1015. However, for the purposes of a recount or a court challenge, the aggregate contribution limit in support of any Candidate shall be reset for Non-participating Candidates.

(b) *Death, Withdrawal, or Disqualification of a Candidate During Campaign*. If a Certified Candidate dies, withdraws, or is disqualified, all unspent funds shall be returned to the City Clerk. If such death, withdrawal or disqualification occurs after the Qualifying Period, no other Candidates may apply for certification as a Certified Candidate.

(c) *Write-In Candidates.* Write-in Candidates may not participate in the Portland Clean Election Fund.

(d) *Special Elections*. If a vacancy occurs in the office of mayor, city council, or school board because an incumbent dies, resigns, becomes disqualified, or changes residence that results in a disqualification, and a special Election will be held to fill the vacant office or seat, the following provisions apply:

a. The City Clerk will establish a qualifying period during which any Candidate in a special Election may decide to become a Participating Candidate, collect Qualifying Contributions, and apply to become a Certified Candidate; and

b. Any Candidate in a special Election must otherwise comply with the requirements of this Article, including but not limited to Seed Money Contribution limits and Qualifying Contribution requirements. The City Clerk will notify any Candidates of the opportunity to participate in the Fund and the procedures for compliance with this Article during a special Election.

Section 9-70. Clean Elections Review Board.

(e) *Creation; Composition.* There shall be a Clean Elections Review Board of three (3) members. Members of the Clean Elections Review Board shall be residents of the City and shall not be officers or employees of the City or any of its agencies or departments. All members shall be appointed to fill at-large seats, and may reside in any part of the City.

(f) *Appointment; Terms*. For the initial members of the Clean Elections Review Board one member shall be appointed by the City Council for a term of one (1) year, another member for a term of two (2) years, and the third member for a term of three (3) years; thereafter, the City Council shall appoint members for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified.

(g) *Vacancies*. Permanent vacancies on the Clean Elections Review Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

(h) *Removal of Members*. Any member of the Clean Elections Review Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

(i) *Compensation*. Members of the Clean Elections Review Board shall serve without compensation.

(j) *Chair*; *minutes, public records*. The members of the Clean Elections Review Board shall annually elect one (1) of their members as chair to preside at all meeting and hearings and to fulfill the customary functions of that office.

(k) *Staff Secretary*; *minutes, public records.* The City Manager shall designate a member of his or her staff to serve as staff secretary of the Clean Elections Review Board and attend all of its proceedings. The staff secretary shall keep the minutes of the proceedings of the Clean Elections Review Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the Clean Elections Review Board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

(l) *Quorum and Necessary Vote*. As to any matter requiring a hearing, no business shall be transacted by the Clean Elections Review Board without a quorum, consisting of two (2) members being present. The concurring vote of at least two (2) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding ten (10) business days at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

(m) *Meetings, Hearings, and Procedures*.

a. Regular meetings of the Clean Elections Review Board shall be held at the call of the chair or as provided by the rules of the Board. Special meetings shall be called by the chair at the request of any member of the Board or at the request of the City Clerk or City Council. All meetings and hearings of the Board shall be open to the public.

b. The Clean Elections Review Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the State of Maine and this Article. Such rules shall be filed with the staff secretary and with the City Clerk. Any rule so adopted which relates to the conduct of hearings, and which is not required by the statutes of the State of Maine or by this Article, may be waived by the Board upon good cause being shown.

(n) *Public Hearings; Standard of Review*.

a. A public hearing shall be set, advertised and conducted by the Clean Elections Review Board as required by various state statutes, codes, and ordinances pursuant to which matters are brought before the Clean Elections Review Board and shall be conducted in accordance with relevant State law, the City Code, and the rules of the Board.

b. The Board shall hear all appeals *de novo*. The appellant shall bear the burden of proof.

(o) *Record and Decisions*.

a. The minutes of the staff secretary, and the transcript, if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Clean Elections Review Board, and the decision of the Board shall constitute the record.

b. Every final decision of the Clean Elections Review Board shall include written findings of fact, and shall specify the reason or reasons for such decision.

c. The staff secretary shall mail notice of any decision of the Clean Elections Review Board to the appellant and any designated interested parties within five (5) days of such decision.

(p) *Conflicts*. No member of the Clean Elections Review Board shall participate in the hearing or disposition of any matter in which they have an interest, as defined by 30-A M.R.S. §2605, as amended, and common law.

(q) *Appeals to Superior Court*. An appeal from any final decision of the Clean Elections Review Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(r) *Jurisdiction and Authority*. In addition to the jurisdiction conferred on it by other sections of this Article and in accordance therewith, the Clean Elections Review Board shall have the following jurisdiction and authority:

a. To hear, review, and approve or deny a petition by a Participating Candidate who has accepted Contributions or made Expenditures that do not comply with the Seed Money Restrictions or prohibited Expenditures under this Article to remain eligible for certification as a Certified Candidate;
b. To hear, review, and approve or deny any appeal by a Candidate who has been denied certification as a Certified Candidate by the City Clerk, the opponent of a Candidate who has been granted certification as a Certified Candidate or other interested persons;
c. To hear, review, and approve or deny any appeal by a Certified Candidate or other interested persons regarding the revocation of the certification of a Certified Candidate by the City Clerk;
d. To hear, review, and approve or deny any appeal by a Certified Candidate or other interested persons regarding the enforcement of violations pursuant to section 9-71; and
e. To require a Candidate whose certification as a Certified Candidate is reversed on appeal or a Candidate whose revocation is upheld on appeal to return to the Fund any unspent Fund revenues distributed.

Section 9-71. Violations.

In addition to any other penalties that may be applicable, a person who violates any provision of this Article is subject to a fine not to exceed $1,000.00 per violation payable to the Fund. In addition to any fine, for good cause shown, a Candidate, treasurer, or consultant or other agent of the Candidate or the political committee authorized by the Candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the Candidate from the Fund or any funds not used for campaign-related purposes. The City Clerk's determination that a violation of this Article has occurred and any fines assessed may be appealed to the Clean Elections Review Board. Fines paid under this Article must be deposited in the Fund. In determining whether or not a Candidate is in violation of the expenditure limits of this Article, the City Clerk may consider as a mitigating factor any circumstances out of the Candidate's control.

Section 9-72. Severability.

The provisions of this article and each of its sections, subsections, paragraphs, subparagraphs, sentences and clauses are severable. In the event that any such provision is held to be invalid or unenforceable by any judicial or administrative tribunal, it is the intent of the governing body that all other provisions thereof shall remain in full force and effect.

Section 9-73. Effective date.

This ordinance shall go into effect on _____, 2023.

COUNCILOR TREVORROW PROPOSAL

	SEED MONEY LIMITS
Mayor	$5,000
City Council—At Large	$2,500
City Council—District	$500
School Board—At Large	$1,500
School Board--District	$500

	INITIAL QUALIFYING CONTRIBUTIONS
Mayor	200
City Council—At Large	100
City Council—District	50
School Board—At Large	60
School Board--District	40

	SUPPLEMENTAL QUALIFYING CONTRIBUTIONS
Mayor	115 per round (345 Total)
City Council—At Large	70 per round (210 Total)
City Council—District	40 per round (120 Total)
School Board—At Large	55 per round (115 Total)
School Board--District	25 per round (75 Total)

	TOTAL QUALIFYING CONTRIBUTIONS
Mayor	545
City Council—At Large	310
City Council—District	170
School Board—At Large	175
School Board--District	115

INITIAL DISTRIBUTION	Contested (assuming qualified for ballot)
Mayor	$40,000
City Council—At Large	$10,000
City Council—District	$4,000
School Board—At Large	$5,000
School Board--District	$2,000

SUPPLEMENTAL	PER ROUND (X3)
Mayor	$26,666
City Council—At Large	$10,000
City Council—District	$2,666
School Board—At Large	$3,333
School Board--District	$1,000

{P2136381.1}

MAX DISTRIBUTION	
Mayor	$120,000
City Council—At Large	$40,000
City Council—District	$12,000
School Board—At Large	$15,000
School Board--District	$5,000

UNCONTESTED	
Mayor	$10,000
City Council—At Large	$2,500
City Council—District	$1,000
School Board—At Large	$1,250
School Board--District	$500

KEY DATES
2023/2024

June 1, 2023	Qualifying Papers/Declaration of Intent Forms Available
June 30, 2023	Nomination Petitions Available (*127 Days Prior*)
July 17, 2023	First Day Initial Distribution Can Be Distributed (*113 Days Prior)*
August 14, 2023	First Day Nomination Petitions Can Be Turned In (*85 Days Prior*)
August 14, 2023	First Day Supplemental Distributions Can Be Distributed (*85 Days Prior)*
August 15, 2023	Seed Money Report Due
August 28, 2023	Last Day Nomination Petitions Can Be Turned In (*71 Days Prior*)
September 11, 2023	Last Day Qualifying Papers Can Be Turned In (*57 Days Prior)*
October 15, 2023	Last Day Any Distributions Can Be Distributed (*23 Days Prior)*

Name	Total Qualifying Contributions	Seed Money Max	Max Distribution	Funded Distribution
Mayor 1	$2,725	$5,000	$120,000	$108,119.38
Mayor 2	$2,725	$5,000	$120,000	$108,119.38
Mayor 3	$2,725	$5,000	$120,000	$108,119.38
Council At-Large 1	$1,550	$2,500	$40,000	$36,039.79
Council At-Large 2	$1,550	$2,500	$40,000	$36,039.79
Council At-Large 3	$1,550	$2,500	$40,000	$36,039.79
Council District (4)-1	$850	$500	$12,000	$10,811.94
Council District (4)-2	$850	$500	$12,000	$10,811.94
Council District (5)-1	$850	$500	$12,000	$10,811.94
Council District (5)-2	$850	$500	$12,000	$10,811.94
School Board At-Large 1	$1,125	$1,500	$15,000	$13,514.92
School Board At-Large 2	$1,125	$1,500	$15,000	$13,514.92
School Board District (4)-1	$575	$500	$5,000	$4,504.97
School Board District (4)-2	$575	$500	$5,000	$4,504.97
School Board District (5)-1	$575	$500	$5,000	$4,504.97
School Board District (5)-2	$575	$500	$5,000	$4,504.97
Total	$20,775	$29,500	$578,000	$520,775.00

Funding	
Budget	$500,000
Qualifying Contributions	$20,775
TOTAL FUNDING	**$520,775**
NEED FUNDING	$578,000
Pro-Ration	0.90099481

ARTICLE VI. CAMPAIGN FINANCE

Sec. 9-91. Definitions.

As used in this Article, the following terms have the following meanings:

(a) *Business Entity*. The word "business entity" means any firm, partnership, corporation, incorporated association, limited liability company, or other organization, whether organized as a for-profit or a nonprofit entity.

(b) *Business Entity that is substantially under foreign influence*. The term "business entity that is substantially under foreign influence" means a business entity for which at least one of the following conditions is met:

1) A single foreign owner holds, owns, controls, or otherwise has direct or indirect beneficial ownership of one percent (1%) or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interest of the business entity;

2) Two or more foreign owners, in aggregate, hold, own, control, or otherwise have direct or indirect beneficial ownership of five percent (5%) or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interest of the business entity; or

3) A foreign owner participates directly or indirectly in the business entity's decision-making process with respect to the business entity's political activities in the United States.

(c) *Campaign.* The word "campaign" means any course of activities to influence the nomination or election of a candidate or to initiate or influence any municipal referendum or initiative.

(d) *Candidate.* The word "candidate" shall be defined in Article V, Section 9-62 of this Chapter.

(e) *Contribution.* The word "contribution" shall be as defined in 21-A M.R.S. §1012(2).

(f) *Expenditure.* The word "expenditure" shall be as defined in 21-A M.R.S. §1012(3).

(g) *Foreign investor.* The word "foreign investor" means a person or entity that:

1) Holds, owns, controls, or otherwise has direct or indirect beneficial ownership of equity, outstanding voting shares, membership units, or other applicable ownership interests of a Business Entity; and

2) Is a government of a foreign country; a foreign political party; a partnership, association, corporation, organization, or other combination of persons organized under the laws or having its principal place of business in a foreign country; or an individual who is not a citizen of the United States or a national of the United States and who is not lawfully admitted for permanent residence.

(h) *Foreign owner.* The word "foreign owner" means (1) a foreign investor; or (2) a Business Entity wherein a foreign investor holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares in an amount that is equal to or greater than 50 percent of the total equity or outstanding voting shares.

(i) *Municipal Office.* The term "municipal office" means the office of mayor, city council, or school board.

(j) *Political action committee.* The term "political action committee" shall be defined in 21-A M.R.S. §1052(5)

(k) *Separate Segregated Fund Committee.* The term "separate segregated fund committee" means a Political Action Committee described in section 9-91(j) above.

Sec. 9-92. Business Entity Contributions to Candidates Prohibited. A Business Entity may not make Contributions to any Candidate for municipal office. A Separate Segregated Fund Committee may not make Contributions to any Candidate for municipal office using funds that derive, in whole or in part, from a Business Entity. Where a Business Entity establishes a Separate Segregated Fund Committee, that Business Entity may provide the Separate Segregated Fund Committee with the use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the Business Entity.

Sec. 9-93. Foreign Contributions to Initiative or Referendum Campaigns. A Business Entity that is substantially under foreign influence shall be prohibited from making any Contribution or Expenditures for or against any initiative or referendum Campaign.

Sec. 9-94. Additional Rules by Ordinance. The City Council may adopt additional regulations and ordinances governing Campaign spending, not inconsistent with Article IV, Section 13 of the Charter.

Sec. 9-95. Campaign Contributions Reporting. All contributions to Campaigns must be reported to the City Clerk, in conformance with any applicable State law. The City Clerk must establish a searchable, online, and publicly-accessible database of all information included in all registrations and campaign finance reports filed with the City Clerk.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2023

SUBJECT: Order 172-22/23 Amendment to Zoning Map Re: R-6 Residential to B-3 Downtown Business at 211 Cumberland Avenue - Sponsored by the Planning Board, Maggie Stanley, Chair

SPONSOR: Portland Planning Board, Maggie Stanley, Chair.
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/10/2023 **Final Action 4/24/2023**

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

I. SUMMARY

The Planning Board recommends a zoning map amendment changing the parcel at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business and adding the parcel to the Downtown Height Overlay Map and eliminating from the Bayside Height Overlay map.

II. AGENDA DESCRIPTION

On February 28, 2023, the Planning Board unanimously voted 4-0 (Stanley, Silk absent; Barker recused) to find the proposed zoning map amendment changing the parcel at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business and adding the parcel to the Downtown Height Overlay Map and eliminating it from the Bayside Height Overlay Map to be consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the proposed amendments. This application would bring the existing Franklin Towers building into conformance with zoning and allow for future renovation of the building.

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

III. BACKGROUND

Portland Housing Development Corporation and Portland Housing Authority seeks a zoning map amendment to change the zoning at Franklin Towers at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business to bring the existing building into zoning conformity. Additionally, 211 Cumberland Avenue would be added to the Downtown Height Overlay Map, which governs building heights in the zone and would eliminate the parcel from the Bayside Height Overlay Map. Franklin Towers is an existing 16-story, approximately 175 ft. tall residential building constructed in 1969, that contains 200 subsidized housing units. The building currently exceeds the existing permitted height and density on the site and would be brought into conformance with the proposed changes.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intent of the proposed zoning actions aims to bring Franklin Towers into zoning conformity and provide future development opportunities. The zoning map amendment supports and aligns with many of the shared goals expressed in Portland's comprehensive plan, *Portland's Plan 2030*, including increasing, preserving, and modifying the overall supply of housing to meet the needs, preferences, and financial capabilities of all Portland residents, which would enable people who work in Portland to have the option to live in Portland as well as encouraging additional contextually appropriate housing density proximate to neighborhood centers, concentrations of services, and transit nodes and corridors.

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 attached as part of the City Council packet.

VII. RECOMMENDATION

At a public hearing on February 28, 2023 the Planning Board unanimously voted 4-0 (Stanley, Silk absent; Barker recused) to find that the proposed zoning map amendment 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 211 Cumberland Avenue as well as adding the parcel to the Downtown Height Overlay Map and eliminating from the Bayside Height Overlay Map.

VIII. LIST ATTACHMENTS

1. Amendment to Zoning Map 211 Cumberland Avenue 4.10.2023
2. Attachment A - 211 Cumberland Avenue (City Council Report)
3. Attachment B - 211 Cumberland Avenue Zoning Map Amendment
4. Attachment C - Downtown Height Overlay Map Amendment
5. Attachment D - Bayside Height Overlay Map Amendment
6. Attachment E - February 28, 2023 Planning Board Report

Prepared by:
Date: 03/20/2023

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

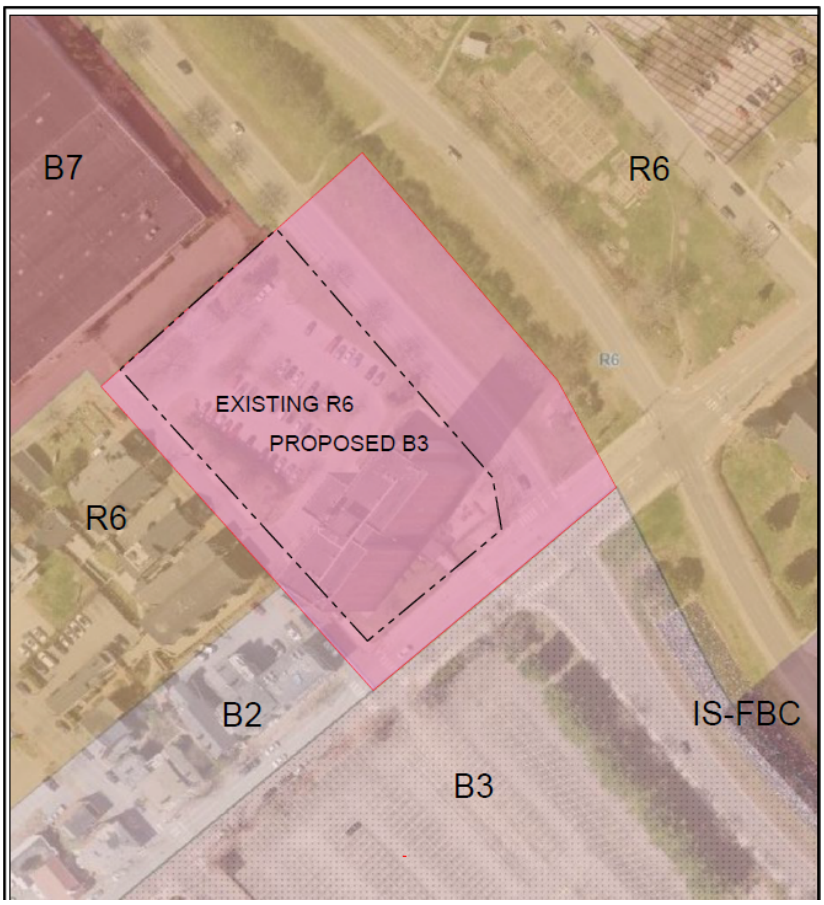
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO ZONING MAP
RE: R-6 RESIDENTIAL TO B-3 DOWNTOWN BUSINESS AT 211 CUMBERLAND AVENUE

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 at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business as depicted in the map below.



PLANNING BOARD REPORT
TO CITY COUNCIL
PORTLAND, MAINE

211 Cumberland Avenue
ZN-002321-2022
Portland Housing Authority | Portland Housing Development Corporation

Submitted to:	Mayor and City Councilors	**Prepared By:**	Charles Tetelman, Planner
Council 1st Read	April 3, 2023	**Date:**	March 16, 2023
Council Hearing Date:	April 17, 2023		

I. INTRODUCTION

Portland Housing Authority (PHA) and Portland Housing Development Corporation (PHDC) have submitted a zoning map amendment application requesting to rezone property at 211 Cumberland Avenue (Franklin Towers) from R-6 Residential to B-3 Downtown Business. The zoning map amendment also includes an amendment to add the parcel to the Downtown Height Overlay Map. Together, these zoning amendments would bring the property into zoning compliance, and would facilitate renovations to the Franklin Towers building, and create future development opportunities on the remainder of the site.

II. PLANNING BOARD RECOMMENDATION

On February 28, 2023 the Planning Board unanimously voted 4-0 (Stanley, Silk absent; Barker recused) to recommend to the City Council adoption of the zoning map amendment from R-6 to B-3 (Attachment B) for the area of land that includes (211 Cumberland Avenue) and amendments to add the site to the Downtown Height Overlay Map (Attachment C) and eliminate the site from the Bayside Height Overlay Map (Attachment D).

The Planning Board found the proposed zoning map amendments to be consistent with the city's Comprehensive Plan, *Portland's Plan 2030*. The project area is located near the confluence of Franklin Street Arterial, a wide priority corridor listed in the Comprehensive Plan, and Cumberland Avenue. The site is also within proximity to public transit, including METRO Route 8, which has a stop along Cumberland Avenue immediately abutting 211 Cumberland Avenue. The Board believed that the proposed Zoning Map amendments would foster sustainable growth by removing the lot area per dwelling unit (density) zoning requirement and increasing the height in a contextual manner in a location adjacent to a priority corridor and major thoroughfare with proximity to transit, commercial services and open space.

The Board noted that the zoning changes would permit housing at a greater density than currently permitted under the existing R-6 zone. The increase in density would support shared goals expressed in the comprehensive plan including community priorities for adopting sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation as well as removing housing barriers to increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.

These actions would also bring Franklin Towers, an existing legally non-conforming approximately 175-foot-tall building with approximately 200 residential units into zoning conformity for both density and height.

III. BACKGROUND

211 Cumberland Avenue is a 66,163 square foot lot and is the site of Franklin Towers, a 16-story (175 ft.) high-rise residential building that contains 200 subsidized housing units and an associated surface parking lot, owned and operated by the PHA. Franklin Towers was constructed in 1969.

The proposed zoning map amendments would facilitate PHA's future plans at 211 Cumberland Avenue which involve bringing Franklin Towers into zoning compliance and upgrading the building. This zoning amendment would also create opportunities for future development on the remainder of the parcel.

IV. EXISTING CONDITIONS AND SURROUNDING AREA

The proposed zoning map amendments include the PHA parcel at 211 Cumberland Avenue (Chart 026, Block P, Lot 4001). The site is bounded by Franklin Street, a wide urban arterial to the north, Cumberland Avenue, an urban major collector to the east, Wilmot Street, a local street to the south, and 127 Oxford Street, which is improved with a large industrial warehouse for Noyes and Sons to the west. The site currently includes Franklin Towers, a surface parking lot, and 200 affordable housing units.

The surrounding area contains a mix of medium- and high-density residential, commercial, institutional, and industrial uses as well as surface parking. Immediately north of the site is Franklin Street, which connects i-295 to the Portland waterfront. Across Franklin Street is the East Bayside neighborhood, which is characterized by a mix of single- and two-family, and multi-family residential as well as industrial and mixed-use buildings ranging between one and six-stories. Light Industrial uses in East Bayside are located west of Fox Street. The Cathedral of the Immaculate Conception, an approximately 200-foot-tall locally designated historic landmark is located northeast of the site, across Franklin Street along Cumberland Avenue. Immediately east of the site, across Cumberland Avenue, is the Top of the Old Port parking lot, a large surface parking lot. There are many residential buildings including single- and two-family and multi-family buildings south of the site. Portland City Hall and Merrill Auditorium are approximately three-blocks south of the site.

The property at 211 Cumberland Avenue is located directly along the METRO Local Service Route 8. The site is in close proximity to three primary METRO transit hubs located within a half-mile radius including the Transfer Point at the corner of Congress Street and Forest Avenue, the Monument Square transit hub, and METRO Pulse located on Elm Street just off of Congress Street. Between these three nearby transit hubs, nearly all the METRO Routes are accessible. Additionally, Franklin Towers is near the head of the Bayside Trail which connects into the Back Cove Trail and the Eastern Promenade Trail providing access to these trails for pedestrians or bicyclists.

The site is currently within an R-6 Residential zone, which extends both north and east of the site. Immediately east of the site, across Cumberland Avenue, property is zoned B-3 Downtown Business and permits building heights up to 190 feet. Height in the B-3 zone is governed by the Downtown Height Overlay Map. Directly to the west, property is zoned B-7 Mixed Development. The B-2 Community Business zone is mapped along Cumberland Avenue to the west of Franklin Towers between Wilmot Street and Chestnut Street and permits building heights up to 50 feet if the first floor is used for commercial use.

V. PROPOSED MAP AMENDMENT

I. Zoning Map Amendment (Attachment B)

Portland Housing Authority proposes a zoning map amendment to rezone the parcel located at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business. The B-3 zone will bring Franklin Towers into zoning conformity for both density and height. Currently, Franklin Towers is a legally nonconforming building with a height of approximately 175 feet, and a residential density well in excess of the R-6 density limit of 725 sq. ft. of lot area per dwelling unit. The lot is approximately 66,163 sq. ft. (according to the Assessor's Office) with a current density of approximately 330 sq. ft. lot area per dwelling unit, based upon the 200 existing residential units. With no density requirement in the B-3 Downtown Business zone, rezoning this site would allow for renovations and increased density, facilitating affordable housing opportunities near Portland's downtown core.

II. Downtown Height Overlay Map Amendment (Attachment C)
Adding 211 Cumberland Avenue to the Downtown Height Overlay Map, which governs height for sites within Portland's downtown.

The applicant is proposing a 150 ft. max building height with a 90 ft. maximum street wall and 30 ft. stepback requirement along Franklin Street and Cumberland Avenue as well as a 50 ft. maximum street wall and 15 ft. stepback along Wilmot Street and the backside of the parcel. Affordable housing projects located within the B-3 zone may utilize height and density bonuses. Height bonuses are specified in Section 18.2.4.A and Table 18-C of the Land Use Code, and range from up to 10 feet for projects including a minimum of 20 percent of units as affordable and up to a height bonus of 25 feet for projects that include at least 75 percent of units as affordable.

III. Bayside Height Overlay Map Amendment (Attachment D)
Eliminating 211 Cumberland Avenue from the Bayside Height Overlay Map.

VI. ZONING ANALYSIS

R-6 Residential Zone

The existing zoning at 211 Cumberland Avenue is zoned entirely R-6 Residential. The purpose of the R-6 Residential zone is to:

> *"set aside areas on the peninsula for housing characterized primarily by multi-family dwellings at a high density providing a wide range of housing for differing types of households; to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses; and to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula."*

The R-6 zone limits residential density by requiring a minimum of 725 square feet of lot area per dwelling unit and further requires a minimum lot area of 2,000 square feet for residential uses. Maximum height in the R-6 zone is 45 feet or for R-6 buildings governed by the Bayside Height Overlay map 55 feet or 85 feet and 125 feet for the Franklin Towers parcel. Affordable housing height and density bonuses are not permitted in the R-6 zone. No off-street parking is required for the first three residential dwelling units and sites in the R-6 zone that are within a ¼ mile of fixed route transit may be exempt from providing parking as specified in Table 19-B of the Land Use Code.

B-3 Downtown Business Zone

The applicant is proposing to rezone 211 Cumberland Avenue to B-3 Downtown Business. The purpose of the B-3 Downtown Business zone is to:

> *"maintain and enhance the role of the downtown as the business and commercial center of the region; to enhance and promote the orderly expansion of retail and service business downtown, satisfying the related needs for the city's resident, working and visitor populations; to encourage increased housing opportunity downtown for a diverse residential population; to enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment; to encourage excellence in urban design; to preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures; to provide opportunity for an enhanced presence and integration of the arts and cultural activities; to reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups; to provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment."*

The B-3 Downtown Business zone has no density requirement. Building heights are governed by the Downtown Height Overlay Map and Bayside Height Overlay Map and range from 35 feet up to 210 feet. In addition, projects located within the B-3 zone that provide affordable housing may utilize height and density bonuses as outlined in Table 18-C. Immediately east of the site, across Cumberland Avenue, buildings are permitted heights up to 150 feet to a depth of 100 feet and then may rise to a maximum height of 190 feet. A 90-foot maximum street wall height after which a 30-foot minimum stepback is required is mapped along Franklin Street. Sites in the B-3 zone are required to provide one parking space per dwelling unit or for sites that are within a ¼ mile of fixed route transit may be exempt from providing parking as specified in Table 19-B of the Land Use Code.

The applicant is proposing the B-3 zone to bring Franklin Towers into conformance with zoning. The existing building is approximately 175 tall. The B-3 zone would allow the applicant to map 150 feet on the parcel. The 150-foot height may be increased when utilizing affordable housing height and density bonuses up to 25 feet, which would bring the 175-foot-tall building into conformance for height. The proposal would increase the height by 65 feet and by 25 feet on the western and easterly portions of the parcel, respectively and includes contextual maximum street wall heights of 90 feet along the parcel's Franklin Street and Cumberland Avenue frontages and 50 feet along the parcel's Wilmot Street frontage and abutting property line with 127 Oxford Street. The lot is approximately 66,163 sq. ft. (according to the Assessor's Office) with a current density of approximately 330 sq. ft. lot area per dwelling unit. With no density requirement in the B-3 Downtown Business zone, rezoning this site to B-3 would bring the building into conformance with density requirements.

Table 1 - Zoning Requirements	R-6	B-3
Lot Size (min)	2,000 sq. ft. to 2 ac. (depending on use)	None
Density (lot are per dwelling unit)	725 sq. ft.	None
Street Frontage (min)	20 ft.	15 ft.
Front Yard (min)	5 ft.	

Front Yard (max)		5 ft.
Rear Yard (min)	10 ft.	None
Side Yard (max)	5 ft.	None
Side Yard (Side Street, min)	None	None
Stepbacks	10 ft. from side property line and 15ft. from rear property line	None
Lot Coverage (max)	60%	25% above 125 ft.
Impervious Area (max)		None
Lot Width (min)	20 ft.	
Building Height (max)	45 ft.** 55 ft in Bayside Height Overlay Map 85 ft /125 ft Franklin Towers	Downtown Height Overlay Map
Floor Area (max)		10,000 sq. ft. (laboratory and research facilities, warehousing)

VII. COMPREHENSIVE PLAN CONSISTENCY

The zoning map amendment aligns with Portland's comprehensive plan, *Portland's Plan 2030* by enhancing the ability for the applicant to rehabilitate existing affordable housing and facilitate future affordable housing development in downtown Portland, providing the opportunity for housing within an urban context, and potentially increasing the services provided within a walking and transit radius. In addition, the map amendment would foster sustainable growth by providing contextually appropriate housing density in and approximate to neighborhood centers, concentration of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Relevant Comprehensive Plan goals and objectives also include:

Environmental:

Support Sustainable Land Use & Transportation Policies

"Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation."

Housing:

Remove Housing Barriers

"Evaluate whether current zoning allows for new development consistent with historic patterns of form, density, and/or use, as well as whether it allows for priority growth areas."

Promote Sustainability

"Encourage energy efficiency in new construction and rehabilitation of our housing stock."

Adapt Affordable Housing

"Assess the capacity of existing affordable housing developments, many of which were built over four decades ago, to adapt to current best practices by improving energy efficiency and physical and social connections to surrounding neighborhoods."

"Pursue new opportunities for increased energy efficiency, increased densities, mixed incomes, and greater connectivity to surrounding neighborhoods."

"Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents"

Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods."

"Pursue policies to enable people who work in Portland to have the option to live in Portland."

Future Land Use

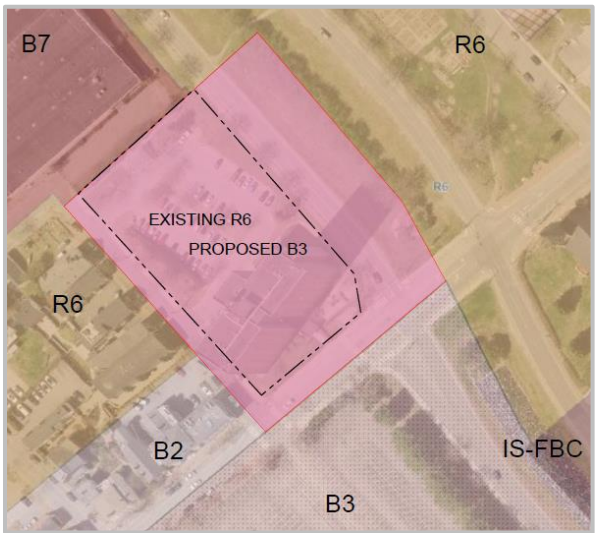
Priority Nodes & Corridors

"Priority nodes and corridors indicate areas that would be appropriate for new development to provide needed housing, businesses, and services proximate to transit, or areas that otherwise warrant some examination of potential for positive change in form and/or function."

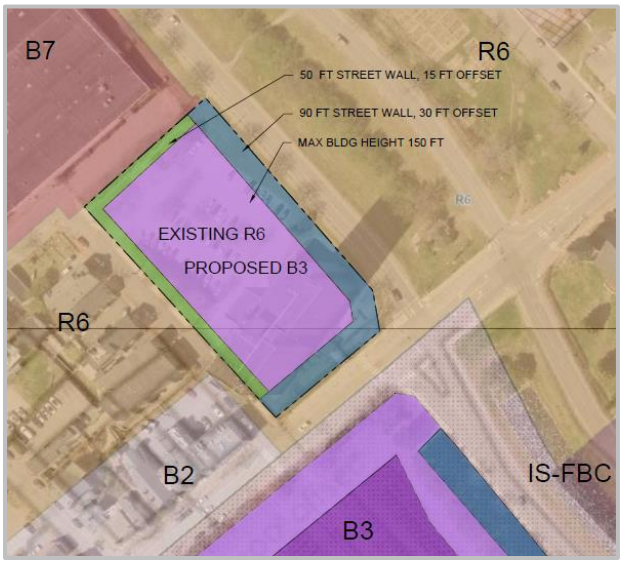
VIII. PLANNING BOARD RECOMMENDATION

The Planning Board considered the proposed Zoning Map Amendments at a Public Hearing on February 28, 2023. After deliberation, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously 4-0 (Stanley, Silk absent; Barker recused) to find that the following Zoning Map Amendments are consistent with the Comprehensive Plan and recommended adoption to the City Council:

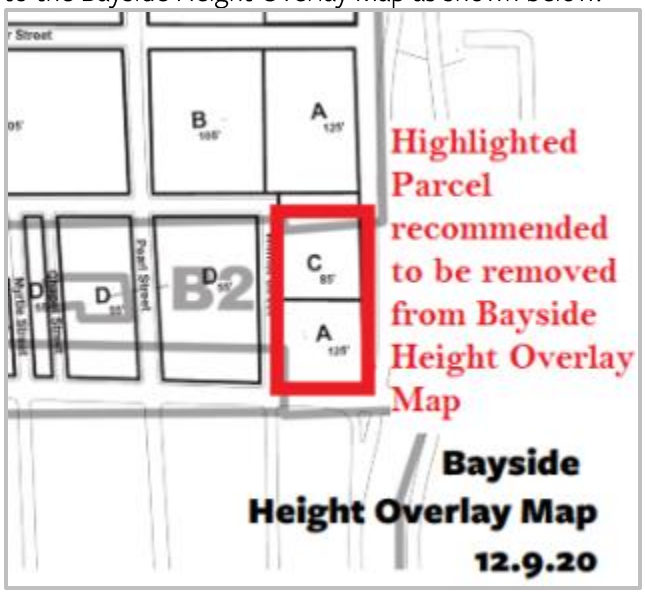
1. Zoning Map Amendment from R-6 to B-3 for the area of land that includes 211 Cumberland Avenue as shown below:



2. Map Amendment to the Downtown Height Overlay Map as shown below:



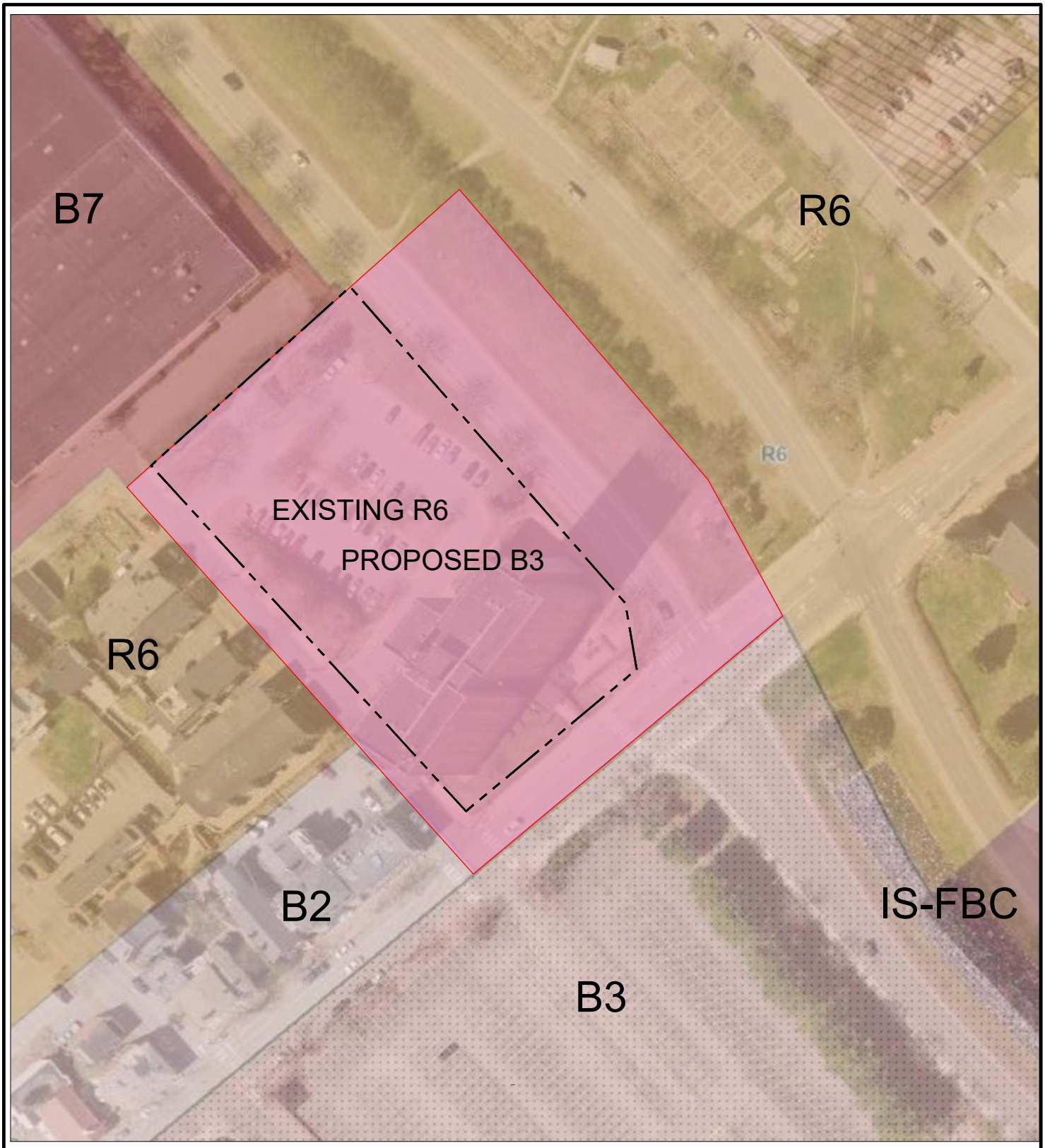
3. Map Amendment to the Bayside Height Overlay Map as shown below:



IX. ATTACHMENTS

Staff Attachments

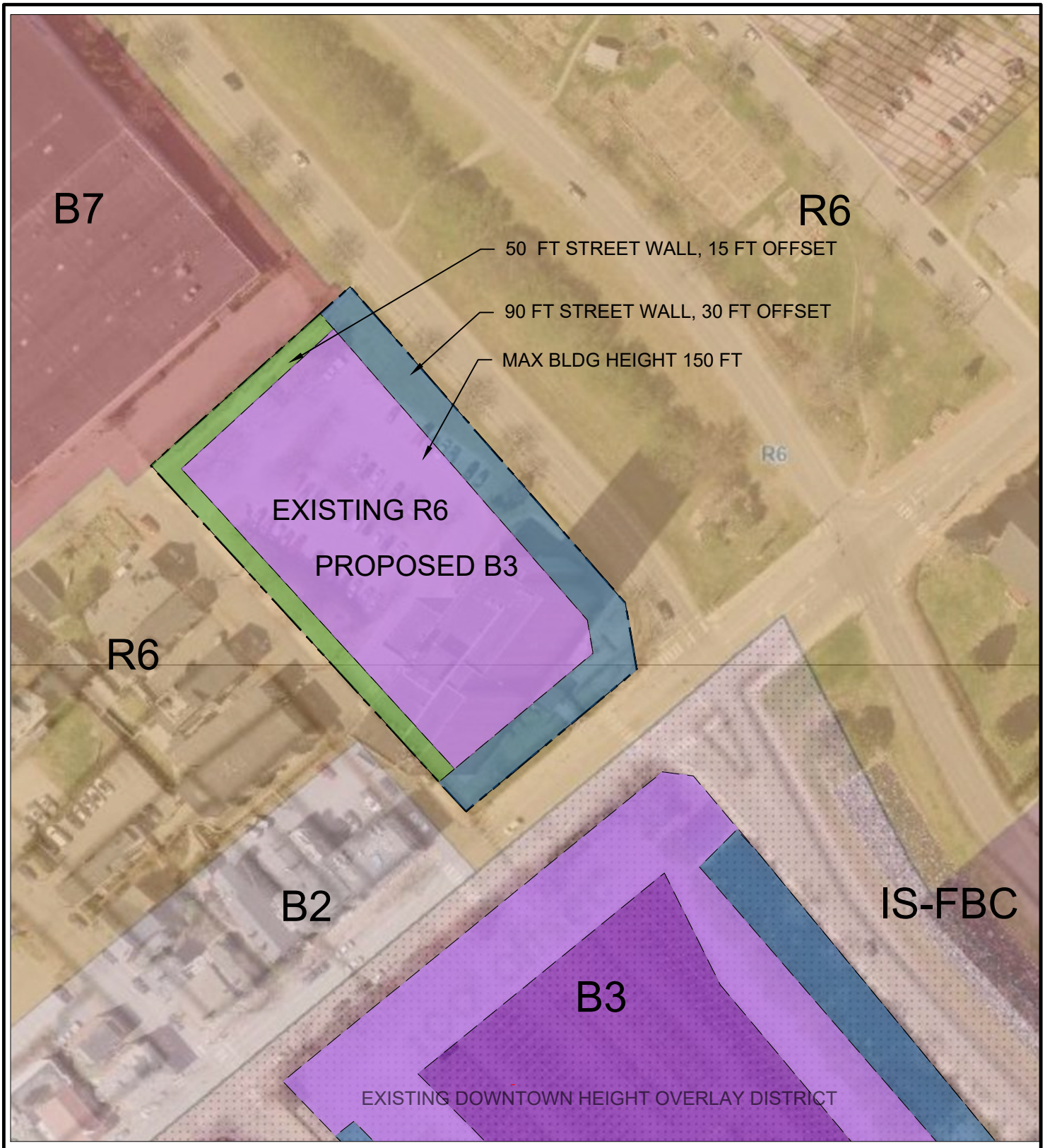
B. 211 Cumberland Avenue Zoning Map Amendment (R-6 to B-3)
C. Downtown Height Overlay Map Amendment
D. Bayside Height Overlay Map Amendment
E. February 28, 2023 Planning Board Report



PROPOSED MAP CHANGE FROM R6 TO B3

a. SPACE AND BULK REQUIRMENTS TO MEET B3 STANDARDS
b. BUILDING HEIGHT TO MEET ADJUSTED DOWNTOWN BUILDING HEIGHT OVERLAY, AS AMENDED TO INCLUDE THIS PROPERTY.

PROJECT: FRANKLIN TOWERS 211 Cumberland Ave	DATE: December, 2022	CARROLL ASSOCIATES Landscape Architects	SHEET NO.
DRAWING TITLE: PROPOSED ZONE MAP CHANGE	SCALE: 1"= 100'-0"	217 Commercial St Portland, ME PH: 207.772.1552 FAX: 207.772.0712	



PROPOSED DOWNTOWN HEIGHT OVERLAY AMENDMENT

a. Max Building Height 150 ft
b. Max Street Wall Height 50 ft with 15 ft Stepback along Wilmont Street
c. Maximum Street Wall Height 90 ft with 30 ft Stepback along Franklin and Cumberland Streets

PROJECT: FRANKLIN TOWERS 211 Cumberland Ave	DATE: December, 2022	CARROLL ASSOCIATES Landscape Architects	SHEET NO.
DRAWING TITLE: PROPOSED HEIGHT OVERLAY	SCALE: 1"= 100'-0"	217 Commercial St Portland, ME PH: 207.772.1552 FAX: 207.772.0712	

Downtown Height Overlay
Portland, Maine

Proposed Changes 2/28/2023

Areas Eligible for Architectural Cap***

Eligible areas are shown below:

Height Overlay Legend

Maximum Height (ft.)

- 35
- 45
- 50**
- 65
- 85
- 90**
- 125
- 150
- 190
- 210

Notes:

No new construction of any building shall be less than 35 ft. in height within 50 ft. of any street frontage. See Land Use Code for exceptions.

Maximum street wall height within the B-3 zone is 65 ft. unless otherwise noted.

*Boundary offsets are from street centerline unless otherwise noted.

**Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30 ft.) are acceptable.

***Architectural Cap Allowance: The building form may extend up to 40 ft. above the designated height limit for the purpose of proving a distinctive graduated design for an architectural building top and to enclose rooftop appurtenances. No habitable floor area shall be developed within the building envelope provided by the addition 40 ft. unless at least 50% of such habitable floor area is devoted exclusively to one or more publicly accessible uses, and provided that such floor area is incidental to the primary design intent of the space.

planning
& urban
development

0 500 1,000 2,000 3,000 4,000 Feet

Height Districts

A. Gateway Urban Height District
Min. 4 floors, max. ht. 125′, except as permitted under subsection 7.5.1(D)(Space and Bulk exceptions) of the Land Use Code, where buildings may have a maximum height of 165′.

B. Intermediate Urban Height District
min. 3 floors, max. ht. 105′

C. Transitional Neighborhood Height
min. 3 floors, max. ht. 85′

D. Traditional Neighborhood Height min. 2 floors, max ht. 55′

Bayside
Height Overlay Map
2.28.23

Note** Newly constructed buildings shall have the required minimum number of floors as provided by the Bayside Height Overlay Map within 50 feet of any frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.

PLANNING BOARD REPORT
PORTLAND, MAINE

211 Cumberland Avenue
Zoning Map Amendment
ZN-002321-2022

Submitted to:	Portland Planning Board	**Prepared By:**	Charles Tetelman
Public Hearing Date:	February 28, 2023	**Date:**	February 24, 2023

I. INTRODUCTION

Portland Housing Authority (PHA) and Portland Housing Development Corporation (PHDC) has submitted a zoning map amendment application requesting to rezone property at 211 Cumberland Avenue (Franklin Towers) from R-6 Residential to B-3 Downtown Business. The zoning map amendment also includes an amendment to the Downtown Height Overlay Map. Together, these zoning amendments would bring the property into zoning compliance, and would facilitate renovations to the Franklin Towers building, and allow for future development on the remainder of the site.

This application has been scheduled for a Planning Board Hearing without an initial Workshop.

Figure 1: Aerial View of 211 Cumberland Avenue

The Planning and Urban Development Department mailed 65 notices advertising this meeting to property owners within 500 feet of the site. A legal advertisement ran in the February 17, 2023 and February 21, 2023 editions of the *Portland Press Herald*.

Applicant: Portland Housing Authority (PHA)
Portland Housing Development Corporation (PHDC)

Applicant Consultants: Carroll Associates Landscape Architects

II. PROJECT DATA

Property Size	66,163 sq. ft.
Existing Zone	R-6 Residential

Existing Use	Residential
Proposed Zone	B-3 Downtown Business
Proposed Use	Residential

III. BACKGROUND & PROPOSED PROJECT

211 Cumberland Avenue is a 66,163 square foot lot and is the site of Franklin Towers, a 16-story (175 ft.) high-rise residential building that contains 200 subsidized housing units and an associated surface parking lot, owned and operated by the PHA. Franklin Towers was constructed in 1969.

The proposed zoning map amendments would facilitate PHA's future plans at 211 Cumberland Avenue which involve bringing Franklin Towers into zoning compliance and upgrading the building. This zoning amendment would also create opportunities for future development on the remainder of the parcel.

IV. EXISTING CONDITIONS AND SURROUNDING AREA

The proposed zoning map amendments include the PHA parcel at 211 Cumberland Avenue (Chart 026, Block P, Lot 4001). The site is bounded by Franklin Street, a wide urban arterial to the north, Cumberland Avenue, an urban major collector to the east, Wilmot Street, a local street to the south, and 127 Oxford Street, which is improved with a large industrial warehouse for Noyes and Sons to the west. The site currently includes Franklin Towers, a surface parking lot, and 200 affordable housing units.

The surrounding area contains a mix of medium- and high-density residential, commercial, institutional, and industrial uses as well as surface parking. Immediately north of the site is Franklin Street, which connects i-295 to the Portland waterfront. Across Franklin Street is the East Bayside neighborhood, which is characterized by a mix of single- and two-family, and multi-family residential as well as industrial and mixed-use buildings ranging between one and six-stories. Light Industrial uses in East Bayside are located west of Fox Street. The Cathedral of the Immaculate Conception, an approximately 200-foot-tall locally designated historic landmark is located northeast of the site, across Franklin Street along Cumberland Avenue. Immediately east of the site, across Cumberland Avenue, is the Top of the Old Port parking lot, a large surface parking lot. There are many residential buildings including single- and two-family and multi-family buildings south of the site. Portland City Hall and Merrill Auditorium are approximately three-blocks south of the site.

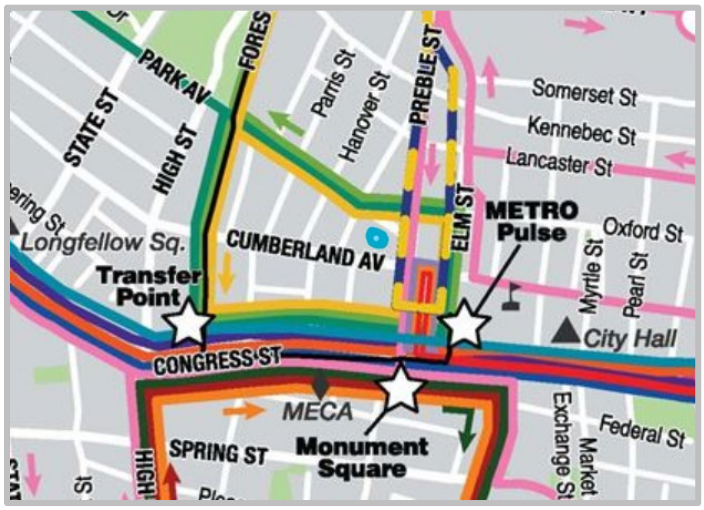


Figure 2: Transit Map (source: GP Metro)

The property at 211 Cumberland Avenue is located directly along the METRO Local Service Route 8. The site is in close proximity to three primary METRO transit hubs located within a half-mile radius including the Transfer Point at the corner of Congress Street and Forest Avenue, the Monument Square transit hub, and METRO Pulse located on Elm Street just off of Congress Street. Between these three nearby transit hubs, nearly all the METRO Routes are accessible. Additionally, Franklin Towers is near the head of the Bayside Trail which connects into the Back Cove Trail

and the Eastern Promenade Trail providing access to these trails for pedestrians or bicyclists.

The site is currently within an R-6 Residential zone, which extends both north and east of the site. Immediately east of the site, across Cumberland Avenue, property is zoned B-3 Downtown Business. Height in the B-3 zone is governed by the Downtown Height Overlay Map. Directly to the west, property is zoned B-7 Mixed Development. The B-2 Community Business zone is mapped along Cumberland Avenue to the west of Franklin Towers between Wilmot Street and Chestnut Street and permits building heights up to 50 feet if the first floor is used for commercial use.

V. PROPOSED MAP AMENDMENTS

I. Zoning Map Amendment (Plan 2)

The applicant proposes a zoning map amendment to rezone the parcel located at 211 Cumberland Avenue from R-6 Residential to B-3 Downtown Business. The B-3 zone will bring Franklin Towers into zoning conformity for both density and height. Currently, Franklin Towers is a legally nonconforming building with a height of approximately 175 feet, and a residential density well in excess of the R-6 density limit of 725 sq. ft. of lot area per dwelling unit. The lot is approximately 66,163 sq. ft. (according to the Assessor's Office) with a current density of approximately 330 sq. ft. lot area per dwelling unit, based upon the 200 existing residential units. With no density requirement in the B-3 Downtown Business zone, rezoning this site would allow for renovations and increased density, facilitating affordable housing opportunities near Portland's downtown core. The applicant's submittal (Plan 2) shows the proposed Zoning Map Amendment.

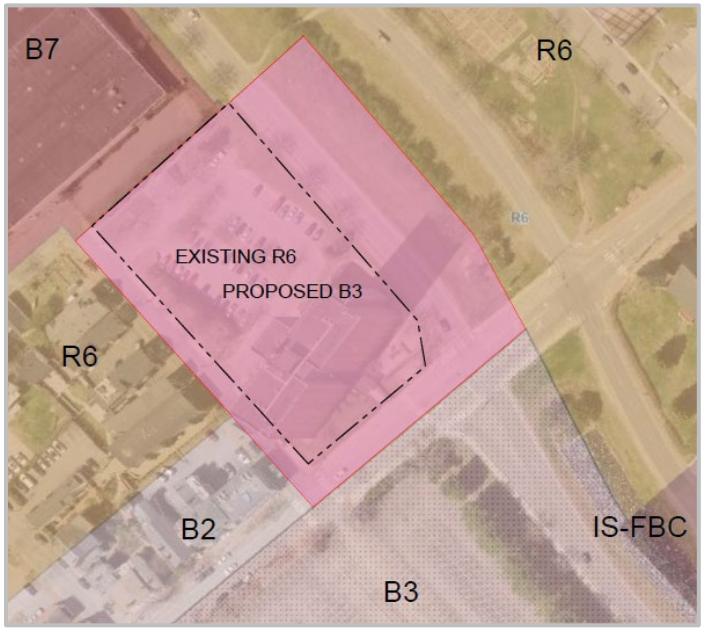


Figure 3: Proposed Zoning Map Amendment

II. Downtown Height Overlay Map Amendment (Plan 2 + Attachment 1)

As part of this application, PHA is also proposing an amendment to the Downtown Height Overlay Map, which governs height for sites within Portland's downtown core. The applicant is proposing a 150 ft. max building height with a 90 ft. maximum street wall and 30 ft. stepback requirement along Franklin Street and Cumberland Avenue as well as a 50 ft. maximum street wall and 15 ft. stepback along Wilmot Street and the backside of the parcel. Affordable housing projects located within the B-3 zone may utilize height and density bonuses. Height bonuses are specified in Section 18.2.4.A

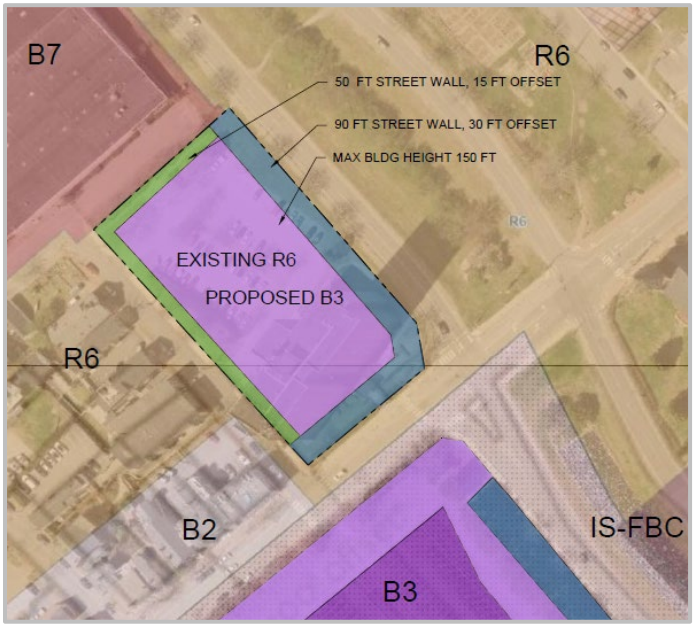


Figure 4: Downtown Height Map Overlay Amendment

and Table 18-C of the Land Use Code, and range from up to 10 feet for projects including a minimum of 20 percent of units as affordable and up to a height bonus of 25 feet for projects that include at least 75 percent of units as affordable.

VI. ZONING ANALYSIS

R-6 Residential Zone

The existing zoning at 211 Cumberland Avenue is zoned entirely R-6 Residential. The purpose of the R-6 Residential zone is to:

> *"set aside areas on the peninsula for housing characterized primarily by multi-family dwellings at a high density providing a wide range of housing for differing types of households; to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses; and to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula."*

The R-6 zone limits residential density by requiring a minimum of 725 square feet of lot area per dwelling unit and further requires a minimum lot area of 2,000 square feet for residential uses. Maximum height in the R-6 zone is 45 feet or for R-6 buildings governed by the Bayside Height Overlay map 55 feet or 85 feet and 125 feet for the Franklin Towers parcel. Affordable housing height and density bonuses are not permitted in the R-6 zone. No off-street parking is required for the first three residential dwelling units and sites in the R-6 zone that are within a ¼ mile of fixed route transit may be exempt from providing parking as specified in Table 19-B of the Land Use Code.

B-3 Downtown Business Zone

The applicant is proposing to rezone 211 Cumberland Avenue to B-3 Downtown Business. The purpose of the B-3 Downtown Business zone is to:

> *"maintain and enhance the role of the downtown as the business and commercial center of the region; to enhance and promote the orderly expansion of retail and service business downtown, satisfying the related needs for the city's resident, working and visitor populations; to encourage increased housing opportunity downtown for a diverse residential population; to enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment; to encourage excellence in urban design; to preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures; to provide opportunity for an enhanced presence and integration of the arts and cultural activities; to reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups; to provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment."*

The B-3 Downtown Business zone has no density requirement. Building heights are governed by the Downtown Height Overlay Map and Bayside Height Overlay Map and range from 35 feet up to 210 feet. In addition, projects located within the B-3 zone that provide affordable housing may utilize height and density bonuses as outlined in Table 18-C. Immediately east of the site, across Cumberland Avenue, buildings are permitted heights up to 150 feet to a depth of 100 feet and then may rise to a maximum height of 190 feet. A 90-foot maximum street wall height after which a 30-foot minimum stepback is required is mapped along

Franklin Street. Sites in the B-3 zone that are within a ¼ mile of fixed route transit may be exempt from providing parking as specified in Table 19-B of the Land Use Code.

The applicant is proposing the B-3 zone to bring Franklin Towers into conformance zoning. The existing building is approximately 175 tall. The B-3 zone would allow the applicant to map 150 feet on the parcel. The 150-foot height may be increased when utilizing affordable housing height and density bonuses up to 25 feet, which would bring the 175-foot-tall building into conformance for height. The proposal would increase the height by 65 feet and by 25 feet on the western and easterly portions of the parcel, respectively and includes contextual maximum street wall heights of 90 feet along the parcel's Franklin Street and Cumberland Avenue frontages and 50 feet along the parcel's frontage of Wilmot Street and abutting property line with 127 Oxford Street. The lot is approximately 66,163 sq. ft. (according to the Assessor's Office) with a current density of approximately 330 sq. ft. lot area per dwelling unit. With no density requirement in the B-3 Downtown Business zone, rezoning this site to B-3 would bring the building into conformance with density requirements,

Table 1 provides a comparison of the permitted uses for zones under consideration. Uses marked with a 'P' are permitted uses in the zone. A 'C' indicates a conditional use. Uses with an empty cell are not permitted in the zone. '**' indicates that other restrictions may apply.

Table 2 provides a comparison of the dimensional requirements for zones under consideration.

Table 1 - Permitted Uses	R-6	B-3
Single-family dwellings	P	P
Two-family dwellings	P	P
Multi-family dwellings	P	P
Congregate care facilities		P
Handicapped family units	P	P
Special needs independent dwelling units	P	
Combined living/working spaces		P
Lodging houses	P	P
Sheltered care group homes	C	
Emergency shelters		C
Clinics		P
Elementary, middle, and secondary schools	C	P
Governmental uses	P	P
Hospitals	C	P
Intermediate care facilities	C	P
Long-term and extended care facilities	C	
Places of assembly (<10,000 sq. ft.)	C	P
Places of assembly (>10,000 sq. ft.)	C	P
Preschool facilities	C	P
Post-secondary schools	C	P
Bed and breakfasts	P/C*	P
Adult business establishments		P
Bars		P
Bed and breakfasts		P
Exhibition, meeting, and convention halls		P

General offices (<5,000 sq. ft.)	P	P
General offices (>5,000 sq. ft.)		P
General services (<5,000 sq. ft.)		P
General services (>5,000 sq. ft.)		P
Hostels	P/C**	
Hotels		P
Marijuana retail store		P
Registered marijuana dispensary		P
Restaurants		P
Retail (<5,000 sq. ft.)		P
Retail (5,000 – 25,000 sq. ft.)		P
Retail (>25,000 sq. ft.)		P
Small-scale marijuana caregiver		P
Theaters and performance halls		P
Communication studios		P
Laboratory and research facilities		C
Low-impact industrial (<10,000 sq. ft.)		P**
Printing and publishing		P
Repair services		P
Studios for artists and craftspeople		P
Warehouse, storage, and distribution		C**
Cemeteries	P	
Off-street parking	C	P/C**
Parks and open spaces	P	P
Solar energy system (minor)	P	P
Utility substations	C	C
Wind energy system (minor)		C

Table 2 - Zoning Requirements	R-6	B-3
Lot Size (min)	2,000 sq. ft. to 2 ac. (depending on use)	None
Density (lot are per dwelling unit)	725 sq. ft.	None
Street Frontage (min)	20 ft.	15 ft.
Front Yard (min)	5 ft.	
Front Yard (max)		5 ft.
Rear Yard (min)	10 ft.	None
Side Yard (max)	5 ft.	None
Side Yard (Side Street, min)	None	None
Stepbacks	10 ft. from side property line and 15ft. from rear property line	None
Lot Coverage (max)	60%	25% above 125 ft.
Impervious Area (max)		None

Lot Width (min)	20 ft.	
Building Height (max)	45 ft.** 55 ft in Bayside Height Overlay Map 85 ft /125 ft Franklin Towers	Downtown Height Overlay Map
Floor Area (max)		10,000 sq. ft. (laboratory and research facilities, warehousing)

VII. COMPREHENSIVE PLAN CONSISTENCY

Staff have identified that the map amendment aligns with Portland's comprehensive plan, *Portland's Plan 2030* by enhancing the ability for the applicant to rehabilitate existing affordable housing and facilitate future affordable housing development in downtown Portland, providing the opportunity for housing within an urban context, and potentially increasing the services provided within a walking and transit radius. In addition, the map amendment would foster sustainable growth by providing contextually appropriate housing density in and approximate to neighborhood centers, concentration of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Relevant Comprehensive Plan goals and objectives also include:

Environmental:

Support Sustainable Land Use & Transportation Policies

"Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation."

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"Evaluate whether current zoning allows for new development consistent with historic patterns of form, density, and/or use, as well as whether it allows for priority growth areas."

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"Encourage energy efficiency in new construction and rehabilitation of our housing stock."

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"Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents"

Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods."

"Pursue policies to enable people who work in Portland to have the option to live in Portland."

Future Land Use

Priority Nodes & Corridors

"Priority nodes and corridors indicate areas that would be appropriate for new development to provide needed housing, businesses, and services proximate to transit, or areas that otherwise warrant some examination of potential for positive change in form and/or function."

VIII. NEIGHBORHOOD MEETING & PUBLIC COMMENT

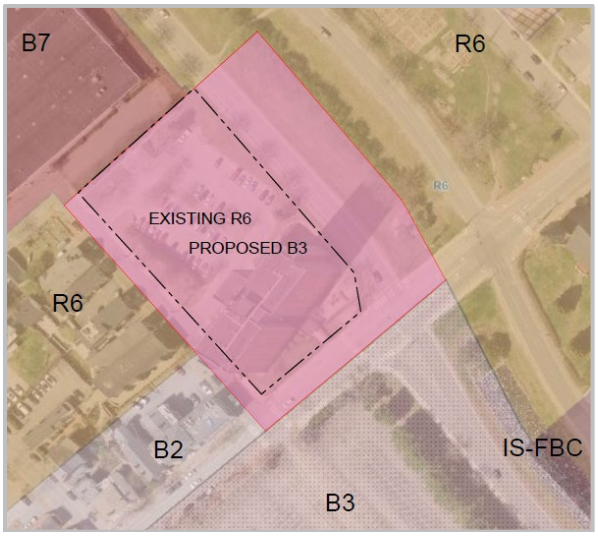
No public comment has been submitted and the applicant was not required to hold a neighborhood meeting as part of this application.

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.

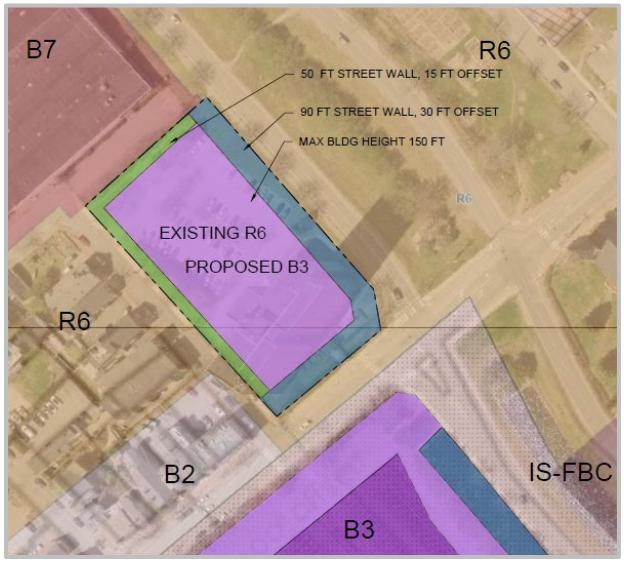
X. PROPOSED MOTIONS

1. 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 February 28, 2023 for the application ZN-002321-2022 (211 Cumberland Avenue), 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 211 Cumberland Avenue as shown below:



2. 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 February 28, 2023 for the application ZN-002321-2022 (211 Cumberland Avenue), and/or

other findings, the Planning Board finds that the proposed Downtown Height Overlay 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 Downtown Height Overlap Map amendment for the area of land that includes 211 Cumberland Avenue as shown below:



XI. ATTACHMENTS

REPORT ATTACHMENTS

1. Proposed Downtown Height Overlay Map

APPLICANT SUBMITTAL

A. Project Summary
B. Consistency with Comprehensive Plan
C. Checklist
D. Right, Title, & Interest

PLANS

Plan 1. Vicinity Map
Plan 2. Proposed Zoning Map and Downtown Height Overlay Map Amendments
Plan 3. Site Map

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 30, 2023

SUBJECT: Order 173-22/23 Amendment to Downtown Height Overlay and Bayside Height Overlay Maps Re: 211 Cumberland Avenue - Sponsored by the Planning Board, Maggie Stanley, Chair

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: n/a

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

I. SUMMARY

II. AGENDA DESCRIPTION

This is a companion order to the order above.

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

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. Amendment to Building Height Overlay Maps for 211 Cumberland 4.10.2023

Prepared by:

Date: 03/30/2023

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

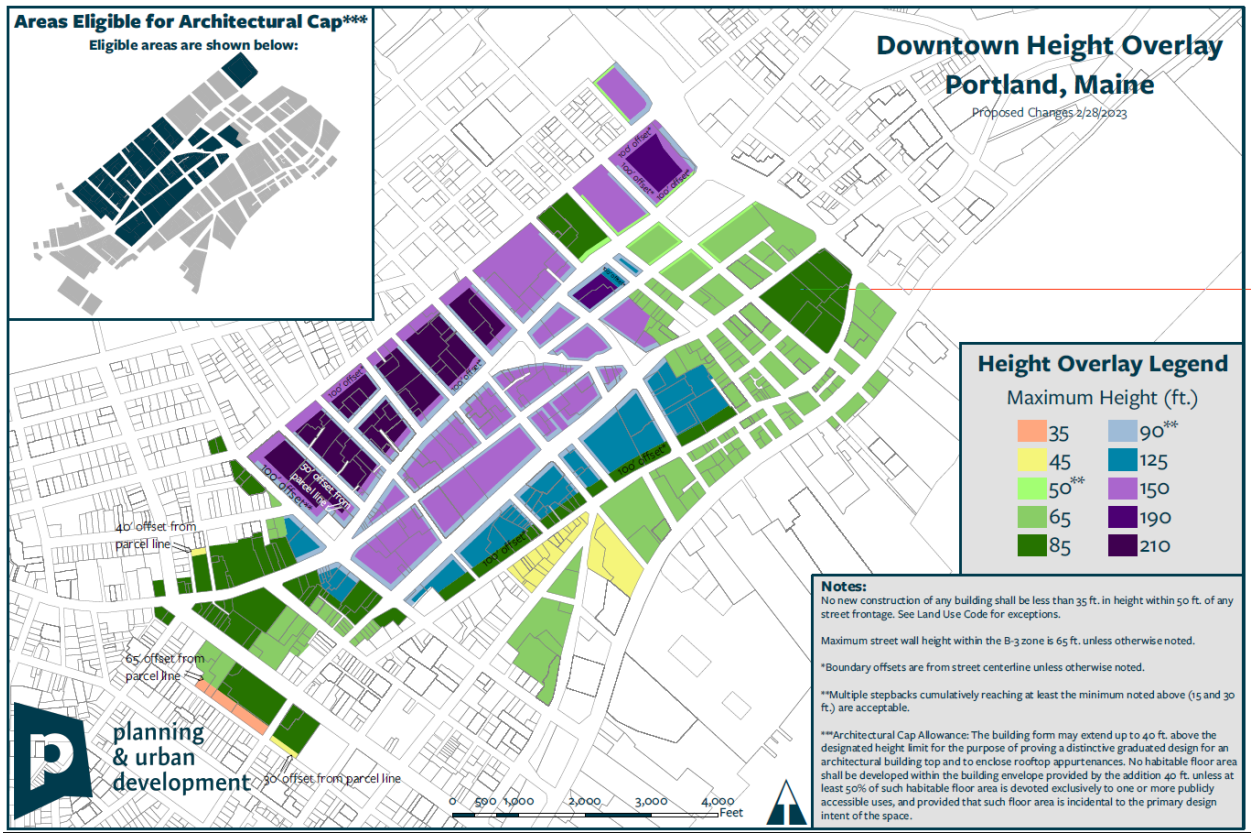
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO DOWNTOWN HEIGHT OVERLAY AND BAYSIDE HEIGHT OVERLAY MAPS RE: 211 CUMBERLAND AVENUE

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

That the Downtown Height Overlay Map of the City of Portland as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into Chapter 14, Land Use, of the Portland City Code, be and hereby is amended by incorporating the property at 211 Cumberland Avenue as shown below; and



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

That the Bayside Height Overlay Map of the City of Portland as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into Chapter 14, Land Use, of the Portland City Code, be and hereby is amended specifically by eliminating 211 Cumberland Avenue from the map as shown below.

Note** Newly constructed buildings shall have the required minimum number of floors as provided by the Bayside Height Overlay Map within 50 feet of any frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 20, 2023

SUBJECT: Order 174-22/23 Amendment to Zoning Map Re: Repealing the C-5 Conditional Zone Agreement at 22 Park Avenue - Sponsored by the Planning Board, Maggie Stanley, Chair

SPONSOR: The Portland Planning Board, Maggie Stanley, Chair.
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 4/10/2023 **Final Action 4/24/2023**

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

I. SUMMARY

The Planning Board recommends a Zoning Map Amendment changing the parcel at 22 Park Avenue to B-2b Community Business and terminating the existing Contract Zone (C-5).

II. AGENDA DESCRIPTION

On February 28, 2023 the Planning Board unanimously voted 5-0 (Stanley, Silk absent) to find the proposed zoning map amendment changing the parcel at 22 Park Avenue to a B-2b Community Business zone and terminating the existing Contract Zone to be consistent with the Comprehensive Plan for the City of Portland and recommends to the City Council adoption of the Zoning Map Amendment. This application would remove the existing residential density limitations imposed by the Contract Zone and would allow Community Housing of Maine (CHOM) to utilize all existing dwelling units within the existing building at 22 Park Avenue.

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

III. BACKGROUND

On June 4, 1991, the City of Portland rezoned 22 Park Avenue to Contract Zone C-5, which permitted the charitable organization YWCA to permit a seventh dwelling unit of transitional housing as part of their Teen Parent Services Program. The contract zone only allows the seventh unit to be occupied if YWCA, or a similar organization, maintains this transitional housing element. Today, the property is under a purchase and sale agreement to be owned and operated by Community Housing of Maine (CHOM), an affordable housing provider not offering transitional housing services, and would therefore be ineligible to operate this seventh unit. The property was previously zoned B-2 prior to the adoption of the C-5 Contract Zone in 1991, and subsequently the contiguous area zoned B-2 adjacent to the property at 22 Park Avenue was rezoned to B-2b in 1999. This application would remove the existing residential density limitations imposed by the Contract Zone and would allow Community Housing of Maine (CHOM) to utilize all existing dwelling units within the existing building at 22 Park Avenue.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intent of the proposed zoning actions is to allow Community Housing of Maine to be able to utilize the seventh housing unit in the existing building. The intended result would amend the city zoning map, which furthers City Council goals including housing development in proximity to priority nodes and corridors, adopting affordable housing, and removing housing barriers.

V. FINANCIAL IMPACT

At a public hearing on February 28, 2023 the Planning Board unanimously voted 5-0 (Stanley, Silk absent) to find that the proposed zoning map amendment 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 22 Park Avenue and to terminate the existing Contract Zone (C-5).

VI. STAFF ANALYSIS AND BACKGROUND

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

VII. RECOMMENDATION

At a public hearing on February 28, 2023 the Planning Board unanimously voted 5-0 (Stanley, Silk absent) to find that the proposed zoning map amendment 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 22 Park Avenue and to terminate the existing Contract Zone (C-5).

VIII. LIST ATTACHMENTS

1. Order Repealing 22 Park Avenue Contract Zone, Rezone to B-2b Community Business 4.10.2023
2. Park Ave. - 22 (City Council Report)
3. Attachment A - Zoning Map Amendment
4. Attachment B - Park Ave - 22 Planning Board Hearing Memo

Prepared by:
Date: 03/20/2023

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

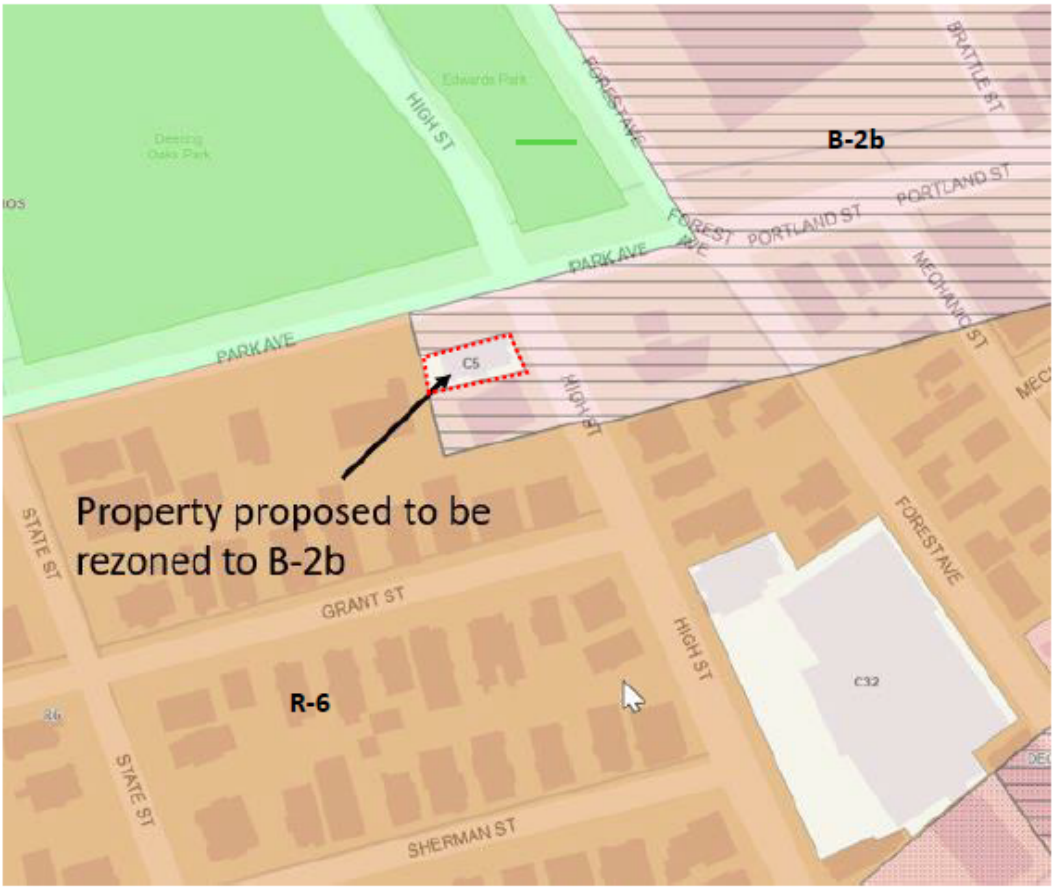
CITY OF PORTLAND
IN THE CITY COUNCIL

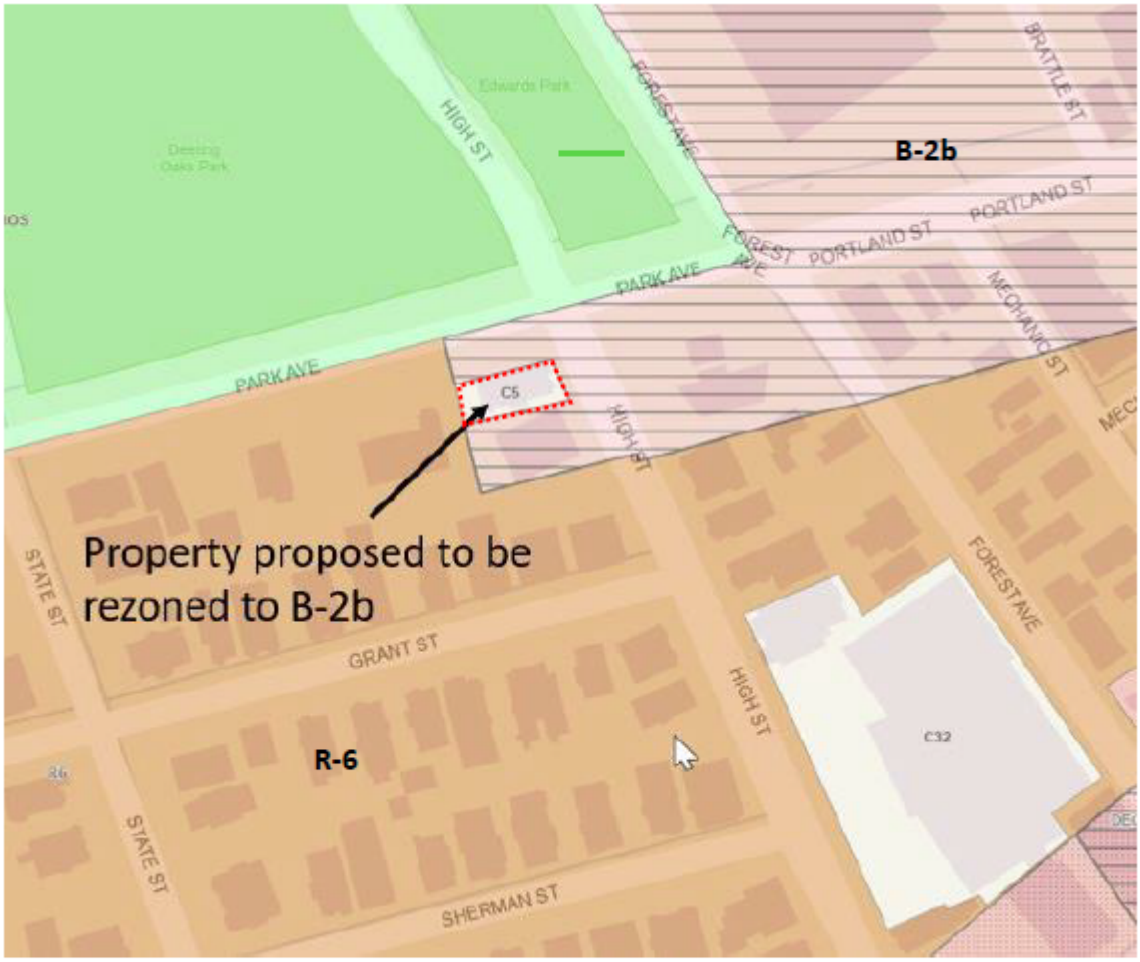
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK DION (5)

AMENDMENT TO ZONING MAP
RE: REPEALING C-5 CONDITIONAL ZONE AGREEMENT
AT 22 PARK AVENUE

ORDERED, that the conditional zone agreement with the YWCA authorized by Order 316-90/91 on April 1, 1991 for 22 Park Avenue is hereby repealed; and

BE IT FURTHER ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Urban Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect the repeal of the conditional rezoning and the rezoning of 22 Park Avenue to the B-2b Community Business Zone as set forth below.




Edwards Park
Deering Oaks Park
HIGH ST
FOREST AVE
BRATTLE ST
B-2b
PORTLAND ST
PORTLAND ST
PARK AVE
PARK AVE
MECHANIC ST
C5
HIGH ST
Property proposed to be rezoned to B-2b
STATE ST
GRANT ST
R-6
HIGH ST
FOREST AVE
C32
STATE ST
SHERMAN ST

PLANNING BOARD REPORT
TO CITY COUNCIL
PORTLAND, MAINE

22 Park Avenue
ZN-002238-2022
Community Housing of Maine (CHOM)

Submitted to:	Mayor and City Councilors	**Prepared By:**	Maya Balassa, Planner
Council 1st Read:	April 10, 2023	**Date:**	March 16, 2023
Council Hearing Date:	April 24, 2023		

I. INTRODUCTION

Community Housing of Maine (CHOM) has requested a zoning map amendment to remove the existing Contract Zone at 22 Park Avenue and rezone the property to B-2b Community Business. The property was previously zoned B-2 prior to the adoption of the C-5 Contract Zone in 1991, and subsequently the contiguous area zoned B-2 adjacent to the property at 22 Park Avenue was rezoned to B-2b in 1999.

Figure 1: 22 Park Avenue outlined in blue. Source Google Earth

II. PLANNING BOARD DELIBERATION

The Planning Board considered the proposed Zoning Map Amendments at a hearing on February 28, 2023. After deliberation, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously 5-0 (Stanley, Silk absent) to recommend to the City Council terminating Contract Zone C-5 and rezoning the property to B-2b Community Business.

The Planning Board found the proposed Zoning Map Amendments to be consistent with the Comprehensive Plan, *Portland's Plan 2030*. The site is located at the corner of Park Avenue and High Street and is bounded on three sides by an existing B-2b Community Business zone. The B-2b zone encompasses the majority of an 11-block area north of the site roughly between High, Preble, and Kennebec

streets. High Street and Park Avenue are major arterials, and provide access to public transit, with an existing transit stop located in front of the property. The surrounding area is characterized by a mix of uses including residential, commercial retail, business, and services establishments. Given the mixed-use nature of the area the Board noted that the B-2b zone would add appropriate density and uses consistent with the surrounding context.

The Board believed the proposed zoning aligns with city-wide goals aimed at ensuring mixed-use zones that support housing, businesses, and services are located in walkable areas with access to public transit. Moreover, terminating the contract zone would allow CHOM to utilize the existing seventh residential unit within the building, which would not be permitted under the existing contract zone.

III. BACKGROUND AND EXISTING CONDITONS

On June 4, 1991, the City of Portland rezoned 22 Park Avenue to Contract Zone C-5, which permitted the charitable organization YWCA to permit a seventh dwelling unit of transitional housing as part of their Teen Parent Services Program. The contract zone only allows the seventh unit to be occupied if YWCA, or a similar organization, maintains this transitional housing element. Today, the property is under a purchase and sale agreement to be owned and operated by Community Housing of Maine (CHOM), an affordable housing provider not offering transitional housing services, and would therefore be ineligible to operate this seventh unit.

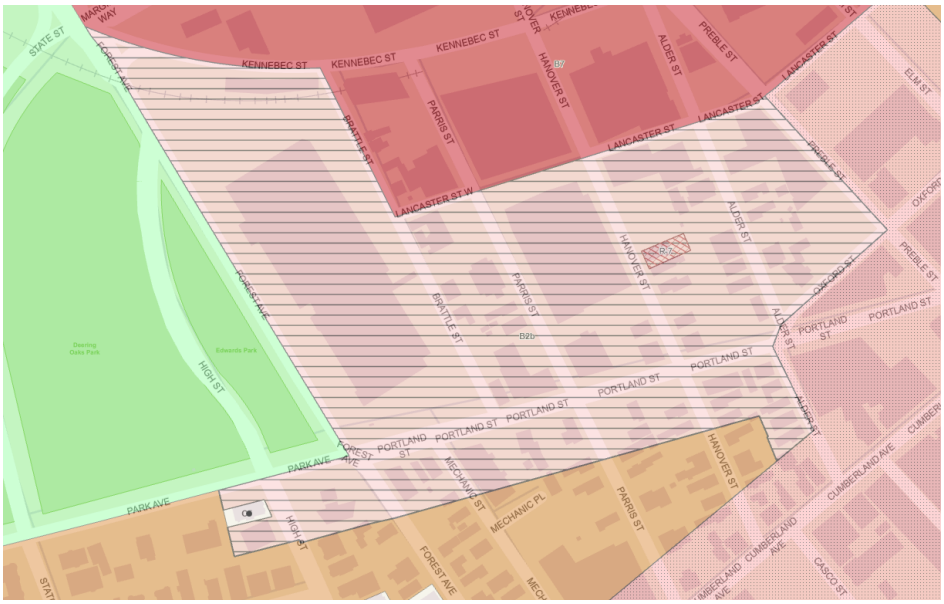


Figure 2: Exiting Zoning Map

IV. PROPOSED MAP AMENDMENT

The applicant is requesting to terminate the existing C-5 Contract Zone, and rezone the property to B-2b Community Business, which would permit CHOM to utilize all existing dwelling units within the building at 22 Park Avenue. This application is being requested so as to remove the existing residential density limitations imposed by the contract zone.

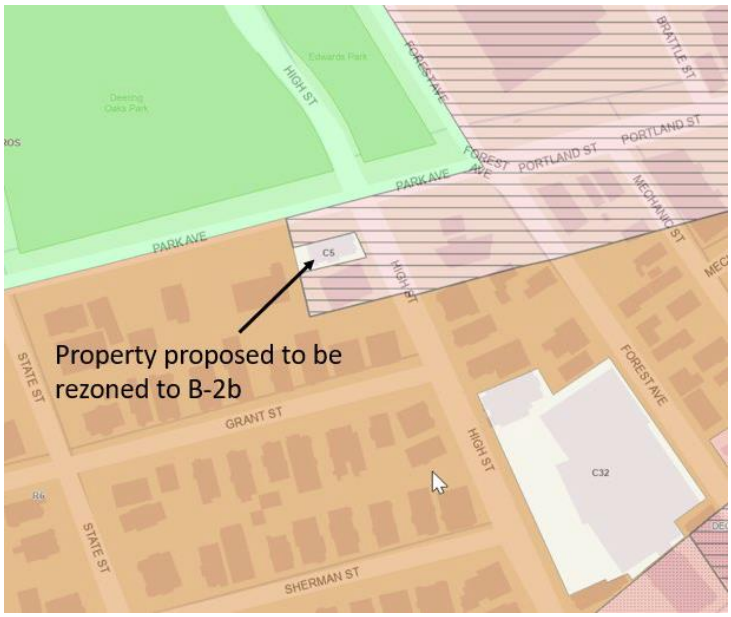


Figure 3: Proposed Zoning Map Amendment to B-2b

V. ZONING ANALYSIS

The current use of this property aligns with the purpose statement of the B-2b zone. In the Land Use Code Chapter 14, Article 5, the B-2b zone purpose statement includes:

"To provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists or where a neighborhood-compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern. The B-2b should provide locations for moderate to high-density housing in urban neighborhoods along arterials."

This site is located along both the High Street and Park Avenue major arterials, and features convenient public transit access, with an existing transit stop located in front of the property on Park Avenue. The property is located within a large contiguous area that is zoned B-2b, depicted in Figure 2 of this report. With respect to the surrounding zoning context, the Parkside Neighborhood, generally located to the south and west of the subject property, is zoned R-6 Residential, while the nearby downtown core, anchored by Congress Street, is zoned B-3 Downtown Business.

The B-2b zone permits multi-family dwellings and allows 435 square feet of lot area per dwelling unit. The property at 22 Park Avenue, under the B-2b dimensional standards, would be permitted to have up to eight units, given that the lot is 3,492 square feet. Maximum height in the B-2b zone is 45 feet, except 50 feet if the first floor is a commercial use. In addition, projects located within the B-2b zone that provide affordable housing may utilize height and density bonuses as outlined in Table 18-C.

VI. COMPREHENSIVE PLAN CONSISTENCY

Rezoning 22 Park Avenue from Contact Zone C-5 to B-2b Community Business is consistent with Portland's Plan 2030. Goals for housing in Portland's Plan include a statement to "increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland

residents". This rezoning would enable the occupation of an additional affordable housing unit, which supports the housing goals of Portland's Plan. Relevant comprehensive plan goals also include:

Housing:

- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.

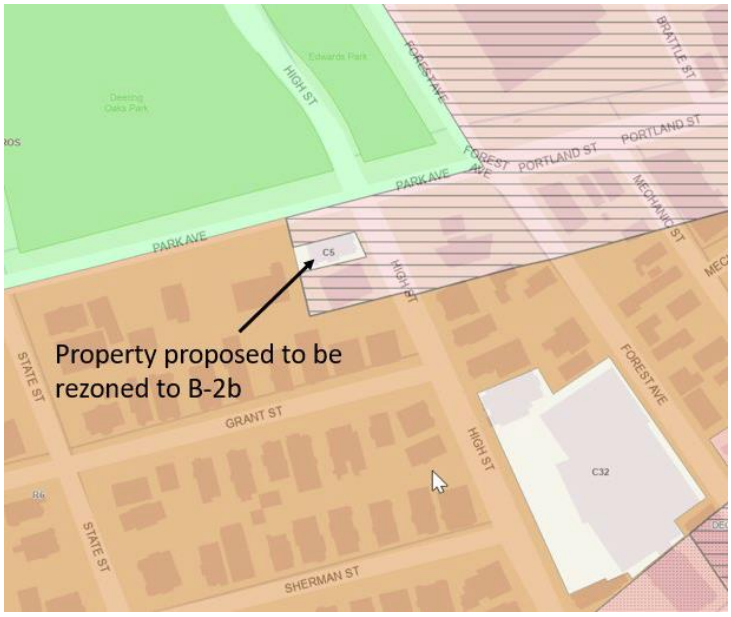
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

- Pursue policies to enable people who work in Portland to have the option to live in Portland.

VII. PLANNING BOARD RECOMMENDATION

The Planning Board considered the proposed Zoning Map Amendments at a hearing on February 28, 2023. After deliberation, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously 5-0 (Stanley, Silk absent) to find that the following zoning map amendment is consistent with the Comprehensive Plan and recommends adoption to the City Council:

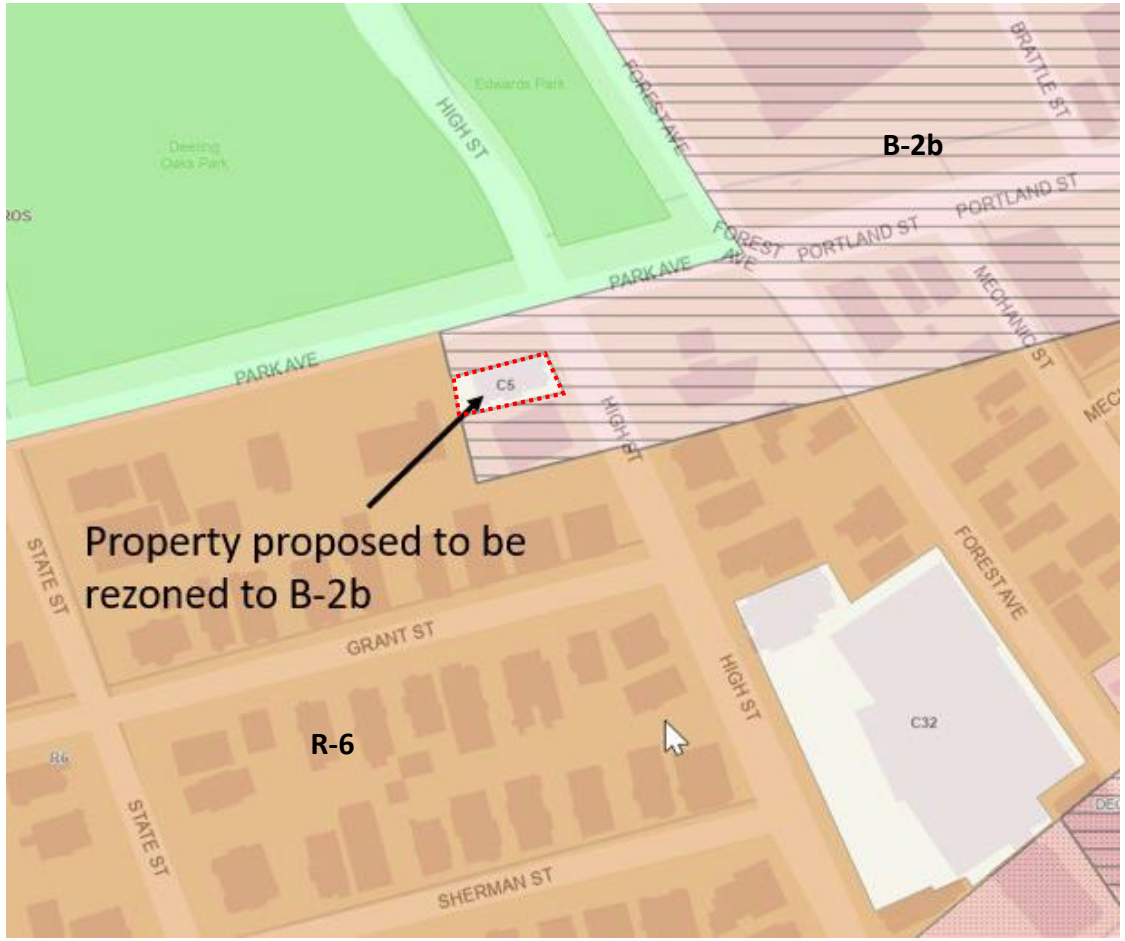
1. The contract zone, C5, at 22 Park Avenue be terminated and the parcel be rezoned to B-2b Community Business Zone.



VIII. ATTACHMENTS

A. Zone Map Amendment – Contract Zone (C-5) to B-2b
B. Planning Board Report – February 24, 2023

Attachment A



Attachment B

PLANNING BOARD REPORT
PORTLAND, MAINE

Rezoning 22 Park Ave from Contract Zone 5 - Contract R6 to B2-b
22 Park Ave
Zoning Map Amendment
ZN-002238-2022
Brian Kilgallen, Applicant

Submitted to:	Portland Planning Board	**Prepared By:**	Maya Balassa
Public Hearing Date:	February 28, 2023	**Date:**	February 24, 2023

`

I. INTRODUCTION

Community Housing of Maine (CHOM) has requested a zoning map amendment to remove the Contract Zone at 22 Park Ave and rezone the property to B-2b Community Business. The property was previously zoned B-2 prior to the adoption of the C-5 Contract Zone in 1991, and subsequently the contiguous area zoned B-2 adjacent to the property at 22 Park Avenue was rezoned to B-2b in 1999.

The Planning and Urban Development Department mailed 103 notices advertising this meeting to property owners within 500 feet of the site. A legal advertisement ran in the February 17th and 21st, 2023 editions of the *Portland Press Herald*.

Image 1. Google Earth Pro view of 22 Park Ave

Applicant: Brian Kilgallen, Community Housing of Maine (CHOM)

II. PROJECT DATA

Existing Zoning	C5 Contract Zone
Proposed Zoning	B-2b Community Housing
Property Size	3,492 Square Feet
Existing Use	Housing – Affordable Housing
Proposed Use	Housing – Affordable Housing

III. BACKGROUND & EXISTING CONDITIONS

On June 4, 1991, the City of Portland rezoned 22 Park Ave to Contract Zone C-5, which permitted the charitable organization YWCA to permit a seventh dwelling unit of transitional housing as part of their Teen Parent Services Program. The contract zone only allows the seventh unit to be occupied if YWCA, or a similar organization, maintains this transitional housing element. Today, the property is under a purchase and sale agreement to be owned and operated by Community Housing of Maine (CHOM), an affordable housing provider not offering transitional housing services, and would therefore be ineligible to operate this seventh unit.

IV. PROPOSED ACTION

The proposal before the Planning Board is a request to terminate the C-5 Contract Zone, and rezone the property to B-2b Community Business which would permit CHOM to utilize all existing dwelling units within the building at 22 Park Avenue. This application is not intended to facilitate future development at this property and is being requested so as to remove the existing residential density limitations imposed by the contract zone.

V. ZONING ANALYSIS

Image 2. Zoning context for 22 Park Ave

The current use of this property aligns with the purpose statement of the B-2b zone. In the Land Use Code Chapter 14, Article 5, the B-2b zone purpose statement includes:

"To provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists or where a neighborhood-compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern. The B-2b should provide locations for moderate to high-density housing in urban neighborhoods along arterials."

This site is located along both the High Street and Park Avenue major arterials, and features convenient public transit access, with an existing transit stop located in front of the property on Park Avenue. The property is located within a large contiguous area that is zoned B-2b, depicted in Image 2 of this report. With respect to the surrounding zoning context, the Parkside Neighborhood, generally located to the south and west of the subject property, is zoned R-6 Residential, while the downtown core, anchored by Congress Street, is zoned B-3 Downtown Business.

The B-2b zone permits multi-family dwellings and allows 435 sf of lot area per dwelling unit. The property at 22 Park Avenue, under the B-2b dimensional standards, would be permitted to have up to eight units, given that the lot is 3,492 square feet.

VI. RIGHT, TITLE, & INTEREST

The applicant has shown right, title, and interest through inclusion of the Purchase and Sale Agreement of 22 Park Ave by Community Housing of Maine, Inc. from The Opportunity Alliance (Attachment C).

VII. COMPREHENSIVE PLAN ANALYSIS

Rezoning 22 Park Avenue from Contact Zone C-5 to B-2b Community Business is consistent with Portland's Plan 2030. Goals for housing in Portland's Plan include a statement to "increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents". This rezoning would enable the occupation of an additional affordable housing unit, which supports the housing goals of Portland's Plan. Relevant comprehensive plan goals also include:

Housing:

- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.

- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

- Pursue policies to enable people who work in Portland to have the option to live in Portland.

- Encourage quality, sustainable design in new housing development.

VIII. NEIGHBORHOOD MEETING & PUBLIC COMMENT

Per Article 1.10.2.C, which states that, "*A private applicant for a map amendment that would permit a development subject to major site plan review shall conduct neighborhood outreach according to the provisions for neighborhood meetings under Article 14*" staff have advised the applicant that no neighborhood meeting is required. The requested zoning amendment is not anticipated to result in significant redevelopment of the property which would trigger major site plan review.

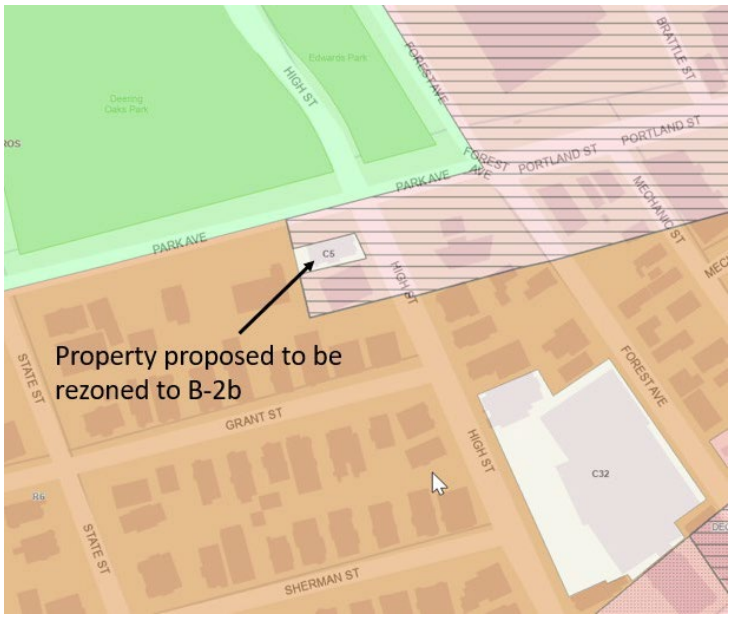
IX. REQUISITE COUNCIL ACTION

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

1. 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 February 28, 2023 for the application ZN-002238-2022 (22 Park Avenue), and/or other findings, the Planning Board finds that the proposed termination of Contract Zone C-5 **[is/is not]** consistent with the Comprehensive Plan for the city of Portland; therefore, the Planning Board **[recommends/does not recommend]** to the City Council termination of Contract Zone C-5 for 22 Park Avenue with the parcel 036 D009001.

2. 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 February 28, 2023 for the application ZN-002238-2022 (22 Park Avenue), 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; therefore, the Planning Board **[recommends/does not recommend]** to the City Council adoption of the Zoning Map Amendment for 22 Park Avenue with the parcel 036 D009001.



XI. ATTACHMENTS

APPLICANT'S SUBMITTAL

A. Project Cover Letter
B. Map Amendment Application Checklist
C. Right, Title, Interest
D. Building Floor Plan