PORTLAND FISH PIER AUTHORITY
BOARD OF DIRECTORS
October 25, 2023, 3:00 PM

REMOTE MEETING VIA ZOOM - LINK BELOW

PFPA Board Directors:
Class A Director: Member of the Portland City Council - Councilor Regina Phillips
Class B Director: Representing the fishing industry - Ben Martens, Maine Coast Fishermen's Association
Class B Director: Representing the fishing industry - Vacant
Class C Director: Representing the Commissioner of the Maine DOT - Chris Mayo
Class C Director: Representing the Commissioner of Maine DMR - Meredith Mendelson, Department of Marine Resources,
President
Ex-Officio Director: Representing the City Manager - Brendan O'Connell, Finance Director
Ex-Officio Director: President of the Board of Directors of the Portland Fish Exchange - Rob Odlin
******

Please click the link below to join the webinar:
https://portlandmaine-gov.zoom.us/j/83890496551?pwd=UXdnaFhZWjhRWW8zQU40Qm5ZL2tEUT09
Passcode: 933793
Or One tap mobile :
+19292056099,,83890496551# US (New York)
+13017158592,,83890496551# US (Washington DC)
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 646 931 3860 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 507 473 4847 US
+1 564 217 2000 US
Webinar ID: 838 9049 6551
International numbers available: https://portlandmaine-gov.zoom.us/u/kegyWelwhV

1. Approval of August 21,2023 Meeting Minutes

a. See attached draft minutes.
Action Item/Public Comment

2. **Financial Update - Statement produced by Tonya Mitchell, Senior Admin Officer II, Finance Department is attached and will be presented at the meeting by Bill Needelman, Waterfront Coordinator.**

a. See attached financial statement

3. **Facilities Update - Phil DiPierro, Project Manager.**

a. See attached facilities update.

4. **CARES I/CARES II Funding Update - Meredith Mendelson, Bill Needelman, Phil DiPierro**

5. **Portland Fish Exchange Update - Rob Odlin, PFX President; Robert Vanmeter, PFX Exchange Manager; Bill Needelman, Waterfront Coordinator.**

a. Manager's Report, Verbal report at the meeting

b. Request for budget deficit reimbursement
Action Item/Public Comment

c. Request for funds supporting joint ice machine project - GMRI, Vessel Services, PFEX
Action Item/Public Comment

6. **Joint Governance Subcommittee Update - John Arnold, PFX Secretary and Subcommittee Chair. Rob Odlin, PFX President. Meredith Mendelson, PFPA President**

a. On October 18, 2023, the Joint Governance Subcommittee of the PFPA and the PFX met to review draft Bylaws and a draft Plan of Merger for the two corporations. The Subcommittee voted unanimously of all present to recommend the both the Bylaws and the Plan of Merger, with minor amendments. The amended draft documents are attached.
The PFPA is asked to review the Bylaws and Plan of Merger for potential action at the October 25, 2023 meeting. An action of the Board would be in the form of a recommendation to the Portland City Council who will make the final determination of whether or not to merge the corporations.
The PFX Board will also be asked to review and vote on recommending the merger at a future meeting.
Action Items/Public Comment

7. **Adjournment**

DRAFT Meeting Minutes

PORTLAND FISH PIER AUTHORITY BOARD OF DIRECTORS
August 21, 2023, 3:00pm

Remote Meeting Format – ZOOM Platform

PFPA Board members attending

Class A Director: *Member of the Portland City Council*
Regina Phillips
Class B Director: *Representing the fishing industry*
Ben Martens, Maine Coast Fishermen's Association
Class C Director: *Representing the Commissioner of the Maine DOT*
Chris Mayo
Class C Director: *Representing the Commissioner of Maine DMR*
Meredith Mendelson, Department of Marine Resources, President
Ex-Officio Director: *Representing the City Manager*
Brendan O'Connell, Finance Director

PFPA Board Members absent

Ex-Officio Director: *President of the Board of Directors of the Portland Fish Exchange*
Rob Odlin
Class B Director: *Representing the fishing industry*
Vacant

Staff attending

Kaela Gomez, HEDD
Mary Davis, HEDD Interim Director
Michael Goldman, Interim Corporation Counsel
Bill Needelman, Waterfront Coordinator

One member of the public attended remotely

1. Approval of July 10, 2023 Meeting Minutes

Draft minutes were provided in the meeting packet
Motion to approve by Mayo, 2nd by Martens
No discussion, no Public Comment
Motion passed by vote of 5-0 by all attending

2. Marine Trade Center Lease Negotiations – *Needelman; Michael Goldman, Corporation Counsel; Greg Davidson, Marine Trade Center*

For some time, Sam and Greg Davidson and their attorney, Jason Howe, have been working with the Board and City staff to negotiate an amended ground lease for the Marine Trade Center (MTC) on Lot 2 with associated parking rights for the Rear Parking Lot. Following negotiating instructions provided by the Board in Executive Session at the May 8, June 12, and July 10, 2023 meetings, Staff discussed the status of the negotiation with Greg Davidson and requested additional information as requested by the Board. Mr. Davidson has provided a confidential letter for the Board's consideration in Executive Session. A separate packet of Executive Session materials will be emailed to the Board under confidential cover.

The Board is asked to hold an executive session to continue their review of the lease amendments and potential implications for possible vote at a later meeting.

Motion for the Board to go into executive session pursuant to 1 M.R.S.A. 405(6)(c) for a discussion of matters regarding real estate negotiations. Motion by O'Connell, 2nd by Phillips
No discussion, no public comment
Motion passed by vote of 5-0 by all attending

After discussion and providing instructions to staff the Board passed a ***motion to come out of executive session and adjourn***. Motion by Mayo, 2nd by Mendelson. ***Motion passed*** by vote of all present

3. Adjournment

<u>Attachments provided in the meeting packet:</u>
Agenda Item 1: Draft Minutes from the July 10, 2023 Meeting

Executive Session Material was sent by email to the Board under Confidential Cover

Agenda 2
Financial Update

Fish Pier Authority
FY22 Budget Status
As of Oct 19, 2023

	FY24 Budget	YTD	Balance	%	FY23 YTD	FY24 vs. FY23	%
Revenue:							
Miscellaneous	14,395	864	13,531	6.0%	720	144	19.9%
Berthing	29,376	10,112	19,264	34.4%	4,208	5,904	140.3%
Parking	433,024	158,711	274,313	36.7%	76,536	82,175	107.4%
Ground Rent (Leases)	199,833	61,103	138,730	30.6%	30,611	30,492	99.6%
		0			76	(76)	-100.0%
Total Revenue	676,628	230,790	445,838	34.1%	112,150	118,640	105.8%
Expenditures:							
Admin. and Maint. Services	104,331	48,917	55,414	46.9%	27,704	21,213	76.6%
Travel/Training/Meetings	1,500	0	1,500	0.0%	0	0	#DIV/0!
Contractual Services	22,263	4,492	17,771	20.2%	3,132	1,360	43.4%
Engineering Services	26,000	1,161	24,839	4.5%	3,007	(1,846)	-61.4%
Printing/Copying	1,200	0	1,200	0.0%	0	0	#DIV/0!
Equipment Repair	12,000	4,999	7,001	41.7%	0	4,999	#DIV/0!
Land/Pier/Building Repair	200,000	0	200,000	0.0%	11,148	(11,148)	-100.0%
Insurance	15,120	0	15,120	0.0%	0	0	#DIV/0!
Supplies	13,500	61	13,439	0.5%	0	61	#DIV/0!
Electricity	15,000	2,036	12,964	13.6%	827	1,209	146.1%
Debt Service	10,724	856	9,868	8.0%	0	856	#DIV/0!
		0	-	#DIV/0!	0	0	#DIV/0!
Total Expenditures	421,638	62,522	359,116	14.8%	45,818	16,704	36.5%
Net Revenues Over(Under) Expenditures	254,990	168,267	86,723		66,332	101,936	153.7%

PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

To: Portland Fish Pier Authority Board
From: Philip DiPierro, Facilities Project Manager
Date: October 20, 2023
RE: Facilities Update
CC: David Onos, Director of Projects

Please find below a listing of the monthly improvements to the Portland Fish Pier by the Public Buildings and Waterfront Division:

Updates for July through September 2023

- Prock Marine continues to work on the batter pile strengthening project at Sorting Pier 1. All of the batter piles have been driven and all of the concrete cutting has been completed. Prock is working on concrete forming and rebar installation for tying the new batter piles into the pier deck.
- AAA Energy Service Co. completed phase 2 of the power demand investigation project. AAA completed the inspection and re-torquing of all connections in the switchgear and electrical panels throughout the entire Fish Exchange facility. They also checked for corrosion of electrical panels and have made some recommendations. The next phase will be to look at the shore power units on the piers and in the Net Yard.
- Miller Refrigeration completed their work on the refrigeration system. All systems appear to be working as expected.
- City staff is in the process of coordinating with The City's Wastewater Department to clean catch basins and trench drains, and to undertake pavement sweeping throughout the facility.
- Seabreeze Property Services is in the process of wrapping up summer maintenance work throughout the facility. They recently completed sweeping of the curbline along the bulkhead wall and service piers.

Updates for June 2023

- Prock Marine continues to work on the batter pile strengthening project at Sorting Pier 1. All of the bracing has been removed from under the pier. Pile deliveries are expected to take place the week of July 10'th. Concrete cutting will start approximately in the middle of July.
- AAA Energy Service Co. has completed the power demand data logging phase of the of the main electrical switchgear equipment in the substation and determined CMP metering matched the data logging metering. AAA recommends that the next step is to move inside the freezer building to check panels for corrosion, check to make sure connections in panels are properly torqued, and to investigate wiring to the shore power units in the Net Yard.
- Miller Refrigeration continues to work on the refrigeration system in the Fish Exchange building. Two new pumps, disconnects, and overheat protection for the cooling towers have been installed, eight new distributors have been installed on the evaporators, and two new oil separators have been installed on the compressors. The project is close to being completed.
- City staff is in the process of coordinating with The City's Wastewater Department to clean catch basins and trench drains throughout the facility, and to undertake pavement sweeping throughout the facility.
- JW Hale completed ongoing maintenance repairs throughout the facility, including chock and

whale repairs, fixing ladder bolted connections, bracing, and rungs; rebolting loose piles; and repairing camels, etc.

- City staff is working with the Fish Exchange manager to update the "Rules and Usage" sign in the Net Yard, and on restriping/restenciling the Net Yard area.

Updates for May 2023

- Pepperell Cove Marine finished the pile jacket work at Sorting Pier 1 Extension. 28 piles have been wrapped and grouted, and concrete spalling has been repaired. All work was completed on time and within the contract budget.
- Prock Marine has started the batter pile strengthening project at Sorting Pier 1. Prock is currently in the process of completing the layout for the pile installations, and removing the bracing under the pier.
- Staff is pursuing options for wrapping the remaining piles at Sorting Pier 1.
- AAA Energy Service Co. has completed the power demand data logging phase of the of the main electrical switchgear equipment in the substation. Power demand at the Fish Exchange has been fluctuating over the past several months and is unusually high. A report of their findings will be submitted once they have had a chance to review the data.
- Miller Refrigeration continues to work on the refrigeration system in the Fish Exchange building. New pumps for the cooling towers have been installed. Two new oil/water separators have been ordered for the refrigeration system to help increase cooling efficiency.
- Two new wood camels have been purchased and installed. One has been installed along the bulkhead wall in the Net Yard, and the other has been installed along the west side of Sorting Pier two. Two existing wood camels along the bulkhead wall in the Net Yard have been rebuilt including new hardware and repositioning of the tire bumpers.
- Pier repairs due to fishing boat mishaps have been completed. Fore River Dock & Dredge replaced several broken piles (5), and pulled others (2) for re-bolting, throughout the facility.
- Seabreeze Property Services completed spring clean-up and mulching work throughout the facility. Lawn maintenance and weed control is ongoing for the season.
- JW Hale is in the process of addressing needed ongoing maintenance repairs throughout the facility, including chock and whale repairs, fixing ladder bolted connections, bracing, and rungs; rebolting loose piles; and repairing camels, etc.

Updates for March & April 2023

- Pepperell Cove Marine started the pile jacket work at Sorting Pier 1 Extension during the first week of April. To date, 10 of the 28 piles have been wrapped and grouted. Work is expected to continue on the project through the month of May.
- Prock Marine has been awarded the contract for the batter pile strengthening project at Sorting Pier 1. Materials have been ordered and work is expected to start in June.
- Staff is pursuing options for wrapping the remaining piles at Sorting Pier 1.
- AAA Energy Service Co. has been hired to install data logging equipment in the substation main electrical switch gear in order to track power demand. Power demand at the Fish Exchange has been fluctuating over the past several months and is unusually high. Data logging is the first step in an effort to find out why.
- Miller Refrigeration continues to work on the refrigeration system in the Fish Exchange building. The new system is partially operational, and there are still some issues that are in the process of being worked out.
- Two new wood camels have been purchased for installation along the Net Yard bulkhead.
- Fore River Dock & Dredge is scheduled to replace several broken piles throughout the facility.
- Seabreeze Property Services started grounds maintenance and spring clean-up work for the season.
- Ongoing repairs continue throughout the facility to address a list of maintenance items i.e. chocks, whalers, ladders, loose piles, etc.

Updates for February 2023

- Miller Refrigeration continues to work on the refrigeration system in the Fish Exchange building. The new system is partially operational, and there are still some issues that are in the process of being worked out.
- Staff continues to meet with Pepperell Cove Marine to discuss logistics for the Service Pier 1 Extension, pile jacket project. Work is expected to start on the project within the next couple weeks depending on weather.
- Prock Marine has been awarded the contract for the Fish Pier Repair project at Service Pier 1. The City is in the process of finalizing the contract with Prock, and work is expected to begin in June.
- Staff is pursuing options for wrapping the remaining piles at Service Pier 1.
- Seabreeze Property Services will begin grounds maintenance work as soon as weather permits.
- Ongoing repairs continue throughout the facility to address a list of maintenance items.

Updates for December 2022 through January 2023

- Miller Refrigeration continues to work on the refrigeration system in the Fish Exchange building. The new system is partially operational, and there are still some issues that are in the process of being worked out.
- Staff continues to meet with Pepperell Cove Marine to discuss logistics for the Service Pier 1 Extension, pile jacket project. Work is expected to start on the project in March 2023.
- Based on the bids and costs that were submitted for the Fish Pier Pile Repair project, the scope of work for the project has been changed. Service Pier 1 is the only pier that will be upgraded at this time. Prock Marine has been awarded the contract for this phase of the project.
- Staff is pursuing options for wrapping the remaining piles at Service Pier 1.
- Ongoing repairs continue throughout the facility to address a list of maintenance items.

Updates for November 2022

- Miller Refrigeration is still working on the refrigeration system in the Fish Exchange building. The new system is partially operational, and there are still some issues that are in the process of being worked out.
- Staff met with Pepperell Cove Marine to discuss logistics for the pile jacket project. Materials are being ordered and work staging areas are being discussed. Work is expected to start on the project in March 2023.
- Four bids for the Fish Pier Pile Repair project were received and Prock Marine was the low bidder. All bids came in much higher than expected, and staff is currently working on a plan on how best to proceed.
- Ongoing repairs continue throughout the facility to address a list of maintenance items.

Updates for July through October 2022

- Upgrades associated with the refrigeration system in the Fish Exchange building are under construction. Miller Refrigeration has been working throughout the summer to complete the work.
- Tec Associates completed the bid package for the pile jacket project for the pier extension at sorting pier 1. The project went out to bid in September and Pepperell Cove Marine won the bid. Work is expected to start on the project in March 2023.
- Tec Associates completed the bid package for the pier repair project and it is out to bid. Bids are due on December 7, 2022.
- Four new camel, chain, and weight assembly units have been installed at Sorting Pier 1. One existing camel assembly unit has been relocated to Sorting pier 2.
- Two new ladders have been installed within the Fish Exchange complex. One ladder was

replaced at sorting pier 2 outside the PFEX, and one ladder along the bulkhead wall in the net yard was replaced.

- Ongoing repairs continue throughout the facility to address a list of maintenance items.
- Seabreeze Property Services continues to work on sweeping and seasonal maintenance activities.
- Zebra Striping completed crosswalk striping at five locations throughout the site.

PORTLAND FISH EXCHANGE

6 Portland Fish Pier | Portland, ME 04101
Toll Free 1-866-633-4741 | Tel 207-773-0017 |
www.pfex.org
Email to: hails@pfex.org

October 10, 2023

Meredith Mendelson, Chairperson
Portland Fish Pier Authority
389 Congress Street
Portland, Me 04101

Dear Ms. Mendelson and members of the Portland Fish Pier Authority:

I am writing on behalf of the Board of Directors for the Portland Fish Exchange. We request The Portland Fish Pier Authority, in consideration of PFE's budgeted operational loss for FY24, grant our request for the remaining $45K to fund the projected deficit.

As stated in our original request to fund this years projected $125K deficit, our budget is based on many factors: fish landings, related business activities that produce revenue for the Exchange, levels of property maintenance required, payroll, insurance, utilities, and the general effects of inflation on the cost of doing business in Maine in this year.

Strong landings with good prices on fish have seen sizeable Cares Act rebate payments that the Exchange pays the next day to the boats. Our average return on these payments is 30-40 days. We have also made capital improvements & plant upgrades that were not anticipated and not in the budget.

We are grateful for your support as we work together to find ways for the Exchange to expand its service to Maine's seafood industries.

Regards,

Robert M. Odlin

Robert M. Odlin, President
Portland Fish Exchange

PORTLAND FISH EXCHANGE

6 Portland Fish Pier | Portland, ME 04101
Toll Free 1-866-633-4741 | Tel 207-773-0017 |
www.pfex.org
Email to: hails@pfex.org

October 10, 2023

Meredith Mendelson, Chairperson
Portland Fish Pier Authority
389 Congress Street
Portland, Me 04101

Dear Ms. Mendelson and members of the Portland Fish Pier Authority:

I am writing on behalf of the Board of Directors for the Portland Fish Exchange. We request The Portland Fish Pier Authority grant our request for up to $15,000 to cover expenses for the ice machine installation.

The Exchange, GMRI, and Vessel Services have been working together on an ice machine project that will enable the Exchange to produce ice within the Exchange building while maintaining its ice purchase commitments to Vessel Services. GMRI received a federal grant that covers the purchase of a 5-ton ice machine and all the materials needed for the installation. The grant does not cover the $26-30k projected labor costs. Vessel Services agreed to split this cost with the Portland Fish Exchange.

All parties are working toward an arrangement that maintains the Exchange's commitments to purchase ice from Vessel Services, but at a reduced cost. GMRI will own the unit with a lease to Vessel Services. Vessel Services will maintain the unit and will receive a license to locate the unit within the Exchange building. Exchange staff will be able to manage the supply of ice as needed, with the metered tonnage billed by Vessel Services as is the current practice.

We are currently paying $110 a ton, with an annual budget of $29K (263 Tons) for ice from Vessel Services. With the ice machine installation, our new price with Vessel Services will be

$55.00 a ton, with power and water costs for the Exchange projected at $10 a ton.

FY25 budget for 263 tons at $65.00 a ton would be just over $17K, a potential savings of $12K a year. In addition to lower costs, Exchange staff anticipates having better control of ice quantity and improved ice quality through this arrangement.

We are grateful for your support as we work together to find ways for the Exchange to expand its service to Maine's seafood industries.

Regards,

Robert M Odlin

Robert M. Odlin, President
Portland Fish Exchange

DRAFT Meeting Minutes

Governance & Management Joint Subcommittee of the Fish Pier Authority (FPA) and Portland Fish Exchange (PFE)
3 PM, Wednesday, October 18, 2023
Hybrid: Zoom/in person at the Portland Fish Exchange

PFE Members: Rob Odlin, Bill Needleman, Mary Hudson, Avis Leavitt, John Arnold

FPA Members: Meredith Mendelson, Chris Mayo

Absent: Nick Alfiero, Brendan O'Connell

Staff: Bill Needleman, FPA, Robert Vanmeter, PFE

Public: John Bisnett, Kaela Gonsalez, Matteo Moretti

1) **John Called the Meeting to Order at 3 PM**

2) **Introduction of Bylaws and Plan of Merger - Bill**

3) **Review Bylaws– Bill**

4) **Vote on Bylaws:** *Subcommittee action: Motion: Amend 8/3/23 Draft Bylaws by moving the last sentence of paragraph 3.4 a) to the end of 3.4 a) 1), Motion by: Meredith, Seconded by Rob: Vote: 7-0-0. Motion: That the Governance Subcommittee recommends the August 3, 2023, draft bylaws as amended and edited for clarity for approval by the Portland Fish Exchange and Portland Fish Exchange Pier Authority Boards, Motion by Meredith seconded by Rob, Vote; 7-0-0*

   Avis Leavitt left after the vote, receiving the sincere thanks of the Subcommittee for her continued service to the Portland Fish Exchange.

5) **Review Plan of Merger**

6) **Vote on Plan of Merger:** *Subcommittee action: Motion: Amend the Draft Agreement Plan of Merger by stating that the Portland Fish Exchange will continue to conduct business as an operational unit of the Portland Fish Pier Authority, Motion by Bill, Seconded by: Rob, Vote: 6-0-0 Motion: That the Governance Subcommittee recommends the Draft Agreement and Plan of Merger as amended and edited for clarity for approval by the Portland Fish Exchange and Portland Fish Exchange Pier Authority Boards, Motion by Rob seconded by Meredith, Vote; 6-0-0*

7) **Other items: None**

8) **Next Meeting: To be determined by the PFE and FPA Boards**

9) **Adjourn at 4:32 PM**

Draft for Discussion
Frederick L. Lipp, Esq.
Bernstein Shur
August 3, 2023
Recommended as amended by the Governance Subcommittee
October 18, 2023

~~Article I~~

BYLAWS
OF
PORTLAND FISH PIER AUTHORITY

~~Article II~~ARTICLE I
NAME, PURPOSE, AND MISSION

1.1 Name. The name of the corporation is the Portland Fish Pier Authority (the "Corporation").

1.2 Purpose and Mission. The Corporation is organized and shall at all times be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law) (the "Code"). Within these restrictions, the Corporation is organized as consistent with the Code and to advance the following mission ("Mission"):

> On behalf of the City of Portland ("City") as Corporator, and as formed by the City's municipal officers as a local development corporation, the Corporation provides management oversight and fiduciary stewardship for the premises known as the Portland Fish Pier ("Fish Pier") as an anchor facility for the City's Fish Pier-related economy. The Corporation promotes: the landing, auctioning, and distribution of groundfish and other Fish Pier products at the Corporation's Portland Fish Exchange site (e.g. including operating the Fish Pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing or processing shellfish, finfish or natural products of the sea including fueling, loading or selling these products); maintaining and upkeep of the marine infrastructure and landside facilities of the Fish Pier; and meeting the lease requirements and landlord responsibilities for Fish Pier tenants. Additionally, the Corporation provides a forum and discussion platform for the seafood industry, City government, and the public to better understand and promote the sustainable harvest and use of marine resources as a current and future economic engine for the City, Casco Bay, and the State of Maine.

1.3 Non-Discrimination. All affairs of the Corporation shall be conducted without discrimination as to race, creed, sex, age, color, ethnicity, national origin, marital status, religion, sexual orientation, disability, or veteran status.

1.4 Principal Office. The principal office for the conduct of activities of the Corporation shall be located at the premises owned by the Corporation at #6 Portland Fish Pier, Portland, Maine or at such other location as designated by the Corporation.

1.5. Corporate Seal. The seal of the Corporation shall be circular in form and shall bear the words “Portland Fish Pier Authority,” the word “Maine,” and the year of the Corporation’s incorporation. The form of such seal may be altered from time to time by the Board of Directors.

~~Article III~~ARTICLE II
AUTHORITY AND MEETINGS OF CORPORATOR

2.1 Annual Meeting. The Annual Meeting of the Corporator shall be held in City Council Chambers, City Hall, Portland, Maine, on the ***third Monday of April*** in each year. The meeting shall be noticed according to the public meeting rules of the Corporator and posted prominently at the Office of the Clerk of the City of Portland and in the office of the Corporation, in both cases not less than ten (10) days before the date fixed for the meeting. The Board of Directors and members of the public shall be entitled and encouraged to attend the Annual Meeting and shall be entitled, subject to the direction of the chairperson of the meeting, to ask questions and state their views.

2.2 Special Meetings. Special meetings of the Corporator may be called by the President or by the Board of Directors or by the Corporator to be held at such time and place as shall be fixed in the call of the meeting. If no such place is fixed, the special meeting shall be held at the principal office of the Corporator. Notice of special meetings shall be given in the same manner as the notice of the Annual Meeting, and the Board of Directors and members of the public shall have the same right to attend and to ask questions and state their views as in the case of the Annual Meeting.

2.3 Proxies. The Corporator may vote at any Annual or Special meeting of the Corporator by proxy or proxies executed in writing by the Corporator as authorized by its City Council. The Corporator may, but is not required to, appoint any one or more, or all, of its City Councilors as its proxy agents to represent it at any Annual or Special Meeting of the Corporator.

2.4 Action of the Members in Writing Without a Meeting. Notwithstanding any other provision of these Bylaws, any action required or permitted by law or otherwise to be taken at a meeting of the Corporator may be taken without a meeting if a written consent, setting forth the action so taken, is signed by the Corporator by authority of its City Council and is filed with the Secretary of the Corporation as part of the corporate records. Such written consent shall have the same effect as a unanimous vote by the Corporator and may be stated as such in any certificate or document required or permitted to be filed with the Secretary of State, and in any certificate or document prepared or certified by any officer of the Corporation for any purpose.

2.5 Authority; Sole Voting Member; Voting Rights of the Corporator. The City as Corporator shall be the sole voting member of the Corporation and shall act by and through the

City Council in all matters relating to the Corporation. The Corporator shall have the sole and exclusive right to vote on all matters which by law require action of voting members, including, but not limited to the following:

a) To appoint the Board of Directors, with the sole exception being the ex-officio board members referenced in Section 3.5

b) To amend the Articles of Incorporation of the Corporation or to authorize a merger, consolidation or dissolution of the Corporation, or to authorize the sale or substantially all of the assets of the Corporation.

~~Article IV~~ARTICLE III
BOARD OF DIRECTORS

3.1 General Powers. The business, property and affairs of the Corporation shall be conducted and managed by its Board of Directors, except as otherwise provided in the City Code, the Corporation's Articles of Incorporation, or these Bylaws. The Board of Directors may by general resolution delegate to committees and officers of the Corporation such powers as it sees fit and in a manner consistent with the Bylaws.

3.2 Duties. Every Director in exercising his or her powers and discharging his or her duties shall: (a) act honestly and in good faith with a view to the best interests of the Corporation; and (b) exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

3.3 Number; Eligibility; Powers and Duties. The number of Directors constituting the Board of Directors shall be eleven (11). All Directors shall be residents of the State of Maine. With the exception of Class D and Class E Directors, all Directors need not be residents of the City of Portland. The Board of Directors shall have the powers and duties set forth in the Articles of Incorporation, these Bylaws and the Corporation's Rules and Regulations.

3.4 Classes of Directors. The Board of Directors shall be divided into classes as follows:

a) There shall be two (2) **Class A Directors** who will be either: 1) an individual engaged primarily in the business of fishing or harvesting of groundfish, either for their own account or as a partner or employee, and whose vessel is home ported in the State of Maine. ~~,~~ No person will be eligible to be appointed or continue to serve as a Class A Director unless they or the organization they represent have sold product at the Portland Fish Exchange auction during the 12 months immediately preceding their appointment and continue to conduct regular business at the Portland Fish Exchange in each of the years of their service as Director.
~~a) or~~ 2) a registered Seller Representative in good standing with the Portland Fish Exchange~~, or~~. 3) a NOAA, Northeast Multispecies Fishery Sector Manager representing vessels currently transacting business at the Portland Fish Exchange. ~~No person will be~~

~~eligible to be appointed or continue to serve as a Class A Director unless they or the organization they represent have sold product at the Portland Fish Exchange auction during the 12 months immediately preceding their appointment and continue to conduct regular business at the Portland Fish Exchange in each of the years of their service as Director.~~

b) There shall be two (2) **Class B Directors** who will be individuals engaged primarily in the business of processing or purchasing groundfish or groundfish products either for their own account or as partners or employees of others. No person will be eligible to be appointed or continue to serve as a Class B Director unless they or the organization they represent have bought product at the Portland Fish Exchange auction during the 12 months immediately preceding their appointment and continue to conduct regular business at the Portland Fish Exchange in each of the years of their service as Director.

c) There shall be two (2) **Class C Directors** representing the seafood industry of the State of Maine, at least one (1) of whom shall be actively engaged in the Maine Lobster industry and at least one (1) of whom shall be actively engaged in the Maine Aquaculture industry.

d) There shall be one (1) **Class D Director** representing the public at large and who shall be a resident of the City of Portland.

e) There shall be one (1) **Class E Director** who shall be a sitting member of the Portland City Council.

3.5 Ex-Officio Members of the Board of Directors. There shall be three (3) individuals who shall be deemed ex-officio members of the Board of Directors by virtue of their holding the positions of:

a) City Manager of the City of Portland

In the event that the City Manager shall decline or is precluded from serving, the City Manager may assign from their staff a representative to serve in their stead.

b) Commissioner of the Maine Department of Marine Resources

In the event that the Commissioner of the Department of Marine Resources shall decline or is precluded from serving, the Commissioner may assign from their staff a representative to serve in their stead.

c) Commissioner of the Maine Department of Transportation

In the event that the Commissioner of the Department of Transportation shall decline or is precluded from serving, the Commissioner may assign from their staff a representative to serve in their stead.

3.6 Application of Bylaws to Ex-Officio Directors. The provisions of these Bylaws contained in Section 3.8 regarding term of office, Section 3.7 regarding nomination of directors and Section 3.10 regarding vacancies shall not apply to said ex-officio members. Each ex-officio member may be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and shall enjoy all the rights, privileges and responsibilities of all other members of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex-officio members. Ex-officio members shall be entitled to the same indemnification rights available to all Directors under the applicable law and these Bylaws.

3.7 Nomination of Directors. With the exception of ex-officio members, all members of the Board of Directors shall be nominated by the City of Portland Mayor and approved by the Corporator at the Annual meeting or any Special meeting of the Corporator.

3.8 Term of Office. Each director shall serve for a term of three (3) years or until their successor is appointed and qualified. Directors shall be appointed prior to the Annual meeting of the Board. No Director may serve more than three (3) consecutive terms.

Notwithstanding provisions of Sections 3.4(a) and 3.4(b), qualification requirements for Class A and Class B Directors to conduct regular business at the Portland Fish Exchange shall not apply to Board Members whose term has expired and are serving pending appointment of their successor.

3.9 Voting. Each director shall be entitled to one (1) vote.

3.10 Vacancies. Vacancies occurring in the Board of Directors for any reason shall be filled for the unexpired term by the Corporator by appointment of an individual qualifying and eligible for such position.

3.11 Resignations. Any director may resign his or her office by delivering a written resignation to the President, such resignation to be effective upon the date or reasonable condition stated therein.

3.12 Removal of Directors. At a Special Meeting of the Board of Directors called expressly for that purpose, any individual director may be removed with or without cause, by a vote of two-thirds (2/3) of the entirety of the members currently serving on the Board. Cause for removal may include but is not limited to failure to meet qualifications requirements described in this Article III, a recurring practice of missing Board meetings, or any other action or behavior of a Board member which in the opinion of the Board reflects poorly on the Board, the Corporation, or the Corporator.

3.13 Annual Meeting; Regular Meetings. The Annual Meeting of the Board of Directors shall be held during the first meeting of the Board's calendar year. Regular meetings of the Board of Directors shall be held at such places and on such dates and times as shall be fixed from time to time by the Board of Directors. The Board of Directors may authorize the President to fix the exact date, time and place of each regular meeting.

3.14 Special Meetings. Special meetings of the Board of Directors may be called by the President or by the Secretary and must be called by either of them on the written request of any three (3) members of the Board.

3.15 Notice of Meetings. Notice of all Directors' meetings, except as herein otherwise provided, shall be given by mailing the same at least five (5) days before the meeting, or by sending notice by e-mail or facsimile transmission at least one (1) day before the meeting to the usual business or residence address of the Director. Any Director may waive notice of any meeting. The attendance of any Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these Bylaws.

3.16 Quorum; Voting. At all meetings of the Board of Directors six (6) of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If at any meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time without further notice to any absent Director. Each Director shall be entitled to one (1) vote. A Director may not vote or act by proxy at any meeting of the Board of Directors.

3.17 Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if a written consent to such action is signed by all members of the Board or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the Board or committee. For purposes of this Section 3.17, "written" includes a communication that is transmitted and/or received by electronic means, including but not limited to by electronic mail, and "signed" includes an electronic signature, as defined in 10 M.R.S.A. §9402.

3.18 Telephone and Electronic Meetings. Members of the Board of Directors or a committee of the Board may participate in a meeting by means of a conference telephone or electronic communications equipment (e.g. Zoom; Microsoft Teams) if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means constitutes presence in person at the meeting.

3.19 Compensation. Directors shall not receive compensation for their services as such, although the reasonable expenses of Directors for attendance at Board meetings may be paid or reimbursed by the Corporation by action of the Board of Directors. Directors shall not be disqualified from receiving reasonable compensation for services rendered to or for the benefit of the Corporation in any other capacity.

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

~~Article V~~ARTICLE IV
SUBCOMMITTEES AND ADVISORY COMMITTEES OF THE BOARD

4.1 Subcommittees. The Board of Directors may at their discretion create subcommittees to facilitate the management, oversight, and promotion of the organization. Members of subcommittees shall be appointed by vote of the Board of Directors at each Annual or Special Meeting. Membership on subcommittees of the Board may include non-board members, providing that the experience and expertise of members contributes to the competency of the body and the quality of decision making of the Board of Directors. Non-board membership on any subcommittee may not exceed active Board members in number, and leadership of all subcommittees shall be assigned to active Board members. All actions of subcommittees shall be recommendary to the Board of Directors and no subcommittee or any of its members may act on behalf of the Board. All meetings of subcommittees, including executive sessions, shall be noticed and conducted consistent with the provisions of these Bylaws as described in Article IV, Sections 4 and 5 above.

Subcommittees must have a minimum of two (2) Board members and may include, but are not limited to the following:

(a) Operations: Dedicated to overseeing the management, operation, and promotion of the Corporation's Portland Fish Exchange, and utilization of the other marine infrastructures of the Portland Fish Pier.

(b) Real Estate and Facilities: Dedicated to marketing of Portland Fish Pier assets; overseeing the maintenance and improvement of Portland Fish Pier grounds and infrastructure; and the negotiation and management of Portland Fish Pier ground leases and parking assets.

(c) Fisheries: Dedicated to connecting the operations of the Portland Fish Pier, Portland Fish Exchange, and the local seafood economy with local, regional, state, and federal agencies, interest groups, and the public on issues relevant to fisheries , current science, seafood industries, seafood marketing, and fisheries regulation.

4.2 Advisory Committee. The Executive Director has the responsibility to seek the opinion and recommendations of leaders in the Maine seafood industry. The Executive Director may at their discretion create an Advisory Committee of local and regional leaders and representatives from the seafood industry to inform day to day and long term decision making on behalf of the organization. The advisory committee shall have no authority to act on behalf of the Board of Directors; but, the advisory committee members, individually or collectively, will be encouraged to participate in such meetings as invited by the Board and to make recommendations on Board actions.

4.3 Meetings; Record of Proceedings. Meetings of committees of the Board of Directors may be called by the respective Chairs thereof or by any two (2) members of the committee. Each committee may prescribe rules and procedures to conduct its meetings. Each committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors and the President when requested or required.

~~Article VI~~ARTICLE V
OFFICERS AND EMPLOYEES

5.1 Executive Officers. The executive officers of the Corporation shall be a President, Vice President, Secretary, and Treasurer and such other officers and assistant officers with such powers and duties not inconsistent with these Bylaws as may be appointed and determined by the Board of Directors. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers. A Director may be elected an officer.

5.2 Election and Term of Office. The Officers shall be elected for a term of one (1) year to serve until the next annual meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years.

5.3 Resignation, Removal; Vacancies. Any officer may resign at any time by giving written notice to the President or to the Board of Directors, and may be removed from office by the vote of the Directors at any time, in accordance with applicable law, whenever in the Board's judgment the best interests of the Corporation will be served thereby. In case any office of the Corporation becomes vacant by death, resignation, retirement, disqualification or any other cause, the Board of Directors by majority action may select an officer to fill such vacancy.

5.4 President. The President shall be the principal executive officer of the Corporation. All officers, agents and Executive Director of the Corporation shall report and be responsible to the President.

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

5.6 Treasurer. The Treasurer shall be the chief financial officer of the corporation and shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be. The Treasurer may delegate any of his or her duties to the Executive Director or to the staff of the Corporator.

5.7 Other Officers. The Board of Directors may elect or appoint one or more Vice-Presidents and such other officers and assistant officers as they may deem necessary, who shall have such authority and perform such duties as from time to time may be prescribed by the President or by the Board of Directors.

5.8 Executive Director and Staff. The Board shall hire an Executive Director to have superintendence of the business activities of the Corporation, and shall have such other powers and duties as may be set forth in the rules and regulations of the Portland Fish Pier Authority. The Executive Director shall be selected by the Board of Directors, which shall fix the compensation of the Executive Director. The Executive Director as such shall not be an officer of the corporation or a member of the Board of Directors.

At the Board of Director's discretion, the Board may select an individual, corporation or partnership to undertake the responsibilities of the Executive Director.

Employees of the Corporation shall be appointed and supervised by, and shall serve at the pleasure of, the Executive Director.

Staff of the Corporator may assist the Executive Director and or assume some or all of the duties thereof, with the consent of the Board of Directors.

5.9 Removal of the Executive Director. The Executive Director may be removed with or without cause, by a vote of the Board of Directors.

~~Article VII~~ARTICLE VI
CORPORATE ASSETS AND EARNINGS

6.1 Investments. The Corporation shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board of Directors, without being restricted to the class of investments which a director is or may hereafter be permitted by law to make or any similar restriction; provided, however, that no action shall be taken by or on behalf of the Corporation if such action would result in the denial or loss of the tax exemption under Section

501(c)(3) or any other section of the Code and applicable Regulations relating thereto as they now exist or as they may hereafter be amended.

NOTE to Legal: Clarify intent of highlighted text above.

6.2 Inurement Prohibition; Interest in Contracts. No part of the net earnings of the Corporation shall inure to the benefit of or be distributed to any director, employee or other person who or that is not exempt from federal taxation under Section 501(c)(3) of the Code, and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation.

By a vote of the Board of Directors, any director, officer, employee, committee member, or agent of the Corporation may be interested directly or indirectly in any contract relating to the operation of the Corporation, and may freely make contracts, enter transactions or otherwise act on behalf of the Corporation notwithstanding that such person may also be acting for himself or herself or for a third party in so doing; provided, however, that any such contract or transaction shall be at arm's length and be in compliance with the requirements of this Section 6.2.

No director may vote on any matter in which the director has a direct or indirect pecuniary interest as defined in 30-A MRS 2605(4). Directors shall also attempt to avoid the appearance of a conflict of interest in any matter by disclosure or by abstention pursuant to 30-A MRS 2605(6).

6.3 Exempt Activities. Notwithstanding any other provision of these Bylaws, no member, Director, officer, employee or representative of this Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Code.

~~Article VIII~~ARTICLE VII
INDEMNIFICATION AND INSURANCE

7.1 Indemnification. The Corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative by reason of the fact that he or she is or was a director, officer, employee or agent of this corporation, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. § 714 and acts additional thereto and supplementary thereof, to which reference is made.

Note to Legal: Clarify if needed. Section appears redundant to Section 3.20

7.2 Insurance. The Corporation may, but is not required, upon the vote of the Board of Directors, purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a Director, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article VII.

7.3 Certain Limitations on Indemnification. In no case shall the Corporation indemnify or reimburse any person for any taxes on such individual under Chapter 42 of the Code, or under the comparable or corresponding provisions of any future United States internal revenue laws.

7.4 Indemnification from Other Sources. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a trustee, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust or other enterprise.

~~Article IX~~ARTICLE VIII
MISCELLANEOUS

8.1 Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors and evidenced by resolution filed with the corporate records.

8.2 Records and Reports. The Corporation shall keep correct and complete books and records of account and of its transactions and minutes of the proceedings of its Board of Directors and of any committee. The President or the Secretary of the Corporation shall prepare or cause to be prepared annually a full and correct statement of the affairs of the Corporation, including a balance sheet and a financial statement of operations for the preceding fiscal year, which shall be submitted at the Annual Meeting of the Board of Directors and filed within twenty (20) days thereafter at the principal office of the Corporation.

~~Article X~~ARTICLE IX
AMENDMENTS

These Bylaws may be amended at any meeting of the Board of Directors, provided that a written notice setting forth the proposed amendments shall be sent to each director and each member of an Advisory Committee (should one be assigned) and no less than five (5) days before the date of such meeting. A two-thirds (2/3) vote of those directors present is necessary for the passage of any amendment. No amendment to the Bylaws shall be valid if it has the effect of amending or circumventing the Corporation's Articles of Incorporation or the powers of the Corporator as set forth in the Bylaws.

* * *

The undersigned hereby certifies that the foregoing Bylaws of the Portland Fish Pier Authority, a Maine nonprofit corporation, were duly approved and adopted by action of its Board of Directors on _______________, 2023 and that the Bylaws currently are in effect.

____
[NAME], Secretary

Dated this ____ day of ________, 2023

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger ("**Plan of Merger**") is made and entered into this ____ day of ______________, 2023 ("**Effective Date**"), by and between the Portland Fish Pier Authority (**"Pier Authority"** or **"Surviving Corporation"**), a Maine nonprofit corporation, and the Portland Fish Exchange ("**Fish Exchange**" or **"Merged Corporation"**), a Maine nonprofit corporation (the Pier Authority and Fish Exchange collectively as the "**Constituent Entities**").

RECITALS

WHEREAS, the Pier Authority is a nonprofit corporation organized and existing under the laws of the State of Maine, including with its purpose as stated in its Articles of Incorporation to operate: "for the purposes of managing and marketing the premises known as the Portland Fish Pier for the benefit of the fishing and fishery-related business enterprises and the citizens of the City of Portland;"

WHEREAS, the Fish Exchange is a nonprofit corporation organized and existing under the laws of the State of Maine, including with its purpose as stated in its Articles of Incorpration to operate as: "a local development corporation exclusivley for the purpose of fostering, encouraging and assisting the physical location, settlement or resettlement of fishing and fishery-related business enterprises in the City of Portland;"

WHEREAS, the Board of Directors for each Constituent Entity has considered the importance of continuing to advance the purposes of each corporation, including through the effectiveness and efficiencies of adopting this Plan of Merger, and have adopted this Plan of Merger pursuant to Title 13-B M.R.S.A. Section 901(2) [and by unanimous vote pursuant to Title 13-B M.R.S.A. Section 606];

WHEREAS, the Pier Authority and the Fish Exchange have each provided a "Notice of Special Meeting of Corporator" (collectively "**Notice**") pursuant to the Bylaws of each corporation regarding this Plan of Merger, including posting the Notice in a conspicuous place at the principal office of each corporation, and with the Boards of Directors and members of the public entitled to attend, to ask questions, and to state their views;

WHEREAS, the sole member and corporator of the Constituent Entities is the City of Portland ("**Corporator**") and pursuant to the Artices of Incorporation for each of the Pier Authority and the Fish Exchange, the Corporator "shall have the sole and exclusive right to vote" to authorize a merger;

WHEREAS, following the Merger, the Articles of Incorporation and the purposes of the the Surviving Corporation will continue, including such that the Portland Fish Pier will be operated as a public fish pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly realted to the purpose of landing or processing shellfish, finfish or natural products of the sea, including fueling, loading or selling such products;

WHEREAS, the Portland Fish Pier Authority and the Portland Fish Exchange each deem it advisable and in the best interests of each entity to merge the Portland Fish Exchange with and into the Portland Fish Pier Authority in accordance with the Maine Nonprofit Corporation Act and upon the terms and conditions set forth in this Plan of Merger, with the Portland Fish Pier Authority as the Surviving Corporation (the "**Merger**").

NOW THEREFORE, in consideration of the mutual covenants, agreements and provisions hereinafter contained, the Constituent Entities hereby prescribe the terms and conditions of the Merger and mode for carrying the same into effect as follows:

AGREEMENT

ARTICLE I
THE MERGER

1.1 Merger. On the Effective Date (as defined in Section 1.2), the Portland Fish Exchange shall be merged with and into the Portland Fish Pier Authority and the separate existence of the Portland Fish Exchange shall cease as a corporate entity. The Portland Fish Pier Authority shall be the surviving organization (the "**Surviving Corporation**") in the Merger and shall survive as a Maine nonprofit corporation. The Portland Fish Exchange shall continue to function as an operational unit of the surviving corporation.

1.2 Effective Date. The Merger shall become effective upon the date specifed in the Certificate of Merger to be filed with the Secretary of the State, State of Maine (the "**Effective Date**").

1.3 Articles of Incorporation of the Surviving Corporation. The governing instruments of the the Portland Fish Pier Authority on file with the Secretary of State of the State of Maine (the "**Articles**"), as in effect on the Effective Date, shall continue in full force and effect as the Articles of the Surviving Corporation. The Surviving Corporation shall be governed by the laws of the State of Maine.

1.4 Bylaws of the Surviving Corporation. The Bylaws of the Portland Fish Pier Authority as they shall exist on the Effective Date shall be and remain the Bylaws of the Surviving Corporation until the same shall be altered, amended or repealed as therein provided.

1.5 Directors and Officers; Amendment of Articles to Increase Directors. The Directors and officers of the Portland Fish Pier Authority in office as of the Effective Date of the Merger shall continue as the Directors and officers of the Surviving Corporation, to hold office, subject to the applicable provisions of the Articles and Bylaws of the Surviving Corporation and the Maine Nonprofit Corporation Act, until their successors are elected. Concurrent with the

Merger, the Articles of Incorportion of the Portland Fish Pier Authority will be amended to increase the number of Directors from ~~five (5)~~ seven (7)to eleven (11), including in anticipation of transitioning some of the Directors of the Portland Fish Exchange to the Surviving Corporation.

1.6 Adoption of Assumed Name. Concurrent with the Effective Date, the Surviving Corporation shall be entitled to operate in name both as the "Portland Fish Pier Authority" and under the assumed name of the "Portland Fish Exchange" and the Surviving Corporation shall make appropriate filings with the State of Maine Secretary of State to effect the same.

1.7 Effects of the Merger. Upon the Effective Date, all property, rights, leases, subleases, accounts, privileges, franchises, patents, trademarks, licenses, registrations, and other assets of every kind and description of the Portland Fish Exchange shall be transferred to, vested in, and devolved upon the Surviving Corporation without further assignment, act or deed and all property, rights and every other interest of the Constituent Entities shall be the property of the Surviving Corporation. All rights of creditors of the Portland Fish Exchange and all liens upon any property of the Portland Fish Exchange shall be preserved unimpaired and all debts, liabilities and duties of the Portland Fish Exchange [(except for employee-related matters as shall be coordinated as set forth in Section 1.8 below)] shall attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. From time to time after the Effective Date, and upon the written request of the Surviving Corporation, the last President and Secretary of the Portland Fish Exchange may, in the name of Portland Fish Exchange, execute, deliver, or cause to be executed and delivered, all such agreements, deeds, and instruments to the Surviving Corporation and to take or cause to be taken such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest in the Surviving Corporation the rights in, title to, or other disposition of any property of the Portland Fish Exchange acquired or to be acquired by reason of or as a result of the Merger.

1.8 Transition of Employees. [Concurrent with the Effective Date, the Surviving Corporation shall make reasonable efforts to transition and hire the employees of the Portland Fish Exchange.]

ARTICLE II
FINAL TAX FILING OF THE MERGED CORPORATION

2.1 Tax Filing. With recogntion that both the Surviving Corporation and the Merged Corporation are nonprofit corporations with tax-exempt status from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, following the Merger the Portland Fish Exchange shall file a final income tax return evidencing its termination as a separate entity.

ARTICLE III
ABANDONMENT

3.1 Termination. At any time before the Effective Date of the Merger, this Agreement may be terminated and the Merger may be abandoned by either the Portland Fish Pier Authority or the Portland Fish Exchange, or both, including pursuant to Title 13-B M.R.S.A. Section 903(4).

ARTICLE IV
AMENDMENT

4.1 Amendment. The Agreement may not be amended at any time prior to the date that the requisite Articles of Merger are filed in the office of the Secretary of State, State of Maine.

ARTICLE V
GENERAL PROVISIONS

5.1 Governing Law. This Agreement and Plan of Merger and the legal relationships between the parties shall be governed by and construed in accordance with the laws of the State of Maine.

5.2 Further Assurances. The Constituent Entities each agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement the transactions contemplated by this Agreement.

[*Signature page follows.*]

[*Signature Page – Agreement and Plan of Merger*]

IN WITNESS WHEREOF, the parties to this Plan of Merger, based on the approval and authority as represented through resolutions adopted by their Boards of Directors, have caused their officers to sign and to evidence their agreement below.

PORTLAND FISH EXCHANGE,
a Maine nonprofit corporation

By:________________________________
Name:
Title: President

PORTLAND FISH PIER AUTHORITY,
a Maine nonprofit corporation

By:________________________________
Name:
Title: President