MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK(A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
SEPTEMBER 15, 2014

The Portland City Council will hold a regular City Council Meeting at 7:00 p.m. in the City Council Chambers, City Hall. The Honorable Michael F. Brennan, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) September 3, 2014

PROCLAMATIONS:

Proc 6-14/15 (Tab 2) **Proclamation Honoring Officer Michael Bennis as Officer of the Month for July, 2014 – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

CONSENT ITEMS:

Order 54-14/15 (Tab 3) **Order Declaring 23rd Annual Maine Marathon/Relay and Half Marathon – Sponsored by Sheila Hill-Christian, Acting City Manager.**

At the February 3rd City Council meeting this event was declared a festival and authorized street closures. At that meeting a new route was approved. In June Maine Department of Transportation chose not to approve the closing of the off-ramp from 295 to Baxter Blvd. for runners to use so the race route has recently been changed again. The Route is now reverting back to the original course – the 2012 route. Consequently, this order replaces the order approving February changes and the route.

The route of the race takes runners around Baxter Blvd., taking a left onto Bates Street, then crossing over Washington Ave. onto Veranda Street, continuing on Veranda to Route 1, crossing Martin's Point Bridge and into Falmouth. When runners return, they cross Martin's Point Bridge and when reaching Sherwood Street, take a right onto Sherwood, then cross Presumpscot Street, then take a left onto East Kidder, then cross over Washington Ave., continuing on West Kidder, down through Payson Park and back onto Baxter Blvd., continuing around the cove, finishing back at the start line, Baxter Blvd., Baxter Blvd. at Pedro Field.

During the races streets listed below will be closed to vehicular traffic Sunday, October 5, 2014.

Baxter Blv. Ext. from Forest Avenue to Preble Street – 5:00 a.m. to 3:00 p.m.
Baxter Blvd. from Preble Street to Washington Avenue 5:00 a.m. to 2:00 p.m.
Payson Park roads including West Kidder Street, Fernald Street entrances into Payson Park from Washington Avenue – 5:00 a.m. to 2:00 p.m.

Order 55-14/15 (Tab 4) **Order Declaring 2014 Veterans' Day Parade and Ceremony as a Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.**

This order declares the 2014 Veterans Day Parade and Ceremony to be held on Tuesday, November 11, 2014, from 10:30 to 12:00 p.m. The parade begins at Longfellow Square, ending at City Hall Plaza with a wreath laying ceremony and speeches.

Streets, adjoining sidewalks, and squares that are to be closed to vehicular traffic are listed in the agenda backup. Since it is a national holiday, Metro buses will not be operating.

Order 56-14/15 (Tab 5) **Order Granting Easement to Portland Water District – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

This 5'x 5' easement to Portland Water District is required to move a hydrant in order to construct new infrastructure in a combined sewer overflow project in the Fox Street area.

The easement addresses a problem of insufficient room to relocate a hydrant in an existing right-of-way; and also permits repairs, replacement, construction and maintenance on the water lines.

Five affirmative votes are required for passage of the Consent Calendar.

LICENSES:

Order 57-14/15 **(Tab 6)** **Order Granting Municipal Officers' Approval of Huong Thi Thu Le d/b/a Huong's Vietnamese Restaurant at 267 St. John St. Application for a Class III & IV (Wine and Beer) License – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 8/22/2014. New City and State applications. Former location of Vietnam Restaurant.

Five affirmative votes are required for passage after public comment.

Order 58-14/15 **(Tab 7)** **Order Granting Municipal Officers' Approval of Suzukiya LLC d/b/a Ramen Suzukiya at 229 Congress St. Application for a Class III & IV (Wine and Beer) License with Entertainment without Dance and Outdoor Dining on Public Property – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 8/19/14. New City and State applications. Former location of Haberdashery Retail.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

Com 1-14/15 **(Tab 8)** **Communication Re: Appointment of Reed School Re-Use Task Force Sponsored by Mayor Michael F. Brennan and Council Kevin J. Donoghue.**

The Planning Division has been asked to begin the process of exploring the Reed School property for re-use. The Reed School sits on approximately 2.5 acres on Homestead Avenue in the Riverton neighborhood. Originally a school, it was more recently the central kitchen for the Portland Public Schools. It currently is used for limited storage and is largely vacant and underutilized. A citizens' task force has been created to report potential and priority uses of the property and recommend a process to review proposals for re-use of the property.

Reed School Re-Use Task Force Charge is as follows:

- Report potential uses of the property
- Develop criteria for making final recommendations on the preferred uses of the property
- Recommend a process to review proposals for re-use of the property
- Report findings to the City Council's Housing and Community Development Committee within six month of Task Force inception

The process will be staffed by the Planning Division, and the task force will be a follows:

- John Coyne, District 5 Councilor, Chair
- HCDC Committee Liaison Designee
- Portland Planning Board Designee
- Riverton Community Association Designees (2)
- Portland Trails Designee
- Workforce Housing Designee
- Portland Society for Architecture Designee
- Greater Portland Landmarks Designee
- GPCOG Designee
- Denise Harlow, State Representative, District #116
- Riverton Elementary PTO Designee
- Parks Commission Designee
- Elise Scala

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

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 25-14/15 (Tab 9) **Order Approving the Collective Bargaining Agreement with Police Superior Officers Benevolent Association (PSOBA) – Sponsored by Sheila Hill-Christian, Acting City Manager.**

This order approves the collective bargaining agreement with Police Officers Benevolent Association for January 5, 2014, through December 31, 2016. The prior collective bargaining agreement expired December 31, 2013.

The PSOBA, which is comprised of 32 police lieutenants and sergeants, has reached a tentative agreement with the City. The tentative agreement is within the guidance received by the City Council on June 16th, 2014.

Effective January 5, 2014, employees will receive a general wage increase of 1.0%; effective July 6, 2014, employees will receive general wage increase of 1.0%; January 4, 2015, employees will receive a general wage increase of 1.0%, and effective January 3, 2016, employees will receive a general wage increase of 3%. The wage increases are reflected in the pay plan included in the agenda backup.

This item must be read on two separate days. It was given a first reading on July 21st. At the August 4th City Council meeting this item was postponed to the September 15th Council meeting. Staff is recommending that this item be postponed to the December 1st City Council meeting.

Order 46-14/15 (Tab 10)

Order Authorizing General Obligation Bonds in an Amount not to Exceed $700,000 Re: Somerset Street – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the incurring of indebtedness by the City of Portland through the issuance of General Obligation Bonds in the aggregate amount of $700,000 pursuant to the City Charter.

The specific items for which the bond proceeds will be expended are set forth in detail in the accompanying Appropriation Order.

This order also authorizes the Director of Finance to prepare, issue, and sell the bonds and also authorizes the Director of Finance, Mayor and Clerk, and other proper officials of the City to perform whatever other acts may be necessary or desirable to effect the issuance, sale, and delivery of the bonds.

This item must be read on two separate days. It was given a first reading on September 3rd. Seven affirmative votes are required for passage after public comment.

Order 47-14/15 (Tab 11)

Order Appropriating $700,000 Bond Proceeds Re: Somerset Street – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates the new general obligation bond proceeds to finance the construction, reconstruction, and renovation of Somerset Street.

Finally, the order requires that sufficient funds for the annual payments of principal and interest on the bonds and any notes issued be included in the tax levy each year until the debt represented by the bonds and any notes are extinguished.

This item must be read on two separate days. It was given a first reading on September 3rd. Five affirmative votes are required for passage after public comment.

Order 48-14/15 (Tab 12)

Order Approving and Authorizing the Acting City Manager to Sign the Second Amendment of the Purchase and Sale Agreement, The Guaranty and the Somerset Street Cost Share Agreement Re: The Federated Companies LLC – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

The delay with the Federated Companies Midtown Project, largely due to an active lawsuit, has resulted in the need to amend three Midtown Project partnership documents primarily to address Project timing issues.

There is also a need to raise the grade of Somerset Street from Pearl Street to Elm and assign costs for that work.

The Federated Companies Midtown Project partnership documents were executed by the parties on October 15, 2012, including the First Amendment to the Purchase and Sale Agreement which was signed on June 23, 2011, and is included in the agenda backup.

Amendments to the following Midtown Project documents are proposed with explanations:

Second Amendment to the Purchase and Sale Agreement

Assignment Change. Assignment change is proposed to a different Federated Companies corporate entity entitled "FEDEQ DV001, LLC".

Property Acreage. The amount of the City acreage being sold increased from 3.25 acres to 3.44 acres as contemplated in the original Purchase and Sale Agreement.

Property Sale Price. The property per acre sale price, established in the original Purchase and Sale Agreement at $700,000 per acre, applied to the new total acreage amount yields a total sale price of $2,408,000.

Project Timing. Project timing has been adjusted to reflect the end of legal appeals due to the active lawsuit.

Scrap Yard Environmental Cleanup. The assignment of responsibility to manage the cleanup of the New England Metal Recycling property has been changed from Federated Companies to the City to lower the overall site cleanup costs and maintain City involvement in the cleanup process under an EPA cleanup plan. There is no change to the City's financial involvement in this work.

Somerset Street Cost Share Agreement. This is a new agreement which recognizes the need to raise the elevation of Somerset Street, from Pearl Street to Elm Street, to support improved pedestrian/ vehicle access to new private development and address flooding issues in the neighborhood.

The scope of the Somerset Street Reconstruction Project is designed to raise the grade of the street between Pearl and Elem Streets and adjust utilities. The overall cost of this Project is estimated to be $4 million.

A cost share agreement has been negotiated for the Federated Companies to invest one-third (1/3) of the total costs and for the City to cover two-thirds (2/3). The proposed financial sources include:

Responsibility	Amount	Sources
Federated	$1.33	Federated
City	$2.67	$1.0 mil. (HUD - $666,667 Loan, $333,333 Grant) $1.0 mil. (Available Bayside TIF reserve) $0.70 mil. (New City Debt)
Total	$4.0	

Amendment of the Corporate Guaranty.

Project Definition. This has been added to refer to the Planning Board approvals, including Project Phase 1 to consist of a parking garage containing not less than 700 spaces; not less than one hundred seventy four (174) residential units; and, not less than 37,486 square feet of commercial space.

Guaranty Deadline. An amendment is proposed to clarify that scrap yard environmental cleanup costs, covered by the HUD funds, are not counted toward the $1 million Federated Companies HUD draw down trigger to start the date for two (2) year completion of the parking garage.

Amendment of the Parking Garage Contribution and Funding Agreement.

Timing. This change is needed again due to the active lawsuit to start the clock following the end of appeals.

Again, an amendment is proposed to clarify that scrap yard environmental cleanup costs, covered by the HUD funds, are not counted toward the $1 million Federated Companies HUD draw down trigger to start the date for two (2) year completion of the parking garage.

City staff prepared debt service projections for the additional City debt in the amount of $1.367 million, along with projected property revenue associated with midtown project to demonstrate that there is adequate property tax revenue to retire new City debt associated with the Somerset Street Reconstruction Project. City staff analysis is included in the agenda backup.

On August 13, 2014, the Housing and Community Development voted 4-0 to forward this item to the City Council with a recommendation for passage.

In addition, on August 21, 2014, the Finance Committee reviewed and voted 3-0 on the new city debt for the Somerset Street Reconstruction Project to forward it the City Council with a recommendation for passage.

At the September 3rd City Council meeting this item was postponed to this meeting to coincide with consideration of companion Orders 46-14/15 and 47-14/15. Five affirmative votes are required for passage after public comment.

Order 49-14/15 (Tab 13) **Order Approving and Authorizing the Acting City Manager to Amend the Bayside Housing and Urban Development 108/Brownfields Economic Development Initiative Grant Program RE: Somerset Street - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

The elevation of Somerset Street, between Pearl and Elm Streets, needs to be raised and utilities adjusted to support improved pedestrian/vehicle access to new private development and address flooding issues in Bayside. To assist with funding this project, estimated at $4 Million, there is the need to amend the HUD Loan/BEDI Grant Programming to use a portion of the funds for the project in the amount of $1 Million.

Originally, $1 Million was budgeted to support the relocation of the one remaining scrap yard in Bayside. This $1 Million is comprised of $666,666 in HUD loan funds and $333,334 in BEDI Grant Funds. Several attempts made by the City, over a number of years, to relocate this scrap yard have been unsuccessful.

Therefore, it is proposed that the $1 Million be reprogrammed for investment into the Somerset Street Reconstruction Project.

City Council approval is needed to amend the Bayside HUD 108 Loan and BEDI Grant Program funds for the Somerset Street Reconstruction Project in a total amount of $1 Million.

An explanation of the use of the Bayside HUD 108 Loan and BEDI Grant Program is provided in the agenda backup.

On August 13, 2014, the Housing and Community Development voted 4-0 to forward this item to the City Council with a recommendation for passage.

In addition, on August 21, 2014, the Finance Committee reviewed and voted 3-0 on the new city debt for the Somerset Street Reconstruction Project to forward it the City Council with a recommendation for passage.

At the September 3rd City Council meeting this item was postponed to this meeting to coincide with consideration of companion Orders 46-14/15 and 47-14/15. Five affirmative votes are required for passage after public comment.

Order 50-14/15 (Tab 14)	**Order Authorizing a Loan from Finance Authority of Maine in an Amount not to Exceed $3,500,000 – Sponsored by the Portland Development Corporation Board President, Jack Lufkin.**

On April 2, 2012, the Portland City Council approved of the City's participation in the State Small Business Credit Initiative (SSBCI) up to a $1,000,000 City Council maximum cap.

City staff proposed the $1 Million cap at that time to minimize the City's exposure to this new source of new loan funds for the Portland Development Corporation. To date, the PDC Board has lent out $862,954, which would leave the PDC $137,046 available to draw down from FAME/SSBCI. There is sufficient demand to increase the City imposed cap of $1 Million to the FAME maximum cap of $3.5 Million.

It is noted that the $862,954 in loans through the SSBCI program are repaying on time, have leveraged over $15 Million in private investment, and supported the creation of 51 jobs and the retention of 44 jobs.

There is also quarterly reporting to FAME on these loans, which has resulted in a beneficial working relationship.

The City entered into a Participant Loan Agreement (included in the agenda backup) with the Finance Authority of Maine (FAME) on April 4, 2012, for participation in the FAME SSBCI program.

This Loan Agreement provides for the City to drawdown funds for loans through the Regional Economic Development Revolving Loan Program (REDRLP) and SSBCI programs up to a FAME maximum cap of $3,500,000 on a competitive basis, i.e., first come, first served with other quasi-public lending institutions.

The current Loan Participation Agreement has no terms and no requirement for repayment of SSBCI funds unless the City mismanages the program or walks away from it. After five years (2017), the SSBCI revolved funds convert to a grant to the City, with no repayment obligations, for continued relending to Portland businesses.

All remaining SSBCI funds, the City would need to return to FAME, including those that were mismanaged (e.g., lent inappropriately) and those that had already been paid back to the City. The City would also be responsible for any fees to cover FAME's time in reclaiming mismanaged SSBCI funds and incorporating revolved funds and active loans into FAME's system.

The City Council, by Order #143 passed April 2, 2012, approved a note to exceed $1,000,000 loan from the FAME REDRLP/SSBCI program.

Therefore, the City Council would need to authorize the City Manager to increase the City participation up to the FAME maximum cap allowed, or $3,500,000.

Staff recommended to the PDC Board, and the PDC Board unanimously recommended to the City Council that it authorize the City Manager to increase the City loan participation in the FAME REDRLP/SSBCI programs up to the maximum allowed, or $3,500,000.

This item must be read on two separate days. It was given a first reading on September 3rd. Five affirmative votes are required for passage after public comment.

Order 51-14/15 (Tab 15) **Order Approving the Collective Bargaining Agreement with Professional and Technical City Employees Association (PRO TECH) – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

This order approves the collective bargaining agreement with Professional and Technical City Employee Association (Pro Tech) for July 1, 2013, through June 30, 2016. The prior collective agreement expired on July 6, 2013.

Pro Tech, which is comprised of approximately 140 Professional and Technical employees, namely engineers, nurses and nurse practitioners and other jobs located through the city.

Terms of the three-year agreement include a 1.0% general wage increase for fiscal year 2014 retroactive to July 7, 2013; 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase effective January 4, 2015, and a 3.0% general wage increase effective July 5, 2015. The wage increases are reflected in the pay included in the agenda backup.

This item must be read on two separate days. It was given a first reading on September 3rd. Five affirmative votes are required for passage after public comment.

Order 52-14/15 (Tab 16) **Amendment to Portland City Code Section 15-12 Re: Valet Parking Fees and Expiration Dates – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

The Portland City Council approved permit fees for valet parking and valet parking special events in Order 234-12/13 on June 3, 2013. A companion order adding the fees to the fee schedule in Chapter 15, Section 12 was inadvertently omitted from the agenda request. This order is that companion order.

This item must be read on two separate days. It was given a first reading on September 3rd. Five affirmative votes are required for passage after public comment.

Order 53-14/15 (Tab 17)

Amendment to Portland City Code Chapter 14. Land Use Re: Industrial I-M Zone – Sponsored by the Planning Board, Stuart O'Brien, Chair.

Spurwink Services has requested a text change to the City Ordinance to allow intermediate care facility as an allowable use in the moderate impact Industrial Zones (IM, I-Ma and I-Mb) in order to establish such a facility at their campus at 899 Riverside Street. The proposed amendment revises Section 14-247 Permitted Uses (IM, I-Ma and I-Mb Zones) to add the following use as follows:

Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.

The applicant and planning staff have worked together to draft this amendment language that supports the expansion of this service that has been located at this site since the 1950's. It can also be applied for the reuse of existing structures in other locations within the I-M zone where the sites are developed with non- industrial buildings.

The applicant is also proposing a text amendment to Section 14-47 Definitions to clarify the definition of intermediate care facility in the City Ordinance:

Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board.

The facility must be licensed as a board care, Residential Care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

The Planning Board met on August 26th and voted 6-0 (O'Brien absent) to forward this item the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on September 3rd. Five affirmative votes are required for passage after

ORDERS:

Order 59-14/15 (Tab 18) **Order Accepting and Adopting the 2014 Housing Trust Fund Annual Plan - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "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."

This budget is based on the current balance in the Housing Trust Fund. The proposed annual plan addresses the City Council's goal to promote housing availability by providing increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income; for a family of four this would be $38,650), low (at or below 80% of the area median income; for a family of four this would be $61,850) and moderate income (at or below 120% of the area median income; for a family of four this would be $92,760) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The HOME program restricts rental housing assistance to households at or below 60% ($46,380 for a family of four) of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

Funds can be used for the acquisition, construction or substantial rehabilitation of affordable rental units, cooperative units and homeownership units. 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. For homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City.

These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

For FY 2014-2015, Housing Trust Fund should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% (for a family of four this would be $61,850 - $92,760) of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income which for a family of four would be $38,650). Expenditures may include soft costs associated with the creation of affordable housing developments. Until additional sources of funding for the Housing Trust Fund are identified, the City should act prudently when deciding to invest the funds currently available.

The Housing and Community Development Committee met on August 27, 2014 and voted unanimously to forward this item to the City Council with a recommendation for passage of the FY 2014-2015 Housing Trust Fund Annual Plan.

Five affirmative votes are required for passage after public comment.

Order 60-14/15 (Tab 19) — **Order Authorizing and Approving Wage Increase for City Clerk and Corporation Counsel - Sponsored by Mayor Michael F. Brennan.**

As specified in and authorized by the City Charter and City Non-Union Personnel Policy and after City Councilors reviewed the performance of two of their three direct appointees, Corporation Counsel Danielle West-Chuhta and the City Clerk Katherine Jones, the full city Council recommends a retroactive 4% pay increase for both. This includes a 1% cost of living increase and a 3% merit increase for each appointee.

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

AMENDMENTS:

LICENSE RENEWALS:

Tab1 9-15-14

ROLL CALL: Mayor Brennan called the meeting to order at 7:20 P.M. All Councilors present.

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Suslovic and seconded by Councilor Leeman to approve the minutes of the August 4, 2014 Special City Council Meeting and August 4, 2014 Regular City Council Meeting. Passage 9-0.

PROCLAMATIONS:

Proc 4-14/15 **Proclamation Recognizing Andres Verzosa – Sponsored by Mayor Michael F. Brennan.**

Proc 5-14/15 **Proclamation Honoring Mirjana Jankovic as Employee of the Month for August, 2014 – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

Order 36-14/15 **Order Appointing Police Cadet as Constable for 2014 – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

Motion was made by Councilor Suslovic and seconded by Councilor Coyne for passage. Passage 9-0.

Order 37-14/15 **Order Approving Appointment of Paul W. Rosenblum as Fair Hearing Officer – Sponsored by the Nominating Committee, Councilor Cheryl A. Leeman, Chair.**

Motion was made by Councilor Leeman and seconded by Councilor Donoghue for passage. Passage 9-0.

CONSENT ITEMS:

Order 38-14/15 **Order Approving Transfer of Funds Under 15 M.R.S.A. Secs 5824(3) and 5826(6) RE: Paul Henry – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

Motion was made by Councilor Coyne and seconded by Councilor Susloivce for passage. Passage 9-0.

LICENSES:

Order 39-14/15 **Order Granting Municipal Officers' Approval of Shangri-la Sichuan Cuisine LLC d/b/a Shangri-la at 90 Exchange St. Application for a Class I FSE License – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Donoghue for passage. Passage 9-0.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 35-1/15 **Order Authorizing Amendment to City Code Sec. 14-49 (Zoning Map Amendment) Re: First Amendment to Conditional Rezoning For 802-828 Ocean Avenue – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair. This item was given first reading on August 4, 2014.**

Motion was made by Councilor Mavodones and seconded by Councilor Marshall to refer Order 35 to the Housing and Community Development Committee.
Motion failed 3-6 (Coyne, Hinck, Donoghue, Leeman, Suslovic Brennan).

Motion was made by Counilor Duson, to amend Order 35 by adding 1) requirement for a blasting plan to part of the Planning Board review with an independent third-party seismologist conducting an evaluation for review and monitoring during construction, and an increase in the liability insurance binder from \$2m to \$4m; 2) establishes an expiration term for the agreement and a reversion clause to the original conditional agreement; and 3) seeks the greatest separation of access drive from Ridge Road as practicable. Councilor Duson withdrew her amendment.

Motion was made by Duson and seconded by Councilor Marshall for passage. Motion failed 4-5(Hinck, Donoghue, Leeman, Suslovic, Brennan).

Motion was made by Councilor Hinck and seconded by Councilor Suslovic to postpone order 35 indefinitely. Passage 5-4 (Duson, Mavodones, Coyne, Marshall).

ORDERS:

Order 40-14/15 **Order Accepting Resignation of City Manager Mark H. Rees Effective September 3, 2014 – Sponsored by Mayor Michael F. Brennan.**

Motion was made by Councilor Suslovic and seconded by Councilor Mavodones for passage. Passage 8-0 (Suslovic out).

Order 41-14/15 **Order Appointing Sheila Hill-Christian as Acting City Manager Effective September 4, 2014, and Setting Annual Salary – Sponsored by Mayor Michael F. Brennan.**

Motion was made by Councilor Leeman and seconded by Councilor Suslovic for passage. Passage 9-0.

Order 42-14/15 **Order Establishing the City Manager Search Committee – Sponsored by Mayor Michael F. Brennan.**

Members of the City Manager Search Committee shall be Mayor Michael F. Brennan as Chair, and Councilors Jill C. Duson, Nicholas M. Mavodones, Jr., and Edward J. Suslovic.

Motion was made by Councilor Coyne and seconded by Councilor Duson for passage. Passage 9-0.

Order 43-14/15 **Order Receiving and Referring the India Street Sustainable Neighborhood Plan to the Housing & Community Development Committee, the Planning Board, and the Historic Preservation Board - Sponsored by Councilor Kevin J. Donoghue.**

Motion was made by Councilor Donoghue and seconded by Councilor Leeman for passage. Passage 9-0.

Order 44-14/15 **Order Granting Revocable License Agreement to 113 Newbury Street, LLC – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

Motion was made by Councilor Suslovic and seconded by Councilor Marshall for passage. Passsage 9-0.

Order 45-14/15 **Order Approving Rockland Avenue Stormwater Outfall Improvements at Capisic Pond Park – Sponsored by the Land Bank Commission, Councilor Cheryl A. Leeman and Tom Jewell, Co-Chairs.**

Motion was made by Councilor Leeman and seconded by Councilor Suslovic for passage. Passage 9-0 .

Order 46-14/15 **Order Authorizing General Obligation Bonds in an Amount not to Exceed $700,000 Re: Somerset Street – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

Order 47-14/15 **Order Appropriating $700,000 Bond Proceeds Re: Somerset Street – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

Order 48-14/15 **Order Approving and Authorizing the Acting City Manager to Sign the Second Amendment of the Purchase and Sale Agreement, The Guaranty and the Somerset Street Cost Share Agreement Re: The Federated Companies LLC – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

Motion was made by Councilor Marshall and seconded by Councilor Donoghue to postpone Order 48 until the September 15, 2014 City Council meeting. Passage 9-0.

Order 49-14/15 **Order Approving and Authorizing the Acting City Manager to Amend the Bayside Housing and Urban Development 108/Brownfields Economic Development Initiative Grant Program RE: Somerset Street - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

Motion was made by Councilor Marshall and seconded by Councilor Donoghue to postpone Order 49 until the September 15, City Council meeting. Passage 9-0.

Order 50-14/15 **Order Authorizing a Loan from Finance Authority of Maine in an Amount not to Exceed $3,500,000 – Sponsored by the Portland Development Corporation Board President, Jack Lufkin.**

This is its first reading.

Order 51-14/15 **Order Approving the Collective Bargaining Agreement with Professional and Technical City Employees Association (PRO TECH) – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

This is its first reading.

AMENDMENTS:

Order 52-14/15 **Amendment to Portland City Code Section 15-12 Re: Valet Parking Fees and Expiration Dates – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

The Portland City Council approved permit fees for valet parking and valet parking special events in Order 234-12/13 on June 3, 2013. A companion order adding the fees to the fee schedule in Chapter 15, Section 12 was inadvertently omitted from the agenda request. This order is that companion order.

This is its first reading.

Order 53-14/15 **Amendment to Portland City Code Chapter 14. Land Use Article III. Zoning, DIVISION 1. Generally, Section 14-47. Definitions, and DIVISION 14. I-M, I-Ma and I-Mb Industrial Zones Section 14-247. Permitted Uses. Re: Industrial I-M Zone – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

This is its first reading.

Motion was made by Councilor Coyne and seconded by Councilor Suslovic to adjourn. Passage 8-0 (Marshall gone).

A TRUE COPY.

Katherine L. Jones, City Clerk

Proc. 6-14/15
Tab 2 9-15-14

PROCLAMATION

HONORING

OFFICER MICHAEL BENNIS

WHEREAS, **Officer Michael Bennis** became a member of the Portland Police Department in 2002 and is assigned to Property Crimes in the Criminal Investigation Division. She received her Bachelor's and Master's degrees in Criminal Justice from Anna Maria College in Massachusetts; and

WHEREAS, **Officer Bennis** is currently working a high profile theft investigation. She has worked several hundred hours compiling detailed accounting records, intelligence sources, meeting with the victim in the investigation as well as coordinating with the District Attorney's office to compile an incredibly complex investigation; and

WHEREAS, **Officer Bennis** is recognized for her professionalism, positive attitude and exceptionally hard work to get the job done. She has received numerous commendations from her superiors and members of the public; and

WHEREAS, **Officer Bennis** has been commended by her supervisors for her ability to multi task while working a full case load in addition to this recent high profile investigation. She has continued work on a cold case homicide investigation that has resulted in the identification and opening of several investigative leads; and

WHEREAS, **Officer Bennis** serves as a board member of the Police Benevolent Association. She actively and regularly contributes to the mission of the Portland Police Department through public service and sets an example for her peers.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Michael Bennis** as **Officer of the Month, July 2014.**

Signed and sealed this 15th day of September, 2014

Michael Brennan

Michael F. Brennan, Mayor
City of Portland, Maine

Order 54-14/15
Tab 3 9-15-14

MICHAEL F. BRENNAN. (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER DECLARING 23rd ANNUAL MAINE MARATHON/RELAY AND HALF MARATHON

ORDERED, this this Order shall replace Order 136-13/14; and

BE IT FURTHER ORDERED, that the 23rd Annual Marathon/Relay and Half Marathon Day is hereby declared as a Festival on Sunday, October 5, 2014 to be held in Portland, specifically, Baxter Blvd. Ext. – from Forest Avenue to Preble Street, (and continuing on to Washington Avenue). Runners will congregate in the area between Forest Avenue and Preble Street for the start and finish of the race. The routes of the Maine Marathon and Relay cover Portland, Falmouth, Cumberland and Yarmouth; the Half Marathon will begin along Baxter Boulevard and continue into Falmouth crossing Washington Avenue and continuing on Veranda Street and back to Portland via Ocean Avenue. The three races will start at 7:45 a.m. from the same location; and

BE IT FURTHER ORDERED, that Payson Park and Baxter Boulevard (and Back Cove Trail), is reserved for the use of the Maine Track Club and the Maine Marathon Committee for the purpose of conducting the 23rd Annual Maine Marathon/Relay and Half Marathon, subject to the direction and control of the City Manager and that this same area shall be closed to street vendors pursuant to §19-17 of the Portland City Code; and

BE IT FURTHER ORDERED, that during the 23rd Annual Maine Marathon/Relay and Half Marathon, the following streets will be closed to vehicular traffic on Sunday, October 5, 2014:

- Baxter Boulevard Extension (from Forest Avenue to Preble Street): 5:00 a.m. to 3:00 p.m.;
- Baxter Boulevard (from Preble Street to Washington Avenue): 5:00 a.m. to 2:00 p.m.;
- Payson Park roads (including West Kidder Street and into Payson Park, Fernald Street entrances into Payson Park from Washington Avenue with no vehicle access to Baxter Boulevard): 5:00 a.m. to 2:00 p.m.; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to issue a revocable permit under §§25-26 -- 25-30 of the Portland City Code to the Maine Marathon Committee subject to the following conditions:

* Under no circumstances may alcoholic beverages be sold on City of Portland rights-of-way in the festival area during said event;

* The Maine Marathon Committee shall defend and indemnify the City and hold it harmless from and against all claims arising out of activities during said event, 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 and naming the City as an additional insured thereon for said purposes;

* Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to;

* Marathon organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;

* City permit fees and license fees, and costs for city staff assistance, will be paid by the Marathon Committee;

* Route of the course is subject to change, depending on construction projects along the course and Police recommendations leading up to race day; and

BE IT FURTHER ORDERED, that 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.

Michael J. Bobinsky
Director of Public Services

TO:	Sheila Hill-Christian, Acting City Manager
FROM:	Michael Bobinsky, Director of Public Services
DATE:	September 3, 2014
RE:	"23rd Annual Maine Marathon / Relay & Maine Half Marathon"

I am requesting that the following order be placed on the next City Council agenda: order authorizing the 23rd Annual Maine Marathon / Relay & Maine Half Marathon, scheduled for Sunday, October 5, 2014.

City Council has already given approval for the race, and declared it a festival (a new route was approved then). **However, in June, MDOT would not approve the closing of the off-ramp from 295 to Baxter Blvd. for runners to use, so the race route has recently been changed again (the route is now reverting back to the original course – the 2012 route).**

This is the 23rd year that the Maine Marathon Committee has sponsored the Maine Marathon race. This year's race sponsor is Gorham Savings Bank. The event continues to increase in size drawing many participants from all areas of the state and New England. Expected number of registered runners this year is expected to reach 3,500. Audience attendance is also on the rise, with spectators lining much of the sidewalks, parks, and pathways along the route of the road race. Over the past few years, close to 3.2 million dollars has been raised for local charities and cancer research. The Robbie Foundation is the beneficiary of the 2014 Marathon proceeds.

The Order should include the following items:

The Maine Marathon / Relay & Maine Half Marathon be authorized for **Sunday, October 5, 2014**, from **5am - 3pm,** to be held in Portland, specifically, Baxter Blvd. Ext. – from Forest Avenue to Preble Street, (and continuing on to Washington Avenue). Runners will congregate in the area between Forest and Preble, for the start and finish of race. The 3 races (Marathon / Relay and Half Marathon) each start at 7:45am from the same location.

This area at Baxter Blvd. Ext., **as well as Payson Park and Baxter Blvd. itself (and the Back Cove Trail)**, will also be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of the Maine Marathon Committee, for the purpose of conducting the Maine Marathon / Relay and Half Marathon, subject to the direction and control of the City Manager.

The route of the race takes runners around Baxter Blvd., taking a left onto Bates Street, then crossing over Washington Ave. onto Veranda Street, continuing on Veranda to Route One, crossing Martins Point Bridge and into Falmouth. When runners return, they cross Martin's Point Bridge and when reaching Sherwood Street, take a right onto Sherwood, then cross Presumpscot Street, then take a left onto East Kidder, then cross over Washington Ave., continuing on

West Kidder, down through Payson Park and back onto Baxter Blvd., continuing around the cove, finishing back at the start line: Baxter Blvd. at Pedro Field area.

During the Maine Marathon / Relay and Half Marathon, streets listed below will be closed to vehicular traffic, **Sunday, October 5, 2014:**

Baxter Blvd. Ext. (From Forest Avenue to Preble Street) – 5am to 3pm,
Baxter Blvd. (From Preble Street to Washington Avenue) – 5am to 2pm,
Payson Park roads (including West Kidder Street, Fernald Street entrances into Payson Park, from Washington Avenue) – 5am to 2pm,

Times when runners will be filling the streets:

Washington Avenue at Veranda Street (inbound traffic) may be detoured back at Ocean Ave.: 7:45 – 8am / outbound traffic on 295 Ramp (Washington Ave.), will be held back for the few minutes that runners cross over Washington Ave.. There will also be traffic delays on Washington Ave. during the race (9am – 2pm) due to returning runners (from the Falmouth side) crossing over Washington Ave. from East Kidder Street to West Kidder Street and into Payson Park). Police units will let cars through when runners not crossing.

The City Manager is authorized to issue a revocable permit under Sections 25-26 thru 25-30 of Portland City Code to the Maine Marathon Committee subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event.
- The Maine Marathon Committee shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least $400,000 combined simple limit for personal or bodily injury, death, or property for said purposes.
- Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to.
- Marathon organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival.
- **City permit fees and license fees, and costs for city staff assistance, will be paid by Marathon Committee.**
- **Route of the course is subject to change, depending on construction projects along the course and Police recommendations leading up to the race.**

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 Ted Musgrave, Event Coordinator

Order 55-14/15
Tab 4 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER DECLARING 2014 VETERANS DAY PARADE AND CEREMONY AS A FESTIVAL

ORDERED, that the annual Veterans' Day Parade to be held on Tuesday, November 11, 2014 is hereby declared as a Festival; and

BE IT FURTHER ORDERED, that the Harold T. Andrews Post No. 17 is hereby authorized to hold its annual Veterans Day Parade on Tuesday, November 11, 2014, from 10:30 a.m. until 12:00 noon, said parade to take place on Congress Street from Longfellow Square to City Hall Plaza; and

BE IT FURTHER ORDERED, that the following streets will be closed to vehicular traffic on November 11 for the times designated:

9:00 a.m. – 12:00 noon:

Congress Street from Mellen to State Street;
State Street from Cumberland Avenue to Congress Street; and
Dow Street from Congress Street to Brackett Street

The above streets may be posted "no parking" at the discretion of parade organizes, so that the assembly area can be free of vehicles.

10:15 a.m. – 12:00 noon (parade steps off at 10:30 a.m.):

Congress Street from State Street to Franklin Street Arterial;
High Street from Spring Street to Deering Street;
Forest Avenue from Cumberland Avenue to Congress Street;
Casco Street from Shepley Street to Congress Street;
Center Street from Free Street to Congress Street;
Preble Street from Cumberland Avenue to Congress Street;
Temple Street from Federal Street to Congress Street;
Chestnut Street from Cumberland Avenue to Congress Street; and
Other streets, as the Police Department deems necessary

The above streets may be posted "no parking" at the discretion of parade organizers.

10:00 a.m. – 12:00 noon (Ceremony at City Hall Plaza)

Congress Street from Temple Street to Pearl Street (10:15 a.m.-1:00 p.m.)
Chestnut Street traffic (when reaching Congress Street) must take a right turn onto Congress Street (head west);
Market Street traffic (when reaching Congress Street) must take a right turn (head east); and

BE IT FURTHER ORDERED, that the Veterans Day Parade will be closed to vendors pursuant to section 19-17 of the City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit under Section 25-27 of the Portland City Code to Harold T. Andrews Post No. 17 for the use of the above-described area for said events subject to the following conditions:

- That the Harold T. Andrews Post No. 17 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 occurence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Post shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance for the duration of this event;

- That conditions for use of grounds, specified in a permit issued from the Public Services Event Office, shall be adhered to;

- That all Departmental expenses related to the Festival and license fees are hereby waived; and

- That Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said events and festival; and

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

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: September 3, 2014

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuhta, Corporation Counsel
Sonia Bean, Senior Administrative Assistant
Nancy English, Executive Legal Assistant

SUBJECT: Veteran's Day Parade: Tuesday, November 11, 2014

SPONSOR: City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_____September 15, 2014______________ Final Action________________

Can action be taken at a later date: __x___ Yes ______ No (But event is Nov. 11)

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE

Please see attached memo for Veteran's Day Parade Festivities.
Approve Congress Street closing **(Mellen Street to Franklin Street Arterial)** on **Tuesday, November 11, 2014**, from **10:15am to Noon**, in order to hold the Veteran's Day Parade and Ceremony **(parades starts at 10:30am)**
Declare the 2014 Veteran's Day Parade and Ceremony as a Festival.
Closing Ceremony & Speeches for this year's parade are at City Hall Plaza

II. REASON FOR SUBMISSION

Street Closing and Parade/Festival Declaration
Posting parade route and formation area as "no parking"

III. INTENDED RESULT

Allows for closing of Congress Street and surrounding streets to traffic.
Allows for control and regulation of street vendors.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Minimal costs incurred by City Departments (organizer does not reimburse).

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

- Detailed Memo from Staff

Prepared by:

Ted Musgrave
Public Services Event Office

Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: August 25, 2014
RE: Council Agenda Item – **Veteran's Day Parade (ending at City Hall Plaza)**

I am requesting that the following order be placed on the next City Council agenda:
Order Authorizing the Veteran's Day Parade, scheduled for **Tuesday, November 11, 2014.**

This is an annual parade organized by the Harold T. Andrews Post No. 17 and is held to commemorate and remember the many American servicemen and women who now serve, and have served their country. The parade begins at Longfellow Square, ending at City Hall Plaza with a wreath laying ceremony and speeches by local, state, and national dignitaries. As it is a national holiday, Metro Bus will not be operating. Many businesses and offices along the parade route (Congress Street) are also closed.

The City of Portland assists this group by providing police officers, barricades and preparing City Hall Plaza for the ceremony which follows the parade. The parade route is Congress Street (Longfellow Square to Portland City Hall). This year's parade is scheduled for Tuesday, November 11, 2014, from 10:30 a.m. to 12:00 p.m.

The parade route and Festival area will also be closed to street vendors pursuant to Section 19 -17 / 19-22 of the Portland City Code and is reserved for the use of the City Public Services Department Event Office for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager.

Streets and adjoining sidewalks and squares that are to be closed to vehicular traffic for the event (and will act as the Festival grounds) are as follows:

Staging Area – 9:00 a.m. – 12:00 p.m.
Congress Street (from Mellen Street to State Street)
State Street (from Cumberland Ave. to Congress Street)
Dow Street (from Congress Street to Brackett Street)
The above streets may be posted "no parking" at the discretion of parade organizers, so that the assembly area can be free of vehicles.

Parade – 10:15 a.m. – 12:00 p.m. (parade steps off at 10:30 a.m.)

Congress Street (from State Street to Franklin Street Art.)
High Street (from Spring Street to Deering Street)
Forest Avenue (From Cumberland Avenue to Congress Street)
Casco Street (from Shepley Street to Congress Street)
Center Street (from Free Street to Congress Street)
Preble Street (from Cumberland Avenue to Congress Street)
Temple Street (from Federal Street to Congress Street)
Chestnut Street (from Cumberland Avenue to Congress Street)
And other streets, as the Police Department deems necessary.

The above streets may be posted "no parking" at the discretion of parade organizers. Parade organizers post this, not city staff.

Ceremony at City Hall Plaza – 10:00 a.m. – 12:00 p.m.
Congress Street (from Temple Street to Pearl Street) – 10:15am – 1pm
Chestnut Street traffic (when reaching Congress Street) must take a right turn onto Congress Street (head west); Market Street traffic (when reaching Congress Street) must take a right turn (head east)

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Harold T. Andrews Post for the use of the above-described area for said parade and ceremony, subject to the following conditions:

- The Harold T. Andrew Post shall indemnify the city and hold it harmless from and against all claims arising out of activities during said parade and ceremony, and shall take out and maintain public liability insurance coverage in the amount of at least $400,000 combined single limit 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 Veteran's Day Parade and Ceremony,

- Expenses incurred by City Departments for said event, shall be waived, and

- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said parade and ceremony.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PS Event Coordinator

Order 56 -14/15
Tab 5 9-15-14

CITY OF PORTLAND

IN THE CITY COUNCIL

ORDER GRANTING EASEMENT TO PORTLAND WATER DISTRICT

ORDERED, that an easement is hereby authorized and granted to Portland Water District, in substantially the form attached hereto, for the purpose of relocating a hydrant on Fox Street; and

BE IT FURTHER ORDERED, that the Acting City Manager is hereby authorized to execute said easement and any other documents necessary to effect the purpose of this Order.

City of Portland, Maine
City Council Agenda Request Form

TO: Sonia Bean, Senior Administrative Assistant
Mayor and City Manager
Nathaniel Smith, Public Services

FROM: Michael Goldman, Associate Corporation Counsel

DATE: **9/4/2014**

1) Council meeting at which action is requested:

1st reading: ____Not Required____________
Final action: __________9/15/2014____________

2) Can action be taken at a later date: _____YES __X___ NO
If not, why not:

3) This item is sponsored by: __Corporation Counsel_____

____

____

(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

This 5' x 10' Easement to Portland Water District is required to move a hydrant in order to construct new infrastructure in a Combined Sewer Overflow project in the Fox Street area. The attached plan depicts the location of the easement.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The easement addresses a problem of insufficient room to relocate hydrant in an existing right-of-way; and also permits repairs, replacement, construction and maintenance on the water lines.

II. **INTENDED RESULT** (How does it resolve the issue/problem?)

The approval of the acceptance of this easement and authorization of the City Manager to execute any necessary documents on the City's behalf.

IV. FINANCIAL IMPACT

There is no financial impact.

V. STAFF ANALYSIS & RECOMMENDATION

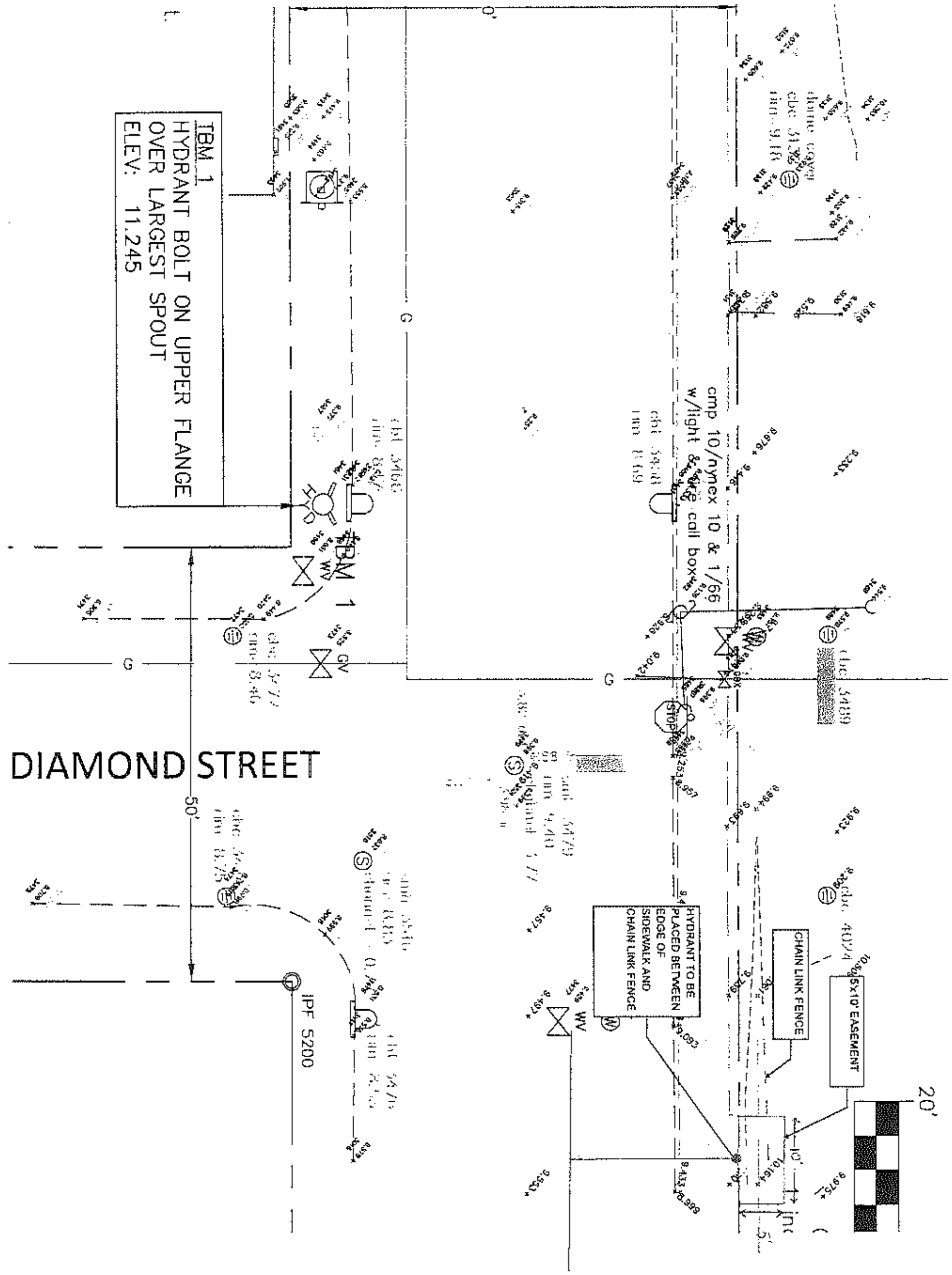
Attachments:

Easement

Order

Plan

O:\OFFICE\CITY COUNCIL\Agenda Requests\Agenda Request - Fox Street Easement 9.3.2014.doc



TBM 1
HYDRANT BOLT ON UPPER FLANGE
OVER LARGEST SPOUT
ELEV: 11.245
TBM 1
WV
GV
G
DIAMOND STREET
50'
IPF 5200
cmp 10/nynex 10 & 1/66
w/light & fire call box
STOP
HYDRANT TO BE PLACED BETWEEN EDGE OF SIDEWALK AND CHAIN LINK FENCE
CHAIN LINK FENCE
5'X10' EASEMENT
20'

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that the **CITY OF PORTLAND,** a municipal corporation organized and existing under the laws of the State of Maine and located at Portland, in the County of Cumberland and State of Maine (the "CITY"), in consideration of one dollar ($1.00) and other valuable consideration paid by **PORTLAND WATER DISTRICT**, a quasi- municipal corporation organized and existing under the laws of the State of Maine, with a mailing address of 225 Douglass Street, Portland, Maine 04104-3553 (the "DISTRICT"), the receipt whereof is hereby acknowledged, does hereby remise, release, bargain, sell and convey and forever quitclaim with quitclaim covenants to the said **PORTLAND WATER DISTRICT**, its successors and assigns, the right perpetually to enter upon a certain parcel of land located on the southeasterly side of Fox Street in the City of Portland and State of Maine (hereinafter "Easement Area") bounded and described as follows:

Beginning at a point on the southeast sideline of Fox Street, said point being 263 feet as measured southwesterly from the intersection with the southwesterly sideline of Anderson Street; thence southeasterly perpendicular to the southeast sideline of Fox Street 5 feet to a point; thence southwesterly parallel to the southeast sideline of Fox Street 10 feet to a point; thence northwesterly perpendicular to the southeast sideline of Fox Street 5 feet to a point on the southeast sideline of Fox Street; thence northeasterly along the southeast sideline of Fox Street 10 feet to the point of beginning.

The **DISTRICT** shall have the following permanent easement rights in the Easement Area described above:

The right to construct, operate, maintain, repair, replace and remove conduits and pipe lines for conveying water with all necessary fixtures or appurtenances, specifically including a fire hydrant; the right to trim, cut down and remove bushes and trees and to remove grass and crops growing on said Easement Area to such extent as in the judgment of the DISTRICT is necessary for any of the above purposes; and to enter upon said Easement Area at any and all times for any of the foregoing purposes; reserving to the CITY, its successors and assigns, the use and enjoyment of said Easement Area for such purposes only as will in no way interfere with the perpetual use thereof by the DISTRICT, its successors and assigns, of all of the purposes above mentioned, provided that no building of any kind or permanent structure will be erected on said Easement Area by the CITY, its successors and assigns, and that the CITY, its successors and assigns, shall not remove earth from said Easement Area or place fill thereon without the written permission of the DISTRICT. No conduits, pipelines or facilities shall be installed within 5 feet of or above any conduit or pipeline installed by the DISTRICT, except that pipelines and conduits may be installed if they cross perpendicular to the DISTRICT conduits and pipelines with a minimum vertical clearance of one foot.

IN WITNESS WHEREOF, the said City of Portland has hereunto caused this instrument to be signed by Sheila Hill-Christina, its duly authorized Acting City Manager, this day of __________________ , 2014.

CITY OF PORTLAND

______________________________ Witness

____
By: Sheila Hill-Christian
Its: Acting City Manager

STATE OF MAINE
CUMBERLAND, ss. ___________________, 2014

Personally appeared the above-named Sheila Hill-Christian in her capacity as the Acting City Manager of the City of Portland, and acknowledged the foregoing instrument to be her free act and deed and the free act and deed of the City of Portland.

Before me,

____
Notary Public/Attorney at Law

____
Printed Name

Order 57-14/15
Tab 6 9-15-14

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER
GRANTING MUNICIPAL OFFICERS' APPROVAL OF:

Huong Thi Thu Le d/b/a Huong's Vietnamese Restaurant at 267 St. John St. Application for a Class III & IV (Wine and Beer) License.

CITY CLERK

LETTER OF INTENT

2014 AUG 22 PM 1:51

I Huong Le intend to Lease the Space on 267 St John St Portland, Me 04102 to open up my restaurant So I can bring authentic Vietnamese food to the city of Portland. Huong's Vietnamese Restaurant is what the restaurant is going to be named. I will be serving Food, Beer, and wine at this location. You can contact me at 207-899-2155 at any time and I will gladly discuss further details.

Thank you very much.

Respectfully,

Huong Thi Thu Le

Sole Proprietor

Huong's Vietnamese Restaurant

Office of the City Clerk
389 Congress Street
Portland, ME 04101
(207) 874-8557

CITY CLERK
2014 AUG 22 PM 1:51

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: CLASS 3 & 4

Please check one: (Corporation/ LLC/ Non-profit org. ____) (Sole Proprietor X) (Partnership ____)

Business Name (d/b/a): HUONG'S VIETNAMESE RESTAURANT Phone: 207-775-2344

Location Address: 267 ST JOHN STREET PORTLAND, ME ZIP 04102

If new, what was formerly in this location: VIETNAM RESTAURANT

Mailing Address: 267 ST JOHN STREET PORTLAND, ME ZIP 04102

Contact Person: HUONG LE Phone: 207-518-1644

Manager of Establishment: HUONG LE Home Phone # 207-518-1644

Owner of Premises (landlord): PHUONG & TRANG LE

Address of Premises Owner: 2455 SEDGWICK AVE #2K, NY ZIP 10468

Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes___ No X
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? Yes X No _____. If yes, please list business name(s) and location(s):

____

Is any principal officer under the age of 18? ________ Yes X No

Have applicant, partners, associates, or corporate officers ever been *arrested, indicted,* or *convicted* for any violation of law? NO If yes, please explain: ______________________________

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): HUONG LE	DOB 8/10/68	Residence Address 39 MONROE CT	
Name of Owner(s):	DOB	Residence Address PORTLAND, ME 04101	
Name of Owner(s):	DOB	Residence Address	

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: ______________________________

Corporation Mailing Address: ______________________________ ZIP ________

Contact Person: ______________________ Phone Number: ______________________

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name	Title	DOB	Residence Address

(Please see reverse side)

Type of Food Served: VIETNAMESE FOOD (HOT & COLD)

Please check all that will be served: Beer X Wine ✓ Liquor ________

Percentage of sales – Generated from Food : 80% Generated from Alcohol: 20%

Hours and Days of operation (MON) CLOSED TUE - THU 10 - 9 FRI - SUN 10 - 10

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes X No ______.

If no, please explain ________________________________

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ________ No X. If yes, give the distance ________________.

Will you have entertainment on the premises? Yes _____ No X (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes ____ No X

Will you permit dancing after 1:00am? Yes _____ No X

Will you have outside dining? Yes _______ No X. If yes, please indicate location on diagram.
Also, will the outside dining be on PUBLIC _____ or PRIVATE _____ property?
Have you applied for an Outdoor Dining Permit? Yes _____ No X

Will you have any amusement devices (pinball, video games, juke box)? Yes ______ No X.

If yes, please list, # of pinball: 0 # of amusements: 0 # of pool tables: 0.

What is your targeted opening date? : SEPTEMBER

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 8/21/14

Department of Public Safety **Liquor Licensing & Inspection**

Division

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY
License No. Assigned:
Class:
Deposit Date:
Amt. Deposited:

PRESENT LICENSE EXPIRES ______________

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV)
- ☐ HOTEL-OPTIONAL FOOD (Class I-A)
- ☐ CLASS A LOUNGE (Class X)
- ☐ CLUB (Class V)
- ☐ TAVERN (Class IV)
- ☐ RESTAURANT/LOUNGE (Class XI)
- ☐ HOTEL (Class I,II,III,IV)
- ☐ CLUB-ON PREMISE CATERING (Class I)
- ☐ GOLF CLUB (Class I,II,III,IV)
- ☐ OTHER: ______________

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) HUONG THI THU LE DOB: 8/10/68	2. Business Name (D/B/A) HUONGS VIETNAMESE RESTAURANT
DOB:	267 ST. JOHN STREET
DOB:	Location (Street Address) PORTLAND ME 04102
Address 39 MONROE CT	City/Town State Zip Code
PORTLAND ME 04101	Mailing Address 39 MONROE CT
City/Town State Zip Code 207-518-1644	City/Town PORTLAND State ME Zip Code 04101
Telephone Number Fax Number	Business Telephone Number 207-775-2344 Fax Number
Federal I.D. # 007-90-5378	Seller Certificate #

3. If premises are a hotel, indicate number of rooms available for transient guests: N/A

4. State amount of gross income from period of last license: ROOMS $ _______ FOOD $ _______ LIQUOR $_______

5. Is applicant a corporation, limited liability company or limited partnership? YES ☐ NO ☒

complete Supplementary Questionnaire ,If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: TRINH LE

8. If business is NEW or under new ownership, indicate starting date: ______________

Requested inspection date: ASAP Business hours: MON CLOSED TUE-THU 10-9 FRI-SUN 10-10

9. Business records are located at: ______________

10. Is/are applicants(s) citizens of the United States? YES ☐ NO ☒

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	**DOB**	**Place of Birth**
HUONG THU THI LE	8/10/68	VIETNAM

Residence address on all of the above for previous 5 years (Limit answer to city & state
39 MONROE CT PORTLAND, ME 04101

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other then minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: __________ Date of Conviction: __________

Offense: __________ Location: __________

Disposition: __________

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If. Yes, give name: __________

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If **No** give name and address of owner: __________

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) RESTAURANT /

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: __________

19. 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? 2 MILES Which of the above is nearest? SCHOOL

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: __________

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to $2,000 or both."

Dated at: PORTLAND, ME on 8/21, 2014
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s) Signature of Applicant or Corporate Officer(s)

State of Maine

Bureau of Alcoholic Beverages

Division of Liquor Licensing and Enforcement

Supplemental Information Required for Business Entities Who Are Licensees

For Office Use Only:
License #: ______
Date Filed: ______

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752. Please clearly complete this form in its entirety.

1. Exact legal name:

   HUONG THU THI LE

2. Other business name for your entity (DBA), if any:

   HUONGS VIETNAMESE RESTAURANT

3. Date of filing with the Secretary of State: ______

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: ______

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
HUONG THU THI LE	39 MONROE CT PORTLAND, ME	8/10/68	100%

7. Is any principal person involved with the entity a law enforcement official?

   Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

   Name: ______ Agency: ______

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: ______________________

Date of Conviction: ______________

Offense: ______________________

Location of Conviction: ______________________

Disposition: ______________________

____

Signature:

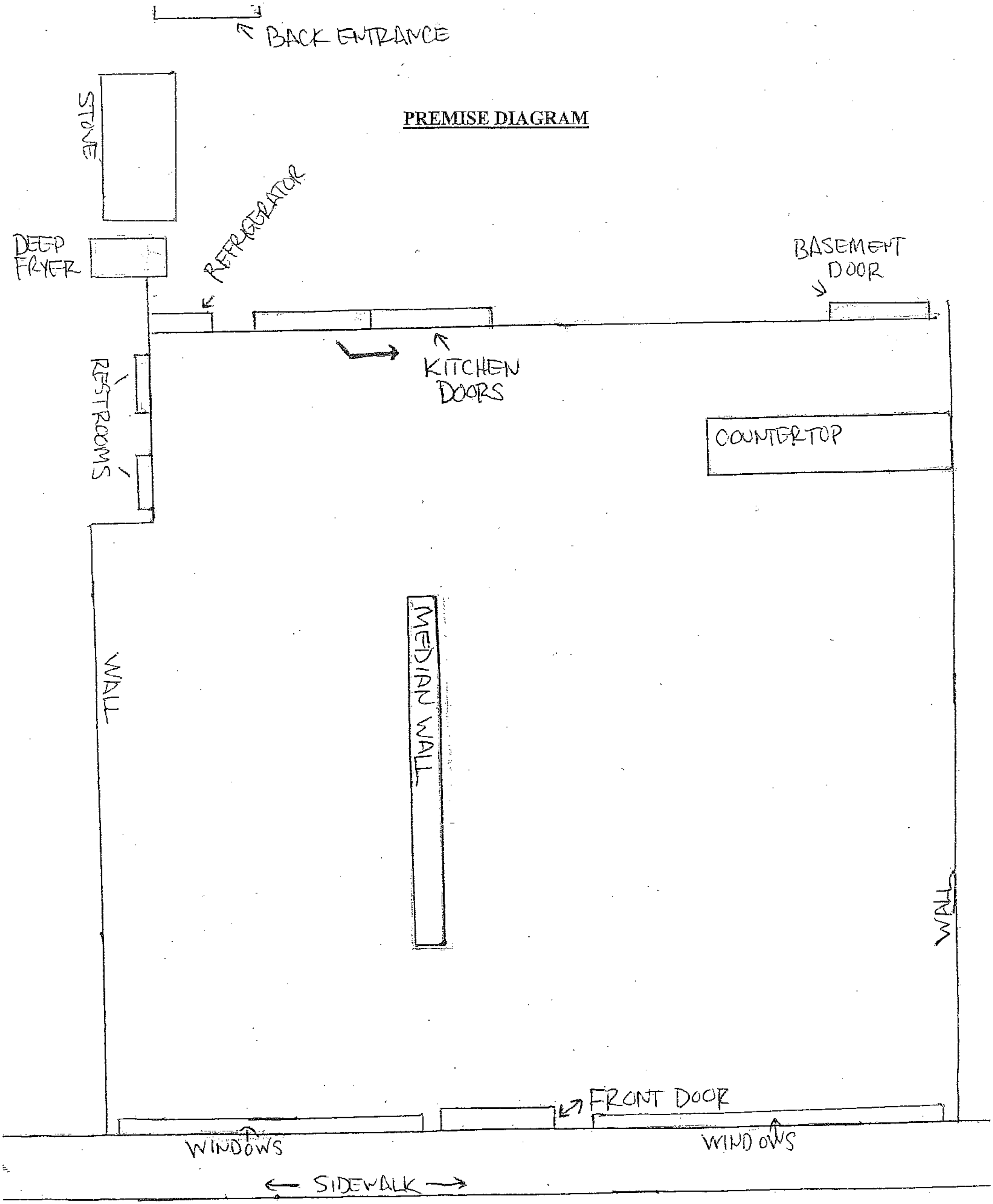
____
Signature of Duly Authorized Person

8/21/14
Date

HUONG LE
Print Name of Duly Authorized Person

Submit Completed Forms To: Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220

PREMISE DIAGRAM



Huong's Vietnamese Restaurant

267 St. John St.

Telephone # 207-775-2344

HUONG'S VIETNAMESE RESTAURANT

267 Saint John St

OPEN TUESDAY THUR SUNDAY

Nuoc Uon:

Soda Cans	$1.00
Da Chanh: Vietnamese Lime Aid	$2.25
Da Chanh Muoi: Salty Lime Aid	$2.25
Ca Phe Den Nong: Black Hot Coffee	$2.25
Ca Phe Den Da: Black Ice Coffee	$2.50
Ca Phe Sua Nong: Hot Coffee with milk	$2.50
Ca Phe Sua Da: Iced Coffee with milk	$3.00
Soda Trung Ga: Egg Soda	$3.50
Tra Da Chanh Duong: Iced Tea with Lime and Sugar	$2.50

Sinh To: Fruit Smoothies With Bubbles

S1. Sinh To Bo: Avacado Smoothie	$3.50
S2. Sinh To Dau: Strawberry Smoothie	$3.50
S3. Sinh To Sau Rieng: Durian Smoothie	$3.50
S4. Sinh To Mit: Jack Fruit Smoothie	$3.50
S5. Sinh To Chuoi: Banana Smoothie	$3.50
S6. Sinh To Mang Cau: Soursop Smoothie	$3.50

Beer:

Heineken	$3.50
Tiger	$4.00
Sapporo	$4.50

Budlite $3.00 Budwiser $3.00

White Wine:

Chardonnay	~~[illegible]~~ 4.00
Pinot Grigio	~~5.00~~ 4.00
Sauvignon Blanc	6.00
White Zinfandel	4.00

Red Wine:

Merlot	4.00
Pinot Noir	5.00
Cabernet Sauvignon	4.00

APPETIZER:

A1. Gio Cuon Dau Hu: Tofu Fresh Spring Rolls (2)	$3.95
A2. Gio Cuon Tom Thit: Shrimp, Pork or Chicken Fresh Spring Rolls (2)	$4.95
A3. Gio Cuon Bi: Shredded Pork Spring Rolls (2)	$3.95
A4. Cha Gio Chay: Vegetable Egg Rolls (4)	$3.95
A5. Cha Gio Thit: Pork and Chicken Egg Rolls (4)	$4.95
A6. Canh Ga Chien: Crispy Chicken Wings (5)	$4.95
A7. Pork Dumplings: (Steamed or Pan Fried) (5)	$4.95
A8. Hoanh Thanh Sup Tom Thit: Shrimp and Pork Wonton Soup (5)	$4.95
A9. Bo Lui: Beef Teriyaki (3)	$4.95
A10. Ga Lui: Chicken Teriyaki (3)	$4.95

XA LACH: SALADS

X1. Bo Tai Chanh: Beef Salad....$14.95
X2. Goi Ga: Chicken Salad....$12.95
X3. Tom Kho Cu Kieu: Dried Shrimp With Pickled Spring Onion....$12.95
X4. Tom Nuong:Grilled Shrimp....$14.95
X5. Tom Rang Muoi:Salted Fried Shrimp....$14.95
X6. Bo Luc Lac:Shaking Beef....$14.95

PHO: RICE NOODLE SOUP

P1. Dac Biet Xe Lua: Extra- Large House Combination Noodle Soup....$9.95
Rare Steak, Meatballs, Well-Done Flank, Tendon and Tripe
P2. Dac Biet: Large House Combination Noodle Soup $8.95
Rare Steak, Meatballs, Well-Done Flank, Tendon and Tripe
P3. Pho Tai: Rare Steak Noodle Soup....$7.95
P4. Pho Bo Vien: Meatball Noodle Soup....$7.95
P5. Pho Tai Bo Vien: Rare Steak and Meatball Noodle Soup....$7.95
P6. Pho Tai Nam: Rare Steak and Well-Done Flank....$7.95
P7. Pho Ga: Chicken Noodle Soup....$7.95

HU TIEU MI: EGG NOODLE SOUP

M1. Mi Thit Heo: Pork Noodle Soup....$7.95
M2. Mi Thit Ga: Chicken Noodle Soup....$7.95
M3. Mi Do Bien: Seafood Noodle Soup....$8.95
M4. Ban Canh Tom Heo: Shrimp and Pork Thick Vietnamese Noodle....$8.95

MI XAO: LOMEIN

M5. Rau or Dau Hu: Vegetable or Tofu....$7.95
M6. Ga, Bo or Heo: Chicken, Beef, or Pork....$7.95
M7. Tom or Muc: Shrimp or Calamari....$8.95
M8. Thap Cam: Combination Meat and Seafood....$9.95

MI XAO DON: CRISPY LOMEIN

M9. Rau or Dau Hu: Vegetable or Tofu....$7.95
M10. Ga, Bo, Heo: Chicken, Beef or Pork....$7.95
M11. Tom or Muc: Shrimp or Calamari....$8.95
M12: Thap Cam: Combination of Meat and Seafood....$9.95

BUN: FRESH VERMICELLI NOODLE BOWL

B1. Bun Cha Gio: Egg Roll Vermicelli....$7.95
B2. Bun Cha Gio Bi: Egg Roll and Shredded Pork Vermicelli....$7.95
B3. Bun Dac Biet: Egg Roll, Shredded Pork and Sliced Pork Vermicelli.... $8.95
B4. Bun Thit Bo: Grilled Sliced Beef Vermicelli.... $8.95
B5. Bun Tom: Grilled Shrimp Vermicelli....$8.95

COM: RICE PLATE

C1. Com Suon Nuong: Pork Chop Rice Plate....$7.95
C2. Com Suon Bi: Pork Chop and Shredded Pork Rice Plate....$8.95
C3. Com Suon Cha: Steamed Egg and Pork Chop Rice Plate....$8.95
C4. Com Suon Bi Cha: Pork Chop, Shredded Pork and Steamed Egg Rice Plate..$9.95

COM CHIEN: FRIED RICE

C5. Rau or Dau Hu: Vegetable or Tofu....$7.95
C6. Ga, Bo or Heo: Chicken, Beef or Pork....$7.95
C7. Tom: Shrimp....$8.95
C8. Thap Cam: Combination Meat and Seafood....$9.95

COM CA RI: CURRY STIR FRY : SERVED WITH WHITE RICE

C9. Rau or Dau Hu: Vegetable or Tofu....$7.95
C10. Ga, Bo or Heo: Chicken, Beef or Pork....$7.95
C11. Tom: Shrimp....$8.95

C12. Thap Cam: Combination Meat and Seafood..$9.95
SIDES:
WHITE RICE..$1.00
STEAMED OR FRIED VEGETABLES...$1.00
NOODLES...$2.00

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99C238247

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-08-22) :

Inquiries Name(s)	HUONG T LE (1968-08-10)

The information in this rap sheet is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Assurance that the person sought are one and the same requires verification through fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing or credit, the person making the eligibility determination should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S.A. subsection 620. (CRSA; 2013-10-17)

**THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2014-08-22 (CRSA)

1. This record, effective September 1, 2000, contains information relating solely to persons either arrested as a fugitive from justice [15 M.R.S.A. 201.4 or arrested or charged with a State of Maine criminal offense. It does not include Class D or E crimes in Title 12 or Title 29-A,formerly Title 29, unless the crime is alcohol-related or drug-related [25 M.R.S.A. 1541.4-A.A], and certain former crimes no longer classified as criminal. 2. For information

regarding excluded Marine Resources crimes in Title 12, contact the Department of Marine Resources. 3. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. 4. For information relating to excluded crimes in Title 29-A, formerly Title 29, contact the Secretary of State, Motor Vehicle Division. 5. A list of former crimes is available from this Bureau. (CRSA; 2013-10-23)

THE FOLLOWING ATN(S) ARE UNSUPPORTED BY FINGERPRINTS IN STATE BUREAU OF IDENTIFICATION FILES: (084052A). (CRSA)

Identification

Subject Name(s)

LE, HUONG T

Subject Description

FBI Number

State Id Number
ME0043183 (ME)

DOC Number
Unknown/NA

Social Security Number
Unknown/NA

Driver's License Number
Unknown/NA

Miscellaneous Numbers
Unknown/NA

Sex
Unknown/NA

Race
Unknown/NA

Skin Tone
Unknown/NA

Height
Unknown/NA

Weight
Unknown/NA

Date of Birth
1968-08-10

Hair Color
Unknown/NA

Eye Color
Unknown/NA

Fingerprint Pattern
Unknown/NA

Scars, Marks, and Tattoos
Unknown/NA

Blood Type
Unknown/NA

Medical Condition
Unknown/NA

Place of Birth
Unknown/NA

Citizenship
Unknown/NA

Ethnicity
Unknown/NA

Marital Status	**Religion**
Unknown/NA	Unknown/NA

Employment
Unknown/NA

Residence

Residence as of	2003-05-19
Location Type	PHYSICAL
Mailing Address	1 BAYSIDE TERRACE PORTLAND, ME
Telephone	

Fingerprint Images
Unknown/NA

Palmprint Images
Unknown/NA

Photo Images
Unknown/NA

DNA Data
Unknown/NA

Caution Information

Firearms Disqualified	C - Cleared

Criminal History

Cycle 001

Tracking Number	084052A
Earliest Event Date	1998-01-11

Arrest	(Cycle 001)
Arrest Date	1998-01-11
Arresting Agency	ME0030600
Subject Name(s)	LE, HUONG T

Arrest Type Adult

Charge

Charge Number 084052A 001

Charge Tracking Number	084052A
Charge Case Number	98-912
Agency	ME0030600
Offense Date	1998-01-11
Charge Description	THEFT BY UNAUTHORIZED TAKING OR TRANSFER (Charge Class E)
Statute	17-A MRSA SUBSECTION 353
State Offense Code	5089 (ME)
Severity	Misdemeanor

Prosecutor Disposition	No data supplied

Court Disposition	(Cycle 001)
Court Agency	ME003035J
Charge	
Charge Number	084052A 001
Charge Tracking Number	084052A
Charge Case Number	98-01458
Agency	ME003035J
Offense Date	1998-01-11
Charge Description	THEFT BY UNAUTHORIZED TAKING OR TRANSFER (Charge Class E)
Statute	17-A MRSA SUBSECTION 353
State Offense Code	5089 (ME)
Severity	Misdemeanor
Disposition	GUILTY (1998-07-09; ME)

Sentencing	(Cycle 001)
Sentencing Agency	ME003035J
Court Case Number	98-01458
Charge Number	084052A 001
Charge Tracking Number	084052A
Sentence	1998-07-09: FINED $100.00 PAID (1998-07-09)

Corrections	No data supplied

Index of Agencies

Agency	9TH DISTRICT COURT PORTLAND; ME003035J
Contact	
Agency Telephone	207-8224205
Agency Facsimile	
Agency Email Address	

Mailing Address	205 NEWBURY ST PORTLAND, ME 04101
Agency	SOUTH PORTLAND PD SOUTH PORTLAND; ME0030600
Contact	
Agency Telephone	207-7995511
Agency Facsimile	
Agency Email Address	
Mailing Address	30 ANTHOINE STREET SOUTH PORTLAND, ME 04106

Business Licensing - Re: Huong's Vietnamese Restaurant 267 St. John St.

From: Gary Hutcheson
To: Business Licensing
Date: 8/24/2014 4:37 PM
Subject: Re: Huong's Vietnamese Restaurant 267 St. John St.

Approved but not in Urban Insight.

Lt. Gary L Hutcheson
Portland Police Department
109 Middle St
Portland, Maine 04101
(207) 756-8295

>>> Business Licensing 8/22/2014 4:19 PM >>>
Good Afternoon,

For your approval:

Huong Thi Thu Le DBA Huong's Vietnamese Restaurant has submitted an application for a class III & IV (wine and beer) license at 267 St. John St. This is the former location of Vietnam Restaurant. They wish to go before council on September 15th.

Sole Proprietor: Huong Thi Thu Le of 39 Monroe Ct. Portland 04101 DOB 08/10/1968

Landlord: Phuong & Trang Le- 2455 Segwick Ave #2K, New York 10468

Contact: Huong Thi Thu Le 207-518-1644

Please put feedback in UI.

Menu and slip are attached.

Thank you and have a nice weekend!

~Melissa LaChance

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

Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

August 28, 2014

Huong Le
249 St. John St.
Portland, ME 04102

Re: Huong Thi Thu Le d/b/a Huong's Vietnamese Restaurant at 267 St. John St.
Application for a Class III & IV (Wine and Beer) License.

Dear Ms. Le,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday, September 15th at 7:00 p.m.** for the review of the application of Huong Thi Thu Le d/b/a Huong's Vietnamese Restaurant at 267 St. John St., application for a Class III & IV (Wine and Beer) License. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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 issue could be postponed.

Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator

Ad ID 5132917 Date 09/02/2014 Time 3:45 PM

PUBLIC NOTICE

Notice of Public Hearing City of Portland

A Public Hearing will be held on September 15th at 7:00 P.M., in City Council Chambers, 389 Congress St., on the application of Huong Thi Thu Le d/b/a Huong's Vietnamese Restaurant, 267 St. John St. Application for a Class III & IV (Wine and Beer) License. Sponsored by Katherine L. Jones, City Clerk.

#5132917

Ad shown is not actual print size

Order 58-14/15
Tab 7 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Suzukiya LLC d/b/a Ramen Suzukiya at 229 Congress St. Application for a Class III & IV (Wine and Beer) License with Entertainment without Dance and Outdoor Dining on Public Property.

SUZUKIYA, LLC.

PO Box 842
Naples, ME 04055
(207)347-1302

August 15th, 2014

Dear Mayor Michael Brennan and Members of the City Council,

I would like to submit an application to establish a new Japanese noodle shop, Ramen SUZUKIYA, at 229 Congress Street, Portland, ME with a license to serve alcoholic beverages. Ramen SUZUKIYA will serve hand-made Japanese style noodles, soup, gyoza and rice bowls.

Ramen has come into popularity in the past several years in the United States as a casual Japanese noodle soup. Many ramen shops have opened in large cities, such as New York, Los Angeles, and Boston. SUZUKIYA translates into Suzuki's Family Store, since this is a family business as my son is my business partner.

Currently in Portland, there is the one ramen shop that is doing very well. I believe consumers will also enjoy what Ramen SUZUKIYA has to offer. Ramen SUZUKIYA intends to use ingredients from local communities rather than purchasing from out of state. We will serve fresh homemade ramen noodles using a variety of flour from grain mills in Maine and New England. I believe these are the first ramen noodles made using local grains.

This will be our first restaurant experience. I worked for 30 years in the Japanese TV Media Industries in New York until this past spring when I retired from my job and moved to Maine, with the goal of opening a ramen shop. My son who is also my business partner has been farming in Maine for the past four years. He began as an apprentice farmer at Merrifield Farms in Cornish, ME and is planning to start his own farm called Mossbraker Farms. My ultimate goal is for him to cultivate many of the vegetables that we will use in our restaurant.

We have high confidence in the success of our new business and I am looking forward to introducing Portland to a new casual Japanese dining experience made using Maine products. Thank you for your time and please feel free to contact to us with any questions.

Respectfully,

K. Suzuki

Katsuaki Suzuki

Office of the City Clerk
389 Congress Street
Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: III, IV

Please check one: (Corporation/ LLC/ Non-profit org. ✓) (Sole Proprietor ___) (Partnership ___)

Business Name (d/b/a): Ramen SUZUKIYA Phone: (207)347-1302 (Cell)

Location Address: 229 Congress St., Portland, ME ZIP 04101

If new, what was formerly in this location: Haberdashery

Mailing Address: PO Box 842, Naples, ME ZIP 04055

Contact Person: Katsuaki Suzuki Phone: (207)347-1302

Manager of Establishment: Katsuaki Suzuki Home Phone # (207)347-1302

Owner of Premises (landlord): I-95 Portland Portfolio I, LLC.

Address of Premises Owner: c/o Dirigo Management Co One City Center, 4th Fl, Portland, ME ZIP 04101

Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes ___ No ✓
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? Yes ___ No ✓. If yes, please list business name(s) and location(s):

Is any principal officer under the age of 18? ___ Yes ✓ No

Have applicant, partners, associates, or corporate officers ever been *arrested, indicted,* or *convicted* for any violation of law? No If yes, please explain:

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): ___ DOB ___ Residence Address ___
Name of Owner(s): ___ DOB ___ Residence Address ___
Name of Owner(s): ___ DOB ___ Residence Address ___

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: SUZUKIYA, LLC

Corporation Mailing Address: PO Box 842, Naples, ME ZIP 04055

Contact Person: Katsuaki Suzuki Phone Number: (207)347-1302

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name	Title	DOB	Residence Address
Katsuaki Suzuki	Manager	12/31/1950	5 Tucker's Way, Naples ME 04055
Cory J. Suzuki	Manager	3/14/1989	5 Tucker's Way, Naples ME 04055

(Please see reverse side)

Type of Food Served: Japanese Style Noodle Soup "Ramen"

Please check all that will be served: Beer ✓ Wine ✓ Liquor ____

Percentage of sales – Generated from Food : 75 % Generated from Alcohol: 25 %

Hours and Days of operation: 12pm ~ 9pm Tue. ~ Sun (Mon-Off)

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes ✓ No ____.

If no, please explain ____

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ____ No ✓. If yes, give the distance ____.

Will you have entertainment on the premises? Yes ✓ No ____ (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes ____ No ✓

Will you permit dancing after 1:00am? Yes ____ No ✓

Will you have outside dining? Yes ✓ No ____. If yes, please indicate location on diagram.
Also, will the outside dining be on PUBLIC ✓ or PRIVATE ____ property?
Have you applied for an Outdoor Dining Permit? Yes ✓ No ____

Will you have any amusement devices (pinball, video games, juke box)? Yes ____ No ✓.

If yes, please list, # of pinball: ____ # of amusements: ____ # of pool tables: ____.

What is your targeted opening date? : Sometime in October

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 K. Suzuki Title Manager Date 8/14/2014

Revised 7/7/08

CITY CLERK

Application attachment to other City license

$485. With Dance
$270. Without Dance
$545. After Hours (1AM-3AM).
Total due: ________

Office of the City Clerk
389 Congress Street
Portland, ME 04101
207-874-8557

Supplemental Application for Dancing and Entertainment

Please attach a diagram of floor plan showing where in the facility the entertainment will be setup, the direction of any speakers and where dance floor, if any, will be located.

Business Name (d/b/a): Ramen Suzukiya

Location Address: 229 Congress St. ZIP 04101 Phone (207)347-1302 (Cell)

Will music be electric or acoustical or both? ~~Acoustical Only~~ Both

Will amplification used? Yes ✓ No ____

If yes, where and at what level ? Ground Floor

Will you permit dancing on the premises? Yes ____ No ✓

Will you permit dancing or entertainment after 1:00AM? Yes ____ No ✓

Will recorded music be played: Inside ✓ Outside ____ Both ____

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? ____

Please describe in detail the type and nature of the business and proposed entertainment: ____

Restaurant business which serve a Japanese Style Noodle Soup.

Provide for local Musicians a space to perform their music.

If new applicant, what is your targeted opening date? : October

Does the issuance of this license directly or indirectly benefit any City employee? Yes ___ No ✓
If yes, list names of employee(s) and department(s).

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.

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 K. Suzuki **Title** Manager **Date** 8/14/2014

Revised: 7.7.2008

BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
164 STATE HOUSE STATION
AUGUSTA, ME 04333-0164

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY	
LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	

PRESENT LICENSE EXPIRES____________________

INDICATE TYPE OF PRIVILEGE: ☑ MALT ☐ SPIRITUOUS ☑ VINOUS

INDICATE TYPE OF LICENSE:

☑ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTINONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)
☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: ____________________

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) SUZUKIYA, LLC **DOB:**	**2. Business Name (D/B/A)** Ramen SUZUKIYA
DOB:	
DOB:	**Location (Street Address)** 229 Congress Street
Address 5 Tucker's Way (PO Box 842)	**City/Town** Portland **State** ME **Zip Code** 04101
	Mailing Address PO Box 842
City/Town Naples **State** ME **Zip Code** 04055	**City/Town** Naples **State** ME **Zip Code** 04055
Telephone Number (207)347-1302 **Fax Number**	**Business Telephone Number** (207)347-1302 **Fax Number**
Federal I.D. # 46-5682861	**Seller Certificate #**

3. If premises is a hotel, indicate number of rooms available for transient guests: ________
4. State amount of gross income from period of last license: ROOMS $ _______ FOOD $ _______ LIQUOR $_______
5. Is applicant a corporation, limited liability company or limited partnership? YES ☑ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☑
7. If manager is to be employed, give name: ____________________
8. If business is NEW or under new ownership, indicate starting date: 10/01/2014

   Requested inspection date: 9/22/2014 Business hours: 12:00 - 21:00
9. Business records are located at: ____________________

10. Is/are applicants(s) citizens of the United States? YES ✓ NO ☐ Cory Suzuki is USA Citizen,
11. Is/are applicant(s) residents of the State of Maine? YES ✓ NO ☐ Katsuaki Suzuki is Japanese Citizen Permanent Citizen

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Katsuaki Suzuki	12/31/1950	Japan
Cory J. Suzuki	03/14/1989	Lakewood, NJ

Residence address on all of the above for previous 5 years (Limit answer to city & state

Katsuaki Suzuki --- Jackson, NJ. 08527, Freehold, NJ 07728

Cory J. Suzuki ----- Jackson, NJ 08527, Cornish, ME 04020

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other then minor traffic violations, of any State of the United States? YES ☐ NO ✓

Name: ______ Date of Conviction: ______

Offense: ______ Location: ______

Disposition: ______

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ✓ If **Yes**, give name: ______

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ✓

16. Does/do applicant(s) own the premises? Yes ☐ No ✓ If **No** give name and address of owner:
I-95 Portland Portfolio I, CC. One City Center, 4th Fl. Portland, ME 04101-4009

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required)
Small Japanese Noodle Shop.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☐ Applied for: Health Inspection Program License

19. 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? 0.1 mile Which of the above is nearest? Parish

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ✓

If YES, give details: ______

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to $2,000 or both."

Dated at: Portland, ME on August 14th, 2014
Town/City, State Date

Please sign in blue ink

K. Suzuki
Signature of Applicant or Corporate Officer(s)

Katsuaki Suzuki
Print Name

Cory Suzuki
Signature of Applicant or Corporate Officer(s)

Cory J. Suzuki
Print Name

State of Maine

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for Business Entities Who Are Licensees

For Office Use Only:
License #: ________
Date Filed: ________

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752. Please clearly complete this form in its entirety.

1. Exact legal name:

   SuzuKiYA, LLC.

2. Other business name for your entity (DBA), if any:

   Ramen SuzuKiYA

3. Date of filing with the Secretary of State: ____________

4. State in which you are formed: ME

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: ____________

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Katsuaki Suzuki	08527 820 Hyson Rd., Jackson.NJ	12/31/1950	95%
	07728 43-D Piazza Correale, Freehold, NJ		
Cory J. Suzuki	08527 820 Hyson Rd., Jackson NJ	3/14/1989	5%
	20 Farm Ln., Cornish, ME		

7. Is any principal person involved with the entity a law enforcement official?

   Yes ☐ No ☑

8. If Yes to Question 7, please provide the name and law enforcement agency:

   Name: ____________ Agency: ____________

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes [ ] No [✓]

10. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: ______________________________

Date of Conviction: ______________

Offense: ______________________________

Location of Conviction: ______________________________

Disposition: ______________________________

____

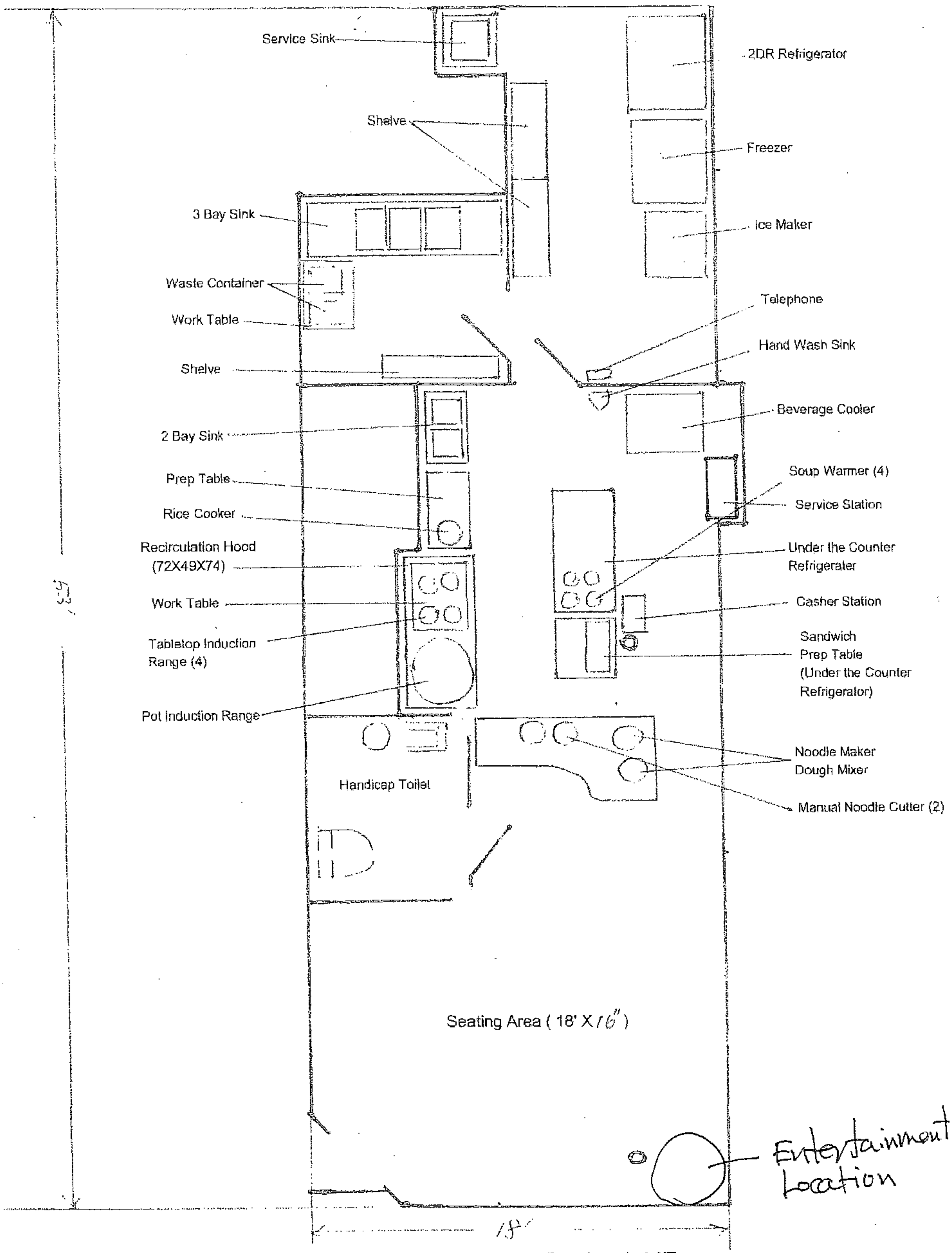
Signature:

K. Suzuki
Signature of Duly Authorized Person

8/14/2014
Date

Katsuaki Suzuki
Print Name of Duly Authorized Person

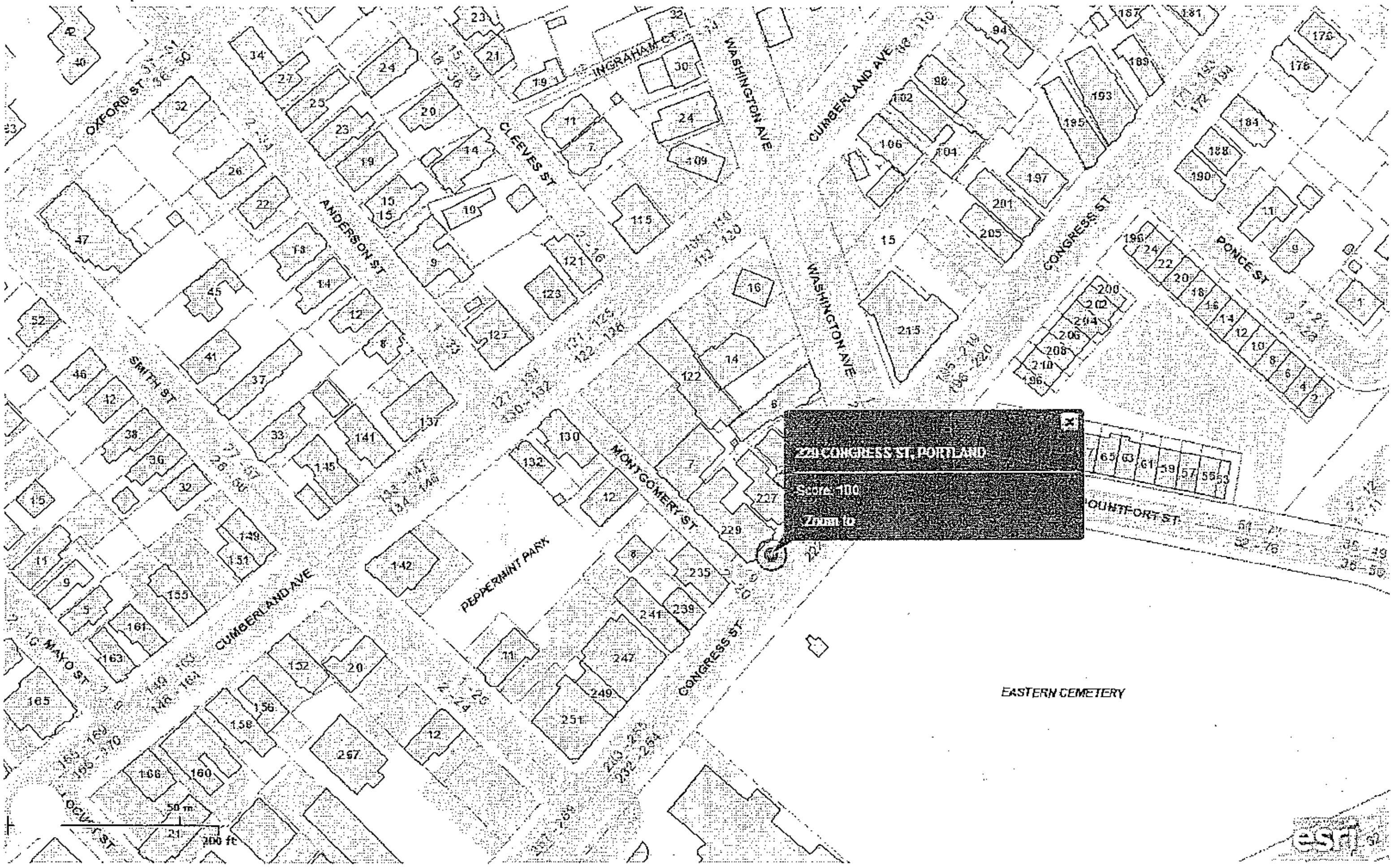
Submit Completed Forms To: Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220



229 Congress Street, Portland, ME

Ramen Suzukiya

229 Congress St.



RAMEN SUZUKIYA

Menu Sample

1. RAMEN

(1) Shoyu Ramen (Soy Sauce Base): $9.50
A chicken, vegetable, and kelp stock with a soy-based sauce. Tangy, salty, and savory yet still fairly light.

(2)Shio Ramen (Salty Ramen): $9.50
Sauce made using locally harvested sea salt. Light golden color, strong chicken flavor.

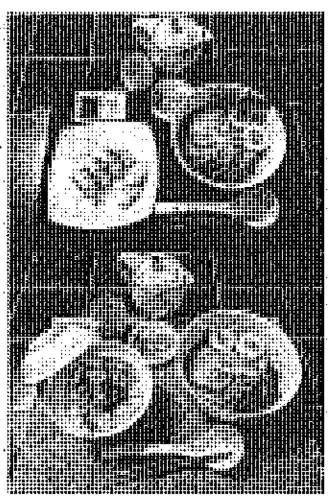
(3)Miso Ramen (Soy Bean Paste): $9.50
Strong Miso flavor with a little spice.

(4) Veggie Ramen (Vegetarian): $9.50
Aromatic and flavorful seaweed and vegetable stock that rivals its meat-based counterparts. Served with tofu and mushrooms.

(5) Seasonal Ramen: $9.50
A ***RAMEN PUB*** original, crafted around in-season produce. Changes monthly.

COMBINATIONS

Combine one of the items below with any noodle dish for additional price shown:



1. GYOZA (4 piece) & DAIKON SALAD: $5.00

   (1) Pork Gyoza
   (2) Vegetable Gyoza

2. KODONBURI (Small Rice Bowl) & DAIKON SALAD $6.00

   (1) Sukiyaki Don (Slice Beef)
   (2) Curry Don (Curry Flavor)
   (3) Salmon Don (Steamed Salmon)
   (4) Mushi Yasai Don (Steamed Vegetable)

DRINKS

(1) Hot Green Tea (complimentary with meal)
(2) Soda
(3) Locally Brewed Beers and Sake

☑ The permit holder is responsible for keeping the outdoor seating area clean. The sidewalk area where the tables and chairs are located must be kept neat and free from liter and debris.

☑ Nofood shall be prepared outside.

☑ If alcohol is to be served, the permit holder must notify the City's Business Licensing Office in room 203 of City Hall or by telephone at 874-8557 and obtain approval for the service of alcohol outdoors. Additionally, State law requires that any outdoor area serving alcohol be segregated from the rest of the public.

☑ All tables and chairs shall be removed prior to a predicted snowfall and while any snow or ice exists within the designated outdoor seating area or within four feet from the boundaries thereof. The City will not be responsible for damage to any tables, chairs or other property that is not properly removed when the City is engaged in sidewalk maintenance activities.

☑ The permit holder shall comply with all applicable rules and regulations implemented by the city regarding outdoor dining.

Failure to comply with any of the above conditions will result in revocation or non-renewal of the permit.

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.

Signed and acknowledged: 08/18/2014 Katsuaki Suzuki Digitally signed by Katsuaki Suzuki Date: 2014.08.18 19:57:13 -04'00' Date: 8/18/2014

Printed name Katsuaki Suzuki

Establishment Ramen SUZUKIYA

Location 229 Congress Street, Portland, ME 04101

Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☑ **New** Application for Outside Dining
☑ **Renewal** Application for Outside Dining
City Clerk signature for liquor license approval: ______________________
Pending Council Date: 9/15/2014

Location Name & Address: 229 Congress Street	**Chart** **Block** **Lot**
Owner & Phone #: I-95 Portland Portfolio I, LLC. (207)871-1080	**Total Square Footage of Proposed Seating Area:**[1] 4' X 14'
Applicant *must* be owner or lessee Name: Katsuaki Suzuki Address: PO Box 842 City, State & Zip: Naples, ME 04055 E-Mail: jamacoda@gmail.com	**Annual Fee:** $80 Total Sq. Ft.: 56 Sq. Ft. Fee: (sq ft x $2) $ 112.00 *(Due when issued)* **Total Fees:** $ ______ (Permit not issued until all fees are paid)

Current use: Vacant

Business name: Ramen SUZUKIYA

Seating area dimensions: 4' X 14'

How many chairs? 6 How many tables? 3

☑ **Yes** Alcohol is served.
☐ **No** Alcohol being served.

Who should we contact for the pre-inspection: Katsuaki Suzuki

Mailing address: PO Box 842, Naples, ME 04055 Phone: (207)347-1302

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

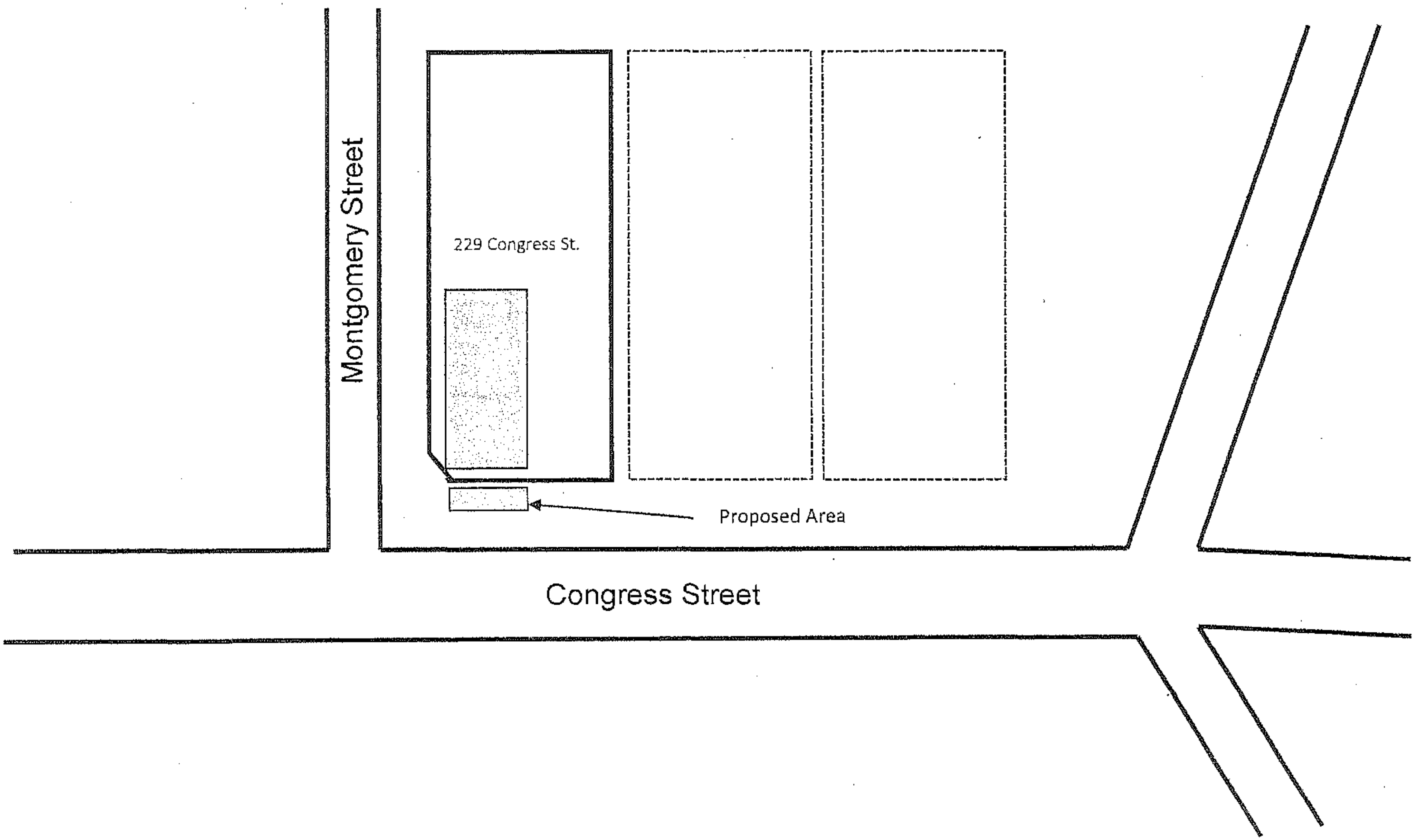
Signature of Applicant: Katsuaki Suzuki	Date: 8/18/2014

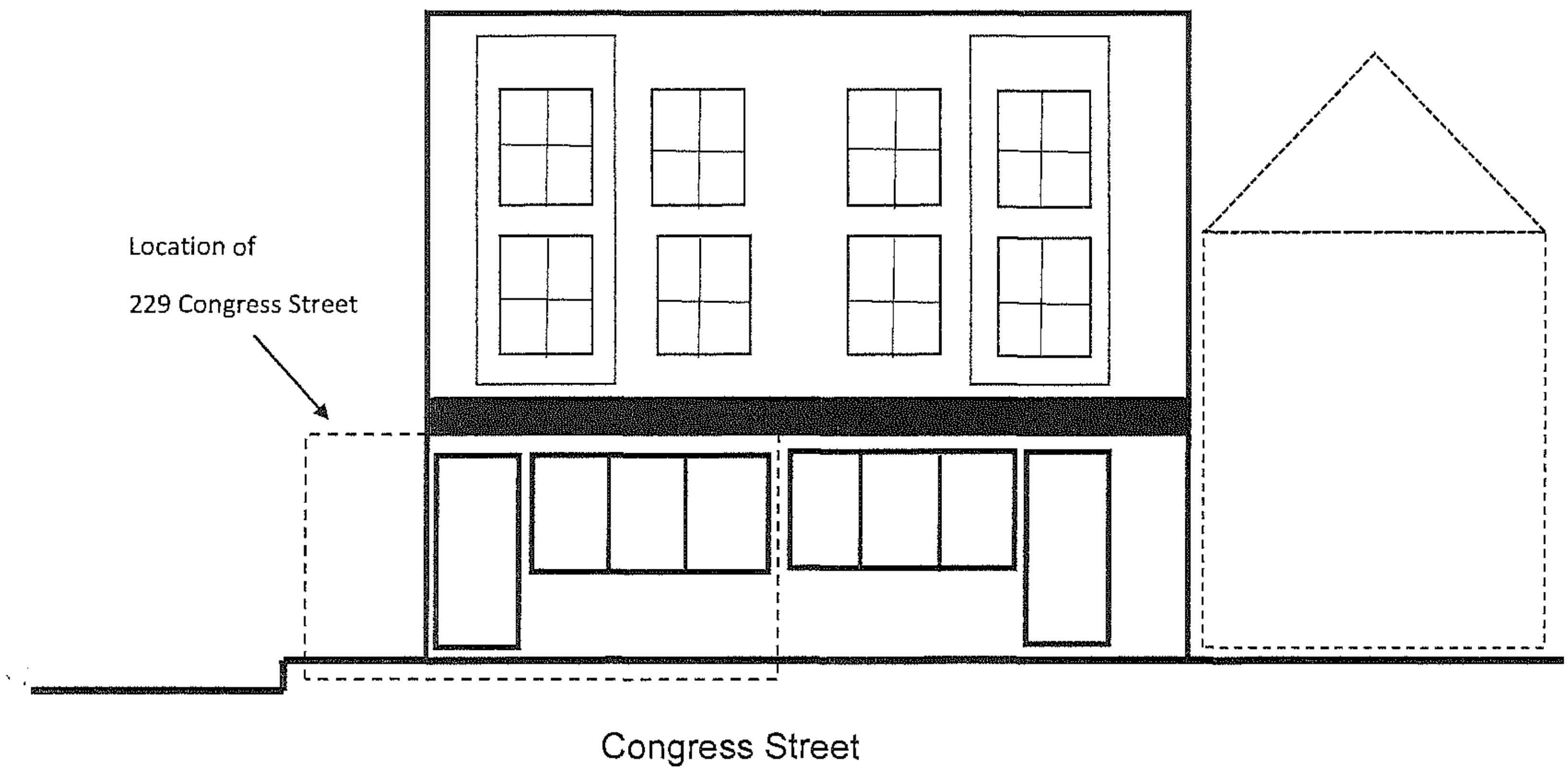
[1] ***In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.***

This is not a permit; you may not commence ANY work until the permit is issued.

Revised 06-14-12

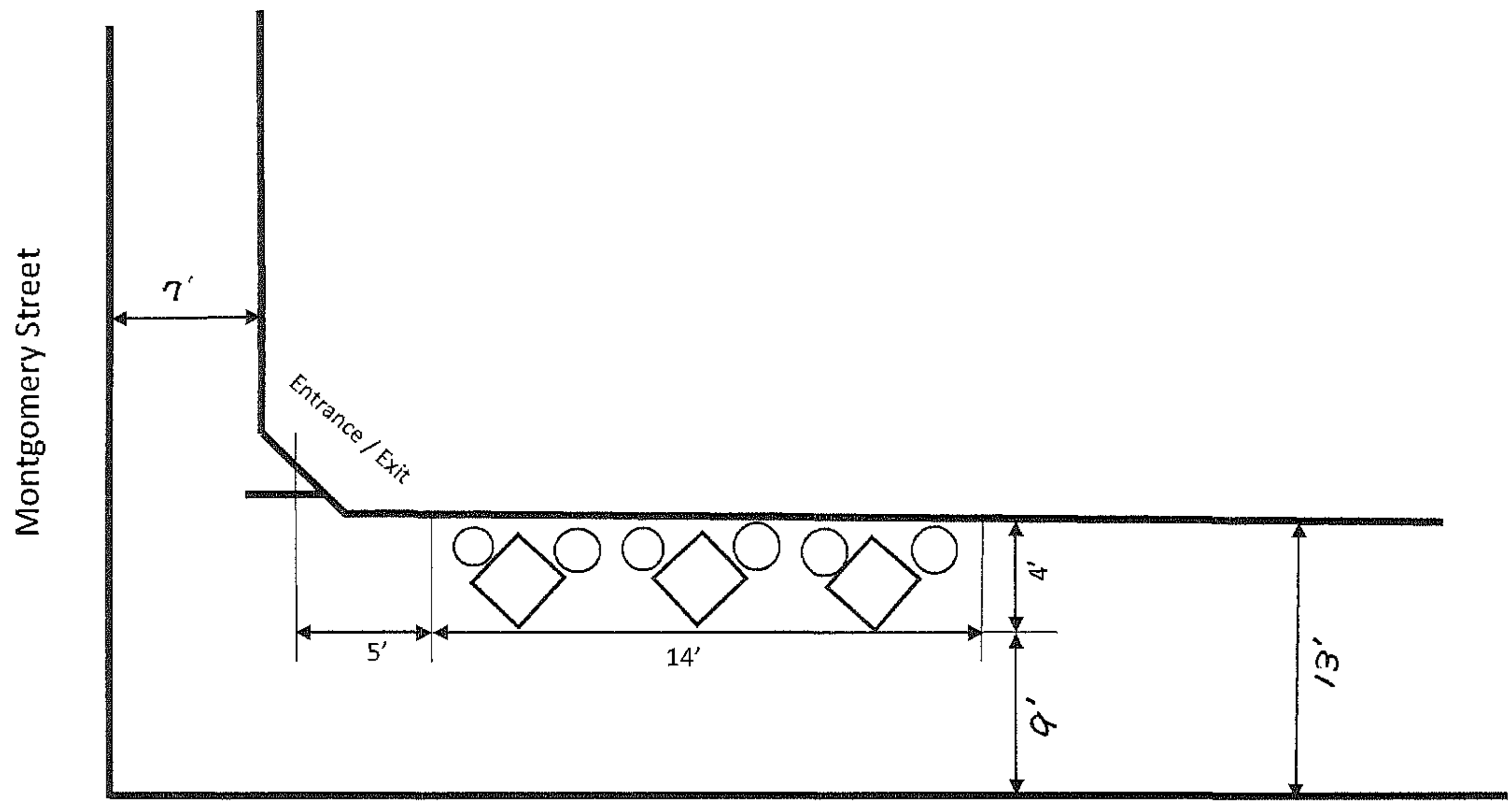
Drawing of the Lot   229 Congress Street





<u>Dimension from the sidewalk(Congress St.) to the Building</u>

Dimension of Seating Area, 229 Congress Street



Congress Street

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99C235084

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-08-20) :

Inquiries Name(s) CORY J SUZUKI (1989-03-14)

NO MATCH WAS FOUND FOR YOUR REQUEST.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99C235079

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-08-20) :

Inquiries Name(s) KATSUAKI SUZUKI (1950-12-31)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - Re: Ramen Suzukiya 229 Congress St.

From: Gary Hutcheson
To: Business Licensing
Date: 8/24/2014 5:11 PM
Subject: Re: Ramen Suzukiya 229 Congress St.

Approved but not yet in Urban Insight.

Lt. Gary L Hutcheson
Portland Police Department
109 Middle St.
Portland, Maine 04101
(207) 756-8295

>>> Business Licensing 8/20/2014 2:38 PM >>>
Hello,

For your approval:

Suzukiya LLC DBA Ramen Suzukiya has submitted an application for a class III & IV (wine and beer) license with entertainment- no dance and outdoor dining on public property at 229 Congress St. They wish to go before council on September 15th.

Corporate owner: Suzukiya LLC of Naples

Corporate Officers:
Katsuaki Suzuki of Naples DOB 12/31/1950
Cory J. Suzuki of Naples DOB 03/14/1989

Landlord:
I-95 Portland Portfolio I, LLC- One City Center 4th Floor Portland, ME 04101

Contact: Katsuaki Suzuki 207-347-1302

Please put feedback into UI

Menu and slip attached

Thank you!

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

Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

August 28, 2014

Katsuaki Suzuki
P.O. Box 842
Naples, ME 04055

Re: Suzukiya LLC d/b/a Ramen Suzukiya at 229 Congress St. Application for a Class III & IV (Wine and Beer) License with Entertainment without Dance and Outdoor Dining on Public Property.

Dear Mr. Suzuki,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday, September 15th at 7:00 p.m.** for the review of the application of Suzukiya LLC d/b/a Ramen Suzukiya at 229 Congress St. Application for a Class III & IV (Wine and Beer) License with Entertainment without Dance and Outdoor Dining on Public Property. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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 issue could be postponed.

Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator

Ad ID 5132921 Date 09/02/2014 Time 3:51 PM

PUBLIC NOTICE

Notice of
Public Hearing
City of Portland

A Public Hearing will be held on September 15th at 7:00 P.M., in City Council Chambers, 389 Congress St., on the application of Suzukiya LLC d/b/a Ramen Suzukiya, 229 Congress St. Application for a Class III & IV (Wine and Beer) License with Entertainment without Dance and Outdoor Dining on Public Property. Sponsored by Katherine L. Jones, City Clerk.

#5132921

Ad shown is not actual print size

Com 1-14/15
Tab 8 9-15-14

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

Alex Jaegerman, FAICP
Division Director, Planning Division

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: September 5, 2014

DISTRIBUTION: (Acting City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English)

SUBJECT: Communication Re: Appointment of Reed School Re-Use Task Force

SPONSOR: Mayor Michael Brennan and Councilor Kevin Donoghue

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_____N/A__________ Final Action_____No Action Required______

Can action be taken at a later date: __X__ Yes _____ No (If no why not?)

PRESENTATION:
None required (Alex Jaegerman will be available to answer questions from City Council).

I. SUMMARY OF ISSUE

The Planning Division has been asked to begin the process of exploring the Reed School property for re-use. The Reed School sits on approximately 2.5 acres on Homestead Avenue in the Riverton neighborhood. Originally a school, it was more recently the central kitchen for the Portland Public Schools. It currently is used for limited storage, and is largely vacant and underutilized. Staff proposed the creation of a citizen's Task Force to the Housing and Community Development Committee, and to Mayor Brennan, to report potential and priority uses of the property and recommend a process to review proposals for re-use of the property.

II. REASON FOR SUBMISSION

To communicate these recent Mayoral appointments to the Council and keep the council informed of this planning initiative.

III. INTENDED RESULT

The Council will receive a report on the Task Force's findings, with recommendations for best uses of the property, as well as recommendations for the proposal review process that would follow.

IV. COUNCIL GOAL ADDRESSED

Though the Task Force will make final recommendations on the future uses of this property, it is staff's initial assessment that the site and the buildings have the potential to be repurposed for housing. A goal listed in the Goals of the City Council Common Goals and Objectives for 2014 is to *Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.* The first objective of that goal is to *Complete assessment of and, as appropriate, begin to offer city owned property to construct affordable housing.*

V. FINANCIAL IMPACT

The process would be staffed by the Planning Division, and the work of the Task Force would require no additional funding. The potential re-use of an underutilized city property offers positive financial benefits for the city in the future.

VI. STAFF ANALYSIS

The Planning Division looks forward to working closely with the Task Force on this process, and of furthering the goal of repurposing the Reed School property. Additionally, this project has the support of the Housing and Community Development Committee.

VII. RECOMMENDATION

None.

VIII. LIST ATTACHMENTS

Charge to Reed School Re-Use Task force and list of Task Force Members

Prepared by:

Signature   Sept. 5. 2014
Date

Reed School Re-Use Task Force Charge

The Reed School Re-Use Advisory Task Force was established to:

- Report potential uses of the property;
- Develop criteria for making final recommendations on the preferred uses of the property;
- Recommend a process to review proposals for re-use of the property; and
- Report findings to the City Council's Housing and Community Development Committee within six months of Task Force inception.

The process would be staffed by the Planning Division.

Reed School Re-Use Task Force Members

John Coyne, District 5 Councilor, Chair
HCDC Committee Liaison Designee
Portland Planning Board Designee
Riverton Community Association Designees (2)
Portland Trails Designee
Workforce Housing Designee
Portland Society for Architecture Designee
Greater Portland Landmarks Designee
GPCOG Designee
Denise Harlow, State Representative, District #116
Riverton Elementary PTO Designee
Parks Commission Designee
Elise Scala

Date of Draft: September 5, 2014

~~Order 25-14/15~~
~~Tab 18 7-21-14~~
~~Tab 7 8-4-14~~
Tab 9 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH POLICE SUPERIOR OFFICERS BENEVOLENT ASSOCIATION (PSOBA)

ORDERED, that the attached Collective Bargaining Agreement with the Police Superior Officers Benevolent Association for January 5, 2014 through December 31, 2016, is hereby approved.

Orders:\ firefightercontract

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Mayor Brennan and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager TAC

DATE: July 15, 2014

RE: **First Reading** - Tentative Agreement with: Police Superior Officers Benevolent Association (PSOBA)

Staff has reached a tentative agreement with the Police Superior Officers Benevolent Assoc. (PSOBA) on a successor contract. The prior collective bargaining agreement expired December 31, 2013.

The PSOBA, which is comprised of 32 Police Lieutenants and Sergeants, has reached a tentative agreement with the City. The Administration is requesting a first reading on July 21, 2014. The tentative agreement is within the guidance received by the City Council on June 16, 2014.

This memorandum reflects the substantive changes to the expired collective bargaining agreement.

Article 4 - Salaries

4.1.1 Effective January 5, 2014 employees will receive a general wage increase of 1%; effective July 6, 2014 employees will receive a general wage increase of 1.0%; effective January 4, 2015 employees will receive a general wage increase of 1.0% and effective January 3, 2016 employees will receive a general wage increase of 3%. The wage increases are reflected in the attached pay plan.

Appendix A – Pay Plan

Eliminates the first step of each category leaving two (2) steps.

Article 5 – Hours and Overtime

5.5.2 Increase the administrative differential by $5.00 for each category:
Sergeants from $60.00/week to **$65.00/week**
Lieutenants from $70.00/week to **$75.00/week**
CID/Patrol Admin Lieutenant from $80.00/week to **$85.00/week**

Article 9 – Insurance

9.2 The Union has agreed in principle to the City's proposal to move from the current Health Plan to a new Value Based Insurance Design (VBID) health plan.

Article 10 – Pensions

To better address recruitment and retention issues within the Police Department, the City agrees to move all eligible participants to the Special 3C retirement plan, 2/3 of average high 3 salary years after 25 years of service, no minimum age.

*This provision is contingent upon the Police Patrol unit (PBA) reaching agreement on their contract as MainePERS requires both units to move to the new retirement plan together.

Article 29 – Term

This Agreement governs the rights of the parties from January 5, 2014 through December 31, 2016.

The total cost for the three (3) year agreement is approximately $306,000.

This order will require a second reading at the August 4, 2014 Council meeting.

Cc: Mark Rees, City Manager
Michael Sauschuck, Police Chief
Vernon Malloch, Asst Police Chief
Janice Kimball, Acting Director of Human Resources
Danielle West-Chuhta, Corporation Counsel
Ellen Sanborn, Finance Director
Carlene Kessler, PAO, Human Resources
Clarkson Woodward, PAO, Police Department
Jennifer Lodge, Budget Analyst
Lori Schools, Financial Specialist

Attachment

PBSOA Pay Plan

		2013	1/2014	7/2014	1/2015	1/2016
Sergeant			0.01	0.01	0.01	0.03
1	0-2	1,118.40	1,129.58	1,140.88	1,152.29	1,186.86
2	3+	1,140.00	1,151.40	1,162.91	1,174.54	1,209.78
Lieutenant						
1	0-2	1,271.20	1,283.91	1,296.75	1,309.72	1,349.01
2	3+	1,298.00	1,310.98	1,324.09	1,337.33	1,377.45

SOA Contract Tentative Agreement 6/10/14

2.1 below the rank of Major and above the rank of Patrol Officer, thereby including all of the permanent, full time Sergeants and Lieutenants.

4.1.1 4.1.1 Effective January 5, 2014 employees will receive a general wage increase of 1% and effective July 6, 2014 employees will receive a general wage increase of 1%. January 4, 2015 employees will receive a general wage increase of 1%. and effective January 3, 2016 employees will receive a general wage increase of 3%. These wage increases are reflected in the pay plan attached as Appendix A.

4.2 Sergeants who are assigned temporarily to the position of patrol shift commander, when there is no Lieutenant assigned as Patrol Shift Commander, shall be paid the percentage difference between the minimum rate of pay between the sergeant and lieutenant wage rates in addition to their regular base hourly rate for all hours worked in the higher assignment, provided that the duration of the assignment comprises one-half of the total shift or more.

If the Administrative Lieutenant is not on duty, the Sergeant permanently assigned to the Traffic Division shall be paid the percentage difference between the minimum rate of pay between the sergeant and lieutenant wage rates in addition to their regular base hourly rate for all hours worked in the higher assignment, provided that the duration of the assignment comprises one-half of the total shift or more.

If there is no Lieutenant assigned as the A-1 team Patrol Shift Commander, the Sergeant permanently assigned to the JetPort shall be paid the percentage difference between the minimum rate of pay between the sergeant and lieutenant wage rates in addition to their regular base hourly rate for all hours worked in the higher assignment, provided that the duration of the assignment comprises one-half of the total shift or more.

If the Criminal Investigations Division Lieutenant is not on duty, a Sergeant permanently assigned to the Criminal Investigations Division shall be paid the percentage difference between the minimum rate of pay between the sergeant and lieutenant wage rates in addition to their regular base hourly rate for all hours worked in the higher assignment, provided that the duration of the assignment comprises one-half of the total shift or more.

If the Community Affairs Lieutenant is not on duty, a Sergeant permanently assigned to the Community Affairs Division shall be paid the percentage difference between the minimum rate of pay between the sergeant and lieutenant wage rates in addition to their regular base hourly rate for all hours worked in the higher assignment, provided that the duration of the assignment comprises one-half of the total shift or more.

In each occurrence enumerated in this section, administrative differential will be added to this higher rate and the assigned Sergeant will be expected to perform any administrative work related to the higher class assignment that is required.

4.3.1 Superior Officers assigned to one of the following full time specialty positions shall receive pay for their appropriate salary plus a specialty differential per week which is based on time in position step increases:

Lieutenant-Community Policing, Lieutenant-CID, Lieutenant-Internal Affairs, Lieutenant-Administrative (instead of Homeland Security), Lieutenant – Jetport, Sergeant-CID, Sergeant-CRU, Sergeant –Jetport (instead of Emergency Management), Sergeant-Internal Affairs, Sergeant-Training, Sergeant – Community Policing, Sergeant - Traffic

Full time

0-3 years $30

3-8 years $35

8+ years $40

4.3.2 Superior Officers possessing one of the following part time specialty positions shall receive pay for their appropriate salary plus a specialty differential per week which is based on time in position step increases:

Supervisor-Canine Unit, Accident Re-constructionist, Hostage Negotiator, Special Reaction Team, Certified Firearms Instructor, Dive Team, Hazardous Devices Unit, HazMat Technician

Part time

0-3 years $20

3-8 years $25

8+ years $30

4.3.3 Specialists on the Special Reaction Team, Hostage Negotiation Team and the Hazardous Devices Unit will receive specialty pay upon completion of their required training or certification as designated by the Police Chief.

4.3.4 Superior Officers selected to a full time specialty may hold and be compensated for up to one (1) additional part time specialty as listed above.

4.3.5 Current **4.3.3** language

Delete old 4.3.2

4.5.2 delete

5.1.1 eight (8) or ten (10) hours respectively

5.1.4 eight (8) or ten (10) hours per day

5.3.1 **Special Details -** agreed to "employees shall be paid a minimum of six (6) hours pay at the **top Lieutenant's pay plus 25%** or 1- ½ times the **top Lieutenant's pay plus 25%...**"

5.5.2 The following administrative differential shall be paid effective ***upon the signing of the final agreement***:

Sergeants - $65.00 per week

Lieutenants - $75.00 per week

CID/Patrol Admin Lieutenant - $85.00 per week

5.5.3 delete

5.7 comprised of the Major

6.2 In no instance shall more than 40 (five 8's) or 50 (five 10's) hours of holiday time respectively be carried into the next calendar year.

8.3 "The City further agrees to pay up to ***one hundred*** dollars **($100)** for repair or replacement..."

8.5 delete....and the Homeland Security Lieutenant

8.6 (new section) Effective January 1, 2014 the CRU Sergeant will be reimbursed by the City for the purchase of articles of clothing that are reasonably necessary for the performance of their duties up to a maximum of $500.00 per year. This maximum applies to the purchase, maintenance and replacement of civilian clothing.

12.1.1 "the employee shall receive an amount equal to his/her salary at the time of retirement for one-half (1/2) of accumulated sick leave up to a maximum of ***900 hours*** of pay, provided the employee has a minimum of **480 hours** of sick leave accumulated. Retiring employees with less than **480 hours** shall not receive any payment."

24.1 delete..... D, and E

Appendix A deleted the "Captain" designation and deleted first step in each of the other classifications. There will be two steps in each classification.

Appendix C add business cards, job specific books, outer vest carrier, and promotional study material

Appendix E delete

Order 46-14/15
~~Tab 15 9-3-14~~
Tab 10 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER AUTHORIZING GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED $700,000 RE: SOMERSET STREET

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

ORDERED THAT:

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Seven Hundred Thousand Dollars ($700,000) to finance the construction, reconstruction and renovation of Somerset Street and all other costs (as defined herein) related and ancillary thereto (the "Project").

BE IT FURTHER ORDERED

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of $700,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, note inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by

law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Project, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of $5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of

Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes, but is not limited to the cost of financing charges, legal fees and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction;

17. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

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

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

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

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

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

Finance Committee
Meeting Minutes
(Joint with School Finance Committee for Item 3)
Thursday, August 21, 2014

Attendees: Chair Mavodones, Finance Committee members Marshall and Suslovic; School Finance Committee Chair Davis, School Finance members Costa and Vendil; members of the public and staff

Chair Mavodones opened the meeting – called to order

1. **Approve minutes of June 26, 2014 meeting**

   Motion by Councilor Marshall to approve the minutes, second by Councilor Suslovic, **Passed 3-0**

2. **Discussion and recommendation on appropriation and financing of $700,000 to fund a portion of the City's share of raising Somerset Street**

   Motion by Councilor Marshall to approve the appropriation and financing of the City's share of raising Somerset Street, second by Councilor Suslovic, **Passed 3-0**

3. **Review of fund balance policy**

   Motion by Councilor Marshall to recommend approval of general fund balance policy, as revised, second by Councilor Suslovic, **Passed 3-0.**

   The supplemental fund balance policy for schools will be reviewed by the School Board and come back to the Finance Committee for review.

4. **Presentation of stormwater ordinance and credit manual**

   A presentation was made to the Council on the stormwater ordinance and credit manual. The Council requested a detailed memo be provided in time for the Finance Committee's September 11 meeting to address several questions not addressed in the materials provided.

   - Impact of direct runoff into sewer system (laterals). What is the cutoff time when downspouts would be required to be removed. What is the cost to disconnect and what impact does this have on the average citizen/business.
   - Provide a budget of split sewer fund by major components and show indirect costs.
   - Provide a plan for outreach pre and post council action.
   - Document the discussions that have taken place with the Portland Water District regarding billing.
   - Budget presentation of detailed sewer costs and show shift to stormwater
   - Provide details on differences between task force recommendation and the former finance committee direction
   - Ask Historic Society about credit conflicts
   - In consideration of cistern question – what are the rules surrounding water/gray water

5. **Review of debt management policy and investment policies**

Council recommends taking no action on the debt management policy until new finance director is hired.

Meeting adjourned.

Order 47-14/15
~~Tab 16 9-3-14~~
Tab 11 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROPRIATING $700,000 BOND PROCEEDS RE: SOMERSET STREET

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of $700,000 is hereby appropriated to finance the construction, reconstruction and renovation of Somerset Street.

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated to be adjusted to reflect the principal amount of bonds or notes so authorized, subject to any reduction as may be specified in the order authorizing such bonds or notes) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: August 21, 2014

cc: Mark Rees, City Manager
Michael Bobinsky, Public Services Director
Jeff Levine, Planning and Urban Development Director
Ellen Sanborn, Finance Director

SUBJECT: **Order Approving $700,000 in new City Debt for the Somerset Street Reconstruction Project**

SPONSOR: Finance Committee/Councilor Mavodones, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading: September 3, 2014; Final Action: September 15, 2014.

This would be a companion to two other items to be voted on at the September 15 Council Agenda – authorizing Amendments to Federated Midtown Project Documents, including the Somerset Street Cost Share Agreement; and, for the HUD Loan/BEDI Grant Programming Amendments to assist with funding the Somerset Street Reconstruction Project.

Can action by taken a later date? No. **If no, why not?** Timing of the Bayside HUD 108 Loan/BEDI Grant Program drawdown deadline is September 30, 2014.

SUMMARY OF ISSUE

The elevation of Somerset Street, between Pearl and Elm Streets, needs to be raised and utilities adjusted to support improved pedestrian/vehicle access to new private development and address flooding issues in Bayside. To assist with funding this project, estimated at $4 Million, there is the need to incur new City debt in an amount of $700,000.

REASON FOR SUBMISSION

City Council approval is needed to incur this new debt of $700,000 to cover a portion of the costs for the Somerset Street Reconstruction Project, which total costs are to be shared one-third (1/3) by the Federated Companies, and two-thirds (2/3) by the City.

The scope of the Somerset Street Reconstruction Project is designed to raise the grade of the street between Pearl and Elem Streets and adjust utilities. The overall cost of this Project is estimated to be $4 million. A cost share agreement has been negotiated for the Federated Companies to invest one-third (1/3) of the total costs and for the City to cover two-thirds (2/3) (see Attachment 1). The proposed financial sources include:

Responsibility	Amount	Sources
Federated	$1.33	Federated
City	$2.67	$1.0 mil. (HUD - $666,667 Loan, $333,333 Grant) $1.0 mil. (Available Bayside TIF reserve) $0.70 mil. (New City Debt)
Total	$4.0	

An explanation of the use of the Bayside HUD 108 Loan and BEDI Grant Program is provided in a separate memo to the City Council and Council Order to amend the programming of funds.

INTENDED RESULT

City Council approval of the proposed Amendments to the Federated Companies Midtown Project documents, including the Somerset Street Reconstruction Project Agreement to support new private sector investment in Bayside.

COUNCIL GOAL ADDRESSED

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

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

FINANCIAL IMPACT

City staff prepared debt service projections for the additional City debt in the amount of $1.367 million, along with projected property revenue associated with midtown project to demonstrate that there is adequate property tax revenue to retire new City debt associated with the Somerset Street Reconstruction Project. City staff analysis is attached (Attachment 2) for your information.

RECOMMENDATION

The Finance Committee reviewed this and voted 3-0 to recommend to City Council approval of the issuance of City debt in an amount of $700,000 to cover a portion of the City's share of the investment in the Somerset Street Reconstruction Project.

LIST ATTACHMENTS

1. Agreement by and between FEDEQ DV001 and City of Portland on Costs for Off-Site Improvements Improving Somerset Street, to be Partially Funded by City of Portland

2. City staff prepared debt services projections for additional City debt.

Agreement by and between FEDEQ DV001 and City of Portland on Costs For Off-Site Improvements Improving Somerset Street, To be Partially Funded by City of Portland

THIS AGREEMENT dated ___________ ____, 2014 is made by and between THE **CITY OF PORTLAND**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("FEDEQ" or "Buyer").

RECITALS

WHEREAS, an Agreement for the purchase and sale of real estate (the "P&S Agreement") has been made between the City and FEDEQ Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137, assignee of said P&S Agreement from the Federated Companies LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"); and FEDEQ Apartments LLC has recently assigned its rights in and to the P&S Agreement to **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008 , Miami, Florida 33137 ("FEDEQ");

WHEREAS, related to, and benefiting the development planned by Buyer on the real property which is the subject of the P&S Agreement, and integral thereto, are certain improvements detailed herein to the adjacent public way known as Somerset Street, and more specifically for the portion thereof between Pearl Street and Elm Street (the "Project"), which both the City and Buyer wish to see made;

WHEREAS, the estimated total costs of the Project are $4,000,000; and

WHEREAS, the City and the Buyer are willing to share these costs, as set out herein;

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. **Project and Scope and Cost and Timeline/Schedule:** FEDEQ and the City have jointly agreed to the scope of Project which work is more specifically described in Attachment A attached hereto with an estimated total project cost of $4,000,000 (the "Total Project Cost"). FEDEQ and the City have jointly agreed to a schedule or timeline for the Project, which is attached hereto as Attachment B. The term "Total Project Cost" shall mean the actual Project cost as established by FEDEQ and the City following receipt of a guaranteed maximum cost construction contract acceptable to the City and FEDEQ.

2. **Cost Sharing and Conditions Precedent:** Subject to the terms hereof, the City will fund two-thirds (2/3) of the Total Project Cost, and FEDEQ will fund one-third (1/3) of the Total Project Cost.

FEDEQ's agreement to fund said one-third (1/3) of the Total Project Cost is contingent upon: FEDEQ (or assigns) closing on acquisition of the real estate which is subject matter of the P&S Agreement.

In the event FEDEQ (or assigns) fails to close on the acquisition of the real estate which is the subject matter of the P&S Agreement, FEDEQ shall have the right to cancel and terminate this Agreement by giving written notice of such cancellation and termination to the City, and upon the giving of such notice, this Agreement shall be terminated and FEDEQ shall be relieved of all further obligations hereunder.

Prior to the issuance of a Building Permit for the Project, FEDEQ shall provide the City with evidence of its financial resources, in the amount of at least one-third of the Total Project Cost, available and dedicated to the costs of this Project, in a form reasonably acceptable to the City's Director of Finance, which may include a commitment from a commercial lender to fund requisitions for payment of Project costs.

More than likely, the actual total project cost will not be precisely the amount of the Total Project Cost stated above. Therefore, the parties agree:

(a) The contract(s) for the Project will not be 'mixed' with any other work needed by either party. Notwithstanding the foregoing, nothing herein shall prevent FEDEQ from entering into contracts with the same contractor for construction of other portions of the midtown project to be coordinated with the work on the Project, provided, however, that costs must be allocable to the Project and the midtown project.

(b) In order to address both parties' concerns that the Total Project Costs could exceed the estimate stated above, the City and, FEDEQ will meet early in the development and design of this project to jointly and cooperatively manage said project's design, staging, procurement costs and construction costs; and said parties will continue to meet as reasonably necessary for this same purpose, and will work collaboratively to control procurement and construction costs. And in particular, before FEDEQ executes contracts for the construction of the Project, the parties shall meet and agree on the scope and cost of those contracts, including amounts for project supervision and construction management, general conditions, building permit fees, bonding costs, insurance and including an

appropriate construction contingency amount. All such construction contracts shall be in the form of guaranteed maximum cost contracts.

(c) Any changes to the Project cost over and above any established contingency included in the Total Project Cost during construction shall require mutual review and agreement in writing, which shall not be unreasonably withheld or delayed.

3. **Procedures for Making Disbursements (Payments).** With respect to all requisitions for disbursements of the City's share of Total Project Costs, the City and FEDEQ agree as follows:

   a. FEDEQ shall deliver to the City a written request for payment (a "Requisition") which shall be in substantially the same form as AIA Forms G702 and G703. The Requisition shall be accompanied by: (i) a summary of all expenses requested, (ii) copies of invoices, bills, receipts and such other information as may be reasonable to document the expenditures described in the Requisition, (iii) mechanics' lien affidavits and/or written lien waivers from such contractors, laborers, subcontractors and materialmen for work done and materials supplied which were paid for pursuant to the immediately preceding Requisition, and (iv) a certified payroll in conformance with the requirements of the Davis-Bacon Act of 1931, as amended, for all contractors and subcontractors on site and for which invoices are included.

   b. Requisitions shall be submitted by FEDEQ no more frequently than monthly. Prior to the disbursement by the City of any requested Requisition, City's construction inspector shall certify to City that the work for which a Requisition has been submitted has been completed and the City's Housing and Neighborhood Services staff will verify all workers are being paid the prevailing wage.

   c. A copy of the construction schedule will be submitted to the City at the beginning of the project. Updates will be provided by FEDEQ as necessary to remain accurate.

   d. City shall make disbursements to FEDEQ only after such certification and verification, and with a certified payroll, all the same must be correct and

complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement.

4. **Project Administration and Supervision:** FEDEQ will be responsible for procuring the construction contracts and for providing for the owner's administration for the Project, consistent with the scope of Project contained in Attachment A, hereto, and upon the Timeline attached hereto as Attachment B. All FEDEQ's costs for procurement of construction contracts, administration or the like shall not be shared by the City, nor shall the City be required to share in any other type of internal costs of FEDEQ. Notwithstanding the foregoing, the items described in section 2(b) above shall be payable as part of the Total Project Costs.

The City of Portland will monitor and inspect the work of the Project, including for compliance with City Rules and Ordinances. The City shall have the right to suspend work on the Project as it reasonably deems necessary, to provide for such compliance, and for compliance with the Scope of Work in Attachment A. The City's monitoring and inspection will be collaborative with FEDEQ.

The Contracts for the work of the Project between FEDEQ and its vendors and contractors shall contain these two provisions:

> Prior to the execution of this Agreement, the **CONTRACTOR** will procure and maintain Automobile Insurance and General Public Liability Insurance coverage and coverage in amounts of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage, naming the **CITY OF PORTAND** as an additional insured thereon, and also Workers' Compensation Insurance coverage. With respect to the Liability Insurance, the **CONTRACTOR** will provide the **CITY OF PORTLAND** a certificate of insurance evidencing such coverage, in this way: certificate must say either: A) "the policy has been endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability ~~Expansion~~ Extension Endorsement, by which the City of Portland is automatically made an additional insured." A Certificate which merely has a box checked under "Addl Insr," or the like, or which merely states the City of Portland is named as an Additional Insured, will not be acceptable. The **CONTRACTOR** shall furnish the **CITY OF PORTLAND** and thereafter maintain certificates evidencing all such coverages, which certificates shall provide for thirty (30) days' notice to the **CITY OF PORTLAND** of termination of insurance from insurance company or agent.
>
> The **CONTRACTOR** shall furnish to FEDEQ and to the **CITY OF PORTLAND**, upon execution of the Contract, a Contract Performance Bond and a Contract Labor and Materials Payment Bond each for the full amount of the Contract and issued by a surety

company or surety companies authorized to do business in the State of Maine and approved by the **CITY OF PORTLAND**. The Bonds shall remain in effect for one year after final acceptance of the Work, and protect both FEDEQ and **CITY OF PORTLAND** for at least one year of warranty of the Work hereunder, and also shall insure settlement of claims for the payment of all bills for labor, materials and equipment. The bonds described in this section shall be deemed to satisfy the performance guaranty requirements for the Project as required by section 14-501 of the City of Portland Code of Ordinances, and no further performance guaranty shall be required.

5. **Requirements related to Funding Sources.** FEDEQ, its employees, assigns, agents and subcontractors for this project, at all times shall comply with the requirements of the Section 108 Loan Guarantee and Brownfields Economic Development Initiative Grant program and Federal Labor Standards pursuant to Davis Bacon and related Acts, specifically including:

    a. Davis-Bacon Act, as amended.(40 U.S.C 276a - 276a-5.) All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

    b. Contract Work Hours and Safely Standards Act, as amended. (40 U.S.C. 327-333). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.

    c. Copeland Anti-Kickback Act, as amended. (18 U.S.C. 874 and 40 U.S.C. 276c). This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions.

6. **Entire Agreement.** This Agreement (i) constitutes the entire agreement between the parties hereto with respect to the Project and it supersedes all prior discussions, undertakings or agreements between the parties in respect to the Project; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Agreement shall not confer any rights or remedies upon any third-party

other than the parties to this Agreement and their respective successors and permitted assigns.

7. **Notices.** Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, with a copy to, the Director of Economic Development, facsimile 207-756-8217, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), and to FEDEQ, at the address recited above, with a copy to The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931.

8. **Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

IN WITNESS WHEREOF, the City and FEDEQ, by their representatives duly authorized, have caused this instrument to be executed as of ______________, 2014.

FEDEQ DV001, LLC

By____________________,
Jonathan Cox
Its: Manager

CITY OF PORTLAND

By____________________
Mark Rees, City Manager

By____________________
Ellen Sanborn, Finance Director

By____________________
Corporation Counsel attorney

O:Bayside Federated Somerset Street Cost Share Agreement Clean Version 7-25-14

Budget Site Construction Cost Estimate Peer Review

Midtown - Somerset Street Improvements

12/5/2013

WOODARD &CURRAN

Description	Site Development Costs		Somerset Street Costs		Total Costs	
	Total	% of Total	Total	% of Total	Total	% of Total
Item (a) Basis of Design:						
Site Demolition	$ -	0.0%	$ 28,055	2.1%	$ 28,055	0.8%
Preliminary Site Work	$ -	0.0%	$ 61,241	4.6%	$ 61,241	1.8%
Earthwork	$ -	0.0%	$ 32,447	2.4%	$ 32,447	0.9%
Dewatering	$ -	0.0%	$ 10,000	0.8%	$ 10,000	0.3%
Storm Drainage (See Note 1)	$ 202,470	9.7%	$ 1,260	0.1%	$ 203,730	6.0%
Sanitary Systems	$ 20,596	1.0%	$ -	0.0%	$ 20,596	0.6%
Water Systems	$ 118,118	5.7%	$ 1,200	0.1%	$ 119,318	3.5%
Portland Water District - Water Service Fees	*$ 15,000*	0.7%	$ -	0.0%	$ 15,000	0.4%
Misc Site Utilities (See Note 2)	$ 175,933	8.4%	$ 240,948	18.1%	$ 416,881	12.2%
Unitil - Gas Utility Fees (Allowance)	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Central Maine Power - Phase 1 Electrical Utility Fees	*$ 268,000*	12.8%	*$ 332,000*	24.9%	$ 600,000	17.5%
Central Maine Power - Phase 2 Electrical Utility Fees	*$ 317,000*	15.2%	*$ 83,000*	6.2%	$ 400,000	11.7%
Time Warner - Communication Utility Fees (Allowance)	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Fairpoint - Communication Utiltiy Fees	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Roads/Walks (See Note 3)	$ 99,463	4.8%	$ 540,113	40.5%	$ 639,576	18.7%
Site Improvements (See Note 4)	$ 550,623	26.4%	$ 2,398	0.2%	$ 553,021	16.2%
Concrete (See Note 4)	$ 161,666	7.7%	$ -	0.0%	$ 161,666	4.7%
Misc Metals (See Note 4)	$ 40,991	2.0%	$ -	0.0%	$ 40,991	1.2%
Electrical Site (See Note 5)	$ 116,953	5.6%	$ -	0.0%	$ 116,953	3.4%
Item (a) Basis of Design Sub-Total	***$ 2,086,813***	***100%***	***$ 1,332,662***	***100%***	***$ 3,419,475***	***100%***
Estimate Adjustment and Indirect Costs:						
Cost Estimate Adjustments (See W&C 11/15/2013 Memo	$ 11,900	3.1%	$ 40,000	14.3%	$ 51,900	7.8%
Contractor General Conditions (See Note 6)	$ 166,945	43.1%	$ 106,613	38.1%	$ 273,558	41.0%
Contractor OH&P, Insurance, Bonds (See Note 7)	$ 208,681	53.8%	$ 133,266	47.6%	$ 341,948	51.2%
Estimate Adjustment and Indirect Costs	***$ 387,526***	***100.0%***	***$ 279,879***	***100.0%***	***$ 667,406***	***100.0%***
Somerset Street Improvements Total (Rounded)	***$ 2,474,000***		***$ 1,613,000***		***$ 4,087,000***	

Notes:

1) Cost segregation assumes Site Development Costs include off-site drainage piping/structures required for on-site stormwater treatment system.
   a) Cost to raise existing storm drainange manholes/catch basins is included in the Somerset Street Costs.
2) Cost segregation assumes Site Development Costs will include electrical trenching, backfill and precast concrete light pole bases.
   a) Infrastructure and utility company fees to relocate overhead electrical/communication utilities are shared based on scope of work.
3) Cost segregation assumes Site Development Costs will include new and existing granite curbing along Somerset, Elm, Chestnut and Pearl Streets.
   a) Cost for approximately 1,060 CY of lightwieght concrete fill under new sidewalks is included in the Site Development Costs.
   b) Cost to remove and re-set approximately 1,120 LF of existing granite curb on the southeast side is included in the Somerset Street Costs.
4) Cost segregation assumes Site Development Costs will include all brick pavers, concrete ramps/planters/stairs/rails and trees.
5) Cost segregation assumes Site Development Costs will include all site lighting concrete bases, light poles, luminaires and wiring.
6) Contractor General Conditions (not included in PC estimate) may range in the amount of 8-10% depending on schedule and concurrent activities.
7) Contractor OH&P, Insurance, Bonds and Contingency (not included in PC estimate) may range in the amount of 10-12%.
8) Allowance has been included for electrical utility company fees for relocating existing overhead electrical services to underground.
   a) CMP Phase 1 cost assumes Site Development Costs include (1)-2000 & (1)-500 KVA pad mount transformers, 500 CU cable and junction pole.
   b) CMP Phase 1 cost assumes Somerset Street Costs include (1)-1000 KVA submersible transformer, 500 CU cable and riser poles.
   c) CMP Phase 2 cost assumes Site Development Costs include (3)-2000 & (1)-500 KVA pad mount transformers and 500 CU cable.
   d) CMP Phase 2 cost assumes Somerset Street Costs include 500 CU primary cable at Elm Street.
9) Allowance has been included for water utility company fees for new Site Development fire and domestic water services.
10) No allowances have been included for gas, telephone and cable utility company fees since there should be no charge for this work.
11) No allowances have been included for unsuitable soils or contaminated groundwater treatment/disposal.
12) No allowances have not been included for offsite improvements or traffic control signalization.

ATTACHMENT B TO COST SHARING ARRANGEMENT
TIMELINE FOR PROJECT -
TO BE PROVIDED

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Greg Mitchell, Economic Development Director

FROM: Ellen Sanborn, Finance Director

DATE: June 23, 2014

RE: Debt Service Projection for Midtown Project

Attached is an amortization schedule for financing $1.367 million associated with this project. This amount, as I understand it, would include $700,000 in general obligation bonds and $667,000 from the HUD108 loan for the Bayside redevelopment program.

The HUD108 portion will be paid according to the principal payment schedule in our agreement, with interest rate to be determined in the fall when we permanently finance the total loan of $10.2 million. The general obligation portion would be included in our annual bond sale. I have estimated a 4.5% interest rate for both. Note the change in payment amounts in Yr 15 of the schedule, which are due to the term of the HUD108 being shorter than the bond financing.

A/O 6/23/2014

Midtown Project
Estimated Debt Service Amortization

		Prin	Int	Ttl	Prin Bal
Original amount financed					$ 1,367,000
Annual Payment Amounts	Yr 1	$ 56,348	$ 61,515	$ 117,863	1,310,652
	Yr 2	$ 59,618	58,979	118,597	1,251,034
	Yr 3	$ 62,887	56,297	119,184	1,188,147
	Yr 4	$ 66,157	53,467	119,623	1,121,990
	Yr 5	$ 75,966	50,490	126,455	1,046,025
	Yr 6	$ 79,235	47,071	126,306	966,789
	Yr 7	$ 82,505	43,506	126,010	884,284
	Yr 8	$ 85,775	39,793	125,567	798,510
	Yr 9	$ 85,775	35,933	121,707	712,735
	Yr 10	$ 84,819	32,073	116,892	627,916
	Yr 11	$ 100,392	28,256	128,648	527,524
	Yr 12	$ 103,662	23,739	127,400	423,862
	Yr 13	$ 106,931	19,074	126,005	316,931
	Yr 14	$ 106,931	14,262	121,193	210,000
	Yr 15	$ 35,000	9,450	44,450	175,000
	Yr 16	$ 35,000	7,875	42,875	140,000
	Yr 17	$ 35,000	6,300	41,300	105,000
	Yr 18	$ 35,000	4,725	39,725	70,000
	Yr 19	$ 35,000	3,150	38,150	35,000
	Yr 20	35,000	1,575	36,575	(0)
Total		$ 1,367,000	$ 597,528	$ 1,964,528	

Estimated Repayment Schedule for HUD108 Loan

Federated Portion Only
23-Jul-12

Princ. Due	City FY	Amt Disbursed	Principal Repayment	Outstanding Balance	Act./Est. Interest	Est. HUD Annual Payment	Est Fed Project Tax Pymts*	*Variance between HUD loan and Fed Project Payment*
					3.5%			
8/1/2013	14	$ 8,231,448	$ 165,456	$ 8,065,992	$ -	$ 165,456	277,196	*111,740*
8/1/2014	15		206,820	7,859,171	282,310	489,130	431,550	*(57,580)*
8/1/2015	16		206,820	7,652,351	275,071	481,891	758,934	*277,042*
8/1/2016	17		248,184	7,404,167	267,832	516,017	774,112	*258,096*
8/1/2017	18		289,548	7,114,618	259,146	548,694	789,594	*240,900*
8/1/2018	19		330,912	6,783,706	249,012	579,924	805,386	*225,462*
8/1/2019	20		455,005	6,328,701	237,430	692,434	821,494	*129,060*
8/1/2020	21		496,369	5,832,333	221,505	717,873	837,924	*120,051*
8/1/2021	22		537,733	5,294,600	204,132	741,864	854,682	*112,818*
8/1/2022	23		579,097	4,715,503	185,311	764,408	871,776	*107,368*
8/1/2023	24		579,097	4,136,406	165,043	744,139	889,212	*145,072*
8/1/2024	25		620,461	3,515,945	144,774	765,235	906,996	*141,761*
8/1/2025	26		827,281	2,688,664	123,058	950,339	925,136	*(25,204)*
8/1/2026	27		868,645	1,820,019	94,103	962,749	943,638	*(19,110)*
8/1/2027	28		910,009	910,009	63,701	973,710	962,511	*(11,199)*
8/1/2028	29		910,009	-	31,850	941,860	981,761	*39,902*
Total		$ 8,231,448	$ 8,231,448		$ 2,804,276	$ 11,035,724	$ 12,831,903	*$ 1,796,179*

* *Phase I value only estimated at $38 million in built-out value with an annual 2% tax rate increase.*

Midtown Project 6/24/2014

Estimated Debt Service Amortization and Cash Flow Analysis

	Debt Service Amortization			Cash Flow Analysis	
	Prin	Int	Ttl	Est. Fed Project Revised Phase 2 Payments	Variance Between Additional City Debt and Phase 2 Payment
Additional amount financed					
Annual Payment Amounts Yr 1	$ 56,348	$ 61,515	$ 117,863	195,500	$ 77,637
Yr 2	$ 59,618	58,979	118,597	398,820	$ 280,223
Yr 3	$ 62,887	56,297	119,184	813,593	$ 694,409
Yr 4	$ 66,157	53,467	119,623	829,865	$ 710,241
Yr 5	$ 75,966	50,490	126,455	846,462	$ 720,007
Yr 6	$ 79,235	47,071	126,306	863,391	$ 737,085
Yr 7	$ 82,505	43,506	126,010	880,659	$ 754,649
Yr 8	$ 85,775	39,793	125,567	898,272	$ 772,705
Yr 9	$ 85,775	35,933	121,707	916,238	$ 794,530
Yr 10	$ 84,819	32,073	116,892	934,562	$ 817,670
Yr 11	$ 100,392	28,256	128,648	953,254	$ 824,605
Yr 12	$ 103,662	23,739	127,400	972,319	$ 844,918
Yr 13	$ 106,931	19,074	126,005	991,765	$ 865,760
Yr 14	$ 106,931	14,262	121,193	1,011,600	$ 890,407
Yr 15	$ 35,000	9,450	44,450	1,031,832	$ 987,382
Yr 16	$ 35,000	7,875	42,875	1,052,469	$ 1,009,594
Yr 17	$ 35,000	6,300	41,300	1,073,518	$ 1,032,218
Yr 18	$ 35,000	4,725	39,725	1,094,989	$ 1,055,264
Yr 19	$ 35,000	3,150	38,150	1,116,889	$ 1,078,739
Yr 20	35,000	1,575	36,575	1,139,226	$ 1,102,651
Total	$ 1,367,000	$ 597,528	$ 1,964,528	18,015,223	$ 16,050,695

Assumptions:

Phase 2 Project municipal valuation ($ 39.1 million) at 25% year 1, 50% year 2 and 100% year 3 at mil rate $20/$1000 with an annual 2% tax rate increase.

Order 48-14/15
~~Tab 11 9-3-14~~
Tab 12 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING AND AUTHORIZING THE ACTING CITY MANAGER TO SIGN THE SECOND AMENDMENT OF THE PURCHASE AND SALE AGREEMENT, THE GUARANTY AND THE SOMERSET STREET COST SHARE AGREEMENT RE: THE FEDERATED COMPANIES LLC

ORDERED, that the Second Amendment of the Purchase and Sale Agreement, the Amendments of Guaranty and the Parking Garage Contribution and Funding Agreement, and the Somerset Street Cost Share Agreement with The Federated Companies LLC and FEDEQ DV001, LLC are hereby approved in substantially the forms attached hereto as Attachment 1 and Attachment 2; and

BE IT FURTHER ORDERED, that the Acting City Manager is hereby authorized to execute whatever documents are necessary to effect the intent and purpose of these Agreements and this Order.

Portland, Maine Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: August 21, 2014

cc: Mark Rees, City Manager
Michael Bobinsky, Public Services Director
Jeff Levine, Planning and Urban Development Director
Ellen Sanborn, Finance Director

SUBJECT: **Order Amending Federated Midtown Project Documents, Including Somerset Street Cost Share Agreement**

SPONSOR: Housing and Community Development Committee/Councilor Donoghue, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:

Placed on Council Agenda for September 3, 2014; with it tabled to the September 15, 2014 Council meeting for action – one reading required. This would be a companion to two other items to be voted on at the September 15 Council Agenda – for the Bayside HUD 108 Loan/BEDI Grant Programming Amendments, and for the issuance of City Debt for the Somerset Street Cost Share Agreement.

Can action by taken a later date? No. **If no, why not?** Timing of the HUD Loan/BEDI Grant drawdown deadline is September 30, 2014.

SUMMARY OF ISSUE

The delay with the Federated Companies Midtown Project, largely due to an active lawsuit, has resulted in the need to amend three Midtown Project partnership documents primarily to address Project timing issues; there is also a need to raise the grade of Somerset Street from Pearl Street to Elm and assign costs for that work.

REASON FOR SUBMISSION

The Federated Companies Midtown Project partnership documents were executed by the parties on October 15, 2012 including the First Amendmeut to the Purchase and Sale Agreement which was signed on June 23, 2011. (See attached documents.)

Following Planning Board Midtown Project Master Plan and Site Plan approvals on January 14, 2014, a lawsuit challenging this approval was filed and remains active.

Amendments to the following Midtown Project documents are proposed with explanations:

Second Amendment to the Purchase and Sale Agreement

Assignment Change. Assignment change is proposed to a different Federated Companies corporate entity entitled "FEDEQ DV001, LLC".

It is noted that a Corporate Guaranty, with the parent corporation, is in place to cover the amount of the City HUD Program debt service expense if the Midtown Project Phase I municipal taxable value does not generate enough property tax revenue.

Property Acreage. The amount of the City acreage being sold increased from 3.25 acres to 3.44 acres as contemplated in the original Purchase and Sale Agreement.

Property Sale Price. The property per acre sale price, established in the original Purchase and Sale Agreement at $700,000 per acre, applied to the new total acreage amount yields a total sale price of $2,408,000.

Project Timing. Project timing has been adjusted to reflect the end of legal appeals due to the active lawsuit.

Scrap Yard Environmental Cleanup. The assignment of responsibility to manage the cleanup of the New England Metal Recycling property has been changed from Federated Companies to the City to lower the overall site cleanup costs and maintain City involvement in the clean up process under an EPA cleanup plan. There is no change to the City's financial involvement in this work.

Somerset Street Cost Share Agreement. This is a new agreement which recognizes the need to raise the elevation of Somerset Street, from Pearl Street to Elm Street, to support improved pedestrian/ vehicle access to new private development and address flooding issues in the neighborhood.

The scope of the Somerset Street Reconstruction Project is designed to raise the grade of the street between Pearl and Elem Streets and adjust utilities. The overall cost of this Project is estimated to be $4 million. A cost share agreement has been negotiated for the Federated Companies to invest one-third (1/3) of the total costs and for the City to cover two-thirds (2/3). The proposed financial sources include:

Responsibility	**Amount**	**Sources**
Federated	$1.33	Federated
City	$2.67	$1.0 mil. (HUD - $666,667 Loan, $333,333 Grant) $1.0 mil. (Available Bayside TIF reserve) $0.70 mil. (New City Debt)
Total	$4.0	

An explanation of the use of the Bayside HUD 108 Loan and BEDI Grant Program is provided in a separate memo to the City Council and Council Order to amend the programming of funds.

Amendment of the Corporate Guaranty.

Project Definition. This has been added to refer to the Planning Board approvals, including Project Phase 1 to consist of a parking garage containing not less than 700 spaces; not less than one hundred seventy four (174) residential units; and, not less than 37,486 square feet of commercial space.

Guaranty Deadline. An amendment is proposed to clarify that scrap yard environmental cleanup costs, covered by the HUD funds, are not counted toward the $1 million Federated Companies HUD draw down trigger to start the date for two (2) year completion of the parking garage.

Amendment of the Parking Garage Contribution and Funding Agreement.

Timing. This change is needed again due to the active lawsuit to start the clock following the end of appeals.

Again, an amendment is proposed to clarify that scrap yard environmental cleanup costs, covered by the HUD funds, are not counted toward the $1 million Federated Companies HUD draw down trigger to start the date for two (2) year completion of the parking garage.

INTENDED RESULT

City Council approval of the proposed Amendments to the Federated Companies Midtown Project documents, including the Somerset Street Reconstruction Project Agreement to support new private sector investment in Bayside.

COUNCIL GOAL ADDRESSED

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

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

FINANCIAL IMPACT

City staff prepared debt service projections for the additional City debt in the amount of $1.367 million, along with projected property revenue associated with midtown project to demonstrate that there is adequate property tax revenue to retire new City debt associated with the Somerset Street Reconstruction Project. City staff analysis is attached for your information.

RECOMMENDATION

HCDC reviewed this on August 13, 2014 and unanimously voted 4-0 to recommend to City Council approval of the proposed Federated Companies Midtown Project documents, as presented, including the Somerset Street Cost Share Agreement.

In addition, on August 21, 2014, the Finance Committee reviewed and voted 3-0 on the new City debt for the Somerset Street Reconstruction Project to forward it to the City Council with a recommendation for passage.

LIST ATTACHMENTS

1. Second Amendment of Purchase and Sale Agreement and Amendment of Corporate Guaranty and Amendment of Parking Garage Contribution and Funding Agreement, including Exhibit C, as follows: (pp. 5 to 24)

    a. Agreement by and between FEDEQ DV001 and City of Portland on Costs for Off-Site Improvements Improving Somerset Street, to be Partially Funded by City of Portland (pp. 14 to 22)

2. City staff prepared debt services projections for additional City debt. (pp. 25 to 28)

3. Executed Corporate Guaranty of October 15, 2012. (pp. 30 to 90)

SECOND AMENDMENT OF PURCHASE AND SALE AGREEMENT AND AMENDMENT OF GUARANTY AND PARKING GARAGE CONTRIBUTION AND FUNDING AGREEMENT

THIS AGREEMENT dated March _______________, 2014 is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), **LEGACY PARK APARTMENTS,** LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy" or "Buyer"), **THE FEDERATED COMPANIES LLC**, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"), and FEDEQ DV001, LLC, a Maine limited liability company with a mailing address of PO BOX 370008 , Miami, Florida 33137 ("FEDEQ").

RECITALS

WHEREAS, The City and Federated entered into a certain Purchase and Sale Agreement dated June 23, 2011, as amended by a First Amendment to Purchase and Sale Agreement dated October 15, 2012 (collectively, the "P&S"), and Federated has assigned its rights as buyer under the P&S to Legacy pursuant to a certain Assignment and Assumption Agreement dated June 27, 2011 (the "Assignment"); and

WHEREAS, Legacy has assigned its right to purchase the Land to a Maine limited liability company known as FEDEQ DV001, LLC by assignment and assumption agreement, a copy of which is attached hereto as Exhibit A (the "FEDEQ Assignment");

WHEREAS, the City, Legacy, and Federated are parties to that certain Corporate Guaranty Agreement dated October 15, 2012 (the "Guaranty Agreement"), and the City and Legacy are parties to a certain Parking Garage Contribution and Funding Agreement dated October 15, 2012 (the "Parking Garage Agreement") and the City and Legacy are parties to a certain Job Creation Agreement dated October 15, 2012 (the "Job Creation Agreement"); and

WHEREAS, the City, Legacy, Federated and FEDEQ now wish to amend certain provisions of the P&S, the Guaranty Agreement and Parking Garage Agreement as set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the P&S, the Guaranty Agreement and the Parking Garage Agreement are hereby amended as follows:

1. The City hereby consents to the FEDEQ Assignment, agrees to convey the Land to FEDEQ at Closing, as nominee of Legacy, and agrees to recognize FEDEQ as Buyer for all purposes under the P&S, the Parking Garage Agreement, the Job Creation Agreement and the Guaranty.

2. The P&S is hereby amended to reflect the following terms and conditions:

   a. The definition of the Land subject to the P&S is hereby amended to read as follows: Certain real property located on Somerset Street, Portland, Maine which contains approximately 3.44 acres and which is known as lots 1, 2, 3, 5, 6, and 7 shown on that certain "Amended Subdivision/Recording Plat on Somerset Street, Portland, Maine" prepared for Fay, Spofford & Thorndike by Owen Haskell, Inc., dated April 10, 2013, last revised December 20, 2013 and approved by the Portland Planning Board on January 14, 2014 (the "Amended Subdivision Plan"), a copy of which is attached hereto as Exhibit B.

   b. The City shall grant to FEDEQ all of the easement rights over lots 4 and 9 (which lots shall be retained by the City) as shown on the Amended Subdivision Plan and over that portion of "Pearl Street Extension" owned by the City as shown on the Amended Subdivision Plan. All easements created by and shown on the prior subdivision plan, entitled "Bayside Railyard Portland, Maine" dated October 30, 2008 and prepared for the Downtown Portland Corporation by SGC Engineering, LLC, recorded in the Cumberland County Registry of Deeds in Plan Book 209, Page 36 (the "Subdivision Plan"), that are not expressly shown on the Amended Subdivision Plan are hereby extinguished, including, without limitation, an easement crossing lot 3, the underpass easement shown on lots 1 and 2, the geothermal easements, and the former location of the trail corridor easement.

   c. The total the acreage of the Land subject to the P&S is 3.44 acres, and the Purchase Price shall be Two Million Four Hundred Eight Thousand **Dollars ($2,408,000.00)**, based on the per acre purchase price set forth in the P&S.

   d. The parties acknowledge that the approvals for the development of the Land obtained by the Buyer and Federated have been appealed to the Maine Superior Court, and that a further appeal may be taken to the Maine Supreme Judicial Court (collectively, the "Appeals"). The definition of the Permit Period in the P&S shall be extended for a period of time necessary to allow all such appeals to be resolved or settled, including any remand to the Portland Planning Board, and any subsequent appeals following such remand. The Permit period shall expire when all appeals have been resolved or settled, and when the time period for filing any further appeals has expired without any further appeals having been filed (the "End of Appeals"). Notwithstanding any language in the P&S to the contrary, Legacy is not required to pay an additional deposit in connection with this extension of the Permit Period.

   e. The City, rather than Legacy, shall undertake the environmental remediation of the Scrapyard and the Railyard, in accordance with the VRAPs. Section 5 of the Agreement is hereby amended to provide that the City will undertake the remediation required by the terms of the VRAPs, during the pendency of the Appeals. Nothing set forth in this Agreement shall alter the financial responsibility of the parties for such remediation expense. The City shall pay the first $50,000 of remediation expense for the Scrapyard, and the City shall be reimbursed for all other reasonable costs of remediation from the

City Grant Funds, provided that the City shall provide Federated with copies of all budgets, invoices and estimates for such work. The amount of City Grant Funds available to FEDEQ as nominee of Legacy under the Parking Garage Agreement shall be reduced by the amount of City Grant Funds incurred by the City for environmental remediation costs that exceed the required expenditure of $50,000 by the City.

f. The City and Legacy and Federated agree to share the costs of the improvements to Somerset Street as required by the City's Planning Board on January 14, 2014 in accordance with the cost estimates and sharing formula set forth on Exhibit C attached hereto.

3. The Guaranty is hereby amended to reflect the following terms and conditions:

a. FEDEQ shall construct Phase I of the Project in accordance with the plans and specifications shown on the plan entitled "Midtown Phase I Plan" last revised November 22, 2013 and prepared for The Federated Companies (the "Phase I Plan") approved by the Portland Planning Board (the "Planning Board") on January 14, 2014 a copy of which is attached hereto as Exhibit D, and in accordance with the terms and conditions of the Level 3 site plan approval for Phase 1 of the Project approved by the Planning Board on January 14, 2014 (the "Level 3 Approval"). The specifications shown on the Phase I Plan and the terms and conditions of the Level 3 Approval shall be deemed to satisfy the design guidelines and specifications required by the terms of the Guaranty. Phase I of the Project shall consist of a parking garage containing not less than 700 spaces, not less than one hundred seventy four (174) residential apartments, and not less than 37,486 sf of retail space.

b. The Guaranty Deadline as set forth in the Guaranty shall be amended to extend for a period of three (3) years after the date on which the Buyer shall have requisitioned a total of $1,000,000 in City Grant Funds, exclusive of funds requisitioned by the City or by the Buyer for environmental remediation costs.

4. The Parking Garage Agreement is hereby amended to reflect the following terms and conditions:

a. The requisition timetable set for in the Parking Garage Agreement and the deadlines for the Buyer's initial requisition, and the City's initial disbursement, of the City Grant Funds are hereby extended until the End of Appeals, and a period of one-year thereafter (the "Amended Initial Drawdown Period"), and Buyer shall file its initial requisition request with the City before the end of the Amended Initial Drawdown Period. The Buyer shall have an additional period of three (3) months following from when it files its initial requisition request to have requisitioned $1,000,000 in the City Grant Funds . The City shall, at the City's option, either (i) obtain and transmit to Buyer evidence of HUD's approval of the extension of the disbursement deadline for the HUD Funds and the City Grant Funds throughout the drawdown by Buyer; or (ii) the City shall draw down and hold the HUD Funds throughout the pendency of the Appeals and shall make the City Grant Funds available for Buyer's future use in accordance with the terms and conditions of the Parking Garage Agreement, throughout the drawdown by Buyer.

b. The Garage shall have reached Start-Up Phase within two (2) years after the Buyer shall have requisitioned $1,000,000 in City Grant Funds for Garage construction. Uses of the City Grant Funds by the City or by the Buyer for environmental remediation costs shall not count towards this $1,000,000 requisition requirement.

5. All terms capitalized but not defined herein shall have the meanings defined in the P&S, the Guaranty and the Parking Garage Agreement.

6. Except as amended hereby, the P&S, the Guaranty, the Parking Garage Agreement and the Job Creation Agreement shall remain in full force an effect and are hereby ratified. In the event of any conflict between the terms of this Agreement and the terms of the P&S, the Guaranty and the Parking Garage Agreement, the terms of this Agreement shall govern and control.

7. This Agreement may be signed in counterparts, which shall be construed together as one document.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and sealed by their respective duly authorized undersigned officers as of the date first mentioned above.

(Signature page follows.)

CITY OF PORTLAND

By: ______________________________

Name:
Its:

____
Approved: Ellen Sanborn, Finance Director

____
Approved to Form: Corp. Counsel

LEGACY PARK APARTMENTS LLC

By: ______________________________

Jonathan Cox
Its: Manager

THE FEDERATED COMPANIES LLC

By: ______________________________

Jonathan Cox
Its: Manager

FEDEQ DV001, LLC

By: ______________________________

Jonathan Cox
Its: Manager

EXHIBIT A
to 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT TO FEDEQ

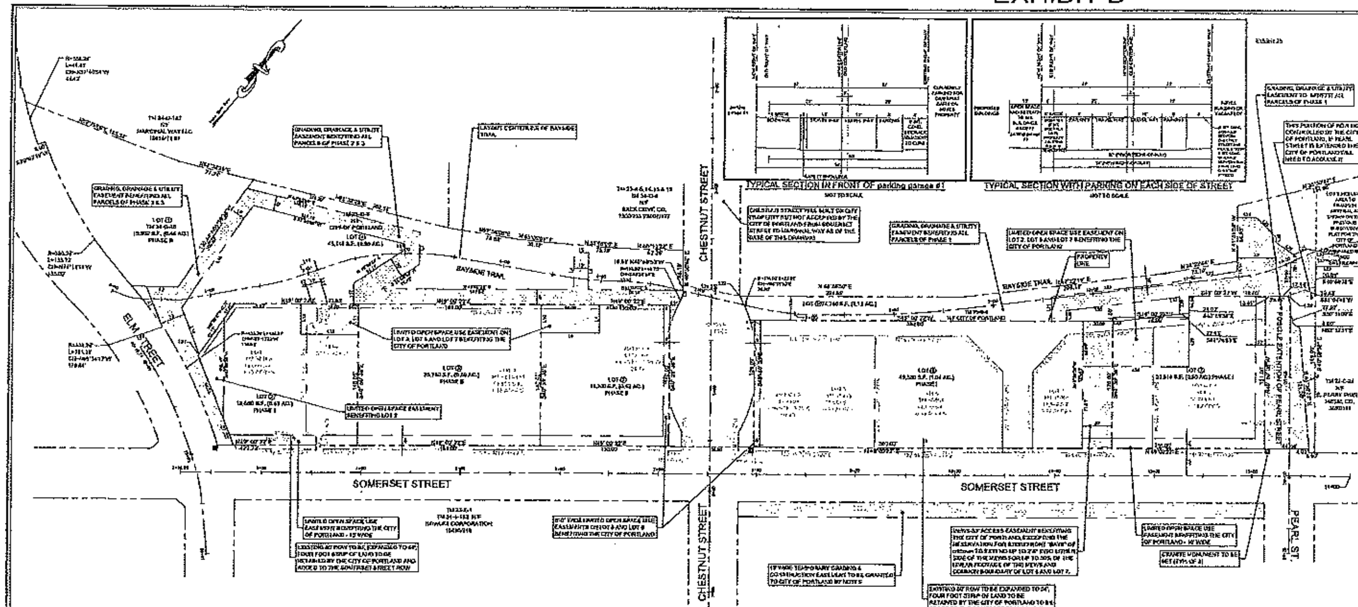
(TO BE PROVIDED)

EXHIBIT B

TO 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

Amended Subdivision/Recording Plat by Owen Haskell last revised December 20, 2013

EXHIBIT B



EASEMENT NOTES

1. THE EASEMENTS SHOWN ON THIS AMENDED SUBDIVISION PLAN LOCATED UPON LOT 4 ARE PRELIMINARY AND MAY BE RELOCATED AT THE TIME OF LEVEL III SITE PLAN APPROVAL OF THE DEVELOPMENT OF LOTS 1, 2, 3 OR 5 AS SHOWN ON THE PLAN, AND ANY APPROVED SITE PLAN CONTAINING ANY SUCH REVISED EASEMENT AREAS SHALL BE DEEMED TO AMEND THE EASEMENTS SHOWN ON THIS AMENDED SUBDIVISION PLAN. IF THE EASEMENT CHANGES ARE MADE, A NEW PLAN AND IF NECESSARY, DEED SHALL BE SUBMITTED FOR REVIEW AND APPROVAL.

2. THE FOLLOWING EASEMENTS SET FORTH IN NOTES 2A, 2B, 2C, 2D, 2E, 2F AND 2G ARE NOT SHOWN ON THIS PLAN. THE LOCATION AND TERMS AND CONDITIONS OF SUCH EASEMENTS ARE TO BE FORMULATED AND APPROVED BY THE CITY CORPORATION COUNSEL AND COUNSEL TO THE PURCHASER, AND SHALL BE SET FORTH IN THE DEED CONVEYING THE LOTS FROM THE CITY OF PORTLAND TO THE PURCHASER, OR IN A SEPARATE EASEMENT DEED OR EASEMENT AGREEMENT. IF THE EASEMENT CHANGES ARE MADE, A NEW PLAN AND IF NECESSARY, DEED SHALL BE SUBMITTED FOR REVIEW AND APPROVAL.

2A. AN EASEMENT FOR SNOW REMOVAL ACTIVITIES IN A LOCATION OVER LOT 4 AND 9.

2B. AN EASEMENT FOR SUBSURFACE PILINGS, PILE CAPS AND BUILDING FOUNDATIONS GENERALLY ALONG THE NORTHERLY, EASTERLY AND SOUTHERLY PROPERTY LINES OF LOT 2, 3 & 5 AND BURDENING LOT 4 AND THE CHESTNUT STREET AND SOMERSET STREET RIGHTS OF WAY.

2C. AN EASEMENT FOR SUBSURFACE PILINGS, PILE CAPS, AND BUILDING FOUNDATIONS GENERALLY ALONG THE NORTHWESTERLY AND SOUTHEASTERLY PROPERTY LINES OF THE SOMERSET RIGHT OF WAY AND LOT 6 AND 7 AND BURDENING THE SOMERSET STREET AND LOT 9.

2D. LOTS 4 AND 9 ARE SUBJECT TO EASEMENTS FOR CONSTRUCTION, STAGING, REPAIR AND MAINTENANCE, BENEFITING THE OTHER LOTS OF THE SUBDIVISION. THIS EASEMENT REQUIRES THE REPAIR OR REPLACEMENT OF ANY FEATURES IN LOT 4 OR 9 THAT MAY BE DAMAGED BY THE ACTIVITIES ALLOWED AS PART OF THESE EASEMENTS.

2E. AN EASEMENT TO THE OWNERS OF LOTS 2 AND 7 PROVIDING THE RIGHT TO CONSTRUCT STEPS, RAMPS, AND LANDINGS IN THE AREAS OF THE ELM STREET, PEARL STREET EXTENSION AND SOMERSET STREET RIGHTS OF WAY DEPICTED ON THE SITE PLANS FOR THE MIDTOWN PROJECT PREPARED BY FAY, SPOFFORD & THORNDIKE, INC. AND IDENTIFIED AS SITE PLANS C-2.1, C2.2 AND C2.3 DATED SEPTEMBER 2013.

2F. LICENSES FOR FEDERATED COMPANY, LLC ("FEDERATED") OR ITS DESIGNATED ASSIGNEES TO MAINTAIN STEPS, RAMPS AND THE RELATED ACCESSIBLE LANDINGS AND TO MAINTAIN PLANTERS WITHIN PORTIONS OF THE ELM STREET, CHESTNUT STREET AND SOMERSET STREET RIGHTS OF WAY, AND UPON THE AREA DESIGNATED AS THE POTENTIAL EXTENSION OF PEARL STREET, AS WELL AS THE RIGHTS TO CONSTRUCT AND MAINTAIN PHYSICAL IMPROVEMENTS TO BE ADDED TO THE TRAIL SYSTEM UPON LOTS 4 AND 9.

2G. AN EASEMENT BENEFITING LOTS 1, 2, 3, 5, 6 AND 7 TO CONSTRUCT, OPERATE AND MAINTAIN WATER QUALITY TREATMENT SYSTEMS UPON PORTIONS OF LOTS 4 AND 9.

3. ALL EASEMENTS CREATED BY AND SHOWN ON THE PRIOR APPROVED SUBDIVISION PLAN THAT ARE NOT EXPRESSLY SHOWN OR REFERENCED ON THIS PLAN ARE EXTINGUISHED, INCLUDING, WITHOUT LIMITATION, THE UNDERPASS EASEMENT ON LOT 1 AND 3, CONDITIONAL EASEMENTS, FORMER LOCATION OF THE TRAIL CORRIDOR EASEMENT AND ALL OTHER EASEMENTS ON LOTS 1, 3, 5, 6, AND 7 CREATED BY AND SHOWN ON THE PRIOR AMENDED SUBDIVISION PLAN.

GENERAL NOTES

1. THIS AMENDED SUBDIVISION PLAN AMENDS AND REPLACES THE SUBDIVISION RECORDING PLAT ENTITLED "SUBDIVISION RECORDING PLAT OF PROPERTY LOCATED ON BAYSIDE RAILYARD, PORTLAND, MAINE PREPARED FOR DOWNTOWN PORTLAND CORPORATION BY SGC ENGINEERING, LLC. DATED OCTOBER 30, 2008 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 208, PAGE 36 (THE "PRIOR APPROVED SUBDIVISION PLAN") IN ALL RESPECTS AND SUCH PRIOR SUBDIVISION IS HEREBY EXTINGUISHED.

2. THE FEDERATED COMPANIES, LLC OR IT'S DESIGNATED ASSIGNEE ENTITIES ANTICIPATES ACQUISITION OF THE PARCELS NECESSARY TO CONSTRUCT PHASE 1, 2 AND 3 OF PROJECT AS DEPICTED ON YEAR 2013 midtown MASTER PLAN AND midtown SITE PLAN APPLICATIONS. THIS AMENDED SUBDIVISION PLAT ASSUMES PHASE 1 OF THE MIDTOWN PROJECT PROPOSED BY FEDERATED WILL INCLUDE LOTS 6 AND 7. PHASE 2 WILL INCLUDE LOTS 2, 3 AND 5. PHASE 3 WILL INCLUDE LOT 1.

3. THE CITY OF PORTLAND SHALL RETAIN A FOUR FOOT WIDE STRIP OF LAND ALONG THE NORTHERLY SIDELINE OF SOMERSET STREET TO BE ADDED TO THE SOMERSET STREET RIGHT OF WAY, IN ORDER TO INCREASE THE WIDTH OF SOMERSET STREET ADJOINING LOTS 2 THROUGH 7 FROM 50 FEET TO 54 FEET.

4. THIS AMENDED SUBDIVISION PLAN AMENDS LOTS 1 THROUGH 8 FROM THE PRIOR APPROVED SUBDIVISION PLAN. THE EASTERLY SIDE OF LOT 9 REMAINS UNCHANGED FROM THE PRIOR APPROVED SUBDIVISION PLAN AND IS SHOWN ON THE PRIOR APPROVED SUBDIVISION PLAN. THERE IS NO LONGER A LOT 8 IN THE SUBDIVISION.

5. THE CITY WILL ISSUE TO FEDERATED AS NEEDED FOR CONSTRUCTION, MAINTENANCE, OR REPAIR OF FACILITY WITHIN OR ACCESSIBLE ONLY FROM THE BAYSIDE TRAIL.

GRAPHIC SCALE

0 20' 40' 80'

EASEMENT LINE TABLE

SUVEYOR WILL STAMP DRAWING UPON APPROVAL OF THE CITY

APPROVAL - CITY OF PORTLAND PLANNING BOARD

DATE

CHAIRPERSON

CERTIFICATE:

OWEN HASKELL, INC. CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

DATE

JOHN W. SWAN, PLS NO. 1034

LEGEND

- AREA TO BE CONVEYED TO CHESTNUT STREET ROW
- MEWS - ACCESS EASEMENT BENEFITING THE CITY OF PORTLAND
- PORTION OF ROW NOT CONTROLLED BY CITY OF PORTLAND
- ACCESS, GRADING, DRAINAGE AND UTILITY EASEMENT FOR PHASE 1, PHASE 2 AND PHASE 3 AND LOTS 2 AND 9
- LIMITED OPEN SPACE USE EASEMENT BENEFITING THE CITY OF PORTLAND

12.20.13	REDUCED EASEMENT AREAS & LOT 2, AND EXTINGUISHED UNDERPASS EASEMENT
12.16.13	REVISED EASEMENT DATA
11.11.13	UPDATED PER CITY OF PORTLAND OCT 2013 COMMENTS
09.27.13	REVISED NOTES & EXPANDED EASEMENT FOR EXP WORK
09.18.13	REVISED PROPOSED PROPERTY & EASEMENT LINES

AMENDED SUBDIVISION/RECORDING PLAT
ON
SOMERSET STREET, PORTLAND, MAINE
MADE FOR
FAY, SPOFFORD & THORNDIKE
778 MAIN STREET, SOUTH PORTLAND, MAINE

OWEN HASKELL, INC.
390 U.S. ROUTE ONE, FALMOUTH, ME 04105 (207)774-0424
PROFESSIONAL LAND SURVEYORS

Drwn By	CB	Date	Job No.
Trace By	AW	APRIL 10, 2013	12012-160 P
Check By	JWS	Scale	Dwg. No.
Appr No.	FILE	1" = 40'	C-1.3

EXHIBIT C

TO 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

Cost Sharing Arrangement for Somerset Street Improvements

Agreement by and between FEDEQ DV001 and City of Portland on Costs For Off-Site Improvements Improving Somerset Street, To be Partially Funded by City of Portland

THIS AGREEMENT dated ________________, 2014 is made by and between THE **CITY OF PORTLAND**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("FEDEQ" or "Buyer").

RECITALS

WHEREAS, an Agreement for the purchase and sale of real estate (the "P&S Agreement") has been made between the City and FEDEQ Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137, assignee of said P&S Agreement from the Federated Companies LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"); and FEDEQ Apartments LLC has recently assigned its rights in and to the P&S Agreement to **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008 , Miami, Florida 33137 ("FEDEQ");

WHEREAS, related to, and benefiting the development planned by Buyer on the real property which is the subject of the P&S Agreement, and integral thereto, are certain improvements detailed herein to the adjacent public way known as Somerset Street, and more specifically for the portion thereof between Pearl Street and Elm Street (the "Project"), which both the City and Buyer wish to see made;

WHEREAS, the estimated total costs of the Project are $4,000,000; and

WHEREAS, the City and the Buyer are willing to share these costs, as set out herein;

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. **Project and Scope and Cost and Timeline/Schedule:** FEDEQ and the City have jointly agreed to the scope of Project which work is more specifically described in Attachment A attached hereto with an estimated total project cost of $4,000,000 (the "Total Project Cost"). FEDEQ and the City have jointly agreed to a schedule or timeline for the Project, which is attached hereto as Attachment B. The term "Total Project Cost" shall mean the actual Project cost as established by FEDEQ and the City following receipt of a guaranteed maximum cost construction contract acceptable to the City and FEDEQ.

2. **Cost Sharing and Conditions Precedent:** Subject to the terms hereof, the City will fund two-thirds (2/3) of the Total Project Cost, and FEDEQ will fund one-third (1/3) of the Total Project Cost.

FEDEQ's agreement to fund said one-third (1/3) of the Total Project Cost is contingent upon: FEDEQ (or assigns) closing on acquisition of the real estate which is subject matter of the P&S Agreement.

In the event FEDEQ (or assigns) fails to close on the acquisition of the real estate which is the subject matter of the P&S Agreement, FEDEQ shall have the right to cancel and terminate this Agreement by giving written notice of such cancellation and termination to the City, and upon the giving of such notice, this Agreement shall be terminated and FEDEQ shall be relieved of all further obligations hereunder.

Prior to the issuance of a Building Permit for the Project, FEDEQ shall provide the City with evidence of its financial resources, in the amount of at least one-third of the Total Project Cost, available and dedicated to the costs of this Project, in a form reasonably acceptable to the City's Director of Finance, which may include a commitment from a commercial lender to fund requisitions for payment of Project costs.

More than likely, the actual total project cost will not be precisely the amount of the Total Project Cost stated above. Therefore, the parties agree:

(a) The contract(s) for the Project will not be 'mixed' with any other work needed by either party. Notwithstanding the foregoing, nothing herein shall prevent FEDEQ from entering into contracts with the same contractor for construction of other portions of the midtown project to be coordinated with the work on the Project, <u>provided, however, that costs must be allocable to the Project and the midtown project.</u>

(b) In order to address both parties' concerns that the Total Project Costs could exceed the estimate stated above, the City and, FEDEQ will meet early in the development and design of this project to jointly and cooperatively manage said project's design, staging, procurement costs and construction costs; and said parties will continue to meet as reasonably necessary for this same purpose, and will work collaboratively to control procurement and construction costs. And in particular, before FEDEQ executes contracts for the construction of the Project, the parties shall meet and agree on the scope and cost of those contracts, including amounts for project supervision and construction management, general conditions, building permit fees, bonding costs, insurance and including an

appropriate construction contingency amount. All such construction contracts shall be in the form of guaranteed maximum cost contracts.

(c) Any changes to the Project cost over and above any established contingency included in the Total Project Cost during construction shall require mutual review and agreement in writing, which shall not be unreasonably withheld or delayed.

3. **Procedures for Making Disbursements (Payments).** With respect to all requisitions for disbursements of the City's share of Total Project Costs, the City and FEDEQ agree as follows:

a. FEDEQ shall deliver to the City a written request for payment (a "Requisition") which shall be in substantially the same form as AIA Forms G702 and G703. The Requisition shall be accompanied by: (i) a summary of all expenses requested, (ii) copies of invoices, bills, receipts and such other information as may be reasonable to document the expenditures described in the Requisition, (iii) mechanics' lien affidavits and/or written lien waivers from such contractors, laborers, subcontractors and materialmen for work done and materials supplied which were paid for pursuant to the immediately preceding Requisition, and (iv) a certified payroll in conformance with the requirements of the Davis-Bacon Act of 1931, as amended, for all contractors and subcontractors on site and for which invoices are included.

b. Requisitions shall be submitted by FEDEQ no more frequently than monthly. Prior to the disbursement by the City of any requested Requisition, City's construction inspector shall certify to City that the work for which a Requisition has been submitted has been completed and the City's Housing and Neighborhood Services staff will verify all workers are being paid the prevailing wage.

c. A copy of the construction schedule will be submitted to the City at the beginning of the project. Updates will be provided by FEDEQ as necessary to remain accurate.

d. City shall make disbursements to FEDEQ only after such certification and verification, and with a certified payroll, all the same must be correct and

complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement.

4. **Project Administration and Supervision:** FEDEQ will be responsible for procuring the construction contracts and for providing for the owner's administration for the Project, consistent with the scope of Project contained in Attachment A, hereto, and upon the Timeline attached hereto as Attachment B. All FEDEQ's costs for procurement of construction contracts, administration or the like shall not be shared by the City, nor shall the City be required to share in any other type of internal costs of FEDEQ. Notwithstanding the foregoing, the items described in section 2(b) above shall be payable as part of the Total Project Costs.

The City of Portland will monitor and inspect the work of the Project, including for compliance with City Rules and Ordinances. The City shall have the right to suspend work on the Project as it reasonably deems necessary, to provide for such compliance, and for compliance with the Scope of Work in Attachment A. The City's monitoring and inspection will be collaborative with FEDEQ.

The Contracts for the work of the Project between FEDEQ and its vendors and contractors shall contain these two provisions:

> Prior to the execution of this Agreement, the **CONTRACTOR** will procure and maintain Automobile Insurance and General Public Liability Insurance coverage and coverage in amounts of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage, naming the **CITY OF PORTAND** as an additional insured thereon, and also Workers' Compensation Insurance coverage. With respect to the Liability Insurance, the **CONTRACTOR** will provide the **CITY OF PORTLAND** a certificate of insurance evidencing such coverage, in this way: certificate must say either: A) "the policy has been endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability ~~Expansion~~ Extension Endorsement, by which the City of Portland is automatically made an additional insured." A Certificate which merely has a box checked under "Addl Insr," or the like, or which merely states the City of Portland is named as an Additional Insured, will not be acceptable. The **CONTRACTOR** shall furnish the **CITY OF PORTLAND** and thereafter maintain certificates evidencing all such coverages, which certificates shall provide for thirty (30) days' notice to the **CITY OF PORTLAND** of termination of insurance from insurance company or agent.
>
> The **CONTRACTOR** shall furnish to FEDEQ and to the **CITY OF PORTLAND**, upon execution of the Contract, a Contract Performance Bond and a Contract Labor and Materials Payment Bond each for the full amount of the Contract and issued by a surety

company or surety companies authorized to do business in the State of Maine and approved by the **CITY OF PORTLAND**. The Bonds shall remain in effect for one year after final acceptance of the Work, and protect both FEDEQ and **CITY OF PORTLAND** for at least one year of warranty of the Work hereunder, and also shall insure settlement of claims for the payment of all bills for labor, materials and equipment. The bonds described in this section shall be deemed to satisfy the performance guaranty requirements for the Project as required by section 14-501 of the City of Portland Code of Ordinances, and no further performance guaranty shall be required.

5. **Requirements related to Funding Sources.** FEDEQ, its employees, assigns, agents and subcontractors for this project, at all times shall comply with the requirements of the Section 108 Loan Guarantee and Brownfields Economic Development Initiative Grant program and Federal Labor Standards pursuant to Davis Bacon and related Acts, specifically including:

   a. Davis-Bacon Act, as amended.(40 U.S.C 276a - 276a-5.) All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

   b. Contract Work Hours and Safely Standards Act, as amended. (40 U.S.C. 327-333). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.

   c. Copeland Anti-Kickback Act, as amended. (18 U.S.C. 874 and 40 U.S.C. 276c). This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions.

6. **Entire Agreement.** This Agreement (i) constitutes the entire agreement between the parties hereto with respect to the Project and it supersedes all prior discussions, undertakings or agreements between the parties in respect to the Project; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Agreement shall not confer any rights or remedies upon any third-party

other than the parties to this Agreement and their respective successors and permitted assigns.

7. **Notices.** Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, with a copy to, the Director of Economic Development, facsimile 207-756-8217, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), and to FEDEQ, at the address recited above, with a copy to The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931.

8. **Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

IN WITNESS WHEREOF, the City and FEDEQ, by their representatives duly authorized, have caused this instrument to be executed as of ______________, 2014.

FEDEQ DV001, LLC

By____________________,
Jonathan Cox
Its: Manager

CITY OF PORTLAND

By____________________
Mark Rees, City Manager

By____________________
Ellen Sanborn, Finance Director

By____________________
Corporation Counsel attorney

O:Bayside Federated Somerset Street Cost Share Agreement Clean Version 7-25-14

Budget Site Construction Cost Estimate Peer Review

Midtown - Somerset Street Improvements
12/5/2013

WOODARD & CURRAN

Description	Site Development Costs		Somerset Street Costs		Total Costs	
	Total	% of Total	Total	% of Total	Total	% of Total
Item (a) Basis of Design:						
Site Demolition	$ -	0.0%	$ 28,055	2.1%	$ 28,055	0.8%
Preliminary Site Work	$ -	0.0%	$ 61,241	4.6%	$ 61,241	1.8%
Earthwork	$ -	0.0%	$ 32,447	2.4%	$ 32,447	0.9%
Dewatering	$ -	0.0%	$ 10,000	0.8%	$ 10,000	0.3%
Storm Drainage (See Note 1)	$ 202,470	9.7%	$ 1,260	0.1%	$ 203,730	6.0%
Sanitary Systems	$ 20,596	1.0%	$ -	0.0%	$ 20,596	0.6%
Water Systems	$ 118,118	5.7%	$ 1,200	0.1%	$ 119,318	3.5%
Portland Water District - Water Service Fees	$ *15,000*	0.7%	$ -	0.0%	$ 15,000	0.4%
Misc Site Utilities (See Note 2)	$ 175,933	8.4%	$ 240,948	18.1%	$ 416,881	12.2%
Unitil - Gas Utility Fees (Allowance)	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Central Maine Power - Phase 1 Electrical Utility Fees	$ *268,000*	12.8%	$ *332,000*	24.9%	$ 600,000	17.5%
Central Maine Power - Phase 2 Electrical Utility Fees	$ *317,000*	15.2%	$ *83,000*	6.2%	$ 400,000	11.7%
Time Warner - Communication Utility Fees (Allowance)	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Fairpoint - Communication Utiltiy Fees	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Roads/Walks (See Note 3)	$ 99,463	4.8%	$ 540,113	40.5%	$ 639,576	18.7%
Site Improvements (See Note 4)	$ 550,623	26.4%	$ 2,398	0.2%	$ 553,021	16.2%
Concrete (See Note 4)	$ 161,666	7.7%	$ -	0.0%	$ 161,666	4.7%
Misc Metals (See Note 4)	$ 40,991	2.0%	$ -	0.0%	$ 40,991	1.2%
Electrical Site (See Note 5)	$ 116,953	5.6%	$ -	0.0%	$ 116,953	3.4%
Item (a) Basis of Design Sub-Total	***$ 2,086,813***	***100%***	***$ 1,332,662***	***100%***	***$ 3,419,475***	***100%***
Estimate Adjustment and Indirect Costs:						
Cost Estimate Adjustments (See W&C 11/15/2013 Memo	$ 11,900	3.1%	$ 40,000	14.3%	$ 51,900	7.8%
Contractor General Conditions (See Note 6)	$ 166,945	43.1%	$ 106,613	38.1%	$ 273,558	41.0%
Contractor OH&P, Insurance, Bonds (See Note 7)	$ 208,681	53.8%	$ 133,266	47.6%	$ 341,948	51.2%
Estimate Adjustment and Indirect Costs	***$ 387,526***	***100.0%***	***$ 279,879***	***100.0%***	***$ 667,406***	***100.0%***
Somerset Street Improvements Total (Rounded)	***$ 2,474,000***		***$ 1,613,000***		***$ 4,087,000***	

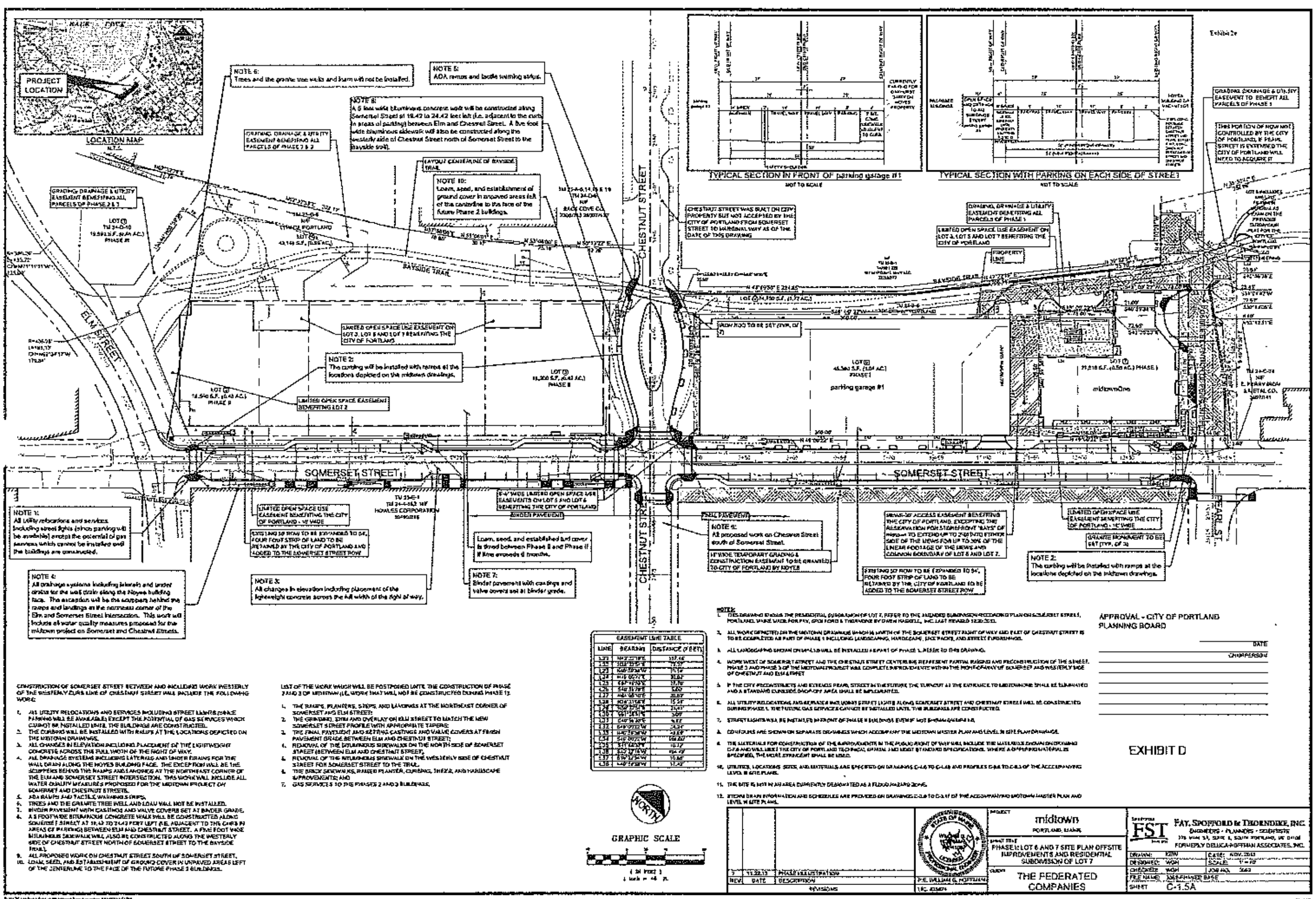
Notes:

1) Cost segregation assumes Site Development Costs include off-site drainage piping/structures required for on-site stormwater treatment system.
   a) Cost to raise existing storm drainange manholes/catch basins is included in the Somerset Street Costs.
2) Cost segregation assumes Site Development Costs will include electrical trenching, backfill and precast concrete light pole bases.
   a) Infrastructure and utility company fees to relocate overhead electrical/communication utilities are shared based on scope of work.
3) Cost segregation assumes Site Development Costs will include new and existing granite curbing along Somerset, Elm, Chestnut and Pearl Streets.
   a) Cost for approximately 1,080 CY of lightwieght concrete fill under new sidewalks is included in the Site Development Costs.
   b) Cost to remove and re-set approximately 1,120 LF of existing granite curb on the southeast side is included in the Somerset Street Costs.
4) Cost segregation assumes Site Development Costs will include all brick pavers, concrete ramps/planters/stairs/rails and trees.
5) Cost segregation assumes Site Development Costs will include all site lighting concrete bases, light poles, luminaires and wiring.
6) Contractor General Conditions (not included in PC estimate) may range in the amount of 8-10% depending on schedule and concurrent activities.
7) Contractor OH&P, Insurance, Bonds and Contingency (not included in PC estimate) may range in the amount of 10-12%.
8) Allowance has been included for electrical utility company fees for relocating existing overhead electrical services to underground.
   a) CMP Phase 1 cost assumes Site Development Costs include (1)-2000 & (1)-500 KVA pad mount transformers, 500 CU cable and junction pole.
   b) CMP Phase 1 cost assumes Somerset Street Costs include (1)-1000 KVA submersible transformer, 500 CU cable and riser poles.
   c) CMP Phase 2 cost assumes Site Development Costs include (3)-2000 & (1)-500 KVA pad mount transformers and 500 CU cable.
   d) CMP Phase 2 cost assumes Somerset Street Costs include 500 CU primary cable at Elm Street.
9) Allowance has been included for water utility company fees for new Site Development fire and domestic water services.
10) No allowances have been included for gas, telephone and cable utility company fees since there should be no charge for this work.
11) No allowances have been included for unsuitable soils or contaminated groundwater treatment/disposal.
12) No allowances have not been included for offsite improvements or traffic control signalization.

ATTACHMENT B TO COST SHARING ARRANGEMENT
TIMELINE FOR PROJECT -
TO BE PROVIDED

EXHIBIT D
TO 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

Midtown Phase I Plan" last revised November 22, 2013 and prepared for The Federated Companies



LOCATION MAP
PROJECT LOCATION
NOTE 6:
Trees and the granite tree wells and loam will not be installed.
NOTE 5:
ADA ramps and tactile warning strips.
CHESTNUT STREET
SOMERSET STREET
ELM STREET
BAYSIDE TRAIL
TYPICAL SECTION IN FRONT OF parking garage #1
TYPICAL SECTION WITH PARKING ON EACH SIDE OF STREET
NOTE 2:
The curbing will be installed with ramps at the locations depicted on the midtown drawings.
parking garage #1
midtownOne
NOTE 1:
All utility relocations and services.
NOTE 3:
All changes in elevation including placement of the lightweight concrete across the full width of the right of way.
NOTE 4:
All drainage systems including laterals and under drains for the wall drain along the Noyes building face. The exception will be the scuppers behind the ramps and landings at the northeast corner of the Elm and Somerset Street intersection. This work will include all water quality measures proposed for the midtown project on Somerset and Chestnut Streets.
NOTE 7:
Binder pavement with castings and valve covers set at binder grade.
NOTE 9:
All proposed work on Chestnut Street south of Somerset Street.
EXISTING 50' ROW TO BE EXPANDED TO 54', FOUR FOOT STRIP OF LAND TO BE RETAINED BY THE CITY OF PORTLAND TO BE ADDED TO THE SOMERSET STREET ROW
EASEMENT LINE TABLE
GRAPHIC SCALE
NORTH
NOTES:
APPROVAL - CITY OF PORTLAND PLANNING BOARD
DATE
CHAIRPERSON
EXHIBIT D
midtown
PORTLAND, MAINE
PHASE I: LOT 6 AND 7 SITE PLAN OFFSITE IMPROVEMENTS AND RESIDENTIAL SUBDIVISION OF LOT 7
THE FEDERATED COMPANIES
FST
FAY, SPOFFORD & THORNDIKE, INC.
FORMERLY DELUCA-HOFFMAN ASSOCIATES, INC.
P.E. WILLIAM G. HOFFMAN
REV. DATE DESCRIPTION
REVISIONS
SHEET C-1.5A

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Greg Mitchell, Economic Development Director

FROM: Ellen Sanborn, Finance Director

DATE: June 23, 2014

RE: Debt Service Projection for Midtown Project

Attached is an amortization schedule for financing $1.367 million associated with this project. This amount, as I understand it, would include $700,000 in general obligation bonds and $667,000 from the HUD108 loan for the Bayside redevelopment program.

The HUD108 portion will be paid according to the principal payment schedule in our agreement, with interest rate to be determined in the fall when we permanently finance the total loan of $10.2 million. The general obligation portion would be included in our annual bond sale. I have estimated a 4.5% interest rate for both. Note the change in payment amounts in Yr 15 of the schedule, which are due to the term of the HUD108 being shorter than the bond financing.

Midtown Project
Estimated Debt Service Amortization

		Prin	Int	Ttl	Prin Bal
Original amount financed					$ 1,367,000
Annual Payment Amounts	Yr 1	$ 56,348	$ 61,515	$ 117,863	1,310,652
	Yr 2	$ 59,618	58,979	118,597	1,251,034
	Yr 3	$ 62,887	56,297	119,184	1,188,147
	Yr 4	$ 66,157	53,467	119,623	1,121,990
	Yr 5	$ 75,966	50,490	126,455	1,046,025
	Yr 6	$ 79,235	47,071	126,306	966,789
	Yr 7	$ 82,505	43,506	126,010	884,284
	Yr 8	$ 85,775	39,793	125,567	798,510
	Yr 9	$ 85,775	35,933	121,707	712,735
	Yr 10	$ 84,819	32,073	116,892	627,916
	Yr 11	$ 100,392	28,256	128,648	527,524
	Yr 12	$ 103,662	23,739	127,400	423,862
	Yr 13	$ 106,931	19,074	126,005	316,931
	Yr 14	$ 106,931	14,262	121,193	210,000
	Yr 15	$ 35,000	9,450	44,450	175,000
	Yr 16	$ 35,000	7,875	42,875	140,000
	Yr 17	$ 35,000	6,300	41,300	105,000
	Yr 18	$ 35,000	4,725	39,725	70,000
	Yr 19	$ 35,000	3,150	38,150	35,000
	Yr 20	35,000	1,575	36,575	(0)
Total		$ 1,367,000	$ 597,528	$ 1,964,528	

Estimated Repayment Schedule for HUD108 Loan

Federated Portion Only
23-Jul-12

Princ. Due	City FY	Amt Disbursed	Principal Repayment	Outstanding Balance	Act./Est. Interest	Est. HUD Annual Payment	Est Fed Project Tax Pymts*	*Variance between HUD loan and Fed Project Payment*
					3.5%			
8/1/2013	14	$ 8,231,448	$ 165,456	$ 8,065,992	$ -	$ 165,456	277,196	*111,740*
8/1/2014	15		206,820	7,859,171	282,310	489,130	431,550	*(57,580)*
8/1/2015	16		206,820	7,652,351	275,071	481,891	758,934	*277,042*
8/1/2016	17		248,184	7,404,167	267,832	516,017	774,112	*258,096*
8/1/2017	18		289,548	7,114,618	259,146	548,694	789,594	*240,900*
8/1/2018	19		330,912	6,783,706	249,012	579,924	805,386	*225,462*
8/1/2019	20		455,005	6,328,701	237,430	692,434	821,494	*129,060*
8/1/2020	21		496,369	5,832,333	221,505	717,873	837,924	*120,051*
8/1/2021	22		537,733	5,294,600	204,132	741,864	854,682	*112,818*
8/1/2022	23		579,097	4,715,503	185,311	764,408	871,776	*107,368*
8/1/2023	24		579,097	4,136,406	165,043	744,139	889,212	*145,072*
8/1/2024	25		620,461	3,515,945	144,774	765,235	906,996	*141,761*
8/1/2025	26		827,281	2,688,664	123,058	950,339	925,136	*(25,204)*
8/1/2026	27		868,645	1,820,019	94,103	962,749	943,638	*(19,110)*
8/1/2027	28		910,009	910,009	63,701	973,710	962,511	*(11,199)*
8/1/2028	29		910,009	-	31,850	941,860	981,761	*39,902*
Total		$ 8,231,448	$ 8,231,448		$ 2,804,276	$ 11,035,724	$ 12,831,903	*$ 1,796,179*

* *Phase I value only estimated at $38 million in built-out value with an annual 2% tax rate increase.*

Midtown Project 6/24/2014

Estimated Debt Service Amortization and Cash Flow Analysis

		Debt Service Amortization			Cash Flow Analysis	
		Prin	Int	Ttl		Variance
Additional amount financed					**Est. Fed Project Revised Phase 2 Payments**	**Between Additional City Debt and Phase 2 Payment**
Annual Payment Amounts	Yr 1	$ 56,348	$ 61,515	$ 117,863	195,500	$ 77,637
	Yr 2	$ 59,618	58,979	118,597	398,820	$ 280,223
	Yr 3	$ 62,887	56,297	119,184	813,593	$ 694,409
	Yr 4	$ 66,157	53,467	119,623	829,865	$ 710,241
	Yr 5	$ 75,966	50,490	126,455	846,462	$ 720,007
	Yr 6	$ 79,235	47,071	126,306	863,391	$ 737,085
	Yr 7	$ 82,505	43,506	126,010	880,659	$ 754,649
	Yr 8	$ 85,775	39,793	125,567	898,272	$ 772,705
	Yr 9	$ 85,775	35,933	121,707	916,238	$ 794,530
	Yr 10	$ 84,819	32,073	116,892	934,562	$ 817,670
	Yr 11	$ 100,392	28,256	128,648	953,254	$ 824,605
	Yr 12	$ 103,662	23,739	127,400	972,319	$ 844,918
	Yr 13	$ 106,931	19,074	126,005	991,765	$ 865,760
	Yr 14	$ 106,931	14,262	121,193	1,011,600	$ 890,407
	Yr 15	$ 35,000	9,450	44,450	1,031,832	$ 987,382
	Yr 16	$ 35,000	7,875	42,875	1,052,469	$ 1,009,594
	Yr 17	$ 35,000	6,300	41,300	1,073,518	$ 1,032,218
	Yr 18	$ 35,000	4,725	39,725	1,094,989	$ 1,055,264
	Yr 19	$ 35,000	3,150	38,150	1,116,889	$ 1,078,739
	Yr 20	35,000	1,575	36,575	1,139,226	$ 1,102,651
Total		$ 1,367,000	$ 597,528	$ 1,964,528	18,015,223	$ 16,050,695

Assumptions:

Phase 2 Project municipal valuation ($ 39.1 million) at 25% year 1, 50% year 2 and 100% year 3 at mil rate $20/$1000 with an annual 2% tax rate increase.

September 6, 2012 by LCW
\Bayside - Federated Companies\Corporate Guaranty\2final redline of CORPORATE GUARANTY AGREEMENT for Execution.docx

CORPORATE GUARANTY AGREEMENT

THIS CORPORATE GUARANTY AGREEMENT, (this "Guaranty"), is made as of the ___ day of ______, 2012, by **LEGACY PARK APARTMENTS, LLC**, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131 ("Guarantor"), and, jointly and severally, by **THE FEDERATED COMPANIES LLC**, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, see below and **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101, ("City").

WHEREAS Guarantor is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, ("Agreement"), as amended, for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7,8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a $9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park Apartments, LLC from funds being provided to the City by the U.S. Department of Housing and Urban Development, ("HUD Funds"), toward the expense of the design, development and construction of a garage, with no fewer than 700 parking spaces on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage"), pursuant to the terms of a Parking Garage Contribution and Funding Agreement of even or near date hereto between City and Guarantor. ("Parking Garage Agreement").

WHEREAS City, in order to induce Guarantor to enter into this Guaranty and a Job Creation Agreement, hereby agrees to pay the City Grant Funds to Guarantor, Legacy Park Apartments, LLC or its nominee ("Receiving Entity") in accordance with the terms of the Parking Garage Agreement.

WHEREAS Guarantor, contingent on receiving the City Grant Funds, hereby makes the following Guaranty, subject to the conditions contained herein.

NOW THEREFORE in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City hereby agrees to pay the City Grant Funds to the Receiving Entity and Guarantor guarantees to City that:

1. Guaranty: Guarantor shall construct and substantially complete Phase I of the Project, as more particularly described in the attached Phase I Site Plan, Design Guidelines, and Specifications Sheet, ("Exhibit 4," parts 1, 2, and 3), within three (3) years after the date of on which a total of $1,000,000.00 in City Grant Funds has been requisitioned by the Receiving Entity and disbursed by the City to the Receiving Entity ("Guaranty Deadline"). The annual penalty for not meeting the Guaranty Deadline shall be limited to Guarantor paying to City, on an annual basis for a maximum term of 17 years, the annual difference between the actual tax revenue realized from Phase I, as constructed, and the Phase I tax revenue the City would have received had Phase I been substantially completed (The "Phase I Projected Value") by the Guaranty Deadline. The Phase I Projected Value shall be the City of Portland Asesor's estimated assessed value of the Phase I property (real and personal), made on the April 1 following the Guaranty Deadline, and based on the

description of Phase I in Exhibit 4, and the related specifications and design guidelines provided by the Guarantor on or about July 1, 2012. Notwithstanding anything in the forgoing, this Guaranty is contingent on the full $9,007,000.00 in City Grant Funds being contributed to Guarantor for the construction of the Garage. Guarantor's aggregate, maximum penalty liability under this Guaranty shall not exceed $9,007,000. Finally, regardless of when substantial completion of all buildings in Phase I is achieved, this Guaranty shall automatically terminate. Guarantor shall have zero financial liability under this Guaranty and City shall provide Guarantor with a release from any financial liability under this Guaranty effective as of the earlier of the date of substantial completion of Phase I or as of the date of the timely and valid exercise of the City's right of repurchase under Section 9 of the Parking Garage Agreement, as amended. For purposes of this Guaranty, "substantial completion" is deemed to mean a structure having received a Certificate of Occupancy from the City of Portland, and the complete 'fit-out' of all commercial portions of Phase I.

The rights and obligations under the Agreement between the parties hereto, and under the Parking Garage Contribution Agreement of near or even date, are cumulative and in addition to the rights described herein.

2. Warranties and Representations: In connection with the foregoing, City and Guarantor hereby make the following warranties and representations:

(a) The financial liability limitations of this Guaranty are intended by the parties to supersede and amend the defense and indemnification obligations of the Buyer/Guarantor to City in regard to the City Grant under Section 11 of the Agreement. Similarly, the provisions of the Job Creation Agreement are intended by the parties to supersede and amend the job creation duties and obligations of the Buyer/Guarantor to City under Section 11 of the Agreement. Accordingly, this Guaranty is contingent upon the City paying the City Grant Funds to Guarantor in accordance with the terms of the Parking Garage Agreement, irrespective of the source of funds utilized by the City for such City Grant Funds.

(b) Apart from the express modifications stated in this Guaranty, the Parking Garage Agreement and Job Creation Agreement, the Agreement for the purchase of the Land, as assigned and amended, remains in full force and effect and has not been otherwise modified, amended or terminated.

(c) Attached as Exhibit 1 to this Guaranty is a true, accurate and complete copy of the Purchase and Sale Agreement and First Amendment thereto.

(d) Attached as Exhibit 2 to this Guaranty is a true, accurate and complete copy of the Assignment.

(e) Attached to Exhibit 3 to this Guaranty is a true, accurate and complete copy of the Parking Garage Agreement.

(f) Attached as Exhibit 4 to this Guaranty is the, Phase I Site Plan, Design Guidelines, and Specifications Sheet.

(g) Attached as Exhibit 5 to this Guaranty is a true, accurate and complete copy of the Job Creation Agreement.

(h) Neither the Guarantor, nor the City is in default of the Agreement.

3. Successors and Assigns and Enforcement: This Guaranty shall be binding upon and inure to the benefit of the Guarantor's respective successors and assigns. Guarantor pledges that:

(a) it will not assign its rights hereunder without the City's consent, and only to a related entity;

(b) it will permit the City's Corporation Counsel, Manager, Director of Economic Development and Finance Director to review balance sheet, to satisfy themselves of the strong solvency and net worth of both the Guarantor and The Federated Companies LLC;

(c) it will not substantially change such strong solvency and net worth without notifying the City of such changes;

(d) it will not alter its corporate structure or transfer substantially all its assets without providing the City a replacement Guaranty from another entity with strong solvency and net worth, or in the alternative, a letter of credit for the obligations hereunder; and

(e) In any legal proceeding with respect to the obligations created by this Guaranty, all parties hereto waive jury trial, agree that the Maine Superior Court shall have exclusive jurisdiction, that the substantive and choice of law used shall be Maine law and that the prevailing party shall be awarded the reasonable attorneys' fees and costs incurred in regard to any legal proceeding arising out of the obligations created by this Guaranty, including, should the City prevail, a reasonable hourly fee for the services of the City's employee attorneys, that is, its Corporation Counsel.

(f) This Agreement and the performance hereof by Guarantor will not contravene any law, judgment, order, injunction, decree or any contractual restriction or arrangement binding on Guarantor, at the time execution hereof. All parties hereto acknowledge that this Agreement is a legally enforceable instrument and the obligations stated herein are likewise legally enforceable, and that at the time of execution hereof they have no reason to believe otherwise.

4. Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5. Amendments: This Guaranty may not be amended in any respect whatsoever except by a further agreement, in writing, fully executed by each of the parties.

(Signature page follows on p. 4.)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of ____ 2012.

LEGACY PARK APARTMENTS LLC, a Florida limited liability company

Brett DePetrillo
EXPIRES: MAY 17, 2014
WWW.AARONNOTARY.com

By: ____________________
Jonathan Cox, Manager

CITY OF PORTLAND

By: ____________________
Mark H. Rees
City Manager

JOINDER

THE FEDERATED COMPANIES LLC, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, hereby joins in this Guaranty, agreeing that it is jointly and severally liable for, and hereby makes, the same guaranty and other obligations as described in the paragraphs numbered 1, 2 and 3 above, subject to the terms and conditions stated therein.

THE FEDERATED COMPANIES, LLC, a Florida limited liability company

By: ____________________
Jonathan Cox, Manager

____
Finance Director
City of Portland, Maine

APPROVED AS TO FORM:
____
CORPORATION COUNSEL'S OFFICE

EXHIBIT 1

[P&S]

EXHIBIT 2

[Assignment to Legacy Park]

September 6, 2012 by LCW
G:\Bayside - Federated Companies\Purchase and Sale Agreement\2final FIRST AMENDMENT TO PURCHASE AGREEMENT for Execution.doc

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT. ("Amendment"), is entered into as of Oct. 25, 2012, by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 ("Seller") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company with a place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, or its nominee or assignee ("Buyer"). (Seller and Buyer are also hereinafter referred to individually as "party" or, collectively, "parties").

WHEREAS Buyer is the assignee, by virtue of an Assignment and Assumption Agreement, ("Assignment"), effective June 27, 2011 of a Purchase and Sale Agreement, effective June 23, 2011, between The Federated Companies LLC and Seller ("Agreement"). Assignment and Agreement are attached hereto and incorporated herein by reference, collectively, as Exhibit "A".

WHEREAS Section 11 of the Agreement requires that the Seller and Buyer enter into a formal agreement stipulating to the terms and conditions of the Seller's contribution of HUD Funds during the Inspection Period.

WHEREAS Section 11 of the Agreement provides that the Inspection Date shall be extended until the parties have reached agreement on the use of HUD Funds for the garage.

NOW THEREFORE for good and valuable consideration, including the mutual promises made below, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that the Agreement is amended as follows:

A. Section 4 of the Agreement is amended by deletion of the original text of Paragraph 2 and insertion of the following text in its place:

"The term "Inspection Date" means midnight on the sixtieth (60^{th}) day following full execution by the parties and HUD approval, if HUD approval is required, of the formal agreement stipulating the terms and conditions of the HUD Funds contribution identified under Section 11 of this Agreement."

B. Section 5 of the Agreement is amended by deletion of the original text and insertion of the following in its place:

C. Section 5. **Use Restrictions and Environmental Matters.** Buyer understands that lots 1, 2, 3, 5 and a portions of lot 6 and a portion of lot 9 were encumbered with deeds restrictions, including but not limited to a restriction on residential uses on a portion of the Property. Pan Am/Guilford, the holder of those restrictions has released these restrictions, and before the start of construction by Buyer the Seller will secure environmental liability insurance on the Railyard to protect Pan

Am/Guilford, which was a condition of its releasing these restrictions.

The Seller, through its consultant and others has undertaken a number of environmental studies which are referenced in Exhibit B to this Amendment. The Maine Department of Environmental Protection (hereinafter "DEP") has issued one or more letter(s) confirming their approval of a Voluntary Response Action Program ("VRAP") Plan for the former rail yard property which is contained within lots 1, 2, 3, 5 and a portion of lot 6 and a portion of lot 9 (hereinafter "Railyard"). The VRAP includes a remediation plan approved on the Railyard property by the DEP. As part of the development plan for the Railyard property, Buyer is responsible for complying with the remediation VRAP Plan for the Property. To the extent required by law, the approval of the U.S. Environmental Protection Agency shall also be obtained for both of these VRAP Plans.

The Seller has commenced review of the environmental conditions for on the portion of Property which is contained within a portion of Lot 6 and Lots 7, 8 and a portion of Lot 9, (hereinafter "Scrapyard"). The Seller will secure a VRAP for the Scrapyard (subject to Buyer's input and approval) and Buyer shall undertake remediation in accordance with the VRAP. The Seller will reimburse Buyer for its first Fifty Thousand Dollars ($50,000.00) of actual expense for such remediation, and all other costs of remediation, which shall fully comply with such VRAP, shall be paid by the Buyer from City Grant Funds received from City. The Seller will work together with the Buyer to ensure the timely remediation in accordance with the Buyer's development plans.

Although Buyer is under no obligation to obtain such environmental liability insurance, should Buyer, at Buyer's sole election, secure environmental liability insurance on the Scrapyard and/or any other portion of the Property, Buyer will use best efforts to secure for the Seller the option to obtain coverage under such insurance policy(ies) as an Additional Insured, by endorsement in any other form; provided, however, that any additional cost for such additional coverage shall be paid by the Seller and shall not relieve Seller of the duty of providing the environmental liability insurance required to provide on the Railyard for the benefit of PanAm/Guilford described above.

D. Section 6 of the Agreement is amended by adding, at the end of the existing first sentence, "including but not limited to Site Plan approval from the City of Portland, Subdivision Approval Amendment(s) from the City of Portland, and any amendments to the Land Use Code of the City of Portland."

E. The first sentence of Section 11 of the Agreement is amended by deleting the existing text, and replacing it with the following:

Contingent on the full disbursement of $9,007,000.00 in City Grant Funds from Seller to Buyer as provided in the Parking Garage Contribution Agreement, and as a condition of this sales transaction, the Buyer will construct, at its expense, a parking garage on (approximately, as the exact location is not yet set), a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9 which shall contain not less than 700 parking spaces. ("Garage").

F. Section 11 of the Agreement is amended by deleting the original text of numbered Paragraph 4 and the insertion of the following text in its place:

"Buyer shall construct the Garage using sustainable and energy efficient construction methods, including, but not limited to, energy efficient lighting."

G. Section 15 of the Agreement is amended by deletion of the original text and insertion of the following in its place:

"Section 15. Rights of Seller to Repurchase Undeveloped Property.

(a) If three years after the substantial completion of the Garage, construction activity has not been commenced and diligently pursued on any other portions of the Property, the Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default and Buyer shall have ninety (90) days thereafter to cure such default. Provided, however, that there shall be no event of default by Buyer if the City is in default of any provision of the Parking Garage Contribution Agreement. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

(b) If the Garage does not reach substantial completion within three years after the date of closing on the purchase by Buyer of the Property related to the Garage then the Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default and Buyer shall have ninety (90) days thereafter to cure such default. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

If Buyer fails to cure a default under either 15(a) or 15(b) above, the Seller shall have the right or remedy, but not the obligation, which is described in this paragraph in concept; namely, to repurchase any or all such portions of the undeveloped Property at Buyer's Purchase Price (prorated with respect to the quantity of land, as necessary). Seller may, at the closing of such repurchase, use such consideration (that is, the prorated portion of Buyer's Purchase Price) to pay-off and remove any and all then existing mortgages, liens, assessments or other encumbrances on the undeveloped Property being repurchased. Any amounts by which such then existing mortgages, liens, assessments and other encumbrances exceed such consideration, shall continue to the obligations of Buyer, or its successors or assigns; and Buyer, its successors or assigns, shall indemnify Seller with respect to such excess amounts.

The City acknowledges that Legacy Park will most likely use the entire Property as collateral for a construction loan for the purpose of developing and building all portions of the project. The City therefore agrees to work on documents at the time of such financing, with Buyer and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing. Buyer agrees that while this right or remedy exists as described in the paragraph above no portion of the Property will not be mortgaged for any purpose other than development and construction of the Project.

It is noted here that the "Parking Garage Contribution Agreement" contains Seller's remedies with respect re-acquisition of the parking garage portion of the Property, and the Rights created by this Section do not pertain to that property." The rights and obligations under the Corporate Guaranty Agreement and the Parking Garage Contribution Agreement, both of near or even date are cumulative and in addition to the rights described herein.

H. The original description of the Land in the Purchase and Sale Agreement is hereby modified to include this conveyance a portion of Lot 9, and the "Exhibit ~~A~~" to the Purchase and Sale Agreement is hereby replaced with the "Exhibit ~~A~~ C to the Purchase and Sale Agreement, [2012]" attached hereto.

Except as amended above, all other terms and conditions of the Agreement remain unaffected by this Amendment, are in full force and effect between the parties and are hereby ratified by the parties.

All terms capitalized herein shall have their original meaning as defined in the Agreement unless otherwise defined herein. In the event of conflicting provisions or language in this Amendment and the Agreement, this Amendment is intended to control.

This Amendment may be signed in counterparts, which shall be construed together as one document.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

SELLER:	BUYER:
CITY OF PORTLAND	THE FEDERATED COMPANIES, LLC
By: Mark H. Rees	By:
Name: Mark H. Reek	Name: Jonathan Cox
Title: City Manager	Title: Manager
Date of Execution: 10-25-12	Date of Execution: 10/25/12

September 6, 2012 by LCW

[illegible] FIRST AMENDMENT TO PURCHASE AGREEMENT [illegible]

Approved: Ellen Sanborn, Finance Director

Approved as to Form: Corp. Counsel

EXHIBIT "A"
TO FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT

[insert Assignment AND P&S]

EXHIBIT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of the 27th day of June, 2011, by and between **THE FEDERATED COMPANIES, LLC**, a Florida limited liability company, with an address of 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 (together, the "Assignor") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company, with an address of 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 (the "Assignee").

For and in consideration of the sum of One Dollar ($1.00) and other valuable consideration to it in hand paid by the Assignee to the Assignor and the mutual covenants herein contained, the receipt and sufficiency of the foregoing consideration being hereby acknowledged, the parties hereto agree as follows:

1. ASSIGNMENT: The Assignor hereby assigns, transfers, sets over and conveys to the Assignee all of the Assignor's right, title and interest in, to and under that certain Purchase and Sale Agreement by and between The City of Portland, Maine (the "City") and Assignor, with respect to certain real property described therein (the "Purchase Agreement").

2. ASSUMPTION: The Assignee does hereby assume and agree to perform all of the Assignor's obligations with respect to the Agreement accruing from and after the date hereof. Assignee acknowledges that Assignor has posted the required deposit under the Purchase Agreement and agrees that such deposit shall be refunded to Assignor upon Assignee's closing on the acquisition under the Purchase Agreement.

3. WARRANTIES AND REPRESENTATIONS: In connection with the foregoing assignment and assumption of the Purchase Agreement, the Assignor does hereby make the following warranties and representations:

(a) The Purchase Agreement remains in full force and effect and has not been modified, amended or terminated;

(b) Attached as Exhibit A to this Agreement is a true, accurate and complete copy of the Purchase Agreement; and

(c) Neither the Assignor nor, to the best of Assignor's knowledge without inquiry, the City is in default of the Purchase Agreement.

With the exception of the foregoing warranties, this Assignment is made without recourse or representation or warranty, express, implied or by operation of law, of any kind and nature whatsoever.

4. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and inure to the benefit of the Assignor and the Assignee and their respective successors and assigns.

5. **COUNTERPARTS**: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. **AMENDMENTS**: This Agreement may not be amended in any respect whatsoever except by a further agreement, in writing, fully executed by each of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of June 27, 2011.

ASSIGNOR:

THE FEDERATED COMPANIES, LLC, a Florida limited liability company

By:______________________________
Jonathan Cox, Manager

ASSIGNEE:

LEGACY PARK APARTMENTS LLC, a Florida limited liability company

By:______________________________
Jonathan Cox, Manager

Exhibit A

PURCHASE AND SALE AGREEMENT

This Purchase Agreement (this "Agreement"), is entered into as of the Effective Date, as defined below, by and between The City of Portland, Maine a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 ("Seller") and The Federated Companies LLC, a Florida limited liability company with a place of business at 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 or its nominee or assignee ("Buyer").

WHEREAS, Seller is the Owner of a certain real property located on Somerset Street, Portland, Maine which contains approximately 3.25 acres and which is known as lots 1, 2, 3, 5, 6, 7 and 8, which land is further described in Exhibit A, attached hereto and incorporated herein (collectively "the Land") and

WHEREAS, Seller seeks to sell the Land for development purposes; and

WHEREAS, Buyer desires to acquire the Land from Seller, and Seller seeks to sell the same to Buyer on such terms as are set out herein,

Now Therefore, in consideration of the foregoing and for good and valuable consideration, the parties intend to be legally bound as follows:

Section 1. Property. The Land, all rights and privileges appurtenant to the Land and all improvements located on the land, are referred to collectively as the "Property." The Seller agrees to sell the Property to Buyer on the terms and conditions contained herein. The parties understand and agree that a portion of land representing a trail access from Somerset Street as shown on Exhibit A-1, may need to be adjusted depending on the nature and extent of development on Lots 6 and 7. The trail access adjustment shall be subject to the mutual agreement of the parties on the placement of the lot lines and the trail access

Section 2. Purchase Price and Deposit. The "Purchase Price" for the Property shall be Seven Hundred Thousand Dollars ($700,000) per acre and shall be paid in cash (or by certified or bank check or federal funds wire transfer) at the Closing as defined in Section 8 of this Agreement subject to the adjustments described in this Agreement. The calculation of the acreage of the Property shall be made by the Seller providing, not later than forty-five (45) days after the Effective Date, an ALTA survey, satisfactory to Buyer and Buyer's lender, of the Property, excluding that portion of land utilized for trail access as described above. Within ten (10) business days after the Effective Date of this Agreement, Buyer shall deliver to a nationally-recognized title company ("Escrow Agent") the sum of Twenty Five Thousand Dollars ($25,000) (the "Initial Deposit"), which shall be held in escrow in accordance with the terms of Section 14 of this Agreement. The Initial Deposit, and any other deposits made by Buyer under the terms of this Agreement shall be held by the Escrow Agent, and is referred to collectively as the "Deposit." The Deposit shall be applied toward the Purchase Price at the Closing unless otherwise forfeited by the Buyer pursuant to the terms of this Agreement.

Section 3. Title.

(a) Seller shall convey its interest in the Property to Buyer by a good and sufficient quitclaim deed with covenant (the "Deed"). The Deed shall convey insurable title to the Property and be free of encumbrances except (i) zoning, environmental and subdivision laws, rules, regulations and restrictions and other land use matters; and (ii) any "Defects of Title" (as defined below) accepted or waived by Buyer pursuant to Section 3(b). Buyer acknowledges that: the deed of conveyance shall contain a restriction lasting for 30 years, including the 30th year, starting on the closing date, that, in the event that the property or any portion thereof shall be exempt from real and personal property taxes then a yearly payment by the then-owner of the exempt portion shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the exempt portion of the real and personal property situated on Property, which restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates and the like as are accorded owners of real and personal property in Maine. For purposes of this Agreement, insurable title means title which an insurance company with a rating of B+ or better by Standard & Poor's (or other comparable rating by another rating organization) licensed to do business in Maine is willing to insure upon payment of a premium at customary and filed rates on a standard ALTA Form B Policy (rev. October 17, 1992) with no exceptions listed on Schedule B, Part I thereof, except for the standard exceptions and Defects of Title pursuant to paragraph 3(b) below, with no indemnification or legal opinion to be required from Buyer to issue such policy, and with the creditor's rights exception deleted.

(b) On or before the date that is forty-five (45) days after the Effective Date, Buyer shall notify Seller of any defects in title that would make Seller unable to give title to the Property as herein stipulated or which would otherwise adversely affect Buyer's intended development of the Land (any of which is called herein a "Defect of Title"). Buyer shall be deemed to have waived any objection to any Defect of Title that existed as of the Effective Date if Buyer fails to notify Seller of such Defect of Title on or before the end of such 45-day period. With respect to the existence of any Defect of Title that does not exist on the Effective Date but which arises prior to the Closing Date, Buyer shall notify Seller of any such Defect of Title on or prior to the Closing Date as defined in Section 8 hereof. Seller shall have, at its option, a period of not more than sixty (60) days after receipt of notice(s) of any defect in title within which to remedy or cure any Defect of Title and Seller agrees to use good faith efforts to cure such Defect of Title. If the Closing Date shall fall within the said 60-day period, it shall be extended to the date that is the date that is ten (10) business days after the expiration of such 60-day period or after the date such Defect of Title is cured to Buyer's reasonable satisfaction (but in no event shall the Closing Date be earlier than is otherwise provided herein). Buyer shall have ten (10) business days after receipt of notification by Seller that the Defect of Title has been cured to advise Seller whether it is satisfied with the title defect cure. If such Defects of Title are not corrected or remedied within such 60-day period, then Buyer shall elect by written notice to the Seller on or before the Closing Date, as the same may be extended, either (i) to accept title to the Property subject to the uncured Defects of Title without reduction of the purchase price and without any right to damages and without any other liability on the part of Seller, or (ii) to terminate this Agreement, whereupon the Deposit shall be returned to Buyer and all obligations of the parties hereunder shall cease and neither party shall have any claim against the other by reason of this Agreement, except with respect to any provision hereof that expressly survives the termination of this Agreement. For purposes of this subsection (b), Seller may elect to cure or remedy any Defect of Title by providing Buyer with a binding commitment from a title insurance company licensed to do business in Maine committing to issue an endorsement to Buyer's owner's title insurance policy providing affirmative coverage for such Defect of Title at no additional premium to Buyer beyond any premium required for such title policy without such endorsement; and Buyer agrees to accept such affirmative coverage as a cure or remedy for such Defect of Title provided that the form and content of such affirmative coverage is satisfactory to Buyer and its advisors in their reasonable discretion; or the Seller may cure by other means satisfactory to the Buyer.

Any time taken to cure any defect in title shall extend by the same amount of time the Inspection Date described by section 4 of this Agreement.

(c) Seller represents and warrants to Buyer, effective as of the date of this Agreement and also effective as of the date of Closing, that: (i) Seller holds good and clear, record and marketable title to the Property in fee simple; (ii) there are no uncorrected violations of any laws or codes with respect to the Property, its condition, or use; (iii) no options, rights of first refusal, or other contracts have been granted or entered into which give any other party a right to purchase or acquire any interest in the Property or obligate the Seller in any respect; (iv) there are no leases, licenses, or other occupancy agreements in effect with respect to any part of the Property, other than a deed restriction preventing residential use and other uses as required which Seller shall seek to lift before Closing; (v) Seller has not received written notice of any planned or threatened condemnation or eminent domain proceedings with respect to the Property; (vi) the Property abuts a public way which imposes no access restrictions; (vii) this Agreement has been duly authorized by all requisite action and is not in contravention of any law or organizational documents and this Agreement has been duly executed by a duly authorized officer or official of Seller; (vii) Seller's execution of this Agreement does not violate any other contracts, agreements, or any other arrangements of any nature whatsoever that Seller has with third parties and (ix) the Seller shall seek to obtain, at its sole cost and expense, such environmental insurance as may be agreed upon by Seller and PanAm/Guilford, as a prior titleholder, that is sufficient to get PanAm/Guilford to lift the current deed restrictions on uses. Seller will not cause nor, to the best of Seller's ability, permit any action to be taken which would cause any of Seller's representations or warranties to be false as of Closing, and in any event shall notify Buyer of any change in these representations and warranties. Seller's representations and warranties shall survive the Closing and the delivery of the Deed.

Section 4. Inspection of Property. Buyer, and those parties controlled by Buyer or associated with Buyer, shall have the right to access the Property to inspect its condition, including, without limitation, making surveys, testing the geotechnical quality of soils and whether any Hazardous Materials exist (including sub-surface), and pursuing permits and approvals. Seller shall cooperate with Buyer, without material cost to Seller, in connection with all such inspections and actions by Buyer, including without limitation, by delivering to Buyer within ten (10) days of the effective date of this agreement, copies of any and all surveys, permits, title reports, hazardous waste reports, environmental assessments, geotechnical reports, samplings and investigations, all contracts and leases affecting the Property, any documents relating to the physical condition of the Property (including, without limitation, any improvements located thereon) and the status of the Property's compliance with applicable building code, zoning, land use and environmental laws, rules and regulations, feasibility studies (including financing), building and site plans, floor plans, property inspections, elevation studies, appraisals or other such pertinent information Seller has compiled related to the property and/or the proposed development that is in the Seller's possession or control, and signing any consents or authorizations for permit applications that may be required. If Buyer does not purchase the Property for any reason then Buyer shall promptly repair any damage that it may have cansed.

The term "Inspection Date" means midnight on the sixtieth (60^{th}) day following the Effective Date.

If Buyer is not satisfied with the condition of the Property for any reason, or no reason, in its sole discretion, then Buyer may terminate this Agreement by delivering written notice of such termination to Seller no later than five (5) days after the Inspection Date, in which event the Escrow Agent shall immediately return the Initial Deposit to Buyer. However, if Buyer does not so terminate this Agreement, then the parties shall proceed forward in this transaction. Upon Buyer's election to move forward, the Buyer shall deposit, within five (5) days, an additional Twenty Five Thousand Dollars ($25,000) in escrow with the Escrow Agent as Additional Earnest Money ("Additional Deposit"). Both the Deposit and the Additional Deposit shall be deemed non-refundable except in the event that the Seller fails to perform or the Buyer is unable to obtain the permits and approvals. The Deposit and the Additional Deposit shall be credited against the purchase price upon closing unless forfeited as otherwise provided in this Agreement.

Section 5. Covenants of the Seller. The Seller, through its consultant and others have undertaken a number of environmental studies which are referenced in Exhibit B to this agreement. The Maine Department of Environmental Protection (hereinafter "DEP") has issued one or more letter(s) confirming their approval of a Voluntary Response Action Program ("VRAP") Plan for the former rail yard property which is contained within lots 1, 2, 3, 5 and a portion of 6 (hereinafter "Railyard"). The VRAP includes a remediation plan approved on the Railyard property by the DEP. As part of the development plan for the Railyard property, Buyer shall be responsible for complying with the remediation plan for the property.

Buyer understands that lots 1, 2, 3, 5 and a portion of lot 6 are encumbered with deed restrictions, including but not limited to a restriction on residential uses on a portion of the Property. Pan Am/Guilford, a prior owner of the property has the sole discretion and is under no obligation to remove said deed restrictions. Provided that Pan Am/Guilford is in agreement with the insurance coverage provided by the Seller, the Seller will secure environmental liability insurance on the Railyard portion of the Property which will permit Pan Am/Guilford and the Seller to remove the deed restrictions on the property for residential and other uses, as required by Buyer.

The Seller has commenced review of the environmental conditions on the portion of the Property which is contained within a portion of Lot 6 and Lots 7 and 8 (hereinafter "Scrapyard"). The Seller will secure a VRAP for the Scrapyard (subject to Buyer's input and approval) and shall undertake remediation at its sole cost and expense in accordance with the VRAP. The Seller will work together with the Buyer to ensure the timely remediation in accordance with the Buyer's development plans. Buyer understands and agrees that no residential uses shall be approved on Lots 7 and 8 of the Scrapyard, even if such uses are allowed by the VRAP.

Section 6. Permit Period. Buyer shall have an additional One Hundred and Eighty (180) days following the Inspection Date (the "Permit Period") in which to obtain the permits and approvals that are necessary or desirable for Buyer's contemplated development of the Property for a mixed-use project including a parking garage as described in Section 11 of this Purchase Agreement. Buyer shall work with the City on the development of a master plan of all properties. Subject to the mutual agreement of the parties, the master plan may, but is not required to, include the elimination of the accessway from Somerset St to the Bayside Trail between Lots 6 and 7 or the 20ft wide accessway from Somerset St. to the Bayside Trail running through Lot 3, and the purchase of the underlying property in the accessway between Lots 6 and 7 by Buyer. It is the intent of the Buyer to build a mixed-use project which incorporates goals proposed by the City in its "A New Vision for Bayside", including, but not limited to, provide commercial and/or retail space on the first floor to allow for a user friendly neighborhood. If, by the end of the Permit Period, Buyer has not obtained all such permits and approvals, with all appeal periods with respect to such permits and approvals having expired with no appeal having been taken (or if taken, then with such appeal having been resolved to Buyer's satisfaction), then Buyer may terminate this Agreement by delivering written notice of such termination to Seller no later than five (5) business days after the end of the Permits Period, in which event the Deposit shall be returned to Buyer as provided in the Escrow Agreement. However, if Buyer does not so terminate this Agreement then the parties shall proceed forward in this transaction in accordance with the terms of this Agreement and the Deposit shall become non-refundable (except in the event of a Seller default, or because the Closing does not occur due to the failure of a condition precedent or as otherwise provided in this Agreement), but the Deposit shall always remain applicable to the Purchase Price unless otherwise provided by this Agreement.

During the Permit Period, as soon as practicable but no later than the same time as the Buyer presents its formal application for site plan approval, the Seller will present its plan for subdivision amendments to the Land consistent with the needs of the Buyer's site plan approval. The Seller shall be the applicant for the subdivision amendment, whether the review is done administratively or otherwise. Buyer shall provide, at its sole cost and expense, all required surveys in connection with the necessary subdivision amendments.

Notwithstanding anything in the foregoing to the contrary, Buyer shall have the right to extend the Permit Period up to three times, each extension for a period of thirty (30) days, by notifying Seller in writing of such extension within five (5) business days after the end of the then-current Permits Period, and depositing with Escrow Agent an additional deposit of Three Thousand Dollars ($3,000) per extension (the "Permit Extension Deposit"). The Permit Extension Deposit shall be considered part of the Deposit and shall non-refundable (except in the event of a Seller default, or because the Closing does not occur due the failure of a condition precedent or if Buyer/Seller is unable to obtain the permits and approvals or as otherwise provided in this Agreement), but the Deposit shall always remain applicable to the Purchase Price as provided herein. All references in this Agreement to the Permit Period shall mean the Permit Period as the same may be extended in accordance with the terms of this paragraph.

Section 7. Conditions Precedent to Closing. Seller and Buyer's obligation to Close hereunder are conditioned upon the satisfaction of the following conditions:

(a) there shall be no pending or threatened action, suit, litigation, hearing or administrative proceeding relating to Seller, any entity comprising Seller, or to all or any portion of the Property;
(b) the Property shall be free and clear of any leases, licenses, occupancy agreements, and any other parties in possession;
(c) Seller shall have delivered to Buyer such documentary and other evidence as the Buyer's title company may reasonably require evidencing Seller's authority, the absence of mechanic's liens and parties in possession, and any other matters that the title company may reasonable require;
(d) all of Seller's obligations under this Agreement shall have been performed and all its representations and warranties shall be true and correct;
(e) the condition of the Property (including without limitation the condition of the Property with respect to title and survey matters, as well as the presence of fixtures, equipment, and other personal property that is to be transferred at the Closing as elected by Buyer) shall be as required by this Agreement and no changes shall have occurred to such condition of the Property since the date of this Agreement (Buyer shall have the right to re-inspect the Property prior to the Closing to confirm the foregoing);
(e) notwithstanding anything in this Agreement to the contrary, Buyer shall have obtained any and all permits and approvals necessary or desirable for its contemplated development of the Property, with all appeal periods with respect to such permits and approvals having expired with no appeal having been taken (or if taken, then with such appeal having been resolved to Buyer's satisfaction);
(f) any hazardous materials on the property shall be handled in accordance with the requirements of the applicable VRAP agreement and this Agreement;
(g) Seller shall have paid, or will pay at or prior to Closing, all taxes, assessments, charges, fees, levies and impositions, coming due prior to the Closing Date;
(h) if any subdivision or other governmental approval is required in order to convey the Property as a separate parcel or lot then Seller shall have obtained all such subdivisions and/or other governmental approvals and shall have recorded any and all required plans in connection with the same;
(i) from and after the Effective Date, there shall have occurred no material adverse change to the Property (or any material portion thereof) which is continuing at the date and time scheduled for Closing which could have an adverse impact on Buyer's intended use of the Property; and
(k) Buyer shall have secured all permits, licenses and approvals (not subject to further action) necessary to construct its proposed mixed-use facility and parking garage on the Property.

Section 8. Closing. The Closing shall be held and completed at 10:00 A.M. or at such other time as may be agreeable to the parties at the office of the Buyer's lender's counsel in Portland, Maine, or through electronic communication or by mail by agreement of the parties, on the date that is thirty (30) days (or such shorter period of time as Buyer may elect upon five (5) days written notice to Seller) following the end of the Permit Period, time being of the essence. Notwithstanding the foregoing, in no event shall Buyer be obligated to close sooner than the fifth (5th) day following the satisfaction of the conditions precedent set forth in this Agreement. At the Closing, Seller shall cause the release of the Property from all loans and other monetary encumbrances secured by the Property, including, without limitation, municipal liens and utility fees of all kinds, and Seller shall pay all prepayment penalties or fees assessed by the holders of such loans and encumbrances, if any.

Seller is exempt from real estate transfer tax pursuant to 36 M.R.S.A. § 651. Seller shall pay the brokerage commission due to the brokers(s) described below, and all of its costs incurred.

Buyer shall pay its share of the real estate transfer tax and for all recording costs, Buyer shall be responsible for all of its own costs incurred, including, without limitation, the cost of studies or inspections desired by Buyer. The real estate taxes and other customary items of proration and adjustment shall be computed as of the date of Closing and added to or deducted from the net proceeds as the case may be. In the event accurate prorations or other adjustments cannot be made at Closing because of the lack of necessary information, the parties shall prorate and adjust based on the best available information, subject to prompt modification upon the receipt of the necessary information. At the Closing, Seller shall deliver to Buyer: (i) a Quitclaim Deed with covenant (ii) releases of any real estate liens or other instruments or agreements to be cancelled pursuant to the terms of this Agreement, in form appropriate for recording; (iii) an updated certification of the warranties and representations contained herein; (iv) an assignment of permits and warranties; (v) a Bill of Sale (if applicable), in form and substance satisfactory to Buyer, transferring to Buyer, without additional charge, all fixtures, equipment, and other personal property located at the Property (except for any fixtures, equipment and other personal property that Buyer has directed Seller in writing to remove on or before the date of the Closing, which Seller shall so remove, without causing damage to the Property); (vi) an assignment, transferring ownership of all the permits, plans and approvals which are part of the Property and (vii) such other documents required under the terms of this Agreement or customarily delivered at closings in the State of Maine. On or before Closing, Seller shall terminate any contracts relating to the Property that Buyer has not agreed to assume and shall pay all costs associated with such contracts. On or before Closing, Seller will do, make, execute and deliver all such additional and further acts, instruments and documents as may be consistent with this Agreement and customarily and reasonably required by Buyer and/or the Buyer's title company to complete the transactions described in this Agreement.

Section 9. Condemnation and Casualty. If, prior to Closing, all or any part of the Property or access to the Property shall become subject to condemnation through eminent domain by governmental or other lawful authority, or should be subject to damage or destruction by fire or other casualty, then Buyer shall have the option of either (a) completing the purchase, in which event all condemnation proceeds or claims thereof (or, in the event of a fire or other casualty, all casualty insurance proceeds, together with a credit against the Purchase Price for the amount of any insurance deductible) shall be assigned to Buyer, or (b) terminating this Agreement, in which event, notwithstanding any provision herein to the contrary, the Deposit shall be returned to the Buyer, and this Agreement shall have no further force or effect. Seller shall bear the risk of loss to the Property due to condemnation or casualty until the Closing and the recording of the Deed. Seller shall keep the Property insured at its presently insured levels from the date of this Agreement until the Closing and the recording of the Deed.

Section 10. Broker. At the Closing, Seller shall pay any and all fees or other commissions due and payable to CBRE| The Boulos Company (the "Broker"), pursuant to separate agreement. Except for the Broker, Seller and Buyer represent and warrant to each other that neither has dealt with any other real estate broker, agent, or salesperson. Seller agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Seller. Buyer agrees to defend, indemnify and hold Seller harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons (other than the Broker) claiming real estate brokerage fees through Buyer. The indemnities set forth in this Section shall survive Closing.

Section 11. Conditions Which Survive Closing As a condition of this sales transaction, the Buyer will construct, at its expense, a parking garage on a portion of Lot 6 and all of Lots 7 and 8 which shall contain not fewer than 500 parking spaces. The Seller shall make a contribution to the cost of construction from the funds being provided to the Seller from the U.S. Department of Housing and Development (the "HUD Funds") in accordance with and to the extent allowed by federal law and regulations, including HUD's regulations. During the inspection period described in Section 4 above, the Seller and the Buyer shall enter into a formal agreement stipulating the terms of this contribution and the conditions of the contribution, which are expected to include the following:

1. The garage shall be open during reasonable hours 7 days per week subject to modification from time to time by buyer based on historical and projected volume of usage of the garage.

2. The garage shall have shared use with residents 7 days a week, 24 hours per day.

3. During snow bans, garage shall be available for snow ban parking and the overnight snow ban parking rate shall not exceed 50% of the then current daily maximum rate charged for parking at the garage.

4. The garage shall be made available for special event parking during off hours.

5. The garage shall provide turnover parking for the general public.

6. Rates shall be based upon market conditions.

7. The garage shall participate in the Park & Shop program.

8. The garage must accept both cash and credit card payments.

9. The garage must remain as a public parking facility for a minimum of 30 years.

The agreement referred to in this section shall further provide that Buyer shall comply with all the terms and conditions related to the use of HUD funds including, but not limited to, providing documentation of job creation. The Inspection Date shall be extended until the parties have reached agreement on these issues.

The agreement shall further provide that HUD has to approve the use of its funds for the garage and that if such approval is obtained, Buyer or any nominees, assigns or successors in interest shall be responsible for complying with any conditions required by HUD in addition to the conditions listed above and shall defend and indemnify Seller against any actions brought by HUD to enforce any HUD conditions and any sanction or fines resulting from an enforcement action.

In return for the use of HUD funds, the garage and any attached structures or units in it designed for non garage use shall comply with and be certified by the U.S. Green Building Counsel's (USGBC) Leadership in Energy and Environmental Design (LEED) Silver Standard, and shall achieve the minimum LEED optimize energy performance points necessary to meet the targets of the 2030 challenge as published by Architecture 2030, pursuant to the City of Portland's City Code, Section 6, Article VII.

Section 12. Default.

(a) Buyer Default. If Buyer defaults and fails to perform its obligations under this Agreement under this Agreement, Seller, at no cost, shall receive the Deposit and all interest thereon, as well as the results and reports of all development studies, testing reports, construction and design documents related to the garage, and surveys of the Property completed by the Buyer. The parties agree that the Deposit and development studies and surveys are a reasonable liquidated measure of Seller's damages and not a penalty and shall be Seller's sole and exclusive remedy at law and in equity because of the difficulty in ascertaining the exact amount of damages sustained by Seller.

(b) Seller's Default. If Seller defaults and fails to perform its obligations under this Agreement, then Buyer may, without limitation of its other rights and remedies, terminate this Agreement upon written notice to Seller, upon which event the Deposit and all interest thereon shall be immediately refunded to Buyer, and/or exercise all of its available remedies at law or in equity, including, but not limited to, the right to seek a judgment compelling the specific performance of this Agreement and/or an action for damages.

(c) Attorney Fees. In the event of litigation, the substantially prevailing party shall be entitled to receive its reasonable legal fees and court costs from the other party. This provision shall survive the Closing and delivery of the Deed.

Section 13. **Miscellaneous.** This Agreement (i) constitutes the entire agreement between the parties hereto with respect to the transaction contemplated herein and it supersedes all prior discussions, undertakings or agreements between the parties; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to Seller, at Portland City Hall, 389 Congress Street, Portland, Me 04101, Attn: City Manager facsimile 207-874-8669, email: pfinnigan@portlandmaine.gov , with a copy to , the Director of Economic Development facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address (facsimile 207-874-8497), email: gary@portlandmaine.gov; and to Buyer c/o The Federated Companies, 404 Washington Ave, Floor 8, Miami Beach, FL 33139, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j_cox@federatedcompanies.com with a copy to Marc Shandler, Esq., The Federated Companies, 404 Washington Ave, Floor 8, Miami Beach, FL 33139, facsimile (800) 523-5931, email: m_shandler@federatedcompanies.com .

In the event any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

The term "Effective Date" as used in this Agreement shall mean the first date upon which both Buyer and Seller have executed a final counterpart of this Agreement and delivered the same to the other party.

The term "day" or "days" as it relates to a time or timeline for performance shall mean business days and shall not include weekends or state or federal holidays.

Buyer shall be entitled without Seller's consent to assign all of its right, title and interest in and to this Agreement to any primary lender or to any entity in which Buyer maintains a controlling interest. Buyer shall also be entitled with Seller's consent, which shall not be unreasonably withheld, to assign all or part of its right, title and interest in and to this Agreement to any other entity. Buyer may also take title in the name of a nominee at the closing in which case the nominee shall be subject to all obligations of Buyer under this Agreement, and all rights of Seller. If the end of any time period herein, or if any specified date, falls on a weekend or state or federal holiday, then the end of such time period, or such date, as the case may be, shall be extended to the next business day thereafter. At the request of either party, Buyer and Seller agree to reasonably cooperate with the other and Escrow Agent in structuring and documenting the sale of the Property to effect a tax deferred exchange in accordance with the provisions of Section 1031 of the Internal Revenue Code and its corresponding regulations. Such cooperation shall be at no cost to the other party. In no event shall such cooperation require a delay of the Closing. The Section headings as used in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement.

Section 14. Escrow Provisions. As an inducement to Escrow Agent to act as escrow agent, Buyer and Seller agree that: (a) Escrow Agent will hold the Deposit in an interest-bearing account at a banking institution with which Escrow Agent has an established banking relationship, and such interest shall follow the disposition of the Deposit in accordance with the terms of this Agreement; (b) the Escrow Agent shall disburse the Deposit (and the interest earned thereon) only in accordance with this Agreement; (c) Escrow Agent will not be liable for any error or judgment, or for any act or omission under this Agreement made in good faith, except for Escrow Agent's own gross negligence or willful misconduct; (d) Buyer and Seller will jointly and severally indemnify and hold harmless Escrow Agent from and against any claim, costs, damages, attorneys' fees, expenses, obligations, or charges made against Escrow Agent by reason of its action or failure to act in connection with any of the transactions contemplated by this Agreement, unless caused by Escrow Agent's gross negligence or willful misconduct; (e) Escrow Agent will have no liability for any claim, costs, damage, attorneys' fees, expenses, obligations, or charges resulting from a delay in the electronic wire transfer of funds, unless such matters arise as a result of Escrow Agent's gross negligence or willful misconduct; and (f) in the event Escrow Agent receives or becomes aware of conflicting instructions, demands, or claims with respect to this Agreement or the Deposit, Escrow Agent may file a suit in interpleader, and upon the filing of such suit in interpleader and placing of the Deposit with a court of competent jurisdiction, Escrow Agent shall be fully released and discharged from all further obligations imposed by this Agreement with respect to the Deposit.

Section 15. Right of Seller to Repurchase the Property. If construction activity is not commenced and diligently pursued on any or all lots within two years of the date of receipt by the Buyer of final site plan approval, the Seller shall have the right, but not the obligation, to repurchase said lots at Buyer's purchase price

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth next to their respective signatures below.

[Signature page to follow]

PURCHASER:

The Federated Companies LLC

By: ______________________________
Jonathan Cox, Manager
Date of Execution: 6/23/11

SELLER:

City of Portland

By: ______________________________
Patricia A. Finnigan
Acting City Manager
Date of Execution: 6.16.2011

JOINDER OF ESCROW AGENT

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent hereunder and to handle the Deposit in accordance with the terms and conditions set forth herein.

ESCROW AGENT:

____

By: ______________________________
Name: ______________________________
Title: ______________________________
Date: ______________________________

PURCHASER:

The Federated Companies LLC

By: ______________________
Jonathan Cox, Manager
Date of Execution: 6/23/11

SELLER:

City of Portland

By: Patricia A. Finnigan
Patricia A. Finnigan
Acting City Manager
Date of Execution: 6·16·2011

JOINDER OF ESCROW AGENT

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent hereunder and to handle the Deposit in accordance with the terms and conditions set forth herein.

ESCROW AGENT:

Monument Title Company

By: ______________________
Name: Karen L. Pelletier
Title: Managing Director/Exec VP
Date: July 1, 2011

EXHIBITS

A - Description of Land
A-1 Proposed Somerset Street Subdivison plan, showing possible trail access
B – index of environmental studies

EXHIBIT A

Description of Land Being Purchased:

Lots 1,2, 3, 5, 6, 7 and 8 as shown on a subdivision plan entitled "Bayside Railyard Portland, Maine" prepared for the Downtown Portland Corporation by SGC Engineering, LLC as approved by the Portland Planning Board on December 9, 2008 and recorded in the Cumberland County Registry of Deeds on 1/27/09 in Book 209, Page 36.

EXHIBIT A-1

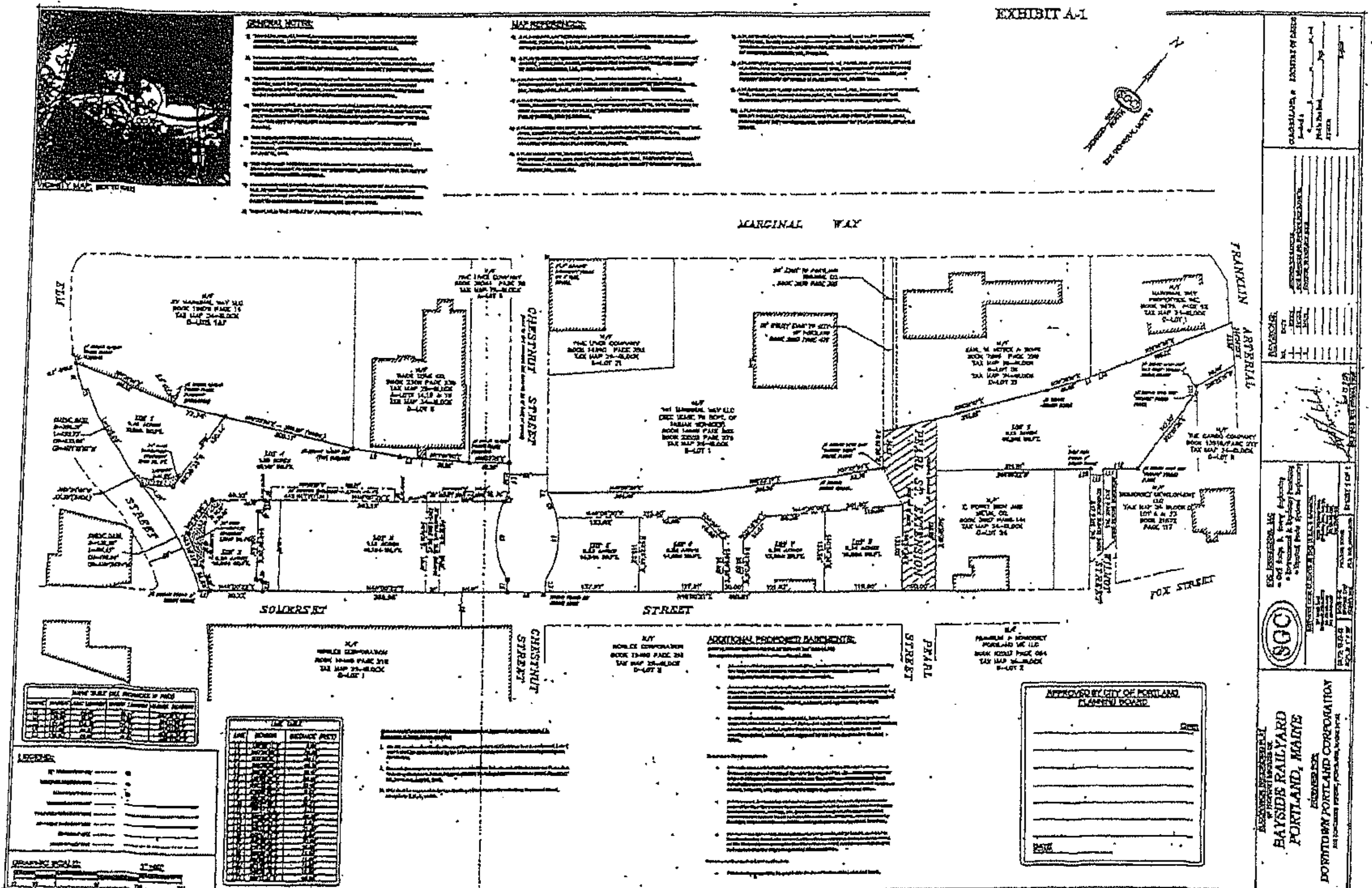

GENERAL NOTES:
MAP REFERENCES:
VICINITY MAP
MARGINAL WAY
FRANKLIN ARTERIAL
CHESTNUT STREET
PEARL ST. EXTENSION
SOMERSET STREET
FOX STREET
PEARL STREET
ADDITIONAL PROPOSED EASEMENTS:
LEGEND:
GRAPHIC SCALE
APPROVED BY CITY OF PORTLAND PLANNING BOARD
DATE
SGC
BAYSIDE RAILYARD
PORTLAND, MAINE
DOWNTOWN PORTLAND CORPORATION

Exhibit B

List of Bayside Rail Yard Related Environmental Reports

Site Assessment and Environmental Analysis: Phase I of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

Environmental Remediation Plan, Phase III of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

Phase II Environmental Site Assessment, Union Branch Rail Line Property, Portland, Maine, Haley & Aldrich, Inc. Dec. 2000

Environmental Conditions at the Proposed DHS Building Land annex, Portland, Maine, Tewhey Associates, August 2003

Tewhey Associates Memo from J. Tewhey to M. Adelson of the City of Portland Re: Results of Testing of Excavated Soil at the Former Rail Yard Site in Bayside, Tewhey Associates, December 13, 2003

Subsurface Soil Observations and Testing at Northern End of Proposed Chestnut Street Extension, Tewhey Associates, Jan 2005

Phase I Environmental Site Assessment, Rail Yard Subdivision Lots 1,2,3,4 and 9 Somerset Street, Portland, Maine, Tewhey Associates, Dec. 2008

VRAP Completion Document, Bayside Trail Project, Former Union Branch Rail Line, Portland, Maine, Tewhey Associates, August 2010

Bayside Rail Yard DEP VRAP, July 2001

Bayside Rail yard DEP VRAP, November 2008

Chestnut Street Extension DEP VRAP, May 2005

DHS Annex Property DEP VRAP Certification, April 2004

Soil Remediation Consideration, Tewhey Associates, January 2002

Stockpiled Group 2 Soils at Brownfields Property Site, June 2005

NEMR Concrete Pad Sampling, September 2008

NEMR Phase I Environmental Site Assessment, February 2009

NEMR Phase II Soil Investigation, February 2007

NEMR Phase II Soil Investigation, July 2009

EXHIBIT "B"
TO FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT

[insert Environmental Studies]

Exhibit B

List of Bayside Rail Yard Related Environmental Reports

Site Assessment and Environmental Analysis: Phase I of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

Environmental Remediation Plan, Phase III of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

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NEMR Concrete Pad Sampling, September 2008

NEMR Phase I Environmental Site Assessment, February 2009

NEMR Phase II Soil Investigation, February 2007

NEMR Phase II Soil Investigation, July 2009

September 6, 2012 by LCW
O:\Bayside - Federated Companies\Purchase and Sale Agreement\2final FIRST AMENDMENT TO PURCHASE AGREEMENT for Execution.doc

Amended Exhibit ~~A~~ C to the Purchase and Sale Agreement
[2012]
Description of the Land Being Purchased

Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9 as shown on a subdivision plan entitled "Bayside Railyard, Portland, Maine" prepared for Downtown Portland Corporation by SGC Engineering, LLC as approved by the Portland Planning Board on December 9, 2008, and recorded in the Cumberland County Registry of Deeds in on January 27, 2009, in Plan Book 209, Page 36; the portion of Lot 9 included is that portion which is within 120 feet of northwesterly sideline of Somerset Street.

EXHIBIT 3

[Parking Garage Agreement]

PARKING GARAGE CONTRIBUTION AND FUNDING AGREEMENT

This Parking Contribution and Funding Agreement (the "Parking Garage Agreement") is made this 5th day of October, 2012, by and between the **CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine (hereinafter "City") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company with a place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131 (hereinafter "Legacy Park").

WHEREAS Legacy Park is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, ("Agreement"), for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7,8 and a portion of Lot 9,(collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a $9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park from funds being provided to the City by the U.S. Department of Housing and Urban Development pursuant to the Bayside Redevelopment Project, Maine BEDI Grant and Section 108 Loan Program, ("HUD Funds"), toward the expense of the construction of a garage, with no fewer than 700 parking spaces and at least thirty thousand square feet of retail space on the first floor on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage");

WHEREAS Section 11 of the Agreement requires City and Legacy Park to enter into a formal Parking Garage Agreement stipulating the terms and conditions of the contribution of the City Grant Funds to Legacy Park for the construction of the Garage.

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration the parties covenant and agree in this Parking Garage Agreement as follows:

1. Garage Construction. Subject to the terms and conditions of this Parking Garage Agreement and the City contributing City Grant Funds as described below, Legacy Park or its nominee shall construct the Garage in the location depicted on the plan attached hereto and incorporated herein by reference as Exhibit "A". The Garage shall have reached "Start-up Phase" as defined below within two (2) years after the date on which a total of $1,000,000.00 in City Grant Funds has been requisitioned by Legacy Park and disbursed by the City to Legacy Park. Notwithstanding the above, Legacy Park will diligently work to have constructed a sufficient percentage of the Garage so as to permit Legacy Park to requisition the City Grant Funds in full by November 31, 2014, so as to allow full disbursement of the City Grant Funds by December 31, 2014. If Legacy Park informs the City, in good faith, before October 1, 2014 that Legacy Park will not meet this requisition timetable, with evidence and reasons for this, the City will use its best

efforts to obtain an extension of this disbursement deadline for the HUD Funds from HUD, and if it obtains such an extension, it shall immediately transmit to Legacy Park evidence of this extension by HUD, and this timetable shall thereby be correspondingly changed, without further action of the parties hereto being required.

Legacy Park shall construct the Garage and any attached structures or units designed for non-garage use using sustainable and energy efficient construction methods, including, but not limited to, energy efficient lighting.

2. City Grant Funds. The City shall provide a grant to Legacy Park or its nominee of Nine Million Seven Thousand Dollars ($9,007,000.00) in City Grant Funds for use by Legacy Park for the City Grant Funds Uses as defined below. This funding is being provided in part as an incentive to build the Garage which would otherwise not be commercially viable. Accordingly, the City agrees that the first $9,007,000.00 of City Grant Funds Uses, disbursed in accordance with this Parking Garage Agreement, shall be City Grant Funds, but subject to and less the retainage described below. The City Grant Funds may be used for all purposes related to the Garage allowed with such HUD Funds, including but not limited to design, planning, permitting, environmental testing and remediation, and construction ("City Grant Funds Uses").

3. Legacy Park Contribution. Following the disbursement of City Grant Funds, less the retainage, Legacy Park shall provide sufficient additional funds for completion of the construction of the Garage, ("Legacy Park Contribution"). The Legacy Park Contribution shall either come from its own equity or financing from a construction lender. The Legacy Park Contribution, in addition to the City Grant Funds will cover the complete cost of constructing the Garage to completion.

4. Procedures for Making Disbursements (Payments). With respect to all requisitions for disbursements of the City Grant Funds, the City and Legacy Park agree as follows:

   (a) Legacy Park shall deliver to the City a written request for payment (a "Requisition") which shall be in substantially the same form as AIA Forms G702 and G703. The Requisition shall be accompanied by: (i) a summary of all expenses requested, (ii) copies of invoices, bills, receipts and such other information as may be reasonable to document the expenditures described in the Requisition, (iii) mechanics' lien affidavits and/or written lien waivers from such contractors, laborers, subcontractors and materialmen for work done and materials supplied which were paid for pursuant to the immediately preceding Requisition, and (iv) a certified payroll in conformance with the requirements of the Davis-Bacon Act of 1931, as amended, for all contractors and subcontractors on site and for which invoices are included.

(b) Requisitions shall be submitted by Legacy Park no more frequently than monthly. Prior to the disbursement by the City of any requested Requisition, City's construction inspector shall certify to City that the work for which a Requisition has been submitted has been completed and the City's Housing and Neighborhood Services staff will verify all workers are being paid the prevailing wage.

(c) A copy of the construction schedule will be submitted to the City at the beginning of the project. Updates will be provided by Legacy Park as necessary to remain accurate.

(d) City shall make disbursements to Legacy Park only after such certification and verification, and with a certified payroll, all the same must be correct and complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement. If the City fails to make any disbursement within fifteen (15) calendar days after such requisition with all required and correct and complete paperwork as delineated in this Parking Garage Agreement, such disbursement shall be paid with interest at a rate of one-quarter of one percent per month, from that date until the disbursement is in fact made ("Interest For Late Payment"). If any such Interest For Late Payment is owed then such amount shall be in addition to the City Grant Funds.

(e) City shall retain ten percent (10%) of the City Grant Funds as retainage, which shall be disbursed to Legacy Park upon receipt of the Certificate of Occupancy for the Garage or as mutually agreed upon between the City and Legacy Park.

5. Garage Operations.

(a) Key Card. The Garage shall be equipped with a "key card" system (or its equivalent) whereby weekly, monthly or longer term users shall have 24-hour access to the Garage 7 days a week, it being understood that certain users may only have access at certain hours based on contractual agreements with the owners of Garage. Legacy Park shall make the Garage available for public (hourly access) use during the "Start-Up Phase" at such times as established by Legacy Park during reasonable commercial business hours, which shall at a minimum be from 7 a.m. to 7 p.m., Monday through Saturday, and 10 a.m. to 7 p.m., Sundays and Holidays. The expression "Start-Up Phase" shall mean that period commencing when the Garage receives a Certificate of Occupancy allowing operation of the parking garage portion of the Garage facility and ending the date when the first other building (and not merely the retail portion within the parking garage structure) within the Project is issued a Certificate of Occupancy and that building starts using parking in the Garage. During and after the Start-Up Phase the Garage shall be open during reasonable hours, seven days per week, subject to modification from time to time by Legacy Park based on historical and projected volume of usage.

(b) Additional Requirements:

(i) Hourly and monthly rates for the Garage shall be based upon prevailing market rates, defined as follows: in no event shall rates be greater than 110% of the average market rates charged by City at City-owned and operated garages or the average of the three highest rates charged by garages within the City, excluding any garages that may be owned by Legacy Park or any of its affiliates;

(ii) The Garage shall participate in the Park and Shop Program;

(iii) The Garage shall be available for City snow ban parking, and the overnight (i.e. 5:00 p.m. to 8:00 a.m.) snow ban parking rate per hour shall not exceed three times the then-current maximum hourly rate charged by the Garage;

(iv) Upon written request of the City in each such instance, the Garage shall be available at customary rates for parking for special events held on the Portland Peninsula after 5:30 pm on weekdays and if requested, at requested reasonable times on weekends.

(v) The Garage shall have shared use with the public 7 days a week, 24 hours per day.

(vi) The Garage shall provide a minimum of 200 hourly turnover parking to the general public, and will provide within 2 days upon request data and information, including the number of non-turnover parkers present in the Garage at any given time, in order for the City to verify compliance with this condition.

(vii) The Garage will accept both cash and credit card payments.

(viii) The Garage will be maintained so long as it is a public parking facility, in accordance with the then current edition of the National Parking Association's "Parking Garage Maintenance Manual (now in its Fourth Edition) , and in particular in accordance with the Recommended Maintenance Checklist contained therein.

(c) The Garage will remain a public parking facility for a minimum of thirty (30) years.

These requirements (a) through (c) shall be a covenant contained in the deed to Lots 6 and 7and the covenant shall run with the Land for the stated thirty (30) year period from the date of conveyance of Lots 6 and 7 from the City to Legacy Park and thereafter shall automatically expire.

7. Payments in Lieu of Taxes. In consideration of the City Grant Funds paid to Legacy Park by the City, Legacy Park agrees, for itself and its successors, assigns and lessees for a period of thirty (30) years starting on the closing date of the purchase of the Land, that in the event that any portion of the Land is ever exempt from real or personal property tax, then a yearly payment by the then owner of the exempt portion shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the exempt portion of the real and personal property situated on the property. This requirement shall be a covenant contained in the deed to the Land and the covenant shall run with the land for the stated thirty (30) year period.

8. Compliance with HUD requirements.

(a) Job Creation. HUD regulations require that the City, as the original grantee of the HUD Funds, document all jobs created through the use of HUD Funds disbursed to Legacy Park as City Grant Funds. Legacy Park recognizes that one of the primary goals of City's contribution of the City Grant Funds is the creation of jobs, and Legacy Park agrees to create the required number of jobs necessary for the City's use of the HUD Funds and to provide City with timely and complete documentation of all jobs created or caused to be created as a result of receiving the City Grant Funds, and requirements related to job creation shall be contained in a Job Creation Agreement to be entered into between the parties.

(b) Section 108 Compliance. Legacy Park, its employees, assigns, agents and subcontractors for this project, at all times shall comply with the requirements of the Section 108 Loan Guarantee and Brownfields Economic Development Initiative Grant program and Federal Labor Standards pursuant to Davis Bacon and related Acts, specifically including:

A. Davis-Bacon Act, as amended.(40 U.S.C 276a - 276a-5.) All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

B. Contract Work Hours and Safely Standards Act, as amended. (40 U.S.C. 327-333). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.

C. Copeland Anti-Kickback Act, as amended. (18 U.S.C. 874 and 40 U.S.C. 276c). This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions.

9. Default. In the event that Legacy Park is in default of a material provision on any of the obligations contained in this Parking Garage Agreement, and Legacy Park fails to cure said default within ninety (90) days of receipt of written notice issued by the City, then Legacy Park shall, if requested to do so by the City, convey to the City the Garage and the related real property, on these terms and conditions:

- This conveyance to the City shall be without the requirement of further legal action by the City.
- The cost to the City for this purchase will, in concept, be the sum of the cost of construction of the Garage and all related improvements associated with the Garage, plus the cost to the cost to Legacy Park for the related land upon which the Garage sits (the "Garage Land"), less the amount of the City Grant Funds actually disbursed up to the time of this purchase.
- The City acknowledges that Legacy Park will most likely use the Garage and the Garage Land as collateral for a construction loan for the purpose of finishing the construction of the Garage and other costs and improvements related to the project. The City therefore agrees to work on documents at the time of such financing, with Legacy Park and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing.

The City agrees that Legacy Park's obligations under this Parking Garage Agreement are "non-recourse" and that any recovery by the City shall be limited to the Garage. None of Legacy Park, its officers, members, employees, attorneys, agents or affiliates (collectively, "Legacy Park Persons") shall be personally liable for the performance of this Parking Garage Agreement, and the City shall not commence or prosecute any action against any Legacy Park Person, for payment or performance of any obligations under this Parking Garage Agreement. The City shall not seek, obtain, or enforce a deficiency judgment against any Legacy Park Person. Notwithstanding this provision, the rights and obligations under the Agreement between the parties and the Corporate Guaranty Agreement of near or even date are cumulative and in addition to the rights described herein.

In the event of an alleged default by the City, Legacy Park, at its sole election, shall have the right to seek specific performance and any and all other relief to be provided by a Court, at law or in equity, including, but not limited to, common law writs. City expressly consents to the jurisdiction of the Maine Courts in the event of an alleged City breach under this Parking Garage Agreement.

10. Assignment. Legacy Park shall be entitled, without the City's consent, to assign all of its right, title, interest and obligations in and to this Parking Garage Agreement to any lender or to any entity in which Legacy Park maintains a majority interest and management control. The City must be notified within thirty (30) days or Legacy Park will be in default of this Parking Garage Agreement as described in Section 9 of this Agreement.

11. Termination. In the event that the Parking Garage Agreement is terminated on account of Legacy Park's default, the obligation of the City to provide the City Grant Funds described herein is terminated.

12. Miscellaneous Provisions. In the event of litigation, the prevailing party shall be entitled to receive its reasonable legal fees and court costs from the other party. This provision shall survive the Closing and delivery of the Deed pursuant to the Agreement.

13. Entire Agreement. This Parking Garage Agreement (i) constitutes the entire agreement between the parties hereto with respect to the construction and operation of the Garage and it supersedes all prior discussions, undertakings or agreements between the parties in respect to the Garage; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Parking Garage Agreement shall not confer any rights or remedies upon any third-party other than the parties to this Parking Garage Agreement and their respective successors and permitted assigns.

14. Notices. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, email: MHR@portlandmaine.gov, with a copy to, the Director of Economic Development, facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), email: gary@portlandmaine.gov , and to Buyer c/o The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j_cox@federatedcompanies.com

15. Severability. In the event any one or more of the provisions contained in this Parking Garage Agreement shall be for any reason held invalid, illegal or unenforceable in any

respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Parking Garage Agreement, and this Parking Garage Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Parking Garage Agreement.

In Witness Whereof, the parties have hereunto executed this Parking Garage Agreement as of the day and year set forth next to their respective signatures below.

LEGACY PARK APARTMENTS LLC

By: Jonathan Cox
Its: Member
Date of Execution: 10/5/12

CITY OF PORTLAND

Mark H. Rees
By: Mark Rees
Its: City Manager
Date of Execution: 10-15-12

Approved: Ellen Sanborn, Finance Director

Approved as to Form: Corp. Counsel

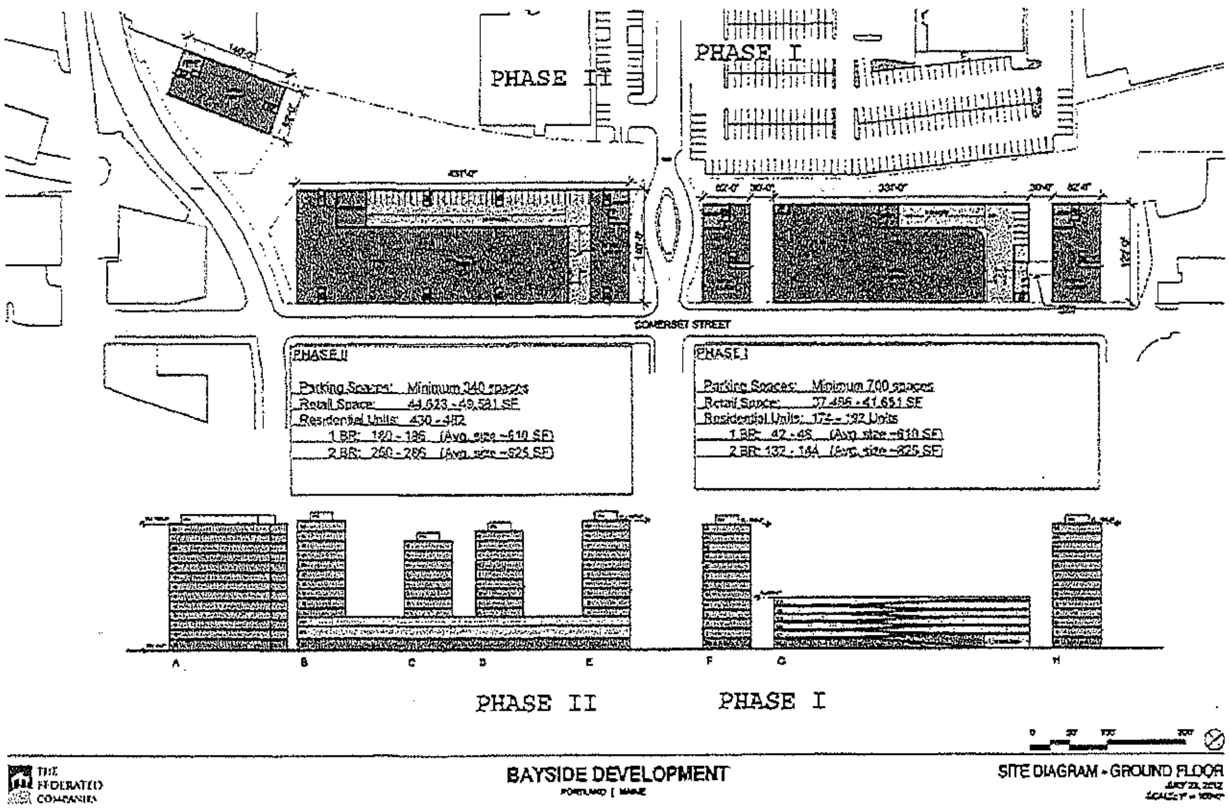
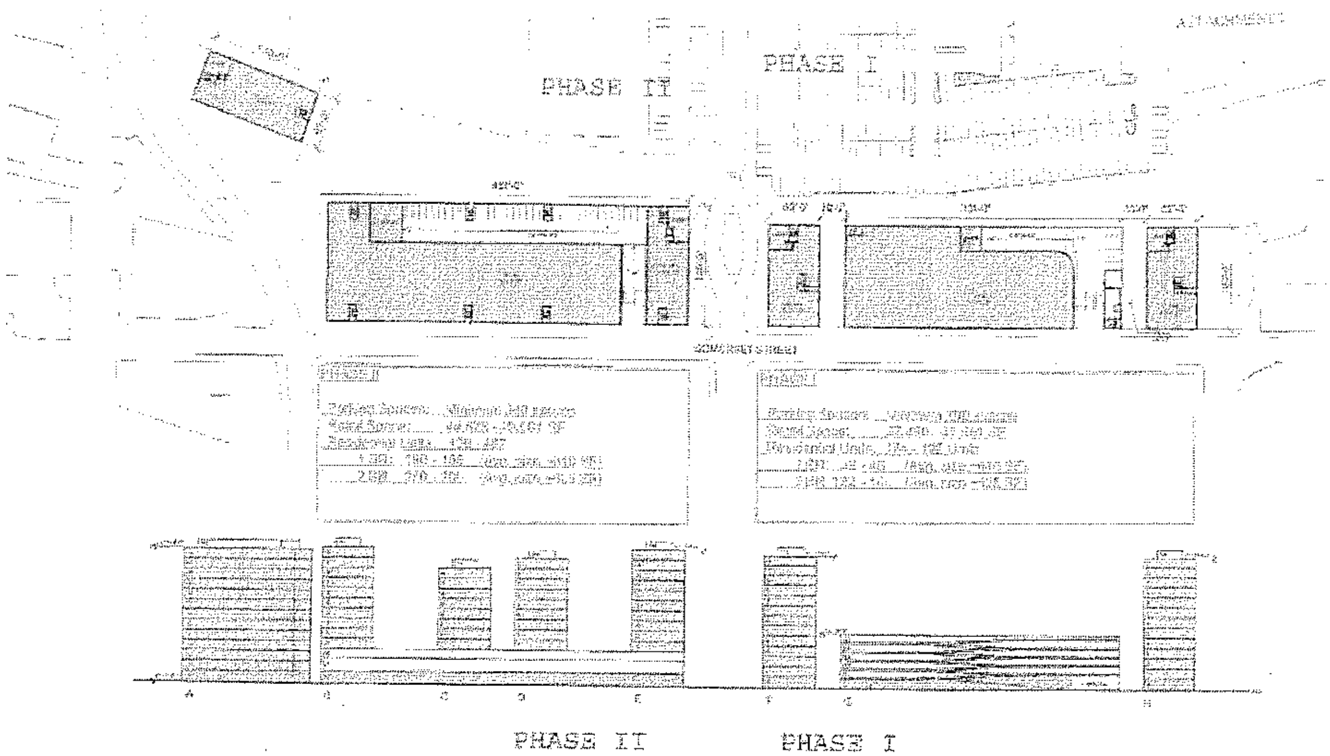

PHASE II
PHASE I
SOMERSET STREET
PHASE II
Parking Spaces: Minimum 340 spaces
Retail Space: 44,623 - 49,581 SF
Residential Units: 430 - 482
1 BR: 180 - 186 (Avg. size ~610 SF)
2 BR: 250 - 296 (Avg. size ~825 SF)
PHASE I
Parking Spaces: Minimum 700 spaces
Retail Space: 37,456 - 41,651 SF
Residential Units: 174 - 192 Units
1 BR: 42 - 48 (Avg. size ~610 SF)
2 BR: 132 - 144 (Avg. size ~825 SF)
A
B
C
D
E
F
G
H
PHASE II
PHASE I
THE FEDERATED COMPANIES
BAYSIDE DEVELOPMENT
PORTLAND | MAINE
SITE DIAGRAM - GROUND FLOOR

Exhibit A

EXHIBIT 4 (part 1 of 3)

[Phase I Site Plan]



BAYSIDE DEVELOPMENT

SITE DIAGRAM - GROUND FLOOR

EXHIBIT 4 (part 2 of 3)
[Phase I Design Guidelines]

1. Introduction
The emphasis of the Guidelines is on the public spaces. The goal of the Guidelines is to provide high quality, attractive and active spaces that employ contemporary techniques but connect to the unique history of the site and Portland, ME as a whole. To this end, the Guidelines are focused on the impact of buildings on the public environment. These Guidelines seek to create spaces, not projects. The goal is to create an ever□changing, lively atmosphere with visual appeal throughout (this is not a traditional business or residential district). The focus is on the pedestrian □ to provide a human scale, good way finding, and a comfortable walking environment. The Guidelines are also intended to create visual interest from near and far. Up close, ground level design standards produce comfortable, inviting, and stimulating environments. From afar, a variable skyline of roof edges, vertical shafts, and signage create interest.

2. Use

2.1 Active Ground Floor Uses
Active uses that engage pedestrians shall be located along all street frontages. Ground level land uses shall be established and designed to animate public sidewalks, the wharf and alleys/mews to provide visual appeal. In required active ground floor areas, the following uses are acceptable:

• Commercial uses, such as retail stores, retail service establishments, food and beverage establishments; and/or entertainment facilities, and
• Lobbies for above grade uses such as office, residential, and hotel with an emphasis on high quality design, visual transparency, and where possible, uses that engage the street.

3. Massing
The Guidelines describe the overarching design principles for all future construction in the Project Area. The Guidelines define the intended quality, characteristics and coherence of the urban elements, which regulate how the site shall be used for civic and commercial purposes. The Guidelines define building mass, street wall heights, and façade articulation necessary to create a lively urban waterfront environment.

Building setbacks above the lower levels should be employed to help limit the perceived mass of the structure and to insure that buildings maintain a human scale and a consistent street wall throughout. Setbacks for upper stories may vary in accordance with the Master Development Plan.

The buildings will have three basic components: base; middle; and top. The base will be designed in a scale and articulation that is related directly to the pedestrian. The middle portion of the building will provide scale to the buildings both horizontally and vertically. And finally, the top will be designed in a manner to provide unique articulation that visually terminates the top of the building.

3.1 Build□to□Lines
Street walls on public rights□of□way are encouraged to vary in height and express distinguishable facade types to evoke multiple buildings/uses. A minimum of 75% of the lineal length of the mandatory building frontage shall be set at the parcel boundary line or within 10 feet there from. The first two stories of a building are required to be set at this mandatory front parcel line. Variation in street wall facades is encouraged along upper levels and roof lines. In areas where active ground floor uses are required, building entrances should be located at least every 75 feet (preferably every 30□35 feet).

The character and scale of facades forming the street wall may involve the combined use of traditional and innovative materials to express a transition from a historical□era to a more modern□era design vernacular. The character, height and massing of street walls should include:

• Commercial uses, such as retail stores, retail service establishments, food and beverage establishments; and/or entertainment facilities, and
• Define a continuous street and highly articulated building by building wall mass along all build□to lines (i.e., zero front yard setbacks along public rights of way)
• Encourage projections, canopies, signage, lighting, and variation of building size
• Discourage projecting balconies
• Encourage balconies recessed within or integral with the façade wall where balconies are proposed.
• Encourage articulation of the façade that could include changing design treatment and/or materials to reduce the apparent mass of long building facades.

Encroachments on the sidewalk will be designed to encourage pedestrian activity and will be human scale. The encroachment will not impede the visual.

4.0 Circulation & Service.
Streetscapes in the Project Area are meant to be pedestrian friendly environments, featuring a consistent pallet of signage, lighting, paving, and furniture. Streets should be well lit, active, human scaled, and feel safe day and night.

The City's streetscape standards will be used for public sidewalks, streetlights, street furniture, fencing and walls, landscaping and signage in order to create a unified image of the neighborhood.

Street lighting shall comply with the *Technical and Design Standards and Guidelines*.

4.1 Parking
The provision of off□street parking within the Project Area will be as set forth in the approved planned unit development.

Parking structures will be designed to be compatible and integral to adjacent architecture in form, bulk, massing, articulation, and materials; incorporating design elements that provide visual interest on all sides visible from public rights of way.

Parking structures will be designed above grade and in a way to provide natural ventilation.

The entrance to parking structures will minimize impact on the pedestrian realm and be designed to maximize driver and pedestrian safety.

4.2 Refuse Collection
Refuse collection areas and dumpster locations shall be fully enclosed within portions of principal buildings for which they proposed to serve and shall be screened from view so as not to affect other views from around the site.

5. Architectural Features
Design references to Portland's are encouraged. The design of new buildings and structures should be timeless and enduring, seeking inspiration from the rich industrial and architectural precedents of Portland's downtown and waterfront and should seek to uphold its strong history.

5.1 Edges
Special care and design attention along with more decorative treatment and materials are desired for all edges of buildings. These are the most visible part of the urban scene. Edges include roof lines, canopies, cornices, and more prominent window openings and entrances.

5.2 Bases
Buildings should be articulated to respond to individual users. The diversity of storefront articulation will break down the scale of the overall project and street wall. The first level of buildings should be articulated by material change to express a building base and use other elements such as color, design detail, smaller scale, and higher quality materials to provide visual interest. Building ground floor bases, typically 25□40', should emphasize the ground floor activity and provide the highest quality of pedestrian environment.

5.3 Storefront and Retail Facades
See Article 9.

5.4 Corners
Corners are particularly visible and are suggested to be made more noticeable. Changes in orientation, shapes, additional materials, colors, and projections are all favored means of adding special visual appeal to interesting streets, wharf, and public spaces.

5.5 Cornices
A crowning projection, or cornice, shall be encouraged at the top of a building along the street wall (top of the building for those under 60', and at the setback for those over). These elements can be very modest in detail.

5.6 Appurtenances
Canopies, awnings, and marquees are permitted and encouraged as they provide weather protection and provide visual interest and delight to the streetscape environment. These elements are to be decorative and light weight. Variety and non□repetitive design are desired. Canopies can be constructed of a variety of materials including both fabric and metal. Fabric awnings can be retractable.

Lettering and logos are permitted on the valence flap of the awning but lettering is generally discouraged on the main body of the awning. It is desirable for these projecting elements to incorporate outdoor heating systems to lengthen the comfortable use of outdoor spaces.

Backlit awnings and canopies are expressly prohibited. Awnings and canopies may be lit from the exterior.

5.7 Skyline
A goal for the project is to create a varied and highly decorative skyline as seen from afar. The varied rooflines can be achieved by changing heights, also by varying roof types, roof angles, and the addition of vertical elements to contrast with the roofs.

Rooftop terrace structures shall not be enclosed and are not considered an additional building level. Rooftop terraces are encouraged to take advantage of views.

All exposed mechanical equipment and bulkheads shall be mounted on roofs. Equipment should be integrated into the roof design and screened in a method that is integral to the architectural design of the building and adds visual interest to the skyline. All venting of HVAC equipment shall occur on the interior of development parcels. All venting runs for cooking fans shall be fully enclosed and incorporated into the interior of proposed buildings and vented though the highest roof of the building podium.

5.8 Back Sides of Buildings.
The back sides of buildings will be designed with high quality facade materials, transparent windows, operable building entrances, and other design features consistent with the primary facades of the building. Utility meters, exhaust vents, fire escapes etc. will be designed in a manner to be unobtrusive.

6. Materials

6.1 Building Materials and Color
Use of innovative building technologies is encouraged throughout the project and should be contrasted with traditional building materials that reference Portland's history.

Recent innovations in building materials can showcase advancements in environmentally conscious design and provide a sense of excitement for project visitors.

New buildings shall be constructed with materials common throughout the Portland's downtown and waterfront rich architectural history. Use of materials such as brick, stone, steel and wood is required for the first 40 vertical feet of a building's base, especially on pedestrian□oriented street wall facades. The use of these high□quality materials is intended to convey a solid, lasting look. Buildings should employ industrial materials as a way of visually and conceptually evoking the industrial/working heritage of Portland's downtown and waterfront. These include timber, forged and cast metals as well as rough hewn stone and metal cables.

The use of cement fiber shingles, imitation stone, imitation brick, stucco or exterior insulation finish systems will be considered on any building façade above the first 40 vertical feet of the buildings.

Facade coloration shall be achieved by use of the inherent color of building materials rather than the application of color to the surface of materials. Paint should be reserved for trims and accents on metal, wood, cornices, frames and the like. Use of material's inherent color sets a standard of authenticity associated with industrial structures. Examples of this type of façade coloration desired are a variety of earth tones achieved through the use of unglazed brick, wood, concrete and steel.

Masonry facades shall include the use of stone as architectural accents for lintels, sills, copings and keystones. Foundation bases, sills and lintels shall to the greatest extent possible use local (within 500 mile radius) stone or limestone. Masonry finishes are encouraged to be natural rather than highly finished or polished.

6.2 Glass and Fenestration
The base of buildings should feature the use of glass for the first story to emphasize the importance of the ground level active use (only one level of active use is required). Glazing and openings shall promote a flexibility of ground floor uses and the potential for change over time. Proportion of glazing to overall wall area shall be a minimum of 75% on ground level street wall frontages facing public rights□of□way. The first floor windows and storefronts will be transparent with active uses visible behind them. Opaque glass shall not be used at the first floor level. Window openings shall express sills and headers of metal or stone. Storefronts should be integrated into the design and materials of the entire building. The storefront's bulkhead/knee wall should be constructed of a durable and evocative material. Transoms are encouraged for larger window units. In all building facades windows are encouraged to be set back from the wall surface a minimum of six inches from the surface of masonry to the glazing. Tinted or reflective glass will not be utilized.

Window proportions, groupings and rhythms shall be integral elements of the design of each building facade and urban street□wall. Punched windows are desired above the 2nd floor. Curtain walls are discouraged unless used to define a vertical corner or other discreet architectural emphasis. Glazing systems shall be designed to promote area□wide visibility, accessibility and safety during evening hours and during the winter season. Well designed fenestration patterns that evoke historic fenestration are preferred over attempts to replicate historic patterns.

7. Signage
Signage lighting should come from direct shielded light sources and be carefully integrated into the overall design of the building so as to provide visibility and safety but avoid creating glare or light distribution that adversely affects motorists or pedestrians. Backlit signage is generally discouraged.

Neon signs may be allowed so long as they are carefully designed in size, shape and color that complement the architecture of the building and the district.

8. Lighting
The vision for Bayside seeks a maximum amount of light that creates a variety of environments and experiences. Lighting should be used for artistic purposes and carefully integrated with the architecture and buildings, such as to accent edges.

The commercial buildings are intended to be inviting to the public, to encourage visitors to enter the site from the city streets, to shop at the retail stores and eat at the restaurants, and to generally stay longer and take full advantage of the waterfront area. Balanced against an appropriate level of street illumination, there is a need to limit light that is cast up and into upper floors of buildings or the atmosphere. Lighting fixtures should be scaled to the pedestrian and have a distinctive industrial character. Architectural accent lighting should highlight corners and roof edges.

Storefront lighting is one of the best sources of sidewalk lighting in urban areas. It is warm and welcoming, and contributes to a sense of activity and watchfulness. It also generally provides a greater amount of light directly onto the sidewalk than do street□level luminaries. Retail storefronts are an effective way to provide lighting from the buildings.

The first four feet inside any retail or restaurant establishment shall have decorative lighting, preferably with visible point sources. Occupancies on the first floor that do not have active, bright window displays shall be designed to provide visual articulation from lighting at no greater than 25 feet intervals. This can be accomplished in a variety of ways, such as:

- Decorative luminaries mounted to walls, posts, brackets, etc.
- Lighting surfaces, textures and objects such as pilasters, wall features, banners, sculptures, graphics, etc.
- Internally lighted glowing architectural or graphic elements such as glass block, display cases, signage panels, canopies, transparencies, etc.
- Lighting at entryways (especially if they are recessed).
- Lighting property addresses.

9. Retail

9.1 Retail Storefront Requirements
All buildings with retail on the first floor shall incorporate a traditional storefront design with a large display window or windows of clear glass, bulkheads, recessed entries (where appropriate), transom windows, and suitable locations for signs at their ground levels. Blank walls should be minimized and static displays (including photographs) will discouraged in display windows. Modern and creative design solutions may be employed as long as the traditional storefront proportions are referenced. Multiple storefronts within the same building should be visually compatible in terms of scale, alignment, color and materials. The intent is to encourage creativity by individual retailers to add to the character and place making of Bayside.

9.1.1 Storefront Character
Storefronts should be individual expressions of a tenant's identity; however, tenants will be discouraged from using national brand standard storefronts and/or representations of their identity in an effort to create a retail environment that is uniquely Bayside Storefronts should be integral to the building design but should also provide a distinct retail identity at the ground level.

9.1.2 Storefront Entries and Doors
Door placement and design are an integral part of each storefront, as they are the prevalent method of entry into each space. Placement and design should provide a direct "connection" to the sidewalks and streets. Restaurants tenants are encouraged to provide a clear thru□way and a visual connection to exterior seating areas, if any.

9.1.3 Storefront Materials
The design, fit, and finish of all components for each storefront should be of the highest quality. Additional focus should be on window design to create a visual connection between the interior and exterior. Durable materials should be utilized for storefront construction as these are especially critical at street level where pedestrian contact will be considerable. Storefronts should be pre□dominantly glass to provide views into the store, but glass should not be the exclusive material.

9.1.4 Storefront Lighting
Night lighting of retail will help animate Bayside, prolong street life after business hours, and increase pedestrian safety. Storefront facades, recessed doorways, outdoor spaces and passageways should be well lit. Sign lighting, including flat□mounted signs, blade and banner signs, must be lit with concealed lighting or from above with down□lighting. Fixtures should be located and angled to ensure that they spotlight the tenant's merchandise and do not point toward the window or cause distracting reflections. Include "after hour" lighting within the front of stores to contribute to pedestrian lighting and provide for a comfortable night time strolling experience.

9.1.5 Storefront Canopies and Awnings
Design and placement should complement the scale of the store facade design. Collective placement of canopies and/or awnings along a street should maintain overall design integrity and avoid a uniform layout providing weather protection at a minimum of 20 feet at all storefront and building entrances. Canopies shall be constructed of permanent, durable materials, with glass and steel preferred. Awning material should be of a woven fabric or other material that projects the natural appearance of canvas, metal, glass, etc. Retractable or open side awnings are acceptable. Vinyl awnings and internally lit awnings are not allowed.

9.1.6 Storefront Signage
Creativity in signage design is encouraged and adds to the ground level experience at Bayside. Non□descript box signs are discouraged.

10. Sustainability
The project will be designed in accordance with the energy standards of the building codes and using new sustainability construction practices.

EXHIBIT 4 (part 3 of 3)
[Phase I Specifications Sheet]

Standard Features

EXTERIOR FEATURES
- Pile / Grade Beam Foundation Construction
- Parapet roof design
- Multi-ply Insulated Roofing Membrane system
- Parking Garage access
- Direct access to ground floor retail
- Connecting walkways to Bayside trail
- Multi material exterior facade; brick, exterior insulated finish systems, glazing and metals

BATHROOMS
- 2- Bedroom Units shall have 2 baths; 1- Bedroom Units shall have 1 ½ baths
- Polished Brass/Chrome Fixtures & Accessories in Bathrooms
- Surface mount brushed nickel/brass vanity lights
- Half Baths/Powder rooms Pedestal Sink
- Full and ½ baths shall have White Laminate Cabinets and solid surface vanity tops with integral sink
- Baths shall have ceramic on floor and walls
- Elongated Commodes in all Baths
- Handicapped Units equipped per code
- Energy Star Rated Bathroom Fans per specification

KITCHEN
- Maple Cabinets with 30" – 42" Upper Wall Cabinets
- Premium grade Formica Counter Tops with 3 ½" backsplash
- Single Bowl Stainless Steel Drop in Sink
- Garbage disposal
- Single Lever Polished Chrome Faucet with spray
- Energy Efficient Appliance Package to include: Dishwasher, Self-Cleaning Oven, Microwave with re-circulating exhaust fan, Side x Side Refrigerator
- Appliance Packages to be Profile or Stainless Steel
- Surface mount light in Kitchen and Dining areas

ENERGY EFFICIENCY
- Energy Star Forced Warm Air High Efficiency Electric Furnace with Central Air Conditioning per unit
- Energy Star Rated 45 Gallon Electric Hot Water Heater per unit
- Energy Star Rated Efficient Double Glazed Double Hung Vinyl Tilt Windows with Screens and Grilles
- Energy Star Rated Insulation in Attic ceiling areas and Interior Walls

FLOORING
- Vinyl Flooring in Foyer, Kitchen, Laundry and Baths
- Carpeting in Hallways, Bedrooms, Dining Room, Living Room and Closets

INTERIOR FEATURES
- Six Panel Masonite Interior Doors with Brushed Nickel/Brass Hardware
- All doors, windows and cased openings shall be trimmed with 2 ½" casing. Baseboard shall be 3 ¼"
- Walls are painted one prime and one matte flat finish Sherwin Williams Linen White; trim is painted one prime and two coats semi-gloss latex Sherwin Williams White. Ceilings are smooth finish and painted white
- Ventilated Shelving in closets
- Washer and Electric Dryer per unit
- Approximately 8' Ceiling Height on all levels
- Cable/Data/Telephone ports in all bedrooms and living areas
- Outlets per code

COMMON AREAS

- Vestibules and lobby areas shall have tile and carpet flooring and painted walls
- Common hallways shall have carpeting and painted walls
- Centralized elevator lobby location (pedestrian and service) per building
- Centralized mail center per building
- Fully furnished amenity areas
- Management/Leasing Office on-site
- Private ground floor door entry with security system

CONSTRUCTION FEATURES

- Type I Construction, steel and concrete frame
- Concrete/Metal decking Flooring system
- Panelized exterior wall system; EIFS, glazing, brick
- Concrete/Metal decking Flooring system
- Interior Walls and Ceilings are gypsum wall board per code
- Closed Loop Mechanical System
- 150 Amp Electrical Service per unit
- Hard wired smoke and heat detectors with battery backup and one combination smoke/carbon monoxide detector per code
- Ground Fault Interrupt (GFI) installed per code
- Fire Suppression designed per code
- STC Rating designed per code

EXHIBIT 5

[Job Creation Agreement]

JOB CREATION AGREEMENT

THIS JOB CREATION AGREEMENT made this 15th day of October between **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, its nominee or assignee, ("Legacy Park"), and **CITY OF PORTLAND, MAINE** a municipal corporation located at 389 Congress Street, Portland, Maine 04101 ("City").

WHEREAS Legacy Park is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, (collectively, "Agreement"), as amended, for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a $9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park from funds being provided to the City by the U.S. Department of Housing and Urban Development pursuant to the Bayside Redevelopment Project, Maine BEDI Grant and Section 108 Loan Program, ("HUD Funds"), toward the expense of the construction of a garage, with no fewer than 700 parking spaces and approximately thirty thousand square feet of commercial space on the first floor on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage");

WHEREAS Section 11 of the Agreement requires Legacy Park to comply with all the terms and conditions related to the use of the HUD Funds contributed by the City as City Grant Funds to Legacy Park for the construction of the Garage related to providing documentation of job creation in accordance with the terms of this Job Creation Agreement.

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration the parties covenant and agree in this Job Creation Agreement as follows:

1. <u>Job Creation Requirement</u>:

    (a) Legacy Park shall create a minimum of 40 new[1] permanent, full-time or full-time equivalent jobs[2] in the Bayside neighborhood resulting from or related to the disbursement of the City Grant Funds for the construction of the Garage. ("Job Creation Requirement"). For the purpose of this Jobs Creation Agreement, Legacy Park may meet the Job Creation Requirement with jobs related to the operation of the Garage or jobs related to new or existing Bayside neighborhood business activity created or increased by the operation of the Garage. The new jobs may be, but are not required to be, employees of Legacy Park, or its lessees.

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[1] In accord with HUD law and regulations, these must be new jobs, and not re-located jobs.

[2] For currently applicable regulations, full time jobs require a worker to work at least 1750 hours per year. Part time jobs require a worker to work at least 875 hours but less than 1750 hours per year. Part-time jobs must be converted to Full Time Equivalents (FTE). An FTE can be defined as two part time jobs. Also or said another way, no more than two part-time jobs can equal one full-time job.

City agrees to assist Legacy Park with information required by Legacy Park to meet the Reporting Requirements of this Job Creation Agreement related to Job Creation Requirement. In particular, when 'countable' new jobs are created by businesses that are not lessees of Legacy Park, the City will use best efforts to assist Legacy Park to obtain the necessary documentation from such employers or otherwise, to 'count' these jobs to, in part, meet this Job Creation Requirement; Legacy Park, however, acknowledges that this Job Creation Requirement (and the related reporting) remains its obligation. The jobs must be created within two (2) years from the issuance of the Certificate of Occupancy for the Garage.

(b) Legacy Park shall be deemed to have met the Job Creation Requirement and this Job Creation Agreement shall terminate upon submission to the City of a Position Summary Quarterly Report identifying the 40th full time or full time equivalent new job created in accordance with the provisions of Section 1(a) of this Job Creation Agreement, and verification and approval of the same by the City.

2. Reporting Requirements:

Legacy Park shall submit a Position Summary Quarterly Report, (Attachment A), for all new jobs created under this Job Creation Agreement on a quarterly basis until the Job Creation Requirement is met:

(a) total number of full time persons employed as a result of the completion of the Garage;

(b) total number of part time persons employed as a result of the completion of the Garage; and

(c) the employee name, job title, and average number of hours worked per week for the previous quarter.

AND EITHER (Choose 1 or 2 to be used for Legacy Park and it's Lessees reporting job creation):

1) Applicant/employer certifications (Attachment B) to be completed by all potential employees and the employer;

OR

2) A copy of the companies' payrolls. A baseline payroll must be submitted prior to the completion of the Garage.

3. Default. Legacy Park shall be deemed to be in default of this Job Creation Agreement if there is a failure to comply with any of the terms, conditions, provisions, or covenants of this Job Creation Agreement, or its obligations hereunder, including its obligation to meet

the Job Creation Requirement set forth herein. Any default will be considered a breach of this Job Creation Agreement and Section 9 of the Parking Garage Contribution Agreement. If Legacy Park informs the City, in good faith, at least 3 months before the deadline for its meeting this Job Creation Requirement that Legacy Park may not meet this deadline, with evidence and reasons for this, the City will use its best efforts to obtain an extension of this deadline from HUD or to otherwise change this requirement, such as a reduction in the number of required new jobs, and if it obtains such an extension or change, it shall immediately transmit to Legacy Park evidence of this extension or change by HUD, and this timetable shall thereby be correspondingly changed, without further action of the parties hereto being required.

4. Records. Legacy Park agrees to maintain a copy of all records related to the creation of jobs as required by this Job Creation Agreement for a period of four years after the creation of the 40th job. Legacy Park will, at any time during normal business hours, and as often as the City may deem necessary, permit the City, HUD or its designee to have full and free access to Legacy Park's records related to the new jobs identified in the Position Summary Quarterly Reports submitted under this Job Creation Agreement and to make copies of same at no cost or expense to the City. This right also extends to verification of the wages paid related to the new jobs. City agrees to review and maintain copies of such employment related records in complete confidentiality and in accordance with all State and Federal laws related to employment information and records.

5. Compliance with Laws and Regulations. Legacy Park, as the recipient City Grant Funds, shall comply with all applicable requirements of Federal laws related to the HUD Funds received by the City including, but not limited to, the applicable provisions of Title 24 Code of Federal Regulations, Section 570, state or local laws, regulations or ordinances and further agrees to abide by Title VIII of the Civil Rights Act of 1968 barring discrimination upon the basis of race, color, religion, familial status, sex or national origin, in the sale, lease, rental, use or occupancy of Legacy Park's property

6. Entire Agreement. This Job Creation Agreement and the Parking Garage Contribution Agreement constitute the entire agreement between the parties arising out of or related to Section 11 of the Agreement, as assigned and amended, and supersedes all prior representations and understandings of the parties. No modifications or amendments of the Job Creation Agreement shall be binding unless executed in writing by all the parties.

7. Waiver. No waiver of any of the provisions of this Job Creation Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

8. Successors. This Job Creation Agreement shall be binding upon and shall inure to the benefit of, the parties, their respective personal representatives, heirs, successors and assigns.

9. Assignment. Legacy Park shall not have the right to assign this Job Creation Agreement, or any rights hereunder, to any person or entity without the express written consent of the City. Such consent by the City shall not be unreasonably withheld.

10. Governing Law. This Job Creation Agreement shall be governed by and construed in accordance with the State of Maine.

11. Notices. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, email: MHR@portlandmaine.gov , with a copy to, the Director of Economic Development, facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), email: gary@portlandmaine.gov , and to Buyer c/o The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j_cox@federatedcompanies.com.

12. Counterparts. This Job Creation Agreement may be executed in any number of counterparts, which together shall constitute one document.

13. Paragraph Headings. The paragraph headings hereof are for convenience only and shall not form a part of this Job Creation Agreement or be used in the interpretation hereof.

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

Legacy Park Apartments LLC:

Cynthia Palmer

Witness

By: Jonathan Cox
Its: Member

City of Portland, Maine

Judith Rosen

Witness

Mark H. Rees

By: Mark H. Rees
Its: City Manager

Approved: Ellen Sanborn, Finance Director

Approved as to Form/Corp. Counsel

ATTACHMENT A

POSITION SUMMARY QUARTERLY REPORT

This report summarizes all the *new* employee information you have collected for new positions created since your last report. Please list all new employees hired. *Do not include new employees hired to fill job vacancies caused by an employee who left.* The report should be completed as of the last day of each quarter (March 31, June 30, September 30, and December 31) and submitted to avp@portlandmaine.gov by the 10th of the month following the quarterly period covered. The report is to be submitted by Legacy Park with either: 1) the Applicant/ Employer Certifications (attachment B) or 2) a copy of the company's payroll, including all weeks in the quarter. If you decide to submit the company payrolls you will need to provide a baseline payroll prior to utilizing the garage. If you have any questions, please do not hesitate to call at 207-874-8731.

Date: ______________________

Company Name: ______________________

Employee's Name	Job Title	Work Hours per Week

Number of Full Time Employees at End of Last Quarter ________

Number of Part Time Employees at End of Last Quarter ________

Number of New Full Time Positions Filled in this Quarter ________

Number of New Part Time Positions Filled in this Quarter ________

Total Full Time and Part Time Employees Ending this Quarter ________
(No more than two part time jobs can be added to create one full time equivalent.)

Employer Certification
To the best of my knowledge, I certify that the information contained in this position Summary Report is true and accurate.

Quarter Ending ________ Signature/Title ________

Date ________ Company ________

ATTACHMENT B
Applicant/Employer Certification

This employer has received funding from the City of Portland for business expansion that will create new jobs. The funding for this program comes from the U.S. Department of Housing and Urban Development. One of the requirements of this program is that we must report information about potential employees. Please complete the information requested below and return it to the employer. The information will not be used to evaluate you for this position.

Thank you in advance for your cooperation. If you have any questions about completing this form, please feel free to contact us at 207-874-8731.

APPLICANT CERTIFICATION

Name:______________________________Address:______________________________________

Employer:____________________________Job Applied For: ____________________________

How many persons live in your household? ___
The Head of Household is female ___ or male___

Check all that apply. I am:
_____ Hispanic or Latino
_____ American Indian or Alaskan Native
_____ Asian
_____ Black or African American
_____ Native Hawaiian or Other Pacific Islander
_____ White

Date: ____________ Signature: ________________________________

EMPLOYER CERTIFICATION

Job Title: ___________________________________

Full Time ______Part Time ______ # of Hours per Week _________

Starting Pay/Hourly Rate $

Date Interviewed: __/__/__ Date Hired: __/__/

Employer Name__________________________ Signature/Title________________________

order 49-14/15
~~Tab 18 9-3-14~~
Tab 13 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING AND AUTHORIZING THE ACTING CITY MANAGER TO AMEND THE BAYSIDE HOUSING AND URBAN DEVELOPMENT 108/BROWNFIELDS ECONOMIC DEVELOPMENT INITIATIVE GRANT PROGRAM RE: SOMERSET STREET

ORDERED, that any amendment to the Bayside Housing and Urban Development 108/Brownfields Economic Development Initiative Grant Programing for the Somerset Street Reconstruction Project is hereby approved; and

BE IT FURTHER ORDERED, that the Acting City Manager is hereby authorized to execute whatever documents are necessary to effect the intent and purpose of the Amendment and this Order.

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: August 21, 2014

cc: Mark Rees, City Manager
Michael Bobinsky, Public Services Director
Jeff Levine, Planning and Urban Development Director
Ellen Sanborn, Finance Director

SUBJECT: Order to Amend and Reprogram a Portion of Bayside HUD 108 Loan/BEDI Grant Funds for the Somerset Street Reconstruction Project

SPONSOR: Housing and Community Development Committee/Councilor Donoghue, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:

Placed on Council Agenda for September 3, 2014, with it tabled to the September 15, 2014 Council meeting for action – one reading required. This would be a companion to two other items to be voted on at the September 15 Council Meeting: amendment to Federated Midtown Project Documents, including Somerset Street Cost Share Agreement; and for the issuance of City Debt for the Somerset Street Cost Share Agreement.

Can action by taken a later date? No. **If no, why not?** Timing of the Bayside HUD 108 Loan/BEDI Grant drawdown deadline is September 30, 2014.

SUMMARY OF ISSUE

The elevation of Somerset Street, between Pearl and Elm Streets, needs to be raised and utilities adjusted to support improved pedestrian/vehicle access to new private development and address flooding issues in Bayside. To assist with funding this project, estimated at $4 Million, there is the need to amend the HUD Loan/BEDI Grant Programming to use a portion of the funds for the project in the amount of $1 Million.

Originally, $1 Million was budgeted to support the relocation of the one remaining scrap yard in Bayside. This $1 Million is comprised of $666,666 in HUD loan funds and $333,334 in BEDI Grant Funds. Several attempts made by the City, over a number of years, to relocate this scrap yard have been unsuccessful. Therefore, it is proposed that the $1 Million be reprogrammed for investment into the Somerset Street Reconstruction Project.

REASON FOR SUBMISSION

City Council approval is needed to amend the Bayside HUD 108 Loan and BEDI Grant Program funds for the Somerset Street Reconstruction Project in a total amount of $1 Million. Again, this source is comprised of $666,666 in HUD loan funds and $333,334 in BEDI Grant funds.

The scope of the Somerset Street Reconstruction Project is designed to raise the grade of the street between Pearl and Elm Streets and adjust utilities. The overall cost of this Project is estimated to be $4 million. A cost share agreement has been negotiated for the Federated Companies to invest one-third (1/3) of the total costs and for the City to cover two-thirds (2/3) (see Attachment 1). The proposed financial sources include:

Responsibility	Amount	Sources
Federated	$1.33	Federated
City	$2.67	$1.0 mil. (HUD - $666,667 Loan, $333,333 Grant) $1.0 mil. (Available Bayside TIF reserve) $0.70 mil. (New City Debt)
Total	$4.0	

It is important to note there is a September 30, 2014 deadline for the City to draw down HUD 108 loan funds for use.

INTENDED RESULT

City Council approval of the proposed HUD Loan/BEDI Grant funding reprogramming of $1 Million will provide a needed source of funding for a portion of the $4 Million cost for the Somerset Street Reconstruction Project.

COUNCIL GOAL ADDRESSED

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

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

FINANCIAL IMPACT

City staff prepared debt service projections for the additional City debt in the amount of $1.367 million, along with projected property revenue associated with midtown project to demonstrate that there is adequate property tax revenue to retire new City debt associated with the Somerset Street Reconstruction Project. City staff analysis is attached for your information (see Attachment 2).

RECOMMENDATION

HCDC reviewed this on August 13, 2014, and unanimously voted 4-0 to recommend to City Council approval of the reprogramming of HUD Loan/BEDI Grant funds for a total of $1 Million to support the Somerset Street Reconstruction Project.

In addition, on August 21, 2014, the Finance Committee reviewed and voted 3-0 on the new City debt for the Somerset Street Reconstruction Project to forward it to the City Council with a recommendation for passage.

LIST ATTACHMENTS

1. Agreement by and between FEDEQ DV001 and City of Portland on Costs for Off-Site Improvements Improving Somerset Street, to be Partially Funded by City of Portland

2. City staff prepared debt services projections for additional City debt.

Agreement by and between FEDEQ DV001 and City of Portland on Costs For Off-Site Improvements Improving Somerset Street, To be Partially Funded by City of Portland

THIS AGREEMENT dated ___________ ____, 2014 is made by and between THE **CITY OF PORTLAND**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("FEDEQ" or "Buyer").

RECITALS

WHEREAS, an Agreement for the purchase and sale of real estate (the "P&S Agreement") has been made between the City and FEDEQ Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137, assignee of said P&S Agreement from the Federated Companies LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"); and FEDEQ Apartments LLC has recently assigned its rights in and to the P&S Agreement to **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008 , Miami, Florida 33137 ("FEDEQ");

WHEREAS, related to, and benefiting the development planned by Buyer on the real property which is the subject of the P&S Agreement, and integral thereto, are certain improvements detailed herein to the adjacent public way known as Somerset Street, and more specifically for the portion thereof between Pearl Street and Elm Street (the "Project"), which both the City and Buyer wish to see made;

WHEREAS, the estimated total costs of the Project are $4,000,000; and

WHEREAS, the City and the Buyer are willing to share these costs, as set out herein;

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. **Project and Scope and Cost and Timeline/Schedule:** FEDEQ and the City have jointly agreed to the scope of Project which work is more specifically described in Attachment A attached hereto with an estimated total project cost of $4,000,000 (the "Total Project Cost"). FEDEQ and the City have jointly agreed to a schedule or timeline for the Project, which is attached hereto as Attachment B. The term "Total Project Cost" shall mean the actual Project cost as established by FEDEQ and the City following receipt of a guaranteed maximum cost construction contract acceptable to the City and FEDEQ.

2. **Cost Sharing and Conditions Precedent:** Subject to the terms hereof, the City will fund two-thirds (2/3) of the Total Project Cost, and FEDEQ will fund one-third (1/3) of the Total Project Cost.

FEDEQ's agreement to fund said one-third (1/3) of the Total Project Cost is contingent upon: FEDEQ (or assigns) closing on acquisition of the real estate which is subject matter of the P&S Agreement.

In the event FEDEQ (or assigns) fails to close on the acquisition of the real estate which is the subject matter of the P&S Agreement, FEDEQ shall have the right to cancel and terminate this Agreement by giving written notice of such cancellation and termination to the City, and upon the giving of such notice, this Agreement shall be terminated and FEDEQ shall be relieved of all further obligations hereunder.

Prior to the issuance of a Building Permit for the Project, FEDEQ shall provide the City with evidence of its financial resources, in the amount of at least one-third of the Total Project Cost, available and dedicated to the costs of this Project, in a form reasonably acceptable to the City's Director of Finance, which may include a commitment from a commercial lender to fund requisitions for payment of Project costs.

More than likely, the actual total project cost will not be precisely the amount of the Total Project Cost stated above. Therefore, the parties agree:

(a) The contract(s) for the Project will not be 'mixed' with any other work needed by either party. Notwithstanding the foregoing, nothing herein shall prevent FEDEQ from entering into contracts with the same contractor for construction of other portions of the midtown project to be coordinated with the work on the Project, provided, however, that costs must be allocable to the Project and the midtown project.

(b) In order to address both parties' concerns that the Total Project Costs could exceed the estimate stated above, the City and, FEDEQ will meet early in the development and design of this project to jointly and cooperatively manage said project's design, staging, procurement costs and construction costs; and said parties will continue to meet as reasonably necessary for this same purpose, and will work collaboratively to control procurement and construction costs. And in particular, before FEDEQ executes contracts for the construction of the Project, the parties shall meet and agree on the scope and cost of those contracts, including amounts for project supervision and construction management, general conditions, building permit fees, bonding costs, insurance and including an

appropriate construction contingency amount. All such construction contracts shall be in the form of guaranteed maximum cost contracts.

(c) Any changes to the Project cost over and above any established contingency included in the Total Project Cost during construction shall require mutual review and agreement in writing, which shall not be unreasonably withheld or delayed.

3. **<u>Procedures for Making Disbursements (Payments)</u>.** With respect to all requisitions for disbursements of the City's share of Total Project Costs, the City and FEDEQ agree as follows:

   a. FEDEQ shall deliver to the City a written request for payment (a "Requisition") which shall be in substantially the same form as AIA Forms G702 and G703. The Requisition shall be accompanied by: (i) a summary of all expenses requested, (ii) copies of invoices, bills, receipts and such other information as may be reasonable to document the expenditures described in the Requisition, (iii) mechanics' lien affidavits and/or written lien waivers from such contractors, laborers, subcontractors and materialmen for work done and materials supplied which were paid for pursuant to the immediately preceding Requisition, and (iv) a certified payroll in conformance with the requirements of the Davis-Bacon Act of 1931, as amended, for all contractors and subcontractors on site and for which invoices are included.

   b. Requisitions shall be submitted by FEDEQ no more frequently than monthly. Prior to the disbursement by the City of any requested Requisition, City's construction inspector shall certify to City that the work for which a Requisition has been submitted has been completed and the City's Housing and Neighborhood Services staff will verify all workers are being paid the prevailing wage.

   c. A copy of the construction schedule will be submitted to the City at the beginning of the project. Updates will be provided by FEDEQ as necessary to remain accurate.

   d. City shall make disbursements to FEDEQ only after such certification and verification, and with a certified payroll, all the same must be correct and

complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement.

4. **Project Administration and Supervision:** FEDEQ will be responsible for procuring the construction contracts and for providing for the owner's administration for the Project, consistent with the scope of Project contained in Attachment A, hereto, and upon the Timeline attached hereto as Attachment B. All FEDEQ's costs for procurement of construction contracts, administration or the like shall not be shared by the City, nor shall the City be required to share in any other type of internal costs of FEDEQ. Notwithstanding the foregoing, the items described in section 2(b) above shall be payable as part of the Total Project Costs.

The City of Portland will monitor and inspect the work of the Project, including for compliance with City Rules and Ordinances. The City shall have the right to suspend work on the Project as it reasonably deems necessary, to provide for such compliance, and for compliance with the Scope of Work in Attachment A. The City's monitoring and inspection will be collaborative with FEDEQ.

The Contracts for the work of the Project between FEDEQ and its vendors and contractors shall contain these two provisions:

> Prior to the execution of this Agreement, the **CONTRACTOR** will procure and maintain Automobile Insurance and General Public Liability Insurance coverage and coverage in amounts of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage, naming the **CITY OF PORTAND** as an additional insured thereon, and also Workers' Compensation Insurance coverage. With respect to the Liability Insurance, the **CONTRACTOR** will provide the **CITY OF PORTLAND** a certificate of insurance evidencing such coverage, in this way: certificate must say either: A) "the policy has been endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability ~~Expansion~~ Extension Endorsement, by which the City of Portland is automatically made an additional insured." A Certificate which merely has a box checked under "Addl Insr," or the like, or which merely states the City of Portland is named as an Additional Insured, will not be acceptable. The **CONTRACTOR** shall furnish the **CITY OF PORTLAND** and thereafter maintain certificates evidencing all such coverages, which certificates shall provide for thirty (30) days' notice to the **CITY OF PORTLAND** of termination of insurance from insurance company or agent.
>
> The **CONTRACTOR** shall furnish to FEDEQ and to the **CITY OF PORTLAND**, upon execution of the Contract, a Contract Performance Bond and a Contract Labor and Materials Payment Bond each for the full amount of the Contract and issued by a surety

company or surety companies authorized to do business in the State of Maine and approved by the **CITY OF PORTLAND**. The Bonds shall remain in effect for one year after final acceptance of the Work, and protect both FEDEQ and **CITY OF PORTLAND** for at least one year of warranty of the Work hereunder, and also shall insure settlement of claims for the payment of all bills for labor, materials and equipment. The bonds described in this section shall be deemed to satisfy the performance guaranty requirements for the Project as required by section 14-501 of the City of Portland Code of Ordinances, and no further performance guaranty shall be required.

5. **Requirements related to Funding Sources.** FEDEQ, its employees, assigns, agents and subcontractors for this project, at all times shall comply with the requirements of the Section 108 Loan Guarantee and Brownfields Economic Development Initiative Grant program and Federal Labor Standards pursuant to Davis Bacon and related Acts, specifically including:

   a. Davis-Bacon Act, as amended.(40 U.S.C 276a - 276a-5.) All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

   b. Contract Work Hours and Safely Standards Act, as amended. (40 U.S.C. 327-333). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.

   c. Copeland Anti-Kickback Act, as amended. (18 U.S.C. 874 and 40 U.S.C. 276c). This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions.

6. **Entire Agreement.** This Agreement (i) constitutes the entire agreement between the parties hereto with respect to the Project and it supersedes all prior discussions, undertakings or agreements between the parties in respect to the Project; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Agreement shall not confer any rights or remedies upon any third-party

other than the parties to this Agreement and their respective successors and permitted assigns.

7. **Notices.** Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, with a copy to, the Director of Economic Development, facsimile 207-756-8217, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), and to FEDEQ, at the address recited above, with a copy to The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931.

8. **Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

IN WITNESS WHEREOF, the City and FEDEQ, by their representatives duly authorized, have caused this instrument to be executed as of ____________ ___, 2014.

FEDEQ DV001, LLC

By____________________,
Jonathan Cox
Its: Manager

CITY OF PORTLAND

By____________________
Mark Rees, City Manager

By____________________
Ellen Sanborn, Finance Director

By____________________
Corporation Counsel attorney

O:Bayside Federated Somerset Street Cost Share Agreement Clean Version 7-25-14

Budget Site Construction Cost Estimate Peer Review

Midtown - Somerset Street Improvements
12/5/2013

WOODARD & CURRAN

Description	Site Development Costs		Somerset Street Costs		Total Costs	
	Total	% of Total	Total	% of Total	Total	% of Total
Item (a) Basis of Design:						
Site Demolition	$ -	0.0%	$ 28,055	2.1%	$ 28,055	0.8%
Preliminary Site Work	$ -	0.0%	$ 61,241	4.6%	$ 61,241	1.8%
Earthwork	$ -	0.0%	$ 32,447	2.4%	$ 32,447	0.9%
Dewatering	$ -	0.0%	$ 10,000	0.8%	$ 10,000	0.3%
Storm Drainage (See Note 1)	$ 202,470	9.7%	$ 1,260	0.1%	$ 203,730	6.0%
Sanitary Systems	$ 20,596	1.0%	$ -	0.0%	$ 20,596	0.6%
Water Systems	$ 118,118	5.7%	$ 1,200	0.1%	$ 119,318	3.5%
Portland Water District - Water Service Fees	*$ 15,000*	0.7%	$ -	0.0%	$ 15,000	0.4%
Misc Site Utilities (See Note 2)	$ 175,933	8.4%	$ 240,948	18.1%	$ 416,881	12.2%
Unitil - Gas Utility Fees (Allowance)	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Central Maine Power - Phase 1 Electrical Utility Fees	*$ 268,000*	12.8%	*$ 332,000*	24.9%	$ 600,000	17.5%
Central Maine Power - Phase 2 Electrical Utility Fees	*$ 317,000*	15.2%	*$ 83,000*	6.2%	$ 400,000	11.7%
Time Warner - Communication Utility Fees (Allowance)	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Fairpoint - Communication Utiltiy Fees	*No Cost*	0.0%	*No Cost*	0.0%	$ -	0.0%
Roads/Walks (See Note 3)	$ 99,463	4.8%	$ 540,113	40.5%	$ 639,576	18.7%
Site Improvements (See Note 4)	$ 550,623	26.4%	$ 2,398	0.2%	$ 553,021	16.2%
Concrete (See Note 4)	$ 161,666	7.7%	$ -	0.0%	$ 161,666	4.7%
Misc Metals (See Note 4)	$ 40,991	2.0%	$ -	0.0%	$ 40,991	1.2%
Electrical Site (See Note 5)	$ 116,953	5.6%	$ -	0.0%	$ 116,953	3.4%
Item (a) Basis of Design Sub-Total	***$ 2,086,813***	***100%***	***$ 1,332,662***	***100%***	***$ 3,419,475***	***100%***
Estimate Adjustment and Indirect Costs:						
Cost Estimate Adjustments (See W&C 11/15/2013 Memo	$ 11,900	3.1%	$ 40,000	14.3%	$ 51,900	7.8%
Contractor General Conditions (See Note 6)	$ 166,945	43.1%	$ 106,613	38.1%	$ 273,558	41.0%
Contractor OH&P, Insurance, Bonds (See Note 7)	$ 208,681	53.8%	$ 133,266	47.6%	$ 341,948	51.2%
Estimate Adjustment and Indirect Costs	***$ 387,526***	***100.0%***	***$ 279,879***	***100.0%***	***$ 667,406***	***100.0%***
Somerset Street Improvements Total (Rounded)	***$ 2,474,000***		***$ 1,613,000***		***$ 4,087,000***	

Notes:

1) Cost segregation assumes Site Development Costs include off-site drainage piping/structures required for on-site stormwater treatment system.
   a) Cost to raise existing storm drainange manholes/catch basins is included in the Somerset Street Costs.
2) Cost segregation assumes Site Development Costs will include electrical trenching, backfill and precast concrete light pole bases.
   a) Infrastructure and utility company fees to relocate overhead electrical/communication utilities are shared based on scope of work.
3) Cost segregation assumes Site Development Costs will include new and existing granite curbing along Somerset, Elm, Chestnut and Pearl Streets.
   a) Cost for approximately 1,080 CY of lightwieght concrete fill under new sidewalks is included in the Site Development Costs.
   b) Cost to remove and re-set approximately 1,120 LF of existing granite curb on the southeast side is included in the Somerset Street Costs.
4) Cost segregation assumes Site Development Costs will include all brick pavers, concrete ramps/planters/stairs/rails and trees.
5) Cost segregation assumes Site Development Costs will include all site lighting concrete bases, light poles, luminaires and wiring.
6) Contractor General Conditions (not included in PC estimate) may range in the amount of 8-10% depending on schedule and concurrent activities.
7) Contractor OH&P, Insurance, Bonds and Contingency (not included in PC estimate) may range in the amount of 10-12%.
8) Allowance has been included for electrical utility company fees for relocating existing overhead electrical services to underground.
   a) CMP Phase 1 cost assumes Site Development Costs include (1)-2000 & (1)-500 KVA pad mount transformers, 500 CU cable and junction pole.
   b) CMP Phase 1 cost assumes Somerset Street Costs include (1)-1000 KVA submersible transformer, 500 CU cable and riser poles.
   c) CMP Phase 2 cost assumes Site Development Costs include (3)-2000 & (1)-500 KVA pad mount transformers and 500 CU cable.
   d) CMP Phase 2 cost assumes Somerset Street Costs include 500 CU primary cable at Elm Street.
9) Allowance has been included for water utility company fees for new Site Development fire and domestic water services.
10) No allowances have been included for gas, telephone and cable utility company fees since there should be no charge for this work.
11) No allowances have been included for unsuitable soils or contaminated groundwater treatment/disposal.
12) No allowances have not been included for offsite improvements or traffic control signalization.

ATTACHMENT B TO COST SHARING ARRANGEMENT
TIMELINE FOR PROJECT -
TO BE PROVIDED

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Greg Mitchell, Economic Development Director

FROM: Ellen Sanborn, Finance Director

DATE: June 23, 2014

RE: Debt Service Projection for Midtown Project

Attached is an amortization schedule for financing $1.367 million associated with this project. This amount, as I understand it, would include $700,000 in general obligation bonds and $667,000 from the HUD108 loan for the Bayside redevelopment program.

The HUD108 portion will be paid according to the principal payment schedule in our agreement, with interest rate to be determined in the fall when we permanently finance the total loan of $10.2 million. The general obligation portion would be included in our annual bond sale. I have estimated a 4.5% interest rate for both. Note the change in payment amounts in Yr 15 of the schedule, which are due to the term of the HUD108 being shorter than the bond financing.

Midtown Project
Estimated Debt Service Amortization

		Prin	Int	Ttl	Prin Bal
Original amount financed					$ 1,367,000
Annual Payment Amounts	Yr 1	$ 56,348	$ 61,515	$ 117,863	1,310,652
	Yr 2	$ 59,618	58,979	118,597	1,251,034
	Yr 3	$ 62,887	56,297	119,184	1,188,147
	Yr 4	$ 66,157	53,467	119,623	1,121,990
	Yr 5	$ 75,966	50,490	126,455	1,046,025
	Yr 6	$ 79,235	47,071	126,306	966,789
	Yr 7	$ 82,505	43,506	126,010	884,284
	Yr 8	$ 85,775	39,793	125,567	798,510
	Yr 9	$ 85,775	35,933	121,707	712,735
	Yr 10	$ 84,819	32,073	116,892	627,916
	Yr 11	$ 100,392	28,256	128,648	527,524
	Yr 12	$ 103,662	23,739	127,400	423,862
	Yr 13	$ 106,931	19,074	126,005	316,931
	Yr 14	$ 106,931	14,262	121,193	210,000
	Yr 15	$ 35,000	9,450	44,450	175,000
	Yr 16	$ 35,000	7,875	42,875	140,000
	Yr 17	$ 35,000	6,300	41,300	105,000
	Yr 18	$ 35,000	4,725	39,725	70,000
	Yr 19	$ 35,000	3,150	38,150	35,000
	Yr 20	35,000	1,575	36,575	(0)
Total		$ 1,367,000	$ 597,528	$ 1,964,528	

Estimated Repayment Schedule for HUD108 Loan

Federated Portion Only
23-Jul-12

Princ. Due	City FY	Amt Disbursed	Principal Repayment	Outstanding Balance	Act./Est. Interest	Est. HUD Annual Payment	Est Fed Project Tax Pymts*	*Variance between HUD loan and Fed Project Payment*
					3.5%			
8/1/2013	14	$ 8,231,448	$ 165,456	$ 8,065,992	$ -	$ 165,456	277,196	*111,740*
8/1/2014	15		206,820	7,859,171	282,310	489,130	431,550	*(57,580)*
8/1/2015	16		206,820	7,652,351	275,071	481,891	758,934	*277,042*
8/1/2016	17		248,184	7,404,167	267,832	516,017	774,112	*258,096*
8/1/2017	18		289,548	7,114,618	259,146	548,694	789,594	*240,900*
8/1/2018	19		330,912	6,783,706	249,012	579,924	805,386	*225,462*
8/1/2019	20		455,005	6,328,701	237,430	692,434	821,494	*129,060*
8/1/2020	21		496,369	5,832,333	221,505	717,873	837,924	*120,051*
8/1/2021	22		537,733	5,294,600	204,132	741,864	854,682	*112,818*
8/1/2022	23		579,097	4,715,503	185,311	764,408	871,776	*107,368*
8/1/2023	24		579,097	4,136,406	165,043	744,139	889,212	*145,072*
8/1/2024	25		620,461	3,515,945	144,774	765,235	906,996	*141,761*
8/1/2025	26		827,281	2,688,664	123,058	950,339	925,136	*(25,204)*
8/1/2026	27		868,645	1,820,019	94,103	962,749	943,638	*(19,110)*
8/1/2027	28		910,009	910,009	63,701	973,710	962,511	*(11,199)*
8/1/2028	29		910,009	-	31,850	941,860	981,761	*39,902*
Total		$ 8,231,448	$ 8,231,448		$ 2,804,276	$ 11,035,724	$ 12,831,903	*$ 1,796,175*

* *Phase I value only estimated at $38 million in built-out value with an annual 2% tax rate increase.*

Midtown Project
Estimated Debt Service Amortization and Cash Flow Analysis

6/24/2014

		Debt Service Amortization			Cash Flow Analysis	
		Prin	Int	Ttl		Variance
Additional amount financed					Est. Fed Project Revised Phase 2 Payments	Between Additional City Debt and Phase 2 Payment
Annual Payment Amounts	Yr 1	$ 56,348	$ 61,515	$ 117,863	195,500	$ 77,637
	Yr 2	$ 59,618	58,979	118,597	398,820	$ 280,223
	Yr 3	$ 62,887	56,297	119,184	813,593	$ 694,409
	Yr 4	$ 66,157	53,467	119,623	829,865	$ 710,241
	Yr 5	$ 75,966	50,490	126,455	846,462	$ 720,007
	Yr 6	$ 79,235	47,071	126,306	863,391	$ 737,085
	Yr 7	$ 82,505	43,506	126,010	880,659	$ 754,649
	Yr 8	$ 85,775	39,793	125,567	898,272	$ 772,705
	Yr 9	$ 85,775	35,933	121,707	916,238	$ 794,530
	Yr 10	$ 84,819	32,073	116,892	934,562	$ 817,670
	Yr 11	$ 100,392	28,256	128,648	953,254	$ 824,605
	Yr 12	$ 103,662	23,739	127,400	972,319	$ 844,918
	Yr 13	$ 106,931	19,074	126,005	991,765	$ 865,760
	Yr 14	$ 106,931	14,262	121,193	1,011,600	$ 890,407
	Yr 15	$ 35,000	9,450	44,450	1,031,832	$ 987,382
	Yr 16	$ 35,000	7,875	42,875	1,052,469	$ 1,009,594
	Yr 17	$ 35,000	6,300	41,300	1,073,518	$ 1,032,218
	Yr 18	$ 35,000	4,725	39,725	1,094,989	$ 1,055,264
	Yr 19	$ 35,000	3,150	38,150	1,116,889	$ 1,078,739
	Yr 20	35,000	1,575	36,575	1,139,226	$ 1,102,651
Total		$ 1,367,000	$ 597,528	$ 1,964,528	18,015,223	$ 16,050,695

Assumptions:
Phase 2 Project municipal valuation ($ 39.1 million) at 25% year 1, 50% year 2 and 100% year 3 at mil rate $20/$1000 with an annual 2% tax rate increase.

O:\Bayside - Federated Companies\HCDC and Council Communications\6-25-2014 HCDC Meeting Materials\Copy of Debt svc amort June 2014 for HCDC_5

Order 50 - 14/15
~~Tab 19 9-3-14~~
Tab 14 9-15-14

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER AUTHORIZING A LOAN FROM FINANCE AUTHORITY OF MAINE IN AN AMOUNT NOT TO EXCEED $3,500,000

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 11 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized a Three Million Five Hundred Thousand Dollar ($3,500,000) loan from the Finance Authority of Maine ("FAME") to the City of Portland, through the State Small Business Credit Initiative and FAME's Regional Economic Development Revolving Loan Program to fund economic development loans to local businesses through the City's Portland Development Corporation.

BE IT FURTHER ORDERED

1. That to consummate the forgoing loan, the Director of Finance be and hereby is authorized to enter into a loan agreement with FAME and to evidence such loan through issuance of a Master Promissory Note, such note to be dated, bear interest and mature as she may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to provide that the foregoing loan may be made subject to prepayment prior to the stated maturity date, with or without premium;

3. That the loan agreement with FAME and the Master Promissory Note and any other related documents necessary and convenient to carry out the intent of this Order and the loan agreement shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

4. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such other contracts, agreements, and other certificates and documents as may be necessary or appropriate as determined and approved by the Director of Finance in connection the consummation of the loan, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance, such approval to be conclusively evidenced by her execution thereof;

5. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the execution and delivery of the loan agreement and the Master Promissory Note hereinabove authorized;

6. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the loan agreement or the Master Promissory Note or any other documents necessary or convenient to the issuance, execution and delivery of the loan agreement or the Master Promissory Note, the person or persons then acting in any such capacity, whether in an interim or acting capacity or as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act; and

7. That during the term of the Master Promissory Note, the Director of Finance be and hereby is authorized to issue and deliver a refunding note to refinance some or all of the Master Promissory Note then outstanding.

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: August 19, 2014

SUBJECT: **Order Authorizing Increase of Loan Funding from FAME REDRLP/SSBCI Program from $1,000,000 to $3,500,000**

SPONSOR: Portland Development Corporation (PDC)/Jack Lufkin, Board President

Council meeting at which action is requested: September 3, 2014 first reading; September 15, 2014, public hearing and vote.

Can action be taken at a later date? No.

If no, why not? There are a number of loan requests that may be maturing in the next month and for which the SSBCI funds could be a source of funding

PRESENTATION: Jack Lufkin, PDC Board President/5 Minutes

I. SUMMARY OF ISSUE

State Small Business Credit Initiative (SSBCI)

Overview:

On April 2, 2012, the Portland City Council approved of the City's participation in the SSBCI initiative up to a $1,000,000 City Council maximum cap (see attached Council Order as passed).

City staff proposed the $1 Million cap at that time to minimize the City's exposure to this new source of new loan funds for the PDC. To date, the PDC Board has lent out $862,954, which would leave the PDC $137,046 available to draw down from FAME/SSBCI. There is sufficient demand to increase the City imposed cap of $1 Million to the FAME maximum cap of $3.5 Million.

It is noted that the $862,954 in loans through the SSBCI program are repaying on time, have leveraged over $15 Million in private investment, and supported the creation of 51 jobs and the retention of 44 jobs. There is also quarterly reporting to FAME on these loans, which has resulted in a beneficial working relationship.

The City entered into a Participant Loan Agreement (attached) with the Finance Authority of Maine (FAME) on April 4, 2012, for participation in the FAME SSBCI program. This Loan Agreement provides for the City to drawdown funds for loans through the REDRLP and SSBCI programs up to a FAME maximum cap of $3,500,000 on a competitive basis, i.e., first come, first served with other quasi-public lending institutions.

The current Loan Participation Agreement has no terms and no requirement for repayment of SSBCI funds unless the City mismanages the program or walks away from it. After five years (2017), the SSBCI revolved funds convert to a grant to the City, with no repayment obligations, for continued relending to Portland businesses. However, were the City to mismanage SSBCI funds or drop the program, FAME would take over management of the City's portfolio. All remaining SSBCI funds, the City would need to return to FAME, including those that were mismanaged (e.g., lent inappropriately) and those that had already been paid back to the City. The City would also be responsible for any fees to cover FAME's time in reclaiming mismanaged SSBCI funds and incorporating revolved funds and active loans into FAME's system.

II. REASON FOR SUBMISSION

The City Council, by Order #143 passed April 2, 2012, approved a not to exceed $1,000,000 loan from the FAME REDRLP/SSBCI program. Therefore, the City Council would need to authorize the City Manager to increase the City participation up to the FAME maximum cap allowed, or $3,500,000.

III. INTENDED RESULT

The intended result would be for an expansion of available loan funds from the REDRLP/SSBCI program to support Portland business investment and job creation.

IV. COUNCIL GOAL ADDRESSED

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

There is no direct financial impact upon the City based upon proper management of commercial loan programs.

VI. STAFF ANALYSIS AND RECOMMENDATION

Staff recommended to the PDC Board, and the PDC Board unanimously recommended to the City Council that it authorize the City Manager to increase the City loan participation in the FAME REDRLP/SSBCI programs up to the maximum allowed, or $3,500,000.

VII. ATTACHMENTS

- Council Order #143 of April 2, 2012 Approving Loan from FAME
- Master Promissory Note and Loan Participation Agreement of April 4, 2012
- First Amendment to Loan Participation Agreement of March 3, 2014

Order 143-11/12
Given first reading on 3/19/12
Public Hearing and Passage: 8-0 (Suslovic absent) 4-2-12

CITY OF PORTLAND
IN THE CITY COUNCIL

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER AUTHORIZING A LOAN FROM FINANCE AUTHORITY OF MAINE IN AN AMOUNT NOT TO EXCEED $1,000,000

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

ORDERED THAT:

There be and hereby is authorized a One Million Dollars ($1,000,000) loan from the Finance Authority of Maine ("FAME") to the City of Portland, through the State Small Business Credit Initiative and FAME's Regional Economic Development Revolving Loan Program to fund economic development loans to local businesses through the City's Portland Development Corporation.

BE IT FURTHER ORDERED

1. That to consummate the forgoing loan, the Director of Finance be and hereby is authorized to enter into a loan agreement with FAME and to evidence such loan through issuance of a Master Promissory Note, such note be dated, bear interest and mature as she may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to provide that the foregoing loan may be made subject to prepayment prior to the stated maturity date, with or without premium;

3. That the loan agreement with FAME and the Master Promissory Note shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

4. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such other contracts, agreements, and other certificates and documents as maybe necessary or appropriate as determined and approved by the Director of Finance in connection the consummation of the loan, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by her execution thereof;

5. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the execution and delivery of the loan agreement and the Master Promissory Note hereinabove authorized;

6. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the loan agreement or the Master Promissory Note or any other documents necessary or convenient to the issuance, execution and delivery o the loan agreement or the Master Promissory Note, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

7. That during the term of the Master Promissory Note, the Director of Finance be and hereby is authorized to issue and deliver a refunding note to refinance some or all of the Master Promissory Note then outstanding.

FINANCE AUTHORITY OF MAINE

STATE SMALL BUSINESS CREDIT INITIATIVE

MASTER PROMISSORY NOTE

Portland, Maine

April 3, 2012

FOR VALUE RECEIVED, the undersigned promises to pay to the order of the FINANCE AUTHORITY OF MAINE (hereafter "Holder") all sums disbursed (hereafter "loan" or "loans") under the terms of this Master Promissory Note (hereafter "Note"), without interest, but together with any other charges and fees that may become due as provided in this Note. Payments due hereunder shall be paid to Holder at 5 Community Drive, P. O. Box 949, Augusta, Maine 04332-0949, or at such other address as Holder may designate. Payment of principal is deferred unless and until Holder declares all or any part of the indebtedness evidenced by this Note due and payable pursuant to the provisions hereunder, at which time all such principal will be due, unless the Holder agrees in writing to different terms, in its discretion. Notwithstanding the foregoing, no payment of principal shall be due hereunder after March 31, 2017 (the "termination date"), unless the undersigned is in default as of the termination date.

The undersigned acknowledges that multiple loans may be made under this Note. By accepting any loans made at any time under this Note, the undersigned accepts the obligation to repay the loans according to the terms of this Note. The undersigned may cancel or reduce the amount of any loan by refusing to accept or by returning all or a portion of any disbursement that is issued. The undersigned agrees to pay reasonable collection costs, including but not limited to attorney's fees, court costs, and other fees.

Prior to the termination date, the Holder may, at its option, declare all or any part of the indebtedness evidenced by this Note due and payable upon the default under, noncompliance with, or nonperformance of any material term or condition of the Participant Loan Agreement of even date herewith between the Holder and the undersigned ("Loan Agreement"), subject to any applicable cure period.

Prior to the termination date, the indebtedness shall become immediately due and payable without notice or demand upon the appointment of a receiver or liquidator whether voluntary or involuntary for the undersigned or for any of its property or upon the making by the undersigned of an assignment for the benefit of its creditors, provided that if such appointment is involuntary and without prior notice and hearing, the undersigned shall have fifteen (15) days to obtain a dismissal thereof. The indebtedness shall become immediately due and payable without notice or demand upon the dissolution, suspension, sale of substantially all assets, merger (except where the undersigned is the surviving entity), or cessation of business of, or commencement of any insolvency or bankruptcy proceeding by or against the undersigned. A waiver or indulgence on any one occasion shall not be deemed to be a waiver of any other right or of the same right on any subsequent occasion.

Prepayment of the principal balance may be made at any time in whole or in part without penalty.

This Note is executed in connection with the Loan Agreement and is given to evidence a loan made by Holder in connection with the implementation by the undersigned of a revolving loan program under the State Small Business Credit Initiative, and is secured by a pledge of the revolving loan fund established by the undersigned with the proceeds of the loan.

The undersigned hereby waives demand, notice and protest, and agrees to pay the principal amount and all costs and expenses of enforcement and collection. This Note shall be the obligation of the undersigned and shall be binding upon the undersigned and its successors and assigns.

The undersigned acknowledges that it has caused to be read this Note and all instruments, documents and agreements prepared in connection with the loan evidenced by this Note, including but not limited to the Loan Agreement, that it has agreed to all terms and conditions thereof, and that the proceeds of the loan are intended and will be used only for approved purposes in accordance with the State Small Business Credit Initiative and not for any unapproved purposes.

IN WITNESS WHEREOF, the undersigned has caused this Note to be executed in its corporate name and its corporate seal hereunto affixed, all as of the date first set forth above.

WITNESS:

Judith Rosen

Name of Holder:

By: Ellen Sanborn
Its: Finance Director

Name of Holder

By: Michael F. Brennan
Its: Mayor

FINANCE AUTHORITY OF MAINE

STATE SMALL BUSINESS CREDIT INITIATIVE

PARTICIPANT LOAN AGREEMENT
(For Regional Economic Development Revolving Loan Program Contractors)

This Agreement, made as of this 4th day of April 2012, by and between **City of Portland**, a body politic and corporate, located in the County of Cumberland and State of Maine, and a mailing address of 389 Congress Street, Portland, Maine 04101 ("Participant"), and the Finance Authority of Maine, a body corporate and politic and a public instrumentality of the State of Maine, having a principal place of business in Augusta, Maine and a mailing address of P.O. Box 949, Augusta, Maine 04332-0949 ("Authority"), for the operation of a revolving loan program pursuant to the State Small Business Credit Initiative Act of 2010 (title III of the federal Small Business Jobs Act of 2010, Public Law 111-240, 124 Stat. 2568, 2582 and all guidelines and regulations of the United States Department of the Treasury promulgated thereunder (collectively, and as it may be amended, the "Act").

WHEREAS, Pursuant to the Act, the United States Department of the Treasury ("Treasury") has allocated funds under the State Small Business Credit Initiative ("SSBCI") to the Maine Department of Economic and Community Development acting on behalf of the State of Maine ("DECD"), and DECD has, with the permission of Treasury, contracted with the Authority to disburse the funds to eligible credit support programs; and

WHEREAS, Treasury has determined that the Authority's Regional Economic Development Revolving Loan Program established in 10 Maine Revised Statutes Section 1026-M *et seq.* and Chapter 614 of the Rules of the Finance Authority of Maine ("REDRLP"), is a credit support program eligible to receive SSBCI funds; and

WHEREAS, Participant is an existing contractor in good standing in the REDRLP program and has applied to the Authority to disburse SSBCI funds; and

WHEREAS, Treasury and the Authority have determined that Participant and Participant's proposal meet the requirements of public benefit, sound program design, operational and managerial capacity and financial integrity required by the Act and Participant is eligible to receive SSBCI funds as a loan to Participant evidenced by a Master Promissory Note;

NOW, THEREFORE, in consideration of the mutual representations, covenants and agreements contained herein and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

I. DISBURSEMENT

1.1 The Authority agrees to make one or more disbursements (each, and collectively, "Disbursement") to Participant from the SSBCI funds, in accordance with the provisions hereinafter set forth. Participant agrees to use the Disbursement and its proceeds solely for purposes as set forth in its response to the Authority's Request for Submissions, and in accordance with this Agreement and the Act. The Authority and the Participant agree that Participant's use of the Disbursement will be substantially in accordance with REDRLP but to the extent that REDRLP and the Act are not consistent, the provisions of the Act will govern. The Disbursement is evidenced by a Master Promissory Note given by Participant to the Authority of even date herewith. The terms of the Master Promissory Note and the Agreement, except certain provisions of the Agreement that survive as set forth in Section 12.5 below, are not effective after March 31, 2017, unless the Participant is in default as of that date.

1.2 Participant agrees to establish and maintain a Revolving Loan Fund with any Disbursement proceeds, all proceeds of collateral received by Participant attributable to the Disbursement and any funds obtained from relending funds and recollecting them, including interest on relent funds, to the extent attributable to a Disbursement. Participant's Revolving Loan Fund shall be accounted for with a segregated ledger. The monies in the Revolving Loan Fund shall be deposited in a financial institution covered by federal deposit insurance or otherwise secured.

1.3 The monies in the Revolving Loan Fund shall not be commingled with any other monies of Participant which are not subject to the lien created by this instrument, nor shall any such monies be commingled with monies of any other corporation, firm, association, entity, or individual.

1.4 The Disbursement shall be released to Participant on a loan-by-loan, first come, first-served basis with other Participants eligible to receive SSBCI funds while SSBCI funds are available, upon the Authority's receipt of (a) a commitment to a borrower by Participant, accepted by borrower; (b) the Participant's certification to the Authority that all the terms and conditions of the commitment which are preconditions to closing have been met and the loan is ready to close; (c) borrower's signed Certification of the items set forth in Exhibit C and (e) a completed Requisition and Report form, a copy of which is attached hereto as Exhibit B. Participant shall submit the foregoing to the Authority at least two weeks prior to an intended loan closing, unless the Authority agrees to less advance notice.

1.5 Without the prior written approval of FAME, Participant may not receive a Disbursement which will cause the total amount of funds which Participant has received under REDRLP and from SSBCI funds to exceed $3,500,000. Participant shall also not be entitled to receive a Disbursement until all funds allocated by FAME to Participant under REDRLP have been requisitioned by Participant for lending to borrowers under REDRLP.

1.6 Notwithstanding anything herein to the contrary, the Authority may determine that a reasonable and prudent amount of SSBCI funds shall be retained by the Authority and not provided as a Disbursement despite any requisition which may be pending, in order to have SSBCI funds available to subsequent applicants.

1.7 Participant agrees that any Disbursement made which is not relent to the specified borrower within three (3) months of the date of disbursement, shall be returned to the Authority with a written explanation for why it was not relent. Any funds so returned shall not be designated or allocated to future use by Participant, but shall become available to any subsequent Participant.

1.8 Participant may not lend the proceeds of a Disbursement to a borrower outside of Participant's region as identified in Participant's REDRLP Disbursement and Pledge Agreement with the Authority, without the prior written approval of the REDRLP contractor for that region, if any.

1.9 Participant acknowledges that a Disbursement pursuant to this Agreement is contingent upon funding from Treasury. Participant acknowledges that the total amount of funding from Treasury for all SSBCI programs in Maine (which includes but is not limited to REDRLP programs) may only be available to the Authority until September 6, 2013 (although amounts made available up until such time may continue to be disbursed by the Authority thereafter). Until September 6, 2013, funding for all such SSBCI programs in Maine is anticipated to be made available to the Authority in three tranches. However, a subsequent tranche of funding will not be released by Treasury until the prior tranche is at least 80% utilized. As a result, the availability of future funding could be affected by insufficient demand for funds in this or another SSBCI program in Maine.

II. PLEDGE OF COLLATERAL

2.1 Participant hereby assigns, pledges as collateral and grants to the Authority a security interest in its portfolio of investments derived from the proceeds of this Disbursement, including but not limited to all funds now or hereafter placed in the Revolving Loan Fund described in Section 1.2 above attributable to the proceeds of the Disbursement, and all chattel paper, instruments, general intangibles, contract rights, accounts, gross receipts, gifts, pledges, income and revenue, now or hereafter in existence attributable to or derived from that portion of the Participant's relending program financed by the Disbursement, along with any and all proceeds thereof, although no disposition of encumbered property is hereby authorized. Participant authorizes the Authority to file a Financing Statement in accordance with the provisions of the Uniform Commercial Code simultaneously herewith in order to affect this Section, naming Participant as Debtor and the Authority as Secured Party, and covering the collateral described herein.

2.2 This Pledge of Collateral shall secure (a) repayment of any amounts due to the Authority hereunder; (b) performance of every covenant and agreement of Participant contained in this instrument; and (c) any and all future advances, whether obligatory, protective, or voluntary, made to Participant from time to time.

2.3 Notwithstanding that this Agreement is a present assignment of income and revenues, and notwithstanding that Participant may be required to execute specific assignments of collateral from borrowers, it is understood and agreed that Participant has permission, authority and responsibility to collect on all notes given to it, to service all loans it makes, and to manage the Revolving Loan Fund the same as if the assignments had not been given, so long as Participant does not suffer or permit an event of default as defined in Section 6.1 below. It is the responsibility of Participant to make and service loans to borrowers in such a manner that will fully protect its interests and those of the Authority.

III. PARTICIPANT'S REPRESENTATIONS AND COVENANTS

The Participant represents and covenants:

3.1 Participant has been duly incorporated and validly exists as a [corporation] in good standing under the laws of the State of Maine, is not in violation of any provision of its [articles of incorporation or its bylaws], has power to own the collateral, to operate the Revolving Loan Fund and to enter into and perform this Agreement, and, by proper corporate action has duly authorized the execution and delivery of this Agreement.

3.2 This Agreement constitutes a valid and legally binding obligation of the Participant, enforceable in accordance with its terms.

3.3 Participant will not change its current entity, and will not dissolve or otherwise sell or dispose of all or substantially all of its assets without prior written consent of the Authority.

3.4 The representation, warranties, and covenants of Participant set forth in its response to the Authority's Request for Submissions and in any other documentation supplied to the Authority in connection therewith are by this reference incorporated in this Agreement as though fully set forth herein.

3.5 Pursuant to Section 3005(e)(7) of the Act, Participant represents that no principal of Participant has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. Section 16911)). For purposes of this representation, a principal is defined as each member of the board of directors of Participant and each of the five most highly compensated executives, officers, or employees of Participant.

IV. PARTICIPANT'S RELENDING RESPONSIBILITIES

4.1 Participant agrees to develop and use loan documents substantially similar to REDRLP loan documents but adapted appropriately for loans to borrowers from Participant's Revolving Loan Fund established hereunder. If so requested by the Authority prior to any relending, Participant must provide the Authority with written copies of all forms to be used for relending purposes, including, but not limited to, application forms, notes, loan agreements and security instruments, for approval by the Authority. Specifically, Participant must obtain the Certification of Borrower in the form attached hereto as Exhibit C in its loan documents.

4.2 Participant must obtain the Authority's prior written approval before making any substantive changes to its forms or its relending program, as set forth in its response to the Authority's Request for Submissions. Participant agrees to operate its relending program in substantial conformance with its proposal. The Authority and the Participant agree that Participant will operate its Revolving Loan Fund substantially in accordance with its REDRLP program but to the extent that REDRLP and the Act are not consistent, the provisions of the Act will govern.

4.3 Participant must requisition all loan funds from the Authority and obtain the Authority's prior written approval to make loans hereunder. Participant is authorized to deny any loan applications it receives from potential borrowers under SSBCI.

4.4 Participant will be responsible for review of loan applications from potential borrowers and shall determine whether a borrower is eligible and whether the proposed project is eligible. Participant agrees not to make any loans to an ineligible borrower or for an ineligible project as set forth in Exhibit A.

4.5 Participant shall maintain a Revolving Loan Fund default rate of no greater than ten percent (10%) beginning on the first anniversary date of this Agreement. To the extent that the principal amount of Participant's loans in default exceeds ten percent (10%) of Participant's aggregate principal amount of loans outstanding, the Authority (a) may require that the Participant pay to the Authority an amount equal to the difference between the acceptable amount of loan principal payments in default as calculated above and the actual amount of loan principal payments in default; or (b) may declare an event of default. The principal amounts of any loans approved by the Authority, if in default, shall not be included in the foregoing calculations. A loan default shall be defined as any payment which is ninety (90) days or more past due from the later of the last regular due date or the last due date pursuant to any written payment modification agreements.

4.6 Unless otherwise approved in writing by the Authority, Participant agrees to make loans to borrowers from its Revolving Loan Fund only in compliance with this Agreement. No loan of $25,000 or less may exceed one-half of net new funds being loaned to a borrower (private leverage ratio of 1:2 of SSBCI funds to total funds). No loan of more than $25,000 but not more than $75,000 may exceed one-fourth of net new funds being loaned to a borrower (private leverage ratio of 1:4 of SSBCI funds to total funds). No loan of more than $75,000 may exceed one-sixth of net new funds being loaned to a borrower (private leverage ratio of 1:6 of SSBCI funds to total funds.). Notwithstanding the foregoing, Participant acknowledges that DECD and the Authority are obligated to maintain a private leverage ratio of 1:10 of SSBCI funds to net new funds across all programs benefitting from SSBCI funds. In order that DECD and the Authority may comply with the 1:10 private leverage ratio requirement, Participant agrees to use best efforts to make loans with the highest possible leverage ratio and acknowledges that the leverage requirements set forth herein are subject to change.

4.7 Participant agrees to provide the Authority with properly executed assignments of loan documents in form acceptable to the Authority if so requested by the Authority upon an event of default. Participant also hereby irrevocably constitutes and appoints the Authority as Participant's true and lawful attorney, with full power of substitution, at the sole cost and expense of Participant, but for the sole benefit of the Authority, to do all such things necessary to effect such assignments, including, but not limited to, signing the name of Participant on any document necessary to effect an assignment or perfect or protect a security interest in any collateral subject to an assignment. All powers conferred upon the Authority by this Section, being coupled with an interest, shall be irrevocable so long as any obligation of Participant to the Authority shall remain unpaid or unperformed.

V. ADMINISTRATIVE AND OTHER EXPENSES AND FEES

5.1 Participant may not use monies disbursed from SSBCI funds for administrative expenses, but may charge a commitment fee to a borrower of up to two percent (2%) and may use interest earnings on its Revolving Loan Fund not to exceed seven percent (7%) of each loan annually on loans to cover its reasonable administrative and technical costs. The Authority reserves the final determination as to whether any such costs are reasonable.

5.2 Participant shall pay an annual administration fee to the Authority equal to three quarters of one percent (.75%) of the amount of the total Disbursement to Participant which has been received by Participant as of the due date of the fee. The annual administration fee is waived through December 31, 2013.

VI. DEFAULT

6.1 Upon occurrence of an event of default, as hereinafter defined, the Authority may (a) take whatever action at law or in equity may appear or become necessary or desirable to collect the amounts due and thereafter to become due or to enforce the performance or observation of the obligations, agreements and covenants of the Participant; (b) withhold further funding from Participant; (c) require repayment of any undisbursed or misapplied loan funds and loan repayments, including an assignment of all loan documents; and (d) terminate Participant's ability to make loans, collect loan payments, service its loans, or otherwise continue to operate its Revolving Loan Fund. An event of default shall include:

A. Failure, inability or unwillingness of Participant to carry out or comply with the representations set forth in its response to the Authority's Request for Submissions, or the terms and conditions of this Agreement, or any applicable law, including but not limited to misapplication of any Disbursement or use for ineligible purposes or projects or failure to provide required reports , audits, and financial statements by the required deadline;

B. Failure of Participant to pay, within fifteen (15) days of the due date, any amounts owed to the Authority pursuant to the Note or to the Authority's request for any such payment, particularly in accordance with Section 4.5 hereof;

C. The occurrence of (1) the Participant's becoming insolvent, or ceasing, being unable, or admitting in writing its inability to pay its debts as they become due, or making a general assignment for the benefit of, or entering into any arrangement with, its creditors; or (2) proceedings for the appointment of a receiver, trustee, or liquidator of Participant, or of a substantial part of its assets, being authorized or instituted by or against it;

D. Submission or making of any report, statement, warranty or representation by Participant to Authority in connection with its response to the Authority's Request for Submissions or any other documentation submitted by it which is false, incomplete or incorrect in any material respect;

E. Failure of Participant to remedy any material adverse change in its financial or other condition arising since the date hereof, which condition was an inducement to the Authority to make this Agreement and Disbursement; or

F. Failure of Participant to maintain the loan default rate set forth in Section 4.5.

6.2 Upon the occurrence of an event of default, the Authority shall notify the Participant in writing of such default, specifying the actions necessary to bring Participant into compliance. Participant shall have thirty days from the date of mailing of the notice to cure the default or defaults. Notwithstanding the foregoing, however, the Authority is not obligated to provide notice of a default caused by failure to provide required reports, audits, and financial statements by the required deadline, nor will Participant have an opportunity to cure a default caused by failure to provide required reports, audits, and financial statements by the required deadline.

VII. CONFLICTS OF INTEREST

7.1 Participant will, for each proposed loan, inform the Authority by completing and signing the Requisition and Report Form attached hereto as Exhibit B whether and to what extent Participant or its principal officers or employees, including immediate family, hold any legal or financial interest or influence in the borrower, or the borrower or any of its principal officers or employees, including immediate family, holds any legal or financial interest or influence in Participant. Participant agrees to furnish such additional information as the Authority may require in connection therewith. The Authority may deny a request for loan funds, or approve the request upon conditions it deems necessary or appropriate if the Authority determines that a conflict of interest exists.

7.2 Officers or employees of Participant or members of any credit committees of Participant shall be barred from participation in any way and any decision regarding projects which that officer, employee or member has a direct or indirect personal financial interest.

7.3 A borrower may not be an executive officer, director, or principal shareholder of Participant; a member of the immediate family of an executive officer, director, or principal shareholder of Participant; or a related interest of any such executive officer, director, principal shareholder, or member of the immediate family, as those terms are defined in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

VIII. INSURANCES

8.1 Participant shall provide and maintain adequate insurance covering workers' compensation in accordance with the laws of the State of Maine, hazard, public liability, and fidelity bond for all persons who have access to Participant's Revolving Loan Fund. Such coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate persons. The amount of such coverage must be at least equal to the amount of the total Disbursement, and shall name the Authority as co-obligee.

IX. REPORTS AND AUDITS

9.1 During the term of this Agreement, for each calendar year quarter ending March 31, June 30, September 30, and December 31, Participant shall report quarterly to the Authority by the immediately following April 10, July 10, October 10 and January 10 respectively, and for each calendar year ending December 31, Participant shall report annually by March 10 of the subsequent calendar year to the Authority on the projects funded and the administration of its Revolving Loan Fund. The reports must include, at a minimum, the unique loan identifier established in Participant's original loan requisition, the borrower's industry code and year of incorporation, a written description of each project including the name and location of the borrower by census tract and zip code, the date of the loan, the amount, type and terms of financial and other assistance the project received including any additional related private financing that occurred after the closing of the SSBCI loan, the borrower's number of full time employees and the number of permanent full time jobs that were created and retained with the financing, the borrower's annual revenues, an accounting of the loan portfolio created hereunder and any loans that are past due, as well as an accounting of Participant's administrative and technical assistance expenses incurred and charged to the Revolving Loan Fund. Participant shall also provide, from time to time, any other reports or such other and further information which the Authority may reasonably require. The quarterly and annual reporting must be provided to the Authority electronically in the format requested by the Authority. In connection with submission of any required reports hereunder, Participant must also provide to the Authority any certification required by the Authority as to accuracy of the reports and/or compliance with applicable laws, regulations, and contracts, including but not limited to the Act and this Agreement.

9.2 The Participant shall also submit to the Authority, annually, within one hundred and eighty (180) days of the close of its fiscal year end, an independent organization-wide audit of Participant's Revolving Loan Fund records, at Participant's expense.

9.3 The Authority shall have the right to review the books and records of Participant related to its Revolving Loan Fund, and any other such documents maintained by Participant. Participant agrees to make available to the Authority, DECD, and to the Treasury Inspector General, and to require its borrowers to make available to the Authority, DECD, and to the Treasury Inspector General, all books and records related to Participant's Revolving Loan Fund and the use of SSBCI funds, subject to the Right to Financial Privacy Act (12 U.S.C. §3401 et seq.), including detailed loan records, as applicable. Participant acknowledges and agrees that its reports and audits submitted to the Authority under Section 9 will be submitted by the Authority in whole or in part to Treasury and/or to DECD as required to receive SSBCI funds. Participant agrees to retain its records related to its Revolving Loan Fund until at least December 31, 2020.

9.4 Participant acknowledges that timely provision of the required reports, audits and financial statements is essential to the Authority's ability to meet its reporting obligations to Treasury and assure the availability of continued SSBCI funding not only to REDRLP Participants but to other programs. Failure to provide such information by the required deadline will jeopardize the availability of continued SSBCI funding to other Participants and other programs and will constitute an Event of Default under Section 6 for which Participant may be subject to the maximum penalties.

X. CONFIDENTIALITY

10.1 Participant agrees that neither it nor any of its agents or employees will knowingly divulge or disclose any confidential financial information or business plan submitted to, or developed by Participant, except to the extent that the disclosure is deemed by the Participant and the Authority to be necessary for evaluation of any loan application submitted to the Participant or is required by applicable law.

XI. INDEMNIFICATION

11.1 Participant agrees to protect, defend and hold harmless the Authority and its officers, members and employees from any claim, demand, suit or action or other proceeding whatsoever by any person or entity whatsoever, arising or purportedly arising from or in connection with the SSBCI funds or Participant's Revolving Loan Fund or this Agreement, or the transactions contemplated thereby or hereby or actions taken thereunder or hereunder.

11.2 The Authority shall not be liable for any damage or injury to the persons or property of Participant or its members, officers, agents, servants or employees, due to any act or omission of any person other than the Authority, its respective members, officers, agents, servants and employees.

11.3 With respect to Section 11.1, Participant releases each of the aforementioned parties or persons from, and agrees that each such party or person shall not be liable for, and agrees to hold each such party or person harmless against any expenses or damages, including charges of counsel, incurred because of any investigation, review or lawsuit commenced by the Authority in good faith with respect to this Agreement or the SSBCI funds or Participant's Revolving Loan Program.

XII. MISCELLANEOUS

12.1 This Agreement shall be binding upon and inure to the benefit of all successors and permitted assigns of the parties hereto.

12.2 Participant may not assign its rights, interests or obligations hereunder without the express prior written approval of the Authority.

12.3 This Agreement may be amended only in writing signed by both parties hereto, provided, however, that in the event the Act or REDRLP is amended during the term of this Agreement, the parties hereto agree to amend this Agreement as the Authority deems necessary.

12.4 Interpretation of the Agreement shall be governed by and enforced in accordance with the laws of the State of Maine.

12.5 This Agreement shall automatically renew from year to year, until such time as both the

Participant and the Authority agree otherwise, in writing, unless previously terminated by the Authority upon thirty (30) days' written notice to the Participant or pursuant to an event of default. Notwithstanding the foregoing, the provisions of this Agreement are not effective after March 31, 2017, except the following provisions which survive: Section Two, Sections 3.1-3.4, inclusive, Section 9.3, and Section 11. Effective March 31, 2017, Participant's Revolving Loan Fund created hereunder shall transfer to Participant's REDRLP Revolving Loan Fund and operate pursuant to the REDRLP Disbursement and Pledge Agreement between Participant and the Authority.

12.6 Nothing contained in this Agreement shall be construed to cause Participant to become an agent for the Authority for any purpose whatsoever, nor shall the Authority be regarded as an agent for Participant.

12.7 Authority and Participant agree to execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description or for carrying out the intent of or facilitating the performance of this Agreement.

IN WITNESS WHEREOF, Participant and the Authority have each caused this Agreement to be executed in its corporate name by a duly authorized representative and its corporate seal hereunto affixed, all as of the date first above-written.

WITNESSES:

FINANCE AUTHORITY OF MAINE

Elizabeth L. Bordowitz

By: Elizabeth L. Bordowitz
Its: Chief Executive Officer

Name of Participant:
City of Portland, Maine

Judith Rosen

By: Ellen Sanborn
Its: Finance Director

FIRST AMENDMENT TO

STATE SMALL BUSINESS CREDIT INITIATIVE
PARTICIPANT LOAN AGREEMENT

This Amendment is made and dated as of March 3, 2014, by and between the undersigned parties, who entered into a State Small Business Credit Initiative Participant Loan Agreement dated April 4, 2012 (the "Agreement"), and now desire to amend the Agreement and hereby agree to amend the Agreement as follows:

1. No merger, not applicable
2. The reference to Section 3005(e)(7) of the Act (as defined in the Agreement) in Section 3.5 of the Agreement is changed to Section 3011(c)(2).
3. Exhibit B is replaced with Exhibit B attached hereto and made a part hereof.
4. Exhibit C is replaced Exhibit C attached hereto and made a part hereof.

The Agreement remains in full force and effect, except as hereby amended.

In Witness Whereof, the undersigned parties have each caused this Amendment to be executed in its corporate name by a duly authorized representative and its corporate seal hereunto affixed, all as of the date first above written.

Witness:

Lynn Daley

Finance Authority of Maine

B. E. Wagner

By: Bruce E. Wagner
Its: Chief Executive Officer

Lori J. Paulette

City of Portland

Gregory A. Mitchell

By: GREGORY A. MITCHELL
Its: ASSISTANT SECRETARY

EXHIBIT B
SSBCI REQUISITION AND REPORT FORM

This form must generally be submitted at least two weeks in advance of an intended loan or investment closing. Please assign a unique identifier to each proposed loan or investment transaction. This number must coincide with future reporting on your "Annual and Quarterly Reconciliation Reports" (Section 9.1). This form must be accompanied by: (a) the **signed commitment letter** and include your certification that all preconditions to closing have been met and the loan or investment is ready to close; and (b) **Certification** of the qualifying small business (investee) or borrower (Exhibit C). Loans to borrowers must be credit-approved by FAME **prior to** submission of a requisition request. Participants proposing loans to borrowers should submit a copy of Participant's loan analysis for such credit-approval.

Participant: ________________________________

Participant's EIN: ________________________________

Mailing Address: ________________________________

Contract Officer: ________________________________

Phone: ______________ **Fax:** ______________ **E-mail:** ______________

Legal Name of Qualifying Small Business (Investee) or Borrower: ______________
Address: ________________________________
Phone: ________________________________
Borrower EIN#: ______________

Your Agency Loan # or Transaction Identifier: ______________

Full Time Permanent Jobs Retained: ________
Full Time Permanent Jobs Created: ________
Other Jobs Created or Retained: ________
Borrower's or Investee's Number of Full Time Equivalent (FTE) employees: ______________
Census tract (11 digits total)
State Code (2 digits):______ County Code (3 digits): ______ Tract Code (6 digits): ___________
(or attach Geocoding Search Result)

Zip code of principal location in Maine:__________

Loan or Investment will provide access to capital in: (check all that apply) (per HUD guidelines)

☐ **Low or moderate income community**
☐ **Minority community**
☐ **Other underserved community**

The Borrower or Investee is: (check all that apply) (per HUD guidelines)

☐ **A woman or women owned business**
☐ **A minority owned business**

Borrower's or Investee's annual sales revenues in last fiscal year: ______________
NAICS 6-digit code for Borrower's or Investee's industry: ______________
Year Borrower or Investee incorporated or established: ______________

Purpose of borrowing or investment: (Project Description) (attach additional sheet if necessary):

Proposed Loan or Investment Structure:

SOURCES:		USES:	
SSBCI Funds Requested:	$		$
Bank	$		$
Borrower or Investee	$		$
Other/Public:________	$		$
Other/Private:_______	$		$
TOTAL	**$**		**$**

On behalf of Participant, I certify that all preconditions to closing have been met and the loan or investment will be made upon receipt of funds and the Borrower or Investee and the project are eligible for funding. I certify that the loan or investment will not place under protection of the SSBCI program any prior debt or investment that is not covered under the SSBCI program and that is or was owed by the Investee or Borrower to Participant or an affiliate. I certify that the loan or investment is not a refinancing of a loan or investment previously made to the Borrower or Investee by Participant or an affiliate, nor is the Participant attempting to enroll any portion of an SBA-guaranteed loan.

Neither the Participant nor its principal officers or employees, including immediate family, holds any legal or financial interest or influence in the Borrower or Investee. Neither the Borrower nor Investee nor its principal officers or employees, including immediate family, holds any legal or financial interest or influence in the Participant. *[If either is not a true statement in any respect, cross the statement out and attach an explanation of the nature and extent of the interest or influence between the Borrower or Investee and the Participant.]*

Pursuant to Section 3011(c)(2) of the Act, Participant represents that no principal of the Participant has been convicted of a sex offense against a minor (as such terms are defined in Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. Section 16911)). For purposes of this representation, "principal" is defined as each member of the board of directors of Participant and each of the five most highly compensated executives, officers, or employees of Participant.

Signature of Participant's Officer: ________________________________Date: ____________

Date of disbursement: ______________________________

(to be entered by FAME on date of disbursement to Participant)

EXHIBIT C
Qualifying Small Business or Borrower Certification for Use of Proceeds and Authorization to Release Information

Assurances #1 through #4 reference Section 3005(e)(7) of the Small Business Jobs Act of 2010 and Assurance #5 references Section 3011(c)(2) of the Small Business Jobs Act of 2010.

Legal Name of Qualifying Small Business or Borrower:
___________________________________ (the "undersigned")

The undersigned hereby certifies the following to the United States Department of the Treasury, the State of Maine Department of Economic and Community Development, the Finance Authority of Maine, and the Participant:

1. The investment or loan proceeds will be used for a "business purpose." Business purpose includes, but is not limited to, start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction, renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities related to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.

2. The investment or loan proceeds will NOT be used to:
a. repay delinquent federal or state income taxes unless the undersigned has a payment plan in place with the relevant taxing authority; or
b. repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
c. reimburse funds owned to any owner, including any equity injection or injection of capital for the business' continuance; or
d. to purchase any portion of the ownership interest of any owner of the business.

3. Neither the undersigned nor any principal owner of the undersigned is:
a. an executive officer, director, or principal shareholder of the Participant; or
b. a member of the immediate family of an executive officer, director, or principal shareholder of the Participant; or
c. a related interest of such an executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family" and "related interest" refer to the same relationship to Participant as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

4. The undersigned is NOT:
a. a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in

commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or

b. a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions; or

c. a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or

d. a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); or

e. a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales; or

f. a financial institution.

5. No principal of the undersigned has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, principal is defined as "if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity".

6. The undersigned authorizes Participant to provide this Certification, and any other information in the nndersigned's application for financial assistance required to be reported, to the Finance Authority of Maine (the "Authority") and authorizes the Authority to report such information to the United States Department of the Treasury ("Treasury") and/or to provide such information to the State of Maine, Department of Economic and Community Development for purposes of such reporting to Treasury.

Legal Name of Qualifying Small Business or Borrower: ______________________________

____
By: [Printed Name] ____________________________________
Its: [Title] ____ /Authorized Signatory
Date: ____

Order 51-14/15
~~Tab 20 9-3-14~~
Tab 15 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH THE PROFESSIONAL AND TECHNICAL CITY EMPLOYEE ASSOCIATION (PRO TECH)

ORDERED, that the attached Collective Bargaining Agreement with the Professional and Technical City Employee Association (Pro Tech) for July 1, 2013 through June 30, 2016, is hereby approved.

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Mayor Brennan and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager

DATE: September 3, 2014

RE: Order/Second Reading of Professional and Technical City Employee Association (Pro Tech) Contract - **September 15, 2014 Council Meeting**

The collective bargaining agreement with the Professional and Technical City Employee Association expired on June 30, 2013. The Association is comprised of approximately 140 Professional and Technical employees, namely engineers, nurses and nurse practitioners and other jobs located throughout the City.

The City staff has reached a tentative agreement for a three year contract. Terms of the three year agreement include a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase effective January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The general wage increases are consistent with guidance received by Council on July 7, 2014.

Other terms of the tentative agreement include:

Article 11 – clarified overtime language.
Article 14 – agreed to Health Plan design changes.
Article 15 – changed the pension language to comply with MEPERS regulations.
Article 16 – allows the use of sick leave accruals for scheduled medical/dental appointments.
Appendix A – upgraded Tax Assessment Analyst from PT Grade 8 to Grade 9.

The total direct cost for the three year agreement is approximately $417,000. All other provisions of the contract remain intact for the term of the agreement.

This Order received a first reading at the Council meeting held on September 3, 2014.

Cc: Sheila Hill-Christian, Acting City Manager
Anita LaChance, Director Recreation and Facilities Management
Ellen Sanborn, Finance Director
Danielle West-Chuhta, Corporate Counsel
Michael Sauschuck, Police Chief
Jennifer Thompson, Assoc. Corporate Counsel
Michael Bobinsky, Public Services Director
Julianne Sullivan, Acting Health & Human Services Director
Paul Bradbury, Airport Manager
Jennifer Lodge, Asst Budget Director
Lori Schools, Financial Specialist

MEMORANDUM OF AGREEMENT

BETWEEN
THE CITY OF PORTLAND
AND
PRO TECH ASSOCIATION

DATE: JUNE 9, 2014

TENTATIVE CONTRACT AGREEMENT

ARTICLE REFERENCES ARE TO THE AGREEMENT BETWEEN THE PARTIES THAT EXPIRED ON JUNE 30, 2013. ALL PROVISIONS SHALL BE EFFECTIVE JULY 1, 2013 UNLESS SPECIFIED OTHERWISE.

1. **ARTICLE 39 – TERM**

   Amend to provide for a three (3) year agreement, covering the period from July 7, 2013 through July 2, 2016.

2. **ARTICLE 10 – WAGES AND SALARIES**

Effective July 7, 2013	1.0% general increase to Appendix C-1 through C-3
Effective July 6, 2014	1.0% general increase to Appendix C-1 through C-3
Effective January 4, 2015	1.0% general increase to Appendix C-1 through C-3
Effective July 5, 2015	3.0% general increase to Appendix C-1 through C-3

3. **ARTICLE 11.2.1.1**

   Clarified language as to when an employee is eligible for overtime -
   Hours worked in excess of ***eight (8) hours per day*** or forty (40) per week …

4. **ARTICLE 14.2**

   Parties have agreed to change the Health Plan to a Value Based Insurance Design (VBID) (**See attached**). This plan has three (3) components, the insurance plan, a wellness component and a reserving account.

5. **ARTICLE 15**

   Changed the Pension language to more accurately reflect where the MainePERS rules and regulations can be found.

6. **ARTICLE 16**

   Add 16.3 **d. – Scheduled medical/dental appointments**

7. **ARTICLE 28 – JOB SPECIFICATIONS**

The parties mutually agreed to changes to the following job descriptions:

City Arborist – Grade 9
Solid Waste Coordinator – Grade 9
Parks and Cemeteries Coordinator – Grade 9
District Coordinator – Grade 9
Construction Engineering Coordinator – Grade 9
Stormwater Program Coordinator – Grade 8
Wastewater Facilities Coordinator – Grade 9
Project Engineer – Grade 8
Senior Project Engineer – Grade 9

TAC
M.F.
RB

*** New position -**
~~Asset Manager – Grade 8~~

8. **APPENDIX A**

Changed the following position grades:

Tax Assessment Analyst Grade 8 to Grade 9

**Upgraded positions in Appendix A are effective July 6, 2014.

Agreed that Parks Operations Manager/City Arborist belongs under Grade 9

9. **APPENDIX D – PERFORMANCE APPRAISAL PROGRAM GUIDELINES**

Guidelines changed to reflect new Performance Appraisal process

10. **APPENDIX E – PERFORMANCE APPRAISAL FORM**

Form changed to reflect new process

11. **APPENDIX K – PUBLIC SERVICES SIDE AGREEMENT**

Update last paragraph, first page – Employees will be eligible for a ***$10.00*** meal allowance after working twelve (12) consecutive hours....

12. **OTHER MISCELLANEOUS CLEANUP ITEMS**

Article 8.1.4 (new section) – clarifies grievance language
Article 11.1.3 – clarifies language
Article 29.5, line 2 – word change
Article 32, delete 32.2 – cleanup conflict with 32.1

Appendix F, change dates

Thomas A. Caiazzo — 6-17-2014
City of Portland — Date

Michael Farmer — 6-16-2014
Pro Tech Association President — Date

B A Bourgeault — 6/17/2014
Pro Tech Association Staff Representative — Date

Attachment(s)

Current and Potential Option Plans Comparison - Revised 04/02/2014

	CURRENT Aetna POS Grandfathered July 1, 2012 Preferred	Non-preferred	Potential Option - VBID Aetna POS ACA Compliant July 1, 2015 Preferred MUST SELECT PCMH Practice	Non-preferred
Preventive/Chronic Care				
Routine Adult Physical Exam	$15 copay then plan pays 100%	Not Covered	Plan pays 100%	Plan pays 70% after deductible
Well Child visits	$15 copay then plan pays 100%	Not Covered	Plan pays 100%	Plan pays 70% after deductible
Routine OB/GYN visits	$15/$20 copay then plan pays 100%	Not Covered	Plan pays 100%	Plan pays 70% after deductible
Recommended Routine screenings (USPSTF A & B)	Varies	Varies	Plan pays 100%	Plan pays 70% after deductible
Pre and post natal care	In accordance w/type and place incurred	In accordance w/type and place incurred	Plan pays 100%	Plan pays 70% after deductible
Nutritional Counseling	$10 copay then plan pays 100%	Not covered	Plan pays 100%	Not Covered
PCP Chronic Care Treatment Office Visits (asthma, diabetes, COPD, CAD and/or heart failure)	$15 copay then plan pays 100%	Plan pays 70% after deductible	Plan pays 100%	Plan pays 70% after deductible
E-visits	$15 copay then plan pays 100%	Not Covered	Plan pays 100%	Not Covered
Non-chronic PCP visit*	$15 copay then plan pays 100%	Plan pays 70% after deductible	Plan pays 100%	Plan pays 70% after deductible
Routine Eye Exams	$20 copay then plan pays 100% (one every two calendar years)	$20 copay then plan pays 100%	Plan pays 100%	Plan pays 70% after deductible
Outpatient Mental Health	Plan pays 90%	Plan pays 70%	Plan pays 100%	Plan pays 70% after deductible
Medications for Chronic Care Illness (certain maintenance drugs) asthma, diabetes, high cholesterol, high blood pressure & heart disease				
30 Day Supply	20% / 25% / 30%	20% / 25% / 30%	$0/$15/$60	$0/$15/$60
90 Day Supply	20% / 25% / 30%	20% / 25% / 30%	$0/$22.50/$90	$0/$22.50/$90
Medications for Pregnancy Prevention	20% / 25% / 30%	20% / 25% / 30%	Plan pays 100% for FDA approved generic drugs	Plan pays 70% after deductible
Hospice Care	Plan pays 90% per admission	Plan pays 70% per admission after deductible	Plan pays 100%	Plan pays 70% after deductible
Lab and X-Ray	Plan pays 90%	Plan pays 90%	Plan pays 100% when performed as part of office visit and billed by physician	Plan pays 70% after deductible
Note: Evidence shows that removing barriers to these services has long term payoffs for preventing health problems and mitigating chronic conditions				
Preference Sensitive Care				
Prostate Cancer Treatment	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Hip and/or Knee Replacement	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Herniated Disk Surgery	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Spine Surgery	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
			NOTE: The Preferred Network: You must select a Patient Centered Medical Home (PCMH) Practice and use Aetna's/MHMC's network of hospitals and providers	
Custom network of providers for these services				

Current and Potential Option Plans Comparison - Revised 04/02/2014

Supply Sensitive Care - Narrow Network			**Narrow Network**	
Sleep Studies	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Upper GI Endoscopy	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Spinal injections for pain	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Shoulder arthroscopy	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Knee arthroscopy	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Sinus Surgery	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Bariatric Surgery	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
[redacted]				
Everything Else...				
MRI's/CT/ PET Scans Requires Pre-Authorization	Plan pays 90%	Plan pays 90%	Plan pays 90% after deductible	Plan pays 70% after deductible
Lab and X-Ray performed in an outpatient hospital or freestanding facility setting, including independent lab	Plan pays 90%	Plan pays 90%	Plan pays 90% after deductible	Plan pays 70% after deductible
Inpatient Hospital Services	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Outpatient Surgical Services	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
Inpatient Mental Health	Plan pays 90%	Plan pays 70% after deductible	Plan pays 90% after deductible	Plan pays 70% after deductible
[redacted]				
Emergency Room Visit	$50 copay then plan pays 100%	$50 copay then plan pays 100%	$100 copay then plan pays 100% (copay waived if admitted, prudent layperson criteria must be met)	$100 copay then plan pays 100% (copay waived if admitted, prudent layperson criteria must be met)
Aetna Walk-In Center Visit/PCMH	$20 copay then plan pays 100%	Plan pays 70% after deductible	$20 copay, then plan pays 100%	Plan pays 70% after deductible
[redacted]				
Chiropractic Care up to 25 visits	$10 copay then plan pays 100%	$10 copay then plan pays 100%	$10 copay then plan pays 100%	$10 copay then plan pays 100%
PT/OT/Speech Therapy	$10 copay then plan pays 100%	Plan pays 70% after deductible	$10 copay then plan pays 100%	Plan pays 70% after deductible
Massage	$10 copay then plan pays 100% $1,000 maximum	$10 copay then the plan pays 100% $1,000 maximum combined with in-network	$10 copay then plan pays 100% (up to 12 visits per calendar year, plan pays up to $70 per visit)	$10 copay then plan pays 100% (up to 12 visits per calendar year, plan pays up to $70 per visit)
Acupuncture	$10 copay then plan pays 100% $1,000 maximum	$10 copay then the plan pays 100% $1,000 maximum combined with in-network	$10 copay then plan pays 100% (up to 12 visits per calendar year, plan pays up to $70 per visit)	$10 copay then plan pays 100% (up to 12 visits per calendar year, plan pays up to $70 per visit)
[redacted]				
Smoking Cessation				
Program	Plan pays 100%	Not Covered	Plan pays 100%	Plan pays 100%
Prescribed Medications	Subject to Rx Coinsurance		Plan pays 100%	Subject to Rx Copays
Prescription Drugs not noted above			Rx's not noted above	
30 Day Supply	20% / 25% / 30%	20% / 25% / 30%	$10/$30/$60	$10/$30/$60
90 D[illegible] Supply	20% / 25% / 30%	20% / 25% / 30%	$15/$45/$90	$15/$45/$[illegible]
[redacted]				

Current and Potential Option Plans Comparison - Revised 04/02/2014

Individual Deductible Family Deductible Calendar Year or Plan Year	$0 $0 Calendar	$200 $400 Calendar	$400 $800 Calendar	$1,000 $2,000 Calendar
Coinsurance	90%	70%	90%	70%
Individual OOP Maximum Family OOP Maximum	$500 $1,000	$2,200 $4,400	$1,500 $3,000	$2,500 $5,000
[redacted]				
OOP Maximum	Coinsurance (does not include copays)	Deductible and Coinsurance (does not include copays)	Medical & Pharmacy Copayments, Deductible and Coinsurance	Deductible and Coinsurance (does not include copays)
$350 copayment maximum	Included	Included	Not included	Not included
Specialist Office Visit	$20 Copay	Plan pays 70% after deductible	$20 copay	Plan pays 70% after deductible
Infertility Treatments: basic, comprehensive and ART	In accordance with type and place incurred $20,000 combined lifetime maximum (does not apply to basic)	Plan pays 70% after deductible $20,000 lifetime maximum combined with in-network	In accordance with type and place incurred $20,000 combined lifetime maximum (does not apply to basic)	Plan pays 70% after deductible $20,000 lifetime maximum combined with in-network
[redacted]				

PROTECH Cost Summary-Tentative Agreement

Contract Cost Impact (Annualized)

ITEM	BASE COST	YEAR 1 (FY14)	% INCR	YEAR 2 1st Half (FY15)	% INCR	YEAR 2 2nd Half (FY15)	% INCR	YEAR 3 (FY16)	% INCR	NOTES:
Base Wages	$6,419,511	-		-		-		-		Based on 137 Active Employees or 130.2 FTEs (06/18/14)
COLA	-	64,142	1.0%	65,586	1.0%	66,305	1.0%	203,054	3.1%	Based on Pay Plans
Night Shift Differential	9,984	-	0.0%	-	0.0%	-	0.0%	-	0.0%	4 Employees
Stipends (Other Fixed)	9,750	-	0.0%	-	0.0%	-	0.0%	-	0.0%	5 Employees
Stipends (% of Base Salary)	26,830	268	1.0%	271	1.0%	274	1.0%	829	3.0%	9 Employees (3 or 6%)
Reclassifications	-	-	0.0%	6,123	100.0%	59	1.0%	195	3.2%	FY15: Senior Tax Analyst (FY15 Base Differiential + COLA Values)
Sub-Total Wages	***$6,466,075***	***$64,410***	***1.0%***	***$71,980***	***1.1%***	***$66,638***	***1.0%***	***$204,078***	***3.1%***	
Overtime	200,000	2,000	1.0%	1,010	0.5%	1,015	0.5%	6,121	3.0%	FY14 Estimate; Based on COLA Increases
Total Direct Costs	*$6,666,075*	*$66,410*	1.0%	*$72,990*	*1.1%*	*$67,653*	*1.0%*	*$210,199*	*3.1%*	
Health Insurance	1,101,819	110,182	10.0%	-	-	121,200	10.0%	133,320	10.0%	Inflationary Increase Only (Est. 10%)
Health Insurance - Plan Changes	-	-	0.0%	-	0.0%	-	0.0%	(79,992)	-6.0%	Projected 9% Savings Less 3% Cost of Wellness Initiative
	6.5%	*6.5%*		*7.8%*		*7.8%*		*7.8%*		FY16 Est. % (FY15)
Pension	433,295	4,317	1.0%	5,693	1.3%	5,277	1.2%	16,396	3.7%	Based on Increase in Total Wages
Total Indirect Costs	***$1,535,114***	***$114,499***	***7.5%***	***$5,693***	***0.3%***	***$126,477***	***7.6%***	***$69,724***	***3.9%***	
Total	$8,201,189	$180,909	2.2%	$78,683	0.9%	$194,130	2.3%	$279,922	3.2%	

FY13 PRO-TECH PAY PLAN
07/01/2012 (FY13)
CURRENT PAY PLAN

Union 15

COLA Over Prior Pay Plan: ***1.50%***

C-2 PAY GRADE		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
9	Annual	51,071	52,631	54,230	55,829	57,525	59,222	60,938	62,849	64,682	66,612
	Weekly	982.13	1,012.13	1,042.88	1,073.63	1,106.25	1,138.88	1,171.88	1,208.63	1,243.88	1,281.00
	Hourly	26.19	26.99	27.81	28.63	29.50	30.37	31.25	32.23	33.17	34.16
			0.80	0.82	0.82	0.87	0.87	0.88	0.98	0.94	0.99
			3.05%	3.04%	2.95%	3.04%	2.95%	2.90%	3.14%	2.92%	2.98%
8	Annual	46,430	47,814	49,257	50,739	52,241	53,840	55,653	57,077	58,871	60,626
	Weekly	892.88	919.50	947.25	975.75	1,004.83	1,035.38	1,070.25	1,097.63	1,132.13	1,165.88
	Hourly	23.81	24.52	25.26	26.02	26.79	27.61	28.54	29.27	30.19	31.09
			0.71	0.74	0.76	0.77	0.82	0.93	0.73	0.92	0.90
			2.98%	3.02%	3.01%	2.96%	3.06%	3.37%	2.56%	3.14%	2.98%
7	Annual	42,218	43,485	44,792	46,137	47,522	48,984	50,447	51,929	53,508	55,107
	Weekly	811.88	836.25	861.38	887.25	913.88	942.00	970.13	998.63	1,029.00	1,059.75
	Hourly	21.65	22.30	22.97	23.66	24.37	25.12	25.87	26.63	27.44	28.26
			0.65	0.67	0.69	0.71	0.75	0.75	0.76	0.81	0.82
			3.00%	3.00%	3.00%	3.00%	3.08%	2.99%	2.94%	3.04%	2.99%
6	Annual	38,357	39,527	40,716	41,945	43,212	44,460	45,825	47,171	48,575	50,037
	Weekly	737.63	760.13	783.00	806.63	831.00	855.00	881.25	907.13	934.13	962.25
	Hourly	19.67	20.27	20.88	21.51	22.16	22.80	23.50	24.19	24.91	25.66
			0.60	0.61	0.63	0.65	0.64	0.70	0.69	0.72	0.75
			3.05%	3.01%	3.02%	3.02%	2.89%	3.07%	2.94%	2.98%	3.01%
5	Annual	34,886	35,958	37,050	38,181	39,293	40,463	41,691	42,920	44,246	45,591
	Weekly	670.88	691.50	712.50	734.25	755.63	778.13	801.75	825.38	850.88	876.75
	Hourly	17.89	18.44	19.00	19.58	20.15	20.75	21.38	22.01	22.69	23.38
			0.55	0.56	0.58	0.57	0.60	0.63	0.63	0.68	0.69
			3.07%	3.04%	3.05%	2.91%	2.98%	3.04%	2.95%	3.09%	3.04%
4	Annual	31,707	32,643	33,618	34,574	35,666	36,738	37,850	39,020	40,131	41,340
	Weekly	609.75	627.75	646.50	664.88	685.88	706.50	727.88	750.38	771.75	795.00
	Hourly	16.26	16.74	17.24	17.73	18.29	18.84	19.41	20.01	20.58	21.20
			0.48	0.50	0.49	0.56	0.55	0.57	0.60	0.57	0.62
			2.95%	2.99%	2.84%	3.16%	3.01%	3.03%	3.09%	2.85%	3.01%

FY13 PRO-TECH PAY PLAN
07/01/2012 (FY13)
CURRENT PAY PLAN

Union 15

COLA Over Prior Pay Plan: **1.50%**

C-3

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 12+ yrs
Mid-Level Health Practioners (MLH / 234) 07/01/2012 (FY13)										
	Annual	64,292	67,256	69,674	70,980	72,599	74,217	75,933	77,610	79,950
	Weekly	1,236.38	1,293.38	1,339.88	1,365.00	1,396.13	1,427.25	1,460.25	1,492.50	1,537.50
	Hourly	32.97	34.49	35.73	36.40	37.23	38.06	38.94	39.80	41.00
			1.52	1.24	0.67	0.83	0.83	0.88	0.86	1.20
			4.61%	3.60%	1.88%	2.28%	2.23%	2.31%	2.21%	3.02%
Psychiatric Nurse Practioner (--- / ---) 07/01/2012 (FY13) New FY13 (No Employees; Not in System)										
	Annual	68,192	71,156	73,574	74,880	76,499	78,117	79,833	81,510	83,850
	Weekly	1,311.38	1,368.38	1,414.88	1,440.00	1,471.13	1,502.25	1,535.25	1,567.50	1,612.50
	Hourly	34.97	36.49	37.73	38.40	39.23	40.06	40.94	41.80	43.00
			1.52	1.24	0.67	0.83	0.83	0.88	0.86	1.20
			4.35%	3.40%	1.78%	2.16%	2.12%	2.20%	2.10%	2.87%

C-4

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
Principal Registered Nurse 40 Hours Grade 7 (PR1 / 486) 7/01/2012 (FY13)											
7	Annual	45,032	46,384	47,778	49,213	50,690	52,250	53,810	55,390	57,075	58,781
	Weekly	866.00	892.00	918.80	946.40	974.80	1,004.80	1,034.80	1,065.20	1,097.60	1,130.40
	Hourly	21.65	22.30	22.97	23.66	24.37	25.12	25.87	26.63	27.44	28.26
			0.65	0.67	0.69	0.71	0.75	0.75	0.76	0.81	0.82
			3.00%	3.00%	3.00%	3.00%	3.08%	2.99%	2.94%	3.04%	2.99%
Airport Communications and Security Specialist 40 Hours Grade 4 (AC / 679) 07/01/2012 (FY13)											
4	Annual	33,821	34,819	35,859	36,878	38,043	39,187	40,373	41,621	42,806	44,096
	Weekly	650.40	669.60	689.60	709.20	731.60	753.60	776.40	800.40	823.20	848.00
	Hourly	16.26	16.74	17.24	17.73	18.29	18.84	19.41	20.01	20.58	21.20
			0.48	0.50	0.49	0.56	0.55	0.57	0.60	0.57	0.62
			2.95%	2.99%	2.84%	3.16%	3.01%	3.03%	3.09%	2.85%	3.01%
Airport Lead Comm / Sec 40 Hours Grade 5 (ACL / 862) 07/01/2012 (FY13)											
5	Annual	37,211	38,355	39,520	40,726	41,912	43,160	44,470	45,781	47,195	48,630
	Weekly	715.60	737.60	760.00	783.20	806.00	830.00	855.20	880.40	907.60	935.20
	Hourly	17.89	18.44	19.00	19.58	20.15	20.75	21.38	22.01	22.69	23.38
			0.55	0.56	0.58	0.57	0.60	0.63	0.63	0.68	0.69
			3.07%	3.04%	3.05%	2.91%	2.98%	3.04%	2.95%	3.09%	3.04%

FY14 PRO-TECH PAY PLAN
07/07/2013 (FY14)
Protech Proposed (06/18/14)

COLA (Protech Proposed): ***1.00%***

Jnion 15

PAY GRADE		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
9	Annual	51,578	53,157	54,776	56,394	58,110	59,807	61,542	63,473	65,325	67,275
	Weekly	991.88	1,022.25	1,053.38	1,084.50	1,117.50	1,150.13	1,183.50	1,220.63	1,256.25	1,293.75
	Hourly	26.45	27.26	28.09	28.92	29.80	30.67	31.56	32.55	33.50	34.50
			0.81	0.83	0.83	0.88	0.87	0.89	0.99	0.95	1.00
			3.06%	3.04%	2.95%	3.04%	2.92%	2.90%	3.14%	2.92%	2.99%
8	Annual	46,898	48,302	49,745	51,246	52,767	54,386	56,219	57,642	59,456	61,230
	Weekly	901.88	928.88	956.63	985.50	1,014.75	1,045.88	1,081.13	1,108.50	1,143.38	1,177.50
	Hourly	24.05	24.77	25.51	26.28	27.06	27.89	28.83	29.56	30.49	31.40
			0.72	0.74	0.77	0.78	0.83	0.94	0.73	0.93	0.91
			2.99%	2.99%	3.02%	2.97%	3.07%	3.37%	2.53%	3.15%	2.98%
7	Annual	42,647	43,914	45,240	46,605	47,990	49,472	50,954	52,455	54,035	55,653
	Weekly	820.13	844.50	870.00	896.25	922.88	951.38	979.88	1,008.75	1,039.13	1,070.25
	Hourly	21.87	22.52	23.20	23.90	24.61	25.37	26.13	26.90	27.71	28.54
			0.65	0.68	0.70	0.71	0.76	0.76	0.77	0.81	0.83
			2.97%	3.02%	3.02%	2.97%	3.09%	3.00%	2.95%	3.01%	3.00%
6	Annual	38,747	39,917	41,126	42,374	43,641	44,909	46,293	47,639	49,082	50,544
	Weekly	745.13	767.63	790.88	814.88	839.25	863.63	890.25	916.13	943.50	972.00
	Hourly	19.87	20.47	21.09	21.73	22.38	23.03	23.74	24.43	25.16	25.92
			0.60	0.62	0.64	0.65	0.65	0.71	0.69	0.73	0.76
			3.02%	3.03%	3.03%	2.99%	2.90%	3.08%	2.91%	2.99%	3.02%
5	Annual	35,237	36,309	37,421	38,571	39,683	40,872	42,101	43,349	44,694	46,040
	Weekly	677.63	698.25	719.63	741.75	763.13	786.00	809.63	833.63	859.50	885.38
	Hourly	18.07	18.62	19.19	19.78	20.35	20.96	21.59	22.23	22.92	23.61
			0.55	0.57	0.59	0.57	0.61	0.63	0.64	0.69	0.69
			3.04%	3.06%	3.07%	2.88%	3.00%	3.01%	2.96%	3.10%	3.01%
4	Annual	32,019	32,975	33,950	34,925	36,017	37,109	38,220	39,410	40,541	41,750
	Weekly	615.75	634.13	652.88	671.63	692.63	713.63	735.00	757.88	779.63	802.88
	Hourly	16.42	16.91	17.41	17.91	18.47	19.03	19.60	20.21	20.79	21.41
			0.49	0.50	0.50	0.56	0.56	0.57	0.61	0.58	0.62
			2.98%	2.96%	2.87%	3.13%	3.03%	3.00%	3.11%	2.87%	2.98%

FY14 PRO-TECH PAY PLAN
07/07/2013 (FY14)
Protech Proposed (06/18/14)

Jnion 15

COLA (Protech Proposed): *1.00%*

	1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 12+ yrs
Mid-Level Health Practioners (MLH / 234) 07/07/2013 (FY14) Protech Proposed (06/18/14)									
Annual	64,935	67,919	70,376	71,682	73,320	74,958	76,694	78,390	80,750
Weekly	1,248.75	1,306.13	1,353.38	1,378.50	1,410.00	1,441.50	1,474.88	1,507.50	1,552.88
Hourly	33.30	34.83	36.09	36.76	37.60	38.44	39.33	40.20	41.41
		1.53	1.26	0.67	0.84	0.84	0.89	0.87	1.21
		4.59%	3.62%	1.86%	2.29%	2.23%	2.32%	2.21%	3.01%
Psychiatric Nurse Practioner (--- / ---) 07/07/2013 (FY14) Protech Proposed (06/18/14)									
Annual	68,874	71,858	74,315	75,621	77,259	78,897	80,633	82,329	84,689
Weekly	1,324.50	1,381.88	1,429.13	1,454.25	1,485.75	1,517.25	1,550.63	1,583.25	1,628.63
Hourly	35.32	36.85	38.11	38.78	39.62	40.46	41.35	42.22	43.43
		1.53	1.26	0.67	0.84	0.84	0.89	0.87	1.21
		4.33%	3.42%	1.76%	2.17%	2.12%	2.20%	2.10%	2.87%

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
	Principal Registered Nurse 40 Hours Grade 7 (PR1 / 485) 07/07/2013 (FY14) Protech Proposed (06/18/14)										
7	Annual	45,490	46,842	48,256	49,712	51,189	52,770	54,350	55,952	57,637	59,363
	Weekly	874.80	900.80	928.00	956.00	984.40	1,014.80	1,045.20	1,076.00	1,108.40	1,141.60
	Hourly	21.87	22.52	23.20	23.90	24.61	25.37	26.13	26.90	27.71	28.54
			0.65	0.68	0.70	0.71	0.76	0.76	0.77	0.81	0.83
			2.97%	3.02%	3.02%	2.97%	3.09%	3.00%	2.95%	3.01%	3.00%
	Airport Communications and Security Specialist 40 Hours (AC / 679) 07/07/2013 (FY14) Protech Proposed (06/18/14)										
4	Annual	34,154	35,173	36,213	37,253	38,418	39,582	40,768	42,037	43,243	44,533
	Weekly	656.80	676.40	696.40	716.40	738.80	761.20	784.00	808.40	831.60	856.40
	Hourly	16.42	16.91	17.41	17.91	18.47	19.03	19.60	20.21	20.79	21.41
			0.49	0.50	0.50	0.56	0.56	0.57	0.61	0.58	0.62
			2.98%	2.96%	2.87%	3.13%	3.03%	3.00%	3.11%	2.87%	2.98%
	Airport Lead Comm / Sec 40 Hours Grade 5 (ACL / 862) 07/07/2013 (FY14) Protech Proposed (06/18/14)										
5	Annual	37,586	38,730	39,815	41,142	42,328	43,597	44,907	46,238	47,674	49,109
	Weekly	722.80	744.80	767.60	791.20	814.00	838.40	863.60	889.20	916.80	944.40
	Hourly	18.07	18.62	19.19	19.78	20.35	20.96	21.59	22.23	22.92	23.61
			0.55	0.57	0.59	0.57	0.61	0.63	0.64	0.69	0.69
			3.04%	3.06%	3.07%	2.88%	3.00%	3.01%	2.96%	3.10%	3.01%

FY15 PRO-TECH PAY PLAN
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

COLA (Protech Proposed): *1.00%*

Jnion 15

PAY GRADE		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
9	Annual	52,085	53,684	55,322	56,960	58,695	60,411	62,166	64,116	65,988	67,958
	Weekly	1,001.63	1,032.38	1,063.88	1,095.38	1,128.75	1,161.75	1,195.50	1,233.00	1,269.00	1,306.88
	Hourly	26.71	27.53	28.37	29.21	30.10	30.98	31.88	32.88	33.84	34.85
			0.82	0.84	0.84	0.89	0.88	0.90	1.00	0.96	1.01
			3.07%	3.05%	2.96%	3.05%	2.92%	2.91%	3.14%	2.92%	2.98%
8	Annual	47,366	48,789	50,252	51,753	53,294	54,932	56,784	58,227	60,041	61,835
	Weekly	910.88	938.25	966.38	995.25	1,024.88	1,056.38	1,092.00	1,119.75	1,154.63	1,189.13
	Hourly	24.29	25.02	25.77	26.54	27.33	28.17	29.12	29.86	30.79	31.71
			0.73	0.75	0.77	0.79	0.84	0.95	0.74	0.93	0.92
			3.01%	3.00%	2.99%	2.98%	3.07%	3.37%	2.54%	3.11%	2.99%
7	Annual	43,076	44,363	45,689	47,073	48,477	49,959	51,461	52,982	54,581	56,219
	Weekly	828.38	853.13	878.63	905.25	932.25	960.75	989.63	1,018.88	1,049.63	1,081.13
	Hourly	22.09	22.75	23.43	24.14	24.86	25.62	26.39	27.17	27.99	28.83
			0.66	0.68	0.71	0.72	0.76	0.77	0.78	0.82	0.84
			2.99%	2.99%	3.03%	2.98%	3.06%	3.01%	2.96%	3.02%	3.00%
6	Annual	39,137	40,307	41,535	42,803	44,070	45,357	46,761	48,107	49,550	51,051
	Weekly	752.63	775.13	798.75	823.13	847.50	872.25	899.25	925.13	952.88	981.75
	Hourly	20.07	20.67	21.30	21.95	22.60	23.26	23.98	24.67	25.41	26.18
			0.60	0.63	0.65	0.65	0.66	0.72	0.69	0.74	0.77
			2.99%	3.05%	3.05%	2.96%	2.92%	3.10%	2.88%	3.00%	3.03%
5	Annual	35,588	36,680	37,791	38,961	40,073	41,282	42,530	43,778	45,143	46,508
	Weekly	684.38	705.38	726.75	749.25	770.63	793.88	817.88	841.88	868.13	894.38
	Hourly	18.25	18.81	19.38	19.98	20.55	21.17	21.81	22.45	23.15	23.85
			0.56	0.57	0.60	0.57	0.62	0.64	0.64	0.70	0.70
			3.07%	3.03%	3.10%	2.85%	3.02%	3.02%	2.93%	3.12%	3.02%
4	Annual	32,331	33,306	34,281	35,276	36,368	37,479	38,610	39,800	40,950	42,159
	Weekly	621.75	640.50	659.25	678.38	699.38	720.75	742.50	765.38	787.50	810.75
	Hourly	16.58	17.08	17.58	18.09	18.65	19.22	19.80	20.41	21.00	21.62
			0.50	0.50	0.51	0.56	0.57	0.58	0.61	0.59	0.62
			3.02%	2.93%	2.90%	3.10%	3.06%	3.02%	3.08%	2.89%	2.95%

FY15 PRO-TECH PAY PLAN
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

Union 15 *COLA (Protech Proposed):* *1.00%*

Mid-Level Health Practioners (MLH / 234)
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

	1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 12+ yrs
Annual	65,579	68,601	71,078	72,404	74,061	75,699	77,454	79,170	81,549
Weekly	1,261.13	1,319.25	1,366.88	1,392.38	1,424.25	1,455.75	1,489.50	1,522.50	1,568.25
Hourly	33.63	35.18	36.45	37.13	37.98	38.82	39.72	40.60	41.82
		1.55	1.27	0.68	0.85	0.84	0.90	0.88	1.22
		4.61%	3.61%	1.87%	2.29%	2.21%	2.32%	2.22%	3.00%

Psychiatric Nurse Practioner (--- / ---)
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

	1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 12+ yrs
Annual	69,557	72,579	75,056	76,382	78,039	79,677	81,432	83,148	85,527
Weekly	1,337.63	1,395.75	1,443.38	1,468.88	1,500.75	1,532.25	1,566.00	1,599.00	1,644.75
Hourly	35.67	37.22	38.49	39.17	40.02	40.86	41.76	42.64	43.86
		1.55	1.27	0.68	0.85	0.84	0.90	0.88	1.22
		4.35%	3.41%	1.77%	2.17%	2.10%	2.20%	2.11%	2.86%

Principal Registered Nurse 40 Hours Grade 7 (PR1 / 486)
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
7	Annual	45,947	47,320	48,734	50,211	51,709	53,290	54,891	56,514	58,219	59,966
	Weekly	883.60	910.00	937.20	965.60	994.40	1,024.80	1,055.60	1,086.80	1,119.60	1,153.20
	Hourly	22.09	22.75	23.43	24.14	24.86	25.62	26.39	27.17	27.99	28.83
			0.66	0.68	0.71	0.72	0.76	0.77	0.78	0.82	0.84
			2.99%	2.99%	3.03%	2.98%	3.06%	3.01%	2.96%	3.02%	3.00%

Airport Communications and Security Specialist 40 Hours Grade 4 (AC / 879)
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
4	Annual	34,486	35,526	36,566	37,627	38,792	39,978	41,184	42,453	43,680	44,970
	Weekly	663.20	683.20	703.20	723.60	746.00	768.80	792.00	816.40	840.00	864.80
	Hourly	16.58	17.08	17.58	18.09	18.65	19.22	19.80	20.41	21.00	21.62
			0.50	0.50	0.51	0.56	0.57	0.58	0.61	0.59	0.62
			3.02%	2.93%	2.90%	3.10%	3.06%	3.02%	3.08%	2.89%	2.95%

Airport Lead Comm / Sec 40 Hours Grade 5 (ACL / 882)
JULY 07/06/2014 (FY15)
Protech Proposed (06/18/14)

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
5	Annual	37,960	39,125	40,310	41,558	42,744	44,034	45,365	46,696	48,152	49,608
	Weekly	730.00	752.40	775.20	799.20	822.00	846.80	872.40	898.00	926.00	954.00
	Hourly	18.25	18.81	19.38	19.98	20.55	21.17	21.81	22.45	23.15	23.85
			0.56	0.57	0.60	0.57	0.62	0.64	0.64	0.70	0.70
			3.07%	3.03%	3.10%	2.85%	3.02%	3.02%	2.93%	3.12%	3.02%

FY16 PRO-TECH PAY PLAN
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

Inion 15

COLA (Protech Proposed): *1.00%*

PAY GRADE		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
9	Annual	52,611	54,230	55,868	57,525	59,280	61,016	62,790	64,760	66,651	68,640
	Weekly	1,011.75	1,042.88	1,074.38	1,106.25	1,140.00	1,173.38	1,207.50	1,245.38	1,281.75	1,320.00
	Hourly	26.98	27.81	28.65	29.50	30.40	31.29	32.20	33.21	34.18	35.20
			0.83	0.84	0.85	0.90	0.89	0.91	1.01	0.97	1.02
			3.08%	3.02%	2.97%	3.05%	2.93%	2.91%	3.14%	2.92%	2.98%
8	Annual	47,834	49,277	50,759	52,280	53,820	55,478	57,350	58,812	60,645	62,459
	Weekly	919.88	947.63	976.13	1,005.38	1,035.00	1,066.88	1,102.88	1,131.00	1,166.25	1,201.13
	Hourly	24.53	25.27	26.03	26.81	27.60	28.45	29.41	30.16	31.10	32.03
			0.74	0.76	0.78	0.79	0.85	0.96	0.75	0.94	0.93
			3.02%	3.01%	3.00%	2.95%	3.08%	3.37%	2.55%	3.12%	2.99%
7	Annual	43,505	44,811	46,137	47,541	48,965	50,466	51,968	53,508	55,127	56,784
	Weekly	836.63	861.75	887.25	914.25	941.63	970.50	999.38	1,029.00	1,060.13	1,092.00
	Hourly	22.31	22.98	23.66	24.38	25.11	25.88	26.65	27.44	28.27	29.12
			0.67	0.68	0.72	0.73	0.77	0.77	0.79	0.83	0.85
			3.00%	2.98%	3.04%	2.99%	3.07%	2.98%	2.96%	3.02%	3.01%
6	Annual	39,527	40,716	41,945	43,232	44,519	45,806	47,229	48,594	50,037	51,558
	Weekly	760.13	783.00	806.63	831.38	856.13	880.88	908.25	934.50	962.25	991.50
	Hourly	20.27	20.88	21.51	22.17	22.83	23.49	24.22	24.92	25.66	26.44
			0.61	0.63	0.66	0.66	0.66	0.73	0.70	0.74	0.78
			3.01%	3.02%	3.07%	2.98%	2.89%	3.11%	2.89%	2.97%	3.04%
5	Annual	35,939	37,050	38,162	39,351	40,482	41,691	42,959	44,207	45,591	46,976
	Weekly	691.13	712.50	733.88	756.75	778.50	801.75	826.13	850.13	876.75	903.38
	Hourly	18.43	19.00	19.57	20.18	20.76	21.38	22.03	22.67	23.38	24.09
			0.57	0.57	0.61	0.58	0.62	0.65	0.64	0.71	0.71
			3.09%	3.00%	3.12%	2.87%	2.99%	3.04%	2.91%	3.13%	3.04%
4	Annual	32,663	33,638	34,632	35,627	36,738	37,850	39,000	40,190	41,360	42,588
	Weekly	628.13	646.88	666.00	685.13	706.50	727.88	750.00	772.88	795.38	819.00
	Hourly	16.75	17.25	17.76	18.27	18.84	19.41	20.00	20.61	21.21	21.84
			0.50	0.51	0.51	0.57	0.57	0.59	0.61	0.60	0.63
			2.99%	2.96%	2.87%	3.12%	3.03%	3.04%	3.05%	2.91%	2.97%

FY16 PRO-TECH PAY PLAN
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

Union 15

COLA (Protech Proposed): 1.00%

	1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 12+ yrs

Mid-Level Health Practioners (MLH / 234)
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

	1	2	3	4	5	6	7	8	9
Annual	66,242	69,284	71,780	73,125	74,802	76,460	78,234	79,970	82,368
Weekly	1,273.88	1,332.38	1,380.38	1,406.25	1,438.50	1,470.38	1,504.50	1,537.88	1,584.00
Hourly	33.97	35.53	36.81	37.50	38.36	39.21	40.12	41.01	42.24
		1.56	1.28	0.69	0.86	0.85	0.91	0.89	1.23
		4.59%	3.60%	1.87%	2.29%	2.22%	2.32%	2.22%	3.00%

Psychiatric Nurse Practioner (--- / ---)
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

	1	2	3	4	5	6	7	8	9
Annual	70,259	73,301	75,797	77,142	78,819	80,477	82,251	83,987	86,385
Weekly	1,351.13	1,409.63	1,457.63	1,483.50	1,515.75	1,547.63	1,581.75	1,615.13	1,661.25
Hourly	36.03	37.59	38.87	39.56	40.42	41.27	42.18	43.07	44.30
		1.56	1.28	0.69	0.86	0.85	0.91	0.89	1.23
		4.33%	3.41%	1.78%	2.17%	2.10%	2.20%	2.11%	2.86%

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs

Principal Registered Nurse 40 Hours Grade 7 (PR1 / 485)
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

		1	2	3	4	5	6	7	8	9	10
7	Annual	46,405	47,798	49,213	50,710	52,229	53,830	55,432	57,075	58,802	60,570
	Weekly	892.40	919.20	946.40	975.20	1,004.40	1,035.20	1,066.00	1,097.60	1,130.80	1,164.80
	Hourly	22.31	22.98	23.66	24.38	25.11	25.88	26.65	27.44	28.27	29.12
			0.67	0.68	0.72	0.73	0.77	0.77	0.79	0.83	0.85
			3.00%	2.96%	3.04%	2.99%	3.07%	2.98%	2.96%	3.02%	3.01%

Airport Communications and Security Specialist 40 Hours Grade 4 (AC / 679)
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

		1	2	3	4	5	6	7	8	9	10
4	Annual	34,840	35,880	36,941	38,002	39,187	40,373	41,600	42,869	44,117	45,427
	Weekly	670.00	690.00	710.40	730.80	753.60	776.40	800.00	824.40	848.40	873.60
	Hourly	16.75	17.25	17.76	18.27	18.84	19.41	20.00	20.61	21.21	21.84
			0.50	0.51	0.51	0.57	0.57	0.59	0.61	0.60	0.63
			2.99%	2.96%	2.87%	3.12%	3.03%	3.04%	3.05%	2.91%	2.97%

Airport Lead Comm / Sec 40 Hours Grade 5 (ACL / 862)
JANUARY 01/04/2015 (FY15)
Protech Proposed (06/18/14)

		1	2	3	4	5	6	7	8	9	10
5	Annual	38,334	39,520	40,706	41,974	43,181	44,470	45,822	47,154	48,630	50,107
	Weekly	737.20	760.00	782.80	807.20	830.40	855.20	881.20	906.80	935.20	963.60
	Hourly	18.43	19.00	19.57	20.18	20.76	21.38	22.03	22.67	23.38	24.09
			0.57	0.57	0.61	0.58	0.62	0.65	0.64	0.71	0.71
			3.09%	3.00%	3.12%	2.87%	2.99%	3.04%	2.91%	3.13%	3.04%

FY16 PRO-TECH PAY PLAN
07/05/2015 (FY16)
Protech Proposed (06/18/14)

Union 15

COLA (Protech Proposed): ***3.00%***

PAY GRADE		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs
9	Annual	54,191	55,848	57,545	59,261	61,055	62,849	64,682	66,710	68,660	70,707
	Weekly	1,042.13	1,074.00	1,106.63	1,139.63	1,174.13	1,208.63	1,243.88	1,282.88	1,320.38	1,359.75
	Hourly	27.79	28.64	29.51	30.39	31.31	32.23	33.17	34.21	35.21	36.26
			0.85	0.87	0.88	0.92	0.92	0.94	1.04	1.00	1.05
			3.06%	3.04%	2.98%	3.03%	2.94%	2.92%	3.14%	2.92%	2.98%
8	Annual	49,277	50,759	52,280	53,840	55,439	57,135	59,066	60,567	62,459	64,331
	Weekly	947.63	976.13	1,005.38	1,035.38	1,066.13	1,098.75	1,135.88	1,164.75	1,201.13	1,237.13
	Hourly	25.27	26.03	26.81	27.61	28.43	29.30	30.29	31.06	32.03	32.99
			0.76	0.78	0.80	0.82	0.87	0.99	0.77	0.97	0.96
			3.01%	3.00%	2.98%	2.97%	3.06%	3.38%	2.54%	3.12%	3.00%
7	Annual	44,811	46,157	47,522	48,965	50,427	51,987	53,528	55,107	56,784	58,481
	Weekly	861.75	887.63	913.88	941.63	969.75	999.75	1,029.38	1,059.75	1,092.00	1,124.63
	Hourly	22.98	23.67	24.37	25.11	25.86	26.66	27.45	28.26	29.12	29.99
			0.69	0.70	0.74	0.75	0.80	0.79	0.81	0.86	0.87
			3.00%	2.96%	3.04%	2.99%	3.09%	2.96%	2.95%	3.04%	2.99%
6	Annual	40,716	41,945	43,212	44,538	45,845	47,171	48,653	50,057	51,539	53,099
	Weekly	783.00	806.63	831.00	856.50	881.63	907.13	935.63	962.63	991.13	1,021.13
	Hourly	20.88	21.51	22.16	22.84	23.51	24.19	24.95	25.67	26.43	27.23
			0.63	0.65	0.68	0.67	0.68	0.76	0.72	0.76	0.80
			3.02%	3.02%	3.07%	2.93%	2.89%	3.14%	2.89%	2.96%	3.03%
5	Annual	37,011	38,162	39,312	40,541	41,691	42,939	44,246	45,533	46,956	48,380
	Weekly	711.75	733.88	756.00	779.63	801.75	825.75	850.88	875.63	903.00	930.38
	Hourly	18.98	19.57	20.16	20.79	21.38	22.02	22.69	23.35	24.08	24.81
			0.59	0.59	0.63	0.59	0.64	0.67	0.66	0.73	0.73
			3.11%	3.01%	3.13%	2.84%	2.99%	3.04%	2.91%	3.13%	3.03%
4	Annual	33,638	34,652	35,666	36,699	37,850	38,981	40,170	41,399	42,608	43,875
	Weekly	646.88	666.38	685.88	705.75	727.88	749.63	772.50	796.13	819.38	843.75
	Hourly	17.25	17.77	18.29	18.82	19.41	19.99	20.60	21.23	21.85	22.50
			0.52	0.52	0.53	0.59	0.58	0.61	0.63	0.62	0.65
			3.01%	2.93%	2.90%	3.13%	2.99%	3.05%	3.06%	2.92%	2.97%

FY16 PRO-TECH PAY PLAN
07/05/2015 (FY16)
Protech Proposed (06/18/14)

Union 15

COLA (Protech Proposed): 3.00%

	1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 12+ yrs

Mid-Level Health Practioners (MLH / 234)
07/05/2015 (FY16)
Protech Proposed (06/18/14)

	1	2	3	4	5	6	7	8	9
Annual	68,231	71,370	73,925	75,329	77,045	78,761	80,574	82,368	84,845
Weekly	1,312.13	1,372.50	1,421.63	1,448.63	1,481.63	1,514.63	1,549.50	1,584.00	1,631.63
Hourly	34.99	36.60	37.91	38.63	39.51	40.39	41.32	42.24	43.51
		1.61	1.31	0.72	0.88	0.88	0.93	0.92	1.27
		4.60%	3.58%	1.90%	2.28%	2.23%	2.30%	2.23%	3.01%

Psychiatric Nurse Practioner (--- / ---)
07/05/2015 (FY16)
Protech Proposed (06/18/14)

	1	2	3	4	5	6	7	8	9
Annual	72,365	75,504	78,078	79,463	81,179	82,895	84,728	86,502	88,979
Weekly	1,391.63	1,452.00	1,501.50	1,528.13	1,561.13	1,594.13	1,629.38	1,663.50	1,711.13
Hourly	37.11	38.72	40.04	40.75	41.63	42.51	43.45	44.36	45.63
		1.61	1.32	0.71	0.88	0.88	0.94	0.91	1.27
		4.34%	3.41%	1.77%	2.16%	2.11%	2.21%	2.09%	2.86%

		1 Recruit	2 6mos-1yr	3 1 yr	4 2 yrs	5 3yrs	6 4yrs	7 5 yrs	8 6 yrs	9 7 yrs	10 12+ yrs

Principal Registered Nurse 40 Hours Grade 7 (PR1 / 485)
07/05/2015 (FY16)
Protech Proposed (06/18/14)

		1	2	3	4	5	6	7	8	9	10
7	Annual	47,798	49,234	50,690	52,229	53,789	55,453	57,096	58,781	60,570	62,379
	Weekly	919.20	946.80	974.80	1,004.40	1,034.40	1,066.40	1,098.00	1,130.40	1,164.80	1,199.60
	Hourly	22.98	23.67	24.37	25.11	25.86	26.66	27.45	28.26	29.12	29.99
			0.69	0.70	0.74	0.75	0.80	0.79	0.81	0.86	0.87
			3.00%	2.96%	3.04%	2.99%	3.09%	2.96%	2.95%	3.04%	2.99%

Airport Communications and Security Specialist 40 Hours Grade 4 (AC / 679)
07/05/2015 (FY16)
Protech Proposed (06/18/14)

		1	2	3	4	5	6	7	8	9	10
4	Annual	35,880	36,962	38,043	39,146	40,373	41,579	42,848	44,158	45,448	46,800
	Weekly	690.00	710.80	731.60	752.80	776.40	799.60	824.00	849.20	874.00	900.00
	Hourly	17.25	17.77	18.29	18.82	19.41	19.99	20.60	21.23	21.85	22.50
			0.52	0.52	0.53	0.59	0.58	0.61	0.63	0.62	0.65
			3.01%	2.93%	2.90%	3.13%	2.99%	3.05%	3.06%	2.92%	2.97%

Airport Lead Comm / Sec 40 Hours Grade 5 (ACL / 862)
07/05/2015 (FY16)
Protech Proposed (06/18/14)

		1	2	3	4	5	6	7	8	9	10
5	Annual	39,478	40,706	41,933	43,243	44,470	45,802	47,195	48,568	50,086	51,605
	Weekly	759.20	782.80	806.40	831.60	855.20	880.80	907.60	934.00	963.20	992.40
	Hourly	18.98	19.57	20.16	20.79	21.38	22.02	22.69	23.35	24.08	24.81
			0.59	0.59	0.63	0.59	0.64	0.67	0.66	0.73	0.73
			3.11%	3.01%	3.13%	2.84%	2.99%	3.04%	2.91%	3.13%	3.03%

Order 52-14/15
~~Tab 21 9-3-14~~
Tab 16 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE
SECTION 15-12
Re: Valet Parking Fees and Expiration Dates

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

1. *That Section 15-12 of the Portland City Code is hereby amended to read as follows:*

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
. . .			
Ch. 19, Art. III	Transient sellers	100.00	December 31
Ch. 28, Art. VII	Valet Parking	$250.00 per location	Twelve months
	Valet Parking Special Event Permit	$50.00	

(b) Fees for licenses to be established by the city pursuant to state law shall be as follows:

. . .

City of Portland, Maine
City Council Agenda Request Form

TO: Sonia Bean, Senior Administrative Assistant
Mayor and Portland City Councilors

FROM: Danielle West-Chuhta, Corporation Counsel

DATE: **August 2, 2014**

1) Council meeting at which action is requested:

1st reading: September 3, 2014
Final action: September 15, 2014

2) Can action be taken at a later date: X YES ______ NO
If not, why not:

3) This item is sponsored by: Corporation Counsel

(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

The Portland City Council approved permit fees for valet parking and valet parking special events in Order 234-12/13 on June 3, 2013. A companion Order adding the fees to the fee schedule in Chapter 15, Section 12 was inadvertently omitted from the agenda request; this Order is that companion order.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

This Order inserts the valet parking permit fees into the Fee Schedule contained in Chapter 15 Section 12 of the Portland City Code.

III. INTENDED RESULT (How does it resolve the issue/problem?)

This Order adds valet parking fees to the chart showing all the permit fees the City charges.

IV. FINANCIAL IMPACT

There is no financial impact; the fees are already collected.

V. STAFF ANALYSIS & RECOMMENDATION

Corporation Counsel recommends approval.

Attachments:

Order, "Amendment to Portland City Code Section 15-12 Re: Valet Parking Fees and Expiration Dates"

order 53-14/15
~~Tab 22~~ ~~9-3-14~~
Tab 17 9-5-14

CITY OF PORTLAND
IN THE CITY COUNCIL

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
Re: Industrial I-M Zone

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

That Chapter 14, Article III, Division 1, Section 14-47, and Division 14, Section 14-247 of the Portland City Code are hereby amended to read as follows:

DIVISION 1. GENERALLY

...

Sec. 14-47. Definitions

...

Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, <u>residential care facility or equivalent</u> pursuant to the regulations promulgated by the State of Maine Department of <u>Health and</u> Human Services.

...

DIVISION 14. I-M, I-Ma and I-Mb Industrial Zones

...

Sec. 14-247. Permitted uses.

...

<u>(y) Intermediate care facilities on any property with existing structures provided they were not designed constructed</u>

or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.

MEMORANDUM
City Council Agenda Item

TO: Mayor Brennan and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: August 20, 2014

DISTRIBUTION: (Mark Rees, City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Nancy English, Jennifer Thompson)

SUBJECT: Text Amendment for the Industrial IM Zone

SPONSOR: Stuart O'Brien, Chair, Portland Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading: September 3, 2014 **Final Action:** September 15, 2014

Can action be taken at a later date: __X__ Yes _____ No (If no why not?)

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

I. SUMMARY OF ISSUE (Agenda Description)

Spurwink Services has requested a text change to the City Ordinance to allow intermediate care facility as an allowable use in the moderate impact Industrial Zones (IM, I-Ma and I-Mb) in order to establish such a facility at their campus at 899 Riverside Street. The proposed amendment revises section *14-247 Permitted Uses* (IM, I-Ma and I-Mb Zones) to add the following use as follows:

> y. <u>Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff</u>.

The applicant and planning staff have worked together to draft this amendment language that supports the expansion of this service that has been located at this site since the 1950's. It can also be applied for the reuse of existing structures in other locations within the I-M zone where the sites are developed with non-industrial buildings.

The applicant is also proposing a text amendment to *Section 14-47 Definitions* to clarify the definition of intermediate care facility in the City Ordinance:

> Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, <u>Residential Care</u> <u>facility or equivalent</u> pursuant to the regulations promulgated by the State of Maine Department of <u>Health and</u> Human Services.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Spurwink Services campus is located at 899 Riverside Street in the I-M zone and was established in the 1950's as a home for boys. The campus consists of three building structures. Two of the structures, Smith House and Kaufman House, were formerly residential uses and currently house the offices for the professional staff, including senior management, finance, and development functions. The third building on the campus, Sue Wright House, is currently used as an eight-bed residence for students (plus staff) at the Baxter School for the Deaf. This is a lawful, non-conforming use of the building.

The applicant seeks the amendment as it would allow Spurwink Services allow the reuse of one of the existing buildings on the campus to be renovated as an intermediate care facility. This building has been identified by the applicant as suitable for conversion from office space to intermediate care facility home.

III. INTENDED RESULT

The overall mix of uses on the property is to stay the same, but to the proposed amendments enable the conversion of administrative office building, formerly residential building, to a residential accommodation meeting the definition of intermediate care facility with a larger number of clients (up to 30clients plus staff) for the site.

IV. COUNCIL GOAL ADDRESSED

The City Council Goal addressed with this proposed text amendment is the Economic Goal:

> Economic Development: Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

Spurwink Services is a social service agency that serves the needs of children and adults with mental health concerns. They provide day-to-day services, education, as well as residential treatment in many locations and settings. This text amendment will allow an intermediate care facility limited to thirty (30) persons plus staff that will encourage job creation for medical and social work personnel and offer diverse services in the social services sector.

V. FINANCIAL IMPACT

There is no financial impact to the City due to these text amendments.

VI. STAFF ANALYSIS

In evaluating the proposed changes to the industrial zones, the Planning staff reviewed articles regarding planning research that assesses the vulnerability of urban industrial land to conversion by higher value uses, and the need to balance land use policy to strategically reserve appropriate industrial land for future enterprises based on the economic development priorities and plans for the community. A recent report by The Dunham Group, *Greater Portland: Industrial Market Review & 2014 Forecast* reveals a relatively low regional and local vacancy rate for industrial buildings (5.3% region, 8.2% Portland). Greg Mitchell, Economic Development Director, is in support of the Spurwink reuse proposal with the caveat that any amendment to the IM zone be crafted to avoid a large scale conversion of industrially suitable land and buildings to institutional or other non-industrial use.

Some of the permitted uses in the moderate industrial zones that are similar to the proposed use are day care facilities, correctional prerelease facilities, and general, business and professional offices. The moderate impact industrial zones are located on or near arterial ways where the traffic and noise impacts will have minimal effect on nearby residential. According the applicant, one of the reasons that the intermediate care facility will work in these zones, is that such facilities requires 24-hour care staffing to care for the resident population who for various reasons require continuous oversight and supervision . Due to the operational characteristics of this type of facility there are potential traffic and lighting impacts due to the shift changes, lighting for security reasons, client volatility, and the consistent volume of traffic from the families, friends, medical professionals and state agency staff. The placement of the facility on an arterial is important due to these frequent visitations and the fact that the facility serves the larger region. Existing residential neighborhoods will not be impacted significantly by siting this facility in this IM location.

The Planning Board considered whether this text amendment should also be applied to the I-L zones. After research, there are very limited areas of I-L zones in the City, which are located along arterials and have large lots.

VII. RECOMMENDATION

The Planning Board recommends to the City Council approval of the Text Amendments to add the intermediate care facility as a permitted use in the I-M and update the definition as follows:

Section *14-247 Permitted Uses* (IM, I-Ma and I-Mb Zones)
<u>Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.</u>

Section 14-47 Definitions:
Intermediate Care Facility : A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, <u>Residential Care</u> <u>facility or equivalent</u> pursuant to the regulations promulgated by the State of Maine Department of <u>Health and</u> Human Services.

VIII. LIST ATTACHMENTS

1. Planning Board Report

Prepared by:

August 21, 2014

Signature Date

CITY COUNCIL REPORT
PORTLAND, MAINE

Text Amendments to IM Industrial Zone
899 Riverside Street
Text Amendment Application
Application #2012-108
Spurwink Services, Applicant
CBL 326 B004002

Submitted to: Portland City Council First Reading: September 3, 2014 Second Reading: September 15, 2014	Prepared by: Shukria Wiar, Planner Date: Thursday, August 28, 2014

I. INTRODUCTION

The Portland Planning Board recommends to City Council a text amendment for the property at 899 Riverside Street. The Planning Board held two workshop meetings on this item on July 22, 2014 and August 18, 2014 and a public hearing on August 29, 2014. At the hearing the Board recommended to the City Council the approval of the text amendment.

Spurwink Services has requested a text change to the City Ordinance to allow intermediate care facility as a permitted use in the moderate impact Industrial Zones (IM, I-Ma and I-Mb) in order to establish such a facility at their campus at 899 Riverside Street. The proposed amendment revises *Section 14-247 Permitted Uses* (IM, I-Ma and I-Mb Zones) to add the following as a permitted use:

> y. <u>Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.</u>

The applicant is also proposing a text amendment to *Section 14-47 Definitions* to clarify the definition of intermediate care facility in the City Ordinance:

> Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is

designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, Residential Care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

The applicant requests the text amendment to the I-M zone, as it would allow Spurwink Services to use one of the existing buildings (Kaufmann House) on its campus at 899 Riverside Street to be renovated for the use as an intermediate care facility. This building has been identified by the applicant as suitable for conversion from office space to an intermediate care facility.

Intermediate care facilities are not permitted in the industrial zones. They are permitted uses in the B-2, B2-b and B-2c zones and conditional use in R-1, R-2, R-3, R-5 and R-6 zones.

II. Project Data

Current Zoning:	Moderate Impact Industrial (I-M)
Current Uses:	There are three separate structures on the property: one is used as eight-bed residence and two are originally built as residences currently used for Spurwink office spaces.
Proposed Uses:	To permit the conversion of a formerly residential building, now used as administrative offices, to a residential accommodation meeting the definition of intermediate care facility with a larger number of clients (up to 30 clients plus staff) for the site.
Land Area:	3.28 acres

III. Background and Existing Information

Spurwink Services is located at 899 Riverside Street in the I-M zone. The campus consists of three buildings. Two of the structures, Smith House and Kaufman House, house the offices for the professional staff including senior management, finance, and development functions. The third building on the campus, Sue Wright House, is currently used as an eight-bed residence for students (plus staff) attending the Baxter School for the Deaf. This is a lawful, non-conforming use of the building.

Spurwink Services is a social service agency that serves the needs of children and adults with mental health concerns. They provide day-to-day services, education, as well as residential treatment in many locations and settings. Following is a brief history of the facility provided by the applicant:

> Spurwink Services purchased the 899 Riverside Street property in the late 1950's after the town of Scarborough rejected an effort to establish a therapeutic home for boys along the Spurwink River. Reiser House, what is today called the Sue Wright House finally opened in the fall of 1960. It was licensed for eight latency aged boys. The

property now housed what would be the first therapeutic home for boys in Maine. Five years later, Kaufman House was built across the driveway and 8 boys arrived soon after it was completed.

During that time in the late 1960's, Dick Smith, founder of Spurwink Services and his wife also took up residence on the property. They lived in the third structure that would later, after Mr. Smith's retirement, become affectionately known as Smith House. In about 1982 under continued growth Smith House was converted to office use and would become to executive staff including Harvey Berman and Jack Rosser who helped guide Spurwink's growth from a local agency to one with a presence in southern, mid-coast and central Maine. In about 1994 Kaufmann House was also converted to office space and expanded to house a growing staff. These structures are still used as management office spaces today, while Sue Wright House is used as a residential facility, today housing 8 kids from Baxter School treatment.

The adjacent bowling alley property was also part of the original parcel before it was sold for redevelopment. This property was a recreation field for the properties early residents.

The offices that are housed on campus will be relocating to office space within the former Rainbow Mall building on Washington Avenue. The applicant intends to convert the Kaufmann House, which is used for office space, to the proposed intermediate care facility use; thus the applicant is requesting the text amendment.

According to the applicant, this site is the prime location for the intermediate care facility

Because Spurwink Services supports families from the larger Cumberland County community, this location, its proximity to primary arterials and connector streets will provide greater accessibility to families, caregivers and State agency representatives that will travel to see clients cared for at the facility.

Please refer to the applicant's cover letter (Attachment A) for the reasons they are seeking to convert this site for an intermediate care facility for their clients.

IV. EXISTING ZONING

A zoning chart that contains the purpose statement and permitted uses of the I-M Zone is included as Attachment 2. The residential zones and the B-2 zone, which allow intermediate care facilities as either a permitted or conditional use under the institutional use category are listed in the chart as well (Attachment 2). Please note that the intermediate care facilities provision in the residential zones allows intermediate care facilities as a conditional use with 13 or more persons.

V. ZONING TEXT AMENDMENT PROPOSAL

a. Policy Background

In assessing this zoning request, we have considered the increasing vulnerability of urban industrial land to conversion by higher value uses, and the need to balance land use policy to strategically reserve appropriate industrial land for future enterprises based on the economic development priorities and plans for the community. This is a national trend, particularly in cities such as Portland that are attracting non-industrial mixed uses. Further, a recent report by The Dunham Group, *Greater Portland: Industrial Market Review & 2014 Forecast* reveals a relatively low regional and local vacancy rate for industrial buildings (5.3% region, 8.2% Portland). Conversations with our Economic Development Department reveal that the absorption rate for industrial properties is slow in Portland, that our existing building stock is in need of upgrade investment to bring it to modern standards, and that one or two large and difficult to reuse vacant structures has skewed the local vacancy rate upward. The recommendation of the Economic Development Department is in support of the Spurwink reuse proposal with the caveat that any amendment to the IM zone be crafted to avoid a large scale conversion of industrially suitable land and buildings to institutional or other non-industrial use. Greg Mitchell, Economic Development, has submitted a memo presenting the department's position, which is included as Attachment 1.

b. Adding Intermediate Care Facility in the I-M Zone
To address these policy concerns, a narrow provision for a permitted use has been developed that limits the impact of the proposed use amendment on the availability of industrial property in the IM zone. The applicant and planning staff have worked together to draft this amendment language that supports the expansion of this service that has been located at this site since the 1950's. It can also be applied for the reuse of existing structures in other locations within the I-M zone where the sites are developed with non-industrial buildings. The proposed draft language is to amend the paragraph Section 14-247 Permitted Uses of the IM zone to add subparagraph y, intermediate care facility as follows:

> (y) Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.

This version could apply to properties other than Spurwink's, but is still carefully limited to avoid significant loss of usable industrial properties to institutional uses.

Intermediate care facilities are currently not permitted in the industrial zones. They are permitted uses in the B-2, B2-b and B-2c zones and conditional uses in R-1, R-2, R-3, R-5 and R-6 zones. In the business zones, there is no number of clients stated and in the residential zones it states that the intermediate care facilities are for 13 or more persons. The proposal for IM suggests capping the clients at thirty (30) plus staff. At the first workshop, the Board did explore whether a numerical cap is needed. The applicant has indicated that they would not exceed the proposed number and again it is retained to avoid a significant loss of industrial properties.

c. Definition of Intermediate Care Facility
The applicant is also proposing to clarify the definition of intermediate care facility in Section 14-47 Definitions to be consistent with State's definition. The underline text is the language that the applicant is adding to the existing definition and it includes the staff recommendation to add the phrase or equivalent in order to adapt to possible future changes in terminology at the state level:

> Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, Residential Care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

VI. ZONING POLICY ANALYSIS

The purpose of the I-M modest impact industrial zone (Section 14-26) is as follows:

> *The moderate impact industrial zones are intended to provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist.*
>
> *The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic.*

> *The I-M, I-Ma and I-Mb industrial zones are intended to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure.*

Some of the permitted uses in the moderate industrial zones that are similar to the proposed use are day care facilities, correctional prerelease facilities, and general, business and professional offices. The moderate impact industrial zones are located on or near arterial ways where the traffic and noise impacts will have minimal effect on nearby residential. According the applicant, one of the reasons that the intermediate care facility will work in these zones, is that such facilities require staffing for 24-hour care for the resident population who for various reasons require continuous oversight and supervision. Due to the operational characteristics of this type of facility there are potential traffic and lighting impacts due to the shift changes, lighting for security reasons, client volatility, and the consistent volume of traffic from the families, friends, medical professionals and state agency staff. The placement of the facility on an arterial is important due to these frequent visitations and the fact that the facility serves the larger region. Existing residential neighborhoods will not be impacted significantly by siting this facility in this IM location.

The proposed text amendment for the definition of intermediate care facility aligns the City's definition with the State definition.

VII. Comprehensive Plan Analysis

Matthew Winch, Principal Architect with Garrison Consulting, provided the applicant's assessment of the proposed text amendments and consistency with Portland's Comprehensive Plan (Attachment C). Mr. Winch cites relevant goals and polices from the following components of Portland Comprehensive Plan:

Housing: Sustaining Portland's Future; and
Portland Industry and Commerce Plan

In addition to the analysis provided by the applicant, the staff cites additional applicable policies below and the Economic Development Department has submitted comments that are contained in Attachment 3. Volume 1 of the Portland Comprehensive Plan includes references to all Portland strategic plans compiled as components of the comprehensive plan and how each addressees the state Growth Management Goals. Goals and policies of both the state and the city, as described in the strategic plans that comprise the Portland Comprehensive Plan, which are relevant to the proposed map amendment have been included below:

STATE GOAL C. To promote an economic climate that increases job opportunities and overall economic well-being;

The introduction to this goal cites the *Portland Neighborhood Economic Development Study*, among other plans. Specific strategies to achieve the above goal that pertain to this text amendment proposal include the following:

PORTLAND INDUSTRIAL AND COMMERCE PLAN - 1944

Goals

- *Strengthen and Diversify the Economic Base*
  - *create a variety of job opportunities for the full spectrum of the labor pool which:*
    - *are appropriate to our current and potential skills*
    - *provide good pay and benefits- a living wage*
    - *are rewarding/ satisfying*
  - *create a strong industrial base which is beneficial to the community*

- *Revise Zoning*
    - *protect neighboring residential zones*
    - *adopt clear, predictable, and enforceable regulations*
    - *promote compatible development within industrial districts*
    - *create thoughtful flexibility for emerging industries*

STATE GOAL D. To encourage and promote affordable, decent housing opportunities for all Maine citizens:

The introduction to this goal cites the *Housing, Sustaining Portland's Future*, among other plans. Specific strategies to achieve the above goal that may pertain to this text amendment proposal include the following:

Goals

- *Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.*
- *Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.*

Policies

- *While accommodating needed services and facilities, protect the stability of Portland residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental, and other non-residential uses.*

The introduction to this goal cites the *Regulation of Institutional Uses in the Residential Zones - 1983*, among other plans. Specific strategies to achieve the above goal that may pertain to this text amendment proposal include the following:

Goals

- *Reasonable expansion of existing institutions should be accommodated, but effective use of existing lot area should be required.*
- *For both new development and expansion of existing institutions, the displacement or conversion of existing dwelling should be avoided, and an institutional development proposal that causes significant residential displacement should be cause for denial of conditional use approval.*

This text amendment will allow an intermediate care facility limited to thirty (30) persons plus staff that will encourage job creation for medical and social work personnel and offer diverse services in the social services sector.

VIII. Public Comment

The City Council Hearing will be noticed for the second reading to the area property owners within 1000 feet and the interested citizens list. A legal notice will appear in the Portland Press Herald.

As of the writing of this memo, no public comment has been submitted to the Planning Authority concerning this proposal.

IX. Planning Board Recommendations

On August 26, 2014 the Planning Board held a public hearing to discuss the proposed text amendment as requested by Spurwink Services. They felt that the text amendment as proposed address the issues of similarly situated properties in the I-M zone, without promoting larger conversions from industrial to institutional uses. The Board felt comfortable with the proposed text amendments and believe the Spurwink Services is providing a valuable service that needs to be reasonably accommodated within the city.

The Planning Board voted unanimously (6-0, O'Brien absent) that the text amendment is consistent with the Comprehensive Plan and the Board recommends to City Council adoption of the text amendment for the property at 899 Riverside Street.

The Planning Board voted unanimously (6-0, O'Brien absent) in favor of the following recommendations to the City Council:

1. That the Planning Board finds that the proposed Text Amendments to add the intermediate care facility as a permitted use in the I-M zone and update the definition of intermediate care facilities in the Zoning Code are consistent with the Comprehensive Plan of the City of Portland; and

   That the Planning Board therefore recommends to the City Council approval of the Text Amendments to add the intermediate care facility as a permitted use in the I-M and update the definition as follows:

   Section *14-247 Permitted Uses* (IM, I-Ma and I-Mb Zones)
   Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on [date of enactment] or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.

   Section 14-47 Definitions:
   Intermediate Care Facility : A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, Residential Care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

ATTACHMENTS:

1. Greg Mitchell, Economic Development Director, dated 08.07.2014
2. Zoning Chart

Public comments (none at the time PB Memo completed)

Applicant's Submittal

A. Planning Board Narrative/ Coverletter
B. Application
C. Text Amendment Narrative/ Comprehensive Plan Assessment
D. Right, Title and Interest
E. Zoning Map

Attachment 1

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

To: Alex Jaegerman, Planning Division Director
From: Greg Mitchell, Economic Development Director
Date: August 7, 2014
RE: Importance of Retaining Portland's Industrial-Zoned Real Estate

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OVERVIEW

The purpose of this memo is to discuss the importance of retaining industrial-zoned property in the City of Portland. This resource is finite as the majority of developable real estate in the City has been built out, and it will be difficult to rezone property to expand Portland's industrial base.

Over time, Portland has seen its total industrial property reduced. Pressure from market forces and societal needs, particularly on the Peninsula, have driven the reduction and replacement of industrial zones with business zones to accommodate mixed use neighborhoods. Certainly, these neighborhoods are filling a vital need, providing increased housing as well as businesses that serve the City's residents and its burgeoning tourism markets.

In this current environment, retaining Portland's remaining industrial-zoned real estate for industrial uses is crucial to continue to grow and strengthen the City's economy. As you know, industrial-zoned property supports a variety of businesses, many of which are manufacturers that are a vital source of quality jobs that pay good wages. Their employee base often represents a range of educational levels, providing jobs for those with limited education as well as those with advanced degrees.

INDUSTRIAL SPACE CHALLENGES

Over the past few years, the City's Economic Development Department has been receiving increasing requests from companies seeking vacant industrial space or undeveloped industrial acreage for new construction. Some of these requests simply cannot be accommodated given the City's finite industrial property. When the expansion needs of existing Portland-based industrial companies cannot be accommodated locally and/or new industrial opportunities cannot be accommodated, this represents a loss to Portland's tax base and associated employment.

Justin Lamontagne, a real estate broker in Portland with NAI The Dunham Group, has experienced similar challenges, along with his colleagues, in searching for manufacturing space for companies wanting to expand in the Portland area. He explained that the Dunham Group is currently representing two successful manufacturers in the Greater Portland area. They each require 30,000-

40,000 SF of space and there are no options for them at this time. Both are now considering other markets in southern Maine.

TRENDS IN INDUSTRIAL SPACE DEMAND

Portland's industrial-zoned areas include Riverside Street, Riverside Industrial Parkway, Warren Avenue, Presumpscot Street, Bishop Street, Pine Tree Industrial Parkway, Canco Road, Outer Congress, sections of East Bayside and a few others. It is important to maintain the acreage in these zones.

The 2013 Greater Portland Maine Region Industrial Market Survey, presented at the January 2013 Maine Real Estate Developers Association Conference reported a decrease in industrial vacancies in Greater Portland, with a vacancy rates of 5.2%, substantially lower relative to Boston (9.2%), the Northeast (8.8%) and Nationally (8.0%). While inventory in the Portland area has essentially remained the same, demand has been increasing. Some of the conditions contributing to this trend include a strengthening national economy and a growing movement of product manufacturing back to the United States from overseas.

Eimskip has established its U.S. port presence in the City of Portland at the International Marine Terminal on Commercial Street. The access to international markets that this is generating is expected to attract cold storage and other investment opportunities.

Portland recently received federal designation to be part of the Investing in Manufacturing Communities Partnership. Specifically, Portland is one of 12 areas in the country to receive a 2-year federal assistance preference intended to support the growth of Portland's food production sector. This has the potential to expand food manufacturing in the City and, therefore, contribute further to the demand for industrial space.

Additional information from the 2013 Greater Portland Market Survey indicates that the overall industrial vacancy rate in the City of Portland is higher than in other neighboring communities. However, Portland's rate is skewed due to areas like Presumpscot Street and Warren Avenue where the building stock is older, making it more costly to renovate and thereby more challenging to attract tenants. It is worth noting that Riverside Street has among the lowest industrial vacancy rates in the City, per the Market Survey.

RECOMMENDATIONS

To summarize, Portland's industrial space is limited and should be preserved to the maximum extent possible.

Regarding the request from Spurwink to add Intermediate Care Facilities in the I-M zone, this seems to represent a unique set of circumstances that will not be displacing industrial uses. However, allowing for this use should be addressed in a site specific fashion.

In conclusion, I would not recommend amendments to permitted uses throughout the City's industrial zones that would reduce the opportunity for industrial business attraction and growth on Portland's remaining industrial real estate.

Table 1: Purposes

Zone			Purpose
IM (Industrial – Moderate Impact)			To provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist. The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The I-M, I-Ma and I-Mb industrial zones are intended to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in the moderate impact industrial zones may require separation from higher impact uses, which should be directed to the high impact industrial zone.
R-1 and R-2			To provide for lower density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.
R-3			To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
R-5			To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
R-6			To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and 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. In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.
B-2 (Community Business)			To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

Uses			I-M	R-1	R-2	R-3	R-5	R-6	B-2/B-2b/B-2c
Permitted	Residential	Single-family and two-family dwellings		•	•	•	•	•	•
		Multi-family dwellings						•	•
		Handicapped family units		•	•	•	•	•	•
		Single-family single- or multiple-component manufactured housing		•	•	•	•	•	
		Combined living/working spaces							•
		Lodging houses						•	•
		PRUDs				•	•		
		Multiplex development					•		
	Institutional	Schools							•
		Clinics							•
		Places of assembly							•
		Long term, extended and intermediate care facilities							•
		Governmental buildings and uses/municipal uses				•	•	•	•
		College, university or trade schools							•
		Nursery schools, kindergartens							
		Day care facilities	•						•
	Business	General, business, & professional offices	•						•
		Personal services							•
		Business services							
		Offices of building tradespeople							•
		Retail establishments							•
		Restaurants							•
		Drinking establishments							•[4]
		Billiard parlors							•
		Mortuaries or funeral homes							•
		Miscellaneous repair services	•						•[5]
		Communication studios or broadcast and receiving facilities							•
		Health clubs and gymnasiums							•
		Veterinary hospitals							•[6]
		Theaters							•
		Hotels							•[7]
		Dairies and bakeries	•						•
		Drive-throughs when accessory to a principal use on the same lot							•[8]
		Registered medical marijuana dispensaries							•
		Indoor recreation and family amusement establishments	•						
		Intermodal transportation facilities	•						
(	he r	Accessory uses	•	•	•	•	•	•	•

		Agricultural uses, as defined		•	•				
		Cemeteries						•	
		Parks		•	•	•	•	•	
		Home occupation		•	•	•	•	•	
		Studios for artists and craftspeople							•
		Special needs independent living units					•	•	
		Bed and breakfasts							•
		Conversion into bed and breakfast						•	
		Hostels						•	•
		Wind energy systems	•	•	•	•	•	•	•
		Utility substations	•						•
		Warehousing and wholesaling	•						
		Low impact industrial uses	•						
		R&D and back office uses	•						
		Building contractors and construction/engineering services	•						
		Nurseries	•						
		Lumber yards	•						
		Commercial kitchens or other food preparation	•						
		Recycling & solid waste disposal facilities	•						
		Food processing	•						
		Correctional pre-release facilities	•						
		Tow lots	•						
		Beverage dealers							
		Municipal Uses		•	•				
Conditional	Residential	Sheltered care group homes		•	•	•	•	•	
		Additional accessory dwelling units		•	•	•	•		
		Alteration of non-residential structure to 3+ dwelling units					•		
		Conversion of multi-family structure to lodging house					•		
	Institutional	Schools		•	•	•	•	•	
		Long-term and extended care facilities		•	•	•	•	•	
		Intermediate care facility for 13 or more persons		•	•	•	•	•	
		Places of assembly		•	•	•	•	•	
		Hospitals				•	•	•	
		Nursery schools and kindergartens						•	
		Day care facilities				•	•	•	
		College, university, trade schools			•		•	•	
	Business	Major and minor auto service stations existing as of 1999							•[9]
		Car washes							•
		Drive-throughs adjacent to residential uses or zones							•[10]

		Automobile dealerships							•
		Restaurants							
		Conversion into bed and breakfast (over 5 rooms)						•	
	Other	Utility substations		•	•	•	•	•	
		Professional offices						•	
		Chancellery						•	
		Off-street parking				•	•	•[2]	
		Temporary wind anemometer towers	•	•	•	•	•	•	•
		Hostels						•	
		Wind energy systems	•	•	•	•	•	•	•
		Printing and publishing establishments							•
		Wholesale distribution establishments							•
		Research and development and related production establishments							•
		Cemeteries		•	•				
		Raising of domestic animals		•					
		Day Care facilities		•	•				

1 Permitted on ground floor of B-1b; above ground floor, residential uses of 14-162(a), bed and breakfasts, hostels permitted
2Ffor passenger cars for uses permitted in the R-6 zone.
3 Restaurants conditionally permitted, provided they have a max. floor area for use by public of 1,000 SF; hours limited to 6 am to 11 pm; food service and consumption is primary function; no drive-throughs
4 Except in B-2c
5 Excluding motor vehicle repair
6 Excluding outdoor kennels
7 Of less than 150 rooms
8 Permitted in B-2 or B-2b if not adjacent to residential use or zone
9 Permitted in B-2, & permitted in the B-2b if in existence since 1999
10 Permitted in B-2, & permitted in the B-2b if accessory

Att. A

GARRISON CONSULTING

Transmittal

To: Barbara Barhydt

Project: Spurwink Services – Land Use Code Amendments GC#2014-006

Date: 06/15/2014

From: Matthew Winch

Re: Planning Bd. Submission

cc: Dan Bonner, file

Item:	Date	Quantity	Title
1	06/13/2014	1	Land Use Code Amendment Submission
2	06/15/2014	1	Digital Copy of Submission (DVD)

Remarks:

41 Edgewood Avenue Portland, ME 04103
(207) 450-0750
matthewwinch@earthlink.net

GARRISON
CONSULTING

June 13, 2014

Portland Planning Board
389 Congress Street
Portland Maine, 04101

Re: Zoning Text Amendment
IM Zone – Allowable Uses

Dear Chair O'Brien and Members of the Planning Board,

Spurwink Services a Portland based 501-c3 charitable organization with a long-standing history of service to Portland area children and their families is requesting approval for text amendments to the Portland Land Use Code. Specifically those changes are:

1. To make an Intermediate care facility an allowable use in the IM Zone.
2. Clarify the definition of Intermediate care facility.

Spurwink Services is requesting these amendments ultimately to open the door to allowing them to convert a portion of their 899 Riverside Street campus to an Intermediate care facility.

Spurwink is a 60-year-old social service agency serving the needs of children and adults with mental health concerns and related trauma. Spurwink Services provides, among other services, both day treatment and residential treatment in a variety of locations and settings.

Spurwink Services 899 Riverside St campus is not only the location of their first residential program house (Sue Wright House), which is still currently used as a residence for up to 8 clients, but the campus is also currently home to senior leadership, finance, marketing and development offices for the entire agency. Some of these functions will soon be relocated to the converted office space within the old Rainbow Mall building on Washington Avenue. This move will open up a portion of the 899 Riverside St campus to re-use. The intent would be to renovate one building to house the proposed Intermediate care facility use.

Spurwink Services has targeted their Riverside Street campus for this use and as a result this text amendment because of a number of important factors.

1. Spurwink Services had a number of smaller 3-5 client residential treatment facilities throughout the area that were closed because they were no longer economically sustainable under current State and Federal funding models.
2. An analysis of funding and staffing models has shown that a residential treatment facility serving between 12 and 16 clients (plus appropriate staff) is an economically viable alternative to the smaller facilities. This larger facility and expanded client base will provide a more consistent funding stream and a higher quality of care to their clients.
3. Because Spurwink Services supports families from the larger Cumberland County community, this location, its proximity to primary arterials and connector streets will provide greater accessibility to families, caregivers and State agency representatives that will travel to see clients being cared for at the facility.

41 Edgewood Avenue Portland, ME 04103
(207) 450-0750
matthewwinch@earthlink.net

4 There is a desire to keep the clients Spurwink serves more closely connected to the communities in which they were raised. With referrals for residential treatment coming from Juvenile corrections as well as mental health hospitals, the IM Zone may serve as a very good intermediate step before fully integrating clients back more fully into the communities that they are returning to.

In this application for text amendment Spurwink Services proposed changes to the Land Use Ordinance are:

1 Add the following allowable use to Division 14 . I-M, I-Ma AND I-Mb INDUSTRIAL ZONES* Section 14-247. Permitted uses:

(y) Intermediate care facility for not more than (26) persons plus staff.

2 Clarify the following definition in Section 14-47 Definitions by adding the underlined text:

Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care <u>or Residential Care Facility</u> pursuant to the regulations promulgated by the State of Maine Department of <u>Health and</u> Human Services.

By recommending the City council approve these changes to the Land Use Ordinance a new use will be allowable in the IM Zone that is similar to two other currently approved uses, Day Care Facility and a Correctional prerelease facility. We have attached a supporting letter that analyzes the conformance to the Purpose statement of the IM Zone and conformance to the City's Comprehensive Plan

Sincerely,

M.G. W

Matthew G Winch
Principal

Zoning Map/Text Amendment/Contract or Conditional Rezoning Application
Portland, Maine
Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zone Change.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: http://me-portland.civicplus.com/DocumentCenter/Home/View/1080
Design Manual: http://me-portland.civicplus.com/DocumentCenter/View/2355
Technical Manual: http://me-portland.civicplus.com/DocumentCenter/View/2356

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT NAME: Spurwink Services - Land Use Ordinance, text amendments

PROPOSED DEVELOPMENT ADDRESS:

899 Riverside Street

PROJECT DESCRIPTION:

1. Request for text amendment to the IM Zone establishing an Intermediate care facility (ICF) as an allowable use within the Zone.
2. Further clarify the definition of Intermediate care facility to better align with Department of Health and Human Services terminologies and definitions.

CHART/BLOCK/LOT: 326 B004

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Spurwink Services (c/o Eric Meyer) Business Name, if applicable: Address: 899 Riverside Street City/State : Portland, Maine Zip Code: 04103	**Applicant Contact Information** Work # (207) 871-1200 Home# Cell # Fax# e-mail: emeyer@spurwink.org
Owner – (if different from Applicant) Name: Address: City/State : Zip Code:	**Owner Contact Information** Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Garrison Consulting (c/o Matthew Winch) Address: 41 Edgewood Ave City/State : Portland, Maine Zip Code: 04103	**Agent/Representative Contact information** Work # (207) 450-0750 Cell # (207) 450-0750 e-mail: matthewwinch@earthlink.net
Billing Information Name: Spurwink Services (c/o Daniel Bonner) Address: 899 Riverside Street City/State : Portland, Maine Zip Code: 04103	**Billing Information** Work # (207) 871-1200 Cell # Fax# e-mail: dbonner@spurwink.org

Engineer	Engineer Contact Information
Name: Address: City/State : Zip Code:	Work # Cell # Fax# e-mail:

Surveyor	Surveyor Contact Information
Name: To Be Determined Address: City/State : Zip Code:	Work # Cell # Fax# e-mail:

Architect	Architect Contact Information
Name: Garrison Consulting (c/o Matthew Winch) Address: 41 Edgewood Ave City/State : Portland, Maine Zip Code: 04103	Work # (207) 450-0750 Cell # (207) 450-0750 Fax# e-mail: matthewwinch@earthlink.net

Attorney	Attorney Contact Information
Name: To Be Determined Address: City/State : Zip Code:	Work # Cell # Fax# e-mail:

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

Applicant is the current property Owner. See attached for proof of right, title and interest in the property

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

There are 3 seperate structures on the property. The Applicant currently uses two of the buildings, Smith House and Kaufmann House, to house offices for professional staff including but not limited to senior management, finance, facilities HR and development functions. The third building on the property, Sue Wright House, is used as an 8-bed residence (plus house parents) for students at Baxter School for the Deaf. This residence is not used for "treatment" purposes.

Current Zoning Designation(s): IM - Moderate Impact Industrial

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

The applicant will maintain the 8-bed residential use at Sue Wright House and maintain one of the buildings, Smith House, as office space for some staff functions which will remain on site. The applicant proposes to use Kaufmann House as (up to) a 16-person (plus staff) Intermediate care facility. The proposal at this time would not require any increase in volume or footprint. All construction associated with this conversion would take place within the existing connected structure of Kaufmann House.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEES:

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

Zoning Map Amendment ___ $2,000.00 (from ______ zone to ______ zone) **Zoning Text Amendment** X $2,000,~~000~~ (to Section 14- 246 &) 14-47 **Combination Zoning Text Amendment and Zoning Map Amendment** ___ $3,000.00 **Conditional or Contract Zone** ___ $3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	The City invoices separately for the following: - Notices ($.75 each) - Legal Ad (% of total Ad) - Planning Review ($40.00 hour) - Legal Review ($75.00 hour) Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.

APPLICATION SUBMISSION:

1. All plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file names which can be found on the **Electronic Plan and Document Submittal** page of the City's website at http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal

2. **The submission shall include the following materials:**
   a. One (1) paper set of the zoning amendment application, concept plan and written narrative.
   b. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations and compatible with the surrounding neighborhood.

APPLICANT SIGNATURE:

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant:	Date:
Erin Meng CEO	6/15/14

GARRISON CONSULTING

June 13, 2014

Portland Planning Board
389 Congress Street
Portland Maine, 04101

Re: Land Use Code Text Amendment
IM Zone – Allowable Uses

Dear Chair O'Brien and Members of the Planning Board,

In support of Spurwink Services (Applicant) application for a Land Use Code Text Amendment to the IM Zone please accept this supplemental letter in support of the request now before you. As you are aware, the Portland Land Use Code authorizes the Planning Board to recommend Land Use Code text amendments to the City Council for final approval. These amendments must be determined to be consistent with nature and purpose of the zone and they must in basic harmony with and thereby consistent with the City's comprehensive plan. The Applicant provides the following analysis.

The Applicant is proposing to add the following allowable use to Division 14 . I-M, I-Ma AND I-Mb INDUSTRIAL ZONES* Section 14-247. Permitted uses:

(y) Intermediate care facility for not more than (26) persons plus staff.

1 - The Proposed ICF Use is Consistent with the Purpose of the IM Zone, as well as the Permitted Uses in the Zone.

The Purpose of the IM Zone: *The moderate impact industrial zones are intended to provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist.*

The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic.

The I-M, I-Ma and I-Mb industrial zones are intended to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure.

Industrial uses in the moderate impact industrial zones may require separation from higher impact uses, which should be directed to the high impact industrial zone.

Some of the directly relevant and permitted uses in the zone include but are not limited to:

(o) Day care facilities
(r) Correctional prerelease facilities
(t) General, business and professional offices

The inclusion an Intermediate care facility as an allowable use is consistent with the purpose and the permitted uses for the zone. The purpose of the IM Zone is to an area for light to moderate industries and transportations related uses to coexist. Further and as stated above,

41 Edgewood Avenue Portland, ME 04103
(207) 450-0750
matthewwinch@earthlink.net

the zones are located on or near arterials, thereby protecting residential neighborhoods from drive through traffic.

Providing proper around the clock care to young children dealing with mental health related traumas requires a staffing set-up that demands 24-hour care. Staff is awake, active and alert during the nighttime hours, the facility is brightly lit at the exterior for security and nighttime shift changes to rotate staff are required. This type and level of activity is not ideal for a residential neighborhood where overnight activities are expected to be minimal if not non-existent.

Given that a facility of this type serves a group of people that are not living at their primary residence, a much higher and constant volume of traffic to and from the facility can be expected. Family, friends, medical professionals and staff from state agencies can all be expected visitors through the daytime and evening hours. Placing and Intermediate care facility close to arterials and collector streets protects residential neighborhoods from the impacts of associated traffic.

Finally, the use is consistent with other approved uses in the Zone. A daycare facility and correctional pre-release facility both anticipate a level and scope of care and security to maintain the well being of the population served. Daycare facilities are no longer an 8-5 business and the correctional pre-release facility includes overnight accommodation for the clients it is serving.

2 -The Proposed Use is in Basic Harmony with and Therefore Consistent with the City's Comprehensive Plan.

The proposed Zone text amendment will meet the stated goals of the comprehensive plan. Three primary and directly relevant goals are noted and analyzed.

Stated Goal A: To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing developmental sprawl.

Allowing an Intermediate care facility limited to (26) persons plus staff in the IM Zone encourages modest development of an institutional use that is similar in nature and scope to other allowable uses in the zone. As an allowable use it would be provided advantage of the necessary transportation infrastructure required to serve and support the zone and thereby the use. It will also allow the use to be placed in an area(s) of the city that has been defined for higher levels of traffic and around the clock activities and needs such as modest increases in noise and light pollution, which are less desirable in other areas of the city.

Stated Goal C: To promote an economic climate which increases job opportunities and overall economic well-being.

Portland's Industry and Commerce Plan includes 6 primary goals:

- Create a variety of job opportunities for the full spectrum of the labor pool.
- Recognize that jobs and prosperity improve the standard of living for residents.
- Preserve, protect and strengthen neighborhoods.
- Reduce tax burden on residential property owners.
- Make Portland attractive to new residents and businesses.
- Be creative, responsive and work hard to retain existing business.

Allowing an Intermediate care facility limited to (26) persons plus staff in the IM Zone encourages the development of a small to mid sized institutional facility that has a more favorable economic success model than the smaller uses (limited to under 12 clients) that are typically allowable in residential zones throughout the city. Allowing up to (26) clients allows for a greater staffing to client ratio and creates a better service and salary ratio to staff based on available State and Federally funded support programs (Maine Care, Medi Care/Medi Cade) and the like. By making this mid range type facility allowable for development in the IM Zone, it encourages and attracts development of a more economically viable sized facility in a zone intended to handle the increased demands on the infrastructure.

Stated Goal D: To encourage and promote affordable, decent housing opportunities for all Maine citizens.

Further the Goal states the need to maintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.

Policies to that Goal include:

- While accommodating needed services and facilities, protect the stability of Portland's residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental and other non-residential uses.
- Ensure the integrity and economic value of Portland's neighborhoods.

Adding Intermediate care facility as an approved use in the IM Zone will preserve the quality and vitality of Portland's neighborhoods by allowing a larger scale and more economically viable institutional use to be located in a zone more suitable to handle the demands of the use.

Some residential zones do allow for very small Intermediate care facilities (limited to under 12 clients) that while fitting in with the scale and size of a traditional neighborhood environment, is not economically viable. Funding mechanisms do not adequately support the demands of a smaller facility, leading to a drop in service to clients as well as the ability to maintain and secure the property. This would have a negative affect on the city's policy goal to ensure the integrity and economic value of Portland's neighborhoods.

Allowing the use in the IM Zone enhances the economic vitality of the services associated with and intermediate care facility by allowing client levels to be raised to a higher and more appropriate staffing ratio.

As demonstrated above the proposed text amendment to the IM Zone and the clarification of the definition of the Intermediate care facility is consistent wit the City's Comprehensive Plan from land use, economic and neighborhood protection perspectives. Thank you for considering our proposal, we look forward to working with the Planning Board during this review process.

Sincerely,

M.G. W

Matthew G Winch
Principal

Att. D

EDGEFIELD LODGE, CASCO
10 CANDLEWYCK ROAD, PORTLAND
98 RACKLEFF STREET, PORTLAND
899 RIVERSIDE STREET, PORTLAND
18 SONNET LANE, PORTLAND
342 WOODFORDS STREET, PORTLAND

82/35 8

WARRANTY DEED № 82135 Bk 11161 Pg 333

Maine Statutory Short Form

MAINE REAL ESTATE TAX PAID

KNOW ALL PERSONS BY THESE PRESENTS, that **SPURWINK ASSOCIATES LIMITED PARTNERSHIP (f/k/a SPURWINK ASSOCIATES)**, a Maine limited partnership with a place of business in Portland, in the County of Cumberland and State of Maine, for consideration paid, **GRANTS** with **WARRANTY COVENANTS** TO:

THE SPURWINK SCHOOL, a not-for-profit corporation with a place of business in Portland, County of Cumberland, State of Maine, whose mailing address is 899 Riverside Street, Portland, Maine:

Parcel One - Edgefield Lodge, Casco: Two (2) certain lots or parcels of land with the buildings thereon, situated on the easterly side of the highway leading through Casco Village to Spurr's Corner, so-called, in the Town of Casco, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit A annexed hereto and made a part hereof.

Being a portion of the premises conveyed to Spurwink Associates by warranty deed of Richard M. Smith and Harvey J. Berman dated December 5, 1983 and recorded in the Cumberland County Registry of Deeds in Book 6342, Page 331.

Parcel Two - 10 Candlewyck Road, Portland: A certain lot or parcel of land with the buildings thereon, situated on Candlewyck Road, in the City of Portland, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit B annexed hereto and made a part hereof.

Being a portion of the premises conveyed to Spurwink Associates by warranty deed of Harvey J. Berman, et al. dated December 5, 1983 and recorded in said Registry of Deeds in Book 6342, Page 329.

Parcel Three - 98 Rackleff Street, Portland: A certain lot or parcel of land with the buildings thereon, situated on the southerly side of Rackleff Street, in the City of Portland, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit C annexed hereto and made a part hereof.

Being a portion of the premises conveyed to Spurwink Associates by warranty deed of Harvey J. Berman, et al. dated December 5, 1983 and recorded in said Registry of Deeds in Book 6342, Page 329.

Parcel Four - 899 Riverside Street, Portland: Two (2) certain lots or parcels of land with the buildings thereon, situated on the southeasterly side of Riverside Street, in the City of Portland, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit D annexed hereto and made a part hereof.

Being a portion of the premises conveyed to Spurwink Associates by warranty deed of The Spurwink Riverside Corporation dated December 5, 1983 and recorded in said Registry of Deeds in Book 6342, Page 336.

Parcel Five - 18 Sonnet Lane, Portland: A certain lot or parcel of land with the buildings thereon, situated on the southerly side of Sonnet Lane, in the City of Portland, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit E annexed hereto and made a part hereof.

Being the same premises conveyed to Spurwink Associates by warranty deed of Janice M. Hawkins-Donovan dated February 20, 1990 and recorded in said Registry of Deeds in Book 9092, Page 15.

Parcel Six - 342 Woodfords Street, Portland: A certain lot or parcel of land with the buildings thereon, situated on Woodfords Street, in the City of Portland, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit F annexed hereto and made a part hereof.

Being a portion of the premises conveyed to Spurwink Associates by warranty deed of Harvey J. Berman, et al. dated December 5, 1983 and recorded in said Registry of Deeds in Book 6342, Page 329.

IN WITNESS WHEREOF, the said SPURWINK ASSOCIATES LIMITED PARTNERSHIP has caused this instrument to be signed this 13th day of December, 1993.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

SPURWINK ASSOCIATES LIMITED
PARTNERSHIP

By ____________________
David Lakari
Its Gen Par

STATE OF MAINE
COUNTY OF CUMBERLAND

December 13, 1993

Personally appeared the above-named David Lakari, in his said capacity, and acknowledged the foregoing to be his free act and deed, and the free act and deed of said corporation, before me.

____
Notary Public/Attorney at Law
Drew A. Anderson
Printed Name

S\PUP02\DD.5

EXHIBIT D

899 Riverside Street, Portland, Maine

A certain lot or parcel of land located in the City of Portland, County of Cumberland, and State of Maine, bounded and described as follows:

Beginning at a stone monument in the southeasterly side of Riverside Street, which monument marks the southwesterly corner of land conveyed by Jefferson H. Hodges, et al. to Richard M. Smith by deed dated July 12, 1960, and recorded in the Cumberland County Registry of Deeds, Book 2553, Page 229; THENCE, southeasterly along line of land formerly of said Smith and now of Spurwink Associates 417.8 feet to the southeasterly corner thereof; THENCE, continuing southeasterly along line of land conveyed by Jefferson H. Hodges, et al. to Riverside Industrial Park, Inc. by deed dated February 24, 1964 and recorded in said Registry in Book 2806, Page 441, 138.06 feet, more or less, to a fence which marked the line of land formerly of Lydia J. Stevens; THENCE, southwesterly 404.13 feet to an angle in said fence; THENCE, northwesterly 551.63 feet by line of said fence and over a stone monument to the southeasterly side of Riverside Street; THENCE, northeasterly by said Riverside Street 408.84 feet, more or less, to the stone monument at the point of beginning. Containing 5.16 acres, more or less.

Also, a certain lot or parcel of land with the buildings thereon situated on the southeasterly side of Riverside Street in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a stone monument in the southeasterly side of Riverside Street, said stone monument being distant 408.84 feet, northeasterly from the northwesterly corner of the land conveyed to Jefferson H. Hodges and Edith G. Hodges by Arthur H. Jones by deed dated January 22, 1942, and recorded in Book 1667, Page 123; THENCE, North 36° 23' East along the southeasterly sideline of Riverside Street, a distance of 414.43 feet, to an iron; THENCE, South 42° 32' East, a distance of 425.4 feet to a point; THENCE, South 36° 18' West a distance of 353.3 feet to a point; THENCE, North 51° 03' West a distance of 417.8 feet, more or less, to the monument in the south-easterly sideline of Riverside Street and the point of beginning.

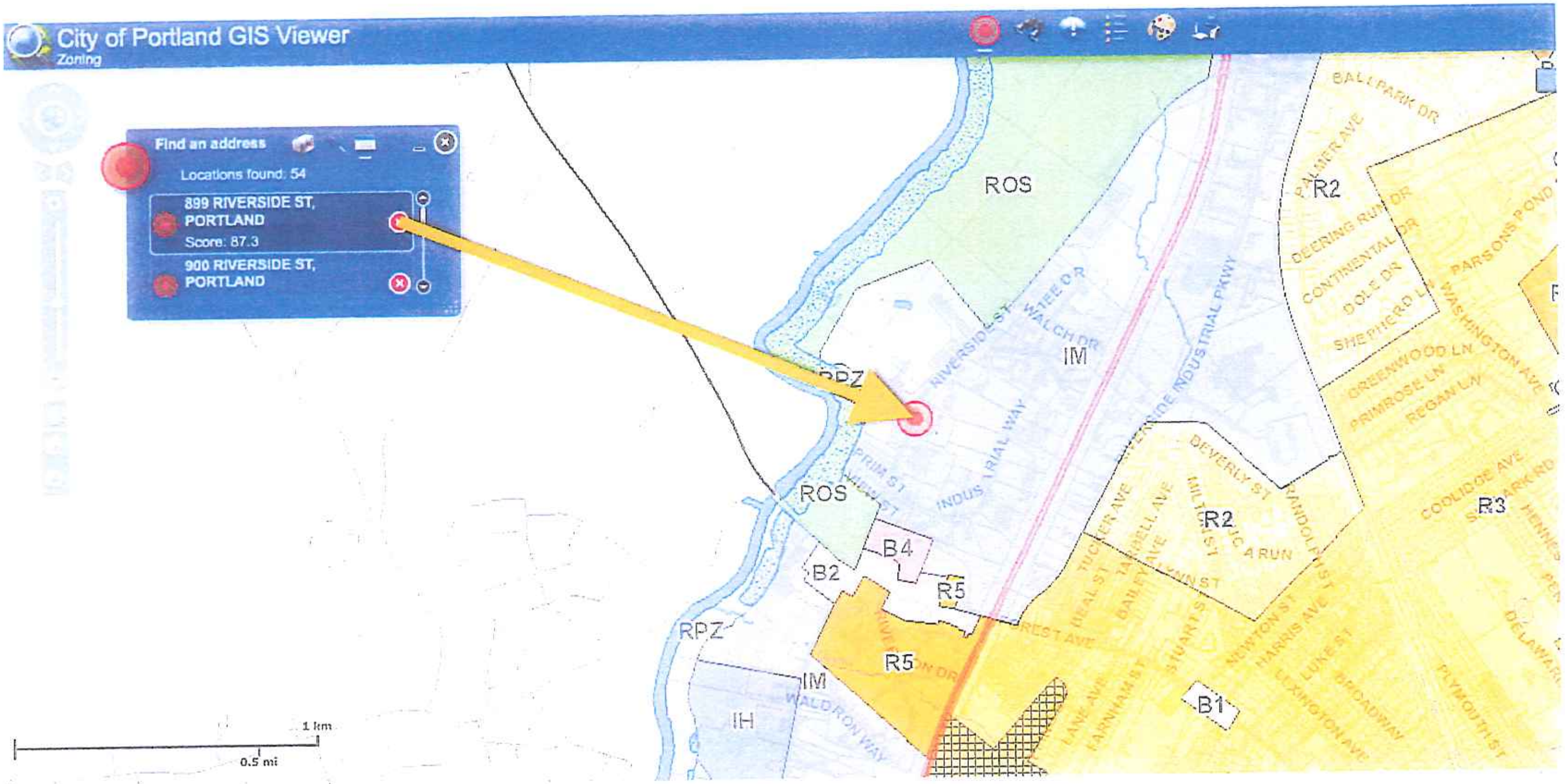
Together with the benefit of the rights reserved as set forth in the deed to Corley Family Realty Limited Partnership dated September 30, 1988, and recorded in Book 8467, Page 86, that no building or paving shall be constructed or placed within 30 feet of the south-westerly sideline of Spurwink Associates' remaining land and land-scaping shall substantially adhere to the plans of Corley Family Realty Limited Partnership, approved by Spurwink Associates. This condition shall run with the land and shall bind Spurwink Associates and Corley Family Realty Limited Partnership herein, their respective successors and assigns, and all parties claiming by, through, or under them, so long as Spurwink Associates maintains the same buffer in which no building or paving shall be constructed or placed within 30 feet of Corley Family Realty Limited Partnership's northeasterly sideline.

...cepting that certain lot or parcel of land conveyed to Corley ...y Realty Limited Partnership by deed dated September 30, 1988, ...orded in Book 8497, Page 86, and bounded and described as follows:

A certain lot or parcel of land situated on the southeast side of Riverside Street, in the City of Portland, County of Cumberland and State of Maine:

Beginning at a point on the southeast sideline of Riverside Street marking the westerly corner of land herein described and the northerly corner of land now or formerly of Eve Mitchell, said point being North 50° 22' 1.2" West 11.47 feet from a granite monument; THENCE,.North 38° 26' 30" East along the southeasterly side of said Riverside Street 408.84 feet to an angle point; THENCE, North 36° 47' 33.6" East along the southeasterly side of said Riverside Street 14.12 feet to a point marking the northerly corner of land herein described and land of Spurwink Associates; THENCE, South 51° 33' 30" East 421 feet along land of Spurwink Associates to a point marking and easterly corner of land herein described and land now or formerly of the City of Portland; THENCE, South 36° 18' West 29.17 feet along land now or formerly of the City of Portland to an iron pipe marking a corner of land herein described; THENCE, South 51° 03' East 138.06 feet along land of the City of Portland to an iron pipe marking the easterly corner of land herein described and land now or formerly of Riverside Industrial Park; THENCE, South 39° 36' 30" West 404.13 feet along land of Riverside Industrial Park to an iron pipe marking the southerly corner of land herein described and land now or formerly of Mount Holyoke College; THENCE, North 50° 22' 1.2" West 540.16 feet along land now or formerly of Mount Holyoke College and Eve Mitchell to a granite monument; THENCE, North 50° 22' 1.2" West 11.47 feet along land now or formerly of Eve Mitchell to the southeast sideline of Riverside Street and the point of beginning, containing 5.377 acres.

Att. E


City of Portland GIS Viewer
Zoning
Find an address
Locations found: 54
899 RIVERSIDE ST, PORTLAND
Score: 87.3
900 RIVERSIDE ST, PORTLAND
ROS
IM
RPZ
B4
B2
R5
IH
R2
R3
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0.5 mi

Order 59-14/15
Tab 18 9-15-14

MICHAEL F. BRENNAN. (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER ACCEPTING AND ADOPTING THE 2014 HOUSING TRUST FUND ANNUAL PLAN

ORDERED, that the 2014 Housing Trust Fund Annual Plan, attached hereto as Attachment A, is hereby accepted and adopted.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: September 3, 2014

DISTRIBUTION: (City Manager, Mayor, Corporation Counsel, Sonia Bean, Nancy English)

SUBJECT: **Order Approving the Housing Trust Fund Annual Plan**

SPONSOR: **Kevin Donoghue, Chair,**
Housing and Community Development Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading September 15th Final Action September 15th

Can action be taken at a later date: X Yes _____ No (If no why not?)

PRESENTATION: Mary Davis, Housing and Community Development Division Director will be available to answer questions

I. SUMMARY OF ISSUE (Agenda Description)

The Housing and Community Development Committee met on August 27, 2014 and voted unanimously to forward this item to the City Council with a recommendation for passage of the FY 2014-2015 Housing Trust Fund Annual Plan.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "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."

III. INTENDED RESULT

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

This budget is based on the current balance in the Housing Trust Fund. These funds were generated primarily through fees generated by the Housing Replacement Ordinance.

Revenue:	
Maine Medical Center 2002-2003:	$315,580
Sportsman's Grill 2002:	$40,000
Berlin City Auto 2009:	$116,000
Stop n Shop 2010:	$289,250
Rockbridge/Eastland Park 2012:	$42,500
Riverwalk/Ocean Gateway 2012:	$250,000
118 Congress Street 2014	$3,500
Sub-Total:	$1,056,830
Interest Accrued:	$51,556
Total Revenue Generated through August 21, 2014:	$1,108,386
Expenditures:	
Avesta Oak Street Lofts 2011	$380,585
Housing First Pre-Development RFP	$75,000
Balance as of August 21, 2014	$652,801

VI. STAFF ANALYSIS

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income; for a family of four this would be $38,650), low (at or below 80% of the area median income; for a family of four this would be $61,850) and moderate income (at or below 120% of the area median income; for a family of four this would be $92,760) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The Council approved budget for FY 2014-2015 included $391,709 in HOME funding for affordable housing development and $150,000 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% ($46,380 for a family of four) of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

Funds can be used for the acquisition, construction or substantial rehabilitation of affordable rental units, cooperative units and homeownership units. 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. For homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

VII. RECOMMENDATION

For FY 2014-2015, Housing Trust Fund should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% (for a family of four this would be $61,850 - $92,760) of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income which for a family of four would be $38,650). Expenditures may include soft costs associated with the creation of affordable housing developments.

Until additional sources of funding for the Housing Trust Fund are identified, the City should act prudently when deciding to invest the funds currently available.

Staff is requesting approval by the City Council of the proposed 2014-2015 Housing Trust Fund Annual Plan.

VIII. LIST ATTACHMENTS

Copy of Chapter 14, Division 31, Sec. 14-489 of the City Code of Ordinances.

Prepared by:

Mary P Davis

Signature
Mary Davis, Division Director
Housing and Community Development

August 29, 2014
Date

any bonus received pursuant to this subsection, may not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the city's comprehensive plan.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10)

DIVISION 31. HOUSING TRUST FUND

Sec. 14-489. Housing trust fund.

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and cration 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.

2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

Very low income household. A household having an income not exceeding fifty (50%) percent of median income for area of residence as set forth in regulations promulgaged from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Low income household. A household having an income not exceeding eighty (80%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Moderate income household. A household having an income not exceeding one hundred twenty (120%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United Sates Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name

"City of Portland Housing Trust Fund." Deposits into the fund shall include:

1. Contributions from the city's housing replacement ordinance under 14-483(i);

2. Funds appropriated to be deposited into the fund by vote of the city council;

3. Voluntary contributions of money or other liquid assets to the fund;

4. Any federal, state or private grant or loan funds provided to the fund:

5. Interest from fund deposits and investments; and

6. Repayments of loans made from the fund.

(d) *Management of the trust fund.* The city manager, or his or her designee, shall serve as the manager of the housing trust fund. The responsibilities of the manager, subject to the orders of the city council, shall include:

1. Maintaining the financial and other records of the housing trust fund;

2. Disbursing and collecting housing trust fund monies in accordance with the housing trust fund annual plan; and

3. Monitoring the use of monies distributed to successful applicants for housing trust fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

(e) *Housing trust fund annual plan.* Each fiscal year, the city council shall adopt a housing trust fund annual plan. The city manager shall submit to the city council a recommended housing trust fund annual plan, utilizing the revenues of the housing trust fund as well as any other funds the manager may propose as appropriate. 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 housing trust fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the housing trust fund;

2. A description of how funds from the housing trust fund will be distributed among very-low-income, low-income and moderate income households; and

3. The amount of funds budgeted for programs funded in part or in full from the housing trust fund.

Priority for the expenditure of funds collected pursuant to the housing replacement ordinance (see Sec. 14-483) shall be given to the creation of new housing stock, through either new construction or conversion of non-residential buildings to residential use.

(f) *Distribution and use of the housing trust fund's assets.*

1. All distribution of principal, interest or other assets of the housing trust fund shall be made in furtherance of the public purposes set out in section 14-483.

2. During each year, the housing trust fund shall disburse as grants or loans so much of the housing trust fund's assets as the city council in its discretion has approved in the housing trust fund annual plan.

3. Funds shall not be used for city administrative expenses.

4. Funds shall not be used for property operating expenses or supporting services.

5. No grants or loans shall be awarded by the housing trust fund to corporations, partnerships or individuals who are delinquent, at the time of application in the payment of property taxes or other fees to the city of Portland, who Have been convicted of arson, who have been convicted of discrimination in the sale or lease

of housing under the fair housing laws of the State of Maine, or who have pending violations of current city electrical, plumbing building or housing codes or zoning ordinances.

(g) *Term of affordability.*

1. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of thirty (30) years.

2. Whenever funs from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the city of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the city of Portland.

3. The affordability restriction requirements described in this section shall run with the land and the city of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.

(Ord. No. 281-09/10, 7-19-10)

Sec. 14-490. Reserved.

ARTICLE IV. SUBDIVISIONS*

***Cross reference(s)**--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

State law reference(s)--Land subdivisions, 30-A M.R.S.A. § 4403.

City of Portland, Maine
City Council Agenda Request Form

TO: Sonia Bean, Senior Administrative Assistant
Mayor and Portland City Councilors

FROM: Danielle West-Chuhta, Corporation Counsel

DATE: **9/8/2014**

1) Council meeting at which action is requested:

1st reading: September 15, 2014
Final action: October 6, 2014

2) Can action be taken at a later date: X YES ______ NO
If not, why not:

3) This item is sponsored by: Mayor and City Council

(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

As specified in and authorized by the City Charter and City Non-Union Personnel Policy, and after City Councilors reviewed the performance of two of their three direct appointees, Corporation Counsel Danielle West-Chuhta and the City Clerk Katherine Jones, the full City Council recommends a 4% pay increase for both.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

For City Council approval of a 4% increase in the pay for both the City Clerk and Corporation Counsel retroactive to July 1, 2014.

III. INTENDED RESULT (How does it resolve the issue/problem?)

See above.

IV. FINANCIAL IMPACT

This order increases total annual compensation to City Clerk Katherine Jones to $76,698.96, with the 4% addition (of present salary, $73,749.00) of $2,949.96.

Total compensation to Corporation Counsel Danielle West-Chuhta would be $114,399.48, with the 4% addition (of present salary, $109,999.50) of $4,399.98.

V. STAFF ANALYSIS & RECOMMENDATION

This increase was recommended by the City Council after a performance review of both employees, and that this order be enacted as an emergency and be retroactive to July 1, 2014.

Attachments:

Agenda Request

Order

Order amending Non-Union Personnel Policy

Order 60-14/15
Tab 19 9-15-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER AUTHORIZING AND APPROVING WAGE INCREASE FOR CITY CLERK AND CORPORATION COUNSEL

ORDERED, that a 4% wage increase is hereby approved for the City Clerk and Corporation Counsel.

Order 224-10/11
Postponed on 5-2-11
Passage: 9-0 5-16-11

NICHOLAS M. MAVODONES (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND

IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
JILL C. DUSON (A/L)

ORDER AMENDING PERSONNEL POLICIES RE: CITY COUNCIL APPOINTEES (CITY MANAGER, CORPORATION COUNSEL, CITY CLERK)

ORDERED, that Article II, General Provisions of the City's Personnel Policies and Procedures dated April 2009, is hereby amended by adding the following new paragraph:

II. GENERAL PROVISIONS

. . .

These polices shall apply to all employees of the City, except as follows:

a. The City Council shall set the salary for its appointees, i.e. the City Manager, the Corporation Counsel and the City Clerk;

b. The City Council shall set the salary for its appointees when in an acting capacity;

c. The City Council shall approve annual performance evaluations for its appointees:

d. Any adjustment in salary after appointment shall be made annually on the basis of the performance evaluations; and

e. The grievance procedure in Article VII shall not be available to City Council appointees.

Where the approval or authorization of the City Manager or the Director of Human Resources is required hereunder, City Council approval or authorization shall be required as pertaining to its appointees. Nothing herein shall prevent the City Council from providing different or supplemental benefits for its appointees by Council order to the extent permitted by law. The City Manager, Corporation Counsel and the City Clerk serve at the pleasure of the City Council.

BE IT FURTHER ORDERED, that Appendix A, Non Union Classification Plan, of the City's Personnel Policies and Procedures dated April 2009, is hereby amended as follows:

Appendix A

NON-UNION CLASSIFICATION PLAN

SALARY GRADE	POSITION TITLE
14	~~CORPORATIONCOUNSEL~~
	DIRECTOR OF HEALTH AND HUMAN SERVICES
	DIRECTOR OF PLANNING AND DEVELOPMENT
	FINANCE DIRECTOR
	FIRE CHIEF
	POLICE CHIEF
	PUBLIC SERVICES DIRECTOR
13	AIRPORT DIRECTOR
	ASSISTANT CITY MANAGER
	~~CITY CLERK~~
	DIRECTOR OF HUMAN RESOURCES
	TAX ASSESSOR

CITY OF PORTLAND
MEMORANDUM

To: Gary Wood, Corporation Counsel

From: Elizabeth Boynton, Esq.

Date: April 12, 2011

Re: **Amendments to Personnel Policy**

* * *

As you requested, I have prepared amendments to the City's Personnel Policies and Procedures to clarify their application to the three Council appointees. While the overall intent of these Policies is to govern the non-union employees who are appointed by the City Manager, I have tried to clarify their application to Council appointees. Thus, I have specifically included the Council appointees in the Policies with certain exceptions:

Salary and acting salary;
Performance evaluations and annual pay adjustments;
Exemption from use of the Grievance Procedure;
Service is at the pleasure of the City Council;.
Ability of Council to provide different or additional benefits by Council order.

I have also clarified that when the Policies permit the City Manager or his/her designee (HR Director) to approve or authorize certain benefits or procedures, City Council approval or authorization will be needed for the Council appointees. Thus, for example, approval of non-disability leaves of absence or long-term disability leaves (other than FMLA leaves which are governed by state and federal laws) would have to be approved by the Council for its appointees.

The generally applicable benefits, e.g. health insurance, retirement, vacation and sick leave accrual, special leaves such as bereavement, jury and funeral leave and statutory protections for employees such as non-discrimination and workers compensation would all continue to apply to the Council appointees.

Finally, I have reviewed the Charter to be sure that these amendments are consistent with it. I believe that they are; see Article II, Sec. 5 (j) and (k); and Article VI, Secs. 2, 4 and 6.

Please let me know if you have any questions.