

Regular
City Council Meeting
January 5, 2015

1. Agenda January 5, 2015

Documents: [AGENDA ONLY FOR 1-5-15.PDF](#)

2. Agenda And Packet January 5, 2015

Documents: [AGENDA AND PACKET 01-05-15.PDF](#)

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

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
JANUARY 5, 2015

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) December 15, 2014

PROCLAMATIONS:

APPOINTMENTS:

Order 118-14/15 Order Appointing Special Council Committees for 2015
(Tab 2) - Sponsored by Mayor Michael F. Brennan.

This order appoints City Councilors and City staff to various outside Boards and Commissions.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

LICENSES:

Order 119-14/15 Order Granting Municipal Officers' Approval of Fizz LLC d/b/a
(Tab 3) Vena's Fizz House. Application for a Class II (Spirits) License at 345
Fore St – Sponsored by Katherine L. Jones, City Clerk.

Application filed 12/1/14. New City and State applications. Applicant currently holds a Food Service Establishment with Preparation license.

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**Order 120-14/15
(Tab 4)**

Order Granting Municipal Officers' Approval of Pirate Moon, LLC d/b/a The Treehouse. Application for a Class I FSE License with Entertainment without Dance and Outdoor Dining on Private Property at 484 Stevens Ave – Sponsored by Katherine L. Jones, City Clerk.

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Application filed 10/24/14. New City and State applications. This is the former location of the Movies on Exchange.

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BUDGET ITEMS:

COMMUNICATIONS:

**Com 8-14/15
(Tab 6)**

Communication RE: FY2014 Tax Increment Financing Annual Report – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

At the most recent Housing and Community Development Committee, it reviewed its FY2014 Tax Increment Financing Annual Report and voted to forward the HCDC report to the City Council as a communication.

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

**Com 9-14/15
(Tab 7)**

Communication Re: Housing and Community Development Committee 2014 Work Plan Accomplishments – Sponsored by the Housing and Community Development Committee – Councilor Kevin J. Donoghue, Chair.

At the most recent Housing and Community Development Committee, it reviewed its 2014 Work Plan Accomplishments and voted to forward the HCDC report to the City Council as a communication

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

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 114-14/15 (Tab 8)

Order Approving Appointment of Adam Lee as Associate Corporation Counsel – Sponsored by Danielle West-Chuhta, Corporation Counsel.

This order appoints Adam Lee as Associate Corporation Counsel at a salary of \$80,800.00 to be effective January 6, 2015.

Adam Lee has been offered the position of Associate Corporation Counsel, left vacant by Trish McAllister, and he has accepted; as specified in the Portland City Charter, Article VI., Section 1(c), this appointment is made by the Corporation Counsel and must be confirmed by the Portland City Council.

This item must be read on two separate days. It was given first reading on December. Staff is requesting that this item be passed as an emergency so Mr. Lee can start work immediately on January 6, 2015.

Seven affirmative votes are required for emergency passage.

Order 115-14/15 (Tab 9)

Order Approving Designation of House Island as a Local Historic District and Amending the Map of Historic Districts – Sponsored by the Planning Board, Stuart O'Brien, Chair and the Historic Preservation Board, Rick Romano, Chair.

By unanimous vote the Planning Board is recommending that House Island be designated a local historic district subject to the protections of the City's historic preservation ordinance (Article IX of the Land Use Code.) The Planning Board's consideration of the nominated historic district was pursuant to a recommendation forwarded by the Historic Preservation Board. (As required under Portland's historic preservation ordinance, nominated historic districts must be reviewed first by the Historic Preservation Board, which forwards its recommendation to the Planning Board. The Planning Board also considers the effect of designation on other aspects of the comprehensive plan.)

The proposed designation applies to the entire 24-acre island and includes twenty-one (21) historic structures or sites representing several key periods of development history on House Island.

Among the significant historic structures on the island are Fort Scammel, built in 1808 and expanded in the 1860's, and buildings associated with House Island's role as a Federal immigration and quarantine station during the late 19th and early 20th centuries.

The recommendation to designate House Island as a historic district is based on findings by both the Planning Board and Historic Preservation Board that House Island readily meets the designation criteria outlined in Sections 14-610 and 14-611 of the historic preservation ordinance.

As well, the Planning Board finds that designation is consistent with other goals of the Comprehensive Plan.

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**Order 116-14/15
(Tab 10)**

Amendment to City Code Chapter 18 (Parks, Recreation and Public Buildings and Grounds) Re: Parks Commission to Adopt Rules – Sponsored by Danielle West Chuhta, Corporation Counsel.

The Parks Commission (the “Commission”) desires to adopt rules that are supplemental to the provisions of Chapter 18, Article 1 of the Portland City Code, which established the Commission.

The proposed Rules would govern membership, officers, election of officers, meeting times and the Order of Business at meetings as well as other aspects of the orderly and beneficial performance of the Commission.

In order to adopt rules, however, the Parks Commission requires the power to adopt them, which is provided by the ordinance amendment proposed in this agenda item. The ordinance language is modeled on language found in the City Code for the Land Bank Commission, allowing it to adopt rules. The Commission will forward a copy of their rules to the City Council after adoption. It should be noted that the current project led by the Trust for Public Land includes a review of the Parks Commission role and responsibility. The outcome of that study may result in the need to revisit this issue.

This item must be read on two separate days. It was given a first reading on December 15th. Five affirmative votes are required for passage after public comment.

**Order 117-14/15
(Tab 11)**

Amendment to Portland City Code Re: Washington Avenue Zoning Map Change R-6 Residential Zone to B1 Neighborhood Business Zone – Sponsored by the Planning Board, Stuart O’Brien, Chair.

The Planning Board recommends a zoning map amendment to change a portion of Washington Avenue that is currently zoned R-6 Residential Zone to B1 Neighborhood Business Zone.

An application was submitted by Munjoy Hill Homes – Sheridan LLC, represented by Ron Gan, for a zoning map amendment for property at 143, 145 & 155 Washington Avenue, on the easterly side of Washington Avenue, between E. Cove Street and Walnut Street. The site currently is used for a legally non-conforming auto repair and used car lot business.

The property is zoned R-6 Residential Zone, and the application originally requested that it be rezoned B-2b so that the applicant could subsequently apply a Site Plan and Subdivision application for a mixed-use development.

The application was heard by the Planning Board on August, 26th, September 23rd, and October 28th. Over the course of the review, the application changed to a request for the parcels to be rezoned to B-1, and the Planning Board determined it was appropriate to recommend a map amendment for a larger extent than the original application requested.

The intended result of this map amendment is to have Washington Avenue be appropriately zoned to foster the mixed-use, eclectic commercial and residential environment that exists on much of the street today, and incentivize appropriate development to the existing context.

The Planning Board considered the surrounding neighborhoods when they chose to recommend that a portion of R-6 that is part of the existing, adjacent residential neighborhood be maintained, but found that maintaining the majority of the existing segment of R-6 on Washington Avenue was not contextually appropriate. Please see the attached full report to the City Council for specific recommended zone boundaries and additional discussion of the proposed change.

On October 28, 2014, the Planning Board voted unanimously 6-0 (Dean absent) to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading December 15th. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 122-14/15 (Tab 12)

Order Authorizing Assignment of Midtown Parking Lot City of Portland Lease from Fore River Parking Company to JBB Parking Company, LLC – Sponsored by Sheila-Hill Christian, Acting City Manager.

Fore River Parking Company shares ownership of Midtown Parking Lot with the City of Portland and since 2009 has leased the part of the property owned by the City. The Fore River Parking Company manages the facility under the lease.

JBB Parking Company, LLC, a company owned by J.B. Brown & Sons, has agreed to buy the part of Midtown Parking Lot that is owned by Fore River Parking and also by New GMN, Inc., and as part of its purchase requires that the lease the city has had with Fore River Parking Company be assigned to JBB Parking Company, which plans to manage the parking lot under the lease.

City Council action is required to approve the assignment of the lease from Fore River Parking Company to JBB Parking Company, LLC and to authorize the Acting City Manager to sign the document. The rent paid to the City for the lease for parking spaces in Midtown Parking Lot will remain the same. There is no financial impact to this action.

Five affirmative votes are required for passage after public comment.

**Order 123-14/15
(Tab 13)**

Order Authorizing the City Manager to Enter into Purchase and Sale Agreement with Patrons Oxford Insurance Company for Sale of Unit 1 in City-Owned Portland Technology Park – Sponsored by Sheila Hill-Christian, Acting City Manager.

The Purchase and Sale Agreement to sell Unit 1, located in the City-owned and developed Portland Technology Park (PTP), to Patrons Oxford Insurance Company for a cash sale price of \$625,000 is being presented for your review and authorization for the Acting City Manager to execute, as well as other appropriate documents for the sale.

Patrons Oxford Insurance Company Profile. The company is currently located in Auburn, Maine and is located in close proximity to the Maine Turnpike Exit 75 with over forty (40) employees. The company is planning to construct a new 20,000 square foot building, with future expansion plans, to relocate their company to the PTP to support company employment growth.

The Portland Technology Park (PTP) is a fully permitted condominium business park developed by the City. Phase I of the project has been completed, with a 975 foot road and utilities to three development sites (Units 1-3). This work was financed with a grant from the Economic Development Administration (EDA) and matched by the City. Portland's total investment in the PTP, to date, has been just under \$695,000. The sale of Unit 1 will cover most of that investment. Property taxes associated with a 20,000 square foot building are estimated to be \$60,000 per year. It is noted that the development in the PTP is required to follow park development standards, which include:

- LEED Design, meeting City's Green Building Ordinance
- Energy Efficiency (siting buildings for maximum solar gain)
- Connection to Trails.

When the City is ready to move forward with developing Phase II of the Park, it will extend the road by 525 feet, opening four more development sites (Units 4-7). PTP rendering with three available sites labeled are included in the agenda backup.

Sale of Unit 1 will yield \$625,000 to the City. It is noted that City staff has been marketing the PTP, and with City Corporation Counsel assistance, has represented PTP property sales without an exclusive commercial broker arrangement. A commercial broker brought this deal to the City. A fee of \$43,750 has been negotiated, and would be subtracted from the purchase price, for a net payment to the City of \$581,250.

It is noted that the purchaser's decision time frame does not allow enough time to present the proposed Purchase and Sale Agreement to the Housing and Community Development Committee (HCDC). Councilor Donoghue, HCDC Committee Chair, was consulted and, after discussion with the Mayor, it was agreed that a City Council Workshop will be held on this matter, followed by City Council action on January 5, 2015.

Five affirmative votes are required for passage after public comment.

**Order 124-14/15
(Tab 14)**

Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors - Sponsored by Sheila Hill-Christian, Acting City Manager.

City staff has reached a tentative three (3) year agreement with AFSCME Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from Council on December 15, 2014.

The parties have tentatively agreed to a three (3) year contract with general wage increases of 1% effective July 7, 2013, 1% effective July 6, 2014, 1% effective January 4, 2015 and 3% effective July 5, 2015. The parties have also agreed to upgrade several Supervisor positions. Furthermore, in consideration of the above, the union has tentatively agreed to the City's proposed Health Plan changes as well as changes to the pension language.

The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 7, 2013 through July 4, 2016. The total direct costs of the general wage increases are \$143,000.00; however, \$81,000.00 has been appropriated and accounted for through the FY 14 and FY 15 budget approval process.

All other provisions of the contract remain intact for the term of the agreement.

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

**Order 125-14/15
(Tab 15)**

Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) 481-00 Labor & Trades- Sponsored by Sheila Hill-Christian, Acting City Manager.

City staff has reached a tentative three (3) year contract agreement with AFSCME Labor & Trades which is within guidance received from Council on December 15, 2014. AFSCME Labor and Trades represents approximately 168 Trades, Maintenance and Custodial workers.

The parties have tentatively agreed to a three (3) year contract with general wage increases of 1 % effective July 7, 2013, 1 % effective July 6, 2014, 1.5% effective January 4, 2015 and 2.5% effective July 5, 2015. The parties have also agreed to upgrade the ten (10) Jetport Maintenance Worker III's from Grade 18 to Grade 19. Furthermore, in consideration of the above, the union has tentatively agreed to the City's proposed Health Plan changes as well as changes to the pension language. The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 7, 2013 through July 4, 2016. The total direct costs of the general wage increases are \$458,000.00; however, \$159,000.00 has been appropriated and accounted for through the FY 14 and FY 15 budget approval process.

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

**Order 126-14/15
(Tab 16)**

Order Approving Two-Party Agreements between the City of Portland and the Maine Department of Transportation Re: City Collector Paving Projects – Sponsored by Sheila Hill-Christian, Acting City Manager.

The Department of Public Services and Maine Dept. of Transportation request approval for the City Manager to enter into two (2) two-party agreements to proceed with 2015 PACTS Collector Paving projects. This action follows previous authorization of three-party agreements by Order 40-13/14. Those three-party agreements estimated an investment value of \$1,048,955 and a Local portion obligation of \$236,296. The total value of investment is now estimated to be \$1,904,482 and the Local cash obligation is now estimated to be \$1,099,448. The significant increase in required Local funding is for Phase I of the Spring St Corridor per the authorized Master Plan. Local funding was appropriated in the FY14 and FY15 CIP, and includes public infrastructure contributions from Cross Insurance Arena.

MaineDOT cannot proceed with final design and bid document preparation without these agreements being executed. Failure to execute agreements could result in deferral or elimination of the leveraged funding for PACTS

Collector Pavement Preservation, and delay Phase I of the Spring St Corridor Master Plan initiatives.

Execution of these agreements will allow for MaineDOT to preserve the pavement on these streets in 2015, and administer the contract for the City's Phase I work on the Spring St Corridor:

Middle St from Franklin to Temple

Spring St from State to Temple

Temple St from Middle to Congress (entire)

Union St from Commercial to Middle (entire)

In addition to pavement preservation, the City will achieve Phase I Master Plan goals for the Spring St Corridor, and replace an unwarranted traffic signal system at the intersection of Middle and Pearl with a four-way stop; thereby reducing our electrical energy consumption.

The total value of the projects is currently estimated at \$1,904,482 and the Local investment is estimated up to \$1,099,448 of that total. The local funding is appropriated in the FY14 and FY15 CIP, and a portion is sourced from a contribution from the Cross Insurance Arena.

Project	CIP account	Current Local Cost	Prior Local Cost Estimate
Union Street paving	C15103	\$28,338	\$43,338
Spring, Middle, and Temple Streets	C14106	\$350,000	\$192,958
	C14201	\$135,000	
	PS1502	\$30,721	
	C15103	\$355,389	
	C15105	\$200,000	
	<i>Totals:</i>	<i>\$1,099,448</i>	<i>\$236,296</i>

The paving projects reflected by these agreements have been specifically identified, vetted, and authorized by prior City Council Order #40-13/14. The Department of Public Services has communicated extensively with Portland Downtown District, worked with stakeholders, and notified abutters to raise awareness of the intended work and develop specific design elements for Phase I of the Spring St Corridor.

Existing CIP and development contribution funds have been dedicated to the implementation of these projects and they should proceed without delay.

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

**Order 127-14/15
(Tab 17)**

Order Approving Two-Party Agreements between the City of Portland and the Maine Department of Transportation Re: Transportation System Improvements – Sponsored by Sheila Hill-Christian, Acting City Manager.

The Department of Public Services and Maine Dept. of Transportation (MaineDOT) request approval to enter into three (3) two-party agreements to proceed with bundling the projects into one 2015 construction contract.

The total value of investment is estimated to be \$2,046,500 and the Local cash portion is estimated to be \$961,300. Local funding was appropriated in the FY14 and FY15 CIP. Previous authorization for two of these projects occurred through City Council Orders #222-11/12 and #15-14/15, and the third authorization is via FY15 CIP appropriation. The Local cost obligation for this bundled project is slightly reduced from prior estimates.

MaineDOT cannot proceed with final design and bid document preparation without these agreements being executed. Failure to execute agreements could result in deferral or elimination of highly leveraged funding for these MaineDOT and PACTS projects.

Execution of these agreements allows for:

- 1) MaineDOT Arterial pavement preservation on Route 1A:
 - a) Commercial St from Beach to Franklin
 - b) Franklin St between Commercial and Middle
- 2) MaineDOT Transportation Alternatives project:
 - a) Intersections of Commercial at High and York at High
- 3) PACTS 16/18 Bicycle/Pedestrian TIP project:
 - a) York St sidewalk and pedestrian signal

In addition to MaineDOT Arterial pavement preservation, the City is making significant improvements to traffic and pedestrian infrastructure along the Commercial St Corridor.

The total value of the projects is currently estimated at \$2,046,500 and the Local investment is estimated up to \$961,300 of that total. The Local funds required are less than previous estimates, and are appropriated in the FY14 and FY15 CIP.

Project	CIP account	Current Local Cost	Prior Local Cost Estimate
Commercial and Franklin Street paving	C15104	\$890,000	\$900,000
Commercial at High and York at High Intersections	C14114	\$42,700	\$29,600
York St sidewalk and ped signals	C14114	\$28,600	\$35,750
	<i>Totals:</i>	<i>\$961,300</i>	<i>\$965,350</i>

These projects have been specifically identified, vetted, authorized, and funded by prior City Council actions. The Department of Public Services has communicated extensively with Portland Downtown District to raise awareness and develop specific elements of the intended work plan. Existing CIP funds have been dedicated to the implementation of these projects and they should proceed without delay.

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

**Order 128-14/15
(Tab 18)**

Traffic Schedule Amendment Re: Sewall Street – Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

The Department of Public Services seeks authorization to establish five (5) taxi stand spaces on Sewall Street.

The request is a result of consensus reached with taxi drivers and representatives of the Thompson's Point development and Portland Transportation Center. Recent improvements made to Thompson's Point Road resulted in a decrease of publically available taxi stand area which affects customer service at the Transit Hub. Following the completion of the improvements at Thompson Point Road and with increased activity at the Transit Center due to the holidays, taxis were queuing up on the north bound lane of Thompson Point Road which is prohibited as a condition of the developers Traffic Movement Permit. We allowed the taxis to continue parking there on a temporary basis. Adding the five (5) spaces on Sewall Street will help to address service responsiveness while improving traffic safety and provide for an efficient queuing location for taxi operators. It will also result in removing vehicles parked in an active travel lane on Thompson Point Road. This proposal will allow 13 taxis to wait safely in a queue for arriving passengers at the Portland Transportation Center.

The five (5) spaces proposed at the end of Sewall Street are non-restricted and yield no revenue to the City. The City does not anticipate charging the taxis for these spots.

The Transportation, Sustainability and Energy Committee met on December 17 and voted 4-0 to forward this item to the City Council with a recommendation for passage.

Department staff is requesting that City Council waive the two read requirement for this Amendment and take emergency action after the first reading. Staff has been working with the taxi drivers and representatives of the Thompson Point Development and the Portland Transportation Center on this proposal and plans to begin enforcement of the prohibition of no parking on the north side of the Thompson Point Road as of January 5. The January 5 date was established as a means to allow the taxi operators to get through the holidays, to ensure that the Developer continued to be in compliance with their conditions of the Traffic Movement Permit for the

Thompson Point Development and to maintain traffic safety. The swift action will also help staff with enforcement of the new taxi parking at Thompson Point Road and the Transit Center.

This item must be read on two separate days. Staff is requesting that the second reading be waived and that the order be enacted as an emergency, in order to make it effective immediately. Seven affirmative votes are required to waive the second reading and pass as an emergency after public comment.

**Order 129-14/15
(Tab 19)**

**Amendment to Portland City Code Re: Chapter 24 Sewers
Re: Stormwater Program - Sponsored by the Finance Committee,
Councilor Nicholas M. Mavodones, Chair.**

The proposed stormwater service charge program has been unanimously recommended to the City Council by the Finance Committee for consideration. The initiation and development of the Program was made at the request of the City Council through a Council Resolution and incorporated the unanimous recommendations of a City Task Force established by Council Order. That Task Force considered other ways by which the City could pay for sewer and stormwater costs. The Task Force considered continuing to pay for stormwater services through the sewer rate, property taxes, or a stormwater service charge. The Task Force unanimously recommended a stormwater service charge.

The proposed stormwater service charge program, for City Council consideration, includes an amendment to Chapter 24: Sewers, which establishes the stormwater service charge program and the stormwater service charge rate for the first six months beginning in January 2016 of \$6.00/billing unit. Approval of the proposed stormwater service charge program also authorizes an appropriation of \$291,860 from the Sewer Fund for start-up costs until the charge goes into effect in January 2016 and includes the creation of five staff positions.

The financial impact to city operations is estimated to be approximately \$365,000 annually including the School Department. Impacts to private property vary.

The Finance Committee met on December 11th and voted 4-0 to forward this item to the City Council with a recommendation for passage.

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

**Order 130-14/15
(Tab 20)**

**Order Authorizing and Appropriating \$291,860 from the Sewer Fund
for Start –Up costs for the Implementation of the Stormwater Program
– Sponsored by Nicholas M. Mavodones, Chair.**

In addition to the amendment to Chapter 24: Sewers, the proposed stormwater service charge program includes an appropriation of \$291,860 from the Sewer Fund for start-up costs until the charge goes into effect in

January 2016. Within that appropriation is funding for five staff to be funded by the stormwater service charge program. As allowed under City Charter Article VI, section 1(d), five positions will be created to implement this program including an Account Clerk II, Cashier Clerk, Programmer Analyst, Assistant Engineer, and a Customer Service Representative if this appropriation is authorized by the City Council.

The Finance Committee met on December 11th and voted 4-0 to forward this item to the City Council with a recommendation for passage.

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

LICENSE RENEWALS:

MICHAEL F. BRENNAN (MAYOR)
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DAVID A. MARSHALL (2)
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The Parks Commission (the “Commission”) desires to adopt rules that are supplemental to the provisions of Chapter 18, Article 1 of the Portland City Code, which established the Commission.

The proposed Rules would govern membership, officers, election of officers, meeting times and the Order of Business at meetings as well as other aspects of the orderly and beneficial performance of the Commission.

In order to adopt rules, however, the Parks Commission requires the power to adopt them, which is provided by the ordinance amendment proposed in this agenda item. The ordinance language is modeled on language found in the City Code for the Land Bank Commission, allowing it to adopt rules. The Commission will forward a copy of their rules to the City Council after adoption. It should be noted that the current project led by the Trust for Public Land includes a review of the Parks Commission role and responsibility. The outcome of that study may result in the need to revisit this issue.

This item must be read on two separate days. It was given a first reading on December 15th. Five affirmative votes are required for passage after public comment.

**Order 117-14/15
(Tab 11)**

Amendment to Portland City Code Re: Washington Avenue Zoning Map Change R-6 Residential Zone to B1 Neighborhood Business Zone – Sponsored by the Planning Board, Stuart O’Brien, Chair.

The Planning Board recommends a zoning map amendment to change a portion of Washington Avenue that is currently zoned R-6 Residential Zone to B1 Neighborhood Business Zone.

An application was submitted by Munjoy Hill Homes – Sheridan LLC, represented by Ron Gan, for a zoning map amendment for property at 143, 145 & 155 Washington Avenue, on the easterly side of Washington Avenue, between E. Cove Street and Walnut Street. The site currently is used for a legally non-conforming auto repair and used car lot business.

The property is zoned R-6 Residential Zone, and the application originally requested that it be rezoned B-2b so that the applicant could subsequently apply a Site Plan and Subdivision application for a mixed-use development.

The application was heard by the Planning Board on August, 26th, September 23rd, and October 28th. Over the course of the review, the application changed to a request for the parcels to be rezoned to B-1, and the Planning Board determined it was appropriate to recommend a map amendment for a larger extent than the original application requested.

The intended result of this map amendment is to have Washington Avenue be appropriately zoned to foster the mixed-use, eclectic commercial and residential environment that exists on much of the street today, and incentivize appropriate development to the existing context.

The Planning Board considered the surrounding neighborhoods when they chose to recommend that a portion of R-6 that is part of the existing, adjacent residential neighborhood be maintained, but found that maintaining the majority of the existing segment of R-6 on Washington Avenue was not contextually appropriate. Please see the attached full report to the City Council for specific recommended zone boundaries and additional discussion of the proposed change.

On October 28, 2014, the Planning Board voted unanimously 6-0 (Dean absent) to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading December 15th. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 122-14/15 (Tab 12)

Order Authorizing Assignment of Midtown Parking Lot City of Portland Lease from Fore River Parking Company to JBB Parking Company, LLC – Sponsored by Sheila-Hill Christian, Acting City Manager.

Fore River Parking Company shares ownership of Midtown Parking Lot with the City of Portland and since 2009 has leased the part of the property owned by the City. The Fore River Parking Company manages the facility under the lease.

JBB Parking Company, LLC, a company owned by J.B. Brown & Sons, has agreed to buy the part of Midtown Parking Lot that is owned by Fore River Parking and also by New GMN, Inc., and as part of its purchase requires that the lease the city has had with Fore River Parking Company be assigned to JBB Parking Company, which plans to manage the parking lot under the lease.

City Council action is required to approve the assignment of the lease from Fore River Parking Company to JBB Parking Company, LLC and to authorize the Acting City Manager to sign the document. The rent paid to the City for the lease for parking spaces in Midtown Parking Lot will remain the same. There is no financial impact to this action.

Five affirmative votes are required for passage after public comment.

**Order 123-14/15
(Tab 13)**

Order Authorizing the City Manager to Enter into Purchase and Sale Agreement with Patrons Oxford Insurance Company for Sale of Unit 1 in City-Owned Portland Technology Park – Sponsored by Sheila Hill-Christian, Acting City Manager.

The Purchase and Sale Agreement to sell Unit 1, located in the City-owned and developed Portland Technology Park (PTP), to Patrons Oxford Insurance Company for a cash sale price of \$625,000 is being presented for your review and authorization for the Acting City Manager to execute, as well as other appropriate documents for the sale.

Patrons Oxford Insurance Company Profile. The company is currently located in Auburn, Maine and is located in close proximity to the Maine Turnpike Exit 75 with over forty (40) employees. The company is planning to construct a new 20,000 square foot building, with future expansion plans, to relocate their company to the PTP to support company employment growth.

The Portland Technology Park (PTP) is a fully permitted condominium business park developed by the City. Phase I of the project has been completed, with a 975 foot road and utilities to three development sites (Units 1-3). This work was financed with a grant from the Economic Development Administration (EDA) and matched by the City. Portland's total investment in the PTP, to date, has been just under \$695,000. The sale of Unit 1 will cover most of that investment. Property taxes associated with a 20,000 square foot building are estimated to be \$60,000 per year. It is noted that the development in the PTP is required to follow park development standards, which include:

- LEED Design, meeting City's Green Building Ordinance
- Energy Efficiency (siting buildings for maximum solar gain)
- Connection to Trails.

When the City is ready to move forward with developing Phase II of the Park, it will extend the road by 525 feet, opening four more development sites (Units 4-7). PTP rendering with three available sites labeled are included in the agenda backup.

Sale of Unit 1 will yield \$625,000 to the City. It is noted that City staff has been marketing the PTP, and with City Corporation Counsel assistance, has represented PTP property sales without an exclusive commercial broker arrangement. A commercial broker brought this deal to the City. A fee of \$43,750 has been negotiated, and would be subtracted from the purchase price, for a net payment to the City of \$581,250.

It is noted that the purchaser's decision time frame does not allow enough time to present the proposed Purchase and Sale Agreement to the Housing and Community Development Committee (HCDC). Councilor Donoghue, HCDC Committee Chair, was consulted and, after discussion with the Mayor, it was agreed that a City Council Workshop will be held on this matter, followed by City Council action on January 5, 2015.

Five affirmative votes are required for passage after public comment.

**Order 124-14/15
(Tab 14)**

Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors - Sponsored by Sheila Hill-Christian, Acting City Manager.

City staff has reached a tentative three (3) year agreement with AFSCME Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from Council on December 15, 2014.

The parties have tentatively agreed to a three (3) year contract with general wage increases of 1% effective July 7, 2013, 1% effective July 6, 2014, 1% effective January 4, 2015 and 3% effective July 5, 2015. The parties have also agreed to upgrade several Supervisor positions. Furthermore, in consideration of the above, the union has tentatively agreed to the City's proposed Health Plan changes as well as changes to the pension language.

The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 7, 2013 through July 4, 2016. The total direct costs of the general wage increases are \$143,000.00; however, \$81,000.00 has been appropriated and accounted for through the FY 14 and FY 15 budget approval process.

All other provisions of the contract remain intact for the term of the agreement.

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

**Order 125-14/15
(Tab 15)**

Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) 481-00 Labor & Trades- Sponsored by Sheila Hill-Christian, Acting City Manager.

City staff has reached a tentative three (3) year contract agreement with AFSCME Labor & Trades which is within guidance received from Council on December 15, 2014. AFSCME Labor and Trades represents approximately 168 Trades, Maintenance and Custodial workers.

The parties have tentatively agreed to a three (3) year contract with general wage increases of 1 % effective July 7, 2013, 1 % effective July 6, 2014, 1.5% effective January 4, 2015 and 2.5% effective July 5, 2015. The parties have also agreed to upgrade the ten (10) Jetport Maintenance Worker III's from Grade 18 to Grade 19. Furthermore, in consideration of the above, the union has tentatively agreed to the City's proposed Health Plan changes as well as changes to the pension language. The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 7, 2013 through July 4, 2016. The total direct costs of the general wage increases are \$458,000.00; however, \$159,000.00 has been appropriated and accounted for through the FY 14 and FY 15 budget approval process.

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

**Order 126-14/15
(Tab 16)**

Order Approving Two-Party Agreements between the City of Portland and the Maine Department of Transportation Re: City Collector Paving Projects – Sponsored by Sheila Hill-Christian, Acting City Manager.

The Department of Public Services and Maine Dept. of Transportation request approval for the City Manager to enter into two (2) two-party agreements to proceed with 2015 PACTS Collector Paving projects. This action follows previous authorization of three-party agreements by Order 40-13/14. Those three-party agreements estimated an investment value of \$1,048,955 and a Local portion obligation of \$236,296. The total value of investment is now estimated to be \$1,904,482 and the Local cash obligation is now estimated to be \$1,099,448. The significant increase in required Local funding is for Phase I of the Spring St Corridor per the authorized Master Plan. Local funding was appropriated in the FY14 and FY15 CIP, and includes public infrastructure contributions from Cross Insurance Arena.

MaineDOT cannot proceed with final design and bid document preparation without these agreements being executed. Failure to execute agreements could result in deferral or elimination of the leveraged funding for PACTS

Collector Pavement Preservation, and delay Phase I of the Spring St Corridor Master Plan initiatives.

Execution of these agreements will allow for MaineDOT to preserve the pavement on these streets in 2015, and administer the contract for the City's Phase I work on the Spring St Corridor:

Middle St from Franklin to Temple

Spring St from State to Temple

Temple St from Middle to Congress (entire)

Union St from Commercial to Middle (entire)

In addition to pavement preservation, the City will achieve Phase I Master Plan goals for the Spring St Corridor, and replace an unwarranted traffic signal system at the intersection of Middle and Pearl with a four-way stop; thereby reducing our electrical energy consumption.

The total value of the projects is currently estimated at \$1,904,482 and the Local investment is estimated up to \$1,099,448 of that total. The local funding is appropriated in the FY14 and FY15 CIP, and a portion is sourced from a contribution from the Cross Insurance Arena.

Project	CIP account	Current Local Cost	Prior Local Cost Estimate
Union Street paving	C15103	\$28,338	\$43,338
Spring, Middle, and Temple Streets	C14106	\$350,000	\$192,958
	C14201	\$135,000	
	PS1502	\$30,721	
	C15103	\$355,389	
	C15105	\$200,000	
	<i>Totals:</i>	<i>\$1,099,448</i>	<i>\$236,296</i>

The paving projects reflected by these agreements have been specifically identified, vetted, and authorized by prior City Council Order #40-13/14. The Department of Public Services has communicated extensively with Portland Downtown District, worked with stakeholders, and notified abutters to raise awareness of the intended work and develop specific design elements for Phase I of the Spring St Corridor.

Existing CIP and development contribution funds have been dedicated to the implementation of these projects and they should proceed without delay.

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

**Order 127-14/15
(Tab 17)**

Order Approving Two-Party Agreements between the City of Portland and the Maine Department of Transportation Re: Transportation System Improvements – Sponsored by Sheila Hill-Christian, Acting City Manager.

The Department of Public Services and Maine Dept. of Transportation (MaineDOT) request approval to enter into three (3) two-party agreements to proceed with bundling the projects into one 2015 construction contract.

The total value of investment is estimated to be \$2,046,500 and the Local cash portion is estimated to be \$961,300. Local funding was appropriated in the FY14 and FY15 CIP. Previous authorization for two of these projects occurred through City Council Orders #222-11/12 and #15-14/15, and the third authorization is via FY15 CIP appropriation. The Local cost obligation for this bundled project is slightly reduced from prior estimates.

MaineDOT cannot proceed with final design and bid document preparation without these agreements being executed. Failure to execute agreements could result in deferral or elimination of highly leveraged funding for these MaineDOT and PACTS projects.

Execution of these agreements allows for:

- 1) MaineDOT Arterial pavement preservation on Route 1A:
 - a) Commercial St from Beach to Franklin
 - b) Franklin St between Commercial and Middle
- 2) MaineDOT Transportation Alternatives project:
 - a) Intersections of Commercial at High and York at High
- 3) PACTS 16/18 Bicycle/Pedestrian TIP project:
 - a) York St sidewalk and pedestrian signal

In addition to MaineDOT Arterial pavement preservation, the City is making significant improvements to traffic and pedestrian infrastructure along the Commercial St Corridor.

The total value of the projects is currently estimated at \$2,046,500 and the Local investment is estimated up to \$961,300 of that total. The Local funds required are less than previous estimates, and are appropriated in the FY14 and FY15 CIP.

Project	CIP account	Current Local Cost	Prior Local Cost Estimate
Commercial and Franklin Street paving	C15104	\$890,000	\$900,000
Commercial at High and York at High Intersections	C14114	\$42,700	\$29,600
York St sidewalk and ped signals	C14114	\$28,600	\$35,750
	<i>Totals:</i>	<i>\$961,300</i>	<i>\$965,350</i>

These projects have been specifically identified, vetted, authorized, and funded by prior City Council actions. The Department of Public Services has communicated extensively with Portland Downtown District to raise awareness and develop specific elements of the intended work plan. Existing CIP funds have been dedicated to the implementation of these projects and they should proceed without delay.

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

**Order 128-14/15
(Tab 18)**

Traffic Schedule Amendment Re: Sewall Street – Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

The Department of Public Services seeks authorization to establish five (5) taxi stand spaces on Sewall Street.

The request is a result of consensus reached with taxi drivers and representatives of the Thompson's Point development and Portland Transportation Center. Recent improvements made to Thompson's Point Road resulted in a decrease of publically available taxi stand area which affects customer service at the Transit Hub. Following the completion of the improvements at Thompson Point Road and with increased activity at the Transit Center due to the holidays, taxis were queuing up on the north bound lane of Thompson Point Road which is prohibited as a condition of the developers Traffic Movement Permit. We allowed the taxis to continue parking there on a temporary basis. Adding the five (5) spaces on Sewall Street will help to address service responsiveness while improving traffic safety and provide for an efficient queuing location for taxi operators. It will also result in removing vehicles parked in an active travel lane on Thompson Point Road. This proposal will allow 13 taxis to wait safely in a queue for arriving passengers at the Portland Transportation Center.

The five (5) spaces proposed at the end of Sewall Street are non-restricted and yield no revenue to the City. The City does not anticipate charging the taxis for these spots.

The Transportation, Sustainability and Energy Committee met on December 17 and voted 4-0 to forward this item to the City Council with a recommendation for passage.

Department staff is requesting that City Council waive the two read requirement for this Amendment and take emergency action after the first reading. Staff has been working with the taxi drivers and representatives of the Thompson Point Development and the Portland Transportation Center on this proposal and plans to begin enforcement of the prohibition of no parking on the north side of the Thompson Point Road as of January 5. The January 5 date was established as a means to allow the taxi operators to get through the holidays, to ensure that the Developer continued to be in compliance with their conditions of the Traffic Movement Permit for the

Thompson Point Development and to maintain traffic safety. The swift action will also help staff with enforcement of the new taxi parking at Thompson Point Road and the Transit Center.

This item must be read on two separate days. Staff is requesting that the second reading be waived and that the order be enacted as an emergency, in order to make it effective immediately. Seven affirmative votes are required to waive the second reading and pass as an emergency after public comment.

**Order 129-14/15
(Tab 19)**

**Amendment to Portland City Code Re: Chapter 24 Sewers
Re: Stormwater Program - Sponsored by the Finance Committee,
Councilor Nicholas M. Mavodones, Chair.**

The proposed stormwater service charge program has been unanimously recommended to the City Council by the Finance Committee for consideration. The initiation and development of the Program was made at the request of the City Council through a Council Resolution and incorporated the unanimous recommendations of a City Task Force established by Council Order. That Task Force considered other ways by which the City could pay for sewer and stormwater costs. The Task Force considered continuing to pay for stormwater services through the sewer rate, property taxes, or a stormwater service charge. The Task Force unanimously recommended a stormwater service charge.

The proposed stormwater service charge program, for City Council consideration, includes an amendment to Chapter 24: Sewers, which establishes the stormwater service charge program and the stormwater service charge rate for the first six months beginning in January 2016 of \$6.00/billing unit. Approval of the proposed stormwater service charge program also authorizes an appropriation of \$291,860 from the Sewer Fund for start-up costs until the charge goes into effect in January 2016 and includes the creation of five staff positions.

The financial impact to city operations is estimated to be approximately \$365,000 annually including the School Department. Impacts to private property vary.

The Finance Committee met on December 11th and voted 4-0 to forward this item to the City Council with a recommendation for passage.

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

**Order 130-14/15
(Tab 20)**

**Order Authorizing and Appropriating \$291,860 from the Sewer Fund
for Start –Up costs for the Implementation of the Stormwater Program
– Sponsored by Nicholas M. Mavodones, Chair.**

In addition to the amendment to Chapter 24: Sewers, the proposed stormwater service charge program includes an appropriation of \$291,860 from the Sewer Fund for start-up costs until the charge goes into effect in

January 2016. Within that appropriation is funding for five staff to be funded by the stormwater service charge program. As allowed under City Charter Article VI, section 1(d), five positions will be created to implement this program including an Account Clerk II, Cashier Clerk, Programmer Analyst, Assistant Engineer, and a Customer Service Representative if this appropriation is authorized by the City Council.

The Finance Committee met on December 11th and voted 4-0 to forward this item to the City Council with a recommendation for passage.

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

LICENSE RENEWALS:

IN COUNCIL REGULAR MEETING DECEMBER 15, 2014 VOL. 130 PAGE 41

ROLL CALL: Mayor Brennan called the meeting to order at 7:00 P.M. (Councilor Hinck arrived during the Creative Portland Annual meeting.

ANNUAL MEETING:

Motion was made by Councilor Donoghue and seconded by Councilor Suslovic to recess the regular City Council meeting and Convene the Annual meeting of the Corporator of Creative Portland. Passage 8-0.

Annual Meeting of Creative Portland – Sponsored by Mayor Michael F. Brennan.

The City Council is the Corporator of Creative Portland.

Pursuant to the Bylaws of Creative Portland (CP), the Portland City Council, as Corporator of Creative Portland, shall hold its annual meeting in the of November each year or at a special meeting. This year's Annual Meeting Agenda includes:

1. Accepting CP FYE 2014 Activity and Financial Report; and,
2. Review and authorizing proposed amendment to the Bylaws.

**Order 103-14/15 Order Approving Amendments to the Creative Portland Bylaws -
– Sponsored by Alice Kornhauser, President Creative Portland Board.**

Motion was made by Councilor Duson and seconded by Councilor Marshall to amend Order 103 by adding, “ 2/3 of the Directors, with the exception of the ex officio members, must be either residents of, own a business located in, or work in the City of Portland” for passage. Passage 9-0.

Motion was made by Councilor Marshall and seconded by Councilor Mavodones for passage as amended. Passage 9-0.

Motion was made by Councilor Marshall and seconded by Councilor Donoghue to adjourn the meeting of the Corporator of Creative Portland and reconvene the regular City Council meeting. Passage 9-0.

ANNOUNCEMENTS:
RECOGNITIONS:

Mayor Brennan will recognize Barron Center Staff.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Suslovic and seconded by Councilor Costa to approve the minutes of December 1, 2014 Regular City Council meeting and December 1, 2014 Special City Council meeting. Passage 9-0.

PROCLAMATIONS:

- Proc 15-14/15 Proclamation Honoring Bruce Hyman as Employee of the Month for December 2014 – Sponsored by Mayor Michael Brennan.**
- Proc 16-14/15 Proclamation Honoring Officer Nicholas Gowen as Police Officer of the Month for November 2014 – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

- Order 103A Order Appointing Constables for 2015 Re: City and Portland Housing Authority – Sponsored by Sheila Hill-Christian, Acting City Manager.**

PARKING CONTROL:

Andy Martin
John Peverada
Paul Willey

PROCESS SERVER, PORTLAND POLICE DEPARTMENT

Kelly Waters

ANIMAL CONTROL, POLICE DEPARTMENT:

Debra Estrella

CLIFF ISLAND

Charles Green

PORTLAND HOUSING AUTHORITY

Karin Lavigne
Trevor Nugent
David Gagne
Marcia Yeaton
Shannon Rafferty-Roy

DEPARTMENT OF PUBLIC SERVICES

Nancy Gagne
Craig Pyy
Suzanne Hunt
Rhonda Zazzara
Peter Dubail
John Low
Gregory Vining
Paul Lewis

DEPARTMENT OF BUILDING INSPECTIONS

Tammy Munson
Jonathan Rioux
Jeanie Bourke
George Froehlich
Douglas Morin
Paul Fagone
Brian LaFlamme
Laurie Leader

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

CONSENT ITEMS:

Order 104-14/15 Order Accepting Easements Re: Isthmus between Great and Little Diamond Islands – Sponsored by Danielle West-Chuhta, Corporation Counsel.

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

Order 105-14/15 Order Declaring Reggae Fest as a Festival and Authorizing Additional Festivals Presented by Waterfront Concerts, LLC on the Maine State Pier and Approving Contracts and Permits Therefor - Sponsored by Sheila Hill-Christian.

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

LICENSES:

Order 106-14/15 Order Granting Municipal Officers' Approval of Knish Corporation d/b/a Full Belly Deli. Application for a Class III & IV (Wine & Beer) License at 1070 Brighton Ave. – Sponsored by Katherine L. Jones, City Clerk.

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

IN COUNCIL REGULAR MEETING DECEMBER 15, 2014 VOL. 130 PAGE 44

Order 107-14/15 Order Granting Municipal Officers' Approval of Drinkwater, Ohlson and Briggs d/b/a Lincolns. Application for a Class A Lounge License with Entertainment without Dance at 36 Market Street – Sponsored by Katherine L. Jones, City Clerk.

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

Order 108-14/15 Order Granting Municipal Officers' Approval of SmallAxe LLC d/b/a East Ender. Application for a Class I FSE License with Outdoor Dining on Public Property at 47 Middle Street – Sponsored by Katherine L. Jones, City Clerk.

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

BUDGET ITEMS:

COMMUNICATIONS:

Com 7-14/15 Communication Re: Rules and Regulations for Use of Sewer System – Sponsored by Sheila Hill-Christian, City Manager

RESOLUTIONS:

Resolve 3-14/15 Resolution Re: Time Warner – Sponsored by Sheila Hill-Christian, Acting City Manager.

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

UNFINISHED BUSINESS:

Order 100-14/15 Order Granting a \$30,000.00 Land Bank Fund Grant to Peaks Island Preserve for Acquisition of the Ice Pond Property – Sponsored by Tom Jewell, Co-Chair of the Land Bank Commission. This item was given first reading on December 1, 2014.

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

IN COUNCIL REGULAR MEETING DECEMBER 15, 2014 VOL. 130 PAGE 45

Order 101-14/15 Amendment to City Code Sec. 14-49 (Zoning Text and Map Amendment) Re: First Amendment to the Conditional Rezoning Agreement for Property in the Vicinity of St. Lawrence Arts/Congress Street – Sponsored by the Planning Board, Stuart O’Brien, Chair. This item was given first reading on December 1, 2014.

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

Order 102-14/15 Amendment to Zoning Map Re: Anderson and Fox Streets - Sponsored by the Planning Board, Stuart O’Brien, Chair. This item was given first reading on December 1, 2014.

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

ORDERS:

Order 109-14/15 Order Approving Contract with Municipal Resources, Inc. for the City Manager Search – Sponsored by Mayor Michael F. Brennan.

Motion was made by Councilor Dusen and seconded by Councilor Mavodones for passage. Passage 9-0.

Order 110-14/15 Order Approving the Establishment of a Community Garden in Eastern Promenade Park – Sponsored by Sheila Hill-Christian, Acting City Manager.

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

Order 111-14/15 Order to Accept Gift of Portland Bricks Project Community Art Installation and Adding this Work to the City’s Public Art Collection – Sponsored by the Portland Public Art Committee, Lin Lisberger, Chair.

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

Order 112-14/15 Order Approving 90-Day No Parking Zone on South Side of Walnut Street – Sponsored by Sheila Hill-Christian, Acting City Manager.

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

IN COUNCIL REGULAR MEETING DECEMBER 15, 2014 VOL. 130 PAGE 46

Order 113-14/15 Order Approving and Authorizing the Acting City Manager to Sign the Second Amendment of the Corporate Guaranty Agreement Re: The Federated Companies LLC – Sponsored by the Housing and Community Development Committee – Councilor Kevin Donoghue, Chair.

Motion was made by Councilor Duson and seconded by Councilor Donoghue for passage. Passage 8-1 (Suslovic).

Order 114-14/15 Order Approving Appointment of Adam Lee as Associate Corporation Counsel – Sponsored by Danielle West-Chuhta, Corporation Counsel.

This is its first reading.

Order 115-14/15 Order Approving Designation of House Island as a Local Historic District and Amending the Map of Historic Districts – Sponsored by the Planning Board, Stuart O'Brien, Chair and the Historic Preservation Board, Rick Romano, Chair.

This is its first reading.

AMENDMENTS:

Order 116-14/15 Amendment to City Code Chapter 18 (Parks, Recreation and Public Buildings and Grounds) Re: Parks Commission to Adopt Rules – Sponsored by Danielle West Chuhta, Corporation Counsel.

This is its first reading.

Order 117-14/15 Amendment to Portland City Code Re: Washington Avenue Zoning Map Change R-6 Residential Zone to B1 Neighborhood Business Zone – Sponsored by the Planning Board, Stuart O'Brien, Chair.

This is its first reading.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to adjourn. Passage 9-0, 10:20 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Order 118-14/15
Tab 2 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPOINTING SPECIAL COUNCIL COMMITTEES FOR 2015

ORDERED, that the individuals identified in Attachment A to this order are hereby appointed as members of the committees listed in the attachment for calendar year 2015.

**ANNUAL APPOINTMENTS AND NOMINATIONS TO
BOARDS AND COMMISSIONS
2015
ATTACHMENT A**

Casco Bay Island Transit District
Councilor Kevin Donoghue

Council of Governments General Assembly

Mayor Michael Brennan
Councilor Ed Suslovic (Exec. Comm)
Councilor Jon Hinck
Councilor Justin Costa
Councilor David Marshall

Alternates

Acting City Manager Sheila Hill-Christian (Exec Comm)

Cumberland County Budget Advisory Committee

Councilor Justin Costa
Councilor David Brennerman

ECOMaine

Councilor Edward Suslovic
Assistant Finance Director Suzanne Knight
Michael Bobinsky, Dir. DPS
Troy Moon, Env. Dept. Dir.

Alternate

Councilor Justin Costa

Fish Exchange

Councilor Nicholas Mavodones, Jr.

Fish Pier Authority

Councilor Nicholas Mavodones, Jr.
Sheila Hill-Christian, Acting City Manager

Greater Portland Transit District

Councilor David Marshall
Councilor Kevin Donoghue
Councilor Edward Suslovic
Paul Bradbury, Jetport Dir.
Jeff Levine, Director of Planning and Urban Development

Island Advisory Committee

Councilor Kevin Donoghue
Mike Murray

Jetport Noise Advisory Committee

Councilor Edward Suslovic

Land Bank Commission

Councilor Jill Duson

Library Trustee

Councilor David Brennerman

Maine Municipal Association Legislative Policy Committee

Mayor Michael Brennan
Councilor Jill Duson
Councilor Ed Suslovic
Acting City Manager, Sheila Hill-Christian

Alternates

Councilor Jon Hinck
Councilor Nicholas Mavodones, Jr.

Metro Regional Coalition

Mayor Michael Brennan
Councilor Edward Suslovic
Acting City Manager, Sheila Hill-Christian

Portland Area Comprehensive Transportation System (PACTS)

Councilor David Marshall
Councilor Ed Suslovic
Councilor Kevin Donoghue
Michael Bobinsky, Public Services Director
Jeff Levine, Planning and Urban Development Director
Sheila Hill-Christian, Acting City Manager (Alternate)
Kathi Earley (Alternate), City Engineer

PACTS Technical Committee

Jeremiah Bartlett, Transportation Engineer

PACTS Planning Committee

Alex Jaegerman, Planning Director

PACTS Policy Committee

Councilor David Marshall
Kathi Earley, City Engineer
Michael Bobinsky, Public Services Director
Jeff Levine, Director of Planning and Urban Development

Maine Service Centers Coalition

Acting City Manager Sheila Hill-Christian

Parks Commission

Councilor Jon Hinck

Portland Regional Chamber, Portland Community and City Affairs Committee

Acting City Manager Sheila Hill-Christian, delegated to Greg Mitchell, Director of Economic Development

Portland Development Corporation

Sheila Hill-Christian, Acting City Manager
Mayor Michael Brennan

Portland's Downtown District

Councilor Jon Hinck

Portland Public Arts Committee

Councilor David Marshall

Waterfront Alliance

Councilor Nicholas Mavodones

*Order 119-14/15
Tab 3 1-5-15*

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Fizz LLC d/b/a Vena's Fizz House. Application for a Class II (Spirits) License at 345 Fore St.

CITY CLERK

FIZZ LLC
dba Vena's Fizz House
345 Fore St.
Portland, ME 04101
207-747-4901
steve@venasfizzhouse.com

2014 DEC -1 PM 2:54

Dear Mr. Mayor and Member of the City Council;

Vena's Fizz House began on July 10, 2013, as a new venture in the Old Port. It started and still is in operation as the only mixology shop for retail cocktail and soda needs, and the bar is non-alcoholic, serving mocktails and elixirs, using seltzer as a base.

Our intent is to continue our bar as non-alcoholic during the daylight hours, but from 7 pm to 11 pm, to turn my the bar into an alcoholic bar. Understanding that a license means we can be alcoholic all day long, we do not want to change what we started 16 months ago. We like the non-alcoholic nature, but want to give those that want a "different type of craft cocktail" the chance to enjoy Vena's Fizz House, a very special space that occupies 345 Fore St.

A handwritten signature in black ink, appearing to read 'Stu Corman', with a long horizontal flourish extending to the right.

STEVEN CORMAN

ire _____
ealth _____
axes _____
oning _____

389 Congress Street
Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Class of Liquor License Applying for: FIZZ LLC Class II

Business Name (d/b/a): VENA'S FIZZ HOUSE Phone: 207-747-4901

Location Address: 345 FORE ST PORTLAND ME ZIP 04101

If new, what was formerly in this location? _____

Failing Address: 345 Fore St. Portland ME ZIP 04101

Contact Person: STEVEN CORMAN Phone: 747-4901

Email: steve@venasfizzhouse.com

Manager of Establishment: Steven Corman Home Phone: 541-3744

Landlord of Premises: Gerald Knecht

Address of Landlord: 341 Fore St. #9 Portland ME ZIP 04101

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): PEARLS SEASIDE MARKET + CAFE, CLIFF ISLAND

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

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): STEVEN CORMAN DOB 10-31-56

Residence Address: 28 COLONIAL RD PORTLAND ME 04102

Name of Owner(s): JOHANNA CORMAN DOB 11-16-62

Residence Address: 28 COLONIAL RD PORTLAND ME 04102

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

Corporation Name: FIZZ LLC

Corporation Mailing Address: 345 FORE ST PORTLAND, ME ZIP 04101

Contact Person: STEVEN CORMAN Phone Number: 207-409-2936

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

Name: STEVEN CORMAN Title: CO-OWNER DOB: 10-31-56

Residence Address: 28 COLONIAL RD PORTLAND ME 04102

Payment Method for Business License and application fees:
Cash, Money Order or Bank Check, Visa or MasterCard

CITY CLERK
2014 DEC -1 PM 2:54

PRINCIPAL OFFICERS: (continued)

Name JOHANNA CORNWALL Title CO-OWNER DOB 11-16-62
Residence Address 28 COWAN RD PORTLAND ME 04102
Name _____ Title _____ DOB _____
Residence Address _____

Type of Food Served: Non-Alc / "Cold" Food, Prepared in-house

Please check all that will be served: Beer _____ Wine _____ Liquor ☒

Percentage of Sales generated From Food: 10% From Alcohol: 90%

Hours and Days of operation: 11am - 11 pm

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 have after hours entertainment from 1:00A.M. to 3:00A.M.? Yes _____ No ☒

Will you have outdoor dining? Yes _____ No ☒ If yes, please indicate location on diagram.

Also, will the outdoor dining be on PUBLIC _____ or PRIVATE _____ property?

Have you applied for an (Public) Outdoor Dining Permit? Yes _____ No ☒

Will you have any amusement devices (pinball, video games, juke box)? Yes _____ No ☒

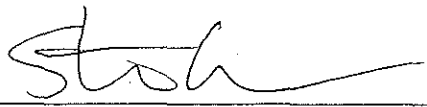
If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date? currently open (non-alcohol served now)

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 CO-OWNER Date 12-1-14

Revised 8-31-10

Payment Method for Business License and application fees:
Cash, Money Order or Bank Check, Visa or MasterCard

Department of Public Safety
Division

Liquor Licensing & Inspection



BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

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.

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.)		2. Business Name (D/B/A)	
FIZZ LLC		VENA'S FIZZ HOUSE	
DOB: 6-13-13		345 Fore St.	
DOB:		Location (Street Address)	
DOB:		Portland ME 04101	
Address		City/Town State Zip Code	
345 Fore St		Portland ME 04101	
City/Town State Zip Code		Mailing Address	
Portland ME 04101		Portland ME 04101	
City/Town State Zip Code		City/Town State Zip Code	
207-747-4901 207-747-4899		207-747-4901 207-747-4899	
Telephone Number Fax Number		Business Telephone Number Fax Number	
Federal I.D. #		Seller Certificate #	
46-2678347		1163191	

3. If premises are 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 ☐

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: Steven Corman

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

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 28 Colonial Rd Portland ME 04102

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
Steven Corman	10-31-56	Noanwood, MA
Johanna Corman	11-16-62	Portland, ME
Nichole S. Bailey	6-5-82	Dunkirk, NY

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

Steven Corman - Cliff Island ME - Portland ME

Nichole Bailey - Strongsville, OH; Fredonia, NY; Portland ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than 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: New Hampshire Charitable Fund

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Vena's Fizz House, already established

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? 2000' Which of the above is nearest? Portland H.S.

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 Oct 6, 20 14
Town/City, State Date

Steven Corman
Signature of Applicant or Corporate Officer(s)

STEVEN CORMAN

Please sign in blue ink

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



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. Please clearly complete this form in its entirety.

1. Exact legal name:

FIZZ LLC

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

VENA'S FIZZ HOUSE

3. Date of filing with the Secretary of State: 6-13-13

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 %
STEVEN CORMAN	28 Colonial Rd Portland ME	10-31-56	50
JOHANNA CORMAN	31 Church Rd Cliff Island ME	11-16-62	50

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 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

12-1-14

Date

STEVEN CORMAN

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

Vena's Fizz House Menu

Artichoke-amole

Part guacamole, part artichoke dip, part tapenade, our creamy green spread is 100 percent tasty -- and surprisingly healthy to boot!

Served with Standard Bakery French Bread and local greens

\$8.00

The Cheesy Nut Ball: An updated Classic:

Bring back those fond memories of swingin' holiday parties past with our updated version of the Hickory Farms classic -- we use local goat cheese, wrap it in a layer of sweet and salty sundried tomatoes and crunchy walnuts.

Served with Standard Bakery french bread and local bread and local greens

\$8.00

Open-Face Shrimp Roll Bites

Salty, shrimpy, lemony yum-ness served on toasted, buttery white hot dog bun-bites. Once you start popping them in your mouth you can't stop!

Small - \$6.00 Large - 12.00

Pecorino and Date Flatbreads

If Betty Draper were here today she would approve of our simple and sumptuous update of the classic stuffed date recipe:

Dried dates, pecorino cheese served on locally made flat bread with local greens

\$8.00

Vena's Fizz House

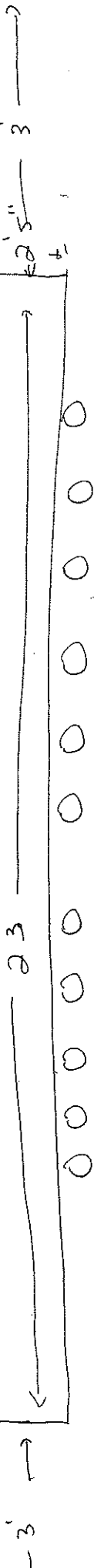
345 Fore St.



stored

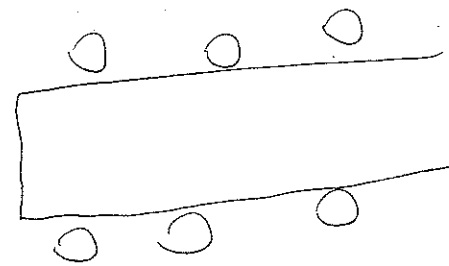
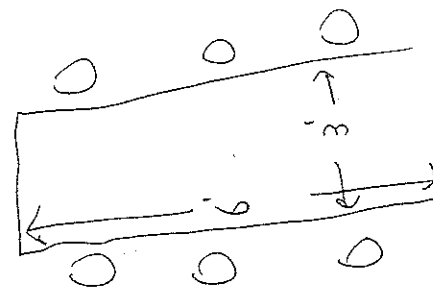
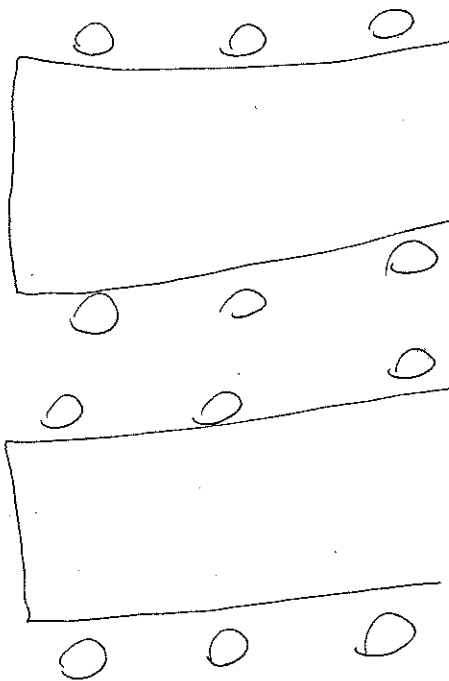
Fridge

BAR



PREMISE DIAGRAM

BATH
room



Down-Perma



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 #: MIQ99C351449

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-12-04) :

Inquiries Name(s) STEVEN CORMAN (1956-10-31)

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 #: MIQ99C351450

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-12-04) :

Inquiries Name(s) JOHANNA CORMAN (1962-11-16)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - VENAS FIZZ HOUSE Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 12/8/2014 9:07 PM
Subject: VENAS FIZZ HOUSE Business License Approval

VENAS FIZZ HOUSE is Approved for their Business License Inspection by the Police Dept.

Date: 12/8/2014

Zone:
Comments: Ok to issue Class II.

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



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

December 17, 2014

Vena's Fizz House
345 Fore St.
Portland, ME 04101

Re: Fizz LLC d/b/a Vena's Fizz House. Application for a Class II (Spirits) License at 345 Fore St.

Dear Mr. & Ms. Corman,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, January 5th at 7:00 p.m.** for the review of your application for a Class II (Spirits) 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
207-874-8557
bl@portlandmaine.gov

Order 120-14/15
Tab 4 1-5-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Pirate Moon, LLC d/b/a The Treehouse. Application for a Class I FSE License with
Entertainment without Dance and Outdoor Dining on Private Property at 484 Stevens Ave.**

Gregory Gilman
Denmark, ME

November 12, 2014

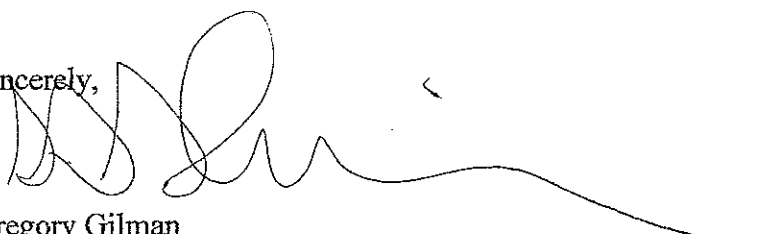
Mayor
Members of City Council
389 Congress Street
Suite 208
Portland, ME 04101

Dear Mayor and Members of the City Council,

This is a letter of intent for the application of opening a new restaurant in Portland, Maine. My name is Gregory Gilman and previously ran the restaurant for several years and am now looking to reopen in my name. It is a full service dinner time restaurant open six days a week, looking to create a warm, inviting space to eat, drink, and listen to music. It is located on Stevens Avenue and will be serving Mediterranean American cuisine, farm to table, with real whole ingredients in a scratch kitchen. It is a cozy neighborhood cafe with 76 seats, and a small outdoor patio for summertime dining.

I appreciate your time and look forward to working with you throughout the rest of the approval process.

Sincerely,



Gregory Gilman

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: Class 1

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

Business Name (d/b/a): The Treehouse Phone: 207-874-0706

Location Address: 484 Stevens Avenue, Portland ME ZIP 04103

If new, what was formerly in this location: The Cafe at Pats

Mailing Address: 484 Stevens Avenue ZIP 04103

Contact Person: Gregory Gilman Phone: 207-653-9519

Manager of Establishment: Gregory Gilman Home Phone # 207-653-9519

Owner of Premises (landlord): Jaime Vacchiano

Address of Premises Owner: 488 Stevens Avenue ZIP 04103

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: Pirate Moon, LLC

Corporation Mailing Address: P.O. Box 4767 ZIP 04112

Contact Person: Gregory Gilman Phone Number: 207-653-9519

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

Name <u>Gregory Gilman</u>	Title <u>president</u>	DOB <u>4-18-57</u>	Residence Address <u>P.O. Box 4767</u>
Name	Title	DOB	Residence Address
Name	Title	DOB	Residence Address
Name	Title	DOB	Residence Address
Name	Title	DOB	Residence Address
Name	Title	DOB	Residence Address

(Please see reverse side)

Type of Food Served: American/Mediterranean

Please check all that will be served: Beer ☒ Wine ☒ Liquor ☒

Percentage of sales - Generated from Food: - Generated from Alcohol: -

Hours and Days of operation: Tuesday-Saturday 5pm-9pm Sunday 9am-2pm

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?: January 15th 2015

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 [Signature] Title owner Date 11/14/14

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): The Treehouse

Location Address: 484 Stevens Avenue ZIP 04103 Phone 207-874-0706

Will music be electric or acoustical or both? Acoustical

Will amplification used? Yes _____ No X

If yes, where and at what level? _____

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

Will you permit dancing or entertainment after 1:00AM? Yes _____ No X

Will recorded music be played: Inside X 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? 100 Feet

Please describe in detail the type and nature of the business and proposed entertainment: American Restaurant serving dinner only looking to have live acoustic music play during dinner (5pm-9pm) Fridays and Saturdays on occasion.

If new applicant, what is your targeted opening date? : January 1st 2015

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 [Signature] Title Owner Date 11/14/14

Department of Public Safety
Division



Liquor Licensing & Inspection

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.) <u>Pirate Moon, LLC</u> DOR: _____		2. Business Name (D/B/A) <u>The Treehouse</u>	
DOR: _____			
DOR: _____		Location (Street Address) <u>484 Stevens Avenue</u>	
Address <u>P.O. Box 4767</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04103</u>
		Mailing Address <u>Same as above</u>	
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04112</u>	City/Town State Zip Code
Telephone Number <u>207-653-9519</u>	Fax Number	Business Telephone Number <u>207-874-0700</u>	Fax Number
Federal I.D. #	Seller Certificate #		

3. If premises are 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 ☐

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: _____

8. If business is NEW or under new ownership, indicate starting date: January 15th 2015

Requested inspection date: _____ Business hours: _____

9. Business records are located at: on-site

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
Gregory Stuart Gilman	4-18-57	Westbrook, ME

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

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than 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: _____

Jaime Vacchiano, 488 Stevens Avenue, Portland, ME 04103

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 40 x 40 second Floor Wood structure

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? 400 ft 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

Town/City, State

on November 13th, 2014

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:

Pirate Moon, LLC

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

The Treehouse

3. Date of filing with the Secretary of State: 11-19-2014

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 %
Gregory Gilman	194 West Shore Road Denmark, ME 04022	4-18-57	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: _____

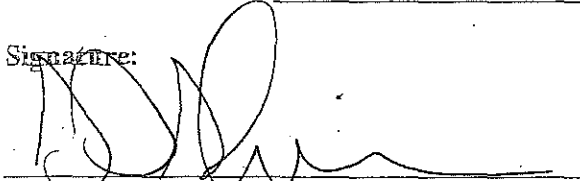
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

11.13.14
Date

Gregory Gilman

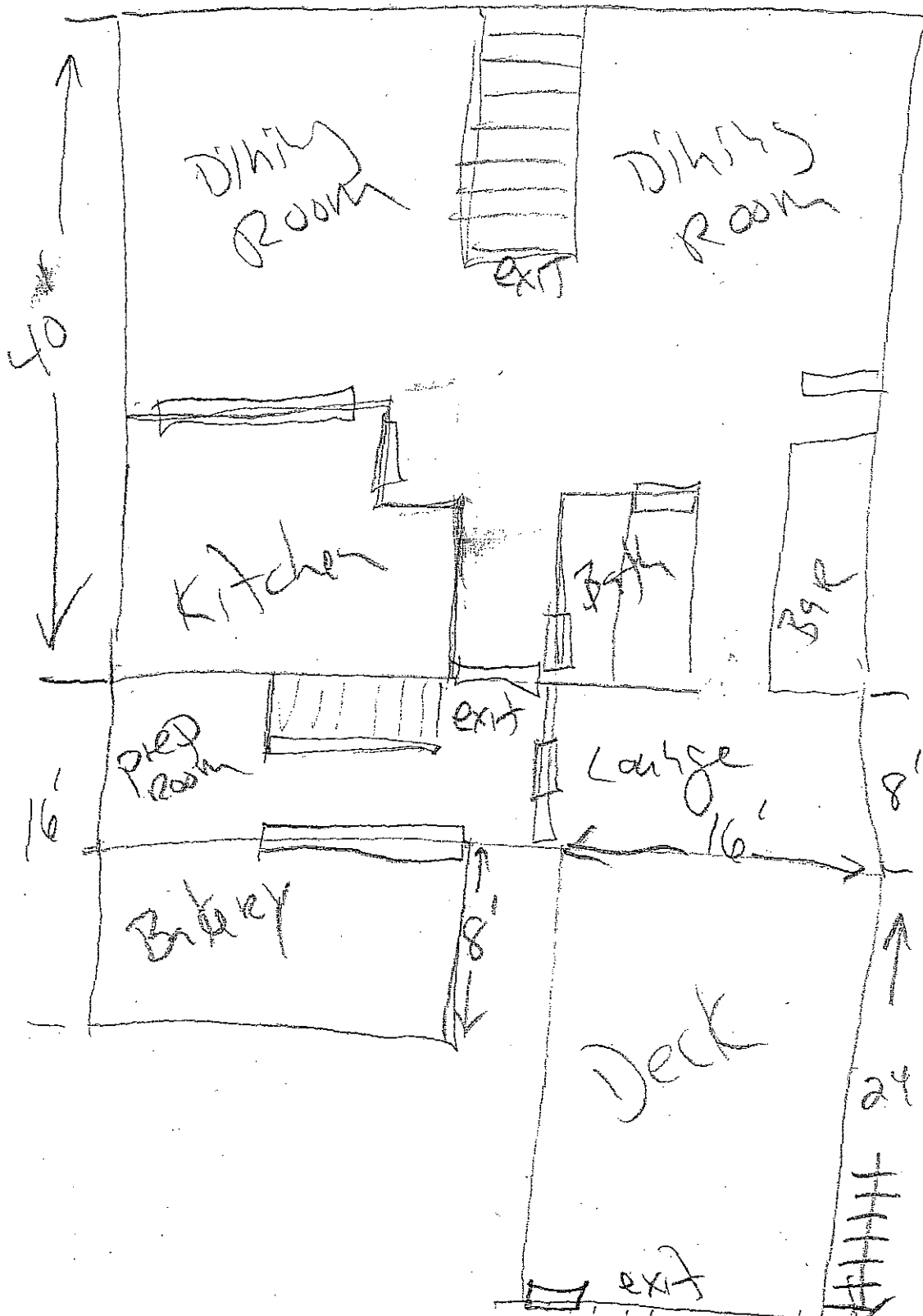
Print Name of Duly Authorized Person

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

stevens

489

← 40' →



Simmons

The Treehouse

484 Stevens Ave.



Copyright 2011 Esri. All rights reserved. Tue Dec 9 2014 10:12:40 AM.



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: <u>January 5th 2015</u>		
Location Name & Address: <u>The Treehouse, 484 Stevens Ave, Portland 04103</u>	Chart	Block Lot
Owner & Phone #: <u>Gregory Gilman 207-653-9519</u>	Total Square Footage of Proposed Seating Area: ¹ <u>16x24</u>	
Applicant * <u>must</u> * be owner or lessee Name: <u>Gregory Gilman</u> Address: <u>P.O. Box 4767</u> City, State & Zip: <u>Portland, ME 04112</u> E-Mail: <u>ssstupelo@gmail.com</u>	Annual Fee: <u>\$80</u> Total Sq. Ft.: _____ Sq. Ft. Fee: (sq ft x \$2) \$ _____ (Due when issued) Total Fees: \$ _____ (Permit not issued until <u>all</u> fees are paid)	
Current use: <u>Restaurant</u> Business name: <u>The Treehouse</u> Seating area dimensions: <u>16x24</u> How many chairs? <u>30-36</u> How many tables? <u>10</u> ☒ Yes Alcohol is served. ☐ No Alcohol being served.		
Who should we contact for the pre-inspection: <u>Gregory Gilman</u> Mailing address: <u>P.O. Box 4767, Portland 04112</u> Phone: <u>653-9519</u>		

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.

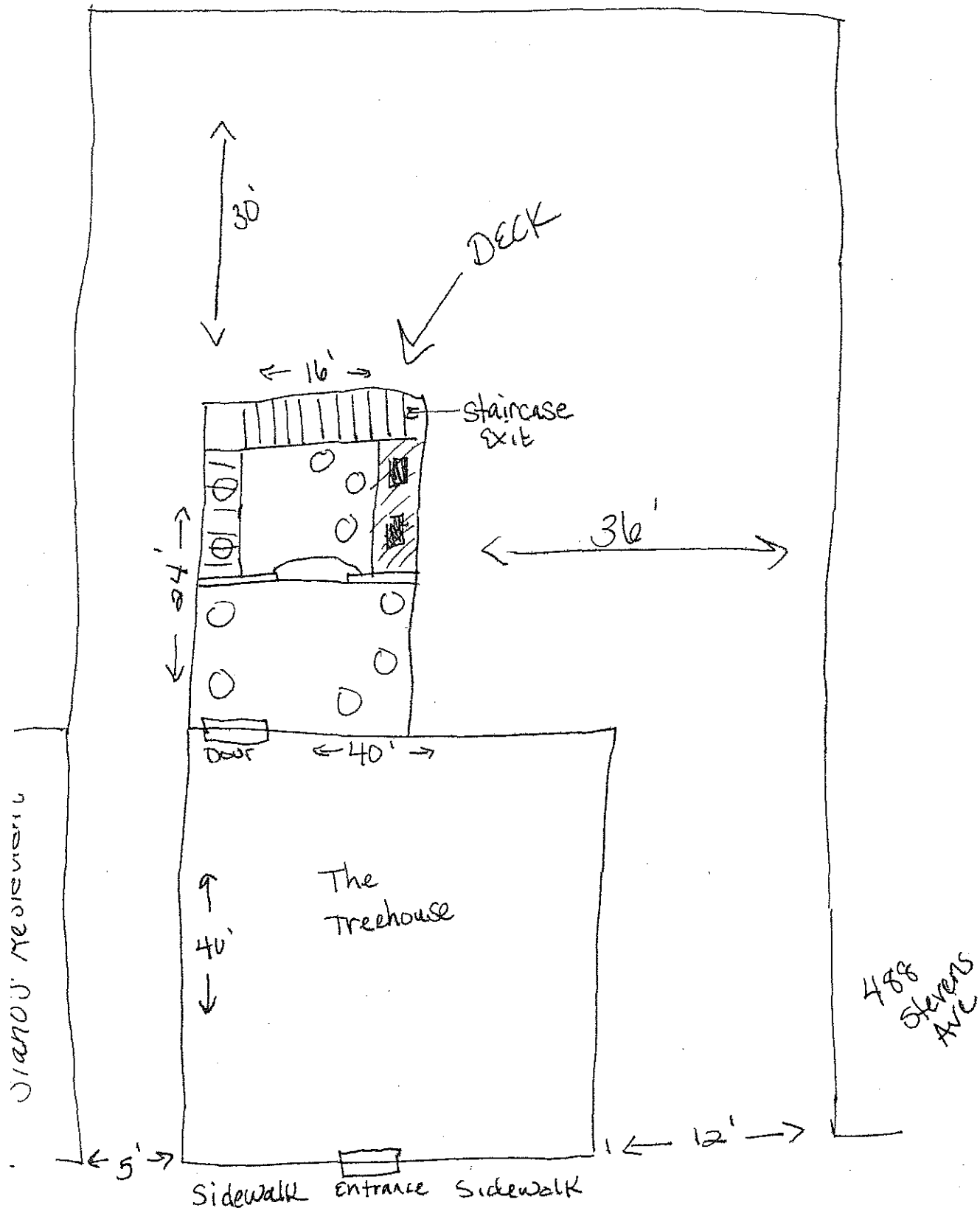
Signature of Applicant: _____

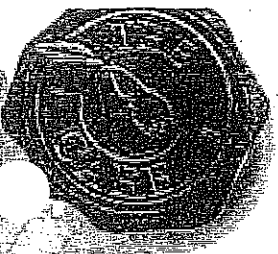
Date: 12-5-14

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.

Not A Sidewalk (private homes)





APPETIZERS

FRESH MOZZARELLA & VINE TOMATO
with basil, olive oil & french baguette \$8

MEDITERRANEAN MEAT & CHEESE
cured meat & cheese, greek olive, morrocan
mustard with romano toasted flat bread \$14

CRAB CAKES
hand-picked local crab with cajun remoulade \$10

SEARED YELLOWFIN TUNA
with a marinated carrot ginger slaw, rice
cracker & a wasabi cream dressing \$12

NATIVE MUSSELS
sautéed with pancetta, crushed roasted pepper,
tomato, garlic, lemon & herb \$12

BAKED FLAT BREAD
with goat cheese, wild mushroom,
roasted garlic & fresh herb \$8

RAVIOLI CRISPS
cheese ravioli sautéed with shallot, garlic,
walnut, dry cherry, spinach, lemon &
crème fraîche \$9

SALADS

MIXED GREENS \$8
leaf lettuce, spinach, bok-choy, vine tomato & cucumber

ARUGULA SALAD \$9
a mix of spinach, field arugula & greens with red seedless grape, crumbled bleu cheese,
candied pecan & champagne citrus vinaigrette dressing

CYPRUS GOAT CHEESE SALAD \$12
arugula mixed greens with seared halloumi goat cheese, vine tomato, greek olive, toasted baguette
& a romano garlic lemon dressing

GRILLED SPRING LAMB SALAD \$22
with mixed greens, sheep feta, grilled tomato, toasted baguette & a red pepper balsamic dressing

ROMANO GRILLED CHICKEN \$14
with vine ripened tomato, pepperoncini, olives, toasted baguette & roasted garlic lemon dressing
on mixed greens

CAJUN GRILLED ATLANTIC SALMON SALAD \$19
with sauteed pepper, european cucumber, roasted red pepper lime coulis, & a champagne
lime vinaigrette on arugula greens

ENTREES

THAI LOBSTER SAUTÉ \$25
lobster, calamari, native mussel, little neck clam sautéed with sweet red pepper,
garlic, kaffir leaves, basil, curry, coconut milk & lime

ATLANTIC HADDOCK FILET \$25
traditionally baked with a butter & lemon cracker crust

HONEY GLAZED ATLANTIC SALMON \$19
baked with garlic, honey, mustard, ginger, soy & toasted sesame

NORTH ATLANTIC SEA SCALLOP \$25
baked with french sheep feta, seared pancetta, roasted leek & garlic
in a lemon buttered phyllo crust

WILD MUSHROOM SAUTÉ \$16
with soft goat cheese, cracked black pepper, shallot, fresh herb & garlic over fettuccine

OVEN-ROASTED CORNISH HEN \$21
baked with sweet sausage, pear, dry cherry & onion

CHAR-GRILLED PRIME RIB EYE \$28
with bourbon sautéed wild mushroom



WINE & BEER MENU

SPARKLING & BUBBLY

	GLASS	BOTTLE
Riva di Rocca Prosecco (Italy)		\$32
Biagio Cmi Prosecco 187 ml (Italy)		\$8
Pierre Chainier Sparkling (France)		\$24
Veuve Cliquot Champagne (France)		\$75
Pierre Gimmonet & Fils Champagne (France)		\$65

WHITES, ROSE & MUSCAT

Fons Pinot Gris (Oregon)		\$27
Chateau Castelleau Bourdeaux (France)		\$34
Angelini Pinot Grigio (Italy)	\$6.50	\$24
Duca Pinot Grigio (Italy)	\$5	
La Petite Perriere Sauvignon Blanc (France)		\$34
Ninety Cellars Sauvignon Blanc (New Zealand)	\$7	\$26
Castelvero Cortese (Italy)		\$25
Clean Slate Reislung (Germany)	\$6	\$22
Louis Latour Grande Ardeche Chardonnay (France)		\$32
Josh Chardonnay (California)	\$8	\$30
Punta Pays Chardonnay (Argentina)		\$24
Black Box Chardonnay (California)	\$5	
Quinta de Azevedo Vinho Verde (Portugal)	\$6	\$22
Spiropoulos Mantania (Greece)		\$38
Chateau de Campuget Rose (France)	\$8	\$30

REDS & PORTS

Windrun Pinot Noir (California)		\$36
Leese-Fitch Pinot Noir (California)		\$26
Due Torri Pinot Noir (Italy)	\$6	\$22
Familia Mayol Malbec (Argentina)		\$38
Pie de Palo Malbec (Argentina)	\$6	\$22
Tomero Malbec (Argentina)		\$38
Pinallale 45 Cotes du Rhone (France)		\$38
Vobis Tna Barbera (Italy)	\$8	\$30
Larrikin Shiraz (Australia)		\$28
Cantele Primitivo Zinfandel (Italy)	\$7.50	\$28
J. Lohr Petite Sirah (California)		\$40
Faustino VII Rioja Tempranillo (Spain)	\$7.50	\$28
El Jamon Tempranillo (Spain)		\$34
La Maialina Chianti (Italy)		\$28
Cartledge & Browne Cabernet (California)		\$32
Avalon Cabernet (California)	\$7	\$25
Napa Cellars Cabernet Sauvignon (California)		\$45
Black Box Cabernet (California)	\$5	
Cannonau di Sardegna Reserva Cannonau (Italy)		\$31
Chilensis Reserva Merlot (Chile)	\$7	\$25
Black Box Merlot (California)	\$5	
Petalos Mencia (Spain)		\$38
Fonseca Port (Portugal)	\$10	
Taylor Fladgate Port (Portugal)	\$10	

BEER

Red Stripes	\$6	Sierra Nevada Pale Ale	\$5
Pbr	\$3	Maine Beer Co. Seasonal	\$8
Miller Lite	\$3	Sea Dog Wild Blueberry	\$5
Budweiser	\$3	Atlantic Brewing Co. Coal Porter	\$5
Rogue Dead Guy	\$6	Baxter Seasonals	\$5
Heineken	\$4	Piraat Belgium Ale	\$8
Corona	\$4	Crispin Hard Cider	\$5
Brooklyn Seasonal	\$5	Omission (gluten free)	\$5
Stone Ruination IPA	\$6	Kaliber (Non-Alcoholic)	\$4

the Wine & Beer



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 #: MIQ99C355043

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-12-09) :

Inquiries Name(s) GREGORY GILMAN (1957-04-18)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - TREEHOUSE, THE - PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 12/15/2014 3:25 PM
Subject: TREEHOUSE, THE - PENDING Business License Approval

TREEHOUSE, THE - PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 12/15/2014

Zone:

Comments: Approved.

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

Portland, Maine



Yes. Life's good here.

Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

December 17, 2014

Pirate Moon, LLC
Attn: Gregory Gilman
484 Stevens Ave.
Portland, ME 04103

Re: Pirate Moon, LLC d/b/a The Treehouse. Application for a Class I FSE License with Entertainment without Dance and Outdoor Dining on Private Property at 484 Stevens Ave.

Dear Mr. Gilman,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, January 5th at 7:00 p.m.** for the review of your application for a Class I FSE License with Entertainment without Dance and Outdoor Dining on Private Property at 484 Stevens Ave. 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
207-874-8557
bl@portlandmaine.gov

*Order 12/-14/15
Tab 5 1-5-15*

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Trouble, LLC d/b/a Trouble, LLC. Application for a Class A Lounge License with Entertainment with Dance and Motion Picture Theatre (Less than 999 Seats) at 10 Exchange St.

LETTER OF INTENT

TROUBLE, LLC

To the Mayor and the City Council:

I was born in the Portland area, and I plan on living and working here for the rest of my life. I want to invest in a historic part of the City by establishing a classical movie theater and bar that I believe will truly add to the town and make me proud.

During my short career to date, I have worked with my family's real estate business, served as a commercial real estate broker at NAI the Dunham Group, and volunteered at the Preble Street Soup Kitchen. I plan to continue with these activities, but also want to broaden my involvement with the City by opening a successful business for mature clientele.

The establishment I plan to open will be unique in comparison with existing local businesses. It will be an old fashioned theater-bar with classical movie showings in the afternoon and a similar atmosphere that will continue after the movie is over. I want to target an older, professional audience who may use the venue for relaxation, entertainment, and business networking.

We will be serving premium old-fashioned beverages including movie-themed Casablanca Cocktails, Godfather Whiskeys, and James Bond Martinis. I absolutely do not plan to add to the already noisy downtown as my theater-bar is already equipped with soundproofing, the space is well built and sprinkled, and all my employees will be properly licensed and experienced. I am applying for all wine, liquor, and beer licenses, and additionally live-music, dancing, and theater licenses.

I plan to start building the space out immediately - and hope to open by Winter. I am very anxious to strengthen my ties with the community and I look forward to making long-lasting relationships with all who share my love for this historic, exciting, and growing town.

Sincerely,

Joshua A. Solay

2009 OCT 27 9:14:03

CITY CLERK

Health _____
Axes _____
Licensing _____

Portland, ME 04101

(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Class of Liquor License Applying for: Class A Lounge

Business Name (d/b/a): Trouble, LLC Phone: (207) 210-5677

Location Address: 10 Exchange St, Portland, ME ZIP 04101

If new, what was formerly in this location? Movies on Exchange

Mailing Address: PO Box 343, Portland, ME ZIP 04112

Contact Person: Josh Soley Phone: (207) 210-5677

Email: Josh@Dunham-Group.com

Manager of Establishment: Stephen O'Brien Home Phone: (207) 522-5619

Landlord of Premises: Joe Soley

Address of Landlord: PO Box 4894, Portland, ME ZIP 04112

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 _____

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

Corporation Name: Trouble, LLC

Corporation Mailing Address: PO Box 343, Portland, ME ZIP 04112

Contact Person: Josh Soley Phone Number: (207) 210-5677

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

Name Josh Soley Title Managing Partner DOB 6/8/1994

Residence Address 10 Exchange St, Portland, ME, 04101 Ste 206

Payment Method for Business License and application fees:

Cash, Money Order or Bank Check, Visa or MasterCard

2011 OCT 24 PM 1:15

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): Trouble, LLC

Location Address: 10 Exchange St, Portland ZIP 04101 Phone (207) 210-5677

Will music be electric or acoustical or both? Both

Will amplification used? Yes ☒ No ☐

If yes, where and at what level? On stage - ambient levels (sound proofed theater)

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? Adjacent building

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

theater during day, classical bar at night.

If new applicant, what is your targeted opening date?: November 1st, 2014

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 [Signature] Title Managing Partner Date 8/14/14

Portland, Maine



Yes. Life's good here.

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

Application for a Motion Picture Theatre License

License Expires Annually on June 30th.

Fees: \$35 Application Fee Fewer than 999 Seats: \$270 Greater than 1000 Seats: \$445

Business Information	
Business Name (d/b/a):	TROUBLE
Location Address:	10 Exchange Street, Portland, ME, 04101
If new, what was formerly at this location:	Old Port Movies
Mailing Address:	Po Box 343, Portland, ME, 04112
Contact Person:	Josh Soley
Manager of Establishment:	Josh Soley
Owner of Premises (Landlord):	Joseph Soley
Address of Premises Owner:	Po Box 4894, Portland, ME, 04112

2019 OCT 21 1:51

CITY CLERK

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

Name of Owner/Partner	Date of Birth	Residence Address

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

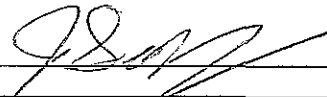
Corporate Name		Corporate Mailing Address	
TROUBLE, LLC		Po Box 343, Portland, ME, 04112	
Principal Officers	LLC	Date of Birth	Residence Address
Josh Soley	Manager	6/8/1994	Po Box 343, Portland, ME, 04112

About Your Establishment

QUESTIONS	
Seat Capacity	
Under 999 ☒	Over 1000
Number of Screens:	1
Will you be offering food for consumption on the premises? (If so, a Food Service Establishment license is required.)	Y ☒ N
Will you be selling alcohol on the premises? (If so, a Food Service Establishment with Alcoholic Beverages license is required.)	Y ☒ N
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y ☒ N
Will you permit dancing on the premises?	Y ☒ N
Will you permit dancing after 1:00 a.m.?	Y ☒ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required.)	Y ☒ N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one)?	
Will you have any amusement devices (pinball, video games, juke box)?	Y ☒ N
If yes, please list the number of pinball _____ amusements _____ pool tables _____	
What is your targeted opening date?	May 2015
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y ☒ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y ☒ N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 18?	Y ☒ N
Have applicant partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y ☒ N
If Yes, please explain:	

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 Managing Partner Date October 15, 2014

		For Administrative Use Only	
Approval Requested:		Approved:	Date Paid: _____
FD:	_____		
Health:	_____		_____ CC _____ CA _____ CK
PD:	_____		
PS:	_____		Notes:
Treasury:	_____		
Zoning:	_____		

Department of Public Safety
Division



Liquor Licensing & Inspection

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.)		2. Business Name (D/B/A)	
DOB: _____		DOB: _____	
DOB: _____		DOB: _____	
Address 10 Exchange Street		Location (Street Address) 10 Exchange Street	
City/Town Portland State ME Zip Code 04101		City/Town Portland State ME Zip Code 04101	
Mailing Address P.O. Box 343		Mailing Address P.O. Box 343	
City/Town Portland State ME Zip Code 04101		City/Town Portland State ME Zip Code 04112	
Telephone Number (207) 210-5677 Fax Number 207-773-5480		Business Telephone Number (207) 210-5677 Fax Number 207-773-5480	
Federal I.D. # 47-1589206		Seller Certificate #	

3. If premises are 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 ☐

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: Stephen O'Brien

8. If business is NEW or under new ownership, indicate starting date: 8/13/14

Requested inspection date: October 1st, 2014 Business hours: 5pm - 1am

9. Business records are located at: N/A

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
Joshua A Soley	6/8/1994	Portland, ME
Stephen O'Brien	5/4/1994	Portland, ME

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

10 Exchange St, Portland, ME
18 Monument Square, Portland, ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than 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: Joe Soley
PO Box 4894, Portland, ME, 04112

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 1800± square feet
of rectangular shaped parcel with 2 bathrooms and 2 forms of egress.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☐ Applied for: HHE 602

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? 5 mile Which of the above is nearest? Church

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

Town/City, State

on _____

8/14/14

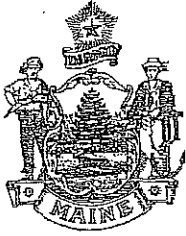
Date

, 20 14

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:

Trouble, LLC

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

Trouble

3. Date of filing with the Secretary of State: 8/14/14

4. State in which you are formed: Portland, ME

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

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 %
Josh Soley	10 Exchange St, Portland, ME, 04101	6/8/1994	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: _____

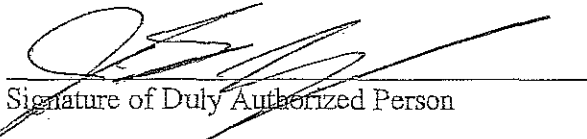
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

8/14/14
Date

Joshua A Soley
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

MENU

Welcome to Trouble.

- Snacks -

Candy	
Popcorn	3.50
	5.00

- Pizza -

Cheese Slice	3.00
Pepperoni Slice	3.50
Vegetable Slice	3.50
Special Slice	4.00

- Drinks -

Casablanca: white rum, coconut rum, pineapple juice, coconut cream, grenadine.	9.00
Old Fashioned: bourbon, angostura bitters, club soda, sugar.	7.00
Godfather: scotch whiskey, amaretto liqueur.	8.00
Breakfast at Tiffany's: orange marmalade, orange bitters, Ciroc vodka.	6.00
James Bond Martini: gin, vodka, lillet blanc wine.	8.00
Jedi Mind Trick: spiced rum, irish cream, coffee liqueur, amaretto liqueur, cream.	11.00

Please ask the bartender for any special or custom made drinks.

(555)555-5555

PREMISE DIAGRAM

Exchange Street

22.5 ft

Front Entrance

Windows

Bakery
Neighbor

Retail
Neighbor

coolers

Bar

Tables

Pool
Tables

80'

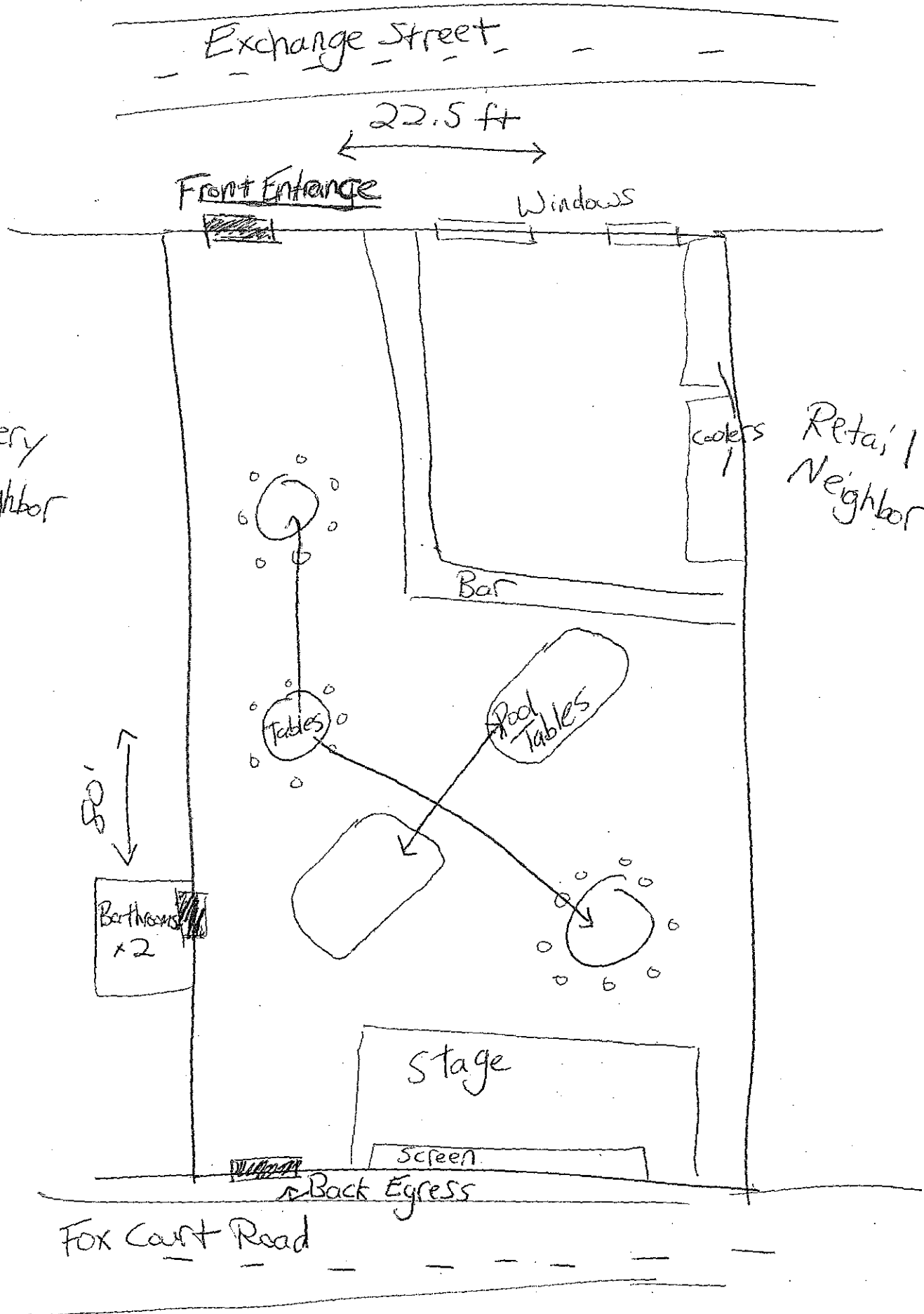
Berthons
x2

Stage

Screen

Back Egress

Fox Court Road



rouble, LLC

) Exchange St.



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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 #: MIQ99C357868

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-12-11) :

Inquiries Name(s) JOSHUA SOLEY (1994-06-08)

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 #: MIQ99C357870

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2014-12-11) :

Inquiries Name(s) STEPHEN O'BRIEN (1994-05-04)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - TROUBLE, LLC - PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 12/15/2014 3:25 PM
Subject: TROUBLE, LLC - PENDING Business License Approval

TROUBLE, LLC - PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 12/15/2014

Zone:
Comments: Approved.

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

Portland, Maine



Yes. Life's good here.

Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

December 17, 2014

Trouble, LLC

P.O. Box 343

Portland, ME 04112

Re: Trouble, LLC d/b/a Trouble, LLC. Application for a Class A Lounge License with Entertainment with Dance and Motion Picture Theatre (less than 999 seats) at 10 Exchange St.

Dear Mr. Soley,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, January 5th at 7:00 p.m.** for the review of your application for a Class A Lounge License with Entertainment with Dance and Motion Picture Theatre at 10 Exchange St. 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

207-874-8557

bl@portlandmaine.gov

Portland, Maine



Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

*Com 8-14/15
Tab 6 1-5-15*

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Gregory A. Mitchell, Economic Development Director

DATE: December 17, 2014

SUBJECT: Communication Item for January 5, 2015 Council Meeting –
FY 2014 Tax Increment Financing Annual Report

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

1. Council meeting at which communication presented: January 5, 2015
2. Can action be taken at a later date? Yes

If no, why not?

I. SUMMARY OF ISSUE

City Tax Increment Financing (TIF) Policy adopted by the City Council on February 4, 2013, requires the preparation and presentation of an annual TIF report. At the most recent Housing and Community Development Committee, it reviewed the FY 2014 Annual TIF Report and voted to forward it to the City Council as a communication.

II. REASON FOR SUBMISSION

It is being submitted to the City Council as a communication item only.

III. INTENDED RESULT

The intended result is for the entire City Council to keep up-to-date on TIF Districts.

IV. FINANCIAL IMPACT

There is no financial impact with this item.

V. STAFF ANALYSIS AND RECOMMENDATION

Staff recommends receiving it as a communication.

Portland, Maine



Yes. Life's good here.

Tax Increment Financing

Fiscal Year End (FYE) 2014 Annual Report
(July 1, 2013 through June 30, 2014)

Prepared by the Economic Development Department

(Report prepared 12/2014)

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1. Introduction

On February 4, 2013, the City Council adopted revised City Tax Increment Financing (TIF) Policy (Item A in Appendix) in support of investment in municipal economic development programs and infrastructure investment. Revised City Policy favors area-wide TIF districts to support investment in public infrastructure and economic development programs versus individual site TIF districts for private project financing needs.

City TIF Policy requires an annual report, to the Housing and Community Development Committee and City Council, regarding TIF District activity. This Report provides an overview of the TIF District Program, Portland's utilization of TIF districts to date, and TIF district financial value impacts.

2. Definitions

Commonly used terms, included in this Report, include:

"Captured Assessed Value" means increased assessed value retained in a TIF District each year during its term.

"Credit Enhancement Agreement (CEA)" means the agreement between the City and the site specific TIF District Developer whereby it includes the terms under which the City will provide a portion of the Retained Tax Increment Revenue back to the Developer.

"Current Assessed Value" means the then current assessed value of the property located in the TIF District to be determined by the City Assessor as of April 1 of each year during the term of the District.

"District" means that portion of property depicted on a map to apply to the TIF.

"Increased Assessed Value (IAV)" means the valuation amount by which the Current Assessed Value exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the OAV, there is no Increased Assessed Value in that year.

"Infrastructure" is defined, but not limited to: traffic upgrades, public parking facilities, roadway improvements, lighting, sidewalks, water and sewer utilities, storm water management improvements, and placing above ground overhead electric and telecommunications lines underground.

"Original Assessed Value (OAV)" means the assessed value of the property in the TIF District as of March 31 of the year that it was created. For instance, if a TIF District was approved as of the date of this report, or December 10, 2014, the OAV would be the assessed value of the property on March 31, 2014.

"Property Taxes" means any and all ad valorem property taxes levied, charged or assessed against the property by the City or on its behalf and actually paid to the City, but excluding any

county, state, or special District taxes that are separately levied, charged, or assessed against²³ the property.

“Retained Tax Increment Revenues” means that portion of the Property Taxes paid with respect to the Captured Assessed Value.

“Tax Year” means April 1 to March 31.

3. **Tax Increment Financing Overview and Value**

Tax Increment Financing (TIF) is the most flexible economic development program available to municipalities. Associated with private sector or affordable housing investment, TIFs are a municipal financing tool to fund the following types of activities:

- public infrastructure projects;
- economic development programs, including municipal marketing and staff; and,
- support of individual private commercial and affordable housing project financing needs.

The two property tax components associated with TIF districts include:

- ***New Property Taxes***. TIF revenue is generated from new increased municipal assessed value and associated new property taxes. TIFs can be established for up to thirty (30) years and “captured assessed value” in the TIF District can range from 1% to 100% of the amount of new property taxes.
- ***Original Assessed Property Value (OAV)***. The taxes from property “Original Assessed Value” reverts to the municipal general fund and is not captured in a TIF district.

4. **TIF District Approval Process**

There is a three step process to approve establishment of a TIF district. The three steps include:

- Housing and Community Development recommendation for approval to the City Council;
- City Council approval; and,
- State of Maine Department of Economic Development Department approval for commercial TIF districts or Maine State Housing Authority approval for affordable housing TIF districts.

5. **Statutory Limits for TIF Districts**

There are two State statutory limitations which include:

- ***Acreage***. No single TIF district can be larger than 2% of a municipality’s total acreage, or in the case of Portland, 2% of Portland’s 12,386 acres is 247 acres. Also, all active TIF districts have to be less than 5% of a municipality’s total acreage, or in the case of Portland, 5% is 619 acres. Based upon active TIF districts as of FYE2014, Portland has the ability to include 426 additional acres in TIF districts.

- **Value.** The OAV of all TIF districts in a municipality cannot be more than 5% of its total aggregate value (FY14 aggregate value: \$7,551,450,000), or in the case of Portland, 5% is \$377,572,500. Based upon active TIF districts as of FYE2014, Portland has the ability to include an additional \$67.5 Million of property value in TIF districts.

It is noted that the amount of acreage and value to include in TIF districts fluctuates as TIF districts expire.

There are exemptions from State limitations for Transit Oriented Development (TOD) and Downtown TIF districts.

6. **Tax Sheltering Benefits**

Municipalities realize “savings” from the tax sheltering effect of TIF Districts. The following direct financial impacts occur when municipal valuation increases:

- State Education Aid is reduced,
- State Municipal Revenue Sharing is reduced, and
- A municipality pays a higher percentage of the County budget.

This amount of “savings” is significant and one of the most important benefits of establishing TIF districts.

For Portland, tax shelter savings is conservatively estimated at 30%, meaning that for every new tax dollar, Portland saves 30 cents which would otherwise be lost for property tax value not included in a TIF district. Portland’s total tax shelter savings for all active TIF districts is \$1.6 Million for FYE2014.

7. **TIF Districts in Portland**

A listing of all approved TIF Districts is provided as Item B in the Report Appendix. This listing includes three expired TIF Districts – Auto Europe, Shipyard Brewery, and Nichols Portland (latter expired FYE2014). This listing also includes two TIF Districts which were recently terminated by the City Council but still active as of FYE2014 – those being the Village at Oceangate (Bay House), and the Fore India Middle LLC TIF District.

It is noted that after expiration for these three TIF districts, 100% of their property tax revenue reverts to the City’s General Fund.

Also, this listing provides the following information for each TIF district:

- TIF district duration;
- percentages of taxes allocated to the Recipient/Developer, City, and General Fund;
- TIF district location; and
- brief description.

Item C in the Appendix provides a map showing the location for each TIF District, with the exception of two expired TIF districts – Auto Europe and Shipyard Brewery. A listing of approved individual site specific TIF districts, area-wide TIF districts along with non-active TIF districts by name are provided below.

Active Approved Individual Site Specific TIF Districts

As of FYE2014, the City has eight, single site TIF Districts with associated CEAs, namely:

- Holt Hall
- Nichols Portland
- Avesta/Pearl Place
- Riverwalk/Ocean Gateway
- UNUM
- PowerPay/Portland Public Market
- The Village at Ocean Gate
- 409 Cumberland Avenue

Active Approved Area Wide TIF Districts

The City has three area wide TIF Districts, for which the City retains a portion of the TIF funds for public infrastructure projects, with a portion of the TIF funds targeted to CEAs within those Districts, namely:

- Bayside
 - Capital LLC CEA
 - Bayside Student Housing CEA
- Waterfront (Appendix D and E)
 - Waterfront Maine CEA
- Arts
 - Baxter Library CEA

Approved Transit-Oriented Development (TOD) TIF District

- Thompson's Point Transit Oriented Development (TOD) TIF District

Non-Active Approved TIF Districts

The City Council has also approved two TIF Districts that were not active during FY14:

- McAuley TIF District – This project has not come to fruition, therefore, no TIF revenue; and,
- Fore India Middle LLC – This TIF project has not come to fruition, therefore, no TIF revenue (subsequently terminated by the City Council in November 2014).

8. TIF District Financial Overview for FYE2014

Financial information, for FYE2014, for all active TIF Districts includes:

City General Fund-Taxes from OAV	\$6.1 Million
City General Fund-Taxes from Non-Captured Value	\$341,000

Total TIF Revenue from Captured Value:	\$3.5 Million
- TIF Revenue for CEAs	\$2.0 Million
- TIF Revenue for Public Infrastructure/Arts	\$1.5 Million

At present, captured value in active TIF Districts is \$180 Million, yielding tax sheltering savings of \$1.6 Million.

9. Strategies and Recommendations to Optimize use of TIF Districts

- Downtown Transit Oriented (TOD) TIF (will be brought to City Council for approval in FY15);
- Affordable Housing TIFs Under Discussion

Staff recommends that the City Council, through the Housing and Community Development Committee, evaluate the establishment of each type of above TIF districts to align future TIF districts to support the following City policy direction:

- ***Future public infrastructure investment.*** Align the City's Capital Improvement Program investments, including utility and transportation investment; and,
- ***Future Growth Areas.*** Decide where the City wants to direct investment by location and type (i.e. commercial and affordable housing).

PORTLAND TIF POLICY

February 4, 2013

INTRODUCTION

Tax Increment Financing (TIF) is an economic development program authorized under state law to support municipal projects. The TIF program allows municipalities to provide financial assistance to local economic development projects and programs – from infrastructure, municipal economic development programs and staff, to business expansions - by using new property taxes that result from new commercial or residential investment associated with the corresponding increase in property value.

Portland TIF Policy supports investment in municipal economic development programs, infrastructure investment (which is generally through the establishment of area wide or neighborhood TIF districts) and individual project site specific TIF districts to support either infrastructure or individual private project financing needs.

The City is committed to invest in infrastructure located within the public rights-of-way that encourage economic development. Use of TIF investment to invest in infrastructure recognizes the savings which occurs through the TIF Program tax sheltering benefits.

“Infrastructure” is defined, but not limited to: traffic upgrades, public parking facilities, roadway improvements, lighting, sidewalks, water and sewer utilities, storm water management improvements and placing above ground overhead electric and telecommunications lines underground.

STATE TIF LIMITATION

There are acreage and value caps limitations for municipalities to establish TIF along with term limits. Term limits include bonds which may be issued for a maximum of 20 years (anticipation notes for three years). TIF districts may be designated for a maximum of 30 years.

PURPOSE

The primary purposes of the TIF Policy include:

1. To support Portland Economic Development and Housing Plans and Policies;
2. To stimulate expansion of the City's commercial and industrial tax base;
3. To stimulate new affordable and market rate housing investment;
4. To retain and create quality employment;
5. To support Portland's Capital Improvement Plan; and,
6. To establish standards upon which the City Council will authorize TIF.

GENERAL PRINCIPLES

The three primary general principles for the City Council to establish TIF districts include:

A. Investment

Minimum Real Property Investment. A minimum of \$1 million in new taxable investment property value for commercial and industrial development and \$500,000 for affordable housing development is needed to qualify for a TIF. This is the minimum amount which makes practical sense to consider use of the TIF program due to the amount of new municipal property tax revenue generated from new private investment.

B. Jobs Associated with Commercial and Industrial Development

Applicants for TIF participation will be required to provide a plan outlining the number and quality of jobs retained or created associated with each TIF district. While there is not a specific formula for the numbers of jobs associated with the amount of TIF financial assistance, the number and quality of the jobs will be taken into consideration for each TIF district. It is recognized that housing projects do not create many permanent jobs.

C. Maximize Tax Sheltering Benefits

A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy) and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. In other words, specific municipal shelter benefits, for the term of the TIF, include:

- 1) No reduction in State aid for education,
- 2) No reduction in municipal revenue sharing and
- 3) No increase in County taxes.

Annually, the Council Committee with jurisdiction over housing and community development and City Council will evaluate available TIF district capacity related to State acreage and value limitations to determine whether existing TIF districts need amending and/or new TIF district establishment. Scheduled public infrastructure investments included in the City's Capital Improvement Plan will inform decisions about adjustments to existing TIF districts or establishment of new TIF districts.

APPROACH, POLICY, and TERM REQUIREMENTS

Must meet or exceed the below requirements.

A. Approach

There are three approaches to consider establishing TIF districts. They include:

- 1) ***Municipal Economic Development Programs funded directly through a pay-as-you-go approach.***

Examples of municipal economic development programs include paying for economic development staff, annual funding to Creative Portland for city marketing/branding, and other TIF law allowable activities.

- 2) ***Area wide TIF districts financed by City Bond/Debt Issuance***

Issuance of municipal general obligation bonds or limited obligation bonds is a mechanism that may be used to fund a TIF district program. Allowable uses are spelled out in state TIF law. Generally, municipalities will issue debt to cover the cost of infrastructure investment.

- 3) ***Individual Site Specific TIF districts utilizing Credit Enhancement Agreements (CEAs)***

A CEA is a contract between a municipality and developer to assist an individual development project by using a percentage or all of the tax revenue generated by the investment to pay certain authorized project costs which could include site specific infrastructure or private individual project financing needs. Allowable project costs are spelled out in state TIF law.

B. Policy for the Three Approaches

1. **Policy for Municipal Economic Development Programs.**

Requires annual review and City Council financial appropriations.

2. **Policy for Area wide TIF District Locations (for City Bond/Debt Issuance)**

- a) Area wide TIF will be established for infrastructure investment which has applications beyond one individual project.
- b) City TIF emphasis will be placed upon the following general "Priority Revitalization Areas" to support commercial development, housing development, redevelopment, or to support buildings in need to redevelopment, address blight or historic preservation:

- Affordable housing projects off peninsula;
- India Street Neighborhood;
- Franklin Street Corridor from I-295 to Commercial Street;
- Riverside Street commercial and industrial zoned areas;
- Forest Avenue corridor from I-295 to Woodfords Corner;
- Washington Avenue corridor from Congress Street to I-295;
- Re-examine the boundary of Bayside TIF District;
- Examine establishing a Downtown TIF district in place of the Arts TIF District;
- Portland Technology Park ;
- Areas in which future significant wastewater and/or stormwater infrastructure investments are planned;
- West Commercial Street vacant property;
- Libbytown;
- St. Johns Street Valley;
- Other areas based upon scheduled public infrastructure investment included in the City's Capital Improvement Plan.

The above list of general priority revitalization areas serve as guides to establish specific boundaries for TIF districts at time of district establishment.

- c) Market Rate Housing. Market rate rental housing projects must be located in priority revitalization areas to stimulate housing investment for the purpose of attracting 24/7 pedestrian activity. Pursuant to State Law, TIF for condominium projects are not allowed.
- d) Affordable Housing. Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis.

The relevant City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide affordable housing TIF districts.

Allowable uses of AHTIF revenues are defined by State law.

- e) City preference is to invest in area wide public infrastructure TIF districts versus establishing individual private site specific TIF districts.
- f) Area wide TIF districts also should seek to maximize the benefit of downtown and transit oriented development (TOD) districts which are exempt from State TIF law for acreage and value limitations.
- g) Terms for area wide TIF districts will be considered for up to 100% of new tax revenue and upwards of thirty (30) years, the maximum allowed by State law, due to the long-term need to invest in neighborhood infrastructure.

NOTE 1: As of this Amended TIF Policy date, there are three existing area wide TIF Districts, i.e., Bayside, Arts, and Waterfront TIF Districts.

NOTE 2: As of this Amended TIF Policy date, there also exists one Transit Oriented Development (TOD) District, namely the Thompson Point TOD TIF District to support new or expanded transit services and improved transit connections between the Portland Transportation Center, Jetport and Downtown.

3. Policy for Individual Site Specific TIF Districts Utilizing Credit Enhancement Agreements (CEAs)

- a) CEAs for individual site specific TIF districts will be considered for investment in infrastructure or project financing need and cannot be applied to any agreed upon public infrastructure improvements associated with a City Council approved conditional rezone agreement. Additional provisions related to CEAs include:

- i) City Green Building Code

Compliance with the City's Green Building Code is required when TIF assistance is provided to individual private project CEAs.

- ii) Affordable Housing

Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis. Developments are encouraged to promote economic diversity.

The City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide AHTIF districts.

Allowable uses of AHTIF revenues are defined by State law.

b) Applicants for CEA participation must demonstrate and pay the following:

i) Financial Necessity.

The applicant must demonstrate the City's participation is financially necessary in order for the project to proceed.

ii) Financial Capacity.

The applicant must demonstrate financial capacity to support their project.

iii) Fees

-- A financial underwriting analysis will be conducted by a third party on all projects requesting CEA participation. Applicants for CEA assistance will be responsible for reimbursing the City for all project third party legal and financial underwriting costs.

C. Terms for CEA Projects

1) Maximum Percentages.

A maximum average percentage of 65% for the entire term associated with individual project CEA's.

2) Maximum Number of Years.

Up to twenty (20) years to match individual private sector commercial financing terms. The term of a TIF may start upon agreed trigger event, such as an increased assessed value. This would be included in a CEA on that negotiated triggering event.

3) Use of Maine Services for CEA Projects Encouraged.

TIF APPLICATION AND ADMINISTRATION PROCESS

A. Application Information and Contact.

The Economic Development Department handles all TIF inquiries and processes requests for TIF. An applicant must submit a letter to the Economic Development Department outlining the proposed project, including TIF project financial information, along with a plan outlining the number of jobs associated with the proposed project.

B. Approval Process.

There is a two step approval process which includes obtaining a recommendation from the City Council Committee and City Council approval. Two meetings (or readings) by the City Council are needed. The City Council vote on the TIF occurs at the second meeting.

C. Annual Report to City Council.

The Economic Development Department shall provide annual reports to the City Council Committee and City Council regarding TIF district activity.



SUMMARY OF ALL APPROVED
TAX INCREMENT FINANCING (TIF) DISTRICTS
IN THE CITY OF PORTLAND A/O JUNE 30, 2014

This provides an overview of tax increment financing districts (TIF's) approved by the City of Portland.

Please note that the City approved fifteen TIF's, with three of these TIFs having separate Credit Enhancement Agreements (CEA) for various projects included in the respective TIF Districts. These three TIF Districts are the Bayside TIF, Waterfront TIF, and Creative Portland Development and Arts TIF District. The separate CEAs are detailed in the listing below.

1. Nichols Portland (Economic Development TIF) (Expires 6/30/2014 – Date of this Listing)

Duration: 20 year term (FY95 thru FY14)

Percentages: Years 1 to 5, 90% to Recipient, 10% to City General Fund; years 6 to 10, 75% to Recipient, 25% to City General Fund; years 11 to 20, 50% to Recipient, 50% to City General Fund.

Location: 2400 Congress Street

This TIF was created to support Nichols Portland expansion of its existing manufacturing facility at 2400 Congress Street and retain 450 jobs.

2. Shipyard/Longfellow (Economic Development TIF) (Expired)

Duration: 12 year term (FY96 thru FY07). Please note this TIF has expired and the City General Fund is receiving 100% of the real estate taxes.

Percentages: 50% to Recipient; 50% to City General Fund

Location: Newbury Street

This TIF was used to transform the former Crosby-Laughlin site on Newbury Street into the Shipyard Brewing Company.

3. Auto Europe (Economic Development TIF) (Expired)

Duration: 15 year term (FY97 thru FY11). Please note this TIF has expired and the City General Fund is receiving 100% of the real estate taxes.

Percentages: 75% to Recipient; 25% to City General Fund

Location: Commercial Street across the street from Casco Bay Lines, former Galt Block building.

This TIF was used to renovate the former Galt Block Building into the headquarters for Auto Europe. The Galt Block Building had been vacant for over 10 years.

4. Bramhall/Holt Hall (Economic Development TIF)

Duration: 20 year term (FY00 thru FY19)

Percentages: 75% to Recipient; 25% to City General Fund, plus a Payment in Lieu of Taxes (PILOT) associated with first floor space.

Location: 794 Congress Street

This TIF was used to renovate Holt Hall, built in the 1860's, and then vacant in excess of 10 years, into 36 market rate rental apartments and office space on the ground floor at a cost of almost \$4 Million.

5. UNUM (Economic Development TIF)

Duration: 15 year term (FY01 thru FY15)

Percentages: 100% capture of increased value with 75% going to the Recipient, and 25% going to economic development projects for the City.

Location: Outer Congress Street.

This TIF was utilized to support expansion of UNUM offices and to build a 1,200 space parking garage.

6. Waterfront TIF (Economic Development TIF)

Duration as originally approved March 18, 2002: 10 year term (FY03 to FY12)

Duration Extended as of June 7, 2010 for a 30-year term: FY03 to FY32

Percentage: 100% TIF capture. Annually, the City Council has adjusted this TIF capture rate to place property tax revenue in the City General Fund.

Location: Selected waterfront properties.

This is a municipal TIF to be used for waterfront projects.

6a. Waterfront Maine LP (Cumberland Cold Storage Building) on Commercial Street (Economic Development TIF)

Duration: 20-year term (FY12 thru FY31)

Percentage: 63% years 1 thru 5; 64% years 6 thru 10; 55% years 7 thru 15; 45% years 16 and 17; 40% years 18 and 19; and, 35% year 20 – with a maximum cumulative TIF payment numeric cap not to exceed \$2,870,058.

Location: 252 Commercial Street on the Portland waterfront.

The City entered into the TIF in order to support the renovation of the Cumberland Cold Storage building into a Class A office building, with continued marine uses on the first floor and berthing according to zoning regulations. The reuse of this building will accommodate the relocation of Pierce Atwood, bringing its 175 employees to the Portland waterfront.

7. **Bayside TIF** (Economic Development TIF)

Duration: 30 year term (FY04 thru FY33)

Percentages: 100% TIF capture. Annually, the City Council has adjusted this TIF capture rate to place property tax revenue in the City General Fund.

This is a municipal TIF to be used for the public infrastructure improvements and business recruitment marketing for Bayside area. Investments from this TIF include a HUD payment on a loan for the proposed Maine Health Project parking structure, as well as two Credit Enhancement Agreements (CEA's) with the following:

7a. **Capital LLC (Intermed Building) on Marginal Way** (Economic Development TIF)

Duration: 15 year term (FY09 thru FY23)

Percentage: 100% to return, to Developer, to an annual maximum cap of \$355,000 and annual debt service threshold test.

Location: Bayside next to I-295

The City entered into the CEA in order to assist with the development of a parking structure in connection with the office building.

7b. **Southern Maine Student Housing on Marginal Way** (Economic Development TIF)

Duration: 10 year term (FY08 thru FY18)

Percentage: 100% to return, to Developer, to a maximum annual cap of \$120,000 and annual debt services threshold test.

Location: Bayside next to I-295

The City entered into the CEA in order to assist with the development of a parking structure in connection with the student housing development.

8. **Riverwalk/Ocean Gateway** (Economic Development TIF)

Duration: 12 year term (FY07 thru FY19)

Percentages: Formula based percentages in Credit Enhancement Agreement

Location: Hancock and Fore Street area

The TIF was entered into to assist with the construction of a parking structure for the development plan for the area adjacent to Hancock Street.

9. **Avesta/Pearl Place** (Affordable Housing TIF)

Duration: 30 year term (FY08 thru FY37)

Percentages: Various percentages captured value to return to Developer based on Maine State Housing Authority Certificate of Approval, to a maximum of \$22,000 annual cap.

Location: Oxford and Pearl Streets

This TIF is an affordable housing TIF to assist in the creation of affordable housing in the City's Bayside area along Oxford and Pearl Streets.

10. **Creative Portland Development and Arts** (Economic Development TIF)

Duration: 15-year term (FY10 thru FY24)

Percentages: 100% capture; annually, the City Council may adjust this TIF capture rate to place property tax revenue in the City General Fund.

Location: Multiple properties included in the Downtown Area

This TIF was created to assist in maintaining the creative economy businesses through the creation of the Creative Portland Corporation and TIF funds to assist in funding its administrative personnel and program of activities up to a maximum of \$100,000 annually.

10a. **Baxter Library LP at 621 Congress Street** (Economic Development TIF)

Duration: 9-year term (FY11 thru FY19)

Percentage: Lesser of annual 65% to return to Developer or amount necessary to service project debt. Adjustments to annual payment if project refinancing occurs.

Location: 621 Congress Street

The City entered into the CEA in order to assist with the reuse, redevelopment, and preservation of a hallmark downtown building built in 1888, where adaptive reuse of this former library is challenging and expensive. This Project will add \$2.5 Million in new municipal assessed commercial valuation and generate an average of \$16,000 annually, in funds, to support the Creative Economy TIF Program or the City's General Fund as directed by the City Council. The reuse of this building will accommodate the relocation of the VIA Group, bringing its 64 employees to this upper area of downtown Portland.

11. **McAuley Place** (Economic Development TIF)

Duration: 30 year term (FY10 thru FY29)

Percentages: 60% to Recipient; 40% to City General Fund.

Location: 605 Stevens Avenue

This TIF was created to assist in the renovation of the former Mother House/Convent (built over 100 years ago) on Stevens Avenue into a market rate independent senior living community, including 45 to 50 apartments in the renovated Convent; 25 to 30 apartments

(new construction) in an addition to the Convent; and, 36 units (new construction) located in three townhouse/cottages adjacent to the Convent.

12. PowerPay/Portland Public Market (Economic Development TIF)

Duration: 30 year term (FY11 thru FY40)

Percentages: Years 1 through 8 – 75% to Developer, 25% to City General Fund; Years 9 through 30 – 50% to Developer, 50% to City General Fund.

Location: 25 Preble Street

This TIF district was created to support the retention and expansion of PowerPay along with redeveloping an important asset in Portland's Downtown that was formerly known as the Portland Public Market. Because of the complex renovation issues and the high cost associated with redeveloping the Portland Public Market property, PowerPay requested TIF assistance to cover the Project financing gap. PowerPay renovated and moved its headquarters to this location with well over 150 employees.

13. Thompson's Point Development Company, Inc. (Transit-Oriented TIF)

Duration: 30 year term (Starts when increased assessed value is at least \$5 Million, anticipated to start FY2015); approved by the City Council on November 4, 2013.

Percentages:

Phase One of Project: Years 1 through 10 – 75% to Developer and 25% to City transit-oriented projects; years 11 through 15 – 60% to Developer, 25% to City transit-oriented projects, and 15% to City's General Fund; years 16 through 20 – 50% to Developer, 25% to City transit-oriented projects, and 25% to City's General Fund; years 21 through 30 – 40% to Developer, 25% to City transit-oriented projects, and 35% to City's General Fund.

Phases Two and Three of Project: Years 1 through 30 – 0% to Developer; 25% to City transit-oriented projects; 75% to City's General Fund.

Location: Thompson's Point

This Transit-Orient Development (TOD) Tax Increment Financing (TIF) District was created to support Thompson's Point Development Company Inc.'s redevelopment of Thompson's Point into the **Forefront at Thompson's Point**. Additionally, the TOD will assist to expand and improve transit connections between Thompson's Point and key commercial locations within Portland (i.e. Jetport, Portland Transportation Center and Portland's Downtown) and around the region.

Thompson's Point consists of approximately 30 acres of real estate adjacent to the Portland Transportation Center that is home to the Northern New England Passenger Rail Authority, which runs the Amtrak Downeaster and Concord Trailways bus company.

The Forefront at Thompson's Point is a proposed mixed-use development that will transform a blighted and grossly underutilized 30-acre parcel located along Interstate 295 into a highly visible gateway destination event center that is expected to generate

significant economic activity within the District and throughout Portland. The Company plans to redevelop Thompson's Point in a manner that includes a substantial investment in public infrastructure, including construction of an above-ground parking garage with approximately 700 spaces, road extensions and widenings, rail crossings upgrade, utility investments, and expanded walking and biking trails.

14. The Village at Oceangate, LLC (Bay House) (Economic Development TIF)

Duration: 11 year term (FY14 thru FY25)

Percentages: Years 1 through 5 – 75% to Developer, 25% to City General Fund; Years 6 through 10 - 65% to Developer, 35% to City General Fund. Total revenue to developer is capped at \$647,971 over the term of the District.

Location: Hancock Street, between Newbury and Middle Streets.

This TIF district was created to support the development of The Bay House Project. The Project includes the construction of two new buildings that will contain ninety-four (94) market rate apartments, a parking garage, and approximately 5,700 square feet of commercial retail space. Use of TIF proceeds is directed to support public infrastructure investments.

15. Fore India Middle, LLC (former Jordan's Meat Site) (Economic Development TIF)

Duration: 4 year term (FY14 thru FY17)

Percentages: Years 1 and 2 – 50% to Developer, 10% to City TIF Project; 40% to City General Fund; Year 3 - 40% to Developer, 10% to City TIF Project; 50% to City General Fund; Year 4 – 40% to Developer, 60% to City General Fund. Total revenue to developer is capped at \$650,000 over the term of the District.

Location: Portion of block surrounded by Fore, India, and Middle Streets.

This TIF district was created to support the development of a portion of the former Jordan's Meats site. This development project includes a five-story, approximately 180,000 sf. of mixed-use consisting of 12,300 sf. of retail space on Middle Street, 9,800 sf. of retail space on Fore Street, three levels of office space comprising 63,900 sf. on Middle Street, and 18 residential condominium units along Fore Street and India Street. In addition, there will be two "internal" parking garages behind the retail spaces (not visible from the street), one 110-space garage at the Fore Street level, and another 63-space garage one story above at the Middle Street Level. The Developer expects to have an urban grocery on Middle Street with a variety of produce, meats, food, and household items, with an emphasis on natural, organic and healthy items. The other retail users and the office users have not been identified yet. Use of TIF proceeds is directed to support public infrastructure investments.

16. 409 Cumberland Avenue (Affordable Housing TIF)

Duration: 22 year term

Percentage: 50% to Developer; 50% to City Housing Affordable Housing Revolving Loan Fund

Location: 409 Cumberland Avenue

This Affordable Housing TIF District supports the development of 46 affordable units and 11 market rate units of rental housing. TIF revenues will be used by Developer to pay operating costs for the project; City TIF revenues will be used for the establishment of an affordable housing revolving loan fund.

TIF Districts

- DAYVILLE
- DAYTON
- GREENSBORO
- FOREMAN
- HOLT HALL
- WILSON PLACE
- NICHOLS
- PEARL PLACE
- Forest Hill
- REVEREND
- Thompson Point
- WILSON
- WATERFRONT

Other Layers

- Township
- County
- Waterfront Capital Improvements



Com 9-14/15
Tab 7 1-5-15



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Gregory A. Mitchell, Economic Development Director
Jeff Levine, Planning and Urban Development Director
Mary Davis, Housing and Community Development Division Director

DATE: December 17, 2014

SUBJECT: Communication Item for January 5, 2015 Council Meeting
- 2014 Annual Report of HCDC

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

1. Council meeting at which action is requested: January 5, 2015
2. Can action be taken at a later date? Yes

If no, why not?

I. SUMMARY OF ISSUE

At the most recent Housing and Community Development Committee, it reviewed its 2014 Work Plan Accomplishments and voted to forward the HCDC report to the City Council as a communication. Committee accomplishments are shown in **bold** next to each Work Plan task.

II. REASON FOR SUBMISSION

It is being submitted to the City Council as a communication item only.

III. INTENDED RESULT

The intended result is for the entire City Council to keep up-to-date on the Committee's work.

IV. FINANCIAL IMPACT

There is no financial impact with this item.

V. STAFF ANALYSIS AND RECOMMENDATION

Staff recommends receiving it as a communication.



Housing and Community Development Committee (HCDC)

Committee Charge, Priorities, Work Plan, and Accomplishments for 2014

December 3, 2014

I. HCDC Committee Charge

Per the Mayor's December 30, 2011 Memorandum to the City Council, the HCDC Committee charge includes:

This Committee shall develop and recommend to the City Council policies that will promote balanced development in the city including residential, commercial, and industrial uses. In that capacity, the Committee shall make recommendations regarding plan review, zoning, CDBG and HOME allocations, TIF zones, and other development tools that the City has available to it.

City Departments: Economic Development and Planning

Primary Staff Coordinators: Greg Mitchell, Economic Development Director; Jeff Levine, Planning and Urban Development Director; and, Mary Davis, Housing and Community Development Division Director

II. 2014 City Council Priorities Aligned with the HCDC Committee Responsibilities

The following priorities have been established by the City Council:

GOAL: 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.

Objective: Complete assessment of and, as appropriate, begin to offer City owned property to construct affordable housing.

Objective: Complete draft of an inclusionary zoning ordinance in the India Street neighborhood and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.

Objective: Complete draft rewrites of the R6, R7, and B-2 portions of the zoning ordinance to allow for greater housing opportunities and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.

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.

Objective: Complete the following 2014-2015 work plan municipal assigned tasks associated with the Portland Economic Development Plan:

- Visit ten businesses with the Mayor to learn about existing business issues and business expansion opportunities;
- Market the Portland Technology Park to secure a minimum of one tenant;
- Advance work on the “Minority and Women-owned Business Development Initiative”;
- Secure City Council approval to invest Community Development Block Grant (CDBG) funds in workforce development;
- Re-establish ferry service to Nova Scotia; and
- Develop a scope of work to invest State transportation bond funds in harbor dredging along Portland’s waterfront.

Objective: Incorporate into the City’s Capital Improvement Plan (CIP) projects that support new development.

GOAL: Implement TIF Program

Implement the City’s revised Tax Increment Financing (TIF) program that focuses on the creation of appropriately sized and designed TIF districts and advances other council goals in the areas of transit, economic development, public infrastructure and municipal finance.

Objective: Secure City Council approval of a combined “Downtown TIF”, “Waterfront TIF” and “Transit Oriented Development (TOD) TIF” or separate TIFs, whichever is determined to be in the best interest of the city.

III. 2014 Planned Activities with Status

A. Planning Department Work Plan

CDBG Priority Review

- Review effectiveness of new sustainable workforce development initiative approved by Council. – **Reviewed.**

Housing Investment Policy

- Review and improve annual RFP process. **Reviewed. Switched to open, rolling application process for allocation of HOME funding.**
- Adams School – Remaining Property – Determine best approach to sell/develop remaining property. **RFP for affordable home ownership units was issued in November with response due in January. Anticipate HCDC review of proposals in February.**
- Sale of City property, i.e., parking lots, for residential use. **Reviewed/ongoing.**
- Affordable Housing TIF Implementation strategy – **Strategy not taken up; however, one Affordable Housing TIF was approved for project at 134 Washington Avenue.**

Develop Strategy for Homelessness Task Force “Rapid Rehousing” Recommendations referred to HCDC

- Housing Liaison System – **Underway/ongoing.**
- Housing First Developments – **Completed. An RFP for pre-development assistance was issued; two organizations were awarded funding.**

Zoning issues.

1.) R-6 Zone

R-6 and R-7 zones should be examined to see if some R-6 areas should be rezoned R-7, such as at Danforth and York Street, High Street, and in Bayside. Some other changes to the R-6 and R-7 zones should also be considered to permit increased densities. Alternative solutions to accomplish the same goals more universally should also be explored.

- 1. The Planning Board considered potential rezoning from R-6 to R-7 in East Bayside associated with the PHA Bayside Anchor project which was predicated on rezoning to R-7. PHA requested their entire campus for R-7 and Planning assessed other East Bayside areas as well. On April 22, 2014, the Board recommended and the City Council on May 19, 2014 adopted zoning amendments to rezone a substantial portion of the PHA campus to R-7, including the Bayside Anchor project.**
- 2. On April 9, 2014, the HCDC reviewed proposed amendments to the dimensional standards of the R-6 zone and referred these amendments to the Planning Board. The Planning Division, prior to taking the amendments to the Planning Board, conducted an outreach effort by visiting the boards of all of the peninsula neighborhood organizations to present and hear input on the proposal throughout the summer of 2014. On October 28 and November 25, 2014 the**

Planning Board held workshops on the proposed amendments. It is expected that the amendments will be forwarded to the City Council early in 2015.

2.) B-1 and B-2 Map Amendments

B-1 and B-2 zones on the peninsula have been updated so the R-7 density applies (435 square feet of land area per dwelling unit is required). HCDC will work with staff to look at whether similar changes make sense elsewhere. **Reviewed and referred suggesting B-2 zoning amendments to the Planning Board. The Board voted on April 22, 2014 to recommend the B-2 amendments to the City Council, including presenting the dimensional requirements in a tabular format and increasing allowable off-peninsula residential density. The City Council adopted the amendments on June 16, 2014. The Planning Board considered analogous amendments to the B-1 zone on October 14, 2014, and the City Council approved them on November 17, 2014.**

3.) B-6, B-7 and B-3 Residential Parking Requirements

There are no specific parking requirements for B-6 and B-7; determined by Planning Board based on a parking analysis. B-3 requires one space per unit. Parking exceptions for historic structures and affordable housing applies in all 3 zones. These requirements should be examined in the larger context of the Sustainable Transportation Fund as an option for developers in these and other districts. **Referred to the Planning Board in January. Due to other project review and zoning amendment priorities this item has not been heard by the Planning Board yet but it remains on their work plan.**

4.) Review of the Condominium Conversion Fee

Review a possible change that would tie the fees to the number of units lost. **Not taken up.**

B. Economic Development Work Plan

City Real Estate Sale or Lease

- Riverside Property – Remaining developable property includes 7+ acres. Decide whether or not to market for sale. **Not taken up.**
- Thames Street Property – Hold property to support Portland East End future development and road/utility extensions. **Property is on hold as potential developments continue to be discussed for this East End area.**
- Sale of City property - Determine best approach to possibly sell/develop parking lots for residential use. **Reviewed/ongoing.**
- Plan for reuse options of the former Reed School – work with the School Dept. **Reviewed proposed Task Force and Work Plan, with Committee consensus to staff to move forward.**

TIF Districts

- Pearl Place TIF for TIF amendments. **Completed.**
- Thompson Point TIF – need to prepare plan for use of future Transit Oriented Development (TOD) TIF tax revenue – Responsibility rests with the Transportation, Sustainability, and Energy Committee. Transit planning scope of work being prepared under direction of the Transportation & Energy Sustainable Committee.
- Create a Downtown Transit Oriented TIF District – After a series of meetings, the Committee recommended creation of this District; anticipated January 2015 Council approval, followed by MDECD approval.
- Discuss establishment of Affordable Housing TIF Districts - Strategy not taken up; however, one Affordable Housing TIF was approved for project at 134 Washington Avenue.

City TIF Policy

Annually present and discuss a report of TIF district activity including an assessment of TIF district capacity related State acreage and value limitations. **To be reviewed at December 10, 2014 HCDC Meeting.**

Wilmot Street Property Disposition – Need to resolve City ownership. **Discussed in executive session; ongoing.**

Riverside Street Commercial Area – Review needed infrastructure improvements. **Not taken up.**

Stormwater Regulations and Development – Review possible effects of regulations on development. **Not taken up.**

Houses of Worship – Review of re-use of houses of worship that may be closing. **Not taken up.**

Open Space Process – Review of the process of determining where open space should be for what use. **Under the purview of the Land Bank Commission and Parks Commission**

Portland Economic Development Plan Implementation

Mayor leading implementation having monthly meetings with stakeholders of the Portland Economic Development Plan. Provide accomplishment update to the City Council. **Ongoing, updated provided to HCDC and City Council.**

Nova Scotia Ferry Service Operator Lease – Committee recommended Lease Agreement for approval by City Council; Council approved; Lease Agreement executed, with 2014 being the maiden season for Nova Star Cruises.

Tugboat Lease Renewal at Portland Ocean Terminal – Committee recommended Lease Agreement for approval by City Council; Council approved; Lease Agreement executed.

IV. Items taken up by Committee not on Work Plan:

- Tenant Based Rental Assistance Program Update – **Communication Item**
- Proposed Amendment to Parking Requirements and the Sustainable Transportation Fund – **Committee provided feedback to staff.**
- City lease/acquisition of property at 212 Canco Road for City Department Consolidation – **Committee recommended approval to Council; Council approved; Lease Agreement executed.**
- Housing Program Budget - **Committee recommended approval to Council; Council approval received during annual HUD allocation process in April.**
- Updated Citizen Participation Plan (regarding CDBG and other HUD program funds) - **Committee recommended approval to Council; Council approved in April.**
- Three-Year Renewal of Cumberland County HOME Consortium - **Committee recommended approval to Council; Council approved in April.**
- Review of Creative Portland PACE Project in Bayside – **Committee reviewed project as presented; no action taken.**
- Affordable Housing RFP – **Committee reviewed and approved issuance of RFP.**
- Spring Street Space Lease – **Committee provided direction to staff in executive session.**
- Donation to City of property on Rowe Avenue - **Committee recommended approval to Council; Council approved.**
- Federated Midtown Project Document Amendments - **Committee recommended approval to Council; Council approval underway.**
- Disposition of tax-acquired property on Cliff Island – **Committee reviewed and approved issuance of RFP, and authorized staff to negotiate with sole proposer; early 2015 Committee will review and recommend to City Council award of bid.**
- Possible Lease Amendments with Ready Seafood; Shucks Lobster - **Committee provided direction to staff in executive session.**
- City-owned property at 65 Hanover Street/52 Alder Street and 71 Hanover Street – **Committee reviewed and provided feedback to staff to draft RFP for disposition.**
- Proposed new tenant and lease terms for use of second floor office space located at Portland Ocean Terminal - **Committee provided direction to staff in executive session.**
- Proposed Land Swap on Spring Street/Cotton Street and City property ownership –

Committee provided direction to staff in executive session.

- Improvements to CDBG Application process - **Committee recommended approval to Council; Council approved in October.**
- Termination of Bay House (Village at Oceangate) TIF District - **Committee recommended approval to Council; Council approved.**
- Termination of Fore India Middle LLC TIF District - **Committee recommended approval to Council; Council approved.**
- Expansion of Bayside TIF District - **Committee recommended approval to Council; Council approved.**
- India Street Sustainable Neighborhood Plan, and Review of plans for Portland Company/58 Fore Street Site – **Committee provided feedback to staff.**

V. Summary

During 2014, the HCDC Committee met 18 times. It was a very busy year, particularly with a number of meetings for the creation of the Downtown Transit Oriented Development TIF District, for which City Council approval is anticipated January 2015, followed by MDECD approval.

In addition, the Committee reviewed housing initiatives for feedback to staff; Affordable Housing TIF at 134 Washington Avenue which is anticipated to create 18 units of rental housing – with 10 at or below 40% area median income, and 8 at or below 50% area median income; issued an RFP for the sale of the parking area at the former Adams School, which is anticipated to create 8 affordable home ownership units targeted to households between 100% to 120% of area median income; and authorized an RFP for pre-development assistance for the Housing First Development program, which two organizations were awarded funding.

The HCDC also reviewed zoning amendments for the R-6 and R-7 zones, as well as the B-1 and B-2 map amendments, and B-6, B-7, and B-3 residential parking requirements.

Sale of City property, vacant and/or parking areas, is a continuing subject for the Committee, for the potential of creating additional housing on the peninsula. This also includes the Public Services Bayside property for potential redevelopment as some services are relocated.

The former Reed School will also be a project for housing in 2015 for Committee review.

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING APPOINTMENT OF ADAM LEE AS
ASSOCIATE CORPORATION COUNSEL**

ORDERED, that Adam Lee is hereby appointed as Associate Corporation Counsel at a salary of \$80,800.00, said appointment to be on effective January 6, 2015 at 8:00 a.m; and

BE IT FURTHER ORDERED, that this appointment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately.

**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: **December 2, 2014**

- 1) Council meeting at which action is requested:

1st reading: December 15, 2014

Final action: January 5, 2015 (Request to enact as an emergency)

- 2) Can action be taken at a later date: YES x NO
If not, why not: This position, formerly held by Trish McAllister, is currently vacant in Corporation Counsel. This position is primarily focused on enforcement issues and litigation.
- 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

Adam Lee has been offered the position of Associate Corporation Counsel, left vacant by Trish McAllister, and he has accepted; as specified in the Portland City Charter, Article VI., Section 1(c), this appointment is made by the Corporation Counsel and must be confirmed by the Portland City Council.

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

Confirmation of Adam Lee's appointment as Associate Corporation Counsel. This confirmation we are requesting be enacted as an emergency so that Attorney Lee can start work immediately on January 6, 2015.

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

This item will allow the Office of the Corporation Counsel to remain fully staffed.

IV. FINANCIAL IMPACT

The starting salary offered and accepted by Adam Lee of \$80,800 falls within the projected budget for the office payroll, and has been reviewed and approved by the City Manager and the Human Resources Department.

V. STAFF ANALYSIS & RECOMMENDATION

The Corporation Counsel's office has reviewed Adam Lee's resume, interviewed him and contacted his references, and it along with the Human Resources Department recommends his appointment to this position be confirmed.

Attachments:

Order Appointing Adam Lee as Associate Corporation Counsel

Resume

Adam R. Lee, Esq.

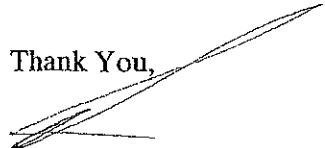
132 Main St. Apt. 102 • Auburn, Maine 04210 • w. 207-784-3200 c. 207-312-4057 • arlee1979@gmail.com

Thank you for your consideration of my application for the position of Associate Corporate Counsel. For the last six years I have proven myself as a successful litigator at a highly regarded full service law firm. Over the course of those six years I have developed a diverse litigation practice and have gained substantial pre-trial, trial and appellate experience representing municipalities, counties, individuals and businesses. Prior to my present position, and immediately following Law School, I was a Law Clerk for Justices Jabar, Marden, Mills and Nivison in the Kennebec County Superior Court. Additionally, for a little less than year I have served as the Ward 4 representative to the Auburn City Council. With my substantial experience, I am confident that I would immediately contribute as a high level litigator for the City of Portland, and with my background I would provide a unique perspective that would substantially benefit the City.

While I have been successful and am generally satisfied in my current position, I covet the potential of working on interesting and unique cases with a dynamic team serving the interests of a single client. I have carried heavy caseloads in multiple areas of the law for several clients over the past 6 years. As Associate Corporate Counsel, I look forward to utilizing the skills I have honed in private practice and learning from some of the very best municipal attorneys in this State.

Given my present employment, I ask for your discretion in your evaluation of my resume and cover letter. I appreciate your consideration and am available by telephone (preferably my cell phone number) or e-mail to arrange an interview.

Thank You,



Adam R. Lee

CITY OF PORTLAND MAINE

SEP 11 2014

HUMAN RESOURCES DEPARTMENT

Adam R. Lee, Esq.

132 Main St. Apt. 102 • Auburn, Maine 04210 • w. 207-784-3200 c. 207-312-4057 • arlee1979@gmail.com

RELEVANT EMPLOYMENT:

Skelton, Taintor and Abbott, P.A.

Associate Attorney, September 2008-Present

- Extensive experience in Civil litigation including pre-trial, trial and appellate experience in municipal, commercial, employment, public utility/energy, criminal and general civil litigation
- Drafted hundreds of memoranda of law dealing with Motions to Dismiss, Summary Judgment and various other motions in Maine's State and Federal Courts
- Prevailed as lead trial counsel in various types of cases including municipal, employment contracts, real estate partition, foreclosure, probate and divorce
- Drafted several prevailing appellate briefs in appeals and successfully argued appeals to Maine Supreme Judicial Court
- Successfully managed own high volume family law and criminal practice while supporting shareholders
- Member of Maine and Androscoggin County Bar Associations, admitted to practice in Maine and New Hampshire State Courts, Maine Federal Courts and the First Circuit Court of Appeals, and selected one of the 40 best trial attorneys in Maine under the age of 40 by the National Trial Lawyers

Justices Jabar, Marden, Mills, and Nivison of the Maine Superior Court, Augusta, ME

Judicial Law Clerk, August 2007-August 2008

- Drafted and edited Decisions and Orders for Maine's trial court of general jurisdiction
- Researched and prepared bench memoranda in a variety of civil cases, criminal cases, and judicial reviews of final state agency and municipal actions.
- Extensively observed and participated in court procedure

Vermont Attorney General- Civil Rights Unit, Montpelier, VT

Law Clerk, Summer 2006

- Substantial legal writing and research of state and federal employment discrimination law
- Drafted charges, interviewed complainants and respondents, analyzed discovery evidence, and drafted objective advisory memos regarding final decisions of the Attorney General's office.

Environmental Tax Policy Institute, South Royalton, VT

Research Fellow, Summer 2005- 2007

- Contributed to and edited various publications by Prof. Janet Milne
- Extensively researched the intersection of EPA regulations and tax incentives
- Precisely tracked the 2005 Energy Bill

CITY OF PORTLAND MAINE

SEP 11 2014

University of Rochester, Rochester, NY

Assistant Director of Debate/Visiting Lecturer, August 2002-May 2004

- Taught college level classes in Communications and Advanced Debate
- Acted as primary research director and coach to nationally ranked policy debate team

HUMAN RESOURCES DEPARTMENT

EDUCATION:

Vermont Law School, South Royalton, VT

Juris Doctor, Cum Laude, May 2007

- Class Rank: 27/178 (top 15%) GPA: 3.45
- Dean's List: Fall 2005, Spring 2006, Fall 2006, and Spring 2007
- Academic Excellence Award: Intellectual Property Law
- Research Fellow to Professor Janet Milne and the Environmental Tax Policy Inst., 2005-2007
- Teaching Assistant to Professor Cheryl Hanna in Constitutional Law I and II, 2006
- Vice President of Negotiations Board
- Class of 2007 Commencement Speaker
- Student Bar Association Senator, 2005-2007

University of Texas, Austin, TX

B.A. in History, Minor in Sociology, May 2002

- Member of the University of Texas Debate Team, selective group of 12 policy debaters
- Recipient of George and Virginia Nokes scholarship award for Debate
- Named as 1 of 30 All-American Debaters 2001-02 by the Cross-Examination Debate Association

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 115-14/15
~~Tab 22~~ 12-15-14
Tab 9 1-5-15

**ORDER DESIGNATING HOUSE ISLAND AS A HISTORIC DISTRICT AND
AMENDING THE MAP OF HISTORIC DISTRICTS**

WHEREAS, the City Council is authorized pursuant to Portland City Code Chapter 14, Section 622 to designate a defined area in the City as an historic district; and

WHEREAS, the Portland Historic Preservation Board and Planning Board have both unanimously recommended the designation of the House Island Historic District; and

WHEREAS, the designation of the House Island Historic District will fulfill a stated objective of the Comprehensive Plan to protect the City's historic resources through ongoing identification and designation of eligible landmarks and districts; and

WHEREAS, the designation will formally recognize the unique history and landmarks situated on House Island; and

WHEREAS, the designation will provide future generations the opportunity to view in person Fort Scammel and buildings on House Island associated with its role as a Federal immigration and quarantine state more than a hundred years ago; and

WHEREAS, the designation will ensure that alterations to historic structures within the island district are compatible with the buildings' and the fort's historic character and will prevent the incremental loss of character that can occur through small inappropriate changes over time; and

WHEREAS, the designation will stabilize and enhance the property value and economic vitality of House Island; and

WHEREAS, the designation will increase the attractiveness of the island district to tourists; and

WHEREAS, the designation will provide property owners access to federal and state tax incentives available for the rehabilitation of historic properties;

NOW THEREFORE BE IT HEREBY ORDERED that, pursuant to Chapter 14, Section 622, the Portland City Council hereby designates House Island, as shown on the attached map, as the House Island Historic District; and

BE IT FURTHER ORDERED, that the map of Historic Districts with Landmarks and Historic Landscape Districts is hereby amended to include the House Island Historic District as set forth on the attached map.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: December 3, 2014

DISTRIBUTION: Mayor Michael Brennan, City Manager Sheila Hill-Christian, Sonia Bean, Danielle West-Chuhta , Nancy English, Jeff Levine

SUBJECT: Recommendation to designate House Island as a local historic district subject to the provisions of Portland's historic preservation ordinance (Article IX of the Land Use Code).

SPONSOR: Planning Board, Stuart O'Brien, Chair
Historic Preservation Board, Rick Romano, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED: January 5, 2015
1st reading December 15, 2014 **Final Action** January 5, 2015

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)
Five-minute presentation by Planning Board Chair Stuart O'Brien and Historic Preservation Manager Deborah Andrews

I. SUMMARY OF ISSUE (Agenda Description)

By unanimous vote, the Planning Board is recommending that House Island be designated a local historic district subject to the protections of the City's historic preservation ordinance (Article IX of the Land Use Code.) The Planning Board's consideration of the nominated historic district was pursuant to a unanimous recommendation forwarded by the Historic Preservation Board. (As required under Portland's historic preservation ordinance, nominated historic districts must be reviewed first by the Historic Preservation Board, which forwards its recommendation to the Planning Board. The Planning Board also considers the effect of designation on other aspects of the comprehensive plan.)

The proposed designation applies to the entire 24 acre island and includes twenty-one (21) historic structures or sites representing several key periods of development history on House Island. Among the significant historic structures on the island are Fort Scammel, built in 1808 and expanded in the 1860's, and buildings associated with House Island's role as a Federal immigration and quarantine station during the late 19th and early 20th centuries.

The recommendation to designate House Island as a historic district is based on findings by both the Planning Board and Historic Preservation Board that House Island readily meets the designation criteria outlined in Sections 14-610 and 14-611 of the historic preservation ordinance. As well, the Planning Board finds that designation does not conflict with other goals of the Comprehensive Plan.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

House Island today is an extraordinarily rich cultural landscape with numerous extant historic resources associated with various significant chapters in the island's history. An important early center for fishing and lobstering activities in Portland harbor, the island also played a key role in the fortification of the harbor in the 19th century. In the late 19th and early 20th centuries, House Island became Portland's "Ellis Island", a site for processing immigrants into the United States.

Despite this rich history and eligibility for both National Register and local historic designation, House Island currently lacks any protection of its historic resources. After the US government's sale of the House Island after WWII, the island was privately owned by one family which operated an event center on the island and offered historical tours. With the island's impending sale in 2014, City staff informed the prospective buyer (now current owner) of the island's eligibility for designation and the likelihood of its nomination.

III. INTENDED RESULT

Designation of House Island will not preclude additional development on the island. Rather, it will ensure that the identified historic resources on House Island are preserved over time and any alterations or additions are compatible with the subject structure's historic character. New construction on the island will be reviewed for general compatibility with the prevailing development pattern on the island in terms of scale, massing, materials, etc.

IV. COUNCIL GOAL ADDRESSED

Portland's Comprehensive Plan identifies historic preservation as a major priority within the City's land use policies. Portland's historic preservation ordinance (Article IX of the Land Use Code) was adopted in 1990 to provide protection for identified historic resources, whether they be individually designated or included as part of a larger historic district and includes provisions for the ongoing identification, nomination and designation of historic resources.

V. FINANCIAL IMPACT

As historic designation does not affect the underlying zoning as regards allowable uses and does not preclude additional development on the island, there will be no diminution in the assessed value of the two properties on the island. In numerous studies, historic district designation has been shown to enhance property values over time.

VI. STAFF ANALYSIS

See attached staff report and report prepared by ttl-architects: *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District.*

VII. RECOMMENDATION

Planning and Historic Preservation staff fully supports the designation

VIII. LIST ATTACHMENTS

Planning Board report and consultant's report: *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District.*

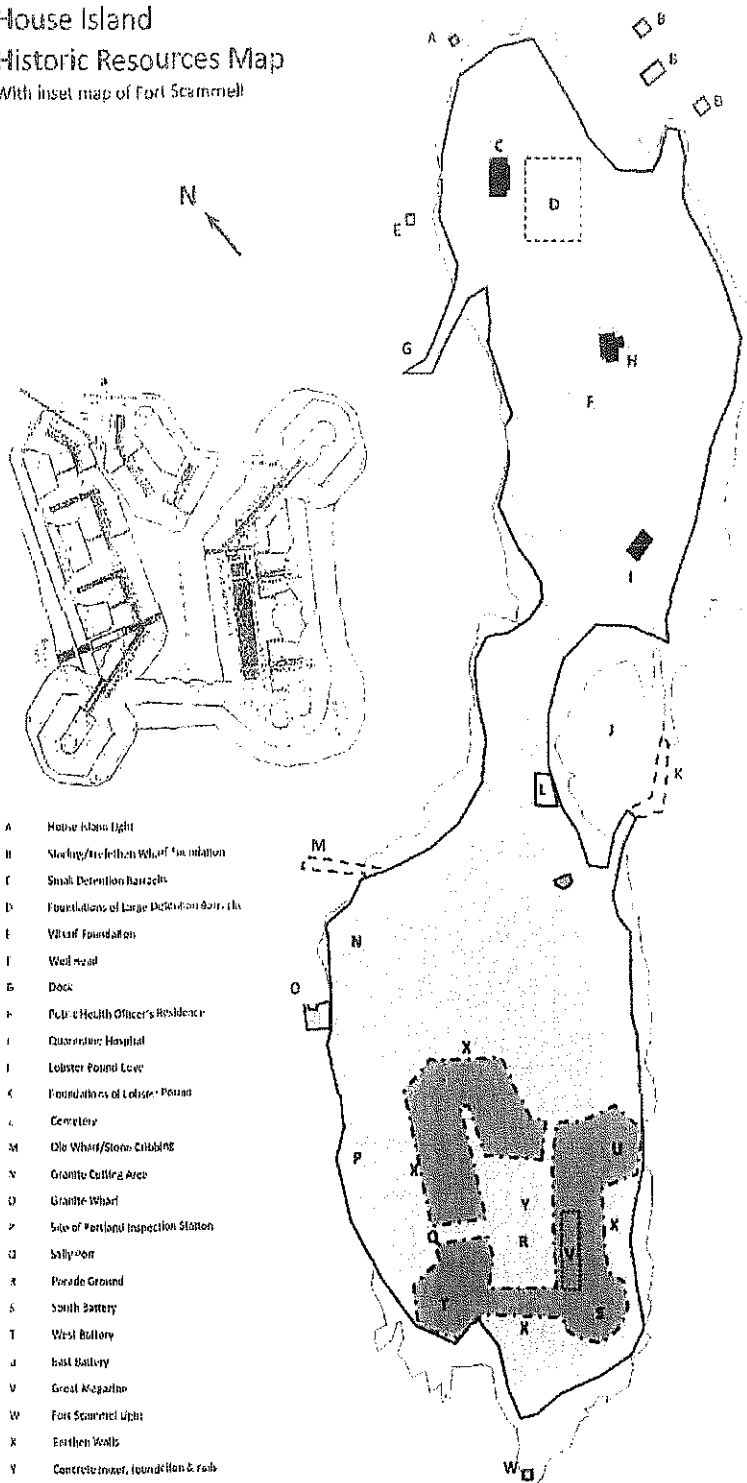
Prepared by:



Signature

December 2, 2014
Date

House Island Historic Resources Map With inset map of Fort Scammell





CITY COUNCIL REPORT
From
PLANNING BOARD
PORTLAND, MAINE

Recommendation to Designate House Island as a Local Historic District under the provisions of Portland's historic preservation ordinance (Article IX of the Land Use Code)

Submitted to: Portland City Council Requested Council Action: January 5, 2015	Submitted by: Planning Board Date: December 3, 2014
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I. Introduction

The Planning Board is recommending to the City Council that House Island within Portland Harbor be designated a local historic district subject to the provisions of Portland's historic preservation ordinance (Article IX of the Land Use Code). The proposed district designation applies to the entire 26-acre House Island and includes twenty-one (21) identified historic structures or sites representing several key periods of development history on the island—see Fig. 1. Among the significant extant historic resources on the island are Fort Scammel, built in 1808 and expanded in the 1860's, and buildings associated with House Island's role as a Federal immigration and quarantine station during the late 19th and early 20th centuries. Historic district designation will ensure that House Island's historic resources are protected from demolition and any alterations or additions to existing structures are compatible with their historic character. New construction will be reviewed for general compatibility with the prevailing development pattern on the island in terms of scale, massing, materials, etc.

On November 25, 2014, the Planning Board voted 4-0 (Dean, Morrisette and Soley absent) that House Island meets all the criteria for designation in Division 3 of the historic preservation ordinance and that the island's designation as a historic district is consistent with the City's Comprehensive Plan. Based on these findings, the Planning Board voted to recommend to the Council that the island be designated as a local historic district:

The Planning Board's review of the proposed designation was upon the recommendation of the Historic Preservation Board which voted unanimously on October 1, 2014 to recommend designation following its own review of the island's eligibility for historic district designation. In the case of nominated historic districts, Portland's historic preservation ordinance requires that the Historic Preservation Board first review the nomination according to the criteria outlined in Division 3 of the ordinance and, based on its findings, forward a recommendation to the Planning Board. The Planning Board, in turn, considers the recommendation of the

Historic Preservation Board and conducts its own independent analysis as to whether the nominated district meets the designation criteria. In addition, the Planning Board must also consider the effect of designation on other aspects of the Comprehensive Plan. Based on its own findings, the Planning Board forwards its recommendation to the City Council which has the final authority to designate local landmarks and historic districts.

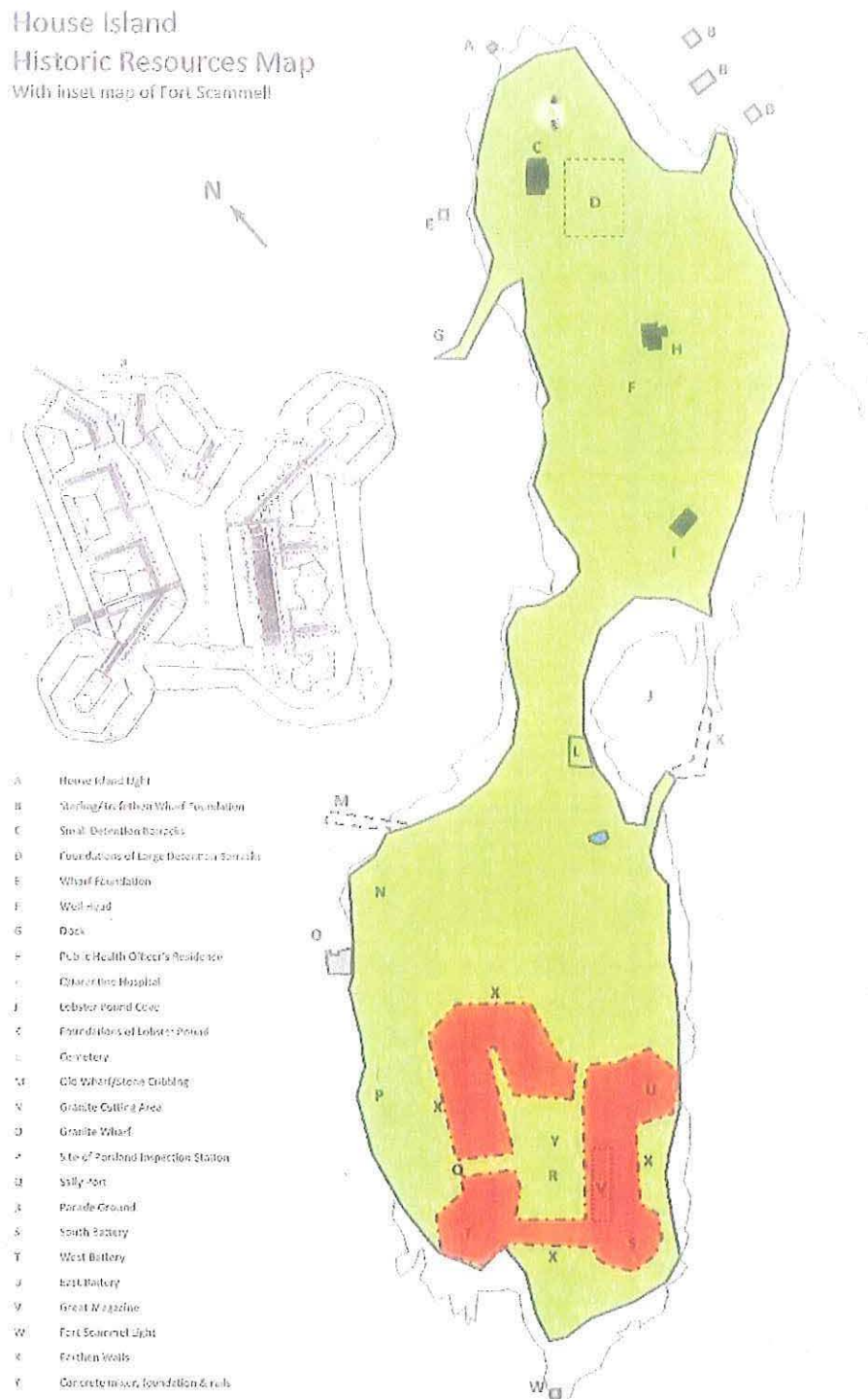


Figure 1. (larger version of map included in consultant report)

II. Planning Board Deliberations and Recommendation

The Planning Board's final deliberations on the nominated historic district followed a preliminary workshop on October 21, 2014. At the workshop, Historic Preservation Program Manager Deborah Andrews presented the Historic Preservation Board's formal recommendation to designate House Island as well as the HP Board's specific findings which led to their favorable recommendation. Preservation consultant Julie Larry of ttl-architects, who prepared the detailed documentation required to consider the merits of the nominated district, also made a presentation. Ms. Larry described the island's development history and explained the significance of the extant historic resources on the island. In her presentation, Ms. Larry addressed the specific designation criteria enumerated in the City's preservation ordinance, explaining how, in her professional assessment, House Island met all six of the minimum criteria for designation, as well as the ordinance requirement that a substantial number of the structures and sites within the proposed district exhibit sufficient integrity of location, design, condition, materials and workmanship to make them worthy of preservation or restoration.

Public comment was also taken at the 10/21 workshop. The current owners of the northern and southern sections of House Island addressed the Board. Michael Scarks, who purchased the entire island in May 2014 and sold the northern half in late September, indicated that he had no objection to designating Fort Scammel itself, but questioned the rationale for designating the balance of the island. Mr. Scarks also questioned the timing of the nomination. Vincent "Cap" Mona, the new owner of the north half of the island that includes historic structures associated with the island's role as an immigration and quarantine station, also introduced himself and indicated that he was working with historic preservation staff on a plan to rehabilitate the historic buildings he had purchased. Mr. Mona did not express a position on the proposed designation. Four other members of the public, including Hilary Bassett Executive Director of Greater Portland Landmarks, expressed support for the nomination/designation. (A compilation of all written public comment during Planning Board and Historic Preservation Board deliberations is enclosed as Attachment 4.)

In response to a follow-up question from a Planning Board member regarding the timing of the nomination, staff explained that after the US government's sale of House Island following WWII, the island was privately owned by the Cushing family for several decades. Although the Cushing family offered tours of the historic sites on the island and appeared committed to its preservation, they were resistant to historic designation of the island. Some months before the island was put on the market, historic preservation staff became aware that the Cushing family had entered into negotiations with a statewide conservation organization and a statewide preservation organization about placing conservation and preservation easements on the island. (These easements would have provided a level of protection comparable to historic district designation.) Later, after negotiations had apparently fallen through, staff learned that the island had been put on the market and that there was an interested buyer (Mr. Scarks). When Mr. Scarks met with Planning staff during his due-diligence period, staff informed him that the island had been identified as eligible for historic district designation as early as 1990. (Portland's *Historic Resources Design Manual*, which was adopted as part of Portland's historic preservation ordinance in 1990, lists House Island as a property eligible

for local historic designation.) A short time later, Peak Island summer resident Jo Israelson and Greater Portland Landmarks petitioned the Historic Preservation Board to nominate House Island for historic district designation.

At the conclusion of the workshop session, Planning Board members indicated that they found House Island to clearly meet the historic preservation ordinance's designation criteria and expressed support for its designation as a local historic district.

The Planning Board's formal public hearing on the proposed historic district designation was held on November 25th. Following a presentation by staff, public comment and Board deliberations, the Planning Board voted 4-0 (Dean, Morrisette & Soley absent) as follows:

Upon the recommendation of the Historic Preservation Board and on the basis of documentation and analysis provided in the report *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District* prepared by ttl-architects, as well information included in the staff report for the November 25, 2014 public hearing, the Planning Board

1) finds that House Island:

- a) meets the historic preservation ordinance's minimum criteria for historic district designation as set forth in Sec. 14-610 (a), specifically (a) 1, 2, 3, 4, 5 and 6, based on the Board's finding that the summary statements included in the ttl-architects report (pages 2-5 of the report), addressing criteria (a) 1,2,3,4,5 and 6 are well-founded and based on detailed research and available documentation. Accordingly, the Board confirms and references the report's statements of significance as the basis for its finding;**
- b) meets the criterion in Sec. 14-610 (b), based on the Board's finding that a substantial number of the structures and sites within the proposed district have a high degree of cultural, historic or architectural significance and integrity, many of which qualify as landmarks, and that the proposed district also has within its boundaries other sites and structures which contribute to the overall visual characteristics of the most significant properties and sites. Pursuant to this finding, the Board supports classifications for each identified site and structure within the district boundary included in the ttl-architects' report. (see Index of Resources on page 22 of report);**
- c) meets the integrity criterion set forth in Sec. 14-611, based on the Board's finding that the district and the structures and sites therein have sufficient integrity of location, design, condition, materials and workmanship to make them worthy of preservation or restoration;**
- d) is consistent with the goals of the Comprehensive Plan, based on the Board's findings that both the Historic Preservation element of the Comprehensive Plan and the Shoreland Zoning Amendments of December 1991 (which are incorporated by reference in the Plan) encourage the identification, protection and preservation of historic resources within the City of Portland and that designation does not conflict with other aspects of the Comprehensive Plan; and therefore**

- 2) recommends to the City Council that House Island be designated as a local historic district, the boundaries of which are illustrated in Figure 1.

III. Historic Preservation Board Deliberations and Recommendation to the Planning Board

On October 1, 2014, the Historic Preservation Board voted unanimously (6-0, Turk absent) to recommend to the Planning Board designation of House Island as a local historic district based on findings that it met the criteria for designation in Division 3 of the historic preservation ordinance. (The full text of Article IX, Division 3 is enclosed as Attachment 1.) Formal deliberations on the nomination followed two preliminary workshops including a site visit to House Island to review current conditions of the existing structures and sites. Detailed documentation on the development history and significance of the island and its extant structures was provided in a report prepared by ttl-architects entitled *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District*. (See Attachment 2.)

The Historic Preservation Board's recommendation was based on findings that House Island meets the criteria for designation as defined in Division 3 of the historic preservation ordinance. Under Sec. 14-610 (a) Minimum Criteria for Designation, a nominated historic district must be found to exhibit at least one (1) of six (6) identified areas of cultural, historic, architectural, and/or archeological significance. The Board found that House Island meets all six (6) of the identified criteria. In making this finding, the Historic Preservation Board referenced and confirmed the statements of significance included in the ttl-architect report that addressed the Criteria 1-6. The Board found that ttl's concluding statements of significance, which describe in a succinct narrative how the various criteria are met, were well-founded and based on detailed research and available documentation.

The Historic Preservation Board also found that House Island meets the criterion set forth in Sec. 14-610 (b), which requires that a substantial number of the sites, structures, or objects within a proposed district have a high degree of significance and that other sites and structures within the district boundaries contribute to the overall visual characteristics of the significant properties within it. The Board found that the nominated district met this standard. The Board supported the ttl-report's recommended classifications for each identified site and structure within the district boundary (see Index of Resources on page 22 of consultant's report).

Finally, the Historic Preservation Board found that the structures and sites located within the proposed House Island district meet the separate criterion set forth in Sec. 14-611, which requires that the historic resource must exhibit sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration. Based on the Board's site visit to House Island, the Board was satisfied that the structures and sites within House Island exhibit a high degree of integrity.

IV. Background – Initiation of Nomination, Documentation, Etc.

On July 9, 2014, the City's historic preservation office received letters from Greater Portland Landmarks and Peaks Island summer resident Jo Israelson requesting that House Island be nominated as a local historic district. (See Attachment 3.) The letters were distributed to the

members of the Historic Preservation Board as a communication at their meeting later that day. At the Board's next scheduled meeting (July 16), Board members Penny Pollard and Bruce Wood distributed a letter to the full Board, formally nominating House Island for consideration as a local historic district. (The ordinance stipulates that district nominations must be initiated by any two members of the Historic Preservation Board or by written petition by one or more owners of affected property in the proposed district, provided two or more members of the Board sponsor the petition.)

Following the nomination, a detailed report was prepared by Julie Larry of ttl-architects documenting the multi-layered history and architecture of House Island. The report also included an analysis of House Island's significance and level of integrity, specifically addressing the designation criteria included in Portland's historic preservation ordinance. Staff reviewed the report and found that it constituted a "complete nomination" for purposes of considering the merits of designation.

On August 6th, an initial workshop was held on the proposed designation. Julie Larry of ttl-architects was invited to make a powerpoint presentation based on her written report. Ms. Larry reviewed the long history of development on House Island and the various key roles it has played over time. Using historic and recent photographs, she described the numerous extant structures and sites on the island that document various periods of its history and the specific activities that it has supported. Finally, Ms. Larry presented her findings as to the relative significance of House Island within the context of the history of Portland and beyond.

This informational workshop was followed by a site visit on September 3rd. Accompanied by property owner Michael Scarks and City staff, members of the Historic Preservation Board toured the entire island, reviewing the specific historic resources identified in Ms. Larry's report. Visiting the property was critical to the Board's deliberations as it provided an opportunity to observe the current condition of the sites, structures and objects within the proposed district. In order for the Board to address the question of *integrity* as defined in the historic preservation ordinance, it was essential to review the historic resources first hand. The site visit also provided Board members with the opportunity to decide whether the designation classifications (Landmark, Contributing, Non-contributing) recommended by the consultant for each site, structure and object within the district boundaries were appropriate. The site visit allowed Board members to observe the overall visual character of the island, the spatial and scale relationship between the individual structures on it and the visual relationship between the north and south ends of the island. Finally the site visit, which concluded with a boat tour around the entire perimeter of the island, provided Board members with an opportunity to observe available views of the island and its built resources from the water and other islands within Casco Bay and understand its role as a key character-defining feature of the bay.

ATTACHMENTS

1. Excerpts from historic preservation ordinance (Article IX) applicable to the nomination and designation of historic resources, including designation criteria
2. *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District*, prepared by Julie Larry, ttl-architects
3. Original petition letters from Greater Portland Landmarks and Jo Israelson requesting that the Historic Preservation Board nominate House Island as a local historic district
4. Compilation of Written Public Comment

ATTACHMENT
1

(s) To annually report to the council with following matters:

1. Survey work in progress or completed;
2. The number of projects reviewed (by type);
3. How many certificates of each type were issued.

(Ord. No. 235-90; 2-26-90; Ord. No. 165-08/09, 3-16-09)

DIVISION 3. CATEGORIES AND CRITERIA FOR DESIGNATION

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

- (1) Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States;
- (2) Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;
- (3) Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;
- (4) Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;
- (5) Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or
- (6) Its representation of a significant cultural, historic,

architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be contiguous.

(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States.

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of the city.

(Ord. No. 235-90, 2-26-90)

Sec. 14-611. Integrity of landmarks and historic districts.

Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration.

(Ord. No. 235-90, 2-26-90)

Sec. 14-612. Designation of historic landscape districts.

An historic landscape district may be nominated and considered for designation only if the entire area of the district is owned by a unit of federal, state or local government, or any combination of such ownership.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 2, 5-17-93)

Sec. 14-613. Reserved.

DIVISION 4. NOMINATION, CONSIDERATION AND DESIGNATION

Sec. 14-614. Procedure.

The provision of this division shall govern the nomination, consideration and designation of landmarks and districts.
(Ord. No. 235-90, 2-26-90)

Sec. 14-615. Initiation of nomination.

(a) Nomination of an area, site, structure or object for consideration of designation as a landmark, historic district or historic landscape district shall be submitted to the department, on a form provided by the department, by the following:

- (1) Any two (2) members of the historic preservation board on their own initiative, by written notice to the department; or
- (2) By written petition of any owner, in the case of a landmark; or
- (3) By written petition of one (1) or more owners of affected property in the case of a district; provided two (2) members of the historic preservation board must sponsor the petition.

(b) A nomination shall be completed and filed with the department with all required signatures and any fees specified therefore for the nomination to be pending.

(c) Upon nomination, the department shall notify the owner or owners of the nomination and shall transmit the nomination to the historic preservation board for its consideration at its next scheduled meeting, which in no event shall be held later than thirty (30) days following nomination.

(d) At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the historic preservation board for a determination that the structure to be demolished is noncontributing and eligible for a demolition permit. The determination of the historic preservation board that the structure is eligible for a permit shall be conclusive.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-616. Notification of nomination and public hearing.

(a) A public hearing on the nomination shall be held by the historic preservation board within thirty (30) days following the first scheduled meeting referred to in section 14-615(c), but in no event later than sixty (60) days following receipt of the completed nomination form by the department. Notice of the nomination and of the public hearing shall be in accordance with the procedures for public hearings before the planning board for site plan approval.

(b) The hearing shall be conducted in accordance with procedures adopted by the historic preservation board. The historic preservation board shall consider all testimony or evidence relating to the designation criteria in division 3 from any person who makes written submissions or appears at the public hearing. Historic preservation board members may also present testimony or make submissions. The owner of a nominated landmark or of property within a nominated district shall be allowed reasonable opportunity to present testimony or evidence concerning the applicability of the designation criteria in division 3.

(Ord. No. 235-90, 2-26-90)

Sec. 14-617. Recommendation by historic preservation board

Within thirty (30) days following the close of the public hearing, the historic preservation board shall make recommendation to the council in the case of a landmark, or to the planning board in the case of a district, upon the evidence as to whether the nominated landmark or district meets the criteria for designation in division 3. Such recommendation shall be approved by at least four (4) members of the historic preservation board and shall be accompanied by a report to the council or planning board containing the following information:

- (a) Explanation of the significance or lack of significance of the nominated landmark or district as it relates to the criteria for designation.
- (b) Explanation of the integrity or lack of integrity of a nominated landmark or historic district.
- (c) Proposed design guidelines for review of alteration or construction. The specific design guidelines may provide explanation by text and/or schematic examples of visual compatibility for purposes of division 7.
- (d) Relationship of the nominated landmark or district to the ongoing effort by the committee to identify and nominate

all potential areas, sites, structures and objects that meet the criteria for designation.

- (e) A map showing the location of the nominated landmark and the boundaries of the nominated district.
- (f) A list, including the address, of every site, structure and object in each nominated historic district indicating their degree of cultural, historic, architectural or archeological significance by classification as of a landmark or contributing significance.

Where a motion either in favor of a recommendation or in opposition to a recommendation results in a vote of fewer than four (4) members, the item shall automatically be tabled to the next regularly scheduled meeting.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 3, 5-17-93)

Sec. 14-618. Reserved.

Sec. 14-619. Notification of historic preservation board recommendation.

(a) The recommendation of the historic preservation board, including a copy of the report, shall be transmitted to the city council in the case of a landmark and to the planning board in the case of a district. Notice of the recommendation shall be sent by mail to the owner of a nominated landmark and to all owners within a nominated district within ten (10) business days following adoption of the recommendation and report.

(b) If the recommendation of the historic preservation board is that the property or district not be designated, the nomination process shall terminate and no new nomination shall be submitted for the identical property or area for a period of one (1) year from the date of termination, except upon a showing of substantial and material newly discovered information.

(Ord. No. 235-90, 2-26-90)

Sec. 14-620. Determination by planning board.

(a) The planning board, upon receipt of a recommendation and a report from the historic preservation board concerning nomination of a district, may hold a workshop meeting pursuant to the provisions of section 14-26. After review of the historic preservation board recommendation and report, the planning board shall hold a public hearing.

(b) All meetings, hearings and deliberations of the planning board to consider the recommendation and report of the historic preservation board shall be held in conformity with sections 14-24 through 14-28.

(c) The planning board may request the chair of the historic preservation board, or a member designated by the chair, to appear at any meeting, hearing or deliberation to explain any recommendation or report.

(d) The planning board shall make its final determination including written findings as to whether the nominated district meets the criteria for designation in division 3 within forty-five (45) days following receipt of the recommendation and report from the historic preservation board. A copy of the determination of the planning board shall be sent by regular mail to all owners within a nominated district within ten (10) business days following the determination.

(Ord. No. 235-90, 2-26-90)

Sec. 14-621. Planning board recommendation to city council.

The recommendation of the planning board regarding a nominated district shall be filed with the city clerk within ten (10) business days. It shall be accompanied by a copy of the report and recommendation of the historic preservation board and, in the case of a recommendation that the council designate, a draft of a proposed designation ordinance, including any proposed design guidelines for review of alteration, construction, removal or demolition. The recommendation of the planning board may include proposed changes in other city ordinances, policies, infrastructure, or recommendations with respect to the comprehensive plan of the city relating to the proposed designation.

(Ord. No. 235-90, 2-26-90)

Sec. 14-622. Action by the city council.

(a) Within sixty (60) days after the filing of a recommendation on the nomination with the city clerk pursuant to section 14-620, the council shall designate the landmark or district or reject designation. Any designation ordinance may include design guidelines for the designated landmark or district.

(b) Designation of a district shall be accompanied by a list, including the address, of every site, structure and object in the district which is determined to be a landmark or considered to be

contributing or noncontributing, indicating their degree of cultural, historic, architectural or archeological significance.. This list may be amended thereafter by the council upon recommendation from the planning board under the same procedures as set forth above. Where there are no express findings by the council in the designation ordinance, there shall be a presumption that the council found that all requirements of sections 14-610 and 14-611 were met.

(c) Notice of the proposed action of the council shall be provided by mail to the nominator and the owner of the nominated landmark and/or of all properties adjacent thereto prior to council action. The notice shall include a copy of the resolution or designation ordinance and design guidelines.

(d) Notice of council action to the same persons shall be sent within ten business days following the council action. A copy of each designation ordinance and design guidelines shall be sent to the planning board, the historic preservation board and the department. A complete schedule of all landmarks and districts, including design guidelines and a listing of landmark and contributing structures, shall be maintained by the department as part of the design manual and shall be available for public inspection and copying during ordinary business hours.
(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-623. Amendment and rescission of designation

Amendment and rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the council, and shall follow the procedure set forth in division 4 for designation. The council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the committee, planning board and council shall be limited to those provided in section 14-610(a) and section 14-611. Amendments may include refinement or correction of design guidelines, maps, and other parts of any designation ordinance.
(Ord. No. 235-90, 2-26-90)

Sec. 14-624. Reserved.

Sec. 14-625. Reserved.

*Editor's note - Order No. 197-03/04 adopted 9/8/04, repealed §14-625 Projects of Special Merit in its entirety.

Sec. 14-626. Reserved.

Sec. 14-627. Reserved.

Sec. 14-628. Time limits.

(a) Any time limit specified for any step in the process for nomination or designation of a landmark may be extended with the consent of the property owner.

(b) Any time limit specified for any step in the process for nomination or designation of a district may be extended where at least ten (10) percent of the owners of property within the boundaries of the proposed district have given written consent to the extension.

(c) Failure to comply with any time limit in the nomination and designation process as provided in divisions 3 or 4 shall not affect the validity of any designation nor the interim protection provided by division 5.

(Ord. No. 235-90, 2-26-90)

Sec. 14-629. Reserved.

DIVISION 5 INTERIM PROTECTION FOR NOMINATIONS

Sec. 14-630. Nominated landmarks and districts.

(a) From the time of nomination until the historic preservation board acts upon such nomination, a site, structure, object or area nominated but not yet designated as a landmark or district shall be subject to all of the provisions of divisions 8 and 10 governing demolition and minimum maintenance, to the same extent as if designated. Upon final action of the historic preservation board recommending designation, the site, structure, object or area nominated shall be subject to all of the protection of this article until a final decision on designation by the council becomes effective. If the council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of divisions 8 and 10 of this article.

(b) Alteration or new construction commenced pursuant to a building permit issued prior to nomination shall not require a certificate of appropriateness, unless such permit has expired, been canceled or revoked. No project for which any application is pending, and which has received substantive review by the planning

board prior to nomination, shall be affected by nomination. Substantive review, as used in this paragraph, shall include workshop review of any completed application under articles IV or V of this chapter.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 4, 5-17-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-631. National Register of Historic Places

(a) Every property, landmark or district listed in the National Register of Historic Places prior to adoption of this article, as shown in the design manual, is hereby designated as a landmark or district and shall be subject to all of the protection of this article, until such time as such designation is amended or rescinded as provided by section 14-623. Listed properties which would qualify for designation as historic landscape districts shall be subject to the applicable provisions of this article. If there is any inconsistency between the boundaries of any landmark or district as shown in the designation ordinance, if any, the design manual and/or the National Register, such inconsistency shall be resolved in favor of such ordinance and the design manual in that order. A certificate of appropriateness shall be obtained for every alteration or new construction affecting said listed properties and districts.

(b) Upon notice to the city that a property or area has been listed in the National Register after the adoption of this article, a nomination shall be deemed submitted to the historic preservation board for designation of such property or area as a landmark, historic district or historic landscape district under this article, and the procedures of this division shall be applicable thereto.
(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-632. Properties eligible for listing on National Register or for local designation.

A certificate of economic hardship shall be obtained prior to demolition of any structure which has not been designated in accordance with this article but which is eligible for listing on the National Register of Historic Places under the criteria established by 16 U.S.C. Section 470(a) or its successor statute and/or regulations made thereunder or which is eligible for local listing under the criteria for designation of this article. The determination of eligibility for listing shall be made by the department, which may refer such a determination to the historic preservation board, and by the board of appeals if an appeal is taken. Upon determination of eligibility, the structure so

determined shall also be subject to the provisions of division 10 until a final decision by the council on designation becomes effective. If the council rejects designation or fails to designate a structure which has been determined to be eligible under the terms of this section, that structure shall no longer be subject to the provisions of divisions 8 and 10 of this article.
(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 5, 5-17-93)

Sec. 14-633 Reserved

DIVISION 6. CERTIFICATES OF APPROPRIATENESS AND NONAPPLICABILITY

Sec. 14-634. Certificate of appropriateness required.

(a) Except as provided in sections 14-635 and 14-636, a certificate of appropriateness shall be required before the following actions affecting any landmark, contributing or noncontributing structures, objects, sites or property in a district may be undertaken and shall be a condition precedent to the issuance of any permit authorizing such work:

- (1) Any exterior alteration or new construction requiring a building permit from the City of Portland, including, but not limited to the following:
 - a. Removal and replacement of architectural detailing including, but not limited to, porch spindles and columns, railings, window moldings and cornices;
 - b. Moving of structures or objects on the same site or to another site;
 - c. Construction of rooftop additions or decks;
 - d. Alteration of accessory structures such as garages;
 - e. Porch replacement or new construction of porches;
 - f. Installation of exterior access stairs;
 - g. Window or door replacement requiring enlargement of openings;
 - h. Installation of antennas and satellite receiving dishes;

House Island, Portland, ME Analysis of Eligibility as a Local Historic District

By ttl-architects, LLC

30 July 2014

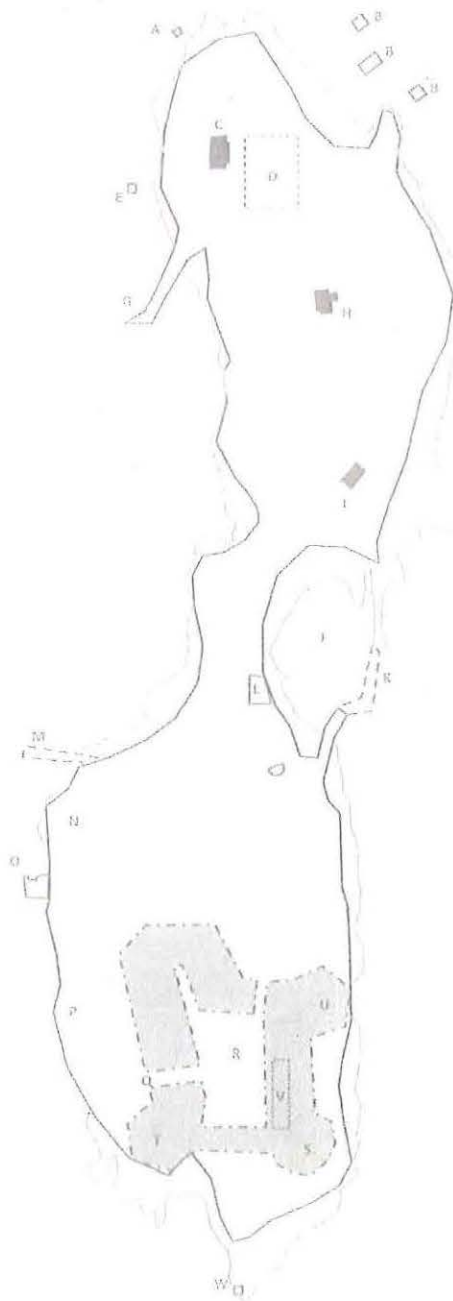


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SUMMARY DESCRIPTION OF A POTENTIAL HOUSE ISLAND HISTORIC DISTRICT

House Island is a 24 acre island just off the coast of Portland on the north side of the entrance to Portland Harbor between Cushing Island and Fort Gorges. The potential House Island Historic District includes Fort Scammell, three 1907 buildings and a pump station associated with the US Hospital, Quarantine and Immigration Station, cut granite wharves, the remains of a late 19th century lobster pound, a cemetery, the site of the City of Portland's Inspection Station, and two United States Coast Guard markers. Fort Scammell on House Island has been identified as eligible for listing on the National Register of Historic Places by the City of Portland.

House Island has a long history of use as a center for fishing, for military fortifications and as a site for processing immigrants into the United States in the late nineteenth and early 20th centuries. After the United States government's sale of the island following World War II, the island has been privately owned by one family until its sale in 2014.



SUMMARY STATEMENTS ADDRESSING THE CITY OF PORTLAND'S MINIMUM CRITERIA STANDARDS FOR DESIGNATION AS A LOCAL HISTORIC DISTRICT

House Island meets the minimum criteria standards for designation as a local historic district as defined in Sec. 14-610 of the City of Portland's Historic Preservation Ordinance and summarized below:

Sec. 14-610.a.1 - Value as a significant example of the cultural, historic, architectural, archaeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States.

The potential historic district provides a unique state and local example of the social history surrounding immigration in the United States in the late 19th and early 20th centuries, particularly the public health laws for immigrants from foreign ports and the immigration laws of the early 20th century which established quotas for entry into the United States. The extant United States Hospital, Quarantine and Immigration Station facilities on the north half of House Island assumed the functions previously administered at the City of Portland's Inspection Station located on the Fort Scammell military reservation. The site and extant above ground resources are significant at the local, state, and national level for their association with United States immigration policy and processing operations.

The potential historic district is also significant in the area of maritime history and commerce as it is a district that represents the local economic, cultural and social importance of fishing on Maine's islands. Although few remains of its fishing past are located on the island, just offshore on the northeast end of the island are the remains of three early 19th early century wharves used by the island's fish curing businesses. The wharves and the remains of the c1889 lobster pound in Lobster Pound Cove provide evidence of the island's importance in the local fishing economy.

Fort Scammell is significant as one of the major fortifications of the Federal strategy to protect coastal cities leading up to the War of 1812 and again during the Civil War. Because of its location, Fort Scammell, along with Fort Gorges and Fort Preble, was a critical element in the defense of the entrance to Portland Harbor. Built in 1808 as a second system fort with a blockhouse, the extant fort structures are the result of a redesign of the fort from 1862-1870 to conform to national third system fortification designs. The site and extant above ground resources are significant at the local, state, and national level for their role in the United States' design and strategy for coastal defenses.

Although no professional archeological investigations have been undertaken on House Island, other islands in Casco Bay have yielded artifacts 2000-4000 years old, evidence of Native American use of the islands for hunting, fishing, and gathering and House Island may have the potential to yield information on its use by native Americans. In addition, there is potential to yield information on the historic use of the island during the period 1623-1808 when the island was used primarily for fishing and farming. The island is locally and regionally significant for its potential ability to expand the archeological database for the late Ceramic period in Casco

Bay, and to develop a more comprehensive understanding of island life from pre-contact into the early 19th century.

Sec. 14-610.a.2 - Location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structures on the property.

The potential district has been the site of events that have had an important impact on the region as a whole from the mid nineteenth century through the early twentieth century. The remaining resources associated with the United States Hospital, Quarantine, and Immigration Station provide a unique national, state and local example of immigration processing operations.

Additionally, the potential historic district is also significant in the area of maritime history and commerce as an example of the local economic, cultural and social importance of fishing on Maine's islands. The early nineteenth century granite wharves and the remains of the c1889 lobster pound provide evidence of the island's importance in the local fishing economy. The lobster pound provides evidence of the ingenuity of Maine's lobster merchants to regulate supply and pricing for their product, a site significant to the lobster fishery's rise to prominence in Maine, and is an early example of this type of enclosure in Maine.

Sec. 14-610.a.3 - Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archaeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States.

As the site of Portland's Inspection and Quarantine Station, House Island served as a port of entry for European immigrants arriving in New England in the late 19th century to work in area mills, to immigrate to the western states, or to immigrate north into Canada via the St. Lawrence and Atlantic Railroad. In the 20th century the United States Hospital, Quarantine and Immigration Station on House Island served as an alternative quarantine and inspection station to heavily used federal facilities in Boston and New York. The site and extant above ground resources are significant at the local, state, and national level for their association with European immigration to the United States in the late 19th and early 20th centuries.

In addition, Fort Scammell is significant for its association with Army Engineer Thomas Lincoln Casey (1831-1896). Casey oversaw construction on coastal fortifications in Maine, including Fort Knox, Fort Preble, Fort Scammell, and Fort Gorges. He oversaw the Washington Monument construction 1879-1888, was the engineer of the Thomas Jefferson Building at the Library of Congress, and served as the Chief of Engineers for the United States Army Corps of Engineers from 1888-1895.

Sec. 14-610.a.4 - Exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design detail, materials or craftsmanship.

Fort Scammell is significant as one of the major fortifications of the Federal strategy to protect coastal cities from 1807-1918 and as example of a mid-nineteenth century fortification known for its design and engineering. Begun in 1808, the second system fortifications were altered and the block house removed to conform to national third system fortification designs 1862-1870. The fort was also slightly altered again in the 1890s during a massive construction and modernization program with a focus on concrete fortifications, the installation of large caliber breech loading artillery, and the installation of mine fields, with smaller guns employed to protect mine fields from mine sweeping vessels. During this period Fort Scammell's East Battery was equipped to control a minefield in Whitehead Passage and the fort was upgraded with 15-inch Rodman cannons. During World War One concrete bases for three-inch anti-aircraft guns were built on the South and East Batteries, but no guns were installed.

In addition the Acadian Revival style of the Small Detention Barracks and the Quarantine Hospital are locally unique examples of this style of architecture.

Sec. 14-610.a.5 - Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, State of Maine, New England region, or the United States.

Fort Scammell is significant for its association with Army Engineer Thomas Lincoln Casey (1831-1896). Casey oversaw construction on coastal fortifications in Maine, including Fort Knox, Fort Preble, Fort Scammell, and Fort Gorges. He oversaw the Washington Monument construction 1879-1888, was the engineer of the Thomas Jefferson Building at the Library of Congress, and served as the Chief of Engineers for the United States Army Corps of Engineers from 1888-1895.

Sec. 14-610.a.6 - Representation of a significant example of the cultural, historic, architectural, archaeological or related theme expressed through distinctive areas, sites, structures, or objects.

The potential district is significant in the area of Military History. Fort Scammell is significant as one of the major fortifications of the Federal strategy to protect coastal cities from 1807-1918. Because of its location, Fort Scammell, along with Fort Gorges and Fort Preble, was a critical element in the defense of the entrance to Portland Harbor in the 19th century and early 20th century. Fort Scammell was determined eligible for listing on the National Register of Historic Places by the City of Portland. Fort Gorges was listed on the National Register of Historic Places in 1973 and is a city designated landmark.

Although no professional archeological investigations have been undertaken on House Island, other islands in Casco Bay have yielded artifacts 2000-4000 years old,

evidence of Native American use of the islands for hunting, fishing, and gathering. The island has a strong likelihood to yield important information about Native American lifeways over a broad period, the early settlement of the island, and use of the island for marine trade. During the period 1623-1808 when the island was used primarily for fishing and farming there were numerous fish houses, flakes¹, outbuildings, and two dwellings on the island as well as the extant remains of the wharves on the northeast end of the island and the lobster pound in the cove on the east side of the island. The island is locally and regionally significant for its potential as a source for artifacts and information to expand the archeological database for the late Ceramic period in Casco Bay, and to develop a more comprehensive understanding of island life from pre-contact into the early 19th century.

HISTORIC CONTEXT

Native American Occupation

Native American occupation of Casco Bay likely began 12,000 years ago, although sea level changes are believed to have washed away evidence of early human presence. There have been no archeological investigations of House Island, although other islands in Casco Bay have yielded artifacts 2000-4000 years old, evidence of Native American use of the Casco Bay islands for hunting, fishing, and gathering. A potential House Island Historic District has a strong likelihood to yield important information about Native American use over a broad period.²

Early European Settlement, c1600-1675

House Island may have been occupied by European settlers as early as 1623 when Christopher Leavitt was granted six thousand acres including the islands of Casco Bay by King Charles I of England. Although Leavitt and his men may have established a trading center on House Island for commerce with the Wabanaki,³ the earliest documented structure on the island is a house transferred in a 1661 deed from Nicholas White to John Breme, along with a right for White's fish business. In the first few decades of European settlement the island was inhabited principally by fisherman, with some subsistence farming, and was the site of active fish curing, and possibly fish trading, businesses.

¹Wood framed structures for drying fish.

² An undated article clipping in the files at Greater Portland Landmarks indicates that in 1845, during construction on Fort Scammell, a Native American gravesite was discovered, although there is no indication what happen to the remains that were uncovered.

³Conforti, Joseph A. ed. "Creating Portland: A History and Place in Northern New England. Lebanon, NH: University Press of New England, 2005.

Indian Wars, 1676-1715

The French and Indian Wars were a series of conflicts that were part of a larger colonial struggle between France and England that lasted three quarters of a century. The settlement on the Portland peninsula, then known as Casco, was destroyed in 1676 during King Phillips War or the First Indian War (1675-1678). After the Treaty of Casco in April of 1678, Portland was resettled.

In September of 1689, during a conflict known as King William's War (1689-1697), 200 Norridgewock, Penobscot, and Canadian Indians gathered on Peaks Island and attacked European settlements in Back Cove. While the September attackers were driven off, a second attack in the spring of 1690 forced the surrender of Fort Loyal near the foot of India Street. The settlement at Portland was burned and European settlers were killed or taken prisoner. Although there was some resettlement in Casco Bay, principally at Spring Point in South Portland, these settlers were driven out after an attack in August of 1703⁴. The area was not substantially resettled until the close of Queen Anne's War (1702-1713) after the 1713 Treaty of Portsmouth ended hostilities between England and France. By 1715 Portland, then known as Falmouth, was resettled. House Island, like most of the area, was mostly unsettled from 1676-1715.

During this turbulent period, House Island was owned by George Munjoy, owner of the eastern end of the Portland peninsula and Peaks Island, and his family. Munjoy acquired a fourth interest in House Island in 1663 and eventually acquired the rights to the whole island. His garrisoned dwelling at the corner of Fore and Mountfort Streets on the peninsula was demolished in 1676. Deeds indicate there were two houses, an old house and a new house, on the island at this time, although they were likely demolished or deteriorated substantially during the period of abandonment. After his death in 1680, his ownership of the island was affirmed by the provincial authorities and deeded to his widow, although she seems to have resided in Boston during the conflicts.

Resettlement Period, 1715-1750

As the Casco Bay area was resettled after the cessation of hostilities, House Island was owned in part by various fisherman, farmers, and businessmen; no one owner possessed a right to the entire island. For most of this period of European resettlement the island was the site of fish curing businesses. There are no known remains of this period of resettlement on House Island. Archeological investigations might yield information on island life in the 18th century as deeds indicate dwellings were present on the island during this time.

⁴Goold, Nathan. *A History of Peaks Island and Its People: Also a Short History of House Island*. Portland, ME: Lakeside Press, 1897.

Nineteenth Century Fish Curing Yard and Lobster Pound

In 1801 the island was acquired by John Walden Green of Salem, a fisherman and farmer. He built a dwelling upon the island, no longer extant. He sold the southern half of the island, twenty-acres, to the US Government in 1808.

For most of the 19th century the northern portion of the island was owned by members of the Trefethen and Starling families. In 1822 John Starling [Sterling]⁵ (1785-1870) acquired one half of the north part of the island and moved to the island with his wife Patience Bowe [Browne]. In 1823 his cousin Henry Trefethen III (1797-1880) acquired title to the other half of the north end of the island, and moved to the island from Monhegan. The two families lived on the island in a two family house (See images). The Starling and Trefethen families fished and cured their catches in large flake yards.⁵ (See images).

Besides the two-family dwelling house the Starling and Trefethen families had fishing sheds and piers on the eastern side of the island. Although the wooden outbuildings are no longer extant, three large stone piers of cut granite that formed the bases of the wharves are extant. The families also laid out a cemetery near the middle of the island overlooking Lobster Pound Cove. The cemetery's oldest grave is William Hogart (c1777-1822).

Information from the Cushing family, owners of the island in the second half of the 20th century, dates the use of the cove on the east side of the island as a lobster pound to the 1850s. *Maine's Sea Fisheries* and the history of lobster pounds in Maine indicate the establishment of the lobster pound was probably closer to 1889 when Howard H. Trefethen established his wholesale lobster business.

Prior to 1880 lobstering in Maine was largely irrelevant to Maine's economy, ranking sixth in pounds landed behind cod, herring, mackerel, hake, and haddock. In the 1880s lobsters quickly became the most valuable catch in Maine's fisheries driven in part by the rise of Maine as a tourist destination and the ability to transport fresh lobster to urban markets. The lobster catch in Maine grew from 14 million pounds in 1880 to 25 million pounds in 1889. The value of the catch increased from \$269,000 in 1880 to \$574,000 in 1889. By 1900 the lobsters were Maine's most valuable catch worth approximately \$1 million dollars. As the value of the catch and demand for lobsters increased the number of lobsterman increased as well from less than 200 in 1876 to 3,304 in 1898. Lobster for delivery out of state was initially canned locally,

⁵ The *Maine Register or State Year-book and Legislative Manual* of 1889 indicates that Alpheus G. Sterling and Charles & Henry Trefethen were fish curers and fish wholesalers on House Island. Alpheus, the youngest son of John Starling, inherited the Starling family share of the island. In 1888 deeds indicate Alpheus sold the Trefethens the right to use the water in the eastern cove for a lobster pound. Other fisherman from the island include Henry Trefethen III's nephew George Trefethen, Jr. who sold dry, smoked and pickled fish at 6 Commercial Wharf. George's brother John Waterman Trefethen was a wholesale and retail dealer in fresh and pickled fish on the east end of Commercial Wharf in Portland.

but was quickly replaced by fresh shipment after 1885 with the development of lobster pounds along the coast.⁶

Lobstering in Maine was a seasonal business, with trapping occurring in March-July and October-December. The steady demand and seasonal supply resulted in low prices when lobsters were readily available and high prices when there were fewer lobsters available for market. In an effort to hold lobsters captive for sale out of season, a lobster pound was created in 1875 by Johnson & Young of Boston in a nine-acre bay along the coast of Vinalhaven, using a natural shoal with a wire fence across the top. By 1890, there were three lobster pounds in Maine, including the lobster pound on House Island. By 1898, the House Island lobster pound was one of nine pounds along the Maine Coast.

In 1889 Howard H. Trefethen, grandson of Henry Trefethen III, entered the wholesale lobster business becoming one of three principals in Holbrook, Trefethen & Harvey, wholesalers in live, boiled and pickled lobster on Long Wharf. A business journal notes in 1891 Holbrook, Trefethen & Harvey had a pound on the island. The pound was located in a cove on the east side of the island, now known as Lobster Pound Cove (See images). Two natural rock ledges were extended by a granite wall topped with a short weir to enclose the cove and create a containment pond for the lobsters. Historic photographs show a small gable building at the northern end of the wall. The fish house was likely used for the storage of lobster feed, for packing the lobsters, and for the storage of gear, usually nets or seines, used to harvest the lobsters from the pound. In the 19th century, Howard's cousin, Newell Fales Trefethen, continued the family's involvement with wholesale lobstering, operating a lobster business in Portland. He moved his lobster house, N.F. Trefethen Co. from Portland Pier to Customs House Wharf, building a two story lobster house.⁷ He also operated a lobster pound in South Bristol, Maine. His uncle, George Trefethen Jr worked with him at N.F. Trefethen Co.

Military Ownership, 1808-World War II

Second Systems Forts and the War of 1812

In 1807 the English ban on US trade with France and concerns in the United States over British aggression toward the country's coastal cities and sailing vessels prompted President Jefferson to renew the country's fortification program. Forts built during this period were known as second system forts. Second system forts were built with engineers from the US Military Academy at West Point, a corps program established in 1802 to cut the country's reliance on foreign engineering. Second system forts in Maine include: Fort Sullivan in Eastport (1808), Fort at Machias in Machiasport (1808), Fort Penobscot (1808), Fort at Castine (1808), Fort at Fort Island⁸ in Boothbay (1808), Fort Edgecomb (1808), Fort at Kennebec in Georgetown

⁶ O'Leary, Wayne. *Maine's Sea Fisheries: The Rise and Fall of a Native Industry, 1830-1890*. Boston: Northeastern University Press, 1996. Page 258.

⁷ See 1924 tax photo, Item No 86340.

⁸ Also known as Damariscotta Battery. The island is also known as Webber Island.

(1808), Fort at St. George (1808), Fort Scammell (1808), Fort Preble in South Portland (1808), and Fort McClary at Kittery Point (1808). In addition Fort Sumner in Portland (1794) was altered in 1808 with the addition of a brick gun house and water battery.

Fort Scammell was named in honor of Alexander Scammell (1747-1781), adjutant general of the Continental Army in the Revolutionary War. He was killed in action during the Battle of Yorktown. Construction of the fort was overseen by Henry Alexander Scammell Dearborn (1783-1851) a Portland lawyer and son of Major General Henry Dearborn. General Dearborn was a former Secretary of War and served in Alexander Scammell's regiment. Henry Dearborn acting as the Agent of Fortifications also oversaw construction in 1808 of Fort Preble across the harbor entrance in South Portland.

Fort Scammell initially consisted of a semi-circular fort. The fort overlooked the harbor entrance and was built of stone, brick, and sod a portion of the brick has been exposed (Image). In the center of the fort was the Powder Magazine. To the north of the magazine was an octagonal blockhouse. The block house had six guns located on the upper floor. The building was also used as a barracks. To the east of the blockhouse was a Brick Furnace to heat the shot before loading into the cannons. The fort was equipped with eleven 24 and 32-pounder mounted cannons. The rear (north) wall of the fort was a wooden stockade that bisected the wooden blockhouse.

In June of 1812 the United States declared war on England. Fort Scammell was garrisoned during the War of 1812 (1812-1814), but the fort's guns only fired once in August of 1813 on a British Privateer beyond Whitehead Passage. A month later in September 1813 a British Flag of Truce party landed at the Fort to negotiate for the release of British prisoners from the *HBM Brig Boxer* captured after a battle with the *US Brig Enterprize* off Pemaquid Point on 5 September 1813.

Near the end of the war in October of 1814 an exterior battery was completed on the north end of fort. The exterior battery was designed and engineered by Major Daniel Lane of the 33rd Regiment Infantry of Maine.⁹ The detached gun battery overlooked the northern end of the island and protected the rear of the fort from a landward attack.

Third Systems Forts

In 1816 Congress appropriated \$800K to improve the country's seacoast defensive system. Without the threat of war, construction projects moved slowly. Fort Preble and Fort Scammell were the only two Maine second system forts altered in the 1840s and 1850s. Fort Scammell was altered in the 1840s when earthen walls were extended east and west of the semi-circular fort for gun mounts. The walls were extended in the 1850s to encompass the gun battery. Forts built or altered after the War of 1812 are known as Third System forts. Third System forts are large brick or stone forts with multiple tiers of gun batteries built on promontories or on islands at choke points to important harbor entrances with earth covered batteries open to the

⁹ Information courtesy of Kenneth E Thompson, Jr.

rear and concrete magazines to store powder and ammunition. Third System forts in Maine include: Fort Knox in Prospect (1844-1869), Fort Popham in Phippsburg (1862-1870), Fort Gorges in Portland (1861-1870), New Fort Scammell (1862-1870), New Fort Preble in South Portland (1863-1870), and New Fort McClary in Kittery Point (1863-1870).

Thomas Lincoln Casey (1831-1896) was a West Point graduate, Class of 1852. He was assigned to the Corps of Engineers and taught engineering at West Point 1854-1859. In the 1860s he was assigned to Maine to oversee construction of Fort Knox, Fort Gorges, New Fort Scammell, and New Fort Preble. After the Civil War he was assigned to oversee construction on the Washington Monument 1879-1888. He served as the Chief of Engineers for the US Army Corps of Engineers 1888-1895 and was the engineer for the Library of Congress' Thomas Jefferson Building (1890-1897).

During the 1862 construction at Fort Scammell, a two-story granite bastion was built on the east side of the 1850s earthen walls and a one-story granite bastion was built on the west side near the end of the 1840s earthen wall extension. The enclosed bastions were equipped with 10-inch guns.¹⁰ Tunnels from the parade ground provide access the enclosed interior. A proposed granite bastion to the north was not built, although the tunnel from the parade ground was constructed. Typical of 19th century fortifications, each bastion was planned to have multiple tiers of casemates and a barbette tier on the top.

The granite for Fort Scammell was quarried on Mount Waldo and brought by stone sloops to the island. Wharves on the west side of the island were constructed for the off-loading of the granite, as was a stone cutting shed. Granite was unloaded and moved using block and tackle. Not only was the granite for Fort Scammell prepared on House Island, but also the granite for Fort Gorges and Fort Preble. A field of cut and uncut granite is extant just to the north of the stone wharf. A second field of granite is located the fort north of the east bastion. The granite blocks were moved from the cutting area by the wharf to the east bastion by way of a short narrow gauge railroad. A small area of narrow gauge tracks leading to the mixer have been uncovered.¹¹ A mound near the center of the parade ground is the remains of the foundation of a large concrete mixer. The mixer took 26 men to operate. Concrete was also brought onto the island in barrels. "A solidified chunk of concrete with the marking of wood barrel staves that have rotted away is located in the gallery of the East Battery."¹²

¹⁰ Although Third System forts generally have batteries open to the rear, similar to Fort Gorges and Fort Popham, Fort Scammell's batteries are enclosed. At Fort Scammell, tunnels were constructed to connect the interior of each battery to the parade ground in the center of the fort. Smoke produced by the firing cannons was vented through flues built into the walls.

¹¹ A group including members of the Coast Defense Study Group, Portland Harbor Museum, and Kenneth E Thompson, Jr. undertook to clear some of the overgrowth within and around the fort and uncovered a section of the tracks.

¹² From the Fort Scammell Tour published by Portland Discovery Land and Sea Tours, 2012.

By 1870 the fort was modified to accept 13-inch guns on barbette emplacements as well as at the top of the two granite bastions. In the mid 1860s the wooden blockhouse was removed and a large gunpowder magazine built near the tunnel entrance to the east bastion. Work on the fort was halted by a federal funding freeze on coastal defense projects in the late 1870s. With the abandonment of the construction of the North Bastion, construction at Fort Scammell relatively complete.

Endicott Period/ Board of Fortification: 1890-1910

In 1885 President Cleveland appointed a joint military and civilian board led by William Crowninshield Endicott, then Secretary of War, to assess the country's coastal defenses. The Board of Fortifications recommended a massive construction and modernization program with a focus on concrete fortifications and installation of large caliber breech loading artillery and mortar batteries with open topped concrete walls protected by earthworks. The program also included the use of mine fields, with smaller guns employed to protect the mine fields from mine sweeping vessels.

Spanish-American War

In 1890 Fort Scammell was altered to accommodate the larger 15-inch Rodman cannons and the east battery was used to control a minefield established in Whitehead Passage. In 1898 as a temporary measure, two old rebored 15-inch Rodman cannons were mounted on Fort Scammell on the east side of the fort. Despite this small improvement, Fort Scammell's days were drawing to a close. In 1903 the fort was listed as without armament and was not garrisoned. Although concrete bases for three-inch anti-aircraft guns were built on south and east batteries during World War One in 1918, no guns were installed.

Quarantine Stations& Immigration, 1892-1937

In the eighteenth and nineteenth centuries in order to prevent the entry and spread of infectious diseases, vessels suspected of having contagious diseases could be stopped and quarantined. Initially, this was done on a port by port basis, with no national control or oversight. New York's first quarantine station was built in 1758 on Bedloe's [Liberty] Island. In 1832, Little Hardwood Island, a small two-acre island in Passamaquoddy Bay was utilized to isolate ship passengers infected with cholera who were arriving at St. Andrews for settlement in Canada and northern New England. The island became known as Quarantine Island and Hospital Island. Hospital Island was used through the period of Irish immigration during the Potato Famine 1845-1852 and closed in 1865. The hospital and other buildings were destroyed by a storm in 1869. In 1879, the first nationally funded and operated United States Quarantine Station was built on Ship Island, Mississippi for the Port of New Orleans. The same year the Ship Island Quarantine Station was established, a second act established a National Board of Health to coordinate with local and state wide systems of quarantine.

In Maine in 1884, 15-acre Widow's Island off North Haven in Penobscot Bay became the site of a US Navy hospital for yellow fever patients. The hospital was functional 1885-1904, but never had a yellow fever patient. In 1904 after ownership was

acquired by the State of Maine, it was used by patients from Augusta Mental Health Institute and Bangor Mental Health Institute for recreation and was known as the Chase Island Convalescent Hospital.

At the end of the nineteenth century in Maine, smaller ports often had no quarantine anchorage, quarantine facility, or even quarantine laws or regulations. In 1896 there were no inspection stations in Castine, Eastport, Ellsworth, Waldoboro, Belfast, Rockland, Wiscasset, York and Kennebunkport.¹³ Larger ports like Bath and Bangor, had designated anchorages in the river for vessels suspected of possibly carrying infectious diseases and local laws outlining the procedures for inspecting vessels from foreign ports. A small vessel carrying the local health officer would board and inspect ships at anchorage. In Portland, like Bangor and Bath, a vessel would anchor in the harbor and the Public Health Officer would inspect the ships' crews and passengers for disease. Portland unlike other ports also had a quarantine facility.

The facility was built on land owned by the Federal Government on House Island that was part of the Fort Scammell Military Reservation and licensed to the Portland Board of Health in 1892 to use for quarantine purposes.¹⁴ The City of Portland built a one-and-a-half story cottage with a steam disinfecting chamber, a 30' x36' coal shed, two steam boilers in a boiler house, and a pier on wood pilings. The wood framed cottage was 36' x 78' with a monitor roof and two cupolas. Inside there were two 10'x48' corridors for packing and unpacking baggage. There were six 10' x8' rooms with bathtubs and attached dressing rooms. Water came from a small pond on the hill behind the station and was fed by gravity into a cistern. During inspection, immigrants were stripped and their clothes run through the steam room to disinfect while they bathed. As part of the steam process, heat from the steam was vented to dry the clothing before it was returned to the newly bathed immigrants. Persons that needed to be retained were housed in an old house on the island or in the ordinance building inside the fort. A watchman lived on the island, but the Public Health Officer would be brought out to the island by steamer. In 1895, 415 immigrants passed through the inspection and quarantine station.¹⁵

In 1896 at the urging of western states, particularly Michigan, and with the approval of the City of Portland, Congress authorized the takeover of the Portland Inspection and Quarantine Station at Fort Scammell. They appropriated \$12,000 for its purchase and maintenance that year, although records indicate they may not have

¹³ _____. *Report of the Federal Security Agency: Public Health Service*. Washington, DC: US Government Printing Office, 1896.

¹⁴ _____. *United States Military Reservations, National Cemeteries, and Military Parks*. United States Army, office of the Judge Advocate General, Charles Edward Hay Jr. US Government Printing Office, 1904. Deed from John Green Walden (c1758-1822) and wife to the United States dated February 29, 1808, conveying 12 acres of land. Deed recorded Book 53, Page 531 in the Cumberland County Registry of Deeds.

¹⁵ _____. "Portland" *Annual Report of the Supervising Surgeon General of the Marine Hospital Services*. Washington, DC:US Government Printing Office, 1896.

assumed full control of the inspection station until January of 1902.¹⁶ In 1904 one hundred steamers with 1,342 passengers were inspected. In an article in the *Journal of Medicine and Science*, the medical officer in command of the United States Hospital, Quarantine and Immigration Station at Portland, P.C. Kalloch, described the need for a barracks capable of holding 150-200 immigrants, a small hospital, and a residence for doctors and staff on House Island. Until 1905, the north end of the island had been in continuous use for fishing and fish curing. The north end of the island was purchased by the United States from the Sterling and Trefethen heirs. In 1907 the small wood framed barracks for about 50 people, the Public Health Officer's Residence and the Quarantine Hospital were completed. A beehive pump station over a 270-foot deep well to supply water to the barracks was also completed during this period of construction. The pump was powered by a windmill that was removed in the 1970s.

In 1913 a federal subcommittee of the House Appropriations Committee heard testimony for the need of a "fire proof" building for detaining 500 immigrants at the US Hospital, Quarantine and Immigration Station on House Island. The need for expansion of the US Hospital, Quarantine and Immigration Station on House Island to increase detention capacity was in part affected by early 20th century immigration laws. Congress passed the 1917 Immigration Act on 5 February 1917 to restrict the immigration of undesirable immigrants from other countries, including any persons with tuberculosis, any form of contagious disease, a disability restricting them from earning a living in the United States or any "idiot, imbecile, epileptics, alcoholics, poor, criminal, beggars, polygamist, or anarchist."¹⁷ The act established a literacy test for immigrants and the requirement for medical examinations before entering the country. In 1920 a second Detention Barracks was built to the east of the Small Barracks. It had a capacity for 592 people.¹⁸ It was torn down in 1962, although the remains of the foundation are still visible.

The Emergency Quota Act 1921 was passed by Congress to temporarily limit the number of immigrants into the United States. The law imposed quotas based on the country of birth. Allowable quotas for each country were calculated at three percent of the total number of foreign-born persons from that country recorded in the 1910 United States census.¹⁹ The Act was superseded in 1924 by the Johnson-Reed Act which limited the number of immigrants allowed into the United States to two percent of the total number of people of each nationality living in the United States as of the 1890 national census.

¹⁶ _____. *Report of the Federal Security Agency: Public Health Service*. Washington, DC: US Government Printing Office, 1904.

¹⁷ Tucker, Davis and Jessi Creller. "Summary of the 1917 Immigration Act" The University of Washington-Bothell Library website.

http://library.uwb.edu/guides/usimmigration/1917_immigration_act.html

¹⁸ _____. *Fort Scammell Tour*. Portland: Portland Discovery Land & Sea Tours, 2012.

¹⁹ Barrientes, Brenda "Summary of the 1921 Emergency Quota law; An Act to limit the immigration of Aliens into the United States" The University of Washington-Bothell Library website. http://library.uwb.edu/guides/usimmigration/1921_emergency_quota_law.html

In the 1920s, the Portland station was largely used as an overflow station for the ports of Boston and New York. In November of 1923 the ships *President Polk* and *George Washington* were diverted to Portland from New York and 218 immigrants from those ships were quarantined at the station. The station was abandoned in the winter of 1923. In 1937 the US Hospital, Quarantine and Immigration Station on House Island was officially closed and offered for sale.

Navigation

In the early 20th century, a shoal about 60 yards off the north end of the island was marked by House Island Light.²⁰ A shoal with 14-17 feet of water over it extends from House Island into Diamond Island Roads, the anchorage for vessels waiting for inspection. In 1906, at the time of development of the island by the United States government, a black spar buoy off the north end of the island at the easterly entrance to Diamond Island Roads anchorage was added.²¹ Known as House Island Buoy 1, it was discontinued in 1982.²² In 1914 lights were added to the navigational markers on the island.

The south end of the island is now marked by Fort Scammel Point Light 2, a 35' high triangular red daymark on a skeleton tower. On the north end of the island is House Island Light 3 with a square green daymark on a skeleton tower 20' above water and a House Island Buoy, a green can buoy, at N 43°39' 22.408" and W 70°12'20.221".²³

Private Ownership, 1950-present

At the end of World War II Fort Scammell was sold to Navy Captain Lincoln King, ret. for \$1200 in 1948. King wanted to sell the fort's granite to the US Army Corps of Engineers for a planned breakwater from the shore of South Portland to Spring Point Light. Hilda Cushing of South Portland wanted to see the fort preserved and was quoted as saying, "You can't have tomorrow without today."²⁴ She purchased the southern half of the island from King in 1954. In 1955 she purchased the remainder of the island which was then owned by Stanley Pettengill. Her family owned the island until 2014.

²⁰ United States Coast Pilot: The Atlantic Coast. US Coast & Geodetic Survey. US Government Printing Office, 1911.

²¹ "Maine-Portland Harbor Buoyage" *The Canada Gazette*. Ottawa. Saturday August 25, 1906. Page 435.

²² _____. "150 Bouys in use along Maine Coast to be discontinued by Coast Guard". *Bangor Daily News*. April 1, 1982

²³ _____. *Light List, Volume 1 Atlantic Coast: St Croix River, Maine to Shrewsbury River, New Jersey*. US Department of Homeland Security, United States Coast Guard. US Government Printing Office, 2014.

²⁴ Gratwick, Harry. *The Forts of Maine: Silent Sentinels of the Pine Tree State*. Charleston, SC: The History Press, 2013. P.55

ARCHITECTURAL DESCRIPTIONS

House Island is an hourglass shaped island, with the north and south ends of the island connected by a narrow ridge dropping off to semicircular beaches on the east and west sides of the island. The island is characterized by a zone of exposed bedrock around the shoreline with sand beaches on either side of the narrow ridge connecting the two halves of the island, a small sandy beach to the east of the Public Health Officer's Residence and by the former Starling and Trefethen Wharves on the north east side of the island. Like most small coastal islands, the surface of the island has a thin layer of topsoil with bedrock either bare or close to the surface. Exposed bedrock is particularly predominate on the south half of the island. The south half of the island is dominated by Fort Scammell. The cut granite exteriors of the east and west battery are connected by the earth covered magazines and exterior walls of the south battery and unfinished site of the north battery. The fort is centered around a roughly rectangular parade ground that is entered through a sally port on the west side of the island. To the west of the fort is a stone wharf, the remains of a second wharf, the site of the 1892 Portland Inspection Station, and the remains of the stone cutting yard and the partial foundations of the stone work house. On the north end of the island are three wood framed structures associated with the former United States Hospital, Quarantine and Immigration Station, used as seasonal residences and for private functions in the second half of the twentieth century. Primary access is via a dock on the west side of the island. The various resources on the island are connected by mown trails.

Small Detention Barracks (1907)

Map Location C, contributing

Located at the north end of the island is the small detention barracks constructed in 1907. The one-and-one-half story, rectangular shaped wood-frame building was constructed in the Acadian Revival style. The barracks is eight bays wide and two bays deep and is capped by a hipped roof featuring a flared eave projecting out over the facade and each elevation. The flared eave is a character-defining feature of the Acadian Revival style as is the raised foundation and steeply pitched hipped roof. The soffit is open with decorative rafters exposed. The roof is sheathed with asphalt shingles. The barracks is constructed on a rough-cut, un-coursed granite foundation. A wood water table caps the foundation. The walls of the barracks are clad with wood shingles.

The principal southeast facade features a slightly projecting center gable over a four-bay wide by one-bay deep entry bay. The southeast facade of the entry bay features four tall window openings, reading from south to north (left to right) the southernmost opening is infilled by a stacked three-light window, the next opening features a nine-over-nine double-hung wood sash, next is a six-over-six double-hung wood sash window with a three-light transom and the last opening is a six-over-six double-hung wood sash window with a three-light transom as well; however the muntins and frame of the last transom are considerable lighter than that to the south. A single multi-light wood entry door is located on the north and south elevations of the entry bay. A band of three one-over-one double-hung sash replacement windows are located in the gable above. Two six-over-six double-hung wood sash windows are located to the north and south of the entry bay. A simple wood surround highlights each door and window opening. Each window has a slightly projecting wood sill. A brick chimney pierces the southwest roof plane to each side of the central gable.

The north and south elevations feature two six-over-six double-hung wood sash windows with a single-light foundation opening below each window. Like the windows on the facade, the openings feature a simple wood surround with a slightly projecting wood sill. Centered above on the plane of the roof is a single hipped roof dormer. The dormer features a flared eave and exposed rafters like the principal hip. A six-over-six double-hung wood sash window provides light to the interior.

The rear (northwest) elevation features a centrally located sliding glass door with a ten-light transom above and three, six-over-six double-hung wood sash windows to each side. Two, hipped roof dormers are located on the roof plane above. Each dormer features an overhanging flared eave and exposed rafters as well as a six-over-six double-hung wood sash window. A slender brick chimney pierces the roof plane to the south of the south dormer. Historic images of the island show that a chimney was located to the north of the north dormer. A full-width wood deck is located along the northwest elevation. A central wood stair provides access to the deck. A simple wood balustrade wraps the deck above and wood lattice is located below.

Large Detention Barracks (1920) ruins only

Map Location D, contributing

Located east of the small detention barracks are the deteriorated and partial remnants of the one-story large barracks constructed in 1920. The barracks was constructed of brick laid in a six-course common bond on a poured concrete foundation. The barracks was razed in 1962.

Public Health Officer's Residence (1907)

Map Location H, contributing

Located to the southeast of the small detention barracks is the public health officer's quarters constructed in 1907. The one-and-one-half story, t-shaped wood-frame building was constructed in Dutch Colonial Revival style with Acadian Revival style influences. The residence is three bays wide and two bays deep and is capped by a side gable gambrel roof featuring a flared eave projecting out over the facade and each elevation. The upper plane of the roof is sheathed with asphalt while the lower plane is sheathed with wood shingles. The residence is constructed on a rough-cut, un-coursed granite foundation. A wood water table caps the foundation. The walls of the residence above are clad with pebbled dash.

The principal west facade features a projecting one-story entry porch centered on the facade. The roof of the porch is supported by classically inspired wood columns resting on wood plinths. Wood steps provide access to the porch. Access is gained through a multi-light wood door flanked by eight-light sidelights. A single 6/6 double-hung wood sash window is located to each side of the entry porch. The windows feature a simple wood surround and slightly projecting wood sill. Historic images of the quarters show the sash were originally six-over-two. A four-light foundation window is centered below each of the first floor windows. A nearly full-width shed roof dormer is located across the lower roof plane on the facade. The dormer features a centered paired six-over-six double-hung wood sash with a single six-over-six double-hung wood sash located to each side. Historic images of the quarters show the paired sash of the dormer were originally a multi-light diamond patterned sash over two-lights and like the first floor, the single six-over-six were historically six-over-two-lights. An interior brick chimney pierces the ridge of the roof to the north of center and an exposed exterior end-wall chimney is located on the south elevation.

A raised one-story wrap-around porch is located at the southeast corner of the south elevation and continues down along the east (rear) elevation. The flat roof of the porch is supported by classically inspired wood columns resting on wood plinths. Wood steps provide access to the porch at the southeast corner of the porch. A paired multi-light French door at the east end of the south elevation provides secondary entrance to the building. The exposed brick chimney stack is located to the west and a single six-over-six double-hung wood sash window is located at the west end of the foundation. A six-over-six double-hung wood sash window is located to each side of the chimney stack in the gable above.

The north elevation features two six-over-six double-hung wood sash windows on the first floor with a window stacked above each opening in the gable. A semi-circular window is located above near the gable peak.

The rear (west) elevation features a two-story centrally located projecting gable with a shed roof dormer to each side. Additionally, a one-and-one-half story rear-ell projects out to the east. An advertisement in 1915 requested services to construct a boiler room and laundry, although no building is mentioned, it appears as though the one-and-one-half story ell may have been added on after the initial construction in 1907. The ell is two-bays wide and one bay deep and is capped by a gable roof featuring a flared eave. The plane of the roof is sheathed with asphalt while the gable end is clad with wood shingles. The ell is constructed on a rough-cut, un-coursed granite foundation with a wood water table capping the foundation. The walls of the ell, like the residence, are clad with pebbled dash. An inset entry is located at the northeast corner of the ell. The windows of the ell are smaller in scale than the principal block.

Quarantine Hospital(1907)

Map Location I, Contributing

Located south of the Public Health Officers Quarters, the Quarantine Hospital was constructed in 1907 in the Acadian Revival style. The hospital is a four bay wide and two bay deep, one-story rectangular shaped wood-frame dwelling which is capped by a hipped roof featuring a flared eave projecting out over the facade and each elevation. The flared eave is a character-defining feature of the Acadian Revival style. The soffit is open with rafters exposed. The roof is sheathed with asphalt shingles. The hospital is constructed on a rough-cut, un-coursed granite foundation. A wood water table caps the foundation. The walls of the hospital are clad with wood shingles.

The principal north facade features a central entry flanked by six-over-six double-hung wood sash windows with a secondary entrance located to the west. Both openings features a single-light and wood panel entry door with a transom above and a wood screen door. A single light wood transom is located over the central entry and a three-light transom is located over the entry to the west. A simple wood surround highlights each door and window opening. Each window has a slightly projecting crown and wood sill. A slender brick chimney rises from the east end of the roof. Two slender metal vents pierce the north roof plane to the north and west of the chimney. A set of wood stairs and a wood deck provides access to both entries. A simple wood railing wraps the deck.

The west elevation features two six-over-six double-hung wood sash windows with a single-light foundation opening below each window. Like the windows on the facade, the west

elevation openings feature a simple wood surround with a slightly projecting crown and wood sill. Wood flower boxes are located below the sill.

The rear (south) elevation features four six-over-six double-hung wood sash windows symmetrically aligned across the elevation. A small wood frame opening (boarded over) is located between the two western most window openings. The sill of the small opening is level with the meeting rail of the primary windows. A slender brick chimney pierces the roof at the west end of the roof.

Starling/Trefethen's Wharves, (c1823)

Map Location B, Contributing

Three foundations of the former wharves used by the Starling and Trefethen families are located just off the northeastern shore of the island. The rectangular wharf bases are comprised of small cut and uncut stones. Historically the wharves were extended by wood pilings and wood framed piers. One and two story wood framed fish houses were located on the wharves for the processing of fish.

Old Wharf(1862)

Map Location E, Contributing

The foundations of an old wharf are located just off shore to the west of the Small Detention Barracks. The wharf base is composed of uncut stones.

Beehive Well Head(1907)

Map Location F, Contributing

To the west of the Public Health Officer's House is a domed brick structure covered in concrete parging. The domed structure covers a fresh water well.

Dock(early 20th century, improvements 1950s)

Map Location G, Contributing

The actively used dock is largely comprised of wood pilings supporting a long wood wharf with floating docks on the northwestern end for loading and unloading vessels. At the shore end of the dock, stone cribbing is located between the pilings. To the south of the dock is a flat sandy beach for barge landings.

Lobster Pound Cove and Foundation of Lobster Pound (1889)

Map Locations J & K, contributing

To the east side of the narrowest point of land between the south and north ends of the island lies Lobster Pound Cove. The semicircular shaped cove has a sandy beach that resolves into rock ledges at the outermost edges of the cove. A natural barrier of ledge extends from the northern edge of the cove into the water. A barrier of cut granite stones connects the ledge barrier to the ledge on the south side of the cove. The stone fill is visible at low tide, but submerged at high tide. The barrier stones are the remains of Trefethen's lobster pound. The stone barrier and ledges were topped by a wood weir. Historic photos indicate a one-story gable roof fish house was located the north end of the enclosure, although no remains of the fish house are apparent in aerial images.

Cemetery (1822)

Map Location L, Contributing

A small cemetery is located at the north eastern end of the south section of the island overlooking Lobster Pound Cove. The cemetery is bounded in part by a low wall and picket fence. The cemetery has a few stones. Approximately twenty-two burials are located in the cemetery.

Old Wharf/Stone Cribbing (1850s)

Map Location M, contributing

A natural ledge on the west side of the island is topped by the remains of an old wharf with rough and cut stones. The remaining stones are largely below the water at high tide. To the south of the remains of the old wharf are piles of cut granite stones scattered across the rocky shore.

Site of Stone Cutting Shed and Granite cutting area (1850s)

Map Location N, Landmark

Between the remains of the old wharf and a wharf of cut granite stones lies an area composed of piles of stacked rough cut granite, finished granite stones, and cast-off waste stones. At the south end of the area is a stacked granite foundation, possibly the foundation of the former Stone Cutting Shed.

Granite 'Engineer's' Wharf (1850s)

Map Location O, Landmark

The wharf structure on the west shore of the fort is composed of blocks of large cut granite. The granite perimeter stones curve out from the juncture with the shore and a recessed cut is located on the north side of the wharf. The interior of the wharf is paved with small granite pavers. The pavers have deteriorated with the growth of organic materials between the stones. The western end of the wharf has a deteriorated raised wooden platform and is used for the storage of lobster traps. Large wood bumper pilings are located along the perimeter of the water side of the wharf.

Site of Portland Inspection Station (1892)

Map Location P, Contributing

The site of the former 1892 inspection station is located between the entrance to the fort and the granite wharf. The area is overgrown, except for the mown path with outcroppings of ledge.

Fort Scammell

Fort Scammell was originally built as a semi-circular stone, brick and sod fortification facing Casco Bay and the entrance to Portland Harbor in 1808. In 1814 a single exterior battery was built to the rear of the fort overlooking the north end of the island. In the 1840s and 1850s semi-circular fortification was extended by earthen walls on the right and left flanks and finally to the rear to incorporate the exterior battery and enclose a much larger area. During the Civil War and shortly thereafter, the fort was expanded and rebuilt. The major changes of the new construction include the two granite block bastions (east bastion and west bastion) on the east and west sides of the island, the parade ground, and the great magazine. A planned north bastion was never completed.

Sally Port (1850s)

Map Location Q, Landmark

Fort Scammell, like most nineteenth century forts, is entered through a sally port. The segmentally arched and vaulted passage originally contained heavily timbered doors which were held by the large iron pins on the outside of the archway. The sally port is flanked on both sides by earthen bomb proofs. A band of square granite pavers is located at the outermost opening in the sally port.

Parade Ground (1850s, altered 1862)

Map Location R, Landmark

Fort Scammell includes a centrally located parade ground. A mound near the center of the parade ground is the remains of the foundation of a large concrete mixer. The parade ground was larger before the fort was expanded and rebuilt in the 1860s and 1870s. Openings around the parade ground lead via tunnels to powder magazines and the gun emplacements.

1808 Fort aka South Bastion (1808, altered 1862)

Map Location S, Landmark

The earthen walls of the South Bastion have been partially excavated to reveal a section of the stone and brick walls of the south battery constructed in 1808. Approximately 80% of the 150-foot brick wall has been exposed to reveal 25 courses of tapered and curving brick atop a fieldstone foundation secured to a granite outcropping. The exposed brick walls of the fort were whitewashed. The walls were whitewashed to make it evident to enemy vessels that the harbor was defended. A World War I anti-aircraft gun emplacement is located on top of the South Bastion.

1814 Exterior Battery (1814)

Built to defend the rear (north) of the 1808 fort from a land invasion on the north end of the island. A portion of the battery has been incorporated into the 1840s and 1850s expansion of the fort and survives.

West Bastion (1862)

Map Location T, Landmark

A one-story granite block bastion was constructed in 1862 along with the two-story granite block east bastion. The granite casemates of both bastions face Casco Bay. The west bastion was originally designed to have two levels of casemates while the east bastion was designed for three; however, the west bastion was only completed to the first level of casemates and the east bastion was completed to the second level. Each bastion contains a series of arched and enclosed casemates with heavily vaulted ceilings to support the gun platforms above. The barbette tier (top) parapets were added in the late 1860s.

East Bastion (1862)

Map Location U, Landmark

A two-story granite block bastion was constructed in 1862 along with the one-story granite block west bastion. The granite casemates of both bastions face Casco Bay. The east bastion was designed to have three levels of casemates while the west bastion was designed with two; however, the east bastion was only completed to the second level of casemates and the west bastion was completed to the first. Each bastion contains a series

of arched and enclosed casemates with heavily vaulted ceilings to support the gun platforms above. The barbette tier (top) parapets were added in the late 1860s.

Great Magazine (1870s)

Map Location V, Landmark

Along the southeast side of the parade ground and over the site of the 1808 blockhouse a large central magazine or Great Magazine was built in 1870. The magazine was used as the central storeroom for ammunition.

House Island Light 3 (late 20th century)

Map Location A, non-contributing

House Island Light 3 is located on the north end of the island. A square green day mark is mounted 20 feet above the water on a skeleton tower resting on a concrete base fixed to a rocky ledge.

Fort Scammel Point Light 2 (late 20th century)

Map Location W, non-contributing

Fort Scammel Point Light 2 is located on the south end of the island. A triangular red day mark is mounted 35 feet above the water on a skeleton tower resting on a concrete base fixed to a rocky ledge.²⁵

Flagpoles

A flagpole is located atop the western battery. A second flagpole is located outside the Public Health Officer's Residence. Additional smaller flag poles are located on the dock and on the deck of the Quarantine Hospital.

²⁵<http://me.usharbors.com/harbor-guide/portland-harbor#sthash.F8IKC8ke.dpuf>

INDEX OF RESOURCES

Map ID	Resource Name	AYB	Level of Significance
A	House Island Light 3	Late 20 th Century	Non-Contributing
B	Starling/Trefethen Wharf 1	Circa 1823	Contributing
	Starling/Trefethen Wharf 2	Circa 1823	Contributing
	Starling/Trefethen Wharf 3	Circa 1823	Contributing
C	Small Detention Barracks	1907	Contributing
D	Large Detention Barracks	1920	Contributing
E	Old Wharf	unknown	Contributing
F	Well Head	1907	Contributing
G	Dock	Early 20 th Century	Contributing
H	Public Health Officer's Residence	1907	Contributing
I	Quarantine Hospital	1907	Contributing
J	Lobster Pound Cove	Circa 1889	Contributing
K	Lobster Pound Foundations	Circa 1889	Contributing
L	Cemetery	1822-2008	Contributing
M	Old Wharf/Stone Cribbing	1850s	Contributing
N	Site of Stone Cutting Shed	1850s	Landmark
O	Granite "Engineer's" Wharf	1850s	Landmark
P	Site of Portland Inspection Station	1892	Contributing
Q	Sally Port	1850s	Landmark
R	Parade Ground	1850s (1862)	Landmark
S	South Bastion & Site of 1808 Fort/exposed wall	1808 (1862)	Landmark
T	West Bastion	1862	Landmark
U	East Bastion	1862	Landmark
V	Great Magazine	1870	Landmark
W	Fort Scammell Light 2	Late 20 th Century	Non-Contributing
X	Earthen Walls	1840s- 1850s	Landmark
Y	Concrete mixer, granite foundation stones & narrow gauge rails	1850s- 1860s	Landmark

BIBLIOGRAPHY

_____. *Annual Report of the Surgeon General*. Washington, DC: US Government Printing Office, 1896.

_____. *Annual Report of the Surgeon General*. Washington, DC: US Government Printing Office, 1902.

Bacon, George Fox. *Portland [ME] Its Representative Businessmen and Its Points of Interest*. Newark, NJ: Glenwood Publishing Co., 1891.

Band, Benjamin. *Portland Jewry, Its Growth and Development*. NP: Jewish Historical Society, 1955.

Bibber, Joyce K. and Earle G Shettleworth Jr. *Portland*. Charleston, SC: Arcadia Publishing, 2007.

_____. *City of Portland: Board of Health Reports*. Portland, ME: City of Portland, 1887, 1889-1896, 1906, 1912-1917, & 1920-1923.

Cobb, John Nathan. *The Lobster Fishery of Maine*. Washington, DC: US Government Printing Office, 1900.

Conforti, Joseph A., ed. *Creating Portland: A History and Place in Northern New England*. Lebanon, NH: University Press of New England, 2005.

Goode, George Brown. *US Bureau of Fisheries: The Fisheries and Fishing Industries of the United States*. Washington, DC: US Government Printing Office, 1887.

Gratwick, Harry. *The Forts of Maine: Silent Sentinels of the Pine Tree State*. Charleston, SC: The History Press, 2013.

Goold, Nathan. *A History of Peaks Island and its People: Also a Short History of House Island*. Portland, ME: Lakeside Press, 1897.

_____. *Journal of Medicine and Sciences*. Volume 10. Washington, DC: US Government Printing Office, 1904.

MacIsaac, Kimberly. *The Casco Bay Islands: 1850-2000*. Charleston, SC: Arcadia Publishing, 2004.

_____. *The Maine Register or State Yearbook and Legislative Manual of 1889*. Augusta: ND.

_____. *The Metal Worker, Plumbfitter, and Steam Fitter*. Vol. 83. NP: D. Williams Co., 1915.

_____. *The New England Magazine: An Illustrated Monthly*. Volume 14. Boston: The Pinkham Press, 1896.

O'Leary, Wayne. *Maine's Sea Fisheries: The Rise and Fall of a Native Industry, 1830-1890*. Boston: Northeastern University Press, 1996.

_____. "Portland Harbor". *United States Harbors*. Accessed 15 July 2014.
<http://me.usharbors.com/harbor-guide/portland-harbor#sthash.F8lKC8ke.dpuf>

_____. *Report of the Federal Security Agency: Public Health Service*. Washington, DC: US Government Printing Office, 1904.

Sargent, Ruth S. *The Casco Bay Islands*. Charleston, SC: Arcadia Publishing, 1995.

Schulz, Eric B. and Michael J Tougas. *King Philip's War: The History and Legacy of America's Forgotten Conflict*. Woodstock, VT: The Countryman Press, 2000.

Sheaff, Roberta Randall. *Experiences of My Early Life on House Island on Casco Bay*. Portland, ME: Self published by author, 1983.

United States Army, Office of the Judge Advocate General, Charles Edward Hay Jr. *United States Military Reservations, National Cemeteries, and Military Parks*. Washington, DC: US Government Printing Office, 1904.

US Coast & Geodetic Survey. *United States Coast Pilot: The Atlantic Coast*. Washington, DC: US Government Printing Office, 1911.

Willis, William. *History of Portland from 1632 to 1864*, 2nd edition. Portland, ME: Bailey & Noyes, 1865.

Maps and Plans:

Cushing, Hal. *Map of House Island, Portland, Maine*. undated.

_____. *Fort Scammell Tour*. Portland, ME: Portland Discovery Land & Sea Tours, 2012.

_____. "Map of Portland". *Atlas of Cumberland County*. New York: FW Beers, 1871.

US Army Corps of Engineers. *Plan of Fort Scammel, House Island, Portland Harbor, ME*. Washington, DC: National Archives, 1900.

Cumberland County Registry of Deeds:

Deed from John Green Walden and wife to the United States. Book 53, Page 531. 1808.

Deed from George Trefethen to United States of America. Book 747, Page 293. 1904.

Deed from George Trefethen and others to United States of America. Book 748, Page 247. 1904.

Deed from the United States of America to Lincoln King. Book 1916, Page 458. 1948.

Deed from the War Assets Administration to Stanley Pettengill. Book 2182, Page 53. 1954.

Deed from the Lincoln King to Hilda Cushing. Book 2210, Page 416. 1954.

Deed from Stanley Pettengill to Hilda Cushing. Book 2231, Page 415. 1955.

House Island, Portland, ME
Analysis of Eligibility as a
Local Historic District
Revised 6 October 2014

Other Collections:

1924 City of Portland Tax Photos. Available on-line in the Maine Memory Network database.

Indian Graves, Burying Ground that Was Discovered on House Island. Files at Greater Portland Landmarks. Undated.

NOAA's Historic Fisheries Collection.

**House Island, Portland, ME
Analysis of Eligibility as a
Local Historic District**

Appendix C - Extant Images



2012 photo by Max Yeston, Greater Portland Landmarks

Small Detention Barracks (1907) *Map Location C, Contributing*



2013 photo, Greater Portland Landmarks

Remains of the Large Detention Barracks (1920) *Map Location D, Contributing*



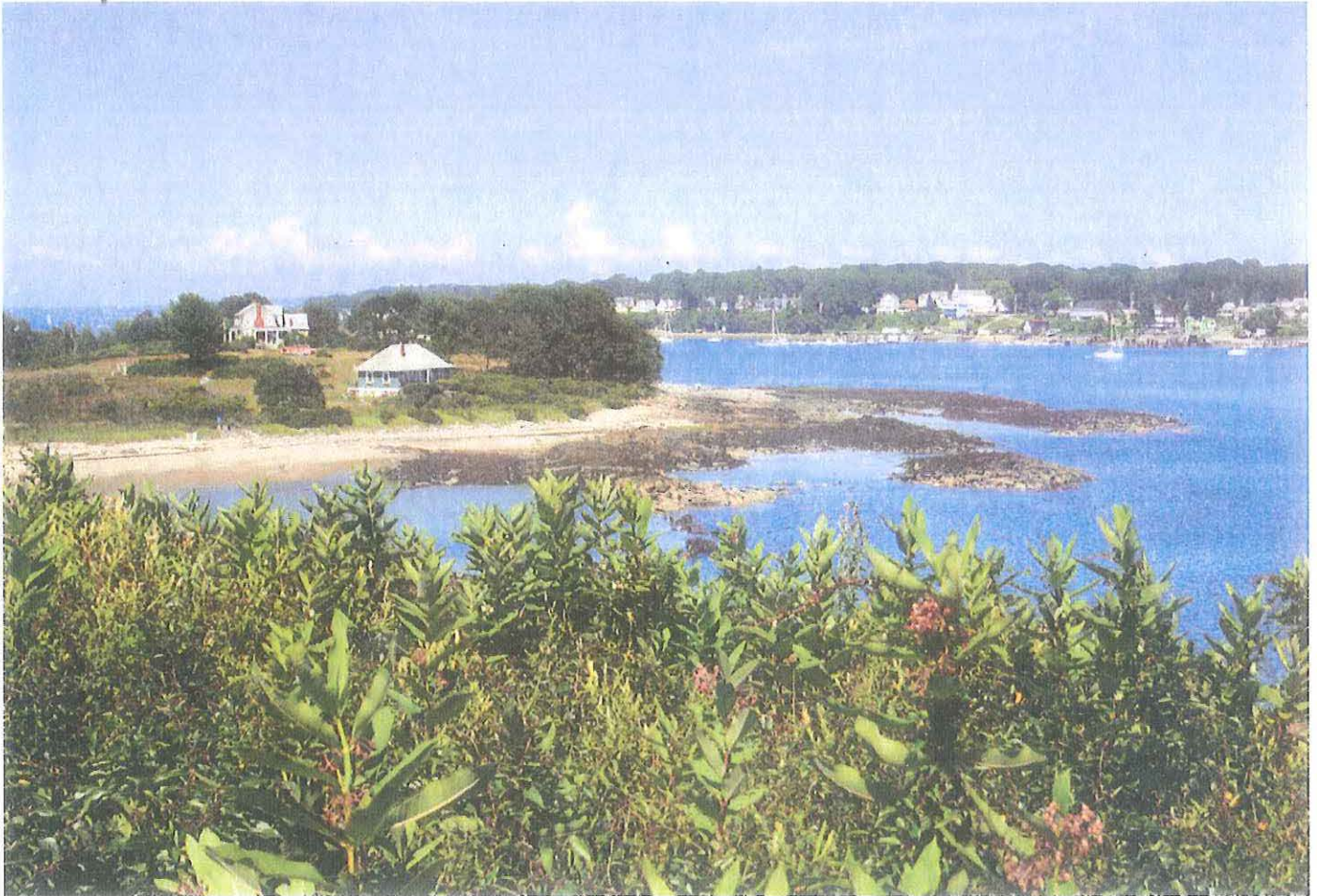
2012 photo by Max Yeston, Greater Portland Landmarks

Public Health Officer's Residence (1907) *Map Location H, Contributing*



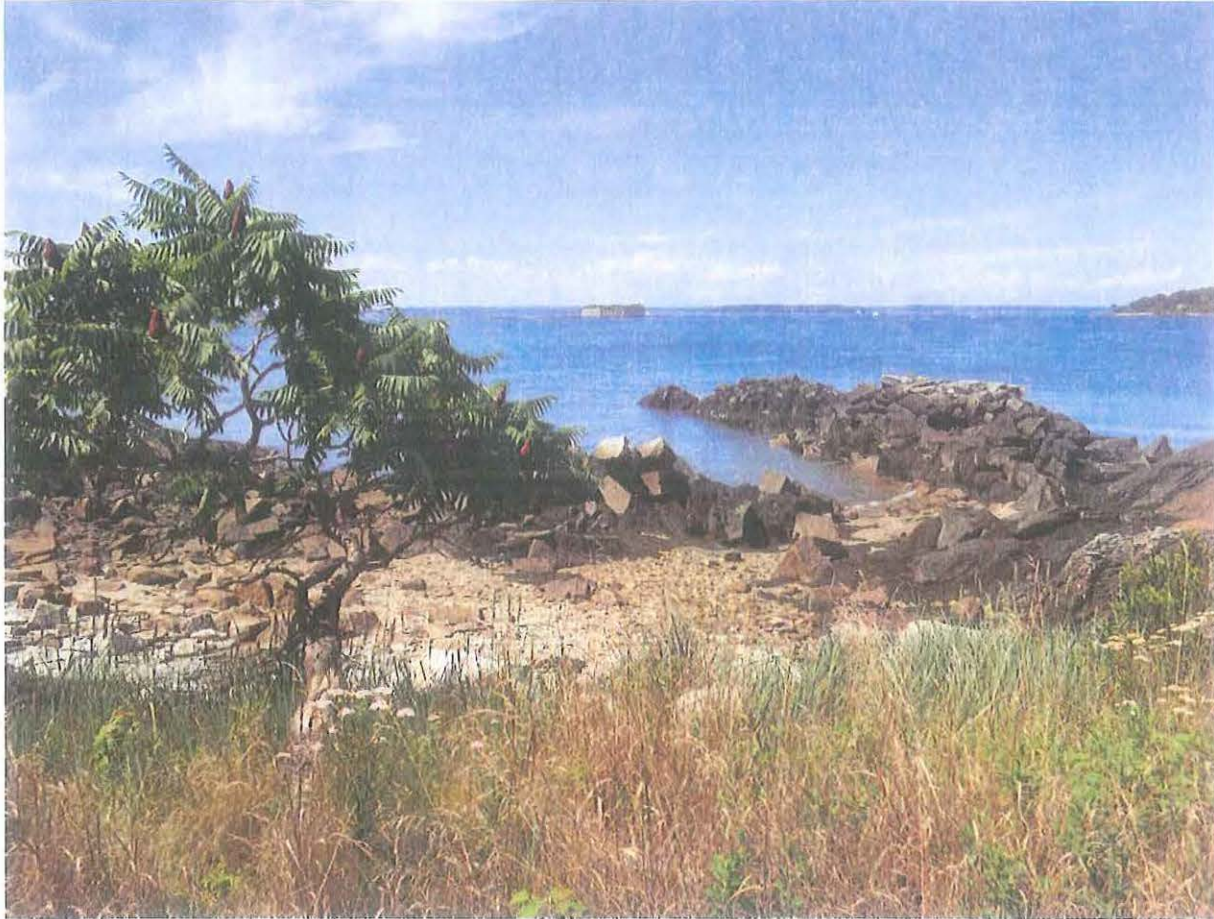
2012 photo by Max Yeston, Greater Portland Landmarks

Quarantine Hospital (1907) *Map Location I, Contributing*



2013 photo, Greater Portland Landmarks

Lobster Cove (c1889) *Map Location J, Contributing*



2013 photo, Greater Portland Landmarks

Old Wharf/Stone cribbing and Remains of Granite Stones (1850s) *Map Location M, Contributing*



2013 photo, Greater Portland Landmarks

Granite "Engineer's" Wharf (1850s) *Map Location O, Landmark*



2013 photo, Greater Portland Landmarks

Sally Port (1850s) Map Location Q, Landmark



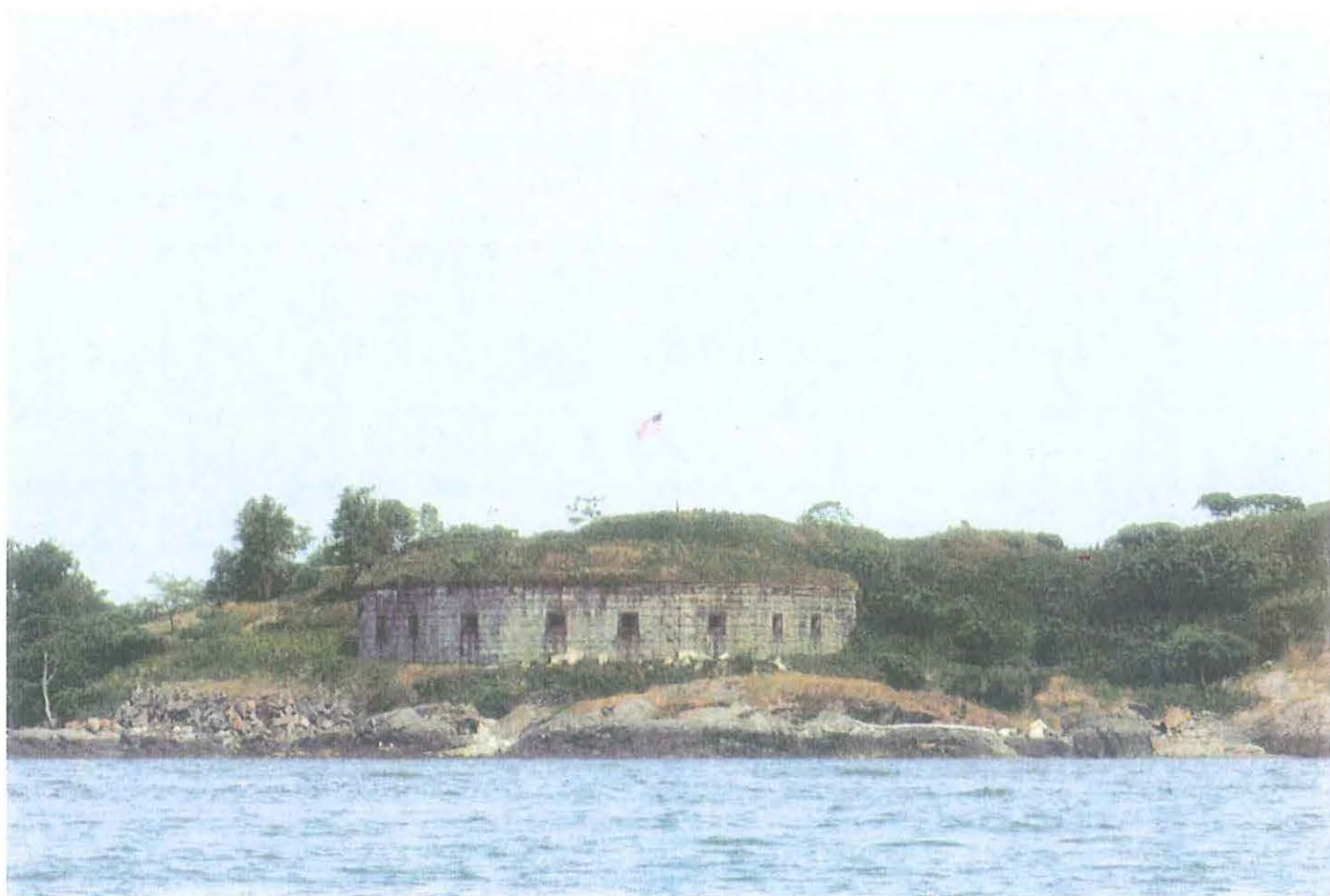
2013 photo, Greater Portland Landmarks

Parade Ground Looking North (1850s, 1862) Map Location R, Landmark



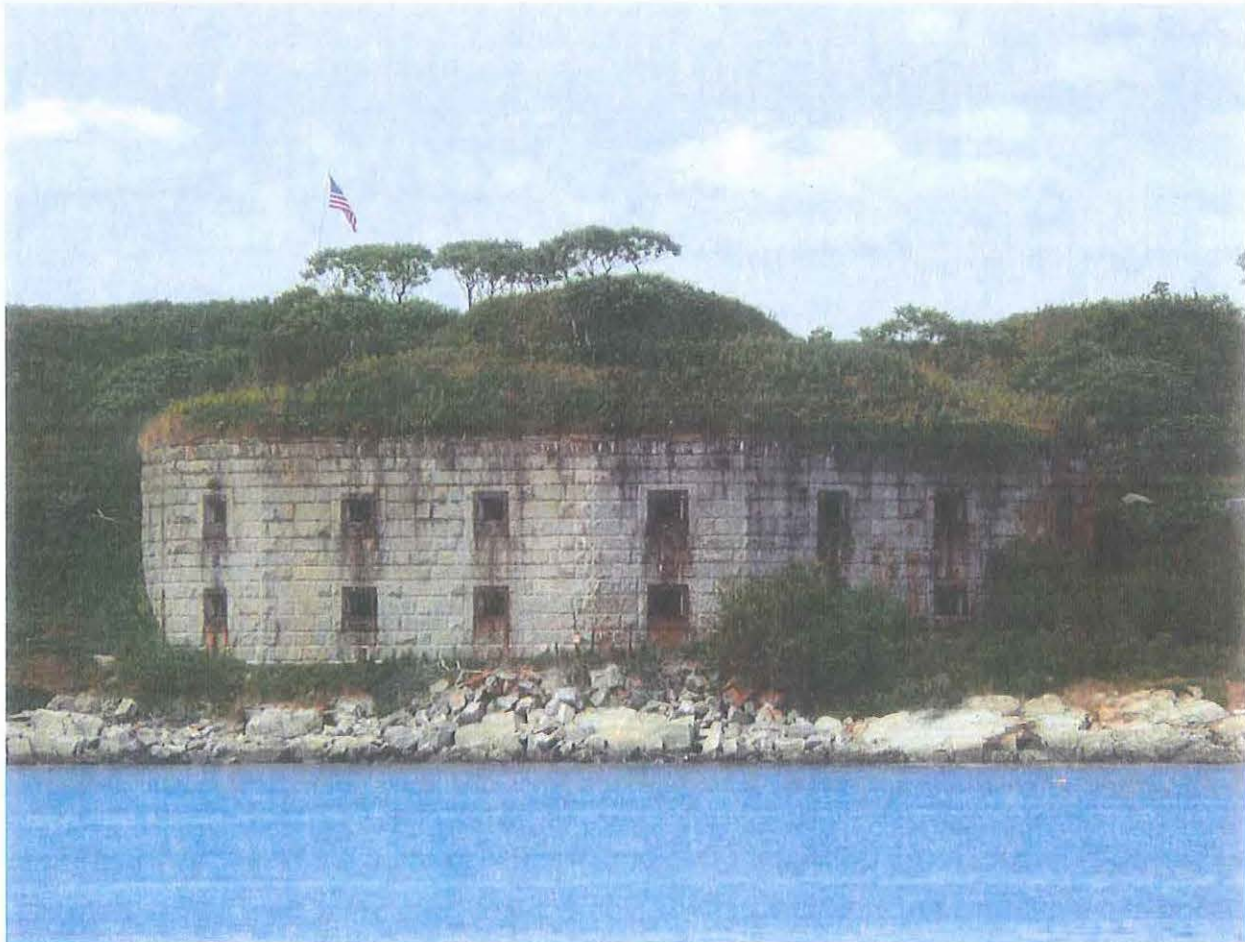
2013 photo, Greater Portland Landmarks

1808 Wall, South Battery (1808, 1862) *Map Location S, Landmark*



2012 photo by Max Yeston, Greater Portland Landmarks

West Bastion (1862) *Map Location T, Landmark*



2012 photo by Max Yeston, Greater Portland Landmarks

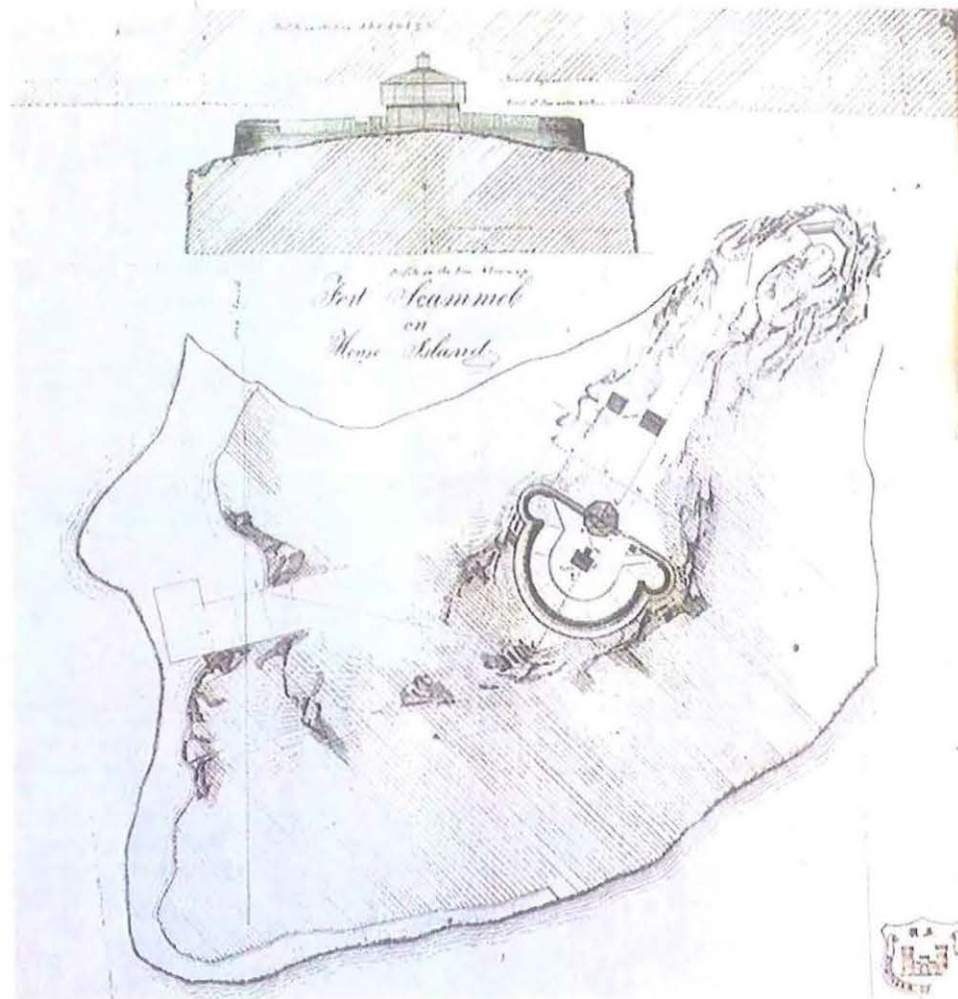
East Bastion (1862) *Map Location U, Landmark*



Image of partially exposed wall of the South Bastion. Courtesy of Kenneth E. Thompson, Jr.

**House Island, Portland, ME
Analysis of Eligibility as a
Local Historic District**

Appendix B - Historic Images



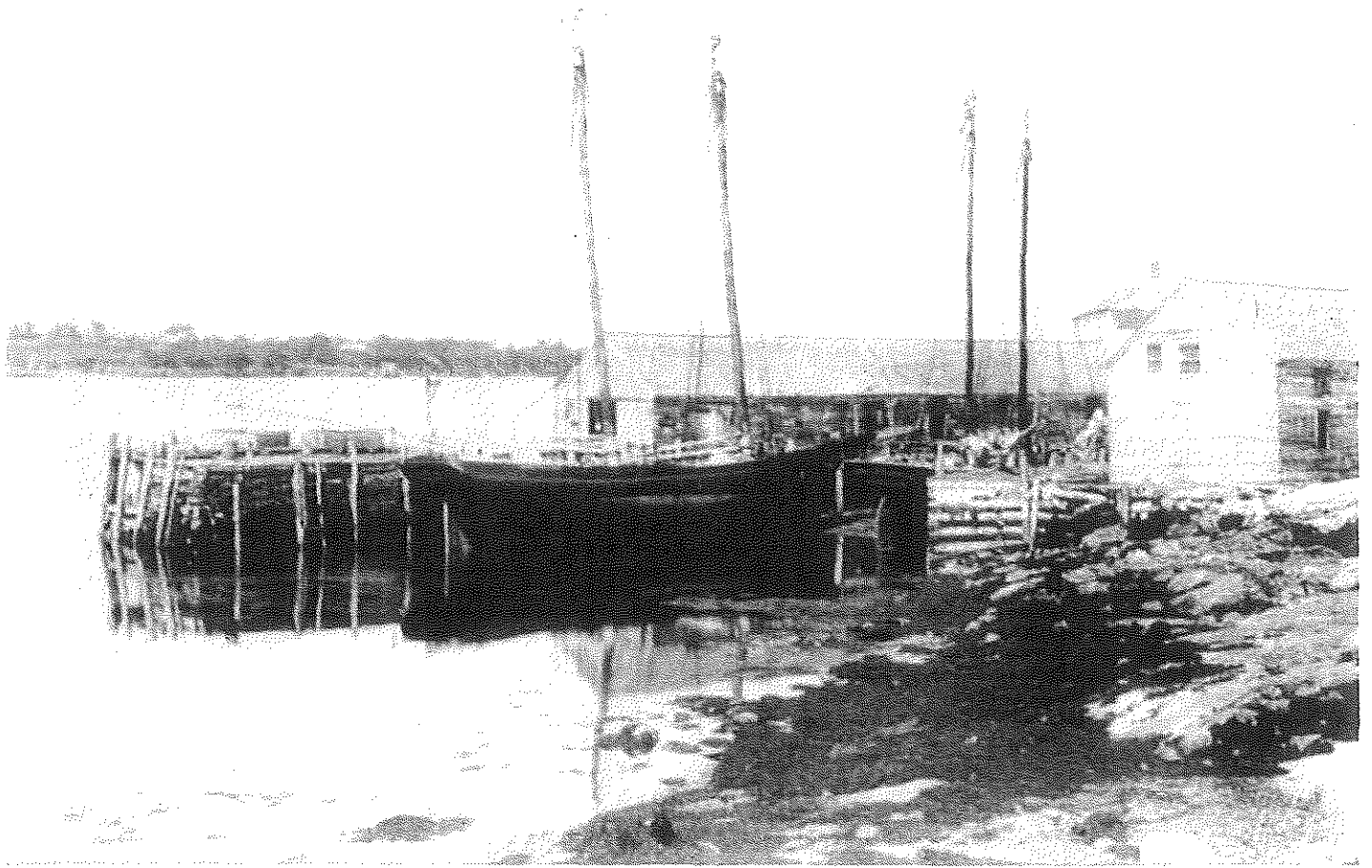
1808 Plan of Fort Scammel on House Island



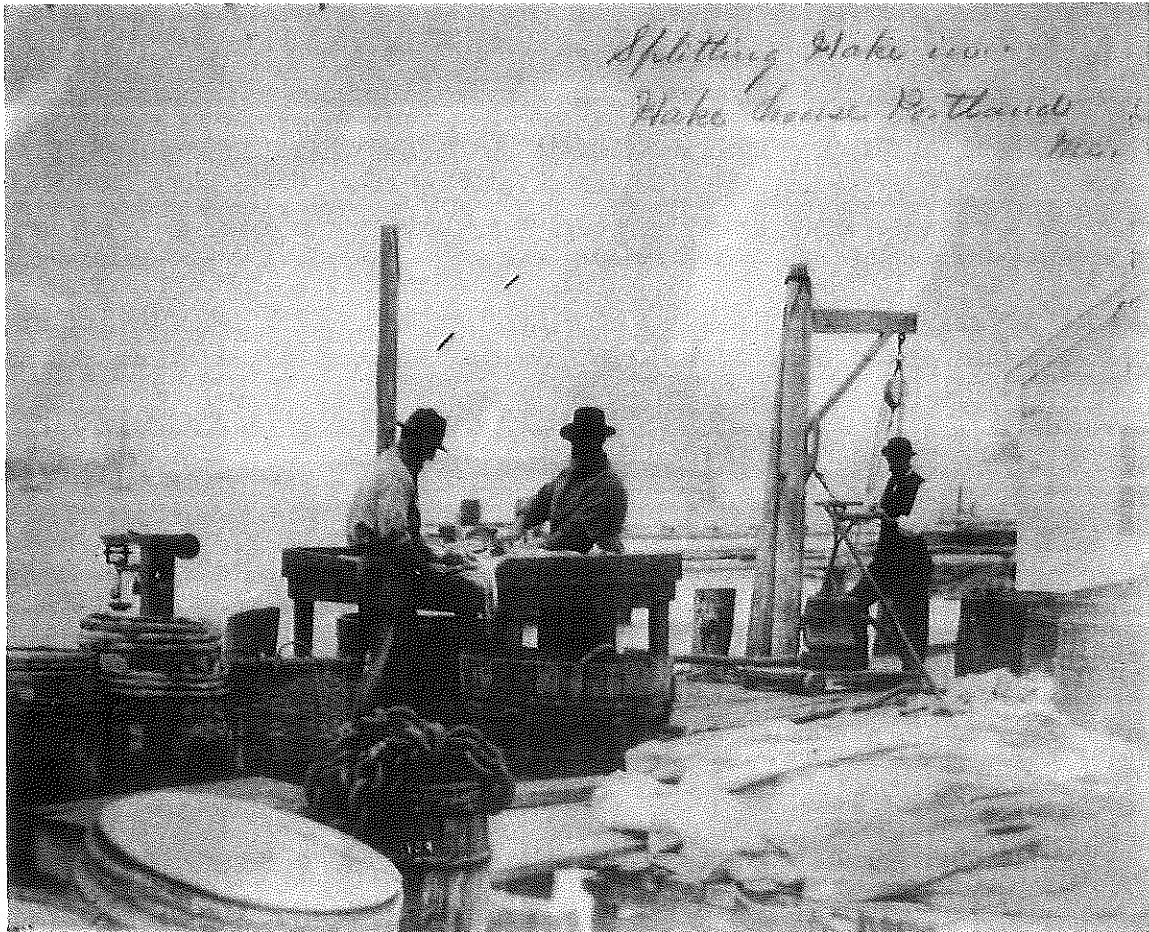
House Island in the nineteenth century from *New England Magazine: An Illustrated Monthly*, Vol.14.



Dwelling on House Island from *The Casco Bay Islands, Maine* by Ruth S Sargent.



Fish Houses and wharves on House Island from *The Casco Bay Island: 1850-2000* by Kimberly E MacIsaac.



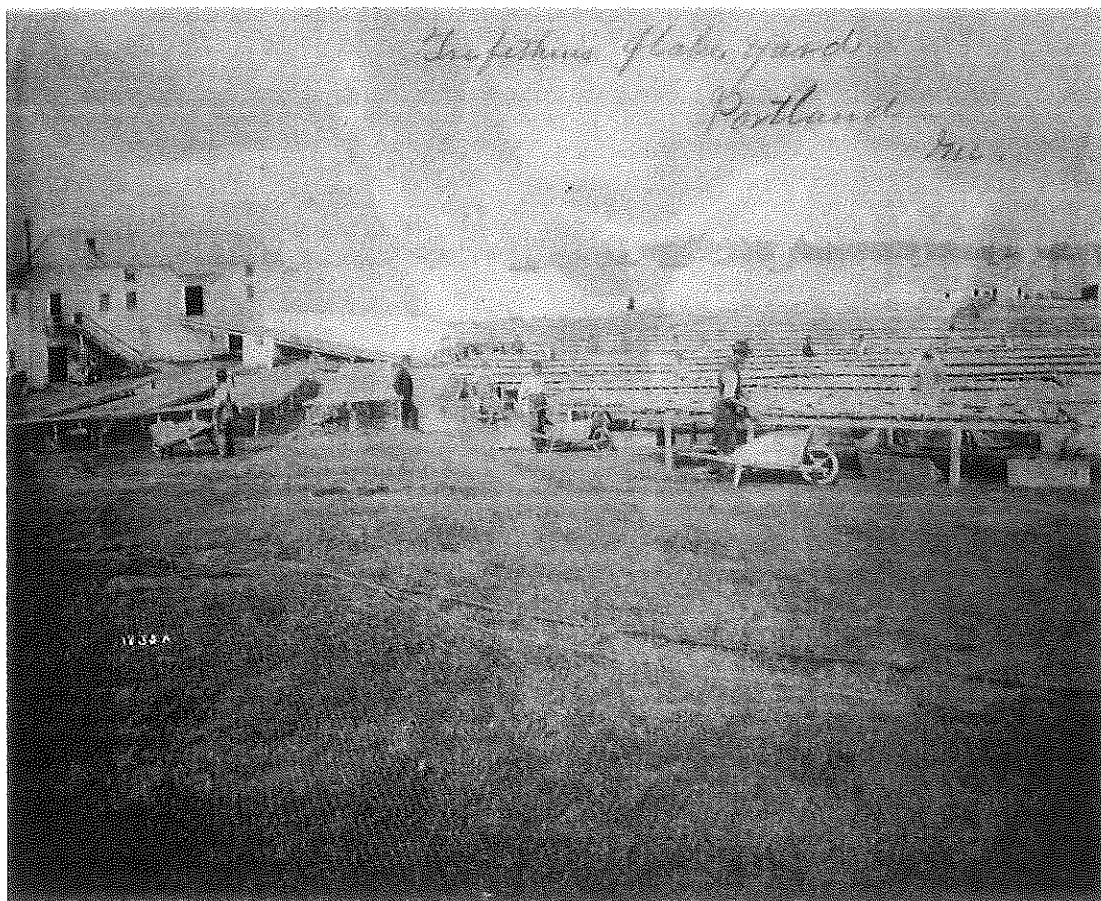
Splitting Hake on Trefethen's Wharf, House Island.
Image No.fish6813, NOAA's Historic Fisheries Collection.



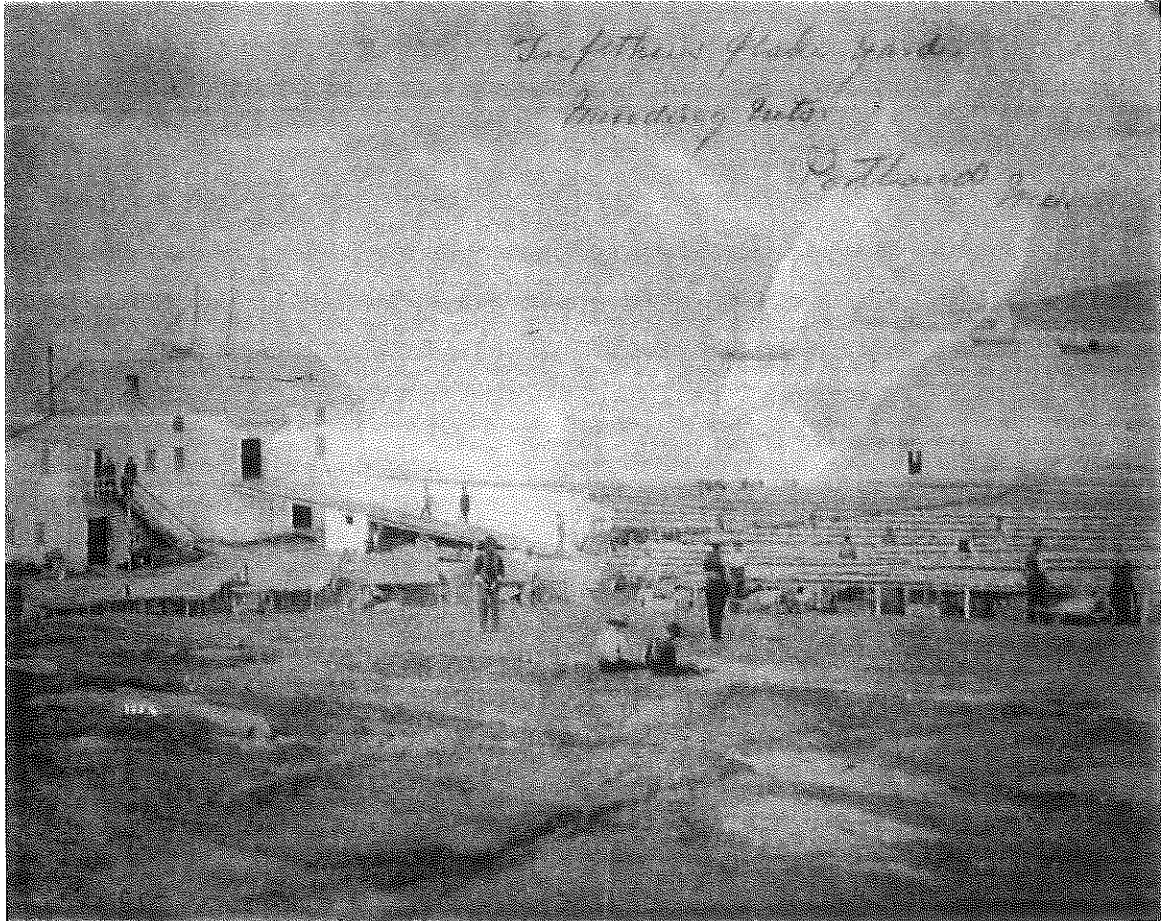
Trefethen's Flake Yard [House Island].
Image No.fish6851, NOAA's Historic Fisheries Collection.



View of House Island fish flakes (drying racks) *From The Casco Bay Island: 1850-2000* by Kimberly E MacIsaac.



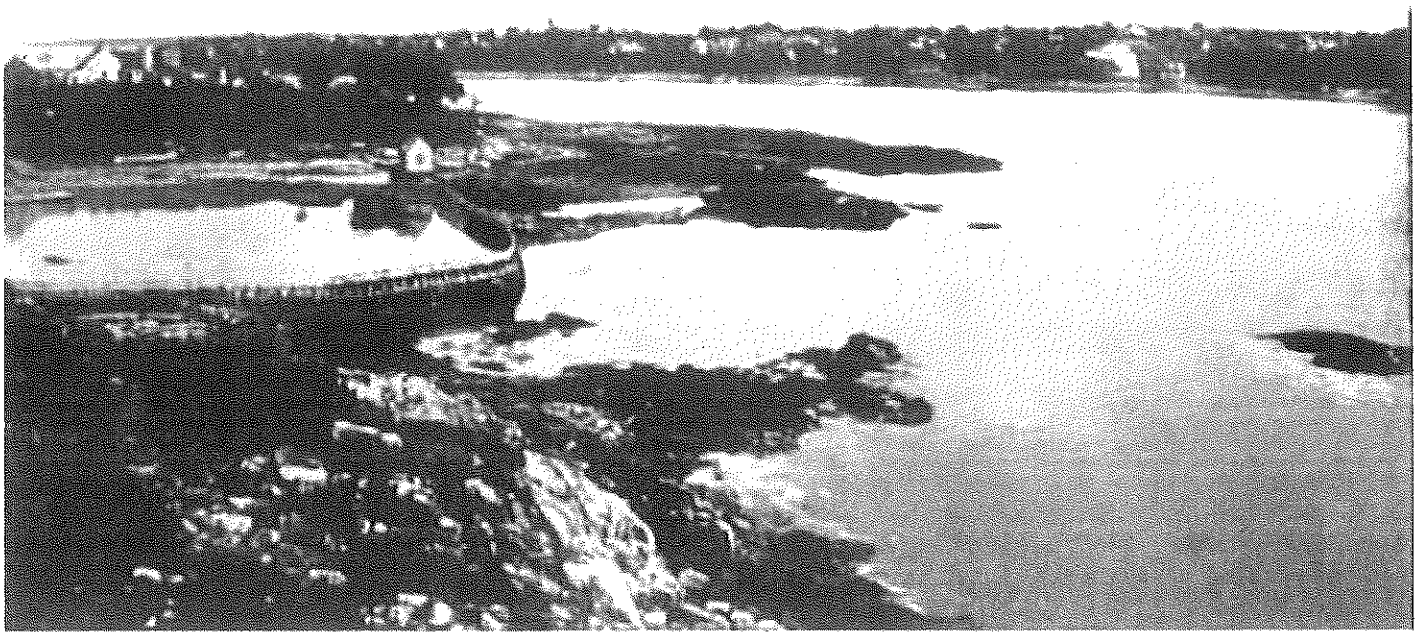
Trefethen's flake yard [House Island]
Image No.fish6850, NOAA's Historic Fisheries Collection.



Mending nets at Trefethen's flake yard [House Island].
Image No.fish6849, NOAA's Historic Fisheries Collection.



Fisherman mending herring gill-nets at House Island, Casco Bay, Maine.
Image No. Figb0121, NOAA's Historic Fisheries Collection.



Undated Image of House Island Lobster Pound from *New England Magazine: An Illustrated Monthly*, Vol.14.



Image of the Lobster Pound. Courtesy of Kenneth E. Thompson, Jr.

Kelly J. Butterfield
6 Wadsworth Street
Portland, Maine 04103

September 29, 2014

Deborah G. Andrews
Department of Planning and Urban Development
Portland City Hall
389 Congress Street
Portland, Maine 04101

Dear Ms. Andrews,

Recently, House Island was purchased by Michael Scarks, a Portland-based real estate developer. No sooner was the ink dry on the deed, and the city of Portland is now considering designating House Island as an historic district.

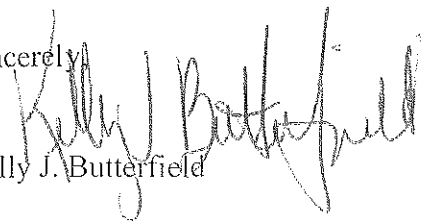
House Island has been privately owned for more than 50 years and this recent sale was a private sale from one owner to another.

The Island properties were in despair, taxes were reportedly delinquent, and the island was littered with years of accumulated trash and other debris. While House Island is home to Fort Scammel, a visible landmark in Casco Bay, it has not been a public destination, nor has the City of Portland ever before taken steps to incorporate this island into its historic district, a district largely defined by pedestrian access and public ways.

The petition to designate House Island as a historic district is totally unnecessary and short sighted. The new owner has no plans to remove or alter Fort Scammel, nor does he have plans for a high density real estate development. This developer has an outstanding record in this city of doing some very good things in the city, including renovating a number of older buildings including the Nissen Bakery on Washington Avenue and the former Maine National Bank building on Exchange Street.

Allowing a designation that would limit and restrict a private developer's vision and investment is sending a terrible message to others who want to invest in, improve, and upgrade properties around this city.

Sincerely,


Kelly J. Butterfield

Deb Andrews - House Island

From: Donovan Gray <polardog@comcast.net>
To: <dga@portlandmaine.gov>
Date: 9/4/2014 6:04 PM
Subject: House Island

I totally support House Island's designation as an historic landmark. A friend of mine, David Hansen, an expert on coastal fortifications in the US, told me Portland Harbor has more forts (7) than any other location in the US except for Boston and New York City. Fort Scammel is rather unique with so much of it being underground and its use as a quarantine facility from 1898 to 1920. So go with gusto! ;-)

-dmg

Donovan Gray
polardog@comcast.net
360-402-6851

From: Sharoan <sharoana@gmail.com>
To: "dga@portlandmaine.gov" <dga@portlandmaine.gov>
Date: 9/2/2014 8:16 AM
Subject: House Island

Deb,

I am writing in support of House Island becoming a historic district.

Please also know that I am absolutely opposed to a Helipad being built anywhere on any of the Islands in the Portland Harbor.

sharoan

From: Fgowdy <fgowdy@cox.net>
To: <dga@portlandmaine.gov>
Date: 8/6/2014 3:22 AM
Subject: House Island

As a summer resident of Peaks Island for the past 50 years, and a taxpayer to the city of Portland, I believe House Island should be designated a historic landmark. The fort, the history as a quarantine station, and the beauty of the island all combine to make it a treasure for all. It is important to preserve such treasures.

Sincerely
Diane Gowdy

Deb Andrews - House Island...

From: kmci <kmcinern@gmail.com>
To: <DGA@portlandmaine.gov>
Date: 7/30/2014 4:25 PM
Subject: House Island...

Hi Deb,

If there is any way that House Island could be preserved, it would be wonderful.

If and when structures go up on House ("vacation homes"), the character of Casco Bay itself (every view from every vantage point, on shore as well as on the water) will change and be lost forever.

I wish the federal, state and local entities could work together to find a solution that would give fair compensation to whoever bought it, while preserving it for the historic site it is.

I hope you find a way to keep House Island the special place it is, and always has been.

Thank you,

Kathy (over 20 years on Munjoy Hill, & lived on West End prior to that)

Deb Andrews - House Island

From: Arthur Fink <arthur@arthurfink.com>
To: Deb Andrews <dga@portlandmaine.gov>
Date: 8/1/2014 3:12 AM
Subject: House Island

Dear Deb Andrews,

I'm out of town, and will not be back in time to attend the August 6 workshop regarding House Island.

Were I at the meeting, I would strongly support the historic district designation. House Island has a rich and varied history, and should have all the protections that Portland's historic preservation ordinance offers. Further, I would support any possible interim measures to offer similar protection during the period the nomination is being considered.

Best regards,

Arthur Fink

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arthur@ArthurFink.com 207.615.5722

Deb Andrews - House Island

From: Cheryl Miner <c.nunes.miner@gmail.com>
To: <dga@portlandmaine.gov>
Date: 7/31/2014 8:20 AM
Subject: House Island

I would like to see House Island designated as a local historic district. I live on Peaks Island and enjoyed going over to House Island several times and had hopes that I would be able to take my grandsons there when got a little older. I know they would love it.

I cannot make the August 6th meeting but I am putting the September meeting on my calendar.

I am the Chair of the Peaks Island Council, is there anything that the Council could do to help preserve this historic island?

Cheryl Miner
c.nunes.miner@gmail.com

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**

Order 116-14/15
~~Tab 23 12-15-14~~
~~Tab 10 1-5-15~~
JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO CITY CODE CHAPTER 18
(PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS)
Re: Parks Commission to Adopt Rules**

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

1. That Chapter 18 (Parks, Recreation and Public
Buildings and Grounds) is amended to read as follows:

...

Sec. 18-10. Parks Commission.

(a) *Findings.* The City Council hereby finds that:

(1) Several city parks and public grounds including, but not limited to, Deering Oaks, Eastern Promenade, Western Promenade, Baxter Woods, Baxter Pines, Riverside Golf Course, Payson Park and Stroudwater Park are already all protected by and through deed covenants and restrictions;

(2) The city's cemeteries are already protected by Chapter Seven (7) of the Portland City Code;

(3) The Land Bank has protected twenty-six (26) properties for conservation and preservation purposes;

(4) Therefore, in order to enhance these existing protections on the city's parks and public grounds, the city council hereby amends the city's parks ordinance as follows:

(b) *Established.* There shall be a commission composed of thirteen (13) members which shall be known as "Parks Commission," hereinafter referred to as the "commission."

(c) *Composition.* One (1) member of the city council, who is on the Transportation, Sustainability and Energy Committee, shall be appointed annually by the city council. One (1) member representing Friends of Deering Oaks; one (1) member representing Friends of the Eastern Promenade; one (1) member representing Friends of Evergreen Cemetery; and one (1) member representing Portland Trails shall be appointed for three-year terms by the city council. Seven (7) members representing the public-at-large and one (1) member representing the Land Bank Commission shall be appointed for three-year terms by the city council. Such three-year terms shall be staggered so that no more than three (3) members representing the public-at-large are appointed in any one (1) year. All members shall serve until their successors are appointed, for a period, however, not to exceed sixty (60) days after

expiration of the term. The commission may from time to time establish such subcommittees as it deems appropriate.

(d) *Duties.* The duties of the commission shall include:

- (1) Soliciting, encouraging and accepting private contributions to the city, in cash or in kind, whether by gift, trust, or subject to conditions; provided any gift in kind and that the form of any trust or conditions has been approved by the city council or is ratified by the city council;
- (2) Making recommendations to the city council as to the sale of dedicated parks and public grounds (as described in section 18-14 below) and disposition of trust funds held for parks, trails and open space;
- (3) Maintaining inventories of parks, trails and open space needs as it determines to be desirable;
- (4) Submitting an annual report to the city council regarding the state of the city's parks and public grounds and making specific recommendations therein about suggested goals and improvements for the parks and public grounds;
- (5) Encouraging educational programs, through the schools or otherwise, in forestry education or other relevant subjects it determines to be beneficial to the parks programs of the city;
- (6) Undertaking such other activities as to enhance the parks, trails and open space programs of the city as it deems appropriate from time to time; and
- (7) Conducting an annual meeting of all parks, trails and open space advocacy groups to discuss annual projects and to recommend goals and priorities for capital improvement projects to the city council; and-
- (8) Adopting reasonable rules for the conduct of its meetings, which rules shall include provisions for public comment.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant
Mayor Michael Brennan
Acting City Manager Sheila Hill-Christian

FROM: Danielle West-Chuhta, Corporation Counsel

DATE: 12/3/2014

- 1) Council meeting at which action is requested:

1st reading: 12/15/2014
Final action: 1/5/2015

- 2) Can action be taken at a later date: X YES NO
If not, why not:

- 3) This item is sponsored by: Danielle West-Chuhta, 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 Parks Commission (the "Commission") desires to adopt rules that are supplemental to the provisions of Chapter 18, Article 1 of the Portland City Code, which established the Commission. The proposed Rules would govern membership, officers, election of officers, meeting times and the Order of Business at meetings as well as other aspects of the orderly and beneficial performance of the Commission.

In order to adopt rules, however, the Parks Commission requires the power to adopt them, which is provided by the ordinance amendment proposed in this agenda item. The ordinance language is modeled on language found in the City Code for the Land Bank Commission, allowing it to adopt rules.

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

See above.

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

The proposed amendment will allow the Parks Commission to adopt rules (similar to the ones attached hereto).

IV. FINANCIAL IMPACT

There is no financial impact.

V. STAFF ANALYSIS & RECOMMENDATION

This amendment is recommended for passage by Corporation Counsel., and it has been reviewed and approved by the Parks Commission as well.

Attachments:

Order: Amendment to City Code Chapter 18 (Parks, Recreation And Public Buildings And Grounds) Re: Parks Commission Rules; and

Proposed Rules of the Portland Parks Commission

Rules of the Portland Parks Commission

Article 1. General Provision.

Section 1. These rules are supplementary to the provisions of Chapter 18, Article I of the City Code as it relates to the procedures of the Parks Commission (hereinafter, "Commission") and are adopted pursuant to the authority granted in Section 18-10(c)(1) of said Code.

Section 2. Roberts Rules of order shall supplement these rules and shall control procedures not covered by these rules.

Article II. Officers and Duties.

Section 1. The Commission shall consist of thirteen (13) members as follows: one (1) member of the City Council who is also on the Transportation, Sustainability and Energy Committee; one (1) member representing Friends of Deering Oaks; one (1) member representing Friends of the Eastern Promenade; one (1) member representing Friends of Evergreen Cemetery; and one (1) member representing Portland Trails shall be appointed for three-year terms by the city council; and seven (7) members representing the public-at-large and one (1) member representing the Land Bank Commission, who shall be appointed for three-year terms by the City Council.

Section 2. The officers of the Commission shall be the Chair and Vice-Chair.

Section 3. The Chair and Vice-Chair shall be elected annually by the Commission members at the first regular meeting in January. The City Council and Land Bank Commission representatives are not eligible to serve as Chair or Vice-Chair of the Commission.

Section 4. The Chair shall appoint chairs and members for those committees as may be appropriate. Chairs of committees shall be appointed from voting members of the Commission.

Section 5. There is no prohibition on officers serving consecutive terms in the same office.

Article III. Meetings.

Section 1. Regular meetings shall be held the 2nd Thursday of each month at 5:00 p.m. or at such other time and location of which notice is given by the Commission.

Section 2. Special meetings may be called by the Chair at the Chair's discretion or upon request of three (3) or more Commission members, provided that a twenty-four (24) hour notice is given to each member.

Section 3. Meetings of any committee or subcommittee of the Commission shall be held at the call of the Commission or the committee chair or by agreement of at least two sub-committee members.

Section 4. The Commission may, by a majority vote, specify a date for an agenda item.

Section 5. The Chair shall set the agenda for regular meetings of the Commission, workshops, public hearing and other meetings.

Article IV. Order of Business.

All regular meetings of the Commission shall proceed as follows:

- a. Roll call and declaration of quorum
- b. Approval of minutes of the previous meeting
- c. Communications
- d. Unfinished Business
- e. New Business
- f. Adjournment

This order of business may be amended for any given meeting in the discretion of the Commission.

Article V. Notice.

Notice of meetings shall be given in the same manner as for City Council standing committees; i.e. by listing in the City calendar, which is distributed to the public, except that in the event of an emergency meeting, best practicable notice will be given.

Article VI. Conduct of Public Hearings

Section 1. The public may be given an opportunity to comment on any item under consideration by the Commission prior to a final Commission action on that item. Rules governing the procedure for such public comment shall be determined by the Commission.

Article VII. Deliberations, Voting, Decisions.

Section 1. Fifty percent (50%) of the members of the Commission either in person or electronically shall constitute a quorum.

Section 2. The Commission may meet and deliberate at any properly called meeting, regardless of the presence of a quorum, or may continue consideration of such matter to any later meeting. However, no final action shall be taken on such a matter without a quorum being present.

Section 3. Recommendations to the City Council shall include facts and the reason or reasons for such recommendation and shall contain a separate statement setting forth the recommendation of the Commission.

Section 4. The Commission will take no final or binding vote on a recommendation to the City Council unless it shall first have stated its findings, reasons and conclusions at a meeting open to the public.

Section 5. When a vote is completed it shall be in order for any member who voted in the majority, in the negative, in a tie vote, or otherwise on the prevailing side, to move for reconsideration thereof at the same or at the next regular meeting but not afterwards; and when the motion for reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote completed at a previous meeting shall be in order for consideration at the next regular meeting unless an item to that effect is contained on the agenda for such regular meeting or unless two-thirds of voting members consent to such reconsideration.

Section 6. In the event of a tie vote, the matter shall be postponed until the next meeting, where it shall be considered as unfinished business.

Section 7. Any member with an interest, or an appearance of an interest, in a question before the Commission shall disclose or abstain from participation in deliberations on the question under discussion and from voting on such question, or said member may be excused from such participation and from voting on the question by majority vote of the commission.

Article VIII. Amendment of Rules

Section 1. These rules may be amended, or suspended, by a two-thirds affirmative vote of the members of the Commission.

Section 2. The proposed amendment must be presented in writing at a regular or special Commission meeting preceding the meeting at which the vote is taken.

Article IX. Annual Report

Section 1. The Commission shall annually file a state of the parks report with the City Council and City Manager on the physical, economic, and social status of each of the City of Portland's parks and/or public spaces and recommendations as to those spaces.



CITY COUNCIL REPORT

From

PLANNING BOARD

PORTLAND, MAINE

Recommendation to Designate House Island as a Local Historic District under the provisions of Portland's historic preservation ordinance (Article IX of the Land Use Code)

Submitted to: Portland City Council
Requested Council Action: January 5, 2015

Submitted by: Planning Board
Date: December 3, 2014

I. Introduction

The Planning Board is recommending to the City Council that House Island within Portland Harbor be designated a local historic district subject to the provisions of Portland's historic preservation ordinance (Article IX of the Land Use Code). The proposed district designation applies to the entire 26-acre House Island and includes twenty-one (21) identified historic structures or sites representing several key periods of development history on the island—see Fig. 1. Among the significant extant historic resources on the island are Fort Scammel, built in 1808 and expanded in the 1860's, and buildings associated with House Island's role as a Federal immigration and quarantine station during the late 19th and early 20th centuries. Historic district designation will ensure that House Island's historic resources are protected from demolition and any alterations or additions to existing structures are compatible with their historic character. New construction will be reviewed for general compatibility with the prevailing development pattern on the island in terms of scale, massing, materials, etc.

On November 25, 2014, the Planning Board voted 4-0 (Dean, Morrisette and Soley absent) that House Island meets all the criteria for designation in Division 3 of the historic preservation ordinance and that the island's designation as a historic district is consistent with the City's Comprehensive Plan. Based on these findings, the Planning Board voted to recommend to the Council that the island be designated as a local historic district.

The Planning Board's review of the proposed designation was upon the recommendation of the Historic Preservation Board which voted unanimously on October 1, 2014 to recommend designation following its own review of the island's eligibility for historic district designation. In the case of nominated historic districts, Portland's historic preservation ordinance requires that the Historic Preservation Board first review the nomination according to the criteria outlined in Division 3 of the ordinance and, based on its findings, forward a recommendation to the Planning Board. The Planning Board, in turn, considers the recommendation of the

Historic Preservation Board and conducts its own independent analysis as to whether the nominated district meets the designation criteria. In addition, the Planning Board must also consider the effect of designation on other aspects of the Comprehensive Plan. Based on its own findings, the Planning Board forwards its recommendation to the City Council which has the final authority to designate local landmarks and historic districts.

House Island
Historic Resources Map
With inset map of Fort Scammell

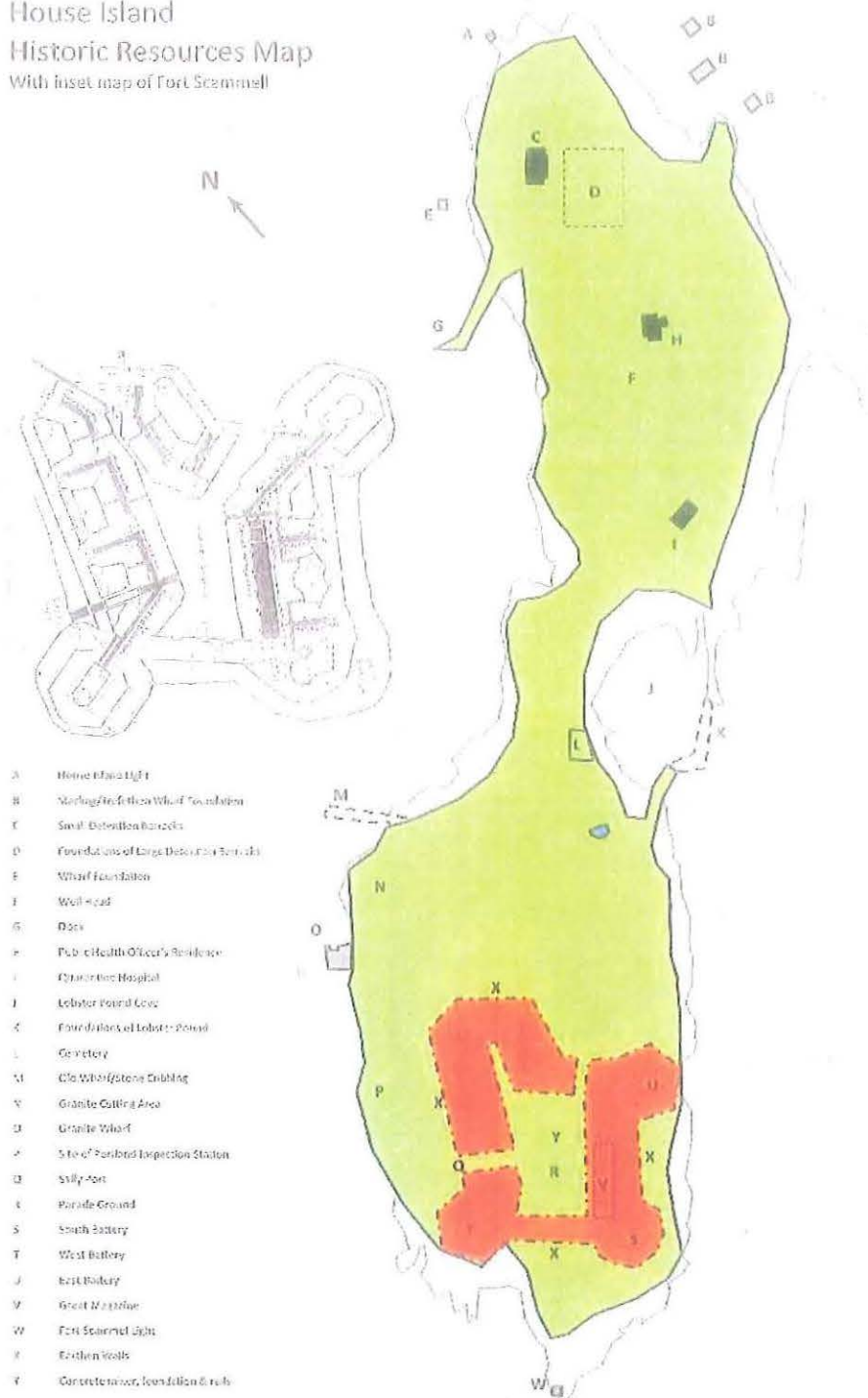


Figure 1. (larger version of map included in consultant report)

II. Planning Board Deliberations and Recommendation

The Planning Board's final deliberations on the nominated historic district followed a preliminary workshop on October 21, 2014. At the workshop, Historic Preservation Program Manager Deborah Andrews presented the Historic Preservation Board's formal recommendation to designate House Island as well as the HP Board's specific findings which led to their favorable recommendation. Preservation consultant Julie Larry of ttl-architects, who prepared the detailed documentation required to consider the merits of the nominated district, also made a presentation. Ms. Larry described the island's development history and explained the significance of the extant historic resources on the island. In her presentation, Ms. Larry addressed the specific designation criteria enumerated in the City's preservation ordinance, explaining how, in her professional assessment, House Island met all six of the minimum criteria for designation, as well as the ordinance requirement that a substantial number of the structures and sites within the proposed district exhibit sufficient integrity of location, design, condition, materials and workmanship to make them worthy of preservation or restoration.

Public comment was also taken at the 10/21 workshop. The current owners of the northern and southern sections of House Island addressed the Board. Michael Scarks, who purchased the entire island in May 2014 and sold the northern half in late September, indicated that he had no objection to designating Fort Scammel itself, but questioned the rationale for designating the balance of the island. Mr. Scarks also questioned the timing of the nomination. Vincent "Cap" Mona, the new owner of the north half of the island that includes historic structures associated with the island's role as an immigration and quarantine station, also introduced himself and indicated that he was working with historic preservation staff on a plan to rehabilitate the historic buildings he had purchased. Mr. Mona did not express a position on the proposed designation. Four other members of the public, including Hilary Bassett Executive Director of Greater Portland Landmarks, expressed support for the nomination/designation. (A compilation of all written public comment during Planning Board and Historic Preservation Board deliberations is enclosed as Attachment 4.)

In response to a follow-up question from a Planning Board member regarding the timing of the nomination, staff explained that after the US government's sale of House Island following WWII, the island was privately owned by the Cushing family for several decades. Although the Cushing family offered tours of the historic sites on the island and appeared committed to its preservation, they were resistant to historic designation of the island. Some months before the island was put on the market, historic preservation staff became aware that the Cushing family had entered into negotiations with a statewide conservation organization and a statewide preservation organization about placing conservation and preservation easements on the island. (These easements would have provided a level of protection comparable to historic district designation.) Later, after negotiations had apparently fallen through, staff learned that the island had been put on the market and that there was an interested buyer (Mr. Scarks). When Mr. Scarks met with Planning staff during his due-diligence period, staff informed him that the island had been identified as eligible for historic district designation as early as 1990. (Portland's *Historic Resources Design Manual*, which was adopted as part of Portland's historic preservation ordinance in 1990, lists House Island as a property eligible

for local historic designation.) A short time later, Peak Island summer resident Jo Israelson and Greater Portland Landmarks petitioned the Historic Preservation Board to nominate House Island for historic district designation.

At the conclusion of the workshop session, Planning Board members indicated that they found House Island to clearly meet the historic preservation ordinance's designation criteria and expressed support for its designation as a local historic district.

The Planning Board's formal public hearing on the proposed historic district designation was held on November 25th. Following a presentation by staff, public comment and Board deliberations, the Planning Board voted 4-0 (Dean, Morrisette & Soley absent) as follows:

Upon the recommendation of the Historic Preservation Board and on the basis of documentation and analysis provided in the report *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District* prepared by ttl-architects, as well information included in the staff report for the November 25, 2014 public hearing, the Planning Board

1) finds that House Island:

- a) meets the historic preservation ordinance's minimum criteria for historic district designation as set forth in Sec. 14-610 (a), specifically (a) 1, 2, 3, 4, 5 and 6, based on the Board's finding that the summary statements included in the ttl-architects report (pages 2-5 of the report), addressing criteria (a) 1,2,3,4,5 and 6 are well-founded and based on detailed research and available documentation. Accordingly, the Board confirms and references the report's statements of significance as the basis for its finding;**
- b) meets the criterion in Sec. 14-610 (b), based on the Board's finding that a substantial number of the structures and sites within the proposed district have a high degree of cultural, historic or architectural significance and integrity, many of which qualify as landmarks, and that the proposed district also has within its boundaries other sites and structures which contribute to the overall visual characteristics of the most significant properties and sites. Pursuant to this finding, the Board supports classifications for each identified site and structure within the district boundary included in the ttl-architects' report. (see Index of Resources on page 22 of report);**
- c) meets the integrity criterion set forth in Sec. 14-611, based on the Board's finding that the district and the structures and sites therein have sufficient integrity of location, design, condition, materials and workmanship to make them worthy of preservation or restoration;**
- d) is consistent with the goals of the Comprehensive Plan, based on the Board's findings that both the Historic Preservation element of the Comprehensive Plan and the Shoreland Zoning Amendments of December 1991 (which are incorporated by reference in the Plan) encourage the identification, protection and preservation of historic resources within the City of Portland and that designation does not conflict with other aspects of the Comprehensive Plan; and therefore**

- 2) recommends to the City Council that House Island be designated as a local historic district, the boundaries of which are illustrated in Figure 1.

III. Historic Preservation Board Deliberations and Recommendation to the Planning Board

On October 1, 2014, the Historic Preservation Board voted unanimously (6-0, Turk absent) to recommend to the Planning Board designation of House Island as a local historic district based on findings that it met the criteria for designation in Division 3 of the historic preservation ordinance. (The full text of Article IX, Division 3 is enclosed as Attachment 1.) Formal deliberations on the nomination followed two preliminary workshops including a site visit to House Island to review current conditions of the existing structures and sites. Detailed documentation on the development history and significance of the island and its extant structures was provided in a report prepared by ttl-architects entitled *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District*. (See Attachment 2.)

The Historic Preservation Board's recommendation was based on findings that House Island meets the criteria for designation as defined in Division 3 of the historic preservation ordinance. Under Sec. 14-610 (a) Minimum Criteria for Designation, a nominated historic district must be found to exhibit at least one (1) of six (6) identified areas of cultural, historic, architectural, and/or archeological significance. The Board found that House Island meets all six (6) of the identified criteria. In making this finding, the Historic Preservation Board referenced and confirmed the statements of significance included in the ttl-architect report that addressed the Criteria 1-6. The Board found that ttl's concluding statements of significance, which describe in a succinct narrative how the various criteria are met, were well-founded and based on detailed research and available documentation.

The Historic Preservation Board also found that House Island meets the criterion set forth in Sec. 14-610 (b), which requires that a substantial number of the sites, structures, or objects within a proposed district have a high degree of significance and that other sites and structures within the district boundaries contribute to the overall visual characteristics of the significant properties within it. The Board found that the nominated district met this standard. The Board supported the ttl-report's recommended classifications for each identified site and structure within the district boundary (see Index of Resources on page 22 of consultant's report).

Finally, the Historic Preservation Board found that the structures and sites located within the proposed House Island district meet the separate criterion set forth in Sec. 14-611, which requires that the historic resource must exhibit sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration. Based on the Board's site visit to House Island, the Board was satisfied that the structures and sites within House Island exhibit a high degree of integrity.

IV. Background – Initiation of Nomination, Documentation, Etc.

On July 9, 2014, the City's historic preservation office received letters from Greater Portland Landmarks and Peaks Island summer resident Jo Israelson requesting that House Island be nominated as a local historic district. (See Attachment 3). The letters were distributed to the

members of the Historic Preservation Board as a communication at their meeting later that day. At the Board's next scheduled meeting (July 16), Board members Penny Pollard and Bruce Wood distributed a letter to the full Board, formally nominating House Island for consideration as a local historic district. (The ordinance stipulates that district nominations must be initiated by any two members of the Historic Preservation Board or by written petition by one or more owners of affected property in the proposed district, provided two or more members of the Board sponsor the petition.)

Following the nomination, a detailed report was prepared by Julie Larry of ttl-architects documenting the multi-layered history and architecture of House Island. The report also included an analysis of House Island's significance and level of integrity, specifically addressing the designation criteria included in Portland's historic preservation ordinance. Staff reviewed the report and found that it constituted a "complete nomination" for purposes of considering the merits of designation.

On August 6th, an initial workshop was held on the proposed designation. Julie Larry of ttl-architects was invited to make a powerpoint presentation based on her written report. Ms. Larry reviewed the long history of development on House Island and the various key roles it has played over time. Using historic and recent photographs, she described the numerous extant structures and sites on the island that document various periods of its history and the specific activities that it has supported. Finally, Ms. Larry presented her findings as to the relative significance of House Island within the context of the history of Portland and beyond.

This informational workshop was followed by a site visit on September 3rd. Accompanied by property owner Michael Scarks and City staff, members of the Historic Preservation Board toured the entire island, reviewing the specific historic resources identified in Ms. Larry's report. Visiting the property was critical to the Board's deliberations as it provided an opportunity to observe the current condition of the sites, structures and objects within the proposed district. In order for the Board to address the question of *integrity* as defined in the historic preservation ordinance, it was essential to review the historic resources first hand. The site visit also provided Board members with the opportunity to decide whether the designation classifications (Landmark, Contributing, Non-contributing) recommended by the consultant for each site, structure and object within the district boundaries were appropriate. The site visit allowed Board members to observe the overall visual character of the island, the spatial and scale relationship between the individual structures on it and the visual relationship between the north and south ends of the island. Finally the site visit, which concluded with a boat tour around the entire perimeter of the island, provided Board members with an opportunity to observe available views of the island and its built resources from the water and other islands within Casco Bay and understand its role as a key character-defining feature of the bay.

ATTACHMENTS

1. Excerpts from historic preservation ordinance (Article IX) applicable to the nomination and designation of historic resources, including designation criteria
2. *House Island, Portland, ME: Analysis of Eligibility as a Local Historic District*, prepared by Julie Larry, ttl-architects
3. Original petition letters from Greater Portland Landmarks and Jo Israelson requesting that the Historic Preservation Board nominate House Island as a local historic district
4. Compilation of Written Public Comment



Late 19th century image of House Island. Courtesy of Kenneth E. Thompson, Jr.

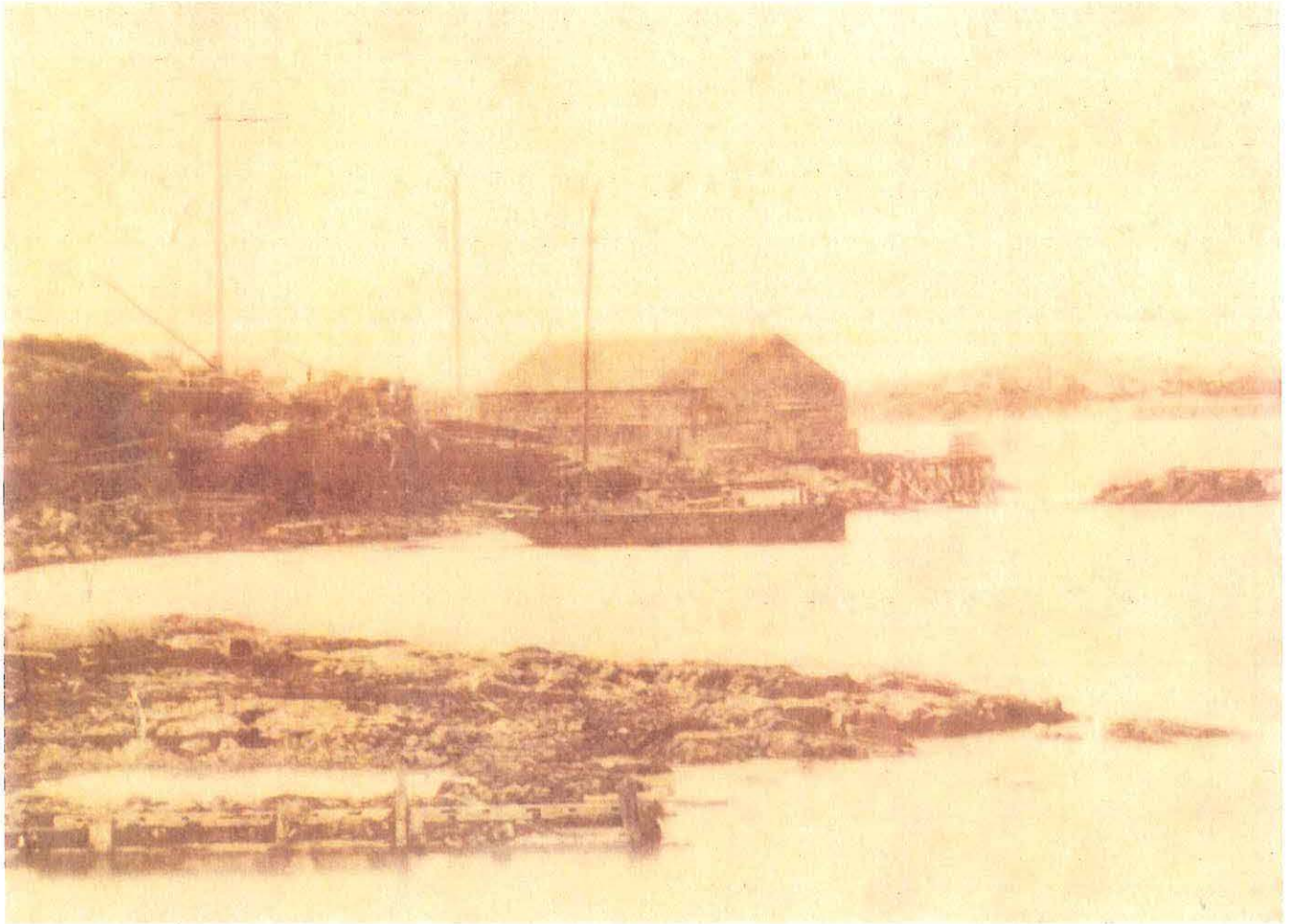
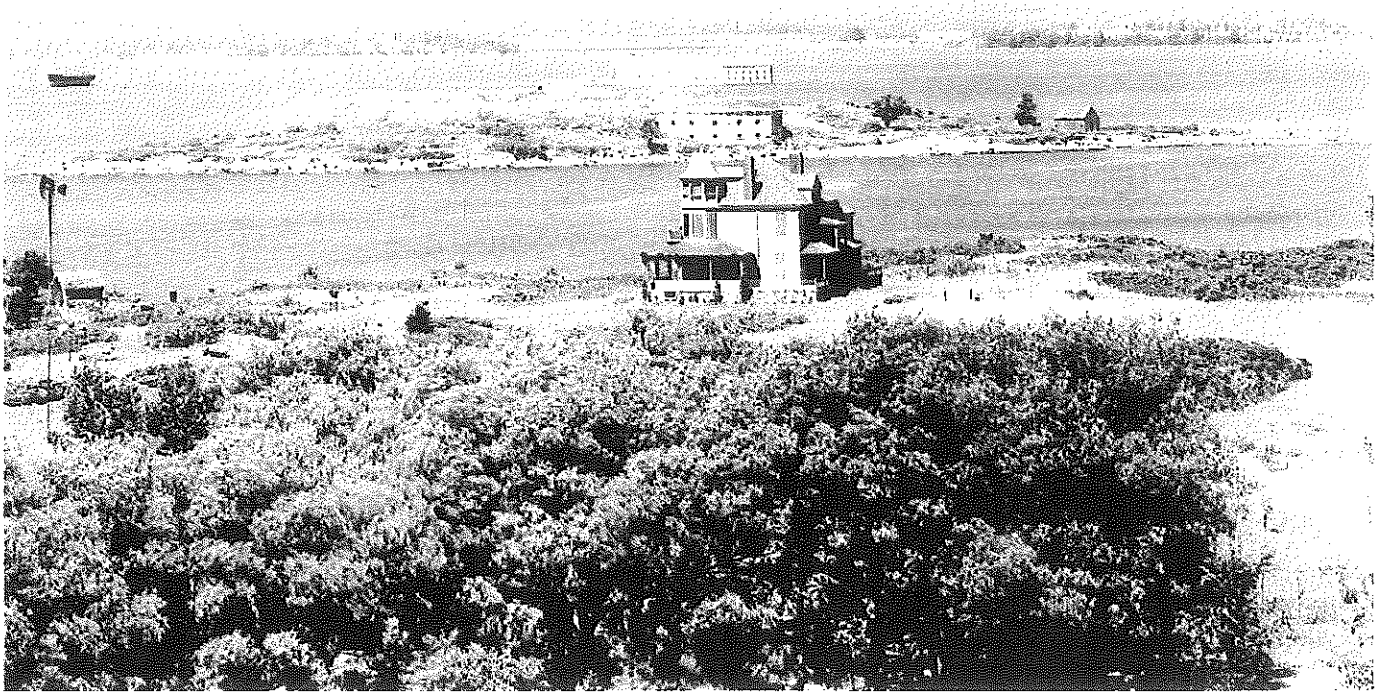
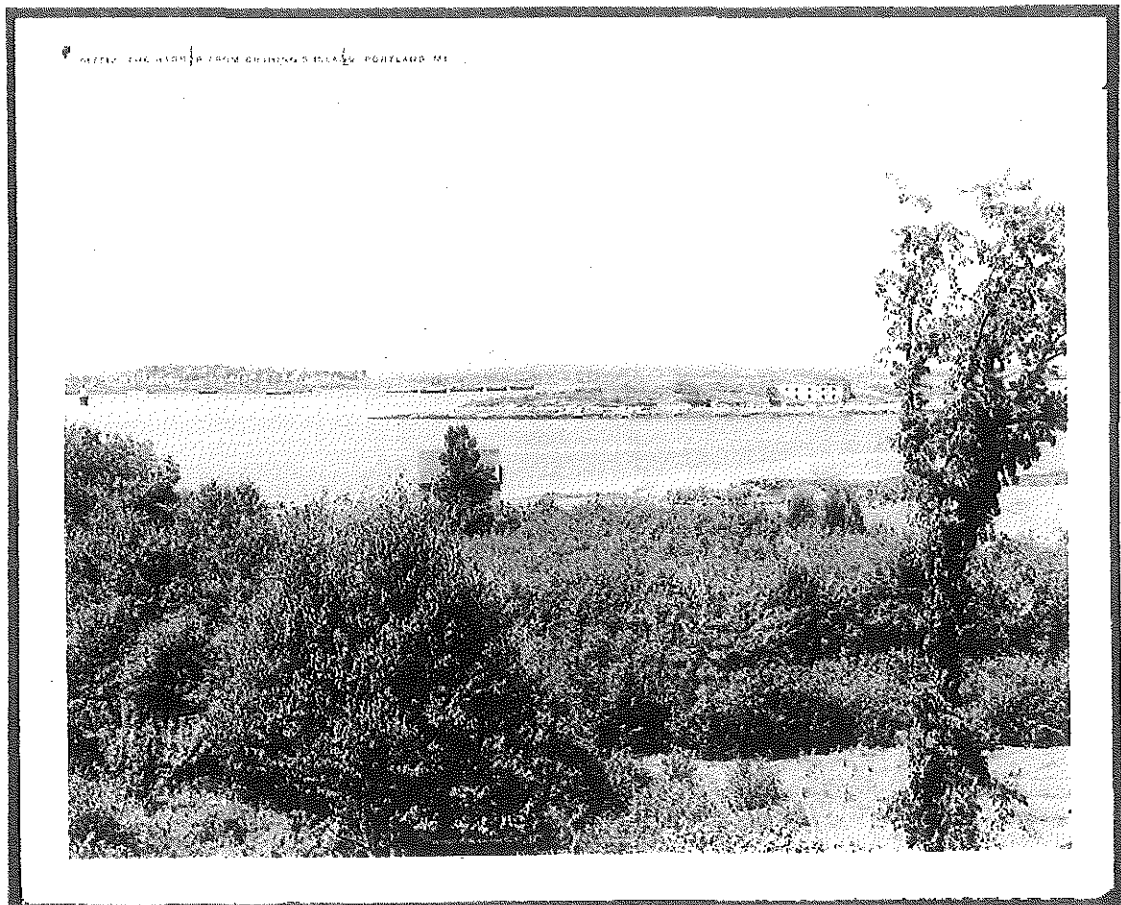


Image of a sloop near the Granite Cutting Shed (map location N) and the Old Wharf (M) a wood structure over stone cribbing.
Courtesy of Kenneth E. Thompson, Jr.



View of Fort Scammell (middle ground) and Fort Gorges (back ground). Courtesy of Kenneth E. Thompson, Jr.



Fort Scammell, House Island 1900-1906 from the collections of the Library of Congress



Image of Fort Scammell, House Island 1900-1910 from the collections of the Library of Congress



L to R the Public Health Officer's House, the Large Detention Barracks, and behind, the Small Detention Barracks *From The Casco Bay Island: 1850-2000* by Kimberly E MacIsaac.

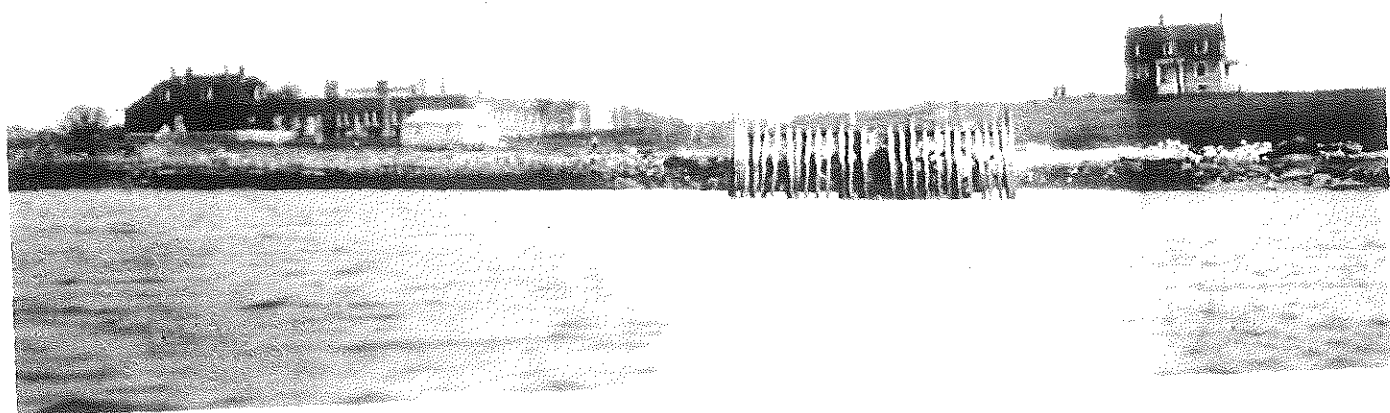


Image of House Island May 1941 from the *National Archives*. Identifier No. 7318778.



Public Health Officer's House, House Island. Item 68410, Maine Memory Network.

ATTACHMENT

3



93 High Street
Portland, ME 04101

207-774-5561
info@portlandlandmarks.org
www.portlandlandmarks.org

TRUSTEES

Robert E. Cleaves, IV
Malcolm L. Collins
Joseph Conforti
James Cram
Francesca Galluccio-Steele
Richard Gilbane
Ed Gardner
Kate Griffith
Nancy Ladd
Julie Larry
Candice Thornton Lee
Patrick Morin
Nicholas Noyes
Sally G. Oldham
Karyn Pellow
Cordelia Pitman
David Robinson
Harvey Rosenfeld
Nate Stevens
Ruth Townsend Story

Marjorie Getz
President

Thomas Elliman
First Vice President

Carol J. DeTine
Second Vice President

Thomas Dowd
Treasurer

Michael Mertaugh
Secretary/Clerk

Sharon Miller
Member-at-Large

July 9, 2014

Deb Andrews
Manager, Historic Preservation Program
City of Portland
389 Congress Street
Portland, ME 04101

Dear Deb:

I write on behalf of Greater Portland Landmarks to request that the City of Portland Historic Preservation Board nominate House Island as an historic district. The 24-acre island strategically situated at the entrance to Casco Bay played an important role in American history protecting Portland Harbor from the War of 1812 through the Civil War, and later as an immigration center in the early 20th century. House Island has tremendous significance to the history of Portland and to the overall character of Portland Harbor. Landmarks declared it a Place in Peril in 2012, when the property was placed on the market for sale. Its historic resources currently lack any protection.

In 1808, the U.S. Government purchased the southwest section of House Island and initially erected an octagonal timber fortification named after Revolutionary War General Alexander Scammell. Garrisoned during the War of 1812, Fort Scammell (1808-1898) was fired upon by British privateers in 1813 and is the only fortification guarding Portland Harbor ever fired upon – and to return fire. In 1862 Fort Scammell was completely redesigned and totally rebuilt for the Civil War under the direction of Thomas Lincoln Casey, who was also the architect of Washington's Monument. He specified use of portland cement in the fort, which is significant because according to the Portland Cement Association of the US and Canada, the earliest recorded shipment of portland cement to the US from England was in 1868. The Fort is extremely well built heavy masonry and remarkably intact. This primarily underground fort is, cathedral-like in its scale and a wonder to behold. This unique structure is of national significance.

The northern half of House Island was a federal Immigration Quarantine Station from 1907-1937, "the Ellis Island of the North," and retains three residential-scale buildings from that era, which served as the doctor's house, the detention barracks and the quarantine hospital. All have recently been in use, but all need maintenance.

Earlier the island was the site of a major shipbuilding enterprise, a major fish drying industry and retains a lobster pound. The island has been kept primarily cleared of trees by its previous owners, the Cushing family. In a different fiscal era, this site could be a candidate to be a National Park.

House Island is one of the most important historic landmark sites and cultural landscapes in the City of Portland. Its location at the center of the Harbor, its significance in national and local history, and its value as a resource that combines fascinating elements of the built and natural environment make it a top priority to find a way to preserve the site.

Thank you for your consideration.

Yours sincerely,

Hilary Bassett
Executive Director

Deb Andrews - Designation of House Island as a Historic District

From: Jo Israelson <welcomingthestrangerart@gmail.com>
To: <dga@portlandmaine.gov>
Date: 7/9/2014 10:11 PM
Subject: Designation of House Island as a Historic District
Attachments: 02The Past is Prologue OR Why Don't We Know About That.docx

July 9, 2014

TO: Deb Andrews, Historic Preservation Manager

City Of Portland

Historic Preservation Office

FR: Jo Israelson 443.622.0863

RE: Request for House Island Designation as Historic District

This is a request to your office to consider designating House Island as a historic district.

I am a Portland-born and Munjoy-Hill raised artist. I am preparing for a 2015 exhibit at the Maine Jewish Museum. Because my work often focuses on a little known moment in history that reflects larger issues within a current context, the role of the House Island quarantine station in the lives of Portland immigrants peaked my interest.

"In November 1923, 218 immigrants traveling to NY and Boston on the George Washington and the President Polk ships were diverted to Casco Bay, Maine. They were then detained on House Island, known at that time as the "Ellis Island of the North." This quarantine station was in service from 1907 until 1937.

For the past year I have been researching the history of House Island and specifically the Immigration and Quarantine station. I have delved into the files of the Maine State Archives, Maine Historical Society, the Portland Room of the Portland Public Library, the New England Archives in Waltham, and Judaica Collection at the Glickman Library as well as the National Archives in Washington, D.C. There appears to be very little documentation relative to House Island and the Immigration Station.

I found a few details. It was in service from 1904 – 1937. As the implementation date of the 1924 quotas approached, passenger ships not allowed to land in Boston

or NY were re-routed to House Island. Immigrants allowed to remain in the U.S. could then be sent by rail to New York or Boston. Others were returned to their country of origin.

- What I haven't found yet were artifacts from the Doctor's Home, the quarantine station itself, the environs surrounding the buildings.
- What I haven't found yet are detailed photographs of the buildings on the island.
- What I haven't found yet are all the names of people who were held there from 1904 – 1937.
- What I haven't found yet were the names of Portland residents whose family members came into Portland through House Island.
- What I haven't found were the names of those returned to their country of origin.

As kids growing up on Munjoy Hill (The Hill), we were more interested in hanging out on the Prom, playing pick up baseball, and finding beach glass. Studying history was an anathema: too many dates and too much war. I was only interested in the people who made the history – many of whom we never learned about. Those people were this city's immigrants and our ancestors. House Island's story has not been told.

Portland is a city created by immigrants; Irish, Italian, Eastern European, English...I am hoping that your office will honor House Island's history and its role as, not only the Gateway to the City, but also the gateway to those who built it.

Attached is an article entitled: *The Past is Prologue or Why Don't we Know About That* published in the May, Munjoy Hill Observer that chronicles my research.

I hope you will consider my request. Thank you for your assistance.

cc.

Rick Romano

John Turk

Ted Oldham

Scott Benson

Bruce Wood

Penny Pollard

ATTACHMENT

4

PUBLIC COMMENT

**Greater Portland Landmarks Statement In Support of Designation of House
Historic District -- Planning Board meeting 11/25/2014**

House Island is one of the most important historic landmark sites and cultural lan-
Portland. Its location at the center of the Harbor, its significance in national and local history, and its
importance to both the built and natural environment make it a top priority to preserve the site.

House Island's Fort Scammell protected Portland Harbor from the War of 1812 through the Civil War.
The three residential-scale buildings on the northern half of House Island were known as "the Ellis
Island of the North," serving as a federal immigration quarantine station from 1907-1937.

Greater Portland Landmarks strongly encourages the Planning Board to support the Historic
Preservation Board's recommendation to designate House Island as an historic district. There are three
aspects within the purview of the planning board jurisdiction:

- a) the nomination is complete, and includes strong evidence of its historic significance in
the study prepared by ttl architects;
- b) the nomination has been carefully reviewed and unanimously recommended by the
Historic Preservation Board, which determined that it meets all 6 criteria for historic district
designation based on its cultural, historic, architectural, and archeological significance, and retains
its historic integrity. Please note that a site only needs to meet 1 of the 6 criteria to be designated,
so that this site is especially significant to Portland on multiple levels, and
- c) historic preservation is named as a goal of the City's comprehensive plan, with the City's
Historic Preservation ordinance cited as an historic resource element to the plan which protects
historic resources in the City of Portland.

A local historic district provides a formal means to preserve the existing historic buildings, structures
and landscape features. It does not prevent new development. Rather, it provides a formal means to
review and manage change, including any new construction, to ensure that it is compatible and sensitive
in design, scale and quality of materials to what is already there.

There is no ideal time for a district designation. Landmarks named House Island as a Place in Peril, our
endangered property listing, in 2012. The previous owners had stewarded the property for nearly 60
years. We did not request designation during the time of the sale. However, when we learned that a new
owner envisioned potential demolitions, we felt it very important to provide protections for this highly
significant place while there was still time. As stated before, district designation provides a way to
manage change in a way that respects the historic resources – it does not prevent change.

Local historic district designation also provides long-term protection for the historic resources on the
island, protections that transcend the ownership of the land. This is important, because different owners
may have different objectives in owning the island. Recently, the northern part of House Island was
sold to new owners, and there will be other transitions in ownership going forward.

House Island has tremendous significance to the history of Portland and to the overall character of
Portland Harbor, and needs to be protected for the benefit of future generations. Again, we urge you to
recommend the designation of House Island as a local historic district.

Christopher Closs, Preservation Services Advisor
Greater Portland Landmarks

Deb Andrews - House Island Public Hearing

From: Mike Scarks <mscarks@hotmail.com>
To: Deb Andrews <dga@portlandmaine.gov>
Date: 11/25/2014 3:31 PM
Subject: House Island Public Hearing

Dear Deb: As I am unable to attend tonight's public hearing, I would appreciate you providing this email to the Board for inclusion into the record.

I still oppose the entire Island(at least the southern half which I own) being incorporated into a new Historic District. I certainly agree that the fort itself is a "landmark worthy" structure and support that designation; however, I believe that designation is sufficient to protect all the historic significance on the south Island without unduly burdening the owner and tax payer with excessive regulation.

If there has to be an Historic District then I firmly believe it should coincide with the outer limits of the fort itself.

Thank you for forwarding this to the board. Sincerely, Mike Scarks

Amy Osborn
1 Stratton Place
Portland, ME 04101

November 22, 2014

City of Portland Planning Board
339 Congress Street
Portland, ME 04101

Dear Planning Board Members,

I ask that you take the positive action of creating an historic district that encompasses the whole of the island known as House Island. The case is well researched and documented and overwhelmingly meets the standards for designation as such.

Growing up in Portland and on Cushing's Island in the summers, I and my father and grandfather before me, have admired for more than a century the architectural beauty and historic significance of Fort Scammell (1808) and the 1907 immigration station houses as well as the landscape of House Island. As a tourist and business destination, Portland must protect this picturesque view that 1000s of cruise passengers, commercial and recreational vessels have of House Island as they pass through Portland Harbor to and from the City mainland.

With a residence at 1 Stratton Place (Park Row 1847) within the eastern boundary of the West End Historic District, I am grateful for the guidance of the Historic Preservation Ordinance (1980) and the operations of its board and staff appointed to enforce its mandate. The board/staff are well-informed, reasonable in their decision-making and, importantly, most helpful to property owners subject to the ordinance. I have no doubt that the two developers who have purchased House Island, Mr. Michael Scarks and Mr. Vincent Mona, and any future owners of individual properties carved from their individual parcels, will find this to be the case. Misters Scarks and Mona are seasoned investors with prior historic property preservation experience and both were aware before their individual purchases that House Island was listed to be considered for historic district status.

The near-in islands together with the mainland define the entrance to Portland Harbor. As an islander from Cushing's, I grew up with a sense of responsibility to maintain the beauty of the island's historic architecture and landscape for future generations. Long before the existence of the Historic Preservation Ordinance, Cushing's islanders came together as an island community and 'government' to protect these gifts. House Island does not have such a history though former owner Hilda Cushing saved the Fort from demolition and was a steward committed to essentially no change over 60 years of singular ownership. Now, with new owners and no "island community" history to guide their actions, I believe it is essential that the City of Portland use the one tool at their disposal to guide protection of the historic significance of House Island architecture and landscape. Designate House Island in its entirety as an Historic District of the City of Portland.

Sincerely yours,

Amy Osborn

Deb Andrews - ""Support historic districting of House Island and historic designation of Fort Scammell.""

From: Hank Banquer <hbanquer@earthlink.net>
 To: <dga@portlandmaine.gov>
 Date: 11/25/2014 8:58 AM
 Subject: ""Support historic districting of House Island and historic designation of Fort Scammell.""

To the DGA

I feel it is important to the nation and to me personally that historic sites that influenced us as a nation state and people should be preserved for our future generations. Knowing your story and how your family came to the USA and the hope and promise that meant to them is an important milestone. In fact for many of us it is the only history we have. It all started when our family(s) arrived in the USA our history began to be written and documented. When I visit sites in New England where my family of Jewish immigrants arrived for what is now the Soviet Union it make me think of the hardships and the emotional turmoil to leave Europe for a far off land for only a promise of a new life. My sister is a resident of Peaks Island and I try to visit as often as I can. Whenever we pass House Island and Fort Scammell we talk about the life our great grand parent had, the courage to make a better life for future generations of our family. When I am with my wife and children when they were young, often on the 4th of July holiday, visiting my sister on Peaks we understand this really unique phenomena of immigration because my children have been influenced directly by immigration in their generation. I hope that future generations of my family will be able to appreciate these special sites where immigrants passed through. It was their personal doorway to a new life of freedom and prosperity. To know who we are we need to know our history and places like House island are where it started for many immigrant families.

As a personal note when my wife, who is Singaporean, applied for her green card we went to what was sort of the Ellis island of Hawaii. The building that stood there with its huge high doors leading from the wharf inside, the waiting area, benches and facilities all struck me emotionally. Then the big doors to Honolulu that the new immigrants passed through after processing. I was just in awe and the thoughts of all the people who passed thru these to a better life was emotional and something I was now experiencing with my wife who was being processed through. We are often referred to as the island family as both myself and sister reside on islands so they are a special places for us as well.

Please consider this in some respects, not just a place of historical value but a place that is the beginning of many peoples dream and lives. To some it is just history, emotional and even spiritual to others but it is something special to everyone whose family(s) were immigrants. We ask that you please preserve this site for future generations so they will have a place to visit, connect with their past and rethink what it meant to come to the USA and be an American.

Henry Y. Banquer
 PO Box 807
 Volcano, HI 96785

Hank Banquer
 Mobile: 808-990-5419
hbanquer@earthlink.net

Deb Andrews - For hearing tonight re: House Island

From: Nancy 3.Hoffman <3nancy3@gmail.com>
To: <dga@portlandmaine.gov>
Date: 11/25/2014 10:27 AM
Subject: For hearing tonight re: House Island

November 25, 2014

To: Planning Board c/o Deb Andrews, dga@portlandmaine.gov

Dear Ms. Andrews and Members of the Portland Planning Board -

This is in support of the proposed designation of House Island as a Historic District.

I am a graduate architect who has worked for the National Park Service in Lakewood, Colorado. I also was Assistant Director of the Dade County Historic Survey, Miami, Florida (1977-1980), and served on the State of Florida historic survey team in Key West, Florida (1975 - 1977). I have worked briefly for Portland Landmarks, and for various preservation architects in New England.

In Florida, my responsibilities included researching and writing nominations to the National Register of Historic Places for districts including over 1,000 structures.

One of the most significant nominations I worked on was for the "Freedom Tower," also known as the Miami News Building. In short, this building served as the primary immigration center for Cubans coming into the United States in the 1960's and 1970's. Our nomination of this structure was upgraded by the Park Service, and the building became a National Historic Landmark. (ref. "Update Magazine" of The Historical Assoc. of Southern Florida, June, 1978).

It is surprising and perhaps ironic that I now live on Peaks Island, and have learned of the potential designation of another, earlier, immigration center to the local landmarks listing. In reading the historic material provided by Julie Larry of ttl-architects, I am impressed with the detail and comprehensive nature of her research on House Island. At a time when a major influx of immigrants from Europe were entering this country and forming the core of the famed "melting pot" of cultures in America, House Island served as a significant intake point for many of those immigrants.

I concur that the structures on House Island and the remains of others meet the minimum criteria under Section 14-610 and 14-611 of the historic preservation ordinance. I urge the Planning Board of the City of Portland to designate House Island as a local historic district.

Nancy 3. Hoffman
53 Brackett Avenue
Peaks Island, Maine 04108
207-939-0301, email: 3nancy3@gmail.com

Deb Andrews - Letter in support

From: Jo Israelson <welcomingthestrangerart@gmail.com>
To: Deb Andrews <dga@portlandmaine.gov>
Date: 11/23/2014 8:33 AM
Subject: Letter in support

Thank you for your assistance and have a lovely Thanksgiving.

This letter is in support of historic districting for House Island.

It has been said that, at its best, preservation engages the past in a conversation with the present, over a mutual concern for the future. William J. Murtagh, First Keeper of the National Register of Historic Places

It has been 100+ years since the first immigrants stepped onto House Island to be processed at the House Island Immigration and Quarantine Station.

Many of the immigrants that passed through House Island were bound for New York and Boston. They came for a better life – to escape oppression or persecution, to find religious freedom, to seek economic prosperity. They came hoping for a new life in a new land.

They left family and friends and a familiar way of life.

They traveled in steerage for up to 18 days.

They arrived not knowing where they would sleep that night or where they would obtain a meal.

Some people will look at a slab of granite on House Island and see an unused block of stone.

But I see the marks made by the hands of men who quarried the stone and constructed granite wharves and forts.

Some people will look the remnants of the Quarantine and Immigration Station – the original detention center, the doctor's residence and the hospital – and see land for development.

But I hear the voices of those who came to America hoping for a better life for themselves and their children.

Some people will look at a fort that fired only one shot in defense of Portland and not understand its role in protecting the entire bay.

But I know that the architecture has more significance and its long history is of greater value than the firing of canon.

Jo Israelson

11/23/2014

From: Lynne Mason <lynnemason108@yahoo.com>
To: <dga@portlandmaine.gov>
Date: 11/20/2014 1:34 PM
Subject: historical preservation of house island

Dear council,

I hope some plan or compromise can be worked out and that House Island in Portland Maine has its historical history preserved for all to learn and enjoy. It is a rich heritage of immigration history so topical to our times.

Best Dr. Lynne Mason
Po Box 26
Plum Island Maine
born in Portland Maine
425-223-0157

Deb Andrews - House Island, Portland Maine

From: STEPHEN BYRNE <stephen.byrne@sbcglobal.net>
To: "DGA@portlandmaine.gov" <DGA@portlandmaine.gov>
Date: 11/17/2014 7:47 AM
Subject: House Island, Portland Maine

I am writing in support of House Island as a local historic district. In July of 2011, I was fortunate to tour the island with a friend & my 10 year old son. We saw the Fort/Battery, the houses, the infirmary & listened to the history of the island. I hadn't realized the importance of the island. It would be a shame to lose this piece of history. JoAnn Byrne

Greater Portland Landmarks

Statement In Support of Designation of House Island as a Local Historic District

Planning Board meeting 10/21/2014

House Island is one of the most important historic landmark sites and cultural landscapes in the City of Portland. Its location at the center of the Harbor, its significance in national and local history, and its value as a resource that combines fascinating elements of the built and natural environment make it a top priority to find a way to preserve the site.

House Island's Fort Scammell protected Portland Harbor from the War of 1812 through the Civil War. The three residential-scale buildings on the northern half of House Island were known as "the Ellis Island of the North," serving as a federal immigration quarantine station from 1907-1937.

Greater Portland Landmarks strongly encourages the Planning Board to support the Historic Preservation Board's recommendation to designate House Island as an historic district. There are three aspects within the purview of the planning board jurisdiction:

- a) the nomination is complete, and includes strong evidence of its historic significance in the study prepared by ttl architects;
- b) the nomination has been carefully reviewed and unanimously recommended by the Historic Preservation Board, which determined that it meets all 6 criteria for historic district designation based on its cultural, historic, architectural, and archeological significance, and retains its historic integrity. Please note that a site only needs to meet 1 of the 6 criteria to be designated, so that this site is especially significant to Portland on multiple levels, and
- c) historic preservation is named as a goal of the City's comprehensive plan, with the City's Historic Preservation ordinance cited as an historic resource element to the plan which protects historic resources in the City of Portland.

A local historic district provides a formal means to preserve the existing historic buildings, structures and landscape features. It does not prevent new development. Rather, it provides a formal means to review and manage change, including any new construction, to ensure that it is compatible and sensitive in design, scale and quality of materials to what is already there.

Local historic district designation also provides long-term protection for the historic resources on the island, protections that transcend the ownership of the land. This is important, because different owners may have different objectives in owning the island. Recently, the northern part of House Island was sold to new owners, and there will be other transitions in ownership going forward.

House Island has tremendous significance to the history of Portland and to the overall character of Portland Harbor, and needs to be protected for the benefit of future generations. Again, we urge you to recommend the designation of House Island as a local historic district.

Hilary Bassett
Executive Director
Greater Portland Landmarks

From: Herbert Nolan <herbnolan@me.com>
To: DGA@portlandmaine.gov
CC: NMM@portlandmaine.gov; jhinck@portlandmaine.gov; jduson@portlandmaine.go...
Date: 9/26/2014 11:38 AM
Subject: Comments on the proposed House Island Historic District
Attachments: letter to portland board.pdf

Dear Ms. Andrews:

Attached is my comment letter regarding the proposed House Island local historic district which I and many other islanders support. Please distribute it to the Historic Preservation Board. Since this matter may be before the Portland City Council at some point this winter I am forwarding the comment letter to the council members as well. As I look at House Island on my way to Peaks tomorrow I will do so with much deeper appreciation of its history and significance having read the excellent report by ttl-Architects.

All my best,

Herb Nolan

September 23, 2014

Rick Romano, Chair
Portland Preservation Board
389 Congress Street
Fourth Floor
Portland, ME 04101

Dear Mr. Romano and fellow board members:

I've read the historic research on House Island, sponsored by Greater Portland Landmarks, and now have a much deeper appreciation for this Casco Bay landmark. I, and many of my fellow islanders in the bay, urge you to consider the historic significance of this little island and vote to designate it a local historic district. There are several compelling arguments to safeguard this island, its extraordinary history leading the list.

History: House Island is one of the best preserved coastal fortifications on the eastern seaboard from the early 19th century and played a pivotal role in the defense of Portland harbor. Furthermore, it supported a significant fishing industry and became, in the early 20th century, the "Ellis Island of the North" welcoming tens of thousands of immigrants to North America. That rich history is evidenced by a group of well-preserved artifacts that generations of islanders know and cherish. All of this could be swept away by bull dozers or degraded by poorly conceived development in a matter of months.

In addition to its compelling history and artifacts, there two other reasons for protecting this invaluable resource:

Visibility: House Island is a gateway to the harbor and a character defining feature of the bay. It is seen by thousands of people on shore or on shipboard every day. Five miles of urban waterfront in Portland, South Portland, and Cape Elizabeth overlook House Island. (see attached diagram showing this view shed.) This small but highly visible island is viewed at close hand by those who take the island ferries every day. Close to *one million* ferry passengers have had the opportunity to enjoy the view of House Island this year alone. Over *eighty thousand* passengers see House Island from the decks of cruise ships as they enter and leave Portland Harbor each season. Many more people pass by on tour boats or on their own vessels each summer. The scenic value of House Island to all of these thousands of residents and visitors is incalculable. Its degradation by excessive development would be a loss to hundreds of thousands of individuals.

Economics: The City of Portland has made great efforts to protect its historic fabric and scenic beauty over the years. The value of tourism to the City of Portland has grown tremendously as a result, and the bay has played an important role in that growth. Cruise ships bring in millions of dollars of revenue each year. One week this fall eight cruise ships with twelve hundred passengers crowded Portland's wharves. Over a million dollars was likely spent during their stay. The economic impact of whale watching, deep sea fishing, and tour boats during the summer months is comparable to that of cruise ships. Our summer residents play an economic role as well. The island population, which triples in size during the summer, has a direct and indirect impact of over one hundred million dollars on the Portland economy according to one University of Maine study. Much of the tourism economy depends on and takes for granted Portland's stewardship of its historic character. Eroding that character will inevitably erode the reasons people cherish this city and chose to visit or live here.

On a personal note, I grew up in Portland and spent my summers on Cushings Island. I live in a house built in 1884 and remodeled in 1913 for my grandfather who was the dean of St. Luke's Cathedral. Reverend Nolan had a recessed cross built into the fire place and welcomed scores of islanders to Sunday morning mass in our living room each summer. I've spent years maintaining that historic house and its shoreline as something of a shared legacy in the bay. Many fellow islanders feel a similar responsibility. Well over half of Cushings Island is in conservation to protect the scenic approaches to Portland Harbor in perpetuity. We are proud of that commitment.

The same degree of care should be taken with House Island. Any owner/developer worth their salt will take pride in restoring and reusing the existing structures and will make limited additions to the island only in a way that respects the historic character of the island. One thing is for certain, those magnificent fortifications and their slopes guarding the entrance to Portland harbor should remain intact and unencumbered for generations to come. Designation as an historic district is one way to ensure this.

Thank you for your thoughtful consideration.

Sincerely,

Herbert Nolan
Portland, ME

CC Deb Andrews, Historic Preservation Manager
 Stuart O'Brien, Chair, Planning board
 Portland City Council

ENC: Views to House Island



Views to House Island from the mainland, the islands, and the approaches to Portland harbor
Note: 65% of Cushings Island was placed into conservation in 1980 to protect the undeveloped scenic beauty of the land and to "preserve, protect, and enhance the entrance to Portland harbor."

Part of the CB Richard Ellis Affiliates network
29 September, 2014

Deborah G. Andrews
Department of Planning and Urban Development
Portland City Hall
389 Congress Street
Portland, ME 04101

One Canal Plaza, Suite 500
Portland, ME 04101

T 207 772 1333
F 207 871 1288

www.boulos.com

Dear Ms. Andrews,

Historic Districts have value throughout the city of Portland, and they provide the public with an opportunity to experience and appreciate our city's cultural and traditional heritage. While I understand the need, it seems that proposing Historic Districts, has recently become a new mechanism to thwart any development, whether the property be historic or not.

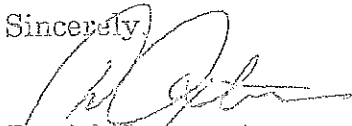
I am writing to you today to voice my opposition to the nomination of House Island as a historic district because the nomination would create an entirely new standard of what should be a historic district.

With the exception of Fort Scammel, which would not be impacted by Mr. Scarks' plans for the island, the other structures are in need of serious repair. There is no trace of any of the historical activities that long ago took place on the island.

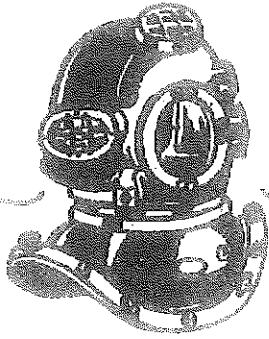
I have personally known Mike Scarks as a developer for over 30 years. If you look back at all the projects he has repurposed, including Nissen Bakery, the Merrill Transportation property on Forest Ave, and of course the former Maine National Bank building, it is obvious he has taken into consideration preservation aspects of each development, resulting in a positive contribution to the City. This has all been done within the current planning process.

Change is inevitable, and without it we would be living in the past. Although there are plenty of structures which need to be preserved, the dilapidated, fallen down structures on House Island do not qualify as historic. As such, in the case of House Island, the designation of a historic district would do far more harm than good.

Sincerely,



Daniel Greenstein



General Marine Construction Corp.

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Deborah G. Andrews

9/30/2014

Historic Preservation Program Manager

Dept. of Planning & Urban Development

Portland City Hall, 4th floor

389 Congress St.

Portland, Maine 04101

Re: House Island

Dear Ms. Andrews;

I BELIEVE THE HISTORIC BOARD IS SLOWLY MAKING A LOT OF THIS CITY LESS THAN USEFUL TO A GREAT NUMBER OF THE PUBLIC.

MAKING ANOTHER PROPERTY HISTORIC WHEN THE PROPERTIES THAT ARE TRULY HISTORIC NOW, LIKE FT. GORGES, ARE IN DISREPAIR AND NOT AVAILABLE TO THE PUBLIC BECAUSE THEY ARE TOO DANGEROUS, AND THERE IS NO FUNDING AVAILABLE TO MAKE THEM EVEN REASONABLY SAFE.

HOUSE ISLAND HAS NO PUBLIC ACCESS AND WILL NEED A SMALL MOUNTAIN OF MONEY TO JUST REBUILD THE EXISTING INFRASTRUCTURE.

I BELIEVE REAL HISTORIC PRESERVATION IS WORKING WITH WILLING PARTIES TO PRESERVE AND ENHANCE THE PUBLIC AND

PRIVATE USE OF PROPERTIES. IF HOUSE ISLAND IS DESIGNATED AS HISTORIC, THEN ARE YOU NOT DOING THE SAME THING HERE AND MAKING ANOTHER PROPERTY LESS THAN USEFUL WITH NO FUNDING AVAILABLE TO DO ANYTHING.

AS A FINAL THOUGHT, IT SEEMS INAPPROPRIATE TO PROPOSE THIS CHANGE NOW AND NOT WHEN HAROLD FIRST PUT THE PROPERTY ON THE MARKET TWO YEARS AGO.

SINCERELY,

A handwritten signature in dark ink, appearing to read "Roger P. Hale", written over the typed name.

Roger P. Hale, Pres.

General Marine Construction Corp.

Deb Andrews - House Island Hearing

From: "Nancy 3. Hoffman" <3nancy3@gmail.com>
To: <dga@portlandmaine.gov>
Date: 10/1/2014 9:46 AM
Subject: House Island Hearing

October 1, 2014

Dear Ms. Andrews and Members of the Historic Preservation Board -

This is in support of the proposed designation of House Island as a Historic District.

I am a graduate architect who has worked for the National Park Service in Lakewood, Colorado. I also was Assistant Director of the Dade County Historic Survey, Miami, Florida (1977-1980), and served on the State of Florida historic survey team in Key West, Florida (1975 - 1977). I have worked briefly for Portland Landmarks and for various preservation architects in New England.

In Florida, my responsibilities included researching and writing nominations to the National Register of Historic Places for districts including over 1,000 structures.

One of the most significant nominations I worked on was for the "Freedom Tower," also known as the Miami News Building. In short, this building served as the primary immigration center for Cubans coming into the United States in the 1960's and 1970's. Our nomination of this structure was upgraded by the Park Service, and the building became a National Historic Landmark. (ref. "Update Magazine" of The Historical Assoc. of Southern Florida, June, 1978).

It is surprising and perhaps ironic that I now live on Peaks Island, and have learned of the potential designation of another, earlier, immigration center to the local landmarks listing. In reading the historic material provided by Julie Larry of ttl-architects, I am impressed with the detail and comprehensive nature of her research on House Island. At a time when a major influx of immigrants from Europe were entering this country and forming the core of the famed "melting pot" of cultures in America, House Island served as a significant intake point for many of those immigrants.

I concur that the structures on House Island and the remains of others meet the minimum criteria under Section 14-610 and 14-611 of the historic preservation ordinance. I urge the Historic Preservation Board and the City of Portland to designate House Island as a local historic district.

Nancy 3. Hoffman
53 Brackett Avenue
Peaks Island, Maine 04108
207-939-0301, email: 3nancy3@gmail.com

Deb Andrews - House Island

From: "Astrid O'Brien" <aobrien@fordham.edu>
To: <dga@portlandmaine.gov>
Date: 9/22/2014 4:07 PM
Subject: House Island

I have been spending summers on Peaks Island since 1966: we bought a seasonal residence on the island in 1968. I have always been fascinated by House Island, and curious about its history, the history of those who built the houses and the fort, what they did, etc. This is human history; we cannot plan a positive future unless we know more about ourselves than the brief span of an individual life. Therefore it would be a great loss to simply tear down the buildings for commercial gain. They should be preserved, their history made visible in a museum. I support the historic districting of House Island, and its coming under the jurisdiction of the Preservation Board. thank you, (Dr.) Astrid M. O'Brien

Deb Andrews - house Island

From: "M. Roth" <shecap10@hotmail.com>
To: "dga@portlandmaine.gov" <dga@portlandmaine.gov>
Date: 10/1/2014 2:06 PM
Subject: house Island

Good day Ms. Andrews,

I am writing regarding House Island and it's historic designation debate. I have lived on Peaks Island for the past 10 years and captained the Casco Bay Lines ferries for the past 17 years. This particular property always saddened me as it was completely off-limits to the public and appeared deserted and derelict. It was not until Mr. Skarks purchased the island that I was given opportunity to set foot on House Island.

Here on Peaks we have several cemeteries that have stones dating back to the 1700's that lie in disrepair. Fort Gorges is falling into ruin and the energies of those advocating for House Island would be most welcome in the fight to save history that is easily accessible but often ignored.

Having seen the rehabilitation of the Nissan building on Munjoy Hill done by Mr. Skarks I feel strongly that he will be a good steward of House Island. His willingness to make the fort accessible to the public to me is worth celebrating. If we curtail those who are willing to take on impossibly large tasks such as Mr. Skarks has we will only see history crumble as we pass by on the ferry year after year. Although romantic from afar, the condition of the wooden structures is moderate to poor and they pose little to no significant architectural details.

Please give Mr. Skarks the ability to save House Island in his own vision and with support from the local community.

Best regards,

Cpt. Mary-jo Roth

Deb Andrews - House Island

From: priscilla webster <pwebster@gwi.net>
To: <dga@portlandmaine.gov>
Date: 9/22/2014 8:28 PM
Subject: House Island

Dear Ms. Andrews:

I am aware of an Historic Preservation Hearing about House Island on October 1, but will not be able to attend.

The building that housed the hospital there is a little known part of US history, not just Maine history, and I hope you will be able to see that it is preserved and not torn down. I remember going on a tour there from Peaks Island a few years back and I was so amazed to learn of the island's part in the US immigration story. I hope others will have that chance.

Sincerely,
Priscilla Webster
29 Centennial Street
Peaks Island

Deb Andrews - Can this be read at tomorrows Historic Preservation Board meeting

From: Arthur Fink <af@arthurfinkphoto.com>
To: Deb Andrews <DGA@portlandmaine.gov>
Date: 9/30/2014 1:18 PM
Subject: Can this be read at tomorrows Historic Preservation Board meeting

Dear Deb Andrews,

I'll not be able to attend tomorrow's Historic Preservation Board meeting, where the House Island historic district proposal will be discussed. I hope that this short statement can be read on my behalf:

I wish that I could be present in person to speak strong on behalf of protecting the rich history of House Island, by creating an appropriate historic district.

Where else in Maine — let alone in Portland — can we encounter so much history in one place? Fort Scammel dates back to the early 1800's. The immigration station, from the middle of the last century, was our version of Ellis Island.

Surely it's possible to develop part of the island for modern usage, while maintaining much more than token symbols of this history. And surely we should have a mechanism to insure that any development on the island is respectful of such rich history. That's what a historic district provides.

Our cultural history should not be obliterated, or put in the shadows of excessive "development". We should put in place a mechanism to insure this — and that's exactly what our government provided, when it passed the historic preservation ordinance.

I've served on Portland's Historic Preservation Board, and know that it has lots of flexibility to allow reasonable development, as long as significant architectural, historic, and cultural elements are preserved and respected. Please give them the opportunity to work with the new island owner to protect House Island, even as some some development arrives.

Best regards,

Arthur Fink

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Click on this link to [join my e-mail list](#) (via Constant Contact)
for news about shows, art and spirit and creativity workshops,
creativity coaching, wedding, birth, and event photography.

Deb Andrews - In support of House Island historic district

From: Shelagh Reiser <out2cthec@hotmail.com>
To: "dga@portlandmaine.gov" <dga@portlandmaine.gov>
Date: 9/30/2014 7:51 PM
Subject: In support of House Island historic district

Hi Deb,

I am unable to attend the meeting tomorrow but am very much in support of designating House Island as an historic landmark and protecting it for all of us, and the visitors to Portland, to enjoy. I have been a sea kayak guide on Peaks for several years, and I take countless visitors (and islanders!) around House Island every year. People are awed and enchanted to visit and explore Fort Gorges; they are also very interested in Fort Scammel and House Island and, of course, would love to set foot there as well.

In addition, we see osprey there often, as well as blue herons in the shallows - my favorite shore birds! And of course, lots of other wildlife.

I am hoping the Portland will protect this piece of our historic, vibrant, welcoming, accessible waterfront.

Sincerely,

Sheila Reiser

Peaks Island

I don't get to my e-mail every day, so if your message has a short time line, you're better off contacting me by phone. Thanks!

From: "Miranda Vinograd" <miranda.vinograd@gmail.com>
To: <DGA@portlandmaine.gov>
Date: 8/4/2014 8:26 AM
Subject: House Island

Peaks Island, Portland, ME
8/3/14

Dear Ms Andrews,

I was astonished to discover that House Island and especially Fort Scammell are not covered by any preservation order nor included in the Portland historic district. It seems intuitively logical that as the historic harbour fortifications from Fort Gorges to the Liberty Ship memorial are intrinsic to the importance of Portland as a seaport (its all in the name) they should be strenuously preserved, documented and publicised. In addition, House Island has buildings and remains significant to the history of immigration which is in danger of being overlooked. But it seems that this may all be lost through inaction and handed over to developers without protection or consideration.

Will this be another example of Portland losing great landmarks like Union Station which could only have added to the value of Portland as a unique historical destination of charm and interest? The economic value of The Old Port comes from its surviving warehouses and cobbled streets not the modern blandness of a Maine Mall. Would the cruise ships stop here if the history was swept away?

Portland should allow something of universal interest be created on House Island and that should begin by making it part of the Portland historic district and protecting the significant buildings on the island.

Sincerely,

Miranda Vinograd

This email is free from viruses and malware because avast! Antivirus protection is active.
<http://www.avast.com>

Order 117-14/15
Job 24 12-15-14
Tab 11 1-5-15

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

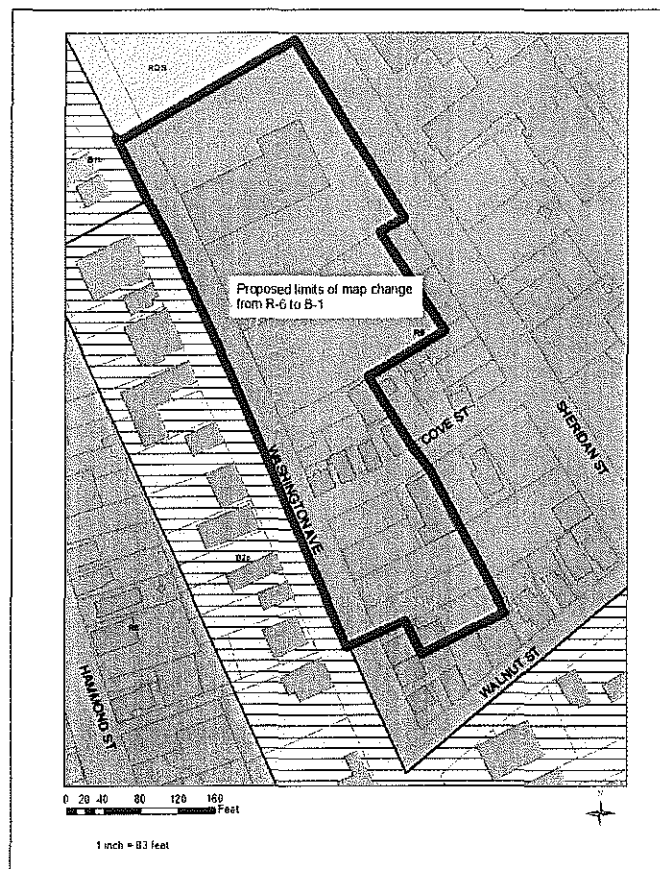
**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO ZONING MAP
RE: 143 to 185 WASHINGTON AVENUE**

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

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment as depicted in the area map below; and specifically rezoning from Residential R-6 to Neighborhood Business B-1 an area starting at 143 Washington Avenue and extending northward to include 185 Washington Avenue, as depicted in the area map below.



MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: December 2, 2014

DISTRIBUTION: Mayor Michael Brennan; Sheila Hill-Christian, Acting City Manager; Danielle West-Chuhta, Corporation Counsel; Jennifer Thompson, Associate Corporation Counsel; Sonia Bean; Nancy English

SUBJECT: R-6 to B-1 Map Amendment

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading December 15, 2014 **Final Action** January 5, 2015

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

PRESENTATION: Stuart O'Brien, Planning Board Chair, and Alex Jaegerman, Planning Division Director, 5 minute oral presentation

I. SUMMARY OF ISSUE

The Planning Board recommends a zoning map amendment to change a portion of Washington Avenue that is currently zoned R-6 Residential Zone to B1 Neighborhood Business Zone.

II. REASON FOR SUBMISSION

An application was submitted by Munjoy Hill Homes – Sheridan LLC, represented by Ron Gan, for a zoning map amendment for property at 143, 145 & 155 Washington Avenue, on the easterly side of Washington Avenue, between E. Cove Street and Walnut Street. The site currently is used for a legally non-conforming auto repair and used car lot business. The property is zoned R-6 Residential Zone, and the application originally requested that it be rezoned B-2b so that the applicant could subsequently apply a Site Plan and Subdivision application for a mixed-use development. The application was heard by the Planning Board on August, 26th, September 23rd, and October 28th. Over the course of the review, the application changed to a request for the parcels to be rezoned to B-1, and the Planning Board determined it was appropriate to recommend a map amendment for a larger extent than the original application requested.

III. INTENDED RESULT

The intended result of this map amendment is to have Washington Avenue be appropriately zoned to foster the mixed-use, eclectic commercial and residential environment that exists on much of the street today, and incentivize appropriate development to the existing context. The Planning Board considered the surrounding neighborhoods when they chose to recommend that a portion of R-6 that is part of the existing, adjacent residential neighborhood be maintained, but found that maintaining the majority of the existing segment of R-6 on Washington Avenue was not contextually appropriate. Please see the attached full report to the City Council for specific recommended zone boundaries and additional discussion of the proposed change.

IV. COUNCIL GOAL ADDRESSED

In both the increased potential for housing development and the range of commercial uses that are allowed in the B-1 zone, the proposed map amendment addresses both housing and economic development goals. Specifically, this change addresses the following Council goals:

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

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.

V. FINANCIAL IMPACT

There are no known municipal financial impacts associated with this amendment.

VI. STAFF ANALYSIS

The review found the proposed text amendments consistent with the Comprehensive Plan.

VII. RECOMMENDATION

On October 28, 2014, the Planning Board voted unanimously, 6-0 (Dean absent) that the proposed map amendments from R-6 to B-1 including 143, 145 & 155 Washington Avenue, extending northward to the beginning of the ROS zone, are consistent with the Comprehensive Plan and recommended adoption of the proposed amendment to the City Council.

VIII. ATTACHMENTS

1. Planning Board Report to City Council

Prepared by:



Signature

December 3, 2014

Date



CITY COUNCIL REPORT
from
PLANNING BOARD
PORTLAND, MAINE

B-1 ZONING MAP AMENDMENTS
Munjoy Hill Homes – Sheridan LLC, APPLICANT

Submitted to: Portland City Council First Reading: December 15, 2014 Second Reading: January 5, 2015	Prepared by: Portland Planning Board Date: December 3, 2014
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I. INTRODUCTION

On October 28, 2014, the Planning Board voted unanimously (6-0, Dean absent) to recommend a zoning map amendment, from R-6 to B-1, to the City Council. The original request by the applicant was for a zoning map amendment for property at 143, 145 & 155 Washington Avenue, on the easterly side of Washington Avenue, between E. Cove Street and Walnut Street, so that the applicant could then apply for a mixed use development consisting of commercial uses facing Washington Avenue, and residences in the form of apartments and townhomes. The property is currently used for a legally non-conforming auto repair and used car lot business. The application was reviewed by the Planning Board at two workshops August 26th and September 23rd, as well as at a public hearing on October 28th.

II. BACKGROUND

An application was submitted by Munjoy Hill Homes – Sheridan LLC, represented by Ron Gan, for a zoning map amendment for property at 143, 145 & 155 Washington Avenue, on the easterly side of Washington Avenue, between E. Cove Street and Walnut Street. The site currently is used for a legally non-conforming auto repair and used car lot business. The application was originally a request for a rezoning to B-2b so that the applicant could subsequently apply a Site Plan and Subdivision application for a mixed-use development. Over the course of the Planning Board review, with the agreement of the applicant, the application changed in both the specific zone being considered, and the geographic extent of the change.

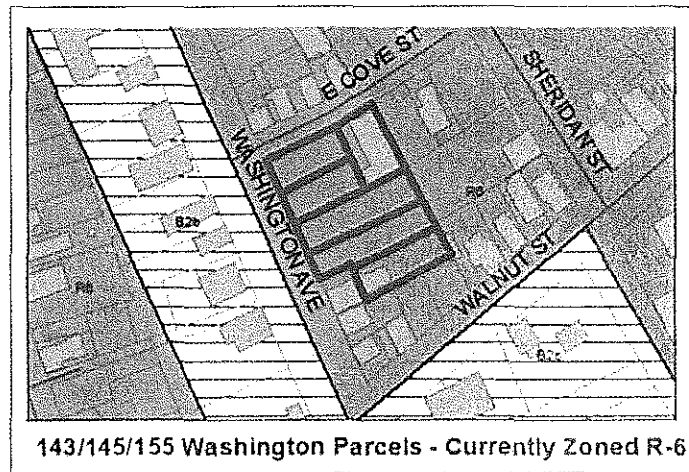


Figure 1, Original Parcels in Map Amendment Application

This length of Washington Ave. is zoned R-6, a residential zone, and is faced on the western side of Washington Ave. with the B-2b, Community Business zone. From Walnut St. to the edge of the park to the north is approximately 740 feet and is currently the only length of residential zoning on Washington Avenue (Figure 2).

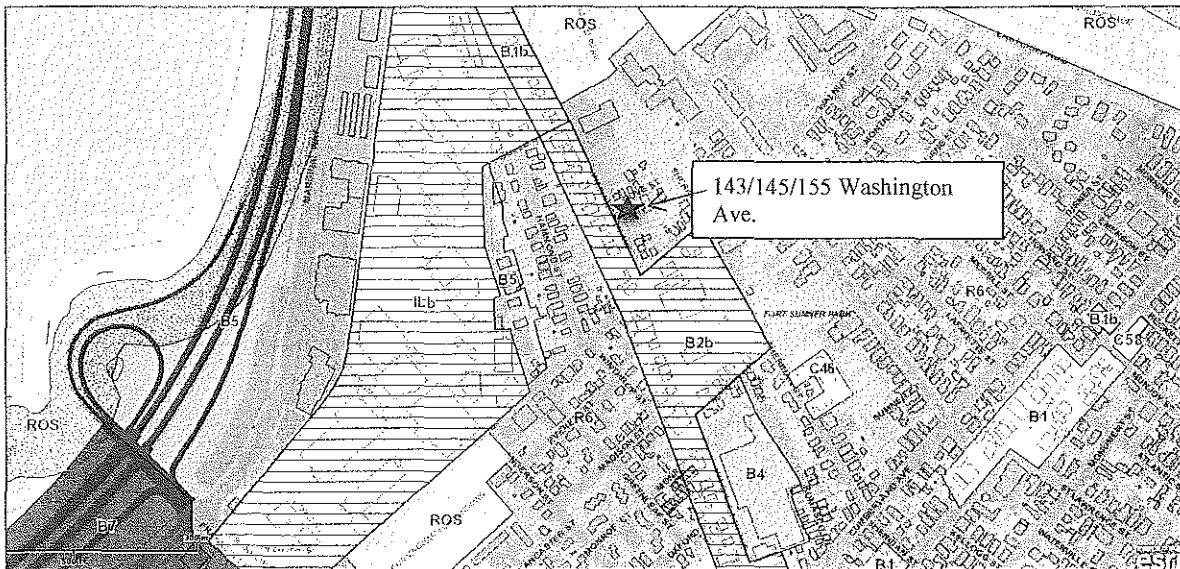


Figure 2, Zoning Context

Washington Ave. contains a truly eclectic mix of uses, building types and scales, including single family and multi-family residential, and a wide span of non-residential uses such as restaurants, retail, offices, galleries, a meadery, auto repair, a redemption center, and light industrial uses – a diverse gamut on a half mile (+/-) stretch. The block the 143/145/155 Washington Ave. parcels are on contains a fairly concentrated pocket of residences relative to the blocks closer to Congress Street, but also contains a mixture of residential and commercial on both sides of the street. Commercial uses in this section include the Northern Burner Supply building (185 Washington Ave.) and the East End Redemption recycling center (174 Washington Ave.). The newly approved, not yet constructed Avesta Housing efficiencies (134 Washington Ave.) will be on the facing side of the street.



Figure 3, Aerial view of Washington Ave.

The Planning Board determined, after hearing extensive public comment, and after their own deliberations, that this section of Washington Avenue warranted rezoning, but that a different zone and with alternate boundaries than originally requested. The first change, that this area be changed from the R-6 zone to the B-1 zone, rather than the B-2b zone, was decided due to the B-1 zone's relative constraints on scale and range of commercial development. Both the B-1 and B-2b zones allow for high residential densities, commercial, and mixed-use development, but the B-1 zone is written to encourage relatively smaller scale commercial development. The B-1 purpose statement states: *The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk.....* A map of existing on-peninsula B-1 and B-1b areas shows the selective, neighborhood application of the zone to date (Figure 4).

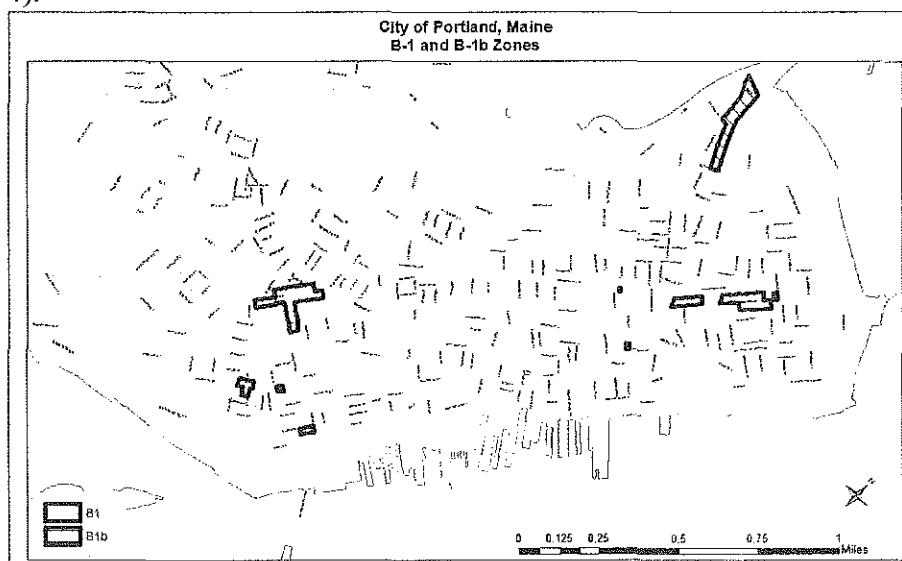


Figure 4

It achieves this through a comparatively shorter list of allowed commercial uses, and certain maximum sizes for commercial uses, such as a maximum restaurant size of 2,000 sf, a maximum first floor area for non-residential uses of 10,000 sf, and a total maximum floor area per retail establishment to 5,000 sf (exclusive of bulk storage, kitchen areas, or vent shafts). Much of the successful existing retail in the B-1 zone, including the Hilltop Superette (former Colucci's) and Hilltop Coffee on Congress Street, Pat's Meat Market on Stevens Avenue, and Rosemont Market on Brighton Avenue, is between 2,000 and 4,000 sf in first floor area. The intent of this standard is not to imply that there is not economic or aesthetic value in or need for larger commercial spaces, but only to cultivate increments of smaller non-residential development in areas where this seems most in keeping with the neighborhood context. Existing structures are exempt from the 10,000 sf maximum for non-residential uses, allowing flexibility for existing building stock.

Though there are a range of scales and of uses on Washington Ave. today, the Board determined that B-1 was the more contextually sensitive zone for this particular section of the street, especially considering the clusters of intact residential housing along and abutting it, including Walnut St., East Cove, and Sheridan St. to the east.

The recommendation for the rezoning of a larger area than the original application requested was done in recognition that R-6 is largely not the most appropriate zone for Washington Ave., for future as well as for existing businesses, should they seek to redevelop or substantially alter their properties. However, the Board recognized that the residential area nearest the intersection of Washington Ave. and Walnut St. is part of a contiguous residential neighborhood extending up Walnut and the adjacent residential streets, and chose to recommend these properties remain zoned as R-6 (Figure 5).

The applicant indicated, at the October 28th public hearing, that they had not retained an option on all of the properties initially applied for, and that their eventual development proposal would be altered, but they still were requesting the change. The current owner of the Casale Auto lot supported the change, as did one of the Northern Burner property owners, a resident of East Cove St., and all the comment received at the public hearing. No one spoke against the zone change to B-1 or proposed zone boundaries.

III. INTENDED RESULT

The intended result of this map amendment is to have Washington Avenue be appropriately zoned to foster the mixed-use, eclectic commercial and residential environment that exists on much of the street today, and incentivize development appropriate to the existing urban fabric. The Planning Board considered the surrounding neighborhoods when they chose to recommend that a portion of R-6 that is part of the existing, adjacent residential neighborhood be maintained, but found that maintaining the majority of the existing segment of R-6 on Washington Avenue was not contextually appropriate.

IV. PROPOSED MAP AMENDMENT

Below is a map of the proposed zone boundaries for the B-1 zone. Currently R-6, this change to B-1 would extend from the original application parcels northward to encompass the Northern Burner Supply site at 185 Washington Avenue. The re-zoned area stops at the current ROS zone line, at what is a portion of the Eastern Promenade.

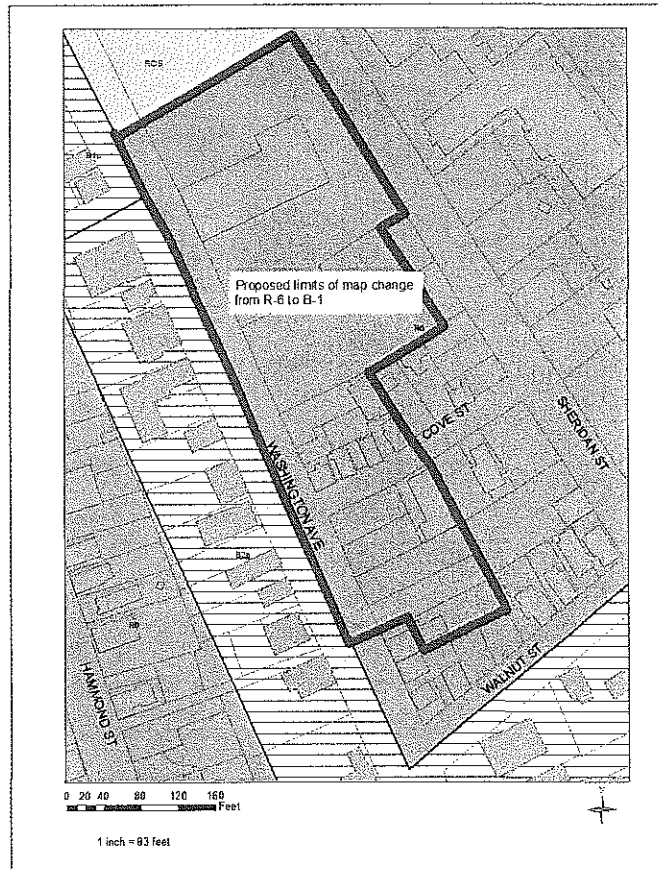


Figure 5, Proposed boundary of zone change from R-6 to B-1

V. COMPREHENSIVE PLAN

The Comprehensive Plan supports both the initial mixed-use development concept brought forth for 143/145/155 Washington Avenue, and for this policy change as a whole. The Planning Board found support for the rezoning in the City's Comprehensive Plan element, Housing: Sustaining Portland's Future (2002), Policy #5, Sustainable Development, specifically the subsection *Infill Development: encourage development on vacant lots along accepted city streets*. The application also included a less specific reference to Sustainable Portland (2009), which encourages increasing housing density. The Board noted that Policy #5 includes recommendations for redevelopment of underutilized parcels, building housing near transit and services, and encouraging mixed-use development. On-peninsula, mixed use infill development near services, that will access existing infrastructure, is widely supported by this document. The Board also found that Policy #3 of the Housing Plan emphasizes appropriately scaled non-residential development that is compatible with residential areas, as well allowing for a mix of commercial and residential development along arterials. Finally, with the recent amendments to the B-1 Zone, and the purpose statement of that zone, the Planning Board found that the B-1 Zone is the most appropriate zone for this section of Washington Avenue, incorporating the applicant's requested area, the additional land for which their option expired, and the lot frontage along Washington Avenue to the north including the Northern Burner property and adjacent to the existing R-OS zone.

VI. PUBLIC COMMENT

Public comment throughout the review process was largely supportive of a mixed commercial and residential development in this area, and of the eventual selection of B-1 and the recommended boundaries for the map change. There were general concerns voiced about cumulative development impacts to neighborhood traffic, aesthetics of new development, and overall change. There was greater support for a change to B-1 over B-2b, and preference by Walnut Street residents to retain residential zoning for their properties.

VII. PLANNING BOARD RECOMMENDATION

The Planning Board considered the proposed map amendment at a hearing on October 28, 2014. After a carefully considered discussion about the appropriate zone boundaries, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously (6-0, Dean absent) that the proposed map amendment to Neighborhood Business B-1, as shown in Figure 5, is consistent with the Comprehensive Plan and recommended adoption of the proposed map amendment to the City Council.

*Order 122-14/15
Feb 12 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING ASSIGNMENT
OF MIDTOWN PARKING LOT CITY OF PORTLAND LEASE
FROM FORE RIVER PARKING COMPANY TO
JBB PARKING COMPANY, LLC**

ORDERED, that the assignment of the Midtown Parking Lot Lease with Fore River Parking Company to JBB Parking Company, LLC is hereby approved in substantially the form attached, and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Acting City Manager to execute said document and any other related documents necessary or convenient to carry out the intent of said document and this Order.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant
Mayor Michael Brennan
Acting City Manager Sheila Hill-Christian

FROM: Michael Goldman, Associate Corporation Counsel

DATE: 12/17/2014

- 1) Council meeting at which action is requested:

1st reading: _____
Final action: 1/5/2015

- 2) Can action be taken at a later date: _____YES _____X_____NO
If not, why not: A closing is anticipated in mid- to late January, which requires the assignment be effective at that time.

- 3) This item is sponsored by: Sheila Hill-Christian, Acting City Manager

(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

Fore River Parking Company shares ownership of Midtown Parking Lot with the City of Portland and since 2009 has leased the part of the property owned by the City. The Fore River Parking Company manages the facility under the lease.

JBB Parking Company, LLC, a company owned by J.B. Brown & Sons, has agreed to buy the part of Midtown Parking Lot that is owned by Fore River Parking and also by New GMN, Inc., and as part of its purchase requires that the lease the city has had with Fore River Parking Company be assigned to JBB Parking Company, which plans to manage the parking lot under the lease.

City Council action is required to approve the assignment of the lease from Fore River Parking Company to JBB Parking Company, LLC and to authorize the Acting City Manager to sign the document.

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

Approve the Assignment of the lease for the Midtown Parking Lot.

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

See above.

IV. FINANCIAL IMPACT

The rent paid to the City for the lease for parking spaces in Midtown Parking Lot will remain the same. There is no financial impact to this action.

V. STAFF ANALYSIS & RECOMMENDATION

This Assignment is recommended for approval by the Parking Division.

Attachments:

Order

Assignment and Assumption of Parking Lease Agreement

ASSIGNMENT AND ASSUMPTION OF PARKING LEASE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF PARKING LEASE AGREEMENT (the "Assignment") is made this ____ day of January, 2015, by and among FORE RIVER PARKING COMPANY, a Maine corporation with a mailing address of P.O. Box 7525, Portland, Maine 04112 (the "Assignor"), JBB PARKING COMPANY, LLC, a Maine limited liability company with a mailing address of 39 Danforth Street, P.O. Box 207, Portland, Maine 04112 (the "Assignee"), and CITY OF PORTLAND, a municipal corporation with a mailing address of 389 Congress Street, Portland, Maine 04101 (the "Lessor").

W I T N E S S E T H:

WHEREAS, Assignor, as lessee, has entered into a Parking Lease Agreement with Lessor, dated August 10, 2009 (said lease being hereinafter referred to as the "Lease"), pursuant to which Assignor leases parking spaces located in a certain parking lot situated on Free Street and Center Street in the City of Portland, County of Cumberland and State of Maine (the "leased parking spaces");

WHEREAS, on or about the date of this Assignment, the owner of Assignee has acquired by deed from Free Street Associates, LLC certain real property and the improvements thereon located at or near 22 Free Street, and the owner of Assignee has also acquired by deed from New GMN, Inc. certain real property and the improvements thereon located at or near 48 Free Street, with the said acquired real property including: (i) portions of the parking lot in which the leased parking spaces are situated, (ii) the sole access from Spring Street to the leased parking spaces, and (iii) the sole access to the truck dock located at 48 Free Street; and

WHEREAS, Assignor desires to assign, and Assignee desires to acquire, Assignor's interest in and to the Lease, and Lessor is willing to release Assignor from further performance of the provisions and consent to an assignment of the Lease as set forth herein;

NOW THEREFORE, in consideration of the premises and the respective undertakings and agreements hereinafter set forth, the parties hereby agrees as follows:

1. STATUS OF LEASE: (a) The Assignor warrants and represents to Assignee that the Lease is unmodified and in full force and effect, that Assignor is the exclusive owner of the lessee's interest under the Lease and such interest is unencumbered, that Assignor has full and lawful authority to assign the Lease, that there are no defaults on the part of the lessee under the Lease, that Assignor knows of no defaults on the part of the lessor under the Lease, and that all rent, additional rent and other charges and payments under the Lease have been paid up to date.

(b) To the Lessor's knowledge, the Lease is unmodified and in full force and effect, the Lessor is the exclusive owner of the Lessor's interest under the Lease and such interest is unencumbered, there are no defaults on the part of the Lessor or Lessee under the Lease, and all rent, additional rent and payments and charges under the Lease have been paid up to date.

2. EFFECTIVE DATE: This Assignment of Lease shall take effect on January __, 2015 (the "effective date").

3. ASSIGNMENT: As of and from the effective date, Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title and interest in and to the Lease, subject to all the terms and provisions of the Lease.

4. ACCEPTANCE AND ASSUMPTION: Assignee hereby accepts the assignment of Assignor's right, title and interest in and to the Lease, and hereby assumes the Lease, and further agrees to comply with and abide by all of the terms, conditions, provisions, and covenants on the part of the lessee under the Lease, with effect as of and from the effective date. On or before the effective date, Assignee shall provide Lessor with a certificate of insurance evidencing the coverages required by section 9 of the Lease and listing Lessor as an additional insured thereon.

5. LESSOR'S CONSENT; RELEASE OF ASSIGNOR; LIABILITY OF ASSIGNOR AND ASSIGNEE: Lessor consents to the aforesaid assignment of the Lease by Assignor to Assignee, and, with the exception of the indemnification provisions set forth in section 9 of the Lease, which Assignor agrees shall survive this Assignment and the termination of the Lease, Lessor hereby fully and unconditionally releases and discharges Assignor from performance and observance of the obligations, terms, conditions, provisions and covenants in the Lease contained on its part to be performed and observed after the effective date. Notwithstanding the foregoing sentence, Assignor shall remain liable to the Lessor for the performance and observance of the obligations, terms, conditions, provisions and covenants in the Lease contained on the lessee's part to be performed and observed prior to the effective date. Lessor further covenants and agrees that Assignee shall not be liable for the performance or observance of any of the obligations, terms, conditions, provisions and covenants in the Lease on the lessee's part to be performed and observed prior to the effective date.

6. ASSIGNOR'S INDEMNITY: Assignor hereby agrees to indemnify and hold Assignee harmless of and from any and all claims, liabilities, obligations, costs and expenses of any nature whatsoever, including, without limitation, reasonable attorneys' fees, arising out of Assignor's noncompliance with or breach of any term, condition, provisions, or covenant on the part of lessee under the Lease occurring prior to the effective date.

7. ASSIGNEE'S INDEMNITY: Assignee hereby agrees to indemnify and hold Assignor harmless of and from any and all claims, liabilities, obligations, costs and expenses of any nature whatsoever, including, without limitation, reasonable attorneys' fees, arising out of Assignee's noncompliance with or breach of any term, condition, provisions, or covenant on the part of lessee under the Lease occurring after the effective date.

8. ADJUSTMENTS; TRANSFERS: All adjustments of rent, additional rent, charges, utilities and expenses and security deposits under the Lease as between Assignor and Assignee, shall be made as of the effective date; and all personal property of Assignor associated with the operation of the parking lot on which the leased parking spaces are situated has been transferred from the Assignor to the Assignee by Bill of Sale dated of even date herewith.

9. SUCCESSORS AND ASSIGNS: This Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

10. NO MODIFICATIONS EXCEPT IN WRITING: This Assignment may not be changed, modified, discharged or terminated orally or in any other manner than by an agreement in writing signed by the parties hereto or their respective successors and assigns. No further assignment of the Lease will be valid except upon the express written consent of Lessor.

IN WITNESS WHEREOF, the parties hereto have duly executed or caused these presents to be executed the day and year first above written.

WITNESS:

FORE RIVER PARKING COMPANY

By: _____
Peter W. Quesada
Its Vice President
"Assignor"

JBB PARKING COMPANY, LLC

By: _____
Vincent P. Veroneau
Its Manager
"Assignee"

CITY OF PORTLAND

By: _____
Sheila Hill-Christian
Its Acting City Manager
"Lessor"

STATE OF MAINE
Cumberland, ss.

January __, 2015

Personally appeared before me the above-named Peter W. Quesada, Vice President of Fore River Parking Company, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said corporation.

Notary Public/Attorney-at-Law

Print Name: _____

My Commission Expires: _____

**PARKING LEASE AGREEMENT
BY AND BETWEEN
CITY OF PORTLAND
AND
FORE RIVER PARKING COMPANY**

RL STARTED Dec. 1, 2009

THIS LEASE AGREEMENT is made this 16th day of August, 2009 by and between the **CITY OF PORTLAND**, a body politic and corporate located in the County of Cumberland, State of Maine (hereinafter "**CITY**") and **FORE RIVER PARKING COMPANY**, a Maine corporation, having a place of business at 5 Milk Street, Portland, Maine (hereinafter "**LESSEE**").

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

Section 1. Granting of Leasehold.

CITY does hereby lease and let to **LESSEE**, and **LESSEE** does hereby lease of and from **CITY**, upon the terms and conditions set forth herein, the Premises consisting of approximately eighty-seven (87) parking spaces situated, lying on Free Street, and being in the City of Portland, County of Cumberland, State of Maine described in Exhibit A, attached hereto and incorporated by reference herein. The attached map is for illustrative purposes only and does not represent an official map or survey.

Section 2. Term.

The term of this Lease shall commence on September 1, 2009 and continue through August 31, 2019 unless otherwise extended, renewed or sooner terminated. Provided it is not in default of any term or condition of this Agreement, **LESSEE** shall have the option to renew the Lease Term for two (2) additional five (5) year renewal terms.

Section 3. Rent.

LESSEE covenants and agrees to pay **CITY** for use of the Premises without offset or deduction and without previous demand therefore, an amount equal to Fifty Percent (50%) of the Net Revenues for the entire ± 175-space Free Street Parking Lot (hereinafter "Parking Lot").

"Net Revenues" shall be generally defined as follows:

1. Gross Receipts from operation of the Parking Lot, with principal revenue components being all monthly, hourly and special event (Civic Center) receipts from operation of the Parking Lot.
2. Less Operating Expenses of the Parking Lot, including the following general categories:
 - A. Payroll Expense: Payroll for on-site staffing of the Parking Lot, including payroll and unemployment taxes and payroll fees, workers' compensation insurance, and health insurance for qualified on site staff.

- B. Utilities: Utilities relating to operating the Parking Lot, including electricity for operation of the booth, revenue control equipment, and Parking Lot lighting, and phone and data service for Parking Lot operations. There shall be no charge for use of or utilities for the adjacent bathroom facilities to be used by on site staff.
 - C. Insurance: Property and casualty insurance covering operation of the Parking Lot and its equipment; and expenditures to cover reasonable deductibles and any losses not covered by insurance.
 - D. Snow and Ice Control: snow shoveling, plowing, sanding and salting and snow hauling for the Parking Lot and its sidewalks and walkways.
 - E. Maintenance: Litter patrol; maintenance, repairs and replacements to asphalt, curbing, and striping, to the booth, to revenue control equipment, to parking lot lighting, including bulb replacement; to signage; to landscaping bordering the Parking Lot; seasonal sand removal.
 - F. Miscellaneous Charges: office supplies for the booth, tickets for revenue control equipment, supply of monthly cards, incidental supplies to support operation of the Parking Lot; any bank charges for operation of banking services; any uniform charges.
 - G. Personal Property Taxes: Any taxes imposed, whether as personalty or as real property improvements, on the entire value of the booth or any revenue control equipment used in operation of the Parking Lot, but not real property taxes relating to the land or to land improvements such as paving or curbing (see below). To the extent that 50% of the value of the booth or any revenue control equipment is exempted from personal property taxes because of City's 50% role in the Parking Lot operation, then the other 50% which remains subject to personal property taxation shall not be an Operating Expense deducted against Gross Revenue, but rather shall be an expense entirely paid by Lessor.
 - H. Professional Fees: Accounting fees for preparing year end reports, including tax reporting, and any necessary legal fees arising out of operation of the Parking Lot. Each of the City and Lessee shall pay its own fees for matters arising out of execution of or disputes arising from interpretation or enforcement of this Agreement.
 - I. Amortized payment for Revenue Control Equipment Installation: the monthly payments called for in Section 8(b), to repay the cost of initial acquisition and installation of revenue control equipment.
 - J. Management Fee: 4% of Gross Receipts.
3. "Operating Expenses shall not include
- a. real estate taxes assessed on any portion of the land or to land improvements relating to the Parking Lot; currently, real estate taxes are assessed on the portion owned by Free Street Associates LLC and by New GMN, Inc., but are not assessed on the Premises owned by the City.
 - b. The initial cost of revenue control equipment, including gates, cash registers and revenue control computers, all of which shall be treated as specified in Section 8 (b).
 - c. Any Payroll Expense for off-site personnel
 - d. Any cost for use of space at the adjacent Free Street Associates LLC building for revenue control equipment.

4. Card Deposits: Lessee shall transfer existing card deposits and the deposits associated therewith (from existing monthly parkers to continue on as customers of this joint venture) to the books of this joint venture, which shall be treated as balance sheet liabilities, not items of Gross Income. New card deposits and card deposit returns shall be treated as reductions in balance sheet liabilities, not as Operating Expenses.

Monthly Reporting and Rent Payment. All rents established under this section shall be due and payable monthly by the 25th day of each month and shall be calculated based upon the prior month's revenues and expenditures. Said rental payments shall be accompanied by a detailed report of monthly gross revenues and expenditures for the Parking Lot.

Lessee shall keep accurate books and records on a cash basis, and shall retain all books and records for a minimum three years. All books and records shall be available for inspection by the City at Lessee's office or on site during regular business hours. The City shall have on line access to any real time reporting generated by the revenue control equipment.

Section 4. Intentionally Deleted

Section 5. Use of Premises.

The Premises, in conjunction with other parking shown on the attached plan, shall be used at all time such that at least seventy-two (72) parking spaces are used on a "turnover" hourly/daily parking basis during regular business hours. The entire Parking Lot shall be available for Civic Center event parking on nights and weekends; Lessee expects to continue the current policy of allowing monthly parkers to park without charge at night/weekend Civic Center events, but not to guarantee them a space at such events. Such use shall be conducted in accordance with all applicable zoning, land use, licensing, environmental, parking and other applicable statutes, regulations and ordinances.

Section 6. Intentionally Deleted

Section 7. Repairs and Maintenance.

(a) LESSEE shall keep the Premises in good order and repair during the entire term. LESSEE shall be responsible for taking such reasonable security measures at and on the Premises to protect its property to the extent LESSEE deems necessary.

(b) Without limiting LESSEE's obligations for repair and maintenance, LESSEE shall be responsible for snow plowing, sanding, salting and snow removal from the Premises.

Section 8. Improvements.

(a) No improvements shall be made to the Premises, including the erection or installation of signs relating to LESSEE's use of the Premises, without prior approval of CITY, except for the following up front improvements:

(b) LESSEE shall arrange for the purchase and installation of gates, ticket spitter and revenue control equipment for the Parking Lot, in consultation with the City. LESSEE shall be reimbursed for the cost of said improvements out of monthly gross revenues on a monthly basis amortized over ten

2/3/10 P.Q. Said 7% Adj. + Jan per Bank est

(10) years at 8.5%. Monthly amortization payments shall be an Operating Expense, as provided in Section 3.

Section 9. Insurance, Indemnity.

(a) **LESSEE** shall obtain and maintain throughout the term of the Lease Agreement at its sole cost and expense, Public Liability Insurance, in the amount of not less than Four Hundred Thousand Dollars and no/100 (\$400,000.00) combined single limit, or such other amount as may be set forth as the limit of municipal liability by the Maine Tort Claims Act (14 M.R.S.A. § 8101 - § 8118) as it may be amended from time to time. Any decision to self-insure, or any deductible in excess of \$25,000.00, is subject to the prior approval of the **CITY**, which approval shall not be unreasonably withheld.

It shall be **LESSEE's** responsibility to provide personal and real property insurance for the Premises to the extent **LESSEE** deems necessary to protect against fire, theft or other casualty.

(b) To the fullest extent permitted by law, **LESSEE** shall, at its own expense, defend, indemnify and hold harmless **CITY**, its officers, agents, and employees from and against any and all liability, claims, damages, penalties, losses, expenses or judgments, just or unjust, including reasonable attorney's fees resulting from the use of the Premises due to any act or omission of **LESSEE**, its officers employees, agents, servants, tenants or persons in privity with **LESSEE**, except to the extent said liability, claim, damage, penalty, loss or expense is caused by negligent act or omission of the **CITY**, its officers or employees.

LESSEE shall, at its own cost and expense defend any and all suits or actions, just or unjust which may be brought against the **CITY** or which the **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen and suppliers. **CITY** shall have the right to participate in such suits or actions in its sole discretion and at its own expense and no such suit or action shall be settled without prior consent of the **CITY**. The extent of this provision shall not be limited by any requirement of insurance contained herein. This obligation of indemnity and defense shall not be construed to negate or abridge any other right to indemnification or contribution running to the **CITY** which would otherwise exist.

Section 10. Mechanic's Liens.

Any mechanic's lien or any other lien which may be filed against the Premises which arises as a result of **LESSEE's** use or operation of the Premises shall be defended and promptly discharged by **LESSEE** at its own expense. If **LESSEE** fails to either defend the Premises against the lien or to discharge it, **CITY** may do so at **LESSEE's** expense. In the event of such an undertaking by **CITY**, **LESSEE** will promptly reimburse **CITY** for all of its costs and expenses in so doing, including, but not limited to, reimbursement of **CITY's** reasonable counsel fees, as well as costs which may be incurred by it in substituting a bond in place of a lien.

Section 11. Other Leases; Subletting and Assignment.

The parties acknowledge that Lessee's control of the Parking Lot, access thereto from Spring Street, and access to the truck dock at 48 Free Street require Lessee to enter into agreements with Free Street Associates LLC and with New GMN, Inc., owners of other portions of the Parking Lot. The City's execution of this agreement is expressly conditioned on substantially simultaneous execution of

agreements between Lessee and such entities allowing Lessee to operate the entire Parking Lot as contemplated herein for the term contemplated herein.

It is the intention of the parties that LESSEE shall sublet the management of the premises to Fore River Management, to which CITY hereby consents.

LESSEE shall not sublet the Premises to anyone other than Fore River Management or assign this Lease Agreement or the Premises without the prior written approval of the CITY.

In the event of a sublease, LESSEE shall not be relieved of its obligations under this Lease.

Section 12. Rates

The initial rates for the Parking Lot shall be as follows:

Hourly:	\$1.25/hour
Evenings (Civic Center)	\$3.00-\$5.00
Monthly	\$105/month

CITY and Lessee shall consult on any proposed changes in rates, and shall only change rates by mutual consent. CITY and Lessee agree that any increase in rates charged for parking on the Premises shall be comparable to increases in parking rates in other areas of the CITY and that at no time will the rates be higher than the rates for the City-owned parking garages.

Section 13. Conditions.

(a) LESSEE shall not discontinue participation in the Park and Shop program in the operation of the Premises without mutual consent.

(b) LESSEE shall not tow cars from the Premises that have been parked in violation of LESSEE's standard operating rules or regulations without prior agreement from CITY as to the limited circumstances in which towing will be used, which agreement will not be unreasonably withheld.

(c) LESSEE, through Free Street Associates LLC, shall make a restroom available for staff, provide power to the booth, and provide space for any required off-site electronic equipment.

Section 14. Default by LESSEE.

(a) If LESSEE causes or permits the Premises to be used or operated in violation of this Lease Agreement, this Lease Agreement shall immediately and without notice be null and void and the Premises shall revert to the possession of CITY or its successor in interest.

(b) Events of Default

LESSEE shall be in default hereunder if any of the following events occur during the term:

1. LESSEE fails to pay any amount or installment of rent or other sum specified herein;

2. **LESSEE** fails to observe or perform any covenant, agreement or obligation of Lease Agreement;
3. To the extent permitted by law, there shall occur the dissolution of **LESSEE** or **LESSEE** shall file any petition or institute any proceedings under the United States Bankruptcy Code, as it may be amended from time to time, or any state or federal act dealing with or relating to the subject of bankruptcy or insolvency as it may be amended from time to time; or any involuntary petition in bankruptcy is filed against **LESSEE** and the same is not discharged or stayed within thirty (30) days from such filing or any other petition or proceedings of a similar kind; or a receiver of the assets of **LESSEE** shall be appointed by any court except a receiver appointed at the request of **CITY**; or **LESSEE** shall make any assignment, general or otherwise, for the benefit of **LESSEE**'s creditors, except for the extent such assignment is to **CITY**.
4. **LESSEE** shall substantially abandon or vacate the Premises.

(c) Remedy for Default

1. If **LESSEE** is in default under Section 12(b) of this Lease Agreement, **CITY** shall give reasonable notice of said default and a reasonable opportunity to cure.
2. In the event **LESSEE** fails or refuses to cure said default within a reasonable time of said notice, **CITY** may proceed to cure **LESSEE**'s default immediately. **CITY** may thereafter deliver receipts and records reflecting the costs of cure, which costs shall constitute additional rent. **LESSEE** shall pay said additional rent within sixty (60) days of receipt of said bill if said steps and costs of cure are reasonable.
3. In the event **LESSEE** fails or refuses to cure such default within a reasonable time of said notice, **CITY** may take whatever action at law or in equity may appear necessary or desirable to enforce the performance and observance of any obligation, agreement or covenant of **LESSEE** under this Lease Agreement, or in the alternative, **CITY** may terminate this Lease.
4. General Provision. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expeditious, and the exercise of any one right or remedy shall not impair the right of **CITY** to any or all of the remedies.

Section 15. Termination.

Either Party may terminate this Lease for any reason upon one hundred eighty (180) days written notice to the other Party. Should the **CITY** terminate this Lease under this section, it shall reimburse **LESSEE** its half of the unamortized value of the up-front improvements made by **LESSEE** in accordance with paragraph 8 of this Agreement.

As of the termination of **LESSEE's** tenancy for any reason or expiration of **LESSEE's** tenancy, the Premises in its entirety including the improvements thereon shall immediately vest as property of **CITY** or any lawful successor of **CITY**.

Section 16. **Notices.**

Every notice, demand, request, approval, consent or other communication authorized or required by this Lease Agreement shall be in writing and shall be deemed to have been properly given when delivered in hand or sent postage prepaid by United States registered or certified mail, return receipt requested, addressed as follows:

If to **CITY**, to the attention of the City Manager, City of Portland, 389 Congress Street, Portland, Maine 04101, with a copy to the Parking Manager;

If to **LESSEE**, to Peter Quesada, Vice President, Fore River Parking Company, P.O. Box 7525, Portland, Maine, 04112, or to such other persons or addresses as such party may designate by notice given from time to time in accordance with this Section. The rent payable by **LESSEE** hereunder shall be paid to **CITY** at the same place where a notice to **CITY** is herein required to be directed.

Section 17. **Governing Law.**

This Lease Agreement and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of Maine.

Section 18. **Partial Invalidity.**

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

Section 19. **Entire Agreement.**

This Lease Agreement (including exhibits hereto) expresses the entire understanding and all agreements of **CITY** and **LESSEE** with each other, and neither **CITY** nor **LESSEE** has made or shall be bound by any agreement with or any representation to the other which is not expressly set forth in this Lease Agreement (including the exhibits hereto). This Lease Agreement replaces any and all previous Agreements for the Premises between the Parties. This Lease Agreement (including the exhibits hereto) may be modified only by an agreement in writing signed by **CITY** and **LESSEE**.

Section 20. **Parties.**

Except as herein otherwise expressly provided, the covenants, conditions, and agreements contained in this Lease Agreement shall bind and inure to the benefit of **CITY** and **LESSEE** and their respective successors and assigns.

Section 21. **Waivers.**

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

Section 22. Right to Enter, Inspect and Repair.

CITY by its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right but not the duty to enter upon and in the Premises without charge for the following purposes:

- (a) Inspection. To inspect the premises to determine whether LESSEE has complied and is complying with the terms of this Lease Agreement.
- (b) Maintenance. To perform maintenance and make repairs in any case where LESSEE has failed to carry out its obligation to do so. In that event, LESSEE shall promptly upon demand, reimburse CITY for its share of the reasonable cost of CITY's performing LESSEE's maintenance or repair obligation as Additional Rent.

Section 23. Compliance with Laws.

LESSEE agrees, in its operations under this Lease Agreement, to comply with all applicable federal, state and local laws and duly enacted regulations, including without limitation, all laws related to non-discrimination in employment.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Lease Agreement to be signed in its corporate name and sealed with its corporate seal by Joseph E. Gray, Jr., its City Manager, thereunto duly authorized, and FORE RIVER PARKING COMPANY has caused this Lease Agreement to be signed by Peter Quesada, its Vice President, thereunto duly authorized, as of the day and date first set forth above.

WITNESS

CITY OF PORTLAND

Lonnie Bean

By:

Joseph E. Gray, Jr.

Its:

City Manager

STATE OF MAINE
CUMBERLAND, ss.

August 11, 2009

Personally appeared the above-named Joseph E. Gray, Jr., City Manager of the City of Portland and acknowledged the foregoing instrument to be his free act and deed in his capacity, and the free act and deed of the City of Portland.

Before me,

Sonia T. Bean
Notary Public/Attorney

Sonia T. Bean
Notary Public, Maine
My Commission Expires January 10, 2010

WITNESS

FORE RIVER PARKING CO.

By:

Peter Quesada

Its: Vice President

STATE OF MAINE
CUMBERLAND, ss.

August 10, 2009

Personally appeared the above-named Peter Quesada, Vice President of the Fore River Parking Company and acknowledged the foregoing instrument to be his free act and deed in his capacity, and the free act and deed of the Fore River Parking Company.

Before me,

Barbara Bachardt
Notary Public/Attorney

my commission expires July 11, 2010

MSC
Legal

*Order 123-14/15
Feb 13 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER GRANTING PURCHASE AND SALE AGREEMENT WITH
PATRONS OXFORD INSURANCE COMPANY FOR SALE OF
UNIT 1 IN CITY-OWNED PORTLAND TECHNOLOGY PARK**

ORDERED, that the Acting City Manager is hereby authorized to execute the Purchase and Sale Agreement with Patrons Oxford Insurance Company for Unit 1, located in the City-owned and developed Portland Technology Park (PTP), in substantially the form attached hereto as Attachment 1; and

BE IT FURTHER ORDERED, that the Acting City Manager is hereby authorized to execute whatever documents are necessary to affect the intent and purpose of the Agreement.

BE IT FURTHER ORDERED, that this authorization is enacted as an Emergency pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

City Council Agenda Item

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: December 18, 2014

SUBJECT: Order Authorizing the City Manager to Enter Into Purchase and Sale Agreement
With Patrons Oxford Insurance Company for Sale of Unit 1 in City-Owned
Portland Technology Park

SPONSOR: Sheila Hill-Christian, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading January 5, 2015 **Final Action** January 5, 2015

Can action be taken at a later date: No, due to the buyer's time frame to make a site selection decision and construct a new office building.

PRESENTATION: Greg Mitchell/5 Minutes

I. SUMMARY OF ISSUE

The attached proposed Purchase and Sale Agreement to sell Unit 1, located in the City-owned and developed Portland Technology Park (PTP), to Patrons Oxford Insurance Company for a cash sale price of \$625,000 is being presented for your review and authorization for the Acting City Manager to execute, as well as other appropriate documents for the sale.

Patrons Oxford Insurance Company Profile. The company is currently located in Auburn, Maine and is located in close proximity to the Maine Turnpike Exit 75 with over forty (40) employees. The company is planning to construct a new 20,000 square foot building, with future expansion plans, to relocate their company to the PTP to support company employment growth.

The Portland Technology Park (PTP) is a fully permitted condominium business park developed by the City. Phase I of the project has been completed, with a 975 foot road and utilities to three development sites (Units 1-3). This work was financed with a grant from the Economic Development Administration (EDA) and matched by the City. Portland's total investment in the PTP, to date, has been just under \$695,000. The sale of Unit 1 will cover most of that investment.

Property taxes associated with a 20,000 square foot building are estimated to be \$60,000 per year. It is noted that development in the PTP is required to follow park development standards, which include:

- LEED Design, meeting City's Green Building Ordinance
- Energy Efficiency (siting buildings for maximum solar gain)
- Connection to Trails
-

When the City is ready to move forward with developing Phase II of the Park, it will extend the road by 525 feet, opening four more development sites (Units 4-7). See attached PTP rendering with three available sites labeled.

II. REASON FOR SUBMISSION

City Council action is required to authorize the sale of City-owned property and to delegate authority to the Acting City Manager to sign the City Council approved Purchase and Sale Agreement, and other appropriate documents to close on the property.

III. INTENDED RESULT

City Council approval of the proposed Purchase and Sale Agreement.

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

Sale of Unit 1 will yield \$625,000 to the City. It is noted that City staff has been marketing the PTP, and with City Corporation Counsel assistance, has represented PTP property sales without an exclusive commercial broker arrangement. A commercial broker brought this deal to the City. A fee of \$43,750 has been negotiated, and would be subtracted from the purchase price, for a net payment to the City of \$581,250.

VI. STAFF ANALYSIS

City staff recommends the City Council accept the terms of the proposed Purchase and Sale Agreement as presented.

VII. RECOMMENDATION

It is noted that the purchaser's decision time frame does not allow enough time to present the proposed Purchase and Sale Agreement to the Housing and Community Development Committee (HCDC). Councilor Donoghue, HCDC Committee Chair, was consulted and, after discussion with the Mayor, it was agreed that a City Council Workshop will be held on this matter, followed by City Council action on January 5, 2015.

VIII. LIST ATTACHMENTS

- Portland Technology Park Rendering Highlighting Three Sites Available for Purchase
- Proposed Purchase and Sale Agreement.



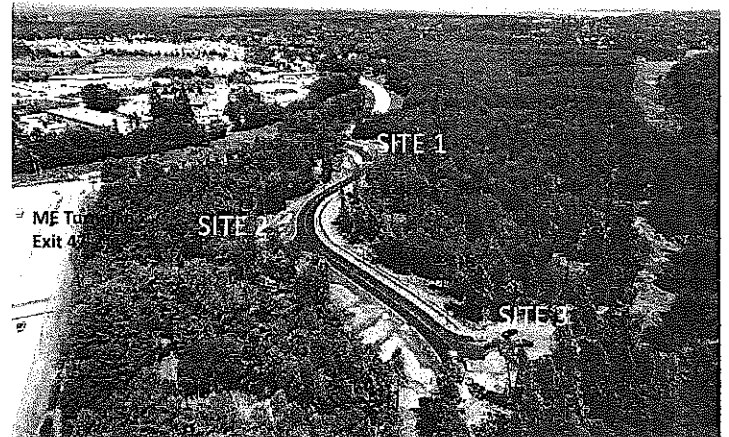
Portland, Maine



Yes. Technology's good here.

PORTLAND TECHNOLOGY PARK – DEVELOPMENT SITES AVAILABLE

Business Park Campus on Rand Road for High
Tech/Life Science Companies



PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made this _____ day of _____, 2015 by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as "Seller"), and **PATRONS OXFORD INSURANCE COMPANY**, a Maine insurance corporation, having its principal place of business at _____ (hereinafter referred to as "Buyer").

WITNESSETH:

WHEREAS, Seller owns an approximately 3.47 acre parcel of land located at the Portland Technology Park, City of Portland, County of Cumberland, State of Maine, being known as Unit 1 and LCE #1 on that certain Subdivision Plat of Portland Technology Park Condominium, Rand Road, Portland, Maine dated September 29, 2011 and last revised on September 25, 2012, prepared by SGC Engineering, LLC for the City of Portland – Declarant, approved by the City of Portland Planning Board on January 24, 2012 and recorded in the Cumberland County Registry of Deeds on October 10, 2012 in Book 212, Page 324 (the "Plan") and being further described as Unit 1 of the condominium known as the Portland Technology Park Condominium of which the Seller is the declarant as described in that certain Declaration of Condominium for the Portland Technology Park to be recorded in the Cumberland County Registry of Deeds (the "Declaration of Condominium"), together with all improvements, fixtures and rights appurtenant thereto, all as more particularly shown and depicted as the cross-hatched lot on the Plan shown on Exhibit A attached hereto and made part hereof (the "Property"); and

WHEREAS, Seller intends to sell and Buyer desires to acquire the Property.

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

1. SALE.

Seller agrees to sell the Property, and Buyer agrees to purchase the Property in accordance with the provisions hereof. It is hereby agreed and acknowledged that the actual description of the Property shall be determined based on the title and related due diligence work to be completed by Buyer pursuant to this Agreement and that such description shall be subject to Buyer's and Seller's final review and approval before including the same in the Deed (as that term is defined below) to be delivered by Seller to Buyer as set forth and described below.

2. CONSIDERATION.

The consideration for the property shall be Six Hundred Twenty-Five Thousand Dollars (\$625,000.00) payable as follows:

- (a) A deposit of Twenty Thousand Dollars (\$20,000.00) to be paid by Buyer within two (2) business days of the Effective Date and held by Buyer's agent, Andrew Ingalls of CBRE The Boulos Company, until closing and applied to the Purchase Price (or, if applicable, until returned to Buyer pursuant to this Agreement) (the "Deposit"); and
- (b) The Purchase Price, less the Deposit, to be paid by Buyer to Seller at closing by wire transfer, certified check or bank cashier's check, subject to the adjustments provided for in this Agreement.

This is a cash purchase and no financing is required.

3. TITLE.

Title to the property shall be conveyed by Quitclaim Deed with covenant acceptable to the Buyer in fee simple, and, except as otherwise stated on the Plan, shall be free of all liens and encumbrances and with good and marketable title. In the event Seller is unable to convey title as aforesaid, Seller shall be given a reasonable period of time, not to exceed sixty (60) days, in which to remedy any title defects. In the event that any defects cannot be corrected or remedied within said period, then Buyer may at its option receive back the Deposit and Buyer and Seller shall be under no further obligation to one another hereunder. Buyer may elect to close this transaction notwithstanding said defects.

4. POSSESSION.

Full possession of the Property will be delivered to Buyer at the transfer of title free and clear of all tenancies or occupancies by any person or entity.

5. REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.

Buyer shall be liable for all real estate taxes beginning, as of the closing date, with fiscal year 2015-16 and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed for fiscal year 2014-15 and no taxes will be prorated at the closing, provided, however, that any assessments and utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. Seller is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C.

6. RISK OF LOSS.

The risk of loss or damage to the Property by fire or otherwise, until transfer of title hereunder, is assumed by the Seller. The Property is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event Seller is not able to deliver the Property as stated, Buyer may terminate this Agreement and receive a refund of the Deposit.

7. INSPECTIONS AND SELLER REPRESENTATIONS AND WARRANTIES.

Buyer may enter into any part of the Property at all reasonable times prior to the closing in order to inspect the Property, conduct surveys, test borings and engineering studies and to do such other things as are reasonably necessary with respect to the acquisition and development of the Property. In the event that the inspection reveals defects or conditions which are unacceptable to Buyer, Buyer may terminate this Agreement and receive back the Deposit.

Subject to all matters disclosed in any document delivered to Buyer by Seller or on any exhibit attached hereto, and subject to any information discovered by Buyer or other information disclosed to Buyer by Seller in writing or any other person after the date hereof and prior to the closing, Seller represents and warrants to Buyer that, to the best of its knowledge, the following are true as of the date of this Agreement and will be true as of the closing:

- (a) Except as set forth in the Plan, there are no outstanding pending or threatened liens, claims, rights of first refusal, licenses or encumbrances against or affecting the Property.
- (b) All outstanding bills and/or accounts payable concerning the Property are either paid or will be paid prior to or at the time of closing.
- (c) There are no outstanding claims, losses or demands against Seller by any person respecting Seller's ownership, use or occupancy of the Property.
- (d) The Property has not been used for any dumping of waste materials or landfilling and are free of special wastes, underground storage tanks, radon, asbestos, lead substances, and any hazardous, biomedical, radioactive or toxic, substances, materials or wastes. The terms used in the foregoing sentence shall include, without limitation, all substances, materials, etc., designated by such terms under any laws, ordinances or regulations, whether federal, state or local.
- (e) Seller has no knowledge of any boundary disputes or encroachments affecting the Property.
- (f) There are rights of ingress and egress in perpetuity from the Property to public highways and roads for vehicular and pedestrian traffic and utilities, except that Seller is currently in the process of obtaining required easements to connect natural gas service to the Portland Technology Park Condominium.
- (g) There are no endangered or threatened wildlife or plant habitats and no rivers, streams, great ponds, other bodies of water or wetlands or coastal sand dunes on or adjacent to the Property which, under applicable law would prohibit, limit or restrict Buyer's intended use of the Property.

All representations and warranties made by Seller herein are made to the best of Seller's knowledge and shall survive the closing of this transaction. Except as set forth herein, Buyer acknowledges that Seller makes no other representations or warranties regarding the Property.

8. CLOSING.

The closing of this transaction shall take place on that date which is sixty (60) days after the Effective Date, at the offices of Bernstein Shur, 100 Middle Street, Portland, Maine. Time is of the essence of this Agreement.

9. DEFAULT AND REMEDIES.

- (a) In the event of Buyer's default under any of the terms, covenants or conditions of this Agreement, Seller shall have the right to retain the Deposit and any interest accrued thereon as aforesaid as liquidated damages for the breach and not as a penalty therefor. The Buyer and Seller acknowledge and agree that (i) it is not feasible to determine accurately the measure of damages that will be caused to Seller by the Buyer's breach because the uniqueness of the Property at its location preclude the utility of comparable figures to determine the extent of damages and (ii) that the amount stated as liquidated damages is agreed to reasonably forecast the amount necessary to compensate Seller for its loss in the light of the circumstances stated in clause (i) and the attendant uncertainties in marketing the Property to another purchaser.
- (b) In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer may, as its sole remedy therefor, and subject to the terms of this paragraph, either (i) enforce specific performance of this Agreement against Seller, or (ii) terminate this Agreement and receive the Deposit, plus all interest earned or accrued thereon, except that in the case of any breach of a covenant, representation or warranty of Seller, Buyer shall be entitled, as its sole remedy, to recover its actual damages therefor. Buyer agrees that any recovery against Seller for any breach of Seller's covenants, representations, or warranties hereunder or under any other document delivered by Seller to Buyer or under any law applicable to the Property or this transaction, shall be limited to Buyer's actual damages and that in no event shall Buyer be entitled to seek or obtain any other damages of any kind, including, without limitation, consequential, indirect or punitive damages.

10. CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE.

The obligation of Buyer to close is subject to the satisfaction at or before the closing of all of the following conditions:

- (a) All representations and warranties of Seller contained in this Agreement shall be true as of the closing.
- (b) Seller shall, at its sole cost and expense, complete any and all additional work

necessary to finalize the Declaration of Condominium in order to convey the Property and to delineate the boundaries of the same, which conveyance and delineation shall ensure that the Property is a conforming and approved lot under the City of Portland's zoning and land use laws, ordinances and regulations and not in violation of the State of Maine's subdivision laws, including, but not limited to, M.R.S.A. 30-A § 4401.

- (c) Buyer shall determine, in its sole and absolute discretion, that the Property may be used for the construction and operation of a two (2) story, 30,000 square foot, professional office building and that it is satisfied with all local, state and federal zoning and land use laws, ordinances and regulations affecting the Property, including, but not limited to, setback, lot coverage, traffic and parking requirements and, if necessary, the Buyer's ability to construct and install a local, state and federal approved curb cut into the Property from the right of way shown and identified as Easement Area 1 on the Plan.
- (d) Buyer shall determine, in its sole and absolute discretion, that it is satisfied with the terms and conditions of the Declaration of Condominium and the bylaws, plats and plans of said Portland Technology Park Condominium, it being hereby agreed and acknowledged that Seller shall deliver copies of the same to Buyer for review within five (5) days of the Effective Date and that to the extent any modifications are made to said documents pursuant to subsection (b) above, Seller shall promptly notify Buyer of the same.
- (e) In the event that any of the foregoing conditions is not satisfied, as determined by Buyer in its sole and absolute discretion, Buyer shall have the option of terminating this Agreement and receiving back the Deposit, except that should any of Seller's representations or warranties prove untrue, then Buyer shall have the right to require Seller, at Seller's expense, to make the Property conform thereto.

11. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

12. ENTIRE AGREEMENT.

This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by Seller and Buyer.

13. HEADINGS AND CAPTIONS.

The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

14. GOVERNING LAW.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine.

15. NOTICE.

Any notice required or permitted under this Agreement shall be deemed sufficient if mailed with first class postage affixed or delivered in person to:

FOR THE SELLER: City of Portland
 Attention: City Manager
 389 Congress Street
 Portland, ME 04101

FOR THE BUYER: Patrons Oxford Insurance Company
 P.O. Box 1960
 Auburn, Maine 04210
 Attn: Mark A. Pettingill, President

Either party may change his address for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

16. SIGNATURES; MULTIPLE COUNTERPARTS.

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

17. BROKERS.

Seller and Buyer each represents and warrants that neither has dealt with a real estate broker in connection with this transaction, other than Andrew Ingalls of CBRE The Boulos Company ("CBRE"), whose commission will be paid by Seller pursuant to the terms of a separate agreement to be negotiated between Seller and CBRE. Buyer agrees to indemnify and hold harmless Seller from any claims made by any broker should Buyer's representation in this paragraph be false. Seller agrees to indemnify and hold harmless Buyer from any claims made by any broker should Seller's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

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

CITY OF PORTLAND

WITNESS

By: _____
Sheila Hill-Christian
Its Acting City Manager

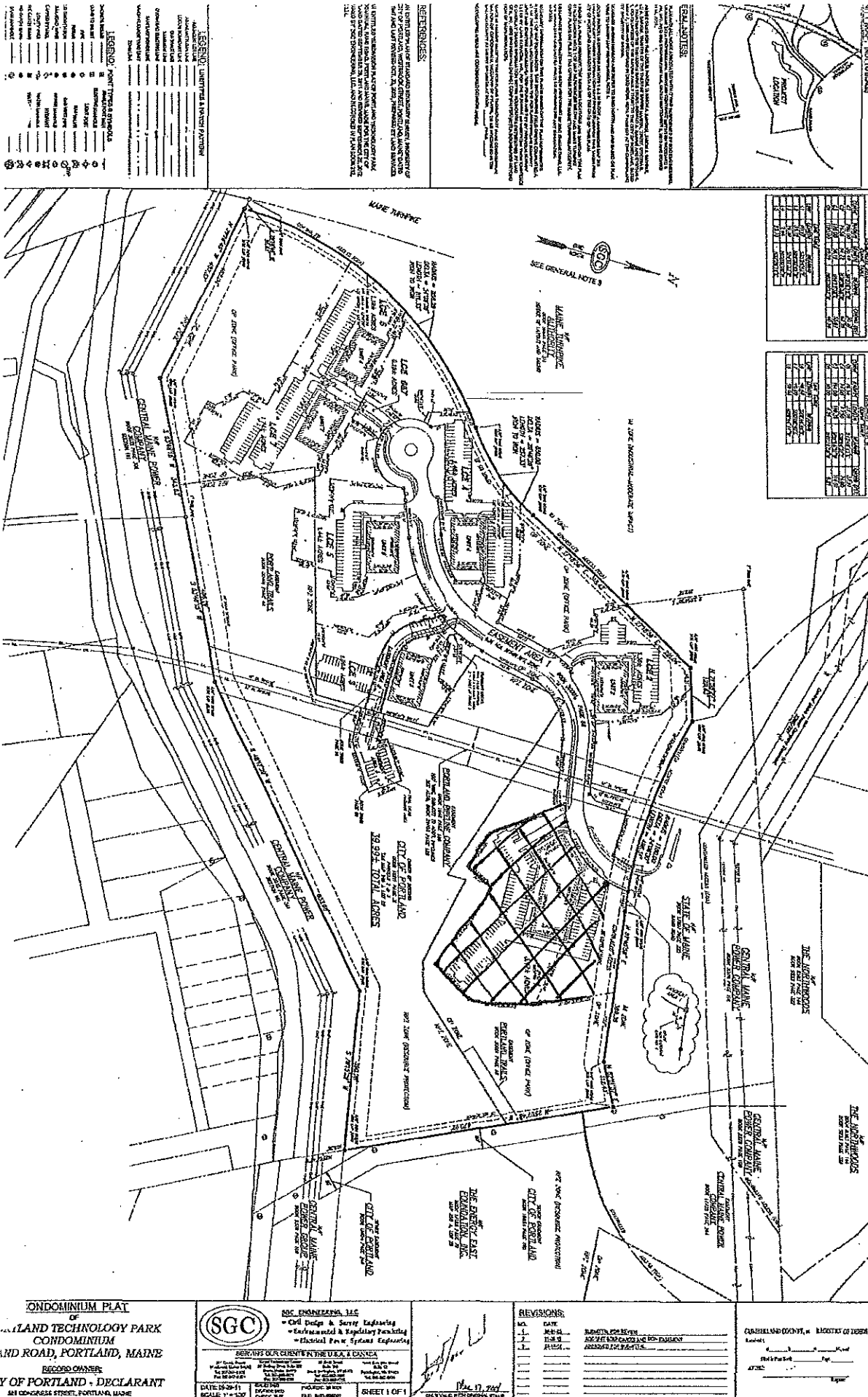
**PATRONS OXFORD INSURANCE
COMPANY**

WITNESS

By: _____
Mark A. Pettingill
Its President

Exhibit A

[See Attached Plan Depicting Premises]



*Order 124-14/15
Tab 14 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES (AFSCME) LOCAL 481-07 SUPERVISORS**

ORDERED, that the attached Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors for July 7, 2013 through July 4, 2016, is hereby approved.

CITY OF PORTLAND MEMORANDUM

To: Mayor Michael Brennan and Members of the City Council

From: Thomas Caiazzo, Labor Relations Manager

Date: December 17, 2014

RE: Order/First Reading of AFSCME Local 481-07 Supervisors

City staff has reached a tentative three (3) year agreement with AFSCME Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from Council on December 15, 2014.

The parties have tentatively agreed to a three (3) year contract with general wage increases of 1% effective July 7, 2013, 1% effective July 6, 2014, 1% effective January 4, 2015 and 3% effective July 5, 2015. The parties have also agreed to upgrade several Supervisor positions. Furthermore, in consideration of the above, the union has tentatively agreed to the City's proposed Health Plan changes as well as changes to the pension language.

The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 7, 2013 through July 4, 2016. The total direct costs of the general wage increases are \$143,000.00; however, \$81,000.00 has been appropriated and accounted for through the FY 14 and FY 15 budget approval process.

All other provisions of the contract remain intact for the term of the agreement.

This order will require a second reading at the January 21, 2015 Council meeting.

Cc: Sheila Hill-Christian – Acting City Manager
Danielle West-Chuhta – Corporate Counsel
Jennifer Thompson – Associate Corporate Counsel
Mike Bobinsky – Public Services Director
Paul Bradbury – Airport Director
Anita LaChance – Director of Recreation & Facilities Management
Janice Kimball – Acting Human Resources Director
Suzanne Knight – Acting Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

AFSCME Supervisors-Tentative Agreement

ITEM	BASE COST	YEAR 1 7/1/2013	% INCR	YEAR 2 7/1/2014	% INCR	YEAR 3 7/1/2015	% INCR	NOTES:
Base Wages	1,811,250	18,110	1.0%	27,530	1.5%	55,710	3.0%	
Reclassifications				8,670				
Shift Differential	3,790							
Specialty Pay	51,940	8,350						Weekend Stipend, Stand-by
Sub-Total Wages	1,866,980	26,460	1.4%	36,200	1.9%	55,710	2.9%	
Overtime	205,000	14,220	6.9%	4,190	1.9%	6,450	2.9%	Based on increase in base wages, winter dispatch coverage
Clothing Allowance	9,360		0.0%	-	0.0%	-	0.0%	
Total Direct Costs	2,081,340	40,680	2.0%	40,390	1.9%	62,160	2.9%	
Health Insurance	351,370	35,140	10.0%	38,650	10.0%	42,520	10.0%	Inflationary increase only
Health Insurance-Plan Changes						(12,750)	-3.0%	Projected 9% Savings less 3% Cost of Wellness Initiative
Pension	128,460	2,530	0	8,960	0	32,840	23.5%	Based on increase in total wages & MePERS increase in employer contribution rate.
Workers' Compensation	38,120	540	1.4%	740	1.9%	1,140	2.9%	Based on increase in total wages
Total Indirect Costs	517,950	38,210	7.4%	48,350	8.7%	63,750	10.5%	
Total	2,599,290	78,890	3.0%	88,740	3.3%	125,910	4.6%	

AFSCME Supervisors- Union Proposal

ITEM	BASE COST	YEAR 1 7/1/2013	% INCR	YEAR 2 7/1/2014	% INCR	YEAR 3 7/1/2015	% INCR	NOTES:
Base Wages	1,811,245	18,110	1.0%	27,530	1.5%	55,705	3.0%	
Reclassifications		18,328						
Shift Differential	3,785							
Longevity Stipend				14,400				
Specialty Pay	51,935	18,955	36.5%					Cell Phone, Weekend Stipend, Stand-By
Sub-Total Wages	1,866,965	55,393	3.0%	41,930	2.2%	55,705	2.8%	
Overtime	205,000	17,394	8.5%	4,852	2.2%	6,442	2.8%	Based on increase in base wages
Cell Phone Stipend	-	9,120		-	0.0%	-	0.0%	
Clothing Allowance	9,360		0.0%	-	0.0%	-	0.0%	
Total Direct Costs	2,081,325	81,906	3.9%	46,782	2.2%	62,148	2.8%	
Health Insurance	351,360	35,135	10.0%	38,650	10.0%	42,515	10.0%	Inflationary increase only
Health Insurance-Plan Changes						(12,755)	-3.0%	Projected 9% Savings less 3% Cost of Wellness Initiative
Pension	128,460		0.0%		0.0%	3,643	2.8%	Based on increase in total wages & MePERS increase in employer contribution rate.
Workers' Compensation	38,125	1,130	3.0%	855	2.2%	1,135	2.8%	Based on increase in total wages
Total Indirect Costs	517,945	36,265	7.0%	39,505	7.1%	34,538	5.8%	
Total	2,599,270	118,172	4.5%	86,287	3.2%	96,685	3.4%	

*Order 125-14/15
Tab 15 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES (AFSCME) LOCAL 481-00 LABOR & TRADES**

ORDERED, that the attached Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-00 Labor & Trades for July 7, 2013 through July 4, 2016, is hereby approved.

CITY OF PORTLAND
MEMORANDUM

To: Mayor Michael Brennan and Members of the City Council

From: Thomas Caiazzo, Labor Relations Manager

Date: December 17, 2014

RE: Order/First Reading of AFSCME Local 481-00 Labor & Trades

City staff has reached a tentative three (3) year contract agreement with AFSCME Labor & Trades which is within guidance received from Council on December 15, 2014. AFSCME Labor and Trades represents approximately 168 Trades, Maintenance and Custodial workers.

The parties have tentatively agreed to a three (3) year contract with general wage increases of 1% effective July 7, 2013, 1% effective July 6, 2014, 1.5% effective January 4, 2015 and 2.5% effective July 5, 2015. The parties have also agreed to upgrade the ten (10) Jetport Maintenance Worker III's from Grade 18 to Grade 19. Furthermore, in consideration of the above, the union has tentatively agreed to the City's proposed Health Plan changes as well as changes to the pension language.

The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 7, 2013 through July 4, 2016. The total direct costs of the general wage increases are \$458,000.00; however, \$159,000.00 has been appropriated and accounted for through the FY 14 and FY 15 budget approval process.

This order will require a second reading at the January 21, 2015 Council meeting.

Cc: Sheila Hill-Christian – Acting City Manager
Danielle West-Chuhta – Corporate Counsel
Jennifer Thompson – Associate Corporate Counsel
Mike Bobinsky – Public Services Director
Paul Bradbury – Airport Director
Anita LaChance – Director of Recreation & Facilities Management
Janice Kimball – Acting Human Resources Director
Suzanne Knight – Acting Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

- ADMINISTRATIVE RECOMMENDATION

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	6,617,218	66,172	1.0%	31,657	0.5%	39,020	0.6%	255,094	3.8%	Cola's and Steps
Night Shift Differential	13,208									
Specialty Pay	106,461			(5,200)	-4.9%	(5,200)	-5.1%			Removal of \$0.50 stipend, 10 Employees
Reclassifications				12,139	0.2%	2,588	0.0%	16,450	0.2%	Airport Maint Wk III, 10 Employees
Sub-Total Wages	6,736,887	66,172	1.0%	38,596	0.6%	36,409	0.5%	271,544	3.9%	
Overtime	899,900	8,999	1.0%	4,544	0.5%	4,567	0.5%	27,540	3.0%	Based on increase in base wages
Clothing Allowance	67,800									
Total Direct Costs	7,704,587	75,171	1.0%	43,140	0.6%	40,976	0.5%	299,084	3.8%	
Health Insurance	1,147,966	114,797	10.0%	126,276	10.0%			138,904	10.0%	Inflationary increase only
Health Insurance-Plan Changes								(91,677)	-6.0%	Projected 9% Savings less 3% Cost of Wellness Initiative
Pension	404,750	96,528	23.8%	103,620	20.7%	3,196	0.5%	23,329	3.8%	Based on increase in total wages and increase in MEPEERS employer rate
Workers' Compensation	175,833	1,758	1.0%	888	0.5%	1,339	0.8%	4,495	2.5%	Based on increase in total wages
Total Indirect Costs	1,728,548	213,082	12.3%	230,785	11.9%	4,535	0.2%	75,051	3.4%	
Total	9,433,135	288,254	3.1%	273,925	2.8%	45,511	0.5%	374,135	3.7%	

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TWO-PARTY AGREEMENTS
BETWEEN THE CITY OF PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: CITY COLLECTOR PAVING PROJECTS**

ORDERED, that the Acting City Manager is authorized to enter into two-party partnership agreements between the City of Portland and the Maine Department of Transportation, in substantially the form attached, for the following City Collector Paving Projects:

- WIN #020241.00 – Union Street
- WIN #020256.00 – Spring Street, Temple and Middle Streets

BE IT FURTHER ORDERED, that the Acting City Manager is hereby authorized to sign the two-party agreements and any other documents necessary to effect the purpose of this order.

*Order 126-14/15
Tab 16 1-5-15*

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: December 23, 2014 REVISED Dec 30, 2014

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuta, Corporation Counsel
Sonia Bean, Executive Assistant
Nancy English, Admin. Asst. to Corporation Counsel

SUBJECT: Order to approve 2 MaineDOT/City agreements for 2015 PACTS Collector Paving Program

SPONSOR: Sheila Hill-Christian, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading Jan. 5, 2015 **Final Action** Jan 21, 2015

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

Action must occur swiftly in order for MaineDOT to advance their bid packages and begin work in a timely fashion. The 2015 projects have significant impact on Downtown activities and without an early Spring start we risk extending the work and disruption into 2016.

PRESENTATION: N/A

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services and Maine Dept. of Transportation request approval for the City Manager to enter into two (2) two-party agreements to proceed with 2015 PACTS Collector Paving projects. This action follows previous authorization of three-party agreements by Order 40-13/14. Those three-party agreements estimated an investment value of \$1,048,955 and a Local portion obligation of \$236,296. The total value of investment is now estimated to be \$1,904,482 and the Local cash obligation is now estimated to be \$1,099,448. The significant increase in required Local funding is for Phase I of the Spring St Corridor per the authorized Master Plan. Local funding was appropriated in the FY14 and FY15 CIP, and includes public infrastructure contributions from Cross Insurance Arena.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

MaineDOT cannot proceed with final design and bid document preparation without these agreements being executed. Failure to execute agreements could result in deferral or elimination

of the leveraged funding for PACTS Collector Pavement Preservation, and delay Phase I of the Spring St Corridor Master Plan initiatives.

III. INTENDED RESULT

Execution of these agreements will allow for MaineDOT to preserve the pavement on these streets in 2015, and administer the contract for the City's Phase I work on the Spring St Corridor:

- Middle St from Franklin to Temple
- Spring St from State to Temple
- Temple St from Middle to Congress (entire)
- Union St from Commercial to Middle (entire)

In addition to pavement preservation, the City will achieve Phase I Master Plan goals for the Spring St Corridor, and replace an unwarranted traffic signal system at the intersection of Middle and Pearl with a four-way stop; thereby reducing our electrical energy consumption.

IV. COUNCIL GOAL ADDRESSED

From the Capital Improvement Plan Scoring Criteria, these pavement preservation projects would rate highly in these categories: (B) Impact of Service to the Public; (C) Asset Maintenance Need; (D) Funding Source; and (E) Budget Impact.

V. FINANCIAL IMPACT

The total value of the projects is currently estimated at \$1,904,482 and the Local investment is estimated up to \$1,099,448 of that total. The Local funding is appropriated in the FY14 and FY15 CIP, and a portion is sourced from a contribution from the Cross Insurance Arena.

Project	CIP account	Current Local Cost	Prior Local Cost Estimate
Union Street paving	C15103	\$28,338	\$43,338
Spring, Middle, and Temple Streets	C14106	\$350,000	\$192,958
	C14201	\$135,000	
	PS1502	\$30,721	
	C15103	\$355,389	
	C15105	\$200,000	
<i>Totals:</i>		<i>\$1,099,448</i>	<i>\$236,296</i>

VI. STAFF ANALYSIS & RECOMMENDATION

The paving projects reflected by these agreements have been specifically identified, vetted, and authorized by prior City Council Order #40-13/14. The Department of Public Services has communicated extensively with Portland Downtown District, worked with stakeholders, and notified abutters to raise awareness of the intended work and develop specific design elements for Phase I of the Spring St Corridor.

Existing CIP and development contribution funds have been dedicated to the implementation of these projects and they should proceed without delay.

VII. LIST ATTACHMENTS

Two-party agreement for Spring, Middle, and Temple (WIN #020256.00)

Two-party agreement for Union Street (WIN #020241.00)

Prepared by:

Katherine Earley, PE
Engineering Services Manager

Signature

Date



MaineDOT

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO UNION STREET

MaineDOT use only

TEDOCS #: _____
CT #: _____
CSN #: _____
PROGRAM: _____

(MaineDOT Use Only)

Project Location: <u>Portland</u>	Estimated Municipal Share: <u>\$28,337.50</u>
State WIN #: <u>020241.00</u>	Vendor Customer #: <u>17A12144</u>
Federal Aid Project #: <u>STP-2024(100)</u>	Agreement Begin Date: _____
	Agreement End Date: <u>(3 years from the date last signed below)</u>

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Union Street, in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☐ Appendix B – Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below: **The Department has met regularly with the City of Portland and allowed them to have input on our contract windows and work times. They are agreeable to day work with alternating one way traffic.**
1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 5. The Municipality will have the opportunity to review and comment.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least three (3) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach

of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

CITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Sheila Hill-Christian, Acting City Manager

By: _____
William A. Pulver, Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO UNION STREET

FEDERAL AID PROJECT NO. STP-2024(100)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020241.00

Project Scope: 1.5" Mill and Fill Union Street from Commercial Street to Middle Street.

Funding Outline: The total project estimated cost is \$193,375.00 and the Parties agree to share costs through all stages of Project under the terms outlined below

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	10	550.10	10	550.10	80	4,400.80			5,501.00
Right of Way	10	0.00	10	0.00	80	0.00			0.00
Construction	10	16,687.10	10	16,687.10	80	133,496.80			166,871.00
Construction Engineering	10	1,100.30	10	1,100.30	80	8,802.40			11,003.00
PROJECT SHARES		\$18,337.50		\$18,337.50		\$146,700.00			\$183,375.00
Total Cost of Additional Work Requested by Municipality (Below)	100	\$10,000.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$28,337.50							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Structures (Manholes): 1 rebuild and 8 adjustments	\$10,000
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$10,000

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$19,443.80	May 2015
City of Portland	\$8,893.70	Dec 2015

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO UNION STREET

FEDERAL AID PROJECT NO. STP-2024(100)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020241.00

1. Description of Work Being Added to Project By The Municipality:

The work to be done will include rebuilding one manhole and adjusting 8 manholes.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

- a) All plans and specifications shall conform to the standards used by the Department as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details for Highways and Bridges"* and comply with the Department's Utility Accommodation Policy as set forth in its *"Policy On Above Ground Utility Locations"*.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in the Department's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to the Department and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay the Department's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by the Department. A copy of the

Department's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying the Department in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of the Department.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay the Department, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, the Department agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless the Department determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.



MaineDOT

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO SPRING, TEMPLE & MIDDLE STREETS

<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

(MaineDOT Use Only)

Project Location: Portland

State WIN #: 20256.00

Federal Aid Project #: STP-2025(600)

Estimated Municipal Share: \$1,071,110.71

Vendor Customer #: 17A12144

Agreement Begin Date: _____

Agreement End Date: (3 years from the date last signed below)

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Spring, Temple & Middle Streets, in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☐ Appendix B – Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below: **The Department has met regularly with the City of Portland and allowed them to have input on our contract windows and work times. They are agreeable to day work with alternating one way traffic.**
1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 5. The Municipality will have the opportunity to review and comment.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least three (3) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent "*Rules, Regulations and Policies for Highway Openings*", which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach

of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of Portland

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Sheila Hill-Christian, Acting City Manager

By: _____
William A. Pulver, Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO: Spring, Temple & Middle Streets

FEDERAL AID PROJECT NO. STP-2025(600)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 20256.00

Project Scope: To mill & overlay Spring Street from State Street to Temple Street and Middle Street from Temple Street to Franklin Street. To shim and overlay Temple Street from Spring Street to Congress Street.

Funding Outline: The Total Project Estimated Cost is \$1,711,107.12, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	10	863.41	10	863.41	80	6,907.30			8,634.12
Right of Way	10	0.00	10	0.00	80	0.00			0.00
Construction	10	65,929.80	10	65,929.80	80	527,438.40			659,298.00
Construction Engineering	10	4,317.50	10	4,317.50	80	34,540.00			43,175.00
PROJECT SHARES		\$71,110.71		\$71,110.71		\$568,885.70		\$	\$711,107.12
Total Cost of Additional Work Requested by Municipality (Below)		\$1,000,000.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$1,071,110.71							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Middle Street structures (Manholes): 4 rebuilds and 5 adjustments	\$12,500.00
Middle Street ADA/Pedestrian Improvements	\$47,500.00
Temple Street structures (Manholes): 1 rebuild and 4 adjustments	\$6,000.00
Temple Street ADA/Pedestrian Improvements	\$54,000.00
Spring Street structures (Manholes): 1 rebuild and 5 adjustments	\$7,500.00
Spring Street ADA/Pedestrian Improvements	\$75,000.00
Spring Street Reconstruction: Center Barrier removal and curb realignment	\$797,500.00
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$1,000,000.00

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 80% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$835,987.06	May 2015
City of Portland	\$235,123.65	Dec 2016

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO Spring, Temple & Middle Streets

FEDERAL AID PROJECT NO. STP-2025(600)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 20256.00

1. Description of Work Being Added to Project By The Municipality:

Extensive reconstruction of portions of Spring, Middle and Temple streets. Removal of center barrier and realignment of curb to narrow road. New streetscape and pedestrian and ADA compliance improvements.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☐ - Disregard this Section, or Yes ☒ - as follows:

- a) All plans and specifications shall conform to the standards used by the Department as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details for Highways and Bridges"* and comply with the Department's Utility Accommodation Policy as set forth in its *"Policy On Above Ground Utility Locations"*.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in the Department's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to the Department and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay the Department's schedule for soliciting bids to construct the Project.

- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by the Department. A copy of the Department's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying the Department in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of the Department.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay the Department, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, the Department agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless the Department determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

*Order 127-14/15
Tab 17 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TWO-PARTY AGREEMENTS
BETWEEN THE CITY OF PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: TRANSPORTATION SYSTEM IMPROVEMENTS**

ORDERED, that the Acting City Manager is authorized to enter into two-party partnership agreements between the City of Portland and the Maine Department of Transportation (MaineDOT), in substantially the form attached, for the following City transportation system improvements:

- WIN #19389 – **MaineDOT Transportation Alternative Project**, Intersections of York and High, and Commercial and High Streets
- WIN #18718.00 – **Portland Area Comprehensive Transportation System 16/18, York Street**
- WIN #20282.00 – **MaineDOT Arterial Paving Project** Route 1A (Commercial and Franklin Streets); and

BE IT FURTHER ORDERED, that the Acting City Manager is hereby authorized to sign the two-party agreements and any other documents necessary to effect the purpose of this order.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: December 23, 2014 REVISED Dec 30, 2014

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuta, Corporation Counsel
Sonia Bean, Executive Assistant
Nancy English, Admin. Asst. to Corporation Counsel

SUBJECT: Order to approve MaineDOT/City agreements for three (3) 2015 Projects

SPONSOR: Sheila Hill-Christian, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading ___ Jan. 5, 2015 ___ **Final Action** ___ Jan 21, 2015 ___

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

Action must occur swiftly in order for MaineDOT to advance their bid packages and begin work in a timely fashion. The 2015 projects have significant impact on Downtown activities and without an early start we risk extending the work into 2016.

PRESENTATION: N/A

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services and Maine Dept. of Transportation (MaineDOT) request approval to enter into three (3) two-party agreements to proceed with bundling the projects into one 2015 construction contract. The total value of investment is estimated to be \$2,046,500 and the Local cash portion is estimated to be \$961,300. Local funding was appropriated in the FY14 and FY15 CIP. Previous authorization for two of these projects occurred through City Council Orders #222-11/12 and #15-14/15, and the third authorization is via FY15 CIP appropriation. The Local cost obligation for this bundled project is slightly reduced from prior estimates.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

MaineDOT cannot proceed with final design and bid document preparation without these agreements being executed. Failure to execute agreements could result in deferral or elimination of highly leveraged funding for these MaineDOT and PACTS projects.

III. INTENDED RESULT

Execution of these agreements allows for:

- 1) MaineDOT Arterial pavement preservation on Route 1A:
 - a) Commercial St from Beach to Franklin
 - b) Franklin St between Commercial and Middle
- 2) MaineDOT Transportation Alternatives project:
 - a) Intersections of Commercial at High and York at High
- 3) PACTS 16/18 Bicycle/Pedestrian TIP project:
 - a) York St sidewalk and pedestrian signal

In addition to MaineDOT Arterial pavement preservation, the City is making significant improvements to traffic and pedestrian infrastructure along the Commercial St Corridor.

IV. COUNCIL GOAL ADDRESSED

From the Capital Improvement Plan Scoring Criteria, these projects would rate highly in these categories: (B) Impact of Service to the Public; (C) Asset Maintenance Need; (D) Funding Source; and (E) Budget Impact.

V. FINANCIAL IMPACT

The total value of the projects is currently estimated at \$2,046,500 and the Local investment is estimated up to \$961,300 of that total. The Local funds required are less than previous estimates, and are appropriated in the FY14 and FY15 CIP.

Project	CIP account	Current Local Cost	Prior Local Cost Estimate
Commercial and Franklin Street paving	C15104	\$890,000	\$900,000
Commercial at High and York at High Intersections	C14114	\$42,700	\$29,600
York St sidewalk and ped signals	C14114	\$28,600	\$35,750
	<i>Totals:</i>	<i>\$961,300</i>	<i>\$965,350</i>

VI. STAFF ANALYSIS & RECOMMENDATION

These projects have been specifically identified, vetted, authorized, and funded by prior City Council actions. The Department of Public Services has communicated extensively with Portland Downtown District to raise awareness and develop specific elements of the intended work plan. Existing CIP funds have been dedicated to the implementation of these projects and they should proceed without delay.

VII. LIST ATTACHMENTS

Two-party agreements for:

- Route 1A (Commercial and Franklin Streets) - (WIN #20282.00)
- Intersections of York/High and Commercial/High - (WIN #19389.00)
- York Street - (WIN #18718.00)

Prepared by:

Katherine Earley, PE
Engineering Services Manager

Signature

Date



MaineDOT

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO: ROUTE 1A (COMMERCIAL & FRANKLIN STREETS)

<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

(MaineDOT Use Only)

Project Location: Portland

State WIN #: 20282.00

Federal Aid Project #: NHP-2028(200)

Estimated Municipal Share: \$890,000.00

Vendor Customer #: 17A12144

Agreement Begin Date: _____

Agreement End Date: (3 years from the date last signed below)

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Route 1A (Commercial & Franklin Streets), in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☐ Appendix B – Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below: **The Department has met regularly with the City of Portland and allowed them to have input on our contract windows and work times. They are agreeable to day work and maintaining two-way traffic,**
1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 5. The Municipality will have the opportunity to review and comment.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least three (3) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach

of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of Portland

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Sheila Hill-Christian, Acting City Manager

By: _____
William A. Pulver, Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project
MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO: Route 1A (Commercial & Franklin Streets)

FEDERAL AID PROJECT NO. NHP-2028(200)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 20282.00

Project Scope: To Mill & Fill Route 1A, Beginning 1900' south of the intersection of HIGH ST and extending northerly 1.22 miles on ROUTE 1A (Commercial St. & Franklin St.) to the intersection of Franklin Street & Middle Street.

Funding Outline: The Total Project Estimated Cost is \$1,690,000.00 and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering			20	4,000.00			80	16,000.00	\$20,000.00
Right of Way			20	0.00			80	0.00	\$0.00
Construction			20	146,000.00			80	584,000.00	\$730,000.00
Construction Engineering			20	10,000.00			80	40,000.00	\$50,000.00
PROJECT SHARES				\$160,000.00				\$640,000.00	\$800,000.00
Total Cost of Additional Work Requested by Municipality (Below)	100	\$890,000.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$890,000.00							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Structures: 3 catch basin rebuilds and 33 manhole adjustments	\$35,000.00
Pavement Markings	\$265,000.00
ADA/Pedestrian Upgrades	\$300,000.00
Traffic Signal Upgrades	\$290,000.00
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$890,000.00

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
80% of all additional work requested by the Municipality (when applicable).
2. Final Voucher Payment to the Contractor. A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$712,000.00	May 2015
City of Portland	\$178,000.00	Dec 2015

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO Route 1A (Commercial & Franklin Streets)

FEDERAL AID PROJECT NO. NHP-2028(200)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 20282.00

1. Description of Work Being Added to Project By The Municipality:

The work to be done will include manhole adjustments, upgraded pavement markings, ADA and pedestrian improvements at several intersections along the Route 1A corridor, and upgraded traffic signals at 5 intersections.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

- a) All plans and specifications shall conform to the standards used by the Department as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details for Highways and Bridges"* and comply with the Department's Utility Accommodation Policy as set forth in its *"Policy On Above Ground Utility Locations"*.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in the Department's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to the Department and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay the Department's schedule for soliciting bids to construct the Project.

- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by the Department. A copy of the Department's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying the Department in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of the Department.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay the Department, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, the Department agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless the Department determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.



MaineDOT

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

**PROPOSED IMPROVEMENTS TO: Intersections of York/High and Commercial/High
Streets**

(MaineDOT Use Only)

Project Location: <u>Portland</u>	Estimated Municipal Share: <u>\$42,700.00</u>
State WIN #: <u>19389.00</u>	Vendor Customer #: <u>17A12144</u>
Federal Aid Project #: <u>STP - 1938(900)</u>	Agreement Begin Date: _____
	Agreement End Date: <u>(3 years from the date last signed below)</u>

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Intersections of York/High and Commercial/High streets, in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☐ Appendix B – Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☐ Appendix C – Additional work requested by Municipality

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to

construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below: **The Department has met regularly with the City of Portland and allowed them to have input on our contract windows and work times. They are agreeable to day work with alternating one way traffic.**
 - 1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 - 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 - 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 - 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 - 5. The Municipality will have the opportunity to review and comment.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to

permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least three (3) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*

R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.

V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.

W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of Portland

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Sheila Hill-Christian, Acting City Manager

By: _____
William A. Pulver, Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project
MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO: Intersections of York/High and Commercial/High Streets
FEDERAL AID PROJECT NO. STP - 1938(900)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 19389.00

Project Scope: Pedestrian and ADA Improvements at the intersections of Commercial/High and York/High Streets. New pedestrian landings, signals and crosswalk for crossing Commercial at High and York at High. Also construct new sidewalk in gap from GMRI to Hobson's wharf on Commercial Street and on east side of High Street.

Funding Outline: The Total Project Estimated Cost is \$213,500.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	20	5,000.00			80	20,000.00			25,000.00
Right of Way	20	100.00			80	400.00			500.00
Construction	20	37,000.00			80	148,000.00			185,000.00
Construction Engineering	20	600.00			80	2,400.00			3,000.00
PROJECT SHARES		\$42,700.00				\$170,800.00			\$213,500.00
Total Cost of Additional Work Requested by Municipality (Below)		0.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$42,700.00							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
N/A	
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$23,900.00	May 2015
City of Portland	\$18,800.00	Dec 2015

*Order 128-14/15
Tab 18 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**TRAFFIC SCHEDULE AMENDMENT
RE: SEWALL STREET**

Ordered: that Schedule X in the City of Portland's Traffic Schedule be and is hereby amended as follows:

By Adding under Sewall Street:

From a point at the northeasterly corner of the emergency access way leading to Thompson's Point Road and running easterly and northeasterly for 56 feet – NO PARKING – TAXI ZONE

BE IT FURTHER ORDERED, that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: December 18, 2014

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuta, Corporation Counsel
Sonia Bean, Executive Assistant
Nancy English, Admin. Asst. to Corporation Counsel

SUBJECT: Traffic Schedule Amendment Order establishing Taxi Stand on Sewall Street

SPONSOR: The Transportation, Sustainability & Energy Committee voted 4-0 in favor of the proposal on Wednesday, December 17, 2014.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading___Jan. 5, 2015

Final Action___Jan 21, 2015

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

The Traffic Movement Permit signed by the State of Maine, City of Portland & Forefront Partners reduced taxi standing on Thompson's Point Road. Enforcement of this prohibition causes hardship for passengers using the Portland Transportation Center and taxi drivers.

PRESENTATION: N/A

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services seeks authorization to establish five (5) Taxi Stand spaces on Sewall Street.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

This request is a result of dialogue with Taxi drivers and representatives of the Thompson's Point development and Portland Transportation Center. Recent improvements made to Thompson's Point Rd resulted in a decrease of publically available Taxi Stand area which affects customer service at the Transit Hub. Creating five additional Taxi Stand spaces at the end of Sewall St provides an efficient queuing location for Taxi providers.

III. INTENDED RESULT

This proposal will allow 13 taxis to wait in a queue for arriving passengers at the Portland Transportation Center

IV. COUNCIL GOAL ADDRESSED

Proposal encourages the use of public transportation to and from our transportation hubs.

V. FINANCIAL IMPACT

The five spaces proposed at the end of Sewall Street are non-restricted and yield no revenue to the City. We do not anticipate charging the taxis for these spots so there is no financial impact.

VI. STAFF ANALYSIS & RECOMMENDATION

The Department of Public Services and the City's Parking Division both recommend this proposal.

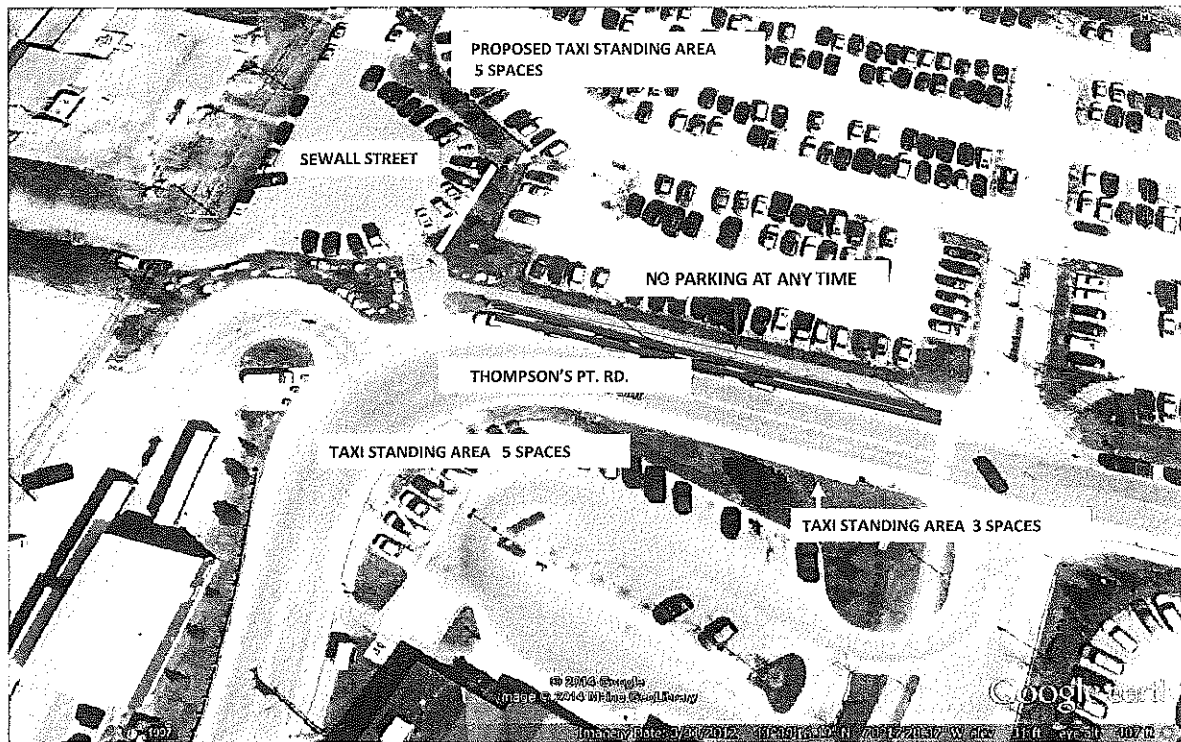
VII. LIST ATTACHMENTS

1. Memorandum to the Transportation, Sustainability & Energy Committee
2. Graphic of Proposed Changes
3. Letter sent to Taxi drivers and companies – Sept. 2013
4. Council Order

Signature

Date

PROPOSED TAXI STAND ON SEWALL STREET



Concord Bus and Downeaster Train Terminal

Memorandum to: The Transportation, Sustainability & Energy Committee
From: The Department of Public Services, Traffic Division
Subject: PROPOSAL FOR ADDITIONAL TAXI WAITING SPACES AT THE END OF SEWALL
SEWALL STREET

The Traffic Movement Permit (TMP) for the Thompson's Pt development project called for a number of improvements in the area around the entrance to Thompson's Point.

In order to handle the increased traffic expected on Thompson's Point Rd., the roadway had to be widened from two to three lanes beginning at the Fore River Parkway and running into the new development. There would be travel lanes going in and out and a center turn lane. During times of peak use, two lanes would be used going in the direction needed.

The widening, which occurred primarily on the north side of the road, eliminated the wide shoulder that had been used by taxis as a waiting queue. Taxis would move from this area to one of the four spaces inside the terminal parking allotted for taxi standing. The City, State and developer agreed that taxis would no longer stand along the road.

Usage of taxis at the Portland Transportation Center (PTC) is high. Typically, anywhere from 6 to 14 cabs may be needed when a bus or train (or both arrives). Removal of the waiting area on Thompson's Point Road affects customer service.

While this is not a city run taxi queue, the drivers asked for our help in finding an alternative location where taxis might wait. As a result, three spaces were added on the south side of Thompson's Point Road, where a cut into the PTC terminal property was possible. Staff has reviewed the possibilities for an additional number of taxis.

With an additional space offered inside the terminal pick up area, the three spaces added in front of the terminal and the five proposed for the Sewall Street Circle, the number of taxi waiting spaces would total 13. This compares with the 4 inside the terminal previously and the six that were technically allowed on the north side of Thompson's Point Road. (Please note that more than six cabs were often waiting on the street.) Staff believes that 13 spaces is adequate to maintain good customer service.

The location had to offer visibility in order for the drivers to keep track of "who's next". Our review indicates that the conversion of five of previously unrestricted parking spaces at the end of Sewall Street in what is known as the Sewall Street Circle, would work well as a taxi stand. The drivers could visually keep track of who needs to move up.

The drivers understand that they will not be using the gated entrance to Thompson's Pt. Rd. and must drive up Sewall Street, along Congress Street, down the Fore River Parkway and into Thompson's Point to take their place in line. They are willing to do this.

The circle at the end of Sewall Street is used for travelers for the bus and train station, and some medical office parking. Site visits have demonstrated availability of parking at the Medical office building and on both side of the end of Sewall Street. Staff believes that the conversion of 5 of the spaces to taxi standing will not adversely impact the neighborhood.



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Paul R. LePage
GOVERNOR

David Bernhardt
COMMISSIONER

September 17, 2013

To All Licensed Taxi Companies in Portland:

Subject: Changes to Taxi standing areas due to construction on Thompsons Point Road at the Portland Transportation Center.

Background: The Maine Department of Transportation, (Maine DOT), in partnership with the City of Portland and Forefront Partners, I, LP will be advertising for construction improvements to Thompsons Point Road. The improvements will extend from the intersection with the Fore River Parkway to approximately 150 feet beyond the railroad crossing on Thompsons Point. The improvements are required to accommodate additional traffic associated with a new development on Thompsons Point. The improvements include widening Thompsons Point Road from two lanes to three lanes, construction of a multiuse path and sidewalk, railroad crossing improvements, and lighting.

What this means to you: Construction is anticipated to start in early November of this year, and conclude in December of 2014. During construction, six (6) taxi waiting spots will be maintained on Thompsons Point Road. This means that there will three (3) taxi waiting spots in the small parking lot next to the bus and train terminal and six (6) on the street. The street spots may have to be moved from time to time for construction work to take place.

Once construction is complete, there will be three (3) taxi waiting spots located near the Concord Trailways drop off area, and three (3) taxi waiting spots will be located on the southerly side of Thompsons Point Road, near the entrance to the Transportation Center. There will be no Taxi standing available on the north side of the street. This means that there will be a total of six (6) taxi waiting spots at the Portland Transportation Terminal – three (3) inside the lot (where there are currently four) and three (3) in a designated area just outside the terminal parking lot.

If you have any questions regarding the Project, please contact *Judy Harris* at jh@portlandmaine.gov or 874-8828.

In closing, the MaineDOT, City of Portland, and Forefront Partners appreciate your cooperation. Thank you,

Sincerely,

Jeffrey Tweedie, P.E.
Assistant Multimodal Program Manager

cc: Judy Harris, City of Portland
Michael Bobinsky, P.E., City of Portland
Greg Mitchell, City of Portland
Chris Thompson, Forefront Partners

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 24 SEWERS
RE: Stormwater Program**

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

1. That Chapter 24 of the Portland City Code is hereby amended
to read as follows:

Chapter 24 SEWERS*

*Cross reference(s)--Buildings and building regulations, Ch. 6;
disposal of wastes by food service establishments, § 11-26; land use, Ch. 14;
streets, sidewalks and other public places, Ch. 25.

State law reference(s)--Sewers and drains, 30 M.R.S.A. § 4351 et seq.

Art. I. In General, §§ 24-1--24-15

Art. II. Sewer Construction, §§ 24-16--24-30

Art. III. Sewer Use Regulations, §§ 24-31--24-70

Art. IV. Sewer Use Sanitary Sewer User and Industrial Pre-
treatment Charges, §§ 24-71--24-77

Art. V. Stormwater Service and User Charges,

ARTICLE I. IN GENERAL

Sec. 24-1. Reserved Purpose

The city is responsible for the health and safety of the
public and maintaining over 300 miles of sewer line comprised of
the sanitary sewer and storm sewer lines themselves, catch
basins, manholes, detention ponds, underground waste water
storage facilities, and sewer pump stations.

The city maintains a sewer system in order to convey domestic wastewater and stormwater runoff from private and public property for treatment at the Publicly Owned Treatment Works.

The city maintains a stormwater drainage system in order to convey stormwater runoff away from private and public property to minimize flooding, reduce pollution discharge to waters of the State of Maine, and to control erosion of streams and channels.

The city council finds that funding the comprehensive wastewater and stormwater programs to properly operate this infrastructure should be equitably paid for by properties making use of sewer and stormwater services provided by the city according to costs incurred to provide those services.

Sec. 24-2. Definitions. Reserved.

For the purposes of this chapter, all words shall have their normal meanings and such meanings as may be in common use in the field of wastewater treatment. Certain words are more particularly defined. For the purposes of this Chapter, the following terms shall have the following meanings.term:

Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, U.S.C. § 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins eight (8) feet outside the outer face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Combined sewer shall mean a sewer conveying both stormwater and wastewater.

Department of Public Services shall mean the public works authority.

Discharge shall mean any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants

District shall mean the Portland Water District, a quasi-municipal corporation existing pursuant to Chapter 84 of the Private and Special Laws of Maine of 1975, as amended, with a business address of 225 Douglas Street, Portland, Maine.

Domestic wastewater shall mean the liquid wastes and liquid borne wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens, and floor drains essentially free of industrial wastes or toxic materials.

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Industrial waste shall mean any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Interceptor sewer shall mean a large sewer used to intercept a number of main or trunk sewers and convey wastewater and stormwater runoff to treatment or other disposal facilities.

National pollutant discharge elimination system or NPDES permit shall mean a permit issued pursuant to § 402 of the act, 33 USC § 1342, and M.R.S.A. Title 38, § 414-A.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

POTW (publicly owned treatment works) ("facility") shall mean the treatment works, as defined by § 212 of the act, operated by the Portland Water District. This definition includes any devices and systems used in the storage, treatment, recycling, disposal, and reclamation of wastewater consisting of domestic, commercial, municipal, and industrial wastes of a liquid nature. It also includes those sewers, pipes, pump stations and other conveyances which convey wastewater to the

facility and may be owned by the city. For the purposes of this chapter, POTW shall also include any sewers that convey wastewater to the treatment works from persons who are, by permit, contract, or agreement with the city, users of the facility.

POTW treatment plant shall mean that portion of the facility designed to provide treatment (including recycling and reclamation) of wastewater, municipal wastewater, industrial waste, septage and holding water and other trucked-in wastes as allowed under the provisions of this article.

Private wastewater disposal system shall mean a treatment tank with the effluent discharging into a subsurface absorption area, or such other facilities as may be permitted under the procedures set forth in rules and regulations adopted by the state department of health and welfare pursuant to 22 M.R.S.A. § 42(3), and the city's plumbing code.

Private sewer system shall mean any sewer system within the city not owned by or constructed by a public authority.

Private wastewater treatment works shall mean all facilities other than private sewage disposal systems for treating and disposing of wastewater within the city not owned by a public authority. Private wastewater treatment works shall be distinct from private wastewater disposal systems as the effluent is discharged directly into surface water bodies. Private wastewater treatment works shall be licensed by the state department of environmental protection, in accordance with the provisions of 38 M.R.S.A. §§ 413, 414.

Public sewer shall mean a sewer directly owned, operated or controlled by the city or the Portland Water District.

Sanitary sewer shall mean a sewer, conveying either exclusively domestic wastewater and industrial waste or a sewer also conveying stormwater runoff together with ground and surface water that is not admitted intentionally.

Sewer shall mean a pipe or conduit for conveying liquid or liquid-carried waste.

Storm sewer shall mean a sewer for conveying stormwater

runoff, groundwater, subsurface water, condensate, cooling water or other similar discharge but which excludes domestic wastewater and polluted industrial wastes.

Stormwater shall mean any stormwater runoff, snowmelt runoff, and surface runoff and drainage. "Storm water" shall have the same meaning as stormwater.

Stormwater drainage system shall mean any publicly owned or operated conveyance for stormwater, natural and human-made including, but not limited to, storm sewers, city and state roads including the Maine Turnpike and other physical works with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, culverts, human-made channels, swales, ditches, swamps, rivers, streams, creeks, brooks, reservoirs, ponds, drainage ways, inlets, pipes, head walls, lakes, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater services shall mean the program and maintenance activities as well as the pipe, conduits, or other conveyances or facilities provided by the city including but not limited to necessary programs, improvements, or maintenance required to meet national pollutant discharge elimination system (NPDES) permits the city may hold or other regulatory or court imposed obligations on the city, or general maintenance of pipes, conduits or other facilities improvements and other unforeseen improvements necessary to provide stormwater service to the city.

Wastewater shall mean a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such ground, surface, and stormwater as may be present.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently on a natural basis.

Westbrook Inter-Municipal Sewer Service Area shall mean the Domestic and sanitary sewage and waste water from the Riverside Street/Warren Avenue/Forest Avenue vicinity of Portland as defined on the plan to the Rules and Regulations enacted by the

Department of Public Services, and on file in the Department of Public Works Services, intercepted by the District and delivered to the existing Westbrook Gorham Regional Treatment Plant for treatment.

(Ord. No. 263-96, 5-20-96; Ord. No. 97-03/04, 12-17-03)

- - - - -

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Reference - Council Order 54-02/03 § An Order Authorizing Three-Party Sewer Service Agreement with Portland Water District and City of Westbrook).

Sec. 24-3. ReservedAdministration.

(a) The director of public services shall establish rules and regulations governing the availability and use of city wastewater collection and treatment facilities and stormwater drainage system. The rules and regulations shall be consistent with federal law and ordinances. Said wastewater rules shall be enacted in conjunction with the Portland Water District prior to enactment.

(b) The rules shall be enacted in the same manner as the rules for solid waste disposal are promulgated, prescribed in section 12-105(b) and (b.1) of this Code, with the exception that the rules will go into effect twenty (20) days after enactment by the director unless stayed by action of the city council. Proposed rules shall be delivered to the council as a communication prior to enactment.

(Ord. No. 263-96, 5-20-96)

Sec. 24-4. Enforcement Agency.

The Department of Public Services or the Portland Water District as agent for the city and at the request of the Department of Public Services, shall administer and enforce the provisions of this chapter.

(Ord. No. 263-96, 5-20-96)

~~Reserved.~~

Sec. 24-5. Reserved.

Sec. 24-6. Reserved.

Sec. 24-7. Reserved.

Sec. 24-8. Reserved.

Sec. 24-10

- Sec. 24-9. Reserved.
- Sec. 24-10. Reserved.
- Sec. 24-11. Reserved.
- Sec. 24-12. Reserved.
- Sec. 24-13. Reserved.
- Sec. 24-14. Reserved.
- Sec. 24-15. Reserved.

ARTICLE II. SEWER CONSTRUCTION

Sec. 24-16. Accepted streets.

When any person owning property on an accepted street shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the ~~public works authority~~Department of Public Services:

- (a) Upon authorization by the city council, ~~thea~~ sewer shall be constructed by the city, the cost of a ~~sanitary, combined or intercepter~~ sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause ~~thea~~ sewer to be built to the specifications of the ~~public works authority~~Department of Public Services and under his or her supervision, with or without regard to competitive bids. Upon completion of ~~thea~~ sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and ~~thea~~ sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.1; Ord. No. 101-81, §§ 1--3, 9-21-81)

Sec. 24-17. Dedicated streets.

When any person owning property on a street, which prior to July 7, 1948, has been dedicated, constructed and used for public travel but has not been accepted by the city, shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the ~~public works authority~~Department of Public

- (a) Upon authorization by the city council, ~~thea~~ sewer shall be constructed by the city, the cost ~~of~~ a ~~sanitary, combined or interceptora~~ sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause ~~thea~~ sewer to be built to the specifications of the ~~public works authority~~ Department of Public Services and under his or her supervision, with or without regard to competitive bids. Upon completion of ~~thea~~ sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and at such time as the street is accepted by the city, ~~thea~~ sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.2; Ord. No. 101-81, §§ 4, 5, 9-21-81)

Sec. 24-18. Initiative of city council.

The city council may, on its own initiative and without petition therefor, authorize construction by the city of ~~sewersa~~ sewer in accepted and dedicated-but-unaccepted streets, the cost of a ~~sanitary, combined or interceptor~~ sewer to be recovered in part as hereinafter provided.

(Ord. No. 101-81, § 6, 9-21-81)

Sec. 24-19. Costs.

(a) A charge is hereby established for the connection heretofore or hereafter of any property to a ~~sanitary, combined or interceptor~~ sewer constructed by the city or the Portland Water District and completed on or after January 1, 1978. Such charge shall be due and payable upon application for a connection permit as provided in section 24-39, and except for connections made before November 15, 1981, shall be in lieu of all other charges related thereto, including the fee for the connection permit and street and sidewalk opening charges as provided in section 25-156, provided that connection is made in accordance with article III of this chapter. This section shall not apply to any property assessed for the cost of sewer construction according to law.

- (b) For any such sewer completed heretofore, the charge

shall be two hundred dollars (\$200.00) per each sanitary sewer connection made heretofore or hereafter but before November 15, 1981, and one thousand dollars (\$1,000.00) per each such connection made thereafter.

(c) For any such sewer completed hereafter, the charge shall be two thousand dollars (\$2,000.00) per each such connection, provided that the city council may, from time to time, by order readjust the charge according to the then-prevailing cost of sewer construction and the anticipated number of such connections.

(Ord. No. 101-81, § 7, 9-21-81)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-20. Reserved.
Sec. 24-21. Reserved.
Sec. 24-22. Reserved.
Sec. 24-23. Reserved.
Sec. 24-24. Reserved.
Sec. 24-25. Reserved.
Sec. 24-26. Reserved.
Sec. 24-27. Reserved.
Sec. 24-28. Reserved.
Sec. 24-29. Reserved.
Sec. 24-30. Reserved.

ARTICLE III. SEWER USE REGULATIONS*

*Editor's note--Ord. No. 263-96, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use regulations, consisted of substantive §§ 24-31--24-60, and derived from §§ 309.1--309.29 of the 1968 Code, as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
					1- 4-88

13-76	--	10- 6-76	221-88	1	
154-79	--	3-19-79	228-88	1	2- 1-88
355-84	1--14, 16, 17	1- 4-84	77-91	--	8- 7-91
317-87	1	2- 2-87	37-93	--	7- 7-93

Sec. 24-31. Scope.

The provisions of this article shall apply to and govern all types of buildings requiring sanitarywastewater facilities; the excavation, construction, installation, usage, maintenance, extension, alteration, repair or removal of any building sewer, building storm drain, sanitary sewer system, or storm drainage or sewer system; the connection of building sewers and building storm drainssewers to sanitary sewer systems, and/or storm drainage systems or combined sewers; the types of wastes or wastewaters prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible.

(Ord. No. 263-96, 5-20-96)

Sec. 24-32. Intent and purpose.

(a) It shall be the intent and purpose of this article to eliminate existing pollution, and to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the pollution abatement schedule for the Portland Regional Wastewater Plan established by the state and the federal government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the city.

(b) Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for interception and wastewater treatment, and is the owner and operator of the POTW treatment plant, none of the provisions of this article shall be construed to repeal or otherwise interfere with the

rights, duties or powers granted to the Portland Water District pursuant to Chapter 433 of the private and special laws of the State of Maine of 1907, as amended.

(Ord. No. 263-96, 5-20-96)

Sec. 24-33. Reserved.

Sec. 24-32.1. Administration34. Definitions.

~~(a) The director of the public works authority shall establish rules and regulations governing the availability and use of city wastewater collection and treatment facilities. The rules and regulations shall be consistent with federal law and ordinances. Said rules shall be enacted in conjunction with the Portland Water District prior to enactment.~~

~~(b) The rules shall be enacted in the same manner as the rules for solid waste disposal are promulgated, prescribed in section 12-105(b) and (b.1) of this Code, with the exception that the rules will go into effect twenty (20) days after enactment by the director unless stayed by action of the city council. Proposed rules shall be delivered to the council as a communication prior to enactment.~~

~~(Ord. No. 263-96, 5-20-96)~~

Sec. 24-33. Enforcing officer.

~~The public works authority or the Portland Water District as agent for the city and at the request of the public works authority, shall administer and enforce the provisions of this article.~~

~~(Ord. No. 263-96, 5-20-96)~~

Sec. 24-34. Definitions.

For the purposes of this article, all words not defined in section 24-2 shall have their normal meanings and such meanings as may be in common use in the field of sanitation and wastewater treatment. ~~Certain words are more particularly defined.~~ For the purposes of this article, the following terms have the following meanings.:

~~Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, U.S.C. § 1251 et~~

~~seq., 86 Stat. 816, PL 92-500 and the regulations promulgated thereunder, as amended from time to time.~~

B.O.D. (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

~~Building shall mean a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure or support of persons, animals or property of any kind.~~

~~Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins eight (8) feet outside the outer face of the building wall.~~

~~Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.~~

~~Categorical industrial user shall mean an industrial user subject to national categorical pretreatment standards.~~

~~Caustic alkalinity (hydroxide alkalinity) shall mean a measure of the capacity of wastewater, which exhibits a pH of greater than or equal to 8.3, to neutralize acids.~~

~~Combined sewer shall mean a sewer receiving both surface runoff and wastewater.~~

~~C.O.D. (chemical oxygen demand) shall mean the measure of the oxygen required for oxidation of the organic matter in a sample that can be oxidized by a strong chemical oxidizing agent under standard laboratory procedure.~~

~~District shall mean the Portland Water District, a quasi-municipal corporation existing pursuant to Chapter 84 of the Private and Special Laws of Maine of 1975, as amended, with a business address of 225 Douglas Street, Portland, Maine.~~

~~Domestic wastewater shall mean the liquid wastes and liquid borne wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens, and floor drains essentially free of industrial wastes or toxic materials.~~

F.O.G. shall mean the measure of fats, wax, grease and oils (other than petroleum based materials).

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and produce, and from the handling, storage and sale of food and produce.

Incompatible pollutant is defined as any pollutant other than biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria or additional pollutants identified in the POTW's NPDES permit to discharge, which the POTW was not designed to treat and does not remove to a substantial degree or may be toxic to the POTW or receiving water.

~~Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.~~

~~Industrial waste shall mean any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.~~

~~Interceptor sewer shall mean a large sewer used to intercept a number of main or trunk sewers and convey wastewater to treatment or other disposal facilities.~~

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Interference means a discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the facility, its treatment processes or operations, or its sludge processes, use or disposal, and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation), or of the prevention of wastewater sludge use or disposal by the facility in accordance with applicable federal,

state, or local statutes and regulations or permits issued thereunder, as set forth in 40 CFR § 403.3(i).

_____mg/l shall mean milligrams per liter.

_____National categorical pretreatment standard shall mean any regulations containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the act, which apply to a specific category of industrial users and which are found in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

~~National pollutant discharge elimination system or NPDES permit shall mean a permit issued pursuant to § 402 of the act, 33 USC § 1342, and M.R.S.A. Title 38, § 414 A.~~

~~Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.~~

pH shall mean the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions in a solution expressed as standards units.

~~POTW (publicly owned treatment works) ("facility") shall mean the treatment works, as defined by § 212 of the act, operated by the Portland Water District. This definition includes any devices and systems used in the storage, treatment, recycling, disposal, and reclamation of wastewater consisting of domestic, commercial, municipal, and industrial wastes of a liquid nature. It also includes those sewers, pipes, pump stations and other conveyances which convey wastewater to the facility and may be owned by the city. For the purposes of this article, POTW shall also include any sewers that convey wastewater to the treatment works from persons who are, by permit, contract, or agreement with the city, users of the facility.~~

~~POTW treatment plant shall mean that portion of the facility designed to provide treatment (including recycling and reclamation) of wastewater, municipal wastewater, industrial waste, septage and holding water and other trucked in wastes as allowed under the provisions of this article.~~

~~Private wastewater disposal system shall mean a treatment tank with the effluent discharging into a subsurface absorption~~

~~area, or such other facilities as may be permitted under the procedures set forth in rules and regulations adopted by the state department of health and welfare pursuant to 22 M.R.S.A. § 42(3), and the city's plumbing code.~~

~~Private sewer system shall mean any sewer system within the city not owned by or being constructed by a public authority.~~

~~Private wastewater treatment works shall mean all facilities other than private sewage disposal systems for treating and disposing of wastewater within the city not owned by a public authority. Private wastewater treatment works shall be distinct from private wastewater disposal systems as the effluent is discharged directly into surface water bodies. Private wastewater treatment works shall be licensed by the state department of environmental protection, in accordance with the provisions of 38 M.R.S.A. §§ 413, 414.~~

~~Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.~~

~~Public sewer shall mean a common sewer directly owned, operated or controlled by the city or the Portland Water District.~~

~~Sanitary sewer shall mean a sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.~~

~~Sewer shall mean a pipe or conduit for carrying wastewater.~~

~~Significant industrial user shall mean any industrial user subject to categorical pretreatment standards, and any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the facility (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry~~

weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the facility's operation or for violating any pretreatment standard or requirement; provided, however, that upon a finding that an industrial user meeting the foregoing criteria has no reasonable potential for violating any pretreatment standard or requirement or for adversely affecting the facility's operation, the city may, at any time, upon its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

 Slug shall mean any discharge of nonroutine, episodic nature, including, but not limited to, an accidental spill, noncustomary batch discharge, or any discharge of wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flow rate during normal operation or which may adversely affect the POTW.

~~*Storm drain or storm sewer* shall mean a sewer for conveying rainwater, groundwater, subsurface water, condensate, cooling water or other similar discharge but which excludes wastewater and polluted industrial wastes.~~

 Total suspended solids (TSS) shall mean the total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtration.

~~*Wastewater* shall mean a combination of the liquid and the water carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.~~

~~*Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently on a natural basis.~~

~~*Westbrook Inter-Municipal Sewer Service Area* shall mean the Domestic and sanitary sewage and waste water from the Riverside~~

~~Street/Warren Avenue/Forest Avenue vicinity of Portland as defined on the plan to the Rules and Regulations enacted by the Public Works Authority, and on file in the Department of Public Works, intercepted by the District and delivered to the existing Westbrook Gorham Regional Treatment Plant for treatment.~~
(Ord. No. 263-96, 5-20-96; Ord. No. 97-03/04, 12-17-03)

~~Cross reference(s) Definitions and rules of construction generally, § 1-2.~~

~~Reference Council Order 54-02/03 § An Order Authorizing Three-Party Sewer Service Agreement with Portland Water District and City of Westbrook).~~

Sec. 24-35. Sanitary facilities required.

Every building intended for human habitation, occupancy, employment, recreation or other purposes, situated within the city shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof, which facilities in character, number and method of installation shall comply with all health laws of the state, ordinances of the city, and rules and regulations of the state bureau of health so far as the same are compatible and not inconsistent.
(Ord. No. 263-96, 5-20-96)

Sec. 24-36. Connection to public sewer required.

The owner of any building used for human habitation, occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary, combined or interceptor sewer, is hereby required at his expense to connect the building ~~drainage system~~ sewer in the most direct manner possible with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is within two hundred (200) feet of the building (the two hundred (200) feet to be measured in such manner so as not to pass over any property owned privately by anyone other than the owner of the premises from which such measurement is being made). Any required compliance with this section shall be completed within one (1) year after the date of official notice to do so.
(Ord. No. 263-96, 5-20-96)

Sec. 24-37. Exception for private wastewater system.

Where the public sewer does not extend to within two hundred (200) feet distant from the nearest point of the building (measured as described in section 24-36), the public sewer shall, at such time, be classified as inaccessible with regard to such premises. Where the public sewers are inaccessible to premises, any building required to be provided with sanitary facilities under section 24-35 shall comply with the following:

- (a) The owner may at his own expense connect with the public sewer even though the building is over two hundred (200) feet distant from the public sewer; or
- (b) Where liquid-carried wastes or wastewater result, they shall discharge into a private wastewater disposal system; or
- (c) Where liquid-carried wastes or wastewater result, they shall discharge into a private wastewater treatment works.

(Ord. No. 263-96, 5-20-96)

Sec. 24-38. Private wastewater systems discontinued.

(a) At such time as a public sewer becomes accessible, as defined in section 24-36, to a property served by a private wastewater disposal system, direct connection shall be made to the public sewer by the owner of such property in compliance with this article within twelve (12) months of receipt of official notice to do so. At the time that direct connection to the public sewer is completed, use of the private wastewater disposal facilities shall have been discontinued. Such abandoned private wastewater disposal system shall be cleaned of sludge and waste materials and filled with clean bankrun gravel or dirt within thirty (30) days of abandonment.

(b) The closing and filling of the private wastewater disposal system and the connection to the public sewer system shall be inspected by the ~~public works authority~~ Department of Public Services. The fee for such inspection shall be a minimum of ten dollars (\$10.00) per septic tank plus ten dollars

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(\$10.00) per hour for all inspection time exceeding one (1) hour. The permit for the connection to the public sewer is the same as those required under sections 24-39 and 24-42.

(c) No such work may be approved unless notice is given to the ~~public works authority~~ Department of Public Services sufficient to permit the inspector to be present at the filling of the private wastewater disposal system and the connection to the public sewer. No new sewer construction or sewer repair or reconstruction may be approved if backfilled and/or covered prior to inspection. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the ~~health authority~~ city.

(Ord. No. 263-96, 5-20-96)

Sec. 24-39. Public sewer connection; permit; fee.

No person shall uncover, make any connections with or openings into, alter or disturb either any public sewer or appurtenance thereof or any private sewer or appurtenance thereof without first obtaining a written permit from the ~~public works authority~~ Department of Public Services or the Portland Water District, if required. The fee for such permit shall be fifty dollars (\$50.00).

(Ord. No. 263-96, 5-20-96; Ord. No. 261-01/02, 5-20-02)

Sec. 24-40. Costs.

All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner.

(Ord. No. 263-96, 5-20-96)

Sec. 24-41. Separate connections required.

A separate and independent building sewer shall be provided for every new building, and a separate connection shall be made for each building sewer. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the ~~public works authority~~ Department of Public Services, to meet all requirements of this article.

(Ord. No. 263-96, 5-20-96)

Sec. 24-42. Defective building sewers to be repaired or replaced.

(a) Whenever any building drain or building sewer connected to the public sewers, or to a private sewer system connected to the public sewers is found to be defective, deteriorating or substandard, the owner of the building served by such building drain or sewer shall be served by the ~~public works authority~~ Department of Public Services with written notice stating the nature of the defect and providing a fifteen (15) day period for the satisfactory repair or replacement of such building sewer and requiring the owner to make a new connection to the public sewer at the owner's expense.

(b) All work done pursuant to this section shall be inspected by the ~~public works authority~~ Department of Public Services. The fee for such inspection shall be twenty-five dollars (\$25.00), ~~represented by the permit fee required under section 24-39.~~

(c) *Failure to comply.* When a person to whom an order is directed fails to fully comply within the fifteen (15) day period, it shall be lawful for the city to repair a building drain or building sewer which is located within the public right-of-way, and all costs thereof shall be charged to the owner thereof.

(d) *Lien procedure.* The ~~public works authority~~ Department of Public Services shall keep an accurate account of the expense of the work under this article, and as soon as practicable after completion of such work, the city shall assess to the person(s) upon whom notice has been served pursuant to subsection (a) of this section their just cost thereof, and all assessments so made shall constitute a lien on the property to be enforced in the manner provided for the collection of sewer assessments within the city.

(Ord. No. 263-96, 5-20-96)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-43. Methods of construction.

On all work done within the scope of this article, the size, slope, alignment and materials of construction of a building sewer, and the methods to be used in placing of the pipe, jointing, testing and backfilling the trench shall conform

to the requirements of the ~~public works authority~~ Department of Public Services's building sewer construction specifications. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by a means subject to the approval of the ~~public works authority~~ Department of Public Services and discharged to the building sewer.

(Ord. No. 263-96, 5-20-96)

Sec. 24-44. Public sewer connection limitations.

(a) No person shall make connection of sanitary ~~conveniences~~ facilities such as toilets, washrooms, urinals, sinks, showers, drinking fountains, kitchens or laundry rooms, nor discharge or cause to be discharged any waste or domestic wastewater to a building's stormwater system or building storm drain which in turn is connected directly or indirectly to a ~~public~~ the storm drain drainage system.

(b) No person shall make connection of roof downspouts, foundation drains, sump pump, areaway drains or other sources of surface runoff or groundwater, nor discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(c) ~~Stormwater and all other unpolluted drainage~~ shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the ~~public works authority~~ Department of Public Services. Industrial cooling water or unpolluted process waters may be discharged, on approval of the ~~public works authority~~ Department of Public Services, to a storm sewer, combined sewer or a natural outlet.

(Ord. No. 263-96, 5-20-96)

Sec. 24-45. Connections to public sewer.

The connection of the building sewer into the public sewer shall be constructed in the following manner:

- (a) The ~~public works authority~~ Department of Public Services shall be notified in advance of the time when the connection is to be made. Such notice must be sufficient to permit the ~~public works authority~~ Department of Public Services to inspect the building sewer during construction and to be present when the connection is made to the public sewer.
- (b) In the case of new construction, domestic wastewater systems and stormwater drainage systems shall be kept separated from their connections to the proper city sewers.
- (c) The building sewer shall be connected to the public sewer at the point designated by the ~~public works authority~~ Department of Public Services.
- (d) No building sewer connection constructed pursuant to this section can be approved if such sewer is backfilled and/or covered prior to inspection. No connection to the public sewer constructed pursuant to this section can be approved if such connection is made other than in the presence of an inspector from the ~~public works authority~~ Department of Public Services or the Portland Water District, as required. No such unapproved or unapprovable building sewer in the city may be used, and if the building served by such building sewer is occupied, the owner of such building will be held to be in violation of this section, with each day in which the violation continues deemed to be a separate violation.

(Ord. No. 263-96, 5-20-96)

Sec. 24-46. Sewer excavations.

(a) All excavations under this article within the public way shall be in accordance with article VII of chapter 25 of this Code.

(b) All excavations for sewer installation shall be made and maintained in compliance with the provisions of the construction safety rules and regulations of the state, applicable to excavation work.

Sec. 24-47. Prohibited wastes.

(a) No person shall discharge or cause to be discharged any waters or wastes prohibited by public works authority Department of Public Services rule; or:

- (1) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(b) The public works authority Department of Public Services may, if deemed necessary in ~~his~~ its judgment, impose the following limitations on discharges of the following described waters or wastes to any public sewer or any part thereof:

- (1) Any aluminum exceeding a concentration of 500 milligrams per liter;
- (2) Any iron exceeding a concentration of 10 milligrams per liter;
- (3) Any tin exceeding a concentration of 2 milligrams per liter;
- (4) Any fluorides exceeding a concentration of 100 milligrams per liter;
- (5) Any phenols exceeding a concentration of 100 milligrams per liter;
- (6) Any chlorides exceeding a concentration of 3,000 milligrams per liter;
- (7) Any sulphates exceeding a concentration of 600 milligrams per liter;
- (8) a. Any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 500 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and

one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

b. In the Westbrook Intermunicipal Sewer Service Area, any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperature between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

c. Any waters or wastes containing hydrocarbon (nonpolar) based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

(Ord. No. 263-96, 5-20-96; Ord. No. 250-97, 4-9-97; Ord. No. 97-03/04, 12-17-03)

Sec. 24-48. Prohibited wastes permitted how; cost.

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain any of the substances or possess the characteristics listed in section 24-47, and which in the judgment of the ~~public works authority~~ Department of Public Services may have a deleterious effect upon the wastewater works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the ~~public works authority~~ Department of Public Services may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewer as required by rule;
- (3) Require control over the quantities and rates of discharge (flow equalization); and/or

- (4) Require payment to cover the added cost of handling and treating the wastes.

(b) If the ~~public works authority~~ Department of Public Services permits or requires pretreatment or waste flow equalization, the design and installation of the plants and equipment shall be subject to its review and approval subject to the provisions of the state plumbing code, and the provisions of this article

(c) Where preliminary treatment or flow equalizing facilities are provided for any water or wastes, the owner shall bear the cost and responsibility for installing and maintaining them in continuously satisfactory and effective operating condition, as determined by the ~~public works authority~~ Department of Public Services.

(Ord. No. 263-96, 5-20-96)

Sec. 24-49. Separate systems required.

Any person discharging or causing to be discharged into any public sewer both domestic wastewater and industrial wastes from any building or premises shall install separate drainage systems for the domestic wastewater and industrial waste. The control manhole required by rule shall be installed in the industrial waste system; or where two (2) separate systems are required, the two (2) systems may be joined in the control manhole provided that samples of each system can be sampled separately.

(Ord. No. 263-96, 5-20-96)

Sec. 24-50. Discharge permit.

(a) All categorical users and other dischargers of industrial wastes shall obtain a discharge permit from the ~~public works authority~~ Department of Public Services as required by rule. New users shall obtain permits prior to any discharge. Applications and permits shall be in a form prescribed by the ~~public works authority~~ Department of Public Services and shall be subject to an application fee of three hundred dollars (\$300.00) per permit. Additionally, each permit shall be subject to an issuance fee which shall equal the direct and indirect costs of any previous advertisement of noncompliance and any other outside services which in the discretion of the ~~public works~~

~~authority~~ Department of Public Services are required in order to review and evaluate the application or to implement a pretreatment program for such permitted user.

(Ord. No. 263-96, 5-20-96)

Sec. 24-51. Public wastewater works not to be damaged.

No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the public ~~wastewater works~~ sewer or stormwater drainage system.

(Ord. No. 263-96, 5-20-96)

Sec. 24-52. Right of entry.

The ~~public works authority~~ Department of Public Services, or the Portland Water District as its agent, bearing proper credentials and identification, shall be permitted to enter upon all properties with sewer or ~~storm~~ stormwater drainage systems connected to the public sewer and producing industrial or process wastes, at reasonable times and upon reasonable notice for the purpose of inspection, observation, measurement, sampling and testing or otherwise enforce the rule, including copying of reports and records relating to the industrial pretreatment program in accordance with the provisions of this article.

(Ord. No. 263-96, 5-20-96)

Sec. 24-53. Exclusion of industrial waste.

(a) The ~~public works authority~~ Department of Public Services or the Portland Water District shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the ~~municipal~~ public sewers whenever, in its or their opinion, such action is necessary for the purpose of determining the effects of such wastes upon the sewers, wastewater ~~works~~ system or wastewater treatment facilities.

(b) The ~~public works authority~~ Department of Public Services or the Portland Water District shall notify the affected user prior to taking such actions and shall afford the user a reasonable time for response. The ~~public works authority~~ Department of Public Services or the Portland Water District shall have the authority to take actions necessary to

halt the discharge of pollutants from any user to the treatment works which reasonably appears to present an imminent endangerment to the health or welfare of persons or the POTW. Such actions shall be preceded by a notification, oral or written, to the user.

(Ord. No. 263-96, 5-20-96)

Sec. 24-54. Demolition of buildings.

(a) No building served by a building ~~drainage system, sanitary drain or storm sewer, or both,~~ which is connected to the public sewers or to a private sewer system connected to the public sewers, may be demolished prior to the termination of the building ~~and/or facility sewer or drain at the city~~ public sewer under the inspection of the ~~public works authority~~ Department of Public Services. The building sewer shall be terminated at the main, at the point designated by the ~~public works authority~~ Department of Public Services.

(b) Notice of intent to demolish a building shall be given to the ~~public works authority~~ Department of Public Services, by means of a copy of the application for a demolition permit from the building authority or by direct notice to the ~~public works authority~~ Department of Public Services, in advance of the time when the building ~~drain or sewer~~ is to be terminated. No such demolition permit shall be issued until a drain termination permit has been issued by the ~~public works authority~~ Department of Public Services and a copy thereof has been given to the building authority.

(c) The fee to terminate the building and/or facility sewer and/or drain system will be paid to the city in advance of the termination. The fee of two hundred fifty dollars (\$250.00) per termination represents inspection fees and materials to terminate sewer service. Upon payment of this fee and approval by the ~~public works authority~~ Department of Public Services, the applicant shall be issued a sewer termination permit.

(d) Failure to give notice of intent to demolish a building to the ~~public works authority~~ Department of Public Services, or to terminate the building drain prior to demolition thereof, or to obtain a permit therefor, shall be deemed a violation of this section, with each day in which the violation continues deemed to be a separate violation.

(e) All excavation for sewer service termination shall be made and maintained in compliance with all provisions of the construction safety rules and regulations of chapter 25, article VII of this Code.

(f) *Violations.* The property owner who fails to obtain a sewer termination permit and terminate the sewer or drain from the building to be demolished to the ~~city~~public sewer shall be guilty of an offense.

(g) *Failure to comply.* When a person to whom an order is directed fails to terminate a building sewer or drain within a ten-day period, it shall be lawful for the city to terminate the building sewer or drain. All city costs thereof shall be charged to the property owner.

(Ord. No. 263-96, 5-20-96)

Sec. 24-55. Written notice required.

Forty-five (45) days' written notice shall be given to the ~~public works authority~~Department of Public Services by any person proposing to:

- (a) Substantially change the volume or character of pollutants over that being discharged into the treatment system at time of enactment of this article;
- (b) Create a new discharge into the treatment system of pollutants from any source which would be a new source as defined in section 306 of the act if such a source were discharging pollutants elsewhere;
- (c) Create a new discharge into the treatment system of pollutants from any source which would be subject to section 301 of the act if it were discharging such pollutants elsewhere.

(Ord. No. 263-96, 5-20-96)

Sec. 24-56. Violations.

Any person failing to comply with or violating any provision of this article shall be served by the ~~public works authority~~Department of Public Services with written notice

stating the nature of the failure or violation and providing a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in such notice, permanently cease or correct all such failures or violations. Any person who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this section shall be guilty of an offense. Any person violating any of the provisions of this article shall be liable to the city and shall be assessed a civil penalty of a minimum of one thousand dollars (\$1,000.00) per day for each violation of industrial pretreatment standards and requirements, and in addition, shall be liable for any expense, loss or damage occasioned by the city by reason of such violation-, including reasonable attorney's fees. The city may seek injunctive relief for the purposes of enforcing this article.

(Ord. No. 263-96, 5-20-96)

Sec. 24-57. Appeals.

(a) Whenever the person receiving written notice shall deem himself aggrieved by an order made by the ~~public-works authority~~Department of Public Services, the person may file an appeal to the city manager within ten (10) days of the date of the written notice, and the person shall be afforded a hearing on the matter before the city manager or his designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

(b) In cases of applicability or interpretation of this article, the city manager may revoke such order made by the ~~public-works authority~~Department of Public Services.

(c) In cases where compliance with such order made by the ~~public-works authority~~Department of Public Services would cause undue hardship, the city manager may extend the time limit of such order or they may permit exceptions to, or waive requirements of, or grant a variance from the specific provisions of this article, subject always to the rule that the city manager shall give due consideration to the purposes of this article in eliminating existing pollution, preventing further pollution and promoting the public health, safety and welfare.

City of Portland
Code of Ordinances
Sec. 24-58
(Ord. No. 263-96, 5-20-96)

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Sec. 24-58. Reserved.
Sec. 24-59. Reserved.
Sec. 24-60. Reserved.
Sec. 24-61. Reserved.
Sec. 24-62. Reserved.
Sec. 24-63. Reserved.
Sec. 24-64. Reserved.
Sec. 24-65. Reserved.
Sec. 24-66. Reserved.
Sec. 24-67. Reserved.
Sec. 24-68. Reserved.
Sec. 24-69. Reserved.
Sec. 24-70. Reserved.

ARTICLE IV. SANITARY SEWER USEUSER AND
INDUSTRIAL PRE-TREATMENT CHARGES*

*Editor's note--Ord. No. 263-96, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use charges, consisted of substantive §§ 24-71--24-78, and derived from §§ 322.1--322.3, 322.5--322.8 of the 1968 Code, as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
326-77	--	5-16-77	123-89	--	10- 2-89
420-77	--	7-18-77	259-90	--	2-21-90
284-78	--	5-15-78	79-91	--	8- 7-91

102-81	1, 3	9-21-81	88-92	1, 2	9- 9-92
476-82	1--3	4- 6-82	187-95	--	3- 6-95
523-83	1--3	6- 8-83	157-96	--	2- 5-96
17-88	--	6-20-88			

Sec. 24-71. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article, not defined elsewhere in this chapter shall be as follows:

Commercial unit shall mean any structure or portion of a structure from which wastewater or industrial waste is discharged, excepting only dwelling units as defined hereinafter and shall include industrial users. Commercial units owned by different entities within the same structure and sharing the same water meter shall be treated as one (1) commercial unit.

Dwelling unit shall mean one (1) or more rooms occupied or designed to be occupied by one (1) or more natural persons as a single housekeeping unit with sanitary facilities, other than a place of public accommodation as defined hereinafter, discharging only domestic wastewater and shall include each unit of ownership in any condominium. If the occupant or occupants of rooms fit the definition of a dwelling unit except for the fact that the occupants share sanitary facilities with an occupant or occupants of other rooms located within the same structure, the number of units in the structure shall be deemed to be the total number of toilets or urinals located within such structure.

Parcel of land shall mean any area of land shown on the assessor's maps on the April first last preceding the operative date, located within the city, which is either connected in fact to a sewer within the city, or developed-but-unconnected to a sewer within the city, which sewer is nevertheless accessible to the area within the meaning of section 24-36.

Place of public accommodation shall mean any establishment having sanitary facilities located therein which gives or offers shelter or lodging to members of the general public, whether transient or long term and shall include but is not limited to hotels, motels, guest houses, hospitals, rest homes, nursing homes, inns, fraternity houses and dormitories.

Treatment facilities shall mean all wastewater treatment plants owned and operated by the Portland Water District or by the city.

Total organic carbon or TOC shall mean the determination of organic matter present by the measurement of carbon dioxide produced by pyrolysis measured in accordance with 40 CFR Part 136.

Volume of water shall mean the amount of water, estimated or measured, whichever is less, provided to the property by the Portland Water District during the previous period of the calendar year. This term shall include any amounts of water obtained from other sources whether or not water is also provided by the district.

(Ord. No. 263-96, 5-20-96)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 24-72. ~~Sewer~~Sanitary sewer user charges.

(a) *Applicability.* There are levied upon all parcels of land charges for cost of treatment of wastewater and stormwater and for the operation and maintenance of the wastewater system.

(b) *Billing.* Bills for all charges under this article may be sent to the record owner, or to the person requesting water service. Bills shall be sent to each such owner or person every month, except that persons billed quarterly or seasonally by the Portland Water District for water service may be billed quarterly or seasonally for all charges under this article. All payments shall be credited against the oldest outstanding bill sent to such owner or person. Any payments made to the Portland Water District or its agents, which do not indicate to which account they are to be applied, shall be applied as provided by contract between the city and the Portland Water District.

Bills shall contain an amount for sanitary sewer user charges, and if delinquent as provided in section 1-16 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes.

(c) *Computation.* The user charges shall be computed in accordance with the following schedule, as from time to time amended, which shall be sufficient to meet costs of the eligible purposes for which such charges may be used. User charges under this section for both dwelling units and commercial units billed for water used after July 1, 2011 the foregoing rate shall be eight dollars and eleven cents (\$8.81) per hundred cubic feet of volume for connected parcels of land. The user charge for developed but unconnected parcels of land shall be one dollar and seventy-one cents (\$1.71) per hundred cubic feet of volume. Each metered billing unit shall have a minimum charge of at least one hundred (100) cubic feet per month.

(d) *Purposes for which charges may be used.* Charges and assessments made under this article shall be used consistently with 33 U.S.C.A. § 1281 et seq., and applicable federal regulations for the following purposes:

- (1) To defray the current expenses of operating and maintaining the wastewater system, including any assessment made by the Portland Water District;
- (2) To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of sewers heretofore or hereafter constructed within the city;
- (3) To reimburse the city for the cost of computation, billing and enforcement of such charges.

(e) *Collection.* Charges assessed pursuant to this section shall be enforceable pursuant to section 1-16 of this Code.

(f) *Disconnection for nonpayment of charges.* The Portland Water District shall disconnect sewer users with unpaid sanitary sewer ~~use~~user charges according to the same terms and procedures used to disconnect water users with unpaid water ~~use~~user charges.

(Ord. No. 263-96, 5-20-96; Ord. No. 88-97, 9-15-97; Ord. No. 118-01/02, 12-3-01; Ord. No. 249-02/03, 5-19-03, Ord. No. 31-03/04, 7-21-03 (enacted as emergency); Ord. No. 218-03/04, 5-17-04; Ord. No. 249-04/05, 5-16-05, enacted as emergency; Ord. No. 244-07/08, 5-19-08; Ord. No. 265-08/09, 5-18-09; Ord. No. 225-09/10, 5-17-10; Ord. No. 227-10/11, 5-16-11)

Sec. 24-73. Industrial surcharges.

(a) *Applicability.* Each industrial user except those included in the Westbrook Inter-Municipal Sewer Service Agreement Area, shall be subject to surcharges in addition to any other treatment charge if the wastewater discharged by such user is determined by the ~~public works authority~~ Department of Public Services, in accordance with 40 CFR Part 136, to exceed any of the following concentrations:

- (1) BOD of two hundred fifty (250) mg/l; or COD, where indicated for specific wastewater and a correlation between BOD and COD is established in such wastewater; or TOC, where indicated for specific wastewater and a correlation is established between TOC and BOD in such wastewater;
- (2) TSS content of three hundred (300) mg/l.

(b) *Computation of surcharge for BOD.* The surcharge for BOD shall reflect the cost of removing the excess BOD and shall be computed in accordance with the following formula:

$$\text{Surcharge for BOD} = \frac{(C_1 - 250 \text{ mg.l})}{S_1} \times Q \times 8.34 \times$$

Where C_1 = The concentration of BOD in mg/l

Q = The total volume of wastewater contributed during the billing period, in millions of gallons

8.34 = Conversion factor of gallons to pounds

S_1 = \$0.1633 for each pound of BOD in dollars

(c) *Computation of surcharge for TSS.* The surcharge for TSS shall reflect the cost of removing the excess TSS and shall be computed in accordance with the following formula:

$$\text{Surcharge for TSS} = \frac{(C_2 - 300 \text{ mg/l})}{S_2} \times Q \times 8.34 \times$$

Where C_2 = The concentration of TSS in mg/l

Q = Total volume of wastewater contributed during the billing period, in millions of gallons

| 8.34 = Conversion factor of gallons to -pounds

S_2 = \$0.0817 for each pound of TSS in dollars

(d) Westbrook Inter-Municipal Sewer Service Agreement area may be surcharged for BOD and TSS, based on the cost of treatment at the Westbrook Gorham Regional Treatment Plant.

(e) *Industrial surcharge fee.* An industrial surcharge fee is hereby established for all permitted discharges from all permitted users at a rate of \$0.0857 per hundred cubic feet of volume, provided that the city council may, from time to time, by order, readjust the surcharge fee according to the then prevailing cost of administering the industrial pretreatment program and the anticipated number of permitted users and anticipated volume to be surcharged.

| (f) *Appeals.* Any person aggrieved by a determination of the ~~public works authority~~ Department of Public Services made pursuant to this section may appeal such determination to the city manager, within thirty (30) days of notification of such determination. Such person may submit additional evidence and shall be heard orally by the manager or his deputy. The manager may modify the ~~public works authority~~ Department of Public Services's determination if satisfied that the determination was erroneous, inconsistent with this chapter, or with applicable rules, regulations or grant requirements made pursuant to 33 U.S.C.A. c. 26. All determinations of the manager shall be rendered within a reasonable period of time, not to exceed ninety (90) days from the date of such hearing and shall be final.

(Ord. No. 263-96, 5-20-96; Ord. No. 97-03/04, 11-17-03)

Sec. 24-74. Reserved.

Sec. 24-75. Volume measurements.

(a) *Water volume measurements.* Whenever in this article there is reference to volume of water, and the charges of such person are computed in whole or in part upon such volume of water, the use of such standard shall give the ~~public-works authority~~Department of Public Services the right to require any person obtaining water from sources other than the Portland Water District to install and maintain at such person's own expense water meters of a type approved by the ~~public-works authority~~Department of Public Services for the purpose of determining the volume of water obtained from their other sources and to report the volume of such water recorded by such meter to the ~~public-works authority~~Department of Public Services. Following installation, such meter shall not be removed without the written permission of the ~~public-works authority~~Department of Public Services.

(b) *Wastewater volume.* Devices for measuring the volume of wastewater discharged by a commercial or industrial user may be required by the ~~public-works authority~~Department of Public Services if these volumes cannot be determined from the water volume records. Any person who is a commercial or industrial user may, at his option, install devices approved by the ~~public-works authority~~Department of Public Services for the metering of wastewater and may have the charges based upon the volume of wastewater rather than upon water volume. All metering devices for determining the volume of wastewater shall be installed, owned and maintained by the person to be charged. Following approval and installation, such meters may not be removed without the consent of the ~~public-works authority~~Department of Public Services and may be read by the ~~public-works authority~~Department of Public Services at all reasonable times.

(c) *Submetering of water volume.* Any person who feels that recorded water records are not a reliable index of his discharge volume may install an additional water meter of a type approved by the ~~public-works authority~~Department of Public Services to measure the volume of water which can be shown not to enter the sewerage system. The person installing such a meter shall immediately notify the ~~public-works authority~~Department of Public Services of such installation and shall be responsible to the ~~public-works authority~~Department of Public Services for reporting meter readings once every month. Such person shall be credited with the volume charges for the volume shown by such

meter, which meter shall be accessible for reading by the city or its agents at all reasonable times.

(d) *Review.* Any person subject to charges under this article may make a written request for review of such charges by the city manager as provided in section 1-16 of this Code. The city manager may review and modify such charges, to the extent that justice requires, upon affirmative proof by such person that:

- (1) The volume of metered water consumed exceeds the volume of wastewater generated by the unit;
- (2) The difference between the volume of water and of wastewater exceeds ten (10) percent of the metered water measurement;
- (3) The amount of the difference can be established to a substantial certainty by reliable tests or is documented by reliable sources prepared for purposes unconnected with wastewater disposal; and
- (4) Measurement by the measuring devices provided for in the preceding subsections is impossible or impractical.

(Ord. No. 263-96, 5-20-96; Ord. No. 37-09/10, 8-17-09; ~~Ord. No. 155-12/13, 3-4-13~~)

Sec. 24-76. Assessments.

(a) *Lien.* All assessments upon a parcel of land made under this article shall create a lien for the benefit of the city.

(b) *Reserved.*

(Ord. No. 263-96, 5-20-96)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-77. Violations.

Any person violating the provisions of this article, other than the requirement of payment of charges or assessments, shall be guilty of an offense.

ARTICLE V. STORMWATER SERVICE CHARGES

Sec. 24-80. Purpose; Stormwater Service.

Stormwater services assist the city in meeting the regulatory obligations imposed by national pollutant discharge elimination system (NPDES) permits or other court orders or regulations promulgated from the act by reducing pollution and improving water quality within the city.

Stormwater services assist the city in protecting the public health, safety and welfare and the environment and providing stormwater services and regulation of the use thereof renders and/or results in both service and benefit to individual properties, property owners, business, citizens, and residents of the city and to all properties, property owners, businesses, citizens, and residents of the city concurrently and for the environment.

The area of impervious surface on each property is the most important factor influencing the cost of providing stormwater services by the city or to be provided by the city in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.

The City of Portland presently owns and operates storm sewers, combined sewers, and the stormwater drainage system, which have been developed over many years. The future usefulness of those existing services owned and operated by the city, and of additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater services in the city with the management of other water resources in the city. In order to do so, the city must have adequate and stable funding for its stormwater service operating needs and capital program.

Stormwater services are needed throughout the city because many of those areas are developed. While specific service and facility demands may differ from area to area at any given point in time, a stormwater service area encompassing all lands and water bodies within the city is consistent with the present and

future needs of the community.

The provision of stormwater services in the city promotes an essential regulatory purpose by influencing where stormwater runoff flows and how it is managed, thereby reducing flooding, erosion and water pollution caused by stormwater runoff.

By mitigating the impact of stormwater runoff from developed properties, stormwater services provided by the city help minimize damage that would subject a parcel owner to civil liability.

The city council is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interest of the health, safety, and welfare of the citizens of the city and the community at large and the environment to provide stormwater services accounted for in the city budget as a separate enterprise fund dedicated solely to the provision of stormwater services and to institute funding methods associated therewith.

In order to fully recover the cost of providing stormwater services a stormwater service charge is the most fair and reasonable means of apportioning the cost among developed land throughout the city.

Sec. 24-81. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article shall be as follows:

Credit shall mean a conditional reduction in the amount of a stormwater service charge to developed land based on the provision and continuing presence of an effectively maintained and operational approved on-site stormwater system or facility or other service or activity that reduces the cost of providing service.

Developed land shall mean property altered from its natural state by construction or installation of more than 400 square feet of impervious surfaces as defined in this chapter.

Exemption shall mean not applying to, or removing the

application of the stormwater service charge from, a property.
No permanent exemption shall be granted based on taxable or non-
taxable status or economic status of the property owner.

Impervious surfaces are those areas that prevent or impede
the infiltration of stormwater into the soil as it entered in
natural conditions prior to development. Impervious surfaces
include, but are not limited to, rooftops, sidewalks, walkways,
patio areas, driveways, parking lots, storage areas, compacted
gravel surfaces, awnings and other fabric or plastic coverings,
and other surfaces that prevent or impede the natural
infiltration of stormwater runoff which existed prior to
development.

Undeveloped land shall mean land in its unaltered natural
state or which has been modified to such minimal degree as to
have a hydrologic response comparable to land in an unaltered
natural state shall be deemed undeveloped. Undeveloped land
shall have less than or equal to 400 square feet of impervious
surfaces as defined in this chapter consisting of limited
pavement, asphalt, or compacted dirt or gravel surfaces or
structures which create an impervious surface that would prevent
infiltration of stormwater or cause stormwater to collect,
concentrate, or flow in a manner materially different than that
which would occur naturally.

Sec. 24-82. Authority and Establishment of the Stormwater
Fund.

(a) Under the authority of the Maine Constitution, Article
VIII, and Title 30-A M.R.S.A. § 3001, the city hereby
establishes the stormwater service charge to fund stormwater
services within the city. Such stormwater charges shall be
maintained and accounted for separately in accordance with
generally accepted accounting principles as determined by the
city's finance director.

(b) Charges made under this article shall be used for the
following purposes:

To defray the current expenses of stormwater services
and a portion of the current expenses of the combined sewer
system attributable to providing stormwater service;

To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of the storm drainage system and a portion of the combined sewer systems heretofore or hereafter constructed within the city similarly attributable to providing stormwater service;

To reimburse the city for the cost of computation, billing, and enforcement of such charges.

(c) The city manager will designate appropriate ~~public works~~ authority Department of Public Services management and other personnel, including support as needed of personnel from other city departments such as finance, to provide stormwater services and to collect and account for the stormwater service charge imposed hereunder.

Sec. 24-83. Exemptions.

Exemptions from stormwater charges established under this article are not allowed, except as provided in this section. Exemptions shall be allowed for:

(a) All roads owned or maintained by the State of Maine, including the Maine Turnpike; and all accepted City roads and all roads maintained by the City; all private roads and ways serving more than two dwelling or structures, but not driveways; all public pedestrian walkways. However, parking lots, buildings, or other developed land within the right-of-ways shall not be exempt from storm water service charges;

(b) Undeveloped land;

(c) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges;

(d) Airport runways, taxiways and aprons upon which public and private aircraft operate;

(e) With the exception of Peaks Island all islands are exempted from the fee due to the limited services provided

to the islands.

Sec. 24-84. Stormwater Service Charge.

(a) There is levied upon all developed land stormwater service charges for the cost of providing stormwater services. All developed land shall be charged \$6.00 per month per one thousand two hundred (1,200) square feet of impervious surface area, rounded to the nearest one thousand two hundred (1,200) square feet of impervious surface area.

(b) The basis for this charge is the measured amount of impervious surface area on the developed land as determined by the city. This measured area may be updated from time to time at the discretion of the ~~public works authority~~ Department of Public Services upon evidence of impervious surface area change or the availability of updated or more accurate information.

(c) Fees collected hereunder to fund stormwater services can also be supplemented by other revenues available to the city, including but not limited to state, federal, general and special city funds, and private grants and loans.

Sec. 24-85. Credits

(a) Owners of developed land may apply for and receive a voluntary stormwater service charge credit for approved stormwater credit systems or facilities. The director of the ~~public works authority~~ Department of Public Services or his/her designee shall determine such approved stormwater systems and facilities and stormwater service charge credit amounts based on the technical requirements, design and performance standards contained in the city's stormwater credits manual, to be adopted by the director of the ~~public works authority~~ Department of Public Services pursuant to this ordinance, as it may be updated or amended from time to time.

(b) It is the responsibility of the record owner to initiate and apply in writing for stormwater service charge credits, and to provide all necessary information with a letter requesting the credit. The department of public services is not responsible for initiating a credit application, performing engineering calculations, or otherwise assisting in the preparation of a request for a credit. Credits will only be

applied if the requirements outlined in the city's stormwater credit manual are met including but not limited to completion of on-going maintenance, guaranteed right-of-entry for inspection, and submittal of annual self-certification reports or other required reports as required per ordinance and rule.

(c) Credits will be applied to the stormwater service charge while stormwater facilities or management practices are functioning as approved by the city. If the approved practice or facility is not functioning as approved, or is terminated, the credit will be cancelled. Once the credit has been cancelled, the customer must reapply for the credit.

(d) The department of public services will only review complete credit requests. If approved, the credit will be applied to the first bill issued 30 days after the approval. Credits may be made retroactive, one calendar year from the date of the first billing period of the charge.

(e) A credit of up to one hundred percent (100%) of the stormwater service charge may be approved.

Sec. 24-86. Billing.

(a) All charges under this article shall be sent to the record owner of a given property. The record owner may request, subject to the approval of the director of the public works authorityDepartment of Public Services, that the full charge be billed to the owner's designated tenant. The director may direct billing to the tenant of the property if the tenant is currently billed for water and sanitary sewer charges. The record owner shall be liable for payment even if the stormwater service charges are billed to the tenant of the property.

(b) Condominiums shall have the full charge for the developed land equally divided among all condominium owners of developed land. The condominium owners may appeal the director in writing to adjust the fraction of the charge applied to each condominium owner. The director will require signed confirmation from each condominium owner of developed land that they approve the adjustment to the fraction of the charge applied.

(c) Bills shall contain an amount for stormwater service user charges, and if delinquent, as provided in section 1-16 of

this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes and such delinquency may be collected by a civil action against the owner and/or may result in a lien being placed on the property as specified in section 24-88.

Sec. 24-87. Right of appeal and adjustments.

(a) A record owner may request review of the amount of the stormwater service charge imposed on such owner by written request to the director of the ~~public works authority~~ Department of Public Services within 30 calendar days of the date the customer receives the service charge bill.

(b) The owner must demonstrate the impervious surface area is less than the amount used in calculating the developed land's stormwater service charge. Factors that will be considered include the impervious surface area of the property.

(c) An owner must comply with all rules and procedures adopted by the director when submitting a request for appeal or adjustment of the stormwater service charge and must provide all necessary information to make a determination.

(d) The director of the ~~public works authority~~ Department of Public Services or his/her designee shall review the service fee and issue a determination, in writing, within 30 calendar days.

(e) With a finding that the impervious surface area is less than the amount used to calculate the developed land's stormwater service charge, the sole remedy to the owner shall be re-calculation of the stormwater service charge based on the corrected impervious surface area. A finding that the impervious surface area is not less than the amount used to calculate the developed land's stormwater service charge shall be conclusive with respect to that property and shall remain effective unless the owner changes the impervious surface area of the property.

(f) An owner may appeal the director of the ~~public works authority~~ Department of Public Services decision to the city manager or his/her designee within 30 days of the date of the decision. An owner may appeal a decision of the manager to a

court of competent jurisdiction pursuant to the applicable Rules of Civil Procedure.

Sec. 24-88. Right of enforcement and violations.

(a) The director of the public works authority Department of Public Services or his/her designee is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(b) It shall be unlawful for any person to violate or to fail to comply with the requirements of this article or its fees. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

(c) Any person who violates this article may also be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorneys' fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this article also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this section; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

(d) Without limiting the foregoing, failure to comply with this article may also be enforced as a nuisance and be subject to an abatement action, in addition to, or alternatively to, the enforcement actions described above.

(e) Consent agreement. The enforcement authority, with the approval of corporation counsel and the city manager, may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.

(f) Delinquent fees. Any owner that fails to pay the stormwater service charge when due shall be responsible for the

amount of the unpaid service charge, interest on the unpaid amount, and attorneys' fees and other costs of collection. To the extent permitted by law, the fee, when overdue, including interest and penalties, is a lien on real property and may be collected in the same manner as a sewer user lien pursuant to state law. Delinquent amounts may also be collected by a civil action against the person.

Sec. 24-89. Limitation of liability.

This article shall not be interpreted to mean that property subject to the charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or that stormwater drainage systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Therefore the following limitations on liability, in addition to any other limitations or immunities existing in law, are set forth:

(1) It is the express intent of the city that this article will protect the public health, safety and welfare of properties and persons in general. However, this ordinance does not create any special duty or relationship with any individual person or specific property either within or outside the service area.

(2) The city shall not be held liable for flood damage or assessing and removing pollution sources, and reserves the right to assert all available immunities and defenses in any action seeking monetary compensation from the city, or its officers, agents or employees for alleged damages arising from alleged failure or breach of duties or relationship as may now exist or hereafter be created.

(3) The issuance of any permit, plan approval or inspection shall not constitute a warranty, express or implied, nor shall it afford the basis for any action seeking the imposition of monetary damages against the city or its officers, employees or agents.

(4) Operation of stormwater drainage systems located on private property or public property not owned by the city and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or

improvements of the system, shall be the legal responsibility of the property owner, except as may be affected by the laws of the State of Maine and the United States of America.

Sec. 24-90. Severability.

Each section of this ordinance is severable from all other sections. If any part of this ordinance is deemed invalid by a court or competent jurisdiction, remaining portions of the ordinance shall not be affected and shall continue in full force. Whenever this ordinance conflicts with any other ordinance of the city, State of Maine, or federal government, the stricter standard shall apply, except as limited by state or federal law.

Sec. 24-91. Reserved.
Sec. 24-92. Reserved.
Sec. 24-93. Reserved.
Sec. 24-94. Reserved.

*Order 130-14/15
Tab 20 1-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING AND APPROPRIATING
\$291,860 FROM THE SEWER FUND FOR START-UP COSTS FOR THE
IMPLEMENTATION OF THE STORMWATER PROGRAM**

ORDERED, that the City Council hereby authorizes and appropriates \$291,860 from the Sewer Fund to pay for start-up costs for the implementation of the Stormwater Program as described in the attached document.

**City of Portland Stormwater Program
Start-up Appropriation**

8/13/2014

Staffing

Account Clerk II (billing)	\$ 8,000
Cashier Clerk (collections)	8,000
Programmer Analyst	11,250
Assistant Engineer	25,000
Customer Service Representative	16,000
Overtime	2,000
Benefits	19,110
Total Wages and Benefits	<u>\$ 89,360</u>

Other

Mail Sample Invoices	\$ 20,000
Misc. implementation costs	10,000
Contract engineering (help during sample billing period)	50,000
Outside Legal costs	50,000
Web based interface for payment	30,000
Office Modifications	30,000
supplies/equip	12,500
Total Other	<u>\$ 202,500</u>

Total Expenditures	<u><u>\$ 291,860</u></u>
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Note: A total of 5.0 FTE added



TO: Mayor and City Council

FROM: Ian Houseal, Assistant to the City Manager

DATE: January 5, 2015

DISTRIBUTION: Sheila Hill-Christian, Michael Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English

SUBJECT: Stormwater Service Charge Program

SPONSOR: Nick Mavodones, Chair, Finance Committee

I. SUMMARY OF ISSUE

The proposed stormwater service charge program has been unanimously recommended to the City Council by the Finance Committee for consideration. The initiation and development of the Program was made at the request of the City Council through a Council Resolution and incorporated the unanimous recommendations of a City Task Force established by Council Order. That Task Force considered other ways by which the City could pay for sewer and stormwater costs. The Task Force considered continuing to pay for stormwater services through the sewer rate, property taxes, or a stormwater service charge. The Task Force unanimously recommended a stormwater service charge.

The proposed stormwater service charge program, for City Council consideration, includes an amendment to Chapter 24: Sewers, which establishes the stormwater service charge program and the stormwater service charge rate for the first six months beginning in January 2016 of \$6.00/billing unit. Approval of the proposed stormwater service charge program also authorizes an appropriation of \$291,860 from the Sewer Fund for start-up costs until the charge goes into effect in January 2016 and includes the creation of five staff positions.

In addition to the amendment to Chapter 24: Sewers, the proposed stormwater service charge program includes an appropriation of \$291,860 from the Sewer Fund for start-up costs until the charge goes into effect in January 2016. Within that appropriation is funding for five staff to be funded by the stormwater service charge program. As allowed under City Charter Article VI, section 1(d), five positions will be created to implement this program including an Account Clerk II, Cashier Clerk, Programmer Analyst, Assistant Engineer, and a Customer Service Representative if this appropriation is authorized by the City Council.

II. REASON FOR SUBMISSION

The enactment of the proposed ordinance and appropriation establish the stormwater service charge program.

III. INTENDED RESULT

The proposed stormwater service charge is about valuing stormwater and therefore more equitably and fairly paying for sewer and stormwater costs. Instituting a stormwater charge more fairly and equitably distributes the costs among the users of the sewer and stormwater systems.

IV. COUNCIL GOAL ADDRESSED

The City Council has had a goal to establish a stormwater service charge.

V. FINANCIAL IMPACT

The financial impact to city operations is estimated to be approximately \$365,000 annually including the School Department. Impacts to private property vary. See the attached Executive Summary for more detail.

VI. STAFF ANALYSIS

The proposed stormwater service charge is a more fair and equitable way to pay for stormwater and sewer services currently paid for through the sewer rate. The adoption of this charge reduces the burden placed on raising revenue through the sewer rate.

VII. RECOMMENDATION

The Finance Committee met on December 11, 2014 and voted 4-0 to forward this item to the City Council with a recommendation for passage.

It is staff's recommendation to adopt the stormwater program as recommended.

VII. LIST ATTACHMENTS

Memorandum – Executive Summary – Stormwater Service Charge.

City of Portland Stormwater Program Start-up Appropriation

Amendments to Chapter 24: Sewers

**City of Portland Stormwater Program
Start-up Appropriation**

8/13/2014

Staffing

Account Clerk II (billing)	\$ 8,000
Cashier Clerk (collections)	8,000
Programmer Analyst	11,250
Assistant Engineer	25,000
Customer Service Representative	16,000
Overtime	2,000
Benefits	19,110
Total Wages and Benefits	<u>\$ 89,360</u>

Other

Mail Sample Invoices	\$ 20,000
Misc. implementation costs	10,000
Contract engineering (help during sample billing period)	50,000
Outside Legal costs	50,000
Web based interface for payment	30,000
Office Modifications	30,000
supplies/equip	12,500
Total Other	<u>\$ 202,500</u>

Total Expenditures	<u><u>\$ 291,860</u></u>
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Note: A total of 5.0 FTE added



TO: Mayor and City Council

FROM: Ian Houseal, Assistant to the City Manager

DATE: January 5, 2015

DISTRIBUTION: Sheila Hill-Christian, Michael Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English

SUBJECT: Stormwater Service Charge Program

SPONSOR: Nick Mavodones, Chair, Finance Committee

I. SUMMARY OF ISSUE

The proposed stormwater service charge program has been unanimously recommended to the City Council by the Finance Committee for consideration. The initiation and development of the Program was made at the request of the City Council through a Council Resolution and incorporated the unanimous recommendations of a City Task Force established by Council Order. That Task Force considered other ways by which the City could pay for sewer and stormwater costs. The Task Force considered continuing to pay for stormwater services through the sewer rate, property taxes, or a stormwater service charge. The Task Force unanimously recommended a stormwater service charge.

As allowed under City Charter Article VI, section 1(d), five positions will be created including an Account Clerk II, Cashier Clerk, Programmer Analyst, Assistant Engineer, and a Customer Service Representative if this ordinance and appropriation is approved by the City Council.

The proposed stormwater service charge program for City Council consideration includes an amendment to Chapter 24: Sewers which establishes the stormwater service charge for the first six months beginning in January 2016 of \$6.00/billing unit and appropriates \$291,860 from the Sewer Fund for start-up costs.

II. REASON FOR SUBMISSION

The enactment of the proposed ordinance and appropriation establish the stormwater service charge program.

III. INTENDED RESULT

The proposed stormwater service charge is about valuing stormwater and therefore more equitably and fairly paying for sewer and stormwater costs. Instituting a stormwater charge more fairly and equitably distributes the costs among the users of the sewer and stormwater systems.

IV. COUNCIL GOAL ADDRESSED

The City Council has had a goal to establish a stormwater service charge.

V. FINANCIAL IMPACT

The financial impact to city operations is estimated to be approximately \$365,000 annually including the School Department. Impacts to private property vary. See the attached Executive Summary for more detail.

VI. STAFF ANALYSIS

The proposed stormwater service charge is a more fair and equitable way to pay for stormwater and sewer services currently paid for through the sewer rate. The adoption of this charge reduces the burden placed on raising revenue through the sewer rate.

VII. RECOMMENDATION

It is staff's recommendation to adopt the stormwater program as recommended.

VII. LIST ATTACHMENTS

Memorandum – Executive Summary – Stormwater Service Charge.

City of Portland Stormwater Program Start-up Appropriation

Amendments to Chapter 24: Sewers



EXECUTIVE SUMMARY

To: Finance Committee

From: Ian Houseal, Assistant to the City Manager, Sustainability Coordinator
Mike Bobinsky, Director of Public Services

Date: August 21, 2014

RE: STORMWATER SERVICE CHARGE PROGRAM

The following is a summary of the Stormwater Service Charge Program. Included with this summary, for recommendation to the full City Council by the Committee are:

- Amendments to Chapter 24: Sewers which establishes the stormwater service charge and program;
- Proposed appropriation from the Sewer Fund to pay for start-up costs for the program;

For Committee reference in consideration of the service charge, the following documents are attached:

- Estimated FY 2016 budget;
- Estimated FY 2017 budget;
- Estimated FY 2016 – FY 2019 summary budgets; and
- Estimated Sewer Fund and Stormwater Fund estimated revenue requirements (FY 2015 – FY 2019) and estimated sanitary sewer and stormwater service charge rates.
- Implementation Schedule;
- Stormwater Credit Manual;

PURPOSE OF THE STORMWATER SERVICE CHARGE PROGRAM

The proposed stormwater service charge is about valuing stormwater and therefore more equitably and fairly paying for sewer and stormwater costs. Instituting a stormwater charge more fairly and equitably distributes costs among the users of the sewer and stormwater systems. More information is available on the City website at <http://www.portlandmaine.gov/1331/Stormwater-Service-Charge>.

PROPERTIES SUBJECT TO THE STORMWATER SERVICE CHARGE PROGRAM

All properties with rooftops and paved areas are subject to the stormwater service charge. All government properties are subject to the charge including, city, State, and Federal property as they currently are charged for sewer charges. Property tax payers and non-property tax payers are also subject to the charge as they currently are charged for sewer charges.

STORMWATER SERVICE CHARGE PROGRAM EXEMPTIONS

As proposed, all developed properties in the City of Portland are subject to the stormwater service charge with the exception of:

- Land with less than or equal to 400 square feet of impervious area is exempt from charges.
- Publically accessible roads, sidewalks, pathways, and railroads, and airport runway are exempt from charges.
- All islands except for Peaks Island are exempt from charges given the limited services being received with regard to stormwater and sewer.

HOW THE STORMWATER SERVICE CHARGE IS CALCULATED

As proposed, both residential and commercial properties pay the same rate. That rate will be \$6.00 per month per 1,200 square feet of impervious area at the initiation of the fee. The square feet of impervious area is rounded to the nearest 1,200 square feet as can be seen in this figure below. To look up a property's impervious area and billing units see <http://www.cleangrowthcleanwater.com/calculator>.

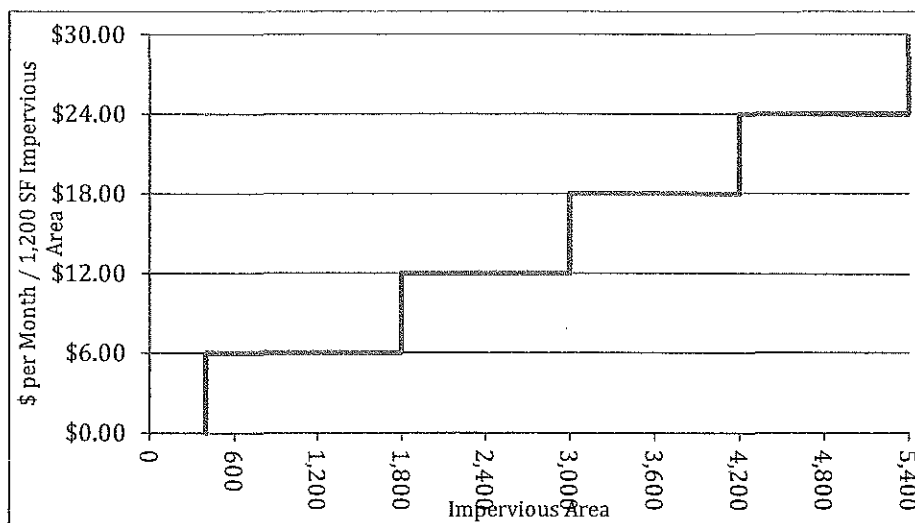


Figure 1: Stormwater Service Charge Rate

There will be a corresponding reduction in the sewer rate of approximately \$1.50 per HCF at the initiation of the stormwater service charge.

HOW PROPERTY OWNERS CAN REDUCE CHARGES AND EARN CREDITS

Property owners can reduce their stormwater service charges by:

- **Appeal** - Reducing the amount of impervious area on a property or recalculating charge if appropriate; and
- **Credit** - Building stormwater runoff reducing improvements on their property.

Appeal

An appeals process is available for property owners to have the impervious area of their property re-calculated after taking steps to reduce the amount of impervious area on a property. The appeal must be made in writing. A form will be made available to simplify the process. Additionally, there will be time for property owners to review impervious area of properties during the sample billing period of implementation.

Credit

As proposed, credits are available to both residential and commercial properties. Credits are additive; meaning that multiple types of credits can be applied to a specific property, potentially resulting in a 100% credit of stormwater charges. All improvements must be designed, permitted, and built appropriately. Once permitted and built, a property owner may apply for a credit.

- **Residential Credit:** For residential properties (up to four units), credits are a set charge reduction and are designed to be relatively simple to design and administer.
- **Stormwater Credit:** For any property, credits are a percentage reduction and are designed to match Portland's existing stormwater development standards.

See the Stormwater Credit Manual for more information. Staff has shared the Stormwater Credit Manual with representatives of the Portland Chamber of Commerce, water quality advocates and an outside lawyer for peer review. Comments have been received and are being considered.

BILLING ADMINISTRATION

Instituting this new charge will require changes to the way that stormwater is billed and collected. Currently, stormwater is billed through the wastewater (sewer) fee and shows on the water bill sent by the Portland Water District (PWD), and remitted to the City monthly along with wastewater fee collections. With the initiation of the Stormwater Service Charge, the City will bill and collect for stormwater services directly, while PWD will continue to bill for water and wastewater services.

STORMWATER SERVICE CHARGE PROGRAM IMPLEMENTATION

As proposed, in order to adequately allow enough time to prepare Portland's ratepayers for the changes to how revenue will be raised to pay for the sewer and stormwater program, the stormwater service charge will begin in January 2016.

An extensive public information campaign about the new charge will be carried out during the time leading up to January 2016 including:

- Public outreach through meetings and media;
- A mailed sample bill in September of 2015;
- The availability of one-on-one consultation with property owners after receiving the sample bill;
- The availability of a stormwater property look-up tool on the City website (available now); and
- The availability of the Stormwater Credit Manual available at the time the program is approved by the City Council. With the availability of the Stormwater Credit Manual, the public is able to immediately begin the process of determining what credits are available to them and how they will design and apply for any credits.

INCLUSION OF COMBINED SEWER SEPERATION PROGRAM COSTS

In keeping with the Sustainable Stormwater Funding Task Force's Recommendations to the City Council, combined sewer costs associated with Combined Sewer Separation Program will be included in the stormwater service charge moving forward as described in the estimated FY 2017 – FY 2019 budgets.

PROGRAM IMPACTS

There are 18,225 properties in the City of Portland with impervious area. The vast majority of properties, as proposed, will have between 1 – 3 billing units for charges amounting to a \$6.00 to \$18.00 per month. Additionally, most properties will also see a corresponding \$1.50 reduction in their sewer rate offsetting the stormwater service. The following table shows the number of properties in groups of billing unit categories.

Table 1: Distribution of properties by grouping of Stormwater Billing Unit

Billing Units	Property Count
1-3	15,405
4-10	1,763
11-20	386
21-30	180
31-40	112
41-50	79
51-60	54
61-70	42
71-80	34
81-90	20
91-100	23
101-130	43
131-160	26
161-190	18
>190	40
Total	18,225

The following figure documents the projected changes to wastewater service (per HCF) charge over time if **NO** stormwater service charge is implemented and the projected changes to sewer (per HCF) charges and stormwater service charges over time. The projected wastewater service charge is used as a basis for analysis of impact.

The following figure documents the projected changes to wastewater service (per HCF) charges and stormwater service charges over time.

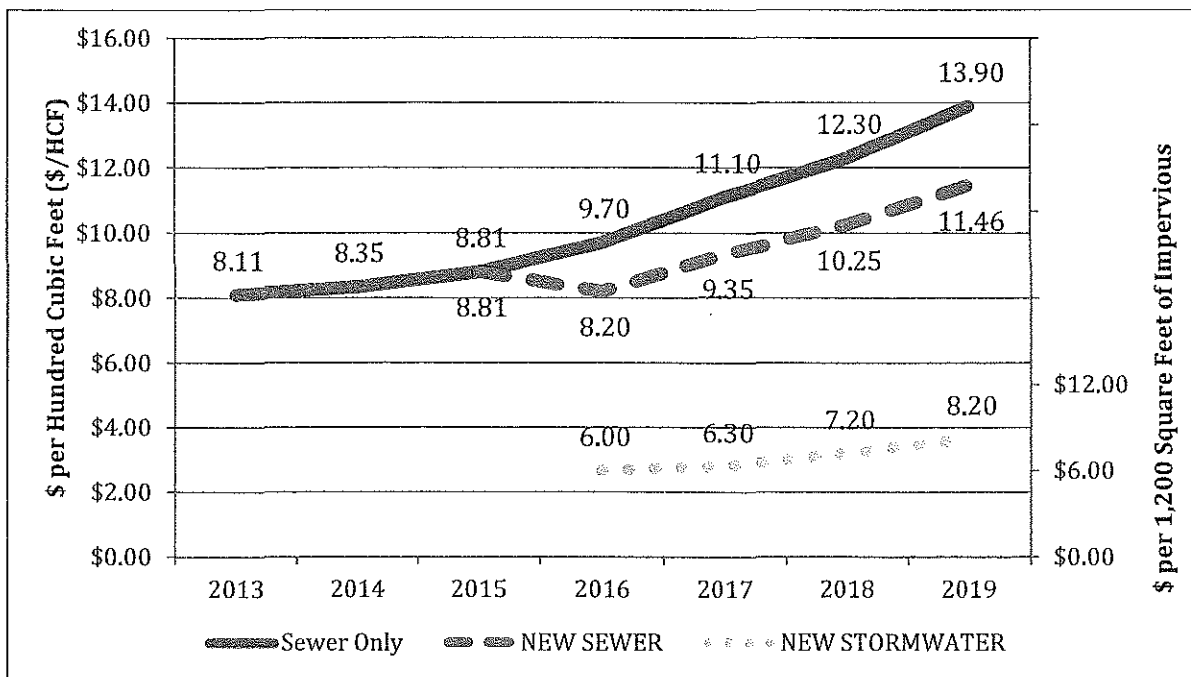


Figure 2: Projected Sewer Rate and Stormwater Rate.

The new Stormwater Service Charge reflects costs currently borne by the Sewer Enterprise Fund, therefore impacts for properties must consider both increased stormwater service charge and decrease in wastewater service charge to account appropriately for "impact." Impacts vary on type of property and relative proportion of Impervious Area to Wastewater Use.

Single Family Residential Homeowners

The following figure shows the distribution of single family residential properties in each Billing Unit. There are approximately 10,500 single family residential properties in Portland excluding all islands except for Peaks Island. For Single Family Residential properties, the average billing unit is 2. On average the monthly stormwater service charge for Single Family Residential properties is \$12.00 less reductions to sewer charges.

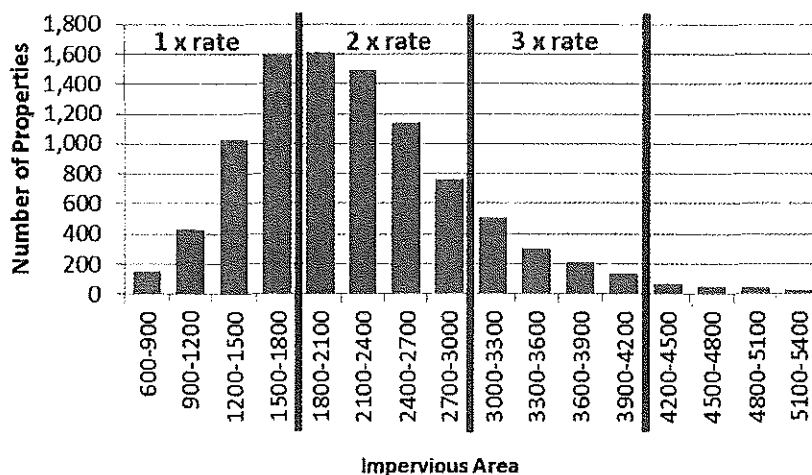


Figure 4: Distribution of the single family residential parcels in each proposed billing unit

The following is an example of the impact of stormwater and wastewater service charge to an average residential homeowner using average wastewater (5 HCF per month) and average IA of 2,200 sf or 2 Billing Units.

Table 2: Impact of stormwater and wastewater service charge to average residential homeowner.

Monthly Bills WITH Stormwater Service Charge	
Monthly Sewer Bill	\$41.00
Monthly Stormwater Bill	\$12.00
Total Monthly Stormwater and Sewer Bills	\$53.00
Monthly Wastewater Bill WITHOUT Stormwater Service Charge	\$48.50

Non-Single Family Residential Family Properties

The impact to other non-residential facilities is on a case-by-case basis and can be calculated using the stormwater billing units the City has on recording found using the Stormwater Look-up tool available on the City website. Knowing which properties are being reviewed and having access to water bills is essential to using the look-up.

Commercial property impacts, in general:

- **Residential Properties** will have **reduced costs** with the stormwater service charge. Exceptions are extremely low water users or properties with relatively high impervious area. Generally, fully occupied two-family, three-family, and four-family and above will have reduced costs with the stormwater service charge due to the footprint of the building of relatively similar size to single family residential and more water usage due to the occupancy of the building.
- **Downtown Properties** will generally have **reduced costs**. Exceptions are properties with relatively high impervious area properties such as properties exclusively parking lots.
- **Malls and other car oriented businesses** will generally have **increased costs** with the stormwater service charge.
- **Industrial food processing** properties will generally have **reduced costs**.
- **Warehouse** properties will generally have **increased costs**.

Highly Impacted Commercial Properties

There are an estimated total of 161 properties with estimated annual net change greater than \$5,000 representing approximately 4% of non-residential properties. These properties will need special attention as the charge is implemented.

Table 3: Most Highly Impacted Commercial Properties

Net Increase Greater Than...	Previously Charged for Sewer Services	Not Previously Charged for Sewer Services	Total
\$5,000	114	47	161
\$10,000	41	13	54
\$15,000	22	3	25
\$20,000	13	2	15
\$25,000	11	1	12
\$30,000	6	1	7
\$35,000	3	1	4
\$40,000	1	1	1

Net Decrease Greater Than...	Previously Charged for Sewer Services	Not Previously Charged for Sewer Services	Total
\$5,000	86	0	86
\$10,000	43	0	43
\$15,000	25	0	25
\$20,000	18	0	18
\$25,000	15	0	15
\$30,000	12	0	12
\$35,000	11	0	11
\$40,000	11	0	11

City Properties

The City's estimated net increase is \$365,000 per year. This net change includes the School Department. This net increase represents approximately \$0.048 to the current year mil rate unless action is taken to reduce the city property's impact on the stormwater system such as applying for credits and reducing impervious area.

**City of Portland Stormwater Program
Start-up Appropriation**

8/13/2014

Staffing

Account Clerk II (billing)	\$ 8,000
Cashier Clerk (collections)	8,000
Programmer Analyst	11,250
Assistant Engineer	25,000
Customer Service Representative	16,000
Overtime	2,000
Benefits	19,110
Total Wages and Benefits	<u>\$ 89,360</u>

Other

Mail Sample Invoices	\$ 20,000
Misc. implementation costs	10,000
Contract engineering (help during sample billing period)	50,000
Outside Legal costs	50,000
Web based interface for payment	30,000
Office Modifications	30,000
supplies/equip	12,500
Total Other	<u>\$ 202,500</u>

Total Expenditures	<u><u>\$ 291,860</u></u>
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Note: A total of 5.0 FTE added

**City of Portland Stormwater Program
FY2016 Estimated Budget (6 months)**

8/13/2014

Revenue

Stormwater Billing Units	540,000	
Fee per Unit	<u>\$ 6.00</u>	
Est revenue		\$ 3,240,000
Less Value of Credits at 12%		(388,800)
Less Uncollected est 9%		(289,043)
Excess Revenue (Over)Under Expenditures		<u>(244,092)</u>

Total Net Revenue	\$ 2,318,065
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Expenditures

Wages and Benefits	\$ 1,018,432
Stormwater Management	630,639
Indirect costs	69,575
Billing, lien costs	116,000
Software maint costs	1,500
Staff supplies, computers	2,151
Debt Service (includes new CIP and 50% new CSO)	187,908
Repayment to Sewer Fund for Start up expenses	291,860

Total Expenditures	\$ 2,318,065
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**City of Portland Stormwater Program
FY2017 Estimated Budget**

8/13/2014

Revenue:

Stormwater Billing Units	1,080,000	
Fee per Unit	<u>\$ 6.30</u>	
Billable Revenue		\$ 6,804,000
Less Value of Credits at 12%		(816,480)
Less Uncollected fees at 8%		(544,320)
Excess Revenue (Over)Under Expenditures		<u>(237,825)</u>

Total Net Revenue	\$ 5,205,375
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Expenditures

Wages and Benefits	\$ 2,097,970
Stormwater Management	1,292,810
Indirect costs	143,325
Billing, lien costs	232,000
Software maint costs	3,000
Staff supplies, computers	4,300
Debt Service (includes new CIP and 50% new CSO)	1,431,971

Total Expenditure	\$ 5,205,375
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**City of Portland Stormwater Program
Estimated Budget - FY2016 thru FY2019**

8/13/2014

	FY2016 (6 mos)	FY2017	FY2018	FY2019
Revenue				
Stormwater Billing Units	540,000	1,080,000	1,080,000	1,080,000
Fee per Unit	\$ 6.00	\$ 6.30	\$ 7.20	\$ 8.20
 Total Billable Revenue	 \$ 3,240,000	 \$ 6,804,000	 \$ 7,776,000	 \$ 8,856,000
Less Estimated Credits	(388,800)	(816,480)	(933,120)	(1,062,720)
Less Allowance for Uncollected	(289,043)	(544,320)	(622,080)	(708,480)
Excess Revenue (Over)Under Expenditures	(244,092)	(237,825)	(270,950)	(271,455)
 Total Net Revenue	 \$ 2,318,065	 \$ 5,205,375	 \$ 5,949,850	 \$ 6,813,345
 Expenditures				
Wages and Benefits	\$ 1,018,432	\$ 2,097,970	2,150,419	2,204,180
Stormwater Management	630,639	1,292,810	1,325,130	1,358,258
Indirect costs	69,575	143,325	146,908	150,580
Billing, lien costs	116,000	232,000	240,120	248,524
Software maint costs	1,500	3,000	3,090	3,183
Staff supplies, computers	2,151	4,300	4,500	4,500
Debt Service	187,908	1,431,971	2,079,684	2,844,120
Repayment to Sewer Fund for Start up expenses	291,860	-	-	-
 Total Expenditure	 \$ 2,318,065	 \$ 5,205,375	 \$ 5,949,850	 \$ 6,813,345

City of Portland Stormwater Program
Estimated Revenue Requirements and Rates - FY2015 thru FY2019

8/13/2014

	<u>FY2015 app</u>	<u>FY2016 (Jul - Dec)</u>	<u>FY2016 (Jan - Jun)</u>	<u>FY2017</u>	<u>FY2018</u>	<u>FY2019</u>
Revenue Requirements						
Sewer Fund (no Stormwater Charge)	24,189,023	13,076,332	13,076,332	29,356,607	32,057,447	35,986,795
Stormwater Fund	-	-	2,318,065	5,205,375	5,949,850	6,813,345
Adj Sewer Fund (with Stormwater Charge)	24,189,023	13,076,332	10,758,267	24,151,232	26,107,597	29,173,450
Estimated Rates						
Sewer Rate (no stormwater service charge)	\$ 8.81	\$ 9.70	\$ 9.70	\$ 11.10	\$ 12.30	\$ 13.90
With Stormwater Service Charge						
Sewer Rate	\$ 8.81	\$ 9.70	\$ 8.20	\$ 9.35	\$ 10.25	\$ 11.46
Stormwater Rate	\$ -	\$ -	\$ 6.00	\$ 6.30	\$ 7.20	\$ 8.20