AGENDA
SPECIAL CITY COUNCIL MEETING
MAY 4, 2015

1. Agenda Only Special City Council Meeting

   Documents: AGENDA ONLY 05-04-15.PDF

2. Special City Council Meeting Agenda And Packet

   Documents: AGENDA AND PACKET 05-04-15.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
SPECIAL CITY COUNCIL MEETING
MAY 4, 2015

The Portland City Council will hold a special 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) April 27, 2015

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

BUDGET ITEMS: **PUBLIC COMMENT WILL BE TAKEN ON ALL MUNICIPAL BUDGET ORDERS**

Order 234-14/15 (Tab 2) **Order Authorizing Fiscal Year 2016 Administrative Fees in Various Departments - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This order authorizes certain administrative charges.

The increases and new fees are located in the following departments and / or divisions: Fire: Confined Space and Public Services: Cemeteries and Street Openings Permit Fees.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 235-14/15 (Tab 3)

Order Authorizing Increase in Trash Bag Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Description	Current Fee	Proposed Fee
15 gallon bag	$1.00	$1.35
30 gallon bag	$2.00	$2.70

City staff is recommending that the price of city trash bags be increased by 35%. The increased revenue would shift more of the cost of solid waste and recycling operations to users of this program and away from the general tax base. Users of the program will pay an additional amount for service based on the amount of waste they generate.

If approved, staff will implement a change in the bag color to purple. (This color is not being used by any of our neighboring towns.) Effective on the date of the fee increase, (July 1, 2015) solid waste crews will begin collecting the waste in the new bags. Residents will have until July 30 to use their supply of the current blue bags. After that date, crews will only collect trash in the new purple bags. Staff will implement a program for residents and retailers to return or exchange blue bags they still have after July 30. This approach should limit excessive purchases of blue bags in advance of the fee change.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 236-14/15 (Tab 4)

Order Authorizing City Manager or Acting City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2016 Human Resources and Certain Fringe Benefits Budgets - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the City Manager to enter into standard agreements and amendments to standard agreements with providers of services for the fiscal year 2016 in order to implement portions of human resources, medical, workers' compensation, and liability budgets.

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

Order 237-14/15 (Tab 5)

Order Re: Self-Insured Liability Program - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order establishes the limit of the city's liability as $400,000 as required by the Maine Tort Claims Act and states the city's commitment to "self-insure" for such liability by appropriating funds for this purpose.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 238-14/15 (Tab 6)

Order Authorizing City Manager or Acting City Manager to Enter into Certain Agreements to Implement Fiscal Year 2016 Health and Human Services Budget - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order authorizes the City Manager to enter into standard agreements and amendments to those standard agreements to receive reimbursement for services by the Health and Human Services Department.

In addition, the City enters into agreements with service providers and landlords to provide services for department programs.

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

Order 239-14/15 (Tab 7)

Order Authorizing City Manager or Acting City Manager to Accept Scholarship Trust Donations and Enter into Trust Agreements - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order authorizes the City Manager to accept donations for existing and new scholarship trusts and enter into standard form trust agreements as approved by Corporation Counsel.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 240-14/15 (Tab 8)

Order Authorizing Corporation Counsel to Undertake Civil Actions to Collect Delinquent Personal Property Taxes - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This item will give Corporation Counsel a standing authorization to undertake civil actions to collect any delinquent personal property taxes that arise during the course of the fiscal year. Otherwise it would be necessary for the City Council to specifically authorize each individual legal action. This general authorization will take the place of the case by case approach.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 241-14/15 (Tab 9)

Order Authorizing Non-Union Wage Adjustment - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This Order authorizes the City Manager to make a 3% pay adjustment for all non-union employees effective July 1, 2015.

Each year budgets permitting, the City of Portland increases the wages and salaries of non-union employees by an amount generally comparable to the amount given to employees covered by collective bargaining agreements.

This order will authorize the City Manager to increase the wages and salaries of non-union employees accordingly and to implement the new pay scale.

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

Order 242-14/15 (Tab 10)

Order Designating Fiscal Year 16 Funds for Specific Island Services - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

The municipal budget includes $40,000 for use on Peaks Island in addition to the funds used to pay for direct and indirect city services. Pursuant to a request from the Peaks Island Council will be used as follows in FY16:

Item A:	Reimburse the Portland Police Department for the cost of establishing a Police Cadet on Peaks Island for the period of July 1 - September 18, 2015, for a one-season trial basis.	$1,500
Item B:	Issue quarterly vouchers in the amount of $50 per voucher per student to the parents of children attending the Peaks Island Elementary School who attain the age of 10 years or older during the school year.	$3,000
Item C:	Transfer to the Portland School Department to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for Peaks Island public middle and high school students to 12-month passes.	$4,400
Item D:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for Island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed $2,000.	$2,000
Item E:	Issue vouchers in the amount of $84 per voucher per student to the parents of children attending private schools off-island.	$450
Item F:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase tickets for needs-based Peaks Island residents.	$5,000
Item G:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase bicycle tickets for a summer bike ticket program on Peaks Island.	$500
Item H:	Allocation to the Island Transportation System for continued support of the only transportation service available to residents.	$15,000
Item I:	Allocation to Peaks Island Tax & Energy Assistance (PITEA) for the express purposes of assisting eligible island residents with heating costs.	$3,000
Item J:	Allocation to the Peak Island Food Pantry for the express	$1,000

	purposes of assisting eligible island residents with basic food needs.	
Item K:	Allocation to the City of Portland Recreation Division as a contribution towards the establishment of a Skateboard Park on Peaks Island.	$1,000
Item L:	Allocation to the Peaks Island Council for Administrative Expenses.	$3,150

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

Order 243-14/15 (Tab 11)

Order for Fiscal Year 2016 Appropriating $200,000 from Excess Fund for Casco Bay Transit District - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Appropriating $200,000 from the Casco Bay Island Transit District (CBITD) Excess Fund to Provide Matching Funds for Grants to CBITD Pursuant to the lease agreement between the City and CBITD, Excess Revenues, as defined in the agreement, are accumulated and held until such time as the Council may appropriate them for purposes outlined in the agreement. CBITD has requested $200,000, to be used in providing a local match, to support the planning and design of a replacement vessel.

The agreement allows for use of Excess funds for capital costs, so this request is acceptable for that purpose.

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

RELATED ORDINANCE AMENDMENTS:

Order 244-14/15 (Tab 12)

Amendment to Portland City Code Chapter 5 (Animals & Fowl) Article VI. Keeping of Domesticated Chickens, Section 401(b) Re: Chicken Permit Annual Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order amends (only) the fees in Chapter 5 §401 as follows:

Chapter 5	Description	Current Fee	Proposed Fee
Sec. 5-401	*Permit Required:*		
(b)	**Annual Permit to Keep Chickens:**	$25.00	$26.00

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

Order 245-14/15 (Tab 13)

Amendment to Portland City Code Chapter 10. Fire Prevention and Protection Article II - Fire Code, Section 10-18 Re: Fire Permit Fees - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order amends (only) the fees in Chapter 10 §18 as follows:

Chapter 10	Description	Current Fee	Proposed Fee
Sec. 10-18	***Amendments:***		
(c)	**Section 1.12.7:**		
	Application for Flammable Finishes	$160.00 (D)	$166.00 (D)
	Bulk Waste Storage	$160.00 (D)	$166.00 (D)
	Certificate of Fitness for Fire Alarm Service ad Installation Company	$250.00 each	SAME
	Cutting and Welding (Permanent Facilities)	$60.00 (D)	$62.00 (D)
	Dry Cleaning Plants	$60.00 (D)	$62.00 (D)
	Fire Alarm Inspections Sticker	$20.00 each	SAME
	Fireworks Display	$141.00**	SAME
	Flammable or combustible liquids, other than motor fuel dispensing	$160.00 (D)	$166.00 (D)
	Hazardous materials	$60.00 (D)	$62.00
	Hot Work (Temporary)	$25.00	SAME
	Motor Fuel Dispensing and Refueling	$160.00 (D)	$166.00 (D)
	Special Type Dispensing Systems, other than Flammable or Combustible Liquids	$160.00 (A) (D)	$166.00 (A) (D)
	Repair Garages and Service Stations	$160.00 (D)	$166.00 (D)
	Woodworking and Lumber Storage Plants	$100.00 (D)	$104.00 (D)

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

Order 246-14/15 (Tab 14)

Amendment to Portland City Code Chapter 15 (Licenses and Permits*), Article I Section 15-12 Re: Fees and Reorganization - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order reorganizes the fee sequence and the fees in Chapter 15 §12 as follows:
(a)

Description	Current Fee	Proposed Fee
Bottle clubs (must obtain FSE and special entertainment if applicable) (Chapter 3 Art. II):	$860	$895.00

Description	Current Fee	Proposed Fee
Amusement devices (Chapter 4 Art. II):		
Amusement devices (other than pinball and adult amusements), per device	$140	$146.00
Pinball machines, per device	$140	$146.00
Adult amusement devices, per location	$895	$931.00
Music, dancing and special entertainment (Chapter 4 Art. III):		
Entertainment with dancing	$485	$504.00
Entertainment without dancing	$270	$281.00
After-hours Entertainment	$545	$567.00
Dance hall	$135	$140.00
Concert hall	$135	$140.00
Single dance	$35	$36.00
Single concert	$35	$36.00
Gaming (Chapter 4 Art. IV):		
Beano	$95	$99.00
Nudity in licensed businesses (Chapter 4 Art. V):	$1,350	$1,404.00
Food service establishments (FSE) (Chapter 11 Art. II):		
Temporary FSE:		
Reinspection fee for FSE	$75	$75.00 per reinspection
a. Unopened prepackaged food	$85	$89.00
b. Opened or nonprepackaged food	$85	$89.00
Mobile FSE (Chapter 19): a. pushcarts	$295	$307.00
b. Food Trucks	$500	$520.00
c. Base station (for all mobile FSE)	$110	$114.00
Street vendor cooler storage space – maximum of 7 sq. ft.	$35 per 3.5 sq. ft. of space	$36.00 per 3.5 sq. ft. of space
FSE-No food preparation on premises	$165	$172.00
FSE-With preparation limited to hot beverages only	$135	$135.00
FSE-With beer and wine take out	$380	$395.00
FSE/Community Kitchen - Food preparation on premises	$420	$437
FSE Community Kitchen User	$100	$104.00
FSE's with liquor:		
FSE-Class A lounge (Class X)	$2,540	$2,642.00
FSE-Class A restaurant (Class I)	$1,715	$1,784.00
FSE-Hotel (Class IA):		
FSE-Class A restaurant/lounge (Class XI)	$2,130	$2,215.00
FSE-Qualified catering service (Class I)	$1,715	$1,784.00
Innholder-15 rooms or less	$1,315	$1,368.00

Description	Current Fee	Proposed Fee
Innholder-16 to 40 rooms	$1,765	$1,836.00
Innholder-more than 40 rooms	$2,050	$2,132.00
FSE-Spirituous license (Class II)	$560	$582.00
FSE-Vinous license (Class III)	$375	$390.00
FSE-Malt license (Class IV)	$755	$785.00
FSE-Malt and vinous license (Classes III and IV combined)	$830	$863.00
FSE-Nonprofit club (Class IV with catering or Class V without catering)	$675	$702.00
FSE-Liquor catering	$30	$31.00
FSE-Temporary (bona fide nonprofit organization) with any spirituous, vinous or malt license and special entertainment	$60	$62.00
FSE-Auditorium	$535	$556.00
FSE-Civic Auditorium	$1,695	$1,763
Massage Establishments (Chapter 16):		
Massage establishment	$60	$62.00
Combined massage establishment/massage therapist	$50	$52.00
Massage therapist	$35	$36.00
Conditional massage therapist	$35	$36.00
Night Street Vendor (must also obtain FSE and street vendor) (Chapter 19 Art. II):	$200	$208.00
Transient sellers (Chapter 19 Art. III):	$100	$104.00
Secondhand Goods (Chapter 23 Art. II):		
Flea market seller	$20	$21.00
Flea Markets (per day) Operator (annual)	$50 $225	$52.00 $234.00
Secondhand dealer, junk dealer, pawnbroker (including used cars)	$140	$146.00
Junk collector	$25	$25.00
Valet Parking (Chapter 28, Article VII)	$250.00	$260.00
Valet Parking Special Event	$50.00	$52.00
Wreckers and Vehicle Towing (Chapter 28 Art. VIII):	$255	$265.00

(b) Fees for licenses to be established by the city pursuant to state law shall be as follows:

Amusements, including images; pageantry; sleight of hand tricks; puppet shows; feats of balancing; wire dancing; personal agility; or dexterity	$20	$21
Billiards or pool, per table	$30	$31
Bowling alley, per establishment	$85	$88
Carnival (travelling amusement show)	$110	$114
Circus	$165	$172
Circus (bona fide nonprofit organization)	$25	$26
Going-out-of business sale	$95	$99
Menageries	$20	$21

Merry-go-round or other rides, per type of ride (per day)	$60	$62
Merry-go-round or other rides, per type of ride (annual)	$235	$244
Motion picture theatres (other than open-air drive-in) operating more than six (6) months:		
Seating capacity 999 or less, per screen	$270	$281
Seating capacity 1,000 or more, per screen	$445	$463
Temporary—One (1) week or less	$30	$31
Temporary—More than one (1) week but less than two (2) months	$45	$47
Temporary—More than two (2) months but less than six (6) months	$70	$73
Roller skating rink	$150	$156

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

Order 247-14/15 Tab 15)

Amendment to Portland City Code Chapter 25, Article II. Division 2 Permits Re: Street and Sidewalk Occupancy Permit- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order amends (only) the fees in Chapter 25 §25-27 as follows:

Description	Current Fee	Proposed Fee
Issuance of a Revocable Street and Sidewalk Occupancy Permit:		
(a1) Objects other than portable signs, including but not limited to tables, chairs, barricades and bollards	$85	$88
(a5) Use of streets, ways or public places by street goods vendors as defined in Section 19-16 for purposes of vending	$35	$36

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

Order 248-14/15 (Tab 16)

Amendment to Portland City Code Chapter 28 (Traffic and Motor Vehicles) Article VII. Re: Valet Parking Fees; exceptions- Sponsored by by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order amends (only) the fees in Chapter 28 §28-273 as follows:

Description	Current Fee	Proposed Fee
Sec. 28-273 Fees; exceptions		
(a) Issuance fees. Yearly Valet Permits	$250	$260
(b) Special Event Fee	$50	$52

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

Order 249-14/15 (Tab 16)

Amendment to Portland City Code Chapter 25, Article VII. Excavations, Section 25-119 Re: Excavators License Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order amends the street opening excavator license fee from $595.00 annually to $596.00 annually.

Chapter 25 §119	Description	Current Fee	Proposed Fee
25 §119	*Excavator License:*	$595	$596

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

Order 250-14/15 (Tab 18)

Amendment to Portland City Code Chapter 24 Sewers Article IV. Sewer User Charges Re: Sewer User Charges- Nicholas M. Mavodones, Jr., Chair.

In addition to increases in costs for Public Services and the Portland Water District Assessment, and decreases in debt service due to a primarily-design cycle-year for the next Combined Sewer Overflow conduit, the City continues to work with the Environmental Protection Agency (EPA)/ Maine Department of Environmental Protection (DEP) for on maintaining the City's regulatory compliance with the CSO court order the City has signed, Municipal Separated Stormwater System (MS4) Permit compliance with DEP, and considering the costs and benefits of an Integrated Plan.

The Tier II CSO Long Term Control Plan (CSOLTCP) approved by the DEP is just finishing, and the next Tier III CSOLTCP has been approved by the DEP and is underway. Funding of the capital projects associated with these programs and projects, totaling about $230 million over the next 20 years is expected.

To pay for this, financing is needed through bond proceeds to allow the cost to be spread over the life of the improvements; a cost paid for exclusively through the Sewer User Fee at this time.

The sewer user fee, set by the City Council, and was expected to increase to accommodate the cost of CSO work and MS4 compliance. This fee was last increased in July of 2014. The current rate is $8.81 per hundred cubic feet.

The proposed sewer rate for July 1, 2015 is $9.70 per hundred cubic feet and adjusted mid-fiscal year to $8.20 per hundred cubic feet on January 1, 2016 when the new stormwater service charge goes into effect.

This is a unit increase of $0.89 cents in July and a decrease of $1.50 in January when the new stormwater service charge program when it goes into effect.

For the average household (5 HCF per month) this is an increase of $4.45 per month and then a decrease in January of $7.5 per month as stormwater costs are shifted over to the new stormwater service charge.

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

APPROPRIATION RESOLVE:

Order 251-14/15 (Tab 19) **Fiscal Year 2015-2016 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This item brings forward the Appropriation Resolve for FY2016 for action by the City Council.

The Resolve contains the Finance Committee's forwarded budget for FY2016 for general municipal purposes in the amount of $221,770,295. In addition it contains the Finance Committee's recommended budget for FY2016 for school purposes.

The Finance Committee reviewed the Board of Education's recommended budget on April 9, 2015, by a vote of 4-0 recommended support for certain amendments and a final budget amount of $102,776,657.

The tax levy based upon the Finance Committee's recommended School Budget and City Manager's amended budget recommendations and for municipal purposes is $78,978,308 and $79,773,211 for school purposes. This would result in a combined tax levy of $158,751,519 for FY 2016. The tax rate based on the combined levies would be $20.58 per $1,000 of assessed value, a 2.9% increase.

The Appropriation Resolve also directs the Assessor of Taxes to assess a tax upon all real and personal property liable to be taxed as of April 1, 2015 and sets September 11, 2015, as the tax due date, which may be paid in two installments due on September 11, 2015, and March 11, 2016.

The delinquency rate of interest is set at 7.0% per year, and the abatement rate of interest is set at 3.0% per year.

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

SCHOOL BUDGET ITEMS:

Order 223-14/15 (Tab 20) **Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Orders 223-14/15 to 228-14/15 are orders required by State law 20-A M.R.S.A. §15690 in order to comply with what is known as LD1, a set of state laws passed to control increases in property taxes.

This order provides $79,352,047 as the amount determined by state law to be the minimum amount the city must appropriate in order to receive the full amount of state funding under the Essential Programs and Services Funding Act (EPS).

This requires the city to raise $64,342,989 as the city's contribution to the total cost of funding public education from K-12 as described in the EPS law. The City's Tax levy for the total for school budget programs of $102,776,657 will be $79,773,211.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 224-14/15 (Tab 21)

Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Non-state funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major capital school construction projects and portions of school construction projects that are not approved for state funding. The bonding of this long-term debt was previously approved by the voters or the City Council.

This order appropriates $561,907 for the annual payments on debt service previously approved by the voters or the City Council for non-state (local-only) funded school construction projects. The state no longer includes minor capital projects in this calculation.

The $561,907 is in addition to the funds appropriated as the EPS required local share (amount of the city's contribution to the total cost of funding public education from kindergarten to grade 12).

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 225-14/15 (Tab 22)

Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2016– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates $13,332,753 in additional city funds over and above regional EPS amount and the non-state funded debt service amount.

This exceeds the EPS funding model by $13,880,753 and funds the cost of city schools, Kindergarten-12, which are not covered by the state funding model established by the Essential Programs and Services Funding Act.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 226-14/15 (Tab 23)

Order Approving Total School Operating Budget for Portland Schools for FY2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order is required by 20-A M.R.S.A. §15690(4)(A). It sets the School Budget required by state law. The total amount recommended for that budget is $97,231,508.

That is the amount in the budget that under state law will be sent to the voters for approval at a citywide Referendum Election on May 12, 2015. $78,237,649 of the $97,231,508 would come from property taxes, $15,034,100 would come from state subsidy, and $3,508,759 from other revenues.

This order does not provide money unless the other General Fund budget orders passed.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 227-14/15 (Tab 24)

Order Appropriating and Raising Funds for Adult Education for FY 2016 as Required by the Maine Revised Statutes, Title 20-A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises $1,063,833 to support the Adult Education program and appropriates a budget for that program of $1,752,513. The budgets for the Adult Education Program and for the Food Service Program in the next Order, are in addition to the $97,231,508 proposed for the General Fund School Budget that must be submitted to the voters.
Under the City Charter, the Council must act on this school funding order, which is not part of the General Fund budget.

When the amounts for the Adult Education Program and the Food Service Program are added to the proposed General Fund School Budget, it leads to a total for FY2016 school budget programs of $102,776,657.

The total school budget will come before the Council for approval as part of the annual Appropriation Resolve on May 18th, if the voters approve the General Fund School Budget submitted to them on May 12th.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 228-14/15 (Tab 25)

Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises $417,729 to support the Food Service Budget. The total proposed Food Service Program is $3,792,636, which is in addition to the General Fund School Budget.

Under the City Charter, the Council must act on this school funding order which is not part of the General Fund budget.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

Com 16-14/15 (Tab 26)

Communication Re: Appointment of New Members to Reed School Re-Use Task Force – Sponsored by Mayor Michael F. Brennan.

The Reed School sits on approximately 2.5 acres on Homestead Avenue in the Riverton neighborhood. Originally a school, it was more recently the central kitchen for the Portland Public Schools. It currently is used for limited storage, and is largely vacant and underutilized. In September, staff proposed the creation of a citizen's Task Force to the Housing and Community Development Committee to report potential and priority uses of the property and recommend a process to review proposals for re-use of the Reed School property. Recently several unfilled membership slots of the Task Force were filled with Riverton residents. One additional direct abutter, Andrew Bowman, has asked to participate, and the Task Force Co-Chairs support his appointment.

Reed School Re-Use Task Force Charge

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

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

Reed School Re-Use Task Force Members

Reed School Re-Use Task Force Members

Councilor David Brenerman and John Coyne, Co-Chairs
HCDC Committee Liaison Designee - David Brenerman
Portland Planning Board Designee - Sean Dundon
Portland Trails Designee - Kara Wooldrik
Workforce Housing Designee - Jan McCormick
Portland Society for Architecture Designee - Leslie Burnham
Greater Portland Landmarks Designee - Hilary Bassett
GPCOG Designee - Rebeccah Schaffner
Denise Harlow, State Representative, District #116
Parks Commission Designee – Steve Morgenstein
Elise Scala - Neighborhood Resident
Hillary Krapf - Neighborhood Resident
Dyan Albano - Neighborhood Resident
Mark Johnson - Neighborhood Resident
Andrew Bowman – Neighborhood Resident

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

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 172-14/15 (Tab 27)

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

This order approves a two-party agreement between the Maine Department of Transportation and the City of Portland regarding the planning, development, design, right-of-way, construction, cost sharing and reimbursement for a project to make improvements to Forest Avenue.

The project scope includes but is not limited to reconfiguring the Forest Avenue traffic pattern at Woodfords Corner and Ocean Avenue, widening sidewalks, adding streetscape aesthetics, extending shared lane bikeways, and reducing crossing distances for pedestrians.

The city is also discussing potential additional amenities (including, but not limited to, street finishings, benches and/or higher quality materials) with MDOT and will update the Council on the status of the discussions at a future meeting.

This project has been in discussion for a number of years and the matching and non-matching funds required, $369,875.10 (the city's matching funds) have been included in the FY 15 Capital Improvement budget. The total cost for the project will be $1,518,751.00 - $1,199,000.80 (Federal).

The Agreement has been amended to reflect a correction to the city's local share for preliminary engineering and right of way from 15% to 10%.

This item must be read on two separate days. It was given a first reading on March 2. At the March 16th City Council meeting this item was postponed to this meeting. Staff is recommending that this item be postponed to the June 15th Council meeting.

Order 209-14/15 (Tab 28)

Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

The dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown.

These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone.

Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming.

These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

The Planning Board met on March 10, 2015, and voted unanimously, 6-0 Dundon 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 on April 6th. At the April 27th Council meeting this item was postponed to this meeting.

Order 210-14/15

Fourth Amendment to Conditional Zone Agreement Re: Property in

(Tab 29) **in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

The Planning Board recommends amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council.

The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years.

The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations. The 1985 CZA anticipated the possibility of a municipally operated island solid waste disposal facility being created.

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate.

Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowners Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

The Planning Board met on March 24, 2015, and voted 4-0 (O'Brien abstaining; Eaton and Morrissette absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on April 6th. At the April 27th City Council meeting this item was postponed to this meeting.

Five affirmative votes are required for passage after public comment.

Order 214-14/15 (Tab 30) **Order Declaring June 5, 2015 through October 12, 2015 as the Federal Street Folly – Sponsored by Sheila Hill Christian, Acting City Manager.**

Owners of The Press Hotel, a new boutique hotel opening soon in the former Portland Press Herald building, have proposed the creation of a

pedestrian friendly zone that will provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

If approved, this will be the first time the City has authorized an extended street closure to create a park-like environment. The only similar event is Park[ing] Day, in which participants transform parking spaces into temporary "pop-up" parks. Consequently, staff views this event as a pilot or demonstration project in order to study the implications of creating this type of space in a street.

At the conclusion of the event staff will reconvene to discuss the event and whether it would be wise to permit similar events if requested.

Vision – Public Benefit

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development.

Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience, which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at Work Program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy of lights)

Organizers are working with Creative Portland and Portland Downtown Distrist and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

Portland Public Library
Portland Trails
Space Gallery
Mad Horse Theater
Circus Conservatory

Programming:

Organizers are currently discussing details of the programming. Organizers envision standing and scheduled programming throughout the summer, as well as special events that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance; and dance.

In order for the Federal Street Folly to occur, a portion of Federal Street, between Exchange Street and Market Street, needs to be barricaded to vehicle traffic from (for setup purposes: June 1, 2015) to October 19, 2015 (for breakdown purposes). The street would be barricaded 24/7. Barricades across the street would most likely be a mix of granite and concrete planters.

At the April 27th Council meeting this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 252-14/15 (Tab 31)

Order Approving Ground Lease to Hangar Group LLC for a Fixed Base Operation at Portland International Jetport - Sponsored by Sheila Hill-Christian, Acting City Manager.

The Portland International Jetport is requesting approval of a forty year (20 year initial term with one 20 year option) ground lease with Hangar Group LLC for the development of a Fixed Base Operation (FBO) on the Jetport's south general aviation ramp. The terms of the lease are as follows:

- **Term**: Forty years through a 20 year initial term and one 20 year option.
- **Investment**: Hangar Group, LLC will be required to invest $4.356 million to develop the FBO building, hangar, and site. Additionally Hangar Group, LLC will invest up to $1.565 million to construct a new aircraft apron at the Jetport. The cost of the apron will be recouped over approximately 12 years through rent abatement with the Portland International Jetport.
- **Rate**: Hangar Group, LLC will pay ground rent and 2% of gross receipts excluding aircraft sales/leasing, sales of aircraft parts and accessories, charter flights, or fixed rent from subtenants approved by the City.
- **Full Service FBO**: Hangar Group, LLC will be required to operate a full service FBO with staffing hours and facilities that meet the requirements outlined in the Portland International Jetport's Minimum Standards.

The issuance of this lease will allow the development of a second FBO at the Portland International Jetport which will give our airline partners and general aviation users a choice between service providers. It also provides for the introduction of competition into the FBO market at the Jetport.

This opportunity to develop an FBO in this location was issued through a public request for proposals on January 5, 2015. Maine Aviation Corporation/Hangar Group LLC submitted the only proposal in response to this request. Their proposal met or exceeded all requirements outlined in the request for proposals.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

LICENSE RENEWALS:

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
SPECIAL CITY COUNCIL MEETING
MAY 4, 2015

The Portland City Council will hold a special 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) April 27, 2015

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

BUDGET ITEMS: **PUBLIC COMMENT WILL BE TAKEN ON ALL MUNICIPAL BUDGET ORDERS**

Order 234-14/15 (Tab 2) **Order Authorizing Fiscal Year 2016 Administrative Fees in Various Departments - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This order authorizes certain administrative charges.

The increases and new fees are located in the following departments and / or divisions: Fire: Confined Space and Public Services: Cemeteries and Street Openings Permit Fees.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 235-14/15 (Tab 3)

Order Authorizing Increase in Trash Bag Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Description	Current Fee	Proposed Fee
15 gallon bag	$1.00	$1.35
30 gallon bag	$2.00	$2.70

City staff is recommending that the price of city trash bags be increased by 35%. The increased revenue would shift more of the cost of solid waste and recycling operations to users of this program and away from the general tax base. Users of the program will pay an additional amount for service based on the amount of waste they generate.

If approved, staff will implement a change in the bag color to purple. (This color is not being used by any of our neighboring towns.) Effective on the date of the fee increase, (July 1, 2015) solid waste crews will begin collecting the waste in the new bags. Residents will have until July 30 to use their supply of the current blue bags. After that date, crews will only collect trash in the new purple bags. Staff will implement a program for residents and retailers to return or exchange blue bags they still have after July 30. This approach should limit excessive purchases of blue bags in advance of the fee change.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 236-14/15 (Tab 4)

Order Authorizing City Manager or Acting City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2016 Human Resources and Certain Fringe Benefits Budgets - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the City Manager to enter into standard agreements and amendments to standard agreements with providers of services for the fiscal year 2016 in order to implement portions of human resources, medical, workers' compensation, and liability budgets.

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

Order 237-14/15 (Tab 5)

Order Re: Self-Insured Liability Program - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order establishes the limit of the city's liability as $400,000 as required by the Maine Tort Claims Act and states the city's commitment to "self-insure" for such liability by appropriating funds for this purpose.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 238-14/15 (Tab 6)

Order Authorizing City Manager or Acting City Manager to Enter into Certain Agreements to Implement Fiscal Year 2016 Health and Human Services Budget - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order authorizes the City Manager to enter into standard agreements and amendments to those standard agreements to receive reimbursement for services by the Health and Human Services Department.

In addition, the City enters into agreements with service providers and landlords to provide services for department programs.

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

Order 239-14/15 (Tab 7)

Order Authorizing City Manager or Acting City Manager to Accept Scholarship Trust Donations and Enter into Trust Agreements - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order authorizes the City Manager to accept donations for existing and new scholarship trusts and enter into standard form trust agreements as approved by Corporation Counsel.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 240-14/15 (Tab 8)

Order Authorizing Corporation Counsel to Undertake Civil Actions to Collect Delinquent Personal Property Taxes - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This item will give Corporation Counsel a standing authorization to undertake civil actions to collect any delinquent personal property taxes that arise during the course of the fiscal year. Otherwise it would be necessary for the City Council to specifically authorize each individual legal action. This general authorization will take the place of the case by case approach.

Five affirmative votes are required for passage. Staff is recommending that this item be postponed to the City Council meeting of May 18th to coincide with consideration of the Appropriation Resolve.

Order 241-14/15 (Tab 9)

Order Authorizing Non-Union Wage Adjustment - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This Order authorizes the City Manager to make a 3% pay adjustment for all non-union employees effective July 1, 2015.

Each year budgets permitting, the City of Portland increases the wages and salaries of non-union employees by an amount generally comparable to the amount given to employees covered by collective bargaining agreements.

This order will authorize the City Manager to increase the wages and salaries of non-union employees accordingly and to implement the new pay scale.

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

Order 242-14/15 (Tab 10)

Order Designating Fiscal Year 16 Funds for Specific Island Services - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

The municipal budget includes $40,000 for use on Peaks Island in addition to the funds used to pay for direct and indirect city services. Pursuant to a request from the Peaks Island Council will be used as follows in FY16:

Item A:	Reimburse the Portland Police Department for the cost of establishing a Police Cadet on Peaks Island for the period of July 1 - September 18, 2015, for a one-season trial basis.	$1,500
Item B:	Issue quarterly vouchers in the amount of $50 per voucher per student to the parents of children attending the Peaks Island Elementary School who attain the age of 10 years or older during the school year.	$3,000
Item C:	Transfer to the Portland School Department to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for Peaks Island public middle and high school students to 12-month passes.	$4,400
Item D:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for Island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed $2,000.	$2,000
Item E:	Issue vouchers in the amount of $84 per voucher per student to the parents of children attending private schools off-island.	$450
Item F:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase tickets for needs-based Peaks Island residents.	$5,000
Item G:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase bicycle tickets for a summer bike ticket program on Peaks Island.	$500
Item H:	Allocation to the Island Transportation System for continued support of the only transportation service available to residents.	$15,000
Item I:	Allocation to Peaks Island Tax & Energy Assistance (PITEA) for the express purposes of assisting eligible island residents with heating costs.	$3,000
Item J:	Allocation to the Peak Island Food Pantry for the express	$1,000

	purposes of assisting eligible island residents with basic food needs.	
Item K:	Allocation to the City of Portland Recreation Division as a contribution towards the establishment of a Skateboard Park on Peaks Island.	$1,000
Item L:	Allocation to the Peaks Island Council for Administrative Expenses.	$3,150

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

Order 243-14/15 (Tab 11)

Order for Fiscal Year 2016 Appropriating $200,000 from Excess Fund for Casco Bay Transit District - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Appropriating $200,000 from the Casco Bay Island Transit District (CBITD) Excess Fund to Provide Matching Funds for Grants to CBITD Pursuant to the lease agreement between the City and CBITD, Excess Revenues, as defined in the agreement, are accumulated and held until such time as the Council may appropriate them for purposes outlined in the agreement. CBITD has requested $200,000, to be used in providing a local match, to support the planning and design of a replacement vessel.

The agreement allows for use of Excess funds for capital costs, so this request is acceptable for that purpose.

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

RELATED ORDINANCE AMENDMENTS:

Order 244-14/15 (Tab 12)

Amendment to Portland City Code Chapter 5 (Animals & Fowl) Article VI. Keeping of Domesticated Chickens, Section 401(b) Re: Chicken Permit Annual Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order amends (only) the fees in Chapter 5 §401 as follows:

Chapter 5	Description	Current Fee	Proposed Fee
Sec. 5-401	*Permit Required:*		
(b)	**Annual Permit to Keep Chickens:**	$25.00	$26.00

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

Order 245-14/15 (Tab 13)

Amendment to Portland City Code Chapter 10. Fire Prevention and Protection Article II - Fire Code, Section 10-18 Re: Fire Permit Fees - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order amends (only) the fees in Chapter 10 §18 as follows:

Chapter 10	Description	Current Fee	Proposed Fee
Sec. 10-18	***Amendments:***		
(c)	**Section 1.12.7:**		
	Application for Flammable Finishes	$160.00 (D)	$166.00 (D)
	Bulk Waste Storage	$160.00 (D)	$166.00 (D)
	Certificate of Fitness for Fire Alarm Service ad Installation Company	$250.00 each	SAME
	Cutting and Welding (Permanent Facilities)	$60.00 (D)	$62.00 (D)
	Dry Cleaning Plants	$60.00 (D)	$62.00 (D)
	Fire Alarm Inspections Sticker	$20.00 each	SAME
	Fireworks Display	$141.00**	SAME
	Flammable or combustible liquids, other than motor fuel dispensing	$160.00 (D)	$166.00 (D)
	Hazardous materials	$60.00 (D)	$62.00
	Hot Work (Temporary)	$25.00	SAME
	Motor Fuel Dispensing and Refueling	$160.00 (D)	$166.00 (D)
	Special Type Dispensing Systems, other than Flammable or Combustible Liquids	$160.00 (A) (D)	$166.00 (A) (D)
	Repair Garages and Service Stations	$160.00 (D)	$166.00 (D)
	Woodworking and Lumber Storage Plants	$100.00 (D)	$104.00 (D)

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

Order 246-14/15 (Tab 14)

Amendment to Portland City Code Chapter 15 (Licenses and Permits*), Article I Section 15-12 Re: Fees and Reorganization - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order reorganizes the fee sequence and the fees in Chapter 15 §12 as follows:
(a)

Description	Current Fee	Proposed Fee
Bottle clubs (must obtain FSE and special entertainment if applicable) (Chapter 3 Art. II):	$860	$895.00

Description	Current Fee	Proposed Fee
Amusement devices (Chapter 4 Art. II):		
Amusement devices (other than pinball and adult amusements), per device	$140	$146.00
Pinball machines, per device	$140	$146.00
Adult amusement devices, per location	$895	$931.00
Music, dancing and special entertainment (Chapter 4 Art. III):		
Entertainment with dancing	$485	$504.00
Entertainment without dancing	$270	$281.00
After-hours Entertainment	$545	$567.00
Dance hall	$135	$140.00
Concert hall	$135	$140.00
Single dance	$35	$36.00
Single concert	$35	$36.00
Gaming (Chapter 4 Art. IV):		
Beano	$95	$99.00
Nudity in licensed businesses (Chapter 4 Art. V):	$1,350	$1,404.00
Food service establishments (FSE) (Chapter 11 Art. II):		
Temporary FSE:		
Reinspection fee for FSE	$75	$75.00 per reinspection
a. Unopened prepackaged food	$85	$89.00
b. Opened or nonprepackaged food	$85	$89.00
Mobile FSE (Chapter 19): a. pushcarts	$295	$307.00
b. Food Trucks	$500	$520.00
c. Base station (for all mobile FSE)	$110	$114.00
Street vendor cooler storage space – maximum of 7 sq. ft.	$35 per 3.5 sq. ft. of space	$36.00 per 3.5 sq. ft. of space
FSE-No food preparation on premises	$165	$172.00
FSE-With preparation limited to hot beverages only	$135	$135.00
FSE-With beer and wine take out	$380	$395.00
FSE/Community Kitchen - Food preparation on premises	$420	$437
FSE Community Kitchen User	$100	$104.00
FSE's with liquor:		
FSE-Class A lounge (Class X)	$2,540	$2,642.00
FSE-Class A restaurant (Class I)	$1,715	$1,784.00
FSE-Hotel (Class IA):		
FSE-Class A restaurant/lounge (Class XI)	$2,130	$2,215.00
FSE-Qualified catering service (Class I)	$1,715	$1,784.00
Innholder-15 rooms or less	$1,315	$1,368.00

Description	Current Fee	Proposed Fee
Innholder-16 to 40 rooms	$1,765	$1,836.00
Innholder-more than 40 rooms	$2,050	$2,132.00
FSE-Spirituous license (Class II)	$560	$582.00
FSE-Vinous license (Class III)	$375	$390.00
FSE-Malt license (Class IV)	$755	$785.00
FSE-Malt and vinous license (Classes III and IV combined)	$830	$863.00
FSE-Nonprofit club (Class IV with catering or Class V without catering)	$675	$702.00
FSE-Liquor catering	$30	$31.00
FSE-Temporary (bona fide nonprofit organization) with any spirituous, vinous or malt license and special entertainment	$60	$62.00
FSE-Auditorium	$535	$556.00
FSE-Civic Auditorium	$1,695	$1,763
Massage Establishments (Chapter 16):		
Massage establishment	$60	$62.00
Combined massage establishment/massage therapist	$50	$52.00
Massage therapist	$35	$36.00
Conditional massage therapist	$35	$36.00
Night Street Vendor (must also obtain FSE and street vendor) (Chapter 19 Art. II):	$200	$208.00
Transient sellers (Chapter 19 Art. III):	$100	$104.00
Secondhand Goods (Chapter 23 Art. II):		
Flea market seller	$20	$21.00
Flea Markets (per day) Operator (annual)	$50 $225	$52.00 $234.00
Secondhand dealer, junk dealer, pawnbroker (including used cars)	$140	$146.00
Junk collector	$25	$25.00
Valet Parking (Chapter 28, Article VII)	$250.00	$260.00
Valet Parking Special Event	$50.00	$52.00
Wreckers and Vehicle Towing (Chapter 28 Art. VIII):	$255	$265.00

(b) Fees for licenses to be established by the city pursuant to state law shall be as follows:

Amusements, including images; pageantry; sleight of hand tricks; puppet shows; feats of balancing; wire dancing; personal agility; or dexterity	$20	$21
Billiards or pool, per table	$30	$31
Bowling alley, per establishment	$85	$88
Carnival (travelling amusement show)	$110	$114
Circus	$165	$172
Circus (bona fide nonprofit organization)	$25	$26
Going-out-of business sale	$95	$99
Menageries	$20	$21

Merry-go-round or other rides, per type of ride (per day)	$60	$62
Merry-go-round or other rides, per type of ride (annual)	$235	$244
Motion picture theatres (other than open-air drive-in) operating more than six (6) months:		
Seating capacity 999 or less, per screen	$270	$281
Seating capacity 1,000 or more, per screen	$445	$463
Temporary—One (1) week or less	$30	$31
Temporary—More than one (1) week but less than two (2) months	$45	$47
Temporary—More than two (2) months but less than six (6) months	$70	$73
Roller skating rink	$150	$156

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

Order 247-14/15 Tab 15)

Amendment to Portland City Code Chapter 25, Article II. Division 2 Permits Re: Street and Sidewalk Occupancy Permit- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order amends (only) the fees in Chapter 25 §25-27 as follows:

Description	Current Fee	Proposed Fee
Issuance of a Revocable Street and Sidewalk Occupancy Permit:		
(a1) Objects other than portable signs, including but not limited to tables, chairs, barricades and bollards	$85	$88
(a5) Use of streets, ways or public places by street goods vendors as defined in Section 19-16 for purposes of vending	$35	$36

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

Order 248-14/15 (Tab 16)

Amendment to Portland City Code Chapter 28 (Traffic and Motor Vehicles) Article VII. Re: Valet Parking Fees; exceptions- Sponsored by by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order amends (only) the fees in Chapter 28 §28-273 as follows:

Description	Current Fee	Proposed Fee
Sec. 28-273 Fees; exceptions		
(a) Issuance fees. Yearly Valet Permits	$250	$260
(b) Special Event Fee	$50	$52

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

Order 249-14/15 (Tab 16)

Amendment to Portland City Code Chapter 25, Article VII. Excavations, Section 25-119 Re: Excavators License Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order amends the street opening excavator license fee from $595.00 annually to $596.00 annually.

Chapter 25 §119	Description	Current Fee	Proposed Fee
25 §119	*Excavator License:*	$595	$596

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

Order 250-14/15 (Tab 18)

Amendment to Portland City Code Chapter 24 Sewers Article IV. Sewer User Charges Re: Sewer User Charges- Nicholas M. Mavodones, Jr., Chair.

In addition to increases in costs for Public Services and the Portland Water District Assessment, and decreases in debt service due to a primarily-design cycle-year for the next Combined Sewer Overflow conduit, the City continues to work with the Environmental Protection Agency (EPA)/ Maine Department of Environmental Protection (DEP) for on maintaining the City's regulatory compliance with the CSO court order the City has signed, Municipal Separated Stormwater System (MS4) Permit compliance with DEP, and considering the costs and benefits of an Integrated Plan.

The Tier II CSO Long Term Control Plan (CSOLTCP) approved by the DEP is just finishing, and the next Tier III CSOLTCP has been approved by the DEP and is underway. Funding of the capital projects associated with these programs and projects, totaling about $230 million over the next 20 years is expected.

To pay for this, financing is needed through bond proceeds to allow the cost to be spread over the life of the improvements; a cost paid for exclusively through the Sewer User Fee at this time.

The sewer user fee, set by the City Council, and was expected to increase to accommodate the cost of CSO work and MS4 compliance. This fee was last increased in July of 2014. The current rate is $8.81 per hundred cubic feet.

The proposed sewer rate for July 1, 2015 is $9.70 per hundred cubic feet and adjusted mid-fiscal year to $8.20 per hundred cubic feet on January 1, 2016 when the new stormwater service charge goes into effect.

This is a unit increase of $0.89 cents in July and a decrease of $1.50 in January when the new stormwater service charge program when it goes into effect.

For the average household (5 HCF per month) this is an increase of $4.45 per month and then a decrease in January of $7.5 per month as stormwater costs are shifted over to the new stormwater service charge.

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

APPROPRIATION RESOLVE:

Order 251-14/15 (Tab 19) **Fiscal Year 2015-2016 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This item brings forward the Appropriation Resolve for FY2016 for action by the City Council.

The Resolve contains the Finance Committee's forwarded budget for FY2016 for general municipal purposes in the amount of $221,770,295. In addition it contains the Finance Committee's recommended budget for FY2016 for school purposes.

The Finance Committee reviewed the Board of Education's recommended budget on April 9, 2015, by a vote of 4-0 recommended support for certain amendments and a final budget amount of $102,776,657.

The tax levy based upon the Finance Committee's recommended School Budget and City Manager's amended budget recommendations and for municipal purposes is $78,978,308 and $79,773,211 for school purposes. This would result in a combined tax levy of $158,751,519 for FY 2016. The tax rate based on the combined levies would be $20.58 per $1,000 of assessed value, a 2.9% increase.

The Appropriation Resolve also directs the Assessor of Taxes to assess a tax upon all real and personal property liable to be taxed as of April 1, 2015 and sets September 11, 2015, as the tax due date, which may be paid in two installments due on September 11, 2015, and March 11, 2016.

The delinquency rate of interest is set at 7.0% per year, and the abatement rate of interest is set at 3.0% per year.

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

SCHOOL BUDGET ITEMS:

Order 223-14/15 (Tab 20) **Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Orders 223-14/15 to 228-14/15 are orders required by State law 20-A M.R.S.A. §15690 in order to comply with what is known as LD1, a set of state laws passed to control increases in property taxes.

This order provides $79,352,047 as the amount determined by state law to be the minimum amount the city must appropriate in order to receive the full amount of state funding under the Essential Programs and Services Funding Act (EPS).

This requires the city to raise $64,342,989 as the city's contribution to the total cost of funding public education from K-12 as described in the EPS law. The City's Tax levy for the total for school budget programs of $102,776,657 will be $79,773,211.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 224-14/15 (Tab 21)

Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Non-state funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major capital school construction projects and portions of school construction projects that are not approved for state funding. The bonding of this long-term debt was previously approved by the voters or the City Council.

This order appropriates $561,907 for the annual payments on debt service previously approved by the voters or the City Council for non-state (local-only) funded school construction projects. The state no longer includes minor capital projects in this calculation.

The $561,907 is in addition to the funds appropriated as the EPS required local share (amount of the city's contribution to the total cost of funding public education from kindergarten to grade 12).

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 225-14/15 (Tab 22)

Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2016– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates $13,332,753 in additional city funds over and above regional EPS amount and the non-state funded debt service amount.

This exceeds the EPS funding model by $13,880,753 and funds the cost of city schools, Kindergarten-12, which are not covered by the state funding model established by the Essential Programs and Services Funding Act.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 226-14/15 (Tab 23)

Order Approving Total School Operating Budget for Portland Schools for FY2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order is required by 20-A M.R.S.A. §15690(4)(A). It sets the School Budget required by state law. The total amount recommended for that budget is $97,231,508.

That is the amount in the budget that under state law will be sent to the voters for approval at a citywide Referendum Election on May 12, 2015. $78,237,649 of the $97,231,508 would come from property taxes, $15,034,100 would come from state subsidy, and $3,508,759 from other revenues.

This order does not provide money unless the other General Fund budget orders passed.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 227-14/15 (Tab 24)

Order Appropriating and Raising Funds for Adult Education for FY 2016 as Required by the Maine Revised Statutes, Title 20-A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises $1,063,833 to support the Adult Education program and appropriates a budget for that program of $1,752,513. The budgets for the Adult Education Program and for the Food Service Program in the next Order, are in addition to the $97,231,508 proposed for the General Fund School Budget that must be submitted to the voters.
Under the City Charter, the Council must act on this school funding order, which is not part of the General Fund budget.

When the amounts for the Adult Education Program and the Food Service Program are added to the proposed General Fund School Budget, it leads to a total for FY2016 school budget programs of $102,776,657.

The total school budget will come before the Council for approval as part of the annual Appropriation Resolve on May 18th, if the voters approve the General Fund School Budget submitted to them on May 12th.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

Order 228-14/15 (Tab 25)

Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises $417,729 to support the Food Service Budget. The total proposed Food Service Program is $3,792,636, which is in addition to the General Fund School Budget.

Under the City Charter, the Council must act on this school funding order which is not part of the General Fund budget.

This item must be read on two separate days. It was given a first reading on April 27th. Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

Com 16-14/15 (Tab 26)

Communication Re: Appointment of New Members to Reed School Re-Use Task Force – Sponsored by Mayor Michael F. Brennan.

The Reed School sits on approximately 2.5 acres on Homestead Avenue in the Riverton neighborhood. Originally a school, it was more recently the central kitchen for the Portland Public Schools. It currently is used for limited storage, and is largely vacant and underutilized. In September, staff proposed the creation of a citizen's Task Force to the Housing and Community Development Committee to report potential and priority uses of the property and recommend a process to review proposals for re-use of the Reed School property. Recently several unfilled membership slots of the Task Force were filled with Riverton residents. One additional direct abutter, Andrew Bowman, has asked to participate, and the Task Force Co-Chairs support his appointment.

Reed School Re-Use Task Force Charge

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

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

Reed School Re-Use Task Force Members

Reed School Re-Use Task Force Members

Councilor David Brenerman and John Coyne, Co-Chairs
HCDC Committee Liaison Designee - David Brenerman
Portland Planning Board Designee - Sean Dundon
Portland Trails Designee - Kara Wooldrik
Workforce Housing Designee - Jan McCormick
Portland Society for Architecture Designee - Leslie Burnham
Greater Portland Landmarks Designee - Hilary Bassett
GPCOG Designee - Rebeccah Schaffner
Denise Harlow, State Representative, District #116
Parks Commission Designee – Steve Morgenstein
Elise Scala - Neighborhood Resident
Hillary Krapf - Neighborhood Resident
Dyan Albano - Neighborhood Resident
Mark Johnson - Neighborhood Resident
Andrew Bowman – Neighborhood Resident

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

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 172-14/15 (Tab 27)

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

This order approves a two-party agreement between the Maine Department of Transportation and the City of Portland regarding the planning, development, design, right-of-way, construction, cost sharing and reimbursement for a project to make improvements to Forest Avenue.

The project scope includes but is not limited to reconfiguring the Forest Avenue traffic pattern at Woodfords Corner and Ocean Avenue, widening sidewalks, adding streetscape aesthetics, extending shared lane bikeways, and reducing crossing distances for pedestrians.

The city is also discussing potential additional amenities (including, but not limited to, street finishings, benches and/or higher quality materials) with MDOT and will update the Council on the status of the discussions at a future meeting.

This project has been in discussion for a number of years and the matching and non-matching funds required, $369,875.10 (the city's matching funds) have been included in the FY 15 Capital Improvement budget. The total cost for the project will be $1,518,751.00 - $1,199,000.80 (Federal).

The Agreement has been amended to reflect a correction to the city's local share for preliminary engineering and right of way from 15% to 10%.

This item must be read on two separate days. It was given a first reading on March 2. At the March 16th City Council meeting this item was postponed to this meeting. Staff is recommending that this item be postponed to the June 15th Council meeting.

Order 209-14/15 (Tab 28)

Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

The dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown.

These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone.

Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming.

These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

The Planning Board met on March 10, 2015, and voted unanimously, 6-0 Dundon 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 on April 6th. At the April 27th Council meeting this item was postponed to this meeting.

Order 210-14/15

Fourth Amendment to Conditional Zone Agreement Re: Property in

(Tab 29) **in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

The Planning Board recommends amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council.

The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years.

The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations. The 1985 CZA anticipated the possibility of a municipally operated island solid waste disposal facility being created.

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate.

Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowners Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

The Planning Board met on March 24, 2015, and voted 4-0 (O'Brien abstaining; Eaton and Morrissette absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on April 6th. At the April 27th City Council meeting this item was postponed to this meeting.

Five affirmative votes are required for passage after public comment.

Order 214-14/15 (Tab 30) **Order Declaring June 5, 2015 through October 12, 2015 as the Federal Street Folly – Sponsored by Sheila Hill Christian, Acting City Manager.**

Owners of The Press Hotel, a new boutique hotel opening soon in the former Portland Press Herald building, have proposed the creation of a

pedestrian friendly zone that will provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

If approved, this will be the first time the City has authorized an extended street closure to create a park-like environment. The only similar event is Park[ing] Day, in which participants transform parking spaces into temporary "pop-up" parks. Consequently, staff views this event as a pilot or demonstration project in order to study the implications of creating this type of space in a street.

At the conclusion of the event staff will reconvene to discuss the event and whether it would be wise to permit similar events if requested.

Vision – Public Benefit

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development.

Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience, which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at Work Program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy of lights)

Organizers are working with Creative Portland and Portland Downtown Distrist and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

Portland Public Library
Portland Trails
Space Gallery
Mad Horse Theater
Circus Conservatory

Programming:

Organizers are currently discussing details of the programming. Organizers envision standing and scheduled programming throughout the summer, as well as special events that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance; and dance.

In order for the Federal Street Folly to occur, a portion of Federal Street, between Exchange Street and Market Street, needs to be barricaded to vehicle traffic from (for setup purposes: June 1, 2015) to October 19, 2015 (for breakdown purposes). The street would be barricaded 24/7. Barricades across the street would most likely be a mix of granite and concrete planters.

At the April 27th Council meeting this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 252-14/15 (Tab 31)

Order Approving Ground Lease to Hangar Group LLC for a Fixed Base Operation at Portland International Jetport - Sponsored by Sheila Hill-Christian, Acting City Manager.

The Portland International Jetport is requesting approval of a forty year (20 year initial term with one 20 year option) ground lease with Hangar Group LLC for the development of a Fixed Base Operation (FBO) on the Jetport's south general aviation ramp. The terms of the lease are as follows:

- **Term**: Forty years through a 20 year initial term and one 20 year option.
- **Investment**: Hangar Group, LLC will be required to invest $4.356 million to develop the FBO building, hangar, and site. Additionally Hangar Group, LLC will invest up to $1.565 million to construct a new aircraft apron at the Jetport. The cost of the apron will be recouped over approximately 12 years through rent abatement with the Portland International Jetport.
- **Rate**: Hangar Group, LLC will pay ground rent and 2% of gross receipts excluding aircraft sales/leasing, sales of aircraft parts and accessories, charter flights, or fixed rent from subtenants approved by the City.
- **Full Service FBO**: Hangar Group, LLC will be required to operate a full service FBO with staffing hours and facilities that meet the requirements outlined in the Portland International Jetport's Minimum Standards.

The issuance of this lease will allow the development of a second FBO at the Portland International Jetport which will give our airline partners and general aviation users a choice between service providers. It also provides for the introduction of competition into the FBO market at the Jetport.

This opportunity to develop an FBO in this location was issued through a public request for proposals on January 5, 2015. Maine Aviation Corporation/Hangar Group LLC submitted the only proposal in response to this request. Their proposal met or exceeded all requirements outlined in the request for proposals.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

LICENSE RENEWALS:

Tab 1 5-4-15

IN COUNCIL SPECIAL MEETING APRIL 27, 2015 VOL. 130 PAGE 75

ROLL CALL: Mayor Brennan called the meeting to order at 7:05 P.M. Councilor Donoghue was absent.

ANNOUNCEMENTS:

Councilor Suslovic reported that the visit to our sister city Archangel Russia was a successful visit and they appreciate that we are making the effort to keep our friendship ongoing over these past 26 years.

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Marshall and seconded by Councilor Costa to approve the City Council minutes of April 6, 2015. Passage 8-0.

PROCLAMATIONS:

Proc 27-14/15 **Proclamation Recognizing Portland Businesses that Provided Free Reusable Bags to Prepare Citizens for Implementation of Green Packing Ordinance – Co-sponsored by Mayor Michael F. Brennan, Councilors Kevin J. Donoghue, Edward J. Suslovic, David Brenerman, Justin Costa, Jill C. Duson, Nicholas M. Mavodones, Jr., David A. Marshall, and Jon Hinck.**

Proc 28-14/15 **Proclamation Honoring Officer David Argitis as Police Officer of the Month for March 2015 – Sponsored by Mayor Michael F. Brennan.**

Proc 29-14/15 **Proclamation Declaring Public Works Week, May 17-23, 2015 – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

Order 211-14/15 **Order Appointing Michael Sauschuck as Acting City Manager – and Setting Annual Salary – Sponsored by Mayor Michael F. Brennan.**

Motion was made by Councilor Brenerman and seconded by Councilor Suslovic for passage. Passage. 8-0

CONSENT ITEMS:

Order 212-14/15 **Order Declaring May 16, 2015 Townsquare Media Street Eats and Beats Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.**

Order 213-14/15 **Order Declaring May 1, 2015 through October 31, 2015 as the In the Square Festival - Sponsored by Sheila Hill-Christian, Acting City Manager.**

Order 215-14/15 **Order Declaring Saturday, June 27, 2015 as the Allagash 20th Anniversary Street Fair Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.**

Order216-14/15 **Order Declaring Saturday, August 1, 2015 as Slide the City Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.**

Motion was made by Councilor Marshall and seconded by Councilor Suslovic for passage of the Consent Calendar items. Passage 8-0

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Councilor Brenerman asked to separate Order 214.

Order 214-14/15 **Order Declaring June 5, 2015 through October 12, 2015 as the Federal Street Folly – Sponsored by Sheila Hill Christian, Acting City Manager.**

Motion was made by Councilor Duson and seconded by Councilor Mavodones for passage of consent item Order 214.

Motion was made by Councilor Hinck and seconded by Councilor Duson to postpone Order 214 to the next City Council meeting of May 4, 2015 so a discussion between the Hotel and impacted Business abutters could take place.

Motion was made by Councilor Hinck and seconded by Councilor Duson to withdraw motion to postpone so other Councilors could comment.

Motion was made by Councilor Hinck and seconded by Councilor Brenerman to postpone Order 214 to the May 4, 2015 City Council meeting. Passage to postpone 8-0

LICENSES:

Order 217-14/15 **Order Granting Municipal Officers' Approval of Whole Foods Market Group, Inc. d/b/a Whole Foods Market. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 2 Somerset Street – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Suslovic and seconded by Councilor Duson for passage. Passage 7-0 (Marshall out)

Order 218-14/15 **Order Granting Municipal Officers' Approval of Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. Application for a Class III & IV (Wine & Beer) License at 5 Dana Street – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Suslovic and seconded by Councilor Duson for passage. Passage 7-0 (Marshall out)

Order 219-14/15 **Order Granting Municipal Officers' Approval of JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront. Application to Add Officers to Class IA 40+ Rooms License with Outdoor Dining on Private Property at 321 Commercial Street – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Costa for passage. Passage 7-0 (Suslovic out)

Order 220-14/15 **Order Granting Municipal Officers' Approval of Brakes & Shocks, LLC d/b/a Tandem Coffee & Bakery. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 742 Congress Street – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Costa for passage. Passage 7-0 (Suslovic out)

Order 221-14/15 **Order Granting Municipal Officers' Approval of Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port. Application to add Outdoor Dining on Public and Private Property at 433 Fore Street – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Marshall for passage. Passage 8-0

Order 222-14/15 **Order Granting Municipal Officers' Approval of Chef Paul's d/b/a Chef Paul's. Application for a Class III & IV (Wine & Beer) License and Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington Ave. – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Suslovic for passage. Passage 8-0

FY 16 BUDGET ITEMS: PUBLIC HEARING

PUBLIC COMMENT WILL BE TAKEN AT THIS COUNCIL MEETING ON ALL SCHOOL BUDGET ORDERS. COUNCIL ACTION ON THE SCHOOL BUDGET WILL TAKE PLACE ON MAY 4, 2015, AT 7:00 P.M. THE PUBLIC REFERENDUM ON THE SCHOOL BUDGET WILL BE HELD ON TUESDAY, MAY 12, 2015.

Order 223-14/15 **Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.** This is its first reading.

Order 224-14/15 **Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.** This is its first reading.

Order 225-14/15 **Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2016– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.** This is its first reading.

Order 226-14/15 **Order Approving Total School Operating Budget for Portland Schools for FY2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.** This is its first reading.

Order 227-14/15 **Order Appropriating and Raising Funds for Adult Education for FY 2016 as Required by the Maine Revised Statutes, Title 20-A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.** This is its first reading.

Order 228-14/15 **Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.** This is its first reading.

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 204-14/15 **Order Approving the Collective Bargaining Agreement with the Communications Employee Association - Sponsored by Sheila Hill-Christian, Acting City Manager. This item was given first reading on April 6, 2015.**

Motion was made by Councilor Brenerman and seconded by Councilor Duson for passage. Passage 8-0

Order 205-14/15 **Order Authorizing General Obligation Bonds to Finance a Portion of the City's 2016 Capital Improvement Program in an Amount not to Exceed $18,731,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 6, 2015.**

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 7-1 (Hinck)

Order 206-14/15 **Order Appropriating $18,731,000 of Bond Proceeds for the City's 2016 Capital Improvement Program- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 6, 2015.**

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 7-1 (Hinck)

Order 207-14/15 **Amendment to Portland City Code Chapter 17 (Offenses, Miscellaneous Provisions) Article V (Regulation of Tobacco) - Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair. This item was given first reading on April 6, 2015.**

Motion was made by Councilor Suslovic and seconded by Councilor Brenerman for passage. Passage 7-1 (Hinck)

Order 208-14/15 **Amendment to Portland City Code Chapter 11 (Food and Food Handlers) – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair. This item was given first reading on April 6, 2015.**

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

Order 209-14/15 **Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

Motion was made by Councilor Costa and seconded by Councilor Duson to postpone Order 209 to the May 4, 2015 City Council meeting. Passage 8-0.

Order 210-14/15 **Fourth Amendment to Conditional Zone Agreement Re: Property in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

Motion was made by Councilor Suslovic and seconded by Councilor Mavodones to to postpone Order 210 to the May 4, 2015 City Council meeting. Passage 8-0.

ORDERS:

Order 229-14/15 **Order Approving Lease with Ready Seafood Co. Re: Portland Ocean Terminal - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

Motion was made by Councilor Brenerman and seconded by Councilor Mavodones for passage. Passage 8-0

Order 230-14/15 **Order Naming the Entrance Road to Portland Technology Park as Technology Park Drive – Sponsored by Sheila Hill-Christian, Acting City Manager.**

Motion was made by Councilor Marshall and seconded by Councilor Costa for passage. Passage 8-0

Order 231-14/15 **Order Amending the Promissory Note and Related Closing Documents For Home Program Funds to Avesta Housing for a Rental Housing Project at 134 Washington Avenue - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

Motion was made by Councilor Brenerman and seconded by Councilor Marshall for passage. Passage 8-0

Order 232-14/15 **Order Approving a Sidewalk Brick Apron and Granting the the Sidewalk Brick Apron Easement to Redfern Munjoy LLC – Sponsored by Sheila Hill-Christian, Acting City Manager.**

Motion was made by Councilor Marshall and seconded by Councilor Costa for passage. Passage 8-0

AMENDMENTS:

LICENSE RENEWALS:

Motion was made by Councilor Duson and seconded by Councilor Mavodones to adjourn. Passage 8-0, 10:28 P.M.

A TRUE COPY.

Carolyn M. Dorr, Deputy City Clerk

Order 234-14/15
Tab 2 5-4-15

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 FISCAL YEAR 2016 ADMINISTRATIVE FEES IN VARIOUS DEPARTMENTS

ORDERED, that the administrative fees in the Fire Department for Confined Space Rescue Services and Department of Public Services for Cemeteries and Street Openings, as shown in the schedules attached hereto, are hereby approved; and

BE IT FURTHER ORDERED, that these fees shall be effective on July 1, 2015 unless otherwise noted; and

BE IT FURTHER ORDERED, that all other administrative fees currently in effect that are not otherwise changed herein shall remain in effect for Fiscal Year 2016.

Portland Fire Department
Headquarters
Office of the Chief of Department

To: Sheila Hill-Christian, Acting City Manager
From: Jerome F. LaMoria, Fire Chief
Date: 1.13.15
RE: FY16 Revenue Fee Schedule Changes

The Fire Department is proposing to add three new fees to the FY16 Administrative Fee Schedule. These fees are related to responses to confined space rescue involving entities with no contracted rescue team as required by federal law. Any entity who has contracted with the Portland Fire Department Confined Space Rescue Cooperative will not be billed for this response.

The first fee is $5,000.00 for any response to an incident involving a permit required confined space as specified by OSHA 1910.146 regulation. This fee is to cover the cost associated with maintaining the capabilities of a Confined Space Rescue Team.

The second fee is to offset the cost of all heavy apparatus utilized as part of the response.

The third fee is to offset the cost of personnel utilized as part of the response.

These fees conform to the FEMA table of reimbursement rates and industry standards. As you may recall in previous discussions, the purpose of OSHA requirements are that entities engaged in permit required confined space entries are operating safely and that the cost associated with potential rescues is not absorbed by local tax payers.

Please do not hesitate to contact me should you have any questions or concerns.

FY16 REVENUE FEE SCHEDULE CHANGE

Department: **Fire**

Administrative Fees

Account #	Revenue Description	Current Fee	FY 16 Proposed Fee
100-2201-341-00-00	Copy of Fire Report	$ 15.00	$ 15.00
100-2203-342-00.00	ALS Non Emergency Transport	$ 559.00	$ 559.00
100-2203-342-00.00	BLS NonEmergency Transport	$ 468.00	$ 468.00
100-2203-342-00.00	BLS Emergency Transport	$ 748.00	$ 748.00
100-2203-342-00.00	ALS Emergency Transport	$ 888.00	$ 888.00
100-2203-342-00.00	ALS 2 Emergency Transport	$ 1,266.00	$ 1,266.00
100-2203-342-00.00	Speciality Care Transport	$ 1,520.00	$ 1,520.00
100-2203-342-00.00	ALS Mileage	$ 18.06	$ 18.06
100-2203-342-00.00	BLS Mileage	$ 18.06	$ 18.06
100-2203-342-00.00	Oxygen	$ 110.00	$ 110.00
100-2203-342-00.00	Airways	$ 148.00	$ 148.00
100-2203-342-00.00	IV Therapy	$ 206.00	$ 206.00
100-2203-342-00.00	EKG	$ 206.00	$ 206.00
100-2203-342-00.00	Intercept	$ 451.00	$ 451.00
100-2203-342-00.00	Defib.	$ 194.00	$ 194.00
100-2203-342-00.00	Critical Care Transfer	$ 839.00	$ 839.00
100-2203-342-00.00	Non-Emergency Mileage	$ 18.06	$ 18.06
100-2203-342-00.00	Capnography	$ 138.00	$ 138.00
100-2203-342-00.00	EZ IO/Intraosseaus Access	$ 275.00	$ 275.00
100-2203-342-00.00	ALS on SceneCare	$ 888.00	$ 888.00
100-2203-342-00.00	ALS 2 on Scene Care	$ 1,266.00	$ 1,266.00
100-2203-342-00.00	Fire Response to Vehicle Crashes	$ 400.00	$ 400.00
100-2203-342-00.00	Heavy Rescue Utilization	$ 650.00	$ 650.00
100-2203-342-00.00	Rescue Equipment - Spreader	$ 150.00	$ 150.00
100-2203-342-00.00	Rescue Equipment - Cutter	$ 150.00	$ 150.00
100-2203-342-00.00	Rescue Equipment - Rams	$ 150.00	$ 150.00
100-2203-342-00.00	Rescue Equipment - Air Bags	$ 150.00	$ 150.00
100-2203-342-00.00	Level I HazMat Response	$250.00/hour/unit	$250.00/hour/unit
100-2203-342-00.00	HazMat Still Response	$ 125.00	$ 125.00
100-2203-342-00.00	HazMat Plug Kit	$ 65.00	$ 65.00

New FY16 Fees

100-2203-341-00-00	Confined Space Rescue Response for Non Contracted Entities*	**N/A**	**$5,000/Response**
100-2203-341-00-00	Heavy Apparatus Utilization*	**N/A**	**$250.00/hour/unit**
100-2203-341-00-00	Confined Space Personnel Cost*	**N/A**	**$70.00/hr/person**

*All applicable fines to be billed to Non Contracted Entity

Updated: 02/10/15

Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael J Bobinsky, Director of Public Services
DATE: April 24, 2015
SUBJECT: Revenue Fee Changes – Cemeteries

We are recommending a 10% across the board rate increase for cemetery services in FY16. Adjustments were made so that prices are even amounts. (See attached list.) We have not increased fees since 2010, so this reflects an increase of 2% per year for the past five years.

Our prices for services fall within the median range as compared to other cemeteries in the New England region. We need to increase our fees to compensate for our increased cost to do business. We will be spending approximately $500,000 as part of a CIP project on expanding Evergreen Cemetery, which will provide an additional 800 graves and a 300 niche columbarium wall, all of which will increase our maintenance burden. In addition, we are establishing new fees for the columbarium niches which are a new feature under construction as part of the expansion plans.

Overall increase to revenue budget is approximately $45,000.

CC: Jennifer Lodge, Assistant Budget Director
Joe Dumais, Parks & Cemeteries Coordinator
Pat Handrahan, Principal Financial Officer

FY16 REVENUE FEE SCHEDULE CHANGE

Department: Public Services Division: Cemeteries

Account #	Revenue Description	Current Rate	FY16 Proposed Rate
RESIDENT FEES:			
100-3102-363-00-00	Wilde Chapel Rental	$500	$500
100-3102-347-05-00	Holiday Wreaths	$30-$45	$30-$45
	Interments, Conventional		
100-3102-347-01-00	Weekday	$790	$870
100-3102-347-01-00	Weekday – after 2:30 pm	$790 + $105/hr	$870 + $115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$945	$1,040
100-3102-347-01-00	Saturday – after 11:00 am	$1,160	$1,275
	Interments, Child (under 5 years)		
100-3102-347-01-00	Weekday	$525	$575
100-3102-347-01-00	Weekday – after 2:30 pm	$525 + $105/hr	$575 + $115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$790	$870
100-3102-347-01-00	Saturday – after 11:00 am	$945	$1,040
	Internments, Infant (under 1 year)		
100-3102-347-01-00	Weekday	$315	$345
100-3102-347-01-00	Weekday – after 2:30 pm	$315 + $105/hr	$345 + $115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$540	$590
100-3102-347-01-00	Saturday – after 11:00 am	$620	$680
	Vault Setting Fee		
100-3102-347-01-00	All Interments	$160	$175
100-3102-347-01-00	Cremation – Urn Vault Placement	$195	$215
100-3102-347-01-00	Placement of Funeral Home Provided Vault	$55	$60
	Grave Re-use Fee		
100-3102-347-01-00	For cremains buried on top of existing casket	$315	$350
	Interments, Cremains		
100-3102-347-01-00	Weekday	$420	$460
100-3102-347-01-00	Weekday – after 2:30 pm	$420+$105/hr	$460 +$115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$570	$630
100-3102-347-01-00	Saturday – after 11:00 am	$680	$750
	Disinterments, Conventional		
100-3102-347-01-00	Within Cemetery (container additional)	$1,800	$1,980
100-3102-347-01-00	Outside Cemetery (container additional)	$900	$990
	Disinterments, Child (under 5 years)		
100-3102-347-01-00	Within Cemetery (container additional)	$1,050	$1,150
100-3102-347-01-00	Outside Cemetery (container additional)	$525	$575

FY16 REVENUE FEE SCHEDULE CHANGE

Department: Public Services Division: Cemeteries

Account #	Revenue Description	Current Rate	FY16 Proposed Rate
	Disinterments, Cremains		
100-3102-347-01-00	Within Cemetery	$840	$920
100-3102-347-01-00	Outside Cemetery	$420	$460
100-3102-347-01-00	Winter Rates for Burials/Disinterments – Additional Fee (December 1 – April 1)	$100	$110
100-3102-347-01-00	Clearing Grounds for Tent Placement (December 1 – April 1)	$100	$110
	FY16 New Proposed Fees:		
100-3102-347-01-00	Columbarium (30% to perpetual care)	NA	$1,610
100-3102-347-01-01	Second inurnment	NA	$200
	Lot Sales – Forest City		
100-3102-347-07-00	Single Lot	$745	$820
100-3102-347-07-00	Two (2) Grave Lot	$1,490	$1,640
100-3102-347-07-00	Three (3) Grave Lot	$2,235	$2,460
100-3102-347-07-00	Four (4) Grave Lot	$2,980	$3,280
100-3102-347-07-00	Five (5) Grave Lot	$3,725	$4,100
100-3102-347-07-00	Cremation Garden	$390	$430
100-3102-347-07-00	Odd-shaped Lots – Resident (per sq.ft.)	$18	$20
	Lot Sales – Evergreen		
100-3102-347-07-00	Single Lot	$890	$980
100-3102-347-07-00	Two (2) Grave Lot	$1,785	$1,960
100-3102-347-07-00	Three (3) Grave Lot	$2,780	$2,940
100-3102-347-07-00	Four (4) Grave Lot	$3,570	$3,920
100-3102-347-07-00	Five (5) Grave Lot	$4,460	$4,900
100-3102-347-07-00	Veterans Section	$630	$695
100-3102-347-07-00	Cremation Garden	$475	$525
100-3102-347-07-00	Odd-shaped Lots – Resident (per sq.ft.)	$18	$20
100-3102-347-07-00	Historic Section - Single	$2,625	$2,900
100-3102-347-07-00	Historic Section – Double	$5,250	$5,800
	Fonndations		
100-3102-347-02-00	Price per square inch of concrete	$0.80	$0.90
100-3102-347-02-00	Government Marker (includes setting)	$0	$0
100-3102-347-02-00	Bronze Marker, single (includes setting)	$95	$105
100-3102-347-02-00	Bronze Marker, double (includes setting)	$140	$155
100-3102-347-02-00	Cremation Garden Marker	$65	$70
	Annual Care		
100-3102-347-04-00	Payment for one year's care of one grave lot	$40	$45
100-3102-347-04-00	Monument Cleaning – Varies with size	$25-$500	$25-$500
	Perpetual Care		
100-3102-391-00-00	One-time Perpetual Care Fee	$105	$105

FY16 REVENUE FEE SCHEDULE CHANGE

Department: Public Services Division: Cemeteries

Account #	Revenue Description	Current Rate	FY16 Proposed Rate
NON-RESIDENT:			
100-3102-363-00-00	Wilde Chapel Rental	$650	$650
100-3102-347-05-00	Holiday Wreaths	$30-$45	$30-$45
	Interments, Conventional		
100-3102-347-01-00	Weekday	$950	$1,050
100-3102-347-01-00	Weekday – after 2:30 pm	$950 + $105/hr	$1,050 + $115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$1,135	$1,250
100-3102-347-01-00	Saturday – after 11:00 am	$1,385	$1,525
	Interments, Child (under 5 years)		
100-3102-347-01-00	Weekday	$630	$690
100-3102-347-01-00	Weekday – after 2:30 pm	$630 + $105/hr	$690 + $115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$945	$1,040
100-3102-347-01-00	Saturday – after 11:00 am	$1,135	$1,245
	Internments, Infant (under 1 year)		
100-3102-347-01-00	Weekday	$375	$410
100-3102-347-01-00	Weekday – after 2:30 pm	$375 + $105/hr	$410 + $115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$640	$700
100-3102-347-01-00	Saturday – after 11:00 am	$745	$820
	Vault Setting Fee		
100-3102-347-01-00	All Interments	$160	$175
100-3102-347-01-00	Cremation – Urn Vault Placement	$195	$215
100-3102-347-01-00	Placement of Funeral Home Provided Vault	$55	$60
	Grave Re-use Fee		
100-3102-347-01-00	For cremains buried on top of existing casket	$315	$350
	Interments, Cremains		
100-3102-347-01-00	Weekday	$505	$555
100-3102-347-01-00	Weekday – after 2:30 pm	$505+$105/hr	$555 +$115/hr
100-3102-347-01-00	Saturday – before 11:00 am	$670	$740
100-3102-347-01-00	Saturday – after 11:00 am	$810	$890
	Disinterments, Conventional		
100-3102-347-01-00	Within Cemetery (container additional)	$1,890	$2,100
100-3102-347-01-00	Outside Cemetery (container additional)	$945	$1,050
	Disinterments, Child (under 5 years)		
100-3102-347-01-00	Within Cemetery (container additional)	$1,260	$1,380
100-3102-347-01-00	Outside Cemetery (container additional)	$630	$690

FY16 REVENUE FEE SCHEDULE CHANGE

Department: Public Services Division: Cemeteries

Account #	Revenue Description	Current Rate	FY16 Proposed Rate
	Disinterments, Cremains		
100-3102-347-01-00	Within Cemetery	$1,010	$1,110
100-3102-347-01-00	Outside Cemetery	$505	$555
100-3102-347-01-00	Winter Rates for Burials/Disinterments: Additional Fee (December 1 – April 1)	$100	$110
100-3102-347-01-00	Clearing Grounds for Tent Placement (December 1 – April 1)	$100	$110
	FY16 New Proposed Fees:		
100-3102-347-01-00	Columbarium (30% to perpetual care)	NA	$1,900
100-3102-347-01-00	Second inurnment	NA	$240
	Lot Sales – Forest City		
100-3102-347-07-00	Single Lot	$855	$940
100-3102-347-07-00	Two (2) Grave Lot	$1,710	$1,880
100-3102-347-07-00	Three (3) Grave Lot	$2,565	$2,820
100-3102-347-07-00	Four (4) Grave Lot	$3,420	$3,760
100-3102-347-07-00	Five (5) Grave Lot	$4,275	$4,700
100-3102-347-07-00	Cremation Garden	$440	$485
100-3102-347-07-00	Odd-shaped Lots – Resident (per sq.ft.)	$22	$22
	Lot Sales – Evergreen		
100-3102-347-07-00	Single Lot	$1,070	$1,180
100-3102-347-07-00	Two (2) Grave Lot	$2,140	$2,360
100-3102-347-07-00	Three (3) Grave Lot	$3,215	$3,540
100-3102-347-07-00	Four (4) Grave Lot	$4,285	$4,720
100-3102-347-07-00	Five (5) Grave Lot	$5,355	$5,900
100-3102-347-07-00	Veterans Section	$755	$830
100-3102-347-07-00	Cremation Garden	$570	$630
100-3102-347-07-00	Odd-shaped Lots – Resident (per sq.ft.)	$22	$25
100-3102-347-07-00	Historic Section - Single	$3,150	$3,470
100-3102-347-07-00	Historic Section – Double	$6,300	$6,930
	Foundations		
100-3102-347-02-00	Price per square inch of concrete	$0.90	$1.00
100-3102-347-02-00	Government Marker (includes setting)	$0	$0
100-3102-347-02-00	Bronze Marker, single (includes setting)	$95	$105
100-3102-347-02-00	Bronze Marker, double (includes setting)	$140	$155
100-3102-347-02-00	Cremation Garden Marker	$65	$70
	Annual Care		
100-3102-347-04-00	Payment for one year's care of one grave lot	$40	$45
100-3102-347-04-00	Monument Cleaning – Varies with size	$25-$500	$25-$500
	Perpetual Care		
100-3102-391-00-00	One-time Perpetual Care Fee	$105	$105

Revised: 4/27/15

Printed: 4/27/15

Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael J Bobinsky, Director of Public Services
DATE: April 24, 2015
SUBJECT: Revenue Fee Changes – Permit Fees

We are recommending an increase in street opening fees to reflect an approximate increase in revenue of $53,000 or 21%. This increase is derived from both increase number of permits expected to be issued; as well as increased costs associated with running the program.

Based on a three year average it's anticipated that the number of permits will increase by 80. Program costs, including salaries, are expected to increase $24,000 or 9%. We are recommending an increase in street opening permits from $270 to $295, Sidewalk opening permits from $202 to $206.50 and esplanade/other permits from $135 to $147.50.

CC: Pat Handrahan, Principal Financial Officer
Jennifer Lodge, Assistant Budget Director
Rhonda Zazzara, Field Inspection Coordinator

FY16 REVENUE FEE SCHEDULE CHANGE

Administrative Fees

Department **Public Services/Street Openings**

Account #	Revenue Description	Current Fee	FY16 Proposed Fee
247-3100-321-03-00	Street Opening Permits:		
	1. Street Opening Permit	$270.00	$295.00
	2. Sidewalk Opening Permit	$202.00	$206.50
	3. Esplanade/Other opening permit	$135.00	$147.50
247-3100-321-06-00	Permanent Pavement Restoration	$45.00	$ 45.00

Prepared: 04/21/15

Order 235-14/15
Tab 3 5-4-15

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 INCREASE IN THE TRASH BAG FEE

ORDERED, pursuant to Section 12-18(d) of the Portland City Code, the cost of purple city trash bags, which will replace blue city trash for curbside trash collection, shall be as follows:

Size	Current Cost	Proposed Cost
15 Gallon	1.00 each	1.35
30 Gallon	2.00 each	2.70

BE IT FURTHER ORDERED, the current blue and the new purple city trash bags shall both be accepted for curbside collection in the month of July. Beginning on August 3, 2015, only purple trash bags will be accepted for curbside collection; and

BE IT FURTHER ORDERED, that the effective date of this order is July 1, 2015.

Portland, Maine Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael J Bobinsky, Director of Public Services
DATE: April 24, 2015
SUBJECT: Revenue Fee Changes – Solid Waste Bag Fees

In a Pay-As-You-Throw ("PAYT") program like Portland's residents pay for the collection of municipal solid waste based on the amount they throw away. This creates a direct economic incentive to recycle more and to generate less waste. The City of Portland PAYT program was implemented in 1999 (FY00) after review and recommendation by a panel of Recycling Advisory Committee members. In or program bag fees do not offset the complete cost of the solid waste division. They instead split the cost of solid waste collection and removal between solid waste generators and taxpayers. In original program documentation it was noted that "the price per bag would be set and reviewed annually through the budget process by City Council". However, the bag fees have not been reviewed or increased every year since program inception. In the nearly 17 years since the program began bag fees have only been raised four times (and only twice in the last decade).

Meanwhile, Portland has continued to be a leader in responsible disposal of all types of waste, expanding the number of program offerings and households served. In FY00, the year the PAYT program began; total Solid Waste Division costs were only $1.6M, with a net cost to the taxpayer of $410k after collection of bag fee and other program revenues. By FY05, program offerings had significantly expanded and included options for citizens to dispose of yard waste, construction waste, universal waste, hazardous waste and many other types of waste. Total Solid Waste Division costs had risen accordingly, up to $2.2M with $796k falling onto the taxpayer. In the years since the City's last bag fee increase (FY11-15) total Solid Waste Division costs have averaged $3.8M per year, with total average net cost to taxpayers of $1.9M per year. Meanwhile, Portland's bag fees have remained lower than any surrounding jurisdiction even while the levy on City taxpayers has continued to rise.

City staff is recommending that the bag fee be increased by 35% to rebalance the cost of solid waste collection and disposal between the taxpayers and generators of solid waste. This lightens the taxpayer burden by generation of an additional $517,000 in revenue from the solid waste generating population.

The proposed bag fees are as follows:
15 gallon trash bags $1.35 per bag ($13.50 per roll of 10 bags)
30 gallon trash bags $2.70 per bag ($13.50 per roll of 10 bags)

CC: Troy Moon, Environmental Services and Open Spaces Manager
Pat Handrahan, Principal Financial Officer
Jennifer Lodge, Assistant Budget Director

Order 236-14/15
Tab 4 5-4-15

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 CITY MANAGER OR ACTING CITY MANAGER TO ENTER INTO CERTAIN AGREEMENTS TO IMPLEMENT THE FISCAL YEAR 2016 HUMAN RESOURCES AND CERTAIN FRINGE BENEFITS BUDGETS

ORDERED, that the City Manager or Acting City Manager is authorized to enter into standard agreements and amendments to standard agreements with providers of services for Fiscal Year 2016 as needed in order to implement the Human Resources, Medical, Worker's Compensation and Liability budgets.

CITY OF PORTLAND, MAINE

Memorandum

TO: Sheila Hill-Christian, Acting City Manager

FROM: Gina Tapp, Director of Human Resources

DATE: April 29, 2015

RE: FY16 Budget Order Re: Implementing Human Resources and Fringe Benefit Budgets

Please have the attached Council Order accompany the FY16 budget. This item should be given a first reading on May 4, 2015 and a second reading on the May 18, 2015 meeting along with other budget related items.

STATEMENT OF FACT:

ORDER AUTHORIZING THE CITY MANAGER TO ENTER INTO CERTAIN AGREEMENTS TO IMPLEMENT THE HUMAN RESOURCES AND CERTAIN FRINGE BENEFIT BUDGETS.

Each year the City of Portland enters into agreements to provide services contained in budgets tied to departmental programs.

Human Resources contracts for professional training services, physical fitness testing and services for the Civil Service Commission (written examinations, job suitability assessments and medical examinations).

The Medical budget contains contracted services for claims administration.

The Worker's Compensation budget contains contracted services for claims administration and drug and alcohol testing.

This order will authorize the City Manager to enter into such agreements.

cc: Danielle West-Chuhta, Corporate Counsel
Jennifer Lodge, Budget Analyst

GT: jlr

Order 237-14/15
Tab 5 5-4-15

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 RE: SELF-INSURED LIABILITY PROGRAM

ORDERED, that pursuant to Article VII, Sec. 15 of the Portland City Charter there is hereby established a Cumulative Reserve Fund for the purpose of enabling the City to pay losses under its self-insurance program or incurred under any deductible insurance policies, which fund shall continue from year to year and shall not lapse as provided in Article VII, Sec. 7 of the Charter.

BE IT FURTHER ORDERED, that pursuant to 14 M.R.S. Sec. 8116, the City Council of the City of Portland hereby states that the City of Portland has self-insured (to the extent set forth herein) against the obligations and liabilities imposed by the Maine Tort Claims Act (hereinafter the "Act"):

1. The Council has, and may from time to time, set aside funds in an account identified as "Liability" to be added to funds previously appropriated and held in reserve, all of which funds have been designed to enable the City to meet the obligations imposed by the Act; and to implement its self-insurance program, including but not limited to, the costs of administration of the program, investigation of claims, and of defense of claims against the City, its officers and employees;

2. The limit of liability assumed by the City is the $400,000 required by the Act, as it may be amended from time to time, notwithstanding the fact that its appropriation or reserve may exceed the statutory limit of liability;

3. The scope of coverage is limited to those areas for which governmental immunity has been expressly waived by 14 M.R.S.A. Sec. 8104-A, as limited by 14 M.R.S.A. Sec. 8104-B, and 14 M.R.S.A. Sec. 8111. Liability coverage shall not be deemed a waiver of any immunities or limitation of damages available under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, or common law.

4. The fund shall be administered by the Acting City Manager who shall settle all claims and pay all judgments for which the City may be legally liable under the Act or under the law of any jurisdiction to which the City, its officers or employees may be subject.

CITY OF PORTLAND, MAINE

Memorandum

TO: Sheila Hill-Christian, Acting City Manager

FROM: Danielle West-Chuhta, Corporate Counsel

DATE: April 13, 2015

RE: RESOLUTION RE: SELF-INSURED LIABILITY PROGRAM

STATEMENT OF FACT:

This item is requested upon the recommendation of the Office of the Corporation Counsel. The intent is to clearly indicate that the City's limit of liability is that imposed by the Maine Tort Claims Act, notwithstanding the fact that the annual appropriation or the cumulative reserve may exceed $400,000. This item should be given a first reading on May 4, 2015 and then postponed to the May 18, 2015 meeting along with other budget related items.

cc: Nancy English, Paralegal
Jennifer Lodge, Budget Analyst

DWC: jlr

Order 238-14/15
Tab 6 5-4-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
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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 CITY MANAGER OR ACTING CITY MANAGER TO ENTER INTO CERTAIN AGREEMENTS TO IMPLEMENT FISCAL YEAR 2016 HEALTH & HUMAN SERVICES BUDGET

ORDERED, that the City Manager or Acting City Manager be and hereby is authorized to enter into:

1. Standard agreements and amendments to standard agreements with other governmental agencies for Fiscal Year 2016 to implement the Health & Human Services operating budget; and

2. Agreements with providers of services and lessors of property to provide services for Health and Human Services programs.

City of Portland, Maine
Memorandum

To: Sheila Hill-Christian, Acting City Manager

From: Brendan O'Connell, Finance Director BTO

Date: 04/13/15

Re: FY16 Budget Council Order – HHS Agreements

Each year the City of Portland enters into agreements and amendments to those agreements, to receive reimbursement for services provided by the Health and Human Services department.

In addition, the City enters into agreements with service providers and landlords to provide services for department programs.

I have asked Corporation Counsel to prepare the necessary order for inclusion on the May 4th agenda.

O'Connell: jlr 04/13/15

Order 239-14/15
Tab 7 5-4-15

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 CITY MANAGER OR ACTING CITY MANAGER TO ACCEPT SCHOLARSHIP TRUST DONATIONS AND ENTER INTO TRUST AGREEMENTS

ORDERED, that the City Manager or Acting City Manager is authorized to accept donations for existing and new scholarship trusts; and

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is authorized to enter into standard form trust agreements as approved by the Corporation Counsel.

Order 248-14/15
Tab 8 5-4-15

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 CORPORATION COUNSEL TO UNDERTAKE CIVIL ACTIONS TO COLLECT DELINQUENT PERSONAL PROPERTY TAXES

ORDERED, the Corporation Counsel, through the use of City Attorneys or Contractors, is hereby authorized to institute legal proceedings on behalf of the City to collect delinquent personal property taxes against debtors who have failed to pay the taxes when due.

City of Portland

Memo

To: Sheila Hill-Christian, Acting City Manager

From: Brendan O'Connell, Finance Director BTO

Date: April 13, 2015

Re: Agenda Item Request – Authorizing Collection Actions

Please place the attached order on the City Council agenda for first reading and public hearing on May 4th and second reading and passage on May 18, 2015. I am recommending we present this to the City Council for action as it is related to the financial business of the upcoming fiscal year. We have passed this order annually with the budget approved since fiscal year 2003.

This order arises out of the staff proposal to maintain of our efficient personal property tax collections. Many times during the fiscal year our personal property tax standard billing and collection procedures prove to be inadequate, and we need to seek legal assistance from the Corporation Counsel's Office. This could involve a company refusal to pay, a bankruptcy declaration or title dispute or other similar matter that requires legal action.

Corporation Counsel advises that the City Council needs to grant specific authority to file legal actions in these kinds of tax cases. Many times we need to act quickly to ask for legal assistance when information comes to our attention, in order to protect the City's interest. We also want to avoid administrative delays by seeking this general authority from the City Council to collect delinquent personal property taxes when necessary. Delegating this authority greatly enhances our personal property collection efforts.

I have asked Corporation Counsel to prepare the necessary order for inclusion on the May 4th agenda.

O'Connell: jlr 04/13/15

Order 241-14/15
Tab 9 5-4-15

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 NON-UNION WAGE ADJUSTMENT

ORDERED, that a three percent (3%) wage increase effective July 5, 2015 is hereby approved for non-union employees and the non-union pay plan adjusted accordingly.

CITY OF PORTLAND, MAINE

MEMORANDUM

TO: Sheila Hill-Christian, Acting City Manager

FROM: Gina Tapp, Director of Human Resources

DATE: April 29, 2015

RE: FY16 Budget Order Re: Implementing Non-Union Wage Adjustment

Please have the attached Council Order accompany the FY16 budget. This item should be given a first reading on May 4, 2015 and a second reading on the May 18, 2015 meeting along with other budget related items.

ORDER APPROVING SALARY INCREASE FOR NON-UNION PERSONNEL

This Order authorizes the City Manager to make a 3% pay adjustment for all non-union employees effective July 5, 2015.

Each year, budgets permitting, the City of Portland increases the wages and salaries of non-union employees by an amount generally comparable to the amount given to employees covered by collective bargaining agreements.

This order will authorize the City Manager to increase the wages and salaries of non-union employees accordingly.

cc: Danielle West-Chuhta, Corporate Counsel
Jennifer Lodge, Budget Analyst

Order 242-14/15
Tab 10 5-4-15

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 DESIGNATING FISCAL YEAR 2016 FUNDS FOR SPECIFIC ISLAND SERVICES

ORDERED, that $40,000 from the Fiscal Year 2016 municipal budget is hereby designated to pay for the Peaks Island services specified in the attached list.

Voted and approved on 3/25/2015

Motion: The Peaks Island Council requests the Portland City Council to allocate the following funds to the **PIC FY 16** Parking and Transportation Fund in the amount of $40,000 in accordance with the following items:

Item A: The Peaks Island Council requests that the Portland City Manager allow the allocation of authorized PIC FY 16 funds to reimburse the Portland Police Department for the cost of establishing a Police Cadet on Peaks Island for the period for July 1 – Sept 18, 2015, for a one-season trial basis. The Cadet will be assigned a three day per week schedule, and will have a focus on the Island Avenue/Welch Street area. The Cadet will assist with congestion issues in and around the Peaks Island ferry landing. The total FY 16 cost of the cadet for the three-day per week schedule is $2475, of which $1500 is to be paid from PIC funds, with the remainder to come from pledges already made by island businesses and individuals; the amount is estimated to total over $975. The number of days the cadet works may be increased, as additional funds become available.

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item B: "Turning-10" or "Age-Gap Subsidy" The Peaks Island Council requests the City Manager or her designee to issue quarterly vouchers in the amount of $50 per voucher per student to the parents of children attending the Peaks Island Elementary School who attain the age of 10 years or older during the school year. Children who turn 10 years of age during the school year will be eligible for the vouchers only after attaining 10 years of age, and will only be eligible for vouchers not yet issued. Total cost allocated is $3,000 . *(3rd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item C: The Peaks Island Council requests the City Manager or her designee to transfer to the Portland School Department $4400 to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for Peaks Island public middle and high schools students to 12-month passes. *(3rd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item D: The Peaks Island Council requests the City Manager or her designee to expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for Island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed $2,000 . For the purposes of PIC transportation support, a college student shall be defined as a full-time island resident carrying a full-time course load at a Portland-area institution of higher education. *(1st year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item E: The Peaks Island Council requests the City Manager or her designee to issue vouchers in the amount of $84 per voucher per student to the parents of children attending private schools off-island. Criteria for determination of residency will be directed through the Island/Neighborhood Administrator's Office. Total cost allocated is $450 . *(2nd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item F: The Peaks Island Council requests the City Manager or her designee to expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase tickets for needs-based Peaks Island residents. To receive **Needs-Based tickets,** recipients must fit defined criteria developed by the Peaks Island Council; this is a continuation of the program funded in FY 14 and FY 15. The total is not to exceed $5,000. *(3rd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item G: The Peaks Island Council requests the City Manager or her designee to expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase bicycle tickets for a **summer bike ticket program** on Peaks Island. This program was approved last year and was very successful. The total is not to exceed $500 . *(3rd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item H: ITS: a.k.a., Island "Taxi" The Peaks Island Council requests the City Manager of her designee to provide an allocation of $15,000 to the **Island Transportation System** for continued support of the only transportation service available to residents. *(3rd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item I: The Peaks Island Council requests the City Manager of her designee to provide an allocation of $3,000 to **Peaks Island Tax & Energy Assistance (PITEA)** for the express purposes of assisting eligible island residents with heating costs. Applications for eligibility approved by Peaks Island Clergy, and monies are paid by PITEA directly to the fuel company. *(2nd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item J: The Peaks Island Council requests the City Manager or her designee to provide an allocation of $1,000 to the **Peaks Island Food Pantry** for the express purposes of assisting eligible island residents with basic food needs. The Food Pantry is associated with the Brackett Memorial Church, and Brackett Memorial Church will be the actual recipient of funds designated to the Food Pantry. *(2nd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Item K: The Peaks Island Council requests the City Manager of her designee to provide an allocation of $1,000 to the City of Portland Recreation Division as a contribution towards the establishment of a **Skateboard Park** on Peaks Island. *(2nd year)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Voted and approved on 3/25/2015

Item L: The Peaks Island Council requests the City Manager of her designee to provide an allocation of $3,150 to the Peaks Island Council for **Administrative Expenses.** *(All previous years.)*

_____ _____

Sheila Hill-Christian, Acting City Manager Date

Peaks Island Council
March 25, 2015

FY 2016 budget

Ferry tickets, passes, vouchers, loading control	
A. Cadet/Safety	1,500
B. Elementary school "turning 10"	3,000
C. Middle & High school passes	4,400
D. College students	2,000
E. Private school tickets	450
F. Needs-based tickets	5,000
G. Bicycle tickets	500
H. ITS ("The Taxi")	15,000
Other PI non-profits	
I. PITEA (for PIC, heating assistance only)	3,000
J. Food pantry	1,000
Parks and recreation	
K. Skateboard park	1,000
L. Administrative	3,150
Total	40,000

Grant Application from the Island Transportation System (ITS)

January 14, 2015

The Island Transportation System, an organization founded in 2008 by the Peaks Island Council, wants to thank The Peaks Island Council for considering our grant application of $15,000.
Details of our grant request and requested financial data are listed below.

Respectfully submitted:

Norman J. Proulx

President: Island Transportation System

2015 Funding Request Detail

• Vehicle Maintenance and Repairs.	2,300
• Operations Manager @ $50/week. 1. Maintain driver schedule. 2. Ensure vehicle maintenance, repairs, inspection, and licensing. 3. Oversee initial and renewal of drivers' licenses.	2,600
• Financial Manager @ $50/week.	2,600
• Senior Coupon Program. Provide 10 free rides/mo for seniors.	4,500
• Vehicle Replacement Fund.	3,000
	15,000

Island Transportation System
General Background

The Island Transportation System (ITS) was founded in 2008 by the Peaks Island Council with a start-up grant of $16,150. ITS thanks the Peaks Island Council for its ongoing support.

ITS maintains a necessary and viable service to islanders and visitors, and has become part of the fabric of island life by providing the following:

1. Seven day a week operation from 7:45am to 8:45pm with additional hours by reservation.
2. Senior Coupon and voucher programs to provide free service to the elderly, disabled and low income families.
3. Meals on Wheels delivery.
4. Free rides to and from the boat to visiting nurses.
5. Free rides to and from the boat for those using the Loretta Voyer Fund.
6. Free rides to and from the island voting polls.
7. Pick and delivery of groceries, pizza, luggage, and pets.
8. Transportation services to all parts of the island.
9. Battery operated jump starters.

As a 501c3 enterprise and with generous funding from the Peaks Island Council and the island community, ITS is able to maintain quality and charitable services. ITS, like the Metro Greater Portland Transit District, relies on fares, and public and private funding to provide a reasonable rate structure and to substantial charitable services to the elderly, handicapped, medical patients and low income residents.

Senior Coupon Program

The Senior Coupon Program currently provides 29 seniors with 10 rides per month. Seniors use coupons for rides to the boat, health center, store, community events, church, library, the backshore and basically any where they would like to go on island. Not every senior used all ten rides. Had they done so the monthly cost would be $890.

Below is a monthly breakdown of the cost of the program and the number of rides provided.

Month	Rides provided	Cost ***
JAN		
FEB*	72	240.00
MAR	67	217.00
APR	89	277.00
MAY	91	277.00
JUN	89	275.00
JUL	93	315.00
AUG	98	353.00
SEP**	83	351.00
OCT	92	278.00
NOV	104	316.00
DEC	101	323.00
Total	979	3,222.00

* Senior Coupon Program began in February.

** Funding of the Senior Coupon Program with the monies granted by PIC began in September.

*** Note that the cost per ride is based on a fare structure. Fares to zone one are $3.00 and fares to zone two are $5.00.

ISLAND TRANSPORTATION SYSTEM
PROFIT LOSS BUDGET OVERVIEW
JANUARY - DECEMBER 2015

Income		
Contributions/Fundrasing		
Peaks Island Council Request	12,000.00	Only $12,000 of the grant monies requested will be used in the operating fund. $3000 of the request will go the the Taxi Replacement Fund.
Raffle Income	1,100.00	
Indiv/business contribution/Fundraising	4,100.00	TEIA, LPA, Lions , misc
Total Contributions and Fundraising	17,200.00	
Operating Revenue		
Interest Income	6.00	
ITS Share of Taxi Revenue	11,236.50	10% increase
Total Operating Revenue	11,242.50	
Total Income	28,442.50	
Expense		
Business expenses		
Advertising	1,300.00	summer fund raiser
Government Fees	35.00	
Taxes - other	525.00	
Depreciation exp	3,347.16	
Gasoline	5,947.00	10% increase
Insurance, vehicle	4,465.00	
License	456.00	x 6 drivers
Supplies	120.00	
Telephone Expense	500.00	new plan, phone
Accounting fees	2,600.00	Financial Manager
Operations Manager	2,600.00	Operations Manager
Vehicle Expense	4,000.00	
Transportation Cost(Ferry)	172.00	
Vouchers	900.00	
Senior Coupon Program	4,500.00	
Total Expense	31,467.16	
Net Ordinary Income	(139.90)	
Cash flow effect (No Depreciation)	322.50	

PI COUNCIL TRANSPORTATION FUND USAGE SUMMARY

2014

Received (Deposit 08.19.14)	$	17,500.00	
Holding in new vehicle fund	$	3,000.00	
Using for Senior Coupon Program	$	5,000.00	using monthly as needed
Used thru 12.31.14	$	1,255.00	
Balance Sr. Cpn. Program :	$	3,745.00	
Using for Operations Manager	$	2,600.00	Using $50 per week
Used thru 12.31.14	$	1,050.00	
Balance Ops. Mgr. :	$	1,550.00	
Using for repair,maint, operating loss	$	7,200.00	
Used on REPAIR as of 12.31.14	$	2,352.00	
Balance Rpr, Mnt, Op. Loss :	$	4,848.00	

2013

Extra $$ Received (07.22.14)	$	3,000.00
Holding in new vehicle fund	$	3,000.00
Balance :	$	-
Received (Deposit 07.25.13)	$	20,000.00
Used for New Vehicle	$	20,000.00
	$	-

ISLAND TRANSPORTATION SYSTEM
OPERATING COSTS PROFIT & LOSS
PREVIOUS YEAR & BUDGET COMPARISONS
01.01.14 - 12.31.14

Income

	YTD 2014	YTD 2013	YTD DIFFERENCE	
Agency (government) Grants	$ 14,500.00	$ 5,800.00	$ 8,700.00	**
Corporate / Business Grants	$ -	$ -	$ -	
Foundation/trust Grants	$ -	$ -	$ -	
Raffle Income	$ 1,075.00	$ 2,570.00	$ (1,495.00)	
Individual / Business Contributions	$ 4,806.00	$ 5,670.00	$ (864.00)	*
Nonprofit Organization Grants	$ -	$ 1,316.00	$ (1,316.00)	
Donation - Cash	$ -	$ -	$ -	
Advertising Revenue	$ -	$ 960.00	$ (960.00)	
Interest Income	$ 7.72	$ 7.91	$ (0.19)	
ITS SHARE OF TAXI REVENUE	$ 10,460.70	$ 9,032.60	$ 1,428.10	
Total Income	**$ 30,849.42**	**$ 25,356.51**	**$ 5,492.91**	

Expense

Advertising Fees	$ 380.00	$ 279.06	$ 100.94
Government Fees	$ 35.00	$ 135.00	$ (100.00)
Taxes - Other	$ 524.74	$ 804.90	$ (280.16)
Depreciation Expense	$ 3,347.16	$ 1,944.60	$ 1,402.56
Gasoline	$ 5,627.94	$ 7,219.65	$ (1,591.71)
Gifts	$ -	$ 29.84	$ (29.84)
Vehicle Insurance	$ 4,465.00	$ 4,471.00	$ (6.00)
License	$ 925.00	$ 1,295.85	$ (370.85)
Other Expense	$ 26.00	$ 25.00	$ 1.00
Printing & Copying	$ -	$ -	$ -
Supplies	$ 182.34	$ 132.55	$ 49.79
Telephone	$ -	$ 41.95	$ (41.95)
Accounting Fees	$ 2,600.00	$ 3,900.00	$ (1,300.00)
Operations Manager Fees	$ 1,850.00	$ -	$ 1,850.00
Transportation	$ 146.20	$ 195.10	$ (48.90)
Vehicle Expense	$ 3,658.34	$ 3,059.45	$ 598.89
Vouchers Expense	$ 537.00	$ 41.00	$ 496.00
Vouchers Coupon Program	$ 2,871.00	$ -	$ 2,871.00
Total Expense	**$ 27,175.72**	**$ 23,574.95**	**$ 3,600.77**
Other Income/Expense			
Loss on Sale of Asset		$ 1,570.09	
Net Income	$ 3,670.70	$ 212.47	**$ 3,462.23**
(WITHOUT DEPRECIATION)	**$ 7,020.86**	**$ 2,156.07**	**$ 4,864.79**

PEAKS ISLAND TAX AND ENERGY ASSISTANCE
P O BOX 126
PEAKS ISLAND, MAINE 04108

Thank you very much for considering a line item in the Peaks Island Council budget for $3000 for Energy Assistance. When our small group began fundraising in 2005 for tax assistance we never thought we would be in existence in 2014 nor did we think we would be adding energy assistance to our mission. Energy assistance assures every resident, renter or homeowner, that help will be there if and when they need it. From July 1, 2012 to June 30, 2013 Energy Assistance received 30 applications and paid out $8284. Since July 1, 2013 we have processed 48 applications and paid out over $13,233 to energy providers and winter is not over yet. The extremely cold weather has made it difficult for some islanders and our assistance has proved to be a vital part of Island life.

Peaks Island Tax Assistance is a totally independent, non-profit group formed in 2005 to give assistance to our fellow island home owners, whose homes are their permanent residences, to remain in their homes despite recent extraordinary tax increases. The organization applied for and received 501(c)(3) tax exempt status in 2006. In 2007 Energy Assistance became part of our mission and our name became, Peaks Island Tax and Energy Assistance (PITEA). Our purpose is to confidentially give immediate monetary assistance for energy costs to Peaks Island Residents We have raised well over $80,000 and made property tax or energy assistance payments to either City of Portland for taxes or energy companies for energy assistance. Applications for Energy Assistance are given to our Clergy for their approval. PITEA will pay up to $400 to the appropriate energy provider Applicants may reapply at any time during the fiscal year. Islanders who do receive PROP or LIHEAP funding may apply to PITEA when their funding runs out. Our purpose is to give assistance on an as-needed basis. PITEA greatly appreciates the $3000 we received last year to help our neighbors.

Beyond the immediate benefit to those neighbors who will receive financial assistance with their taxes and/or energy costs, we believe that our committee's work will help to strengthen and stabilize the entire community by engaging hundreds of islanders in this cooperative effort. Further, we hope to lessen the possibility that any Island families will be forced from their homes. Many of these families and individuals are longtime islanders who have paid taxes to the city and contributed to the fabric of this community for generations. We also see our effort as a way to acknowledge and honor these islanders and their contributions. Finally, if our work is successful, it will help to maintain and encourage the social and economic diversity from which our community draws its greatest strength. Many islanders have generously contributed to our funds directly or through our fundraising events. PITEA has sponsored a variety of events including two summer dinners featuring Lobster rolls and donated items. The PITEA Board continues to plan fundraisers throughout the year. Our Loaf and Ladle Dinners, which are held almost monthly have been very successful and have added to the sense of community on Peaks. All of the food, paper goods, etc. have been donated by PITEA members so that the per person fees collected are deposited in the tax account or energy account, Our donors may specify that their donations will be used for tax assistance or energy assistance. Those who have given us matching funds through a corporate sponsor know their donations go to energy assistance. Non-profit accounts for Tax Assistance and for Energy Assistance have been established at Key Bank.

ORIGINAL PEAKS ISLAND TAX ASSISTANCE MISSION STATEMENT

From our By-Laws and 501(c)3 application

Peaks Island is a neighborhood of the City of Portland, Maine. The City of Portland conducted a property tax revaluation in 2004-05, which led to skyrocketing assessments for island property. Because Peaks Island is a community that values its diversity, concern was widespread that the tax increases would cause considerable stress for senior citizens and others living on fixed incomes, as well as the young families that keep our school filled with children. Peaks Island Tax Assistance (PITA) was formed in 2005 to serve as a pro-active, community-based response to this situation. PITEA's mission is to assist residents whose ability to remain part of our community is threatened by their inability to afford the property taxes. It works in collaboration with island clergy to direct available funds for the benefit of individuals and families in need. All tax assistance payments will be made directly to the City of Portland.

Cynthia Pedlikin, President

January 27, 2015

TO: Members of the Peaks Island Council
FROM: Susan Hanley, Peaks Island Community Food Pantry, Volunteer Coordinator

RE: Funding Request

Dear Members of the Peaks Island Council,

Thank you for considering the Peaks Island Food Pantry as a recipient of the Peaks Island Council budget funding. We are fortunate to live in a community that continues to provide tremendous support for our programs, and we are grateful for the $1000 that the PIC budgeted for the food pantry last year.

The Peaks Island Community Food Pantry is truly a community effort, with a history that goes back over 25 years. We are open to all and our volunteers are year-round islanders. Because of our sensitivities to privacy in a small island community, we do not require our clients to fill out qualifying paperwork to demonstrate need. We feel this would be an additional obstacle for our neighbors who could benefit from our programs and, it is our experience that our patrons are not abusing the benefits provided by the food pantry.

In fact, the food pantry is most often a stop-gap measure used by our island neighbors during times when they are struggling to make ends meet. Very often, these same people go on to make donations to the food pantry when they have found their financial footing. They are grateful for the help when they have needed it and willing to help their fellow islanders when they are able.

To date, we have been able to sustain ourselves with a combination of grants, fund-raisers, food drives and individual donations. We ran a very successful food drive at Hannigan's in the fall of 2014 and received many generous individual donations from islanders during the Christmas season. We also received a grant of $3500 from the Peaks Island Fund in 2014, although $2000 of that was earmarked towards developing ongoing fundraising tactics such as a website, and is not available for food purchases.

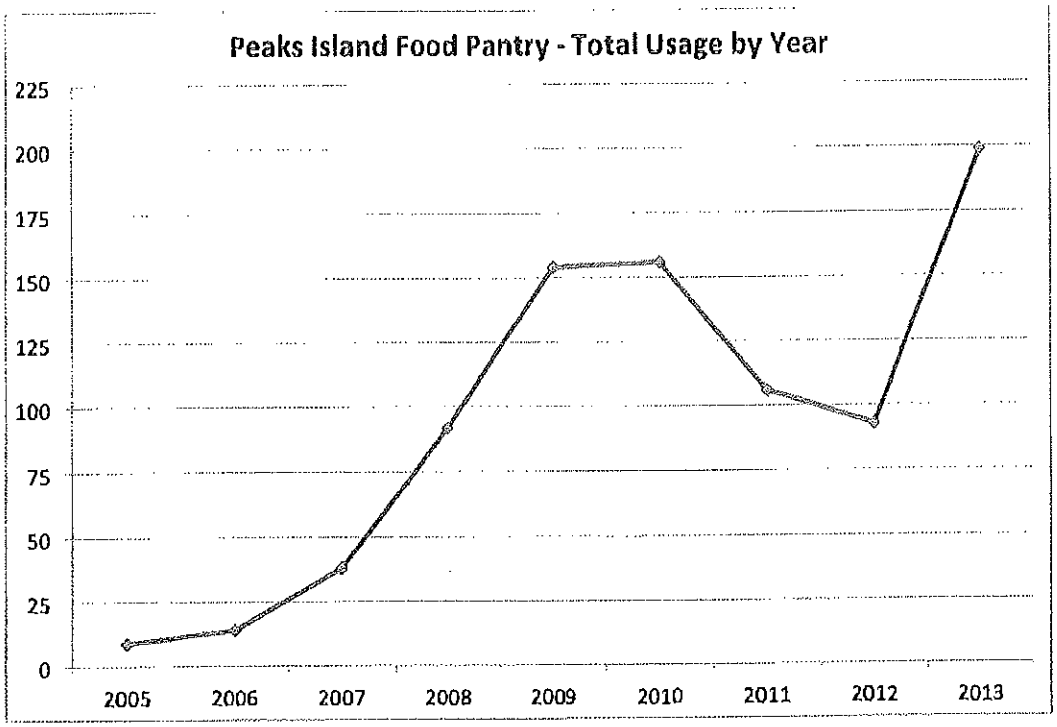
Usage of the food pantry spiked dramatically during 2014 – our usage rates doubled between 2012 and 2013, and then almost doubled AGAIN between 2013 and 2014. It was difficult to keep up with the demand, which led us to implement several changes to limit the monthly expenditure of the food pantry to $600. We reduced the opening times to just 1.5 hours per week, and imposed household limits of "1 bag, 1 voucher, 1 ticket" – one bag of groceries, one $20 Hannigan's voucher and one needs-based ticket per household per week.

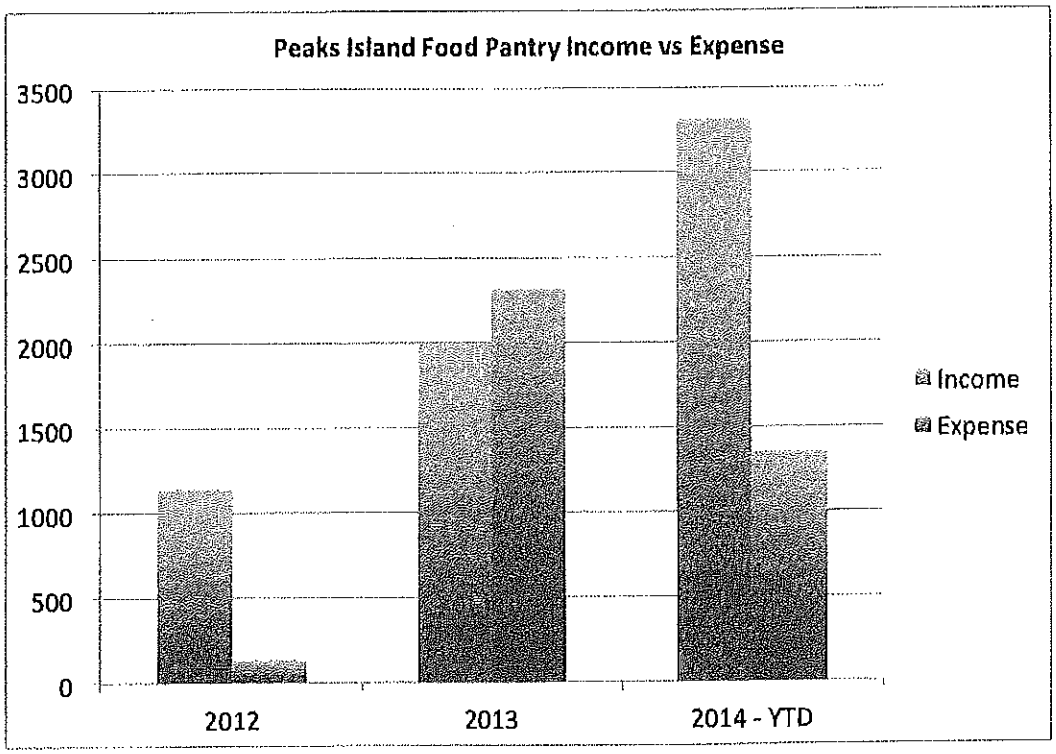
Of the almost $11,000 we received in grants and cash donations during 2014, we currently have just under $2900 available for future food purchases, which would keep the food pantry running for the next five months.

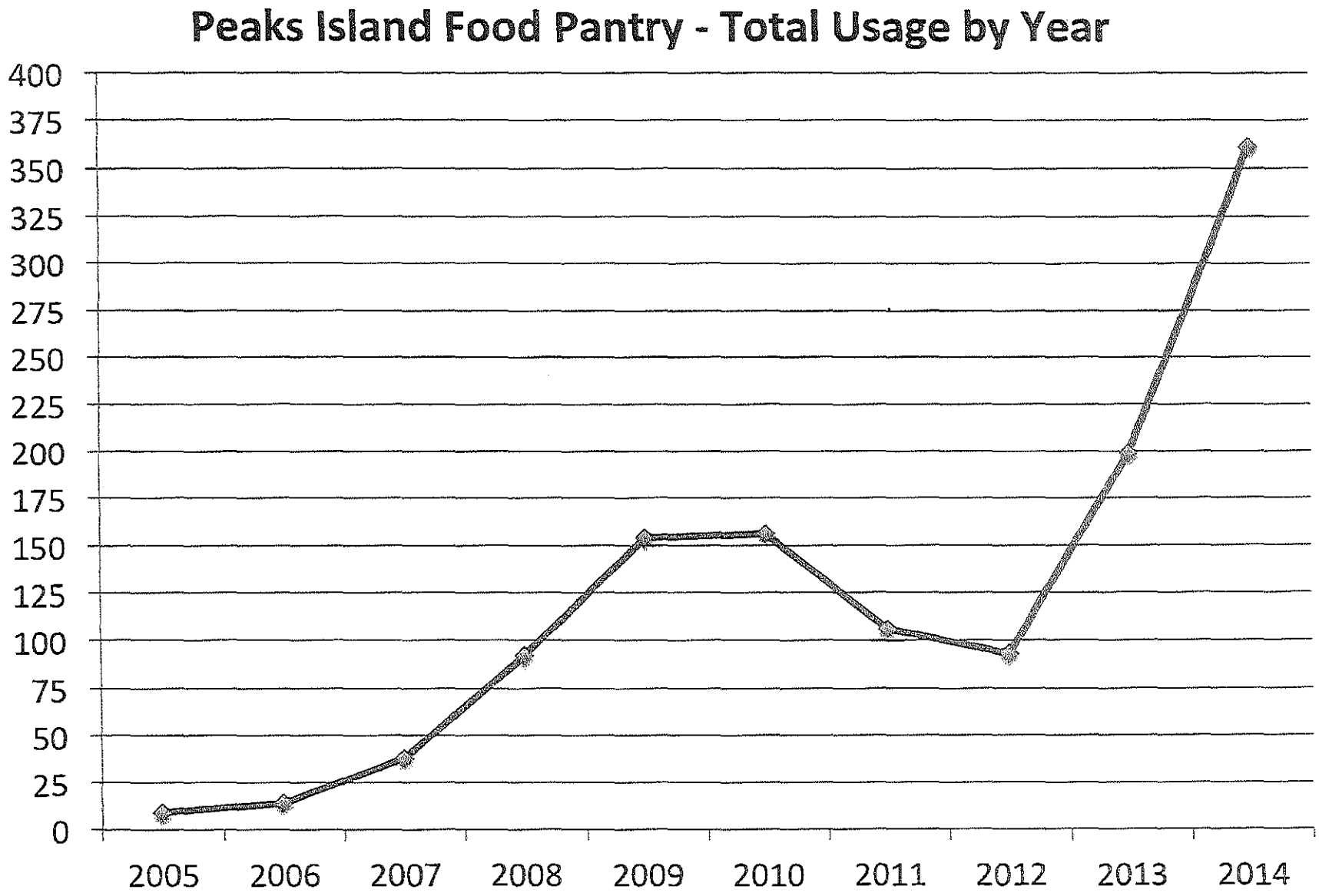
We would like to ask the Council Members to consider our funding request in the amount of $1000. I am attaching a few graphs that demonstrate the increase in demand for food assistance and a quick snapshot of our yearly income vs expenses.

On behalf of all the food pantry volunteers, thank you for your time and consideration.

Sincerely,
Susan Hanley


Peaks Island Food Pantry - Total Usage by Year
225
200
175
150
125
100
75
50
25
0
2005
2006
2007
2008
2009
2010
2011
2012
2013


Peaks Island Food Pantry Income vs Expense
3500
3000
2500
2000
1500
1000
500
0
2012
2013
2014 - YTD
Income
Expense


Peaks Island Food Pantry - Total Usage by Year
400
375
350
325
300
275
250
225
200
175
150
125
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25
0
2005
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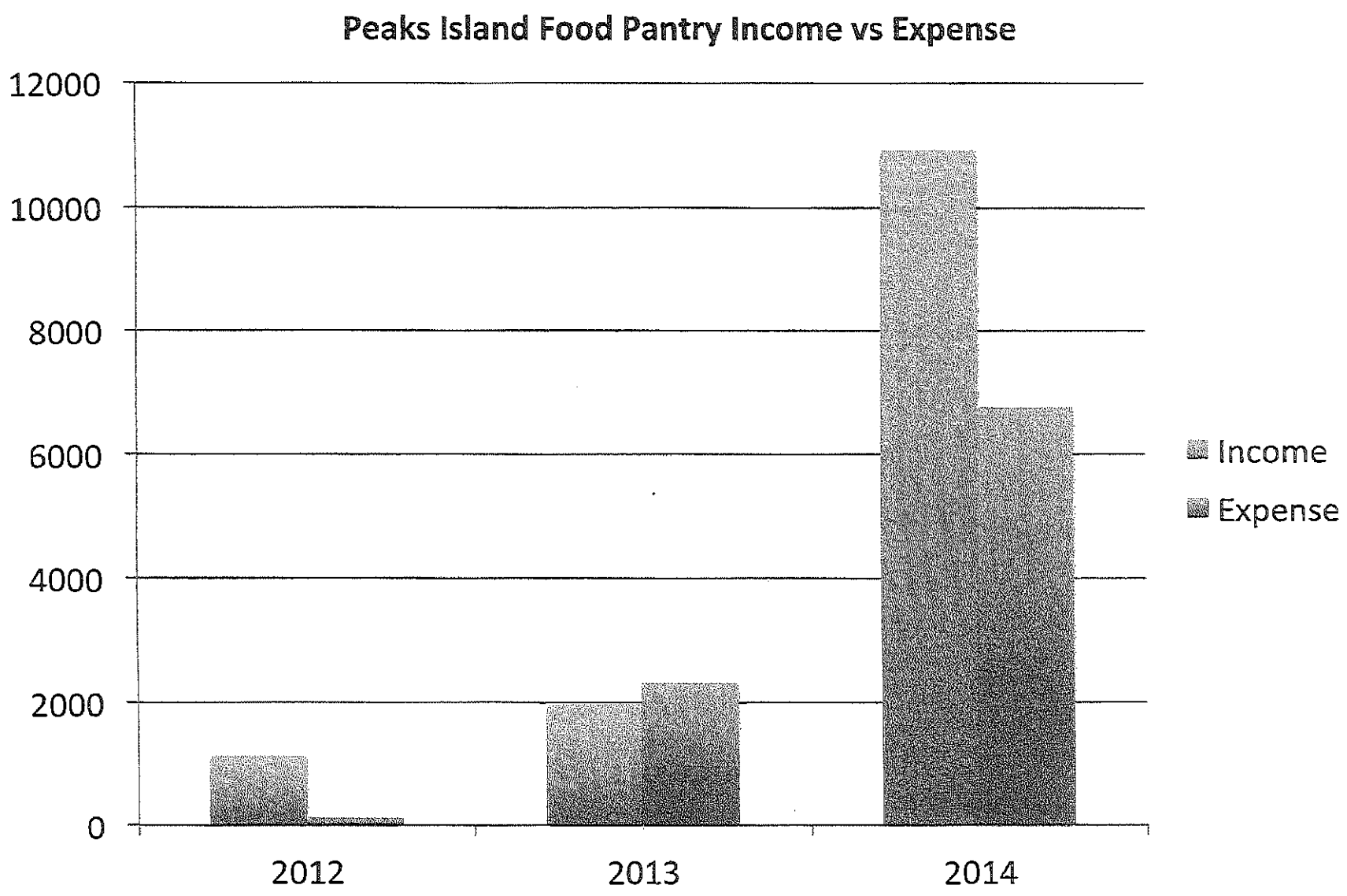
2007
2008
2009
2010
2011
2012
2013
2014


Peaks Island Food Pantry Income vs Expense
12000
10000
8000
6000
4000
2000
0
2012
2013
2014
Income
Expense

On Monday, January 12, 2015 2:17 PM, Chris Hoppin <choppin@aol.com> wrote:

Thanks for your notes, Mary Anne -
Last year's PIC money for the Skateboard Park
went into a Portland Recreation Fund with the
other money from the Peaks Island Lions' Club
and community funds from a fundraiser.
I understand this Fund is where funds remain until
they are actually used.
Our Skateboard Park Committee is still working
on the details of the park. We intend to start with
a sloping base measuring approximately 90 by 100 feet
whenever the PWD sewer contractor clears the area.
Our plans are still in development and we hope to
have them done in three stages. The first stage proposed
includes a 'peanut bowl' shaped area and has a cost in
the range of $40,000. That is, IF funds could be made
available.
We need to cost out the other two stages and agree to the
entire plan before we expend any funds and proceed.
I do plan to attend the PIC meeting January 14th and
hope to have more specific plans for that meeting.
Chris

C.J. Hoppin www.cjhoppin.com
196 Seashore Avenue 207 766-2593
Peaks Island, ME 04108

FY 2016 PIC Budget **July 1 2015 - June 30, 2016** 3/25/2015

(Note: Budget is to be submitted to the Finance Committee and the Portland City Council for approval by May 2015)

Category	2014	2015	2016	Comments re 2016 budget
Ferry tickets, passes, vouchers, loading control				
A. Cadet/Safety	-	-	1,500.00	Assume will be augmented by at least $975 in outside
B. Elementary school "Turning 10"	3,000	3,200	3,000	14 students turning 10 by June, 2015 will still be in ele
C. Middle & High School passes	4,865	5,000	4,400	53 summer extensions @ $82.45
D. College students	-	-	2,000	8 students w 3 monthly stickers @ $82.45
E. Private school tickets	-	300	450	3 high school @ $82.45 + 1 elementary @ 200
F. Needs-Based tickets	7,660	5,000	5,000	Had spent $2,875 of FY 2015 by 11/14/03
G. Bicycle tickets	475	500	500	Spent $475 in FY 2014
Droppesd in 2016 - Peaks Island Acade	1,500	1,000	-	
Total ferry-related	17,500	15,000	16,850	
H. ITS ("The Taxi")	20,000	17,500	15,000	ITS request; includes $3,000 for vehicle replacement f
Total direct transportation-related	37,500	32,500	31,850	
Other PI non-profits				
I. PITEA (for PIC, heating assistance only)		3,000	3,000	PITEA request, Pedikin, January 2015
J. Food pantry		1,000	1,000	Food Pantry request of 1/27/15
Parks and recreation				
K. Skateboard Park	-	1,000	1,000	Requested continued support to parks and rec fund at
L. Administrative				
Transcription			1,200	
PO Box			112	
Supplies, printing, copying			500	
Software			-	
Island coalition dues			200	

	Other			1,138	Unexpected contingencies; "rainy day fund"
	Total administrative	2,500	2,500	3,150	
Totals		40,000	40,000	40,000	

Order 243-14/15
Tab 11 5-4-15

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 FOR FISCAL YEAR 2016 APPROPRIATING $200,000 FROM EXCESS FUND FOR CASCO BAY ISLAND TRANSIT DISTRICT

ORDERED, that the City Council hereby authorizes and appropriates $200,000 from the Casco Bay Island Transit District Excess Fund pursuant to the lease agreement between the City of Portland and the Casco Bay Island Transit District to support the planning and design of a replacement vehicle.

From: Henry Berg <HankB@cascobaylines.com>
To: CAR@portlandmaine.gov; SMK@portlandmaine.gov
CC: Henry Berg <HankB@cascobaylines.com>
Date: 2/25/2015 12:55 PM
Subject: RE: CBITD request for Casco Bay Ferry Garage Excess Funds

Hi,

I just would like to make sure you received the request below that I sent and it is in the budgeting process.

Also, checking in on the status of the distribution of the FY2013 Garage Maintenance Fund.

Thanks.

n Hank
n

Hank Berg
General Manager
Casco Bay Lines
p: 207-774-7871 x103
f: 207-774-7875
e: hankb@cascobaylines.com<mailto:hankb@cascobaylines.com>

From: Henry Berg
Sent: Thursday, January 22, 2015 10:21 AM
To: 'Suzanne Knight'
Cc: Cathy Ricker; Henry Berg
Subject: CBITD request for Casco Bay Ferry Garage Excess Funds

Hi Suzanne & Cathy,

This is a request for the City of Portland to consider, during the annual budgeting process, providing local match funding of $200,000 from the Casco Bay Ferry Garage Excess fund to be used for a replacement vessel for one of oldest vessels in CBITD's fleet. Two vessels in the fleet will soon be 30 years old and one of them will need to be replaced in the next few years followed shortly by the replacement of the second vessel. This request is to support the planning and design of the first replacement vessel. It is anticipated the Federal Transit Administration (FTA) will provide the remaining $800,000 for this task. This capital improvement project is included in the approved CBITD Long Range Capital Improvement Plan and the Portland Area Comprehensive Transportation (PACTS) Transit Six Year Capital Plan.

As you know CBITD provides essential public transportation services to the Casco Bay Islands but unlike Metro, CBITD receives no subsidization from Portland with the exception of the Casco Bay Garage Maintenance fund, when available. Any assistance in the local match requirements of CBITD's capital grants is greatly appreciated and would help the District continue to provide existing services as well as expansion of the services.

Please do not hesitate to let me know if you have any questions or if you need this information in a different format.

Thank you in advance for your consideration of this request.

-- Hank

Hank Berg
General Manager
Casco Bay Lines
p: 207-774-7871 x103
f: 207-774-7875
e: hankb@cascobaylines.com<mailto:hankb@cascobaylines.com>

Order 244-14/15
Tab 12 5-4-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 5 (ANIMALS & FOWL)
ARTICLE VI. Keeping of Domesticated Chickens, SECTION 401(b)
RE: Chicken Permit Annual Fee

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

1. That Article IV., Chapter 5, section 401(b), is hereby amended to read as follows:

Sec. 5-401. Permit required.

(a) An annual permit is required for the keeping of any domesticated chickens. The annual permit is personal to the permittee and may not be assigned.

(b) The fee for an annual permit to keep chickens is twenty-~~five~~six dollars ($25~~5~~6.00).

(c) An applicant for a permit to keep chickens must demonstrate compliance with the criteria and standards in this Article in order to obtain a permit.

Portland, Maine Yes. Life's good here.

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

MEMORANDUM

TO: **Sheila Hill-Christian, Acting City Manager**
Jennifer Lodge, Budget Director

FROM: **Carolyn M. Dorr, Deputy City Clerk/PAO**

DATE: **March 11, 2015**

RE: **Proposed Fee Changes**

The City Clerk Office is requesting Ordinance section 5-401 (b), Chicken Permits: Annual Fee, be approved.

Since its passage in 2009 the annual fee for the keeping of domesticated chickens has never been raised. With the request to increase business license fees for FY16 an increase of $1.00 per annual permit is being proposed. This would generate an estimated additional $27.00 in revenue.

cc: Suzanne Knight
Katherine Jones

389 Congress Street, Portland, Maine 04101-3509 Ph (207)874-8677 Fx (207)874-8612 TTY 874-8936

FY16 REVENUE FEE SCHEDULE CHANGE

Department: 1200 City Clerk

Account #	Revenue Description	FY15 Current Fee	FY16 Proposed Fee
100-1200-322.00-00	Chapter 5 Sec.5-401 (b) Chicken Permits: (Annual Fee)	25.00	26.00

Projection:
Additional revenue generated with proposed increase
$27.00

*Revised: 03/24/15

Order 245-14/15
Tab 13 5-4-15

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)
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JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 10. FIRE PREVENTION AND PROTECTION
ARTICLE II - FIRE CODE, Section 10-18
Re: Fire Permit Fees

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

That Chapter 10, Article II, Section 10-18 (Amendments) of the City of Portland Code is hereby amended to read as follows:

Sec. 10-18. Amendments.

The Fire Prevention Code adopted by section 10-16 is amended, modified and deleted in the following respects:

(a) Section 1.10 (Board of Appeals); *delete.*

(b) In addition to the requirements of 18.2.3.4, fire department access roads shall comply with the standards set forth in the *City of Portland's Technical and Design Standards and Guidelines, Chapter IV (Public Safety Standards).*

(c) Section 1.12.7 is amended to read as follows:

"All applications for a permit required by the Fire and Life Safety codes shall be filed electronically with the authority having jurisdiction in such form and detail as it shall prescribe. Applications for permits shall be accompanied by such plans in an approved electronic format as required by the authority having jurisdiction. In addition to the foregoing, the following must be submitted to the authority having jurisdiction prior to the issuance of the permit: state license and proof of insurance for blasting permits or fireworks permits; and documentation of code-specific fire inspection for any required permit.

"In addition to the permits required by the Life Safety Code, the authority having jurisdiction shall have the authority to issue permits for any of the activities identified in Tables 1.12.7(a),(b), (c) and (d) and the operations listed below. Permits for the following shall be required:

Permit	**Fire Prevention Code Section**	**Permit Fee**
Application for Flammable Finishes	1.12.7	$~~160.00~~166.00 (D)
Bulk Waste Storage	1.12.7	$~~160.00~~166.00 (D)
Certificate of Fitness for Fire Alarm Service and Installation Company	1.12.7	$250.00 each
Cutting and Welding (Permanent Facilities)	1.12.7	$~~60.00~~62.00 (D)
Dry Cleaning Plants	1.12.7	$~~60.00~~62.00 (D)
Fire Alarm Inspections Sticker	1.12.7	$20.00 each
Fireworks Display	1.12.7	$141.00**
Flammable or combustible liquids, other than motor fuel dispensing	1.12.7	$~~160.00~~166.00*(D)
Hazardous materials	1.12.7	$~~60.00~~62.00 (D)
Hot work (Temporary)	1.12.7	$25.00
Motor Fuel Dispensing and Refueling	1.12.7	$~~160.00~~166.00 (D)

Special Type Dispensing Systems, other than Flammable or Combustible Liquids	1.12.7	$~~160.00~~166.00 (A) (D)
Repair Garages and Service Stations	1.12.7	$~~160.00~~166.00 (D)
Woodworking and Lumber Storage Plants	1.12.7	$~~100.00~~104.00 (D)

(A) License from city clerk required, see: Private and Special Laws of 1917, Chapter 160.

(B) Imposed by state statutes.

(C) Building permit required.

(D) Application and license issued through City Clerk's office after Fire Department review.

**Equal to fee charged by state

...

Portland, Maine Yes. Life's good here.

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

MEMORANDUM

TO: **Sheila Hill-Christian, Acting City Manager**
Jennifer Lodge, Budget Director

FROM: **Carolyn M. Dorr, Deputy City Clerk/PAO**

DATE: **March 11, 2015**

RE: **Proposed Fee Changes**

The City Clerk Office is requesting Ordinance section 10-18 (c), Fire Permit Fees, be approved.

Fees pertaining to the issuance of various fire permits have not been increased since FY11. In keeping with our revenue strategy to raise fees every five years a 4% fee increase for FY16 is being proposed. This would generate an estimated additional $1,604.00 in revenue.

cc: Suzanne Knight
Katherine Jones

389 Congress Street, Portland, Maine 04101-3509 Ph (207)874-8677 Fx (207)874-8612 TTY 874-8936

FY16 REVENUE FEE SCHEDULE CHANGE

Department: 1200 City Clerk

Account #	Revenue Description	FY15 Current Fee	FY16 Proposed Fee
100-1200-322.00-00			
	Chapter 10 Sec.10-18 (c) Fire Permits:		
	Application For Flammable Finishes	160.00	166.00
	Bulk Waste Storage	160.00	166.00
	Certificate of Fitness for Fire Alarm Install (each)*	250.00	250.00
	Cutting & Welding (Perm Facilities)	60.00	62.00
	Dry Cleaning Plants	60.00	62.00
	Fire Alarm Inspectiontions Sticker (each)*	20.00	20.00
	Fireworks Display*	141.00	141.00
	Flammable/Combust Liq (Excl Motor)	160.00	166.00
	Hazardous Materials	60.00	62.00
	Hot Work(temporary)	25.00	25.00
	Motor Fuel Dispense/Refueling	160.00	166.00
	Spec'l Dispense (Excl Flame Liq)	160.00	166.00
	Repair Garage/Svc Stations	160.00	166.00
	Woodworking & Lumber Storage Plants	100.00	104.00

* Fire Department Issued

Projection:
Additional revenne generated with proposed increase
$1,604.00

*Revised: 03/24/15

Order 246-14/15
Tab 14 5-4-15

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)
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JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 15 (LICENSES AND PERMITS*),
ARTICLE I SECTION 15-12 RE: FEES AND REORGANIZATION

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

1. *That Section 15-12 of the Portland City Code is hereby amended to read as follows:*

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
Ch. 3, Art. II	Bottle clubs (must obtain FSE and special entertainment if applicable)	$~~860.00~~895.00	June 30
Ch. 4, Art. II	Amusement devices:		
	Amusement devices (other than pinball and adult amusements), per device	$~~140.00~~146.00	Twelve months or concurrent with state liquor license or with any city license

Location in Code	Description	Fee	Expiration Date
	Pinball machines, per device	$~~140.00~~146.00	Twelve months or concurrent with state liquor license or with any city license
	Adult amusement devices, per location	$~~895.00~~931.00	Twelve months or concurrent with state liquor license or with any city license
Ch. 4, Art. III	Music, dancing and special entertainment:		
	Entertainment with dancing	$~~485.00~~504.00	Twelve months or concurrent with state liquor license or with any city license
	Entertainment without dancing	$~~270.00~~281.00	Twelve months or concurrent with state liquor license or with any city license

Location in Code	Description	Fee	Expiration Date
	After-hours Entertainment	$~~545.00~~567.00	Twelve months Or concurrent with state liquor license or with any city license
	Dance hall	$~~135.00~~140.00	June 30
	Concert hall	$~~135.00~~140.00	June 30
	Single dance	$~~35.00~~36.00	Per dance
	Single concert	$~~35.00~~36.00	Per concert
~~Ch. 3, Art. II~~	~~Bottle clubs (must obtain FSE and special entertainment if applicable)~~	~~$860.00~~	~~June 30~~
Ch. 4, Art. IV	Gaming:		
	Beano	$~~95.00~~99.00	December 31
	Games of chance (application fee pursuant to section 15-6 only)		
Ch. 4, Art. V	Nudity in licensed businesses	$~~1,350.00~~1,404.00	June 30
~~Ch. 23, Art. II~~	~~Flea market seller~~	~~$20.00~~	~~Last day of February~~

Location in Code	Description	Fee	Expiration Date
Ch. 11, Art. II	Food service establishments (FSE):		
	Temporary FSE:		
	Reinspection fee for FSE	$75.00 per reinspection	
	a. Unopened prepackaged food	$~~85.00~~89.00	Three months
	b. Opened or nonprepackaged food	$~~85.00~~89.00	Per event not to exceed two weeks
	Mobile FSE (Chapter 19) a. pushcarts	$~~295.00~~307.00	March 31
	b. Food Trucks	$~~500.00~~520.00	March 31
	c. Base station (for all mobile FSE)	$~~110.00~~114.00	March 31
	Street vendor cooler storage space - maximum of 7 sq. ft.	$~~35.00~~ 36.00 per 3.5 sq. ft. of space	March 31
	FSE-No food preparation on premises	$~~165.00~~172.00	January 31
	FSE-With preparation limited to hot beverages only	$135.00	January 31
	FSE-With beer and wine take out	$~~380.00~~395.00	January 31
	FSE/Community Kitchen - Food preparation on premises	$~~420.00~~437	January 31

Location in Code	Description	Fee	Expiration Date
	FSE Community Kitchen User	$~~100.00~~104.00	January 31
	FSE's with liquor:		
	FSE-Class A lounge (Class X)	$~~2,540.00~~2,642.00	Concurrent with state liquor license
	FSE-Class A restaurant (Class I)	$~~1,715.00~~1,784.00	Concurrent with state liquor license
	FSE-Hotel (Class IA)		
	FSE-Class A restaurant/lounge (Class XI)	$~~2,130.00~~2,215.00	Concurrent with state liquor license
	FSE-Qualified catering service (Class I)	$~~1,715.00~~1,784.00	Concurrent with state liquor license
	Innholder-15 rooms or less	$~~1,315.00~~1,368.00	Concurrent with state liquor license
	Innholder-16 to 40 rooms	$~~1,765.00~~1,836.00	Concurrent with state liquor license

Location in Code	Description	Fee	Expiration Date
	Innholder-more than 40 rooms	$~~2,050.00~~2,132.00	Concurrent with state liquor license
	FSE-Spirituous license (Class II)	$~~560.00~~582.00	Concurrent with state liquor license
	FSE-Vinous license (Class III)	$~~375.00~~390.00	Concurrent with state liquor license
	FSE-Malt license (Class IV)	$~~755.00~~785.00	Concurrent with state liquor license
	FSE-Malt and vinous license (Classes III and IV combined)	$~~830.00~~863.00	Concurrent with state liquor license
	FSE-Nonprofit club (Class IV with catering or Class V without catering)	$~~675.00~~702.00	Concurrent with state liquor license
	FSE-Liquor catering	$~~30.00~~31.00	Per event
	FSE-Temporary (bona fide nonprofit organization) with any spirituous, vinous or malt license and special entertainment	$~~60.00~~62.00	Per 2-day period

Location in Code	Description	Fee	Expiration Date
	FSE-Auditorium	$~~535.00~~556.00	Concurrent with State Liquor License
	FSE-Civic Auditorium	$~~1,695.00~~1,763	Concurrent with State Liquor License
Ch. 12, Art. VII	Operation of rendering facilities	250.00	September 30
Ch. 16	Massage establishment	$~~60.00~~62.00	September 30
	Combined massage establishment/massage therapist	$~~50.00~~52.00	
	Massage therapist	$~~35.00~~36.00	
	Conditional massage therapist	$~~35.00~~36.00	
Ch. 19, Art. II	Night Street Vendor (must also obtain FSE and street vendor)	$~~200.00~~208.00	
Ch. 19, Art. III	Transient sellers	$~~100.00~~104.00	December 31
Ch. 23, Art. II	Flea market seller	$~~20.00~~21.00	Last day of February
	Flea market Operator	$~~50.00~~52.00 $~~225.00~~234.00	Per day Annual/March 1st
	Secondhand dealer, junk dealer, pawnbroker[1] (including used cars)	$~~140.00~~146.00	December 31

1 Reflects city practice for junk dealers and pawnbrokers.

Location in Code	Description	Fee	Expiration Date
	Junk collector	$25.00	December 31
~~Ch. 4, Art. IV~~	~~Gaming:~~		
	~~Beano~~	~~95.00~~	~~December 31~~
	~~Games of chance (application fee pursuant to section 15-6 only)~~		
~~Ch. 30, Art. III~~	~~Bicycle cabs~~	~~100.00, plus 20.00 per driver~~	~~January 31~~
~~Ch. 30, Art. III~~	~~Horse-drawn cabs~~	~~200.00, plus 20.00 per driver~~	~~April 30~~
~~Ch. 16~~	~~Massage establishment~~	~~60.00~~	~~September 30~~
	~~Combined massage establishment/massage therapist~~	~~50.00~~	
	~~Massage therapist~~	~~35.00~~	
	~~Conditional massage therapist~~	~~35.00~~	
~~Ch. 4, Art. III~~	~~Music, dancing and special entertainment:~~		
	~~Entertainment with dancing~~	~~485.00~~	~~Twelve months or concurrent with state liquor license or with any city license~~

Location in Code	Description	Fee	Expiration Date
	~~Entertainment without dancing~~	~~270.00~~	~~Twelve months or concurrent with state liquor license or with any city license~~
	~~After-hours Entertainment~~	~~545.00~~	~~Twelve months Or concurrent with state liquor license or with any city license~~
	~~Dance hall~~	~~135.00~~	~~June 30~~
	~~Concert hall~~	~~135.00~~	~~June 30~~
	~~Single dance~~	~~35.00~~	~~Per dance~~
	~~Single concert~~	~~35.00~~	~~Per concert~~
~~Ch. 19, Art. II~~	~~Night Street Vendor (must also obtain FSE and street vendor)~~	~~$200.00~~	~~--~~
~~Ch. 4, Art. V~~	~~Nudity in licensed businesses~~	~~1,350.00~~	~~June 30~~
~~Ch. 12, Art. VII~~	~~Operation of rendering facilities~~	~~250.00~~	~~September 30~~
~~Ch. 10, Art. VI~~	~~Sidewalk tanks and pumps~~	~~25.00~~	~~December 31~~
~~Ch. 23, Art. II~~	~~Secondhand goods:~~		

Location in Code	Description	Fee	Expiration Date
	~~Junk collector~~	~~25.00~~	~~December 31~~
	~~Secondhand dealer, junk dealer, pawnbroker[2] (including used cars)~~	~~140.00~~	~~December 31~~
	~~Flea market Operator~~	~~50.00~~ ~~225.00~~	~~Per day~~ ~~Annual/March 1st~~
Ch. 28, Art. VII	Valet Parking	$~~250.00~~260.00 ~~pe~~ location	Twelve months
	Valet Parking Special Event Permit	$~~50.00~~52.00	
Ch. 28, Art. VIII	Wreckers and vehicle towing	$~~255.00~~265.00	June 30
Ch. 30, Art. II	Taxicabs and liveries:		
	Taxicab business license	300.00	April 30
	Livery business license	300.00	April 30
	Taxicab driver's license	75.00	April 30
	Taxi Replacement license	10.00	
	Livery driver's license	20.00	April 30
	Livery replacement license	10.00	

~~2 Reflects city practice for junk dealers and pawnbrokers.~~

Location in Code	Description	Fee	Expiration Date
Ch. 30, Art. III	Bicycle cabs	100.00, plus 20.00 per driver	January 31
Ch. 30, Art. III	Horse-drawn cabs	200.00, plus 20.00 per driver	April 30
~~Ch. 19, Art. III~~	~~Transient sellers~~	~~100.00~~	~~December 31~~
~~Ch. 28, Art. VII~~	~~Valet Parking~~	~~$250.00 per location~~	~~Twelve months~~
	~~Valet Parking Special Event Permit~~	~~$50.00~~	
~~Ch. 28, Art. VIII~~	~~Wreckers and vehicle towing~~	~~255.00~~	~~June 30~~

(b) Fees for licenses to be established by the city pursuant to state law shall be as follows:

Description	Fee	Expiration Date
Amusements, including images; pageantry; sleight of hand tricks; puppet shows; feats of balancing; wire dancing; personal agility; or dexterity	$~~20.00~~21.00	Per day
Billiards or pool, per table	$~~30.00~~31.00	Twelve months or concurrent with state liquor license or with any city license

Bowling alley, per establishment	$~~85.00~~88.00	April 30
Carnival (travelling amusement show)	$~~110.00~~114.00	Per day
Circus	$~~165.00~~172.00	Per day
Circus (bona fide nonprofit organization)	$26.00~~25.00~~	Per day
Going-out-of-business sale	$~~95.00~~99.00	--
Menageries	$~~20.00~~21.00	Per day
Merry-go-round or other rides, per type of ride	$~~60.00~~62.00	Per day
Merry-go-round or other rides, per type of ride	$~~235.00~~244.00	December 31
Motion picture theatres (other than open-air drive-in) operating more than six (6) months:		
Seating capacity 999 or less, per screen	$~~270.00~~281.00	June 30
Seating capacity 1,000 or more, per screen	$~~445.00~~463.00	June 30
Temporary--One (1) week or less	$~~30.00~~31.00	One week
Temporary--More than one (1) week but less than two (2) months	$~~45.00~~47.00	Two months
Temporary--More than two (2) months but less than six (6) months	$~~70.00~~73.00	Six months
Roller skating rink	$~~150.00~~156	June 30

BE IT FURTHER ORDERED, that these fees shall be effective on July 1, 2015 unless otherwise noted.

Description	Current Fee	Proposed Fee
Bottle clubs (must obtain FSE and special entertainment if applicable) (Chapter 3 Art. II):	$860	$895.00
Amusement devices (Chapter 4 Art. II):		
Amusement devices (other than pinball and adult amusements), per device	$140	$146.00
Pinball machines, per device	$140	$146.00
Adult amusement devices, per location	$895	$931.00
Music, dancing and special entertainment (Chapter 4 Art. III):		
Entertainment with dancing	$485	$504.00
Entertainment without dancing	$270	$281.00
After-hours Entertainment	$545	$567.00
Dance hall	$135	$140.00
Concert hall	$135	$140.00
Single dance	$35	$36.00
Single concert	$35	$36.00
Gaming (Chapter 4 Art. IV):		
Beano	$95	$99.00
Nudity in licensed businesses (Chapter 4 Art. V):	$1,350	$1,404.00
Food service establishments (FSE) (Chapter 11 Art. II):		
Temporary FSE:		
Reinspection fee for FSE	$75	$75.00 per reinspection
a. Unopened prepackaged food	$85	$89.00
b. Opened or nonprepackaged food	$85	$89.00
Mobile FSE (Chapter 19): a. pushcarts	$295	$307.00
b. Food Trucks	$500	$520.00
c. Base station (for all mobile FSE)	$110	$114.00
Street vendor cooler storage space – maximum of 7 sq. ft	$35 per 3.5 sq. ft of space	$36.00 per 3.5 sq. ft. of space
FSE-No food preparation on premises	$165	$172.00
FSE-With preparation limited to hot beverages only	$135	$135.00
FSE-With beer and wine take out	$380	$395.00
FSE/Community Kitchen - Food preparation on premises	$420	$437
FSE Community Kitchen User	$100	$104.00
FSE's with liquor:		
FSE-Class A lounge (Class X)	$2,540	$2,642.00
FSE-Class A restaurant (Class I)	$1,715	$1,784.00
FSE-Hotel (Class IA):		

Description	Current Fee	Proposed Fee
FSE-Class A restaurant/lounge (Class XI)	$2,130	$2,215.00
FSE-Qualified catering service (Class I)	$1,715	$1,784.00
Innholder-15 rooms or less	$1,315	$1,368.00
Innholder-16 to 40 rooms	$1,765	$1,836.00
Innholder-more than 40 rooms	$2,050	$2,132.00
FSE-Spirituous license (Class II)	$560	$582.00
FSE-Vinous license (Class III)	$375	$390.00
FSE-Malt license (Class IV)	$755	$785.00
FSE-Malt and vinous license (Classes III and IV combined)	$830	$863.00
FSE-Nonprofit club (Class IV with catering or Class V without catering)	$675	$702.00
FSE-Liquor catering	$30	$31.00
FSE-Temporary (bona fide nonprofit organization) with any spirituous, vinous or malt license and special entertainment	$60	$62.00
FSE-Auditorium	$535	$556.00
FSE-Civic Auditorium	$1,695	$1,763
Massage Establishments (Chapter 16):		
Massage establishment	$60	$62.00
Combined massage establishment/massage therapist	$50	$52.00
Massage therapist	$35	$36.00
Conditional massage therapist	$35	$36.00
Night Street Vendor (must also obtain FSE and street vendor) (Chapter 19 Art. II):	$200	$208.00
Transient sellers (Chapter 19 Art. III):	$100	$104.00
Secondhand Goods (Chapter 23 Art. II):		
Flea market seller	$20	$21.00
Flea Markets (per day) Operator (annual)	$50 $225	$52.00 $234.00
Secondhand dealer, junk dealer, pawnbroker (including used cars)	$140	$146.00
Junk collector	$25	$25.00
Valet Parking (Chapter 28, Article VII)	$250.00	$260.00
Valet Parking Special Event	$50.00	$52.00
Wreckers and Vehicle Towing (Chapter 28 Art. VIII):	$255	$265.00

FY16 REVENUE FEE SCHEDULE CHANGE

Department: 1200 City Clerk

Account #	Revenue Description	FY15 Current Fee	FY16 Proposed Fee
100-1200-322.00-00			
	Chapter 15 Sec.15-12 (a) & (b) Fees:		
	Bottle Clubs	860.00	895.00
	Amusement Devices(other than pinball/adult amusements)	140.00	146.00
	Adult Amusement Devices/Establishment	895.00	931.00
	Pinball Machines	140.00	146.00
	Entertainment W/Out Dance	270.00	281.00
	Entertainment With Dance	485.00	504.00
	After Hours Entertainment	545.00	567.00
	Dance Hall/ Concert Hall	135.00	140.00
	Concert / Dance (Single)	35.00	36.00
	Beano	95.00	99.00
	Nude Activity	1,350.00	1,404.00
	FSE Temp Food Service Permit	85.00	89.00
	Pushcart	295.00	307.00
	Food Truck	500.00	520.00
	Base Station	110.00	114.00
	Pushcart-Cooler Storage	35.00	36.00
	Night Vendor	*200.00	208.00
	Transient Sales	100.00	104.00
	FSE W/Out Prep	165.00	172.00
	FSE W/Prep	420.00	437.00
	Beer/Wine Takeout	380.00	395.00
	Community Kitchen	420.00	437.00
	Community Kitchen User(Fee included with FSE)	100.00	104.00
	Class A Lounge	2,540.00	2,642.00
	Class I FSE	1,715.00	1,784.00
	Class I-A FSE Inn 0-15	1,315.00	1,368.00
	Class I-A FSE Inn 16-40	1,765.00	1,836.00
	Class I-A FSE Inn 41+	2,050.00	2,132.00
	Class II FSE (Spirits)	560.00	582.00
	Class III & IV (Beer&Wine)	830.00	863.00
	Class III FSE (Wine Only)	375.00	390.00
	Class IV FSE (Beer)	755.00	785.00
	Class IV/V Non-Profit	675.00	702.00
	Class XI Rest / Lounge	2,130.00	2,215.00
	Liquor Catering Permit Off Premises	30.00	31.00
	Non-profit 2-day Liquor Permit	60.00	62.00
	FSE Auditorium	535.00	556.00
	FSE Civic Auditorium	1,695.00	1,763.00
	Massage Establishment	60.00	62.00
	Massage Estab / Therapst	50.00	52.00

*Revised: 03/24/15

FY16 REVENUE FEE SCHEDULE CHANGE

Department: 1200 City Clerk

Account #	Revenue Description	FY15 Current Fee	FY16 Proposed Fee
100-1200-322.00-00			
	Chapter 15 Sec.15-12 Fees:		
Cont. from previous page....			
	Massage Therapist	35.00	36.00
	Second Hand Dealer	140.00	146.00
	Flea Market Seller	20.00	21.00
	Flea Market Operator (Annual)	225.00	234.00
	Flea Market Operator (per Day)	50.00	52.00
	Towing Company	255.00	265.00
	Valet Parking per location	250.00	260.00
	Valet Parking special event fee	50.00	52.00
	Operation of Rendering Facility	250.00	260.00
	Amusements (per Day)	20.00	21.00
	Pool Tables (Non-Mechanical	30.00	31.00
	Bowling Alley	85.00	88.00
	Carnival Per Day	110.00	114.00
	Circus Per Day Profit	165.00	172.00
	Circus Per Day Non-Profit	25.00	26.00
	Merry-Go-Round Per Day	60.00	62.00
	Merry-Go-Round (Annual)	235.00	244.00
	Menageries	20.00	21.00
	Theatre Less Than 999	270.00	281.00
	Theatre Greater Than 999	445.00	463.00
	Temp. Theatre 1 week or less	30.00	31.00
	Temp. Theatre less than 2 months	45.00	47.00
	Temp. Theatre 2-6 months	70.00	73.00
	Skating (Roller Rink)	150.00	156.00
	Closing Out Sale	95.00	99.00

jection: Additional revenue generated with proposed increase
$[illegible],810

*Revised: 4/29/2015

Order 247-14/15
Tab 15 5-4-15

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 PORTLAND CITY CODE
CHAPTER 25, ARTICLE II. DIVISION 2. PERMITS
Re: Street and Sidewalk Occupancy Permit

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

That Chapter 25, Article II, Section 25-27 of the Portland City Code is hereby amended by adding a new section as follows:

Sec. 25-27. Fees.

(a) The following fees are hereby established for the issuance of a revocable street and sidewalk occupancy permit:

(1) Objects other than portable signs, including but not limited to tables, chairs, barricades and bollards, eighty-~~five~~eight dollars ($~~85~~88.00) for one (1) fiscal year or any portion thereof;

(2) Portable signs, twenty-five dollars ($25.00) plus twenty cents ($0.20) per square foot of signage. Square footage is calculated pursuant to section 14-369(b) of the land use ordinance. Permits remain valid until there is a change:

a. In the sign dimensions; or

b. In the use, lessee or ownership of the business causing a change in the business name, design or dimensions.

(3) Vehicles, equipment, or construction materials, fifteen dollars ($15.00) per day or any portion thereof;

(4) Use of city property (including but not limited to festivals, events, promotions, demonstrations, parades, marches, road races, walkathons, fundraisers,

press conferences, rallies, protests, sampling, poll taking, banners and public displays), fee as provided by annual order of the city council;

(5) Use of streets, ways or public places by street goods vendors as defined in Section 19-16 for purposes of vending, thirty~~-five~~six dollars ($~~35~~36.00) per day or any portion thereof;

(6) Permit to Portland's Downtown District or similar organization/business to hold events on not less than twenty-four (24) hours' notice to the city manager, within area or areas designated in permit, one hundred dollars ($100.00) per fiscal year or any portion thereof;

(7) Location of dumpster on city-owned property, except as part of a street festival or other special event declared by the city council, two hundred twenty-five dollars ($225.00) per fiscal year or any portion thereof.

(b) The following fees are hereby established for the issuance of a revocable outdoor dining permit:

(1) Outdoor dining on streets, sidewalks or other public ways, eighty dollars ($80.00) plus two dollars ($2.00) per square foot of dining area per fiscal year or any portion thereof.

(2) Outdoor dining in parks, eighty dollars ($80.00) plus six dollars ($6.00) per square foot of dining area per fiscal year or any portion thereof. 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. For the purposes of this section, the area abutting the buildings which border Monument Square and extending ten (10) feet from the façade of said buildings shall be considered a sidewalk. The ten (10) foot area shall be measured from that portion of the façade that protrudes furthest into the sidewalk. The area beyond the ten (10) foot sidewalk shall be considered park space.

BE IT FURTHER ORDERED, that these fees shall be effective on July 1, 2015 unless otherwise noted.

Portland, Maine Yes. Life's good here.

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

MEMORANDUM

TO: **Sheila Hill-Christian, Acting City Manager**
Jennifer Lodge, Budget Director

FROM: **Carolyn M. Dorr, Deputy City Clerk/PAO**

DATE: **March 11, 2015**

RE: **Proposed Fee Changes**

The City Clerk Office is requesting Ordinance section 25-27 (1) & (5), Streets and Sidewalks Fees, be approved.

Fees pertaining to sidewalk sales and street goods vending have not been increased since FY11. In keeping with our revenue strategy to raise fees every five years a 4% fee increase for FY16 is being proposed. This would generate an estimated additional $424.00 in revenue.

cc: Suzanne Knight
Katherine Jones

389 Congress Street, Portland, Maine 04101-3509 Ph (207)874-8677 Fx (207)874-8612 TTY 874-8936

FY16 REVENUE FEE SCHEDULE CHANGE

Department: 1200 City Clerk

Account #	Revenue Description	FY15 Current Fee	FY16 Proposed Fee
100-1200-322.00-00			
	Chapter 25 Sec.25-27 (10) & (5) Streets & Sidewalks Fees:		
	Sidewalk Permit (fiscal year or any portion thereof)	85.00	88.00
	Street Goods Vendor (per day or any portion thereof)	35.00	36.00

Projection:
Additional revenue generated with proposed increase
$424.00

*Revised: 03/24/15

Order 248-14/15
Tab 16 5-4-15

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 PORTLAND CITY CODE
CHAPTER 28. TRAFFIC AND MOTOR VEHICLES
ARTICLE VII - VALET PARKING, SECTION 273
Re: Valet Parking Fees

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

1. That Chapter 28, Article VII, Section 273 of the Portland City Code is hereby amended to read as follows:

Sec. 28-273. Fees; exceptions.

(a) *Issuance fees.* Applications for yearly valet permits shall be accompanied by an annual nonrefundable fee of two hundred and ~~fifty~~ sixty dollars ($~~250~~260.00) per location. Each location shall only include two (2) parking spaces approved by the Transportation Systems Engineer, whose decision shall be final.

(b) *Special event fee.* Application for a special event permit shall be accompanied by a nonrefundable fee of ~~fifty~~ sixty dollars ($~~50~~60.00) provided that the clerk's office has received ten (10) days' notice prior to such event.

(c) *Application fees.* Except as expressly provided, all applications for original permits, shall be accompanied by an issuance fee and an administrative fee of thirty-five dollars ($35.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administration fee of twenty-five dollars ($25.00). The latter fee shall be refundable if the application is denied.

(d) *Late fees.* An additional fee of ten dollars ($10.00) shall be charged for issuance of any permit after expiration of the prior permit.

BE IT FURTHER ORDERED, that these fees shall be effective on July 1, 2015 unless otherwise noted.

Portland, Maine Yes. Life's good here.

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

MEMORANDUM

TO: **Sheila Hill-Christian, Acting City Manager**
Jennifer Lodge, Budget Director

FROM: **Carolyn M. Dorr, Deputy City Clerk/PAO**

DATE: **March 11, 2015**

RE: **Proposed Fee Changes**

The City Clerk Office is requesting Ordinance section 28-273 (a) & (b), Valet Parking Fees, be approved.

With the request to increase business license fees for FY16, an increase of $10.00 for each valet parking permit per location and a $2.00 increase for special event parking are being proposed. This would generate an estimated additional $30.00 in revenue.

cc: Suzanne Knight
Katherine Jones

389 Congress Street, Portland, Maine 04101-3509 Ph (207)874-8677 Fx (207)874-8612 TTY 874-8936

FY16 REVENUE FEE SCHEDULE CHANGE

Department: 1200 City Clerk

Account #	Revenue Description	FY15 Current Fee	FY16 Proposed Fee
100-1200-322.00-00			
	Chapter 28 Sec.28-273 (a) & (b) Valet Parking Fees:		
	Valet Parking (per location)	250.00	260.00
	Special Event Fee	50.00	52.00

Projection:
Additional revenue generated with proposed increase
$30.00

*Revised: 03/24/15

Order 249-14/15
Tab 17 5-4-15

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 PORTLAND CITY CODE
CHAPTER 25, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
ARTICLE VII. EXCAVATIONS, SECTION 25-119
Re: Excavator License Fee

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

That Chapter 25, Article VII, Section 25-119 of the Portland City Code is hereby amended to read as follows:

Sec. 25-119. Excavator license.

No person or utility shall excavate in a public place without holding a valid excavator's license and obtaining a street opening permit as provided in division 2 of this article, for such work from the city. The public works authority shall issue the excavator's license upon receipt of an application therefor and the annual license fee of ~~$595.00~~596.00, after having satisfied himself or herself of the competency and ability of the applicant to carry on the business of excavating. Persons or utilities without a previous work history with the city may be required at the discretion of the director to submit references from responsible municipal officials from other municipalities. No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit or to do any work under this license; provided, however, that nothing herein shall be construed to prohibit a licensed excavator from doing such work through an authorized agent or employee who is directly and continuously supervised by him while in the performance thereof. A license issued to an excavator may be revoked after notice and hearing, if it is determined by the city that the licensed excavator has willfully disobeyed any portion of this article or the rules and regulations.

BE IT FURTHER ORDERED, that this fee shall be effective on July 1, 2015 unless otherwise noted.

Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael J Bobinsky, Director of Public Services
DATE: April 22, 2015
SUBJECT: Revenue Fee Changes – Street Opening Licenses

We are recommending a minor increase in Street Opening Licenses. Changes to this fee are generally associated with changes in the consumer price index. Applying this theory, the fee in 2010 was $554.00. Adjusted for 2015 the fee would be $596.00 which is a dollar increase from rates charged in FY15. Overall revenue is expected to be $42.00

CC: Pat Handrahan, Principal Financial Officer
Jennifer Lodge, Assistant Budget Director
Rhonda Zazzara, Field Inspection Coordinator

FY16 REVENUE FEE SCHEDULE CHANGE

Department Public Services/Street Openings

Account #	Revenue Description	Current Fee	FY16 Proposed Fee
247-3100-320-02-00	Street Opening License (ord chapter 25-119)	$595.00	$596.00

Prepared: 04/21/2015

Order 250-14/15
Tab 18 5-4-15

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 PORTLAND CITY CODE
CHAPTER 24 SEWERS
ARTICLE IV. SEWER USE CHARGES
RE: SEWER USER CHARGES

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

1. *That Chapter 24, Section 24-72 of the Portland City Code is hereby amended to read as follows:*

Sec. 24-72. Sewer user charges.

(a) *Applicability.* There are levied upon all parcels of land charges for cost of treatment of wastewater 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 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. ~~U~~For user charges under this section for both dwelling units and commercial units, ~~billed for water used after July 1, 2013~~ the ~~foregoing~~ rate shall be ~~eight~~ nine dollars and ~~eighty-one~~ seventy cents

($~~8.81~~9.70) per hundred cubic feet of volume for connected parcels of land. Beginning January 1, 2016, user charges under this section for both dwelling units and commercial units shall be eight dollars and twenty cents ($8.20) 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 sewer use charges according to the same terms and procedures used to disconnect water users with unpaid water use charges.

BE IT FURTHER ORDERED, that these fees shall be effective on July 1, 2015 unless otherwise noted.

Portland, Maine Yes. Life's good here.

To: Members of the City Council

From: Sheila Hill-Christian, Acting City Manager

Date: April 23, 2015

Subject: Sewer Rate Increase for FY2016

The City continues to fund projects related to the DEP managed Combined Sewer Overflow requirements through fist the Tier II and now the Tier III approved projects. This includes financing about $230 million in capital costs over the 20 year time period, which is paid for through the sewer user fee and was anticipated to increase as needed to cover the debt service costs. Also, there are additional requirements related to the consolidated water quality permitting and CMOM compliance, which are reflected in the Sewer Fund budget.

Securing a favorable borrowing rate and receipt of some debt forgiveness funding through the State's revolving loan program and the DEP's stimulus money, along with very favorable construction bids, has offered some relief to the rate increase. Recent rate increases have been:

FY15 5.5%
FY14 3.0%
FY13 0.0%
FY12 3.0%
FY11 3.0%

Based on budget and construction costs estimates, plus the implementation of a new Stormwater Charge (as approved in City Council Order 129-14/15) the existing Sewer Rate of $8.81 will need to be increased to $9.70 per hcf from July 1, 2015 through December 31, 2015. Beginning on January 1, 2016, coinciding with the implementation of the new Stormwater Charge, there will be a reduction of $1.50 in the Sewer Rate down to $8.20 per hcf for the period of January 1, 2016 to June 30, 2016.

Order 251-14/15
Tab 19 5-4-15

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)

FISCAL YEAR 2015-2016 APPROPRIATION RESOLVE

RESOLVED, that the sum of $221,770,295.00 is hereby appropriated for Fiscal Year 2016 for General Municipal purposes; and

BE IT FURTHER RESOLVED, that the sum of $102,776,657.00 is hereby appropriated for Fiscal Year 2016 for School purposes; and

BE IT FURTHER RESOLVED, that the Assessor of Taxes of the City of Portland be and hereby is directed to assess a tax upon all real estate liable to be taxed therein and to assess the owner of, or such other persons as may be liable by law for, personal property liable to be taxed therein on the first day of April, 2015 and not exempt from taxation, to the aggregate amount of $78,978,308.00 for municipal purposes and $79,773,211.00 for school purposes for a total tax levy of $158,751,519.00 resulting in a tax rate of $20.58 per $1,000 of valuation (a 2.9 % increase) and in accordance with the provisions of the Statutes of Maine; and

BE IT FURTHER RESOLVED, all taxes assessed as above and committed to the Director of Finance shall be due on September 11, 2015, and payable in two equal installments, the first due on the 11th day of September, 2015, and the second installment due on the 11th day of March, 2016. The delinquency rate of interest shall be seven percent (7%) per annum on all payments received after the respective due dates and the abatement rate of interest shall be three percent (3%) per annum.

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
Finance Committee's Recommendation

		FY 15	FY 16	$ +/( )	%
CITY GENERAL FUND REVENUES					
31	Property Taxes	$ 75,754,243	$ 78,978,308	$ 3,224,065	4.3%
31	Other Local Taxes	8,007,936	8,757,212	749,276	9.4%
32	Licenses & Permits	3,745,774	4,140,154	394,380	10.5%
33	Intergovernmental Revenue	15,169,850	9,320,226	(5,849,624)	-38.6%
34	Charges for Services	32,097,715	34,080,683	1,982,968	6.2%
35	Fines, Forfeits and Penalties	2,065,475	2,003,005	(62,470)	-3.0%
36	Use of Money and Property	7,877,882	8,101,192	223,310	2.8%
39	Other Sources	30,901,598	29,377,510	(1,524,088)	-4.9%
	Fund Balance Use (Restoration)	735,000	500,000	(235,000)	-32.0%
	Total General Fund Revenues	176,355,473	175,258,290	(1,097,183)	-0.6%
GENERAL FUND EXPENDITURES					
100-1100	City Council	331,195	333,503	2,308	0.7%
100-1200	City Clerk	532,585	576,338	43,753	8.2%
100-1300	Executive	877,488	881,557	4,069	0.5%
	Housing Safety	0	335,783	335,783	0.0%
	Total Executive	877,488	1,217,340	339,852	38.7%
100-1400	Assessor	325,352	333,139	7,787	2.4%
100-1500	Finance Administration	1,029,191	1,034,988	5,797	0.6%
	Treasury	682,374	641,983	(40,391)	-5.9%
	Total Finance	1,711,565	1,676,971	(34,594)	-2.0%
100-1600	Legal	498,493	511,850	13,357	2.7%
100-1700	Human Resources Admin	802,801	1,041,392	238,591	29.7%
100-1800	Parking	1,183,259	1,276,152	92,893	7.9%
	Crossing Guides	130,200	129,200	(1,000)	-0.8%
	Elm Street Garage	237,269	242,647	5,378	2.3%
	Spring Street Garage	385,439	417,796	32,357	8.4%
	Temple Street Garage	107,550	108,176	626	0.6%
	Total Parking/Garages	2,043,717	2,173,971	130,254	6.4%
100-1900	Economic Development	264,926	273,906	8,980	3.4%
100-2100	Police Administration	992,383	996,771	4,388	0.4%
	Jetport Security	510,641	518,956	8,315	1.6%
	Uniformed Operations	8,545,710	8,709,329	163,619	1.9%
	Investigation Services	1,602,065	1,691,284	89,219	5.6%
	Support Services	835,219	694,174	(141,045)	-16.9%
	Dispatch	1,879,660	1,970,549	90,889	4.8%
	Total Police	14,365,678	14,581,063	215,385	1.5%

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
Finance Committee's Recommendation

		FY 15	FY 16	$ +/( )	%
100-2200	Fire Administration	646,426	698,488	52,062	8.1%
	Code Enforcement	306,566	363,811	57,245	18.7%
	Field Operations	13,573,695	13,291,409	(282,286)	-2.1%
	Air Rescue	1,111,321	1,104,245	(7,076)	-0.6%
	Operations Support Services	1,122,635	1,107,084	(15,551)	-1.4%
	Total Fire	16,760,643	16,565,037	(195,606)	-1.2%
100-2400	Planning & Urban Dev--Admin	430,104	478,318	48,214	11.2%
	Inspections	697,689	685,289	(12,400)	-1.8%
	Planning	823,195	787,362	(35,833)	-4.4%
	Housing & Comm Dev	145,904	132,742	(13,162)	-9.0%
	Historic Preservation	118,748	124,099	5,351	4.5%
	Total Planning & Urban Development	2,215,640	2,207,810	(7,830)	-0.4%
100-2900	Information Technology	2,147,017	2,135,846	(11,171)	-0.5%
100-3100	Public Services Administration	741,131	767,116	25,985	3.5%
	Cemeteries	586,028	579,885	(6,143)	-1.0%
	Forestry	658,815	622,118	(36,697)	-5.6%
	Districting	2,040,611	2,021,048	(19,563)	-1.0%
	Solid Waste	2,952,070	2,785,945	(166,125)	-5.6%
	Communications	146,852	149,000	2,148	1.5%
	Portland Downtown District	323,321	335,329	12,008	3.7%
	Construction Company	431,027	400,130	(30,897)	-7.2%
	Transportation Opr	2,116,640	2,184,770	68,130	3.2%
	Engineering	713,767	736,461	22,694	3.2%
	Winter	1,098,039	1,147,087	49,048	4.5%
	Fleet Services	3,954,448	3,588,514	(365,934)	-9.3%
	Island Services	568,574	569,545	971	0.2%
	Total Public Services	16,331,323	15,886,948	(444,375)	-2.7%
100-3300	Rec & Facilities--Administration	293,933	299,629	5,696	1.9%
	Trades	982,335	890,645	(91,690)	-9.3%
	Public Safety Bldg.	425,862	382,505	(43,357)	-10.2%
	City Hall Maint.	447,778	447,440	(338)	-0.1%
	Merrill Auditorium Maint.	430,777	450,249	19,472	4.5%
	Hadlock Stadium Maint.	263,150	270,650	7,500	2.9%
	Other Buildings Maint.	500,016	512,153	12,137	2.4%
	Ice Arena	533,013	551,105	18,092	3.4%
	Expo Building	403,735	426,876	23,141	5.7%
	Waterfront Maint.	721,211	774,103	52,892	7.3%
	Public Assembly Facilities Mgmt.	687,595	786,915	99,320	14.4%
	Concessions	293,111	313,520	20,409	7.0%
	School HVAC	531,878	539,303	7,425	1.4%
	Athletic Fields	772,084	738,859	(33,225)	-4.3%
	Recreation	1,605,139	1,685,854	80,715	5.0%
	Aquatics	404,512	417,906	13,394	3.3%
	School Maintenance	1,073,776	1,078,755	4,979	0.5%
	Therapeutic Recreation	159,168	189,911	30,743	19.3%
	Golf Course	784,069	781,166	(2,903)	-0.4%
	Golf Course Restaurant	418,887	365,550	(53,337)	-12.7%
	Total Facilities and Recreation Manageme	11,732,029	11,903,094	171,065	1.5%

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
Finance Committee's Recommendation

		FY 15	FY 16	$ +/( )	%
100-4100	Public Health	3,899,599	3,833,413	(66,186)	-1.7%
100-4200	Social Services	13,274,993	8,610,001	(4,664,992)	-35.1%
107-4300	Barron Center	15,343,457	15,678,017	334,560	2.2%
100-4700	Debt Service	35,168,703	35,669,850	501,147	1.4%
100-4800	Public Library	3,591,915	3,681,713	89,798	2.5%
100-5100	Pension	6,588,237	7,177,477	589,240	8.9%
100-5200	Health Insurance	15,544,865	15,915,250	370,385	2.4%
	Workers' Comp	1,629,275	1,657,755	28,480	1.7%
	Group Life	189,420	198,790	9,370	4.9%
	Unemployment	175,000	150,000	(25,000)	-14.3%
	FICA	972,000	1,018,909	46,909	4.8%
	Total Employee Benefits	18,510,560	18,940,704	430,144	2.3%
100-7000	Capital Equipment	375,000	375,000	0	
100-6100	Contingent	125,000	931,000	806,000	
100-6200	Liability Insurance	763,990	775,003	11,013	1.4%
100-6500	Regional Transportation Program	145,514	130,459	(15,055)	-10.3%
	Contributions	384,000	424,148	40,148	10.5%
	Total Memberships/Contributions	529,514	554,607	25,093	4.7%
100-6700	Wage Adjustment	(237,000)	(111,827)	125,173	-52.8%
	Total General Fund Expenditures	168,874,420	167,533,166	(1,341,254)	-0.8%
100-6502	Metro Assessment	2,511,910	2,485,115	(26,795)	-1.1%
100-6300	County Tax	4,969,143	5,240,009	270,866	5.5%
Total General Fund and Assessments		$ 176,355,473	$ 175,258,290	$ (1,097,183)	-0.6%

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
Finance Committee's Recommendation

		FY 15	FY 16	$ +/( )	%
ENTERPRISE FUND REVENUES					
31	Property Taxes, Current Year	$ -	$ -	$ -	0.0%
32	Licenses & Permits	144,000	153,975	9,975	6.9%
33	Intergovernmental	116,800	116,800	0	0.0%
34	Charges for Services	24,873,005	27,172,581	2,299,576	9.2%
36	Use of Money and Property	19,538,843	20,119,843	581,000	3.0%
39	Other Sources	27,733	335,045	307,312	
	Fund Balance	(70,018)	(1,386,239)	(1,316,221)	
	Total Enterprise Fund Revenues	44,630,363	46,512,005	1,881,642	4.2%
ENTERPRISE FUND EXPENDITURES					
583-2800	Jetport Admin	852,417	894,921	42,504	5.0%
	Field	2,897,820	3,116,380	218,560	7.5%
	General Aviation	39,168	26,293	(12,875)	-32.9%
	Fringe, Indirects, & Chargebacks	3,277,367	3,469,028	191,661	5.8%
	Security	1,663,291	1,663,772	481	0.0%
	Terminal	4,974,756	5,099,636	124,880	2.5%
	Marketing	814,119	704,827	(109,292)	-13.4%
	Parking	567,975	545,259	(22,716)	-4.0%
	Airfield Deicing	4,178,254	4,614,302	436,048	10.4%
	Jetport Anticipated Surplus	897,828	528,643	(369,185)	-41.1%
	Total Jetport	20,162,995	20,663,061	500,066	2.5%
530-3300	Fish Pier	278,345	336,795	58,450	21.0%
570-1503	Sewer--Finance Admin	88,645	87,405	(1,240)	-1.4%
570-3101	PW Admin	272,191	350,679	78,488	28.8%
570-3112	Districting	1,398,181	1,779,367	381,186	27.3%
570-3115	Communications	67,215	68,857	1,642	2.4%
570-3137	Sewer Engineering	899,085	902,786	3,701	0.4%
570-3140	Stormwater Management	1,713,446	0	(1,713,446)	-100.0%
570-3155	Debt Service	7,607,401	7,249,665	(357,736)	-4.7%
570-3156	Fringe Benefits	1,080,389	1,382,651	302,262	28.0%
570-3158	Assessment from Portland Water District	11,062,470	11,255,841	193,371	1.7%
	Total Sewer	24,189,023	23,077,251	(1,111,772)	-4.6%
571-1502	Stormwater - Finance Admin	0	189,204	189,204	0.00%
571-3140	Stormwater Management	0	2,035,714	2,035,714	0.00%
571-3155	Debt Service	0	0	0	0.00%
571-3156	Fringe Benefits	0	209,980	209,980	0.00%
	Total Stormwater	0	2,434,898	2,434,898	0.00%
Total Enterprise Fund Expenditures		44,630,363	46,512,005	1,881,642	4.2%
TOTAL CITY EXPENDITURES		$ 220,985,836	$ 221,770,295	$ 784,459	0.4%

FC:
5/1/2015

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
Finance Committee's Recommendation

	FY 15	FY 16	$ +/( )	%
SCHOOL DEPARTMENT REVENUES				
Property Taxes	$ 77,469,011	$ 79,773,211	$ 2,304,200	3.0%
Local Revenue	7,554,346	7,554,346	0	0.0%
State Subsidy	16,011,147	15,034,100	(977,047)	-6.1%
Surplus Use	250,000	415,000	165,000	66.0%
Total School Revenues	101,284,504	102,776,657	1,492,153	1.5%
SCHOOL DEPARTMENT EXPENDITURES				
Public Schools	101,592,669	102,776,657	1,183,988	1.2%
TOTAL CITY AND SCHOOL EXPENDITURES	$ 322,578,505	$ 324,546,952	$ 1,968,447	0.6%

Order 223-14/15
~~Tab 17 4-27-15~~
Tab 20 5-4-15

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 STATE/LOCAL EPS FUNDING ALLOCATION FOR PUBLIC EDUCATION FROM KINDERGARTEN TO GRADE 12 FOR PORTLAND PUBLIC SCHOOLS FOR FY2016

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. 251-14/15] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016:

Appropriation for State/Local EPS funding Allocation: That the City appropriates the amount of $79,352,047 for the total cost of funding public education from kindergarten to grade 12, and raises the amount of $64,342,989 as the City's contribution to the total cost of funding public education from kindergarten to grade 12, both as described in the Essential Programs and Services Funding Act, in accordance with Maine Revised Statutes, Title 20-A, section 15688.

State mandated Explanation: The City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined under state law annually to be the minimum amount that the City must raise in order to receive the full amount of state dollars.

Order 224-14/15
~~Tab 18 4-27-15~~
Tab 21 5-4-15

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 NON-STATE FUNDED SCHOOL CONSTRUCTION DEBT SERVICE FOR PORTLAND SCHOOLS FOR FY2016

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. 251-14/15] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016.

Appropriation for Non-State Funded Debt Service (20-A M.R.S.A. §15690(2)(A)).
That the City raise and appropriate $561,907 for the annual payments on debt service previously approved by the legislative body for non-state funded school construction projects and non-state funded portions of school construction projects, in addition to the funds appropriated as the local share of the City's contribution to the total cost of funding public education from kindergarten to grade 12.

State Mandated Explanation: *Non-state funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or the City Council.*

Order 225-14/15
~~Tab 19 4-27-15~~
Tab 22 5-4-15

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 RAISING AND APPROPRIATING ADDITIONAL LOCAL FUNDS FOR PORTLAND SCHOOLS FOR FY2016

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. 25/-14/15] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016:

Authorization to Exceed the Portland School Department's Maximum State and Local Spending Target Established Pursuant to Maine Revised Statutes, Title 20-A § 15671-A(4) and Appropriating Additional Local Funds: That the City raises and appropriates $13,332,753 in additional local funds, which exceeds the State's Essential Programs and Services allocation model by $13,880,214 as required to fund the budget recommended by the Portland Board of Public Education.

The Portland Board of Public Education recommends $13,332,753 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services Funding model by $13,880,214: **That amount is needed to cover the School Department's costs that the state's funding model does not recognize or recognize fully, including costs to maintain class size; Special Education costs; PATHS costs; Regular Instruction costs; Facilities Maintenance costs to address deferred maintenance; technology costs as the School Department implements its technology plan; transportation costs; professional development costs; debt service for pension obligation; and debt service capital renovation costs.**

State Mandated Explanation: *The additional local funds are those locally raised funds over and above the City's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state funded debt service that will help achieve the City's budget for educational programs.*

[NOTE: City council approval of this order requires 5 affirmative votes, see 20-A M.R.S.A. section 15671-A(5)(B)(2)(requiring for council approval "a majority of the entire membership of the council") and see Article II, section 11 of the City Charter (requiring 5 affirmative votes for final passage).]

Order 226-14/15
~~Tab 20 4-27-15~~
Tab 23 5-4-15

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 TOTAL SCHOOL OPERATING BUDGET FOR PORTLAND SCHOOLS FOR FY2016

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. 226-14/15] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016:

Total School Budget Summary (20-A M.R.S.A. §15690(4)(A)): That the City authorizes the School Committee to expend $ 97,231,508 for the Fiscal Year beginning July 1, 2015 and ending June 30, 2016 from the City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

Order 227-14/15
~~Tab 21 4-27-15~~
Tab 24 5-4-15

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 APPROPRIATING AND RAISING FUNDS FOR ADULT EDUCATION FOR FY 2016 AS REQUIRED BY THE MAINE REVISED STATUTES, TITLE 20-A M.R.S.A. §8603-A(1)

ORDERED, that the sum of $ 1,752,513 is hereby appropriated for Adult Education for Fiscal Year 2015-2016 and that the sum of $1,063,833 is hereby raised as the local share with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program.

***Explanation**: Under state law the appropriation for adult education falls outside the total annual budget for public schools addressed in the prior order when it passes the Appropriation Resolve.*

Order 228-14/15
~~Tab 22 4-27-15~~
Tab 25 5-4-15

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 TO RAISE LOCAL FUNDS FOR FOOD SERVICE IN THE PORTLAND PUBLIC SCHOOLS for FY2016

ORDERED, that the sum of $471,729 is hereby raised for the Food Service Program for Fiscal Year 2015-2016; and that the Portland School Department is authorized to expend any unexpended balances, and additional, incidental, or miscellaneous receipts in the interest and for the well-being of the food service program.

***Explanation**: This order raises local tax revenues for the food service program.*

Com 16-14/15
Tab 26 5-4-15

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: April 22, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan

SUBJECT: Communication Re: Appointment of New Member to the Reed School Re-Use Task Force

SPONSOR: Mayor Michael Brennan

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading___May 4, 2015___ **Final Action**_____No Action Required____

Can action be taken at a later date: N/A_**Yes** _____ **No (If no why not?)**

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

I. SUMMARY OF ISSUE (Agenda Description)

The Reed School sits on approximately 2.5 acres on Homestead Avenue in the Riverton neighborhood. Originally a school, it was more recently the central kitchen for the Portland Public Schools. It currently is used for limited storage, and is largely vacant and underutilized. In September, staff proposed the creation of a citizen's Task Force to the Housing and Community Development Committee to report potential and priority uses of the property and recommend a process to review proposals for re-use of the Reed School property. Recently several unfilled membership slots of the Task Force were filled with Riverton residents. One additional direct abutter, Andrew Bowman, has asked to participate, and the Task Force Co-Chairs support his appointment.

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

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

III. INTENDED RESULT

The Council will receive a report on the Task Force's findings, with recommendations for best uses of the property, as well as recommendations for the proposal review process that would follow submission of the report. This additional appointment will contribute to well-rounded final Task Force recommendations.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

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

VI. STAFF ANALYSIS

The Planning Division welcomes the addition of this Riverton resident to the Task Force, and will continue to work closely with the group to further the goal of repurposing the Reed School property.

VII. RECOMMENDATION

None.

VIII. LIST ATTACHMENTS

Charge to Reed School Re-Use Task Force and modified list of Task Force members.

Prepared by: Christine Grimando

Date: April 22, 2015

Reed School Re-Use Task Force Charge

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

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

Reed School Re-Use Task Force Members

Reed School Re-Use Task Force Members

Councilor David Brenerman and John Coyne, Co-Chairs
HCDC Committee Liaison Designee - David Brenerman
Portland Planning Board Designee - Sean Dundon
Portland Trails Designee - Kara Wooldrik
Workforce Housing Designee - Jan McCormick
Portland Society for Architecture Designee - Leslie Burnham
Greater Portland Landmarks Designee - Hilary Bassett
GPCOG Designee - Rebeccah Schaffner
Denise Harlow, State Representative, District #116
Parks Commission Designee – Steve Morgenstein
Elise Scala - Neighborhood Resident
Hillary Krapf - Neighborhood Resident
Dyan Albano - Neighborhood Resident
Mark Johnson - Neighborhood Resident
Andrew Bowman – Neighborhood Resident

Order 172-14/15
~~Tab 15 3-2-15~~
~~Tab 12 3-16-15~~
Tab 27 5-4-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
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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 AGREEMENT BETWEEN THE CITY OF PORTLAND AND THE MAINE DEPARTMENT OF TRANSPORTATION RE: IMPROVEMENTS TO FOREST AVENUE

ORDERED, that the Acting City Manager is authorized to enter into the two-party partnership agreement between the City of Portland and the Maine Department of Transportation (MaineDOT), in substantially the form attached, for work on Forest Avenue:

- WIN #020543, Proposed Improvements to Forest Avenue

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.

CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM

MEMORANDUM
Council Agenda Request

TO: **The City Council of Portland**

FROM: Michael Bobinsky, Director of Public Services

DATE: Feb. 18, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuhta, Corporation Counsel
Sonia Bean, Executive Assistant
Nancy English, Administrative Assistant
John Peverada, Parking Manager
Eric Labelle, PE, Assistant Director of Public Services/Operations Mgr.
Katherine Earley, PE, Engineering Services Manager
Jeremiah Bartlett, PE, PTOE, Transportation Systems Engineer

1. Council meeting at which action is requested:
   1st reading 3/2/15

   2nd reading 3/16/15

2. Can action be taken at a later date: _____Yes _X_No.
   If no, why not? This is a joint project of the Maine Dept. of Transportation (MDOT) and the City of Portland and is subject to MDOT's scheduling.

3. This item is sponsored by: Michael Bobinsky, Director of Public Services

   1. **Summary of the Issue:**

      The attached agreement two-party agreement between the Maine Department of Transportation (MDOT) and the City of Portland requires the approval of the City Council before execution. The agreement includes items regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Forest Avenue in Portland.

   2. **Reason for Submission**

      City Code requires that all agreements containing either indemnification or cost sharing must be submitted to the City Council for approval.

3. Intended Result

The project scope includes but not limited to reconfiguring the Forest Ave. traffic pattern at Woodfords Corner and Ocean Avenue, widen sidewalks, add streetscape aesthetics, extend shared lane bikeways and reduce crossing distances for pedestrians.

4. Financial Impacts

This project has been in discussion for a number of years and the matching and non-matching funds required, $369, 875.10 have been included in the FY 15 Capital Improvement Budget. The total cost for the project will be $1,518,751.00 - $1,199,000.80 (Federal) $135,509.45 State and $384,240.75 City.

5. Recommendation

Staff Recommends approval of this request.

MaineDOT use only
TEDOCS #: _____
CT #: _____
CSN #: _____
PROGRAM: _____

MaineDOT

MAINE DEPARTMENT OF TRANSPORTATION

MUNICIPAL/STATE AGREEMENT

PROPOSED IMPROVEMENTS TO FOREST AVENUE

(MaineDOT Use Only)

Project Location: Portland	Estimated Municipal Share: $369,875.10
State WIN #: 020543.00	Vendor Customer #: 17A12984
Federal Aid Project #: STP-2054(300)	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 Municipality 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 Forest Ave., 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 – Perpetual Bicycle/Pedestrian Facility Maintenance
- ☒ Appendix B – Perpetual Landscape Maintenance
- ☒ Appendix B – Perpetual Lighting/Flashing Beacon Operation and Maintenance
- ☒ Appendix B – Perpetual Traffic Signal Operation and Maintenance
- ☐ Appendix B – Perpetual 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:

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 five (5) 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.

MUNICIPALITY OF PORTLAND	MAINE DEPARTMENT OF TRANSPORTATION
By: _____	By: _____
Sheila Hill-Christian, Acting City Manager	*Dale Doughty, Director, Maintenance & Operations*
_____	_____
(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 FOREST AVENUE

FEDERAL AID PROJECT NO. STP-2054(300)

STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00

Project Scope: Reconfigure Forest Ave. traffic pattern at Woodfords Corner and Ocean Ave, widen sidewalks, add streetscape aesthetics, extend shared lane bikeways and reduce crossing distances for pedestrians.

Funding Outline: The Total Project Estimated Cost is $1,718,751.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			MPO FEDERAL Portion		MaineDOT (State) Portion		
	%	$	%	$	%	$	$
Preliminary Engineering	10	22,481.30	80	179,850.40	10	22,481.30	**224,813.00**
Right of Way	10	6,250.00	80	50,000.00	10	6,250.00	**62,500.00**
Construction	10	106,156.30	80	849,250.40	10	106,156.30	**1,061,563.00**
Construction Engineering	10	14,987.50	80	119,900.00	10	14,987.50	**149,875.00**
PROJECT SHARES		$149,875.10		$1,199,000.80		$149,875.10	**$1,498,751.00**
Total Cost of Additional Work Requested by Municipality (Below)	100%	220,000					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		$ 369,875.10					

(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
PE - Design to include milling and paving on Forest Ave.	$10,000
Milling and paving on Forest Ave.	$200,000
CE - Construction Engineering and inspection/testing	$10,000
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	$220,000

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.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Receivable Amount	Estimated Invoice Date
Portland	$53,096.95	3-1-16
Portland	$158,389.07	7-15-16
Portland	$158,389.08	12-1-16
	$	

APPENDIX B
PERPETUAL BICYCLE/PEDESTRIAN FACILITY MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE

FEDERAL AID PROJECT NO. STP-2054(300)

STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00

The Municipality will be responsible for year round maintenance of new or replaced/rehabilitated bicycle/pedestrian facilities 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. When necessary, the Department reserves the right to undertake maintenance and invoice the municipality.

APPENDIX B
PERPETUAL LANDSCAPE MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE

FEDERAL AID PROJECT NO. STP-2054(300)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00

The Municipality agrees to be responsible for maintenance of planting and landscaping, including structures, including, but not limited to privies, picnic shelters, interpretive panels, and park areas, as installed or modified, as part of the above referenced project upon completion of said project. The Municipality also agrees to maintain such planting and landscaping upon the expiration of all warranties applicable to such landscaping, including the maintenance of all lawn areas, trees, and shrubs. These responsibilities shall include, but are not limited to, the following:

1. Plantings shall be watered during periods of drought or extreme dryness.

2. Measures shall be taken to remove any build-up of winter sand in planting areas.

3. Pruning, trimming, and removal of dead branches to maintain healthy plant growth or so as not to pose safety hazards or unsightly conditions.

4. Measures shall be taken to control disease and insects using appropriate insecticides and to control weeds on a timely basis, including hand weeding, mulching and/or application of herbicides through proper legal application.

5. Dead or dying plant material shall be replaced with new material of the same type and size as originally planted.

6. Lawns and grassy areas shall be mowed at least weekly during the late spring and early summer growing season and at least once a month during the remainder of the growing season, unless unusual weather conditions or rapid growth dictate otherwise.

7. All areas of turf, trees and shrubbery shall be fertilized using suitable materials.

8. All litter and refuse shall be removed expeditiously.

9. The Department shall provide technical assistance to the Municipality upon request, by recommending the materials and procedures necessary for such maintenance.

APPENDIX B
PERPETUAL TRAFFIC SIGNAL OPERATION AND MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE

FEDERAL AID PROJECT NO. STP-2054(300)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00

A. The Municipality agrees to operate and maintain the traffic signal to function as designed and installed by the Department, unless approved otherwise as hereinafter provided or as necessary as follows:

   1. All malfunctions and deficiencies in the traffic signal or any equipment appurtenant that is not covered by warrantee shall be repaired or corrected expeditiously in accordance with the Institute of Transportation Engineer's (ITE) "Traffic Signal Installation and Maintenance Manual". Any failure to repair or correct the traffic signal to function as designed could, upon written notification from the Department, result in the Department making all necessary repairs at the Municipality's expense.

   2. The visibility of the traffic signal shall be preserved and maintained at all times by removing any visual impairment thereto.

   3. Except in the case of an emergency, no change in operation or modification to the traffic signal or any equipment appurtenant thereto shall be made without the express written approval of the Department.

   4. The Department shall be notified in writing prior to any removal or replacement of the traffic signal or any equipment and appurtenant thereto. Upon removal, such traffic signal or equipment shall be returned to the Department, at no cost to the Department, unless otherwise agreed upon in writing.

B. The Municipality agrees to be responsible for the electrical service for the traffic signal and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for the installation of such service.

C. The Municipality agrees to maintain all pavement markings (including stop bars, lane use arrows and all striping necessary to delineate the turning lane) and all traffic control signs as furnished under the project.

APPENDIX B
PERPETUAL LIGHTING/FLASHING BEACON OPERATION AND MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE

FEDERAL AID PROJECT NO. STP-2054(300)

STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00

A. The Municipality agrees to operate and maintain the flashing beacon installed under the Project in such a manner as is necessary to preserve the use and function thereof as designed and intended by the Project as follows:

1. The Municipality shall repair or correct all malfunctions and deficiencies in the flashing beacon expeditiously. Any failure to correct the flashing beacon to function as designed could, upon written notification from the Department, result in the Department making all necessary repairs at the Municipality's expense.
2. The Municipality agrees to be responsible for electrical service for the flashing beacon and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for installation of such service.
3. The Municipality shall preserve and maintain the visibility of the flashing beacon at all times by removing all visual impairments thereto.
4. The Municipality shall make no operational changes or modifications to the flashing beacon without the express written approval of the Department.
5. The Municipality shall notify the Department in writing prior to any removal or replacement of the flashing beacon.
6. The Municipality shall maintain all signs and striping necessary or incidental to the operation of the flashing beacon as furnished and installed under the Project.
7. The Municipality agrees to maintain the beacon with equipment technology equal to or greater than what has been installed.

B. The Municipality shall implement a Traffic Control Plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) including a provision for Municipality employees and/or contractors entering the State's right-of-way for long-term maintenance.

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE

FEDERAL AID PROJECT NO. STP-2054(300)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00

1. **Description of Work Being Added to Project By The Municipality:**
   Mill and fill along Forest Ave. from Station 12+50 to 28+50

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 Mnnicipality:**

   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 209-14/15
~~Tab 36 4-6-15~~
~~Tab 28 4-27-15~~
Tab 28 5-4-15

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 PORTLAND CITY CODE
CHAPTER 14. LAND USE
Re: R-6 and R-6A Zones

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

That Chapter 14, Article III, Sections 14-47, 14-136, 14-139, 14-140, 14-332, 14-332.1, 14-433, and Article V., Section 14-526, of the Portland City Code are hereby amended to read as follows:

DIVISION 1. GENERALLY

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

Lot: ~~Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.~~ A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.

...

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.

2. Multifamily dwellings. ~~, provided that any alteration of a structure in residential use on December 2, 1987:~~

   ~~a. Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and~~

   ~~b. Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;~~

   ~~e~~a. Parking shall be provided in compliance with Division 20 of this Article.

~~d~~b. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.

~~e~~c. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.

~~f~~d. An owner, manager or operator shall live in the building as a permanent resident.

~~g~~e. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

10. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

Sec. 14-139. Dimensional requirements.

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

~~1. *Minimum lot size:*~~

~~a. Residential in the R-6: Forty-five hundred (4,500) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.~~

~~b. Residential in the R-6A: Four (4) acres.~~

~~c. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine~~

~~(9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.~~

~~d. Intermediate care facility: One (1) acre.~~

~~e. School: Thirty thousand (30,000) square feet.~~

~~f. Places of assembly;~~

~~Large~~	~~30,000 sq. ft.~~
~~Medium~~	~~15,000 sq. ft.~~
~~Small~~	~~7,500 sq. ft.~~

~~g. Municipal use: Forty-five hundred (4,500) square feet.~~

~~h. Hospital: Two (2) acres.~~

~~i. All other uses: Forty-five hundred (4,500) square feet.~~

~~j. Lodging house: Four thousand five hundred (4,500) square feet.~~

~~2. a. *Minimum area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.~~

~~b. *Minimum rooming unit areas for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.~~

~~c. *Minimum land area per lodging house rooming unit:* Two hundred fifty (250) square feet.~~

~~d. *Minimum land area per intermediate care facility resident:* Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three~~

~~hundred fifty (350) square feet for each additional resident.~~

~~3. *Minimum street frontage:* Forty (40) feet.~~

~~4. *Minimum yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~a. *Front yard:*~~

~~Principal or accessory structures: Ten (10) feet.~~

~~A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.~~

~~b. *Rear yard:*~~

~~i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.~~

~~ii. Detached accessory structures with a ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.~~

~~iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~c. *Side yard:*~~

~~i. Side yard in R-6: Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~*Height of Structure*~~	~~*Required Side Yard*~~
~~1 story . . . . . .~~	~~10 feet~~
~~2 stories . . . . . .~~	~~10 feet~~
~~3 stories . . . . . .~~	~~10 feet~~
~~4 stories . . . . . .~~	~~12 feet~~

~~5 stories . . . . . 15 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.~~

~~iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~iv. Side yard in R-6A: Principal structure height up to forty-five (45 feet): 10 feet. Principal structure height greater than forty-five (45 feet): 15 feet.~~

~~d. *Side yard on side streets:*~~

~~i. Principal or accessory structures: Ten (10) feet.~~

~~5. *Maximum lot coverage:* Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.~~

~~6. *Minimum lot width:* Forty (40) feet.~~

~~7. *Maximum structure height:*~~

~~2. Maximum structure height R-6: Principal and attached accessory structure: Forty-five (45) feet.~~
~~Accessory detached structure: Eighteen (18) feet.~~

~~b. Maximum structure height in R-6A: Principal and attached accessory structure: Sixty-five (65) feet on off-peninsula parcels.~~

~~Accessory detached structure: Eighteen (18) feet~~

8. ~~*Open space ratio:*~~

   a. ~~*Uses other than bed and breakfast*. Twenty (20) percent. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.~~

   b. ~~*Bed and breakfasts*. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.~~

9. ~~A below-grade dwelling unit shall be permitted only if the primary access for the dwelling unit is provided directly to the outside of the building.~~

10. ~~*Minimum gross floor area for bed and breakfasts:* Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.~~

11. ~~*Maximum floor area for places of assembly on a collector or arterial road:*~~

~~Large~~	~~Not limited~~
~~Medium~~	~~4,500 sq. ft.~~
~~Small~~	~~2,250 sq. ft.~~

12. ~~*Maximum floor area for places of assembly not on a collector or arterial road:*~~

~~Large~~	~~4,500 sq. ft.~~
~~Medium~~	~~2,250 sq. ft.~~
~~Small~~	~~1,125 sq. ft.~~

~~(b) *Small residential lot development:* Residential uses on small, vacant lots located in the R-6 are subject to site plan review and may use the dimensional requirements below if all of the following conditions are met:~~

~~The lot is:~~

~~Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.~~

~~1. *Minimum lot size:* None~~

~~2. *Maximum lot size:* Ten thousand (10,000) square feet.~~

~~3. *Yard dimensions:*~~

~~a. *Front yard:*~~

~~No more than ten (10) feet.~~

~~b. *Rear yard:*~~

~~None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Not withstanding the foregoing, no structure shall be closer than four (4) feet to side property line.~~

~~c. *Side yard:*~~

~~None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.~~

~~4. *Minimum principal structure height:* Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.~~

~~5. *Maximum principal structure height:* Forty five (45) feet.~~

~~6. *Open space requirement:* All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.~~

~~7. *Minimum lot width:* None.~~

~~8. *Minimum land area per dwelling:* Seven hundred and twenty-five (725) square feet.~~

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Hospital: Two (2) acres
	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f
Minimum land area per intermediate care facility resident	250 s.f
Minimum land area per permitted hostel guest when maxi	250 s.f
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
	Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. *Does not apply to side yards on side streets.*
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet
Maximum Height	Principal and attached accessory structure: 45 ft
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	*On a collector or arterial road:*
	Large: Not limited
	Medium: 4,500 s.f.
	Small: 2,250 s.f.
	Not on a collector or arterial road:
	Large: 4,500 s.f.
	Medium: 2,250 s.f.
	Small: 1,125 s.f.
Maximum Garage Opening	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

(b)~~.~~ Townhouse Subdivisions

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size~~,~~ width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

~~C.~~(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of (date of enactment) shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

Sec. 14-140. Other requirements.

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

~~For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:~~

~~1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and~~

~~2. The technical and Design Standards for driveway design for one and two-family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;~~

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

~~(d) *Small residential lot development* shall conform to the Site Plan standards of §14-526.~~

...

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit~~, plus one (1) additional parking space for every six (6) units or fraction thereof~~.

2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.

~~3. For residential development on the peninsula (southerly of I-295) and in R-6 and R-6A zones:~~

~~a. One (1) space per unit;~~

~~b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use; and~~

~~c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.~~

~~4~~3. For residential development in the B-2, B-2b, B-2c zones:

a. One (1) parking space per dwelling unit.

(b) *Motel:* One (1) parking space for each sleeping room.

(c) *Hotels:* One (1) parking space for each four (4) guest rooms.

...

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones ~~a~~ according to the provisions described below.

...

(k) *R-6 and R-6A zones:* residential development, including new construction, alterations increase the number of units, and changes of use on the peninsula (southerly of I-295 and Tukey's Bridge).

1. Except as provided below, there shall be one (1) space per unit

2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.

3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.

~~1.~~4. No parking shall be required for the first three units in the R-6 Residential Zone.

5. For alterations of buildings containing three or more dwelling units in the R-6 zone no

parking shall be required for the creation of one additional dwelling unit above existing conditions as of [effective date of this amendment]. This exemption may be utilized one time.

...

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

(a) Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

1. ~~Any lot~~Lots of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; ~~and held under separate and distinct ownership from adjacent lots and~~ provided that a minimum ~~having a~~ street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; ~~,~~ ~~may be considered a buildable lot in any residential zone except as provided below for island residential zones,~~ and provided such lots have ~~with~~ a minimum lot size of five thousand (5,000) square feet, ~~except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet,~~ or the applicable minimum lot size and frontage in that zone, whichever is less ~~provided that the applicable yard dimensions can be met~~.

2. A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

3. Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.

4. A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

5. Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).

(b) Accessory Structures and Building Additions.

Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met~~ provided, however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply~~:

~~a~~1. *R-1, R-2:*

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

~~b~~2. *R-3, R-4, R-5, R-5A, R-6:*

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

(c) Conversion of Accessory Structures to Dwelling Units:

Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear year set—backs, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

Any such conversion in the R-3 zone or on a nonconforming lot in the R-5 zone shall be a conditional use subject to the requirements of section 14-88(a)2 for lots in the R-3 zone, or to the requirements of section 14-118(a)5 for nonconforming lots in the R-5 zone, and shall be in lieu of any additional dwelling units authorized under sections 14-88 or 14-118.

~~Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

...

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

...

9. *Zoning Related Design Standards:*

a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

...

(vi) Residential Development in the following districts:

(a) Planned Residential Unit Developments (PRUDS) in the R3, R5 and R5a residential zones;

(b) Multiple family and multiplex developments in the R5 zone;

(c) Small residential lot development of single family homes in the R5 zone;

(d) ~~Multiple family and multiplex~~All residential development in the R6 zone~~ on lots of 10,000 square feet or less~~.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan

SUBJECT: R-6 Residential Zone Text Amendments

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading__April 6th **Final Action**__April 22nd____

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

PRESENTATION: Planning Board Chair Stuart O'Brien will make a five minute presentation.

I. SUMMARY OF ISSUE (Agenda Description)

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

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

As the dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming. These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

III. INTENDED RESULT

The objectives of these changes are to allow for a pattern of development that provides for greater housing opportunities, enables infill development on small parcels, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development on the peninsula.

IV. COUNCIL GOAL ADDRESSED

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for the zoning ordinance to allow for greater housing opportunities: *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.* A specific housing objective states: *Complete draft rewrites of the R-6, R-7 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.*

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 March 10, 2015, the Planning Board voted unanimously, 6-0 (Dundon absent) to recommend the proposed R-6 zoning and related amendments to the Land Use Code to the City Council, incorporating parking option 1 (first three spaces exempt) and option 4 (one additional space exempt), finding them consistent with the Comprehensive Plan and recommending adoption of the proposed amendment.

VIII. LIST ATTACHMENTS

1. Planning Board Report to City Council

Prepared by: Christine Grimando

Date: March 25, 2015

O:\PLAN\Ordinance Amend\R-6 Text Amendments -2014\R6 for Council

CITY COUNCIL REPORT
from
PLANNING BOARD
PORTLAND, MAINE

REVISIONS TO R-6 RESIDENTIAL ZONING TEXT
CITY OF PORTLAND, APPLICANT

Submitted to: Portland City Council First Reading: April 6, 2015 Second Reading: April 22, 2015	Prepared by: Portland Planning Board Date: March 25, 2015

I. INTRODUCTION

On March 10, 2014, the Planning Board voted unanimously (6-0, Dundan absent) to recommend text amendments to the R-6 zone to the City Council. These changes are primarily concerned with the dimensional requirements of the zone and parking standards. The provision for *small residential lot development*, enacted in 2005, is also proposed for elimination. Changes are also proposed to clarify standards for lots of record. Finally, an important aspect of the changes is to convert the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance. The Planning Board held three workshops on this topic in addition to the Public Hearing, on October 28th, November 25th, and January 20th.

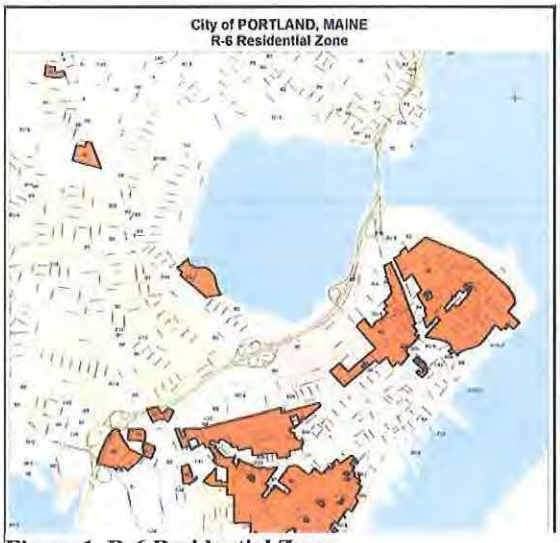


Figure 1, R-6 Residential Zone

Legal notice for the April 22nd City Council hearing will be posted in the *Portland Press Herald* on April 6th and April 13th. Notices will be sent to the interested citizen list and posted on the city's web page.

II. BACKGROUND

The objective of these changes is provide for greater housing opportunities while enabling infill development on small parcels and greater flexibility for alterations of existing properties, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development on the peninsula.

In Spring of 2014 the Planning Department proposed an area of East Bayside be rezoned from R-6 to R-7, in response to repeated feedback that R-6 was not conducive to many new construction proposals. Staff at the time

felt R-7 could be more widely implemented in certain areas to preempt some applications for zone changes. Staff also discussed the fact that they were also looking into changes to the R-6 zone to make it a more viable zone to work within. Ultimately the Planning Board endorsed a more circumscribed area of R-7 in association with that particular application. Feedback at that same meeting urged amending the R-6 *before* applying the R-7 with a broad brush. That feedback also contributed to the changes currently being reviewed. The R-6 zone as proposed allows greater flexibility and higher density than the existing zoning, but is still substantially more restrictive than the R-7 zone in terms of frontage, density, lot coverage (0 frontage requirement, 435 square feet of land area/dwelling unit, and 100% in the R-7 zone). As the dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, and East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners. As an example of the disparity between development patterns and current dimensional requirements, the current minimum lot size of 4,500 square feet renders 71% of existing parcels non-conforming. Similarly, the current minimum front setback of ten feet does not reflect the predominant pattern of Portland's residential neighborhoods, and if met or exceeded would produce a place of a significantly different urban character from the historic and much loved pattern there today. A minimum lot size of 2,000 square feet results in 14% of existing R-6 lots being non-conforming in the category of minimum lot size (see Figures 2 & 3).

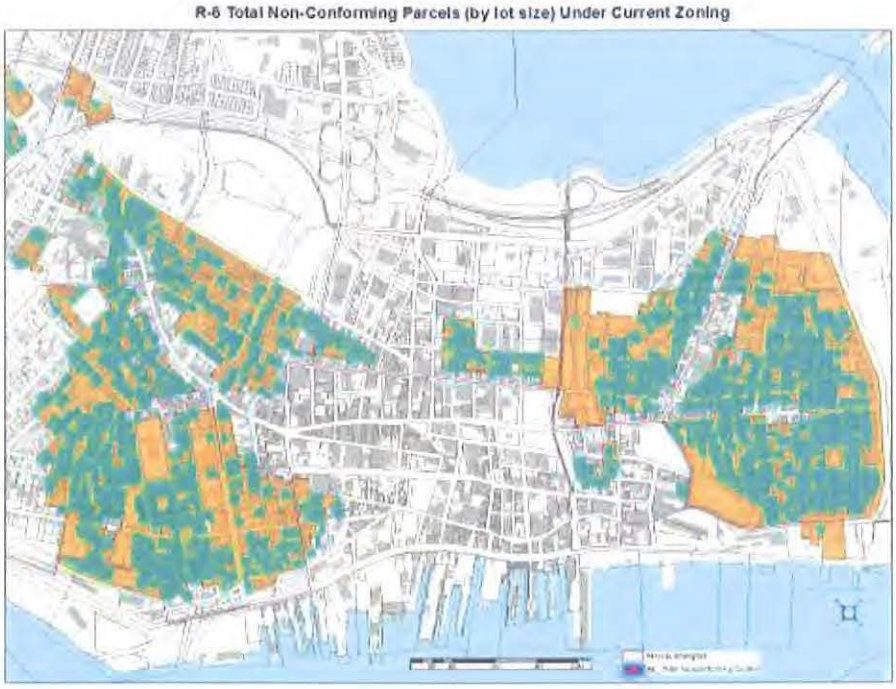


Figure 2, Existing Non-Conforming Lots Under Current Zoning

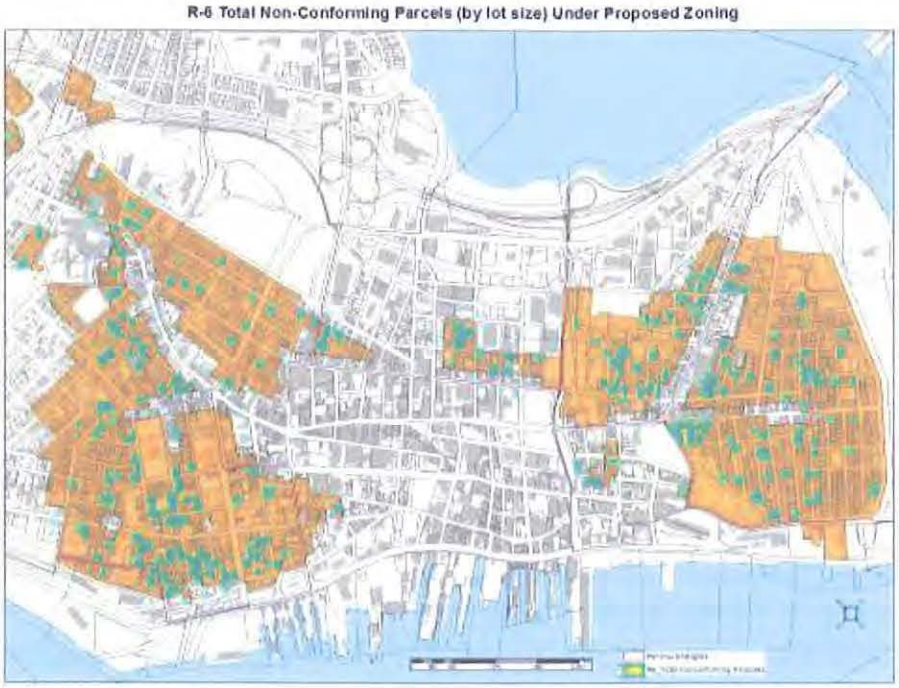


Figure 3, Non-Conforming Lots Under Proposed Zoning

III. Comprehensive Plan Policies

Numerous recommendations in Housing: Sustaining Portland's Future, support these text changes. Policy 1 indicates zoning should encourage all types of high quality and compatible housing to enhance neighborhoods, encourages high density, small lot infill, and allowing for a range of housing types. Policy 3 (*Maintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity*) recommends updating codes to encourage new residential development that: *Offer diverse and quality living options; Encourages traditional neighborhood elements, Promotes a walkable city; Are Compatible with Portland's existing neighborhoods*. It also recommends ensuring the integrity and economic value of Portland's neighborhoods, working to find productive uses for vacant and underutilized lots, and increasing density where appropriate to achieve neighborhood diversity.

IV. City Council Goals.

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for zoning ordinance to allow for greater housing opportunities. A specific housing objective states: *Complete draft rewrites of the R-6, R-7 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.*

V. Proposed Text Amendments

Table 1, Existing and Proposed Dimensional Requirements

R-6 Dimensional Requirements		
	Existing	***Proposed***
Minimum Lot Size	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) sf	Lodging house: Four thousand five hundred 2,000 sf
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	*Minimum land area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Minimum land area per intermediate care facility resident	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	250 s.f
Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	None	250 s.f
Street Frontage	40 feet	20 feet

Minimum Front Yard Setback for Principal and Accessory Structures	Principal or accessory structurese: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	Height of Structure Required Side Yard	
	1 story . . . . . 10 feet	
	2 stories . . . . . 10 feet	
	3 stories . . . . . 10 feet	
	4 stories . . . . . 12 feet	
	5 stories . . . . . 15 feet	

	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
Side Yard on Side Street	10 feet	None
Structure Stepbacks		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. *Does not apply to side yards on side streets.*
Maximum Lot Coverage	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
Minimum Lot Width	50 feet	20 feet
Maximum Height	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: 45 ft
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: 18 ft
		In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	*Uses other than bed and breakfast.* Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.

	Bed and breakfasts. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below 20% of the lot area. A bed and breakfast located on a lot that does not have at least 20% open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	*On a collector or arterial road:*	*On a collector or arterial road:*
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 s.f.
	Small: 2,250 sf	Small: 2,250 s.f.
	Not on a collector or arterial road:	*Not on a collector or arterial road:*
	Large: 4,500 sf	Large: 4,500 s.f.
	Medium: 2,250 sf	Medium: 2,250 s.f.
	Small: 1,125 sf	Small: 1,125 s.f.
Maximum Garage Opening		Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

The changes are meant to simplify the ordinance, provide opportunities for additional housing construction, and allow for greater flexibility on lots. To that end the density standard, currently a variable 1,000 sf per dwelling unit for the first three units, and 1,200 sf per dwelling unit thereafter (36 units per acre) is being proposed to be changed to 725 sf per dwelling unit (60 units per acre). Table 2 illustrates the implications of the proposed change to the density

	Current R-6 Density (1000-1200 sf/du)	Proposed R-6 Density (725 sf/du)
2000 sf lot	2 units	2 units
3000 sf lot	3 units	4 units
4500 sf lot	4 units	6 units

Table 2

standard on three lot sizes. Minimum lot size is proposed to change from 4,500 sf to 2,000 sf, better matching the dense, small lot fabric of residential neighborhoods on the peninsula. Setbacks are reduced to also better match traditional building patterns, reducing the front setback from 10 feet to 5 feet. Side and rear setbacks are similarly reduced. The changes to lot coverage and setback standards have implications for existing as well as future homeowners and property developers, allowing small additions, decks, or accessory structures to be built where they currently are not allowed, allowing greater flexibility for existing properties, and also allowing for the possibility of existing neighborhood patterns to be replicated.

Other changes included in these amendments:

- A provision to allow townhouse style, horizontally attached dwelling units to occur through the elimination of the side setback (Sec. 14-139.b).

- The Small Residential Lot Development (current Sec. 14-139.2) will be eliminated. This standard is in place to allow for small, non-conforming lots to be developed, as the current minimum lot size renders so many small lots unbuildable. It is the goal of these changes to have a lot size sufficiently small as to eliminate the need for this provision.

- A maximum portion of the front façade that can be garage opening has been set to the lesser of 9 feet or 40 percent, with a maximum of 20 feet, so as not to have residential facades be disproportionately dominated by vehicle storage.

- Cumulative Side Setbacks. Five foot side setbacks are proposed for the R-6 zone. The dimensional standards proposed are made with the needs and viability of small lots in mind, so that they may accommodate both a building and a driveway. Existing residential patterns in the R-6 zone show a preponderance of houses hugging one property line, and a driveway along the other (Figure 1, a sketch to illustrate existing and proposed setbacks, shows this common existing non-conforming condition of a lot on Spring Street). To make this configuration a possibility in the future, the amendment includes the following side setback requirement: ***5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.***

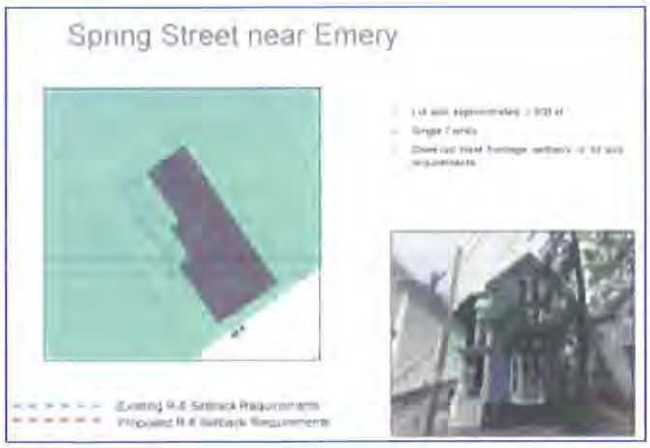


Figure 4

- Parking Standards. Included in these amendments are parking exemptions for the first three units as well as a one time exemption for one additional unit for existing buildings. Parking exemptions have always been included in this amendments, as a critical component of both offering the possibility of freeing a portion of land area for housing units that would otherwise be devoted to parking, and as a means to lower development costs, both issues working to increase the variety and quantity housing choices. This is not a proposal for a prohibition on providing off-street parking, and we expect that a majority of proposals for new residential development will continue to incorporate off-street parking. The proposal is made in the hope it grants some flexibility for small lots that might otherwise be challenged to have lot dimensions

provide for both a new structure and new parking spaces, both.

Lot Mergers/Lots of Record. Changes to the definition of Lot, as well as to 14-433, *Lots of Record and accessory structure setbacks for existing buildings* are attached. Organizational, structural changes to the section are included, in addition to substantive changes to the section. These changes maintain minimum standards for existing non-conforming lots, both for contiguous lots under common ownership and individual lots, while granting them relief from meeting all current dimensional standards.

Under current zoning, contiguous lots of record under common ownership are interpreted as a single tract of land. By changing the dimensional standards to include smaller lot sizes and reduced setbacks, many of these previously unbuildable small lots will return to the pool of buildable property. To account for the inability of many existing lots to meet all dimensional standards - a lot that contains an existing building that does not meet existing setbacks, for instance, would not qualify as meeting all dimensional requirements, and would still merge with an adjacent lot under common ownership – such contiguous lots are only required to meet minimum lot size and frontage requirements to maintain their separate, buildable status. The changes to 14-433 states that *Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).* In the R-6 this would mean contiguous lots under common ownership would need to be a minimum of 2,000 square feet in lot size, and have a minimum street frontage of 20 feet. Maintaining a basic standard of a small minimum lot size and minimum street frontage allows for small, nonconforming lots of record to function as buildable lots, without disqualifying them for the other possible dimensional non-conformities that may exist, such as existing buildings at lot lines.

VI. Public Process

In addition to the several Planning Board workshops and Public Hearing, over the course of several months, staff met with each impacted neighborhood organization to discuss the proposed changes, on the following dates:

- June 11. West End Neighborhood Association
- June 16. Western Promenade Neighborhood Association
- July 7. St. John Valley Neighborhood Association
- July 14. Libbytown Neighborhood Association
- July 16. Parkside Neighborhood Association
- August 5. Bayside Neighborhood Association
- August 11. Munjoy Hill Neighborhood Association
- August 19. East Bayside Neighborhood Association

Planning staff also met with the Southern Maine Landlord Association, and numerous individuals who requested meetings on the topic.

The feedback received at the Neighborhood Association meetings, as well as at the Planning Board's workshops was lively and varied, and much of it was supportive. The overall goals of zoning standards that better align with historic and desired patterns of development, the need to allow for greater housing production, and greater flexibility for property owners on small lots were received well. Feedback on the details of the proposal was far from uniform or entirely positive, though, and there were several recurrent themes of concern and critique that emerged at the meetings and at the workshops:

- *That five foot minimum side setbacks combined with a 45 foot height limit will create light and air impacts for adjacent properties.* In response, the text amendments were changed to include stepbacks of an additional five feet beyond rear and side yard requirements for portions of building above 35 feet.

- *That allowing higher densities in residential zones will hasten a loss of larger housing units and families that occupy them, including the conversion of single family homes and multi-bedroom apartments to 1-bedrooms and efficiencies.* There is an existing zoning provision that speaks to this concern, placing size limits on the conversion of existing buildings into additional dwelling units. Sec. 14-136.2 requires that the creation of new multifamily dwellings originating from the alteration of an existing residential structure not result in the creation of any new dwelling unit of less than 600 square feet of floor area, and shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area. This does not prohibit division of existing units, but it does aid in the retention of a varied housing stock. In the proposed amendments this section is strengthened to apply to single family and duplex dwellings, as well.

- *That the proposed parking exemption for the first three units will have negative impacts on the livability of the impacted neighborhoods.* This has been the aspect of the changes that has received the most scrutiny and caused the most vocal concern. There has been criticism of this aspect of the changes, as well some enthusiastic and in some cases qualified support.

- *What is the relationship of these changes to affordable housing*? The question of the relationship of the proposed zoning changes to affordable housing has been asked at recent workshops. To clarify this point, these text amendments don't include affordability requirements. The R-6 proposal also does not limit the construction of housing that is not considered affordable, just as the current R-6 as it currently is written not do this. The City is considering various tools and strategies to address affordability for the entirety of Portland, including recently having a housing study completed (http://www.portlandmaine.gov/AgendaCenter/ViewFile/Item/1369?fileID=5581), and considering the development of an inclusionary zoning provision. Changing the requirements of the R-6 zone is one tool among many, and these changes do encourage affordability in allowing greater numbers of housing units to be created than is currently permitted, and by proposing to reduce parking requirements which impact affordability in both lowering total construction costs and in allowing more land to be dedicated to housing. By lowering the minimum lot size the possibility for small increments of development increases, and with it the potential for owner-occupied duplexes and triplexes. These changes support a diversity of housing choices, and with them the potential to add to the housing supply in a context that is consistent with the existing neighborhood patterns that would be impossible to replicate under the current zoning standards.

- *Have these changes been brought forward at the request of developers?* These amendments are not at the request of a private developer, and will benefit individual property owners, and small, non-professional property developers as much as developers of larger scale projects.

- *Lot sizes.* There has been feedback that there should be no minimum lot size and also that 2,000 sf is much too small of a minimum lot size. The Planning Board determined it is a size that will make the vast majority of lots developable, while still maintaining dimensional thresholds when paired with lot coverage, setback, and frontage requirements.

- *Concern with the impact on neighborhood character of garage doors as part of a front façade*. Feedback was received that all garage doors in front facades should be prohibited. A maximum percentage of the front façade that can be devoted to a garage door is proposed, so as to limit how much garage doors may

dominate a façade, while still allowing the possibility for this to occur.

- *Sumner Court Street Frontage and Lot Access.* There is currently no proposal before the City to develop any lots off of Sumner Court, but the issue was raised by concerned abutters as to whether there is any possibility further development could occur. Sumner Court, a private way, would not qualify for street frontage due to its status and width, however contiguous property owned by the same individual has street frontage on Cumberland Avenue. The three contiguous lots comprise approximately 15,000 sf. Please see Attachment 3 for a GIS map showing Sumner Court and the property in question. Planning Staff evaluated Sumner Court in light of the proposed amendments to the R-6 zone, and concluded that although none of the properties in question currently meet street frontage requirements, they also could not conclusively eliminate the possibility that some still unknown configuration of land could be brought forward and potentially be approved. The abutters of Sumner Court have requested consideration of a zoning amendment to require that the access to a lot be provided on the street frontage. There are situations where a driveway not being located on the frontage street is not problematic, and where such flexibility is desirable, such as corner lots, lots that have frontage on both front and rear boundaries, and lots with street frontage and alternative access rights to another street.

  Associated with this issue is the neighbors' concern about the adequacy of driveway access, which is a site plan/subdivision issue. The physical adequacy (width, stability, condition, etc.) of a lane such as Sumner Court for access would be evaluated during the course of review. The access would need to meet Technical Manual standards, with advice form Fire Safety, our consulting traffic engineer, and staff from the Department of Public Services in reviewing any proposed access in a site plan or subdivision. More recent comments from abutters have suggested that an alternate amendment would require that any access that is not direct to a street frontage shall be required to meet all technical manual specifications with no chance for waivers.

  The concerns over Sumner Court's development potential transcend the R-6 zoning amendments, and are circumstances that may occur City-wide. This item was discussed by the Planning Board, but no proposal was made to amend the ordinance to require that access be provided from the street where the street frontage is located, or to prohibit such a scenario from receiving waivers. If the Council wishes to consider changes that would not allow Sumner Court from being further developed in the future, Planning staff will be glad to these discuss alternatives and take the direction of the Council.

VII. PLANNING BOARD DELIBERATION AND RECOMMENDATION

The Planning Board deliberated theR-6 and associated amendments during three workshops and a public hearing, over a six month period, receiving public input and making adjustments and modifications to these changes throughout the process. The Board gave the issue of parking policy and exemptions particular attention, and reviewed a range of alternatives. At the public hearing a menu of four distinct parking choices and their implications was discussed, exempting from 1-3 spaces. Their final recommendation included a combination of the exemption of the first three required spaces, and a one time exemption of parking for the creation of one additional dwelling unit. The latter grants flexibility to existing development, and further enables small increments of infill development, consistent with the overall goals of amending the R-6 zone. The Board's final motion reflects these two option (numbered 1 and 4 at the March 10th Public Hearing).

On March 10, 2015, the Planning Board voted unanimously (6-0, Dundan absent) as follows: On the basis of information contained in this report, testimony presented at the public hearing, and a review of applicable policies, the Board finds:

The proposed R-6 and related zoning amendments are in conformance with the City of Portland Comprehensive

Plan and therefore recommends approval of the proposed zoning amendments to the City Council, including parking alternative 1 (exemptions of first three spaces) and 4 (exemption of one new space).

VIII. Attachments

1. Proposed Text Amendments to Portland Land Use Code, Div. 7, R-6 Residential Zone, 14-47, 14-332, 14-433.
2. Table of Existing and Proposed Dimensional requirements
3. Sumner Ct.

Public Comment

PC 1 Alexander
PC 2 Pringle
PC 3 McManamy
PC 4 Jack & Platte
PC 5 PHA
PC 6 Snyder
PC 7 Yarnold
PC 8 Davey
PC 9 Parsons
PC 10 Cowie
PC 11 Barowitz
PC 12 Burwell
PC 13 Barowitz
PC 14 Cowie
PC 15 Cowie
PC 16 Jack
PC17 WPNA

Amendments to Section 14-47. Definitions

Lot: ~~Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.~~ A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.

Amendments to Sections 14-135, 14-136, 14-139, 14-140

DIVISION 7. R-6 AND R-6A RESIDENTIAL ZONES*

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

The purpose of the R-6A residential zone is:

(c) To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula. The zone is appropriate in areas that are along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.

2. Multifamily dwellings.~~, provided that any alteration of a structure in residential use on December 2, 1987:~~

~~a. Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and~~

~~b. Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;~~

Sec. 14-139. Dimensional requirements.

a. In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

March 25, 2015. R-6 and Associated Text Edits

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Hospital: Two (2) acres
	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f
Minimum land area per intermediate care facility resident	250 s.f
Minimum land area per permitted hostel guest when maxi	250 s.f
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
	Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. *Does not apply to side yards on side streets.*
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet
Maximum Height	Principal and attached accessory structure: 45 ft
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	*On a collector or arterial road:*
	Large: Not limited
	Medium: 4,500 s.f.
	Small: 2,250 s.f.
	Not on a collector or arterial road:
	Large: 4,500 s.f.
	Medium: 2,250 s.f.
	Small: 1,125 s.f.
Maximum Garage Opening	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

b. Townhouse Subdivisions

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size~~,~~ width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

C. Alterations to Single-family, two-family, and multi-family dwellings in existence as of (date of enactment) shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

~~(a) *Minimum lot size:*~~

~~1. Residential: Forty-five hundred (4,500) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.~~

~~2. Reserved.~~

~~3. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.~~

~~4. Intermediate care facility: One (1) acre.~~

~~5. School: Thirty thousand (30,000) square feet.~~

~~6. Places of assembly;~~

~~Large~~	~~30,000 sq. ft.~~
~~Medium~~	~~15,000 sq. ft.~~
~~Small~~	~~7,500 sq. ft.~~

~~7. Municipal use: Forty-five hundred (4,500) square feet.~~

~~8. Hospital: Two (2) acres.~~

~~9. All other uses: Forty-five hundred (4,500) square feet.~~

~~10. Lodging house: Four thousand five hundred (4,500) square feet.~~

~~(b) 1. *Minimum area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.~~

~~2. *Minimum rooming unit areas for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.~~

~~3. *Minimum land area per lodging house rooming unit:* Two hundred fifty (250) square feet.~~

~~4. *Minimum land area per intermediate care facility resident:* Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.~~

~~(c) *Minimum street frontage:* Forty (40) feet.~~

~~(d) *Minimum yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. *Front yard:*~~

~~Principal or accessory structures: Ten (10) feet.~~

~~A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.~~

~~2. *Rear yard:*~~

~~a. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.~~

~~b. Detached accessory structures with a ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.~~

~~c. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. *Side yard:*~~

~~a. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~*Height of Structure – Required Side Yard*~~

~~1 story . . . . . 10 feet~~

~~2 stories . . . . . 10 feet~~

~~3 stories . . . . . 10 feet~~

~~4 stories . . . . . 12 feet~~

~~5 stories . . . . . 15 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~b. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.~~

~~c. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~4. *Side yard on side streets:*~~

~~a. Principal or accessory structures: Ten (10) feet.~~

~~(e) *Maximum lot coverage:* Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.~~

~~(f) *Minimum lot width:* Fifty (50) feet.~~

~~(g) *Maximum structure height:*~~

~~Principal and attached accessory structure: Forty-five (45) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~(h) *Open space ratio:*~~

~~1. *Uses other than bed and breakfast.* Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.~~

~~2. *Bed and breakfasts.* A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for Site Plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for Site Plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for Site Plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.~~

~~(i) A below-grade dwelling unit shall be permitted only if the primary access for the dwelling unit is provided directly to the outside of the building.~~

~~(j) *Minimum gross floor area for bed and breakfasts:* Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.~~

~~(k) *Maximum floor area for places of assembly on a collector or arterial road:*~~

~~Large~~	~~Not limited~~
~~Medium~~	~~4,500 sq. ft.~~
~~Small~~	~~2,250 sq. ft.~~

~~(l) *Maximum floor area for places of assembly not on a collector or arterial road:*~~

~~Large~~	~~4,500 sq. ft.~~
~~Medium~~	~~2,250 sq. ft.~~
~~Small~~	~~1,125 sq. ft.~~

~~(2) *Small residential lot development:* Residential uses on small, vacant lots located in the R-6 are subject to Site Plan review and may use the dimensional requirements below if all of the following conditions are met:~~

~~The lot is:~~

~~Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.~~

~~(a) *Minimum lot size*: None~~

~~(b) *Maximum lot size:* Ten thousand (10,000) square feet.~~

~~(c) *Yard dimensions:*~~

~~1. *Front yard:*~~

~~No more than ten (10) feet.~~

~~2. *Rear yard:*~~

~~None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Not withstanding the foregoing, no structure shall be closer than four (4) feet to side property line.~~

~~3. *Side yard:*~~

~~None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.~~

~~(d) *Minimum principal structure height:* Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.~~

~~(e) *Maximum principal structure height:* Forty five (45) feet.~~

~~(f) *Open space requirement:* All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.~~

~~(g) *Minimum lot width:* None.~~

~~(h) *Minimum land area per dwelling:* Seven hundred and twenty-five (725) square feet.~~

Sec. 14-140. Other requirements.

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

~~For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:~~

~~1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and~~

~~2. The technical and Design Standards for driveway design for one and two-family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;~~

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

~~(d) *Small residential lot development* shall conform to the Site Plan standards of §14-526.~~

Amendments to Section 14-332, Parking

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit~~, plus one (1) additional parking space for every six (6) units or fraction thereof.~~.

2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.

~~3. For residential development on the peninsula (southerly of I-295 and Tukey's Bridge)and R-6 and R-6A zones.~~

~~a. One (1) space per unit;~~

~~b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared-use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.~~

~~c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.~~

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones a according to the provisions described below.

....

(k) For residential development, including of new construction, alterations which increase the number of units, and changes of use on the peninsula (southerly of I-295 and Tukey's Bridge)and R-6 and R-6A zones.

1. One (1) space per unit.

2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.

3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.

4. No parking shall be required for the first three units in the R-6 Residential Zone.

5. For alterations of buildings containing three or more dwelling units in the R-6 zone no parking shall be required for the creation of one additional dwelling unit above existing conditions as of (date of enactment). This exemption may be utilized one time.

Amendments to Section 14-433. Lots of record and accessory structure setbacks for existing buildings

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

1. Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

(a) ~~Notwithstanding any other language in this ordinance, Any lot~~Lots of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; ~~and held under separate and distinct ownership from adjacent lots and~~ provided that a minimum ~~having a~~ street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; ~~, may be considered a buildable lot in any residential zone except as provided below for island residential zones~~, and provided such lots have ~~with~~ a minimum lot size of five thousand (5,000) square feet, ~~except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet,~~ or the applicable minimum lot size and frontage in that zone, whichever is less ~~provided that the applicable yard dimensions can be met~~.

(b) A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

(c)

~~1.~~ Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.

~~(a)~~

(d) A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

(e) Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).

~~2.~~

2. Accessory Structures and Building Additions. Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met~~ provided, however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply~~:

a. *R-1, R-2:*

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

b. *R-3, R-4, R-5, R-5A, R-6:*

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

(3). Conversion of Accessory Structures to Dwelling Units: Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear year set backs, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

~~Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of~~

~~six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~3. A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

Amendments to Section 14-526. Site Plan Standards

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

…

9. Zoning Related Design Standards:

   a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

   …

   (vi) Residential Development in the following districts:

   …

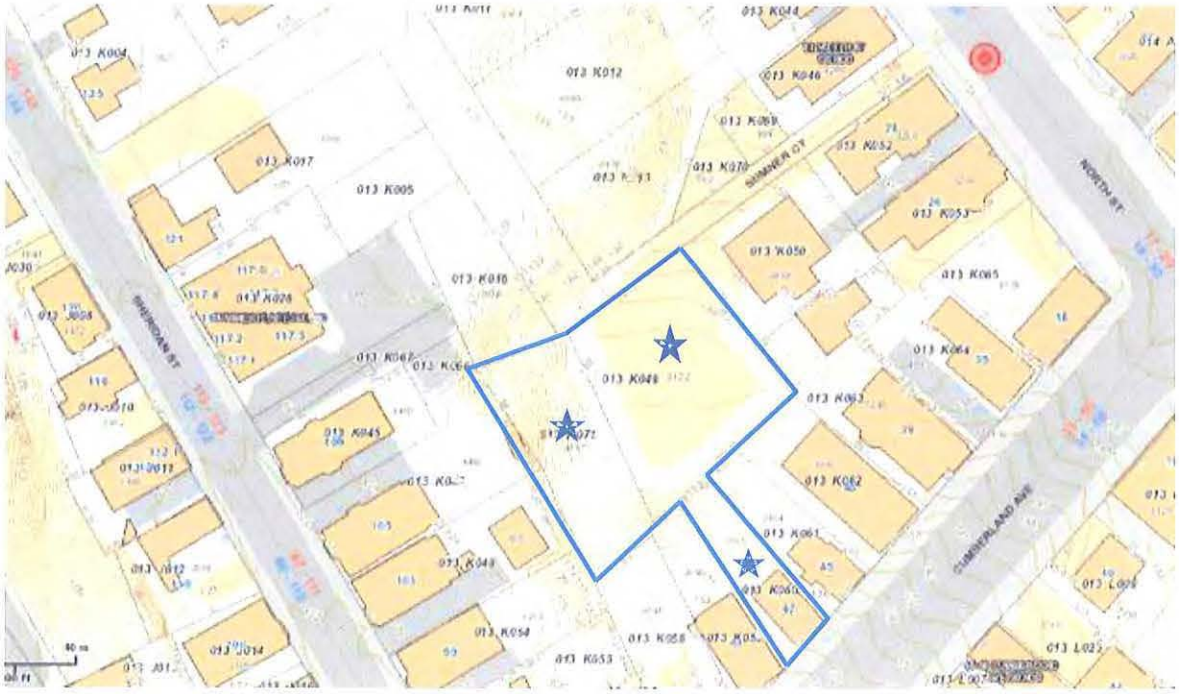
   (d) ~~Multiple family and multiplex~~All residential development in the R6 zone ~~on lots of 10,000 square feet or less~~.

R-6 Dimensional Requirements		
	Existing	*Proposed*
Minimum Lot Size	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) sf	Lodging house: Four thousand five hundred 2,000 sf
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	*Minimum land area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Minimum land area per intermediate care facility resident	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	250 s.f
Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	None	250 s.f
Street Frontage	40 feet	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	Principal or accessory structurese: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	Height of Structure Required Side Yard	
	1 story . . . . . 10 feet	
	2 stories . . . . . 10 feet	
	3 stories . . . . . 10 feet	
	4 stories . . . . . 12 feet	
	5 stories . . . . . 15 feet	
	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	

R-6 Dimensional Requirements		
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
Side Yard on Side Street	10 feet	None
Structure Stepbacks		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. *Does not apply to side yards on side streets.*
Maximum Lot Coverage	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
Minimum Lot Width	50 feet	20 feet
Maximum Height	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: 45 ft
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: 18 ft
		In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	*Uses other than bed and breakfast.* Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
	Bed and breakfasts. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below 20% of the lot area. A bed and breakfast located on a lot that does not have at least 20% open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	*On a collector or arterial road:*	*On a collector or arterial road:*
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 s.f.
	Small: 2,250 sf	Small: 2,250 s.f.
	Not on a collector or arterial road:	*Not on a collector or arterial road:*
	Large: 4,500 sf	Large: 4,500 s.f.
	Medium: 2,250 sf	Medium: 2,250 s.f.
	Small: 1,125 sf	Small: 1,125 s.f.
Maximum Garage Opening		Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.
Date of Draft: March 5, 2014		

Attachment 3

Map of Vacant R-6 Land Vic. of Sumner Court and Cumberland Ave.



1. 13-K-60
   CUMBERLAND AVE 47-49
   2515 SF
2. 13-K-49
   SUMNER COURT
   8122 SF
3. 13-K-71
   CUMBERLAND AVE R 53-55
   4357 SF

Total area: 14, 991 SF

From: Todd Alexander <toddmalexander@gmail.com>
To: <aqj@portlandmaine.gov>, <cdg@portlandmaine.gov>, Catherine Alexander <calexander@unum.com>, <marshalldistrict2@gmail.com>, <damarshall@portlandmaine.gov>, <mfpb@portlandmaine.gov>, <jhinck@portlandmaine.gov>, <kjdonoghue@portlandmaine.gov>
Date: 7/10/2014 8:22 AM
Subject: Proposed Changes to R6 Zone

Hi Alex:

I am writing this email to provide public input on the proposed changes to the R6 zone. By way of background, my wife, Catherine, and I live at 3 Carroll Street -- which is located within the R6 Zone. We have lived in this neighborhood for the past 15+ years -- previously owning a home on Pine Street, also within the R6 Zone. My wife is a real estate attorney. My background is in urban planning, real estate development (affordable housing) and real estate finance. We have three young children who attend Reiche.

We are strong supporters of the proposed changes to the R6 zone. In particular, we are extremely pleased to see the proposed amendments to the dimensional requirements. The current dimensional requirements for the R6 zone are not consistent with the city's comprehensive plan and current housing policies. Most importantly, existing requirements severely restrict the ability of property owners to develop or redevelop their properties in a manner that would otherwise be completely inline with the historical development patterns in the East and West End neighborhoods. This results in numerous vacant and underutilized lots that negatively impact the entire neighborhood by reducing property values, limiting housing choices and suppressing municipal property tax revenue. If anything, we support even less restrictive dimensional requirements--for example, reducing the density allowance to 1 unit for every 435 square feet, similar to the neighborhood business zones and R7 overlay zone.

I would add that, in conversation with our neighbors and friends who would be directly impacted, there is generally consistent support for the proposed changes. Collectively, we can connect the dots between more flexible zoning and the positive results it will bring -- cleaning up run-down properties, more families moving into the neighborhood, and greater property tax revenue to support our students and teachers at Reiche, to name just a few.

The West End neighborhood, in my opinion, has benefited greatly from the City and Planning Board's progressive policies towards responsible development on the peninsula and I think the proposed R6 zone changes are another step in the right direction.

Best,
Todd

--
Todd M. Alexander
207 749-7257

Jeff and Alex,

Thank for meeting with WPNA Board and Visioning Committee members on June 16 to discuss the impetus for and proposed text changes to the R-6. I understand that you have also reached out to other peninsula neighborhood associations and we all appreciate the early introduction to this important initiative.

As we understand it, the effort comes at the direction of the HCDC to encourage more housing creation by removing zoning impediments, while being sympathetic to the context in which new housing would be created. Objectives are:

~Assure a range of housing options
~Add housing units
~Promote "affordable housing"
~Reflect the existing development pattern in neighborhoods

On its face, each of these are worthy objectives, but zoning changes must be approached carefully to assure that the objectives are, indeed, met and that unintended consequences are avoided.

Some of our comments were:

~The proposed street line changes appear to make sense to conform to the existing development pattern and do not affect other neighbors.
~Side and read setback changes and lot coverage may make sense in certain situations, but not others, as they may negatively affect immediate abutters.
~Reduction in the required lot size/unit , with some controls over individual unit size, will create more units but could potentially spur conversion of more affordable single family homes to multi-unit structures.
~In the quest for "affordable housing", how does the City define this term? What mechanisms are contemplated to assure sustainable affordable housing, as zoning changes do not control the marketplace? In particular, an unintended consequence might be the conversion of modest single family homes to multi-units, a windfall for the seller and developer, but probably providing affordable housing to perhaps only the first unit occupant and removing relatively affordable single family homes from the housing stock.
~The proposed reduced parking requirement was of great concern in an already tight parking situation on many blocks.
~In the case of vacant lots under the new rules, a large new building with significant lot coverage might not be consistent with the prevailing development pattern.
~Once the zoning is changed, it affects existing owners who can't get relief from the unintended impacts of the changes.

Upon reflection, here are some incremental actions that may make sense, in response to the issues raised above:

~Focus first on the vacant "stranded lots", development of which is constrained by existing zoning. How many such lots are there? How many housing units might be created under the proposed density changes? Do and evaluate some visual impact examples for individual lots, shown in the existing development context.

~Explore ways to reduce development cost on the peninsula. As you have heard me comment at numerous meetings, the development cost of "affordable housing" is outrageous. How does it compare to the cost of of private development by Crandall Toothaker, for example?
~Study the market for very small units. How deep, sustainable is that market? What housing stock might be lost to the conversion to smaller units? How does that affect the mix and integrity of existing neighborhoods?
~Study the peninsula housing pattern in, say, the '40s or '50s, when Portland's population was much larger. How many people lived on the peninsula? Household sizes? In what housing configurations? Single family homes, multi-bedroom apartments, etc? What has changed? For example, the large-scale conversion in Parkside in the 1970s of large single family units (homes and apartments) to one bedroom units made the neighbored more transitory and severely affected the parking problem.

Thank you for considering our input.

Please let me know the current timeline for this issue to move forward, so that we will be ready to participate in meetings.

Thanks - and let me know if you have any questions or comments

Anne Pringle, President
Western Promenade Neighborhood Association

November 19, 2014

Chair O'Brien and members of the Portland Planning Board:

I am writing to ask you to broaden awareness of and participation in the substantial changes proposed for the R6 zone. As a resident of Munjoy Hill, I can see that the amendments will have a substantial negative impact on my quality of life, and I believe my concerns would be shared by many if they were aware of the work underway. Casual conversations around town convince me they are not.

My first request is that you mail postcards to property owners and renters in the affected neighborhoods, directing them to the well-organized resource on the city's website and informing them of upcoming events.

With respect to the proposals, I am concerned about the elimination of the offstreet parking requirement for the first three units. Before we had any parking requirements at all, Parkside was the focus of a frenzy of investment in income properties, and the congestion resulting from that era remains today: the interest among Portland residents in being car-free has not removed enough cars from Parkside streets to make the neighborhood's parking adequate. Much of the property is absentee landlord-owned. Were these changes to go through, I am certain the same would happen on Munjoy Hill. I would be able to add two units to the building I own and live in, and all the tenants' cars would be on the street. Increased real estate values would put great pressure on landowners to build to the maximum number of units.

We need a specific parking strategy for the Portland peninsula, but this is not it. My second request is that you remove this proposal from the table this activity and develop a parking strategy with input from residents.

My second concern is for the escalation of property values on the peninsula, which this proposal will accelerate. There is growing anxiety about the next revaluation, and consequent impact on taxes. A sudden increase in property taxes is likely to drive many middle income residents out of my neighborhood, to accelerate the chopping up of existing buildings into smaller units, and to eventually lead to another collapse in real estate prices. Already there are unsold condos on the Hill, and developers are buying and renovating properties in order to flip them. We have seen this before, in the early 90s, and don't want to go down that road again.

My third request is that you communicate in a transparent way with the citizens of Portland about the state of the city and the type of social fabric your housing policy is designed to bring about (is it true that half the rental units in the city are subsidized? Is it true also that families with children leave the peninsula and the city seeking a better balanced social environment for their children's schools once the children reach school age?) Nowhere is it clearly stated.

I believe that most of the residents of the R6 zone support shelter for all who need it, but believe that driving this development agenda will simply price more middle class families out of the market. It is time to create cluster developments with neighborhood services in off-peninsula neighborhoods where land prices are more reasonable and construction costs lower. I think this rises to the level of a revision of the comprehensive plan, and so my fourth request is that you initiate that process.

Finally, I want to request that the city rebalance its efforts to reduce the time spent on enabling development. The city's only visible economic development strategy seems to be a maximum buildout of its real estate. This summer, nearly every street on the peninsula was opened for utility work, and closed up again without the installation of fiber optic cable or conduits for fiber optic cable. Meanwhile, South Portland has partnered with gwi.net to install state of the art infrastructure for business and entrepreneurs. The internet service on the peninsula is poor, partly because our antiquated phone lines cannot carry a high quality signal, and Portland is at

risk of losing its highly valued entrepreneurial culture as a result. We have sadly neglected important business as a city, whether it is fire safety or infrastructure to support business. The pendulum has swung too far.

Thank you for taking the time to read this.

Sincerely,

Jean (Nini) McManamy
10 Willis Street, Portland

11/19/14

Barbara Barhydt, Development Review Manager
Alex Jaegerman, Director
Christine Grimando, Senior Planner
Planning Division
389 Congress Street 4th Floor
Portland, ME 04101

Dear Barbara,

My husband and I own and reside in property on Munjoy Hill. We are not able to attend the workshop meeting on 11/25 to discuss the proposed changes to the R-6 Zoning Ordinance but want to weigh in on this important issue.

We understand that the city's mission for changing the R-6 ordinance is to provide for greater housing opportunities, to enable infill development on small parcels and to have standards in place for new construction to be consistent with the historic pattern of development in the R-6 zone.

While we support parts of that overall mission, we feel that some of the reduced requirements in the current proposal go too far and will create unintended consequences that will negatively change the landscape and overall character of the neighborhoods in the R-6 zone.

For example, at the first meeting we attended several months ago regarding the R-6 changes, the initial proposal reduced the minimum lot size from 4,500 to 2,500 sq. ft. and reduced the minimum street frontage and lot width requirements from 40' to 30'. In the latest proposal, these requirements have been even further reduced, which we are very concerned about. The current proposal reduces the minimum lot size from 4,500 to 2,000 sq. ft. and reduces the minimum street frontage and lot width requirements from 40' to 20'.

If these current requirements pass and parcels with only 20' of street frontage qualify as buildable lots--with the new 5' setbacks on either side--they would allow for 10' wide buildings as high as 45' to be erected. These structures would resemble the "tube" housing that is prevalent in Hanoi, Vietnam—the only place in the world where these structures currently exist. Below are examples of what these buildings look like:

These structures are clearly not the type of housing that is intended for the Portland peninsula, do not support the Comprehensive Plan and are completely out of character with our current neighborhoods. Yet they would be possible given the requirements in the current proposal.

Too, given the huge increase in land values, property owners and developers would be encouraged to divide and sell off any portions of their lots that would qualify as buildable lots under the new provisions. Thus, not only would some of the existing R-6 vacant lots qualify for development, but much of the land currently used as side yards and off street parking areas would be lost to the type of increased housing density mentioned above. The charm and character of our current neighborhoods would be lost forever and more cars would end up on the streets, making our parking issues far worse.

We are further concerned that the parking requirements have been reduced from 1 space per unit to 0 spaces for the first three units. The Portland public transportation system has a very long way to go before it will truly be practical for residents not to own cars. In the interim, the City is responsible for creating realistic zoning laws that recognize this fact. Pouring more cars on the streets with no plan for how to properly manage them is simply not good public policy.

We agree that the Small Residential Lot Provision should be eliminated from the R-6 Zoning Ordinance since the new minimum lot size will be smaller and will allow for many vacant lots to be developed, where appropriate. If the Small Lot Provision is not eliminated, it should be amended to include a minimum street frontage provision so that lots with inadequate access will not qualify for development.

While we support responsible development when and where it's appropriate, we do not support changing zoning laws simply so that developers can squeeze more market rate housing units into every square inch of land on the peninsula. This will do nothing to preserve the character of our neighborhoods or to solve the affordable housing crisis. It will only support the developers and those who can afford luxury housing. Given the continued rise in land and property values, it is no longer feasible for developers to build

affordable housing units in most areas on the peninsula, especially the already densely populated areas like Munjoy Hill and the West End. There is an explosion of new high end housing units currently under construction on Munjoy Hill. Some are selling for prices as high as a million dollars per unit. If the goal is to add more affordable housing units in Portland, the City needs to look at neighborhoods where land is more available and affordable rather than changing the zoning in the most densely populated neighborhoods in the state to squeeze in more high end housing units. Affordable housing opportunities are more realistic in areas off the peninsula with lower land values.

In summary, we feel that more public discussion is necessary before a proposal is presented to the City Council for approval. We attended a meeting on 11/16 at the MHNO office and heard from the nearly 36 people in attendance that there is a high lack of public awareness surrounding this issue. Despite the fact that members of the Planning Staff have met with some of the neighborhood organizations, many residents are not aware that changes to the R-6 zoning ordinance have been proposed and are being discussed. The city must cast a much wider net to include their voices in this discussion before any changes are made.

Sincerely,

Pam Jack & Devon Platte
26 North Street

PORTLAND HOUSING AUTHORITY

COMMISSIONERS
Christian MilNeil, Chairperson
Shirley Peterson, Vice Chairperson
Siyad Ahmed, Commissioner
Mariar Balow, Commissioner
Evan Carroll, Commissioner
Faith McLean, Commissioner
Thomas Valleau, Commissioner

Mark B. Adelson
Executive Director

14 Baxter Boulevard
Portland, Maine 04101
Office: 207-773-4753
Fax: 207-761-5886
www.porthouse.org

November 10, 2014

To the Portland Planning Board and Portland City Council:

The Portland Housing Authority (PHA) would like to express its strong support for the proposed revisions to Portland's R6 zoning code. We assist over 3,000 households with housing in the City of Portland through our Public Housing and Section 8 Housing Choice Voucher programs. The current zoning code is a major obstacle in building new rental housing on the Portland peninsula, and poses three important challenges to our mission and programs:

- Very few market rate apartments have been built on the Portland peninsula in the past 30 years, in spite of rising demand. This has created extremely tight conditions in the rental market, with single-digit vacancy rates. This makes it harder for us to locate housing for families eager to utilize our Housing Choice Vouchers, the bulk of which are paid to private-sector landlords.

- The imbalance of rental supply and demand has also increased the city's market rents. This drives more households to seek assistance from our programs (over 4,500 applicants are currently on our waiting list) while forcing us to spend more money on each of the 1,800 Section 8 Housing Choice Vouchers we administer.

- Our long-term goal is to redevelop our Public Housing neighborhoods like Kennedy Park in such a way that these sites can house more families, employ better urban design, and create wider variety of affordable housing opportunities. However, the restrictions of the current zoning code effectively prohibit affordable housing unless significant subsidy can be obtained. State and Federal assisted financing for development and additional rental subsidies are extremely limited and competitive. Along with current density restrictions, setback and parking requirements prohibit building new housing that mimics the design and architectural vernacular of Portland's older neighborhoods.

The proposed revisions would, in the short term, enable the PHA and others to develop new affordable housing that serves more households, is more energy-efficient, promotes upward mobility for our residents, and is better-integrated with surrounding neighborhoods. And, in the longer term, a revised R6 zone would stimulate the construction of new middle-class housing which in-turn would help to ameliorate the city's housing shortage and associated rent inflation.

One question we have is in regard to two of our largest Public Housing properties in the R6. Together, Harbor Terrace in the West End and Franklin Towers in Bayside contain 320 apartments for seniors and disabled individuals. These buildings are over 40 years old and will be ready for redevelopment in the not-to-distant future. Even if the proposed amendments are approved, they would still violate the new R6 zone's height requirements. Whether they deserve an entirely new zoning designation or an exception in the R6 language, we would appreciate a discussion with City planners and possibly a proactive solution.

Yours sincerely,

Mark B. Adelson, Executive Director

cc: Jeff Levine, City of Portland Planning Division Director

Hi Alex, Christine, and Jeff,

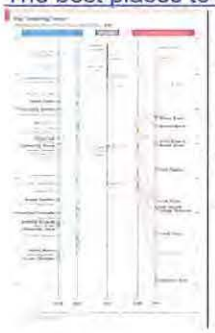
Based on the outcome of the proposed R-6 amendment changes that you proposed to the East Bay Side Neighborhood Meeting held on Tuesday, August 19,2014 at the Mayo Streets Art building, conservatively 80% of the East Bay Residents that attended were really opposed to the R-6 recommended parking changes of NOT requiring off street parking for multi-units of three (3) or less. One (1) off street parking slot per unit should ALWAYS be required. I am pretty sure the majority of East Bay Side neighbors agrees with this statement to keep further congestion on our neighborhood streets.

Additionally, I am concerned about the accuracy and the bench marking information gathering that you seem to justify these proposed R-6 dimensional requirement changes. You seem to use a specific consultant that feeds you information and you appear to be using only Portland, Oregon as a bench marking model. Yet, you can not seem to provide any specific detail on the statistics (example: averages, min/max, etc.) that drive your dimensional requirements existing and proposals dimensional numbers. In fact, when we asked you about Front Yard Setback, you basically said you don't have any averages, well if that is the case, how could you make a proposed front yard setback dimension requirement? This also applies to the other proposed dimensional requirements as well.

I am not sure if you realize this but the reputable magazine called the Economist which has just put out the most livable cities in the world to live in and the United States has NOT one city included in the top ten. In fact, several Australian and Canadian cities are in the top ten.

The below link provides the Economist's 2014 latest livable city list which could also possibly be used in benchmarking for cities' models and parameters rather than just Portland, Oregon.

The best places to live



The best places to live

A data-driven ranking of the most liveable cities NOT New York nor Paris nor Tokyo. Urbanites in Britain's former dominions should count themselves lucky,...

View on www.economist.com Preview by Yahoo

The reason why I live in Portland, ME is because it acted like a city represented in the Economist as a most livable city since I have been to most of the world's best livable cities. However, it appears that the current Portland city council, planning dept, and the planning board members are slowly killing the essence of what makes Portland, ME one of the few cities in the United States that is "livable" to appease the developers without the consideration of the local tax paying residents in mind.

Regards,
K Snyder
Concerned Munjoy Hill Resident

>>> "RITA YARNOLD" <cbayrea1@maine.rr.com> Tuesday, October 28, 2014 12:08 PM >>>
Dear Barbara,

I have a showing appointment that conflicts with the Planning Department workshop this afternoon at 4:30.

As a local real estate professional, I agree with Ron Gan's October 22, 2014 letter, that was addressed to you.

Best regards,

Rita Yarnold
Bay Realty/President
559 Congress Street
Portland, Me. 04101

11-18-14

Ms. Grimando -
I was unable to make the meeting Sunday at the Munjoy Hill Neighborhood Organization, but wanted to express great concern for many of these proposed changes. The drastic reductions in lot size and setbacks, increasing density and requiring no parking for first 3 units, would change the landscape here on Munjoy Hill - affect light, increase crowding, and damage instead of enhance quality of life.
I am very much in favor of urban development, but even with the existing R-6 regulations, it is pretty easy to watch development go up that completely changes the landscape of streets and blocks.
I am also concerned that the next public meeting is Tuesday, November 25, during the week of Thanksgiving holiday, when many interested citizens will be away or with family.

I would very much like to be added to any e-mail list you have re the progress and process of proposed revisions to R-6.
Thanks very much.
Lynn Davey
9 Ponce St
Portland
207-773-6356

Hi, Christine:

Thanks for talking with me just now. Below is the notice that went around from WENA and that prompted my call.

If there is any mechanism for continuing to take public comment on this matter, I'd like it known that I am concerned about the 5 foot minimum on the sides of lots. For closely abutting properties this poses potential fire risks as well as maintenance difficulties (should workers need to have access to either structure). The current 10 foot setback seems much more reasonable and workable on both these issues. So I hope the City will leave well enough alone here.

If you have any questions, don't hesitate to be in touch; I'll keep following this process, too.

Thanks again and have a good weekend,
Liz Parsons
44 Winter Street

Ms Grimando, my wife Annie and I live on 32 North St on the corner of Sumner Court. If you can do so please send me a copy of the R6 Text Amendments the Planning Board will be considering on November 25. We, and several of our neighbors, are concerned that any proposed amendments would permit a multi-unit building to be built at the end of Sumner Court ***and*** that would allow Sumner Court to be used as the ***sole*** vehicle access to and from such a building.
Thank you,
JD Cowie
321-8615

Looks great! Perfect balance of needs and historic character.
Kudos!
Zack Barowitz

Re Proposed R-6 Zoning Changes and Resident Feedback

Dear Planning Board member,

I first heard of proposed changes to the R-6 zone from a neighbor only recently, and learned some of the details at a November 16 gathering at the Munjoy Hill Neighborhood Organization building. Attendees included individuals from the West End and Bayside as well as Munjoy Hill residents. We met to begin understanding the objectives and parameters of the proposed changes.

I left with several impressions:

v Some residents are very knowledgeable, articulate and committed to their neighborhoods. They are also open-minded. Decisions on zoning changes would benefit from their insights.
v Each R-6 neighborhood has its own character, opportunities and challenges. The proposed changes would affect various R-6 neighborhoods differently. For example, zoning changes which significantly reduce off-street parking requirements would be problematic on Munjoy Hill where shortages of on-street parking space is already acute. However, on-street parking is not a problem in some other areas. A broad brush approach to all R-6 zones would not be most effective.
v Many attendees expressed support for more affordable housing. Unfortunately, long-term homeowners and tenants on Munjoy Hill are leaving due to the effects of rapid increases in property values, taxes, and rents. The proposed R-6 changes would accelerate these trends as properties with unbuilt yards or smaller buildings would increase financial incentives for tear-downs and rebuilds with larger structures. Some attractive nineteenth century housing would surely be lost.

As a property owner in Cumberland I recently received a survey asking for my opinions on possible zoning changes there. The survey was both detailed (which zones in town, if any, should be considered for reductions in minimum lot sizes) as well as open-ended (what did I like and dislike about living in Cumberland). The survey made resident opinions part of the planning process, and I suspect that the town obtained valuable input.

I request that the Planning Board take actions to educate residents in R-6 neighborhoods about the objectives and options of zoning changes, and gather substantive input from those residents before proceeding with unvetted, broad brush changes.

Thank you.

Brian Burwell

Hi All,
I'd like to add a couple of things to discussion about changes to the R6 zoning.

- The current zoning laws are both archaic and impractical. They specify a much lower density than exists currently and does not reflect current standards. Indeed nearly every house--upwards of 95%--in the affected areas (West End, East End, Parkside, SJV, Libbytown, etc.) is non-conforming to the current codes. That means that all the great houses in Portland could not be built today because the lot size is not big enough, they are not set back far enough, they are too close to the side neighbors, etc.

- As stated in the minutes, the changes are intended to ease restrictions on creating higher density; what that means is that it would be easier to add an in-law unit or an above the garage unit to one's home. By adding more units housing will become more affordable according to the laws of supply and demand.

- Apart from providing more housing, higher density will encourage more businesses (such as neighborhood groceries). It will also allow for infill of disused vacant lots.

- The changes will allow Portland to continue to be Portland; it will not allow for tall, out of character buildings in historic neighborhoods but rather encourage more of what Portlander's value in terms of greater walkability, cultural interaction, and quality of life.

I would be happy to discuss this matter further with anyone who would like to.

Thank you,
Zack

11-21-14

Dear Mr Jaegerman:

At the end of that mtg I asked a question I was promised an answer to, but I have not got it. The question was: Could Frontage on Sumner Court (such as on Mr Gan's vacant lot there) be used to satisfy the proposed revised R6 street frontage requirement?
Please answer me or have someone in you group do so.

While I'm at it I also want the Board and its Staff to know that my wife Annie Cowie and I agree with and support everything Pamela Jack and Devon Platt said in their letter to Ms Barhydt.

JD Cowie
32 North St
321-8615

PC15

Christine Grimando - Fwd: Re: My Question

From: Alex Jaegerman
To: Christine Grimando
Date: 3/5/2015 6:00 PM
Subject: Fwd: Re: My Question

Christine: Please include this email correspondence with the R-6 Public Comment.

>>> On 2/15/2015 at 12:00 AM, in message <C0026AD0-82A3-464B-AAC4-6ADB20A854BA@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

> Thank you, Mr Jaegerman, and thanks also to Ms Grimando and Ms Machado for your answer to my long-standing question.
>
> I do have a question about your answer to it:
> About the "driveway" you referred to: Must the owner of property (or of property to be developed) own all or part of its driveway?
>
> Your answer suggests that although Sumner Court cannot be used to satisfy the R6 street frontage requirement, Sumner Court *might* be used for access to new building construction on Sumner Court, both during construction and after it, (presumably essentially *forever* after it).
> I don't know if you or any of your staff, or any member of the Planning Board, has seen and walked down Sumner Court. If you do, you'll quickly notice that the house on 28 North Street *is* the southeasterly boundary of the 12-foot-wide bumpy dirt lane called Sumner Court. You'll have to evaluate whether heavy excavation and building construction equipment and vehicles can travel down Sumner Court without hitting or rattling that house and its foundation? Thus before your department and the Board *even contemplate* allowing Sumner Court to function as the "driveway" for a new apartment building on it, you and they *must* inspect and thoroughly evaluate it.
>
> Again, thank you for answering "my question." I look forward to your response to my question and comment above.
>
> JD Cowie
> 32 North St
> 321-8615
>
> On Feb 13, 2015, at 4:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:
>
>> Douglas:
>> I have discussed your question internally and offer the following findings.
>>
>> According to Bill Clark, in the Department of Public Services, Sumner Court is not an accepted City Street, so for that reason it would not qualify for required street frontage. Under Section 14-403, lots may be developed on unaccepted streets under certain conditions, however that provision also specifies a minimum street width of 35 feet, so Sumner Court would not qualify.

If the land along Sumner Court also had street frontage on another city street, for example Cumberland Avenue, it is possible that such a lot, or combination of lots if combined for this purpose, could satisfy the zoning street frontage requirement on that street. If this were the case, it would not require that the street frontage be used for access purposes. Under this scenario, if street frontage requirements were met on Cumberland, and, hypothetically, access were to be provided on Sumner Court, then the adequacy of that access would be determined in the process of subdivision and/or site plan review. Driveway access specifications are found in the Technical Manual.

The Technical Manual requires the following for driveways, under §1.7, Driveway Design: for residential development with 9 spaces or less the minimum driveway width of 10 feet and a maximum width of 20 feet, measured at the property line. For multi-family residential (or Commercial or Industrial) development with 10 spaces or more, the minimum width is 12 feet. Two way drives have a minimum width of 20 feet, though the preferred is 24 feet.

So, the short answer to your question is no, Sumner Court would not meet the zoning street frontage requirement. The long answer is that there might be a circumstance in which the land on Sumner Court could be developed, depending on the lot configuration, street frontage, and driveway requirements.

I hope this is responsive to your inquiry. Please don't hesitate to respond with any questions or further inquiry.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>> On 2/10/2015 at 3:32 PM, in message <E583AFF2-429B-4EFC-8C16-C9DC37200579@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

> Mr Jaegerman, assuming Sumner Court terminates at or near the southerly boundary of Mr Gan's property, I think it probably has enough frontage on it, be that 20 feet or 40. My question is, and has been: Does Sumner Court - it being a 12-foot-wide dirt lane, it *not* being an *actual* city street - *qualify* as a "street" for the purpose of meeting the city's R6 street frontage code?
>
> JD Cowie
>
> On Feb 10, 2015, at 12:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:
>
>> Hello Douglas:
>> My apologies for not replying sooner.

Christine Grimando and I are sitting down with Ann Machado tomorrow to look at Mr. Gan's Sumner Place property to see how the R-6 changes might affect this site.

I will get back to you again by the end of this week.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>> On 1/24/2015 at 1:00 PM, in message <71B54CAC-E5D0-4C09-B20A-B01525948B39@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

> Mr Jaegerman:
> You may recall it has been months since I asked the Planning Board whether frontage on Sumner Court - which I think is not a city street - can be used to satisfy the frontage requirements in the City's building codes.
> I have asked the question at two and possibly three board meetings, and in more than one email to you, but I've yet to get an answer. Perhaps you can appreciate how I feel about this.
> Let me know if your department is unable to answer that question, and who you suggest I should contact about it. If you are able to answer it, let me know when I will get it.
>
> JD Cowie
> 32 North St
> 321-8615

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Christine Grimando - Fwd: Re: Alex Jaegerman Interpretation of Possible Sumner Court Development

From: Alex Jaegerman
To: Christine Grimando
Date: 3/5/2015 6:03 PM
Subject: Fwd: Re: Alex Jaegerman Interpretation of Possible Sumner Court Development

Christine: Please include this email correspondence in the R-6 Public Comment attachment.

>>> On 2/26/2015 at 11:30 AM, in message <477BA1E2-7CBB-4683-A023-6EDDBAEC9531@gmail.com>, Pamela Jack <pamjack1@gmail.com> wrote:

> Hi Alex,
>
> I understand there's another public hearing on March 10th to discuss the R-6 changes.
>
> I'm following up on Kevin Donoghue's email below to find out what steps are being taken by your office to ensure that the qualifying frontage must be used as the primary access point for any new development in the R-6 zone? Any text changes to support this effort should naturally be made prior to the next meeting.
>
> I'd appreciate a response at your earliest opportunity.
>
> Kind regards.
>
> Pam Jack
> 26 North Street
>
> Sent from my iPad
>
> On Feb 15, 2015, at 8:06 PM, Kevin Donoghue <kjdonoghue@portlandmaine.gov> wrote:
>
>> Thanks for writing,
>> I think we need Alex to clarify whether indeed Sumner could be used for access and how we might ensure that the qualifying frontage be the primary entry.
>>
>> Thank you,
>>
>> On Feb 15, 2015 7:09 PM, "Pamela Jack" <pamjack1@gmail.com> wrote:
>>
>>> Hi Kevin:
>>>
>>> My neighbor, Doug Cowie, recently asked Alex Jaegerman if Sumner Court would meet the requirements for street frontage in the revised R-6 zoning language. Below is Alex's response, which exposes an obvious loophole in the

R-6 language that developers will undoubtedly try to exploit wherever possible. It's a prime example of the unintended consequences of some of the R-6 changes.

As you know, Ron Gan owns several lots on Sumner Court, as well as an abutting lot at 47 Cumberland Avenue. As Jaegerman points out, given that Sumner Court is an unaccepted City street, it does not meet the street frontage requirements, nor do the lots with frontage on Sumner Court qualify for development under Section 14-403, since Sumner Court is only 12' wide. It is clear that the ordinance is written to prevent development on a street as narrow as Sumner Court.

Gan's Cumberland Avenue lot has less than 33' of street frontage, which does not meet the current 40' minimum street frontage requirement. However, it will more than meet the proposed new 20' requirement. I was shocked to learn it is the City's position that if Gan simply merges his Sumner and Cumberland lots, his Cumberland Avenue frontage can be used to satisfy the street frontage requirement **without having to actually use it for access purposes**. Jaegerman goes on to say that Sumner Court could still be used for access under this scenario as a driveway, rendering the street frontage requirement--designed to prevent just such development--meaningless in this case.

How is this possible? Although this interpretation may satisfy the letter of the law as currently written—more by omission than intent—it clearly does not satisfy the spirit or the true intention of the rules in the ordinance. Over the 10 years that Devon and I have owned our building on North Street, Gan has relentlessly tried to pursue the development of his lots on Sumner Court by any means possible. In the interest of public safety, our group of Sumner Court neighbors has spoken against Gan's attempts at a Zoning Appeal, a Practical Difficulty Variance, and, most recently, an attempt at a Zoning Text Amendment. Since the rules in the R-6 ordinance have never allowed development of Mr. Gan's lots, he has made numerous attempts to change those rules, all of which were denied by City officials. The governing officials from Planning and Zoning have agreed over the past decade that Sumner Court is not an appropriate location for development given its unique and limited access.

The idea that the Sumner Court lots might now be developed based solely on the fact that a tiny portion of the abutting land not even used for access happens to touch a City street is an absurd and unacceptable technicality. It is important to point out that Gan does not wish to pursue access to any development on his Sumner Court lots via his 47 Cumberland Avenue property, since that would require the demolition of the single family home on that lot, and thus would significantly add to the cost of the project. Therefore, Gan has continued to insist on using Sumner Court as the access point.

My understanding is that the proposed R-6 zoning changes are designed to allow development on certain small lots that may otherwise be appropriate for development, but haven't met the rules in the ordinance mainly due to their small size. The Sumner Court lots have not and still do not meet this criteria, due to their limited access, and are still not appropriate for development despite any changes in the R-6 zoning language.

According to Jaegerman, development using Sumner Court as the access could be possible unless this loophole in the ordinance is closed. What can be done? Shouldn't language be added requiring that the **minimum street frontage for any development must also be used as the access point**? Isn't that the intention of the current ordinance language? Is there some other way to fix this weakness in the ordinance that would continue to protect the Sumner Court lots from being developed, since there is so much evidence they shouldn't be? Based on Jaegerman's interpretation, unless language is either added or modified now and before the R-6 changes are finalized, City officials and neighbors may be powerless to prevent development on Sumner Court.

We would appreciate your guidance and assistance with this matter, and look forward to hearing back from you at your earliest convenience.

Respectfully,

Pamela Jack & Devon Platte

From: "Alex Jaegerman" <AQJ@portlandmaine.gov>
Date: February 13, 2015 at 4:49:50 PM EST
To: "Douglas" <jimdoog@gmail.com>
Cc: "Ann Machado" <AMACHADO@portlandmaine.gov>, "Christine Grimando" <CDG@portlandmaine.gov>, "Jeff Levine" <JLEVINE@portlandmaine.gov>
Subject: Re: My Question

Douglas:
I have discussed your question internally and offer the following findings.

According to Bill Clark, in the Department of Public Services, Sumner Court is not an accepted City Street, so for that reason it would not qualify for required street frontage. Under Section 14-403,

lots may be developed on unaccepted streets under certain conditions, however that provision also specifies a minimum street width of 35 feet, so Sumner Court would not qualify.

If the land along Sumner Court also had street frontage on another city street, for example Cumberland Avenue, it is possible that such a lot, or combination of lots if combined for this purpose, could satisfy the zoning street frontage requirement on that street. If this were the case, it would not require that the street frontage be used for access purposes. Under this scenario, if street frontage requirements were met on Cumberland, and, hypothetically, access were to be provided on Sumner Court, then the adequacy of that access would be determined in the process of subdivision and/or site plan review. Driveway access specifications are found in the Technical Manual.

The Technical Manual requires the following for driveways, under §1.7, Driveway Design: for residential development with 9 spaces or less the minimum driveway width of 10 feet and a maximum width of 20 feet, measured at the property line. For multi-family residential (or Commercial or Industrial) development with 10 spaces or more, the minimum width is 12 feet. Two way drives have a minimum width of 20 feet, though the preferred is 24 feet.

So, the short answer to your question is no, Sumner Court would not meet the zoning street frontage requirement. The long answer is that there might be a circumstance in which the land on Sumner Court could be developed, depending on the lot configuration, street frontage, and driveway requirements.

I hope this is responsive to your inquiry. Please don't hesitate to respond with any questions or further inquiry.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>> On 2/10/2015 at 3:32 PM, in message <E583AFF2-429B-4EFC-8C16-C9DC37200579@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

> Mr Jaegerman, assuming Sumner Court terminates at or near the southerly boundary of Mr Gan's property, I think it probably has enough frontage on it, be that 20 feet or 40. My question is, and has been: Does Sumner Court - it being a 12-foot-wide dirt lane, it *not* being an *actual* city street - *qualify* as a "street" for the purpose of meeting the city's R6 street frontage code?
>
> JD Cowie
>
> On Feb 10, 2015, at 12:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:
>
>> Hello Douglas:
>> My apologies for not replying sooner.
>>
>> Christine Grimando and I are sitting down with Ann Machado tomorrow to look at Mr. Gan's Sumner Place property to see how the R-6 changes might affect this site.
>>
>> I will get back to you again by the end of this week.
>>
>> Alex.
>>
>> Alexander Jaegerman, FAICP
>> Planning Division Director
>> 389 Congress Street, Suite 400
>> Portland, ME 04101

Phone: (207)874-8724>>> On 1/24/2015 at 1:00 PM, in message <71B54CAC-E5D0-4C09-B20A-B01525948B39@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

> Mr Jaegerman:
> You may recall it has been months since I asked the Planning Board whether frontage on Sumner Court - which I think is not a city street - can be used to satisfy the frontage requirements in the City's building codes.
> I have asked the question at two and possibly three board meetings, and in more than one email to you, but I've yet to get an answer. Perhaps you can appreciate how I feel about this.
> Let me know if your department is unable to answer that question, and who you suggest I should contact about it. If you are able to answer it, let me know when I will get it.
>
> JD Cowie
> 32 North St
> 321-8615

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public

and/or the media if
requested.

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WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

March 9, 2015

Portland Planning Board
389 Congress Street
Portland, ME 04101

Re: Proposed Changes to the R-6

Dear Planning Board Members:

I am writing as the President of the Western Promenade Neighborhood Association to provide comments regarding the proposed changes to the R-6 zones in the City.

First, we appreciate and agree with the basic approach of better conforming zoning to the existing development pattern and to allow existing structures more flexibility in meeting the needs of owners. That said, "the devil is in the details" and we have the following comments:

1) Unintended Consequences We are very concerned that the proposed significant increase in density will result in the development of even more housing that is unaffordable to the vast majority of Portland residents. In particular, we continue to be concerned about the potential for the smaller, affordable single-family houses to be cut up to small condos for couples. C

2) Focus First As suggested in a prior email comment, perhaps the focus should first be on "stranded lots", development of which is constrained by existing zoning. Apply the proposed new zoning regime to these lots and see what kind/cost of housing is proposed before making a wholesale change in the entire R-6.

3) Development and Development Criteria It is evident that the reduction or functional elimination of many of the R-6 zone limitations is a significant benefit to the development community. The City and its citizens should get something in exchange for the reduction in the limits:

- *Higher Building and Energy Efficiency Requirements* – As a *quid pro quo* for the elimination of many limits on building and/or renovation, the City should adopt its own building code for the R-6 which would, for example, require any new construction and/or major renovations to be done to a LEED standard or the highest energy efficiency standards that can reasonably be met.
- *Provision for Plantings and Planting Requirements* – Trees, shrubs and plantings are visually appealing, but also reflect and absorb heat. An accessible example is the difference between parking one's car on a hot day on a shopping center parking lot, versus a city street with trees and plantings. Studies have been conducted showing a "heat trap" effect in cities without plantings. With the

changes in reduced set-backs, etc., the amount of trees and plantings might be minimal, if left to a developer. The City should mandate a provision for trees and plantings as part of the R-6 revisions.

4) Impacts. The R-6 proposals simply lower the restrictions on building. As described above, the City and its citizens should not, as an unintended result, lose what is now an appealing city-scape. Even renovations and conversions have an impact. Additional meters, wiring and non-owner occupations will change the current "feel" of Portland, and likely not in a positive way.

Allowing garage openings of any size in the front façade of new townhouses will bring a undesirable suburban design element to the peninsula and does not in any way reflect the current development pattern of garages or off street parking spots to the side or rear of properties. NO garage opening should be allowed in front facades, period.

The City should consider expanding the Historic District areas to allow oversight on new construction. For example, aesthetically, when previously one started up Congress into Munjoy Hill, the sense was that one was entering a neighborhood. Just the few higher elevation structures recently constructed on Congress Street have changed how that is experienced. Because of the impact of those few buildings, it feels now that one remains in an extension of an urban core area.

Lastly, we add an important general comment. The sentiment expressed by the staff and Planning Board seems to imply that new building in the R-6 will necessarily result in more affordable housing. That idea is misplaced. The most expensive and desirable land, of which there is a scarcity, is on the peninsula. If a developer is going to incur the expense of acquiring such land and building on it, it is not going to be for the purposes of creating affordable housing. It will be to capture the explosive market demand both in the sale and rental market. As Economics 101 seems to indicate that increased density will allow a property owner to set a higher asking price, which would then be spread over the increased number of units. Depending on the market premium the added density provides, it seems unlikely that workforce housing will be produced.

The Western Promenade Neighborhood Association appreciates the early outreach to neighborhoods and encourages the Board to give very careful consideration to the many concerns being expressed by residents.

Very truly yours,

Anne B. Pringle
President

Order 210-14/15
~~Tab 37 4-6-15~~
~~Tab 29 4-27-15~~
Tab 29 5-4-15

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)

FOURTH AMENDMENT TO CONDITIONAL ZONE AGREEMENT RE: PROPERTY IN THE VICINITY OF DIAMOND COVE/GREAT DIAMOND ISLAND

WHEREAS, on July 15, 1985 by Order 42-84/85, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lcase Agreement, on January 23, 2015, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on March 24, 2015, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and~~ the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B, there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED that:**

The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan, Jeff Levine, Mike Bobinsky, Jennifer Thompson

SUBJECT: Fourth Amendment to 1985 Conditional Zoning Agreement Fort McKinley, Great Diamond Island

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading April 6, 2015 Final Action April 27, 2015

Can action be taken at a later date: _____ Yes __X__ No (If no why not?)
Public notices will appear in the newspaper and be mailed in advance of the public hearing. Project start is time-critical and a June action would delay.

PRESENTATION: Planning Board Chair Stuart O'Brien will make a brief presentation. Staff from Planning and the Department of Public Services (applicant) will be present to answer questions.

I. SUMMARY OF ISSUE (Agenda Description)

On March 24, 2015, the Planning Board voted 4-0 (O'Brien abstaining; Eaton and Morrissette absent) to recommend amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council. The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years. The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations referenced in para 1 of the CZA. The 1985 CZA anticipated the possibility of a municipally-operated island solid waste disposal facility being created (para 6).

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

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island, that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowner's Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste is would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

III. INTENDED RESULT

The proposed amendments to the conditional zoning agreement are designed to allow the city to construct a solid waste transfer station on the identified site, for which a lease has already been approved by the City Council.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following council goal:

> *Improve City Services: Operate the city government in an efficient and effective manner that is responsive to all segments of the community in a manner that is transparent and accountable.*

V. FINANCIAL IMPACT

The amendment to the CZA facilitates the early implementation of the proposed transfer station, which will lead to efficiencies and associated cost savings in addition to providing an improved service to the island.

VI. STAFF ANALYSIS

The proposed municipal transfer station was envisaged in the 1985 CZA (para 6) and the Department of Public Services and DCHA have worked for several years to identify a suitable site and collaborate on its detailed location and design. The lease between the City and the DCHA includes numerous provisions to protect existing trees; buffer and screen the site; and control operational aspects such as truck trips, parking and noise. The proposals are subject to a Level II Site Plan Review and MDEP Solid Waste Program Permit.

The Planning Board considered the three elements of the proposed amendments to the 1985 CZA:

- The impact on the designated open space: The area to be removed from the 1985 designation is 39,565 sq ft (.9 acre) and includes land that is partially disturbed at present. The 1985 CZA does not mention the old tree growth areas, so the CZA amendment is not required to address this question although it would have minimal impact on old growth;
- The exception to the original text that limits construction or development: The first section of amended text adds the transfer station area to the existing exceptions and limits its scale and location by referring to the Site Plan. The use is consistent with the 1985 CZA as it envisaged a possible municipally-operated island solid waste disposal facility being created;
- Documentation of the area removed from open space designation: The 1985 CZA plan showing the designated open space is diagrammatic and it would be difficult to show a precise revised boundary line except by reference to the area leased for the transfer station. Therefore the metes and bounds of that area are included in the amendment to clarify where the location of the open space designation is revised in the vicinity of the transfer station.

The Board found the proposed amendments to be consistent with the City's Comprehensive Plan in that the Plan contemplates the need to provide sufficient public services to the City's islands.

VII. RECOMMENDATION

On March 24, 2015, the Planning Board held a Hearing on the proposed amendment and voted 4-0 (O'Brien abstaining; Eaton and Morrissette absent):

> That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

VIII. LIST ATTACHMENTS

1. Order (Amendment attached as of 3.25.2015; order will be similar)
2. 1985 CZA
3. Planning Board Report to City Council (to be forwarded under separate cover)

Prepared by: Jean Fraser
Date: 3.25.2015

City of Portland, Maine

IN THE CITY COUNCIL

AH 3

048089

AMENDMENT TO PORTLAND CITY CODE
SECTION 14-49 (ZONING MAP)
RE: CONDITIONAL REZONING OF FT. MCKINLEY

WHEREAS, Diamond Cove Associates is the record owner of certain land, with the buildings thereon, situated on the northerly portion of Great Diamond Island and commonly known as the Ft. McKinley property; and

WHEREAS, in the process of a comprehensive land use study and rezoning of the Portland islands by the City, Diamond Cove Associates requested that a portion of said property be rezoned from the R-2 Residential Zone to the IR-3 Island Residential Zone; and

WHEREAS, the Planning Board, pursuant to 30 M.R.S.A. Section 4962(1)(I), and after notice and hearing and due deliberation thereon, recommended rezoning a portion of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the City Council hereby finds and declares that said conditional rezoning would be pursuant to and consistent with the City's comprehensive plan and would satisfy the guidelines set forth in Section 14-145.13 of the Portland City Code, all for the reasons contained in the Planning Board's report accompanying this Amendment;

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

THAT, the Zoning Map of the City of Portland, Maine (1958), as amended, on file in the Office of the Director of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the attached fragmentary map entitled "Fort Mckinley Property Zoning Map (Great Diamond Island)", subject, however, to the Conditions and Restrictions attached hereto.

CONDITIONS AND RESTRICTIONS

The following conditions and restrictions are imposed by the City of Portland (the City) on Diamond Cove Associates (the Owner) as conditions of the rezoning of the property described on the map attached hereto (the Premises) from the R-2 Residential Zone to the IR-3 Island Residential Zone:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, there shall be no construction or development of any new principal building or structure on the Premises. All portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

2. Completion of development. The development of the Premises as aforesaid shall be substantially completed within three (3) years after the issuance of all licenses, permits and approvals required and requiring final action by any administrative agency, board or commission, including but not limited to subdivision, site plan and site location of development approvals, but not including building, plumbing, electrical or similar permits, which licenses, permits and approvals shall hereafter be diligently pursued; provided, however, that the time for performance hereunder shall be extended for the time during which performance is delayed by reasons wholly beyond the Owner's control, including but not limited to strikes, lock-outs, labor disputes, inability to procure materials, failure of power, riots, war, insurrection, administrative or judicial delay and similar reasons, but not including financial hardship or business conditions; provided, further, that the Planning Board may, after notice and hearing, extend the time for performance hereunder for up to one (1) additional year if it finds that substantial progress has been made toward completion, and that there is a reasonable likelihood of substantial completion within the time as extended.

3. Maintenance of streets, walks and landings. All streets and ways, walks and pedestrian rights of way, and landings, floats and docks on the Premises, including but not limited to those to which the public has a right of access, shall be kept reasonably safe and passable at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that the City may, from time to time, designate such areas as need not be kept clear of ice and snow when or where, in its opinion, the public health, safety and welfare do not require it; provided, further, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including

but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

4. Maintenance of utilities. All utilities and related infrastructure and improvements on the Premises, including but not limited to water, power, communications, sewers and drains, surface drainage ways, street lights and hydrants, shall be kept fully operational and in good repair at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

5. Disposal of sanitary waste. All sanitary waste generated on the Premises shall be collected and disposed of on the Premises by means of a community sewer and secondary treatment system which complies with all applicable federal, state and local regulations, and at the Owner's expense.

6. Disposal of solid waste. All solid waste generated on the Premises shall be collected and disposed of on the mainland or if, in the City's opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility, in a manner which meets all applicable federal, state and local requirements, and at the Owner's expense.

7. Fire protection, public safety and emergency services. Before occupancy of the Premises, or any portion thereof, the Owner shall, at its own expense, provide to the City:

(a) a fully equipped "Quint truck", so-called, or its equivalent, for fire protection purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City under a written net lease-purchase agreement in a form mutually satisfactory to the parties and upon commercially reasonable terms, at the end of which lease term title to said vehicle shall be transferred to the City free and clear of all liens and encumberances, and at no additional charge;

(b) a fully equipped multi-purpose truck van, for public safety and emergency purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City for its useful life under a written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar ($1.00); and

(c) a building or buildings, or portions thereof, suitably located on the Premises, for permanent maintenance and storage of said vehicles and related apparatus and equipment, and housing of at least two (2) City personnel associated therewith, which facility shall conform to City specifications and be leased to the City under a ninety-nine (99) year written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar ($1.00), and delivery of possession on a "turn-key" basis.

Upon the City's occupancy of said facility, the Owner shall, at its own expense, provide at all times thereafter a number, not to exceed two (2), of qualified private personnel equal to the number of City personnel then assigned thereto, which private personnel shall be on the Premises and available at all times on an on-call basis to assist said City personnel in the rendering of fire protection, public safety and emergency services on or to the Premises; provided, however, that nothing herein shall constitute any representation or commitment by the City to provide any particular level of staffing or services. Said private personnel shall be trained and equipped for such purposes by the City and at its expense, and shall be under the direction and supervision of authorized City personnel at all times while so engaged; provided, however, that in no case shall said private personnel be deemed agents or employees of the City for any purpose, including but not limited to workers' compensation, unemployment compensation, tort claims liability and collective bargaining; provided, further, that notwithstanding the foregoing, in the event that the City is held liable for any claim arising out of or relating to any actions of said private personnel, which actions were not pursuant to and consistent with the directions of authorized City personnel, the Owner shall indemnify and save forever harmless the City from and against any and all such claims.

8. Water transportation service. The Owner shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and Diamond Cove via a suitable docking facility on the Premises and on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service is or at any time becomes unavailable, the Owner shall, at its own expense, provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof.

9. Restrictions on motor vehicles. Except for vehicles used primarily for construction, maintenance, service and the common transportation of goods and passengers, and fire protection, public safety and emergency vehicles, no motor vehicles, as defined in 29 M.R.S.A. Section 1(7), but including snowmobiles, shall be operated or stored, temporarily or otherwise, on the Premises.

10. Applicability of other laws. The development, use and occupancy of the Premises shall be subject to all other applicable laws, ordinances, regulations and requirements of the City as they may from time to time exist, and neither these conditions or restrictions nor the performance of any obligation hereunder shall constitute compliance therewith or prevent the enforcement thereof, any violation of which shall also constitute a breach of these conditions and restrictions, any breach of which shall also constitute a violation of Chapter 14, Article III (Zoning) of the Portland City Code.

11. Successors bound. These conditions and restrictions shall bind the Owner, its successors and assigns, of or to the Premises, or any portion thereof or any interest therein, including but not limited to any security interest, and any person in possession or occupancy of the Premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City. The Owner shall, at its own expense, record a copy of these conditions and restrictions in the Cumberland County Registry of Deeds, and shall, by deed, covenant, declaration of condominium or other recorded or recordable instruments, as appropriate, ensure that these conditions and restrictions are enforceable by the City against all such successors, assigns and persons. Nothing herein shall be deemed to limit the Owner's right of alienability of the Premises, or any portion thereof, subject to these conditions and restrictions, which conditions and restrictions shall run with the land and be binding upon the Owner, its successors and assigns, as their interests may appear.

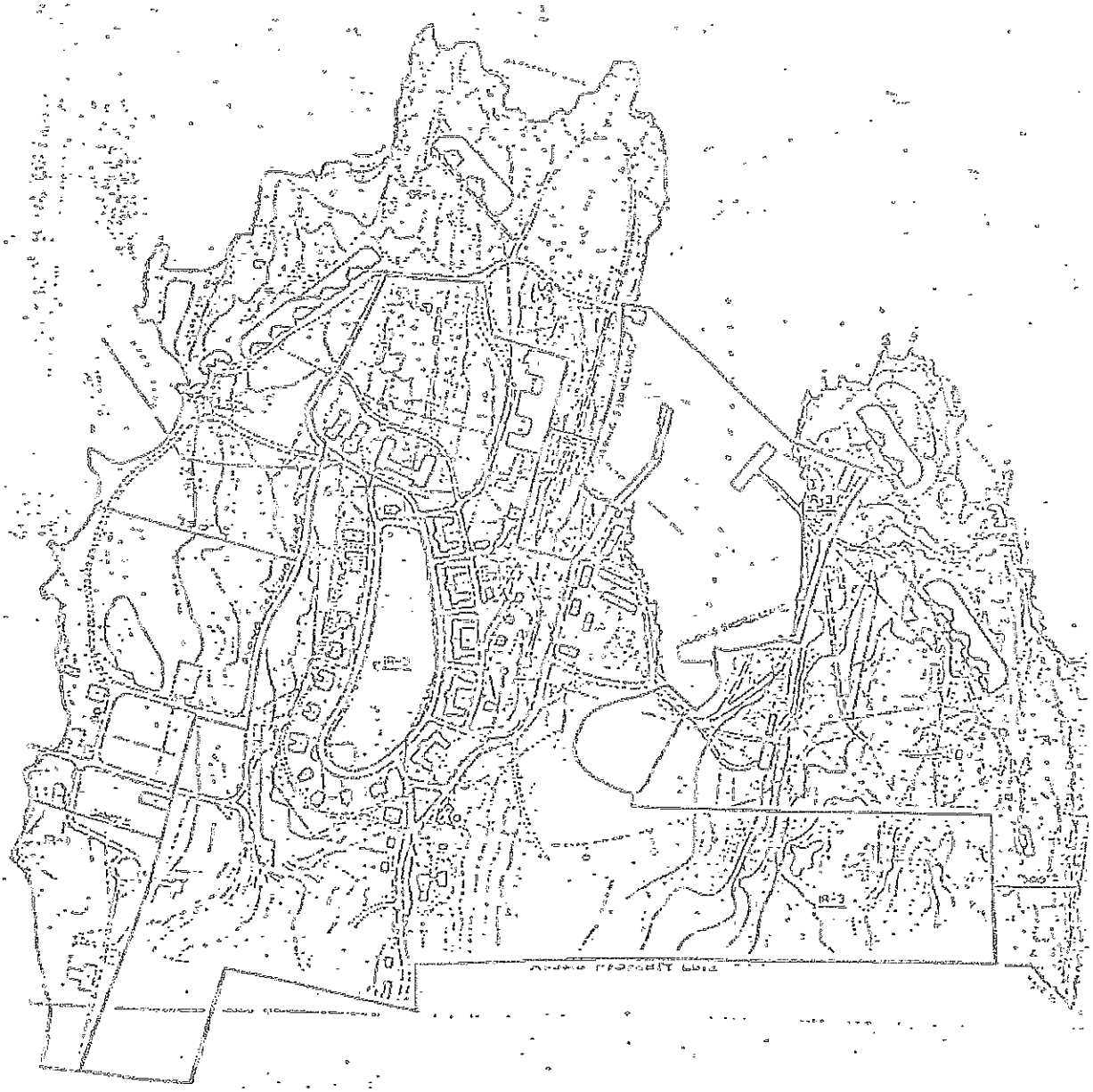
12. No reliance or estoppel. Nothing in these conditions or restrictions shall constitute any representation or commitment by the City to retain the zoning classification of the Premises, or shall entitle the Owner to rely thereon for any purpose, or shall estop the City from any future rezoning or exercise of other authority wi respect to the Premises. Nothing herein shall be deemed to pr lude the Owner from petitioning the City for any future rezoning of the Premises or other property in the vicinity thereof; provided, however, that nothing herein shall constitute any representation or commitment by the City to grant such a petition or otherwise act thereon.

13 Breach. In case of any breach of these conditions and restrictions, and except as otherwise hereinbefore provided, the City shall, after giving written notice to the Owner and a reasonable time to cure not to exceed six (6) months, refer the same to the Planning Board, which shall, after notice and hearing, make a recommendation to the City Council whether to rezone the Premises, or any portion thereof, which recommendation shall be advisory only.

14. Declaration of invalidity. In the event that these conditions and restrictions, or any portion thereof, are declared invalid for any reason by a court of competent jurisdiction, the City shall invoke the same procedure as hereinbefore provided for breach of these conditions and restrictions.

15. Remedies not impaired. No failure or delay by the City to enforce any of these conditions and restrictions shall impair any remedy available for breach hereof, or constitute a waiver of or acquiescence in any breach hereof, the remedies for which shall be cumulative.

FORT MCKINLEY PROPERTY ZONING MAP
(GREAT DIAMOND ISLAND)



NOTE: SHORELAND ZONE LINE EXTENDS INLAND A DISTANCE OF 250 FEET FROM THE NORMAL HIGH WATER MARK OF THE BAYS, COVES, SOUNDS, INLETS AND OPEN WATERS OF CASCO BAY.

7/15/85

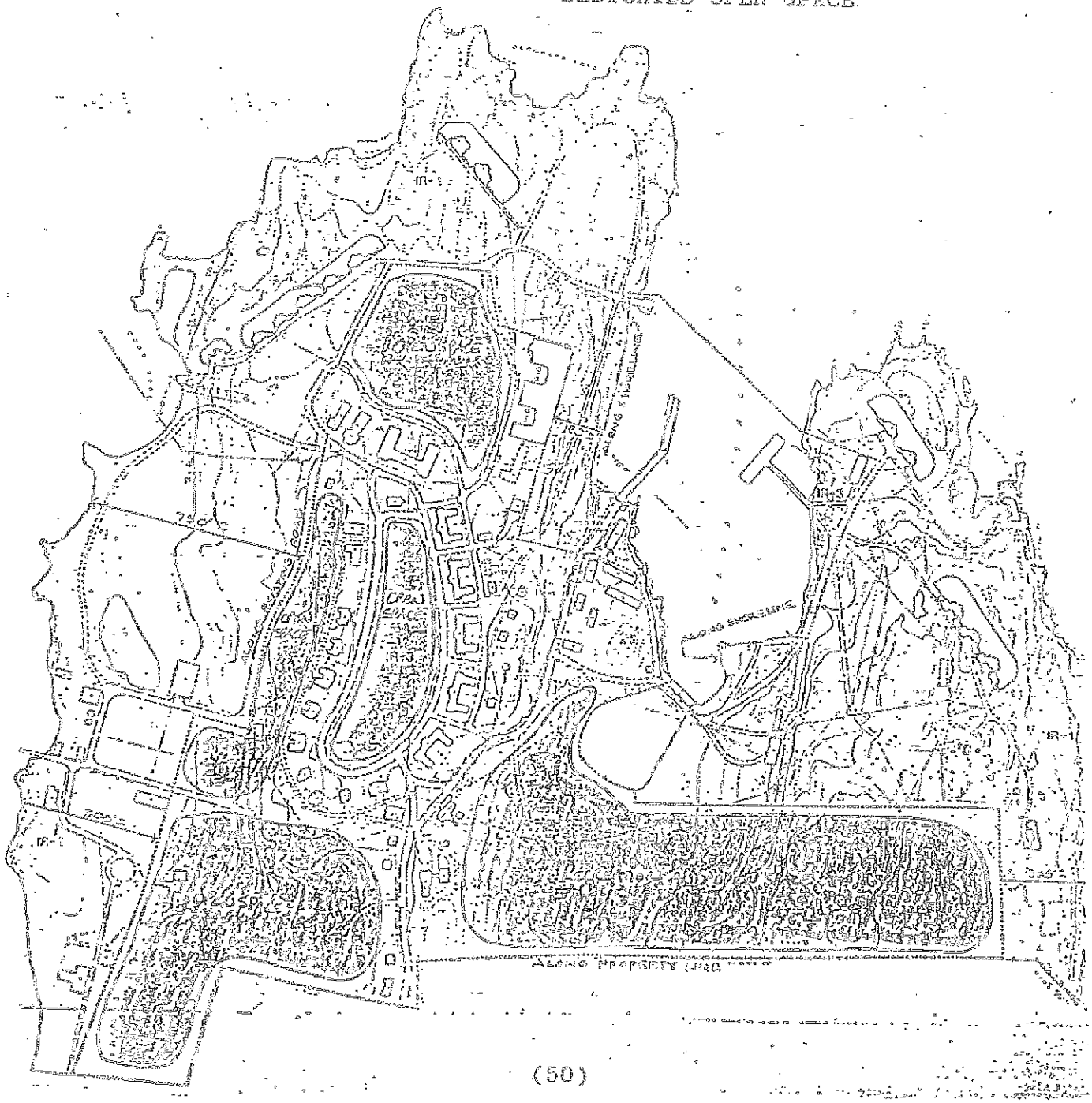
Diamond Cov

GREAT DIAMOND ISLAND. PORTLAND,

DEVELOPER : DICTAR ASSOCIATES PORTLAND,

Consulting Planners, Engineers and Surveyors

DEDICATED OPEN SPACE



AMENDMENT TO PORTLAND CITY
CODE SECTION 14-49 (ZONING
MAP) SECTION 14-49 (ZONING
MAP) RE: CONDITIONAL
REZONING OF FT. MCKINLEY

IN THE CITY COUNCIL

JUNE 12 1989

Given a first reading. Public hearing held.

JUNE 24 - Public hearing held. Councilor Smith moved, seconded MacWilliams to table to July 15th afternoon City Council Meeting, passed 7 yeas.

JULY 15 - Removed from the table. Motion to replace with substitute amendment, passed, 8 Yeas, and passed, as amended, 8 Yeas.

Item #98 dated July 15, 1989 is relevant to this item. Titled Access For Island Subdivisions, it refers to this item.

Jane Durgin YES

Attest: Jane Durgin
City Clerk

YES

STATE OF MAINE
CUMBERLAND, ss. JANUARY 27, 1986

Personally appeared the above-named Jane Durgin and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Eunice Cannon

RECEIVED
RECORDED REGISTRY OF DEEDS
1989 SEP 28 PM 3:32
CUMBERLAND COUNTY

PLANNING BOARD REPORT
TO
CITY COUNCIL
PORTLAND, MAINE

Amended 1985 Conditional Zone Agreement for Fort McKinley
Fourth Amendment
in vicinity of Fort McKinley and Wood Side Drive, Great Diamond Island
City of Portland Department of Public Services: Applicant
Project ID 2015- 011

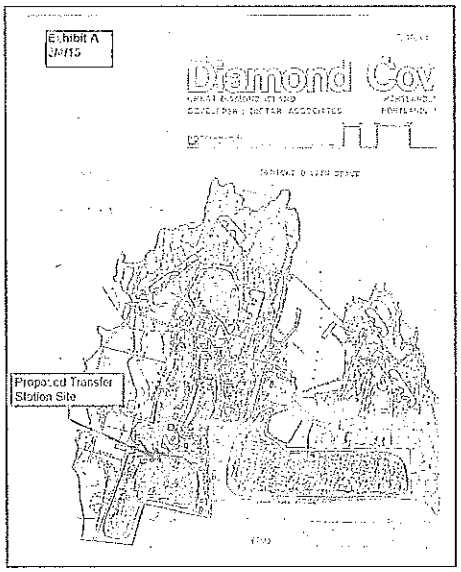
[Note: The Transfer Station Site has been given a new E-911 street address:
11 Wood Side Drive, Portland, ME 04109]

Submitted to: Portland City Council From: Portland Planning Board Second city Council Reading: April 27, 2015	Prepared by: Jean Fraser, Planner Date: March 25th, 2015 CBL: 083E B022 and 083B M002 (formerly within 083B M001001)

I. INTRODUCTION

The City of Portland Department of Public Services is requesting the City Council's consideration and adoption of proposed amendments to the 1985 IR-3 Conditional Zone Agreement (CZA) for Fort McKinley on Great Diamond Island (Application in Attachment A and the 1985 CZA is in Attachment 1). Their request is to amend the conditional zoning to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years. The 1985 CZA anticipated the possibility of a municipally-operated island solid waste disposal facility being created (para 6 on page 3 of Attachment 1).

The amendment is primarily related to the need for the transfer station to be located on the edge of the area designated as open space in the 1985 CZA (see location on the original designated open space plan in the 1985 CZA to right). The amendment also revises one paragraph (para 1 on page 2 of Attachment 1) to allow the proposed use and to amend the designated open space plan.



The Planning Board held a public hearing on March 24, 2015 and voted 4-0 (O'Brien abstained; Eaton and Morrissette absent) in favor of the following motion:

> That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

Applicant: City of Portland Department of Public Services
Property Owner: Diamond Cove Homeowner's Association
Consultant: Owens McCullough, Sebago Technics

II. PUBLIC COMMENT

Notices were sent to 97 abutters, neighbors and interested parties for the Planning Board hearing, in accordance with the requirements specified in the ordinance for Conditional Rezoning, and will be similarly sent for the City Council's public hearing at the second reading. This includes notices in the Portland Press Herald, on the City's web page and posted in the City Clerk's office.

There were no spoken public comments at the Planning Board hearing; three written public comments were received from island residents (PC1, PC2, and PC3 attached) and included in the Planning Board report. These raise concerns regarding the old growth trees and other impacts from the transfer station use. Comments also noted concerns over the previous parking of city vehicles. Some of these impacts are limited by the lease (Attachment E) and would be the focus of the future Level II Site Plan Review and are discussed below. The proposal does not require a formal Neighborhood Meeting.

III. PROJECT DATA (Transfer Station site)

Existing Zoning:	1985 CZA (IR-3 Island Residential Zone)
Parcel Size:	55,050 sq ft (1.25 acres) leased area
Proposed disturbed area:	28,156 sq ft (of which 8924 sq ft existing)
Area of designated open space to be removed from the 1985 designation:	39,565 sq ft (.9 acre)

IV. BACKGROUND

The City of Portland does not have a formal solid waste facility on Great Diamond Island and waste management on the island now consists of a solid waste truck parked on property on the island and frequently transported off the island. The transfer station is proposed to provide a more efficient and hygienic handling of solid waste on the island. The site was chosen to meet a number of criteria (proximity to the barge landing; access for residents; least disturbance of land) and was agreed with the landowner as the best site for this use.

The proposed transfer station is on 1.25 acres of land owned by the Diamond Cove Homeowners Association (DCHA). The City and DCHA have negotiated and agreed upon the attached lease (Attachment B), which was approved by the City Council. The lease (in para 1B, page1 of the Lease) anticipated the need to amend the 1985 CZA but this was seen as a minor amendment because this part of the open space was already disturbed near the former "laundry facility" and DCHA septic system.

The proposed CZA amendment addresses:

- The impact on the designated open space;
- The exception to the original text that limits construction or development;
- Documentation of the area removed from open space designation.

As background staff requested the context plan shown below (also in Plan P1). On the context plans the information that is most relevant to consideration of the proposed amendment to the CZA is:

- The yellow outline: this area is proposed to be leased from the DCHA and developed for the Transfer Station. It defines the area to be removed from the open space designation;
- The purple hatched area: this is approximately the "designated open space" as based on the 1985 diagrammatic plan above.

Other information is included in the context plan and will inform the detailed Level II Site Plan review; such as the Historic District boundary and old tree growth.

Context plan (not for inclusion in the amendment):

V. SOLID WASTE TRANSFER STATION DEVELOPMENT

The applicant submitted a proposed Site Plan (below and as Plan P2) which illustrates the scale of the work to create storage bunkers and road access. The leased site is larger than the area of disturbance to ensure scope to buffer the development, as explained in the letter from Owens McCullough, Sebago Technics and City's representative, in Attachment E. The details will be the subject of a separate Level II Site Plan review that will also assess other elements of the proposal such as stormwater treatment.

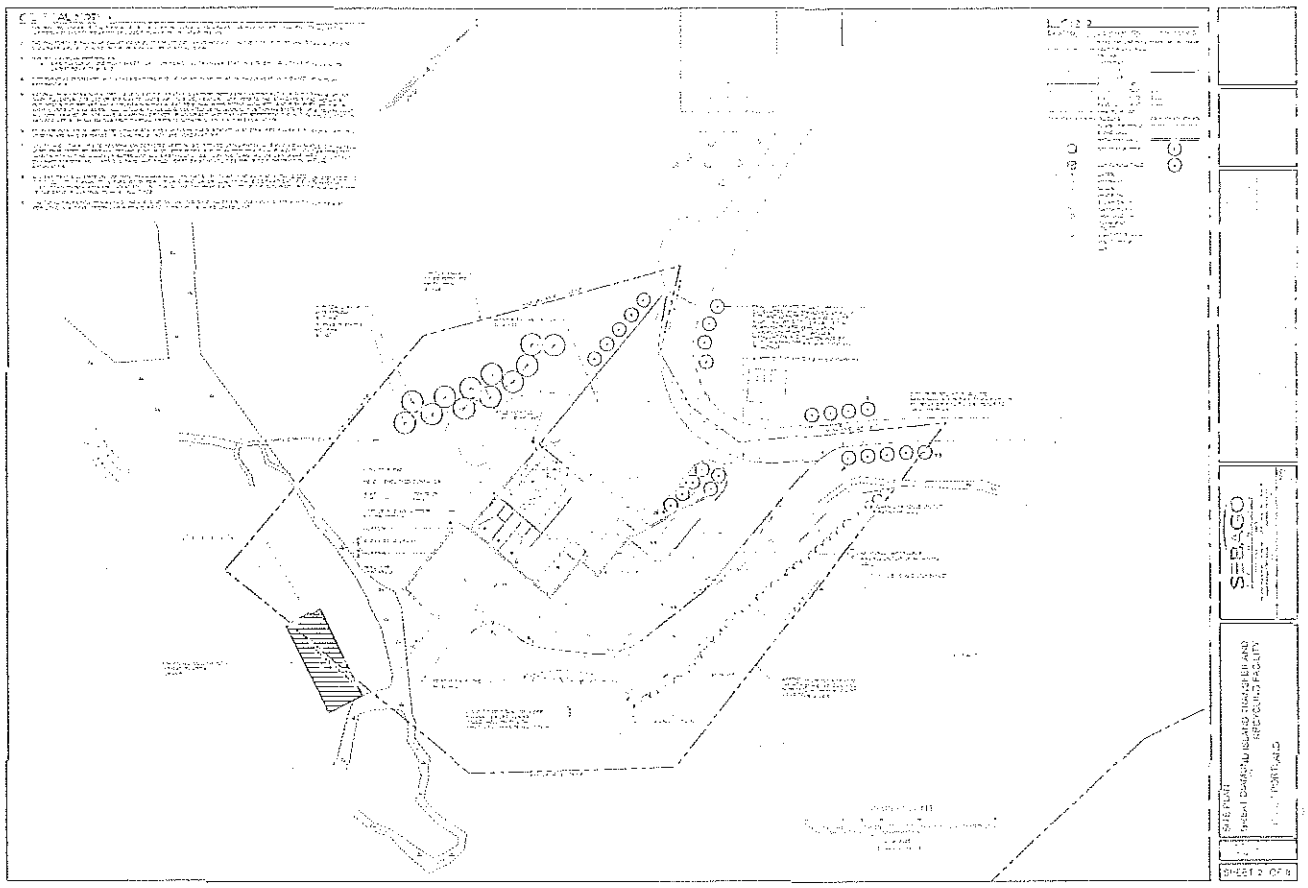
One of the impacts of the proposal is on the old growth trees in the vicinity. The applicant submitted a Licensed Forester's Report which assessed the potential impact on old growth trees (Attachment C). Although not technically an issue in relation to zoning, it should be noted that the Forester concluded that: *"...less than 500 square feet within the old growth stand will need to be disturbed. The effect on the stand will not be noticeable. I suggest as a mitigation that a buffer area to the west be expanded by a similar area"*. The site plan includes a mitigation area of 1000 square feet (rectangle at left of plan).

The site plan also notes that a detailed landscape plan will be prepared and implemented to screen the transfer site from the road (screening from other directions is also included).

The public comments raised questions about the operation of the transfer station and associated impacts. Although these would be reviewed as part of the Level II Site Plan review, the land owner and applicant have addressed these questions in Attachments D and E. The letters cover:

- Background on the leasing of the DCHA land from Matt Hoffner, President of the DCHA (Attachment D);
- Confirmation and additional detail regarding the impacts on the old growth trees – from Owens McCullough, Sebago Technics and City representative (Attachment E);
- Clarification as to the reasons for the size and location of the site (Attachment E);
- Confirmation that in addition to the City's Site Plan review (not yet completed), the site specific operational issues such as noise and smells are also being reviewed by the MDEP (Attachment E);
- Confirmation that the facility will not be open to the general public and that truck trips, parking and access are limited by provisions in the lease (Attachment E).

Site Plan (as referenced in the proposed amendment):



VI. LEGAL AUTHORITY FOR AMENDING THE 1985 CONDITIONAL ZONE AGREEMENT

Consideration of the request for an amendment to the 1985 CZA is guided by the same State Statutes that apply to any conditional rezoning application:

> *30-A M.R.S.A. section 4352(8): "A municipal zoning ordinance may provide for any form of zoning consistent with this chapter, subject to the following provisions . . .*
>
> *A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:*
>
> *A. Be consistent with the growth management program adopted under this chapter;*
> *B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and*
> *C. Only include conditions and restrictions that relate to the physical development or operation of the property. The municipal reviewing authority shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing must be posted in the municipal office at least 13 days before the public hearing. Notice must also be published at least 2 times in a newspaper having general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing. Notice must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known addresses. Notice also must be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned."*

In addition the amendment to the CZA must accord with the City's ordinance regarding conditional rezoning as quoted below:

Sec. 14-60. Authority and purpose.

Pursuant to 30-A M.R.S.A. Section 4503(9), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the city council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan.

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

(a) Limitations on the number and types of uses permitted;
(b) Restrictions on the scale and density of development;
(c) Specifications for the design and layout of buildings and other improvements;
(d) Schedules for commencement and completion of construction;
(e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
(f) Preservation of open space and buffers, and protection of natural areas and historic sites;
(g) Contributions toward the provision of municipal services required by the development; and
(h) Provisions for enforcement and remedies for breach of any condition or restriction.

VII. PROPOSED AMENDMENT TO THE CONDITIONAL REZONING AGREEMENT

The 1985 CZA has been amended on three earlier occasions: 2004 to allow electric golf carts subject to imitations; and in 2008 and 2012 to place supplemental conditions and restrictions on the "hospital" and "Double Barracks" buildings. The applicant and City staff, with input from the landowners DCHA, have worked together to develop the following fourth amendment to the 1985 CZA (text and attachments are in Attachment F):

(FOURTH) AMENDMENT TO CONDITIONAL ZONE AGREEMENT
REFERENCED IN ORDER 42-84/85
RE: CONTRACT FOR REZONING FOR PROPERTY
IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND

WHEREAS, on July 15, 1985, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A *[Note: this is the diagrammatic plan with a star indicating the location of the transfer station]* and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on _____, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on _____, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and~~ the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B *[Note; this is the site plan as shown above and in Plan P2]*, there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, BE IT FURTHER ORDAINED that:

The area described in Attachment C *[Note; this is the metes and bounds description as excerpted from the Lease in Attachment B]*, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

VIII. PLANNING BOARD AND STAFF REVIEW OF PROPOSED AMENDMENTS TO THE 1985 CZA

The "Whereas" statements in the amendment document clarify the reasons for the amendment.

The key CZA amendment issues are:

- The impact on the designated open space: The area to be removed from the 1985 designation is 39,565 sq ft (less than an acre) and includes land that is partially disturbed at present. The 1985 CZA does not mention the old tree growth areas, so the CZA amendment is not required to address this question although it would be an issue for the Level II Site Plan review (and a preliminary review shows minimal impact on old growth). The City Arborist, Jeff Tarling, is familiar with the area and has confirmed there is no adverse impact (Att. 2);
- The exception to the original text that limits construction or development: The first section of amended text adds the transfer station area to the existing exceptions and limits its scale and location by referring to the Site Plan. The use is consistent with the 1985 CZA as it envisaged a possible municipally-operated island solid waste disposal facility being created (para 6 on page 3 of Att. 1).
- Documentation of the area removed from open space designation: The 1985 CZA plan showing the designated open space is diagrammatic and it would be difficult to show a precise revised boundary line except by reference to the area leased for the transfer station. Therefore the metes and bounds of that area are included in the amendment to clarify where the location of the open space designation is revised in the vicinity of the transfer station.

IX. COMPREHENSIVE PLAN

The City's Comprehensive plan notes that its islands "pose a completely unique situation for land use planning and zoning. Unlike most other densely inhabited islands on the Maine coast, which are separate municipalities, the

Portland islands are similar to the neighborhoods of a large, urban mainland municipality and pose strong contrasts of urban vs. rural and seasonal vs. year-round living. Similarly, unlike other areas of seasonal home concentrations in the rural Lakes regions of the State, the islands are subject to spillover growth pressures from the 'city,' and invite comparison to the mainland's relatively high level of public services in terms of streets, sewage, schools, waste collections, fire protection, police and libraries."

The Comprehensive Plan further provides: "The islands are different from the mainland in terms of the natural features, their resource value, the public services available (or possible), and the people who reside and work there. The City's land use policies and regulations should reflect this essential difference." Volume I, City of Portland Comprehensive Plan § V p. 25.

In recognizing the unique qualities and characteristics of Portland's islands, the Comprehensive Plan advises that the City should adopt a policy for future development that minimizes the dependence on and intrusion of private automobiles on the islands." *Id.* at p. 26. It further seeks to "encourage development of a type, scale, diversity and density appropriate to the circumstances, environment, infrastructure, and service capabilities of the islands."

According to the applicant and the DCHA, waste management on the island, which consists of weekly hauling of trash from a solid waste truck collected from the island and parked on property on the Great Diamond Island side is not sufficiently or effectively serving the needs of the island's residents. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the DCHA – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste is necessary. The Planning Board found that the Comprehensive Plan contemplates the need to provide sufficient public services to the City's islands and that the introduction of the proposed transfer station is consistent with those objectives. Further, the existing CZA contemplates a municipally-operated solid waste facility on the site such that the proposal also appears to be consistent with the zoning expressly contemplated and authorized by that document.

X. PLANNING BOARD RECOMMENDATION

The Planning Board held a public hearing on March 24, 2015 and voted 4-0 (O'Brien abstained; Eaton and Morrissette absent) in favor of the following motion:

> That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

XI. ATTACHMENTS

FB Hearing Report attachments

1. 1985 Approved Conditional Zone Agreement (CZA)
2. City Arborist comments 3.19.2015

Public comments

PC1. Sandy Fitch (2)
PC2. Bonnie Dietz (2)
PC3. Alexandra Neal

Applicants submittal

A. Applicants letter and application
B. Transfer Station Lease (from DCHA to City)
C. Foresters Report (Rene Noel)
D. DCHA letter 3.16.2015 with further information
E. Sebago letter 3.18.2015 with further information
F. Proposed Amendment to the Conditional Zone Agreement with Attachments

Plans

P1 Background Context Plan
P2 Proposed Site Plan

City of Portland, Maine

Att. 1

IN THE CITY COUNCIL

048089

AMENDMENT TO PORTLAND CITY CODE
SECTION 14-49 (ZONING MAP)
RE: CONDITIONAL REZONING OF FT. MCKINLEY

WHEREAS, Diamond Cove Associates is the record owner of certain land, with the buildings thereon, situated on the northerly portion of Great Diamond Island and commonly known as the Ft. McKinley property; and

WHEREAS, in the process of a comprehensive land use study and rezoning of the Portland islands by the City, Diamond Cove Associates requested that a portion of said property be rezoned from the R-2 Residential Zone to the IR-3 Island Residential Zone; and

WHEREAS, the Planning Board, pursuant to 30 M.R.S.A. Section 4962(1)(I), and after notice and hearing and due deliberation thereon, recommended rezoning a portion of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the City Council hereby finds and declares that said conditional rezoning would be pursuant to and consistent with the City's comprehensive plan and would satisfy the guidelines set forth in Section 14-145.13 of the Portland City Code, all for the reasons contained in the Planning Board's report accompanying this Amendment;

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

THAT, the Zoning Map of the City of Portland, Maine (1958), as amended, on file in the Office of the Director of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the attached fragmentary map entitled "Fort Mckinley Property Zoning Map (Great Diamond Island)", subject, however, to the Conditions and Restrictions attached hereto.

CONDITIONS AND RESTRICTIONS

The following conditions and restrictions are imposed by the City of Portland (the City) on Diamond Cove Associates (the Owner) as conditions of the rezoning of the property described on the map attached hereto (the Premises) from the R-2 Residential Zone to the IR-3 Island Residential Zone:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, there shall be no construction or development of any new principal building or structure on the Premises. All portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

2. Completion of development. The development of the Premises as aforesaid shall be substantially completed within three (3) years after the issuance of all licenses, permits and approvals required and requiring final action by any administrative agency, board or commission, including but not limited to subdivision, site plan and site location of development approvals, but not including building, plumbing, electrical or similar permits, which licenses, permits and approvals shall hereafter be diligently pursued; provided, however, that the time for performance hereunder shall be extended for the time during which performance is delayed by reasons wholly beyond the Owner's control, including but not limited to strikes, lock-outs, labor disputes, inability to procure materials, failure of power, riots, war, insurrection, administrative or judicial delay and similar reasons, but not including financial hardship or business conditions; provided, further, that the Planning Board may, after notice and hearing, extend the time for performance hereunder for up to one (1) additional year if it finds that substantial progress has been made toward completion, and that there is a reasonable likelihood of substantial completion within the time as extended.

3. Maintenance of streets, walks and landings. All streets and ways, walks and pedestrian rights of way, and landings, floats and docks on the Premises, including but not limited to those to which the public has a right of access, shall be kept reasonably safe and passable at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that the City may, from time to time, designate such areas as need not be kept clear of ice and snow when or where, in its opinion, the public health, safety and welfare do not require it; provided, further, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including

but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

4. Maintenance of utilities. All utilities and related infrastructure and improvements on the Premises, including but not limited to water, power, communications, sewers and drains, surface drainage ways, street lights and hydrants, shall be kept fully operational and in good repair at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

5. Disposal of sanitary waste. All sanitary waste generated on the Premises shall be collected and disposed of on the Premises by means of a community sewer and secondary treatment system which complies with all applicable federal, state and local regulations, and at the Owner's expense.

6. Disposal of solid waste. All solid waste generated on the Premises shall be collected and disposed of on the mainland or if, in the City's opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility, in a manner which meets all applicable federal, state and local requirements, and at the Owner's expense.

7. Fire protection, public safety and emergency services. Before occupancy of the Premises, or any portion thereof, the Owner shall, at its own expense, provide to the City:

(a) a fully equipped "Quint truck", so-called, or its equivalent, for fire protection purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City under a written net lease-purchase agreement in a form mutually satisfactory to the parties and upon commercially reasonable terms, at the end of which lease term title to said vehicle shall be transferred to the City free and clear of all liens and encumberances, and at no additional charge;

(b) a fully equipped multi-purpose truck van, for public safety and emergency purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City for its useful life under a written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar ($1.00); and

(c) a building or buildings, or portions thereof, suitably located on the Premises, for permanent maintenance and storage of said vehicles and related apparatus and equipment, and housing of at least two (2) City personnel associated therewith, which facility shall conform to City specifications and be leased to the City under a ninety-nine (99) year written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar ($1.00), and delivery of possession on a "turn-key" basis.

Upon the City's occupancy of said facility, the Owner shall, at its own expense, provide at all times thereafter a number, not to exceed two (2), of qualified private personnel equal to the number of City personnel then assigned thereto, which private personnel shall be on the Premises and available at all times on an on-call basis to assist said City personnel in the rendering of fire protection, public safety and emergency services on or to the Premises; provided, however, that nothing herein shall constitute any representation or commitment by the City to provide any particular level of staffing or services. Said private personnel shall be trained and equipped for such purposes by the City and at its expense, and shall be under the direction and supervision of authorized City personnel at all times while so engaged; provided, however, that in no case shall said private personnel be deemed agents or employees of the City for any purpose, including but not limited to workers' compensation, unemployment compensation, tort claims liability and collective bargaining; provided, further, that notwithstanding the foregoing, in the event that the City is held liable for any claim arising out of or relating to any actions of said private personnel, which actions were not pursuant to and consistent with the directions of authorized City personnel, the Owner shall indemnify and save forever harmless the City from and against any and all such claims.

8. Water transportation service. The Owner shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and Diamond Cove via a suitable docking facility on the Premises and on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service is or at any time becomes unavailable, the Owner shall, at its own expense, provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof.

9. Restrictions on motor vehicles. Except for vehicles used primarily for construction, maintenance, service and the common transportation of goods and passengers, and fire protection, public safety and emergency vehicles, no motor vehicles, as defined in 29 M.R.S.A. Section 1(7), but including snowmobiles, shall be operated or stored, temporarily or otherwise, on the Premises.

10. Applicability of other laws. The development, use and occupancy of the Premises shall be subject to all other applicable laws, ordinances, regulations and requirements of the City as they may from time to time exist, and neither these conditions or restrictions nor the performance of any obligation hereunder shall constitute compliance therewith or prevent the enforcement thereof, any violation of which shall also constitute a breach of these conditions and restrictions, any breach of which shall also constitute a violation of Chapter 14, Article III (Zoning) of the Portland City Code.

11. Successors bound. These conditions and restrictions shall bind the Owner, its successors and assigns, of or to the Premises, or any portion thereof or any interest therein, including but not limited to any security interest, and any person in possession or occupancy of the Premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City. The Owner shall, at its own expense, record a copy of these conditions and restrictions in the Cumberland County Registry of Deeds, and shall, by deed, covenant, declaration of condominium or other recorded or recordable instruments, as appropriate, ensure that these conditions and restrictions are enforceable by the City against all such successors, assigns and persons. Nothing herein shall be deemed to limit the Owner's right of alienability of the Premises, or any portion thereof, subject to these conditions and restrictions, which conditions and restrictions shall run with the land and be binding upon the Owner, its successors and assigns, as their interests may appear.

12. No reliance or estoppel. Nothing in these conditions or restrictions shall constitute any representation or commitment by the City to retain the zoning classification of the Premises, or shall entitle the Owner to rely thereon for any purpose, or shall estop the City from any future rezoning or exercise of other authority wi respect to the Premises. Nothing herein shall be deemed to pr lude the Owner from petitioning the City for any future rezoning of the Premises or other property in the vicinity thereof; provided, however, that nothing herein shall constitute any representation or commitment by the City to grant such a petition or otherwise act thereon.

13 Breach. In case of any breach of these conditions and restrictions, and except as otherwise hereinbefore provided, the City shall, after giving written notice to the Owner and a reasonable time to cure not to exceed six (6) months, refer the same to the Planning Board, which shall, after notice and hearing, make a recommendation to the City Council whether to rezone the Premises, or any portion thereof, which recommendation shall be advisory only.

14. Declaration of invalidity. In the event that these conditions and restrictions, or any portion thereof, are declared invalid for any reason by a court of competent jurisdiction, the City shall invoke the same procedure as hereinbefore provided for breach of these conditions and restrictions.

15. Remedies not impaired. No failure or delay by the City to enforce any of these conditions and restrictions shall impair any remedy available for breach hereof, or constitute a waiver of or acquiescence in any breach hereof, the remedies for which shall be cumulative.

FORT MCKINLEY PROPERTY ZONING MAP
(GREAT DIAMOND ISLAND)

NOTE: SHORELAND ZONE LINE EXTENDS INLAND A DISTANCE OF 250 FEET FROM THE NORMAL HIGH WATER MARK OF THE BAYS, COVES, SOUNDS, INLETS AND OPEN WATERS OF CASCO BAY.

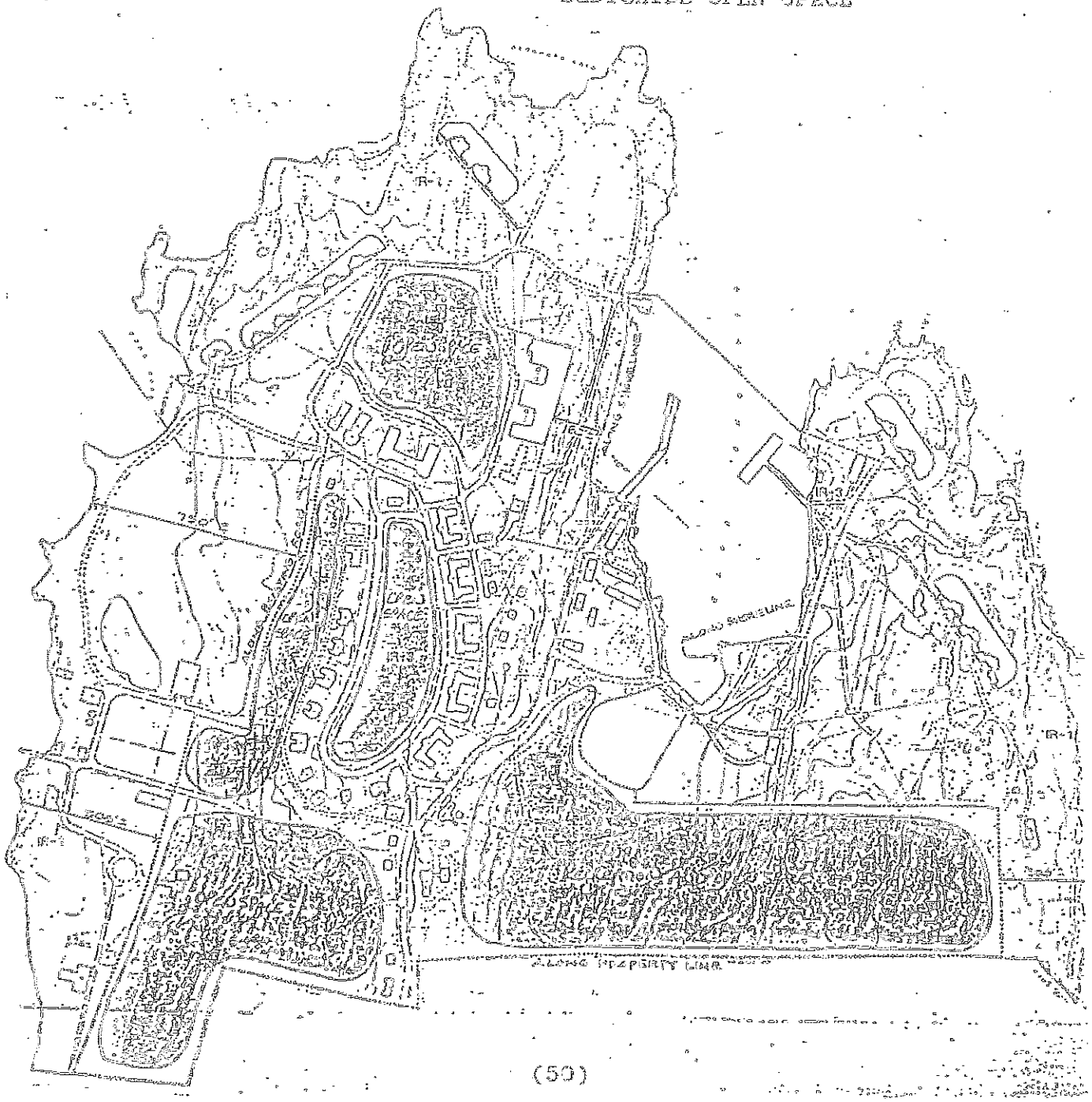
7/15/85

Diamond Cov

GREAT DIAMOND ISLAND PORTLAND,

DEVELOPER : DICTAR ASSOCIATES PORTLAND,

DEDICATED OPEN SPACE



AMENDMENT TO PORTLAND CITY
CODE SECTION 14-49 (ZONING
MAP) SECTION 14-49 (ZONING
MAP) RE: CONDITIONAL
REZONING OF FT. MCKINLEY

IN THE CITY COUNCIL

JUNE 12 1985

Given a first reading. Public hearing held.

JUNE 24 - Public hearing held. Councilor Smith moved, seconded MacWilliams to table to July 15th afternoon City Council Meeting, passed 7 yeas.

JULY 15 - Removed from the table. Motion to replace with substitute amendment, passed, 8 Yeas, and passed, as amended, 8 Yeas.

Item #98 dated July 15, 1985 is relevent to this item. Titled Access For Island Subdivisions, it refers to this item.

Jane Durgin

Attest: Jane Durgin
City Clerk.

STATE OF MAINE
CUMBERLAND, ss. JANUARY 27, 1986

Personally appeared the above-named Jane Durgin and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me, EUNICE CUMMON

SEAL

SEAL

RECEIVED
RECORDED REGISTRY OF DEEDS
1986 SEP 28 PM 2:32
CUMBERLAND COUNTY

From: Jeff Tarling
To: Jean Fraser
Date: 3/19/2015 11:00 AM
Subject: GDI Zone Change

Hi Jean -

I am very familiar with the open space area on Great Diamond Island where the transfer station is proposed. The amendment change of less then an acre does not appear to adversely impact the nearby old-growth forest.

Jeff Tarling
City Arborist

From: "Sandy Fitch" <sandy@diamondcoveproperties.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 3/18/2015 3:29 PM
Subject: Re trash compactor at Diamond Cove
Attachments: photo.JPG; phototrucks.JPG

Hello Ms Fraser
I have read the information you so kindly forwarded to me, regarding the city trash compactor area at Diamond Cove.The guidelines are very reassuring and if all is maintained and managed as outlined in the documents everything will be well (or as well as it can be, given it is an area where trucks will be coming and going and trash will be smashed and stored). My concern is though, that when the city sends vehicles out to the island to perform a function, they often grow roots and remain here forever.
I have attached two photographs taken this afternoon, showing the city parking area on Diamond Avenue. What is going to become of the vehicles that are currently stored at this area, outside the Diamond Cove "upper gate"? Will this area remain as it is or will the vehicles and equipment be moved to the pad at the new compactor area? When this city parking area was created, screening was supposed to have been planted to block the view of machines from the passersby on Diamond Avenue, but that was never done. Can we hope for better here? Who will enforce the proper maintenance of this area?
I hope that these and other homeowner's questions can be addressed at the meeting on the 24th.
Best regards,
Sandy Fitch

The message is ready to be sent with the following file or link attachments:
photo.JPG
phototrucks.JPG

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Photos from S Fitch 3.18.2015 with e-mail

>>> Sandy Fitch <sandy@diamondcoveproperties.com> 3/14/2015 1:39 PM >>>
Dear Ms Fraser

Thank you so much for forwarding all the information to me. I really appreciate the time you have taken to address my question. I do not object to my email being included as public comment.

It will take a while to go through all the attachments but I have perused some and at this point my immediate concern is about the accumulation of old city vehicles that will be parked in this area (one need only look at the city parking area on Diamond Avenue), and the enforcement for requirement for screening to be planted as a visual buffer around this facility.
I do plan to attend the meeting so perhaps I will meet you there?

Regards

Sandy Fitch
West ShoreDrive
Diamond Cove
Sent from my iPhone
Sandy Fitch

From: Sandy Fitch (mailto:sandy@diamondcoveproperties.com)
To: jf@portlandme.gov
Cc: Bonnie Dietz (mailto:bonniedietz298@msn.com)
Sent: Monday, March 02, 2015 12:41 PM
Subject: rezoning request Great Diamond Island involving old growth forest

Dear Ms. Fraser:

I received notice of a city request for a zone change for a 1.25 acre "transfer station" in Diamond Cove, impacting 500 square feet of old growth forest. Having been involved with the early development and sale of properties here at Diamond Cove, and serving on our Design Review Board for 10 years, I am very aware of the strict conditions that apply to old growth. Does this proposed use change require the destruction of old growth or is this just part of the area included within the boundaries of the transfer station? If the old growth is going to be disturbed in any way, is the DEP aware of this? I just can't imagine that it is okay to destroy something so highly protected **just to** used for a city garbage facility.

I would greatly appreciate if you could please explain what is actually to be done with this 500 square feet of wonderful old growth woodland.

Sandra Fitch
Diamond Cove
Great Diamond Island

From: Bonnie Dietz <bonniedietz298@msn.com>
To: "'Jean Fraser'" <JF@portlandmaine.gov>
Date: 3/18/2015 12:54 PM
Subject: RE: amendment to the 1985 Conditional Agreement...Great Diamond Island

Jean,

Thank you for sending along all the additional information.

Yes you may include my March 3, 2015 email in the Report as "public comment".

If it is not too late I would like to add one more question: Will the lights indicated on the site plan be motion sensitive or will they be on during all hours of darkness?

I would also like to mention with regards to the DCHA Board letter that there are many homeowners who do choose to read all the minutes and newsletters but still did not have a clear picture of the details of the transfer station. In many cases minutes have been delayed by months so any questions or comments would only be after the fact. I do not believe a copy of the lease and some of the other documents were shared with homeowners. While our board of directors acts on our behalf they do not always keep us informed of the details so we do have questions. Matt Hoffner has offered to answer questions but he is also on vacation out of state and I would not want to take vacation time from anyone if it can be avoided.

Thanks for keeping me informed,

Bonnie

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Tuesday, March 17, 2015 3:05 PM
To: Bonnie Dietz
Subject: RE: amendment to the 1985 Conditional Agreement...Great Diamond Island

Bonnie

Please find attached a letter from the DCHA that will be included in the Planning Board Report and may answer some of your questions.

I am also writing to confirm that your e-mail of March 3, 2015 will also be included in the Report as "public comment" and I think these questions are helpful and the I understand the applicant is preparing answers but I have not yet received them in written form.

thank you

Jean

Jean Fraser, Planner

City of Portland

874 8728

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. --

From: Bonnie Dietz <bonniedietz298@msn.com>
To: <jf@portlandmaine.gov>
Date: 3/3/2015 5:22 PM
Subject: amendment to the 1985 Conditional Agreement...Great Diamond Island

Dear Jean,

My neighbor mentioned receiving the notice regarding the amendment to the 1985 Conditional Rezoning Agreement relating to Fort McKinley on Great Diamond Island requested by Portland's Director of Public Services. I did not receive a notice in the mail. Although my property is not within the 500 feet area, as a member of the Diamond Cove Homeowner's Association I am one of the many owners of the common properties which includes the Old Growth area and Open Space areas. In that regard I hope you will be able to respond to my questions.

1. Will the Old Growth area be altered or be part of a buffer? Historically the Old Growth areas were not to be touched (with the exception of bittersweet rempoval)

2. Why are 1.25 acres needed? It seems like a really large area for a compactor and recycle station for relatively few people.

3. Is this the first time that the city has proposed leasing private property in a private gated community for a transfer station?

4. Have any enforceable provisions been made to buffer the noise, smells and views of the transfer station?

5. Has any estimate been done to calculate the number of garbage truck trips that will visit the transfer station each week?

6. Will there be a direct access road to the transfer station from the public (Great Diamond) side of the island so West Shore Drive at Diamond Cove is not impacted?

I look forward to your response,

Bonnie Dietz

20 Diamond Cove

Great Diamond Island, ME 04109

From: Alex Neal <alexkneal@gmail.com>
To: "JF@portlandmaine.gov" <JF@portlandmaine.gov>
CC: Sandy Fitch <sandy@diamondcoveproperties.com>, Bill Conlon <wconlon@ford...
Date: 3/18/2015 6:28 PM
Subject: Diamond Cove transfer station

My husband and I live at 30 W. Shore Drive on Diamond Cove and we also want to voice our concern over the attention paid to the proposed transfer site. We have been reassured that city vehicles won't have extended stays there as happened previously at the laundry site. We also have been reassured that there will be proper landscape screening and that trash and odor will not become issues.

The west side is a beautiful part of the island with many expensive, well-cared for homes in it. We are counting on the City to keep its word that a potentially positive solution to garbage disposal won't become a negative problem.

Best,
Alexandra Neal

SEBAGO TECHNICS

CIVIL ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE

Conditional Rezoning Application
to
City of Portland Planning Board

Solid Waste Transfer & Recycling Station
Great Diamond Island, Maine

on behalf of

City of Portland
Department of Public Services
55 Portland Street
Portland, ME 04101

and

Diamond Cove Homeowners Association
8 McKinley Ct.
Great Diamond Island, ME 04109

January 2015

75 John Roberts Road – Suite 1A, South Portland, ME 04106-6963 • 207.856.0277 • 207.856.2206

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Exhibit 1

Application Form and Agent Authorization

Zoning Map/Text Amendment/Contract or Conditional Rezoning Application
Portland, Maine

Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zone Change.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: http://me-portland.civicplus.com/DocumentCenter/Home/View/1080
Design Manual: http://me-portland.civicplus.com/DocumentCenter/View/2355
Technical Manual: http://me-portland.civicplus.com/DocumentCenter/View/2356

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT NAME: Great Diamond Island Transfer Station

PROPOSED DEVELOPMENT ADDRESS:

Great Diamond Island, Portland, Maine

PROJECT DESCRIPTION:

Amendment to the existing DCHA Conditional Zoning Agreement to remove the area for a solid waste transfer station and recycling facility from the open space designation .

CHART/BLOCK/LOT: 83B-M001

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: City of Portland, Attn: Troy Moon Business Name, if applicable: Address: 55 Portland Street City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # (207) 874-8467 Home# N/A Cell # N/A Fax# (207) 874-8816 e-mail: thm@portlandmaine.gov
Owner – (if different from Applicant) N/A Name: Address: City/State : Zip Code:	Owner Contact Information N/A Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Sebago Technics, Inc. Attn: Owens McCullough, P.E. Address: 75 John Roberts Road, Suite 1A City/State : South Portland Zip Code: 04106	Agent/Representative Contact Information Work # (207) 200-2073 Cell # N/A e-mail: omccullough@sebagotechnics.com
Billing Information N/A Name: Address: City/State : Zip Code:	Billing Information N/A Work # Cell # Fax# e-mail:

Engineer *See Agent/Representative Name: Address: City/State : Zip Code:	Engineer Contact Information *See Agent/Representative Work # Cell # Fax# e-mail:
Surveyor Name: City of Portland Address: 55 Portland Street City/State : Portland, ME Zip Code: 04101	Surveyor Contact Information N/A Work # Cell # Fax# e-mail:
Architect N/A Name: Address: City/State : Zip Code:	Architect Contact Information N/A Work # Cell # Fax# e-mail:
Attorney N/A Name: Address: City/State : Zip Code:	Attorney Contact Information N/A Work # Cell # Fax# e-mail:

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

*See attached lease agreement

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

Existing use is open space and storage area for miscellaneous landscaping materials.

Current Zoning Designation(s): IR-3

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

City of Portland solid waste transfer station and recycling facility. Proposed work will include construction of a paved access drive, concrete pads, retaining wall, and two solid waste compactors.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEES: *To be addressed internally by City of Portland

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

Zoning Map Amendment ___ $2,000.00 (from _____ zone to _____ zone) Zoning Text Amendment ___ $2,000.00 (to Section 14-_____) Combination Zoning Text Amendment and Zoning Map Amendment ___ $3,000.00 Conditional or Contract Zone ___ $3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	The City invoices separately for the following: - Notices ($.75 each) - Legal Ad (% of total Ad) - Planning Review ($40.00 hour) - Legal Review ($75.00 hour) Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.

APPLICATION SUBMISSION:

1. All plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file names which can be found on the Electronic Plan and Document Submittal page of the City's website at http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal

2. The submission shall include the following materials:
   a. One (1) paper set of the zoning amendment application, concept plan and written narrative.
   b. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations and compatible with the surrounding neighborhood.

APPLICANT SIGNATURE:

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

Signature of Applicant:	Date:
	Jan. 22, 2015

agent for city

Portland, Maine — Year Lifes Good Here

Michael J. Bobinsky
Director of Public Services

September 4, 2014
09405

Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

Letter of Agent Authorization – MDEP Permit Applications, Great Diamond Island

Sebago Technics, Inc. has been retained by the City of Portland to assemble permit applications and represent the City during the Maine Department of Environmental Protection permitting process for several related permit applications to include:

1. Permit application for a new solid waste transfer facility;
2. Minor amendment permit application; and
3. Permit-by-Rule application for improvements to an existing marine ramp.

These permit applications are associated with infrastructure improvements on Great Diamond Island. We look forward to working with the Maine Department Environmental on these important community projects. If you have any questions please feel free to contact me.

Sincerely

City of Portland
Troy Moon
Environmental Programs and Open Space Manager

Exhibit 2

USGS Location Map

SEBAGO TECHNICS

WWW.SEBAGOTECHNICS.COM

75 John Roberts Rd. - Suite 1A, South Portland, ME 04106, Tel. 207-200-2100

250 Gamble Rd. - Suite B, Lewiston, ME 04240, Tel. 207-783-6656

SITE LOCATION MAP OF PROPOSED SOLID WASTE TRANSFER STATION		SCALE: 1" = 2000' DATE: 12/18/14
LOCATION: GREAT DIAMOND ISLAND PORTLAND, MAINE	FOR: CITY OF PORTLAND MAINE	SHEET: 1 OF 1

09405 SITE LOCATION.dwg, TAB: SK

Exhibit 3

City Assessor's Map

SEBAGO TECHNICS

WWW.SEBAGOTECHNICS.COM

75 John Roberts Rd. - Suite 1A
South Portland, ME 04106
Tel. 207-200-2100

289 Goddard Rd. - Suite B
Lewiston, ME 04240
Tel. 207-783-9669

TAX MAP SKETCH

OF PROPOSED SOLID WASTE TRANSFER STATION

SCALE: 1" = 300'

DATE: 05/30/14

LOCATION:

WEST SHORE DRIVE
GREAT DIAMOND ISLAND

INFORMATION:

IMAGERY SPRING 2009
DATA SOURCE: MAINE GIS

09405GIS.mxd

09405

Abutters List

Current Owner/Mailing Address	MAP	LOT
Diamond Cove Homeowners Association C/O Phoenix Management PO Box 759 Saco, ME 04072	N/A	N/A

Exhibit 4

Right, Title or Interest

LEASE AGREEMENT

FOR TRANSFER STATION

BY AND BETWEEN

CITY OF PORTLAND AND

DIAMOND COVE HOMEOWNERS ASSOCIATION

THIS LEASE AGREEMENT (hereinafter this "Agreement") is made as of this 17th day of ~~February~~ April, 2014, by and between the **CITY OF PORTLAND**, a municipal corporation located in Cumberland County, State of Maine (hereinafter the "**CITY**") and **DIAMOND COVE HOMEOWNERS ASSOCIATION**, a Maine not-for-profit corporation doing business on Great Diamond Island, Maine (hereinafter "**LESSOR**").

WITNESSETH:

That **LESSOR**, for and in consideration of the rent hereinafter to be paid by **CITY**, and other consideration, and the covenants and agreements hereinafter contained, to be kept and performed by **CITY**, does hereby demise, lease and let unto **CITY**, the property located at or near the 'laundry building' on Great Diamond Island in Portland, Maine and more particularly described in Exhibit A (hereinafter the "**PREMISES**"), to have and to hold unto said **CITY** on the following terms and conditions:

1. Term and Renewal; Commencement Date

A. The initial term of this Agreement shall begin on the Commencement Date (as hereinafter defined), and shall continue until midnight on the last day of the calendar month containing the twentieth (20th) anniversary of the Commencement Date, unless sooner terminated by either party as provided herein. This Agreement shall renew automatically for four (4) additional 20-year terms, unless either party gives the other notice of non-renewal at least 30 days before such end of the 20-year term. The grounds for non-renewal shall be the same as the grounds for termination, set out in Section 18 of this Agreement; but in addition, however, if the **CITY** fails to substantially complete the construction of a transfer station facility on the **PREMISES** in accordance with the Final Site Plan and the Final Construction Plans, each as hereinafter defined, by *February 28, 2015*, or said transfer station facility is not operational by

May 30, 2015, this Agreement shall then be automatically and immediately terminated as of that date.

B. As used herein, the "Commencement Date" shall mean the date on which the last of the following events shall have occurred: (i) the date on which CITY shall obtain site plan approval by the Portland Planning Board of the Final Site Plan (the "Planning Board Approval"); (ii) the date on which CITY shall obtain an a Portland City Council order amending the 1983 Amendment Re: Conditional Rezoning of Ft. McKinley, to allow for the proposed transfer station facility as depicted on the Final Site Plan (the "City Council Order"); and (iii) the date on which CITY shall obtain the 2014 DEP Site Location Order, as hereinafter defined in Section 7(A) below. In the event the Commencement Date shall not occur by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

2. Rent

From and after the Commencement Date, CITY agrees to pay to LESSOR as rent for such use and occupancy of the PREMISES the sum of One Dollar ($1.00) per year, payable in advance. This is a 'net lease', that is, the costs of constructing and operating the transfer station facility shall be borne solely by CITY. CITY will pay any fees related to the improvements which are the transfer station facility, including but not limited to permit fees, and all costs of utility services necessary for the operation of the transfer station facility. CITY will not pay any real estate taxes on the PREMISES, but shall be responsible for any taxes or assessments on the building or improvements constructed by CITY at the PREMISES.

3. Purposes

(A) CITY shall use the PREMISES solely for the development, construction (including landscaping) and maintenance of a transfer station facility to provide trash compaction, recycling services, and short term storage of trash and materials to be recycled, within the screened improvements to be built on the PREMISES. Only trash and materials to be recycled that have been generated on Great Diamond Island or Little Diamond Island will be so processed at said transfer station facility. CITY will not knowingly or intentionally store or process hazardous waste on the PREMISES. CITY will not be permitted to build any improvements on the PREMISES other than those shown on the Final Site Plan and Final Construction Plans for this transfer station facility .

(B) There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term.

(C) Subject to (i) the construction of the transfer station facility in accordance with the Final Site Plan and the Final Construction Plans and the conduct of the operation of said transfer station facility in accordance with this Agreement, and (ii) CITY's obtaining the 2014 DEP Site Location Order, LESSOR represents to CITY that such purposes are permitted under the private regulation of the PREMISES set forth in the Amended and Restated General

Declaration of Covenants and Restrictions dated December 17, 1993 and recorded at the Cumberland County Registry of Deeds in Book 11277, Page 322; as modified and amended (hereinafter the "DCHA Declaration").

4. Access

Appurtenant to the CITY's leasehold of the PREMISES, CITY shall have a nonexclusive right to access the PREMISES from the "Lower Gate" and from the existing Diamond Cove Barge Landing, over the most direct, existing roadways, subject to the rules attached hereto as Exhibit C. CITY will repair any damage it causes to such defined access ways; and in addition, will provide limited annual general maintenance to such ways, such by as spreading several loads of gravel on said (gravel) ways, annually.

5. Site Plan and Facility Operation

CITY covenants and agrees:

A. that a plan of the Premises, as well as a preliminary site plan of the transfer station facility, not-yet approved by the Portland Planning Board or Planning Board staff, are attached to this Agreement as Exhibit B (hereinafter collectively, the "Preliminary Site Plan");

B. that the transfer station facility will be constructed in accord with the Final Site Plan and the Final Construction Plans, including, but not limited to, the landscaping elements of such Plans, and the visual screening and any fencing elements of said Plans;

C. that in the event the CITY proposes to revise the Preliminary Site Plan, the CITY will provide LESSOR with a preliminary draft of the proposed revision; and in the event the proposed revision is material (as determined by City Corporation Counsel in its reasonable discretion), the CITY will incorporate any suggestions received by the CITY from LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing such revision to LESSOR, provided that in the event such suggested changes cannot be made by the CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise the Preliminary Site Plan to meet both of their respective needs; the Preliminary Site Plan (with any modifications not deemed material as determined by City Corporation Counsel in its reasonable discretion) or a revised version of it that is approved by the parties pursuant to this Section shall constitute the "Final Site Plan", and the Final Site Plan is hereby incorporated by reference herein and Exhibit B shall be deemed revised accordingly;

D. that CITY will prepare and submit to LESSOR proposed construction plans for the transfer station facility and CITY will incorporate any suggestions made by LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing of said proposed construction plans to LESSOR, provided that in the event such suggested changes cannot be made by CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City

Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise such proposed construction plans to meet both of their respective needs; the proposed construction plans or a revised version of them that are approved by the parties pursuant to this Section shall constitute the "Final Construction Plans"; and the Final Construction Plans are hereby incorporated by reference herein.

E. that the transfer station facility will be operated in accord with any operational elements of the Final Site Plan;

F. that the CITY will operate the transfer station facility in accord with any conditions required by the DCHA Declaration (including, without limitation, DCHA Declaration Section 4.18), the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, and any other required approvals for the transfer station facility;

G. that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles; and

H. to operate the transfer station facility in a responsible, clean and orderly manner, and in addition to the regular removal of waste/recycling described above, to make reasonable best efforts to minimize odors emitted from the PREMISES.

6. Costs of Development and Maintenance of the Premises

The CITY shall provide all clearing, grading and construction of the transfer station facility and other development set forth in the Final Site Plan and Final Construction Plans, and otherwise all as deemed necessary by the CITY for its proposed use. LESSOR hereby consents to the crossing of the other portions of LESSOR's real property as reasonably necessary for such purposes. The CITY shall provide all services deemed necessary to maintain the PREMISES in a safe condition all as deemed necessary by CITY.

7. Location of Structures and Use; 2013 Forest Management Plan/Manual

A All structures, site improvements and/or changes in the PREMISES shall be located or done in accordance with the laws, rules and regulations of all applicable federal, state and local jurisdictions. The parties acknowledge the following:

(i) the PREMISES are located in the vicinity of "Compartment 8" as defined in (i) a report dated March 31, 1989 and titled "Forest Management Plan for the Old Growth Softwood Stand on Diamond Cove Associates Property on Great Diamond Island, Casco Bay, City of Portland, Maine" prepared by Eco-Analysis, Inc. (the "1989 Forest Management Plan") and (ii) a report dated January 19, 1989 and titled "Operations Manual for Activities Adjacent To and Within The Old Growth Stand of Trees Within The Diamond Cove Development On Great

Diamond Island" prepared by Bee-Analysis, Inc. (the "1989 Stand Operations Manual");

(ii) by Maine Department of Environmental Protection ("DEP") Condition Compliance Order dated July 5, 1989 and recorded at the Cumberland County Registry of Deeds in Book 8833, Page 12 and re-recorded in Book 8902, Page 118 (the "1989 DEP Site Location Order"), the DEP expressly referenced both the 1989 Forest Management Plan and the 1989 Stand Operations Manual in connection with its approval of Diamond Cove Phase I; and

(iii) for several reasons, including an infestation of hemlock woolly adelgid and concerns about dangerous fire conditions identified by Maine Licensed Foresters, LESSOR has engaged a Maine Licensed Forester to update and amend the 1989 Forest Management Plan and the 1989 Stand Operations Manual, and the updated and amended forest management plan and stand operations manual is attached hereto as Exhibit D (collectively, the "2013 Forest Management Plan/Manual").

CITY agrees to submit such 2013 Forest Management Plan/Manual to the DEP, in connection with CITY's application for approval by the DEP of the transfer station facility. This Agreement is subject to CITY's obtaining a DEP Site Location modification order satisfactory to LESSOR (the "2014 DEP Site Location Order") that (a) modifies the 1989 DEP Site Location Order by expressly replacing references to the 1989 Forest Management Plan and the 1989 Stand Operations Manual with the 2013 Forest Management Plan/Manual, and (b) confirms that the transfer station facility at the PREMISES, as approved by the DEP, is permitted by such 2013 Forest Management Plan/Manual. In the event the DEP shall propose revisions to the 2013 Forest Management Plan/Manual before issuing such a 2014 DEP Site Location Order, the parties will work in good faith to revise the 2013 Forest Management Plan/Manual to meet both of their respective needs and the requirements of the DEP; provided, however, that if the parties shall fail to agree on a final 2013 Forest Management Plan/Manual that is expressly incorporated into a 2014 DEP Site Location Order by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

B. Work done on the PREMISES will either be conducted by a Contractor or by the CITY's Department of Public Services. If the work is performed by a Contractor, the Contractor shall provide a performance bond for work performed on the PREMISES. LESSOR shall be named as co-obligee on the bond. The Contractor performing the work for CITY shall also procure general liability insurance in the minimum amounts of $1,000,000 for each occurrence, and $2,000,000 in the 'general aggregate' for bodily injury, death and property damage, naming CITY and LESSOR as additional insureds thereon.

C. The general public shall not be allowed by the CITY to have access to the transfer station facility to be built on the PREMISES; however, the LESSOR and its property management company, or the person or entity with property management responsibilities or trash pick-up responsibilities as agent for the LESSOR, shall be allowed access to the PREMISES, including the transfer station facility, for the disposal of trash and recyclables, provided that all such trash (except large items) shall be bagged as required from time to time by the CITY, such

as, inside the colored trash bags sold in support of its waste disposal system; and all such recyclables shall also be bagged or packaged as required by the CITY, from time to time.

8. Maintenance and Repairs, and Surrender Upon Termination

CITY represents that it has inspected and examined the PREMISES and accepts them in their present condition, and agrees that LESSOR shall not be required to make any improvements or repairs or provide any services whatsoever in or upon the PREMISES or any part thereof; CITY agrees to keep said PREMISES and the transfer station facility safe and in good order and condition at all times during the term hereof, and upon expiration of this Agreement or any sooner termination thereof, the CITY will quit and surrender the possession of the PREMISES quietly and peaceably and leave it in as good order and condition as they were at the commencement hereof. Upon such surrender of possession, the CITY may leave the screened improvements on the PREMISES provided that they then are in good order and condition (with CITY having performed required maintenance to date), reasonable wear and tear excepted, and shall remove any equipment and any fixtures (except as otherwise agreed by LESSOR), and will offer for sale to the LESSOR the trash compactors located within said screened improvements, at their then fair market value, given their age and condition, as determined by agreement of the parties, and if no such agreement is reached within 45 days, as determined by a valuation made by an independent third party chosen by the CITY and LESSOR. The obligations of CITY pursuant to this Section shall survive the expiration or termination of this Agreement.

9. Various City Commitments

A. CITY covenants and agrees , subject to the availability of funds, any required City Council approval, and any other required governmental approvals:

(i) When a term lease between the LESSOR and the CITY has been executed for the existing Diamond Cove Barge Landing, to make repairs to that facility or re-build that facility (in addition to the 'stop-gap' repairs already made by CITY prior to the date hereof), as soon as required by that facility;

(ii) to monitor animal or 'varmint' access to the waste stored on the PREMISES, and respond to any such access accordingly; and

B. CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Fort') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways.

10. Liability

LESSOR shall not be liable for damage to or loss of property of any kind which may be lost or stolen, damaged or destroyed by fire, water or otherwise, while on the PREMISES. Up to the limits of, and subject to the terms and provisions of the Maine Tort Claims Act, CITY agrees to indemnify and save LESSOR harmless from all liability, loss or damage arising from any nuisance made or suffered on the PREMISES by CITY, the CITY's guests, invitees, agents or servants due to any carelessness, neglect or improper conduct of any such persons; however, and by way of limitation of this indemnity and holding harmless, nothing herein is intended to, nor shall it be deemed to, waive, amend or otherwise modify any claim of immunity, any defense or any limitation of liability available to CITY under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq.

11. Default

In the event that CITY shall be in default in the performance of any of the terms, covenants, agreements or conditions herein agreed to be kept and performed by CITY, then in that event, LESSOR may terminate this Agreement as provided in Section 18 of this Agreement.

12. Hold Over

In the event that CITY shall hold over and remain in possession of the PREMISES with the consent of LESSOR, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

13. Notices

Any notices which are required hereunder, or which either CITY or LESSOR may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to LESSOR, Diamond Cove Homeowners Association, c/o Phoenix Management, P.O. Box 759, Saco, ME 04072 and LESSOR, Diamond Cove Homeowners Association Board, Great Diamond Island, Portland, ME; or addressed to CITY, Mark H. Rees, City Manager, 389 Congress Street, Portland, ME 04101.

14. Subletting or Assignment

The CITY shall not sublet the PREMISES or assign its rights hereunder without the express written consent of LESSOR.

15. Inspections and Access

The CITY shall allow LESSOR to inspect the PREMISES, including the transfer station facility, at all reasonable times to insure compliance with the terms and conditions herein, including but not limited to compatible uses, maintenance, safety of operations and access on common rights of way.

16. Sale of the Premises

LESSOR agrees that if, during the term of this Agreement and extension, it sells the PREMISES, it shall assign its obligations under this Agreement to the buyer of the PREMISES.

17. Recordation in Registry of Deeds

The parties agree to execute and record in the Cumberland County Registry of Deeds a Memorandum of Lease outlining the principal terms of this Agreement.

18. Termination

A. CITY may terminate this Agreement upon one (1) year written notice to LESSOR.

B. LESSOR may terminate this Agreement upon a one (1) year written notice for failure of the CITY to observe and perform any of its terms, covenants, agreements or conditions hereunder, and such failure shall not have been cured within any time period specified herein or within 90 days of written notice to do so.

19. Waiver

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

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 Mark H. Rees, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Lease Agreement to be signed by Matthew Hoffner, its Director and Operations Officer thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

CITY OF PORTLAND

By: _____
Mark H. Rees
Its City Manager

STATE OF MAINE
CUMBERLAND, ss.

March ~~February~~ 12, 2014

Personally appeared before me the above-named Mark H. Rees, City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

_____
Notary Public/Attorney-at-Law

SOLANGE AVI
Notary Public, Maine
My Commission Expires January 10, 2017

WITNESS:

DIAMOND COVE HOMEOWNERS ASSOCIATION

By: Matthew Hoffner
Matthew Hoffner
Its Director and Operations Officer

STATE OF MAINE
CUMBERLAND, ss.

February 14, 2014

Personally appeared before me the above-named Matthew Hoffner, Director and Operations Officer of Diamond Cove Homeowners Association, and made oath that the foregoing is his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,

Notary Public/Attorney-at-Law

JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

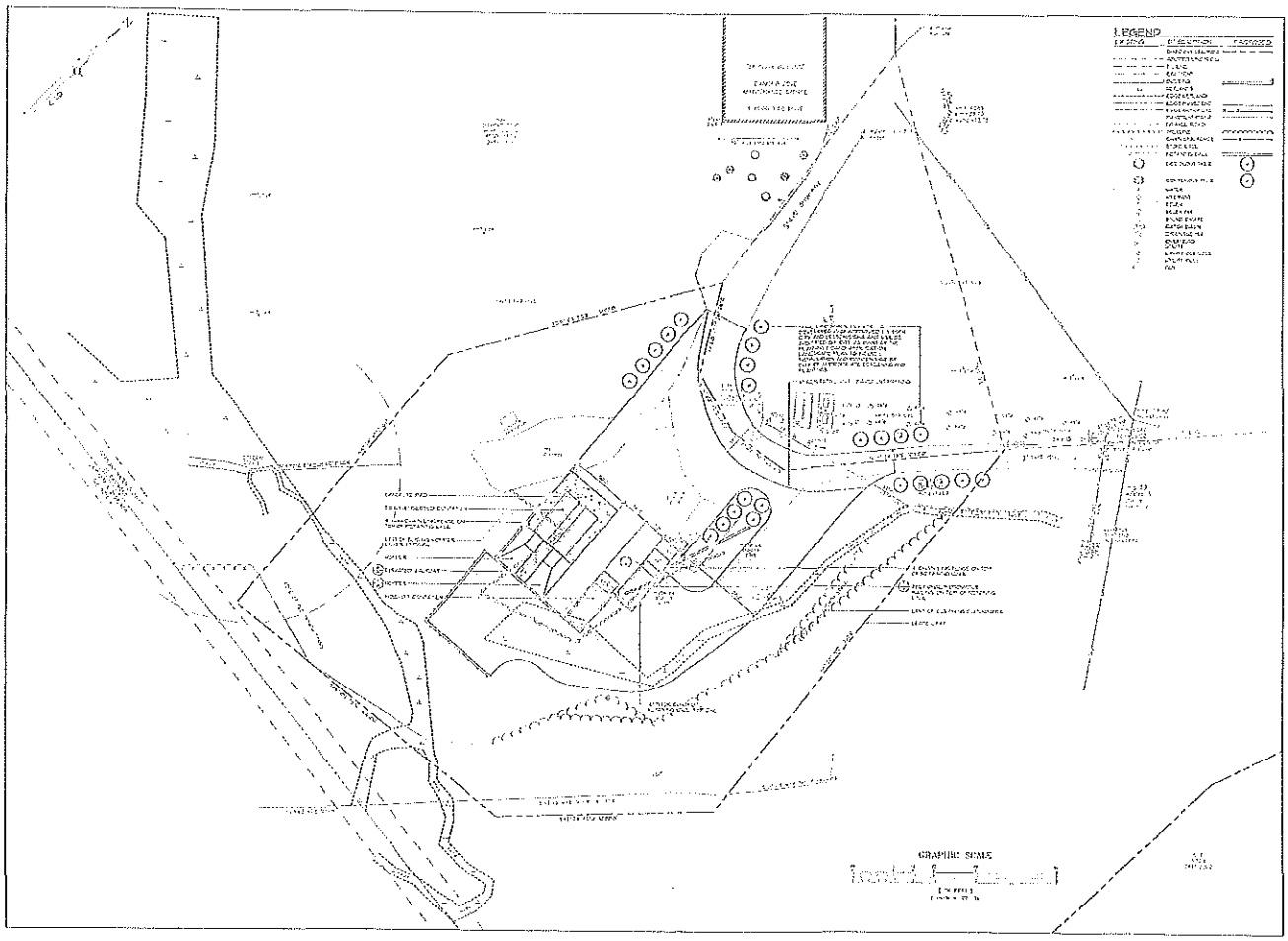
N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

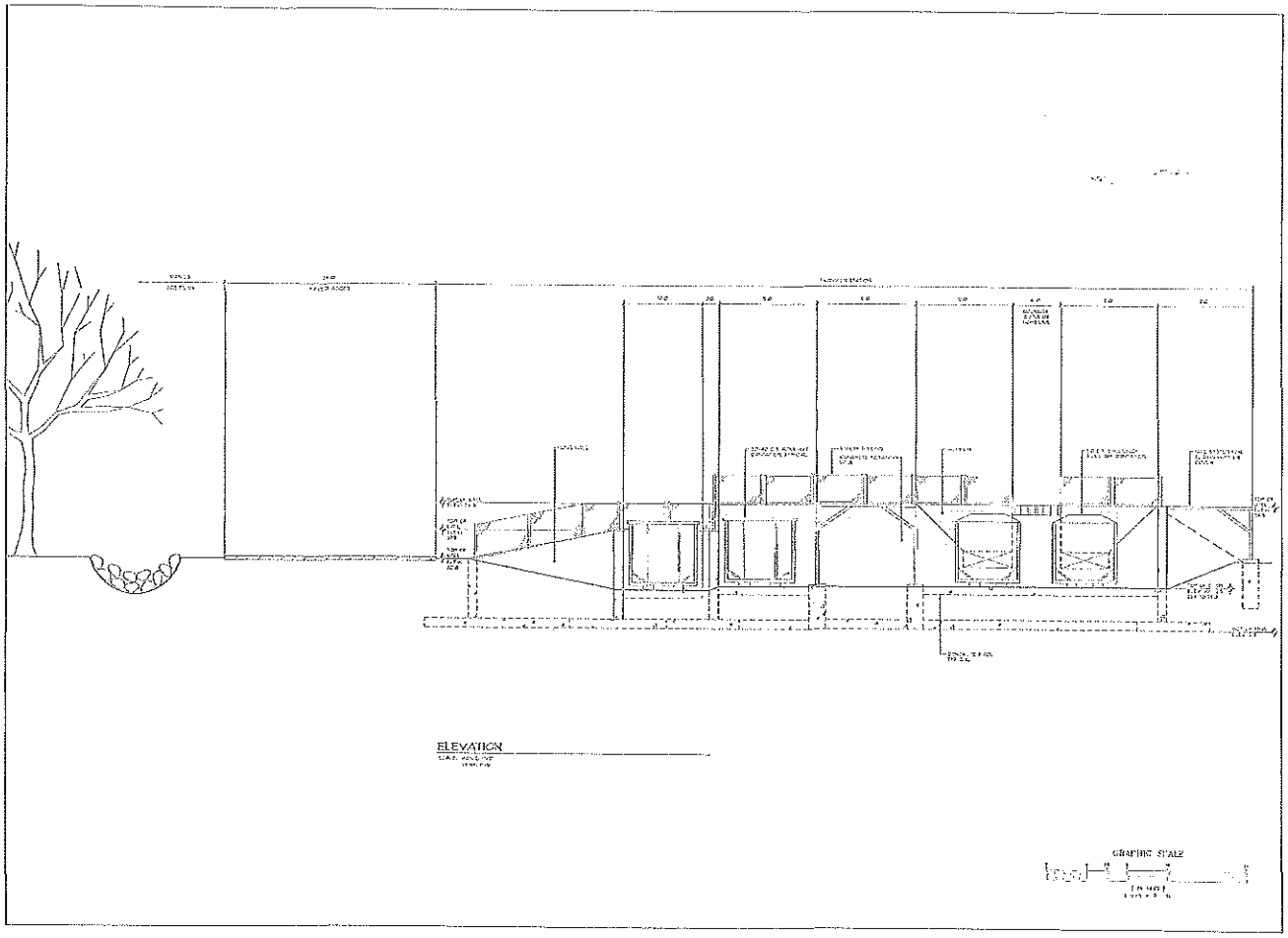
Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William O. Scott, P.L.S. 2239, September 4, 2013)


LEGEND
GRAPHIC SCALE
NOT FOR CONSTRUCTION
PROGRESS PRINT
SEBAGO
SITE PLAN
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND
SHEET 3 OF 8



NOT FOR CONSTRUCTION

PROGRESS PRINT

SEBAGO

FRONT ELEVATION
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND

SHEET 0 OF 8

Exhibit C

SPECIAL RULES REGARDING PARKING AND ANTI-IDLING POLICIES FOR USE ON THE BARGE LANDING OWNED BY DIAMOND COVE HOMEOWNERS ASSOCIATION

Note: Exceptions to the following rules will be made for emergency vehicles and/or emergency situations. These rules do not supersede other DCHA policies pertaining to the barge landing that are now in effect or that may be implemented in the future by the DCHA.

Parking and Loading/Off-loading of Vehicles:

Vehicles may be parked temporarily only in the following permitted parking area prior to and following a scheduled barge delivery:

On the cement pad located to the east of the barge landing on Wood Side Drive, between the hours of 9:00 a.m. to 5:00 p.m. only.

All vehicle operators shall comply with the vehicle anti-idling policy that is used by the City of Portland for its own vehicles.

Days/Hours of Operation:

- Days of operation for City vehicles will be Monday through Saturday only.
- Days of operation for other non-DCHA vehicles (i.e., vehicles servicing the public side of the Island) will be Monday through Friday only.
- Hours of operation for City vehicles and other non-DCHA vehicles will be from 7:00 a.m. to 8:00 p.m. Monday-Friday and 7:00 a.m. to 6:00 p.m. on Saturday.
- DCHA vehicles (i.e., vehicles servicing DCHA property or property of DCHA members) are not subject to these hours and days of operations restrictions.

Reports of Non-Compliance:

Any reports of non-compliance of these rules shall be reported to the City of Portland's Island and Neighborhood Liaison, who shall provide notice of any or all said reports to the DCHA.

The DCHA reserves the right to revoke permission to use the barge landing from non-DCHA vehicles or any operator thereof deemed to be in violation of any of these rules.

LEASE AGREEMENT
FOR TRANSFER STATION
BY AND BETWEEN
CITY OF PORTLAND AND
DIAMOND COVE HOMEOWNERS ASSOCIATION

THIS LEASE AGREEMENT (hereinafter this "Agreement") is made as of this 17th day of ~~February~~ April, 2014, by and between the **CITY OF PORTLAND**, a municipal corporation located in Cumberland County, State of Maine (hereinafter the "**CITY**") and **DIAMOND COVE HOMEOWNERS ASSOCIATION**, a Maine not-for-profit corporation doing business on Great Diamond Island, Maine (hereinafter "**LESSOR**").

W I T N E S S E T H:

That **LESSOR**, for and in consideration of the rent hereinafter to be paid by **CITY**, and other consideration, and the covenants and agreements hereinafter contained, to be kept and performed by **CITY**, does hereby demise, lease and let unto **CITY**, the property located at or near the 'laundry building' on Great Diamond Island in Portland, Maine and more particularly described in Exhibit A (hereinafter the "**PREMISES**"), to have and to hold unto said **CITY** on the following terms and conditions:

1. **Term and Renewal; Commencement Date**

A. The initial term of this Agreement shall begin on the Commencement Date (as hereinafter defined), and shall continue until midnight on the last day of the calendar month containing the twentieth (20th) anniversary of the Commencement Date, unless sooner terminated by either party as provided herein. This Agreement shall renew automatically for four (4) additional 20-year terms, unless either party gives the other notice of non-renewal at least 30 days before such end of the 20-year term. The grounds for non-renewal shall be the same as the grounds for termination, set out in Section 18 of this Agreement; but in addition, however, if the **CITY** fails to substantially complete the construction of a transfer station facility on the **PREMISES** in accordance with the Final Site Plan and the Final Construction Plans, each as hereinafter defined, by *February 28, 2015*, or said transfer station facility is not operational by

May 30, 2015, this Agreement shall then be automatically and immediately terminated as of that date.

B. As used herein, the "Commencement Date" shall mean the date on which the last of the following events shall have occurred: (i) the date on which CITY shall obtain site plan approval by the Portland Planning Board of the Final Site Plan (the "Planning Board Approval"); (ii) the date on which CITY shall obtain an a Portland City Council order amending the 1985 Amendment Re: Conditional Rezoning of Ft. McKinley, to allow for the proposed transfer station facility as depicted on the Final Site Plan (the "City Council Order"); and (iii) the date on which CITY shall obtain the 2014 DEP Site Location Order, as hereinafter defined in Section 7(A) below. In the event the Commencement Date shall not occur by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

2. Rent

From and after the Commencement Date, CITY agrees to pay to LESSOR as rent for such use and occupancy of the PREMISES the sum of One Dollar ($1.00) per year, payable in advance. This is a 'net lease', that is, the costs of constructing and operating the transfer station facility shall be borne solely by CITY. CITY will pay any fees related to the improvements which are the transfer station facility, including but not limited to permit fees, and all costs of utility services necessary for the operation of the transfer station facility. CITY will not pay any real estate taxes on the PREMISES, but shall be responsible for any taxes or assessments on the building or improvements constructed by CITY at the PREMISES.

3. Purposes

(A) CITY shall use the PREMISES solely for the development, construction (including landscaping) and maintenance of a transfer station facility to provide trash compaction, recycling services, and short term storage of trash and materials to be recycled, within the screened improvements to be built on the PREMISES. Only trash and materials to be recycled that have been generated on Great Diamond Island or Little Diamond Island will be so processed at said transfer station facility. CITY will not knowingly or intentionally store or process hazardous waste on the PREMISES. CITY will not be permitted to build any improvements on the PREMISES other than those shown on the Final Site Plan and Final Construction Plans for this transfer station facility .

(B) There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term.

(C) Subject to (i) the construction of the transfer station facility in accordance with the Final Site Plan and the Final Construction Plans and the conduct of the operation of said transfer station facility in accordance with this Agreement, and (ii) CITY's obtaining the 2014 DEP Site Location Order, LESSOR represents to CITY that such purposes are permitted under the private regulation of the PREMISES set forth in the Amended and Restated General

Declaration of Covenants and Restrictions dated December 17, 1993 and recorded at the Cumberland County Registry of Deeds in Book 11277, Page 322; as modified and amended (hereinafter the "DCHA Declaration").

4. Access

Appurtenant to the CITY's leasehold of the PREMISES, CITY shall have a nonexclusive right to access the PREMISES from the "Lower Gate" and from the existing Diamond Cove Barge Landing, over the most direct, existing roadways, subject to the rules attached hereto as Exhibit C. CITY will repair any damage it causes to such defined access ways; and in addition, will provide limited annual general maintenance to such ways, such by as spreading several loads of gravel on said (gravel) ways, annually.

5. Site Plan and Facility Operation

CITY covenants and agrees:

A. that a plan of the Premises, as well as a preliminary site plan of the transfer station facility, not-yet approved by the Portland Planning Board or Planning Board staff, are attached to this Agreement as Exhibit B (hereinafter collectively, the "Preliminary Site Plan");

B. that the transfer station facility will be constructed in accord with the Final Site Plan and the Final Construction Plans, including, but not limited to, the landscaping elements of such Plans, and the visual screening and any fencing elements of said Plans;

C. that in the event the CITY proposes to revise the Preliminary Site Plan, the CITY will provide LESSOR with a preliminary draft of the proposed revision; and in the event the proposed revision is material (as determined by City Corporation Counsel in its reasonable discretion), the CITY will incorporate any suggestions received by the CITY from LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing such revision to LESSOR, provided that in the event such suggested changes cannot be made by the CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise the Preliminary Site Plan to meet both of their respective needs; the Preliminary Site Plan (with any modifications not deemed material as determined by City Corporation Counsel in its reasonable discretion) or a revised version of it that is approved by the parties pursuant to this Section shall constitute the "Final Site Plan", and the Final Site Plan is hereby incorporated by reference herein and Exhibit B shall be deemed revised accordingly;

D. that CITY will prepare and submit to LESSOR proposed construction plans for the transfer station facility and CITY will incorporate any suggestions made by LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing of said proposed construction plans to LESSOR, provided that in the event such suggested changes cannot be made by CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City

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G. that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles; and

H. to operate the transfer station facility in a responsible, clean and orderly manner, and in addition to the regular removal of waste/recycling described above, to make reasonable best efforts to minimize odors emitted from the PREMISES.

6. Costs of Development and Maintenance of the Premises

The CITY shall provide all clearing, grading and construction of the transfer station facility and other development set forth in the Final Site Plan and Final Construction Plans, and otherwise all as deemed necessary by the CITY for its proposed use. LESSOR hereby consents to the crossing of the other portions of LESSOR's real property as reasonably necessary for such purposes. The CITY shall provide all services deemed necessary to maintain the PREMISES in a safe condition all as deemed necessary by CITY.

7. Location of Structures and Use; 2013 Forest Management Plan/Manual

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(ii) by Maine Department of Environmental Protection ("DEP") Condition Compliance Order dated July 5, 1989 and recorded at the Cumberland County Registry of Deeds in Book 8833, Page 12 and re-recorded in Book 8902, Page 118 (the "1989 DEP Site Location Order"), the DEP expressly referenced both the 1989 Forest Management Plan and the 1989 Stand Operations Manual in connection with its approval of Diamond Cove Phase I; and

(iii) for several reasons, including an infestation of hemlock woolly adelgid and concerns about dangerous fire conditions identified by Maine Licensed Foresters, LESSOR has engaged a Maine Licensed Forester to update and amend the 1989 Forest Management Plan and the 1989 Stand Operations Manual, and the updated and amended forest management plan and stand operations manual is attached hereto as Exhibit D (collectively, the "2013 Forest Management Plan/Manual").

CITY agrees to submit such 2013 Forest Management Plan/Manual to the DEP, in connection with CITY's application for approval by the DEP of the transfer station facility. This Agreement is subject to CITY's obtaining a DEP Site Location modification order satisfactory to LESSOR (the "2014 DEP Site Location Order") that (a) modifies the 1989 DEP Site Location Order by expressly replacing references to the 1989 Forest Management Plan and the 1989 Stand Operations Manual with the 2013 Forest Management Plan/Manual, and (b) confirms that the transfer station facility at the PREMISES, as approved by the DEP, is permitted by such 2013 Forest Management Plan/Manual. In the event the DEP shall propose revisions to the 2013 Forest Management Plan/Manual before issuing such a 2014 DEP Site Location Order, the parties will work in good faith to revise the 2013 Forest Management Plan/Manual to meet both of their respective needs and the requirements of the DEP; provided, however, that if the parties shall fail to agree on a final 2013 Forest Management Plan/Manual that is expressly incorporated into a 2014 DEP Site Location Order by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

B. Work done on the PREMISES will either be conducted by a Contractor or by the CITY's Department of Public Services. If the work is performed by a Contractor, the Contractor shall provide a performance bond for work performed on the PREMISES. LESSOR shall be named as co-obligee on the bond. The Contractor performing the work for CITY shall also procure general liability insurance in the minimum amounts of $1,000,000 for each occurrence, and $2,000,000 in the 'general aggregate' for bodily injury, death and property damage, naming CITY and LESSOR as additional insureds thereon.

C. The general public shall not be allowed by the CITY to have access to the transfer station facility to be built on the PREMISES; however, the LESSOR and its property management company, or the person or entity with property management responsibilities or trash pick-up responsibilities as agent for the LESSOR, shall be allowed access to the PREMISES, including the transfer station facility, for the disposal of trash and recyclables, provided that all such trash (except large items) shall be bagged as required from time to time by the CITY, such

as, inside the colored trash bags sold in support of its waste disposal system; and all such recyclables shall also be bagged or packaged as required by the CITY, from time to time.

8. Maintenance and Repairs, and Surrender Upon Termination

CITY represents that it has inspected and examined the PREMISES and accepts them in their present condition, and agrees that LESSOR shall not be required to make any improvements or repairs or provide any services whatsoever in or upon the PREMISES or any part thereof; CITY agrees to keep said PREMISES and the transfer station facility safe and in good order and condition at all times during the term hereof, and upon expiration of this Agreement or any sooner termination thereof, the CITY will quit and surrender the possession of the PREMISES quietly and peaceably and leave it in as good order and condition as they were at the commencement hereof. Upon such surrender of possession, the CITY may leave the screened improvements on the PREMISES provided that they then are in good order and condition (with CITY having performed required maintenance to date), reasonable wear and tear excepted, and shall remove any equipment and any fixtures (except as otherwise agreed by LESSOR), and will offer for sale to the LESSOR the trash compactors located within said screened improvements, at their then fair market value, given their age and condition, as determined by agreement of the parties, and if no such agreement is reached within 45 days, as determined by a valuation made by an independent third party chosen by the CITY and LESSOR. The obligations of CITY pursuant to this Section shall survive the expiration or termination of this Agreement.

9. Various City Commitments

A. CITY covenants and agrees , subject to the availability of funds, any required City Council approval, and any other required governmental approvals:

(i) When a term lease between the LESSOR and the CITY has been executed for the existing Diamond Cove Barge Landing, to make repairs to that facility or re-build that facility (in addition to the 'stop-gap' repairs already made by CITY prior to the date hereof), as soon as required by that facility;

(ii) to monitor animal or 'varmint' access to the waste stored on the PREMISES, and respond to any such access accordingly; and

B. CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Fort') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways.

10 Liability

LESSOR shall not be liable for damage to or loss of property of any kind which may be lost or stolen, damaged or destroyed by fire, water or otherwise, while on the PREMISES. Up to the limits of, and subject to the terms and provisions of the Maine Tort Claims Act, CITY agrees to indemnify and save LESSOR harmless from all liability, loss or damage arising from any nuisance made or suffered on the PREMISES by CITY, the CITY's guests, invitees, agents or servants due to any carelessness, neglect or improper conduct of any such persons; however, and by way of limitation of this indemnity and holding harmless, nothing herein is intended to, nor shall it be deemed to, waive, amend or otherwise modify any claim of immunity, any defense or any limitation of liability available to CITY under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq.

11. Default

In the event that CITY shall be in default in the performance of any of the terms, covenants, agreements or conditions herein agreed to be kept and performed by CITY, then in that event, LESSOR may terminate this Agreement as provided in Section 18 of this Agreement.

12. Hold Over

In the event that CITY shall hold over and remain in possession of the PREMISES with the consent of LESSOR, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

13. Notices

Any notices which are required hereunder, or which either CITY or LESSOR may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to LESSOR, Diamond Cove Homeowners Association, c/o Phoenix Management, P.O. Box 759, Saco, ME 04072 and LESSOR, Diamond Cove Homeowners Association Board, Great Diamond Island, Portland, ME; or addressed to CITY, Mark H. Rees, City Manager, 389 Congress Street, Portland, ME 04101.

14. Subletting or Assignment

The CITY shall not sublet the PREMISES or assign its rights hereunder without the express written consent of LESSOR.

15. Inspections and Access

The CITY shall allow LESSOR to inspect the PREMISES, including the transfer station facility, at all reasonable times to insure compliance with the terms and conditions herein, including but not limited to compatible uses, maintenance, safety of operations and access on common rights of way.

16. Sale of the Premises

LESSOR agrees that if, during the term of this Agreement and extension, it sells the PREMISES, it shall assign its obligations under this Agreement to the buyer of the PREMISES.

17 Recordation in Registry of Deeds

The parties agree to execute and record in the Cumberland County Registry of Deeds a Memorandum of Lease outlining the principal terms of this Agreement.

18. Termination

A. CITY may terminate this Agreement upon one (1) year written notice to LESSOR.

B. LESSOR may terminate this Agreement upon a one (1) year written notice for failure of the CITY to observe and perform any of its terms, covenants, agreements or conditions hereunder, and such failure shall not have been cured within any time period specified herein or within 90 days of written notice to do so.

19 Waiver

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

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 Mark H. Rees, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Lease Agreement to be signed by Matthew Hoffner, its Director and Operations Officer thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

CITY OF PORTLAND

By: _____
Mark H. Rees
Its City Manager

STATE OF MAINE
CUMBERLAND, ss.

March
February 19, 2014

Personally appeared before me the above-named Mark H. Rees, City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

_____
Notary Public/Attorney-at-Law

SOMERSET
Notary Public, Maine
My Commission Expires January 19, 2017

WITNESS:

DIAMOND COVE HOMEOWNERS ASSOCIATION

By: _____
Matthew Hoffner
Its Director and Operations Officer

STATE OF MAINE
CUMBERLAND, ss.

February 14, 2014

Personally appeared before me the above-named Matthew Hoffner, Director and Operations Officer of Diamond Cove Homeowners Association, and made oath that the foregoing is his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,

_____
Notary Public/Attorney-at-Law

JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Exhibit A

Leased Land for Proposed Transfer Station or Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

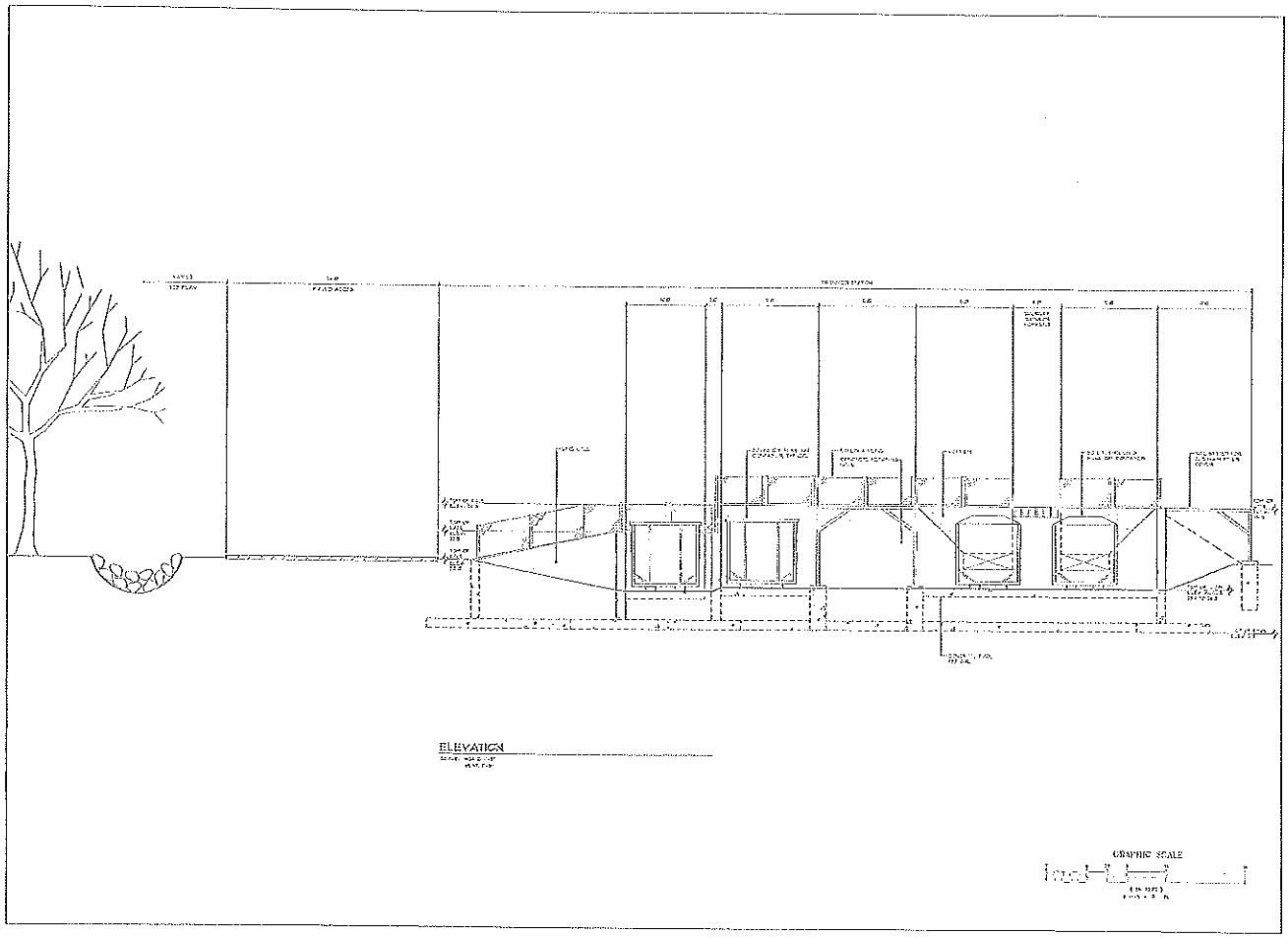
Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site -- Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)

LEGEND
GRAPHIC SCALE
NOT FOR CONSTRUCTION
PROGRESS PRINT
SEBAGO
SITE PLAN
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND
SHEET 3 OF 8



NOT FOR CONSTRUCTION

PROGRESS PRINT

SEBAGO

FRONT ELEVATION
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND

SHEET 6 OF 8

Exhibit C

SPECIAL RULES REGARDING PARKING AND ANTI-IDLING POLICIES FOR USE OF THE BARGE LANDING OWNED BY DIAMOND COVE HOMEOWNERS ASSOCIATION

Note: Exceptions to the following rules will be made for emergency vehicles and/or emergency situations. These rules do not supersede other DCHA policies pertaining to the barge landing that are now in effect or that may be implemented in the future by the DCHA.

Parking and Loading/Offloading of Vehicles:

Vehicles may be parked temporarily only in the following permitted parking area prior to and following a scheduled barge delivery:

On the cement pad located to the east of the barge landing on Wood Side Drive, between the hours of 9:00 a.m. to 5:00 p.m. only.

All vehicle operators shall comply with the vehicle anti-idling policy that is used by the City of Portland for its own vehicles.

Days/Hours of Operation:

- Days of operation for City vehicles will be Monday through Saturday only.
- Days of operation for other non-DCHA vehicles (i.e., vehicles servicing the public side of the Island) will be Monday through Friday only.
- Hours of operation for City vehicles and other non-DCHA vehicles will be from 7:00 a.m. to 8:00 p.m. Monday-Friday and 7:00 a.m. to 6:00 p.m. on Saturday.
- DCHA vehicles (i.e., vehicles servicing DCHA property or property of DCHA members) are not subject to these hours and days of operations restrictions.

Reports of Non-Compliance:

Any reports of non-compliance of these rules shall be reported to the City of Portland's Island and Neighborhood Liaison, who shall provide notice of any or all said reports to the DCHA.

The DCHA reserves the right to revoke permission to use the barge landing from non-DCHA vehicles or any operator thereof deemed to be in violation of any of these rules.

Phone: 207-892-6562

SOUTHERN MAINE FORESTERY SERVICES, INC.

P.O. Box 910 • North Windham, Maine 04062

Addendum to Forest Management Plan

for

Old Growth Stand

Diamond Cove Home Owners Association

Great Diamond Island

Portland, Maine

Prepared by:

Rene D. Noel, Jr. ACF
Maine Licensed Forester
December 12, 2013

Purpose

I have been engaged to:

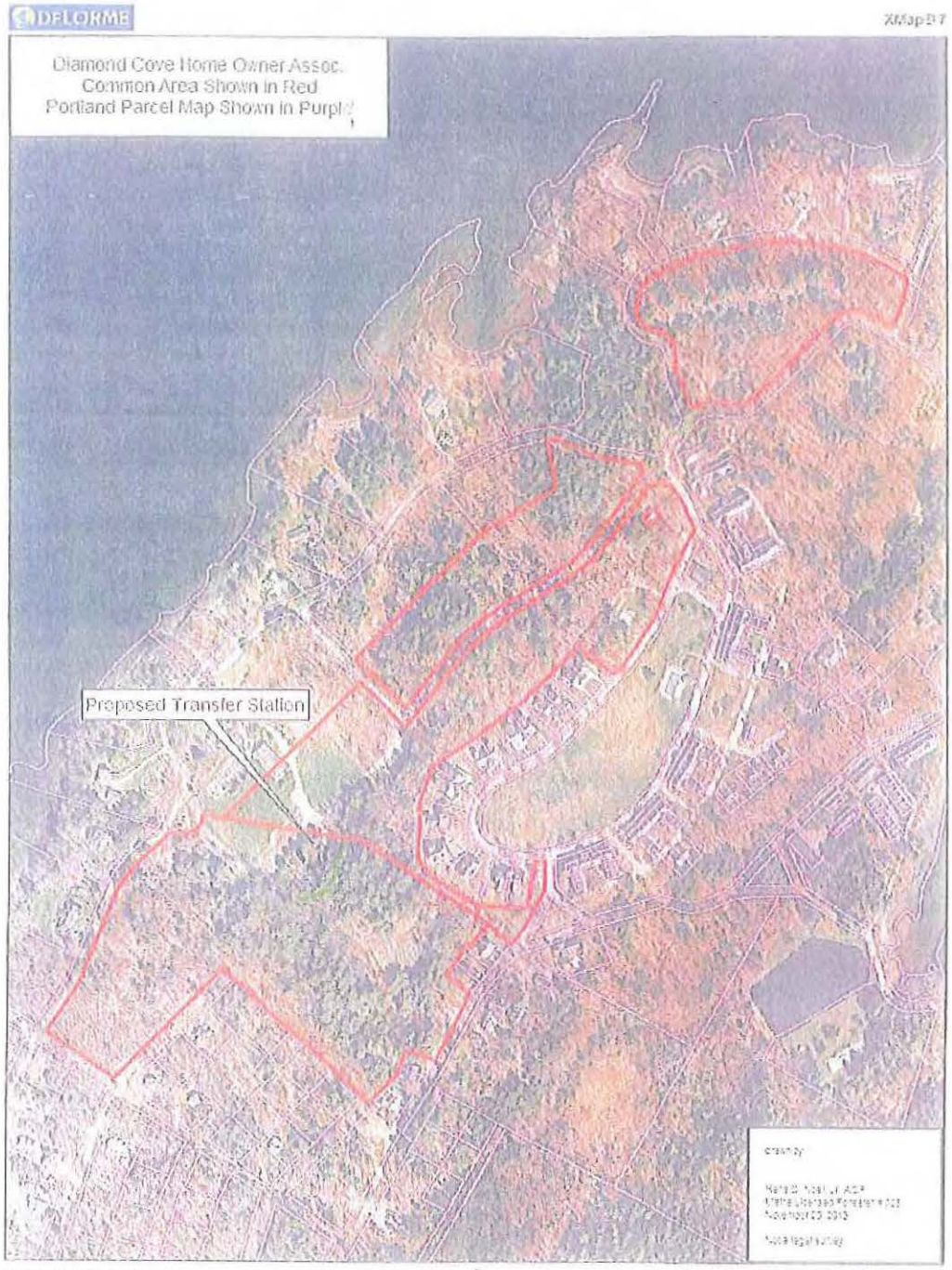
1. More accurately locate the bounds of the old growth stand and mark edge of this stand.
2. Assess the impact of the hemlock woolly adelgid (*Adelges tsugae*) on the Hemlocks with the stand.
3. Identify those trees which pose potential hazards to life or property should they fail.
4. Identify those hemlocks in suitable condition so that treatment with an insecticide will extend their lives.
5. Estimate scope of work needed to mitigate fire danger and aesthetic impact of the loss of hemlock from the stands.
6. Address the proposed trash transfer station impact on the old growth stand.

Field Work

Using a handheld GPS receiver (Delorme Earthmate PN-60) data was collected to map the edge of the old growth stand. To do this the stand was perambulated and pink plastic ribbon was hung to mark the edge of the stand. I recommend that boundary be marked permanently. Painting boundary trees, signs or posts and signs are various options. Also gathered was GPS locations of trees that were judged to be potential hazards. These were marked with orange plastic flagging should last a couple of years but they should be marked with paint if they are not to be felled soon. Finally hemlocks that were in locations that were significant to the aesthetics of the area and judged to be in suitable condition that insecticide treatment would allow them to retain vigor were identified. Separate individual stems were located by GPS and marked with blue flagging. Small groves of trees around the tennis courts and along Diamond Avenue are identified solely on the included map.

Report

The forest management plan prepared in 1989 gives an excellent description of the stand, soils, terrain, and other physical features. That work has not been recreated in this report. There has been little change in the forest other than a small amount of wind damage and other natural mortality. The hemlock wooly adelgid infestation and its effect is the primary change in forest conditions.



Data use subject to license.

© DeLorme. XMap 6.7.

www.delorme.com

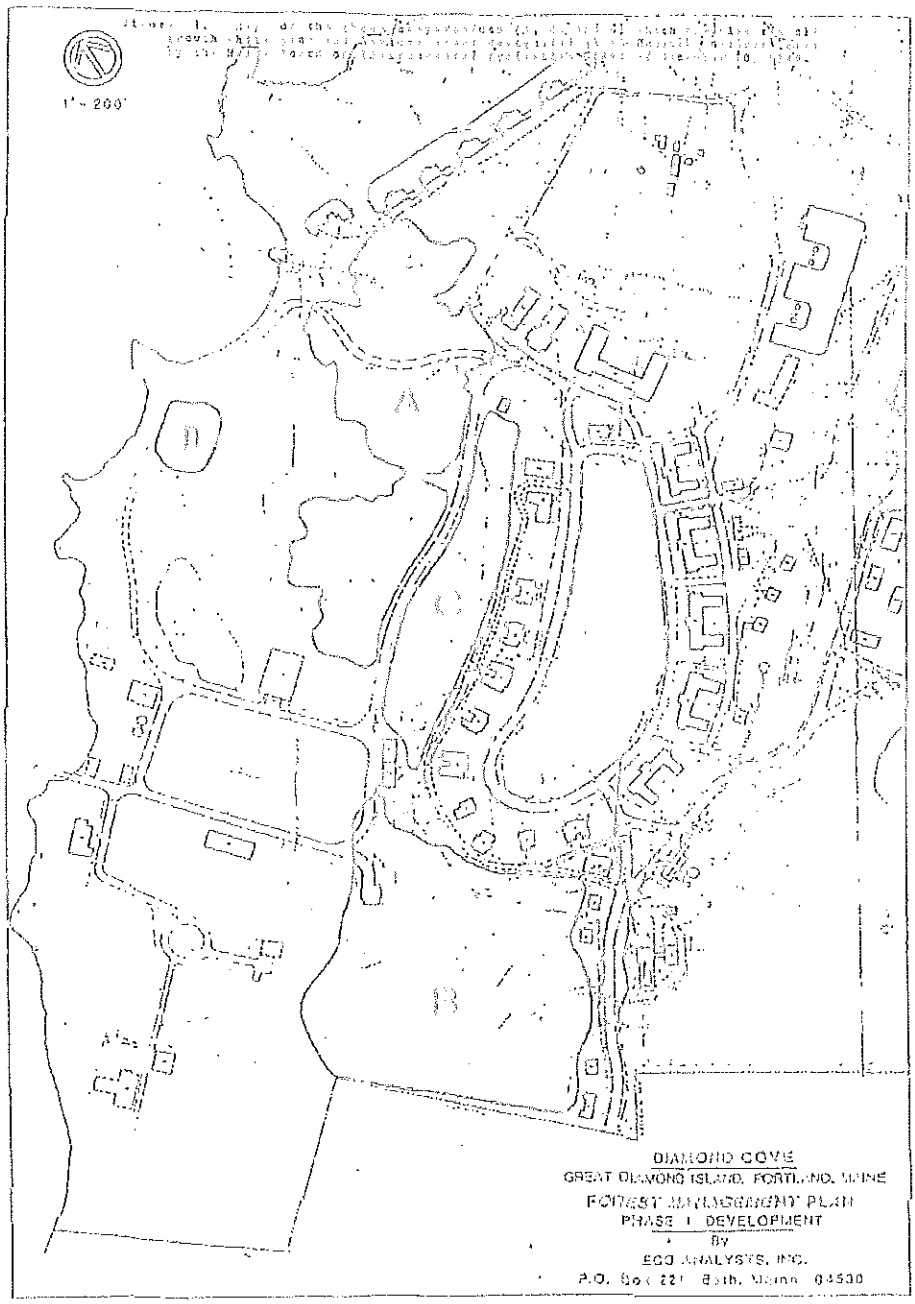
MN (15.5° W)

0 120 240 360 480 600 ft

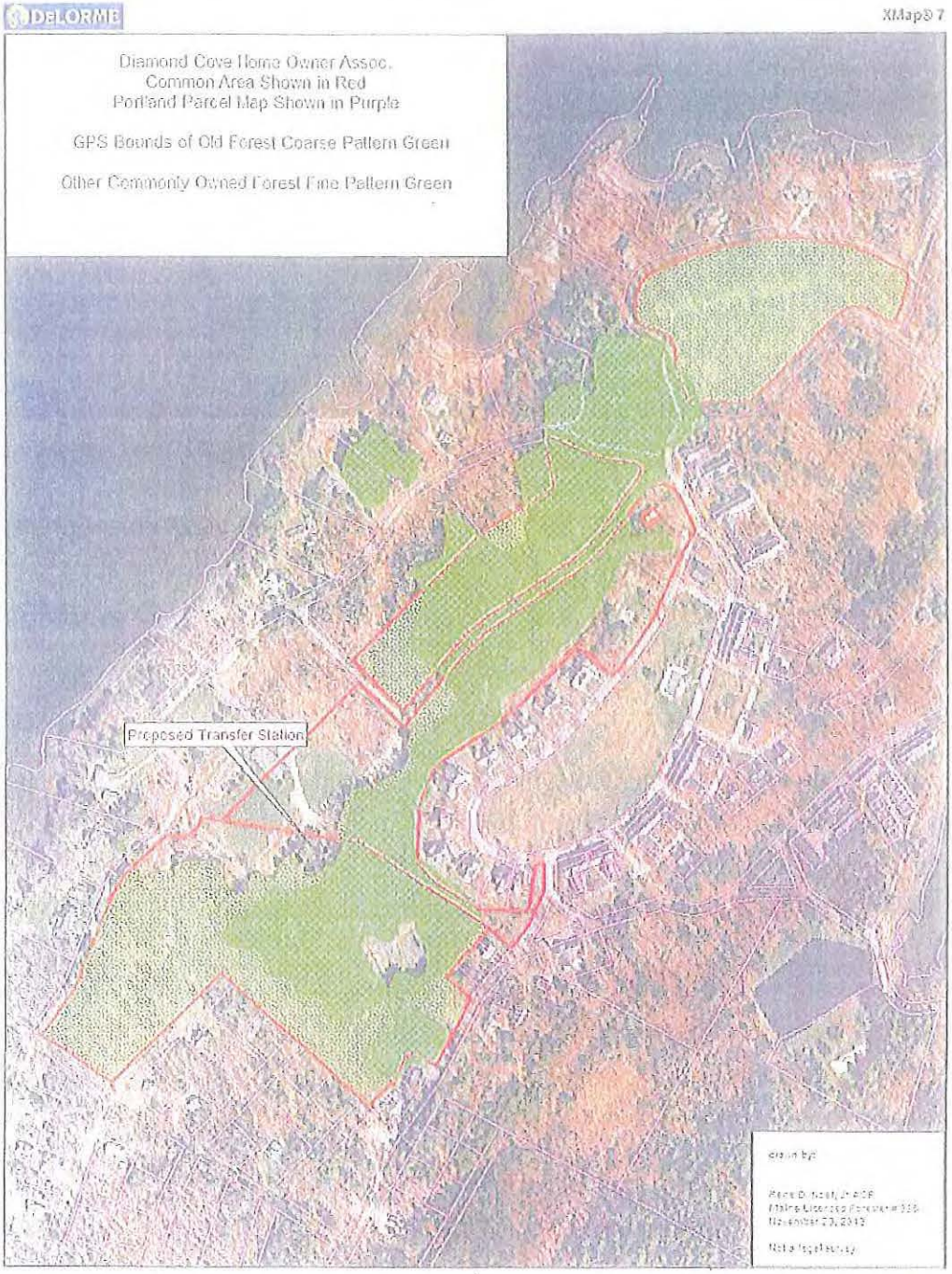
Data Zoom 15-1

This area totals 15.58 acres and is a mapping of my judgement of the old growth stands boundary to the drip edge of the crowns of the trees identifying the edge of the stand. This is the accepted definintion of a stand boundary. The old growth was determined by me based on size, branching, stem and bark characteristics which indicate old age for the various species. It contains some area in gravel roads which is consistant with the 1989 map. The acreage stated in 1989 was 17.43 acres and this includes a 35 foot buffer where the old growth is bordered by younger forest.

Compartment Map from 1989 Plan



DeLORME
XMap9 7
Diamond Cove Home Owner Assoc.
Old Growth Compartments
Yellow line approximate 1989 mapping
Green line 2013 GPS mapping
A
B
C
D
Data use subject to license
© DeLorme XMap9 7
www.delorme.com
Mil (15.5° W)
0 100 200 300 400 500
Data Zoom 16-0



Data use subject to license
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MN (15.5° W)

0 140 280 420 560 700 ft
Data Zoom 16-4

Damage by Hemlock Woolly Adelgid

All of the hemlock are showing signs of damage from adelgid feeding. I would estimate that on the average, the hemlock have about 50% of normal foliage density. Hemlock is a significant component of Compartment A, (39.9%), Compartment B, (75.3%) and Compartment C, (23.4%) Compartment D (0%). There are also some understory sapling and small pole size hemlock that were not inventoried and are not included in these numbers.

With out insecticide treatment it can be anticipated that mortality of the hemlock will approach 100%. Based on 1989 inventory and my observations there would be about 500 tons of biomass contained in these trees. That would be about 10 tractor trailer loads of material. About a third or 100 tons would be in fine to medium size fuel which is of concern in a wildfire situation.

There is the option of harvesting all the hemlock and removing them from the island.

Hemlock is not particularly valuable as timber. Considering the cost of utilizing this material by shipping it to the mainland and the impact of heavy equipment needed to remove it I do not recommend this option.

The second option is to fell the stems as they die and treat the fine and medium size fuel to make it less flamable. Within 100 feet of any structure I recommend chipping branches and tops with a portable chipper. In areas over 100 feet from buildings branches and tops should be cut up so they lie within a foot or two of the ground. This treatment will hasten their decay and the close proximaty to the ground will keep the moisture content up in the fuel making it less flamable.

Current Hazards

Fourteen stems, 3 hardwoods and 13 hemlock were judge as currently being hazardous and located where they could damage people or property should they fail. They are marked with orange flagging. I did not get an estimate from arborists on the cost of dropping and treating these stems.

The three hardwoods are the most difficult to remove. A white birch, a red maple and a large sugar maple located at the eastern edge of Compartment C are all fairly close to residential buildings and are not easy to remove. The large sugar maple is located between two buildings and contains a considerable amount of rot. It will be somewhat of a challenge to remove. The weight of the large limbs indicate they are likely to fall towards the building to the trees north.

The hemlocks are located that they can likely be felled away from improvements.

I did not get estimates from arborists on the cost of removing these stems but I would estimate a mainland cost in the $5,000 to $10,000 range. My experience with transporting men and equipment is it adds significantly to the cost.

Future Mortality

Based on the inventory in the 1989 plan it appears there are 250 large hemlock in the three compartments. I have identified approximately 99 that can be treated and their lives extended for as long as the association is willing to continue treatment. These were either marked with blue flagging (individual stems) or are located in small groves shown on included map. That leaves approximately 150 trees that are likely to die in the next 5 to 10 years if adelgid feeding damage remains at current levels. Or in other words there will be about 20 trees per year that will need to be dropped, limbed and limbs cut up or chipped.

Trees that are not near buildings or other improvements can be dropped by a proffessional logger limbed and slash treated less expensively than by a licensed arborist. I would estimate the cost for this sort of work to be about $100 per tree plus transport cost.

Trees near buildings and improvements should be taken down by a licensed arborist who is skilled and insured for in this work. A two man arborist crew with truck and chipper is being billed in the $300 per hour range. I would estimate they can fell and chip branches from two to four trees per day.

I recommend the Association budget an amount annually to do a certain amount of this work. Arborists' slow season is usually winter and this is the most suitable time to do this sort of work in this community. It may be possible to negotiate some discount from regular fees with a long term contract.

Replanting

Where the hemlock is in decline more light is reaching the forest floor. Seedlings and saplings are already responding to this increase light. In many areas this natural reseeding will replace the forest. In those areas that this does not occur or where it is destroyed during felling and fuel reduction activities of dying hemlock I recommend planting white pine and red oak. Both are native to the island, grow well in that environment and are trees that are well rooted and wind firm in windy conditions. There are numerous young stems, seedlings and saplings already established. Where and how many replacement trees will be needed will depend on how many are destroyed in the felling process. Where sizable areas (600 sq. ft or more of open ground is my recommendation) of regeneration are destroyed I recommend planting at the spacing described. There is no ratio between trees cut and trees planted.

I recommend seedlings be planted spaced about twelve feet apart. The oak should be protected with a five or six foot tree shelter to assure they grow above a height that will be browsed by deer. Large seedlings or transplants are recommended as these will more quickly grow out of reach of deer. Four or five year old pine transplants and oak seedlings a minimum of 24" tall are recommended. Depending on quantity, this size stock is available for $3.00 to $10.00 per seedling.

Invasive Plants

The plant community on the island includes a large number of invasive species. Honeysuckle, bittersweet, barberry and Japanese knotweed are those noted which are likely invade disturbed forested areas. These species are very aggressive and have the potential to dominate a site preventing native vegetation from reestablishing itself. Controlling these species is difficult. It is possible to control small infestations by uprooting the plants. However, such mechanical control is labor intensive and needs to be repeated annually to remove sprouts from broken roots and new seedlings. Herbicides are much more efficient. Glyphosate the active chemical in Roundup brand yard products will control all of these. The woody species can be controlled with either a foliar application later in the growing season or by treating the surface of cut stumps within a day or two of the stems being cut. Japanese knotweed is easiest to treat with a foliar application. Ideally this should be done at the time of flowering. Stems are hollow and stems can be cut and treated by pouring herbicide into the hollow stem but this is very time consuming on all but smallest infestations.

Managing Fire Risk

Risk of wild fire is best controlled by controlling fuel. To begin any flamable materials that collect around buildings should be removed. Porches, decks and other attached objects as well as gutters, roof valleys and other places were debris collects should have leaves and other fine fuels removed. Ideally the areas where this material collects should be screened to prevent these build ups.

Away from the building concentric rings of treatment should be applied. Nearest the building should have plant material and landscaping which is fire resistant such as green lawn, gravel or pavement. Shrubs should not be planted so they contact the building and species which are less likely to burn (hardwoods species in general) should be considered. Continuous stands of vegetation that could carry a fire should be avoided. This ring is typically the area immediately around the house lawn and other landscaped features. The next ring is more natural vegetation but in which fine fuel is not allowed to accumulate. Nor should dense stands of young stems be allowed to grow. Park like comes to mind with well space trees and understory plants and little brush or other fine flamable fuels. Typically 75 feet is recommended for this ring. The outer ring is the natural forest. Large trees do not easily burn. It takes a ladder of fuel from the ground to the crowns of large trees to ignite them. Controlling fire danger means controlling this fuel. The litter and duff layer of organic material is flamable but being on the ground maintains a fairly high moisture content and slower burning. Dead limbs and branches and small seedlings and saplings particularly softwoods are the most common fast fuels in a forest. Chipping or lopping dead material so it lays within a foot or so of the ground will hasten its decay and place it so it maintains a high moisture content. Seedlings and saplings should be spaced so there is not a continuous stand. Individual stems and small groups seperated from each other are ideal. As these grow lower limbs can be pruned until the stem is free of limbs for 6 or 8 feet.

My fire training occurred in a much drier climate than Maine but I believe the guidelines would be applicable to an island situation. In that climate it was recommended that a fire resistant forest be maintain out at least two tree-lengths out from any structures or improvements. In this case that means about 150 feet back from anything that should be protected from fire.

Following these recommendations does not remove all fire danger. It should, however, slow the advance of a wildfire giving time for the arrival of men and equipment that will suppress the fire.

DeLORME
XMap® 7
Diamond Cove Homeowners Assoc.
Location of Hazardous Trees
Map 1
Birch
Maple
Large Maple
Hazardous Hemlocks 003, 007 & 008
Hazardous Hemlock 005
Hazardous Hemlock 004
drawn by:
Not a legal survey
Data use subject to license.
© DeLorme. XMap® 7
www.delorme.com
Mil (15.5° W)
ft
0 20 40 60 80 100 120
Data Zoom 18-0

DELORME
XMap® 7
Diamond Cove Home Owner Assoc.
Location of Hazardous Trees
Map 2
Hazardous Hemlocks 006, 007, 008
Hazardous Hemlock 005
Hazardous Hemlock 004
Hazardous Hemlock 009
Hazardous Hemlock 001, 002
Hazardous Hemlock 010
Hazardous Hemlock 003
Hazardous Hemlock 011
Hazardous Hemlock 013
Hazardous Hemlock 012
drawn by:
Date: December 3, 2013
Data use subject to license.
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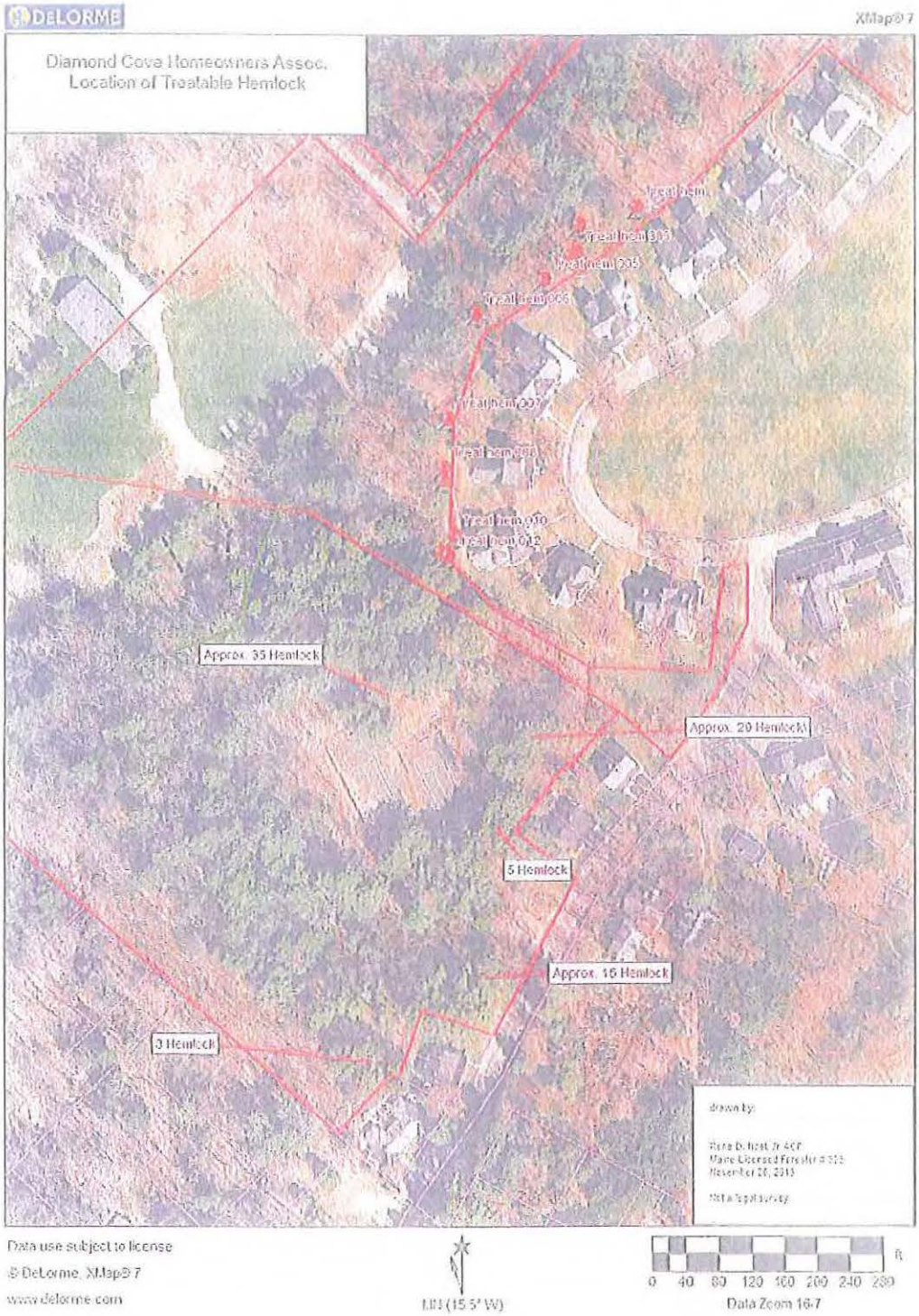
www.delorme.com
MN (15.5° W)
0 20 40 60 80 100 120
ft
Data Zone 18-0

Insecticide Treatment

The forest between McKinley Court and West Side Drive and west of Diamond Avenue and around the tennis court have 99 hemlocks that contribute greatly to the forest of that residential area. Systemic insecticides containing the active ingredient imidacloprid are effective in controlling the insect for a number of years following application. Some research has shown treatments every three or four years may be effective. Other products are in development/label phases and current product recommendations should be checked when treatments are planned.

This sort of treatment is fairly low tech. Backpack sprayers are used to either apply the chemicals to the ground or stem or granules are spread on the ground. It is necessary for the tree to absorb the chemical and translocate it to the needles. I estimate it would take a two man crew a full day to do the treatment. Depending on the cost of chemical at the time I estimate the cost of treatment to be in the $2,000 range.


DELORME
XMap® 7
Diamond Cove Homeowners Assoc.
Location of Treatable Hemlock
Approx. 35 Hemlock
Approx. 20 Hemlock
5 Hemlock
Approx. 15 Hemlock
3 Hemlock
drawn by:
Not a legal survey
Data use subject to license
© DeLorme. XMap® 7
www.delorme.com
MN (15.5° W)
0 40 80 120 160 200 240 280
Data Zoom 16-7

Trash Transfer Station

Most of the proposed site is in an area which appears to have not been forested 24-27 years ago when the original work for the forest management plan was undertaken. However, one corner will encroach on the old growth stand and will require the removal of one large hemlock tree. This tree is not in good condition because of adelgid feeding. As I envision the propose construction work less than 500 square feet within the old growth stand will need to be disturbed. The effect on the stand will not be noticeable. I suggest as a mitigation that buffer area to the west be expanded by a similar area. There are some large hardwood stems in this area that are 40 or 50 years younger than the oldest trees. With the anticipated loss of the hemlock due to adelgid damage these will be a natural expansion of a stand with old growth characteristics.

Summary of Recommendations/Findings:

- Use of new technology (GPS mapping) has enabled a more precise delineation of the Old Growth Forests first identified in 1989 plan (page 2)
- trees identified and marked- establish tree drip line as the exact edge on all Old Growth trees along the border of each compartment (page 4)
- Woolly adelgid damage to Old Growth hemlocks evaluated
    - Certain trees that pose a hazard to life or property marked for removal (page 8)
    - Certain trees with enough vitality remaining to benefit from insecticide application marked (page 14)
- Recommendation for DCHA to create an ongoing yearly budget to deal with the eventual death and removal of infected hemlocks (page 9)
- Replanting recommendations made for certain areas of the Old Growth stand using native species (page 9)
- Recommendations made for the proper cutting/removal/chipping of damaged/dead trees within the stand to mitigate forest fire risk (pages 8-9)
- Recommendation on limb trimming and removal of small saplings as part of good management practices (page 10)
- Recommendations on insecticide application to save viable hemlocks (page 14)
- Minimal impact to Old Growth Stand (Compartment B) due to proposed construction of trash transfer station
    - 1 infested hemlock should be removed (page 16)
    - Add 500 square feet of area to the west of Compartment B to offset any disturbance and harmonize existing Old Growth area with large hardwoods within this new area (page 16)

DIAMOND COVE
GREAT DIAMOND ISLAND, ME

March 16, 2015

Ms. Jean Fraser
City of Portland Planning Department
City Hall
Congress St.
Portland, ME 04101
JF@PortlandMaine.gov

Dear Jean,

As the president of the Diamond Cove Homeowners Association (DCHA), I wanted to write to you in advance of the Planning meeting on March 24th to clarify three points that have been brought up in preliminary meetings.

First, this transfer station project has been in development for over 5 years. During that time, the project was reviewed with the homeowner members at every annual meeting and through the minutes of monthly board meetings. The lease negotiation with the City took over 18 months as we tried to address all the concerns raised by the board and residents who participated in the discussions. Last summer, we staked out the exact area of the lease with tape and again brought up the project at the annual meeting asking all residents to walk the area and bring forward any concerns. The only concerns brought by a homeowner (abutter) was about the landscaping plan and we walked the property with him and the site engineer and developed a plan that was satisfactory to him and his line of sight. Other than questions at the annual meeting, no other concerns have been brought to me or other board members. Having resolved all the issues raised, we signed the lease last year and the city council voted to authorize the city manager to do the same.

The association has spent thousands of dollars in legal fees to ensure we have the protection we need for the next 99 years and there has been full disclosure and transparency throughout the process. Obviously, in a community like ours, some people choose to ignore annual meetings, board minutes and newsletters (all of which are posted on the website) and may still have questions regarding the project. I would encourage any resident with questions to call me so we can address those concerns. Again, to date there have been no calls asking for more information. The general sentiment within the community is that this is a good deal for DC, Great Diamond Island and Little Diamond Island. It solves

(for 99 years) the solid waste disposal challenges on our two islands and such resolutions can only enhance property values.

Secondly, we agree with the city's engineer that it makes sense to pave the gravel road and area directly in front of the transfer station. It will reduce dust and make transport of the trash off the island easier for all. We have agreed with the city to allow them to pave the entire section of the gravel road directly in front of the transfer station. While the 1.3-acre leased "Premises" only extends through half of the "road," the proposed paving here is consistent with the Preliminary Site Plan attached to our Lease Agreement, and therefore is consistent with the terms of the Lease Agreement.

Finally, the storm water management for this area will be controlled by a storm water collection system managed by the city although some of the area that feeds that system will be from outside the lease area. Again, we both agree this makes sense and we have no issues with the site plan developed by the engineers or the city's long term management of that system.

This project continues to have the unanimous support of the 7 board directors and a vast majority of the residents of Diamond Cove. We would ask the Planning department and the City Council for their prompt approval of the Conditional Zoning Amendment so that work can begin this fall.

Please let me know if you have any additional questions.

Thank you for your consideration.

Sincerely,

Matthew Hoffner
President- DCHA Board of Directors

cc: Michael Bobinsky- Public Works Director City of Portland
Owens McCullough- Sebago Technics Engineering
Anthony Calcagni- Verrill Dana
Roger Shoemaker- Foreside Management Company

SEBAGO TECHNICS

March 18, 2015
09405

Ms. Jean Fraser, Planner
City of Portland
389 Congress Street
Portland, ME 04101

Application for Conditional Zoning Amendment
Municipal Solid Waste Transfer Station, Great Diamond Island for City of Portland

Dear Ms. Fraser:

Thank you for sending along the public comments received by the City Planning Department for the Great Diamond Island transfer station project. We have prepared the following supplanted information in response to the public comments for staff and Planning Board consideration.

1. The project includes a small modification to the Old Growth area (approximately 500 square feet) as detailed in the recent update to the 1985 forest management plan. During 2013, field investigations including retention of licensed forester, coordination with the state Forest Service and City Arborist was undertaken as part of the transfer station site planning. The result of this effort was a December 12, 2013 Forest Management Plan Amendment prepared by Rene Noel, Jr., licensed forester. The Forest Management Plan concluded the project will have minimal impact to the Old Growth Stand involving approximately 500 square feet at the fringe of the mapped Old Growth Area. As part of the project, a 1,000 square foot mitigation area will be designated to increase the Old Growth Stand in the area immediately adjacent to the project site. The Forest Management Plan and proposed modifications were endorsement by the Maine Department of Environmental Protection (MDEP) as described in the November 5, 2015 permit approval.

2. The land area dedicated to the transfer station is approximately 1.25 acres in size. The facility has been design to minimize the development area and associated surrounding by integrating in the natural topography for the elevational difference required for a transfer facility. The 1.25 acre area was selected to accommodate the develop area together with land contouring necessary for an elevated wall and drop-off area and to provide landscaped buffering and new planting within the project area. The lease area was then delineated and approved by DCHA and the Portland City Council. The City and DCHA have strived to create the smallest possible footprint that will accomplish the operational needs. The proposed area was staked and marked during the summer of 2014 so that DCHA residents could review the footprint and raise any concerns about the location. There was no feedback received.

75 John Roberts Road – Suite 1A, South Portland, ME 04106-6963 • 207-200-2100 • Fax: 207-856-2206

3. To the best of my knowledge, this is the first time the City has leased private property in a gated community for a transfer station. It is important to recognize the selection of this site was the culmination of several years of work to identify a suitable location that is proximate to the barge landing and capable of servicing the solid waste needs of the two Islands. The City is appreciative for DCHA's corporation and willingness to agree to a location that will allow for this important public service.

4. The transfer station is required to include site specific operations such as buffering, monitoring and protection against deleterious noise and smells. The project is currently under review by the Maine Department of Environmental Protection who regulates solid waste transfer and recycling facilities. As such, the operations are required to be compliant with these regulations. Troy Moon of the City is responsible for the city solid waste management program and will be directly involved with monitoring the facility activities.

5. Operationally, it is anticipated that the unloading of solid waste materials will be completed by City Public Services personnel or DCHA staff generally utilizing 1 Ton trucks. Since the facility will not be open to the general public, operational times will vary depending on curbside pick-up schedules and seasonal fluctuations in usage. Section 5(G) of the lease agreement with DCHA states "that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles."

6. The proposed transfer station will have some limited parking to accommodate operational vehicles. It is not the intent of the City to use the site for storage of non-transfer station related equipment or materials. In addition, the lease agreement with DCHA includes the following restrictions.

    - Sec. 3 (B): "There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term."
    - Sec. 9(B): "CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Fort') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways."
    - Exhibit C contains specific parking and anti-idling rules that must be complied with.

7. There will not be direct access to the transfer station through a public road. The project will be located within the DCHA portion of the Island. As previously stated, the transfer station will not be open to the general public and is intended as a point of transfer utilized by the City and DCHA operations staff.

We look forward to working with staff, the Planning Board and Council to amend the DCHA Contract Zoning Amendment for this important and needed public services project. Please feel free to contact me if I can be of additional assistance.

Sincerely,

SEBAGO TECHNICS, INC.

Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development

OAM:jag
Enc.

cc: Michael Bobinsky & Troy Moon, City of Portland Department of Public Services
Matthew Hoffner, DCHA

Draft 3.4.2015 from DCHA

AMENDMENT TO CONDITIONAL ZONE AGREEMENT REFERENCED IN ORDER 42-84/85 RE: CONTRACT FOR REZONING FOR PROPERTY IN THE VICINITY OF DIAMOND COVE/GREAT DIAMOND ISLAND

WHEREAS, on July 15, 1985, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on _____, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on _____, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and~~ the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B, there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED that:**

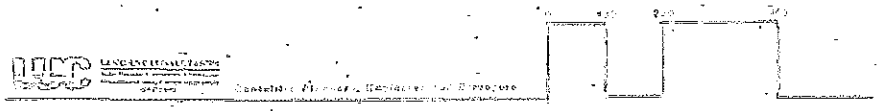
The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

Exhibit A
3/4/15

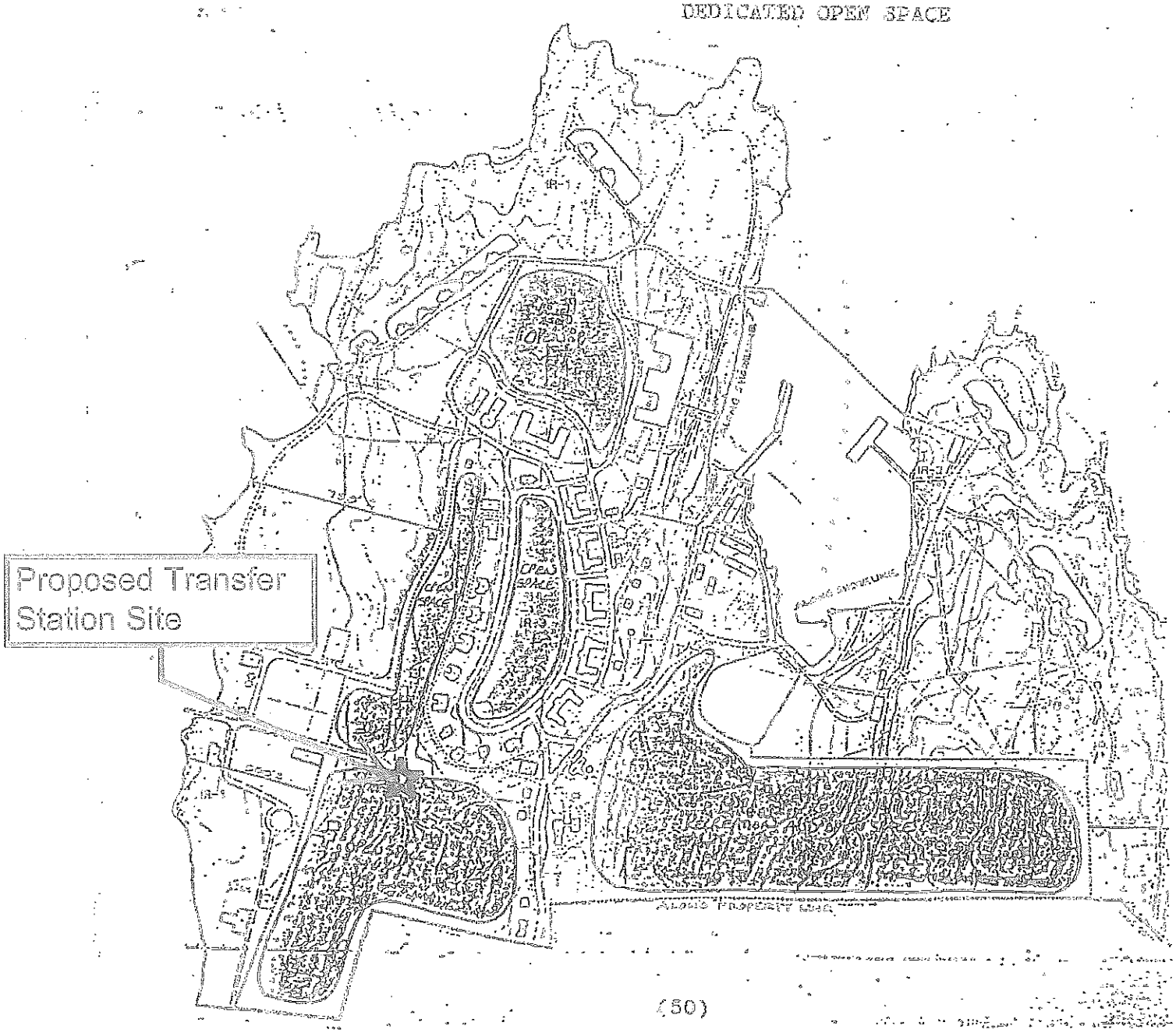
7/15/85

Diamond Cov

GREAT DIAMOND ISLAND, PORTLAND,
DEVELOPER : DICTAR ASSOCIATES PORTLAND,



DEDICATED OPEN SPACE



GENERAL NOTES

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]
8. [illegible]
9. [illegible]

LEGEND

SYMBOL	DESCRIPTION	MATERIALS
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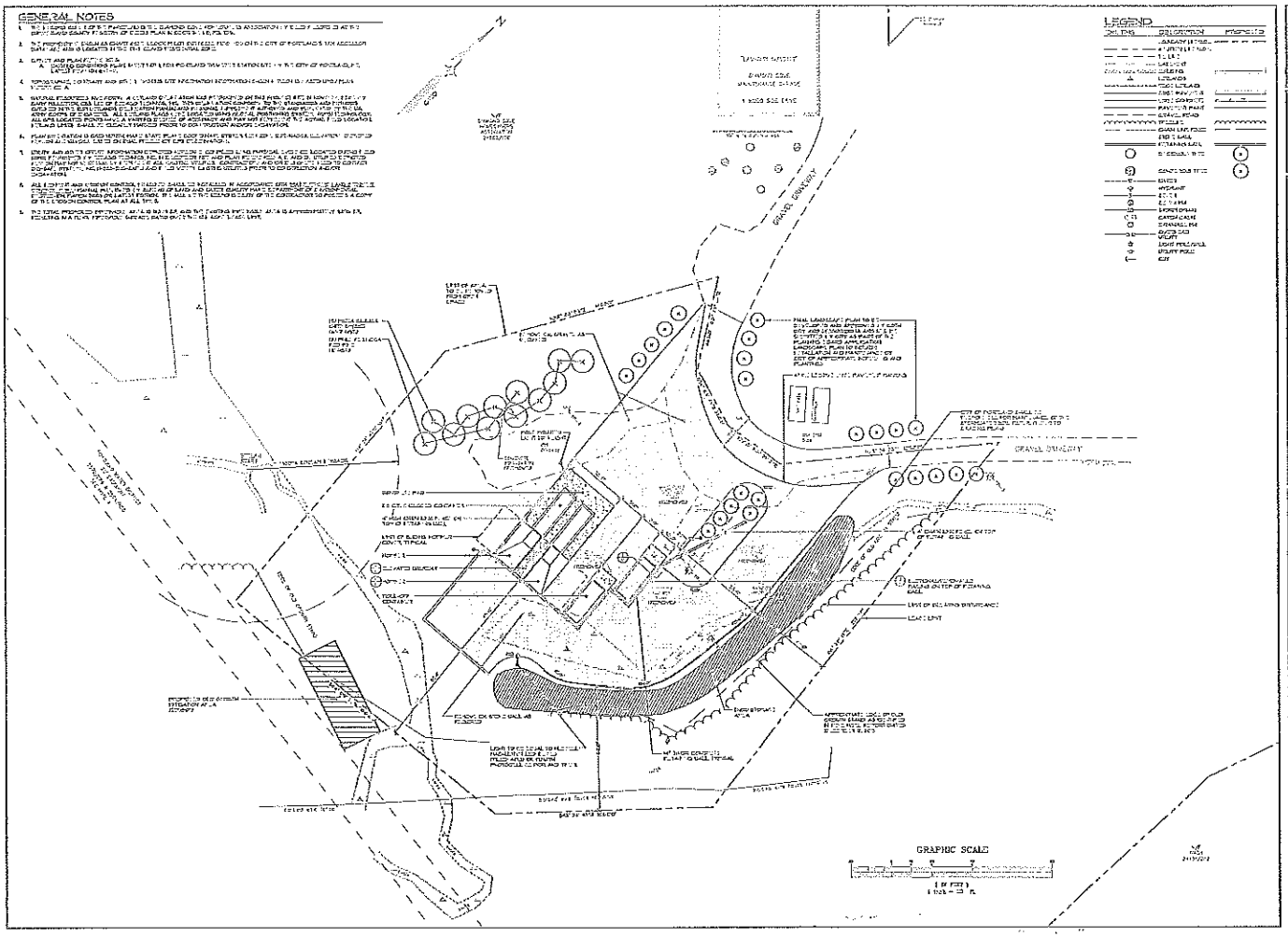


SEBAGO TECHNOLOGIES

REVISIONS			
[illegible]	[illegible]	[illegible]	[illegible]

SITE PLAN
OF
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
PORTLAND, MAINE
CITY OF PORTLAND
PENOBSCOT BAY
CUMBERLAND COUNTY, MAINE

DATE	SCALE
[illegible]	[illegible]

SHEET 2 OF 8

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

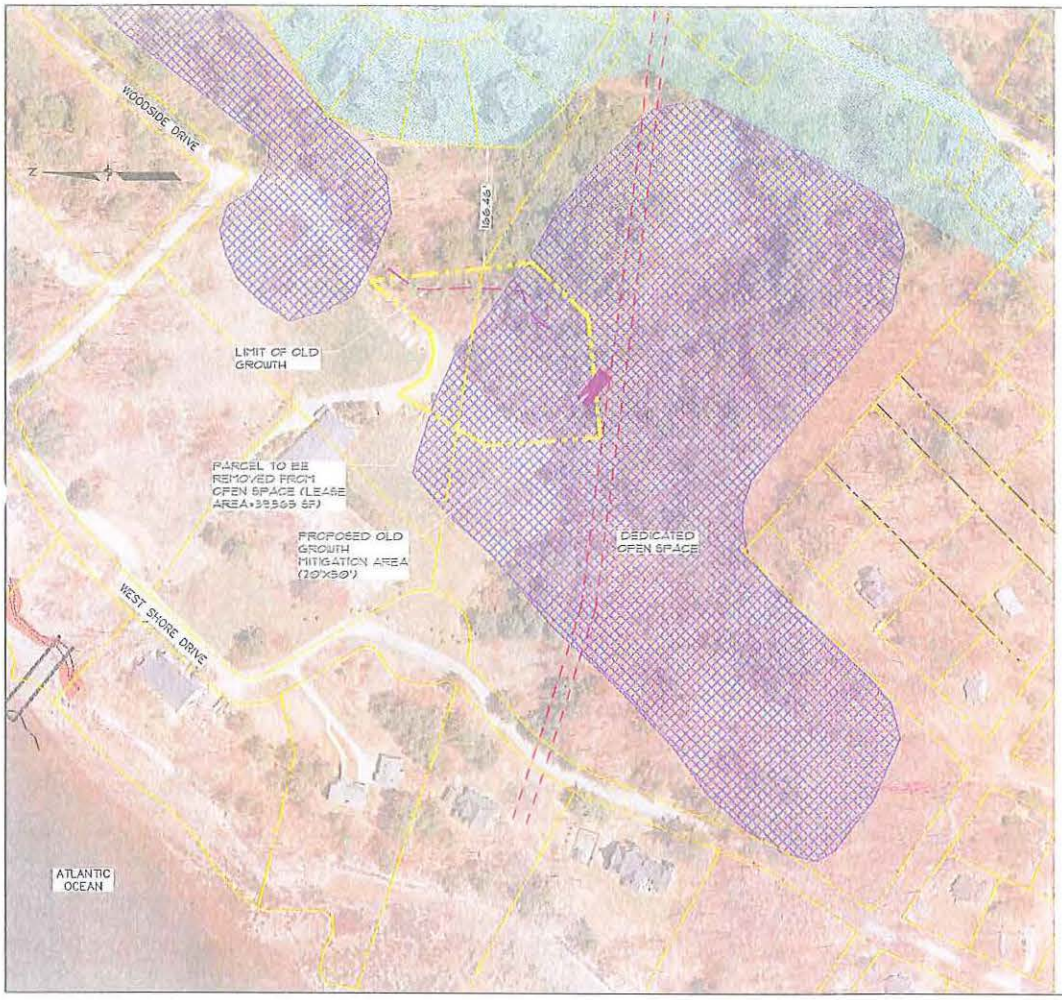
N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)



LOCATION MAP

NOTE

AREA LEGEND

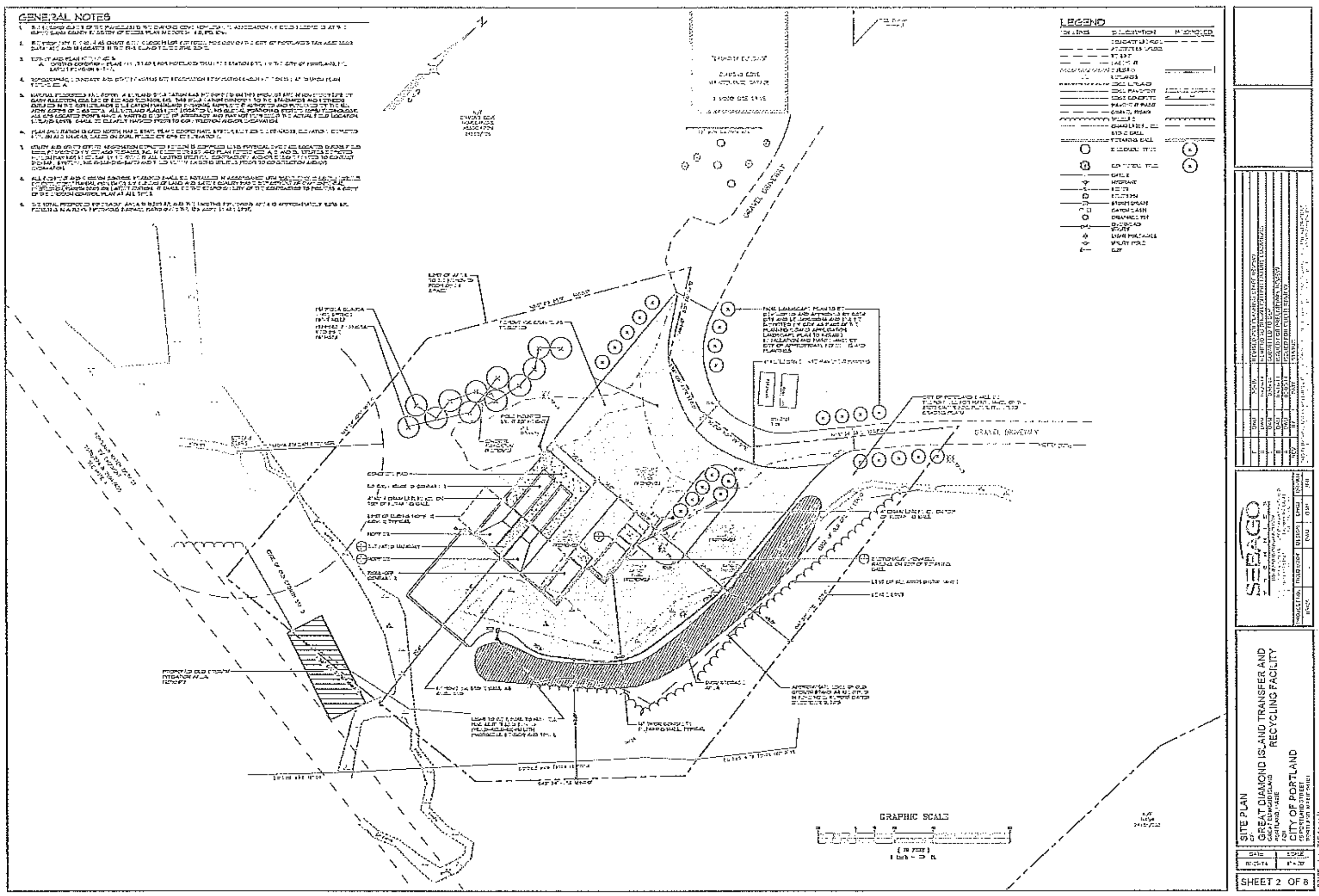
LEGEND

GRAPHIC SCALE

SEBAGO

OPEN SPACE RENOVAL DESIGNATION PLAN
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND

SHEET 1 OF 1


GENERAL NOTES
LEGEND
GRAVEL DRIVEWAY
GRAPHIC SCALE
SEBAGO
SITE PLAN
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND
SHEET 2 OF 8

Order 214-14/15
~~Tab 8 4-27-15~~
Tab 30 5-4-15

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 DECLARING JUNE 5, 2015 THROUGH OCTOBER 12, 2015 AS THE FEDERAL STREET FOLLY FESTIVAL

ORDERED, that the period beginning June 5, 2015 and ending on October 12, 2015 is hereby declared to be the Federal Street Folly Festival, sponsored by Press Hotel MT LLC; and

BE IT FURTHER ORDERED, that the Federal Street Folly Festival area, which is Federal Street between Exchange Street and Market Street, shall be closed to traffic for the period of the Festival and barricaded by semi-permanent design elements; and

BE IT FURTHER ORDERED, that Press Hotel MT LLC shall reimburse the City of Portland for the revenue lost from the one parking meter in this short block, by paying the City a one-time fee of $600; and

BE IT FURTHER ORDERED, that the Federal Street Folly Festival area, which is Federal Street between Exchange Street and Market Street, shall be closed to licensed street vendors for the period of the Federal Street Folly Festival as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit to Press Hotel MT LLC under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the Acting City Manager and to the following specific conditions:

1. Press Hotel MT LLC shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of $400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Press Hotel MT LLC shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area, except in an enclosed Beer and Wine Garden for

people 21-years-old and older, to be run and staffed by the Westin Portland Harborview Hotel;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Recreation & Facilities Management Department, shall be adhered to;

4. Press Hotel MT LLC shall have sole authority over participating vendors at the festival during the scheduled events and may charge a fee to vendors for the opportunity to vend at the In the Federal Street Folly Festival;

5. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate;

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

Michael J. Bobinsky
Director of Public Services

To: Mayor Brennan and members of the Portland City Council
From: Troy Moon, Environmental Programs and Open Space Manager
Re: Additional information regarding Federal Street Folly
Date: 5/1/2015

During the City Council meeting on Monday, April 27 several City Councilors requested additional information about the Press Hotel's proposal to create a temporary park in Federal Street this summer. This memo provides this information updates the Council about developments regarding the proposal that occurred this week.

Please note that the applicant plans to amend their application so the Federal Street Folly will begin on July 3 in conjunction with the First Friday Art Walk. This would reduce the duration of the proposed street closure by approximately one month. As now proposed, it would run from July 3 – October 12.

Here are answers to the specific questions raised by Councilors:

What is the impact to local traffic if the block of Federal Street between Exchange Street and Market Street is closed?

The City's transportation engineer, Jeremiah Bartlett, indicates that the local streets in the Old Port area all operate well under capacity. Traffic diverted by this proposed closure can be easily accommodated by other streets. This is not dissimilar to street closures associated with construction, such as the closure of Market Street for much of 2014 during the Press Hotel Construction.

How has development of the The Press Hotel impacted parking in the adjacent streets?

As approved by the Transportation, Sustainability and Energy Committee and the City Council in 2013, the block of Exchange Street adjacent to the hotel went from 7 spaces to 2 spaces, plus loading spaces. The block of Market Street adjacent to the hotel went from 10 spaces to 14. There were also four new motorcycle only parking spaces added on Market Street as well as bike racks. Factoring in the motorcycle spots there has actually been a net increase in on street parking.

Michael J. Bobinsky
Director of Public Services

How many spaces on Federal Street would be closed temporarily by the proposed park?

The closure would temporarily eliminate three existing spaces on Federal Street.

What options exist for visitors wishing to park in the vicinity of Federal Street?

Visitors to this area of the Old Port have a variety of parking options. Several parking garages or surface lots are within three blocks of the proposed temporary park. These include Central Parking, Top of the Old Port, Temple Street Garage, Cumberland County Garage, Fore Street, and One City Center Garage. According to the City of Portland Parking Survey this represents over 2,000 parking spaces. Additionally, all of the streets in the vicinity allow on-street parking.

What efforts did the organizers undertake to notify area businesses of the proposal?

Representatives from The Press Hotel presented information to the Portland Downtown District in February. This meeting was well attended by Old Port merchants. A letter of support for the proposal was included in the back up material for the April 27 City Council Meeting. Hotel representatives also canvassed businesses in the immediate vicinity although they concede this effort should have happened sooner. On Thursday, April 30, Sean Ireland and Jim Brady held a well-attended public meeting at the hotel in order to discuss the proposal and to answer questions raised by local merchants. The invitation to this meeting was distributed through the PDD e-mail list with merchants in the immediate vicinity of Federal Street receiving a personal invitation.

City staff and representatives from The Press Hotel will be on hand during the Council meeting on May 5 to discuss the proposal and answer any additional questions Councilors may have.

Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: April 13, 2015
RE: Federal Street Folly – City Council Agenda Item

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

Order declaring June 5, 2015 to October 12, 2015 as the **Federal Street Folly**

Owners of The Press Hotel, a new boutique hotel that will recently open in the former Portland Press Herald building, have proposed the creation of a pedestrian friendly zone that will provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

If approved, this will be the first time the City has authorized an extended street closure to create a park-like environment. The only similar event is Park(ing) Day, in which participants transform parking spaces into temporary "pop-up" parks. Consequently, staff views this event as a pilot or demonstration project in order to study the implications of creating this type of space in a street. At the conclusion of the event staff will reconvene to discuss the event and whether it would be wise to permit similar events if requested.

Vision – Public Benefit

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development. Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience – which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at work program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy of lights)

55 Portland Street / www.portlandmaine.gov / tel, 207•874•8801 / tty, 207•874•8936 / fax, 207•874•8816

Organizers are working with Creative Portland and PDD and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

- Portland Public Library Portland Trails Space Gallery Mad Horse Theater Circus Conservatory

Programming: Organizers are currently discussing details of the programming. Organizers envision standing and scheduled programming throughout the summer as well as "special events" that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance, and dance.

In order for the Federal Street Folly to occur, a portion of Federal Street, between Exchange Street and Market Street, needs to be barricaded to vehicle traffic from (for setup purposes: June 1, 2015) to October 19, 2015 (for breakdown purposes). The street would be barricaded 24/7. Barricades across the street, would most likely be a mix of granite and concrete planters.

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Federal Street Folly organizers for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

City Departments will require payment from organizers for the parking revenue that is usually generated by the one parking meter located on Federal Street, totaling $600.

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Federal Street Folly for the use of the above-described area for said Festival subject to the following conditions:

- Federal Street Folly organizers shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least **$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to Federal Street Folly and its activities,

- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said Festival,

-

55 Portland Street / www.portlandmaine.gov / tel, 207•874•8801 / tty, 207•874•8936 / fax, 207•874•8816

- Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,

- Federal Street Folly organizers will cover cost for city services and rental of equipment needed to facilitate the event and festival,

- Federal Street Folly organizers will pay the city $600 for use of the street (covers lost parking meter revenue),

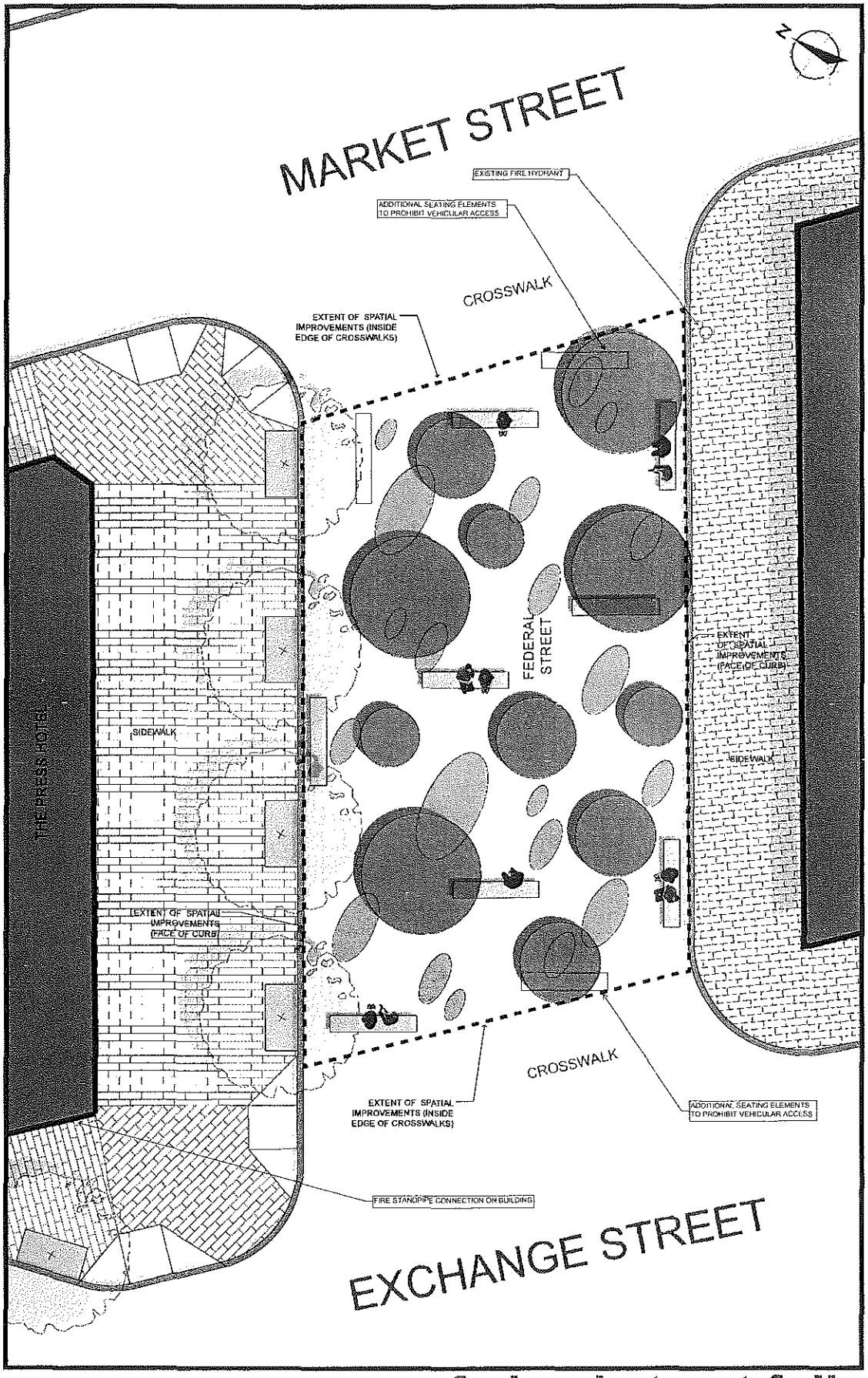
- Federal Street Folly organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the festival, and

- City Clerk's Office will require payment of license fees for food, music, and street goods when appropriate.

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

Document prepared by Ted Musgrave, PS Event Coordinator

55 Portland Street / www.portlandmaine.gov / tel. 207-874-8801 / tty. 207-874-8936 / fax. 207-874-8816



federal street folly

concept diagram

cowles studio | landscape architecture

RED GROUP

CITY OF PORTLAND, DEPARTMENT OF PUBLIC SERVICES
PUBLIC PARK & SPACE APPLICATION (3 pages)
55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 (Event Office) ~ Fax 207-874-8816
tvm@portlandmaine.gov

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

TODAY'S DATE	March 15, 2015 Revised: 3-23	**ORGANIZATION NAME**	The Press Hotel					
ORGANIZATION ADDRESS	119 Exchange Street		**CITY**	Portland	**STATE**	ME	ZIP	04101
CONTACT NAME(S)	**Sean P. Ireland**	**TITLE**	**Project Manager**					
HOME #		**WORK**	**CELL**	207-632-0424	**FAX**			
EMAIL	seanireland72@gmail.com		**EMAIL**					

PARK AREA OR PUBLIC SPACE REQUESTED	Federal Street - area between Market and Exchange Street				
EVENT DAY & DATE(S)	June 5, 2015 – October 12, 2015		**RAIN DAY & DATE(S)**	N/A	
EVENT START TIME (i.e. set-up start time)	9:00 am	**EVENT END TIME** (i.e. when event cleanup is complete)	10:00 pm	**ACTUAL START & END TIME OF EVENT**	Ongoing

EVENT NAME	EXPECTED ATTENDANCE
deral Street Folly	Event Specific (10-50)

DESCRIPTION OF EVENT:

Vision – Public Benefit

Our vision is to provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development. Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience – which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at work program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy)

We are working with Creative Portland and PDD and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

- Portland Public Library Portland Museum of Art SPACE Gallery St. Lawrence Theater Circus Conservatory

Programming: We are currently in the process of a series of meetings to discuss the details of the programming. We envision standing and scheduled programming throughout the summer as well as "special events" that are not yet planned: acoustic music; one-act plays; etry readings; temporary art exhibits; possible light show/film; circus performance, and; dance.

IS THERE A REGISTRATION FEE?	no

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

PLEASE CHECK OFF AND ANSWER:

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

		X-YES	X-NO	X-NOT SURE
	Will be submitting comprehensive site plan			
*	Are you setting up a **canopy**(s) ? (canopy is 10x10 size) How many:	X		
*	Do you wish to set up a **tent(s)**? (a canopy or tent larger than 10x10 needs to be		X	
*	Will you be setting up **tables and/or chairs** ? How many tables: chairs:	X		
*	Are other items or equipment being placed on City property ? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List: benches	X		
*	Will there be **refreshments** at the event? Do you wish to **sell food?**		X	
*	Do you wish to sell **non-food items** (like T-shirts, crafts, cd's, etc.) ?		X	
*	Are you setting up a **PA (sound) system ?** Are you planning on having **Amplified Music ? Band ? DJ ?**	ACOUSTIC	X	
*	Will your event require **electricity**? Electricity is available at some of the parks &	X -?		
*	Are you planning on bringing a **Grill for a Barbecue** ?		X	
*	Will the event require **reserved parking spaces / parking meters**?		X	
*	Will your event need **safety vests, signs, barricades and/or cones**? Please list what you would like to borrow: ??? A few orange vests and cones may usually be borrowed from Public Services, Event Office. Barricades and signs are borrowed from Public Services, Customer Service.	X		
*	Will your event require **street closures**?	X		
*	Will your event require **Police** assistance?		X	
*	Will your event require **Fire/EMS** assistance? (For a large walk/race, it is recommended.)		X	
*	Will your event require **porta-restroom** rental(s) or need existing porta-restrooms		X	
*	Do you wish to have a **banner over the street** to advertise your event ?		X	

	INSURANCE CERTIFICATE INFORMATION			
*	Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.		X	

- If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr," or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is $400,000. Please have your insurance company email a copy to Public Services: email to tvm@portlandmaine.gov.

PUBLIC SERVICES POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

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

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. No outdoor public facilities are located on Federal Street (NONE will be required).

TRASH

groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES
Public Services has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). $10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **y tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

TOBACCO FREE ZONES
By city ordinance, smoking is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION
Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT
◆ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
◆ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	SI	DATE	3/16/15

ASSUMPTION OF RISK & LIABILITY				
Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.				
I have read the Assumption of Risk & Liability Agreement	**TYPE INITIALS**	SI	**DATE**	3/16/15

CREDIT CARD INFORMATION							
Visa or MasterCard Number					Exp Date (Mon/Yr)		
CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED							

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"
◆ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC SERVICES (Please make all security deposit checks out separately)			
Permit Fee for use of area: $40 per hour (i.e. a 3 hour event totals $120) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however $40 is non-refundable) Number of Hours of Use:	$	Vest, Barricade, Cone Deposit: $10 per/item	$
Electricity: $5per/hr (Note: a fee is not typically charged)	$	Public Space / Park Security Deposit: Sound Security Deposit $100 - $1000	$
Key Deposit: $50 per key	$	Other (Porta-Restroom User Fee, etc.)	$

FOR OFFICE USE ONLY									
DATE REC'D APPLICATION	3-16-2015	DATE REC'D INSURANCE		PERMIT FEE AMT REC'D	$	SECURITY DEPOSIT	$		
PAYMENT TYPE									
VISA	$	MC	$	CK #		CK AMOUNT	$	CASH AMT	$

April 16, 2015

Subject: Federal Street Folly

To the City of Portland;

Portland Trails - a nonprofit urban land trust - transforms Greater Portland into a healthier community for people-powered transportation, conservation and recreation by creating and maintaining a network of trails and green spaces that connect people with places.

We hope you will support the permitting of the Federal Street Folly for Summer 2015. We are looking forward to working with Press Hotel, Portland Museum of Art, Portland Public Library, Maine College of Art and other partners to do some "programming" at the Federal St Folly this summer.

While this type of public use of a street has been successfully executed around the world, we know that Portland does not have a permitting process that fits this type of ongoing public space activity. We think it is wise that the City has been carefully working through this conversation to come up with a solution, as you did for *Sundays on the Boulevard*. It is important that the City have permitting processes that can accommodate different models of public events. And, the Federal Street Folly partners are a solid group of community institutions to help with this task.

Please do not hesitate to contact me if you have questions or concerns about Federal Street Folly or other ways that Portland Trails might use this type of permitting process for placemaking and creating a healthier community. We hope you'll join us for lunch at the Folly this summer.

Sincerely,

Kara Wooldrik

Kara Wooldrik
Executive Director

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Lois Winter

Executive Director
Kara Wooldrik

305 Commercial Street, Portland, Maine 04101 • TEL 207 775-2411 • FAX 207 871-1184
info@trails.org • www.trails.org

April 15, 2015

Portland City Council, via email
City of Portland
389 Congress Street
Portland, ME 04101

Dear City Councilors,

It is with great enthusiasm that I write this letter in support of the Press Hotel's "Federal Street Folly" project, to be considered at the April 22 meeting.

Jim Brady's concept of building a summer-long pop-up park with arts programming is innovative, imaginative, and will enliven the Old Port area. Designing a welcoming open space next to the Press Hotel will benefit locals as well as tourists visiting in the summer, and will create a more pedestrian-friendly downtown. With Sean Ireland's dynamic landscape design and programming, this space will become a vital part of our city, just like Monument Square and the "reinvented" Congress Square.

As Portland's reputation continues to flourish as a beautiful, foodie city with a lively arts and cultural community, these types of projects will attract national attention and increase support for our creative economy.

I encourage you to approve the project, thus recognizing how this forward-thinking idea will benefit the city of Portland.

Sincerely,

Mark H.C. Bessire
Director

PORTLAND MUSEUM *of* ART Seven Congress Square, Portland, ME 04101 PH: (207) 775-6148 FAX: (207) 773-7324 *portlandmuseum.org*

MECA
MAINE COLLEGE OF ART

April 17, 2015

Mr. James Brady
Mr. Sean Ireland
The Press Hotel
119 Exchange Street
Portland, ME 04101

Dear Jim and Sean,

I am pleased to write in support of the proposed plan for a pop-up park that will close off the Exchange and Market Street entrances to Federal Street, June through October 2015 to allow for installations and programming in the Federal Street Follies Parklet.

On behalf of our students, faculty and alumni, we are grateful for the partnership the Press Hotel established with Maine College of Art (MECA) from the hotel's early planning and the major investment you have made in making art integral to the facility and specifically for the MECA artists you have supported financially.

The Federal Street Follies Parklet is an opportunity to continue our collaboration, which we feel is unique and demonstrates a particular entrepreneurial spirit between developers and an art college. By adding the support of the City to close the streets for the parklet, the patrons of the hotel and the public at large will recognize Portland as a leader in providing innovative and creative community spaces.

The opportunity for MECA's Woodworking and Furniture Design Department to assist in the construction of the temporary park by designing, fabricating, installing and deinstalling seating elements is a wonderful learning experience for the small team of students who will be receiving academic credit and stipends as part of a micro-class this spring. We all look forward to the park as a destination for the public to engage with inviting, fun, unique and sophisticated designs and we will continue to develop more ideas for the parklet across the summer.

As you know, Erin Hutton, in our Artists at Work program is the liaison for all of your projects and I encourage you to stay in direct communication with her.

Please let me know if I can provide additional details.

Sincerely,

Donald L.Tuski, Ph.D.
President

PORTLAND'S DOWNTOWN District
'49 Congress Street, Portland, ME 04101
rtlandmaine.com • 207.772.6828

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ice President of Finance
Aurora Financial

Trish Weimer
Vice President of Operations
JB Brown & Sons

April 22, 2015

Mr. Sean Ireland
The Press Hotel
PO Box 7486
Portland, ME 04112

RE: Federal Street Folly

Dear Sean,

We are pleased to offer our support for the temporary park on Federal Street. After hosting several meetings with our retailer and art community constituents, I believe there is general downtown support for the project.

We were initially concerned about potential traffic, parking and public safety issues, however I am pleased that key city staff and their departments have thoroughly reviewed the plans, and also support it. My own view is that the advantages of having a place for pedestrians to relax and meet amid the upper Old Port area will help to enliven this part of the city. I also believe that businesses in the area will benefit from the increased foot traffic. Of course, as with any new idea we will likely learn ways to improve the concept over time.

I appreciate your efforts on this, and we look forward to working closely together to help ensure the success of the "Folly" over the upcoming summer season!

Sincerely,

Steve Hewins
Executive Director

Order 252-14/15
Tab 31 4-27-15

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 GROUND LEASE TO HANGAR GROUP LLC FOR A FIXED BASE OPERATION AT PORTLAND INTERNATIONAL JETPORT

ORDERED, that the 20-year Hangar Group LLC Lease Agreement with one 20-year option to renew for a Fixed Base Operation is hereby approved, in substantially the form attached hereto; 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.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Paul Bradbury, Airport Director

DATE: April 30, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager; Mayor Brennan; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English

SUBJECT: Ground lease with Hangar Group, LLC to develop and operate a Fixed Base Operation (FBO) at the Portland International Jetport

SPONSOR: Sheila Hill-Christian, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading: May 4, 2015 **Final Action:** May 4, 2015

Can action be taken at a later date: X **Yes** ____ **No (If no why not?)**
Action can be taken at a later date, but Jetport staff notes this lease includes infrastructure and building construction that Hangar Group LLC is anxious to commence.

I. SUMMARY OF ISSUE (Agenda Description)

The Portland International Jetport is requesting approval of a forty year (20 year initial term with one 20 year option) ground lease with Hangar Group LLC for the development of a Fixed Base Operation (FBO) on the Jetport's south general aviation ramp. The terms of the lease are as follows:

- **Term**: Forty years through a 20 year initial term and one 20 year option.
- **Investment**: Hangar Group, LLC will be required to invest $4.356 million to develop the FBO building, hangar, and site. Additionally Hangar Group, LLC will invest up to $1.565 million to construct a new aircraft apron at the Jetport. The cost of the apron will be recouped over approximately 12 years through rent abatement with the Portland International Jetport.
- **Rate**: Hangar Group, LLC will pay ground rent and 2% of gross receipts excluding aircraft sales/leasing, sales of aircraft parts and accessories, charter flights, or fixed rent from subtenants approved by the City.
- **Full Service FBO**: Hangar Group, LLC will be required to operate a full service FBO with staffing hours and facilities that meet the requirements outlined in the Portland International Jetport's Minimum Standards.

The issuance of this lease will allow the development of a second FBO at the Portland International Jetport which will give our airline partners and general aviation users a choice between service providers. It also provides for the introduction of competition into the FBO market at the Jetport.

This opportunity to develop an FBO in this location was issued through a public request for proposals on January 5, 2015. Maine Aviation Corporation/Hangar Group LLC submitted the only proposal in response to this request. Their proposal met or exceeded all requirements outlined in the request for proposals.

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

This ground lease agreement does not contain a termination at the convenience of the City clause, so it must be approved by the City Council.

III. INTENDED RESULT

The approval of this ground lease agreement with Hangar Group, LLC will provide private investment and development of the south general aviation ramp, the introduction of a second on-airport FBO, and increased business activity at the Jetport.

IV. COUNCIL GOAL ADDRESSED

The private investment in and development of a second FBO at the Portland International Jetport will allow more competition and the opportunity for increased business activity at the Jetport. The revenues generated by this business activity, like all others generated at the Jetport, allow it to be a self-sustaining air transportation hub for the City of Portland with no reliance on local taxes. The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals.

V. FINANCIAL IMPACT

If approved, the Portland International Jetport will receive $34,500 annually in fixed rent plus percentage rent estimated at $75,000 for the first year of operation. The rent payments will be abated until the cost plus interest for the construction of the ramp by Hangar Group LLC has been reached.

VI. STAFF ANALYSIS

The development of a second FBO on the south general aviation ramp has been a goal of airport administration for the past decade. The development is included in, and consistent with, the Jetport Master Plan. Significant investment has been made by the Jetport and FAA to support this development, including the construction of an aircraft apron, utilities, and roadway infrastructure to the site.

The Maine Aviation Corporation/Hangar Group, LLC proposal meets or exceeds all requirements established through the Jetport's Minimum Standards and the master plan process that were outlined in the City's request for proposals issued for this development. Approval of the Hangar Group, LLC lease by the City Council will allow development on this project to proceed.

VII. RECOMMENDATION

Jetport staff recommends the Council approve the issuance of this ground lease agreement with Hangar Group, LLC.

VIII. LIST ATTACHMENTS

1. Ground Lease Agreement between the City of Portland and Hangar Group, LLC.

Prepared by:

Signature

April 30, 2015
Date

GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this _____day of _____ 2015, by and between the **CITY OF PORTLAND,** a municipal corporation, existing under and by virtue of the laws of the State of Maine, hereinafter called **"CITY"**, and **HANGAR GROUP, LLC**, a Maine limited liability company located at 1025 Westbrook Street, Portland, Maine, hereinafter called **"TENANT"** (**CITY** and/or **TENANT** also referred to herein singly or collectively as, "Party" or "Parties").

W- I- T- N- E- S- S- E- T-H:

WHEREAS, CITY issued a Request for Proposals dated January 6, 2015, RFP 4815, Construct & Operate A Fixed Base Operation (FBO) Terminal and Provide General Aviation Fixed Base Operations at the Portland International Jetport (hereinafter "Airport"); and

WHEREAS, TENANT submitted its proposal dated FEBRUARY 12, 2015; and

WHEREAS, CITY wishes to enter into a Ground Lease Agreement with **TENANT** to permit construction and maintenance of a fixed base operator (FBO) on the south side of the Airport, located on Airport property within the City of South Portland; and

WHEREAS, pursuant to a May 12, 2000 Assignment and Assumption of Lease between **TENANT** and Colonial Companies, Inc. ("Colonial"), Colonial assigned to **TENANT** all of Colonial's right, title, and interest as tenant to a December 8, 1994 lease between Colonial and **CITY** for certain premises at the Jetport (the "Colonial Lease"); and

WHEREAS, during the term of this Lease, **TENANT** and its affiliates intend to continue to operate a commercial aeronautical business on the premises that are covered by the Colonial Lease.

NOW, THEREFORE in consideration of the mutual covenants and considerations herein contained, **CITY** and **TENANT** hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

1.1 LEASED PREMISES

PROPOSED AGREEMENT

1.1.1 In consideration of the rent hereinafter to be paid by **TENANT**, and other consideration, and the covenants and agreements hereinafter contained, to be kept and performed by **TENANT**, **CITY** does hereby demise, lease and let unto **TENANT**, the property located at the Airport, and more particularly described below, to have and to hold unto said **TENANT** on the terms and conditions in this Lease.

1.1.2 The term "Leased Premises" or "Premises" as used in this Lease Agreement, shall mean and include real estate located at Portland International Jetport in the City of South Portland, Cumberland County, State of Maine, on Aviation Boulevard at the northerly end of Westbrook Street (from Western Avenue in South Portland) and adjacent to the Airport and Long Creek Youth Center and consisting of approximately 138,036 square feet (Hangar Pad C 35,811 square feet and parking, circulation, landscaping 102,225 square feet), as shown and described in Exhibit A attached hereto and incorporated herein, including the rights of ingress thereto and egress therefrom and the right to install, use and maintain utilities, subject to any utility or other easements of record.

1.2 "AS IS" CONDITION.

TENANT takes the Premises in "as is" condition. Other than **CITY** ownership thereof, **CITY** makes no representation or warranty as to the physical condition of the Premises nor as to any other matter concerning the Premises, including but not limited to the presence of any environmental hazards thereon. Without limiting the foregoing, the **CITY** represents that, as of the execution date of this Lease, it has not received notice of any such hazards. All **TENANT** improvements, additions and alterations at or to the Premises will be at **TENANT**'s sole cost and expense and **CITY** shall have no responsibility therefor.

ARTICLE 2 – CONSTRUCTION OF FBO FACILITY

2.1 TENANT OBLIGATIONS

2.1.1 **TENANT** shall, at its own cost and expense, construct, operate and maintain a general aviation facility and fixed base operation (the "Project") on the Premises, as requested by **CITY**'s RFP 4815 and **TENANT**'s response dated FEBRUARY 12, 2015, copies of which are on file in the **CITY's** Airport Director's Office and are incorporated herein as Exhibit B. To the extent reasonable, the Exhibits shall be read to be supplemental to this document, but in the event of conflict between the terms of this document and the Exhibits, this document shall control.

2.1.2 The minimum capital investment for this Project shall be Four Million Dollars ($4,000,000). Prior to construction, the proposed design and materials, including but not limited to landscaping, to be used for such construction shall be subject to the review and approval of the Airport Director, which approval shall not be unreasonably withheld or delayed. The Airport Director's review shall include review for compatibility with existing airport design and

materials and for compliance with the Airport Master Plan then in effect. In addition, prior to construction, **TENANT** shall provide proof of financial ability to complete the project which proof shall be satisfactory to the Airport Director, after consultation with the **CITY**'s Finance Director. The Airport Director's approval hereunder shall not be unreasonably withheld or delayed.

2.1.3 **TENANT** shall pay for and obtain all required Federal, State, County, City of South Portland and **CITY** permits or approvals prior to such construction, including but not limited to any required Planning Board approval, and Federal Aviation Agency (hereinafter the "FAA") approvals, including filing of FAA Form 7460-1, Notice of Proposed Construction or Alteration, or applicable successor form. In addition to complying with any applicable **CITY** ordinance, all exterior signage to be placed or erected on the Premises shall be subject to the prior written approval of the Airport Director. In the event any substantive change is made in the proposed design and materials to be used after all other applicable review, such changes shall be submitted to the Airport Director for final review and approval, which approval shall not be unreasonably withheld or delayed. **TENANT** shall arrange and attend a pre-construction meeting, including all site and construction contractors and subcontractors and representatives of the Airport, prior to beginning site work. This meeting shall include, but not be limited to, a review of **TENANT**'s security plan during such site and construction work. **TENANT** shall ensure that a "badged" person acceptable to the Airport shall monitor all entry and exit to and from the site during such site work and construction.

2.1.4 In the event **TENANT** is unable to obtain any required federal, state or local approvals and permits necessary for construction of its Project and to begin construction no later than Twelve (12) months from the date of execution of this Lease, each party reserves the right to terminate this Lease upon no less than thirty (30) days prior written notice, with no further obligations of either party hereunder. Upon obtaining all federal, state and local approvals and permits required for construction of the facility, **TENANT** shall promptly commence and diligently complete such construction, subject to any agreed upon phasing of construction of portions of the Project.

2.1.5 Except as provided above, **TENANT** shall not erect any structures, make any improvements, nor do any construction work on the Premises, without the prior written approval of the Airport Director, whose approval shall not be unreasonably withheld or delayed. Alterations, modifications, additions to or replacements of any structure constructed on the Premises which are in excess of the amounts provided in Section 5.2.4 below are subject to the prior written approval of the Airport Director, which approval shall not be unreasonably withheld or delayed. The requirement for the Airport Director's prior approval shall not apply to any improvements, repairs or replacements which are immediately necessary because of an emergency caused by no fault of **TENANT**, but **TENANT** shall inform the Airport Director of such emergency work as soon as reasonably practicable.

2.1.6 Performance and Payment Bonds; Letters of Credit; Insurance. Prior to the

commencement of any construction under this Agreement, **TENANT** shall provide **CITY** with evidence of a performance and payment bond from its contractor(s) in the full amount of the final construction contracts, naming the **TENANT** obligee on such bonds and **TENANT** shall provide **CITY** with one or more letters of credit in a form satisfactory to the **CITY** in the full amount of the final construction contracts. In addition, **TENANT** shall provide evidence of commercial general liability insurance coverage in the minimum amount of Two Million Dollars ($2,000,000) from the general contractor, and naming the **CITY** as an additional insured thereon, as well as automobile and workers compensation insurance.

2.2 USES

2.2.1 Permitted Uses. **TENANT**, as a full service fixed base operator at the Airport, is required to continuously provide the following services during the term of this Agreement, unless otherwise agreed in writing by the **CITY**:

(i) Aircraft/airline fueling, de-icing and servicing (e.g. cleaning);
(ii) Aircraft maintenance and servicing, by a licensed aircraft mechanic (Aircraft and Power) on staff and/or on-call;
(iii) Aircraft tiedowns
(iv) Aircraft hangar storage;
(v) Pilots lounge, with sanitary facilities;
(vi) Charter, directly, through contract or through referral service;
(vii) Automobile parking; and
(viii) **TENANT** business office.

Failure to provide the foregoing services on a reasonable basis for thirty (30) consecutive calendar days shall be, at the option of the **CITY**, a breach of this Agreement, subject to termination pursuant to Article 11 below. Notwithstanding the foregoing, de-icing services shall be subject to all applicable federal and state environmental regulations and airport regulations, and shall be performed only in designated areas off-Premises, and in such manner as is permitted by such regulations.

2.2.2 In addition to the foregoing, **TENANT** shall have the right, but is not required, to use the Premises for the following purposes, and purposes incident thereto:

(i) Ground handling, including freight handling;
(ii) Airline maintenance;
(iii) Sales of aircraft (including aircraft leasing) and aircraft parts;
(iv) Avionics sales;
(v) Flight school;
(vi) GSE equipment servicing; and
(vii) Major and minor overhaul and repair of aircraft and associated accessories.

No air meets shall be conducted at said Airport unless prior approval shall have been obtained in writing from the Airport Director and the Federal Aviation Administration.

2.2.3 In addition to the foregoing, **TENANT** shall manage, on a non-exclusive, non-discriminatory public basis, the aircraft ramp constructed by **CITY** and located adjacent to the Premises, and identified on Exhibit A (hereinafter the "Ramp"). **TENANT** shall have the right to rent aircraft tiedowns for general aviation use at fair market rentals. For purposes of this Agreement, the term "aircraft tiedown" shall refer to a generally accepted method of securing small aircraft to pavement. **TENANT** shall manage the use and condition of the aircraft tiedowns in such a manner that such use and condition will not interfere with nor endanger the general operations at the Airport. **TENANT** shall be entitled to the reasonable service or use fees to be paid by users of the aircraft tiedowns, subject to **CITY**'s percentage rentals contained in this Agreement. Upon request, **TENANT** shall provide **CITY** with the names, addresses and other reasonably available information regarding renters/users of the tiedowns hereunder.

2.2.4. **TENANT** is entitled to use the areas designated for "parking" on Exhibit A for parking of customer and employee motor vehicles.

2.2.5. No use of the Premises shall be permitted hereunder without the specific written consent of the Airport Director except those specifically required or permitted herein.

2.2.6 Upon thirty (30) days prior written notice to **CITY, TENANT** may request permission for an expansion or change in use on the Premises, which permission shall not be unreasonably withheld by Airport Director. **TENANT** covenants that it shall not use nor permit the use of the Premises for any purpose other than those provided in Section 2.2.1 - 2.2.4 above without the prior written approval of the Airport Director.

2.2.7 Prohibited Uses: **TENANT** shall not use the Premises for the conduct of any non-aeronautical business, for residential use, or for non-aeronautical storage or non-aeronautical activities.

2.2.8 **TENANT** shall not store fuel upon the Premises except to the extent permitted by applicable City Code(s) and applicable state or other law or regulation, and shall not block a taxiway nor park any aircraft in such a location as to interfere with Airport operations, nor permit any other person to do so. No damaged aircraft shall be parked on the Ramp nor at the aircraft tiedowns at any time without the prior approval of the Airport Director, which approval may be granted for such storage up to a maximum of sixty (60) days. In the event of such approval, **TENANT** shall cover such damaged aircraft within twenty-four (24) hours of a request to do so by the Airport Director, such cover to be in a manner as is reasonably approved by the Airport Director. Aircraft ramp and service equipment shall not be stored on the Premises, except in a manner and in such designated locations as the Airport Director may reasonably authorize in writing in advance. All aircraft and equipment repairs except minor repairs shall be performed inside a structure and not on the aircraft apron. All such minor repair shall be subject to the

approval of the Airport Director, which approval shall not be unreasonably withheld. **TENANT** covenants that it shall not do any, and shall not permit anyone to do, any engine run-ups on the Premises. Off-Premises run ups at sites approved by the Airport Director between the hours of 7:00 a.m. and 10:00 p.m. must be coordinated in advance with the Airport's Communications Center.

2.2.9 All activities hereunder must be conducted pursuant to the Airport Minimum Standards and Rules and Regulations and policies in effect on the date of execution of this Agreement and as may be later amended or revised, and all applicable federal, state and local laws and regulations. Prior to undertaking any activities hereunder, **TENANT** shall obtain, at **TENANT**'s own cost and expense, all approvals and permits required under the Airport Minimum Standards, as well as any other required federal, state or local approvals and permits.

2.2.10 Fuel Trucks. TENANT shall have the right to use the airfield perimeter road as shown on Exhibit A to provide access by fuel trucks, de-icing vehicles and other vehicles used in connection with this Lease, from the Premises to the terminal ramp. Such use by fuel trucks shall be permitted so long as such use of the road by the fuel trucks is permitted under state and federal law and regulations.

ARTICLE 3 - TERM

3.1 INITIAL TERM

The Initial Term of this Lease commenees upon the date of execution of this Lease Agreement, and ends at 11:59 p.m. on the date which is twenty (20) years after the Rent Commencement Date, hereafter defined (the "Termination Date"). The Termination Date of the Initial Term shall be no later than February 28, 2036.

3.2. RENEWAL TERM

TENANT shall have the option to renew this Lease for an additional Twenty (20) years so long as **TENANT** has been and is continuing in full compliance with all of the terms and conditions herein, and subject to renegotiation of the rent as provided in Article 4 below. **TENANT** shall provide **CITY** with no less than One Hundred and Eighty (180) days notice of its intent to renew prior to expiration of the initial term of this Lease. **CITY** shall renew the Lease pursuant to Section 4.3 below and subject to the continuing compliance by **TENANT** with all the terms and conditions herein. Such renewal shall be in writing signed by both parties.

3.3 HOLDING OVER

3.3.1 In the event **TENANT** shall continue to occupy the Leased Premises beyond the Lease term or any extension thereof without **CITY**'s written renewal thereof, such holding over shall not constitute a renewal or extension of this Lease, but shall create a tenancy at sufferance which may be terminated at any time by **CITY** or **TENANT** by giving thirty (30) days' written notice

to the other party. Any such tenancy at sufferance shall otherwise be on all of the terms and conditions of this Lease Agreement, except that the monthly Rent shall be one and one-half times the amount due on the first day of the last month of the term of the Lease.

ARTICLE 4 - RENTALS, FEES AND RECORDS

4.1 FIXED RENT

4.1.1 Fixed rent per square foot. For the rights and privileges granted herein, **TENANT** shall pay a fixed annual rental of $0.25 per square foot for the Leased Premises, excluding the Ramp and the road. Ground rent shall be payable in equal monthly installments. The initial monthly rental shall be Two Thousand Eight Hundred Seventy-Five Dollars and Seventy-Five Cents ($2,875.75) per month.

4.1.2 Monthly rent for Aircraft Tiedowns. During the term hereof, **TENANT** shall pay to **CITY** a fixed monthly rental of Ten Dollars and Nine Cents ($10.09) for each tiedown on the Ramp.

4.1.3 Rent Commencement Date. The fixed rent in 4.1.1 and 4.1.2 shall be due and payable commencing the first day of the month following the month in which TENANT obtains the certificate of occupancy for all building structures and upon completion of any and/or all aircraft apron areas comprising the Project, or on March 1, 2016, whichever is earlier in time ("Rent Commencement Date"), and continuing on the first day of each subsequent month during the initial term and any renewal term of this Lease.

4.1.4 Rent increases. Beginning on the first July 1 following the Rent Commencement Date, and annually thereafter during the Initial Term, the fixed rent in Section 4.1.1 and 4.1.2 will be adjusted, based on the increase in the prior 12 months' Consumer Price Index of the U.S. Department of Labor, All Urban Consumers, all items (1982-84 = 100) for the U.S. City Average, or comparable successor index for the immediately prior twelve months.

4.2 PERCENTAGE RENT

4.2.1 In addition to the foregoing monthly rent, **TENANT** shall pay to **CITY** two percent (2%) of all gross receipts actually received by **TENANT,** by the entities listed on Exhibit C, by any member or shareholder of TENANT or of the entities listed on Exhibit C, and by any of TENANT's subtenants or sub-subtenants, from all of their operations on the entire Premises and from all of their operations on the premises covered by the Colonial Lease; provided, however, that the following shall not be subject to the percentage rental hereunder: 1) aircraft sales and leasing; 2) sales of aircraft parts and accessories; 3) charter flight sales; 4) fixed rent collected from the subtenants and sub-subtenants approved by the **CITY**, up to the amount due to **CITY** under Section 4.1 above; 5) any rent payable to **TENANT** from an entity wholly owned by **TENANT**, or by any entity listed on Exhibit C (Tenant and the entities listed on Exhibit C may be referred to herein individually as a "Tenant Party" or collectively as "Tenant Parties"); 6)

aircraft maintenance performed by a Tenant Party on aircraft owned or dry leased by a Tenant Party; and 7) the 2% payment itself, whether paid by **TENANT** or a Tenant Party, or by an approved subtenant.

4.2.2 "Gross receipts" shall mean and include all gross revenues received by any person and arising out of or resulting from any operations or activities from, at or on the Premises, but shall not include the amount of any tax on sales whether designated a sales tax or not and imposed by any federal, state or local governmental authority, either now or in the future. Said operations and activities shall be performed and/or charged in accordance with normal and customary industry rates. To the extent that any question arises as to whether the normal and customary rates are being charged, the Airport Director, in his discretion, may adjust the rates to be consistent with market rates charged for services at the following airports: BGR, BDL, ALB, MHT and BVT.

4.2.2.1 "Dry lease" shall mean an agreement between a Tenant Party and an aircraft leasing or financing company under which the aircraft is provided to the Tenant Party with no crew, insurance, ground staff, supporting equipment, maintenance, etc., transferring possession and operational control over the aircraft to the Tenant Party.

4.2.3 **CITY** reserves the right to amend or modify the percentage rent payable, or the manner in which such rent, or any portion thereof, is calculated under this Lease Agreement, to the extent that such amendment or modification is applicable generally in a non-discriminatory manner to all persons providing similar services at the Airport and providing that such amendment, modification or increase is reasonably revenue neutral to **TENANT.** In such case, **CITY** shall provide **TENANT** with no less than thirty (30) days written notice prior to the effective date of such new rates or charges. In addition to the foregoing, **CITY** reserves the right to impose landing fees on all charters landing at the Airport pursuant to generally applicable, non-discriminatory rules and regulations issued pursuant to Airport rule-making.

4.2.4 Without limiting the foregoing, **TENANT** agrees to renegotiate the rent payable hereunder in the event of commencement or renewal of the term of the Lease of any other FBO located on the Airport, with the goal to minimize any discriminatory rental structure between competing FBO's at the Airport.

4.2.5 The parties hereby acknowledge that, in connection with the Project, **TENANT** is expending an amount not to exceed $1,565,000 for the construction of a new aircraft ramp and apron adjacent to the Premises (the "New Ramp") which funds **TENANT** will be required to borrow from a lending institution for such purpose. In order to segregate expenses for the New Ramp from expenses for the Project, **TENANT** shall have a separate contract for the construction of the New Ramp, and shall provide **CITY** a detailed accounting of all construction expenses for the New Ramp. The New Ramp shall be designed and constructed to meet current FAA criteria as outlined in current FAA Advisory Circulars. Final design must be reviewed and approved by Airport Director in writing prior to start of construction. **TENANT** acknowledges

and agrees that the New Ramp shall be the property of the **CITY** without the need for any transfer document.

In order to offset **TENANT**'s construction expenses for the New Ramp, **CITY** has agreed to abate the Fixed Rent and Additional Rent to be paid by TENANT pursuant to this Lease (collectively, the "New Rent"), and to abate any unpaid rental and/or other charges that may be currently due under the Colonial Lease (the "Colonial Charges", and together with New Rent, the "Abated Rent"), in an amount not to exceed $1,565,000, plus interest on such amount at a fixed annual rate of 4.86%, of actual construction expenditures for the New Ramp. As of the date of this Lease, **TENANT's** unreviewed estimate of the Colonial Charges due to City is $81,159. The actual amount of the Colonial Charges, which **TENANT** agrees shall be no less than $81,159, shall be determined by an independent accountant satisfactory to the **CITY** within 60 days of the execution date of this Lease. Abated Rent shall be satisfied as follows: (1) **TENANT** and **CITY** shall credit the Colonial Charges toward the Abated Rent, and (2) Fixed Rent and Additional Rent due under this Lease for the period commencing on the Rent Commencement Date, and ending when the total Fixed Rent, plus Additional Rent, plus Colonial Charges, are equal to the Abated Rent, shall be credited toward satisfaction of the Abated Rent. All accounting, reporting and audit requirements and rights contained in this Lease shall apply equally to the credits toward the Abated Rent. **CITY** shall retain the right to pay the outstanding balance of Abated Rent and any accrued interest at any time. Notwithstanding anything to the contrary in this subsection, in the event that this Lease is terminated for any reason prior to the full satisfaction of the Abated Rent, **TENANT** acknowledges and agrees that it shall not be entitled to reimbursement from the **CITY** for any outstanding New Ramp construction expenses or interest thereon.

4.3 RENEWAL RENT

In the event **TENANT** renews this Lease as provided in Section 3.2 above, all rent, including without limitation fixed and percentage rent, under this Lease Agreement during said renewal term shall be in the amount negotiated in good faith by the parties. Notice of intent to negotiate a new rent term shall be given no less than 120 days prior to renewal of the Lease; provided, however, that failure to give such notice shall not diminish nor negate the Parties' obligation to negotiate a new rent hereunder. If the parties have been unable to agree upon a new rental within 45 days after such notice (the "Rent Agreement Date"), the parties agree to submit the issue of rent only to the following appraisal process. CITY and Tenant shall use reasonable good faith efforts to agree, within fifteen (15) days after the Rent Agreement Date, upon a single appraiser to determine the renewal rent for the Premises. Such appraiser shall use its best efforts to render the appraisal to CITY and Tenant on or before twenty (20) days after its selection, and such appraisal shall be final and binding upon the parties. In the event CITY and Tenant cannot agree upon a single appraiser within ten (10) days after the Rent Agreement Date (the "Election Date"), then each of CITY and Tenant shall, within ten (10) days after the Election Date, select an appraiser. Such two (2) appraisers shall select a third appraiser within five (5) days. Such

third appraiser shall use its best efforts to render the appraisal to the Landlord and Tenant on or before twenty (20) days after its selection. The fair rental value determined by such third appraiser shall be final and binding upon the parties and shall be the rent for the renewal term hereunder. The cost of the appraiser appointed by each party shall be borne by such party, and the cost of the third appraiser or, if the CITY and Tenant shall have jointly selected one appraiser, the jointly-selected appraiser, shall be borne one-half (½) by the Landlord and one-half (½) by the Tenant.

4.4 TIME AND PLACE OF PAYMENTS

4.4.1 The foregoing fixed rents of Section 4.1 shall be payable, without need for invoice, in equal monthly installments in advance on or before the first business day of each calendar month of the Term or any renewal term, at the office of the Airport Director, Portland International Jetport, 1001 Westbrook Street, Portland, Maine 04103, or such other place as the **CITY** may direct in writing from time to time.

4.4.2 The percentage of gross receipts shall be due and payable monthly, without need for invoice, at the office of the Airport Director at the address above, on the fifteenth (15th) day of each month based upon the gross receipts of the previous calendar month, the first of which shall be due and payable on the fifteenth (15th) day of the month following the month during which **TENANT** begins operations on the Premises. A detailed monthly revenue statement of all revenues received by any person as a result of any transaction at or on the Premises, regardless of the location of the person receiving such revenue and regardless of where such revenue is paid, shall be kept on file at the Airport office of **TENANT** for review by the Airport Director or his or her designee during regular business hours. The monthly revenue statement shall provide such detail as the Airport Director may require, including without limitation, a description of each such transaction, to whom the money was paid and the location of such person, and the gross amount of such money, showing the amount of the permitted deductions of sales taxes actually paid. **CITY** agrees that it shall endeavor to keep all such information reviewed by the Airport Director or his or her designee confidential, and shall not share such information with any person or entity, unless City, in its sole discretion, determines that disclosure of such information is required by law.

4.4.3 Within one hundred and eighty (180) days of the close of **TENANT**'s fiscal year, **TENANT,** at its sole cost and expense, shall have prepared a reviewed financial statement, prepared and signed by an independent accountant, of all operations conducted at or from the Leased Premises for the previous fiscal year and will keep a copy of such statement on file in its office located at the Airport for review during regular business hours by the **CITY**. **TENANT** will notify **CITY** when said financial statement is available for review. In the event such financial statement discloses any payment due to **CITY** which has not been paid, such payment of any unpaid balance shall be made immediately upon completion of such financial statement. **TENANT**'s fiscal year is from January 1 to December 31 of each year and **TENANT** shall provide the Airport Director with written notice of any change in said fiscal year. A late fee of

Fifty Dollars ($50.00) per day will be assessed for every day that the said financial statement is late in being made available to the **CITY** and said late fee shall be due and payable upon demand by **CITY.** **CITY** agrees that it shall endeavor to keep all such financial statements reviewed by **CITY** confidential, and shall not share such information with any person or entity, unless CITY, in its sole discretion, determines that disclosure of such information is required by law.

4.4.4 **CITY** reserves the right to conduct an audit of **TENANT**'s records, upon reasonable notice and during regular business hours, to determine the accuracy of amounts paid hereunder. In the event such audit discloses an underpayment to **CITY** of more than Ten Percent (10%) in any year, **TENANT** shall pay to **CITY,** in addition to the amount owed and any applicable late charges, the reasonable cost to **CITY** of its audit. In the event said audit shows an overpayment by **TENANT,** said overpayment shall be deducted from **TENANT**'s next due monthly percentage payment or payments. All records related to operations at or from the Leased Premises shall be maintained by **TENANT** for a minimum of six (6) years. **CITY** agrees that it shall endeavor to keep any and all information reviewed by **CITY** in connection with any such audit confidential, and shall not share such information with any person or entity, unless CITY, in its sole discretion, determines that disclosure of such information is required by law.

4.4.5 **TENANT** shall make prompt and timely payment, without deduction or setoff, of all rentals, fees, assessments, taxes and other charges due hereunder as the same may from time to time come due.

4.5 DELINQUENT RENTALS

There shall be added to all sums which the **TENANT** is required to pay hereunder (whether as rental or otherwise) to **CITY** and which are unpaid ten (10) days after their due date, a late charge of one and one-half percent (1-1/2%) of the unpaid sum for each full calendar month of delinquency computed as simple interest on a daily basis, using thirty (30) days in the month for purposes of calculating the daily rate. Any late charge assessed shall be computed from the original due date of the unpaid sum. The rate of the late charge may be changed from time to time pursuant to generally applicable Airport Rules and Regulations. Any late charge hereunder shall be additional to any interest or other charge imposed by the **CITY** generally, including without limitation, interest on unpaid real or personal property taxes.

ARTICLE 5 – MAINTENANCE AND OPERATIONS

5.1 NET LEASE

The use and occupancy of the Leased Premises by **TENANT** will be without cost or expense to **CITY** and all rent payable hereunder shall be net to the **CITY.** It shall be the sole responsibility of **TENANT** to maintain, repair and operate the entirety of the Leased Premises and any

improvements and facilities constructed thereon, and the Ramp, at **TENANT**'s sole cost and expense, except as otherwise explicitly stated herein.

5.2 MAINTENANCE AND OPERATIONS

5.2.1 Premises. All repair, and maintenance of the Premises, including, but not limited to, general asphalt maintenance, landscaping, trimming and mowing, paving and snow and ice removal, shall be the responsibility of the **TENANT. TENANT** shall maintain the Premises and all of the fixtures, equipment and personal property which may be located in or upon any part thereof in a reasonably neat, clean and sanitary condition. **TENANT** shall not store snow off the Premises without written approval from the Airport Director. Snow removal shall not block any aircraft movement areas at any time.

5.2.2 Ramp. **CITY** has constructed the Ramp with airport funds in compliance with FAA requirements and the Ramp will be maintained by **CITY** for twenty years from and after the Rent Commencement Date. Upon completion of construction, **TENANT** will assume all liability for the safe use of the Ramp during the term of this Lease and any renewal term. **CITY** shall have no obligation to reconstruct the Ramp during the term of the Lease or any renewal term. **CITY** will plow, sand and de-ice the Ramp and Ramp taxiway and tiedown taxi lanes to the extent that such lanes can accommodate a Thirty (30) foot plow blade; if not, **TENANT** shall be responsible for all such plowing, sanding and de-icing. **TENANT** will be responsible for removing all snow at the tie downs on the Ramp. **TENANT** will further be responsible for the installation, maintenance and repair of the tiedowns themselves and painting of tiedown parking spots. **TENANT** shall not store snow in **CITY** plowed areas without the prior written approval of the Airport Director.

5.2.3 **TENANT** shall take good care of the Premises; shall reasonably maintain the Premises and the improvements, buildings and fixtures thereon in good condition at all times; shall make all repairs and replacements inside and outside, ordinary and extraordinary, structural or otherwise. Such repairs and replacements by **TENANT** shall be in quality and class not inferior to the original material and workmanship. **TENANT** shall pay promptly the costs and expenses of such repairs, replacements and maintenance, and maintain and repair all utility service lines located upon the Leased Premises to the extent they are used by **TENANT**, except to the extent such maintenance or repair is the obligation of the utility company providing such utility service.

5.2.4 All exterior repairs, replacements and maintenance shall be compatible with the original improvements and shall be in quality and class not inferior to the original material and workmanship. Except in the case of emergency repairs, all such exterior repairs and replacements in excess of Twenty Thousand Dollars ($20,000.00) shall be subject to the prior written approval of the **CITY**, which shall not be unreasonably withheld or delayed, and shall comply with all applicable federal, state and local permit requirements. Standard design plans for such exterior repairs and replacement shall be submitted to the Airport Director for review

and approval, which approval shall not be unreasonably withheld or delayed. Exterior repair and replacement shall be governed by applicable Minimum Standards and Development Guidelines.

5.2.5 **TENANT** shall paint, repair, replace or rebuild all or any part of the Premises, interior or exterior, structural or non-structural, as provided above, which may be damaged or destroyed (subject to the provisions of Article 9 below). In such case, **TENANT** shall have the right to apply any available insurance proceeds to such purposes.

5.2.6 **TENANT** shall provide, at its sole cost and expense, the necessary receptacles and arrangements for adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse which results from use of, or activities on, the Premises. Unless otherwise agreed in writing by **CITY,** all such trash, garbage and other refuse shall be disposed of at EcoMaine in Portland, or successor thereto. **CITY** reserves the right to require **TENANT** to participate in any recycling program which may be imposed by Airport rules or by local, state or federal law or regulation. **TENANT** shall defend, indemnify and hold the **CITY** harmless from any cost, expense, claim, fine or liability, including without limitation attorney's fees and court costs, arising out of or resulting from **TENANT**'s storage, collection, transportation or disposal of any trash, garbage or other refuse hereunder. This obligation of defense and indemnification shall remain in full force and effect after termination or expiration of this Lease.

5.2.7 **TENANT** shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse and must be stored inside the hangar. Piling of boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Leased Premises, shall not be permitted. Dumpster(s) can be stored outside if suitable covering and a good appearance is maintained at all times.

5.2.8 To the extent that **TENANT** does not undertake or pay for any of its obligations under this Subsection 5.2, **CITY** reserves the right to undertake such obligations or to pay such costs, in its sole discretion, and to charge all costs thereof to **TENANT** as additional rent. Except in the case of a threat to public health or safety as determined by the **CITY**, in which case **CITY** may proceed immediately, prior to such undertaking or payment, **CITY** shall provide **TENANT** with written notice of such failure to meet such obligations or to pay such costs, and shall provide **TENANT** with thirty (30) days from the date of such notice to undertake such obligation and proceed diligently to complete it, or to pay such cost. In the event **CITY** undertakes any such obligation or pays such cost hereunder, **TENANT** shall repay the **CITY** all such amounts immediately upon **CITY**'s demand therefor. Nothing herein shall prevent or prohibit the **CITY** from declaring a default hereunder and terminating the Lease as provided in Article 11 below.

5.3 CITY RIGHT TO INSPECT AND REPAIR

5.3.1 **CITY**, through its agents, may come on the Premises and its structures to inspect same for compliance with the requirements of this Lease, Airport rules and regulations, environmental laws, or other applicable legal and regulatory requirements. Such inspection will generally take

place during normal business hours and following seventy two (72) hours advance notice to the **TENANT**, but the **CITY** reserves the right to enter the Premises unannounced at any time that the Airport Director determines such entry is necessary for public safety or security reasons. In the event of such unannounced entry, **CITY** shall notify the **TENANT** that such inspection occurred within a reasonable time thereafter. **TENANT** shall provide **CITY** with the ability to access the Premises and the buildings for such public safety and security purposes.

5.3.2 **CITY**, at its reasonable discretion, shall be the sole judge of the quality of the exterior repair and maintenance; and **TENANT**, upon notice by **CITY** to **TENANT** shall be required to perform whatever repair and maintenance **CITY** deems reasonably necessary. If said repair and maintenance is not undertaken by **TENANT** within thirty (30) days after receipt of written notice, **CITY** shall have the right to enter upon the Leased Premises and perform the necessary repair and maintenance, the cost of which shall be borne by **TENANT** as additional rent to be paid to **CITY** immediately upon demand therefor. Notwithstanding the foregoing, in the case of a threat to public health or safety, **CITY** may undertake such repairs as it deems reasonably necessary and charge the cost thereto to **TENANT** as additional rent to be paid to **CITY**, without regard to any notice requirement herein. No waste shall be committed or damage done to the Premises, the buildings and equipment located thereon, nor to property of **CITY.**

5.4 UTILITIES

TENANT shall have the right to bring utilities to the Premises at its own cost and expense and in accord with all applicable laws, rules and regulations for the extension and hookup of such utilities. **TENANT** shall assume and pay for all construction, installation and periodic costs or charges for utility services furnished to **TENANT** during the term hereof; provided, however, that, consistent with applicable laws, regulations or permit requirements, **TENANT** shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense, subject to the approval of the Airport Director, which shall not be unreasonably withheld or delayed; and **TENANT** shall pay for any and all service charges incurred there from. The **TENANT** must also meet the requirements of the Airport's Storm Water Pollution Prevention Plan and any amendments thereto.

5.5 PAYMENT OF TAXES AND OTHER ASSESSMENTS

5.5.1 **TENANT** agrees to pay promptly when due, and not to permit to become delinquent, levies, taxes, assessments, excises, permit fees, license fees, charges, impositions or burdens of whatsoever kind and nature, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or for any public improvements or utility services (hereinafter "impositions") which, at any time during the term of this Lease Agreement, may be created, levied, assessed, imposed or charged upon or with respect to the Leased Premises or any part thereof, by any federal, state, county, municipal or other authority, which imposition would be valid and applicable to **TENANT** irrespective of this section.

5.5.2 Nothing herein contained shall be construed as stopping or preventing **TENANT** from contesting in good faith, however, the validity or applicability to its operations hereunder of any such law, ordinance, rule, regulation, tax assessment, excise fee or charge, including the exhaustion of all appeal rights, provided that the Leased Premises shall not be in danger of being forfeited nor the **CITY** exposed to any threat of fine, penalty or violation.

5.5.3 Notwithstanding the foregoing, **TENANT** acknowledges that **CITY** has the right from time to time to establish and impose reasonable charges and fees for users of the Airport or its facilities, provided that such charges and fees are charged in a uniform and non-discriminatory manner and do not significantly increase the total fixed and percentage rent due hereunder; and provided, further, that **CITY** shall provide **TENANT** with no less than thirty (30) days prior written notice prior to imposing any new fee or charge which directly or indirectly affects **TENANT** or any sub-tenant of **TENANT.**

5.6 NONDISCRIMINATION; AFFIRMATIVE ACTION

5.6.1 The **TENANT**, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Lease of the Premises that, to the extent applicable to **TENANT**'s operations hereunder:

(a) no person on the grounds of age, race, color, sex, disability, religion, national origin or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subject to, discrimination in the use of said facilities;

(b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of age, race, color, sex, disability, religion, national origin, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) that the **TENANT** shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended; and

(d) that **TENANT** shall undertake an affirmative action program as required by 14 CFR Part 152, Sub E, to insure that no person shall on the grounds of race, creed, color, national origin, or sexual orientation be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E.

5.6.2 **TENANT** agrees to furnish service on a fair, equal, and non discriminatory basis to all users thereof, and to charge fair, reasonable, and non discriminatory prices for each unit of service.

5.6.3 Nothing in this Section 5.7 is intended, nor shall it be deemed, to permit **TENANT** to establish or carry out any non-aeronautical commercial activity from the Premises.

5.7. Intentionally omitted.

5.8 OBSERVANCE OF STATUTES, ETC.

5.8.1 During the Term hereof and renewal term, **TENANT** shall, at its own cost and expense, promptly observe and comply with all existing and future applicable laws, ordinances, rules, regulations, licenses, permits, decisions and decrees of the Federal, State, County and **CITY** Governments (including but not limited to Airport Rules and Regulations, Airport Minimum Standards, Airport Storm Water Pollution Prevention Plan, Airport Security Plan and Regulations, Airfield Regulations, Airport Development Guidelines, and the Airport Certification Manual), as well as those of any other government authority having jurisdiction over the Premises or any part thereof, including without limitation all applicable Federal Aviation Administration rules and regulations, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future.

5.8.2 **TENANT** shall not make any use of the Premises which is improper, offensive or contrary to any law or ordinance, nor to permit any act or thing to be done which shall constitute a nuisance or which may make void or voidable any insurance on the Premises or the buildings or improvements thereon.

5.8.3 **TENANT** shall pay all fines, penalties, damages, expenses or costs, including reasonable counsel fees, and shall indemnify and hold the **CITY** harmless therefrom, which may in any manner arise out of or are imposed on **TENANT, CITY** or Airport because of the failure of the **TENANT** to comply with the requirements of this Section 5.8. Without limiting any other right of **CITY** hereunder, **TENANT**'s non-compliance with any provision of this Section 5.8 shall be grounds for termination of this Lease Agreement.

5.8.4 **TENANT** shall have the right, but not the obligation, to contest, without cost or expense to **CITY,** the validity or application of any law, ordinance, rule, regulation, or requirement of the type referred to in the preceding sub-section. If by the terms of any such provision, compliance may be legally delayed without risk of forfeiture or lien on the Premises or penalty to the **CITY,** pending resolution of the legal challenge, **TENANT** may delay compliance therewith until final determination of such proceeding.

5.8.5 **CITY** agrees to execute and deliver any appropriate papers or other instruments which may be reasonably necessary or proper to permit **TENANT** to contest the validity or application of any such provision.

5.9 ENVIRONMENTAL STATUTES

5.9.1 **TENANT** covenants and agrees to comply with all applicable environmental laws, including without limitation all laws governing hazardous substances and all requirements related to storm water discharges and permits, and to provide to **CITY**, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of **TENANT** under environmental laws, or which seek civil, criminal or punitive penalties from **TENANT** for an alleged violation of environmental laws. **TENANT** further agrees to advise the **CITY** in writing as soon as **TENANT** becomes aware of any condition or circumstances which may result in a potential violation of any environmental laws. **TENANT** shall comply with the Airport's Storm Water Pollution Prevention Plan and any amendments thereto, and shall grant access to the **CITY** for inspections required by the plan. **TENANT** agrees, at its expense, and at the request of **CITY** when it has a reasonable belief that there is a problem or when required by another governmental entity, to permit an environmental audit for the benefit of **CITY** and **TENANT**, to be conducted by **CITY**. This provision shall not relieve **CITY** from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

5.9.2 Without limiting the foregoing, **TENANT** shall not dump, flush, or in any way introduce any hazardous materials or hazardous waste or any other toxic materials upon the Leased Premises nor shall it improperly store, or dispose of any hazardous materials or hazardous waste from any such property, except in full compliance with all applicable laws and regulations. For purposes of this paragraph, the term hazardous materials shall mean inflammable, explosives, radioactive materials and hazardous substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, the Hazardous Conservation and Recovery Act, and the Resources Conservation and Recovery Act, or any similar federal, state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law. The term "hazardous materials" shall also include any other chemical, material or substance which is or may be regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal, state or other governmental authority or agency or which, even if not so regulated, may or could pose a hazard to human health and safety.

5.9.3 If in the opinion of **CITY**, there exists any uncorrected violation by **TENANT** of an environmental law which requires, or may require, a cleanup, removal or any condition or other remedial action by **TENANT** under any environmental law, regulation, permit, license, judgment or decree, and such cleanup, removal or other remedial action is not completed, or commenced and diligently pursued, within thirty (30) days from the date of written notice from **CITY** to **TENANT**, the same shall, at the option of **CITY**, constitute an event of default hereunder.

5.9.4 For the purposes of this Section 5.9, the term "environmental law or laws" shall mean all

Federal, State and local laws including statutes, regulations, ordinances, codes, rules, permits, licenses, judgments, decrees, or other governmental restrictions and requirements relating to the environment or any hazardous substance, including but not limited to, the State of Maine environmental protection statutes, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Research Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Environmental Protection or successor agency now or anytime hereafter in effect.

5.9.5 **TENANT** shall defend, indemnify and hold the **CITY** harmless from and against and in respect of any and all damages, costs and expenses, including without limitation, fines, penalties, reasonable attorney's fees, consequential damages and remedial costs and other liabilities arising from claims based upon the environmental condition of the Premises and the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), resulting from (a) **TENANT**'s use of the Premises or operations thereon by or on behalf of **TENANT**; (b) claims arising out of, related to, or in connection with (i) the release by **TENANT** of any hazardous material into, onto or from the Premises; or (ii) any arrangement by **TENANT** for the treatment, recycling, storage or disposal at any facility owned or operated by any person or entity of a hazardous material which is present on the Premises or has been or may be deposited at, disposed on or released onto the Premises; and (c) claims related to demolition, cleanup or other remedial measure with regard to environmental conditions on or around the Premises by **TENANT;** or (d) claims resulting from any act or omission of **TENANT** in violation of any federal, state or local environmental laws or regulations with respect to **TENANT**'s use of the Leased Premises.

5.9.6 **CITY** shall give to **TENANT** prompt and reasonable notice of any such claim or action, and **TENANT** shall have the right to investigate, compromise, and defend the same.

5.9.7 **TENANT,** as used in this Section 5.9, shall mean and include the named **TENANT,** its officers, agents, employees, invitees, customers, subcontractors, transferees, licensees, subtenants, vendors, suppliers or anyone for whose act **TENANT** may be legally liable.

5.9.8 The Terms of this Section 5.9 shall expressly survive the expiration or earlier termination of this Lease Agreement, including without limitation the terms of Subsection 5.9.5.

5.10 HAZARD LIGHTS

TENANT shall, at its expense, provide and maintain hazard lights on any structure erected by **TENANT** on the Leased Premises, if required by **CITY** or FAA regulations. Any hazard lights so required shall comply with the specifications and standards established for such installations by the FAA.

5.11 OTHER RESTRICTIONS

TENANT shall not, and shall not permit any person, to use the Premises in such a manner as to create electrical interference with navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between Airport lights and other lights, result in glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

5.12 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Lease and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

5.13 AIRPORT ZONE HEIGHT LIMITATIONS

TENANT shall comply with all applicable zone height limitations in its operations hereunder, including but not limited to 14 CFR Federal Aviation Regulation, Part 77, or any successor law or regulation, and shall not, nor permit any person to, erect, alter or maintain any structure, or grow any vegetation in any zone to height in excess of the height limitations. **CITY** reserves the right to enter upon the Premises and to remove any such structure or vegetation, and charge the cost thereof to **TENANT** as additional rent should **TENANT** fail to effect such removal promptly after written notice from the Airport Director to do so. **TENANT** shall submit FAA Form 7460-1 Notice of Proposed Construction or Alteration, or applicable successor form, to the FAA, with a copy to the Airport Director, prior to erecting any possible obstruction on the Premises.

5.14 NOISE ABATEMENT

5.14.1 The **TENANT** agrees that it will comply, and require all flight crews of aircraft based at the facility on the Premises to comply with all applicable elements of the Airport's Noise Compatibility Plan (FAR Part 150 Study) approved by the FAA. This includes use of preferred noise abatement departure routes, use of Airport's voluntary noise abatement departure procedures, use of the preferential runway use program, use of the maintenance run-up procedure, and attendance at noise advisory committee meetings if requested.

5.14.2. If operations on the Premises cause or are projected to cause substantial shifts in the noise contours surrounding the Airport (from the projected contours developed by HMMH as provided in the Noise Exposure Map dated March, 2007 available from the Airport Director) that bring or are projected to bring neighboring residences within the 65 DNL contour, the **TENANT**

agrees to accept operational restrictions on its use of the Premises to the degree consistent with FAA requirements.

ARTICLE 6 - OBLIGATIONS OF CITY

6.1 OPERATION AS PUBLIC AIRPORT

CITY covenants and agrees that at all times during the term of this Lease it will operate and maintain the Airport as a public airport consistent with and pursuant to the Sponsor's Assurances given by **CITY** to the United States Government under the Federal Airport Act or any successor Assurances or Act.

6.2 INGRESS AND EGRESS

Upon paying the rental hereunder and performing the covenants of this Lease, **TENANT** shall have the right of ingress to and egress from the Premises for the **TENANT**, its officers, employees, agents, servants, vendors, suppliers, customers, and invitees over the roadway provided by **CITY** serving the Premises. **TENANT's** access shall be in common with other users and shall be subject to applicable security requirements and to possible episodic interruptions due to security or safety concerns. **CITY**'s roadway (Aviation Boulevard) shall be used jointly with other tenants on the Airport, and **TENANT** shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as **CITY** deems necessary.

In the event the roadway is accepted as a City street by the City of South Portland, **TENANT** shall comply with all applicable South Portland requirements for use of the roadway and it shall be plowed and maintained by South Portland. In the event the road is not accepted by South Portland or is discontinued by the City of South Portland, all repair and maintenance, including, but not limited to, general asphalt maintenance, landscaping, trimming and mowing, paving and snow and ice removal, will be the responsibility of **TENANT.**

6.3 CONSTRUCTION BY CITY

There are no facilities to be constructed by **CITY** under this Agreement. The Airport has completed construction of Aviation Boulevard and presented documents to the City of South Portland to permit acceptance as a South Portland city street.

6.4 "MOST FAVORED NATIONS"

CITY agrees that if it contracts with a full service fixed base operator operating at the Airport for any more favorable term in regard to permitted and required uses, or in regard to the fixed rent or percentage rent payable hereunder, **CITY** agrees, upon **TENANT**'s request, to offer such term or terms to **TENANT** as an amendment to this Agreement. "Full service fixed base

operator" as used herein shall mean a fixed base operator operating, at a minimum, at the Airport on a daily basis from 8:00 a.m. to 5:00 p.m. and providing all of the services required to be provided in Section 2.1.1 above, as such Section is in effect as of the execution date of this Agreement.

ARTICLE 7 - CITY'S RESERVATIONS

7.1 IMPROVEMENT, RELOCATION OR REMOVAL OF STRUCTURES

7.1.1 **CITY**, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the instrument approaches of the Airport against obstructions, together with the right to prevent **TENANT** from erecting or permitting to be erected, any buildings or other structure on the Airport which, in the opinion of **CITY** would limit the usefulness of the Airport or constitute a hazard to aircraft. **CITY** acknowledges that it has agreed to permit **TENANT** to construct the Project.

7.1.2 In the event **CITY** requires the use of the Premises for expansion, improvement, or development of the Airport, **CITY** reserves the right, on six (6) months notice, to relocate or replace **TENANT**'s improvements in substantially similar form at another generally comparable location on the Airport. The costs of such relocation or replacement shall be paid or reimbursed, as appropriate, by **CITY**.

7.2 WAR OR NATIONAL EMERGENCY

During any time of war or national emergency, **CITY** shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease or agreement is executed, the provisions of this Lease Agreement insofar as they are inconsistent with the lease or agreement with the Government shall be suspended, and in that event, a just and proportionate part of the rent hereunder shall be abated, and **TENANT** shall be entitled to receive that portion of rental payments received by the CITY that exceed the amounts owed to the CITY under this Lease.

ARTICLE 8 - INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION

8.1.1 To the fullest extent permitted by law, **TENANT** agrees to defend, indemnify, and save forever harmless the **CITY**, its officers, agents and employees, from and against all claims and actions and all reasonable expenses incidental to the investigation and defense thereof, based on or arising out of claims for damages or injuries to any person or property, including wrongful death and loss of use of property, and arising, in whole or in part, out of **TENANT**'s use,

occupancy or management of the Leased Premises or the Ramp; **CITY** shall give to **TENANT** prompt and reasonable notice of any such claims or actions, and **TENANT** shall have the right and obligation to investigate and defend the same; and provided further, that **TENANT** shall not be liable for any claims, actions, injury, damages or losses to the extent they are occasioned by the negligent or intentional act of **CITY**, its officers, agents or employees. Notwithstanding the foregoing, **TENANT** shall defend the **CITY** from all such claims. **"TENANT"** as used in this Subsection 8.1.1 and in Section 8.2 shall mean and include the named **TENANT**, the Tenant Parties, their officers, agents, employees, invitees, customers, subcontractors, transferees, licensees, subtenants, vendors, suppliers and anyone for whose act **TENANT** or Tenant Parties may be legally liable.

8.1.2 **TENANT** shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, material, men, and suppliers. **CITY** shall have the right to participate in such suits and no action shall be settled without prior consent of the **CITY**. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the **CITY** which would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein.

8.1.3 If **TENANT** is required to obtain workers compensation coverage under Maine law, **TENANT** agrees to procure and maintain throughout the term of this Lease Agreement, an endorsement to its Workers Compensation coverage waiving any and all rights of subrogation against **CITY.** In the event such waiver is not available, **TENANT** shall defend, indemnify and hold the **CITY** harmless from any such subrogated claims.

8.1.4 This indemnity and hold harmless provision of this Section 8.1 includes indemnity against all reasonable expenses, fees, costs and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the **CITY.** The provisions of this Article 8 and the obligations of **TENANT** hereunder shall survive the termination or expiration of this Lease.

8.1.5 Notwithstanding anything to the contrary contained in this Lease, in no case shall either party be liable to the other, or to any third party, for any incidental, indirect, consequential, special or punitive damages arising out of or relating to this Lease.

8.2 LIEN INDEMNIFICATION

Throughout the term of this Lease, **TENANT** shall not cause nor permit any lien against the Leased Premises, any portion thereof or any **CITY** property wherever located, or any improvements thereto, to arise out of or accrue from any action, omission or use thereof by **TENANT**. **TENANT** may in good faith, however, contest the validity of any alleged lien. **TENANT** shall defend and indemnify and hold the **CITY** harmless from any cost, expense,

attorney's fees or other liability arising out of or resulting from any such lien or liens, and shall promptly discharge such lien or stay or prevent its foreclosure by bond or other appropriate legal procedure which is acceptable to the **CITY**. So long as **TENANT** defends **CITY** in any action concerning any such lien, **TENANT** shall not be required to post a bond with respect to such lien prior to the commencement of a foreclosure action against the **CITY**. This provision shall survive termination or expiration of this Lease Agreement. If (a) **TENANT** is not defending against such lien; and (b) foreclosure proceedings have been commenced by a lienor other than **CITY**, and (c) **TENANT** has not bonded off or otherwise made provision for the subject lien, **CITY** may, at its sole discretion, pay any amounts secured by any such lien and in such case, **TENANT** shall repay all such payments to **CITY** immediately upon **CITY**'s demand therefor.

8.3 INSURANCE

8.3.1 Without expense to the **CITY**, and with no lapse in coverage, **TENANT** shall obtain and cause to be kept in force at all times during the term of this Agreement, insurance no less than that required by the Jetport Minimum Standards for FBO operations at the Airport. A copy of the insurance requirements in effect as of the execution date of this Agreement is attached as Exhibit D.

8.3.2 **TENANT** shall procure and maintain, as of the date of beneficial occupancy of the Leased Premises, all risks fire and casualty insurance, in an amount no less than ninety percent(90%) of the replacement value of the Project and related fixtures, or in such maximum amount as is available if ninety percent (90%) is not available.

8.3.3 **TENANT** and the **CITY** understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement and **CITY** reserves the right to amend the minimums as needed throughout the term of this Lease. **TENANT** agrees that it will increase such minimum limits upon receipt of notice in writing from the **CITY**.

8.3.4 In the event any construction or renovation on the Premises or the Ramp is approved by the **CITY**, **TENANT** shall procure and maintain, or cause to be procured and maintained, commercial general liability insurance covering bodily injury and property damage, including special hazards insurance, in such amount as the **CITY** may reasonably require, covering such construction. Said insurance shall protect **TENANT** and **CITY** from any claims or damages arising out of or resulting from such construction or renovations, and shall name the **CITY** as an additional insured thereon. In addition to the foregoing, **TENANT** shall cause to be procured and maintained automobile liability and workers compensation insurance in such amounts as the **CITY** may reasonably require.

8.3.5 All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy affecting the Premises or the Ramp shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Airport

Director. Each liability policy required to be obtained hereunder shall name the **CITY** as an additional insured thereunder and shall be on an occurrence basis. All policies required hereunder shall be primary to any insurance or self-insurance which **CITY** may maintain for its own benefit.

8.3.6 Certificates or other evidence of insurance coverage required of **TENANT** in this Article, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the **CITY** prior to the execution of this Lease Agreement and annually thereafter. **TENANT** shall at all times during the term of this Lease Agreement provide **CITY** with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier affecting the Leased Premises or the Ramp. Insurer shall provide no less than thirty (30) days written notice prior to cancellation, reduction in coverage or expiration of each policy required hereunder, said notice to be sent to the Airport Director. It shall be **TENANT**'s responsibility throughout the term of this Lease to provide or have provided to the Airport Director renewal insurance certificates with no lapse in coverage prior to such renewal.

8.3.7 If at any time **TENANT** should fail either to obtain or to maintain in force the insurance required herein, the **CITY** shall notify **TENANT** of its intention to purchase such insurance for **TENANT**'s account; and, if **TENANT** has not delivered evidence of insurance to the Airport Director prior to the date on which the current insurance expires, the **CITY** may effect such insurance by taking out policies in companies satisfactory to the **CITY** and charging the costs thereof to **TENANT** as additional rent. Such insurance shall be in amounts no greater than those stipulated herein or as may be in effect from time-to-time. The amount of the premiums for such insurance obtained by the **CITY** shall be payable by **TENANT** as additional rental immediately upon demand therefor by **CITY**. Nothing herein is intended nor shall it be deemed to waive any right of **CITY** to declare the Lease in default hereunder.

8.4 LEASE SURETY

8.4.1 Prior to the Rent Commencement Date, **TENANT** shall provide the Airport Director with a bond or letter of credit (the "Surety") guaranteeing **TENANT**'s performance of its obligations hereunder in the amount of One Hundred Thousand Dollars ($100,000.00). **CITY** shall be the obligee on such Surety and it shall be in a form satisfactory to the Airport Director. If **TENANT** shall default in the payment of any rent, tax, fees or charge due under this Agreement to any entity, or the performance of any other obligations under this Lease Agreement, **CITY** shall have the right to call the Surety and upon notice from **CITY** to said Surety, said Surety shall pay any amounts owed by **TENANT** and unpaid, and to reimburse **CITY** any loss, costs or expenses it incurs in the event of any default hereunder by **TENANT.** Notwithstanding the foregoing, **TENANT** shall remain liable for any amounts due hereunder and unpaid, and any costs and expenses incurred by **CITY** in excess of the amount of said letter of credit. The **CITY**'s rights under this Subsection shall be in addition to all other rights and remedies provided to the **CITY** under this Agreement.

8.4.2. **CITY** reserves the right to require any successor, assignee, subtenant or other transferee of **TENANT** as tenant under this Lease, as a condition of **CITY** consent to such succession, assignment, sublease or transfer, to provide **CITY** with a Surety as provided in Subsection 8.4.1 above.

8.4.3. Notwithstanding the reimbursement of any amounts owed through the letter of credit, **CITY** reserves the right to declare **TENANT** in default under the Lease for the underlying failure of **TENANT** to pay any amounts or undertake any obligation required herein, which failure resulted in **CITY** drawing upon the letter of credit.

ARTICLE 9 - DESTRUCTION OF PREMISES

9.1 In the event the buildings and improvements on the Premises, or any substantial part thereof, should be damaged or destroyed by an insured casualty, such buildings or improvements shall be repaired or rebuilt by **TENANT** and paid for with the **TENANT**'s insurance proceeds; and, if such proceeds are insufficient for such purposes, the **TENANT** shall pay the deficiency, unless otherwise agreed as provided herein. Repair or restoration of the buildings and improvements shall be in accordance with the original Plans and Specifications, together with alterations or modifications made or agreed upon prior to the casualty, unless the parties otherwise mutually agree to new or modified plans or such new or modified plans are required by then applicable law or regulation.

9.2 Notwithstanding the foregoing, during the last ten (10) years of this Agreement or any renewal thereof, in the event the buildings and improvements on the Premises, or a substantial part thereof, should be destroyed, then **TENANT** may terminate this Agreement by written notice to **CITY** within ninety (90) days of the casualty and all obligations of each party hereunder shall terminate. In the event of such termination, **TENANT** shall return the Premises to **CITY** restored to a clean and usable condition, with removal of all personal and real property as provided in Article 12.3 below, "Termination for **TENANT** Default". If **TENANT** does not provide notice of such termination, **TENANT** shall proceed diligently to rebuild and restore the Premises and the buildings and improvements thereon in accord with the original plans and specifications or such other plans and specifications as may be approved by the Airport Director and any applicable planning authority.

9.3 If the building or buildings shall be damaged in such manner as to render them unusable in whole or in part during repair and restoration thereof, the rent provided to be paid under the terms of this Lease Agreement shall be abated or reduced proportionately during the period from the date of such damage or destruction until the work of repairing, restoring or reconstructing said building or buildings is completed.

ARTICLE 10 - CONDEMNATION

10.1 **CITY** agrees to give prompt written notice to **TENANT** of any eminent domain,

condemnation, compulsory acquisition or like proceedings by any competent authority which might result in a partial or full, temporary or permanent, taking of the Leased Premises and of which **CITY** has actual notice. Each party may file and prosecute their respective claims for an award, but all awards and payments on account of a taking shall be held in trust by the recipient to be distributed according to the respective interests of the parties, i.e., payments allocable to the value of the Leased Premises and the residual interest in the Leased Premises shall be paid to **CITY** and payments allocable to **TENANT**'s leasehold interest and improvements shall be paid to **TENANT.**

10.2 In the case of a taking (other than for temporary use) of the fee of the entire Leased Premises, or so substantial a part of the Leased Premises that such taking materially impairs **TENANT**'s conduct of its operations at or from the Premises, this Agreement shall terminate as of the effective date of such taking. In the case of a temporary taking (including without limitation a temporary taking as a result of relocation under 7.1.2 above), this Agreement shall be suspended during such time as **TENANT** is unable to use the Leasehold Premises for the uses provided herein. In the case of a temporary taking which does not permit **TENANT** to use the Premises as provided herein for a period of ninety (90) days or more, at the conclusion of said ninety (90) day period, **TENANT** may, in its discretion, give **CITY** a thirty (30) day notice of its intent to terminate the Lease Agreement, during which thirty (30) day period **CITY** may provide **TENANT** with comparable leased space from which to conduct its operations; and, in such event, this Lease will be amended to cover such alternative space and shall not terminate. In the event **CITY** does not provide such alternative space, this Lease shall terminate at the end of the thirty (30) day notice period, with no further obligation by either party. Nothing herein shall prevent or prohibit the **CITY** from providing alternative space to **TENANT** prior to receipt of the thirty (30) day notice of termination. **TENANT**'s obligation to pay rent hereunder shall be suspended during any temporary taking during which **TENANT** is unable to conduct its operations at or from the Leased Premises; provided, however, to the extent **TENANT** is able to continue its operations hereunder from the Premises or from an alternative site, the **TENANT** shall continue to pay the fixed rent based upon the square footage then available to **TENANT**, and the percentage rent, if applicable.

ARTICLE 11 - TERMINATION OF LEASE

11.1 CITY's Right to Terminate. The **CITY**, in addition to any other rights to which it may be entitled by law, acting by and through its City Manager, may declare this Lease Agreement terminated in its entirety, subject to and in the manner provided herein, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the Premises:

(a) To the extent permitted by law, the filing by **TENANT** of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of **TENANT**'s assets;

(b) To the extent permitted by law, the entry of an order for relief against the **TENANT,** by a court of applicable jurisdiction, pursuant to any involuntary bankruptcy petition filed against the **TENANT**;

(c) To the extent permitted by law, the taking of jurisdiction by a court of competent jurisdiction of **TENANT** or its assets, pursuant to proceedings brought under the provisions of any Federal reorganization act;

(d) To the extent permitted by law, the appointment of a receiver or trustee of **TENANT**'s assets by a court of competent jurisdiction or a voluntary agreement with **TENANT**'s creditors;

(e) The voluntary abandonment by **TENANT** of the Leased Premises (and the failure to pay rent thereon) for a period in excess of thirty (30) days; or

(f) The material breach by **TENANT** of any of the covenants or agreements herein contained and not cured as provided below. A material breach shall include, but not be limited to, the failure of the **TENANT** to comply with the mandatory elements of the Airport's Part 150 program and the failure of **TENANT** to pay any rental, tax, fee, or charge required to be paid by the terms of this Lease Agreement.

11.2 <u>**TENANT**'s Right to Terminate</u>. **TENANT**, in addition to any other right given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the happening of any one of the following events:

(a) The issuance by any court of competent jurisdiction of an injunction which materially prevents or restrains the use of the Airport or the Leased Premises for the purposes permitted under this Lease Agreement and such injunction remaining in force for a period of at least ninety (90) days after the date of receipt of written notice of such injunction by **CITY;**

(b) Subject to **TENANT**'s obligation to restore or repair the Premises under Article 9 above, the inability of **TENANT** to use said Leased Premises and Airport facilities due to war, earthquake or other casualty for a longer period than ninety (90) days after the date of receipt of written notice of such inability from **TENANT;**

(c) Any action of any governmental authority, board, agency or officer having jurisdiction thereof preventing **TENANT** from conducting the activities permitted hereunder at or on the Leased Premises by a taking, directly or indirectly, in whole or a substantial part, of the Leased Premises for a period of at least ninety (90) days after receipt of written notice of such action by **CITY**, subject to Article 10 above;

(d) The taking, through the process of eminent domain, of all or a substantial part of the Premises leased by **TENANT**, subject to Article 10 above; or

(e) The material breach by **CITY** of any of the covenants or agreements herein contained and not cured as provided below.

11.3 Default by **CITY**. In the event of any default by **CITY** of any of its obligations under this Lease Agreement, **TENANT** may declare the **CITY** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **CITY**'s Airport Director in the office of the Airport Administration, addressed and copied as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. No termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **TENANT** to **CITY,** and such default shall not have been cured during such thirty (30) day period by the **CITY.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **CITY** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable.

11.4 Default by **TENANT**. In the event of any default by **TENANT** of any of its obligations under this Lease Agreement, **CITY** may declare the **TENANT** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **TENANT** addressed as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. Except as provided otherwise in this Lease Agreement whereby no opportunity to cure is required, no termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **CITY** to **TENANT,** and such default shall not have been cured during such thirty (30) day period by the **TENANT.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **TENANT** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable. In the event **TENANT** knew or should have known of the default prior to receipt of **CITY** notice, said thirty (30) day period to cure shall be deemed to begin as of the date **TENANT** knew or should have known of said default. Notwithstanding the foregoing, if **TENANT** should fail to pay any sum, including without limitation any rental, tax, assessment or use fee or charge, as required hereunder, **TENANT** shall have ten (10) days from receipt of **CITY** notice of default to cure said default, and if not so cured, termination of this Lease Agreement shall be effective as of the eleventh day following said receipt of notice.

ARTICLE 12 - RIGHTS UPON TERMINATION

12.1 **TENANT** agrees that upon the expiration of the term of this Lease or sooner termination

thereof, the Leased Premises will be delivered to **CITY** in good condition, reasonable wear and tear excepted, and all buildings, fixtures and personal property located on the Leased Premises shall remain on, or be removed from, the Leased Premises as provided herein. Upon the termination or expiration of this Lease Agreement, all rights of **TENANT** hereunder to possession of the Leased Premises shall immediately terminate.

12.2 Lease Expiration or Termination for **CITY** Default. Upon expiration of this Lease Agreement or termination for default by **CITY**, **TENANT** shall have the right, but not the obligation, upon notice to **CITY** prior to the effective date of such expiration or termination, to enter upon the Premises within thirty (30) days after the effective date of such expiration or termination and to remove all buildings, fixtures and personal property installed on the Premises, and to repair any damage to the Leased Premises caused by said removal and to restore the Premises to its original condition, all at **TENANT**'s cost and expense. In the event **TENANT** does not provide such notice to **CITY**, title to all buildings, fixtures and personal property located thereon shall vest in the **CITY** as of the day following the effective date of expiration or termination of this Lease Agreement.

12.3 Termination for **TENANT** default.

12.3.1 Personal Property. If termination of this Lease Agreement is for default by **TENANT** hereunder, **TENANT** shall remove all personal property located on the Premises within thirty (30) days after the date of such termination. Title to and ownership of any personal property left on the Premises after the expiration of said thirty (30) day period shall immediately vest in **CITY** as of the thirty-first day following the effective date of such termination. Personal property as used hereunder shall not include any buildings or fixtures located on the Premises.

12.3.2 Buildings and Fixtures. If termination of this Lease Agreement is for default by **TENANT** hereunder, all buildings and fixtures on the Leased Premises shall become the property of **CITY** and title thereto shall vest in **CITY** as of the thirty-first day following the effective date of such termination; provided, however, upon written notice from **CITY** to **TENANT** prior to the date of termination of this Lease Agreement, **CITY** may require **TENANT** to remove all such buildings and fixtures within thirty (30) days after the date of such termination and to repair any damage to the Leased Premises caused by said removal and to restore the Premises to its original condition, all at **TENANT**'s cost and expense.

12.4 **TENANT** Failure to Remove. Upon vesting of title in **CITY** in any buildings, fixtures or personal property pursuant to the terms of this Article, **CITY** shall have the right to use, lease, sell, assign, remove or otherwise dispose of, or store such property, subject to the requirements of any then applicable laws for the disposition of abandoned property. **CITY** shall be entitled to all proceeds from any such use, lease, sale, assignment or other disposition; and in the event **TENANT** was required to remove such buildings, fixtures or personal property under the terms of this Article and failed to do so, **TENANT** shall be liable to **CITY** for all losses, fees, or costs incurred by **CITY** in such use, lease, sale, assignment, removal, storage or other disposition,

including without limitation reasonable attorney's fees, and any costs or expenses incurred by **CITY** to repair any damage to the Leased Premises caused by said removal and to restore the Premises to its original condition.

ARTICLE 13 - NO ASSIGNMENT AND SUBLETTING

13.1 The **TENANT** shall not assign, rent, sublease, convey, mortgage, encumber or otherwise transfer in any manner all or any part of the Leased Premises or the improvements located thereon or any of the privileges granted to **TENANT** hereunder, without the prior written consent of the **CITY**, which approval shall not be unreasonably withheld or delayed. To the degree consistent with this Lease Agreement and the scope of use described herein, the **CITY** consents to operation of the FBO through the wholly owned entities of **TENANT** or through any one or more of the Tenant Parties, as identified in Exhibit C. **TENANT** shall provide **CITY** with a list of all persons, companies, corporations, or other entities who operate at or from the Premises under a sublease or other agreement, transfer or assignment by or with **TENANT**, such list to be provided on an annual basis or upon **CITY**'s request. **CITY** reserves the right to review the form of all subleases. **CITY** further reserves the right to place such reasonable conditions upon any such transfer as it deems to be in the best interest of the **CITY**. In the event of any approved transfer, sublease or assignment, **TENANT** shall continue to be liable to **CITY** for all rent, fees, taxes and assessments for which it is liable hereunder. All approved transferees, subleases or assignees shall be required to conform to all of the terms and conditions of this Lease Agreement, including without limitation, all insurance requirements hereunder.

13. 2 Any violation of the terms of this Article by any person at or on the Premises, or conducting any activities from, at or on the Premises, shall be deemed a breach of this Lease Agreement and, at **CITY** option, may result in termination of this Lease Agreement pursuant to Article 11.

13.3 Any sale or transfer, whether to one or more persons or entities and whether at one or more different times, of a total of fifty percent (50%) or more of the ownership interest in any corporation, partnership, limited liability company or other entity which is then the legal tenant under this Lease Agreement shall be deemed an assignment of this Lease Agreement within the meaning of this Article 13. Any establishment of a separate LLC or other entity by **TENANT,** other than those identified in Exhibit C, to operate on or from the Premises shall be deemed a transfer of this Lease, even if such LLC or other entity is wholly owned by **TENANT** or other entity named in Exhibit C.

13.4 Despite any permitted assignment, subletting or other transfer, **TENANT** shall not be relieved of its obligations under this Lease Agreement but shall continue to remain primarily liable hereunder and shall not be relieved of such liability by an extension of time or other indulgence granted by **CITY** to any transferee, assignee or sublessee or by failure of **TENANT** to receive notice thereof and **TENANT** hereby waives suretyship defenses.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 NON-INTERFERENCE WITH OPERATION OF AIRPORT

14.1.1 **TENANT,** by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft at **CITY**'s Airport or otherwise constitute a hazard or interfere with or endanger general operations at the Airport. In the event the aforesaid covenant is breached, the **CITY** reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the **TENANT**, and reimbursement for such **CITY** expense shall be paid by **TENANT** immediately upon **CITY**'s demand therefor.

14.1.2 **CITY** hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport. In addition, **TENANT** acknowledges that because of the close location of the Premises to the "airfield operations area", that noise, vibration, fumes, debris and other interference with the Premises will be caused by Airport operations. **TENANT** hereby waives any and all rights and remedies against **CITY** arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport. **CITY** reserves the right to enter the Premises for navigational needs.

14.2 QUIET ENJOYMENT

The **CITY** agrees that on payment of the rentals and fees hereunder, and subject to performance and compliance by **TENANT** of the covenants, conditions and agreement on its part to be performed and complied with herein, **TENANT** shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities, and of the Leased Premises, to the extent granted herein. It is mutually agreed, however, that this Lease Agreement is made subject to the covenants, requirements and restrictions contained in the Deeds by which **CITY** obtained title to the Airport.

14.3 AGREEMENTS WITH FEDERAL GOVERNMENT

This Lease Agreement is subject and subordinate to the provisions of any agreements that have been or shall be made between the **CITY** and the United States of America relative to the operation or maintenance of the Airport, the execution of which have been or shall be required as a condition precedent to the transfer of Federal rights of property to the **CITY** for Airport purposes, or to the expenditure of Federal funds for the extension, expansion, or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time (the "Sponsor's Assurances"). **TENANT** agrees to comply with all applicable

federal law, regulations and Sponsor's Assurances and to modify or amend this Agreement as required to comply with such applicable laws, regulations and Sponsor's Assurances.

14.4 LICENSE FEES AND PERMITS

TENANT shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

14.5 SECURITY AGREEMENT

TENANT, at its own cost and expense, shall be responsible for ensuring that all building entrances, gates (Intellikey locks required to be provided by **TENANT** or equal approved by the Airport Security Coordinator), exits, and any access to the Leased Premises are in compliance with the Airport Security Program as required by 49 CFR Part1542, and any amendments thereto. **TENANT** must control and regulate any doors, openings or entrances to the Security Identification Display Area (SIDA) to prevent unauthorized access by persons and/or vehicles. It shall be **TENANT**'s responsibility, at its own cost and expense, to be in compliance with all existing and future security requirements of the Department of Transportation, Transportation Security Administration, and/or the Airport Security Program, and **TENANT** shall hold the **CITY** harmless and shall pay any fines, penalties, cost or expenses incurred by **CITY** or by **TENANT** and arising out of any breach of said security requirements by **TENANT,** its officers, agents, employees, customers, invitee, subtenants, contractors, subcontractors or anyone for whose act **TENANT** may be liable.

14.6 PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Lease.

14.7 INTERPRETATIONS

The laws of the State of Maine shall govern the validity, interpretation, performance and enforcement of this Agreement. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires. Unless the context specifically provides otherwise, "person" wherever used in this Lease shall include, without limitation, an individual, a sole proprietor, a corporation, a partnership or any legal entity authorized by law.

14.8 DISPUTE RESOLUTION

Except as provided herein for determination of Renewal Rent in Section 4.3, all disputes hereunder which are not mutually resolved shall be resolved by trial without a jury in the Courts

of Cumberland County, State of Maine. Notwithstanding the foregoing, **TENANT** and **CITY** may mutually agree to submit any dispute hereunder to binding arbitration, subject to the following terms and conditions:

14.8.1 A request for arbitration shall be directed to the American Arbitration Association, under its commercial arbitration rules. The jurisdiction and authority of the arbitrator selected and the arbitrator's opinion and award shall be confined exclusively to the interpretation of the express provision or provisions of this Lease at issue between the parties and in accordance with the laws of the State of Maine. The arbitrator shall have no authority to add to, detract from, alter, amend or modify any provision of the Lease Agreement. The arbitrator shall not impose on either party hereto a limitation or obligation not expressly provided for in this Agreement.

14.8.2 The award shall be in writing and shall set forth the arbitrator's findings of fact and conclusions of law in a form sufficient to appraise the parties and any appellate court of the basis for the decision.

14.8.3 The award is subject to review by the Cumberland County Superior Court, sitting without a jury, which may affirm, modify or reverse the award pursuant to 14 M.R.S.A. Section 5927 et. seq. In the event of any conflict between said statute and this Lease Agreement, this Lease Agreement shall prevail.

14.8.4 The review by the court shall be based upon the record of proceedings before the arbitrator, unless the court, by order, provides otherwise. The appellant shall have the responsibility to prepare the record of proceedings and its submission to the court.

14.9 NOTICES

Except as otherwise provided in Article 11 for certified mail or hand delivery of notice of default, whenever any notice or payment is required by this Lease Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to, or hand-delivered to:

CITY:

Airport Director
Portland International Jetport
1001 Westbrook Street
Portland, Maine 04101
with a copy to:

City Manager
389 Congress Street

Portland, ME 04101

and notices, consents and approvals to **TENANT** addressed to, or hand delivered to:

_____

Hangar Group, LLC
Attn: Mr. Allyn J. Caruso, Manager
1025 Westbrook Street
Portland, ME 04102

With a copy to:

Lynn Mistretta, Esq.
Marcus, Clegg & Mistretta, P.A.
One Canal Plaza, Suite 600
Portland, ME 04101

or such place as either party shall designate in writing.

14.10 ENTIRE AGREEMENT

This Lease Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the parties and all other representations or statements heretofore made, verbal or written, are merged herein, and this Lease Agreement may be amended only in a writing executed by duly authorized representatives of the parties hereto.

14.11 NON-WAIVER

No waiver by either party of any of the terms, covenants, and conditions hereof to be performed kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept, and observed by the other party. The receipt by **CITY** of any rent with knowledge of any breach of this Lease Agreement by **TENANT** or of any default by **TENANT** in the observance or performance of any of the terms, covenants or conditions of this Lease Agreement shall not be deemed to be a waiver of any provision of this Lease Agreement. If any action by **TENANT** shall require the consent or approval of **CITY, CITY**'s consent to, or approval of, such action on any one occasion shall not be deemed a consent to, or approval of, said action on any subsequent occasion, or consent to, or approval of, any other action on the same or any subsequent occasion.

14.12 REMEDIES CUMULATIVE

All rights and remedies of the parties herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by either party of any remedy provided herein or allowed by law shall not be to the exclusion of any other remedy.

14.13 TIME OF ESSENCE

Time is and shall be of the essence in respect to the performance of each and every provision of this Lease Agreement.

14.14 FORCE MAJEURE

Neither the **CITY** nor **TENANT** shall be deemed in violation of this Lease Agreement if either should be prevented from performing any of the obligations hereunder (other than any obligations to make payments) by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control. The party claiming Force Majeure shall give prompt written notice to the other party of such event or events, and shall resume performance promptly upon the conclusion of the event or events preventing its performance.

14.15 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, 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. In the event of such invalid provision, there will be added to this Lease Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

14.16 NON EXCLUSIVE RIGHTS

Nothing herein contained shall be deemed to grant to **TENANT** any exclusive right or privilege within the meaning of section 308 of the Federal Aviation Act for the conduct of any activity at the Airport.

Section 14.17 Intentionally omitted.

14.18 MEMORANDUM OF LEASE

Either party at the request of the other, shall execute, acknowledge and deliver for recording, a memorandum or short form lease prepared by the requesting party; provided, however, that the relations between **CITY** and **TENANT** shall be governed solely by the provisions of this Lease Agreement and not by any such memorandum or short form lease which may be executed, delivered and recorded.

14.19 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease Agreement shall extend to and bind the legal representatives, heirs, successors, and any permitted assigns of the respective parties hereto. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of **TENANT** in violation of any other provisions contained in this Lease Agreement.

14.20 ASSIGNMENT TO CITY SUCCESSOR IN INTEREST

The **CITY** may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest.

14.21 NO PERSONAL LIABILITY

No Councilor, director, partner, officer, shareholder, member, manager, agent or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement, or because of any breach thereof, or because of its or their execution or attempted execution.

14.22 AUTHORITY OF PARTIES

14.22.1 **CITY** represents that it has the right to lease said property designated herein as the Airport and the Leased Premises, together with all facilities, rights, licenses and privileges herein granted, and has full power and authority to enter into this Lease Agreement in respect thereof.

14.22.2 **TENANT** hereby makes the following representations as the basis for its undertakings herein contained:

(a) **TENANT** is a limited liability company duly organized under the laws of the State of Maine; it is wholly owned by Allyn J. Caruso; it is in good standing under the laws of said State; has the power to enter into this Agreement; by proper corporate action has duly authorized the execution and delivery of this Agreement; and is in full compliance with all applicable Maine laws relating to the conduct of its business in Maine; and

(b) **TENANT** will occupy and possess the Leased Premises subject to the control and jurisdiction of the **CITY** in accordance with the terms hereof.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized representatives as of the date first above mentioned at Portland, Maine.

WITNESS	**CITY OF PORTLAND, MAINE**
_____	_____ Sheila Hill-Christian, Acting City Manager
_____	_____

STATE OF MAINE
Cumberland, ss. , 2015

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

Before me,

_____
Notary Public/Attorney at Law

STATE OF MAINE
Cumberland, ss. , 2015

Personally appeared the above-named Allyn J. Caruso, Manager of Hangar Group, LLC, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of

said limited liability company.

Before me,

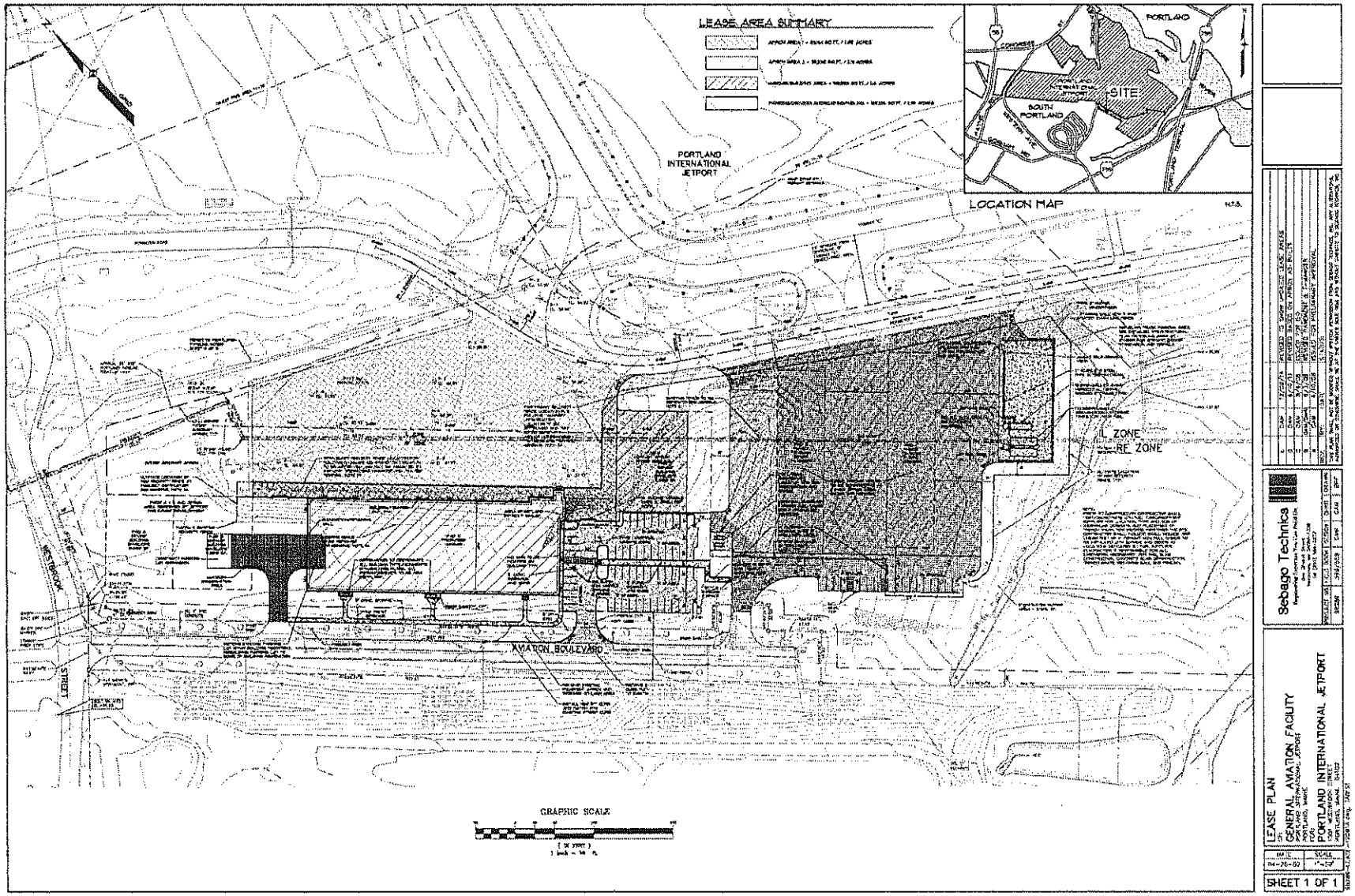
_____

Notary Public/Attorney at Law

PROPOSED AGREEMENT

EXHIBIT A

PROPOSED AGREEMENT



PROPOSED AGREEMENT

EXHIBIT B

CITY's RFP 4815 and **TENANT**'s response dated FEBRUARY 12, 2015

CITY OF PORTLAND, MAINE

REQUEST FOR PROPOSALS:

Construct & Operate a Fixed Base Operation (FBO) Terminal and Provide General Aviation Fixed Base Operations

RFP NUMBER 4815

Portland International Jetport

January 5, 2015

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Exhibit B - City of South Portland Approval Documents
Exhibit C - Maine Department of Environmental Protection Site Location Permit
Exhibit D – Portland International Jetport Spill Prevention and Countermeasure Plan
Exhibit E – Stormwater Pollution Prevention Plan
Exhibit F – Wildlife Hazard Management Plan
Exhibit G – Site Development Plans
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Exhibit I – Sample Lease Agreement
Exhibit J – Lease Plan

INVITATION TO SUBMIT PROPOSALS

The City of Portland ("City"), is soliciting proposals from interested parties to finance, construct, manage and maintain a new general aviation facility at the Portland International Jetport (PWM). Through the Jetport's master planning process, the need for a second general aviation fixed base operator at the Jetport has been identified. A copy of the current Master Plan Summary can be viewed on the Jetport's website at: www.portlandjetport.org/sites/default/files/documents/PortlandSumm.Brochure.pdf. Additionally, the Jetport is in the process of updating its master plan through the preparation of a new Sustainable Airport Master Plan. All information associated with this planning process can be found at: www.thejetport.airportstudy.com

Sealed proposals, addressed to Purchasing, Room 103, City Hall, 389 Congress Street, Portland, Maine 04101, and endorsed on the outside of the envelope with the name of the Proposer, Contract Name and Proposal number will be received until 3:00 PM (prevailing time) on **February 12, 2015**, at which time they will be publicly opened. Late, faxed or electronically submitted proposals will not be accepted. Proposals submitted shall be held open to acceptance for sixty days. Given the extent and unique nature of this proposal, the City of Portland is expected to take several weeks to evaluate each proposal. Interviews may be scheduled at the discretion of the City of Portland.

PROJECT NAME:	Construct & Operate A Fixed Base Operation (FBO) Terminal and Provide General Aviation Fixed Base Operations.
LOCATION:	Aviation Boulevard located at the northerly end of Westbrook Street (from Western Avenue in South Portland) and adjacent to the Portland Jetport and Long Creek Youth Center. The location is on airport property owned by the City of Portland, but is located in the City of South Portland on the South side of Runway 11/29.
OUTLINE OF WORK:	Construction and management of a Fixed Based Operation Terminal and Provide General Aviation Fixed Base Operations consistent with this RFP and Portland International Jetport objectives.

There will be a **mandatory pre-proposal** meeting to review the City's request and to examine the facility at **10:00 am, on Thursday, January 29, 2015**, at the Portland Jetport administration office conference room on the second level of the Jetport Terminal Building at 1001 Westbrook Street, Portland, Maine. City representatives will review the site details and plans. A tour of the FBO site will be provided to attendees if requested at the meeting. All firms interested in submitting proposals are **required to be represented at this meeting**. Due to the complexity of the project, this meeting is required to review the Jetport's objectives, goals, and sequencing of the work and schedule. Only those firms represented at this meeting will be allowed to submit proposals. The City of Portland disclaims any and all responsibility for injury to Proposers, their agents, or to others while examining the Jetport facilities or at any other time.

Eight (8) complete sets (with the original of the eight being so marked) of each firm's proposal are to be submitted in a sealed package plainly marked on the outside as "CONSTRUCT & OPERATE FIXED BASE OPERATION (FBO) AND PROVIDE GENERAL AVIATION FIXED BASE OPERATIONS, RFP 4815". The original copy must include all City provided signature forms, including all addenda, signed with the firm's name, and bearing the hand written signature of an officer or employee having authority to bind the company by his or her signature.

NOTE: All potential Proposers are reminded that information contained in submitted material will become a public record.

The City of Portland is subject to the Freedom of Access law. Under this law, it must make public information which it receives in the solicitation of proposals. The Freedom of Access law does, however, have an exception applicable to "Proprietary Information." In the event that the proposal you submit contains any proprietary information, the City agrees that it will not disclose such information to any third party, and that such disclosure shall occur only if the City is compelled to disclose such information by a final judgment, after giving you the opportunity to litigate the issue. Proprietary information must be submitted in a separate sealed envelope to the City along with your sealed proposal. The outside of the envelope must clearly be marked "proprietary information/confidential. The City agrees that trade secret information will only be viewed by Portland City officials, and will be reviewed only on a "need to know" basis. The information will not be shared with any third party without your express consent or a court order.

Any and all exceptions to this Request shall be clearly and explicitly stated in the firm's submission.

The successful Proposer shall defend, indemnify, and agree to hold the City harmless from all losses, costs or damages caused by his/her acts or those of his/her agents. The Proposer shall be responsible for any and all injury or damages as a result of any services rendered under the terms and conditions of the

contract. The Proposer also agrees to hold the City harmless for any negligent act or omission committed by any subcontractors or other person employed by, or under the supervision of, the Proposer under the terms of the contract. The successful Proposer, before signing the contract, shall produce evidence satisfactory to the City's Corporation Counsel that he/she has secured General Public Liability insurance coverage, including Contractual Liability, in the amounts listed in the Minimum Qualifications Section of this RFP (pages 20-21), for bodily or personal injury, death and property damage, protecting the agency and naming the City as an additional insured from such claims, and Worker's Compensation Insurance. The Proposer shall carry products liability insurance, in the amount of two million dollars ($2,000,000). This disclaims any and all responsibility for injury to Proposer, their agents or others while examining the job site or at any other time.

The successful bidder shall supply the City with a Performance Bond and Labor and Material Payment Bond, each in the amount of the contract price, guaranteeing one hundred percent (100%) performance of the contract, including the guarantee period and free and clear of any and all liens, attachments and encumbrances. All bonds shall comply with the requirements of Maine state law.

QUESTIONS: All questions shall be directed in writing only to the Purchasing Office, City Hall, Room 103, 389 Congress Street, Portland, ME 04101, e-mail MFF@ portlandmaine.gov or fax 207-874-8652 and be received by 12 noon at least five (5) City business days (Saturday, Sundays and Holidays excluded) prior to the opening date. Questions received after this time will not be addressed. Written addenda may be issued when changes, clarifications, or amendments to this document are deemed necessary to document holders registered in the Purchasing Office.

Proposals from firms not registered with the Purchasing Office may be rejected; receipt of this document directly from the City of Portland indicates registration. Should a Proposer receive this Invitation from a source other than the City, please contact 207-874-8654 to ensure that your firm is listed as a Proposer for this bid.

Receipt of any addenda must be acknowledged in writing as part of a proposal. Each bidder shall be responsible for ensuring that they have received any and all addenda. The City shall not assume responsibility for the receipt by the Contractor for any addenda.

INVESTIGATION OF CONDITIONS: The submission of a Proposal shall constitute conclusive evidence that the Proposer has investigated all technical specifications, site conditions, the manner and environment in which the FBO will be provided and is aware of circumstances, procedures, and requirements affecting the FBO to be provided. The attention of the Proposer is specifically directed to, and Proposer will be conclusively presumed to have read and become familiar with, all Proposal

Documents. No claim for adjustment of the provisions of the Agreement Documents, and particularly of the FBO fees and/or rent to be paid to the Jetport shall be honored, after the Ground Lease Agreement has been executed by both parties, on the grounds that Proposers were not fully informed as to the conditions which do or could exist. The Attached Form of the Ground Lease Agreement is the Form of Agreement the City contemplates will be executed by the Parties. Any requested changes to this Form of Agreement must be submitted in writing to the City on or before the due date for such proposed changes set forth in the Instructions to Proposers entitled "Proposer's Written Comments." All potential Proposers shall be notified of any proposed changes that are accepted by the City through an Addendum to the Proposal Documents. They shall be included in the Agreement that shall be executed by the successful Proposer, in the event no proposed changes are submitted, or the proposed changes submitted are not accepted by the City and set forth in an Addendum to the Proposal Documents, then the Form of the Ground Lease Agreement as originally proposed by the City shall be executed by the successful Proposer. Notwithstanding the foregoing, the City shall have the right to make nonmaterial changes to the Agreement up to the date of execution by both parties, and shall also have the right to insert the name of the successful Proposer and the applicable fees.

EQUAL EMPLOYMENT OPPORTUNITIES: FBO shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

RESERVATION OF RIGHTS: The City reserves the right to request clarification of and/or solicit additional information of any Proposer, to have Proposer(s) make presentations to the selection committee; and/or to negotiate with any Proposer regarding any terms of their proposal, including but not limited to the cost and/or scope of services, with the intent to achieve the best proposal that shall result in a contract that is deemed by the City to be in its best interest.

The selected firm shall not assign this contract to another without the written permission of the City.

Proposers shall ensure that all information required herein be submitted with the proposal. Provision of inaccurate information or failure to provide all information required may be sufficient cause for rejection of the proposal or rescission of an award.

By submitting a proposal, the Proposer agrees and assures that the specifications are adequate, and the Proposer accepts the terms and conditions herein. Any exceptions shall be noted in the proposal. The City reserves the right to reject any or all proposals based on exceptions presented to the RFP, without obligation to communicate or negotiate with the Proposer.

The City of Portland, Maine, reserves the right to waive any informalities in proposals, to accept any proposal or portions thereof, and to reject any and all proposals, should it be deemed in the best interest of the City to do so. The City reserves the right to substantiate Proposer's qualifications, capability to perform, availability, past performance record and to verify that the Proposer is current in its obligations to the City.

It is the custom of the City of Portland, Maine to pay its bills 30 days following equipment delivery and acceptance, and following the receipt of correct invoices for all items covered by the purchase order. If your organization prefers to receive payment via electronic transfer rather than by check, please see the web link below* and include that EFT form with your bid submission. In submitting bids under these specifications, bidders should take into account all discounts; both trade and time allowed in accordance with this payment policy and quote a net price. The City is exempt from the State's sales and use tax as well as all Federal excise taxes.

* http://www.portlandmaine.gov/DocumentCenter/Home/View/817

Pursuant to City procurement policy and ordinance, the City is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Bidders who are delinquent in their financial obligations to the City must do one of the following: bring the obligation current, negotiate a payment plan with the City's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful bidder.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

January 5, 2015

Matthew Fitzgerald
Purchasing Manager

PROPOSAL STATEMENT FORM
CONSTRUCT & OPERATE FBO AND PROVIDE GENERAL AVIATION FIXED BASE OPERATIONS AT THE PORTLAND INTERNATIONAL JETPORT
RFP # 4815

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

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

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

The bidder acknowledges the receipt of Addenda numbered: _____

COMPANY NAME: _____

AUTHORIZED SIGNATURE: _____

DATE: _____

PRINT NAME & TITLE: _____

ADDRESS: _____

E-MAIL ADDRESS: _____

PHONE NUMBER: _____ FAX NUMBER: _____

TYPE OF ORGANIZATION - PARTNERSHIP, CORPORATION, INDIVIDUAL, OTHER:

_____

STATE OF INCORPORATION, IF APPLICABLE: _____

FEDERAL TAX IDENTIFICATION NUMBER (Required): _____

AUTHORIZED SIGNATURE: _____

DATE: _____

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

BACKGROUND AND PROJECT SCOPE

1.0 Project History

The City of Portland began the planning, design and permitting process for a new General Aviation Facility at the southerly end of the Portland Int'l Jetport adjacent to Runway 36 nearly ten years ago. General Aviation is an integral component of the Jetport's overall operation and is recognized as an important service component for the Jetport to efficiently meet its customer's needs. Unfortunately, the 2008 recession and reductions in General Aviation and Airline business resulted in this development being delayed until now. The Jetport is pleased to issue this RFP and looks forward to the development of a second FBO at PWM. The Jetport currently has a Fixed Base Operator (FBO) owned and Operated by Northeast Air at the northeasterly end of the airport adjacent to Runway 18-36. The Jetport remains interested in introducing a second Fixed Base Operator (FBO) at PWM and believes current economic conditions are now favorable for this development.

The site for the FBO development covered under this RFP is comprised from a portion of land the Jetport acquired to manage growth in accordance with the overall Master Plan developed in the mid-1990s. The land acquisition included 70 acres that was part of the former Maine Youth Center (now Long Creek Correctional Facility) and abutted the Jetport. Acquisition of this land, which is located in the City of South Portland immediately adjacent to the Jetport, has allowed the Jetport to provide runway safety areas for the north south runway (18-36) and proceed with the planning and design of this proposed new General Aviation FBO Facility.

The project site is located in the City of South Portland Light Industrial Zone (IL) which allows for aviation facilities and services. The City of Portland has obtained site plan approval from the City of South Portland (Refer to Attachment B) and has completed construction of the access road and a 2 acre Apron as part of an FAA AIP funding.

In addition, a Site Location of Development Act and NRPA permit were filed with the MDEP in February of 2005. A site location order was granted by the MDEP in November of 2005 (Refer to Attachment C) allowing the Jetport to move forward with construction of the South Development GA Apron and Access Road.

2.0 Development Area

The total development area will encompass approximately 11 acres of land area with an impervious surface coverage of approximately 7.5 acres. Land coverage accounts for buildings, roadways, aircraft

parking apron, and taxiway access. This facility is located at the southerly end of the airport near the terminus of Westbrook Street on airport property that was obtained from the State of Maine. The overall parcel obtained from the State of Maine is 70.4 acres, with over half of the land within the aviation easement for Runway 18-36 and constrained by topography and wetlands. The FAA mandated runway setbacks (Building Restriction Line – BRL) allow for the construction of new buildings in the development area, along with aircraft aprons and associated infrastructure. The selected FBO is required to comply with all FAA regulations and requirements of the Airport Layout Plan.

As part of the Jetport's Master Plan, re-alignment of Taxiway Charlie in the area of the FBO site may occur at an unspecified future date. It is expected that the re-alignment may provide for future expansion opportunities. If this occurs, the Jetport will negotiate separately with the FBO for any future expansion. The FBO shall familiarize themselves and fully understand the Master Plan which is available on the Jetport's website (www.portlandjetport.org).

3.0 Project Description and General Requirements

The General Aviation Facility will be constructed, managed and maintained by the selected Proposer[1] as a Fixed Base Operation (FBO). The fixed base operator is expected to provide services to include, but not limited to, the requirements described in the Jetport Minimum standards for an FBO. (Refer to Minimum Standards – Attachment - A). As shown on the enclosed site plans, the General Aviation Facility will include an aircraft apron with Taxi-Lane access onto Taxiway "C" Charlie, building pads for aircraft hangar/operations, and T-hangars for smaller private/corporate aircraft. The layout of the project has been designed to work within the FAA mandated building restriction and object-free areas, and to provide appropriate access for aircraft and service vehicles. The Federal Aviation Administration (FAA) restrictions combined with terrain, wetlands, and runway access result in a development confined to the general area proposed to become the new GA facility.

For this project, the Proposer will be responsible for funding and constructing the entire project under a long-term lease agreement with the City similar to the existing FBO and other airport related businesses that currently exist. In addition, the Proposer must submit as part of the RFP a detailed financial plan, capital investment costs, project phasing and timelines to full-build-out, financial information to accomplish the project, operational plans, Pro formas, qualifications, and a development schedule/work plan. The selected Proposer will be required to provide 100 percent surety bonds to cover all site, building and infrastructure costs. The FBO shall also include a close-out plan with financial guarantees in the event the FBO facility is discontinued. Any transfer of ownership must first be approved by the Jetport.

1 "Proposer" is used throughout and depending on the context, may be referring to the "selected Proposer".

The enclosed site plans suggests seven building envelopes ranging in size from approximately 10,000 square feet to 28,800 square feet. As shown on the enclosed plans, the building areas/envelopes will be oriented along the southerly edge of the development area such that aircraft operations will be screened from Westbrook Street and the abutting properties. This has the advantage of creating a business park appearance along the non-airfield side, keeping aircraft operations screened, and reducing noise propagation. The buildings may be oriented in such a manner that security fencing will be installed to prohibit unauthorized access to airfield operations.

The selected Proposer shall comply with "The Portland International Jetport, Minimum Standards, Development Guidelines, (see attached) and all TSA requirements. The standards provide minimum guidelines that the Proposer must adhere to for facility operations. The Proposer shall also comply with all applicable federal, state and local requirements.

The Proposer is expected to incorporate into the facility provisions for the Maine Civil Air Patrol to purchase or lease space meeting its requirements. In addition, several parties have expressed interest to Jetport Administration for construction of T-Hangers at the Jetport. The Proposer is also encouraged to coordinate and work with these parties to construct the T-Hanger area. As part of the proposal, the Proposer shall indicate what business arrangements have been included or will be included in the GA facility to accommodate the Civil Air Patrol and private parties.

As part of the minimum submittal requirements, the Proposer shall submit a development plan and schedule detailing the timing of the facility construction, phasing (if applicable) and how the Proposer will achieve the minimum requirements of the Jetport Minimum Standards. A time table should detail the corporation's progression towards meeting the requirements described in the minimum standards and state definitively when all of the requirements for an FBO in the minimum standards will be met. The plan should detail how the corporation plans to meet the Jetport Development Guidelines. The FBO should be specific in how long it will take them to achieve the full build-out of the facility such that it complies with the Jetport Development Guidelines.

4.0 Regulatory Permitting Requirements Summary

The following provides a general summary of obtained and expected permitting requirements for the project. This summary is issued for the Proposer's convenience; however, the Proposer is ultimately responsible for any and all permitting requirements including, but not limited to, all associated costs, plans, studies and technical evaluations, permit applications and associated design.

This project is subject to local, state and federal permitting. . The selected FBO shall be responsible for obtaining and complying with all applicable permits. The following is a general summary of local, state and federal permitting required for the project. This information is provided for the Proposer's convenience; however, it may not be all inclusive and, therefore, the Proposer remains responsible for any all additional permitting requirements.

1. Maine Department of Environmental Protection (MDEP) Site Location of Development Permit (SLDA). The Portland Jetport currently has a SLDA permit from the MDEP (permit numbers L-13760-18-AA-M, L-13760-18-R-A, L-13760-31-S-N and L-13760-18-AG-A). The Proposer must comply with the conditions and requirements of these permits. A copy of this application and permit drawings is on file at the Portland Jetport's Manager's office. The Proposer will be required to construct the facility in accordance with the approved design requirements of the SLDA permit to be issued. Any deviation from these requirements shall require a permit modification from the MDEP. The selected Proposer will be responsible for all permitting and costs associated with any modifications. In addition, the MDEP may inspect the site during construction. The selected Proposer shall be responsible all costs associated with any compliance issues. In addition, the Proposer shall be responsible to provide the City of Portland Jetport with documentation sufficient to comply with the conditions of approval within the SLDA permit. The Proposer shall be responsible for filling all necessary condition compliance applications and modification applications with the MDEP.

2. Maine Department of Environmental Protection (MDEP) Natural Resources Protection Act Permit (NRPA). The Portland Jetport has obtained an NRPA permit with the MDEP for wetlands alteration associated with construction of the GA facility. The Proposer must comply with the conditions and requirements of this permit. A copy of this application and permit drawings is on file at the Portland Jetport's Manager's office. Any deviation from these requirements shall require a permit modification from the MDEP. The selected Proposer will be responsible for all permitting and costs associated with any modifications. In addition, the MDEP may inspect the site during construction. The selected Proposer shall be responsible all costs associated with any compliance issues.

3. Maine General Construction Permit Notice of Intent (NOI). This must be filed by the contractor at least 14 days prior to the start of construction. The selected Proposer shall be responsible for filing this permit including fees and compliance with requirements of this permit application. The Proposer shall pay special attention to the erosion and sedimentation requirements of the SLDA permit and as provided on the site drawings.

4. City of South Portland, State Fire Marshal's and MDEP approval for fuel storage tanks. The selected Proposer is responsible for all costs including, but not limited to, the design, permitting and construction of an above ground fuel storage facility in compliance with local, state and federal regulations. The City of South Portland has limited the amount of on-site fuel storage to 50,000 gallons. In addition, the City of South Portland Fire Department maintains specific regulations and permitting requirements for fuel storage areas. Approval from the State of Maine Fire Marshal's office and MDEP is also required and is the sole responsibility of the selected Proposer.

5. City of South Portland Site Plan Approval. The selected Proposer will be required to obtain any required City of South Portland approvals for the proposed buildings and final site plan layout. The City of Portland has obtained a conditional site plan approval and zoning change for the general facility concept and access road. The selected Proposer will be responsible for all costs associated with the supplemental permitting, impact fees and any engineering or plan modifications. Any plan revisions or modifications to the site layout plans, must also be coordinated and approved by the City of Portland. The Proposer shall be fully familiar with the City of South Portland approval (See Attachment B) and take full responsibility for compliance with the approval.

6. Building permits. The selected Proposer is responsible for securing all necessary local, state and federal building permits. This includes filing required information with the FAA.

7. Coordination and permitting with the Portland Pipeline Corporation. The selected Proposer is responsible for securing all necessary approvals for crossings and work adjacent to the Portland Pipeline easement. The City of Portland has already been in communication with the Portland Pipeline Corporation and has received authorization to cross the pipeline as shown on the provided site drawings. The Proposer shall obtain and comply with the Portland Pipeline Construction guidelines and requirements.

8. Spill Prevention Contingency and Control Plan. Proposer shall have an approved written Spill Prevention Contingency and Control Plan ("SPCC Plan") that meets all applicable Regulatory Measures for the facility. The Portland Jetport Maintains a SPCC plan (see attached). The Proposer shall adhere to all requirements of the Jetport's SPCC plan and shall supplement as specifically required for this project. The Jetport also maintains and updates yearly a Spill Prevention Control and Countermeasure Plan (SPCC Plan) and Stormwater Pollution Prevention Plan. The Proposer shall be responsible for fully

understanding and following the requirements of the plans including future updates (Refer Attachment D and E). The Jetport also commissioned a Wildlife Hazard Management Plan (see attachment F) that the Proposer shall adhere to.

9. Jetport Administration review and approval. Proposer shall be responsible for coordination with the Jetport Operations Manager and Airport Manager during any and all project permitting. Both must approve and review all permit applications prior to filing.

5.0 Facility Construction and Design Requirements:

The Portland Jetport has developed permit level site plans for the GA facility as part of the MDEP SLDA permit modification and limited site planning approval through the city of South Portland. These plans provide the general design and construction parameters for the project. The Proposer is solely responsible for modifying the current design, if needed, and all coordination/compliance with FAA standards.

The Jetport has completed construction of the GA Apron and Access Road. Enclosed are As-Built Plans for the proposer's convenience.

The Jetport has also constructed a public aircraft observation area accessed via the first curb cut off Aviation Boulevard on the lots nearest to Westbrook Street. The proposer shall ensure the aircraft observation area remains and is integrated into the project. The proposer may modify the layout and construction of the observation area to accommodate facility but shall accommodate the observation area with similar parking capacity to what currently exists.

The Proposer is also responsible for preparing and filing all necessary Form 7460's with the FAA.

The plans prepared for the GA facility and appended to this RFP depict the limits and extent of improvements. These plans are intended as permit level drawings only and have been used for applications to the MDEP and City of South Portland. The selected Proposer shall be responsible for final construction drawings of the facility. Use of the permit level drawings for construction shall be at the FBO's risk. The construction drawings must be consistent with the limits and design of the GA facility shown on the provided plans including, but not limited to, the proposed stormwater and erosion control infrastructure, grading and finish grades, building pad locations, notation, and general and specific requirements.

The Proposer shall prepare and submit technical specifications compliant with FAA and Jetport construction standards (See Jetport Development Guidelines). The contract specifications shall include provisions to insure quality of work and that the work does not damage private property or create any hazard to aircraft operations. The Proposer shall be responsible for all construction oversight, security, quality control and quality assurance, and coordination with the Jetport Operations Manager, Jetport Security personnel and Jetport Manager. The Proposer's selected site and building contractors shall be subject to all FAA and Jetport regulations. The FBO shall be fully liable and assumes responsibility for all activities, their employees and actions, including subcontractor employees and actions.

The Proposer shall be responsible for their own geotechnical services for building foundations and to verification of the aircraft apron and infrastructure design. Soils and geotechnical information provided with this RFP are for the Proposer's convenience and general information. The Proposer remains responsible for verification of the site soil conditions and all necessary design and construction modifications. Utility services stubs will be provided to the Right-of-Way limit shown on the plans. The Proposer will be responsible for all utility approvals, fees, coordination, connections, design and construction to the buildings. The Proposer is cautioned that there will be multiple utility and development fees involved including, but not limited to, water connection and metering, electrical/telephone/cable, City of South Portland Sewer connection fees and traffic impact fees, building permit fee's, impact fees, and supplemental permitting.

Prior to construction, the Jetport must approve the Proposer's final design plans and technical specifications. Review by the Jetport is for general compliance with airport operations, and general compliance with the GA facility program requirements and RFP. The selected Proposer remains responsible for final design and construction of a facility consistent with all applicable permits, FAA regulations, Jetport minimum standards, and state and local regulations.

The Proposer must show in their proposal that they will construct a facility that meets all of the requirements of an FBO (see minimum standards) within a specified amount of time. If the Proposer does not meet all of those requirements by the specified date, they will not be allowed to operate as an FBO on the field.

The Proposer shall be responsible for paying for and having on-site inspections and quality control throughout project construction, including all materials testing. The Proposer shall provide the Jetport with a detailed construction schedule, 24 hour contact list, and QA/QC plan, including site and building construction specifications paid for by the Jetport. The Jetport will also have an independent construction inspector on site as needed. The Proposer shall fully cooperate with the Jetport's construction manager/inspector throughout construction. The Proposer shall arrange for and hold weekly meetings at

the project site, including all key personnel and Jetport Operations Manager and/or designee. The Proposer shall keep construction records that shall be bound, including photographs, daily construction reports, materials testing, compaction testing, pavement testing, concrete and other related testing that shall be provided to the Jetport at the end of construction. The Proposer shall also complete a field as-built survey of the facility by controlled on-the-ground survey, including locations of all buildings and physical improvements along with site grades, utilities and invert information. The plans shall be provided as a hard copy (Mylar) and electronically (AutoCAD format) to the Jetport Administration. The Proposer shall be responsible for updating the as-builts as additional improvements are completed.

6.0 Facility Access

The property has frontage on Westbrook Street near its cul-de-sac terminus. Aviation Boulevard, a roadway of approximately 900 feet in length, has been constructed by the City to provide access to the development site. This roadway was constructed to the City of South Portland roadway standards and is expected to be accepted as a South Portland public road a part of this FBO development. Until such time, the Proposer shall be responsible for roadway maintenance, upkeep and repairs. All fuel deliveries must be from Jetport Plaza Roadway. No deliveries are allowed from Westbrook Street per the City of South Portland.

7.0 Lighting, Landscaping and Signage

Once a Proposer is selected, separate site plan approvals from the City of South Portland will be required for the buildings should buildings differ from already permitted facilities. At this time, additional landscaping will be required along the non-airfield side of the building frontage facing the access road. Building lighting will also be reviewed at this time. Future building lighting will be required to comply with requirements of the City of South Portland and FAA/Jetport for the airfield side. Building lighting facing the non-airfield must be cut-off luminaries and lighting on the airfield side will provide safety lighting for the apron and aircraft movement areas. Taxi-lane lighting may also be installed which is typically limited to ground mounted low level lighting consistent with taxiway and runway demarcation.

All building and site signage shall be approved by the City of South Portland and Jetport. All signage must comply with applicable local, state and federal requirements. Airfield side signage must adhere to the Portland Jetport standards and comply with FAA requirements. Airfield signage must be approved by the Jetport Authority. Pavement and Apron markings shall also be subject to the City of South Portland and Jetport authority approvals.

8.0 Parking and Facility Access

The facility includes the previously constructed 900 foot access road, Aviation Boulevard, that will provide access to the facility. The access road was completed by early summer of 2007. Three points of access shall be provided along the roadway to the building, air operations, and parking areas. These points of access have been established for the separate uses and to accommodate physical barriers. Secure gates shall be installed at the airfield perimeter using the Intelli-Key system that has been implemented at the Jetport. The Proposer shall work with the City of Portland and South Portland Fire Department to ensure appropriate facility access and response. Joint meetings have already been held during the planning process to develop a memorandum of agreement between the City of Portland and South Portland fire departments for response. The City of Portland maintains a full-time Air Rescue Fire Fighting (ARFF) staff and equipment for emergency response. It is understood that Jetport ARFF will be the first responder to any airside emergencies.

Public parking will be provided exterior to the secure areas. These parking areas have been located adjacent to the building areas and provide parking for both employees and visitors at the facility.

9.0 Stormwater Management

As part of this development, a stormwater management system will be constructed to collect and treat stormwater runoff from the development area. The stormwater system has been designed to include a subsurface storm drainage system to collect and convey surface water to proprietary structures to achieve a minimum of 40% TSS removal consistent with the sliding scale for TSS removal. In regard to stormwater quantity, this project is located within property under ownership by the Portland Jetport that conveys surface drainage to the tidal waters of Fore River. As a result, no formal stormwater detention is needed, since the project discharges directly into tidal waters of the ocean. The stormwater management system was reviewed and approved as part of the MDEP Site Location Permit. The Proposer is responsible for construction of the stormwater system in accordance with the MDEP approval and stormwater plan. The stormwater treatment unit must be installed as part of any phased construction. Any modifications must be approved by the MDEP and shall be the entire responsibility of the Proposer. The Proposer is responsible for all maintenance/costs of the stormwater system in accordance with Jetport regulations and the MDEP approval.

10.0 Wetland Alteration

Project develop will occur within an open field area that was previously agricultural land. The area selected for the GA facility is predominantly upland. Wetland impact associated with this portion of development will be limited to a small drainage swale collecting surface water that is conveyed to a culvert

system associated with the Jetport. The total impact on wetland is calculated to be approximately 1,800 square feet. The 1,800 square feet of wetland impact has been included and mitigated for in the Jetport's overall NRPA permit application. No further wetland alteration is permitted.

11.0 Provided Site Design and Construction Plans:

The enclosed site development plans depict minimum requirements of the General Aviation Facility and were utilized during the MDEP and City of South Portland Permitting process. The plans are intended as a general layout plan for the Proposer to utilize in the planning and proposal preparation. The access roadway depicted on the plans will be constructed by the Jetport and is expected to be completed by early summer 2007. Roadway construction will include utility services stubbed to the Right-of-Way limit and curb cuts for driveways to the General Aviation Facility. All other work will be the responsibility of the Proposer.

The site plans are provided solely for the Proposer's convenience and depict the intent of the FBO. The selected Proposer shall assume full responsibility for the plans and indemnify, defend and hold harmless the City of Portland, its officers, employees and its designer from all claims, losses, damages, expenses and costs, including all attorneys' fees that may arise from their use or reuse. The Proposer may propose modifications to the plans if deemed necessary to accommodate the project, but is responsible for all engineering, design, permitting, and state, local and federal approvals.

Additional design and planning services are expected and will be the responsible of the Proposer to develop construction drawings.

12.0 Facility and Grounds Maintenance

The Proposer shall be responsible for all facility and grounds maintenance including, but not limited to, winter operations, utility infrastructure, buildings, landscaping, lighting, fuel storage areas, and maintenance activities to comply with local, state and federal regulatory/permit requirements. The Proposer shall provide the Jetport with a maintenance plan for review and approval. The Proposer shall take special notice to the requirements of the MDEP site location permit for maintaining the stormwater infrastructure.

13.0 Security

The project will require special security considerations during and after construction. Facility construction will require relocation of the perimeter security fence and Jetport service road within the airfield. The

Proposer will be required to erect temporary fencing during construction and comply with all FAA/TSA and Jetport security requirements. In addition, provisions shall be made to maintain access during relocation of the airfield perimeter road and taxi-lane construction. Access gates with keyed systems approved by the Jetport must be installed in the locations show on the provided site drawings. Deviations from this plan must first be approved by the Jetport.

It is anticipated that building construction will require secure building side access. The Proposer shall provide building security and access consistent with Jetport, TSA and FAA requirements. The Proposer shall coordinate all work and obtain authorizations from the Jetport authority.

All personnel must obtain security badges from the Jetport for airfield access.

14.0 Jetport Minimum Standards and Development Guidelines

The Proposer is responsible for compliance with the Jetport Minimum Guidelines and Development Standards appended to this RFP. In the case of conflict between any of the standards or information contained in this RFP, the more restrictive shall apply unless otherwise approved by the Jetport.

MINIMUM QUALIFICATIONS AND PROPOSAL TERMS

1. Minimum Qualifications

Each Proposer shall, at the time a Proposal is submitted, furnish the Jetport satisfactory evidence of its financial responsibility and competency to operate the FBO. In order to be considered qualified; each Proposer shall meet the following minimum qualifications:

MINIMUM QUALIFICATION FORM (Appendix A): Each Proposal must be accompanied by a completed "Minimum Qualifications Form", including required attachments, concerning both the Proposer's experience in running a fixed base operation. All information must be complete, accurate and in the form requested. The Qualification Form may be found in Appendix A of this RFP. The Qualifications Form may be reproduced for ease of preparation, provided it is reproduced in its entirety.

Any Proposer (or its principal owner or predecessor in interest, or, in the case of a joint venture, at least one joint venture partner with at least 40% interest in the joint venture) must meet all of the following eligibility criteria:

- It must have been in continuous existence providing services consistent with those described in the Jetport Minimum Standards for at least the last 5 years; and
- The business must have generated annual business volume in one of the last three years equal to or greater than $8,000,000; and
- Proposer must demonstrate to the satisfaction of the Jetport that it has the financial resources to finance, develop, construct and operate a FBO as contained in this Proposal.
- No single entity will be allowed to operate more than one FBO facility at the Portland International Jetport (See item 12 in this section)
- A minimum capital investment for this Project of $4,000,000.

2. Term of Agreement

The successful Proposer will be required to enter into a long term negotiated lease agreement with the City of Portland. It is expected the lease will have an initial 20 year term with an option for up to an additional 20 years.

3. Insurances

The successful proposer shall agree to defend, indemnify and save the City of Portland, its officers and

employees harmless from all losses, costs or damages caused by its acts or those of its officers, employees, agents, contractors or subcontractors, or invitees, and, before signing the contract, will produce evidence satisfactory to the Corporation Counsel of the City of Portland that it has secured insurances in accordance with the "Jetport Development Guidelines and Minimum Standards" (see attached). The successful Proposer shall furnish and thereafter maintain certificates evidencing such coverage. FBO shall notify the City within thirty (30) days of termination from FBO's insurance company or agent. The City disclaims any and all responsibility for injury to contractors, their agents, their subcontractors, if any, or to others while examining the job or at any other time. The amounts of the insurances shall be as stipulated in the Jetport's "Minimum Standards."

Environmental Impairment (Pollution) Insurance: This insurance shall cover Proposer for liability resulting from pollution or other environmental impairment arising out of, or in connection with, work performed under this Agreement, or which arises out of, or in connection with, the use or occupancy of City of Portland premises in connection with this Agreement. If this policy is on a claims-made basis, the insurance must respond to claims reported within three years after the termination of this Agreement. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be: Each Claim $2,000,000 and Annual Aggregate $4,000,000

Aviation Liability Insurance: This insurance shall cover FBO for liability, including liability to passengers or resulting from the ownership, operation, maintenance or use of any aircraft on, or in connection with any premises. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be: Each Occurrence – Combined Single Limit $10,000,000

Property Insurance: This insurance shall cover any existing, or hereafter constructed (including while under construction) buildings, structures, or any other improvements to real property located on real property leased, rented or otherwise demised by City Of Portland to FBO under this Contract. Each Occurrence – Combined Single Limit $10,000,000

4. Construction Bonds

The FBO shall supply the City of Portland with a Performance Bond, Labor and Material Payment Bond, each in the amount of the site and building construction costs, guaranteeing one hundred percent (100%) performance and payment of the project, including the guarantee period and free and clear of any and all liens, attachments and encumbrances. The City reserves the right to substitute a letter of credit covering the required site plan improvements. All such bonds shall comply with the requirements of Maine State law. The FBO shall provide waivers of lien, signed by individual subcontractors. Any mechanic's lien or any other lien which may be filed against the premises which are the subject of the contract by reason of

the work described herein shall be defended (by counsel reasonably acceptable to the City) and promptly discharged by the FBO at its own expense. If the FBO should fail either to defend the City against the lien or to discharge it, then the City may do so at the FBO's expense. In the event of such an undertaking by the City, the FBO will promptly reimburse the City for all its costs and expenses in so doing including, but not limited to, reimbursement of the City's reasonable counsel fees and costs which may be incurred by it in substituting a bond in place of the lien. Materials and equipment purchased for permanent installation in this project are NOT exempt from the State of Maine Sales and Use tax and from all Federal Excise taxes.

5. Safety

The contractor shall erect and maintain, at all times, any and all safeguards necessary for the protection of life and property of all pedestrian and vehicular traffic.

6. Payment to City of Portland

For the rights and privileges granted herein, the successful Proposer agrees to pay ground rent on all landside and building pad areas. The ground rent shall be paid directly to the City of Portland by the 5th of each month in full. Ground rent shall commence once the FBO obtains the certificate of occupancy for any building structure and upon completion of any and/or all aircraft apron areas. Ground rents will not be charged for unimproved building pads.

Current Ground lease rates are 25 cents per square foot for landside areas and building pads. All rates will be adjusted on July 1 each year per CPI.

The FBO will pay the airport 2% of gross revenue for all activities conducted by the FBO per the Jetport Minimum Standards. If changes are made to the Jetport's Primary Guiding Documents (General Provisions, Lease/Rates and Charges GA, Minimum Standards, Rules and Regulations, Development Guidelines, Definitions, Rates/Charges Schedule, and Land Use Plan) these changes shall apply to the successful bidder in the future.

Please see the attached ground lease plan for details relating to ground rent.

7. Non-Exclusivity of Agreement

The successful Proposer understands and agrees that any resulting contractual relationship is nonexclusive and the City of Portland reserves the right to seek similar or identical services elsewhere if deemed in the best interests of the City Of Portland.

8. Collusion

Proposals may be rejected if there is reason for believing that collusion exists among Proposers, and no participant in such collusion will be considered in any future proposals for the operation of any concession for the next six (6) months following the date of the Proposal submission.

9. Governance

If any of the language or information in this Proposal is in conflict with other sections of the proposal, "The Jetport Development Guidelines and Minimum Standards" and/or any local, state or federal regulation the Jetport Administration shall make a determination based upon the intent of the RFP and Jetport objectives. The determination shall be binding and final.

10. Public Disclosure

All information received by the City will become a public record, and therefore available for viewing by the public. Proprietary business or financial information should be segregated from the main proposal and marked as such, in order to be protected from public view, as provided in Maine Law, 5 MRSA sections 13119-A and 13119-B.

11. Indemnification

The selected Proposer will be required to enter into appropriate indemnification and insurance provisions with the City of Portland through the negotiated Lease Agreement. The selected Proposer will be required to defend, indemnify and hold the City harmless from any claims resulting from its negligence, or the negligence of its officers, employees, agents, contractors, subcontractors, invitees or anyone else for whom it may be legally liable.

12. Competition Clause

The Portland Jetport currently has one FBO located adjacent to the existing general aviation ramp. This project is intended to introduce a second FBO to the airport to provide complimentary services offering prospective users a choice of services to select from. As a result, no single FBO will be allowed to operate more than one FBO facility at the Portland International Jetport. It is the goal of the city of Portland to have two successful FBO's operating at the airport. As a result, a factor in the evaluation of the proposals will be the Proposer's plan to co-exist and promote two successfully operating FBO's at the

Jetport.

MINIMUM PROPOSAL SUBMITAL REQUIRMENTS

The Proposer must provide a detailed submittal including the following minimum items:

A. Qualifications and Experience – The Proposer must submit a detailed description and summary of the Proposer's qualifications to construct and operate a FBO/General Aviation Facility. The qualifications shall include past experience, resumes of key personal, prior project profiles, listing of current operations similar to those described in the Jetport minimum standards for a FBO, listing of Proposer's capabilities to manage and operate the various aspects of a General Aviation Facility. List the number of years of experience proposer has had in the operation of activities described in the Jetport minimum standards for a FBO and provide a listing of all airports which Proposer's organization has conducted these types of activities. (Attach separate sheet, if necessary): a) Airport Name; b) Location; c) Dates of Operation; d) A detailed description of services provided.

B. Submit a development plan and schedule detailing the timing of the facility construction, phasing (if applicable) and how the Proposer will achieve the minimum requirements of the Jetport Minimum Standards. A time table should detail the corporation's progression towards meeting the requirements described in the minimum standards and state definitively when all of the requirements for an FBO in the minimum standards will be met. The plan should detail how the corporation plans to meet the Jetport Development Guidelines. The FBO should be specific in how long it will take them to achieve the full build-out of the facility such that it complies with the Jetport Development Guidelines.

C. References and contact information.

D. Listing and qualifications of all teaming partners.

E. Disclosure of any current or prior (within 10 years) defaults on any projects, current status and reasons for defaults.

F. Disclosure of any current, pending or on-going legal suits against the Proposer or any teaming partners.

G. Full listing with contact information for any teaming partners or subconsultants and contractors.

H. Development Plan and schedule detailing the timing of the facility construction, phasing (if applicable) and how the Proposer will achieve the minimum requirements of the Jetport Minimum Standards. A time table should detail the corporation's progression towards meeting the requirements described in the minimum standards and state definitively when all of the requirements for a FBO in the minimum standards will be met. The plan should detail how the corporation plans to meet the Jetport Development Guidelines.

I. The Proposer must submit a comprehensive financial business plan detailing how the Proposer will finance the construction, operation, management and maintenance of the facility. The financial plan must include a detailed Pro forma including all projected sales and revenues along with a break-even analysis, income projections (10 year projection) with a listing of all assumptions and sources of income, minimum length of time to recapture a return on the investment. **A budgeted income statement, balance sheet and cash flow statement must be provided for the first 10 years, support information from current business should also be provided.** The Proposer must also disclose all sources of financing for the project including contact information and shall demonstrate that the Proposer has the ability to meet all liabilities. Provide a statement, satisfactory to the City of Portland, which demonstrates the Proposer's financial responsibility, from a bank or trust. The Proposer shall also provide the latest available fiscal statements certified by an Independent Certified Public Accountant. Note that the City of Portland may retain a financial consultant to evaluate the Proposer's financial capability to undertake the project. The City further reserves the right to request additional information if the City deems it necessary to verify the financial capability of the Proposer to undertake the project. Include charts and graphs that clearly detail the financial business plan.

J. The Proposer must provide a complete and detailed narrative description of the Proposer's scope of operations, setting forth specifically each business activity proposed and the scope of such activity. Include proposed fees and charges.

K. Attach a complete and detailed narrative description of the Proposer's customer service plan that includes the ability to meet the needs/requests of customers as well as a means for resolving customer complaints.

L. Attach a complete description of the Proposer's proposed management structure and operating personnel schedule. Identify the individual that will be the primary day-to-day

contact on this project. Include resume(s), outlining the experience and qualifications, of the personnel Proposer would assign to FBO.

M. Attach a complete description of the marketing program Proposer plans to use in attracting general aviation activity to the CITY OF PORTLAND. Include Proposer's estimated annual advertising budget.

N. Submit proof of the ability to meet insurance limits from Proposer's insurance company.

O. Attach any other background information about the qualifications and experience of Proposer's organization or personnel that may be useful to the City Of Portland in evaluating your capabilities.

P. Plans and Sketches describing the type of buildings and hangars to be built including elevations and conceptual floor plans.

Q. Site plans and sketches if the Proposer intends to substantially deviate from the layout plan included with this RFP.

R. Complete and submit the proposal form.

ADDITIONAL REQUIREMENTS AND CONDITIONS OF THE PROPOSAL

Prior Contamination

Nothing in this RFP shall be construed to make Proposer liable in any way for any contamination or release of Hazardous Substances (as defined below) affecting the Premises that occurs prior to the entry upon or occupancy of the Premises by FBO or that occurs as a result of the actions of the City Of Portland or any of its employees, agents, or contractors.

Installation of Underground Tanks

FBO shall not be permitted to install underground storage tanks of any kind.

Compliance with Laws, Regulations, Ordinances, Rules

Proposer and its subcontractors shall at all times comply with applicable federal, State, and local laws and regulations, Airport rules, regulations and operating directives as are now or may hereinafter be prescribed

by City Of Portland, all applicable health rules and regulations and other mandates whether existing or as promulgated from time to time by the federal, State, or local government, or City Of Portland including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. Proposer, its officers, employees, agents, subcontractors, and those under its control, shall comply with security measures required of Proposer or City Of Portland by the Federal Aviation Administration ("FAA"), or Transportation Security Administration ("TSA"), contained in any Airport master security plan approved by the TSA to include an Airport Tenant Security Program as outlined in TSA 1540 and 1542, as amended, respective to Proposer's Premises. If Proposer, its officers, employees, agents, subcontractors or those under its control shall fail or refuse to comply with said measures and such noncompliance results in a monetary penalty being assessed against City Of Portland, then, in addition to any other remedies available to City Of Portland, Proposer shall be responsible and shall reimburse City Of Portland in the full amount of any such monetary penalty or other damages. This amount must be paid by Proposer within ten (10) days of written notice.

Governmental Inclusions

The Premises and the Airport are subject to the terms of those certain Sponsor's (City of Portland) Assurances made to guarantee the public use of the Airport as incidental to grant agreements between City Of Portland and the United States of America as amended; and, City Of Portland represents that none of the Provisions of this Agreement violates any of the provisions of the Sponsor's Assurance Agreement.

Right to Develop Airport

It is covenanted and agreed that City Of Portland reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Proposer or its subcontractors and without interference or hindrance.

Right of Flight

City Of Portland reserves, for the use and benefit of the public, a right of flight for the passage of aircraft in the City of Portland above the surface of the real property owned by City Of Portland, including the Premises, together with the right to cause in said City of Portland, such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said City of Portland, and for use of said City of Portland for landing on, taking off from or operating on Airport.

Proposer expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects

of natural growth and other obstructions on the Premises to such a height so as to comply with Federal Aviation Regulations, Part 77 and City Of South Portland's height zoning. FBO further expressly agrees for itself, its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of Airport, or otherwise constitute an Airport hazard.

Property Rights Reserved

This Agreement shall be subject and subordinate to all the terms and conditions of any instruments and documents under which the City Of Portland acquired the land or improvements thereon, of which said Premises are a part. Proposer understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future Agreement between City Of Portland and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport, and to any terms or conditions imposed upon the Airport by any other governmental entity.

EVALUATION AND SELECTION PROCESS

1. Objective

It is the City Of Portland's intention to solicit Proposals from qualified Proposers; to evaluate their Proposals; to negotiate terms; and to award a contract to the Proposer whose Proposal is determined to serve in the best interest of the Portland International Jetport owned and operated by the City of Portland

2. Evaluation and Recommendation

An evaluation committee, consisting of City Of Portland staff and any outside resource chosen by City Of Portland, will review and evaluate all Proposals received by the submittal date as set forth in this RFP, or as amended by addenda. The City Of Portland reserves the right to request additional information and clarification of any information submitted, including any omission from the original Proposal.

The following evaluation criteria have been established in determining which Proposer will best contribute to the overall goals of the Portland International Jetport and City of Portland.

Evaluation Criteria:

1. Experience and Responsiveness to the RFP	25%
2. Financial and Business Plan	50%
3. Proposed FBO's Improvements, Construction & Delivery of Services	25%

The City Of Portland may schedule interviews as part of its evaluation process. If the Proposer's firm is invited to interview with the Evaluation Committee, the Proposer will be required to make a presentation and bring key members of the Proposer's team to the interview.

3. Selection

The selection and approval of the successful Proposer shall be made by the City Of Portland in accordance with its competitive selection process. The Evaluation Committee will evaluate Proposals on the basis of the guidelines set forth in this RFP. As stated herein, the RFP shall in no manner be construed as a commitment on the part of the City of Portland to award a contract. The City reserves the right to reject any or all proposals; to waive minor irregularities in the RFP process or in the responses thereto; to re-advertise this RFP; to postpone or cancel this process; and to change or modify the RFP schedule at any time.

4. Lease Execution:

Upon selection of an FBO the City will prepare a Lease agreement for execution between the City of Portland and selected FBO. A sample lease is attached hereto for the information of the Proposers, but the City reserves the right to negotiate the terms of a final lease document. The final lease will be subject to approval by the Portland City Council.

EXHIBITS (Provided on Disc)

Exhibit A - Jetport Development Guidelines & Minimum Standards

Exhibit B - City of South Portland Approval Documents

Exhibit C - Maine Department of Environmental Protection Site Location Permit

Exhibit D - Portland International Jetport Spill Prevention and Countermeasure Plan

Exhibit E - Stormwater Pollution Prevention Plan

Exhibit F - Wildlife Hazard Management Plan

Exhibit G - Site Development Plans

Exhibit H - Site Soils Information

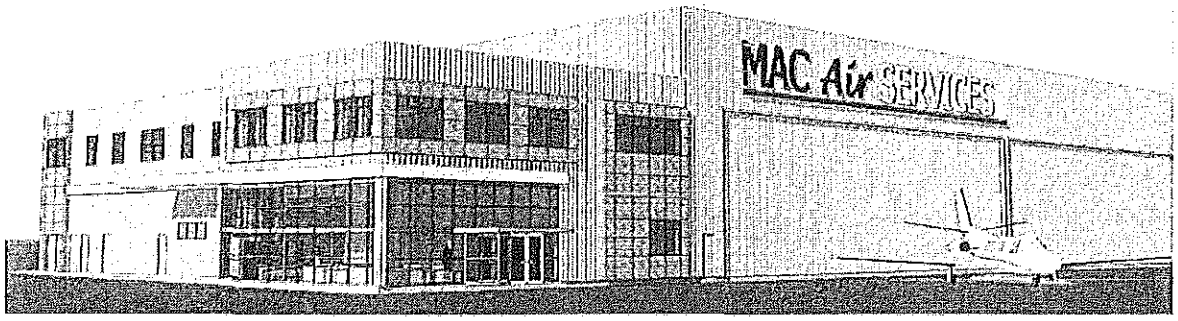
Exhibit I - Sample Lease Agreement

COPY

Proposal in Response to
Request for Proposal #4815

Construct and Operate a Fixed Base Operation (FBO) Terminal And Provide General Aviation Fixed Based Operations at the Portland International Jetport (PWM)

February 12, 2015



Allyn J. Caruso, President & Chief Operating Officer, MAC Air Group, LLC
Manager, Hangar Group, LLC
Alysan M Caruso, Vice President, MAC Air Group, LLC
Manager, Hangar Group, LLC
MAC Air Group, LLC
1025 Westbrook Street, Portland, Maine 04102
Tel: (207) 780-1811
Email: acaruso@maineaviation.com

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

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

The undersigned hereby declares that they have read and understand all conditions as outlined in the Request for Proposals, and that the proposal is made in accordance with the same.
The bidder acknowledges the receipt of Addenda numbered: #1

COMPANY NAME: Maine Aviation Corporation (MAC) dba MAC Air Group

AUTHORIZED SIGNATURE: _____

DATE: 2/11/15

PRINT NAME AND TITLE: Allyn J. Caruso, President and Chief Operating Officer, MAC Air Group

ADDRESS: 1025 Westbrook Street, Portland, Maine 04102

E-MAIL ADDRESS: acaruso@maineaviation.com

PHONE NUMBER: 207.780.1811 | 888.359.7600

TYPE OF ORGANIZATION – PARTNERSHIP, CORPORATION, INDIVIDUAL, OTHER:

Corporation

STATE OF INCORPORATION, IF APPLICABLE: Maine

FEDERAL TAX IDENTIFICATION NUMBER (Required): 01-0248834

AUTHORIZED SIGNATURE: _____

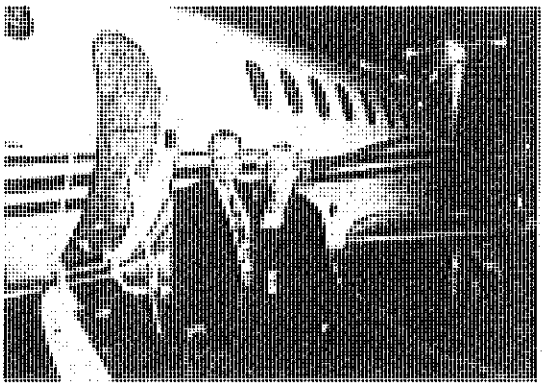
DATE: 2/11/15

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

B. Company's Qualifications

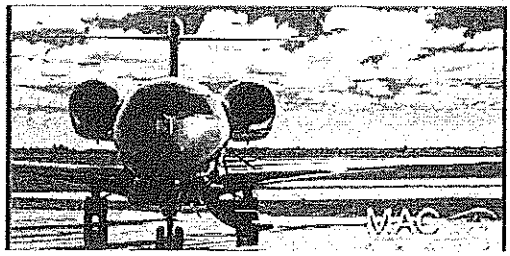
B.1. Overview

Maine Aviation Corporation dba MAC Air Group ("MAC" or "the Company") and its commonly owned affiliate, Hangar Group, LLC ("HGL") are pleased to submit a joint proposal in response to the City of Portland's RFP # 4815, "Construct and Operate a Fixed Base Operation (FBO) Terminal
And Provide General Aviation Fixed Based Operations at the Portland International Jetport (PWM)" and together are to be considered as the Proposer ("the Proposer.)



Allyn and Alysan Caruso (the "Proposers") have successfully built on the foundations of a family business first established in the late 1940s in Bar Harbor, and expanded to Portland International Jetport in 1959. At present, MAC operates all aspects of a major FBO, except aircraft refueling and ramp services. HGL owns and leases out a hangar on the field. The Proposers currently have a commitment letter from a leading bank which recognizes it has the financial capability to successfully finance and complete the proposed new FBO facility being considered under RFP 4815.

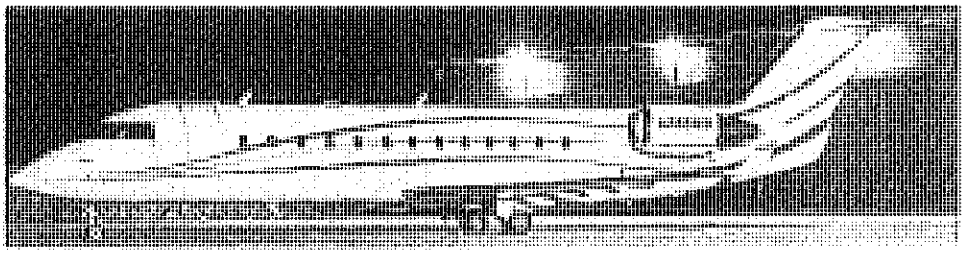
The plan is for HGL to oversee construction of the new general aviation Fixed Base facility ("New FBO Complex"), and MAC will enter into a long-term lease agreement to lease the facility from HGL. MAC will operate a full service FBO, meeting or exceeding the Minimum Standards of the Portland International Jetport. To facilitate this, MAC will establish a new business unit to engage in aircraft refueling and ramp services, complementing its already existing product lines encompassing aircraft charter, aircraft maintenance, and aircraft sales.



The Proposers are well-qualified and experienced in terms of developing and managing aviation enterprises in Maine. As mentioned above, Allyn and Alysan Caruso have successfully built on the foundations of a family business first established in the late 1940s in Bar Harbor and expanded to Portland International Jetport. As the company has grown over 70+ years, they have also hired additional staff to meet increasing business and demand for the company's services.

B.2. Key staff

Allyn J. Caruso is President and Chief Operating Officer of MAC and is Manager of HGL, and owns both entities. He oversees the overall direction of the Company, and is responsible for maintaining growth of the aircraft charter, maintenance and sales business units. Mr. Caruso has successfully established the Company in the worldwide business jet charter market, learning firsthand what distinguishes one FBO from another as a customer. His amiable manner and deep knowledge of aviation has allowed him to develop a fleet of more than sixteen jet aircraft under management by MAC for high net worth individuals and corporate owners. Mr. Caruso believes that the new FBO facility will allow MAC to further increase its customer base, and to provide a better location to showcase its aircraft inventory, as well as providing a much higher level of customer service than its present facilities. Mr. Caruso started his aviation career as Cessna salesman for MAC in the late 1960s, then became a line pilot for Bar Harbor Airlines (BHA) in the early 1970s, following graduation from Hawthorne College. By the late 1970s, he was involved in senior management at BHA, serving as its President at the time of its sale to Texas Air Corp. in 1986. In the late 1980s and early 1990s, he was involved with BHA Leasing, Northeast Air Group, and Portland Pacific Group, as well as Hangar Associates, which developed the hangar now owned by HGL at Portland International Jetport. Mr. Caruso holds an Airline Transport rating, with thousands of hours of flying experience, and holds more than 30 world-class aviation records. He is the spouse of Alysan Caruso. (See Appendix F-2)



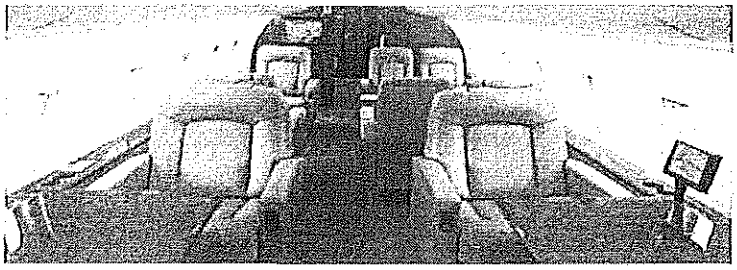
Challenger 850 Managed and Chartered as well as Maintained by MAC

Alysan M. Caruso is Vice President of MAC and is also Manager of HGL. Ms. Caruso has been Vice President since Sept 2008, prior to which she was General Manager from May, 1994. She is the principal administrator of the Company, reviewing and approving all financial obligations. Since mid-1994, under her direction, MAC has successfully achieved a twenty-fold increase in sales, with a significantly improved bottom line, focused on business jet charter, maintenance and sales on a global basis. Her flair for marketing has resulted in a new image for MAC as it competes in a competitive marketplace. As a consequence of the Company's growth, Ms. Caruso, in her capacity as Manager of HGL, is committed to developing the proposed new FBO facility to provide room for additional growth for MAC and its clients. With a background in accounting, she became familiar with aviation in the early 1980s working on a consulting basis to BHA in Bangor, auditing its inventory, and restructuring the accounting department to improve profitability. (See Appendix F-2)

Brigitte Miller is CFO of MAC, a position she has held since early 2001. She manages the accounting and finance, human resources and treasury operations of the Company. A key aspect of her job is to

maintain relations with the owners of Managed Aircraft, including timely financial and activity reports as well as to work closely with the Company's external accountants to prepare tax returns. Prior to joining MAC in mid-1994 as a full charge bookkeeper, Ms. Miller worked for Jet Services-Portland and for Atlantic Properties after graduating from University of Southern Maine in the late 1980s. (See Appendix F-2)

Ryan A. Clyde is Director of Operations for Maine Aviation Aircraft Charter's (MAAC) worldwide flight operations, joining the Company February 2007. Graduating from Embry-Riddle Aeronautical University in 1996, Ryan began his aviation career as a flight instructor. Since then, he has spent over a decade in aviation management, specializing in promoting safety through the development and maintenance of quality training programs, enforcing Standard Operating Procedures and maintaining strict standards of compliance with FAA regulations. He has upgraded MAAC's General Operations Manual to the standards of a Part 121 operation, successfully implemented a Safety Management System and is working on qualifying the Company as an IS-BAO certified organization. (See Appendix F-2)



Interior of Challenger 850 Managed and Flown in Charter by MAC

Travis Caruso is Director of Maintenance for MAC operating under FAA Part 145 Repair Station FSER011E, having overall responsibility for all maintenance activities. Mr. Caruso is qualified to perform maintenance on all of the types of the aircraft the Company operates, as well as several other types flown by commercial airlines which are periodically serviced at Portland International Jetport. He joined MAC in mid-1994, having started his career as an aircraft mechanic at Northeast Express Regional Airlines in Bangor in 1991. Mr. Caruso has managed the certification process of the various aircraft operating under the Maine Aviation Aircraft Charter's Aircraft Operating Certificate (AOC), and is responsible for the development of the maintenance capabilities of the Company. He has successfully implemented and enforced a safety program for the overall day to day safe operation of an active maintenance facility. (See Appendix F-2)

B.3. References

The Proposers submit the following persons and business entities as references to assist in the evaluation process:

Organization/Contact	Length of Alliance	Type of Alliance
702SJ LLC Kipp Lassetter 24546 N. 91 Street Scottsdale, AZ 85255	3 yrs	Aircraft Charter/ Sales and Maintenance
First Source Bank Jeff Lindtstadt Laird Professional Bldg. Hopewell Rd Suite 200 Downingtown, PA 19335	20+ yrs.	Aircraft financing and Banking
Maine Medical Center Richard W. Petersen 22 Bramhall Street Portland, ME 041023 Years	3 yrs.	Aircraft charter
Winchester Air John Moriarty C/O John Moriarty & Associates 3 Church St. Winchester, MA 018906 Years	8 yrs.	Aircraft management and Maintenance
CF Air LLC Eric Cianchette 42 Market St. Portland, ME 04101	25 yrs.	Aircraft management and Maintenance
539LLC Aubrey J Ferrao 8156 Fiddlers Creek Naples, FL 341148 Years	8 yrs.	Aircraft Management, Maintenance and Sales
Flying Colours John Gillespie RR# 5 Peterborough Airport Peterborough, Ontario K9J6X6 CANADA	18 yrs.	Aircraft Sales, Interior and Maintenance
Juliet Alpha Aircraft Leasing & Sales John Allen 100 Kingstown Dr. Naples, FL 34102 Tel.: 239-435-4582	7 yrs.	Aircraft Management, Maintenance and Sales

B.4. Teaming Partners/ Consultants, Contractors and Sub-Contractors

At present, the Proposer has no Teaming partners. The following matrix comprises a list of consultants, contractors, and subcontractors that the Proposer will be using on this project.

Company/Contact	Relationship
Marcus, Grygiel, Clegg & Mistretta Marilynn Mistretta 1 Canal Plaza, Ste. #600 Portland, ME 04101 (207) 828-8000	Legal Consultant
Sebago Technics Owen McCullough John Roberts Road – Suite 1A South Portland, ME 04106-6963 Office: 207.856.0277 Direct Line: 207.200.2073	Site development and Planning & Preparation of FAA form 7460
Charette Design John Charette 5 Wilton Lane Cape Elizabeth, ME 04107 207-831-7757	Architect
Lakes Region Environmental Contractor Roy Creley PO Box 1236 Bellmount NH 03220-8039 (603)-267-7000	Fuel Storage Engineering/ Design
Shaw Brothers Construction Inc. John Shaw Gorham Maine 04039 (207)- 839-2552	Site work and Excavation
Benchmark Kevin Reilley 34 Thomas Drive Westbrook ME 04092 207-251-3847	General Contractor
Canam Christian Tsoutsouris 50 Eastman Street Easton, Massachusetts 02334-1245 603-401-0152	Structural Development for Hangar
TD Bank Bill Schad, Senior Commercial Loan Officer 207-761-8600	Lending Institution

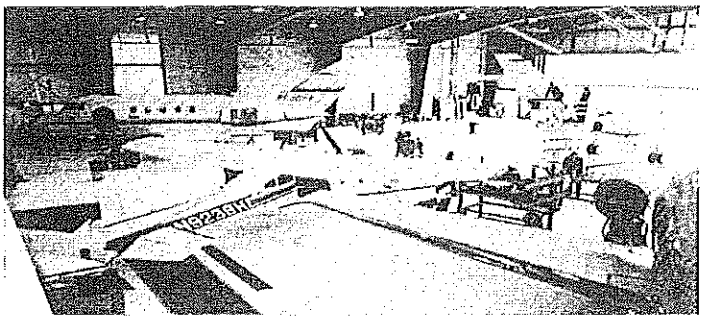
C. Detailed Proposal

C.1. Statement of Understanding

Through the Portland International Jetport's master planning process, the City of Portland (the "City") has determined there is a need for a second general aviation (GA) fixed base operation (FBO) at the Jetport. Consequently, the City began soliciting proposals from interested parties to finance, construct, manage, and maintain a new GA Fixed Base Operation. Only proposers who meet the City's criteria as stipulated in the Request for Proposal #4815 would be considered in the selection process.

MAC Air Group (MAC) is prepared to construct, manage, and maintain a new Fixed Base Operation that will meet and exceed the City's *Minimum Standards for Commercial Aeronautical Activities at the Portland International Jetport* and will be operational by the projected completion date. With more than 50 years in the aviation industry, MAC has demonstrated its resilience, longevity and financial stability during the most turbulent economic times. That stability has enabled the company to grow and thrive. MAC is committed to building the world class facility that offers world class service that will entice more business to the airport, benefitting the Jetport, its tenants, and the City of Portland.

C.2. Development Plan



The Proposer's Maintenance Facility 2014

The Proposer is planning to construct a state-of-the-art modern hangar facility, and fully complying with the Minimum Standards for a Full Service FBO as contemplated in RFP 4815.

To facilitate moving into the New FBO Complex by January 2016, the Proposer anticipates beginning construction in April 2015, if there are no delays on building permits. If possible, the Proposer would like an accommodation to permit the opening and use of the fuel farm on a temporary basis for use by its own fleet on or about September 2015, assuming all other approvals from FAA and other Government agencies could be obtained. This may help to avoid any potential operational issues with a winter season opening of the fuel farm.

The Proposer realizes that meeting the project milestones will take close and continuous cooperation with the Portland International Jetport, the City of Portland, the City of South Portland, FAA and other federal and state agencies. The Proposer will engage the services of Sebago Technics to oversee, audit and review construction milestones and will facilitate weekly meetings, keep construction records and daily reports. Sebago Technics has worked with Portland International Jetport to develop this site and others at the Jetport, as such they understand the Development Guidelines.

The Proposer knows its preliminary design for the New FBO Complex can be quickly committed to blueprint, and a more detailed timeline and critical path for construction can be presented in short order after notice of award. The Proposer knows that it has the financial capacity to hire the proposed

building contractor, site engineers and consultants as may be necessary to advance this project during the course of the spring, summer and fall of 2015.

The Proposer believes its proposed New FBO Complex meets or exceeds the Minimum Facility Size contained in the Portland International Jetport Minimum Standards. The Proposers are planning to build a facility that has approximately 40% more hangar space per square foot than the required minimum of 20,000 square feet. The Proposer will build out a 240x 120 hangar as well as an attached two story 13,000 square foot of office space to accommodate the FBO customer service needs, its current administrative and operations personnel, with some additional office space for rent.

MAC will continue to operate its aircraft inspection and repair business in the its existing 18,000 square foot maintenance facility on Yellowbird Road, which maximizes space to hangar corporate jets, including those of the MAC fleet.

To assure that the fuel farm fully complies with applicable regulations and environmental standards, the Proposer has engaged the services of Lake Region Environmental, Inc., a New Hampshire company that specializes in designing, planning and installing fuel farm systems. Lake Region Environmental has designed a fuel farm consisting of two 20,000 gallon Jet A fuel tanks and one 10,000 gallon Avgas tank with as self-service and truck option. Additionally, they have designed and will provide two 500 gallon Self-service fuel tanks for Diesel and auto gas for consumption by the FBO. This fuel will be used for refueling ground equipment including the fuel trucks and will not be for resale to the general public.

The Proposer recognizes the significance of developing the New FBO Complex within the Portland International Jetport boundaries and has developed a plan, as outlined in Site Plans to move the current Fencing back to the edge of the currently developed apron so all work will be performed outside the Jetport fencing. On completion of the New FBO Complex, in early December 2015, the fencing will be move back to the edge of the proposed building and surrounding Apron areas. The New FBO Complex will be landscaped in conformity with the requirements of the RFP. The Proposer also recognizes the importance of airport security (TSAR 1542) and will work with the Jetport to ensure compliance as relevant.

Further, the facility will be in compliance with the Americans with Disabilities Act (ADA) in all phases of construction and operation.

C.2.1. Proposer's Build-out vs PWM Minimum Standards

The Proposer has included a comparison chart contemplating Proposer's build out vs. Portland International Jetport Minimum Standards

Minimum Square Footage – Proposed Design		
Projected Use	Portland Jetport Guidelines	MAC Air Group/Hangar Group
Customer Service Terminal	5,000	5,000
Hangar Storage	20,000	28,800
Maintenance Facility	1,500	12,000*
Parts Storage	0	2,800*
Administrative area	1,000	8,000
	27,500	56,600

*Existing MAC maintenance facility

C.2.2. Construction Phase Borrowing Requirements

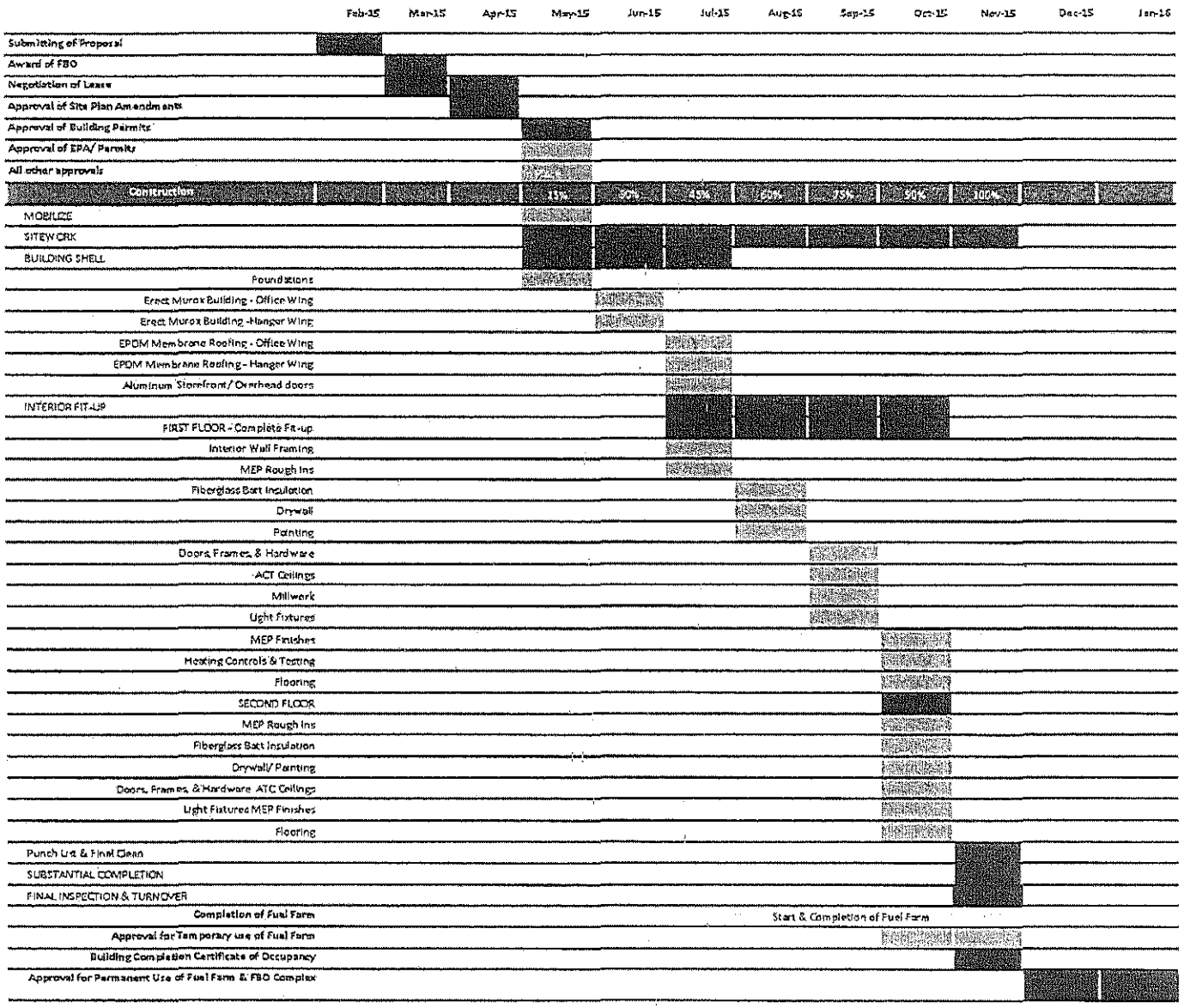
For planning purposes, the Proposers have developed the following chart indicating the capital outlays by Month until full project:

Maine Aviation FBO Facility - Portland International Jetport

Construction Phase Borrowing Requirement - Phase 1 (Main FBO Complex - 40,000 Square Foot Facility)

		Capital Budget	2015 April	2015 May	2015 June	2015 July	2015 August	2015 Sept	2015 Oct	2015 Nov	2015 Dec	Total Cost	
Hangar Building & office (40,000 Sq. Ft.)	$	3,300,000	100,000	350,000	550,000	560,000	400,000	680,000	660,000	Complete	Complete	3,300,000	3,300,000
Fuel Storage System		338,000				28,000	40,000	160,000	110,000			338,000	338,000
Aircraft Ramp		1,565,000				50,000	200,000	665,000	650,000			1,565,000	1,565,000
Lighting and Security Fencing		148,000	10,000				18,750	56,250	63,000			148,000	148,000
Site Work		175,000	35,000	25,000	23,500	16,500	11,000	16,500	47,500			175,000	175,000
Hangar Equipment		95,000						25,000	70,000			95,000	95,000
Office Fixtures and Equipment		100,000						45,000	55,000			100,000	100,000
Airport Bond		100,000	100,000									100,000	100,000
Other Soft Costs & Contingency		100,000		5,000	10,000	25,000	25,000	25,000	10,000			100,000	100,000
													5,921,000
TOTAL	$	5,921,000	245,000	380,000	583,500	679,500	694,750	1,672,750	1,665,500	0	0	5,921,000	
% of Budget Expended			4%	11%	20%	32%	44%	72%	100%	100%	100%	100%	
MAC Internal Funding			250,000	271,000								521,000	
Construction Loan Need:	$		0	105,000	688,500	1,368,000	2,062,750	3,735,500	5,401,000			5,400,000	
Construction Phase Interest @7% APR:	$				613	4,016	7,980	12,033	21,790	31,505		77,938	
Target Project Start Date:		April 2015					0						
Target Project Completion Date:		Dec 2015											
Target Permanent Financing Date:		Dec 2015											

C.2.3. Construction Milestones



C.3. Scope of Operations

Aircraft Maintenance

MAC holds an FAA-issued Part 145 Repair Station certificate, with Operations Specifications covering a wide spectrum of aircraft, including a several types that have never been operated by the Company in its air taxi operation spanning some 56 years. It has authorization to perform avionics installations, and certain component inspection and repairs. Currently, the maintenance unit performs transit maintenance for a number of the scheduled airline operators at the Portland International Jetport, as well as for several fractionally –owned aircraft operators on an "as needed" basis. The Company expects this component of maintenance work to grow as it expands into aircraft refueling and ramp services. Moreover, with access to more hangar space, the maintenance business unit will be able to perform more avionics installations. The Company maintains very competitive rates in the northeast marketplace for aircraft maintenance services. The table below is indicative of currently prevailing rates:

General airframe maintenance

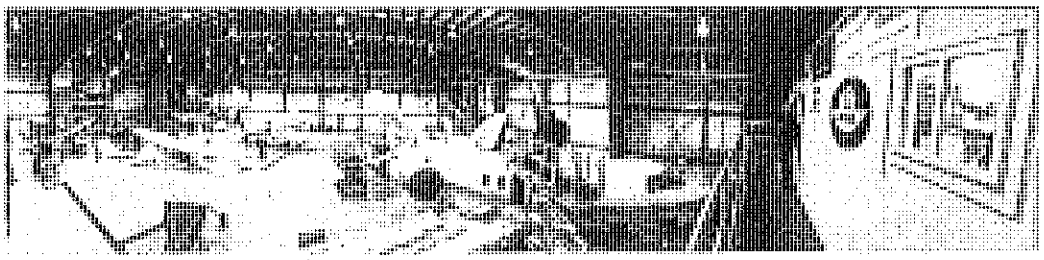
- piston/ single engine $75/man hour
- Piston Twin: $80/man hour
- Turbine/ Jet $90/man hour

Avionics-Primary installation

- All Types $75/ man hour
- Repair & trouble shoot all Types- $95/man hour

Contract Maintenance for scheduled airline operators is negotiated depending on the scope and frequency of the service required, generally at a discount from the posted rates for general aviation aircraft. The Company personnel are trained in the specific maintenance tasks to be performed in accordance with the air carrier operator's FAA approved Manuals.

Additionally, the maintenance business unit is an authorized Cessna parts dealer.



MAC Maintenance currently in Operation

Aircraft Refueling and Ramp Services

MAC as part of the RFP is proposing to establish an aircraft refueling and ramp services unit to complement its offerings at what will be a full service FBO facility. Under the terms of the site plan, the Company envisions offering Jet-A and Avgas to all aviation users at the Portland International Jetport. Currently, 1 Avgas fuel truck and a Self- fueling dispenser are planned for the piston-engine aircraft. For Jet-A customers, the Company has planned an initial compliment of 2 fuel trucks, which will be increased when the Company acquires scheduled airline customers with high frequency refueling needs.

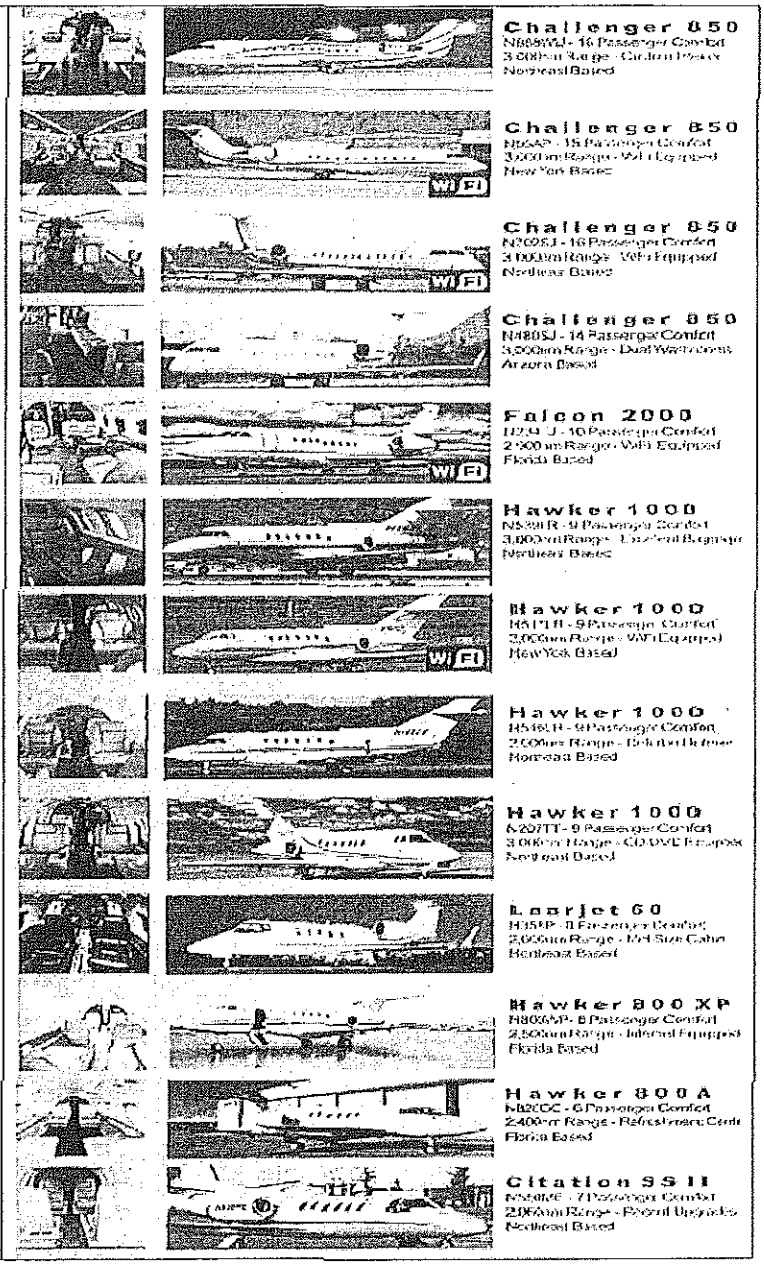
MAC intends to offer de-icing services to all aviation users, with a minimum of 1 de-icing truck suitable for general aviation aircraft and small jets, and suitable for narrow-body twin-jet aircraft. Additional units of each kind may be procured depending on contractual obligations.

The Company plans to offer a full range of on-site ramp services ranging from tie-down services, to hangar rental for long-term and transient aircraft, subject to space availability. In additional, the business unit will offer lavatory service, ground power starting, and other needed services, complemented by the capabilities of the aircraft maintenance unit.

For planning purposes, the new business unit has based its fuel margins for general aviation customers on markup of $1.20 to $1.65 above cost of product per gallon. For airline customers, the rates are negotiable from $0.05- $0.25 per gallon, with a minimum hookup fee, depending on type of aircraft, frequency, and uplift requirements. De-icing fluid sales have been projected at $15.50 per applied gallon with provisions available for the General Aviation Aircraft only. Pricing is subject to negotiation and variability in the product price. Tie-down spots have been projected at $80- $110/ month depending on requirements, and ramp fees for non-fuel customers are projected at $25- $250/ event, depending on aircraft weight and size. Hangar space rental is projected at rates the Company currently pays at various location in New England for the in its charter and managed aircraft fleet. Transient overnight rates will be higher than for those stored on long-term contract basis or operated by MAC for an owner. All rates are designed to be competitive to attract business to the New FBO Complex at the Portland International Jetport. The Proposer will work with the Civil Air Patrol and private parties to develop agreements amenable to all concerned for space at a reasonable rate.

Aircraft Charter

MAC has held FAA Part 135 Air Taxi certificate # FSEA011E since 1959, with its FAA-issued Operations Specifications progressively expanded to cover a wide-range of aircraft, including most recently the Falcon 2000 and the Challenger 850. Since the mid- 1990's, the Company has increasingly focused its activities around the operation of the private jet charter. As a value added service, MAC manages jets for owners wishing to recap or off-set expenses by chartering their wholly owned aircraft. Today, MAC operates over 16 aircraft in worldwide charter service. The adjacent table contains some of MAC aircraft available for charter services from its various bases, including Portland International Jetport.



C.4. Proposed Management Structure

The Proposer has appointed Brigitte Miller, CFO of MAC, as the Primary Day Contact with respect to the proposal, until further notice. Ms. Miller may be contacted at (207) 780-1811, or in person at the administrative offices of MAAC. Ms. Miller is responsible for recruiting the designated FBO Manager to be announced prior the planned opening of the New FBO Complex, anticipated for January 2016. Ms. Caruso will be assisting Ms. Miller with respect to the development of the FBO business unit.
MAC presently operates on a 24/7 basis. With consolidation of the most of the Company into a single facility, its current 24/7 schedule will be maintained, with the option to adjust if certain times of the year or week do not justify full staffing of refueling and ramp services, where other dispatch and maintenance personnel will be trained to provide such services.

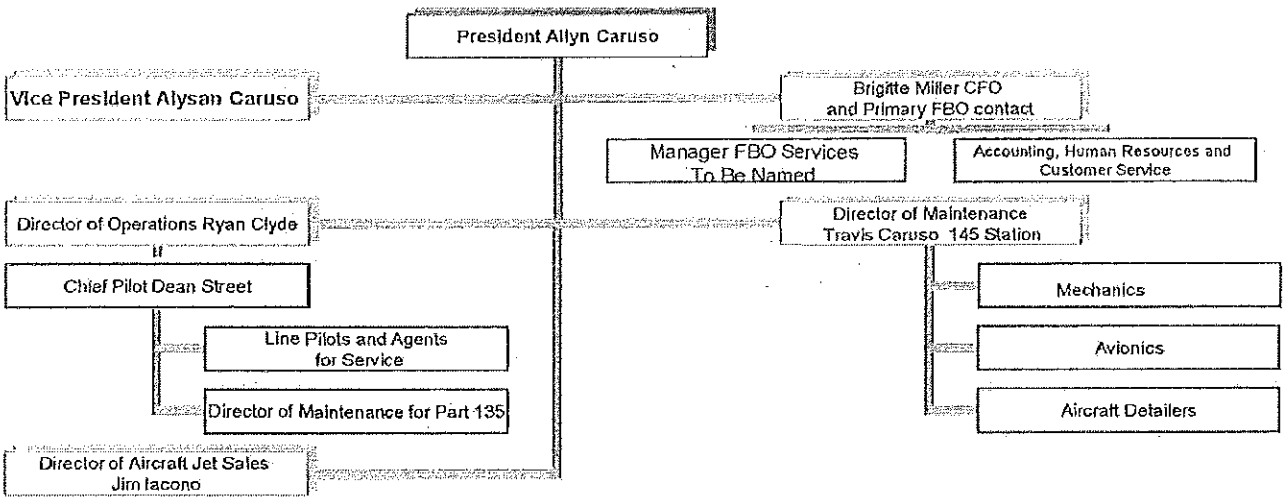
For planning purposes, the following shift coverage chart is illustrative of planned manpower levels

	12am-3:59am	4am-7:59am	8am-11:59pm	12pm-3:59pm	4pm-7:59pm	8pm-11:59pm
Customer Service						
Dispatch						
Refueling						
Maintenance						
Charter Operations						
Administration						
	On Call	In Office				

Primary Day-to Day Contact

MAC is internally subdivided into business units, usually established as separate Limited Liability Company (LLC), originally set up in this manner for insurance reasons, but now further enhanced for accounting and benchmarking. A separate new LLC will be established, provisionally MAC Air Services, to operate the aircraft refueling and ramp services business unit.

MAC operates on a day-to-day functional basis under the following managerial structure, in accordance with its FAA-approved management positions with respect to its FAA Part 135 and Part 145 Certificates. When the New FBO Complex is opened, the management structure will be altered to better focus the customer service functions under a single FBO manager to be announced prior to the opening.

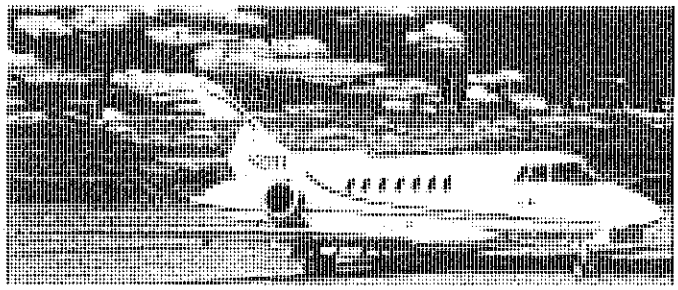


C.5. Financial Business Plan

From a business perspective the Financial Business Plan of the Proposers is patterned after the existing HGL arrangement on its hangar facility at 406 Yellowbird with Portland International Jetport.

- The developer and owner of the new FBO complex will be HGL, who will enter into a long-term master ground lease with Portland International Jetport
- MAC will be entered into a long-term lease agreement for the major portion of the facility;
- HGL will pledge its rental stream from the entire facility plus its equity interest in the 406 Yellowbird hangar facility to the bank financing the construction and the mortgage financing;
- HGL anticipates a total triple-net rental revenue of approximately $45,000 per month from MAC for the rent of the new FBO complex and the 406 Yellow bird Rd maintenance facility.

For MAC, the construction of the new FBO complex allows it to consolidate most of its activities under one roof, with considerable improvements in productivity. Moreover, MAC will be able to close a facility at Pease Tradeport where it leases hangar space at present due to a shortage of available space at Portland International Jetport. About 20 employees will be transferred from there when the new FBO complex is opened, which will initially generate 10-14 new jobs at the MAC Air Services business unit.



MAC Hawker 1000 Fleet member

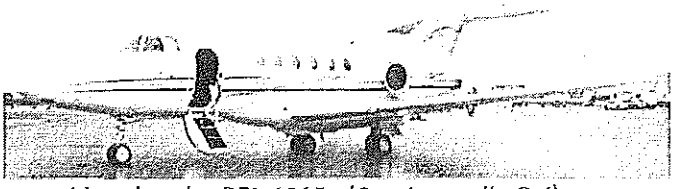
Eventually, some aircraft and additional employees currently based at Teterboro, NJ, may also be relocated to the proposed facility. Moreover, the new FBO complex will provide additional space from which MAC can grow its business, which has been experiencing growth over the past two years.

From a business perspective, the net cost to MAC of the new FBO facility is estimated to be about $23,600 when all currently operable rent charges are tabulated. MAC anticipates that the base rent on a triple net basis to HGL for the first phase of FBO complex will be about $36,000 per month. MAC Air Services as a stand-alone entity will need to generate approximately $20,000 to $30,000 per month in earnings before facilities cost are completely covered. It is not likely that any other proposer under the RFP could achieve an effective breakeven as low as MAC and its affiliates.

From a business perspective, the net cost to MAC of the new FBO facility is estimated to be about $23,600 when all currently operable rent charges are tabulated. MAC anticipates that the base rent on a triple net basis to HGL for the first phase of FBO complex will be approximately $36,000 per month.

MAC Air Services as a stand-alone entity will need to generate in the range of $20,000 to $30,000 per month in earnings before facilities cost are completely covered. It is not likely that any other proposer under the RFP could achieve an effective breakeven as low as MAC and its affiliates.

As mentioned previously in this RFP response (B-1), the Proposers currently have a commitment letter from a leading bank which recognizes it has the financial capability to successfully finance and complete the proposed new FBO facility being considered under RFP 4815. (*See Appendix G-4*)



MAC Fleet Hawker 800 based in Florida

(NOTE: The financial information
(including the CD with corporate tax returns) are proprietary information. MAC respectfully asks the City to ensure confidentiality of this info and not make it available to the public.)

D. The Fixed Base Operation

The Proposers have developed a plan for MAC Air Group which would erect a New FBO Complex with about 40% more usable space than contemplated in RFP 4815, with a state-of-the art main hangar measuring some 240' X 120' feet, a new fuel farm and 13,000 square feet of office space. Ultimately, the Proposers intend to develop an additional 15,600 square feet of hangar space, dedicated to Maintenance in the 2021-2025 time frame to be located on Pad D.

The estimated project initial phase cost is approximately $5,900,000, commencing with the construction of the New FBO Complex, apron development and fuel farm, anticipated to be completed, subject to timely receipt of necessary approvals, by December 2015, assuming a start of construction date of late April 2015

MAC will be able to consolidate most of its activities into a single facility, with its Maintenance facility remaining at its current 406 Yellowbird facility. MAC anticipates hiring 10-14 people for the FBO in the initial phases of operation, and is confident that its aircraft charter, maintenance and sales business will allow it to hire an additional 8-12 employee as the business grows

D.1. Plans and Renderings

The Proposer has prepared the following preliminary building plans and sketches –

- 3-D Artist Rendering of New proposed Main FBO Complex
- Architectural detailed layout of Main Floor plan and customer service space
- Architectural detailed layout of 2nd Floor administrative office plan

At present, the drawings are outlined close to the intended outcome. The Proposer has planned that the final drawings, ready to go to blueprint, can be completed within two weeks upon notice by the Portland International Jetport. This will facilitate final site approval and permits applications with the City of South Portland to begin immediately with the aim of starting construction in early April 2015.

At this time, the Proposer does not elect to build out the T-Hangars as approved for site development. The Proposer observes that the current apron plans offers relatively limited overall ramp space. A lack of ramp space is a limiter during the busy summer season as well as basing more MAC-operated aircraft at the facility. When more land becomes available MAC will consider adding T-Hangars at such time. (*See Appendix G-6*)

D.2. Site Plans and Sketches

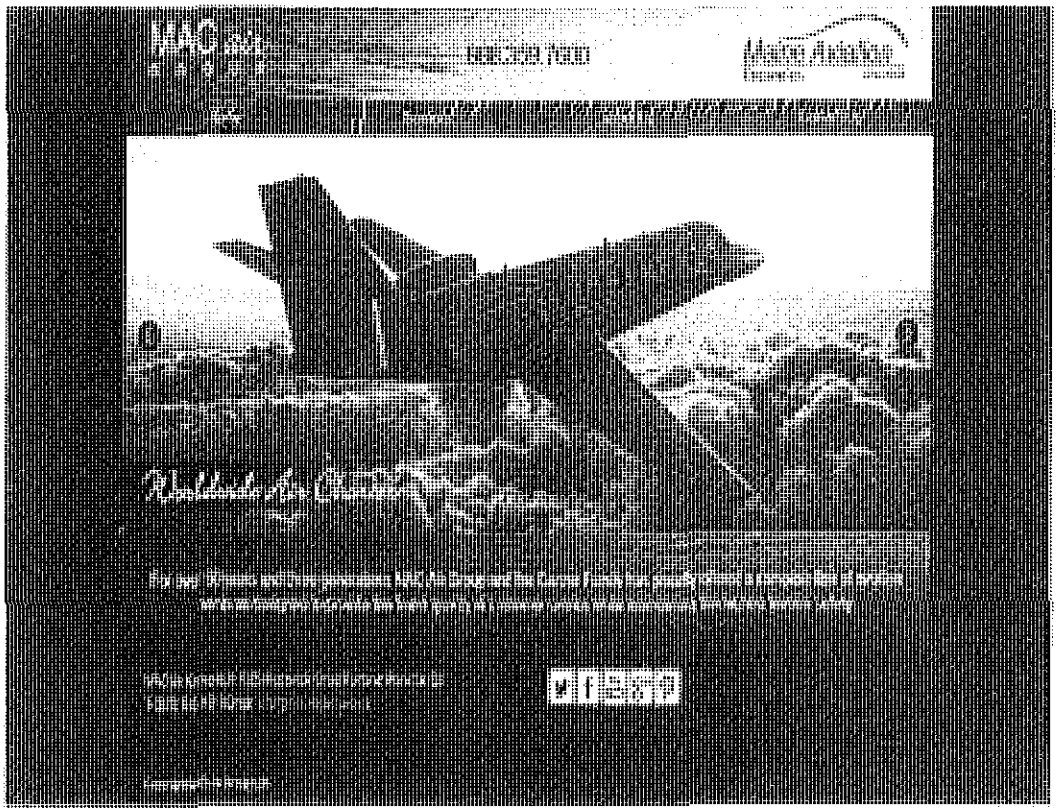
The Proposer's has included a slightly adjusted site plan lay out. This layout deviates from the City proposed building foot print and the T-Hangar allocation has been removed to reflect more adequate ramp space. All other components of the site plan proposed by the Portland International Jetport remain the same. (*See Appendix G-7*)

E. Additional Background Information

E.1. MAC Air Groups Website

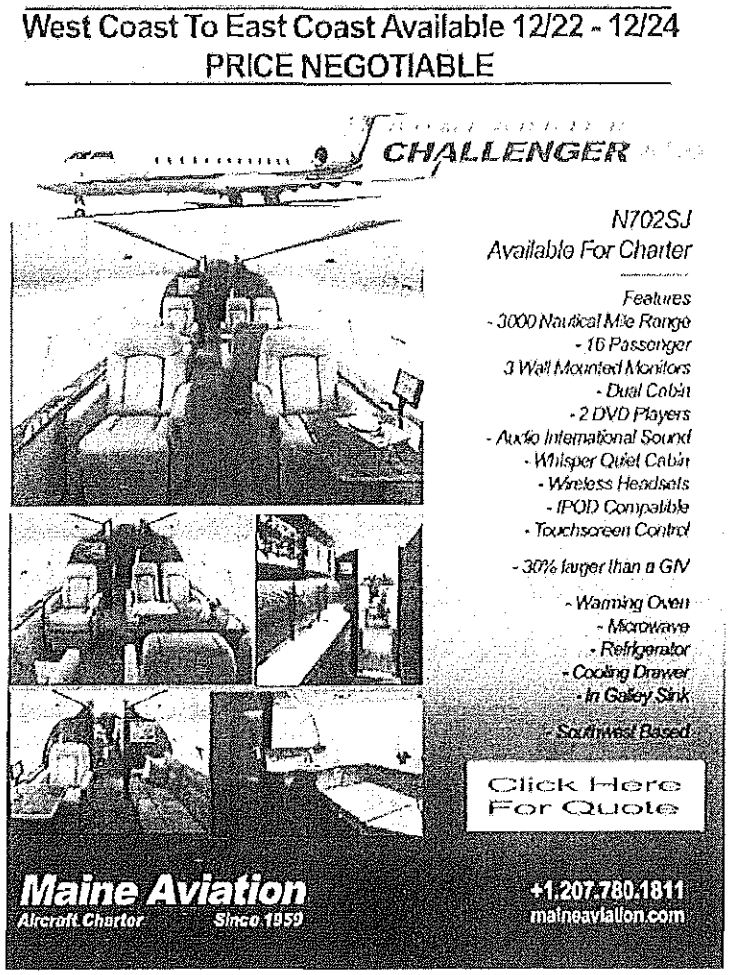
MAC Air Group invites the evaluators to review it's website at http://macairgroup.com , which provides a comprehensive listing of current capabilities and offerings along with its business units. Additionally, the Proposer invites any of the evaluators for a tour and first hand sight review of its current operations and fleet aircraft.

MAC is has been a pro-active leader with the state initiating helping to implement changes to the sales tax structure related to aviation in Maine. These changes continue to bring additional aviation clients to Maine, related article attached.



E.2. Email Blasts

This is an example of a recent campaign engaging a blast email system to a list of over 5,000 clients and affiliates that was homegrown by MAC. These emails keep the industry informed of MAC's aircraft listings availability and the always changing one-way charter availability. Utilizing this email system has extended MAC's retail client base and attracted worldwide aircraft sales.



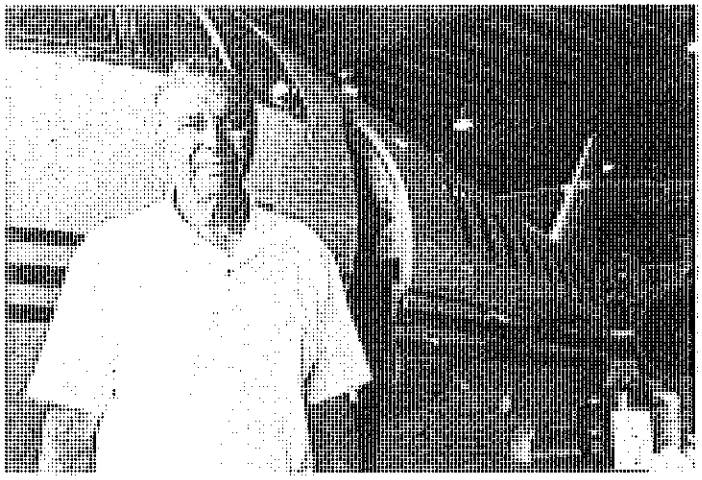
E.3. Media Coverage

Business Section, Sept. 13, 2013

http://bangordailynews.com/2013/09/13/business/change-in-tax-policy-helps-maines-aviation-industry-take-off/

Change in tax policy helps Maine's aviation industry take off

By Whit Richardson, BDN Staff



Allyn Caruso, president and CEO of Maine Aviation Corp., stands in his company's hangar at the Portland International Jetport. Behind him is a corporate jet from Kansas that is receiving routine maintenance. A 2011 change in tax policy that exempts aircraft parts from Maine's 5 percent sales tax has helped Caruso grow his aircraft maintenance business by as much as 25 percent in the past two years.

PORTLAND, Maine — Six aircraft, some stripped down to not much more than their shells, are crowded into Maine Aviation's hangar on the outskirts of the Portland International Jetport.

The planes range in size from two-seaters to small corporate jets. The hangar doors are wide open to allow a seventh, much larger plane — a 16-passenger jet owned by a hedge fund in Washington, D.C. — to fit its nose inside so mechanics can install a new, $40,000 windshield.

Allyn Caruso, president and CEO of Maine Aviation, walks among the planes, pointing to one after another and explaining what type of work his mechanics are completing. Most of these planes, he says, wouldn't be here if it weren't for a change in tax policy the Maine Legislature adopted in 2011 that exempts aircraft parts from Maine's 5 percent sales tax.

There's a nine-passenger Hawker 1000 in for routine maintenance. Its owner lives in Wichita, Kan., and otherwise has no connection to Maine. There's a twin-engine, six-passenger Beechcraft Baron that's receiving a new autopilot and an annual inspection. Its Florida-based owner flew into Portland on his way to Europe and liked the service, so he keeps coming back.

"We give him good value, we give him a good price and it's tax-free. He likes us," Caruso says. "He wouldn't like us, though, if we charged him a 5 percent tax."

Out on the tarmac are six more Hawker 1000s, each waiting for complete overhauls that will cost as much as $2.5 million apiece, Caruso says.

"There's no way these planes would be sitting here [without the exemption]," he says. "They'd be sitting somewhere else."

Revenue from Maine Aviation's aircraft maintenance division is up 25 percent from 2011, Caruso says.

Maine Aviation plans to build a new, $7 million hangar next year and hire an additional 20 employees to increase its capacity, Caruso says.

"Clearly we're in growth mode, and this [tax exemption] is certainly making that possible," he says.

According to aviation industry and economic development officials, the tax exemption on aircraft parts has helped Maine's aviation industry grow and create jobs, and provides an example of how tax policy can be used as an effective economic development tool.

Maine Aviation isn't the only Maine aviation business that has benefited from the tax change.

C&L Aerospace, which employs 115 at its aircraft repair and maintenance facility at the Bangor International Airport, is expanding and expects to add as many as 70 new jobs, according to Chris Kilgour, the company's CEO.

And just last week, on Sept. 4, South Carolina-based Tempus Jets announced it would be moving its aircraft repair business from Virginia to the Brunswick Executive Airport, part of the former Brunswick Naval Air Station. Tempus expects to employ 25 in Brunswick by the end of the year, and double that number by the end of 2014. If all goes as planned, the company could employ up to 200 people in Brunswick within a few years, according to Scott Terry, Tempus' CEO.

While it wasn't the only factor in the company's decision, Tempus likely would not have chosen to move to Maine if it weren't for the sales tax exemption on aircraft parts, Terry told the Bangor Daily News.

"It's safe to say that if Maine didn't have that sales tax exemption that we would have most likely reconsidered [moving here]," Terry said.

The case for the tax exemption

It all goes back to a "use" tax that Maine imposed on aircraft that were purchased outside Maine, but spent more than 20 days — cumulative, not consecutive — in Maine during the first year of ownership.

By most accounts, it was not good policy.

It was an "onerous and fairly ridiculous situation," according to Bob Ziegelaar, a former director of the Bangor International Airport and former president of Bangor-based Telford Aviation Services, which sold its aircraft maintenance business in 2010 to Maine Aero Services and C&L.

Steve Levesque, executive director of the Midcoast Regional Redevelopment Authority, called the tax "a black mark on Maine" that caused small aircraft owners to shun the state. Aircraft owners who had homes or businesses in Maine would fly to New Hampshire, where they would store and maintain their aircraft, and rent a car to drive into Maine, Levesque said.

Two bills were introduced in 2011 to repeal the "20-day" tax — one by then-Republican Senate President Kevin Raye of Perry, and another by state Sen. Stan Gerzofsky, D-Brunswick. In addition, Gerzofsky introduced a companion bill that would exempt aircraft parts from Maine's 5 percent sales tax.

The bipartisan legislation won approval from the House and Senate, but died because lawmakers on the budget-writing Appropriations Committee could not find a way to pay for it. In order to make sure the tax exemptions made it into law, Gov. Paul LePage's administration inserted it into that year's $6.1 billion biennial state budget with a two-year sunset clause.

The tax change put Maine on equal footing with its neighbors in New England, none of which had a similar use tax on aircraft or a sales tax on aircraft parts, according to the Aircraft Owners and Pilots Association.

There are no comprehensive economic impact figures available for how the tax exemption affected Maine's economy in the past two years, but the anecdotal evidence was convincing enough that legislators in the last session extended the exemption for another 20 years, to 2033.

In 2011, the Office of Fiscal and Program Review estimated the tax exemptions would cost the state about $608,000 a year in lost tax revenue the first few years, increasing slightly to $650,465 during the state's 2015 fiscal year.

Maine Revenue Services updated the figures for the last legislative session, estimating the tax loss in fiscal year 2017 would be roughly $704,000.

Gerzofsky said the benefits have certainly outpaced the loss of tax revenue.

"We created a lot of jobs, we created a lot of payroll taxes and we created an industry we didn't have," Gerzofsky said.

Ziegelaar, who is no longer involved in the aviation industry but is still a keen observer, said it's a bit of an exaggeration to say the tax exemption "created" the industry, but it has definitely helped.

"There's no question that the exemption has been helpful for the industry. When we were running Telford it was a hindrance. I don't think it was an absolute killer, obviously, because we were doing OK, but it certainly was helpful in growing the industry in general," he said.

Levesque agreed: "I think it's too early to tell, but from what we're seeing so far it's showing some significant impact."

Brunswick — which inherited airport infrastructure from the U.S. Navy that would cost roughly $4 billion to build today, according to Levesque — probably has the most to gain from this burgeoning aircraft maintenance industry. Its runway and hangars are big enough to handle some of the largest commercial airliners.

"Brunswick is probably the best aviation facility available on the East Coast right now, and that should yield huge, huge returns for the state of Maine in terms of the aviation industry," said Caruso at Maine Aviation. "You get one airline MRO" — a maintenance, repair and overhaul facility that handles large commercial airline jets — "and that could be 500 jobs."

Aviation companies are not the only ones benefiting from the tax change. Local machine shops, precision manufacturers, upholsterers, anyone along the supply chain, all have the potential to see an increase in business.

Tami Keirstead owns and operates Tam's Upholstery Touch in Glenburn. Before 2011, her business was split 50-50 between doing car upholstery and upholstery for planes, a job she's been doing since getting her FAA repair

license in 1991. Since the tax exemption in 2011, that ratio has tipped decisively in favor of aviation, which now consists of 85 percent of her business. She estimates her sales have increased as much as 40 percent since 2011.

It used to be winter was a quiet time for her business, but "we stayed busy right straight through the last three years," she told the BDN.

So far it's still just herself and one other employee. But if the business continues its upward trend, she'll have to hire more people and likely expand into a bigger space.

The lessons

From an economic development perspective, Levesque said, the sales and use tax exemption on aircraft and parts offers a perfect example of how policy can be used to leverage existing assets, such as the world-class facilities in Brunswick, to bolster an industry and create hundreds of jobs.

In addition to helping one industry grow, the tax change also sends a strong message that Maine is willing to work with the private sector to improve the state's business climate, George Gervais, commissioner of the Maine Department of Economic and Community Development, told the BDN.

"We need to send more messages like this that show we're aggressive regarding tax policy that benefit businesses in the private sector," Gervais said. "It's proven through example in this case that it does grow Maine's economy when we make aggressive tax policy decisions in the right direction."

Other industries — yacht maintenance, for example — could be targeted by policy-makers for tactical changes to the tax policy that would spur growth.

"There's no question in my mind that the sales tax example is helpful and could potentially serve as an example for some other industries," said Ziegelaar, who now runs his own business consulting firm in Brewer called MainXPO.

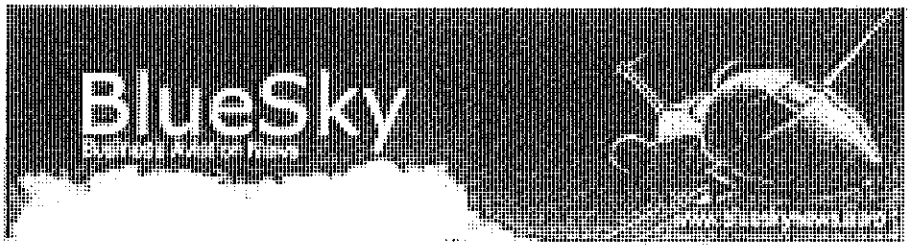
Ziegelaar, who's an economist by training, doesn't believe in giving tax exemptions willy-nilly to different Maine industries. He supports, though, a calculated effort to change tax policy in ways that will yield a net gain for Maine's economy.

"If you can make the case that it's a wash or close to it, why not do that?" he said.

For Caruso, who's watching his business grow as a result of the tax exemption, there's no doubt the tax change will yield a net positive.

"Five years from now when you look back you'll see a whole new picture of this industry," Caruso said. "The state made an investment in it and it's going to pay off."

2/5/2015 BlueSky Business Aviation News - blueskynews.aero



MAC Air Group bolsters fleet with addition of five new aircraft to AOC

First shuttle service links New York with Bahamas

Portland, Maine-based MAC Air Group has been at the Schedulers and Dispatchers conference in San Jose, CA this week, talking up the addition of five new aircraft to its AOC in the last nine months.

The family run business has inducted five new aircraft into the charter fleet; with a sixth aircraft serving a shuttle service that began in December 2014.

Added to the existing charter fleet is a Dassault Falcon 2000, which is fully WiFi equipped, a Hawker 800 XP and Hawker 800, all based at Boca Raton, FL (BCT). In addition a Bombardier Challenger 850 with a completely refurbished interior incorporating WiFi connectivity is based at Stewart, NY (SWF) and a Citation SSII, with a Sierra Super modification giving it an extended range, is located at its home-base of Portland ME.

Challenger 850 - one of MAC Air Group's expanding charter portfolio

The additional aircraft, which join an existing fleet of three Challenger 850s, based in Portsmouth, NH (PSM), White Plains, NY (HPN); and a 16-seat 850 based in Scottsdale, AZ (SDL), four Hawker 1000s, based in the Northeast, and a Learjet 60 based in Burlington, VT (BTV), are managed by Maine Aviation Aircraft Charter, part of the MAC Air Group. "The convenient base locations combined with the popularity of these models has seen an average of 35 - 45 hours per month across our entire fleet," comments **Allyn Caruso**, President of MAC Air Group.

The growing customer base includes celebrities, including many singers and entertainers who

(BLUE SKY article, continued)

find the Challenger 850's are comfortable, roomy and ideal for their long domestic and international tours. "We've seen an uptum in the longer range flights which has driven an increase in our charter hours and we anticipate that 2015 will be even busier," continues Caruso.

First shuttle service added to mix

In addition to the charter activity Maine Aviation Aircraft Charter, began its first ever corporate, shuttle service in December 2014. Served by a 15 passenger VIP Challenger 850 the flight originates in New York on a Friday and travels to The Bahamas, from which it returns on a Sunday. The frequency is extended during the holidays to cover increased demand from the client.

The aircraft has been under Maine Aviation's management for a couple of year's and was selected for the specialized shuttle service owing to its size and range. "We are seeing high demand with passenger numbers of up to 15 making the most of the convenient point to point service," says Caruso about the shuttle. "We are already looking at other areas for this type of service," he concludes.

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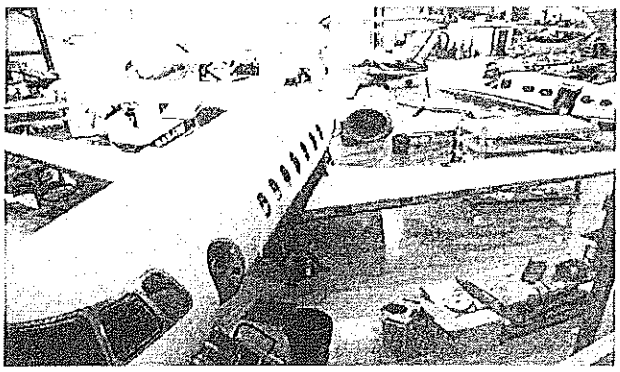
F. Disclosures

F.1. Defaults

The Proposer is not party to any Defaults, pending or on-going Lawsuits



MAC's Maintenance facility has a significant customer base; an aircraft travel great distances to utilize the MAC Facility

F.2. Legal Suits

The Proposer is not party to any Defaults, pending or on-going Lawsuits

F.3. Proof of Insurance

MAC currently maintains insurance on its aviation operations which meets or exceeds the level currently required by the Portland International Jetport, Federal Aviation Administration and U.S. Department of Transportation.

The officers of MAC have been in discussions with their insurance broker, Crystal and Company, with respect to the additional insurance needs of MAC Air Services operating from the proposed New FBO Complex.

Additionally, the Proposer has made arrangements with their lending bank to issue a letter of credit to cover the bond requirement of the Portland International Jetport. The Proposer will work with the City to insure that all bond requirements are met with the Letter of Credit.
Included are current certificates of Insurance issued to the City of Portland/ Portland International Jetport and Statement from Crystal and Company listing the Companies current policy coverage and their ability to provide the remainder of required insurance policies required by the City. (*See Appendix F-3*)-

F.4. Competition Clause

MAC's current and primary business units are charter, maintenance, and aircraft sales. In today's economy most FBO's primary business unit is fuel sales; however, MAC has been successful without fuel sales. Adding fuel sales will only complement MAC's current business core. Northeast is similar to MAC in that it also offers aircraft sales, charter, and maintenance; hence, both businesses are not built purely on fueling. MAC believes there is ample opportunity for both businesses to continue to grow and be

successful. The proposer welcomes the opportunity to meet with the current FBO to discuss future operations.

G. APPENDICES

G.1. Addendum #1 and #2

G.2. CVs/Bios of Management and Key Staff
Allyn J. Caruso
Alysan M. Caruso
Brigitte Miller
Ryan A. Clyde
Travis Caruso

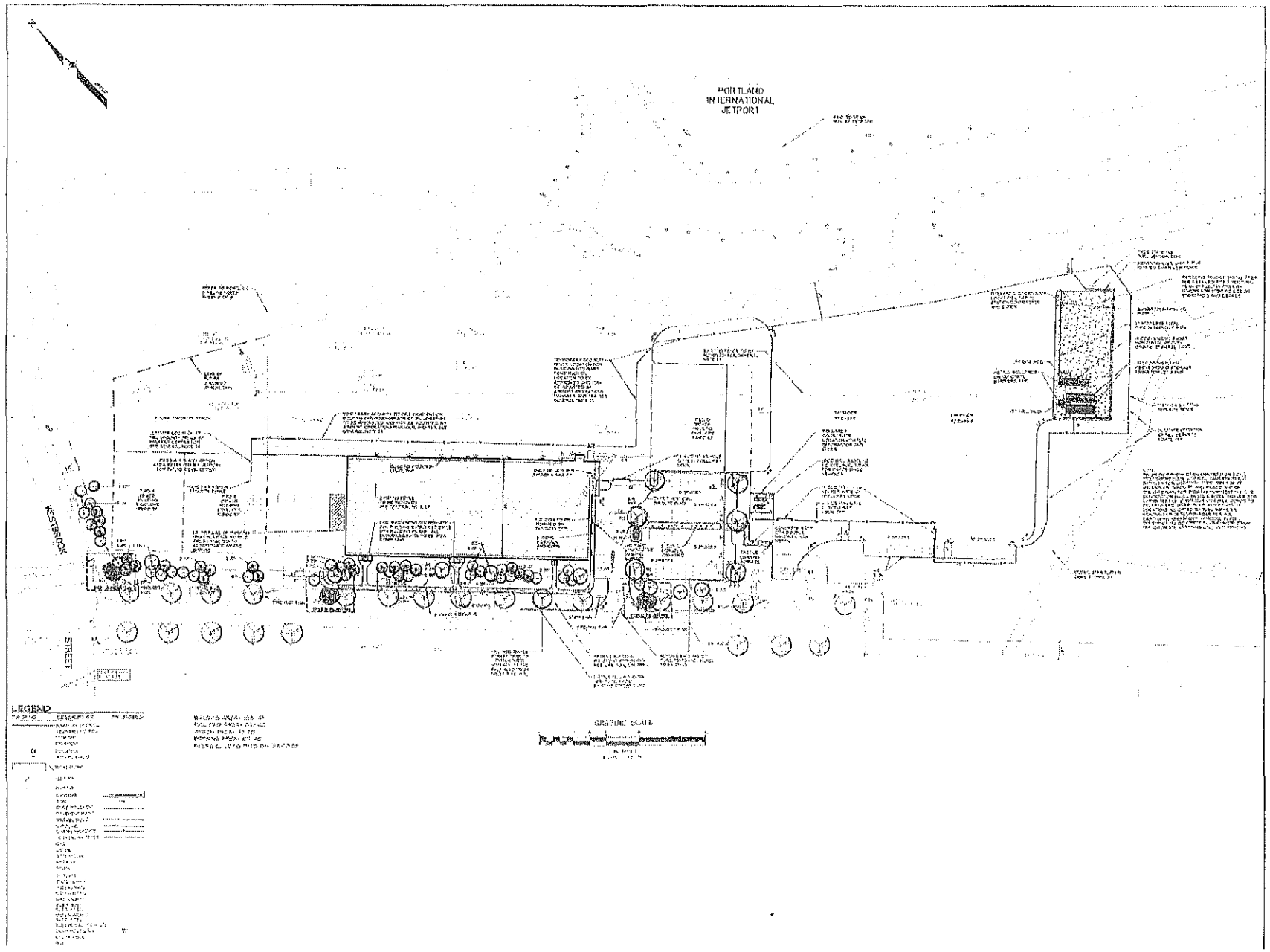
G.3. Proof of Insurance

G.4. Bank Letter of Commitment

G.5. Plans and Renderings

G.6. Site Plans and Sketches

CD
Corporate Tax Returns
2011-2013



NOT FOR CONSTRUCTION

PRELIMINARY PLAN

SEBAGO

SITE PLAN
GENERAL AVIATION FACILITY
PORTLAND INTERNATIONAL JETPORT

MAINE AVIATION CORPORATION

Addendum #1

CITY OF PORTLAND, MAINE

CONSTRUCT & OPERATE A FIXED BASE OPERATION (FBO) TERMINAL AND PROVIDE GENERAL AVIATION FIXED BASE OPERATIONS AT THE PORTLAND INTERNATIONAL JETPORT
RFP #4815

DATE: FEBRUARY 4, 2015

The attention of firms submitting proposals for the work named in the above Invitation is called to the following modifications to the documents as were issued.

The items set forth herein, whether of clarification, omission, addition and/or substitution, shall be included and form a part of the Contractor's submitted material and the corresponding Contract when executed. No claim for additional compensation, due to lack of knowledge of the contents of this Addendum will be considered.

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ALL BIDDERS ARE ADVISED THAT RECEIPT OF THIS NOTICE MUST BE DULY ACKNOWLEDGED ON THE BID PROPOSAL FORM OR BY THE INSERTION OF THIS SHEET, SIGNED, AND SUBMITTED WITH YOUR PROPOSAL.

****

MATTHEW FITZGERALD
PURCHASING MANAGER

Please see attached for responses to questions received both at the pre-proposal meeting and after, a list of pre-proposal attendees and a copy of the Powerpoint Presentation given at the meeting by Jetport Director, Paul Bradbury.

Receipt of Addendum No.1 to the City of Portland's RFP #4815 for **Construct & Operate a Fixed Base Operation (FBO) Terminal and Provide General Aviation Fixed Base Operations at the Portland International Jetport** is hereby acknowledged.

COMPANY NAME: Maine aviation Corporation dba MacAirGroup

SIGNED BY: [signature] DATE: 2/6/15

PRINT NAME & TITLE: Allyn J. Carso

ADDRESS: 1025 Westbrook St.
Portland Me 04102
ZIP CODE

Addendum #1

CITY OF PORTLAND, MAINE

CONSTRUCT & OPERATE A FIXED BASE OPERATION (FBO) TERMINAL
AND PROVIDE GENERAL AVIATION FIXED BASE OPERATIONS AT
THE PORTLAND INTERNATIONAL JETPORT
RFP #4815

DATE: FEBRUARY 4, 2015

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COMPANY NAME: Maine aviation Corporation dba MacAirGrap

SIGNED BY: [signature] DATE: 2/6/15

PRINT NAME & TITLE: Allyn J. Carso

ADDRESS: 1025 Westbrook St.
Portland ME 04102
ZIP CODE

PRE-PROPOSAL MEETING

City of Portland, Maine

RFP #: 4815

PROJECT: City of Portland, Maine
Construct & Operate a Fixed Base Operation (FBO) Terminal and Provide General Aviation Fixed Base Operations at the Portland International Jetport

DATE: January 29, 2015

TIME: 10:00 – 11:45 a.m.

PRESENT: City of Portland Employees attending the meeting included: Matt Fitzgerald, City of Portland Purchasing Manager and Paul Bradbury PE, Airport Director.

Also attending in assistance of City staff were: Dwight Anderson P.E., Principal Engineer at FST, who is the project manager on the Jetport's Sustainable Airport Master Plan and Owens McCullough P.E., VP Engineering at Sebago Technics, who was the project manager for the south ramp site improvements and site plan for this development.

All other attendees of this mandatory pre-proposal meeting are listed below:

NAME	COMPANY	PHONE	FAX	EMAIL
Allyn Caruso	Maine Aviation Corp.	207-780-1811	207-775-3359	acaruso@maineaviaiton.com
Jason Jendrasko	Benchmark	207-591-7600	207-591-7604	JJendrasko@benchmarkconstruction.org
Mark Goodwin	Northeast Air	207-774-6318		Markg@norheastair.com
Nancy Hillward	Hillward Consultants/Tran Security	207-671-5270	207-892-4483	nhillward@roadrunner.com
Robert Greene	Cianbro Cooporation	207-553-2712	207-773-7617	rqueene@craubro.com
Shane Giles	N.S. Giles Fnd. Inc.	207-942-9445	207-945-3163	shane.giles@7sgiles.com

Mr. Bradbury opened the meeting by introducing Mr. Fitzgerald and himself.

Mr. Fitzgerald then provided a brief review of the submission requirements for this RFP. He noted proposals must be received by 3:00 PM on February 12, 2015 at City Hall Purchasing Room 103, stressing that proposals received, even a second, after this time will be rejected. He noted this was a mandatory pre-proposal meeting so only firms represented at this meeting that have signed in will be allowed to submit proposals. He also noted that proposals will be evaluated based on the selection criteria outlined on page 30 of the RFP. Additionally, he noted all questions subsequent to this meeting must be submitted in writing to himself as outlined in

the Request for Proposals and that all questions must be received no later than Thursday, February 5, 2015.

Following this Mr. Bradbury the provided a brief presentation on the following:

- An overview of the Jetport – Airport size and location geographically, airlines servicing the Jetport, airline market share, large businesses in the region, passenger catchment, historical passenger volumes, and recent projects and capital expenditures

- A review of the Proposed South FBO Development – Review of the development site, lease plan, minimum qualifications for proposers, and proposed contract information.

- A review of the selection process.

An electronic copy of the complete power point presentation is included with this addendum. The presentation was followed by a question and answer session. The questions and answers are provided below.

QUESTIONS & ANSWERS:

DURING THE PREPROPOSAL MEETING:

QUESTION #1: Are the qualifications and terms hard or will they be negotiated?

ANSWER #1: The minimum qualifications outlined in this RFP, the Jetport's Development Guidelines, and the Jetport's Minimum Standards are all firm requirements. Market responses to this RFP that exceed these minimums will be used in the selection process/award and may be negotiated with the selected proposer as part of the Lease Agreement.

QUESTION #2: Mr. Bradbury noted a reference on Page 20 second paragraph to an Appendix A Minimum Qualifications Form that is not included in the RFP package.

ANSWER #2: Please strike this paragraph and all references to Minimum Qualifications Form Appendix A from the RFP.

RECEIVED FOLLOWING THE PRE-PROPOSAL MEETING:

QUESTION #3: Items B & H on pages 25 and 26 of the RFP appear to be the same, should one be removed or replaced with other information?

ANSWER #3: Please disregard and strike item H on page 26 from the RFP package.

Addendum #2

CITY OF PORTLAND, MAINE

CONSTRUCT & OPERATE A FIXED BASE OPERATION (FBO) TERMINAL AND PROVIDE GENERAL AVIATION FIXED BASE OPERATIONS AT THE PORTLAND INTERNATIONAL JETPORT
RFP #4815

DATE: FEBRUARY 6, 2015

The attention of firms submitting proposals for the work named in the above Invitation is called to the following modifications to the documents as were issued.

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MATTHEW FITZGERALD
PURCHASING MANAGER

Please see attached for responses to questions received. Please note, this will be the final addendum issued prior to the Proposal opening next Thursday. We will be unable to respond to any further questions.

Receipt of Addendum No.2 to the City of Portland's RFP #4815 for **Construct & Operate a Fixed Base Operation (FBO) Terminal and Provide General Aviation Fixed Base Operations at the Portland International Jetport** is hereby acknowledged.

COMPANY NAME: Maine Aviation Corp dba Mac Air group

SIGNED BY: [signature] DATE: 2/6/15

PRINT NAME & TITLE: Allyn J. Camso

ADDRESS: 1025 Westbrook St.

Portland ME 04102

ZIP CODE

QUESTIONS:

1. *Will the City require the selected proposer to meet all of the Portland International Jetport's Minimum Standards for commercial Aeronautical Activities dated April 25, 2012, as defined in Section 3 of such standards before it commences any operations as a Fixed Base Operator?*

   The proposer will be obligated to meet all of the Portland International Jetport's Minimum Standards for commercial Aeronautical Activities as defined in Section 3 of such standards. All proposals must be responsive to the current Minimum Standards dated April 25, 2012. If a new FBO is developed through this RFP process, it will not be allowed to commence operations until compliant with the Portland International Jetport Minimum Standards in effect as of that date.

2. *What roll, if any, will the City of South Portland play in the awarding of, and subsequent monitoring of the selected proposer to RFP #4815?*

   The development parcel is located in the City of South Portland, so the monitoring would be limited to site plan, building permit approvals, and associated inspections. The City of South Portland does not play a role in the selection process for RFP #4815.

G-2 CVs of Management and Key Staff

Allyn J. Caruso

Allyn Caruso is the President and CEO of Maine Aviation Corporation.

Allyn is responsible for overseeing the company's worldwide operations; including Maine Aviation's charter activities and aircraft sales & acquisition in most major markets and countries. He also heads Maine Aviation's joint venture programs and plays a major role in the continued development of strategic aviation partners, ensuring company longevity within an ever changing marketplace. His current projects include the CRJ200 conversions from airliners into first class corporate configuration for private or corporate use.

Allyn literally grew up in aviation and began his career when he was a teenager pumping fuel for his father at Maine Aviation. In the late 1960's he spent college vacations flying twin engine aircraft as a line pilot for his uncle at Bar Harbor Airlines, and then after college for several years. Allyn spent the mid '70's developing Maine Aviation's aircraft sales department into a leading Cessna dealer with a full line of new Cessna Aircraft form single engine to turbo props.

In 1978, because of a family tragedy, he returned to Bar Harbor Airlines as Executive Vice President and became President in 1981. During this time he was instrumental in increasing the company's revenues from 6 million to 115 million, then after the company's sale to Texas Air Corporation in 1986, he remained a consultant with BHA until 1990. Prior to returning to Maine Aviation as the companies CEO in 1994, Allyn held executive positions with Northeast Air Group and Valley Airlines.

Allyn holds a Bachelor of Science Degree in Business Management from Nathaniel Hawthorne College and has an Airline Transport Rating with five jet type ratings and continues to be current in several jet types. Along with many thousands of hours of flying experience, he retains more than 30 world calls aviation records.

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Alysan M. Caruso

Ms. Caruso began her career in aviation as a consultant with Bar Harbor Airlines where she oversaw the restructuring of the accounting department and its various general accounting functions as well as provided guidance and direction to new and additional staff in implementing and integrating new processes into the company.

She has been Vice President of MAC since Sept 2008, prior to which she was General Manager from May, 1994. She is the principal administrator of the Company, reviewing and approving all financial obligations and maintaining the vision of the company. She also establishes policies and objectives of the organization. Since mid-1994, under her leadership, MAC has successfully achieved a twenty-fold increase in sales, with a significantly improved bottom line, focused on business jet charter, maintenance and sales on a global basis. Her flair for marketing has resulted in a new image for MAC as it competes in a competitive marketplace. As a consequence of the Company's growth, Ms. Caruso, in her capacity as Manager of HGL, is committed to developing the proposed new FBO facility to provide room for additional growth for MAC and its clients. With a background in accounting, she became familiar with aviation in the early 1980s working on a consulting basis to BHA in Bangor, auditing its inventory, and restructuring the accounting department to improve profitability.

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Brigitte Miller

As a native of Massachusetts, Ms. Miller has come to love Maine. She has been a committed member of the MAC Air Group for 20 years. During her tenure as CFO since 2001, she has been responsible for the oversight and development of financial reporting for the company, its aircraft owners, and department tracking. Ms. Miller leads the financing and money management effort on behalf of the company by establishing relationships and working directly with the banks and lending institutions. Her responsibilities also include coordinating the preparation of tax returns with the Company's outside accounting firm, negotiating and editing all charter lease and management contracts, and she negotiates rates and manages policies with insurance companies. She works directly with the Managed Aircraft owners to maintain relations and keep owners informed of aircraft finances and activity, budgets and performance information. Prior to joining MAC in mid-1994 as a full charge bookkeeper, Ms. Miller worked for Jet Services-Portland and for Atlantic Properties after graduating from University of Southern Maine in the late 1980s.

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Ryan A. Clyde

Following graduation from Embry-Riddle Aeronautical University in 1996, Mr. Clyde began his aviation career as a flight instructor. Prior to relocating to Maine, Mr. Clyde, a native of New Jersey, served a 10-year stint as the Vice President of Flight Operations and a captain for Tradewinds Aviation (FAR Part 91 & 135) in Michigan. Mr. Clyde currently holds two critical positions in MAC Group Air: he is Director of Flight Operations of MAC, since he joined Maine Aviation Corporation in February 2007 and also is the Director of Operations for Maine Aviation Aircraft Charter's (MAAC) worldwide flight operations. For more than a decade in aviation management, he has promoted safety in developing and maintaining quality training programs, creating and implementing standard operating procedures and interpreting FAA regulations. He has upgraded MAAC's General Operations Manual to the standards of a Part 121 operation, successfully implemented a Safety Management System and is working on qualifying the Company as an IS-BAO certified organization. As his positions with MAC, he oversees 30 crew members and all related training programs, dispatch, FARs relevant to the MAC Part 135 certificate, safety, and is liaison with the FAA.

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Travis Caruso

Born and raised in Maine, Travis Caruso , son of Al & Alysan, grew up with an airstrip in his back yard and a family business established in aviation – Aviation is 2nd nature to him. He joined MAC in mid-1994, having started his career as an aircraft mechanic at Northeast Express Regional Airlines in Bangor in 1991. Currently, Mr. Caruso is Director of Maintenance for MAC operating under Repair station FSER011E, having overall responsibility for all maintenance activities, including supervising 22 employees. He is qualified to perform maintenance on all of the types of the aircraft the Company operates, as well as several other types flown by commercial airlines which are periodically serviced at Portland International Jetport. Mr. Caruso has managed the certification process of the various aircraft operating under the Maine Aviation Aircraft Charter's Aircraft Operating Certificate (AOC), and is responsible for the development of the maintenance capabilities of the Company. He has successfully implemented and enforced a safety program for the overall day to day safe operation of an active maintenance facility. In addition, he works directly with customers building lasting relationship through quality work and accessibility. He has frequently been complimented by customers who are impressed by the meticulously kept hangar and industrious, focused personnel.

G.3. Proof of Insurance

CRYSTAL
& COMPANY
The integrity of independence.

Crystal & Company
32 Old Slip
Financial Square
New York, NY 10005

DIRECT 212 504-5850
FAX 646 810-3611
MAIN 800-221-5830
Lou.Timpanaro@crystalco.com

February 11, 2015

Mr. Matthew Fitzgerald, Purchasing Manager
City Of Portland, Maine,
Purchasing Office, City Hall Room 103
389 Congress Street,
Portland, ME 04101

Re: **Our Insured: Maine Aviation, Inc. d/b/a MAC Air Group**
RFP Number 4815
Portland International Jetport
Construct & Operate Fixed Base Operation (FBO) Terminal and
Provide General Aviation Fixed Base Operations

Dear Mr. Fitzgerald:

As per RFP Number 4815, Minimum Qualifications and Proposal Terms (Page 20) Section 3, Insurances, please find the current insurance in place and insurance that will be secured during the construction of the new Portland International Jetport FBO.

PROJECT NAME: Construct & Operate a Fixed Base Operation (FBO) Terminal and Provide General Fixed Base Operations

LOCATION: Aviation Boulevard located in the northerly end of Westbrook Street (from Western Avenue in South Portland) and adjacent to the Portland Jetport and Long Creek Youth Center. The location is on airport property owned by the City of Portland, but is located in the City of South Portland on the South side of Runway 11/29.

OUTLINE OF WORK: Construction and management of a Fixed Based Operation Terminal and Provide General Aviation Fixed Base Operations consistent with RFP and Portland International Jetport objectives.

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INSURANCE IN EFFECT:

Aviation Liability Insurance: General liability policy through Swiss Re for Aviation risks with the following limits:
Premises Liability: $10,000,000 each occurrence
Products & Completed Operations: $10,000,000 each occ. /annual aggregate
Hangarkeeper's Legal Liability: $10,000,000 each aircraft /each occurrence

Property Insurance: Property insurance coverage is underwritten by the Travelers Insurance Company and coverage limits are as follows:
Real Property (Buildings): $965,239 and Personal Property: $877,700

Workers' Compensation and Employers Liability: Workers' Compensation coverage is provided by Old Republic Insurance Company. Employers Liability Insurance Limits are as follows.

Bodily Injury by Accident: $1,000,000	each accident
Bodily Injury by Disease: $1,000,000	policy limit
Bodily Injury by Disease: $1,000,000	each employee

INSURANCE FOR FBO PROJECT:

General Liability/Excess Liability:

Full Wrap-Up Policy: Will provide MAC Air Group and all contractors. It will also add as a named insured all of the owner entitles that will be required. Primary General Liability limits $1,000,000 Per Occurrence / $2,000,000 Aggregate including Product and Completed Operations. Excess Limit of Liability, $10,000,000 Per Occurrence and Aggregate excess of primary or,

Owner's Interest Policy: Will provide wrap-up, except it will not provide coverage for a General Contractor (if there is one) or the trades. Primary General Liability limits $1,000,000 Per Occurrence/$2,000,000 Aggregate including Product and Completed Operations. Excess Limit of Liability, $10,000,000 Per Occurrence and Aggregate excess of primary.

Builder's Risk: Hard Costs of $6,250,000 and soft costs of $500,000.

Environmental Impairment (Pollution) Insurance:

Site Pollution Legal Liability Policy: $5,000,000 coverage limit on a three year policy term covering the liability of Maine Aviation as a Tenant and adding the City and City Council as Additional Insured. We would schedule the lease as an Insured Contract.

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& COMPANY
The integrity of independence.

Contractor's Pollution Policy: Will Cover the liability associated with the site development for a limit of $5,000,000. Coverage extended to cover Maine Aviation, the General Contractor and subs during the term of site development with extended completed operations through the applicable statute of repose in the state of Maine.

We trust that the above will be found in order; however, please do not hesitate to contact us with any questions or should you wish to discuss in greater detail.

Sincerely,

Lou Timpanaro
Senior Managing Director

cc: Brigitte Miller
Brian Schofield
Deborah Sewell
Mark Shichtman
Jose Nieto

North American Elite Insurance Company

Certificate of Insurance

Certificate Holder: City of Portland/Portland International Jetport
Attn: Paul Bradberry
1001 Westbrook Street
Portland, ME 04102

Named Insured: Maine Aviation Corporation DBA MAC Air Group
Portland International Jetport, 1025 Westbrook Street
Portland, ME 04102

Policy Period: From May 7, 2014 To May 7, 2015

Policy Number: FGG0000144-00

Issuing Company: North American Elite Insurance Company

This is to certify that the policy(ies) listed herein have been issued providing coverage for the listed insured as further described. This certificate of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policy(ies) listed herein. Notwithstanding any requirement, term or condition of any contract, or other document with respect to which this certificate of insurance may be concerned or may pertain, the insurance afforded by the policy(ies) listed on this certificate is subject to all the terms, exclusions, and conditions of such policy(ies).

Aviation Commercial General Liability	Limits of Insurance	
Each Occurrence Limit	$ 10,000,000	
Damage to Premises Rented to You Limit	$ 1,000,000	Any one premises
Medical Expense Limit	$ 50,000	Any one person
Personal & Advertising Injury Aggregate Limit	$ 10,000,000	
General Aggregate Limit	$ Not Applicable	
Products/Completed Operations Aggregate Limit	$ 10,000,000	
Hangarkeepers Limit		
Each Aircraft Limit	$ 10,000,000	
Each Loss Limit	$ 10,000,000	
Hangarkeeper's Deductible	$ 5,000	Each Aircraft

Additional Insured

As respects liability coverage for "bodily injury", "property damage" or "personal and advertising injury", the definition of Insured in the above stated Policy has been amended to include the Certificate Holder, but only with respect to his, her, or its liability arising out of ownership, maintenance or use of that part of the premises leased to Named Insured.

Notice of Cancellation

The Insurer shall endeavor to provide 30 days written notice of cancellation to the Certificate Holder at the address stated above in the event the Insurer elects to cancel the Policy (10 days if cancelled for non-payment of premium).

Issued Date: February 6, 2015

By _____
(Authorized Representative)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/6/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Frank Crystal & Co., Inc.
dba Crystal & Company
Financial Square, 32 Old Slip
New York NY 10005

CONTACT NAME: Jose Nieto
PHONE (A/C, No, Ext): 212-504-5973 FAX (A/C, No): 646-810-3611
E-MAIL ADDRESS: Jose.Nieto@Crystalco.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Old Republic Insurance Company	24147
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED MAINAV1
Maine Aviation Corporation
Portland International Jetport
1025 Westbrook Street, Brigitte Miller
Portland ME 04102

COVERAGES CERTIFICATE NUMBER: 392341632 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY						EACH OCCURRENCE	$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
	CLAIMS-MADE OCCUR						MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			OCAN03337005	9/11/2014	9/11/2015	X WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: Evidence of Insurance Only

CERTIFICATE HOLDER

City of Portland/Portland International Jetport
Attn: Paul Bradberry
1001 Westbrook Street
Portland, ME 04102

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Crystal & Company

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G.4. Bank Letter of Commitment

TD Bank
America's Most Convenient Bank®
One Portland Square
P. O. Box 9540
Portland, ME 04112-9540
T 207 761 8600
F 207 761 8660

tdbank.com

February 5, 2015

Allyn Caruso
Maine Aviation Corporation
1025 Westbrook Street
Portland, ME 04102

Dear Allyn:

On behalf of TD Bank, N.A. (the "Bank"), I am pleased to offer Hangar Group, LLC (the "Borrower") a commitment for the credit accommodations (the "Credit Accommodations") which include construction financing for completion of a new FBO facility and the supporting Letter of Credit in favor of the City of Portland and that are described on the attached term sheet, subject to the following and the terms and conditions set forth on the attachments to this letter. The Terms and Conditions of Loan and the Commitment Letter Rider dated of even date herewith are attached and are made part of this commitment letter with the same force and effect as if they were set forth herein.

If the terms and conditions set forth herein are acceptable to you, please acknowledge below and return a signed counterpart to this letter on or before the close of business on March 15, 2015. The Bank's commitment hereunder will expire in the event the Bank has not received such acceptance on or before March 15, 2015 or the closing has not occurred by June 1, 2015, all in accordance with the prior sentence, and the Bank will be under no obligation to offer any further Credit Accommodations.

The Bank may terminate this commitment letter, and will have no obligation to extend the Credit Accommodations, upon the happening of any of the following events: (a) the Bank does not receive the accepted copy of this commitment by March 15, 2015; (b) the Credit Accommodation do not for any reason close by June 1, 2015; (c) the Borrower's failure to comply with any term or condition set forth herein or in the attached Terms and Conditions of Loan or the Commitment Letter Rider; (d) any material adverse change occurs with respect to the economic value, business assets, liabilities, results of operations or condition (financial or otherwise) of the Borrower or any guarantor; (e) any report or statement made to the Bank by the Borrower or any guarantor in connection herewith is or proves to be false or misleading in any material respect as of the date made or furnished; or (f) any collateral securing the Credit Accommodations shall be materially damaged by fire or other casualty.

Hangar Group, LLC
February 5, 2015
Page 2

The documents signed at closing shall be deemed to be the final and complete expression of the agreement Bank and the Borrower with respect to the Credit Accommodation. Any terms and conditions that have been discussed, negotiated, agreed to or that are part of this Commitment letter and are not included in the terms and conditions of the documents signed at closing shall be deemed waived and superseded by the documents signed at closing. This commitment letter is not intended to survive closing of the Credit Accommodation.

If you have any questions or comments on the terms of this letter, please do not hesitate to call me.

Very truly yours,
TD Bank, N.A.

By: _____
William Schad
Senior Commercial Loan Officer

The above commitment is hereby accepted:

Hangar Group, LLC

By: _____
Its: manager

The undersigned hereby acknowledges the above letter and agrees to provide the guaranty referenced therein to be provided by the undersigned.

Guarantors:

_____
Allyn Caruso

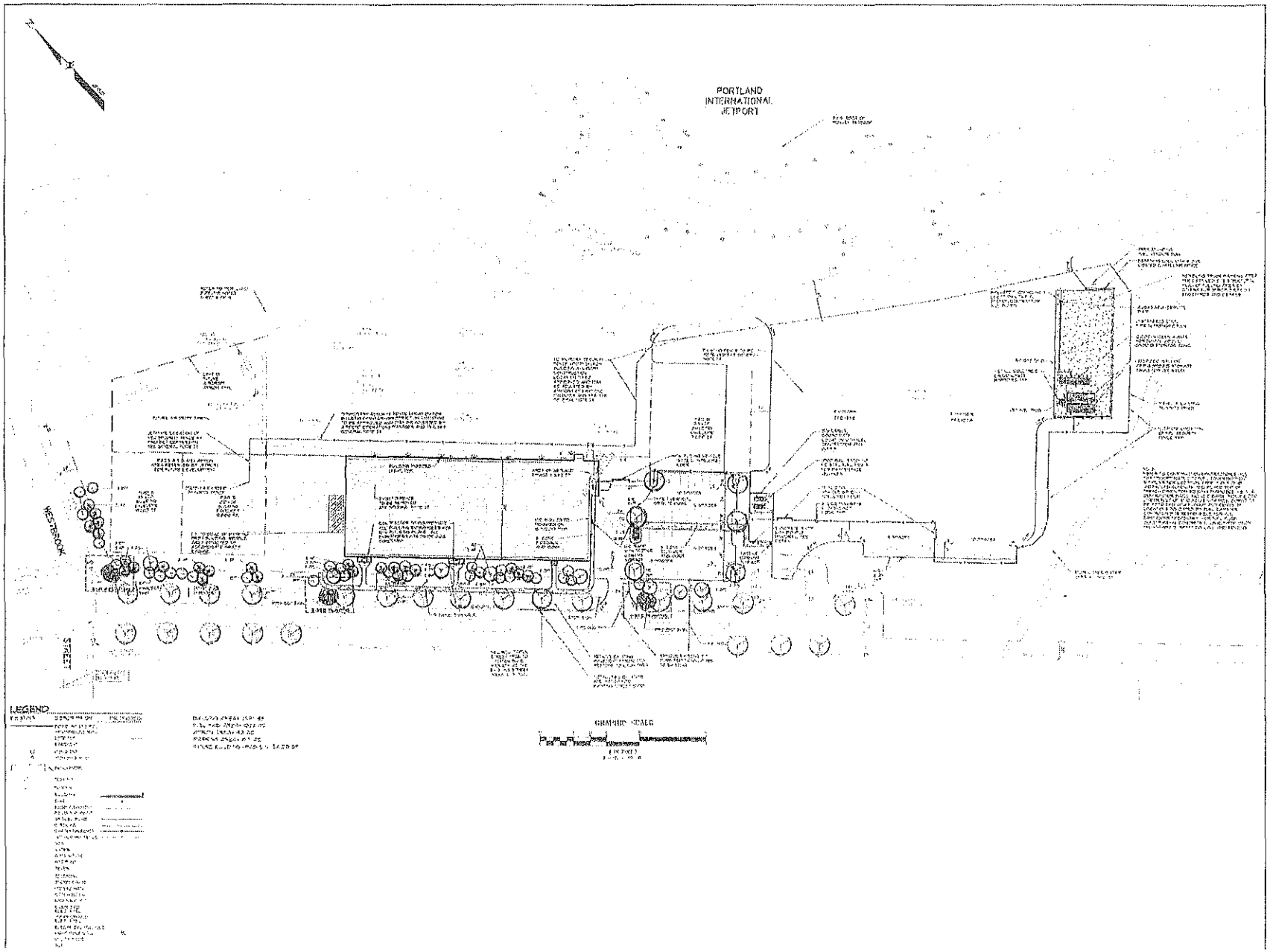
Maine Aviation Corporation

_____
By:
Its: President

G.5. Plans and Renderings

G.6. Site Plans and Sketches

- Site plan update illustrated by Sebago Technics- Note the fencing structure pre and post construction



SEBAGO

SITE PLAN

GENERAL AVIATION FACILITY

JUNE AVIATION CORPORATION

PROPOSED AGREEMENT

EXHIBIT C

Tenant Parties

Maine Aviation Corporation, d/b/a MAC Air Group

MAC Aircraft Sales, LLC

Maine Aviation Aircraft Maintenance, LLC

B.H.A. Leasing, Inc.

Maine Aviation Aircraft Charter, LLC

Maine Aviation Aircraft Leasing, LLC

Q Jets, LLC

Maine Aviation Aircraft Flight School, LLC

MAC Air Services, LLC

PROPOSED AGREEMENT

EXHIBIT D

Insurance Requirements

PROPOSED AGREEMENT

APPENDIX

		Fixed Base Operator	Aircraft Maintenance	Avionics, Instrument, Propeller Repair	Aircraft Rental, Flying Club, Flight Training	Aircraft Charter or Aircraft Management	Aircraft Sales	Specialized Commercial	Temporary Specialized Commercial	Commercial Hangar	Air Carrier De-icing	General Aviation Deicing	Non-Commercial Hangar	Self-Fueling
COMMERCIAL GENERAL LIABILITY (Combined Single Limit)														
	Each Occurrence	$ 10,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 25,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000
VEHICULAR LIABILITY of BUSINESS AUTOMOBILE LIABILITY (Combined Single Limit)														
	Each Occurrence	$ 2,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 10,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000
HANGAR KEEPER'S LIABILITY (Largest Aircraft Accommodated)														
SE Piston	Each Aircraft		$ 150,000	$ 150,000	$ 150,000	$ 150,000	$ 150,000	$ 150,000	$ 150,000	$ 150,000				
	Each Occurrence		$ 300,000	$ 300,000	$ 300,000	$ 300,000	$ 300,000	$ 300,000	$ 300,000	$ 300,000				
ME Piston	Each Aircraft		$ 250,000	$ 250,000	$ 250,000	$ 250,000	$ 250,000	$ 250,000	$ 250,000	$ 250,000				
	Each Occurrence		$ 500,000	$ 500,000	$ 500,000	$ 500,000	$ 500,000	$ 500,000	$ 500,000	$ 500,000				
SE Turboprop	Each Aircraft		$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000	$ 1,000,000				
	Each Occurrence		$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000				
ME Turboprop	Each Aircraft		$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ 2,000,000				
	Each Occurrence		$ 4,000,000	$ 4,000,000	$ 4,000,000	$ 4,000,000	$ 4,000,000	$ 4,000,000	$ 4,000,000	$ 4,000,000				
Light Turbine	Each Aircraft		$ 2,500,000	$ 2,500,000	$ 2,500,000	$ 2,500,000	$ 2,500,000	$ 2,500,000	$ 2,500,000	$ 2,500,000				
	Each Occurrence		$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000				
Medium Turbine	Each Aircraft		$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000	$ 5,000,000				
	Each Occurrence		$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000				
Heavy Turbine	Each Aircraft	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000				
	Each Occurrence	$ 20,000,000	$ 20,000,000	$ 20,000,000	$ 20,000,000	$ 20,000,000	$ 20,000,000	$ 20,000,000	$ 20,000,000	$ 20,000,000				
AIRCRAFT AND PASSENGER LIABILITY (Combined Single Limit, Each Occurrence)														
SE Piston					$1,000,000 CSL/$100,000 sub limit per seat/passenger									
ME Piston					$1,000,000 CSL/$100,000 sub limit per seat/passenger									
SE and ME Turboprop					$5,000,000 CSL/$200,000 sub limit per seat/passenger									
Light Turbine					$5,000,000 CSL/$200,000 sub limit per seat/passenger									
Medium Turbine					$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000						
Heavy Turbine					$ 10,000,000	$ 10,000,000	$ 10,000,000	$ 10,000,000						
Student and Renters					$ 100,000									
CFI Professional Liability					$ 100,000									