

Regular
City Council Meeting
June 15, 2015

1. Agenda Only

Documents: [2015-06-15 AGENDA REV .PDF](#)

2. Agenda With Packet Part 1

Documents: [2015-06-15 AGENDA WITH PACKET - PART 1.PDF](#)

3. Agenda With Packet Part 2

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4. Agenda With Packet Part 3

Documents: [2015-06-15 AGENDA WITH PACKET - PART 3.PDF](#)

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

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

AGENDA
REGULAR CITY COUNCIL MEETING
JUNE 15, 2015

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL MEETING:

Special Meeting of the Corporator of the Portland Development Corporation (PDC) – Sponsored by Michael F. Brennan, Mayor.

As the sole Corporator of the Portland Development Corporation (“PDC”) The City Council will hold a Special Meeting of the Corporator on June 15, 2015 at 7:00 p.m. in City Council Chambers.

The purpose of the meeting is for the Corporator to act on the following Items:

1. Business Assistance Program for Job Creation – Amendments to Guidelines
2. Portland Economic Development Plan Implementation Program – Establishing a New Annual Investment Cap and Amending Guidelines.

**Order 277- 14/15
(Tab 1)**

Order Amending the Portland Development Corporation’s (“PDC”) Business Assistance Grant Program Guidelines – Sponsored by Portland Development Corporation, Barry Sheff, Board President.

The original guidelines for the Business Assistance Program for Job Creation (BAP) were approved by the City Council in 2011, and the PDC Board and staff have since been administering the program.

The BAP Program provides grants of up to \$20,000 to Portland businesses for creating at least two jobs, \$10,000 per job. The jobs must go to low/moderate income Portland residents and the grants have a required one-to-one match from the assisted business. The BAP has received two CDBG grants (in FY11/12 and FY13/14) for a total of \$200,000; \$5,000 remains.

Twelve businesses have received grants of \$10,000 - \$20,000 and, to date, 18 jobs have been created with at least another 15 more jobs to come from the most recent grant recipients, each of which has a year to create these jobs. The Council approved a financial appropriation of CDBG 2015/2016 Program Funds in the amount of \$100,000 to continue the BAP. Updated guidelines would be applied to new grant requests after City Council approval.

Five affirmative votes are required for passage after public comment.

**Order 278-14/15
(Tab 2)**

Order Establishing a New Annual Investment Cap for the Portland Economic Development Plan Implementation Program (PEDPIP) and Amending PEDPIP Guidelines – Sponsored by Portland Development Corporation, Barry Sheff, Board President.

The purpose of PEDPIP is to provide grants for economic development projects and programs that advance the initiatives addressed in Portland's Economic Development Vision and Plan and its current Work Plan. This may include planning studies and other "soft" costs that focus on one-time expenditures for economic development projects and programs, rather than ongoing projects or operating money, for public or not-for-profit entities. The Fund does not invest in "hard" costs for public infrastructure or private development projects.

The City Council established the PEDPIP in October 2011, and established a financial cap of \$250,000 for the Program, using PDC administered funds for capitalizing the Program, along with maximum individual Grant requests of \$75,000.

Almost three years later, at the Council's meeting on November 13, 2014, it authorized the removal of the cap since grant eligible projects were fast approaching the \$250,000 cap. The City Council approved Order authorized the utilization of the PDC's *Unrestricted Funds for recapitalizing PEDPIP*. At that meeting, Councilor Duson requested that the PDC Board report back to the City Council after discussing and settling on a new cap for the Program. Attached are PEDPIP Guideline Amendments, in a marked revision format, which show the new maximum investment cap.

At the PDC Board Meeting on May 18, it voted unanimously (8-0) to forward this item to the City Council for approval to amend the PEDPIP Guidelines to set a spending cap at no more than 10% of the currently available unrestricted funds during any one fiscal year, which cap will be determined each year as of July 1st. The PDC also recommended for approval by the City Council, that a cap on individual project requests be reduced from \$75,000 to \$15,000. To date, 63% of the individual requests have been at or under \$15,000.

Five affirmative votes are required for passage after public comment.

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 3) June 1, 2015 Special City Council Meeting
June 1, 2015 Regular City Council Meeting

PROCLAMATIONS:

Proc 36-14/15 Proclamation Recognizing Brianna Holdren, State of Maine 2014 -
(Tab 4) 2015 Boys and Girls Clubs Youth of the Year – Sponsored by Councilor David Brenerman.

Proc 37-14/15 Proclamation Honoring Officer Christopher Shinay, Police Officer
(Tab 5) of the Month for May, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 38-14/15 Proclamation Recognizing Dr. Ann Lemire, Recipient of the Phebe C.
(Tab 6) King Access to Care Award - Sponsored by Mayor Michael F. Brennan.

Proc 39-14/15 Proclamation Honoring Jeffery Cole, Public Services Department,
(Tab 7) Employee of the Month for June, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 40-14/15 Proclamation Proclaiming June 27, 2015, Portland African American
(Tab 8) Community Health Day – Sponsored by Councilor Edward J. Suslovic.

Proc 41-14/15 Proclamation Recognizing June 19th as National Summer Learning Day –
(Tab 9) Sponsored by Mayor Michael F. Brennan.

APPOINTMENTS:

Order 279-14/15 Order Appointing Constable for 2015 Re: Department of Public
(Tab 10) Services – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order appoints Nathan K. Walrath, Park Ranger, for the Department of Public Services as constable for the remaining calendar year 2015. This appointment shall be effective until 12:00 midnight, December 31, 2015.

Pursuant to Sections 20-19 and 20-19.5, Portland City Code, none are allowed to carry a firearm, concealed or unconcealed, in the performance of duties, or to make arrests or issue parking tickets.

The Council will be asked to enact this order as an emergency so Mr. Walrath can begin work immediately. This enactment requires seven affirmative votes for passage after public comment has been given.

**Order 280-14/15
(Tab 11)**

**Order Appointing Members to Various Boards and Commissions -
Sponsored by the Nominating Committee, Councilor David Brenerman,
Chair.**

Name	Board and Committee	Expiration
Margery Niblock	Civil Service Employment Subcommittee	06/30/2018
Patrizia A. Bailey	Land Bank Committee	06/30/2018
Thomas Jewell	Land Bank Committee	06/30/2018
Colleen Tucker	Land Bank Committee	06/30/2018
Evan Carroll	Portland Housing Authority	06/30/2020
Shirley Peterson	Portland Housing Authority	06/30/2020
Carol Hutchins	Park Commission	06/30/2018
Craig Lapine	Park Commission	06/30/2018
Cynthia Loebenstein	Park Commission	06/30/2018
Nathan Robbins	Park Commission	06/30/2018
James Cradock	Portland Public Arts Committee	06/30/2018
Pandora LaCasse	Portland Public Arts Committee	06/30/2018
Anthony Muench	Portland Public Arts Committee	06/30/2018

Five affirmative votes are required for passage after public comment.

**Order 281-14/15
(Tab 12)**

**Order Appointing Jon P. Jennings as City Manager, Approving His
Contract, and Setting Annual Salary – Sponsored by the City Manager
Search Committee, Mayor Michael F. Brennan, Chair.**

This order appoints Jon P. Jennings as the City Manager, effective July 13, 2015, and approves a three-year employment contract. The contract establishes an annual base annual salary of \$148,064.38 and provides for a monthly vehicle allowance, relocation expense reimbursement and health and retirement benefits.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

**Order 282-14/15
(Tab13)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Allen Toun –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$1,381.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Allen Toun.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account.

Money in that account is used primarily for drug investigations, training, and equipment.

**Order 283-14/15
(Tab 14)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Jennifer Harvey –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$16,004.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Jennifer Harvey.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 284-14/15
(Tab 15)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Ashley Gross–
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$2,548.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Ashley Gross.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 285-14/15
(Tab 16)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Isaiah Mokeme –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$1,465.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Isaiah Mokeme.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 286-14/15
(Tab 17)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. William Clark –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$1,837.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. William Clark.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 287-14/15
(Tab 18)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Michael Card –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$694.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Michael Card.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 288-14/15
(Tab 19)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Tyrone Muldrow -
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$2,476.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Tyrone Muldrow.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 289-14/15
(Tab 20)**

**Order Re: Residential Parking Permit Extension – Sponsored by
Michael J. Sauschuck, Acting City Manager.**

June of 2008, the City Council approved a new residential parking zone, IR (Island Resident). A total of twenty-nine (29), two-hour parking spaces on both sides of Thames St. easterly of Hancock Street were signed accordingly. Vehicles displaying a IR (island resident) permit are exempt from the time limit parking regulation and can be left there all day; however the vehicles must be moved in accordance with the standard posted street maintenance signs, snow bans and posted emergency no parking.

Additionally since the development of the proposed condominiums at the corner of Thames and Hancock Streets was on hold, ten (10) on-street spaces on the westerly side of Hancock St between Fore & Thames and the sixteen (16), on street parking spaces on the north side of Thames St. between India and Hancock St. were signed two-hour parking (rather than metered), so that people with a IR permit could use them on a temporary year-to-year basis until the condominium development is started or another project in its place.

This gave the islanders an additional twenty-six (26) on-street parking spaces convenient to Casco Bay Lines that would cause minimal interference with area businesses and residents.

The current one-year approval to allow the twenty-six (26) spaces surrounding the development that is on hold at the corner of Thames & Hancock Streets to be included in the Island Residential Zone expires on June 30, 2015.

**Order 290-14/15
(Tab 21)**

Order Declaring Saturday, July 4, 2015, as July 4th Stars and Stripes Spectacular Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order declares July 4th Stars and Stripes Spectacular Festival to be held Saturday, July 4, 2015 from 7:00 p.m. to 10:00 p.m. Rain date is Sunday, July 5th.

This year's festival, which is being funded by private donations and fundraising activities by July 4th Portland, will include:

- 25 minutes fireworks display
- Portland Symphony Orchestra Concert with special guest Melissa Manchester
- Food & Entertainment Vendors

Street closings are included in the agenda backup.

**Order 291-14/15
(Tab 22)**

Order Declaring Sunday, August 9, 2015 as the New England Cannabis Farmers Market Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order declares Sunday, August 9, 2015 as “New England Cannabis Farmers Market Festival” to be held at Deering Oaks Park, 9:00 a.m. to 7:00 p.m.

The New England Cannabis Farmers Market Festival is a one day event showcasing Maine's caregivers and innovators in the community organized by New world Organics. It will provide an opportunity for entrepreneurs and farmers to educate the community. Caregivers and other vendors will set up along the walking paths in the park, showcasing and offering their

products to registered patients. Patients will be required to have all necessary paperwork upon signing up with a provider.

Admission is FREE, and 2000+ people are expected to attend the day's events. Refreshments, t-shirts, artwork and other items will be available for sale. There will also be live music (a band in the afternoon). Participating vendors will pay a fee to participate (\$100-\$250).

There are to be no cannabis sales or consumption at the event. There is no rain date for the festival. The festival has been reviewed and endorsed by the Friends of Deering Oaks Park.

In order to safely hold the festival and to assist in setup, the main road into Deering Oaks Park needs to be closed to traffic at approximately 7:00 a.m. August 9, 2015 (opens back up again at 9:00 p.m.)

Festival grounds include Deering Oaks Park (to include the Bandstand, the Ravine Water Play area and park roadways: Tennis Court Rd., Jenny Lane, and Farmers Market Rd.).

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 the organizer and New World Organics for the purpose of conducting the festival, subject to the direction and control of the City Manager.

**Order 292 -14/15
(Tab 23)**

**Order Declaring the 13th Annual Greater Portland Festival of Nations
– Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order declares Saturday, July 25, 2015, as the 13th Annual Greater Portland Festival of Nations to be held at Deering Oaks Park, 11:00 a.m. to 7:00 p.m.

This year will be the thirteenth annual Festival of Nations held at Deering Oaks Park. The Festival, organized by Women in Need Industries and Mugadi Foundation, showcases Maine's ethnic diversity. The festival features music, food, cultural exhibits, children's activities, and folk art from America and many nations around the world. 2,500+ people are expected to attend the day's events.

Admission is free. Refreshments, crafts, artwork, and other items will be for sale. The Festival is held rain or shine.

In previous years, the festival has been held on a Sunday, but in 2014 it was moved to Saturday. This year, the festival will again be held on Saturday. Farmers Market (for just the date of the festival) will be moving their setup to Bowling Green Lane, so that setup for the Festival of Nations can take place at the Bandstand and along Farmers Market Rd. The Friends of Deering Oaks Park has reviewed and endorsed the festival (and the Farmers Market move that day).

In order to safely hold the festival and to assist in setup, the main road into Deering Oaks Park needs to be closed to traffic at approximately 10: a.m. July 25, 2015 (opens back up again at 10pm).

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 the organizer and Mugadi Foundation for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

**Order 293-14/15
(Tab 24)**

Order Declaring August 9, 2015, as The B. Good Block Party Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.

B.good, located on Exchange Street, has proposed hosting a fundraising block party (small festival) to raise money for the B. Good Portland Foundation. The foundation uses micro-grants to help inspired individuals improve their communities. The organizer for this event has submitted a detailed plan for the festival, which includes hosting a neighborhood block party/festival (food, games, music, beer garden), to be held on Sunday, August 9th 2015, from 12pm-5pm on Exchange Street (Exchange Street closed from Middle Street to Fore Street, beginning at 10am). Rain Date for the event is Sunday, August 16. The festival itself would be held in front of and around the B.good restaurant, but other stores along Exchange may participate as well by holding sidewalk sales (setting up merchandise tables outside or organizing events in the street/parking spaces). There is no registration/ticket fee, however, individuals attending the event will be charged \$10 - \$15 for an “all you can eat plate,” as well as \$2 for beverages and \$5 for beer. Expected attendance is 100 people for the “all you can eat plate,” but obviously several hundreds of people are expected to take advantage of the Exchange Street pedestrian friendly shopping experience.

Beer is to be served by Peaks Organic Brewing Company on the street in a roped off Beer Garden area, and would be considered an expansion of B. Good’s alcohol footprint (B. Good currently holds a Class 3 & 4 beer & wine license). Organizer’s staff (and private security staff) will ensure that only 21+ wrist banded attendees are in beer service area.

Organizer is obtaining the necessary “beer tasting” license from the state/city for serving beer, as well as other licenses from the city for live music, refreshments and other aspects of the event.

Lower Exchange Street, from Middle Street to Fore St. would be closed to traffic. Milk Street, from Market to Exchange, would also need to be closed to traffic. Portland’s Downtown District has endorsed the event, and most of the businesses in the closed section of street have endorsed the event. City staff has conferred with organizers to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersections. At least two Police Officers are required to be on site, hired by the organizer.

City staff may require that a Parking Control Officer be hired to cover the top of Exchange Street (Exchange/Middle intersection).

In order for this block party festival to be held, a portion of Exchange Street needs to be barricaded to vehicle traffic (from 10am – 6pm). Lower Exchange Street, from Middle Street to Fore Street, would be closed to traffic, as well as Milk Street at Market. These streets would also need to be posted “No Parking.”

The above closed streets and the adjoining sidewalks are the Festival Zone. Organizers will leave an emergency lane (Fire, Police) down the entire length of Exchange Street.

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 B. Good (and participating Exchange Street businesses) for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

**Order 294-14/15
(Tab 25)**

Order Changing Polling Place for District 5 Precinct 1 from the Stevens Avenue Armory, 772 Stevens Avenue to the Seventh-Day Church, 97 Allen Avenue – Sponsored by Katherine L. Jones, City Clerk.

This order is changing the Polling Place for District 5 Precinct 1 from 777 Stevens Avenue Amory to the Seventh Day Adventist Church, 97 Allen Avenue.

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

LICENSES:

**Order 295-14/15
(Tab 26)**

Order Granting Municipal Officers’ Approval of City of Portland The Drink Exchange LLC d/b/a The Drink Exchange. Application for a Class A Lounge License with Outdoor Dining on Public Property at 43 Wharf Street - Sponsored by Katherine L. Jones, City Clerk.

Application filed 5/15/15. New City and State application. Former Location of The Merry Table.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 7-14/15
(Tab 27)**

Resolution Adopting Council Rules for 2014-2015 as Amended – Sponsored by the Nominating Committee, David Brenerman, Chair.

The amended Rule concerns City Council Workshops, which have had no separate Rule in the City Council Rules of Procedure (the "Rules"). In the proposed amendment to the Rules, a new subsection of Rule 1 lays out who has the authority to call a Workshop and what specific matters may be addressed during City Council workshops.

Votes are not taken during workshops; but under the proposed Rule, it is permissible to poll the Council to determine its position on the issue being discussed. Such a non-binding poll would have no legislative effect, and instead would be advisory only.

This item must be read on two separate days. This is its first reading, and its second reading will be at the July 6, 2015, regular City Council meeting.

UNFINISHED BUSINESS:

**Order 121-14/15
(Tab 28)** **Order Granting Municipal Officers' Approval of Trouble, LLC d/b/a Trouble, LLC. Application for a Class A Lounge License with Entertainment with Dance and Motion Picture Theatre (Less than 999 Seats) at 10 Exchange St. – Sponsored by Katherine L. Jones, City Clerk.**

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

At the January 5, 2015, Council meeting this item was postponed to this meeting. After conversations with the applicant, staff is recommending that this item be postponed indefinitely.

**Order 172-14/15
(Tab 29)** **Order Approving Two-Party Agreement between the City of Portland and the Maine Department of Transportation Re: Improvements to Forest Avenue – Sponsored by Michael J. Sauschuck, 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 April 27th City Council meeting this item was postponed to this meeting. Staff is asking that this item be postponed to the September 21, 2015, City Council meeting.

**Order 255-14/15
(Tab 29A)**

**Amendment to Portland City Code Chapter 14. Land Use Article III.
Zoning Division 17 Re: Drive-in Banks in the B-7 Zone - Sponsored by
the Planning Board, Stuart O'Brien, Chair.**

Bangor Savings Bank is requesting a text amendment in order to develop a small lot at 20 Marginal Way, within the B-7 Zone, as a three-story bank with drive-through. The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)(1)(c)) that currently require that bank drive-throughs must be within a building of at least 20,000 square feet. The proposed text amendment would create an exception to this requirement for smaller buildings on small lots in existence at the time B-7 was first enacted on March 9, 2005.

The Planning board met on April 14, 2015, and voted 5-0 (Boepple and O'Brien 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 May 18, 2015. On June 1, 2015, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 256-14/15
(Tab 29B)**

**Amendment to Portland City Code Chapter 7 (Cemeteries) Article I. to
VII. Re: Update to Cemetery Ordinance- Sponsored by Michael J.
Sauschuck, Acting City Manager.**

The Department of Public Services wishes to update language in Chapter 7 of the City Code to address to reflect current cemetery management practices.

It has been many years since Chapter 7 has been amended. Over the years operating procedures and funeral practices have evolved, making some of the language in the ordinance archaic or obsolete. The proposed amendments align the language with current practices.

The proposed amendments also allow staff to charge a reasonable fee for the use of Wilde Chapel. Corporation Counsel has reviewed the records and has found no language in the City Charter prohibiting this practice.

This item must be read on two separate days. It was given a first reading on May 18, 2015. On June 1, 2015, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 269-14/15
(Tab 30)**

Order Adopting Development Program for the Portland's Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order adopts the development program (as outlined in the agenda backup materials) for the Portland's Downtown District for fiscal year 2015-2016, submitted by the Acting City Manager, pursuant to 30-A M.R.S.A. Section 5244 (1).

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff recommends that this item be postponed to June 24, 2015.

**Order 270-14/15
(Tab 31)**

Order Assessing Maintenance and Implementation Assessments in the Portland's Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order assesses the sum of \$746,307 to be raised and appropriated from the special assessments on all real estate situated within the boundaries of the Portland's Downtown District to fund maintenance and implementation costs for such district for the period beginning July 1, 2015 and ending on June 30, 2016.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff recommends that this item be postponed to June 24th.

**Order 271-14/15
(Tab 32)**

Order Approving and Authorizing the Acting City Manager to Enter into Master Agreement and Supplemental Services Agreement with Portland's Downtown District – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order approves and authorizes the City Manager to enter into a Master Agreement, with the Baseline Services provided in Exhibit B, with the Downtown Improvement District Corporation d/b/a Portland's Downtown Improvement District, to carry out the development plan for Portland's Downtown Improvement District for the period and also a Supplemental Services Agreement to implement Supplemental Public Works Services as approved in the Fiscal Year 2016 Appropriation Resolve, from and after July 1, 2015 and ending June 30, 2016.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff recommends that this item be postponed to June 24, 2015.

**Order 272- 14/15
(Tab 33)**

Order Authorizing and Appropriating a Portion of Funds from the Sale of Unit 1 at Portland Technology Park to be used for the Natural Gas Connection – Sponsored by the Finance Committee, Councilor Nicholas Mavodones, Chair.

Natural gas service is needed at the Portland Technology Park to be available to occupants, including bioscience manufacturers and technology-related companies.

The Council previously approved two easements to Unitil for installation and maintenance of a natural gas line from the natural gas main on Westbrook Street to the Technology Park.

The new gas line will connect to the existing line installed under the completed Phase 1 section of the Park road.

The nearest natural gas main is on Westbrook Street. Over several years, various routes to bring natural gas to the Technology Park were considered. The proposed route is recommended as it is a lower-cost option that will minimize impacts to the environment and infrastructure expense.

Staff seeks authorization from the Council to appropriate a portion of the proceeds from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance to cover the costs needed for bringing natural gas to the Park in the amount of \$80,000. The total sales proceeds from the sale of Unit 1 to Patrons Oxford is \$625,000, less the broker fee and utility costs of \$80,000, will net the City \$501,250.

With natural gas in place, marketing the two available sites at the Technology Park will enhance the City's ability to sell them. Importantly, the Patrons Oxford Purchase and Sale Agreement commits the City to complete a natural gas service connection into the Park.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff is recommending that this item be postponed indefinitely.

**Order 273-14/15
(Tab 34)**

Order to Approve Recommending Maine Department of Transportation/ City Agreement for 2015 Municipal Partnership Initiative (MPI) Project to Pave Washington Avenue – Sponsored by Michael Sauschuck, Acting City Manager.

The Department of Public Services ("DPS") requests approval for the Acting City Manager to enter into a two-party agreement with Maine Department of Transportation ("MDOT") so we may proceed with design and bid advertisement to rehabilitate a portion of Washington Ave and Washington Ave Extension. The total value of investment is estimated to be \$775,000 and the 50% Local cash obligation is estimated to be \$387,500.

The City cannot proceed with final design and bid document preparation without this agreement until this agreement has been executed. Failure to execute this agreement could result in deferral or elimination of leveraged funding for this MaineDOT/City Partnership project.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Five affirmative votes are required for passage after public comment.

**Order 274– 14/15
(Tab 35)**

Amendment to the Zoning Map Re: 667 Congress Street - Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

Jonathan Cully of Redfern Properties is requesting a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is seeking to extend the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. The split zoning of the site does not accommodate an integrated development for a multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street and structured parking below the building. The proposed zone amendment includes extending the Downtown Height Overlay map to be contiguous with the B-3 map amendment. The maximum building height is proposed to be 85 feet for the majority of the site with a maximum building height of 45 feet for the rear 40' of property, which is adjacent to the R-6 zone along Deering Street. The Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment, since it refers explicitly to and is defined by the B3 zone by ordinance.

On May 12, 2015, the Planning Board voted unanimously 4-0 (O'Brien, Hall and Morrisette absent) found the proposed zoning map amendments to be consistent with the comprehensive plan and recommended adoption of the amendments to the City Council to rezone 667 Congress Street from Residential (R-6) to Downtown Business (B-3) and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot maximum building height for a majority of the site with a 45 foot maximum building height limit for 40 feet from the rear the property line.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Five affirmative votes are required for passage after public comment.

**Order 275-14/15
(Tab 36)**

Amendment to the Zoning Map Re: 605 Stevens Avenue - Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of a 17.5 acre parcel at 605 Stevens Avenue, subject of a P&S from the Sisters of Mercy. The map amendment is for a 13.5 acre portion that includes the long-vacant "Motherhouse" and surrounding grounds and some playing fields; Catherine McAuley High School and St Catherine's Hall are excluded and would remain R5. On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

The zoning amendments have been requested to facilitate the rehabilitation of the Motherhouse for at least 66 affordable housing units and for a surrounding senior retirement community of approximately 200 dwellings on the open land behind the Motherhouse. The text amendments to R5A include: the addition of multifamily housing and congregate care as permitted uses; extension of the existing moderate density of the R5A PRUD (Planned Residential Unit Development) to these uses through amendments to the required lot area per dwelling and the basis of calculation; and clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School and St. Catherine's), switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is offering McAuley High School a 25-year lease and the school board supports the proposal for an intergenerational campus.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Five affirmative votes are required for passage after public comment.

**Order 276-14/15
(Tab 37)**

Amendment to Portland City Code Chapter 14. Land Use. Article III. Zoning and Article V. Site Plan Re: R-5a Zone – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

This is a companion order to Order 275-14/15. This item must be read on two separate days. In order for this item to be reviewed with consideration of Order 275, its companion order, staff is recommending that the second reading be waived on this item.

Seven votes are required to waive the second reading. If the Council waives the second reading, it will take public comment prior to Council action on these

items. Five affirmative votes will be required to approve the order.

ORDERS:

**Order 295-14/15
(Tab 38)**

Traffic Schedule Amendment Re: Motorcycle and Motor Scooter Parking Spaces – Sponsored by the Transportation, Sustainability and Energy Committee, David A. Marshall, Chair.

The Parking Division has noted an increase in the number of motorcycles and motor scooters in use throughout the City. While we have increased the number of parking spots available to these vehicles, City staff continues to receive additional requests for specific locations and make efforts to accommodate these requests.

The proposed changes to the traffic schedule add additional parking spaces for motorcycles and motorscooters. The Department of Public Services requests that the City Council approve the changes in the traffic schedule, which will allow sixteen (16) additional motorcycle or motorscooter parking areas to be established.

This item must be read on two separate days. This is its first reading, and the second reading will be at the July 6, 2015, regular City Council meeting.

**Order 296-14/15
(Tab 39)**

Order Authorizing Airport Improvements Projects – Sponsored by Michael J. Sauschuck, Acting City Manager.

The Federal Aviation Administration (“FAA”) issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes.

The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handles. This year the Portland Jetport has AIP entitlement funding totaling \$4,415,294 for the following projects:

AIP 76: Snow Removal Equipment (Snow blower)	\$482,369
AIP 77: North General Aviation Ramp Rehabilitation:	\$3,107,258
AIP 78: Update Master Plan:	\$825,667

The above funding amount provides 90% of the total cost for each project. The balance is covered locally through the Jetport’s operating budget and through state funding of up to 5% of project costs.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

**Order 297-14/15
(Tab 40)**

Amendment to Portland City Code Chapter 33 (Minimum Wage) – Sponsored by Mayor Michael F. Brennan and the Finance Committee, Councilor Nicholas M. Mavodones, Jr.

The Maine Minimum Wage of \$7.50, while \$0.25 higher than the Federal Minimum Wage, has lagged far behind the hourly wage necessary for residents of the City of Portland to afford to live here. It has also fallen far behind the value of the minimum wage of the 1970s, eroded by inflation that has eaten away at what money can buy. Rent for an apartment is high, transportation costs a challenge, and food and medical costs are all far more than they once were. In order to help support residents living here to find work that can better pay for the necessities of life, the City can raise the minimum wage. The draft ordinance attached has been the subject of public comment and review at the Finance Committee.

Several states and cities across the United States have acted in recent elections to raise the minimum wage. In Maine, a statewide minimum wage initiative has been proposed for November 2016; in the City of Portland, signatures are even being collected for a city-wide minimum wage initiative. An increase in the minimum wage now has wide support and is clearly needed.

After the Mayor announced he would seek to raise the minimum wage in his State of the City address in January 2014, he began meeting with a working group of specialists and interested parties to review, research and draft a new city minimum wage ordinance. Ultimately, after the group's work was completed, the Mayor forwarded a proposed minimum wage ordinance for the Finance Committee's review in September, 2014. This proposal was considered in several workshops, and then amended and recommended for adoption in that Committee on April 16, 2015. It is now being forwarded to the full City Council for review and approval.

With regard to the City of Portland, enforcement of this new Chapter 33 of the City Code will involve staff time, but until a new minimum wage is effective, it is impossible to estimate how violations would affect City regulatory expenditures.

There also will be a financial impact as a result of a need to increase some city employees' wages.

The Finance Committee met on April 16, 2015, and voted 3-0 (Suslovic absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. This is its first reading, and the second reading will be at the July 6, 2015, regular City Council meeting.

**Order 298-14/15
(Tab 41)**

Amendment to Portland City Code Chapter 6, (Buildings and Regulations), and Chapter 10, (Fire Prevention and Protection) Re: Inspection of Rental Units – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

These amendments establish authority for a Housing Safety Office to perform inspections and administer a registration program for rental units. The registration program requires registration by January 1, 2016 and therefore time for notice is of the essence; additionally, the positions to be hired are included in the F.Y. 2016 budget.

The Fire Code Task Force met over several months at the end of 2014 and into 2015 and forwarded its recommendations to the Public Safety, Health and Human Services Committee for review. Guided by the Council's goal of increased and more effective housing inspections, Staff recommends two sets of Ordinance changes that incorporate many of the Task Force's recommendations.

The first set of Ordinance changes will accommodate the existence of a Housing Safety Office and provide officials in that office the authority to do inspections under both the Housing Code, in Chapter 6 and the Life Safety and Fire Codes in Chapter 10. This authority will not replace the authority of the Building Authority or the Fire Department to do inspections, but be supplemental to it.

The second set of Ordinance changes will substantially augment the presently existing but not enforced Registration Ordinance. It will be administered by the Housing Safety Office and will provide an effective means of acquiring an accurate census of rental properties in the City, provide information that will make enforcement of the housing and life safety codes more efficient, and through rental fees will help defray the cost of adding the Housing Safety Office.

The Public Safety, Health and Human Services Committee met on June 9, 2015, and voted 4-0 to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. This is its first reading, and the second reading will be at the July 6, 2015, regular City Council meeting.

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
REGULAR CITY COUNCIL MEETING
JUNE 15, 2015

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL MEETING:

Special Meeting of the Corporator of the Portland Development Corporation (PDC) – Sponsored by Michael F. Brennan, Mayor.

As the sole Corporator of the Portland Development Corporation (“PDC”) The City Council will hold a Special Meeting of the Corporator on June 15, 2015 at 7:00 p.m. in City Council Chambers.

The purpose of the meeting is for the Corporator to act on the following Items:

1. Business Assistance Program for Job Creation – Amendments to Guidelines
2. Portland Economic Development Plan Implementation Program – Establishing a New Annual Investment Cap and Amending Guidelines.

**Order 277- 14/15
(Tab 1)**

Order Amending the Portland Development Corporation’s (“PDC”) Business Assistance Grant Program Guidelines – Sponsored by Portland Development Corporation, Barry Sheff, Board President.

The original guidelines for the Business Assistance Program for Job Creation (BAP) were approved by the City Council in 2011, and the PDC Board and staff have since been administering the program.

The BAP Program provides grants of up to \$20,000 to Portland businesses for creating at least two jobs, \$10,000 per job. The jobs must go to low/moderate income Portland residents and the grants have a required one-to-one match from the assisted business. The BAP has received two CDBG grants (in FY11/12 and FY13/14) for a total of \$200,000; \$5,000 remains.

Twelve businesses have received grants of \$10,000 - \$20,000 and, to date, 18 jobs have been created with at least another 15 more jobs to come from the most recent grant recipients, each of which has a year to create these jobs. The Council approved a financial appropriation of CDBG 2015/2016 Program Funds in the amount of \$100,000 to continue the BAP. Updated guidelines would be applied to new grant requests after City Council approval.

Five affirmative votes are required for passage after public comment.

**Order 278-14/15
(Tab 2)**

Order Establishing a New Annual Investment Cap for the Portland Economic Development Plan Implementation Program (PEDPIP) and Amending PEDPIP Guidelines – Sponsored by Portland Development Corporation, Barry Sheff, Board President.

The purpose of PEDPIP is to provide grants for economic development projects and programs that advance the initiatives addressed in Portland's Economic Development Vision and Plan and its current Work Plan. This may include planning studies and other "soft" costs that focus on one-time expenditures for economic development projects and programs, rather than ongoing projects or operating money, for public or not-for-profit entities. The Fund does not invest in "hard" costs for public infrastructure or private development projects.

The City Council established the PEDPIP in October 2011, and established a financial cap of \$250,000 for the Program, using PDC administered funds for capitalizing the Program, along with maximum individual Grant requests of \$75,000.

Almost three years later, at the Council's meeting on November 13, 2014, it authorized the removal of the cap since grant eligible projects were fast approaching the \$250,000 cap. The City Council approved Order authorized the utilization of the PDC's *Unrestricted Funds for recapitalizing PEDPIP*. At that meeting, Councilor Duson requested that the PDC Board report back to the City Council after discussing and settling on a new cap for the Program. Attached are PEDPIP Guideline Amendments, in a marked revision format, which show the new maximum investment cap.

At the PDC Board Meeting on May 18, it voted unanimously (8-0) to forward this item to the City Council for approval to amend the PEDPIP Guidelines to set a spending cap at no more than 10% of the currently available unrestricted funds during any one fiscal year, which cap will be determined each year as of July 1st. The PDC also recommended for approval by the City Council, that a cap on individual project requests be reduced from \$75,000 to \$15,000. To date, 63% of the individual requests have been at or under \$15,000.

Five affirmative votes are required for passage after public comment.

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 3) June 1, 2015 Special City Council Meeting
June 1, 2015 Regular City Council Meeting

PROCLAMATIONS:

Proc 36-14/15 Proclamation Recognizing Brianna Holdren, State of Maine 2014 -
(Tab 4) 2015 Boys and Girls Clubs Youth of the Year – Sponsored by Councilor David Brenerman.

Proc 37-14/15 Proclamation Honoring Officer Christopher Shinay, Police Officer
(Tab 5) of the Month for May, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 38-14/15 Proclamation Recognizing Dr. Ann Lemire, Recipient of the Phebe C.
(Tab 6) King Access to Care Award - Sponsored by Mayor Michael F. Brennan.

Proc 39-14/15 Proclamation Honoring Jeffery Cole, Public Services Department,
(Tab 7) Employee of the Month for June, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 40-14/15 Proclamation Proclaiming June 27, 2015, Portland African American
(Tab 8) Community Health Day – Sponsored by Councilor Edward J. Suslovic.

Proc 41-14/15 Proclamation Recognizing June 19th as National Summer Learning Day –
(Tab 9) Sponsored by Mayor Michael F. Brennan.

APPOINTMENTS:

Order 279-14/15 Order Appointing Constable for 2015 Re: Department of Public
(Tab 10) Services – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order appoints Nathan K. Walrath, Park Ranger, for the Department of Public Services as constable for the remaining calendar year 2015. This appointment shall be effective until 12:00 midnight, December 31, 2015.

Pursuant to Sections 20-19 and 20-19.5, Portland City Code, none are allowed to carry a firearm, concealed or unconcealed, in the performance of duties, or to make arrests or issue parking tickets.

The Council will be asked to enact this order as an emergency so Mr. Walrath can begin work immediately. This enactment requires seven affirmative votes for passage after public comment has been given.

**Order 280-14/15
(Tab 11)**

**Order Appointing Members to Various Boards and Commissions -
Sponsored by the Nominating Committee, Councilor David Brenerman,
Chair.**

Name	Board and Committee	Expiration
Margery Niblock	Civil Service Employment Subcommittee	06/30/2018
Patrizia A. Bailey	Land Bank Committee	06/30/2018
Thomas Jewell	Land Bank Committee	06/30/2018
Colleen Tucker	Land Bank Committee	06/30/2018
Evan Carroll	Portland Housing Authority	06/30/2020
Shirley Peterson	Portland Housing Authority	06/30/2020
Carol Hutchins	Park Commission	06/30/2018
Craig Lapine	Park Commission	06/30/2018
Cynthia Loebenstein	Park Commission	06/30/2018
Nathan Robbins	Park Commission	06/30/2018
James Cradock	Portland Public Arts Committee	06/30/2018
Pandora LaCasse	Portland Public Arts Committee	06/30/2018
Anthony Muench	Portland Public Arts Committee	06/30/2018

Five affirmative votes are required for passage after public comment.

**Order 281-14/15
(Tab 12)**

**Order Appointing Jon P. Jennings as City Manager, Approving His
Contract, and Setting Annual Salary – Sponsored by the City Manager
Search Committee, Mayor Michael F. Brennan, Chair.**

This order appoints Jon P. Jennings as the City Manager, effective July 13, 2015, and approves a three-year employment contract. The contract establishes an annual base annual salary of \$148,064.38 and provides for a monthly vehicle allowance, relocation expense reimbursement and health and retirement benefits.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

**Order 282-14/15
(Tab13)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Allen Toun –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$1,381.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Allen Toun.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account.

Money in that account is used primarily for drug investigations, training, and equipment.

**Order 283-14/15
(Tab 14)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Jennifer Harvey –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$16,004.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Jennifer Harvey.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 284-14/15
(Tab 15)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Ashley Gross–
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$2,548.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Ashley Gross.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 285-14/15
(Tab 16)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Isaiah Mokeme –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$1,465.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Isaiah Mokeme.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 286-14/15
(Tab 17)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. William Clark –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$1,837.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. William Clark.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 287-14/15
(Tab 18)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Michael Card –
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$694.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Michael Card.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 288-14/15
(Tab 19)**

**Order Approving Transfer of Funds Under 15 M.R.S.
§§5824(3) and 5826(6) Re: State of Maine v. Tyrone Muldrow -
Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order authorizes the City Council to approve the transfer of \$2,476.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Tyrone Muldrow.

This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 289-14/15
(Tab 20)**

**Order Re: Residential Parking Permit Extension – Sponsored by
Michael J. Sauschuck, Acting City Manager.**

June of 2008, the City Council approved a new residential parking zone, IR (Island Resident). A total of twenty-nine (29), two-hour parking spaces on both sides of Thames St. easterly of Hancock Street were signed accordingly. Vehicles displaying a IR (island resident) permit are exempt from the time limit parking regulation and can be left there all day; however the vehicles must be moved in accordance with the standard posted street maintenance signs, snow bans and posted emergency no parking.

Additionally since the development of the proposed condominiums at the corner of Thames and Hancock Streets was on hold, ten (10) on-street spaces on the westerly side of Hancock St between Fore & Thames and the sixteen (16), on street parking spaces on the north side of Thames St. between India and Hancock St. were signed two-hour parking (rather than metered), so that people with a IR permit could use them on a temporary year-to-year basis until the condominium development is started or another project in its place.

This gave the islanders an additional twenty-six (26) on-street parking spaces convenient to Casco Bay Lines that would cause minimal interference with area businesses and residents.

The current one-year approval to allow the twenty-six (26) spaces surrounding the development that is on hold at the corner of Thames & Hancock Streets to be included in the Island Residential Zone expires on June 30, 2015.

**Order 290-14/15
(Tab 21)**

Order Declaring Saturday, July 4, 2015, as July 4th Stars and Stripes Spectacular Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order declares July 4th Stars and Stripes Spectacular Festival to be held Saturday, July 4, 2015 from 7:00 p.m. to 10:00 p.m. Rain date is Sunday, July 5th.

This year's festival, which is being funded by private donations and fundraising activities by July 4th Portland, will include:

- 25 minutes fireworks display
- Portland Symphony Orchestra Concert with special guest Melissa Manchester
- Food & Entertainment Vendors

Street closings are included in the agenda backup.

**Order 291-14/15
(Tab 22)**

Order Declaring Sunday, August 9, 2015 as the New England Cannabis Farmers Market Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order declares Sunday, August 9, 2015 as "New England Cannabis Farmers Market Festival" to be held at Deering Oaks Park, 9:00 a.m. to 7:00 p.m.

The New England Cannabis Farmers Market Festival is a one day event showcasing Maine's caregivers and innovators in the community organized by New world Organics. It will provide an opportunity for entrepreneurs and farmers to educate the community. Caregivers and other vendors will set up along the walking paths in the park, showcasing and offering their

products to registered patients. Patients will be required to have all necessary paperwork upon signing up with a provider.

Admission is FREE, and 2000+ people are expected to attend the day's events. Refreshments, t-shirts, artwork and other items will be available for sale. There will also be live music (a band in the afternoon). Participating vendors will pay a fee to participate (\$100-\$250).

There are to be no cannabis sales or consumption at the event. There is no rain date for the festival. The festival has been reviewed and endorsed by the Friends of Deering Oaks Park.

In order to safely hold the festival and to assist in setup, the main road into Deering Oaks Park needs to be closed to traffic at approximately 7:00 a.m. August 9, 2015 (opens back up again at 9:00 p.m.)

Festival grounds include Deering Oaks Park (to include the Bandstand, the Ravine Water Play area and park roadways: Tennis Court Rd., Jenny Lane, and Farmers Market Rd.).

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 the organizer and New World Organics for the purpose of conducting the festival, subject to the direction and control of the City Manager.

**Order 292 -14/15
(Tab 23)**

**Order Declaring the 13th Annual Greater Portland Festival of Nations
– Sponsored by Michael J. Sauschuck, Acting City Manager.**

This order declares Saturday, July 25, 2015, as the 13th Annual Greater Portland Festival of Nations to be held at Deering Oaks Park, 11:00 a.m. to 7:00 p.m.

This year will be the thirteenth annual Festival of Nations held at Deering Oaks Park. The Festival, organized by Women in Need Industries and Mugadi Foundation, showcases Maine's ethnic diversity. The festival features music, food, cultural exhibits, children's activities, and folk art from America and many nations around the world. 2,500+ people are expected to attend the day's events.

Admission is free. Refreshments, crafts, artwork, and other items will be for sale. The Festival is held rain or shine.

In previous years, the festival has been held on a Sunday, but in 2014 it was moved to Saturday. This year, the festival will again be held on Saturday. Farmers Market (for just the date of the festival) will be moving their setup to Bowling Green Lane, so that setup for the Festival of Nations can take place at the Bandstand and along Farmers Market Rd. The Friends of Deering Oaks Park has reviewed and endorsed the festival (and the Farmers Market move that day).

In order to safely hold the festival and to assist in setup, the main road into Deering Oaks Park needs to be closed to traffic at approximately 10: a.m. July 25, 2015 (opens back up again at 10pm).

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 the organizer and Mugadi Foundation for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

**Order 293-14/15
(Tab 24)**

Order Declaring August 9, 2015, as The B. Good Block Party Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.

B.good, located on Exchange Street, has proposed hosting a fundraising block party (small festival) to raise money for the B. Good Portland Foundation. The foundation uses micro-grants to help inspired individuals improve their communities. The organizer for this event has submitted a detailed plan for the festival, which includes hosting a neighborhood block party/festival (food, games, music, beer garden), to be held on Sunday, August 9th 2015, from 12pm-5pm on Exchange Street (Exchange Street closed from Middle Street to Fore Street, beginning at 10am). Rain Date for the event is Sunday, August 16. The festival itself would be held in front of and around the B.good restaurant, but other stores along Exchange may participate as well by holding sidewalk sales (setting up merchandise tables outside or organizing events in the street/parking spaces). There is no registration/ticket fee, however, individuals attending the event will be charged \$10 - \$15 for an “all you can eat plate,” as well as \$2 for beverages and \$5 for beer. Expected attendance is 100 people for the “all you can eat plate,” but obviously several hundreds of people are expected to take advantage of the Exchange Street pedestrian friendly shopping experience.

Beer is to be served by Peaks Organic Brewing Company on the street in a roped off Beer Garden area, and would be considered an expansion of B. Good’s alcohol footprint (B. Good currently holds a Class 3 & 4 beer & wine license). Organizer’s staff (and private security staff) will ensure that only 21+ wrist banded attendees are in beer service area.

Organizer is obtaining the necessary “beer tasting” license from the state/city for serving beer, as well as other licenses from the city for live music, refreshments and other aspects of the event.

Lower Exchange Street, from Middle Street to Fore St. would be closed to traffic. Milk Street, from Market to Exchange, would also need to be closed to traffic. Portland’s Downtown District has endorsed the event, and most of the businesses in the closed section of street have endorsed the event. City staff has conferred with organizers to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersections. At least two Police Officers are required to be on site, hired by the organizer.

City staff may require that a Parking Control Officer be hired to cover the top of Exchange Street (Exchange/Middle intersection).

In order for this block party festival to be held, a portion of Exchange Street needs to be barricaded to vehicle traffic (from 10am – 6pm). Lower Exchange Street, from Middle Street to Fore Street, would be closed to traffic, as well as Milk Street at Market. These streets would also need to be posted “No Parking.”

The above closed streets and the adjoining sidewalks are the Festival Zone. Organizers will leave an emergency lane (Fire, Police) down the entire length of Exchange Street.

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 B. Good (and participating Exchange Street businesses) for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

**Order 294-14/15
(Tab 25)**

Order Changing Polling Place for District 5 Precinct 1 from the Stevens Avenue Armory, 772 Stevens Avenue to the Seventh-Day Church, 97 Allen Avenue – Sponsored by Katherine L. Jones, City Clerk.

This order is changing the Polling Place for District 5 Precinct 1 from 777 Stevens Avenue Amory to the Seventh Day Adventist Church, 97 Allen Avenue.

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

LICENSES:

**Order 295-14/15
(Tab 26)**

Order Granting Municipal Officers’ Approval of City of Portland The Drink Exchange LLC d/b/a The Drink Exchange. Application for a Class A Lounge License with Outdoor Dining on Public Property at 43 Wharf Street - Sponsored by Katherine L. Jones, City Clerk.

Application filed 5/15/15. New City and State application. Former Location of The Merry Table.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 7-14/15
(Tab 27)**

Resolution Adopting Council Rules for 2014-2015 as Amended – Sponsored by the Nominating Committee, David Brenerman, Chair.

The amended Rule concerns City Council Workshops, which have had no separate Rule in the City Council Rules of Procedure (the "Rules"). In the proposed amendment to the Rules, a new subsection of Rule 1 lays out who has the authority to call a Workshop and what specific matters may be addressed during City Council workshops.

Votes are not taken during workshops; but under the proposed Rule, it is permissible to poll the Council to determine its position on the issue being discussed. Such a non-binding poll would have no legislative effect, and instead would be advisory only.

This item must be read on two separate days. This is its first reading, and its second reading will be at the July 6, 2015, regular City Council meeting.

UNFINISHED BUSINESS:

**Order 121-14/15
(Tab 28)** **Order Granting Municipal Officers' Approval of Trouble, LLC d/b/a Trouble, LLC. Application for a Class A Lounge License with Entertainment with Dance and Motion Picture Theatre (Less than 999 Seats) at 10 Exchange St. – Sponsored by Katherine L. Jones, City Clerk.**

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

At the January 5, 2015, Council meeting this item was postponed to this meeting. After conversations with the applicant, staff is recommending that this item be postponed indefinitely.

**Order 172-14/15
(Tab 29)** **Order Approving Two-Party Agreement between the City of Portland and the Maine Department of Transportation Re: Improvements to Forest Avenue – Sponsored by Michael J. Sauschuck, 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 April 27th City Council meeting this item was postponed to this meeting. Staff is asking that this item be postponed to the September 21, 2015, City Council meeting.

**Order 255-14/15
(Tab 29A)**

Amendment to Portland City Code Chapter 14. Land Use Article III. Zoning Division 17 Re: Drive-in Banks in the B-7 Zone - Sponsored by the Planning Board, Stuart O'Brien, Chair.

Bangor Savings Bank is requesting a text amendment in order to develop a small lot at 20 Marginal Way, within the B-7 Zone, as a three-story bank with drive-through. The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)(1)(c)) that currently require that bank drive-throughs must be within a building of at least 20,000 square feet. The proposed text amendment would create an exception to this requirement for smaller buildings on small lots in existence at the time B-7 was first enacted on March 9, 2005.

The Planning board met on April 14, 2015, and voted 5-0 (Boepple and O'Brien 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 May 18, 2015. On June 1, 2015, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 256-14/15
(Tab 29B)**

Amendment to Portland City Code Chapter 7 (Cemeteries) Article I. to VII. Re: Update to Cemetery Ordinance- Sponsored by Michael J. Sauschuck, Acting City Manager.

The Department of Public Services wishes to update language in Chapter 7 of the City Code to address to reflect current cemetery management practices.

It has been many years since Chapter 7 has been amended. Over the years operating procedures and funeral practices have evolved, making some of the language in the ordinance archaic or obsolete. The proposed amendments align the language with current practices.

The proposed amendments also allow staff to charge a reasonable fee for the use of Wilde Chapel. Corporation Counsel has reviewed the records and has found no language in the City Charter prohibiting this practice.

This item must be read on two separate days. It was given a first reading on May 18, 2015. On June 1, 2015, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 269-14/15
(Tab 30)**

Order Adopting Development Program for the Portland's Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order adopts the development program (as outlined in the agenda backup materials) for the Portland's Downtown District for fiscal year 2015-2016, submitted by the Acting City Manager, pursuant to 30-A M.R.S.A. Section 5244 (1).

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff recommends that this item be postponed to June 24, 2015.

**Order 270-14/15
(Tab 31)**

Order Assessing Maintenance and Implementation Assessments in the Portland's Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order assesses the sum of \$746,307 to be raised and appropriated from the special assessments on all real estate situated within the boundaries of the Portland's Downtown District to fund maintenance and implementation costs for such district for the period beginning July 1, 2015 and ending on June 30, 2016.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff recommends that this item be postponed to June 24th.

**Order 271-14/15
(Tab 32)**

Order Approving and Authorizing the Acting City Manager to Enter into Master Agreement and Supplemental Services Agreement with Portland's Downtown District – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order approves and authorizes the City Manager to enter into a Master Agreement, with the Baseline Services provided in Exhibit B, with the Downtown Improvement District Corporation d/b/a Portland's Downtown Improvement District, to carry out the development plan for Portland's Downtown Improvement District for the period and also a Supplemental Services Agreement to implement Supplemental Public Works Services as approved in the Fiscal Year 2016 Appropriation Resolve, from and after July 1, 2015 and ending June 30, 2016.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff recommends that this item be postponed to June 24, 2015.

**Order 272- 14/15
(Tab 33)**

Order Authorizing and Appropriating a Portion of Funds from the Sale of Unit 1 at Portland Technology Park to be used for the Natural Gas Connection – Sponsored by the Finance Committee, Councilor Nicholas Mavodones, Chair.

Natural gas service is needed at the Portland Technology Park to be available to occupants, including bioscience manufacturers and technology-related companies.

The Council previously approved two easements to Unitil for installation and maintenance of a natural gas line from the natural gas main on Westbrook Street to the Technology Park.

The new gas line will connect to the existing line installed under the completed Phase 1 section of the Park road.

The nearest natural gas main is on Westbrook Street. Over several years, various routes to bring natural gas to the Technology Park were considered. The proposed route is recommended as it is a lower-cost option that will minimize impacts to the environment and infrastructure expense.

Staff seeks authorization from the Council to appropriate a portion of the proceeds from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance to cover the costs needed for bringing natural gas to the Park in the amount of \$80,000. The total sales proceeds from the sale of Unit 1 to Patrons Oxford is \$625,000, less the broker fee and utility costs of \$80,000, will net the City \$501,250.

With natural gas in place, marketing the two available sites at the Technology Park will enhance the City's ability to sell them. Importantly, the Patrons Oxford Purchase and Sale Agreement commits the City to complete a natural gas service connection into the Park.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Staff is recommending that this item be postponed indefinitely.

**Order 273-14/15
(Tab 34)**

Order to Approve Recommending Maine Department of Transportation/ City Agreement for 2015 Municipal Partnership Initiative (MPI) Project to Pave Washington Avenue – Sponsored by Michael Sauschuck, Acting City Manager.

The Department of Public Services ("DPS") requests approval for the Acting City Manager to enter into a two-party agreement with Maine Department of Transportation ("MDOT") so we may proceed with design and bid advertisement to rehabilitate a portion of Washington Ave and Washington Ave Extension. The total value of investment is estimated to be \$775,000 and the 50% Local cash obligation is estimated to be \$387,500.

The City cannot proceed with final design and bid document preparation without this agreement until this agreement has been executed. Failure to execute this agreement could result in deferral or elimination of leveraged funding for this MaineDOT/City Partnership project.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Five affirmative votes are required for passage after public comment.

**Order 274– 14/15
(Tab 35)**

Amendment to the Zoning Map Re: 667 Congress Street - Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

Jonathan Cully of Redfern Properties is requesting a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is seeking to extend the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. The split zoning of the site does not accommodate an integrated development for a multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street and structured parking below the building. The proposed zone amendment includes extending the Downtown Height Overlay map to be contiguous with the B-3 map amendment. The maximum building height is proposed to be 85 feet for the majority of the site with a maximum building height of 45 feet for the rear 40' of property, which is adjacent to the R-6 zone along Deering Street. The Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment, since it refers explicitly to and is defined by the B3 zone by ordinance.

On May 12, 2015, the Planning Board voted unanimously 4-0 (O'Brien, Hall and Morrisette absent) found the proposed zoning map amendments to be consistent with the comprehensive plan and recommended adoption of the amendments to the City Council to rezone 667 Congress Street from Residential (R-6) to Downtown Business (B-3) and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot maximum building height for a majority of the site with a 45 foot maximum building height limit for 40 feet from the rear the property line.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Five affirmative votes are required for passage after public comment.

**Order 275-14/15
(Tab 36)**

Amendment to the Zoning Map Re: 605 Stevens Avenue - Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of a 17.5 acre parcel at 605 Stevens Avenue, subject of a P&S from the Sisters of Mercy. The map amendment is for a 13.5 acre portion that includes the long-vacant "Motherhouse" and surrounding grounds and some playing fields; Catherine McAuley High School and St Catherine's Hall are excluded and would remain R5. On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

The zoning amendments have been requested to facilitate the rehabilitation of the Motherhouse for at least 66 affordable housing units and for a surrounding senior retirement community of approximately 200 dwellings on the open land behind the Motherhouse. The text amendments to R5A include: the addition of multifamily housing and congregate care as permitted uses; extension of the existing moderate density of the R5A PRUD (Planned Residential Unit Development) to these uses through amendments to the required lot area per dwelling and the basis of calculation; and clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School and St. Catherine's), switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is offering McAuley High School a 25-year lease and the school board supports the proposal for an intergenerational campus.

This item must be read on two separate days. It was given a first reading on June 1, 2015. Five affirmative votes are required for passage after public comment.

**Order 276-14/15
(Tab 37)**

Amendment to Portland City Code Chapter 14. Land Use. Article III. Zoning and Article V. Site Plan Re: R-5a Zone – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

This is a companion order to Order 275-14/15. This item must be read on two separate days. In order for this item to be reviewed with consideration of Order 275, its companion order, staff is recommending that the second reading be waived on this item.

Seven votes are required to waive the second reading. If the Council waives the second reading, it will take public comment prior to Council action on these

items. Five affirmative votes will be required to approve the order.

ORDERS:

**Order 295-14/15
(Tab 38)** **Traffic Schedule Amendment Re: Motorcycle and Motor Scooter Parking Spaces – Sponsored by the Transportation, Sustainability and Energy Committee, David A. Marshall, Chair.**

The Parking Division has noted an increase in the number of motorcycles and motor scooters in use throughout the City. While we have increased the number of parking spots available to these vehicles, City staff continues to receive additional requests for specific locations and make efforts to accommodate these requests.

The proposed changes to the traffic schedule add additional parking spaces for motorcycles and motorscooters. The Department of Public Services requests that the City Council approve the changes in the traffic schedule, which will allow sixteen (16) additional motorcycle or motorscooter parking areas to be established.

Five affirmative votes are required for passage after public comment.

**Order 296-14/15
(Tab 39)** **Order Authorizing Airport Improvements Projects – Sponsored by Michael J. Sauschuck, Acting City Manager.**

The Federal Aviation Administration (“FAA”) issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes.

The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handles. This year the Portland Jetport has AIP entitlement funding totaling \$4,415,294 for the following projects:

AIP 76: Snow Removal Equipment (Snow blower)	\$482,369
AIP 77: North General Aviation Ramp Rehabilitation:	\$3,107,258
AIP 78: Update Master Plan:	\$825,667

The above funding amount provides 90% of the total cost for each project. The balance is covered locally through the Jetport’s operating budget and through state funding of up to 5% of project costs.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

**Order 297-14/15
(Tab 40)** **Amendment to Portland City Code Chapter 33 (Minimum Wage) – Sponsored by Mayor Michael F. Brennan and the Finance Committee, Councilor Nicholas M. Mavodones, Jr.**

The Maine Minimum Wage of \$7.50, while \$0.25 higher than the Federal Minimum Wage, has lagged far behind the hourly wage necessary for residents of the City of Portland to afford to live here. It has also fallen far behind the value of the minimum wage of the 1970s, eroded by inflation that has eaten away at what money can buy. Rent for an apartment is high, transportation costs a challenge, and food and medical costs are all far more than they once were. In order to help support residents living here to find work that can better pay for the necessities of life, the City can raise the minimum wage. The draft ordinance attached has been the subject of public comment and review at the Finance Committee.

Several states and cities across the United States have acted in recent elections to raise the minimum wage. In Maine, a statewide minimum wage initiative has been proposed for November 2016; in the City of Portland, signatures are even being collected for a city-wide minimum wage initiative. An increase in the minimum wage now has wide support and is clearly needed.

After the Mayor announced he would seek to raise the minimum wage in his State of the City address in January 2014, he began meeting with a working group of specialists and interested parties to review, research and draft a new city minimum wage ordinance. Ultimately, after the group's work was completed, the Mayor forwarded a proposed minimum wage ordinance for the Finance Committee's review in September, 2014. This proposal was considered in several workshops, and then amended and recommended for adoption in that Committee on April 16, 2015. It is now being forwarded to the full City Council for review and approval.

With regard to the City of Portland, enforcement of this new Chapter 33 of the City Code will involve staff time, but until a new minimum wage is effective, it is impossible to estimate how violations would affect City regulatory expenditures.

There also will be a financial impact as a result of a need to increase some city employees' wages.

The Finance Committee met on April 16, 2015, and voted 3-0 (Suslovic absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. This is its first reading, and the second reading will be at the July 6, 2015, regular City Council meeting.

**Order 298-14/15
(Tab 41)**

Amendment to Portland City Code Chapter 6, (Buildings and Regulations), and Chapter 10, (Fire Prevention and Protection) Re: Inspection of Rental Units – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

These amendments establish authority for a Housing Safety Office to perform inspections and administer a registration program for rental units. The registration program requires registration by January 1, 2016 and therefore time for notice is of the essence; additionally, the positions to be hired are included in the F.Y. 2016 budget.

The Fire Code Task Force met over several months at the end of 2014 and into 2015 and forwarded its recommendations to the Public Safety, Health and Human Services Committee for review. Guided by the Council's goal of increased and more effective housing inspections, Staff recommends two sets of Ordinance changes that incorporate many of the Task Force's recommendations.

The first set of Ordinance changes will accommodate the existence of a Housing Safety Office and provide officials in that office the authority to do inspections under both the Housing Code, in Chapter 6 and the Life Safety and Fire Codes in Chapter 10. This authority will not replace the authority of the Building Authority or the Fire Department to do inspections, but be supplemental to it.

The second set of Ordinance changes will substantially augment the presently existing but not enforced Registration Ordinance. It will be administered by the Housing Safety Office and will provide an effective means of acquiring an accurate census of rental properties in the City, provide information that will make enforcement of the housing and life safety codes more efficient, and through rental fees will help defray the cost of adding the Housing Safety Office.

The Public Safety, Health and Human Services Committee met on June 9, 2015, and voted 4-0 to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. This is its first reading, and the second reading will be at the July 6, 2015, regular City Council meeting.

LICENSE RENEWALS:

*Order 277-14/15
Tab 1 6-15-15*

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 AMENDING THE PORTLAND DEVELOPMENT CORPORATION'S
("PDC") BUSINESS ASSISTANCE
GRANT PROGRAM GUIDELINES**

ORDERED, that the Portland City Council, acting in its capacity as sole Corporator of the PDC, hereby amends the guidelines for its Business Assistance Grant Program, to be renamed the Business Assistance Program for Job Creation, in the substantially the form attached hereto.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: June 2, 2015

SUBJECT: Order Amending Guidelines for Business Assistance Program for Job Creation

SPONSOR: Portland Development Corporation (PDC)/Barry Sheff, Board President

COUNCIL MEETING AT WHICH ACTION IS REQUESTED: One reading item for action on June 15, 2015.

Can action be taken at a later date? Yes

PRESENTATION: Barry Sheff, PDC Board President, 5 Minutes

I. SUMMARY OF ISSUE

The original guidelines for the Business Assistance Program for Job Creation (BAP) were approved by the City Council in 2011, and the PDC Board and staff have since been administering the program.

Overview of BAP Program to Date:

The BAP Program provides grants of up to \$20,000 to Portland businesses for creating at least two jobs, \$10,000 per job. The jobs must go to low/moderate income Portland residents and the grants have a required one-to-one match from the assisted business. The BAP has received two CDBG grants (in FY11/12 and FY13/14) for a total of \$200,000; \$5,000 remains.

Twelve businesses have received grants of \$10,000 - \$20,000 and, to date, 18 jobs have been created with at least another 15 more jobs to come from the most recent grant recipients, each of which has a year to create these jobs. The Council approved a financial appropriation of CDBG 2015/2016 Program Funds in the amount of \$100,000 to continue the BAP. Updated guidelines would be applied to new grant requests after City Council approval.

Overview of Proposed BAP Guidelines Amendments:

Recently, the PDC Board suggested a review of the guidelines. An overview of the proposed program modifications include the following:

- a. Equity Match - so that the equity investment match of 50% of the amount of the grant can be an investment in the business made within the past 12 months;
- b. Jobs Accessible from Low Income Areas – current guidelines indicate this as a preference; amended guidelines has this as a requirement;
- c. Job Tracking – Decreased job tracking from 5 years to 1 year to be consistent with City policy;
- d. Minimum Wage – To address City policy on minimum wage, the Guidelines now reflect that preference will be given for jobs offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages should exceed the State of Maine minimum wage, which is presently \$7.50 per hour.

Attached in marked revision and clean version formats are the proposed amendments to the BAP.

II. REASON FOR SUBMISSION

City Council approval is needed to amend the BAP Guidelines.

III. Intended Result

The intended result will make for Guidelines that are clearer and easier to understand, more responsive to Portland businesses, and consistent with City and HUD policies.

IV. Council Goal Addressed

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

V. Financial Impact

There is no financial impact to the City's operating budget, as the BAP program is funded by CDBG resources.

VI. Staff Analysis

With PDC sub-committee assistance, staff is recommending approval of the proposed amendments. The overview is as stated above, and there are also several housekeeping

amendments to the BAP guidelines that will make them more easily understandable to potential applicant businesses.

VII. Recommendation

The PDC Board voted unanimously (8-0) at its May 18, 2015 meeting to forward this to the City Council with a recommendation that it approve of the amended BAP Guidelines as attached.

Attachments

- Amended BAP Guidelines with Marked Revisions
- Amended BAP Guidelines in Clean Format.

DRAFT

Portland Business Assistance Grant Program for Job Creation

Program Description

The City of Portland's Economic Development Division, in partnership with the Downtown Portland Corporation, is proposing to establish a new Portland Business Assistance Grant Program for job creation provides. The Program would offer grants up to \$20,000 to new and expanding Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income Portland residents to grow the City's business sector and create new jobs. An application was submitted in November 2009 seeking a \$100,000 grant from the City's CDBG Entitlement Funds to capitalize this new program.

Program Objectives

- Job creation for low/moderate income Portlanders (at least 51% for low/mod income people);
- New business formation and existing business expansion;
- Leverage private investment to support business growth;
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of the Portland economy.

Program Criteria

- Must create one (1) full-time job (1,750 hours/year or 33.65 hours/week*) for every \$10,000 of grant funding;
- Business location of applicant fits any of the following: is in a low income area of the City; is within walking distance to one or more of these areas; or, is easily accessible via public transportation;
- All Net new jobs created with the help of the grant are marketed to low/moderate income** should be made available to Portland residents, resulting in at least 51% of these jobs going to this population (as an example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income Portland residents) for low/mod income persons;
- Job(s) are created within one (1) year of grant approval award, with required reporting at 4-month intervals until required number of jobs is achieved.

Financing Terms

- Maximum grant: is \$20,000 per business.
- Required Private Match: Grant must be matched with an equal to or greater than grant amount amount of private investment.
- Private Match Sources: The private investment match should include at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's

Commercial Loan Program~~Micro Business Loan Fund~~ if conventional financing is not available.** For existing businesses, the 50% equity can include private investment made within the past 12 months.

Application Review Preferences: ~~given to applications that include the following:~~

Preference is given to applications that include one or more of the following components (listed in no particular order):

- Job training: Teaching meaningful, that is, teaching a new skill(s) to new hires low/mod income persons as an initial component of job creation;
- Private match exceeds the grant amount requested;
- Number of net new jobs exceeds one (1) per \$10,000 of grant funding;
- Quality jobs are created offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages must exceed the State of Maine minimum wage.
- Business location is in an HCD-eligible area or easily accessible by public transportation.

Eligible Funding Activities

- Renovation, improvement, reconstruction, or restoration of vacant, under-utilized, or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons;
- Equipment and machinery financing;
- Leasehold improvements;
- Permanent working capital, including relocation expense, inventory, furniture and fixtures, relocation expense;
- Working capital expenses (e.g., rent, utilities, salaries, insurance);
- Up to \$1,000 of project funds may be used for business consulting services (e.g., accounting, marketing, software training, legal assistance);
- Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons (construction projects must comply with Davis Bacon federal labor standards).

Ineligible Activities

- Refinance existing debt;
- Down payment for other financing;
- Activities commenced or completed prior to program funding approval.

Basic Program Qualifications

- Business must be located within the City of Portland;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.

Application and Approval Process

The City's Economic Development ~~Department~~^{Division} is responsible for administration of the Business Assistance Program for Job Creation~~program~~, with guidance from the Housing and Community Development~~Neighborhood Services~~ Division. Administration will include program marketing, screening, and qualifying applications, presenting ~~e~~Eligible project applications are reviewed by an underwriter and then presented to the Downtown Portland Development Corporation (PDC) for its review. The PDC has, and monitoring grantee job creation.

The Downtown Portland Corporation will review eligible applications and have final decision-making authority in approving applicants for grant awards.

Up to 15% of the CDBG Grant award will be reserved for program administration.

*Definition of a full-time job, per the U.S. Department of Housing and Urban Development.

**Low-moderate income is defined as 80% of median household income. A chart showing qualified income levels can be found at the City's website at the following link:
<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

**With a turn-down letter from a bank, an applicant may seek financing for a maximum of 50% of the required private match form the City of Portland's Micro Business Loan Fund (interest rate determined by the Downtown Portland Corporation).

(12/10/09)(5/29/2015)

DRAFT

Portland Business Assistance Program for Job Creation

Program Description

The City of Portland's Business Assistance Program for job creation provides grants up to \$20,000 to new and expanding Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income Portland residents.

Program Objectives

- Job creation for low/moderate income Portlanders;
- New business formation and existing business expansion;
- Leverage private investment to support business growth;
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of the Portland economy.

Program Criteria

- Create one (1) full-time job (1,750 hours/year or 33.65 hours/week*) for every \$10,000 of grant funding;
- Business location of applicant fits any of the following: is in a low income area of the City; is within walking distance to one or more of these areas; or, is easily accessible via public transportation;
- Net new jobs created with the help of the grant are marketed to low/moderate income** Portland residents, resulting in at least 51% of these jobs going to this population (as an example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income Portland residents);
- Job(s) are created within one (1) year of grant approval.

Financing Terms

- Maximum grant: \$20,000 per business.
- Required Private Match: Equal to or greater than grant amount.
- Private Match Sources: Private investment match includes at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's Commercial Loan Program if conventional financing is not available.** For existing businesses, the 50% equity can include private investment made within the past 12 months.

Application Review Preferences:

Preference is given to applications that include one or more of the following components (listed in no particular order):

- Job training: Teaching meaningful skill(s) to new hires;
- Private match exceeds the grant amount requested;
- Number of net new jobs exceeds one (1) per \$10,000 of grant funding;
- Quality jobs are created offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages must exceed the State of Maine minimum wage.

Eligible Funding Activities

- Equipment and machinery financing;
- Permanent working capital, including inventory, furniture and fixtures, relocation expense;
- Working capital expenses (e.g., rent, utilities, salaries, insurance);
- Up to \$1,000 of project funds for business consulting services (e.g., accounting, marketing, software training, legal assistance);
- Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons (construction projects must comply with Davis Bacon federal labor standards).

Ineligible Activities

- Refinance existing debt;
- Down payment for other financing;
- Activities commenced or completed prior to program funding approval.

Basic Program Qualifications

- Business must be located within the City of Portland;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.

Application and Approval Process

The City's Economic Development Department is responsible for administration of the Business Assistance Program for Job Creation, with guidance from the Housing and Community Development Division. Eligible applications are reviewed by an underwriter and then presented to the Portland Development Corporation (PDC) for its review. The PDC has final decision-making authority in approving applicants for grant awards.

*Definition of a full-time job, per the U.S. Department of Housing and Urban Development.

**Low-moderate income is defined as 80% of median household income. A chart showing qualified income levels can be found at the City's website at the following link:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

(6/2/2015)

DRAFT

Portland Business Assistance Grant Program for Job Creation

Program Description

The City of Portland's Economic Development Division, in partnership with the Downtown Portland Corporation, is proposing to establish a new Portland Business Assistance Grant Program for job creation provides. The Program would offer grants up to \$20,000 to new and expanding Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income Portland residents to grow the City's business sector and create new jobs. An application was submitted in November 2009 seeking a \$100,000 grant from the City's CDBG Entitlement Funds to capitalize this new program.

Program Objectives

- Job creation for low/moderate income Portlanders (at least 51% for low/mod income people);
- New business formation and existing business expansion;
- Leverage private investment to support business growth;
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of the Portland economy.

Program Requirements Criteria

- Must create one (1) full-time job (1,750 hours/year or 33.65 hours/week*) for every \$10,000 of grant funding;
- Business location of applicant fits any of the following: is in a low income area of the City; is within walking distance to one or more of these areas; or, is easily accessible from these areas via public transportation;
- All net new jobs created with the help of the grant are marketed to low/moderate income** should be made available to Portland residents, resulting in at least 51% of these jobs going to this population. As (as an example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income Portland residents) for low/mod income persons;
- Job(s) are created within one (1) year of grant approval award, with required reporting at 4-month intervals until required number of jobs is achieved.

Financing Terms

- Maximum grant: is \$20,000 per business.
- Required Private Match: Grant must be matched with an equal to or greater than grant amount amount of private investment.
- Private Match Sources: The private investment match should include at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's

Commercial Loan Program, Micro Business Loan Fund if conventional financing is not available.** For existing businesses, the 50% equity can include private investment made within the past 12 months.

Application Review Preferences: ~~given to applications that include the following:~~

Preference is given to applications that include one or more of the following components (listed in no particular order):

- Job training: -Teaching meaningful, that is, teaching a new skill(s) to new hires low/mod income persons as an initial component of job creation;
- Private match exceeds the grant amount requested;
- Number of net new jobs exceeds one (1) per \$10,000 of grant funding;
- Quality jobs are created offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages must exceed the State of Maine minimum wage.
- ~~Business location is in an HCD-eligible area or easily accessible by public transportation.~~

Eligible Funding Activities

- ~~Renovation, improvement, reconstruction, ore restoration of vacant, under utilized, or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons;~~
- Equipment and machinery financing;
- ~~Leasehold improvements;~~
- Permanent working capital, (e.g., including relocation expense, inventory, furniture and fixtures, relocation expense);
- Working capital expenses (e.g., rent, utilities, salaries, insurance);
- Up to \$1,000 of project funds may be used for business consulting services (e.g., accounting, marketing, software training, legal assistance);
- Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Ceonstruction projects must comply with Davis Bacon federal labor standards.);

Ineligible Activities

- Refinance existing debt;
- Down payment for other financing;
- Activities commenced or completed prior to program funding approval.

Basic Program Qualifications

- Business must be located within the City of Portland;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.

Application and Approval Process

The City's Economic Development ~~Department~~^{Division} is responsible for administration of the Business Assistance Program for Job Creation~~program~~, with guidance from the Housing and Community Development~~Neighborhood Services~~ Division. Administration will include program marketing, screening, and qualifying applications, presenting ~~e~~Eligible project applications are reviewed by an underwriter and then presented to the Downtown Portland Development Corporation (PDC) for its review. The PDC has, ~~and monitoring grantee job creation.~~

~~The Downtown Portland Corporation will review eligible applications and have final decision-making authority in approving applicants for grant awards.~~

~~Up to 15% of the CDBG Grant award will be reserved for program administration.~~

Reporting and Tracking (after grant approval)

- Jobs: Jobs must be created within one year of being approved for a grant. Grant recipients will be required to provide quarterly reports until all hires -are made, and then for one year beyond that. If the jobs are not maintained for at least one year the grant recipient may be required to repay the City a portion of the grant amount.
- Property: The City will retain an interest in property improved or equipment purchased (worth \$5,000 or more) with grant funds for up to five (5) years. If such property improvements or equipment are transferred, or otherwise disposed of within the five (5) year period from the date the improvements are completed or equipment is purchased, respectively, the City may require partial repayment (on a pro rata basis) of the grant funds.

*Definition of a full-time job, per the U.S. Department of Housing and Urban Development.

**Low-moderate income is defined as 80% of median household income. A chart showing qualified income levels can be found at the City's website at the following link:
<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

**With a turn-down letter from a bank, an applicant may seek financing for a maximum of 50% of the required private match from the City of Portland's Micro Business Loan Fund (interest rate determined by the Downtown Portland Corporation).

(12/10/09)(5/29/2015)



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: June 2, 2015

SUBJECT: Order Amending Guidelines for Business Assistance Program for Job Creation

SPONSOR: Portland Development Corporation (PDC)/Barry Sheff, Board President

COUNCIL MEETING AT WHICH ACTION IS REQUESTED: One reading item for action on June 15, 2015.

Can action be taken at a later date? Yes

PRESENTATION: Barry Sheff, PDC Board President, 5 Minutes

I. SUMMARY OF ISSUE

The original guidelines for the Business Assistance Program for Job Creation (BAP) were approved by the City Council in 2011, and the PDC Board and staff have since been administering the program.

Overview of BAP Program to Date:

The BAP Program provides grants of up to \$20,000 to Portland businesses for creating at least two jobs, \$10,000 per job. The jobs must go to low/moderate income Portland residents and the grants have a required one-to-one match from the assisted business. The BAP has received two CDBG grants (in FY11/12 and FY13/14) for a total of \$200,000; \$5,000 remains.

Twelve businesses have received grants of \$10,000 - \$20,000 and, to date, 18 jobs have been created with at least another 15 more jobs to come from the most recent grant recipients, each of which has a year to create these jobs. The Council approved a financial appropriation of CDBG 2015/2016 Program Funds in the amount of \$100,000 to continue the BAP. Updated guidelines would be applied to new grant requests after City Council approval.

Overview of Proposed BAP Guidelines Amendments:

Recently, the PDC Board suggested a review of the guidelines. An overview of the proposed program modifications include the following:

- a. Equity Match - so that the equity investment match of 50% of the amount of the grant can be an investment in the business made within the past 12 months;
- b. Jobs Accessible from Low Income Areas – current guidelines indicate this as a preference; amended guidelines has this as a requirement;
- c. Job Tracking – Decreased job tracking from 5 years to 1 year to be consistent with City policy;
- d. Minimum Wage – To address City policy on minimum wage, the Guidelines now reflect that preference will be given for jobs offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages should exceed the State of Maine minimum wage, which is presently \$7.50 per hour.

Attached in marked revision and clean version formats are the proposed amendments to the BAP.

II. REASON FOR SUBMISSION

City Council approval is needed to amend the BAP Guidelines.

III. Intended Result

The intended result will make for Guidelines that are clearer and easier to understand, more responsive to Portland businesses, and consistent with City and HUD policies.

IV. Council Goal Addressed

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

V. Financial Impact

There is no financial impact to the City's operating budget, as the BAP program is funded by CDBG resources.

VI. Staff Analysis

With PDC sub-committee assistance, staff is recommending approval of the proposed amendments. The overview is as stated above, and there are also several housekeeping

amendments to the BAP guidelines that will make them more easily understandable to potential applicant businesses.

VII. Recommendation

The PDC Board voted unanimously (8-0) at its May 18, 2015 meeting to forward this to the City Council with a recommendation that it approve of the amended BAP Guidelines as attached.

Attachments

- Amended BAP Guidelines with Marked Revisions
- Amended BAP Guidelines in Clean Format.

DRAFT

Portland Business Assistance Grant Program for Job Creation

Program Description

The City of Portland's Economic Development Division, in partnership with the Downtown Portland Corporation, is proposing to establish a new Portland Business Assistance Grant Program for job creation provides. The Program would offer grants up to \$20,000 to new and expanding Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income Portland residents to grow the City's business sector and create new jobs. An application was submitted in November 2009 seeking a \$100,000 grant from the City's CDBG Entitlement Funds to capitalize this new program.

Program Objectives

- Job creation for low/moderate income Portlanders (at least 51% for low/mod income people);
- New business formation and existing business expansion;
- Leverage private investment to support business growth;
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of the Portland economy.

Program Requirements Criteria

- Must create one (1) full-time job (1,750 hours/year or 33.65 hours/week*) for every \$10,000 of grant funding;
- Business location of applicant fits any of the following: is in a low income area of the City; is within walking distance to one or more of these areas; or, is easily accessible from these areas via public transportation;
- All net new jobs created with the help of the grant are marketed to low/moderate income** should be made available to Portland residents, resulting in at least 51% of these jobs going to this population. As (as an example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income Portland residents) for low/mod income persons;
- Job(s) are created within one (1) year of grant approval award, with required reporting at 4-month intervals until required number of jobs is achieved.

Financing Terms

- Maximum grant: is \$20,000 per business.
- Required Private Match: Grant must be matched with an equal to or greater than grant amount amount of private investment.
- Private Match Sources: The private investment match should include at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's

Commercial Loan Program, Micro Business Loan Fund if conventional financing is not available.** For existing businesses, the 50% equity can include private investment made within the past 12 months.

Application Review Preferences: given to applications that include the following:

Preference is given to applications that include one or more of the following components (listed in no particular order):

- Job training: -Teaching meaningful, that is, teaching a new skill(s) to new hires-low/mod income persons as an initial component of job creation;
- Private match exceeds the grant amount requested;
- Number of net new jobs exceeds one (1) per \$10,000 of grant funding;
- Quality jobs are created offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages must exceed the State of Maine minimum wage.
- Business location is in an HCD-eligible area or easily accessible by public transportation.

Eligible Funding Activities

- Renovation, improvement, reconstruction, ore restoration of vacant, under utilized, or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons;
- Equipment and machinery financing;
- Leasehold improvements;
- Permanent working capital, (e.g., including relocation expense, inventory, furniture and fixtures, relocation expense);
- Working capital expenses (e.g., rent, utilities, salaries, insurance);
- Up to \$1,000 of project funds may be used for business consulting services (e.g., accounting, marketing, software training, legal assistance);
- Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Ceonstruction projects must comply with Davis Bacon federal labor standards.);

Ineligible Activities

- Refinance existing debt;
- Down payment for other financing;
- Activities commenced or completed prior to program funding approval.

Basic Program Qualifications

- Business must be located within the City of Portland;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.

Application and Approval Process

The City's Economic Development ~~Department~~^{division} is responsible for administration of the Business Assistance Program for Job Creation~~program~~, with guidance from the Housing and Community Development~~Neighborhood Services~~ Division. ~~Administration will include program marketing, screening, and qualifying applications, presenting e~~Eligible project applications are reviewed by an underwriter and then presented to the Downtown Portland Development Corporation (PDC) for its review. The PDC has, and monitoring grantee job creation.

~~The Downtown Portland Corporation will review eligible applications and have final decision-making authority in approving applicants for grant awards.~~

~~Up to 15% of the CDBG Grant award will be reserved for program administration.~~

Reporting and Tracking (after grant approval)

- Jobs: Jobs must be created within one year of being approved for a grant. Grant recipients will be required to provide quarterly reports until all hires -are made, and then for one year beyond that. If the jobs are not maintained for at least one year the grant recipient may be required to repay the City a portion of the grant amount.
- Property: The City will retain an interest in property improved or equipment purchased (worth \$5,000 or more) with grant funds for up to five (5) years. If such property improvements or equipment are transferred, or otherwise disposed of within the five (5) year period from the date the improvements are completed or equipment is purchased, respectively, the City may require partial repayment (on a pro rata basis) of the grant funds.

*Definition of a full-time job, per the U.S. Department of Housing and Urban Development.

**Low-moderate income is defined as 80% of median household income. A chart showing qualified income levels can be found at the City's website at the following link: <http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

**With a turn-down letter from a bank, an applicant may seek financing for a maximum of 50% of the required private match form the City of Portland's Micro Business Loan Fund (interest rate determined by the Downtown Portland Corporation).

(12/10/09)(5/29/2015)

DRAFT

Portland Business Assistance Program for Job Creation

Program Description

The City of Portland's Business Assistance Program for job creation provides grants up to \$20,000 to new and expanding Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income Portland residents.

Program Objectives

- Job creation for low/moderate income Portlanders;
- New business formation and existing business expansion;
- Leverage private investment to support business growth;
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of the Portland economy.

Program Requirements

- Create one (1) full-time job (1,750 hours/year or 33.65 hours/week*) for every \$10,000 of grant funding;
- Business location of applicant fits any of the following: in a low income area of the City; within walking distance to one or more of these areas; or, easily accessible from these areas via public transportation;
- Net new jobs created with the help of the grant are marketed to low/moderate income** Portland residents, resulting in at least 51% of these jobs going to this population. As an example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income Portland residents;
- Job(s) are created within one (1) year of grant approval.

Financing Terms

- Maximum grant: \$20,000 per business.
- Required Private Match: Equal to or greater than grant amount.
- Private Match Sources: Private investment match includes at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's Commercial Loan Program, if conventional financing is not available. For existing businesses, the 50% equity can include private investment made within the past 12 months.

Application Review Preferences:

Preference is given to applications that include one or more of the following components (listed in no particular order):

- Job training: Teaching meaningful skill(s) to new hires;
- Private match exceeds the grant amount requested;
- Number of net new jobs exceeds one (1) per \$10,000 of grant funding;
- Quality jobs are created offering wages that meet or exceed the minimum wage approved by the Portland City Council. If there is no approved City minimum wage, then the wages exceed the State of Maine minimum wage.

Eligible Funding Activities

- Equipment and machinery ;
- Permanent working capital, (e.g., inventory, furniture and fixtures, relocation expense);
- Working capital expenses (e.g., rent, utilities, salaries, insurance);
- Up to \$1,000 for business consulting services (e.g., accounting, marketing, software training, legal assistance);
- Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Construction projects must comply with Davis Bacon federal labor standards.)

Ineligible Activities

- Refinance existing debt;
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Basic Program Qualifications

- Business must be located within the City of Portland;
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.

Application and Approval Process

The City's Economic Development Department is responsible for administration of the Business Assistance Program for Job Creation, with guidance from the Housing and Community Development Division. Eligible applications are reviewed by an underwriter and then presented to the Portland Development Corporation (PDC) for its review. The PDC has final decision-making authority in approving applicants for grant awards.

Reporting and Tracking (after grant approval)

- Jobs: Jobs must be created within one year of being approved for a grant. Grant recipients will be required to provide quarterly reports until all hires are made, and then for one year beyond that. If the jobs are not maintained for at least one year the grant recipient may be required to repay the City a portion of the grant amount.

- Property: The City will retain an interest in property improved or equipment purchased (worth \$5,000 or more) with grant funds for up to five (5) years. If such property improvements or equipment are transferred, or otherwise disposed of within the five (5) year period from the date the improvements are completed or equipment is purchased, respectively, the City may require partial repayment (on a pro rata basis) of the grant funds.

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(5/29/2015)

*Order 278-14/15
Tab 2 6-15-15*

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 ESTABLISHING A NEW ANNUAL INVESTMENT CAP
FOR THE PORTLAND ECONOMIC DEVELOPMENT PLAN
IMPLEMENTATION PROGRAM (PEDPIP)
AND AMENDING PEDPIP GUIDELINES**

ORDERED, that the Portland City Council, acting in its capacity as sole Corporator of the Portland Development Corporation, hereby:

1. Establishes a new annual investment cap at no more than ten percent (10%) of annual fiscal year available unrestricted funds for the PEDPIP Grant Program, which was previously established by Order 46-11/12 and amended by Order 75A-14/15; and
2. Establishes a new maximum grant request at \$15,000 per project; and

AND BE IT FURTHER ORDERED, that the guidelines for PEDPIP be amended in the substantially the form attached hereto.



Portland Economic Development Plan Implementation Program (PEDPIP) Program Guidelines

Description

This Program provides grant monies to invest in economic development projects and programs that carry-out Portland's Economic Development Vision and Plan. Its purpose is to fund planning studies and other "soft" costs associated with economic development projects and programs that advance the initiatives spelled out in the Plan. The Grant Program does not invest in "hard" costs for public infrastructure or private development projects. Its focus is on expenditures for economic development projects and programs.

Objectives

- Facilitate the expansion of industry sectors with high value/high job growth potential;
- Support job creation and retention;
- Facilitate opportunities for start-ups and expansion of small businesses;
- Enhance the City's image as a center for innovation, entrepreneurship and business growth; and
- Strengthen the economic health and vitality of commercial districts.

Eligible Activities

- Planning that evaluates economic development opportunities;
- Business recruitment activities that focus on targeted industries;
- Marketing plans/strategies for the City;
- Programs that enhance the climate in downtown business districts and access to them.

Funding Requirements

- Maximum grant request is \$715,000;
- Grants must be matched by an equal or greater dollar amount from funding sources other than the Portland Development Corporation.

Funding Source

- The Portland Development Corporation (PDC) will utilize up to 10% of its Unrestricted Funds \$250,000 PDC Programs to capitalize and to fund PEDPIP grants. This 10% will be set at the beginning of each fiscal year (or July 1) to determine that year's amount to be allotted for PEDPIP grants.

Eligible Applicants

Not-for-profit and public entities that are working to implement the City of Portland's Economic Development Plan with direct benefit to the City.

Application and Approval Process

Submit applications to the City's Economic Development Department, City Hall, Room 308. The Portland Development Corporation reviews and approves all qualified grant requests.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the Portland City Council

FROM: Greg Mitchell, Economic Development Director

DATE: June 2, 2015

SUBJECT: **Order Establishing a New Annual Investment Cap for the Portland Economic Development Plan Implementation Program (PEDPIP) and Amending PEDPIP Guidelines for that Cap**

SPONSOR: Portland Development Corporation (PDC)/Barry Sheff, Board President

COUNCIL MEETING AT WHICH ACTION IS REQUESTED: One reading item for action on June 15, 2015.

Can action be taken at a later date? Yes

PRESENTATION: Barry Sheff, PDC Board President, 5 Minutes

I. SUMMARY OF ISSUE

The purpose of PEDPIP is to provide grants for economic development projects and programs that advance the initiatives addressed in Portland's Economic Development Vision and Plan and its current Work Plan. This may include planning studies and other "soft" costs that focus on one-time expenditures for economic development projects and programs, rather than ongoing projects or operating money, for public or not-for-profit entities. The Fund does not invest in "hard" costs for public infrastructure or private development projects.

The City Council established the PEDPIP in October 2011, and established a financial cap of \$250,000 for the Program, using PDC administered funds for capitalizing the Program, along with maximum individual Grant requests of \$75,000.

Almost three years later, at the Council's meeting on November 13, 2014, it authorized the removal of the cap since grant eligible projects were fast approaching the \$250,000 cap. The City Council approved Order authorized the utilization of the PDC's *Unrestricted Funds for recapitalizing PEDPIP*. At that meeting, Councilor Duson requested that the PDC Board report back to the City Council after discussing and settling on a new cap for the Program. Attached

are PEDPIP Guideline Amendments, in a marked revision format, which show the new maximum investment cap.

The PDC Board would like to note that it appreciated the time to vet this issue to establish a cap that was reasonable and protected the PDC's assets.

II. REASON FOR SUBMISSION

City Council approval is needed for the establishment of the PEDPIP cap and associated revisions to the PEDPIP Guidelines.

III. Intended Result

The intended result is to provide the PDC Board and staff resources to continue the PEDPIP Program grant program due to its success to date, while also protecting its existing assets.

IV. Council Goal Addressed

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

V. Financial Impact

Since PEDPIP's inception in October 2011, the PDC Board has approved grants to 20 projects, totaling just under \$300,000. Attached is a list of the grant recipients, their projects that were funded, and how much they were awarded for each.

There is no additional financial impact to the City's operating budget associated with Council action on PEDPIP Guideline amendments.

The financial impact to the PDC Board is the continuation of providing PEDPIP Grant funds. The PDC agreed that a cap needed to be set.

VI. Staff Analysis

Given the balance in the Unrestricted Funds, staff recommended to the PDC Board that it set a spending cap at no more than 10% of the currently available unrestricted funds during any one fiscal year, which cap will be determined each year as of July 1st. Also, staff recommended that a cap on individual project requests be reduced from \$75,000 to \$15,000. To date, 63% of the individual requests have been at or under \$15,000.

The recommended cap approach will continue to make funds available for PEDPIP projects, while conserving PDC loan funds.

VII. Recommendation

The PDC Board voted unanimously (8-0) at its April 16, 2015 meeting to forward this to the City Council with a recommendation that it set the cap as recommended by staff above.

Attachments

- Listing of PEDPIP Projects and Grant Funds Awarded
- Councilor Order #75 of 11/3/2014 Removing PEDPIP Cap
- PEDPIP Guidelines with Marked Revisions

Listing of PDC PEDPIP Projects and Grant Funds Awarded

- City of Portland
 - International Business Marketing with MITC and GPEDC - \$10,000
 - MITC/Iceland-UK Trade Mission: \$3,309
 - USM MCBER Industry Research: \$19,360
- World Affairs Council
 - Celebrating Immigration: \$15,000
- Creative Portland
 - UNESCO Creative Cities: \$10,000
 - Work in Place Study: \$5,000
 - Creative Space Program: \$30,000
 - 2 Degrees Portland: \$10,000
 - Branding Portland: \$20,000
 - Website Redesign (liveworkportland.org): \$16,500
 - Creative Economy Metrics: \$1,500
 - Map & Guide: \$5,835
 - Artist Survey: \$5,750
- Portland Community Chamber
 - Scorecard Update: \$8,000
 - Startup and Create Week 2014: \$25,000
 - 2015 Scorecard: \$9,460
 - Startup and Create Week 2015: \$15,000
- Portland Regional Chamber
 - Slide Show on Successful Portland Entrepreneurs: \$10,000
 - Growing Portland Collaborative: \$40,000
- Portland Performing Arts Festival
 - Seed money for first festival: \$40,000

(a/o 5/15/2015)

Order 75-14/15

Passage: 8-0 (Leeman absent) on 11/3/2014

Effective 11/13/2014

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER REMOVING THE \$250,000 CAP TO THE PORTLAND
DEVELOPMENT CORPORATION'S ("PDC") PORTLAND ECONOMIC
DEVELOPMENT PLAN IMPLEMENTATION PROGRAM ("PEDPIP") AND
AUTHORIZING THE PDC'S BOARD OF DIRECTORS TO UTILIZE THE
CORPORATION'S UNRESTRICTED FUND TO FUND PEDPIP GRANTS**

ORDERED, that the Portland City Council, acting in its capacity as sole Corporator of the PDC, hereby:

1. removes the \$250,000 cap for the PEDPIP Grant Program, which it had previously established by Order 46-11/12; and
2. authorizes the PDC Board to utilize the PDC's Unrestricted Fund, which was established by Order 45-11/12, to fund grants awarded by the PDC under the PEDPIP Grant Program.



Portland Economic Development Plan Implementation Program (PEDPIP) Program Guidelines

Description

This Program provides grant monies to invest in economic development projects and programs that carry-out Portland's Economic Development Vision and Plan. Its purpose is to fund planning studies and other "soft" costs associated with economic development projects and programs that advance the initiatives spelled out in the Plan. The Grant Program does not invest in "hard" costs for public infrastructure or private development projects. Its focus is on expenditures for economic development projects and programs.

Objectives

- Facilitate the expansion of industry sectors with high value/high job growth potential;
- Support job creation and retention;
- Facilitate opportunities for start-ups and expansion of small businesses;
- Enhance the City's image as a center for innovation, entrepreneurship and business growth; and
- Strengthen the economic health and vitality of commercial districts.

Eligible Activities

- Planning that evaluates economic development opportunities;
- Business recruitment activities that focus on targeted industries;
- Marketing plans/strategies for the City;
- Programs that enhance the climate in downtown business districts and access to them.

Funding Requirements

- Maximum grant request is \$715,000;
- Grants must be matched by an equal or greater dollar amount from funding sources other than the Portland Development Corporation.

Funding Source

- The Portland Development Corporation (PDC) will utilize up to 10% of its Unrestricted Funds \$250,000 PDC Programs to capitalize and to fund PEDPIP grants. This 10% will be set at the beginning of each fiscal year (or July 1) to determine that year's amount to be allotted for PEDPIP grants.

Eligible Applicants

Not-for-profit and public entities that are working to implement the City of Portland's Economic Development Plan with direct benefit to the City.

Application and Approval Process

Submit applications to the City's Economic Development Department, City Hall, Room 308. The Portland Development Corporation reviews and approves all qualified grant requests.

IN COUNCIL SPECIAL MEETING JUNE 1, 2015 VOL. 130 PAGE 97

ROLL CALL: Mayor Brennan called the meeting to order at 5:30 P.M. (Councilor Duson arrived during Order 257; Councilor Donoghue arrived during Order 261).

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

Order 257-14/15 **Order Granting Municipal Officers' Approval of City of Portland d/b/a Riverside Grill. Application to add Entertainment without Dance and an Auxiliary License for Riverside Golf Course at 1158 Riverside Street - Sponsored by Katherine L. Jones, City Clerk.**

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

Order 258-14/15 **Order Granting Municipal Officers' Approval of Apex Fitness & Racket Center LLC d/b/a Racket and Fitness Center. Application for Class I FSE License at 2445 Congress Street - Sponsored by Katherine L. Jones, City Clerk.**

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

Order 259-14/15 **Order Granting Municipal Officers' Approval of Tara Inc. d/b/a Bonobo. Application to add Outdoor Dining on Public Property at 46 Pine Street - Sponsored by Katherine L. Jones, City Clerk.**

Councilor Suslovic and Councilor Hinck recused themselves, their daughters work for Bonobo.

Motion was made by Councilor Marshall and seconded by Councilor Costa for passage. Passage 6-0.

IN COUNCIL SPECIAL MEETING JUNE 1, 2015 VOL. 130 PAGE 98

Order 260-14/15 Order Granting Municipal Officers' Approval of DeLuca LLC d/b/a The BreaLu Café. Application for a Class I FSE License at 428 Forest Avenue - Sponsored by Katherine L. Jones, City Clerk.

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

Order 261-14/15 Order Granting Municipal Officers' Approval of Nosh LLC d/b/a Nosh Kitchen Bar. Application to expand existing alcohol service area for one-day event on June 28, 2015 at 551 Congress Street - Sponsored by Katherine L. Jones, City Clerk.

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

Order 262-14/15 Order Granting Municipal Officers' Approval of Pearl Tap House LLC d/b/a Pearl Tap House. Application for a Class A Lounge License with Entertainment with Dance at 442-446 Fore Street - Sponsored by Katherine L. Jones, City Clerk.

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

Order 263-14/15 Order Granting Municipal Officers' Approval of Right Coast Catering Inc. d/b/a A Moveable Feast. Application for Class I Qualified Catering License at 431 Congress Street - Sponsored by Katherine L. Jones, City Clerk.

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

Order 264-14/15 Order Granting Municipal Officers' Approval of Novare Res LLC d/b/a Novare Res Bier Café. Application to change officers for Class A Lounge License with Entertainment without Dance and Outdoor Dining on Private Property at 4 Canal Plaza - Sponsored by Katherine L. Jones, City Clerk.

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

Order 265-14/15 Order Granting Municipal Officers' Approval of The Dogfish Cafe (Tab 9) d/b/a If I Had Wings Café. Application for Class I FSE License with Outdoor Dining on Private Property at 953 Congress Street - Sponsored by Katherine L. Jones, City Clerk.

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

- Order 266-14/15 Order Granting Municipal Officers' Approval of Local Sprouts Cooperative. Application to change officers for Class I FSE License with Entertainment (unamplified only) without Dance and Outdoor Dining on Public Property at 649 Congress Street - Sponsored by Katherine L. Jones, City Clerk.**

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

BUDGET ITEMS:

- Order 234-14/15 Order Authorizing Fiscal Year 2016 Administrative Fees in Various Departments - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.**

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 234 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

- Order 235-14/15 Order Authorizing Increase in Trash Bag Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.**

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 235 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic) .

- Order 236-14/15 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 item was given first reading on May 4, 2015.**

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 236 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

- Order 237-14/15 Order Re: Self-Insured Liability Program - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.**

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 237 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 238-14/15 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 item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 238 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 239-14/15 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 item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 239 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 240-14/15 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 was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 240 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 241-14/15 Order Authorizing Non-Union Wage Adjustment - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 241 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 242-14/15 Order Designating Fiscal Year 2016 Funds for Specific Island Services - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 242 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 243-14/15 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. This item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 243 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

RELATED ORDINANCE AMENDMENTS:

Order 244-14/15 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 item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 244 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 245-14/15 Amendment to Portland City Code Chapter 10. Fire Prevention and Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 245 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3 (Duson, Mavodones, Suslovic).

Order 246-14/15 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 item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 246 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 247-14/15 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 item was given first reading on May 4, 2015.

IN COUNCIL SPECIAL MEETING JUNE 1, 2015 VOL. 130 PAGE 102

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 247 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 248-14/15 Amendment to Portland City Code Chapter 28 (Traffic and Motor Vehicles) Article VII. Re: Valet Parking Fees; exceptions - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 248 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 249-14/15 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 item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 249 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

Order 250-14/15 Amendment to Portland City Code Chapter 24 Sewers Article IV. Sewer User Charges Re: Sewer User Charges- Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 250 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

APPROPRIATION RESOLVE:

Order 251-14/15 Fiscal Year 2015-2016 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Brenerman and seconded by Councilor Costa to postpone Order 251 to June 24, 2015, a Special City Council meeting at 5:30 P.M. Passage 6-3, (Duson, Mavodones, Suslovic).

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

ORDERS:

**Order 267A -14/15 Order Accepting and Adopting the 2015 Housing Trust Fund Plan –
Sponsored by the Housing and Community Development Committee,
Councilor Kevin J. Donoghue, Chair.**

Motion was made by Councilor Suslovic and seconded by Councilor Marshall to postpone Order 267 to June 15, 2015 City Council meeting. Motion failed 2-7, (Brenerman, Mavodones, Duson, Costa, Donoghue, Brennan, Marshall).

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

Motion was made by Councilor Suslovic and seconded by Councilor Costa to adjourn. Passage 9-0, 7:45 P.M.

AMENDMENTS:

LICENSE RENEWALS:

A TRUE COPY.

Katherine L. Jones, City Clerk

IN COUNCIL REGULAR MEETING JUNE 1, 2015 VOL. 130 PAGE 104

ROLL CALL: Mayor Brennan called the meeting to order at 8:10 P.M. (All Councilors present).

SPECIAL MEETING:

Motion was made by Councilor Duson and seconded by Councilor Marshall to adjourn the Regular City Council meeting and convene a Special Meeting of the Portland Development Corporation. Passage 9-0.

Order 267-14/15 Order Authorizing City to Apply for Additional Grant Funding to Expand the City's Regional Economic Development Revolving Loan Program (REDRLP) – Sponsored by Portland Development Corporation, Barry Sheff, Board President.

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

Motion was made by Councilor Hinck and seconded by Councilor Duson to adjourn the Special meeting of the Portland Development Corporation and reconvene the Regular City Council meeting. Passage 9-0.

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Costa and seconded by Duson to approve the minutes of May 18, 2015 City Council meeting. Passage 9-0.

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

COMMUNICATIONS:

RESOLUTIONS:

Mayor Brennan took Order 268 out of order.

Order 268– 14/15 Order Approving the Temporary Operating Agreement Between the City of Portland and Uber – Sponsored by the Transportation, Sustainability & Energy Committee, Councilor David A. Marshall, Chair.

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

UNFINISHED BUSINESS:

Order 184-14/15 Amendment to Portland City Code Chapter 14. Land Use Re: 58 Fore Street – Sponsored by the Planning Board, Stuart O'Brien, Chair. This item was given first reading on April 6 2015 and postponed to this meeting June 1, 2015.

Motion was made by Councilor Donoghue and seconded by Councilor Marshall to amend Order 184 by adding sec. 14-274 Amendments to Division 30 related to affordable housing that are enacted prior to April 1, 2016 shall apply to any site plan review application on the Portland Company (58 Fore Street) portion of this zone received after April 1, 2015. Passage 5-4, (Duson, Mavodones, Brenerman, Suslovic).

Motion was made by Councilor Brenerman and seconded by Councilor Costa to amend Order 184 by adding section 14-524 3. Level II and level III site plan review: (v). Master Development Plans in the B-6 Eastern Waterfront Mixed Zone. Proposed developments on three or more acres in common ownership shall be submitted and reviewed as a Master Development Plan. Projects shall not be segmented to avoid this requirement. Motion failed 2-7, (Duson, Mavodones, Brenerman, Hinck, Donoghue, Costa, Suslovic).

Motion was made by Councilor Marshall and seconded by Councilor Donoghue to amend Order 184 by enacting the building height overlay zone, map date June 1, 2015 to add 4). No solid fences or other visually impermeable structures shall exceed the grade of Fore Street. To also add Indicated no building shall exceed the grade of Fore Street and that building height shall be measured from floodplain. Motion Failed 2-7, (Duson, Mavodones, Brenerman, Hinck, Donoghue, Costa, Suslovic).

Motion was made by Councilor Duson and seconded by Councilor Hinck for passage as amended. Passage 7-2 (Marshall, Donoghue).

IN COUNCIL REGULAR MEETING JUNE 1, 2015 VOL. 130 PAGE 106

Order 185-14/15 Amendment to Zoning Map Re: 58 Fore Street – Sponsored by the Planning Board, Stuart O'Brien, Chair. This item was given first reading on April 6, 2015 and postponed to this meeting June 1, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Costa for passage. Passage 7-2 (Marshall, Donogue).

Order 255-14/15 Amendment to Portland City Code Chapter 14. Land Use Article III. Zoning Division 17 Re: Drive-in Banks in the B-7 Zone - Sponsored by the Planning Board, Stuart O'Brien, Chair. This item was given first reading on May 18, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Donoghue to postpone Order 255 to the June 15, 2015 City Council meeting. Passage 9-0.

Order 256-14/15 Amendment to Portland City Code Chapter 7 (Cemeteries) Article I. to VII. Re: Update to Cemetery Ordinance- Sponsored by Michael J. Sauschuck, Acting City Manager. This item was given first reading on May 18, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone order 256 to the June 15, 2015 City Council meeting. Passage 9-0.

ORDERS:

Order 269-14/15 Order Adopting Development Program for the Portland Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This is its first reading.

Order 270-14/15 Order Assessing Maintenance and Implementation Assessments in the Portland Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This is its first reading.

Order 271-14/15 Order Approving and Authorizing the Acting City Manager to Enter into Master Agreement and Supplemental Services Agreement with Portland's Downtown District – Sponsored by Michael J. Sauschuck, Acting City Manager.

This is its first reading.

IN COUNCIL REGULAR MEETING JUNE 1, 2015 VOL. 130 PAGE 107

Order 272- 14/15 Order Authorizing and Appropriating a Portion of Funds from the Sale of Unit 1 at Portland Technology Park to be used for the Natural Gas Connection – Sponsored by the Finance Committee, Councilor Nicholas Mavodones, Chair.

This is its first reading.

Order 273-14/15 Order to Approve Maine DOT/City Agreement for 2015 Municipal Partnership Initiative (MPI) Project to Pave Washington Avenue – Sponsored by Michael Sauschuck, Acting City Manager.

This is its first reading.

AMENDMENTS:

Order 274– 14/15 Order to Amend the Zoning Map for the property at 667 Congress Street – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

This is its first reading.

Order 275-14/15 Order to Amend the Zoning Map for the property at 605 Stevens Avenue – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

This is its first reading.

Motion was made by Councilor Marshall and seconded by Councilor Donoghue to adjourn. Passage 9-0, 1:35 A.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Doc 36 - 14/15
Tab 4 6-15-15*

PROCLAMATION

RECOGNIZING

BRIANNA HOLDREN

STATE OF MAINE 2014-2015 BOYS AND GIRLS CLUBS YOUTH OF THE YEAR

WHEREAS, Brianna Holdren of Portland has been a member of Boys & Girls Clubs of Southern Maine's Portland Clubhouse for the past 10 years; and

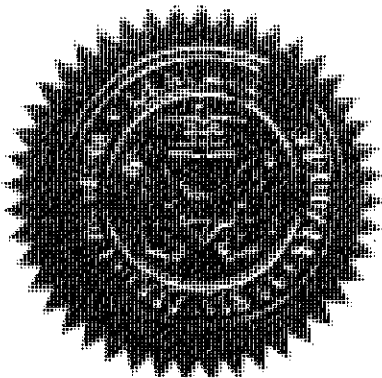
WHEREAS, Brianna was named the Portland Clubhouse 2014-2015 Youth of the Year representing the 1,200 members of that Boys & Girls Club. She was recognized for her accomplishments and service to her club, community and school as well as her moral character, poise and communications skills; and

WHEREAS, Brianna went on to be named State of Maine 2014-2015 Youth of the Year, representing 15,000 youth from 16 Boys & Girls Club sites across the State; and

WHEREAS, Brianna is continuing her education aspirations by completing her freshman year at St. Joseph's College, pursuing a degree in criminal justice, and playing on the women's basketball team as a proud Portland High School alumnus.

NOW, THEREFORE, BE IT RESOLVED, THAT I Michael F. Brennan, Mayor of the City of Portland and members of the City Council do hereby recognize Brianna Holdren as State of Maine 2014-2015 Youth of the Year.

Signed and sealed this 15th day of June, 2015



A handwritten signature in cursive script, reading "Michael F. Brennan", written over a horizontal line.

**Michael F. Brennan, Mayor
City of Portland, Maine**

*Proc 37-14/15
Tab 5 6-15-15*

PROCLAMATION
HONORING
OFFICER CHRISTOPHER SHINAY

WHEREAS, **Officer Shinay** has been with the Police department since 2006 and is currently assigned to the Traffic Unit and is an investigator with the department's Accident Reconstruction Team; and

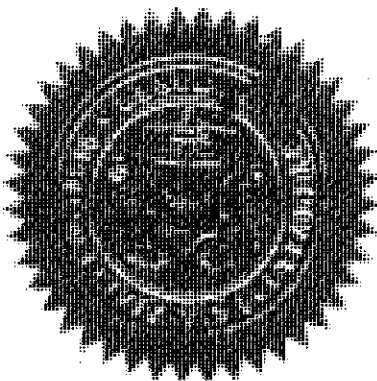
WHEREAS, **Officer Shinay** is recommended for Officer of the Month for May for his consistent and proactive approach to supporting the mission of the traffic unit; and

WHEREAS, **Officer Shinay** is recognized for his work in a recent incident involving a school bus and cyclist this year; and

WHEREAS, **Officer Shinay** has been integral in providing OUI enforcement instruction and continues to advance each opportunity to provide support to his unit.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of The City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Officer Christopher Shinay as **Officer of the Month for May 2015.****

Signed and sealed this 15th day of June 2015




Michael F. Brennan, Mayor
City of Portland, Maine

*Doc 38-14/15
Tab 6 6-5-15*

PROCLAMATION

HONORING

Ann Marie Eileen Lemire, M.D.

Recipient of the Phebe C. King Access to Care Award

- WHEREAS:** Access to health care is a basic human right and is essential for all people to live healthy and productive lives; and
- WHEREAS:** Approximately 11.6% of Maine people are underserved (as of 2014) with regard to basic health care -- they do not have health insurance or are underinsured, significantly limiting their ability to obtain needed care; and
- WHEREAS:** Those individuals who are homeless are affected by behavioral health or substance use issues and newly arrived immigrants, refugees or asylees are often at greatest risk for lacking access to needed health care services; and
- WHEREAS:** Ann Lemire, M.D. is the Medical Director of the India Street Clinic for the City of Portland's Department of Health and Human Services Division of Public Health; and
- WHEREAS:** Dr. Lemire has served as a tireless advocate for underserved adults, adolescents and children and has provided health care with the greatest compassion and respect to patients at the Health Care for the Homeless in the India Street Positive Health Care (HIV) and STD clinics, the Needle Exchange and at the Homeless Teen Shelter since 1994. She has also volunteered for many years with Konbit Sante, an organization that works to improve health and health care in Cap Haitien, Haiti, Portland's Sister City; and
- WHEREAS:** In recognition of her many years of service and passionate advocacy for assuring access to care for the less fortunate, Dr. Lemire was presented with the **Phebe C. King Access to Health Care Award** by the Maine Public Health Association on April 3, 2015.

Now be it resolved that I, Michael F. Brennan, Mayor of the City of Portland, Maine and the members of the City Council, do hereby formally recognize and congratulate **Ann Marie Eileen Lemire, MD** on her selection for this prestigious award.

Signed and sealed this 15th day of June, 2015

Michael F. Brennan, Mayor
City of Portland, Maine

Proc 39-14/15
Tab 7 6-15-15

PROCLAMATION

Honoring

Jeffrey Cole
Employee of the Month

June 2015

* * * * *

WHEREAS: **Jeffrey Cole** of the Public Services Department has been named the City of Portland Employee of the Month by a committee of his peers and selected for this distinct honor from a workforce of 1,300; and

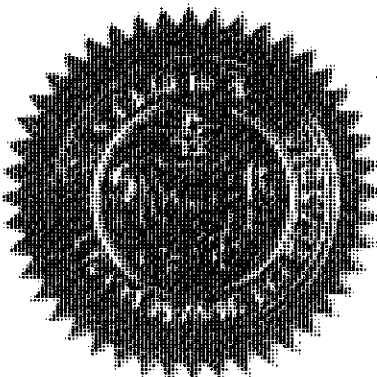
WHEREAS: This award is presented to **Jeffrey** in recognition of his duties as a Mechanic III in the Fleet Services Division of the Department of Public Services with over 10 years of service. **Jeffrey** is a part of a very hard working Fleet Services staff that repairs all City equipment including Police, Fire and Public Services vehicles and equipment. **Jeffrey** consistently contributes to creating a positive work environment; and

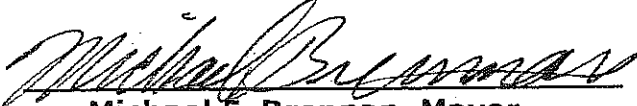
WHEREAS: **Jeffrey** has been a key part of creating a highly effective, high performing team in the small engine section of Fleet Services. **Jeffrey's** commitment to delivering exceptional service is greatly appreciated and deserves recognition. Small Engines is a section consisting of three employees and this team responded effectively to the winter and spring seasons with two employees, as one employee has been out for an extended period; and

WHEREAS: **Jeffrey's** contributions throughout this heavy winter and spring resulted in successful responses to equipment repair needs. Co-workers note that he has excellent quality of work in his day to day performance and has a "can do" attitude to overcome obstacles with a positive point of view. **Jeffrey** truly is an asset to the Public Services Department and to the City.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Jeffrey Cole** as **City Employee of the Month, June 2015.**

Signed and Sealed this 15th day of June, 2015.




Michael F. Brennan, Mayor
City of Portland, Maine

Please note that there is not Tab 8 because a proclamation was pulled from the agenda.

Doc 41-14/15
Tab 9 6-15-15

PROCLAMATION

RECOGNIZING

*Summer Learning Day in Portland
Friday June 19th, 2015*

WHEREAS: Summer Learning Day is a day to reflect on the importance of keeping kids learning all summer long to ensure they return to school in the fall ready to succeed in the year ahead; and

WHEREAS: Summer learning loss is a significant contributor to the achievement gap – a gap which widens during the summer months; and

WHEREAS: Summer learning programs are proven to maintain and advance students' academic and social growth, keep children safe and healthy during the summer, and send young people back to school ready to learn; and

WHEREAS: A wide array of public agencies, schools, community-based organizations, and businesses—through Portland ConnectED's Summer Success initiative—are "feeding bodies and minds" and contributing to the well-being of youth through coordinated summer programming; and

WHEREAS: Children and families can seize the initiative on their own to keep learning all summer long; and

WHEREAS: Summer learning is a critical component of our collective effort to ensure all Portland youth graduate from high school prepared for success in college, careers, and life.

NOW, THEREFORE, BE IT RESOLVED, THAT I Michael F. Brennan, Mayor of the City of Portland and members of the City Council do hereby recognize Friday, June 19th, 2015 as Summer Learning Day in Portland, Maine.

Signed and sealed this 15th day of June, 2015

**Michael F. Brennan, Mayor
City of Portland, Maine**

*Order 279-14/15
Tab 10 6-15-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPOINTING CONSTABLE FOR 2015
RE: DEPARTMENT OF PUBLIC SERVICES**

ORDERED, that Nathan K. Walrath, Park Ranger for the Department of Public Services, is hereby appointed as constable for the remaining calendar year 2015; and

BE IT FURTHER ORDERED, that this appointment shall be effective from the effective date of this order until 12:00 midnight, December 31, 2015; and

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

Order 280-14/15
Tab 11 6-15-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPOINTING MEMBERS TO VARIOUS BOARDS AND
COMMITTEES**

ORDERED, that the following are hereby appointed to the Boards and Committees indicated for the stated term:

Name	Board and Committee	Expiration
Margery Niblock	Civil Service Employment Subcommittee	06/30/2018
Patrizia A. Bailey	Land Bank Committee	06/30/2018
Thomas Jewell	Land Bank Committee	06/30/2018
Colleen Tucker	Land Bank Committee	06/30/2018
Evan Carroll	Portland Housing Authority	06/30/2020
Shirley Peterson	Portland Housing Authority	06/30/2020
Carol Hutchins	Park Commission	06/30/2018
Craig Lapine	Park Commission	06/30/2018
Cynthia Loebenstein	Park Commission	06/30/2018
Nathan Robbins	Park Commission	06/30/2018
James Cradock	Portland Public Arts Committee	06/30/2018
Pandora LaCasse	Portland Public Arts Committee	06/30/2018
Anthony Muench	Portland Public Arts Committee	06/30/2018



Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Michael Brennan, and Members of City Council
FROM: Katherine L. Jones
DATE: May 29, 2015
RE: Appointments

The Nominating Committee is making the following recommendations to the Various Boards and Committees.

Name	Board and Committee	Expiration
Margery Niblock	Civil Service Employment Subcommittee	06/30/2018
Patrizia A. Bailey	Land Bank Committee	06/30/2018
Thomas Jewell	Land Bank Committee	06/30/2018
Colleen Tucker	Land Bank Committee	06/30/2018
Evan Carroll	Portland Housing Authority	06/30/2020
Shirley Peterson	Portland Housing Authority	06/30/2020
Carol Hutchins	Park Commission	06/30/2018
Craig Lapine	Park Commission	06/30/2018
Cynthia Loebenstein	Park Commission	06/30/2018
Nathan Robbins	Park Commission	06/30/2018
James Cradock	Portland Public Arts Committee	06/30/2018
Pandora LaCasse	Portland Public Arts Committee	06/30/2018
Anthony Muench	Portland Public Arts Committee	06/30/2018

**CIVIL SERVICE
COMMISSION**

Margery Niblock
49 Quebec Street
Portland, ME 04101
(207) 879-0559
mniblock@maine.rr.com

City College of New York (CCNY): Bachelor of Arts in Art (1958)

1958—present Self-employed artist and printmaker

Commissions: American Friends Service Committee, Pearl S. Buck Foundation, Pierce-Phelps, Inc. Ars Moriendi, Atlantic Richfield Company (ARCO), Support Center for Child Advocates, The Institute of Pennsylvania Hospital, Society Hill Civic Association
Woodcut "Fantasy" chosen for inclusion in 1972 UNICEF engagement calendar
Illustrator of 13 books since 1991

1981—1983 Temple University Court Reporting Institute (Philadelphia, PA)

1983—1989 Owner and director of court reporting agency employing three full-time court stenographers: specializing in pretrial depositions in civil litigation.

1989—present Freelance proofreader, copyeditor, and indexer (Portland, ME)

Author of two nonfiction books for fourth grade:

Wacky Weather—Celebration Press (2002)

Sudden Storm!—Heinemann (2013)

Katherine Jones
City Hall
389 Congress Street
Portland, ME 04101

Dear Ms. Jones:

Clarkson Woodward informed me that there will be an upcoming vacancy on the Civil Service Commission Employment Subcommittee. I am interested in applying to fill that opening.

For the past four years I have been a reporter with the *Portland Daily Sun*, which has just closed. I reported on police-related issues, and before that I wrote for *The West End News*, covering the same topics.

I have served on some city committees previously; the Deering Oaks Master Planning Committee and the Eastern Promenade Master Planning Committee.

I was appointed by Chief Michael Chitwood to his Citizen Advisory Board and also served on Chief James Craig's Citizen Police Advisory Board (CPAB).

I am basically retired, but still take on art commissions, and I do some freelance editorial work for educational books. I work from home and my hours are flexible.

Thank you for your consideration.

Margery Niblock

CERTIFICATION OF ELIGIBILITY FOR SERVICE
CIVIL SERVICE COMMISSION - POLICE CITIZEN REVIEW SUBCOMMITTEE

Certification of qualification for appointment to the Police Civilian Review Subcommittee of the Civil Service Commission of the City of Portland (excerpted from Chapter 2, Portland City Code, Section 2-68):

1. I am a current resident of the City of Portland;
2. I am of good moral character;
3. I am not a present or former Portland City employee or member of the Portland City Council;
4. I have not served 6 consecutive years as a Civil Service Commissioner, or if I have, it has been more than 3 calendar years since I last served on the Commission;
5. No member of my immediate family is or has been a Portland Police Officer;
6. Neither I nor any member of my immediate family has been arrested by any member of the Portland Police Department;
7. Neither I nor any member of my immediate family has filed a complaint with the Internal Affairs unit of the Portland Police Department alleging excessive force, civil rights violations or conduct on the part of a police officer that would constitute a criminal offense; and
8. Neither I nor any member of my immediate family has brought suit against the Portland Chief of Police, the Department or any individual police officer.

"Immediate family" as used herein means my spouse, domestic partner, children, grandchildren, parents, grandparents, and/or siblings.

I hereby certify that I have reviewed the qualifications for service on the Police Citizen Review Subcommittee of the Civil Service Commission which are provided herein. To the best of my knowledge, I am qualified to serve on the Subcommittee, if I am appointed to it.

Margery Niblock
Signature

5/17/15
Date

Margery Niblock
Print Name

**LAND BANK
COMMISSION**

Colleen P. Tucker
36 Willow Lane
Portland, ME 04102
(207) 775-3709
ctucker@maine.rr.com

EXPERIENCE

Preti, Flaherty, Beliveau & Pachios, LLP

September 2013-Present

Real estate title attorney, transactions, commercial lending and real estate development and conservation

Colleen P. Tucker, Esq.

October 1984-September 2013

Self-employed contract attorney for: State of Maine, Land for Maine's Future Program; RECOLL Management Corporation; Fleet Bank of Maine; Cumberland Title Company, Bay Area Title Company, and various local and international land conservation trusts

EDUCATION

Sanford High School graduate 1975

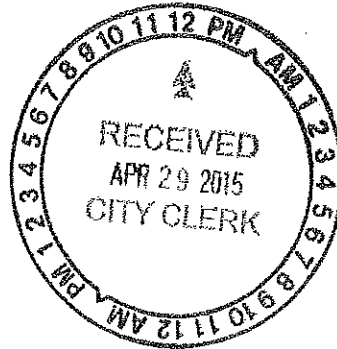
University of Maine, Orono graduate 1979

University of Maine School of Law graduate 1984

OTHER

League of Women Voters of Maine State Board Director, 2000 to present

Patrizia A. Bailey
104 Prospect St
Portland, Maine 04103
locustrdpat@gmail.com
202 213 7454



April 27, 2015

Appointments Committee Chairman,
c/o City Clerk,
389 Congress Street
Portland, ME 04101

Dear Chairman,

I would like to apply for the position of Board Member with the Portland Housing Authority. I have been a resident of Portland for 2 years having moved here from Washington, DC. I have a long career in affordable housing and I would enjoy the opportunity to be part of a Board that assists with providing housing opportunities to residents in Portland.

I have over twenty years of experience in all aspects of multi-family housing development, with specialized expertise in affordable housing regulated by federal, state and local jurisdictions.

I am attaching a copy of my resume for your review. With this background and knowledge I believe I would serve as an excellent adviser and Board Member for the Portland Housing Authority.

I look forward to hearing from you and thank you so much for your time. My phone number is (202) 213 7454.

Sincerely,

A handwritten signature in cursive script that reads "Pat Bailey".

Pat Bailey

Patrizia A. Bailey

104 Prospect St.
Portland, Maine 04013
202 213 7454 cell

Summary of Qualifications:

As a real estate professional with an accounting background, I have over twenty years of experience in all aspects of multi-family housing development, with specialized expertise in affordable housing regulated by federal, state and local jurisdictions. My employment experience includes activities supporting the acquisition, development, construction and management of properties for national publicly-held companies and small partnerships. Since leaving the job market, I have consulted with non profits involved in affordable housing as well as acquired, renovated and sold single family homes. I have provided support for organizations including the Treatment and Learning Centers, Special Olympics, and other non-profit organizations.

2000-2003

Senior Vice President-AIMCO-Apartment Investment Management Company
Southeast Transaction Team

Managed a portfolio of approximately 277 assets located in the southeastern United States and Puerto Rico. Responsibilities included developing sale and refinancing plans for assets within the portfolio. Created \$6m to \$10m annual revenue through the successful completion of state agency refinancings and sales of partnership interests. Successfully completed a multi-asset refinancing transaction with Rural Housing-Department of Agriculture, one of the first in the program. Other activities included completing 23 "Mark to Market" transactions with the U.S. Department of Housing and Urban Development.

1996-2000

Senior Vice President-AIMCO

Asset Management and Transaction Services for Third Party owner

Provided asset management services for a portfolio of 280 assets located throughout the U.S. Analyzed the financial activity of each asset and compared property performance with ownership goals. Duties included performing periodic inspections of the real estate, reviewing management and maintenance operations, and comparing actual performance to budget. Produced sale opportunities and effected transactions on behalf of property owners. Related work included identifying purchasers and performing due diligence that included analysis of partnership agreements, review of regulatory agreements, collection and analysis of market information, and research of other relevant information. Successful in executing five to twelve sale deals annually. Supervised a staff of five asset managers working on this portfolio.

1990-1996

Vice President-NHP-National Housing Partnerships

Asset Management-Indirect Portfolio

Managed approximately 120 real estate assets managed by "indirect" third party agents not affiliated with NHP. Successfully transferred management of 15 assets to NHP from the indirect portfolio. Responsibilities included working with regulatory agencies to develop and implement workout plans for troubled assets.

1988-1990

Development Manager-The Investment Group

Managed the development of multifamily housing properties that included both new construction and substantial rehabilitation. Responsible for securing construction financing, developing the investment structure, managing the regulatory review and approval process, and overseeing design and construction management operations.

Education:

BS-Accounting

Indiana University of Pennsylvania

Other Experience:

Board Member-two years-Jubilee Enterprise of Greater Washington

Licensed Real Estate Agent-Maryland

Personal: Married -2 children

Thomas Jewell
18 Bay View Drive
Portland, Maine 04103

May 7, 2015

Hand Delivered

Appointments Committee Chairman
c/o Katherine L. Jones, City Clerk
389 Congress Street
Portland, Maine

Re: Land Bank Commission Appointment

Dear Ms. Jones:

Please accept this letter as my application for reappointment as a member of the Portland Land Bank Commission. I have had the privilege of being a member of that body since the inception of the Commission, first as the Portland Trails representative from 2001 to 2009, and then as Chair from 2009 to date.

Although the Commission has made great progress with the inventory of open space in Portland, there remains important work to be done.

Thank you for your attention.

Yours truly,

Thomas F. Jewell



TFJ/t
Enclosures

Thomas F. Jewell
18 Bay View Drive
Portland, ME 04103
Work: 774-6665 Home: 774-2833
Email: tjewell@jewellandbulger.com

Education

University of Maine School of Law, JD degree, 1980
University of Southern Maine, BA degree, Biology major, 1976
Deering High School, Class of 1970

Work Experience

Jewell & Bulger, P.A., 477 Congress Street, Portland, Maine

Law practice focusing on real estate and tax deferred exchanges, 2013 to present

Jewell & Boutin, P.A., 477 Congress Street, Portland, Maine

Law practice focusing on real estate and tax deferred exchanges, 1980 – 2013

Complaint Justice/Justice of the Peace

Appointed by Ninth District Court to issue arrest warrants and involuntary commitments, 1982 – 2000

Superior Court Law Clerk, Maine Superior Court, Portland, Maine

Legal research and draft opinions for trial judges, 1979

Maine Audubon Society

Researcher and author of the Fore River Sanctuary Management Plan, 1976

Professional Affiliations

- Maine State Bar Association, 1980 – present
- Cumberland County Bar Association, 1980 – present
- Federation of Exchange Accommodators, 2007 – present
- New England Land Title Association, 2008 - present

Community Activities

- City of Portland Zoning Board of Appeals, 1985-1994, including two years as Chair
- Co-Founder and current Board Member of Portland Trails, 1990 - present
- City of Portland Land Bank Commission, Portland Trails representative, 2001 to 2009; Member and Chair 2009 - 2015
- Member of the Sebago to the Sea Coalition, 2007 to 2011
- Member of the Presumpscot River Preserve Management Plan Drafting Committee, 2005
- Member of the Board of Directors of Friends of Evergreen Cemetery, 1992-1997; current member of same
- LL Bean Outdoor Hero Award, Fall 2009
- Member of Back Cove Neighborhood Association, 2006 to present
- Steering Committee Member of Portland Open Space Vision and Implementation Plan, 2015 to present

**PARKS
COMMISSION**

NATHAN P. ROBBINS



April 15, 2015

Portland Parks Commission
Public Services Department
55 Portland Street
Portland, ME 04101

To Whom It May Concern:

I am seeking a position on the Portland Parks Commission, and am writing to you all to share my interest and qualifications, so that we may have an opportunity to speak about my possible appointment to this important position. If selected, I would bring over eight years of diverse experience in the environmental field including work at the state and local level in Parks, Recreation, and Conservation, most recently serving as the Lead Park Ranger for the City of Portland during the 2013 and 2014 seasons. In my desire to engage further with natural resource management practices, I completed in the Spring of 2014 my Master's of Science in Resource Management and Conservation from Antioch University of New England.

Having worked in the urban park system of Portland, as well as of Boston, I know first-hand the many user groups, community interests, barriers to successes, and needs to be addressed in our park system. I have worked hard in my roles as a Park Ranger, Planner, and Supervisor to incorporate government, business, community members, and non-profit organizational involvement in decision-making processes. As Lead Park Ranger for the City of Portland we continually grew the program through a collaborative process. The success of this program in the 2013 and 2014 seasons is evident by more thorough patrols of the entire park and cemetery system, increased voluntary compliance and enforcement of city ordinances, increased revenue at city boat launches, improved documentation and record keeping, more comprehensive collaboration with social services, the police department, and the harbor master, and through reporting and advocacy that aided in the final restoration of the full-time year-round Lead Park Ranger position for the city.

Urban park systems are invaluable natural and cultural resources that link together communities and neighborhoods, provide a necessary respite by creating spaces for healthy recreation and reflection, maintain economic vitality in the community, sustain wildlife, and provide unparalleled environmental services to our community. As an avid recreationist in all of our parks, a Portland resident, a dedicated practitioner, and an advocate for the future of this historic park system, I believe I have unique expertise and a strong commitment to bring to the Portland Parks Commission. At this point in my career I am very interested in serving on the Parks Commission, and look to develop my skillset further in land stewardship and management practices.

I look forward to speaking with you more about this Park Commissioner position and am happy to answer any questions you have. Thank you in advance for your time and consideration.

Sincerely,

Nathan P. Robbins

Nathan P. Robbins

119 Morning Street #17, Portland, ME, 04101 >> npalmer.robbs@gmail.com >> 617-939-4744

NATHAN P. ROBBINS

npalmer.robbins@gmail.com >> 617-939-4744 >> linkedin.com/in/nathanprobbins
119 Morning Street #17, Portland, ME 04101



Natural resource manager and conservationist who works with communities in the stewardship of sustainable environmental systems through data-driven management practices, meaningful communication, and by galvanizing key stakeholders

Program & Project Management

Utilize master/management planning, collaboration with partners, and site-specific assessments for resource improvement project design, outreach, and implementation

Develop programs using organization's core principles and vision as the framework to implement operating procedures, program evaluation, budgetary preparation, and reporting

Oversee revenue collection at sites such as commercial boat launch, public boat storage, and campgrounds

Community-Based Collaboration

Build relationships with partner organizations to improve communication, fulfill common goals, and conduct stewardship projects to further the establishment of enjoyable and safe public spaces

Policy Implementation

Leverage data and sound science in the research, analysis, writing, enforcement, and communication of State and City environmental ordinances and regulations

Resource Interpretation

Four years of experience in delivering thematic cultural and natural resource interpretation for school groups, company outings, special use groups, and the general public

Supervision

Three years of supervisory experience with up to six direct reports of seasonal park maintenance work crews, ranger program staff, interns, and visitor services assistants

Facilitated work for Student Conservation and Youth Conservation Corps seasonal work teams

EDUCATION & TECHNICAL EXPERIENCE

2012 – 2014	Master of Science: Resource Management & Conservation Antioch University New England
2006 – 2009	Bachelor of Arts: Biology Wheaton College
Training	2015, Coastal Adaptation for Coastal Communities (NOAA, Wells, NERRS) 2014, Invasive Species Network (Maine Coast Heritage Trust) 2013, Verbal Judo (Portland Police Department) 2012, River Canoe Trip Leader (American Canoe Association) 2010, Coastal Interpretation (Waquoit Bay, NERRS)
Software	ArcGIS 10, Windows and MacOS, Microsoft Office Suite, Database Experience
Certification	1 st Aid CPR AED (NSC)
Tools	Policy Research, Analysis, Writing, and Enforcement; Climate Change Risk Assessment; Ecological Assessment; Stewardship Programming; Metrics Development, Scenario Modeling, Budget Preparation, Systems Analysis, Sensitivity Analysis; Cost Benefit Analysis, Turf Maintenance Calculator

PROFESSIONAL ACCOMPLISHMENTS

- Climate Change Specialist for Maine Department of Environmental Protection
 - Developing Climate Change Toolkit for Statewide Implementation
- Masters Project: Creation and Use of Turf Maintenance Calculator
 - Developed Turf Maintenance Calculator for total cost assessments of mowing and trimming maintenance operations, estimated cost of maintenance operations in all of Portland's Parks and Cemeteries, annual budget preparation and resource advocacy
- Lead Park Ranger for the City of Portland:
 - Increased land protection and stewardship, compliance with city ordinances by 80%, and increased revenue at City boat launches by 17%, by expanding responsibilities, training seasonal rangers, and collaborating with city departments and partners
 - Led efforts that documented and inventoried ranger operations, activity monitoring, and street furniture assets; digitized records for ease of use by department staff
- Research Associate for the City of Portland:
 - Research for City Council led committee on Single Use Bag Fee Ordinance, passed 2014
 - Projects as assigned, ex/ Deering Oaks restroom design, and curbside recycle program
- Associate Commissioner for City of Newton Conservation Commission:
 - Provided research and technical assistance including deed research, an ecological impact assessment, and creating 22 property profiles uploaded to city website
- Park Planning & Development for the MA Department of Conservation & Recreation
 - Co-Initiated and worked with park managers, directors, and stakeholders to implement three-phase project to transform 40-acre mowed city landfill park into a wildflower meadow, with a self designed disc golf course, and additional amenities
 - Gathered community support through presentations to key stakeholders, held demonstration days, conducted surveys, covered in local press, and established a blog
- Forest & Park Supervisor for the MA Department of Conservation & Recreation:
 - Facilitated stewardship projects for volunteers, SCA, and YCC crews that restored natural areas, developed and maintained trails, removed invasive species, created an outdoor classroom, re-established a community garden, and created a working farm
- Park Ranger on the Boston Harbor Islands National Recreation Area
 - Lead on-island contact for 12 different federal, state, and non-profit partner groups to organize and supervise volunteer groups for park stewardship projects
- Personal Recreation
 - Regular trail running/biking in Portland's open spaces, ¼ Appalachian Trail, Long Trail

NATHAN P. ROBBINS npalmer.robbins@gmail.com >> 617-939-4744 >> linkedin.com/in/nathanprobbins

WORK HISTORY

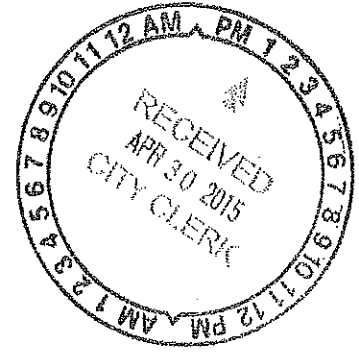
2015 - present	Maine Department of Environmental Protection – Augusta, ME
Climate Change Specialist	Identify, coordinate and assist efforts within the Department and at the state, regional and municipal levels regarding climate adaptation and resiliency
2013 & 2015	Manomet Center for Conservation Sciences – Brunswick, ME
Project Assistant	Developed metrics and performed data entry and QA/QC for Grocery Stewardship Certification (GSC) program
2013 - 2014	City of Portland Public Services Department – Portland, ME
Lead Park Ranger 2013 Season & 2014 Season	- Hired, supervised, trained, assigned work locations, provided administrative support and instructed six seasonal staff in ensuring the stewardship, protection, and safe use of 1300 acres of parks and open spaces - Collaborated with municipal, social service, and partner organizations to protect and preserve public assets - Provided education and enforcement of city ordinances and regulations, corresponded with police department and city attorneys, responded to information requests, aided in policy analysis and revision - Improved communication and program effectiveness through resource monitoring, budgetary, revenue, and operational reports, shared with park managers and partners, and digitized records for ease of use - Supervised operations at city beach, managed fee collection at commercial and recreational boat launch, and public rental boat storage, as well as coordinated with rental companies and barge company - Provided general assistance and interpretive information for park users, and coordinated for permit process
Green Packaging Research Associate 2013/2014	Provided research for City Council led committee on Single Use Bag Fee Ordinance, including contacting and interviewing officials in other communities, reviewing legal documents, journal articles, and government reports to respond to requests from committee and present findings in public meetings; passed in Spring 2014
2007 – 2012	Massachusetts Department of Conservation and Recreation – Boston, MA
Forest & Park Supervisor II 2012 Season	Neponset River Corridor Field supervisor of seasonal operations team that performed park maintenance of Boston urban greenway, its associated neighborhood parks, and two parkways, including programming centers, spray pool facilities, community gardens, playgrounds, trails, and operations building
Park Ranger - Residential 2012 Season 2011 Season 2010 Season	Boston Harbor Islands National Recreation Area Lived on Harbor Islands for six months out of the year, for three seasons, serving as on-site steward of park, greeting visitors, siting and leading stewardship projects, performing grounds maintenance, protecting resources through policy and regulation education and enforcement, keeping visitor-use records, leading interpretive tours and programs, conducting climate change science studies, and managing campgrounds
Park Fellow 2007 Season	Boston Shore District Trained in park system management, partnership building; performed facility and grounds maintenance daily

VOLUNTEER WORK

2007 – 2012	Massachusetts Department of Conservation and Recreation – Boston, MA
Park Planning and Development	Successfully brought park improvement project from inception through implementation of meadow management plan, planting of wildflower meadows, native shrubs and trees, designed and raised all funding for self-designed disc golf course, and gathered support for creation of a non-profit friends group to perform annual maintenance of disc golf course and hold regularly scheduled games and annual tournaments
2010 – 2012	Newton Conservation Commission – Newton, MA
Associate Commissioner	Contribute to monthly public commission meetings to administer the Massachusetts Wetlands Protection Act, Wetlands Regulations, and City of Newton Floodplain Ordinance 22-22, performed research projects as needed

ADDITIONAL RESOURCE MANAGEMENT PROJECTS

2013	Climate Change Risk Assessment: 6 Towns VT & NH - Upper Connecticut Valley Adaptation Working Group VT/NH Sustainability Assessment: Seasonal Program & Main Office - Student Conservation Association, Charlestown NH
2012	National Historic Registry Designation: Francis William Bird Park - The Trustees of Reservations, Walpole MA



April 27, 2015

Katherine L. Jones, CCM
Office of the City Clerk
389 Congress Street
Portland, ME 04101

Dear Katherine:

I am writing to let you know that I would like to be re-appointed for my position on the Portland Parks Commission. I understand that this is a 3-year term and will take effect after my current term expires on 6/30/2015.

Please find attached my resume as requested.

Sincerely,

Cynthia Loebenstein

Cynthia Loebenstein, R.A., LEED AP
164 Concord Street
Portland, ME 04103

Cynthia Loebenstein, a native of Washington DC, graduated from the School of Architecture at University of Maryland with a Bachelors of Architecture. Cynthia moved to Maine in 1984 and became a Maine registered architect in 1986.

Over the next 29 years she worked at as an architect at Portland Design Team, Winton Scott Architects and Reed & Co. Architecture on a broad array of building types including libraries, childcare facilities, community buildings and historic preservation projects. Cynthia is a member of the Portland Society of Architects, a LEED Accredited Professional, an Advisory Board Member of the Friends of Evergreen and a Parks Commissioner for the City of Portland.

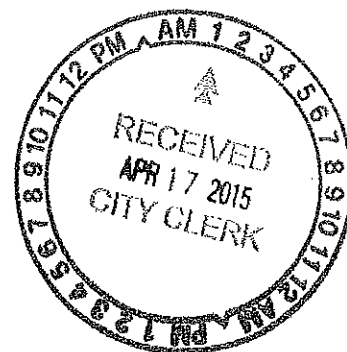
Currently, Cynthia is the principal architect for Central Square Design LLC. She recently worked on renovation and additions to the Gray Public Library and the Thomas Memorial Library in Cape Elizabeth.

In 2008 she was the Vice President of the Friends of Evergreen and coordinated the design and construction of interpretive signs and map at the entrance to Evergreen Cemetery. She also wrote and was awarded \$5,000 grants from the Davis Family Foundation and the Maine Community Foundation for the Brentwood Master Plan.

From 2009 - 2014 Cynthia was the President of the Friends of Evergreen. During her tenure as president: a new Friend's website was created; a part-time staff person was hired (now Executive Director); the docent training program for the walking tours was established; the Older Adults walking tours was conceived; the wall along Stevens Ave was partially restored; the annual Remembrance Day event was created; an annual Arbor Day Celebration was created; the National Register of Historic Places Plaque was mounted on the stone entrance; and, the Phase Two Expansion Design of the Cemetery was implemented.

Friday, April 17, 2015

Clerk's Office
City of Portland
Congress Street
Portland, ME 04101



Dear Sirs:

I am writing as an active member of the Parks Commission. I understand that it is time to renew my membership with the Board. As a Trustee of Deering Oaks Park, I have acted as a liason between the two boards for several years.

I would like to be considered for another term of office on the Parks Commission. Please find attached my resume for your review.

I look forward to hearing from the Nominating Committee of the City of Portland.

Thank you for your consideration.

Carol Hutchins

Carol Hutchins
40 Mechanic Street
Portland, ME 04101

Carol Hutchins
40 Mechanic Street
Portland, Maine, 04101
(207) 756-6709
hutchins_carol@hotmail.com

WORK EXPERIENCE

I a fast-paced business/medical office, where I was able to utilize my ability to multi-task and provide excellent customer service.

Employment History

Crossmark
Plano, TX
From: October 2011 to Present

Demo Specialist

I am responsible for the preparation and sales of food products within SAM's and Walmart. My demonstrations change on a day to day basis and I provide excellent customer service.

National Opinion Research Center
University of Chicago
From: October 2010 to June 2011

Field Interviewer

I was worked in a pre-determined geographic are, seeking women of child-bearing age to participate in the National Children's Study. I provided information regarding this very important study and encouraged their participation, entering their demographics into a hand-held computer.

Maine Medical Center
Portland, ME
From February 2001 to December 2010

Nursing Unit Secretary

I supported the medical staff in a face-paced Critical Care Unit, while providing excellent customer service to families in crisis.

Education

Bachelor of Science in Marketing
Central Connecticut State University

Craig Lapine

March 26, 2015

Katherine Jones, City Clerk
City of Portland
389 Congress Street
Portland, ME 04101

Dear Ms. Jones:

I wish to be considered for the upcoming opening on the City's Parks Commission.

I have been a Portland resident since 1998 and in that time I have been involved in the protection and expansion of open spaces in the City. My primary connection to this work has been through Cultivating Community, the organization I founded in Portland in 2001 and still run. Our particular open space focus has been on expanding the number of safe spaces in which Portland people can grow their own food. To that end, we established in 2004 in partnership with the City the Boyd Street Urban Farm and Community Garden in the East Bayside/Kennedy Park neighborhood. We were also involved in the establishment of the Bayside Neighborhood Association garden on private property on Chestnut Street, and since 2003 have been stewards of the garden at the City's Oxford Street Shelter. You may be aware that in 2013 we entered into a partnership with the City to manage all of Portland's community gardens.

Outside my professional role, I am deeply connected to the City's parks simply as a citizen. When my children were little, we spend countless days at the Deering Oaks playground, and more recently I've logged hundreds of hours playing tennis and watching baseball there. My dog and I are regulars at Capisic Pond Park, Baxter Woods, and elsewhere. And (should spring ever arrive) I look forward to getting back to my regular bike rides around Back Cove and along the Eastern Promenade.

Portland's parks and open spaces are critical infrastructure that contribute to the immense livability of our wonderful, small city. I would be excited to be among those charged with safeguarding their future.

I am including my resume. Please let me know if there are next steps I should take in confirming my candidacy.

Many thanks,



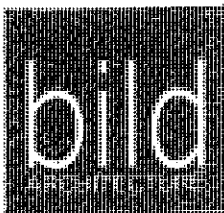
Craig Lapine

59 Roberts Street
Portland, Maine 04102
207.671.1189
craiglapine@gmail.com

Leadership summary	• Demonstrated, results-based leadership in organizational development, community organizing, stakeholder empowerment, program design and implementation, staff development, and fundraising. • Experience leading processes and organizations that include diverse multi-ethnic, multi-lingual, and multi-cultural communities. • Extensive professional and community experience in system-based reform and community development. • Specific training in collaborative leadership.	
Current professional role	Cultivating Community • Executive Director • Portland, ME Founded this community-based organization dedicated to putting food production in the hands of local people and expanding healthy food access. Having founded the organization as an all-volunteer enterprise with a \$6,000 annual budget, it now has a budget of over \$1M and 12 FTE staff. Since 2001 Cultivating Community has run programs that use a food justice lens to build leadership, civic engagement, and environmental ethics among teens. It supports garden-based education for elementary and middle school students throughout southern Maine. The organization manages the City of Portland's community garden network and operates a network of SNAP- and WIC-accepting farm-stands across four of Maine's largest cities (Portland, South Portland, Lewiston, and Auburn). Its Citizen Gardener Workshop Series empowers home and community gardeners, and its New American Sustainable Agriculture Project (NASAP) is Maine's largest land-based farmer training program.	2001-present
Current network, coalition, and community work	Food Solutions New England • Summit Delegate and Network Team Since 2011 Food Solutions New England has linked state-level food strategies in New England by convening annual food summits and by driving the creation of the New England Food Vision which calls for a food self-reliant region by 2060. Served as a food summit delegate since 2012 and in 2014 joined the network team.	2012-present
	Mayor's Initiative for a Healthy & Sustainable Food System • Portland, ME Steering committee member and citizen chair of the School Food Subcommittee. Worked with Mayor Michael Brennan to develop an initiative rooted in the values of justice and fairness in all aspects of the food system; equal food access for disadvantaged people; healthy people; thriving local economies and jobs; vibrant gardens, farms, and fisheries; sustainable ecosystems; and strong neighborhoods and communities. Currently tasked with supporting Portland become the first urban area in the country with 50% local foods sourcing by 2016.	2012-present
	Cumberland County Food Security Council • Executive Committee Founding member. Contributed to a county-wide community food assessment, and currently engaged in creating local foods solutions to access barriers. Member living wage working group.	2011-present
	Eat Local Foods Coalition • Executive Committee Chair (2010-20012). Treasurer (2008-10; 2012- present). Participated in and sometimes facilitated processes that led to Maine's farm-to-school initiative, Maine's statewide food policy, Maine's first on-line food map, and the "By Land and By Sea" initiative bringing together members of Maine's farming and fishing communities to address common concerns and share resources.	2004-present
Past professional and community work	Maine Organic Farmers & Gardeners Association • Unity, ME Board of Directors. President (2009-11). Led five-year planning process, facilitating input from members, board, and staff. Did initial planning for capital campaign of \$3.4 million to create new learning center.	2007-2011
	Mayo Street Arts • Portland, ME Served on the board of this arts organization in Portland's East Bayside neighborhood.	2011-2013

	Slow Food • Turin, Italy	2008
	Terra Madre Delegate representing the Maine Food Community	
	Yarmouth High School • English Teacher • Yarmouth, ME	1998-2000
	Developed and taught language arts and interdisciplinary courses for grades 9-12 including model exhibition- and performance-based courses	
	University School • English Teacher • Cleveland, OH	1992-97
	Courses and responsibilities included Freshman English, American Literature, Introduction to the Research Term Paper, and creative writing fellowships	
	Philip Johnson Associates • Staff Writer & Project Manager • Cambridge, MA	1987-92
	Wrote and managed a range of corporate communications projects for clients that included Polaroid, Agfa, Sheraton Corporation, John Hancock, Fidelity, and others.	
	Houghton Mifflin Company • Assistant to the Reference Publisher • Boston, MA	1986-87
	Projects included <i>The American Heritage Dictionary, Third Edition</i> , <i>The Dictionary of Cultural Literacy</i> , and <i>The American Heritage/Larousse Spanish-English Dictionary</i>	
	Other community service roles have included committee and volunteer work with Bayside Little League, Congregation Bet Ha'am, the Jewish Community Alliance of Southern Maine, Communities Promoting Health, and Environment Northeast.	
Education	Institute for Civic Leadership • Portland, ME	Pi Class, 2008-09
	Leadership Intensive	
	Harvard Graduate School of Education • Cambridge, MA	M.Ed, 1998
	Concentration in Learning & Teaching	
References	Princeton University • Princeton, NJ	A.B., 1985
	English Language & Literature	
	Dave Colson	
	Director of Agricultural Services, MOFGA/Board President, Cultivating Community dcolson@mofga.org • 207.505.0378	
	Michael Stoddard	
	Executive Director, Efficiency Maine/Founding Board Member, Cultivating Community michael.stoddard@efficiencymaine.com • 207.712.2577	
	Amanda Beal	
	Food Systems Consultant/Past President, Cultivating Community borageblossom@gmail.com • 207.756.9877	

**PORTLAND HOUSING
AUTHORITY**



ingenuity thoughtfulness empathy

April 21, 2015

Appointments Committee Chairman
c/o City Clerk
389 Congress Street
Portland ME 04101
klj@portlandmaine.gov

re: Portland Housing Authority Commissioner Re-Application

Katherine Jones & Members of the Appointments Committee,

Thank you for considering my re-application for the position of Portland Housing Authority Commissioner. I have been serving as a commissioner since my appointment in the Fall of 2012. I have found the experience to be rewarding, meaningful and timely. During my time as commissioner, PHA has worked through HUD sequestration, implemented two phases of Energy Performance Contracting, and hired a development director, signaling major shift in organization strategy.

Now, city-wide apartment vacancy rates are the lowest ever, high-end condo and apartment units are booming and the need is greater than ever for comprehensive affordable and working-class housing policy. I hope that in some small way, my work on the PHA board will help the organization to be part of the ongoing solution.

While there are many players in the housing discussions, PHA is well positioned to play a very important role. I am proud to be serving PHA and the city in this way, and honored to be the current Finance Committee Chair.

I have been a home owner in East Bayside since 2009, and I have lived in Portland since 2007. I grew up in Westbrook, and upon returning from college served on the Westbrook Planning Board. I have always made service to my community a part of my life, and I look forward to working with PHA and the community toward the PHA Mission:

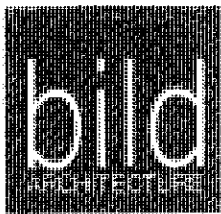
The Portland Housing Authority will provide quality, affordable housing opportunities. We will partner with those we serve and appropriate agencies to enhance the quality of life in our community and challenge all to achieve excellence.

Thank you for considering this application, and I look forward to my interview with the Appointments Committee.

Sincerely,

A handwritten signature in black ink, reading 'Evan A. Carroll'. The signature is fluid and cursive, with the first name 'Evan' and last name 'Carroll' clearly legible.

Evan A. Carroll, AIA



Evan A. Carroll

Principal, AIA, LEED AP

ingenuity thoughtfulness empathy

Experience

Bild Architecture Portland, Maine June 2011 to present	Principal Architect & Co-Owner Random Orbit Inc, Marquis Lofts Condos – Architect Bedside Manor East, Alzheimer's Home – Architect Town of Standish, Public Works Building – Architect Group Main Stream, Group Home – Architect Blackstone Valley Ice Arena – Architect
Portland Housing Authority Portland, Maine October 2012 to Present	Commissioner & Finance Committee Chair Voting board member
Port City Architecture Portland, Maine May 2006 to February 2011	Architect Handy Boat and Sea Grill, Falmouth, Maine - Project Manager, CDs, Construction Administration University of New England: College of Pharmacy - Schematic Design, CDs, Construction Administration Orchard Residence - Project Manager, Design, CDs, Construction Administration
Portland Society of Architects Portland, Maine September 2009 to May 2012	Advocacy Committee Member (volunteer) Facilitate public forums Contribute to design and design policy discussions Author PSA public statements
Maine Alliance for Sustainable Transport. Portland, Maine March, 2010 to May 2011	Steering Committee Member (volunteer) Author MAST public statements Facilitate Steering Committee Meetings
City of Westbrook Westbrook, Maine December 2005 to April 2006	Planning Board Member - Ward Three Perform zoning change recommendations and site reviews Premature term ending due to relocation out of Westbrook
Portland Museum of Art Portland, Maine Summer 2002 and Summer 2003	Custodian and Laborer
Pizzagalli Construction Co. Portland, Maine Summer 2001 and January 2002	Laborer Portland Museum of Art, McLellan-Sweat House Restoration

Education and Merits

Professional Certification	Maine Licensed Architect Massachusetts Licensed Architect LEED AP BD+C
Roger Williams University Bristol, Rhode Island	Bachelor of Architecture, Minor in Music, December 2006 BArch 2006 Valedictorian
Boy Scouts of the America	Eagle Scout, June 2000
References	Available upon request.

Katherine Jones - PORTLAND HOUSING COMMITTEE

From: shirley peterson <peters328@yahoo.com>
To: "klj@portlandmaine.gov" <klj@portlandmaine.gov>
Date: 5/7/2015 8:42 PM
Subject: PORTLAND HOUSING COMMITTEE

Shirley A. Peterson
270 Presumpscot Street
Portland, Maine 04103
207 409 2058
peters328@yahoo.com

I would like to be considered for reappointment to PHA housing commissioner.

I currently work as the Pharmacy Buyer for Maine Medical Center. I have held this position since 2000.

I graduated from Portland High School in 1988.
I completed the PHA FSS program in 1999.

I have been a commissioner since my first appointment in 2008, then reappointed in 2010 for a full term.

I first held a residential appointment. I currently hold the position of Vice-Chairman. Having participated in all of the programs offered from PHA. First in Public housing, then in Section 8 to finally graduating from the program in FSS as a homeowner.

I feel my experience and knowledge of what PHA has to offer and where it can take you is a much needed asset to the board.

Thank you for your consideration,
Shirley Peterson

**PORTLAND
PUBLIC ARTS
COMMITTEE**

May 2, 2015

Anthony L. Muench
Landscape Architect

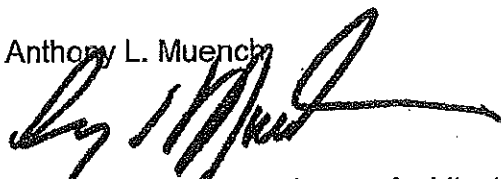
Ms. Katherine L. Jones
City Clerk
City Hall
389 Congress Street rm. 203
Portland, Maine 04101

RE: Portland Public Art Committee re-up new term membership starting March, 2015.
Enclosed is my professional resume.

Hello Katherine,

I would like to stay a member of PPAC for another term.

Anthony L. Muench



Maine Licensed Landscape Architect



94 Commercial Street • Portland, Maine • 04101 • Tel 207-761-6621



ANTHONY MUENCH**LANDSCAPE ARCHITECT**

94 Commercial Street

Portland, Maine 04101
amuench@maine.rr.com

(207) 761-6621

Anthony Muench has been involved with Landscape Architecture for the past thirty three years. He is presently principal of his own design and consulting firm in Portland, Maine.

Mr. Muench began working in Maine in 1974. He served as a municipal planner in Bangor for two years before being employed by Eaton Tarbell and Associates. As a Landscape Architect for that firm, he managed all aspects of site design for many projects of residential, commercial and institutional character.

From 1979 to 1986 Mr. Muench was an associate of Berman, French and Associates, Landscape Architects in Portland, Maine.

Mr. Muench founded his current private practice in 1986. The following is a partial list of major projects completed at this time.

PROJECTS	DESCRIPTION OF COMPLETED PROJECTS
L.W. Lunt School Addition Falmouth, Maine	A major addition to Lunt School
Freeport School Freeport, Maine	New School (350 students) grades 3-5
Washburn School Washburn, Maine	New School (K-6)
Buckfield Junior/Senior High School Buckfield, Maine	New Junior/Senior High School
Searsport School Searsport, Maine	New School (500 students, grades K-5)
Conway Town Center Conway, N.H.	New Police Station and Courthouse
Stratton School Stratton, Maine	New School (K-6)
UMO Gymnasium Orono, Maine	UMO Gymnasium Addition
Lower Falls Landing Yarmouth, Maine	Commercial/Office Complex and Restaurant
Central Gardiner School Gardiner, Maine	New School (grades K-5)

PROJECTS

South Gardiner School
South Gardiner, Maine

Gardiner Area High School
Gardiner, Maine

Burchard Dunn School
New Gloucester, Maine

Hyde School
Bath, Maine

West Bath District Court
West Bath, Maine

Readfield School
Readfield, Maine

Manchester School
Manchester, Maine

Collins Pond Corridor (*Bike Path*)
Caribou, Maine

McTeague, Higbee Law Offices
Topsham, Maine

Cumberland County Gymnastics Center
Scarborough, Maine

River Ridge Health Care Facility
Kennebunk, Maine

Pine Point Nursing Care Facility
Scarborough, Maine

Devonshire Nursing Care Facility
Portland, Maine

Maine Maritime Museum
Bath, Maine
(*Planting Consultation*)

Somersworth Day Care Center
Somersworth, N.H.

Alfred Library Addition
Alfred, Maine

Windham Library Addition
Windham, Maine

DESCRIPTION OF COMPLETED PROJECTS

New School (grades K-5)

School Addition

Addition

Dormitory

New Court Facility

Addition and related sitework to
an elementary school

Addition and related sitework to
an elementary school

New Elderly Care Facility

New Elderly Care Facility

New Elderly Care Facility

Children Care Facility

PROJECTS**DESCRIPTION OF COMPLETED PROJECTS**

Hermion High School
Hermion, Maine

New 800 student high school
1993

Calais Congregational Church
Calais, Maine

New Church in downtown Calais

Lincoln Academy Addition
Newcastle, Maine

Classroom addition and related site work

Morse High School
Bath, Maine

Addition
1995

New Gloucester Library
New Gloucester, Maine

Addition
1995

Coastal Surgical Medical Offices
Brunswick, Maine

New Building
2002

Bath Center for Higher Education
Bath, Maine

New building
1999

Hyde School Family Learning Center
Bath, Maine

New building
2001

Saint Albans Episcopal Church
Cape Elizabeth, Maine

Reconstruction
2000

Old Westbrook High School Housing
Westbrook, Maine

Reconstruction
2006

Biddeford Saco Savings Bank
Old Orchard, Maine

Addition
2002

The Rackleff Block
Portland, Maine

Reconstruction
1999

Skidompha Library Addition
Damariscotta, Maine

New building
2001

Portsmouth Cottage Housing

Reconstruction

USM Childcare
Gorham, Maine

New building
Child Play Space

Family Focus- Brunswick
Brunswick, Maine

New building
Child Play Space

Chebeague Island Inn
Cumberland, Maine

reconstruction of
hotel, completed 2003

Brunswick- Topsham
River Walk/ Swinging Bridge
Brunswick-Topsham, Maine

under construction
2011

Key Bank Plaza
Falmouth, Maine

Completed 2008

Bangor Savings Plaza
Falmouth, Maine

Completed 2011

Maine Hall
Bangor Theological Site
Bangor, Maine

Completed 2011

Martins Point Healthcare
Offices
Portland, Maine

Completed 2011

Two Cent Bridge Park design
and construction
Waterville, Maine

Completed 2011

RESIDENTIAL DESIGN PROJECTS

Lamont Residence
Falmouth, Maine

Beck Residence
Harpwell, Maine

Tartre Residence
Falmouth, Maine

Murray Residence
Falmouth, Maine

Amoroso Residence
Freeport, Maine

Zur Residence
Freeport, Maine

Dorsk Residence
Cape Elizabeth, Maine

Beckelman Residence
Portland, Maine

White Residence
No. Yarmouth, Maine

Lebourdais Residence
N. Harpswell, Maine

Howland Residence
N. Harpswell, Maine

Olivo Residence
South Harpswell, Maine

Haskell Residence
Yarmouth, Maine

Norton Residence
Harpwell, Maine

Boulos Residence
Cape Elizabeth, Maine

Dumont Residence
Cumberland, Maine

Robinson Res.
Woolwich, Maine

Brenner Residence
Katonah, New York

Rosenblatt Residence
Albany, Maine

Springer Residence
Chebeague Island, Maine

Rosen Residence
Naples, Maine

Ward-DeSieyes Residence
Falmouth, Maine

Milliken Residence
North Yarmouth, Maine

Crewe Residence
Portland, Maine

Pearson Residence
Raymond, Maine

Foster Residence
Yarmouth, Maine

Childs Residence
Goshen, Connecticut

Burns Residence
Waterford, Maine

Dumont Residence
Windham, Maine

Good Residence
Raymond, Maine

Cutler/Wegener Residence
Cape Elizabeth, Maine

Braxton Residence
Cape Elizabeth, Maine

Messer Residence
Falmouth, Maine

Donahue Res.
Raymond, Maine

Hastings Residence
Falmouth, Maine

Schair Residence
Falmouth, Maine

Holmes Residence
Raymond, Maine

Rubin Residence
Scarborough, Maine

Osher Residence
Portland, Maine

Amory Residence
Portland, Maine

Roriston Residence
Lovell, Maine

Pearson2 Residence
Raymond, Maine

Knock Residence
Freeport, Maine

Pugh Residence
Yarmouth, Maine

Gerry Residence
Freeport, Maine

Walsh.Young Res.
Brunswick, Maine

EDUCATION

B.F.A., B.L.A. Landscape Architecture
Rhode Island School of Design

PROFESSIONAL REGISTRATION

Maine Registered Landscape Architect No.7

James E. Cradock, Jr.
219 Walton Street
Portland, Maine 04103

UC'd
MAR 25 2015

1:35pm

March 17, 2015

Katherine L. Jones
City Clerk - Portland, Maine
City Hall
389 Congress Street
Portland, Maine 04101

Dear Ms. Jones,

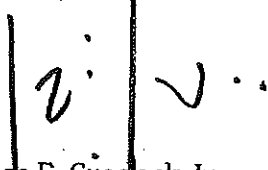
I have been a member of the Portland Public Art Committee since July 2012. My term comes up for renewal this year, in July 2015, and I would like to continue as a member of the Committee.

In the three years I've been fortunate to be on the Committee

- We have launched a website to show the extent of the City's public art collection;
- We have started using social media for outreach;
- We have conserved pieces, including relocating Cloud Couch to a more accessible place on Baxter Boulevard's walking and running path;
- We have added new art (Jay Sawyer, Bernhard Langlais, additional JetPort pieces) to the City's collection; and
- We are preparing to leverage the website to share videos of presentations on the City's art works.

I would like to help my fellow Committee members further this work for the City of Portland. I've enjoyed being on the Committee. I would like to continue as a member of the Committee for an additional term.

Regards,


James E. Cradock, Jr.

Pandora LaCasse Design LLC



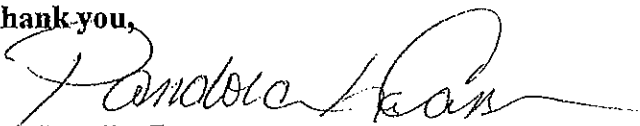
3.23.2015

Katherine Jones, City Clerk
City of Portland
Portland, Maine 04101

Dear Katherine,

Please accept this letter to submit my name to serve for a new term to the Portland Public Art Committee.

Thank you,


Pandora LaCasse

Pandora D LaCasse
80 High St Portland, Maine 04101
pandalacasse@gmail.com
207-232-1686

"MECA Cascading Spheres", Fifty lighted spherical wire forms cascade from the roof down the façade to the second floor canopy of the Maine College of Art building, Congress Street, Portland, Maine: 1998-present copyright 2001
477 Congress St. (Time & Temp. Trumpets), Portland, Maine, (November-March), 2004- present
M. W. Sewall & Co., Bath, Maine 2004-2007
Deering Oaks, Friends of Deering Oaks, Portland, Maine, 2001-present

"Flight", Percent for Art, Suspended Sculpture, Otisfield Community School, Otisfield, Maine, 1996
"When The Moon Dressed Up The Birds Followed Suit", Percent for Art, Suspended Multi-Unit Sculpture, McKusick Elementary School, SAD #4, Guilford, Maine, 1993
"A Kaleidoscopic View", Percent for Art, Suspended Multi-Unit Sculpture, Gray/ New Gloucester Middle School, RR #1, Gray, Maine, 1989

Community Service

Creative Economy Steering Committee Member, City of Portland, Maine, current
PACA Board Member, Portland Arts and Cultural Alliance, 2000-2003, 1997-1998
Celebrating Community Steering Committee Member, Development of a Community Cultural Plan for the City of Portland, 1997-1998
Commissioner, Friends of The Park Commission, City of Portland, Maine, 1993-1994
Chaired, Arts in the Parks, SubCommittee, Friends of the Park. Developed criteria for the evaluation, review and acceptance of proposed donations of items to be placed on City property, 1993-1994.
Arts and Cultural Steering Committee, Advisory Committee to City of Portland Manager: Charged with developing a plan to promote the health, stability and growth of the city's arts organizations, artists, and cultural heritage, 1993-1994
Portland Public Arts Committee, Portland, Maine: Oversee public arts policy for the City of Portland, 1994
Chaired, Art Committee, Portland Partnership, Portland Public Schools, 1992-1993
Portland School Committee Member, 1991-1994, Chaired Finance Committee 1992, and Curriculum Committee, 1993, participated on Personnel Committee 1991, Middle School Building Committee 1993,
Co-Curricular Study committee 1993 and District School Improvement Steering Committee 1992.

Pandora D LaCasse
80 High St Portland, Maine 04101
pandalacasse@gmail.com
207-232-1686

Professional Experience

Owner, Pandora LaCasse Design Inc., Specializing in environmental installations incorporating light, color, form and space, 2002-present
Instructor, Life Sculpture, CS, Maine College of Art, Portland, Maine, 1987-2006
Instructor, Design II, University of Southern Maine, Portland, Maine, 2000-2001
Project Director, Production of Cultural Horizons: A resource guide to cultural organization, artists, schools and other resources of Greater Portland.
Assistant to Director, Lakes Gallery, South Casco, Maine, 1994-1998
Artistic Consultant, Giant Horses, a thirty minute documentary examining the working relationship between humans and domesticated animal, within the context of Horse Pulling, 1988-1994: Presented at the Maine Women's Film Festival, Portland Museum of Art, 1996
Artist in Residence/Touring Artist, Touring Artist Program, Maine Arts Commission, 1984-2000

Education/Awards

MECA Award for Entrepreneurship in the Arts, 2007
Graduate School of Fine Arts, University of Pennsylvania, M.F.A., B.F.A., Philadelphia, Pennsylvania: Sculpture Major, 1980-1983
University of Maine at Orono, Orono, Maine: Art Major, Botany Minor, 1976-1980

Selected Works/Percent for Art

Sculptural Light Installations, City of Portland, ME., Congress Square, Boothby Square, Longfellow Square, Tommy's Park, Congress Street Light Poles, Commercial Street, Brunswick, ME. 2013-present
J.B. Brown, Portland, ME. (permanent Installation)
MarketStreet Lynnfield, Ma. 2014-present
The Street, Chestnut Hill, Ma. 2103-present
New Haven, Ct. 2012-present
LL Bean Campus, Holiday Light Installation, Freeport, Maine, 2006-present
Main Street Light Installation, Freeport Merchant Association, Freeport, Maine 2006-2012
Spicewood Ranch, Spicewood, Texas, (permanent installation)
Little Diamond Island, Portland, Maine, (permanent installation)

*order 281-14/15
Tab 12 6-15-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPOINTING JON P. JENNINGS
AS CITY MANAGER, APPROVING HIS CONTRACT AND
AND SETTING ANNUAL SALARY**

ORDERED, that Jon P. Jennings is hereby appointed City Manager for the City of Portland effective July 13, 2015; and

BE IT FURTHER ORDERED, that the annual salary of City Manager is hereby set at \$148,064.38 as of July 13, 2015; and

BE IT FURTHER ORDERED, that the contract with the City Manager is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Mayor 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: Mayor and City Council

FROM: Gina Tapp, Director of Human Resources

DATE: June 5, 2015

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

SUBJECT: Agenda Item Request for Appointment of New City Manager

SPONSOR: COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 15, 2015 n/a _____ Final Action _____

Can action be taken at a later date: _____ Yes ☐ ☒ No (If no why not?) Council approval is required prior to start of employment.

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

I. SUMMARY OF ISSUE (Agenda Description)

Approval and confirmation of new City Manager.

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

A new City Manager has been selected. The appointment of a new City Manager requires approval and confirmation by the City Council.

III. INTENDED RESULT

Council will approve the appointment of Jon Jennings to begin his role as City Manager effective July 13, 2015.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. RECOMMENDATIONV

VII. LIST ATTACHMENTS

Resume of Jon Jennings
Employment Agreement

Order

Jon P. Jennings

20 Olde Colony Lane
Cape Elizabeth, ME 04107
(207) 272-8371
jonpjennings@gmail.com

Education

Harvard University, John F. Kennedy School of Government, Cambridge, MA
Masters in Public Administration

Indiana University, Bloomington, IN
Bachelor of Liberal Studies

Career Summary

PUBLIC SERVICE/NONPROFIT

City of South Portland

Assistant City Manager, 2013-present

Position to assist the city manager on economic development, overall administration and sustainability opportunities for the City. Work with the private sector and neighborhood groups on various development proposals. Lead numerous committees on issues facing the City.

Office of Senator John F. Kerry

State Director, 2005-2007

Responsible for running all aspects of Senator Kerry's Senate operations in Massachusetts. Managed 18 employees in three district offices. Responsible for relationships with state legislature, mayors and elected officials in MA. Oversaw policy initiatives in the MA office.

Jon Jennings for Congress

Candidate, 2003-2004

Ran for Congress in Indiana's 8th District, receiving more votes than any previous Democrat or Republican in the district. Raised more than \$1.5 million from 45 states. Put together a very formidable field organization that identified over 121,000 Jennings' voters on election day. Consistently listed as one of the top tier campaigns throughout the election cycle. Successfully built a diverse network, receiving endorsements from a wide-range of organizations and individuals, which included both Republicans and Democrats.

U. S. Department of Justice

Acting Assistant Attorney General and Principal Deputy Assistant Attorney General, 1999-2000

Appointed Acting Assistant Attorney General and Principal Deputy Assistant Attorney General by the Attorney General. Responsible for developing and coordinating the legislative agenda for the Department of Justice and directing the agency's relationship with the U.S. Congress. Policy advisor to Attorney General. Managed a large staff of attorneys and set agenda for the office.

White House

Senior Advisor, Office of Cabinet Affairs, 2000-2001

Worked with various Cabinet members finalizing policy initiatives and overseeing the transition of Cabinet agencies to the Bush Administration.

Senior Assistant to the Cabinet Secretary and Director of Policy Coordination, 1998-1999
Served as White House liaison to numerous Cabinet departments and agencies. Responsibilities included federal disaster assistance, assisted with anti-crime legislation, Social Security reform, and other policy initiatives.

White House Fellow, 1997-1998

Selected one of fifteen people to receive honor. Acted as liaison to President Clinton's Initiative on Race. Worked in the Office of Cabinet Affairs and served as the White House liaison for various Cabinet departments and agencies.

Stonehill College

Joseph W. Martin, Jr. Visiting Scholar, 2001-2002

Selected by the president and board of trustees of Stonehill College. Taught course on Congress and the Presidency during the fall semester and a course on the Clinton Presidency during the spring semester.

Team Harmony Foundation

Co-founder/President, 1992-2003

The Team Harmony Foundation was created to motivate, inspire and educate young people to combat all forms of bigotry and to promote respect for diversity. Created with former Celtics' player, Reggie Lewis and Leonard Zakim, formerly of the Anti-Defamation League. Recognized as one of the top ten programs in the country combating discrimination. Raised funds to host event each year.

BUSINESS**Red Mango**

Partner, 2012-present

Investment in franchise rights to develop Red Mango Frozen Yogurt stores in Maine, Massachusetts and New Hampshire.

Thompson's Point Development Company

General Partner, 2010-2013

Worked with partners to develop a mixed use property in Portland, ME.
Collaborated with interested parties to fully permit the development project.

Maine Basketball, LLC and Maine Red Claws

Founder, Co-Owner and President, 2007-2012

Founded the NBA Development League team based in Portland, ME. Developed the business plan, investment group and raised \$1.5 million which led to the creation of the Boston Celtics minor league team. Was responsible for all aspects of business and basketball operations of the team. Sold ownership in team in 2012.

JNG Associates, LLC

Managing Partner, 2002-2005

Co-owned a consulting/investment company. Worked with partner to find opportunities for investment or working relationships in many different strategic areas.

Iron Mountain, Inc.

Consultant, 2001-2004

Created and implemented a government affairs strategy for a \$2 billion dollar company. Developed state and federal contracting initiatives as well as opened a Washington, DC office.

Givenation.com

Vice President of Business Development, 2000

Worked to develop ideas for a web-based portal that promoted online giving to charitable causes. Created many partnerships to expand the branding of the site.

SPORTS**Boston Celtics**

Director of Basketball Development, 1995-1997

Worked closely with Larry Bird on all aspects of basketball operations. Responsible for college, professional and international scouting. Managed scouting staff and was a contact for trades and other player acquisitions. Contributed to on-court player development.

Assistant Coach and Scouting Coordinator, 1992-1995

Continued responsibilities as a bench coach as well as overseeing the scouting operation for all personnel including college, professional and international players. Worked closely with Dave Gavitt to secure talent through free agent signings and the college draft. Responsible for organizing the team for the college draft.

Assistant Coach, 1990-1992

Created strategic game plan for each opponent based upon scouting reports developed through oppositional scouting. Was responsible for defensive strategy during games on the bench. Worked with players on skill development focusing on low post offensive moves. Continued to scout college talent. Responsible for summer rookie league programs including acquisition of talent. Was selected to coach in the 1991 NBA All Star Game.

Scout/Video Coordinator, 1986-1990

Worked with Red Auerbach, K.C. Jones, and staff. Responsible for scouting opponents for game preparation for coaching staff. Created scouting tapes for coaches and players. Coordinated team's strategy for college draft. Scouted college players for the NBA draft. Scouted opponents including the 1986 playoffs resulting in winning the NBA Championship.

Indiana Pacers

Scout/Video Coordinator, 1983-1986

Developed video scouting system for the Indiana Pacers. Created videotape for use at halftime of NBA games. Responsible for scouting college players and videotape library for the NBA draft.

Affiliations

Team Harmony Foundation, co-founder/president
The Lenny Zakim Fund, former member of board of directors
Massachusetts Special Olympics, former member of board of directors
Ford Hall Forum, former member of board of directors
Dimock Street Health Center, former member of board of directors
Peace at Home, former member of board of directors
Hoops for Hope, Bosnia-Herzegovina, co-founder
Massachusetts Sports Partnership, former member of board of advisors
Genesis Fund (National Birth Defects Center), former member of board of directors
City Year Boston, former member of Boston board of directors
Boston Medical Center Kid's Fund, former chairman and board of directors
Big Brothers, former member of board of directors
The Caring for Children Foundation, former member of board of directors
Daniel Marr Boys and Girls Club, former member of board of directors
Massachusetts Olympic Committee, former member of executive board
Mercy Health System, chair of board of directors
July 4th Portland, president of board
City of Portland Task Force on Homelessness, tri-chair
Maine Historical Society, board member

Honors

NBA Development League Executive of the Year, 2010
Joseph W. Martin, Jr. Visiting Scholar, Stonehill College, 2001-2002
White House Fellowship, 1997-1998
Anti-Defamation League, A World of Difference Award, 1996
The Boston Jaycees' Ten Most Outstanding Young Leaders Award, 1996
NBA All Star Coach, 1991
NBA World Championship, 1986
Numerous NBA Division and Conference Championships
Big Ten Basketball Championship, 1983
Indiana University Basketball Staff, 1982-1984

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement"), is by and between the City of Portland, Maine, a municipal corporation organized under the laws of the State of Maine (hereinafter referred to as "City"), and Jon P. Jennings of 20 Olde Colony Lane, Cape Elizabeth, Maine 04107 (hereinafter referred to by name or as "City Manager").

W I T N E S S E T H:

WHEREAS, the City desires to employ Jon P. Jennings as City Manager of the City of Portland, Maine, as provided for in the City Charter of the City of Portland; and

WHEREAS, the City, through its City Council, desires to provide for certain benefits and compensation for the City Manager and to establish conditions of employment applicable to the City Manager; and

WHEREAS, Jon P. Jennings desires to accept employment as City Manager of the City of Portland under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises as set forth in this Agreement, the parties agree as follows:

Section 1. Employment and Term of Agreement

A. The City of Portland hereby hires and appoints Jon P. Jennings as its City Manager, under the terms established herein, to perform the duties and functions specified in the City's Charter and the City Code of Ordinances and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.

B. The City's employment of Jon P. Jennings as City Manager shall be effective July 13, 2015, after review and approval by at least five (5) members of the City Council at a duly noticed City Council meeting. This Agreement shall remain in effect for three (3) years or until terminated by the City or by the City Manager as provided herein. No later than six months prior to the Agreement's expiration, the City and the City Manager shall notify each other concerning whether or not each party intends to renew this Agreement. Should the City decide to renew the Agreement, negotiations shall be commenced no later than three (3) months prior to the Agreement's expiration.

Section 2. Salary and Evaluation.

A. For the performance of services pursuant to this Agreement, the City agrees to pay the City Manager an annual base salary of One Hundred and Forty Eight Thousand Sixty-Four Dollars and Thirty-Eight Cents (\$148,064.38) payable in installments at the same time and in the same manner as other City employees are paid.

B. The City may increase said base salary and/or other benefits of the City Manager in such amounts and to such an extent as the City Council may determine desirable on the basis of an annual performance evaluation of the City Manager. Such evaluation shall be in such form as the Council deems appropriate per the City Charter.

C. Nothing in this Section shall require the City to increase the base salary or other benefits of the City Manager. Furthermore, the City's failure to conduct any of the scheduled evaluations shall not constitute non-compliance with a material provision of this Agreement.

Section 3. Duties and Obligations.

A. The City Manager shall have the duties, responsibilities and powers of said office under the Charter and Ordinances of the City of Portland. The City Manager agrees to perform all duties and responsibilities faithfully, industriously, and to the best of his ability and in a professional and competent manner.

B. The City Manager shall remain in the exclusive employ of the City and shall devote all such time, attention, knowledge and skills necessary to faithfully perform his duties under this Agreement. The City Manager shall dedicate no less than an average of forty (40) hours per week in the performance of his duties hereunder. The City Manager shall not teach, consult, or conduct any other non-City connected business without first notifying the City Council in writing of his intent to do so. Any such activities shall not interfere with his primary obligations to the City as its City Manager.

C. In no case shall the City Manager serve on the boards or be in the employ of organizations which either have a history of or are likely to be before the City, its boards or committees, for funding, permits, approvals or regulatory activities, except that he may continue to serve as President of the Board of July 4th Portland until July 4, 2015, and thereafter he may serve on that board in an ex-officio capacity.

In the event the City Manager shall serve on any other appointed boards or elected boards of any professional organization, or serve on any committees related to his professional activities, in the event any monies are paid, or gifts received, by the City Manager related to such service, such money or property shall be paid over to or delivered to the City, unless otherwise provided by the City Council.

D. In the event the City Manager is temporarily unable to perform his duties, he shall designate an Acting City Manager for up to sixty (60) days per the City Charter. The City Council shall appoint an acting City Manager in the event of an absence in excess of sixty (60) days.

Section 4. Automobile Allowance and Communications Equipment

The City Manager is required to be on-call for twenty-four (24) hour, seven (7) days per week service. In recognition thereof:

A. The City shall provide the City Manager an automobile allowance of \$500 per month.

B. The City shall also provide computer equipment and services for home base connectivity available 24/7, a cell phone or other city provided resources on the same terms as applicable to Department Heads.

Section 5. Dues and Subscriptions

The City agrees to pay the City Manager's professional dues for membership in the International City/County Management Association, and the Maine Municipal Association. The City shall pay other dues and subscriptions on behalf of the City Manager as are approved in the City's annual budget (on a line item basis) or as authorized separately by the City Council.

Section 6. Professional Development

The City agrees to pay reasonable and customary travel and subsistence expenses for the City Manager's travel to and attendance at the International City/County Management Association's annual conference, the Maine Municipal Association's annual conference and the Maine Town and City Management Association's annual conference. The City may choose to pay for the City Manager's attendance at other seminars, conferences, and committee meetings as it deems appropriate and approves by City Council action.

Section 7. Community Involvement

The City recognizes the desirability of representation in and before local civic and other organizations, and encourages the City Manager to participate in these organizations to foster a continuing awareness of the City's activities as well as the community's attitudes and ideas, subject to the limitation in Section 3C above.

Section 8. Vacation and Sick Leave

The City Manager shall earn vacation leave annually accrued as follows: 4 weeks 1-6 years of City service; 5 weeks 7-19+ years of City service with one week front loaded upon commencement of this agreement of both sick and vacation leave.

Accrual of sick and vacation leave and payouts shall be on the same terms as applicable to full time non-union employees under the City's Non Union Personnel Policies and Procedures.

Section 9. Holidays

The City Manager is entitled to the same paid holidays as non-union City employees working a Monday-Friday work week.

Section 10. Health, Dental, Life and Income Protection, Insurance

The City agrees to provide health insurance for the City Manager in the same manner as it provides insurance for its non-union employees and shall pay the cost of life insurance in the value of twice his annual salary, such insurance to be provided through the plan applicable to non-union employees and subject to the rules governing participation in such policies. Such coverage will be effective as provided by those plans.

Should the City not be able to provide health insurance coverage immediately due to policy constraints, it will compensate the City Manager for the cost of his COBRA policy until he can be added to the City's policy.

The City Manager may participate in the City's dental and income protection insurance programs on the same terms as other non-union City employees.

Section 11. Retirement.

The City Manager shall have the option of participating in either the Maine Public Employees Retirement System consolidated plan in the City's regular plan, or in the City's qualified retirement plan for the City Manager under Section 401(a) of the Internal Revenue Code, on the same terms as the regular 401(a) qualified plan for all other employees. The City Manager must participate in one of these two plans, and may participate at his own cost and expense in the City's 457 deferred compensation plan.

The City shall execute the necessary agreement allowing the Manager to enroll in the ICMA Retirement Corporation's 401(a) Executive Deferred Compensation Plan. The City agrees to contribute 12% of the Manager's annual base salary, provided said amount shall not exceed the maximum dollar amount permissible under federal and state law, towards the Executive Deferred Compensation Plan. Payment of this sum shall be made in accordance with the City's normal salary payment schedule. The City agrees to transfer ownership of said plan to succeeding employers upon the Manager's resignation or discharge.

Section 12. Termination by the City and Severance Pay

A. The City Manager shall serve at the pleasure of the City Council, and the City Council may terminate this Agreement and the City Manager's employment with the City at any time, for any reason or for no reason.

B. Should a majority of the entire Council (five members) vote to terminate the services of the City Manager "without cause" or for City convenience, then within ten (10) business days following such vote, the Council shall cause the City Manager to be paid any accrued and unpaid salary and benefits earned, including any accrued vacation or sick time per the City's Non-Union personnel policies, but excluding such items and allowances as are used in conducting City business such as, but not limited to, the use of the City computer, the automobile allowance and any blackberry or cell phone, prior to the date of termination based on a forty (40) hour work week. Within forty-five (45) calendar days following the vote to terminate the City Manager's employment, the Council shall cause the City Manager to be paid a lump sum

severance pay equal to six (6) months of his base salary, in addition to any accrued salary and other benefits as described above, as full and complete payment and satisfaction of any claims of the City Manager of whatsoever nature arising out of this Agreement, its termination, his City employment or otherwise. As consideration for such payment, the City Manager shall, prior to receipt thereof, execute and deliver to the City a general release of the City and its Council members and its officers, agents, and employees for all acts and actions (whether accrued or subsequently accruing) from the beginning of time until the date of release, said release to be prepared by the Corporation Counsel.

C. In the event the City Manager is terminated for "just cause," the City shall have no obligation to pay the amounts outlined in Section 12, Paragraph B of this Agreement, other than any accrued unused vacation time. For purposes of this Agreement, "just cause" is defined and limited for purposes of this Agreement to any of the following:

1. Misfeasance, malfeasance and/or nonfeasance in performance of the City Manager's duties and responsibilities.
2. Being charged with or conviction or a plea of guilty or no contest to any Class A, B, C, or D crime.
3. Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of office.
4. Violation of any substantive City policy, rule, or regulation, which would subject any other City employee to termination.
5. A finding by the Council of any fraudulent act against the interest of the City.
6. A finding by the Council of any act which involves moral turpitude, or which causes the City disrepute.
7. Violation of the International City/County Management Association Code of Ethics.
8. Any other act of a similar nature of the same or greater seriousness.

D. In the event the Council, at any time during the employment term, reduces the salary or other benefits of the City Manager, as identified herein, in a greater percentage than an equivalent across-the-board reduction for all full-time, non-union City employees, or in the event the City allegedly refuses to comply with any other material provision of this Agreement benefiting the City Manager, the City Manager shall notify the Council in writing of the alleged violation. The Council shall have forty-five (45) days from such notice within which to cure the violation, otherwise, the City Manager may at his option, consider such violation as termination "without cause" as of the date of such alleged reduction or refusal, and the severance pay provision and other termination provisions contained herein shall become applicable at the annual salary and benefit level in effect prior to the reduction or refusal.

Section 13. Termination by the City Manager

The City Manager may terminate this Agreement at any time by delivering to the City Council a written notice of termination not later than ninety (90) days prior to the effective date of the termination. If the City Manager terminates this Agreement, then the provisions of Section 12, Paragraph B above regarding the lump sum severance payment, shall not apply. If the City Manager voluntarily resigns pursuant to this Section, the City shall pay to the City Manager all accrued compensation due the City Manager up to the City Manager's final day of employment, including any accrued unused vacation leave and a portion of unused sick leave if the City Manager has more than 3 years of service with the City. The City shall have no further financial obligation to the City Manager pursuant to this Agreement. This subsection shall not prevent the City Manager from collecting any money earned as a result of participation in the City's retirement program, which shall be governed by the applicable rules for such plan.

Section 14. Disability

If the City Manager becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) consecutive weeks beyond any accrued leave, up to a maximum of sixty (60) days, the City shall have the option to terminate this Agreement, subject to the severance pay provision outlined in Section 12, Paragraph B of this Agreement.

Section 15. Residency and Relocation Expenses

A. The City Manager agrees to establish legal residence within the City within twelve (12) months of his date of hire. By this residence requirement, it is the parties' intent that the City Manager will not merely obtain and maintain a legal residence in the City within twelve (12) months, but that he will also generally be present and reside in the City seven (7) days per week. The City acknowledges, however, that the City Manager will be not be in breach of this residency requirement while occasionally travelling outside of the City for City business, for vacation, or for personal or family reasons.

B. The City agrees to pay the Manager up to Ten Thousand Dollars (\$10,000) to reimburse the City Manager for the costs associated with the relocation of himself and his family. This money to cover the cost of house hunting trips, temporary lodging, transportation of himself and his family, a vehicle for moving the family, furniture and other related moving expenses. The City Manager shall be reimbursed only when he can produce receipts to document the expenditure.

C. Should the City Manager resign within two (2) years of his employment with the City to retire or accept a position elsewhere, he will return to the City any expenses it has paid to assist with his relocation. Reimbursement to the City of relocation expenses is not required if the Manager should die or be physically unable to perform the duties of City Manager within the first two (2) years or resign within such time due to disability.

Section 16. Indemnification.

A. City shall defend, save harmless, and indemnify the City Manager against any action for any injury or damage suffered as a result of any act, event, or omission of action that the City Manager reasonably believes to be in the scope of his duties or function, unless he acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. The City shall not be liable for the acts or omissions of the City Manager committed while acting outside the course and scope of his agreed duties or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. In such instance, the City Manager shall reimburse the City for any legal fees and expenses the City has incurred or otherwise paid, for or on his behalf, in connection with the charged conduct.

B. Said indemnification shall extend beyond the termination of employment and the expiration of this Agreement to provide protection for any such acts undertaken or committed in his capacity as City Manager, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the City.

C. Nothing herein is intended, nor shall it be construed to waive or modify any immunity or limitation of liability available to the City and/or the City Manager under applicable state law, including but not limited to the Maine Tort Claims Act.

Section 17. Bonding

The City agrees to bear the full cost of any fidelity or other bonds required of the City Manager under any policy, regulation, ordinance or law.

Section 18. Code of Ethics

Inasmuch as the City Manager is an active full member of the International City/County Management Association (ICMA), the "Code of Ethics" promulgated by ICMA is incorporated herein, and by this reference made a part hereof. Said "Code of Ethics" shall furnish principles to govern the City Manager's conduct and actions as City Manager of the City.

Section 19. Attorney's Fees

If any litigation is commenced between the parties concerning any provision of this Agreement or the rights and duties of any person in relation thereto, the party substantially prevailing in such litigation will be entitled, in addition to such other relief as may be granted, to reasonable attorney's fees and expenses incurred in connection therewith, including appellate fees and expenses.

Section 20. General Terms and Conditions

A. If any provision, or any portion thereof, contained in this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of City Manager.

D. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties.

E. Maine law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in the state courts in Portland..

F. Upon City Manager's death, the City's obligations under this Agreement shall terminate except for:

1. Transfer of ownership of retirement funds, if any, to his designated beneficiaries;
2. Payment of accrued leave balances in accordance with this Agreement;
3. Payment of all outstanding hospitalization, medical and dental bills by City insurance policies or plans; and
4. Payment of all life insurance benefits in accordance with the life insurance plan.

G. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

H. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

I. The effective date of this Agreement shall be the last date it is executed by either of the parties to this Agreement.

J. Unless otherwise provided herein, the City Manager shall be eligible for all benefits provided to department heads in the City's Non-Union Personnel Policies and Procedures.

Signature Page Follows

Executed by the CITY this 5th day of June, 2015

WITNESS

CITY OF PORTLAND

Signature

By: _____
Michael Brennan, Mayor

Print Name

Executed by Jon P. Jennings this 5th day of June, 2015

WITNESS

JON P. JENNINGS

Gina M. Tapp
Signature

By: Jon P. Jennings
Jon P. Jennings

Gina M. Tapp
Print Name

*Order 282-14/15
Tab 13 6-15-15*

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: Allen Toun**

ORDERED, that the City Council hereby accepts the amount of \$1,381.00 in forfeited assets in the case of State of Maine vs. Allen Toun from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Chief Sauschuck

DATE: April 28, 2015

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

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ next available _____ Final Action _____

Can action be taken at a later date: ☒ Yes ☐ No (If no, why not?)

PRESENTATION:

I. SUMMARY OF ISSUE The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)

II. REASON FOR SUBMISSION The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

III. INTENDED RESULT Approximately \$ _____ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.

IV. COUNCIL GOAL ADDRESSED

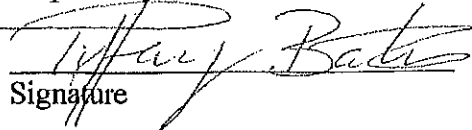
V. FINANCIAL IMPACT The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

Prepared by:


Signature

4.28.15
Date

STATE OF MAINE
Cumberland, SS

State of Maine

v.

\$1,381.00 US Currency,
Defendant In Rem

SUPERIOR COURT
Civil Action
Docket No. CV-2014-284

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}
}

City/Town Of Portland
Approval Of Transfer
15 M.R.S.A. §5824(3)
and §5826(6)

AND
ALLEN TOWN, PARTY IN INTEREST

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$1,381.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

Order 283-14/15
Tab 14 6-15-15

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: Jennifer Harvey

ORDERED, that the City Council hereby accepts the amount of \$16,004.00 in forfeited assets in the case of State of Maine vs. Jennifer Harvey from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Chief Sauschuck

DATE: April 28, 2015

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

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ next available _____ Final Action _____

Can action be taken at a later date: ☒ Yes ☐ No (If no, why not?)

PRESENTATION:

I. SUMMARY OF ISSUE The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)

II. REASON FOR SUBMISSION The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

III. INTENDED RESULT Approximately \$_____ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

Prepared by:


Signature

4.28.15
Date

STATE OF MAINE
Cumberland, SS

State of Maine

v.

Jennifer Harvey,
Defendant

AND
\$16,004.00 US CURRENCY
DEFENDANT IN REM #1

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-13-7003

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}

City/Town Of Portland
Approval Of Transfer
15 M.R.S.A. §5824(3)
and §5826(6)

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem #1*, namely \$16,004.00 US Currency, or any portion thereof, namely \$3,200.80 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

*Order 284-14/15
Tab 15 6-15-15*

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: Ashley Gross**

ORDERED, that the City Council hereby accepts the amount of \$2,548.00 in forfeited assets in the case of State of Maine vs. Ashley Gross from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-13-7681

State of Maine

v.

Ashley Gross,
Defendant

}
}
} City of Portland
} Approval of Transfer
} 15 M.R.S. §5824(3)
} and §5826(6)
}
}
}

AND
\$2,548.00 US CURRENCY

DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$2,548.00 US Currency, or any portion thereof, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: _____

Mayor

(Impress Legislative Body Seal Here)

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Vernon Malloch, Acting Police Chief

DATE: June 2, 2015

DISTRIBUTION: City Manager, Acting Chief of Staff, Mayor Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English,

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

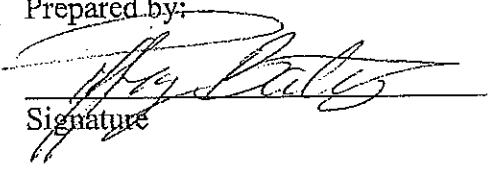
1st reading _____ next available _____ Final Action _____

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

PRESENTATION:

- I. SUMMARY OF ISSUE** The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)
- II. REASON FOR SUBMISSION** The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.
- III. INTENDED RESULT** Approximately \$ _____ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.
- IV. COUNCIL GOAL ADDRESSED**
- V. FINANCIAL IMPACT** The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.
- VI. STAFF ANALYSIS**
- VII. RECOMMENDATION**
- VIII. LIST ATTACHMENTS**

Prepared by:


Signature

6.2.15
Date

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-13-7681

State of Maine

v.

Ashley Gross,
Defendant

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}
}
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}
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}
}

City/Town Of Portland
Approval Of Transfer
15 M.R.S.A. §5824(3)
and §5826(6)

AND
\$2,548.00 US CURRENCY
DEFENDANT IN REM #1

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem* #1, namely \$2,548.00 US Currency, or any portion thereof, namely \$637.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

*Order 285-14/15
Tab 1.6 6-15-15*

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: Isaiah Mokeme**

ORDERED, that the City Council hereby accepts the amount of \$1,465.00 in forfeited assets in the case of State of Maine vs. Isaiah Mokeme from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-14-7551

State of Maine

v.

Isaiah Mokeme,
Defendant

}
}
} City of Portland
} Approval of Transfer
} 15 M.R.S. §5824(3)
} and §5826(6)
}
}
}

AND
\$1,465.00 US CURRENCY

DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$1,465.00 US Currency, or any portion thereof, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: _____

Mayor

(Impress Legislative Body Seal Here)

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Vernon Malloch, Acting Police Chief

DATE: June 2, 2015

DISTRIBUTION: City Manager, Acting Chief of Staff, Mayor Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English,

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

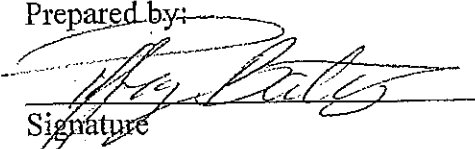
1st reading _____ next available _____ Final Action _____

Can action be taken at a later date: ☒ Yes ☐ No (If no, why not?)

PRESENTATION:

- I. **SUMMARY OF ISSUE** The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)
- II. **REASON FOR SUBMISSION** The State Forfeiture Statute, 15-M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.
- III. **INTENDED RESULT** Approximately \$ _____ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.
- IV. **COUNCIL GOAL ADDRESSED**
- V. **FINANCIAL IMPACT** The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.
- VI. **STAFF ANALYSIS**
- VII. **RECOMMENDATION**
- VIII. **LIST ATTACHMENTS**

Prepared by:


Signature

6.2.15
Date

*Order 286 - 14/15
Tab 17 6-15-15*

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: William Clark**

ORDERED, that the City Council hereby accepts the amount of \$1,837.00.00 in forfeited assets in the case of State of Maine vs. William Clark from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-14-1481

State of Maine

v.

William Clark,
Defendant

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}

City of Portland
Approval of Transfer
15 M.R.S. §5824(3)
and §5826(6)

AND
\$1,837.00.00 US CURRENCY

DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$1,837.00.00 US Currency, or any portion thereof, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: _____

Mayor

(Impress Legislative Body Seal Here)

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Vernon Malloch, Acting Police Chief

DATE: June 2, 2015

DISTRIBUTION: City Manager, Acting Chief of Staff, Mayor Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English,

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

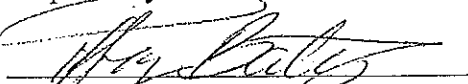
1st reading next available Final Action _____

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

PRESENTATION:

- I. **SUMMARY OF ISSUE** The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)
- II. **REASON FOR SUBMISSION** The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.
- III. **INTENDED RESULT** Approximately \$ _____ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.
- IV. **COUNCIL GOAL ADDRESSED**
- V. **FINANCIAL IMPACT** The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.
- VI. **STAFF ANALYSIS**
- VII. **RECOMMENDATION**
- VIII. **LIST ATTACHMENTS**

Prepared by:


Signature

6.2.15
Date

STATE OF MAINE
Cumberland, SS

State of Maine

v.

William Clark,
Defendant

AND

\$1,837.00 US CURRENCY

DEFENDANT IN REM #1

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-14-1481

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}
}

City/Town Of Portland
Approval Of Transfer
15 M.R.S.A. §5824(3)
and §5826(6)

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$1,837.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

*Order 287-14/15
Tab 18 6-15-15*

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: Michael Card**

ORDERED, that the City Council hereby accepts the amount of \$694.00 in forfeited assets in the case of State of Maine vs. Michael Card from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-1142

State of Maine

v.

Michael Card,
Defendant

AND
\$694.00 US CURRENCY

DEFENDANT IN REM

}
}
} City of Portland
} Approval of Transfer
} 15 M.R.S. §5824(3)
} and §5826(6)
}
}
}

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$694.00 US Currency, or any portion thereof, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: _____

Mayor

(Impress Legislative Body Seal Here)

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-1142

State of Maine

v.

Michael Card,
Defendant

}
}
}
} City/Town Of Portland
} Approval Of Transfer
} 15 M.R.S.A. §5824(3)
} and §5826(6)
}
}

AND

\$694.00 US CURRENCY

DEFENDANT IN REM #1

}

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$694.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Vernon Malloch, Acting Police Chief

DATE: June 2, 2015

DISTRIBUTION: City Manager, Acting Chief of Staff, Mayor Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English,

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

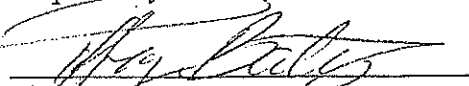
1st reading next available Final Action

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

PRESENTATION:

- I. **SUMMARY OF ISSUE** The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)
- II. **REASON FOR SUBMISSION** The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.
- III. **INTENDED RESULT** Approximately \$ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.
- IV. **COUNCIL GOAL ADDRESSED**
- V. **FINANCIAL IMPACT** The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.
- VI. **STAFF ANALYSIS**
- VII. **RECOMMENDATION**
- VIII. **LIST ATTACHMENTS**

Prepared by:


Signature

6.2.15
Date

*Order 288-14/15
Tab 19 6-15-15*

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 TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
Re: Tyrone Muldrow**

ORDERED, that the City Council hereby accepts the amount of \$2,476.00 in forfeited assets in the case of State of Maine vs. Tyrone Muldrow from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-1016

State of Maine

v.

Tyrone Muldrow,
Defendant

}
}
} City of Portland
} Approval of Transfer
} 15 M.R.S. §5824(3)
} and §5826(6)
}
}
}

AND
\$2,476.00 US CURRENCY

DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$2,476.00 US Currency, or any portion thereof, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: _____

Mayor

(Impress Legislative Body Seal Here)

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Vernon Malloch, Acting Police Chief

DATE: June 2, 2015

DISTRIBUTION: City Manager, Acting Chief of Staff, Mayor Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English,

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

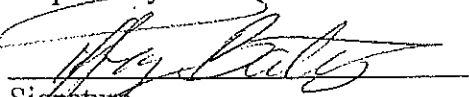
1st reading _____ next available _____ Final Action _____

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

PRESENTATION:

- I. **SUMMARY OF ISSUE** The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)
- II. **REASON FOR SUBMISSION** The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.
- III. **INTENDED RESULT** Approximately \$ _____ in forfeited cash, or some portion thereof, may be transferred to the Portland Police Department for deposit in the drug investigations account.
- IV. **COUNCIL GOAL ADDRESSED**
- V. **FINANCIAL IMPACT** The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.
- VI. **STAFF ANALYSIS**
- VII. **RECOMMENDATION**
- VIII. **LIST ATTACHMENTS**

Prepared by:


Signature

6.2.15
Date

STATE OF MAINE
Cumberland, SS

State of Maine

v.

Tyrone Muldrow,
Defendant

AND

\$2,476.00 US CURRENCY

DEFENDANT IN REM #1

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-1016

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City/Town Of Portland
Approval Of Transfer
15 M.R.S.A. §5824(3)
and §5826(6)

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$2,476.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

*Order 289-14/15
Grab 20 6-15-15*

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: RESIDENTIAL PARKING PERMIT EXTENSION

ORDERED, that Schedule XXVIII, Residential Parking Permit Area, District IR established pursuant to Order 306-07/08 passed on June 16, 2008 and amended by Order 278-08/09 on June 1, 2009, Order 246-09/10 on June 7, 2010, Order 270-10/11 on June 20, 2011, Order 217-11/12 on June 18, 2012, Order 235-12/13 on June 3, 2013, and Order 265-13/14 on June 16, 2014 is hereby amended, as follows:

By extending the temporary inclusion of an additional 26 parking spaces, 10 on Hancock Street and 16 on Thames Street, an additional year from June 30, 2015 to June 30, 2016.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: John Peverada, Parking Manager

DATE: May 5, 2015

DISTRIBUTION: Michael Sauschuck, Acting City Manager
Michael Brennan, Mayor
Danielle Wes Chuhta, Corporation Counsel
Julie Sullivan, Acting Chief of Staff
Judy Rosen, Senior Administrative Assistant
Nancy English, Executive Legal Assistant

SUBJECT: Residential Parking Permit Extension

SPONSOR: Councilor Kevin Donoghue

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action June 1, 2015

I. SUMMARY OF ISSUE

June of 2008, the City Council approved a new residential parking zone, IR (Island Resident). A total of twenty nine (29) two hour parking spaces on both sides of Thames St. easterly of Hancock Street were signed accordingly. Vehicles displaying a IR (island resident) permit are exempt from the time limit parking regulation and can be left there all day; however the vehicles must be moved in accordance with the standard posted street maintenance signs, snow bans and posted emergency no parking.

Additionally since the development of the proposed condominiums at the corner of Thames and Hancock Streets was on hold, 10 on street spaces on the westerly side of Hancock St between Fore & Thames and the 16 on street parking spaces on the north side of Thames St. between India and Hancock St. were signed 2 hour parking (rather than metered), so **that people with a IR permit could use them on a temporary year to year basis until the condominium development is started or another project in it's place.** This gave the islanders an additional 26 on street parking spaces convenient to Casco Bay Lines, that would cause minimal interference with area businesses and residents.

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

The current one year approval to allow the 26 spaces surrounding the development that is on hold at the corner of Thames & Hancock Streets to be included in the Island Residential Zone expires on June 30, 2015.

III. INTENDED RESULT

Extend the approval to maintain the 26 spaces, surrounding the development that is on hold at the corner of Thames & Hancock Streets, signed 2 hour parking, for another year, until June 30, 2016

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

None

VI. STAFF ANALYSIS

Staff has determined that the additional on street parking will benefit Island residents, and will be a good use of the on street parking in this area only until new development occurs.

VII. RECOMMENDATION

The Parking Division and Island and Neighborhood Administrator recommend passage.

VIII. LIST ATTACHMENTS

*Order 290-14/15
Tab 21 6-15-15*

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 SATURDAY, JULY 4, 2015, AS JULY 4TH
STARS AND STRIPES SPECTACULAR FESTIVAL**

ORDERED, that a Fourth of July Festival be and hereby is declared for Saturday, July 4, 2015 from 7:00 p.m. – 10:00 p.m. in the City of Portland and the City Manager is authorized to grant permits to July 4th Portland pursuant to Sec. 25-27 of the Portland City Code for the Festival, with the festival area being as follows: on the Fort Allen Park area, the Eastern Promenade (including sidewalk areas on both sides of the street) from Morning Street to Loring Memorial near East End Community School, and all of Eastern Prom Park, as well as Payson Park area and Baxter Boulevard, in the City of Portland, with a rain date of Sunday, July 5, 2015; and

BE IT FURTHER ORDERED, that the City Manager be and hereby is authorized to issue such temporary licenses and revocable permits, including but not limited to, licenses for food service establishments, as may be required by the Municipal Code, provided that all other applicable requirements of said Code have been met regarding the operation of the activities; all such licenses are subject to the limitations in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that fundraising activities on the day of the event will include the sale of alcoholic beverages by a licensed vendor (in designated area near stage) and the sale of reserved seating in front of the stage; and

BE IT FURTHER ORDERED, that the following streets will be closed to vehicular traffic from 10:00 a.m. to 10:00 p.m. on Saturday, July 4, 2015, with a rain date of Sunday, July 5, 2015:

-Eastern Prom from Morning to Walnut Street;

-Morning Street at Eastern Prom, Wilson Street, Moody Street, Congress Street and Turner Street;

-Emerson Street at Quebec Street and Melbourne Street;

-Willis Street at Melbourne Street, Montreal Street and Walnut Street; and

BE IT FURTHER ORDERED, that all of Munjoy Hill and the Eastern Prom will be closed to traffic (from Washington Avenue up) starting at 4:00 p.m on Saturday, July 4, 2015. Streets will open up again after the fireworks display (at approximately 10:00 p.m.); and

BE IT FURTHER ORDERED, that with the addition of the Portland Symphony Orchestra concert, Cutter Street will be closed to public traffic, including boat launching, beginning at 10:00 p.m. on Saturday, July 4, 2015. In the event of rain, these street closing would be in effect on Sunday, July 5, 2015; and

BE IT FURTHER ORDERED, that the Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code and is reserved for the use of the Festival organizers and July 4th Portland for the purpose of administering the Festival. Festival organizers will charge a fee to the vendors to participate in the festival.



Anita R. LaChance
Director

Department of Recreation & Facilities Management

Andrew J. Downs
Director

Public Assembly Facilities

TO: Michael Sauschuck, Acting City Manager
FROM: Sally L. DeLuca, Acting Director of Recreation and Facilities
DATE: May 11, 2015
RE: July 4th "Stars and Stripes Spectacular"

I am requesting that the following order be placed on the (June 2nd) City Council agenda:

**Order declaring Saturday, July 4, 2015, as July 4th "Stars and Stripes Spectacular."
(Rain Date: Sunday, July 5, 2015)**

The City, has sponsored the July 4th Fireworks and activities on the Eastern Promenade for a number of years, attracting 60,000+ individuals, a large percentage of which are families.

This year's Festival, which is being funded by private donations and fundraising activities by July 4th Portland, will include:

- 25 Minute Fireworks Display
- Portland Symphony Orchestra Concert with special guest Melissa Manchester
- Food & Entertainment Vendors

The Festival runs from 7:00pm – 10:00pm **(Rain date is Sunday, July 5th).**

Fundraising activities on the day of the event will include the sale of alcoholic beverages by Famous Dave's BBQ (in designated area near stage) and the sale of reserved seating in front of the stage.

In order for the Festival to be held, a portion of the Eastern Promenade needs to be barricaded to traffic. **The Festival area is the Fort Allen Park area, the Eastern Promenade, (including sidewalk areas on both sides of the street), from Morning St. to Loring Memorial near East End Community School. Festival area also includes the Payson Park area, as well as Baxter Blvd. area,** as many families take in the fireworks display from those areas as well.

The following streets will be closed to vehicular traffic from approximately 10:00am to 10:00pm, on Saturday, July 4th: Eastern Prom, from Morning Street to Walnut Street; Morning Street at Eastern Prom, Wilson St., Moody St., Congress St., and Turner St.; Emerson Street at Quebec St. and Melbourne St.; and Willis Street at Melbourne St., Montreal St., and Walnut St.

All of Munjoy Hill and the Eastern Prom will be closed to traffic (from Washington Ave. up), starting at 4pm. Streets will be opened up again after the fireworks display (at approximately 10pm)

With the addition of the PSO concert, **Cutter Street will be closed to public traffic, including boat launching, on July 4th.** This will begin at 10 p.m. on Friday, July 3rd. In the event of rain, these street closings would be in effect for Sunday, July 5th.

Portland, Maine



Yes. Life's good here.

Anita R. LaChance
Director

Department of Recreation & Facilities Management

Andrew J. Downs
Director

Public Assembly Facilities

The Festival area will also be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of the Festival organizers and July 4th Portland Foundation for the purpose of administering the Festival. Festival organizers will charge a fee to the vendors to participate in the festival.

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

**CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM**

Two copies to be submitted (with supporting material) at least 12 days before Council meeting:

Copies to: Sonia Bean Nancy English
 Michael Sauschuck Danielle West-Chuhta
 Michael Brennan Anita LaChance

1. Council Meeting at which action is requested (date): June 1, 2015
2. Can action be taken at a later date? Yes X No
The event will take place on July 4th..

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

I. SUMMARY OF ISSUE

- Declare Saturday, July 4, 2015, as July 4th "Stars and Stripes Spectacular." (Rain date is Sunday, July 5, 2015.)
- Festival area is the Fort Allen Park area, the Eastern Promenade (including sidewalk areas on both sides of the street) from Morning Street to Loring Memorial, near East End Community School, and all of Eastern Prom Park, as well as Payson Park area and Baxter Boulevard.
- Fireworks and Concert funded by private donations.
- P.S.O. to perform concert in conjunction with fireworks display.
- Alcohol sales in designated area near stage.
- Closure of major roads leading up to Munjoy Hill.
- Fundraising activities taking place on July 4th to sustain the festival.
- No boats launching at East End Beach on July 4th (or July 5 if rain date used) to accommodate the Portland Symphony Orchestra performance.
- Fireworks launched this year from East End Trail.
- "Scoops for Vets" Ice Cream Fest to benefit Easter Seals Veteran program

Memo with additional information attached.

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

- A Festival Declaration
- Allowance for control of vendors
- Granting approval for alcohol sales
- Closing of streets: Morning Street at the Eastern Promenade, Wilson, Moody, Congress and Turner Streets; Eastern Promenade at Wilson, Moody, Congress, Turner, Quebec, Melbourne Streets; Willis Street at Montreal and Walnut Streets.

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

See above.

IV. FINANCIAL IMPACT

All costs are being covered by private donations.

V. STAFF ANALYSIS & RECOMMENDATION

Participants from all over Greater Portland area will be attending. Staff strongly recommends passage.

*Order 291 -14/15
Tab 22 6-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING AUGUST 9, 2015 AS
THE NEW ENGLAND CANNABIS FARMERS MARKET FESTIVAL**

ORDERED, that Sunday, August 9, 2015 is hereby declared to be the New England Cannabis Farmers Market Festival, sponsored by New World Organics; and

BE IT FURTHER ORDERED, that the New England Cannabis Farmers Market Festival area shall be portions of Deering Oaks Park including the Bandstand, the Ravine Water Play area and park roadways including Tennis Court Road, Jenny Lane and Farmers Market Road; and

BE IT FURTHER ORDERED, that the main road into Deering Oaks Park shall be closed to traffic from 7:00 a.m. to 9:00 p.m. on August 9, 2015; and

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

BE IT FURTHER ORDERED, that the New England Cannabis Farmers Market Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the City Manager or the Acting City Manager is authorized to issue a revocable permit to New World Organics under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager or the Acting City Manager and to the following specific conditions:

1. New World Organics 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. New World Organics shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Public Services Event Office shall be adhered to;
5. New World Organics shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the New England Cannabis Farmers Market Festival;
6. 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 New World Organics has agreed shall participate; and

BE IT FURTHER ORDERED, that the City Manager or 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.

Portland, Maine



Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

TO: Michael Sauschuck, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: May 14, 2015
RE: **New England Cannabis Farmers Market Festival**

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

Order declaring Sunday, August 9, 2015, as "New England Cannabis Farmers Market Festival," a festival showcasing Maine's caregivers and innovators in the industry, to be held at Deering Oaks Park, 9am - 7pm.

The New England Cannabis Farmers Market Festival is a one day event showcasing Maine's caregivers and innovators in the community organized by New World Organics. It will provide an opportunity for entrepreneurs and farmers to educate the community. Caregivers and other vendors, will set up along the walking paths in the park, showcasing and offering their products to registered patients. Patients will be required to have all necessary paperwork upon signing up with a provider. Admission is FREE, and 2000+ people are expected to attend the day's events. Refreshments, t-shirts, artwork and other items will be available for sale. There will also be live music (a band in the afternoon). Participating vendors will pay a fee to participate (\$100 - \$250).

There are to be no cannabis sales or consumption at the event.

There is no rain date for the Festival.

The festival has been reviewed and endorsed by the Friends of Deering Oaks Park.

In order to safely hold the festival and to assist in setup, the main road into Deering Oaks Park needs to be closed to traffic at approximately 7:00am, August 9, 2015 (opens back up again at 9pm).

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 the organizer and New World Organics for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

The Order should include the following items:

The **New England Cannabis Farmers Market Festival** be authorized for August 9 2015, to be held at Deering Oaks Park.

Festival grounds include Deering Oaks Park (to include the Bandstand, the Ravine Water Play area and park roadways: Tennis Court Rd., Jenny Lane, and Farmers Market Rd.).

This area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of festival organizers, for the purpose of conducting the **New England Cannabis Farmers Market Festival**, subject to the direction and control of the City Manager.

Portland, Maine



Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to organizers of the New England Cannabis Farmers Market Festival for the use of the above-described area for said festival, subject to the following conditions:

- Under no circumstances may alcoholic beverages or cannabis be sold or consumed on City of Portland right-of-ways during said event;
- New World Organics shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death, or property for said purposes;
- Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to;
- City permit fees and license fees, and costs for city staff assistance, will be paid by New World Organics;
- New World Organics shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the New England Cannabis Farmers Market Festival; and

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

Document prepared by Ted Musgrave, PS Event Coordinator

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: May 14, 2015

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

SUBJECT: New England Cannabis Farmers Market Festival

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 Final Action _____

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

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

Please see attached memo

Declare Sunday August 9, 2015, as “The New England Cannabis Farmers Market Festival”
Festival area is Deering Oaks Park (including Bandstand area, grass areas and sidewalks.)

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

Festival Declaration

Allows for control of vendors

Closing park roadways to traffic

III. INTENDED RESULT

See above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Vendors pay a fee to participate in and sell at the festival.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

- Detailed Memo from Staff
- Application from Event Organizer

Prepared by:

Ted Musgrave
Public Services Event Office

Date: May 14, 2015

Bean/agendamemo/rev1-8-15



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
 tvn@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		April 13 2015 Revised: 4-14		ORGANIZATION NAME		New World Organics	
ORGANIZATION ADDRESS				P.O box 36		CITY	Belfast
				STATE	Maine	ZIP	04915
CONTACT NAME(S)		Justin Olsen Nancy Shaw		TITLE: Owner & operator			
HOME #	WORK			CELL	FAX		
EMAIL	Nworldorganics@gmail.com			EMAIL			

PARK AREA OR PUBLIC SPACE REQUESTED		Deering Oaks Park Bandstand and grass areas/sidewalks Tennis Court Rd. may need to be closed to traffic.					
EVENT DAY & DATE(S)		Sunday August 9, 2015			RAIN DAY & DATE(S)		None as yet
EVENT START TIME (i.e. set-up start time)		6am	EVENT END TIME (i.e. when event cleanup is complete)		9pm	ACTUAL START & END TIME OF EVENT 9am-7pm	

EVENT NAME		EXPECTED ATTENDANCE	
New England Cannabis Farmers Market FESTIVAL		2000	
DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe Event in detail. A one day event showcasing Maines Caregivers and innovators in the industry. This will be an opportunity for entrepreneurs and farmers to meet and greet and educate the community. Caregivers and other vendors will set up along the walking paths in the park, Showcasing and offering their products to registered patients. They will be organized by county they service. Patients whom have all necessary paperwork will be able to meet with caregivers and have an opportunity to sign up with a provider from the area they live in. Non registered patients will be able to meet with vendors and get information on the program. There will be an informational booth and representatives from the legalize Maine initiative getting signatures. We plan on having live music at the stage for a short time in the early afternoon. ELEC needed. Lots of canopies, tables & chairs set up on the grass areas. Refreshments sold: Soda, Water, Juice, cotton Candy, sandwiches, chips, cookies, baked goods Gas Grills may be setup for a BBQ T-shirts, novelty items, artwork for SALE			
IS THERE A REGISTRATION FEE?		NO admission fee. Participating Vendors do pay a fee to participate.	
IF YES, HOW MUCH?		FEE	\$ \$250 for caregivers / \$100 for food vendors
		STUDENT FEE	

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? Streets around the park
--

PLEASE CHECK OFF AND ANSWER:

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

	X-YES	X-NO	X-NOT SURE
- Are you setting up a canopy(s) ? (canopy is 10x10 size) How many: 35-40	X		
* Do you wish to set up a tent(s) ? (a canopy or tent larger than 10x10 needs to be approved		X	
* Will you be setting up tables and/or chairs ? How many tables: 50 chairs: 100	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: Music Equip		X	

*	Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from Public Services) List food and drink: Soda, Water, Juice, cotton Candy, sandwiches, chips, cookies, baked goods A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X		
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ? If so, you will need approval from Public Services, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office (874-8557). List items you wish to sell: Soda, Water, Juice, cotton Candy, sandwiches, chips, cookies, baked goods	X		
*	Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band ? x DJ ? If so, your event requires a concert license from the City Clerk's Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).	X		
*	Will your event require electricity ? Electricity is available at some of the parks & squares	X		
*	Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
*	Will the event require reserved parking spaces / parking meters ? How many? 2 "No Parking" signs may be purchased at Public Services, 55 Portland Street (874-8822).	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 ? (Please be specific under "Description of Event")		X	
*	Will your event require Police assistance? An event such as a road race, march in the street, or parade would typically 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 cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)	X		
*	Do you wish to have a banner over the street to advertise your event ? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to Public Services: 874-8751.	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. Some of Portland's parks already have portable restrooms (*Deering Oaks Park – Playground + Ravine). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Services). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. 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. Any 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	JO	DATE	4/13/15
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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	JO	DATE	4/13/15
--	---------------	----	------	---------

CREDIT CARD INFORMATION

Visa or MasterCard Number		3158	Exp Date (Mon/Yr)	10	18
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CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

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: 15 hours	\$ 600 CC to be charged beginning of July	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	\$ 500 CC on file
Key Deposit: \$50 per key	\$	Other (Porta-Restroom User Fee, etc.)	\$25

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	4-14-2015	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ 600 + \$25 CC to be charged	SECURITY DEPOSIT	\$ 500 CC on file	
PAYMENT TYPE								
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT	\$

*Order 292-14/15
Tab 23 6-15-15*

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 THE 13TH ANNUAL
GREATER PORTLAND FESTIVAL OF NATIONS**

ORDERED, that Mugadi Foundation is authorized to use Deering Oaks Park on Saturday, July 25, 2015 from 11:00 a.m. – 7:00 p.m. to hold its 13th annual free event to the public for music, food, cultural exhibits, children's activities, and folk art from the United States and many nations around the world; and

BE IT FURTHER ORDERED, that the festival area shall include the Bandstand and Farmers Market Road inside Deering Oaks Park, the Ravine Water Play Area and park roadways Tennis Court Road and Jenny Lane, which area will also be closed to street vendors pursuant to Section 19-17 of the Portland City Code and reserved for the use of Mugadi Foundation for the purpose of conducting the festival, subject to the direction and control of the City Manager or Acting City Manager; and

BE IT FURTHER ORDERED, that the main road into Deering Oaks Park will be closed to traffic from 10:00 a.m. to 10:00 p.m. on July 25, 2015; and

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is authorized to issue a revocable permit under Section 25-27 of the Portland City Code subject to the following conditions:

- (1) Mugadi Foundation shall indemnify and hold the City, its officers and employees harmless from and against all claims arising out of activities during said event and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death, or property damage for said purposes. Mugadi Foundation shall provide the City with a certificate showing evidence of such insurance and this insurance certificate will also list the City of Portland as an additional insured in regard to the Festival of Nations activities; and
- (2) Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival; and
- (3) The following fees and expenses shall be waived by the City and in-kind contributions made by the City to the Festival:

Public Services: permit fees for use of grounds, banner fees, electricity fee, Staff at setup of festival and festival itself, barricades, trash barrels and removal of trash; and

- (4) The organizer shall pay any City Clerk license fees. No Police or EMS assistance should be necessary unless the Police Department deems coverage is necessary due to attendance, traffic concerns, etc. If police assistance is necessary, Mugadi Foundation is responsible for covering those costs; and
- (5) Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to; and
- (6) Festival of Nations shall leave, on file with Public Services, security deposits for use of the park; and
- (7) Festival of Nations/ Mugadi Foundation 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 of Nations; and

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said code have been met regarding the operation of this event.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: May 15, 2015

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

SUBJECT: 13th Annual Greater Portland Festival of Nations

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ June 1, 2015 _____ Final Action _____

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

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

Please see attached memo

Declare Saturday, July 25, 2015, as "The 13th Annual Greater Portland Festival of Nations"
Festival area is Deering Oaks Park (including Bandstand area, Farmers Market Rd.)

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

Festival Declaration

Allows for control of vendors

Closing park roadways to traffic

Waiver of some fees (Rental of Park Fee)

III. INTENDED RESULT

See above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

City Departments are assisting the Festival via some in-kind services and waiver of the rental fee for use of the park. City Clerk's license fees are to be paid. Please refer to specific clauses on memorandum addressing in kind services and fees. Vendors do pay a fee to participate in and sell at the festival.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

- Detailed Memo from Staff
- Application from Event Organizer

Prepared by:

Ted Musgrave
Public Services Event Office

Date: May 15, 2015



Michael J. Bobinsky
Director of Public Services

TO: Michael Sauschuck, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: May 15, 2015
RE: **Council Agenda Item – The 13th Annual Greater Portland Festival of Nations**

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

Order declaring Saturday, July 25, 2015, as "The 13th Annual Greater Portland Festival of Nations," a festival of music, crafts, and cuisine from around the world, to be held at Deering Oaks Park, 11am – 7pm.

This year will be the thirteenth annual Festival of Nations held at Deering Oaks Park. The festival, organized by Women In Need Industries and Mugadi Foundation, showcases Maine's ethnic diversity. The festival features music, food, cultural exhibits, children's activities, and folk art from America and many nations around the world. 2,500+ people are expected to attend the day's events. Admission is FREE. Refreshments, crafts, artwork, and other items will be for sale. The Festival is held rain or shine.

In previous years, the festival has been held on a Sunday, but in 2014 it was moved to Saturday. This year, the festival will again be held on Saturday. Farmers Market (for just the date of the festival) will be moving their setup to Bowling Green Lane, so that setup for the Festival of Nations can take place at the Bandstand and along Farmers Market Rd. The Friends of Deering Oaks Park has reviewed and endorsed the festival (and the Farmers Market move that day).

In order to safely hold the festival and to assist in setup, the main road into Deering Oaks Park needs to be closed to traffic at approximately 10am, July 25, 2015 (opens back up again at 10pm).

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 the organizer and Mugadi Foundation for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

The Order should include the following items:

The **13th Annual Greater Portland Festival of Nations** be authorized for July 25, 2015, to be held at Deering Oaks Park.

Festival grounds include Deering Oaks Park (to include the Bandstand, the Ravine Water Play area and park roadways: Tennis Court Rd., Jenny Lane, and Farmers Market Rd.).

(continued)



Michael J. Bobinsky
Director of Public Services

This area (north side of the pond) will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of festival organizers, for the purpose of conducting the **13th Annual Greater Portland Festival of Nations**, subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to organizers of The Festival of Nations for the use of the above-described area for said festival, subject to the following conditions:

- In-kind services/waiver of fees from the City of Portland include:
Public Services: permit fees for use of grounds, banner fees, electricity fee, possible Public Services staff at set up of Festival, barricades, trash barrels and removal of trash. The organizer will need to cover the cost of City Clerk's License fees.
No Police, Parking Control, or EMS assistance should be necessary
(unless the Police Department deems coverage is necessary due to attendance, traffic concerns, etc.), in that case, those fees would need to be paid;
- Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to and organizers shall leave on file with Public Services, security deposits for use of the park;
- Festival of Nations/Women In Need Industries/Mugadi Foundation shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the "**Festival of Nations**" activities, and the City will be endorsed on the festival organizer's insurance policy;
- Festival of Nations/Women In Need Industries/Mugadi Foundation 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 of Nations; and
- Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival.

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

Document prepared by Ted Musgrave, PS Event Coordinator



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
 tvn@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		1/7/2015		ORGANIZATION NAME		WOMEN IN NEED INDUSTRIES / MUGADI FOUNDATION					
ORGANIZATION ADDRESS				68 EXETER STREET,		CITY	PORTLAND	STATE	ME	ZIP	04102
CONTACT NAME(S)		SHALOM ODOKARA		TITLE		COORDINATOR					
HOME #	WORK			CELL	FAX						
EMAIL	WOMINI@AOL.COM womeninneedinc@aol.com			EMAIL	Lisa.veleff.day@gmail.com modokarokigbo@gmail.com						

PARK AREA OR PUBLIC SPACE REQUESTED		DEERING OAKS PARK Bandstand and Farmers Market Rd., Ravine area					
EVENT DAY & DATE(S)		Saturday, JULY 25 TH , 2015		RAIN DAY & DATE(S)		NONE	
EVENT START TIME (i.e. set-up start time)	8:00AM	EVENT END TIME (i.e. when event cleanup is complete)	7:00 PM	ACTUAL START & END TIME OF EVENT		11:00 am – 7:00 pm	

EVENT NAME	EXPECTED ATTENDANCE
GREATER PORTLAND FESTIVAL OF NATIONS	2,500 PEOPLE

DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe Event in detail.

Women In Need, Industries / **Mugadi Foundation** is proud to present the 13th Annual Greater Portland Festival of Nations. Event is held on Saturday this year. The Festival is a day of music, dance and other performing arts, representing cultural traditions from across America and the world. This event will showcase Maine's ethnic diversity, perpetuate traditions, encourage ethnic understanding, and promote unity. The Festival engenders community cohesion from its volunteers and by attracting thousands of festival-goers each year. We are proud to ally the Festival's philosophy with the City of Portland's mission, vision and objectives.

Music + dance at the stage/bandstand area. Festival booths and canopies positioned on the grass areas and tarred areas. The Ravine and grass area near the Ravine, will be used for the Children's Area. 10x10 Canopies will be set up on grass (one on right side of Farmers Market Road, another set up on side of Bandstand Driveway). The main roadway through the park (Tennis Court Road) will be closed to traffic from 10:00am – 10:00pm.
 Electricity is needed and lights to Bandstand Stage turned on.

IS THERE A REGISTRATION FEE?	NONE (Food Vendors + other Vendors pay a fee to participate)	
IF YES, HOW MUCH?	FEE	\$ n/a

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?
Park on Deering Oaks parking lot as they have in previous years

PLEASE CHECK OFF AND ANSWER:

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

	X-YES	X-NO	X-NOT SURE
Are you setting up a canopy(s) ? (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 approved)		X	
* Will you be setting up tables and/or chairs ? How many tables: 40 chairs: 80	X		
* Are other items or equipment being placed on City property ?		X	
* Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from Public Services)	X		

	List food and drink: vendors A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice.			
	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ? If so, you will need approval from Public Services, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office. List items you wish to sell: vendors	X		
*	Are you setting up a PA (sound) system ? yes Are you planning on having Amplified Music ? yes Band ? yes DJ ? yes If so, your event requires a concert license from the City Clerk's Office. (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).	X		
*	Will your event require electricity ? Electricity is available at some of the parks & squares	X		
*	Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
*	Will the event require reserved parking spaces / parking meters ? How many? 50 "No Parking" signs may be purchased at Public Services, 55 Portland Street.	X		
*	Will your event need safety vests, signs, barricades and/or cones ?		X	
*	Will your event require street closures ? (Please be specific under "Description of Event")	X		
*	Will your event require Police assistance? An event such as a road race, march in the		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 cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)	X		
*	Do you wish to have a banner over the street to advertise your event? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to Public Services: 874-8751.	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. Some of Portland's parks already have portable restrooms (*Deering Oaks Park –Playground + Ravine). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Services). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. 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. **ty 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

SO

DATE

1/7/2015

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

SO

DATE

1/7/2015

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:	\$ N/A waived by City Manager	Vest, Barricade, Cone Deposit: \$10 per/item	\$???
Electricity: \$5per/hr (fee only pertains to 1 st Amendment uses – i.e. no charge if paying hourly fee)	\$	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	1-7-2015	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ waived	SECURITY DEPOSIT	\$ NEED
PAYMENT TYPE							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

*Order 293-14/15
Tab 24 6-5-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING AUGUST 9, 2015 AS
THE B. GOOD BLOCK PARTY FESTIVAL**

ORDERED, that Sunday, August 9, 2015 is hereby declared to be the B. Good Block Party Festival, with a Rain Date of Sunday August 16, 2015, sponsored by Local Food 1, LLC; and

BE IT FURTHER ORDERED, that the B. Good Block Party Festival area shall be lower Exchange Street between Middle Street and Fore Street; and

BE IT FURTHER ORDERED, that lower Exchange Street between Middle Street and Fore Street as well as Milk Street from Market Street to Exchange Street shall be closed to traffic from 10:00 a.m. to 6:00 p.m. on Sunday, August 9, 2015 or on the Rain Date of Sunday August 16, 2015 if the festival is postponed; and

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

BE IT FURTHER ORDERED, that the B. Good Block Party Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the City Manager or the Acting City Manager is authorized to issue a revocable permit to Local Food 1, LLC under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager or the Acting City Manager and to the following specific conditions:

1. Local Food 1, 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. Local Food 1, 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 within a 21-years-old and

older area to be run by the staff of B. Good in front of its restaurant, under the rules and regulations of its liquor license and under an additional beer-tasting license issued by the State of Maine;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Public Services Event Office shall be adhered to;

5. Local Food 1, LLC shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the New England Cannabis Farmers Market Festival;

6. Police Officers (and possible Parking Control Officers) will be hired by the organizer;

7. 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 Local Food 1, LLC has agreed shall participate; and

BE IT FURTHER ORDERED, that the City Manager or 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.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: May 15, 2015

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

SUBJECT: B.good Block Party

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 Final Action _____

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

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

Please see attached memo
Declare Sunday August 9, 2015, as "The B.good Block Party Festival"
Close streets as necessary (see attached memo)
Festival area is Lower Exchange Street, from Middle Street to Fore Street. Milk Street at Market Street would also be closed to traffic.

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

Festival Declaration
Allows for control of vendors
Approves Beer Garden area on sidewalk.
Closing streets to traffic

III. INTENDED RESULT

See above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Some City Dept. costs are reimbursed by organizer (Police, Parking, City Clerk's Office).
Organizer pays permit fees & needed licenses.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

This is the first year for this event. The Department of Public Services recommends approval of this order, as a pilot project.

VIII. LIST ATTACHMENTS

- Detailed Memo from Staff
- Application from Event Organizer

Prepared by:

Ted Musgrave
Public Services Event Office

Date: May 15, 2015



Michael J. Bobinsky
Director of Public Services

TO: Michael Saushuck, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: May 15, 2015
RE: B.good Block Party for B.good Portland Foundation – City Council Agenda Item

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

Order declaring Sunday, August 9, 2015, as the B.good Block Party Festival

B.good, located on Exchange Street, has proposed hosting a fundraising block party (small festival) to raise money for the B.good Portland Foundation. The foundation uses micro-grants to help inspired individuals improve their communities. The organizer for this event has submitted a detailed plan for the festival, which includes hosting a neighborhood block party/festival (food, games, music, beer garden), to be held on Sunday, August 9th 2015, from 12pm-5pm on Exchange Street (Exchange Street closed from Middle Street to Fore Street, beginning at 10am). Rain Date for the event is Sunday, August 16. The festival itself would be held in front of and around the B.good restaurant, but other stores along Exchange may participate as well by holding sidewalk sales (setting up merchandise tables outside or organizing events in the street/parking spaces). There is no registration/ticket fee, however, individuals attending the event will be charged \$10 - \$15 for an "all you can eat plate," as well as \$2 for beverages and \$5 for beer. Expected attendance is 100 people for the "all you can eat plate," but obviously several hundreds of people are expected to take advantage of the Exchange Street "pedestrian friendly" shopping experience.

Beer is to be served by Peaks Organic Brewing Company on the street in a roped off Beer Garden area, and would be considered an expansion of B.good's alcohol footprint (B.good currently holds a Class 3 & 4 beer & wine license). Organizer's staff (and private security staff) will ensure that only 21+ wrist banded attendees are in beer service area. Organizer is obtaining the necessary "beer tasting" license from the state/city for serving beer, as well as other licenses from the city for live music, refreshments and other aspects of the event.

Lower Exchange Street, from Middle Street to Fore St. would be closed to traffic. Milk Street, from Market to Exchange, would also need to be closed to traffic. Portland's Downtown District has endorsed the event, and most of the businesses in the closed section of street have endorsed the event. City staff have conferred with organizers to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersections.

At least two Police Officers are required to be on site, hired by the organizer.

City staff may require that a Parking Control Officer be hired to cover the top of Exchange Street (Exchange/Middle intersection).



Michael J. Bobinsky
Director of Public Services

In order for this block party festival to be held, a portion of Exchange Street needs to be barricaded to vehicle traffic (from 10am – 6pm). Lower Exchange Street, from Middle Street to Fore Street, would be closed to traffic, as well as Milk Street at Market. These streets would also need to be posted "No Parking." The above closed streets and the adjoining sidewalks are the Festival Zone.

Organizers will leave an emergency lane (Fire, Police) down the entire length of Exchange Street.

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 B.good (and participating Exchange Street businesses) for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the "no parking" signs in the Festival Zones shall be towed (at owner's expense).

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to B.good for the use of the above-described area for said Festival subject to the following conditions:

- B.good 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 the B.good Block Party and its activities,
- Under no circumstances may alcoholic beverages be sold/served on the streets of public property of said area during said Festival other than the designated beer garden located in front of the B.good restaurant at 15 Exchange Street. City Council approves the service of alcohol in the designated "beer garden", pending a license from the State is issued to the festival organizer,
- Conditions for use of grounds and requirements for food service, vending sales, tents, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
- City Clerk's Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival,
- Police Officers (and possible PCO) will be hired by the organizer (B.good), and



Michael J. Bobinsky
Director of Public Services

- B.good shall act as managing authority over participating vendors and storefront exhibits/displays/activities on the sidewalks and parking spaces at the Festival (Exchange Street, from Middle to Fore), and will act as Festival Manager for the event.

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



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	12/25/14 Revised: 5-15	ORGANIZATION NAME	B.good					
ORGANIZATION ADDRESS	15 Exchange St.		CITY	Portland	State	ME	ZIP	04101
CONTACT NAME(S)	Bill Zolper TITLE Owner							
HOME #	WORK	CELL	FAX					
EMAIL	billzolper@bgood.com		EMAIL					

PARK AREA OR PUBLIC SPACE REQUESTED	Lower section of Exchange (from Middle St. to Fore St.) (Milk Street – from Market to Exchange, would also need to be closed to traffic)				
EVENT DAY & DATE(S)	Aug 9 th , 2015 SUN		RAIN DAY & DATE(S)	Aug 16 th , 2015. SUN	
EVENT START TIME (i.e. set-up start time)	12:00 PM	EVENT END TIME (i.e. when event cleanup is complete)	5:00 PM	ACTUAL START & END TIME OF EVENT	10:00 AM to 6:00 PM

EVENT NAME	EXPECTED ATTENDANCE
.good Block Party for B.good Portland Foundation	100 at B.good Many hundreds along Exchange

DESCRIPTION OF EVENT:

Event is a fundraiser to raise money for b.good Old Port, Portland. 3 submissions out of all plans submitted for positive action in downtown Portland will be voted on by b.good family members (1,500 members) B.good will give said money to winner to create idea. B.good will be involved in taking idea to fruition. We will have event in front of b.good restaurant with live music, kids games, dunk tank and beer area. All proceeds go to fundraiser winner. B.good Boston has done this for the past 10 years and has raised over \$22,000 with same event for groups and individuals such as Ultimate Sports Program 5/13, Groundwork Somerville 10/13, and Food Recovery Project 1/14.

Food stations outside with chaffing dishes to keep food warm, all food to be made inside restaurant.

Beer to be served on sidewalk are in front of B.good, in roped off beer area. We will work exclusively with one beer provider, Peaks Organic Brewing company and in Boston we have beer vendor serve all beer so they are the only one to handle their product.

Other storefronts are welcome to host tables and events/activities outside on the sidewalk and in parking lane at their stores. B.good will act as Festival Manager when applying for licenses at the Clerk's Office.

There is no registration fee. You are charged for an all you can eat plate \$10-\$15, beverages \$2 and beer \$5.

Organizer will hire minimum 2 police officers... possible PCO for top of Exchange St.

IS THERE A REGISTRATION FEE?	No
IF YES, HOW MUCH?	FEE \$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? *Parking in streets adjacent to ent.*

PLEASE CHECK OFF AND ANSWER:

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

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (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: 8 chairs: 40	X		
* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:	X		
* Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from Public Services) List food and drink: ?????????? A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X		
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, you will need approval from Public Services, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office (874-8557). List items you wish to sell:		X	
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band ? DJ ? If so, your event requires a concert license from the City Clerk's Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).	X		
* Will your event require electricity ? Electricity is available at some of the parks & squares	X B.GOOD		
* Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.		X	
* Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at Public Services, 55 Portland Street (874-8822).	X- 2-4 SPACES		
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: barricades 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 ? (Please be specific under "Description of Event")	X		
* Will your event require Police assistance? An event such as a road race, march in the street, or parade would typically require police assistance.	X PCO		
* 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 cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)		X	
* Do you wish to have a banner over the street to advertise your event? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to Public Services: 874-8751.	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. Some of Portland's parks already have portable restrooms (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Services). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. 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. **Any 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

BZ

DATE

12/25/14

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

BZ

DATE

12/25/14

CREDIT CARD INFORMATION

Visa or MasterCard Number

1078

Exp Date (Mon/Yr)

07

16

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

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: 8 hours	\$ 320 + \$160 rain date CC on file	Vest, Barricade, Cone Deposit: \$10 per/item	\$???
Electricity: \$5per/hr (Note: a fee is not typically charged)	\$ n/a	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ 500 CC on file
Key Deposit: \$50 per key	\$ n/a	Other (Porta-Restroom User Fee, etc.)	\$

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	12-29-2014	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ 480 CC to be charged	SECURITY DEPOSIT	\$ 500 CC on file
PAYMENT TYPE							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT

*Order 294-14/15
Tab 35 6-15-15*

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 CHANGING POLLING PLACE FOR
DISTRICT 5 PRECINCT 1 FROM
THE STEVENS AVENUE ARMORY, 772 STEVENS AVENUE,
TO THE SEVENTH-DAY ADVENTIST CHURCH, 97 ALLEN AVENUE**

ORDERED, that the polling place for District 5 Precinct 1 is hereby changed from the Stevens Avenue Armory, 772 Stevens Avenue, to the Seventh-Day Adventist Church, 97 Allen Avenue, for the November 3, 2015 election and any subsequent elections.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Katherine Jones

DATE: June, 3, 2015

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

SUBJECT: New Polling Place for District 5-1.

SPONSOR: COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ n/a _____ Final Action _____

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

This has to be changed 90 days before the next election.

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

- I. **SUMMARY OF ISSUE (Agenda Description)**
Changing Polling Place District 5 Precinct 1 formally at 777 Stevens Avenue Amory,
new place would be Seventh Day Adventist Church, 97 Allen Avenue.
- II. **REASON FOR SUBMISSION (Summary of Issue/Background)**
- III. **INTENDED RESULT**
- IV. **COUNCIL GOAL ADDRESSED**
- V. **FINANCIAL IMPACT**
- VI. **RECOMMENDATION**
- VII. **LIST ATTACHMENTS**

Order



Office of the City Clerk
Katherine L. Jones, CMC

TO: Mayor Brennan and Members of the City Council
FROM: Katherine Jones, City Clerk
DATE: June 3, 2015
RE: Change of Polling Place

It has been brought to my attention that the Steven's Avenue Armory has been sold. We will no longer be able to use this as a polling place for District 5-1.

Because of the land area that affects District 5-1 it is not easy to locate a polling place. District 5-1 encompasses, Warren Avenue and Riverside Industrial. The first that I looked into was Keeley's; they did not want to commit to Tuesday in November and May and every other election in June. I then called Maplewood Dance Center; they do not rent out the hall. I tried to think of areas surrounding Stevens Avenue Armory, then thought against it parking is an issue trying to compete for space with UNE, in conclusion there really wasn't a place near 5-1.

Finally I had located a venue, the Seventh Day Adventist Church, 97 Allen Avenue, less than ½ mile from the Stevens Avenue Armory. They were willing to let us use the facility; the only problem is they are located in 4-2.

I called the Deputy Secretary of State to see what my options might be. She said that if I have the States approval and the municipal officer's approval I could have the polling place be out of district. This polling place will still be considered 5-1 and will vote on 5-1 matters it's just the polling place will be in 4-2.

I mailed all my paperwork to the State, for them to review and for the Secretary of State to approve the change. They have given me their approval to proceed. The new polling place meets all the standards for a polling place, has ample parking, has great lighting, and is large enough to adequately move the voters through.

Once I had the States approval I called and spoke with the Councilor in District 5, Councilor Brenerman, I asked him if he had any ideas on another voting place. We talked about three other places and they were not an option. Councilor Brenerman

Portland, Maine



Yes. Life's good here.

has given his approval for me to bring this to the full council to consider approving the change.

In conclusion I am seeking City Council approval to move District 5-1 polling place to the Seventh Day Adventist Church.

I have attached the approval letter from Secretary of State Matthew Dunlap, a map of the facility, the questions that are required by HAVA meeting ADA requirements and my letter to Secretary of State.

Thank you for your consideration.



MATTHEW DUNLAP
SECRETARY OF STATE

STATE OF MAINE

OFFICE
OF THE
SECRETARY OF STATE

May 29, 2015

Katherine Jones, City Clerk
City of Portland
389 Congress Street
Portland, Maine 04101
Via Facsimile to 874-8612

Dear Kathy:

I am in receipt of the memorandum dated May 12, 2015, in which you request permission pursuant to Title 21-A MRSA section 631-A, subsection 1, to move the voting place for Ward 5, Precinct 1, from the Stevens Avenue Armory at 777 Stevens Avenue, which is located within the district, to the Seventh Day Adventist Church at 97 Allen Avenue, which is located outside of the district in Ward 4, Precinct 1.

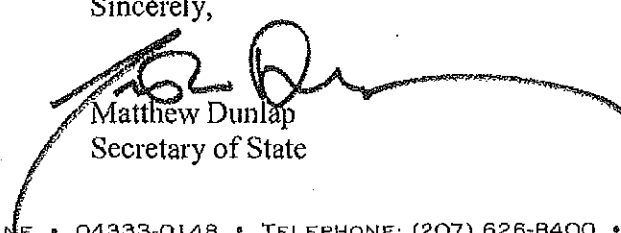
The memorandum clearly outlines the reasons for your request, including the following information:

- that the current voting place has been sold and will no longer be available to use as a voting place;
- that there are no other buildings within the district that meet the requirements for a suitable voting place;
- that the proposed new voting place is located just outside the boundary of Ward 5, Precinct 1, and is less than ½ mile from the current voting place; and
- that the proposed new voting place has a large parking lot, is handicapped accessible and is large enough to adequately hold an election.

Having reviewed the information that you have provided, and noting that you have submitted the necessary forms, including the *Application to Change the Physical Location of a Voting Place*, and the *Municipal Self-Certification for Voting Place Accessibility*, I hereby approve Portland's request to locate the Ward 5, Precinct 1 voting place outside of the boundaries of Ward 5, Precinct 1, at the Seventh Day Adventist Church at 97 Allen Avenue.

If you should have any further questions, please don't hesitate to call me or the staff of the Elections Division at 624-7650.

Sincerely,



Matthew Dunlap
Secretary of State



Office of the City Clerk
Katherine L. Jones, CMC

TO: Secretary of State, Matt Dunlap and Deputy Secretary of State Julie Flynn
FROM: Katherine Jones, City Clerk Portland
DATE: May 12, 2105
RE: Polling place out of District

It has been brought to my attention that the Steven's Avenue Armory has been sold. We will no longer be able to use this as a polling place for District 5-1. I have searched and called several places in District 5-1 that would qualify for a polling place, they had handicap accessibility, large enough to have the proper amount of voting booths per 200 voters and have all the measured requirements needed for a polling place. I was unable to locate and secure a place in the District.

While trying to locate a place I came across the Seventh Day Adventist Church, 97 Allen Avenue. Their facility meets all the standards for a polling place. They have a large parking lot, handicapped accessible and is large enough to adequately hold an election. The only flaw is it is not in the correct District/Precinct.

This facility is located in District 4-2. Allen Avenue is divided down the middle of the street, the side that the Church is on is 4-2 the other side of the street is 5-2. This would put the polling place in a different district but only a ½ mile from the current polling place.

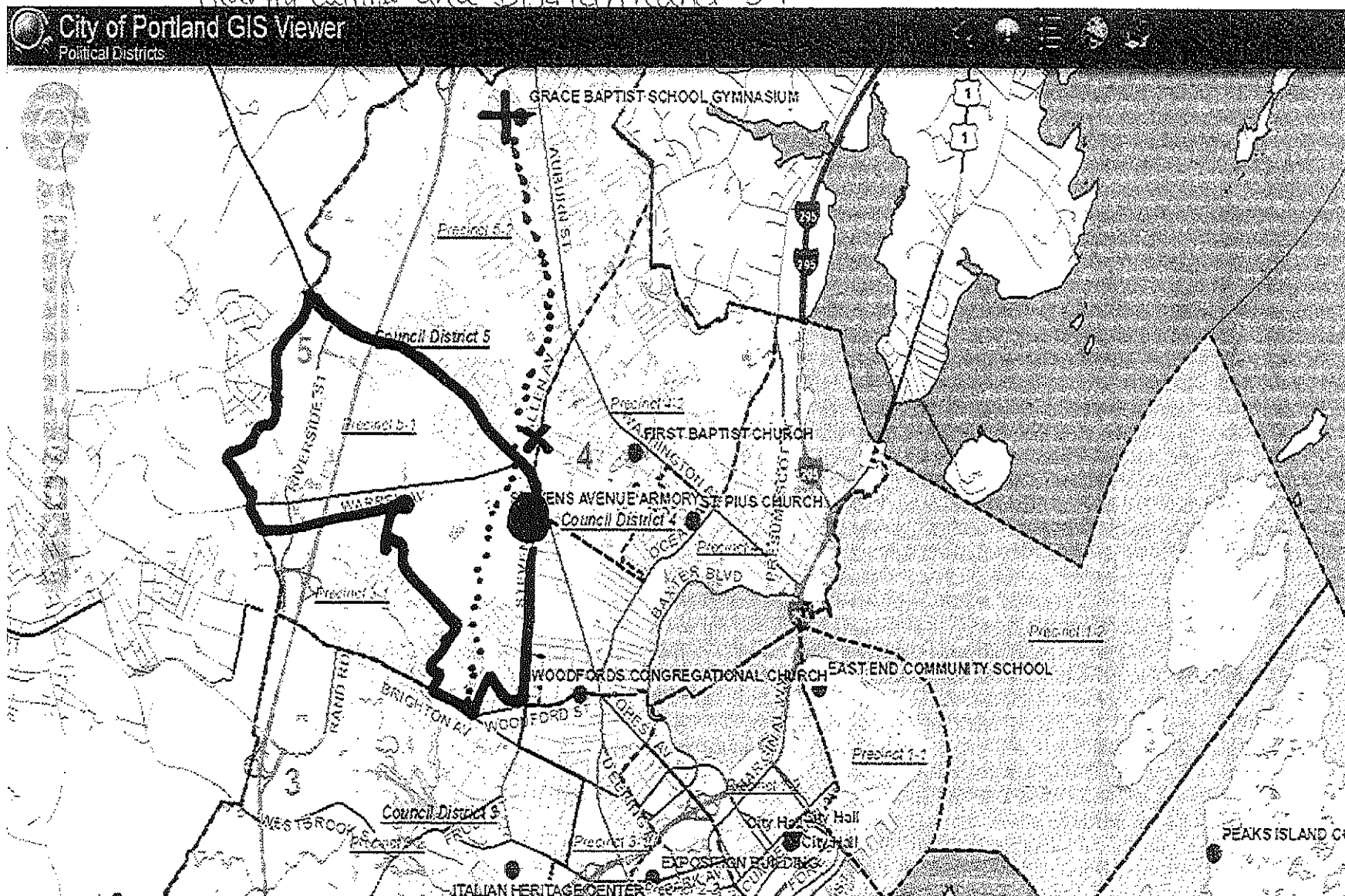
Because we have 11 polling places it is difficult to find new polling places. The current polling place is on Stevens Avenue which is largely occupied by UNE College, with student using all parking spaces in the vicinity it makes it difficult to find another polling place in that neighborhood. The land area for 5-1 is difficult as it's mostly centered near industrial facilities, Warren Avenue, Riverside Industrial, making it again difficult to locate a polling place. I have attached a map of the district. I have shown where the polling place currently is, where we would like to move it, and the distance from the other polling place in District 5. Combining the two precincts in District 5; this would make the voters at the far end of District 5-1 travel 4 miles past their current polling place to vote. The traffic at 5:00 in the area of Warren Ave, Allen Ave and Washington Ave would take roughly a half hour / 45 minutes to get to the polling place.

If we are able to move it out of district and use the Seventh Day Advent Church it would be 1.8 miles from the furthest point in 5-1 and they would not have to encounter the heavy traffic.

Thank you for your consideration.

Large Black Dot Current polling place

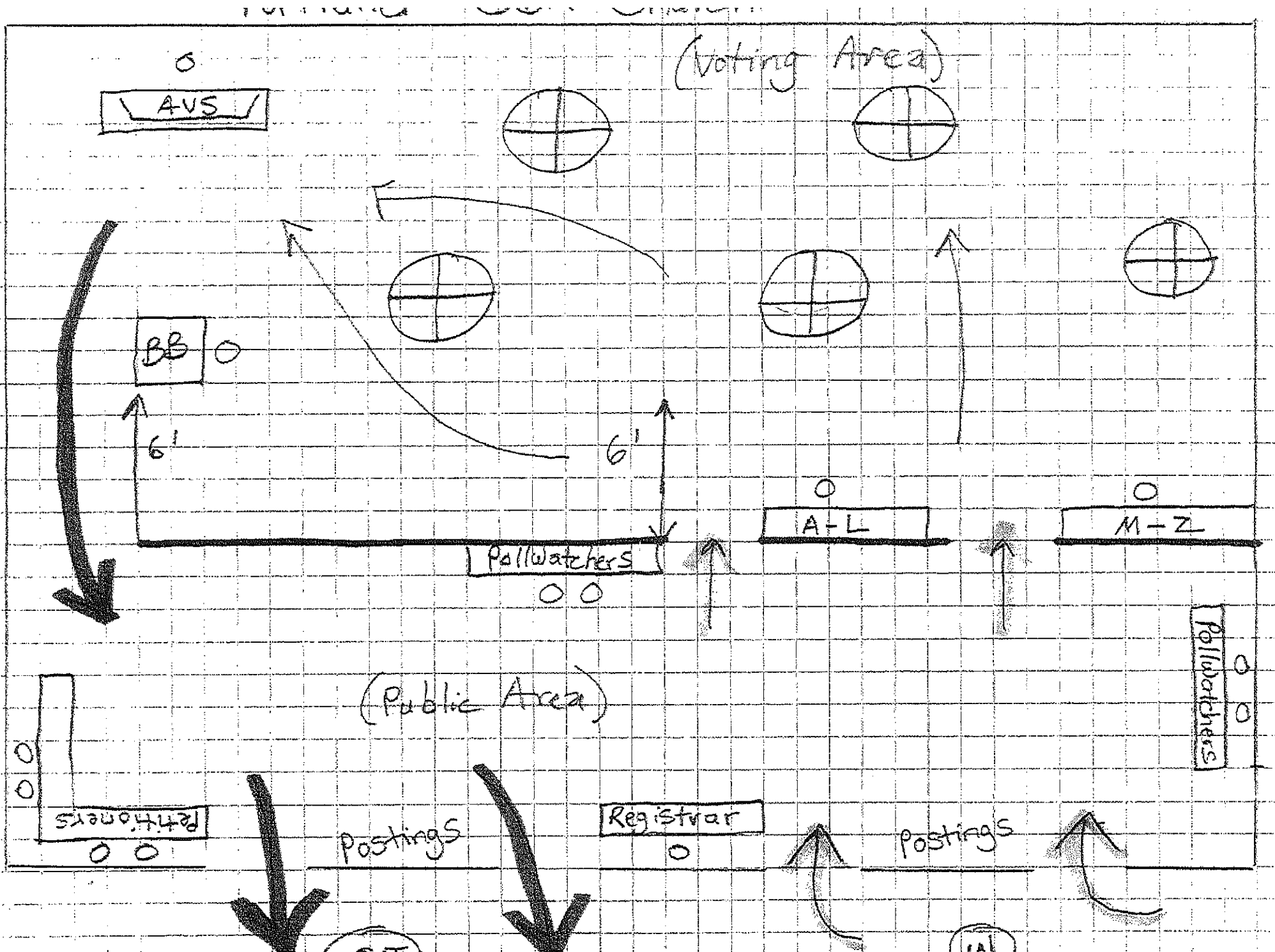
Heavily outlined area District/Precinct 5-1



X = Proposed new polling place ; less than 1/2 mile from Current polling place.

⊕ = Other polling place in District 5 (5-2)

..... = Distance from furthest point in (5-1) to (5-2).



Application to Change the Physical Location of a Voting Place

Municipality: Portland County: Cumberland

Current Voting Place

Name and physical address of current voting place:

Steven's Avenue Armory 772 Stevens Avenue Armory

Proposed New Voting Place

Name and physical address of proposed new voting place:

Seventh Day Adventist - 97 Allen Avenue, Portland, Me.

Reason for moving voting place: UNE Bought Steven's Ave Armory to
expand their school.

Proposed New Voting Place Information

Ward/Precinct (if applicable): 5-1

Date of next election: November 3, 2015

Contact Name: Donna Holland

Contact Availability
(please check)

Contact Phone #: 797-4414

Contact email: pastor.DonnaHolland@gmail.com

M	T	W	TH	F
☒	☒	☒	☒	☒

Contact hours available: _____

Mailing address: 97 Allen Avenue

Printed name of municipal officer: Katherine Jones

Signature of municipal officer: Katherine R Jones

Date: 5/21/2015

Municipal Self-Certification for Voting Place Accessibility

Municipality: Portland Ward/Precinct: 5-1

Building surveyed: _____

Location (physical address) of building surveyed:

97 Allen Avenue, Portland Maine

Purpose of building: ☒ Used as voting place on Election Day

☐ Used for absentee voting

Municipal property: ☐ Yes ☒ No

If not municipal property, list owner, address and contact phone number:

<u>Seventh Day Adventist Church</u>	<u>97 Allen Avenue.</u>	<u>797.4414</u>
Owner	Address	Phone

Instructions:

Perform a self-assessment on each accessibility category listed. Answer the questions with a "Yes" or "No". For "No" answers, please provide the actual measurement(s). Additional comments may be included for clarification. Refer to the booklet "Ensuring Accessibility" and the FAQ list provided by the Secretary of State. A responsible municipal official (town manager, code enforcement officer, selectman, etc.) must sign and date the certification form in the spaces provided at the bottom of the report.

A. Parking Spaces	
1. Is parking available (on-street, off-street, or <u>both</u>)?	
2. Is the surface of the parking area stable, firm and slip resistant? Please describe.	Yes Hot top
3. Is any accessible parking identified?	Yes
4. Is the minimum number of accessible parking spaces with proper access aisles provided? Min. of 1 van space and additional spaces as required.	Yes
5. Do van-accessible space(s) provide proper vertical clearance (8'2")?	Yes
6. Does each accessible parking space have proper signage?	Yes
7. Are all accessible parking spaces and access aisles relatively level (1:50 or 2%) in all directions?	Yes
8. If there is a curb between the access aisle and the accessible route is there a curb ramp (as described below)?	
a. Is the ramp surface at least 36" wide, excluding flared sides?	Yes
b. Is the slope no more than 1:12?	Yes
9. Are the accessible parking spaces on the shortest accessible route to the accessible entrance?	Yes

Other comments:

B. Sidewalks & Walkways

1. Is there an accessible route and accessible entrance at a primary entrance used by other voters?

Yes

2. Is there signage to indicate the route to the accessible entrance?

Yes

3. Is the accessible route at least 36" wide? List measurement.

Yes 48

4. Is the accessible route free of steps and abrupt level changes over 1/2 inch?

free of steps

5. If the accessible route crosses a curb is a curb ramp provided (as described below)?

- a. Is the ramp surface at least 36" wide, excluding flared sides? Yes
- b. Is the slope (up or down the curb ramp) no more than 1:12? Yes

6. If the slope of part of the accessible route is greater than 1:20, does this part meet the following requirements for an access ramp?

- a. Is the ramp slope no greater than 1:12? ✓
- b. If the vertical rise is more than 6", are handrails provided?
- c. Are the tops of the handrails mounted between 34 and 38 inches above the ramp surface?
- d. Are the handrails grippable (less than 2" diameter) and stable within fittings?
- e. Is the ramp width at least 36"? (Measure between handrails when provided.)
- f. Are proper top and bottom landings (60" long) provided for each ramp section?
- g. If a ramp is more than 30 feet long, is a proper level landing (60" long) provided every 30 feet?
- h. Is a proper level landing (60" x 60") provided where a ramp changes direction?
- i. If the ramp or landing has a vertical drop off on either side, is 2" edge protection provided?
- j. Is the cross-slope less than 2%?

7. Are all sidewalks and walkways to the voting area free of any undetectable objects?	Yes
8. Are all objects that hang over the pedestrian routes 80" or more above the route?	Yes
9. Are the undersides of exterior stairs enclosed or protected with a cane detectable barrier?	Yes
10. Is an accessible route provided from public sidewalks and public transportation stops on the polling site to the accessible entrance of the building?	Yes

Other comments:

C. Passenger Drop Off Areas	
1. Is a passenger drop-off area provided? If not, is there an area available that could meet the following requirements?	Yes
2. Is the vehicle space relatively level (1:50 or 2% max slope in any direction)?	Yes
3. Is a relatively level (1:50 or 2% max slope in any direction) access aisle provided?	Yes
4. Is the area for the access aisle at least 60" wide and 20-feet long?	Yes
5. Is there proper vertical clearance (9' 6") for the vehicle route to the loading zone, the drop off area, and the exit?	Yes
6. If a curb ramp is provided between vehicle pull up area and the access aisle, and/or access route to the accessible entrance does it meet the requirements described below?	
a. Is the slope of the curb ramp surface no more than 1:12?	N/A
b. Is the width of the curb ramp surface at least 36 inches?	
7. Does an accessible route connect the drop off area to the accessible entrance?	Yes

Other comments:

D. Building Entrance	
1. Is there signage to indicate the accessible entrance?	Yes
2. Does the door at the accessible entrance provide proper passage (32" width)?	Yes
3. Does the door have an accessible handle (inside and outside)?	Yes
4. Is the door handle located no more than 48" from the floor (measured from center of handle)?	Yes
5. Is proper clearance provided on the pull side of the door (18")?	Yes
6. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2".)	Yes
7. Is the force of the door for pushing or pulling easy to operate? Specify force.	Yes
8. Is there proper floor space provided if the entry has a vestibule (30" x 48" beyond swing of door)?	Yes
9. If vestibule, is second door accessible? Repeat questions 2-7 (9a – 9f).	Yes

Other comments:

E. Hallways & Corridors	
1. Is there an accessible route (36" width) that connects the accessible entrance to the voting area?	Yes
2. Is the accessible route free of steps and abrupt, unbeveled level changes over 1/2"?	Yes
3. Does the route from the accessible entrance to the voting area change levels using a ramp, lift or elevator? If yes, complete appropriate section.	No
4. At each location on the way to the voting area where the accessible route passes through a door or doors, does the door meet the following requirements (at least one door for double doors)?	
a. Is clear width at least 32" when door is open 90 degrees?	
b. Does the door have an accessible handle? (Shape and height)	
c. Is proper clearance provided on the pull side of the door (18")?	
d. Is no more than 5 pounds force needed to push or pull open the accessible door?	
e. If the answers to any of questions (b) thru (d) are "No", can the door be propped open to provide an accessible route on Election Day?	
f. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2".)	
5. Are pedestrian routes leading to or serving the voting area free of any undetectable objects? (Bottom edge no higher than 27" or protruding from wall more than 4")	Yes
6. Are all objects that hang over the pedestrian routes 80" or more above the route?	Yes
7. Are the undersides of interior stairs enclosed or protected with a cane detectable barrier?	Yes

Other comments:

F. Ramps
1. Where the slope of the accessible route is greater than 1:20, does this part of the route meet the following requirements for an access ramp?
2. Is the slope no greater than 1:12?
3. If the vertical rise is more than 6", are handrails provided?
4. Are the handrails grippable (less than 2" diameter) and stable within fittings?
5. Are the tops of the handrails mounted between 34 and 38 inches above the ramp surface?
6. Is the ramp width at least 36"? (Measure between handrails when provided)?
7. If a ramp is more than 30 feet long, is a proper level landing (60" long) provided every 30 feet?
8. Are proper top and bottom landings (60" long) provided for each ramp section?
9. Is a proper level landing (60" x 60") provided where a ramp changes direction?
10. If the ramp or landing has a vertical drop-off on either side of the ramp, is 2" edge protection provided?

Other comments:

G. Elevators	
1. If an elevator is provided, does it meet the following requirements?	Yes
2. Are the elevator call buttons mounted in an accessible location (centered 42" above floor)?	Yes
3. Are raised letters and Braille characters used to identify each floor button and each control?	Yes
4. Are signs mounted on both sides of the elevator hoistway door opening that designate the floor with 2" minimum-height raised letters and Braille characters centered at 60" above the floor?	Yes
5. Does the floor area of the elevator car provide space for wheelchair users to enter, reach the controls, and exit the car?	
a. Provide side door interior floor measurements:	48 x 48
b. Provide center door interior floor measurements:	48 x 48
6. Are the highest floor control buttons in the elevator cab mounted no more than 54" above the floor for a side reach or 48" for forward reach?	Yes
7. Is the elevator equipped with audible tones or bells or verbal annunciators that announce each floor as it is passed?	Yes
8. Do the elevator doors stay open long enough to enter safely?	
a. Indicate time:	Yes

Other comments:

H. Lifts
1. If a wheelchair lift is provided, does it meet the following requirements?
2. Is the lift operational at the time of the survey?
3. Is the change in level from the floor to the lift surface ramped or beveled or less than 1/2 inch?
4. Is there at least a 30" by 48" clear floor space on the wheelchair lift?
5. Does the lift allow a wheelchair user unassisted entry, operation, and exit?
6. Are the controls and operating mechanisms mounted no more than 54" above the floor for a side reach or 48" for a forward reach?
7. Are the controls and operating mechanisms usable with one hand without tight grasping, pinching, or twisting?

Other comments:

I. Voting Area

1. Is there an accessible entrance to the voting area as described below?

- a. Is clear width at least 32" when door is open 90 degrees? *Yes*
- b. Does the door have an accessible handle? (Shape and height) *Yes*
- c. Is proper clearance provided on the pull side of the door (18")? *Yes*
- d. Is no more than 5 pounds force needed to push or pull open the accessible door? *Yes*
- e. If the answers to any of questions (b) thru (d) are no, can the door be propped open to provide an accessible route on Election Day?
- f. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2".) *yes*

2. Within the voting area, is adequate space available on the accessible level for check-in tables, a voting demonstration area (if provided), and at least one accessible voting station? Describe briefly.

Yes

3. Is the voting area free of any undetectable objects? *Yes*

4. Are all objects that hang over the voting area 80" or more above the ground?

Yes

5. Are interior floor surfaces relatively level and free from abrupt level changes? Please describe the floor surface of hallways and voting area.

Yes lot tile

Other comments:

J. Second Voting Area/Other Area (if applicable)
1. Is there an accessible entrance to the voting area as described below? a. Is clear width at least 32" when door is open 90 degrees? b. Does the door have an accessible handle? (Shape and height) c. Is proper clearance provided on the pull side of the door (18")? d. Is no more than 5 pounds force needed to push or pull open the accessible door? e. If the answers to any of questions (b) thru (d) are no, can the door be propped open to provide an accessible route on Election Day? f. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2".)
2. Within the voting area, is adequate space available on the accessible level for check-in tables, a voting demonstration area (if provided), and at least one accessible voting station? Describe briefly.
3. Is the voting area free of any undetectable objects?
4. Are all objects that hang over the voting area 80" or more above the ground?
5. Are interior floor surfaces relatively level and free from abrupt level changes? Please describe the floor surface of hallways and voting area.

Other comments:

By signing this Self-Certification form, the municipality is verifying that each accessibility category has been reviewed for compliance with the guidelines under the American's with Disabilities Act (ADA) and either meets the requirements defined therein or will be addressed within a reasonable timeframe to provide accommodation to individuals with disabilities.

Prepared by: Randy Ennes Title: Treasurer
(print name) +

Contact information: Katherine Jones City Clerk

389 Congress Street
Address Phone Fax

Email address: Kj@portlandmaine.gov

Signature: Katherine R Jones Date: 5/18/2015

Mail the completed and signed certification to:

**Bureau of Corporations, Elections, and Commissions
Division of Elections
101 State House Station
Augusta, ME 04333-0101**

*Order 295-14/15
Tab 26 6-15-15*

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

The Drink Exchange LLC d/b/a The Drink Exchange. Application for a Class A Lounge License with Outdoor Dining on Public Property at 43 Wharf St.

THE DRINK EXCHANGE

Drink	Price	Change	Previous Price	Daily High	Daily Low	Sold
LEMON DROP	\$6.25	.25 (3.85%) ↓	\$6.50	\$7.00	\$1.00	429
MOJITO	\$5.00	nc (.00%) -	\$5.00	\$5.00	\$5.00	55
BUDWEISER	\$5.50	.25 (4.35%) ↓	\$5.75	\$7.00	\$2.00	266
COORS LITE	\$3.00	.25 (9.09%) ↑	\$2.75	\$7.00	\$2.00	247
BUD LIGHT	\$2.00	nc (.00%) -	\$2.00	\$6.00	\$2.00	219
HEINEKEN	\$4.50	.25 (5.26%) ↓	\$4.75	\$7.00	\$2.00	245
GUINNESS	\$2.00	nc (.00%) -	\$2.00	\$5.25	\$2.00	217
TEQUILA	\$2.00	nc (.00%) -	\$2.00	\$8.00	\$2.00	202
RUM WELL	\$2.00	nc (.00%) -	\$2.00	\$7.00	\$2.00	181
RUM TOP	\$5.00	.25 (4.76%) ↓	\$5.25	\$5.75	\$3.00	132
VODKA WELL	\$4.75	.25 (5.56%) ↑	\$4.50	\$6.00	\$2.00	178

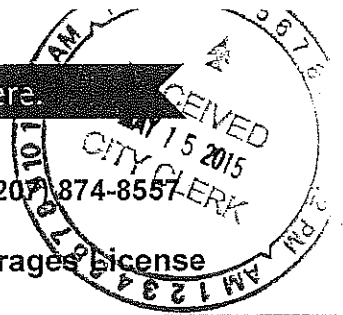
CHAMPAGNE \$3.25 * 0.25 RUM COKE \$2.00 NC VODKA

Portland, Maine



Yes. Life's good here.

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



Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	The Drink Exchange	Phone:	877-653-7678
Location Address:	43 Wharf St, Portland ME 04101		
If new, what was formerly at this location:	The Merry Table Creperie		
Mailing Address:	43 Wharf St 04101		
Contact Person:	Tanner Herget	Phone:	877-243-7438 x9
Contact Person Email:	Tanner@OldPortNightLife.com		
Manager of Establishment:	Robert Dyer	Phone:	877-653-7678 x8
Owner of Premises (Landlord):	Dream Port 3, LLC		
Address of Premises Owner:	1 Canal Plaza #500 Portland ME 04101		

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
The Drink Exchange LLC		1465 Woodbury Ave, #362 Portsmouth NH 03801	
Contact Person:	Tanner Herget	Phone:	877-243-7438
Principal Officers	Title	Date of Birth	Residence Address
The Herget Group LLC	Sole Member		1712 Pioneer Ave #120 Cheyenne, WY 82001
Tanner Herget	Sole member of The Herget Group LLC	7/25/82	1465 Woodbury Ave, #362 Portsmouth, NH 03801

About Your Establishment

Class of Liquor License:	Class A Lounge License		
Type of food served:	Seafood / American		
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor		
Projected percentage of sales:	Generated from Food:	35	Generated from Alcohol: 65
Hours & days of operation:	M-F 4pm-1am S/S 11am-1am		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y
If No, please explain: While Food will be served, we are applying for a Class A License	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ N
If yes, give the distance: .5 mile	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y
Will you permit dancing on the premises?	☒ Y
Will you permit dancing after 1:00 a.m.?	☒ Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one). Public	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? July 2015	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y
If Yes, please list business name(s) and location(s):	
SI Wharf Restaurant & Ultra Lounge Inc and Bonfire LLC	
Is any principal officer under the age of 21?	☒ Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y
If Yes, please explain:	

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

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

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

Signature: Tanner Herget Title: Sole member Date: 5/15/15
 on Behalf of The Herget Group LLC
 For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and
 M.R.S.A. Title 28-A at www.maine.gov

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER: _____ **CLASS:** _____

DEPOSIT DATE _____

AMT. DEPOSITED: _____ **BY:** _____

CK/MO/CASH: _____

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☐ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☒ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) --(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>The Drink Exchange LLC</u> DOB: <u>3/2/15</u>			2. Business Name (D/B/A) <u>The Drink Exchange</u>		
DOB: _____			Location (Street Address) <u>43 Wharf St</u>		
DOB: _____			City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>		
Address <u>43 Wharf St</u>			Mailing Address <u>43 Wharf St</u>		
City/Town <u>Portland</u>		State <u>ME</u>	City/Town <u>Portland</u>		State <u>ME</u>
Zip Code <u>04101</u>		Fax Number	Business Telephone Number <u>877-653-7678</u>		Fax Number
Telephone Number <u>877-653-7678</u>			Seller Certificate #		
Federal I.D. #					

3. If premises is a hotel, indicate number of rooms available for transient guests: _____

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

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

complete Supplementary Questionnaire, If YES

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

7. If manager is to be employed, give name: Robert Dyer

8. If business is NEW or under new ownership, indicate starting date: July 1st 2015
Requested inspection date: Late June Business hours: M-F 4pm-1am S/S 11am-1am

9. Business records are located at: 1465 Woodbury Ave, #362 Portsmouth, NH 03801

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

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

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

Name in Full (Print Clearly)	DOB	Place of Birth
The Hogget Group LLC	4/11/13	Wyoming
Robert Dyer	5/21/73	Kittery Maine

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

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

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

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Deana Port 3, LLC 1 Canal Plaza #500, Portland ME 04101

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

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: 5/15/15

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1.5 m Which of the above is nearest? Church

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

If YES, give details: _____

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

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

Dated at: Portland, Maine on 5/14/15, 20 15
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Tanner Hogget, on Behalf of The Hogget Group LLC
Print Name

Print Name



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

The Drink Exchange LLC

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

The Drink Exchange

3. Date of filing with the Secretary of State: 3/2/15

4. State in which you are formed: Maine

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

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

Name	Address for Previous 5 years	Date of Birth	Ownership %
The Herget Group LLC	1712 Pioneer Ave, #120 Cheyenne WY 82001	4/11/13	100

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

Yes ☐ No ☒

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

Name: _____ Agency: _____

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

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

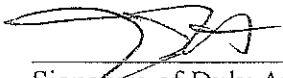
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

5/14/15

Date

Tanner Herget, on Behalf of The Herget Group LLC
Print Name of Duly Authorized Person

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

Submit Completed Forms To:

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



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

**Supplemental Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

The Herget Group LLC

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

The Drink Exchange LLC

3. Date of filing with the Secretary of State: 4/11/13

4. State in which you are formed: Wyoming

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

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

Name	Address for Previous 5 years	Date of Birth	Ownership %
Tanner Herget	1465 Woodbury Ave, #362 Portsmouth, NH 03801	7/23/82	100

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

Yes ☐ No ☒

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

Name: _____ Agency: _____

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

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

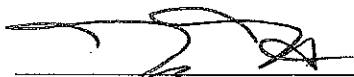
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

5/19/15
Date

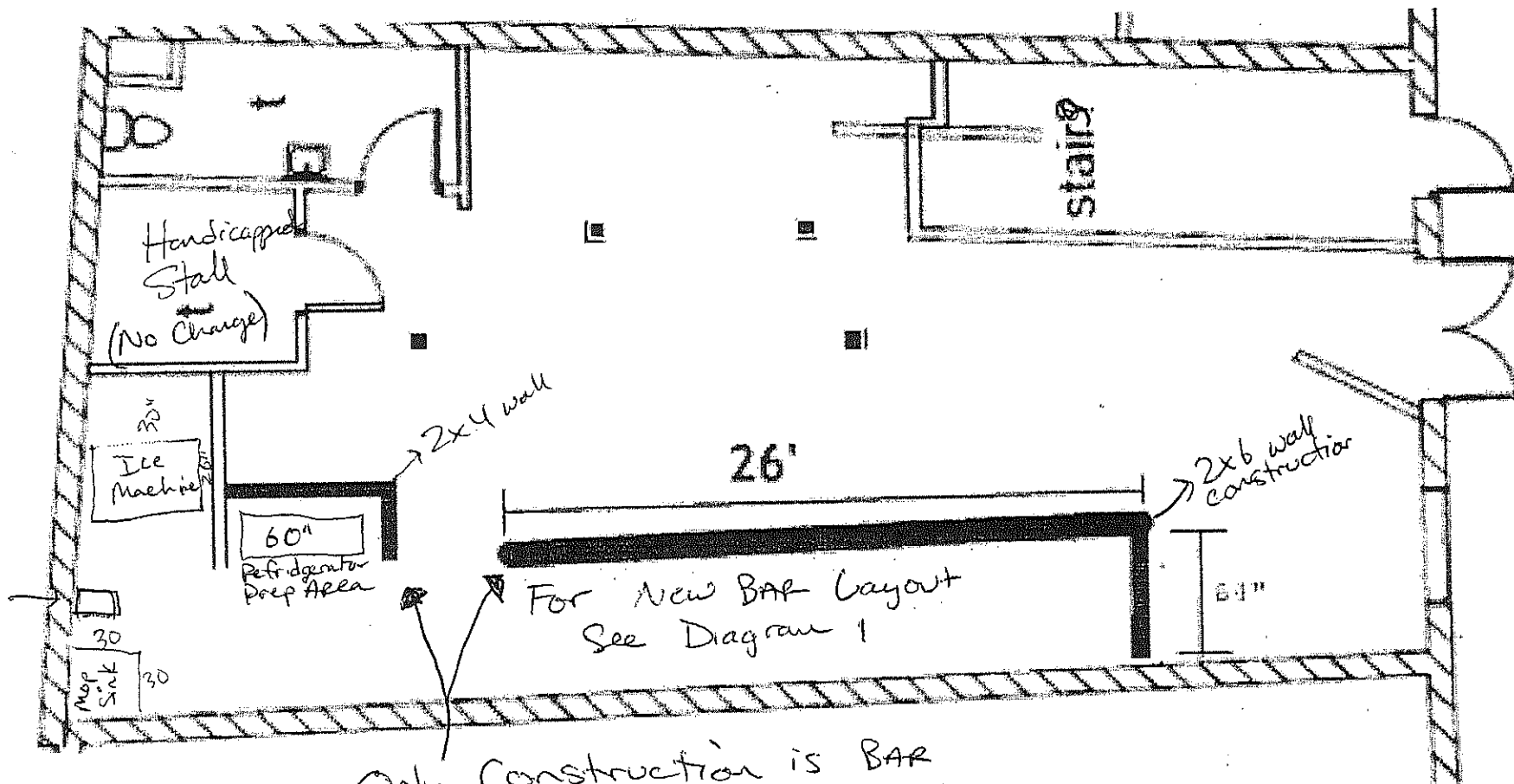
Tanner Herget

Print Name of Duly Authorized Person

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

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

Hand Sink 434

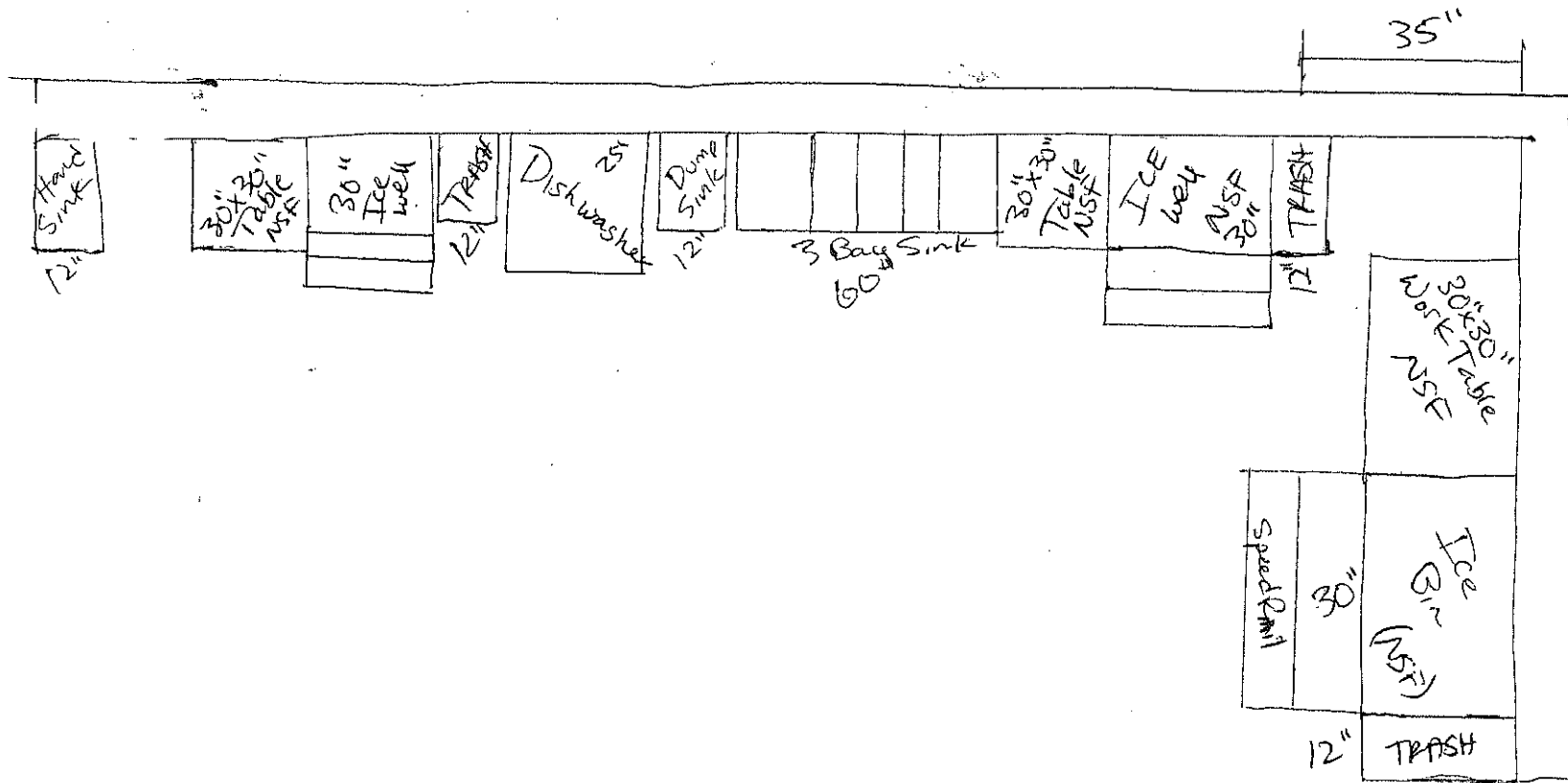


43 Wharf St

Only Construction is BAR
AND Separated wall for Food

Diagram 1

New BAR Layout



Appetizers

Mushrooms Stuffed with Crabmeat 10.95

Artichokes Stuffed with Crabmeat 10.95

Shrimp & Asparagus Egg Rolls 9.95

Homemade Fried Provolone
Cheese Sticks 7.95

Ribs & Wings 11.95

Wasabi Beef 11.95

Buffalo Wings 9.95

Onion Rings with Bistro Sauce 9.95

Calamari 8.95

Smoked Salmon

Served with toasted bagel chips and housemade chive cream cheese 10.95

Blackened Yellowfin Tuna

Served with chili dipping sauce 9.95

Italian Meatballs

Topped with marinara sauce and provolone cheese, served with garlic bread 9.95

Salads

Greek Salad

Mixed greens, topped in our own Greek dressing with tomatoes, red onion, Feta cheese and olives 8.50
Sm. (12 oz) 5.00

Caesar Salad

Romaine lettuce, Romano cheese, red onion and croutons topped in our Caesar dressing 8.50 Sm. Caesar 5.00

Chef Salad

Ham, turkey, Swiss cheddar cheese and egg served over mixed greens with tomato, onion and croutons 9.50

Chopped Buffalo Chicken Salad

Tender chicken breast served over chopped romaine with buffalo egg, onion and parmesan with blue cheese dressing 9.50

Oriental Salad with Blackened Chicken

Romaine lettuce, mandarin oranges, sliced almonds, carrots, red onions and shrimp tossed, topped with sesame oriental dressing 10.50 Sm. salmon 5.50

Spinach Salad

Spinach, mushrooms, red onion, egg, bacon and croutons served with our sweet and sour hot bacon dressing 8.50

Chopped Mediterranean Salad

Genoa salami, grilled chicken, Feta cheese, onion, tomato, Kalamata olives, tossed in our Greek dressing with mixed greens 10.50

May add chicken or salmon for 4.00 to any Greek, Caesar or Spinach salad

Soups

French Onion 1.95

Soup du Jour 2.95 bowl 4.50

Seafood Soup 2.95 bowl 5.00



Outdoor Dining Permit Application

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

Check all that apply: ☒ New Application for Outdoor Dining or ☐ Renewal Application for Outdoor Dining ☐ Application for dining on Private Property			
☐ Outdoor Dining in a Public Park		☐ If Renewal, are there changes to previous permit?	
☒ Outdoor Dining in a Historic District ☒ Yes ☐ No			
☐ Petition for Exception for Special Circumstances			
☒ Liquor License required?			
City Clerk signature for liquor license approval: _____ OR Pending Council Date: _____			
Location Name & Address: <u>43 Wharf St</u> <u>The Drink Exchange Portland, ME 04101</u>		Chart <u>32</u>	Block <u>R</u> Lot <u>4</u>
Owner Name: _____		Total Square Footage of Proposed Outdoor Dining Area: ¹ <u>147</u>	
Owner Phone #: <u>877-653-7678</u>			
Applicant *must* be owner or lessee		Fee: \$80 (Public-Annual) \$125 (Private 1X)	
Name: <u>The Drink Exchange LLC</u>		Total Sq. Ft.: <u>147 = 24.5 x 6</u>	
Address: <u>43 Wharf St</u>		Sq. Ft. Fee: (sq ft x \$2) \$ <u>294</u>	
City, State & Zip: <u>Portland ME 04101</u>		(sq ft x \$6 (for public parks))	
E-Mail: <u>The Drink Exchange @ OldPortNightlife.com</u>		Total Fees: \$ <u>374.00</u>	
Current use: <u>Restaurant/Bar</u>		(Permit not issued until all fees are paid)	
Business name: <u>The Drink Exchange</u>			
Seating area dimensions: <u>24.5' x 6'</u>			
How many chairs? <u>3</u> How many tables? <u>12</u>			
☒ Yes Alcohol is served.			
☐ No Alcohol being served.			
Who should we contact: <u>Tanner Hergert</u>		Phone: <u>877-243-7438</u>	
Address: <u>1465 Woodbury Ave, #362 Portland ME</u>		Mail: <u>Tanner@OldPortNightlife.com</u>	

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit. New applications and renewals are reviewed on an annual basis and should be submitted no later than June 1st.

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

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

Signature of Applicant: [Signature]

Date: 5/18/15

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

The Drink Exchange

43 Wharf St.



Copyright 2011 Esri. All rights reserved. Wed Jun 3 2015 11:33:27 AM.



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

Transaction Response #: MIQ99B847085

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-06-04) :

Inquiries Name(s) TANNER HERGET (1982-06-23)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C500117

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-05-20) :
Inquiries Name(s) ROBERT DYER (1973-05-21)

The information in this criminal history record is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Confirmation that convictions relate to person whose record has been requested requires fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing, credit, or other benefits or programs, the person making the eligibility determination using this record should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S. section 709.

****THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2015-05-20**

This record, effective September 1, 2000, contains information relating to persons arrested as fugitives from justice, 15 M.R.S section 201.4 or arrested or charged with Maine crimes. It does not include former crimes no longer classified as criminal, or Class D and E crimes in Title 12 or Title 29-A, former Title 29, unless the crime is alcohol-related or drug-related 25 M.R.S. section 1541.4-A.A. For information regarding excluded Marine Resources crimes in Title 12, contact the Department of Marine Resources. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. For information relating to excluded crimes in Title 29-A former Title 29, contact the Secretary of State, Motor Vehicle Division. A list of former crimes is available from this Bureau.

THE FOLLOWING ATN(S) ARE UNSUPPORTED BY FINGERPRINTS IN STATE BUREAU OF IDENTIFICATION FILES:
(948965A, 948967A, 948966A, 948968A, 948971A).

Identification

Subject Name/or potential Alias Name(s)

DYER, ROBERT
DYER, ROBERT W
DYER, ROBERT W

Subject Description (date information provided listed in parentheses)

State ID Number
ME0237686

DOC Number
Unknown/NA

Sex
Unknown/NA

Race
Unknown/NA

Skin Tone
Unknown/NA

Height
Unknown/NA

Weight
Unknown/NA

Date of Birth
1973-05-21

Hair Color
Unknown/NA

Eye Color
Unknown/NA

Scars, Marks, and Tattoos
Unknown/NA

Place of Birth
Unknown/NA

Citizenship
Unknown/NA

Residence
Residence as of
Address

2012-03-15
6 PARK AVENUE
SCARBOROUGH, ME

Residence as of
Address

2012-03-15
63 ELM STREET
PORTLAND, ME

Residence as of
Address

2012-03-15
101 BANCROFT ST
PORTLAND, ME

Residence as of
Address

2012-03-15
37 FIELDSTONE LANE
SANFORD, ME

Residence as of
Address

2012-03-15
90 BROADTURN ROAD
SCARBOROUGH, ME

Caution Information
Firearms Disqualified

C - Cleared

Criminal History

Cycle 001

ATN/Tracking Number 948965A
Earliest Event Date 1992-08-14

Arrest/Charge (Cycle 001)
Arrest/Charge Date 1992-08-14
Arresting/Charging Agency OLD ORCHARD BEACH PD; ME0160300
Subject Name(s) DYER, ROBERT
Arrest Type Adult

Charge 1

Charge Number 948965A 001
 Charge Tracking Number 948965A
 Charge Case Number 92-13852
 Agency OLD ORCHARD BEACH PD; ME0160300
 Offense Date 1992-08-14
 Charge Description CRIMINAL TRESPASS (Charge Class D)
 Statute 17-A MRSA SUBSECTION 402
 State Sequence Code 5117
 Severity Misdemeanor

Charge 2

Charge Number 948965A 002
 Charge Tracking Number 948965A
 Charge Case Number 92-13852
 Agency OLD ORCHARD BEACH PD; ME0160300
 Offense Date 1992-08-14
 Charge Description BURGLARY (Charge Class B)
 Statute 17-A MRSA SUBSECTION 401
 State Sequence Code 5115
 Severity Felony

Charge 3

Charge Number 948965A 003
 Charge Tracking Number 948965A
 Charge Case Number 92-13852
 Agency OLD ORCHARD BEACH PD; ME0160300
 Offense Date 1992-08-14
 Charge Description THEFT BY UNAUTHORIZED TAKING OR TRANSFER (Charge Class E)
 Statute 17-A MRSA SUBSECTION 353
 State Sequence Code 5089
 Severity Misdemeanor

Prosecutor Disposition No data supplied

Court Disposition (Cycle 001)
Court Case Number CR-93-776
Court Agency SUPERIOR COURT ALFRED; ME016015J
Charge 1

Charge Number 948965A 001
 Charge Tracking Number 948965A
 Agency SUPERIOR COURT ALFRED; ME016015J
 Offense Date 1992-08-14
 Charge Description CRIMINAL TRESPASS (Charge Class D)
 Statute 17-A MRSA SUBSECTION 402
 State Sequence Code 5117
 Severity Misdemeanor

Disposition 1993-05-28; GUILTY

Court Disposition (Cycle 001)
 Court Case Number CR-92-1663
 Court Agency SUPERIOR COURT ALFRED; ME016015J
 Charge 2

Charge Number 948965A 002
 Charge Tracking Number 948965A
 Agency SUPERIOR COURT ALFRED; ME016015J
 Offense Date 1992-08-14
 Charge Description BURGLARY (Charge Class B)
 Statute 17-A MRSA SUBSECTION 401
 State Sequence Code 5115
 Severity Felony
 Disposition 1993-05-28; DISMISSED BY DA/AG - PLED OTHER CHARGE

Charge 3

Charge Number 948965A 003
 Charge Tracking Number 948965A
 Agency SUPERIOR COURT ALFRED; ME016015J
 Offense Date 1992-08-14
 Charge Description THEFT BY UNAUTHORIZED TAKING OR TRANSFER (Charge Class E)
 Statute 17-A MRSA SUBSECTION 353
 State Sequence Code 5089
 Severity Misdemeanor
 Disposition 1993-05-28; DISMISSED BY DA/AG - PLED OTHER CHARGE

Sentencing (Cycle 001)
 Sentencing Agency SUPERIOR COURT ALFRED; ME016015J
 Court Case Number CR-93-776
 Charge Number 948965A 001
 Charge Sequence Number 1
 Charge Tracking Number 948965A
 Sentence 1993-05-28: CONCURRENT with case 93-1227 charge number 1
 1993-05-28: CONCURRENT with case 93-2022 charge number 1
 1993-05-28: CONCURRENT with case 93-4470 charge number 1
 1993-05-28: FINED \$50.00
 1993-05-28: INCARCERATED 1 years DEPARTMENT OF CORRECTIONS
 ALL BUT 30 DAYS SUSPENDED
 1993-05-28: PROBATION 1 years

Corrections No data supplied

Cycle 002

ATN/Tracking Number 948966A
 Earliest Event Date 1992-08-16
 Arrest/Charge (Cycle 002)
 Arrest/Charge Date 1992-08-19
 Arresting/Charging Agency BIDDEFORD PD; ME0160100
 Subject Name(s) DYER, ROBERT W II
 Arrest Type Adult
 Charge 1

Charge Number 948966A 001
 Charge Tracking Number 948966A

Agency BIDDEFORD PD; ME0160100
 Offense Date 1992-08-19
 Charge Description CRIMINAL MISCHIEF (Charge Class D)
 Statute 17-A MRSA SUBSECTION 806
 State Sequence Code 4958
 Severity Misdemeanor

Charge 2

Charge Number 948966A 002
 Charge Tracking Number 948966A
 Agency BIDDEFORD PD; ME0160100
 Offense Date 1992-08-19
 Charge Description CRIMINAL MISCHIEF (Charge Class D)
 Statute 17-A MRSA SUBSECTION 806
 State Sequence Code 4958
 Severity Misdemeanor

Charge 3

Charge Number 948966A 003
 Charge Tracking Number 948966A
 Agency BIDDEFORD PD; ME0160100
 Offense Date 1992-08-19
 Charge Description CRIMINAL MISCHIEF (Charge Class D)
 Statute 17-A MRSA SUBSECTION 806
 State Sequence Code 4958
 Severity Misdemeanor

Prosecutor Disposition	No data supplied
Court Disposition	(Cycle 002)
Court Case Number	92-05860
Court Agency	10TH DISTRICT COURT BIDDEFORD; ME016025J

Charge 1

Charge Number 948966A 001
 Charge Tracking Number 948966A
 Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
 Offense Date 1992-08-19
 Charge Description CRIMINAL MISCHIEF (Charge Class D)
 Statute 17-A MRSA SUBSECTION 806
 State Sequence Code 4958
 Severity Misdemeanor
 Disposition 1992-11-24; GUILTY

Court Disposition	(Cycle 002)
Court Case Number	92-05861
Court Agency	10TH DISTRICT COURT BIDDEFORD; ME016025J

Charge 2

Charge Number 948966A 002
 Charge Tracking Number 948966A
 Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
 Offense Date 1992-08-19
 Charge Description CRIMINAL MISCHIEF (Charge Class D)
 Statute 17-A MRSA SUBSECTION 806
 State Sequence Code 4958
 Severity Misdemeanor

Disposition 1992-11-24; GUILTY

Court Disposition (Cycle 002)
Court Case Number 92-05862
Court Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
Charge 3

Charge Number 948966A 003
 Charge Tracking Number 948966A
 Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
 Offense Date 1992-08-19
 Charge Description CRIMINAL MISCHIEF (Charge Class D)
 Statute 17-A MRSA SUBSECTION 806
 State Sequence Code 4958
 Severity Misdemeanor
 Disposition 1992-11-24; GUILTY

Sentencing (Cycle 002)
Sentencing Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
 Court Case Number 92-05860
 Charge Number 948966A 001
 Charge Sequence Number 1
 Charge Tracking Number 948966A
 Sentence 1992-11-24: INCARCERATED 10 days JAIL ALL SUSPENDED
 1992-11-24: PROBATION 1 years

Sentencing (Cycle 002)
Sentencing Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
 Court Case Number 92-05861
 Charge Number 948966A 002
 Charge Sequence Number 2
 Charge Tracking Number 948966A
 Sentence 1992-11-24: INCARCERATED 10 days JAIL ALL SUSPENDED
 1992-11-24: PROBATION 1 years

Sentencing (Cycle 002)
Sentencing Agency 10TH DISTRICT COURT BIDDEFORD; ME016025J
 Court Case Number 92-05862
 Charge Number 948966A 003
 Charge Sequence Number 3
 Charge Tracking Number 948966A
 Sentence 1992-11-24: INCARCERATED 10 days JAIL ALL SUSPENDED
 1992-11-24: PROBATION 1 years

Corrections No data supplied

Cycle 003

ATN/Tracking Number 948967A
Earliest Event Date 1993-02-25
Arrest/Charge (Cycle 003)
Arrest/Charge Date 1993-02-25
Arresting/Charging Agency SCARBOROUGH PD; ME0030700
Subject Name(s) DYER, ROBERT W
Arrest Type Adult

Charge 1

Charge Number 948967A 001
 Charge Tracking Number 948967A
 Agency SCARBOROUGH PD; ME0030700
 Offense Date 1993-02-25
 Charge Description ASSAULT (Charge Class D)
 Statute 17-A MRSA SUBSECTION 207
 State Sequence Code 5064
 Severity Misdemeanor

Prosecutor Disposition	No data supplied
Court Disposition	(Cycle 003)
Court Case Number	93-02072
Court Agency	9TH DISTRICT COURT PORTLAND; ME003035J

Charge 1

Charge Number 948967A 001
 Charge Tracking Number 948967A
 Agency 9TH DISTRICT COURT PORTLAND; ME003035J
 Offense Date 1993-02-25
 Charge Description ASSAULT (Charge Class D)
 Statute 17-A MRSA SUBSECTION 207
 State Sequence Code 5064
 Severity Misdemeanor
 Disposition 1993-05-20; GUILTY

Sentencing	(Cycle 003)
Sentencing Agency	9TH DISTRICT COURT PORTLAND; ME003035J

Court Case Number 93-02072

Charge Number 948967A 001

Charge Sequence Number 1

Charge Tracking Number 948967A

Sentence 1993-05-20: INCARCERATED 6 months ALL BUT 50 DAYS SUSPENDED
 1993-05-20: PROBATION 1 years

Corrections	No data supplied
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Cycle 004

ATN/Tracking Number	948968A
Earliest Event Date	1993-05-08
Arrest/Charge	(Cycle 004)
Arrest/Charge Date	1993-05-08
Arresting/Charging Agency	SCARBOROUGH PD; ME0030700
Subject Name(s)	DYER, ROBERT W
Arrest Type	Adult

Charge 1

Charge Number 948968A 001
 Charge Tracking Number 948968A
 Charge Case Number 93-6383
 Agency SCARBOROUGH PD; ME0030700
 Offense Date 1993-05-08
 Charge Description ASSAULT (Charge Class D)

Statute 17-A MRSA SUBSECTION 207
 State Sequence Code 5064
 Severity Misdemeanor

Prosecutor Disposition	No data supplied
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Court Disposition	(Cycle 004)
Court Case Number	93-04470
Court Agency	9TH DISTRICT COURT PORTLAND; ME003035J
Charge 1	

Charge Number 948968A 001
 Charge Tracking Number 948968A
 Agency 9TH DISTRICT COURT PORTLAND; ME003035J
 Offense Date 1993-05-08
 Charge Description ASSAULT (Charge Class D)
 Statute 17-A MRSA SUBSECTION 207
 State Sequence Code 5064
 Severity Misdemeanor
 Disposition 1993-06-03; GUILTY

Sentencing	(Cycle 004)
Sentencing Agency	9TH DISTRICT COURT PORTLAND; ME003035J
	Court Case Number 93-04470
	Charge Number 948968A 001
	Charge Sequence Number 1
	Charge Tracking Number 948968A
	Sentence 1993-06-03: INCARCERATED 6 months ALL BUT 50 DAYS SUSPENDED
	1993-06-03: PROBATION 1 years

Corrections	No data supplied
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Cycle 005

ATN/Tracking Number	948971A
Earliest Event Date	1998-06-21
Arrest/Charge	(Cycle 005)
Arrest/Charge Date	1998-06-21
Arresting/Charging Agency	SANFORD PD; ME0160500
Subject Name(s)	DYER, ROBERT W II
Arrest Type	Adult
Charge 1	

Charge Number 948971A 001
 Charge Tracking Number 948971A
 Charge Case Number 98-13786
 Agency SANFORD PD; ME0160500
 Offense Date 1998-06-21
 Charge Description DISORDERLY CONDUCT (Charge Class E)
 Statute 17-A MRSA SUBSECTION 501
 State Sequence Code 5140
 Severity Misdemeanor

Prosecutor Disposition	No data supplied
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Court Disposition	(Cycle 005)
Court Case Number	98-03271

Court Agency
Charge 1

10TH DISTRICT COURT SPRINGVALE; ME016035J

Charge Number 948971A 001
 Charge Tracking Number 948971A
 Agency 10TH DISTRICT COURT SPRINGVALE; ME016035J
 Offense Date 1998-06-21
 Charge Description DISORDERLY CONDUCT (Charge Class E)
 Statute 17-A MRSA SUBSECTION 501
 State Sequence Code 5140
 Severity Misdemeanor
 Disposition 1998-10-21; GUILTY

Sentencing (Cycle 005)
Sentencing Agency 10TH DISTRICT COURT SPRINGVALE; ME016035J
 Court Case Number 98-03271
 Charge Number 948971A 001
 Charge Sequence Number 1
 Charge Tracking Number 948971A
 Sentence 1998-10-21: FINED \$100.00

Corrections No data supplied

Index of Agencies

Agency	9TH DISTRICT COURT PORTLAND; ME003035J
Agency Telephone	207-822-4205
Address	205 NEWBURY ST PORTLAND, ME 04101
Agency	SUPERIOR COURT ALFRED; ME016015J
Agency Telephone	207-324-5122
Address	PO BOX 160 ALFRED, ME 04002
Agency	10TH DISTRICT COURT BIDDEFORD; ME016025J
Agency Telephone	207-283-1147
Address	25 ADAMS STREET BIDDEFORD, ME 04005
Agency	10TH DISTRICT COURT SPRINGVALE; ME016035J
Agency Telephone	207-324-6737
Address	PO BOX 95 SPRINGVALE, ME 04083
Agency	SCARBOROUGH PD; ME0030700
Agency Telephone	207-883-6361
Address	246 ROUTE 1 SCARBOROUGH, ME 04074
Agency	BIDDEFORD PD; ME0160100
Agency Telephone	207-282-5127
Address	39 ALFRED ST BIDDEFORD, ME 04005
Agency	OLD ORCHARD BEACH PD; ME0160300

Agency Telephone	207-934-4911
Address	136 SACO AVE OLD ORCHARD BEACH, ME 04064

Agency	SANFORD PD; ME0160500
Agency Telephone	207-324-9170
Address	935 MAIN STREET SANFORD, ME 04073

Business Licensing - Re: The Drink Exchange - Update

From: Gary Rogers
To: Business Licensing
Date: 5/21/2015 11:28 AM
Subject: Re: The Drink Exchange - Update

Police approve, thanks.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 5/21/2015 10:31 AM >>>

Hi,

Tanner's SBI background check is clear, but Robert Dyer's came back with a couple of things. Could you please let me know if you have any concerns?

Thanks,
Janice

>>> Gary Rogers 5/20/2015 2:48 PM >>>
Police approve.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 5/19/2015 2:13 PM >>>

Hello,

Please find attached a revised version of the first page of the City application for The Drink Exchange. I sent the amended version that did not show Tanner Herget (d.o.b. 7/23/82) as the principal officer of The Herget Group. My apologies.

Thanks,
Janice

Business Licensing - Re: The Drink Exchange - Update

From: Melissa Norton
To: Licensing, Business
Date: 5/20/2015 1:00 PM
Subject: Re: The Drink Exchange - Update

The Merry Table currently owes Personal Property tax for 43 Wharf St.
\$411.51 as of today.

Melissa

>>> Business Licensing 5/19/2015 2:13 PM >>>

Hello,

Please find attached a revised version of the first page of the City application for The Drink Exchange. I sent the amended version that did not show Tanner Herget (d.o.b. 7/23/82) as the principal officer of The Herget Group. My apologies.

Thanks,
Janice

Portland, Maine



Yes. Life's good here.

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

June 3, 2015

The Drink Exchange LLC
Attn: Tanner Herget
43 Wharf St.
Portland, ME 04101

Re: The Drink Exchange LLC d/b/a The Drink Exchange LLC. Application for a Class A Lounge License with Outdoor Dining on Public Property at 43 Wharf St.

Dear Mr. Herget,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, June 15th, at 7:00 p.m.** for the review of your application for a Class A Lounge License with Outdoor Dining on Public Property at 43 Wharf St. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

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

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

*Resolve 7-14/15
Tab 27 6-15-15*

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)

RESOLUTION ADOPTING COUNCIL RULES FOR 2014-2015 AS AMENDED

BE IT RESOLVED, that the City Council of the City of Portland, Maine, in the City Council assembled, does hereby adopt the amended rules and orders of the City Council as attached hereto as the Rules of Procedure of the City Council.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Nominating Committee

DATE: 5/18/2015

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

SUBJECT: Revision of the Council Rules regarding Workshops

SPONSOR: Councilor David Brenerman

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 Final Action June 15, 2015

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

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

I. SUMMARY OF ISSUE (Agenda Description)

The amended Rule concerns City Council Workshops, which have had no separate Rule in the City Council Rules of Procedure (the "Rules"). In the proposed amendment to the Rules, a new subsection of Rule 1 lays out who has the authority to call a Workshop and what specific matters may be addressed during City Council workshops. Votes are not taken during Workshops; but under the proposed Rule, it is permissible to poll the Council to determine its position on the issue being discussed. Such a non-binding poll would have no legislative effect, and instead would be advisory only.

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

Councilors are seeking greater clarity on how to conduct workshops and after discussing of possible alternatives to the Rules, approved the attached for the consideration of the full Council.

III. INTENDED RESULT

The addition of the new Rule would remove any doubt or confusion about the various ways the City Council may seek information, review proposals and ask questions before votes

held at the regular and special City Council Meetings that typically follow the workshops later in the evening.

IV. COUNCIL GOAL ADDRESSED n/a

V. FINANCIAL IMPACT

There is no financial impact to the proposed Rule Amendment.

VI. STAFF ANALYSIS

Corporation Counsel worked with the Nominating Committee on these revisions and approves them as to form.

VII. RECOMMENDATION

The Nominating Committee, on a 3-0 vote on April 27, 2015, recommended the approval of the addition of the subsection specific to Council Workshops in Rule 1 of the Council Rules of Procedure, as amended in the draft attached, for consideration by the full City Council.

VIII. LIST ATTACHMENTS

Order

April 16, 2015 Memo from Danielle West-Chuhta, Corporation Counsel, with attachments

Prepared by: Danielle West-Chuhta

Date: 5/18/2015

RULES OF PROCEDURE OF THE CITY COUNCIL

Rule 1. Regular Meetings and Council Workshop Sessions

- A. The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 7:00 p.m. on the first and third Mondays of each calendar month. When said Monday is a holiday, an election day, or the first Monday in December, the regular meeting shall be held on the following Wednesday, at the same time and place. The date or the time of any regular meeting may be changed by an order passed at a previous meeting of the Council or by warrant for a special meeting called in lieu of a regular meeting; provided however, that said change in date will still provide for two regular meetings in one month. Unless otherwise changed by an order passed at a preceding meeting or by the calling of a special meeting at a different time or place, for like purposes, the Council shall also regularly meet at 12:00 noon on the first Monday of December of each year for the purpose of the inauguration of Portland City Council, the swearing in of Councilors-elect, filling Council committees, adopting rules and orders, and transacting such other business as it may deem appropriate. The public hearing of any item shall not commence after 12:00 midnight of the day of said regular meeting, except such items as the Mayor determines to be necessary, unless five (5) members consent to such consideration. The Council deliberation and action on any item shall not commence after 10:00 PM of the day of said regular meeting, except such items as the Mayor determines to be necessary, unless five (5) members consent to such consideration.
- B. With proper notice, workshop sessions of the City Council may be called by five (5) members of the City Council, the Mayor or the City Manager, as the case may be, for obtaining legal, administrative or policy guidance or for the presentation of information by the City Manager, the City Clerk or Corporation Counsel or their staff. The City Council shall not take votes in workshop sessions; however, the Council may be polled at the workshop to obtain an unofficial sense of the

position of the Council on an issue being discussed at the workshop. To the maximum extent possible, materials for such sessions shall be provided to the City Council at least two (2) days prior to the scheduled workshop. All such workshop sessions shall be open to the public, in accordance with 1 M.R.S. §400 et seq. ("FOAA").

Rule 2. Quorum; Adjourned Meetings

A majority of the members shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken.

Rule 3. Enactments

The Council shall act only by ordinance, order, or resolve. Final passage of any item shall require five (5) affirmative votes except where a greater number is required by Charter or Ordinance. All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title. The appropriation order or resolve shall be confined to the subject of appropriations only.

Rule 4. Ordinance; Style

All ordinances passed by the Council shall be termed "amendments to the Portland City Code" and the enacting style shall be: "Be it ordained by the City Council of the City of Portland, Maine, in City Council assembled."

Rule 5. Order and Resolve; Style

In all votes of command, the form of expression shall be "ordered"; and of opinions, principles, facts or purposes, the form shall be "resolved".

Rule 6. Readings

The reading of any ordinance, order, or resolve shall be by title of the ordinance, order or resolve only, if no member objects.

Rule 7. Reading on Two Separate Days; Waiver

No ordinance, no appropriation resolve, and no order authorizing the expenditure of \$500.00 or more shall be passed until it has been read on two separate days, except when the requirement of reading on two separate days has been dispensed with by a vote of seven (7) of the members.

Rule 8. Yeas and Nays Taken; When

The yeas and nays shall be taken upon the passage of all ordinances and orders authorizing the expenditure of money in the amount of \$500.00 or more and upon any motion to adjourn and entered upon the record of the proceedings of the Council by the Clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member.

Rule 9. Ordinances; Effective When

No ordinance shall take effect until thirty (30) days after its passage by the Council, except in the case of emergency ordinances.

Rule 10. Order, Resolve; Effective When

No order or resolve shall take effect until ten (10) days after its passage, except in the case of emergency orders and resolves.

Rule 11. Emergency Ordinances, Orders and Resolves

The Council may, by vote of seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the Council shall be conclusive.

Rule 12. Item for Meetings; Filed When

No ordinance, order, resolve, or other document shall be in order for action at any regular meeting of the Council unless such ordinance, order, resolve, or other document shall appear on the Council Agenda. Items for the Agenda shall be received in the office of the City Manager on or before close of the work day on the immediately preceding Tuesday.

Rule 13. Presiding Officer to Chair Meetings

The Presiding Officer shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called, and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business.

Rule 14. Preserve Order Decide All Questions of Order

The Presiding Officer shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided.

Rule 15. Declare Votes; Cause Return of Votes

The Presiding Officer shall declare all votes, but if any member doubts a vote, the Presiding Officer shall cause a return of the members voting in the affirmative and in the negative; without debate.

Rule 16. Debate; Rules of

When a question is under debate, the Presiding Officer shall receive no motion but to adjourn, or for the previous question, or to lay on the table, or to postpone to a day certain or to refer to a committee or some administrative official, or to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged.

Rule 17. Motion to Adjourn; Lay on Table

The Presiding Officer shall consider a motion to adjourn as always in order except on immediate repetition;

and that motion and the motion to lay on the table, or to take from the table, shall be decided without debate.

Rule 18. Reconsideration

When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote to move a reconsideration thereof, at the time, or the next stated meeting, but not afterwards, and when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next stated meeting unless an item to that effect is contained in the agenda for such next stated meeting or unless seven of the members consent to such reconsideration. A citizen petition, or zone change petition, once presented to and finally acted upon by the Council shall not again be received by the Council in the same or substantially the same form for a period of one year next succeeding the Council's final action on the original petition. A member voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

A liquor license or special entertainment permit, or an amendment proposed by the licensee to an existing license or permit that has been denied by the Council shall not be received by the Council in the same or substantially the same form for one year from the date of such action unless a shorter period is required by state law.

Rule 19. Failure to Pass for Lack of Required Votes

When an item fails to finally pass for lack of the required five (5), or seven (7) affirmative votes, as applicable, and is not otherwise disposed of, the item shall appear on the Agenda as unfinished business at the next succeeding meeting.

Rule 20. Motion for Previous Question

Upon the motion for the previous question being made and seconded, the Presiding Officer shall put the question in the following form: "Shall the main question be now put?". And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the

previous question by a majority vote, the sense of the Council shall be forthwith taken upon all pending amendments and then upon the main question. Neither is it susceptible of amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the Presiding Officer or not.

Rule 21. Manner of Speaking

When a member is about to speak, he or she shall rise in his or her place and respectfully address the Presiding Officer, confine himself or herself to the question under debate, and avoid personalities.

Rule 22. Length of Statements by Members

During the deliberation on any item, each member shall limit his or her remarks and/or questions, to a total of ten (10) minutes.

Rule 23. Not to Interrupt

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

Rule 24. Breach of Rules and Orders

When any member shall be guilty of a breach of any of the rules or orders of the Council, that members may, on motion, be required to make satisfaction therefor, and shall not be allowed to vote, or speak, except by way of excuse, until he or she has done so.

Rule 25. Member Excused From Voting; When

Every member present when a question is put shall vote unless the member is precluded from participation therein because of interest or the appearance of interest or unless she or he is otherwise prohibited by law from participation.

(a) Any member abstaining on grounds of interest or the appearance of interest must do so at the commencement of deliberations on the item under discussion and shall not participate in said deliberations or vote on such item.

(b) Any member abstaining as permitted hereunder shall clearly state such intent, the reason for such abstention

and the legal or factual basis therefor prior to the commencement of deliberation on such item.

Rule 26. Motion to be Reduced to Writing; When

Any motion shall be reduced to writing if the Presiding Officer shall so direct.

Rule 27. Division of Question

Any member may require the division of a question when the sense will admit it.

Rule 28. Motion for Referral

A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

Rule 29. Priority of Business

All questions relating to priority of business to be acted upon shall be decided without debate.

Rule 30. Suspension of Rules; Amendment or Repeal

The rules shall not be dispensed with or suspended unless two-thirds as of those present and voting consent thereto; provided, however, that when these rules expressly require a vote larger than said two-thirds such rules shall not be suspended except by an equal or greater vote. No rule of procedure shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Rule 31. Procedure for Addressing Council

Any person wishing to address the Council will be given an opportunity to do so in accordance with the following procedure:

1. No public comment shall be permitted on the following agenda items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior action of the Council where that prior action had permitted public comment.

2. On items other than those set forth in 1. above, public comment shall be permitted only once prior to final Council action. Except as specifically decided by the Council, such public comment shall occur at the advertised public hearing or at the second reading of such item by the Council, where the item requires a second reading on a separate date.

3. Persons wishing to address the Council on an item which appears on the agenda, and upon which public comment is permitted under 1. and 2. above, shall wait until the Clerk announces the consideration of such item, at which time they may address the Council on that particular item. However, once the Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item, and any person desiring to further address the Council on such item must wait to do so until all items on the agenda have been completed if, and only if, such agenda has been completed before 11:00 p.m.

4. Persons wishing to address the Council on an item not appearing on the agenda shall only do so only after disposition of all items appearing on the agenda and only if said agenda is completed prior to 11:00 p.m. No person wishing to address Council after completion of agenda shall commence such comments after 11:00 P.m.

5. Any person wishing to address the Council shall signify such desire by raising his or her hand and, when recognized by the Presiding Officer, such person shall thereupon request permission to address the Council, giving his or her name and address and designating the subject matter on which he or she desires to address the Council.

6. When any person or entity is being honored or recognized by the Council, applause shall be permitted. In all other matters, persons present at Council meetings shall not interrupt, nor applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.

7. Persons addressing the Council on an item prior to start of deliberation on such item by the Council shall be permitted to speak only once on an item, and shall limit their remarks on each item to three (3) minutes. Such persons shall confine their remarks to the merits of the pending item. No members of the public shall comment on

more than three (3) items at any Council meeting unless the Rules of the Council are suspended to allow for comment on each such additional item. After disposition of all items appearing on the agenda, persons addressing the Council shall limit their total remarks to three (3) minutes.

8. The Presiding Officer may limit or cut off any commentary that is not germane or that is scurrilous, abusive, or not in accord with good order and decorum.

9. Any person who shall continue to violate these rules, after warning by the Presiding Officer, shall be ejected for the remainder of the meeting then in progress.

Rule 32. Parliamentary Proceedings

In all cases where the parliamentary proceedings are not determined by the foregoing rules, "Robert's Rules" shall be taken as authority to decide the course of the proceedings.

Rule 33. Council Committees

At the commencement of the municipal year, or as soon thereafter as possible, members shall be appointed to the following standing committees, each committee to consist of four members of the Council except for the Legislative Committee which shall have five (5) members:

1. Finance Committee
2. Public Safety, Health and Human Services Committee
3. Nomination Committee
4. Housing and Community Development Committee
5. Legislative Committee
6. Transportation, Sustainability and Energy Committee

Rule 34. Council Committees; How Chosen

The members of the Council to serve on the above committees shall be appointed by the Mayor. The Council may override one or more of such appointments by a vote of at least six (6) members.

Rule 35. Council Committees; Public Comment

The public will be given an opportunity to comment on any item under consideration by the below-named standing committees prior to a final committee action on that item. Rules governing the procedure for such public comment shall be determined by each committee. This requirement for public comment shall apply to the following:

1. Finance Committee;
2. Public Safety, Health and Human Services Committee;
3. Nomination Committee;
4. Housing and Community Development Committee;
5. Legislative Committee;
6. Transportation, Sustainability and Energy Committee

Nothing herein shall prevent or prohibit any other committee from accepting public comment if said committee determines that it wishes to do so.

Notwithstanding the foregoing, no public comment shall be required on the following items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior Committee action where that prior action had permitted public comment.

Rule 36. Smoking at Meetings

No person shall smoke in the Council Chamber or at any public meeting in the Portland City Hall. Any person continuing to smoke after warning by the Presiding Officer shall be ejected for the remainder of the meeting then in progress.

Rule 37. Confidentiality

No Councilor shall intentionally disclose or discuss information known to be confidential to or with any person not otherwise authorized or privileged to receive that information, including representatives of the media. For the purpose of this rule, "information known to be confidential" includes information in any form that has been designated, to the knowledge of the Councilor, as confidential by an employee or agent of the City of Portland, and that is within one or more of the exceptions to the definition of "public record" in the State's Freedom of Access law.

Confidential information includes statements made by individuals participating in executive sessions and includes any documents prepared specifically for an executive session, unless otherwise designated by the City Council in cases where the Council has the exclusive right to waive confidentiality.

Any Councilor who, following a due process hearing, is found to have violated this rule may be disciplined by reprimand.

**CITY OF PORTLAND
MEMORANDUM**

TO: Chair David Brenerman and Members of the Nomination Committee
FROM: Danielle P. West-Chuhta, Corporation Counsel *DW-c*
DATE: April 16, 2015
RE: Council Rules re: Workshops

This memo follows up on the Nominating Committee's (the "Committee") last meeting regarding the City Council Rules and workshops (See Memo from dated March 17, 2015 attached hereto as Attachment 1). As the Committee requested at the end of its meeting, I have drafted two possible amendments that could be made to the City Council Rules to address the Committee's thoughts and issues with regard to workshops (See draft rules labeled option 1 and option 2, attached hereto as Attachment 2). It is my understanding that the Committee will take up review of these proposed rules and ultimately make a recommendation to the full City Council at its April 27, 2015 meeting. I will be present at that meeting to answer any questions.

ATTACHMENT 1

**CITY OF PORTLAND
MEMORANDUM**

TO: Chair David Brenerman and Members of the Nomination Committee
FROM: Danielle P. West-Chuhta, Corporation Counsel
DATE: March 17, 2015
RE: Council Workshops

The Nomination Committee ("Committee") requested that I review the City Council Rules (the "Rules"), City Ordinances and the City Charter to determine what, if any, existing rules or regulations apply to Council workshops. Primarily, it is my understanding that the Committee is interested in potentially revising and amending the Rules to address when, how, and why a Council workshop can and should be scheduled. The following is a summary of my research on this issue:

I. City Council Rules

As you know, a council workshop has been used as a tool to allow the City Council to discuss, receive information from staff, ask questions and review items prior to voting on an item in a City Council meeting. These workshops have consistently been held prior to the City Council's regular Monday night meetings, and have been scheduled in advance by City staff and/or the Mayor.

Despite the clear process that has been used over the years, the Rules do not contain a separate rule addressing or any specific references to workshops themselves. The Rules, do, however, make clear that there shall be "[n]o public comment" on the "informational reports or communications from boards and commissions, staff or other organizations"¹ which are normally presented during these workshops." (City Council Rule 35 attached hereto as Exhibit A).

The Rules further indicate, however, that "[i]n all cases where the parliamentary proceedings are not determined by the foregoing rules, "Robert's Rules" shall be taken as

¹ The Maine Freedom of Access Act ("FOAA") requires that all city council workshops be open to the public (since they are public proceedings) and reasonable notice must be given to the public of said meetings (1 M.R.S. §§402(2), 403(1) and 406).

authority to decide the course of proceedings” (Council Rule 32). An exhaustive review of Robert’s Rules reveals that it too does not contain a specific rule applicable to workshops.

II. City Charter and City Ordinances

First, the City Charter only contains one reference to workshops. The reference specifically provides that the Mayor shall “convene and lead an annual workshop session of the city council to discuss and identify the city’s goals and priorities in order to provide guidance for the city manager and to inform the public.” (City Charter, Article II, §5(b), attached hereto as Exhibit B).

Next, the City ordinances also do not contain a reference to council workshops. There is, however, a section specific to Planning Board Workshops (City Code Chapter 14 §26, attached hereto as Exhibit C).

III. Conclusions

Overall, given the fact that there is currently no specific rule or regulation applicable to City Council workshops, the Committee can choose to either amend the Rules to address this issue² or continue to operate without such a rule or regulation on the books. Although I am comfortable with both approaches, I have drafted a possible amendment to the Rules for discussion purposes (See Draft Rule 1(B), attached hereto as Exhibit D). I will be present at your March 23, 2015 meeting to discuss this memo and possible draft amendment to the Rules in more detail.

² The Rules may be amended if notice is given at the meeting before such an amendment is to be reviewed and voted on by the City Council (City Council Rule 30). Essentially, any amendment to the Rules would be a two (2) read agenda item.

EXHIBIT A

RULES OF PROCEDURE OF THE CITY COUNCIL

Rule 1. Regular Meetings

The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 7:00 p.m. on the first and third Mondays of each calendar month. When said Monday is a holiday, an election day, or the first Monday in December, the regular meeting shall be held on the following Wednesday, at the same time and place. The date or the time of any regular meeting may be changed by an order passed at a previous meeting of the Council or by warrant for a special meeting called in lieu of a regular meeting; provided however, that said change in date will still provide for two regular meetings in one month. Unless otherwise changed by an order passed at a preceding meeting or by the calling of a special meeting at a different time or place, for like purposes, the Council shall also regularly meet at 12:00 noon on the first Monday of December of each year for the purpose of the inauguration of Portland City Council, the swearing in of Councilors-elect, filling Council committees, adopting rules and orders, and transacting such other business as it may deem appropriate. The public hearing of any item shall not commence after 12:00 midnight of the day of said regular meeting, except such items as the Mayor determines to be necessary, unless five (5) members consent to such consideration. The Council deliberation and action on any item shall not commence after 10:00 PM of the day of said regular meeting, except such items as the Mayor determines to be necessary, unless five (5) members consent to such consideration.

Rule 2. Quorum; Adjourned Meetings

A majority of the members shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken.

Rule 3. Enactments

The Council shall act only by ordinance, order, or resolve. Final passage of any item shall require five (5) affirmative votes except where a greater number is required by Charter or Ordinance. All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title. The appropriation order or resolve shall be confined to the subject of appropriations only.

Rule 4. Ordinance; Style

All ordinances passed by the Council shall be termed "amendments to the Portland City Code" and the enacting style shall be: "Be it ordained by the City Council of the City of Portland, Maine, in City Council assembled."

Rule 5. Order and Resolve; Style

In all votes of command, the form of expression shall be "ordered"; and of opinions, principles, facts or purposes, the form shall be "resolved".

Rule 6. Readings

The reading of any ordinance, order, or resolve shall be by title of the ordinance, order or resolve only, if no member objects.

Rule 7. Reading on Two Separate Days; Waiver

No ordinance, no appropriation resolve, and no order authorizing the expenditure of \$500.00 or more shall be passed until it has been read on two separate days, except when the requirement of reading on two separate days has been dispensed with by a vote of seven (7) of the members.

Rule 8. Yeas and Nays Taken; When

The yeas and nays shall be taken upon the passage of all ordinances and orders authorizing the expenditure of money in the amount of \$500.00 or more and upon any motion to adjourn and entered upon the record of the proceedings of the Council by the Clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member.

Rule 9. Ordinances; Effective When

No ordinance shall take effect until thirty (30) days after its passage by the Council, except in the case of emergency ordinances.

Rule 10. Order, Resolve; Effective When

No order or resolve shall take effect until ten (10) days after its passage, except in the case of emergency orders and resolves.

Rule 11. Emergency Ordinances, Orders and Resolves

The Council may, by vote of seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the Council shall be conclusive.

Rule 12. Item for Meetings; Filed When

No ordinance, order, resolve, or other document shall be in order for action at any regular meeting of the Council unless such ordinance, order, resolve, or other document shall appear on the Council Agenda. Items for the Agenda shall be received in the office of the City Manager on or before close of the work day on the immediately preceding Tuesday.

Rule 13. Presiding Officer to Chair Meetings

The Presiding Officer shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called, and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business.

Rule 14. Preserve Order Decide All Questions of Order

The Presiding Officer shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided.

Rule 15. Declare Votes; Cause Return of Votes

The Presiding Officer shall declare all votes, but if any member doubts a vote, the Presiding Officer shall cause a return

of the members voting in the affirmative and in the negative; without debate.

Rule 16. Debate; Rules of

When a question is under debate, the Presiding Officer shall receive no motion but to adjourn, or for the previous question, or to lay on the table, or to postpone to a day certain or to refer to a committee or some administrative official, or to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged.

Rule 17. Motion to Adjourn; Lay on Table

The Presiding Officer shall consider a motion to adjourn as always in order except on immediate repetition; and that motion and the motion to lay on the table, or to take from the table, shall be decided without debate.

Rule 18. Reconsideration

When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote to move a reconsideration thereof, at the time, or the next stated meeting, but not afterwards, and when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next stated meeting unless an item to that effect is contained in the agenda for such next stated meeting or unless seven of the members consent to such reconsideration. A citizen petition, or zone change petition, once presented to and finally acted upon by the Council shall not again be received by the Council in the same or substantially the same form for a period of one year next succeeding the Council's final action on the original petition. A member voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

A liquor license or special entertainment permit, or an amendment proposed by the licensee to an existing license or permit that has been denied by the Council shall not be received by the Council in the same or substantially the same form for one year from the date of such action unless a shorter period is required by state law.

Rule 19. Failure to Pass for Lack of Required Votes

When an item fails to finally pass for lack of the required five (5), or seven (7) affirmative votes, as applicable, and is not otherwise disposed of, the item shall appear on the Agenda as unfinished business at the next succeeding meeting.

Rule 20. Motion for Previous Question

Upon the motion for the previous question being made and seconded, the Presiding Officer shall put the question in the following form: "Shall the main question be now put?". And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the Council shall be forthwith taken upon all pending amendments and then upon the main question. Neither is it susceptible of amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the Presiding Officer or not.

Rule 21. Manner of Speaking

When a member is about to speak, he or she shall rise in his or her place and respectfully address the Presiding Officer, confine himself or herself to the question under debate, and avoid personalities.

Rule 22. Length of Statements by Members

During the deliberation on any item, each member shall limit his or her remarks and/or questions, to a total of ten (10) minutes.

Rule 23. Not to Interrupt

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

Rule 24. Breach of Rules and Orders

When any member shall be guilty of a breach of any of the rules or orders of the Council, that members may, on motion, be required to make satisfaction therefor, and shall not be allowed to vote, or speak, except by way of excuse, until he or she has done so.

Rule 25. Member Excused From Voting; When

Every member present when a question is put shall vote unless the member is precluded from participation therein because of interest or the appearance of interest or unless she or he is otherwise prohibited by law from participation.

(a) Any member abstaining on grounds of interest or the appearance of interest must do so at the commencement of deliberations on the item under discussion and shall not participate in said deliberations or vote on such item.

(b) Any member abstaining as permitted hereunder shall clearly state such intent, the reason for such abstention and the legal or factual basis therefor prior to the commencement of deliberation on such item.

Rule 26. Motion to be Reduced to Writing; When

Any motion shall be reduced to writing if the Presiding Officer shall so direct.

Rule 27. Division of Question

Any member may require the division of a question when the sense will admit it.

Rule 28. Motion for Referral

A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

Rule 29. Priority of Business

All questions relating to priority of business to be acted upon shall be decided without debate.

Rule 30. Suspension of Rules; Amendment or Repeal

The rules shall not be dispensed with or suspended unless two-thirds as of those present and voting consent thereto; provided, however, that when these rules expressly require a vote larger than said two-thirds such rules shall not be suspended except by an equal or greater vote. No rule of procedure shall be amended or repealed without notice, in writing, being given at the preceding meeting.

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Any person wishing to address the Council will be given an opportunity to do so in accordance with the following procedure:

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6. When any person or entity is being honored or recognized by the Council, applause shall be permitted. In all other matters, persons present at Council meetings shall not interrupt, nor applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.

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8. The Presiding Officer may limit or cut off any commentary that is not germane or that is scurrilous, abusive, or not in accord with good order and decorum.

9. Any person who shall continue to violate these rules, after warning by the Presiding Officer, shall be ejected for the remainder of the meeting then in progress.

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In all cases where the parliamentary proceedings are not determined by the foregoing rules, "Robert's Rules" shall be taken as authority to decide the course of the proceedings.

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At the commencement of the municipal year, or as soon thereafter as possible, members shall be appointed to the following standing committees, each committee to consist of four members of the Council except for the Legislative Committee which shall have five (5) members:

1. Finance Committee
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Rule 34. Council Committees; How Chosen

The members of the Council to serve on the above committees shall be appointed by the Mayor. The Council may override one or more of such appointments by a vote of at least six (6) members.

Rule 35. Council Committees; Public Comment

The public will be given an opportunity to comment on any item under consideration by the below-named standing committees prior to a final committee action on that item. Rules governing the procedure for such public comment shall be determined by each committee. This requirement for public comment shall apply to the following:

1. Finance Committee;
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Nothing herein shall prevent or prohibit any other committee from accepting public comment if said committee determines that it wishes to do so.

Notwithstanding the foregoing, no public comment shall be required on the following items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior Committee action where that prior action had permitted public comment.

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No person shall smoke in the Council Chamber or at any public meeting in the Portland City Hall. Any person continuing to smoke after warning by the Presiding Officer shall be ejected for the remainder of the meeting then in progress.

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No Councilor shall intentionally disclose or discuss information known to be confidential to or with any person not otherwise authorized or privileged to receive that information, including representatives of the media. For the purpose of this rule, "information known to be confidential" includes information in any form that has been designated, to the knowledge of the Councilor, as confidential by an employee or agent of the City of Portland, and that is within one or more of the exceptions to the definition of "public record" in the State's Freedom of Access law.

Confidential information includes statements made by individuals participating in executive sessions and includes any documents prepared specifically for an executive session, unless otherwise designated by the City Council in cases where the Council has the exclusive right to waive confidentiality.

Any Councilor who, following a due process hearing, is found to have violated this rule may be disciplined by reprimand.

EXHIBIT B

PART I CHARTER*

*Editor's note--Historical references are cited in parentheses at the end of each section. Such references cite only the various amendments adopted by referenda conducted pursuant to home rule powers granted by P.L. 1970, c. 563 (30 M.R.S.A. § 1911 et seq.). Prior to 1970 and home rule the charter and its various amendments were enacted by the Maine Legislature and such are not cited in said parentheses. A history of the charter and amendments is attached as Appendix A.

State law reference(s)--Home rule, 30 M.R.S.A. § 2101 et seq.

Preamble

- Art. I. Grant of Powers to the City, §§ 1, 2
- Art. II. City Council; Mayor, Ranked Choice Voting §§ 1--11
- Art. III. Board of Public Education, §§ 1--6
- Art. IV. Elections, §§ 1--11
- Art. V. Recall, §§ 1--7
- Art. VI. Administrative Officers, §§ 1--8
- Art. VII. Business and Financial Provisions, §§ 1--16
- Art. VIII. Miscellaneous Provisions, §§ 1--5

PREAMBLE

We, the People of Portland, Maine, establish this Charter to secure the benefits of local governance and to provide for the general health, safety and welfare of our community. In so doing, we build a government that meets the needs of the people it serves and whose character it reflects. Our government shall further cooperation, encourage leadership, solicit our input and support the active participation of our residents in their governance. Our government shall be effective and accountable and shall promote equal rights and representative democracy.

Our government shall provide public education that enables all residents to acquire the knowledge and skills necessary to participate fully in Portland's civic, intellectual, cultural and economic life, in order to enrich and strengthen our community and our common future.

(Referendum 11/2/10)

ARTICLE I. GRANT OF POWERS TO THE CITY

Section 1. Corporate existence retained.

The inhabitants of the City of Portland shall continue to be a body politic and corporate by the name of the City of Portland, and shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon such city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations, and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof as such by-laws, regulations, or ordinances shall provide. Such penalties shall not limit nor diminish in any way the city's authority to seek and obtain higher or different penalties provided by state or other law. (Referenda 12/4/72; 11/2/10)

Section 2. Powers and duties.

The administration of all the fiscal, prudential, and municipal affairs of the City of Portland, with the government thereof, except the general management, care, conduct, and control of the schools of such city which shall be vested in a board of public education as hereinafter provided (also referred to herein as the "school board"), and also except as otherwise provided by this charter, shall be and are vested in one body of nine members, which shall constitute and be called the city council, all of whom shall be inhabitants of the city, and shall be sworn in the manner hereinafter prescribed.

The members of the city council shall be and constitute the municipal officers of the City of Portland for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state.

All other powers now or hereafter vested in the inhabitants of such city, and all powers granted by this charter, except as herein otherwise provided, shall be vested in the city council.
(Referendum 11/2/10)

ARTICLE II. CITY COUNCIL

Section 1. City to be divided into election districts.

For the purpose of all elections the city, including its islands, shall be divided into five (5) districts to establish compact and contiguous districts of approximately equal population.

The city council for voting purposes may by ordinance divide the election districts into voting districts. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/2/11)

Section 2. Composition, election, tenure of office.

The city council shall be composed of nine (9) members, including the mayor who shall be one of the nine (9) members of the city council, and shall hold office for a term of three (3) years and until their successors are elected and qualified, except as provided below for the term of mayor and for one at large seat in the election of 2013 only. Four (4) members, including the mayor, shall be elected at large from and by the registered voters of the entire city, and one (1) shall be elected from each of the five (5) districts heretofore provided for, from and by the registered voters of each district. References in this charter to the city council, councilors, council, its members or membership, shall be deemed to include the mayor, unless otherwise specifically provided.

For the municipal election in November of 2013, one of the two at large seats up for election shall have a one-time four year term ending in 2017. Thereafter, the council term shall return to be three (3) years for this seat. The city clerk shall designate which seat shall be for the four (4) year term prior to the availability of nomination papers for the 2013 election, and nomination papers shall be separately issued for each of the two at large seats. Each at large candidate may take out and file nomination papers for only one of the at large seats. The municipal ballot will list the 4-year and 3-year council seats as separate questions.

All candidates must be residents of the city for a period of at least three (3) months prior to the date on or before

which nomination papers are to be filed. The candidate from each of the five (5) districts must be a resident of such district for a period of at least three (3) months prior to the date on or before which the nomination papers are to be filed.

Beginning with the regular municipal election in November, 2011, the at large position then up for election shall be designated as the mayor's position and shall continue as the mayor's position thereafter. The position of mayor only shall be elected by majority vote as provided in section 3 of this article. The candidate(s) for mayor shall be nominated in the same manner as other at large members of the council. The term of mayor shall be four (4) years, with a maximum limit of two (2) consecutive terms. The election and position of mayor shall be a non-partisan, full-time position. (Referenda 12/1/75; 6/13/78; 11/4/86; 11/3/87; 11/2/10; 11/6/12).

Section 3. Ranked choice voting; instant runoff tabulation.

For the position of mayor only, the city clerk shall implement a ranked choice voting protocol according to these guidelines:

- (a) The ballot shall give voters the option of ranking mayoral candidates in order of choice.
- (b) If a mayoral candidate receives a majority, i.e. at least one more than fifty percent (50%) of the first choice votes cast, that candidate is elected.
- (c) If no candidate receives a majority of first choice votes, an instant runoff re-tabulation shall be promptly conducted by the city clerk and completed within five (5) business days of the election. The instant runoff re-tabulation shall be conducted in successive rounds, with the majority determined for each successive round by the number of votes cast in that round. The candidate with the fewest votes after each successive round in which no candidate receives a majority of the votes cast in that round shall be eliminated, and the votes in the successive rounds shall be re-tabulated among the remaining candidates until one candidate receives a majority of the votes cast in that round. In each successive round, each voter's ballot shall count as a single vote for

whichever candidate the voter has ranked highest who has not been eliminated in a prior round, if any.

- (d) After the first round, a majority is determined as at least one (1) more than fifty percent (50%) of the votes cast for a remaining candidate in a particular round.
- (e) The city clerk may adopt additional regulations consistent with this subsection to implement these provisions. The ballot shall contain instructions on how to vote for each office. (Referendum 11/2/10)

Section 4. Compensation of councilors and mayor.

Except as otherwise provided in the paragraph below for the mayor's compensation, the city council shall by order establish the amount each member shall be entitled to receive as compensation for all services rendered, and specify when any compensation shall be payable, but no such order increasing their compensation, including that of the mayor, shall take effect during the then current municipal year, and no such payment of compensation shall be made in advance.

Prior to the date nomination papers are available for the first mayoral election, the city council shall set the mayor's compensation and shall re-set it prior to the date nomination papers are available for each mayoral election thereafter. During the mayor's term, the city council may adjust the mayor's compensation. At minimum, the mayor shall be paid compensation consisting of a salary which is no less than one and one-half (1.5) times the median household income for Portland as most recently published by the U.S. Census Bureau, American Community Survey, or successor index thereto, at the time such compensation is set or adjusted, plus customary city benefits.

No member shall hold any office or employment the compensation of which is payable by the city or school department during the term for which he or she was elected. (Referenda 12/1/75; 6/13/78; 11/4/86; 11/3/87; 11/2/10)

Section 5. Mayor's powers and duties.

The mayor shall be the official head of the city, responsible for providing leadership, and shall have the following powers and duties:

- (a) To articulate the city's vision and goals and build coalitions to further such vision and goals. The mayor shall give an annual state of the city address during a special meeting of the city council called for that purpose;
- (b) To convene and lead an annual workshop session of the city council to discuss and identify the city's goals and priorities in order to provide guidance for the city manager and to inform the public. The city manager shall attend this workshop session, and a summary of the session shall be made available to the public;
- (c) To represent the city with other municipalities, levels of government, community and neighborhood groups, and the business community;
- (d) To preside as chair of the city council, and vote upon all matters in the same manner as other members of the city council, except as provided in article VII, section 8. The mayor shall direct the city manager in the preparation of council meeting agendas;
- (e) To facilitate the implementation of city policies through the office of the city manager;
- (f) To consult with and provide guidance to the city manager in the preparation of all city budgets and to provide comments on such budgets at the time they are presented by the city manager to the city council for approval;
- (g) To consult with and provide guidance to the city manager in the preparation of the annual capital improvement program plan described in article VI, section 5, paragraph (i), and to provide comments on such program plan at the time it is presented by the city manager to the city council;
- (h) To facilitate among the city manager, city council, board of public education and the public to secure passage by the city council of the annual city and school budgets;

- (i) To exercise veto power over the annual city appropriation as provided in article VII, section 8;
- (j) To establish performance guidelines in conjunction with the other members of the city council for regular evaluations, no less than annually, by the city council of the performance of the city manager, corporation counsel and city clerk, such evaluations to be based upon those guidelines. Such performance guidelines shall have measurable goals and objectives, taking into consideration, as applicable, the achievement of city policies and priorities;
- (k) To chair any subcommittee with at least two (2) other city councilors to recommend the appointment or removal of the city manager, corporation counsel or the city clerk, but the full city council shall have the final decision in regard to such appointment or removal by a vote of at least five (5) members of the council; and
- (l) To appoint the members and chairs of the city council committees and various ad hoc committees and communicate such appointments to the city council, which may override such appointments by a vote of at least six (6) council members.

Notwithstanding the foregoing, the city manager shall be in charge of the day to day operations of the city and administration of the city budgets approved by the council.
(Referendum 11/2/10)

Section 6. Absence or disability of mayor; acting mayor.

In the temporary absence or disability of the mayor, the mayor may select an acting mayor from among the other council members and such person shall perform the duties of the mayor during such temporary absence or disability for a maximum of sixty consecutive (60) days or return of the mayor, whichever comes first. If through physical or mental incapacity the mayor is unable to select an acting mayor, or if the mayor's absence or disability exceeds sixty (60) consecutive days, the council shall select an acting mayor from among its membership until such time as the mayor is able to resume his or her duties or a vacancy is declared pursuant to section 7 below and a new mayor elected. (Referendum 6/13/78; 11/7/00; 11/2/10)

Section 7. Vacancies.

A vacancy in the membership of the city council shall occur upon the happening of the following: (1) the death of a member; (2) the effective date of the resignation of a member; (3) the removal of a member from the district from which he or she was elected; (4) the removal of a member from the city; (5) the conviction of a member of a felony while in office; or 6) the recall of a member pursuant to the provisions of article V. The council shall declare a vacancy in its membership to exist upon the failure of a member to attend any six (6) consecutive regular meetings of the city council, or at least sixty (60) percent of the regular meetings of the city council held in any one calendar year unless such member shall be excused (by vote of at least four (4) other members) for health reasons or other good cause.

The council shall declare a vacancy in its membership to exist upon the qualification of any member for any city or school department office, or the acceptance of any employment with the city or school department, the compensation for which is payable by the city or school department.

A member may in writing addressed to the council resign his or her office effective at a future date specified in such written resignation. Once submitted to the council, such resignation may not be withdrawn, and such member's office shall become vacant on such specified future date.

If a vacancy in the membership of the city council occurs or is declared prior to the next regular municipal election, the vacancy shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

Section 8. Meetings of the council.

The city council shall meet at the usual place for holding meetings on the first Monday in December following the regular municipal election, or as soon thereafter as possible, and at such meeting the mayor and councilors-elect shall be sworn to

the faithful discharge of their duties by a justice of the peace, or by the city clerk. The city council shall at such meeting establish by resolution or rule a regular place and time for holding its meetings, and shall meet regularly at least twice each month. (Referenda 6/13/78; 11/4/86; 11/7/00; 11/2/10)

Section 9. Special meetings.

Special meetings may be called by the mayor, and in case of his or her absence, disability, or refusal, may be called by five (5) or more members of the city council. At least twenty-four (24) hours notice of the time and place of holding such special meeting shall be given to all members of the city council. (Referendum 11/2/10)

Section 10. Quorum.

Five (5) members of the city council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken. (Referendum 11/2/10)

Section 11. Procedure.

The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public in accordance with state law. The city council shall act only by ordinance, order, or resolve. All ordinances, orders, and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. An appropriation order or resolve shall be confined to the subject of appropriations only.

No ordinance and no appropriation order or resolve shall be passed until it has been read on two separate days, except when the requirement of a second reading on a separate day has been dispensed with by the vote of at least seven (7) members of the city council. The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance, order, and

resolve shall require on final passage the affirmative vote of at least five (5) members of the city council. No ordinance shall take effect until thirty (30) days after its passage and no order or resolve shall take effect until ten (10) days after its passage, except as herein otherwise provided for emergency ordinances, orders and resolves.

The city council may, by vote of at least seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders, or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the city council shall be conclusive. (Referendum 11/2/10)

ARTICLE III. BOARD OF PUBLIC EDUCATION

Section 1. Composition, election, tenure of office, compensation.

The board of public education shall be composed of nine (9) members who shall hold office, except as hereinafter provided, for a term of three (3) years and until their successors are elected and qualified. Four (4) shall be elected at large from and by the registered voters of the entire city, and one (1) shall be elected from each of the five (5) districts heretofore provided for in section 1 of article II, from and by the registered voters of each such district.

All candidates must be residents of the city for a period of at least three (3) months prior to the date on or before which nomination papers are to be filed. The candidate from each of the five (5) districts must be a resident of such district for a period of at least three (3) months prior to the date on or before which the nomination papers are to be filed.

The city council shall by order establish the amount each member of the school board shall be entitled to receive as compensation for all services rendered, which compensation shall be the same as that received by members of the city council, other than the mayor. The city council shall provide additional compensation to the chair of the school board appropriate to reflect his or her additional responsibilities as chair. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/3/87; 11/2/10)

Section 2. Chair.

On the first Monday in December following the regular municipal election, or as soon thereafter as possible, the board of public education shall elect one of its members as chair for the ensuing year and until a successor is elected and qualified, and may fill for the unexpired term any vacancy as chair that may occur.

At a date and time to be mutually agreed upon by the chair of the school board and the mayor, the chair shall deliver an annual address on the "state of the public education system in Portland" to the city council and the public. (Referenda 11/2/76; 6/13/78; 11/7/00; 11/2/10)

Section 3. Organization.

The school board shall meet for organization on the first Monday in December following the regular municipal election, or as soon thereafter as possible. The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk, and a record made thereof. The members shall at such meeting, or as soon thereafter as possible, establish a regular place and time for holding meetings and shall meet regularly at such place and time. Five (5) members of the school board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken. (Referenda 6/13/78; 11/7/00; 11/2/10)

Section 4. Powers and duties.

The board of public education shall have all the powers, and perform all the duties in regard to the care and management, including sound fiscal management, conduct, and control of the public schools of the city, which are now conferred and imposed upon school committees and school boards by the laws of this state, except as otherwise provided in this charter. (Referendum 11/2/10)

Section 5. School budget.

Not later than three and one-half (3.5) months before the end of the fiscal year, the superintendent shall submit to the school board budget estimates of the various sums required for the support of public schools for the ensuing fiscal year and shall thereafter provide the school board with such information relating to such estimates as the school board shall require.

During the thirty (30) days following submission of the superintendent's proposed budget to the school board, the school board and the city council, or their designated subcommittees, shall meet jointly at least twice to review the proposed school budget, focusing on its underlying assumptions and supporting data and the ability of the city to raise the necessary funds for the support of such proposed budget. The superintendent and the city manager shall provide information regarding such proposed budget as reasonably requested by the school board and the city council, or their designated subcommittees.

The budget submitted by the superintendent to be reviewed jointly by the school board and the city council shall provide a complete financial plan of all school funds and activities for the ensuing fiscal year. In organizing the school budget for joint review, the superintendent shall utilize the most feasible combination of expenditure classification by fund, organization, unit, program, purpose or activity, and object. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. The total of proposed expenditures shall not exceed the total of proposed income.

Not later than the last Monday in April of each fiscal year, the school board shall submit to the city council a budget of the various sums required for the support of the public schools for the ensuing fiscal year in the format provided above, and shall thereafter provide the city council with such information relating to such budget as the city council shall require.

A budget hearing on such budget estimates shall be held prior to final action by the city council. The city council in its appropriation resolve for the ensuing year shall, in addition to amounts appropriated for other general city

purposes, appropriate one gross amount for the support of the public schools, which amount shall not be less than the sum required to be appropriated for such purposes by the general laws of the state. Such gross amount shall not be less than the sum requested by the school board except by a vote of at least six (6) members of the city council. Such appropriation shall be expended under the direction and control of the school board but no such appropriation shall be exceeded except by consent of the city council. (Referendum 6/13/78; 11/2/10)

Section 6. Vacancies.

A vacancy in the membership of the board of public education shall occur upon the happening of the following: (1) the death of a member; (2) the effective date of the resignation of a member; (3) the removal of a member from the district from which he or she was elected; (4) the removal of a member from the city; (5) the conviction of a member of a felony while in office; or (6) the recall of a member pursuant to the provision of Article V. The school board shall declare a vacancy in its membership to exist upon the failure of a member to attend any six (6) consecutive regular meetings of the school board or at least sixty (60) percent of the regular meetings of the school board held in any one calendar year unless such member shall be excused (by a vote of at least four (4) of the members) for health reasons or other good cause. A member may in writing addressed to the school board resign his or her office effective at a future date specified in the written resignation. Once submitted to the school board, such resignation may not be withdrawn and such member's office shall become vacant on the specified future date.

If a vacancy in the membership of the school board occurs or is declared prior to the next regular municipal election, the vacancy shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date and shortens the time for obtaining and filing nomination petitions established in article IV, section 6. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

ARTICLE IV. ELECTIONS

Section 1. Continuity in office.

In the event redistricting of the city shall cause a then council member or school board member to reside in a district other than that from which such person was elected, the office of such member shall not thereby be considered vacated but such member shall continue in office until a successor is duly elected and qualified. Each district councilor and district school board member in office on the effective date of any such redistricting shall be deemed to represent the newly constituted district of the same numerical designation as that formerly represented and shall continue to serve in that capacity until expiration of his or her term. (Referenda 6/13/78; 11/4/86; 11/2/10)

Section 2. Regular municipal election.

On the first Tuesday after the first Monday in November of each year, the regular municipal election shall be held and the registered voters of the city or district, as the case may be, shall ballot for such councilors and for such members of the school board as may be necessary to fill the offices of those whose terms would then normally expire and fill any existing vacancy in an unexpired term of office. (Referenda 12/1/75; 11/2/76; 6/13/78; 11/4/86; 11/7/00; 11/6/01; 11/2/10)

Section 3. Wardens and ward clerks.

The wardens and ward clerks shall be nominated by the city clerk and appointed by order of the city council. They shall be and remain residents of the city and all other qualifications for appointment shall be as provided in Title 21-A of the Maine Revised Statutes. They shall hold their office for one year from the date of appointment, unless a shorter term is specified by the order of appointment, and until others have been chosen and qualified in their stead. The warden and the ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the state to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of such ward. (Referenda 11/2/76; 6/13/78; 11/4/86, 11/4/08; 11/2/10)

Section 4. Nominations.

The nominations of all candidates for elective offices provided for by this charter shall be by petition. The petition of a candidate for an at large council seat or at large school board seat shall be signed by not less than three hundred (300) nor more than five hundred (500) registered voters of the city. The petition of a candidate for a district council seat or a candidate for a district school board seat shall be signed by not less than seventy-five (75) nor more than one hundred fifty (150) registered voters of the respective district. Voters may sign petitions for more than one (1) candidate for each office to be filled at the election. (Referenda 12/1/75; 11/2/76; 11/4/86; 11/4/08; 11/2/10)

Section 5. Form of nomination petition.

The signatures to nomination petitions need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers of each petition, and that each signature appended thereto was made in his or her presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

To the city clerk of the City of Portland

We, the undersigned voters of the City of Portland, hereby nominate, _____ whose residence is _____ for the office of _____ to be voted for at the election to be held in the City of Portland on the _____ day of _____, _____, and we individually certify that we are qualified to vote for a candidate for the above office.

Name _____ Street and Number _____, being duly sworn, deposes and says, that he (she) is the circulator of the foregoing nomination petition containing _____ signatures, and that the signatures appended thereto were made in his or her presence and are the signatures of the persons whose names they purport to be.

(Signed) _____.

Subscribed and sworn to before me this _____ day of _____,
_____.

Attorney, State of Maine Bar # _____
Notary Public

If this petition is deemed insufficient by the city clerk, he or she shall forthwith notify by mail _____ at _____.
(Referendum 11/2/10)

Section 6. Filing of nomination petitions, and acceptance of nomination.

The city clerk shall make nomination petitions available to the candidates one hundred and twenty-seven (127) days prior to the election. The nomination petitions for any one (1) candidate must be assembled and united into one (1) petition and filed with the city clerk during normal business hours not earlier than eighty-five (85) nor later than seventy-one (71) days before the date of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing at the time of filing of such nomination petitions his or her consent accepting nomination, agreeing not to withdraw and, if elected, to qualify. Such nomination petitions and consent, once filed may not be withdrawn. Any challenge to a nomination petition must be submitted to the city clerk in writing, setting forth the specific reasons for the objection, no later than five (5) days, excluding Saturdays, Sundays, and legal holidays, from its date of filing, or it is barred. No person shall take out nomination papers for more than one position at the same election, nor be nominated, nor shall any person consent to being nominated, at the same election for any other elective office provided for by this charter, and no person shall simultaneously hold more than one (1) elective office provided for by this charter. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/6/01; 11/4/08; 11/2/10)

Section 7. Form of ballot.

All official ballots for use in all municipal elections shall be prepared by the city clerk and furnished by the city, consistent with the voting machines used and the form of any state ballot(s), and the use of ranked choice voting for mayor. Ballots for use in elections under this charter shall contain the names of the various candidates, with their residence, and

the office for which they are candidates, and instructions on how to mark the ballot. The candidates for each office shall be grouped under the title of each office, plainly and distinctly marked. There shall be as many blank spaces under the name of each office as there are vacancies to be filled. The procedure for counting write-in votes shall be governed by Title 21-A, Maine Revised Statutes, unless inconsistent with article II, section 3, in which case the charter provisions shall govern. Notwithstanding the foregoing, in the event of an emergency such as the illness, death or disqualification of a nominee for municipal office prior to the general election, the time frame for accepting a declared write-in candidate may be shortened by the city clerk. Such ballots may also contain such measures as may be submitted to the voters of the city by the legislature or by the city council and shall be without party mark or designation.

In preparing all ballots for election under this charter, the city clerk shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames. (Referendum 11/2/10)

Section 8. Specimen ballots.

The city clerk shall cause specimen or sample ballots to be prepared and to be posted in public places in each ward and voting precinct and advertised in the newspapers not later than ten (10) days prior to the municipal election. Such specimen ballots shall be printed on colored paper and marked "Specimen Ballot," and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the legislature or by the city council. Such specimen ballots shall also be without party mark or designation. (Referendum 11/6/01; 11/2/10)

Section 9. Count of ballots.

Upon closing of the polls, ballots shall be counted in accordance with Title 21-A, Maine Revised Statutes, unless inconsistent with article II, section 3, in which case the charter provisions shall govern, and the results thereof delivered to the city clerk by the wardens. (Referendum 11/2/10)

Section 10. Canvass of returns.

The city clerk shall examine the records of the several voting places and within forty-eight (48) hours after such election shall determine and declare the successful candidates as follows: The person or persons, not exceeding the number to be voted for at any one time for any office, having the highest number of votes cast at such election, shall be determined and declared to be elected. Notwithstanding the foregoing, if no candidate for mayor has a majority of the votes cast as provided in article II, section 3, the city clerk shall conduct an instant runoff tabulation as provided in such section until the candidate for mayor with the majority of votes cast is determined. The city clerk shall provide written notice of the election results to all candidates. (Referendum 11/6/01; 11/2/10)

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as otherwise provided herein. Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law. (Referenda 11/4/08)

ARTICLE V. RECALL

Section 1. Applicability.

Any member of either the city council or the school board may be recalled and removed from office by the registered voters of the City of Portland, as hereinafter provided, except that this provision shall not apply to a member of either body who has one (1) year or less to serve in his or her term, i.e., any petition to recall a member must be certified by the clerk no later than November 30 of the year prior to that member's next scheduled November re-election date. (Referenda 11/4/86; 11/2/10)

Section 2. Petition for recall.

In the case of either an at large member of the city council or of the school board, any five hundred (500)

registered voters of the city may affirm and file with the city clerk an affidavit containing the name of the member of the city council or of the school board whose removal is sought, together with a statement of the reasons why such removal is desired. In the case of a district member of the city council or of the school board, any two hundred and fifty (250) registered voters of the member's district may affirm and file with the city clerk an affidavit containing the name of the district member whose removal is sought, together with a statement of the reasons why such removal is desired. Members of the city council and of the school board shall not be included on the same affidavit and only one member's name shall be on an affidavit.

Within seven (7) calendar days of receipt of such an affidavit, the city clerk shall prepare a sufficient number of petitions which shall contain the signature of the city clerk, his or her official seal, the date, and the name of the person whose removal is sought. In addition, the statement of reasons for removal referred to above shall either be printed on such petitions or attached thereto. Such petitions shall be on paper of uniform size with as many individual sheets as reasonably necessary.

The city clerk shall file the completed petitions in his or her office. During the thirty (30) days following their filing, the city clerk shall arrange to have petitions, noting that removal is being sought as well as the reasons therefor, available for signature both at city hall and also at public places as indicated below. Notice of the location of the public places where petitions may be signed shall be given by publication at least forty-eight (48) hours in advance and such notice shall contain the specific location of such public place or places, the dates it or they will be open, and the times during which petitions may be signed. In the case of either a district councilor or a district school board member, the city clerk shall select one (1) site outside of city hall, but within the district of the member whose removal is sought, and such location shall be open for four (4) days between the hours of noon and 8:00 p.m. In the case of at large councilors or members of the school board, the city clerk shall select four (4) sites outside of city hall and such locations shall be open for four (4) days each between the hours of noon and 8:00 p.m.

The city clerk shall designate election clerks to supervise each such site. Election clerks shall be residents of Portland and at least eighteen (18) years of age. They shall be sworn to

the faithful performance of their duties by the city clerk. Each qualified voter who signs a petition shall include his or her place of residence, providing either the street and number or a description sufficient to identify the place.

To mandate a vote in the case of an at large councilor or an at large member of the school board, the recall petition must be signed by at least three thousand (3,000) registered voters of the city, or in the case of a district councilor or district member of the school board, by at least fifteen hundred (1,500) registered voters of that member's district. (Referenda 12/1/75, 11/4/86; 11/2/10)

Section 3. Verification of recall petition.

At the expiration of the thirty (30) day period for signing petitions described in section 2, the city clerk shall declare the petition closed and, within ten (10) days thereafter, shall ascertain whether or not the petitions have been signed by the requisite number of registered voters. The city clerk shall attach his or her certificate, showing the results of such examination, to the petitions.

If the clerk's certificate should show that the petitions are insufficient, he or she shall advise both the city council and also the person or persons whose removal was sought of that fact. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose, except that such new petition shall not be filed within twelve (12) months from the date of the receipt of the clerk's certificate by the city council. (Referenda 11/4/86; 11/2/10)

Section 4. Calling of recall election.

If the clerk's certificate should show that the petitions are sufficient, he or she shall submit them, together with the clerk's certification, to the city council at its next regular meeting following certification, and shall also notify the person or persons whose removal is sought. The city council shall, within ten (10) days of receipt of the clerk's certificate, order an election to be held not less than forty-five (45) nor more than ninety (90) days thereafter; except that, if a regular municipal election should occur within ninety (90) days after receipt of the certificate, the city council may, in its discretion, schedule the recall election for

the same date as the regular municipal election. The recall election shall be called and held as other elections under this charter, except for the specific limitations imposed by this article.

All registered voters in the city may vote on the recall of an at large member of the council or school board; only the registered voters of the applicable district may vote on the recall of a district member of the council or school board.
(Referenda 11/4/86; 11/2/10)

Section 5. Form of ballot.

Unless the member or members whose removal is sought shall have resigned within ten (10) days after the receipt by the city council of the clerk's certificate, the form of the question to be submitted to the voters shall, as nearly as possible, be: "Shall (name of official and his or her title) be recalled?"
(Referendum 11/4/86)

Section 6. Count of ballots.

In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, he or she shall be thereby removed, and, in that event, the candidate to succeed such person for the balance of the unexpired term shall be determined as provided for in the case of a vacancy in the office.

If a majority of those voting should decline to recall a particular official, then no proceedings, seeking the recall of that same official, shall be initiated under this article within twelve (12) months from the date of the election in which his or her recall was sought. (Referendum 11/4/86)

Section 7. Election may be ordered.

If a member of either the city council or school board who is recalled should either request a recount or dispute the election as permitted by law, then that member shall remain in office until the recount or dispute has been finally determined; and the provisions of article II, section 7 and article III, section 6, relating to vacancies in the city council or school board, shall be stayed. (Referendum 11/4/86; 11/2/10)

ARTICLE VI. ADMINISTRATIVE OFFICERS

Section 1. Appointments.

(a) The following officers shall be appointed by vote of at least five (5) members of the city council: city manager, city clerk, and corporation counsel, and they may appoint constables at large.

(b) All department heads shall be appointed by the city manager, subject to confirmation by the city council.

(c) All attorneys employed in the corporation counsel's office shall be appointed by the corporation counsel, subject to confirmation by the city council.

(d) All other employees shall be appointed by the city manager upon recommendation of the heads of their departments.
(Referendum 11/4/86; 11/2/10)

Section 2. Organizational powers.

The city council shall have power to provide by ordinance for the organization, conduct, and operation of the departments, agencies, offices, and boards of the city, for the creation of additional departments, agencies, offices, and boards and for the division of any such departments, agencies, offices, and boards; and for the alteration, abolition, assignment, or reassignment of all such departments, divisions, agencies, offices and boards; provided, however, there shall be a director of finance to perform the functions specified in article VII of this Charter. The city council shall, by ordinance, designate those department heads responsible for performing duties required by state law. (Referendum 11/4/86)

Section 3. Civil service rules.

The city council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension, and removal of the members of the police department and of the fire department, other than the chiefs of such departments, and for a civil service commission to administer the same.

Section 4. Compensation and tenure of offices.

The city council shall fix by order the salaries of the appointees of the city council. Salaries of the appointees of the city manager shall be fixed by the city manager, subject to the approval of the city council. All appointive officers shall hold office during the pleasure of the appointing power.

Section 5. Appointment; qualifications; powers and duties of the city manager.

The city manager shall be chosen by the city council solely on the basis of character and executive administrative qualifications, and may or may not be a resident of the City of Portland or of the State of Maine at the time of appointment. Such person shall give bond for the faithful discharge of his or her duties to the City of Portland and in such sum as the city council shall determine and direct, and with surety or sureties to be approved by the city council. The premium on such bond shall be paid by the city. Such person shall be the administrative head of the city and shall be responsible to the city council for the administration of all departments. Neither the mayor nor members of the city council shall direct, request or interfere with the appointment or removal of any of the officers or employees of the city for whom the city manager is responsible, nor shall any of them give an order, publicly or privately, to any such city officer or employee relating to any matter in the line of that officer's or employee's city employment. Notwithstanding the foregoing, nothing herein is intended to prevent the city manager from assigning staff to work and communicate directly with councilors, boards and commissions, council committees, neighborhood and other groups and organizations, on city work.

The city manager's powers and duties shall be as follows:

- (a) To see that the laws and ordinances are enforced, but shall delegate to the chief of the police department the active duties connected therewith regarding criminal conduct.
- (b) To exercise control over all departments, divisions, agencies, and offices created herein or that may be hereafter created.

- (c) To implement the policy decisions of the city council.
- (d) To coordinate city programs and operations and recommend improvements in such programs and operations to the council.
- (e) To prepare city budgets, in consultation with and incorporating policy guidance of the mayor, and to present such budgets to the council.
- (f) To make appointments as provided in this charter.
- (g) To attend meetings of the city council, except when his or her removal is being considered, and recommend for adoption such measures as he or she may deem expedient.
- (h) To keep the city council fully advised as to the business and financial condition and future needs of the city and to furnish the city council with all available facts, figures, and data connected therewith when requested.
- (i) To prepare a five (5) year rolling capital improvement plan for annual presentation to the city council, which plan includes the following:
 - 1. A one (1) year plan of specific projects and their cost;
 - 2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
 - 3. A discussion of the basis for the plan and the factors which went into its development or amendments.
- (j) To prepare and submit to the city council such reports as are requested or he or she deems advisable; and
- (k) To perform such other duties as may be prescribed by this charter or required by ordinance of the city council. (Referenda 11/4/86; 11/2/10)

Section 6. Vacancy in office of city manager.

During any vacancy in the office of city manager, and during any absence or disability of the city manager of more than sixty (60) days, the city council shall designate a properly qualified person to perform the duties of manager and fix such person's compensation. During a temporary absence of sixty (60) days or less, the city manager may designate a qualified person to perform the duties of manager during such absence. While so acting, such person shall have the same powers and duties as those given to and imposed on the city manager. Before entering his or her duties, he or she shall give bond to the City of Portland in a sum and with surety or sureties to be approved by the city council. The premium on such bond is to be paid by the city. (Referendum 11/2/10)

Section 7. Duties of administrative officers.

Duties of administrative officers shall be prescribed by the appointive power, but such duties shall not be inconsistent with this charter or any ordinance enacted by the city council as provided herein. (Referendum 11/4/86; 11/2/10)

Section 8. Continuity in office.

Any and all officers, department heads, and employees of the City of Portland on the effective date of this charter shall continue in such capacity until a successor is appointed and qualified as provided herein, unless sooner removed by the appointive power designated herein. (Referendum 11/4/86; 11/2/10)

ARTICLE VII. BUSINESS AND FINANCIAL PROVISIONS

Section 1. Accounts and records.

Accounts shall be kept by the director of finance, showing the financial transactions of all departments of the city, and the school department. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The director of finance shall furnish to the city manager each month a report containing in detail the revenues, expenses and expenditures of the city on all accounts, and for each appropriation item the expenditures made and the obligations incurred during the preceding calendar month and the total

unencumbered balance. All the accounts of the city and the school department shall be audited annually by a qualified certified public accountant to be chosen by the city council.
(Referendum 12/1/75; 11/2/10)

Section 2. Collaboration between city and schools.

To the extent practicable and lawful, the city and the school department shall endeavor to share staff and resources and otherwise cooperate with one another in order to provide better city and school services in a cost effective manner.
(Referendum 11/2/10)

Section 3. Reports.

The director of finance shall publish each month a set of financial statements reflecting the financial condition of the city and the school department, and such other financial information as may be required by the city council.

The director of finance shall produce a comprehensive financial report on an annual basis which conforms to "Generally Accepted Accounting Principles." (Referendum 11/2/10)

Section 4. Fiscal year.

The fiscal year of the city shall be July 1 through June 30, or such other fiscal year as the city council shall determine. (Referenda 6/13/78; 11/4/86; 11/2/10)

Section 5. Annual budget.

Not later than two (2) months before the end of the fiscal year, the city manager shall submit to the city council a proposed city budget prepared by the city manager for the ensuing fiscal year. The mayor shall submit comments on the proposed city budget, along with any proposed modifications, concurrently with the manager's submission.

The city council shall fix a time and place for holding a public hearing upon the proposed city budget prepared by the manager, and shall give not less than ten (10) days prior public notice of such hearing, which hearing shall be at least ten (10) days before the final passage of the appropriation resolve.
(Referenda 6/13/78; 11/4/86; 11/2/10)

Section 6. Budget content.

The proposed city budget prepared by the manager shall provide a complete financial plan of city general and enterprise funds and activities for the ensuing fiscal year. In organizing the budget, the city manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating proposed tax levies, and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year.

The total of proposed expenditures shall not exceed the total of proposed income. (Referenda 6/13/78; 11/2/10)

Section 7. Appropriation resolve.

The city council shall adopt the annual appropriation resolve for the next fiscal year on or before the last day of the twelfth month of the fiscal year currently ending. Such resolve shall appropriate those amounts deemed necessary for general city purposes and additionally one gross amount for school purposes as required by section 5 of article III. The total amount appropriated shall not exceed the estimated revenue of the city.

If it fails to adopt such resolve by this date, the city council may make appropriation for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force. These continuing appropriations shall not be subject to the mayor's veto in section 8 below.

The city council may by resolution appropriate to any purpose or object for which there shall have been no appropriation for the current year, or for which the appropriation for the current year has proved insufficient, any accruing revenue of the city not appropriated as hereinbefore provided and any unencumbered appropriation balance, or portion thereof, remaining after the purpose of the appropriation shall have been satisfied or abandoned. Such appropriations shall not

be subject to the mayor's veto in section 8 below. (Referenda 6/13/78; 11/2/10)

Section 8. Mayoral veto of general city purposes appropriations in the appropriation resolve.

Within five (5) business days of the meeting at which the city council adopts the annual appropriation resolve, the mayor may veto the appropriation for general city purposes in such resolve by written communication to the other members of the city council. Such communication shall specify the reasons for such veto and shall, at minimum, be posted upon the city's website or similar location and sent to the councilors by electronic mail and by the same means that agendas are delivered to councilors.

Any such veto of the appropriation for general city purposes shall not affect city payment of debt service obligations on previously authorized bonds, nor shall it affect the school budget appropriation.

An order to override the veto shall be placed on the next city council agenda which is at least five (5) calendar days after the date of the mayor's veto communication, and such veto may be overridden by a vote of at least six (6) members of the city council. The mayor shall not vote on such override item.

If a veto is overridden, the general city purposes appropriation will take effect on the first day of the fiscal year, or on the day immediately following the override vote, if such vote is after the first day of the fiscal year.

If a veto is not overridden, then at the same meeting the override vote is taken, the general city purposes appropriation which was vetoed shall become an item for further consideration by the city council, without the need for a motion for reconsideration, and the city appropriation may be modified, amended, or otherwise acted upon to secure passage at that meeting or a subsequent meeting without the need for two readings prior to passage.

In the event the city council does not override the veto or does not secure passage of the annual appropriation for general city purposes prior to the start of the fiscal year, or has not otherwise acted to provide continuing appropriations under the second paragraph of section 7 above, then the appropriations for

general city purposes in effect for the prior fiscal year shall go into effect as of the first day of the fiscal year, with expenditures chargeable to the appropriation for the year, until the appropriation for general city purposes is approved. (Referendum 11/2/10)

Section 9. Unexpended appropriations.

All appropriations in the annual budget shall lapse at the close of the fiscal year unless specifically continued by order of the city council, and the unexpended appropriations shall be transferred to the appropriate fund balance account. (Referendum 11/2/10)

Section 10. Borrowing.

The borrowing of money by and for the city shall be limited as to form and purpose by section 11 and section 12 of this article. The credit of the city shall in no manner be loaned to any individual, association or corporation. (Referendum 11/2/10)

Section 11. Bond issues.

Money may be borrowed, within the limits fixed by the constitution and statutes of the state, now or hereafter applying to Portland, by the issue and sale of bonds or notes pledged on the credit of the city, or on the revenues or assets of the projects financed with the proceeds of such borrowings, the proceeds to be used for the acquisition of land, the construction, reconstruction, major alteration, extraordinary repairs, and equipment of buildings and other permanent public improvements, the purchase of departmental equipment, for economic development to the extent determined by the City Council to serve a valid public purpose, to create reserves to settle workers' compensation obligations, to fund, refund, pay or to create reserves for the payment of the city's unfunded pension fund liabilities and for the payment of refunding bonds, notes and other evidences of indebtedness previously issued, or for any other purpose permitted by state law.

No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two (2) public places in the City of Portland and publishing such notice at least twice in a newspaper of general circulation in Portland at least two (2) weeks before final action of the city council. In addition, the city council may, in its discretion,

provide that such notice shall be published on the city's website and in such other additional media as the city council determines are appropriate to notify the general public of the public hearing.

Any order authorizing the issue of bonds must be approved by vote of at least seven (7) members of the city council. (Referenda 11/4/86; 11/5/91; 11/8/94; 11/2/99; 11/2/10)

Section 12. Temporary loans.

Money may be borrowed in anticipation of receipts from taxes during any fiscal year but the aggregate amount of such loans outstanding at any one (1) time shall not exceed eighty (80) percent of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of the receipts from taxes for the fiscal year in which the loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized; all such loans shall be subject to the provisions of the laws of the State of Maine in relation thereto. This section shall not limit in any way the power granted to towns and cities to borrow money as contained in the Revised Statutes of the State of Maine and acts amendatory thereof and additional thereto. (Referendum 11/4/86; 11/2/10)

Section 13. Payments.

The director of finance shall establish adequate financial controls to reasonably ensure that all payrolls, bills and other claims and demands against the city are in proper form, correctly computed, duly certified and legally due and payable.

The director of finance may require any claimant to make oath to the validity of his or her claim, may investigate any claim and for such purpose or purposes may examine witnesses under oath. (Referendum 11/2/10)

Section 14. Bonds of officers.

The city council shall require a bond with sufficient surety or sureties, satisfactory to the city council, from all persons trusted with the collection, custody or disbursement of any of the public moneys; and may require such bond from such

other officials as it may deem advisable; the premium charges for such bonds to be paid by the city. (Referendum 11/2/10)

Section 15. Collection and custody of city moneys.

All moneys received by any officer, employee or agent of the city belonging to the city, or for or in connection with the business of the city, shall forthwith be paid by the officer, employee or agent receiving the same into the city treasury, and shall then be deposited by the director of finance with a federally insured banking institution or institutions or insured credit union or unions. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city. (Referendum 11/2/10)

Section 16. Voter referendum required for certain city council actions.

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or
- (2) Orders or resolves directly or indirectly obligating the city to expend, over a term greater than one (1) municipal year, municipal tax funds in excess of an amount greater than seven and one-half one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing

construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

(c) Any order or resolve described in subsection (a) of this section shall be approved by separate action of the city council.

(d) No order or resolve described in subparagraph (a) of this section, not excepted by subparagraph (b), shall become effective until approved by a majority of voters voting at a regular or special municipal election. In the event that the total number of votes cast for and against the question for the referred order or resolve should be less than ten (10) percent of the registered voters of the city, then such order or resolve shall be deemed to be approved and effective.

(e) The form of the ballot question for the referred order or resolve shall be substantially as follows:

Shall the order or resolve entitled "_____
_____", be approved?
(Referendum 11/4/86; 11/2/10)

ARTICLE VIII. MISCELLANEOUS PROVISIONS

Section 1. No personal interest.

No member of the city council or school board or board or commission thereof and no officer or employee of the city or school department shall:

- (a) Have a substantial financial interest, direct or indirect, in any contract entered into by or on behalf of the City of Portland or the school board, except his or her employment contract, or in the sale to or by the city or school department of any land, materials, supplies or services when such officer, employee or member exercises on behalf of the city or school department any function or responsibility with

respect to such contract or sale. All contracts or sales made in violation hereof are void, and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such transaction.

- (b) Purchase or accept anything from the city or school department, other than those items or services which are offered to the public generally, and then only upon the same terms and under the same procedures offered to and used for the general public. This shall not include those items or services which are received as compensation, or as a part of such person's employment contract, or which are necessary for the performance of such person's duties.
- (c) Accept or receive from any person, firm, or corporation acting under a franchise, contract, or license from the city or school department, any frank, free pass, free ticket, or free service, or accept, directly or indirectly, from any such person, firm, or corporation any service upon terms more favorable than those granted to the public generally. (Referenda 11/4/86; 11/2/10)

Section 2. Ordinances, rules and regulations continued.

All ordinances in force at the time that this charter takes effect, not inconsistent with this charter, shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the City of Portland in force at the time that this charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Section 3. Continuity of actions.

All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent therewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Section 4. Summons before city council and civil service commission.

The clerks of the supreme judicial and superior courts may issue summonses or subpoenas for witnesses to attend and to produce books, documents and papers at any meeting of the city council or of the civil service commission of the City of Portland at which a hearing is had in any matter regarding any alleged dereliction, which summonses shall be served as summonses are required to be served in matters before the supreme judicial or superior courts. Failure to obey a summons or subpoena shall be punished by the appropriate court in the same manner as contempt is punished under the general law. (Referendum 11/4/86)

Section 5. Effect of private and special laws.

Private and special laws which apply to the City of Portland in effect on November 4, 1986 shall continue in force until amended or repealed. (Referendum 11/4/86)

APPENDIX A

Charter Legislative History

1. Town of Portland incorporated by Act of Commonwealth of Massachusetts on July 4, 1786; Town of Portland Records, p. 1
2. City of Portland incorporated by adoption of charter on March 26, 1832; original charter can be found in Chapter 248, Special Laws of Maine 1832, p. 380; amendments as follows:
 - c. 325, S.L. 1833, p. 501
 - c. 500, S.L. 1834, p. 749
 - c. 402, S.L. 1838, p. 511
 - c. 541, S.L. 1839, p. 648
 - c. 33, P & SL 1842, p. 25
 - c. 200, P & SL 1845, p. 258
 - c. 266, P & SL 1845, p. 310
 - c. 233, P & SL 1849, p. 333
 - c. 330, P & SL 1850, p. 458
 - c. 167, P & SL 1853, p. 158
 - c. 35, P & SL 1857, p. 48
 - c. 103, P & SL 1857, p. 93
 - c. 109, P & SL 1857, p. 100
3. A total revision of the charter was accomplished in 1863; c. 275, P & SL 1863, p. 257; amendments as follows:
 - c. 348, P & SL 1870, p. 316
 - c. 647, P & SL 1871, p. 624
 - c. 21, P & SL 1875, p. 16
 - c. 8, P & SL 1881, p. 9
 - c. 86, P & SL 1881, p. 86
 - (c. 450, P & SL 1897, p. 707--Revision of charter rejected by voters in 1897)
 - c. 384, P & SL 1901, p. 569

c. 68, P & SL 1903, p. 116
(c. 287, P & SL 1905, p. 328--abolishing common council rejected by voters April 24, 1905)
c. 344, P & SL 1907, p. 638
c. 427, P & SL 1907, p. 758
(c. 148, P & SL 1921, p. 513--"Murray Bill" charter revision rejected by voters September 13, 1921)
(c. 149, P & SL 1921, p. 532--"Brewster Bill" charter revision rejected by voters September 13, 1921)

4. A total revision of the charter was accomplished in 1923 by adoption by voters of "Brewster Bill" on September 11, 1923; c. 109, P & SL 1923, p. 596; ("Nichols Bill" c.104, P & SL 1923, p. 557 was rejected same date); amendments as follows:

c. 56, P & SL 1929, p. 484
(c. 112, P & SL 1929, p. 604--Mayor--Alderman form rejected by voters on September 10, 1929)
c. 31, P & SL 1931, p. 353
c. 50, P & SL 1945, p. 629
c. 113, P & SL 1945, p. 736
c. 144, P & SL 1945, p. 71
c. 72, P & SL 1947, p. 722
c. 72, P & SL 1949, p. 765
c. 103, P & SL 1949, p. 803
c. 28, P & SL 1953, p. 528
c. 108, P & SL 1955, p. 756
c. 88, P & SL 1957, p. 707
c. 143, P & SL 1959, p. 873

5. A total revision of the charter was accomplished in 1961; c. 194, P & SL 1961, p 1125; amendments as follows:

c. 64, P & SL 1963, p. 966
c. 65, P & SL 1963, p. 967
c. 157, P & SL 1963, p. 1187
c. 177, P & SL 1963, § 1, p. 1291
(c. 6, P & SL 1965, p. 649 rejected by voters on December 6, 1965)
c. 7, p & SL 1965, p. 650
c. 81, P & SL 1965, p. 760
(c. 127, P & SL 1965, p. 849 rejected by voters on December 6, 1965)
c. 221, P & SL 1967, p. 136
c. 83, P & SL 1969, p. 1628
c. 136, P & SL 1969, p. 1792
c. 146, P & SL 1969, p. 1820
(c. 185, P & SL 1969, p. 1958 rejected by voters on November 3, 1970)

State constitutional law reference--Municipal home rule, Const. of Maine, Art. VIII, Pt. 2.

Referenda 12/4/72	Art. I, 1
Referenda 12/1/75	Art. II, 2
	Art. IV, 2
	Art. IV, 4
	Art. V, 2
	Art. VII, 1
Referenda 11/2/76**	Art. II, 1
	Art. II, 4
	Art. III, 1,2,5
	Art. IV, 2,3,4,6

Art. V, 2
Referenda 6/13/78 Art. II, 1,2,3,5
Art. III, 1,2,3,4
Art. IV, 1,2,3,6
Art. VII,3,4,5,6
Referenda 11/4/86***Art. II, 1,2,4,5
Art. III, 1,5
Art. IV, 1,2,3,4,6,7,9
Art. V, 1,2,3,4,5,6,7
Art. VI, 1,2,5
Art. VII 7-10 (Rp1d)
Art. VI, 11-12 (Rnbd as Art. VI,
7-8)
Art. VII, 3,4,9,10,16
Art. VIII, 1,4,5
Art. VIII, 6 (Rp1d)
Referenda 11/3/87 Art. II, 2
Art. III, 1
Referenda 11/5/91 Art. VII, 9
Referenda 11/8/94 Art. VII, 9
Referenda 11/2/99 Art. II, 4
Art. III, 5
Art. VII, 9
Referenda 11/7/00 Art. II, 3,5
Art. III, 2,3
Art. IV, 2
Referenda 11/6/01 Art, IV, 2,6,8,10
Referenda 11/4/08 Art. IV, 3,4,5, 6,7,11
Referenda 11/2/10**** Charter Revisions recommended
by the Portland Charter Commission
established on November 4, 2008, and passed
by the voters on November 2,2010

****Editor's note--**The amendment establishing district councilor elections became effective January 1, 1976, except that for the purpose of nomination and election of district councilors such amendment shall apply as the presently occupied district seats become available thereafter by normal expiration of term or by vacancy and to every district election thereafter.

*****Editor's note--**A referendum passed Nov. 4, 1986 and effective July 1, 1987, repealed former sections 7 through 10 of article VI to eliminate references to obsolete offices (assistant assessors, director of public welfare) and renumbered former sections 11 and 12 as 7 and 8 respectively. Former sections 7 through 10 derived from the legislation enumerated in the first editor's note to this Charter.

*****Editor's note--**A referendum passed Nov. 4, 1986, effective July 1, 1987, amended section 4 of article VIII to clarify the summons-subpoena power and to provide that failure to obey either a summons or a subpoena will subject offenders to contempt. Former section 5 of this article was deleted as a result of the amendment to section 4 and a new section 5 added to preserve certain rights granted to the city by special acts of the legislature. Former section 6 was deleted to conform to 30 M.R.S.A. § 1915(4) which establishes the effective date of Charter revisions. See the editor's note to the Charter for derivations of deleted sections.

****Editor's note--Portland voters approved a referendum passed on November 4, 2008 to establish a Portland Charter Commission to make recommendations to revise the Portland City Charter. Those recommendations were subsequently passed by the voters on November 2, 2010, and incorporated the provisions on the popularly elected mayor in Article 2, as well as making changes to the School and Elections articles and technical amendments throughout the document.

EXHIBIT C

Sec. 14-26. Workshop or informational meetings.

Informal meetings or workshops of the planning board or any of its committees may be held at the call of the board or committee chairperson, as the case may be, for the presentation of information by the planning director, his or her staff, the applicant or others. These meetings will be open for public comment according to the Rules of the Portland planning board. Such meetings, unless open to the public as provided in Title 1, M.R.S.A., Section 401 et seq. (Freedom of Access Act), shall be informational only and shall not be deliberative in nature; shall not be used by the board or committee for the weighing of positions or reasons for or against a proposition; and shall not be used by the board or committee for the formulation of tentative or final decisions on any matter.

(Code 1968, § 601.6; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 227-01, 4-2-01)

EXHIBIT D

DRAFT

RULES OF PROCEDURE OF THE CITY COUNCIL

Rule 1. Regular Meetings

A. The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 7:00 p.m. on the first and third Mondays of each calendar month. When said Monday is a holiday, an election day, or the first Monday in December, the regular meeting shall be held on the following Wednesday, at the same time and place. The date or the time of any regular meeting may be changed by an order passed at a previous meeting of the Council or by warrant for a special meeting called in lieu of a regular meeting; provided however, that said change in date will still provide for two regular meetings in one month. Unless otherwise changed by an order passed at a preceding meeting or by the calling of a special meeting at a different time or place, for like purposes, the Council shall also regularly meet at 12:00 noon on the first Monday of December of each year for the purpose of the inauguration of Portland City Council, the swearing in of Councilors-elect, filling Council committees, adopting rules and orders, and transacting such other business as it may deem appropriate. The public hearing of any item shall not commence after 12:00 midnight of the day of said regular meeting, except such items as the Mayor determines to be necessary, unless five (5) members consent to such consideration. The Council deliberation and action on any item shall not commence after 10:00 PM of the day of said regular meeting, except such items as the Mayor determines to be necessary, unless five (5) members consent to such consideration.

B. In consultation with the City Manager, Corporation Counsel and the City Clerk, the Mayor may convene a City Council workshop session in order to obtain guidance, information and/or direction on a legal matter, an issue that will be presented to the City Council for action, or on general policy-related questions. These sessions shall be informational only and shall not be deliberative in nature. (Materials for such workshop sessions shall to the maximum extent possible be provided to the City Council and the public at least two days prior to the scheduled workshop session.)

ATTACHMENT 2

DRAFT OPTION 1

RULES OF PROCEDURE OF THE CITY COUNCIL

Rule 1. Regular Meetings and Council Workshop Sessions

- A. The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 7:00 p.m. on the first and third Mondays of each calendar month...
- B. Workshop sessions of the City Council may be held at the call of five (5) members of the City Council, the Mayor or the City Manager, as the case may be, for obtaining guidance or for the presentation of information by the City Manager, the City Clerk or Corporation Counsel or their staff. To the maximum extent possible, materials for such sessions shall be provided to the City Council at least two (2) days prior to the scheduled workshop.

DRAFT OPTION 2

RULES OF PROCEDURE OF THE CITY COUNCIL

Rule 1. Regular Meetings and Workshop Sessions

- A. The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 7:00 p.m. on the first and third Mondays of each calendar month...
- B. Workshops sessions of the City Council may be convened by the Mayor, five members of the City Council or the City Manager in order to obtain administrative guidance, including, but not limited to, collective bargaining guidance, information or guidance on a legislative matter or legal guidance or opinions. These sessions shall be informational only. To the maximum extent possible, materials for such workshop sessions

shall be provided at least two (2) days prior to the
scheduled workshop session

Order 121-14/15
~~Tab 5 1-5-15~~
Tab 28 6-15-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

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

LETTER OF INTENT

TROUBLE, LLC

To the Mayor and the City Council:

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

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

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

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

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

Sincerely,

Joshua A. Soley

2011 OCT 27 09:11:03

CITY CLERK

Health _____
Liquor _____
Liquor _____

Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Class of Liquor License Applying for: Class A Lounge

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

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

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

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

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

Email: Josh@Dunham-Group.com

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

Landlord of Premises: Joe Soley

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

Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes _____ No ☒
If yes, list name(s) of employee(s) and department(s):

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes _____ No ☒ If yes, please list business name(s) and location(s):

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

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

2010 OCT 24 PM 3:55

CITY CLERK

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

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

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

Corporation Name: Trouble, LLC
Corporation Mailing Address: PO Box 343, Portland, ME ZIP 04112
Contact Person: Josh Soley Phone Number: (207) 210-5677

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

Name Josh Soley Title Managing Partner DOB 6/8/1994
Residence Address 10 Exchange St, Portland, ME, 04101 Ste 206

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

Application attachment to other City license

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

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

Supplemental Application for Dancing and Entertainment

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

Business Name (d/b/a): Trouble, LLC

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

Will music be electric or acoustical or both? Both

Will amplification used? Yes ☒ No ☐

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

Will you permit dancing on the premises? Yes ☒ No ☐

Will you permit dancing or entertainment after 1:00AM? Yes ☐ No ☒

Will recorded music be played: Inside ☒ Outside ☐ Both ☐

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

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

theater during day, classical bar at night.

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

Does the issuance of this license directly or indirectly benefit any City employee? Yes ☐ No ☒

If yes, list names of employee(s) and department(s).

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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

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

Portland, Maine



Yes. Life's good here.

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

Application for a Motion Picture Theatre License

License Expires Annually on June 30th.

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

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

2014 OCT 21 1:51

CITY CLERK

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

Name and Address	Date of Birth	Residence Address

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

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

About Your Establishment

1. Is the establishment a new business?	YES
2. Is the establishment a new location?	YES
3. Is the establishment a new owner?	YES
4. Is the establishment a new manager?	YES
5. Is the establishment a new employee?	YES
6. Is the establishment a new product?	YES
7. Is the establishment a new service?	YES
8. Is the establishment a new facility?	YES
9. Is the establishment a new equipment?	YES
10. Is the establishment a new software?	YES
11. Is the establishment a new hardware?	YES
12. Is the establishment a new network?	YES
13. Is the establishment a new database?	YES
14. Is the establishment a new application?	YES
15. Is the establishment a new system?	YES
16. Is the establishment a new process?	YES
17. Is the establishment a new procedure?	YES
18. Is the establishment a new policy?	YES
19. Is the establishment a new rule?	YES
20. Is the establishment a new regulation?	YES
21. Is the establishment a new law?	YES
22. Is the establishment a new ordinance?	YES
23. Is the establishment a new rule?	YES
24. Is the establishment a new regulation?	YES
25. Is the establishment a new law?	YES
26. Is the establishment a new ordinance?	YES
27. Is the establishment a new rule?	YES
28. Is the establishment a new regulation?	YES
29. Is the establishment a new law?	YES
30. Is the establishment a new ordinance?	YES
31. Is the establishment a new rule?	YES
32. Is the establishment a new regulation?	YES
33. Is the establishment a new law?	YES
34. Is the establishment a new ordinance?	YES
35. Is the establishment a new rule?	YES
36. Is the establishment a new regulation?	YES
37. Is the establishment a new law?	YES
38. Is the establishment a new ordinance?	YES
39. Is the establishment a new rule?	YES
40. Is the establishment a new regulation?	YES
41. Is the establishment a new law?	YES
42. Is the establishment a new ordinance?	YES
43. Is the establishment a new rule?	YES
44. Is the establishment a new regulation?	YES
45. Is the establishment a new law?	YES
46. Is the establishment a new ordinance?	YES
47. Is the establishment a new rule?	YES
48. Is the establishment a new regulation?	YES
49. Is the establishment a new law?	YES
50. Is the establishment a new ordinance?	YES
51. Is the establishment a new rule?	YES
52. Is the establishment a new regulation?	YES
53. Is the establishment a new law?	YES
54. Is the establishment a new ordinance?	YES
55. Is the establishment a new rule?	YES
56. Is the establishment a new regulation?	YES
57. Is the establishment a new law?	YES
58. Is the establishment a new ordinance?	YES
59. Is the establishment a new rule?	YES
60. Is the establishment a new regulation?	YES
61. Is the establishment a new law?	YES
62. Is the establishment a new ordinance?	YES
63. Is the establishment a new rule?	YES
64. Is the establishment a new regulation?	YES
65. Is the establishment a new law?	YES
66. Is the establishment a new ordinance?	YES
67. Is the establishment a new rule?	YES
68. Is the establishment a new regulation?	YES
69. Is the establishment a new law?	YES
70. Is the establishment a new ordinance?	YES
71. Is the establishment a new rule?	YES
72. Is the establishment a new regulation?	YES
73. Is the establishment a new law?	YES
74. Is the establishment a new ordinance?	YES
75. Is the establishment a new rule?	YES
76. Is the establishment a new regulation?	YES
77. Is the establishment a new law?	YES
78. Is the establishment a new ordinance?	YES
79. Is the establishment a new rule?	YES
80. Is the establishment a new regulation?	YES
81. Is the establishment a new law?	YES
82. Is the establishment a new ordinance?	YES
83. Is the establishment a new rule?	YES
84. Is the establishment a new regulation?	YES
85. Is the establishment a new law?	YES
86. Is the establishment a new ordinance?	YES
87. Is the establishment a new rule?	YES
88. Is the establishment a new regulation?	YES
89. Is the establishment a new law?	YES
90. Is the establishment a new ordinance?	YES
91. Is the establishment a new rule?	YES
92. Is the establishment a new regulation?	YES
93. Is the establishment a new law?	YES
94. Is the establishment a new ordinance?	YES
95. Is the establishment a new rule?	YES
96. Is the establishment a new regulation?	YES
97. Is the establishment a new law?	YES
98. Is the establishment a new ordinance?	YES
99. Is the establishment a new rule?	YES
100. Is the establishment a new regulation?	YES

May 2015

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

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

Signature [Signature] Title Managing Partner Date October 15, 2014

For Administrative Use Only

FD:	Approval Requested:	Approved:	Date Paid:
Health:			
PD:			
PS:			
Treasury:			
Zoning:			

CC CA CK

Notes:

Department of Public Safety
Division



Liquor Licensing & Inspection

BUREAU USE ONLY

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

- ☐ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTIONAL FOOD (Class I-A)
☒ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

- ☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.)		2. Business Name (D/B/A)	
DOB:		DOB:	
Trouble, LLC		Trouble	
DOB:		DOB:	
DOB:		Location (Street Address)	
Address		10 Exchange Street	
10 Exchange Street		City/Town	State
		Portland	ME
		Zip Code	04101
		Mailing Address	
		PO Box 343	
City/Town	State	City/Town	State
Portland	ME	Portland	ME
Zip Code	04101	Zip Code	04112
Telephone Number	Fax Number	Business Telephone Number	Fax Number
(207) 210-5677	207-773-5480	(207) 210-5677	207-773-5480
Federal I.D. #	Seller Certificate #		
47-1589206			

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

complete Supplementary Questionnaire, If YES

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

7. If manager is to be employed, give name: Stephen O'Brien

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

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

9. Business records are located at: N/A

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

11. Is/are applicant(s) residents of the State of Maine?

YES ☒ NO ☐

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

Name in Full (Print Clearly)	DOB	Place of Birth
Joshua A Soley	6/8/1994	Portland, ME
Stephen O'Brien	5/4/1994	Portland, ME

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

10 Exchange St, Portland, ME

18 Monument Square, Portland, ME

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

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

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Joe Soley
PO Box 4894, Portland, ME, 04112

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

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

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 5 mile Which of the above is nearest? Church

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

If YES, give details: _____

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

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

Dated at: Portland, ME on 8/14/14, 20 14
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

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

1. Exact legal name:

Trouble, LLC

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

Trouble

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

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

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

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

Name	Address for Previous 5 years	Date of Birth	Ownership %
Josh Soley	10 Exchange St, Portland, ME, 04101	6/8/1994	100%

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

Yes

☐

No

☒

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

Name: _____ Agency: _____

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

Yes

☐

No

☒

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

Name: _____

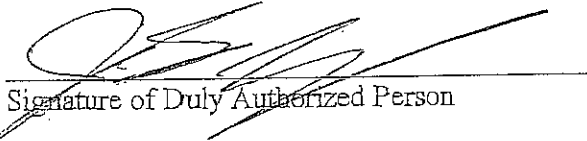
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

8/14/14
Date

Joshua A Soley
Print Name of Duly Authorized Person

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

MENU

Welcome to Trouble.

- Snacks -

Candy	3.50
Popcorn	5.00

- Pizza -

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

- Drinks -

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

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

(555)555-5555

PREMISE DIAGRAM

Exchange Street

22.5 ft

Front Entrance

Windows

Bakery
Neighbor

Retail
Neighbor

cooler

Bar

Tables

Pool
Tables

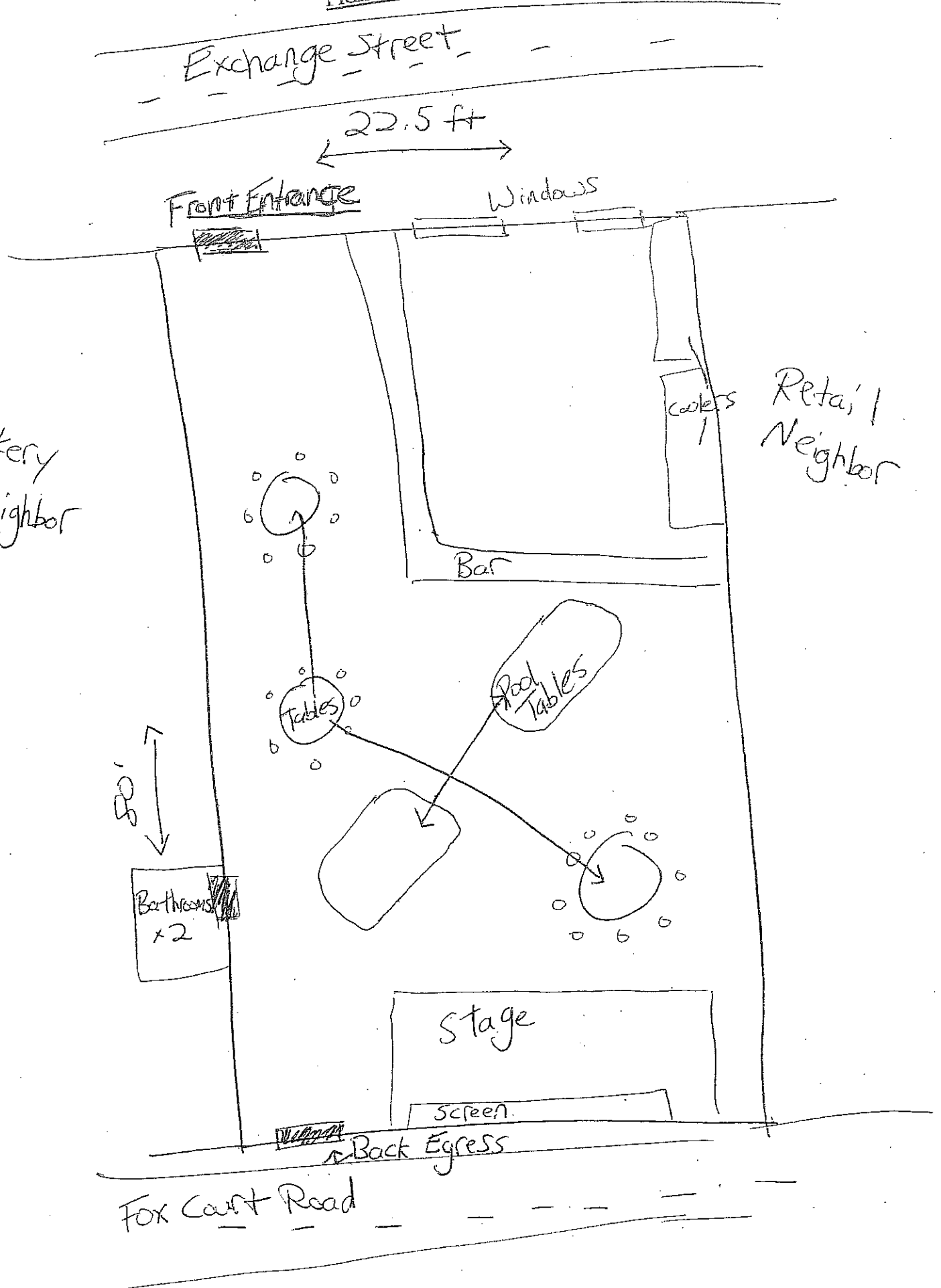
80' ↑
↓
Bathrooms
x2

stage

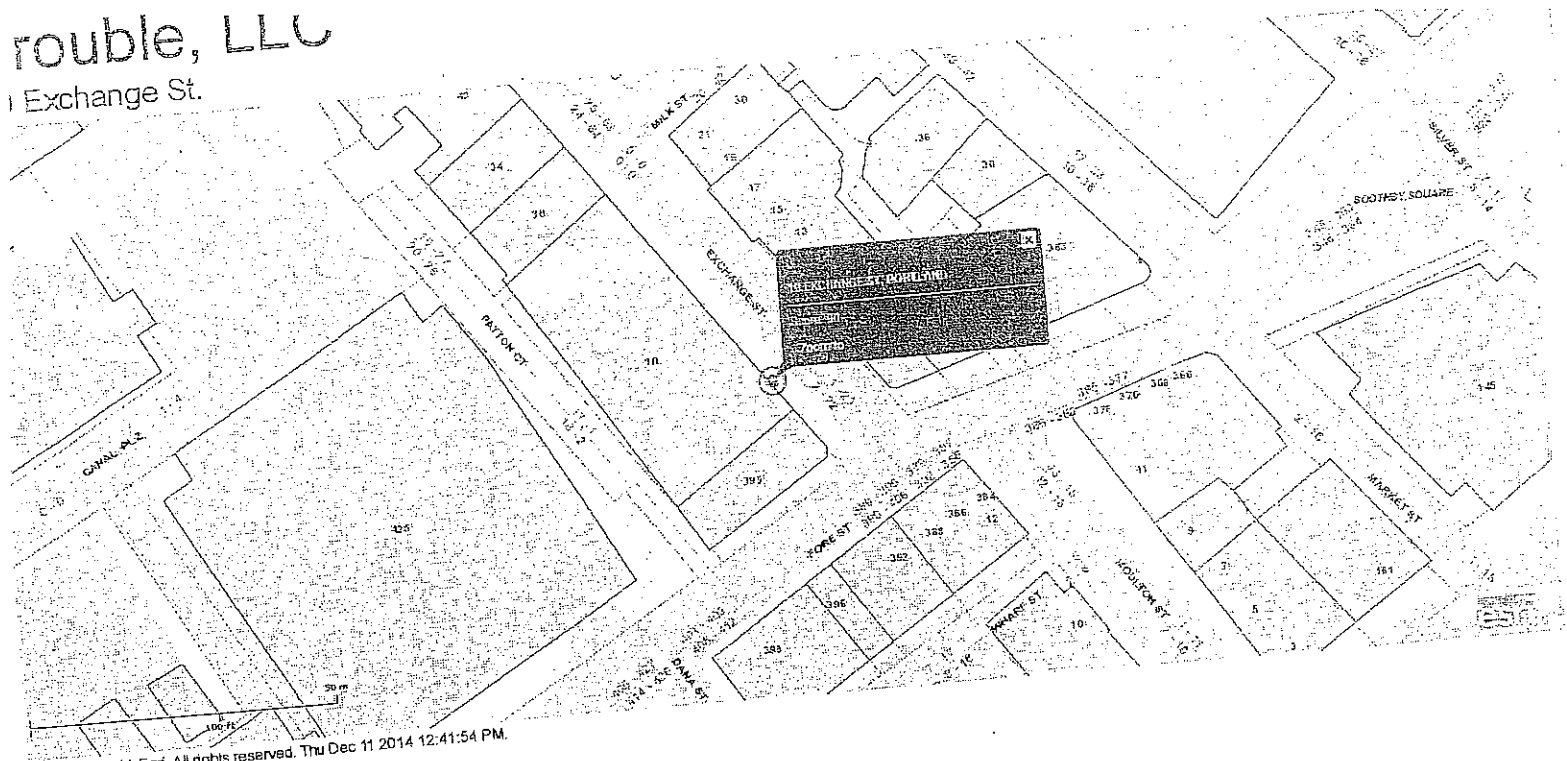
screen

Back Egress

Fox Court Road



rouble, LLC
Exchange St.





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

Transaction Response #: MIQ99C357868

Criminal History Record

Introduction

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

Inquiries Name(s)

JOSHUA SOLEY (1994-06-08)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

Transaction Response #: MIQ99C357870

Criminal History Record

Introduction

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

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

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - TROUBLE, LLC - PENDING Business License Approval

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

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

Date: 12/15/2014

Zone:
Comments: Approved.

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

Portland, Maine



Yes. Life's good here.

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

December 17, 2014

Trouble, LLC
P.O. Box 343
Portland, ME 04112

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

Dear Mr. Soley,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, January 5th at 7:00 p.m.** for the review of your application for a Class A Lounge License with Entertainment with Dance and Motion Picture Theatre at 10 Exchange St. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

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

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

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**

Order 172-14/15
~~*Tab 15 3-2-15*~~
~~*Tab 12 2-16-15*~~
~~*Tab 27 5-4-15*~~
~~*Tab 29 6-15-15*~~
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 ☒ 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, \$384, 240.75 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:	_____

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT

PROPOSED IMPROVEMENTS TO FOREST AVENUE

(MaineDOT Use Only)

Project Location: Portland, Forest Ave.
State WIN #: 020543.00
Federal Aid Project #: STP-2054(300)

Estimated Municipal Share: \$149,875.00
Vendor Customer #: 17A12144
Agreement Begin Date: _____
Agreement End Date: (3 years from the date last signed below)

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to 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.

City of Portland

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Sheila Hill-Christian, Acting City Manager

By: _____
Aurele Gorneau, II

(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 \$1,498,751.00, 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	15	33,721.95	80	179,850.40	10	11,240.65	224,813.00
Right of Way	15	9,375.00	80	50,000.00	10	3,125.00	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		\$164,240.75		\$1,199,000.80		\$135,509.45	\$1,498,751.00
Total Cost of Additional Work Requested by Municipality (Below)	100%	220,000					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$384,240.75					

(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	\$165,571.90	7-15-16
Portland	\$165,571.90	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 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 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 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 Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying the Department in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of the Department.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay the Department, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, the Department agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless the Department determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

Order 255-14/15
~~Tab 29 5-18-15~~
~~Tab 5 6-1-15~~
Tab 29A 6-15-15

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 ARTICLE III. ZONING DIVISION 17
Re: Drive-in Banks in the B-7 Zone**

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

*That Chapter 14, Article III, Division 17, Section 14-296
of the Portland City Code is hereby amended to read as follows:*

Sec. 14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

1. Commercial use:

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and

- ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.; and
- iii. ~~All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line.~~ The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply; and
- iv. ~~The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets.~~ The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
- v. ~~Drive-up vehicle circulation shall not be located between the building and any adjacent public streets.~~ All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. ~~The drive-up shall be limited to two vehicle drive-up lanes.~~ The site must have adequate stacking capacity for vehicles waiting to

use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and

vii. ~~The location of any drive-up shall be limited to the geographic area between Somerset Street/I-295/Franklin Arterial/Forest Avenue.~~ Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and

viii. The drive-up shall be limited to two vehicle drive-up lanes; and

ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Street/Forest Avenue.

d. The expansion of automotive repair facilities existing as of March 9, 2005, but in no case shall such expansion over the life of the building exceed fifty percent (50%) of the gross floor area existing on March 9, 2005.

2. *Industrial uses:*

...

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: May 6, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan, Jeff Levine, Jennifer Thompson

SUBJECT: B-7 Bank Drive Through Text Amendment

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading May 18, 2015 **Final Action** June 1, 2015

Can action be taken at a later date: X Yes No (If no why not?) The applicant (Bangor Savings Bank) would like to start the site plan review with the PB as soon as possible, but appreciate that the CC agenda may be full and the hearing would need to be delayed to June 15th, 2015.

PRESENTATION: Planning Board Chair Stuart O'Brien and Alex Jaegerman, Planning Division Director, will make a brief presentation.

I. SUMMARY OF ISSUE (Agenda Description)

Bangor Savings Bank is requesting a text amendment in order to develop a small lot at 20 Marginal Way, within the B-7 zone, as a three story bank with drive through. The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)1(c)) that currently require that bank drive-throughs must be within a building of at least 20,000 sq ft. The proposed text amendment would create an exception to this requirement for smaller buildings on small lots in existence at the time B-7 was first enacted on March 9, 2005.

On April 14, 2015, the Planning Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment (Attachment 1) to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the amendment to the City Council.

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

The text amendment is proposed to allow bank drive-throughs in buildings with a smaller floor area than 20,000 sq ft. The proposed exception would enable redevelopment of 20 Marginal Way, currently a single-story car wash that is a grandfathered use, to construct a three story building facing on Marginal Way, which is more in keeping with the pattern of development envisioned in the Bayside Plan.

III. INTENDED RESULT

The proposed amendments would allow existing small lots under 20,000 sq ft to be developed with bank drive throughs and require all bank drive-throughs to be associated with buildings over three stories and that are designed with pedestrian orientation. Since testimony to the Planning Board suggested that bank developments need a drive-through to meet customer expectations, the amendment would facilitate bank developments on the several small lots in the B-7 zone where bank drive-throughs are allowed.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following Council goal:

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

V. FINANCIAL IMPACT

The amendment would allow appropriate development that is currently prohibited by the B-7 conditional use requirements.

VI. PLANNING BOARD ANALYSIS

Bank drive-throughs are the only type of drive-through allowed in the B-7 zone. They are only allowed in the northern portion of the B-7 zone between Somerset/Kennebec Streets and I-295 and must meet the seven conditions set out in §14-296(a)1(c). The second condition currently states:

The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and

The applicant is able to meet all of the other conditions in this section but has requested a text amendment exception to the second condition in order to develop this small lot at 20 Marginal Way.

The applicant has stated that the lot size of 17,352 sq ft prevents the construction of a building of 20,000 sq ft and thus the proposal could not meet the second condition that limits a bank drive-through to being attached or included within a building with a minimum floor area of twenty thousand (20,000) square feet. (It should be noted that a 20,000 sf office would require 50 parking spaces, which would require a lot area of approximately 7,000 sf for the building footprint plus at least 15,000 square feet for parking if provided totally on-site, for a total of 22,000 square feet.) The applicant has stated that their proposal would be able to meet the other six (6) standards for a conditional use.

VII. RECOMMENDATION

During the review, the Planning Board sought to clarify the amended text language while maintaining the effect of a limited exception to condition ii for existing small lots, and requested additional provisions to reflect the goals of the Bayside Plan to achieve at least 3 stories of building height and pedestrian orientation for buildings associated with this conditional use.

The amended text supported by the Planning Board added two provisions that require all buildings that include a bank drive-through to meet the minimum height requirements of the zone, with no minimum height exemptions as contained in the ordinance for buildings, historic buildings and additions, and to require greater pedestrian orientation. Lastly, a text amendment to the last condition clarifies the description of the area where bank drive-throughs would be allowed within the B-7 zone.

On April 14, 2015, the Planning Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment (Attachment 1) to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the amendment to the City Council.

VIII. LIST ATTACHMENTS

1. Order (Text amendment attached 5.6.2015; order will be similar)
2. Planning Board Report to City Council

Prepared by: Jean Fraser
Date: Draft 5.5.2015

Text amendment as recommended by the Planning Board:

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:
1. *Commercial use:*
 - a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
 - b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
 - c. **Drive-up banking** provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.; and
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply; and
 - iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
 - v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - viii. The drive-up shall be limited to two vehicle drive-up lanes; and
 - ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



B-7 Bank Drive Through Text Amendment
20 Marginal Way
Bangor Savings Bank, Applicant
Project #: #2015-015

Submitted to: Portland City Council	Prepared by: Jean Fraser, Planner
From: Portland Planning Board	Date: May 6 th , 2015
Second City Council Reading: June 1, 2015	CBL: 113 A025001

I. INTRODUCTION

David Latulippe, agent, is requesting a text amendment on behalf of Bangor Savings Bank, applicant, in order to develop a small lot at 20 Marginal Way, within the B-7 zone, as a three story bank with drive through (Attachment A; Plans P1. to P4.). The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)1(c)). These include the requirement that bank drive-throughs must be within a building of at least 20,000 sq ft.

The B-7 text amendment is requested to create an exception to this requirement as a building of this size is not feasible to build on a small lot of 17,352 sq ft. (currently the site of Northern Pride Antowash). The proposed text amendment would allow bank drive-throughs in smaller buildings that are located on small lots in existence at the time B-7 was first enacted, March 9, 2005.

The Planning Board held a public workshop on March 24, 2014 and a public hearing on April 14, 2015 regarding the proposed text amendments. The Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:
 1. *Commercial use:*
 - a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
 - b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
 - c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.

- iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
- v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
- vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
- viii. The drive-up shall be limited to two vehicle drive-up lanes; and
- ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

II. PUBLIC COMMENT

A notice of the City Council Hearing will be sent to the 43 property owners within 500 feet and interested citizens, and the legal advertisement will appear in *Portland Press-Herald* in accordance with the city's noticing requirements. A Neighborhood Meeting is not required for this project and the Planning Division has received two written comments of support, one from a local solar business, and one from the owner of nearby property (PC1&2).

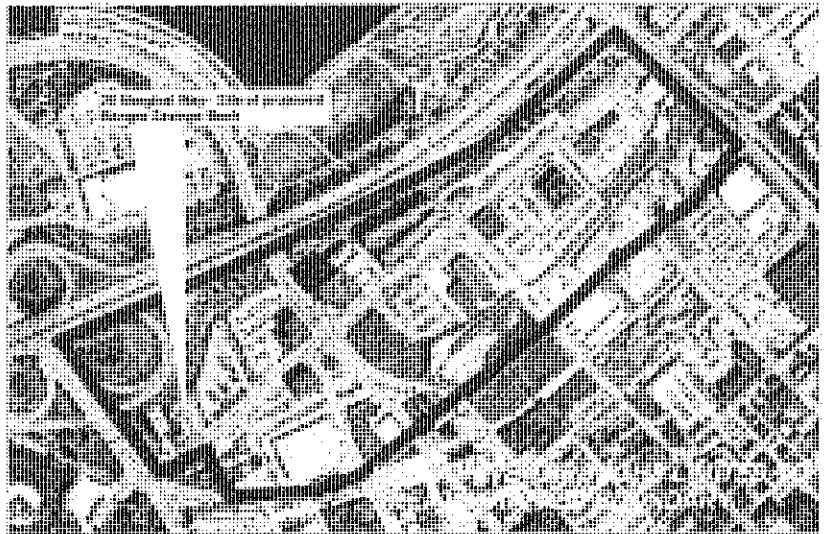
III. BACKGROUND RE ZONING

Bank drive-throughs are the only type of drive-through allowed in the B-7 zone. They are only allowed in the northern portion of the B-7 zone between Somerset/Kennebec Streets and I-295 (red outline on aerial below) and must meet the seven conditions set out in §14-296(a)1(c).

The second condition currently states:

The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and

The applicant is able to meet all of the other conditions in this section but has requested a text amendment to the second condition in order to develop this small lot.



(Staff plan based on 2012 GIS data)

The applicant has stated that the lot size of 17,352 sq ft prevents the construction of a building of 20,000 sq ft and thus the proposal could not meet the second condition that limits a bank drive-through to being attached or included within a building with a minimum floor area of twenty thousand (20,000) square feet. For example, a 20,000 sq ft office would require 50 parking spaces, which would require a lot area of approximately 7,000 sq ft for the building footprint plus at least 15,000 square feet for parking if provided totally on-site, for a total of 22,000 square feet. The applicant has stated that their proposal would be able to meet the other six (6) standards for a conditional use.

The text amendment is proposed to allow bank drive-throughs in buildings with a smaller floor area than 20,000 sq ft. The trade-off proposed would enable redevelopment of the car wash site, a one-story grandfathered use, to construct a three story building facing on Marginal Way, which is more in keeping with the pattern of development envisioned in the Bayside Plan.

The Planning Board members considered the following issues on this project:

- Whether there is a need for bank drive-throughs given the increase in internet banking? Bangor Savings Bank clarified at the PB Hearing that customers expect this facility and it is an important component of the development;

- What levels of traffic generation would be associated with the bank drive-through? The applicant has submitted additional traffic information that supported the case that trip levels are relatively low (Attachment D) (discussed further below);
- To what extent should the text amendment be narrowed to an exception for existing small sites and buildings of less than 20,000 sq ft in order to limit the scope for additional bank drive-throughs? Staff recommended a narrow exception (just for small lots existing as of March 9, 2005) and the Planning Board supports this approach.
- The importance of supporting the Bayside Plan goals for building height and pedestrian oriented development as priorities. The amendment includes new provisions that reinforce these goals.

IV. PROJECT DATA

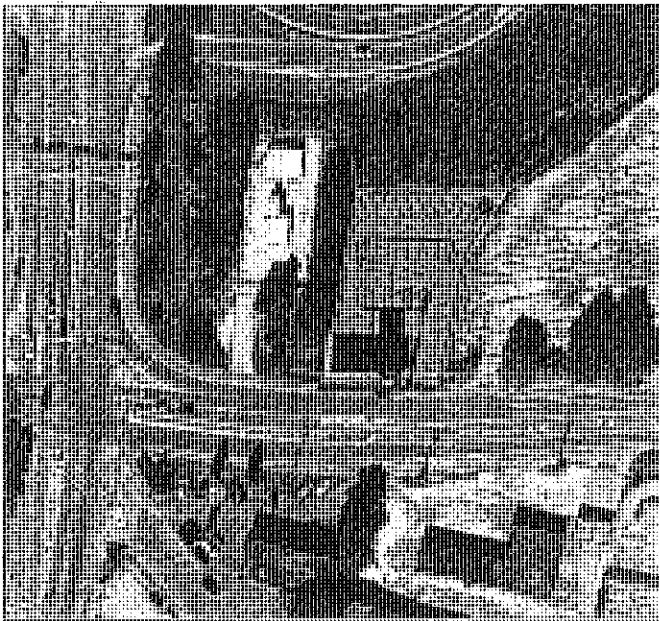
Existing Zoning	B-7 Bayside
Proposed Zoning	B-7 Text amendments only
Existing Use	Car wash (not considered a drive-through)
Proposed use	Bank (1500 sq ft), bank drive-through and offices (5784 sq ft)
Parcel Size	17,352 sq ft
Building footprint	2100 sq ft
Building Floor area	7284 sq ft
Proposed parking	24

V. SUMMARY OF APPLICANT'S ASSOCIATED DEVELOPMENT PROPOSAL

The applicant is proposing to build a three story bank building of approximately 7000 sq ft, with a two lane drive-through located at the rear of the building, on the site of the existing car wash building at 20 Marginal Way. The bank drive through use requires a conditional use permit to be approved by the Planning Board, so the project would go to the Planning Board at the Site Plan review stage.

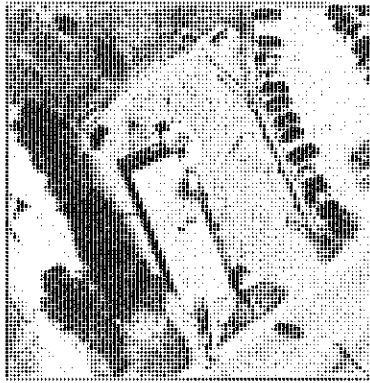
The proposed bank building and its associated site layout (Concept Plan in Plan P1 and as superimposed on an aerial in Plan P2 and renderings in Plan P4) meets, or could be revised to meet, the applicable standards at the site plan review stage along with the other conditions of the zoning ordinance.

The proposed bank building is shown below:



(from applicant; also in Plan P2. Attached; Site Plan in P1)

The existing site is a busy car wash housed in a single-story building (approx. 2500 sq ft). The owner obtained traffic generation information in mid-2014 (second part of Attachment D) that indicated that this use generates up to 120 trips/hour during the peak hour. The existing site is shown below:



VI. PROPOSED TEXT AMENDMENT TO §14-296(a)1(c) [Conditional Uses; B-7 Zone]

During the review, the Planning Board sought to clarify the amended text language while maintaining the effect of a limited exception to condition ii. The Board supported allowing bank drive-throughs in buildings of less than 20,000 square feet on small lots, but sought to limit the subdividing of lots to obtain this exception. Thus, the Board recommended that the exception be limited to those smaller lots (less than 20,000 sq. ft.) that were in existence at the time the B-7 zone was first enacted, March 9, 2005. The Board also sought to strengthen the conditional use standards to be consistent with the goals of the Bayside Plan to achieve at least 3 stories of building height and to encourage pedestrian orientation for this conditional use.

The Planning Board recommends the additional conditional use standards that require all buildings that include a bank drive-through to meet the minimum height requirements of the zone, with no minimum height exemptions as contained in the ordinance for buildings, historic buildings and additions. Secondly, the Board recommends a condition to require greater pedestrian orientation for the bank buildings that incorporate a drive-through. The amendment of the last standard of the conditional use clarifies the description of the area where bank drive-throughs would be allowed. The proposed B-7 text amendments are as follows (the **TEXT AMENDMENTS** are in red):

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:
 2. *Commercial use:*
 - a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
 - b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
 - c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.
 - iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and

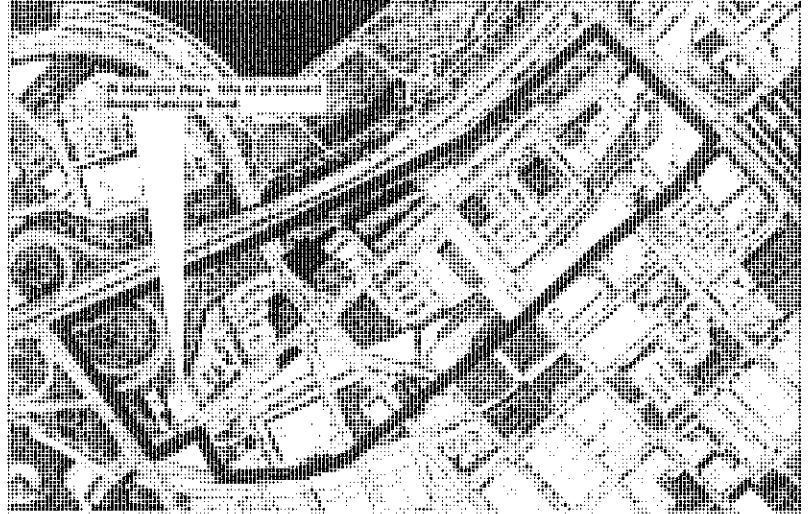
- v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
- vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
- viii. The drive-up shall be limited to two vehicle drive-up lanes; and
- ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

VII. REVIEW AND ANALYSIS

A. Limits on Drive-throughs

When the B-7 Zoning Ordinance was drafted, the aim was to limit drive-through uses to banking facilities only. The intent was to limit the overall number of drive-throughs in the area and to allow only bank facilities which have a low use levels. The drive-throughs for banks were allowed under very defined circumstances, as outlined in the conditions of the conditional use that included the requirement for the 20,000 sq ft building (also see COMPREHENSIVE PLAN ANALYSIS in Section VI below).

The text amendments create an exception to the requirement for the 20,000 sq ft building and the exception would only apply to the limited number of lots in existence as of March 9, 2005 as shown in yellow within the red boundary area on the plan above (and in the submitted map/table in Attachment Ca and Cb).



Red outline is the area where bank drive-throughs are allowed .

The proposed text amendments retain the minimum building-size of 20,000 sq ft, for a drive-through, with the proposed exception that for lots of less than 20,000 sq ft and in existence at the time of enactment of the B-7 zone (March 9, 2005) a bank drive-through could be included in a building of less than 20,000 square feet.

A new condition is proposed that requires the minimum building height to apply to all structures proposed for a bank drive-through and the minimum building height exceptions for additions under 14-298 (h) (see below: (#5), historic structures (#7) and buildings 50 feet from a street line (#8)) shall not be permitted. The Board finds that a multi-story building, even if less than 20,000 sq ft of floor area, is a desirable redevelopment of properties such as the applicant's, compared with allowable alternatives for reuse or expansion of the existing one-story nonconforming building.

The current exceptions contained in the ordinance (Sec. 14-298 (h)) are as follows. By restricting drive-throughs from utilizing provisions #5, #7, and #8 (highlighted below in bold type) the reuse is ensured to comply with the appropriate multi-story requirements.

- (h) *Minimum building height: Newly constructed buildings shall have the required minimum of floors as provided by the bayside height overlay map within fifty (50) feet of any street frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.*

This minimum floor provision shall not apply to:

1. *Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.*
2. *Information kiosks and ticketing booths.*
3. *Parking garages.*

4. *Public transportation facilities.*
5. *Additions to buildings existing as of (March 9, 2005) provided that the cumulative additions since (March 9, 2005) does not exceed fifty percent (50%) of the ground floor building footprint on (March 9, 2005) except that such restriction shall not apply to those portions of the building addition(s) that are constructed closer to the street line than the building footprint existing as of (March 9, 2005).*
6. *Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.*
7. *Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.*
8. *Portions of buildings more than fifty (50) feet from the street line.*

B. Adding text re pedestrian orientation:

The proposed text amendment adds in a new condition that addresses the Board's desire to strengthen the standard for better pedestrian orientation. This conditional use standard would apply regardless of the size of the building associated with the bank drive-through,

C. Traffic implications:

The Planning Board requested clarification as to how the proposed Bangor Savings Bank would fit in to this part of Bayside. The applicant's Traffic Engineer provided a Memo in Attachment D covering trip generation and other issues such as the closure of the curb cuts and the adequacy of the queuing area. Although this includes a peak hour trip generation of 140 trips for the bank and offices, it is understood that the bank and bank drive-through lanes account for approximately half of these trips, with the offices accounting for the remainder.

The submitted data regarding the existing car wash (Attachment D, second part- 2014 memo from Sebago Technics) suggest it generates up to 120 trips in the peak hour.

The 2014 Memo from Sebago Technics (second part of Attachment D) also includes data for peak hour trip generation for various drive through uses. Together with research by staff (with assistance from Tom Errico, the City's Traffic Engineering Reviewer) the following are indicative peak hour levels associated with various drive-throughs based on the ITE Trip Generation Manual/MDOT data:

Use	Range of likely peak hour trips
Dunkin Donuts with drive-through	204-276 (AM)
Generic coffee shop with drive-through	49-92
Bank with drive-through (based on sq ft floor area as 2500 sq ft*)	12-67
Bank with 2 drive-through lanes (based on a per drive-through lane data)	44-60
Bank without a drive-through ("walk-in" bank)	The national ITE data is based on 3 California samples ("walk in" banks are rare) with data that does not agree & not considered reliable as such a small sample. The lowest sample is about half of the above for banks, but in Maine climate there may be fewer walk-ins and more customers would drive.

*Note that the proposed Bangor Savings Bank is likely to be 2100 sq ft

D. Status of the current Bangor Savings Bank proposals

It should be noted that if the City Council adopts the proposed Zoning Text amendments, the Concept Plans (Plan P1 and Plan P2) and renderings (Plan P4) would be subject to Conditional Use and Site Plan review before the Planning Board. Also, these submitted graphics are not binding on the applicant and a different proposal could come forward.

Any proposed building would need to meet the Site Plan ordinance requirements and B-7 Design Standards in addition to the bank drive-through conditions.. A preliminary staff review of the applicant's specific proposals (in Plans P1, P2 and P4) indicates that the project is along the right lines and no major issues are anticipated to arise during the Site Plan review.

VIII. COMPREHENSIVE PLAN ANALYSIS

The Planning Board found the proposed text amendments to be consistent with the Comprehensive Plan. . The Comprehensive Plan includes two policy documents that are relevant:

- A. The COMMUNITY COMMERCIAL POLICIES AND LAND USE PLAN – September 1987-1988, which was adopted as part of the Comprehensive Plan and has the following goals:

Development Goals

- Accommodate the City's commercial activity within a range of functionally and physically defined commercial centers.
- Promote preservation and revitalization of its existing commercial centers and maintain a scale within them that is compatible and integrated with other land use.

- B. A NEW VISION FOR BAYSIDE (BAYSIDE PLAN) (December, 1999) which was adopted as part of the Comprehensive Plan. It is the underlying land use policy in Bayside and envisions Bayside as a dense urban mixed use district as an extension of the downtown. Several of the Development Principles of the Bayside Plan are listed below along with key words or phrases of the principle.

- **Urban Gateway:** "Bayside will be an attractive urban gateway and extension of the downtown business district"... "this district will create a new front face of the City, and present the character of Portland which will encourage people to stop, visit"... "compact blend of uses".
- **Economic and Employment Opportunities:** "significant economic and market opportunity to be planned and managed to create the best value for development and quality of life improvements"... "Bayside represents prime real estate development prospect to expand the central business district".
- **A Walkable District:** "Bayside will contain housing, work place, services, transportation, recreation, dining and shopping, all within comfortable distance of each other and the downtown"... "sidewalks, bicycle and pedestrian trail linkages will connect these uses, designed for full and maximum accessibility".
- **Transit-oriented Development:** "Mixed use, compact and intensive land development, and quick and convenient transit service combine to make Bayside a neighborhood that has genuine mobility choice. This model for the peninsula and beyond will be designed from the ground up, free from dependence upon the automobile".

B-7 Zone: Likewise the purpose section of the B-7 zone utilizes includes such phrases as "distinctly urban form through dense development"; "emphasizes a quality pedestrian experience" and "utilization of transportation, other than automobile is strongly encouraged".

IX. PLANNING BOARD RECOMMENDATION

The present treatment of regulating drive-up facilities in the B-7 zone is reflective of the underlying land use policies outlined above. The B-7 zoning language was structured to encourage a dense mixed use development pattern advocated in the Bayside Plan. To achieve the goal of a dense urban pattern, the B-7 zoning text includes a number of measures to encourage a certain threshold or scale of development such as minimum building height, placement of buildings near the street, emphasizing building mass over surface parking and no limit on building lot coverage or housing density.

During the initial drafting of the B-7 zoning text, all drive-ups were prohibited because it was felt such uses did not support an urban development pattern nor contribute toward a quality pedestrian experience. Prior to enactment the text was revised to allow drive-ups as a conditional use, but only for banks. This distinction was made because bank buildings are generally more substantial in building mass, floor area and height in contrast to other drive-through uses. The traffic volume generated by a drive-up bank teller is substantially less than a fast food restaurant.

It was felt bank buildings of sufficient size could make a positive contribution toward redeveloping vacant or underutilized properties in Bayside. As a safeguard, bank drive-ups were listed as a conditional use along with certain standards such as floor area to assure a minimum scale of development. The smaller lots do not have the capacity to support the current 20,000 square foot minimum building size, but a new three story building of less than 20,000 square feet will contribute more to the development of the district than would result from reuse and expansion of the one-story non-conforming structure, as might likely be the case without this amendment.

The Planning Board held a public hearing on April 14, 2015 and voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

The specific motion read:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on April 14, 2015 for application #2015-015 (related to 20 Marginal Way proposals) and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to §14-296(a)1(c). (Conditional uses. (B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

3. Commercial use:

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.
 - iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
 - v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - viii. The drive-up shall be limited to two vehicle drive-up lanes; and
 - ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

ATTACHMENTS:

Report Attachments

(None)

Public Comments

PC1. P Coupe

PC2 P Quesada

Applicant's Submittal

- A. Application
- B. Applicants original text amendment
- C. a. B-7 lots less than 20K (map); b. B-7 lots less than 20k (table)
- D. Traffic Memos from Gorrill Palmer and Sebago Technics

Plans

- P1. Concept Plan for Bangor Savings Bank proposal
- P2. Bank concept on aerial
- P3. Previous renderings
- P4. Revised renderings of development proposal

From: Phil Coupe <phil@revisionenergy.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 3/19/2015 4:19 PM
Subject: Letter in support of Bangor Savings Bank branch on Marginal Way

Stuart O'Brien, Chairman
City of Portland Planning Board
March 19, 2015

Dear Mr. O'Brien,

As a Portland businessman and local resident, I am writing in support of Bangor Savings Bank's application to build a new bank with a drive-through facility near the corner of Marginal Way and Forest Avenue.

If approved, this will be the first bank in Portland to be built with a solar electric system to generate clean, renewable power for the building. The solar electric system will reduce the need to burn fossil fuels to power the building, thereby reducing the bank's annual carbon pollution.

This highly visible investment in renewable energy will have many ancillary benefits beyond reducing fuel consumption and pollution; most importantly, it will send the message to other business owners, building owners and residents in the area that solar electric systems deliver a strong economic and environmental return on investment. Most people view banks as fairly conservative organizations averse to taking risks on unproven technologies. Thus, if they see one of Maine's leading financial institutions investing in solar, people will conclude that the time to invest in solar energy has finally arrived.

After 10 years in the solar energy industry, I know firsthand the incredibly powerful impact that a solar installation can have; a recent nationwide study of the solar industry found that the single most important factor driving consumers' decision to invest in solar is the proximity of an existing solar project.

I hope you will see the practical benefits of approving Bangor Savings' application, and the broad community benefits of reducing fossil fuel consumption, reducing carbon pollution and accelerating the necessary societal transition to sustainable, renewable sources of energy.

Thank you for your time and consideration.

Sincerely,

--

Phil Coupe
Co-founder
ReVision Energy
207-232-6595

Fore River Company 5 Milk Street P.O. Box 7525 Portland, ME 04112 (207) 772-6404

April 8, 2015

Ms. Jean Fraser
Portland Planning Staff
Portland City Hall
389 Congress Street
Portland, ME 04101

re: Bangor Savings /Car Wash on Marginal Way

Dear Ms. Fraser,

I understand that the Planning Board will be considering a re-do of the car wash site on Marginal Way into a 3 story bank office for Bangor Savings. I am writing on behalf of several nearby Marginal Way properties owned by us, as follows:

- 87 Marginal Way LLC (Trader Joe)
- Back Cove Company; 127 Marginal Way (Walgreens and others)
- Five Liver Company; 145 Marginal Way (Planet Fitness)
- 161 Marginal Way LLC (DHHS).

We think the proposed re-development is a good change for our neighborhood and is a clever design for what we have always thought of as a tiny, difficult lot. We think it nicely follows your design goals for the neighborhood –built on the front lot line, 3 stories (who would have thought it possible), durable materials, parking and drive in buried at the rear. We understand that the building volume is slightly less than your minimum threshold, because of the limitations of the site size; and we encourage you to give a variance in this case, in recognition that this is likely the best / biggest that this site will accommodate. And, the proposal does a nice job of presenting its long façade to the street, creating a sense of a building with more mass than is in fact the case—perceived mass in keeping with the pattern on Marginal Way.

We therefore respectfully suggest that the Planning Board allow this proposed project to proceed.

Sincerely,



Peter W. Quesada

Portland, Maine



Yes. Life's good here.

Planning & Development Department

To request a pre-application meeting please fill out the form below with as much detail as possible. Two 30 minute meetings will be scheduled each Wednesday from 12:00-1:00 p.m. in Room 209, 2nd Floor of City Hall. These meetings are by appointment only and will be scheduled upon receipt of this request.

CONTACT INFORMATION			
Name:	David Latulippe	Phone:	207-865-4323
E-Mail Address:	ddlatulip@aol.com		
PROPOSED PROJECT INFORMATION			
Chart, Block, Lot (s) Need help? Go to Property Lookup		Map 113, Block A, Lot 25	
Address		10 Marginal Way	
Is the project located in the Historic District?	No	Does the project involve food?	No
What is the Current Use of this property?		Car Wash	
What is the Proposed Use of this property?		Bank with Drive thru and offices	
Is a zone change being requested?	Yes	What is the Lot Size?	0.35
New Building or Addition Sq. Ft.	7,300	New impervious surface area	0
Please provide a brief description of the proposed project. (200 character limit) Replace the current car wash with a 3 story bank/office building and a ^{drive thru} single drive thru. The Bank shall include a walk-up ATM, solar panels on the roof and 2 electric vehicle charging stations.			

Submit this form and attach any additional electronic drawings or supporting documentation to your email.

Submit Form Now

If you have any questions e-mail Desiree Kelly at dmk@portlandmaine.gov.

FOR INTERNAL USE ONLY					
Meeting set for:					
Public Services		Historic Preservation		Planning	
Fire		Inspections		Traffic	
Health & Human Services		Parking		Zoning	
Internal Comments:					



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional rezoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. 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. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT ADDRESS: 10 Marginal Way

CHART/BLOCK/LOT: UB/A/25

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

3-story Bank/office building w/ a drive
through on a small parcel of land. The conditional
use requires a 20,000 sq ft building which is not
physically possible
on this small parcel.

CONTACT INFORMATION:

Applicant's Contact for electronic plans	
Name: <u>David Latulippe</u>	
e-mail Address: <u>dlatulippe@aol.com</u>	
work #: <u>207-865-4923</u>	
Applicant – must be owner, Lessee or Buyer	Applicant Contact Information
Name: <u>Susan Snodden</u>	Work #: <u>207-541-2718</u>
Business Name, if applicable: <u>Bangor Savings</u>	Home#
Address: <u>99 Franklin St Bangor</u>	Cell #
City/State: <u>Bangor ME</u> Zip Code: <u>04401</u>	Fax#
	e-mail: <u>susan.snodden@bangor.com</u>
Owner – (if different from Applicant)	Owner Contact Information
Name: <u>Wortham Pride Auto Wash</u>	Work #: <u>207-776-5869</u>
Address: <u>PO Box 2147</u>	Home#
City/State: <u>So. Portland ME</u> Zip Code: <u>04106</u>	Cell #
	Fax#
	e-mail: <u>wdogana@maine.ma.com</u>
Agent/ Representative	Agent/Representative Contact information
Name: <u>David Latulippe</u>	Work #: <u>207-865-4923</u>
Address: <u>35 Primrose Ln</u>	Cell #: <u>207-280-1079</u>
City/State: <u>Freeport, ME</u> Zip Code: <u>04032</u>	e-mail: <u>ddlatulippe@aol.com</u>
Billing Information	Billing Information
Name: <u>Wendy Durnah</u>	Work #
Business Name: <u>Bangor Savings Bank</u>	Cell #
Address: <u>99 Franklin St</u>	Fax#
City/State: <u>Bangor, ME</u> Zip Code: <u>04401</u>	e-mail: <u>wendy.durnah@bangor.com</u>
Engineer	Engineer Contact Information
Name: <u>AL Palmer</u>	Work #: <u>207-657-6910</u>
Address: <u>Gorham - Palmer</u>	Cell #: <u>207-415-5883</u>
City/State: <u>Gorham, ME</u> Zip Code:	Fax#
	e-mail: <u>apalmer@gorhamipalmer.com</u>

Surveyor Name: Address: City/State : Zip Code:	Surveyor Contact Information Work # Cell # Fax# e-mail:
Architect Name: Address: City/State : Zip Code:	Architect Contact Information Work # Cell # Fax# e-mail:
Attorney Name: Address: City/State : Zip Code:	Attorney Contact Information 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:

Letter of intent to enter into a long term ground lease subject to a zoning text amendment and site plan approvals.

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:

Car wash

Current Zoning Designation(s):

B7- Mixed Development District

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.

Replace the current car wash with a 2 story bank/office building and a ~~new~~ drive through bank. The bank shall include a walk-in ATM, solar panels on the roof and a electric vehicle charging station.

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 FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment ___ \$2,000.00 (from ___ zone to ___ zone)	Fees Paid (office use) ___	The City invoices separately for the following: • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.
Zoning Text Amendment ✓ \$2,000.00 (to Section 14- <u>391</u>) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example) and language to be added is depicted as underline (example))	___	
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.)	___	

Signature of Applicant: 	Date: 1-28-15
---	-------------------------

Further Information

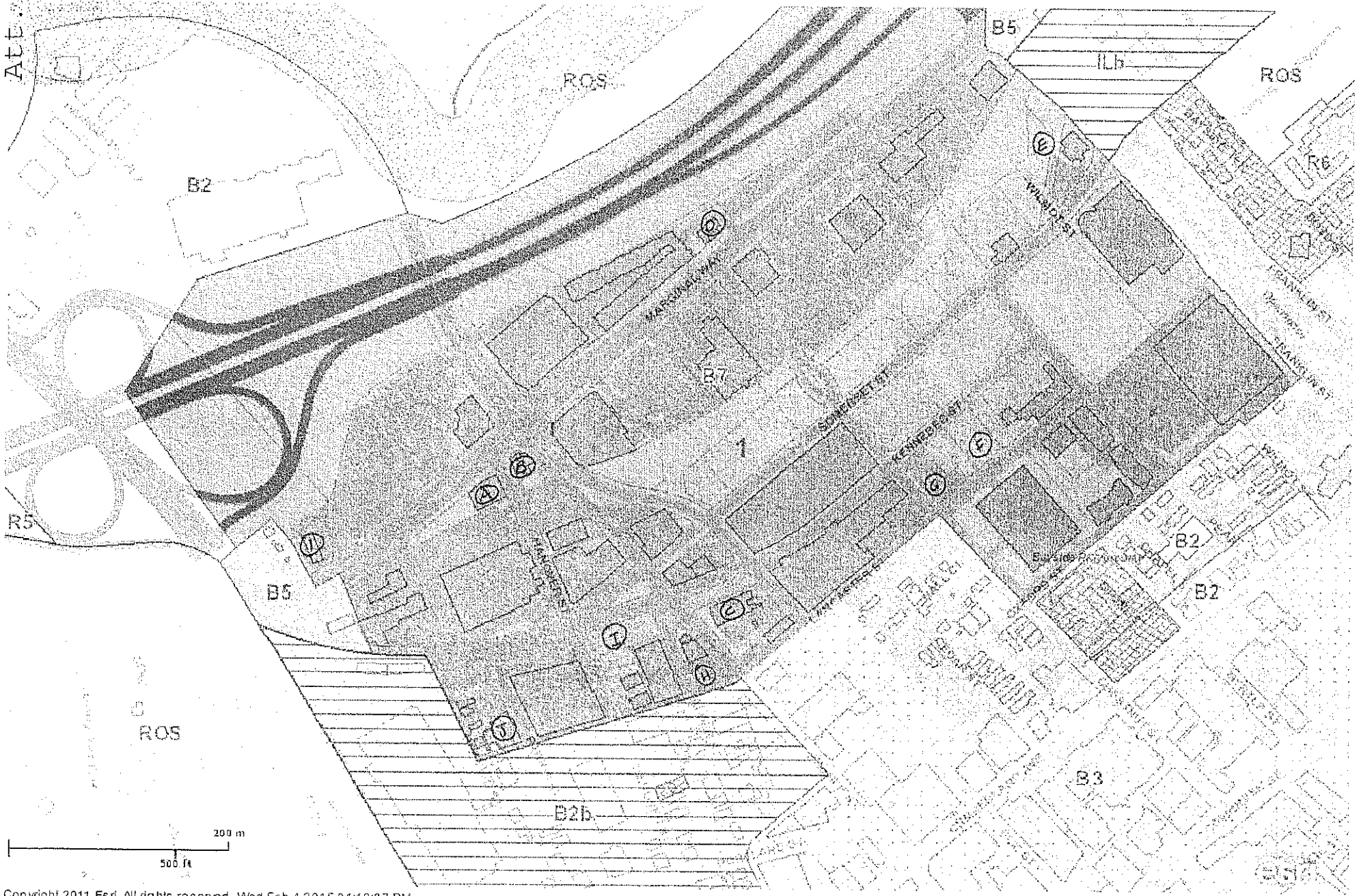
In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

City of Portland
Code of Ordinances
Sec. 14-296

Land Use
Chapter 14
Rev. 4-22-2013

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. ~~The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and~~
For parcels of 20,000 sq. ft. or greater in area.
 - iii. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - iv. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - v. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - vi. The drive-up shall be limited to two vehicle drive-up lanes; and
 - vii. The location of any drive-up shall be limited to the geographic area between Somerset Street/I-295/Franklin Arterial/Forest Avenue.
- d. The expansion of automotive repair facilities existing as of March 9, 2005, but in no case shall such expansion over the life of the building exceed

Att. Car.



B7 Parcels Less Than 20,000 s.f.
Portland, Maine

Property	Map/Lot	Address	Owner	Size	Use	Business	Comments
1	113-A-25	20 Marginal Way	Northern Pride Auto Wash	15285.2	Car Wash	Northern Pride Car Wash	Subject Site
A	34-C-1	49 Marginal Way	Bayside Ventures, LLC	18,740	Office & Business	Turner Barker	Multi- Story building w/ an unused drive-thru
B	34-K-2-3	71 Marginal Way	71 Marginal Way, LLC	14,370	Retail & Personal serv	Gorham Savings Bank	Bank w/ a drive-thru
C	34-I-1-2	125 Kennebec St	Portland Architectural Salvage	15,590	Commercial Condos	Architectural Salvage	Multi-Story building
D	442-A-6	140 Marginal Way	Tomaks, LLC	6,011	Multi-Use Commercial	Miss Portland Diner	Too Small
E	24-C-2	131 Wilmont St	Carbo Company	14,732	Vacant Land	Vacant Land	Development Site
	24-C-6	135 Wilmont St	Somerset Development	15,041	Vacant Land	Vacant Land	
	24-C-23	5 Somerset St	Somerset Development	12,140	Vacant Land	Vacant Land	
F	25-D-6	131 Lancaster St	Perry Iron & Metal	3,942	Perry Iron	Parking Lot	
	25-D-7	137 Lancaster St	Perry Iron & Metal	16,501	Perry Iron	Parking Lot	
	25-D-8	145 Lancaster St	Perry Iron & Metal	11,983	Perry Iron	Parking Lot	
G	25-D-10	149 Lancaster St	Bayside IV, LLC	8,512	Apartments	Parking Lot	Supporting Apartment Complex
	25-D-9	103 Chestnut St	Bayside IV, LLC	6,730	Apartments	Parking Lot	
H	33-O-1	114 Preble St	114 Preble Block, LLC	3,049	Retail & Personal serv	G.R Dimillos	Tri-angular Shape
	33-O-4	120 Preble St	114 Preble Block, LLC	1,782	Retail & Personal serv	G.R Dimillos	
	33-O-2	106 Preble St	114 Preble Block, LLC	7,331	Retail & Personal serv	G.R Dimillos	
I	34-H-1	138 Kennebec St	BOPO LLC	15,172	Multi-Use Commercial	Parking Lot	Supporting Commercial Use
J	34-F-8	41 Brattle St	Roswell Furman	2,274	Single Family	Single Family	
	34-F-4	51 Brattle St	Roswell Furman	1,498	Single Family	Single Family	
	34-F-3	53 Brattle St	Roswell Furman	1,220	Single Family	Single Family	
	34-F-5-7-9	78 Parris St	New Systems Realty, LLC	15,198	Retail & Personal serv	Multi-Tenant	
	34-F-6	47 Brattle St	Virginia Doyle	1,851	Single Family	Single Family	



Att. D

PO Box 1237, 15 Shaker Road
Gray, Maine 04039
207.657.6910

April 3, 2015

Mr. David Latulippe
CJ Developers, Inc.
35 Primrose Lane
Freeport, Maine 04032

Subject: Response to Planning Board comments
Proposed Bangor Savings Bank
Marginal Way, Portland, Maine

Dear David,

At the Portland planning board workshop meeting on Tuesday, March 24th, it was requested that GP provide our opinion on how the proposed Bangor Savings Bank fits into the area from a traffic point of view.

Project Background

The site is located adjacent to the northeast corner of the intersection of Marginal Way and Forest Avenue and is currently occupied by Northern Pride Car Wash and Detailing Center. The Car Wash is located approximately 250' from the above referenced intersection. The existing easterly driveway for the car wash is located at the beginning of a two way left turn lane within Marginal Way. The available stacking extending towards Forest Avenue, within the two way left turn lane at the existing easterly driveway, is approximately 50' or two vehicles. The existing westerly driveway (an exit) is approximately 160' from the intersection of Marginal Way and Forest Avenue.

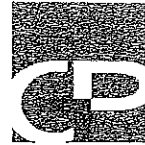
Bangor Savings Bank intends to demolish the existing building and construct an approximately 2,100 sf branch with 2 drive-thru lanes. The structure would also include two additional stories of approximately 2,500 sf each for use as office space. Certain districts, including but not limited to Bayside, lie at the perimeter of the established downtown and contain significant redevelopment opportunities. The B-7 zone encourages these districts to acquire a distinctly urban form through dense development featuring a mix of uses such as housing, retail, offices, research and development, and artisan studios that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. Office space is a permitted use and banks with drive-thrus are a conditional use within the B-7 Zone.

Consistency with Other Uses in the Area from a Traffic Point of View

GP has reviewed the proposed project and it is our opinion it is consistent and complimentary with the other uses in the area from a traffic point of view after considering the following factors.

Trip Generation

Our office has had the opportunity to work on many projects in the vicinity of the proposed site over the years including the Gorham Savings Bank retail branch at the corner of Preble and Marginal, the Gorham Savings Bank offices at the corner of Hanover and Marginal, and the AAA and Intermed buildings at the corner of Marginal Way and Preble Street Extension, and the student housing project on Marginal Way. With the exception of the



Mr. David Latulippe
March 30, 2014
Page 2 of 2

Gorham Savings Bank retail building, each of these buildings are multistory office buildings with uses similar to that proposed by Bangor Savings Bank. The proposed Bangor Savings Bank and offices are forecast to generate approximately 140 peak hour trip ends which is relatively consistent with the PM peak hour of the student housing project of 131 PM peak hour trip ends but below the 256 PM peak hour trips ends associated with the Intermed office building.

Drive Thru Traffic

There are two proposed drive-thru lanes in the rear of the building to serve the retail portion of Bangor Savings Bank. This is similar to the two drive-thru positions to the rear of the Gorham Savings Bank building (as viewed from Marginal Way). The trip generation is expected to be similar for both banks and significantly less than the existing car wash.

Pedestrian accommodations

A key to the projects we have been involved with in the vicinity of the proposed Bangor Savings site has been the emphasis on pedestrian circulation and safety. Those buildings have been brought to the front of the lot to facilitate pedestrian access to the front of the buildings and the number of curb cuts serving the sites limited to enhance pedestrian safety. The proposed Bangor Savings Bank building will also be close to the road, fronted by a sidewalk to facilitate convenient pedestrian access to the building, and the number of driveways reduced to one.

Furthermore, the existing car wash has two curb cuts on Marginal Way. The proposed Bangor Savings Bank project will eliminate one of the existing curb cuts which improves pedestrian safety.

In summary, it is our opinion that the proposed Bangor Savings Bank building will be consistent with the other uses in the area from a pedestrian and vehicular circulation point of view.

Please contact me with any questions you may have.

Sincerely,

Gorrill Palmer

Thomas L. Gorrill, PE, PTOE

Copy: Mr. Jason Donovan, Ms. Wendy Durrah (Bangor Savings Bank)

TLD/JN 2970/Corr out/Latulip 4-3-15.doc

SEBAGO TECHNICS

CIVIL ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE

Memorandum

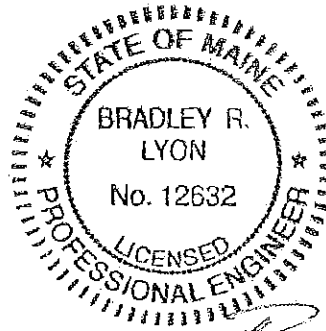
To: William DeSena

From: Bradley R. Lyon, P.E., PTOE,
Senior Transportation Engineer

Job #: 14313

Date: August 29, 2014

Subject: Trip Generation Calculations for
20 Marginal Way, Portland, Maine



[Handwritten Signature]
8/29/14

The purpose of this memorandum is to calculate what the peak hour trip generation is on 20 Marginal Way in Portland, Maine for the existing 2,500 sf "Northern Pride" automated car wash and compare it to the following three proposed land uses:

- 2,500 sf Dunkin Donuts w/Drive Thru
- 2,500 sf Generic Coffee Shop w/Drive Thru
- 2,500 sf Drive-In Bank w/1 Drive Thru Lane

Existing 2,500 sf "Northern Pride" Automated Car Wash

The latest edition, 8th, of the Institute of Transportation Engineers (ITE) Trip Generation Manual was referenced using Land Use Code 948, Automated Car Wash in an attempt to estimate peak hour traffic. Analysis of the land use found that only 2 observations were available, therefore existing sales data was requested. Existing hourly sales data was provided to us for weekdays in January, April and December of 2013 and a Sunday in April of 2013. The results, as well as the calculated weekday average are as follows:

Table 1
"Northern Pride Auto Wash" Sales Data

Time Period	Wed., Dec. 11, 2013	Tues., Jan. 8, 2013	Thurs., Jan. 10, 2013	Tues., April 20, 2013	Sat., Feb. 23, 2013	Sun., April 7, 2013	Weekday Average
07:30 AM – 08:00 AM	18	22	20	20	24	19	20
08:00 AM – 09:00 AM	49	36	36	57	43	43	45
09:00 AM – 10:00 AM	71	37	46	56	54	42	53
10:00 AM – 11:00 AM	52	46	51	55	43	46	51
11:00 AM – 12:00 PM	48	51	57	51	42	52	52
12:00 PM – 1:00 PM	69	57	59	51	58	56	59
1:00 PM – 2:00 PM	60	51	54	46	43	56	53
2:00 PM – 3:00 PM	45	55	58	43	52	43	50
3:00 PM – 4:00 PM	61	58	64	44	47	53	57
4:00 PM – 5:00 PM	49	52	54	52	54	60	52
5:00 PM – 6:00 PM	34	60	45	44	47	45	46

Given this data, it was determined that the existing weekday AM Peak Hour was from 9:00 AM to 10:00 AM, generating **106 trips** (53 sales * 2 (entering and exiting vehicles)) and the existing weekday PM Peak Hour was from 12:00 PM to 1:00 PM, generating **118 trips** (weekday average of 59 sales * 2 (entering and exiting vehicles)). The Saturday Peak Hour occurred from 12:00 PM to 1:00 PM on February 23, 2013 with **116 trips** (58 sales * 2 (entering and exiting vehicles)). The Sunday Peak Hour occurred from 4:00 PM to 5:00 PM on April 7th, 2013 with **120 trips** (60 sales * 2 (entering and exiting vehicles)). A summary of this can be found in Table 2 below:

Table 2
Proposed Trip Generation based on Sales Data
“Northern Pride Auto Wash”

	Total Trips
Weekday AM Peak Hour of Generator	106
Weekday PM Peak Hour of Generator	118
Saturday Peak Hour of Generator	116
Sunday Peak Hour of Generator	120

Proposed 2,500 sf Dunkin Donuts w/Drive Thru

Dunkin Donuts stores are unique in their trip generating characteristics and as such a special study was conducted in 2005 by Gorrill - Palmer Engineers (G-P) to better define these relationships; since MaineDOT determined that standard ITE data did not seem to provide reasonable estimates. The G-P Study outlined three means of more accurately forecasting trip generation by these facilities based on their location and the traffic volumes in the vicinity of the sites. We used these methodologies to arrive at the following results, which have been averaged to determine the AM Peak Hour of the generator. It should be noted that the Annual Average Daily Traffic in front of the site was recorded by MaineDOT in 2010 to be 8,050 vehicles per day. In addition, the AM peak hour is generally considered to be 8% of the average daily traffic, which in this case would be 644 vehicles.

Trip Gen by Store Size	=	$0.0536 \times (2,500 \text{ S.F.}) + 142.75$	=	276.75 trips
Trip Gen by AADT	=	$0.0081 \times (8,050 \text{ AADT}) + 139.36$	=	204.57 trips
Trip Gen by AM Peak Hr	=	$0.1061 \times (644 \text{ vehicles}) + 144.49$	=	212.82 trips
Average			=	231 trips

The above figure will place this Project in the “over 200” Traffic Movement Permit category. However, Dunkin Donuts stores have only a 15% Primary (or new) Trip production rate, (i.e. most patrons are already on the roadway network and stop in on their way by). Very few are new trips to the roadway. In this case the 231 Dunkin Donuts trips will only represent about 35 new trips or approximately 18 new trips in and 17 new trips out of the site. Given the presence of an existing shared left turn lane on Marginal Way, offsite improvements should be minimal but the extent of improvements wouldn’t be able to be determined until a “Scoping Meeting” is held with MaineDOT. The application fees to the state for permit of this level are \$2,000 plus our engineering costs to produce the application and perform a formal traffic study of the area.

Proposed 2,500 sf Generic Coffee Shop w/Drive Thru

Similar to the trip generation estimate for the existing "Northern Pride" automated car wash, the proposed 2,500 sf Generic Coffee Shop w/Drive Thru was estimated using the 8th Edition of the ITE Trip Generation Manual. Land Use Code 940 Bread/Donut/Bagel Shop with Drive-Through Window was used. Data was only available for the peak hour of adjacent street traffic, one hour between 7 and 9 AM and one hour between 4 and 6 PM. The results are as follows:

Table 3
Proposed Trip Generation by Square Feet
Land Use Code 940, Bread/Donut/Bagel Shop with Drive-Through Window

By Square Feet	Square Feet	Rate (Trips / 1,000 sf)	Total Trips
Weekday Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 AM	2,500	36.92	92
Weekday Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 PM	2,500	19.56	49

Given this information a Traffic Movement Permit would not be required from the MaineDOT due to the fact that the development would generate less than 100 peak hour trips.

Proposed 2,500 sf Drive-In Bank w/1 Drive Thru Lane

Similar to the trip generation estimate for the existing "Northern Pride" automated car wash and the Generic Coffee Shop, the proposed 2,500 sf Drive-In Bank w/1 Drive Thru Lane was estimated using the 8th Edition of the ITE Trip Generation Manual. Land Use Code 912 Drive-in Bank was used by using rates per 1,000 square feet of gross floor area averaged with rates by drive-in lanes. The results are as follows:

Table 4
Proposed Trip Generation by Square Feet
Land Use Code 912 Drive-in Bank

By Square Feet	Square Feet	Rate (Trips / 1,000 sf)	Total Trips
Weekday AM Peak Hour of Generator	2,500	17.31	43
Weekday PM Peak Hour of Generator	2,500	26.69	67
Saturday Peak Hour of Generator	2,500	26.53	66
Sunday Peak Hour of Generator	2,500	4.78	12

Table 5
Proposed Trip Generation by Drive-In Lane
Land Use Code 912 Drive-in Bank

By Drive-In Lane	Drive-In Lanes	Rate (Trips / Drive-In Lane)	Total Trips
Weekday AM Peak Hour of Generator	1	21.64	22
Weekday PM Peak Hour of Generator	1	29.05	29
Saturday Peak Hour of Generator	1	29.88	30
Sunday Peak Hour of Generator	1	N/A	N/A

Table 6
Proposed Trip Generation Total Average
Land Use Code 912 Drive-in Bank

By Drive-In Lane	Trips by Square Foot	Trips by Drive-In Lane	Average Trips
Weekday AM Peak Hour of Generator	43	22	33
Weekday PM Peak Hour of Generator	67	29	48
Saturday Peak Hour of Generator	66	30	48
Sunday Peak Hour of Generator	12	N/A	12

Given this information a Traffic Movement Permit would not be required from the MaineDOT due to the fact that the development would generate less than 100 peak hour trips.

Conclusion

In conclusion, the trip generation for each of the uses is as follows:

Table 7
Overall Trip Generation Comparison

	Existing 2,500 sf Automated Car Wash	2,500 sf Dunkin Donuts	2,500 sf Generic Coffee Shop	2,500 sf Drive- In Bank
AM Peak Hour of Generator	106	231	92	33
PM Peak Hour of Generator	118	N/A	49	48
Saturday Peak Hour of Generator	116	N/A	N/A	48
Sunday Peak Hour of Generator	120	N/A	N/A	12
Traffic Movement Permit Required?	N/A	Yes (200+ Trips)	No	No

Given the above information, it is our opinion that a Traffic Movement Permit would only be required for the Dunkin Donuts which would generate 231 AM Peak Hour trips, putting it into the 200+ Traffic Movement Permit category. The remaining two uses all generate below 100 peak hour trips and therefore would not require a Traffic Movement Permit.

From: David Latulippe <ddlatulip@aol.com>
To: <JF@portlandmaine.gov>
Date: 4/8/2015 4:26 PM
Subject: Fwd: Traffic Generation for 20 Marginal Way

Jean,

Below is an email from Tom Gorrill which basically says that there is little to no traffic data on banks without drive throughs. This kind of validates Bangor's position that a bank without an drive through is not currently a viable business option. Hopefully, sometime in future our society will become less car centric.

David

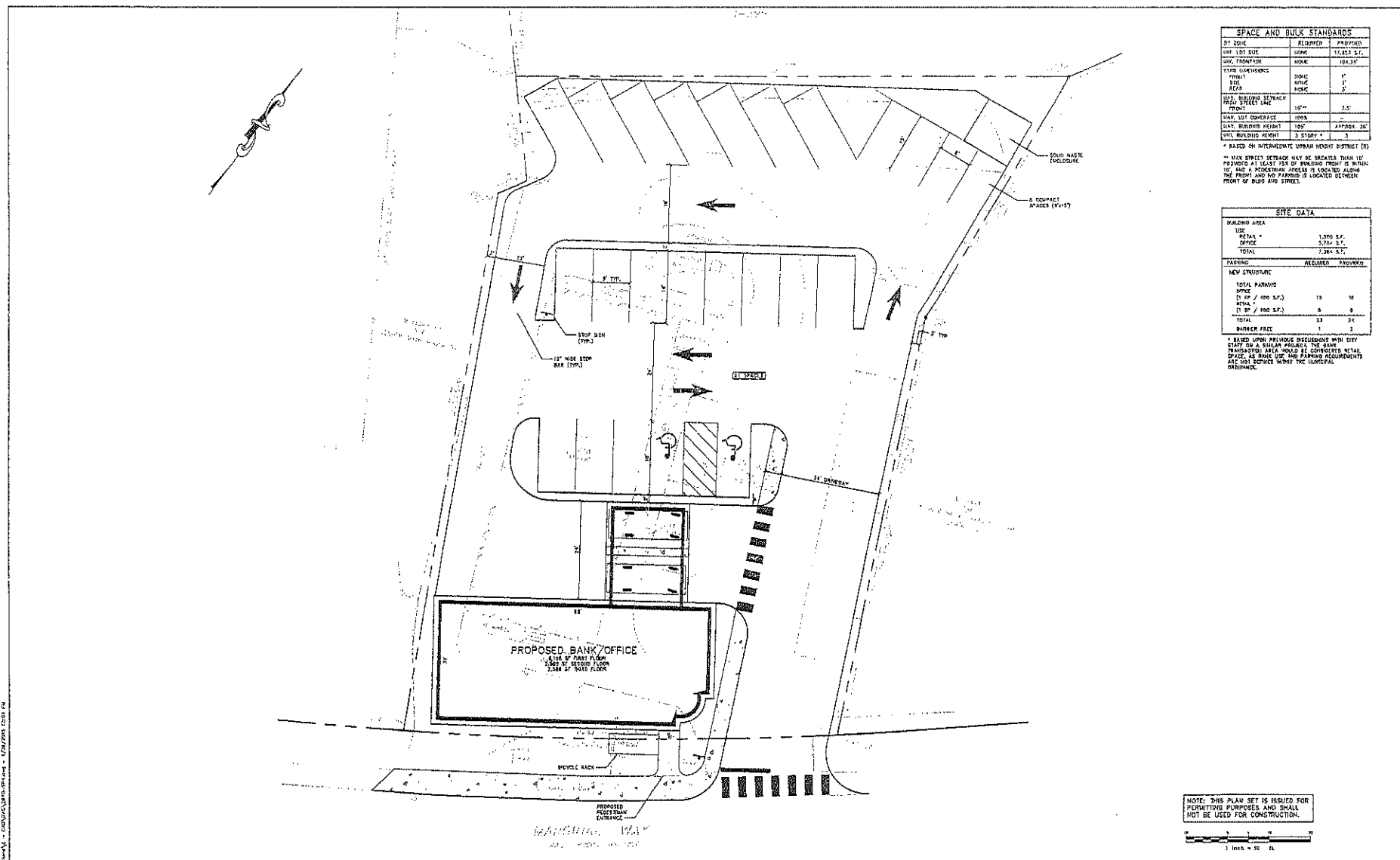
-----Original Message-----

From: Thomas Gorrill <TGorrill@gorrillpalmer.com>
To: David Latulippe <ddlatulip@aol.com>
Sent: Wed, Apr 8, 2015 4:16 pm
Subject: RE: Traffic Generation for 20 Marginal Way

David:

There are only 3 studies for walk-in banks in the latest edition of the ITE Trip Generation Manual all of which were done in California. ITE has a disclaimer to use the limited data cautiously since it is a very small sample. ITE gets its data by compiling information sent in by traffic engineers across the country. Since banks without drive-thru lanes are fairly rare except within an downtown urban block, there is no reliable data available.

tom



BY CODE	REQUIRE	PROPOSED
MIN. LOT SIZE	10000	17,853 S.F.
MIN. FRONT YD.	100	104.35'
MIN. SIDE YD.	100	104.35'
MIN. REAR YD.	100	104.35'
MIN. BUILDING SETBACK	10'	10'
MIN. LOT COVERAGE	100%	100%
MIN. BUILDING HEIGHT	10'	10'
MIN. BUILDING HEIGHT	3 STORY	3

* BASED ON INTERMEDIATE URBAN HEIGHT DISTRICT (ID)
 ** MAX. STREET SETBACK MAY BE GREATER THAN 10' PROVIDED AT LEAST 75% OF BUILDING FRONT IS WITHIN 10' SETBACK. A SIDEWALK AREA IS LOCATED ALONG THE FRONT AND NO PARKING IS ALLOWED BETWEEN FRONT OF BUILDING AND STREET.

SITE DATA	
BUILDING AREA	
USE	1,300 S.F.
RETAIL	5,700 S.F.
OFFICE	5,700 S.F.
TOTAL	12,700 S.F.
PAVING	REQUIRED
NEW STRUCTURE	
TOTAL PAVING	
OFFICE	13
RETAIL	16
TOTAL	29
PAVING PRICE	1
TOTAL	29

* BASED UPON PREVIOUS RECORDS WITH DIFF. START ON A BUREAU PROJECT. THE BANK TRANSPORTATION AREA SHALL BE CONSIDERED AS SPACE AS BUREAU USE AND PARKING REQUIREMENTS ARE NOT DISTURBED WITHIN THE CURRENT RECORDS.

Rev.	Date	Revision

CLIENT REVIEW	Date	By

Design: ADP	Drawn: GE	Date: 02/20/14
Checked: ADP	Scale: 1"=10'	Date: 02/20/14
This plan shall not be modified without written permission from Gorrill-Palmer Consulting Engineers, Inc. (GPCE). Any alterations, omissions or additions, shall be at the user's sole risk and without liability to GPCE.		

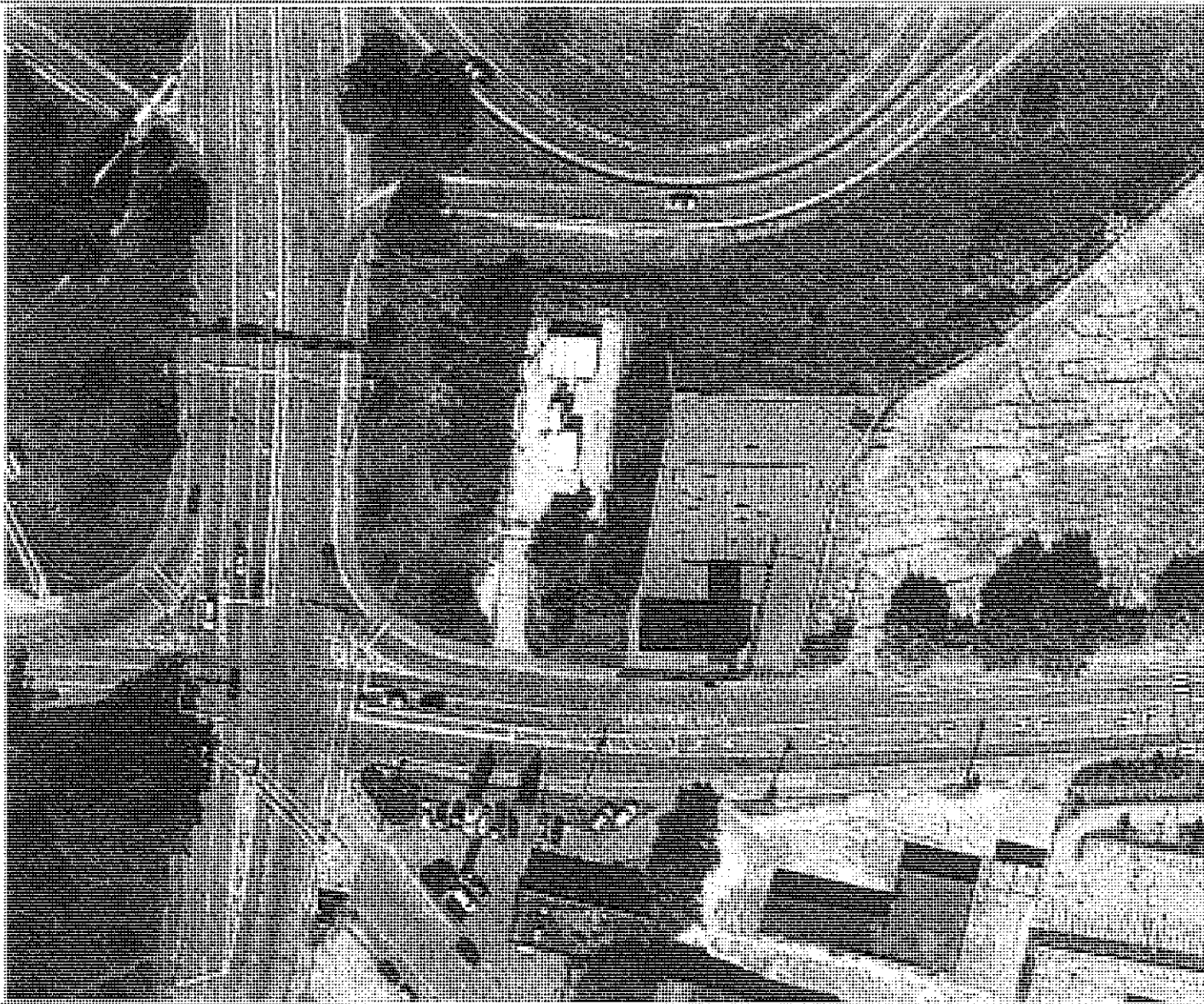


Relationships, Responsiveness, Results.
 www.gorrillpalmer.com
 207.657.6910

Project:	Concept Plan
Client:	Bangor Savings Bank
	20 Marginal Way, Portland, Maine
	Bangor Savings Bank
	99 Franklin Street, Bangor, Maine 04401

Drawing No.
C101

U:\2010 - 2019\2010-2019\2010-2019.dwg - 2/21/2010 9:28 AM



Sheet 1



Rev.	Date	Revision

CLIENT REVIEW	Date	By

Design: AEP	Drawn: CS	Date: 02/20/10
Checked: MJP	Scale: 1"=30'	Job No: 2010
File Name: 2010-001.dwg		
This plan shall not be modified without written permission from Gorrill-Palmer Consulting Engineers, Inc.(GPCE). Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to GPCE.		

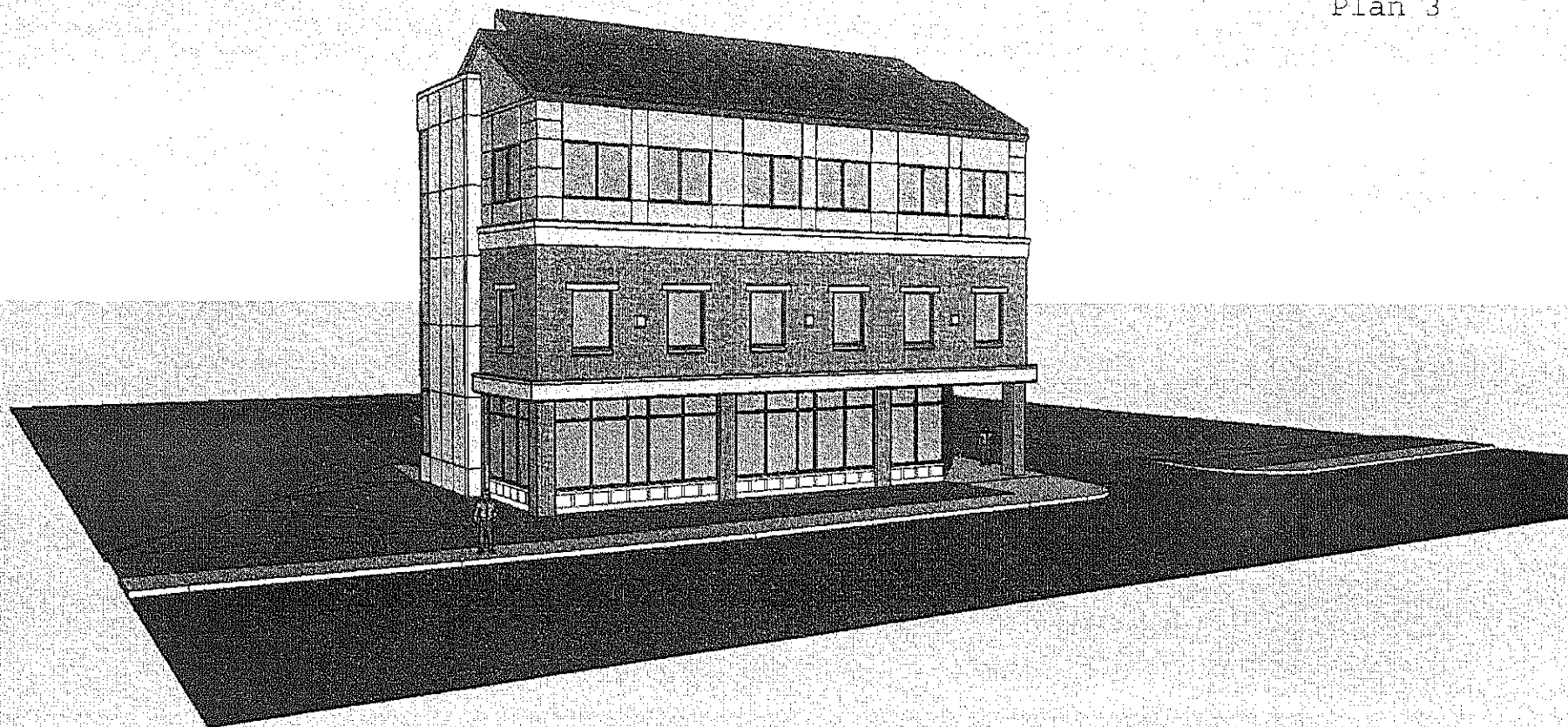


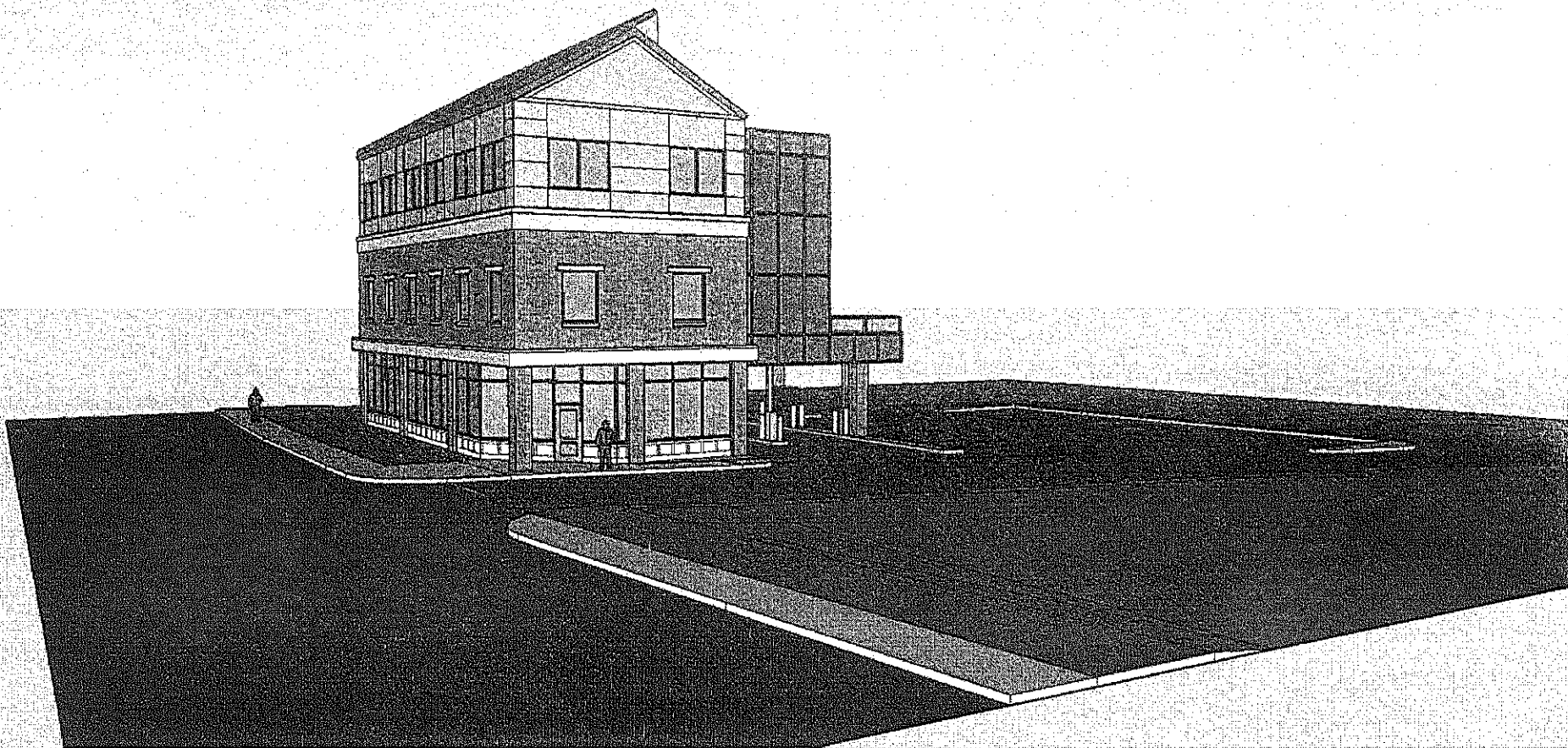
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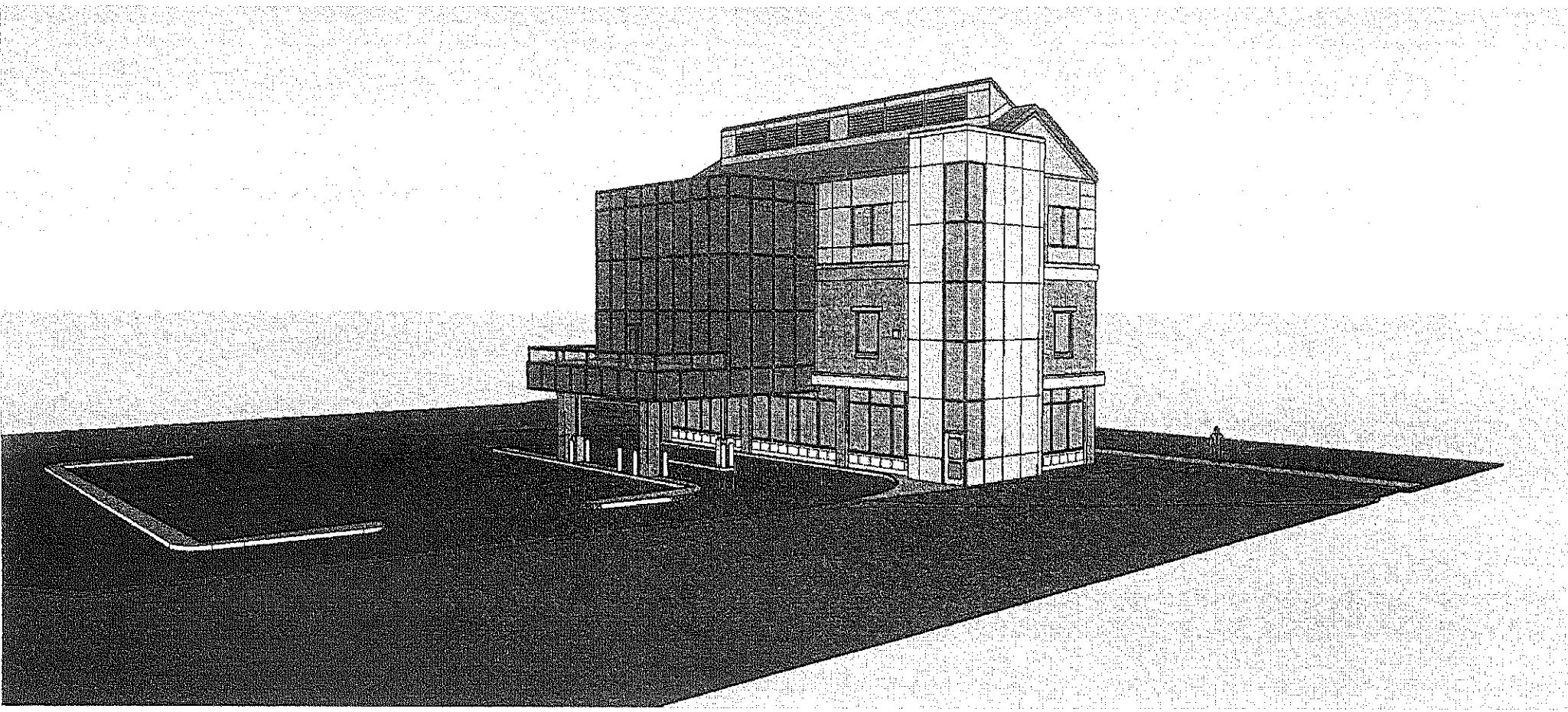
Drawing Name:	Overall Concept Plan
Project:	Bangor Savings Bank 20 Marginal Way, Portland, Maine
Client:	Bangor Savings Bank 99 Franklin Street, Bangor, Maine 04401

Drawing No.	C100
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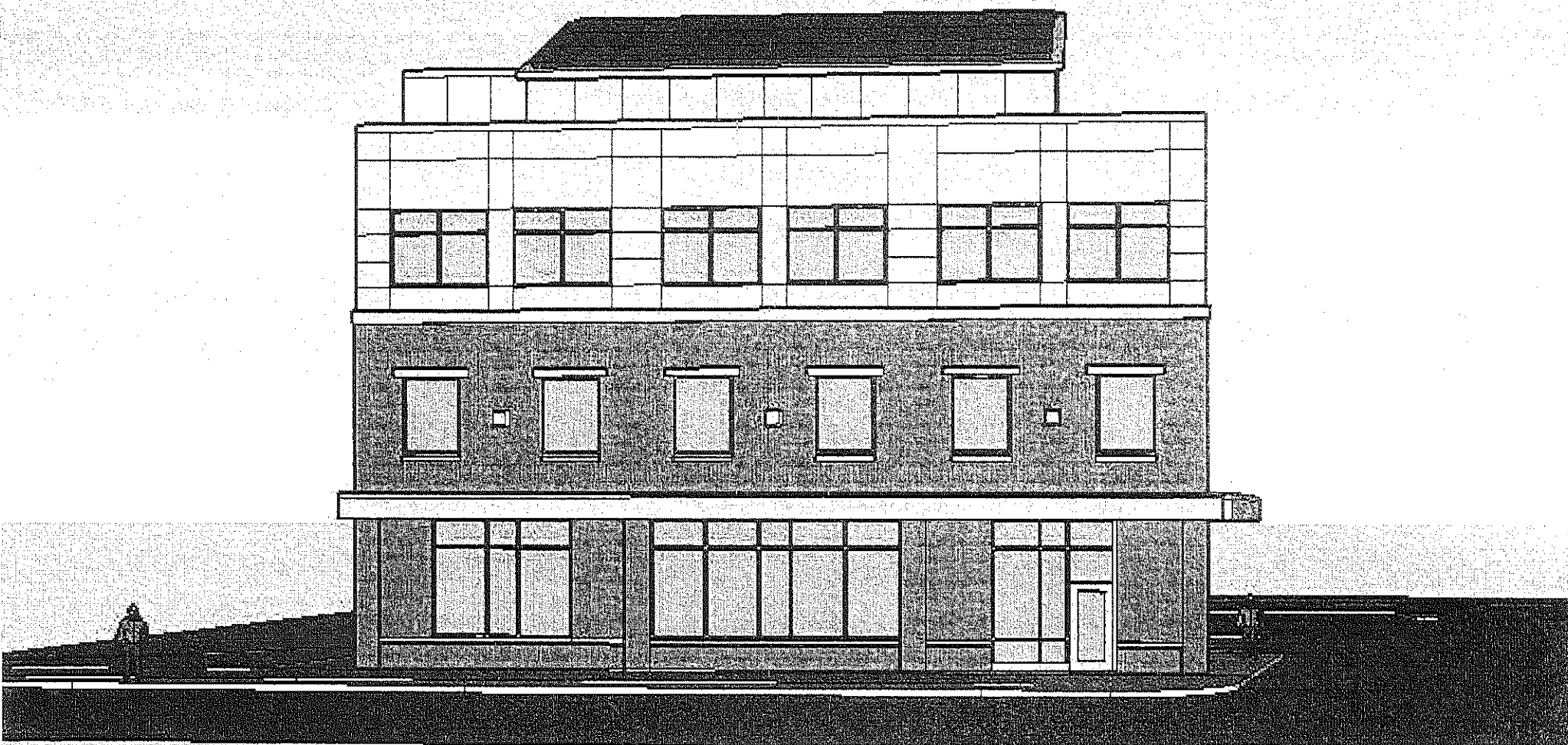
Plan 3

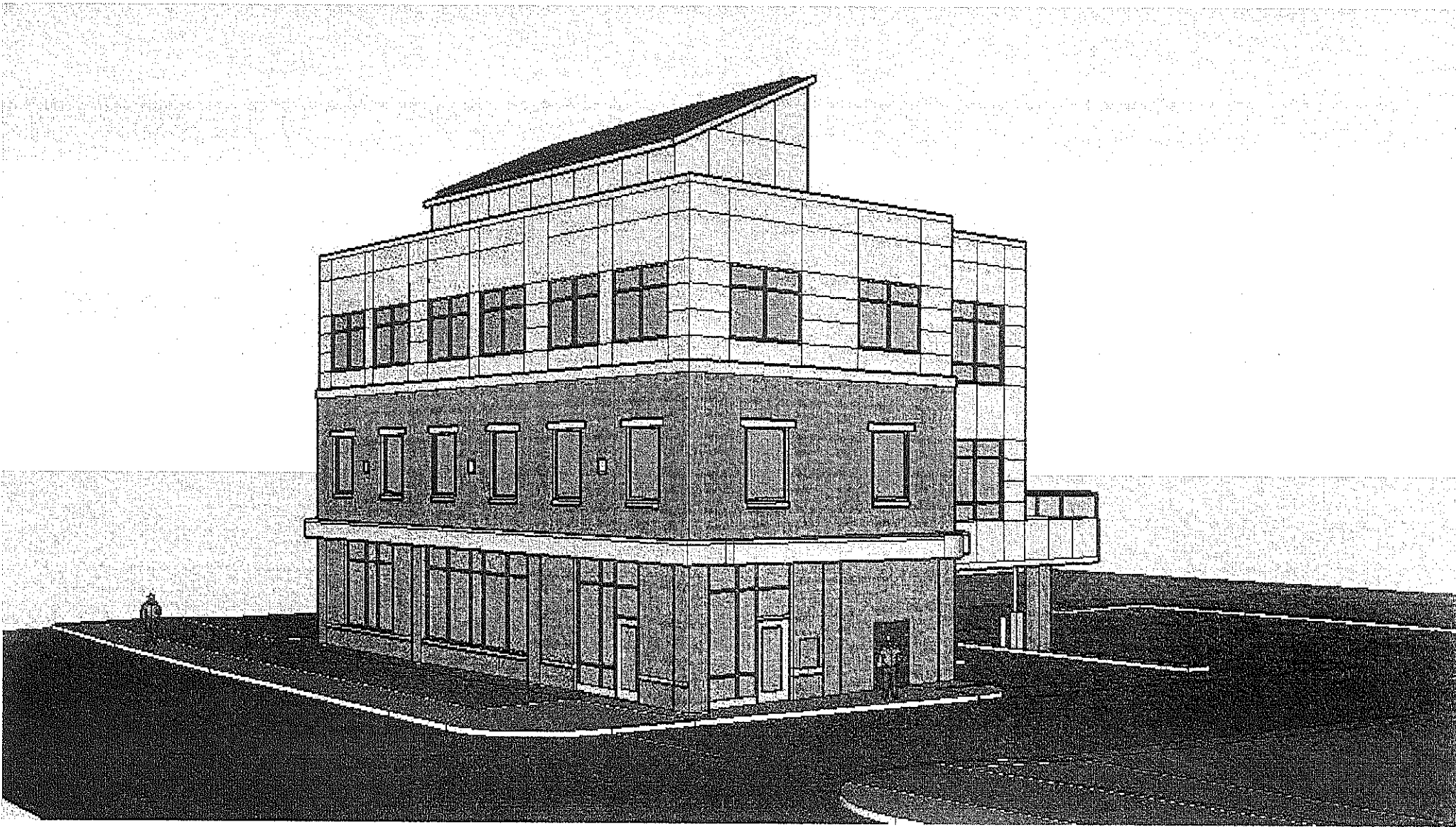


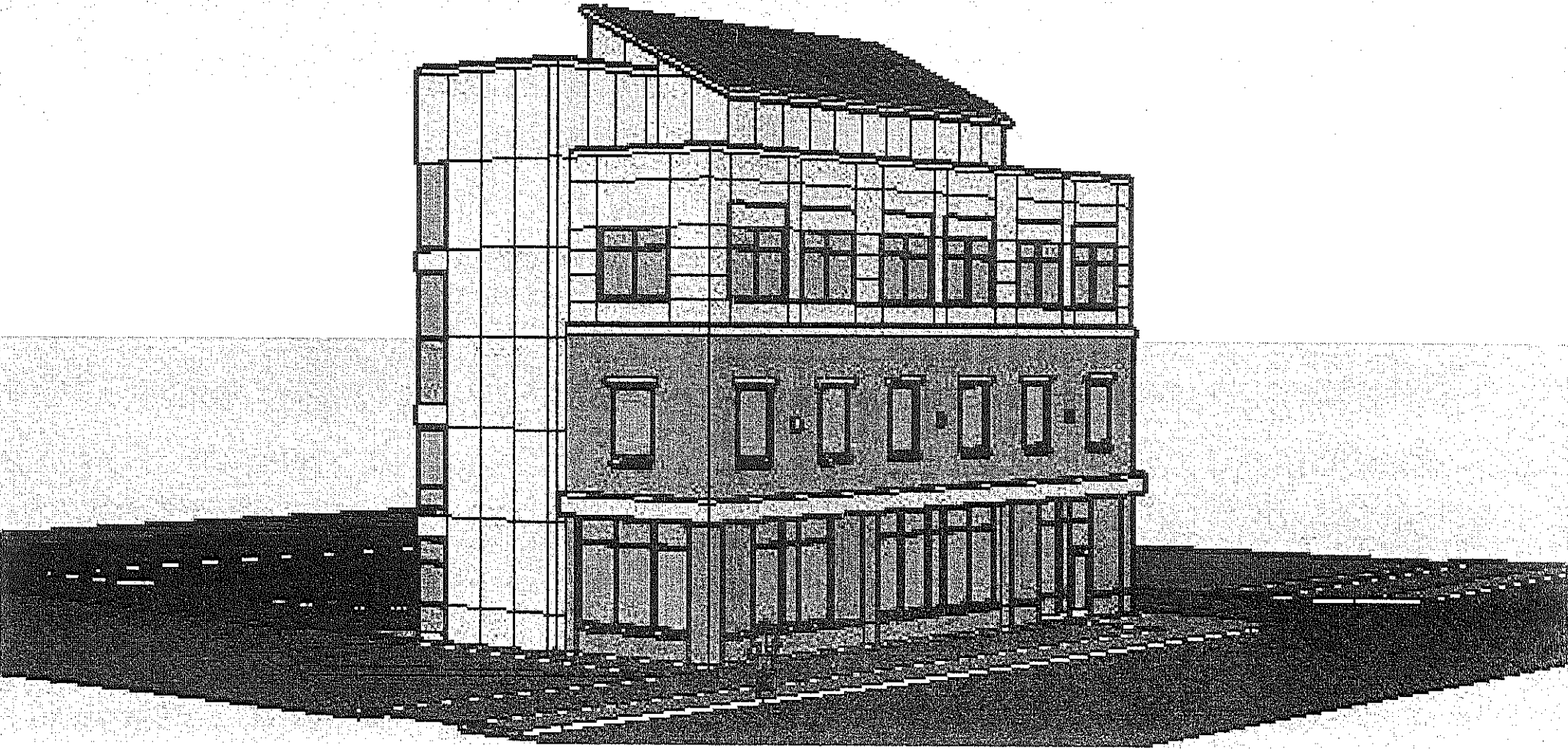




Plan 4







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**

Order 256-14/15
Tab 30 5-18-15
Tab 6 6-1-15
Tab 29B 6-15-15
DAVID H. BRENNERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 7 (CEMETERIES)
ARTICLES I. TO VII.
RE: UPDATES TO CEMETERY ORDINANCE**

1. That Articles I, II, III, IV, V and VII are hereby amended to read as follows:

ARTICLE I. IN GENERAL

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Sec. 7-2. Hours.

~~Cemetery offices will be open from 7:00 a.m. to 3:30 p.m. Monday through Friday, except holidays. The cemeteries themselves will be open from 7:00 a.m. to 6:30 p.m. each day, except from November first to April first when they will be open from 7:00 a.m. to 4:30 p.m. The Cemetery Office will be open from 8:00 AM to 4:30 PM during Standard Time and will be open from 7:00 AM to 3:30 PM during Daylight Savings Time Monday-Friday except Holidays.~~

The cemetery grounds will be open from 7:00 AM to 6:30 PM during Standard Time and will be open from 7:00 AM to 4:30 PM during Daylight Savings Time 7 days a week.

...

Sec. 7-5. Use of Wilde Memorial Chapel.

Wilde Memorial Chapel located at Evergreen Cemetery is open to the public for a reasonable fee, as set from time to time by the Superintendent of Cemeteries. Any fee charged pursuant to this section shall be used to cover maintenance costs, the cost of utilities, and to provide necessary staff to facilitate the use of the Chapel. Wilde Memorial Chapel located at Evergreen Cemetery is open to the public without charge. Applications for use of the chapel must be made at least twelve (12) hours prior

to time desired. The remains of any persons dying from any contagious disease cannot be brought into the chapel for funeral services.

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Persons desiring to purchase lots should visit the cemeteries where the ssuperintendent of Ceemeteries or authorized designee will aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.

...

Sec. 7-30. Lost or destroyed deeds.

A lost or destroyed deed will be replaced by a new deed a copy of the deed upon request upon payment of one dollar (\$1.00).

...

ARTICLE III. CARE OF LOTS*

Sec. 7-46. ~~Perpetual care classification.~~ RESERVED.

~~There are the following four (4) types of perpetual care which may be obtained from the city for the permanent maintenance of lots in cemeteries: (Classes 2nd, 3rd and 4th apply only to Evergreen Cemetery)~~

~~(a) 1st class. 1st class perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~

~~(b) 2nd class. 2nd class perpetual care embraces any or all divisions in first class care, as well as the proper care and cleaning of all granite, stone, marble, or bronze structures on the lot at the time care is assumed, as well as any future erections expressly specified, but does not include replacement of any such structures.~~

~~(c) 3rd class. 3rd class perpetual care assumes the same care as 2nd class care and, in addition, includes replacement of structures as described above when necessary.~~

~~4th class. 4th class perpetual care includes all divisions in 1st class care and the care of any tombs, vaults or mausoleums, such as the pointing of joints, keeping walls in place, and the structure as a whole in a suitable and sanitary condition.~~

Sec. 7-47. Perpetual care required; may be purchased.

All lots sold after August 19, 1970, must include perpetual care consisting of keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~1st class perpetual care, except in cases of Sections OO, MM and LL (a) in Forest City Cemetery and Section SG in Evergreen where such requirement is optional, and~~
~~perpetual care may be purchased to cover any lots previously sold without care.~~

...

Sec. 7-49. Additional care may be purchased.

(a) *By agreement.* Lot owners desiring additional care of their lots may arrange for such care with the superintendent of cemeteries who shall give an estimate of the cost of the work desired. This care may be provided for ~~by annual payments made by the lot owner or~~ by the establishment of a trust fund under such agreement as may be determined between the superintendent and the lot owner. The limitations of this type of care may vary according to the capabilities of the individual cemeteries.

By bequest. In addition to the foregoing, the superintendent of cemeteries is authorized to accept testamentary bequests for additional lot care including, but not limited to, trust funds, upon his determination that the purpose of the bequest can be financially and lawfully implemented. In the event that it cannot be so implemented, the superintendent shall notify the estate's representative to that effect.

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Sec. 7-52. Who may provide care for lots.

No person except a lot owner, ~~his or her~~ authorized representative, or an employee of the cemeteries, acting under

the direction of the superintendent of cemeteries, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the ~~S~~Superintendent of ~~C~~cemeteries secured in advance. The Superintendent of Cemeteries reserves the right to give authorization to any workmen, other than employees of the cemetery, before they may do work in any cemetery. Burial Right holders may have certain work done in accordance with these Rules and Regulations at their own expense upon application to the Superintendent of Cemeteries; prices to be agreed upon and paid before said work is done.

All outside workers must submit a Certificate of Insurance to the satisfaction of the City for review before commencing any work in the cemetery.

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Sec. 7-67. Previous notices required for interments, etc.

The right is reserved by the cemeteries to insist upon at least ~~twenty-four~~ thirty-six (24³⁶) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal. The cemeteries reserve the right to postpone interment/disinterment time due to acts of nature, God, civil and national emergencies.

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Once an interment has been made, graves will be opened only by officials and employees of the cemeteries in the sole and exclusive judgment of the superintendent of cemeteries that such opening is proper, necessary, and duly authorized or when the cemetery is directed to make a disinterment by an elder order of a court of competent jurisdiction and a certified copy of such order has been filed with the superintendent of cemeteries. In all cases the responsibility of the cemetery shall be limited to opening of the grave only and the actual disinterment must be made by the person authorized to do so.

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...

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DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
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IN THE CITY COUNCIL**

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 7 (CEMETERIES)
ARTICLES I. TO VII.
RE: UPDATES TO CEMETERY ORDINANCE**

1. That Articles I, II, III, IV, V and VII are hereby amended to read as follows:

ARTICLE I. IN GENERAL

...

Sec. 7-2. Hours.

~~Cemetery offices will be open from 7:00 a.m. to 3:30 p.m. Monday through Friday, except holidays. The cemeteries themselves will be open from 7:00 a.m. to 6:30 p.m. each day, except from November first to April first when they will be open from 7:00 a.m. to 4:30 p.m. The Cemetery Office will be open from 8:00 AM to 4:30 PM during Standard Time and will be open from 7:00 AM to 3:30 PM during Daylight Savings Time Monday-Friday except Holidays.~~

The cemetery grounds will be open from 7:00 AM to 6:30 PM during Standard Time and will be open from 7:00 AM to 4:30 PM during Daylight Savings Time 7 days a week.

...

Sec. 7-5. Use of Wilde Memorial Chapel.

Wilde Memorial Chapel located at Evergreen Cemetery is open to the public for a reasonable fee, as set from time to time by the Superintendent of Cemeteries. Any fee charged pursuant to this section shall be used to cover maintenance costs, the cost of utilities, and to provide necessary staff to facilitate the use of the Chapel. Wilde Memorial Chapel located at Evergreen Cemetery is open to the public without charge. Applications for use of the chapel must be made at least twelve (12) hours prior

to time desired. ~~The remains of any persons dying from any contagious disease cannot be brought into the chapel for funeral services.~~

...

ARTICLE II. LOT OWNERSHIP

Sec. 7-21. Prospective purchasers to visit cemeteries.

Persons desiring to purchase lots should visit the cemeteries where the ~~ss~~Superintendent of ~~Ce~~cemeteries or authorized designee will aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.

...

Sec. 7-30. Lost or destroyed deeds.

A lost or destroyed deed will be replaced by a ~~new deed~~ a copy of the deed upon request upon payment of one dollar (\$1.00).

...

ARTICLE III. CARE OF LOTS*

Sec. 7-46. Perpetual care classification. RESERVED.

~~There are the following four (4) types of perpetual care which may be obtained from the city for the permanent maintenance of lots in cemeteries: (Classes 2nd, 3rd and 4th apply only to Evergreen Cemetery)~~

~~(a) 1st class. 1st class perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~

~~(b) 2nd class. 2nd class perpetual care embraces any or all divisions in first class care, as well as the proper care and cleaning of all granite, stone, marble, or bronze structures on the lot at the time care is assumed, as well as any future erections expressly specified, but does not include replacement of any such structures.~~

~~(c) 3rd class. 3rd class perpetual care assumes the same care as 2nd class care and, in addition, includes replacement of structures as described above when necessary.~~

~~4th class. 4th class perpetual care includes all divisions in 1st class care and the care of any tombs, vaults or mausoleums, such as the pointing of joints, keeping walls in place, and the structure as a whole in a suitable and sanitary condition.~~

Sec. 7-47. Perpetual care required; may be purchased.

All lots sold after August 19, 1970, must include perpetual care consisting of keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~1st class perpetual care, except in cases of Sections OO, MM and LL (a) in Forest City Cemetery and Section SG in Evergreen where such requirement is optional, and pPerpetual care may be purchased to cover any lots previously sold without care.~~

...

Sec. 7-49. Additional care may be purchased.

(a) *By agreement.* Lot owners desiring additional care of their lots may arrange for such care with the superintendent of cemeteries who shall give an estimate of the cost of the work desired. This care may be provided for ~~by annual payments made by the lot owner or~~ by the establishment of a trust fund under such agreement as may be determined between the superintendent and the lot owner. The limitations of this type of care may vary according to the capabilities of the individual cemeteries.

By bequest. In addition to the foregoing, the superintendent of cemeteries is authorized to accept testamentary bequests for additional lot care including, but not limited to, trust funds, upon his determination that the purpose of the bequest can be financially and lawfully implemented. In the event that it cannot be so implemented, the superintendent shall notify the estate's representative to that effect.

...

Sec. 7-52. Who may provide care for lots.

No person except a lot owner, ~~his or her~~ authorized representative, or an employee of the cemeteries, acting under

the direction of the superintendent of cemeteries, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the sSuperintendent of Ceemeteries secured in advance. The Superintendent of Cemeteries reserves the right to give authorization to any workmen, other than employees of the cemetery, before they may do work in any cemetery. Burial Right holders may have certain work done in accordance with these Rules and Regulations at their own expense upon application to the Superintendent of Cemeteries; prices to be agreed upon and paid before said work is done.

All outside workers must submit a Certificate of Insurance to the satisfaction of the City for review before commencing any work in the cemetery.

...

ARTICLE IV. INTERMENTS*

Sec. 7-66. Funerals in charge of cemeteries.

All funerals entering the cemeteries ~~shall be under the direction of a funeral director who~~ shall abide by the rules and regulations of the respective cemetery, and ~~funeral directors~~ upon arrival at a cemetery must present to the superintendent of cemeteries the necessary burial permit from the city clerk.

Sec. 7-67. Previous notices required for interments, etc.

The right is reserved by the cemeteries to insist upon at least ~~twenty-four~~ thirty-six (24~~36~~) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal. The cemeteries reserve the right to postpone interment/disinterment time due to acts of nature, God, civil and national emergencies.

Sec. 7-68. Times for interments.

The cemeteries will be open for interments from 8:00 a.m. to ~~4:30~~2:00 p.m., Monday through Friday. Requests for openings ~~prior to 10:00 a.m.~~ on Mondays must reach the cemetery offices before noon on Friday. Any services extending beyond or scheduled after these hours, or Saturday interments, will require an additional charge above the regular interment fee. No interments will be made on Sundays or legal holidays, except on proclamation of an emergency.

Sec. 7-69. Interments to be authorized by lot owners.

All orders for interments in lots must be signed by the owner of the lot, or his or her authorized representative. When this is impossible because of absence from the city, ~~telegraphic~~ permission will be accepted by fax or scanned pdf in lieu of signed authorization.

Sec. 7-70. Number of interments in single grave.

No interment of two (2) or more bodies shall be made in one (1) grave, except in the case of mother and child, or two (2) infants, buried in one (1) casket. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the superintendent of cemeteries. One body and one cremains or two cremains will be allowed in a single full-size grave.

...

Sec. 7-73. Graves opened only when.

Once an interment has been made, graves will be opened only by officials and employees of the cemeteries in the sole and exclusive judgment of the superintendent of cemeteries that such opening is proper, necessary, and duly authorized or when the cemetery is directed to make a disinterment by an ~~elder~~ order of a court of competent jurisdiction and a certified copy of such order has been filed with the superintendent of cemeteries. In all cases the responsibility of the cemetery shall be limited to opening of the grave only and the actual disinterment must be made by the person authorized to do so.

...

ARTICLE V. PLANTS, SHRUBS AND FLOWERS*

...

Sec. 7-89. Plantings on single lots, etc.

No shrubs or evergreens will be permitted on a single grave lot. No plantings of any shrubs or trees will be permitted at individual headstones or flush markers. Plantings on two (2) grave or larger plots must first be approved by the superintendent of cemeteries. Planting of annuals is allowed in certain sections of the cemetery as approved by the

| Superintendent of Cemeteries. Please contact Office for details.

...

ARTICLE VII. RULES OF CONDUCT*

...

Sec. 7-136. Unauthorized items removed from lots.

The placing of boxes, shells, toys, ornaments, chairs, settees or similar unauthorized items upon lots will not be permitted, and the superintendent of cemeteries reserves the right to remove any such unauthorized items. The use of shells, stones, lawn ornaments, statues, glass containers, solar lights, shepherds crooks, tin cans and other similar items is strictly prohibited on the lots. No lawn ornament of any kind as defined by the Superintendent of Cemeteries or his or her authorized designee shall be allowed. The Superintendent reserves the right to remove without notice any planting or object that is in violation of these regulations, or that in the opinion of the Superintendent of Cemeteries is a hazard to cemetery employees or injurious to the general appearance of the cemetery.

...

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: April 12, 2015

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

SUBJECT: Chapter 7 Revisions – Cemetery Operations

SPONSOR: City Manager

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ April 27, 2015 _____ Final Action _____

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

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services wishes to update language in Chapter 7 of the City Code to address to reflect current cemetery management practices.

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

It has been many years since Chapter 7 has been amended. Over the years operating procedures and funeral practices have evolved making some of the language in the ordinance archaic or obsolete. The proposed amendments are “housekeeping” to align the language with current practices. The proposed amendments also allows staff to charge a reasonable fee for the use of Wilde Chapel. Corporation Counsel has reviewed the records and can find no language prohibiting this. This amendment would provide clarity.

III. INTENDED RESULT

Please see above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

The language will ensure that all lots purchased pay for perpetual care so the City has the means to properly care for the lot in the future. It also allows the City to recover reasonable costs for outside use of Wilde Chapel.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

Approval of the amendments

VIII. LIST ATTACHMENTS

- Chapter 7 Mark Up
- Memo to Transportation, Sustainability and Energy Committee
- Agenda Memo

Prepared by:

Troy Moon
Environmental Programs and Open Space Manager

Date: April 13, 2015

Chapter 7 CEMETERIES*

*Cross reference(s)--Streets, sidewalks and other public places, Ch. 25.

State law reference(s)--Cemetery corporations, 13 M.R.S.A. § 1031 et seq.

- Art. I. In General, §§ 7-1--7-20
- Art. II. Lot Ownership, §§ 7-21--7-45
- Art. III. Care of Lots, §§ 7-46--7-65
- Art. IV. Interments, §§ 7-66--7-85
- Art. V. Plants, Shrubs and Flowers, §§ 7-86--7-105
- Art. VI. Monuments, Tombs, Mausoleums and Other Structures, §§ 7-106--7-122
- Art. VII. Rules of Conduct, §§ 7-123--7-139

ARTICLE I. IN GENERAL

Sec. 7-1. Purpose and intent.

For the mutual protection of lot owners and the cemeteries as a whole, the rules and regulations in this chapter are hereby established for all municipal cemeteries. All lot owners and persons visiting the cemeteries shall abide by such rules and regulations as herein enacted and as hereafter amended, which are intended to assist in maintaining our cemeteries as peaceful and beautiful areas as well as reverent symbols of respect for the dead.

(Code 1968, § 502.1; Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-2. Hours.

~~Cemetery offices will be open from 7:00 a.m. to 3:30 p.m. Monday through Friday, except holidays. The cemeteries themselves will be open from 7:00 a.m. to 6:30 p.m. each day, except from November first to April first when they will be open from 7:00 a.m. to 4:30 p.m. The Cemetery Office will be open from 8:00 AM to 4:30 PM during Standard Time and will be open from 7:00 AM to 3:30 PM during Daylight Savings Time Monday-Friday except Holidays.~~

The Cemetery grounds will be open from 7:00 AM to 6:30 PM during Standard Time and will be open from 7:00 AM to 4:30 PM during Daylight Savings Time 7 days a week.

(Code 1968, § 502.2(a)(1); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-3. Employees.

- (a) Cemetery employees shall not work on Saturdays, Sundays and holidays except that Saturday employment may be permitted by the superintendent of cemeteries for an additional charge as established by the city council or that employment may be required at times as determined by the department head.
- (b) Cemetery employees are not permitted to do any work for lot owners or other persons except upon order of the superintendent of cemeteries but are required to be civil and courteous to all persons visiting the cemeteries.
- (c) No gratuity shall be accepted by any cemetery employee.
(Code 1968, § 502.2(a)(2), (a)(3), (a)(5); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-4. Fees.

All fees or charges for services are payable at the cemetery offices, except that interment charges may be payable through any reputable funeral director and any foundation charges for monuments or marker emplacement may be payable through any reputable monument dealer.
(Code 1968, § 502.2(a)(4); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-5. Use of Wilde Memorial Chapel.

Wilde Memorial Chapel located at Evergreen Cemetery is open to the public for a reasonable fee, as set from time to time by the Superintendent of Cemeteries. Any fee charged pursuant to this section shall be used to cover maintenance costs, the cost of utilities, and to provide necessary staff to facilitate the use of the Chapel. ~~Wilde Memorial Chapel located at Evergreen Cemetery is open to the public without charge. Applications for use of the chapel must be made at least twelve (12) hours prior to time desired. The remains of any persons dying from any contagious disease cannot be brought into the chapel for funeral services.~~

(Code 1968, § 502.10)

Sec. 7-6. Correction of errors.

The cemeteries reserve the right to correct any errors that may be made by them in making interments, disinterments or removals, or in the description, transfer or conveyance of any lot. Errors of lot owners in failing to specify proper interment position, or of monument dealers in failing to clearly specify monument or marker foundation positions will be cause once work is in progress by the cemeteries for a fair additional charge in the event a change is requested.

(Code 1968, § 502.9)

Sec. 7-7. Enforcement.

The superintendent of cemeteries is hereby empowered to enforce the rules and regulations of this chapter and to exclude from the cemeteries any person deliberately violating such rules and regulations. The superintendent shall have charge of the grounds and buildings within city cemeteries and shall have supervision and control of employees and all persons visiting the cemeteries, whether lot owners or otherwise.

(Code 1968, § 502.11)

Sec. 7-8. Reserved.

Sec. 7-9. Reserved.

Sec. 7-10. Reserved.

Sec. 7-11. Reserved.

Sec. 7-12. Reserved.

Sec. 7-13. Reserved.

Sec. 7-14. Reserved.

Sec. 7-15. Reserved.

Sec. 7-16. Reserved.

Sec. 7-17. Reserved.

Sec. 7-18. Reserved.

Sec. 7-19. Reserved.

Sec. 7-20. Reserved.

ARTICLE II. LOT OWNERSHIP

Sec. 7-21. Prospective purchasers to visit cemeteries.

Persons desiring to purchase lots should visit the cemeteries where the superintendent of cemeteries or designee will aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.

(Code 1968, § 502.3(a))

Sec. 7-22. Details of purchase.

The purchase price must be paid in full at the time of purchase and receipt for such purchase price will be given to the purchaser at that time. Within ten (10) days thereafter a deed will be sent to the purchaser by the director of finance. A description of lots contained in such deeds shall be in accordance with cemetery plots which are kept on file in the cemetery offices. It shall be the duty of the lot owner to notify the respective cemetery office of any change in address after purchase.

(Code 1968, § 502.3(b))

Sec. 7-23. Lots not subdivided or sold jointly.

Lots of various sizes are available in the cemeteries and, therefore, no lots will be subdivided.

(Code 1968, § 502.3(c))

Sec. 7-24. Purchasers-rights in roads, drives or paths.

No easement or right of interment is granted to any lot owner in any road, drive or path within the cemeteries, but such road, drive or path may be used as a means of access to the cemetery or buildings so long as it shall be devoted to such purpose.

(Code 1968, § 502.3(d))

Sec. 7-25. Rights reserved to cemeteries.

The right to enlarge, reduce, replot or change the boundaries or grading of the cemeteries, or a section or sections thereof, from time to time, including the right to modify or change the location of, or remove or regrade roads, drives, or walks, or any part thereof, is hereby reserved. The right to lay, maintain and operate, or alter or change, pipe lines or gutters for sprinkler systems and drainage purposes is also expressly reserved, as well as is the right to use cemetery property, not sold to lot owners, for cemetery purposes, including interment of the dead, or for anything necessary, incidental, or convenient thereto. The cemeteries reserve to themselves, and to those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passing to and from other lots.

(Code 1968, § 502.3(e))

Sec. 7-26. Cemeteries not responsible for loss or damage.

All reasonable precautions will be taken to protect lot owners and the property rights of lot owners within the cemeteries from loss or damage, but the cemeteries will not be responsible for loss or damage from causes beyond their reasonable control, and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than is hereby provided.

(Code 1968, § 502.3(f))

Sec. 7-27. Terms of agreement with lot owners.

The deed, perpetual care bond and this chapter constitute the sole agreement between the cemeteries, the city and lot owners. The statement of any employee or agent, unless confirmed in writing by an authorized representative of the cemeteries or the city shall in no way bind the cemeteries or the city.

(Code 1968, § 502.3(g))

Sec. 7-28. Repurchase or exchange of lots by superintendent.

The superintendent of cemeteries shall have the authority to purchase outright, or by exchange for other lots on behalf of the city, any unoccupied lot at such price as may be agreed upon by the owner and the superintendent.

(Code 1968, § 502.3(h))

Sec. 7-29. Transfer of lots.

Transfer of lots will not be recognized without the consent of the superintendent of cemeteries, and transfer deeds may be obtained at the offices of the cemeteries.

(Code 1968, § 502.3(i))

Sec. 7-30. Lost or destroyed deeds.

A lost or destroyed deed will be replaced by a new deed a copy of the deed upon request upon payment of one dollar (\$1.00).

(Code 1968, § 502.3(j))

Sec. 7-31. Descent of title.

The laws of the state govern the descent of title to cemetery lots, as well as other matters relating to their ownership. It is important that, on the decease of an owner of a lot, the heirs or devisees of such person should file in the office of the respective cemetery full proof of ownership for the purpose of correcting the record. Notarized statements as to relationship and certified copies of wills are normally sufficient.

(Code 1968, § 502.8)

Sec. 7-32. Reserved.

Sec. 7-33. Reserved.

Sec. 7-34. Reserved.

Sec. 7-35. Reserved.

Sec. 7-36. Reserved.

Sec. 7-37. Reserved.

Sec. 7-38. Reserved.

Sec. 7-39. Reserved.

Sec. 7-40. Reserved.

Sec. 7-41. Reserved.

Sec. 7-42. Reserved.

Sec. 7-43. Reserved.

Sec. 7-44. Reserved.

Sec. 7-45. Reserved.

ARTICLE III. CARE OF LOTS*

*State law reference(s)--Care and maintenance of cemeteries, 13
M.R.S.A. § 1305.

Sec. 7-46. RESERVED

~~There are the following four (4) types of perpetual care which may be obtained from the city for the permanent maintenance of lots in cemeteries: (Classes 2nd, 3rd and 4th apply only to Evergreen Cemetery)~~

~~(a) 1st class. 1st class perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~

~~(b) 2nd class. 2nd class perpetual care embraces any or all divisions in first class care, as well as the proper care and cleaning of all granite, stone, marble, or bronze structures on the lot at the time care is assumed, as well as any future erections expressly specified, but does not include replacement of any such structures.~~

~~(c) 3rd class. 3rd class perpetual care assumes the same care as 2nd class care and, in addition, includes replacement of structures as described above when necessary.~~

~~4th class. 4th class perpetual care includes all divisions in 1st class care and the care of any tombs, vaults or mausoleums, such as the pointing of joints, keeping walls in place, and the structure as a whole in a suitable and sanitary condition.~~

Sec. 7-47. Perpetual care required; may be purchased.

All lots sold after August 19, 1970, must include perpetual care consisting of keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed. ~~except in cases of Sections OO, MM and LL (a) in Forest City Cemetery and Section SC in Evergreen where such requirement is optional,~~ Perpetual care may be purchased to cover any lots previously sold without care.

(Code 1968, § 502.4(b); Ord. No. 441-70, § 1, 7-20-70)

Sec. 7-48. Nature of care provided by cemeteries without cost.

The general care of the cemeteries is the responsibility of the city by and through its superintendent of cemeteries and includes reasonable and practical care of the unsold areas of the cemeteries, such as park and lawn areas, roads, shrubs and trees, which have been established by the cemeteries. In no case shall it mean the maintenance, repair or replacement of any memorial, tomb or mausoleum erected or placed upon a lot, nor the performing of any special or unusual work in the cemeteries.

(Code 1968, § 502.4(c))

Sec. 7-49. Additional care may be purchased.

(a) *By agreement.* Lot owners desiring additional care of their lots may arrange for such care with the superintendent of cemeteries who shall give an estimate of the cost of the work desired. This care may be provided for ~~by annual payments made by the lot owner or~~ by the establishment of a trust fund under such agreement as may be determined between the superintendent and the lot owner. The limitations of this type of care may vary according to the capabilities of the individual cemeteries.

By bequest. In addition to the foregoing, the superintendent of cemeteries is authorized to accept testamentary bequests for additional lot care including, but not limited to, trust funds, upon his determination that the purpose of the bequest can be financially and lawfully implemented. In the event that it

cannot be so implemented, the superintendent shall notify the estate's representative to that effect.

(Code 1968, § 502.4(d); Ord. No. 16-90, 6-18-90)

Sec. 7-50. Investment of trust and care funds.

All care funds held by the city, whether trust or perpetual care will be invested by the city as provided by law and will be expended only as provided by the trust or perpetual care agreement.

(Code 1968, § 502.4(e))

Sec. 7-51. Semi-active cemeteries.

Semi-active cemeteries of the city will be maintained as prescribed by the parks authority.

(Code 1968, § 502.4(f))

Sec. 7-52. Who may provide care for lots.

No person except a lot owner, ~~his or her~~ authorized representative, or an employee of the cemeteries, acting under the direction of the superintendent of cemeteries, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the superintendent of cemeteries secured in advance. The Management reserves the right to give authorization to any workmen, other than employees of the cemetery, before they may do work in any cemetery. Burial Right holders may have certain work done in accordance with these Rules and Regulations at their own expense upon application to the Management; prices to be agreed upon and paid before said work is done.

All outside workers must submit a Certificate of Insurance for review before commencing any work in the cemetery.

(Code 1968, § 502.4(g))

Sec. 7-53. Lot boundaries not to be defined.

No new lot or grave shall be defined by a fence, rail, curb, hedge, trees or shrubs for the purpose of describing its corners or boundaries.

(Code 1968, § 502.4(h))

Sec. 7-54. Reserved.

Sec. 7-55. Reserved.

Sec. 7-56. Reserved.

Sec. 7-57. Reserved.

Sec. 7-58. Reserved.

Sec. 7-59. Reserved.

Sec. 7-60. Reserved.

Sec. 7-61. Reserved.

Sec. 7-62. Reserved.

Sec. 7-63. Reserved.

Sec. 7-64. Reserved.

Sec. 7-65. Reserved.

ARTICLE IV. INTERMENTS*

*State law reference(s)--Disposal of bodies, 13 M.R.S.A. § 1032.

Sec. 7-66. Funerals in charge of cemeteries.

All funerals entering the cemeteries ~~shall be under the direction of a funeral director who~~ shall abide by the rules and regulations of the respective cemetery, and ~~funeral directors~~ upon arrival at a cemetery must present to the superintendent of cemeteries the necessary burial permit from the city clerk.
(Code 1968, § 502.5(b))

Sec. 7-67. Previous notices required for interments, etc.

The right is reserved by the cemeteries to insist upon at least ~~twenty-four~~ thirty-six (24/36) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal. The cemeteries reserve the right to postpone

interment/disinterment time due to acts of nature, God, civil and national emergencies.
(Code 1968, § 502.5(i))

Sec. 7-68. Times for interments.

The cemeteries will be open for interments from 8:00 a.m. to 4:302:00 p.m., Monday through Friday. Requests for openings ~~prior to 10:00 a.m.~~ on Mondays must reach the cemetery offices before noon on Friday. Any services extending beyond or scheduled after these hours, or Saturday interments, will require an additional charge above the regular interment fee. No interments will be made on Sundays or legal holidays, except on proclamation of an emergency.
(Code 1968, § 502.5(a))

Sec. 7-69. Interments to be authorized by lot owners.

All orders for interments in lots must be signed by the owner of the lot, or his or her authorized representative. When this is impossible because of absence from the city, telegraphic ? permission will be accepted in lieu of signed authorization.
(Code 1968, § 502.5(d))

Sec. 7-70. Number of interments in single grave.

No interment of two (2) or more bodies shall be made in one (1) grave, except in the case of mother and child, or two (2) infants, buried in one (1) casket. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the superintendent of cemeteries. One body and one cremains or 2 cremains will be allowed in a single full size grave.
(Code 1968, § 502.5(e))

Sec. 7-71. Location within lot to be designated by owner.

When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner, or his or her authorized representative. Should he or she fail or neglect to make such designation, the cemeteries reserve the right to make the interment in a location designated by the superintendent of cemeteries. The cemeteries shall not be

responsible for errors from telephone information lacking precise and proper instructions as to the particular space, size of grave, and location in a lot, where interment is desired.
(Code 1968, § 502.5(f))

Sec. 7-72. Caskets opened only when.

Once a casket containing a body is within the confines of a cemetery, it shall not be opened except by a funeral director or his or her assistants or on an order signed by a court of competent jurisdiction.
(Code 1968, § 502.5(c))

Sec. 7-73. Graves opened only when.

Once an interment has been made, graves will be opened only by officials and employees of the cemeteries in the sole and exclusive judgment of the superintendent of cemeteries that such opening is proper, necessary, and duly authorized or when the cemetery is directed to make a disinterment by an order of a court of competent jurisdiction and a certified copy of such order has been filed with the superintendent of cemeteries. In all cases the responsibility of the cemetery shall be limited to opening of the grave only and the actual disinterment must be made by the person authorized to do so.
(Code 1968, § 502.5(g))

Sec. 7-74. Outside containers required.

In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, all burials must be made in outside containers constructed of natural stone, or of metal, or of reinforced concrete, or approved synthetics. All such containers must be made and installed so as to meet the specifications established by the superintendent of cemeteries. Outside containers may be procured from any source provided they meet the established specifications. Cement liners may be purchased and installed through the cemeteries, if so desired.
(Code 1968, § 502.5(h))

Sec. 7-75. Reserved.

Sec. 7-76. Reserved.

Sec. 7-77. Reserved.

Sec. 7-78. Reserved.

Sec. 7-79. Reserved.

Sec. 7-80. Reserved.

Sec. 7-81. Reserved.

Sec. 7-82. Reserved.

Sec. 7-83. Reserved.

Sec. 7-84. Reserved.

Sec. 7-85. Reserved.

ARTICLE V. PLANTS, SHRUBS AND FLOWERS*

*Cross reference(s)--Vegetation generally, Ch. 29.

Sec. 7-86. Responsibility of cemeteries.

The cemeteries will undertake to maintain, to the extent practicable, the planting of trees and shrubs to preserve its landscape features, but will not undertake to maintain individual plantings, or urns of plants, except when so contracted to do so by special arrangement.

(Code 1968, § 502.6(a))

Sec. 7-87. Plantings; permission may be granted.

No individual beds of shrubbery or flowers shall be permitted on the grounds of the cemeteries, except by special permission of the superintendent of cemeteries, and request for such permission should be accompanied by a scaled sketch of the proposed planting, showing the location and name of the proposed plantings.

(Code 1968, § 502.6(b))

Sec. 7-88. Care of evergreens where authorized.

In the monumental sections of the cemeteries where certain areas allow the planting of evergreens, dwarf Alberta spruce and dwarf arborvitae are the only evergreens allowed. All evergreens and shrubs must be kept trimmed to within six (6) inches of the lot borders. The cemeteries will, to the extent practicable, trim all evergreens properly placed on lots. Any trees or shrubs exceeding the six (6) inch mark will be severely cut back or removed.

(Code 1968, § 502.6(c))

Sec. 7-89. Plantings on single lots, etc.

No shrubs or evergreens will be permitted on a single grave lot. No plantings of any shrubs or trees will be permitted at individual headstones or flush markers. Plantings on two (2) grave or larger plots must first be approved by the superintendent of cemeteries. Planting of annuals is allowed in certain sections of the cemetery. Please contact Office for details.

(Code 1968, § 502.6(d))

Sec. 7-90. Floral displays on graves.

Only one (1) floral display is permitted on a grave at any one (1) time. Exceptions to this rule will be permitted during one (1) week prior to and one (1) week following Memorial Day and at the time of interment. No glass jars, unsightly metal receptacles or breakable flower containers shall be placed on lots. True floral containers, recessed holders and rustic baskets are recommended.

(Code 1968, § 502.6(e))

Sec. 7-91. Regulations covering Memorial Park or nonmonumental areas.

In the Memorial Park or nonmonumental sections of the cemeteries, the primary aim is to create a beautiful expanse of park-like grounds, bordered by appropriate shrubs, trees and gardens. Within such areas all markers shall be flush with the surface. No individual plants within the burial areas will be

permitted. Only one (1) floral display shall be permitted on a grave at any one (1) time, with the exceptions as set forth under section 7-90. Except for recessed containers, all plant and flower holders shall be placed upon the individual marker. In the absence of a marker, permission may be granted for the placement of memorial flowers or plants above ground on the normal location of a marker space. Cooperation of lot owners in this area will permit better maintenance and opportunities to improve the appearance and quality of the turf within these areas.

(Code 1968, § 502.6(f))

Sec. 7-92. Right of cemeteries to remove flowers and plants.

The cemeteries shall have the right to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the cemeteries as soon as, in their judgment, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemeteries.

(Code 1968, § 502.6(g))

Sec. 7-93. Cemeteries not responsible for flowers and plantings.

The cemeteries shall not be responsible for floral pieces, baskets or frames in which or to which floral pieces are placed or attached beyond their acceptance for services held in the cemeteries, and shall not be responsible for frozen plants or herbage of any kind, or for plantings damaged by the elements, thieves, vandals or by other causes beyond their control. The cemeteries reserve the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind without prior approval.

(Code 1968, § 502.6(h))

Sec. 7-94. Removal of unsightly vases, urns.

The cemeteries reserve the right to remove from lots vases or urns not properly painted or otherwise cared for or not filled with plants by June thirtieth.

(Code 1968, § 502.6(i))

Sec. 7-95. Reserved.

Sec. 7-96. Reserved.
Sec. 7-97. Reserved.
Sec. 7-98. Reserved.
Sec. 7-99. Reserved.
Sec. 7-100. Reserved.
Sec. 7-101. Reserved.
Sec. 7-102. Reserved.
Sec. 7-103. Reserved.
Sec. 7-104. Reserved.
Sec. 7-105. Reserved.

ARTICLE VI. MONUMENTS, TOMBS, MAUSOLEUMS AND
OTHER STRUCTURES*

*State law reference(s)--Mausoleums and vaults, 13 M.R.S.A. § 1341 et
seq.

Sec. 7-106. One monument per lot permitted; one marker per grave
permitted.

The owner of any lot shall have the right to erect thereon
any proper stone or monument upon authorization by the
superintendent of cemeteries. Only one (1) monument shall be
permitted on a lot which must be located in the center or center
rear, unless special permission is granted by the superintendent
for placing it otherwise. Only one (1) individual marker per
grave is allowed in any of the cemeteries. In certain areas,
however, a monument and individual headstones are permitted.
(Code 1968, § 502.7(a))

Sec. 7-107. Site and plans of structures to be approved.

Tombs, vaults or mausoleums can be constructed only in such places and be of such design as shall be approved by the superintendent of cemeteries. Complete plans and specifications must be furnished when request for permission to build is made.
(Code 1968, § 502.7(b))

Sec. 7-108. Single apartments required.

No bodies shall be placed in tombs, vaults or mausoleums except in hermetically sealed, single apartments in a manner satisfactory to the superintendent of cemeteries.
(Code 1968, § 502.7(c))

Sec. 7-109. Materials, size and design of structures.

No monument or other structure on a lot above ground shall be constructed of any other material than cut marble, granite, natural stone, or real bronze. In general, no monument or marker shall exceed a base size from end to end of sixty (60) percent of the width of the lot. However, in certain areas of the cemeteries, the specific design of particular sections has been planned to accept a certain type or size marker. These sections are familiar to local monument dealers, and more detailed information may be had at the offices of the cemeteries concerning such requirements or specifications.
(Code 1968, § 502.7(d))

Sec. 7-110. Foundations required; by whom constructed.

No stone, monument, tomb, vault or other superstructure shall be erected until a suitable foundation is laid. All foundations for monuments shall be not less than four (4) feet in depth. Deeper foundations will be used when deemed advisable by the superintendent of cemeteries. As a guarantee of good work, for the general welfare of the cemeteries, and for protection to lot owners, the cemeteries reserve the right to construct all foundations for such structures. The superintendent of cemeteries may, however, if deemed advisable, authorize under his supervision the construction of such foundation by other qualified contractors.
(Code 1968, § 502.7(e))

Sec. 7-111. Perpetual care required.

All tombs, mausoleums or vaults constructed after August 19, 1970, shall have such provision made for perpetual care as is adequate in each case.

(Code 1968, § 502.7(f))

Sec. 7-112. Reserved.

Sec. 7-113. Reserved.

Sec. 7-114. Reserved.

Sec. 7-115. Reserved.

Sec. 7-116. Reserved.

Sec. 7-117. Reserved.

Sec. 7-118. Reserved.

Sec. 7-119. Reserved.

Sec. 7-120. Reserved.

Sec. 7-121. Reserved.

Sec. 7-122. Reserved.

ARTICLE VII. RULES OF CONDUCT*

*Cross reference(s) --Offenses and miscellaneous provisions, Ch. 17.

Sec. 7-123. Trespass.

No person other than a cemetery employee on authorized duties shall enter any cemetery after the hours or times specified in section 7-2 and any person so entering shall be guilty of trespass.

(Code 1968, § 502.2(b)(1); Ord. No. 591-7, § 1, 11-3-75)

Sec. 7-124. Malicious mischief.

No person shall destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, marker or other structure placed within any cemetery, or any fence, railing, or other work for the protection or ornamentation of any tomb, monument, gravestone, marker or other structure aforesaid, or any cemetery lot within any cemetery.

(Code 1968, § 502.2(b)(3); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-125. Manner of travel by pedestrians.

Persons visiting the cemeteries shall use only the avenues, walks and alleys provided, and no person shall walk upon or across lots or lawns unless necessary and where such avenues, walks or alleys are not provided. The city expressly disclaims responsibility for any injury sustained by any person violating this section.

(Code 1968, § 502.2(b)(2); Ord. No. 59175, § 1, 11-3-75)

Sec. 7-126. Manner of travel by vehicles.

Motor cars and vehicles must be kept under complete control at all times. When meeting a funeral cortege, they must stop until the procession passes. They must not pass a funeral cortege, either stopped or in motion. Mufflers must not be opened, nor the horn sounded within the cemeteries, and all such vehicles shall comply with the following rules:

- (a) Maximum speed limit: Fifteen (15) miles per hour.
- (b) No vehicle may be driven or parked across or upon any grave, lot or lawn.
- (c) Parking or leaving any vehicle on any road or drive in such a way as to prevent any car or vehicle from passing is prohibited and a violation of this section will be cause for the removal of such vehicle by the superintendent of cemeteries at the owner's expense.

Making a complete or partial reverse turn of any vehicle on any road or drive is forbidden.

(Code 1968, § 502.2(b)(4); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-127. Commercial vehicles prohibited.

No commercial vehicle shall be permitted within the limits of any cemetery except those directly involved in the business of the cemetery. The words "commercial vehicle" as used in this particular subsection shall mean a motor vehicle which bears a "Com" license plate as issued by the state or motor vehicle bearing commercial plates issued by any other state.
(Code 1968, § 502.2(b)(5); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-128. Alcoholic beverages prohibited.

No person shall be in possession of or consume any alcoholic beverage within any cemetery.
(Code 1968, § 502.2(b)(6); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Alcoholic beverages generally, Ch. 3.

Sec. 7-129. Commercial enterprises prohibited.

No person shall sell or offer for sale, hire, lease or rent any object, merchandise, property, service or other thing in any cemetery nor shall any person engage in any commercial enterprise in any cemetery except such as is directly involved in the business of the cemetery.
(Code 1968, § 502.2(b)(7); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-130. Solicitations prohibited.

Solicitations, charitable, political or otherwise are prohibited in any cemetery.
(Code 1968, § 502.2(b)(8); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Peddlers and solicitors generally, Ch. 19.

Sec. 7-131. Litter.

No person shall deposit in any cemetery any garbage, sewage, refuse, waste, vegetables, foodstuffs, boxes, tin cans, paper, or other litter or waste material or obnoxious material, except in containers designed for such purposes.
(Code 1968, § 502.2(b)(9); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Garbage, wastes and junk generally, Ch. 12.

Sec. 7-132. Disorderly conduct prohibited.

No person shall behave in a loud, indecent or disorderly manner in any cemetery or except as provided by section 7-138, create any unnecessary disturbance therein.

(Code 1968, § 502.2(b)(10); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Offenses against public peace, § 17-16 et seq.

Sec. 7-133. Sports, games prohibited.

No person shall conduct or participate in any sport, game or contest in any cemetery, except ice skating.

(Code 1968, § 502.2(b)(11); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Parks, recreation and public buildings, Ch. 18.

Sec. 7-134. Minors prohibited in cemeteries; exception.

Children under fifteen (15) years of age are not permitted within the cemeteries, except when accompanied by their parents, guardian or other adult person or by a written note of permission signed by a parent or guardian, giving their telephone number or address.

(Code 1968, § 502.2(b)(12); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-135. Unleashed animals prohibited.

No person shall cause or permit any animal or dog owned by him or her, in his or her custody, or under his or her control, to go at large within any cemetery unless on the walkways and roadways only and held in leash by a responsible person, the leash not to exceed eight (8) feet in length, except as otherwise provided in section 5-15.1 of this Code for control of dogs in city-owned cemeteries.

(Ord. No. 176-96, § 8, 3-4-96)

Editor's note--Pursuant to the adoption of § 5-15.1 of this Code, § 7-135, which prohibited unleashed animals in cemeteries, has been deleted, treated as repealed by said § 5-15.1. Formerly, § 7-135 derived from § 502.2(b)(13) of the city's 1968 Code as amended by Ord. No. 591-75, § 1, adopted Nov. 3, 1975. Subsequently, Ord. No. 176-96, § 8, adopted Mar. 4, 1996, enacted similar new provisions as herein set out.

Sec. 7-136. Unauthorized items removed from lots.

~~The placing of boxes, shells, toys, ornaments, chairs, settees or similar unauthorized items upon lots will not be permitted, and the superintendent of cemeteries reserves the right to remove any such unauthorized items. The use of shells, stones, lawn ornaments, statues, , glass containers, solar lights, shepherds crooks, tin cans and other similar items is strictly prohibited. No Lawn ornament of any kind as defined by the Superintendent of Cemeteries or his/her designee shall be allowed. The Superintendent reserves the right to remove without notice any planting or object that is in violation of these regulations, or in the opinion of the Management is a hazard to its employees or injurious to the general appearance of the cemetery.~~

(Code 1968, § 502.2(b)(14); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-137. Signs prohibited.

No sign, notice or advertisement of any kind except directional, identification signs placed by cemetery personnel shall be permitted in any cemetery and the superintendent of cemeteries shall remove same.

(Code 1968, § 502.2(b)(15); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Signs and billboards generally, § 14-366 et seq.

Sec. 7-138. Firearms, fireworks, weapons, etc., prohibited.

The bringing of firearms into any cemetery, except by a military escort, is prohibited. The discharging of, or carrying, offensive weapons of any type, or the hurling of rocks or pellets, or the discharging of fireworks therein is strictly prohibited. This is not to be construed as prohibiting ceremonial volleys with blank charges by properly supervised honor guards as a tribute to a deceased person if such ceremonial undertaking has been previously scheduled with the superintendent of cemeteries.

(Code 1968, § 502.2(b)(16); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Fire prevention and protection, Ch. 10; weapons generally, § 17-41 et seq.

Sec. 7-139. Fishing prohibited.

In cemeteries containing natural or artificial ponds, the act of fishing or carrying tackle is prohibited.
(Code 1968, § 502.2(b)(17); Ord. No. 591-75, § 1, 11-3-75)



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
Subject: Cemetery Ordinance Updates
Date: 4/13/2015

It has been some time since language in Chapter 7 of the City Code has been reviewed and we have found a number of areas that need to be updated based on changes in cemetery operations and management that have occurred over time.

Beginning in 1970 the city began requiring fifty percent of the purchase price of graves, to be placed into a perpetual care fund. The city stopped selling stone insurance at this time. We also want to strike the language referencing the different levels of stone insurance.

We would like to add language which would permit the City to charge a reasonable fee for use of the chapel for funerals in order to cover costs related to holding such events in the building. There has been some confusion about this over the years and administrations have treated this differently. Corporation Counsel has reviewed the records and can find no specific language indicating that we could not charge a fee, and want to clarify that in the ordinance.

Staff will be present to go over these changes and answer any questions.



Michael J. Bobinsky
Director of Public Services

To: Members of the Transportation, Sustainability and Energy Committee
From: Troy Moon, Environmental Programs and Open Space Manager
Subject: Communication -- Cemetery Ordinance Updates
Date: 3/12/2014

Last march the Department of Public Services presented you with a number of changes to Chapter 7 of the City Code that need to be updated based on changes in cemetery operations and management that have occurred over time. After discussion, your committee unanimously recommended that the changes be advanced to the City Council. Unfortunately, we did not move this item to a Council agenda. Before we do so, we want to re-familiarize you with the issues involved so you are not caught by surprise when it appears on the agenda.

Beginning in 1970 the city began requiring fifty percent of the purchase price of graves, to be placed into a perpetual care fund. The city stopped selling stone insurance at this time. We also want to strike the language referencing the different levels of stone insurance.

We would like to add language which would permit the City to charge a reasonable fee for use of the chapel for funerals in order to cover costs related to holding such events in the building. There has been some confusion about this over the years and administrations have treated this differently. Corporation Counsel has reviewed the records and can find no specific language indicating that we could not charge a fee, and want to clarify that in the ordinance.

Staff will be present to go over these changes and answer any questions, should you have any.

Order 269-14-15
~~Feb 8~~ ~~6-1-15~~
Feb 30 6-15-15

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

**ORDER ADOPTING DEVELOPMENT PROGRAM FOR
THE PORTLAND DOWNTOWN DISTRICT
FOR FISCAL YEAR 2015-2016**

ORDERED, pursuant to 30-A M.R.S. Section 5224, after public hearing, the City Council of the City of Portland hereby adopts the Development Program submitted by the Acting City Manager, a copy of which is attached hereto, for the Portland Downtown District for fiscal year 2015-2016.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: May 18, 2015

SUBJECT: Portland's Downtown District/Annual Assessment Documents

1. Order Adopting Development Program for PDD;
2. Order Establishing Yearly Assessments; and,
3. Order Authorizing Master Agreement and Supplemental Services Agreement

SPONSOR: Michael Sauschuck, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

June 1, 2015, for a first reading; June 15, 2015 for a second reading, public hearing, and vote.

Can action be taken at a later date? No

If no, why not? This item needs to be acted upon prior to the start of the City's FY2016.

PRESENTATION: Steve Hewins/5 Minutes

I. SUMMARY OF ISSUE

Each year in June, the City Council acts upon the following three Orders:

- (1) adopting the Annual Development Program for Portland's Downtown District (PDD);
- (2) establishing the yearly assessment fees to property owners located within the PDD; and
- (3) authorizing the Master Agreement and Supplemental Services Agreement with PDD.

II. REASON FOR SUBMISSION

City Council authorization is needed for the above three actions.

III. INTENDED RESULT

The intended result is for the PDD to have a yearly development program adopted by the City Council, have assessment fees levied to property owners in the District in order for the PDD to continue its program of services to support downtown cleanliness, safety, and events, and to formalize agreements between the PDD and the City for services. The City departments, which are involved in the provision of services to the PDD, have reviewed and approved this year's Master Agreement and Supplemental Services Agreement.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

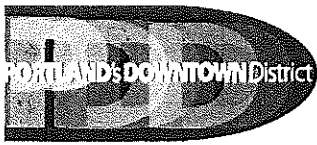
This year's assessment of \$746,307 will come from special assessments on all real estate in the PDD to fund PDD Development Program expenses for the period July 1, 2015 to June 30, 2016. *The mill rate to raise this assessment is .92 cents per \$1,000 of property value, which has been the same rate for the past six years.*

VI. STAFF ANALYSIS AND RECOMMENDATION

City Staff recommends the City Council approve the three Orders as presented.

VII. LIST OF ATTACHMENTS

1. PDD Development Program for FY16;
2. Listing of Property Owners and Assessment in PDD District;
3. Master Agreement; and,
4. Supplemental Services Agreement



Mayor Brennan and City Councilors
May 2015

President
Michael Mastronardi

Executive Director
Steve Hewins

Portland's Downtown District anticipates a robust 2016 operating year. We will be starting with a new executive director and several new staff. Over the past year our board has expanded and we continue to add talented people from all sectors of downtown Portland. I am pleased to report that the assessment mil rate of .92 for Portland's Downtown District (PDD) remains flat again this year.

We continue to focus our funds and staff on our core mission:

Portland's Downtown District is in the business of maintaining a clean and safe downtown while building and promoting a vibrant business, residential and tourism destination.

As Portland evolves, the economic vitality of the downtown continues to be driven largely by independent small businesses. Our vibrant restaurant, shopping, arts and entertainment scene is dependent upon maintaining and growing our residential, visitor and customer base. We have targeted downtown marketing as a key focus for us this year. We will soon launch a new website and a formal marketing plan to more effectively support downtown businesses.

PDD also is a leader in maintaining a clean and safe downtown. In this effort we partner with the City of Portland through our Master, Baseline and Supplemental Service Agreements. We are assisting the city in managing downtown maintenance by monitoring the new "See, Click and Fix" software and tracking issues that fall within PDD more closely. We doubled the number of police cadets we have working alongside the police department and expanded their hours from 1000am to 800pm. Our mutual goal is to create a downtown environment that exceeds our resident's expectations, allows our businesses to thrive and property owners to continue investing in Portland.

Through our collaboration with the city and local organizations like Creative Portland, the Chamber of Commerce, Portland Metro, and the Convention and Visitors Bureau, we market downtown Portland as a destination for visitors near and far. PDD produces free special events including the Christmas Tree Lighting and the Old Port Festival, and support many others such as the Art Walk.

Our Downtown Visitor Guides will continue to offer one-on-one personalized information services and assistance throughout the peak tourism season. We also produce and distribute over 160,000 copies of our popular Visitor Guide book. Our website, Portlandmaine.com, which will be re-launched in June, is one of the most actively visited in the region.

We continue to work collaboratively with property owners, city departments and community organizations to address ongoing issues such as parking, transportation, graffiti removal, recycling, homelessness, open space, nuisance crimes and safety.

Portland.
How Maine Does a City.

These efforts are needed to support residents and to encourage more people to come downtown or to stay after work. Perhaps more importantly these efforts support the Portland 'brand' – Yes, Life's Good Here. The attractiveness of the city, relative safety, accessibility to visitors for food, lodging, shopping, arts and entertainment are all important to the vibrancy of the city. We will continue to advocate for public policies that support these objectives.

Finally, we are very appreciative of our strong working relationship with the City of Portland, both staff and elected officials. We could not accomplish our mission without this cooperation and mutual support. We look forward to an exceptional 2015-16!

Sincerely,

Michael Mastronardi
Board Chair, Portland's Downtown District
Board Chair

Portland,
How Maine Does a City

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**

Order 270 14/E
~~Feb 9 - 6-1-15~~
Feb 31 6-15-15
DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

**ORDER ASSESSING MAINTENANCE AND IMPLEMENTATION
ASSESSMENTS IN THE PORTLAND DOWNTOWN DISTRICT
FOR FISCAL YEAR 2015-2016**

ORDERED, pursuant to 30-A M.R.S. § 5228, after public hearing thereon, that the sum of \$746,307 be raised and appropriated from the special assessments on all real estate situated within the boundaries of the Portland Downtown District to fund maintenance and implementation costs for such district for the period beginning July 1, 2015 and ending on June 30, 2016; and

BE IT FURTHER ORDERED, that the said sum be assessed on all real estate within the Portland Downtown District in the amounts set forth on the "List of Maintenance and Implementation assessments" which is attached hereto; and

BE IT FURTHER ORDERED, that the said assessments shall be due July 1, 2015 and payable to the City of Portland at the same time that taxes on other real estate are due; and

BE IT FURTHER ORDERED, that the interest on unpaid assessments shall be at the same rate as interest on other unpaid real estate taxes; and

BE IT FURTHER ORDERED, that the said assessments are hereby committed to the tax collector of the City of Portland for collection, pursuant to 30-A M.R.S. § 5228(5); and

BE IT FURTHER ORDERED, that the tax collector is hereby authorized and directed to take all necessary action for the collection of said assessment.

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
037 D004001	48	BROWN ST	OCEAN GATE LLC		874,090	804
037 F002001	45	BROWN ST	477 TIME & TEMPERATURE LLC		2,547,200	2,343
037 F012001	41	BROWN ST	MHS INC		171,290	158
037 I002104	15	BROWN ST	O'SULLIVAN MICHAEL &	ALAN J LEWIS JTS	242,400	223
037 I002105	15	BROWN ST	ADLER JANICE B		225,200	207
037 I002201	15	BROWN ST	HUNTER BEVERLY C &	HAROLD G HUNTER	201,800	186
037 I002202	15	BROWN ST	MACEACHERN ALLISON SCOTT		199,100	183
037 I002203	15	BROWN ST	ESCH TREVOR S &	JESSICA P ESCH JTS	257,000	236
037 I002204	15	BROWN ST	SINGER ROBERT B TRUSTEE		185,100	170
037 I002205	15	BROWN ST	JAFFE MICHAEL M &	JANN JAFFE TRUSTEES	229,300	211
037 I002206	15	BROWN ST	MCILVAIN JOHN &	ELIZABETH S MCILVAIN JTS	153,600	141
037 I002207	15	BROWN ST	MCGLOIN SHERRI		150,400	138
037 I002208	15	BROWN ST	DOCTOROFF MARK G		311,800	287
037 I002301	15	BROWN ST	BARBERA SUSAN		189,800	175
037 I002302	15	BROWN ST	KLEBE KURT E TRUSTEE		209,300	193
037 I002303	15	BROWN ST	BAUMAN PATRICIA J		270,300	249
037 I002304	15	BROWN ST	CODERE MARK R		224,100	206
037 I002305	15	BROWN ST	COFFIN KATHLEEN M		205,900	189
037 I002306	15	BROWN ST	HUNT RYAN ETAL		246,400	227
037 I002307	15	BROWN ST	DOCTOROFF MARK G		283,100	260
037 I002401	15	BROWN ST	EWING DANIELLE M		341,900	315
037 I002402	15	BROWN ST	TIEMAN JAMES S		347,900	320
037 I002403	15	BROWN ST	AVERBACH GRETA H &	JAMES M POPKIN JTS	415,100	382
037 I002404	15	BROWN ST	PARKER MARK		351,500	323
037 I002405	15	BROWN ST	GREENEWALT CHARLOTTE		384,500	354
037 I002406	15	BROWN ST	MCGORRILL DONNA T		454,300	418
037 I007001	11	BROWN ST	OLD PORT HOLDING CO LLC	MARGARITAS	840,300	773
032 I007001	0	CANAL PLAZA	COW PLAZA 1 LLC		70,700	65
032 I023001	3	CANAL PLAZA	COW PLAZA 3 LLC		7,027,400	6,465
032 I033001	2	CANAL PLAZA	COW PLAZA 2 LLC		4,650,300	4,278
032 I036001	1	CANAL PLAZA	COW PLAZA 1 LLC		15,976,800	14,699
037 C006001	18	CASCO ST	SHEPLEY LLC		2,629,600	2,419
037 C010001	16	CASCO ST	SOMALUZO LLC		740,700	681
037 D001001	45	CASCO ST	FORTY FIVE CASCO STREET LLC		730,100	672
037 D007001	37	CASCO ST	QUIRK SHIRLEY F ETALS		3,203,200	2,947
037 D023001	15	CASCO ST	15 CASCO STREET LLC		973,000	895
027 F009001	121	CENTER ST	LEVY VALERIE J		1,489,300	1,370
037 I012001	104	CENTER ST	BG CARLETON 2/14/91 LLC &	482 CONGRESS LP	372,360	343
038 C030001	59	CENTER ST	B & B REAL ESTATE LLC		333,600	307
038 E009105	70	CENTER ST	MITCHELL JOHN D	THE STAPLES SCHOOL	196,000	180
038 E009106	70	CENTER ST	APPLE REAL ESTATE	HOLDING LLC	179,300	165
038 E009204	70	CENTER ST	F & H REALTY PARTNERSHIP		194,600	179
038 E009205	70	CENTER ST	F & H REALTY PARTNERSHIP		202,300	186
038 E009304	70	CENTER ST	EAST COAST CONSTRUCTION AND	CONSULTING LLC	203,900	188
038 E009305	70	CENTER ST	MCKERSIE FAMILY LLC		202,900	187
038 E009401	70	CENTER ST	ALDER RUN DEVELOPMENT	COMPANY LLC	352,300	324
038 E009G07	70	CENTER ST	TCG PROPERTIES LLC		184,900	170
038 E009G08	70	CENTER ST	MAINE BUSINESS SERVICES INC		181,700	167
038 E012001	52	CENTER ST	PICTURE ISLAND INC		413,000	380
038 E030001	58	CENTER ST	STEELE DANIEL L		500,630	461
027 C002001	17	CHESTNUT ST	CHESTNUT STREET CHAPEL LLC		195,200	180
027 C010001	21	CHESTNUT ST	PROPERTYONE LLC		163,800	151
027 C010002	21	CHESTNUT ST	CHESTNUT STREET LOFTS LLC		199,000	183
027 C01002E	21	CHESTNUT ST	JORDAN CARA A		151,100	139
027 C01002N	21	CHESTNUT ST	FLETCHER JEFFREY A &	MELANIE C FLETCHER JTS	169,500	156
027 C01002S	21	CHESTNUT ST	MORREL VICTOR &	MARY ELIZABETH MORREL	161,100	148
027 C01002W	21	CHESTNUT ST	TISZENKEL KEITH		169,500	156
027 C01003E	21	CHESTNUT ST	CASTANEA PRIME LLC		164,400	151
027 C01003N	21	CHESTNUT ST	TILTON GARRETT K &	VICTORIA POWERS JTS	175,500	161
027 C01003S	21	CHESTNUT ST	OGDEN JOANNE &	BONNIE B MACINNIS JTS	154,400	142
027 C01003W	21	CHESTNUT ST	VANHOEWYK JOHN VN VET &	DEBORAH VANHOEWYK JTS	169,500	156

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
027 C01004E	21	CHESTNUT ST	HOEFER HEIDI		180,500	166
027 C01004N	21	CHESTNUT ST	MCDEVITT MARION JEAN		191,600	176
027 C01004S	21	CHESTNUT ST	KAUFMANN CHARLES L		180,500	166
027 C01004W	21	CHESTNUT ST	NYGAARD DANTON D &	LESLIE J ANDERSON JTS	201,600	185
027 C01005E	21	CHESTNUT ST	NAQUI ALI &	MUNIRA Z NAQUI JTS	183,400	169
027 C01005N	21	CHESTNUT ST	YINDRA SARA R		213,000	196
027 C01005S	21	CHESTNUT ST	ANDERSON KARIN		193,400	178
027 C01005W	21	CHESTNUT ST	CURTIN TERESA ANN &	CHARLES JOHN SHAW JTS	223,000	205
027 C01006E	21	CHESTNUT ST	HAMM LARRY F &	DOROTHY J HAMM JTS	206,300	190
027 C01006N	21	CHESTNUT ST	KRUG ROBERT E WWII VET BLIND &	AURELIA C SCOTT JTS	206,600	190
027 C01006S	21	CHESTNUT ST	SCHWELLENBACH JAMES C &	LORRAINE D	196,300	181
027 C01006W	21	CHESTNUT ST	BARRY PRUDENCE B		226,600	208
027 C01007E	21	CHESTNUT ST	HARDING ALICIA &	MARTIN MARGULIS JTS	251,400	231
027 C01007N	21	CHESTNUT ST	GREENLEAF NANCY P		216,500	199
027 C01007S	21	CHESTNUT ST	MCFAUL RICHARD C &	SUZANNE K VERMILYA JTS	246,300	227
027 C01007W	21	CHESTNUT ST	PORTA NEIL		256,600	236
027 C01008N	21	CHESTNUT ST	COTSIROLOS STEPHANIE G		325,100	299
027 C01008S	21	CHESTNUT ST	WILLIAMS JAN &	SALLY WILLIAMS JTS	325,000	299
027 C01008W	21	CHESTNUT ST	BUSQUE PETER J		312,900	288
027 C0102NW	21	CHESTNUT ST	DUNDAR ERGUN		164,300	151
027 C0102SE	21	CHESTNUT ST	NICHOLS VAL E &	CONSTANCE R NICHOLS JTS	156,800	144
027 C0103NW	21	CHESTNUT ST	MCCALLY MICHAEL &	CHRISTINE CASSEL	181,400	167
027 C0103SE	21	CHESTNUT ST	CASTANEA PRIME LLC		164,500	151
027 C0104NW	21	CHESTNUT ST	FRAZER LORINDA JANE TRUSTEE		196,800	181
027 C0104SE	21	CHESTNUT ST	PATEL TANAY M		169,300	156
027 C0105NW	21	CHESTNUT ST	FULLAM CHARLOTTE		219,000	201
027 C0105SE	21	CHESTNUT ST	NAQUI ALI &	MUNIRA NAQUI JTS	181,800	167
027 C0106NW	21	CHESTNUT ST	MCCULLEY CLYDE &	SUSAN MCCULLEY JTS	212,400	195
027 C0106SE	21	CHESTNUT ST	EISENBERG AVNER &	JULIE GOELL JTS	189,600	174
027 C011001	15	CHESTNUT ST	BOODILLY LLC		1,809,800	1,665
027 F023001	30	CITY CTR	RODWAY PETER E &	MAURA H RODWAY JTS	304,700	280
027 F024001	28	CITY CTR	BROWN J B & SONS		323,600	298
027 F026001	26	CITY CTR	BROWN J B & SONS		627,700	577
027 F027001	24	CITY CTR	BROWN J B & SONS		906,800	834
032 L002001	1	CITY CTR	ONE CITY CENTER ASSOCIATES LLC		29,070,000	26,744
032 P001001	2	CITY CTR	MDA LLC		3,327,900	3,062
032 P003001	4	CITY CTR	FOUR CITY CENTER	PROPERTIES LLC	1,010,400	930
032 P004001	6	CITY CTR	SIX CITY CENTER LLC		2,303,000	2,119
032 P017001	10	CITY CTR	MINA BUILDING LLC		977,400	899
029 D001001	129	COMMERCIAL ST	RSB LIMITED LIABILITY COMPANY		781,200	719
029 D002001	121	COMMERCIAL ST	MAD COW LLC		401,200	369
029 D003001	111	COMMERCIAL ST	BLANCHARD BLOCK LLC		1,773,500	1,632
029 K003001	57	COMMERCIAL ST	OLYMPIA EQUITY INVESTORS V LLC		10,717,000	9,860
029 S001001	145	COMMERCIAL ST	FLEMING CREEK LLC ETALS		6,509,400	5,989
030 A005001	94	COMMERCIAL ST	BMC INC		1,127,400	1,037
030 A101001	90	COMMERCIAL ST	PROPRIETORS OF CUSTOM HOUSE	WHARF ATTN GE	269,400	248
030 C001001	100	COMMERCIAL ST	SOLEY WHARF LLC		5,557,100	5,113
030 D005001	84	COMMERCIAL ST	FINLEY JAMES R &	DALE W WEEKS	537,500	495
030 H001001	144	COMMERCIAL ST	DIMILLO ARLENE ETALS TRUSTEES		4,339,000	3,992
030 H004001	136	COMMERCIAL ST	CARROLL BLOCK LLC		2,249,700	2,070
031 K103001	218	COMMERCIAL ST	PROPRIETORS OF UNION WHARF		239,080	220
031 L034001	250	COMMERCIAL ST	CM WATERFRONT PROPERTIES LLC		2,111,800	1,943
031 L038001	230	COMMERCIAL ST	PROPRIETORS OF UNION WHARF		45,130	42
032 S004001	161	COMMERCIAL ST	ROB DOG REALTY LLC		1,265,900	1,165
032 U003001	185	COMMERCIAL ST	COMPARK LLC		217,280	200
032 V002001	205	COMMERCIAL ST	LANDFALL LLC		695,800	640
032 V004001	211	COMMERCIAL ST	GRANITE FACE LLC		2,205,900	2,029
032 V005001	217	COMMERCIAL ST	217 COMMERCIAL STREET	ASSOCIATES INC	2,637,500	2,427
032 V008001	225	COMMERCIAL ST	225 COMMERCIAL ST ASSOC INC		2,043,400	1,880
038 F004001	241	COMMERCIAL ST	SLM PROPERTIES INC		1,586,800	1,460
038 F006001	245	COMMERCIAL ST	CASCO VIEW HOLDINGS LLC		4,007,900	3,687

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
038 G00202A	269	COMMERCIAL ST	MGM OLD PORT LLC		135,200	124
038 G00202B	269	COMMERCIAL ST	MARR JEAN		137,600	127
038 G00202C	269	COMMERCIAL ST	GREEN DESIGN LLC		150,500	138
038 G00202D	269	COMMERCIAL ST	HUSSEY CURTIS		143,600	132
038 G00202E	269	COMMERCIAL ST	GAGNON TROY R &	KIRSTEN J GAGNON JTS	139,900	129
038 G00202F	269	COMMERCIAL ST	SERAICHICK SUSAN ETAL		147,600	136
038 G00203A	269	COMMERCIAL ST	CAMPBELL STEVEN		140,900	130
038 G00203B	269	COMMERCIAL ST	RICE LEE P		133,900	123
038 G00203C	269	COMMERCIAL ST	LEWIS LAWRENCE &	JOANNE LEWIS	151,400	139
038 G00203D	269	COMMERCIAL ST	HUDON WILFRED R		140,400	129
038 G00203E	269	COMMERCIAL ST	CONKLIN HENRY C		170,000	156
038 G00203F	269	COMMERCIAL ST	TUCKER HAROLD W III		143,900	132
038 G00204A	269	COMMERCIAL ST	SERNOFFSKY SUSAN		114,000	105
038 G00204B	269	COMMERCIAL ST	KIRKHAM JOHN C &	JENNIFER L MROWKA JTS	150,000	138
038 G00204C	269	COMMERCIAL ST	MCDEVITT JOHN J IV		168,100	155
038 G00204D	269	COMMERCIAL ST	KIMBLE ELLEN SUE		127,200	117
038 G00204E	269	COMMERCIAL ST	LOWRY KATE		141,900	131
038 G00204F	269	COMMERCIAL ST	WONG ROCKET &	LILLIANA M ACUNA JTS	149,000	137
038 G00205A	269	COMMERCIAL ST	BERG ERIC O JR TRUSTEE	OF ERIC O BERG REVOCABLE	160,100	147
038 G00205B	269	COMMERCIAL ST	TARBOX JEFFERY H		174,500	161
038 G00205C	269	COMMERCIAL ST	TALBOT CHELSEA E &	ANTHONY G BERLUCCHI JTS	155,000	143
038 G00205D	269	COMMERCIAL ST	CAHOON DENALI A		198,800	183
038 G00205E	269	COMMERCIAL ST	FLAHERTY CHRISTOPHER F		173,800	160
038 G00205F	269	COMMERCIAL ST	MANN CHRISTIANA E		150,500	138
038 G002267	269	COMMERCIAL ST	MCNULTY BEVIN A		280,300	258
038 G002271	269	COMMERCIAL ST	JKC LLC		257,100	237
040 E003001	311	COMMERCIAL ST	NEAL ALEXANDRA &	EARL BYRON NEAL JTS	428,500	394
040 E003002	311	COMMERCIAL ST	BANKS MICHAEL D		286,800	264
040 E003003	311	COMMERCIAL ST	SMITH JANE W TRUSTEE		283,600	261
040 E003004	311	COMMERCIAL ST	BROWN J B & SONS		412,900	380
040 E003005	311	COMMERCIAL ST	ATLANTIC PROPERTIES LLC		495,600	456
040 E003006	311	COMMERCIAL ST	BROWN J B & SONS		420,100	386
040 E003007	311	COMMERCIAL ST	KRUITHOFF CATHERINE H &	WAYNE A KRUITOFF	274,600	253
040 E003008	311	COMMERCIAL ST	BROWN J B & SONS		343,100	316
040 E003009	311	COMMERCIAL ST	KROON THOMAS J &	MARIANNE M KROON	377,500	347
040 E00300H	311	COMMERCIAL ST	JBB HOSPITALITY I LLC		12,301,600	11,317
040 E00300R	311	COMMERCIAL ST	BROWN J B & SONS		1,473,700	1,356
040 E003010	311	COMMERCIAL ST	BROWN DOUGLAS W		516,800	475
040 E003011	311	COMMERCIAL ST	BROWN J B & SONS		358,500	330
040 E003012	311	COMMERCIAL ST	BROWN J B & SONS		395,000	363
040 E003013	311	COMMERCIAL ST	PARDI KATHLEEN A		350,100	322
040 E003014	311	COMMERCIAL ST	BROWN J B & SONS		397,900	366
040 F009001	305	COMMERCIAL ST	BAXTER PLACE LLC		6,327,600	5,821
041 A015001	260	COMMERCIAL ST	WATERFRONT MAINE BT LLC		1,194,800	1,099
037 E003001	10	CONGRESS SQ	PLAZA ASSOCIATES AT CONGRESS	SQUARE LP	10,029,900	9,228
027 A015001	465	CONGRESS ST	S MONUMENT SQUARE LLC		4,928,900	4,535
027 B002001	443	CONGRESS ST	JJR 443 CONGRESS LLC		2,973,400	2,736
027 B004001	439	CONGRESS ST	METROPOLITAN APARTMENTS LLC		3,734,300	3,436
027 B007001	415	CONGRESS ST	ASHBY TEAM LLC		1,769,100	1,628
027 D001001	385	CONGRESS ST	METRO MEDIA PROPERTIES LLC		2,349,540	2,162
032 C001001	390	CONGRESS ST	PRESS HOTEL LLC		9,573,100	8,807
032 G001001	396	CONGRESS ST	A & M PARTNERS INC		9,182,100	8,448
037 A038001	565	CONGRESS ST	PACHIOS BROTHERS I LLC &	LACONIA LLC	1,821,300	1,676
037 A042001	559	CONGRESS ST	HER LLC		287,700	265
037 A043001	555	CONGRESS ST	CORRYMORE ZELLERTON LLC		355,600	327
037 A044001	553	CONGRESS ST	ROCCO HOLDINGS LLC		325,100	299
037 A045001	575	CONGRESS ST	571 ENTERPRISES LLC		402,200	370
037 C014100	531	CONGRESS ST	HEGA REALTY LLC		1,388,800	1,278
037 C014200	531	CONGRESS ST	HEGA REALTY LLC		2,068,100	1,903
037 C014300	531	CONGRESS ST	HEGA REALTY LLC		1,639,100	1,508
037 C014400	531	CONGRESS ST	HEGA REALTY LLC		1,753,700	1,613

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
037 C014501	531	CONGRESS ST	GRANT SUMNER M &	PERPETUA A GRANT JTS	433,300	399
037 C014502	531	CONGRESS ST	HEGA REALTY LLC		336,500	310
037 C014503	531	CONGRESS ST	SHOREY LINDA J &	JOHN DECKER JTS	491,400	452
037 C014504	531	CONGRESS ST	HEGA REALTY LLC		806,600	742
037 C014505	531	CONGRESS ST	MAGUIRE MICHAEL P &	THELMA D A MAGUIRE JTS	601,500	553
037 C014506	531	CONGRESS ST	HEGA REALTY LLC		396,800	365
037 C014507	531	CONGRESS ST	HEGA REALTY LLC		397,600	366
037 C014508	531	CONGRESS ST	HEGA REALTY LLC		539,500	496
037 C014509	531	CONGRESS ST	HEGA REALTY LLC		310,900	286
037 C014510	531	CONGRESS ST	PAPAGNI CHRISTOPHER		439,600	404
037 C016001	551	CONGRESS ST	551 CONGRESS STREET LLC		848,900	781
037 C017006	547	CONGRESS ST	MOULTON THOMAS W		638,000	587
037 C01701A	545	CONGRESS ST	R & J 545 PARTNERS LLC		142,800	131
037 C01701B	545	CONGRESS ST	R & J 545 PARTNERS LLC		150,900	139
037 C01701C	545	CONGRESS ST	R & J 545 PARTNERS LLC		161,700	149
037 C01702A	547	CONGRESS ST	MARTIN ROGER		132,100	122
037 C01702B	547	CONGRESS ST	LIPPMANN AMY TRUSTEE		123,900	114
037 C01702C	547	CONGRESS ST	RUSSMAN BRETT		145,500	134
037 C01702D	547	CONGRESS ST	WHEELER-BERTA FRANNIE		204,700	188
037 C01702E	547	CONGRESS ST	CAREY EDGAR J II		143,500	132
037 C01703A	547	CONGRESS ST	BOURKE PATRICK J IV		201,700	186
037 C01703B	547	CONGRESS ST	MACE F CHARLES		194,400	179
037 C01703C	547	CONGRESS ST	PACKARD JEFFREY G &	RICHARD H PACKARD JTS	256,800	236
037 C01704A	547	CONGRESS ST	FITZPATRICK SUSAN E		197,900	182
037 C01704B	547	CONGRESS ST	GRANO ROBERT C TRUSTEE		160,200	147
037 C01704C	547	CONGRESS ST	TYSON BRUCE &	ANDREA TYSON JTS	270,800	249
037 C01705A	547	CONGRESS ST	HENRY MICHAEL T &	JAIME COHEN JTS	592,400	545
037 C01705B	547	CONGRESS ST	BLISSFUL BOUND LLC		254,100	234
037 D002001	511	CONGRESS ST	OCEAN GATE LLC		9,511,500	8,751
037 D024001	519	CONGRESS ST	MAINE CHARITABLE MECHANIC	ASSOC	595,870	548
037 E002001	585	CONGRESS ST	TRUSIANI ANNAMARIE & PAUL J		1,337,300	1,230
037 F017001	489	CONGRESS ST	MHS INC		1,226,800	1,129
037 F018001	481	CONGRESS ST	477 TIME & TEMPERATURE LLC		77,500	71
037 F018002	481	CONGRESS ST	477 TIME & TEMPERATURE LLC		850,300	782
037 F022001	477	CONGRESS ST	477 TIME & TEMPERATURE LLC		5,280,500	4,858
037 G001001	594	CONGRESS ST	FITZGIBBONS VIRGINIA S &	LEE F STREET TRUSTEE	802,600	738
037 G004001	582	CONGRESS ST	584 CONGRESS STREET LLC		217,000	200
037 G005001	580	CONGRESS ST	BBB INC		536,300	493
037 G006001	578	CONGRESS ST	578 CONGRESS LLC		219,400	202
037 G007001	576	CONGRESS ST	574 ASSOCIATES LLC		185,800	171
037 G008001	574	CONGRESS ST	574 ASSOCIATES LLC		191,800	176
037 G009001	570	CONGRESS ST	PRIDE RALPH H TRUSTEE		542,700	499
037 G012001	584	CONGRESS ST	584 CONGRESS ST LLC		137,000	126
037 G014001	562	CONGRESS ST	TERBAX REALTY INC		5,095,800	4,688
037 H001001	550	CONGRESS ST	NEVERMORE LLC		480,400	442
037 H002002	540	CONGRESS ST	540 CONGRESS STREET LLC		2,152,700	1,980
037 H002003	540	CONGRESS ST	540 CONGRESS STREET LLC		142,900	131
037 H002004	540	CONGRESS ST	540 CONGRESS STREET LLC		145,400	134
037 H002005	540	CONGRESS ST	540 CONGRESS STREET LLC		142,900	131
037 H002006	540	CONGRESS ST	504 CONGRESS STREET LLC		160,700	148
037 H005001	536	CONGRESS ST	PICKWICK PROPERTIES	OF MAINE LLC	926,100	852
037 H009001	516	CONGRESS ST	PACHIOS BROTHERS II LLC		834,200	767
037 H010001	510	CONGRESS ST	CENTER CITY PLAZA ASSOC		4,309,000	3,964
037 H011001	500	CONGRESS ST	MATERIAL OBJECTS		177,800	164
037 H011002	500	CONGRESS ST	BARBA NANCY L		188,600	174
037 H013001	504	CONGRESS ST	KAPLAN 504 LLC		1,176,200	1,082
037 I001001	498	CONGRESS ST	BEAVER BLOCK LLC		648,500	597
037 I002101	490	CONGRESS ST	GRACE LLC		232,600	214
037 I002102	492	CONGRESS ST	ZILKHA MICHAEL S		260,600	240
037 I003001	482	CONGRESS ST	BG CARLETON 2/14/91 LLC &	482 CONGRESS LP	3,125,600	2,876
037 I004001	480	CONGRESS ST	SCIOTO DARBY INVESTMENTS INC		983,700	905

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
037 I005001	486	CONGRESS ST	BARTHE DONNA		316,000	291
039 A001001	626	CONGRESS ST	PARK WONBAE &	IP BOON PARK JTS	810,700	746
039 A002001	622	CONGRESS ST	STONE COAST PROPERTIES LLC		913,300	840
039 A005001	616	CONGRESS ST	614 CONGRESS STREET LLC		1,029,200	947
039 A008001	610	CONGRESS ST	19 SOUTH STREET LLC		328,800	302
039 A009001	608	CONGRESS ST	19 SOUTH STREET LLC		289,700	267
039 A010001	606	CONGRESS ST	RICE GEOFFREY I		248,200	228
039 A013001	600	CONGRESS ST	RICE GEOFFREY I		878,100	808
039 A038001	612	CONGRESS ST	BLUE BAY LLC		282,400	260
045 A001001	660	CONGRESS ST	A K LONGFELLOW LLC		309,300	285
045 A002001	656	CONGRESS ST	RICE GEOFFREY I		843,000	776
045 A003001	638	CONGRESS ST	638 CONGRESS STREET	PARTNERS LLC	5,101,800	4,694
045 A034001	664	CONGRESS ST	RANS LLC		464,900	428
045 A035001	670	CONGRESS ST	LONGFELLOW SQUARE	PARTNERS LLC	611,700	563
046 C011001	675	CONGRESS ST	DOUKAS WILLIAM B		367,700	338
046 C012001	673	CONGRESS ST	DOUKAS ANDREW J		147,700	136
046 C013001	671	CONGRESS ST	DOUKAS ANDREW J &	WILLIAM B DOUKAS JTS	169,900	156
046 C019001	667	CONGRESS ST	MSD PROPERTIES LLC		671,500	618
046 D018001	653	CONGRESS ST	RICE GEOFFREY TRUSTEE		235,600	217
046 D021001	655	CONGRESS ST	TRELA WNY 657 LLC		5,222,500	4,805
046 D022001	645	CONGRESS ST	BAYSIDE MAINE LLC		3,783,700	3,481
046 D026001	633	CONGRESS ST	BURNHAM ARMS LLC		2,218,100	2,041
046 D027001	629	CONGRESS ST	BURNHAM ARMS ANNEX LLC		160,400	148
046 D028001	625	CONGRESS ST	BURNHAM ARMS ANNEX LLC		227,500	209
046 D029001	619	CONGRESS ST	BAXTER LIBRARY LP		2,502,600	2,302
038 C009001	24	COTTON ST	CASCO VIEW HOLDINGS III LLC		729,500	671
038 C012001	8	COTTON ST	CASCO VIEW HOLDINGS III LLC		1,862,500	1,714
038 F019001	19	CROSS ST	CASCO VIEW HOLDINGS II LLC		6,943,300	6,388
027 A001001	320	CUMBERLAND AVE	25 PREBLE STREET LLC		6,259,500	5,759
037 B001001	380	CUMBERLAND AVE	THREE EIGHTY CUMBERLAND	ASSOCIATES LLC	1,807,000	1,662
037 D003001	360	CUMBERLAND AVE	53-57 ALLEN AVE	LIMITED LIABILITY	465,800	429
037 F009001	338	CUMBERLAND AVE	THREE FORTY ASSOCIATES LLC		1,811,700	1,667
029 K001001	7	CUSTOM HOUSE ST	OLYMPIA EQUITY	INVESTORS IV LLC	5,902,300	5,430
032 U004001	1	DANA ST	ONE DANA LLC		902,700	830
032 U005001	7	DANA ST	TRANSMARINE		665,700	612
032 V001001	10	DANA ST	10 DANA STREET LLC		1,254,500	1,154
040 B028001	1	DANFORTH ST	GIORBI ARCHIE S &	MATILDA M JTS	394,000	362
040 D001001	20	DANFORTH ST	BROWN J B & SONS		2,818,400	2,593
040 D002001	10	DANFORTH ST	WRIGHT-RYAN REAL ESTATE LLC		1,003,100	923
032 D001001	107	EXCHANGE ST	TOP OF EXCHANGE LLC		918,700	845
032 D002001	97	EXCHANGE ST	TOP OF EXCHANGE LLC		1,959,500	1,803
032 D003001	93	EXCHANGE ST	TOP OF EXCHANGE LLC		1,430,600	1,316
032 D004001	85	EXCHANGE ST	TOP OF EXCHANGE LLC		2,548,400	2,345
032 E001001	57	EXCHANGE ST	57 EXCHANGE STREET LLC		2,906,700	2,674
032 E002001	53	EXCHANGE ST	PALACCI ALBERT		1,176,800	1,083
032 E004001	49	EXCHANGE ST	PALACCI ALBERT		567,400	522
032 E005001	45	EXCHANGE ST	45 EXCHANGE STREET LLC		2,130,900	1,960
032 E008001	39	EXCHANGE ST	PALACCI ALBERT		949,600	874
032 E009001	31	EXCHANGE ST	B & C LIMITED		1,027,000	945
032 F010001	9	EXCHANGE ST	ELEVEN EXCHANGE LLC		1,421,700	1,308
032 F012001	5	EXCHANGE ST	ELEVEN EXCHANGE LLC		619,500	570
032 F014001	1	EXCHANGE ST	ELEVEN EXCHANGE LLC		517,600	476
032 H001001	110	EXCHANGE ST	ONETEN EXCHANGE LLC		1,176,600	1,082
032 H002001	106	EXCHANGE ST	RICH BUILDING LLC		721,500	664
032 H003001	102	EXCHANGE ST	PALACCI JOSEPH		848,700	781
032 H006001	92	EXCHANGE ST	MAINESCAPE PROPERTIES LLC		568,300	523
032 H007001	88	EXCHANGE ST	WHALEBACK ASSOCIATES LLC		710,800	654
032 H008001	80	EXCHANGE ST	MURAL ASSOCIATES		1,795,300	1,652
032 I002001	52	EXCHANGE ST	OLD PORT ARMS		1,557,200	1,433
032 I006001	50	EXCHANGE ST	FITZGIBBONS VIRGINIA S &	LEE F STREET TRUSTEES	593,000	546
032 I008001	44	EXCHANGE ST	44 EXCHANGE STREET LLC		1,679,900	1,546

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
032 I010001	34	EXCHANGE ST	PALACCI SION &	JOSEPH PALACCI	815,400	750
032 I011001	30	EXCHANGE ST	MAINELAND REAL ESTATE	CONSULTANTS LLC	683,100	628
032 I012001	10	EXCHANGE ST	10 EXCHANGE PROPERTIES LLC		2,133,700	1,963
032 I040001	44	EXCHANGE ST	COW PLAZA 1 LLC		247,500	228
029 B004001	341	FORE ST	JACKSON MICHAEL		140,700	129
029 B004002	341	FORE ST	O'CONNOR DENNIS R III &	BARBARA M O'CONNOR JTS	127,400	117
029 B004003	341	FORE ST	R & L LLC		146,800	135
029 B004004	341	FORE ST	CHILDS DONNA W		140,700	129
029 B004005	341	FORE ST	PENDERS JOHN F IV		128,600	118
029 B004006	341	FORE ST	KELLER BENJAMIN R		139,100	128
029 B004007	341	FORE ST	ALAGIC SUAD		130,700	120
029 B004008	341	FORE ST	DALTON JENNIFER L		129,900	120
029 B004009	341	FORE ST	KNECHT GERALD C		397,500	366
029 B004010	341	FORE ST	BOOTHBY SQUARE PROPERTIES LLC		180,000	166
029 B004011	341	FORE ST	BOOTHBY SQUARE PROPERTIES LLC		118,100	109
029 C001001	340	FORE ST	ADB REATLY LLC		120,000	110
029 C001002	340	FORE ST	HAYEK LEE-ANN C TRUSTEE		128,000	118
029 C001003	340	FORE ST	ANGOFF RONALD &	NANCY ANGOFF JTS	220,000	202
029 C001004	340	FORE ST	ABD REALTY LLC		141,500	130
029 C001005	340	FORE ST	ADB REALTY LLC		65,900	61
029 C002001	336	FORE ST	DOCK FORE INC		348,000	320
029 C003001	334	FORE ST	PORT CITY APARTMENTS		401,100	369
029 C005001	330	FORE ST	J & R VENTURES LLC		445,700	410
029 C006003	320	FORE ST	FORE STREET INVESTMENTS LLC		162,100	149
029 C006004	320	FORE ST	FORE STREET INVESTMENTS LLC		167,700	154
029 C006005	320	FORE ST	FORE STREET INVESTMENTS LLC		122,100	112
029 C006006	320	FORE ST	FORE STREET INVESTMENTS LLC		138,200	127
029 C006007	320	FORE ST	FORE STREET INVESTMENTS LLC		392,100	361
029 E007001	291	FORE ST	NOVICK SAMUEL L		812,000	747
029 E012001	277	FORE ST	287 FORE STREET LLC		321,580	296
029 K002001	288	FORE ST	EAST BROWN COW LIMITED	LIABILITY COMPANY	1,103,000	1,015
029 K005001	280	FORE ST	OLYMPIA EQUITY	INVESTORS V-P LLC	12,880,800	11,850
029 K006001	300	FORE ST	OLYMPIA EQUITY	INVESTORS IV LLC	497,800	458
029 K0060B2	300	FORE ST	OLYMPIA EQUITY	INVESTORS IV LLC	98,000	90
029 K0060B3	300	FORE ST	OLYMPIA EQUITY	INVESTORS IV LLC	70,000	64
032 F005001	363	FORE ST	ELEVEN EXCHANGE LLC		883,400	813
032 F007001	375	FORE ST	ELEVEN EXCHANGE LLC		467,200	430
032 F008001	375	FORE ST	ELEVEN EXCHANGE LLC		451,000	415
032 F013001	379	FORE ST	ELEVEN EXCHANGE LLC		648,800	597
032 I018001	395	FORE ST	395 FORE STREET LLC		912,300	839
032 I041001	425	FORE ST	COW PLAZA GARAGE LLC		5,931,300	5,457
032 I041002	425	FORE ST	BANGOR SAVINGS BANK		85,000	78
032 I042001	433	FORE ST	COW PLAZA HOTEL LLC		12,367,300	11,378
032 J001001	386	FORE ST	386 FORE STREET LLC		1,197,900	1,102
032 J002001	392	FORE ST	PFEFFER RICHARD A &	J EDWARD STEBBINS	864,600	795
032 J004001	396	FORE ST	BEER GUYS LLC		166,400	153
032 J004002	396	FORE ST	BEER GUYS LLC		180,300	166
032 J004003	396	FORE ST	BEER GUYS LLC		228,300	210
032 J00400B	396	FORE ST	BEER GUYS LLC		151,600	139
032 J005001	398	FORE ST	FORE STREET PARTNERSHIP	LIMITED PARTNERSHIP	375,100	345
032 J005002	398	FORE ST	FORE STREET PROPERTIES	LIMITED PARTNERSHIP	300,000	276
032 J005003	398	FORE ST	INGALLS ROGER E		271,600	250
032 J005004	398	FORE ST	INGALLS ROGER E		271,600	250
032 N009001	414	FORE ST	GOULD COMPANY LLC		601,300	553
032 N010001	416	FORE ST	416 FORE STREET LLC		479,000	441
032 N011001	422	FORE ST	HARDING RICHARD B ETAL		450,100	414
032 N012001	424	FORE ST	SOLETSKY LIMITED LIABILITY CO		828,700	762
032 R001001	428	FORE ST	428 FORE STREET LLC		756,200	696
032 R003001	432	FORE ST	DREAM PORT 3 LLC		423,200	389
032 R004001	434	FORE ST	DREAM PORT 3 LLC		493,300	454
032 R007001	436	FORE ST	DREAM PORT 3 LLC		1,275,000	1,173

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
032 R008001	446	FORE ST	DREAM PORT 3 LLC		1,000,500	920
032 S001001	366	FORE ST	MC GEE CHARLES T &	RICHARD P HERRERA TR	2,321,400	2,136
038 B003001	481	FORE ST	NORTH RIVER IV LLC		3,634,900	3,344
038 F008001	470	FORE ST	DICTAR ASSOCIATES II		2,148,000	1,976
038 F009001	468	FORE ST	HARBOR PLAZA ASSOCIATES II		7,658,200	7,046
038 F009002	468	FORE ST	DICTAR ASSOCIATES II		2,360,900	2,172
038 G001001	486	FORE ST	RREEF AMERICA REIT III CORP Z4		3,257,600	2,997
038 G007001	508	FORE ST	RREEF AMERICA REIT III CORP Z4		701,800	646
037 A001001	45	FOREST AVE	NORTHERN NEW ENGLAND	TELEPHONE OPERATIONS	10,420,800	9,587
037 A012001	39	FOREST AVE	39 LLC		2,957,100	2,721
037 A022001	25	FOREST AVE	PORTLAND STAGE COMPANY		822,900	757
037 A033001	11	FOREST AVE	PACHIOS BROTHERS I LLC &	LACONIA LLC	499,480	460
037 A046001	7	FOREST AVE	D & D PARTNERS LLC		372,500	343
037 E004001	28	FOREST AVE	PLAZA ASSOCIATES AT CONGRESS	SQUARE LP	197,750	182
037 E005001	32	FOREST AVE	RB PORTLAND LLC		162,900	150
037 E005002	32	FOREST AVE	PLAZA ASSOCIATES AT CONGRESS	SQUARE LP	175,560	162
027 F028001	41	FREE ST	SURPLUS STORE INC		117,920	108
027 F029001	23	FREE ST	ONE CITY CENTER ASSOCIATES LLC		6,584,700	6,058
037 G010001	133	FREE ST	HUBBARD'S APTS INC		532,700	490
037 I009001	59	FREE ST	JBG & H ASSOCIATES		448,260	412
038 A001001	10	FREE ST	JBG&H ASSOCIATES		2,933,800	2,699
038 A001002	10	FREE ST	JB BROWN & SONS		713,300	656
038 A005001	22	FREE ST	JB BORWN & SONS		2,519,500	2,318
038 I018001	46	FREE ST	JB BORWN & SONS		2,359,200	2,170
039 B004001	130	FREE ST	MAINEHEALTH		723,380	666
039 B007001	128	FREE ST	ARCAND PROPERTIES LLC		305,000	281
039 B008001	120	FREE ST	MAINEHEALTH		586,840	540
039 C00101B	110	FREE ST	MAINEHEALTH		730,800	672
039 C00101C	110	FREE ST	MAINEHEALTH		1,032,900	950
039 C0010GB	110	FREE ST	MAINEHEALTH		43,300	40
039 C001302	110	FREE ST	MAINEHEALTH		239,500	220
029 C006001	3	GOLD ST	MAINE BODYWORKS LLC		157,000	144
029 C006002	1	GOLD ST	ADNERB PROPERTIES LLC		154,800	142
037 E006009	173	HIGH ST	181 HIGH STREET LLC		8,309,400	7,645
037 E007001	157	HIGH ST	RB PORTLAND LLC		32,802,700	30,178
039 A016001	122	HIGH ST	PACIFIC & SOUTHERN COMPANY INC		79,500	73
039 A016002	122	HIGH ST	GANNETT KENTUCKY LIMITED	PARTNERSHIP	813,050	748
039 A017001	128	HIGH ST	PACIFIC & SOUTHERN COMPANY INC		2,817,500	2,592
039 A027001	116	HIGH ST	CUMBERLAND CLUB		1,317,200	1,212
039 A035001	110	HIGH ST	ONE HUNDRED AND TEN HIGH ST	LIMITED LIABILITY	382,800	352
039 A037001	106	HIGH ST	THIDWICK LLC		416,200	383
039 E008001	93	HIGH ST	GREATER PORTLAND	LANDMARKS INC	730,600	672
046 D031001	142	HIGH ST	STONE COAST PROPERTIES LLC		4,127,000	3,797
028 K001001	77	MARKET ST	85 MARKET STREET LLC		1,647,500	1,516
028 K003001	75	MARKET ST	WHOLLY COW LLC		3,643,900	3,352
029 O003001	43	MARKET ST	PORTLAND REGENCY INC		285,520	263
032 E010001	46	MARKET ST	MARKET MILK PARTNERS LLC		721,900	664
032 F001001	42	MARKET ST	OCEAN BLOCK ASSOCIATES		809,900	745
032 F002001	36	MARKET ST	36 MARKET ST		661,600	609
032 F003001	30	MARKET ST	E L C INC		511,600	471
028 L007001	131	MIDDLE ST	RACKLEFF BLOCK LLC		2,168,800	1,995
028 M005001	121	MIDDLE ST	123 LLC		2,738,300	2,519
028 N009001	115	MIDDLE ST	BROTHERS THREE LLC		648,300	596
028 N010001	111	MIDDLE ST	VENTURE III HOLDINGS LLC		200,100	184
029 A00101A	150	MIDDLE ST	CEDRONE RONALD M		328,300	302
029 A00101B	150	MIDDLE ST	GOLDEN PEGGY		329,700	303
029 A00101C	150	MIDDLE ST	IN FIRM GROUP THE		290,700	267
029 A00101D	150	MIDDLE ST	IN FIRM GROUP THE		290,700	267
029 A00102A	150	MIDDLE ST	FRANK PATRICK J JR		168,400	155
029 A00102B	150	MIDDLE ST	COTSIRILOS BORLAND LLC		150,800	139
029 A00102C	150	MIDDLE ST	MEIL JOAN F &	HENRY MEIL JTS	158,900	146

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
029 A00102D	150	MIDDLE ST	DURRELL KATHERINE A &	STANELY E DURRELL JR JTS	143,400	132
029 A00102E	150	MIDDLE ST	ERNEST PAUL W &	CARMELIA G ERNEST JTS	167,400	154
029 A00102F	150	MIDDLE ST	FRANK JANE C		166,800	153
029 A00102G	150	MIDDLE ST	COHEN ARTHUR C & THELMA JTS		143,300	132
029 A00102H	150	MIDDLE ST	JOHNS F ARTHUR T		168,400	155
029 A00102I	150	MIDDLE ST	BOEPPLE ELIZABETH A		139,600	128
029 A00102J	150	MIDDLE ST	MILLS S PETER		137,100	126
029 A00102K	150	MIDDLE ST	MILLS S PETER		160,900	148
029 A00103A	150	MIDDLE ST	MOUMENE MISSOUM &	ELIZABETH MOUMENE JTS	178,400	164
029 A00103B	150	MIDDLE ST	LINDQUIST PETER R &	SARAH RUEF-LINDQUIST JTS	150,800	139
029 A00103C	150	MIDDLE ST	BELL KEVIN P &	SUSAN F BELL JTS	158,900	146
029 A00103D	150	MIDDLE ST	THORNTON JAMES M		153,400	141
029 A00103E	150	MIDDLE ST	MANGIARACINE KEVIN &	KATHLEEN A	167,400	154
029 A00103F	150	MIDDLE ST	M & B 101 INC		166,800	153
029 A00103G	150	MIDDLE ST	M & B 101 INC		143,300	132
029 A00103H	150	MIDDLE ST	HENDERSON HAROLD L &	RACHEL C HENDERSON JTS	145,800	134
029 A00103I	150	MIDDLE ST	HARDING WILLIAM TRUSTEE		149,600	138
029 A00103J	150	MIDDLE ST	WALTER MARIA L TRUSTEE		137,100	126
029 A00103K	150	MIDDLE ST	MACBRIDE JENNIFER L		160,900	148
029 A00104A	150	MIDDLE ST	FINDLAY JOHN D JR		178,400	164
029 A00104B	150	MIDDLE ST	FISHER LAURIE		150,800	139
029 A00104C	150	MIDDLE ST	CAMP PETER S		158,900	146
029 A00104D	150	MIDDLE ST	MILLS S PETER		153,400	141
029 A00104E	150	MIDDLE ST	GIUSTRA BETSY M TRUSTEE		167,400	154
029 A00104F	150	MIDDLE ST	GUILLAUME RAYMOND		166,800	153
029 A00104G	150	MIDDLE ST	GIARRAPUTO CYNTHIA R &	JOHN P FARRELL JTS	143,300	132
029 A00104H	150	MIDDLE ST	MONTGOMERY JORDAN		145,800	134
029 A00104I	150	MIDDLE ST	KOSTA KATHERINE C		149,600	138
029 A00104J	150	MIDDLE ST	GREENZWEIG NEIL TRUSTEE		137,100	126
029 A00104K	150	MIDDLE ST	GIOVINE DONATO &	MARIAGRAZIA ZANARDI JTS	160,900	148
029 A00105A	150	MIDDLE ST	MIRS PROPERTIES LLC		799,300	735
029 A00105B	150	MIDDLE ST	DUNKERLY ALLAN S TRUSTEE		402,900	371
029 A0010BA	150	MIDDLE ST	242 NEWRY PARTNERS	LIMITED PARTNERSHIP	188,500	173
029 A0010BB	150	MIDDLE ST	242 NEWRY PARTNERS	LIMITED PARTNERSHIP	188,500	173
029 A001P01	150	MIDDLE ST	DUNKERLY MARY V		10,100	9
029 A001P02	150	MIDDLE ST	GIUSTRA BETSY M TRUSTEE		5,100	5
029 A001P03	150	MIDDLE ST	LINDQUIST PETER R &	SARAH RUEF-LINDQUIST JTS	10,400	10
029 A001P04	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P05	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P06	150	MIDDLE ST	IN FIRM GROUP THE		10,100	9
029 A001P07	150	MIDDLE ST	IN FIRM GROUP THE		10,100	9
029 A001P08	150	MIDDLE ST	GIARRAPUTO CYNTHIA R &	JOHN P FARRELL JTS	10,100	9
029 A001P09	150	MIDDLE ST	MCGOLDRICK RICHARD J		10,100	9
029 A001P10	150	MIDDLE ST	FRANK JANE C		10,100	9
029 A001P11	150	MIDDLE ST	FRANK PATRICK J JR		10,100	9
029 A001P12	150	MIDDLE ST	INFIRM GROUP		10,100	9
029 A001P13	150	MIDDLE ST	MILLS S PETER		10,100	9
029 A001P14	150	MIDDLE ST	ERNEST PAUL W &	CARMELIA G ERNEST JTS	10,100	9
029 A001P15	150	MIDDLE ST	FINDLAY JOHN D JR		10,100	9
029 A001P16	150	MIDDLE ST	MACBRIDE JENNIFER L		10,100	9
029 A001P17	150	MIDDLE ST	CAMP PETER S		10,100	9
029 A001P18	150	MIDDLE ST	CEDRONE RONALD M		10,100	9
029 A001P19	150	MIDDLE ST	CEDRONE RONALD M		10,100	9
029 A001P20	150	MIDDLE ST	THORNTON JAMES M		10,100	9
029 A001P21	150	MIDDLE ST	DUNKERLY ALLAN S &	MARY V DUNKERLY JTS	10,100	9
029 A001P22	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P23	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P24	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P25	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P26	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P27	150	MIDDLE ST	HARDING WILLIAM TRUSTEE		10,100	9

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
029 A001P28	150	MIDDLE ST	SHIPYARD INC		10,100	9
029 A001P29	150	MIDDLE ST	SHIPYARD INC		10,100	9
029 E001001	130	MIDDLE ST	ELC LIMITED LIABILITY COMPANY		5,763,200	5,302
029 E006001	100	MIDDLE ST	ALBANY ROAD-PORTLAND LLC		17,130,000	15,760
029 E026001	100	MIDDLE ST	ALBANY ROAD-PORTLAND LLC		16,178,000	14,884
029 O002001	164	MIDDLE ST	164 REALTY LLC		1,232,900	1,134
032 H016001	183	MIDDLE ST	SHOEMAKER LLC		683,900	629
032 H016002	183	MIDDLE ST	LEWIS SAUL & ASSOCIATES PC		549,700	506
032 H016003	183	MIDDLE ST	MORRISWITZER-BUILDING	FOR HEALTH LLC	549,700	506
032 H016004	183	MIDDLE ST	SLEEPY HOLLOW DEVELOPMENT INC		258,360	238
032 H01604B	183	MIDDLE ST	ITM REALTY II LLC		291,340	268
032 H022001	193	MIDDLE ST	SAVI REALTY LLC		2,004,200	1,844
032 I001001	178	MIDDLE ST	MIDDLE STREET HOLDINGS LLC		5,527,700	5,085
029 A003001	5	MILK ST	MILK STREET ASSOCIATES LLC		2,561,900	2,357
029 B002001	4	MILK ST	4 MILK MHR LLC		1,502,300	1,382
029 O004001	11	MILK ST	PORTLAND REGENCY INC		112,080	103
029 R001001	20	MILK ST	PORTLAND REGENCY INC		7,901,900	7,270
032 F009001	30	MILK ST	OCEAN BLOCK ASSOCIATES		1,313,700	1,209
027 F001001	50	MONUMENT SQ	50 MONUMENT SQUARE LLC		3,166,400	2,913
027 F002001	28	MONUMENT SQ	BUDDE SCOTT &	CHARLOTTE F COLE JTS	760,900	700
027 F002002	28	MONUMENT SQ	STODDARD ROBERT B &	ELIZABETH W SODDARD JTS	566,600	521
027 F002003	28	MONUMENT SQ	28 MSQ LLC		232,300	214
027 F002004	28	MONUMENT SQ	28 MSQ LLC		246,300	227
027 F002005	28	MONUMENT SQ	28 MSQ LLC		116,300	107
027 F003001	22	MONUMENT SQ	22 MONUMENT SQUARE LLC		1,679,700	1,545
027 F004001	6	MONUMENT SQ	PARCHEGGIO LLC		187,000	172
027 F005001	18	MONUMENT SQ	18 MONUMENT SQUARE LLC		574,700	529
027 F006001	16	MONUMENT SQ	MCCURTAIN BRADLEY C		706,700	650
027 F014001	0	MONUMENT SQ	TWO MONUMENT WAY ASSOCIATES		31,700	29
032 K001001	2	MONUMENT SQ	800 NORTHERN CORP		15,107,800	13,899
032 K012001	1	MONUMENT SQ	FINARD MURRAY W TR		10,949,300	10,073
027 F011001	1	MONUMENT WAY	ONE MONUMENT WAY LLC		3,465,500	3,188
032 S003001	7	MOULTON ST	7-9 MOULTON LLC		283,300	261
032 S005001	5	MOULTON ST	MOULTON STREET REALTY LLC		1,924,200	1,770
032 T004001	4	MOULTON ST	ADRIENNE-JANE INCORPORATED		3,521,700	3,240
037 A023001	84	OAK ST	NORTHEAST REALTY INC		341,500	314
037 A035001	72	OAK ST	AVESTA OAK STREET LP		2,196,400	2,021
037 B013001	95	OAK ST	NORTHERN NEW ENGLAND	TELEPHONE OPERATIONS	209,880	193
037 C008001	81	OAK ST	HEGA REALTY LLC		338,940	312
037 H014001	51	OAK ST	MAINE COLLEGE OF ART		155,430	143
037 H014003	51	OAK ST	MAINE COLLEGE OF ART		159,130	146
037 H014005	51	OAK ST	MAINE COLLEGE OF ART		116,560	107
037 H025001	57	OAK ST	NEKOIE BAHMAN &	CATHERINE E JTS	77,300	71
039 B011001	44	OAK ST	44 OAK STREET LLC		1,131,700	1,041
021 A001001	119	PEARL ST	PEARL CUMBERLAND LLC		4,265,900	3,925
028 K002001	66	PEARL ST	LEADER PROPERTIES LLC		4,244,800	3,905
028 L005001	75	PEARL ST	WBFM LLC		1,020,700	939
028 L00502A	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	571,300	526
028 L00502B	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	449,000	413
028 L00503A	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	352,000	324
028 L00503B	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	461,900	425
028 L00504A	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	352,000	324
028 L00504B	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	571,300	526
029 E009001	25	PEARL ST	25 PEARL MHR LLC		14,588,600	13,422
029 E016001	31	PEARL ST	130 LIMITED LIABILITY COMPANY		4,582,400	4,216
038 E019001	1	PLEASANT ST	EMSWORTH PROPERTY LLC		696,700	641
038 E020001	7	PLEASANT ST	7-19 PLEASANT STREET LLC		392,200	361
038 E021001	9	PLEASANT ST	7-19 PLEASANT STREET LLC		79,990	74
038 E023001	15	PLEASANT ST	7-19 PLEASANT STREET LLC		811,000	746
038 X001001	9	PLEASANT ST	7-19 PLEASANT STREET LLC		11,760	11
040 B013001	14	PLEASANT ST	GIOBBI CARLO JR		250,700	231

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
040 B015001	10	PLEASANT ST	GIOBBI CARLO JR		15,100	14
040 B017001	4	PLEASANT ST	GIOBBI ARCHIE S &	MATILDA M JTS	46,020	42
038 B001001	1	PORTLAND SQ	NORTH RIVER IV LLC		15,876,300	14,606
038 B001007	1	PORTLAND SQ	PS ONE REALTY LLC		12,323,400	11,338
038 B002001	2	PORTLAND SQ	NORTH RIVER IV LLC		26,105,600	24,017
027 A014001	7	PREBLE ST	5 MONUMENT SQUARE LLC		57,050	52
037 F005001	28	PREBLE ST	EARL APARTMENTS LLC		2,442,400	2,247
037 F007001	24	PREBLE ST	24 PREBLE STREET LLC		1,221,800	1,124
037 F023001	22	PREBLE ST	477 TIME & TEMPERATURE LLC		2,153,900	1,982
037 B015001	11	SHEPLEY ST	11 SHEPLEY STREET	ASSOCIATES LLC	1,669,800	1,536
037 C001001	0	SHEPLEY ST	OCEAN GATE LLC		322,700	297
037 C004001	0	SHEPLEY ST	OCEAN GATE LLC		204,630	188
029 B001001	37	SILVER ST	WITT-T LLC		520,400	479
029 B003001	25	SILVER ST	PORTLAND REGENCY INC		600,550	553
029 O001011	99	SILVER ST	ARENSBERG LEE C TRUSTEE		120,400	111
029 O001012	99	SILVER ST	TOZESKI DAVID P		120,600	111
029 O001013	99	SILVER ST	NORRIS BRENDA W		121,100	111
029 O001021	99	SILVER ST	THOMS DEBORAH L		118,100	109
029 O001023	99	SILVER ST	JENKINS COLBY LAWRENCE		140,200	129
029 O001024	99	SILVER ST	LEDDY JENNIFER M		114,700	106
029 O001025	99	SILVER ST	LINCOLN STREET PROERTIES LLC		106,800	98
029 O001026	99	SILVER ST	FISCHER CHRISTOPHER E		110,000	101
029 O001028	99	SILVER ST	FLOECKHER PETER W &	SARAH B MAXNER JTS	130,500	120
029 O001029	99	SILVER ST	COUSINS DAVID A		127,900	118
029 O001031	99	SILVER ST	BRAGDON BENJAMIN		123,800	114
029 O001032	99	SILVER ST	BOROWSKI ROBERT B		125,500	115
029 O001033	99	SILVER ST	DUMAS JOHN L		125,500	115
029 O001034	99	SILVER ST	BERG HENRY T TRUSTEE		125,500	115
029 O001035	99	SILVER ST	DODERER WILLIAM K		125,500	115
029 O001036	99	SILVER ST	HAAG DARYA I		107,900	99
029 O001037	99	SILVER ST	KINSMAN JESSICA A		99,900	92
029 O001038	99	SILVER ST	ZURKAN WILLIAM K		109,100	100
029 O001039	99	SILVER ST	LEDUC SANDRA J & SOREL &	KENNETH J JTS	112,600	104
029 O001041	99	SILVER ST	LINCOLN STREET PROPERTIES LLC		129,100	119
029 O001042	99	SILVER ST	KINGRA MICHAEL R &	KATHERINE D SZUM JTS	129,100	119
029 O001043	99	SILVER ST	BHANDARI AMEESH M &	PHYLIS BHANDARI JTS	138,400	127
029 O001044	99	SILVER ST	LITTLEJOHN CLIFTON T		126,900	117
029 O001045	99	SILVER ST	FITZPATRICK SUSAN E		125,500	115
029 O001046	99	SILVER ST	VAN PEURSEM CORINNE M		125,500	115
029 O001047	99	SILVER ST	MANCHESTER CATHLEEN A &	KATIE J MANCHESTER JTS	91,900	85
029 O001048	99	SILVER ST	PEEL BRUCE H		102,700	94
029 O001049	99	SILVER ST	DEVINE DEREK		97,500	90
029 O001210	99	SILVER ST	LINCOLN STREET PROPERTIES LLC		105,500	97
029 O001211	99	SILVER ST	GINTER DAVID R		101,600	93
029 O001212	99	SILVER ST	SILVER VICTORIA J		96,100	88
029 O001213	99	SILVER ST	PROSSER JAMES G		105,600	97
029 O001310	99	SILVER ST	HEALY ROBERT E &	CATHERINE B HEALY JTS	115,100	106
029 O001410	99	SILVER ST	CHANDLER PETER H JR		114,000	105
029 O001501	99	SILVER ST	KATZ JAMES &	CHARLOTTE KASSAB JTS	389,600	358
029 O001502	99	SILVER ST	PEAK 5 EQUITIES LLC		406,200	374
029 O001801	99	SILVER ST	GIARUSSO DAVID P SR		100,000	92
029 O001802	99	SILVER ST	JOHNSON BEN A		100,000	92
039 E010001	88	SPRING ST	LAFAYETTE PORTLAND LLC		17,438,200	16,043
055 E037001	190	STATE ST	HUCKSTER'S ROW PROPERTIES LLC		676,800	623
055 E039001	188	STATE ST	LONGFELLOW SQUARE	PARTNERS LLC	1,165,700	1,072
032 H005002	0	TEMPLE ST	11 TEMPLE MHR LLC		2,590,200	2,383
032 I039001	40	UNION ST	CENTRAL MAINE POWER CO	LOCAL TAX	1,289,200	1,186
032 V012001	1	UNION ST	237 COMMERCIAL STREET LLC		1,717,000	1,580
031 I135001	1	UNION WHARF	PROPRIETORS OF UNION WHARF		1,351,100	1,243
032 V014001	50	WHARF ST	DREAM PORT 3 LLC		802,600	738
032 V015001	42	WHARF ST	DREAM PORT 3 LLC		381,200	351

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
032 V016001	34	WHARF ST	GVF PROPERTIES LLC		369,600	340
040 E001001	40	YORK ST	BROWN J B & SONS		667,900	614
040 F011001	14	YORK ST	BROWN J B & SONS		2,264,000	2,083
Total:					811,202,730	746,307

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**

*Order 271-14/15
Tab 10 6-15
Tab 32 6-15-15*

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

**ORDER AUTHORIZING MASTER AGREEMENT
AND SUPPLEMENTAL SERVICES AGREEMENT
WITH PORTLAND'S DOWNTOWN DISTRICT**

ORDERED, that the Acting City Manager is hereby authorized to enter into a Master Agreement, with the Baseline Services provided in Exhibit B, with the Downtown Improvement District Corporation, d/b/a Portland's Downtown District, to carry out the Development Plan for the Portland's Downtown Improvement District for the period from and after July 1, 2015 and ending June 30, 2016, said agreement to be substantially in the form attached hereto as Exhibit A;

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to enter into a Supplemental Services Agreement, substantially in the form attached hereto as Exhibit C, with the Downtown Improvement District Corporation d/b/a Portland's Downtown District to implement Supplemental Public Works Services, as approved in the Fiscal Year 2016 Appropriation Resolve.

MASTER AGREEMENT BETWEEN

THE CITY OF PORTLAND

AND

DOWNTOWN IMPROVEMENT DISTRICT, INC.

D/b/a PORTLAND'S DOWNTOWN DISTRICT

AGREEMENT made by and between the CITY OF PORTLAND, a municipal corporation of the State of Maine, hereinafter referred to as the "CITY" and the DOWNTOWN IMPROVEMENT DISTRICT, INC., d/b/a PORTLAND'S DOWNTOWN DISTRICT, a Maine non-profit corporation, having its office and place of business at Portland, Maine, and doing business as "Portland's Downtown District", hereinafter referred to as the "CORPORATION"

WHEREAS, the CITY has established a Downtown Improvement District; and

WHEREAS, the CITY desires to have certain services performed by the CORPORATION, as described in this Agreement, within the CITY's Downtown Improvement District (hereinafter referred to as the "District"; and

WHEREAS, the CITY desires to contract with the CORPORATION for the provision of certain services to be provided in the District;

NOW, THEREFORE, in consideration of the covenants herein contained, the parties hereto mutually agree as follows:

ARTICLE I. FINANCIAL CONSIDERATIONS

1. The **CITY** will levy development district assessments on property in the District, as authorized by the City Council and permitted by law. **CITY**-owned property, as well as property which is tax exempt under Maine law, shall not be assessed by the **CITY**.
2. For the period commencing July 1, 2015 and ending June 30, 2016 the City will pay the **CORPORATION** in four (4) installments, to reflect the assessments collected by the City, less the **CITY**'s direct and indirect costs, such as, but not limited to, postage, publication, lien costs and costs of delinquent collection. Installment payments will be made on August 10, 2015; October 12, 2015; February 1, 2016; and May 2, 2016.
3. The **CITY** may adjust such payments, after an advisory consultation with representatives of the **CORPORATION**: either (i) in order to equal the net assessments collected; or (ii) in the event of any challenge to the assessments which includes a request for a refund, to withhold such amounts as the Director of Finance may deem necessary to protect the City from any order or judgment requiring it to make a refund.

In addition to the foregoing, the **CITY** will pay in a lump sum, within thirty (30) days from the close of the fiscal year, any amount assessed in a prior year, but collected in a subsequent year. Said payment by **CITY** shall be in the amount of the net assessment collected as provided herein, less any amounts remaining to be reimbursed under a prior year Master Agreement or Supplemental Services Agreement with the **CITY**. **CITY** will provide the **CORPORATION** with written detail as to any deductions taken from payments under this paragraph.

The **CORPORATION** shall provide a fiduciary bond, payable to the **CITY**, in the minimum amount of Ten Thousand Dollars (\$10,000.00).

4. Advancements made hereunder shall be reimbursed to the **CITY** from receipts from development district assessments, net of any of the costs referred to in Paragraph 2.

5. Notwithstanding the foregoing, **CORPORATION** agrees that it will neither encumber funds which it anticipates receiving from development district assessments nor incur expenditures in anticipation of receipt of such funds except in accord with the line items in the budget attached hereto as Exhibit A, or any subsequent amendments thereto approved by the **CITY**.
6. The **CITY** and the **CORPORATION** have accepted the **CORPORATION's** budget in Exhibit A, covering the period beginning on July 1, 2015, and ending on June 30, 2016, with estimated District revenues from the assessments in the amount of \$746,307.
7. The parties agree that the acceptance of the budget by the **CITY** is for planning purposes only and does not obligate the **CITY** to pay the **CORPORATION** said amounts. **CORPORATION** specifically acknowledges the **CITY's** right to either terminate or reduce its payments as provided in Paragraph 2.
8. The **CORPORATION** will provide the Director of Finance with a monthly financial statement in a form acceptable to him, including, but not limited to, a statement of its cash position. At a minimum, the statement shall list all income and expenses. The statement shall be due on or before the fifteenth (15th) day of the month following the month to which it relates. In addition, the books and records of the **CORPORATION** shall be audited annually as of the close of business on the thirtieth (30th) day of June by an independent certified public accountant and his report will be delivered to the Director of Finance.
9. The Director of Finance of the City of Portland will advise the **CORPORATION**, from month to month, of the amounts the **CITY** has collected from the assessments referred to herein, so that the **CORPORATION** can amend its budget to conform with the amount of money which may be available to it from the net proceeds of the development district assessments.
10. The **CITY** will maintain the level of "Basic Services" described in the memorandum which is attached hereto as Exhibit B.

11. The **CORPORATION** shall have reasonable access to the **CITY's** assessment collection records, and the **CITY** shall have reasonable access to the **CORPORATION's** books and records.
12. The Director of Finance shall determine the net amount collected by the City from development district assessments. In determining such amount, he shall deduct from the amounts so collected all costs (whether direct or indirect) incurred by the **CITY** both in establishing and also in administering the development district; all costs of assessments and collections; and, if the **CITY** should collect interest on delinquent assessments, such interest shall not be included in the "net amount collected".
13. The Director of Finance shall determine the "net amount collected from development district assessments" as well as the amount to be withheld by the **CITY** in the event of a challenge which includes a request for a refund. The **CORPORATION** may appeal his determination within fourteen (14) days to the **CITY** Manager whose decision will be final.

ARTICLE II. SERVICES

A. ORGANIZATION OF CORPORATION.

The **CORPORATION** will:

1. Provide staff and administrative services for supervision of the daily activities and public space management of the District.
2. Establish positions for administration and management of the program; recruit, hire, and pay and otherwise supervise the work force necessary to implement this charge.
3. Establish a corporate Board of Directors whose members fairly represent a cross section of taxpayers in the District.
4. Establish a mechanism for resolving any dispute to the kind and level of services which may arise

between the **CORPORATION** and persons subject to development district assessments regarding the kind and level of services provided by the **CORPORATION**.

5. Provide liaison between the **CITY**, the District, property owners, civic groups, interested persons, and other groups and individuals, as directed by the **CITY** Manager and necessary to insure the successful implementation of District services.

6. Maintain all minutes and records of proceedings as may be required.

B. SERVICES AUTHORIZED TO BE PROVIDED BY CORPORATION.

The **CORPORATION** is authorized to provide the following services to supplement the **CITY's** "Basic Services" as described in Exhibit B.

1. Decorate and beautify public places in the District.
2. Sponsor and promote public events to take place on or in public places in the District.
3. Advertise and promote non-profit, cultural, educational and commercial business activities in the District.
4. Maintain information and directional signing for the District in accordance with applicable City codes and ordinances.
5. Improve public relations, generating favorable publicity for the District.
6. Manage vending activities, kiosks and information booths.
7. Sweep and clean sidewalks in the District.
8. Clean and erase graffiti.

9. Maintain vegetation and greenery in the public areas.

10. Remove trash and litter.

11. Wash, maintain and relocate street furniture, trash cans, drinking fountains, street lanterns, telephones and undertake minor repairs to street furniture.

12. Remove snow.

13. Provide for security of public areas.

14. Carry out the downtown improvement program authorized and approved by the CITY Council as set forth in this Agreement.

C. AUTHORITY OF CORPORATION.

Nothing in this Agreement shall be construed to limit the **CORPORATION's** general powers, as set forth in the Maine Nonprofit Corporation Act, Title 13-B of the Maine Revised Statutes Annotated.

ARTICLE III. TERM OF AGREEMENT

This Agreement shall commence on July 1, 2015, and continue through, June 30, 2016.

ARTICLE IV. TERMINATION

This Agreement may be terminated by either party for good cause. Good cause shall be deemed to be found by the **CITY** at such time as the **CORPORATION's** performance under this Agreement has been determined in the exclusive judgment of the **CITY** Manager to be unsatisfactory which determination shall not be unreasonable.

If the **CORPORATION** should fail to perform any material covenant, obligation or agreement hereunder for a period of thirty (30) days after written notice from the **CITY** Manager specifying such failure, then, upon expiration of the thirty (30) day period, the **CITY** Manager may provide the **CORPORATION**

with notice of his intention to terminate the Agreement as provided herein.

The **CORPORATION** shall have a ninety (90) day period, computed from the date of receipt of the notice of intent to terminate, within which to provide satisfactory service. In the event the **CITY** Manager should determine, at the expiration of the ninety (90) day period, that the **CORPORATION's** performance is still unsatisfactory and declare that the Agreement is terminated, the **CORPORATION** shall have the right to appeal his decision to the City Council.

The appeal to the **CITY** Council shall be filed with the **CITY** Manager within seven (7) days from the date the **CORPORATION** receives the notice of termination.

The terms and conditions of this Agreement shall remain in full force and effect and binding on both parties until the **CITY** Council has acted on the appeal.

The **CORPORATION** shall be deemed to have good cause to terminate this Agreement if (i) the **CITY**, pursuant to the provisions of Article I, should reduce its anticipated payments by more than 20% of the amount it would otherwise have paid during the periods from July 1, 2015 to December 31, 2015, and January 1, 2016 to June 30, 2016; (ii) if the **CITY** should be more than 30 days in arrears in any payment due hereunder; or (iii) the **CITY** should fail to maintain "Basic Services", as that phrase is defined herein, in a material and substantial way.

In the event the **CORPORATION** should have "good cause" to terminate this Agreement, its relief shall be limited solely to termination of this Agreement, and it shall not be entitled to damages of any kind nor to equitable relief.

Nothing herein shall be construed as giving the **CORPORATION** the right to perform the work contemplated under this Agreement beyond the time when the **CORPORATION's** services become unsatisfactory as determined by the **CITY** Manager, following the ninety (90) day notice period, or, in the event of an appeal, beyond the time the **CITY** Council has affirmed the **CITY** Manager's decision. In case the **CORPORATION** should be discharged before all the services contemplated hereunder have been completed, or the services for any reason should be stopped, either because of

the expiration of the term hereof or because of the inability of the **CORPORATION** to fulfill its obligations under this Agreement, the **CORPORATION** shall be reimbursed for all services satisfactorily performed to the date of termination in accordance with Article II hereof. After notice of termination and completion of the appeal process, the **CORPORATION** shall:

A. With respect to existing activities, take only such actions as the **CITY** Manager shall direct;

B. Assign to the **CITY** in the manner, at the times and only to the extent the **CITY**, acting by and through its **CITY** Manager, may direct it to do so, all the rights, title and interest of the **CORPORATION** in and to all existing orders and agreements.

C. To the extent rights, title and interests of the **CORPORATION** in and to existing orders and agreements may be assigned to the **CITY** and accepted by it; obligations incurred on or after such assignment will be assumed by the **CITY**. Otherwise, the **CORPORATION** shall settle all outstanding liabilities and all claims arising out of any terminated orders or agreements.

D. Deliver to the **CITY**, in the manner, at the times and to the extent directed by the **CITY** Manager, all documents and data produced by the **CORPORATION** as part of or in connection with the work.

ARTICLE V. ASSIGNMENT

The **CORPORATION** covenants and agrees that it will neither assign nor transfer any rights hereunder, either in whole or in part, without first obtaining the prior written consent of the **CITY**.

ARTICLE VI. AREA COVERED

The services will be provided by the **CORPORATION** in the area designated by the **CITY** Council as the Downtown Improvement District of the **CITY** (hereinafter the "District"). A description and map thereof are attached as Exhibits C and D respectively and incorporated herein.

ARTICLE VII. STANDARD OF PERFORMANCE

All services performed under this Agreement either by or on behalf of the **CORPORATION** shall be performed in a good, workmanlike fashion to the reasonable satisfaction of the **CITY** Manager.

ARTICLE VIII. MANAGEMENT OF PERFORMANCE

The **CITY's** Director of Public Services and/or designee and the **CORPORATION'S** Executive Director and/or designee agree to meet and communicate on a monthly basis using a standard meeting agenda format to address regular topic reviews, including but not limited to quality control in service delivery, updated information on service activities, programs and projects. These services are detailed in this Agreement, its Exhibits, and also in the Supplemental Services Agreement - executed contemporaneously with this Master Agreement - and its Exhibit.

ARTICLE IX. COMPLIANCE WITH LAW

The **CORPORATION** will comply with all applicable provisions of Federal, State, and local law, including, but not limited to, the Civil Rights Act of 1964, in its performance under this Agreement. The **CORPORATION** shall include a similar provision in each of its subcontracts.

ARTICLE X. INDEMNIFICATION

The **CORPORATION** shall, at its own cost and expense, defend, indemnify, and hold harmless the **CITY**, its officers, agents, and employees, from and against the following:

(a) to the fullest extent permitted by law, the **CORPORATION** shall indemnify and hold harmless the **CITY**, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including but not limited to costs of defense, including attorney's fees, arising out of or resulting from the performance of this Agreement, provided that

any such claims, damage, loss or expense is: (1) attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss or use thereof; and (2) is caused in whole or in part by any negligent act or omission of the **CORPORATION**, anyone directly or indirectly employed by it, or anyone for whose act it may be liable;

(b) all claims and liens of the **CORPORATION's** consultants, subcontractors, and their laborers, mechanics, materialmen, and/or suppliers.

Such obligation shall not be construed either to negate or abridge any other obligation of indemnification, and shall not be limited by any provision for insurance contained in this Agreement.

ARTICLE XI. INSURANCE

Neither the **CORPORATION** nor any of its subcontractors shall commence work under this Agreement until they have provided the insurance coverage required by this Agreement and such coverage has been approved by the **CITY**.

(a) Workers' Compensation Insurance. The **CORPORATION** and its subcontractors shall procure and maintain, at their own expense, and show evidence to the **CITY** of Workers' Compensation Coverage, as well as Employer's Liability Coverage, for their employees. All such policies which are in any way related to the services to be provided hereunder and which are secured and maintained by the **CORPORATION** or any subcontractors shall include clauses requiring that each underwriter shall waive all of its rights of recovery under subrogation or otherwise against the **CITY**. The City shall be named as an additional insured in all such policies.

(b) Prior to the execution of this Agreement, **CORPORATION** will procure and maintain Public Liability Insurance coverage and Automobile Insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000) combined single limit for bodily

injury, death, and property damage, and also Worker's Compensation Insurance coverage, naming the **CITY** as an additional insured thereon. an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually been endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion 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 the like, or which merely states The City of Portland is named as an Additional Insured, will not be acceptable.

(d) Deductible Amount. The **CORPORATION** and its subcontractors will reimburse the **CITY** for any amounts it may be required to pay and hold it harmless from the cost of any losses for which they are responsible and to which a deductible amount may apply. The deductible amount in any such policy may not exceed Two Thousand Five Hundred Dollars (\$2,500.00) without the written consent of the **CITY**.

(e) Certificate of Insurance. The **CORPORATION** and its subcontractors will provide the **CITY** with either certificates of insurance or certified copies of the applicable policies, showing that they have complied with these provisions, and such certificates shall provide that thirty (30) days' written notice of non-renewal, material modification, or cancellation must be given to the **CITY**, prior to the effective date of such non-renewal, material modification, or cancellation.

(f) Claims-made Policies. Claims-made policies will not be accepted.

ARTICLE XII. INDEPENDENT CONTRACTOR

The **CORPORATION** either has or will secure, at its own expense, all personnel, materials, and equipment required to perform its obligations under this Agreement. Its personnel shall neither include any employee of the **CITY** nor shall such personnel be deemed to have any contractual relationship with the **CITY** by virtue of this Agreement. This Agreement does not prohibit either the **CORPORATION** or the **CITY** from entering into any contractual relationship. The **CORPORATION**, agreeing expressly that its status is that of an independent contractor, further, agrees that no such personnel shall represent or hold himself or herself out to be an officer or employee of the **CITY** either by reason of this Agreement or by reason of his/her employment by the **CORPORATION** or its subcontractors.

ARTICLE XIII. SUBCONTRACTS

The **CORPORATION** may, after thirty (30) days' notice in advance to the **CITY** Manager of its intention to do so, and with his approval, which shall not be unreasonably withheld, subcontract with third parties for the provision of part or all of the public services, including, but not limited to, security services, trash and litter removal, and snow removal, under this Agreement. The **CORPORATION** shall provide the **CITY** with copies of any third party contracts and with any insurance certificates required under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this _____ day of June, 2015.

WITNESS

CITY OF PORTLAND

By: _____
Michael Sauschuck
Its Acting City Manager

WITNESS

**DOWNTOWN IMPROVEMENT DISTRICT, INC.
d/b/a PORTLAND'S DOWNTOWN DISTRICT**

By: _____
Michael Mastronardi
Its Board Chairman

PORTLAND'S DOWNTOWN DISTRICT FY2016 BUDGET

July 1, 2015 to June 30, 2016

ORDINARY INCOME/EXPENSE

Income

ADMIN FEE INCOME-P&S	12,000	
ASSESSMENT INCOME		
CITY ASSESSMENT PROCESSING COST	0	
ASSESSMENT REVENUE	746,307	
NONPROFIT CONTRIBUTIONS	0	
TOTAL ASSESSMENT INCOME		746,307
EVENT INCOME		
MERRY MADNESS INCOME	12,000	
LIGHT UP YOUR HOLIDAYS INCOME	10,000	
ALIVE AT FIVE INCOME	0	
OLD PORT FESTIVAL INCOME	70,000	
SHOP FOR A CAUSE INCOME	0	
PORTLAND WINTERFEST INCOME	5,000	
TOTAL EVENT INCOME		97,000
INTEREST INCOME	0	
ONLINE REVENUES	5,000	
MARKETING INCOME	5,000	
P&S INCOME	12,000	
P&W INCOME	1,000	
TOTAL ORDINARY INCOME	878,307	

Expense

BANK SERVICE CHARGES	0	
CLEANING	2,995	
CONFERENCES/PROF DEV	1,200	
CONTRACT LABOR	9,000	
COPIER MAINTENANCE	250	
DEPRECIATION EXPENSE	0	
DUES AND SUBS	3,000	
EMPLOYEE COSTS		
HEALTH/DENTAL INSURANCE	42,000	
LIFE & DISABILITY INSURANCE	4,400	
PAYROLL PROCESSING FEE	1,000	
PAYROLL TAX EXPENSE	17,000	
SIMPLE EXPENSE	4,000	
TOTAL EMPLOYEE COSTS		68,400
EMPLOYEE PARKING & BUS	4,800	
EQUIPMENT EXPENSE	1,000	
INSURANCE		
DIRECTORS & OFFICERS	600	
GENERAL LIABILITY INCLUDING EVENTS	10,000	
LIQUOR LIABILITY	1,000	

EXHIBIT A TO MASTER AGREEMENT

WORKERS COMPENSATION	1,300	
TOTAL INSURANCE COSTS		12,900
MEETING EXPENSES	1,500	
POSTAGE	3,500	
PROFESSIONAL FEES		
ACCOUNTING	6,500	
COMPUTERS	750	
LEGAL	1,000	
TOTAL PROFESSIONAL FEES		8,250
RENT		
CAM CHARGES	7,880	
RENT - Other	17,128	
SALARIES AND WAGES	185,000	
BONUS AND INCENTIVES	10,000	
TOTAL COMPENSATION		200,000
SUPPLIES	4,000	
TAXES-PROPERTY	400	
TELEPHONE & INTERNET	3,000	
UTILITIES		
ELECTRIC	1,600	
GAS	1,200	
TOTAL ORDINARY EXPENSE	347,003	
NET ORDINARY INCOME	531,304	

OTHER INCOME/EXPENSE

Expense

ADOPT A FLAG EXPENSE	0	
ALIVE AT FIVE	0	
BANNERS EXPENSE	2,000	
CRUISE CONSORTIUM EXP	0	
DOWNTOWN WORKER DAY	475	
TARGETED MARKETING	20,000	
GRAFFITI REMOVAL	12,000	
GUIDES EXPENSES		
GUIDE PROGRAM EXPENSES	500	
PAYROLL TAX EXPENSES	1,200	
TELEPHONE STIPEND	200	
WAGES	12,000	
TOTAL GUIDE EXPENSES		13,900
HOLIDAY LIGHTS	41,500	
HOMETEAM EXPENSES	5,000	
LIGHT UP YOUR HOLIDAYS		
MARKETING	5,500	
PERFORMERS	3,000	
SECURITY	1,500	

EXHIBIT A TO MASTER AGREEMENT

TREE LIGHTING	3,000	
WINDOW WALK	0	
MERRY MADNESS EXPENSES	6,500	
WAGON RIDES	6,000	
TOTAL LUYH EXPENSES		24,400
PORTLAND WINTERFEST EXPENSES	5,000	
OLD PORT FESTIVAL		
MARKETING	5,000	
MISCELLANEOUS	5,000	
PERFORMERS	1,000	
PERMITS	5,800	
SECURITY	1,800	
TOTAL OLD PORT FESTIVAL EXPENSE		20,100
PARK & SHOP		
P&S MISCELLANEOUS EXP	3,000	
PARK & SHOP ADMIN EXPENSE	7,000	
TOTAL PARK AND SHOP EXPENSE		10,000
PARK AND WORK EXPENSE	0	
POLICE CADET PROGRAM	24,000	
PRIOR YEAR ADJUSTMENTS	0	
SUPPLEMENTAL SERVICES CONTRACT EXPENSE	335,329	
WEBSITE DEVELOPMENT	18,000	
TOTAL OTHER EXPENSE	531,304	
NET INCOME	0	

EXHIBIT B TO MASTER AGREEMENT
(BASELINE SERVICES)

**MEMORANDUM RELATED TO THE
PROVISION OF CERTAIN SERVICES
BY THE CITY OF PORTLAND**

(July 1, 2015 - June 30, 2016)

This Memorandum relating to the provision of certain services attempts to define the baseline of City services agreed to be provided by the City to the area defined and designated as the Downtown Improvement District as passed by the City Council on March 16, 1992 (Council Order #306, as amended on February 22, 1995, by Council Order #185). This Memorandum is not binding upon the current City Council or any future City Council, but rather is a definition of the City's intent and good faith to provide services to the Downtown Improvement District zone.

It is generally understood that the City shall not reduce any of these usual and normal baseline services, thus requiring the same services to be provided by the Downtown Improvement District, Inc. (d/b/a Portland's Downtown District or its successors, unless these reductions are part of an overall reduction of City services provided by various departments to the City as a whole.

MAINTENANCE SERVICES.

Whereas it is the intention of any downtown improvement district maintenance program to complement existing City services currently provided with a supplementary program of cleaning and/or maintenance, the following information shall comprise the baseline of City services to be provided at City expense. Unless otherwise noted, services to be provided by the City shall apply only to the area(s) considered part of the public way.

1) **Horticultural Program.**

In all public areas within the downtown improvement district zone, the City will maintain and improve the condition of all flower urns and other flowerbeds,

trees, tree wells, bushes, plantings and other like horticultural amenities. Such activity shall include the initial planting, timely and appropriate maintenance, preventative and otherwise, and expeditious replacement of any damaged, destroyed or diseased horticultural products, including grass, flowers, and trees. Specific areas of attention will include Longfellow Square, Congress Square, Monument Square, Tommy's Park, Post Office Park, Boothby Square, and any other public park, square or space which may be developed in the future.

2) Green Space Maintenance.

The City shall execute a green space maintenance program including mowing of all public grassed areas within the District. .

3) Downtown Blitz.

Each year the City shall undertake a dedicated effort to repair, repaint, replace and correct any defects, deficiencies or problems in the district. Items of focus shall include light and utility poles, sidewalks, curbstones, trashcans, benches, signs, crosswalk markings, traffic signals, tree wells, planters, benches, trees, kiosks, shelters, bollards, and any other amenity that is now or at some point in the future may be installed. This program will be undertaken as early as possible each spring and conclude as rapidly as possible. Performance of some activities, i.e. painting, will take place annually as conditions permit. Major capital activity or the reconstruction and/or repair of significant infrastructure (street paving, sewer work, etc.) would not be considered part of this blitz program.

4) Sidewalk Repair.

To the extent it is funded, the City will undertake an on-going sidewalk repair program to re-grout existing sidewalks and replace bituminous sidewalk repairs with permanent repairs.

5) Street Sweeping.

All streets or parts thereof included in the downtown improvement district zone will be swept from curb line to curb line once per week.

6) Trash Removal.

Daily and when necessary emptying of all public trash receptacles in the downtown improvement district zone and disposal of resulting waste.

7) Holiday Decorations.

Installation and removal of downtown Holiday decorations throughout the District to include Christmas trees at Monument Square and City Hall Plaza, string lights on light poles and common area trees such as Tommy's Park, and banners as agreed by the City and PDD, and provide for electrical energy related costs.

8) Snow Plowing.

The City will plow and remove snow as necessary from all streets and parts thereof in the downtown improvement district zone.

9) Streetscape Amenity Maintenance.

The City will repair and correct any defects, deficiencies or problems in the district as necessary. Items of focus include light and utility poles, sidewalks, curbstones, trashcans, signs, crosswalk markings, traffic signals, tree wells, planters, benches, trees, kiosks, shelters, bollards, and any other amenity that are now or at some point in the future may be installed. All repairs, etc. will take place within a reasonable time after notice of need.

10) Lighting.

Maintenance and replacement of all street lights and traffic signals and payment for necessary electrical energy.

11) Graffiti removal on public property.

12) Prioritization

PDD shall have the opportunity to participate with City staff from the Department of Public Services in the prioritization of all proposed capital improvement projects within the District including, but not limited to, tree well reconstruction and sidewalk repairs. PDD officials recognize that City staff also work closely with the City Manager's office and the City Council for project priorities.

POLICE SERVICES.

- 1) A minimum of four uniformed patrol officers will intersect all or part of the downtown improvement district area. The actual number of officers will vary depending upon time of day and day of week. During periods when calls for service are typically at their peak, the number of officers assigned will increase significantly, for example during weekend evenings and the summer months. This increase will include foot and bicycle patrols. Officers will be supported with additional personnel (supervisors, detectives, evidence technicians) as necessary.
- 2) As long as the Senior Lead Officer Program is in effect, at least one Senior Lead Officer will be assigned to the Downtown Improvement District area.
- 3) From the Friday following Thanksgiving to New Year's Day, patrol efforts will be supplemented by use of a foot patrol. The number of officers and hours of the assignment is dependent upon staffing levels. Every effort will be made to assign two officers during those hours that retail shops are open.

OTHER MUNICIPAL SERVICES.

Whereas it is the intention of any downtown improvement district program to complement existing City services currently provided by departments or divisions, other than those described above, with supplemental services, the following information shall comprise the baseline of other City services to be provided at City expense.

- 1) Coordination of the use of downtown's public spaces within the District.
- 2) Coordination and staffing City services required for events occurring in downtown Portland.
- 3) As previously existing events, the City will provide necessary services to support the annual Tree Lighting Ceremony and the annual one-day Old Port Festival within the boundaries established by City Council order #168-21/13; to wit: the area bordered by Congress, Pearl, Commercial, Center, Union and Temple Streets and including both sidewalks of Commercial Street with no costs charged to the PDD for these events.

Description of Portland's Downtown District

Beginning at Longfellow Square, at the southwesterly corner of Congress Street and State Street, easterly along Congress Street to High Street;

Thence northwesterly along High Street to Deering Street;

Thence along the easterly side of High Street to Cumberland Avenue;

Thence along the southerly side of Cumberland Avenue, beginning at High Street, to the Franklin Street Arterial:

Thence along the westerly side of the Franklin Street Arterial to Congress Street;
and

Thence along the westerly side of Congress Street to Myrtle Street;

Thence along the westerly side of Market Street to the southerly side of Newbury Street;

Thence easterly along Newbury Street to the westerly side of the Franklin Street Arterial;

Thence along the westerly side of the Franklin Street Arterial to the southerly side of Commercial Street; thence along Commercial Street to the easterly side of Cross Street;

Thence along the northerly side of Commercial Street to Maple Street;

Thence along the easterly side of Maple Street from Commercial Street to the southerly side of Danforth Street;

Thence along the southerly side of Danforth Street in an easterly direction to York Street;

Thence northeasterly to the intersection of Center Street, York Street, and Pleasant Street;

Thence westerly along Pleasant Street from its intersection with Center Street to a passage way, situated at number 15 Pleasant Street according to the street numbering plan as shown on Chart 38, Block E, Lot 23 of the Assessor's Maps on file at Portland City Hall; and

Thence along the easterly side of South Street from number 13 South Street according to the street numbering plan as shown on Chart 38, Block E, Lot 10 of the Assessor's Maps on file at Portland City Hall, to the northerly side of Spring Street;

Thence along the northerly side of Spring Street in a westerly direction to Oak Street;

Thence along the westerly side of Oak Street to its intersection with Pleasant Street;

Thence along Pleasant Street in a westerly direction to the easterly side of High Street; and

Thence along the northerly side of High Street to its intersection with Congress Street.

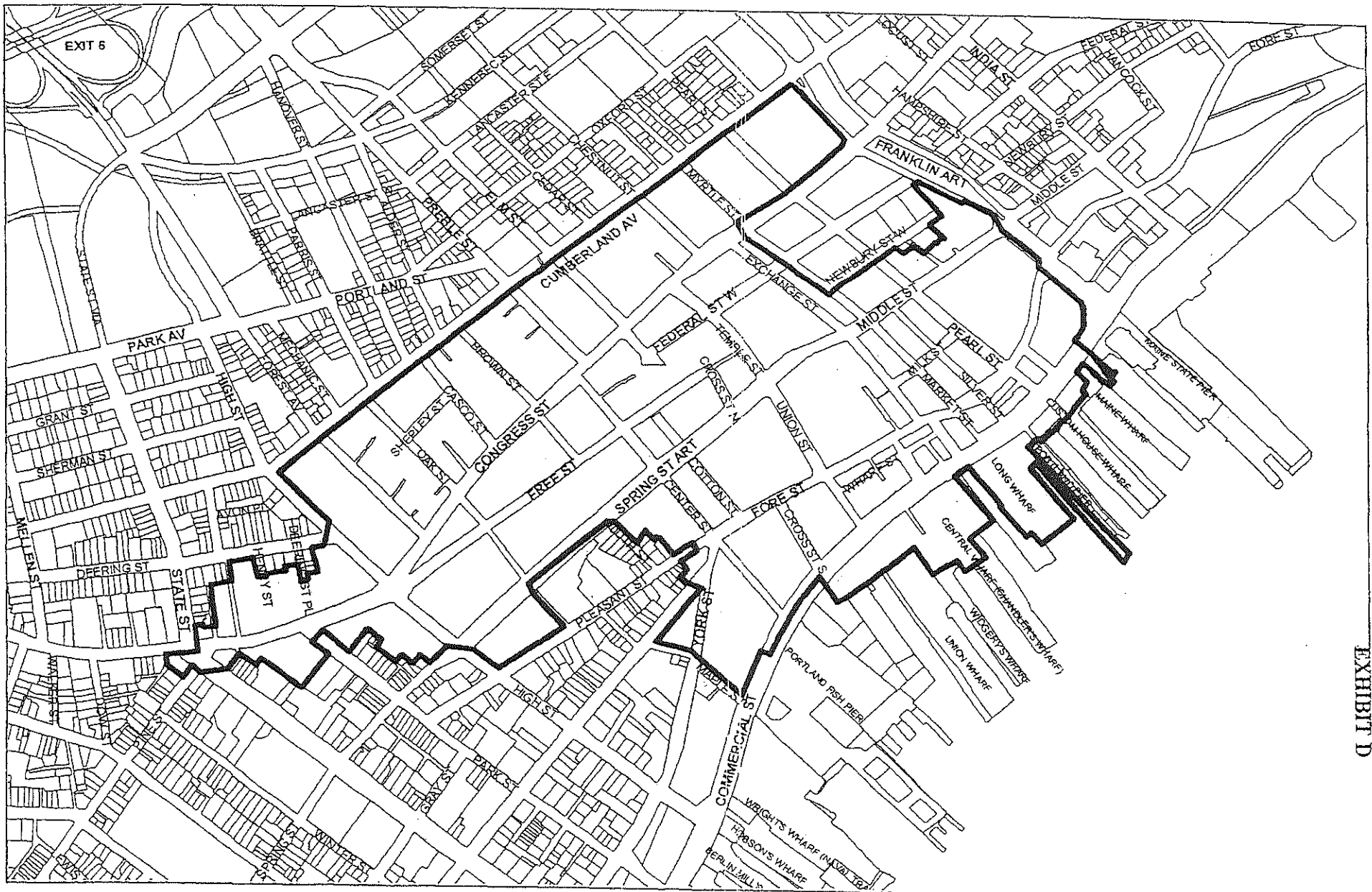
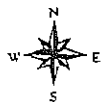


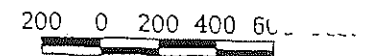
EXHIBIT D



PORTLAND DOWNTOWN DISTRICT

Effective July 1, 2004

Map produced by the City of Portland's GIS Workgroup March 5, 2004



SUPPLEMENTAL SERVICES AGREEMENT BETWEEN
DOWNTOWN IMPROVEMENT DISTRICT d/b/a
PORTLAND'S DOWNTOWN DISTRICT CORPORATION

AND

CITY OF PORTLAND

AGREEMENT made this ____ day of June, 2015, by and between the City of Portland, a municipal corporation duly organized under the laws of the State of Maine, Cumberland County (hereinafter the "**City**") and the Downtown Improvement District Corporation, d/b/a Portland's Downtown District, a Maine non-profit corporation, having its office and place of business at 549 Congress Street, Portland, Maine (hereinafter the "**PDD**").

W.I.T.N.E.S.S.E.T.H.

WHEREAS, the **City** and **PDD** entered into a Master Agreement of even date establishing mutual rights and responsibilities for the provision of services in the Downtown Improvement District (hereinafter the "**District**"); and

WHEREAS, said Master Agreement established the Baseline Services to be provided by **City** in the District; and

WHEREAS, **PDD** wishes to contract with the **City** to have the **City** provide, on a flexible basis depending upon funds available, Supplemental Maintenance Services in addition to those in the Master Agreement;

NOW THEREFORE, the parties do hereby agree as follows:

1. Supplemental Services: The **City** shall provide the following Personnel and Services (hereinafter the "Supplemental Services") in the District in addition to the Baseline Services provided in the Master Agreement:

1.1. Personnel:

One PDD Steward		
One Public Services Supervisor	Days	52 Weeks
Three Maintenance Worker III	Days	52 Weeks
Two Laborers	Days	Seasonal

- 1.2. Persons providing Supplemental Services hereunder shall be assigned by the **City** after providing reasonable opportunity to **PDD** for requests for service. Such persons are not required to be employees of the **City**. Such persons shall not, however, be considered to be employees of **PDD** and **PDD** is not intended, nor shall it be deemed to be, a joint employer with **City**. As between the **City** and **PDD**, **City** shall be responsible for all aspects of employment for all persons supplied by **City** pursuant to this Agreement, including compensation, liability and workers compensation coverage, employment taxes and any applicable fees.

1.3 Services to be provided are:

- *Transportation and set-up of materials and equipment for planned special events activities of **PDD** (with proper notification to coordinator)
- *Litter patrol, collection and disposal on streets, sidewalks, and public areas within the District.
- *Graffiti removal from City property
- *Removal of posters
- *Cleaning and painting of all furniture and fixtures
- *Sidewalk sweeping
- *Cleaning of tree wells
- *Weed control in support of other city departments performing 'basic services'
- *Snow clearance at crosswalks and from sidewalks during curb to curb snow removal

- *Installation of Holiday decoration in the District as agreed with PDD, in addition to those described in the Baseline Services provided in the Master Agreement, including electrical energy costs
- *Maintenance and cleaning of Visitor's Booth and Tommy's Park.
- *Clean and maintain the bathrooms, located in the Fore Street Garage and Spring Street Garage buildings, when the bathrooms are open to the public

- 1.3.1. PDD Sidewalk Snow Plowing Program. All property owners in the District assessment area are responsible for maintaining their sidewalks in the winter pursuant to Portland City Code §§25-173(C) and 25-174(C), including snow removal from their property line to the street gutter and ice control.
- 1.3.2. Following a snow storm, the **City** will provide a clear walkway no less than the width of a Holder's capability. To the extent reasonable, the **City** will clear the sidewalk area but it is not the intent of the parties that the **City** will clear the snow from the full width of the sidewalk area. The City will provide ice control to the extent possible. If weather conditions are so severe that the area cannot be plowed due to equipment capability, the **City**, in its discretion, may choose not to provide sidewalk snow plowing without penalty.
- 1.3.3. Management of Supplemental Services. The City's Public Services Director and/or Designee and PDD's Executive Director and/or Designee agree to meet and communicate on a monthly basis with meeting agendas to ensure quality control in service delivery is meeting expectations; providing updated information on service activities, programs and projects. The Public Services Department will provide a staff contact to PDD for direct communications, which is identified as the Districting Supervisor and

PDD Supervisor. A point of contact for PDD officials is the PDD Supervisor and District Coordinator. Conversely, the City of Portland Department of Public Services looks to the PDD Executive Director or designee as the City's point of contact on all issues involving PDD matters. A complete work plan and list of Services provided under this FY2016 agreement is provided in Exhibit A hereto.

2. Term: The term of this Agreement is from July 1, 2015 through June 30, 2016.

3. Budget and Payment: In consideration for these Supplemental Services, **PDD** agrees to pay the **City**, in equal quarterly installments, for all Supplemental Services provided hereunder the total sum of \$335,329 for FY2016. The **City** shall bill and **PDD** shall pay the **City** beginning July 1, 2015, a quarterly payment of \$83,832.

3.1. In the event **PDD** requests services from **City** in addition to those included herein, **City** shall have the option, in its sole discretion to provide such services, with payment to be made by **PDD** for any such services on a Time and Materials basis, or such other basis as the parties may agree in writing. "Time" as used herein shall mean all of the **City's** employee costs, i.e. hourly wages or salary. "Materials" as used herein shall mean the actual cost to the **City** of equipment, materials and/or supplies provided or used, with no additional markup.

4. Modifications: It is understood and agreed by the parties that **City** has adopted an expenditure budget which includes the cost of these Supplemental Services and has adopted a revenue budget which provides for the reimbursement of such costs by **PDD** as provided hereunder. In the event that either **PDD** or the **City** anticipates that there will be insufficient revenues to pay for such Supplemental Services, said party will notify the other party of the anticipated shortfall, and the parties agree to meet promptly and confer to modify the level of Supplemental Services which the **City** is able to provide. It shall be the

responsibility of **PDD** to notify **City** as soon as reasonably possible if such Supplemental Services need to be modified or adjusted for anticipated revenue shortfalls or modifications. In the event of a revenue shortfall, the **City** will have no obligation to provide Services in excess of **PDD** funds available to reimburse **City**; however, **City** will have the right, but not the obligation, to continue to provide Supplemental Services to the extent provided in the **City** budget even in the event of a revenue shortfall. The parties agree to memorialize in writing any changes in the monthly payments due under Section 3 above.

- 4.1. Either party may terminate or modify this Agreement in the event of a budget shortfall upon no less than Sixty (60) days prior written notice to the other party.
 - 4.2. In the event Supplemental Services are terminated for any reason by either party, it shall be in **City's** discretion as to whether it will continue or resume providing such Supplemental Services.
 - 4.3. **PDD** agrees to give the City Manager or the Manager's designee advance written notice of any formal meeting of its Directors or Officers at which modification of the current year Supplemental Services budget is to be discussed or considered, and to permit the attendance of **City** representative at such meeting. **City** and **PDD** agree to provide copies of draft budgets for the upcoming fiscal year reasonably in advance of any final decision by **PDD** or the **City** as to said budget, and the parties agree to meet and confer in regard to such budgets.
5. **City's** representative in regard to provision of Supplemental Services hereunder is the City Manager or the Manager's designee.

(Rest of page left intentionally blank.)

IN WITNESS WHEREOF, the City and PDD have signed this Agreement through their authorized representatives as of the day and date above written.

Witness:

City of Portland

By:

Michael Sauschuck
Its Acting City Manager

Witness:

Downtown Improvement District
d/b/a Portland's Downtown
District

By:

Michael Mastronardi
Its Board Chair

EXHIBIT A
to Supplemental Services Agreement
(Supplemental Services Work Plan and Event
Support for FY2016)

MEMORANDUM RELATED TO THE
SUPPLEMENTAL SERVICES AGREEMENT (SSA) BETWEEN
THE DOWNTOWN IMPROVEMENT DISTRICT dba
PORTLAND'S DOWNTOWN DISTRICT (PDD)
AND
THE CITY OF PORTLAND (City)

(July 1, 2015 - June 30, 2016)

This memorandum is a good faith attempt to define certain services, programs and events, and to achieve an improved level of satisfaction for both the **City** and **PDD**. It is generally understood that the city's Baseline Services, as articulated in Exhibit B of the Master Agreement, do not overlap or replace the services and programs incorporated in the SSA.

Also, listed are the specific special events produced by **PDD** for the benefit of the **City** and its property owners, residents, businesses and visitors, during the contract period.

The ongoing relationship between **PDD** and the **City** has evolved, along with the needs and expectations of both parties. The goal of this document is to improve coordination, establish priorities, clarify services and responsibilities, and list events covered under the terms and conditions of the SSA. The result will be to produce a more proactive, performance-based approach to the maintenance, cleanliness and overall attractiveness of downtown Portland.

1. FY 2016 City Personnel Work Plan

The City personnel assigned to perform services under the Supplemental Services Agreement are expressed in the FY2016 Portland Public Services Budget detail. For the current period of July 1, 2015 through June 30 2016 these personnel are:

1. (1) Public Services Supervisor
2. (1) PDD Steward
3. (3) Maintenance Worker III
4. (2) Seasonal Part-Time Maintenance Worker

Staffing levels may change on an occasion to account for employee leave coverage, emergencies or other unforeseen circumstances. However the City of Portland, Department of Public Services commits to continue to provide the general list of services provided by these personnel under the SSA.

- 1.1 The general list of services provided by these personnel is identified within the SSA under item 1.3. These shall not overlap services provided within Baseline Services (Exhibit B to Master Agreement).
- 1.2 The Public Services Supervisor shall inspect the entirety of **PDD at least once** every two weeks. During this inspection particular attention shall be focused on, but not limited to, the overall cleanliness and maintenance of the sidewalks, streets, trash containers, graffiti removal, open spaces, furniture and fixtures, lights, signage, the visitor kiosk and public restrooms. The status of projects or work orders in process should be continually updated. The results of each inspection shall be logged and documented; a monthly report will be presented every month.

- 1.3 The Public Services Supervisor shall direct the maintenance personnel on their daily responsibilities by producing a weekly schedule highlighting project activities and goals. The Supervisor will participate and assist the team in achieving project activities, as needed.
- 1.4 Horticultural and landscaping duties shall be in support of city personnel and departments assigned to these tasks. PDD dedicated personnel should assist (for instance with weed control and seeding) on an as needed basis, as time and normally assigned duties allow.
- 1.5 Sidewalk plowing and snow removal at intersections should be accomplished as soon as is reasonably possible during and following a snow event. If a yellow ban is called, sidewalk snow removal, as indicated in sections 1.3.1 and 1.3.2 of the SSA, should be completed within the same timeframe as city personnel and contracted partners remove snow from the District's streets and parking areas. The Department of Public Services will organize an annual winter briefing with downtown contract partners that remove snow on sidewalks and plazas to review best practices regarding coordinating work activity. This meeting will typically occur in late fall/early winter.
- 1.6 "Quick response" repairs, such as missing bricks, landscaping damage or graffiti removal shall be performed by PDD personnel, as soon as possible. PDD and City will jointly approve each quick response, as needed.
- 1.7 PDD and City will prioritize larger projects within the District generally

included in baseline services or CIP, and managed by other **City** teams or departments. These include, but are not limited to, major sidewalk repairs, tree well rehabilitation, landscape installations and other reconstruction projects. These District projects will be prioritized with input from **PDD**, and may include **PDD** personnel in their execution. Progress and status shall be monitored by the **PDD** supervisor, and updated as part of the monthly reporting.

- 1.8 **PDD** will monitor performance of **City** teams through specific **PDD** access to "See, Click and Fix" software.
- 1.9 **PDD** dedicated personnel will wear approved uniforms and work clothes at all times when on duty. **City** and **PDD** agree to work jointly on uniform decisions, including recommendations on an alternative uniform for **PDD** personnel.

2. FY2016 PDD Event Support Plan

PDD and the **City** recognize the value that well executed events bring to the vitality and economic development of the downtown. To that end, **PDD** agrees to follow the **City's** established permitting process and with the exception of the events as outlined in Exhibit B, Baseline Services, agrees to reimburse the **City** for actual expenses, as agreed to by both parties, required to support these events.

In FY2016, **PDD** is planning major events that require a level of support by **City** personnel.

PDD plans to incorporate recycling at all produced events, with support of the **City** staff, volunteers and supplied receptacles.

- 2.1 The Old Port Festival (OPF) - The OPF will operate from June 11-14, 2015. Sunday,

June 14, events will require closure of streets generally in the Old Port area.

- 2.2 Light Up Your Holiday Celebration (LUYH) - This annual roster of events around the Christmas holidays include a LUYH First Friday Artwalk with Congress Street closure from approximately 6-8pm. The Christmas tree lighting ceremony on the Friday after Thanksgiving, which requires set up and some street closures, along with minor transit re-routing around Monument Square. Horse-drawn carriage rides in the downtown and the merchant event called Merry Madness generally requires no specific city personnel support.
- 2.3 Portland Winterfest - This event will be held in January or February 2016, with a date to be confirmed.
- 2.4 Downtown Workers Appreciation Days - Generally held twice a year in early May and mid-October to recognize the employees of businesses and government offices located within the downtown. **City** and **PDD** provide set up and management of 3 stations located at the Portland Museum of Art, Monument Square and Tommy's Park.
- 2.5 Seasonal lights by Pandora - Lights are installed around the time that Day Light Savings Time ends in the late fall, and de-installed around the time that Day Light Savings Time begins again in the early spring. **PDD** personnel provide some installation support.

Order 272-14/15
Feb 11-6-15
Feb 30 6-15-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER AUTHORIZING AND APPROPRIATING A PORTION OF FUNDS FROM
THE SALE OF UNIT 1 AT PORTLAND TECHNOLOGY PARK TO BE USED FOR
THE NATURAL GAS CONNECTION**

ORDERED, that the City Council hereby authorizes a portion of the proceeds, not to exceed \$80,000.00, from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance Company, to connect natural gas to the Portland Technology Park.

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is hereby authorized to execute whatever documents are necessary to affect the intent and purpose of this allocation.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: City Council

FROM: Greg Mitchell, Economic Development Director

DATE: May 15, 2015

SUBJECT: **Recommendation to City Council for Order Authorizing a Portion of Funds from the Sale of Unit 1 at Portland Technology Park to Patrons Oxford Insurance be Appropriated to Connect Natural Gas to Portland Technology Park (PTP)**

SPONSOR: Finance Committee/Councilor Nicholas Mavodones, Chair

1. Council meeting at which action is requested: First reading: June 1, 2015; second reading and vote: June 15, 2015
2. Can action be taken at a later date? No

If no, why not? Approval is requested by June 15 for installation of natural gas lines to be done during 2015.

PRESENTATION: Greg Mitchell/5 Minutes

I. SUMMARY OF ISSUE

Natural gas service is needed at the Portland Technology Park to be available to occupants, including bioscience manufacturers and technology-related companies.

The Council previously approved two easements to Unitil for installation and maintenance of a natural gas line from the natural gas main on Westbrook Street to the Technology Park. The new gas line will connect to the existing line installed under the completed Phase 1 section of the Park road. (See Attachment 1 – Proposed route of the 20' wide gas line.)

The nearest natural gas main is on Westbrook Street. Over several years, various routes to bring natural gas to the Technology Park were considered. The proposed route is recommended as it is a lower cost option that will minimize impacts to the environment and infrastructure expense.

II. REASON FOR SUBMISSION

Staff seeks authorization from the Council to appropriate a portion of the proceeds from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance to cover the costs needed for bringing natural gas to the Park.

III. INTENDED RESULT

With natural gas in place, marketing the two available sites at the Technology Park will enhance the City's ability to sell them. Importantly, the Patrons Oxford Purchase and Sale Agreement commits the City to complete a natural gas service connection into the Park.

Further, bringing natural gas to the Technology Park also makes natural gas accessible to the Pine Tree Industrial Park located on Rand Road. Occupants of that Park have expressed an interest in natural gas service, which, to date, has not been available to them. Once natural gas is brought to the Technology Park, it only needs to cross Rand Road for some of the businesses located in the Pine Tree Industrial Park to access it.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

Unit 1 at PTP is currently under a Purchase and Sale Agreement with Patrons Oxford for the purchase price of \$625,000.

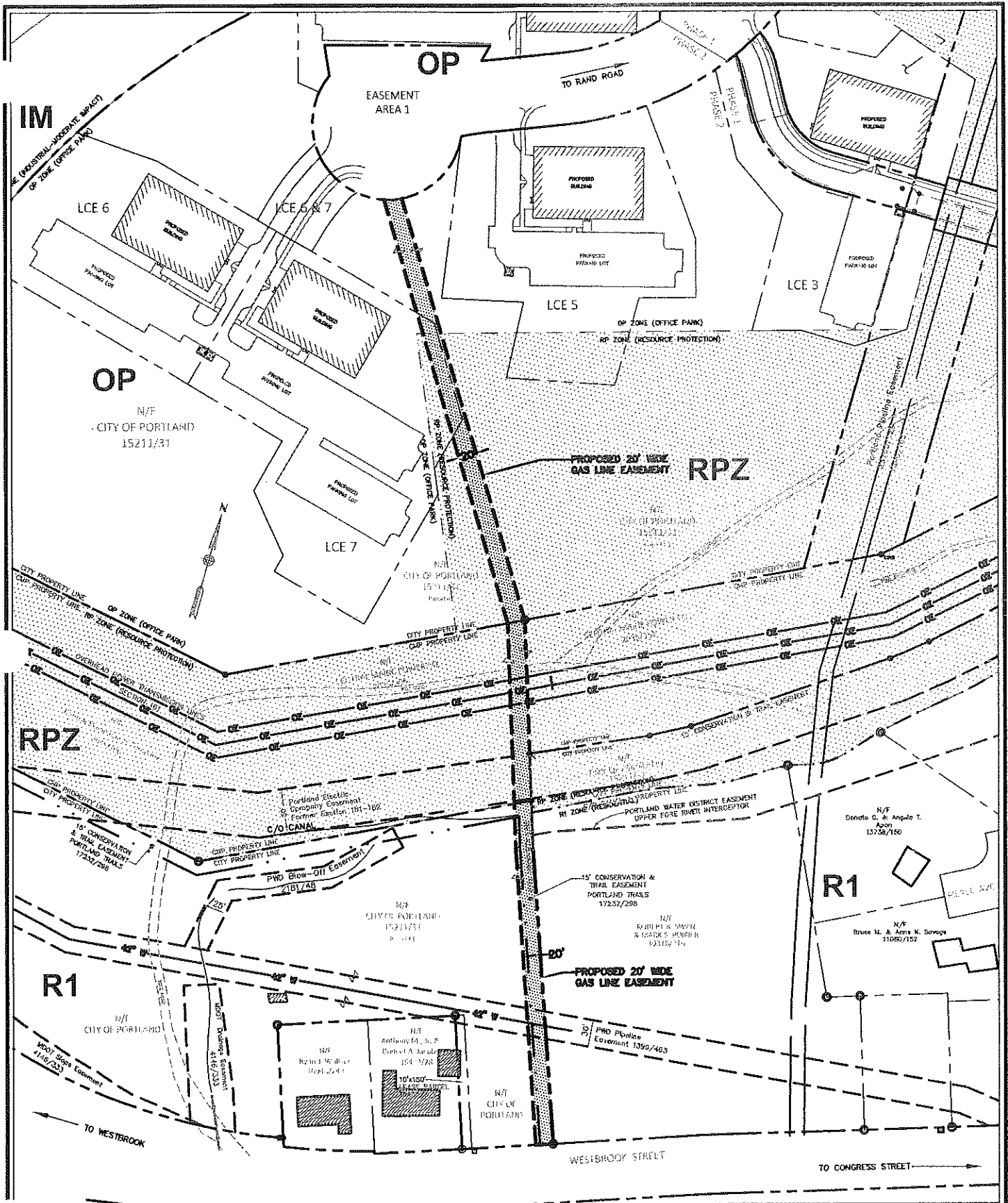
The estimated costs needed for bringing natural gas line to PTP is up to \$80,000. Using a portion of the sales proceeds from the sale of Unit 1 at \$625,000, less the broker fee and the utility costs, will net the City \$501,250.

VI. ANALYSIS AND RECOMMENDATION

Staff is presenting this to the Finance Committee on May 28th with a recommendation that a portion of the proceeds from the sale of Unit 1 at PTP be appropriated up to \$80,000 to fund the costs needed to extend natural gas to the PTP.

VII. ATTACHMENTS

1. Proposed Gas Line Route



CITY OF PORTLAND
PUBLIC SERVICES
ENGINEERING DIVISION

PROPOSED GAS LINE EASEMENT
for the Portland Technical Park

C3D PROJECT: Rand Rd - Land Services Inc (DPW copy)
DRAWING: Exhibit_B_PropGAS_Easmnt2015.dwg

SCALE:

$$1'' = 150'$$

DATE:

01/29/2015

Order 273 -14/15
~~Tab 12 6-1-15~~
Tab 34 6-15-15

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 RECOMMENDING AGREEMENT WITH
THE MAINE DEPARTMENT OF TRANSPORTATION
FOR 2015 MUNICIPAL PARTNERSHIP INITIATIVE (MPI) PROJECT
TO PAVE WASHINGTON AVENUE**

ORDERED, that the City Manager or Acting City Manager is authorized to enter into a two-party agreement between the City of Portland and the Maine Department of Transportation, in substantially the form attached, for the 2015 Municipal Partnership Initiative (MPI) Project to pave a portion of Washington Avenue and Washington Avenue Extension; and

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is hereby authorized to sign the two-party agreement and any other documents necessary to effect the purpose of this order.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: May 20, 2015

DISTRIBUTION: Michael Sauschuck, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuta, Corporation Counsel
Nancy English, Admin. Asst. to Corporation Counsel
Julie Sullivan, Acting Chief of Staff
Judy Rosen, Senior Administrative Assistant

SUBJECT: Order to approve MaineDOT/City agreement for 2015 Municipal Partnership Initiative (MPI) Project to pave Washington Avenue

SPONSOR: Michael Sauschuck, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015

Final Action June 15, 2015

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

NOTE - Action must occur in time to allow project to be designed, bid, and construction commenced within twelve months of the agreement.

PRESENTATION: N/A

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services requests approval for the Acting City Manager to enter into a two-party agreement with MaineDOT so we may proceed with design and bid advertisement to rehabilitate a portion of Washington Av and Washington Av Extension. The total value of investment is estimated to be \$775,000 and the 50% Local cash obligation is estimated to be \$387,500.

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

The City cannot proceed with final design and bid document preparation without this agreement being executed. Failure to execute this agreement could result in deferral or elimination of leveraged funding for this MaineDOT – City Partnership project.

III. INTENDED RESULT

Execution of these agreements allows for:

- 1) Resurfacing of Washington Av between Presumpscot St and Ocean Av

2) Full depth reclamation of Washington Av Ext between Auburn St and Lambert St

IV. COUNCIL GOAL ADDRESSED

From the Capital Improvement Plan Scoring Criteria, these projects would rate highly in these categories: (B) Impact of Service to the Public; (C) Asset Maintenance Need; (D) Funding Source; and (E) Budget Impact.

V. FINANCIAL IMPACT

The total value of the project is currently estimated at \$775,000 and the required 50% Local investment is estimated up to \$387,500 of that total. The Local funds are appropriated in the FY13, FY14 and FY15 CIP, and includes revenue from street opening surface restoration fees.

Project	Account	Current Local Cost
FHWA/PACTS Washington Res	C13111	\$35,000
PACTS Wash/ Presumt/Ocean	C14107	\$170,000
Paving Rehab	C15106	\$152,680
Street Openings – Utility Restor Fees	--	\$29,820
	<i>Totals:</i>	<i>\$387,500</i>

VI. STAFF ANALYSIS & RECOMMENDATION

The Department of Public Services recommends approval of this agreement in order to accomplish significant pavement preservation on Washington Av and Washington Av Extension at half the normal cost.

VII. LIST ATTACHMENTS

Two-party agreement for:

- Washington Av and Washington Av Extension - (WIN 20232.35)

Prepared by:

Gretel Varney, PE, Sr. Project Engineer

Signature

Date

<i>Internal Use Only</i>	
CT#:	TEDOCS #: _____
	CSN#: _____

**STATE OF MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL PARTNERSHIP AGREEMENT**

WIN 20232.35

REGARDING

WASHINGTON AVENUE / WASHINGTON AVE EXT, PORTLAND

This Cooperative Agreement (AGREEMENT) is entered into by and between the MAINE DEPARTMENT OF TRANSPORTATION ("MaineDOT"), an agency of state government with its principal administrative offices located on Child Street, Augusta, Maine, and the CITY OF PORTLAND ("Portland"), a municipality in the State of Maine with offices located at 389 Congress Street, Portland, ME.

WHEREAS, Portland shall perform highway Mill and Fill with ADA and Signal upgrades of Washington Ave beginning at the intersection of Presumpscot St to the intersection of Ocean Ave.

WHEREAS, Portland shall perform a Full depth reclaim with cement of the Washington Ave Extension, beginning at the intersection with Auburn St to the intersection of Lambert Street.

WHEREAS, Portland estimates these projects at \$775,000

NOW THEREFORE, the parties hereby agree as follows: (The following information provides the scope of work for the services that Portland will perform under this AGREEMENT.)

PORTLAND SHALL:

- A. Shall procure and oversee a highway improvement project for Washington Ave and Washington Ave Extension.
- B. Perform such work in accordance with a design by an engineer licensed in the State of Maine. The Licensed Engineer shall provide a certification to the Municipality and to MaineDOT that, in his/her professional opinion, the Project as designed will provide a smooth ride, not reduce the safety, mobility or structural quality of the state [state aid] road. All design documents must be stamped and signed in accordance with this provision by the Professional Engineer.

- C. Agrees to secure all necessary Federal, State and Local permits necessary to complete the work. Portland also agrees to secure any needed property rights in accordance with all applicable State and Federal Law.
- D. Agrees that any exceptions to State Design Standards shall be documented as part of this process. This documentation shall compare the new design to the existing conditions for each of the exceptions to current design standards. Any such exceptions shall be displayed on the cover sheet for the Project plans with the signature and PE stamp of the engineer responsible for the design of the Project.
- E. Be responsible, within the Project limits, for the following:
 - a. Ensuring that the safety of the corridor and the life of the resulting structural and design elements are equal to or better than existing conditions and design;
 - b. Ensuring that the structures, roadways and/or design features affected by the Project work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;
 - c. Ensuring that the Project does not introduce any unanticipated safety hazards to the traveling public;
 - d. Ensuring that the Project retains the same level of mobility or improves mobility of travel within the corridor; and,
 - e. Ensuring that the Project does not in any manner decrease the life expectancy of this component of Maine's transportation system.
 - f. Ensure the project meets the most recent Americans with Disabilities Act of 1990 (ADA) design requirements to the maximum extent feasible.
- F. Provide certification through their Engineer to MaineDOT that the project is complete and was constructed as designed.
- G. Construction shall commence within twelve (12) months and shall be certified complete within thirty six (36) months of execution of this agreement. Portland may forfeit the unpaid balance of this grant if these deadlines are not met or they can not demonstrate earnest and good faith efforts to meet them.

MAINEDOT SHALL:

- A. **Provide a maximum of \$387,500.00 in State funds supporting the project work stated above.** Reimbursement will be made by the Department at a minimum of 1/3 project completion upon receipt of supporting cost documentation from the Municipality. Payments will be made per Appendix A, attached. The Department's Region Engineer shall review the costs and certify their eligibility prior to reimbursement of Municipal Partnership Initiative Funds. Payment by MainedOT Municipal Partnership Initiative funds shall not exceed **\$387,500.00** or 50% of the actual costs incurred and paid by the Municipality.

City of Portland and MaineDOT agree to function within all applicable laws, statutes, regulations, and AGREEMENT provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed.

CITY OF PORTLAND

Dated: _____

By: _____
Michael Sauschuck
Acting City Manager

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

Dated: _____

By: _____
David Bernhardt, PE
Commissioner

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)

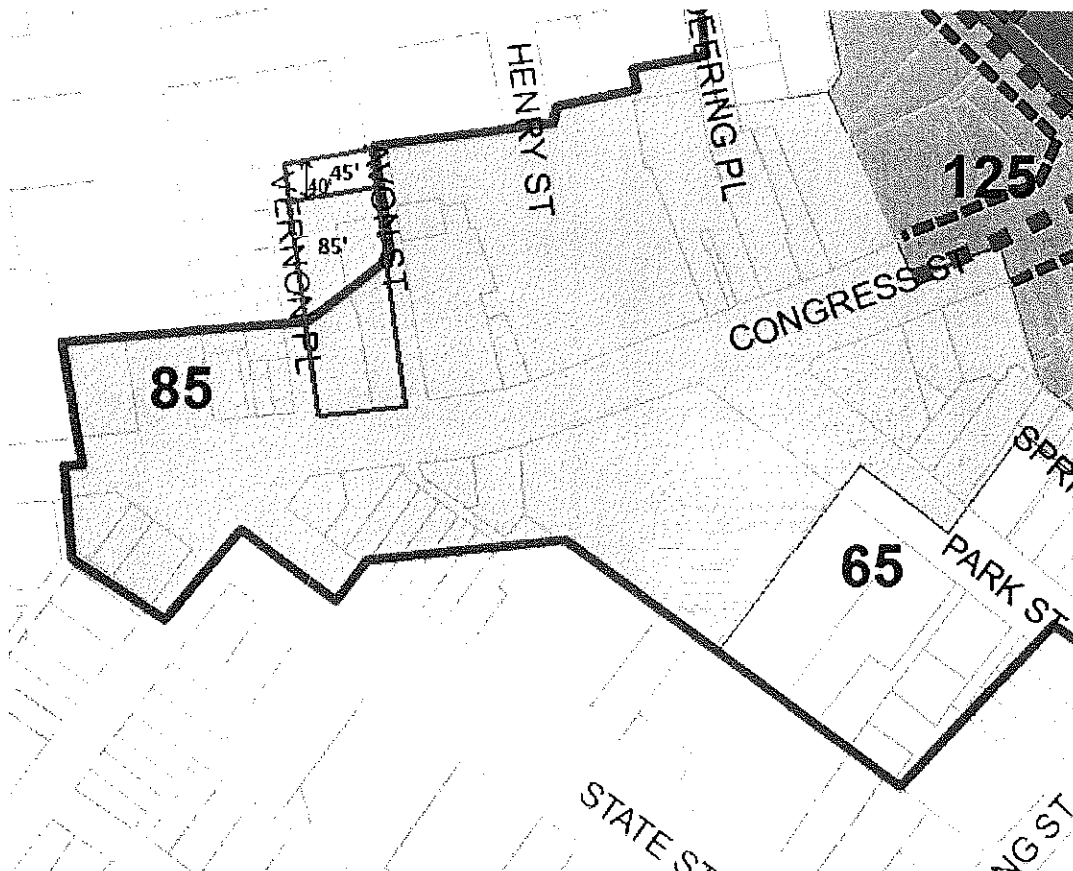
*Order 274-14/15
Feb 13 6-1-15*

Feb 35 6-15-15

**AMENDMENT TO ZONING MAP
RE: 667 CONGRESS STREET**

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

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning the R-6 area in the blue rectangle in the figure below to B-3; and



BE IT FURTHER ORDERED, that the Downtown Height Overlay Map be and hereby is amended by adopting the map change amendment as depicted in the same area map.

MEMORANDUM
City Council Agenda Item

TO: Mayor Brennan and Portland City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: May 18, 2015

DISTRIBUTION: Police Chief Michael Sauschuck, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Corporation Counsel, Jennifer Thompson, Nancy English, Julie Sullivan

SUBJECT: Zoning Map Amendment for the property at 667 Congress Street

SPONSOR: Stuart O'Brien, Chair, Portland Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading: June 1, 2015 **Final Action:** June 15, 2015

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

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

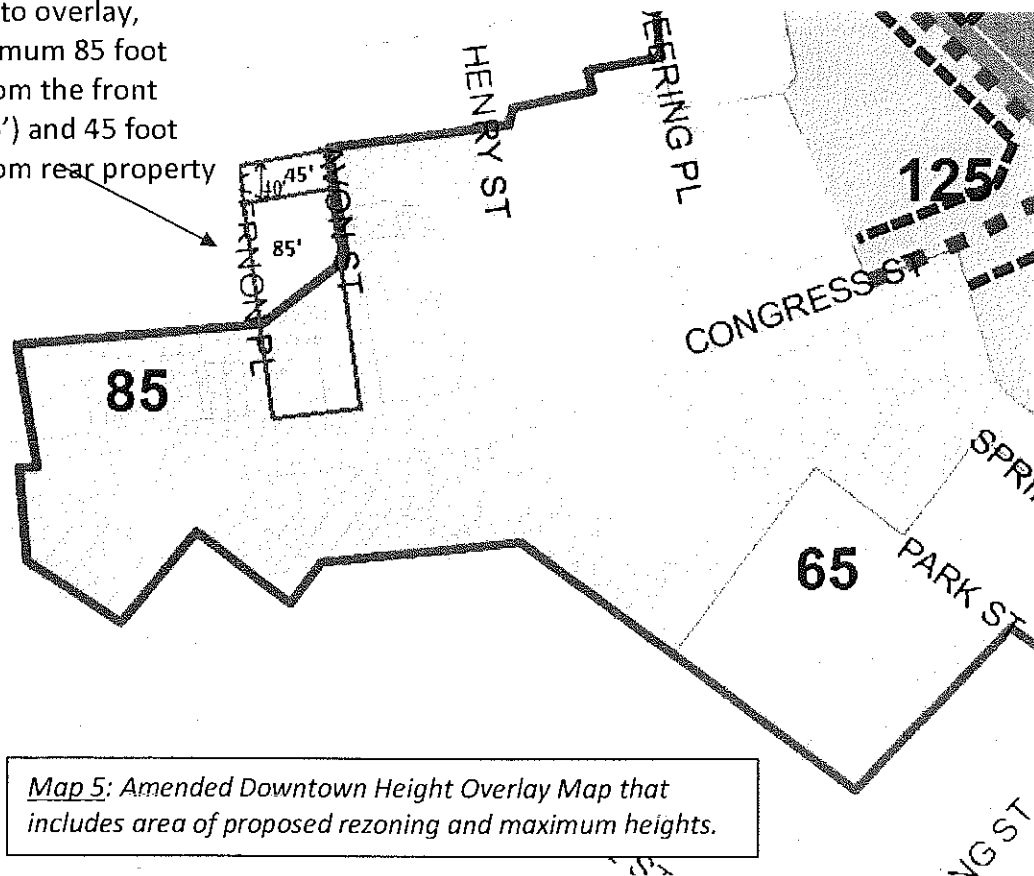
Stuart O'Brien, Chair, Planning Board – 5 minutes- To present Planning Board's recommendation.

I. SUMMARY OF ISSUE (Agenda Description)

Jonathan Cully of Redfern Properties is requesting a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is seeking to extend the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. The split zoning of the site does not accommodate an integrated development for a multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street and structured parking below the building. The proposed zone amendment includes extending the Downtown Height Overlay map to be contiguous with the B-3 map amendment. The maximum building height is proposed to be 85 feet for the majority of the site with a maximum building height of 45 feet for the rear 40' of property, which is adjacent to the R-6 zone along Deering Street (see Map below). The Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment, since it refers explicitly to and is defined by the B3 zone by ordinance.

On May 12, 2015, the Planning Board voted unanimously 4-0 (O'Brien, Hall and Morrisette absent) found the proposed zoning map amendments to be consistent with the comprehensive plan and recommended adoption of the amendments to the City Council to rezone 667 Congress Street from Residential (R-6) to Downtown Business (B-3) and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot maximum building height for a majority of the site with a 45 foot maximum building height limit for 40 feet from the rear the property line.

Area to be added to overlay, permitting a maximum 85 foot building height from the front property line (185') and 45 foot building height from rear property line (40')



Map 5: Amended Downtown Height Overlay Map that includes area of proposed rezoning and maximum heights.

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

The applicant is seeking to develop approximately 132 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density and building height for the project. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. Thus the applicant is proposing to change the R6 portion of the property to the B3 zone so the entire property would be under the B-3 zone. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial. On the applicant's site, the B-3 zone is approximately 100 feet deep on the Vernon Place side and 150 feet on the Avon Street side. The depth of the B-3 zone is 280 feet on the adjoining property to the east along Congress Street.

III. INTENDED RESULT

The applicant is proposing to extend the B3 zone to include the rear portion of the property, making the lot consistent with the zoning on adjacent properties to the east and south (refer to map amendment on page 1). The applicant is seeking the zoning amendment in order to allow an integrated development of a seven- to eight-story multifamily apartment building with Joe's Super Variety occupying a portion of the first floor along Congress Street. The basement and first level will house the parking spaces (59 on the basement level and 49 spaces on first level, 108 in total) for the building uses. The remaining floors would be the rental apartments. The site would be accessed via two entrances: one off of Avon Street and one off of Vernon Place. Parking, access and other aspects are conceptual at this stage.

IV. COUNCIL GOAL ADDRESSED

The proposed zoning text amendments and map amendments are intended to meet the City Council goal to “[p]rovide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors”.

V. FINANCIAL IMPACT

There is no anticipated financial impact to the city.

VI. ANALYSIS

As stated previously, the applicant is proposing that the site will consist of approximately one hundred and thirty-two (132) rental units. The site area is approximately 25,740 sq. ft. Congress Street is one of central streets located on the peninsula and is within walking distance of downtown or other work places and shopping.

The site is a relatively large parcel in the R6 and B3 zones with a business use and the bulk of the site is used for surface parking. The B3 zone stretches along Congress Street from State Street to Franklin Arterial. The parcel is a good candidate for the B3 zone and is suitable for larger scaled projects and density on a street that has significant variety of building types and scale. The buildings to the east of this property are within the B-3 zone and include the Trelawney Building at 655 Congress Street and an apartment building at 645 Congress Street. While the depth of the B-3 zone is 280 feet on the adjoining property to the east, it seems that the proposed site may have been the transition property between the B-3 and R-6 zones. As part of the proposal for the rezone, the Planning Board recommended that the back portion of the lot for a depth of 40 feet from the property line be a maximum height of 45 feet.

The Planning Board found the proposed amendment to be consistent with the Housing goals and policies of the Comprehensive Plan. The Comprehensive Plan encourages development of infill projects on the peninsula, with less required parking spaces to promote walking to work and shopping or to utilize public transportation. The proposed zone change will provide increased density in an area that is central to services such as businesses, institutions, employers and public transportation. It will also provide compact in-city living for renters that represent a variety of income levels. The lower building height of 45 feet for the rear 40 feet of the lot provides a transition and protects the adjoining R-6 neighborhood.

VII. PLANNING BOARD RECOMMENDATION

At the May 12, 2015 public hearing, the Planning Board voted unanimously (4-0, O’Brien, Hall and Morrisette absent) found the proposed Downtown Business (B-3) map amendment and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area with a 45 foot height limit for 40 feet at the rear of the property line to be consistent with the Comprehensive Plan and recommends adoption of the proposed amendments to the City Council.

VIII. LIST ATTACHMENTS

Planning Board Report to City Council, dated May 18, 2015

Prepared by: Shukria Wiar

Date: May 13, 2015



CITY COUNCIL REPORT PORTLAND, MAINE

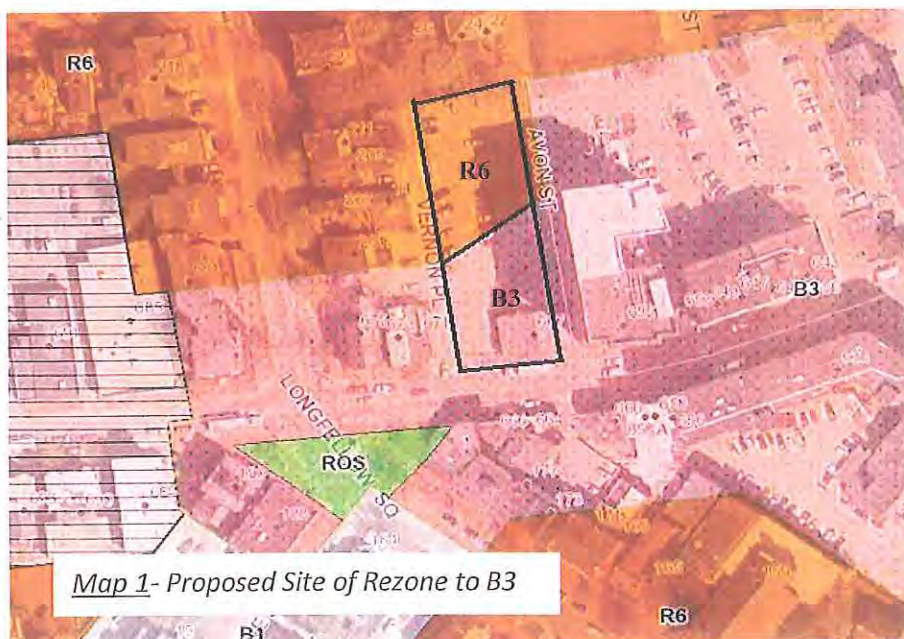
B3 Zoning Map Amendment for Rental Apartments
Level III Zoning Map Amendment
2015-041
Redfern Properties, Applicant

Submitted to: Portland City Council First Reading: June 1, 2015 Second Reading: June 15, 2015	Prepared by: Portland Planning Board Date: May 18 th , 2015
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I. INTRODUCTION

On May 12, 2015, the Planning Board voted unanimously (4-0, O'Brien, Hall and Morrisette absent) to recommend to City Council a map amendment for the property at 667 Congress Street held by MSD Properties, LLC, Jonathan Cully of Redfern Properties and Joe's Super Variety. The proposed map amendment changes the zoning from Residential (R-6) to Downtown Business (B-3) for the entire parcel. The concurrent amendment modifies the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area, with the exception that it establishes a 45 foot height limit for rear 40 feet of the property line. The Board found the proposed map amendments to be consistent with the Comprehensive Plan and recommends adoption of the amendments to the City Council.

The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is requesting an extension of the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The applicant is seeking the map amendment in order to allow for an integrated development of multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street with parking behind the storefront.



The site is in the Congress Street Historic District and abuts The Deering Street Historic District at the rear property line. The property proposed for rezoning totals approximately 25,740 square feet with 98 feet of frontage on Congress Street. It also has frontage along Avon Street and Vernon Place. The portion of the property proposed for rezoning to B3 is currently within the R6 zone.

The modification of the B-3 Downtown Height Overlay Zone is proposed to encompass the area of the proposed zone change, which would establish 85 feet as the maximum height limit for the

lot. The zone change would also, in effect, extend the Downtown Entertainment Overlay Zone, which is defined by the boundaries of the B3, B3(c) and WCZ zones.

II. PROJECT DATA

Parcel Size:	25,740 sq ft: 12,221 sq ft in B3 zone and 13,519 sq ft in the R6 zone
Current Zoning:	Residential R6 and Downtown Business B3
Proposed Zoning:	Downtown Business B3
Existing Uses:	Retail; Surface parking
Proposed Use:	Multifamily Rental Units - Approximately 130 units, retail, and structured parking

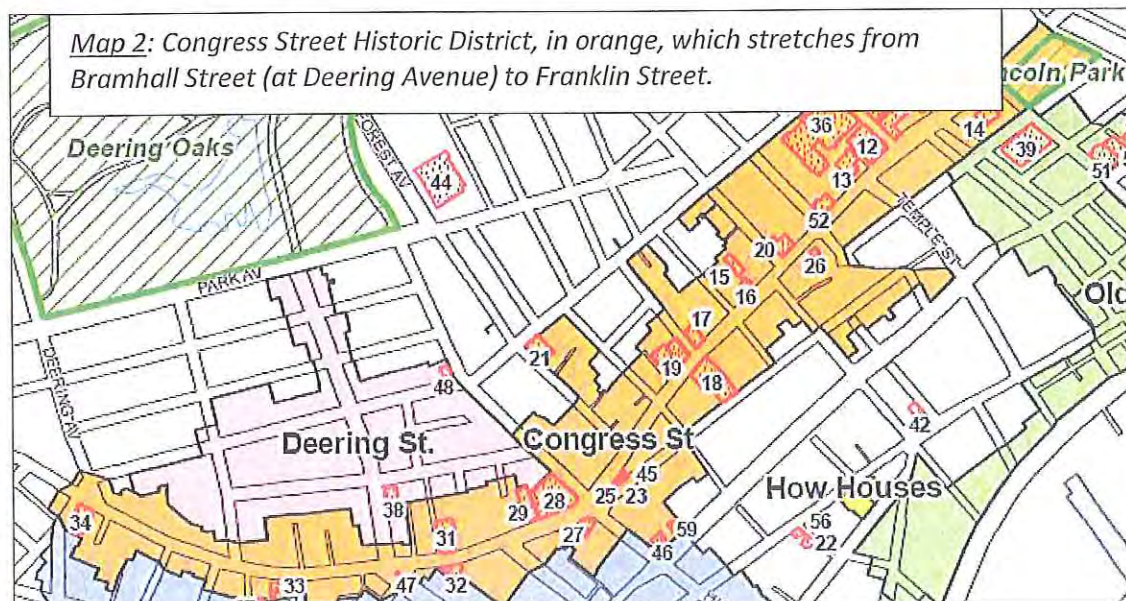
III. EXISTING CONDITIONS AND ZONING

The site is split between the R6 and B3 zones. The north and north-west sides of the site abut the Deering Street neighborhood, which is composed of single and multifamily homes (all within R6 and the Deering Street Historic District). The property is located within the Congress Street Historic District. The properties directly across Congress Street are marked by residential multi-family development and commercial businesses.



Figure 1- Existing Site from Congress Street

Currently, the site contains a two and half story building that houses Joe's Smoke Shop and a surface parking lot with approximately 58 parking spaces that are rented to abutting properties. Avon Street is a one way street that goes through to Deering Street, whereas Vernon Place is a two-way, dead-end street. Both streets are public streets. There is one entry to the parking area via Vernon Street. There are three curb cuts on Avon Street to the site; however all of the curb cuts are blocked with guardrails.



Map 2: Congress Street Historic District, in orange, which stretches from Bramhall Street (at Deering Avenue) to Franklin Street.

The Joe's Smoke Shop building is considered noncontributing to the Congress Street Historic District and can therefore be demolished to make way for the redevelopment project.

Historic photographs of the subject parcels generally show residential and business development of the type characteristic of Congress Street today. A church, a lunch room, and general store occupied the proposed site at the time of the 1924 tax records.



Figures 2 & 3: 1924 tax photos showing 665 Congress Street and 667 Congress Street both on the lot now zoned B-3 in the front portion.

The St. Stephen's Church was razed in 1965 and the property has been used as a surface parking since then. Map 4, below, is an aerial of the proposed site from November 22, 1969. The aerial shows the extent of surface parking lot with a building at front corner of the site (as it is currently).



Map 4: November 22, 1969 Aerial of the Proposed Site as a surface parking lot.

IV. PROPOSED DEVELOPMENT

The applicant is requesting to change the R6 portion of the property to the B3 zone, which would then designate the entire property under one zone classification. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial. The B-3 zone is approximately 100 feet deep on the Vernon Place side and is approximately 150 feet on the Avon Street side of proposed site. The depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1). The applicant is seeking to develop approximately 132 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density for the project. The density limits and height limitation in the R6 zone



Figure 4: Aerial of the Proposed Site

constrain the redevelopment of this site. The applicant is seeking to amend the zoning map to allow for an integrated development of a seven- to eight- story multifamily apartment building with Joe's Super Variety occupying the front portion (Congress Street) of the first floor. The basement and first level will house the parking spaces (59 on the basement level and 49 spaces on first level, 108 in total) for the building uses. The remaining floors would be the rental apartments. The site would be accessed via two entrances: one off of Avon Street and one off of Vernon Place. Parking, access and other aspects are conceptual at this stage.

The parcel currently contains a surface parking lot with spaces within 35' of adjacent streets. Surface parking, whether existing or proposed, may not be located within 35' of the street for redevelopment of a site. In this case, the 35 feet would apply to Vernon Place and Avon Street. These spaces, as proposed, are considered structured parking, in which case they are allowed to be within 35 feet of the street line.



The proposed amendment also includes modifications to the city's Downtown Height Overlay map. The maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map, which establishes height restrictions ranging from 45 feet to 210 feet across the B3 zone. The height overlay zone sets an 85 foot height limit for the area in the existing B3 zone bounded by Congress and Avon Streets, and Vernon Place.

The applicant proposed a B3 height amendment to 85'. The Planning Board is recommending the rear of the property height be limited to 45' for a depth of 40 feet from the rear lot line; since the rear portion of the property is abutting residential uses and the R6 zone. The applicant agrees with this recommendation (see Map 5). The actual setback from the rear property line to the building is approximately 45', but Board recommends the forty feet as sufficient separation and allows for some flexibility for the final building design.

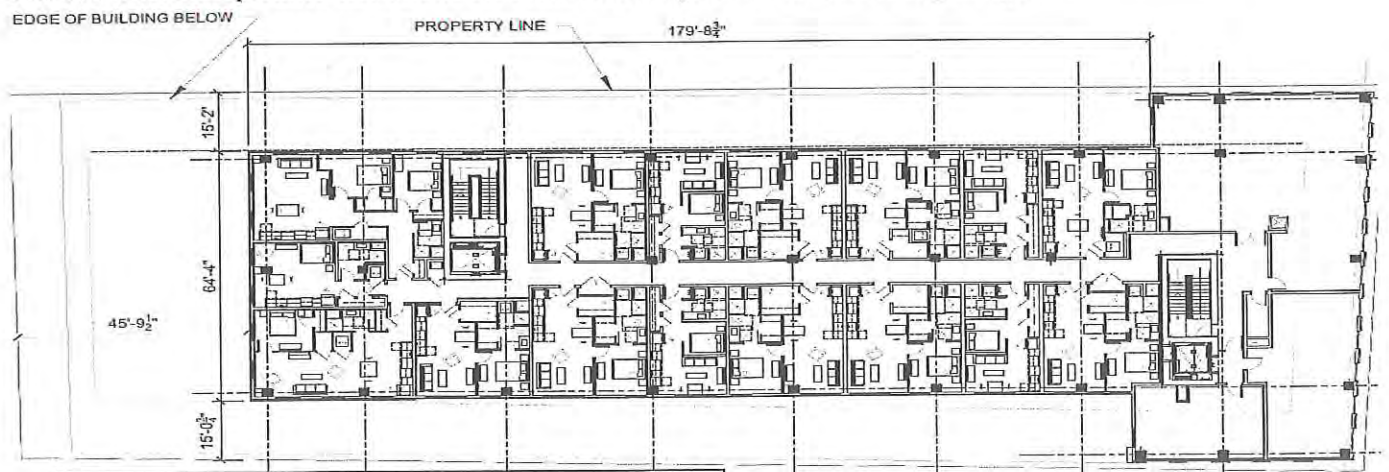
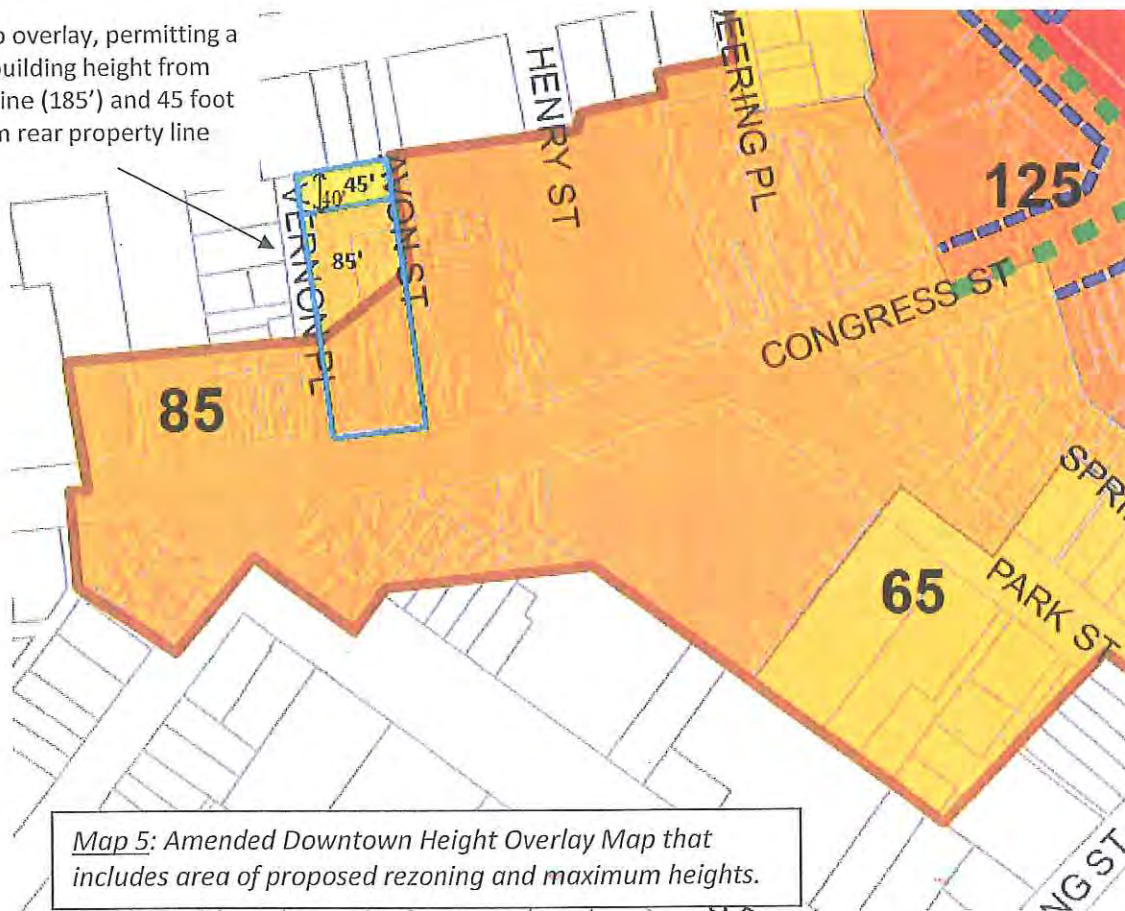


Figure 6: Rear dimensions of the property that is suggested to be 45' maximum height

Under the proposed zone change, the Downtown Height Overlay map would be amended to extend the 85 foot maximum building height to be contiguous with the proposed B3 map amendment and have the rear 40' of property be at 45' maximum building height (see Map 5).

Area to be added to overlay, permitting a maximum 85 foot building height from the front property line (185') and 45 foot building height from rear property line (40')



As noted above, the Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment. The Downtown Entertainment Overlay Zone establishes a 100 foot dispersal requirement for facilities with entertainment licenses. Since the Downtown Entertainment Overlay Zone refers explicitly to and is defined by the B3 zone by ordinance, any map amendment altering the limits of the B3 zone would incorporate the Downtown Entertainment Overlay Zone.

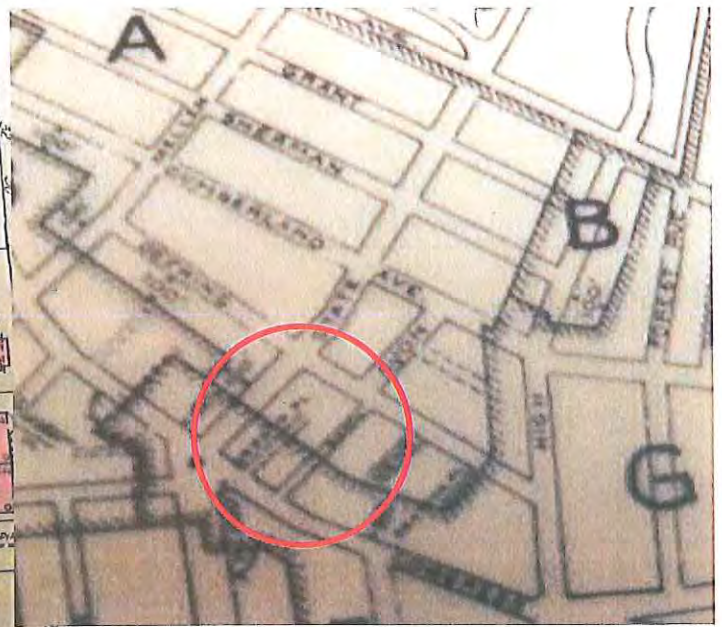
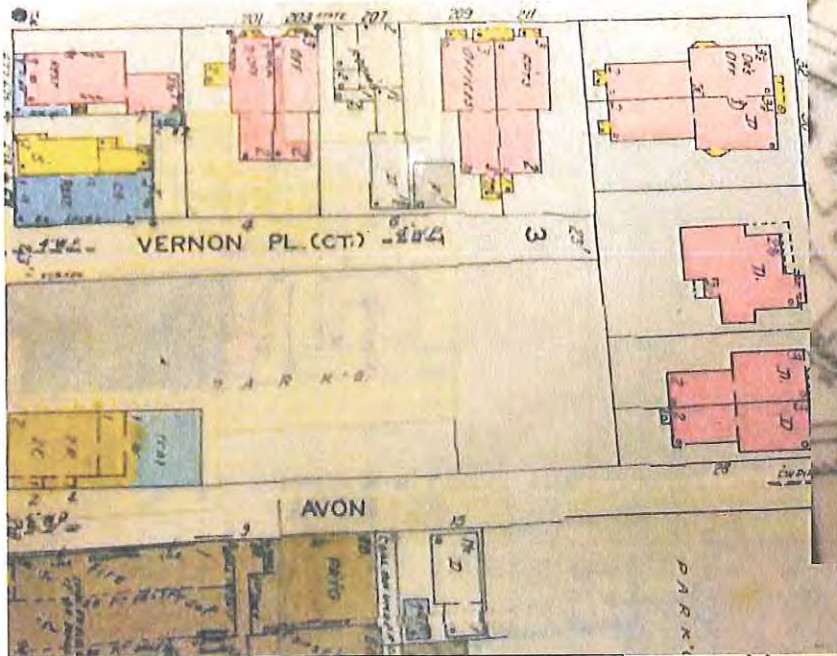
V. ZONING ANALYSIS

A. Zoning Background to the Site

The City's zoning maps from different years were researched for a zoning history of the site. Below Map 6 is a zoning map that was adopted on March 18, 1946 by the City Council. The proposed site is circled in red. The site is divided between two zones at that time, A and G zone. According to the legend on the map, the A zone is Apartment House and the G zone is General Business.

The Sanborn Insurance Map was published in 1954 with the latest amendment in June, 1975. The site was amended at some point, which shows a change from having buildings on the site (church and two residential buildings) to surface parking.

The Zoning Map of Portland Mainland was adopted by the Portland City Council in March, 1958. The map shows this proposed site, circled in red, to be divided into two zones, R6 and B3. The Downtown Height Overlay Map was overlaid on the B3 zone and was adopted on March 11, 2001.



Map 6, 7 and 8: Zoning Map Adopted by Portland City Council in March 18, 1946 (above right); Sanborn Insurance Map (above left) and Zoning Map Adopted by Portland City Council in March 1958, revised February 1990 (right).

B. Current Zoning

The property is located in the R6 and B3 zones. Section 14-51 Extension of zone lines allows a less restrictive zone to extend no more than thirty (30) feet into a restrictive zone, below is the specific language of the section:

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district.



The provision allows for the extension of a use, but not an extension of the dimensional standards. Thus, the section is not practical in this situation, since the R-6 zone portion of the lot is more than thirty feet in depth and a portion of the proposed building would extend into the R6 zone. The zone line extension does not allow an increase in the maximum building height. Therefore, this ordinance provision does not resolve the issue of divided zone lines for the proposed redevelopment.

Zoning Purposes

The current R6 zoning is designed to promote neighborhood-scale housing and compatible retail. The purpose of the R6 zone, which is found in the East and West Ends of the city, is to “*set aside areas...for housing characterized primarily by multi-family dwellings at a high density*” 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*” (Section 14-135). It should be noted that the R6 zone does encourages high-density housing on the peninsula.

The stated purpose of the B3 zone, or the proposed zoning designation, is clearly intends to increase housing opportunities and encourage mixed-use activities. However, the B3 zone also has some purposes which are distinct from the R6 – to

“*enhance and promote the orderly expansion of retail and service businesses downtown,*” to “*provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development activity,*” and “*reinforce the role of the downtown as a meeting place for community residents and visitors alike...*” (Section 14-203).

Table 1 compares the purposes of the two zones as written in the zoning ordinance.

Table 1: Purposes of the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Purpose	To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses. In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.	To: 1. Maintain and enhance the role of the downtown as the business and commercial center of the region; 2. Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city’s resident, working and visitor populations; 3. Encourage increased housing opportunity downtown for a diverse residential population; 4. Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment; 5. Encourage excellence in urban design; 6. Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures; 7. Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown; 8. Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups; 9. Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment; and 10. Provide for the relocation of residents who are displaced by development.

Permitted Uses

In accordance with their distinct purposes, the R6 generally permits less intensive uses than the B3 zone. The R6 limits development almost exclusively to residential uses, with an exception for low-intensity, compatible uses such as cemeteries, parks, bed and breakfasts, and lodging houses. Some slightly more intense uses, including schools, extended care facilities, places of assembly, hospitals, professional offices, and off-street parking for uses

permitted in the R6 zone, are allowed under a conditional use permit. The zone does not permit businesses uses.

As the purposes indicate, the B3 zone permits the most intensive range of uses of the two zones being considered here. The B3 therefore allows residential development similar to that of the R6 zone, but also allows offices, retail establishments, restaurants, drinking establishments, repair services, theaters, hotels, and parking garages by right. Museums, schools, clinics, places of assembly, and county and municipal offices are also permitted. Under conditional uses, the B3 permits light industrial, drive-up banking, emergency shelters, and surface parking.

Table 2: Permitted Uses in the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Residential	Single- and two-family dwellings Multi-family dwellings Handicapped family units Single-family, single- and multiple-component manufactured housing	Attached single-family, two-family and multi-family dwellings Handicapped family units Lodging houses Combined living/working spaces
Business		General and business offices Professional offices Personal services Offices of building tradesmen Retail establishments, excluding gasoline sales, wholesale and bulk purchase construction supply sales Restaurants, excluding drive-through or drive-in restaurants Drinking establishments Billiard parlors Repair services, excluding motor vehicle repair services Communication studios or broadcast and receiving facilities Health clubs and gymnasiums Theaters and performance halls Convention facilities Hotels Business services Parking garages Galleries Registered medical marijuana dispensaries
Institutional		Public or private schools Clinics Places of assembly Nursery schools, kindergartens, and day care facilities Museums College, university, trade school Governmental offices
Other	Lodging houses Conversion of a structure into a bed and breakfast with four rooms Hostels with less than 10 guests Wind energy systems Accessory uses Cemeteries Parks, and recreation spaces Home occupation Municipal uses Special needs independent living units	Bed and breakfasts Hostels Wind energy systems County and municipal uses Studios for artists and craftspeople Printing, publishing and related manufacture of cardboard or paper boxes

R6 Residential**B3 Downtown Business**

Conditional	Residential	Utility substations
	Sheltered care group homes	Drive-up banking services
	Conversion of a structure into a bed and breakfast with 5+ rooms	Light industrial uses
	Institutional	Emergency shelters
	Elementary, middle, and secondary schools	Surface parking
	Long-term and extended care facilities	Temporary wind anemometer towers
	Intermediate care facilities	
	Places of assembly	
	Hospitals	
	College, university, or trade school	
	Other	
	Utility substations	
	Professional offices	
	Chancellery	
	Nursery school and kindergartens	
	Off-street parking for uses permitted in the R6 zone	
	Day care facilities	
	Hostels with no more than 20 guests	
	Wind energy systems ¹	
	Temporary wind anemometer towers	

Dimensional Requirements and Form

Lastly, the two zones differ significantly in terms of the form of building that is promoted through dimensional requirements, again with the B3 encouraging denser, more urban development than the R6 zone. Thus, the R6 provides certain density controls – minimum lot size, minimum area per dwelling unit, maximum lot coverages, and minimum open space ratios – that limit the build-out of any given parcel. The R6 zone also has setback requirements of 10-20 feet, which guarantees that buildings will be separated both from each other and the street. The B3 comparatively does not include minimum lot sizes or minimum areas per dwelling unit, and does not require setbacks.

The R6 zone has a maximum building height of 45 feet. The proposed R-6 amendments recommended by the Planning Board were approved by the City Council on May 4th. The proposed revisions increase the density of the R-6 zone, but the maximum building height remains unchanged at 45 feet. As noted above, the maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map. Under the proposed amendment, the Height Overlay would be extended to cover the rezoned area, with a maximum building height of 85 feet for most of the site and with a maximum building height of 45 feet for 40' at the rear of the property, see Map 5 above.

In terms of design and building form, the site is located within the Congress Street Historic District and would be subject to review under the Historic Preservation Ordinance. If the site is rezoned to B3, the development would require a certificate of appropriateness from the Historic Preservation Board and would be exempt from the B-3 Design Guidelines except for the following provisions (Section 14-526 (d) 5:

Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be exempt from the following design standards, as

described in the Design Manual:

- (i) Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);

Table 3: Dimensional Requirements in the R6 and B3 Zones

		Proposed R6	B3
Minimum lot size		2000 SF	None
Minimum area per DU		725 SF	
Minimum street frontage		20 ft.	15 ft.
Minimum lot width		20 ft.	None
Min./Max. front yard	Principal	5 ft. or no more than average depths of adjacent front yards.	5 ft. max.
	Accessory		
Min. rear yard	Principal	10 ft.	None
	Accessory	If <144 SF footprint, 5ft	
Min. side yard	Principal	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.	None
	Accessory	If > 100 SF footprint, 20 ft.	
	On side streets	None	
Max. lot coverage		60%	100%
Open space ratio		20%	
Max./Min. building height	Principal	45 ft. max	35 ft. min. if within 50 ft. of street; 85 ft. max.
	Accessory	18 ft. max	

VI. PLANNING BOARD ANALYSIS

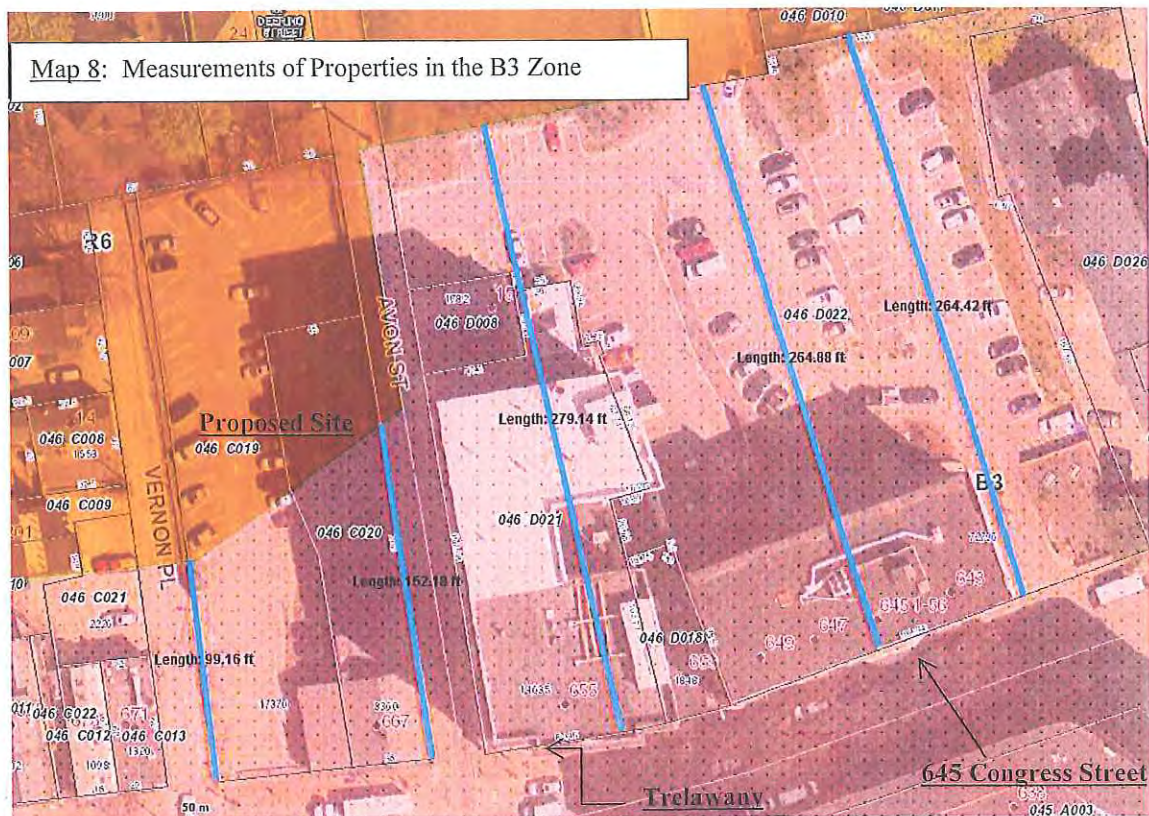
A. Zoning Analysis

As stated previously, the applicant is proposing a development that will consist of approximately one hundred and thirty-two (132) rental units. The site area is approximately 25,740 sq. ft. Congress Street is a central arterial located on the peninsula and is within walking distance of downtown or other work places and shopping.

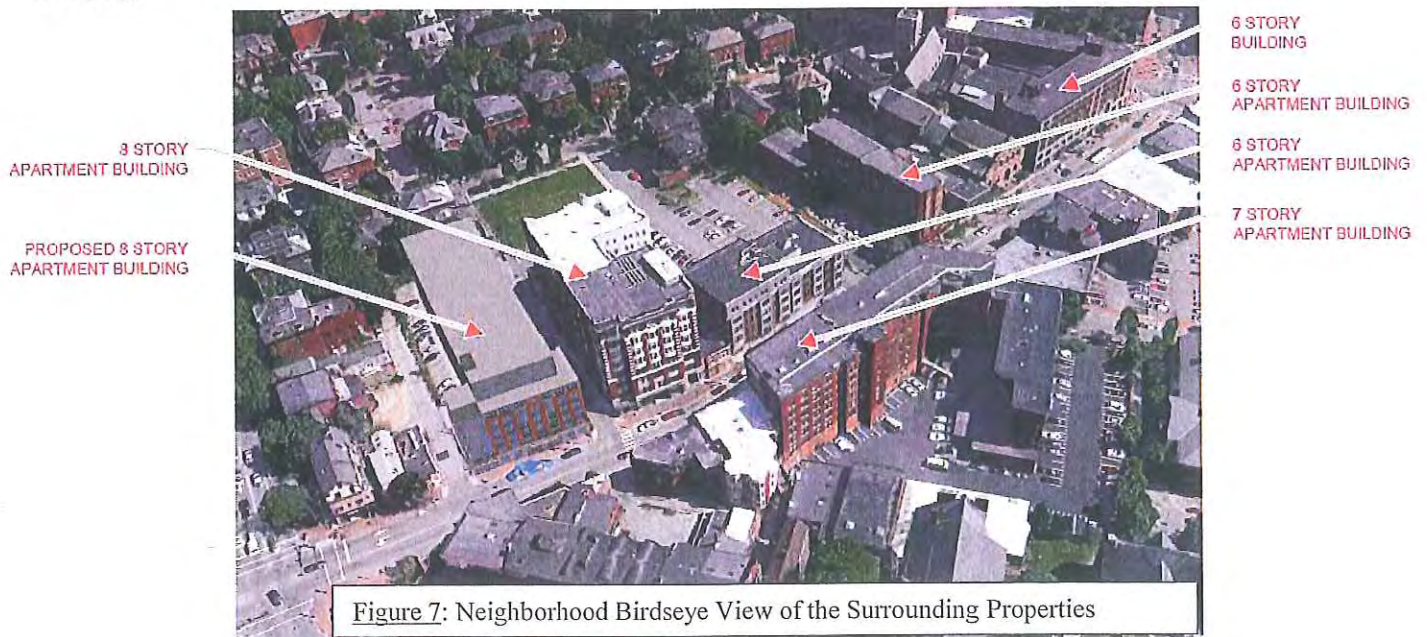
The Planning Board determined that this site, currently a relatively large parcel in the R6 and B3 zones with a business use, is a good candidate for the B3 zone (refer to Comprehensive Plan review below). The B3 zone stretches along Congress Street from State Street to Franklin Arterial. The larger scale and density works reasonably well here, on a street that has significant variety of building types and scale. The buildings to the east of this property within

the B-3 zones are the Trelawney Building at 655 Congress Street, a single family house, and an apartment building at 645 Congress Street. The owners of the small single family house across Avon Street from the proposed project initially expressed concerns about the impact of the larger scale development allowed by the rezoning. The owners have since withdrawn their opposition in light of the applicant's arrangement to purchase their property. As for the property at 645 Congress Street, the B-3 zone is approximately 265 feet deep into the site; the rear portion of the site is in the R6 zone. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page I), it appears the proposed site may have been the transition property between the B-3 zone and the adjoining Residential R-6 zone located to the north and the west. As part of the proposal for the rezone, the Planning Board has recommended the rear portion of the lot, for a depth of 40 feet from the property line, have a maximum building height of 45 feet. The properties across Vernon Place are

all multifamily homes, except along Congress Street (portion that is in the B3 zone). Below is aerial map that shows the depth of the B3 zone line of the proposed site and the properties to the east.



Across the street from the proposed property is the George S. Hunt Block and Lafayette Building. The applicant has submitted a Neighborhood Birdseye View (below) that shows these buildings as well as the stories of each building.



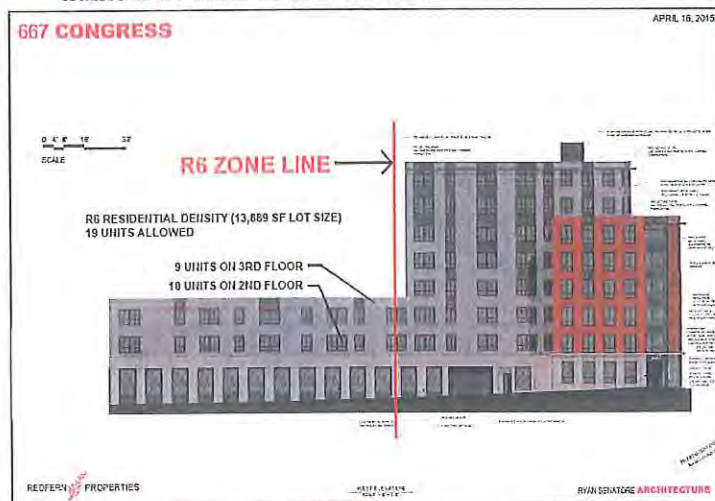
The proposed zone change will provide increased density in an area that is central to services such as businesses, institutions, employers and public transportation. It will also provide compact in-city living for renters that represent a variety of income levels.

Since there is a density cap and height limitation in the R6 zone, the B3 zone offers a better option for the development of this project. The Comprehensive Plan encourages development of infill projects on the peninsula, with less required parking spaces to promote walking to work and shopping or to utilize public transportation.

C. Density Considerations

The proposed number of dwelling units is approximately 132 units. R-6 text amendments were recently approved by the City Council on May 4th. Thus, the density under the new R6 zone is 725 square feet of land area per unit. Under this new density requirement, the applicant had calculated nineteen (19) units that would be allowable. Below is a rendering of how that proposed building would look like if the site was built out in the two zones.

Since there is no density limitation in the B3 zone, it is difficult to analyze the maximum numbers of units that might be possible under the zone. The applicant has also submitted a rendering of the building with the proposed number of units in the B3 zone.



B3/R6 ZONING ELEVATION



B3 ZONING ELEVATION

VII. COMPREHENSIVE PLAN ANALYSIS

Goals and policies from the Comprehensive Plan which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

- Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near services areas, and in redevelopment or infill areas, where appropriate.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

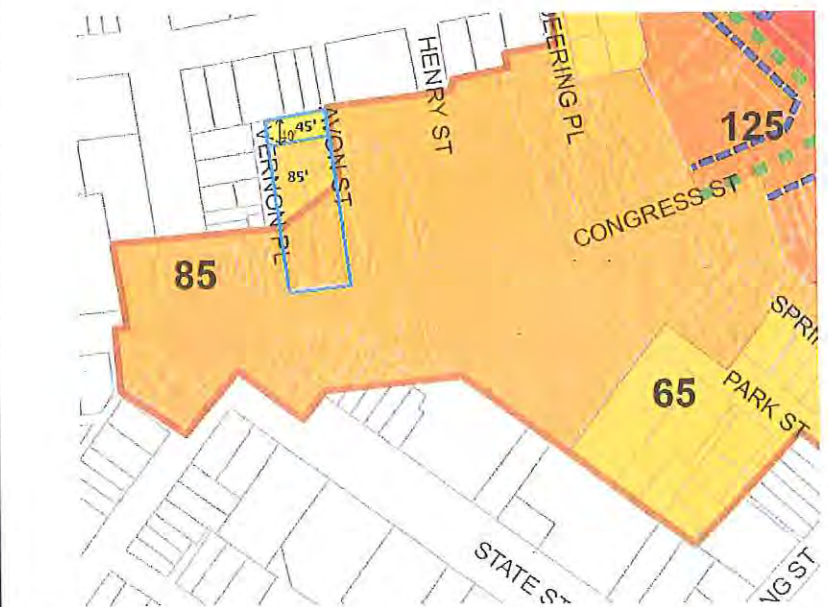
- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

VIII. PLANNING BOARD RECOMMENDATION

On May 12, 2015, the Planning Board voted unanimously (4-0 O'Brien, Hall and Morrisette absent) to recommend the following:

Based on the material provided in this Planning Report, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed map amendment for the property at 667 Congress Street to change the zoning from Residential (R-6) to Downtown Business (B-3) and the concurrent amendment to modify the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area with a 45 foot height limit for 40 feet at the rear of the property line, as shown in the maps below, are consistent with the Comprehensive Plan and does recommend adoption of the proposed amendments to the City Council.

The Planning Board supported the reduction in the building height to 45 feet for the rear 40 foot depth of the lot as a good to assure neighborhood compatibility with the adjoining residential and historic areas. The Board also found the site to be consistent with the comprehensive plan goals for urban infill projects and greater residential density.



Downtown Height Overlay Map

ATTACHMENTS:

Memo Attachments

1. Downtown Height Overlay Map

Public Comments

- PC1. a. Dianna Rust's comments dated April 9, 2015
b. Dianna Rust's comments dated
- PC2. Darrell Williams' comments dated April 30, 2015
- PC3. Mark Lockman's comments dated May 5, 2015

Applicant's Submittal

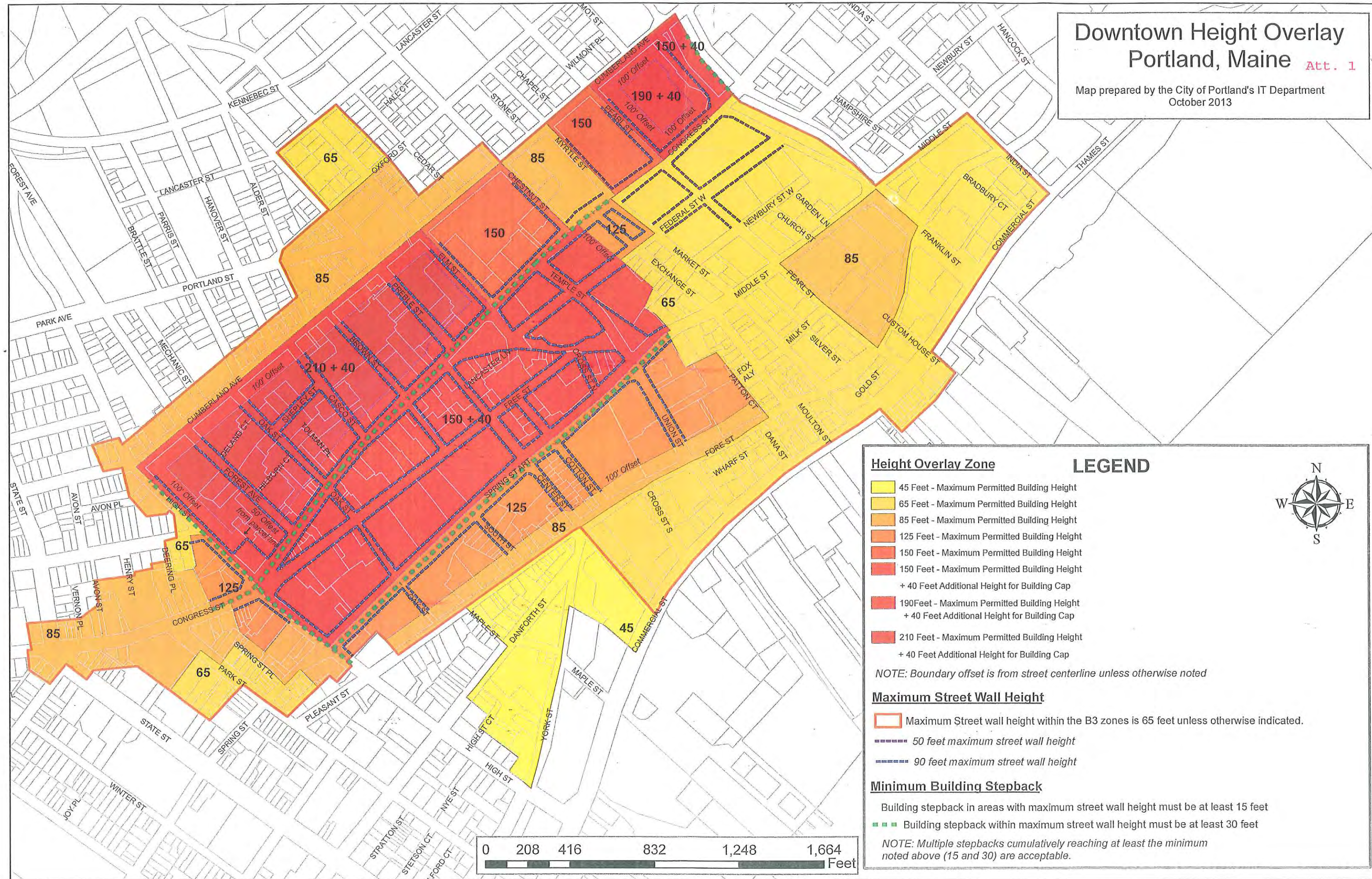
- A. Cover Letter dated March 10, 2015
- B. Application
- C. Deed
- D. Neighborhood Meeting Minutes

Plans

- P1. Neighborhood Birdseye View
- P2. First Floor of Proposed Development
- P3. Congress Street RenderingD
- P4. Proposed Zone Map Change
- P5. Basement Level Floor Plan
- P6. First Floor Plan
- P7. Second Floor Plan
- P8. Third Floor Plan
- P9. Seventh Floor Plan
- P10. Roof Level
- P11. South Elevation Rendering (Congress Street)
- P12. West Elevation Rendering (Vernon Place)
- P13. North Elevation Rendering (from Deering Street)
- P14. East Elevation Rendering (Avon Street)
- P15. Garage Section-1
- P16. Garage Section-2
- P17. Garage Section-3
- P18. Floor Plans with the dimensions to the property line
- P19. Rendering of the Site under R6 Density
- P20. 667 Congress Street Model

Downtown Height Overlay Portland, Maine Att. 1

Map prepared by the City of Portland's IT Department
October 2013



Height Overlay Zone

- 45 Feet - Maximum Permitted Building Height
- 65 Feet - Maximum Permitted Building Height
- 85 Feet - Maximum Permitted Building Height
- 125 Feet - Maximum Permitted Building Height
- 150 Feet - Maximum Permitted Building Height
- 150 Feet - Maximum Permitted Building Height
+ 40 Feet Additional Height for Building Cap
- 190 Feet - Maximum Permitted Building Height
+ 40 Feet Additional Height for Building Cap
- 210 Feet - Maximum Permitted Building Height
+ 40 Feet Additional Height for Building Cap

NOTE: Boundary offset is from street centerline unless otherwise noted

Maximum Street Wall Height

- Maximum Street wall height within the B3 zones is 65 feet unless otherwise indicated.
- 50 feet maximum street wall height
- 90 feet maximum street wall height

Minimum Building Stepback

- Building stepback in areas with maximum street wall height must be at least 15 feet
 - Building stepback within maximum street wall height must be at least 30 feet
- NOTE: Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30) are acceptable.

LEGEND



Dianna Rust
 15 Avon Street
 Portland, ME 04101
 207 956 7633
diannajrust@gmail.com

Stuart O'Brien
 Chairman, Planning Board
 City of Portland
 389 Congress Street
 Portland, ME 04101

April 9, 2015

cc: David Marshall, City Councilor, District 2
 by email
 cc: Jonathan Culley, Redfern Bayside, Developer
 by email

Zoning Map Amendment Application
665-667 Congress Street

Dear Mr O'Brien

As the owner of the one and only single family residence on upper Avon Street, directly opposite the above proposed development, I am setting out below the points I wish to raise in opposition to the granting of the variance to change the B6 half of the parking lot to B3.

1. My partner, Walter Ungerer, and I moved to Portland, to 15 Avon Street, at the end of August 2014. We are both artists. We have been told that the house was built in 1865, by the then City Weigher (for hay!)
2. When we moved we could only assume that the R6 section of the parking lot would stay that way, and that any development would be controlled by that zoning.
3. We have no objection to *some* development. The area could certainly use some improvement.

4. As we are both artists, this house, with a decently sized basement for a Victorian house, which we have just thoroughly (and at some considerable expense) waterproofed, provides the spaces we need as a home and for our work.

5. One of our biggest issues with this proposed development is loss of light:

a) We would be cast into deep shade, all day long, especially in the winter. There's not a lot of light, but the light we do get is attractive and pleasing, and it was another factor in choosing the house. Because the Trelawny Building is immediately to the south of us, the light from the west is our main light. In the winter the west light, which shines across the parking lot, is the only light. Apart from direct light on the house, at the moment we can see sunlight looking out to the front. Our little patio faces west, and with no sunlight it would become almost pointless to try and use it.

b) I think it goes without saying how important sunlight is. It can have a strong psychological effect, and a lack of it can contribute to depression. As well as uplifting to see, sunlight adds warmth to a room when it comes in.

c) The only mention I could find about light in the Portland building codes is to not create shade on certain open spaces. In the UK, where I am from, great importance has long been placed on a right to natural sunlight and there have been some interesting cases of homeowners holding up developments because of a threat to their light.

d) About our house people have said, "I love the light!" Lack of light can reduce the value of a house and its resale possibilities. This is of great concern to us.

e) Would you allow someone to come and paint grey on all your windows?

6. After the light issue, we are very apprehensive about the mass and density of the proposed building that would be directly opposite us. Obviously, we don't know the site plan details yet, but I believe the B3 would allow the building line to be relatively close to the street. It would seem there wouldn't even be space for some softening effect of any landscaping.

7. Obviously, we have a very personal view of this development. In fact, we are devastated by the idea. The very thought of this building looming up in front of us feels like robbery and a violation of our space. Avon Street is a small one-way street. Not only will we lose light, but from the proposed plan it looks as if we will have 2 parking entrances very close to our house,

opposite us, with the possibility of disturbance at any time of the day or night (right now parking ends when Boda closes, and it isn't available again until 6.00 am). And with 132 apartments how many cars will there be?

8. Where will trash be picked up, by whom, and at what time? Where will snow go?

9. It seems as if the developer and the city have already assumed this request for a variance will just sail through, without any problems. Jeff Levine (city's director of Planning and Urban Development) was quoted in the Portland Press Herald on March 9, 2015, as saying it's 'exciting' to have a large proposal on a transit corridor.... He said Culley's plan appears to comply with the city's zoning rules, and characterized his request for a zoning map amendment as "nothing drastic". Well, it is drastic to us. *This is our home.*

10. It is just this passing of a variance that would enable the developers to build so big. It will be a massive building between two small streets, one of which is a dead-end. Just because there is already an 8 story building one side of Avon Street, does it have to follow there will be another on the other side? And where will it end. If this variance is allowed, it will surely set a precedence to be used by other developers as an example to point to, to build more giant properties. This would become overwhelming to Longfellow Square, to the west of Congress Street, and on. At the West End Neighborhood meeting I attended Wednesday night, Jonathan Culley said he is working with the city on the street issue. Are there planned changes to the street that we don't know about?

11. We came to Portland because we saw it as a city with a high quality of life, interesting neighborhoods and well preserved architecture. I appreciate the city's wish and need for more housing. However, I have to wholeheartedly agree with an article written by Michael Mertaugh for Keep Portland Livable. He writes how he and his wife are "disappointed to see that Portland's current strategy for promoting growth and development appears to give priority to projects that emphasize size, quantum increases in density...". And, further, "The city's enthusiasm for higher residential density appears to be partly motivated by an expectation that higher density would generate new tax revenues that could be used to reduce Portland's tax burden. The experience of many other cities suggests that this is likely to be a vain hope. The additional tax revenues from higher residential density are likely to be fully offset by additional costs for public services."

As I couldn't say it better, again, I quote (with his kind permission) Michael Mertaugh, "Capitalizing on Portland's strengths would require a different approach to Portland's development. Rather than a reactive approach that responds to specific proposals by developers - and often involves concessions

such as zoning variances and public subsidies – it would require a pro-active and deliberate approach designed to build on Portland's strengths and attract the type of development that we want for our city."

12 If the current zones are adhered to, or the current B3 section is slightly extended to make a suitable shape, couldn't apartments still be built there? We've been told the proposed building will contain a combination of studios, and one-bedroom units, with a small number of two-bedroom units. However, even a two-bedroom unit is not really family oriented. I understood that the city wanted to see more middle-income *family* housing. Why couldn't the R6 area contain a creative format for some family residences? Of course, this is what *we* would like to see! At the neighborhood meeting Wednesday night the question was raised why R6 was there at all. "To protect the neighborhood!" was one person's apt response. This is exactly what we had assumed.

13. Since buying our house, which had already had a somewhat cosmetic renovation, we have been making many more improvements over and above those done by the sellers. Not only have we waterproofed the basement; we have also entered into a contract with a thorough repair of the roof with slate and copper. We are expected to comply with the Historic District guidelines and now I feel, why should we bother. All this work is expensive and then our house would be 'smothered'. There are beautiful old houses on Deering Street, over which this proposed building, at 8 stories, would loom. The building couldn't help but be very visible.

14. I fear that our 1865 house will be lost in this planned development and the impact on us will be totally ignored. On the issue of Historic Preservation, from the City's Comprehensive Plan, some pertinent points on Goals and Policies stand out (the *italics* are mine):

Preserve and enhance the quality and vitality of neighborhoods within and adjacent to the Downtown

Protect and enhance the attractiveness of the city to its *homebuyers*, *homeowners*, residents, tourists, visitors, businesses, and shoppers

Increase home ownership opportunities for all type of households and all income levels

The *existing* housing stock will be enhanced and preserved

Maintain, rehabilitate, and restore the *existing* housing stock as a safe and important physical, economic and architectural resource for the community

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.

Encourage *innovative* new housing development, which is designed to be *compatible* with the scale, character, and traditional development patterns of each individual residential neighborhood.

15. From A Community Vision for Portland, also from the Comprehensive Plan:

Listen to, embrace, empower and support our diverse citizenry

Portland retains a small town feel with a built environment that is scaled for people

Portland enjoys a personable and congenial atmosphere that makes it a welcoming place to work, live and visit

Portland is a city of neighborhoods

Maintains unifying features, such as brick buildings and sidewalks, and established and traditional neighborhoods with narrow and interconnected streets

16. Will the Planning Board observe these examples above, or will they now find justification to ignore them?

17. We were pleased to be able to find an interesting residence in the Downtown area. Now, it seems, we will be paying a price for that. We feel we will be out of place and even displaced.

18. If this proposal goes through who will compensate us for our loss of amenities and loss of value of our property?

We object to the allowing of this request for a variance and to the mass and density of the building that such a change would allow.

Sincerely

Dianna Rust

From: "Darrell Williams" <darrell@eightenventures.com>
To: <shukriaw@portlandmaine.gov>
Date: 4/30/2015 5:04 PM
Subject: Comments Regarding Proposed 667 Congress Street Development

Good Afternoon! Ms. Wiar, I am writing in support of the proposed apartment development/rezoning at 667 Congress Street. Allow me to briefly state that the proposed development will increase diversity and economic development. I am a long time resident of Portland and 4 1/2 year resident of 645 Congress Street. And, I strongly believe the proposed development will have a positive impact in our neighborhood. Moreover, the owners of Joe's Smoke Shop & Super Store are committed business owners who take pride in serving our community. I expect that they will continue to play this same role as development partners of this project. I truly hope you and your colleagues will look favorably on the proposed rezoning and grant the partnership the right to move forward. Sincerely, Darrell Keith Williams

Darrell Williams

Eighteen Ventures

(207)347-1214

PO Box 5035

Portland, ME 04101

www.Eightenventures.com

Shukria Wiar,

I am writing to you in support of the proposed project by the Discatio family on their property at 667 Congress Street.

As a resident of 655 Congress Street and regular patron of Joe's Super Variety Store since 2007 I can personally attest that Michael and David are fair, honest and hardworking business people with strong ties to the community who run a great business that is vital to the neighborhood.

This project will be of great benefit to the neighborhood and the city, creating an improved variety store as well as housing and off street parking that will attract young professionals to the already thriving Arts District.

Maine and the City of Portland cannot afford to turn down this economic boon. A project of this magnitude will have an immediate positive economic impact in terms of construction jobs, not to mention additional benefits to local businesses in the short run, namely hotels and eateries catering to construction workers.

Furthermore, as Portland strives to transform into a vibrant metropolitan destination, what better way to aid this transformation than to create housing with built in off street parking that will bring successful, well educated people to live, work, and spend near downtown?

As a resident, student, teacher and coach in this great city for the better part of the last decade I implore you to swiftly move forward with this project. The economic and social benefits are too important to pass up.

Sincerely,

Mark Lockman



Att. A

P.O. Box 8816
Portland, ME 04104
Office: 207-776-9715
Fax: 207-221-2822
www.redfernproperties.com

March 10, 2015

Ms. Barbara Barhydt
City of Portland, Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101

Dear Barbara:

On behalf of MSD Properties LLC, please find attached a Zoning Map Amendment Application related to 665-667 Congress Street. Redfern Properties is working in partnership with MSD Properties LLC and Joe's Super Variety to redevelop the property with a multi-family apartment building, consisting of 7-8 stories and roughly 130 apartments. Joe's Super Variety will occupy the ground floor retail space.

Per the attached, Zoning Map, the property currently is partially in the B-3 Zone and partially in the R-6 Zone. We are requesting a Map Amendment that would designate the entire property B-3. We believe that this is a very logical change that would result in a more sensible Zoning Map. The proposed project is very consistent with the City's Comprehensive Plan and would fill the current need for rental apartment housing.

Please find attached the following in support of this application:

1. Zoning Map Amendment Application Form
2. Copy of Property Deed
3. Vicinity Map Showing Current Zoning
4. Aerial Photo of City Block showing current building types
5. Preliminary Proposed Site Plan
6. Preliminary Proposed Building Rendering

We are committed to creating a progressive and noteworthy project that will enhance this important urban neighborhood. Please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Culley".

Jonathan Culley
Redfern Properties LLC



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional rezoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. 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. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT ADDRESS: 667 Congress St.

CHART/BLOCK/LOT: 46-C-19-20

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

We are seeking to change the the rear half of the parcel from R-6 to B-3. The front half of the parcel is already B-3. We are proposing to build

a 7-8 story multi-family apartment building with roughly 130 rental apartments and parking under and behind the building.

CONTACT INFORMATION:	Applicant's Contact for electronic plans Name: Jonathan Culley e-mail Address jonathan@redfernproperties.com work # 207-221-5746
Applicant – must be owner, Lessee or Buyer Name: Redfern Properties LLC on behalf of MSD Properties LLC Business Name, if applicable: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # 207-221-5746 Home# Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Owner – (if different from Applicant) Name: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Owner Contact Information Work # Adam Taylor, Attorney 207-828-2005 Home# Cell # Fax# 207-347-4523 e-mail: ataylor@tmfattorneys.com
Agent/ Representative Name: Jonathan Culley/Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Agent/Representative Contact information Work # 207-221-5746 Cell # 207-776-9715 e-mail: jonathan@redfernproperties.com
Billing Information Name: Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Billing Information Work # 207-221-5746 Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Engineer Name: Address: TBD City/State : Zip Code:	Engineer Contact Information Work # Cell # Fax# e-mail:

Surveyor Name: Nadeau Land Surveys Address: 918 Brighton Ave. City/State : Portland, ME Zip Code: 04103	Surveyor Contact Information Work # 207-878-7870 Cell # Fax# 207-878-7871 e-mail: jim@nadeaulandsurveys.com
Architect Name: Ryan Senatore Architecture Address: 565 Congress St., Suite 304 City/State : Portland, ME Zip Code: 04101	Architect Contact Information Work # 207-650-6414 Cell # 207-650-6414 Fax# e-mail: ryan@senatorearchitecture.com
Attorney Name: Eben Adams/Pierce Atwood Address: Merrill's Wharf 254 Commercial St. City/State : Portland, ME Zip Code: 04101	Attorney Contact Information Work # 207-791-1175 Cell # Fax# 207-791-1350 e-mail: eadams@pierceatwood.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

The applicant is MSD Properties LLC. A copy of the deed demonstrating fee ownership is attached. The applicant is working in partnership with Redfern Properties LLC to rezone and redevelop the property.

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

The property is currently used for retail service and parking. It is the home of Joe's Super Variety with surface parking to the rear of the store.

Current Zoning Designation(s):

The front half of the property is currently zoned B-3, while the rear half is zoned R-6. We seek Zone Map Amendment for the rear half half of the property to match the front half, such that the entire property would be zoned B-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.

MSD Properties LLC and Redfern Properties are working in conjunction to develop a multi-family apartment building with ground floor retail. Joe's Super Variety would occupy the ground floor retail space. Preliminary renderings of the proposed building are attached.

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 FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment x \$2,000.00 (from <u>R-6</u> zone to <u>B-3</u> zone)	Fees Paid (office use)	The City invoices separately for the following: • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.
Zoning Text Amendment \$2,000.00 (to Section 14-) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example) and language to be added is depicted as underline (example))		
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.)		

Signature of Applicant: 	Date: 3/6/15
---	------------------------

MSD PROPERTIES LLC / MICHAEL J. DISATION
MANAGING MEMBER

Further Information

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

DEED OF SALE BY PERSONAL REPRESENTATIVE

Maine Statutory Short Form

WE, LOUIS A. DISCATIO, of 18 Smith Farm Lane, Portland ME 04103, and TERESA REO, aka THERESA DISCATIO, of 99 Lowell Street, South Portland ME 04106, duly appointed and acting **PERSONAL REPRESENTATIVES** of the ESTATE of JOSEPH L. DISCATIO, Cumberland Probate Docket #2012-1034, by the power conferred by the Probate Code, and every other power, and with the right provided by decedent to convey property without notice to devisees or heirs, for consideration paid, grant to **MSD PROPERTIES, LLC**, a Maine Limited Liability Company with a principal place of business at 665 Congress Street, Portland ME 04101, certain lots or parcels of land and improvements in Portland, Cumberland County Maine on the northerly side of Congress Street bounded on the south by Congress Street, on the west by Vernon Place, and on the east by Avon Street, of approximately .6 acres, described on Exhibit A attached.

This property was conveyed to Joseph L. Discatio and Mary Discatio as joint tenants by warranty deed of Joseph L. Discatio dated September 16, 1990 and recorded on September 18, 1990 in Book 9322 Page 86 of the Cumberland County Registry of Deeds. Mary Discatio died on July 8, 1999; her estate was not probated.

WITNESS, my hand and seal this 10 day of June, 2013.

Witness

Louis A. Discatio
Grantor – Louis A. Discatio, Personal Representative
Estate of Joseph L. Discatio

Witness

Teresa A. Reo
Grantor – Teresa Reo, aka Theresa Discatio,
Personal Representative Estate of Joseph L. Discatio

State of Maine
Cumberland, SS

Personally appeared before me, the above named Louis A. Discatio and Teresa Reo, aka Theresa Discatio, in their capacity as Joint Personal Representatives of the Estate of Joseph L. Discatio, acknowledged the foregoing instrument to be their free act and deed, and subscribed the same.

Before me,

6-10-2013
Date

Andrew J. Doukas
Andrew J. Doukas, Attorney At Law
ME BAR #2932

MAINE REAL ESTATE TAX PAID

EXHIBIT A – LEGAL DESCRIPTION OF PROPERTY AT 665 CONGRESS STREET,
PORTLAND, CUMBERLAND COUNTY, MAINE

PARCEL I

A certain lot or parcel of land with the buildings thereon, situated on the northwesterly corner of Congress Street and Congress Place, in said City of Portland, County of Cumberland and State of Maine, and having a frontage of thirty-eight (38) feet on Congress Street, and a frontage of about two hundred two (202) feet on Congress Place, with a depth of forty-five (45) feet at the northerly end. Said premises being bounded on the south by Congress Street, on the east by Congress Place, on the north by land now or formerly of T.A. and W.H. Roberts, and on the west by land now or formerly of H.W. and A. Deering, and by land of St. Stephens Church.

Congress Place is now known as Avon Street.

PARCEL II

First: A certain lot or parcel of land situated in said Portland on the easterly side of Vernon Court and numbered 13 and 15 on said Court, and being the same property conveyed by Grenville H. Deering to Ernest J. Eddy by deed dated November 2, 1907 and recorded in Cumberland County Registry of Deeds in Book 816, Page 149, to which deed and the deeds therein referred to reference is hereby made for a more particular description.

Second: A certain lot or parcel of land, with any buildings thereon, situated on the easterly side of Vernon Court in said Portland and being the most northerly lot of land on the easterly side of said Court and being the premises numbered 19 and 21 as shown on the city valuation plan recorded in Cumberland County Registry of Deeds in Book 5, Page 46, and being the same premises conveyed by Elizabeth E. Deering to said Ernest J. Eddy by deed dated December 18, 1908 and recorded in said Registry of Deeds in Book 835, Page 6, to which deed and the deeds therein referred to reference is hereby made for more particular description of the premises.

Third: A certain lot or parcel of land, with any buildings thereon, situated on the northeasterly side of Vernon Court, otherwise known as Vernon Place, and being the same property conveyed by Robert C. Schmidt to said Ernest J. Eddy by deed dated December 14, 1908 and recorded in said Registry of Deeds in Book 835, Page 4, to which deed and the deeds therein referred to reference is hereby made for a more particular description of the premises.

Fourth: A certain lot or parcel of land at 18-22 Avon Street running in a southerly direction towards Congress Street from the southerly boundary line of the former Kelsey property at the southwest corner of Avon and Deering Streets, a distance of seventy-three and one-half (73 ½) feet, more or less to a junction with the property now or formerly of the Avon Corp. located at the west corner of Avon and Congress Streets, bounded on the southerly side by the said property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall; bounded on the west by property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall and

bounded on the north by said former Kelsey property and property now or formerly of said Avon Corp.

Fifth: A certain lot or parcel of land at number 11 (called 5) Vernon Place, together with the brick frame dwelling, or apartment house thereon, the said property being bounded as follows: On the northerly side by the land, brick and frame house of the said Dalton Memorial Chapel and Burnham Hall, a distance of forty-five (45) feet, more or less, on the easterly side by property now or formerly of the Avon corp. located at the northwesterly corner of Congress and Avon Streets a distance of approximately thirty-six (36) feet, more or less, to a junction with the land and Parish house of the Rector, Wardens and Vestrymen of St. Stephen's Parish, or Church; on the southerly side by the said land and Parish House of said Rector, Wardens and Vestrymen of St. Stephens's Parish or Church; on the westerly side by the line of Vernon Place.

Sixth: Also releasing and conveying all my right, title and interest in the following described real estate: A certain lot or parcel of land with (any) buildings thereon, situated on the northerly side of Congress Street and numbered 665 ½ Congress Street and now or formerly known as "Joe's Smoke Shop," said land beginning at a point one hundred and eighty-five (185) feet, more or less, from State Street at the easterly line of St. Stephen's Episcopal Church edifice and extending in an easterly direction eight and one-half (8 ½) or nine (9) feet thence in a northerly direction a distance of thirty-six (36) feet; thence approximately seven (7) feet in a westerly direction to the easterly wall of the said St. Stephen's Episcopal Church edifice, the said wall being the westerly boundary of the said property.

Seventh: Also a certain other lot or parcel of land, with any buildings thereon, known as St. Stephen's Church, and situated on the northerly side of Congress Street in said Portland, bounded and described as follows:

Said lot is on the corner of Congress Street and Vernon Court, so-called, and is sixty-three (63) feet on Congress Street running back on Vernon Court one hundred and thirty (130) feet, more or less, on the easterly side of said court as far northerly as the land formerly owned and occupied by Hiram W. and Alvin Deering, said lot is bounded on the easterly side thereof by a line described in a Decree of the Supreme Judicial Court held in and for the County of Cumberland, April Term 1838 in the case of Hannah Harding In Equity vs. Job Randall, as a "line drawn from the northerly corner of said lot to Main Street and intersecting said Street two (2) feet easterly of the easterly end of the dwelling house in said pleadings mentioned and excluding the well near said house," to which Decree, duly entered on the Docket of said Court, in said suit, reference for a particular description of said easterly side line of the lot hereby conveyed is always to be had.

Meaning and intending to convey, and hereby conveying, all right, title and interest in and to lots 19-23 as shown on City of Portland Assessors Chart Plan 46, Block C, as recorded in the City Assessors, Portland, Maine.

Meaning and intending to convey, and hereby conveying, all real estate of the grantor which is situated in the block in said Portland which is bounded southerly by Congress Street; westerly by Vernon Place and easterly by Avon Street.

Received
Recorded Register of Deeds
Jun 10 2013 03:36:33P
Cumberland County
Pamela E. Lovley



P.O. Box 8816
Portland, ME 04104
Office: 207-221-5746
Fax: 207-221-2822
www.redfernproperties.com

March 25, 2015

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a new development at 665-667 Congress St. in Portland, the site of Joe's Super Variety. The project consists of ground floor commercial space, which will be the new home of Joe's Super Variety and roughly 130 residential rental apartments on Floors 2-8. This meeting pertains to our Zoning Map Amendment Application. Currently the property is Zoned B-3 in the front and R-6 in the rear. We are requesting a Zone Map Amendment which would change the back of the property to the B-3 Zone to match the Zoning at the front of the property.

Meeting Location:	Reiche School Community Room, 166 Brackett St., Portland
Meeting Date:	Wednesday, April 8th
Meeting Time:	6:00pm

The City Code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please contact me at 207-221-5746 or jonathan@redfernproperties.com. I hope to see you at the meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Culley".

Jonathan Culley
Redfern Properties LLC

FEBRUARY 23, 2015

665 CONGRESS

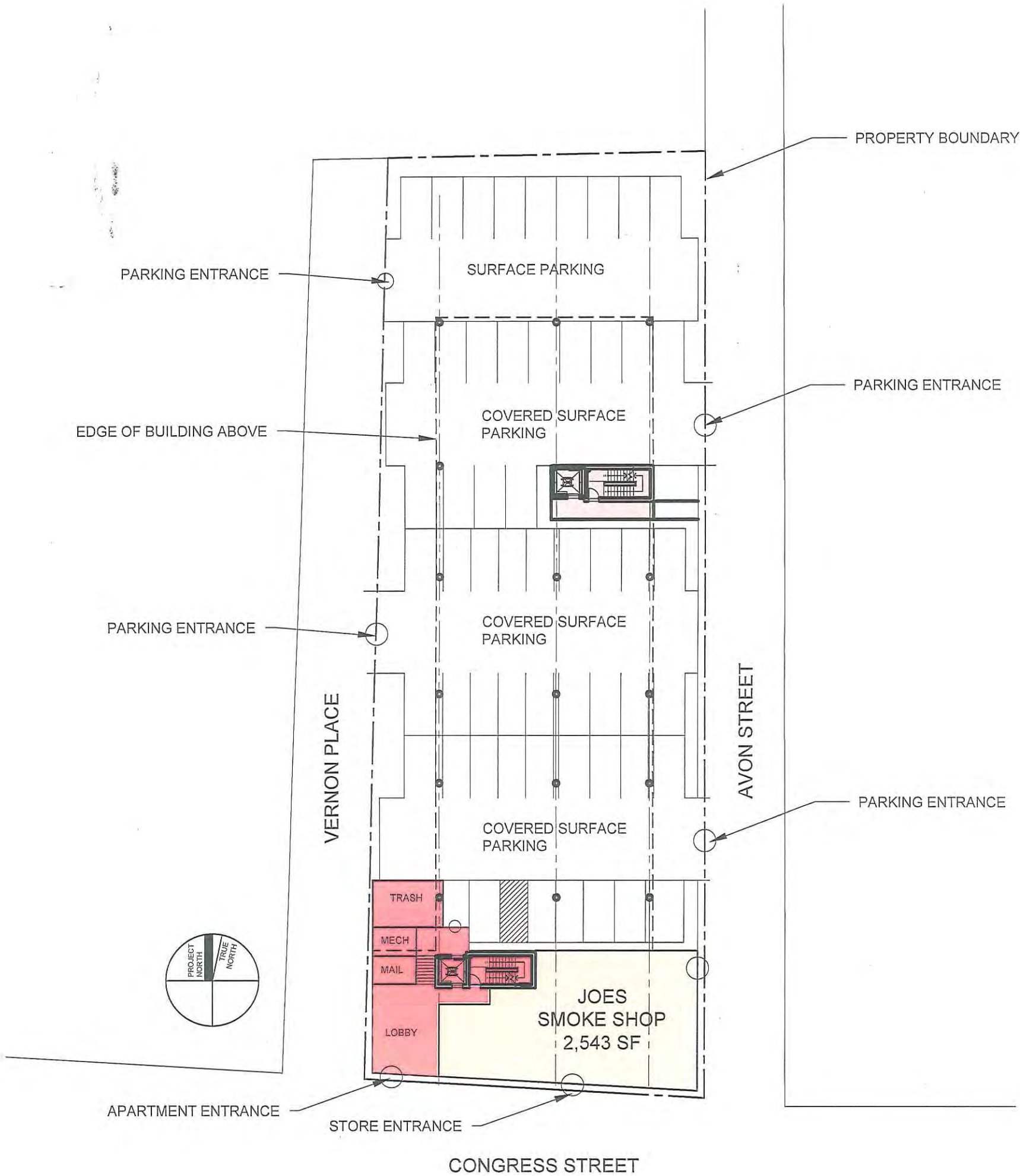


NEIGHBORHOOD BIRDSEYE VIEW

SCALE : NTS

665 CONGRESS

MARCH 5, 2015

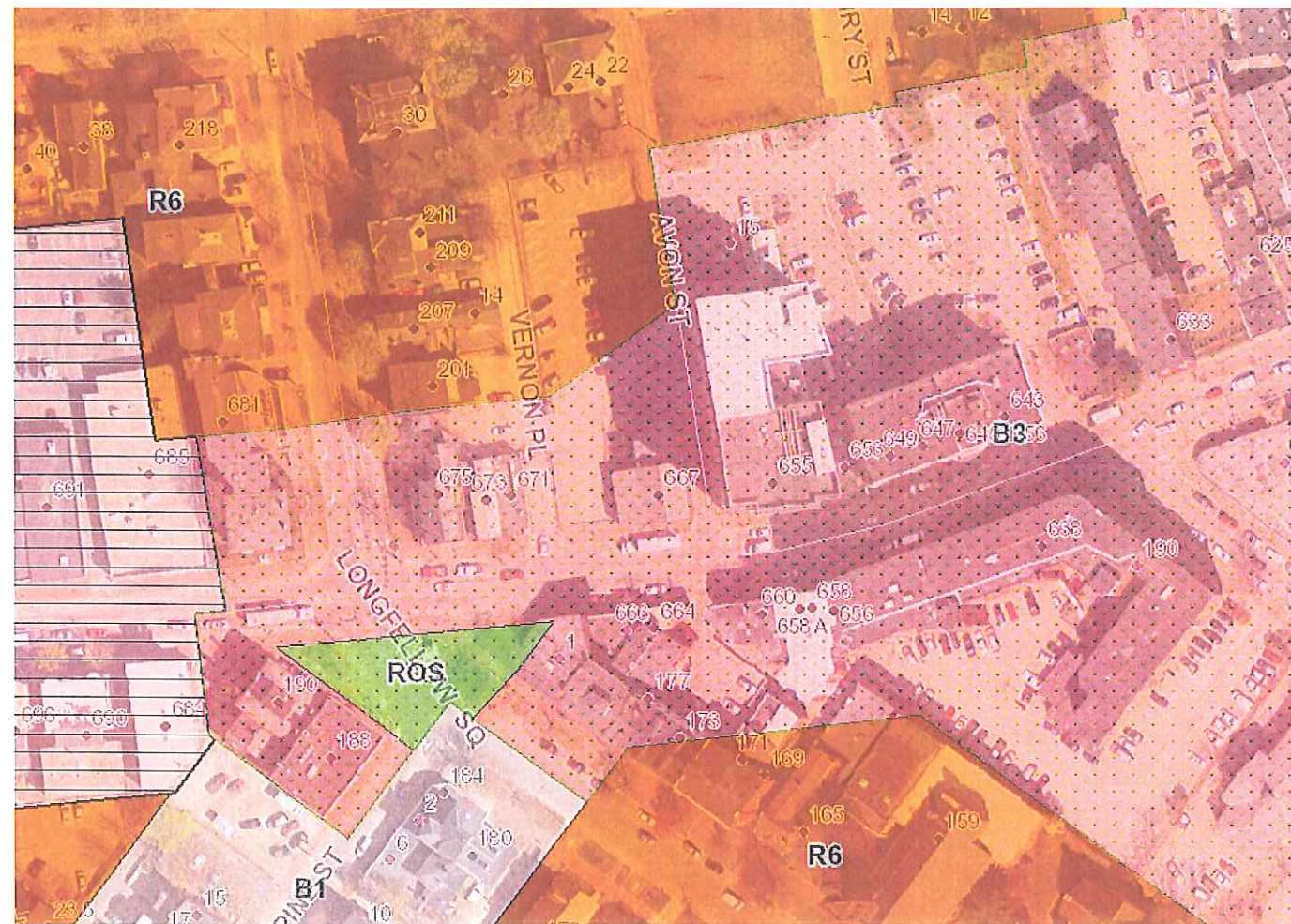


FIRST FLOOR PLAN

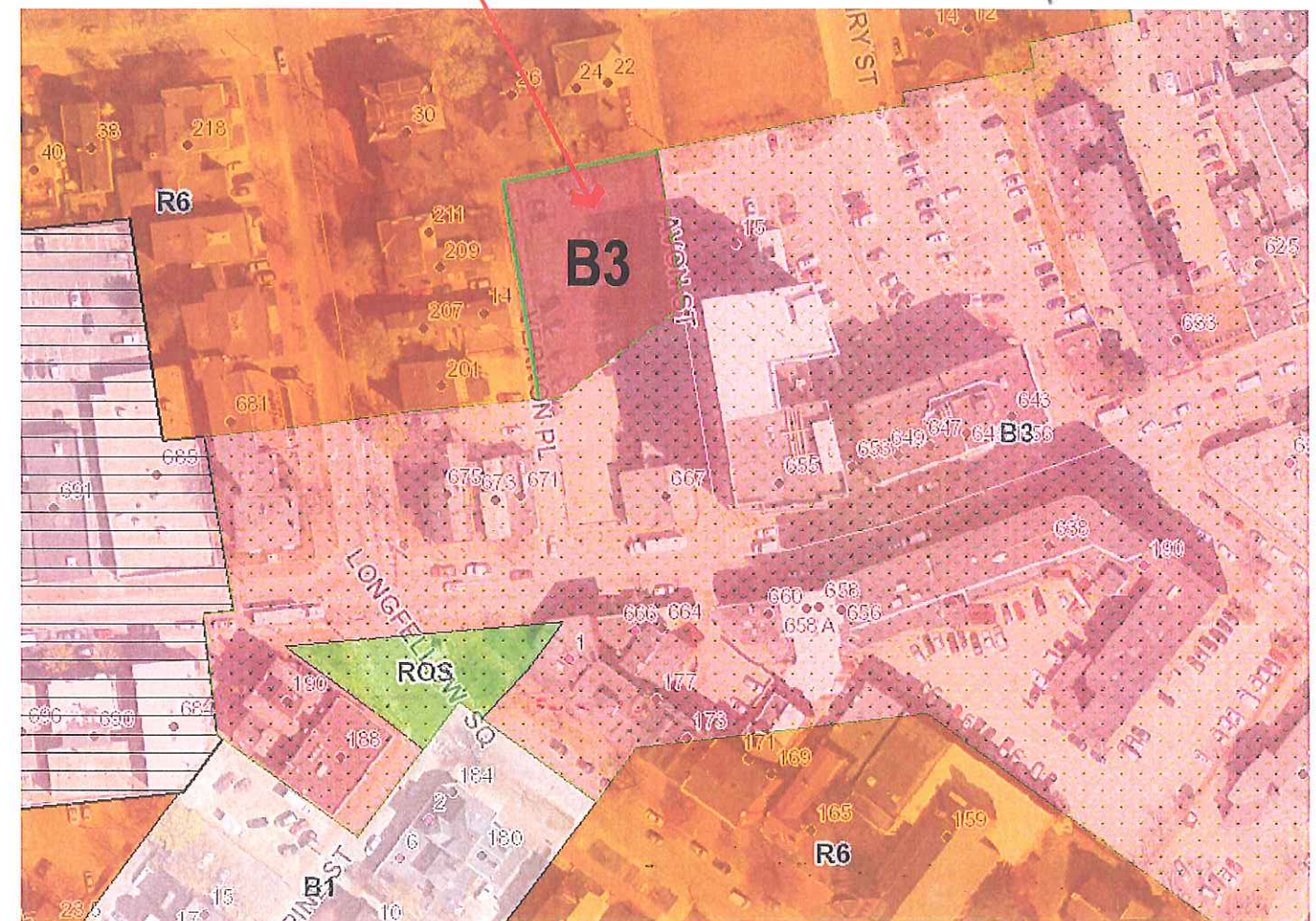
SCALE : 1/32" = 1'-0"

PROGRESS PRINT ONLY
Not for Construction

PROPOSED AREA TO BE REZONED TO B3



EXISTING ZONING MAP



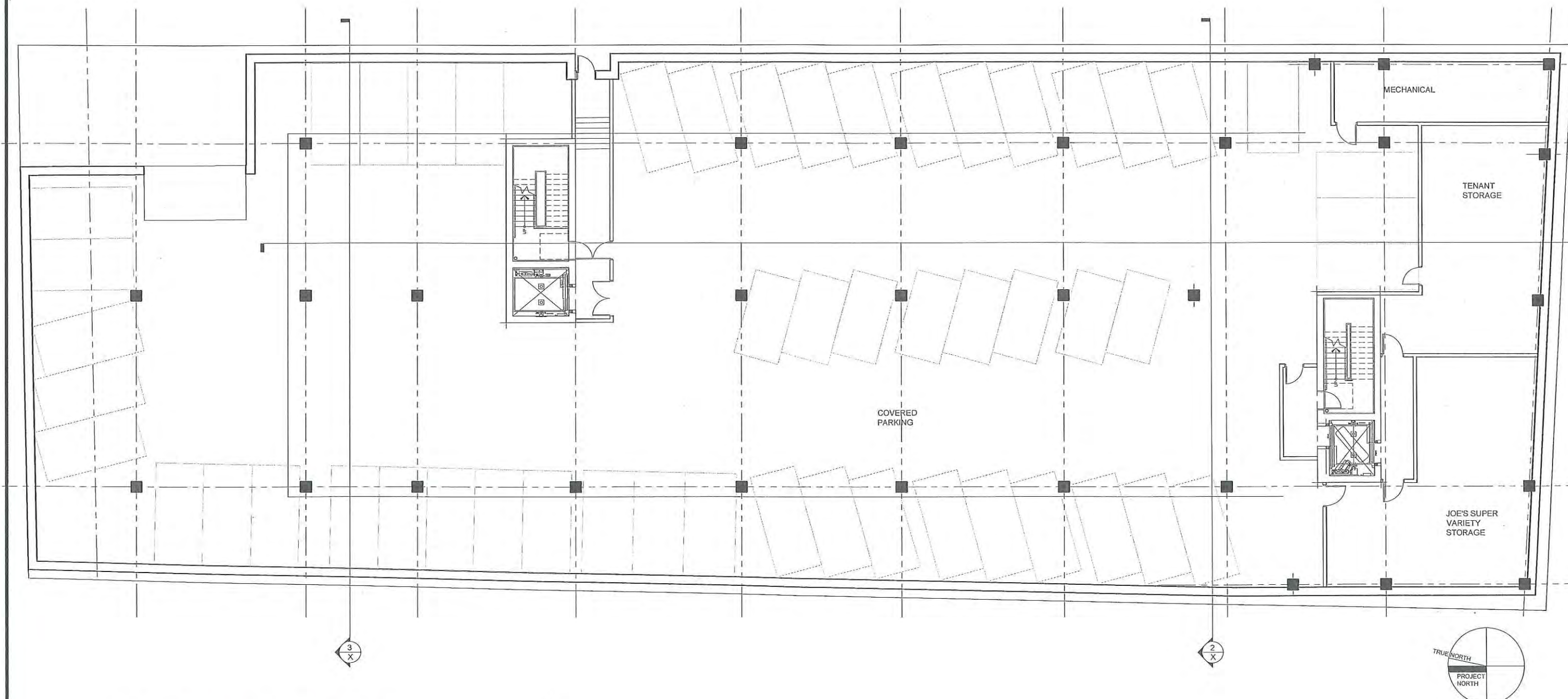
PROPOSED ZONING MAP

MARCH 5, 2015

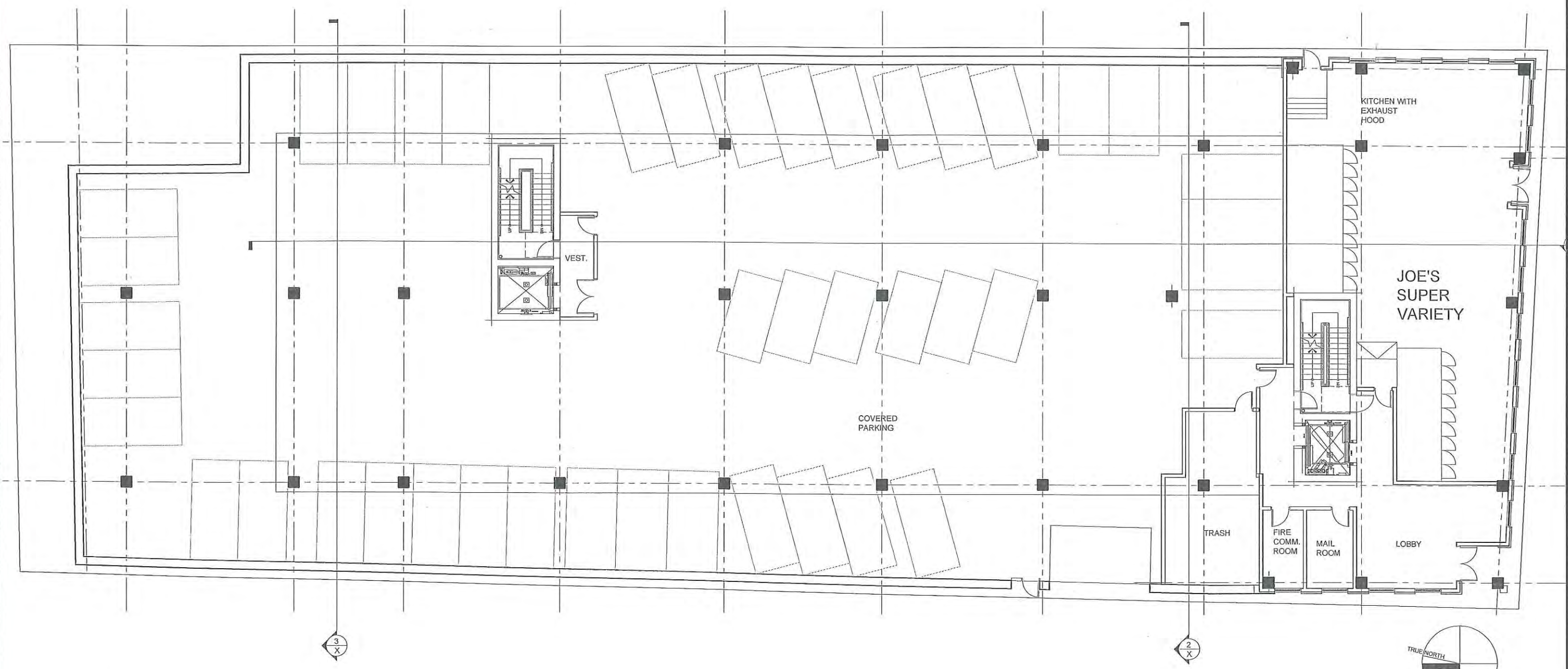
665 CONGRESS



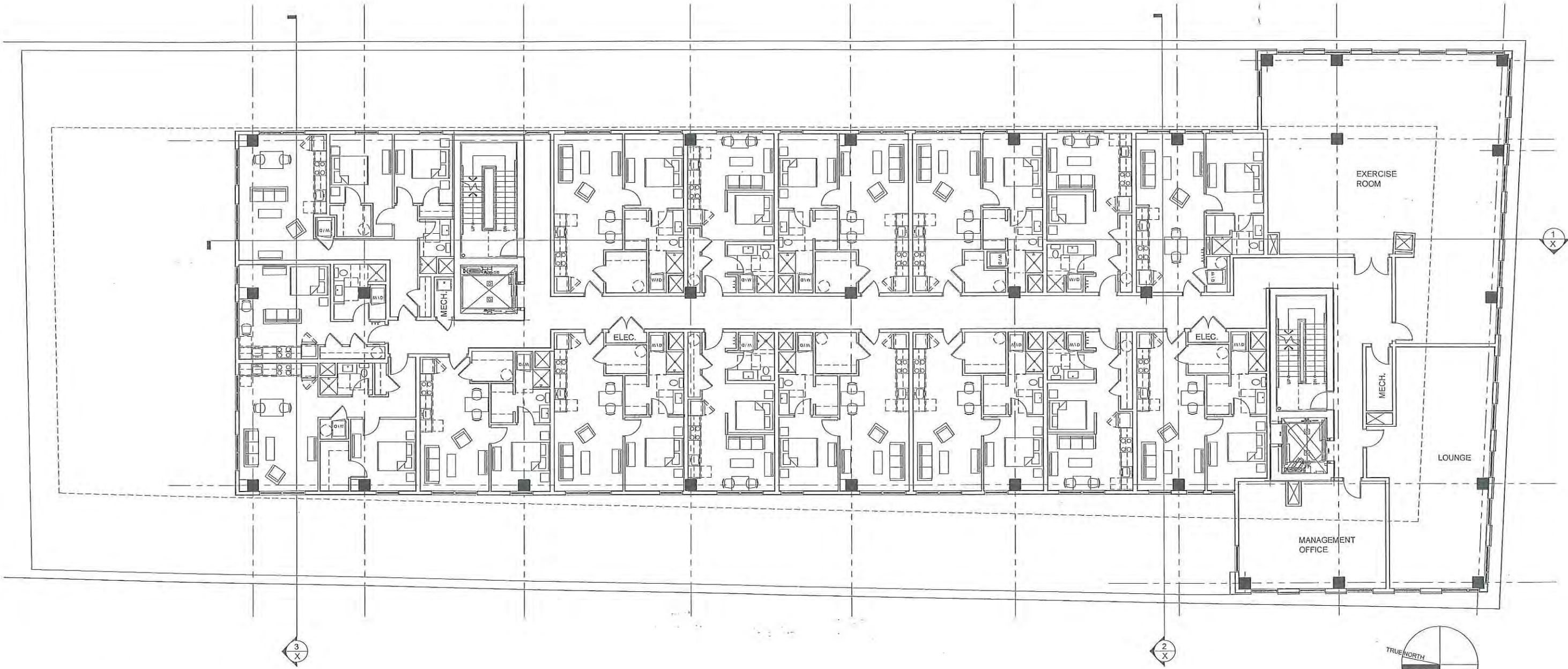
RYAN SENATORE ARCHITECTURE



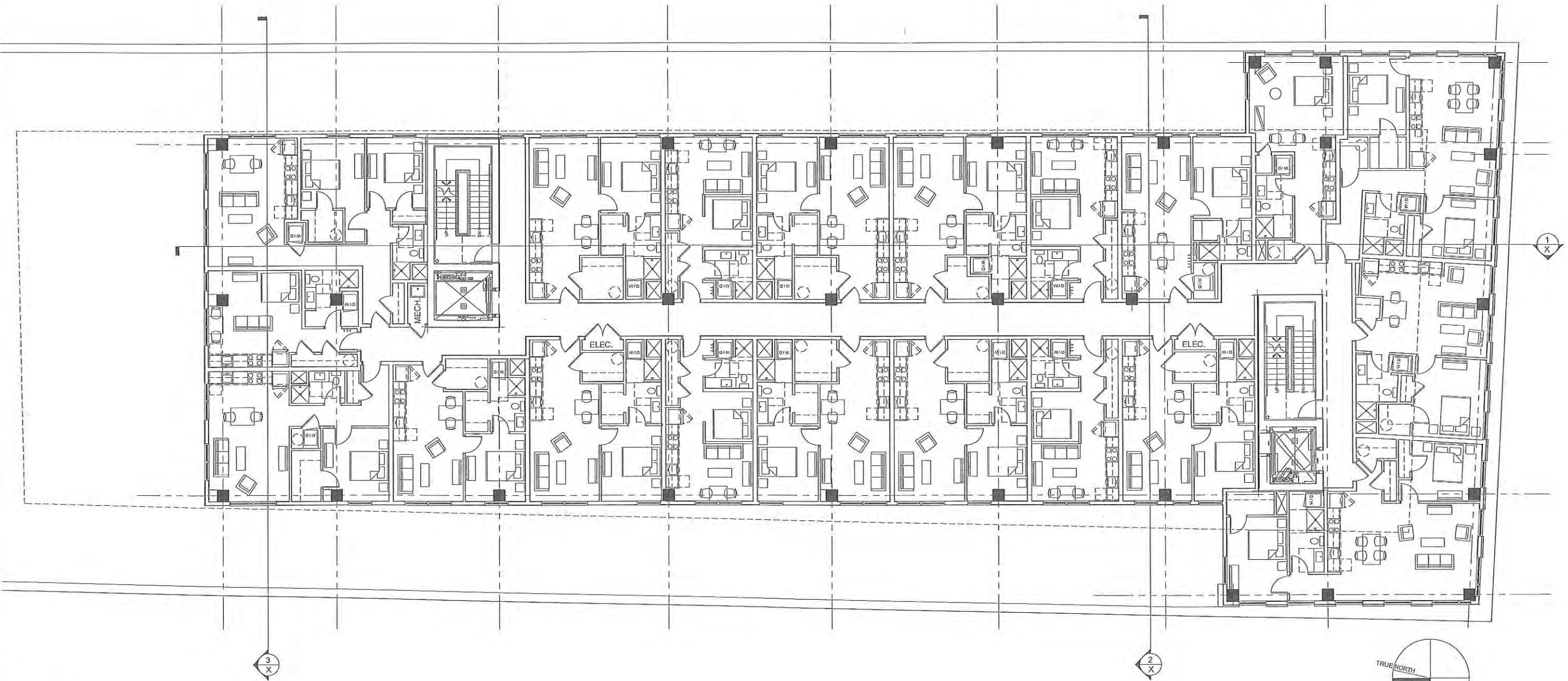
BASEMENT LEVEL



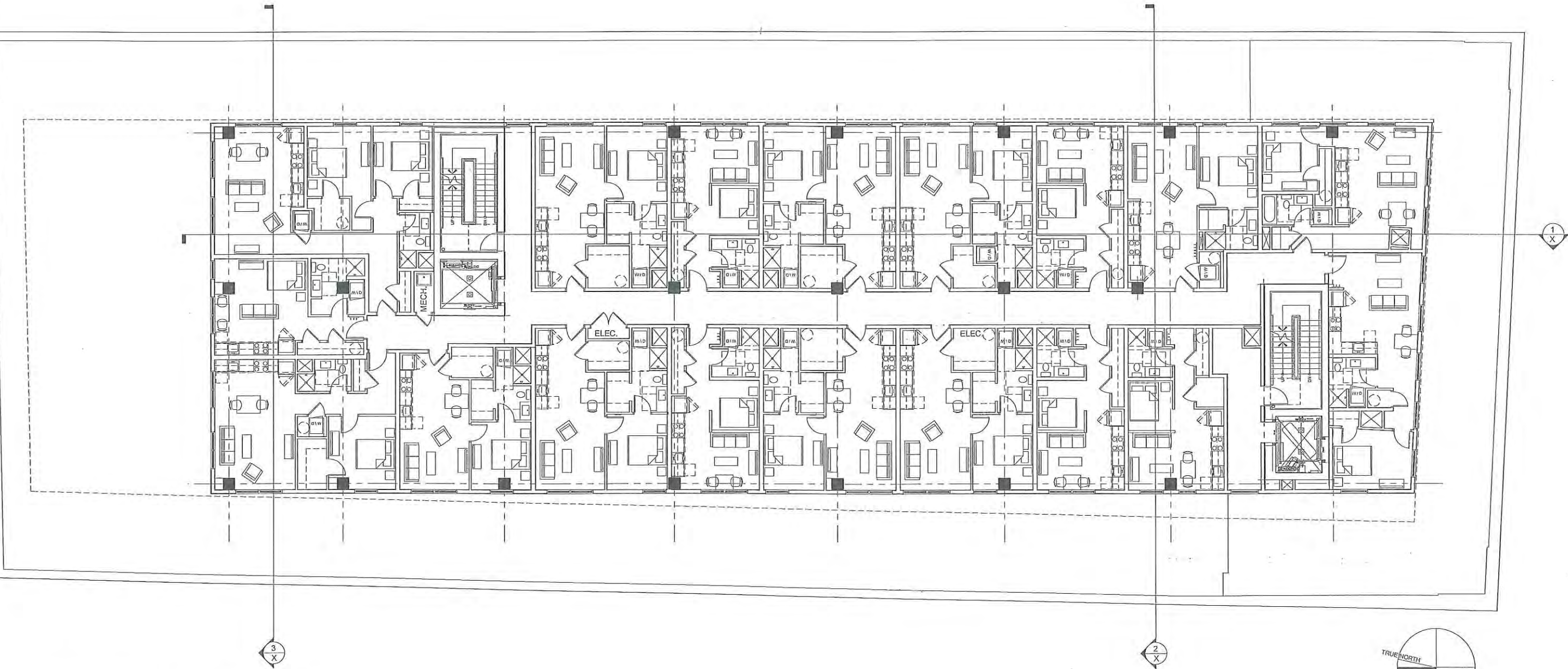
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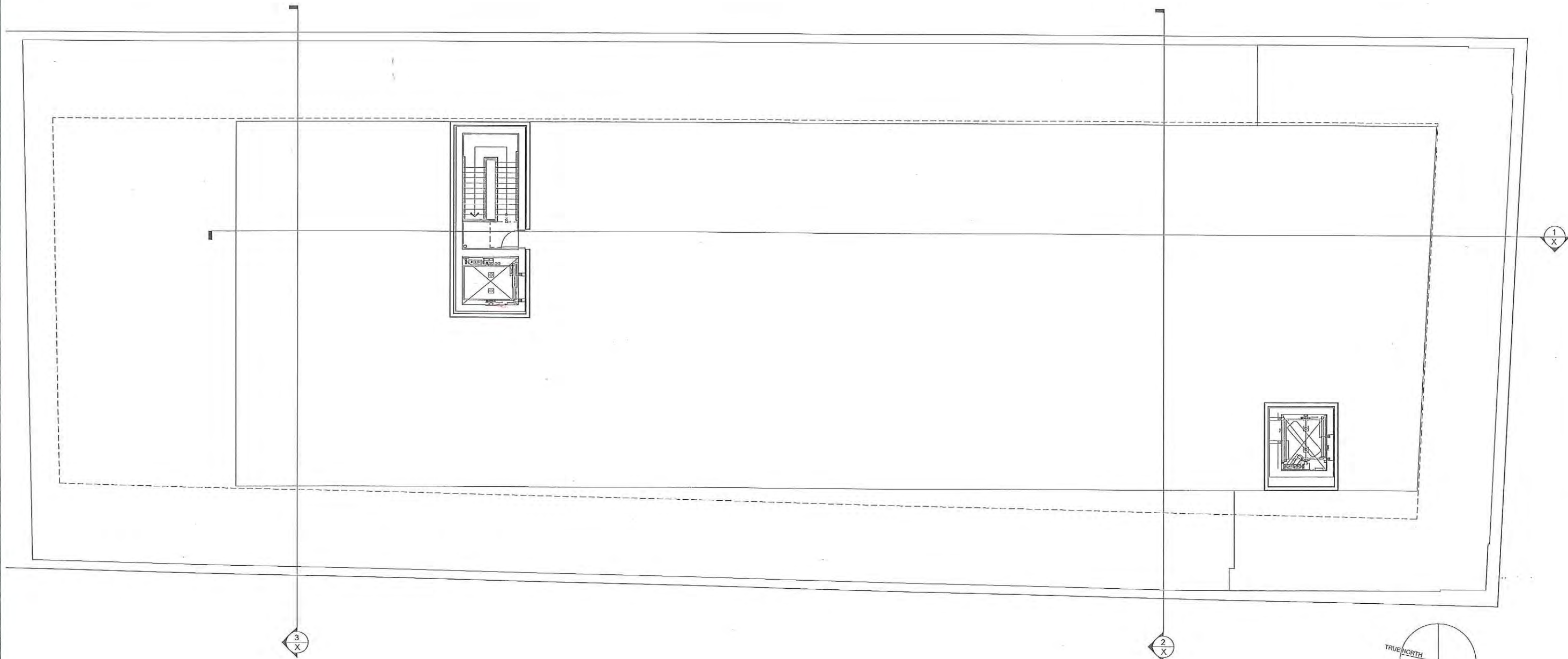
SECOND FLOOR



THIRD FLOOR



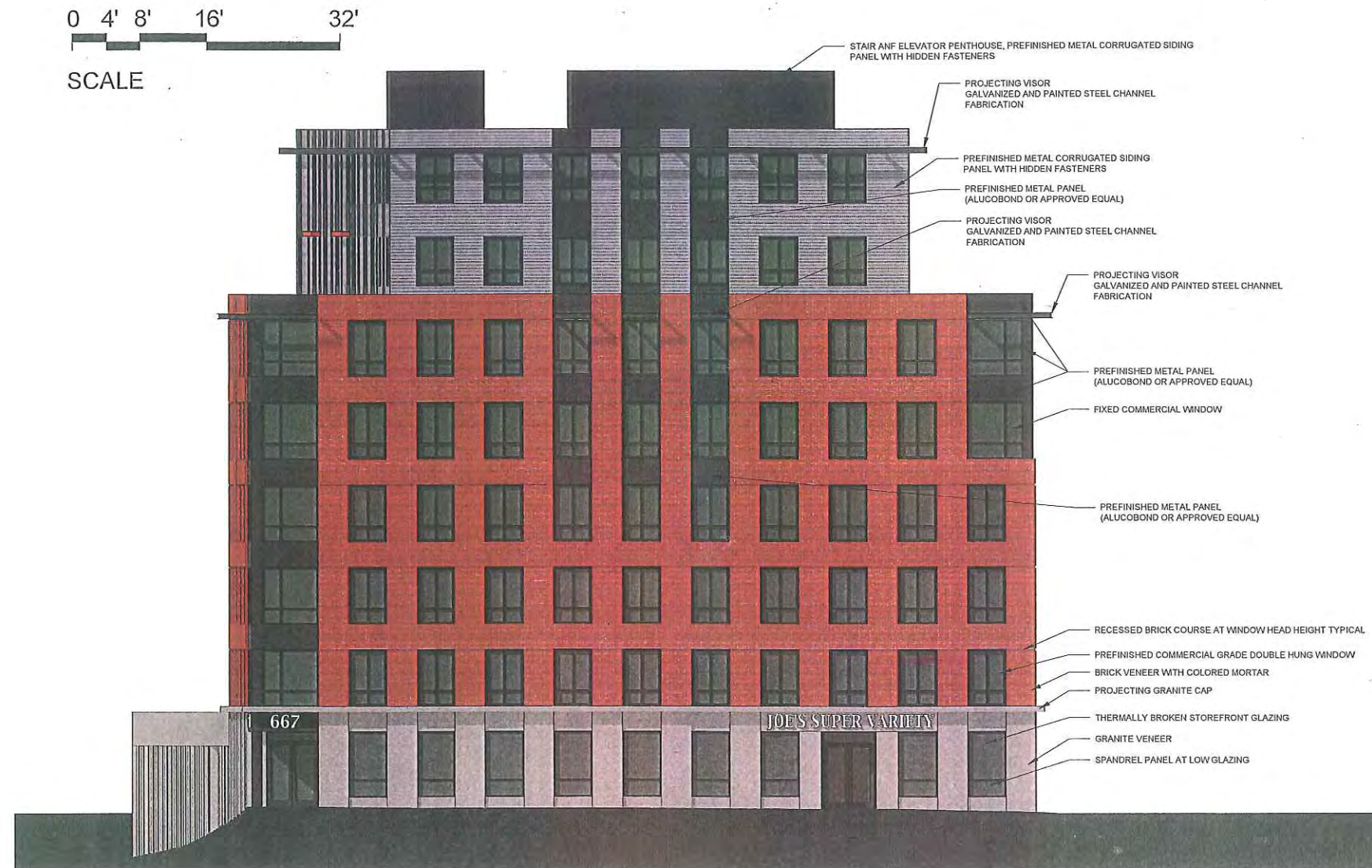
SEVENTH FLOOR



ROOF LEVEL

667 CONGRESS

APRIL 16, 2015



667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



PROGRESS PRINT ONLY
Not for Construction

667 CONGRESS

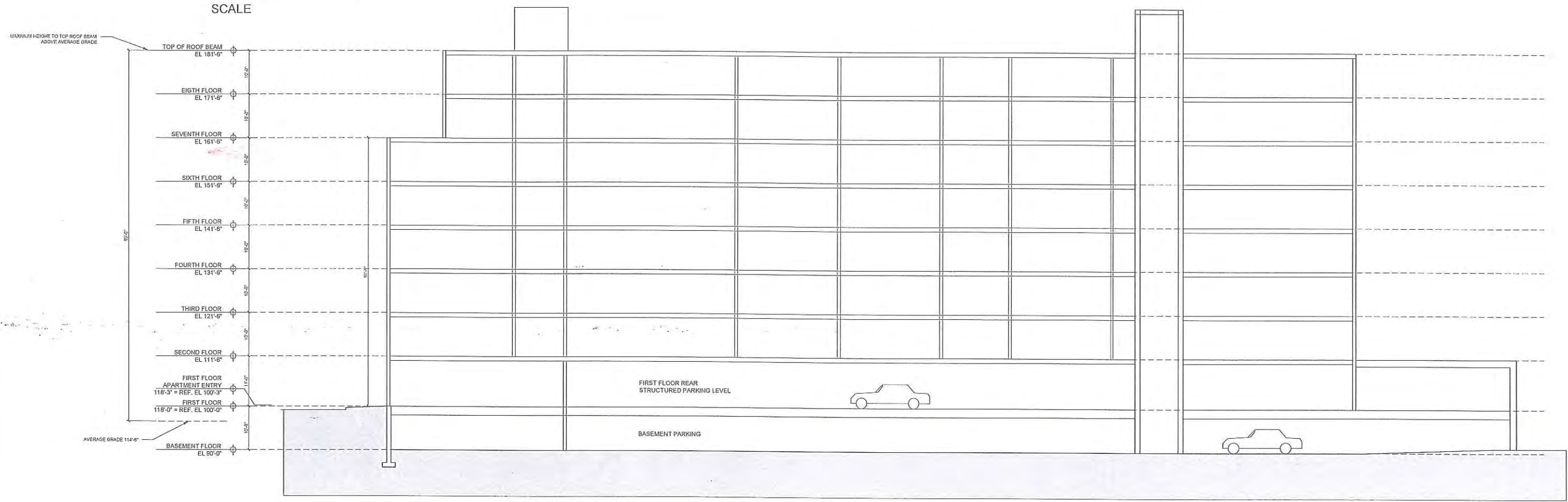
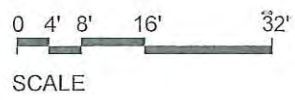
APRIL 16, 2015

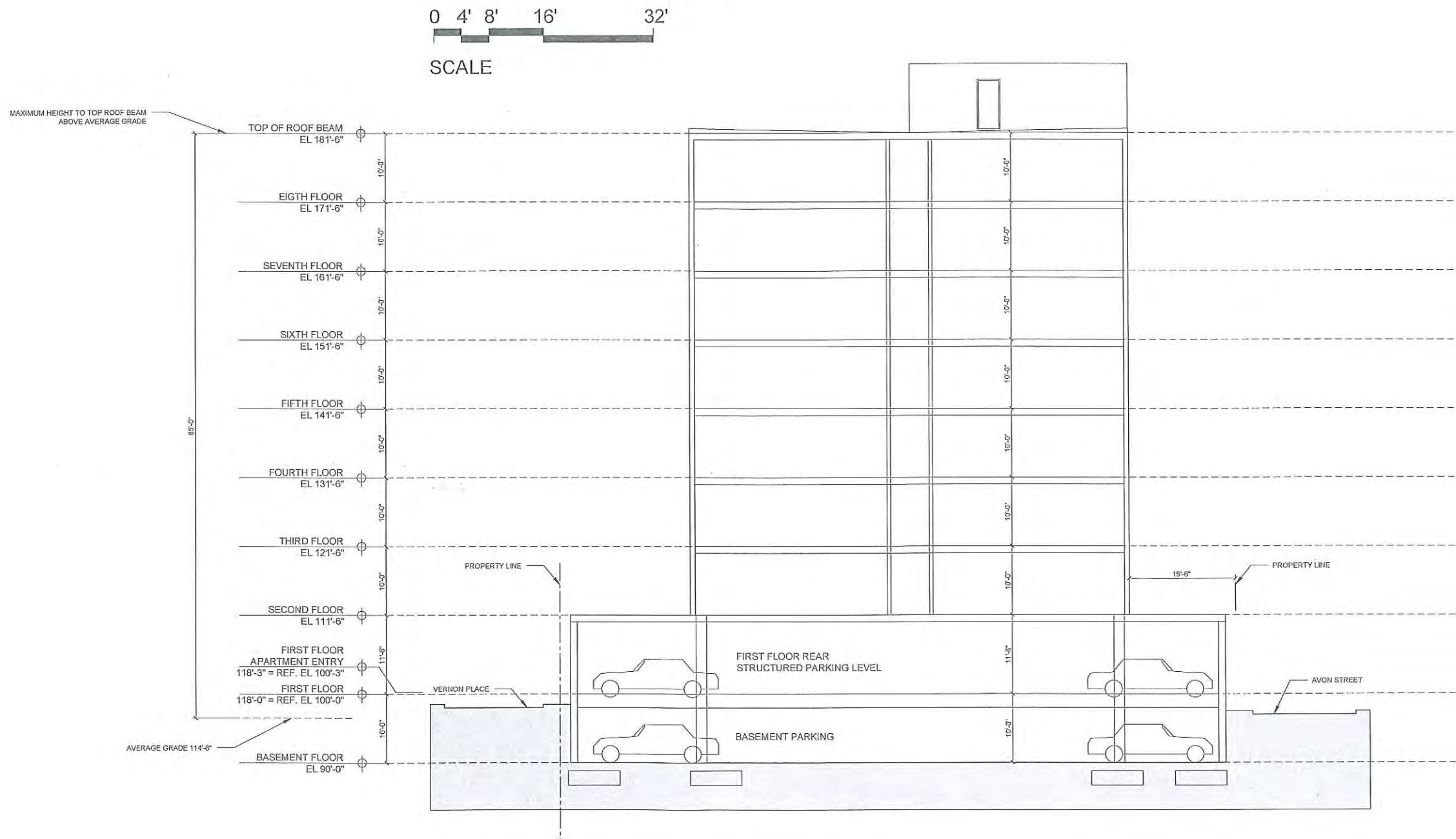
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SCALE



667 CONGRESS

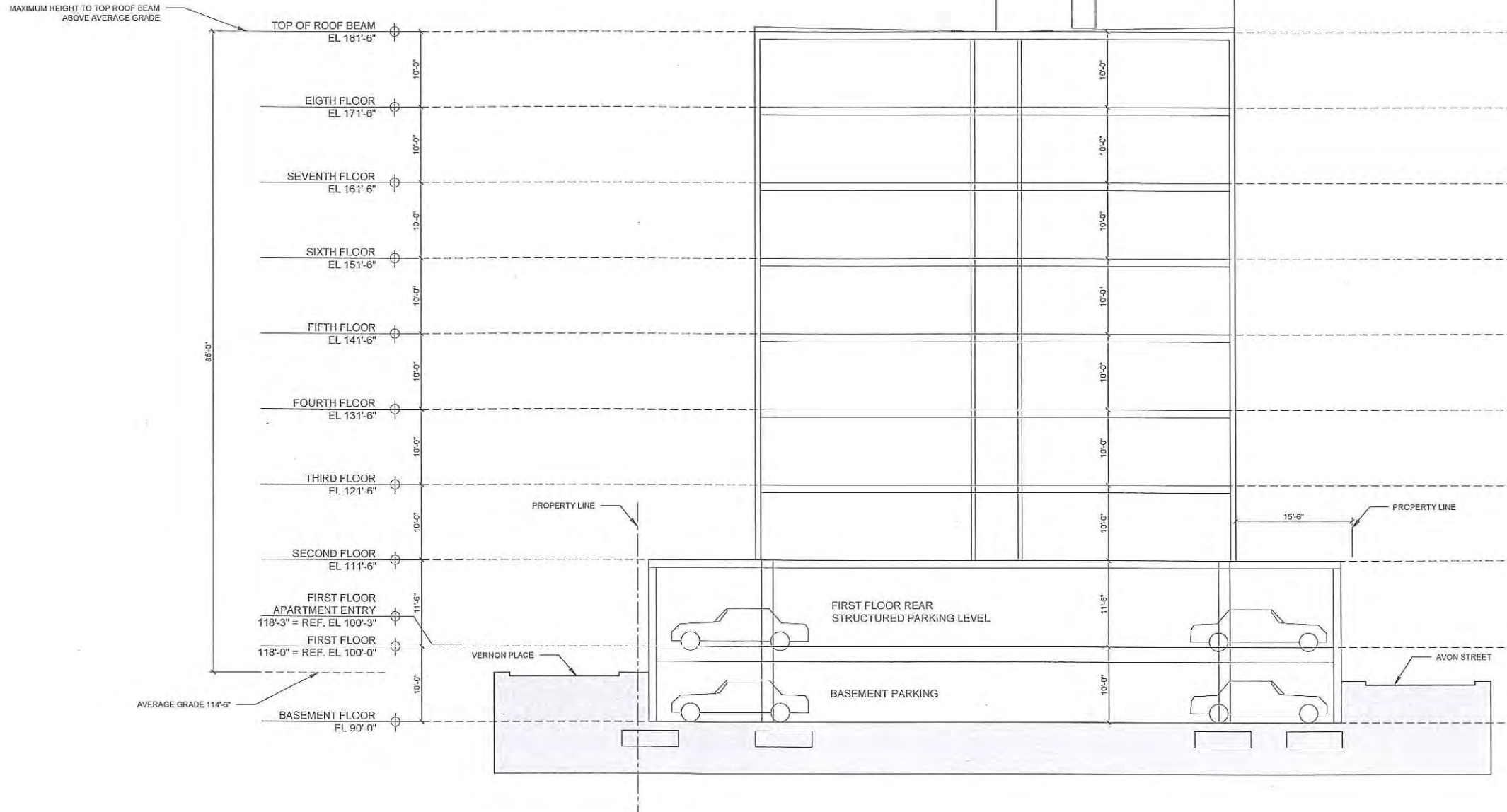
APRIL 16, 2015





667 CONGRESS

APRIL 16, 2015



REDFERN  PROPERTIES

SECTION - 3
SCALE : 1/8" = 1'-0"

RYAN SENATORE **ARCHITECTURE**

PROGRESS PRINT ONLY
Not for Construction



667 CONGRESS

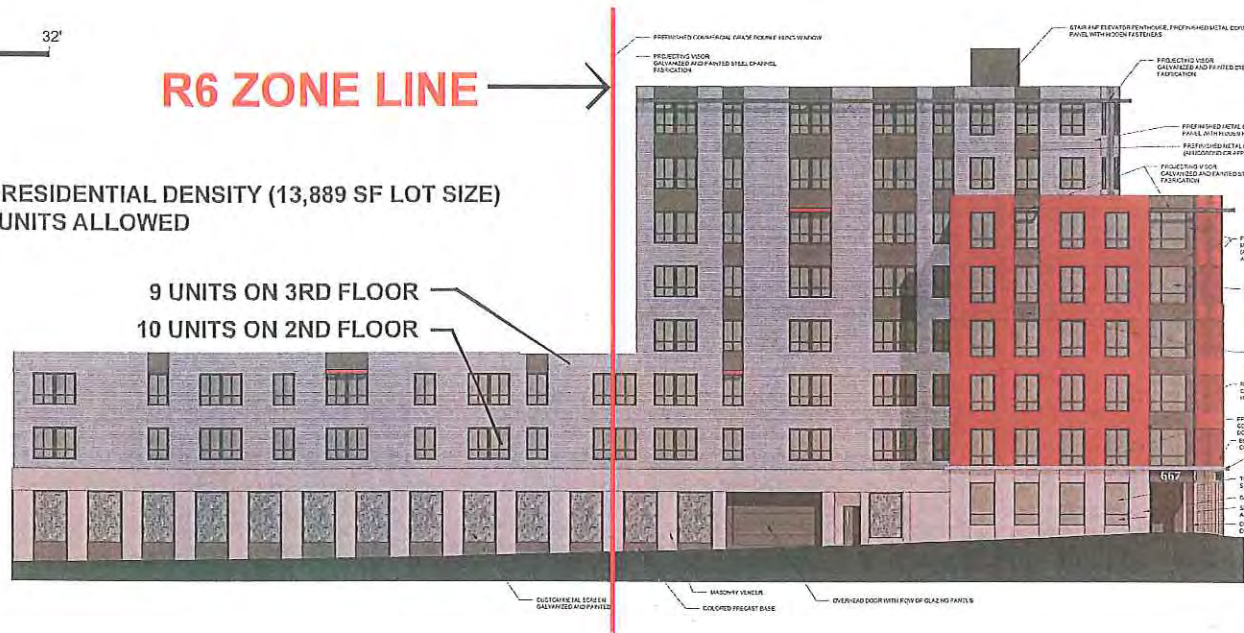
APRIL 16, 2015

0 4' 8' 16' 32'
SCALE

R6 ZONE LINE

R6 RESIDENTIAL DENSITY (13,889 SF LOT SIZE)
19 UNITS ALLOWED

9 UNITS ON 3RD FLOOR
10 UNITS ON 2ND FLOOR



REDFERN PROPERTIES

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

RYAN SENATORE ARCHITECTURE

B3/R6 ZONING ELEVATION

667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



REDFERN PROPERTIES

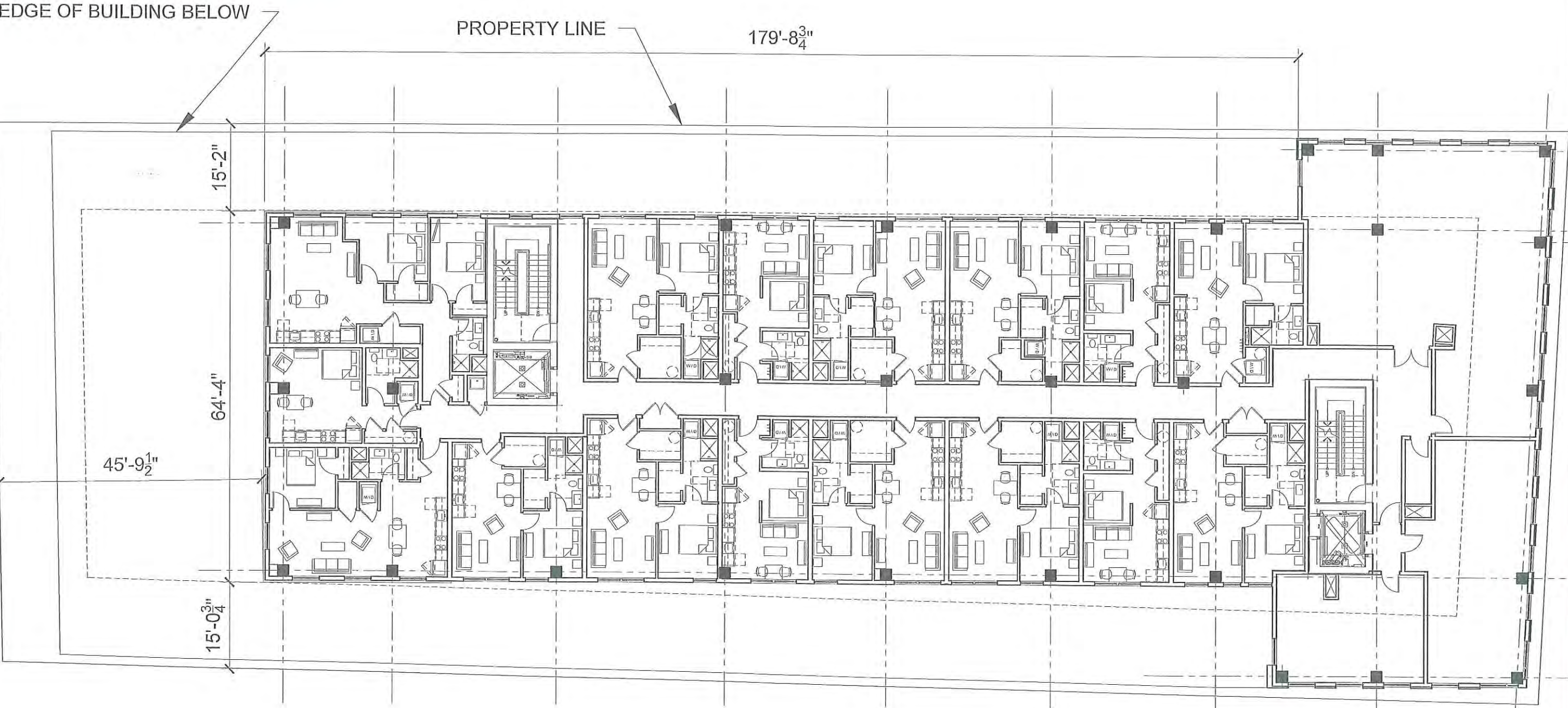
WEST ELEVATION
SCALE: 1/8" = 1'-0"

RYAN SENATORE ARCHITECTURE

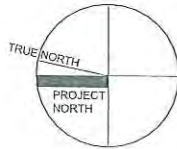
B3 ZONING ELEVATION

667 CONGRESS

APRIL 28, 2015



SECOND FLOOR



PROGRESS PRINT ONLY
Not for Construction

Order 275-14/1
~~Feb 14-6-15~~
Feb 36 6-15-15

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

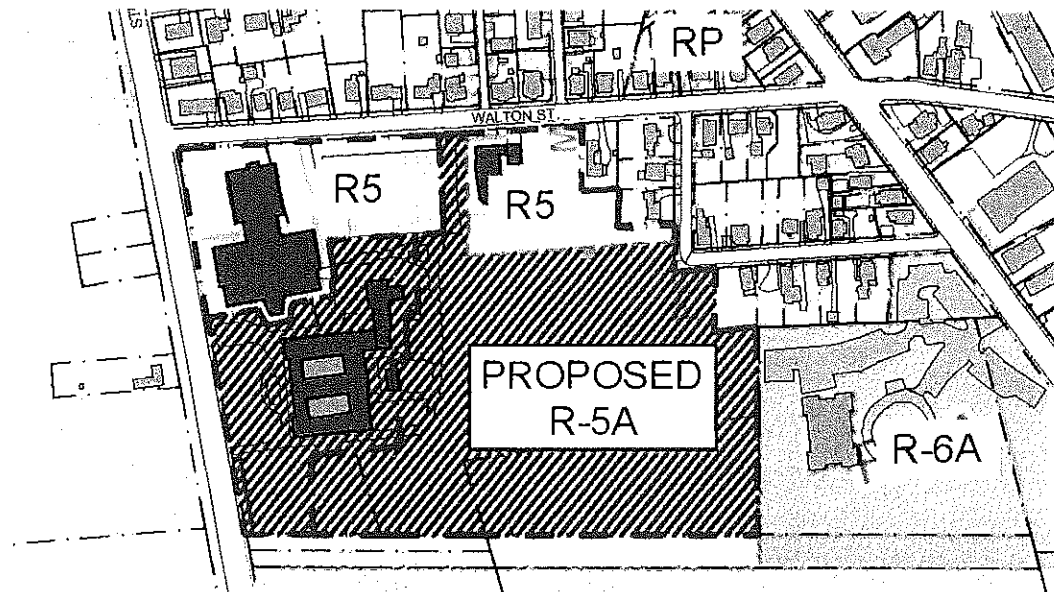
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO ZONING MAP
RE: 605 STEVENS AVENUE

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

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning the R-5 Zone in the Proposed R-5A area in the figure below to the R-5A Zone.



605 STEVENS AVE
PROPOSED ZONE MAP CHANGE

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council
FROM: Alexander Jaegerman, Planning Division Director
DATE: May 18, 2015
DISTRIBUTION: Michael Sauschuck, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan, Jeff Levine, Jennifer Thompson
SUBJECT: Zoning amendments, 605 Stevens Ave. (McAuley Place Senior/Affordable housing)
SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 **Final Action** June 15, 2015

Can action be taken at a later date: ____ Yes X No (If no why not?) The zoning amendments relate to a project that includes affordable housing for which the Planning Board has given priority review in accordance with Sec 14-487 of the Land Use Ordinance.

PRESENTATION: Planning Board Chair Stuart O'Brien and Alex Jaegerman, Planning Division Director, will make a brief presentation.

I. SUMMARY OF ISSUE (Agenda Description)

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of a 17.5 acre parcel at 605 Stevens Avenue, subject of a P&S from the Sisters of Mercy. The map amendment is for a 13.5 acre portion that includes the long-vacant "Motherhouse" and surrounding grounds and some playing fields; Catherine McAuley High School and St Catherine's Hall are excluded and would remain R5. On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

The zoning amendments have been requested to facilitate the rehabilitation of the Motherhouse for at least 66 affordable housing units and for a surrounding senior retirement community of approximately 200 dwellings on the open land behind the Motherhouse. The text amendments to R5A include: the addition of multifamily housing and congregate care as permitted uses; extension of the existing moderate density of the R5A PRUD (Planned Residential Unit Development) to these uses through amendments to the required lot area per dwelling and the basis of calculation; and clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School and St. Catherine's), switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is offering McAuley High School a 25 year lease and the school board supports the proposal for an intergenerational campus.

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

The applicant has indicated that the rehabilitation of the Motherhouse presents a financial burden on the site and will only be possible with affordable housing and historic tax credits along with benefits from moderate density on the rest of the site. The map and R5A text amendments were initially proposed to facilitate this senior community, including the rehabilitation of the Motherhouse, by allowing a greater height and density than possible in the underlying R5 zone, and also allowing multifamily and congregate care as permitted uses. The scope of the amendments was widened beyond what the applicant specifically requested in order to create a more comprehensive update to the R5A zone.

III. INTENDED RESULT

The proposed map amendment defines the area where the amended R5A zone would apply within the larger Sisters of Mercy site. This not only allows for the overall senior community envisaged by the applicant, but the R5A text amendments create an R5A zone that is clearer and simpler than the existing overlay zone. It removes the existing requirement for a conditional rezoning agreement that was the implementation mechanism for the original R5A overlay zone. The underlying R5 zone would permit colleges, universities or trade schools of up to 55 feet, so a result for this particular site is that these uses are not allowed and the permitted R5A uses are focused on housing and supported residential uses along with open space.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following Council goal:

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

V. FINANCIAL IMPACT

The amendment would allow moderate density development and help attract funding to support the provision of affordable housing and senior housing.

VI. PLANNING BOARD ANALYSIS

The Planning Board held a three hour public hearing on the McAuley Place request for a zone change from R-5 to R-5A and accompanying text amendments. Many public comments at the hearing raised concerns about traffic, density, massing, potential accidents due to elderly drivers, and impacts on McAuley High School, Baxter Woods and Stevens Avenue. Some comments requested a compromise density (between the existing R5 and proposed R5A), though the applicant had already offered a compromise from their original request for an R-6A zone with much higher density and a maximum building height of 60 feet.

During the 2 workshops on the project the Board had requested additional information regarding potential traffic and massing impacts associated with a “maximum build out” under different amendment scenarios. The Board concluded that the public comment concerns could be addressed during the Master Development Plan & Site Plan reviews. The Board also concluded that the map and zoning text amendments were clearly consistent with the Comprehensive Plan policies that identified this site within a growth area and specifically encouraged the type of senior housing envisaged.

VII. RECOMMENDATION

On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent. The motion reads:

On the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan and the Addendum submitted to the Planning Board May 12, 2015, public comment, the information provided in public hearing on May 12, 2015 for the project #2015-022 (605 Stevens Avenue), and/or other findings as follows:

1. Text Amendments to Definitions, R5A Residential Zone and Site Plan

The Planning Board finds that the proposed text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability, as presented in Attachment 1 of this report, are consistent with the Comprehensive Plan for the City of Portland; and

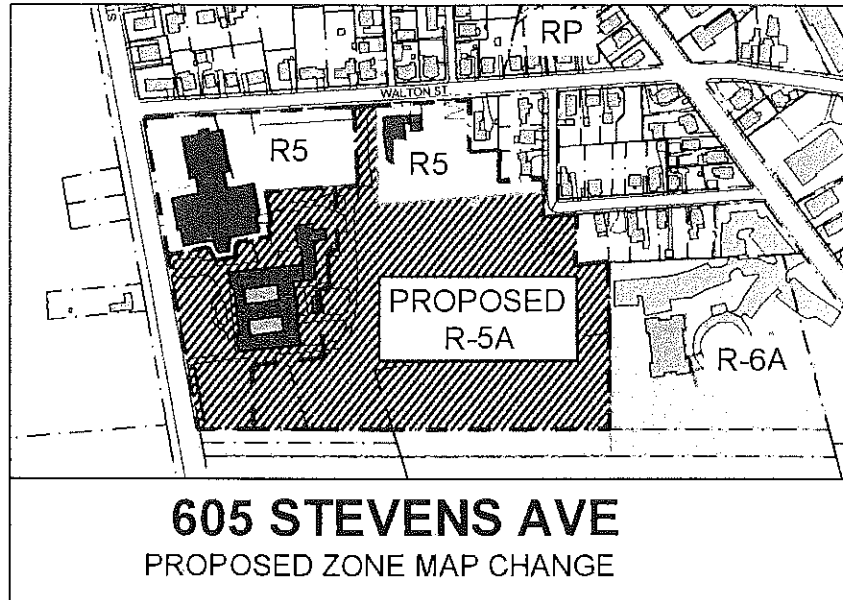
Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability.

[continued]

2. Map Amendment from R5 Residential to R5A Residential:

The Planning Board finds that the proposed rezoning for the a property located at 605 Stevens Avenue is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 605 Stevens Avenue from R5 Residential to R5A Residential Zone for the area shown below.



VIII. LIST ATTACHMENTS

1. Order (Temporary Text amendment attached 5.18.2015; to be replaced by the Order when its available)
2. Planning Board Report to City Council (to follow)

Prepared by: Jean Fraser, Planning Division
Date: 5.18.2015

**Proposed Text Amendments Definitions; R5A; Site plan
for May 12, 2015 PB Hearing (v 5.18.2015)
Prepared by Portland Planning Staff**

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~ residential unit development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
 - ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~

(f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~

- ~~1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;~~
- ~~2. Cullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~
- ~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~

~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

DIVISION 6.5. R-5A RESIDENTIAL ZONE

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

- (a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.

2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If

manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care facilities.

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

Sec. 14-128. Conditional use.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) *Other:*

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
 - e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
- iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
- iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
- vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
- viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	<u>Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres¹</u>
	<u>Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area</u>
	<u>Intermediate, extended or long-term care facilities: 1 1/2 acres.</u>
<u>Min. Lot Area per D.U.</u>	<u>Single-, two- and three-family dwellings: 1,600 SF.</u>
	<u>Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.²</u>
<u>Min. Lot Area per Resident</u>	<u>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</u>
<u>Min. Street Frontage</u>	<u>50 feet.</u>
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings²</u>	<u>1. Front yard: Principal or accessory structures: 25 feet.</u>
	<u>2. Rear yard:</u>
	<u>a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet.</u>
	<u>b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.</u>
	<u>Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.</u> <u>(continued)</u>

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. 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 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.

	3. <u>Side yard:</u> a. <u>Principal or accessory structures with ground coverage greater than one hundred (100) square feet:</u> <table> <tr> <th><u>Height of Structure</u></th><th><u>Required Side Yard</u></th></tr> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </table> <u>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.</u> b. <u>Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.</u> 4. <u>Side setback on side streets: Principal or accessory structures: 20 feet.</u>	<u>Height of Structure</u>	<u>Required Side Yard</u>	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
<u>Height of Structure</u>	<u>Required Side Yard</u>										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										
<u>Maximum Structure Height</u>	<u>Principal residential (single, two and three-family) or attached accessory structure: 35 feet.</u> <u>Accessory detached structure: 18 feet.</u> <u>Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.</u>										
<u>Max. Lot Coverage</u>	30%										
<u>Minimum Lot Width</u>	60 feet										
<u>Minimum building setback from external subdivision property lines</u>	<u>PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care:</u> a. <u>Building length of one hundred (100) feet or less: 25 feet.</u> b. <u>Building length of greater than one hundred (100) feet: 35 feet.</u>										
<u>Minimum recreation open space area</u>	<u>PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.</u>										

~~(a) Minimum lot size:~~

~~Residential: Six thousand (6,000) 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. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~(b) Minimum lot area per dwelling: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development: Fifty (50) 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: Twenty five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

- ~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 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. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~(c) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(f) Minimum lot width: Sixty (60) feet.~~

~~Minimum building setback from external subdivision property lines (PRUD):~~

- ~~a. Building length of one hundred (100) feet or less: Twenty five (25) feet.~~

- ~~b. Building length of greater than one hundred (100) feet: Thirty five (35) feet.~~

~~(g) Minimum recreation open space area: Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a~~

~~contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty five (25) feet from dwelling units.~~

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *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.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



R5A Zoning Map and Text Amendments for McAuley Place
605 Stevens Avenue

Seacoast at Baxter Woods Associates, LLC, Applicant
Project #: 2015-022

Submitted to: Portland City Council	Prepared by: Jean Fraser, Planner
From: Portland Planning Board	Date: May 22 nd , 2015
Second City Council Reading: June 15, 2015	CBL: 136 E006001

I. INTRODUCTION

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of an approximately 18 acre parcel at 605 Stevens Avenue. The parcel is owned by the Sisters of Mercy, who have been considering options for the future of the former convent known as the "Motherhouse" and associated land and buildings in their ownership, since the Motherhouse became vacant about 10 years ago.

The applicant has a P&S from the Sisters of Mercy for the entire site (which includes Catherine McAuley High School and St Catherine's Residence Hall), but seek the zoning amendments for a smaller site of 13.5 acres with approximately 400 feet of frontage on the east side of Stevens Avenue. It abuts the Deering Pavilion and Baxter Woods and is opposite Evergreen Cemetery across Stevens Avenue. It also has frontage along Walton, Pershing and Holly Streets. This smaller site is proposed for a senior retirement community of about 200 new dwellings and rehabilitation of the Motherhouse for at least 66 affordable senior housing units and 22 market-rate senior housing units. Catherine McAuley High School and St Catherine's Hall are excluded from the map amendment and would remain in the R5 zone.

On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

On the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan and the Addendum submitted to the Planning Board May 12, 2015, public comment, the information provided in public hearing on May 12, 2015 for the project #2015-022 (605 Stevens Avenue), and/or other findings as follows:

1. Text Amendments to Definitions, R5A Residential Zone and Site Plan

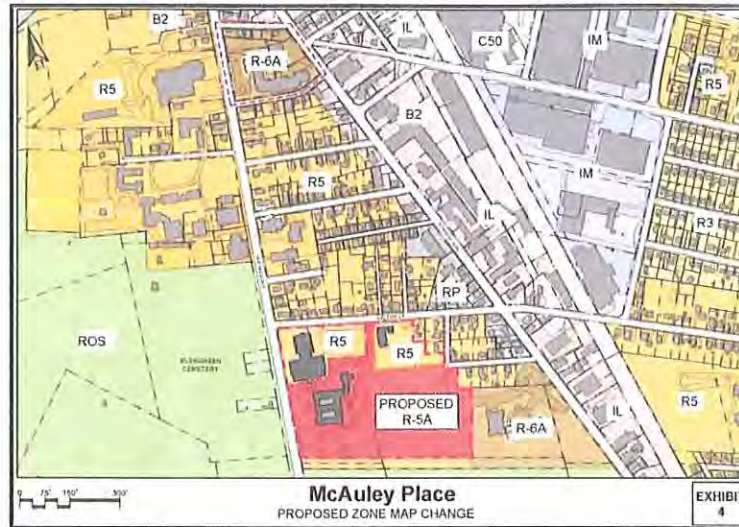
The Planning Board found that the proposed text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability, as presented in Attachment 1 of this report, are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability.

2. Map Amendment from R5 Residential to R5A Residential:

The Planning Board found that the proposed rezoning for the a property located at 605 Stevens Avenue is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 605 Stevens Avenue from R5 Residential to R5A Residential Zone for the area shown below.



The Addendum referred to in the main motion above provides additional policy and legal background on how the Comprehensive Plan applies in this case- the full text is in Section IX *Comprehensive Plan Analysis* below.

II. SUMMARY OF ZONING REQUEST

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and associated playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School, St. Catherine's and one playing field), to switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is offering McAuley High School a 25 year lease and the school board supports the proposal for an intergenerational campus.

The applicant has indicated that the rehabilitation of the Motherhouse presents a financial burden on the site and will only be possible with affordable housing and historic tax credits along with benefits from developing at a moderate density on the rest of the site. The map and R5A text amendments requested by the applicant focused on achieving the moderate density and mixed residential uses and were more limited than the text amendments presented in this report. The applicants seek greater height and density than possible in the underlying R5 zone, and to add multifamily and congregate care as permitted uses.

The scope of the amendments was widened beyond what the applicant specifically requested in order to create a more comprehensive update to the R5A zone that is clearer and simpler. It removes the existing requirement for a conditional rezoning agreement that was the implementation mechanism for the original R5A overlay zone (via a PRUD - Planned Residential Unit Development). The moderate density of the existing R5A PRUD is proposed to be extended to multifamily and congregate care developments through amendments to the required lot area per dwelling and the basis of calculation. The R5A zone did not specify height, so the proposed amendments clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The neighbors consider change from R5 to R5A a substantive change because it increases density and height for the multifamily residential uses. The Board considered the density to be appropriate (see Section X. below) and the decision was based on additional traffic and massing information as it related to the maximum residential build out allowed by the proposed zoning amendments. It was also noted that the underlying R5 zone would permit colleges, universities or trade schools of up to 55 feet, and if rezoned to R5A these uses would not be allowed.

III. PUBLIC COMMENT

A notice of the City Council Hearing will be sent to the 128 property owners within 500 feet and interested citizens, and the legal advertisement will appear in *Portland Press-Herald* in accordance with the city's noticing requirements. A Neighborhood Meeting is required for this project and was held in the Motherhouse on April 2, 2015; the notes are in Att. H. The Neighborhood meeting was attended by about 100 people and Planning Division staff also attended to answer any questions regarding the zoning interpretation or zone amendment process.

Written comments are included as attachments [PC 1](#) to [PC 36](#) as received from the beginning of the Planning Board review to the time this Report was completed. Any additional comments received before the City Council Hearing will be circulated to the Council members prior to the hearing.

Most of the comments relate to the revised R5A zoning amendments (PC3 onward) and have been received from 25 different individuals (some sending more than one comment) during the Planning Board review. These can be summarized as follows:

- 14 neighbors raising objections, including a legal opinion regarding consistency with the Comprehensive Plan ([PC 26](#));
- 10 in support, including from the owners Sisters of Mercy ([PC9](#)), Catherine McCauley High School ([PC10](#)); Topsham Town Manager in support of the developer ([PC31](#)) and Greater Portland Landmarks ([PC33](#));
- 1 with questions.

In addition there were many public comments at the Planning Board hearing which elaborated on the concerns that had been articulated at the two workshops and in the letters about potential traffic, density, massing, possible accidents due to elderly drivers, and impacts on McAuley High School, Baxter Woods and Stevens Avenue. Some comments requested a compromise density (between the existing R5 and proposed R5A), though the applicant had already offered a revised amendment from their original request for an R-6A zone which would have had a much higher potential density and a maximum building height of 60 feet.

IV. PROJECT DATA FOR AREA WITHIN PROPOSED MAP AMENDMENT

Parcel Size:	13.53 acres (area for which rezoning is requested)
Existing Zoning:	Residential R-5
Existing Uses:	Former convent; open land, part playing fields used by school
Proposed Use:	Affordable Age-restricted Housing in existing Motherhouse; Residential Senior Independent Living Units (Congregate Care); Intermediate Care

Residential data as proposed (latest Conceptual Master Plan in Plan P3):

- Affordable housing units: 66 +/- along with 22 market rate housing units in Motherhouse;
- Approximately 206 units (senior multifamily and congregate care independent units) in new buildings in current proposal;
- Approximately 36 future units in the Smith House wing (a part of the Motherhouse not proposed for the first phase affordable housing), should it become available.

Parking, access and other aspects are conceptual at this stage (see Conceptual Master Plan below and in [Plan P4](#)) and the applicant intends to submit a [Master Development Plan](#) for the overall development and the phases. The first phase is the renovation of the Motherhouse for 88 housing units as described above.

V. EXISTING CONDITIONS

a. Background

The original cover letter ([Attachment B](#)) includes a history of the site, which started as a convent in the late 19th century for the Sisters of Mercy in Portland and originally included a church. The area now proposed to be rezoned to R5A includes one building, the now-vacant convent, which is known as the Motherhouse (photo right; additional photos in [Attachment F](#)).

The developers are seeking historic tax credits for the renovation and reuse of the main part of the Motherhouse building (excluding the north "ell" known as the Smith House and currently used by the High School) in view of the costs associated with its age, interior layout and condition. The National Park Service has confirmed its eligibility for those tax credits. While it qualifies for historic tax credits, it has never been identified for designation as a local landmark and currently has no historic designation.



It is understood from the City's Historic Preservation Program Manager that if historic tax credits are sought towards the rehabilitation of the Motherhouse, that any new construction in the vicinity would be subject to review for its scale/visual impact on and general compatibility with the Motherhouse itself (Attachment 4).

b. Existing Conditions

The site is within the R5 zone and abuts the Deering Pavilion (shown on Plans P1 and P3) which is zoned R6A. The north and north-east parts of the site abut an area of single and multifamily homes (all in R5) and the Forest Avenue RP zone is nearby. Baxter Woods abuts the south side of the site and the Evergreen Cemetery is opposite on Stevens Avenue.

The School is currently accessed by two one-way drives from Walton Street direct into the existing parking lot. There are two small drives with gates on Stevens Avenue that go directly to the front of the Motherhouse.

Walton Street is a residential street connecting Stevens Avenue and Forest Avenue, with signals at both intersections. Under the Federal Street Classification system Stevens Avenue is classified as a "Minor Arterial" (other "Minor Arterials" in Portland are Warren Avenue and Washington Avenue) and Forest Avenue is classified a "Principal Arterial" (other "principal Arterials" in Portland are Brighton Avenue and outer Congress Street).

VI. PROPOSED DEVELOPMENT

The applicant's most recent submission is attached at Attachment I-L and Plans P2-P5. The cover letter in Attachment I updates the details of the proposals and addresses the Board's request for information on traffic implications and massing of the proposed buildings.

The project is a package of interdependent proposals that would be funded from a number of different sources to create a retirement community with two components totaling about 330 units once all phases are completed:

- Affordable multifamily housing (some at market rate) for seniors, in the existing Motherhouse (using historic and housing tax credits to address the high cost of rehabilitation);
- Independent units for seniors on land near and behind the Motherhouse, which could be considered as multifamily and possibly congregate care depending on the support services provided.

The concept presented in April (left below) excluded McAuley High School and it remains on a 3.18-3.50 acre lot. St Catherine's Residence Hall also is excluded from the proposed R5A zoning and remains on a 1.86 acre lot. It is understood that any redevelopment of St Catherine's Residence Hall and McAuley High School would be considered separately as appropriate in the future, and the applicant is in discussions regarding the arrangements to maintain these uses over the medium-term.



Submitted for April PB Workshop



Submitted for May PB Public Hearing

A similar but updated Conceptual Master Plan was received May 7th (Plan P4, and above right) which proposes a potential 4 building senior living campus of 4 and 5 story buildings. The concept design represents a build out of

approx. 206 units plus 88 Motherhouse units and potential for 36 +/- future units in the Smith house wing, should it ever become available, for a total of approximately 330 units, consistent with prior projections for the overall project. The recent plan shows that there would be more smaller buildings on the open land behind the Motherhouse, but this would represent a lower number of total dwelling units in the new buildings (about 200, compared to 240 in the initial proposal).

The overall total remains about 330 dwelling units because the applicants may be able to rehabilitate the Smith House (north ell of the Motherhouse which is currently used by the School) for approximately 36 dwelling units.

For the purposes of the zoning amendments now under consideration, the precise proposal is not under review and the layout and design would be reviewed in detail at the Master Development Plan and site plan stage to ensure that the final proposals addressed all factors, including traffic, parking, stormwater management, open space provision and scale/massing.

VII. PROPOSED ZONING AMENDMENTS

In conjunction with the requested map amendments, the applicant has requested R-5A text amendments to accommodate the proposed development. Soon after McAuley Place requested zoning amendments, another senior housing project submitted proposed text amendments to the R5A Zone to facilitate a somewhat different form of senior housing (all congregate care) on a site on Ocean Avenue. The proposed text amendments to the R5A zone subject of the Planning Board's positive recommendation ([Attachment 1](#); also see details in next section) are merged text amendments from 3 sources:

To facilitate the McAuley Place senior development:

- Adding "multifamily" and "congregate care" to the permitted uses, with associated minimum lot sizes;
- Clarification of the minimum lot area per dwelling for both uses;
- Include a maximum structure height of 55 feet (there was no height limit in the R5A zone previously, as a contract zone was contemplated for implementation);
- Amend the Site Plan ordinance regarding Master Development Plans to include the proposed uses.

To facilitate the Ocean Avenue congregate care development:

- Amend definition of "congregate care";
- Add "congregate care" to the permitted uses and clarify minimum lot sizes;
- Clarification of the minimum lot area per dwelling for this use;
- Confirm a maximum height (for their project 50 feet was suggested).

To address the staff and Planning Board suggestions:

- Remove the requirement that the R5A zone be applied through the contract zone provisions;
- Streamlining the definition of "net land area" to meet current development review practices;
- Removal of unnecessary text and placing the dimensional requirements into a table;
- Simplification of the text as far as possible while ensuring clarity.

The Planning Board's recommended text amendments are listed below along with summary statements that highlight the source and purpose of the proposed text amendments. The full text of the existing ordinance and all amendments (including all strikeouts) are included in [Attachment 1](#).

A. Definitions - Sec. 14-47. Definitions.

1. Congregate Care Definition

Congregate care facility: A ~~planned~~-residential ~~unit~~-development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;

- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Summary: The proposed addition of “dwelling units” and removal of the PRUD requirement allows for greater flexibility of multi-unit development for senior living projects generally. The distinction between living units and dwelling unit is whether there are full kitchen facilities. The Planning Board requested the addition of a definition for Living Unit (see below).

2. New definition for Living Unit:

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Summary: A living unit would not have cooking facilities and this is a characteristic of the Ocean Avenue proposed congregate care project which envisions that all meals would be provided centrally.

3. Net Residential Density Definition

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
[Definition of “inaccessible areas” to be removed- see Att 1 for full text of this definition]
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

Summary: The Planning Board has recommended revisions to the zoning ordinance to streamline and clarify the text. For this proposal, the Board supported streamlining the definition and providing more clarity to developers in calculating the residential density for all planned residential unit developments in any zone and applies to other types of residential development in the R-5A zone. The proposed edits eliminate the following deductions contained in the Net Residential Density:

- 1) stormwater retention and detention areas, which are deductions for required site improvements and infrastructure that cannot be determined at the start of a project;
- 2) inaccessible areas, which is a defined term in the code with limited applicability;
- 3) areas encumbered by existing easements, dedications or similar restrictions; and
- 4) a general 20% deduction, which is assumed to be calculation to cover the road infrastructure.

These provisions are difficult to assess and become apparent or determined as a project moves forward. The provisions limit the build out potential for parcels and are not directly related to the site's natural amenities or natural constraints. The removal of these deductions from the overall land area would encourage moderate density housing off the peninsula.

The Board determined that the 20% deduction (which potentially would help retain open space) should be replaced with a specific open space requirement elsewhere in the text. The R5A open space requirement for PRUD'S is stated in the dimensional standards and calls for 200 square feet per dwelling unit and the proposed amendments maintain that requirement and also apply it to multifamily development over 4 dwelling units and congregate care.

B. Permitted Uses - Sec. 14-127. Permitted uses.

There are no changes proposed for the purpose statement. Below is an excerpt of the R-5A zone is below with the proposed revisions to the permitted uses. Please refer to Attachment 1 for the full text of R-5A.

(a) *Residential:*

1. Single, two-family and three-family dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.

6. Multifamily dwellings;

7. Congregate Care.

Summary: The R5A zone currently allows single, two, family and three-family structures. No changes are proposed for the one, two and three family dwellings as a permitted use but the dimensional requirements have been amended to clarify the distinction between a development that includes a 3- family dwellings and multi-family development, because the existing definition of multifamily dwelling is "...containing three or more dwelling units".

The applicant has requested and the Board supported adding multifamily dwellings as a permitted use, in order to build greater flexibility to address the continuum of senior housing. The R5 zone permits multiplex housing, but it does not list multifamily housing, as it is listed in R6 and R7. The multiplex housing is defined in R5 as follows:

Multiplex development with three (3) or more horizontally or vertically attached dwelling units or a series of such attached dwelling units and the construction of at least one (1) building on a parcel of less than two (2) acres, provided that:

- a. The land area requirement for a multiplex shall be six thousand (6,000) square feet of land area per dwelling unit; except that a multiplex with two hundred fifty (250) feet or more of street frontage needs only forty-five hundred (4,500) square feet of land area per dwelling unit;*
- b. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;*
- c. No open outside stairways or fire escapes above the ground floor shall be constructed;*
- d. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units;*
- e. Such development shall be subject to article V (site plan) of this chapter for site plan review approval and shall conform to the R-5 Design Standards.*

The R5A zone seeks to promote moderate density housing, so including multifamily housing as a permitted use, rather than a multiplex, is proposed as part of the text amendment, along with associated dimensional standards (see below).

The applicant has requested and the Planning Board supported adding "Congregate care" as a permitted residential use in the R5A zone. The city's definition fits the type of facility that the applicant is seeking to construct in the latter phases of the project. The R5A zone does permit intermediate, extended and long-term care facilities under the category of "other permitted uses", but as defined, all of these facilities must include a medical component. In all of the other residential zones, the intermediate, extended and long term care facilities are listed as institutional uses (see table in Section VII C below).

Planned residential unit developments (PRUD) are also permitted along with handicapped family unit, and manufactured housing (Attachment 1 for full text). The R5A zone was created as a floating zone and it is under the PRUD provisions, which stipulates the R5A zone for a PRUD is to be implemented through a conditional or contract zone. A conditional zoning agreement was used for the Graves Hill condominiums at 802 Ocean Avenue and for the Canco Woods assisted living and independent units on Canco Road. The Board is recommending that the conditional zoning requirement for PRUDs be deleted, so that R5A map amendments may be designated for appropriate off-peninsula sites, such as this site and the Ocean Avenue site.

C. Dimensional Standards for R5A

The proposed revisions to the R5A dimensional standards are listed below and comments follow. These have been converted to a table similar to those recently included in the B-2 and R-6 zones (below):

<u>Minimum Lot Size</u>	Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres ¹										
	Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area										
	Intermediate, extended or long-term care facilities: 1 1/2 acres.										
<u>Min. Lot Area per D.U.</u>	Single-, two- and three-family dwellings: 1,600 SF.										
	Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.										
<u>Min. Lot Area per Resident</u>	Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.										
<u>Min. Street Frontage</u>	50 feet.										
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings</u> ²	1. Front yard: Principal or accessory structures: 25 feet. 2. Rear yard: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. 3. Side yard: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: <table border="0"> <thead> <tr> <th>Height of Structure</th><th>Required Side Yard</th></tr> </thead> <tbody> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </tbody> </table> 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	Height of Structure	Required Side Yard	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
Height of Structure	Required Side Yard										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. 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 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.

	be less than ten (10) feet. b. Accessory detached structures with ground coverage of one hundred and forty-four(144) square feet or less: 5 feet. 4. Side setback on side streets: Principal or accessory structures: 20 feet.
Maximum Structure Height	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.
Max. Lot Coverage	30%
Minimum Lot Width	60 feet
Minimum building setback from external subdivision property lines	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. Building length of one hundred (100) feet or less: 25 feet. b. Building length of greater than one hundred (100) feet: 35 feet.
Minimum recreation open space area	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.

Summary:

- **Minimum lot size:** The current residential minimum lot size for a 1, 2 or 3 unit building is 6,000 square feet. The reference to three unit buildings overlaps with the definition of “multifamily” (which includes “...3 or more dwelling units”) so the proposed amendments retain the minimum 6,000 square foot lot, which is calculated on the gross land area and not the net land area. Since the zone is to support moderate density and preserve natural amenities, the proposed text amendments reflect the current R-5 multiplex standards and cap the lot area at 2 acres to ensure that moderate densities are encouraged while simultaneously preserving natural amenities. Thus a lot with less than two acres could be developed based upon the gross land with 1, 2 or 3 unit buildings at the density of 1,600 per unit. Large multifamily developments would be developed under the net residential density provisions. The proposed minimum lot area required for a PRUD is 2 acres, which is consistent with the R5 zone.
- **Minimum lot area per unit:** The current R5A requirement is 1,600 sq ft for dwelling units and PRUDs. Currently only one, two and three family units are allowed as residential units. The current draft proposes that the 1600 square foot per dwelling unit would apply to all residential and congregate care proposals. The residential development of one, two and three unit developments on lots between 6,000 sq ft and two acres, would be calculated on the gross land area. All other proposals would be calculated on the net residential area. The density provisions for intermediate care facilities are the requirements that had been in place for such uses in the R6 zone prior to its recent update, which allows for greater density in the R6 zone. The provisions are proposed to be consistent with the goal for moderate density.
- **Minimum Street Frontage:** The amendments simplify this standard to state 50 feet, which would then apply to all uses.
- **Maximum Structure Height:** The R5A zone does not contain any height limits, which were to be determined during the conditional zone process. The proposed text amendments add in the height requirements of the R5 zone for all structures except the principle structure (and attached accessory structures) in PRUD, multifamily development, Congregate Care and the institutional uses of

intermediate, extended or long-term care facilities. For these uses a 55 height limit is proposed as this is requested by the applicants for the McAuley Place project. This is a reduction from their initial proposal, which was 60 feet, and is consistent with the R5 permitted height for colleges, universities and trade schools on lots of at least 10 acres.

- **Minimum Building Setback from external property lines:** The minimum setbacks from external property lines are proposed to be consistent with the setbacks applied to PRUD's in the R5A zone.
- **Minimum Recreation Area:** The R5A currently specifies the minimum recreation space required for a PRUD as 200 sq ft per dwelling unit, and this requirement has been extended to multifamily and congregate care development. The amendments propose deleting the text that defined what the recreation space would be in order to simplify the language and allow for more flexibility. This amendment is suggested as being more predictable and proportionate than relying on the lot coverage percentage, which leaves the question of parking out of the equation as lot coverage has been interpreted in the past by the Zoning Administrator to include only structures.

D. Section 14-523 [Site Plan] Required approvals and applicability.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.

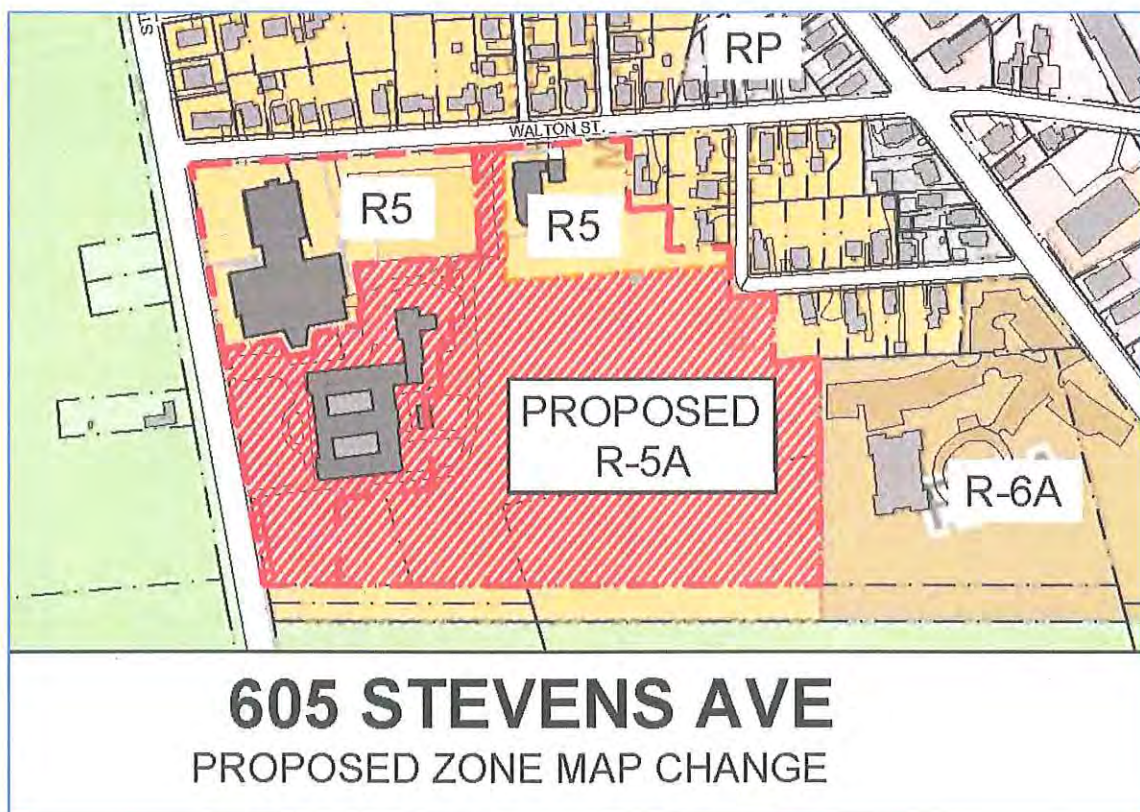
- **Summary:** The Planning Board recommends that an amendment to the Site Plan Ordinance be adopted, which allows the provisions for Master Development Plan to apply to multi-family, congregate care and facilities for intermediate to long-term care in the R5A and R6A zones. A Master Development Plan for the overall site is a mechanism to ensure coordination of access, parking, traffic and pedestrian facilities, stormwater management etc. and to clarify phasing. The current ordinance does not allow this mechanism to be used for residential uses; it only permits the Master Development Plan for institutional uses. While the assisted living (or intermediate care under the City's definition) is an institutional use, the staff felt it was important to clarify and expand the applicability under the Site Plan Ordinance to include the residential uses in R5A and R6A zones.

VIII. REVIEW AND ANALYSIS

A. Map Amendment

The applicant has a Purchase and Sale Agreement for the entire site of approximately 18 acres owned by the Sisters of Mercy at the corner of Stevens Avenue and Walton Street. The proposed Map Amendment from R5 to R5A applies to 13.53 acres within this wider area because the rezoning is not requested for Catherine McAuley High School nor for the St Catherine's residence on Walton Street. The area for the Map Amendment is shown on the plan below (extract from Plan P2).

These two existing buildings would have new lot boundaries so that they are separate from the site that is proposed for a senior housing community (including some affordable senior housing). Both would remain conforming uses within the R5 zone.



B. Rezoning from R5 to R5A

The purpose statement for R5A is as follows:

To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the ability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

The proposed use includes affordable housing and addresses the growing housing needs of senior citizens with a multifamily and congregate care facility. This site addresses the applicable locations for the R5A zone and is surrounded on two sides by large areas of open space that balance the moderate density. The proposed density is 330 dwelling units over 12.26 acres (based on 1600 sq ft of land area per dwelling unit, based on net land area).

Several of the text amendments are based on existing text/dimensions currently in the R5 and R5A zones, as can be seen in the table on the next page. In addition it can be seen that the R5 zone would potentially allow colleges and hospitals on the site at 605 Stevens Avenue, whereas these are not allowed in the R5A zone.

TABLE 1: COMPARING R5 TO R5A AND PROPOSED R5A (excluding setbacks)			
	R5 (14-116) (Existing Zoning Text)	R5A (14-126)(Existing Zoning Text)	R5A AS PROPOSED TO BE AMENDED (14-126)
Purpose Statement	To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.	To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.	To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.
Residential permitted uses	• Single and 2-family • Multiplex (= or > 3 attached dwelling units) • PRUD • Handicapped family unit • Single family manu. hsg (with conds)	• Single, 2 & 3 family • PRUD thru Contract Zone • Handicapped family unit • Single family manu. hsg (with conds)	• Single, 2 & 3 family • PRUD (not with contract zone) • Multifamily dwellings • Congregate Care • Handicapped family unit • Single family manu. hsg (with conds)
Other permitted uses	• Parks and rec spaces • Accessory uses • Home occupation • Municipal uses • Special needed living units • Wind energy systems	• Parks and rec spaces • Accessory uses • Home occupation • Municipal uses • Intermediate, extended and long term care facilities • Wind energy systems	• Parks and rec spaces • Accessory uses • Home occupation • Municipal uses • Intermediate, extended & long term care facilities • Wind energy systems
Conditional Uses - Residential	• Sheltered care group homes (subject to conds) • Subdivision of existing structure not in res use as of 1.1.1984 to 3+ dwelling units, du >600 sf and 3000 sf land area/du • Conversion 2-family/multiplex to lodging houses • Alt s/f existing as of 9.3.2008 to have accessory du (subject to conds eg >10 acres)	• Sheltered care group homes (subject to conds)	• Sheltered care group homes (subject to conds)
Conditional Uses - Institutional	• School • Long term & extended care facilities • Intermediate care facility for 13 or more persons • Places of Assembly • Hospital • College, university or trade school (allowed up to 55 feet if meet conds)		

	R5 (14-116) (Existing Zoning Text)	R5A (14-126)(Existing Zoning Text)	R5A AS PROPOSED TO BE AMENDED (14-126)
Conditional Uses - Other	• Off street parking • Utility substations • Day care facilities (subject to conds) • Temp wind anemometers	• Utility substations • Nursery schools and kindergartens • Day care facilities (subject to conds) • Temp wind anemometers • Wind energy systems	• Utility substations • Nursery schools and kindergartens • Day care facilities (subject to conds) • Temp wind anemometers • Wind energy systems
Minimum Lot Size	• Res: 6000 sf • Long term care or Intermediate: 2 acres • Multiplex: 9000 sf • PRUD: 2 acres • School: 30,000 sf • Lodging houses: 9000 sf • (no min lot area for uses listed other than res in existence 6.1.1983)	• Res: 6000 sf • PRUD: 3 acres gross • Intermediate, extended or long term care facilities: 1.5 acres	• Res: 6000 sf • PRUD, multifamily over 4 du & Congregate Care: 2 acres gross • Intermediate, extended or long term care facilities: 1.5 acres
Min. Lot Area/ Dwelling Unit	• Multiplex (attached units) with over 250 ft frontage, 4500 sf (otherwise 6000 sf) and no unit less than 600 sf and max of 6 units in a building • PRUD: 3000 sf of net land area and max of 12 units in a building • Special needs living units: 3600 sf with over 250 ft frontage (otherwise 4800 sf) Lodging House: 1000 sf • Other uses: 3000 sf (plus mins/maxs for floor areas)	• Res: 1600 sf • PRUD: 1600 sf of net land area	• Res: 1600 sf • PRUD, multifamily over 4 du & Congregate Care: 1600 sf of net land area • Intermediate Care Facility: 8000 sf gross land area for first 35 residents; 350 sf for each add'l resident
Maximum Lot Coverage	40%	30%	30%
Maximum Height	35 feet	Not listed	• Principal or attached structure for 1, 2 ad 3 family: 35 ft • Accessory detached structure: 18 ft • Principal or attached accessory structure for PRUD, multifamily over 4 du & Congregate Care, intermediate, extended or long-term care facilities: 55 ft
Minimum recreation OS required	For PRUD: 300 sf per dwelling unit (min of 6000 sf)	For PRUD: 200 sf per dwelling unit (min of 6000 sf)	For PRUD, multifamily over 4 du & Congregate Care: 200 sf per dwelling unit

C. Other R5A Locations

The R5 Residential zone is the medium-density residential zone located off Portland's Peninsula. It encompasses portions of East Deering, Deering Center, North Deering, Rosemont, Outer Congress Street, and Riverton. The R5A zone was created as a floating zone and it is applied to a site through a conditional zoning agreement for PRUD development. The R5 zones are found along several of the city's collectors and arterials, such as Washington Avenue, Allen Avenue, outer Congress Street, and near the Forest Avenue corridor, which may offer opportunities for a moderate density infill project.

There are two R5A zones in Portland at present (a Zoning Map will be available at the hearing for reference):

- Graves Hill, 802 Ocean Avenue (Conditional Zone Agreement-C-34): This is the agreement that regulates the site of the proposed Portland Retirement Residence. It appears to be the first agreement to utilize the R5A map designation.
- Canco Woods (Conditional Zone Agreement- C-42): It appears as if Canco Woods was the second conditional rezoning agreement that zoned the land to R5A. This project was developed by Holiday Retirement Corporation, which includes some of the same members of the development team as the current Portland Retirement Residence proposal. That proposal included rezoning a portion of the property to ROS and to R5A to allow for a retirement residence and an assisted living facility. At that time there was a proposed text amendment to allow intermediate, extended and long-term facilities with a minimum of 1.5 acres in the R5A zone.

As noted above, the Board has a pending application before it for a request to rezone of 802 Ocean Avenue, which includes natural amenities features on-site.

D. R5A Implementation

The existing R5A zone was envisaged as an overlay zone in which multifamily development would be implemented via a conditional rezoning agreement associated with a PRUD - Planned Residential Unit Development. A conditional zoning agreement was used for the Graves Hill condominiums at 802 Ocean Avenue and for the Canco Woods assisted living and independent units on Canco Road. Therefore the existing R5A zone did not include many dimensional requirements, including a maximum height.

The proposed text amendment removes the existing requirement for a conditional rezoning agreement that was the implementation mechanism for the original R5A overlay zone, so the zone can be applied as a map amendment. The amendments add multifamily dwellings and congregate care to the PRUD as forms of multifamily development, and clarifies the associated dimensional requirements.

E. Evolution of use definitions in the ordinance

The Planning Board evaluated the current ordinance definitions and associated zone classifications and dimensions for the various related uses. As context, the two tables below show the current ordinance terms and the zones in which they have been included:

Terminology and Definitions

<i>Terms currently in use</i>		<i>Terms currently in the City's Land use ordinance</i>	
Age restricted housing	Residential; non-medical; not licensed	Congregate care	Residential; non-medical; not licensed; support services; 55+
Independent living/congregate Care	Residential; non-medical; not licensed	Congregate care	Residential; non-medical; not licensed; support services; 55+
		Lodging Houses	Building containing 2 or more rooming units (defined without full kitchens or bathrooms) with common kitchen unless meals provided (considered institutional or other)
		Special needs independent living unit	A dwelling unit for persons with special social, physical or mental needs beyond strictly economic needs & provided with required levels of supervision, care and/or counseling services appropriate to their special needs (institutional or other)
Assisted Living	Includes medical services; licensed	Intermediate Care Facility	Includes medical services; licensed (considered institutional)
		Long term or extended care facility	Full time health or convalescent care for 9+ persons; licensed (considered institutional)

Summary of Portland's Ordinance

Use/Zone	R-1		R-2		R-3		R-4		R-5		R-5A		R-6		R-6A	
	P	CU	P	CU	P	CU	P	CU	P	CU	P	CU	P	CU	P	CU
Residential																
Single family	X		X		X		X		X		X		X			
Two-family							X		X		X		X			
Three -family											X					
Multiplex (> 3 du)							X		X							
PRUD									X		X					
Multifamily													X			
Institutional or Other																
L, I & E Care Fac.		X (1 =13)		X (1 =13)		X (1 =13)				X (1 =13)	X			X		
Special Needs Living Unit							X		X							
Conversion to Lodging House										X						
Lodging House															X	

The Director of Planning has provided a note on the Policy of Institutional Uses in Residential Areas (Att. 3) and quoted below in full:

Policy Regarding Institutional Uses in Residence Zones

The issue of institutional uses in residential zones was of great concern in the early 1980's in Portland. At that time we had three hospitals undergoing or considering expansion plans, schools and colleges were taking over residential properties to expand, and the impacts of these and other institutions on their surrounding neighborhoods were the subject of planning and regulation. The scale of the buildings and campus of institutions is generally larger than that of surrounding neighborhood uses. The operating characteristics of institutions typically involve more traffic and at longer hours than typical residential uses, due to employee presence and the comings and goings of students, patients, visitors, trucks with supplies, and for medical facilities, ambulances. The outcome of that effort is embodied in the Comprehensive Plan in the form of the following goal statements (*Portland's Comprehensive Plan; Updated 2005; Page 48*):

Goals

- Institutional uses, where they are to be allowed in residential zones, should be designated conditional uses with review before the Planning Board.
- Any new institutional use should be required to have a lot size of sufficient area to accommodate all activities, including parking and to absorb impacts and growth needs of the institution.
- Reasonable expansion of existing institutions should be accommodated, but effective use of existing lot area should be required.
- For both new development and expansion of existing institutions, the displacement or conversion of existing dwellings should be avoided, and that an institutional development proposal that causes significant residential displacement should be cause for denial of conditional use approval.

In the R-5 zone, the institutional conditional uses include:

- Elementary, middle, and secondary schools
- Long-term and extended care facilities
- Intermediate care facility for thirteen or more persons
- Places of assembly (previously categorized as places of worship, private clubs and fraternal organizations, community halls, etc.)
- Hospitals
- College, university and trade schools

The Board has asked why intermediate, long term and extended care facilities are classified as institutional uses rather than as residential uses. Long term and extended care facilities are essentially the same thing as nursing homes. Intermediate care facilities are similar but do not provide the same level of health and medical services as nursing homes, but do provide a substantial level of care above the level of meals and housekeeping, and might for example include personal care such as bathing, dressing, and medication management. Our definitions are intended to be general enough that as the state licensing categories evolve, and the trends for care facilities evolve, such as the prevalence of “memory homes” for example, our categories will still be relevant. The policy rationale for the zoning treatment as institutions remains the scale of the buildings, the characteristics of the operations which exceed typical residential patterns, and the propensity for expansion and potential displacement of residences. We have updated the regulations over time, such as the reclassification of several uses under the category of places of assembly, and the allowance for multiple scales of this use category, which was motivated in part by the recognition that these uses have highly variable scale and one minimum lot size was not an adequate solution, and in part to ensure that we are in compliance with federal regulations (RILUPA).

This question of policy has arisen in this context of R5A rezoning because the congregate care use appears to have some similarity to the intermediate care use. Congregate care is classified as a residential use and not subject to the institutional conditional use standards, while intermediate care facilities are regulated as institutions. This is where the line is currently drawn. It might be appropriate to shift the ICF use into the residential category, or to more broadly revisit the institutional growth management policies and regulations. We do not recommend that these considerations must necessarily be addressed prior to resolving the two R-5A proposals presently before the Board. Any further planning effort in this regard would need to be weighed against other priorities and scheduled accordingly.

F. Density considerations and traffic

The Planning Board analyzed the maximum build-out (market – rate housing) of the rezoned area based on the existing zone R5 and the two zones under consideration. The following table reflects the recent Conceptual Master Plan ([Plan P3](#)) and submitted Traffic Memos:

Table 2: maximum allowable densities and associated trip generation

	Zone 5 (existing zone)	Zone R5A (existing ordinance)	Zone R5A (proposed amended ordinance)	Zone R6A (existing ordinance)	Proposed Senior Housing as in Plan P3
Maximum density	131 dwelling units	368 dwelling units	334 dwelling units	492 dwelling units	330 dwelling units
Maximum build-out trip generation (total trips per day)	872	2448	2221	3272	1136*
Maximum build-out peak hour (highest in day)	81-88 (see Att L)	228-247 (See Att L)	224	330	127* (revised to 91 if assisted living units were part of the mix see Att L

**See Tom Errico comments below.*

The applicant’s traffic consultant and Tom Errico have been in discussion regarding the development of the traffic data as described in the letter in [Attachment I](#), with specific Traffic memos submitted as follows:

- April 29th memo summarizing questions of older driver safety and accident data ([Att J](#)).
- May 4th memo including vehicle counts and key intersection capacity analysis ([Att K](#))
- May 6th memo responding to Tom Errico’s questions – summarizing trip generation figures for the maximum build out ([Att L](#)).

Mr Errico has commented as follows ([Attachment 5](#)):

The following represents a status update of my April 9th comments and represent a review of additional information provided by the applicant as it relates to traffic generation and analysis.

- *Maine Traffic Resources conducted a Trip Generation analysis that compared build-out scenarios under existing and proposed zoning. In general I find the methods to be acceptable with the following comments.*
 - *The general conclusion is that a Traffic Movement Permit will be required for the project given traffic generation projections.*
Status: The project will be required to obtain a Traffic Movement Permit (TMP) given trip generation information.
 - *It would be my expectation that the detailed traffic study would extend beyond the site driveways as noted in the Memo. During preliminary discussions the traffic study would likely include an evaluation of roadways and intersections including Steven Avenue/Walton Street, Walton Street/Forest Avenue, and Stevens Avenue/Pleasant Street. The final study area to be evaluated will be determined at the Traffic Movement Permit Scoping meeting.*
Status: The applicant has conducted a preliminary traffic analysis of the above noted intersections during the commuter AM and PM peak hours. The analysis was based upon recent traffic counts and adding traffic from the proposed project. The results of the analysis indicates the above noted intersections are projected to operate at acceptable levels of service following project completion. I would note that the applicant has assumed all signals are optimized and functioning well from a vehicle detection perspective. Additionally, other un-built development traffic was not included in the analysis. My take away from the analysis is that the intersections have adequate capacity to accommodate the additional traffic from the project. With that said, the final analysis will need to look at multimodal conditions, adding traffic from other approved un-built developments, and specifically accounting for existing traffic signal equipment conditions.
 - *The trip generation comparison between the current R5 zoning and the proposed R5A zoning seems reasonable. As noted the change in zoning under a worst-case build-out would add a maximum of 159 trip to and from the site during the PM peak hour. An R5A zone maximum build-out trip level would likely require a more extensive traffic impact study given that it would exceed 200 trips in a hour.*
Status: The applicant has provided an updated trip level comparison. The data indicates that the project is estimated to generate 63 AM peak hour trips and 91 PM peak hour trips. Under the proposed R5A zoning, the applicant has estimated the site could generate 188 AM peak hour trips and 228 PM peak hour trips, assuming 368 general apartments are constructed. The preliminary traffic capacity analysis did not assess the implication of a general apartment construction scenario, but as noted above there appears to be sufficient capacity to handle the noted traffic levels from an intersection capacity perspective.
 - *The estimate for the proposed Senior Housing Build-out is based upon ITE trip generation data that I do not find to be acceptable (the trip rates are based upon small sample sizes). One possible option would be for the applicant to conduct a trip generation survey at similar sites in the area to better predict traffic levels from the proposed project. With that said the general order of magnitude of the trips would not be expected to change significantly. The trip generation numbers will need to be modified during the preparation of the comprehensive traffic study.*
Status: The applicant conducted a survey of traffic at a similar project in Topsham and concluded that the ITE trip generation data reasonably estimates traffic for the project. I concur with the applicants conclusion that the trip generation estimate seems reasonable, although the trip generation methods will need to be reviewed during Site Plan and TMP permitting.
- *The development of the comprehensive traffic study will need to include traffic associated with un-built developments such as Park Danforth. During the traffic scoping meeting we will direct the applicant on*

traffic that needs to be included in their traffic analysis and what infrastructure plans that should be assumed (if any).

Status: This continues to be a valid issue that will need to be addressed during development of the formal traffic impact study.

- A safety analysis will be required as part of the comprehensive traffic study. The analysis will review locations in the area that either are classified as High Crash Locations (HCL) per MaineDOT criteria or have other noted concerns (e.g. pedestrian crashes, high frequency, etc.).

Status: The applicant has not reviewed safety data for the project area. During the traffic study process, we will request a detailed safety analysis at High Crash Locations and may request analysis at non-HCL locations due to other safety factors such as pedestrians crashes, types of collisions, or number of crashes.

- The project will be required to evaluate conditions (parking, access, sidewalks, ADA compliance, crosswalks, etc.) along Stevens Avenue and Walton Street. This review will be performed, at least, along their property frontage).

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

- A detailed pedestrian evaluation will be required as part of the project in terms of site provisions and conditions in the study area. This will include a review of METRO bus stops and how to integrate transit opportunities into the project.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

- In conjunction with the development of a traffic study that complies with MaineDOT Traffic Movement Permit requirements, the applicant will be required to assess existing and post-development roadway and intersection capacity/congestion conditions and if unacceptable conditions are identified, the applicant would be required to identify mitigation strategies for implementation. In addition, a Safety Analysis will be required that will review existing crash data and if safety deficiencies are identified, a mitigation plan would be required for implementation.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

The applicant has provided additional information on Senior Drivers, Transportation Programs at Senior Communities, and a proposed Parking Management Plan. My comments are noted below.

- The applicant, through their research, has concluded that at driveways of senior community developments in Maine the data suggests older drivers do not as a group, statistically pose a safety threat. I'm not sure the data is conclusive, and I need to further review, but what I believe to be very important is the implementation of an extensive site Transportation Demand Management Program that will allow occupants of the development to have alternative transportation options. Accordingly, in my professional opinion a very detailed Transportation Demand Management Program will be required for this project.
- The applicant summarized examples of Transportation Programs at other Senior Communities and similar programs will be programmed at the proposed site. As noted above, I believe a comprehensive TDM plan will be required that not only includes on-site transportation options, but also offers incentives for METRO use. The details of the TDM plan will be identified during Site Plan permitting.
- The applicant has noted that they are confident that they can reasonably predict the parking supply for the project such that it does not impact the abutting public streets. I concur with this conclusion and believe that during the Site Plan permitting process the parking lot can be designed to accommodate site specific parking requirements.

G. Height and Massing issues

The Planning Board and members of the public were concerned about the proposed height and associated massing in relationship to the Motherhouse and to the wider neighborhood.

The cover letter from Licht Environmental Design (Attachment I) explains that the submitted Height Study and Massing Studies (Plans P4 and P5) were based on the current proposal of approximately 206 dwellings within the new buildings and meet the proposed R5A dimensional standards. They represent an indicative layout of 4 and 5 story buildings set within open space and playing fields. The overall density (assuming rehabilitation of the entire Motherhouse building in the future) would be at or less than the maximum allowed under the R5A zone as amended.



There are three other graphics in Plan P5 similar to the one above, each from a different perspective. The Board's recommendation took account of this information and noted that the Master Development Plan and Site Plan reviews would address detailed aspects of the building layout.

H. Stormwater and Ecology

A number of neighbors asked questions regarding the impacts of this scale of development, and associated underground parking, on the stormwater and groundwater regime and whether it would impact the ecology of the adjacent Baxter Woods. The applicant has addressed this question in the letter from Licht Environmental Design (Attachment L). The Board considered that these issues could be satisfactorily addressed during the review of the Master Development Plan and associated Site Plans.

IX. COMPREHENSIVE PLAN ANALYSIS

The Planning Board found the proposed text amendments to be consistent with the Comprehensive Plan. Goals and policies which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
 - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
 - viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes;
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.

- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

An Addendum to the Planning Board dated May 12, 2015, was referenced in the Board's motion as part of their findings and the entire Addendum is included below and attached as the first attachment to this Report:

ADDENDUM

I. Portland's Comprehensive Plan

Volume I of Portland Comprehensive Plan contains the Community Vision, goals and policies sorted according to the State's 10 goals, and the inventory and analysis of the plan. Volume II contains the following: 1) Implementation Measures and Major Initiatives; 2) Future Land Use Plan; 3) Regional Coordination program; 4) Capital Improvement program; and 5) Appendix.

II. Growth and Rural Areas of Future Land Use Plan

(continued next page)

Under Portland's Future Land Use Plan contained within Volume II, the state's growth management definitions for growth and rural area in 2005 were listed. Following is the excerpt of those definitions from the Comprehensive Plan.

Growth Areas:

The land use plan must designate as "growth area" those land areas within the municipality into which the municipality intends to direct the future growth and development planned to occur during the planning period. Use designation of growth areas is intended to ensure that planned growth and development is directed to areas most suitable for such growth and development and away from areas in which growth and development would be incompatible with the protection of rural resources. Land areas designated as "growth area" must be consistent with the following provisions.

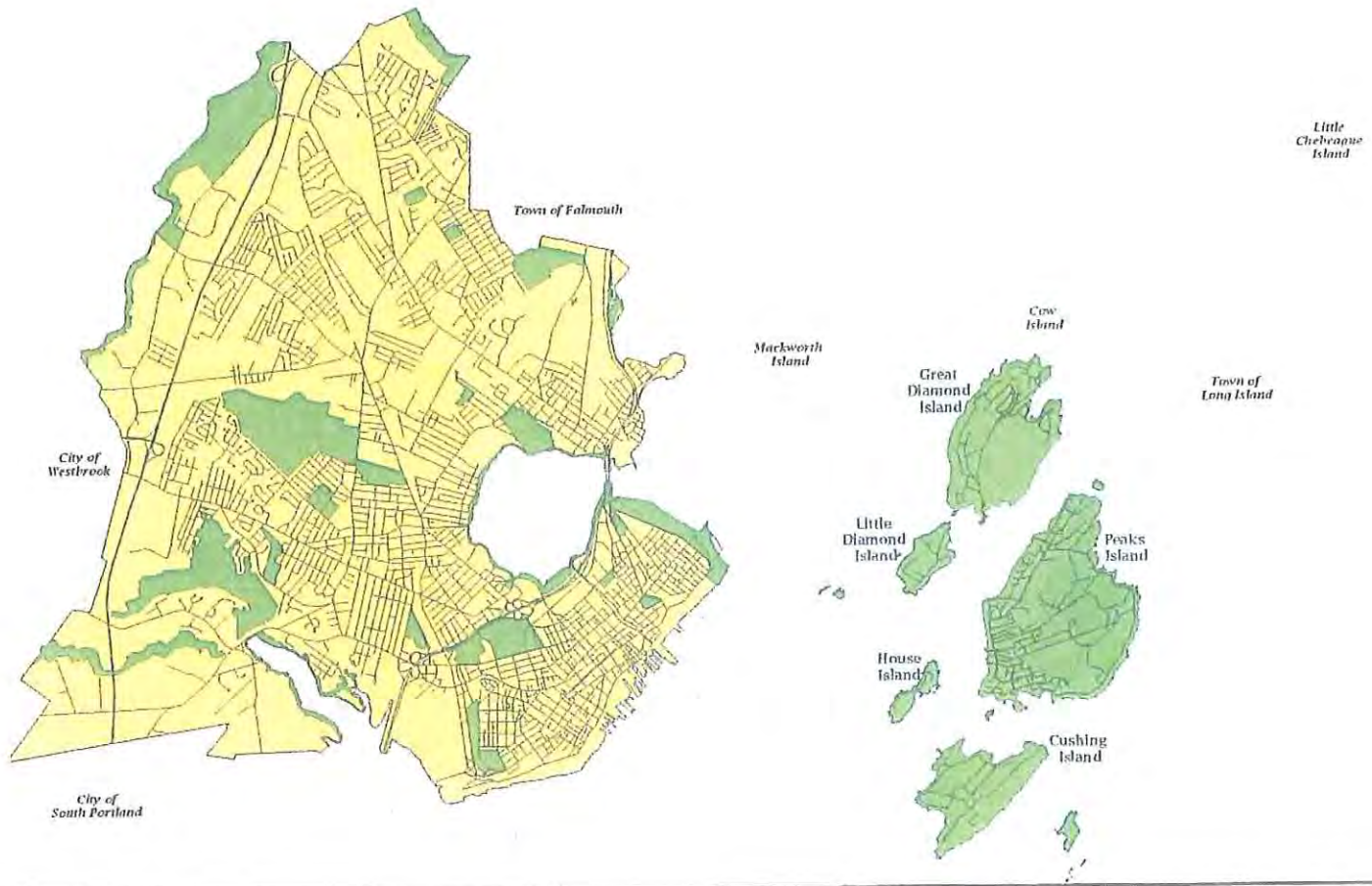
1. Growth areas must be limited to land areas within which public facilities and services are efficiently provided or can be efficiently provided during the planning period.
2. Growth areas must be limited to land areas that are physically suitable for development or redevelopment. (Growth areas may include land areas that are physically unsuitable for development or redevelopment if such areas such as a river, stream, floodplain, small natural hazard area, small lake, or small critical natural resource area run through or are located in the middle of a growth area.)
3. Growth areas must include enough land area suitable for development or redevelopment to accommodate all growth and development planned to occur during the planning period, based on the plan's policies and implementation strategies.
4. Growth areas must be limited to an amount of land area and a configuration that will encourage compact, efficient development patterns and discourage development sprawl and strip development along roads.

Rural Areas:

The land use plan must designate as "rural area" those land areas within the municipality within which the municipality intends to protect agricultural, forest, scenic areas, and other open space land areas from incompatible development. The designation of rural areas is intended to provide for the long-term protection of resource production and open space and scenic lands from incompatible development. Land areas designated as "rural area" must be consistent with the following provisions.

1. Rural areas must include agricultural and forest lands important to the local or regional economy.
2. Rural areas must include land areas consisting of large areas of contiguous open space, farmland, or forestland. They must include land areas in which the predominant pattern of development is intended to consist of very low intensity development broadly dispersed within what would otherwise be a rural landscape. They must also include land areas containing other rural resources that significantly contribute to the municipality's rural character.
3. Rural areas must include land areas in which the municipality can ensure that the level and type of development will be compatible with maintenance of rural character and will not constitute or encourage development sprawl or strip development along roads.
4. Rural areas may include, but may not be limited to, land areas containing natural resources and scenic open spaces that are intended to be protected.
5. Rural areas may not include land areas in which a significant portion of the municipality's future residential development is planned to occur. Nor may they include land areas in which the municipality plans the occurrence of large-scale or widespread residential development that would alter the municipality's rural character.

Portland designated zoning classifications under the categories of growth and rural. In the plan is Table 2, which lists Portland Growth and Rural areas by zone. Residential R-5A is a designated growth zone, along with the residential zones 1 through 7, contract zones, office zones, business zones, industrial zones and waterfront zones. The rural areas include the conservation zones of Resource Protection and ROS (Recreation and Open Space) and all of the Island zones. The map of the growth and rural areas



GROWTH & RURAL AREAS CITY of PORTLAND, MAINE

Growth Areas Rural Areas

is included on the next page. Baxter Woods is listed as a rural area and the McAuley Place site is located within the designated growth area.

III. Future Land Use Plan - R-5A Residential Zone

The full excerpt of the R-5A description under the section of the comprehensive plan titled Growth Area by Zoning Classifications in Portland Residential Zones is as follows:

7. R-5a RESIDENTIAL

Location: There is one R-5a zone along Canco Road that encompasses an elderly housing complex.

Current and Proposed Zoning: All land currently zoned R-5a.

Discussion: To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

The permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed. The other significant difference is that PRUDs may be developed at a higher density. PRUDs in an R-5a zone require a minimum of 3 acres and a minimum net land area of 1,600 square feet per unit compared to 3,000 square feet in the R-5 zone. The R-5a is applied through rezoning when a site and development proposal meets the intent of this zoning classification. This would be a tool for encouraging more housing in specific neighborhood locations as determined through the city's neighborhood based planning program and recommended in Housing: Sustaining Portland's Future. Potential text amendments will be considered to update the residential zones in conformance with the recommendations of Housing: Sustaining Portland's Future.

As stated in the description written in 2005, the R-5A is applied through rezoning within a site and development proposal meets the intent of this zoning classification. The description does not specify that it would be through a contract or conditional rezoning; however, that is included in the PRUD provisions with the R-5A zone. As stated in the above description, the R-5A would a tool for encourage more housing in specific neighborhood locations as recommended through neighborhood plan and as recommended in Housing: Sustaining Portland's Future. It is noted that "potential text amendments will be considered to update the residential zones in conformance with the recommendations of " Housing: Sustaining Portland's Future."

IV. Goals, Policies and Actions of Volume I: Portland Comprehensive Plan

Public comments have been received in opposition to the proposed rezoning and the submission from Peggy McGehee and Lauren Weliver from Perkins/Thompson on behalf of Ms. Bobbi Cope (refer to PC 26). Please refer to the applicant's submission for their analysis.

Below are the goals and policies of the Comprehensive Plan cited in the Planning Board report:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
 - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
 - viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes;
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

In addition, the Planning Division cites the following goals and policies from Housing; Sustaining Portland's Future for the Planning Board's consideration of consistency with the comprehensive plan:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

- Objective 1a. Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following: (cited above with policies)
 - Actions
 - Evaluate and update current zoning to incorporate flexible provisions and incentives to encourage all types of housing. Establish zoning provisions that enhance neighborhoods with compatible and high quality housing developments.
 - Develop financial incentives, partnerships, zoning incentives and non-regulatory options to increase the diversity of Portland's housing stock.
- Objective 1b. A variety of housing choices should be available such that no one should have to spend more than 30% of their income for housing.
 - Maintain Portland's current proportion of subsidized units to its total housing stock. Establish a target of at least 20% of the total number of new housing units will be subsidized for households earning 80% or less of the region's median income.
- Objective 1d. (above from report)
 - Actions
 - Support a variety of affordable rental options for senior citizens.

Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.

- Objective 2c. Target vacant buildings for maintenance, rehabilitation and reuse.
 - Seek creative and architecturally compatible reuse of vacant non-residential buildings for housing or for mixed-use projects that incorporate housing by using creative financial incentives and partnerships.

Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the City as a healthy urban center in which to live and work and to achieve a shared vision for Portland. Portland should encourage sustainable development patterns and opportunities with the City by promoting efficient land use, conservation of natural resources and easy access to public transportation, services and public amenities.

- Objective 5a. Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.
 - Integrate Portland's housing and economic development incentives to encourage growth and take advantage of the city's capacity to accommodate more people.
- Objective 5b. Maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads exist or may be expanded at minimal costs.
 - Locate new housing along or within walking distance of major transportation corridors to increase use of METRO and encourage alternative modes of transportation.

- Encourage new housing near neighborhood schools and in proximity of public parks and athletic facilities throughout the city.
- Objective 5e. Locate and design housing to reduce impacts on environmentally sensitive areas.
 - Encourage sensitive land development designs and construction methods that minimize impacts on the environment and investigate innovative solutions and collaborative approaches to address stormwater separation and management through natural means.
 - Explore ways to use zoning and other regulatory tools to encourage environmentally friendly development.

V. Findings of Consistency with the Comprehensive Plan

In making a recommendation to the City Council, the Board is asked to determine if the proposed zoning map and text amendments are consistent with the adopted Comprehensive Plan. Consistency means “in basic harmony with” the comprehensive plan as a whole and it does not mean that it is consistent with every provision of the comprehensive plan. It is the City Council as the legislative body that balances all the provision of the comprehensive plan and determines whether or not the proposed amendments are consistent with the plan as a whole. Following is an excerpt from a memo Jennifer Thompson, Associate Corporation Counsel, wrote regarding the conditional rezoning agreement at 184 Auburn Street on August 16, 2013:

The Maine Law Court has interpreted the term consistent to mean that the proposed use/agreement must be “in basic harmony with . . .” the City’s comprehensive plan (the “Plan”) and existing and permitted uses in the original zone . Consistency does not mean, however, that a project has to be the “best possible use” for a site/location. See Vella v. Town of Camden, 677 A.2d 1051, 1053 (Me. 1996) (citing LaBonta, et al. v. City of Waterville, 528 A.2d 1262, 1265); see also City of Old Town v. Dimoulas, 2002 ME 133, ¶ 20, 803 A.2d 1018, 1024.

First, as you are aware, the Plan outlines “a compilation of policy directives and goals” for the development of the City. Among other things, the policies outlined in the Plan address the City’s infrastructure, commercial/business development, transportation resources, industry, and commerce and residential housing. See City of Portland Comprehensive Plan. Since these goals and policies can sometimes compete and/or conflict with one another, it is the Planning Board’s/City Council’s task to balance and accommodate the many goals/policies in a way that advances the City’s overall best interests. See Adelman v. Town of Baldwin et al., 2000 ME 91, ¶ 24, 750 A.2d 577, 585-586 (citations omitted); see also LaBonta, 528 A.2d at 1265. In fact, such a balancing is exactly the type of flexibility that conditional zoning is meant to facilitate.

The recent *Rommel v. City of Portland* case was a decision regarding a conditional zone agreement and not about a map or text amendment, but it does contain a discussion of the principle of what consistency with the comprehensive plan means under Maine law. Basically, a rezoning (either through a text/map amendment or a Conditional Zone Agreement) needs to be in basic harmony with the plan as a whole, and the Council (as the legislative body) is the body that must balance all the provisions of the comprehensive plan (even competing policies) and determine whether or not the proposed amendment is consistent with the plan as a whole and is in the best interests of the City. A conclusion from this case is as follows:

In light of the evidence before the City Council and the various competing goals of the comprehensive plan, the City Council had a rational basis for its conclusion that the CZA was

consistent with the comprehensive plan as a whole, and struck a reasonable balance among the competing goals of the plan. See Nestle, 2009 ME 30, ¶ 23, 967 A.2d 702 (a zoning action may be considered as in basic harmony with the plan so long as the action “strikes a reasonable balance among the municipality’s various zoning goals”); LaBonta, 528 A.2d at 1265.

Danielle West-Chuhta, Corporation Counsel, has stated that the corporation counsel office is available to draft a memo regarding consistency for the City Council package, should the Board desire to have it included with the Board’s recommendation.

End of ADDENDUM

X. PLANNING BOARD RECOMMENDATION

The Planning Board held two workshops and a hearing on the proposed zoning amendments. At the workshops the Board requested/considered the following:

- Information regarding the proposed density and associated traffic analysis for the retirement community as well as for the “maximum build-out” based on market rate housing for the three potential zones under consideration at that time: R3; R5A; and R6A.
- Information on:
 - Why does the map change include a thin section out to Walton Street;
 - How would the lot coverage translate to this site;
 - How would the proposed height and massing relate to the Motherhouse and the neighborhood;
 - Whether senior drivers were a safety concern as suggested by public comments;
 - What was the basis for suggesting that trip generation will be relatively lower for a senior community;
 - Would parking demand be met within the site.

During the review the applicant revised the text amendment to reference a maximum height of 55 feet (previously 60 feet) and the final submittal includes a Height Study and Massing Study (Plans P4 and P5) along with additional traffic data and analysis (Attachments I-L).

On May 12, 2015 the Planning Board held a three hour public hearing on the McAuley Place request for a zone change from R5 to R5A and accompanying text amendments. Many public comments at the hearing raised concerns about traffic, density, massing, potential accidents due to elderly drivers, and impacts on McAuley High School, Baxter Woods and Stevens Avenue. Some comments requested a compromise density (between the existing R5 and proposed R5A), though the applicant had already offered a revised amendment from their original request for an R6A zone which would have had a much higher potential density and a maximum building height of 60 feet.

The Planning Board concluded that the submitted information supported the proposed zoning amendments and that the more detailed public comment concerns could be addressed during the Master Development Plan & Site Plan reviews. The Board also concluded that the map and zoning text amendments were clearly consistent with the Comprehensive Plan policies that identified this site within a growth area and specifically encouraged the type of senior housing envisaged and they did not request a further legal memo on this subject. Some of the Board members specific comments are summarized below.

Board member Sean Dundon noted that this particular developer was working toward retaining the school and Motherhouse, both important for Deering Center- and noted that if not sold to this kind of developer the land could be purchased by UNE and the Motherhouse lost. In his view the zoning amendments were consistent with the Comprehensive Plan in terms of creating housing opportunities. Board member Jack Soley commented that he would consider this a missed opportunity if the Board did not support the zoning. He anticipated a campus-like project with appropriate open space which would be good for the City. Board members Bill Hall and Beth Boepple echoed these comments and considered that the R5A was a good fit in terms of density. All four Board members commented that they were concerned at the levels of parking and potential traffic issues associated with the conceptual layout, but that

they were confident these could be addressed at the Master Development Plan and Site Plan stage and encouraged the neighbors to work with the developer.

On May 12, 2015 the Planning Board voted 4-0 (Eaton recused, and O'Brien and Morrisette absent) to recommend the proposed zoning amendments based on the following motion:

On the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan and the Addendum submitted to the Planning Board May 12, 2015, public comment, the information provided in public hearing on May 12, 2015 for the project #2015-022 (605 Stevens Avenue), and/or other findings as follows:

1. Text Amendments to Definitions, R5A Residential Zone and Site Plan

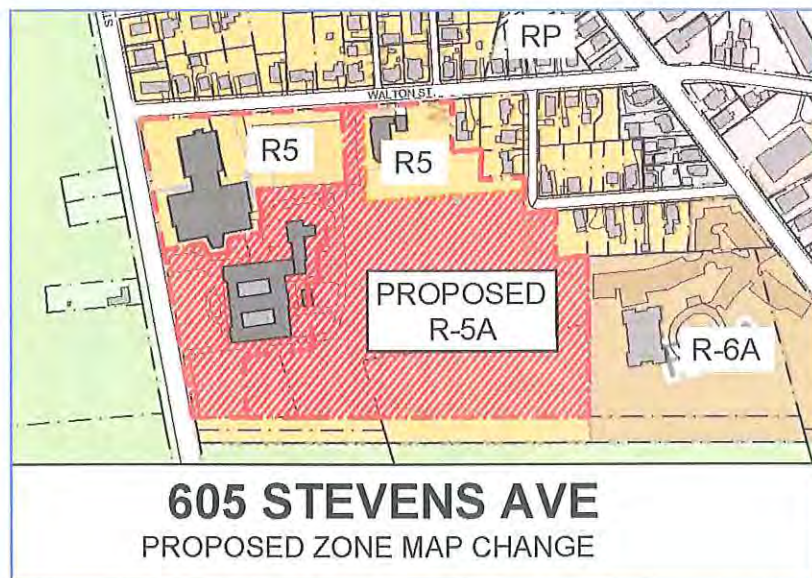
The Planning Board finds that the proposed text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability, as presented in Attachment 1 of this report, are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability.

2. Map Amendment from R5 Residential to R5A Residential:

The Planning Board finds that the proposed rezoning for the a property located at 605 Stevens Avenue is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 605 Stevens Avenue from R5 Residential to R5A Residential Zone for the area shown below.



ATTACHMENTS: below

ADDENDUM to the Planning Board Hearing Report re Comprehensive Plan as considered by PB 5.12.2015

Other Report Attachments

1. Proposed Ordinance Text Amendments R5A, Definitions and Site Plan Ordinance
2. Staff summary of public comments at first Workshop when proposal was R6A
3. Alex Jaegerman, Planning Director, Policy Background on Institutional Uses in Residential Zones
4. Deb Andrews Historic Preservation Program Manager, 5.4.15 re Motherhouse
5. Tom Errico, Traffic Engineering Reviewer final comments (zoning) 5.7.2015

Public Comments

- PC 1 B Cope
- PC 2 Comments made at 3.10.12015 PB Workshop (T Church)
- PC 3 K Smith
- PC 4 C MilNeil
- PC 5 E Tarasevich
- PC 6 K Dion
- PC 7 M E Randall
- PC 8 M S Vankevich
- PC 9 Sisters of Mercy
- PC 10 Chair of Board, Catherine McAuley H S (H Osborn)
- PC 11- PC 16 Written copies of comments made at 4.14.2015 PB Workshop
- PC 17 J Girard
- PC 18 K Mahoney
- PC 19 J Thompson
- PC 20 M Mertaugh
- PC 21 J Girard
- PC 22 W Kendrick
- PC 23 K Crabill
- PC 24 B Weed
- PC 25 B Cope
- PC 26 B Cope/Attorneys letter
- PC 27 G Payne
- PC 28 C Ruthenburg
- PC 29 D Webster
- PC 30 J Russo
- PC 31 R Roedner, TM Topsham
- PC 32 N Buttrick
- PC 33 H Bassett, Greater Portland Landmarks
- PC 34 B Cope
- PC 35 C Freund
- PC 36 L Flanagan

Applicant's Submittal

- A. Application
- B. Original cover letter with history of the site
- C. Revised Cover Letter 4.6.2015 incl proposed R5A zone text amendments
- D. P & S Agreement
- E. Chart of Continuum of Care Community
- F. Photos of the Motherhouse
- G. Traffic Study
- H. Neighborhood Meeting (4.2.2015) Notes, Invitation & Certification
- I. Cover letter 5.1.2015 incl 4.24.2015 height info
- J. Additional Traffic information 4.29.2015
- K. Additional traffic information 5.4.2015
- L. Additional Traffic Information 5.6.2015

Plans

- P1. Parcel and Zoning Plans
- P2. Proposed (revised) Zone Map Change
- P3. Conceptual Master Plan (revised 5.5.2015)
- P4. Building Height Study (section) 5.1.2015
- P5. Massing Studies 5.1.2015



Memorandum
Planning and Urban Development Department
Planning Division

To: Stuart O'Brien, Chair and Members of the Portland Planning Board
From: Barbara Barhydt, Development Review Services Manager
Date: May 12, 2015
Re: Addendum to Planning Board Report: R5A Zoning Map and Text Amendments for McAuley Place, 605 Stevens Avenue, Seacoast At Baxter Woods Associates, LLC, Applicant
Project #: 2015-022 CBL: 136 E006001

I. Portland's Comprehensive Plan

Volume I of Portland Comprehensive Plan contains the Community Vision, goals and policies sorted according to the State's 10 goals, and the inventory and analysis of the plan. Volume II contains the following: 1) Implementation Measures and Major Initiatives; 2) Future Land Use Plan; 3) Regional Coordination program; 4) Capital Improvement program; and 5) Appendix.

II. Growth and Rural Areas of Future Land Use Plan

Under Portland's Future Land Use Plan contained within Volume II, the state's growth management definitions for growth and rural area in 2005 were listed. Following is the excerpt of those definitions from the Comprehensive Plan.

Growth Areas:

The land use plan must designate as "growth area" those land areas within the municipality into which the municipality intends to direct the future growth and development planned to occur during the planning period. Use designation of growth areas is intended to ensure that planned growth and development is directed to areas most suitable for such growth and development and away from areas in which growth and development would be incompatible with the protection of rural resources. Land areas designated as "growth area" must be consistent with the following provisions.

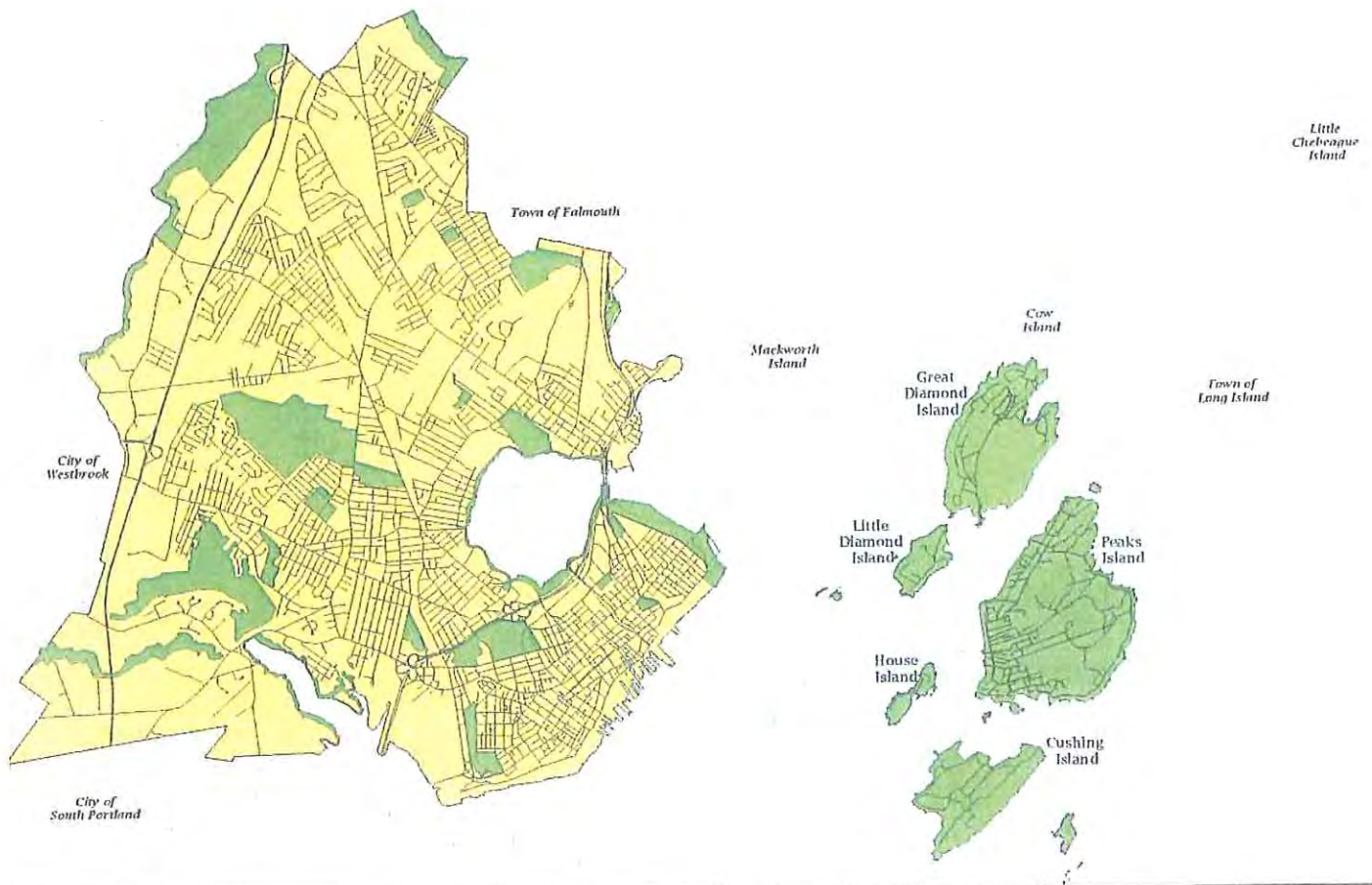
1. Growth areas must be limited to land areas within which public facilities and services are efficiently provided or can be efficiently provided during the planning period.
2. Growth areas must be limited to land areas that are physically suitable for development or redevelopment. (Growth areas may include land areas that are physically unsuitable for development or redevelopment if such areas such as a river, stream, floodplain, small natural hazard area, small lake, or small critical natural resource area run through or are located in the middle of a growth area.)
3. Growth areas must include enough land area suitable for development or redevelopment to accommodate all growth and development planned to occur during the planning period, based on the plan's policies and implementation strategies.
4. Growth areas must be limited to an amount of land area and a configuration that will encourage compact, efficient development patterns and discourage development sprawl and strip development along roads.

Rural Areas:

The land use plan must designate as "rural area" those land areas within the municipality within which the municipality intends to protect agricultural, forest, scenic areas, and other open space land areas from incompatible development. The designation of rural areas is intended to provide for the long-term protection of resource production and open space and scenic lands from incompatible development. Land areas designated as "rural area" must be consistent with the following provisions.

1. Rural areas must include agricultural and forest lands important to the local or regional economy.
2. Rural areas must include land areas consisting of large areas of contiguous open space, farmland, or forestland. They must include land areas in which the predominant pattern of development is intended to consist of very low intensity development broadly dispersed within what would otherwise be a rural landscape. They must also include land areas containing other rural resources that significantly contribute to the municipality's rural character.
3. Rural areas must include land areas in which the municipality can ensure that the level and type of development will be compatible with maintenance of rural character and will not constitute or encourage development sprawl or strip development along roads.
4. Rural areas may include, but may not be limited to, land areas containing natural resources and scenic open spaces that are intended to be protected.
5. Rural areas may not include land areas in which a significant portion of the municipality's future residential development is planned to occur. Nor may they include land areas in which the municipality plans the occurrence of large-scale or widespread residential development that would alter the municipality's rural character.

Portland designated zoning classifications under the categories of growth and rural. In the plan is Table 2, which lists Portland Growth and Rural areas by zone. Residential R-5A is a designated growth zone, along with the residential zones 1 through 7, contract zones, office zones, business zones, industrial zones and waterfront zones. The rural areas include the conservation zones of Resource Protection and ROS (Recreation and Open Space) and all of the Island zones. The map of the growth and rural areas is included on the next page. Baxter Woods is listed as a rural area and the McAuley Place site is located within the designated growth area.



GROWTH & RURAL AREAS CITY of PORTLAND, MAINE

Growth Areas Rural Areas

III. Future Land Use Plan - R-5A Residential Zone

The full excerpt of the R-5A description under the section of the comprehensive plan titled Growth Area by Zoning Classifications in Portland Residential Zones is as follows:

7. R-5a RESIDENTIAL

Location: There is one R-5a zone along Canco Road that encompasses an elderly housing complex.

Current and Proposed Zoning: All land currently zoned R-5a.

Discussion: To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

The permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed. The other significant difference is that PRUDs may be developed at a higher density. PRUDs in an R-5a zone require a minimum of 3 acres and a minimum net land area of 1,600 square feet per unit compared to 3,000 square feet in the R-5 zone. The R-5a is applied through rezoning when a site and development proposal meets the intent of this zoning classification. This would be a tool for encouraging more housing in specific neighborhood locations as determined through the city's neighborhood based planning program and recommended in Housing: Sustaining Portland's Future. Potential text amendments will be considered to update the residential zones in conformance with the recommendations of Housing: Sustaining Portland's Future.

As stated in the description written in 2005, the R-5A is applied through rezoning within a site and development proposal meets the intent of this zoning classification. The description does not specify that it would be through a contract or conditional rezoning; however, that is included in the PRUD provisions with the R-5A zone. As stated in the above description, the R-5A would a tool for encourage more housing in specific neighborhood locations as recommended through neighborhood plan and as recommended in Housing: Sustaining Portland's Future. It is noted that "potential text amendments will be considered to update the residential zones in conformance with the recommendations of " Housing: Sustaining Portland's Future."

IV. Goals, Policies and Actions of Volume I: Portland Comprehensive Plan

Public comments have been received in opposition to the proposed rezoning and the submission from Peggy McGehee and Lauren Weliver from Perkins/Thompson on behalf of Ms. Bobbi Cope (refer to PC 26). Please refer to the applicant's submission for their analysis.

Below are the goals and policies of the Comprehensive Plan cited in the Planning Board report:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
 - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
 - viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes;
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.

- Ensure the integrity and economic value of Portland's neighborhoods.

In addition, the Planning Division cites the following goals and policies from Housing; Sustaining Portland's Future for the Planning Board's consideration of consistency with the comprehensive plan:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

- Objective 1a. Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following: (cited above with policies)
 - Actions
 - Evaluate and update current zoning to incorporate flexible provisions and incentives to encourage all types of housing. Establish zoning provisions that enhance neighborhoods with compatible and high quality housing developments.
 - Develop financial incentives, partnerships, zoning incentives and non-regulatory options to increase the diversity of Portland's housing stock.
- Objective 1b. A variety of housing choices should be available such that no one should have to spend more than 30% of their income for housing.
 - Maintain Portland's current proportion of subsidized units to its total housing stock. Establish a target of at least 20% of the total number of new housing units will be subsidized for households earning 80% or less of the region's median income.
- Objective 1d. (above from report)
 - Actions
 - Support a variety of affordable rental options for senior citizens.

Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.

- Objective 2c. Target vacant buildings for maintenance, rehabilitation and reuse.
 - See creative and architecturally compatible reuse of vacant non-residential buildings for housing or for mixed-use projects that incorporate housing by using creative financial incentives and partnerships.

Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the City as a healthy urban center in which to live and work and to achieve a shared vision for Portland. Portland should encourage sustainable development

patterns and opportunities with the City by promoting efficient land use, conservation of natural resources and easy access to public transportation, services and public amenities.

- Objective 5a. Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.
 - Integrate Portland's housing and economic development incentives to encourage growth and take advantage of the city's capacity to accommodate more people.
- Objective 5b. Maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads exist or may be expanded at minimal costs.
 - Locate new housing along or within walking distance of major transportation corridors to increase use of METRO and encourage alternative modes of transportation.
 - Encourage new housing near neighborhood schools and in proximity of public parks and athletic facilities throughout the city.
- Objective 5e. Locate and design housing to reduce impacts on environmentally sensitive areas.
 - Encourage sensitive land development designs and construction methods that minimize impacts on the environment and investigate innovative solutions and collaborative approaches to address stormwater separation and management through natural means.
 - Explore ways to use zoning and other regulatory tools to encourage environmentally friendly development.

V. Findings of Consistency with the Comprehensive Plan

In making a recommendation to the City Council, the Board is asked to determine if the proposed zoning map and text amendments are consistent with the adopted Comprehensive Plan.

Consistency means "in basic harmony with" the comprehensive plan as a whole and it does not mean that it is consistent with every provision of the comprehensive plan. It is the City Council as the legislative body that balances all the provision of the comprehensive plan and determines whether or not the proposed amendments are consistent with the plan as a whole. Following is an excerpt from a memo Jennifer Thompson, Associate Corporation Counsel, wrote regarding the conditional rezoning agreement at 184 Auburn Street on August 16, 2013:

The Maine Law Court has interpreted the term consistent to mean that the proposed use/agreement must be "in basic harmony with . . ." the City's comprehensive plan (the "Plan") and existing and permitted uses in the original zone . Consistency does not mean, however, that a project has to be the "best possible use" for a site/location. See Vella v. Town of Camden, 677 A.2d 1051, 1053 (Me. 1996) (citing LaBonta, et al. v. City of Waterville, 528 A.2d 1262, 1265); see also City of Old Town v. Dimoulas, 2002 ME 133, ¶ 20, 803 A.2d 1018, 1024.

First, as you are aware, the Plan outlines “a compilation of policy directives and goals” for the development of the City. Among other things, the policies outlined in the Plan address the City’s infrastructure, commercial/business development, transportation resources, industry, and commerce and residential housing. See City of Portland Comprehensive Plan. Since these goals and policies can sometimes compete and/or conflict with one another, it is the Planning Board’s/City Council’s task to balance and accommodate the many goals/policies in a way that advances the City’s overall best interests. See Adelman v. Town of Baldwin et al., 2000 ME 91, ¶ 24, 750 A.2d 577, 585-586 (citations omitted); see also LaBonta, 528 A.2d at 1265. In fact, such a balancing is exactly the type of flexibility that conditional zoning is meant to facilitate.

The recent *Rommel v. City of Portland* case was a decision regarding a conditional zone agreement and not about a map or text amendment, but it does contain a discussion of the principle of what consistency with the comprehensive plan means under Maine law. Basically, a rezoning (either through a text/map amendment or a Conditional Zone Agreement) needs to be in basic harmony with the plan as a whole, and the Council (as the legislative body) is the body that must balance all the provisions of the comprehensive plan (even competing policies) and determine whether or not the proposed amendment is consistent with the plan as a whole and is in the best interests of the City. A conclusion from this case is as follows:

In light of the evidence before the City Council and the various competing goals of the comprehensive plan, the City Council had a rational basis for its conclusion that the CZA was consistent with the comprehensive plan as a whole, and struck a reasonable balance among the competing goals of the plan. See Nestle, 2009 ME 30, ¶ 23, 967 A.2d 702 (a zoning action may be considered as in basic harmony with the plan so long as the action “strikes a reasonable balance among the municipality’s various zoning goals”); LaBonta, 528 A.2d at 1265.

Danielle West-Chuhta, Corporation Counsel, has stated that the corporation counsel office is available to draft a memo regarding consistency for the City Council package, should the Board desire to have it included with the Board’s recommendation.

**Proposed Text Amendments Definitions; R5A; Site plan
for May 12, 2015 PB Hearing (v 5.18.2015)
Prepared by Portland Planning Staff**

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~-residential ~~unit~~-development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~

- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

- ~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~

- ~~1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;~~
- ~~2. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~
- ~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~

- ~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

DIVISION 6.5. R-5A RESIDENTIAL ZONE

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

- (a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

- (a) *Residential:*

1. Single-, two-and three-family dwellings.

2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If

manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care facilities.

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

Sec. 14-128. Conditional use.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) Other:

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
 - e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
- iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
- iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
- vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
- viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 - g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
 - h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.
5. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	<u>Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres¹</u>
	<u>Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area</u>
	<u>Intermediate, extended or long-term care facilities: 1 1/2 acres.</u>
<u>Min. Lot Area per D.U.</u>	<u>Single-, two- and three-family dwellings: 1,600 SF.</u> <u>Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.²</u>
<u>Min. Lot Area per Resident</u>	<u>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</u>
<u>Min. Street Frontage</u>	<u>50 feet.</u>
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings²</u>	<u>1. Front yard: Principal or accessory structures: 25 feet.</u> <u>2. Rear yard:</u> <u>a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet.</u> <u>b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.</u> <u>Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.</u> <u>(continued)</u>

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. 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 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.

	3. <u>Side yard:</u> a. <u>Principal or accessory structures with ground coverage greater than one hundred (100) square feet:</u> <table> <tr> <th><u>Height of Structure</u></th><th><u>Required Side Yard</u></th></tr> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </table> 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. <u>Accessory detached structures with ground coverage of one hundred and forty-four(144) square feet or less: 5 feet.</u> 4. <u>Side setback on side streets:</u> Principal or accessory structures: 20 feet.	<u>Height of Structure</u>	<u>Required Side Yard</u>	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
<u>Height of Structure</u>	<u>Required Side Yard</u>										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										
<u>Maximum Structure Height</u>	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.										
<u>Max. Lot Coverage</u>	30%										
<u>Minimum Lot Width</u>	60 feet										
<u>Minimum building setback from external subdivision property lines</u>	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. <u>Building length of one hundred (100) feet or less: 25 feet.</u> b. <u>Building length of greater than one hundred (100) feet: 35 feet.</u>										
<u>Minimum recreation open space area</u>	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.										

~~(a) Minimum lot size:~~

~~Residential: Six thousand (6,000) 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. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~(b) Minimum lot area per dwelling: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development: Fifty (50) 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: Twenty five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. — Side yard:~~

- ~~a. — Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure — Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 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. — Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. — Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~(c) — Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(f) — Minimum lot width: Sixty (60) feet.~~

~~Minimum building setback from external subdivision property lines (PRUD):~~

- ~~a. — Building length of one hundred (100) feet or less: Twenty five (25) feet.~~

- ~~b. — Building length of greater than one hundred (100) feet: Thirty five (35) feet.~~

~~(g) — Minimum recreation open space area: Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a~~

~~contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty five (25) feet from dwelling units.~~

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *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.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

- 1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
- 2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate , extended and long term care facilities in the R5A and R6A zones.

Table 3: Summary of First PB Workshop Public Comments

[as included in April Workshop Memo; comments relate to original proposal for rezoning to R6A]

Subject	Issues (Based on Public Comments PB Workshop 3.10.2015)	Comment (also see submitted letter in Att C)
Traffic Generation	Impact on traffic congestion in area What is the cumulative impact of Park Danforth, Deering pavilion and this development (on top of the impacts of an expanding UNE) Holly and Pershing already used as cut-through so worse? Adequacy of Stevens and Walton Street, given width (?33ft), winter snow, speed bumps, parking and high traffic levels at times Need to account for visitors, employees, delivery/service vehicles, & emergency vehicles generated by the development Impact on pedestrian safety, given 7 schools in vicinity and related street activity Interaction with construction traffic for Park Danforth and as ongoing on this site Increase in noise eg emergency vehicles Will public transport be extended/increased? Park Danforth and Deering Pavilion recently zoned R6A but they have access to Forest (arterial); this project only has access via Stevens and Walton. What is DOT classification of Stevens and how does this relate to the purpose statements for rezone options?	The applicant will be expected (through the Traffic Movement Permit (TMP) process described above under VII D) to provide further data and analysis to address all of these points. The TMP would be conducted as part of the Master Development Plan review. Both vehicle and pedestrian safety issues are included in the TMP review process, and the applicant would need to provide mitigation where the proposed development resulted in deficiencies. Under the Federal Street Classification system Stevens Avenue is classified as a "Minor Arterial" and Forest Avenue is classified a "Principal Arterial". Arterials are key transport and transit corridors and appropriate for the proposed zone, but the impact of any project would need to be assessed in detail.
Parking Requirements	Parking is already an issue just with the existing school and UNE How meet requirements of new dev (at least 350 new dwellings) as well as providing 100 spaces (as existing and all used) for Catherine McAuley HS Access should allow for queuing of cars (waiting to park) on site and not in street Will there be a parking garage or shuttle to an off-site parking lot? Is underground really feasible? Surface parking detracts from ped/environment and from community feel of the area	Staff consider that there is enough land available to address these concerns at the Master Development Plan stage. The applicant has indicated that some parking will be under the buildings, but this issue can not be fully evaluated until more detailed proposals are submitted.
Density	An increase from the current medium density and low intensity character would be detrimental Ensure compatibility with scale, character of area Impact on value of surrounding homes Impact on integrity of historic building and surrounding environment	The revised Conceptual Phasing Plan (Plan P4) is now under consideration and the applicant will be presenting additional information at the PB workshop on April 14, 2015 to address some of these questions. The proposals are currently suggested to be at 60 feet in height, and the letter in Att C (page 3) indicates that this is below the roof line of the Mother House.
Height	Increase resulting from the development compared to existing? 65 feet is too high and has a visual impact and not in character with area Need to preserve the (wonderful) views of the dome landmark	
Future Of McAuley HS	What are the plans for the school ie the application appears to be inconsistent Changes have negative effects on HS Feasibility for school to remain and grow at that site	The revised area for rezoning excludes the High School.
Future Of McAuley Fields	What will be preserved? Displacement of users of these fields – impacts on other playing fields Other playing fields already at capacity and not enough in Portland now (already borrowing from each other)	The letter in Att. C (page 3) addresses this question; during the first 2 phases the field would not be altered, but in Phases 3 and 4 the fields are reduced and relocated.
Ground water	A house on Pershing was affected by constant groundwater flooding after playing fields were constructed, so concern about impact of the development on groundwater displacement	This point is noted and there is also an area of wetland at that corner of the site. Further information regarding the wetland and groundwater will be required as part of the next review, and the City's ordinance requires that the project avoid water-management impacts to neighbors.
What If Lot Sold Off To Another Developer	Whats to stop a new owner building 2 to 3 times as many dwellings as proposed? This developer sold Highland Green in Topsham	The analysis of the "maximum build-out" under the zone options was requested by the Planning Board in order to consider this possibility. See section VII B of this Memorandum.
Affordable Housing Component	Income level restrictions? Affordable housing ordinance requirements How affordable to local people? What does the applicant mean by "market rate"?	This information has not been submitted in a letter, but the Mother House developer has provided this information at the first Workshop and at the Neighborhood Meeting on April 2, 2015. This is not a zoning issue.

Policy Regarding Institutional Uses in Residence Zones

The issue of institutional uses in residential zones was of great concern in the early 1980's in Portland. At that time we had three hospitals undergoing or considering expansion plans, schools and colleges were taking over residential properties to expand, and the impacts of these and other institutions on their surrounding neighborhoods were the subject of planning and regulation. The scale of the buildings and campus of institutions is generally larger than that of surrounding neighborhood uses. The operating characteristics of institutions typically involve more traffic and at longer hours than typical residential uses, due to employee presence and he comings and goings of students, patients, visitors, trucks with supplies, and for medical facilities, ambulances. The outcome of that effort is embodied in the Comprehensive Plan in the form of the following goal statements (*Portland's Comprehensive Plan; Updated 2005; Page 48*):

Goals

- Institutional uses, where they are to be allowed in residential zones, should be designated conditional uses with review before the Planning Board.
- Any new institutional use should be required to have a lot size of sufficient area to accommodate all activities, including parking and to absorb impacts and growth needs of the institution.
- Reasonable expansion of existing institutions should be accommodated, but effective use of existing lot area should be required.
- For both new development and expansion of existing institutions, the displacement or conversion of existing dwellings should be avoided, and that an institutional development proposal that causes significant residential displacement should be cause for denial of conditional use approval.

In the R-5 zone, the institutional conditional uses include:

- Elementary, middle, and secondary schools
- Long-term and extended care facilities
- Intermediate care facility for thirteen or more persons
- Places of assembly (previously categorized as places of worship, private clubs and fraternal organizations, community halls, etc.)
- Hospitals
- College, university and trade schools

The Board has asked why intermediate, long term and extended care facilities are classified as institutional uses rather than as residential uses. Long term and extended care facilities are

essentially the same thing as nursing homes. Intermediate care facilities are similar but do not provide the same level of health and medical services as nursing homes, but do provide a substantial level of care above the level of meals and housekeeping, and might for example include personal care such as bathing, dressing, and medication management. Please see Attachment X for the zoning definitions of these institutional uses. Our definitions are intended to be general enough that as the state licensing categories evolve, and the trends for care facilities evolve, such as the prevalence of “memory homes” for example, our categories will still be relevant. The policy rationale for the zoning treatment as institutions remains the scale of the buildings, the characteristics of the operations which exceed typical residential patterns, and the propensity for expansion and potential displacement of residences. We have updated the regulations over time, such as the reclassification of several uses under the category of places of assembly, and the allowance for multiple scales of this use category, which was motivated in part by the recognition that these uses have highly variable scale and one minimum lot size was not an adequate solution, and in part to ensure that we are in compliance with federal regulations (RILUPA).

This question of policy has arisen in this context of R-5A rezoning because the congregate care use appears to have some similarity to the intermediate care use. Congregate care is classified as a residential use and not subject to the institutional conditional use standards, while intermediate care facilities are regulated as institutions. This is where the line is currently drawn. It might be appropriate to shift the ICF use into the residential category, or to more broadly revisit the institutional growth management policies and regulations. We do not recommend that these considerations must necessarily be addressed prior to resolving the two R-5A proposals presently before the Board. Any further planning effort in this regard would need to be weighed against other priorities and scheduled accordingly.

From: Deb Andrews
To: Barbara Barhydt; Jean Fraser
CC: Alex Jaegerman; Jeff Levine
Date: 5/4/2015 11:01 AM
Subject: 605 Stevens Avenue

At Jean's request, I called Mike Johnson at the Maine Historic Preservation Commission to inquire whether any proposed new construction on the Mother House property would be subject to review by MHPC and the National Park Service were the developer to seek tax credits for rehabilitation of the Mother House itself. (Mike reviews tax credit applications at the Commission.) Mike confirmed that any new construction would be subject to review for its visual impact on and general compatibility with the Mother House.

I don't think that compatibility with the surrounding residential development would be a consideration in the review. For example, if the scale of the new development is compatible with that of the Mother House, that would be sufficient. Whether or not it is out of scale with the surrounding residential development would probably not be a relevant consideration.

Deb

From: Tom Errico <thomas.errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
CC: David Margolis-Pineo <DMP@portlandmaine.gov>, Jeremiah Bartlett <JBartle...>
Date: 5/7/2015 12:38 PM
Subject: Baxter Place - Updated Traffic Comments

Jean - The following represents a status update of my April 9th comments and represent a review of additional information provided by the applicant as it relates to traffic generation and analysis.

* Maine Traffic Resources conducted a Trip Generation analysis that compared build-out scenarios under existing and proposed zoning. In general I find the methods to be acceptable with the following comments.

- o The general conclusion is that a Traffic Movement Permit will be required for the project given traffic generation projections.

Status: The project will be required to obtain a Traffic Movement Permit (TMP) given trip generation information.

- o It would be my expectation that the detailed traffic study would extend beyond the site driveways as noted in the Memo. During preliminary discussions the traffic study would likely include an evaluation of roadways and intersections including Steven Avenue/Walton Street, Walton Street/Forest Avenue, and Stevens Avenue/Pleasant Street. The final study area to be evaluated will be determined at the Traffic Movement Permit Scoping meeting.

Status: The applicant has conducted a preliminary traffic analysis of the above noted intersections during the commuter AM and PM peak hours. The analysis was based upon recent traffic counts and adding traffic from the proposed project. The results of the analysis indicates the above noted intersections are projected to operate at acceptable levels of service following project completion. I would note that the applicant has assumed all signals are optimized and functioning well from a vehicle detection perspective. Additionally, other un-built development traffic was not included in the analysis. My take away from the analysis is that the intersections have adequate capacity to accommodate the additional traffic from the project. With that said, the final analysis will need to look at multimodal conditions, adding traffic from other approved un-built developments, and specifically accounting for existing traffic signal equipment conditions.

- o The trip generation comparison between the current R5 zoning and the proposed R5A zoning seems reasonable. As noted the change in zoning under a worst-case build-out would add a maximum of 159 trip to and from the site during the PM peak hour. An R5A zone maximum build-out trip level would likely require a more extensive traffic impact study given that it would exceed 200 trips in a hour.

Status: The applicant has provided an updated trip level comparison. The data indicates that the project is estimated to generate 63 AM peak hour trips and 91 PM peak hour trips. Under the proposed R5A zoning, the applicant has estimated the site could generate 188 AM peak hour trips and 228 PM peak hour trips, assuming 368 general apartments are constructed. The preliminary traffic capacity analysis did not assess the implication of a general apartment construction scenario, but as noted above there appears to be sufficient capacity to handle the noted traffic levels from an intersection capacity perspective.

- o The estimate for the proposed Senior Housing Build-out is based upon ITE trip generation data that I do not find to be acceptable (the trip rates are based upon small sample sizes). One possible option would be for the applicant to conduct a trip generation survey at similar sites in the area to better predict traffic levels from the proposed project. With that said the general order of magnitude of the trips would not be expected to change significantly. The trip generation numbers will need to be modified during the preparation of the comprehensive traffic study.

Status: The applicant conducted a survey of traffic at a similar project in Topsham and concluded that the ITE trip generation data reasonably estimates traffic for the project. I concur with the applicants conclusion that the trip generation estimate seems reasonable, although the trip generation methods will need to be reviewed during Site Plan and TMP permitting.

* The development of the comprehensive traffic study will need to include traffic associated with un-built developments such as Park Danforth. During the traffic scoping meeting we will direct the applicant on traffic that needs to be included in their traffic analysis and what infrastructure plans that should be assumed (if any).

Status: This continues to be a valid issue that will need to be addressed during development of the formal traffic impact study.

* A safety analysis will be required as part of the comprehensive traffic study. The analysis will review locations in the area that either are classified as High Crash Locations (HCL) per MaineDOT criteria or have other noted concerns (e.g. pedestrian crashes, high frequency, etc.).

Status: The applicant has not reviewed safety data for the project area. During the traffic study process, we will request a detailed safety analysis at High Crash Locations and may request analysis at non-HCL locations due to other safety factors such as pedestrians crashes, types of collisions, or number of crashes.

* The project will be required to evaluate conditions (parking, access, sidewalks, ADA compliance, crosswalks, etc.) along Stevens Avenue and Walton Street. This review will be performed, at least, along their property frontage).

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

* A detailed pedestrian evaluation will be required as part of the project in terms of site provisions and conditions in the study area. This will include a review of METRO bus stops and how to integrate transit opportunities into the project.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

* In conjunction with the development of a traffic study that complies with MaineDOT Traffic Movement Permit requirements, the applicant will be required to assess existing and post -development roadway and intersection capacity/congestion conditions and if unacceptable conditions are identified, the applicant would be required to identify mitigation strategies for implementation. In addition, a Safety Analysis will be required that will review existing crash data and if safety deficiencies are identified, a mitigation plan would be required for implementation.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

The applicant has provided additional information on Senior Drivers, Transportation Programs at Senior Communities, and a proposed Parking Management Plan. My comments are noted below.

* The applicant, through their research, has concluded that at driveways of senior community developments in Maine the data suggests older drivers do not as a group, statistically pose a safety threat. I'm not sure the data is conclusive, and I need to further review, but what I believe to be very important is the implementation of an extensive site Transportation Demand Management Program that will allow occupants of the development to have alternative transportation options. Accordingly, in my professional opinion a very detailed Transportation Demand Management Program will be required for this project.

* The applicant summarized examples of Transportation Programs at other Senior Communities and similar programs will be programmed at the proposed site. As noted above, I believe a comprehensive TDM plan will be required that not only includes on-site transportation options, but also offers incentives for METRO use. The details of the TDM plan will be identified during Site Plan permitting.

* The applicant has noted that they are confident that they can reasonably predict the parking supply for the project such that it does not impact the abutting public streets. I concur with this conclusion and believe that during the Site Plan permitting process the parking lot can be designed to accommodate site specific parking requirements.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director
[T.Y. Lin International] T.Y. Lin International
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"One Vision, One Company"

Please consider the environment before printing.

Re: Convent 605 Stevens Avenue Application for Zone Change and Text Amendments
Submitted at the Planning Board Workshop on 3/10/2015
by Bobbi Cope, email: bcope@maine.rr.com, phone: 207.415.5833

My name is Bobbi Cope. I live on Concord Street in Portland.

I support keeping the R5 zone for the 6 0 5 Stevens Avenue property.

According to the proposed change from R5 to R6A, Walton Street, which is just thirty-three feet wide, would become the major access road for this project. Other streets in would also be impacted, such as Pershing, Holly, Elmwood, Waverly, Poland, Hartley, Clinton, New, Leland and Crosby, some of which are even narrower than thirty-three feet.

The increased density from R5 to R6A would generate further congestion on Walton Street, Stevens Avenue, Forest Avenue, the streets I just mentioned, as well as the entire neighborhood area extending from Woodford Street, near Deering High School, all the way past UNE to Morrill's Corner.

There are seven schools, with thousands of pedestrians: small children, their parents, college students, and many others at various and multiple times throughout the day, when the speed limit is down to 15 miles per hour. All traffic must stop, or pause, or wait, while people are crossing, getting in and

out of parked cars, or running between cars. There are families on bicycles to avoid. This creates heavy, slow congestion and is already dangerous, even with the speed bumps that were installed several years ago. Rush hours further compound the problem.

A zone change from R5 to R6A that would increase housing density would add traffic from not only additional residents, but also their visitors, employees, service vehicles, ambulances, fire trucks and delivery trucks. Safety for all must always come first, including the many residents who live in this area now.

Those who currently live in this part of the city choose to live here because of its unique character, medium-density and low-intensity lifestyle as specified in the Land Use Ordinance definition of the R5 zone. This neighborhood area is valued for the serenity it provides as it has for over a century.

R5 currently allows a maximum building height of thirty-five feet. A zoning change to R6A allows a significant increase to a maximum of sixty-five feet. This would increase the permitted building height by 86%, nearly double! From a visual perspective, this would overshadow the dome of the Mother

House, which has been an enduring landmark in the City for 106 years. It is so notable that during World War II, the dome had to be painted to conceal its visibility.

The existing density of the McAuley campus has been compatible with the scale, character and long-standing residential quality of the surrounding neighborhoods.

According to Staff Comments (VI.C.) the proposed zoning change could allow for more than a thousand housing units and forever change a part of Portland that has been treasured for over a hundred years.

If this zone change is allowed, or even considered, what purpose do zoning restrictions and standards serve? The proposal is an extreme deviation from the current R5 zone by a large margin.

I support keeping the R5 zone for the 6 0 5 Stevens Avenue property.

Thank you.

Compilation of Questions for City of Portland and McAuley Place Development
605 Stevens Avenue, Portland ME

Zone-type R6A was created for the Park Danforth in 2014 and has not been used by the City of Portland before. In light of the recently approved zone change and expansion plans for both the Park Danforth and Deering Pavillion, how does the City plan to account for increased traffic in the area on Forest Avenue? Many people use Forest Ave to get to work from neighboring towns, and the increase in staff alone will add a lot of traffic to the area. If McAuley Place were to also obtain Zone R-6A designation, would roads be widened or new parking lots added to account for the increase in cars? Would public transportation be extended to give the increased elderly population more access to the city? How can the City anticipate the effects of adding three newly designated zones in an already congested area?

The addition of McAuley Place would introduce a lot of older drivers to Stevens Ave and Walton Street. Especially during the rush hours in the morning and afternoon, this would add a lot of cars to the road while children are walking to school. I am concerned that adding elderly drivers with poorer eyesight and slower reaction time to Stevens Ave could be dangerous in an area with 7 schools and lots of residential housing. How would McAuley Place and the City of Portland reduce the danger to the neighborhood's children?

The Park Danforth and Deering Pavillion, the only other 2 R6-A zones in the City of Portland, both have access to Forest Avenue, a major road according to the City of Portland's designations. The new proposed development has no access point on a major road - it abuts Walton Street and Stevens Avenue, designated as a "Collector Street" and a "Minor Route" respectively according to the City of Portland Transportation Map. It also touches on Holly and Pershing Streets, which are even smaller than Walton Street. With no major road access and parking plans deemed as "conceptual" for the moment, how do the plans for McAuley Place qualify as R6-A eligible, given that the City of Portland's Code of Ordinances Section 14-135 lists the zone as "appropriate in areas that are along major public transportation routes"?

The area around McAuley on Stevens Ave and Walton Street is surrounded by other schools and is restricted to 15 mph at least twice a day. During rush hour, as people from around Portland enter the city for work and drop their children off at school, what measures will the City take to improve traffic congestion, especially with the construction slow-downs caused by the expansion of the Park Danforth and Deering Pavillion?

Where would the residents and staff of McAuley place park? On the Conceptual Master Plan, shown on page 3 of the Zoning Map and Text Amendments application for McAuley Place, there is no designated parking zone for any of the proposed living communities. Catherine McAuley High School has 100 parking spaces and uses all of them for its students and staff. In order to provide parking for the residents of 350 housing units plus staff and visitors, will the plan eventually include a parking garage or a shuttle service from an external parking location? There doesn't seem to be enough area for 350 housing units plus the required parking as outlined in the City Code of Ordinances Division 20, Section 14-332.

While the current plan seeks to build 350 housing units, an R6-A designation would allow for 2-3 times as many units. Although Wasileski does not intend to build that many, what prevents him from selling to someone who will? He recently sold The Highlands retirement community to an out-of-state investment firm, and I'm concerned that out-of-state developers who have never

lived in the Portland area would be unable to anticipate how expansion would affect the neighborhood.

Walton Street is very narrow and can't be widened due to houses on either side. The traffic is only one lane with parking on one side and some areas with sidewalks on only one side. Will the infrastructure of Walton Street and Stevens Avenue, which already has reduced speeds due to school zones and speed tables, support the addition of so many cars to the road?

How will emergency vehicles reach McAuley Place quickly for the resident seniors? Because of increased traffic and school zones, it would be very difficult for ambulances and firetrucks to reach seniors quickly in times of emergency using Stevens Avenue. Because McAuley Place has no direct route to Forest Ave, it would also take longer to reach the hospital. How can the plans be accommodated to keep so many elderly people safe while also keeping children safe as they cross roads and walk home from school?

How will the addition of McAuley Place and affordable housing affect the local economy? Seniors with little disposable income will not be able to stimulate local businesses and will increase traffic congestion along Stevens Avenue, making it more difficult to find parking near local restaurants and shops.

The gold dome of St. Joseph's Convent (the Mother House) is a landmark of the neighborhood and community, and an R6A designation would allow for construction of housing up to the height of the dome. The dome can currently be viewed from all around the City and is historically important, as it was blackened during World War II to prevent easy recognition of features in Portland. How can the project be changed so that the history and character of the neighborhood is preserved?

The City of Portland's Code of Ordinances lists appropriate areas for the R-6A zone in Division 7, Section 14-135 as " areas along major public transportation routes, near service areas, and in redevelopment (underutilized) zones or infill areas". I would like to know how the proposed plans for McAuley Place fit the R-6A designation, seeing as they would be built over current sports fields, which are needed for the children of Portland and are rented out for tournaments and games. The fields are also used for physical education classes at Catherine McAuley High School and are surrounded by a walking path for the Sisters of Mercy living in St. Catherine's. The fields are not underutilized, and aside from having access to a single city bus line, Steven's Avenue is not a major public transportation route. Would the definition of R-6A have to be changed to accommodate the plans the McAuley Place, or would additional public transportation be added to account for the increased population density?

Several years ago, the City of Portland refused to allow a Dunkin Donuts in Deering Center in part based on traffic concerns. Would similar concerns apply now, due to the massive increase of traffic on Steven's Ave and Forest Ave because of the Park Danforth, Deering Pavillion, and potential McAuley Place construction projects? Can the current infrastructure of Portland handle that much traffic, especially in the winter with snow removal and ice concerns?

How does the construction of McAuley Place plan to work with McAuley High School? In the Request for Zoning Amendment sent to the Planning and Urban Development Department Planning Division on March 4th of this year, the developer notes that "Catherine McAuley High School and the senior community will prosper together for decades to come." However, statements further in that document note that the high school will exist only "for the immediate

future" and the Conceptual Master Plan map designates the building of McAuley High School as "future commercial mixed use". Could you please clarify how McAuley Place anticipates working with the well-established community of Catherine McAuley High School, whose students each volunteer in the community for a minimum of 20 hours per year, in the next 10 years?

In the developer's application for a zone change and zone text amendments, it is written "While the r5 zone in purpose would satisfy the proposed repurposing and redevelopment of the current campus, the specific dimensional and land use provisions of zoning district r6a more specifically suit the proposed plan. For this reason, the applicant is requesting both a text and map amendment to change the current McAuley campus from r5 to r6a." If the designation of R5 would satisfy the requirements of the current plan, why pursue a zone change allowing for more than double the current plan? This provision would leave room for expansion, as R-6A designation allows for more than double the housing density of R5, and if Wasileski were to sell McAuley Place as he sold The Highlands in Topsham, what would prevent a new developer from expanding? How could the City of Portland handle the added strain to the area's traffic and emergency services?

[Based on questions drafted by Taylor Church]

From: Kenneth Smith <kensmithjr11@yahoo.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/6/2015 9:56 PM
Subject: Re: Revised zoning amendment application: McAuley Place, 605 Stevens Ave.

Thank you for this information. I have a question and comment. Many of the concerns of a zoning change center around increased traffic and parking. Thus I hope that this project and zoning will be considered in context with already existing UNE parking and traffic problems. A significant traffic study should be conducted in advance of zoning changes rather than after, which I understand is the more typical process.

Drive down Stevens, particularly from 8-10 am before considering or allowing increased density and traffic.

Ken Smith

122 Mabel, Portland 04103

Sent from Yahoo Mail on Android

From: "Jean Fraser" <JF@portlandmaine.gov>
 Date: Mon, Apr 6, 2015 at 3:29 PM
 Subject: Revised zoning amendment application: McAuley Place, 605 Steven

Hello

This is the first "group" e-mail to neighbors and others who have requested to get updates from the Planning Division on this project.

I have just received a revised submission from the applicant and have attached it- it is quite a large file and you may not be able to download it. I am also arranging for it to be placed (later today) on the City's website at:

<http://www.portlandmaine.gov/AgendaCenter/ViewFile/Agenda/04142015-1088?html=true>

There will be a Planning Board Workshop on Tuesday, April 14th at 4:30pm (see Legal Ad attached) where the Board will consider this revised request for a text amendment (of a smaller area) to R5A (rather than R6A), with associated text amendments. The Board would not be taking a final decision at this meeting; the vote on a recommendation to the City Council (re just the zoning) would take place at a hearing that has not yet been scheduled.

Public comments will be taken at the PB Workshop, and written comments can be sent to me via e-mail (in addition to or instead of speaking at the meeting).

If I get written comments before the end of Thursday (4.9.2015) they will be included in the "packet" that goes to the Planning Board on Friday; otherwise I circulate public comments at the Workshop meeting on April 14th.

The entire "packet", that includes all submissions and the staff cover Memo, will be available on the City's website (same address as above) on Friday (4.10.2015) afternoon.

Please do not hesitate to contact me with any questions.

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: Christian MilNeil <c.neal.milneil@gmail.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/13/2015 12:04 PM
Subject: 605 Stevens Avenue

Hi Jean,

I'm supportive of the proposed R-5A changes and the developer's proposal for 605 Stevens Avenue, which would provide much-needed senior housing in a walkable, in-town neighborhood with good access to two transit lines.

I do have some questions, though, about the project's provisions for street connectivity, and whether the R-5A amendments ought to have more clarity about preserving and extending the street grid of surrounding neighborhoods.

In this case, the proposed project would benefit from a new east-to-west public street connection to Forest Avenue, as well as extensions of Pershing and/or Holly Streets to preserve the neighborhood's pattern of residential blocks. A new east-west street connection could provide some auto traffic relief to Walton and Stevens, and would also provide a more direct and more pleasant route for pedestrians to Forest Avenue's bus line and other destinations.

Such a connection would be dependent on permission from the Deering Pavilion property, but that shouldn't prevent the city from reserving a public right-of-way now (especially because any future redevelopment in the R6A zone will only increase the utility of a new connection).

In general, I worry that these recent projects (not just this one, but also the proposed senior housing on Ocean Avenue and pretty much any off-peninsula project of the past 20 years) are designed and built as – essentially – higher-density versions of suburban cul-de-sacs. They're mostly cut off from the well-connected streets of surrounding neighborhoods, they're not inviting to foot traffic, and as a result they dump out lots of traffic on arterial streets, which upsets everyone.

Besides that, if the R-5A zone (and the R-6A zone) are intended for moderate-density development consistent with the pattern of surrounding neighborhoods, then perhaps the new zones should require consistency of the street pattern by requiring a higher degree of street connectivity?

Some specific questions:

- Sec. 14-498(g) requires a "maximum block length of eight hundred (800) feet, measured from the nearest street lines of intersecting streets." The frontage of the developers' property along Stevens Avenue looks like it's slightly less than 800', so one reading might be that these developers won't be held to this standard. However, if they don't provide a public right-of-way, we'll end up with a block length along Stevens of 1500' (Walton to Percival), contrary to the intentions of the ordinance. Which interpretation does the city favor?
- Second, on the city's tax maps there seems to be a narrow strip of land south of the developers' property, adjacent to but not part of Baxter Woods park. Is this city-owned, or reserved for a future street?

- New developments off the peninsula have done a lousy job of preserving the city's well-loved pattern of residential blocks away from the arterials – contrary to the intents of the standards in 14-498 and to the detriment of walkability and traffic congestion surrounding these new projects. Are there any ideas in circulation at City Hall for improving the street connectivity standards? (zoning updates like R6A and R5A seem like ideal places to roll out new standards on a limited basis).

If you'd please share these questions and concerns with the planning board, I would appreciate it. Thanks!

From: Elizabeth Tarasevich <emtarasev@gmail.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/13/2015 4:01 PM
Subject: Fwd: Catholic properties near Baxter woods and McAuley playing fields as well as the other buildings (nun's residence)etc.

Hello s. Fraser,

could you please add the following comment to the file before the planning board workshop tomorrow on the St. Joseph Convent at 605 Stevens Ave in Deering Center - Norm is planning on being there to read the statement, but has asked me to send it in advance.

Thank you very much,

Elizabeth Tarasevich

----- Forwarded message -----

From: Norm Buttrick <nbuttri1@maine.rr.com>
Date: Mon, Mar 23, 2015 at 3:35 PM
Subject: Catholic properties near Baxter woods and McAuley playing fields as well as the other buildings (nun's residence)etc.
To: Elizabeth Tarasevich <emtarasev@gmail.com>
Cc: jtarling@portlandmaine.gov

Elizabeth, I am unable to attend the DCNA meeting tonight at the Church about the plans near Baxter Woods, but you may read my comments below and use my name as against it for the following reasons.

First of all, the proposed plan to build high rise condo's or apartments (several of them to accomodate over 650 persons and probably more), will destroy Baxter's philosophy for the nature preserve and bird sanctuary. The new buildings and parking lots surrounding it will be distructive to the environment, as the woods have provided since it was donated to the people of Portland to enjoy as the last of the original woods in the City (some Hemlocks and white oaks are between 150 and 200 years old).

There are many historic sites in the 30 acres of Baxter Woods that could be threaten with the influx of so many people into the grounds, not to mention the natural habitat of animals and plant life as I noted above paragraph.

The srreets in this part of the Deering neighborhood and Woodfords area would become more jamed up with traffic than it already is now. Parking with New England College students parking on Stevens Ave. and the side streets would be more of a problem to contend with.

Finally, I would hate to see McAuley High School forced to move from its location along with its playing fields next to Baxter Woods. The woods are a wonderful educational benefit to the students as they have had an archaeological field school this past year, as well as science classess to the woods with Jeff Tarling (City Arborist) to prevent the destruction of trees from diseases.

Norm Buttrick, Deering Center concerned neighbor

From: Kathy Dion <katherine.dion@yahoo.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/13/2015 5:48 PM
Subject: Re: 605 Steven Ave.

Jean,

Thank you for the response. Regarding storm water retention and ground water issues at what point might this be addressed. Is there an engineering proposal/meeting that the public will be able to attend?

Thank you,
 Kathy Dion

Sent from my iPad

> On Apr 13, 2015, at 1:05 PM, Jean Fraser <JF@portlandmaine.gov> wrote:

>

> Kathy

>

> The R5A currently says that the area per dwelling is based on "gross" land area, which would include all of the land in the lot. So staff thought it would be better to have the density based on "net area" but the current definition includes items that are not defined (see annotation in red below) and we wanted to have it clearer and limited to the area after areas that are not buildable (eg slopes and water areas) taken out.

>

> This is a staff recommendation and is for discussion with the Planning Board. It may be that one or two of these have a good basis for being retained or retained but revised.

>

> Thank you

> Jean

>

>

>

>

> Jean Fraser, Planner

> City of Portland

> 874 8728

> >>> Kathy Dion <katherine.dion@yahoo.com> 4/11/2015 9:54 PM >>>

> Jean,

>

> In this section multiple lines are crossed out. Why is this and what does this mean?

> 1. Stormwater retention areas; since this was written such areas have changed in nature and are often underground; also they are unknown until a detailed layout is developed and engineering details worked out so difficult to subtract.

>

> 2. Stormwater detention areas, unless improved for passive or active recreational use; same comment.

>

> (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.

>

> (c) Inaccessible areas, as defined in this section; Again, this includes some items that are difficult to quantify.

>

> (d) Wetlands, as defined in this section;

> (e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection

with the proposed development. Most easements would allow development over them; few don't. but maybe keep this in if better defined???

>

> (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

>

> (g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition. this is an estimate of what might be needed for roads and access, but for some projects this would be very high compared to what they would include and for others it would be low. Since any project needs to have access it seemed odd to subtract out this rough number.

>

>

> Kathy Dion

>

>

> Sent from my iPad

>

> 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: mary ellen randall <mary.e.randall@gmail.com>
To: <JF@portlandmaine.gov>
Date: 4/13/2015 9:54 PM
Subject: Convent workshop

I would like to register my opposition to the proposed zone change to R6A. Not only is increased traffic, with its accompanying congestion, noise, and pollution a concern, but the high density nature of the zoning is not appropriate in this primarily residential neighborhood. Deering is a walkable neighborhood despite ongoing problems with traffic.

Property values will drop as the neighborhood is altered to a density greater than even much of the peninsula. Massive buildings of the proposed height and density will also have a negative impact on the abutting Baxter Woods, currently a sheltered, quiet wood that formerly was even more protected before trees were cut for the Macauley ballfields. Moreover, the plans are for very large, flat-roofed institutional buildings, not those shown in the developers' renderings of brick 3-story buildings.

I support maintaining the A5 zoning, converting the large convent building to housing, and preserving the character of the Deering neighborhood. In addition, I would like to see some requirement to add park-like green space to offset the additional CO2 and congestion caused by the development.

Thank you.
Mary Ellen Randall
Concord Street

4.14.2015

Dear Ms Frasier

could you please submit this tonight to the planners for 605 Stevens Ave

thank you Mary skerritt Vankevich

The citizens of Portland have long enjoyed the benefits of Portland's Parks. Baxter Blvd., the Eastern Promenade, and the Western Promenade. Deering Oaks was envisioned and built by park designer Olmstead and Mayor Baxter more than 100 years ago. Baxter Woods park was intended to link the city's ring of Parks to the outer regions of development .

Today I am deeply concerned by the dense proposed development of the convent property. The old growth trees, lawn, and playing fields protect and support the trees of Baxter Woods. In 1908 the convent was opened on 20 acres that was bought from Mayor Baxter and had been part of the original Baxter Woods .The Sisters of Mercy maintained these acres of forest for more than 100 years. Seven acres were sold to build Deering Pavilion and recently more forest was cut to build badly needed sports fields. The Pavilion property was recently rezoned to 6A and more trees will be eliminated from this historic stand. I believe the convent's 15-plus acres support and protect the green space that is important to the long-term survival of Baxter's Woods. Portland is known as the Forest City.

Seacoast Development's desire is to pave, excavate, and build on an overwhelming percentage of the property.

Currently the set-back for buildings is 25 feet .The root protective area for the trees extends into this area thus excavation and heavy equipment will directly harm root systems. Excavation nearby will

disrupt natural water flow. Forever, the trees will be subject to pavement runoff and the loss of the protective filtering of the supporting green space.

I am asking the set-back be at minimum increased to 50 feet with a requirement to leave the 50 foot protective path free of pavement and keep it planted with trees to support and protect the woodland reserve. Additionally, I would request that the remaining stand of wooded area be forever maintained and protected and that no road to join the Deering Pavilion property with the seacoast development .I know that access to the woods is great marketing for seacoast development but the scope of this complex is not fitting with the neighborhood or Park.

Thank you

May Skerritt Vankevich



Ms. Barbara Barhydt
 Development Review Manager
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

Re: 605 Stevens Avenue

Dear Ms. Barhydt,

We are writing to confirm our support for John Wasileski and his team in the development of the Sisters of Mercy property on Stevens Avenue. As the City knows, the future of this property has been under discussion for over a decade and we have considered a number of alternatives. In deciding to proceed with John and his team, we have found a developer who respects the historical significance of our Motherhouse and has a plan to preserve it for future generations. That was, and remains very important to us. We also appreciate the commitment that John and his team have made to preserve the St. Catherine's Residence for our retired Sisters. Additionally, we appreciate his efforts to work with Catherine McAuley High School. We think that the proposed development is a creative and responsible reuse of the property. It is sensitive to the past and present uses, while at the same time addressing a need in the community for low-income housing and assisted living facilities. We urge the Board to approve the project.

Sincerely,

Jacqueline Marie Kieslich, RSM
 President
 Sisters of Mercy Northeast Community

CC: John Wasileski
 Jean Fraser, Planner

from JW 4-14-2015
part of bus pres.



CATHERINE MCAULEY High School

Dear McAuley Community:

I want to update you on some very positive developments for the future of McAuley.

As you know, the school sits on real estate owned by the Sisters of Mercy, and they have agreed to sell the property to Sea Coast Management Company, with a likely sale closing date in 2016. The School administration and Board have been actively evaluating and planning for the school's future needs and options. As part of that effort, Sea Coast and McAuley have been meeting to discuss our shared plans and visions.

McAuley's objective has consistently been to provide the best physical environment for the young women of the school – to support their development into Women of Mercy, well-educated, self-disciplined, enriched by diversity, able to lead and willing to serve others. We want a location that serves the students and the Portland community, of which the school is a committed member.

We are happy to announce several important directional developments that will help us to achieve our goals.

First, we are very pleased to communicate that, with respect to the 5-year lease we currently have with the Sisters of Mercy, Sea Coast has confirmed that it "will be glad to extend the lease [with the School] to remain in effect as long as the School is in good standing with [its terms]", beginning with a 25-year term and renewable beyond that time. Sea Coast has promised the School that the terms will remain similarly favorable to what we currently have with the Sisters of Mercy. They have made this commitment to a long-term lease happily and "without reservation". This generous commitment allows McAuley to choose to stay in its current Stevens Avenue location, which has served us well for forty-five years. This site is the best choice for the School and continues our presence as an important part of the Portland Community. We can now plan and invest and build our future here, knowing that Sea Coast is committed to our long-term presence and success.

Second, we are also delighted that Sea Coast is willing to preserve permanent athletic field space for practices and possibly for games, depending on how their projects take shape. This provides us with the ability to support our young women's physical development and athletic team experience. Sea Coast's project timeline shows that there will be no impact on the current fields until at least the 2017-2018 school year and even then, the impact will be gradual as construction begins.

Finally, we are thrilled that the shared future of McAuley and Sea Coast offers many exciting and rewarding possibilities. Sea Coast wants to work with the school on everything from intergenerational programs to joint development for scholarships and capital needs. They are committed to having McAuley grow and thrive for decades alongside their new senior community, maximizing the benefits to both communities during our long-term future together.

We are excited about our new future and all the benefits this new direction can bring to our unique and irreplaceable McAuley. If you have any questions, please contact Kathryn Barr, our Head of School or me.

A handwritten signature in dark ink, appearing to read "Heidi S. Osborn", with a long horizontal line extending to the right.

Heidi S. Osborn
Chair, Board of Trustees

Brenda Gowns

PC 11

Have any studies been conducted on how building so close to Baxter Woods would affect the ecosystem?

I understand there are springs on the property and in the woods. How will the displaced ground water and storm water affect the trees?

What are the specific ecological and geological impacts?

Brenda Downs.

According to the City of Portland Fire Department records, in the past five years, between Park Danforth and Deering Pavilion, there was an average of 385 calls per year, more than 7 per week. Currently there are 359 units between those two properties. This project would double those calls and with all build outs could easily triple. Park Danforth's planned expansion is for 139 additional units. Ironically, following the meeting at the Motherhouse on Holy Thursday, there was a fire truck coming up Walton Street. Where did it come from? Which fire station typically responds to calls in this neighborhood? The closest fire station is on Stevens Avenue, 1 mile away. The next nearest is on Ocean Avenue, 1 ½ miles away. This highlights multiple risks. Is the elderly person in need of emergency services in jeopardy?

In the planner's Memorandum, under INTRODUCTION, 5th paragraph, it says:
 "The applicant has a Purchase and Sale Agreement for the wider area (including the High School and St. Catherine's Residence on Walton Street). The last sentence of the same paragraph says St. Catherine's is being retained by the owners. Which owners? Please clarify.

On the applicant's Density Computations Chart/Attachment B, St. Catherine's will stay in R5 what is the possible future density of that parcel?

If the school becomes available to the applicant for development, will that also stay in R5 or apply for R5A? What is the possible future density build out of that parcel?

If the remaining ball fields become available, what is the possible future build out of that acreage?

Ann Roderick
 970 Washington, Ave.
 Portland

I agree with Katie McHenry, Mary
 Veroneau, Mrs. Freund, Bobbi Cape.

My understanding of a 55+ or senior living community is that one of the attractions is that they are not in the vicinity of a lot of kids. With a school on the same property, it seems inconsistent with the concept.

Ann Readick
970 Washington Ave.
Portland

Bobbie Lopez
Concord Street

The numerous and excessive text amendments raise many concerns. Among them:

The staff's recommendations of redefining the net area are extreme.

The staff suggests that the subtraction of 20% is arbitrary. Their suggestion that it be removed is in itself arbitrary.

The staff's suggestion to remove the open space requirement is arbitrary.

Stevens Avenue is not a major arterial. It has been defined for pedestrians, bicyclists, and has been subjected to traffic calming implementation.

The state storm water regulations need to be considered.

This zone change will impact other projects.

The volume (3 ½ pages) of revisions of the text to R5A is egregious and irresponsible. Many of these suggestions are in direct conflict with the Comprehensive Plan and the legality is questionable. Why is the City acquiescing to the developers? The Planning Board and Planning Staff owe it to the citizens of the City of Portland to thoroughly review and analyze these proposed text amendments and not allow such a carte blanche proposal to be approved.

Bobbi Cope Concord Street

Density Comparisons

Convent Property	Convent Property	Convent Property	Estimated Typical Density	802 Ocean Avenue Portland Proposal	The Highlands at Topsham
R5A	R6A	R5	R5		
369 units (279+90)	492 units (372+120)	131 units (99+32)	128 units	150 units proposed	350 units
13.5 acres	13.5 acres	13.5 acres	13.5 acres	18 acres	75 acres
=27.34units Per acre	=36.45 units Per acre	=9.71 units Per acre	=9.49 units Per acre	=8.34 units Per acre	=4.67 units Per acre

Scene
The traffic dangers cannot be overemphasized. There are at least a dozen people in this room who had personal relationships with two children who were killed by vehicles on Stevens Avenue. Joey St. Pierre, age 15, was killed in front of St. Joseph's School on December 15, 1965. Dolores Boutin, age 8, was killed at Stevens and Hartley on May 8, 1973.

This conversation is not just about a drawing on a piece of paper, density calculation charts, and numbers on balance sheets. It's also about the real lives of real people, some of whom have generations of history here. It's about an established, valued culture that may be intangible, but is highly valuable not just to these citizens, but to the social complexity and fabric of the City of Portland. It really isn't that difficult to grasp this concept. I ask the Planning Board to think about it.

*Mary Wilson
36 Oregon St
Portland, Me*

Bretna Parker
30 Bay View Dr

PC15

In the RSA code, (DIVISION 6.5, Section 14-127, (a), 5, e.) it states:

Each unit shall be provided with at least two trees.

Where will the applicant be planting 668 trees?

Kathy Mahoney
494 PC 16

Regarding text amendment proposals:

Section 14-127. Permitted uses.

Under (a) Residential:

The planner's proposal shows this sentence crossed out:

2. The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.

This is inconsistent with the applicant's text amendment proposal which does not include this crossed out text.

Which version is the applicant seeking?

Sally Mahoney

In the planner's memorandum the Motherhouse development is described as having 66 affordable and 22 market rate apartments. In all of the applicant's documentation, with one exception, it says all 88 are affordable. (The exception is in minutes of the Holy Thursday neighborhood meeting (April 2nd) in the Convent where the applicant states that it's 66 affordable and 22 market.) Please clarify?

Kathy Mahoney

In the planner's Memorandum under
IV. EXISTING CONDITIONS AND ZONING

a. Background

The 2nd paragraph ends with the word 'and'.

There is no mention of the applicant also seeking Low Income Housing Tax Credits. (FYI: At the neighborhood meeting on Holy Thursday, the applicant reported that in addition to the combined federal and state historic tax credits of \$6.2 million, they are seeking \$7.4 million in low income housing tax credits.)

Since the apartments in the Mother House will be subsidized, who pays for the subsidy?

Who is paying for the tax credits?

Who is subsidizing the rents?

Ultimately who is really paying for this project?

Kathy Maloney

In the planner's Memorandum under
VI. PROPOSED ZONING AMENDMENTS

2nd paragraph states:

"605 Stevens Avenue and 802 Ocean Avenue proposals quote/unquote
'compatible at this stage' ". Please explain what makes these two projects
compatible?

Kathy Mahoney

In the applicant's letter under

3. PLANNING BOARD AND PUBLIC FOLLOW UP

c. Building Height and Site Sections:

The applicant states that the height of 60 feet will be below the Mother House roof level. Does this mean the lowest level of the roof where it meets the wall, the top of the peak, or somewhere in between?

Kahy Mahoney

What are the parking requirements of R5A?

The applicant proposes underground parking. Is there other underground parking in this neighborhood?

Is there much, if any, underground parking of this type in Portland at all?

Where will the parking be for the initial phase of 88 units in the Mother House?

Will parking be allowed in front of the Mother House?

Would underground parking cause more water problems for residents on

Pershing and Holly Streets?

How would such extensive excavation disrupt the already compromised Baxter Woods?

Kathy Maloney

At the neighborhood meeting on Holy Thursday, one of the questions was "What utilities will the tenants be paying?"

The applicant answered: electricity.

What is the planned source of heat for the Mother House and the surrounding buildings?

Kathy Mahoney

In the applicant's minutes from the neighborhood meeting on Holy Thursday it states that the services will transition into more full service congregate facilities in later phases as residents age. However in the Attachment C./Maine Traffic Resources report it specifically states that the expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Please clarify this inconsistency. How do these conflicting numbers fit into proposed zoning request.

Kathy Mahoney

The density the applicant is seeking is more than 3 times the density that exists in the surrounding R5 zone. This is significant and completely incompatible with the neighborhood.

From: o <jagwindham@aol.com>
To: <JF@portlandmaine.gov>, <jmy@portlandmaine.gov>
Date: 5/6/2015 1:26 PM
Subject: Fwd: letter to Stuart O'Brien and planning board staff and members

Judith A Girard

165 Warren Ave

Portland, Me 04103

Dear Mr. O'Brien,

I am a lifelong resident , and property owner in the city of Portland. I am writing this, the first letter in my 61 years to any official anywhere, because I am having some serious doubts about the direction this city, and its planners are heading. You and your board face some complex issues every day, the consequences of which will impact the complexion of the city of Portland and it's neighborhoods for generations to come.

I have recently become very interested in a project you are reviewing for a zone change. I have some specific concerns about this application, proposed in the neighborhood I grew up in, Walton St and Steven's Ave. The first is really the root of all of my other concerns about this application, and the reason I believe a zone change would be disastrous for this area, the project is WAY too big. Every time I look and new renderings for this development there are one or two buildings added to the plan. At your meetings there has rarely been a discussion about the aesthetics of such an aggressive build ,indeed there has been calculation upon calculation to try to figure out how to get more units on a postage stamp. That alone should send up a red flag. This is an historic property in an historic neighborhood and the city is actually being asked to allow the developer to saturate this estate with so many buildings, that in anyone's estimation, would be an insult to the grandeur of this irreplaceable treasure. The very thought shows no regard for the significance of this Historic building . If the zone change occurs I guarantee that the developer will be back in your office looking to put up two or three more buildings on the Catherine McAuley site because the school will surely be choked out by this aggressive construction. I will concede that many of us are nostalgic about the place we grew up, played with our friends and went to school, but I am lucky enough to share some unique memories about an area of Portland that I was always told as a child was special. One could go to school from sub primary and, in those days all the way through college , today I believe a doctorate at UNE, and all in walking distance on one street. That distinction is about to change forever as we close more and more of our neighborhood schools.

With an zone change at 605 Stevens Ave ,I firmly believe, that you will be ringing the death knell for Longfellow and McAuley and then Lincoln will follow soon. If the project you are considering at the Motherhouse passes the complexion and livability of this unique area will change forever. I can see the rehab developers ,eager to capitalize on tax credits and subsidies, ready to jump in and repurpose those

buildings into "affordable housing", and save the day. Indeed, that will take care of our immediate need to house the baby boomers, and find a use for our large, hard to heat, beautiful historic structures for today. But what about our future as a city. It seems to me what makes that particular area of Portland so attractive to families who have chosen to live there, are the very same issues we are dismissing about this project in favor of the developer's plan to build as many buildings as allowed

. Please please please - all of you of take a ride or better yet an evening stroll from the UNE campus through to Deering High School. Look around at how beautiful the area is. Take a walk on the Motherhouse property and envision those massive buildings on the grounds and then stop for a coffee at the Black Cat Coffee Shop, or an ice cream at Jet video, and see the families and their pets walking or riding bicycles enjoying being neighbors. Take away those schools, take away their sense of safety, make that community too difficult to navigate, and enjoy, and you can take away those families and those businesses.

Hand in hand with the size of this project, is the uncertainty of what we are going end up with on this site. This is what I have observed over a series of several meetings that I have attended about this project. The developer, by his own admission has had TEN YEARS to work on the plans for this property, while also carrying out similar projects in other areas throughout the State. At this point, his company should be fairly well versed in the particulars of this type of build and the issues they might face. Why then at every meeting, when they have been asked a direct question about very important aspects of this development the answers have been "we need to do more homework" or "that's something we are thinking about". Well, in my mind the answer then would be, go back, think about it, do your homework and get back to us. I am reminded of a famous quote that a teacher of mine used "poor planning on your part, does not constitute an emergency on mine". If they are not ready to answer the very important questions about the impact their proposal will have on the safety and quality of life for the citizens of Portland and the surrounding environment, then why are we rushing to a hearing. I know the easy answer is "so they can apply for their tax credits" but with all due respect they have had 10 years to think about this and I for one have more questions than answers about this proposal. Their poor planning is not the citizens of Portland's emergency.

And lastly, while I understand the need for zone review off the peninsula, and some projects require a denser use than R5 allows, I propose that there are several plots of land in areas that will have low impact on their surroundings and the city's neighborhoods that R5a might seem appropriate, this historic setting is just not one of them. I applaud the efforts you make on the citizens behalf, and trust that you will make a thoughtful decision to deny the zone change and insure the development on this site

will be kept in the respectful scale that such an irreplaceable part of our history deserves.

Thank you,
Judith A Girard

From: "Katie Mahoney" <krm35@maine.rr.com>
To: <jf@portlandmaine.gov>
Date: 5/7/2015 6:22 AM
Subject: R5A Zone - the McAuley Place Project at 605 Stevens Ave

Good morning,

Since the height in R5 is 35 feet, a reasonable height for R5A would be 45 feet. If the height for R5A is 55 feet in this particular project, it detracts from the visual significance of the Mother House and will create a wall next to Baxter Woods blocking sunlight from the trees and reduce the view from the inside Baxter Woods.

In light of recent news articles regarding the abuse of tax credits, I am concerned about rushing a zone change for this property without a full understanding of how these credits can be used. The need for tax credits is the reason for the rush. This is our money too. Please investigate whether the same abuse could happen before making a zone change recommendation.

I like the density the way it is. Please preserve our neighborhood.

Katie Mahoney

Deerin Ave

Portland

From: Jesse Thompson <jesse@95mdl.com>
To: Jean Fraser <JF@portlandmaine.gov>
CC: Jeff Levine <jlevine@portlandmaine.gov>, "Tuck O'Brien" <stuartobrien@me...>
Date: 5/10/2015 11:07 PM
Subject: Planning Board: 605 Stevens Ave zone change YES

Please forward this to the Planning Board members as possible:

I hope my comments do not arrive too late for entry into the public record for next Tuesday's Planning Board Public Hearing. Unfortunately I am not in town Tuesday night, or I would gladly speak in public what I'm writing below.

I'm a resident of Deering Center and have been for many years. Our family currently lives on Madeline St, only a few blocks from the proposed zone change on Stevens Ave. My children attend Longfellow & Lincoln Schools, and they both walk to school every day through our neighborhood. They are currently walking past posters tacked to every pole in the neighborhood decrying the proposed design for 605 Stevens Ave as "Imperiling Our Neighborhood".

I could not disagree more. I hear that letters in favor of projects like this are much more rare than angry letters scared of what change might bring, but I also know that many members of my neighborhood would welcome this project whole heartedly, they've said as much to me even if they have not written in to say so.

I support both the renovation of the Mother House and the new homes proposed to be built behind it.

The proposed renovation of the Mother House is critical to ensure that this important community building does not languish unused for any more years. The team working on this project has done wonderful things at the Nathan Clifford School and numerous other historic renovations. They should be applauded for taking on such a difficult & risky project.

The other new residences proposed in the rear of the lot would also be a wonderful addition to our neighborhood. The fears being raised by opponents of this project are just that, fears. Where else in Portland would it be possible to create new homes like this for people within walking distance of great restaurants (Siano's & The Cafe at Pats), close by neighborhood businesses (The Quality Shop, Black Cat Coffee, Jet Video, etc), close enough to volunteer at neighborhood schools (Longfellow, Lincoln, Deering High) and have wonderful walking paths in historic Evergreen cemetery, all without requiring a car.

To claim building new homes for people within walking distance of so many great resources will harm our children walking to school with too many cars is fear mongering, plain and simple. The Planning Board will need to make sure that there is good connectivity to the neighborhood through walking paths, low speed roadways and the like, but if this is accomplished carefully, we will only see a better neighborhood in the end.

I sincerely believe that building new homes like this project proposes will only bring benefits to our city, including more customers for our neighborhood businesses, more tax dollars to help fund our schools and new neighbors to help make Deering Center an even better place.

I hope you approve the Zone Change before you this week, I believe this project will greatly improve our neighborhood.

Thank you,

Jesse Thompson
 95 Madeline St

Portland

From: Michael Mertaugh <michaelmertaugh@gmail.com>
To: <JF@portlandmaine.gov>
Date: 5/8/2015 1:36 PM
Subject: Comment on Proposed Zoning Change for Sisters of Mercy Motherhouse

Dear Ms. Fraser,

I wish to offer the following comment on the proposed zoning change for the Sisters of Mercy Motherhouse site on Stevens Avenue:

The proposed zoning change would enable a large-scale senior housing development on Stevens Avenue that is fundamentally incompatible with the unique character of the Stevens Avenue neighborhood. This neighborhood along this stretch of Stevens Avenue is a unique educational "campus" for the city of Portland, with important historical educational institutions ranging from elementary schooling through middle school and high school, and the undergraduate and graduate programs at the University of New England. The proposed development site is also across the street from the historic Evergreen Cemetery, a National Register landmark and one of the most loved of Portland's open spaces, and immediately adjacent to Baxter Woods -- a much-used rural retreat within the city limits. The proposed development would significantly diminish the wilderness park experience for the users of Baxter woods, and would impose safety risks for the many students who walk and otherwise travel this corridor on their way to and from school. A plethora of studies document the much higher accident risk among elderly drivers, a large number of whom would be brought to the site by the proposed development. The project would generate a major increase in traffic flows along this critical stretch of Stevens Avenue, in contrast to the neighborhood's efforts to reduce traffic flows and lower vehicle speeds. The proposed massing of new buildings adjacent to the Motherhouse would also diminish the historical significance of this important city landmark. For these reasons, I urge the Planning Board to reject the applicant's proposal for a change to R6 zoning.

Best regards,

Michael Mertaugh
118 Beacon Street
Portland Maine

From: o <jagwindham@aol.com>
To: <jf@portlandmaine.gov>, <jmy@portlandmaine.gov>
CC: <jagwindham@aol.com>
Date: 5/8/2015 5:25 AM
Subject: Steven's Avenue traffic study

Judith A Girard
185 Warren Ave
Portland, Me 04103

To: Planning board and staff,

On the heels of my first letter to city officials, I am prompted to write another after looking at the results of the developers traffic study. While the amount of time I might have to sit at a traffic light might affect my ability to get to work or school on time, the issues in this area are much broader. There was no consideration given to the large number of bicycle and pedestrian travelers heading to and from those Schools. In the interest of safety, we must not ignore the facts, or some family will pay the price. This is not an IF it happens, it is WHEN it happens.

I found myself at the intersection of Pleasant and Steven's Avenues @5:40 PM last evening (actually before I had an opportunity to read the traffic study) and this is exactly what I observed. I was the first car in line with a red light, about to take a right hand turn on to Steven's. In the intersection on my side of the street trying to cross Steven's Ave, was a mother and son on bicycles with tennis rackets. On the opposite corner, two young (pre teen) girls crossing to the Jet Video (my) side of the Street. Looking towards Deering High a couple walking and a woman walking her dog were heading away from Pleasant and another group of children (@5 middle school age) walking towards me on my side of the street. The doors were open at Jet inviting the post dinner ice cream rush, and a "family" of bicycles (3) were propped up against their building next to a double jogging stroller. There were cars in all four directions and every parking space was full, except one handicapped spot to my right. After the light turned and the pedestrians crossed, I turned right and as I approached the Quality shop (again several cars, bicycles and pedestrians) there was a young woman starting to cross from the Pat's/ Siano's side to the Quality shop. Continuing a block Baxter Woods was, as usual busy with couples and owners waking their pets, and a mother sat at the picnic table while her young son played on the big log next to her. I pulled into McAuley for the heck of it to see what was going on there, and found their parking lot @ 1/3 full and a group of Lacrosse players coming off the field after a practice, and a Little League or some sort of baseball game going on at another field. Clearly the community uses those fields not just McAuley because these were very young children.

The area is bustling with families, children, pets and their parents, and drivers of any age need to use caution and keep their eyes open when they navigate through this neighborhood. The numbers in that traffic study do NOT even begin to show the whole picture. I urge the planning board members to visit the area and the site of the proposed project and then tell me that R5A is appropriate for this neighborhood.

Thank you,
Judith Girard

From: o <jagwindham@aol.com>
To: <jmy@portlandmaine.gov>, <JF@portlandmaine.gov>
Date: 5/9/2015 7:02 AM
Subject: Fwd: Zoning Change

This letter was sent on April 27th as comment about the proposed zoning change at 605 Steven's Avenue. Since I did not notice it listed among public comments, I am concerned that it did not arrive. I am resending it today so it may be considered before the public hearing.
 Thank you,
 William Kendrick

William K Kendrick
 185 Warren Ave
 Portland Maine 04103

Re: Zoning change for the contemplated development of the 605 Stevens Ave property at
 Catherine McAuley High School and the Mother House

Dear Mr. O'Brien

I am a Portland resident who is quite concerned about several aspects of the contemplated development on the Sisters Of Mercy property on Stevens Avenue. My concerns arise largely from the scale of the project and the impact that further development of this magnitude will have on the neighborhood density and traffic. At the most recent workshop (April 14 2015) the applicant again informed those in attendance that the development team has not yet completed it's "homework" and that some important details of the project have not yet been completed. Consequently the acting chair of the meeting suggested that another workshop be scheduled to deal with those open issues. The applicant pointed out that another workshop might jeopardize their ability to apply for and obtain the tax credits needed to finance the project. Despite the open issues and gaps in the project details the city officials then decided to forego another workshop and proceed with the public hearing. That decision seems to be at odds with the planning and due diligence work that remains incomplete.

There were also comments made by a member of the Planning Board late in the workshop after the opportunity for public comment had closed. Mr. Bill Hall expressed his view that he was not at all concerned by increasing traffic loads in the area. Mr. Hall offered no facts to support his views and he seemed to simply dismiss the concerns of so many in the neighborhood who are acutely aware of traffic and parking problems along both Stevens and Forest Avenues.

To the best of my knowledge, an adequate traffic study has still not been completed ,or even scheduled. Given the scale of the project, current traffic and parking issues, and the proximity of so many schools, it strikes me that a thorough traffic analysis is essential before the zone change is considered. As recommended by the city's planning staff, that study should include the impact of already approved expansions at Park Danforth and Deering Pavillion .

I have attended several of the public meetings regarding this project where the applicant has suggested that they are considering underground parking as a solution for the number of spaces needed for such dense building. They have also acknowledged the expense might be prohibitive depending on site geology. Also, statements at previous public meetings have expressed knowledge that the property has "water issues" making underground parking impractical The fact that the applicant has not yet addressed these issues is, I think, a further indication that insufficient information has been provided to approve a zone change at this time.

Sincerely,

William K Kendrick

From: Kim Crabill <krabill93@gmail.com>
To: "JF@portlandmaine.gov" <JF@portlandmaine.gov>
Date: 5/11/2015 5:18 PM
Subject: Deering center redevelopment

I have been a Deering Center resident for over 13 years and I'm excited about this redevelopment project.

Kim Crabill
207.615.3181

From: Barbie Weed <infoandwork@gmail.com>
To: <JF@portlandmaine.gov>
Date: 5/11/2015 5:06 PM
Subject: Zoning for Steven's Ave. development

Hello,

I am a homeowner/resident of Deering Center and am concerned about the proposed zoning application for the property behind McAuley High School. I recognize that this property will probably be developed in some fashion, but I would object to any zoning proposal that would allow any future developer to create housing units with a significant density or that would allow businesses along that stretch of Stevens Avenue. Deering Center is a residential neighborhood, but we are constantly having to fight for the quality of life that caused us to spend money for homes in this area. The traffic caused by a dense housing development along Stevens Avenue would make travel, which has already been compromised by UNE's student traffic on this overused artery, continuously hazardous. There are thousands of K-12 students on Stevens Avenue daily during the school year and there is no reason to increase their risk. This is especially true since high school students who are not attending Deering will, starting next year, be walking and trying to catch buses along Stevens Avenue in order to get to school.

I am also concerned about how a tall development would impact Baxter Woods and how a development covering significant land surface would impact the watershed that runs through the neighborhood. The environmental impact of both of those things could have serious detrimental effects. The city was entrusted with the maintenance of the Woods, which is a vital environment for a host of animals and plant life. Those plants and trees help manage the water that naturally flows through the neighborhood. If the woods are unhealthy or unable to grow because light conditions change, the water flow could affect homes, Forest Avenue, and even the new development.

I lived on the peninsula for many years, but, like most of my neighbors, I eventually bought a home in this neighborhood in order to stay in Portland while avoiding the congestion. Portland needs to create a plan for expansion and unbridled development does nothing for maintaining a healthy city. Open land should not be wantonly filled with compact apartments just because it can be. Deering Center is not a suitable location for a development that would completely subvert the residential, family quality of this neighborhood. I call upon the Planning Board to act in the interest of the taxpayers of this neighborhood, not the developers. Ensure that zoning allows for only development that will not cause harm to our community.

Barbara Weed
26 Brentwood Street

May 7, 2015

To: Jean Fraser & Planning Board, City of Portland

Re: 605 Stevens Avenue

From: Bobbi Cope, 172 Concord Street

I oppose allowing the R5A on this property on Stevens Avenue because:

- There are traffic safety risks that cannot be 'mitigated'. I think it is irresponsible and reckless of the Board to dismiss traffic concerns without further consideration. **The thousands of child pedestrians that walk along Stevens Avenue on a daily basis have not been counted in any of the traffic analyses.** Please remember that two children have been killed on this street. In my conversations with a traffic expert I've been made aware that the combination of young children and elderly drivers is the most dangerous and deadly. The traffic analysis that was provided by the applicant appears to be an analysis from an engineering perspective. It does not address any of the safety issues that we raised. These risks exist today even without considering the introduction of 368 additional dwelling units here, and Park Danforth's and UNE's ongoing expansions thrust into the middle of it. The applicant states "Compared with virtually every other type of use allowed on the property under zone 5 or 5A, a senior community will produce the lowest and safest amount of traffic by far." This is conjecture. What other uses have been considered?
- R5A would allow density that is disproportionate.
- If approved, the maximum height allowed for this project should be property specific and not lumped in with R5A development in other neighborhoods. The height limit that is being proposed of 55 feet is inconsistent with the surrounding buildings, landscape and suburban neighborhood which currently has a 35 foot maximum. This creates a visual scale that suits the area. You have relied on the applicant's approximations of the height of the Motherhouse. Throughout the application process they have submitted varying measurements. If the height of the Motherhouse is somehow going to dictate the height that is going to be allowed, there should be a measurement done by a third

party for the record. The applicant stated (April 24) “no building exceeds the roof height of the existing Motherhouse”. **This language will not be in the R5A language and would allow the applicant or another developer to possibly exceed the height of the Motherhouse.**

- The R5A does not allow a school. Applying the R5A here is a square peg in a round hole. The project would be on a street that is essentially a ‘school zone’ from end to end. I find this remarkable and obviously inconsistent with the neighborhood that has been a street of schools for over one hundred years. This development would put a halt to any potential growth at McAuley High School (almost certainly be its death knell) and, in fact, would encourage a transformation into something completely inconsistent with the neighborhood’s context, history and current zoning.
- I have heard the term “elder warehousing” to describe what’s happening in such a concentrated area. With Park Danforth’s planned expansion, Deering Pavilion’s likely expansion since they are in R6A now, a possible repurposing of Longfellow if it closes, and this proposal within ½ mile of each other, the unpleasant term seems apropos.
- This project, as proposed, does not fit in this neighborhood. It’s in high contrast with the current zoning and the majority of opinion in the neighborhood and by others who frequent the area is in opposition to the change to R5A. In contrast, the 802 Ocean Avenue project is being supported by neighbors.
- In the Motherhouse on Holy Thursday, April 2nd, at the neighborhood meeting hosted by the applicant, in a room of at least 80 people, John Wasileski said, “If we are not embraced, we’ll drop it.” He also said, “My word is my bond.” **I’D LIKE TO HOLD HIM TO HIS WORD.**

Here are some suggestions for development that would be better suited to the neighborhood.

- Build several homes on the property which would be in scale with the property and the neighborhood.
- Allow the school to grow. Perhaps McAuley could become a world class boarding school.
- Park: Expansion of Baxter Woods. We need more green space, not less.

- B & B (This is a common conversion for obsolete monasteries and convents throughout the world.)
- Retreat Center
- Urban Farm
- Orchards

Bobbi Cope

To: Planning Board, City of Portland and City Planner
Re: 605 Stevens Avenue zone change application/Public Hearing May 12, 2015
From: Bobbi Cope, 172 Concord Street
Date: May 9, 2015

I oppose allowing the R5A zone change on this property. The potential negative impact on this neighborhood cannot be overstated. Here are some concerns:

- incompatible density
- traffic safety and congestion
- the safety of thousands of children
- jeopardizing the future of McAuley (the state's only all girl school)
- sufficient new parking
- environmental impact
- negative effect on the experience and quality of Baxter Woods
- the loss of green space
- impact on storm water, ground water and springs
- historical significance
- the culture and tradition of Stevens Avenue
- incompatible building height, scale and massing
- the visual aesthetic
- manipulation of net/gross land area calculations
- trustworthiness of the developer
- unknown further development
- missing an opportunity to carefully plan a better alternative on this unique property (housing consistent with R5, development of educational institutions, expansion of Baxter Woods, conference and retreat center, urban farm, orchards, community gardens)

Public opposition to the proposed zoning ordinance changes has been overwhelmingly negative on virtually every proposed element. The proposed amendments to the R5A Zone would radically depart from decades of measured and sensible land use. I object to the Planning Board rushing through the process with all the unanswered questions and no consideration to any alternatives simply to accommodate the applicant's unsubstantiated warning that tax credits may be lost. Can you hear our plea?

Over the last few months you have been asked many questions, listened to many comments, heard and read compelling opposition, and considered challenging issues. You've looked at charts. You've read reports. You are charged with analyzing all of the data, from the planning staff, the applicant and the public. This is a long term issue. There is much more to consider and the citizens of the City, and in particular, the residents of Deering, are relying on you to be as thoughtful, deliberate and careful as you can be.

Lastly, you are legally bound to comply with the City of Portland's Comprehensive Plan. In light of my serious concerns, I have retained Perkins Thompson to review the text amendments for legal sufficiency and have been advised, per the firm's enclosed letter, that several of the proposed amendments are not legally viable. As a taxpayer of this City and lifelong resident of the neighborhood, I hope you will be cautious before choosing a regrettable path and exposing the City to the risk and expense of litigation.

Sincerely,



Bobbi Cope

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 126
PORTLAND ME 04112
TEL 207.774.1639
FAX 207.871.8026

www.portlandthompson.com

May 11, 2015

Ms. Bobbi Cope
172 Concord Street
Portland, ME 04103

**Re: Legal Viability Review of Certain Proposed Amendments to the R5a Zone
in the Portland Land Use Ordinance**

Dear Ms. Cope:

You have retained this firm to review proposed amendments to Portland's Land Use Ordinance prepared by the Portland Planning Department, as set forth in Attachment 1 (Proposed Amendments), to evaluate their consistency with the City's Comprehensive Plan.

The Proposed Amendments include revisions to the Ordinance's R5a zone, Division 6.5, §§ 14.126 *et seq.*, and to the definitions of "congregate care facility" and "net land area" §14.47 ("Definitions"). The City Planner's April 10, 2015 Memorandum to the Planning Board advises that the Proposed Amendments are a merger of proposals from three sources: an Ocean Avenue property developer, a developer/purchaser of the Sisters of Mercy's property at 605 Stevens Avenue, and the City's planning staff.

The Proposed Amendments involve significant and sweeping changes to the Ordinance's R5a zone, including its review process and standards for large, higher density projects. They would cancel the City's ability to negotiate with the developer through the R5a zone's current contract zoning mandate for large projects and to obtain public benefits through that process (such as greater open space, public access, and preservation of natural features) in exchange for such higher density allowances.

In effect, the Proposed Amendments would overhaul the R5a zoning provisions in the Land Use Ordinance to accommodate a developer's preferred sized project, before the developer even submits a permit application. This is the reverse of the normal process, where a developer designs and circumscribes its project, and then submits its permit application to meet the existing terms of the Land Use Ordinance.

PHILIP C. HUNT
JOHN S. UPTON
PEGGY L. McGEHEE
MELISSA HANLEY MURPHY
JOHN A. HOBSON
JAMES N. KATSIARICAS
TIMOTHY P. BENOIT
J. GORDON SCANNELL, JR.
FRED W. BOPP III
MARK P. SNOW
WILLIAM J. SHELS
DAVID B. MCCONNELL
PAUL D. METROPAOLI
RANDY J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGIE
STEPHANIE A. WILLIAMS
PETER J. McDONELL
SARA N. MORRIS
SHAWN K. DOIL
JOSEPH G. TALBOT
LAUREN B. WELIVER
JOSEPH C. SIVISKI
JOHN W. MASLAND

Ms. Bobbi Cope
 May 11, 2015
 Page 2

In the face of such an Ordinance overhaul to accommodate an individual developer in advance of its permit application, particular scrutiny should be given to the City's Comprehensive Plan to insure the Proposed Amendments are consistent with it, as required by both the City and the State. See 30-A M.R.S. § 4352(2) (a municipal ordinance must be "consistent with a comprehensive plan adopted by the municipal legislative body...").

Our review finds that at least three of the Proposed Amendments are inconsistent with the City's Comprehensive Plan, as they contradict the Comprehensive Plan's description of the core features that are to be included in the R5a zone.

The City's Comprehensive Plan includes, in its Volume II, summary descriptions of each of the City's land use zones, so as to "define" each zone's "purpose" and "parameters".¹ Its description of the R5a zone states in relevant part:

7. R-5a RESIDENTIAL... The permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed. The other significant difference is that *PRUDs may be developed at a higher density*. PRUDs in an R-5a zone require a minimum of 3 acres and a minimum *net land area* of 1,600 square feet per unit compared to 3,000 square feet in the R-5 zone. *The R-5a is applied through rezoning* when a site and development proposal meets the intent of this zoning classification.

Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 64 (emphasis supplied).

As explained below, the Comprehensive Plan's parameters for the R5a zone are that: 1) higher density projects in the R5a zone are available only as PRUDs; 2) the standard of a 1,600 square feet minimum net land area per unit means "net land area" as it was defined when this Plan parameter was adopted; and 3) landowner rezoning to an R5a PRUD must be done through conditional or contract zoning.

- 1) **The Comprehensive Plan requires that large, higher density projects (including congregate care facilities and multi-family dwellings) only be permitted in the R5a zone as PRUDs.**

The Plan states that "[t]he permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed." As stated in the Plan's description of the R-5 zone as to all permitted uses (excepting out multiplexes):

¹ Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 53, stating that it "lists each zone under the designated growth or rural areas and *defines the zone with its general location, purpose, parameters* and potential revisions." (emphasis supplied)

The residential uses permitted in the R-5 zone include single and two-family structures ... Planned Residential Developments (PRUD) with horizontally or vertically attached units, single family manufactured housing units, and handicapped family units. Parks, home occupations, and special needs independent living units are permitted. Some of the other conditional uses include sheltered group homes, alteration of a structure for 3 or more dwelling units, conversion of units to lodging houses, schools, churches, private clubs, hospitals, colleges, and day care facilities.

Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 63.

The Plan's R5a zone parameters do not include as "permitted" uses, therefore (outside of PRUDs), either congregate care facilities or multi-family dwellings, which are not listed in the R-5 zone's list of permitted uses. (Note: The term congregate care facility is currently *defined* in the Ordinance, §14.47, as a "planned residential unit development.")

Thus, the provisions in the Proposed Amendments that would add congregate care facilities and multi-family dwellings as "permitted" uses in the R5a zone, instead of as versions of a PRUD, see **Attachment 1**, would be, on their face, inconsistent with the Comprehensive Plan. (Note: The Proposed Amendments would also change the definition of "congregate care facility" to delete the words "planned" and "unit," rendering it also inconsistent with the Plan's references to such facilities).

- 2) **The Comprehensive Plan requires that the 1,600 square feet minimum net land area as that term is used in the R5a zone must have the same meaning as it had when the Plan provision was adopted.**

The proposed overhaul of the Ordinance definition of "net land area," the effect of which will be to expand substantially the amount of a property's developable land (by deleting from the "net" calculation, easement areas, storm water detention areas, inaccessible areas, and the 20% open space requirement, see **Attachment 1**), would render the Ordinance's definition *per se* and inherently inconsistent with the Plan's meaning of the phrase in its description of the parameters for the minimum net land area in the R5a zone.

- 3) **The Comprehensive Plan requires that PRUDs in the R5a zone be applied through landowner contract or conditional rezoning.**

As to the Comprehensive Plan's statement that "[t]he R-5a is applied through rezoning," such rezoning application is provided, under the terms of the Plan, through conditional or contract zoning. The Plan states that "[c]onditional or contract zoning is authorized for rezoning ... [and it is] limited to where a rezoning is requested by the owner of the property to be rezoned." Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 79.

The Ordinance's R5a zone provision, § 14.127(2), thus states, as consistent with the Plan, "[p]lanned residential unit development (PRUD) consisting of horizontally or vertically attached

dwelling units or a series of such dwelling units ... shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.”² See 30-A M.R.S.A. § 4301(5) (“‘Contract zoning’ means the process by which the property owner, in consideration of the rezoning of that person’s property, agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.”).

The Proposed Amendments’ deletion of conditional or contract zoning as the PRUD rezoning process is thus inconsistent with the Plan’s parameters for R5a rezoning by landowner application.

Should these Proposed Amendments be adopted, they will not only render the Ordinance’s R5a zone inconsistent with the Comprehensive Plan, their effect will be to enable the developer to avoid the material dimensional and density limits that are incorporated into the Ordinance’s PRUD standards and its net land area calculation, and to avoid trading public benefits for density bonuses. We understand that this is a particular concern for your Stevens Avenue neighborhood, as the proposed project on the Sisters of Mercy 13+ acre property would enable the construction of more than 350 units in large block buildings that would be 55 feet high.

Independent of the *per se* Plan inconsistencies that the Proposed Amendments would cause, there is the question whether the very size and scale of the proposed Sisters of Mercy property development would render any R5a rezoning of the property, without any contract zoning conditions and limits, to be inconsistent with the Comprehensive Plan’s goals and policies for the Stevens Avenue neighborhood, including its goals to preserve the neighborhood’s integrity, to control and limit its traffic, and to insure building height compatibility.³ See *Rommel, et al. v.*

² Division 1.5 of the Ordinance provides examples of the types of conditions and restrictions that can be imposed through contract zoning, including:

- (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 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 any breach of condition or restriction.

City of Portland, Code of Ordinances, § 14-62.

³ For example, the Comprehensive Plan and its incorporated studies state as its goals that are relevant to the Stevens Avenue neighborhood, that:

- “To make drivers aware of foot traffic and demonstrate means of diverting through-traffic from streets that cut through neighborhoods. Pilot Area 1: Stevens Avenue from approximately

City of Portland, et al., 2014 ME 114, 102 A.3d 1168 (conditional rezoning upheld to permit the renovation of residential spaces in a parish house and office space in the first floor). In *Rommel*, the Law Court noted that the City “considered and balanced the goals of the comprehensive plan” and that “the City Council approved the rezoning only after attaching conditions [] to ensure the [contract zoning agreement was] consistent with the comprehensive plan.” *Id.* ¶ 16,

Evergreen Cemetery to Frost Street. Elements: Aggressive traffic ‘calming’ techniques, Pedestrian circulation/safety measures (as are being proposed in a Stevens Avenue pedestrian study now ongoing)”. Transportation Plan p. 68.

- Goals for R-5 zone: “...reinforce the context and existing character of the neighborhood; The buildings’ massing...shall be consistent with existing residential buildings in a two block radius.” Housing Study (Design Manual) p. 1 at (1) and (3).
- Neighborhood Stability and Integrity: Policy: “...protect the stability of Portland’s residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional governmental and other non-residential uses.” Housing Study, Policy #3, p. 18.
- “Uphold Zoning: Enforce approved density regulations in the Zoning Ordinance.” Housing Study, Policy # 3, p. 18.
- “Adopt design guidelines for new housing...compatible with the character and patterns of development in each neighborhood.” Housing Study, Policy #3, p. 18.
- “Traffic and streetscape studies for Stevens Avenue, Congress Street and Brighton Avenue offer a range of improvements to increase the multiple uses of these roads. Raised crosswalks are located along Stevens Avenue to slow down traffic and create safer crossing points for students attending the five schools along this Avenue. Comprehensive Plan, Volume I, T-4.
- “...the problem of through-traffic dividing and disrupting neighborhoods is likely to persist and must be addressed directly. The proposed strategy has four parts, dealing with arterials in four different situations: 1. Where commuting traffic has an alternative to the arterial that is cutting through the transportation district and its neighborhoods, take steps that will discourage use of the arterial (including “calming” traffic through reduced roadway capacity, substituting on-street parking, bike lanes, etc.) and, concurrently, encourage the use of other arterials that are better located (upgrading the latter arterials if necessary). The use of raised crosswalks on Stevens Avenue and concrete center circles at selected intersections on Capisic Street are examples of traffic calming on arterials.” Comprehensive Plan, Volume I, T-13.
- “Baxter Woods – this Park has 32 acres of forest. It is the largest undisturbed forest in the city and contains valuable stands of White Oak and groves of Hemlock. An important section of this ‘old growth’ forest is on land owned by the Sisters of Mercy (Catherine McAuley High School) and the Deering pavilion. This part of the forest was likely cut at one point over 150 years ago. Governor Baxter planted a plantation of Red Pines in 1947.” Comprehensive Plan, Volume I (N-12).

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103 A.3d at 1172. Such conditions included obligating the property owner “to rehabilitate, renovate, and maintain the property at higher standards than required under the Historic Preservation Ordinance alone.” *Id.* ¶ 18, 102 A.3d at 1173. The Proposed Amendments here would cancel these contract or conditional rezoning and other protections that had sustained the *Rommel* rezoning.

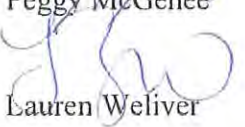
We do not see in the Planning staff memoranda that the Planning Department has considered the above cited Comprehensive Plan provisions in its consideration of the Proposed Amendments’ consistency with the Plan. You may therefore wish to forward this analysis to the Planning Department for its consideration and comment.

We will, in the meantime, stand by for any further assistance we can provide.

Regards,



Peggy McGehee



Lauren Weliver

Attachment 1

**Proposed Text Amendments Defintions; R5A; Site plan
for May 12, 2015 PB Hearing
Prepared by Portland Planning Staff**

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~ residential ~~unit~~ development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~

(f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~

~~1. Existing easements, rights of way or dedicated areas which preclude use in conjunction with the proposed development;~~

~~2. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~

~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~

~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

DIVISION 6.5. R-5A RESIDENTIAL ZONE

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

(a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.

2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If

manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care facilities.

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

Sec. 14-128. Conditional use.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) Other:

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
 - e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres ¹
	Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area
	Intermediate, extended or long-term care facilities: 1 1/2 acres.
<u>Min. Lot Area per D.U.</u>	Single-, two- and three-family dwellings: 1,600 SF.
	Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area. ²
<u>Min. Lot Area per Resident</u>	Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.
<u>Min. Street Frontage</u>	50 feet.
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings²</u>	1. <i>Front yard</i>: Principal or accessory structures: 25 feet. 2. <i>Rear yard</i>: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. (continued)

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. 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 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.

	3. Side yard: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: <table> <tr> <th>Height of Structure</th><th>Required Side Yard</th></tr> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </table> 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. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. 4. Side setback on side streets: Principal or accessory structures: 20 feet.	Height of Structure	Required Side Yard	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
Height of Structure	Required Side Yard										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										
Maximum Structure Height	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.										
Max. Lot Coverage	30%										
Minimum Lot Width	60 feet										
Minimum building setback from external subdivision property lines	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. Building length of one hundred (100) feet or less: 25 feet. b. Building length of greater than one hundred (100) feet: 35 feet.										
Minimum recreation open space area	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.										

~~(a) Minimum lot size:~~

~~Residential (Single, two and three family dwellings): Six thousand (6,000) 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, and a maximum lot size up to two (2) acres. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~Multifamily dwellings: Two (2) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Congregate Care: Three (3) acres gross area, as defined in Section 14-47 (definitions) of this article, of contiguous land.~~

~~(b) Minimum lot area per dwelling unit for Single, two and three family dwellings: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~Congregate Care: Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~Minimum land area per intermediate care facility resident: Eight thousand (8,000) square feet gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development: Fifty (50) 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: Twenty-five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 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. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~e) Maximum structure height:~~

~~Principal residential (single, two and three family) or attached accessory structure: Thirty-five (35) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~Principal or attached accessory structure for PRUD, Multifamily, Congregate Care and Intermediate, extended or long-term care facilities: Sixty (60) feet~~

~~(eF) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(fg) Minimum lot width: Sixty (60) feet.~~

~~(h) Minimum building setback from external subdivision property lines (PRUD) for multifamily, PRUD, Congregate Care, and Intermediate, extended or long-term care:~~

~~a. Building length of one hundred (100) feet or less: Twenty-five (25) feet.~~

~~b. Building length of greater than one hundred (100) feet: Thirty-five (35) feet.~~

~~(gi) Minimum recreation open space area (PRUD multifamily, Congregate Care, and Intermediate, extended or long-term care facilities): Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.~~

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *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.

- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate , extended and long term care facilities in the R5A and R6A zones.

From: Greg Payne <gregopayne@yahoo.com>
To: "jlf@portlandmaine.gov" <jlf@portlandmaine.gov>
Date: 5/12/2015 7:29 AM
Subject: McAuley Place

Hi Jean: I am a resident of the Deering neighborhood and am unable to be at tonight's meeting but would like to offer my general support for the proposed zone change at McAuley Place on Stevens Avenue. I am acutely aware that Portland needs more housing units across the spectrum of incomes, and that housing needs are particularly great for our growing population of seniors. The City has the opportunity here to facilitate the creation of quality homes for our seniors in partnership with responsible developers who know what they're doing. While there are no doubt plenty of details to work out with regard to ball fields and parking spaces, I would much rather see the proposed development move forward than some of the more intense uses that are currently permitted in the R-5 zone and which wouldn't address local needs the way this one does.

Thank you for your consideration. Greg Payne
66 Rosemont Ave.

From: Clare Ruthenburg <clare@netbc.net>
To: <JF@portlandmaine.gov>
Date: 5/12/2015 7:38 AM
Subject: 605 Stevens Avenue

Clare Ruthenburg
34 Caldwell Street
Portland, Maine 04103

Dear Ms. Fraser and members of the Portland Planning Board,

I, unfortunately, will not be able to attend the Planning Board Meeting this evening and would like to voice my opposition to the proposed zoning change to R5A for the 605 Stevens Avenue property. I feel extremely fortunate to have lived in this special Portland neighborhood for over thirty years. I am not opposed to development and understand the pressing need for elderly housing. But this development needs to be carefully planned without destroying the integrity of the surrounding neighborhood and without increasing safety issues. Our area is rich in history, has cultivated a strong community spirit, and is well endowed with public green space, including the peaceful woods that Mayor Baxter bequeathed us all.

On April 2nd, I attended the neighborhood meeting hosted by the applicant. He and his staff assured us that they would keep their buildings on a scale that would not distract from or exceed the height of the Motherhouse and would be situated in a way that the building height would not seem out of place in this residential neighborhood. I was gone during most of April and returned to learn that the R5A definition will allow for 55 feet height limit which appears different from what the applicant presented before. There were other modifications, including increased density, that contradicted the applicant's presentation. My understanding is that the R5A definition allows for flexibility from property to property and this "squishiness" could bring unforeseen consequences to this particular property now and in the future. The R6A zoning for Park Danforth and Deering Pavilion, in my opinion, will most likely impact our neighborhood negatively with their vertical expansion and high density. Deering Pavilion is already an eyesore. Combining those projects with a large, poorly zoned development at 605 Stevens will undoubtedly change this beautiful neighborhood dramatically forever. Have any of the other remaining tracts of land in Portland been considered for elderly housing? The large tract at Morrill's Corner sits undeveloped.

Along with my concerns about the visual scale, the aesthetics, and density (the possibility of 368 additional units in the neighborhood) of the 605 Stevens Avenue project, I am very worried about the impact of this project on traffic and safety. This corridor already is overburdened by university traffic and parking plus all the school buses and cars connected to the other public and private schools along Stevens. More cars, more emergency vehicles, and delivery trucks will only intensify an already dangerous situation for children walking to and from school along that busy street and on the side streets. As is, I see close calls between pedestrians and vehicles regularly.

Baxter Woods is a Portland treasure. I would like to know more about the environmental impact this zoning change will have on this beautiful tract of woodland. Has there been a study done? How will the wall of buildings affect the forest ecology? How will the wildlife be affected by a higher density of people? How will the quietude that so many people seek as they enter the woods be changed?

I also have questions about the future of McAuley High School on this property. It's confusing to me how the school will fit into this R5A zoning. Hopefully, this will be addressed at the public hearing. McAuley is a positive, contributing part of our neighborhood.

Thank you for the consideration of my concerns as you assess this zoning request.

Warm regards,

Clare Ruthenburg

From: David Webster <webster@pdtarchs.com>
To: "bab@portlandmaine.gov" <bab@portlandmaine.gov>, "jf@portlandmaine.gov" ...
Date: 5/12/2015 4:09 PM
Subject: 605 Stevens Avenue; Zoning Map and Land Use Code Text Amendment Application

Jean and Barbara:

I am unable to make tonight's public hearing regarding the 605 Stevens Avenue; Zoning Map and Land Use Code Text Amendment Application, but would like my comments included in the public record.

I live at 77 Rackleff Street and have lived in the Deering Center neighborhood for 30 years. Our son grew up in Deering Center and went to the Stevens Avenue's schools. Deering Center is my home.

I am an advocate of walkable and bikeable communities. Deering Center historically has been and is that kind place. The vibrancy of the Pleasant Avenue to Brentwood Street commercial area will be enhanced with the support of the applicant's planned retirement community. The businesses will have a larger market to serve. I believe that the proposed conversion and development of the 605 Stevens Avenue property will not only support the Deering Center community, but also strengthen it.

Anecdotally, my 90 year old mother lives in Oceanview in Falmouth. It is a retirement community made up of a similar demographic as those that will occupy this development. The choice of many of the people there is not to drive, but rather walk. Their focus is to keep moving and not be isolated. Deering Center would be a great place for them to live and at the same time, be an asset to the local community.

I believe this to be an example of good urban planning and a win-win for Deering. Those who object and can have many of their concerns addressed through the Planning Board review process. I urge you to support this change.

Thank you.

David C. Webster

From: "Jean Russo" <russo@maine.rr.com>
To: <JF@portlandmaine.gov>
Date: 5/12/2015 4:45 PM
Subject: McAuley House

Jean

Just a note to let you know as a lifetime Portland resident and as a 30 year Realtor and business owner in the Deering/Rosemont area, I am in favor of turning the Convent into housing for seniors. If the plan calls for a community within the property so that the residents do not need cars, that would be even better. There is a huge need for affordable senior housing in Portland. The need is only going to get greater need as the baby boomers who do not want to own homes anymore start looking for rentals. A community center within the property with a grocery store, salon, café, and a clothing or gift shop would be great.

I hope that there is not much opposition to this and that the City will push this through. If the developers need my input I am happy to provide that to them.

Best

Jean Russo, Realtor/Owner

www.harborcityrealty.com

775-1991

(distributed at 5.12.2015 PB Hearing)



Office of the Town Manager

100 Main Street
Topsham, ME 04086

Richard Roedner

Town Manager

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Fax: 207-725-1731

roedner@topshammaine.com

www.topshammaine.com

May 12, 2015

Ms. Jean Fraser, Planner
Planning Division, City of Portland
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Seacoast Management

Dear Ms. Fraser:

I am the current Town Manager for the Town of Topsham, having previously served as the Planning Director from 2002 to 2104. Prior to Topsham, I was the Planner in Saco for 12 years.

John Wasileski, Seacoast Management, first became involved in Topsham in 1989, purchasing a project that had been assumed by the bank from a previous developer. That 20-acre project, valued at \$7 million and consisting of a 120-unit Lodge, has since grown into a multi-faceted, mixed use community, including over 450 dwelling units for retirement age adults, commercial parcels and a total valuation of over \$135 million. In addition, we have worked closely with John to create three Tax Increment Financing Districts covering the various projects to the benefit of both the Town and the developers.

Since I have been in Topsham, a good portion of my time has been spent working with John and his team, reviewing applications for his various projects. John and his staff have been very good applicants to deal with - they have provided information when requested, been willing to adapt their plans to conform to local regulations, and have worked with the Town to adapt regulations when that was necessary. I will note that John has lived up to every commitment he has made to the Town.

John has also been a model corporate citizen, assisting the town through various donations to local groups and non-profits. Along with John's involvement in the community, residents of the combined projects have proven to be good neighbors and are an important part of the overall Topsham community.

Two years ago, while we were trying to deal with an abandoned nursing home in our Historic District, we were approached by a team lead by Kevin Bunker of Developer's Collaborative, and including John Wasileski. Working closely with Kevin, we created an Affordable Housing TIF district, as well as a Revitalization Plan for this area, as support for the River Landing project, a 36-unit elderly housing facility. The new building, with architecture designed to fit into a neighborhood of homes dating to the 1800s, is set to open this summer. Topsham has been so

pleased with the cooperative effort from Kevin and his team, as well as the quality of the project, that we have nominated it for a Project of the Year Award from the Maine Association of Planners.

Should you have any specific questions about Topsham's experience with the members of the 605 Stevens Avenue Project Team, I would be very happy to discuss them with you, so please don't hesitate to give me a call.

Sincerely,



Richard Roedner
Town Manager

My name is Norm Buttrick, and I live on Clinton Street near Baxter Woods, & I am a member Of the Deering Ctr. N Assoc.

First of all, the proposed plan to build high rise condo's or apartments, will destroy Baxter' philosophy for the nature preserve and bird Sanctuary. The new buildings, cars and an influx of people will be destructive to the environment, as the woods have provided since it was donated to the people of Portland to enjoy as the last original woods in the City (some hemlocks and white oaks are between 150 and 250 years old). **Secondly**, there are many Historic sites, such as the Francis O. J. Smith Mansion and Library, that could be threatened with the influx of so many people into the grounds, not to mention the natural habitat of animals and plant life as I noted above.

Thirdly, the streets in this part of the Deering neighborhood and Woodfords area would become more congested with traffic than it already is now. Parking is already tight or impossible with New England College next door.

Finally, I would hate to see McAuley High School forced to move from their present location along with its playing fields next to Baxter Woods. The woods are a wonderful educational benefit to the students as they have had an archaeological field school this past year, and science classes in the woods with teachers and Jeff Tarling (City Arborist) to prevent the destruction of trees from diseases.

NBUTTRICK@
MAINE.RR.COM

Norman L. Buttrick
168 Clinton St.
Portland, Me.
04103

Hello, my name is Hilary Bassett from Greater Portland Landmarks. The St. Joseph's Convent Motherhouse of 1907-08 was designed by Chickering & O'Connell of Boston, and is one of the most impressive religious structures in Portland. We support the proposed rehabilitation of this important landmark building as senior housing, a project which will employ state and federal historic preservation tax credits. The tax credits facilitate rehabilitation of historic properties that are challenging to redevelop. The tax credit program requires projects to conform to high preservation standards overseen by the National Park Service and also requires them to be listed in the National Register of Historic Places. Developer Kevin Bunker has done sensitive, quality rehabilitation projects using preservation tax credits, including the conversion of the Nathan Clifford School (1907) in Portland into housing; and the preservation and adaptive reuse of the St. Hyacinth's Convent (1892) and School (1914) in Westbrook, also for housing. The latter project was recently recognized by Landmarks with a 2014 historic preservation honor award.

It will be important for any new development on the site to be compatible with the historic building, in scale, form and quality of materials. The standards for new construction in the City's historic preservation design manual provide excellent guidelines to achieve this goal.

May 12, 2015

Read by H Bassett 5/13/15

STANDARDS: REVIEW OF CONSTRUCTION

5

New Construction Standards

Preamble

The placement of a new building or building addition into an existing historic context presents design problems often quite different from those for new construction on open sites. The challenge, simply put, is one of designing a building which is both distinct from and compatible with the buildings that surround it.

Striking a balance between continuity and change is especially important within historic districts. On the one hand, a commitment to historic preservation should not stifle dynamic, creative contemporary architecture. On the other hand, ill-conceived new construction can easily diminish the visual qualities which led to an historic district's special designation.

The purpose of the following standards is to provide guidance in 1) identifying the visual qualities of a given site's context and 2) assessing whether or not a proposed design is likely to compliment that context. The replacement of historic fabric with new construction can, especially in the aggregate, alter the appreciation of an area as a historic district. Therefore, new construction in such a setting must be carried out with extreme care and respect for that context.

The central idea behind good design in a historic context is a simple one. To a large degree, the scale, mass, orientation and articulation of an infill building or addition should be compatible with that of the buildings that surround it. Broadly stated, compatibility refers to the recognition of patterns and characteristics which exist in a given setting, and a responsiveness in new design or renovation which respects these established patterns and characteristics. Although similarity of design is one way of achieving compatibility in a historic context, a creative and distinctly contemporary

design response is both permitted and encouraged. The modern designer is allowed the freedom of individual expression -- within parameters established by the new building's context.

While a specific solution for a given setting cannot be anticipated in a simple set of guidelines, there are a number of building characteristics which can be used to gauge visual compatibility of new construction in an existing context. These characteristics are:

Scale and Form

Height.
Width.
Proportion of principal facades.
Roof shapes.
Scale of the structure.

Composition of Principal Facades

Proportion of openings.
Rhythm of solids to voids in facades.
Rhythm of entrance porch and other projections.
Relationship of materials, texture and color.
Signs, canopies and awnings.

Relationship to the street

Walls of continuity.
Rhythm of spacing and structures on streets.
Directional expression of principal elevations.

PC 34

May 12, 2015

To: City of Portland, Planning Board

Re: 605 Stevens Avenue, zone change

From: Bobbi Cope, 172 Concord Street

Yesterday I submitted a letter to you from my lawyer. I ask that the serious questions and concerns she raised about the proposed R5A's inconsistencies with the Comprehensive Plan be reviewed by the city's lawyer before you recommend the zone change to city council.

Additionally, I want to say that I am standing here tonight, opposing this zone change from the bottom of my heart. I have had the privilege and honor to live almost literally in the shadow of the dome of the Motherhouse for all of my sixty years. My sisters and I walked to St. Joe's and then McAuley. My granddaughter, Daisy, lives in the house I grew up in. She is the sixth generation of my family to live in that house. We have chosen, generation after generation, to stay here because it's comfortable, safe, familiar, and friendly. You can walk to school, the library, the butcher, the ice cream shop. You ride your bike up to the playground, walk your dog in the woods, visit your aunts and uncles, your cousins, your grandparents. We have close friendships with many other similar families that have been here for years too. And there are new faces and young families who deliberated on where to buy a house and they chose Deering Center for all the same reasons.

I am sympathetic to the need for senior housing but, this location cannot handle the density that is being proposed for the litany of reason you've heard repeatedly over the last few months. There are other areas in the city that are suitable for such a project and have the support of the neighbors. The 802 Ocean Avenue proposal is a good example of a developer working in harmony with the community to accommodate the need for senior housing.

The neighborhood is in strong opposition. I've spoken to several senior counselors who live in the neighborhood, one or two who are here tonight, and they agree. I feel strongly that this unique, historical property presents us with an opportunity to make something wonderful here. We are trying to figure out what to do with the Motherhouse - a big, old building that was once home to hundreds of women. In turn, we need to consider what would become of five or six huge buildings when they are vacated by the baby boomers. The property was never on the open market and has not been sold yet. There are possibilities that haven't even been considered. How about a world class all girls boarding school, an urban farm, expansion of Baxter Woods, orchards, community gardens, a retreat center, a museum? I'm sure there are many more ideas too.

Please turn your attention to the intangibles that matter to the people who live here. These people deserve at least as much consideration as you are giving to the applicant's need to meet tax credit deadlines. Obviously from my perspective I have the pleasure of being able to look back into the past and treasure the rich history of my family in this neighborhood. I want the decisions that are made here tonight to be characteristic of a quality, long view into the future.

from Bobbi Cope
May 12 2015 Hearing

NIH Senior Health

Built with You In Mind

PC 35

[Home](#) > [Health Topics A-Z](#) > [Older Drivers: How Aging Affects Driving](#)

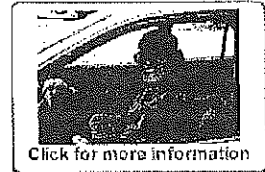
The information in this topic was provided by the National Highway Traffic Safety Administration

Topic Last Reviewed: March 2015

Older Drivers

How Aging Affects Driving

As people get older, their driving patterns change. Retirement, different schedules, and new activities affect when and where they drive. Most older adults drive safely because they have a lot of experience behind the wheel. But when they are involved in crashes, they are often hurt more seriously than younger drivers. Age-related declines in vision, hearing, and other abilities, as well as certain health conditions and medications, can affect driving skills.



[Click for more information](#)

Changes in Driving Habits

When people retire, they no longer drive to work. With more leisure time, they may start new activities, visit friends and family more often, or take more vacations. Like drivers of any age, they use their vehicles to go shopping, do errands, and visit the doctor. Driving is an important part of staying independent.

Most people 70 and older have drivers' licenses. They tend to drive fewer miles than younger drivers. But, they are also keeping their licenses longer and driving more miles than in the past, often favoring local roads over highways. As the overall population ages, there will be more older drivers on the road.

A Complex Task

Driving is a complicated task. It requires people to see and hear clearly; pay close attention to other cars, traffic signs and signals, and pedestrians; and react quickly to events. Drivers must be able to accurately judge distances and speeds and monitor movement on both sides as well in front of them.



[Click for more information](#)

It's common for people to have declines in visual, thinking, or physical abilities as they get older. As a result, older drivers are more likely than younger ones to have trouble in certain situations, including making left turns, changing lanes, and navigating through intersections.

Common Mistakes

Common mistakes of older drivers include

- failing to yield the right of way
- failing to stay in lane
- misjudging the time or distance needed to turn in front of traffic
- failing to stop completely at a stop sign
- speeding or driving too slowly.

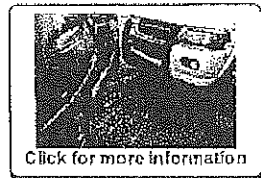
Older Drivers and Crashes

Driving errors can lead to traffic accidents, injuries, and death. The risk of crashes rises with age, especially after age 75. Studies show that older drivers are more, and less,

Circulated by Catherine Freund
 at 5-12-15 PB Hearing
 (Other info on this issue was circulated by Mrs. Church and given to Chris Traffic Eng. Reviewer)

likely to be involved in certain types of crashes than other drivers. Older drivers are less likely to be involved in crashes related to alcohol use, speeding, and driving at night. But they are more likely to get into crashes.

- at intersections (usually in the vehicle that is struck)
- in which the front of one vehicle hits the side of another vehicle
- where the older driver is merging and the other vehicle is traveling faster or is in the older driver's blind spot



For recent statistics on the rate of injuries from crashes among older drivers, see [Traffic Safety Facts 2012: Older Population](#). (National Highway Traffic Safety Administration).

Crashes Down Among Older Drivers

Fortunately, the rate of crashes among adults 65 and over has decreased in recent years. Research suggests that this decline is due to a number of factors, including older adults' better health, safer cars, and safer roads. In addition, older drivers' ability to "police" themselves — like not driving at night — and stricter state laws for renewal of driver's licenses may help.

Most traffic deaths of older drivers occur during the daytime, on weekdays, and involve other vehicles. Older adults are more susceptible to death or serious injury in a crash if they are physically frail, but the good news is that older people are more likely to survive crashes than in the past.

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Lisa Flanagan

121 Pleasant Avenue

Portland, ME 04103

May 20, 2015

Mayor Brennan, Members of the Planning Board and the City Council:

When thinking about urban planning, the most important tradition to uphold is The Common Good. When we let the Common Good guide decisions regarding the proposed development of the Sisters of Mercy Mother House, we find ideas about urban in-fill development exist upon which we can all agree. Primary among these are safety, preservation of quality of life, and smart development. Swaths of land this size are limited and to fall hastily for the first deal, fearing no other will arrive, is just insecure or worse -naïve.

Currently, I live at 121 Pleasant Avenue. I grew up in the house, moved out-of-state for two decades, returned to the neighborhood, and recently bought the family house. The idea of letting my kids ride their bikes independently in the neighborhood or walk through Baxter Woods and Evergreen, as I had, was fundamental to my choice to return. Walking to school, frequenting Pat's or The Quality Shop, and having a day care I could push a stroller to were luxuries unavailable in the suburbs or other neighborhoods within the city.

So what does this have to do with Mr. Wasileski's vision for the area? I think his planned development of the playing fields calling for over 330 units would impinge upon many of the neighborhood qualities that brought me back to Deering. His representatives spoke at the May 12th planning meeting of how Wasileski residents would be attracted to all the amenities of the area. Which amenities would those be? Daycares? K-12 schools? Pat's restaurant -currently inaccessible to the disabled? Grocery stores? Perhaps not. So this would mean folks would have to travel by public transport or more likely car to get to super markets, doctors' offices, Osher Life Long Learning at USM, or the library. Cue the traffic - not only the number of cars but also the peculiarities concomitant to aging drivers. This heavy use would be compounded by rescue vehicles responding to the multitude of falls that inevitably come with senior housing. Stevens Avenue, already busy with school traffic, would become another Forest Avenue-a non-crossable thoroughfare that makes walking to the Boulevard, dance classes, and fish markets nearly impossible for adults- forget seniors, the disabled, and children.

Baxter Woods is another neighborhood asset. Perhaps this is the amenity about which his people spoke. Yet with the blue-sky impingement and the non-permeable surface runoff that comes with parking lots ringing the buildings, the woods too would seem imperiled. We already witnessed changed runoff

reflects comments made 5.12.15 PBFH

patterns after the forest was cleared for ball fields. The vernal pools, trees, and paths may all be adversely influenced.

So what is appropriate for this beautiful and historic building? Perhaps dwellings for younger people who want to become an integrated into the neighborhood fabric. Dental students and new immigrants? Young families waiting to buy houses? Classroom spaces for UNE or perhaps a respite care facility where seniors aging in place could go for all their care needs in one spot. Or maybe a Maine Med-Tufts campus for geriatrics with Park Danforth, Deering Pavillion, and Canco Woods already at hand. I moved here after a decade in Cambridge, Massachusetts where during the 1990s garages and backyards became new housing, "nice gentlemen" bought older women's homes and apartments, moved them into Youville House for seniors, and flipped the properties. The housing remained stock tight and expensive. This may happen to Portland as well. I think looking at what Cambridge and other desirable cities learned will be an important lesson. Rather than being a NIMBY complaint, this letter is a request that the Board and the Council think hard about neighborhoods and the assets that are not quantifiable. Just as Deering Center protested the "concept restaurant" Dunkin Donuts and welcomed Siano's a few years ago, I would accept development more in keeping with the historical mission of the Sisters of Mercy, more in keeping with the aesthetic and health values of the open space, and more in keeping with the nature of this family and education-centric enclave of the city.

George Mitchell said the key to negotiation is humility. I write this humbly yet with knowledge of the neighborhood, of cities undergoing a renaissance, as a daughter who lived with an 89-year-old father the last year of his life, as the greeter of Engine 3 at 3:30 am on many occasions, and as a mother of three. I respectfully hope your thinking is slow and weighs all these issues while the Aristotelian and Augustinian value of the Common Good informs your final decision.

Respectfully,

Lisa Flanagan

circulated at 5.12.15 PBHearing
by Ms Church - taken
by Traffic Engineer at that time.

PC 37,

PC 37



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

TRAFFIC SAFETY FACTS

2012 Data

DOT HS 812 005

Revised May 2014

Older Population

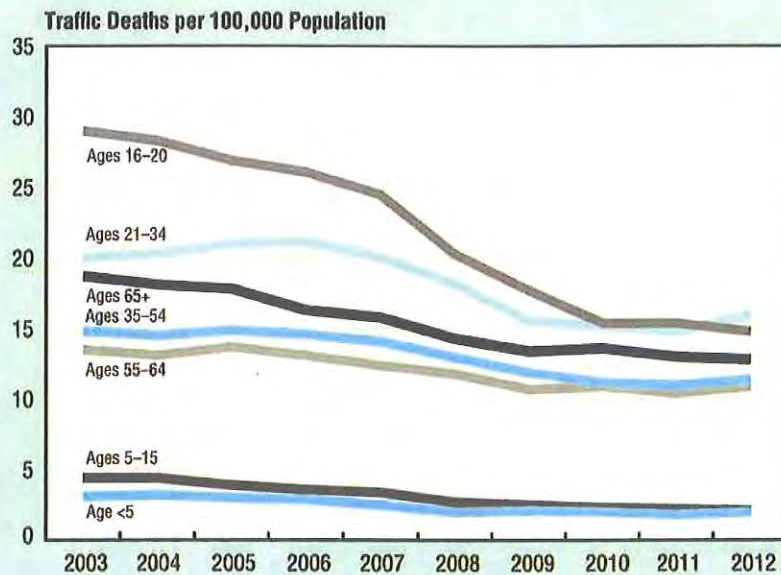
[from Ms Church at PBH 5.12.2015;
borrowed by Traffic Engineer Reviewer]

In 2012, there were 5,560 people 65 and older killed and 214,000 injured in motor vehicle traffic crashes. These older people made up 17 percent of all traffic fatalities and 9 percent of all people injured in traffic crashes during the year. Compared to 2011, fatalities among people 65 and older increased by 3 percent. Among people injured in this age group there was a 16-percent increase from 2011.

In 2012, 14 percent of the total U.S. resident population (43.1 million people) were 65 and older. The older population fatality rate per 100,000 U.S. resident population steadily declined from 18.7 in 2003 to 12.9 in 2012 (Figure 1).

*In 2012, 17 percent of
all traffic fatalities in
the United States were
among people 65 and
older.*

Figure 1
Motor Vehicle Traffic Fatality Rates by Age Group, 2003–2012



Among the 65-and-older age group from 2003 to 2012, the total population increased by 20 percent (males increased by 26% and females increased by 16%). However, as seen in Table 1, driver fatalities for this age group declined by 15 percent (decreased for males by 10% and for females by 26%); motorcyclist fatalities increased by 201 percent (males increased by 194% and females increased by 333%). Furthermore, among the 65-and-older age group from 2003 to 2012, pedalcyclist fatalities increased by 80 percent (males increased by 83% and females by 50%).

Table 1
Involvement of the Older Population in Traffic Fatalities by Gender, 2003 and 2012

	2003			2012			Percentage Change, 2003–2012	
	Total	Age 65+	Percentage of Total	Total	Age 65+	Percentage of Total	Total	Age 65+
Population (Thousands)								
Total	290,108	35,864	12.4	313,914	43,145	13.3	8	20
Male	142,429	14,974	10.5	154,492	18,815	12.2	8	26
Female	147,679	20,889	14.1	159,422	24,330	15.3	8	16
Drivers Involved in Fatal Crashes								
Total*	58,517	6,445	11.0	45,337	5,744	12.7	-23	-11
Male	42,586	4,435	10.4	33,124	4,088	12.3	-22	-8
Female	15,211	2,010	13.2	11,509	1,655	14.4	-24	-18
Driver Fatalities								
Total*	26,779	4,067	15.2	21,394	3,449	16.1	-20	-15
Male	19,955	2,719	13.6	16,525	2,456	14.9	-17	-10
Female	6,821	1,348	19.8	4,866	993	20.4	-29	-26
Total Traffic Fatalities								
Total*	42,884	6,698	15.6	33,561	5,560	16.6	-22	-17
Male	29,346	3,775	12.9	23,808	3,451	14.5	-19	-9
Female	13,532	2,923	21.6	9,733	2,107	21.6	-28	-28
Occupant Fatalities								
Total*	37,341	5,649	15.1	27,869	4,486	16.1	-25	-21
Male	25,425	3,163	12.4	19,722	2,742	13.9	-22	-13
Female	11,912	2,486	20.9	8,133	1,744	21.4	-32	-30
Pedestrian Fatalities								
Total*	4,774	981	20.5	4,743	935	19.7	-1	-5
Male	3,274	556	17.0	3,285	590	18.0	0	6
Female	1,499	425	28.4	1,454	343	23.6	-3	-19
Passenger Vehicle Occupant Fatalities								
Total*	32,271	5,388	16.7	21,667	3,991	18.4	-33	-26
Male	20,899	2,940	14.1	14,138	2,297	16.2	-32	-22
Female	11,370	2,448	21.5	7,521	1,694	22.5	-34	-31
Motorcyclist Fatalities								
Total	3,714	117	3.2	4,957	352	7.1	33	201
Male	3,342	111	3.3	4,499	326	7.2	35	194
Female	372	6	1.6	456	26	5.7	23	333
Pedalcyclist Fatalities								
Total	629	45	7.2	726	81	11.2	15	80
Male	556	41	7.4	634	75	11.8	14	83
Female	72	4	5.6	90	6	6.7	25	50

*Total includes unknown gender.

Drivers

There were 35 million licensed older drivers in 2011 (2012 data not available)—a 21-percent increase from 2002. In contrast, the total number of licensed drivers increased by only 9 percent from 2002 to 2011. Older drivers made up 16 percent of all licensed drivers in 2011, compared with 15 percent in 2002.

As shown in Table 2, of all drivers, older drivers involved in fatal crashes had the lowest proportion of drivers with a blood alcohol concentration (BAC) of .08 grams per deciliter (g/dL) or higher.

Table 2

Age and Alcohol of Drivers Involved in Fatal Crashes, 2012

Age Group (Years)	Drivers Involved in Fatal Crashes		
	Total	BAC = .08+	
		Number	Percent of Total
<16	121	10	8
16–20	4,211	758	18
21–34	13,688	4,120	30
35–54	14,912	3,372	23
55–64	5,899	805	14
65+	5,744	413	7
Total	*45,337	9,678	21

*Includes 762 drivers of unknown age.

Thirteen percent fewer people were killed in crashes involving older drivers from 6,805 in 2003 to 5,894 in 2012. While the overall trend shows a decline for those 10 years, the number of people killed in crashes involving older drivers increased in 2012 by 5 percent compared to 2011 (Table 3).

Table 3

Fatalities in Crashes Involving Drivers 65 and Older, 2003–2012

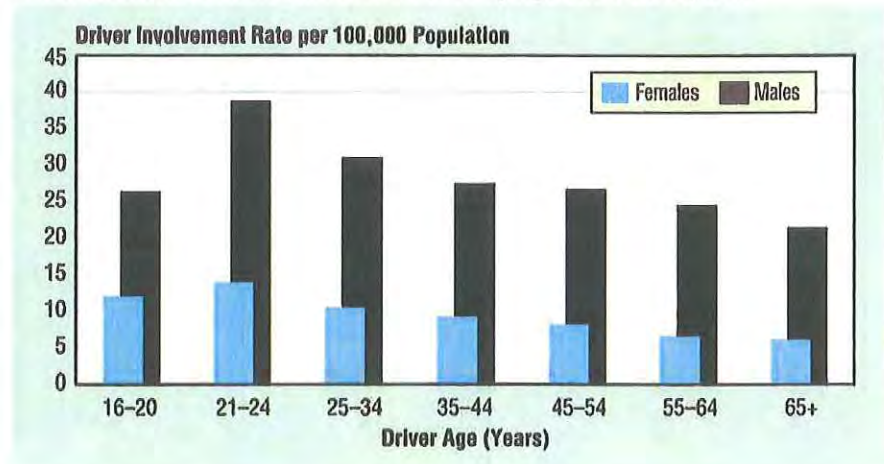
Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Fatalities	6,805	6,585	6,647	6,334	6,169	5,825	5,613	5,782	5,636	5,894

Older drivers made up 16 percent of all licensed drivers in 2011, compared with 15 percent in 2002.

Fatalities in crashes involving older drivers declined by 13 percent from 2003 to 2012.

Most traffic fatalities involving older drivers in 2012 occurred during the daytime (75%), occurred on weekdays (69%), and involved other vehicles (64%). Among drivers involved in fatal crashes in 2012, older drivers had the lowest involvement rate per population as compared to other driver age groups. The involvement rate for male drivers (65+) was 21.73 and the involvement rate for female drivers (65+) was 6.80 (Figure 2).

Figure 2

Driver Involvement Rates in Fatal Crashes by Age and Gender, 2012

For older pedestrians, 68 percent of fatalities in 2012 occurred at non-intersection locations.

Pedestrians

For older people, 68 percent of pedestrian fatalities in 2012 occurred at non-intersection locations. For other pedestrians, 81 percent of fatalities occurred at non-intersection locations.

Among all fatally injured adult pedestrians, older pedestrians had the lowest proportion of pedestrians with BACs of .08 g/dL or higher (Table 4).

Table 4

Pedestrian Fatalities by Age Group and BAC, 2012

Age Group (Years)	Total	BAC= .08+	
		Number	Percent of Total
<16	292	7	2
16-20	265	68	25
21-34	1,028	480	47
35-54	1,475	704	48
55-64	724	240	33
65+	935	99	11
Total	*4,743	1,608	34

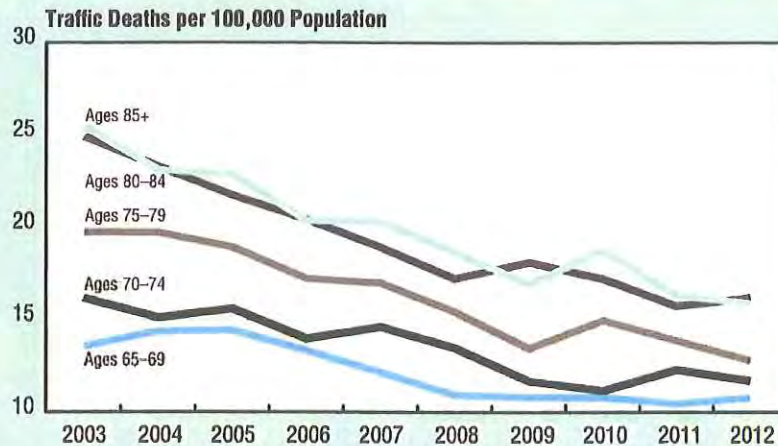
*Includes 24 pedestrian fatalities of unknown age.

Older Population Age Groups

In 2012, among the older population, the fatality rate for the 80-84 age group was 16.39 per 100,000 population, which was higher than any other older age group. The fatality rate for the 85+ age group declined by 37 percent, from 25.46 in 2003 to 15.98 in 2012 (Figure 3).

Figure 3

Motor Vehicle Traffic Fatality Rates Among Older Populations by Age Group, 2003–2012



For more information:

Information on traffic fatalities is available from the National Center for Statistics and Analysis (NCSA), NVS-424, 1200 New Jersey Avenue SE., Washington, DC 20590. NCSA can be contacted at 800-934-8517 or via the following e-mail address: ncsaweb@dot.gov. General information on highway traffic safety can be accessed by Internet users at www.nhtsa.gov/NCSA. To report a safety-related problem or to inquire about motor vehicle safety information, contact the Vehicle Safety Hotline at 888-327-4236.

Other fact sheets available from the National Center for Statistics and Analysis are *Alcohol*, *African American*, *Bicyclists and Other Cyclists*, *Children*, *Hispanic*, *Large Trucks*, *Motorcycles*, *Occupant Protection*, *Overview*, *Pedestrians*, *Race and Ethnicity*, *Rural/Urban Comparisons*, *School Transportation-Related Crashes*, *Speeding*, *State Alcohol Estimates*, *State Traffic Data*, and *Young Drivers*. Detailed data on motor vehicle traffic crashes are published annually in *Traffic Safety Facts: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System*. The fact sheets and annual Traffic Safety Facts report can be accessed online at www.nrd.nhtsa.dot.gov/CATS/index.aspx.

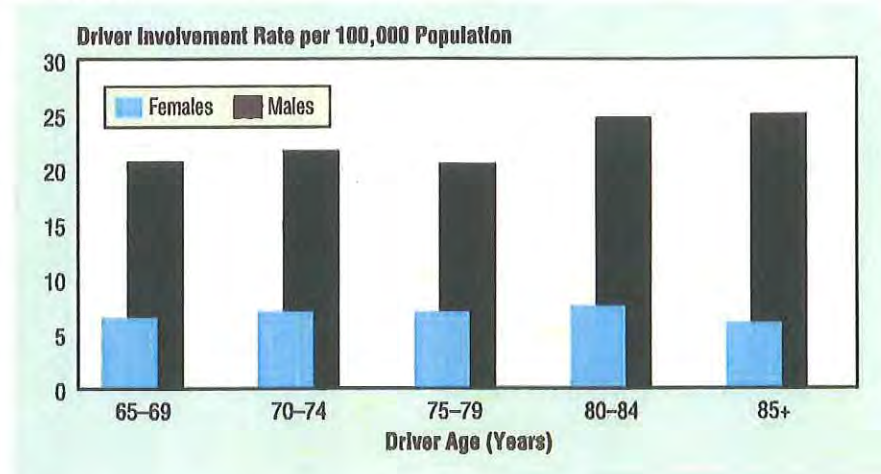


U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

In 2012, fatal crash driver involvement rates per 100,000 population among older male drivers was highest (24.95) in the 85-and-older age group; and among older female drivers was highest in the 80-84 age group (7.73) (Figure 4).

Figure 4

Involvement Rates for Older Drivers in Fatal Crashes by Age Group and Gender 2012



Driver Involvement by State and Age Group

Table 5 shows driver involvement in fatal traffic crashes by State and driver age group. Among all States, driver involvement in 2012 ranged from highest (4,564) to lowest (20) depending on the size and population of the State. Driver involvement in fatal crashes was highest in Texas (4,564), followed by California (3,811) and Florida (3,412), and lowest in the District of Columbia (20). Driver involvement in fatal crashes in 2012 among driver (65+) ranged from 474 (highest) to 0 (lowest). Driver involvement in fatal crashes in the 65+ age group was highest in Florida (474), followed by California (410) and Texas (393), and lowest in the District of Columbia (0).

Fatalities by State and Age Group

Table 6 shows fatalities in Traffic Crashes by State and Age Group. Among all States, fatalities in motor vehicle traffic crashes in 2012 ranged from highest (3,398) to lowest (15) depending on the size and population of the State. Fatalities in motor vehicle traffic crashes were highest in Texas (3,398), followed by California (2,857) and Florida (2,424), and lowest in the District of Columbia (15). Fatalities in the 65+ age group were highest in Florida (450), followed by California (443) and Texas (401), and lowest in the District of Columbia (1).

Table 5
Driver Involvement in Fatal Traffic Crashes by State and Age Group, 2012

State	Total*	Age 65+	Percentage of Total	Age Group (Years)								
				<16	16-20	21-34	35-54	55-69	70-74	75-79	80-84	85+
Alabama	1,214	152	12.5	3	136	374	366	222	47	22	16	15
Alaska	83	12	14.5	0	7	30	22	16	2	2	2	2
Arizona	1,088	121	11.1	1	98	314	363	192	29	16	15	17
Arkansas	734	100	13.6	4	64	216	246	136	29	14	15	7
California	3,811	410	10.8	1	323	1,235	1,237	634	79	72	65	49
Colorado	630	74	11.7	3	63	180	198	123	14	10	13	12
Connecticut	332	50	15.1	0	21	110	100	60	14	7	9	6
Delaware	146	22	15.1	0	15	45	48	22	2	5	2	3
Dist of Columbia	20	0	0.0	1	0	7	6	3	0	0	0	0
Florida	3,412	474	13.9	9	290	1,048	1,059	554	127	95	70	70
Georgia	1,676	205	12.2	4	154	522	549	291	51	36	31	19
Hawaii	175	18	10.3	0	10	44	77	34	2	3	1	1
Idaho	244	37	15.2	1	16	67	87	51	6	2	6	8
Illinois	1,322	156	11.8	3	115	435	420	202	29	26	27	29
Indiana	1,107	153	13.8	3	127	304	360	181	42	29	21	24
Iowa	491	65	13.2	3	46	130	157	101	14	13	15	9
Kansas	527	92	17.5	2	66	139	160	87	19	14	22	16
Kentucky	1,023	136	13.3	3	85	295	372	179	35	25	12	13
Louisiana	944	101	10.7	0	99	319	307	138	26	19	13	4
Maine	215	40	18.6	1	20	62	65	36	10	11	3	7
Maryland	702	80	11.4	1	56	234	233	109	19	15	14	6
Massachusetts	449	69	15.4	0	42	132	139	81	10	11	12	15
Michigan	1,325	196	14.8	4	133	378	407	249	50	27	31	24
Minnesota	537	78	14.5	0	47	151	170	115	13	10	9	20
Mississippi	684	103	15.1	4	60	204	229	121	23	18	15	9
Missouri	1,096	137	12.5	5	124	316	388	165	27	23	20	17
Montana	250	28	11.2	4	24	78	77	49	11	3	1	1
Nebraska	284	37	13.0	4	34	82	89	46	12	2	7	7
Nevada	355	48	13.5	0	35	110	109	68	15	8	5	2
New Hampshire	147	23	15.6	0	14	32	53	33	6	3	3	3
New Jersey	816	118	14.5	0	67	245	270	133	27	24	20	15
New Mexico	471	65	13.8	1	43	128	170	64	19	14	12	7
New York	1,569	219	14.0	1	137	443	519	251	55	31	41	42
North Carolina	1,732	220	12.7	8	162	504	587	307	52	44	32	23
North Dakota	218	23	10.6	4	19	59	80	40	7	6	0	3
Ohio	1,573	224	14.2	3	147	443	542	266	53	39	26	41
Oklahoma	939	117	12.5	4	76	299	316	167	34	18	11	6
Oregon	426	65	15.3	1	38	101	141	96	18	8	15	3
Pennsylvania	1,797	266	14.8	2	192	524	576	312	53	47	36	33
Rhode Island	87	13	14.9	0	4	26	36	10	4	3	3	1
South Carolina	1,153	130	11.3	8	118	327	401	192	32	27	13	16
South Dakota	174	22	12.6	3	16	46	61	34	6	4	3	1
Tennessee	1,365	185	13.6	3	141	393	463	242	41	29	24	23
Texas	4,564	393	8.6	12	432	1,562	1,504	678	112	63	51	34
Utah	295	29	9.8	2	31	99	93	43	9	8	4	2
Vermont	96	15	15.6	0	7	28	30	19	7	0	3	1
Virginia	1,026	147	14.3	0	96	292	341	184	34	25	28	13
Washington	596	69	11.6	0	41	185	214	108	16	8	6	14
West Virginia	450	62	13.8	2	30	120	159	93	18	8	13	6
Wisconsin	806	125	15.5	3	78	222	269	150	23	23	21	16
Wyoming	161	20	12.4	0	12	49	47	39	2	4	3	3
U.S. Total	45,337	5,744	12.7	121	4,211	13,688	14,912	7,726	1,385	974	840	718
Puerto Rico	432	39	9.0	0	43	181	111	51	17	4	4	1

*Includes drivers of unknown age. The United States had 762 drivers of unknown age.

Table 6
Fatalities in Traffic Crashes by State and Age Group, 2012

State	Total*	Age 65+	Percentage of Total	Age Group (Years)								
				<16	16-20	21-34	35-54	55-69	70-74	75-79	80-84	85+
Alabama	865	133	15.4	34	100	237	237	162	38	23	16	17
Alaska	59	8	13.6	3	6	20	13	11	2	1	1	2
Arizona	825	116	14.1	48	82	235	231	142	19	18	24	22
Arkansas	552	88	15.9	29	47	156	155	102	18	16	19	10
California	2,857	443	15.5	102	264	861	809	498	69	86	89	75
Colorado	472	76	16.1	16	47	131	134	88	16	9	16	15
Connecticut	236	45	19.1	5	15	71	61	48	10	8	10	7
Delaware	114	20	17.5	3	9	37	37	13	1	6	4	4
Dist of Columbia	15	1	6.7	1	3	4	4	2	0	0	0	1
Florida	2,424	450	18.6	66	207	647	715	424	109	95	69	88
Georgia	1,192	191	16.0	50	100	334	363	208	39	33	31	28
Hawaii	126	18	14.3	4	16	35	35	27	2	3	1	3
Idaho	184	37	20.1	9	17	44	56	28	9	2	10	9
Illinois	956	162	16.9	41	91	295	251	154	26	28	35	35
Indiana	779	139	17.8	31	88	214	208	128	32	31	21	24
Iowa	365	67	18.4	14	31	93	103	71	13	14	16	10
Kansas	405	84	20.7	26	46	97	111	61	15	13	17	19
Kentucky	746	117	15.7	33	69	203	231	127	28	25	14	16
Louisiana	722	96	13.3	42	70	209	224	113	20	23	13	6
Maine	164	35	21.3	4	21	46	42	21	7	9	4	10
Maryland	505	74	14.7	18	56	145	143	85	17	15	15	8
Massachusetts	349	83	23.8	8	39	91	85	64	7	15	20	20
Michigan	938	167	17.8	39	95	274	236	177	34	22	33	28
Minnesota	395	81	20.5	16	46	105	104	66	13	8	8	29
Mississippi	582	100	17.2	37	50	169	166	92	21	20	15	11
Missouri	826	125	15.1	29	84	236	263	125	24	27	19	19
Montana	205	22	10.7	11	20	64	58	35	11	1	1	4
Nebraska	212	34	16.0	17	32	57	52	24	11	4	9	6
Nevada	258	54	20.9	9	26	61	57	71	19	5	6	4
New Hampshire	108	23	21.3	2	13	21	32	23	6	4	4	3
New Jersey	589	120	20.4	19	50	168	154	108	21	29	21	17
New Mexico	365	63	17.3	12	29	90	129	54	18	13	9	9
New York	1,168	256	21.9	46	95	302	322	192	60	31	53	59
North Carolina	1,292	204	15.8	63	112	331	413	223	57	43	25	24
North Dakota	170	20	11.8	9	19	47	56	24	6	6	1	2
Ohio	1,123	209	18.6	33	111	279	350	193	48	36	24	49
Oklahoma	708	110	15.5	15	59	215	214	124	32	19	15	15
Oregon	336	65	19.3	9	25	79	86	90	18	7	15	7
Pennsylvania	1,310	254	19.4	43	146	363	358	219	44	41	43	53
Rhode Island	64	10	15.6	2	5	16	26	7	3	2	2	1
South Carolina	863	118	13.7	28	87	242	271	150	21	27	16	18
South Dakota	133	19	14.3	11	13	34	40	22	5	5	2	1
Tennessee	1,014	175	17.3	29	103	252	313	198	37	30	23	29
Texas	3,398	401	11.8	206	329	1,059	994	518	105	57	69	47
Utah	217	24	11.1	15	21	59	68	32	7	5	4	6
Vermont	77	14	18.2	2	4	24	18	16	5	1	4	3
Virginia	777	136	17.5	23	80	197	230	144	31	25	29	17
Washington	444	74	16.7	15	42	114	139	78	13	8	15	18
West Virginia	339	62	18.3	13	24	91	103	63	17	6	13	9
Wisconsin	615	121	19.7	18	69	146	190	101	24	21	24	22
Wyoming	123	16	13.0	5	11	38	28	32	3	3	1	2
U.S. Total	33,561	5,560	16.6	1,363	3,224	9,338	9,718	5,778	1,211	979	948	941
Puerto Rico	347	58	16.7	9	32	102	86	61	19	11	7	4

*Total includes fatalities of unknown age. The United States had 61 fatalities of unknown age.

From: Derek Pelletier <dpellet@gmail.com>
To: <jf@portlandmaine.gov>
Date: 5/28/2015 9:02 AM
Subject: Re: Update: McAuley Place Development: dates for City Council Process

Dear Ms Fraser,

I'm writing to express my support for the proposed development at McAuley Place. I'm a parent and home-owner in Deering Center. My two kids go to Longfellow School. I don't have a problem with the proposed development as described in the May proposal forwarded to the Deering Center Neighborhood Association. Thank you.

Best,
Derek

June 10, 2015

Portland City Council

Re: Zoning Amendments McAuley Place, 605 Stevens Avenue

Dear Councilors,

You have been asked to consider rezoning an area of Deering Center from R-5 to R-5A and to change some zoning text in the R-5A ordinance that will apply to any and all future developments in the R-5A zone. Currently the R-5A zone acts as a floating zone and allows the City planners great discretion in the development of any plan proposed for that zone. Adoption of the proposed changes to that zone will commit the City to certain language for any future R-5A development. In other words, the City will no longer have an edge in getting the kind of quality development it may want.

Aside from this specific plan before you, the McAuley Place, on 605 Stevens Avenue, this proposal has much broader implications for the entire city. Text amendments for R-5A redefine “net” land area for purposes of calculating density, define by ordinance, not by negotiation, building height allowed, reduce (by one third) lot size for PRUD, to just name a few changes. I do not fully understand all the proposed changes and their implications. Please consider this carefully before you give up the City's ability to negotiate the best possible development for this floating zone.

As regards the proposal to change the McAuley Place zoning from R-5 to the amended R-5A, you should consider all the implications and deny this request. While acknowledging the city's comprehensive plan has a goal of providing affordable housing, only 22% of the proposed units in the initial phase of construction(66 of 294 units) are considered “affordable”. The city's housing goal also requires any new development to be compatible with scale, character, and traditional development patterns of each individual residential neighborhood. Deering Center is primarily a neighborhood of small scale residential housing. There has been considerable development in recent years on the end of Stevens Avenue near its intersection with Forest Avenue, a “major arterial” within the city. Development of University of New England and proposed approval and expansion of Park Danforth has already put pressure on the residential character of the area, and added to traffic congestion on the Stevens Avenue corridor. Continuing the large scale development down Stevens Avenue is not going to ensure the integrity and economic value of the residential housing in Deering Center—also a goal in the Comprehensive Plan.

The proposal of McAuley Place, with the proposed zone change and proposed amended text changes will result in the following:

- Reduce by 25% the land requirement for intermediate/long term care
- Reduce by 33% the land requirement for PRUD
- Increase by 57% height allowed and it will be allowed by right, not by negotiation
- Reduce by 33% open space requirements
- Reduce by 50% minimum lot area/per dwelling
- Increase density by 155% (131 units in R-5 to 334 in amended R-5A)

Increase vehicle trips by 155% (872 daily trips in R-5 to 2221 daily trips in amended R-5A)

With this proposed zone change, you have a bit more information than you had recently with the zone change for the waterfront. The issue remains the same, however, and as a city, it is in our interest to have more fully developed plans before issuing a blank check to redevelopment and zone changes in critical areas of our city. In this case, the integrity of the Deering neighborhood and the safety of the school zones in the Stevens Avenue street corridor are at risk, as is the tranquility of the historic Baxter Woods. The Planning Board and Planning Department staff have indicated that traffic, parking, stormwater management, open space, and scale/ massing of buildings will take place at a later time. Even if you were to consider R-5A zoning for this site, it would be in the city's interest to negotiate the details of the development, after listening to the community, rather than allowing the changes in the proposed text amendments.

Portland is a city of many varied neighborhoods, each with their own unique character, shaped, in part, by the zoning that is the product of careful planning. Some neighborhoods are urban and others more suburban, allowing residents to move about within the city as their needs and desires change. When we got tired of schlepping to the third floor with groceries and babies, we moved from the Hill to Rosemont. When we did this we allowed that when it was time to retire we would move to the Trelawny Building—is it still there? As Councilor Costa said at your last rezoning hearing, this is frustrating because the important things, such as great schools, great parks, etc. are what the city leaders should be discussing. That is what will make our city great, not some short term fix to increase our property tax base. It is the wrong place to be looking for fixes to the tax problems we face here in the city.

I urge you to reject this rezoning request and zoning text amendments.

Sincerely,

Donna Williams
85 Machigonne St.



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: McAuley Place

PROPOSED DEVELOPMENT ADDRESS:

605 Stevens Avenue and Walton Street

PROJECT DESCRIPTION:

Proposed full continuum of care Senior Retirement Community and Re-Purposing of the former convent "The Motherhouse" into affordable senior housing units.

CHART/BLOCK/LOT: 136 E006001 & (143 F004 144 B001)

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Seacoast At Baxter Woods Associates, LLC Business Name, if applicable: Address: C/O OceanView , 20 Blueberry Lane City/State : Falmouth, ME Zip Code: 04105	Applicant Contact Information Work # C/O Matthew Teare Home# Cell # 207.837.2418 Fax# e-mail: mteare@highlandgreenlifestyle.com
Owner – (if different from Applicant) Name: St Joseph's Convent & Hospital C/O Sisters of Mercy of the Americas Address: Northeast Community, Inc. 15 Highland View Road City/State : Cumberland, RI Zip Code: 02864	Owner Contact Information Work # Attn: Sister Lindora Cabral Home# Cell # Fax# 207-333-6450 e-mail: lcabral@mercyrne.org
Agent/ Representative Name: Frederic (Rick) Licht, PE, LSE, Licht Environmental Design, LLC Address: 35 Fran Circle City/State : Gray, Maine Zip Code: 04039	Agent/Representative Contact information Work # 207.749.4924 Cell # 207.749.4924 e-mail: rlicht@securespeed.net
Billing Information Name: Matthew Teare C/O The Highlands Address: 30 Governors Way City/State : Topsham, Maine Zip Code: 04086	Billing Information Work # 207.837.2418 Cell # 207.837.2418Fax# e-mail: mteare@highlandgreenlifestyle.com

Current Zoning Designation(s): R-5 Residential Zone

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.

Proposed Retirement Community within the current campus and re-development of the former St. Joseph's Convent

"Motherhouse" into 86-88 units of affordable senior housing. The existing St. Catherines residence apartments will remain and allow forexpansion . McAuley High School will remain for the immediate future. See Cover Letter and Exhibit 6 for additional information.

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.

(Exhibit 6 Conceptual Masterplan)

APPLICATION FEES:

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

Zoning Map Amendment ___ \$2,000.00 (from ___ zone to ___ zone) Zoning Text Amendment ___ \$2,000.00 (to Section 14-___) Combination Zoning Text Amendment and Zoning Map Amendment <u>X</u> \$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.
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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:



March 04, 2015

J14.067

Barbara Barhydt
 Development Review Manager
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

**McAuley Place, 605 Stevens Avenue and Walton Street
 Request for Zoning Amendment
 (CBL 136 E006001, 143 F004000, 144 B001000)**

Dear Barbara:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy) and Sea Coast at Baxter Woods Associates, LLC we are pleased to submit this request for a Zoning Text and Map Amendment for the Sisters of Mercy – Catherine McAuley High School Campus located off Stevens Avenue and Walton Streets in Portland.

Enclosed are one (1) hard copy of the following materials and PDF copies on an attached thumb drive:

- Cover Letter
- City of Portland Zoning Map/Text Amendment Application Form
- Map/Text Amendment Fee (\$3,000)
- Appendix A – Chart of a Continuum of Care Community
- Exhibit 1 – Right, Title & Interest (P&S Agreement)
- Exhibit 2 – Context Map
- Exhibit 3 - Site Photographs
- Exhibit 4 - Proposed Parcel Map
- Exhibit 5 - Proposed Zone Change Map
- Exhibit 6 - Conceptual Site Plan

1. INTRODUCTION

The Sisters of Mercy and John B. Wasileski representing Seacoast at Baxter Woods Associates, LLC are proposing to redevelop the historic St. Joseph's Convent and surrounding grounds into a continuum of care senior living community. The property, located off Stevens Avenue and Walton Streets contains 18.96 acres including the Catherine McAuley High School and fields, St. Joseph's Convent and St. Catherine's residence hall. The general concept is to offer seniors a choice of attractive, living arrangements and an array of support services so that they can remain healthy, active and independent. (*Appendix A* illustrates the components of a continuum of care community.) The highlight of the proposed plan is the re-purposing of the former St. Joseph's Convent "Motherhouse" into affordable dwelling units and common areas.

This type of development and community is uniquely suited for the challenges and opportunities offered by the Convent site. If properly designed and integrated, the existing Catherine McAuley

High School and the senior community will prosper together for decades to come. This success will result from the compatibility of the two communities and the creation of an attractive, unified campus.

The continuum of care senior community will include four main elements in addition to the McAuley High School. The heart of the community will be the renovated and expanded Convent or Motherhouse building into 88 affordable housing units and large common areas under the Maine Limited Liability Company - Motherhouse, LLC. A Low Income Housing Tax Credit (LIHTC) and Historic Tax Credit (HTC) are being pursued in support of this affordable housing initiative. The second element of the community will be the development of a Main Lodge for the McAuley Retirement Community proposed to include up to 60 independent living apartments with full congregate services and common areas. This phase also includes up to 32 connected semi-independent apartments connected to the Main Lodge with full access to all of the Main Lodge supporting congregate services and common areas.

The third component of the proposed development plan would provide for approximately 120 new senior independent living apartments located within attractive apartment buildings and clusters. Finally, to meet the transitional needs of a full continuum of care community, a 24-36 bed Assisted Living Facility is envisioned as either as a free standing structure or attached to the Motherhouse.

Two uses which will remain in use include the McAuley High School and St. Catherine's residence located off Walton Street. As noted above McAuley High School will remain for the immediate future. St. Catherine's will continue for a period of time to house retired Sisters and former priests with a long term plan for renovating and expanding the 18 unit apartment building into 38 market rate senior apartment units with full access to the campus amenities and activities.

In summary the project proposes a unified campus with:

- 88 affordable housing units within the Motherhouse.
- 232 apartment/congregate units
- 18 existing apartment units – St. Catherine's
- 24-36 assisted living units

The project will provide a wide variety of benefits. For the city and the community, it addresses several goals of Portland's comprehensive plan including the preservation of historic resources, redevelopment of buildings with currently unused residential potential, dense development and development that serves a diverse market including seniors. In general, senior communities are an excellent form of real estate development and a good neighbor. They are well-designed, attractive and quiet communities that generate little traffic. They also generate significant tax revenue for the city with little drain on city services.

Finally, it is important to note that the Sisters of Mercy have been searching for a new role of the Convent for well over a decade. For everyone involved in this difficult process, there is strong agreement that a senior living community is the best possible reuse plan for the Convent. The project will provide a financially stable reuse plan for the property and a compatible partner for the Catherine McAuley School.

2. PROJECT TIMELINE

The applicant is seeking approvals on a dual timeline – moving forward with the campus Zoning Amendments and Master Development Plan review simultaneous with the Motherhouse re-

development into 88 affordable apartments as a Level III Site Plan review. It will be critical for the LIHTC Application that the Motherhouse re-development secure Level III Site Plan Approvals by July 2015 in order to retain a strong position for the LIHTC application process. The applicant's team looks forward to working closely with staff to facilitate this process.

3. BACKGROUND AND HISTORY

The primary historic use of the buildings and site since the late nineteenth century was as a Convent. As such, it was the principal center of the educational, residential and spiritual life for the Sisters of Mercy in Portland. However, the property has served many other purposes and uses since first established in the early 1880s. This began with the establishment of a girl's school, known as St. Joseph's Academy, in 1881. St. Joseph's Academy was located in the current McAuley wing of the Motherhouse and is still part of the school today. The current Catherine McAuley High School building was completed in 1971 but the school, in one form or another, has been on the site since 1881.

Also in the early 1880's, the Sisters established St. Joseph's Home for Aged Women on the site. It was first housed in a temporary wooden structure on the site and then moved to the two-story brick structure known as St. Catherine's Hall in 1888. This building still stands along the north boundary of the property facing Walton Street. After the home for the aged was moved to downtown Portland in 1914, St. Catherine's Hall became the first St. Joseph's College in 1917. St. Catherine's was enlarged and remodeled in 1940 to accommodate additional classroom space, residential facilities and a chapel. In 1954, the college moved to Standish, Maine.

The site also housed the original St. Joseph's parish church around 1884. The church was eventually removed after a new church was constructed on a nearby site.

The central Motherhouse, the centerpiece of the site today, was constructed in two phases. The first phase, completed in 1909, included the central main block, north wing and chapel wing. In 1921, the south and rear wings were added. It was at this time that the Motherhouse was joined to the St. Joseph's Academy building by a two-story brick addition. Over the next 100 years, the Motherhouse was home to as many as 300 nuns. As the life-long home for many sisters, the building became a de facto senior living facility. This included a wing designed and devoted to nursing home level care for the sisters.

However, as has happened across the country and around the world, the number of sisters dropped dramatically over time. By the late 20th century, a Motherhouse and a campus that had served as a home, church, school and senior care facility needed a new purpose if it was going to continue its mission into the next century.

4. EXISTING USE AND ZONING

The 18.96 acre property is currently located within the R5 - Medium Density Residential District.

The Motherhouse continued to serve as a residence for the sisters until the summer of 2004. At that time, the few sisters remaining in the Motherhouse moved out to other facilities in the Portland area including the former Eunice Frye residential care center. Today, the first floor of the building is used as office space for the Sisters of Mercy. The Chapel is still used by the Sisters of Mercy and by the adjacent Catherine McAuley High School, but the upper floor residential rooms are vacant.

In the 1980s, St. Catherine's Hall was renovated from a residential dormitory type of use into 18 residential apartment units, several of which are occupied by Sisters of Mercy or other individuals with connections to the Sisters. The high school continues to function to this day and also uses space within the former St. Joseph's Academy building –the northern wing of the Motherhouse.

The Portland Land Use Code (LUC) Sec 14-116 for **R5 Zoning** – Purpose states: *"...for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unity development (PRUD) on substantially sized parcels. ...such PRUD development shall respond to the physical qualities of the site and complements the scale, character and style of the surrounding neighborhood."*

The current R5 zoning was adopted decades after the creation of the Sisters of Mercy campus and reflects the development pattern of the surrounding neighborhood that grew up around the campus. As a result, the Sisters of Mercy campus has never been consistent with or even envisioned by the current zoning.

5. PROPOSED ZONING TEXT AND MAP AMENDMENT

A. Proposed Zoning Map Amendment To R-6A –Residential Zone (See Exhibit 6):

The applicant is proposing to develop a comprehensive and coordinated institutional/residential based retirement community land use plan which mirrors the proposed zoning changes of neighbors to the south (Deering Pavilion) and those several blocks to the north (Park Danforth) to provide quality senior residential living opportunities which are in demand off-peninsula.

The applicant seeks a Zoning Text and Map Amendment Change from the current R5 Medium Residential Zone to an R-6A Residential Zone with supporting amendments to the R-6A District Ordinance Division 7 - Sections 14-135 to 14-140 as noted below and herein. Excepted from the requested zone change is the proposed St. Catherine's lot which will remain as R-5.

In order to consider the rationale and reasoning for the proposed Zoning Change it is important to understand both the history and current uses of the McAuley Campus and the future vision as it relates to the current and future neighborhoods.

1. The R5 Zone is intended to "... provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density."

While the R5 Zone in purpose would satisfy the proposed re-purposing and re-development of the current campus the specific dimensional and land use provisions of Zoning District **R6-A** more specifically suit the proposed development plan. For this reason, the applicant is requesting both a **Text and Map Amendment to change the current McAuley Campus from R5 to R6-A.**

The 18-unit St. Catherine's residence hall is not being considered for the zone change as this must remain as a separate lot retained by the Sisters of Mercy and there is insufficient area to meet the 4-acre minimum lot size. A separate 1.86 acre lot meeting current R-5 density requirements will be created for St. Catherine's as shown on the attached exhibits and left in the R-5 zoning district.

2. The **R-6A Zoning** purpose statement (Section 14-135) states: *"The purpose of the R-6A residential zone is: (c) to encourage neighborhood livability with higher density multi-family housing on large parcels locate off the peninsula. The zone is appropriate in areas that are along major transportation routes, near service areas, and in redevelopment (underutilized) or infill areas."*

The proposed McAuley Campus redevelopment plan will create needed housing for seniors in an urban influenced campus- infusing the neighborhood with higher density quality housing; responsible residents who tend to utilize public transportation and walking and providing for an inter-generational demographic mix of residents and students within the existing McAuley Campus. As an infill site the development meets smart growth initiatives to curb sprawl into the suburbs which would otherwise be required to provide the same level of housing needs. The site is located near service areas off Stevens Avenue near the UNE campus and Route 302 (Forest Avenue) yet allows for a major access from a side street, Walton Street.

Furthermore the site abuts the Deering Pavilion property and is within close proximity to the Park Danforth properties – both re-zoned to R-6A as medium to high density housing. The McAuley campus will provide similar uses consistent with these neighborhood developments.

3. Consistency with the Comprehensive Plan: As stated in the City of Portland Zoning Amendment Application, the proposed re-use plan for the property could be a model project for the City of Portland's comprehensive plan. Some of the key areas cited in the Comprehensive Plan and included the project are:
 - Preservation of historic and natural resources
 - Development of currently unused residential potential
 - Seek incentives and partnerships to increase affordable housing options
 - Encourage higher density housing and walk able neighborhoods
 - Identify vacant land and redevelopment opportunities throughout the City
 - Target vacant buildings for maintenance, rehabilitation and reuse
 - Neighborhood stability and integrity
 - Development that is close to city services, transportation and infrastructure
 - Development that serves the diverse market including seniors

In summary, the proposed project and requested zoning amendment is clearly consistent with the goals of the Comprehensive Plan.

3. The proposed use of the property is also consistent with the historic use of the property and therefore consistent with the surrounding neighborhood. The property has been used for a school, college, church, residential apartment building, convent and senior care facility at various times throughout its history. The proposed use as affordable

senior housing and a senior retirement community is entirely consistent with this historic use. Moreover, the long history of this campus in this location with these uses – for approximately 130 years - clearly demonstrates that the proposed use is compatible with both the property and the surrounding neighborhood. As the center-piece of this neighborhood for over a century, the preservation and reuse of this property is essential for maintaining the stability and integrity of the neighborhood.

B. Proposed R-6A Text Amendments:

The applicant proposes the following text amendments in support of the proposed project.

Land Use Code Section:

1. Sec. 14-47. Definitions.

Congregate care facility: A planned residential unit or multifamily development which provides individual living units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

2. Sec. 14-136. Permitted uses.

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

- (a) *Residential:*

6. Congregate care facilities in the R-6A residential zone.

3. Sec. 14-522. [Site Plan] Definitions

Master development plan: A Master Development Plan is a regulatory option for sites with one acre or more in cumulative lot area that's designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements built in phases over an extended timeframe. This option shall not apply in residential zones except for institutional

uses and congregate care facilities in the R6A zone.

4. Sec. 14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses and congregate care facilities in the R6A zone.

6. APPENDICES:

Appendix A provides an overview of the structure of a continuum of care community

In summary we believe that the proposed request for a Zoning Amendment to R-6A meets the goals and requirements of the Land Use Code Sections 14-135 to 14-140 both in letter and spirit with the changes and amendments as proposed and is appropriate for re-development of the site and for the neighborhood.

Our project team remains available to meet with staff to review the application in further detail or to provide any additional information and look forward to meeting the Planning Board and City Council in the coming weeks. It will be important for the project timeline and LIHTC process to work through the campus Master Development Plan and Level III Site Plan reviews for the Motherhouse in a cohesive process in the coming months.

Sincerely,



Frederic (Rick) Licht, PE, LSE
Principal

Encl: As Noted

Cc: (via email - PDF copy)

John Wasileski; Sea Coast at Baxter Woods Associates, LLC

Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.

Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.

Dennis Keeler; Pierce Atwood, LP

Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC

Kevin Bunker; Motherhouse, LLC

Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry

Pat Carroll; Carroll Associates, Landscape Architects

Steve Bushey; Fay, Spofford & Thorndike



April 06, 2015

J14.067

Barbara Barhite
 Development Review Manager
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

**McAuley Place, 605 Stevens Avenue and Walton Street
 Request for Zoning Amendment to R-5A
 (CBL 136 E006001, 143 F004000, 144 B001000)**

Dear Barbara:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy) and Sea Coast at Baxter Woods Associates, LLC we are pleased to submit this revised request for a Zoning Text and Map Amendment for the Sisters of Mercy – Catherine McAuley High School Campus located off Stevens Avenue and Walton Streets in Portland. This zoning request amends our prior proposal dated March 02, 2015 which had proposed a change to R-6A.

Enclosed are one (1) hard copy of the following materials and PDF copies on an attached thumb drive:

- Cover Letter
- Attachment A – Proposed R5A Zoning Amendments
- Attachment B– Site Density Comparisons
- Attachment C – Traffic Trip Generation Analysis
- Exhibit 1 – Site Photographs
- Exhibit 2 – Context Map
- Exhibit 3 - Proposed Parcel Map
- Exhibit 4 - Proposed Zone Change Map
- Exhibit 5 - Conceptual Masterplan
- Exhibit 6 - Conceptual Phasing Plan – Phases 1-4

1. INTRODUCTION

As presented in the prior submission, the Sisters of Mercy and John B. Wasileski representing Seacoast at Baxter Woods Associates, LLC are proposing to redevelop the historic St. Joseph's Convent and surrounding grounds into a continuum of care senior living community. The property, located off Stevens Avenue and Walton Streets contains 18.96 acres including the Catherine McAuley High School and fields; St. Joseph's Convent and St. Catherine's residence hall. The general concept is to offer aging baby boomers and seniors a choice of attractive, living arrangements and an array of support services so that they can remain healthy, active and independent. The highlight of the proposed plan is the re-purposing of the former St. Joseph's Convent "Motherhouse" into 88 affordable dwelling units and common areas.

The project requires a Map and a Text Amendment to the current R-5 Zoning District.

The project proposes the following uses:

- 88 Affordable Housing Units (Motherhouse)
- 230-240 Market Rate Senior/Congregate Apartments or Assisted Living Units.
- 16-18 Senior Apartments (Existing - St. Catherine's)
- McAuley High School – Existing Use

For the purposes of this Zoning Amendment Request, only the 88 Unit Motherhouse Lot and 240-247 Senior Living community are proposed to be zoned R-5A.

2. CHANGES FROM 03-02-15 PROPOSAL

The previous proposal sought to utilize the R-6A Zone with minor text amendments for the property while leaving the St. Catherine's apartments lot as a 2.86 acre lot within the current R-5 Zone as the R6A would have required a minimum of 4 acres which is not practical on the site. The proposal was presented at the March 10th Planning Board Workshop and to neighbors at a February 24th informal neighborhood meeting.

Following the Planning Board Workshop, the applicant's team has worked with staff to make suggested changes and to provide additional information on traffic, comparisons of build-out densities and prepare site elevations to help understand the visual context of the proposed 4 to 5-story buildings within the campus and neighborhood..

Meetings with staff recommended a slightly different course might be more appropriate than the R6A for the site – changing the zoning from R-5 to **R-5A – Residential Zone**. After meetings with staff and review of proposed changes being requested for another senior living property it was agreed to pursue the R-5A map amendment with several amendments to the text. (See *Attachment A*.)

3. PLANNING BOARD AND PUBLIC FOLLOW UP

In response to public comments from both the February 24th and the recent April 2nd Neighborhood Meetings and the Planning Board workshop, we have addressed several key concerns for the proposed 13.5 acres proposed for re-zoning.

- Zoning Density Comparisons:* The Planning Board requested a comparison of the proposed project build-out to what densities the current R-5 and R-6A zones could support. *Attachment B* provides a comparison of the proposed R-5A development as Congregate Housing based 1600sf/"net" land area per unit and the maximum build-out potential of the R-5 and R-6A based on 4500 sf/unit and 1000/1200 sf/unit, respectively.

The analysis demonstrates that moving from an R-5 to an R-5A would increase allowable theoretical build-out from 334 to 368 units or approximately 10% increase. In reality, the 368 units would have to be based on 1-3 unit buildings which when actually placed and designed into a cohesive community on the site, meeting all other standards such as actual market demand, parking, open space, stormwater, etc. would likely be reduced. (The R-6A Analysis generated a maximum build-out of 492 units for comparison only.)

- b. *Traffic Assessment:* The design team met with staff and the City Traffic Engineer, Tom Errico to review appropriate standards and scope for a preliminary traffic assessment. Diane Morabito of Maine Traffic Resources (MTR) has performed traffic trip generations based on the build-out scenarios of (a), above. Her report is included as *Attachment C*. A complete traffic assessment will be provided in the near future as the project progresses to the Master Development Plan phase in order to analyze intersection capacities and offsite conditions in further detail.
- c. *Building Height and Site Sections:* The Planning Board requested that graphic elevations or sections be prepared to demonstrate the context of the proposed 4-5 story buildings within the surrounding neighborhood and to the Motherhouse. The current R-5 Zone has a maximum building height of 35 feet which would not support the proposed level of development. The applicant is proposing a building height of 60 feet to allow for 5-story apartment buildings. This height will be below the Motherhouse roof level and is well below the adjacent Deering Pavillion.

The graphic sections are in progress and will be provided for the April 14th Planning Board workshop.
- d. *Masterplan Changes:* Exhibits 5 and 6 provide an updated conceptual masterplan vision for the property in response to the Board's and public comments. Preservation of athletic field use for McAuley High School was a central theme throughout the public comments. The masterplan exhibits provide a view of the project phasing. Phases 1 and 2 would not result in any change in the athletic fields. Phase 3 would result in the loss of a portion of the fields with some reconfiguration and preservation of the northerly fields. Phase 4 would result in the shifting and/or creation of a new field further to the north towards St. Catherine's. While the masterplan is still conceptual it reflects an approach that supports the more independent baby boomers in the early phases and transitions into increased levels of care as they age in place.

4. REQUESTED ZONING CHANGES

Proposed R5-A Zone Text Amendments are provided in *Attachment A*.

The purpose of the R-5A residential zone is provided in Section 14-126.(a) as:

"To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone."

The project and site are consistent with the R-5A zone with the foundation of the project being the re-purposing of the Motherhouse into 88 affordable senior housing units.

A change from the prior proposal is that due to a minimum lot size of 3 acres and because schools are not a permitted use, the proposed zone change to R-5A would affect only the

Motherhouse and surrounding properties and fields for a total of approximately 13.5 acres of the 18.96 acre site. (Refer to *Exhibit 4 – Proposed Zone Change Map*.) These two uses would be broken into separate lots totaling approximately 5.3 acres and remain as R-5.

5. PROJECT TIMELINE

The applicant wishes to reinforce that the Motherhouse LIHTC and Historic Tax Credit approvals would need to be in place this summer to meet application deadlines. The schedule for the zoning amendments and the commencement of the Master Development Plan process and Level III Site Plan process for the Motherhouse move forward together as efficiently as possible. We look forward to a successful zoning process and submission of the Master Development Plan for City review.

In summary we believe that the proposed request for a Zoning Amendment to R-5A meets the goals and requirements of the Land Use Code Sections 14-126 to 14-131 both in letter and spirit with the changes and amendments as proposed and is appropriate for re-development of the site and for the neighborhood.

Our project team remains available to meet with staff to review the application in further detail or to provide any additional information and look forward to meeting the Planning Board and City Council in the coming weeks. It will be important for the project timeline and LIHTC process to work through the campus Master Development Plan and Level III Site Plan reviews for the Motherhouse in a cohesive process in the coming months.

Sincerely,



Frederic (Rick) Licht, PE, LSE
Principal

Encl: As Noted

Cc: (via email - PDF copy)
John Wasileski; Sea Coast at Baxter Woods Associates, LLC
Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.
Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.
Dennis Keeler; Pierce Atwood, LP
Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC
David Haynes, RLA; Seacoast Management Company
Kevin Bunker; Motherhouse, LLC
Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry
Pat Carroll; Carroll Associates, Landscape Architects
Andrew Johnston; Fay, Spofford & Thorndike

DRAFT TEXT AMENDMENTS TO R-5A ZONE 04-06-15

(Note: proposed changes are highlighted in Blue and underlined)

Sec. 14-47

Congregate care facility: A planned residential unit development or multiunit development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

Purpose Statement for R-5A

The purpose of the R-5A residential zone is:

- (a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

- (a) *Residential:*

6. Multi family dwellings, as defined in section 14-47;

7. Congregate Care, as defined in section 14-47.

[Note: (b) Other: includes as 5. Intermediate, extended and long-term care facilities]

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

- (a) *Minimum lot size:*

Residential ~~(single and two-family dwellings)~~: Six thousand (6,000) 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. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.

Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.

Multi-family dwellings: Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

Congregate Care: Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

- (b) *Minimum lot area per dwelling unit:* Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Congregate Care: Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Minimum land area per intermediate care facility resident: Eight thousand (8,000) square feet gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.

- (c) *Minimum street frontage:* Fifty (50) feet. PRUD development: Fifty (50) feet.

- (d) *Minimum yard dimensions* (excluding structures in uses listed in (h) below):

- (e). Maximum structure height:

Principal or attached accessory structure: Sixty (60) feet

Accessory detached structure: Eighteen (18) feet.

- (f) *Maximum lot coverage:* Thirty (30) percent of lot area.

- (g) *Minimum lot width:* Sixty (60) feet.

- (h) Minimum building setback from external ~~subdivision~~ property lines for multifamily, PRUD, Congregate Care, and Intermediate, extended or long-term care facilities:

- a. Building length of one hundred (100) feet or less: Twenty-five (25) feet.
- b. Building length of greater than one hundred (100) feet: Thirty-five (35) feet.

- (i) Minimum recreation open space area (PRUD): Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. ~~Such recreation areas shall be level-graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.~~

Additionally we propose that the following text changes be made to Article 14-523(g) 2. Master Development Plan for the McAuley Place Master Development Plan:

14-523 [Site Plan] Required approvals and applicability.

- (g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:
1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
 2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate , extended and long term care facilities in the R5A and R6A zones.

Sisters of Mercy "McAuley Place" Density Computations V7 04-06-15 LED

Parcel ID (See Site Prelim Subdiv Plan.)	AREA (AC.) GROSS	AREA (AC.) NET PER PROPOSED RSA ZONING	Density Requirements	LOT 3	LOT 4	LOT 3+4	LOT 3+4
TOTAL SITE			Proposed RSA Type of Use	Congregate	Congregate	Congregate (use NET Area)	3-Family (use GROSS area)
Lot 1 McAuley HS	3.50	3.50	RSA Ordinance Unit Density (sf/unit) (1.)	1600	1600	1600	1600
Lot 2 St. Cath.	1.86	1.86	Acreage (Ac.)	3.30	10.23	12.26	13.53
Lot 3 Motherhouse	3.30	3.30					
Lot 4 Fields/Stevens Ave	10.23	8.96	Maximum Allowable Density (Units)	90	279	334	368
Total Acreage	18.89	17.62	Proposed (Units)/(Beds)	88	246	334	N/A
LOTS 3&4 PROPOSED ZONE CHANGE							
Lot 3 Motherhouse	3.30	3.30	Current R5 Type of Use	Multiplex	Multiplex	Multiplex	
Lot 4 Fields/Stevens Ave	10.23	8.96	Unit Density (sf/unit)	4500	4500	4500	
Total Acreage	13.53	12.26	Maximum Allowable Density (Units)	32	99	131	
Wetlands (Ac) Lot 4 (Approx.)			Proposed R6A Type of Use	Congregate/ Multiplex	Congregate/ Multiplex	Congregate/ Multiplex	
(approx -scaled)			Unit Density (sf/unit)	Note 5.	Note 5.	Note 5.	
#1	0.93		Maximum Allowable Density (Units)	120	372	492	
#2	0.07						
#3	0.07						
Total	1.07						
> 25% SLOPES Lot 4 (Approx.)							
field slope	0.2						
NOTES:							
1. RSA = 1 unit/1600 sf gross area.							
2. RSA requires min 1.5 acre lot for Assisted Living (Intermed. Care)							
Lot 4 becomes 10.23-1.5 ac = 8.73 ac. Congregate							
Lot 4A is 1.5 acres Assisted Living							
3. Assisted Living - no density requirement in RSA - use R6A: 18000 sf/35 beds + 350sf/ add. bed.							
1.5 acres would allow 197 Assisted Living Beds - no a realistic use. Use 36 beds.(no analysis performed)							
4. St. Catherine's Lot 2 - has 18 existing units. Assume as R5 for density.							
5. R6A Multifamily = 1000sf/unit Units 1-3 + 1200sf/unit Units >3							

Memorandum of Purchase and Sale Agreement

Notice is hereby given of the existence of a Purchase and Sale Agreement, dated June 16, 2014 (the "Agreement") between St. Joseph's Convent and Hospital, a Maine non-profit corporation (hereinafter called "Seller") and Sea Coast Healthcare, Inc., a corporation existing under the laws of the State of Maine or its nominee (hereinafter called "SCH"), and of an Assignment, dated September 15, 2014 by SCH to Sea Coast at Baxter Woods Associates, LLC ("Purchaser") of all of its rights as Purchaser under said Agreement.

Under the Agreement, Purchaser has the right and obligation to purchase, on and subject to the terms and conditions of the Agreement, the following property at the First Closing, as hereafter defined: (i) a portion of that certain real property consisting of the real estate situated at 605 Stevens Avenue in Portland, Maine, which portion is to contain approximately 17.36 acres, and all buildings and improvements thereon, including the Motherhouse, the Catherine McAuley school, the land between the Motherhouse and Baxter Woods and the "ball fields" and being the premises described in Exhibit A hereto (but excluding the St. Catherine's Parcel, as hereafter described) and generally shown as Lots 1, 3, 4 and 5 on the Conditional Zone Concept Plan, McAuley Place at Baxter Woods, Stevens Avenue, Portland, Maine prepared by Belanger Engineering, March 21, 2014 attached hereto as Exhibit A (hereinafter the "Plan"), together with easements over the St. Catherine's Parcel for existing and proposed underground drainage and utilities, including sewer, water and other utilities, a parking easement for use of up to a 20 parking space expansion of the parking lot on the St. Catherine's Parcel, and an easement for secondary ingress and egress from Walton Street, all for the benefit of said Lots 1, 3, 4 and 5 (with Purchaser to have the right but not the obligation after the First Closing to construct the drainage and utility lines, parking lot expansion and secondary access permitted by such Easements) (collectively, the "Easements"), which Easements shall be located substantially as shown on the Plan attached hereto as Exhibit A-1 (hereinafter the "Property"), and (ii) an assignment by McAuley Place at Baxter Woods Retirement Community, Inc. of the Credit Enhancement Agreement, dated May 2009 between the City of Portland and McAuley Place at Baxter Woods Retirement Community, Inc. (which is an affiliate of Seller), to the extent assignable, relating to the existing tax increment financing district, with no representations or warranties other than the fact that Seller has not assigned or caused to be assigned such agreement to any third party. At the Second Closing, as hereinafter defined, Purchaser has the right and obligation to purchase, on and subject to the terms and conditions of the Agreement, the following property, for the price and upon the terms and conditions hereinafter set forth, the St. Catherine's Residence, being the land and 18 unit apartment building generally as depicted as Lot 2 on the Plan and referred to herein as the "St. Catherine's Parcel" and also as generally depicted on Exhibit A-1.

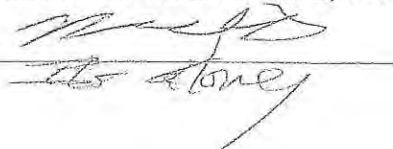
The First Closing shall occur on the earlier of the following dates: (a) the date of the construction loan closing with Maine State Housing Authority relating to an award of low income housing tax credits (such loan closing is anticipated to be in April 2015 if low income housing tax credits are awarded to Purchaser or its nominee in the fall of 2014, or in April 2016 if low income housing tax credits are awarded to Purchaser or its nominee in the fall of 2015); or (b) June 30, 2016. The First Closing shall also occur on any earlier date as specified by Purchaser by at least ten days prior written notice to Seller. The Second Closing shall occur on the earlier of: (i) the date that is ten years after the date of this Agreement, or (ii) the date that is 180 days after Seller certifies to Purchaser in writing that all Non-Market Rate Leases have expired or been terminated, and that the Second Closing Date has been scheduled for 180 days after the date of such certification.

This Memorandum does not modify or alter the terms of the Purchase and Sale Agreement in any way.

Dated as of this ___ day of October 2014.

WITNESS:

Sea Coast at Baxter Woods Associates, LLC

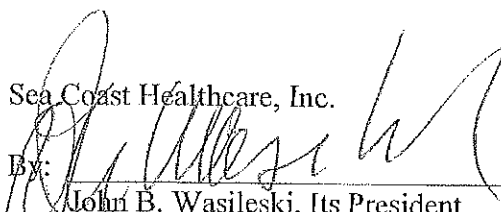
By: 

Assignment

For value received, Sea Coast Healthcare, Inc. hereby assigns the Purchase and Sale Agreement, dated June 16, 2014, between St. Joseph's Convent and Hospital, as Seller and Sea Coast Healthcare, Inc., as Purchaser, relating to property at 605 Steven's Avenue, Portland, Maine, to Sea Coast at Baxter Woods Associates, LLC, a Maine limited liability company. Baxter Woods Associates, LLC hereby assumes and agrees to perform all obligations as purchaser under said Agreement.

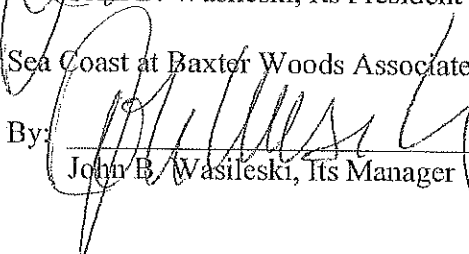
Dated: Sept 23, 2014.

Sea Coast Healthcare, Inc.

By: 

John B. Wasileski, Its President

Sea Coast at Baxter Woods Associates, LLC

By: 

John B. Wasileski, Its Manager

Chart of a Continuum of Care Community**Independent Resident Townhouses/Apartments**

- ◆ Resident Profile. Healthy, active, independent seniors who still cook and drive. Up to 50% couples. Assume 1 car per apartment.
- ◆ Unit Summary. 140 cooperative housing units for sale at *market rates*
- ◆ Product Summary. Senior-friendly construction, maintenance / security services and social activities allows residents to remain healthy and independent
- ◆ Market Summary. Fastest growing segment of senior housing market. Largest potential market and greatest income potential.

**Independent Resident Apartments**

- ◆ Resident Profile. Seniors who require assistance with basic services such as cleaning, cooking and transportation in order to remain independent. Over 75% are single and approximately 50% to 60% of residents will have one car.
- ◆ Unit Summary. 60 + 32 = 92 +/- congregate apartments including a number of affordable apartments (20% to 40%) and the balance being market rate.
- ◆ Product Summary. Senior-friendly construction and an array of support services allow residents to remain independent in an apartment setting.
- ◆ Market Summary. Seniors choosing independent apartments today are increasingly frail and in need of support services.

**Assisted Living Apartments in the Motherhouse**

- ◆ Resident Profile. Seniors who can no longer live independently and require assistance with activities of daily living such as bathing, dressing, dining and medication management. Over 85% are single and none will drive a car.
- ◆ Unit Summary. 24-36 +/- assisted living apartments with rent based services required.
- ◆ Product Summary. Senior-friendly construction, support services and assistance with activities of daily living helps residents remain in an apartment setting.
- ◆ Market Summary. Important to keep occupancy near 100% due to high cost of services and staffing. Strong demand for affordable assisted living.

Sisters of Mercy -- St. Joseph's Convent

Att. F

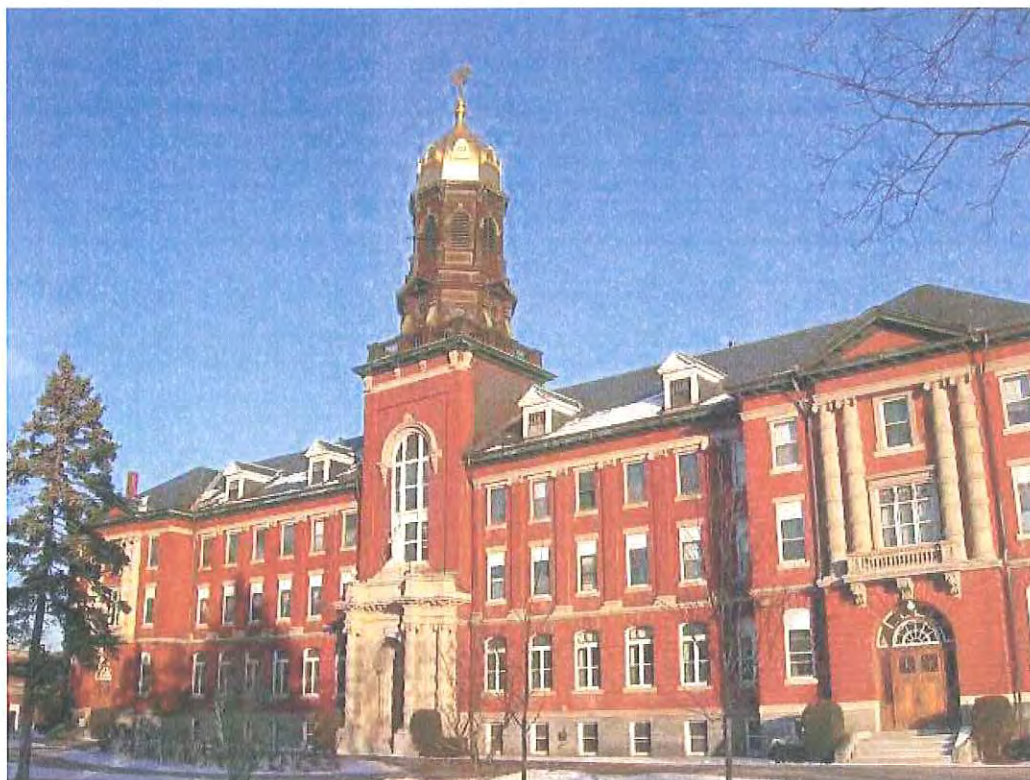


EXHIBIT 3

PAGE 1

Exterior Views of Motherhouse



Interior Views of Motherhouse



SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: April 3, 2015

RE: Trip Generation Analysis for Proposed Zoning Alternatives on the McAuley Site in
Portland, Maine

Introduction

The purpose of this memorandum is to summarize trip generation analysis prepared for the proposed re-zoning of the McAuley site on Stevens Avenue in Portland, Maine. The zoning is being requested to accommodate a proposed senior housing development. The requested rezoning of lots 3 and 4 would change the zone from the current R5 to the requested R5A. It is understood that the current R5 zone would allow for up to 131 dwelling units to be constructed on lots 3 & 4 (where Motherhouse and Proposed Senior Congregate Community would be located, as shown conceptually on Figure 1.) The proposed R5A zone would allow for up to 368 dwelling units on these lots or approximately 335 senior congregate apartments. It was assumed for this trip generation analysis that the dwelling units would consist of attached apartment units since they would generate more trips than condominium units. The density that could be obtained with single-family detached housing would be significantly less so this apartment basis is "worst case" in terms of potential trip generation.

Trip Generation Analysis**Maximum Build-Out**

Trip generation for the maximum potential build out of the rezoned lots 3 & 4 was determined using the most recent Institute of Transportation Engineers (ITE) "Trip Generation, 9th edition" report, published in 2012. As previously discussed, Land Use Code (LUC) 220 – Apartment was used to represent "worst case". The results for existing R5 zone with 131 units and the proposed R5A zone with a maximum of 368 units are summarized in the following table:

ITE Trip Generation for Potential Build-Out (one-way trip ends)				
<u>Time Period</u>	<u>Apt. Trip Rate</u>	<u>Current R5 131 Units</u>	<u>Proposed R5A 368 Units</u>	<u>Change in Trips</u>
Weekday	6.65	872	2,448	1,576

<u>Time Period</u>	<u>Apt. Trip Rate</u>	<u>Current R5 131 Units</u>	<u>Proposed R5A 368 Units</u>	<u>Change in Trips</u>
AM Peak Hour – Generator	0.55	72	202	130
Entering		21	59	38
Exiting		51	143	92
PM Peak Hour – Generator	0.67	88	247	159
Entering		54	151	97
Exiting		34	96	62
Saturday	6.39	838	2,352	1,514
Saturday Peak Hour	0.52	68	191	123
Entering		37	103	66
Exiting		31	88	57

As can be seen in the above table, the proposed zone change from R5 to R5A would result in approximately 130 new one-way trips during the weekday AM peak hour, 159 during the PM peak hour and 123 during the Saturday peak hour. This assumes that lots 3 & 4 are developed to the maximum density permitted, which is currently limited by a maximum of three-unit buildings. If the site were designed to accommodate three unit attached flats, with no garages, and to meet ordinance requirements for open space, parking, setbacks, etc., it is highly unlikely that the theoretical maximum density of 368 units could be achieved, further supporting that this is a highly conservative analysis.

Proposed Senior Housing Build-Out

Trip generation was also performed for the currently proposed senior housing development, also using the ITE “Trip Generation, 9th edition” report for comparison purposes. It was determined that under the R5A zone the maximum number of units that could be developed was 335. It is expected that the development will contain independent living apartment units as well as some assisted living. The expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Land use codes 252 – Senior Adult Housing – Attached and 254 - Assisted Living were used on the basis of dwelling units for the senior housing option. The results are summarized below:

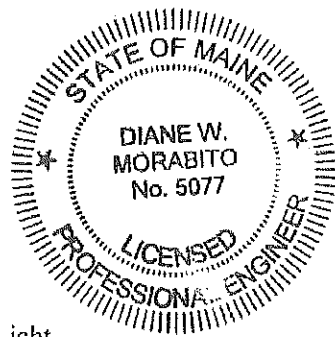
Projected ITE Trip Generation (one-way trip-ends)					
Proposed Senior Housing Development					
Time Period	311 Senior Living		24 Assisted		Total
	Attached Units		Living Units		
	Rate	Trips	Rate	Trips	
Weekday	3.44	1,070	2.74	66	1,136

<u>Time Period</u>	311 Senior Living Attached Units		24 Assisted Living Units		Total Trips
	<u>Rate</u>	<u>Trips</u>	<u>Rate</u>	<u>Trips</u>	
AM Peak Hour – Generator	0.39	121	0.23	6	127
Entering		56		4	60
Exiting		65		2	67
PM Peak Hour – Generator	0.35	109	0.37	9	118
Entering		60		4	64
Exiting		49		5	54
Saturday	2.61	812	2.20	54	866
Saturday Peak Hour	0.31	96	0.36	9	105
Entering		55		5	60
Exiting		41		4	45

As can be seen above, the proposed senior housing development, assuming the highest build-out dwelling unit numbers, is expected to generate 127 one-way trips during the weekday AM peak hour, 118 during the PM peak hour and 105 during the Saturday peak hour. Given that trip generation would exceed the 100-trip threshold, a state Traffic Movement Permit (TMP) would be required prior to the completion of the project, unless there are any site credits available for reduced trips at the high school.

The study area for 100 -200 trip level TMPs is typically limited to the immediate vicinity of the site since this level of traffic does not generally have a major impact off-site beyond the site drives. The City of Portland has delegated review authority to review the TMP application and issue the permit on behalf of the State of Maine Department of Transportation (MaineDOT).

Please do not hesitate to contact me if you or the City of Portland have any questions regarding this preliminary traffic information for the proposed rezoning to accommodate the planned senior housing development.



Sincerely,

Diane W. Morabito, P.E. PTOE
President

cc: Rick Licht
Tom Errico, TY Lin
Jean Fraser, Portland

03.30.15
REV 3 ZONING



McAuley Place
CONCEPTUAL PHASING PLAN

PHASE 4

(TOTAL ACREAGE 18.89 ACRES)
RSA REZONING = LOT 3+4 = 13.50 ACRES±

MEETING • PHONE • FIELD VISIT NOTES

Project:	McAuley Place (aka Seacoast at Baxter Woods) 605 Stevens Avenue Portland	Project No.:	14.067
Attendees:	See Attached Attendance List	Date:	April 02, 2015, 6:30 PM
Subject:	Rezoning Neighborhood Meeting	Location:	Sisters of Mercy Convent "Motherhouse" 605 Stevens Avenue

Meeting Purpose:

Official Neighborhood Meeting to review proposed rezoning of the McAuley Campus from R-5 to R-5A for proposed re-development of the Motherhouse as affordable senior housing and development of a congregate/senior community.

Presentation:

John Wasileski, Seacoast at Baxter Woods Associates, LLC
 Matt Teare, Seacoast at Baxter Woods Associates, LLC
 Kevin Bunker, Motherhouse LLC
 Rick Licht, PE, Licht Environmental Design, LLC

Project :
Motherhouse:

- 88 Affordable Senior Units.
- Low Income Housing tax Credits (LIHTC) and Historic Tax Credits (HTC) being pursued – critical to making project financially solvent due to complexities in re-developing Motherhouse.
- 68 One BR and 20 Studio Apartments. (66 Affordable@\$640-830/mo./22 Market Rate@\$1150-1200/mo.)

Congregate/Senior Community:

- Developer has 30+ years of experience developing and operating senior and congregate living communities in Maine.
- Proposal for up to 250+/- senior congregate housing apartment units with services.
- Current option includes McAuley High School lease – option to extend up to 25 years.
- Full build-out to preserve play field as practice field or full size field.

Zoning and Densities:

- Only 13.5+/- acres of the 18.98 acre campus proposed for rezoning. (Does not include McAuley HS and St. Catherine's lots)
- R5 density permits 131 residential multiplex units/R5A would allow 330-335 Units based on proposed Net area/R6A would permit 492+/- units based on gross area.
- Current R5 building height is 35 feet. R5A has no specific requirement – proposing 60 feet for 5 story buildings.

Public Comments:

1. Who receives tax credits? Developer receives and sells credits to investors.
2. Define Senior Housing? 55 plus age. This is not housing for young adults however, moving seniors into these facilities frees up housing stock in the City for young adults.

3. What is typical absorption rate of LIHTC projects? All of developer's LIHTC projects fully occupied/built out.
4. What utilities do Motherhouse rents include? All utilities but electric.
5. Traffic Concerns , Project will increase congestion and traffic? Cannot find spaces at Stevens Ave or even in the cemetery. Concerns over fire/ambulance visits as with Park Danforth. The project will undergo a traffic study and be peer reviewed by the City Traffic Engineer. Typical ITE figures provide for significantly less peak hour trips than single family dwellings and seniors by choice do not have to travel at "peak" hours. Campus will include van transportation, utilize public transportation and provide a walking campus to further reduce traffic. On average residents of Developer's other communities, only 1/3 residents own vehicles.
6. What is plan for Chapel – Under HTC must keep in existing condition. To be preserved for use by residents.
7. What services will be offered with Motherhouse units? Motherhouse will not have full services but will maintain full kitchen, etc. for use. Services include access to resident counselors on regular basis.
8. What is plan for development of Senior/Congregate campus? Development will respond to current market trends with more independent living units initially for baby-boomers and transition into more full service congregate facilities in later phases as residents age.
9. Project will be asset to community allowing for multi-generational partnership with the school, and with Deering Pavilion/UNE/ Park Danforth, etc. Good for the community. Shared options with School include potential pool use, meals and nutrition education, volunteerism with residents and students, etc.
10. How will Motherhouse be set up/ownership and will they pay taxes? Motherhouse will be set up as Co-Op or Condominium and is not tax exempt.
11. What is phasing schedule? Anticipated plan is 2016-17 Motherhouse development, 2017-18 – 50 units senior apartments; market driven phases expected to fully build out in phases by 2022 up to 335 +/- units. Developer builds based on pre-sales of units.
12. Will Stevens Ave be used for parking? No, project will meet all parking requirements on-site and proposes to use underground garage parking under buildings pending final geotechnical evaluations. Seniors have significantly less ownership of cars than general public.
13. Concerns that project is proposing loss of athletic fields. Project is proposing to phase in the development (Phases 1-4). Initial Motherhouse Phase and first Senior Apartment phase will have no or minimal effect on fields (2016-2018/19). Subsequent phases will encroach on fields requiring re-orienting and loss of some play fields. Final phase will result in practice or full sized field if possible based on engineering and design. Reminder that prior to the 2006+/- Field Expansion, the school existed with one playfield area. Games were played in off-campus locations in Portland.
14. School is in competition with Chevrus- How can we compete for students without full size fields?
15. School has had decreasing enrollment for 10 years –obviously the field expansion has not helped sustain enrollment.
16. Is there flexibility in planning of fields and site? Yes, design masterplan is very conceptual at this point and every effort will be made to incorporate a full size field into final phases of project.

17. Concerns voiced over long term viability/sustainability of McAuley HS with loss of fields. Developer option is with the Sisters of Mercy with option on School to allow school to continue on the site. Developer has been working with the Sisters for over 10 years to make this a viable project and to sustain the school. School will have lease with graduated rent and COLA over prescribed period of years.
18. Concern over building heights – New buildings proposed at 60 ft. maximum requested in new R5A zoning. Will not exceed Motherhouse height. Site drops off topographically from Stevens Ave. further reducing any height concerns. Developer will prepare site sections for Planning Board.
19. 55+ communities – allows “relatively young” working couples who will increase traffic and own more 2 autos? No, the economic reality is that retirement communities average age is 70-75+.
20. Concern by residents over sporting events and traffic generated on Walton Street under current McAuley school use.
21. Stormwater concerns – residences on Holly Street. Former springs under fields and groundwater. Area is always wet. Developer will be completing comprehensive stormwater study and mitigating increases in stormwater due to development to meet City/DEP standards. Engineers will meet with residents to view concerns.
22. Fields are useless for athletic game play – current fields are not safe and have poor quality/irregular surfaces. If school feels fields are needed onsite to sustain enrollment – should be considering turf fields on or offsite to be competitive.

These notes have been prepared by Frederic Licht, PE, and are the author’s interpretation and summary of the presentation and comments provided by the public and may not reflect each individual speaker’s comments.



Frederic (Rick) Licht, PE LSE
Principal



Dear Neighbor,

Please join us for a neighborhood meeting to discuss our plans for an active senior living community on the Sisters of Mercy / McAuley School Campus located at 605 Stevens Avenue.

The details of the meeting are as follows:

Meeting Location: St. Joseph's Convent // "The Motherhouse"
Meeting Date: Thursday, April 2nd, 2015
Meeting Time: 6:30 pm

Please arrive via the Walton Street entrance to the campus and park in the McAuley School parking lot. As you walk toward the Motherhouse from the parking area, the open entrance to the Motherhouse will be at the side of the Motherhouse just before you reach the front of the building. There will be a sign on the open doorway. Please proceed up the short flight of stairs and straight down the 1st floor corridor and up the main stairway to the chapel on the 2nd floor.

This is meant to be an informal, collaborative conversation regarding our preliminary proposal. After a brief presentation on our concept plans, we would like to hear your thoughts, concerns, comments and ideas.

In addition, if you would like to meet with our team individually or have other questions / comments, feel free to contact me via phone or email at 837-2418 or mteare@highlandgreenmaine.com.

Thank you for your time and consideration.

A handwritten signature in dark ink, appearing to read "Matt Teare". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Matt Teare
Director of Development
Sea Coast Management Company

EXAMPLE: Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

I also certify that on (date at least ten (10) days prior to the neighborhood meeting), invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was also provided to the Planning Division (jmy@portlandmaine.gov and ldobson@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed,

Wm D. Turner

04-03-15(date)

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes



May 01, 2015

J14.067

Jean Fraser, Planner
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

605 Stevens Avenue and Walton Street, Portland
Request for Zoning Amendment to R-5A
(CBL 136 E006001, 143 F004000, 144 B001000)

Dear Jean:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy), Sea Coast at Baxter Woods Associates, LLC and Motherhouse LLC we are pleased to submit the following additional information in support of our request for a Zoning Map and Text Amendment from the R-5 to an R-5A Zone. The following and attached materials supplement our submission of April 24th and respond to specific zoning related questions raised at the April 14th Planning Board workshop. We have included the April 24th letter as an attachment for ease of reference.

This submittal includes the following:

- Exhibit 1 – Proposed Zone Map Change -Revised
- Exhibit 2 – Building Height Study
- Exhibit 3 – Building Massing Models
- Exhibit 4 – Traffic Memo, Maine Traffic Resources, dated 04-29-15
- Exhibit 5 - April 24th Letter to Staff re: Zoning Criteria

1. Proposed Zoning Map Amendment

The Planning Board had suggested that the “finger” which is the proposed main access right of way to the main rear lot (Lot 4) off Walton Street be excluded from the proposed R-5A zone to avoid cutting into the R5 district (*Exhibit 1*). We feel it is better not to split parcels with different zoning designations but are open to continuing the discussion. We have also made a minor adjustment in the R-5A zone line at the rear of the St. Catherine’s lot provide a “cleaner” zone line.

2. Appropriate Building Height for the Campus (Refer to April 24th Letter, *Exhibit 5*)

The project team has analyzed the site and building program proposed for the campus and after further evaluation would support a building height of **55 feet rather than 60 feet**. We height will allow for 4 and 5 story buildings depending on construction type.

We have prepared *Exhibit -2 Building Height Study* to further the discussion of how this height is compatible with the Motherhouse, the rest of the McAuley campus and the general neighborhood. *Exhibit 2* compares key buildings in the general Stevens Avenue area from the Deering Pavillion at 11

stories and over 100 feet tall to Park Danforth at 64 ft. +/- and the Motherhouse at 56 feet to the roofline and 108 feet to the top of the dome. More importantly the proposed 4-5 story senior apartments would be set back over 180 ft. from Stevens Avenue and behind the face of the Motherhouse with the historic iron fence, mature evergreen and specimen trees providing a significant visual buffer from Stevens Avenue. All proposed buildings would be below the height of the Motherhouse.

Equally important to this site, the proposed 4 and 5 story senior apartments would drop topographically 8-10 feet from Stevens Avenue towards the rear of the site further reducing any visual impact. The 70-ft. trees at Baxter Woods would further mask the buildings from south of the property.

We believe the proposed 55 foot building height is both appropriate for the R-5A zone to promote smart growth ideals of providing medium density housing in designated zones off-peninsula within the City and consistent with surrounding uses.

3. Project Scale and Massing:

Exhibit 3 provides a study of proposed and existing building massing from various view points. The massing is not specific to a particular building design but rather serves to illustrate the compatibility of the scale and height with the existing campus and adjacent land uses. The study demonstrates how the proposed campus development is set towards the south and east (rear) of the site with open space – either athletic fields or mature tree growth in the foreground separating the development from adjacent streets and view corridors. Baxter Woods dominates the background with the forest canopy well above proposed senior apartments.

The massing study also clearly demonstrates the significance both physically and architecturally of the Motherhouse as the dominant structure on the campus and in the immediate Stevens Avenue neighborhood, as it should be. It is a proud building which will remain the prominent focus of the campus.

Another factor which the massing study helps to illustrate is the relationship between building height, scale, density and open space. The model suggests a combination of 4 and 5 story buildings to achieve the desired density of units. Reducing the senior apartment buildings to only 4 stories would add an additional structure with a direct reduction in open space and field area. Creating a well designed campus requires a balance of all of these factors in a complimentary fashion – not simply a discussion of building height.

We believe that the information presented supports both the scale of the buildings being proposed in a campus environment and the compatibility of the project within the surrounding neighborhood.

4. Lot Coverage and Open Space: (Refer to April 24th Letter, *Exhibit 5*)

As stated in the April 24th letter, we support staff's recommendation for the R-5A lot coverage of 30% and open space of 200 square feet per dwelling unit. The project masterplan at full build out with current refinements is under 21% lot coverage. The open space, including the practice field for the Senior Congregate Apartment Lot 4 would require approximately 10% of the site as open space based on the current concept masterplan whereas over 20% of usable, level land can be provided. On the

Motherhouse Lot (Lot 3) approximately 12% of the lot is required as open space and over 25%% can be provided as common areas. The ability to provide increased open space is directly related to the concept of using underground parking to reduce impervious areas and provide for a “greener” campus. The proposed standards would allow for greater flexibility in site planning on other sites which do not utilize underground parking.

5. Traffic and Senior Drivers:

The Planning Board and City Traffic Engineer requested (1) that the applicant respond to public comments of safety and senior drivers and (2) provide a comparison of Institute of Transportation Engineers (ITE) trip data with actual facility data.

Our traffic engineer, Diane Morabito, PE, PTOE, has researched data from the Maine Department of Transportation (MDOT) which relates driver age groups to accident data and has conducted trip counts at The Highlands retirement community in Topsham. The results of her research are summarized in her memo dated April 29th, 2015 (*Exhibit 4*) and support the following conclusions:

- a. Trip Counts: The actual trip counts from The Highlands correlated to within 9% of the ITE data which is not considered a significant deviation. This data suggests that using ITE data is accurate. Additionally, the proposed senior campus at 605 Stevens Avenue is more urban than The Highlands and is located on the city metro bus route and is in a walk able neighborhood –all factors which will further reduce vehicle trips.
- b. Safety: A review of two factors in the determination of safety was conducted – intersection accident data at three retirement community driveways and analysis of accident rates by age. In the first assessment all study intersections had a critical rate factor (CRF) of less than 1.0 indicating a crash rate less than similar intersections in non-senior communities. The latter assessment found that without exception, the older the driver age group, up to and including “70 and older” – the lower the crash rate. The data suggests that older drivers do not as a group, statistically pose a safety threat.

Additionally the City Traffic Engineer has requested that traffic & pedestrian counts be conducted while schools are in session. Due to school vacation week, those counts are being performed this week and the additional assessments will be provided to staff in a separate submittal when completed.

6. Transportation Management Programs in other Seacoast Senior Communities:

- a. Overview: Compared with virtually every other type of use allowed on the property under zone 5 or 5A, a senior community will produce the lowest and safest amount of traffic by far. Additionally, a significant portion of the traffic it does generate (the senior residents) will intentionally avoid driving during the am and pm peak hours.
- b. Background based on Current Sea Coast Communities: (Senior Independent Living in Apartments). Approximately 60% of residents living in our lodge buildings (senior independent living in apartments) have and use cars on an everyday basis. As residents age, they increasingly turn to the community transportation program versus driving themselves. This is the whole concept of a senior living community with services. As residents age, the services are available

that allow them to continue to be independent, healthy and active as opposed to someone living alone who is very dependent on their car.

- c. OceanView Transportation Program: Our transportation program is robust and growing. We have two vans and three cars dedicated to providing transportation to our residents. The two vans provide regularly scheduled transportation to residents for all forms of shopping, restaurants visits, tourist trips and a variety of social and wellness activities. The three cars provide residents with individualized transportation by appointment for all their other transportation needs. In order to manage and deliver this program, OceanView employs a full-time transportation coordinator, two part-time drivers and several per diem drivers to manage and provide the transportation program. Finally, a public bus service from Portland to Falmouth does provide regular service through the OceanView campus with several stops a day.
- d. Prospect Resident Profile: Many residents for the proposed community will come from the greater Deering Center neighborhood. These seniors will be become less car dependent through access to the community transportation programs and services. Moreover, the seniors attracted to a community on Stevens Avenue – located in a more urban location – are more likely to take advantage of the walkability and public transportation than our typical suburban resident.
- e. Overall Safety with Senior Drivers within a Planned Community: In a senior community, residents who may be having challenges with driving (and other health and wellness issues) are identified by staff and fellow residents and proactive steps can be taken to address any issues. Many senior communities also have resident services coordinators who can help identify the services a resident may require and coordinate the access of those services in a timely manner. Lastly, adult children are able to “encourage” their parents to take advantage of existing transportation programs available within a community. This can be a very difficult conversation and process when a senior is living alone in a car dependent situation.

7. Parking Management at the Proposed Campus:

- a. Overview. As a developer and operator of planned senior communities, we focus significant time and effort on the issue of parking on our campuses. We work hard to balance the day to day parking requirements with a comprehensive parking plan.
- b. Day to Day Parking Needs. The campus will be designed to meet the everyday parking needs of residents, staff and guests. Based on our experience managing communities, these numbers can be predicted and planned for with accuracy. Parking spaces are typically assigned to each of these groups to ensure that residents – first and foremost – have a convenient and safe place to park as close as possible to their home. For this specific project, we are working to provide the majority of resident parking spaces (outside of the Motherhouse project) via underground parking garages – thus freeing the new surface parking for staff and guests to the campus. The masterplan would not require any additional parking on Stevens Avenue.

- c. McAuley School Events. Applied to the current proposal, we are already working with the McAuley School to integrate their parking needs and challenges into our proposal. With the new project, the intent is to share parking on the campus via the appropriate easements. This will allow overflow parking from one aspect of the campus to utilize available parking in other areas of the campus. Additionally, we will coordinate a shared schedule. For example, large warm weather events at the senior community would be scheduled during the summer months when the school parking lot would be largely available.

8. Stormwater and Ecology:

Concerns from residents have been expressed over stormwater, groundwater and the impact of the project on the ecology of Baxter Woods. All of these issues will be addressed during the Master Development Plan and Level III Site Plan review processes as more detailed plans are developed. However we can offer the following qualified comments to address concerns at this time:

- a. Standards: The project will undergo a rigorous design and review process to meet and exceed the City of Portland Chapter 32 stormwater standards which invoke the DEP Chapter 500 Stormwater Management Rules. We anticipate the implementation of a combination of low impact development (LID) stormwater measures such as rain gardens, bio-filters, pervious pavements and possible wet pond to mitigate increases due to development to below existing conditions for both stormwater quality and quantity.
- b. Existing Conditions: We are aware of the wet conditions located to the east, down gradient of the campus and our design team has agreed to meet with several neighbors who have raised concerns over current conditions to more fully understand their stormwater or groundwater issues. The introduction of a positive stormwater management system for the campus, addition of underdrains coupled with stormwater retention/infiltration through the use of LID devices should cause improvements over current conditions.
- c. Ecology: Questions were raised over the impact to the ecology of Baxter Woods from the development of the proposed housing and in particular, underground parking. We would suggest that the hydrologic conditions necessary to support the robust tree and woods growth of Baxter Woods is derived from both surface and groundwater. Based on initial geotechnical investigations on-site to understand soil conditions and as noted above, the stormwater management system intends to implement infiltration measures wherever possible to recharge the soil strata and groundwater. Secondly the underground parking may be up to 12 ft. below grade and will contain underdrain systems would be below the root systems of typical hard and softwood trees and would be located to meet City setbacks from the woods/property line. Lastly the project will maintain the existing 30 foot wooded buffer between any building and the southern property line at Baxter Woods.



In summary we believe we have addressed all issues and concerns raised by the Planning Board and Staff and look forward to presenting information on the requested zoning Text and Map Amendments at the May 12th Public Hearing. In the meantime we welcome the opportunity to meet with staff to cover any questions or provide any additional information as needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Licht". The signature is fluid and cursive.

Frederic (Rick) Licht, PE, LSE
Principal

Cc: (via email - PDF copy)
John Wasileski; Sea Coast at Baxter Woods Associates, LLC
Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.
Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.
Dennis Keeler; Pierce Atwood, LP
Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC
David Haynes, RLA; Seacoast Management Company
Kevin Bunker; Motherhouse, LLC
Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry
Pat Carroll; Carroll Associates, Landscape Architects
Andrew Johnston; Fay, Spofford & Thorndike



EXHIBIT 5
TO 05-01-15 SUBMITTAL

April 24, 2015

J14.067

Barbara Barhydt
Development Review Manager
Planning and Urban Development Department
Planning Division
389 Congress Street, 4th Floor
Portland, Maine 04101

605 Stevens Avenue and Walton Street, Portland
Request for Zoning Amendment to R-5A
(CBL 136 E006001, 143 F004000, 144 B001000)

Dear Barbara:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy) and Sea Coast at Baxter Woods Associates, LLC we are pleased to submit the following supplemental information in support of our request for a Zoning Map and Text Amendment from the R-5 to an R-5A Zone. This information supplements our prior submission of April 6th and responds to specific zoning related questions raised at the April 14th Planning Board workshop.

We understand that this project will not be on the Planning Board workshop next Tuesday, April 28th but we wanted staff to have the three key zoning related to the 605 Stevens Avenue project as background in the discussion of proposed Amendments to the R-5A Zone – building height, open space and lot coverage. Further information and graphics related to neighborhood compatibility, building height, traffic, etc. will be provided in a more comprehensive submittal next week for the May 12th Planning Board meeting.

1. Appropriate Building Height for the Campus

- a. Overview. We are seeking the 60 feet height limit within the proposed R-5A zoning based on the proposed design for this community and our experience at our other communities. With regard to the proposed community, the key factors relating to height are (1) the size and scale of the Motherhouse (the focal point of the community); the size and scale of other buildings in the neighborhood; the goal of minimizing building footprints and maximizing green / open space; the goal of providing underground parking to reduce surface parking; and ensuring an appropriate density to meet the financial requirements of the project as well as the overall need for new and expanded housing options in this area of Portland.
- b. The Motherhouse and the View from Stevens Avenue. First and foremost, the buildings must complement and enhance the existing motherhouse. This can be addressed through building placement, materials, height and overall design. The Motherhouse is essentially 5 full floors of livable space including a daylight lower level, three main floors and a full size floor enclosed by a dormered roof. The average roof height of the Motherhouse is 56 ft., the top of the dome is 108 ft. and the top of the spire on the dome is 119 ft.. To ensure that this magnificent building and view from Stevens Avenue is not negatively impacted, any new building will be (1) set back

behind the front of the Motherhouse; (2) the building closest to Stevens Avenue will be stepped down a floor to ensure it is clearly secondary to the Motherhouse; (3) the large, mature trees at the front of the Motherhouse will be preserved to provide only a filtered view of the new buildings; and the grade – which drops from Stevens Avenue to the rear of the site will ensure that no new building exceeds the roof height of the existing Motherhouse.

- c. Designing with a 60 feet Maximum. The requested 60 ft. height limit is based on our experience designing recent senior living buildings with parking underground. We recently completed a very attractive 3 ½ story building with underground parking on our OceanView at Falmouth campus. This building stands at approximately 50 ft. measured from the first floor level. This height is impacted by underground parking, high ceilings, space requirements for mechanical equipment, a residential style roof and additional equipment on the roof. Based on this experience, we feel that 60 ft. is absolutely required to ensure we have the flexibility to design an attractive 4 ½ story building with a residential style roof on the campus.
- d. Building Height in Falmouth. We also have recent experience working on building height restrictions in the Town of Falmouth. The OceanView at Falmouth campus is located in a suburban residential neighborhood in Falmouth. There are no existing buildings anywhere in the vicinity the rival the size and scale of the Motherhouse. Despite this fact, the Town has worked with us twice over the last decade to raise the height limit from 39 feet to 45 feet to 60 feet. The town was comfortable with the height because it recognized our commitment to quality design and planning as well as the unparalleled economic and community development benefits of the community.

Following are comparisons of various building heights found in typical residential construction based on input from the project architects:

- a. Motherhouse Heights. (From rear lowest grade)
 - To average of roof pitch = 56 ft.
 - To top of dome = 108 ft.
 - To top of spire at dome = 119 ft.
- b. Typical four (4) story residential building:
 - Flat roof = 41.5 ft.
 - Pitched roof = 50 ft+/-
- c. Typical four (4) story residential building over parking first level:
 - Flat roof = 51.5 ft.
 - Pitched roof = 60 ft+/-
- d. Typical five (5) story residential building (required to meet non-combustible codes)
 - Flat roof = 50 – 52 ft.
 - Pitched roof = 55 - 60 ft.

EXHIBIT 5

e. Recently completed "Blueberry Commons" apartments at OceanView Retirement Community
four (4) stories with underground parking

To top of roof = 50 ft

To ½ dormer roof = 46 ft.+/-

As noted above, we will follow up with a more comprehensive visual assessment of comparative building heights and scale of the proposed campus masterplan in context to the neighborhood next week. The following photographs help to illustrate 4 and 5 story building heights.



Blueberry Commons Senior Apartments,
OceanView Retirement Community
Falmouth

EXHIBIT 5



Motherhouse – Front Elevation

2. Lot Coverage:

Current R-5 zone allows a maximum lot coverage of 40%

Current R-5A zone allows a maximum lot coverage of 30%

The applicant supports the existing lot coverage standard of 30%.

The following demonstrates that the proposed masterplan can meet the current maximum lot coverage or 30%.

Lot 3 - (3.4 acres+/-) Motherhouse : 19.5%

Lot 4 – (10.4 acres +/-) Congregate/Senior Apartments:

Assuming 5 Story Buildings: 15.0 %

Assuming 4 story Buildings: 18.5%

3. Open Space:

Current R-5 zone Open Space requirements apply to PRUD only at 300 s.f. per dwelling unit of level, dry land with a minimum of one 6,000 s.f. area or one multipurpose game field.

Current R-5A zone Open Space requirements apply to PRUD only at 200 s.f. per dwelling unit with a minimum of one 6,000 s.f. area or multipurpose field.



Applying the current R-5A PRUD standards, the following Open Space would be required for Lots 3 and 4:

Lot 3 –Motherhouse (88 dwelling units):

17,600 s.f. (0.40 acres) required

75,700 s.f. (1.72 acres) provided

Lot 4 – Congregate/Senior Apartments (use 235 units):

47,000 s.f. (1.07 acres) required

226,000 s.f. (5.19 acres) provided @ 5-story buildings/underground parking

The applicant supports the use of the current PRUD standards towards the multiplex and congregate uses proposed with the current Draft R-5A zoning amendments of 200 s.f. per dwelling unit and 6,000 s.f. and usable recreation field area.

We believe that these standards as proposed are both consistent with the current use and zoning of the property and the greater neighborhood. We trust that the Planning Board and staff would support the proposed amendments.

Again, we will be forwarding a formal submittal next week to address other more site-specific questions raised by the Planning Board and the public at the last workshop and look forward to meeting with the Board on May 12th.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Licht'.

Frederic (Rick) Licht, PE, LSE
Principal

Cc: (via email - PDF copy)

John Wasileski; Sea Coast at Baxter Woods Associates, LLC

Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.

Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.

Dennis Keeler; Pierce Atwood, LP

Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC

David Haynes, RLA; Seacoast Management Company

Kevin Bunker; Motherhouse, LLC

Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry

Pat Carroll; Carroll Associates, Landscape Architects

Andrew Johnston; Fay, Spofford & Thorndike

EXHIBIT 5

SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: April 29, 2015

RE: Additional Traffic Data for Proposed Zoning Change for Baxter Place in Portland

Introduction

The purpose of this memorandum is to summarize additional traffic information gathered and analysis performed in regard to the proposed zoning request to accommodate Baxter Place on Stevens Avenue in Portland, Maine. It is understood that issues were raised at the last Planning Board workshop regarding older drivers and their safety. In addition, the City Traffic Engineer had requested some information regarding actual trip generation rates for Maine retirement communities since he believed the ITE rates to be low.

Trip Generation Data

It is understood that the City Traffic Engineer requested some information regarding actual trip generation rates for Maine senior housing developments since he believed the ITE rates to be low. It is important to note that Maine Traffic Resources used the newest 9th Edition rates in the analysis, which are higher than the previous 7th Edition rated being used by MaineDOT for traffic permitting purposes.

Maine Traffic Resources has actual PM peak hour trip generation data for The Highlands in Topsham, Maine. The most recent counts were conducted by Maine Traffic Resources on June 19, 2013 from 3:00 – 6:00 PM. The counts were conducted at the intersection of Route 196 and Community Way and at the intersection of Governor's Way and Elm Street to capture all vehicles entering and exiting The Highlands.

The peak hour occurred from 3:00 to 4:00 PM. A total of 119 vehicles were recorded during this peak hour. Trip generation for The Highlands development was based upon the Institute of Transportation Engineers (ITE) "Trip Generation, 9th edition" report. The Highlands development at the time of the 2013 counts included:

- 133 independent cottages
- 116 independent living apartments in the lodges
- 60 assisted living apartments in the lodges
- 7 independent living apartments in the historic Ben Porter House

Trip generation for the development was determined using ITE Land Use Codes (LUC) 251 – Senior Adult Housing – Detached for the 133 cottages, LUC 252 – Senior Adult Housing – Attached for the 123 independent living apartments and LUC 254 – Assisted Living for the 60 assisted living units. The results are summarized below:

<u>Time Period</u>	ITE Projected Trip Generation (Trip-ends)			
	<u>LUC 251 Cottages</u>	<u>LUC 252 Apts.</u>	<u>LUC 254 Assisted</u>	<u>Total Trips</u>
PM Peak Hour – Generator	45	43	21	109

As can be seen above, based upon the most recent 9th Edition ITE data, the overall Highlands development would be expected to generate 109 PM peak hour trips, compared to the 119 measured. These actual measured trip counts do not reflect a major deviation from the ITE data. Based upon the actual Topsham counts, the ITE rates are just 9 % low for the Topsham Maine community. It is also important to point out the Topsham site is more suburban in nature than the proposed Stevens Avenue site, facilitating the need for more vehicle trips as there were no walking trips. In addition, the Portland site is served by regular bus service. As a result, the rates in Portland, given the urban location, are expected to be reflective of the ITE data or even less. Assuming “worst case” and applying the 9 % factor to the proposed Baxter Woods project would increase the PM peak hour trips from 118 to 129 one-way trips.

It is also important to note that the PM peak hour occurred from 3:00 – 4:00 PM for the senior housing development, earlier than the 4:30 – 5:30 peak hour peak hour on Stevens Avenue/Walton Street. The number of trips generated by Baxter Place during this peak hour period will be less.

Safety of Older Drivers

There was concern voiced at the last workshop meeting that senior drivers posed a threat to safety. In order to address this concern, Maine Traffic Resources performed two separate evaluations using Maine Department of Transportation (MaineDOT) accident data. MaineDOT uses two criteria to determine high crash locations (HCLs). The first is the critical rate factor (CRF), which is a measure of the accident rate. A CRF greater than one indicates a location which has a higher than expected accident rate. The expected rate is calculated as a statewide average of similar facilities.

The second criterion, which must also be met, is based upon the number of accidents that occur at a particular location. Eight or more accidents must occur over the three-year study period for the location to be considered a high crash location. Accident data was obtained for all site drive intersections for similar senior housing facilities including Ocean View in Falmouth, Granite Hill in Augusta and Hallowell and The Highlands in Topsham. The CRF and number of accidents are summarized for the most recent three-year period, 2011 to 2013, as follows:

<u>Intersection/Location Description</u>	<u># of Acc.</u>	<u>CRF</u>
Elm Street and Governor's Way in Topsham	0	0
Route 196, Community Way and Village Drive in Topsham	12	0.55
Blueberry Lane and Middle Road in Falmouth	0	0
Blueberry Lane and Falmouth Road in Falmouth	3	0.69
Balsam Drive and Winthrop Street in Hallowell	1	0.48
Balsam Drive and Edison Drive in Augusta	1	0.50

As can be seen above, none of the intersections of the senior housing site drives have a higher than expected accident rate. The CRF at all are less than 1.00 indicating a lesser accident rate than would be expected for this intersection configuration with a similar traffic volume. Based upon this data, it would not appear that drivers to these sort of senior housing developments pose any greater safety risk.

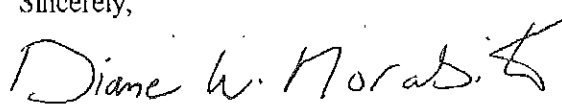
The second analysis looked at statewide accident rates by age range. MaineDOT provided five-year accident records by age categories for the period 2009 to 2013. The Maine Bureau of Motor Vehicles was contacted to determine the number of licensed drivers in each age range to determine accident rates by age range. The results are summarized below:

Maine Vehicle Crashes and Licensed Drivers by Age Group			
<u>Age Range</u>	<u># of Crashes</u>	<u># of Drivers</u>	<u>Crash Rate</u>
19 and under	21,999	36,010	0.611
20 – 24	29,861	71,803	0.416
25 – 29	23,700	78,962	0.300
30 – 39	34,682	146,597	0.237
40 – 49	37,963	167,724	0.226
50 - 59	36,115	208,280	0.173
60 – 69	23,542	175,380	0.134
70 and over	<u>16,824</u>	<u>134,162</u>	0.125
	224,686	1,018,918	

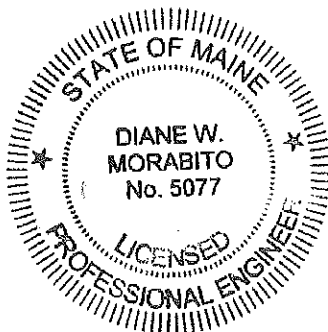
As can be seen above, the number of crashes per driver in Maine is less for older senior drivers than middle aged drivers and certainly young drivers. While this analysis does not take into vehicle miles traveled it does not seem to indicate that older drivers in Maine are a particular threat to public safety.

Please do not hesitate to contact me if you or the City of Portland have any questions regarding this information.

Sincerely,



Diane W. Morabito, P.E. PTOE
President



cc: Rick Licht, Licht Environmental Design, LLC
Tom Errico, TY Lin International
Jean Fraser, City of Portland

SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: May 4, 2015

RE: Preliminary Traffic Analysis for Proposed Zoning Change for Baxter Place in Portland

Introduction

The purpose of this memorandum is to summarize preliminary traffic analysis performed in regard to the proposed zoning request to accommodate Baxter Place on Stevens Avenue in Portland, Maine. In a meeting held with City staff, the study area for the senior housing development was defined as including the following signalized intersections:

Stevens Avenue and Walton Street
Walton Street and Forest Avenue
Stevens Avenue and Pleasant Avenue

Traffic Volumes

Turning movement/vehicle classification counts were conducted at the three study area intersections during the AM (7:00 – 9:00) and PM (3:00 – 6:00) peak hour periods. The count records are attached to this memorandum. These counts were conducted during the last week of April 2015, which was UNE's last full week of regular classes and when both McAuley High School and Portland City Schools were back from April break. These are expected to be peak volumes for the study area given all of the schools in the immediate area. As a result, no factoring of the late April counts was done to summer conditions for preliminary analysis purposes. The AM peak hour occurred from 7:15 to 8:15 AM at all three study intersections. The PM peak hour occurred in the period between 4:15 and 5:30. These existing 2015 volumes are shown in Figures 1 & 2, attached to this memorandum.

Trip Generation Analysis

Trip generation was performed build out of the currently proposed senior housing development, using the ITE "Trip Generation, 9th edition" for the commuter peak hour periods. It was previously determined that under the R5A zone the maximum number of units that could be developed was 335. It is expected that the development will contain

independent living apartment units as well as some assisted living. The expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Land use codes 252 – Senior Adult Housing – Attached and 254 - Assisted Living were used on the basis of dwelling units for the senior housing option. The results for the peak hours are summarized below:

Projected ITE Trip Generation (one-way trip-ends) Build Out of Proposed Senior Housing Development					
<u>Time Period</u>	311 Senior Living Attached Units		24 Assisted Living Units		Total Trips
	<u>Rate</u>	<u>Trips</u>	<u>Rate</u>	<u>Trips</u>	
AM Peak Hour – Adjacent Street	0.19	59	0.18	4	63
Entering		21		3	24
Exiting		38		1	39
PM Peak Hour – Adjacent Street	0.27	84	0.29	7	91
Entering		51		3	54
Exiting		33		4	37

As can be seen above, the facility will generate fewer than 100 trips during the peak hours of the adjacent street system, the commuter hours. The Baxter Place trips were assigned to the study area intersections based upon the travel patterns recorded during the turning movement counts. The resulting trip assignments are shown in Figure 3. Generally in Maine, the study area extends to where one can trace 25 to 35 trips in a lane in an hour. The proposed senior housing development, at full build out, is projected to have a maximum of 27 lane hour trips. Given these trip assignment results, minimal impact is expected at the study area intersections. However, some preliminary capacity analysis was performed to determine existing conditions and to see if there are any existing deficiencies that would need to be addressed to accommodate Baxter Place.

Capacity Analysis

Traffic operations are evaluated in terms of level of service (LOS). Level of service is a qualitative measure that describes operations by letter designation. The levels range from A - very little delay to F - extreme delays. Level of service "D" is generally considered acceptable in urban locations while LOS "E" is generally considered the capacity of a facility and the minimum tolerable level. The level of service for signalized intersections is based upon average control delay per vehicle, as defined in the following table excerpted from the 2000 "Highway Capacity Manual":

Signalized Intersection Level of Service	
LOS	Control Delay per Vehicle
A	<= 10.0 seconds
B	> 10.0 and <= 20.0
C	> 20.0 and <= 35.0
D	> 35.0 and <= 55.0
E	> 55.0 and <= 80.0
F	> 80.0

Signalized Intersection Analysis

Synchro 7 was used to analyze the study area intersections under existing 2015 conditions to determine existing operations. The results are attached to this memorandum and are summarized in the following tables with the LOS followed by the associated delay in seconds:

Intersection of Stevens Avenue and Walton Street	
Existing Peak Hour Levels of Service	
<u>Approach/Movement</u>	<u>2015 AM</u>
Westbound Walton Street	B (17.0)
Northbound Stevens Avenue Rights	A (7.1)
Northbound Stevens Avenue Throughs	B (15.9)
Northbound Stevens Avenue Overall	B (10.8)
Southbound Stevens Avenue Lefts	A (4.6)
Southbound Stevens Avenue Throughs	A (5.2)
Southbound Stevens Avenue Overall	A (5.1)
Overall Intersection	B (10.1)
<u>Approach/Movement</u>	<u>2015 PM</u>
Westbound Walton Street	B (17.6)
Northbound Stevens Avenue Rights	A (7.2)
Northbound Stevens Avenue Throughs	B (12.1)
Northbound Stevens Avenue Overall	B (11.2)
Southbound Stevens Avenue Lefts	A (4.8)
Southbound Stevens Avenue Throughs	A (5.2)
Southbound Stevens Avenue Overall	A (5.1)
Overall Intersection	A (9.3)

As can be seen above, the Walton and Stevens Avenue intersection operates at LOS “B” overall in the AM peak hour and at LOS “A” overall in the PM peak hour with all movements at LOS “B” or better. Based upon this level of service and the proposed trip assignments, there is currently plenty of capacity at this intersection to accommodate Baxter

Place. No capacity concerns or constraints were identified by the analysis or observed in the field during the counts.

**Intersection of Walton Street and Forest Avenue
Existing Peak Hour Levels of Service**

<u>Approach/Movement</u>	<u>2015 AM</u>
Eastbound Walton Street Lefts/Throughs	C (20.3)
Eastbound Walton Street Rights	B (18.3)
Eastbound Walton Street Overall	B (19.7)
Westbound Walton Street Lefts/Throughs	C (28.0)
Westbound Walton Street Rights	B (18.6)
Westbound Walton Street Overall	C (25.1)
Northbound Forest Avenue Lefts	B (13.4)
Northbound Forest Avenue Throughs/Rights	B (14.2)
Northbound Forest Avenue Overall	B (14.1)
Southbound Forest Avenue Lefts	A (8.2)
Southbound Forest Avenue Throughs/Rights	C (30.4)
Southbound Forest Avenue Overall	C (28.5)
Overall Intersection	C (22.5)

<u>Approach/Movement</u>	<u>2015 PM</u>
Eastbound Walton Street Lefts/Throughs	C (20.3)
Eastbound Walton Street Rights	B (18.2)
Eastbound Walton Street Overall	B (19.5)
Westbound Walton Street Lefts/Throughs	C (22.1)
Westbound Walton Street Rights	B (18.4)
Westbound Walton Street Overall	C (20.5)
Northbound Forest Avenue Lefts	A (7.5)
Northbound Forest Avenue Throughs/Rights	B (18.5)
Northbound Forest Stevens Avenue Overall	B (18.0)
Southbound Forest Avenue Lefts	B (10.2)
Southbound Forest Avenue Throughs/Rights	B (12.9)
Southbound Forest Avenue Overall	B (12.6)
Overall Intersection	B (16.6)

As can be seen above, the intersection of Walton Street and Forest Avenue also operates at good levels of service during both the AM and PM peak hour periods, at LOS "C" and "B" respectively. All lane movements currently operate at LOS "C" or better. Again, given the limited trip assignments for Baxter Place and these current operations no capacity concerns are anticipated at this intersection.

**Intersection of Stevens Avenue and Pleasant Avenue
Existing Peak Hour Levels of Service**

<u>Approach/Movement</u>	<u>2015 AM</u>
Eastbound Pleasant Avenue	B (14.0)
Westbound Pleasant Avenue	B (12.9)
Northbound Stevens Avenue	A (7.8)
Southbound Stevens Avenue	B (16.7)
Overall Intersection	B (13.2)

<u>Approach/Movement</u>	<u>2015 PM</u>
Eastbound Pleasant Avenue	B (15.9)
Westbound Pleasant Avenue	B (14.7)
Northbound Stevens Avenue	A (7.2)
Southbound Stevens Avenue	A (8.7)
Overall Intersection	A (9.3)

Lastly, as seen above, the intersection of Stevens Avenue and Pleasant Avenue was also found to operate at good levels of service during both peak hours at “A” and “B”. Again, no capacity concerns were identified and Baxter Place is expected to have minimal impact on this intersection given the trip assignments.

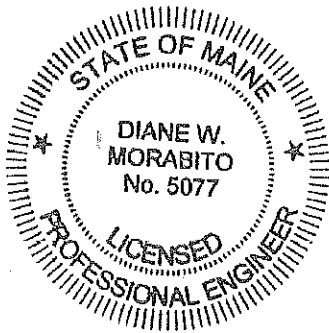
To summarize, the existing conditions analysis found that all three signalized study area intersections function at good levels of service during both the AM and PM peak hour periods. Given the limited number of trips to be generated by Baxter Place (which generally would have minimal or insignificant impact) during these commuter peak hours and these good levels of service no capacity concerns are anticipated. More detailed traffic analysis and study will be performed at the site plan review level. However, given these existing conditions results and the trip generation of Baxter Place at full build out no significant traffic issues are expected in the final traffic permitting process.

As always, please do not hesitate to contact me if you or the City of Portland have any questions regarding this preliminary analysis.

Sincerely, .

Diane W. Morabito

Diane W. Morabito, P.E. PTOE
President



cc: Rick Licht, Licht Environmental Design, LLC
Tom Errico, TY Lin International
Jean Fraser, City of Portland

Maine Traffic Resources 25 Vine Street

Stevens Avenue and Walton Street
City: Portland
Counter: DWM
Weather: Sun/Clouds

Gardiner, ME 04345
mainetrafficresources.com

File Name : PortlandStevensWaltonAM
Site Code : 00011334
Start Date : 4/28/2015
Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		
07:00 AM	0	83	5	0	88	12	0	16	0	28	13	60	0	0	73	0	0	0	0	0	189
07:15 AM	0	96	22	0	118	26	0	23	1	50	31	87	0	0	118	0	0	0	0	0	286
07:30 AM	0	123	6	0	129	40	0	31	3	74	31	121	0	0	152	0	0	0	0	0	355
07:45 AM	0	123	11	0	134	39	0	39	8	86	12	111	0	3	126	0	0	0	0	0	346
Total	0	425	44	0	469	117	0	109	12	238	87	379	0	3	469	0	0	0	0	0	1176
08:00 AM	0	90	8	0	98	18	0	12	1	31	19	76	0	1	96	0	0	0	0	0	225
08:15 AM	0	85	9	0	94	8	0	14	2	24	15	73	0	0	88	0	0	0	0	0	206
08:30 AM	0	89	11	0	100	27	0	7	8	42	19	83	0	0	102	0	0	0	0	0	244
08:45 AM	0	106	8	1	115	19	0	14	5	38	16	83	0	0	99	0	0	0	0	0	252
Total	0	370	36	1	407	72	0	47	16	135	69	315	0	1	385	0	0	0	0	0	927
Grand Total	0	795	80	1	876	189	0	166	28	373	156	694	0	4	854	0	0	0	0	0	2103
Apprch %	0.0	90.8	9.1	0.1		50.7	0.0	41.8	7.5		18.3	81.3	0.0	0.5		0.0	0.0	0.0	0.0		
Total %	0.0	37.8	3.8	0.0	41.7	9.0	0.0	7.4	1.3	17.7	7.4	33.0	0.0	0.2	40.6	0.0	0.0	0.0	0.0	0.0	

	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour	From 07:00 AM to 08:45 AM - Peak 1 of 1																					
Intersection	07:15 AM																					
Volume	0	432	47	0	479	123	0	105	13	241	93	395	0	4	492	0	0	0	0	0	1212	
Percent	0.0	90.2	9.8	0.0		51.0	0.0	43.6	5.4		18.9	80.3	0.0	0.8		0.0	0.0	0.0	0.0			
07:30 Volume	0	123	6	0	129	40	0	31	3	74	31	121	0	0	152	0	0	0	0	0	355	
Peak Factor	0.854																					
High Int. Volume	07:45 AM					07:45 AM					07:30 AM					6:45:00 AM						
Peak Factor	0	123	11	0	134	39	0	39	8	86	31	121	0	0	152							
					0.89					0.70					0.80							
					4					1					9							

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Forest Avenue and Walton Street

City: Portland

Counter: DWM

Weather: Clouds/Shower/Sun

File Name : PortlandForestWaltonAM

Site Code : 00007768

Start Date : 4/29/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
07:00 AM	5	163	10	0	178	11	18	5	2	36	3	101	8	1	113	5	17	3	1	26	353	
07:15 AM	9	193	12	4	218	22	40	6	1	69	0	139	18	0	157	9	19	6	1	35	479	
07:30 AM	11	177	22	0	210	34	52	11	1	98	4	136	38	0	178	14	21	10	1	46	532	
07:45 AM	4	206	23	0	233	24	41	18	1	84	3	151	26	0	180	17	17	7	2	43	540	
Total	29	739	67	4	839	91	151	40	5	287	10	527	90	1	628	45	74	26	5	150	1904	
08:00 AM	2	177	15	0	194	8	22	8	0	38	5	124	10	0	139	10	19	4	1	34	405	
08:15 AM	5	193	12	0	210	15	15	8	0	38	1	102	9	0	112	7	13	3	4	27	387	
08:30 AM	2	198	12	0	212	15	16	9	4	44	6	111	19	0	136	6	21	5	0	32	424	
08:45 AM	3	167	15	0	185	16	9	8	0	33	6	80	8	0	94	4	16	4	2	26	338	
Total	12	735	54	0	801	54	62	33	4	153	18	417	46	0	481	27	69	16	7	119	1554	
Grand Total	41	1474	121	4	1640	145	213	73	9	440	28	944	136	1	1109	72	143	42	12	269	3458	
Apprch %	2.5	89.9	7.4	0.2		33.0	48.4	16.6	2.0		2.5	85.1	12.3	0.1		26.8	53.2	15.6	4.5			
Total %	1.2	42.6	3.5	0.1	47.4	4.2	6.2	2.1	0.3	12.7	0.8	27.3	3.9	0.0	32.1	2.1	4.1	1.2	0.3	7.8		

	Start Time	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
		Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Peak Hour	From 07:00 AM to 08:45 AM - Peak 1 of 1																						
Intersection	07:15 AM																						
Volume	26	753	72	4	855	88	155	43	3	289	12	550	92	0	654	50	76	27	5	158	1956		
Percent	3.0	88.1	8.4	0.5		30.4	53.6	14.9	1.0		1.8	84.1	14.1	0.0		31.6	48.1	17.1	3.2				
07:45 Volume	4	206	23	0	233	24	41	18	1	84	3	151	26	0	180	17	17	7	2	43	540		
Peak Factor	0.906																						
High Int. Volume	07:45 AM					07:30 AM					07:45 AM					07:30 AM							
Peak	4	206	23	0	233	34	52	11	1	98	3	151	26	0	180	14	21	10	1	46			
Factor	0.917					0.737					0.908					0.859							

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Stevens Avenue and Pleasant Avenue

City: Portland

Counter: DMF

Weather: Sun/Clouds/Shower

File Name : PortlandStevensPleasantAM

Site Code : 00001112

Start Date : 4/29/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Stevens Ave From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
07:00 AM	4	71	4	5	84	4	2	6	4	16	2	44	1	1	48	3	7	11	5	26	174	
07:15 AM	5	114	7	3	129	8	4	9	11	32	4	100	5	3	112	8	5	34	7	54	327	
07:30 AM	8	130	8	1	147	11	14	8	5	38	5	95	1	3	104	8	13	33	4	58	347	
07:45 AM	9	147	5	3	164	13	16	10	10	49	3	85	4	7	99	9	10	14	21	54	366	
Total	26	462	24	12	524	36	36	33	30	135	14	324	11	14	363	28	35	92	37	192	1214	
08:00 AM	8	97	9	1	115	7	7	9	2	25	3	72	5	2	82	3	9	11	17	40	262	
08:15 AM	7	80	7	2	96	6	3	4	3	16	2	65	5	1	73	8	4	12	3	27	212	
08:30 AM	9	77	5	8	99	7	5	12	11	35	2	66	3	2	73	9	7	8	12	36	243	
08:45 AM	2	97	7	3	109	13	5	9	2	29	3	67	2	1	73	10	7	14	15	46	257	
Total	26	351	28	14	419	33	20	34	18	105	10	270	15	6	301	30	27	45	47	149	974	
Grand Total	52	813	52	26	943	69	56	67	48	240	24	594	26	20	664	58	62	137	84	341	2188	
Apprch %	5.5	86.2	5.5	2.8		28.8	23.3	27.9	20.0		3.6	89.5	3.9	3.0		17.0	18.2	40.2	24.6			
Total %	2.4	37.2	2.4	1.2	43.1	3.2	2.6	3.1	2.2	11.0	1.1	27.1	1.2	0.9	30.3	2.7	2.8	6.3	3.8	15.6		

	Stevens Ave From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour From 07:00 AM to 08:45 AM - Peak 1 of 1																						
Intersection	07:15 AM																					
Volume	30	488	29	8	555	39	41	36	28	144	15	352	15	15	397	28	37	92	49	206	1302	
Percent	5.4	87.9	5.2	1.4		27.1	28.5	25.0	19.4		3.8	88.7	3.8	3.8		13.6	18.0	44.7	23.8			
07:45 Volume	9	147	5	3	164	13	16	10	10	49	3	85	4	7	99	9	10	14	21	54	366	
Peak Factor	0.889																					
High Int. Volume	07:45 AM					07:45 AM					07:15 AM					07:30 AM						
Peak Factor	9	147	5	3	164	13	16	10	10	49	4	100	5	3	112	8	13	33	4	58		
					0.846					0.735					0.886					0.888		
					6					5					6					8		

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Stevens Avenue and Walton Street

City: Portland

Counter: DWM

Weather: Sun/Clouds

File Name : PortlandStevensWaltonPM

Site Code : 00022667

Start Date : 4/28/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
03:00 PM	0	88	11	1	100	10	0	24	6	40	21	94	0	0	115	0	0	0	0	0	0	255
03:15 PM	0	81	12	0	93	11	0	18	4	33	22	105	0	2	129	0	0	0	0	0	0	255
03:30 PM	0	114	22	0	136	10	0	19	3	32	15	97	0	0	112	0	0	0	0	0	0	280
03:45 PM	0	86	20	2	108	5	0	12	4	21	28	110	0	0	138	0	0	0	0	0	0	267
Total	0	369	65	3	437	36	0	73	17	126	86	406	0	2	494	0	0	0	0	0	0	1057
04:00 PM	0	97	24	0	121	18	0	24	2	44	30	112	0	0	142	0	0	0	0	0	0	307
04:15 PM	0	95	11	0	106	13	0	20	14	47	21	101	0	0	122	0	0	0	0	0	0	275
04:30 PM	0	131	28	3	162	13	0	30	4	47	29	109	0	0	138	0	0	0	0	0	0	347
04:45 PM	0	108	22	0	130	17	0	21	4	42	24	127	0	0	151	0	0	0	0	0	0	323
Total	0	431	85	3	519	61	0	95	24	180	104	449	0	0	553	0	0	0	0	0	0	1252
05:00 PM	0	134	33	3	170	15	0	33	6	54	15	112	0	0	127	0	0	0	0	0	0	351
05:15 PM	0	116	21	1	138	19	0	28	1	48	29	94	0	0	123	0	0	0	0	0	0	309
05:30 PM	0	87	14	1	102	14	0	40	2	56	23	115	0	0	138	0	0	0	0	0	0	296
05:45 PM	0	108	11	2	121	11	0	25	1	37	24	96	0	0	120	0	0	0	0	0	0	278
Total	0	445	79	7	531	59	0	126	10	195	91	417	0	0	508	0	0	0	0	0	0	1234
Grand Total	0	1245	229	13	1487	156	0	294	51	501	281	1272	0	2	1555	0	0	0	0	0	0	3543
Apprch %	0.0	83.7	15.4	0.9		31.1	0.0	58.7	10.2		18.1	81.0	0.0	0.1		0.0	0.0	0.0	0.0			
Total %	0.0	35.1	6.5	0.4	42.0	4.4	0.0	8.3	1.4	14.1	7.9	35.9	0.0	0.1	43.9	0.0	0.0	0.0	0.0	0.0	0.0	

	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total		
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s				
Peak Hour	From 03:00 PM to 05:45 PM - Peak 1 of 1																							
Intersection	04:30 PM																							
Volume	0	489	104	7	600	64	0	112	15	191	97	442	0	0	539	0	0	0	0	0	1330			
Percent	0.0	81.5	17.3	1.2		33.5	0.0	58.6	7.9		18.0	82.0	0.0	0.0		0.0	0.0	0.0	0.0					
05:00 Volume	0	134	33	3	170	15	0	33	6	54	15	112	0	0	127	0	0	0	0	0	351			
Peak Factor																						0.947		
High Int.	05:00 PM					05:00 PM					04:45 PM					2:45:00 PM								
Volume	0	134	33	3	170	15	0	33	6	54	24	127	0	0	151									
Peak Factor						0.88						0.88						0.89						
						2						4						2						

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Forest Avenue and Walton Street

City: Portland

Counter: DMF

Weather: Clouds/Sun

File Name : PortlandForestWaltonPM

Site Code : 00001111

Start Date : 4/28/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
03:00 PM	0	150	6	0	156	31	21	11	2	65	7	200	8	1	216	15	20	6	0	41	478	
03:15 PM	3	163	10	1	177	19	18	7	4	48	12	191	7	1	211	13	17	1	2	33	469	
03:30 PM	6	197	7	1	211	20	13	11	7	51	4	194	6	2	206	12	9	2	5	28	496	
03:45 PM	1	169	13	0	183	15	17	10	5	47	4	194	4	1	203	17	17	6	4	44	477	
Total	10	679	36	2	727	85	69	39	18	211	27	779	25	5	836	57	63	15	11	146	1920	
04:00 PM	6	143	21	1	171	26	23	11	4	64	5	191	10	0	206	13	22	8	2	45	486	
04:15 PM	9	146	11	1	167	28	24	8	2	62	10	193	8	0	211	6	24	3	1	34	474	
04:30 PM	9	165	19	0	193	25	18	16	1	60	6	178	13	0	197	20	21	13	1	55	505	
04:45 PM	3	159	20	0	182	21	21	8	2	52	11	188	8	0	207	14	21	3	2	40	481	
Total	27	613	71	2	713	100	86	43	9	238	32	750	39	0	821	53	88	27	6	174	1946	
05:00 PM	11	154	25	3	193	32	30	13	3	78	7	175	9	0	191	21	22	3	4	50	512	
05:15 PM	9	171	22	1	203	16	25	10	2	53	8	148	6	0	162	17	21	8	3	49	467	
05:30 PM	7	152	10	0	169	19	17	6	2	44	8	176	8	2	194	18	21	4	3	46	453	
05:45 PM	4	159	6	1	170	13	21	6	0	40	11	165	7	0	183	9	23	3	2	37	430	
Total	31	636	63	5	735	80	93	35	7	215	34	664	30	2	730	65	87	18	12	182	1862	
Grand Total	68	1928	170	9	2175	265	248	117	34	664	93	2193	94	7	2387	175	238	60	29	502	5728	
Apprch %	3.1	88.6	7.8	0.4		39.9	37.3	17.6	5.1		3.9	91.9	3.9	0.3		34.9	47.4	12.0	5.8			
Total %	1.2	33.7	3.0	0.2	38.0	4.6	4.3	2.0	0.6	11.6	1.6	38.3	1.6	0.1	41.7	3.1	4.2	1.0	0.5	8.8		

	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour	From 03:00 PM to 05:45 PM - Peak 1 of 1																					
Intersection	04:15 PM																					
Volume	32	624	75	4	735	106	93	45	8	252	34	734	38	0	806	61	88	22	8	179	1972	
Percent	4.4	84.9	10.2	0.5		42.1	38.9	17.9	3.2		4.2	91.1	4.7	0.0		34.1	49.2	12.3	4.5			
05:00 Volume	11	154	25	3	193	32	30	13	3	78	7	175	9	0	191	21	22	3	4	50	512	
Peak Factor	0.963																					
High Int. Volume	04:30 PM					05:00 PM					04:15 PM					04:30 PM						
Peak Factor	9	165	19	0	193	32	30	13	3	78	10	193	8	0	211	20	21	13	1	55		
	0.952					0.808					0.955					0.814						

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Pleasant and Stevens Avenues

City: Portland

Counter: DMF

Weather: Cloudy

File Name : PortlandStevensPleasantPM

Site Code : 00001113

Start Date : 4/29/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

	Stevens Avenue From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
03:00 PM	7	94	9	3	113	4	7	2	12	25	0	80	1	7	88	2	7	8	9	26	252	
03:15 PM	5	92	5	3	105	10	6	3	4	23	1	92	3	1	97	5	11	8	7	31	256	
03:30 PM	5	100	9	6	120	6	12	2	6	26	4	89	1	4	98	4	11	11	1	27	271	
03:45 PM	3	103	3	5	114	8	6	6	5	25	7	87	3	0	97	5	3	9	3	20	256	
Total	20	389	26	17	452	28	31	13	27	99	12	348	8	12	380	16	32	36	20	104	1035	
04:00 PM	4	91	2	15	112	10	8	2	13	33	1	91	7	2	101	5	6	6	4	21	267	
04:15 PM	5	113	8	3	129	15	6	5	8	34	3	102	4	1	110	7	9	12	2	30	303	
04:30 PM	7	97	2	6	112	12	5	2	10	29	3	132	3	1	139	4	13	10	9	36	316	
04:45 PM	4	104	5	1	114	11	7	2	6	26	6	123	5	1	135	2	2	9	6	19	294	
Total	20	405	17	25	467	48	26	11	37	122	13	448	19	5	485	18	30	37	21	106	1180	
05:00 PM	7	116	5	3	131	18	9	4	14	45	4	126	5	2	137	9	8	17	4	38	351	
05:15 PM	14	120	7	8	149	16	16	3	5	40	2	144	7	1	154	5	7	13	1	26	369	
05:30 PM	8	99	2	6	115	7	10	5	4	26	5	101	4	3	113	5	6	1	3	25	279	
05:45 PM	4	83	6	3	96	10	12	5	7	34	4	90	3	3	100	4	9	8	10	31	261	
Total	33	418	20	20	491	51	47	17	30	145	15	461	19	9	504	23	30	49	18	120	1260	
Grand Total	73	1212	63	62	1410	127	104	41	94	366	40	1257	46	26	1369	57	92	122	59	330	3475	
Apprch %	5.2	86.0	4.5	4.4		34.7	28.4	11.2	25.7		2.9	91.8	3.4	1.9		17.3	27.9	37.0	17.9			
Total %	2.1	34.9	1.8	1.8	40.6	3.7	3.0	1.2	2.7	10.5	1.2	36.2	1.3	0.7	39.4	1.6	2.6	3.5	1.7	9.5		

	Stevens Avenue From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour	From 03:00 PM to 05:45 PM - Peak 1 of 1																					
Intersection	04:30 PM																					
Volume	32	437	19	18	506	57	37	11	35	140	15	525	20	5	565	20	30	49	20	119	1330	
Percent	6.3	86.4	3.8	3.6		40.7	26.4	7.9	25.0		2.7	92.9	3.5	0.9		16.8	25.2	41.2	16.8			
05:15 Volume Peak	14	120	7	8	149	16	16	3	5	40	2	144	7	1	154	5	7	13	1	26	369	
Factor	0.901																					
High Int. Volume Peak	05:15 PM					05:00 PM					05:15 PM					05:00 PM						
Factor	14	120	7	8	149	18	9	4	14	45	2	144	7	1	154	9	8	17	4	38		
					0.84					0.77					0.91					0.78		
					9					8					7					3		



Not To Scale

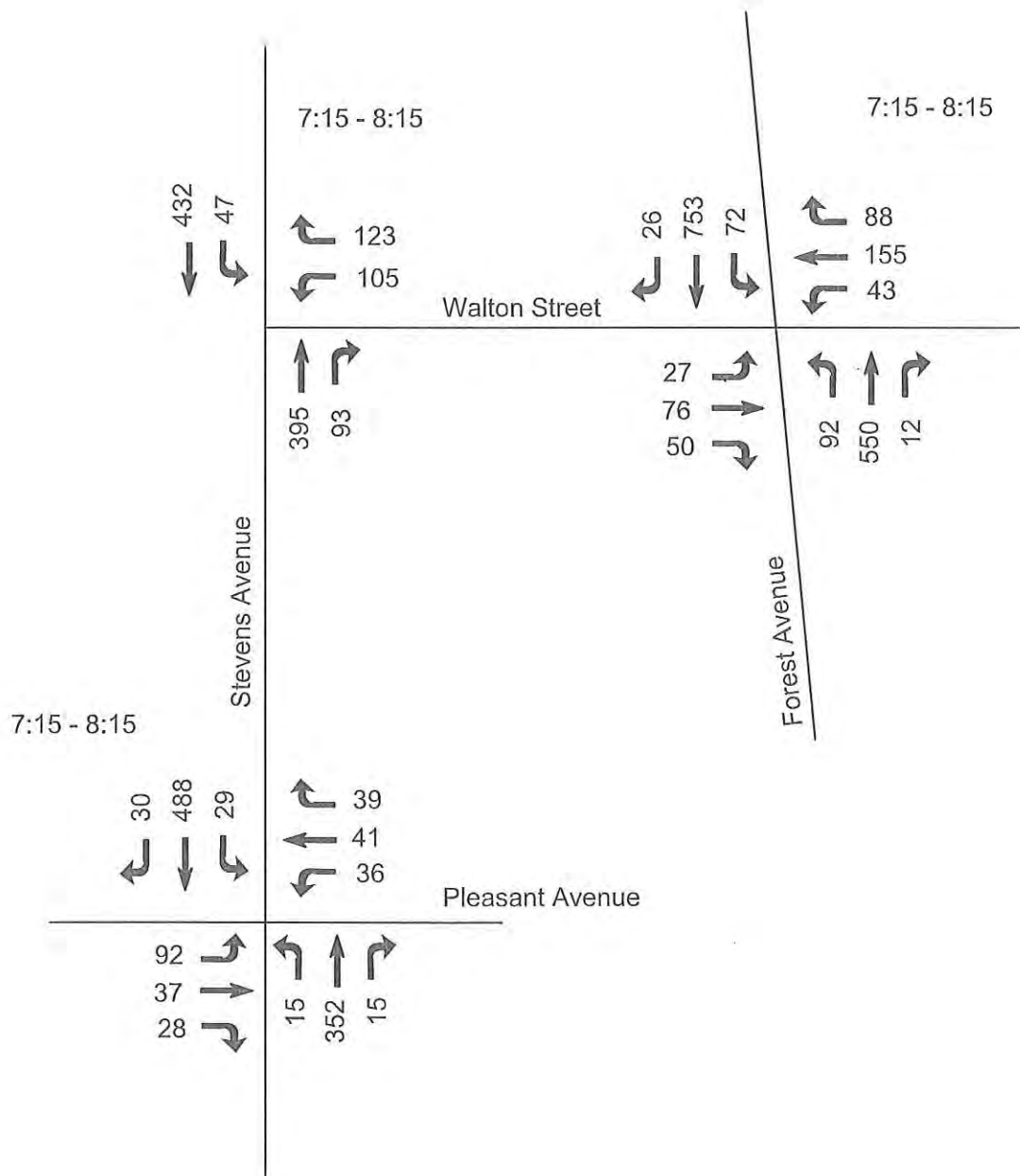


Figure 1

2015 Existing AM Peak Hour Volumes

Baxter Place

Portland, Maine

Maine
Traffic
Resources

25 Vine Street
Gardiner, ME
04345
tel: (207) 582-5252
fax: (207) 582-1677



Not To Scale

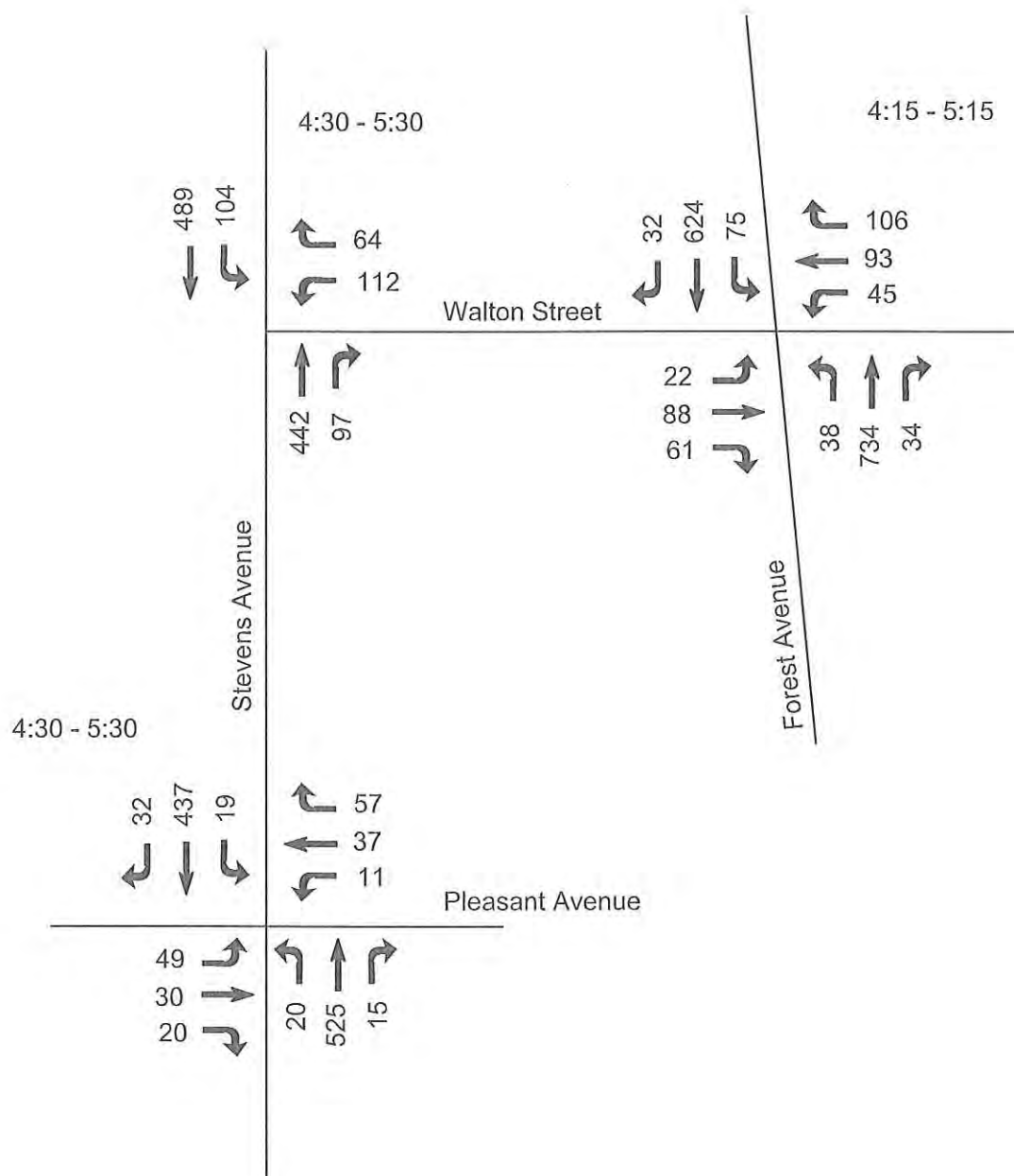


Figure 2

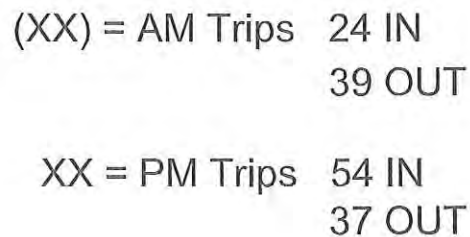
2015 Existing PM Peak Hour Volumes

Baxter Place

Portland, Maine

**Maine
Traffic
Resources**

25 Vine Street
Gardiner, ME
04345
tel: (207) 582-5252
fax: (207) 582-1677



Peak Hour Trip Assignments

Baxter Place

Portland, Maine

25 Vine Street
Gardiner, ME
04345
tel: (207) 582-5252
fax: (207) 582-1677

Lanes, Volumes, Timings
9: Pleasant Ave & Stevens Ave

5/1/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		0	0		0	0		0	0		0
Storage Lanes	0		0	0		0	0		0	0		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		1219			1121			280			1491	
Travel Time (s)		27.7			25.5			6.4			33.9	

Intersection Summary

Area Type: Other

Timings

9: Pleasant Ave & Stevens Ave

5/1/2015

								
Lane Group	EBL	EBT	WBL	WBT	NBL	NBT	SBL	SBT
Lane Configurations								
Volume (vph)	92	37	36	41	15	352	29	488
Turn Type	Perm		Perm		Perm		Perm	
Protected Phases		4		8		2		6
Permitted Phases	4		8		2		6	
Detector Phase	4	4	8	8	2	2	6	6
Switch Phase								
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (%)	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag								
Lead-Lag Optimize?								
Recall Mode	None	None	None	None	Max	Max	Max	Max
Act Effct Green (s)		9.3		9.3		20.1		20.1
Actuated g/C Ratio		0.26		0.26		0.55		0.55
v/c Ratio		0.46		0.36		0.45		0.76
Control Delay		13.0		9.8		9.5		21.5
Queue Delay		0.0		0.0		0.0		0.0
Total Delay		13.0		9.8		9.5		21.5
LOS		B		A		A		C
Approach Delay		13.0		9.8		9.5		21.5
Approach LOS		B		A		A		C

Intersection Summary

Cycle Length: 42

Actuated Cycle Length: 36.3

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.76

Intersection Signal Delay: 15.5

Intersection Capacity Utilization 62.8%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service B

Splits and Phases: 9: Pleasant Ave & Stevens Ave

							
21 s				21 s			
							
21 s				21 s			

Queues

9: Pleasant Ave & Stevens Ave

5/1/2015

	→	←	↑	↓
Lane Group	EBT	WBT	NBT	SBT
Lane Group Flow (vph)	179	158	434	652
v/c Ratio	0.46	0.36	0.45	0.76
Control Delay	13.0	9.8	9.5	21.5
Queue Delay	0.0	0.0	0.0	0.0
Total Delay	13.0	9.8	9.5	21.5
Queue Length 50th (ft)	23	16	52	101
Queue Length 95th (ft)	55	33	135	#292
Internal Link Dist (ft)	1139	1041	200	1411
Turn Bay Length (ft)				
Base Capacity (vph)	652	714	969	862
Starvation Cap Reductn	0	0	0	0
Spillback Cap Reductn	0	0	0	0
Storage Cap Reductn	0	0	0	0
Reduced v/c Ratio	0.27	0.22	0.45	0.76

Intersection Summary

- # 95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

9: Pleasant Ave & Stevens Ave

5/1/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	92	37	28	36	41	39	15	352	15	29	488	30
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0			5.0			5.0			5.0	
Lane Util. Factor		1.00			1.00			1.00			1.00	
Frbp, ped/bikes		0.99			0.98			1.00			1.00	
Flpb, ped/bikes		0.99			1.00			1.00			1.00	
Frt		0.98			0.95			0.99			0.99	
Flt Protected		0.97			0.98			1.00			1.00	
Satd. Flow (prot)		1757			1752			1797			1605	
Flt Permitted		0.79			0.87			0.97			0.96	
Satd. Flow (perm)		1435			1545			1743			1551	
Peak-hour factor, PHF	0.88	0.88	0.88	0.73	0.73	0.73	0.88	0.88	0.88	0.84	0.84	0.84
Adj. Flow (vph)	105	42	32	49	56	53	17	400	17	35	581	36
RTOR Reduction (vph)	0	23	0	0	41	0	0	3	0	0	4	0
Lane Group Flow (vph)	0	156	0	0	117	0	0	431	0	0	648	0
Confl. Peds. (#/hr)	12		12	12		12	8		8	6		6
Confl. Bikes (#/hr)			8			8			8			8
Heavy Vehicles (%)	1%	1%	1%	0%	0%	0%	4%	4%	4%	3%	3%	1%
Bus Blockages (#/hr)	0	0	0	0	0	0	0	2	0	0	0	0
Parking (#/hr)											4	
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases		4			8			2			6	
Permitted Phases	4			8			2			6		
Actuated Green, G (s)		8.2			8.2			19.1			19.1	
Effective Green, g (s)		8.2			8.2			19.1			19.1	
Actuated g/C Ratio		0.22			0.22			0.51			0.51	
Clearance Time (s)		5.0			5.0			5.0			5.0	
Vehicle Extension (s)		3.0			3.0			3.0			3.0	
Lane Grp Cap (vph)		315			340			893			794	
v/s Ratio Prot												
v/s Ratio Perm		0.11			0.08			0.25			0.42	
v/c Ratio		0.49			0.34			0.48			0.82	
Uniform Delay, d1		12.7			12.3			5.9			7.6	
Progression Factor		1.00			1.00			1.00			1.00	
Incremental Delay, d2		1.2			0.6			1.9			9.1	
Delay (s)		14.0			12.9			7.8			16.7	
Level of Service		B			B			A			B	
Approach Delay (s)		14.0			12.9			7.8			16.7	
Approach LOS		B			B			A			B	
Intersection Summary												
HCM Average Control Delay			13.2			HCM Level of Service			B			
HCM Volume to Capacity ratio			0.72									
Actuated Cycle Length (s)			37.3			Sum of lost time (s)			10.0			
Intersection Capacity Utilization			62.8%			ICU Level of Service			B			
Analysis Period (min)			15									
c Critical Lane Group												

Lanes, Volumes, Timings
3: Walton St & Stevens Ave

5/1/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)	0%		0%			0%
Storage Length (ft)	0	40		35	90	
Storage Lanes	1	1		1	1	
Taper Length (ft)	25	25		25	25	
Right Turn on Red		Yes		Yes		
Link Speed (mph)	30		30			30
Link Distance (ft)	1000		1000			1000
Travel Time (s)	22.7		22.7			22.7
Intersection Summary						
Area Type:	Other					

Timings

3: Walton St & Stevens Ave

5/1/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	105	123	395	93	47	432
Turn Type		Perm		Perm	pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Detector Phase	8	8	2	2	1	6
Switch Phase						
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	9.0	21.0
Total Split (s)	21.0	21.0	30.0	30.0	9.0	39.0
Total Split (%)	35.0%	35.0%	50.0%	50.0%	15.0%	65.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	None	None	None	None	None
Act Effct Green (s)	10.6	10.6	22.7	22.7	24.1	26.9
Actuated g/C Ratio	0.26	0.26	0.55	0.55	0.58	0.65
v/c Ratio	0.33	0.33	0.55	0.13	0.11	0.46
Control Delay	19.8	5.8	14.1	6.0	5.2	7.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	19.8	5.8	14.1	6.0	5.2	7.7
LOS	B	A	B	A	A	A
Approach Delay	12.3		12.5			7.5
Approach LOS	B		B			A

Intersection Summary

Cycle Length: 60

Actuated Cycle Length: 41.5

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.55

Intersection Signal Delay: 10.6

Intersection Capacity Utilization 43.2%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service A

Splits and Phases: 3: Walton St & Stevens Ave



Queues

3: Walton St & Stevens Ave

5/1/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	150	176	494	116	53	485
v/c Ratio	0.33	0.33	0.55	0.13	0.11	0.46
Control Delay	19.8	5.8	14.1	6.0	5.2	7.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	19.8	5.8	14.1	6.0	5.2	7.7
Queue Length 50th (ft)	38	0	111	9	5	65
Queue Length 95th (ft)	65	19	188	30	18	147
Internal Link Dist (ft)	920		920			920
Turn Bay Length (ft)		40		35	90	
Base Capacity (vph)	862	842	1053	1013	481	1268
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.17	0.21	0.47	0.11	0.11	0.38
Intersection Summary						

HCM Signalized Intersection Capacity Analysis

3: Walton St & Stevens Ave

5/1/2015

						
Movement	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	105	123	395	93	47	432
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Total Lost time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Frpb, ped/bikes	1.00	0.97	1.00	0.97	1.00	1.00
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.85	1.00	0.85	1.00	1.00
Flt Protected	0.95	1.00	1.00	1.00	0.95	1.00
Satd. Flow (prot)	1787	1557	1642	1551	1769	1626
Flt Permitted	0.95	1.00	1.00	1.00	0.31	1.00
Satd. Flow (perm)	1787	1557	1642	1551	570	1626
Peak-hour factor, PHF	0.70	0.70	0.80	0.80	0.89	0.89
Adj. Flow (vph)	150	176	494	116	53	485
RTOR Reduction (vph)	0	147	0	32	0	0
Lane Group Flow (vph)	150	29	494	84	53	485
Confl. Peds. (#/hr)	3	3		4	2	
Confl. Bikes (#/hr)		1		6		
Heavy Vehicles (%)	1%	1%	1%	1%	2%	2%
Bus Blockages (#/hr)	0	0	2	0	0	2
Parking (#/hr)			4			4
Turn Type	Perm		Perm		pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Actuated Green, G (s)	7.2	7.2	19.9	19.9	26.8	26.8
Effective Green, g (s)	7.2	7.2	19.9	19.9	26.8	26.8
Actuated g/C Ratio	0.16	0.16	0.45	0.45	0.61	0.61
Clearance Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0
Lane Grp Cap (vph)	292	255	743	701	399	990
v/s Ratio Prot	c0.08		c0.30		0.01	c0.30
v/s Ratio Perm		0.02		0.05	0.08	
v/c Ratio	0.51	0.11	0.66	0.12	0.13	0.49
Uniform Delay, d1	16.8	15.7	9.4	7.0	4.5	4.8
Progression Factor	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	1.5	0.2	2.3	0.1	0.2	0.4
Delay (s)	18.3	15.9	11.7	7.1	4.6	5.2
Level of Service	B	B	B	A	A	A
Approach Delay (s)	17.0		10.8			5.1
Approach LOS	B		B			A
Intersection Summary						
HCM Average Control Delay			10.1		HCM Level of Service	B
HCM Volume to Capacity ratio			0.66			
Actuated Cycle Length (s)			44.0		Sum of lost time (s)	15.0
Intersection Capacity Utilization			43.2%		ICU Level of Service	A
Analysis Period (min)			15			
c Critical Lane Group						

Lanes, Volumes, Timings
11: Walton Street & Forest Ave

5/1/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		40	0		100	140		0	140		0
Storage Lanes	0		1	0		1	1		0	1		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		950			686			1198			517	
Travel Time (s)		21.6			15.6			27.2			11.8	

Intersection Summary

Area Type: Other

Timings

11: Walton Street & Forest Ave

5/1/2015

										
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	SBL	SBT
Lane Configurations										
Volume (vph)	27	76	50	43	155	88	92	550	72	753
Turn Type	Perm		Perm	Perm		Perm	pm+pt		pm+pt	
Protected Phases		4			8		5	2	1	6
Permitted Phases	4		4	8		8	2		6	
Detector Phase	4	4	4	8	8	8	5	2	1	6
Switch Phase										
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	21.0	8.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	36.0	8.0	36.0
Total Split (%)	32.3%	32.3%	32.3%	32.3%	32.3%	32.3%	12.3%	55.4%	12.3%	55.4%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.5	3.0	3.5	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	0.5	2.0	0.5	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	4.0	5.0	4.0	5.0
Lead/Lag							Lead	Lag	Lead	Lag
Lead-Lag Optimize?										
Recall Mode	None	None	None	None	None	None	None	None	None	None
Act Effct Green (s)		13.7	13.7		13.7	13.7	33.9	29.9	33.9	29.9
Actuated g/C Ratio		0.23	0.23		0.23	0.23	0.57	0.50	0.57	0.50
v/c Ratio		0.34	0.15		0.71	0.27	0.42	0.68	0.21	0.92
Control Delay		23.6	7.2		33.7	6.4	10.9	17.4	6.5	33.7
Queue Delay		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Total Delay		23.6	7.2		33.7	6.4	10.9	17.4	6.5	33.7
LOS		C	A		C	A	B	B	A	C
Approach Delay		18.2			25.3			16.5		31.4
Approach LOS		B			C			B		C

Intersection Summary

Cycle Length: 65

Actuated Cycle Length: 59.9

Natural Cycle: 70

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.92

Intersection Signal Delay: 24.4

Intersection Capacity Utilization 78.9%

Analysis Period (min) 15

Intersection LOS: C

ICU Level of Service D

Splits and Phases: 11: Walton Street & Forest Ave

 01	 02	 04
8 s	36 s	21 s
 05	 06	 08
8 s	36 s	21 s

Queues

11: Walton Street & Forest Ave

5/1/2015

								
Lane Group	EBT	EBR	WBT	WBR	NBL	NBT	SBL	SBT
Lane Group Flow (vph)	121	59	271	121	102	624	79	856
v/c Ratio	0.34	0.15	0.71	0.27	0.42	0.68	0.21	0.92
Control Delay	23.6	7.2	33.7	6.4	10.9	17.4	6.5	33.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	23.6	7.2	33.7	6.4	10.9	17.4	6.5	33.7
Queue Length 50th (ft)	39	0	97	0	14	181	11	302
Queue Length 95th (ft)	76	22	130	21	30	301	25	#556
Internal Link Dist (ft)	870		606			1118		437
Turn Bay Length (ft)		40		100	140		140	
Base Capacity (vph)	421	469	458	510	241	968	372	987
Starvation Cap Reductn	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.29	0.13	0.59	0.24	0.42	0.64	0.21	0.87

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

11: Walton Street & Forest Ave

5/1/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	27	76	50	43	155	88	92	550	12	72	753	26
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Lane Util. Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frpb, ped/bikes		1.00	0.97		1.00	0.97	1.00	1.00		1.00	1.00	
Flpb, ped/bikes		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frt		1.00	0.85		1.00	0.85	1.00	1.00		1.00	0.99	
Flt Protected		0.99	1.00		0.99	1.00	0.95	1.00		0.95	1.00	
Satd. Flow (prot)		1855	1556		1841	1541	1736	1820		1787	1855	
Flt Permitted		0.82	1.00		0.90	1.00	0.13	1.00		0.27	1.00	
Satd. Flow (perm)		1533	1556		1670	1541	244	1820		501	1855	
Peak-hour factor, PHF	0.85	0.85	0.85	0.73	0.73	0.73	0.90	0.90	0.90	0.91	0.91	0.91
Adj. Flow (vph)	32	89	59	59	212	121	102	611	13	79	827	29
RTOR Reduction (vph)	0	0	46	0	0	94	0	1	0	0	2	0
Lane Group Flow (vph)	0	121	13	0	271	27	102	623	0	79	854	0
Confl. Peds. (#/hr)	2		2	2		2				2		2
Confl. Bikes (#/hr)			2			2			2			2
Heavy Vehicles (%)	1%	1%	1%	2%	2%	2%	4%	4%	4%	1%	1%	1%
Bus Blockages (#/hr)	0	0	0	0	0	0	0	0	0	0	2	0
Turn Type	Perm		Perm	Perm		Perm	pm+pt			pm+pt		
Protected Phases		4			8		5	2		1	6	
Permitted Phases	4		4	8		8	2			6		
Actuated Green, G (s)		13.7	13.7		13.7	13.7	32.9	29.9		32.9	29.9	
Effective Green, g (s)		13.7	13.7		13.7	13.7	32.9	29.9		32.9	29.9	
Actuated g/C Ratio		0.23	0.23		0.23	0.23	0.54	0.49		0.54	0.49	
Clearance Time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Vehicle Extension (s)		3.0	3.0		3.0	3.0	3.0	3.0		3.0	3.0	
Lane Grp Cap (vph)		347	352		378	348	206	898		336	915	
v/s Ratio Prot							c0.02	0.34		0.01	c0.46	
v/s Ratio Perm		0.08	0.01		c0.16	0.02	0.24			0.12		
v/c Ratio		0.35	0.04		0.72	0.08	0.50	0.69		0.24	0.93	
Uniform Delay, d1		19.7	18.3		21.7	18.5	11.5	11.8		7.8	14.4	
Progression Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Incremental Delay, d2		0.6	0.0		6.4	0.1	1.9	2.3		0.4	16.0	
Delay (s)		20.3	18.3		28.0	18.6	13.4	14.2		8.2	30.4	
Level of Service		C	B		C	B	B	B		A	C	
Approach Delay (s)		19.7			25.1			14.1			28.5	
Approach LOS		B			C			B			C	
Intersection Summary												
HCM Average Control Delay			22.5				HCM Level of Service			C		
HCM Volume to Capacity ratio			0.84									
Actuated Cycle Length (s)			60.6				Sum of lost time (s)			14.0		
Intersection Capacity Utilization			78.9%				ICU Level of Service			D		
Analysis Period (min)			15									
c Critical Lane Group												

Lanes, Volumes, Timings
3: Walton St & Stevens Ave

5/4/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)	0%		0%			0%
Storage Length (ft)	0	40		35	90	
Storage Lanes	1	1		1	1	
Taper Length (ft)	25	25		25	25	
Right Turn on Red		Yes		Yes		
Link Speed (mph)	30		30			30
Link Distance (ft)	535		540			690
Travel Time (s)	12.2		12.3			15.7
Intersection Summary						
Area Type:	Other					

Timings

3: Walton St & Stevens Ave

5/4/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	112	64	442	97	104	489
Turn Type		Perm		Perm	pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Detector Phase	8	8	2	2	1	6
Switch Phase						
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	9.0	21.0
Total Split (s)	21.0	21.0	30.0	30.0	9.0	39.0
Total Split (%)	35.0%	35.0%	50.0%	50.0%	15.0%	65.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	None	None	None	None	None
Act Effct Green (s)	10.5	10.5	23.1	23.1	25.9	29.3
Actuated g/C Ratio	0.25	0.25	0.54	0.54	0.61	0.68
v/c Ratio	0.29	0.17	0.56	0.13	0.24	0.49
Control Delay	20.3	6.8	14.3	5.8	5.6	7.5
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	20.3	6.8	14.3	5.8	5.6	7.5
LOS	C	A	B	A	A	A
Approach Delay	15.4		12.8			7.1
Approach LOS	B		B			A

Intersection Summary

Cycle Length: 60

Actuated Cycle Length: 42.8

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.56

Intersection Signal Delay: 10.6

Intersection Capacity Utilization 49.2%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service A

Splits and Phases: 3: Walton St & Stevens Ave



Queues

3: Walton St & Stevens Ave

5/4/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	127	73	497	109	118	556
v/c Ratio	0.29	0.17	0.56	0.13	0.24	0.49
Control Delay	20.3	6.8	14.3	5.8	5.6	7.5
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	20.3	6.8	14.3	5.8	5.6	7.5
Queue Length 50th (ft)	31	0	109	9	11	75
Queue Length 95th (ft)	74	25	217	33	30	161
Internal Link Dist (ft)	455		460			610
Turn Bay Length (ft)		40		35	90	
Base Capacity (vph)	817	740	994	942	502	1245
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.16	0.10	0.50	0.12	0.24	0.45
Intersection Summary						

HCM Signalized Intersection Capacity Analysis

3: Walton St & Stevens Ave

5/4/2015

						
Movement	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	112	64	442	97	104	489
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Total Lost time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Frpb, ped/bikes	1.00	0.96	1.00	0.96	1.00	1.00
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.85	1.00	0.85	1.00	1.00
Flt Protected	0.95	1.00	1.00	1.00	0.95	1.00
Satd. Flow (prot)	1787	1528	1652	1536	1803	1668
Flt Permitted	0.95	1.00	1.00	1.00	0.30	1.00
Satd. Flow (perm)	1787	1528	1652	1536	570	1668
Peak-hour factor, PHF	0.88	0.88	0.89	0.89	0.88	0.88
Adj. Flow (vph)	127	73	497	109	118	556
RTOR Reduction (vph)	0	62	0	30	0	0
Lane Group Flow (vph)	127	11	497	79	118	556
Confl. Peds. (#/hr)	7	7		7	7	
Confl. Bikes (#/hr)		6		12		
Heavy Vehicles (%)	1%	1%	1%	1%	0%	0%
Bus Blockages (#/hr)	0	0	2	0	0	2
Parking (#/hr)			3			3
Turn Type	Perm		Perm		pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Actuated Green, G (s)	6.6	6.6	19.7	19.7	27.5	27.5
Effective Green, g (s)	6.6	6.6	19.7	19.7	27.5	27.5
Actuated g/C Ratio	0.15	0.15	0.45	0.45	0.62	0.62
Clearance Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0
Lane Grp Cap (vph)	267	229	738	686	434	1040
v/s Ratio Prot	c0.07		c0.30		0.02	c0.33
v/s Ratio Perm		0.01		0.05	0.15	
v/c Ratio	0.48	0.05	0.67	0.12	0.27	0.53
Uniform Delay, d1	17.2	16.1	9.7	7.1	4.5	4.7
Progression Factor	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	1.3	0.1	2.4	0.1	0.3	0.5
Delay (s)	18.5	16.1	12.1	7.2	4.8	5.2
Level of Service	B	B	B	A	A	A
Approach Delay (s)	17.6		11.2			5.1
Approach LOS	B		B			A
Intersection Summary						
HCM Average Control Delay			9.3	HCM Level of Service		A
HCM Volume to Capacity ratio			0.66			
Actuated Cycle Length (s)			44.1	Sum of lost time (s)		15.0
Intersection Capacity Utilization	49.2%			ICU Level of Service		A
Analysis Period (min)			15			
c Critical Lane Group						

Existing 2015 Conditions - PM Peak Hour

Synchro 7 - Report
Page 4

Lanes, Volumes, Timings
9: Pleasant Ave & Stevens Avenue

5/4/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		0	0		0	0		0	0		0
Storage Lanes	0		0	0		0	0		0	0		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		1219			1121			280			1491	
Travel Time (s)		27.7			25.5			6.4			33.9	

Intersection Summary

Area Type: Other

Timings

9: Pleasant Ave & Stevens Avenue

5/4/2015

								
Lane Group	EBL	EBT	WBL	WBT	NBL	NBT	SBL	SBT
Lane Configurations								
Volume (vph)	49	30	11	37	20	525	32	437
Turn Type	Perm		Perm		Perm		Perm	
Protected Phases		4		8		2		6
Permitted Phases	4		8		2		6	
Detector Phase	4	4	8	8	2	2	6	6
Switch Phase								
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (%)	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag								
Lead-Lag Optimize?								
Recall Mode	None	None	None	None	Max	Max	Max	Max
Act Effct Green (s)		7.8		7.6		23.1		23.1
Actuated g/C Ratio		0.23		0.22		0.67		0.67
v/c Ratio		0.35		0.33		0.50		0.56
Control Delay		11.7		8.1		10.0		12.3
Queue Delay		0.0		0.0		0.0		0.0
Total Delay		11.7		8.1		10.0		12.3
LOS		B		A		B		B
Approach Delay		11.7		8.1		10.0		12.3
Approach LOS		B		A		B		B

Intersection Summary

Cycle Length: 42

Actuated Cycle Length: 34.3

Natural Cycle: 55

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.56

Intersection Signal Delay: 10.9

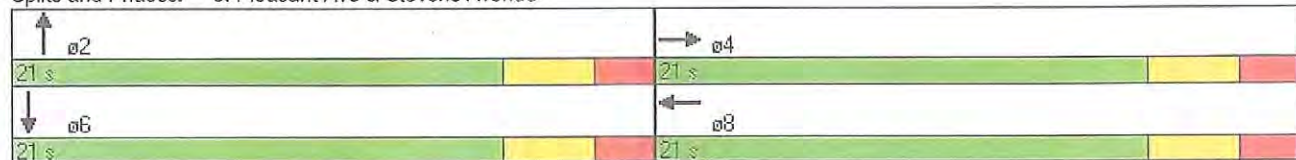
Intersection Capacity Utilization 58.4%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service B

Splits and Phases: 9: Pleasant Ave & Stevens Avenue



Queues

9: Pleasant Ave & Stevens Avenue

5/4/2015

	→	←	↑	↓
Lane Group	EBT	WBT	NBT	SBT
Lane Group Flow (vph)	127	136	615	581
v/c Ratio	0.35	0.33	0.50	0.56
Control Delay	11.7	8.1	10.0	12.3
Queue Delay	0.0	0.0	0.0	0.0
Total Delay	11.7	8.1	10.0	12.3
Queue Length 50th (ft)	15	9	74	74
Queue Length 95th (ft)	34	27	#235	#217
Internal Link Dist (ft)	1139	1041	200	1411
Turn Bay Length (ft)				
Base Capacity (vph)	714	787	1229	1046
Starvation Cap Reductn	0	0	0	0
Spillback Cap Reductn	0	0	0	0
Storage Cap Reductn	0	0	0	0
Reduced v/c Ratio	0.18	0.17	0.50	0.56

Intersection Summary

- # 95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

9: Pleasant Ave & Stevens Avenue

5/4/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	49	30	20	11	37	57	20	525	15	32	437	19
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0			5.0			5.0			5.0	
Lane Util. Factor		1.00			1.00			1.00			1.00	
Frpb, ped/bikes		0.98			0.94			1.00			1.00	
Flpb, ped/bikes		1.00			1.00			1.00			1.00	
Frt		0.97			0.93			1.00			0.99	
Flt Protected		0.98			0.99			1.00			1.00	
Satd. Flow (prot)		1748			1637			1870			1638	
Flt Permitted		0.83			0.95			0.97			0.94	
Satd. Flow (perm)		1487			1556			1824			1549	
Peak-hour factor, PHF	0.78	0.78	0.78	0.77	0.77	0.77	0.91	0.91	0.91	0.84	0.84	0.84
Adj. Flow (vph)	63	38	26	14	48	74	22	577	16	38	520	23
RTOR Reduction (vph)	0	22	0	0	63	0	0	2	0	0	3	0
Lane Group Flow (vph)	0	105	0	0	73	0	0	613	0	0	578	0
Confl. Peds. (#/hr)	10		10	20		20	4		4	10		10
Confl. Bikes (#/hr)			19			30			5			17
Heavy Vehicles (%)	1%	1%	1%	0%	0%	0%	1%	1%	1%	1%	1%	1%
Parking (#/hr)											4	
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases		4			8			2			6	
Permitted Phases	4			8			2			6		
Actuated Green, G (s)		5.3			5.3			21.0			21.0	
Effective Green, g (s)		5.3			5.3			21.0			21.0	
Actuated g/C Ratio		0.15			0.15			0.58			0.58	
Clearance Time (s)		5.0			5.0			5.0			5.0	
Vehicle Extension (s)		3.0			3.0			3.0			3.0	
Lane Grp Cap (vph)		217			227			1055			896	
v/s Ratio Prot												
v/s Ratio Perm		c0.07			0.05			0.34			c0.37	
v/c Ratio		0.48			0.32			0.58			0.65	
Uniform Delay, d1		14.2			13.9			4.9			5.1	
Progression Factor		1.00			1.00			1.00			1.00	
Incremental Delay, d2		1.7			0.8			2.3			3.6	
Delay (s)		15.9			14.7			7.2			8.7	
Level of Service		B			B			A			A	
Approach Delay (s)		15.9			14.7			7.2			8.7	
Approach LOS		B			B			A			A	
Intersection Summary												
HCM Average Control Delay		9.3										
HCM Volume to Capacity ratio		0.61										
Actuated Cycle Length (s)		36.3										
Intersection Capacity Utilization		58.4%										
Analysis Period (min)		15										
c Critical Lane Group												

Lanes, Volumes, Timings
11: Walton Street & Forest Ave

5/4/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		40	0		100	140		0	140		0
Storage Lanes	0		1	0		1	1		0	1		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		950			686			1198			517	
Travel Time (s)		21.6			15.6			27.2			11.8	

Intersection Summary

Area Type: Other

Timings

11: Walton Street & Forest Ave

5/4/2015

										
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	SBL	SBT
Lane Configurations										
Volume (vph)	22	88	61	45	93	106	38	734	75	624
Turn Type	Perm		Perm	Perm		Perm	pm+pt		pm+pt	
Protected Phases		4			8		5	2	1	6
Permitted Phases	4		4	8		8	2		6	
Detector Phase	4	4	4	8	8	8	5	2	1	6
Switch Phase										
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	21.0	8.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	36.0	8.0	36.0
Total Split (%)	32.3%	32.3%	32.3%	32.3%	32.3%	32.3%	12.3%	55.4%	12.3%	55.4%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.5	3.0	3.5	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	0.5	2.0	0.5	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	4.0	5.0	4.0	5.0
Lead/Lag							Lead	Lag	Lead	Lag
Lead-Lag Optimize?										
Recall Mode	None	None	None	None	None	None	None	None	None	None
Act Effct Green (s)		11.4	11.4		11.4	11.4	31.3	28.2	32.1	29.6
Actuated g/C Ratio		0.21	0.21		0.21	0.21	0.58	0.52	0.59	0.55
v/c Ratio		0.38	0.19		0.52	0.31	0.11	0.83	0.29	0.70
Control Delay		23.9	7.2		27.3	6.8	5.2	22.8	7.5	15.8
Queue Delay		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Total Delay		23.9	7.2		27.3	6.8	5.2	22.8	7.5	15.8
LOS		C	A		C	A	A	C	A	B
Approach Delay		17.9			18.4			22.0		15.0
Approach LOS		B			B			C		B

Intersection Summary

Cycle Length: 65

Actuated Cycle Length: 54.3

Natural Cycle: 65

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.83

Intersection Signal Delay: 18.5

Intersection Capacity Utilization 70.6%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service C

Splits and Phases: 11: Walton Street & Forest Ave



Queues

11: Walton Street & Forest Ave

5/4/2015

	→	↘	←	↖	↖	↑	↘	↓
Lane Group	EBT	EBR	WBT	WBR	NBL	NBT	SBL	SBT
Lane Group Flow (vph)	136	75	172	132	40	809	79	691
v/c Ratio	0.38	0.19	0.52	0.31	0.11	0.83	0.29	0.70
Control Delay	23.9	7.2	27.3	6.8	5.2	22.8	7.5	15.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	23.9	7.2	27.3	6.8	5.2	22.8	7.5	15.8
Queue Length 50th (ft)	44	0	58	0	4	232	8	120
Queue Length 95th (ft)	78	23	96	27	15	#507	25	#405
Internal Link Dist (ft)	870		606			1118		437
Turn Bay Length (ft)		40		100	140		140	
Base Capacity (vph)	536	538	493	574	374	1131	269	1146
Starvation Cap Reductn	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.25	0.14	0.35	0.23	0.11	0.72	0.29	0.60

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

11: Walton Street & Forest Ave

5/4/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	22	88	61	45	93	106	38	734	34	75	624	32
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Lane Util. Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frpb, ped/bikes		1.00	0.96		1.00	0.97	1.00	1.00		1.00	1.00	
Flpb, ped/bikes		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frt		1.00	0.85		1.00	0.85	1.00	0.99		1.00	0.99	
Flt Protected		0.99	1.00		0.98	1.00	0.95	1.00		0.95	1.00	
Satd. Flow (prot)		1879	1557		1848	1550	1787	1869		1752	1814	
Flt Permitted		0.90	1.00		0.84	1.00	0.25	1.00		0.14	1.00	
Satd. Flow (perm)		1717	1557		1579	1550	470	1869		259	1814	
Peak-hour factor, PHF	0.81	0.81	0.81	0.80	0.80	0.80	0.95	0.95	0.95	0.95	0.95	0.95
Adj. Flow (vph)	27	109	75	56	116	132	40	773	36	79	657	34
RTOR Reduction (vph)	0	0	60	0	0	106	0	2	0	0	2	0
Lane Group Flow (vph)	0	136	15	0	172	26	40	807	0	79	689	0
Confl. Peds. (#/hr)	4		4	4		4				4		4
Confl. Bikes (#/hr)			5			2						4
Heavy Vehicles (%)	0%	0%	0%	1%	1%	1%	1%	1%	1%	3%	3%	3%
Bus Blockages (#/hr)	0	0	0	0	0	0	0	0	0	0	2	0
Turn Type	Perm		Perm	Perm		Perm	pm+pt			pm+pt		
Protected Phases		4			8		5	2		1	6	
Permitted Phases	4		4	8		8	2			6		
Actuated Green, G (s)		11.3	11.3		11.3	11.3	30.3	28.9		31.7	29.6	
Effective Green, g (s)		11.3	11.3		11.3	11.3	30.3	28.9		31.7	29.6	
Actuated g/C Ratio		0.20	0.20		0.20	0.20	0.54	0.51		0.56	0.53	
Clearance Time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Vehicle Extension (s)		3.0	3.0		3.0	3.0	3.0	3.0		3.0	3.0	
Lane Grp Cap (vph)		345	313		317	311	286	959		202	954	
v/s Ratio Prot							0.00	c0.43		c0.01	0.38	
v/s Ratio Perm		0.08	0.01		c0.11	0.02	0.07			0.21		
v/c Ratio		0.39	0.05		0.54	0.09	0.14	0.84		0.39	0.72	
Uniform Delay, d1		19.5	18.2		20.2	18.3	7.3	11.7		8.9	10.2	
Progression Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Incremental Delay, d2		0.7	0.1		1.9	0.1	0.2	6.8		1.3	2.7	
Delay (s)		20.3	18.2		22.1	18.4	7.5	18.5		10.2	12.9	
Level of Service		C	B		C	B	A	B		B	B	
Approach Delay (s)		19.5			20.5			18.0			12.6	
Approach LOS		B			C			B			B	
Intersection Summary												
HCM Average Control Delay			16.6				HCM Level of Service			B		
HCM Volume to Capacity ratio			0.74									
Actuated Cycle Length (s)			56.3				Sum of lost time (s)			14.0		
Intersection Capacity Utilization			70.6%				ICU Level of Service			C		
Analysis Period (min)			15									
c Critical Lane Group												

SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: May 6, 2015

RE: Trip Generation Analysis for Proposed Zoning Alternatives for Baxter Place in Portland, Maine

The purpose of this memorandum is to summarize trip generation analysis requested by the City Traffic Engineer for the proposed re-zoning of a parcel off Stevens Avenue in Portland, Maine. The zoning is being requested to accommodate the proposed Baxter Place senior housing development. The requested rezoning of lots 3 and 4 would change the zone from the current R5 to the requested R5A. It is understood that the current R5 zone would allow for up to 131 dwelling units to be constructed on lots 3 & 4. The proposed R5A zone would allow for up to 368 dwelling units on these lots. It was assumed for this trip generation analysis that the dwelling units would consist of attached apartment units since they would generate more trips than condominium units.

Maximum Build-Out

Trip generation for the maximum potential build out of the rezoned lots 3 & 4 was determined using the most recent Institute of Transportation Engineers (ITE) "Trip Generation, 9th edition" report. As previously discussed, Land Use Code (LUC) 220 – Apartment was used to represent "worst case". The results for existing R5 zone with 131 dwelling (D.U.s) and the proposed R5A zone with a maximum of 368 apartment units are summarized below:

ITE Trip Generation for Potential Build-Out (one-way trip ends)

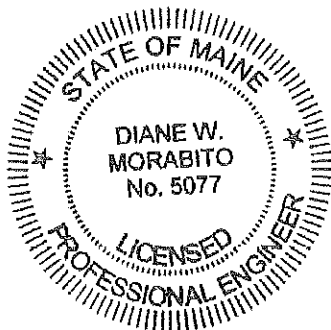
<u>Time Period</u>	<u>Current R5 131 Apts.</u>	<u>Proposed R5A 368 Apts.</u>	<u>Change In Trips</u>
Weekday	872	2,448	+ 1,576
AM Peak Hour – Adjacent Street	67	188	+ 121
Entering	13	38	+ 25
Exiting	54	150	+ 96
PM Peak Hour – Adjacent Street	81	228	+ 147
Entering	53	148	+ 95
Exiting	28	80	+ 52

Proposed Senior Housing Build-Out

Similarly, trip generation was also performed for the currently proposed senior housing development, also using the ITE "Trip Generation, 9th edition" report for comparison purposes. It was determined that under the R5A zone the maximum number of units that could be developed was 335. It is expected that the development will contain independent living apartment units as well as some assisted living. The expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Land use codes 252 – Senior Adult Housing – Attached and 254 - Assisted Living were used on the basis of dwelling units for the senior housing option. The results are summarized below:

<u>Time Period</u>	Projected ITE Trip Generation (one-way trip-ends)		
	Proposed Senior Housing Development		
	<u>311 Senior Living Attached Units</u>	<u>24 Assisted Living Units</u>	<u>Total Trips</u>
Weekday	1,070	66	1,136
AM Peak Hour – Adjacent Street	59	4	63
Entering	21	3	24
Exiting	38	1	39
PM Peak Hour – Adjacent Street	84	7	91
Entering	51	3	54
Exiting	33	4	37

Please do not hesitate to contact me if you or the City of Portland have any questions regarding this trip generation analysis for the proposed rezoning to accommodate the planned senior housing development.

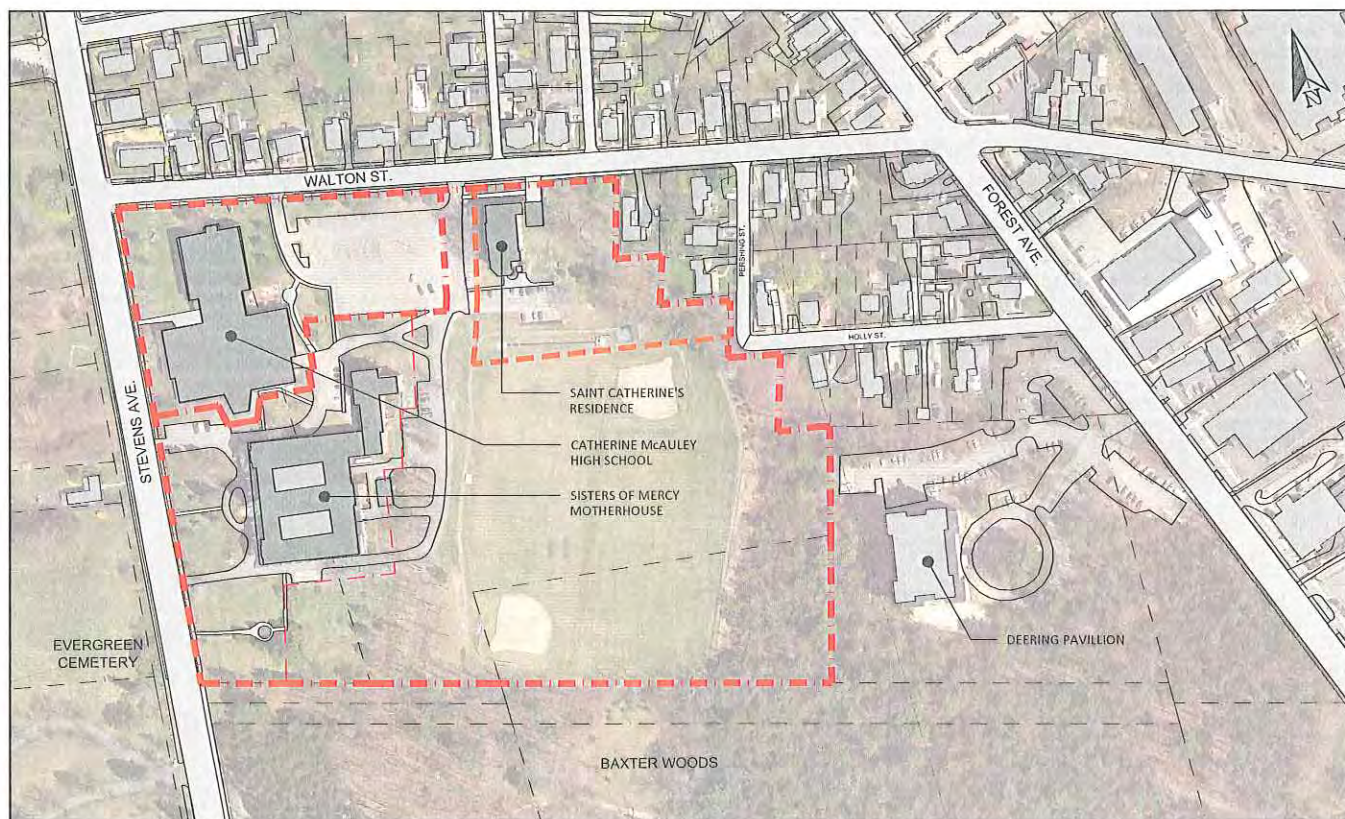


Sincerely,

A handwritten signature in cursive script that reads "Diane W. Morabito".

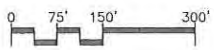
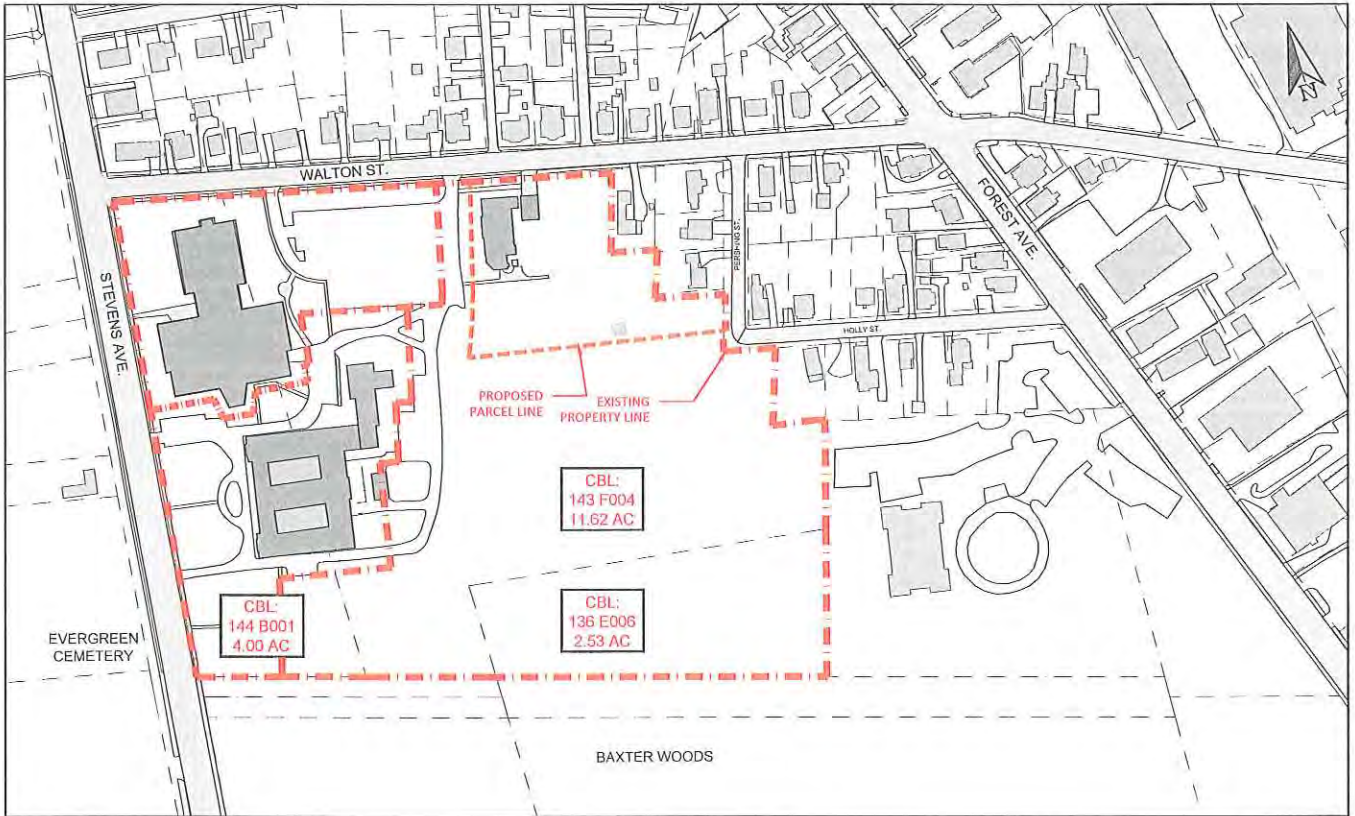
Diane W. Morabito, P.E. PTOE
President

cc: Rick Licht
Tom Errico, TY Lin
Jean Fraser, Portland



McAuley Place
CONTEXT MAP

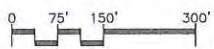
EXHIBIT
2



McAuley Place

PROPOSED PARCEL MAP

EXHIBIT
3



605 STEVENS AVE
PROPOSED ZONE MAP CHANGE

EXHIBIT
1
5.1.2015 SUBMITTAL





605 STEVENS AVE

BUILDING HEIGHT STUDY

EXHIBIT
2
5.1.2015 SUBMITTAL



View Looking North East

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3a
5.1.2015 SUBMITTAL



View Looking East
from Evergreen Cemetery

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3b
5.1.2015 SUBMITTAL



View Looking South

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3c
5.1.2015 SUBMITTAL



View Looking South East

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3d
5.1.2015 SUBMITTAL

Order 276-14/15
Tab 37 6-15-15

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 ARTICLE III. ZONING
and ARTICLE V. SITE PLAN
Re: R-5A Zone**

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

*That Chapter 14, Article III, Division 1, Section 14-47,
Division 6.5, Sections 14-127 and 14-130 and Article V, Section 14-
523 of the Portland City Code are hereby amended to read as follows:*

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~ residential ~~unit~~ development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;
- ~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

- ~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~
 - ~~1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;~~
 - ~~2. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~
 - ~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~
- ~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

...

DIVISION 6.5. R-5A RESIDENTIAL ZONE

...

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b)

manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;

4. Municipal use;
5. Intermediate, extended and long-term care facilities.
6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	<u>Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres¹</u>
	<u>Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area</u>
	<u>Intermediate, extended or long-term care facilities: 1 1/2 acres.</u>
<u>Min. Lot Area per D.U.</u>	<u>Single-, two- and three-family dwellings: 1,600 SF.</u> <u>Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.</u>
<u>Min. Lot Area per Resident</u>	<u>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</u>
<u>Min. Street Frontage</u>	<u>50 feet.</u>

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

Min. Yard
Dimensions for
Single-, two-and
three-family
dwellings²

1. Front yard: Principal or accessory structures: 25 feet.

2. Rear yard:

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet.

b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. (continued)

3. Side yard:

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<u>Height of Structure</u>	<u>Required Side Yard</u>
----------------------------	---------------------------

1 story	10 feet
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1 1/2 stories	10 feet
-------------------------	---------

2 stories	14 feet
---------------------	---------

2 1/2 stories	16 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. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.

4. Side setback on side streets: Principal or accessory structures: 20 feet.

² 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.

<u>Maximum Structure Height</u>	Principal residential (single, two and three-family) or attached accessory structure: 35 feet.
	Accessory detached structure: 18 feet.
	Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.
<u>Max. Lot Coverage</u>	30%
<u>Minimum Lot Width</u>	60 feet
<u>Minimum building setback from external subdivision property lines</u>	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. Building length of one hundred (100) feet or less: 25 feet. b. Building length of greater than one hundred (100) feet: 35 feet.
<u>Minimum recreation open space area</u>	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.

~~(a) Minimum lot size:~~

~~Residential: Six thousand (6,000) 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. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~(b) Minimum lot area per dwelling: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development:~~

~~Fifty (50) 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: Twenty-five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 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. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~(e) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(f) Minimum lot width: Sixty (60) feet.~~

~~Minimum building setback from external subdivision property lines (PRUD):~~

~~a. Building length of one hundred (100) feet or less:
Twenty five (25) feet.~~

~~b. Building length of greater than one hundred (100) feet:
Thirty five (35) feet.~~

~~(g) Minimum recreation open space area: Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty five (25) feet from dwelling units.~~

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.

Order 295-14/15
Tab 38 6-15-15

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

**TRAFFIC SCHEDULE AMENDMENT
RE: MOTORCYCLE AND MOTOR SCOOTER PARKING SPACES**

Ordered, that the City of Portland's Traffic Schedule be and hereby is amended as follows:

Brackett Street

Add: Southside - From a point 10 feet westerly of the intersection of Brackett and Neal Streets and running to a point 30 feet from the intersection - **Schedule 34 Motorcycle/Moped Parking**

No loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Danforth Street

Delete: Southside - From a point 124 feet easterly of Maple Street to a point 355 feet easterly of Maple Street - **Schedule XXVII 1 Hour Parking**

Add: Southside - From a point 124 feet easterly of Maple Street to a point 335 feet easterly of Maple Street - **Schedule XXVII 1 Hour Parking**

Add: Southside - from a point 335 feet easterly of Maple to a point 355 easterly of Maple - **Schedule XXXIV Motorcycle/Moped parking**

Loss 1-1 hour parking space Adding an additional 3 Motorcycle/Moped spaces

Danforth and Park

Add: Southside - from the intersection of Danforth and Park Streets and running westerly on Danforth to a point 20 feet from the intersection - **Schedule XXXIV Motorcycle/Moped parking spaces**

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Commercial at India South side

Delete: Southside - From the Intersection of Commercial & India Streets and running 20 feet west along Commercial Street - **Schedule I No Parking Anytime** **Add:**

Add: Southside – from a point 20 feet west of the intersection of Commercial and India Streets and running to a point 20 feet west of the entrance to the Maine State Pier – Schedule XXXIV

Motorcycle/Moped parking

Add: Southside – from the intersection of Commercial Street and the entrance to the Maine State Pier and running 20 feet easterly along Commercial Street - Schedule I No Parking Anytime

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Hancock and Middle

Add: Westside – From the Intersection of Hancock and Middle Streets and running 20 feet north along Hancock Street – Schedule XXXIV Motorcycle/Moped parking

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Cotton Street

Add – Eastside – From Fore Street and running 20 north along Cotton Street - Schedule XXXIV Motorcycle/Moped parking

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Thames

Add – Southside – From the intersection of Thames and India and running 20 feet east along Thames –

Schedule XXXIV Motorcycle/Moped parking

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Pine @ Emery

Delete: Southside – from a point 35 feet westerly of Emery Street to a point 42 feet east of Emery - Schedule I No Parking Anytime

Add: From point 35 west of the intersection of Pine and Emery Streets to the Intersection. - Schedule I No Parking Anytime

Add: From the intersection of Pine and Emery Streets and running to a point 20 feet easterly along Pine - Schedule XXXIV Motorcycle/Moped parking

Add: From a point 20 feet east of Emery and running to a point 42 feet east of Pine – Schedule I No Parking Anytime

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Oak Street –

Delete: Westside – from Free Street to a point 48 feet southerly of Free Street – **Schedule I No Parking Anytime**

Add: Westside- From Free Street to a point 24 feet southerly of Free Street - **Schedule XXXIV Motorcycle/Moped parking**

Add: Westside – From a point 24 feet from Free Street and running southerly to a point 48 feet from Free Street - **Schedule I No Parking Anytime**

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Mellen Street

Delete – Eastside – From Congress Street to a point 25 feet north of Congress Street - **Schedule I No Parking Anytime**

Add -- Eastside – From Congress Street to a point 25 feet north of Congress Street- **Schedule XXXIV Motorcycle/Moped parking**

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Pleasant Street --

Add – Northside - From 5 feet from the the intersection of Pleasant and Center Street and running westerly along Pleasant for 20 feet - **Schedule XXXIV Motorcycle/Moped parking**

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Fore Street

Add: Southside: from the intersection of Fore and Cross Streets to a point 25 feet westerly of Cross Street- **Schedule XXXIV Motorcycle/Moped parking**

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Congress Street

Add – Northside – From a point 128 feet from the intersection of Deering and Congress Streets and running easterly to a point 148 feet from the intersection - **Schedule XXXIV Motorcycle/Moped parking**

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Congress Street

Delete: Southside – from a point 49 feet westerly of Dow Street - Schedule I No Parking Anytime

Add: Southside -from the Intersection of Dow and Congress Streets and running westerly for 25 feet - Schedule XXXIV Motorcycle/Moped parking

Add: Southside - from a point 25 feet westerly of Dow Street and running 24 feet - Schedule I No Parking Anytime

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Congress Street

Delete: Southside -From a point 56 feet westerly of Kellogg to a point 22 feet easterly of Kellogg Street - Schedule I No Parking Anytime

Add: Southside - From the intersection of Congress and Kellogg Streets and running 20 feet westerly along Congress Street – Schedule XXXIV Motorcycle/Moped parking

Add – Southside -From a point 20 feet westerly of the intersection of Congress and Kellogg Streets to a Point 56 west of the intersection - - Schedule I No Parking Anytime

Add: Southside - from the Intersection of Congress and Kellogg Streets and running 22 easterly along Congress St. -Schedule I No Parking Anytime

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

Federal Street

Add: – Southside – from the intersection of federal and Markets Streets and running to a point 24 feet easterly of Market Street - Schedule XXXIV Motorcycle/Moped parking

No Loss of Parking Adding an additional 3 Motorcycle/Moped spaces

MEMORANDUM
City Council Agenda request

TO: The Transportation, Sustainability and Energy Committee

FROM: Michael Bobinsky, Director of Public Services

DATE: June 1, 2015 revised 6/9/15

DISTRIBUTION: Michael Sauschuck, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuhta, Corporation Counsel
Sonia Bean, Executive Assistant
Nancy English, Administrative Assistant
John Peverada, Parking Manager
Katherine Earley, PE, Engineering Services Manager
Jeremiah Bartlett, PE, PTOE, Transportation Systems Engineer

SUBJECT: Order – Amendment to Traffic Schedule

SPONSORS: Michael Bobinsky, Director, Public Services Department
John Peverada, Manager, Parking Division

COUNCIL MEETING DATE ACTION IS REQUESTED:

1ST Reading: June 15, 2015 Final Action: June 15, 2015

Can this Action be taken at a later date? X Yes ___ No (if no, why not)

PRESENTATION:

I. SUMMARY OF ISSUE

The Parking Division has noted an increase in the number of Motorcycles and motor scooters in use throughout the City. While we have increased the number of parking spots available to these vehicles, City staff continues to receive additional requests for specific locations and make efforts to accommodate these requests.

II. REASON FOR SUBMISSION

The Department of Public services requests that the City Council recommend changes in the traffic schedule which will allow sixteen additional Motorcycle and Moped parking areas to be established.

III. INTENDED RESULT

Each new location designated will allow 2 Motorcycles, 4 Motor Scooters or 1 Motorcycle and 2 motor scooters to park. Using an average of 3 vehicles per location (16 locations) our inventory of these specialized spots would increase by 48. Because

we are primarily utilizing current no parking locations, this would result in the loss of only 1 1-hour parking spot.

IV. COUNCIL GOAL ADDRESSED

This proposed change addresses both the Council goals of economic development and improving City services.

V. FINANCIAL IMPACT

The cost of staff and equipment mobilization, signs and posts is estimated to be approximately \$700.00 per location for a total cost of approximately \$12,000

VI. STAFF ANALYSIS & RECOMMENDATION

The Department of Public Services and the Parking Control Division have reviewed this change and concur with this action.

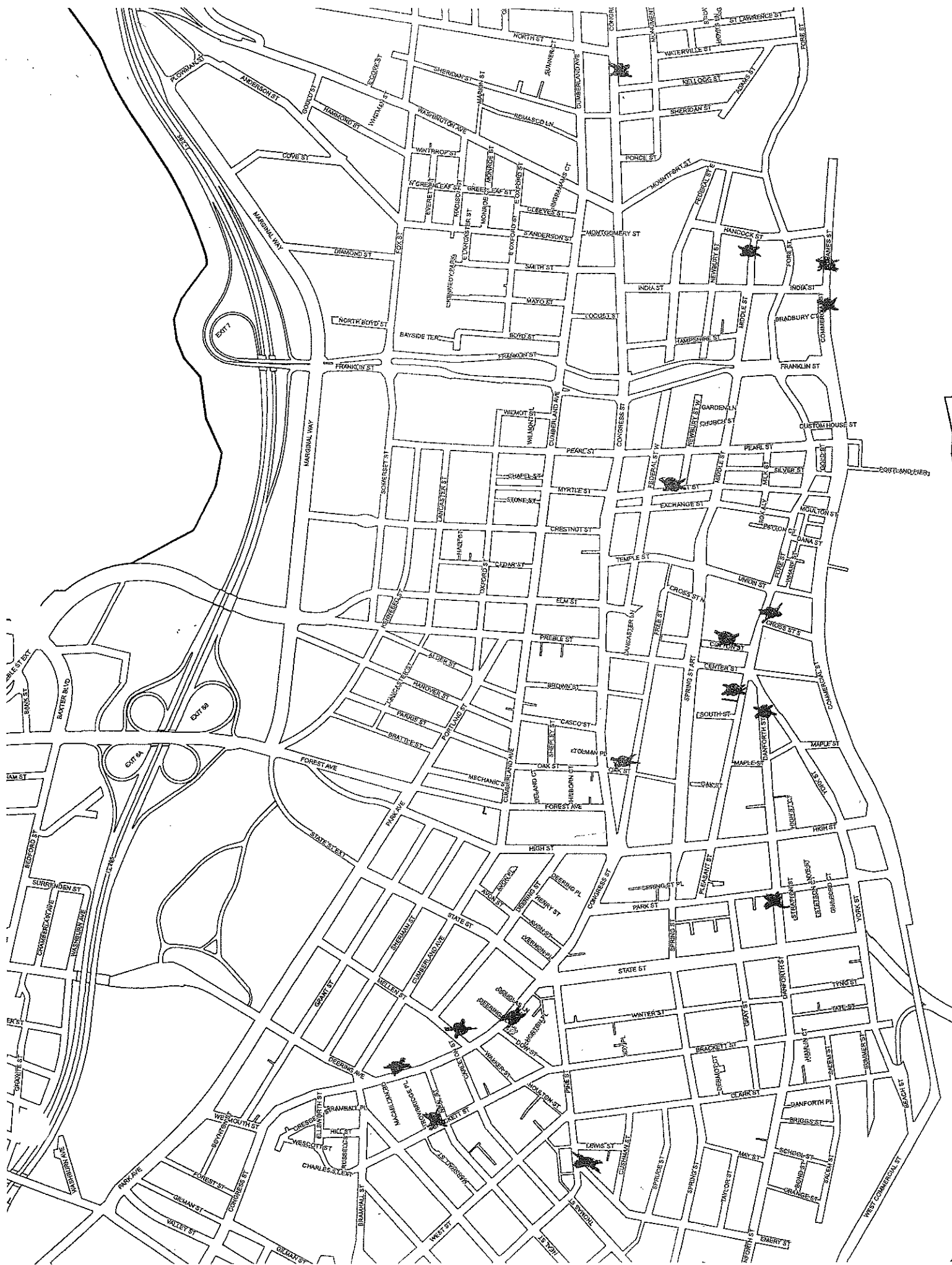
VII. LIST ATTACHMENTS

- Exhibit A: Council Order
- Exhibit B: Map

Prepared by:

Signature

Date



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**

Order 296 - 14/15
Tab 39 6-15-15
DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER AUTHORIZING AIRPORT IMPROVEMENT PROJECTS

ORDERED, that the following projects are hereby authorized as part of the International Jetport's Airport Improvement Program ("AIP"), by grants issued by the Federal Aviation ("FAA"):

- AIP 76: Snow Removal Equipment (Snow blower) (\$482,369)
- AIP 77: North General Aviation Ramp Rehabilitation (\$3,107,258)
- AIP 78: Update Master Plan (\$825,667); and

BE IT FURTHER ORDERED, that the funds for said projects are hereby appropriated from federal and state grant funding, and the local share of the projects shall be appropriated as part of the Jetport's budget; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Director of the Jetport to be the official representative for these grants, as required by the FAA, and to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Paul Bradbury, Airport Director

DATE: May 18, 2015

DISTRIBUTION: Michael Sauschuck, Acting City Manager; Mayor Brennan; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English

SUBJECT: Approval of FAA Airport Improvement Program Federal Fiscal Year 2015 Entitlement Grants totaling \$4,415,294 and naming the Airport Director as the City's official representative for the grants.

SPONSOR: Michael Sauschuck, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: June 1, 2015 **Final Action:** June 1, 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 this may delay grant acceptance and the commencement of these projects.

I. SUMMARY OF ISSUE (Agenda Description)

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handles. This year the Portland Jetport has AIP entitlement funding totaling \$4,415,294 for the following projects:

- | | |
|---|-------------|
| • AIP 76: Snow Removal Equipment (Snow blower) | \$482,369 |
| • AIP 77: North General Aviation Ramp Rehabilitation: | \$3,107,258 |
| • AIP 78: Update Master Plan: | \$825,667 |

The above funding amount provides 90% of the total cost for each project. The balance is covered locally through the Jetport's operating budget and through state funding of up to 5% of project costs.

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

The FAA requires approval of AIP Grants by the airport sponsors governing body, which for the Jetport is the Portland City Council. Additionally, it requires that governing body to name the official representative for those grants, which for the Portland Jetport is the Airport Director.

Typically the Jetport has sought Council approval of AIP grants through adoption of a multi-year capital plan and the budget process. The Jetport has completed all projects previously approved and must bring these new projects to the Council for approval. It is expected that a new multi-year capital plan will be presented to the Council at the conclusion of the master plan update funded under this request.

III. INTENDED RESULT

The approval of these grants will allow the Portland International Jetport to proceed with the purchase of a needed airfield snow blower, rehabilitation of the north general aviation ramp, and completion of the sustainable airport master plan already underway.

IV. COUNCIL GOAL ADDRESSED

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. Approval of these grants allows the Portland Jetport to invest in needed equipment, infrastructure, and planning.

V. FINANCIAL IMPACT

If approved, the Portland International Jetport will receive \$4,415,294 in federal funding that will fund 90% of the project costs which total \$4,905,882. The \$490,588 that is not covered by the federal AIP grants will be covered by the Jetport's operating budget and the State in the amounts of \$291,164 and \$199,424 respectively. Approval of these grants has no impact to the City of Portland's general fund or the tax rate.

VI. STAFF ANALYSIS

These grants will provide critical equipment, infrastructure, and planning investment in the Portland International Jetport. Approval of these grants will allow the Jetport to replace a 25 year old airfield snow blower, rehabilitate 35 year old pavement on the north general aviation ramp, and complete the sustainable airport master plan currently underway.

VII. RECOMMENDATION

Jetport staff recommends the Council approve AIP Grants 76, 77, and 78 totaling \$4,415,294 in federal funding.

VIII. LIST ATTACHMENTS

Grant application information for AIP Grant numbers: 76 - Purchase of Airport Snow Removal Equipment, 77 - North General Aviation Ramp Rehabilitation, and 78 - Update Master Plan Study.

A handwritten signature in dark ink, appearing to be "D. Bush", written over a horizontal line.

Signature

May 18, 2015

Date

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Paul Bradbury, Airport Director

DATE: May 18, 2015

DISTRIBUTION: Michael Sauschuck, Acting City Manager; Mayor Brennan; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English

SUBJECT: Approval of FAA Airport Improvement Program Federal Fiscal Year 2015 Entitlement Grants totaling \$4,415,294 and naming the Airport Director as the City's official representative for the grants.

SPONSOR: Michael Sauschuck, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: June 1, 2015 **Final Action:** June 1, 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 this may delay grant acceptance and the commencement of these projects.

I. SUMMARY OF ISSUE (Agenda Description)

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handles. This year the Portland Jetport has AIP entitlement funding totaling \$4,415,294 for the following projects:

- | | |
|---|-------------|
| • AIP 76: Snow Removal Equipment (Snow blower) | \$482,369 |
| • AIP 77: North General Aviation Ramp Rehabilitation: | \$3,107,258 |
| • AIP 78: Update Master Plan: | \$825,667 |

The above funding amount provides 90% of the total cost for each project. The balance is covered locally through the Jetport's operating budget and through state funding of up to 5% of project costs.

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

The FAA requires approval of AIP Grants by the airport sponsors governing body, which for the Jetport is the Portland City Council. Additionally, it requires that governing body to name the official representative for those grants, which for the Portland Jetport is the Airport Director.

Typically the Jetport has sought Council approval of AIP grants through adoption of a multi-year capital plan and the budget process. The Jetport has completed all projects previously approved and must bring these new projects to the Council for approval. It is expected that a new multi-year capital plan will be presented to the Council at the conclusion of the master plan update funded under this request.

III. INTENDED RESULT

The approval of these grants will allow the Portland International Jetport to proceed with the purchase of a needed airfield snow blower, rehabilitation of the north general aviation ramp, and completion of the sustainable airport master plan already underway.

IV. COUNCIL GOAL ADDRESSED

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. Approval of these grants allows the Portland Jetport to invest in needed equipment, infrastructure, and planning.

V. FINANCIAL IMPACT

If approved, the Portland International Jetport will receive \$4,415,294 in federal funding that will fund 90% of the project costs which total \$4,905,882. The \$490,588 that is not covered by the federal AIP grants will be covered by the Jetport's operating budget and the State in the amounts of \$291,164 and \$199,424 respectively. Approval of these grants has no impact to the City of Portland's general fund or the tax rate.

VI. STAFF ANALYSIS

These grants will provide critical equipment, infrastructure, and planning investment in the Portland International Jetport. Approval of these grants will allow the Jetport to replace a 25 year old airfield snow blower, rehabilitate 35 year old pavement on the north general aviation ramp, and complete the sustainable airport master plan currently underway.

VII. RECOMMENDATION

Jetport staff recommends the Council approve AIP Grants 76, 77, and 78 totaling \$4,415,294 in federal funding.

VIII. LIST ATTACHMENTS

Grant application information for AIP Grant numbers: 76 - Purchase of Airport Snow Removal Equipment, 77 - North General Aviation Ramp Rehabilitation, and 78 - Update Master Plan Study.

A handwritten signature in dark ink, appearing to be "D. B. Smith", written over a horizontal line.

Signature

May 18, 2015

Date



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I -- OFFER

Date of Offer May 28, 2015

Airport/Planning Area Portland International Jetport

AIP Grant Number 3-23-0038-076-2015

DUNS Number 156061707

TO: City of Portland, Maine
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated May 1, 2015, for a grant of Federal funds for a project at or associated with the Portland International Jetport Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Portland International Jetport Airport (herein called the "Project") consisting of the following:

Acquire Snow Removal Equipment (Carrier Vehicle with Snow Blower Attachment),

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated April 3, 2014, and the Sponsor's acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$482,368. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b), the following amounts are being specified for this purpose:
 - \$0 for planning
 - \$482,368 for airport development or noise program implementation
 - \$0 for land acquisition.
2. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
3. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
5. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before July 7, 2015, or such subsequent date as may be prescribed in writing by the FAA.
7. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
8. **United States Not Liable for Damage or Injury.** The United States is not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

9. System for Award Management (SAM) Registration And Universal Identifier.

- A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
- B. Requirement for Data Universal Numbering System (DUNS) Numbers
1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
 2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
 3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-492-0280) or the Internet (currently at <http://fedgov.dnb.com/webform>).

10. Electronic Grant Payment(s). Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

11. Informal Letter Amendment of AIP Projects. If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter to the Sponsor unilaterally reducing the maximum obligation. The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. If the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the FAA can issue a letter to the Sponsor amending the grant description.

By issuing an Informal Letter Amendment, the FAA has changed the grant amount or grant description to the amount or description in the letter.

12. Air and Water Quality. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.

13. Financial Reporting and Payment Requirements. The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

14. Buy American. Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

15. Maximum Obligation Increase For Primary Airports. In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:

- A. May not be increased for a planning project;
- B. May be increased by not more than 15 percent for development projects;
- C. May be increased by not more than 15 percent for land project.

16. Audits for Public Sponsors. The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.

17. Suspension or Debarment. The Sponsor must inform the FAA when the Sponsor suspends or debars a contractor, person, or entity.

18. Ban on Texting While Driving.

- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

19. Trafficking in Persons.

- A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) that apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity) are:
 - 1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 - 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 - 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.
- B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity --
 - 1. Is determined to have violated the Prohibitions; or
 - 2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:

- a. Associated with performance under this agreement; or
- b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 49 CFR Part 29.

20. Exhibit "A" Incorporated by Reference. The Exhibit "A" updated January 23, 2013, filed with AIP Project 3-23-0038-074-2013, is incorporated herein by reference.

21. EQUIPMENT OR VEHICLE REPLACEMENT: The Sponsor and the FAA agree that the Fair Market Value of equipment being replaced by this project is less than \$5,000, and that reimbursement to the FAA for the value of the replaced equipment to reduce the total project costs is not required.

22. ARFF and SRE Equipment and Vehicles. The Sponsor agrees that it will:

- A. House and maintain the equipment in a state of operational readiness on and for the airport;
- B. Provide the necessary staffing and training to maintain and operate the vehicle and equipment;
- C. Restrict the vehicle to on-airport use only;
- D. Restrict the vehicle to the use for which it was intended; and
- E. Amend the Airport Emergency Plan and/or Snow and Ice Control Plan to reflect the acquisition of the vehicle and equipment.

23. Equipment Acquisition. The Sponsor understands and agrees that any equipment acquired through this grant is considered a *facility* as that term is used in the Grant Assurances. Further, the equipment must be only operated by the Sponsor. The Sponsor agrees that it will maintain the equipment and use it exclusively at the airport for airport purposes.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application Incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Bryon H. Rakoff
(Signature)

Mr. Bryon H. Rakoff
(Typed Name)

Acting Manager, Airports Division, New England Region
(Title)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹
Executed this _____ day of _____, 2015.

City of Portland, Maine

(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

By:

(Typed Name of Sponsor's Designated Official Representative)

Title:

(Title of Sponsor's Designated Official Representative)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Maine. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____, 2015.

By:

(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Application for Federal Assistance SF-424

* 1. Type of Submission		* 2. Type of Application	* If Revision, select appropriate letter(s):
☐ Preapplication	☒ New	- Select One -	
☒ Application	☐ Continuation	* Other (Specify)	
☐ Changed/Corrected Application	☐ Revision		
* 3. Date Received: MAY 01 2015		4. Application Identifier:	
5a. Federal Entity Identifier:		* 5b. Federal Award Identifier:	
State Use Only:			
6. Date Received by State:		7. State Application Identifier:	
8. APPLICANT INFORMATION:			
* a. Legal Name: City of Portland, Maine			
* b. Employer/Taxpayer Identification Number (EIN/TIN): 0160000032		* c. Organizational DUNS: 156061707	
d. Address:			
* Street1: 1001 Westbrook Street			
Street 2:			
* City: Portland			
County: Cumberland			
* State: Maine			
Province:			
Country: USA			
* Zip/ Postal Code: 04102			
e. Organizational Unit:			
Department Name: Department of Aviation and Transportation		Division Name: Airport	
f. Name and contact information of person to be contacted on matters involving this application:			
Prefix: Mr.		First Name: Paul	
Middle Name: H.			
* Last Name: Bradbury			
Suffix: P.E.			
Title: Airport Director			
Organizational Affiliation:			
* Telephone Number: (207) 756-8029		Fax Number: (207) 774-7740	
* Email: phb@portlandmaine.gov			

Application for Federal Assistance SF-424

*9. Type of Applicant 1: Select Applicant Type:

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

- Select One -

Type of Applicant 3: Select Applicant Type:

- Select One -

* Other (specify):

* 10. Name of Federal Agency:

FAA - Airports

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

*12. Funding Opportunity Number:

Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Portland and South Portland, Cumberland County, Maine

* 15. Descriptive Title of Applicant's Project:

Purchase of Airport Snow Removal Equipment

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: ME-001

*b. Program/Project: ME-001

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 05/01/2015

*b. End Date: 06/01/2016

18. Estimated Funding (\$):

*a. Federal	402,369.00
*b. Applicant	26,798.00
*c. State	26,798.00
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	535,965.00

***19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on _____
- ☒ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372

***20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation on next page.)**

☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: *First Name: Sheila

Middle Name:

*Last Name: Hill-Christian

Suffix:

*Title: City Manager

*Telephone Number: (207) 874-8689

Fax Number: (207) 874-8669

* Email: SHC@portlandmaine.gov

*Signature of Authorized Representative:

Sheila Hill-Christian

*Date Signed:

April 30, 2015



Application for Federal Assistance (Development Projects)

PART II – PROJECT APPROVAL INFORMATION

SECTION A	
Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐ Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐ Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐ Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional, or other planning approval? ☒ Yes ☐ No	Name of Approving Agency: FAA-ALP/CIP Meeting Date: 12/08/2014
Item 5. Is the proposal project covered by an approved comprehensive plan? ☒ Yes ☐ No	Check one: State ☐ Master Plan/CIP Local ☒ Update 2008 Regional ☐ Location of Plan: Airport Director's Office
Item 6. Will the assistance requested serve a Federal installation? ☐ Yes ☒ No	Name of Federal Installation: Federal Population benefiting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐ Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project: %
Item 8. Will the assistance requested have an impact or effect on the environment? ☐ Yes ☒ No	(See instructions for additional information to be provided.)
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐ Yes ☒ No	Number of: Individuals: Families: Businesses: Farms:
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐ Yes ☒ No	(See instructions for additional information to be provided.)

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

NA

2. Defaults – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

No exceptions

3. Possible Disabilities – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of the Grant Assurances, either by limiting its legal or financial ability or otherwise, except as follows:

No exceptions

4. Consistency with Local Plans – The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

NA

5. Consideration of Local Interest – It has given fair consideration to the interest of communities in or near where the project may be located.

NA

6. Consultation with Users – In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport which project is proposed.

NA

7. Public Hearings – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

NA

8. Air and Water Quality Standards – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

NA

PART II – SECTION C (Continued)

9. **Exclusive Rights** – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

No exceptions

10. **Land** – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

No exceptions

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

NA

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A"

NA

*State the character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL			
1. Federal Domestic Assistance Catalog Number: <u>20-106</u>			
2. Functional or Other Breakout: _____			
SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$ 4,000.00	\$	\$ 4,000.00
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other Architectural engineering fees			
6. Project inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment	531,965.00		531,965.00
13. Miscellaneous			
14. Total (Lines 1 through 13)	535,965.00		535,965.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)	535,965.00		535,965.00
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)	535,965.00		535,965.00
20. Federal Share requested of Line 19	482,369.00		482,369.00
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (lines 20 & 21)	482,369.00		482,369.00
23. Grantee share	26,798.00		26,798.00
24. Other shares	26,798.00		26,798.00
25. Total Project (Lines 22, 23 & 24)	\$ 535,965.00	\$	\$ 535,965.00

SECTION C – EXCLUSIONS		
Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$
SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE		
27. Grantee Share		
a. Securities		\$
b. Mortgages		
c. Appropriations (By Applicant)		26,798.00
d. Bonds		
e. Tax Levies		
f. Non Cash		
g. Other (Explain)		
h. TOTAL - Grantee share		26,798.00
28. Other Shares		
a. State		26798
b. Other		
c. Total Other Shares		26,798.00
29. TOTAL		\$ 53,596.00
SECTION E – REMARKS		

PART IV – PROGRAM NARRATIVE (Attach – See Instructions)

PART IV
PROGRAM NARRATIVE
(Suggested Format)

PROJECT : Purchase of Airport Snow Removal Equipment

AIRPORT : Portland International Jetport (PWM)

1. Objective:

The Portland International Jetport's 2008 Master Plan update included the need to replace existing snow removal equipment which has exceeded it's useful life.

2. Benefits Anticipated:

New equipment will operate correctly during winter months and enhance safety at the airport.

3. Approach: (See approved Scope of Work in Final Application)

This project was advertised for bid on April 5th, 2015.

4. Geographic Location:

Portland and South Portland, Cumberland County, Maine

5. If Applicable, Provide Additional Information:

See attached Supplemental Project Narrative

6. Sponsor's Representative: (include address & telephone number)

Mr. Paul H. Bradbury, P.E., Airport Director
1001 Westbrook Street
Portland, ME 04102
(207) 756-8029

**SUPPLEMENTAL PROJECT NARRATIVE
APPLICATION FOR FEDERAL ASSISTANCE
PORTLAND INTERNATIONAL JETPORT**

Purchase of Airport Snow Removal Equipment – AIP 3-23-0038-076-2015

1. BRIEF PROJECT DESCRIPTION

This grant is for the purchase of snow removal equipment including one all-wheel drive chassis with a Class VI 5000 TPH rotary snow blower attachment replacing existing 1990 AIP funded equipment which has exceeded its useful life.

2. COST BREAKDOWN OF MAJOR WORK ITEMS

Administrative	\$ 4,000.00
Equipment	\$ 531,965.00

3. PROJECT SCHEDULE

The project schedule is expected to be from May 2015 (grant award) to June 2016 (close-out documents).

4. ENVIRONMENTAL STATUS

The project is Categorically Excluded per FAA paragraph 309h.

5. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

The Portland International Jetport has an approved DBE program in place. A 2.19% goal for DBE participation has been established for all federally-funded projects.

6. INTERGOVERNMENTAL COORDINATION (EXECUTIVE ORDER 12372)

~~The project will be submitted for intergovernmental review on April 30, 2015. /N/A~~

7. COORDINATION WITH AIRPORT USERS

This project was coordinated with airport users.

8. ASSURANCES – AIRPORT SPONSORS, “34. Policies, Standards and Specifications”

Equipment funded by this grant followed Advisory Circulars for AIP projects dated 02/11/2015.

April 25, 2015

SYNOPSIS OF BID # 7615

AIP 3-23-0038-076-2015

PURCHASE OF AIRPORT SNOW REMOVAL EQUIPMENT

ALL WHEEL DRIVE CHASSIS WITH CLASS VI 5000 TPH SNOW BLOWER

Bids were publicly advertised on April 5, 2015 and, in addition, copies of the bid package were mailed to all known airport snow blower manufacturers and local snow equipment vendors on the City of Portland Purchasing department bidder's lists for this type of equipment. Proposals were due and opened on April 23, 2015. Four bids were submitted, all with the required 5% bid bond. Two bidders contacted the Purchasing Department with questions and requests for changes to the specifications. One bid addendum was issued in response to the requests from Kodiak America LLC and M-B Companies, Inc., for changes to the specification prior to the cutoff date for questions as set forth in the Notice and Specifications. The addendum provided clarification on the issues posed by the two bidders and made some changes to the specification approving the use of certain items/functions as an or-equal. The following is a synopsis of the attached bid tabulation by individual proposal content:

The low priced bidder, Kodiak America LLC, submitted a proposal for their model CR700D chassis with snow blower. They did not note any exceptions to the specification and stated that they met the Buy America requirements through a Type 3 Nationwide waiver issued in 2012. Upon review of their proposal and the descriptive literature included, we found some inconsistencies and contradictions in the content in some sections and certifications and the following items that did not meet the specification.

1. The required copy of the operator's manual for the unit was not included with the bid.
2. The required axle certification referenced components that were not those specified and certified elsewhere in their proposal as being included with/on the vehicle bid.

Overall, the Kodiak proposal lacked the specificity and documentation to clearly demonstrate compliance with the specifications to the extent required and exhibited in the other proposals received.

The second place bidder, M-B Companies, Inc., proposed their MB4 chassis with a 7500 TPH blower head. They took no exception to the specification and supplied supporting descriptive literature and certifications as required. They did propose an acceptable or-equal substitution to the mounting location penetration of the communication antennae- in keeping with addendum #1 provisions. The M-B proposal will require a Type 3 waiver to the Buy America requirements and M-B provided that request and required supporting data with their bid.

The third place bidder, Viking Cives, proposed a Larue T95 chassis with their R52HV blower head. They took eight acceptable or-equal exceptions to the specifications, but the following portions of their proposal did not meet the specification.

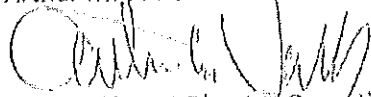
1. A mechanical drive was proposed for the helical ribbon instead of the specified dual hydrostatic drive.
2. There was no sample dynamometer/road test format form included.
3. There was no certified blower capacity test result included.
4. There was no certification of the unit as a whole meeting the performance, design and construction requirements of the specification.
5. There was no certification that the vehicle meets quality/safety (FMVSS) standards included.

The Viking Cives proposal will require a Type 3 waiver to the Buy America requirement and they stated they would provide the waiver request and supporting data upon intent of award to them being issued.

The fourth place bidder, Team Eagle, Inc., Proposed an Oshkosh H2723B chassis/blower head. They took no exceptions to the specifications and supplied supporting descriptive literature and the required certifications. The team Eagle proposal will require a Type 3 waiver to the Buy America requirements.

Based on the above synopsis, it is the airport's recommendation that award be made to the lowest priced responsive bidder, M-B Companies Inc., with their proposal to furnish the unit as specified for a bid price of \$531,965.00.

Arthur M. Sewall



Deputy Airport Director-Operations

Portland International Jetport

April 24, 2015

PURCHASE OF AIRPORT SNOW REMOVAL EQUIPMENT

**ALL WHEEL DRIVE CHASSIS WITH CLASS VI 5000
TPH ROTARY SNOW BLOWER
Bid #7615**

Vendor	AWS Chass w/Class VI 5000 TPH Rotary Snow Blower (Qty of 1)
Kodiak America	\$519,000.00
M-B Companies	\$531,965.00
Viking Cives	\$539,224.00
Team Eagle	\$547,281.00

Vendor

Amount

Account Number

Requisition Number

Jetport Director

Finance Director

Acting City Manager

Barry Hammer, P.E.
FAA - New England Region
Airports Division
12 New England Executive Park
Burlington, MA 01803

Mr. Hammer:

Per your request, this letter shall serve as verification that the City's Purchasing Ordinance and Policy were followed in determining the award of Bid# 7615 for the Purchase of Airport Snow Removal Equipment; AIP Project#: 3-23-0038-076-2015, for the Portland International Jetport, which is owned and operated by the City of Portland.

Further, Corporation Counsel acknowledges that the apparent low bidder, Kodiak America, LLC, was disqualified as being non-responsive. This disqualification was based upon the following:

1. The required copy of the operator's manual for the equipment proposed was not included with the bid submission.
2. The required axle certification referenced components that were not those specified and certified elsewhere in the bid submission as being included with/on the proposed equipment.

Should you require further legal information regarding this process, please do not hesitate to contact me.

Sincerely,



Michael I. Goldman
Associate Corporation Counsel

cc: Paul Bradbury, Jetport Director

*****COMPLETE AND RETURN THIS PAGE*****

**Certificate of Buy American Compliance for Manufactured Products
(Non-building construction projects, equipment acquisition projects)**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:

- a) Only installing steel and manufactured products produced in the United States, or;
- b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued Listing, or;
- c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☒ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of the item components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued Listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)

BID #7615

~~***COMPLETE AND RETURN THIS PAGE***~~

- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total "Item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

4/21/15

Signature

Joseph D. Mulla

Company Name

M-B Companies, LLC

Title

Assistant Secretary

Buy America Waiver Request

Title 49 U.S.C Section 50101 (b)

For Equipment and Vehicles (ARFF and GSE) Procured under the Airport Improvement Program

Type of Waiver Request:

The bidder may request a waiver subject to the provisions of Section 50101 (b)(1), Section 50101 (b)(2), Section 50101(b)(3) or Section 50101(b)(4). The Owner's approval with of the bidders request is contingent upon Federal Aviation Administration (FAA) approval with the waiver request. The bidder must select one of the following applicable waiver provisions:

- ☐ Section 50101(b)(1): Bidder hereby requests a waiver to Buy America preferences based upon Section 50101(b)(1). Applying subsection 50101 (a) *Preference*, would be inconsistent with the public interest. (See approval level below).
- ☐ Section 50101(b)(2): Bidder hereby requests a waiver to Buy America preferences based upon Section 50101(b)(2). The steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality. (See approval level below).
- ☒ Section 50101(b)(3): Bidder hereby requests a waiver to Buy America preferences based upon Section 50101(b)(3). The bidder further certifies 36.8 % of the cost of components and subcomponents comprising the facility are produced in the United States and that final assembly occurs with the United States. (Bidder must attach a copy of the component cost calculation table).
- ☐ Section 50101(b)(4): Bidder hereby requests a waiver to Buy America preferences based upon Section 50101(b)(4). The bidder asserts provision of domestic material increases the cost of the overall project by more than 25%.

Certification Signature

In accordance with Section 50101(b), we request a waiver to the Buy America provisions based on the above certification and attached documentation.

M-B Companies, Inc.

Bidder's Firm Name

Robert D. Mullen

Signature

4/2/13
Date

Approval level for Waivers:

Please note that approval of waivers listed under (b)(1) & (2), can only be approved by the FAA Office of Airports in Washington DC and approval is rare. Waivers listed under (b) (3) & (4) may be approved by FAA Regional or District Offices.

Instructions for Section 50101(h)(3) Waiver:

1. "Equipment" in Section 50101 shall mean AIP-funded vehicle or single piece of equipment.
2. The bidder must have the U.S. percentage upon the value that results from completing a component cost calculation table similar to the attached format. Bidder shall avoid mere pro forma efforts to establish the waiver request percentage. The Bidder must submit the component cost calculation table as an attachment to the waiver request. The component breakout shall be along major elements/systems of the equipment.
3. Components are the material and products directly incorporated into the "vehicle" at the place of final assembly.
4. The final assembly of the AIP-funded "equipment" must be within the USA (Section 50101(b)(3)(ii)). Final assembly is the substantial transformation of the components and subcomponents into the end product.
5. All steel used in the "Equipment" must be produced in the USA. FAA will not approve a waiver for products made with non-domestic steel.
6. The Buy American requirements apply to all tier contractors and subcontractors. All contractors/subcontractors are required to provide sufficient documentation that indicates origin of manufacturer and percentage of domestic manufactured product.
7. The bidder is hereby advised there is no implied or expressed guarantee that the Federal Aviation Administration (FAA) will approve any requested waiver. The FAA CANNOT concur with any waiver request for less than 60% US component participation.

Instructions for Section 50101(h)(4) Waiver:

1. This waiver is rarely applied. Consult OIA before making this request.
2. Prepare detailed proposal costs using domestic product(s) and the overall project cost. Prepare detailed alternate proposal costs of the non-domestic product(s) and the overall project cost. If the proposal with domestic product(s) is more than 25% of the proposal with non-domestic product(s), the bidder may request a waiver under 50101(h)(4).
3. Bidder must attach adequate documentation that supports the use of domestic products results in an increase in the overall project costs that exceeds 25%. The bidder must certify under signature and date that the submitted information is correct and accurate.

North America Free Trade Act (NAFTA)

The NAFTA does not apply to the AIP. Products and material made in Canada or Mexico must be considered as foreign made products.

COMPONENT COST CALCULATION TABLE

- 5 In lieu of completing this table, bidder may prepare a spreadsheet that addresses the same information and calculations as presented herein.
- 6 An authorized person shall attest under signature and date that the submitted information is accurate and complete.
- 7 The bidder/contractor shall submit the signed component cost calculation table to the Owner as an attachment to the waiver request.
- 8 The component breakdown shall be along major elements of the equipment. Inadequate breakout of components is cause for owner rejection of the waiver request.

[illegible]

Sum of US Manufactured Component/Subcomponent Costs:

Sum of all Equipment Components and Subcomponents:

Percentage of Equipment Components Manufactured in the United States:

Place of Final Assembly:

Certification Statement

I hereby certify the above information is accurate and complete.

Joe Green 4/2/15
Bibber's First Name Date

Self-Defense Training

Date _____

Walter C. Smith
Secretary

Significance

M-B Companies, Inc.

M36 Chassis Snowblower

All Wheel Drive Chassis with Class VI 5200 TPH Rotary Snow Blower

Prepared for City of Portland, Portland International Airport

Purchase of Airport Snow Removal Equipment

Buy American

Country	M36	Quantity	Manufacturer	Sell Price Each
US & others	Cat C13 & C18 engines	2	Caterpillar	\$ 42,200.12
Indeterminable	Tires	4	Bridgestone	\$ 3,655.22
Sweden	Frame rails	2	GE Mathis Corp	\$ 2,067.06
Ozson Republic	Blower caster tires	2	Continental	\$ 549.72
Indeterminable	Electrical controllers, lights, modules	1	Indeterminable	\$ 3,956.47
Indeterminable	Operating control screen	1	Indeterminable	\$ 2,295.29
Indeterminable	Electrical Harnesses	1	Indeterminable	\$ 2,693.47
Indeterminable	Nuts, bolts, fittings	1	Indeterminable	\$ 1,325.88
Non-USA sell price				\$ 58,766.23

Sell price less final assembly, warranty, freight, training Each \$ 443,310.92

Non-USA components Each \$ 58,766.23

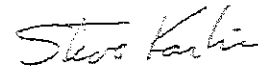
USA components Each \$ 365,044.69

Percent USA components 86.6%

Final Assembly takes place in Chilton, Wisconsin

M-B Companies, Inc.

04/21/15



Steve Karlin

Senior Vice President



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I -- OFFER

Date of Offer	<u>May 28, 2015</u>
Airport/Planning Area	<u>Portland International Jetport</u>
AIP Grant Number	<u>3-23-0038-077-2015</u>
DUNS Number	<u>156061707</u>
TO:	<u>City of Portland, Maine</u> <u>(herein called the "Sponsor")</u>

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated May 28, 2015, for a grant of Federal funds for a project at or associated with the Portland International Jetport Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Portland International Jetport Airport (herein called the "Project") consisting of the following:

Rehabilitate North General Aviation Apron (approx. 60,000 SY),

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated April 3, 2014, and the Sponsor's acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. Maximum Obligation. The maximum obligation of the United States payable under this Offer is \$3,107,258.

For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b), the following amounts are being specified for this purpose:

 \$0 for planning

 \$3,107,258 for airport development or noise program implementation

 \$0 for land acquisition.
2. Ineligible or Unallowable Costs. The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
3. Determining the Final Federal Share of Costs. The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. Completing the Project Without Delay and in Conformance with Requirements. The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
5. Amendments or Withdrawals before Grant Acceptance. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. Offer Expiration Date. This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before July 7, 2015, or such subsequent date as may be prescribed in writing by the FAA.
7. Improper Use of Federal Funds. The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

8. **United States Not Liable for Damage or Injury.** The United States is not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
9. **System for Award Management (SAM) Registration And Universal Identifier.**
- A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
 - B. Requirement for Data Universal Numbering System (DUNS) Numbers
 - 1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
 - 2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
 - 3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-492-0280) or the Internet (currently at <http://fedgov.dnb.com/webform>).
10. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
11. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter to the Sponsor unilaterally reducing the maximum obligation. The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. If the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the FAA can issue a letter to the Sponsor amending the grant description.
- By issuing an Informal Letter Amendment, the FAA has changed the grant amount or grant description to the amount or description in the letter.
12. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.
13. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

14. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
15. **Maximum Obligation Increase For Primary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
 - A. May not be increased for a planning project;
 - B. May be increased by not more than 15 percent for development projects;
 - C. May be increased by not more than 15 percent for land project.
16. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.
17. **Suspension or Debarment.** The Sponsor must inform the FAA when the Sponsor suspends or debars a contractor, person, or entity.
18. **Ban on Texting While Driving.**
 - A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.
19. **Trafficking in Persons.**
 - A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) that apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity) are:
 1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.

B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –

1. Is determined to have violated the Prohibitions; or
2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
 - a. Associated with performance under this agreement; or
 - b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 49 CFR Part 29.

20. Exhibit "A" Incorporated by Reference. The Exhibit "A" updated January 23, 2013, filed with AIP Project 3-23-0038-074-2013, is incorporated herein by reference.

21. PLANS & SPECIFICATIONS APPROVAL BASED UPON CERTIFICATION: The FAA and the Sponsor agree that the FAA approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:

1. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
2. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements;
3. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.

22. Pavement Maintenance Management Program. The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Grant Assurance Pavement Preventive Management. The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. The Sponsor further agrees that the program will

- A. Follow FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
- B. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;
- C. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:
 1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
 - a. Location of all runways, taxiways, and aprons;
 - b. Dimensions;
 - c. Type of pavement, and;
 - d. Year of construction or most recent major rehabilitation.

2. Inspection Schedule.

- a. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
 - b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
- a. Inspection date;
 - b. Location;
 - c. Distress types; and
 - d. Maintenance scheduled or performed.
4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

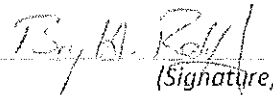
23. Project which Contain Paving Work in Excess of \$500,000. The Sponsor agrees to:

- A. Furnish a construction management program to the FAA prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program must include as a minimum:
 1. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
 2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
 3. Procedures for determining that the testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation referenced in the contract specifications (D 3666, C 1077).
 4. Qualifications of engineering supervision and construction inspection personnel.
 5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
- B. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. An interim test and quality control report must be submitted, if requested by the FAA.

- C. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, will, absent any compelling justification; result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.
- D. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION


(Signature)

Mr. Bryon H. Rakoff
(Typed Name)

Acting Manager, Airports Division, New England Region
(Title)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this _____ day of _____, 2015.

City of Portland, Maine

(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

By:

(Typed Name of Sponsor's Designated Official Representative)

Title:

(Title of Sponsor's Designated Official Representative)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:
(Typed Name of Sponsor's Attorney)

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Maine. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____, 2015.

By:

(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Application for Federal Assistance SF-424

* 1. Type of Submission ☐ Preapplication ☐ Application ☐ Changed/Corrected Application		* 2. Type of Application ☒ New ☐ Continuation ☐ Revision		* If Revision, select appropriate letter(s): - Select One - * Other (Specify)	
* 3. Date Received: MAY 28 2015		4. Application Identifier:			
5a. Federal Entity Identifier:			* 5b. Federal Award Identifier:		
State Use Only:					
6. Date Received by State:			7. State Application Identifier:		
8. APPLICANT INFORMATION:					
* a. Legal Name: City of Portland, Maine					
* b. Employer/Taxpayer Identification Number (EIN/TIN): 0160000032			* c. Organizational DUNS: 156061707		
d. Address:					
* Street1: 1001 Westbrook Street Street 2: * City: Portland County: Cumberland * State: Maine Province: Country: USA * Zip/ Postal Code: 04102					
e. Organizational Unit:					
Department Name: Department of Aviation and Transportation			Division Name: Airport		
f. Name and contact information of person to be contacted on matters involving this application:					
Prefix: Mr. Middle Name: H. * Last Name: Bradbury Suffix: P.E. First Name: Paul					
Title: Airport Director					
Organizational Affiliation:					
* Telephone Number: (207) 756-8029			Fax Number: (207) 774-7740		
* Email: phb@portlandmaine.gov					

Application for Federal Assistance SF-424

*9. Type of Applicant 1: Select Applicant Type:

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

- Select One -

Type of Applicant 3: Select Applicant Type:

- Select One -

* Other (specify):

* 10. Name of Federal Agency:

FAA - Airports

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

*12. Funding Opportunity Number:

Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Portland and South Portland, Cumberland County, Maine

* 15. Descriptive Title of Applicant's Project:

North General Aviation Ramp Rehabilitation

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: ME-001

*b. Program/Project: ME-001

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 02/01/2015

*b. End Date: 09/01/2016

18. Estimated Funding (\$):

*a. Federal	3,107,258.00
*b. Applicant	172,626.00
*c. State	172,625.00
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	3,452,509.00

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on _____
- ☒ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation on next page.)

☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.

*First Name: Michael

Middle Name:

*Last Name: Sauschuck

Suffix:

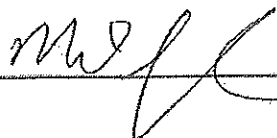
*Title: Acting City Manager

*Telephone Number: (207) 874-8689

Fax Number: (207) 874-8669

* Email: mjs@portlandmaine.gov

*Signature of Authorized Representative:



*Date Signed:

5-26-15



Application for Federal Assistance (Development Projects)

PART II - PROJECT APPROVAL INFORMATION

SECTION A	
Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐ Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐ Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐ Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional, or other planning approval? ☒ Yes ☐ No	Name of Approving Agency: FAA-ALP/CIP Meeting Date: 12/08/2014
Item 5. Is the proposal project covered by an approved comprehensive plan? ☒ Yes ☐ No	Check one: State ☐ Master Plan/CIP Local ☒ Update 2008 Regional ☐ Location of Plan:
Item 6. Will the assistance requested serve a Federal installation? ☐ Yes ☒ No	Name of Federal Installation: Federal Population benefiting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐ Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project: %
Item 8. Will the assistance requested have an impact or effect on the environment? ☐ Yes ☒ No	(See instructions for additional information to be provided.)
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐ Yes ☒ No	Number of: Individuals: Families: Businesses: Farms:
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐ Yes ☒ No	(See instructions for additional information to be provided.)

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

The Portland International Jetport, via the City of Portland, has completed an Airport Master Plan in 2008. The Airport has also recently completed an FAR Part 150 study.

2. Defaults – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

No exceptions

3. Possible Disabilities – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of the Grant Assurances, either by limiting its legal or financial ability or otherwise, except as follows:

No exceptions

4. Consistency with Local Plans – The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

Yes

5. Consideration of Local Interest – It has given fair consideration to the interest of communities in or near where the project may be located.

Yes

6. Consultation with Users – In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport which project is proposed.

Yes

7. Public Hearings – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

N/A

8. Air and Water Quality Standards – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

PART II – SECTION C (Continued)

9. **Exclusive Rights** – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

No Exceptions

10. **Land** – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

No Exceptions

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

N/A

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A"

N/A

*State the character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL			
1. Federal Domestic Assistance Catalog Number: <u>20.106</u>			
2. Functional or Other Breakout: _____			
SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$ 6,000.00	\$	\$ 6,000.00
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees	304,294.00		304,294.00
5. Other Architectural engineering fees	3,072.00		3,072.00
6. Project inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement	3,139,143.00		3,139,143.00
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)	3,452,509.00		3,452,509.00
15. Estimated Income (If applicable)			
16. Net Project Amount (Line 14 minus 15)	3,452,509.00		3,452,509.00
17. Less; Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)	3,452,509.00		3,452,509.00
20. Federal Share requested of Line 19	3,107,258.00		3,107,258.00
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (lines 20 & 21)	3,107,258.00		3,107,258.00
23. Grantee share	172,626.00		172,626.00
24. Other shares	172,625.00		172,625.00
25. Total Project (Lines 22, 23 & 24)	\$ 3,452,509.00	\$	\$ 3,452,509.00

SECTION C - EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D -- PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share

a. Securities	\$
b. Mortgages	
c. Appropriations (By Applicant)	172,626.00
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	172,626.00

28. Other Shares

a. State	172,625.00
b. Other	
c. Total Other Shares	172,625.00
29. TOTAL	\$ 345,251.00

SECTION E -- REMARKS

PART IV – PROGRAM NARRATIVE (Attach – See Instructions)

PART IV
PROGRAM NARRATIVE
(Suggested Format)

PROJECT : North General Aviation Ramp Rehabilitation

AIRPORT : Portland International Jetport (PWM)

1. Objective:

The Portland International Jetport's 2008 Master Plan update included the need to rehabilitate the North General Aviation Ramp which has exceeded its useful life.

2. Benefits Anticipated:

The Ramp Rehabilitation will provide continued uninterrupted use of the ramp and the rehabilitation will reduce foreign object debris associated with deteriorated pavement which will enhance safety at the airport.

3. Approach: (See approved Scope of Work in Final Application)

This project was advertised for bid on April 5th, 2015.

4. Geographic Location:

Portland and South Portland, Cumberland County, Maine

5. If Applicable, Provide Additional Information:

See attached Supplemental Project Narrative

6. Sponsor's Representative: (include address & telephone number)

Mr. Paul H. Bradbury, P.E., Airport Director
1001 Westbrook Street
Portland, ME 04102
(207) 756-8029

SUPPLEMENTAL PROJECT NARRATIVE
APPLICATION FOR FEDERAL ASSISTANCE
PORTLAND INTERNATIONAL JETPORT
North General Aviation Ramp Rehabilitation – AIP 3-23-0038-077-2015

(Revised 5-22-2015)

1. GENERAL PROJECT DESCRIPTION

The proposed improvements include the Rehabilitation of the North General Aviation (GA) Ramp Hot Mix Asphalt (HMA) pavement. The Rehabilitation of the North GA Ramp will include the repaving of approximately 55,540 square yards of existing ramp area within the limits of work as shown on the project plans (Revised from 59,900 square yards per NOTE 1 on page 2). The work of the project will include removal of the ramp's existing cracked pavement (placed in the late 1970's/early 1980's), reshaping of existing base gravel, addition of a few inches of new base gravel where required to smooth/adjust grade and repaving with new HMA pavement. Other project elements include pavement markings, replacement of old perimeter fencing and gates along the west side of the ramp, removal and replacement of aircraft tie downs, replacement of deteriorated drainage structures and piping without changing the overall drainage patterns or discharge points from the ramp area. No new impervious area will be created as part of this project. The removal and replacement of approximately 1,110 square yards of drive pavement to the east of the ARFF building will be included in the project. The project will also include the construction of a concrete pad for fuel truck parking along the southern edge of the ramp. The PCI for the ramp is approximately 32.

PROJECT SCHEDULE:

Advertised for Bids:	April 5, 2015
Bids Received:	April 23, 2015
Recommendation for Award:	April 28, 2015
Anticipated Contract Award:	May 15, 2015
Construction Start:	May 18, 2015
Construction Finish:	August 1, 2016
Project Closeout:	September 1, 2016

2. PROJECT COST

Project Administration	\$ 6,000.00
Peer Review	\$ 3,072.00
Construction Costs (Shaw Brothers)* SEE NOTE 1 BELOW	\$ 3,139,143.00
Construction Administration and Inspection (Fay, Spofford & Thorndike)**	\$ 304,294.00
Total	\$ 3,452,509.00

*Recommendation of Award letter attached.

**Engineer's Scope attached.

NOTE 1: The Contractor's bid was actually \$3,236,657, but the scope of work is being reduced by \$97,514 to match available funds. A reduction of P-401 pavement of 1,308.91 tons (7.6% of the bid amount of 17,300 tons) at \$74.50 per ton as bid equals the \$97,514 project cost reduction. The area to be rehabilitated will be reduced at the northern end of the ramp.

3. ENVIRONMENTAL ACTION IN ACCORDANCE WITH FAA ORDER 5050.4

This ramp rehabilitation project is categorically excluded per paragraph 310e.

4. AIRPORT USER COORDINATION

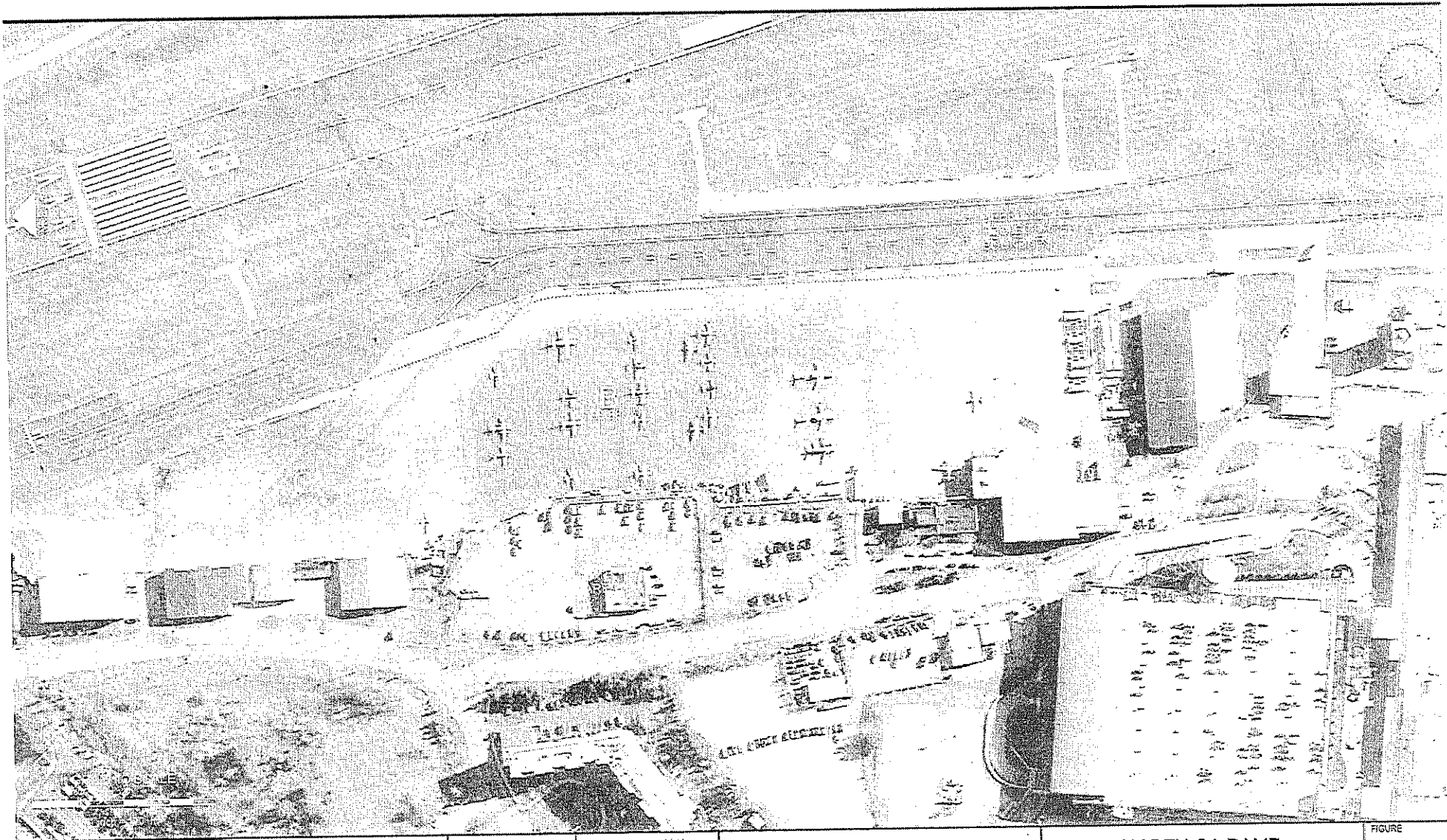
The project was discussed and coordinated with the appropriate airport users and the air traffic control tower.

5. INTERGOVERNMENTAL COORDINATION

The project does not require coordination with the U.S. Fish and Wildlife Service, the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer (THPO) or the Maine State Planning Office for Coastal Zone Management per correspondence with Richard Doucette, FAA Environmental Specialist.

6. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

The Portland International Jetport has an approved DBE program in place. A 2.19% goal for DBE participation has been established for all federally-funded projects.



FAY, SPOFFORD & THORNDIKE
ENGINEERS • PLANNERS • SCIENTISTS
778 MAIN ST, SUITE B, SOUTH PORTLAND, ME 04106

DRAWN:	PBF	DATE:	11.24.14
DESIGNED:	DDA	SCALE:	1"=100'
CHECKED:	DDA	JOB NO.	OP-M116A
FILE NAME:	JETPORT AERIAL APRON FIGURES.dwg		

**PORTLAND INTERNATIONAL
JETPORT**

**NORTH GA RAMP
PROJECT AREA - A, B AND C**

FIGURE

1



April 28, 2015

Mr. Paul Bradbury, P.E.
Airport Director, Portland International Jetport
1001 Westbrook Street
Portland, ME 04102

VIA EMAIL

**Subject: North General Aviation Ramp Rehabilitation (Bid #7115)
Portland International Jetport, AIP 3-23-0038-077-2015
Recommendation for Award**

Dear Mr. Bradbury:

On Thursday, April 23, 2015, bids for the subject project were opened by the City of Portland Purchasing Office. The results are as follows, and a tabulation summary is attached.

Contractor	Bid
Shaw Brothers Construction	\$3,236,657.25
Sargent Corporation	\$4,122,459.50
A.H. Grover	\$3,968,896.25
Pike Industries	\$4,308,348.50
Engineer's Estimate	\$3,058,000.00

The bids were reviewed and found to be mathematically correct. Additionally, Shaw Brothers Construction is committed to meeting the 2.19% DBE goal.

Over the past 5 years, Shaw Brothers Construction has successfully completed several large scale construction projects at the Portland International Jetport. It is our professional opinion that Shaw Brothers Construction and their subcontractors possess the experience, equipment, and personnel to successfully complete all project elements of the North General Aviation Ramp Rehabilitation by the specified deadline.

Shaw Brothers Construction should supply the following:

- Labor and Materials Payment Bond
- Performance Bond
- Certificate of Insurance

FAY, SPOFFORD & THORNDIKE

Mr. Paul Bradbury
April 28, 2015
Page 2

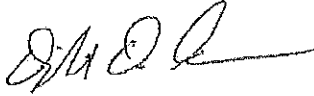
Once FAA funding availability is confirmed and after review by the City of Portland Legal Department, if these items are in order, we recommend award of the contract to Shaw Brothers Construction.

We anticipate a pre-construction meeting with Shaw Brothers Construction will be held in the coming weeks to allow for a May construction start pending FAA funding.

Please contact our office if you have any questions regarding this letter.

Sincerely,

FAY, SPOFFORD & THORNDIKE



Dwight D. Anderson, P.E.
Senior Principal Engineer

DDA/smk

Attachment: Bid Results (2 pages)

c: Artie Sewall, Deputy Director of Airport Operations, Portland International Jetport
Matt Fitzgerald, City of Portland, Purchasing Manager
Barry Hammer, FAA
Tim LeSiege, P.E., MDOT
Amy Chiasson, Fay, Spofford & Thorndike
Gordon Smith, Fay, Spofford & Thorndike

7115 - North General Aviation Ramp Rehabilitation

Item No.	Description	Qty.	UOM	SHAW BROTHERS		SARGENT CORPORATION		A.H. GROVER		PIKE INDUSTRIES	
				Unit Cost	Ext.	Unit Cost	Ext.	Unit Cost	Ext.	Unit Cost	Ext.
P-101-5.2	Pavement Removal	61,000	SY	\$1.00	\$61,000.00	\$2.00	\$122,000.00	\$2.75	\$167,750.00	\$2.65	\$161,650.00
P-101-5.2	Joint and Crack Repair	500	LF	\$4.00	\$2,000.00	\$9.00	\$4,500.00	\$8.50	\$4,250.00	\$7.00	\$3,500.00
P-101-5.3	Paint and Rubber Removal	100	SF	\$10.00	\$1,000.00	\$12.00	\$1,200.00	\$6.00	\$600.00	\$23.00	\$2,300.00
P-101-5.4	Cold Milling	500	SY	\$8.00	\$4,000.00	\$12.00	\$6,000.00	\$13.00	\$6,500.00	\$11.00	\$5,500.00
P-101-5.5	Saw Cut	5,300	LF	\$2.00	\$10,600.00	\$3.00	\$15,900.00	\$5.00	\$26,500.00	\$3.00	\$15,900.00
P-101-5.6	Saw and Seal	4,600	LF	\$3.75	\$17,250.00	\$5.00	\$23,000.00	\$4.50	\$20,700.00	\$4.50	\$20,700.00
P-152-4.1	Unclassified Excavation	1,500	CY	\$25.00	\$37,500.00	\$18.00	\$27,000.00	\$26.50	\$39,750.00	\$13.00	\$19,500.00
P-152-4.2	Rock Excavation	20	CY	\$150.00	\$3,000.00	\$200.00	\$4,000.00	\$200.00	\$4,000.00	\$130.00	\$2,600.00
P-152-4.3	Test Pit Excavation	140	CY	\$25.00	\$3,500.00	\$35.00	\$4,900.00	\$100.00	\$14,000.00	\$45.00	\$6,300.00
P-154-5.1	Subbase Course	1,500	CY	\$25.00	\$37,500.00	\$32.00	\$48,000.00	\$35.00	\$52,500.00	\$35.00	\$52,500.00
P-156-5.1	Temporary Seeding and Mulching	220	SY	\$0.50	\$110.00	\$1.00	\$220.00	\$3.25	\$715.00	\$1.00	\$220.00
P-156-5.2	Installation and Removal of Silt Fence	400	LF	\$3.00	\$1,200.00	\$4.00	\$1,600.00	\$2.50	\$1,000.00	\$5.00	\$2,000.00
P-156-5.3	Stabilized Construction Entrance	3	EA	\$1,000.00	\$3,000.00	\$3,500.00	\$10,500.00	\$2,000.00	\$6,000.00	\$7,800.00	\$23,400.00
P-156-5.4	DirtRage®	5	EA	\$400.00	\$2,000.00	\$250.00	\$1,250.00	\$125.00	\$625.00	\$640.00	\$3,200.00
P-156-5.5	Curlex™ Erosion Control Mesh	100	SY	\$3.50	\$350.00	\$5.00	\$500.00	\$2.00	\$200.00	\$6.00	\$600.00
P-209-5.1	Crushed Aggregate Base Course	7,200	CY	\$35.00	\$252,000.00	\$42.00	\$302,400.00	\$40.00	\$288,000.00	\$58.00	\$417,600.00
P-401-8.1	Bituminous Course	17,300	TON	\$74.50	\$1,288,850.00	\$100.00	\$1,730,000.00	\$90.00	\$1,557,000.00	\$99.00	\$1,712,700.00
P-601-8.1	Fuel Resistant Hot Mix Asphalt	1,000	TON	\$137.00	\$137,000.00	\$110.00	\$110,000.00	\$105.00	\$105,000.00	\$105.00	\$105,000.00
P-603-5.1	Bituminous Tack Coat	1,820	GAL	\$7.75	\$14,105.00	\$18.00	\$32,760.00	\$18.00	\$32,760.00	\$16.00	\$29,120.00
P-608-8.1	Asphalt Surface Treatment	60,800	SY	\$0.94	\$57,152.00	\$1.75	\$106,400.00	\$1.50	\$91,200.00	\$1.25	\$76,000.00
P-610-5.1	Structural Portland Cement Concrete	150	CY	\$305.00	\$45,750.00	\$400.00	\$60,000.00	\$400.00	\$60,000.00	\$350.00	\$52,500.00
P-620-5.1	Taxiway and Apron Marking	45,000	SF	\$0.85	\$38,250.00	\$1.60	\$72,000.00	\$1.10	\$49,500.00	\$1.00	\$45,000.00
P-620-5.2	Reflective Media	1,300	LB	\$6.50	\$8,450.00	\$6.00	\$7,800.00	\$6.00	\$7,800.00	\$7.50	\$9,750.00
D-701-5.1	6" Diameter Storm Drain - PVC - SDR 35	100	LF	\$51.00	\$5,100.00	\$44.00	\$4,400.00	\$30.00	\$3,000.00	\$61.47	\$6,147.00
D-701-5.2	8" Diameter Storm Drain - PVC - SDR 35	75	LF	\$52.50	\$3,937.50	\$46.00	\$3,450.00	\$45.00	\$3,375.00	\$81.94	\$6,145.50
D-701-5.3	12" Diameter Storm Drain - PVC - SDR 35	50	LF	\$61.30	\$3,065.00	\$54.00	\$2,700.00	\$63.00	\$3,250.00	\$69.80	\$3,490.00
D-701-5.4	12" Diameter Storm Drain - RCP - Class V	1,250	EA	\$63.00	\$78,750.00	\$56.00	\$70,000.00	\$120.00	\$150,000.00	\$55.00	\$68,750.00
D-701-5.5	15" Diameter Storm Drain - RCP - Class V	600	LF	\$89.00	\$53,400.00	\$60.00	\$36,000.00	\$125.00	\$75,000.00	\$58.00	\$34,800.00
D-701-5.6	18" Diameter Storm Drain - RCP - Class V	50	LF	\$99.00	\$4,950.00	\$72.00	\$3,600.00	\$150.00	\$7,500.00	\$82.00	\$4,100.00
D-701-5.7	24" Diameter Storm Drain - RCP - Class V	310	LF	\$100.00	\$31,000.00	\$86.00	\$26,660.00	\$155.00	\$48,050.00	\$83.00	\$25,730.00
D-701-5.8	30" Diameter Storm Drain - RCP - Class V	50	LF	\$131.00	\$6,550.00	\$130.00	\$6,500.00	\$160.00	\$8,000.00	\$110.00	\$5,500.00

7115 - North General Aviation Ramp Rehabilitation

Item No.	Description	Qty.	UOM	SHAW BROTHERS		SARGENT CORPORATION		A.H. GROVER		PIKE INDUSTRIES	
				Unit Cost	Est.	Unit Cost	Est.	Unit Cost	Est.	Unit Cost	Est.
D-701-5.9	Trench Drain	210	LF	\$625.00	\$131,250.00	\$700.00	\$147,000.00	\$750.00	\$157,500.00	\$630.00	\$132,300.00
D-705-5.1	6" Diameter Under Drain - PVC	800	LF	\$27.00	\$21,600.00	\$32.00	\$25,600.00	\$40.00	\$32,000.00	\$51.00	\$40,800.00
D-705-5.2	8" Diameter Under Drain - PVC	500	LF	\$30.00	\$15,000.00	\$36.00	\$18,000.00	\$45.00	\$22,500.00	\$60.00	\$30,000.00
D-705-5.3	12" Diameter Under Drain - PVC	50	LF	\$61.00	\$3,050.00	\$56.00	\$2,800.00	\$65.00	\$3,250.00	\$112.00	\$5,600.00
D-705-5.4	Filter Fabric	1,350	SY	\$3.00	\$4,050.00	\$2.00	\$2,700.00	\$2.50	\$3,375.00	\$3.00	\$4,050.00
D-751-5.1	Precast Catch Basin - 4' Diameter (Heavy Duty)	18	EA	\$6,845.00	\$123,210.00	\$6,500.00	\$117,000.00	\$7,300.00	\$131,400.00	\$1,170.00	\$75,060.00
D-751-5.2	Precast Catch Basin - 5' Diameter (Heavy Duty)	1	EA	\$9,700.00	\$9,700.00	\$8,500.00	\$8,500.00	\$8,000.00	\$8,000.00	\$6,300.00	\$6,300.00
D-751-5.3	Precast Catch Basin - 6' Diameter (Heavy Duty)	1	EA	\$12,660.00	\$12,660.00	\$11,000.00	\$11,000.00	\$10,500.00	\$10,500.00	\$8,300.00	\$8,300.00
D-751-5.4	Precast Heavy Duty Manhole - 4' Diameter	3	EA	\$7,150.00	\$21,450.00	\$6,000.00	\$18,000.00	\$7,700.00	\$23,100.00	\$4,800.00	\$14,400.00
D-751-5.5	Remove Storm Drain and Backfill Trench	2,800	LF	\$32.00	\$89,600.00	\$10.00	\$28,000.00	\$30.00	\$84,000.00	\$67.00	\$187,600.00
D-751-5.6	Alter Drainage Structure	2	EA	\$1,000.00	\$2,000.00	\$1,000.00	\$6,000.00	\$1,750.00	\$3,500.00	\$2,270.00	\$4,540.00
D-751-5.7	Adjust Rims to Grade or Remove and Reset Cover	6	EA	\$600.00	\$3,600.00	\$500.00	\$3,000.00	\$600.00	\$3,600.00	\$2,000.00	\$12,000.00
D-751-5.8	Coring for 4" to 8" Pipe	2	EA	\$650.00	\$1,300.00	\$700.00	\$1,400.00	\$500.00	\$1,000.00	\$2,100.00	\$4,200.00
D-751-5.9	Coring for 10" to 18" Pipe	2	EA	\$800.00	\$1,600.00	\$800.00	\$1,600.00	\$560.00	\$1,120.00	\$2,100.00	\$4,200.00
F162-5.1	8' Security Fence	470	LF	\$32.16	\$15,115.20	\$50.00	\$23,500.00	\$40.00	\$18,800.00	\$38.00	\$17,860.00
F-162-5.2	24" Swing Gate	1	EA	\$1,311.00	\$1,311.00	\$5,000.00	\$5,000.00	\$1,600.00	\$1,600.00	\$1,575.00	\$1,575.00
F-162-5.3	Gates 3' to 5' Wide	6	EA	\$925.00	\$5,550.00	\$1,500.00	\$9,000.00	\$1,150.00	\$6,900.00	\$1,100.00	\$6,600.00
F-162-5.4	Removal of 8' Security Fence	470	L	\$3.00	\$1,410.00	\$10.00	\$4,700.00	\$4.00	\$1,880.00	\$3.75	\$1,762.50
T-901-5.1	Seeding	6	UNIT	\$30.00	\$180.00	\$100.00	\$600.00	\$42.50	\$255.00	\$87.00	\$522.00
T-905-5.1	Topsolling	50	CY	\$65.00	\$3,250.00	\$72.00	\$3,600.00	\$50.00	\$2,500.00	\$61.00	\$3,050.00
T-908-5.1	Mulching	50	UNIT	\$15.00	\$750.00	\$25.00	\$1,250.00	\$23.00	\$1,150.00	\$23.00	\$1,150.00
100-3.1	Field Office - Engineer	1	LS	\$9,940.00	\$9,940.00	\$35,000.00	\$35,000.00	\$15,000.00	\$15,000.00	\$19,380.00	\$19,380.00
100-3.2	Staging Area	1	LS	\$1,000.00	\$1,000.00	\$7,500.00	\$7,500.00	\$25,000.00	\$25,000.00	\$86,000.00	\$86,000.00
200-5.1	Crushed Aggregate Base Course (MDOT) Type A	50	CY	\$30.00	\$1,500.00	\$48.00	\$2,400.00	\$21.00	\$1,050.00	\$74.00	\$3,700.00
200-5.2	3/4-Inch Crushed Stone (for Underdrain Areas)	60	CY	\$35.00	\$2,100.00	\$52.00	\$3,120.00	\$27.50	\$1,650.00	\$120.00	\$7,200.00
300-1.1	Truffle Control, Safety and Security Measures - Airport	1	LS	\$130,133.00	\$130,133.00	\$175,000.00	\$175,000.00	\$124,700.00	\$124,700.00	\$195,000.00	\$195,000.00
400-3.1	Mobilization and Demobilization	1	LS	\$334,587.00	\$334,587.00	\$494,000.00	\$494,000.00	\$396,500.00	\$396,500.00	\$375,000.00	\$375,000.00
500-5.1	Pavement Markings (Perimeter Road)	2,033	SF	\$0.35	\$711.55	\$1.50	\$3,049.50	\$1.25	\$2,541.25	\$0.50	\$1,016.50
1000-5.1	Tie Down	156	EA	\$380.00	\$59,280.00	\$550.00	\$85,800.00	\$150.00	\$23,400.00	\$600.00	\$93,600.00
1000-5.2	Tie Down (Rock)	30	EA	\$380.00	\$11,400.00	\$700.00	\$21,000.00	\$200.00	\$6,000.00	\$750.00	\$22,500.00
1000-5.3	Existing Tie Down Removal	186	EA	\$25.00	\$4,650.00	\$50.00	\$9,300.00	\$100.00	\$18,600.00	\$80.00	\$14,880.00
L-110-1	2" Schedule 80 PVC Coudrail	100	LF	\$14.00	\$1,400.00	\$28.00	\$2,800.00	\$20.00	\$2,000.00	\$60.00	\$6,000.00
TOTAL					\$3,236,657.25		\$4,122,459.50		\$3,968,896.25		\$4,308,348.50

April 24, 2015

NORTH GENERAL AVIATION RAMP REHABILITATION
Bid #7115

Contractor	Total Bid
Shaw Brothers	\$3,236,657.25
A.H. Grover	\$3,968,896.25
Sargent Corporation	\$4,122,459.50
Pike Industries	\$4,308,348.50

Vendor

Amount

Account Number

Requisition Number

Jetport Director

Finance Director

Acting City Manager



**PROJECT SCOPE
FOR
AIRPORT ENGINEERING SERVICES**

NORTH GENERAL AVIATION RAMP REHABILITATION PROJECT

AT THE

**PORTLAND INTERNATIONAL JETPORT
PORTLAND, MAINE
AIP 3-23-0038-(TBD)**

**PREPARED FEBRUARY 2, 2015
(LAST REVISED MARCH 25, 2015)**

DESIGN AND CONSTRUCTION PHASE ENGINEERING SERVICES FOR:

The Rehabilitation of the North General Aviation (GA) Ramp will include repaving approximately 12 acres of existing pavement within the limits of Arcas A, B, and C depicted on Figure 1 (Attachment A). The work of the project will include removal of the ramp's existing cracked pavement (placed in the late 1970's/early 1980's), reshaping of existing base gravel, addition of a few inches of new base gravel where required to smooth grades and repaving with new asphalt pavement. Other project elements include pavement markings, replacement of old perimeter fencing and gates along the west side of the ramp, removal and replacement of aircraft tie downs, replacement of deteriorated drainage structures and piping without changing the overall drainage patterns or discharge points from the ramp area. No new impervious area will be created as part of this project. The removal and replacement of approximately 10,000 square feet of pavement to the east of the ARFF building will also be included in the project. Environmental and City permitting services are not required for this project.

The following Scope of Services has been established for this project:

ARTICLE A – DATA COLLECTION

1. Survey:

Survey will involve the following:

A. Arrange and coordinate topographic survey with Good Deeds for:

- ☐ Spot grades on a 25-foot grid over the entire 12± acre aircraft ramp.
- ☐ Elevations at Taxiway interface and 10 to 15 feet beyond the perimeter of paved areas.
- ☐ Locate test pits and existing tie downs.

- ☐ Locate utilities and add elevations from prior utility study work.

Survey will have spot elevations to the nearest 0.01 foot on pavement, and the nearest 0.10 foot on turf. Final survey will be able to produce 0.5 foot contour intervals.

B. Plot Survey Notes

- C. Fay, Spofford & Thorndike (FST) personnel will aid the survey crew and provide escort.

Good Deeds' Scope of Services is included with this document as Attachment D.

2. Geotechnical Work

- A. Coordinate with Haley & Aldrich, Inc. and equipment subcontractor for geotechnical investigations to include the following which is further detailed in Haley & Aldrich, Inc.'s Scope of Services and is included with this document in Attachment E:

- ☐ Perform six (6) each California Bearing Ratio Tests (ASTM Test Method D 4429-09a).
- ☐ Six (6) test pits, 30 to 48 inches below adjacent pavement (2 in each area – A, B, & C).
- ☐ Accumulate and evaluate readily available geotechnical data.
- ☐ Visit the site to observe existing conditions.
- ☐ Moisture and in-place density tests by nuclear methods (ASTM D 3017 and D 2922-91).
- ☐ Provide logs of subsurface explorations including observed thicknesses of asphalt, base material and subbase material. Classify soils using the Unified Soil Classification system.
- ☐ Twelve (12) sieve analyses of the subgrade soils, and base/subbase materials.
- ☐ Six (6) modified Proctor tests (of subgrade soils).
- ☐ Conduct necessary evaluations to determine the recommended CBR values for pavement section design.
- ☐ Prepare a geotechnical data report.
- ☐ Conduct pavement design evaluations.
- ☐ Determine the design requirements for the "mill and fill" pavement rehabilitation areas, including determining geo-synthetic fabric/grid requirements as well as pavement mix design.

Note: Fees provided assume two days of on-site geotechnical work.

- B. Fay, Spofford & Thorndike will provide an escort to the geotechnical subcontractor and coordinate safety elements of the work plan with airport representatives. To accomplish the test pit work; pavement will be sawcut, gravels removed and salvaged for reuse, testing performed, gravels replaced and compacted, steel plates installed at surface over gravel between work days, and ultimately concrete will be placed to a 6-inch depth to provide a suitable ramp surface.

3. Visual Ramp Inspection

Existing cracking in the pavement will be quantified for crack sealing and fabric placement prior to pavement overlay.

4. Review Existing Plans

Existing plans will be reviewed for construction materials, boring/test pit information and existing drainage.

5. Drainage Structure Review

Existing drainage structures will be inspected and prior utility study work reviewed to assess which structures need to be replaced or repaired.

ARTICLE B – DESIGN, CONSTRUCTION PLANS, TECHNICAL SPECIFICATIONS & CONSTRUCTION DOCUMENTS

Provide the following services for preparation of construction plans, technical specifications and contract documents for the proposed project.

1. Perform Pavement/Concrete (PCC) Analysis and Design for the Following Areas:

- A. North GA Aircraft Ramp (flexible pavement).
- B. Fuel Farm Truck Parking (PCC).

Submit pavement design report to FAA for review.

2. Construction Safety Plan Narrative

Prepare Safety Plan for work during construction. The plan will address the checklist items contained in AC 150/5370-2F "Operational Safety on Airports During Construction". The plan will be submitted to FAA for review and approval.

3. Construction Phasing Plan Narrative

The work will be on an active ramp. A phasing plan will be established that will identify three major areas of construction and how it will affect airport operations.

The plan will require input from the airport users, management, and Air Traffic Control (ATC). Two meetings will be required for the final plan.

4. Erosion and Sediment Control Notes

Prepare erosion and sediment control notes in accordance with Best Management Practices of the Cumberland County Soil and Water Conservation Service. Erosion and sediment control measures will be limited due to the nature of the work and will generally include plan notes for use of Dirtbags during dewatering of trenches.

5. Aircraft Ramp

- A. Prepare overall grading and surface drainage plan view for the ramp.
- B. Provide a spot grade plan with proposed elevations on a 25 foot grid.
- C. Cross sections will be provided at 50 foot intervals where the ramp abuts Taxiway C.

- D. Prepare detailed drainage plan showing catch basins, underdrain pipes and drain pipes plus connections to outlets.
 - E. Profile all drainage pipes.
 - F. Concrete jointing plan.
 - G. Concrete pad details
 - H. Details as required.
6. Security Fence
- A. Provide plan of security fence with elevations at ground level and top of fence.
 - B. Details as required.
7. Pavement Marking Plan
- A. Provide plan for new ramp markings.
 - B. Details as required.
8. Contract Documents and Technical Specifications
- Provide complete set of contract documents to include FAA boilerplate and latest technical specifications, City of Portland Standard Documents, and Special Provisions and DBE Forms.
9. Review and Coordination with Owner and Airport Users
- Preliminary and final plans will be reviewed during two meetings.
10. Review and Coordination with FAA and MDOT
- Preliminary and final plans will be sent to FAA and MDOT for their review and comments.
11. Quality Control and Design Reviews
- Plans and reports will be reviewed internally at the 30%, 60%, 90% and final stages.
12. Quantity and Cost Estimate
- Prepare quantity and cost estimate for all items.
13. Update Utility Plan
- The existing facility utility plan will be updated as part of the work.
14. Miscellaneous Plans
- To complete the plan set, we will include the following additional plans:

- A. Test Pits and Logs
- B. Phasing Plans to Support Narrative
- C. Title Sheet and General Notes/Legend
- D. General Overall Site Plan

ARTICLE C – PROJECT ADMINISTRATION

1. Arrange a predesign conference with the City, FAA, MDOT, and the independent estimator. Discuss the proposed scope of work and all items contained in the FAA, New England Region Airports Division, Predesign Conference Project checklist.
2. Prepare minutes of the meeting and distribute to attendees and other interested parties.
3. Prepare scope of services for submission to the independent estimator. Provide additional detail as required so the estimator has a full understanding of the work.
4. Prepare a grant application to the FAA and MDOT.

ARTICLE D – BIDDING SERVICES AND ARRANGEMENT FOR CONSTRUCTION

1. Attend pre-bid meetings to discuss projects with interested contractors. Answer questions and prepare any addenda.
2. Attend bid openings to assist the City in securing and analyzing all bids from contractors.
3. Recommend an award of the contract.
4. Prepare contract documents for execution by the City and the Contractor.
5. Provide 30 sets of plans and contract documents for distribution to FAA, MDOT, bidders and construction.

ARTICLE E – CONSTRUCTION ADMINISTRATION

1. Attend preconstruction conferences.
2. Provide appropriate services during construction such as advice to the City on construction and administrative items, preparation of elementary sketches and supplementary sketches required to resolve actual field conditions encountered, checking details construction or shop drawings supplied by the Contractor, and reviewing Contractor's test reports of materials and equipment.
3. Prepare and submit to the City for approval all State of Maine and Federal Aviation Administration periodic and final reports, and cost estimates.
4. Prepare change orders, including drawings.
5. Conduct final inspections of work and prepare "punch list" items for completion prior to final payment.
6. Make periodic visits to the construction site to review project and attend meetings.

7. Attend weekly construction meetings.
8. Prepare final reports and all aspects necessary to close out the project with FAA and Maine Department of Transportation.
9. Submit one set of certified "Record Drawings" on reproducible mylars to the City along with CAD disk. Submit a CAD disk to the Maine Department of Transportation and Federal Aviation Administration.

ARTICLE F – TECHNICAL OBSERVATION OF CONSTRUCTION

1. Provide Inspection Services for the duration of the project. The Resident Project Representatives shall observe construction and field laboratory work to help ensure general compliance of items of work accomplished with the appropriate specification. In addition:
 - ☐ Maintain daily reports of the construction progress, Contractors' equipment, weather, visitors, and unusual conditions.
 - ☐ Perform a check of construction quantities and verify pay requests.
 - ☐ Review Contractor's payrolls for compliance with minimum wage rates.
 - ☐ Attend meetings with Portland International Jetport Personnel, FAA, airline/tenant representatives, and Contractor to review construction activities for project coordination.
2. Sub-Consultants:
 1. Testing During Construction. Subcontract with S.W. Cole Engineering, Inc., an independent testing laboratory, to conduct testing as follows:
 - a. Soil/Aggregate Fill Materials
 - i. Lab testing.
 - ii. In place compaction tests of base and subbase material where required for the ramp construction.
 - b. Bituminous Testing
 - i. The testing will consist of a person verifying the bituminous plant output, extraction tests to include asphalt cement content and gradation, and in field compaction tests for the base course. Work is intended to confirm conformance to the contract specifications and is further detailed in S.W. Cole Engineering, Inc.'s Scope of Services included as Attachment F.
 - c. Portland Cement Concrete Testing
 - i. Concrete Field Inspection to include:
 - ☐ Slump tests
 - ☐ Air content
 - ☐ Temperature
 - ☐ Fabricate test cylinders
 - ☐ Reports on daily results

ii. Laboratory Services:

- ☐ Concrete Flexural beams
- ☐ Reports on Flexural strengths

PROJECT ENGINEERING FEE

The project engineering fee of \$304,293.82 is summarized on the attached sheets included in Attachment B.

PROJECT SCHEDULE

February 9 to March 25, 2015	Survey and Geotechnical Investigation Fieldwork
February 20 to March 27, 2015	Civil Design and Safety Plan
April 6, 2015	Release for Bid
April 23, 2015	Bids Due
April 29, 2015	Submit Grant (<i>FAA Grant Deadline on Bid – May 1st</i>)
Mid May 2015	City to Award Construction Contract
May to October 2015	Construction

PERSONNEL

The following personnel will be assigned to this project:

Name	Project Role
Dwight Anderson, P.E.	Project Manager
Amie Chiasson, E.I.T.	Project Design Engineer/Resident Engineer
Justin Pellerin, E.I.T.	Design Engineer
Gordon Smith	Director of Construction Inspection
Keegan Smith	Construction Monitor
Lori Anthony	Drafting Support
Sandi Keef	Administrative Support

ATTACHMENTS

- Attachment A – Figure 1 – Project Area
- Attachment B – Overall Project Fee Detail
- Attachment C – Engineers Opinion of Probable Construction Costs
- Attachment D – Good Deeds Survey Services
- Attachment E – Haley & Aldrich, Inc. Geotechnical Engineering Services
- Attachment F – S.W. Cole Engineering, Inc. Construction Materials Testing & Inspection Services

-END OF DOCUMENT-

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FEE SCHEDULE
PORTLAND INTERNATIONAL JETPORT
North General Aviation Ramp Rehabilitation Project (2015 Construction Season)
AIP-3-23-0038-TBD
Prepared February 2, 2015 - Last Revised March 25, 2015

Budget Estimate

Fay, Spofford and Thorndike, Inc.
 2015 Construction Season

Article A - Data Collection

Task	Project Manager	Design Engineer I	Design Engineer II	Dir. Of Constr. Insp.	Drafting CAD	Admin Support
1. Survey						
a. Arrange and Coordinate Survey	2					
b. Plot Survey Notes	2				4	
c. Escort Survey Crew	2	40		4		
2. Geotechnical Work						
a. Arrange and Coordinate Geotechnical Investigations	6					
b. Provide Escort and Coordinate Safety Elements		24				
3. Visual Ramp Inspection (cracking)	8		8	4		
4. Review Existing Plans	2					
5. Drainage Structure Review	4	4	4	3		
TOTAL HOURS	26.0	68.0	12.0	16.0	4.0	0.0
HOURLY RATES	<u>\$50.00</u>	<u>\$25.75</u>	<u>\$26.50</u>	<u>\$39.93</u>	<u>\$25.46</u>	<u>\$26.72</u>
Salary Cost	\$1,300.00	\$1,751.00	\$318.00	\$638.88	\$101.84	\$0.00
O/H (1.5153)	<u>\$1,969.89</u>	<u>\$2,653.29</u>	<u>\$481.87</u>	<u>\$968.09</u>	<u>\$154.32</u>	<u>\$0.00</u>
Subtotal	\$3,269.89	\$4,404.29	\$799.87	\$1,606.97	\$256.16	\$0.00
Profit (15%)	<u>\$490.48</u>	<u>\$660.64</u>	<u>\$119.98</u>	<u>\$241.05</u>	<u>\$38.42</u>	<u>\$0.00</u>
TOTAL COST BY PROFESSIONAL	<u>\$3,760.37</u>	<u>\$5,064.93</u>	<u>\$919.85</u>	<u>\$1,848.02</u>	<u>\$294.58</u>	<u>\$0.00</u>
TOTAL COST OF TASKS (1-5)	\$11,867.76					
<u>Outside Services</u>						
Haley and Aldrich - Geotechnical Investigation	\$43,600.00					
Good Deeds - Survey	\$8,655.00					
Expenses, mileage & reproduction	\$300.00					
ARTICLE A - TOTAL	<u>\$64,442.76</u>					

**FEE SCHEDULE
PORTLAND INTERNATIONAL JETPORT**

**North General Aviation Ramp Rehabilitation Project (2015 Construction Season)
AIP-3-23-0038-TBD**

Budget Estimate

Fay, Spofford and Thorndike, Inc.
2015 Construction Season

Article B - Design, Construction Plans, Technical Specification & Construction Documents

Task	Project Manager	Design Engineer I	Design Engineer II	Dir. Of Constr. Insp.	Drafting CAD	Admin Support
1. Perform Pavement/Concrete (PCC) Analysis						
a. North GA Ramp (flexible pavement)	4	16		2	2	2
b. Fuel Farm Truck Parking (PCC)	8	4		2		1
2. Construction Safety Plan	8	4		4	2	8
3. Construction Phasing Plan	8	2		4		2
4. Erosion & Sediment Control Notes		1			1	
5. Aircraft Ramp						
a. Grading and Drainage	8	16		4	24	
b. Spot Grade Plan	8	12	32	8	20	
c. Cross Sections	2	20		2	16	
d. Drainage plan showing catch basins, underdrain pipes	2	4		2	12	
e. Profile culverts, drainage pipes, structures and other pipes	2	16		2	16	
f. Concrete Jointing Plan	2				4	
g. Concrete Pad Details	2				3	
h. Details as required	6	8		8	20	
6. Security Fence						
a. Provide Plan	1				2	
b. Details as required	1				1	
7. Pavement Marking Plans						
a. Plan View	4	2			12	
b. Details	1				3	
8. Contract Documents and Technical Specifications	20	12		12		32
9. Review and Coordination with Owner and Airport Users	4	2		2		2
10. Review and Coordination with FAA and MDOT	4	2		2		2
11. Quality Control and Design Reviews	4		4	4		
12. Quantity and Cost Estimate	8		16	16		4
13. Update Utility Plan		2			4	

Continuation of Article B - Design, Construction Plans, Technical Specification & Construction Documents						
Task	Project Manager	Design Engineer I	Design Engineer II	Dir. Of Constr. Insp.	Drafting CAD	Admin Support
I4. Miscellaneous Plans						
a. Test Pits and Logs		2			2	
b. Phasing Plans to Support Narrative	2			2	8	
c. Title Sheet and General Notes/Legend	1	2			4	
d. General Overall Site Plan	2	1		1	4	
TOTAL HOURS	112.0	128.0	52.0	77.0	165.0	53.0
HOURLY RATES	\$50.00	\$25.75	\$25.75	\$39.93	\$25.46	\$26.75
Salary Cost	\$5,600.00	\$3,296.00	\$1,339.00	\$3,074.61	\$4,200.90	\$1,417.75
O/H (1.5153)	\$8,485.68	\$4,994.43	\$2,028.99	\$4,658.96	\$6,365.62	\$2,148.32
Subtotal	\$14,085.68	\$8,290.43	\$3,367.99	\$7,733.57	\$10,566.52	\$3,566.07
Profit (15%)	\$2,112.85	\$1,243.56	\$505.20	\$1,160.03	\$1,584.98	\$534.91
TOTAL COST BY PROFESSIONAL	\$16,198.53	\$9,533.99	\$3,873.18	\$8,893.60	\$12,151.50	\$4,100.98
TOTAL COST OF TASKS (I-14)	\$54,751.79					
Outside Services						
Expenses						
Expenses, Reproduction & Mileage	\$500					
ARTICLE B - TOTAL	\$55,251.79					

FEE SCHEDULE
PORTLAND INTERNATIONAL JETPORT
North General Aviation Ramp Rehabilitation Project (2015 Construction Season)
AIP-3-23-0038-TBD

Budget Estimate

Fay, Spofford and Thorndike, Inc.
2015 Construction Season

Article C - Project Administration

Task	Project Manager	Design Engineer I	Design Engineer II	Dir. Of Constr. Insp.	Drafting CAD	Admin Support
1. Predesign Conference	4	4				2
2. Prepare Scope of Services to Independent Estimator	8	6		1		6
3. Prepare a Grant Application for the FAA and MDOT	12	4			1	16
TOTAL HOURS	24.0	14.0	0.0	1.0	1.0	24.0
HOURLY RATES	<u>\$50.00</u>	<u>\$25.75</u>	<u>\$26.50</u>	<u>\$39.93</u>	<u>\$25.46</u>	<u>\$26.72</u>
Salary Cost	\$1,200.00	\$360.50	\$0.00	\$39.93	\$25.46	\$641.28
O/H (1.5153)	<u>\$1,818.36</u>	<u>\$546.27</u>	<u>\$0.00</u>	<u>\$60.51</u>	<u>\$38.58</u>	<u>\$971.73</u>
Subtotal	\$3,018.36	\$906.77	\$0.00	\$100.44	\$64.04	\$1,613.01
Profit (15%)	<u>\$452.75</u>	<u>\$136.01</u>	<u>\$0.00</u>	<u>\$15.07</u>	<u>\$9.61</u>	<u>\$241.95</u>
TOTAL COST BY PROFESSIONAL	\$3,471.11	\$1,042.78	\$0.00	\$115.50	\$73.65	\$1,854.96
TOTAL COST OF TASKS (1-3)	\$6,558.00					
<u>Outside Services</u>						
<u>Expenses</u>						
Expenses, Reproduction & Mileage	\$200					
ARTICLE C - TOTAL	\$6,758.00					

**FEE SCHEDULE
PORTLAND INTERNATIONAL JETPORT**

North General Aviation Ramp Rehabilitation Project (2015 Construction Season)
AIP-3-23-0038-TBD

Budget Estimate

Fay, Spofford and Thorndike, Inc.
2015 Construction Season

Article D - Bidding Services and Arrangement for Construction

Task	Project Manager	Design Engineer I	Design Engineer II	Dir. Of Constr. Insp.	Drafting CAD	Admin Support
1. Attend pre-bid meetings	2	2				
2. Attend Bid Openings	2					
3. Recommend an award of the contract	2					2
4. Prepare contract documents for execution by City and Contractor	4					8
5. Provide 30 sets of plans and contract documents	2	4			4	2
TOTAL HOURS	12.0	6.0	0.0	0.0	4.0	12.0
HOURLY RATES	<u>\$50.00</u>	<u>\$25.75</u>	<u>\$26.50</u>	<u>\$39.93</u>	<u>\$25.46</u>	<u>\$26.72</u>
Salary Cost	\$600.00	\$154.50	\$0.00	\$0.00	\$101.84	\$320.64
O/H (1.5153)	<u>\$909.18</u>	<u>\$234.11</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$154.32</u>	<u>\$485.87</u>
Subtotal	\$1,509.18	\$388.61	\$0.00	\$0.00	\$256.16	\$806.51
Profit (15%)	<u>\$226.38</u>	<u>\$58.29</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$38.42</u>	<u>\$120.98</u>
TOTAL COST BY PROFESSIONAL	<u>\$1,735.56</u>	<u>\$446.91</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$294.58</u>	<u>\$927.48</u>
TOTAL COST OF TASKS (1-5)	\$3,404.53					
<u>Outside Services</u>						
<u>Expenses</u>						
Expenses, Reproduction & Milcage	\$3,000					
ARTICLE D - TOTAL	\$6,404.53					

FEE SCHEDULE
PORTLAND INTERNATIONAL JETPORT
North General Aviation Ramp Rehabilitation Project (2015 Construction Season)
AIP-3-23-0038-TBD

Budget Estimate

Fay, Spofford and Thorndike, Inc.
 2015 Construction Season

Article E - Construction Administration

Task	Project Manager	Resident Engineer	Design Engineer II	Dir. Of Constr. Insp.	Drafting CAD	Admin Support
1. Preconstruction Conference	4		4	2	2	4
2. Provide Services During Construction	24		8	20	24	52
3. Prepare Periodic and Final Cost Estimates	12			12		12
4. Prepare Change Orders Including Drawings	16			8		16
5. Final Inspection / Punch List	8		8	4	2	4
6. Periodic Site Visits	24			24		8
7. Weekly Construction Meeting (24 weeks)	24			6	2	24
8. Final Reports	2		2			4
9. Record Drawings/Utility Master Update	4		8		16	
TOTAL HOURS	118.0	0.0	30.0	76.0	46.0	124.0
HOURLY RATES	<u>\$50.00</u>	<u>\$25.75</u>	<u>\$26.50</u>	<u>\$39.93</u>	<u>\$25.46</u>	<u>\$26.72</u>
Salary Cost	\$5,900.00	\$0.00	\$795.00	\$3,034.68	\$1,171.16	\$3,313.28
O/H (1.5153)	<u>\$8,940.27</u>	<u>\$0.00</u>	<u>\$1,204.66</u>	<u>\$4,598.45</u>	<u>\$1,774.66</u>	<u>\$5,020.61</u>
Subtotal	\$14,840.27	\$0.00	\$1,999.66	\$7,633.13	\$2,945.82	\$8,333.89
Profit (15%)	<u>\$2,226.04</u>	<u>\$0.00</u>	<u>\$299.95</u>	<u>\$1,144.97</u>	<u>\$441.87</u>	<u>\$1,250.08</u>
TOTAL COST BY PROFESSIONAL	\$17,066.31	\$0.00	\$2,299.61	\$8,778.10	\$3,387.69	\$9,583.98
TOTAL COST OF TASKS (1-9)	\$41,115.69					
<u>Outside Services</u>						
<u>Expenses</u>						
Expenses, Reproduction & Mileage	\$2,292					
ARTICLE E - TOTAL	\$43,407.99					

FEE SCHEDULE PORTLAND INTERNATIONAL JETPORT North General Aviation Ramp Rehabilitation Project (2015 Construction Season) AIP-3-23-0038-TBD						
Budget Estimate		Fay, Spofford and Thorndike, Inc. 2015 Construction Season				
Article F - Technical Observation of Construction						
Task		Director of Construction Services	Resident Engineer	Construction Technician		
1. Inspection Services (Based upon 24 weeks)		200	900	40		
TOTAL HOURS		200.0	900.0	40.0		
HOURLY RATES		\$39.93	\$25.75	\$25.00		
Salary Cost		\$7,986.00	\$23,175.00	\$1,000.00		
O/H (1.5153)		\$12,101.19	\$35,117.08	\$1,515.30		
Subtotal		\$20,087.19	\$58,292.08	\$2,515.30		
Profit (15%)		\$3,013.08	\$8,743.81	\$377.30		
TOTAL COST BY PROFESSIONAL		\$23,100.26	\$67,035.89	\$2,892.60		
TOTAL COST OF TASK (1)		\$93,028.75				
<u>Outside Services</u>						
S.W. Cole - Lab and Field Testing		\$29,000.00				
<u>Expenses</u>						
Expenses, Reproduction & Mileage		\$6,000				
ARTICLE F - TOTAL		\$128,028.75				
GRAND TOTAL - ARTICLES A-F		\$304,293.82				
Prepared February 2, 2015 - Last Revised March 25, 2015						

Application for Federal Assistance SF-424

* 1. Type of Submission		* 2. Type of Application		* If Revision, select appropriate letter(s):	
☐ Preapplication		☒ New		- Select One -	
☒ Application		☐ Continuation		* Other (Specify)	
☐ Changed/Corrected Application		☐ Revision			
* 3. Date Received:		4. Application Identifier:			
5a. Federal Entity Identifier:		* 5b. Federal Award Identifier:			
State Use Only:					
6. Date Received by State:			7. State Application Identifier:		
8. APPLICANT INFORMATION:					
* a. Legal Name: City of Portland, Maine					
* b. Employer/Taxpayer Identification Number (EIN/TIN): 0160000032			*c. Organizational DUNS: 156061707		
d. Address:					
* Street1: 1001 Westbrook Street Street 2:					
* City: Portland County: Cumberland * State: Maine Province: Country: USA *Zip/ Postal Code: 04102					
e. Organizational Unit:					
Department Name: Department of Aviation and Transportation			Division Name: Airport		
f. Name and contact information of person to be contacted on matters involving this application:					
Prefix: Mr. First Name: Paul Middle Name: H. * Last Name: Bradbury Suffix: P.E.					
Title: Airport Director					
Organizational Affiliation:					
* Telephone Number: (207) 756-8029 Fax Number: (207) 774-7740					
* Email: phb@portlandmaine.gov					

Application for Federal Assistance SF-424

*9. Type of Applicant 1: Select Applicant Type:

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

- Select One -

Type of Applicant 3: Select Applicant Type:

- Select One -

* Other (specify):

* 10. Name of Federal Agency:

FAA - Airports

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

*12. Funding Opportunity Number:

Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Portland and South Portland, Cumberland County, Maine

* 15. Descriptive Title of Applicant's Project:

Update Airport Master Plan Study

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: ME-001

*b. Program/Project: ME-001

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 06/01/2014

*b. End Date: 04/01/2016

18. Estimated Funding (\$):

*a. Federal	825,667.00
*b. Applicant	91,741.00
*c. State	
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	917,408.00

***19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on _____
- ☒ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372

***20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation on next page.)**

☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: *First Name: Sheila

Middle Name:

*Last Name: Hill-Christian

Suffix:

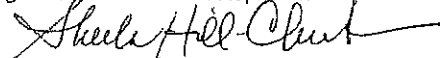
*Title: City Manager

*Telephone Number: (207) 874-8689

Fax Number: (207) 874-8669

* Email: SHC@portlandmaine.gov

*Signature of Authorized Representative:



*Date Signed:



Application for Federal Assistance (Planning Projects)

PART II – PROJECT APPROVAL INFORMATION

Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐ Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐ Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐ Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional or other planning approval? ☒ Yes ☐ No	Name of Approving Agency: FAA-ALP/CIP Meeting Date: 12/08/2014
Item 5. Is the proposed project covered by an approved comprehensive plan? ☒ Yes ☐ No	Check one: State ☐ Master Plan/CIP Local ☒ Update 2008 Regional ☐ Location of Plan: Airport Director's Office
Item 6. Will the assistance requested serve a Federal Installation? ☐ Yes ☒ No	Name of Federal Installation: Federal Population benefitting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐ Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project: %
Item 8. Will the assistance requested have an impact or effect on the environment? ☐ Yes ☒ No	(See instruction for additional information to be provided)
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐ Yes ☒ No	Number of: Individuals: _____ Families: _____ Businesses: _____ Farms: _____
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐ Yes ☒ No	(See instructions for additional information to be provided.)

PART III – BUDGET INFORMATION

SECTION A – BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. AIP	20,106	\$	\$	\$ 825,667	\$ 91,741	\$ 917,408
2.						
3.						
4.						
5. TOTALS		\$	\$	\$ 825,667	\$ 91,741	\$ 917,408

SECTION B – BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual	917,408.00				917,408.00
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	\$ 917,408.00	\$	\$	\$	\$ 917,408.00
7. Program Income	\$	\$	\$	\$	\$

SECTION C – NON-FEDERAL RESOURCES

(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	\$ 91,741.00	\$	\$	\$ 91,741.00
9.				
10.				
11.				
12. TOTALS	\$ 91,741.00	\$	\$	\$ 91,741.00

SECTION D – FORECASTED CASH NEEDS

	Total for 1 st Year	1 st Quarter	2 nd Quarter	3 rd Quarter	4th Quarter
13. Federal	\$ 568,084.00	\$ 153,000.00	\$ 157,500.00	\$ 128,792.00	\$ 128,792.00
14. Non-Federal	63,120.00	17,000.00	17,500.00	14,310.00	14,310.00
15. TOTAL	\$ 631,204.00	\$ 170,000.00	\$ 175,000.00	\$ 143,102.00	\$ 143,102.00

SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	\$ 143,102.00	\$ 143,102.00	\$	\$
17.				
18.				
19.				
20. TOTALS	\$ 143,102.00	\$ 143,102.00	\$	\$

SECTION F – OTHER BUDGET INFORMATION

(Attach additional sheets if necessary)

21. Direct Charges:	
22. Indirect Charges:	
23. Remarks:	

PART IV PROGRAM NARRATIVE (Attach per instructions)

PART IV - PROGRAM NARRATIVE
(Suggested Format)

PROJECT: Preparation of a Master Plan Study Update in the form of a Sustainable Airport Master Plan and eALP/AGIS submission
AIRPORT: Portland International Jetport (PWM)
1. Objective: The Portland International Jetport's 2008 Master Plan is in need of an update and the objective of the Sustainable Airport Master Plan is to provide the community and public officials with proper guidance for future airport improvements that incorporates sustainability principals in addressing aviation demands in an environmentally compatible manner. The purpose of the eALP work element would be to incorporate available data into an eALP/AGIS compliant database, and also incorporate aspects of the sustainability program into the database where feasible. Funding for the sustainability work of this master plan is covered under AIP #75.
2. Benefits Anticipated: An update to the Portland International Jetport Master Plan is necessary to prioritize and plan for future projects. Making sustainability a part of the core objective of the airport planning process will promote design, project implementation, and financial decisions that will help the airport identify ways to reduce energy consumption, environmental impacts, and carbon footprint. As a result of incorporating sustainability issues into the master plan process, the airport can become a more environmentally friendly business and neighbor.
3. Approach: <i>(See approved Scope of Work in Final Application)</i> The project has been separated into 11 project elements as described in the work scope included with this application. While Portland International Jetport has not prepared an eALP/AGIS product to date, the airport has completed airspace survey projects compliant with FAA AS 150/5300-16A, 17C, and 18B for each runway end, as well as additional GIS data for the airport facilities and access. This project would incorporate the available data into an eALP/AGIS compliant database, and also incorporate aspects of the sustainability program into the database where feasible. The project is expected to be complete by April, 2016.
4. Geographic Location: Portland and South Portland, Cumberland County, Maine
5. If Applicable, Provide Additional Information: See work scope and Supplemental Project Narrative attached.
6. Sponsor's Representative: <i>(include address & telephone number)</i> Mr. Paul H. Bradbury, P.E., Airport Director 1001 Westbrook Street Portland, ME 04102 (207) 756-8029

**SUPPLEMENTAL PROJECT NARRATIVE
APPLICATION FOR FEDERAL ASSISTANCE
PORTLAND INTERNATIONAL JETPORT**

Preparation of a Sustainable Airport Master Plan – AIP 3-23-0038-078-2015

1. BRIEF PROJECT DESCRIPTION

The Portland International Jetport's 2008 Master Plan is in need of an update. This project will provide an update to the existing Airport Master Plan and integrate sustainability components. The objective of the Sustainable Airport Master Plan is to provide the community and public officials with proper guidance for future airport improvements that incorporates sustainability principals in addressing aviation demands in an environmentally compatible manner. The purpose of the eALP work element would be to incorporate available data into an eALP/AGIS compliant database, and also incorporate aspects the sustainability program into the database where feasible.

2. COST BREAKDOWN OF MAJOR WORK ITEMS

A cost breakdown of major work items is included in the attached project scope.

3. PROJECT SCHEDULE

This project is being completed over a 2-year period starting in June 2014.

4. ENVIRONMENTAL STATUS

The project is Categorically Excluded per FAA Order 1050.1E paragraph 307o.

5. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

The Portland International Jetport has an approved DBE program in place. A 2.19% goal for DBE participation has been established for all federally-funded projects.

6. INTERGOVERNMENTAL COORDINATION (EXECUTIVE ORDER 12372)

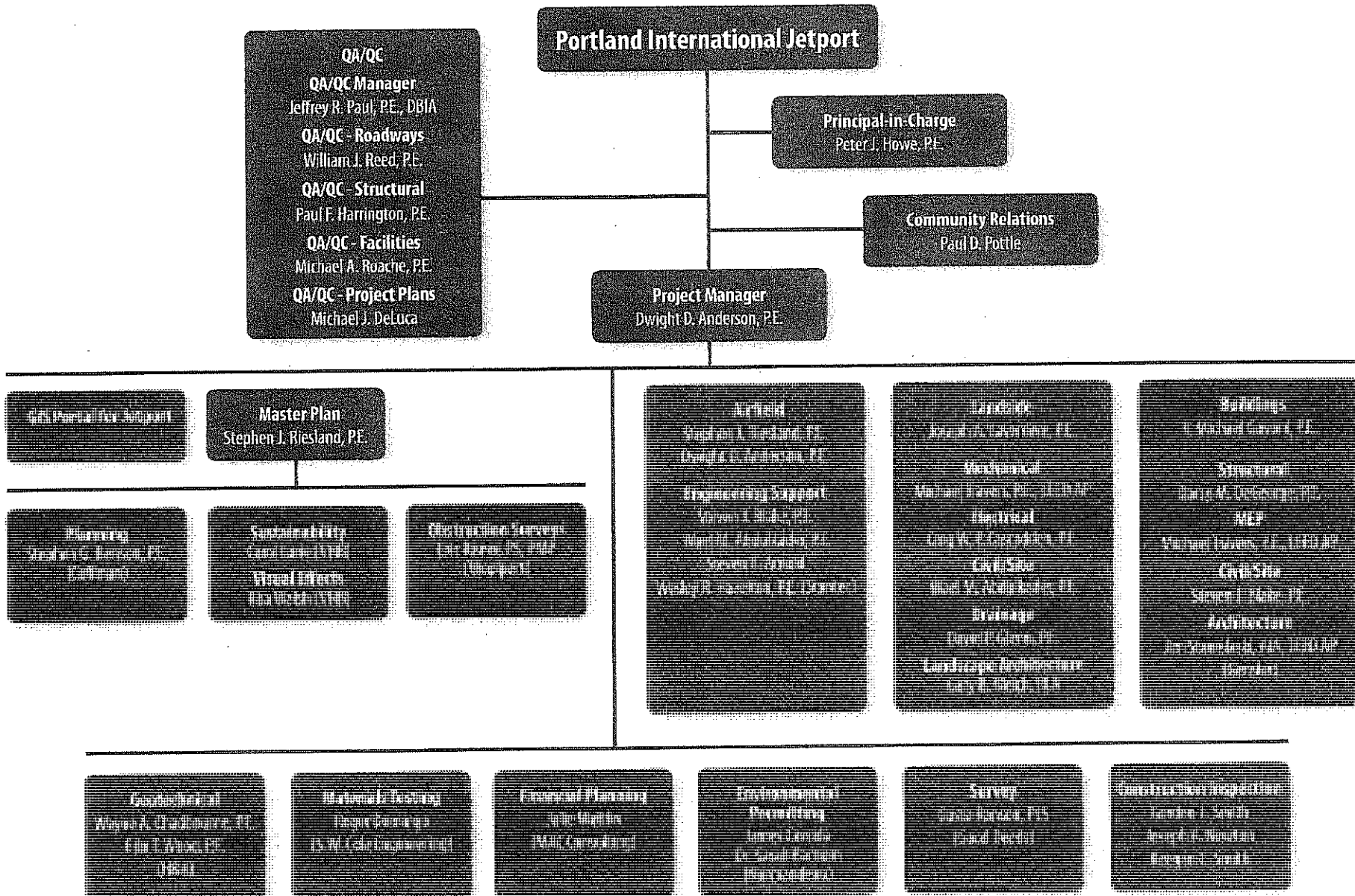
~~The project will be submitted for intergovernmental review on 4/30/2015. N/A~~

This application was also coordinated with the Maine Department of Transportation.

7. ORGANIZATIONAL CHART

A project organizational chart is included following this page.

D. ORGANIZATION CHART



SUSTAINABLE AIRPORT MASTER PLAN

PROJECT WORK SCOPE AND AGREEMENT

Agreement
For
Airport Consulting Services
Pre-Project Memorandum

SUSTAINABLE AIRPORT MASTER PLAN

Portland International Jetport
Portland, Maine

Pursuant to an Agreement for Airport Consulting Services between the City of Portland (The "City"), Fay, Spofford & Thorndike, LLC (The "Consultant") dated October 29th, 2013 (The "Agreement"), and consistent with the terms and conditions thereof, the parties have executed this Pre-Project Memorandum for the aforementioned project and have agreed to the following Scope of Services, Project Schedule and Fee.

Scope of Services

The project scope of services shall be as described in the attached 48 page WORK SCOPE document prepared by Fay, Spofford & Thorndike, Coffman and VHB dated January 17, 2014.

Project Schedule

The proposed 2 year project schedule detail is provided on a single color page following the WORK SCOPE document.

Fee

The fee established for the project has been separated into 2 main components as follows and a 3 page detailed cost breakdown by element dated April 4, 2014 is included with this agreement:

Sustainability Master Plan Elements	\$323,796
Other Master Plan Elements	<u>\$917,408</u>
Total Fee	\$1,241,204

CITY OF PORTLAND

BY

Paul H. Bradbury, P.E. - Airport Director



Date: 5.29.2014

Fay, Spofford & Thorndike, LLC

BY

William R. Moore, P.E. - Sr. Vice President



Date: May 16, 2014

PORTLAND INTERNATIONAL JETPORT SUSTAINABLE AIRPORT MASTER PLAN WORK SCOPE

**Prepared by: Fay, Spofford & Thorndike, Coffman and VHB
January 17, 2014**

This Work Scope has been developed to provide a task-by-task description of the study efforts to conduct a Sustainable Airport Master Plan (SAMP) for the Portland International Jetport (PWM), which is owned and operated by the City of Portland, Maine (Sponsor). The development of this work scope included a meeting with the FAA, PWM staff and the project team on January 9, 2014. The objective of the SAMP is to provide the community and public officials with proper guidance for future airport improvements that incorporates sustainability principles in addressing aviation demands in an environmentally compatible manner. Making sustainability a part of the core objective of the planning process will promote design, project implementation, and financial decisions that will help the airport identify ways to reduce energy consumption, environmental impacts, and carbon footprint. As a result of incorporating sustainability issues into the master planning process, the airport can become a more environmentally friendly business and neighbor. Coordination between the City of Portland, Regional, State, and Federal agencies, including the Federal Aviation Administration (FAA) and the Maine Department of Transportation (MDOT), and the Consultant will be essential to bringing together all facts and data relevant to the project and to developing a mutual agreement regarding future development of the Airport. Specific objectives to be addressed include:

- To develop a written sustainability policy or mission statement;
- To define sustainability categories at the airport and conduct a baseline inventory and assessment;
- To research and evaluate transportation industry and socioeconomic factors likely to affect air transportation demand in the region;
- To determine projected needs of airport users for the next 20 years;
- To establish measurable goals to minimize the impact or consumption, and to identify specific sustainability initiatives to help in achieving each goal;
- To recommend improvements that will enhance the airport's safety, efficiency, and capability to serve the community's aviation needs;
- To establish a schedule of priorities and a program for the improvements proposed by this master planning effort;
- To determine the required level of environmental documentation to move forward with each recommendation of the master plan;
- To prepare an updated Airport Layout Plan (ALP) in accordance with FAA guidelines, and incorporating the airport's current GIS databases;
- To incorporate an active and productive public involvement and community outreach throughout the sustainable master planning process.

The Sustainable Airport Master Plan will provide recommendations from which the City of Portland may take action to improve the airport and associated services related to public

needs, convenience, sustainability, and economic growth. The plan will benefit all residents of the area by providing a single comprehensive plan which supports and balances continued growth of aviation activities and the environmental preservation of the surrounding environs.

ELEMENT 1 - STUDY DESIGN

Task 1.1 - Project Scoping

Description: Utilizing preliminary coordination with the Sponsor and the FAA, organize a draft scope for identifying specific work efforts to be emphasized and undertaken. Utilizing the draft work scope and in conjunction with the activities outlined below, prepare detailed task descriptions that specifically identify the work efforts, responsibilities, and products required to successfully accomplish the task.

Conduct a conference call with representatives of the airport sponsor to specify the type and level of detail of work that will be undertaken. Revise work scope as necessary.

Responsibilities:

- Consultant:** Organize and review outlined work scope, identify responsibilities, and prepare task descriptions.
- Sponsor:** Review outlined work scope and task descriptions and identify specific work efforts that are desired by the sponsor.
- Product:** A work scope that will be incorporated into the consultant's contract and used to establish costs and fees for the SAMP.

Task 1.2 - Establish Project Budget and Schedule

Description: Utilizing the task descriptions developed in previous tasks; prepare the estimates of person hours and expenses that will be needed to accomplish the work effort identified. Organize the cost data and schedule for incorporation into the grant application and contract documents.

Responsibilities:

- Consultant:** Estimate the time and expenses required to accomplish each task in the work scope.
- Sponsor:** Review and evaluate consultant's estimates, negotiate as necessary and approve the final estimate and schedule.
- Product:** Final cost estimate and schedule for the SAMP.

Task 1.3 - Prepare FAA Grant Documentation

Description: Prepare all documentation required for FAA grant application and supporting information.

Responsibilities:

Consultant: Prepare the grant application in a format acceptable to the sponsor and most easily processed by the FAA.

Sponsor: Review, approve, and officially submit grant application.

Product: Five (5) copies of FAA grant application for the SAMP.

Task 1.4 - Develop Written Sustainability Mission Statement

Description: The Mission Statement for the Sustainability Component of the SAMP will guide the sustainability planning process by defining the high-level vision of the Jetport and will direct the development of sustainability goals and performance targets. It will provide the framework for identifying, evaluating and selecting sustainability initiatives.

To initiate the sustainability component of the master plan, the Consultant will hold a half-day kick-off meeting with PWM staff. At this meeting, PWM's sustainability vision and overall goals for the study will be discussed.

The Consultant will prepare a draft Sustainability Mission Statement for the Jetport for consideration by PWM staff. One one-hour conference call will be held to continue to refine the Sustainability Mission Statement for the Jetport, in preparation for the Planning Advisory Committee (PAC) meeting.

The draft Mission Statement will be presented at a PAC meeting early in the SAMP process (Task 2.2). PAC members will be guided through the visioning process by the Consultant team. Discussion with the PAC and modification of the Mission Statement will be key elements of the PAC meeting.

Following the PAC Meeting, the consultant will revise the Sustainability Mission Statement and review the final draft with PWM during a one-hour conference call. The Consultant will then issue a finalized Sustainability Mission Statement.

Responsibilities:

Consultant: Prepare the Sustainability Mission Statement and lead the visioning process.

Sponsor: Review and comment on Mission Statement and participate in the visioning process.

Product: Draft and Final Sustainability Mission Statement.

ELEMENT 2 - COMMUNITY INVOLVEMENT

Task 2.1 - Sustainable Airport Master Plan Study Website and Social Media

Description: Each working paper as well as other public information regarding the SAMP will be hosted on a project web page maintained by the Consultant until a draft SAMP is submitted for City review and approval process. At that time, the draft SAMP will replace the working papers. All materials will be removed from the consultant's website 60 days after SAMP approval by the City Council. The website will allow for the Sponsor to link to it from both the City and Airport websites. The site will also provide a social media forum such as Facebook or blogging to provide study updates and receive comments from the public. It will also provide for posting pertinent comments upon review by the Consultant and approval by the Sponsor.

Responsibilities:

Consultant: Host the project website on its web page and establish a social media forum.

Sponsor: Review and comment and provide links from its web and Facebook pages to the project site.

Product: A web-based and social media forum designed for public dissemination of information and collection of public input and comment.

Task 2.2 - Planning Advisory Committee Meetings

Description: Potential members will be identified and asked to serve on a Planning Advisory Committee (PAC). The PAC will be composed of a) representatives of FAA and MDOT, as well as other local, regional, state, and federal agencies; b) airport user and tenant representatives; and c) local community representatives. The PAC, which is a non-voting body, will advise the Consultant on the content and recommendations of the SAMP study through meetings and review of working papers. The PAC will not exceed thirty (30) members.

Meet with the PAC to review the draft working papers. Discuss the findings of the work effort to date, the upcoming efforts, solicit input from the committee on work conducted thus far, as well as ideas and recommendations on the next phase of the work. Comments received during these meetings will be considered in preparing the final report documents. Five (5) PAC meetings are included in the budget.

Responsibilities:

- Consultant:** Assist in selection of PAC members, conduct PAC meetings, and prepare summary minutes.
- Sponsor:** Select the PAC members with assistance from the Consultant, coordinate meetings jointly with Consultant. Provide for meeting facilities.
- Product:** Up to five (5) PAC meetings are included with this scope. A cost per meeting has been provided in the event fewer or additional meetings are required.

Task 2.3 - Prepare Study Workbooks

Description: Provide thirty-five (35) standard three-ring notebooks for distribution to the Sponsor, the FAA, and the members of the PAC for use during the SAMP study. A workbook cover will be designed and the workbook format will be developed with sections for inserting working papers, notes, and other pertinent project information.

Responsibilities:

- Consultant:** Design and prepare workbooks for the project.
- Sponsor:** Review and comment prior to distribution.
- Product:** Thirty-five (35) study workbooks.

Task 2.4 - Public Information Workshops

Description: The interim submittals under the SAMP will be presented to the general public in a series of public workshops. The workshops will follow an open house format. The meetings (workshops) will be held on the evening of the PAC meetings. Advertising for the workshop will be accomplished using press releases and official public notices. Four (4) public information workshops are budgeted.

Responsibilities:

- Consultant:** Provide background, technical presentations, and necessary graphics at the meeting. Assist sponsor in preparing meeting notices and press releases.
- Sponsor:** Coordinate jointly with the Consultant, advertise the workshops, provide direct mailings (as needed), and provide meeting locations. Assist in staffing the workshop format.
- Product:** Up to four (4) public information workshops for disseminating information and collecting public input to planning process. A cost per workshop has been pro-

vided in the event fewer or additional workshops are required.

ELEMENT 3 - INVENTORY AND DATA COLLECTION

Task 3.1 - Collect and Review Existing Planning Information

Description: Existing reports and studies pertaining to airport and surrounding area planning and development will be collected. Such studies will provide essential background and reference information to enhance understanding of existing and projected airport activities, as well as provide insight into relevant planning issues and constraints. Existing studies appropriate to the SAMP will be assembled and reviewed, as necessary. Relevant studies that the Consultant does not already possess will be provided by the Sponsor.

Responsibilities:

Consultant: Obtain and review existing reports and studies.

Sponsor: Provide the project team with copies of current and relevant study reports.

Product: Background information on past planning recommendations, issues, or concerns presented in the various existing or ongoing airport studies.

Task 3.2 - Sustainability Baseline Assessment

Description: Conduct a Sustainability Baseline Assessment to understand the activities and existing levels of resource consumption at PWM. The baseline data collection process is a critical first step in understanding where enhancements could be considered, and would be conducted alongside other tasks in the Inventory Element to enhance the efficiency of the data collection process. To the extent practical, data will be provided in tabular/ excel file format. Data will be obtained orally through interviews, through written documents, as well as on-site observations. All data and gathered information will need to be processed.

Identify Baseline Sustainability Categories

To fulfill FAA guidance, the following detailed studies will be conducted for the Baseline Assessment:

- Waste management & recycling
- Energy
- Air quality & greenhouse gas emissions

Subtasks for each of these studies are outlined below.

Up to three additional priority areas will be addressed in the Sustainability Baseline Assessment. The categories will be determined in collaboration with the Jetport staff, during a one-

hour conference call, and are anticipated to include three of the categories below.

- Airport facilities
- Noise & land use
- Water conservation & water quality
- Surface transportation
- Natural resource management
- Socioeconomic & community

Prepare Data Needs Request

The Consultant will develop a spreadsheet documenting data needs for each of the 6 identified sustainability categories. The Consultant will work with the Consultant Team and PWM to determine who will be able to provide the data. A one-hour conference call will be held to review this spreadsheet.

Conduct On-Site Baseline Assessment

The on-site data collection will be a 2-day, 3-person effort and will include meetings with key PWM staff as well as a tour of facilities.

Prepare and Send Online Survey and Compile Results

A sustainability related internet based survey will be developed and distributed to airport departments and tenants. The results from the survey will be compiled and summarized for use in the Sustainability Baseline Assessment.

Compile Existing Sustainability Initiatives and Prepare Summary

As part of the data collection process, identify existing Sustainability Initiatives currently implemented at PWM, determine rates of resource consumption, identify trends of consumption or use of resources, and highlight areas for improvement or focus in the Sustainability Plan. Prepare summary material for inclusion on the study website that highlights its existing Sustainability Initiatives such as the LEED terminal, the geothermal facility, and the deicing fluid recycling program.

Prepare Draft Baseline Assessment

A detailed Baseline Assessment write-up will be prepared for each of the 6 identified sustainability categories. This Assessment will include descriptions of management processes, existing practices, rates of resource consumption and historical trends, and will identify areas and opportunities for improvement. The draft Baseline Assessment will be submitted to PWM for review.

The three specialized studies (Waste, Energy, and Air Quality) will be integrated and synthesized into this draft.

Prepare Final Baseline Assessment

The Consultant will revise the Baseline Assessment to address PWM comments, and finalize the document.

In total, three one-hour conference calls will be held over the course of this task.

Responsibilities:

Consultant: Conduct the Sustainability Baseline Assessment and its Subtasks.

Sponsor: Provide all available information data needed for the assessment.

Product: Sustainability Baseline Assessment and Summary of Existing Practices and Performance for inclusion on the website.

Subtask 3.2.1 – Recycling and Waste Management Assessment

Description: The FAA Modernization and Reform Act of 2012 includes a new requirement for Airport Master Plans to address recycling by:

- Evaluating the feasibility of solid waste recycling,
- Minimizing the generation of waste,
- Identifying operations & maintenance requirements,
- Reviewing of waste management contracts, and
- Identifying the potential for cost savings or revenue generation.

To develop a recycling plan that meets this FAA requirement, the Consultant will:

1. *Collect baseline information on PWM's waste management program.* Meet with PWM staff to understand how waste is managed at PWM and what current education efforts for passengers, employees, contractors and tenants are already in place. In addition, collect information such as waste collection contracts, monthly waste/recycling invoices, and the waste-related costs for waste and recycling (containers, hauling, disposal, and labor).
2. *Assess existing waste management program.* To understand the sources, composition, and quantities of waste generated at PWM, conduct a facility walk-through, an examination of monthly waste/recycling invoices, and a waste audit. It is assumed that PWM will provide space for conducting the waste audit.
3. *Assess opportunities for expansion of recycling program.* Review current waste collection contracts and conduct research on current market conditions to determine whether there are any logistical limitations to expanding the recycling program.
4. *Develop recommendations for improving the recycling program.* Based on the above assessment of PWM's waste and recycling program, develop recommendations for improving the Jetport's recycling program as well as minimizing waste generated at the

Jetport. Recommendations will include identification of potential cost savings or revenue generation. This effort will provide input to later tasks.

5. *Measure performance.* Develop a spreadsheet to enable continuous monitoring of recycling performance at PWM.

The results of the waste assessment will be documented in a technical memorandum and incorporated into the Sustainability Baseline Assessment.

Subtask 3.2.2 - Energy Assessment

Description: The Baseline Assessment will include a review of energy sources and rates of consumption. Conduct an energy efficiency assessment of PWM's passenger terminal facility and other PWM facilities. This effort will provide input to later tasks. The Jetport has installed a geothermal energy (heating and cooling) system to take advantage of a renewable energy source and save on heating and cooling expenses. Evaluate the feasibility of installing other renewable energy sources, such as solar/photo voltaic, on airport property to determine what type of technology, if any, should be considered by PWM for future implementation. Also identify any possible alternatives for PWM to purchase renewable energy from local sources off-airport. The results of the energy assessment will be documented in a technical memorandum and incorporated into the Sustainability Baseline Assessment.

Subtask 3.2.3 - Air Emission and Greenhouse Gas Assessment

Description: Conduct an Air Quality and Greenhouse Gas (GHG) Emissions Inventory to aid in understanding the benefits of past and future sustainability initiatives, such as the geothermal energy facility recently installed at the passenger terminal building. The Air Quality and GHG Emissions Inventory will be prepared following guidance established by the EPA, Intergovernmental Panel on Climate Change (IPCC), Energy Information Administration (EIA), and FAA.

Operational Air Emissions Inventory

Conduct an operational air emissions inventory for PWM to account for the emissions associated with the airport following FAA guidelines in Air Quality Procedures for Civilian Airports and Air Force Bases and utilizing the most current version of the FAA's Emissions Dispersion and Modeling System (EDMS Version 5.1). It is assumed that airport operational data (i.e., aircraft operations, fleet mix, ground support equipment (GSE), motor vehicle traffic, fuel throughput, etc.) will be obtained from documents and other supporting materials provided by Jetport staff and through a two-day site visit with two members of the Project Team with airfield and passenger terminal access facilitated through Jetport staff.

The results of the operational emissions inventory will be expressed for current (sustainability study baseline year) conditions in units of tons/year for the U.S. EPA "criteria" pollutants (and

their precursors) including carbon monoxide (CO), lead (Pb), nitrogen oxides (NO_x), sulfur dioxide (SO₂), particulate matter (PM_{10/2.5}) and volatile organic compounds (VOCs).

Develop an operational air emissions inventory report that details the methodology, data inputs, and results of the analysis, as well as suggested initiatives for PWM to consider in the future that would reduce its criteria pollutant emissions. Suggested initiatives for pollutant emissions reduction will be incorporated into later tasks.

Greenhouse Gas Assessment

Conduct a greenhouse gas (GHG) emissions inventory for PWM following guidelines recently published by the Transportation Research Board (TRB), Airport Cooperative Research Panel (ACRP) for airports. Data for the analysis will be gathered through information provided from PWM staff and through a two-day site visit with two members of the Project Team with airfield and passenger terminal access facilitated through PWM staff. The type of information required for the analysis includes the types and amounts of fuel used at the airport and electrical use as other indicators of GHG emission generation.

These data and information will be combined with appropriate GHG emission factors and the results will be expressed as an emission inventory for current, historical and future conditions broken out by source category, emission type, and climate-changing potential (i.e., CO₂e). GHGs that will comprise the assessment include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), water vapor and select chlorofluorocarbons.

Develop an airport-specific GHG emissions inventory report that details the methodology, data inputs, and results of the analysis, as well as suggested initiatives for PWM to consider in the future that would reduce its share of GHG emissions. Suggested initiatives for pollutant emissions reduction will be incorporated into later tasks.

The results of the air quality and GHG analyses will be documented in a technical memorandum and incorporated into the Sustainability Baseline Assessment.

Task 3.3 - Inventory Airfield Facilities

Description: Existing airfield facilities will be documented, including runways, taxiways, aprons, lighting, landing aids, navigational aids, and perimeter fencing. Information will be gathered from existing drawings and photographs and from on-site visual inspection. Note condition of existing facilities, including any deficiencies or deterioration that would need to be addressed in the 0-5 and 6-10 year timeframes.

Responsibilities:

Consultant: Conduct the airfield inventory.

Sponsor: Provide all available information from documents relating to airfield facilities.

Product: Existing conditions discussion of existing airfield facilities, with exhibits to assist in the description.

Task 3.4 - Inventory Airline Terminal

Description: The following components commonly associated with the airline terminal will be inventoried in this task: departures processing, concourse facilities and apron areas, arrivals processing, public spaces including concessions, building systems and support, and operations and administration.

The terminal building will be inventoried for general layout, size, existing use, tenants, gate positions, and general condition. Note condition of existing facilities, including any deficiencies or deterioration that would need to be addressed in the 0-5 and 6-10 year timeframes. Supporting graphics, text, and tables will be prepared summarizing this task. Also included will be assessment of pathways for passengers with ambulatory difficulties and wayfinding for passengers with sensory or language difficulties.

Responsibilities:

Consultant: Conduct the airline terminal complex inventory.

Sponsor: Provide existing relevant information, including as-built floor plans of the terminal building and apron parking.

Product: Existing conditions discussion of existing airline terminal.

Task 3.5 - Inventory Ground Access, Circulation, and Parking

Description: Off-airport access and on-airport circulation associated with the Jetport will be inventoried to document the physical layout, traffic volumes, and interrelationships of components. Also included will be geometrics, general use, and condition of the terminal curb and terminal loop road. Ground access services will also be inventoried to include bus routes and schedules, taxi services, airport limo and shuttle services. Existing airport signage and wayfinding will be documented. Available traffic counts, drawings, and surface transportation plans will be assembled.

Automobile parking will be inventoried for existing spaces for long and short-term public parking, bus and limo parking, taxi hold areas, rental car ready/return, employee, and overflow parking. On-airport rental car service and storage facilities will be inventoried for size, use, and capacity. Off-airport rental cars as well as off-airport parking will also be noted with regards to location and space. Note condition of on-airport facilities, including any deficiencies or deterioration that would need to be addressed in the 0-5 and 6-10 year timeframes.

Responsibilities:

Consultant: Conduct the ground access and circulation inventory.

Sponsor: Provide available counts, traffic studies, and City transportation planning information.

Product: Existing conditions discussion of the ground access, circulation, and parking components both on- and off-airport at Portland International Jetport.

Task 3.6 - Inventory Air Cargo and General Aviation Facilities

Description: The location and types of air cargo and general aviation facilities will be documented. Facilities include hangars, buildings, apron, auto parking, etc. that are associated with these aviation components. Information will be obtained from existing drawings, new photography, and from on-site visual inspection. Note condition of airport-owned facilities, including any deficiencies or deterioration that would need to be addressed in the 0-5 and 6-10 year timeframes. Interview fixed base operators as well as all-cargo operators to assist in identifying current and potential future activity, critical market issues, and future airport needs.

Responsibilities:

Consultant: Conduct the inventory.

Sponsor: Provide available leasehold and layout information on air cargo and GA facilities.

Product: Existing conditions discussion of air cargo and general aviation facilities, including the types of facilities.

Task 3.7 - Inventory Other On-Airport Facilities

Description: On-airport aviation-related facilities other than those addressed in the preceding tasks will be documented. Facilities such as fuel storage/distribution, airport rescue and firefighting (ARFF), maintenance and snow removal (SRE) equipment, deicing facilities, air traffic control (ATC) facilities, and other facilities not covered under previous tasks will be included. Note condition of airport-owned facilities, including any deficiencies or deterioration that would need to be addressed in the 0-5 and 6-10 year timeframes. Information will be obtained from existing drawings, available aerial photography, and from on-site visual inspection.

Responsibilities:

Consultant: Conduct the inventory.

- Sponsor:** Provide available leasehold and layout information on other on-airport facilities not included under previous tasks.
- Product:** Existing conditions discussion of the remaining on-airport facilities not addressed in the preceding tasks.

Task 3.8 - Inventory Airport Activity

Description: Collect, organize, and analyze historic and current data on passenger, cargo, and aircraft activities (air carrier, commuter, charter, cargo, general aviation, military) at the Jetport to develop a profile of airport operations, including changes in use and levels of operations in recent years. Primary sources of data will be the Jetport's monthly and annual activity summaries, based aircraft list, FAA statistical information regarding aircraft operations and fleet mix, and actual instrument approaches (AIAs). Using the current fleet mix, determine the most demanding scheduled commercial service aircraft (passenger or cargo), and the most demanding general aviation aircraft reference code with 500 or more annual operations.

Responsibilities:

Consultant: Conduct the inventory.

Sponsor: Provide all available passenger, based aircraft, cargo volumes, and aircraft operations data.

Product: Historical air traffic activity as necessary to prepare forecasts, determine facility requirements, and update the airport environmental conditions.

Task 3.9 - Inventory Socioeconomic and Community Data

Description: Obtain statistical data on historical and forecast socioeconomic factors for the Portland metropolitan area and other locations within the air service area of the Jetport. These factors will include, at a minimum, employment, income, and population characteristics. Obtain and review local and regional forecasts of socioeconomic activity that analyze projected growth for the service area.

Responsibilities:

Consultant: Conduct socioeconomic inventory.

Sponsor: Provide assistance and introduction to local agencies where appropriate.

Product: A compilation of data in tabular, textual, and mapped form, for input into subsequent analyses.

Task 3.10 - Inventory Airspace and Air Traffic Control Procedures

Description: Collect information on the ATC environment, aircraft operational procedures and airspace use, noise abatement procedures and other operating conditions, as appropriate, for use in understanding the area airspace and problems. Materials describing the airspace structure and ATC procedures applicable to aircraft arriving/departing will be assembled. Information will be obtained from published maps and charts, FAA internal documents and interviews with ATC personnel.

Responsibilities:

Consultant: Conduct the inventory.

Sponsor: Provide a list of and introduction to ATC contact personnel located at the airport.

Product: General description of airspace use and aircraft operational procedures in the airport environs with supporting graphics as appropriate.

Task 3.11 - Inventory Environmental Conditions

Description: Collect and review information on baseline environmental conditions and concerns for use in preliminary identification of potential environmental impacts of proposed airport concepts. This will primarily involve updating information collected for the 2009 Environmental Assessment, historic state and federal permitting, and other environmental documents such as the 2004 Part 150 Study. Factors to be reviewed include:

- Noise and land use
- Biotic resources
- Water quality
- Wetlands
- Floodplain and floodway data
- Geology and soils
- Solid and hazardous waste sites
- Historic and cultural resources

The environmental conditions will be derived from existing reports, research of available information on agency websites and, if necessary, coordination with federal and state agencies. The intent of this task is not to assess environmental impact, but to update the inventory of potential environmental sensitivities.

Responsibilities:

Consultant: Conduct the inventory.

Sponsor: Provide a list of contacts at local environmental agencies if needed.

Product: A compilation of environmental data for use in later analyses. Identification of environmental conditions and concerns as they may relate to potential airport improvement impacts.

Task 3.12 - Inventory Parcel Boundary

Description: Prepare boundary survey of all PWM (City of Portland) property shown on PMW's Exhibit A including 91 parcels and 21 easements which make up the airport property encompassing approximately 800 acres. There are also approximately 45 abutting parcels, all of which must be examined to determine the lines in common with the airport.

The parcel boundary work will be completed in three phases.

PHASE ONE: RESEARCH, RECONNAISSANCE & PREPARATION

Deed descriptions will be justified with their abutting parcels and their locations determined on the face of the earth. This task will include identifying and investigating perimeter parcels, abutting parcels, compiling existing surveys and patching them together with existing CAD and GIS mapping (data sets from the Cities of Portland and South Portland).

The reconnaissance aspect will include a few days in the field using GPS to locate existing monuments. By coordinating the physical evidence of existing surveys and deed information into a composite digital product using CAD and GIS tools, an interactive work product will be created.

This work will be the beginning of the process that will identify field work needed to complete the project to the standards of a boundary survey.

PHASE TWO: FIELD WORK

In this phase of work, a control network along the perimeter will be created, existing monuments will be verified, areas that need more scrutiny will be determined, and the network will be tied into existing surveys and incorporate river frontage. Although existing surveys will be utilized, they will need to be located on the ground and fitted into the coordinate system in sync with other plans and tied together with the control network (assuming they match their survey and deed data).

There are approximately six miles of ground perimeter and two miles of river frontage.

PHASE THREE: FINAL PRODUCT

The analysis of synchronizing the research work with the field data (monumentation and occupation) is the ultimate goal and also perhaps the most intensive. The format of the final product will depend upon its use. It is our understanding that the parcel boundary work will be used as a base layer for a GIS. The surveyor will need guidance from PWM staff as to the type of ground information required, such as monument quality, encroachments, wetlands, etc. to be included along with the usual boundary information. Finally, lines along the perimeter will be clearly

monumented at each angle point.

Responsibilities:

Consultant: Prepare boundary survey.

Sponsor: Provide existing deed and survey information. Provide access to airport property as required.

Product: Recordable boundary survey.

Task 3.13 – Economic Benefit Surveys

Description: Four surveys will be undertaken at the outset of the Economic Benefit Study. The surveys under this task are described as follows:

On-Airport Employers - An employer survey will be distributed to tenants on the airport asking for information on employment and payroll in the most recent year. Follow-up calls and interviews will be conducted as necessary to complete the census of on-airport firms and employment.

The airport administration will be asked to provide a listing of airport tenants and suggested contact persons. Assistance of airport staff will be required for obtaining employment numbers and payroll figures for the tower and any other agency that may restrict disclosure of such information. The airport financial office will be asked to provide information on concession revenues, as an indicator of economic activity on the airport.

Employment created by airport capital improvement projects will also be calculated. The airport administration will be asked to provide a listing of recent projects, type of project, and dollars spent over a period of the most recent five years.

Based Aircraft Owners - A mail survey will be distributed to based aircraft owners asking for information on aircraft usage, hours flown, purpose of travel (business or personal) and annual outlays associated with aircraft ownership. Based aircraft owners will be asked to evaluate the importance of the airport for their business. The airport administration will be asked to provide a listing of based aircraft owners with mailing address (mailing labels if available).

General Aviation Travelers - A General Aviation Visitor Survey will be distributed to air travelers arriving by GA aircraft to measure the spending and travel patterns of GA visitors to the area. The survey will ask whether visitors stayed for one day or less or overnight. Visitors will also be asked about purpose of travel as well as outlays for lodging, ground transport, food, and spending on retail goods and services, including entertainment, activities, and cultural and sporting events.

Commercial Air Travelers - A survey will be distributed to departing airline passengers in the terminal, stratified by flight destination. Those passengers identified as visitors to the area will be asked to provide information on purpose of travel, length of stay, areas visited, and outlays for lodging, ground transport, food, and spending on retail goods and services, including entertainment, activities, and cultural and sporting events.

This information will be tabulated and estimated employment, payroll and overall spending by commercial air travelers will be computed.

The airport administration will be asked to request TSA to allow survey-takers to have access to passengers waiting for departure in the terminal.

Responsibilities:

Consultant: Direct and conduct the surveys. The passenger surveys will be conducted with the assistance of Civil Air Patrol Cadets or other students/temporary workers. If the passenger survey can be kicked-off at the same time as a Planning Advisory Committee meeting, present an overview of what the Economic Benefit Study will involve.

Sponsor: Provide a list of contacts for tenant and agencies on the airport as well as a list of based aircraft owners. Assist the consultant with the logistics necessary to conduct the passenger survey in the terminal.

Product: A compilation of survey data for use in later analyses.

Task 3.14 - Prepare Draft Working Paper

Description: Prepare an Inventory working paper which will provide up-to-date information in narrative and graphic form. The consultant will prepare thirty-five (35) copies of this draft working paper.

Responsibilities:

Consultant: Prepare working paper and distribute to PAC, FAA, and Sponsor.

Sponsor: Distribute and review draft working paper.

Product: Thirty-five (35) copies of the draft working paper for distribution to the Sponsor, the FAA, and advisory committee members. The working paper will also be made available on the website at least 48 hours prior to the first public information workshop.

ELEMENT 4 - AVIATION FORECASTS

Task 4.1 - Terminal Area Forecast Review

Description: The FAA Terminal Area Forecasts (TAF) from January 2014 will be utilized as the basic master plan forecasts for passenger enplanements, operations, and based aircraft. Review the history of air traffic growth at PWM over at least the last 30 years. Discuss industry and local economic factors that have affected the growth of passengers and operations over that time period. Review the TAF and develop an opinion of range around the TAF as a test for need and viability of proposed improvements. This range will consider socioeconomic variances as well as sensitivities to reasonable variances in the air transportation industry such that could have an effect at PWM.

The work will result in forecasts for 2020, 2025, and 2035 and variances for the following:

- Airline enplanements
- Airline operations
- Air taxi operations
- General aviation operations (itinerant and local)
- Military operations (itinerant and local)
- Based aircraft

Responsibilities:

Consultant: Review 2014 TAF and develop an opinion of range.

Sponsor: Review, comment, and accept forecasts.

Product: TAF review and forecast range through 2035.

Task 4.2 - Prepare Passenger Airline Fleet Mix Forecasts

Description: Fleet mix projections will be developed for airlines by utilizing information available on fleet orders, aircraft retirement schedules, and the TAF and range for Portland International Jetport developed in previous tasks. Fleet mix forecasts will be prepared in sufficient detail to serve as direct input for critical aircraft and terminal facility analysis. Boarding load factors will also be developed, by airline, for both historical and forecast periods, since this will provide the basis for derivation of departure projections for airlines. A final refinement of commercial airline fleet mix forecasts will be conducted to integrate the effects of changing technology in commercial aircraft and will result in projections for 2020, 2025, and 2035.

Responsibilities:

Consultant: Prepare commercial service fleet mix forecasts.

Sponsor: Review, comment, and approve forecasts.

Product: Complete commercial service fleet mix forecasts for the years 2020, 2025, and 2035.

Task 4.3 - Prepare General Aviation Fleet Mix Forecasts

Description: Develop general aviation fleet mix forecasts utilizing information available on general aviation fleet projections and the TAF and range for PWM developed in previous tasks. Historic aircraft ownership and basing characteristics within the service area will also be considered in forecasting the based aircraft fleet mix. Specific attention will be given to the market factors affecting demand for corporate aircraft and how they relate to the Jetport.

Operational fleet mix forecasts will consider the market relationships to the Jetport's based aircraft mix as well as factors affecting transient aircraft mix. Military operations are minimal and the fleet mix will be projected based upon non-classified information affecting military operations at the Jetport. A final refinement of activity forecasts will be conducted to integrate the effects of changing technology in general aviation and will result in projections for 2020, 2025, and 2035.

Responsibilities:

Consultant: Prepare general aviation (GA) demand forecasts.

Sponsor: Review, comment, and approve forecasts.

Product: Complete general aviation forecasts for the years 2020, 2025, and 2035.

Task 4.4 - Prepare Air Cargo Demand Forecasts

Description: Other than including all-cargo operations within the air carrier and commuter forecasts, the TAF does not include forecasts normally related to air cargo demand. Based upon the results of information collected by the air cargo operators serving the Jetport, and using the databases prepared under preceding tasks, prepare forecasts of air cargo demand for 2020, 2025, and 2035. The forecasts under this task will include anticipated cargo volume (annual tons), all-cargo aircraft operations, and operational mix. Cargo volumes will also be separated into forecasts of belly freight (carried by the passenger airlines) and all-cargo carriers.

Responsibilities:

Consultant: Prepare air cargo forecasts.

Sponsor: Review, comment, and approve forecasts.

Product: Complete air cargo demand forecasts for 2020, 2025, and 2035.

Task 4.5 Determine Future Critical Aircraft

Description: Based upon the fleet mix forecasts of the previous tasks, determine the most demanding scheduled commercial service aircraft (passenger or cargo) and the most demanding general aviation aircraft reference code with 500 or more annual operations. This will be compared with the current critical aircraft as determined in Task 3.7.

Responsibilities:

Consultant: Determine future critical aircraft and its airport reference code.

Sponsor: Review and comment on the future critical aircraft.

Product: The critical aircraft and its airport reference code for PWM to be considered over the planning period.

Task 4.6 - Prepare Draft Working Paper

Description: Document assumptions and methodologies used in preparing activity forecasts for review and to serve as the basis of later tasks in the study. Prepare narratives describing the assumptions and methodologies used in preparing the study's forecasts. Present historical and forecast information in tabular and/or graphical format. Forecast data will be approved by the FAA prior to finalizing any subsequent forecast-dependent tasks.

Responsibilities:

Consultant: Prepare working paper and distribute to PAC, FAA, and Sponsor.

Sponsor: Review and approve forecasts and submit to FAA for approval.

Product: Thirty-five (35) copies of the draft working paper for distribution to the Sponsor, the FAA, and PAC members. The working paper will also be made available on the website at least 48 hours prior to the first public information workshop.

ELEMENT 5 - FACILITY REQUIREMENTS

Task 5.1 - Define Planning Horizon Activity Levels

Description: Utilizing the aviation demand forecasts prepared in the previous element, identify planning horizon activity levels for enplanements, operations, cargo, and based aircraft which define the Short Term (0-5 years), Intermediate Term (6-10 years), and Long Term (11-20 years) planning horizons. These planning horizons will be utilized throughout the remainder of the report to link future development needs to activity levels rather than points in time.

Responsibilities:

Consultant: Identify planning horizon activity levels.

Sponsor: Review and comment.

Product: Input for later analyses.

Task 5.2 - Prepare Peaking Characteristics

Description: Prepare peaking characteristics based upon the planning horizons for use in the facility requirements analysis. This will include peak month, design day, and design hour for airline passengers, operations (total, airline, GA, air cargo, and other air taxi), as well as busy day operations for GA.

Responsibilities:

Consultant: Identify peak activity levels for each planning horizon.

Sponsor: Review and comment.

Product: Input for later analyses.

Task 5.3 - Establish Airfield Physical Planning Criteria

Description: Identify physical facility planning criteria for use in assessing the adequacy of various airport facilities to meet forecast demands. These criteria shall be based upon the latest FAA requirements and standards as they apply to the level of activity identified, new technology, and the role of the airport. These criteria shall include dimensional standards for safety including runway lengths, runway to taxiway separation, height restrictions, building restriction lines, and the airport property line. These criteria will also include requirements to maintain approach and runway protection zones, safety areas, object free areas, and related general physical area requirements based upon FAA Advisory Circular 150/5300-13A - *Airport Design*. It is anticipated that capacity will not be a major development factor, and focus will be primarily on safety, preservation of necessary facilities, and sustainability.

Responsibilities:

Consultant: Identify physical planning criteria to meet forecast demands.

Sponsor: Review and evaluate results.

Product: Detailed criteria for airport physical planning.

Task 5.4 - Determine Airfield Requirements

Description: Using the results and relevant information from other tasks, determine the airfield requirements that will be needed to meet projected demands for the airport. The airfield requirements will include runways, taxiways, lighting, navigational aids, and marking and signage. These facility requirements will be developed in the form of gross areas and basic units and will be compared to those that presently exist to identify the future development items needed to maintain adequate service, function, and operations of the airport.

Responsibilities:

Consultant: Identify specific airfield facility needs.

Sponsor: Review and evaluate results.

Product: A detailed description of all airfield facilities required to meet aviation demands at the airport throughout the planning period and beyond.

Task 5.5 - Airline Passenger Terminal Requirements

Description: Utilizing information developed in previous tasks, evaluate gate occupancy/utilization and terminal space requirements. The evaluation will identify the need and timing for additional terminal space and gates in relation to the planning horizons. The requirements will break down the spatial needs for departures processing, concourse and gate facilities and apron areas, arrivals processing, public spaces including concessions, building systems and support, and operations and administration.

Responsibilities:

Consultant: Identify specific terminal requirements for the planning horizons.

Sponsor: Review and comment.

Product: A description of terminal building requirements and comparison to existing facilities.

Task 5.6 - Determine Access and Circulation Requirements

Description: Conduct general planning level capacity analysis of the airport external and internal access systems. This will include the airport entrance roads, terminal loop road, and the air cargo and general aviation access roads. Using this analysis, as well as planning standards, identify the preliminary facility requirements for ground access and circulation on the airport. Facility size and level of service will be estimated based upon the level of service required and volume changes that would be expected to occur to the roadway system in use today. Also establish the total length of curb and lanes necessary for enplaning and deplaning functions along the front of the terminal building. These will be based upon existing and forecast passenger increases.

Responsibilities:

Consultant: Identify ground access and circulation facility needs.

Sponsor: Review and evaluate results.

Product: A description of ground access and circulation needs that will be required to meet aviation demand at the airport throughout the planning horizons.

Task 5.7 - Determine Parking Requirements

Description: Using forecast information, parking data collected earlier, as well as planning standards, establish the facility requirements for automobile parking on the airport. Establish the parking requirements. Parking requirements will be estimated for short and long term public parking, airport employees, rental car ready/return, and rental car service and storage.

Responsibilities:

Consultant: Identify airport ground vehicle parking needs.

Sponsor: Review and evaluate results.

Product: A detailed description of all types of parking needs that will be required to meet aviation demand at the airport throughout the planning horizons.

Task 5.8 - Determine Air Cargo Requirements

Description: Analyze existing air cargo facilities for both airline (belly) freight and the separate all-air cargo facilities on the airport for individual parameters that will limit their capacity and estimate the maximum capacity of each parameter. Based upon this information together with the forecasts of air cargo, develop an estimate of the type, size, and number of air cargo

facilities that will be needed in the future, including apron, building, vehicle and truck parking. This examination will include an evaluation of fleet mix changes that may be possible and/or expected by the airlines transporting air cargo.

Responsibilities:

Consultant: Identify air cargo facility requirements.

Sponsor: Review and evaluate results.

Product: A detailed description of air cargo facility requirements expected through the planning horizons.

Task 5.9 - Determine General Aviation Requirements

Description: Identify physical planning criteria for evaluating the adequacy of general aviation facilities to meet forecast demands for the current, short term, intermediate, and long range planning horizons. Utilize applicable requirements and standards to compare the capacity of existing facilities with the projected demand. Prepare a preliminary list of general aviation facility requirements for the Jetport including:

- Aircraft parking apron and tie-downs
- Aircraft storage hangars
- Fixed base operator (FBO) facilities
- Access and parking facilities

Responsibilities:

Consultant: Identify specific general aviation facility needs.

Sponsor: Review.

Product: Description of facility requirements to support general aviation through the current, short, intermediate, and long term planning horizons.

Task 5.10 - Determine Airport Support Requirements

Description: Identify physical planning criteria for evaluating the adequacy of various support facilities to meet forecast demands for the current, short term, intermediate, and long range planning horizons. Utilize applicable requirements and standards to compare the capacity of existing facilities with the projected demand. Prepare a preliminary list of support facility requirements for the Jetport including:

- Fuel storage

- Aircraft Rescue and Firefighting (ARFF) equipment and facilities
- Snow Removal Equipment (SRE) and facilities
- Airport maintenance facilities
- Aircraft deicing fluid storage and recycling facilities

Responsibilities:

Consultant: Identify specific support facility needs.

Sponsor: Review.

Product: Descriptions of support facility requirements for the current, short, intermediate, and long term planning horizons.

Task 5.11 – Establish Sustainability Goals

Description: Based on the Sustainability Mission Statement and the findings of the Sustainability Baseline Assessment, prepare a draft Sustainability Goals and Objectives Statement to be discussed and further refined with PWM staff and through a session with the PAC. The Goals will be more general in nature and relate to the sustainability categories of importance to PWM. The Objectives will be more specific and, if ultimately met, will result in successfully achieving the Goals. The ACI-NA recommended goals and objectives will be utilized as a starting point for the draft Goals and Objectives statement, customized to PWM specific conditions.

Alternatives screening criteria that take sustainability goals and objectives into account will be developed and utilized in the sustainability evaluation of airport alternatives in the next element.

Two one-hour conference calls will be held in support of this task.

Responsibilities:

Consultant: Prepare Sustainability Goals and Objectives Statement and develop alternatives screening criteria.

Sponsor: Review and comment.

Product: Sustainability Goals and Objectives and related Alternatives screening criteria.

Task 5.12 – Prepare Working Paper

Description: Document assumptions and methodologies used in preparing facility requirements for review and to serve as the basis for later tasks in the study. Prepare narratives describing the assumptions and methodologies used in preparing the facility requirements. Pre-

sent facility requirement information in tabular and/or graphical format. A Purpose and Need statement will be developed for major project needs in the short term planning horizon.

Responsibilities:

Consultant: Prepare working paper and distribute to PAC, FAA, and Sponsor.

Sponsor: Review and comment.

Product: Thirty-five (35) copies of the draft working paper for distribution to the Sponsor, the FAA, and advisory committee members. The working paper will also be made available on the website at least 48 hours prior to the first public information workshop.

ELEMENT 6 - ALTERNATIVES ANALYSIS

Task 6.1 - Identify Development Issues

Description: Based upon the results of the facility requirements analysis, current events and attitudes related to the development of the airport, identify key issues that will be important considerations during the process of selecting alternatives for the future development of the airport. The type of issues that will be of importance to the process are those associated with community concerns, environmental factors, user preferences, political factors, highest and best use of land, land acquisition, and costs and the timing of development.

Responsibilities:

Consultant: Identify key development issues.

Sponsor: Assist in identification of issues.

Product: An overview of issues that will be of primary concern in the evaluation of alternatives.

Task 6.2 - Identify and Evaluate Candidate Sustainability Initiatives

Description: Coordinate with PWM staff to identify initiatives that are consistent with the Airport's Sustainability Mission Statement and Goals and Objectives. Each of the initiatives will be linked to a specific Objective, which in turn will satisfy the Airport's Sustainability Goals.

Sustainability initiatives will be identified with input from PWM staff, the Consultant Team's airport and private industry experience, the Sustainable Aviation Guidance Alliance (SAGA) database, and a variety of relevant publications from the Transportation Research Board's (TRB) Airport Cooperative Research Program (ACRP). Sustainability initiatives will be consid-

ered as both enhancements to part of the recommended master plan concepts, and as stand-alone measures to meet specific objectives of the Airport.

The Consultant will compile a comprehensive list of sustainability initiatives that will then be evaluated based on criteria determined by PWM staff and the Consultant. Typically, these criteria include first costs, operational costs, level of staff effort, and each initiatives contribution to the Jetport's sustainability goals and objectives.

A half-day workshop will be held with PWM staff to review and refine the compiled list of sustainability initiatives. Phasing and prioritization of the sustainability initiatives will also be discussed at the workshop.

The list of sustainability initiatives will be further refined and then finalized through coordination conference calls with PWM staff.

A total of three one-hour coordination conference calls with PWM staff will be held to support this task.

Responsibilities:

Consultant: Identify and evaluate candidate sustainability initiatives.

Sponsor: Review and comment.

Product: A series of suggested sustainability initiatives.

Task 6.3 - Airfield Alternatives

Description: On the basis of the facility requirements, review airfield development alternatives. It is recognized that the runways are fully developed within the constraints of the airport. As a result, this airfield alternative review will focus on ways to improve or enhance safety, security, functional efficiency, environmental compatibility, as well as the reduction of resource consumption. This task will be conducted simultaneously with the following tasks and result in a series of overall development options for the airport.

Responsibilities:

- Consultant:** Identify and evaluate up to three (3) airfield improvement options focusing on safety, efficiency, environmental compatibility, as well as the reduction of resource consumption.
- Sponsor:** Review and comment with input for refinements and preferences.
- Product:** A series of airfield development options and documented comparative evaluation.

Task 6.4- Airline Terminal Alternatives

Description: The airline passenger terminal was recently upgraded, primarily in the ticketing, operations, concourse, and gate areas. The terminal improvements received a LEED Gold certification. The terminal alternatives analysis will review the current long term plans for the terminal in relation to the facility requirements. Special emphasis on the alternatives will be placed on the arrivals area and the reuse of remaining parts of the old terminal. Other areas of emphasis will be placed upon enhancing security, functional efficiency, as well as further reduction of resource consumption.

Responsibilities:

- Consultant:** Review current long range terminal plans, identify and evaluate up to three (3) alternatives addressing remaining terminal development issues.
- Sponsor:** Review and comment with input for refinements and preferences.
- Product:** A series of development airline terminal alternatives and documented comparative evaluation.

Task 6.5 - Air Cargo Alternatives

Description: Based upon the cargo area facility requirements determined as a part of the previous element, formulate cargo area development alternatives. Evaluate the existing as well as any other possible sites for their long term viability and expansion potential for cargo facilities. This task will be conducted simultaneously with the general aviation and support alternatives tasks in this element and will result in a series of overall development options for these components of the airport.

Responsibilities:

- Consultant:** Identify and evaluate up to three (3) development alternatives for cargo facilities.
- Sponsor:** Review and comment with input for refinements and preferences.

Product: A series of air cargo alternatives and documented comparative evaluation.

Task 6.6 - General Aviation Alternatives

Description: Based upon the general aviation area facility requirements determined under the previous element, formulate preliminary general aviation development alternatives. These alternatives will be based on concepts for development within or adjacent to airport boundaries which show all necessary development during the planning period. This task will be conducted simultaneously with air cargo and support alternatives tasks in this element and will result in a series of overall development options for these components of the airport.

Responsibilities:

Consultant: Identify and evaluate up to three (3) general aviation facilities development alternatives.

Sponsor: Review and comment with input for refinements and preferences.

Product: Alternative conceptual site layouts of general aviation facilities and documented comparative evaluation.

Task 6.7 - Airport Support Alternatives

Description: Based on the facility requirements determined under the previous element, formulate development alternatives to support facilities such as ARFF, fuel farm, SRE building, deicing facilities, and airport maintenance. These alternatives will be based on schemes for development which show all necessary development during the planning horizons. This task will be conducted simultaneously with air cargo and general aviation alternatives tasks in this element and result in a series of overall development options for these components of the airport.

Responsibilities:

Consultant: Identify and evaluate up to three (3) airport support development options.

Sponsor: Review and comment with input for refinements and preferences.

Product: A series of airport support facility alternatives and documented comparative evaluation.

Task 6.8 – Access and Parking Alternatives

Description: Based upon the access and parking facility requirements determined under the previous element, formulate access and parking development alternatives. These alternatives will be based on concepts for development within or adjacent to airport boundaries which show all necessary development during the planning period. This task will be conducted simultaneously with other tasks in this element and will result in a series of overall development options for the airport.

Responsibilities:

- Consultant:** Identify and evaluate up to three (3) access and parking development alternatives.
- Sponsor:** Review and comment with input for refinements and preferences.
- Product:** A series of airport access and parking support facility alternatives and documented comparative evaluation.

Task 6.9 - Identify Environmental Factors

Description: Identify any environmental factor which could affect the feasibility of each alternative considered viable under previous tasks. This task is not meant to constitute a National Environmental Policy Act (NEPA) analysis, but is designed to assure that environmental considerations are a part of the planning process in its earliest stages. Actual development proposals that result from the Master Plan may require a full Environmental Assessment or greater levels of environmental analysis once final development has been proposed. This environmental overview is intended to alert planners to any major environmental concerns that may affect some alternatives more than others or in different ways than other options.

Responsibilities:

- Consultant:** Prepare an environmental overview of significant environmental factors that have been identified as having a potential effect on the alternative concepts identified in earlier tasks.
- Sponsor:** Review and comment.
- Product:** An overview of environmental factors associated with the alternatives evaluated under previous tasks.

Task 6.10 - Prepare Draft Working Paper

Description: Document assumptions and methodologies used in preparing alternatives analysis for review. Prepare narratives describing the assumptions and methodologies used in preparing the alternatives. Present alternatives on graphical exhibits.

Responsibilities:

Consultant: Prepare working paper and distribute to PAC, FAA, and Sponsor.

Sponsor: Review and comment.

Product: Thirty-five (35) copies of the draft working paper for distribution to the Sponsor, the FAA, and PAC. The working paper will also be made available on the website at least 48 hours prior to the first public information workshop.

ELEMENT 7 RECOMMENDED SUSTAINABLE MASTER PLAN CONCEPT

Task 7.1 - Sustainable Airport Master Plan Concept

Description: Utilizing the information evaluated in previous tasks, prepare a detailed comparative evaluation and the supporting rationale that systematically eliminates those alternatives with the least potential and establishes a single recommended program for development of the airport facilities. The recommendation for the most prudent and feasible SAMP concept will become the basis for the final refinement of concepts, costs, and scheduling. This recommended concept is considered preliminary in nature at this point in order to allow further input from the Sponsor, the PAC, the FAA, and the public.

Responsibilities:

Consultant: Develop a refined SAMP concept for preliminary review by the Sponsor, PAC, and other interested parties.

Sponsor: Review.

Product: A preliminary SAMP concept.

Task 7.2 - Determine Environmental Documentation for Short Term Projects

Description: Based on the information and data from the Environmental tasks in the Inventory and Alternatives elements, and in consultation with the FAA, identify the type of NEPA documentation that will likely be required for the proposed short term (0-5 years) projects identified in the SAMP. Identify those projects that may only require Categorical Exclusion (Cat-Ex) documentation, as well as those requiring further environmental review.

Responsibilities:

- Consultant:** Consult with the Sponsor and FAA to identify which projects will require EA, Environmental Impact Statement (EIS), or Categorical Exclusion documentation.
- Sponsor:** Review and comment.
- Product:** List of short term CIP projects that will require either an EA, EIS, or will require Categorical Exclusion documentation.

Task 7.3 - Develop Sustainability Performance Targets

Description: In collaboration with PWM staff, develop performance targets for future tracking of sustainability performance for the categories identified in the Sustainability Baseline Assessment. The Consultant will also identify performance metrics for PWM use to track future sustainability performance.

Three one-hour conference calls will be held to refine performance targets and metrics PWM wishes to track into the future.

Responsibilities:

- Consultant:** Prepare sustainability performance targets and metrics.
- Sponsor:** Review and comment.
- Product:** Sustainability-related performance targets and metrics.

Task 7.4 - Prepare Draft Working Paper

Description: Prepare narrative and associated graphical descriptions which organize the information and analysis, and the rationale and findings of this element into a draft working paper format.

Responsibilities:

- Consultant:** Prepare working paper and distribute to PAC, FAA, and Sponsor.
- Sponsor:** Review and comment.
- Product:** Thirty-five (35) copies of the draft working paper for distribution to the Sponsor, the FAA, and advisory committee members. The working paper will also be made available on the website at least 48 hours prior to the first public information workshop.

ELEMENT 8 - CAPITAL IMPLEMENTATION PLAN

Task 8.1 - Airport Development Schedules

Description: Based upon the previous evaluations, technical meetings, and the efforts in preliminary tasks, prepare airport development schedules that reflect appropriate timing, economic feasibility, and the operational requirements of the recommended airport concept. These schedules will be organized to concentrate on a year-by-year detailed implementation program for at least the first five years. The second five years will be organized with more flexibility over the period, but will still reflect a general year-by-year approach. The final ten-year period will be organized so that interdependent development items are scheduled in order but no specific year will be identified unless a lengthy string of related development remains. This development will be organized to reflect those items that would need to be initiated early in the period and those occurring later.

Responsibilities:

Consultant: Prepare a detailed airport development schedule.

Sponsor: Review and comment.

Product: Development schedules for the improvements that are proposed as part of the selected SAMP concepts.

Task 8.2 - Prepare Airport Development Cost Estimates

Description: Based upon the previous evaluations, technical meetings, and the efforts in preliminary tasks, prepare airport development cost estimates that reflect appropriate timing, economic feasibility, and the operational requirements of the recommended airport concept.

Responsibilities:

Consultant: Refine all recommended development costs.

Sponsor: Review and comment.

Product: Cost estimates for the improvements proposed as part of the selected SAMP concepts.

Task 8.3 - Develop Implementation and Monitoring Program

Description: Work with Jetport staff to prepare a sustainability implementation and monitoring plan that identifies sustainability initiatives, general staffing requirements and range of funding levels, and a general schedule for implementation.

Responsibilities:

Consultant: Develop implementation and monitoring program.

Sponsor: Provide input and direction.

Product: Recommended sustainability implementation and monitoring program.

Task 8.4 – Develop Outline for Annual Sustainability Report Card

Description: Prepare a blank template for annual progress reporting. Jetport staff involvement in this task is integral to delivering meaningful implementation and monitoring tools. Recommendations for the process of completing the report card will be laid out.

Responsibilities:

Consultant: Develop Annual Sustainability Report Card outline.

Sponsor: Provide input and direction.

Product: Annual Sustainability Report Card to use for annual progress reporting.

Task 8.5 - Prepare Capital Improvement Program

Description: Prepare a final analysis of the capital improvement program (CIP) for the recommended airport development concept and sustainability implementation. This analysis will match up the potential funding sources (AIP, PFCs, State, etc.) and estimated funding availability identified in the previous task with the specific capital development projects in the recommended plan. A detailed description of the final CIP will be developed as part of the final recommended development concept.

Responsibilities:

Consultant: Perform the overall final comparative analysis to formulate the recommended CIP.

Sponsor: Provide input and direction.

Product: A recommended CIP with financial schedules which indicate whether the potential sources of funding will be reasonably available in the amounts and timeframe required to support the proposed plan.

Task 8.6 - Perform Financial Analysis on Recommended Program

Description: Based upon the above evaluations in this element, compare airport revenue and expense estimates prepared by the airport's financial consultant that reflect the schedule of development proposed as a part of the recommended airport concepts, the forecast level of operations, and generalized anticipated adjustments in airport user rates and charges prepared by the airport's financial consultant. Airport revenues and expenses will be estimated over the 20-year period, with the emphasis being placed on the first five years.

This portion of the analysis will also focus on the determination of the amount of net revenue available to pay debt service on bonds issued to finance the CIP over the planning period. The following bullets present the elements that will be calculated as part of this analysis.

- Airline revenues will be calculated using a projected airline cost per enplanement and projected enplanements at the Jetport. The projected cost per enplanement will be determined by reviewing the Jetport's historical airline cost per enplanement, estimating the future rate based on comparisons to other similar airports undertaking development programs, and an understanding of what the investment community would consider reasonable. The projected enplanements will be determined using the aviation forecasts developed for the SAMP.
- Non-airline revenues and operating expenses will be estimated based on a review of historical trends, anticipated activity levels, existing and future lease agreements, and expected impacts of inflation.
- Net revenues will be calculated by subtracting operating expenses and other capital expenditure requirements, if any, from the total of airline and non-airline revenues, as well as any anticipated investment earnings.
- Net revenues available to pay debt service will be calculated by subtracting any existing debt service payments from net revenues. If necessary, capital expenditure requirements, if any, will also be considered.
- The net revenue available to pay debt service will then be divided by the debt service coverage requirement as outlined in the City of Portland's (City) current General Certificate for the Jetport to determine the amount available to pay future debt service.
- The amount available to pay future debt service will be converted into an equivalent bond total (gross bond proceeds) using various assumptions regarding future interest rates.
- The projected budget potential is then calculated by estimating total project funds available (i.e., gross bond proceeds, federal and state grants, passenger facility charges, local funds, investment earnings, etc.) less financing costs, any required fund deposits, and interest capitalized during the construction period.

Responsibilities:

Consultant: Include overview of financial analysis prepared by the airport's financial consultant.

Sponsor: Provide technical assistance and direction.

Product: Generalized airport revenue and expense information to help finalize the CIP.

Task 8.7 - Economic Benefit Analysis

Description: The economic benefit analysis will be prepared based on methodology set out in the FAA publication *Estimating the Regional Economic Significance of Airports*. The key economic benefit measures are employment, earnings (payroll), and economic activity, defined as total sales, revenues, or, for government agencies, operating budgets. In addition, other important activity measures will be identified, including tax revenues generated, airport operations, and spending by visitors that arrive at the airport.

The economic benefit study plan is designed to accomplish the following objectives:

- Provide a detailed analysis of the economic benefits created by Portland International Jetport for the service area. Measure employment, earnings and economic activity (revenues) due to the presence of the airport and make information available to airport management and the public on the magnitude and importance of aviation's impact on the economy and quality-of-life in the region.
- Identify the impacts of on-airport firms and government agencies. Measure the employment, earnings, and economic activity from airport tenants involved in providing goods and services for general aviation, commercial air travelers and the aviation community.
- Analyze usage patterns for PWM based aircraft, including business and personal travel, typical numbers of passengers, hours flown per year, and average expenditures by aircraft owners on storage, maintenance, and other outlays. Estimate the "equivalent charter value" of annual travel by based aircraft to measure benefits of general aviation for businesses and private aircraft owners.
- Identify and measure the impacts of air visitors arriving in Maine at Portland International Jetport, including visitor spending on lodging, food, ground transportation, recreation, and retail goods and services within the service area, and jobs and income created as a result. Analyze differences in travel and spending patterns based on purpose of travel, including for business or personal reasons.
- Demonstrate how these on-airport and air visitor benefits spread over the entire economy. Show how the initial impacts lead to induced "multiplier" effects as aviation

spending recirculates through the economy creating additional jobs and further economic benefits.

- Calculate the revenue to state and local governments that results from aviation activity, the supply of aviation related goods and services, the use of aviation services and facilities, and air visitor spending in the service area.
- Prepare a report to inform the general public, decision makers in business and government, and aviation professionals about the economic contribution of Portland International Jetport and the potential growth in benefits over time. Participate in a public presentation of the results of the project.

The initial employment, payroll, and revenues from on-airport economic activity and visitor spending make up the "primary" economic benefits. When primary spending circulates through the service area, this induces secondary effects. These secondary or multiplier benefits will be computed through application of the IMPLAN input-output model that is widely used for computing effects of economic activity on regions such as states and counties. The combined primary and secondary benefits sum to total economic benefits or the total employment, payroll and revenues created due to the presence of the Airport.

Responsibilities:

Consultant: Conduct and Prepare the Economic Benefit Analysis.

Sponsor: Review and comment of draft analysis.

Product: An updated Economic Benefit Analysis for Portland International Jetport to be included as an Appendix to the Sustainable Airport Master Plan. A presentation of the draft analysis at a Planning Advisory Committee meeting and a Public Workshop.

Task 8.8 - Prepare Draft Working Paper

Description: Prepare narrative and associated graphical descriptions which organize the information and analysis, as well as the rationale and findings of this element, into a draft working paper format.

Responsibilities:

Consultant: Prepare working paper and distribute to PAC, FAA, and Sponsor.

Sponsor: Review and comment.

Product: Thirty-five (35) copies of the draft working paper for distribution to the Sponsor, the FAA, and advisory committee members. The working paper will also be

made available on the website at least 48 hours prior to the first public information workshop.

ELEMENT 9 - AIRPORT LAYOUT PLANS

Description: The purpose of this study element is to update and revise the set of Airport Layout Plans (ALP) for the Portland International Jetport. All plans will be prepared in a format which complies with the content contained within FAA Airport's Standard Operating Procedure (SOP) *Standard Procedure for Review and Approval of Airport Layout Plans (ALPs)* dated October 1, 2013, and which is readily acceptable to the FAA and can be utilized by the Jetport staff in carrying out implementation. All plans will be produced utilizing AutoCAD software. The AutoCAD drawings, in a version acceptable to the Sponsor, will be a deliverable item to the City at the completion of this project. The Airport Plans will be included as an appendix in the Final SAMP documents.

Task 9.1 - Prepare Cover Sheet

Description: This sheet provides a basic description of the Airport Layout Plan set of drawings. The cover sheet will include the title of the project and will serve as the index of drawings. This drawing may also be used to depict wind roses, location and vicinity maps, and/or other data which cannot be included on the Airport Layout Drawing (ALD) because of space limitations. This and all ALP drawings will be developed utilizing AutoCAD software.

Responsibilities:

Consultant: Prepare updated drawing.

Sponsor: Review and comment.

Product: Cover sheet for the Airport Layout Plan set.

Task 9.2 - Existing Airport Layout Plan

Description: Under this task, an updated base map of the airport, referred to as the Existing Airport Layout Plan, will be prepared. This map will be prepared electronically using AutoCAD and will be based on the available mapping and aerial photogrammetry.

- Existing airport features/facilities will include existing airport property and easements and recent improvements.
- Best available existing ground contours and other natural features' contour data will be collected. Ten (10) foot contour intervals will be shown on the Existing ALP. All roadways, bodies of water, neighborhoods, political boundaries, etc. will be labeled.

- Existing airport safety areas as defined by each runway's airport reference code (ARC).
- The Airport data table will include recalculated airport reference points converted from Maine state grid coordinates to latitude/longitude.
- Runway data table and runway end coordinates -- indicate all applicable geometric features, design categories, and approach capabilities.
- Building data table -- all on-airport buildings and facilities will be numbered, coded, and identified. The building elevation will also be included.
- Legend -- will also include other physical and design surfaces such as NAVAIDS, airfield lighting, and building restriction line (BRL).
- Modifications to FAA design standards to be updated from the 2008 Existing ALP.
- Other pertinent plan information, including RPZs, RSAs, ROFAs, ARC, Critical Aircraft, and NAVAID critical areas.

Both all-weather and IFR wind roses will be depicted on the updated Existing ALP.

Responsibilities:

Consultant: Update existing Airport Layout Plan drawing.

Sponsor: Review and approve.

Product: Existing ALP for the Airport Layout Plan set.

Task 9.3 - Update Airport Layout Plan Drawing

Description: The existing Airport Layout Plan drawing will be updated on the airport sponsor's current AutoCAD software to reflect the results of the master plan analysis and recommendations. This and all other drawings will be prepared to conform to the ALP Checklist in the FAA SOP.

Responsibilities:

Consultant: Update Airport Layout Plan.

Sponsor: Review and approve.

Product: ALP Drawing for the Airport Layout Plan set.

Task 9.4 - Update Terminal Area Drawing

Description: Update the Terminal Area Drawing to reflect recommended development in the passenger terminal area and contiguous aviation development areas which result from the recommendations of this study. This will include all facilities in the northwest quadrant of the airport.

Responsibilities:

Consultant: Update drawing.

Sponsor: Review and comment

Product: Terminal Area Drawing for the Airport Layout Plan set.

Task 9.5 - Update Air Cargo Area Drawing

Description: Update the air cargo area drawing to reflect the proposed development resulting from the recommendations of this study. The plan will include all facilities in the northeast quadrant of the airport.

Responsibilities:

Consultant: Update drawing.

Sponsor: Review and comment.

Product: Air Cargo Area Drawing for the Airport Layout Plan set.

Task 9.6 - Update South General Aviation Area Drawing

Description: Develop a south general aviation area drawing to reflect the proposed development resulting from the recommendations of this study. The plan will include access taxiways, apron areas, hangars and tie-down areas, vehicle parking areas and vehicular circulation and access.

Responsibilities:

Consultant: Update drawing.

Sponsor: Review and comment.

Product: South General Aviation Area Drawing for the Airport Layout Plan set.

Task 9.7 – Update Part 77 Airspace Drawing/Obstruction Analysis

Description: Update the Federal Aviation Regulation (F.A.R.) Part 77 Imaginary Surfaces drawing which depicts the elevations of surfaces for determining obstructions to navigable airspace. Utilize available survey information previously prepared in conformance with Advisory Circulars 150/5300-16A, -17C, and -18B. An obstruction analysis will be conducted as a part of the Part 77 drawing process utilizing this information. An additional obstruction analysis will be conducted dropping the airspace surfaces for both runways by 10 feet, to help PWM mitigate future obstacle concerns off of all existing approaches.

Responsibilities:

Consultant: Update drawing.

Sponsor: Review and comment.

Product: Part 77 Airspace Drawing for the Airport Layout Plan set and additional 10 foot Offset Obstruction Drawing.

Task 9.8 - Update Inner Approach Surface Drawings

Description: This plan will depict all objects and obstructions in both plan and profile view located within the inner portions of the runway approaches. Utilize available survey information previously prepared in conformance with Advisory Circulars 150/5300-16A, -17C, and -18B.

Responsibilities:

Consultant: Update Inner Approach Surface Drawings.

Sponsor: Review and comment.

Product: Inner Approach Surface Drawings for the Airport Layout Plan set.

Task 9.9 – Prepare Departure Surface Drawings

Description: Prepare new departure surface drawings in accordance with the SOP ALP Checklist Utilize available survey information previously prepared in conformance with Advisory Circulars 150/5300-16A, -17C, and -18B.

Responsibilities:

Consultant: Prepare new departure surface drawings for the airport.
Sponsor: Review and comment.
Product: Departure Surface Drawings for the Airport Layout Plan set.

Task 9.10 - Update Airport Land Use Drawing

Description: Update the existing Airport Land Use Drawing to reflect any changes that result from recommendations made as a part of this study. Land uses within the airport boundary will be depicted by general use categories.

Responsibilities:

Consultant: Update drawing.
Sponsor: Review and comment.
Product: Airport Land Use Plan for the Airport Layout Plan set.

Task 9.11 - Update Airport Exhibit A

Description: Update the Exhibit A - Airport Property Map to conform to the FAA Checklist. This task will utilize the existing Exhibit A and the new airport boundary survey and associated review of existing deeds and other related title information. Boundary survey information obtained as part of Task 3.12 will be utilized to update the Exhibit A.

Responsibilities:

Consultant: Update drawing.
Sponsor: Review and comment.
Product: Exhibit A Property Map for the Airport Layout Plan set.

Task 9.12 - Preparation of Draft ALP and Draft ALP Drawing Set

Description: Preparation of eight (8) color copies of the "Draft" ALP drawing and three (3) full drawing sets for submission to the Sponsor, and subsequent comprehensive agency review by FAA and MDOT. Drawings will be a minimum size of 24" x 36". MDOT and FAA reviews will be concurrent. Drawings will be submitted with or prior to publication of the Draft Master Plan

report. The ALP Checklist from Appendix A of the FAA SOP will be completed and submitted along with the drawings

Responsibilities:

- Consultant:** Provide eight (8) color copies of the Airport Layout Plan, along with three (3) full Airport Layout Plan drawing sets, depicting the sponsor selected "Recommended Plan" along with the completed ALP Checklist.
- Sponsor:** Provide eight (8) unsigned copies of ALP drawing and Data Sheet, if separate, along with one (1) full set of drawing plans to FAA for review. Include signed transmittal letter indicating the changes from the last approved ALP drawing. Provide one (1) full set of drawings to MDOT for review.
- Product:** Eight (8) color copies of ALP drawing and three (3) copies of "full" ALP drawing set. Completed FAA ALP Checklist from the SOP.

Task 9.13 - Preparation of Final ALP and Final ALP Drawing Set

Description: Revise the Draft Airport Layout Plans and Drawings prepared in the previous task to reflect comments received from the FAA review. Upon approval from the Sponsor, provide six (6) full sets of the revised ALP to the City for their signature. The City will forward the signed drawings to the FAA New England Region for final approval.

Responsibilities:

- Consultant:** Provide six (6) full color sets of the Airport Layout Plan.
- Sponsor:** Review and sign all sets. Forward all sets to the FAA New England Region for final approval.
- Product:** Six (6) color sets of ALP.

ELEMENT 10 - AIRPORTS-GIS DATA DEVELOPMENT AND SUBMISSION

Task 10.1 - Review Previous Airspace Surveys

Description: The Portland International Jetport has had numerous Airports-GIS surveys. In an effort to use as much existing data as possible, these surveys and their data will be collected and reviewed for assembling a more complete database, similar to an eALP. The eALP data build is the most complete and will serve the airport as a base GIS dataset. Data will be collected from the SAMP project, any Airports-GIS surveys, and other existing data the airport may have. Guidelines provided by the airport and those drawn from the FAA will be integrated into the scope of work.

One stated purpose for the FAA Airport-GIS initiative was to provide a system of data validation that allowed for reuse of data without the extensive effort of constantly acquiring new surveys and imagery. The Portland International Jetport is an ideal candidate for evaluating the goal of recycling data because of the numerous surveys that have been performed. Working out a process of acceptability for this data between FAA and NGS is critical since both have a role in the review and acceptance of Airports-GIS data.

The main purpose of this task is to acquire and evaluate existing Airports-GIS data of the Portland International Jetport and coordinate with FAA and NGS to determine acceptability of the data as well as identify any areas where new data should be collected. Determination of an acceptable project type for the new dataset and what is to be submitted to Airports-GIS is also important as it determines the work ahead. **If it is determined that the FAA and NGS will not approve an acceptable project with previous survey data, the scope of services will require an amendment for any new surveys required.**

Responsibilities:

- Consultant:** Collect and evaluate existing Airports-GIS data for the Portland International Airport. Coordinate with FAA and NGS to evaluate the reuse of existing data. Document the process and the data for airport review and use in the Statement of Work (SOW), Task 1.2.
- Sponsor:** Provide access to existing data for the airport in the Airports-GIS system. Help coordinate with FAA and NGS to discuss use of existing data. Attend meetings as required.
- Product:** An Existing Data Review document detailing data reviewed and applicability to the data collection effort. Gaps in data will also be identified and documented.

Task 10.2 - Develop Statement of Work (SOW)

Description: All Airports-GIS projects are required to have an FAA-approved SOW in order to proceed. The SOW is a detailed document and agreement of the work to be performed. It also serves as a checklist for determination of project completion. It is planned by the airport, FAA, and consultants. This project seeks to reuse data from previous surveys. Prior approval for reuse of data from FAA and NGS is required since both have data validation responsibility for Airports-GIS projects.

Responsibilities:

- Consultant:** Coordinate a meeting between the Portland International Jetport, FAA, NGS and consultants. Develop SOW document and submit to Airports-GIS portal.
- Sponsor:** Meet with FAA and Consultants to develop SOW and approve prior to submittal.
- Product:** Approved SOW via the Airports-GIS portal.

Task 10.3 – Develop Recommendations for Inclusion of Sustainability Focused Data

Description: The Portland International Jetport project is incorporating sustainability projects into the Master Plan. Sustainability is a key issue for FAA and one that is not covered in the data model in FAA AC 150/5300-18B. Work with the Airport and the FAA Region to develop data model recommendations for sustainable data and incorporate it into the Jetport's GIS Database.

Responsibilities:

- Consultant:** Coordinate a meeting between the airport, FAA and other consultants to develop data model requirements specific to sustainable master planning and sustainability efforts on the airport.
- Sponsor:** Meet with Consultants and FAA as required to discuss sustainability efforts for the Jetport.
- Product:** Sustainable data model documentation and schematic. Include sustainable data into the Jetport's GIS database.

Task 10.4 – Collect Existing Data and Airports-GIS Survey(s)

Description: In conformance with Advisory Circulars 150/5300-16A, -17C, and -18B and according to the SOW, perform collection of existing data including aerial photography and mapping. A key component of the project is to use as much existing data from previous surveys. FAA and NGS approval of use of existing data is required or the scope will need to be amended to reflect cost of new imagery and data acquisition.

Existing facility infrastructure data associated with stormdrain systems, sanitary sewers, gas mains, water lines, electrical services, runway lights, taxiway lights, paved areas and buildings will be collected and assembled into a uniform data set with available attributes identified. Approximately 1,400 stormdrain pipe segments, 750 stormdrain structures, 100 sanitary sewer pipe segments, 60 sanitary sewer structures, over 1,000 runway and taxiway lights and approximately 340 electrical structures will be included with this data.

Responsibilities:

- Consultant:** Collect mapping and data from previous projects. Assemble data from all mapping efforts into a uniform dataset compliant with FAA 18B.
- Sponsor:** Assist the project team in accessing existing data and imagery.
- Product:** Existing Data and Imagery for PWM.

Task 10.5 – Develop Uniform Airports-GIS Database

Description: The Portland International Jetport project is assembling data from many sources into a single GIS database for the airport. These disparate data sources include previous Airports-GIS surveys, sustainability efforts, the master plan project and any other relevant existing data. Compilation of this data into a single source is a key component of this task. Once complete, portions of the dataset relevant to Airports-GIS will be extracted from submittal to the Airports-GIS portal. The database itself will be an ESRI compliant file geo-database and AutoCAD Map file. Files will be delivered electronically and on DVD.

Compilation of the existing facility infrastructure data associated with stormdrain systems, sanitary sewers, gas mains, water lines, electrical services, runway lights, taxiway lights, paved areas and buildings as described above will be included with this task.

Responsibilities:

Consultant: Work with the airport, FAA and other consultants to collect data to be included into a single database. The database will be an ESRI file geo-database. An AutoCAD, AutoCAD file will also be delivered.

Sponsor: Assist consultants in collecting data from airport records, Airports-GIS system, and other consultants.

Product: ESRI geo-database and AutoCAD Map file delivered electronically and on DVD.

Task 10.6 – Submit Airports-GIS Survey and Data

Description: When the dataset is approved by the airport, it will be submitted to the Airports-GIS portal. Task is closed when FAA approval is received through Airports-GIS.

Responsibilities:

Consultant: Submit airport-approved dataset to Airports-GIS portal.

Sponsor: Verify data upload to FAA Airport-GIS website and contact FAA Regional GIS representative to expedite review/approval of dataset.

Product: AutoCAD, object data enabled file uploaded to Airport-GIS.

ELEMENT 11 – FINAL DOCUMENTATION

Task 11.1 – Sustainable Master Plan Technical Report

Description: Review comments received during the study process and incorporate them, as

appropriate, into a final Sustainable Master Plan document. This document shall incorporate revisions to previous working papers prepared under earlier elements into a usable master planning document. Up to sixty (60) copies of the SAMP will be provided, to be split between a draft and final report. The draft and final report will also be provided on computer diskette.

Responsibilities:

- Consultant:** Prepare and print up to sixty (60) copies of the Master Plan document, as well as provide draft and final copies on CD.
- Sponsor:** Review and comment.
- Product:** Up to sixty (60) Master Plan reports, to be split as necessary into a draft and final report, as well as computerized copies.

Task 11.2 - Prepare Final Sustainable Master Plan Summary Brochure

Description: A brochure which outlines the findings and recommendations of the SAMP will be prepared. The brochure will contain numerous color graphics, exhibits, photographs, and renderings, as appropriate, and will include map of the airport which will illustrate the recommended development. The brochure will be made up of two (2) folded 11 x 17-inch sheets printed on both sides. This will include the outside and inside, front and back covers, of the brochure and will result in eight (8) pages useable for summary information and graphics by utilizing the inside of both the front and back covers. This task will include the preparation of all graphics, artwork, photography, narrative, layout design, and printing of draft (proof) copies for review and approval.

Revise the draft SAMP brochure based upon comments and direction provided by the airport sponsor after their review and approval. Print one thousand (1,000) copies of the final master plan brochure and also provide on CD.

Responsibilities:

- Consultant:** Revise, print, and deliver final SAMP brochure.
- Sponsor:** Distribute brochures.
- Product:** One thousand (1,000) copies of the SAMP summary brochure and a reproducible CD version.

Task 11.3 - Planning Board/Council Presentations

Description: As part of the coordination and approval process, it may be necessary to make presentations to the Portland and South Portland Planning Boards and City Councils. Where

possible, these meetings will be coordinated on consecutive days with other meetings. Up to three (3) additional trips are budgeted for these meetings.

Responsibilities:

Consultant: Attend meetings and assist Jetport in updating the Board or Council on the planning effort.

Sponsor: Coordinate meetings to attend.

Product: Presentations to appropriate Planning Boards and Council for purposes of information update or final approval.

Task 11.4 - Project Review/Coordination Meetings

Description: Coordination meetings with the Sponsor will be necessary for successful development of the SAMP. Where possible, these meeting will be scheduled to coincide with previously set meetings to minimize costs. Up to three (3) project review meetings have been budgeted.

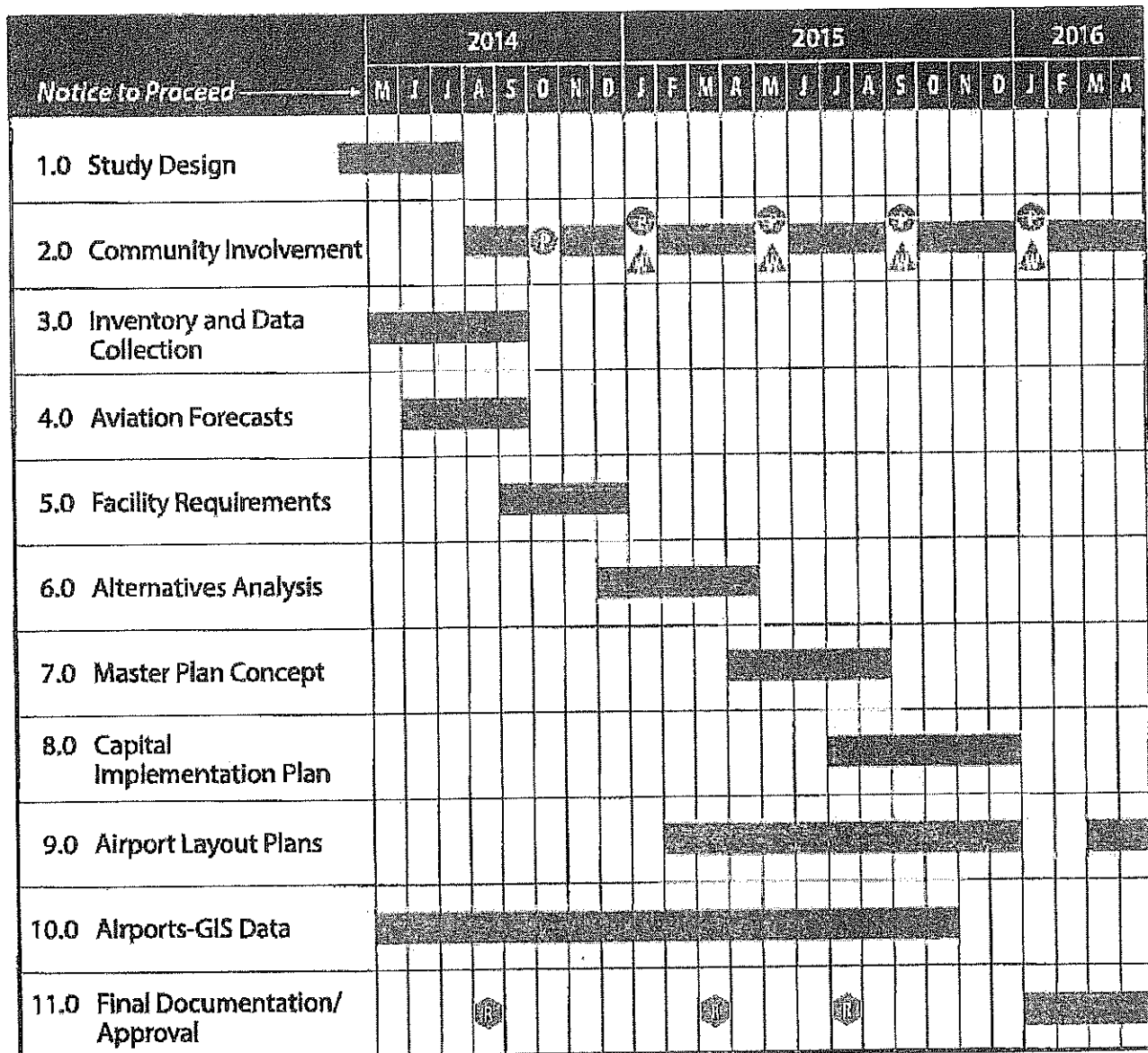
Responsibilities:

Consultant: Attend extra coordination and review meetings as necessary.

Sponsor: Participate in coordination meetings.

Product: Project coordination and review meetings as necessary.

Estimated Project Schedule for the PORTLAND INTERNATIONAL JETPORT SUSTAINABLE AIRPORT MASTER PLAN



LEGEND

-  Planning Advisory Committee Meeting
-  Public Workshop
-  Review/Coordination Meeting

PORTLAND INTERNATIONAL JETPORT SUSTAINABLE AIRPORT MASTER PLAN PAY, SPOFFORD & THORNDIKE / GODFMAN / VHS ESTIMATED COST BREAKDOWN										
TOTAL PROJECT COST SUMMARY 4-4-14										
NO.	ELEMENT	FBI (HOURS)				COSTS		See Tab	See Tab	TASU ELEMENT TOTAL
		PM	Engineer	Techn	Cost	Total Labor	Expenses	Sub- Contract	Sub- VWD	
1.0	STUDY DESIGN	135	157	73	97					
1.1	Project Scoping	49	8	4	-	\$ 6,983	\$ 250	\$ 3,120	\$ -	\$ 10,353
1.2	Establish Budget/Schedule	44	6	2	-	\$ 7,086		\$ 2,532	\$ -	\$ 9,618
1.3	Prepare FAA Grant Documentation	8	-	2	-	\$ 1,234		\$ 1,040	\$ -	\$ 2,274
1.4	Develop Written Sustainability Mission Statement	2	4	2	-	\$ 1,946		\$ 1,000	\$ 18,640	\$ 17,726
	ELEMENT SUBTOTAL	99	20	10	-	\$ 16,554	\$ 250	\$ 7,732	\$ 18,640	\$ 46,276
2.0	COMMUNITY INVOLVEMENT									
2.1	Sustainable Airport Master Plan Study Website	2	2	-	-	\$ 586		\$ 12,980	\$ -	\$ 13,566
2.2	Planning Advisory Committee Mngs (5)	70	40	20	-	\$ 11,430	\$ 1,250	\$ 49,528	\$ 18,516	\$ 80,629
2.3	Prepare Study Workbooks	15	32	20	-	\$ 6,230	\$ 1,000	\$ 10,762	\$ 27,310	\$ 45,292
2.4	Public Information Workshops (4)	10	74	40	-	\$ 21,452	\$ 2,250	\$ 84,788	\$ 45,870	\$ 154,250
	ELEMENT SUBTOTAL	97	146	80	-	\$ 39,754	\$ 4,500	\$ 138,058	\$ 91,696	\$ 273,954
3.0	INVENTORY AND DATA COLLECTION									
3.1	Collect and Review Existing Planning Information	8	-	-	-	\$ 1,088		\$ 1,440	\$ -	\$ 2,528
3.2	Sustainability Baseline Assessment	9	-	-	-	\$ 1,360		\$ 1,840	\$ 83,885	\$ 87,085
3.2.1	Recycling and Waste Management Assessment	40	58	60	-	\$ 24,816	\$ 1,000	\$ -	\$ -	\$ 25,816
3.2.2	Energy Assessment	4	60	100	-	\$ 10,384	\$ 1,000	\$ -	\$ -	\$ 11,384
3.2.3	Air Emissions and Greenhouse Gas Assessment	2	-	-	-	\$ 272		\$ 12,024	\$ -	\$ 12,296
3.3	Inventory Airfield Facilities	2	-	-	-	\$ 1,264		\$ 2,880	\$ -	\$ 4,144
3.4	Inventory Airline Terminal	2	-	-	-	\$ 1,080		\$ 2,880	\$ -	\$ 3,960
3.5	Inventory Ground Access, Circulation, and Parking	2	-	-	-	\$ 864		\$ 2,880	\$ -	\$ 3,744
3.6	Inventory Air Cargo and General Aviation Facilities	2	-	-	-	\$ 1,064		\$ 2,160	\$ -	\$ 3,224
3.7	Inventory Other On-Airport Facilities	4	-	-	-	\$ 344		\$ 2,160	\$ -	\$ 2,504
3.8	Inventory Socioeconomic and Community Data	2	-	-	-	\$ 272		\$ 1,120	\$ -	\$ 1,392
3.10	Inventory Airspace and ATC Procedures	24	-	-	-	\$ 3,904	\$ 100	\$ 4,720	\$ -	\$ 8,724
3.11	Inventory Environmental Conditions	24	-	-	-	\$ 4,186	\$ 200	\$ -	\$ -	\$ 4,386
3.12	Inventory Parcel Boundaries	4	-	-	-	\$ 644		\$ 3,520	\$ -	\$ 4,164
3.13	Economic Benefit Surveys	12	-	-	-	\$ 2,552		\$ 12,866	\$ -	\$ 15,418
3.14	Prepare Draft Working Paper	12	4	4	-	\$ 2,552		\$ 12,866	\$ -	\$ 15,418
	ELEMENT SUBTOTAL	172	144	206	-	\$ 67,434	\$ 2,400	\$ 93,862	\$ 83,885	\$ 244,581
4.0	AVIATION FORECASTS									
4.1	Terminal Area Forecast Review	-	-	-	-	\$ -		\$ 2,450	\$ -	\$ 2,450
4.2	Prepare Passenger Airline Fleet Mix Forecasts	-	-	-	-	\$ -		\$ 1,436	\$ -	\$ 1,436
4.3	Prepare General Aviation Fleet Mix Forecasts	-	-	-	-	\$ -		\$ 2,160	\$ -	\$ 2,160
4.4	Prepare Air Cargo Demand Forecasts	-	-	-	-	\$ -		\$ 2,880	\$ -	\$ 2,880
4.5	Determine Future Critical Aircraft	-	-	-	-	\$ -		\$ 3,200	\$ -	\$ 3,200
4.6	Prepare Draft Working Paper	-	-	-	-	\$ -		\$ 11,652	\$ -	\$ 11,652
	ELEMENT SUBTOTAL	-	-	-	-	\$ -		\$ 23,712	\$ -	\$ 23,712
5.0	FACILITY REQUIREMENTS									
5.1	Define Planning Horizon Activity Levels	-	-	-	-	\$ -		\$ 1,760	\$ -	\$ 1,760
5.2	Prepare Peakday Characteristics	-	-	-	-	\$ -		\$ 2,880	\$ -	\$ 2,880
5.3	Establish Airfield Physical Planning Criteria	-	-	-	-	\$ -		\$ 1,440	\$ -	\$ 1,440
5.4	Determine Airfield Requirements	16	-	-	-	\$ 2,176		\$ 3,600	\$ -	\$ 5,776
5.5	Airline Terminal Requirements	-	-	-	-	\$ -		\$ 6,822	\$ -	\$ 6,822
5.6	Determine Access and Circulation Requirements	2	-	-	-	\$ 272		\$ 1,440	\$ -	\$ 1,712
5.7	Determine Parking Requirements	2	-	-	-	\$ 272		\$ 1,440	\$ -	\$ 1,712
5.8	Determine Air Cargo Requirements	4	-	-	-	\$ 644		\$ 3,332	\$ -	\$ 3,976
5.9	Determine General Aviation Requirements	24	-	-	-	\$ 4,578		\$ 1,440	\$ -	\$ 6,018
5.10	Determine Airport Support Requirements	4	-	-	-	\$ 644		\$ 1,640	\$ 8,650	\$ 10,934
5.11	Establish Sustainability Goals	12	-	-	-	\$ 2,552		\$ 11,652	\$ -	\$ 14,204
5.12	Prepare Draft Working Paper	12	4	4	-	\$ 2,552		\$ 12,866	\$ -	\$ 15,418
	ELEMENT SUBTOTAL	76	4	10	-	\$ 11,850		\$ 30,688	\$ 8,650	\$ 51,188
6.0	ALTERNATIVES ANALYSIS									
6.1	Identify Development Issues	12	8	-	-	\$ 2,880		\$ 1,760	\$ -	\$ 4,640
6.2	Identify and Evaluate Candidate Sustainability Initiatives	4	2	-	-	\$ 808		\$ 1,050	\$ 40,805	\$ 42,663
6.3	Airfield Alternatives	10	4	4	-	\$ 1,600	\$ 200	\$ 4,024	\$ -	\$ 5,824
6.4	Airline Terminal Alternatives	4	-	-	-	\$ 560	\$ 200	\$ 5,864	\$ -	\$ 6,624
6.5	Air Cargo Alternatives	2	-	-	-	\$ 272	\$ 200	\$ 4,104	\$ -	\$ 4,576
6.6	General Aviation Alternatives	8	-	-	-	\$ 1,080	\$ 100	\$ 4,104	\$ -	\$ 5,284
6.7	Airport Support Alternatives	24	-	-	-	\$ 4,578	\$ 100	\$ 3,622	\$ -	\$ 8,300
6.8	Access and Parking Alternatives	2	-	-	-	\$ 272		\$ 1,440	\$ -	\$ 1,712
6.9	Identify Environmental Factors	20	10	4	-	\$ 3,356	\$ 500	\$ 9,168	\$ -	\$ 13,024
6.10	Prepare Draft Working Paper	12	4	4	-	\$ 2,552		\$ 12,866	\$ -	\$ 15,418
	ELEMENT SUBTOTAL	102	32	18	-	\$ 22,760	\$ 1,400	\$ 52,024	\$ 40,805	\$ 116,989
7.0	RECOMMENDED MASTER PLAN CONCEPT									
7.1	Sustainable Airport Master Plan Concept	-	-	-	-	\$ -		\$ 11,192	\$ -	\$ 11,192
7.2	Determine Environmental Cues for Short-Term Projects	16	2	-	-	\$ 2,400	\$ 100	\$ 2,920	\$ -	\$ 3,420
7.3	Develop Sustainability Performance Targets	2	-	-	-	\$ 272		\$ 1,440	\$ 11,805	\$ 13,517
7.4	Prepare Draft Working Paper	4	2	2	-	\$ 1,004		\$ 12,024	\$ -	\$ 13,028
	ELEMENT SUBTOTAL	22	4	2	-	\$ 3,676	\$ 100	\$ 26,204	\$ 11,805	\$ 41,685
8.0	CAPITAL IMPLEMENTATION PLAN									
8.1	Airport Developmental Schedules	8	4	-	-	\$ 1,716		\$ 4,824	\$ -	\$ 6,540
8.2	Prepare Airport Development Cost Estimates	32	40	40	-	\$ 17,432	\$ 600	\$ -	\$ -	\$ 18,032
8.3	Develop Implementation Monitoring Program	4	-	-	-	\$ 514		\$ 1,640	\$ 12,730	\$ 14,884
8.4	Develop Outline for Annual Sustainability Report Card	2	-	-	-	\$ 272		\$ 1,040	\$ 3,416	\$ 4,728
8.5	Update Capital Improvement Program	24	16	4	-	\$ 6,066		\$ 3,304	\$ -	\$ 9,370
8.6	Perform Financial Analysis on Recommended Program	2	-	-	-	\$ 272		\$ 1,440	\$ -	\$ 1,712
8.7	Economic Benefit Analysis	-	-	-	-	\$ -		\$ 21,632	\$ -	\$ 21,632
8.8	Prepare Draft Working Paper	4	2	2	-	\$ 1,004		\$ 11,862	\$ 18,000	\$ 30,866
	ELEMENT SUBTOTAL	74	82	46	-	\$ 27,036	\$ 900	\$ 45,232	\$ 31,046	\$ 104,214
9.0	AIRPORT LAYOUT PLANS									
9.1	Prepare Cover Sheet	2	2	-	-	\$ 516		\$ -	\$ -	\$ 1,032
9.2	Sketch Airport Layout Plan	10	4	-	-	\$ 1,360		\$ 720	\$ -	\$ 2,080
9.3	Update Airport Layout Plan	48	18	-	-	\$ 16,412		\$ 3,200	\$ -	\$ 19,612
9.4	Update Terminal Area Drawing	12	2	-	-	\$ 1,584		\$ 720	\$ -	\$ 2,304
9.5	Update Air Cargo Drawing	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.6	Update General Aviation Area Drawing	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.7	Update Part 17 Airspace Overlay/Obstruction Analysis	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.8	Update Taxiway Approach Surface Drawings	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.9	Prepare Draft Airport Surface Drawings	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.10	Update Airport Land Use Drawing	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.11	Update Airport Exhibit A Drawing	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
9.12	Preparation of Draft ALP and Draft ALP Drawing Set	10	2	-	-	\$ 1,360		\$ 720	\$ -	\$ 2,080
9.13	Finalization of Final ALP and Final ALP Drawing Set	10	2	-	-	\$ 1,360		\$ 720	\$ -	\$ 2,080
	ELEMENT SUBTOTAL	172	92	-	-	\$ 44,824	\$ 1,500	\$ 27,520	\$ -	\$ 73,844
10.0	AIRPORTS-GIS DATA DEVELOPMENT AND SUBMISSION									
10.1	Review Previous Airspace Surveys	12	-	-	-	\$ 2,400		\$ 16,200	\$ -	\$ 18,600
10.2	Develop/Update Statement of Work (SOW)	4	2	-	-	\$ 850		\$ 3,920	\$ -	\$ 4,770
10.3	Inclusion of Sustainability Focused Data	4	-	-	-	\$ 544		\$ 12,380	\$ -	\$ 12,924
10.4	Collect Data and Airport's GIS Survey(s)	40	4	700	-	\$ 30,768	\$ 300	\$ 28,769	\$ -	\$ 59,837
10.5	Develop Uniform Airports-GIS Database	12	12	160	-	\$ 31,786	\$ 300	\$ 19,140	\$ -	\$ 51,226
10.6	Submit Airports-GIS Survey and Data	4	4	-	-	\$ 504		\$ 720	\$ -	\$ 1,224
	ELEMENT SUBTOTAL	104	22	860	-	\$ 67,838	\$ 900	\$ 77,149	\$ -	\$ 145,887
11.0	FINAL DOCUMENTATION AND APPROVAL									
11.1	Sustainable Master Plan Technical Report	4	8	-	-	\$ 1,080		\$ 23,980	\$ -	\$ 25,060
11.2	Final Sustainable Master Plan Summary Brochure	12	24	-	-	\$ 5,008	\$ 750	\$ 26,076	\$ -	\$ 31,834
11.3	Planning Board/Council Presentation(s)	12	24	-	-	\$ 5,008	\$ 250	\$ 26,820	\$ 8,810	\$ 40,912
11.4	Project Review/Coordination Meeting(s)	12	24	-	-	\$ 5,008		\$ 26,820	\$ -	\$ 36,852
	ELEMENT SUBTOTAL	40	80	-	-	\$ 16,104	\$ 1,000	\$ 97,696	\$ 8,810	\$ 123,610
Sustainable MP Elements \$ 323,796										
Other Master Plan Elements \$ 817,403										
MASTER PLAN PROJECT TOTALS										
		840	470	718	990	\$ 332,530	\$ 16,200	\$ 533,896	\$ 228,206	\$ 929,832



FAA
Airports

ASSURANCES

Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1. also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 - Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 - Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

Specific Assurances

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

Footnotes to Assurance C.1.

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that --

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (Name of Sponsor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(c) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated 2/11/2015 (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

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**

*Order 297-14/15
Tab 40 6-15-15*

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 33 (MINIMUM WAGE)**

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

1. That the Portland City Code is hereby amended by adding a section, to be numbered Chapter 33, Articles I to VIII, Sections 33-1 to 33-12, which said Sections read as follows:

Chapter 33 MINIMUM WAGE

- Art. I. Purpose, §33.1
- Art. II. Definitions, §33.2 - 33-6
- Art. III. Minimum Wage, 33-7
- Art. IV. Notice, Posting and Records, 33-8
- Art. V. Enforcement and Violations, 33-9
- Art. VI. Relationship To Other Requirements, 33-10
- Art. VII. Severability Clause, 33-11
- Art. VIII. Effective Date, 33-12

ARTICLE I

Sec. 33.1. Purpose.

WHEREAS, the City of Portland is a home-rule unit of government under the Maine Constitution and 30-A M.R.S. §3001 and, as such, may exercise any power and perform any function in order to protect health, safety and welfare of the citizens of the City; and

WHEREAS, promoting the welfare of the City's citizens, its most important asset, and those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, after years of inaction by the United States Congress, it is time for municipalities and states to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, Mayor Michael Brennan created a working group, which included community, labor and business leaders, and tasked them with reviewing the minimum wage issue within the City of Portland; and

WHEREAS, the cost of living in Portland has increased making life here cost, as a percentage of income, as much as is paid by residents of Chicago, Illinois, Sacramento, California and other major United States cities where the minimum wage is much higher; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of them are among the City of Portland's more than 65,000 wage and salary earners; and

WHEREAS, The Massachusetts Institute of Technology has calculated that, for a single adult to support him- or herself in Portland at the current minimum wage, he or she would need to work over 50 hours a week; and

WHEREAS, more than 50 percent of Portland public school students are eligible for free lunch, meaning their families have incomes at between 100 percent and 185 percent of the Federal poverty level, which is higher than what a single parent with one child in school would earn with a full-time minimum wage job; and

WHEREAS, rising housing costs, including an increase in the median home price from \$125,200 in 2000 to \$238,400 in 2012, are pushing low wage workers out of the City; and

WHEREAS, the Fair Market Rent in the Portland Area for a two-bedroom apartment is \$1,012, and a full-time worker job would have to earn at least \$19.46 per hour to afford that rent;

WHEREAS, phasing in the wage increase over time will allow businesses to adjust and result in reasonable annual increases in expenses;

WHEREAS, based on the work of the working group (the materials and report of which are incorporated herein by reference) and the aforementioned facts, Mayor Brennan proposed that the minimum wage be increased within the City of Portland;

NOW THEREFORE, to promote the health, safety and welfare of its citizens and pursuant to and consistent with 26 M.R.S. §664, the City Council of the City of Portland, Maine hereby establishes the following minimum wage ordinance applicable to all Employers and Employees within the City of Portland:

ARTICLE II

Sec. 33.2. Definitions.

Unless the context otherwise indicates, the following words shall have the following meanings.

City: City of Portland.

City limits: the physical boundaries of the City.

Employer: Any individual, group of individuals, partnership, association, corporation, business trust, or any other entity or group of persons or entities who employs or exercises control over the wages, hours, or working conditions of any Employee and who has a place of business within the City limits. "Employer" shall include but not be limited to the City of Portland.

Employee: Any person who performs work for an Employer for monetary compensation within the municipal limits of the City. Employee shall include persons who perform work for an employer on a full-time, part-time, seasonal or temporary basis. Employee shall not include any person who is exempted from the definition of Employee under 26 M.R.S. §663(3) of Chapter 7, Employment Practices.

Minimum wage: The minimum hourly rate of monetary compensation that an Employer shall legally pay an Employee for work within the City.

Service Employee: Any Employee engaged in an occupation in which he or she customarily and regularly receives more than \$30.00 a month or more in tips.

Tip: A sum presented by a customer as a gift or gratuity in recognition of some service performed by the Employee.

Tipped Employee: Any Service Employee engaged in an occupation in which he or she customarily and regularly receives tips from customers.

Sec. 33.5 - 33-6 Reserved.

Article III.

Section 33.7. Minimum Wage.

(a) Minimum wage payment required: Except as provided herein, Employers shall pay all Employees no less than the Minimum Wage established by this ordinance for each hour worked within the City Limits.

(b) Tipped Employees:

(i) As provided in 26 M.R.S. §664(2), an Employer may consider tips as part of the wages of a Tipped Employee toward satisfaction of the Minimum Wage established by this ordinance, but such a tip credit may not exceed the amount established in 26 M.R.S. §664(2), but not more than \$5.12 per hour maximum tip credit as specified in the Fair Labor Standards Act ("FLSA").

(c) Minimum Wage rate:

(i) Beginning on January 1, 2016, the regular Minimum Wage for all Employees shall be raised to \$8.75 per hour;

(ii) Beginning on January 1, 2018, the regular Minimum Wage for all Employees shall be raised to \$9.25 per hour; and

- (iii) Beginning on January 1, 2020, the regular minimum wage for all Employees shall be raised to \$9.75 an hour.
- (d) Overtime.
 - (i) The Minimum Wage set out in this ordinance are subject to the overtime compensation provisions in 26 M.R.S. §664(3).
- (e) Collective Bargaining Agreements.
 - (i) Nothing in this ordinance shall be deemed to interfere with, impede, or in any way diminish the right of all Employees including, but not limited to, Tipped Employees to bargain collectively with their Employers in order to establish wages or other conditions of work in excess of the applicable minimum standards of this ordinance.
- (f) Retaliation Prohibited.
 - (i) It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Employee including, but not limited to a Tipped Employee in retaliation for exercising any right under this ordinance.

ARTICLE IV.

Sec. 33.8. Notice, Posting and Records.

- (a) Notice to Employees. Every employer shall post in a conspicuous place at any workplace or job site where any Employee works, a notice informing Employees of the City's current Minimum Wage rates, as well as a copy of this ordinance.
- (b) Records. Employers shall maintain payroll records showing hours worked daily by and the wages paid to all Employees, including, but not limited to, Tipped Employees. Employers shall retain such payroll records pertaining to all

Employees for a period of at least three (3) years after an Employee has left employment.

- (c) Access. The City shall have access to any and all Employer payroll records subject to this ordinance during business hours to investigate whether or not an Employer has violated any of the provisions of this chapter.
- (d) Paycheck Notice. Every Employer shall provide with the first paycheck issued to an Employee, including a Tipped Employee, a notice advising the Employee of the current Minimum Wage under this ordinance and of the Employee's rights under this ordinance.

ARTICLE V.

Sec. 33.9. Enforcement and Violations.

(a) Enforcement.

- (i) The City Manager or his/her designee shall enforce the provisions of this ordinance.
- (ii) City Manager is authorized to adopt rules and regulations for the proper administration and enforcement of this ordinance.

(b) Complaint Process.

- (i) Any Employee, including, but not limited to, a Tipped Employee, receiving less than the Minimum Wage he or she is required to receive under this ordinance may file a written complaint with the City Manager's office.
- (ii) The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.

- (iii) If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, the payment of any back wages withheld and/or the payment of not less than \$100.00 or more as a penalty for each day that a violation of this chapter has occurred. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

- (i) Any Employee, including, but not limited to, a Tipped Employee, the City or any person aggrieved by a violation of this ordinance may bring an action in a Court of competent jurisdiction against the Employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.

ARTICLE VI.

Sec. 33.10. Relationship To Other Requirements.

This ordinance provides for payment of Minimum Wage rates within the City and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement or policy, including any that provides for payment of higher wages and/or benefits. Nothing contained in this ordinance prohibits an employer from paying more than the Minimum Wage rates established herein.

ARTICLE VII.

Sec. 33.11. Severability Clause.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

ARTICLE VIII.

Sec. 33.12. Effective Date.

This ordinance shall take effect on January 1, 2016.

**Amendment 1 to CHAPTER 33 MINIMUM WAGE ORDINANCE
prepared by Corporation Counsel**

Chapter 33 MINIMUM WAGE ORDINANCE

- Art. I. Purpose, §33.1
- Art. II. Definitions, §33.2 - 33-6
- Art. III. Minimum Wage, 33-7
- Art. IV. Notice, Posting and Records, 33-8
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WHEREAS, promoting the welfare of the City's citizens, its most important asset, and those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, after years of inaction by the United States Congress, it is time for municipalities and states to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, Mayor Michael Brennan created a working group, which included community, labor and business leaders, and tasked them with reviewing the minimum wage issue within the City of Portland; and

WHEREAS, the cost of living in Portland has increased making life here cost, as a percentage of income, as much as is paid by residents of Chicago, Illinois, Sacramento, California and other major United States cities where the minimum wage is much higher; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of them are among the City of Portland's more than 65,000 wage and salary earners; and

WHEREAS, The Massachusetts Institute of Technology has calculated that, for a single adult to support him- or herself in Portland at the current minimum wage, he or she would need to work over 50 hours a week; and

WHEREAS, more than 50 percent of Portland public school students are eligible for free lunch, meaning their families have incomes at between 100 percent and 185 percent of the Federal poverty level, which is higher than what a single parent with one child in school would earn with a full-time minimum wage job; and

WHEREAS, rising housing costs, including an increase in the median home price from \$125,200 in 2000 to \$238,400 in 2012, are pushing low wage workers out of the City; and

WHEREAS, the Fair Market Rent in the Portland Area for a two-bedroom apartment is \$1,012, and a full-time worker job would have to earn at least \$19.46 per hour to afford that rent;

WHEREAS, phasing in the wage increase over time will allow businesses to adjust and result in reasonable annual increases in expenses;

WHEREAS, based on the work of the working group (the materials and report of which are incorporated herein by reference) and the aforementioned facts, Mayor Brennan proposed that the minimum wage be increased within the City of Portland;

NOW THEREFORE, to promote the health, safety and welfare of its citizens and pursuant to and consistent with 26 M.R.S. §664, the City Council of the City of Portland, Maine hereby establishes the following minimum wage ordinance applicable to all Employers and Employees within the City of Portland:

ARTICLE II

Sec. 33.2. Definitions.

Unless the context otherwise indicates, the following words shall have the following meanings.

City: City of Portland.

City limits: the physical boundaries of the City.

Consumer Price Index - All Urban Consumers ("CPI-U")
means the national, annual average of the Consumer Price Index for all urban consumers as reported by the United States Bureau of Labor Statistics, with the Series identification number of CUUR0000SA0.

Employer: Any individual, group of individuals, partnership, association, corporation, business trust, or any other entity or group of persons or entities who employs or exercises control over the wages, hours, or working conditions of any Employee and who has a place of business within the City limits. "Employer" shall include but not be limited to the City of Portland.

Employee: Any person who performs work for an Employer for monetary compensation within the municipal limits of the City. Employee shall include persons who perform work for an employer on a full-time, part-time, seasonal or temporary basis. Employee shall not include any person who is exempted from the definition of Employee under 26 M.R.S. §663(3) of Chapter 7, Employment Practices.

Minimum wage: The minimum hourly rate of monetary compensation that an Employer shall legally pay an Employee, including, but not limited to, Tipped Employees, for work within the City.

Service Employee: Any Employee engaged in an occupation in which he or she customarily and regularly receives more than \$30.00 a month or more in tips.

Tip: A sum presented by a customer as a gift or gratuity in recognition of some service performed by the Employee.

Tipped Employee: Any Service Employee engaged in an occupation in which he or she customarily and regularly receives tips from customers.

Sec. 33.5 - 33-6 Reserved.

Article III.

Section 33.7. Minimum Wage.

(a) *Minimum wage payment required:* Except as provided herein, Employers shall pay all Employees including, but not limited to, Tipped Employees no less than the Minimum Wage established by this ordinance for each hour worked within the City Limits.

(b) *Tipped Employees:*

(i) As provided in 26 M.R.S. §664(2), an Employer may consider tips as part of the wages of a Tipped Employee toward satisfaction of the Minimum Wage established by this ordinance, but such a tip credit may not exceed 50% of the minimum hourly wage established by this ordinance and which shall not exceed the maximum tip credit specified in the Fair Labor Standards Act ("FLSA"), as amended.

(ii) An Employer who elects to use the tip credit described in subsection (b)(i) above must inform the affected Tipped Employee in advance, and must be able to show that the Tipped Employee receives at least the minimum hourly wage established by this ordinance when his or her direct wages and the tip credit are combined.

(iii) Upon a satisfactory showing by the Tipped Employee or Tipped Employee's representative that the actual tips received were less than the tip credit described in subsection (b)(i), the Employer shall increase the direct wages of the Tipped Employee by the difference.

(c) *Minimum Wage rate:*

- (i) Beginning on January 1, 2016, the Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be established as \$10.10 per hour;
- ~~(i)~~ (ii) Beginning on January 1, 2017, the regular Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to \$8.7510.68 per hour;
- ~~(ii) Beginning on January 1, 2018, the regular Minimum Wage for all Employees shall be raised to \$9.25 per hour; and~~
- ~~(iii) Beginning on January 1, 2020, the regular minimum wage for all Employees shall be raised to \$9.75 an hour.~~
- (iii) Beginning on every first day of January following July 1, 2017, and every first day of January thereafter, the Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be increased according to the Consumer Price Index - All Urban Consumers (CPI-U) percentage increase from the twelve months prior to the 1st day of July of that year. If there is no increase, the Minimum Wage will be unchanged. The percentage increase in the annual CPI-U for the previous period of July to June from the annual CPI-U for the period of July to June in the year preceding that shall be the percentage by which the Minimum Wage is increased on the first day of January 2018 and every January 1 thereafter.

(d) Overtime.

- (i) The Minimum Wage set out in this ordinance are subject to the overtime compensation provisions in 26 M.R.S. §664(3).

(e) Collective Bargaining Agreements.

- (i) Nothing in this ordinance shall be deemed to interfere with, impede, or in any way diminish the right of all Employees including, but not limited to, Tipped

Employees to bargain collectively with their Employers in order to establish wages or other conditions of work in excess of the applicable minimum standards of this ordinance.

(f) Retaliation Prohibited.

- (i) It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Employee including, but not limited to a Tipped Employee in retaliation for exercising any right under this ordinance.

ARTICLE IV.

Sec. 33.8. Notice, Posting and Records.

- (a) Notice to Employees. Every employer shall post in a conspicuous place at any workplace or job site where any Employee works, a notice informing Employees of the City's current Minimum Wage rates, as well as a copy of this ordinance.
- (b) Records. Employers shall maintain payroll records showing hours worked daily by and the wages paid to all Employees, including, but not limited to, Tipped Employees. Employers shall retain such payroll records pertaining to all Employees for a period of at least three (3) years after an Employee has left employment.
- (c) Access. The City shall have access to any and all Employer payroll records subject to this ordinance during business hours to investigate whether or not an Employer has violated any of the provisions of this chapter.
- (d) Paycheck Notice. Every Employer shall provide with the first paycheck issued to an Employee, including a Tipped Employee, a notice advising the Employee of the current Minimum Wage under this ordinance and of the Employee's rights under this ordinance.

ARTICLE V.

Sec. 33.9. Enforcement and Violations.

(a) Enforcement.

- (i) The City Manager or his/her designee shall enforce the provisions of this ordinance.
- (ii) City Manager is authorized to adopt rules and regulations for the proper administration and enforcement of this ordinance.

(b) Complaint Process.

- (i) Any Employee, including, but not limited to, a Tipped Employee, receiving less than the Minimum Wage he or she is required to receive under this ordinance may file a written complaint with the City Manager's office.
- (ii) The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.
- (iii) If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, the payment of any back wages withheld and/or the payment of not less than \$100.00 or more as a penalty for each day that a violation of this chapter has occurred. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

- (i) Any Employee, including, but not limited to, a Tipped Employee, the City or any person aggrieved by a violation of this ordinance

may bring an action in a Court of competent jurisdiction against the Employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.

ARTICLE VI.

Sec. 33.10. Relationship To Other Requirements.

This ordinance provides for payment of Minimum Wage rates within the City and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement or policy, including any that provides for payment of higher wages and/or benefits. Nothing contained in this ordinance prohibits an employer from paying more than the Minimum Wage rates established herein.

ARTICLE VII.

Sec. 33.11. Severability Clause.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

ARTICLE VIII.

Sec. 33.12. Effective Date.

This ordinance shall take effect on January 1, 2016.

**Amendment 2 to CHAPTER 33 MINIMUM WAGE ORDINANCE
prepared by Corporation Counsel**

Chapter 33 MINIMUM WAGE ORDINANCE

- Art. I. Purpose, §33.1
- Art. II. Definitions, §33.2 - 33-6
- Art. III. Minimum Wage, 33-7
- Art. IV. Notice, Posting and Records, 33-8
- Art. V. Enforcement and Violations, 33-9
- Art. VI. Relationship To Other Requirements, 33-10
- Art. VII. Severability Clause, 33-11
- Art. VIII. Effective Date, 33-12

ARTICLE I

Sec. 33.1. Purpose.

WHEREAS, the City of Portland is a home-rule unit of government under the Maine Constitution and 30-A M.R.S. §3001 and, as such, may exercise any power and perform any function in order to protect health, safety and welfare of the citizens of the City; and

WHEREAS, promoting the welfare of the City's citizens, its most important asset, and those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, after years of inaction by the United States Congress, it is time for municipalities and states to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, Mayor Michael Brennan created a working group, which included community, labor and business leaders, and tasked them with reviewing the minimum wage issue within the City of Portland; and

WHEREAS, the cost of living in Portland has increased making life here cost, as a percentage of income, as much as is paid by residents of Chicago, Illinois, Sacramento, California and other major United States cities where the minimum wage is much higher; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of them are among the City of Portland's more than 65,000 wage and salary earners; and

WHEREAS, The Massachusetts Institute of Technology has calculated that, for a single adult to support him- or herself in Portland at the current minimum wage, he or she would need to work over 50 hours a week; and

WHEREAS, more than 50 percent of Portland public school students are eligible for free lunch, meaning their families have incomes at between 100 percent and 185 percent of the Federal poverty level, which is higher than what a single parent with one child in school would earn with a full-time minimum wage job; and

WHEREAS, rising housing costs, including an increase in the median home price from \$125,200 in 2000 to \$238,400 in 2012, are pushing low wage workers out of the City; and

WHEREAS, the Fair Market Rent in the Portland Area for a two-bedroom apartment is \$1,012, and a full-time worker job would have to earn at least \$19.46 per hour to afford that rent;

WHEREAS, phasing in the wage increase over time will allow businesses to adjust and result in reasonable annual increases in expenses;

WHEREAS, based on the work of the working group (the materials and report of which are incorporated herein by reference) and the aforementioned facts, Mayor Brennan proposed that the minimum wage be increased within the City of Portland;

NOW THEREFORE, to promote the health, safety and welfare of its citizens and pursuant to and consistent with 26 M.R.S. §664, the City Council of the City of Portland, Maine hereby establishes the following minimum wage ordinance applicable to all Employers and Employees within the City of Portland:

ARTICLE II

Sec. 33.2. Definitions.

Unless the context otherwise indicates, the following words shall have the following meanings.

City: City of Portland.

City limits: the physical boundaries of the City.

Consumer Price Index - All Urban Consumers ("CPI-U")
means the national, annual average of the Consumer Price Index for all urban consumers as reported by the United States Bureau of Labor Statistics, with the Series identification number of CUUR0000SA0.

Employer: Any individual, group of individuals, partnership, association, corporation, business trust, or any other entity or group of persons or entities who employs or exercises control over the wages, hours, or working conditions of any Employee and who has a place of business within the City limits. "Employer" shall include but not be limited to the City of Portland.

Employee: Any person who performs work for an Employer for monetary compensation within the municipal limits of the City. Employee shall include persons who perform work for an employer on a full-time, part-time, seasonal or temporary basis. Employee shall not include any person who is exempted from the definition of Employee under 26 M.R.S. §663(3) of Chapter 7, Employment Practices.

Minimum wage: The minimum hourly rate of monetary compensation that an Employer shall legally pay an Employee, including, but not limited to, Tipped Employees, for work within the City.

Service Employee: Any Employee engaged in an occupation in which he or she customarily and regularly receives more than \$30.00 a month or more in tips.

Tip: A sum presented by a customer as a gift or gratuity in recognition of some service performed by the Employee.

Tipped Employee: Any Service Employee engaged in an occupation in which he or she customarily and regularly receives tips from customers.

Sec. 33.5 - 33-6 Reserved.

Article III.

Section 33.7. Minimum Wage.

(a) *Minimum wage payment required:* Except as provided herein, Employers shall pay all Employees including, but not limited to, Tipped Employees no less than the Minimum Wage established by this ordinance for each hour worked within the City Limits.

(b) *Tipped Employees:*

(i) As provided in 26 M.R.S. §664(2), an Employer may consider tips as part of the wages of a Tipped Employee toward satisfaction of the Minimum Wage established by this ordinance, but such a tip credit may not exceed 50% of the amount established in 26 M.R.S. §664(2), but not more than \$5.12 per hour maximum tip credit as specified in the Fair Labor Standards Act ("FLSA").

(ii) An Employer who elects to use the tip credit described in subsection (b)(i) above must inform the affected Tipped Employee in advance, and must be able to show that the Tipped Employee receives at least the minimum hourly wage established by this ordinance when his or her direct wages and the tip credit are combined.

(iii) Upon a satisfactory showing by the Tipped Employee or Tipped Employee's representative that the actual tips received were less than the tip credit described in subsection (b)(i), the Employer shall increase the direct wages of the Tipped Employee by the difference.

(c) *Minimum Wage rate:*

(i) Beginning on January 1, 2016, the Minimum Wage for all Employees, including, but not

limited to, Tipped Employees, shall be established as \$10.10 per hour;

~~(i)~~ (ii) Beginning on January 1, 2017, the regular Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to \$8.7510.68 per hour;

~~(ii) Beginning on January 1, 2018, the regular Minimum Wage for all Employees shall be raised to \$9.25 per hour; and~~

~~(iii) Beginning on January 1, 2020, the regular minimum wage for all Employees shall be raised to \$9.75 an hour.~~

(iii) Beginning on every first day of January following July 1, 2017, and every first day of January thereafter, the Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be increased according to the Consumer Price Index - All Urban Consumers (CPI-U) percentage increase from the twelve months prior to the 1st day of July of that year. If there is no increase, the Minimum Wage will be unchanged. The percentage increase in the annual CPI-U for the previous period of July to June from the annual CPI-U for the period of July to June in the year preceding that shall be the percentage by which the Minimum Wage is increased on the first day of January 2018 and every January 1 thereafter.

(d) Overtime.

(i) The Minimum Wage set out in this ordinance are subject to the overtime compensation provisions in 26 M.R.S. §664(3).

(e) Collective Bargaining Agreements.

(i) Nothing in this ordinance shall be deemed to interfere with, impede, or in any way diminish the right of all Employees including, but not limited to, Tipped Employees to bargain collectively with their Employers in order to establish wages or

other conditions of work in excess of the applicable minimum standards of this ordinance.

(f) Retaliation Prohibited.

- (i) It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Employee including, but not limited to a Tipped Employee in retaliation for exercising any right under this ordinance.

ARTICLE IV.

Sec. 33.8. Notice, Posting and Records.

- (a) Notice to Employees. Every employer shall post in a conspicuous place at any workplace or job site where any Employee works, a notice informing Employees of the City's current Minimum Wage rates, as well as a copy of this ordinance.
- (b) Records. Employers shall maintain payroll records showing hours worked daily by and the wages paid to all Employees, including, but not limited to, Tipped Employees. Employers shall retain such payroll records pertaining to all Employees for a period of at least three (3) years after an Employee has left employment.
- (c) Access. The City shall have access to any and all Employer payroll records subject to this ordinance during business hours to investigate whether or not an Employer has violated any of the provisions of this chapter.
- (d) Paycheck Notice. Every Employer shall provide with the first paycheck issued to an Employee, including a Tipped Employee, a notice advising the Employee of the current Minimum Wage under this ordinance and of the Employee's rights under this ordinance.

ARTICLE V.

Sec. 33.9. Enforcement and Violations.

(a) Enforcement.

- (i) The City Manager or his/her designee shall enforce the provisions of this ordinance.
- (ii) City Manager is authorized to adopt rules and regulations for the proper administration and enforcement of this ordinance.

(b) Complaint Process.

- (i) Any Employee, including, but not limited to, a Tipped Employee, receiving less than the Minimum Wage he or she is required to receive under this ordinance may file a written complaint with the City Manager's office.
- (ii) The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.
- (iii) If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, the payment of any back wages withheld and/or the payment of not less than \$100.00 or more as a penalty for each day that a violation of this chapter has occurred. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

- (i) Any Employee, including, but not limited to, a Tipped Employee, the City or any person aggrieved by a violation of this ordinance may bring an action in a Court of competent jurisdiction against the Employer for any

and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.

ARTICLE VI.

Sec. 33.10. Relationship To Other Requirements.

This ordinance provides for payment of Minimum Wage rates within the City and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement or policy, including any that provides for payment of higher wages and/or benefits. Nothing contained in this ordinance prohibits an employer from paying more than the Minimum Wage rates established herein.

ARTICLE VII.

Sec. 33.11. Severability Clause.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

ARTICLE VIII.

Sec. 33.12. Effective Date.

This ordinance shall take effect on January 1, 2016.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Finance Committee

DATE: 5/11/2015

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

SUBJECT: Minimum Wage Ordinance

SPONSOR: Mayor Michael Brennan and the Finance Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 Final Action June 15, 2015

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

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

I. SUMMARY OF ISSUE (Agenda Description)

The Maine Minimum Wage of \$7.50, while \$0.25 higher than the Federal Minimum Wage, has lagged far behind the hourly wage necessary for residents of the City of Portland to afford to live here. It has also fallen far behind the value of the minimum wage of the 1970s, eroded by inflation that has eaten away at what money can buy. Rent for an apartment is high, transportation costs a challenge, and food and medical costs are all far more than they once were. In order to help support residents living here to find work that can better pay for the necessities of life, the City can raise the minimum wage. The draft ordinance attached has been the subject of public comment and review at the Finance Committee. The attached version has been recommended for passage by the full council by the Finance Committee. (See Finance Committee minutes also attached hereto).

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

Several states and cities across the United States have acted in recent elections to raise the minimum wage. In Maine, a statewide minimum wage initiative has been proposed for November 2016; in the City of Portland, signatures are even being collected for a city-wide minimum wage initiative. An increase in the minimum wage now has wide support and is clearly needed.

After the Mayor announced he would seek to raise the minimum wage in his State of the City address in January 2014, he began meeting with a working group of specialists and

interested parties to review, research and draft a new city minimum wage ordinance. Ultimately, after the group's work was completed, the Mayor forwarded a proposed minimum wage ordinance for the Finance Committee's review in September, 2014. This proposal was considered in several workshops, and then amended and recommended for adoption in that Committee on April 16, 2015. It is now being forwarded to the full City Council for review and approval.

III. INTENDED RESULT

To adopt a minimum wage ordinance within the City of Portland, which raises the minimum wage paid to persons working in the City.

IV. COUNCIL GOAL ADDRESSED.

V. FINANCIAL IMPACT

With regard to the City of Portland, enforcement of this new Chapter 33 of the City Code will involve staff time, but until a new minimum wage is effective, it is impossible to estimate how violations would affect City regulatory expenditures.

There also will be a financial impact as a result of a need to increase some city employees' wages.

VI. STAFF ANALYSIS

City Staff including, but not limited to, Corporation Counsel, has reviewed the proposed ordinance and recommends adoption (see attached legal memo from Corporation Counsel).

VII. RECOMMENDATION

The Finance Committee, on a 3-0 vote on April 16, 2015, approved the Minimum Wage Ordinance as amended in the attached draft for consideration by the full City Council.

VIII. LIST ATTACHMENTS

- Order
- November 20, 2014 Memo from Danielle West-Chuhta, Corporation Counsel, with attachments
- Draft Ordinance

Prepared by: Danielle West-Chuhta

Date: 5/18/2015 (deadline for June 1, 2015 meeting)

**Finance Committee
Meeting Minutes
Thursday, April 16, 2015**

Attendees: Chair Mavodones, Vice Chair Duson, Committee member Hinck (Suslovic – absent); Councilors Costa and Brenerman, Mayor Brennan, members of the public and city staff

Chair Mavodones opened the meeting – called to order 5:10 pm

1. Consideration and Action to Adopt a Minimum Wage Ordinance

Mayor Brennan made his presentation, followed by public comments, 5: 28 pm to 7 pm.

Motion by Councilor Hinck to move adoption of the April 16, 2015 draft of the Minimum Wage Ordinance with changes/amendments as noted below, seconded by Councilor Duson,
Passed 3-0

Motion by Councilor Duson to amend §33.7 to have the tipped minimum wage be \$3.75 and be consistent with the State law amount, second by Council Hinck, passed 2-1

Motion by Councilor Duson to delete § (iii) in § 33.7(c) re: CIP-U and change the minimum wage rate to \$8.75 in 2016; \$9.25 in 2018; and \$9.75 in 2020, second by Councilor Hinck, passed 2-1 passed

Motion by Councilor Duson to amend the definition of employee to make the ordinance not applicable to persons 18 years of age or younger, second by Councilor Hinck, failed 1-2 (Mavodones and Hinck)

Motion by Councilor Duson that persons under the age of 16 years of age shall be paid by the State minimum wage for 90 consecutive calendar days from their initial employment by their employer, failed 1-2 (Mavodones)

Meeting adjourned 8:40 pm.

CITY OF PORTLAND

MEMORANDUM

TO: Chair Mavodones and Members of the Finance Committee
CC: Mayor Brennan and Members of the Portland City Council
FROM: Danielle P. West-Chuhta, Corporation Counsel Sheila Hill-Christian, Acting City Manager
DATE: November 20, 2014
RE: Proposed Minimum Wage Ordinance

I. Summary of the Proposed Minimum Wage Ordinance

The proposed Minimum Wage Ordinance (see attached draft ordinance, which is also available on the City's web site with the Finance Committee agenda materials) requires employers located in the City of Portland to pay employees 18 years of age and older working in the City of Portland a minimum amount per hour that is higher than the state minimum wage rate of \$7.50 an hour, which itself is \$0.25 higher than the federal minimum wage of \$7.25 an hour.

The proposed Portland minimum wage would be \$9.50 an hour starting July 1, 2015; \$10.10 starting January 1, 2016; and \$10.68 per hour starting January 1, 2017. On the first of every subsequent year, the minimum wage rate would increase by the percentage calculated by the Consumer Price Index for All Urban Consumers (CPI-U). It would not change if the increase was 0.05 percent or less or if there was a decrease.

This rate would cover all employees 18 years of age and older, including employees who receive tips in addition to wages, to assure that their hourly wages add up to the minimum wage rate set each year. An exception is an individual working for academic credit from an accredited educational institution. Employers are required to post a Notice showing the Minimum Wage Rate and the text of the ordinance in the workplace.

II. Responses to Committee Questions

During the first Finance Committee meeting on the Mayor's Proposed Minimum Wage Ordinance, several questions arose from various councilors. The following is a response to those questions:

- 1) Was this minimum wage initiative in or on the Council work plan?

Attached please find the Council Work Plan for this year. As you will see, the Mayor's Proposed Minimum Wage Ordinance is not included in the work plan.

- 2) How do other municipalities handle enforcement of their ordinances and has it been successful?

Attached please find the minimum wage ordinances from Washington, DC; San Francisco, CA; Albuquerque, NM; and Seattle, WA. Most of the ordinances specify that enforcement shall occur through municipal inspections of wage records and allow for penalties to be issued for violations, as well as for judicial review, if necessary.

As reported by Michael Havlin, who provided the Mayor and the Finance Committee with research on minimum wage enforcement, San Francisco's Office of Labor Standards has been strict and effective in its investigation and penalties for violations, which include revocation of permits necessary to do business. San Jose, CA, requires that employers keep four years of payroll records in the event of a complaint investigation. In cities without effective enforcement, as has been the case in Washington, DC, the number of workers earning below the minimum wage has actually increased.

Overall, since the ordinances are relatively new, it was difficult to find out how successful these enforcement provisions have been to date. With that said, the City of San Francisco has produced a report which indicates that between 2004 and 2012 its Office of Labor Standards Enforcement (which assigns 7.5 compliance officers to minimum wage enforcement) addressed 616 worker complaints and recovered \$5.8 million in wages on behalf of 3,004 workers (see attached article re: San Francisco).

- 3) Statistics/Data with regard to the number of employees in Portland that are currently being paid minimum wage, as well as what the cost of living/rent, etc. in the City that justifies a raised minimum wage.

Attached are some figures we were able to find regarding minimum wage workers. The following is a summary list of that information while doing research in October:

- Portland Public Schools Eligibility for Free Lunch as of October 31, 2013
- Cost of living Index for Selected U.S. Cities
- National Low Income Housing Coalition "Out of Reach" 2014 report, selected pages concerning Maine

- 4) How would this minimum wage ordinance affect the City? Are there any staff being paid less than \$10.00 an hour?

According to Financial Specialist Lori Schools, the City would have a cost of \$9,489.50 for 17 employees who are paid less than \$9.50 an hour; in the second year the cost would be \$9,132.64 for 272 employees who are paid \$10.00 or less per hour.

She also reports that the Portland Public Library's cost for the first year would be \$18,245.75 for 30 employees who are paid less than \$9.50 an hour; in the second year, the cost would be \$7,048.35 for 33 employees who are paid \$10.00 or less per hour.

- 5) Additional Legal Research. In the attached memo we follow up on our legal research re: minimum wage ordinances and specifically address potential claims against the proposed ordinance (see attached).

Attachments:

1. Draft Ordinance
2. Council Goals and Objectives Action Plan
3. Ordinance Examples from Washington, DC, San Francisco, CA, Albuquerque, NM, and Seattle, WA.
4. Havlin, Michael, A City-Wide Minimum Wage in Portland, Maine
5. Reich, Michael et al, Local Minimum Wage Laws: Impacts on Workers, Families and Businesses
6. Statistics from various sources
7. Proposed Minimum Wage Ordinance Research re: home rule and constitutional challenges

DRAFT

Chapter 33 MINIMUM WAGE ORDINANCE

Art. I.	Purpose, §33.1
Art. II.	Definitions, §33.2 - 33-6
Art. III.	Minimum Wage, 33-7
Art. IV.	Notice, Posting and Records, 33-8
Art. V.	Enforcement, 33-9
Art. VI.	Relationship To Other Requirements, 33-10
Art. VII.	Severability Clause, 33-11
Art. VIII.	Effective Date, 33-12

ARTICLE I

Sec. 33.1. Purpose.

WHEREAS, the cost of living in Portland has increased making life here cost, as a percentage of income, as much as is paid by residents of Chicago, Illinois, Sacramento, California and other major United States cities where the minimum wage is much higher; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of them are among the City of Portland's more than 65,000 wage and salary earners; and

WHEREAS, The Massachusetts Institute of Technology has calculated that, for a single adult to support him- or herself in Portland at the current minimum wage, he or she would need to work over 50 hours a week; and

WHEREAS, more than 50 percent of Portland public school students are eligible for free lunch, meaning their families have incomes at between 100 percent and 185 percent of the Federal poverty level, which is higher than what a single parent with one child in school would earn with a full-time minimum wage job; and

WHEREAS, rising housing costs, including an increase in the median home price from \$125,200 in 2000 to \$238,400 in 2012, are pushing low wage workers out of the City; and

WHEREAS, the Fair Market Rent in the Portland Area for a two-bedroom apartment is \$1,012, and a full-time worker job would have to earn at least \$19.46 per hour to afford that rent;

NOW THEREFORE, the City Council of the City of Portland, Maine hereby establishes the following minimum wage ordinance applicable to all Employers and Employees within the City of Portland.

ARTICLE II

Sec. 33.2. Definitions.

Unless the context otherwise indicates, the following words shall have the following meanings.

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City limits: the physical boundaries of the City.

Employer: Any individual, group of individuals, partnership, association, corporation, business trust, or any other entity or group of persons or entities who employs or exercises control over the wages, hours, or working conditions of any Employee. "Employer" shall include but not be limited to the City of Portland.

Employee: Any person 18 years of age or older who performs work for an Employer for monetary compensation within the municipal limits of the City. Employee shall include persons who perform work for an employer on a full-time, part-time, seasonal or temporary basis. "Employee" shall not include any person who is excluded from the definition of Employee under 26 M.R.S. §663 of Chapter 7, Employment Practices and working for an Employer for academic credit from an accredited school, college or university.

Minimum wage: The minimum hourly rate of monetary compensation that an Employer may legally pay an Employee, including, but not limited to, Tipped Employees, for work within the City.

Tip: A sum presented by a customer as a gift or gratuity in recognition of some service performed by the Employee.

Tipped Employee: Any Employee 18 years of age or older engaged in an occupation in which he or she customarily and regularly receives tips from customers.

Sec. 33.5 - 33-6 Reserved.

Article III.

Section 33.7. Minimum Wage.

- (a) Minimum wage payment required: Except as provided herein, Employers shall pay all Employees no less than the minimum wage for each hour worked within the City Limits. Tips received and retained by a Tipped Employee shall be counted as wages and credited as provided in 26 M.R.S. §664 toward satisfaction of the minimum wage. In any given pay period, if a Tipped Employee does not receive tips in an amount at least equal to the minimum wage established by this ordinance, then the Tipped Employee's Employer shall pay him or her the difference between the amount the Tipped Employee actually received and the minimum wage established by this ordinance.
- (b) Minimum wage rate.
 - (i) On July 1, 2015, the minimum wage for all Employees, including, but not limited to, Tipped Employees, shall be established as \$9.50 per hour;
 - (ii) On January 1, 2016, the regular minimum wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to \$10.10 per hour;
 - (iii) On January 1st 2017, the regular minimum wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to \$10.68 per hour; and
 - (iv) On every first day of January following January 1, 2017, and every first day of

January thereafter, the minimum wage for all Employees, including, but not limited to, Tipped Employees, shall increase at the percentage set by the Consumer Price Index for All Urban Consumers (CPI-U) of the previous most up-to-date twelve (12) months as reported by the Bureau of Labor Statistics. The sum of the most recent twelve months for which there is a calculated CPI-U reported by the Bureau of Labor Statistics will be the rate by which to define the increase in the minimum wage. For example, if the Bureau of Labor Statistics reports that every month from January, 2017, to December, 2017, experienced a 1 percent price increase, then the increase in the minimum wage would be 1.2 percent. If the CPI-U increases by less than 0.005 percent or if it decreases, the minimum wage for all Employees, including, but not limited to, Tipped Employees, will not change.

ARTICLE IV.

Sec. 33.8. Notice, Posting and Records.

- (a) Notice to Employees. Every employer shall post in a conspicuous place at any workplace or job site where any Employee works, a notice to be provided by the City informing Employees of the City's current minimum wage rates, as well as a copy of this ordinance.
- (b) Records. Employers shall maintain payroll records showing hours worked daily by and the wages paid to all Employees, including, but not limited to, Tipped Employees. Employers shall retain such payroll records pertaining to all Employees for a period of at least three (3) years after an Employee has left employment.
- (c) The City shall have access to any and all Employer payroll records subject to this ordinance during business hours to investigate whether or not an Employer has violated any of the provisions of this chapter.

ARTICLE V.

Sec. 33.9. Enforcement.

- (a) Any Employee, including, but not limited to, a Tipped Employee, receiving less than the minimum wage he or she is required to receive under this ordinance may file a written complaint with the City Manager's office.
- (b) The City Manager or his or her designee may take appropriate steps to enforce this chapter; and may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.
- (c) If the City Manager finds that a violation of this chapter has occurred, he or she may order any appropriate relief including, but not limited to, the payment of any back wages withheld and/or the payment of \$100.00 as a penalty for each day that a violation of this chapter has occurred. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.
- (d) In the alternative, any Employee, including, but not limited to, a Tipped Employee, may bring an action in a Court of competent jurisdiction against the Employer for any and all violations of this chapter, including, but not limited to, wages and expenses owed under this chapter.

ARTICLE VI.

Sec. 33.10. Relationship To Other Requirements.

This ordinance provides for payment of minimum wage rates within the City and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement or policy that provides for payment of higher wages and/or benefits. Nothing contained

in this ordinance prohibits an employer from paying more than the minimum wage rates established herein.

ARTICLE VII.

Sec. 33.11. Severability Clause.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

ARTICLE VIII.

Sec. 33.12. Effective Date.

This ordinance shall take effect on July 1, 2015.

Goals and Objectives

Action Plan

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

- 1) Secure City Council approval of a combined "Downtown TIF", "Waterfront TIF" and "Transit Oriented Development (TOD) TIF" or separate TIF's whichever is determined to be in the best interest of the city.

Lead Department: Economic Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Develop Downtown Redevelopment Plan for Downtown TOD/TIF as needed for DECD approval Planning Division drafted a Downtown revitalization plan based upon existing documents.	9/1/2014	12/31/2014	
2) Work with METRO to develop cost estimates of improved service to determine funding needed from TOD TIF in the downtown Planning and Economic Development staff have met with their General Manager on an ongoing basis to develop these estimates, focus is on two proposals; Hublink connecting transit center w/airport&waterfront & increasing frequency of #1 route	8/1/2014		8/1/2014
3) Develop policy with HCDC for areas to encompass Downtown TOD/TIF, Expanded Bayside TIF, Reduced Arts TIF District for Baxter Library only, Reduce Ocean Gateway Garage to just Garage property. Proposal is for Arts TIF to be reduced to Baxter Library only - remaining property to go into Downtown TOD/TIF; Ocean Gateway Garage TIF to be reduced to just Garage property, remaining property to go into Downtown TOD/TIF.	6/30/2014		5/25/2014
4) Based on policy of areas for various TIF Districts, bring Downtown TOD TIF District and expanded Bayside TIF District to HCDC and City Council approval and then forwarded to MDECD for final approval. Expanded Bayside TIF going to City Council 11/3/2014 for 1st reading, and then second reading and vote on 11/17/2014, followed by submittal to MDECD for approval after Council vote. Arts TIF District and Ocean Gateway TIF District reductions, and new Downtown TOD TIF District being reviewed by HCDC November/December 2014 and then forwarded to City Council and MDECD for approval.	10/1/2014	1/31/2015	
5) Terminate Bayhouse (a/k/a Village at Oceangate) TIF District and Fore India Middle LLC TIF District set for one reading at Council 11/3/2014.	11/17/2014		
6)			

Goals and Objectives

Action Plan

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

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

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

Lead Department: Economic Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
1) Visit ten to 12 businesses each year with Mayor to learn about existing business issues and business expansion opportunities. City Economic Development (ED) staff selects and arranges these visits. During 2014 to date (10/27/2014), visited 8 businesses with Mayor; and one more planned for 11/6/2014, and one for 12/2014.	12/31/2015		
2) Market the Portland Technology Park to secure minimum of one tenant annually. City ED staff markets directly thru: City website; Maine Life Sciences Guide; a Trade Mission to Iceland/UK in 6/2014; existing businesses looking to expand; Universities through referrals; law firms with out-of-state offices and knowledge of business relocation opportunities to Maine. Currently working with one business prospect.	12/31/2015		
3) Advance work on the "Minority and Women-owned Business Development Initiative" City staff is working with SBA to design and implement a new business training program for minority and women owned businesses, based on similar programs in Rhode Island	6/30/2015	9/30/2015	
4) Re-establish ferry service to Nova Scotia. Ferry service began May 2014 and ended in October 2014, with 59,000 passengers for the first season.	5/15/2014		5/15/2014
5) Develop RFP for the design and permitting of the Confined Aquatic Disposal Cell utilizing State transportation bond funds. The Waterfront Coordinator has convened a Non-Federal Dredge (NFD) Workgroup to determine the best location for a Confined Aquatic Disposal (CAD) site(s) in Portland Harbor. The NFD is a diverse group of local Portland and South Portland officials, state and federal agency representatives, pier owners, environmental advocates and industry representatives seeking to facilitate the dredging of piers in the harbor. This group has identified a preferred site for a CAD cell and the State of Maine has committed funding for design permitting services. During the end of 2014, the City will be working with the State and the NFD to procure consulting services. The hope is to complete permitting for a CAD cell in 2015 or early 2016.	9/30/2014		

Goals and Objectives

Action Plan

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

- | | | | |
|-----|--|------------|-----------|
| 6) | Provide ongoing staff support to Portland Development Corporation in bring new loan and grant requests to Board for assistance to new and growing businesses.
ED staff supports the PDC. As of FYE2014, the PDC invested over \$1 Million in 19 business and economic development projects, which leveraged \$56 Million in private sector funds associated with creating 84 jobs and retaining 13 jobs. This was a milestone year for the PDC. | 12/31/2015 | |
| 7) | Secure City Council Approval to invest Community Development Block Grant Funds in workforce development
\$400,000 in CDBG funding was approved and a contract was issued to CSI to do conduct this work | 4/30/2014 | 4/30/2014 |
| 8) | Façade Improvement Program. By Spring 2015, public investment through grants to business and property owners will total approx. \$185,000, leveraging close to \$400,000 of private investment for improvements to 16 storefronts on Congress Street.
These grants provide an incentive for building and business owners to invest in rehabilitating their storefronts, and replacing deteriorated signs and awnings. | 6/30/2015 | |

Goals and Objectives

Action Plan

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

- 1) Complete assessment of and, as appropriate, begin to offer city owned property to construct affordable housing.

Lead Department: Planning and Urban Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Complete overview of City owned parcels and present findings to HCDC Earlier feedback from HCDC was incorporated into a final recommendation to examine a site on Munjoy Hill that was formerly part of the Adams School property. Additional research will be done on a parcel used for parking at the corner of Spring and High Streets	2/1/2014		2/26/2014
2) Conduct environmental and site assessments for Munjoy Hill parcel Complete at this time, may need some additional work if the Munjoy Street parcel is developed.	6/1/2014	7/15/2014	9/1/2014
3) Develop RFP for developer of Munjoy Hill parcel and present to HCDC HCDC asked staff to do additional outreach before issuing RFP. Staff flyer the neighborhood and has sent out two mailing two abutters announcing the HCDC meetings to discuss.	7/1/2014	9/1/2014	10/1/2014
4) Issue RFP for developer of Munjoy Hill parcel This release has been delayed due to additional outreach efforts outlined above.	8/1/2014	11/15/2014	
5) Present findings of further research on Spring and High parcel to HCDC Have presented some findings, research is ongoing	8/1/2014		5/1/2014
6) If determined appropriate by Council, develop RFP for developer of Spring and High parcel and present to HCDC The research to date indicates that redevelopment of this parcel would require approval of MDOT	10/1/2014	10/1/2015	
7) If applicable, issue RFP for developer of Spring and High parcel See above1	11/1/2014	11/1/2015	
8) Develop public process for reuse of the Reed School parcel and consult with HCDC as to the possible role of affordable housing development on that site Staff is beginning the public process	8/1/2014		6/10/2014
9) Complete public process for reuse of Reed School parcel and present recommendations to HCDC as to reuse Just getting under way now	12/15/2014	2/1/2015	
10) Explore other sites as opportunities arise Investing school parking locations at Reiche School.	12/31/2014	2/1/2015	

Goals and Objectives

Action Plan

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

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

Lead Department: Planning and Urban Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Present working draft of inclusionary ordinance to India Street Neighborhood Advisory Council	4/1/2014		5/1/2014
2) Present final recommendation for inclusionary ordinance to HCDC for feedback Staff decided to complete a housing study with GPCOG to inform any regulatory changes. That work is almost complete.	6/1/2014	12/31/2014	
3) Submit draft inclusionary ordinance to Planning Board for recommendation to City Council	9/1/2014	2/1/2015	

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

Lead Department: Planning and Urban Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Submit draft rewrite of B-2 zoning district to HCDC for review and support	3/26/2014		3/26/2014
2) Submit draft rewrite of R-6 and R-7 zoning districts to HCDC for review and support	4/9/2014		5/1/2014
3) Submit B-2 zoning changes to Planning Board and City Council for review Approved	4/8/2014	6/16/2014	6/16/2014
4) Submit R-6,7 zoning changes to Planning Board and City Council for review Conducting public outreach as needed over the summer, will delay submission date slightly	9/1/2014	10/15/2014	10/15/2014
5) Conduct public outreach to neighborhoods on R-6 and R-7 changes	10/1/2014		10/1/2014

Goals and Objectives

Action Plan

Goal: Develop a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use and walking.

- 1) Complete scope of work and procurement for a consultant to begin planning for implementation of HUB-Link (Thompson Point/Ocean Gateway/PWA)

Lead Department: Planning and Urban Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Develop scope of work for overall project Planning staff has been working with Economic Development and METRO to frame this scope. Coordination will have to take place with PACTS to ensure that their processes are followed as well.	5/30/2014		5/30/2014
2) Develop workplan for portions of scope that can be done in-house We had initially thought the full project would have to be done by an outside consultant. We are now thinking that staff, working with METRO, can complete a significant portion of the work and leverage the funding accordingly	6/15/2014		5/30/2014
3) Issue Request for Proposals for consultant services for balance of the work RFP was approved and issued but there were no responses. RFP will be adjusted and reissued.	7/15/2014		9/1/2014
4) Select consultant for project RFP will be reissued before consultant can be selected.	9/1/2014	2/1/2015	

- 2) Review and revise Parking Policies/Practices to support sustainable transportation and increased housing.

Lead Department: Planning and Urban Development

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Bring proposed changes to the Sustainable Transportation Fund to the Housing and Community Development Committee and related parking requirements for feedback This is a precursor to bringing language forward to the Planning Board and full Council	3/1/2014		2/26/2014
2) Submit proposed changes to the Sustainable Transportation Fund and related parking requirements to the Planning Board The changes are ready and have been scheduled for winter submission to the Planning Board. They have been delayed by the heavy Planning Board caseload.	7/7/2014	2/1/2015	
3) Submit proposed changes to Sustainable Transportation Fund and related parking changes to the City Council for approval	10/1/2014	3/1/2015	

Goals and Objectives

Action Plan

Goal: Develop a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use and walking.

- 1) Implement Congress Street Bus Priority Plan.

Lead Department: Public Services

Status: In Progress

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Complete engineering and design for the Bus Corridor Study Gorrill Palmer Engineers working with a business , municipal and transit stakeholder group completed the Congress St Bus Corridor Study	11/22/2013		12/6/2013
2) Implement trial/demonstration effort of Study Installed temporary bump outs and modified bus stop signs, placed two traffic signals in flash modes as candidates for removal	6/17/2013	6/30/2014	6/30/2014
3) Prepare and Review trial results and submit report with findings and recommendations to the TSE Committee. Over the past few years, the Department has facilitated meetings with downtown business and METRO officials; a trial program was implemented last year to determine if any adjustments are needed to the treatment plans before permanent improvements are made. Funds are available from last years CIP to implement recommended improvements. Presentation to TSE will either be in July or August depending upon Committee Summer schedule	7/7/2014	8/20/2014	8/20/2014
4) Install permanent bus stop signage, bump outs and traffic markings for Corridor Study. Add new bus shelter by City Hall. Shift from temporary to permanent based on trial results; monitor results via survey, feedback from merchants and businesses and METRO Bus riders and employees. Resolved bus shelter location near City Hall, with Historic Preservation Committee. Continue to work through design issues and approvals from Historic Preservation and related impacts on decisions for placement of bus shelters near City Hall.	7/7/2014	6/30/2015	

Goals and Objectives

Action Plan

Goal: Develop a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use and walking.

- 2 } Write a memorandum of understanding with METRO that addresses street closures impacting transit routes and other areas of mutual interest.

Lead Department: Public Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Meet with Officials of METRO; discuss framework for MOU on street closures Determine policy on who is involved with a decision to close a City street for any reason	4/30/2014		5/15/2014
2) Present recommendations to the TSE Committee for comment, conduct further reviews and complete final draft in collaboration with other City staff, outside Departments and METRO officials. Presented framework to TSE on 5-21-14; anticipate completing MOU on 7-30-14; adopt by City Manager, send final document to TSE and City Council as a communication	4/16/2014	5/21/2014	5/21/2014
3) City Manager and METRO endorse final copy of the MOU; signatures are obtained from the City Manager and METRO General Manager Final document is endorsed and MOU implemented by the City Managers' office and other Departments involved with street closures including Public Services, Recreation and Facilities Management, Fire and Police. Current schedule moved out to meet other priorities by METRO and the Department. Event planning staff continues to work closely with METRO officials on planning for impacts to transit routes if road closures are planned. Recent examples of this collaboration is the upcoming 2014 Light up the Holidays events and December First Friday Art Walk. Both provides for a special bus lane during the closure of Congress St for the event.	7/30/2014	12/15/2014	

Goals and Objectives

Action Plan

Goal: Develop a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use and walking.

- 3) Implement improvements as provided in the Transforming Forest Avenue Plan subject to CIP funding approval.

Lead Department: Public Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
1) Complete -endorse MDOT's Exit 6 Forest Avenue ramp improvements Project is managed by MDOT, Department staff from Public Services and Planning have been working with MDOT on design improvements to the exist ramps onto Forest Avenue trying to incorporate elements of the Transforming Forest Avenue report into final design. Features desired include adding bike and ped accomodations that safely integrate in with vehicle traffic design. Staff has offered several design options to MDOT..and heard recent design efforts by MDOT may closely match City desired outcomes. We learned recently that MDOT rejected the City's recommended treatments for bike ped access on Forest Avenue at Exit 6. We have requested a meeting with MDOT project managers to hear from MDOT officials why design option was rejected; our meeting request has been denied and we are in discussions about this project with the State Engineer.	4/30/2014	7/15/2014	7/15/2014
2) Hold design review meeting with MDOT project engineers To review latest design; Department staff has requested a briefing with MDOT project managers to determine basis for MDOT denying the City's recommended alternative design treatments for bike safety. We have requested we hold this review meeting before a public meeting is held. MDOT has indicated they tried to incorporate the City's recommended design in with the final plans, but impacts with stacking on the ramps and impacts to the interstate by Exit 6 appear to be to great. We have requested a meeting with MDOT officials to revisit why our recommended treatments cannot be used in final design.	5/12/2014	6/30/2014	6/30/2014
3) Schedule public meeting on Exit 6 and prepare for construction improvements Assuming City and MDOT project officials are in agreement over design, project to proceed with public meeting, and then construction phase. City staff came to general consensus on the final proposed MDOT plan. Improvements to bike and pedestrian accomodations near the off ramps for safety were included; public voiced some opposition to the design plans and MDOT and City staff to continue working together on resolving concerns before a final plan is set. We/Department staff is not in agreement with present design, and sought a design change to improve bike safety through the exit as it connects with Forest Avenue. MDOT feels they are in a position to proceed with scheduling a public hearing; MDOT project managers have asked assistance from Department staff in organizing the public meeting.	9/8/2014	10/14/2014	10/14/2014
4) Complete Redesign of Woodford's Corner Project with MDOT and include features from Transforming Forest Ave, following public review process. Project design work has started, MDOT serving as project managers, HNTB selected for design work; Public Services staff serving on project team guiding project. Design exceptions being sought by Department staff to implement features of Transforming Forest Ave. MDOT Resisting design exceptions. To hold public review meetings as design unfolds to gain community and business endorsement. Held an on site meeting with senior officials of MDOT on June 10, 2014, who now appear ready now to endorse our proposed design exceptions for this intersection which includes wider sidewalks, narrow travel lanes, closing off slip lane off of Forest Avenue and Woodfords, and providing improved streetscape opportunities.	9/30/2014	10/30/2015	

Goals and Objectives

Action Plan

Goal: Develop a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use and walking.

4) Complete design process of the selected alternative as determined by Franklin Street Phase II Study

Lead Department: Public Services

Status: In Progress

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Select Transportation Design Consultant to complete phase II Feasibility and preliminary design report Selected IBI Group in fall of 2013 to conduct the feasibility report; implemented project schedule to include PAC meetings and public review process.	11/4/2013		11/14/2014
2) Through out the year, conduct Public Meetings hold PAC meetings and working with the project review team (City/PACTS/MDOT officials) to gain consensus around preferred design alternative. June 24 PAC meeting cancelled as a result of additional traffic modeling analysis requested from MDOT ; project delays and scope change with IBI Group to reflect more traffic modeling work.	12/31/2014	2/27/2015	
3) Present design alternatives and recommended design to the Transportation, Sustainability and Energy Committee Take preferred alternative before the TSE Committee before advancing to City Council for final endorsement of project design. MDOT engineers have asked for additional traffic modeling and analysis before final recommendation can be made. Current modeling of the preferred alternatives are indicating excessive backups on the off ramps to Exit 7; MDOT has asked for additional modeling and evaluation of alternatives that can work at the intersection of Franklin, Marginal Way, Somerset and Fox Streets. Additional modeling will contribute to project delays and force the project to reallocate funding to modeling instead of preliminary design work for this key Intersection.	8/20/2014	3/18/2015	
4) Present recommend design alternative to City Council for final endorsement	9/22/2014	4/6/2015	

Goals and Objectives

Action Plan

Goal: Advance an environmental program that safeguards our natural resources, promotes a healthy lifestyle and supports a sustainable economy.

- 1) Determine if an integrated permitting process for Clean Water Act (CWA) compliance is in the best interest of the City and, if so, begin implementation.

Lead Department: Public Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Schedule meeting with officials of DEP and EPA on scope of work for the Integrated Planning effort	3/24/2014	5/7/2014	6/6/2014
2) Prepare RFP for outside consulting services to assist staff with Planning effort	5/19/2014	12/15/2014	
The Department has made substantial progress toward completing major long term planning documents needed to meet individual CWA permits and EPA Orders. (LTCP-CSO's, MS4 Plans, CMOM-Sewer and starting CMOM -Storm Water); outside assistance is needed to now evaluate all of these plans to assess priorities and consider most cost effective strategies toward meeting CWA goals within these mandated plans. RFP to seek a more specific set of services, namely identifying all of milestone requirements from each permit, conduct modeling to learn which set of permit programs gets the City to CWA compliance in the most efficient manner.			
3) Apply for an EPA Technical Assistance Grant for support with Integrated Planning Process	6/27/2014	6/27/2014	6/27/2014
EPA recently announced that there is \$350,000 nationally for 5 cities interested in pursuing Integrated Planning work for technical assistance. Assistance would be provided by a designated EPA consultant and would support one or two elements of the evaluation, such as modeling projected water quality benefit for each of the projects. The Department recently learned from EPA that the City was not among the 5 City's selected for the Grant.			
4) Determine if integrated planning of projects within CWA permits results in improved sequence of timing and or modifications of overall time lines for project implementation and development.	8/25/2014	6/30/2015	

Goals and Objectives

Action Plan

Goal: Advance an environmental program that safeguards our natural resources, promotes a healthy lifestyle and supports a sustainable economy.

- 2) Determine if the Storm Water Utility Fee is fair and feasible, and if so, begin implementation.

Lead Department: Public Services

Status: In Progress

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Presentation to Finance Committee in august, ordinance, credit manual and property impacts Revisit policy efforts for establishing a Storm Water Service Charge	8/7/2014	8/21/2014	
2) Additional information to the Finance Committee on the Fee; begin to initiate the public information campaign on the fee. Based on the August meeting, respond to questions from the FC begin to prepare for Council actions. Continue public information campaign; agreed to hold 2 Public Meetings before the FC considers the proposal, October 9 and October 23; Public Workshop and possible vote by FC on Nov 13. Staff to also make brief presentations at all of the District Neighborhood meetings in November. Additional meetings with PDD, Chamber and MERDA are planned.	9/4/2014	11/28/2014	
3) Hold City Council Workshop-final approval Likely Workshop and additional Council communication before vote on ordinance and fee; projected meetings early December 2014. City Council projected to act on proposal at the Jan 19 City Council meeting	12/15/2014	1/19/2015	
4) Development of Billing System; Hire Billing Staff; hire engineering support staff In addition to hiring support staff, continued public education, and press information through a variety of methods, direct communications, social media, one on ones, about the new stormwater billing charge	3/2/2015	3/2/2015	
5) Prepare send out projected billings Property lookup feature on City website for property owners to view projected billings, consider how credits might apply	5/4/2015	7/1/2015	
6) Property owner billing reviews Opportunity for property owners to ask questions of staff, evaluate projected charges, make corrections as needed	6/1/2015	7/1/2015	
7) Hire Collections Staff This may be use of an outside vendor to support collections activity	7/1/2015	7/1/2015	
8) Actual Storm Water Billing begins	7/1/2015	1/1/2016	

Goals and Objectives

Action Plan

Goal: 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.

- 1) Implement needed administrative reorganization, rules/procedures revisions and facilities assessment based on recommendations contained in the Fire Department Strategic Improvement Plan.

Lead Department: Fire Department

Status: In Progress

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Obtain Approval for reorganization plan from City Manager	1/1/2014		1/15/2014
2) Develop Budget for reorganization and implementation	3/1/2014		3/1/2014
3) Develop plan for promotional process	5/15/2014		5/15/2014
4) Conduct promotional process and make promotions The outcome of the promotional process for Captain & Lieutenant yielded to few candidates to fill all positions. A retest has been set for November 3rd. Completion of the re-test and promotional interviews will be completed by November 30 and promotions effective 12/15/14.	6/8/2014	12/15/2014	6/8/2014
5) Complete transition of personnel and conduct ripple promotions at lower levels In progress 10/28/14 - Final selection of Assistant Chief of Fire Prevention and Community Outreach to be completed by December 1st for implementation by December 31, 2014. New promotional list for lower ranks to be completed by 11/3/14.	8/31/2014	12/31/2014	
6) Instituted Emergency Medical Response Dispatch protocols. Implemented but currently being monitored and amended as needed. Adjusted response levels to reduce apparatus responses Update - 10/28/14 Original response plan is being updated to include provisions for responding to low risk calls with out the use of lights & sirens.	1/31/2014		1/31/2014
7) Implemented EMS internship with Field Training Officer. Improved training to support amending response protocols (apparatus response reductions)	3/1/2014		3/1/2014
8) Instituted response level adjustments for reduction of unit responses (less apparatus for each call for service) Utilizing response data to reduce the amount of apparatus to achieve efficiencies	3/15/2014		3/15/2014
9) Rules, Procedures, and Guidelines committee ongoing work to update departmental documents Currently working in collective bargaining on items that are related to the CBA	12/31/2014	7/1/2015	
10) Submit budget request for professional preparation of facilities needs assessment. Completed.	2/1/2014		2/1/2014
11) Implement facility assesment for one facility as funded in FY14 Met with City Facilities Department to identify priorities and what items can be handled by City Staff. Development of plan to be completed by Jan. 1.	12/31/2014	6/30/2015	

Goals and Objectives

Action Plan

Goal: 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.

- 2) Design and present for approval an updated Pay and Classification Plan for Non-union Employees.

Lead Department: Human Resources

Status: Deferred

Action Step	Planned	Revised	Actual
Comments	Completion	Completion	Completion
1) Complete RFP to hire Compensation Consultant	5/16/2014		
Project is on hold pending hiring of new Human Resources Director			
2) Solicit bids	6/20/2014		
3) Conduct Job Evaluation	10/30/2014		
4) Conduct Pay Analysis	12/31/2014		
5) Report to City Manager	2/5/2015		
6) Revisions after City manager review	3/6/2015		
7) Council approval	5/15/2015		
8) Implementation	7/1/2015		

- 3) Develop and implement qualitative assessment tools for permitting and inspections as carried out by multiple city departments to objectively demonstrate progress towards better coordination and timelier issuance of permits.

Lead Department: Executive

Status: In Progress

Action Step	Planned	Revised	Actual
Comments	Completion	Completion	Completion
1) Develop data collection and reporting capacity in inspections to ascertain permitting times and patterns of disruption in the building permit process	2/1/2014		1/1/2014
Data collection is still subject to issues such as human error, how to handle lapses in permit review due to applicant unresponsiveness, etc.			
2) Produce quarterly reports of building permit times overall and for key permit types to benchmark progress	3/31/2014		3/31/2014
3) Improve on-line capability to communicate with Building Permit applicants	11/1/2014		11/1/2014
4) Produce materials to inform applicants of submission requirements and permits that may be required from other Departments as part of the Building Permit application process	9/1/2014		10/1/2014
5) Offer customer satisfaction survey to applicants after permits are received	10/1/2014		10/1/2014

Goals and Objectives

Action Plan

Goal: 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.

- 4) Develop a city budget that, to the extent funds are available or necessary, advances the goals in this document and guiding principles including a 311 center, permitting improvements, customer service training and a new website.

Lead Department: Finance

Status: Completed

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Complete Finance Committee budget reviews	4/30/2014		5/8/2014
2) City Council budget approval	5/19/2014		5/19/2014
FY15 budget includes a number of items that further the Council's goal of improved city services, such as... Additional staffing for parks and open space use management with one full time Park Ranger and part time events staff; Addresses follow up and enforcement of various quality of life issues and ordinances with a full time Ordinance Enforcement Officer, and restoration of a full time Community Justice Advocate as well as Associate Corp Counsel; Addition of Cashier Clerk and implementation of license plate issuance for new vehicles; Begin implementation of a centralized call center mid-year; Solid Waste efficiency study to evaluation trash and recycling functions; Increase in road striping funds; Consolidation of management of community gardens.			

- 5) Review and revise, if appropriate, the city's debt policy.

Lead Department: Finance

Status: Not Started

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Finance Committee review of current policy and discussion on desired changes	7/31/2014		
2) Draft any changes to policy, review with Financial Advisor, and return to Fin Comm	8/29/2014		
3) Fin Comm recommendation to Council on revised policy (if revised)	9/11/2014		
4) Council review of revised recommended policy (if revised)	10/20/2014		

- 6) Write a report that documents options available for property tax and rent rebates, and the financial impacts of those options.

Lead Department: Finance

Status: Not Started

Action Step Comments	Planned Completion	Revised Completion	Actual Completion
1) Legal recommendation on what is allowed by law for local option tax/rent rebates	7/31/2014		
2) Draft memo outlining legal option and financial impact to City for review by Finance Committee	9/11/2014		
3) Finance Committee review and recommendation of any Council action, if needed	10/9/2014		
4) Council review and approval of any recommended items, if needed	11/17/2014		

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 1) The Portland Continuum of Care Committee (Portland CoC) will complete a planning/evaluation process of all HUD funded homeless programs and services.

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) The Portland CoC will request and receive the planning/evaluation grant from HUD. The Portland CoC was awarded a planning/evaluation grant for \$17,788 in the 2013 competition. This grant started April 2014. MaineHousing received \$37,170.	1/31/2014		1/31/2014
2) Portland CoC, in collaboration with MaineHousing will establish a committee to develop a scope of work and methodology for the planning process. The Portland CoC and State of Maine CoC established a joint planning committee in June 2014 to create a monitoring and evaluation tool for all HUD and ESG funded programs, and to plan and design a coordinated homeless assessment system.	2/28/2014		6/15/2014
3) Develop and release the RFP for the planning process. Completed.	3/31/2014		3/31/2014
4) Planning Committee will select the consultants to lead the process. One vendor has expertise with federal best practices and one has local expertise. ABG Consulting was selected by the Portland CoC and the Technical Assistance Collaborative by the Maine CoC. The vendors began work in June and are collaborating on the project.	4/30/2014		4/30/2014
5) Execute contracts with the vendors. Completed.	5/30/2014		5/30/2014
6) Complete the planning/evaluation process and report findings and recommendations to the full Portland CoC to be used in the next HUD CoC application (2015)	9/30/2014	12/1/2014	
7) Incorporate best practice findings into the CoC application. The application will be due in 2015.	12/31/2014	10/1/2015	

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 2) Develop and implement a comprehensive approach to work with long-term shelter consumers (chronically homeless) on housing stability plans

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned	Revised	Actual
Comments	Completion	Completion	Completion
1) Develop a plan to begin intensively and purposefully focusing resources on the most chronic and vulnerable shelter consumers accessing services at the Oxford Street Shelter. The plan was developed during the month of January, and the various components will be implemented during calendar year 2014. Revisions were completed and the Plan was updated at the May PSHHS meeting.	1/31/2014		1/31/2014
2) Develop a comprehensive plan to work with long-term stayers at the Family Shelter, focusing on families with a length of stay greater than 30 days. Completed - highest duration for long-term stayers at the Family Shelter decreased from 9 months to 4 months.	2/28/2014		2/28/2014
3) The City will assume a leadership role with the 100,000 Homes Campaign. Completed. Portland achieved the 2.5% Club which means that we are placing 2.5% of all chronically homeless into housing each month.	11/29/2013		9/30/2014
4) Amend the Client Support and Services Policy at the Oxford Street Shelter to include a specific approach for consumers with monthly income. Completed	5/30/2014		5/19/2014
5) Identify the top 30 highest adult users of services at the Oxford Street Shelter as measured by bed nights. Completed.	2/28/2014		2/28/2014
6) Secure permanent housing for the top 30 highest adult users of services at the Oxford Street Shelter. 27 of the 30 top bed night users have been placed into permanent housing.	6/30/2014		6/30/2014
7) Prioritize the next group of long-term stayers at the Oxford Street Shelter to work with on securing permanent housing. A second group of 30 longest-term stayers were identified in September and 8 adults have secured permanent housing as of 10/10/14.	7/31/2014		9/1/2014
8) Work with Preble Street and the Portland Housing Authority to place an additional 26 chronically homeless adults into permanent housing using PHA Sec. 8 Housing Vouchers when they become available. This action step was impacted by Federal Sequestration when PHA was not permitted to issue/turn over any section 8 housing vouchers. PHA was able to begin issuing vouchers earlier this Spring and we are again working with Preble Street on the remaining 26 vouchers. UPDATE: 27 chronically homeless individuals have been placed into PHA Section 8 subsidized housing and are receiving follow-up services through the Preble Street PATH program.	4/1/2014		9/30/2014

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 3) During calendar year 2014 place 500 homeless individuals and 150 families into permanent housing.

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) A request to add 2.0 Human Services Counselors at the Oxford Street Shelter and 1.0 Human Services Specialist for the Family Shelter will be requested as part of the FY 2015 budget process. The positions were not included in the City Manager's proposed FY 2015 budget. Update: The Family Shelter received a grant from MaineHousing to fund 1 Human Services Specialist at the shelter 9/1/14.	3/31/2014		3/31/2014
2) Create a new division of Housing and Support Services within Social Services to ensure housing placement efforts are not diminished by the day to day operational constraints of managing the City's emergency shelters (e.g. Oxford Street and Family Shelter). Completed.	3/31/2014		3/31/2014
3) Continue to actively participate in a leadership role with the 100,000 Homes Campaign. Campaign ended 9/30/14.	12/31/2014		9/30/2014
4) Work with the State (DHHS), Shalom House and MaineHousing to prioritize housing resources for individuals staying in the city's emergency shelters. The Family Shelter and the Oxford Street Shelter meet with Shalom House, DHHS and MaineHousing monthly to prioritize housing subsidies for individuals who reside in the shelters and meet HUD criteria for prioritized housing placement. This goal is ongoing.	12/31/2014		
5) Develop, release and award the Housing First Pre-Development request for proposals. Awarding a second grant to another organization as well. A total of \$75,000 was awarded for Housing First pre-development activities in May. Avesta Housing received \$50,000 and Community Housing of Maine \$25,000.	5/1/2014		5/1/2014
6) Launch the City's Home Fund Tenant-Based Rental Assistance program (TBRA) and provide assistance to 75 households. The TBRA was launched in April, but it will be several months before meet the goal of serving 75 households. The program began on 3/1/14 and 49 households, with 136 individuals, moved out of the shelter and into permanent housing (6-month period).	4/30/2014		3/1/2014
7) Evaluate the Home Fund TBRA. Scheduled for November.	12/31/2014	11/30/2014	
8) Pursue additional Home Funds to continue the TBRA program in FY 2015. The current TBRA program will need to be in place for a little while longer before determining if additional funds are appropriate based on outcome data. Update: An additional \$135,314 was allocated for FY2015.	5/30/2014		9/30/2014

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

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| 9) | Apply for additional MaineHousing Home to Stay resources for the Oxford Street and Family Shelters (CY 2015). | 9/30/2014 | 12/31/2014 |
| | MaineHousingm extended the Home to Stay program through 12/31/14 (6 months) and allocated an additional \$43,750 for the Family Shelter and \$43,750 for Oxford Street. The program was originally funded 6/1/13-5/31/14. | | |
| 10) | Implement the next iteration of the Client Support and Services Policy at the Oxford Street Shelter related to available resources. | 5/30/2014 | 2/1/2014 |
| | Completed | | |
| 11) | PROGRESS TOWARD HOUSING PLACEMENT GOALS: | 12/31/2014 | |
| | <p>As of May 30, 2014, a total of 80 families have been placed in permanent housing from the Family Shelter. This represents 53% of the 150 families goal within 41% of the calendar year. As of May 30, 2014, a total of 156 single adults have been placed in housing from the Oxford Street Shelter. This represents 27% of the 500 adult placement goal within 41% of the calendar year. It is important to note, however, that the OSS began focusing on and prioritizing resources for the most long-term shelter stayers earlier this year. This has impacted the total number of housing placements, but has dramatically reduced the number of single adults presenting at the OSS each night - the average (n=211) number of men and women staying at the OSS each night in May was the lowest in several years. UPDATE: The Family Shelter secured permanent housing for 189 families in FY14 and Oxford Street Shelter assisted 496 single adults in securing housing. The Family Shelter has reduced the length of stay for the longest-term stayers from 9 to 4 months maximum and Oxford Street Shelter has gone from 1,300 bed nights to 885 bed nights for the second tier of 30 long-term stayers. Oxford Street Shelter averaged 247 individuals per night in January 2014 and the numbers have been reduced to 217 per night as through September 2014. This is a significant drop. These goals are ongoing.</p> | | |

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 4) Engage surrounding communities in collaborative efforts to address homelessness on a regional basis through referrals, affordable housing development and access to additional housing subsidies.

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) Once Sequestration is resolved, schedule follow up meetings with the Westbrook and South Portland Housing Authorities regarding their commitment to set aside Sec. 8 housing vouchers for chronically homeless adults. Westbrook and South Portland Housing Authorities both remain committed to set aside Section 8 housing vouchers for chronically homeless adults. Westbrook has recently committed 10 and South Portland 2-3.	5/30/2014		10/1/2014
2) Schedule DHHS General Assistance (GA) training with surrounding communities regarding the state requirement that every community must provide after-hours GA emergency assistance for local residents. DHHS GA conducted a workshop for municipalities in Southern Maine on after-hours GA responsibility.	6/30/2014		5/1/2014
3) Whenever possible, continue to collaborate with surrounding communities on housing placements to maximize the availability of affordable housing options in other communities. Oxford Street and Family Shelters work collaboratively with surrounding communities on housing placement. Oxford Street data indicates that only 46% of housing placements for calendar year 2014 are in Portland and 67% of placements for families are in Portland. This goal is ongoing.	12/31/2014		

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 5) Develop a memorandum of understanding between the city and other homeless service providers that will clearly articulate roles and responsibilities of each entity to avoid duplication and maximize resources.

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
1) Amend the City of Portland General Assistance Program Shelter Agreements with city emergency shelters to clearly articulate the shelter's role and responsibilities. This goal has been postponed pending the outcome of the DHHS GA audit.	7/1/2014	12/31/2014	
2) Enter into an electronic data sharing agreement for the Homeless Management Information System (HMIS) which will eliminate duplicate shelter intakes and result in improved efficiencies. Oxford Street and Family Shelters have HMIS agreements with Preble Street-operated shelters. MaineHousing administers HMIS and is working with the City and Preble Street on incorporating electronic data sharing for all shelters in the Portland area.	8/1/2014		4/1/2014
3) Develop a memorandum of understanding with providers regarding the new centralized assessment process which is being developed by the Portland CoC Planning Grant Committee. The centralized assessment and intake process will maximize resources. Update: The Portland and Maine CoC Planning Committee is still working on the centralized assessment process and will report back in December. A grant application was submitted to HUD on 10/30/14 requesting funding to hire a consultant to implement the centralized assessment and intake process.	8/1/2014	2/15/2015	
4) Through the Emergency Shelter Assessment Committee (ESAC), a memorandum of understanding will be developed that clearly articulates the roles and responsibilities of the city's homeless service providers. Performance measures will be incorporated in the MOU's to the extent possible. The CoC Planning Committee is still working on performance measurement criteria.	9/30/2014	2/15/2015	

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 6) Promote and encourage community outreach as an engagement approach to prevent and end homelessness.

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned	Revised	Actual
Comments	Completion	Completion	Completion
1) Develop a FY 2015 departmental budget which includes \$75,000 in HOME Team funding. The Council approved the City's FY 2015 budget on May 19, 2014 which included \$75,000 in funding for the HOME Team (\$50,000 in the City Manager's Budget and \$25,000 in the Social Services Division Budget).	3/7/2014		5/19/2014
2) Assist Milestone to secure additional funding for the HOME Team. This goal is now ongoing. This goal is ongoing.	6/30/2014		
3) Reconvene the Outreach Advisory Committee to ensure that the available outreach efforts are coordinated and maximized during the spring and summer months. Ongoing The Milestone Foundation HOME Team, Preble Street and Oxford Street Shelter regularly coordinate community outreach in the spring, summer and fall. This goal is now ongoing.	5/30/2014		
4) Develop an Extreme Weather Outreach Response plan. Oxford Street and Preble Street staff collaborate to reach out during extreme weather. This goal is ongoing.	6/30/2014		

Goals and Objectives

Action Plan

Goal: Prevent and end homelessness in the City of Portland by continuing to implement the recommendations of the Homelessness Task Force.

- 7) Establish and maintain a reporting methodology to regularly update the City Council and the public on progress towards implementing the City's plan to prevent and end homelessness.

Lead Department: Health and Human Services

Status: In Progress

Action Step	Planned Completion	Revised Completion	Actual Completion
Comments			
1) The Public Safety, Health & Human Services Committee will receive quarterly updates on the progress of the City's Seven Point Plan to Prevent and End Homelessness. Formal updates have been presented to the committee quarterly. This goal is ongoing.	12/31/2014		
2) Update the City Manager's Neighborhood Advisory Committee on the progress of the City's Seven Point Plan to Prevent and End Homelessness. This goal is ongoing.	3/11/2014		3/11/2014
3) Develop housing placement matrices for the Oxford Street and Family Shelters which will include the previous year's actual utilization, projected monthly utilization, actual monthly utilization and a year-end average shelter census goal. Ongoing - do so monthly.	3/31/2014		
4) Post housing placement matrices for the Oxford Street and Family Shelters monthly on the HHS department's webpage. Ongoing - do so monthly.	4/1/2014		
5) Comprehensive housing placement data will be maintained on a monthly basis and shared with City leadership, CoC, and ESAC, and posted on the HHS department's webpage. Ongoing - do so monthly.	12/31/2014		
6) Develop an Emergency Shelter Assessment Committee (ESAC) and Portland Continuum of Care (CoC) webpage on the City's new website which will contain meeting minutes, agenda and monthly shelter data for members of the public. Ongoing - do so monthly.	6/30/2014		

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Minimum Wage Act Revision Act of 1992 to increase the minimum wage in the District of Columbia to \$11.50 an hour in 3 steps, to require the minimum wage during each successive year to increase in proportion to the increase in the Consumer Price Index, to require the Mayor to provide employers copies or summaries of the District's minimum wage law, and to require employers who employ tipped employees to certify on a quarterly basis that their employees earn a minimum wage.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Minimum Wage Amendment Act of 2013".

Sec. 2. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), is amended as follows:

(a) Section 4(a) (D.C. Official Code § 32-1003(a)) is amended by adding paragraphs (3), (4), (5), and (6) to read as follows:

"(3) Except as provided in subsection (h) of this section, as of July 1, 2014, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be \$9.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus \$1, whichever is greater.

"(4) Except as provided in subsection (h) of this section, as of July 1, 2015, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be \$10.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus \$1, whichever is greater.

"(5) Except as provided in subsection (h) of this section, as of July 1, 2016, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be \$11.50 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus \$1, whichever is greater.

"(6)(1) Except as provided in subsection (h) of this section, beginning on July 1, 2017 and no later than July 1 of each successive year, the minimum wage provided in this subsection shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the

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previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of \$.05.

"(2) The Mayor shall publish in the District of Columbia Register and make available to employers a bulletin announcing the adjusted minimum wage rate as provided in this paragraph. The bulletin shall be published at least 30 days before the annual minimum wage rate adjustment."

(b) Section 10(b) (D.C. Official Code § 32-1009(b)) is amended by striking the phrase "on request".

(c) A new section 10a is added to read as follows:

"Sec. 10a. Notice requirements for tipped wages.

"(a) An employer who employs an employee who is paid in accordance with section 4(f) shall submit a quarterly wage report within 30 days of the end of each quarter to the Mayor certifying that the employee was paid the required minimum wage.

"(b)(1) The Mayor shall create an Internet-based portal for online reporting of the quarterly wage reports required by subsection (a) of this section.

"(2) An employer shall submit its quarterly wage reports online unless the employer claims that online reporting creates a hardship, in which case the employer shall submit its reports in hard-copy form.

"(3) The Mayor shall provide reporting requirements training to educate employers about the reporting requirements and use of the Internet-based portal.

"(c) The Mayor shall:

"(1) Perform random reporting audits after each quarterly report deadline to ensure compliance; and

"(2) Submit an annual report to the Secretary to the Council of the compliance data collected."

(d) Section 11(2) (D.C. Official Code § 32-1010(2)) is amended as follows:

(1) Strike the phrase "sections 9 and 10" and insert the phrase "sections 9, 10, and 10a" in its place.

(2) Strike the phrase "section 9" and insert the phrase "sections 9 and 10a" in its place.

Sec. 3. Applicability.

Section 2(b)-(d) of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

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Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

San Francisco Administrative Code
<u>CHAPTER 12R: MINIMUM WAGE</u>

CHAPTER 12R:
MINIMUM WAGE

<u>Sec. 12R.1.</u>	Title.
<u>Sec. 12R.2.</u>	Authority.
<u>Sec. 12R.3.</u>	Definitions.
<u>Sec. 12R.4.</u>	Minimum Wage.
<u>Sec. 12R.5.</u>	Notice, Posting and Payroll Records.
<u>Sec. 12R.6.</u>	Retaliation Prohibited.
<u>Sec. 12R.7.</u>	Implementation and Enforcement.
<u>Sec. 12R.8.</u>	Waiver Through Collective Bargaining.
<u>Sec. 12R.9.</u>	Relationship to Other Requirements.
<u>Sec. 12R.10.</u>	Application of Minimum Wage to Welfare-to-Work Programs.
<u>Sec. 12R.11.</u>	Effective Date.
<u>Sec. 12R.12.</u>	Severability.
<u>Sec. 12R.13.</u>	Amendment by the Board of Supervisors.
<u>Sec. 12R.14.</u>	Civil Actions.
<u>Sec. 12R.15.</u>	Remedies Cumulative.
<u>Sec. 12R.16.</u>	Administrative Penalties and Citations.
<u>Sec. 12R.17.</u>	Violations.
<u>Sec. 12R.18.</u>	Administrative Citation; Notice of Violation.
<u>Sec. 12R.19.</u>	Administrative Citation and Notice of Violation; Service.
<u>Sec. 12R.20.</u>	Administrative Citation; Contents.
<u>Sec. 12R.21.</u>	Administrative Appeal.
<u>Sec. 12R.22.</u>	Regulations.
<u>Sec. 12R.23.</u>	Judicial Review.
<u>Sec. 12R.24.</u>	Other Remedies Not Affected.
<u>Sec. 12R.25.</u>	Outreach.
<u>Sec. 12R.26.</u>	Reports.

SEC. 12R.1. TITLE.

This Chapter shall be known as the "Minimum Wage Ordinance."
(Added by Proposition L, 11/4/2003)

SEC. 12R.2. AUTHORITY.

This Chapter is adopted pursuant to the powers vested in the City and County of San Francisco ("the City") under the laws and Constitution of the State of California and the City Charter including, but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Law.

(Added by Proposition L, 11/4/2003)

SEC. 12R.3. DEFINITIONS.

As used in this Chapter, the following capitalized terms shall have the following meanings:

"Agency" shall mean the Living Wage/Living Health Division of the Office of Contract Administration or such other City department or agency as the City shall by resolution designate.

"City" shall mean the City and County of San Francisco.

"Employee" shall mean any person who:

(a) In a particular week performs at least two (2) hours of work for an Employer within the geographic boundaries of the City; and

(b) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a Welfare-to-Work Program.

"Employer" shall mean any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.

"Minimum Wage" shall have the meaning set forth in Section [12R.14] of this Chapter.

"Small Business" shall mean an Employer for which fewer than ten (10) persons perform work for compensation during a given week. In determining the number of persons performing work for an Employer during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

"Nonprofit Corporation" shall mean a nonprofit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section.

"Welfare-to-Work Program" shall mean the City's CalWORKS Program, County Adult Assistance Program (CAAP) which includes the Personal Assisted Employment Services (PAES) Program, and General Assistance Program, and any successor programs that are substantially similar to them.

(Added by Proposition L, 11/4/2003)

SEC. 12R.4. MINIMUM WAGE.

(a) Employers shall pay Employees no less than the Minimum Wage for each hour worked within the geographic boundaries of the City.

(b) Beginning on the effective date of this Chapter, the Minimum Wage shall be an hourly rate of \$8.50. To prevent inflation from eroding its value, beginning on January 1, 2005, and each year thereafter, the Minimum Wage shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area.

(c) The Minimum Wage for Employers that are Small Businesses or Nonprofit Corporations shall phase in over a two year period in order to afford such Employers time to adjust. For such Employers, the effective date of this Chapter shall be January 1, 2005. For a transition period beginning January 1, 2005 and ending December 31, 2005, the Minimum Wage for Employees of such Employers shall be an hourly rate of \$7.75. Beginning January 1, 2006,

the Minimum Wage for Employees of such Employers shall be the regular Minimum Wage established pursuant to Section 4(b)1 of this Chapter.

(Added by Proposition L, 11/4/2003)

CODIFICATION NOTE

1. Reference should be to Sec. 12R.4(b).

SEC. 12R.5. NOTICE, POSTING AND PAYROLL RECORDS.

(a) By December 1 of each year, the Agency shall publish and make available to Employers a bulletin announcing the adjusted Minimum Wage rate for the upcoming year, which shall take effect on January 1. In conjunction with this bulletin, the Agency shall by December 1 of each year publish and make available to Employers, in all languages spoken by more than five percent of the San Francisco work force, a notice suitable for posting by Employers in the workplace informing Employees of the current Minimum Wage rate and of their rights under this Chapter.

(b) Every Employer shall post in a conspicuous place at any workplace or job site where any Employee works the notice published each year by the Agency informing Employees of the current Minimum Wage rate and of their rights under this Chapter. Every Employer shall post such notices in English, Spanish, Chinese and any other language spoken by at least five percent of the Employees at the workplace or job site. Every Employer shall also provide each Employee at the time of hire the Employer's name, address and telephone number in writing.

(c) Employers shall retain payroll records pertaining to Employees for a period of four years, and shall allow the Agency access to such records, with appropriate notice and during business hours, to monitor compliance with the requirements of this Chapter. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the Agency reasonable access to such records, it shall be presumed that the Employer paid no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise.

(d) The Director of the Agency or his or her designee shall have access to all places of labor subject to this ordinance during business hours to inspect books and records, interview employees and investigate such matters necessary or appropriate to determine whether an Employer has violated any provisions of this ordinance.

(e) The Agency shall be authorized under Section 12R.7 to develop guidelines or rules to govern Agency investigative activities, including but not limited to legal action to be taken in the event of employer noncompliance or interference with Agency investigative actions.

(Added by Proposition L, 11/4/2003; amended by Ord. 175-11, File No. 110594, App. 9/16/2011, Eff. 10/16/2011)

SEC. 12R.6. RETALIATION PROHIBITED.

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this Chapter. Rights protected under this Chapter include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter; and the right to inform any person of his or her potential rights under this Chapter and to assist him or her in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

(Added by Proposition L, 11/4/2003)

SEC. 12R.7. IMPLEMENTATION AND ENFORCEMENT.

(a) **Implementation.** The Agency shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes consistent with this Chapter. Any guidelines or rules promulgated by the Agency shall have the force and effect of law and may be relied on by Employers, Employees and other parties

to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this Chapter, and for providing administrative hearings to determine whether an Employer or other person has violated the requirements of this Chapter. The Agency shall make every effort to resolve complaints in a timely manner and shall have a policy that the Agency shall take no more than one year to settle, request an administrative hearing under Section 12R.7(b), or initiate a civil action under Section 12R.7(c). The failure of the Agency to meet these timelines within one year shall not be grounds for closure or dismissal of the complaint.

(b) Administrative Enforcement. The Agency is authorized to take appropriate steps to enforce this Chapter. The Agency may investigate any possible violations of this Chapter by an Employer or other person. Where the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing. Where the Agency, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the payment of an additional sum as an administrative penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued. A violation for unlawfully withholding wages shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages are paid in full. Where prompt compliance is not forthcoming, the Agency may take any appropriate enforcement action to secure compliance, including initiating a civil action pursuant to Section 7(c)1 of this Chapter and/or, except where prohibited by state or federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits or licenses held or requested by the Employer or person until such time as the violation is remedied. In order to compensate the City for the costs of investigating and remedying the violation, the Agency may also order the violating Employer or person to pay to the City a sum of not more than \$50 for each day and for each Employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the Agency and shall be used to offset the costs of implementing and enforcing this Chapter. The amounts of all sums and payments authorized or required under this Chapter shall be updated annually for inflation, beginning January 1, 2005, using the inflation rate and procedures set forth in Section 4(b)2 of this Chapter. An Employee or other person may report to the Agency in writing any suspected violation of this Chapter. The Agency shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. Provided, however, that with the authorization of such person, the Agency may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes. In order to further encourage reporting by Employees, if the Agency notifies an Employer that the Agency is investigating a complaint, the Agency shall require the Employer to post or otherwise notify its Employees that the Agency is conducting an investigation, using a form provided by the Agency.

(c) Civil Enforcement. The Agency, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person

violating this Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as liquidated damages in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief, and shall be awarded reasonable attorneys' fees and costs. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs. Nothing in this Chapter shall be interpreted as restricting, precluding, or otherwise limiting a separate or concurrent criminal prosecution under the Municipal Code or state law. Jeopardy shall not attach as a result of any administrative or civil enforcement action taken pursuant to this Chapter.

(d) **Interest.** In any administrative or civil action brought for the nonpayment of wages under this Section, the Agency or court, as the case may be, shall award interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

(e) **Posting Notice of Violation.** If an Employer fails to comply with a settlement agreement with the Agency, a final determination by the Agency after an administrative hearing officer issues a decision after a hearing under Section 12R.7(b), an administrative citation issues under Section 12R.19, a decision made in an administrative appeal brought under Section 12R.21, or judgment issued by the Superior Court, and the Employer has not filed an appeal from the administrative hearing decision, administrative citation, administrative appeal decision, or judgment, or the appeal is final, the Agency may require the Employer to post public notice of the Employer's failure to comply in a form determined by the Agency.

(Added by Proposition L, 11/4/2003; amended by Ord. 205-06, File No. 060247, App. 7/25/2006; Ord. 175-11, File No. 110594, App. 9/16/2011, Eff. 10/16/2011)

CODIFICATION NOTES

1. So in Ord. 205-06 and previously; reference should be to Sec. 12R.7(c).

2. So in Ord. 205-06 and previously; reference should be to Sec. 12R.4(b).

SEC. 12R.8. WAIVER THROUGH COLLECTIVE BARGAINING.

All or any portion of the applicable requirements of this Chapter shall not apply to Employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

(Added by Proposition L, 11/4/2003)

SEC. 12R.9. RELATIONSHIP TO OTHER REQUIREMENTS.

This Chapter provides for payment of a minimum wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections including, but not limited to, the San Francisco Minimum Compensation Ordinance.

(Added by Proposition L, 11/4/2003)

SEC. 12R.10. APPLICATION OF MINIMUM WAGE TO WELFARE-TO-WORK PROGRAMS.

The Minimum Wage established pursuant to Section 4(b)1 of this Chapter shall apply to the City's Welfare-to-Work Programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits

received during that period, divided by the Minimum Wage. Where state or federal law would preclude the City from reducing the number of work hours required under a given Welfare-to-Work Program, the City may comply with this Section by increasing the cash benefits awarded so that their value is no less than the product of the Minimum Wage multiplied by the number of work hours required.

(Added by Proposition L, 11/4/2003)

CODIFICATION NOTE

1. Reference should be to Sec. 12R.4(b).

SEC. 12R.11. EFFECTIVE DATE.

This Chapter shall become effective ninety (90) days after it is adopted. This Chapter is intended to have prospective effect only.

(Added by Proposition L, 11/4/2003)

SEC. 12R.12. SEVERABILITY.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

(Added by Proposition L, 11/4/2003)

SEC. 12R.13. AMENDMENT BY THE BOARD OF SUPERVISORS.

This Chapter may be amended by the Board of Supervisors as regards the implementation or enforcement thereof, but not as regards the substantive requirements of the Chapter or its scope of coverage.

(Added by Proposition L, 11/4/2003)

SEC. 12R.14. CIVIL ACTIONS.

In addition to the actions provided for in Section 12R.7(c), the City Attorney may bring a civil action to enjoin any violation of this Chapter. The City shall be entitled to its attorney's fees and costs in any action brought pursuant to this Section where the City is the prevailing party.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.15. REMEDIES CUMULATIVE.

The remedies, penalties and procedures provided under this Chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.16. ADMINISTRATIVE PENALTIES AND CITATIONS.

(a) **Administrative Penalties; Citations.** An administrative penalty may be assessed for a violation of the provisions of this Chapter as specified below. The penalty may be assessed by means of an administrative citation issued by the Director of the Office of Labor Standards Enforcement.

(b) **Administrative Penalty Amounts.** In addition to all other civil penalties provided for by law, the following violations shall be subject to administrative penalties in the amounts set forth below:

VIOLATION	PENALTY AMOUNT
Failure to maintain payroll records or to retain payroll records for four years – Administrative Code Section <u>12R.5(c)</u>	\$500.00

Failure to allow the Office of Labor Standards Enforcement to inspect payroll records – Administrative Code Section <u>12R.5(c)</u>	\$500.00
Retaliation for exercising rights under Minimum Wage Ordinance – Administrative Code Section <u>12R.6</u> The Penalty for retaliation is \$1,000.00 per employee.	\$1,000.00
Failure to Post notice of Minimum Wage rate – Administrative Code Section <u>12R.5(b)</u> Failure to provide notice of investigation to employees – Administrative Code Section <u>12R.7(b)</u> Failure to post notice of violation to public – Administrative Code Section <u>12R.7(e)</u> Failure to provide employer's name, address, and telephone number in writing – Administrative Code Section <u>12R.5(b)</u>	\$500.00

The penalty amounts shall be increased cumulatively by fifty percent (50%) for each subsequent violation of the same provision by the same employer or person within a three (3) year period. The maximum penalty amount that may be imposed by administrative citation in a calendar year for each type of violation listed above shall be \$5,000 or \$10,000 if a citation for retaliation is issued. In addition to the penalty amounts listed above, the Office of Labor Standards Enforcement may assess enforcement costs to cover the reasonable costs incurred in enforcing the administrative penalty, including reasonable attorneys' fees. Enforcement costs shall not count toward the \$5,000 annual maximum.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006; amended by Ord. 175-11, File No. 110594, App. 9/16/2011, Eff. 10/16/2011)

SEC. 12R.17. VIOLATIONS.

(a) **Separate and Continuing Violations; Penalties Paid Do Not Cure Violations.** Each and every day that a violation exists constitutes a separate and distinct offense. Each section violated constitutes a separate violation for any day at issue. If the person or persons responsible for a violation fail to correct the violation within the time period specified on the citation and required under Section 12R.18, the Director of the Office of Labor Standards Enforcement may issue subsequent administrative citations for the uncorrected violation(s) without issuing a new notice as provided in Section 12R.18(b). Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar any further enforcement action by the City. If penalties and costs are the subject of administrative appeal or judicial review, then the accrual of such penalties and costs shall be stayed until the determination of such appeal or review is final.

(b) **Payments to City; Due Date; Late Payment Penalty.** All penalties assessed under Section 12R.16 shall be payable to the City and County of San Francisco. Administrative penalties and costs assessed by means of an administrative citation shall be due within thirty (30) days from the date of the citation. The failure of any person to pay an administrative penalty and costs within that time shall result in the assessment of an additional late fee. The amount of the late fee shall be ten (10) percent of the total amount of the administrative penalty assessed for each month the penalty and any already accrued late payment penalty remains unpaid.

(c) **Collection of Penalties; Special Assessments.** The failure of any person to pay a penalty assessed by administrative citation under Section 12R.16 within the time specified on the citation constitutes a debt to the City. The City may file a civil action, create and impose liens as set forth below, or pursue any other legal remedy to collect such money.

(d) **Liens.** The City may create and impose liens against any property owned or operated by a person who fails to pay a penalty assessed by administrative citation. The procedures provided for in Chapter 10, Article XX of the Administrative Code shall govern the imposition and collection of such liens.

(e) **Payment to City.** The Labor Standards Enforcement Officer has the authority to require that payment of back wages found to be due and owing to employees be paid directly to the City and County of San Francisco for disbursement to the employees. The Controller shall hold the back wages in escrow for workers whom the Labor Standards Enforcement Officer, despite his/her best efforts, including any required public notice, cannot locate; funds so held for three years or more shall be dedicated to the enforcement of the Minimum Wage Ordinance or other laws enforced by the Office of Labor Standards Enforcement.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006; amended by Ord. 175-11, File No. 110594, App. 9/16/2011, Eff. 10/16/2011; Ord. 75-14, File No. 140226, App. 5/28/2014, Eff. 6/27/2014)

SEC. 12R.18. ADMINISTRATIVE CITATION; NOTICE OF VIOLATION.

(a) **Issuance of Citation.** The Director has the authority to issue an administrative citation for any violation of this Chapter that is identified in Section 12R.16(b). The administrative citation shall be issued on a form prescribed by the Office of Labor Standards Enforcement.

(b) **Notice and Opportunity to Cure.** In order to facilitate compliance, the Director of the Office of Labor Standards Enforcement ("Director") or his or her designee may notify any person in violation of the Code provisions identified in Section 12R.16(b) of such violation prior to the issuance of an administrative citation. Regardless of the manner of service of the notice under Section 12R.19, the Director or his or her designee may post the notice of violation by affixing the notice to a surface in a conspicuous place on property that is (1) the person's principal place of business in the City, or (2) if the person's principal place of business is outside the City, the fixed location within the City from or at which the person conducts business in the City, or (3) if the person does not regularly conduct business from a fixed location in the City, one of the following: (i) the location where the person maintains payroll records if the notice of violation is for violation of Section 12R.5(c), or (ii) the jobsite or other primary location where the person's employees perform services in the City at the time the notice is posted. The notice of violation shall specify the action required to correct or otherwise remedy the violation(s). At the discretion of the Director or his or her designee, the person or persons responsible for the violation may be allowed ten (10) days from the date of the notice of violation to establish that no violation occurred or such person or persons are not responsible for the violation, or correct or otherwise remedy the violation; provided, however, that the Director may, in his or her discretion, assign a longer period, not to exceed twenty-one (21) days, within which to correct or otherwise remedy each violation, or establish that no violation occurred or such person or persons are not responsible for the violation. The Director may consider the cost of correction and the time needed to obtain information, documents, data and records for correction in assigning a specific period of time within which to correct or otherwise remedy each violation, or obtain and submit evidence that no violation occurred or such person or persons are not responsible for the violation.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006; amended by Ord. 175-11, File No. 110594, App. 9/16/2011, Eff. 10/16/2011)

SEC. 12R.19. ADMINISTRATIVE CITATION AND NOTICE OF VIOLATION; SERVICE.

Service of a notice of violation and an administrative citation under Section 12R.16 may be accomplished as follows:

(a) The Director or his or her designee may obtain the signature of the person responsible for the violation to establish personal service of the citation; or

(b) (1) Director or his or her designee shall post the citation by affixing the citation to a surface in a conspicuous place on the property described in Section 12R.18. Conspicuous posting of the citation is not required when personal service is accomplished or when conspicuous posting poses a hardship, risk to personal health or safety or is excessively expensive; and

(2) The Director or his or her designee shall serve the citation by first class mail as follows:

(i). The administrative citation shall be mailed to the person responsible for the violation by first class mail, postage prepaid, with a declaration of service under penalty of perjury; and

(ii) A declaration of service shall be made by the person mailing the administrative citation showing the date and manner of service by mail and reciting the name and address of the person to whom the citation is issued; and

(iii) Service of the administrative citation by mail in the manner described above shall be effective on the date of mailing.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.20. ADMINISTRATIVE CITATION; CONTENTS.

The administrative citation under Section 12R.16 shall include all the following:

- (1) A description of the violation;
- (2) The date and location of the violation(s) observed;
- (3) A citation to the provisions of law violated;
- (4) A description of corrective action required;
- (5) A statement explaining that each day of a continuing violation may constitute a new and separate violation;

(6) The amount of administrative penalty imposed for the violation(s);

(7) A statement informing the violator that the fine shall be paid to the City and County of San Francisco within thirty (30) days from the date on the administrative citation, the procedure for payment, and the consequences of failure to pay;

(8) A description of the process for appealing the citation, including the deadline for filing such an appeal; and

(9) The name and signature of the Director.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.21. ADMINISTRATIVE APPEAL.

(a) **Period of Limitation for Appeal.** Persons receiving an administrative citation may appeal it within fifteen (15) days from the date the citation is served. The appeal must be in writing and must indicate a return address. It must be accompanied by the penalty amount, specifying the basis for the appeal in detail, and must be filed with both the Office of Labor Standards Enforcement and the Controller's Office as indicated in the administrative citation.

(b) **Hearing Date.** As soon as practicable after receiving the written notice of appeal and the penalty amount, the Controller or his or her designee shall promptly select a hearing officer (who shall not be an employee in the Office of Labor Standards Enforcement) to hear and decide the administrative appeal. The hearing officer shall fix a date, time and place for the hearing on the appeal. Written notice of the time and place for the hearing may be served by first class mail, at the return address indicated on the written appeal. Service of the notice must be made at least ten (10) days prior to the date of the hearing to the person appealing the citation. The hearing shall be held no later than thirty (30) days after service of the notice of hearing, unless that time is extended by mutual agreement of the parties.

(c) **Notice.** Except as otherwise provided by law, the failure of any person with an interest in property affected by the administrative citation, or other person responsible for a violation, to receive a properly addressed notice of the hearing shall not affect the validity of any proceedings

under this Chapter. Service by first class mail, postage prepaid, shall be effective on the date of mailing.

(d) **Failure to Appeal.** Failure of any person to file an appeal in accordance with the provisions of this Section or to appear at the hearing shall constitute a failure to exhaust administrative remedies and a forfeiture of the penalty amount previously remitted.

(e) **Submittals for the Hearing.** No later than five (5) days prior to the hearing, the person to whom the citation was issued and the Office of Labor Standards Enforcement shall submit to the hearing officer, with simultaneous service on the opposing party, written information including, but not limited to, the following: the statement of issues to be determined by the hearing officer and a statement of the evidence to be offered and the witnesses to be presented at the hearing.

(f) **Conduct of Hearing.** The hearing officer appointed by the Controller or the Controller's designee shall conduct all appeal hearings under this Chapter. The Office of Labor Standards Enforcement shall have the burden of proof in such hearings. The hearing officer may accept evidence on which persons would commonly rely in the conduct of their serious business affairs, including but not limited to the following:

- (1) A valid citation shall be prima facie evidence of the violation;
- (2) The hearing officer may accept testimony by declaration under penalty of perjury relating to the violation and the appropriate means of correcting the violation;
- (3) The person responsible for the violation, or any other interested person, may present testimony or evidence concerning the violation and the means and time frame for correction.

The hearing shall be open to the public and shall be tape-recorded. Any party to the hearing may, at his or her own expense, cause the hearing to be recorded and transcribed by a certified court reporter. The hearing officer may continue the hearing and request additional information from the Office of Labor Standards Enforcement or the appellant prior to issuing a written decision.

(g) **Hearing Officer's Decision; Findings.** The hearing officer shall make findings based on the record of the hearing and issue a decision based on such findings within fifteen (15) days of conclusion of the hearing. The hearing officer's decision may uphold the issuance of a citation and penalties stated therein, may dismiss a citation, or may uphold the issuance of the citation but reduce, waive or conditionally reduce or waive the penalties stated in a citation or any late fees assessed if mitigating circumstances are shown and the hearing officer finds specific grounds for reduction or waiver in the evidence presented at the hearing. The hearing officer may impose conditions and deadlines for the correction of violations or the payment of outstanding civil penalties. Copies of the findings and decision shall be served upon the appellant and the Office of Labor Standards Enforcement by certified mail.

(h) **Hearing Officer's Decision.** The decision of the hearing officer is final. If the hearing officer concludes that the violation charged in the citation did not occur or that the person charged in the citation was not the responsible party, the Office of Labor Standards Enforcement shall refund or cause to be refunded the penalty amount to the person who deposited such amount. The hearing officer's decision shall be served on the appellant by certified mail.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.22. REGULATIONS.

The Office of Labor Standards Enforcement may promulgate and enforce rules and regulations, and issue determinations and interpretations relating to the administrative penalty and citation system pursuant to Sections 12R.16 through 12R.20, inclusive. The Controller may promulgate and enforce rules and regulations, and issue determinations and interpretations relating to the conduct of administrative appeals under Section 12R.21. Any rules and regulations promulgated by the Office of Labor Standards Enforcement or Controller shall be approved as to legal form by the City Attorney, and shall be subject to not less than one noticed public hearing. The rules

and regulations shall become effective 30 days after receipt by the Clerk of the Board of Supervisors, unless the Board of Supervisors by resolution disapproves or modifies the regulations. The Board of Supervisors' determination to modify or disapprove a rule or regulation submitted by the Office of Labor Standards Enforcement or Controller shall not impair the ability of the Office of Labor Standards Enforcement or Controller to resubmit the same or similar rule or regulation directly to the Board of Supervisors if the Office of Labor Standards Enforcement or Controller determines it is necessary to effectuate the purposes of this Chapter.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.23. JUDICIAL REVIEW.

(a) **Procedures.** After receipt of the decision of the hearing officer under Section 12R.21, the appellant may file an appeal with the superior court pursuant to California Government Code Section 53069.4. The appeal shall be submitted within twenty (20) days of the date of mailing of the hearing officer's decision, with the applicable filing fee. The appeal shall state the reasons the appellant objects to the findings or decision.

(b) **Review.** The superior court shall conduct a de novo hearing, except that the contents of the Office of Labor Standards Enforcement's file (excluding attorney client communications and other privileged or confidential documents and materials that are not discoverable or may be excluded from evidence in judicial proceedings under the Evidence Code, Civil Code, Code of Civil Procedure or other applicable law) shall be received into evidence. A copy of the notice of violation and imposition of penalty shall be entered as prima facie evidence of the facts stated therein.

(c) **Filing Fee.** The superior court filing fee shall be twenty-five (\$25.00). If the court finds in favor of the appellant, the amount of the fee shall be reimbursed to the appellant by the City and County of San Francisco. Any deposit of penalty shall be refunded by the City and County of San Francisco in accordance with the judgment of the court.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.24. OTHER REMEDIES NOT AFFECTED.

The administrative citation procedures established in this Chapter shall be in addition to any other criminal, civil, or other remedy established by law which may be pursued to address violations of this Chapter. An administrative citation issued pursuant to this Chapter shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to abate a violation or to seek compensation for damages suffered.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

SEC. 12R.25. OUTREACH.

The Office of Labor Standards Enforcement shall establish a community-based outreach program to conduct education and outreach to employees. In partnership with organizations involved in the community-based outreach program, the Office of Labor Standards shall create outreach materials that are designed for workers in particular industries.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006; amended by Ord. 175-11, File No. 110594, App. 9/16/2011, Eff. 10/16/2011)

SEC. 12R.26. REPORTS.

The Office of Labor Standards Enforcement shall provide annual reports to the Board of Supervisors on the implementation of the Minimum Wage Ordinance.

(Added by Ord. 205-06, File No. 060247, App. 7/25/2006)

Disclaimer:

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**CITY of ALBUQUERQUE
TWENTIETH COUNCIL**

2012 JUN 12 PM 1:57

COUNCIL BILL NO. _____ ENACTMENT NO. _____

SPONSORED BY:

RECEIVED
ALBUQUERQUE CITY CLERK

1 PROPOSAL AND SPECIAL ELECTION RESOLUTION
2 ADOPTING A PROPOSITION TO BE SUBMITTED TO THE VOTERS AT A
3 SPECIAL ELECTION TO APPROVE OR DISAPPROVE OF THE PROPOSED
4 AMENDED ORDINANCE.
5 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
6 ALBUQUERQUE:

7 Section 1. That the City Clerk is instructed to place the following summary
8 of the proposal on the ballot for a special election, and the qualified voters of
9 the City of Albuquerque shall be permitted to vote "for" or "against" the
10 following proposition:

11 PROPOSITION
12 PROPOSING TO AMEND ALBUQUERQUE'S 2006 MINIMUM WAGE
13 ORDINANCE TO RAISE THE MINIMUM WAGE IN THE CITY FROM THE
14 CURRENT RATE OF \$7.50 TO \$8.50 PER HOUR STARTING IN 2013, AND TO
15 ADJUST THE MINIMUM WAGE EACH YEAR AFTER THAT TO KEEP UP WITH
16 THE RISING COST OF LIVING. THE ORDINANCE WILL ALSO REQUIRE THAT,
17 STARTING IN 2013, EMPLOYERS OF TIPPED EMPLOYEES LIKE WAITRESSES
18 AND WAITERS BE PAID AT LEAST 45% OF THE MINIMUM WAGE IN CASH
19 WAGES FROM THEIR EMPLOYERS, AND THAT STARTING IN 2014, TIPPED
20 EMPLOYEES BE PAID AT LEAST 60% OF THE MINIMUM WAGE IN CASH
21 WAGES FROM THEIR EMPLOYERS, WITH THE REST OF THE MINIMUM WAGE
22 PROVIDED IN EITHER TIPS OR CASH WAGES. CURRENTLY TIPPED
23 EMPLOYEES ARE ALLOWED TO BE PAID MOSTLY WITH TIPS. THE
24 MEASURE WILL CONTINUE THE CURRENT ORDINANCE'S PROVISION
25 ALLOWING EMPLOYERS THAT PROVIDE CERTAIN HEALTH CARE OR CHILD
26 CARE BENEFITS TO PAY \$1.00 LESS THAN THE MINIMUM WAGE.

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1 The City Clerk shall cause the full text of the Proposition that follows to be
2 published for four consecutive weeks in English and Spanish, the last
3 publication to be not more than two weeks prior to the election at which time
4 said Proposition shall be submitted to the electors of the City for their
5 approval or rejection; and shall further provide notice of the content and
6 purpose of the Proposition in both English and Spanish to inform electors
7 about the amendments in the time and manner provided by law. This
8 resolution for special election shall be published once a week for four
9 consecutive weeks with the first publication between fifty and sixty days
10 before the election. The publication of this special election resolution shall
11 contain the summary of the proposition set forth herein but shall not contain
12 the full text of the proposition. The full text of the Proposed Ordinance that
13 follows shall appear on the ballot.

14 "ORDINANCE (full text)

15 Establishing The Albuquerque Minimum Wage Ordinance; Setting Minimum
16 Wages For Employees; Creating Exemptions; Establishing Procedures For
17 Enforcement.

18 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
19 ALBUQUERQUE:

20 Section 1. SHORT TITLE. This ordinance may be cited as "The
21 Albuquerque Minimum Wage Ordinance."

22 Section 2. DEFINITIONS.

23 CITY. The City of Albuquerque.

24 EMPLOYER. Any person, partnership, association, corporation, business
25 trust, legal representative, or any other entity, or group of persons or entities,
26 including corporate officers or executives, who is required to have a business
27 license or business registration from the City of Albuquerque and who directly
28 or indirectly or through an agent or any other person including, but not limited
29 to, through a subsidiary or through the services of a temporary services
30 agency, a staffing agency, a building services contractor, or any similar entity,
31 employs or exercises control over the wages, hours or working conditions of
32 any Employee. "Employer" shall include the City of Albuquerque.

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EMPLOYEE. Any person who performs work for an Employer for monetary compensation for at least two (2) hours in a given week within the municipal limits of the City. "Employee" shall include persons who perform work for an Employer on a full-time, part-time, seasonal, or temporary basis. Employee shall not include any person who is excluded from the definition of employee under NMSA §§ 50-4-21(c)(3)-(5), (7) of the New Mexico Minimum Wage Act, except that persons employed by the City of Albuquerque are employees. "Employee" shall not include interns working for an Employer for academic credit in connection with a course of study at an accredited school, college or university or employees working for an accredited school, college or university pursuant to a work-study program while attending that school, college or university. "Employee" shall not include any person who has received a certificate from the state labor commissioner pursuant to § 50-4-23 NMSA 1978 or § 50-4-21(C)(12) NMSA 1978.

MINIMUM WAGE, MINIMUM WAGE RATE. The minimum hourly rates of monetary compensation for work as specified in this ordinance.

TIP. A sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer. "Tip" shall include only tips actually received by an Employee as money belonging to him or her. Where Employees practice tip pooling or splitting, as where wait staff give a portion of their tips to bus persons, both the actual amounts retained by the waiters or waitresses and those given the bus persons shall be considered "Tips" of the individual Employee who retains them. A compulsory charge for service imposed on a customer by an Employer's establishment shall not be considered a "Tip" unless it is distributed by the Employer to its Employees.

TIPPED EMPLOYEE. Any Employee engaged in an occupation in which he or she customarily and regularly receives Tips from customers.

TIPPED MINIMUM WAGE. The minimum cash wage that a Tipped Employee must receive from his or her Employer, as provided under Section 3(A).

Section 3. MINIMUM WAGE.

(A) Minimum Wage Payment Required. Except as provided herein, Employers shall pay all Employees no less than the Minimum Wage for each

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1 hour worked within the municipal limits of the City. Tips or commissions
2 received and retained by a Tipped Employee may ~~an employee shall be~~
3 counted as wages and credited towards partial satisfaction of the minimum
4 wage. Provided, however, that the cash wage paid to a Tipped Employee by
5 his or her Employer shall be no less than the Tipped Minimum Wage, which,
6 beginning January 1, 2013, shall be 45% of the Minimum Wage, and beginning
7 January 1, 2014 and each year thereafter, shall be 60% of the Minimum Wage.
8 An Employer may credit tips as part of the wages of a Tipped Employee only if
9 the Employer informs the Tipped Employee in advance in writing, pays the
10 Tipped Employee a cash wage equal to or greater than the Tipped Minimum
11 Wage, and is able to establish by the Tipped Employee's declaration for
12 Federal Insurance Contributions Act (FICA) purposes or by its records of
13 charged tips that the total of the tips received by the Tipped Employee and the
14 cash wages paid by the Employer is equal to or greater than the Minimum
15 Wage. The tips received by a Tipped Employee become the property of the
16 Tipped Employee and may not be shared with the Employer. This subsection
17 shall not be construed to prohibit the pooling of tips among Employees who
18 customarily and regularly receive tips.

19 (B) Minimum Wage Rate. Beginning January 1, 2007, the Minimum Wage
20 for Employees shall be an hourly rate of \$6.75. Beginning January 1, 2008, the
21 Minimum Wage for Employees shall be an hourly rate of \$7.15. Beginning
22 January 1, 2009, the Minimum Wage for Employees shall be an hourly rate of
23 \$7.50. Beginning January 1, 2013, the Minimum Wage for Employees shall be
24 an hourly rate of \$8.50. For employers who provide healthcare and/or
25 childcare benefits to an employee during any pay period for which the
26 employer pays an amount for those healthcare benefits equal to or in excess
27 of an annualized cost of \$2500.00, beginning January 1, 2007, the Minimum
28 Wage for that employee shall be an hourly rate of \$5.75, in addition to the
29 healthcare benefits and/or childcare benefits, beginning January 1, 2008, the
30 Minimum Wage for that employee shall be an hourly rate of \$6.15, in addition
31 to the healthcare and/or childcare benefits, ~~and~~ beginning January 1, 2009, the
32 Minimum Wage for that employee shall be an hourly rate of \$6.50, in addition
33 to the healthcare and/or childcare benefits, and beginning January 1, 2013 and

1
2 each year thereafter, the Minimum Wage for that employee shall be an hourly
3 rate of \$1.00 less than the current Minimum Wage otherwise applicable to
4 employees who do not receive such benefits.

5 (C) Annual Cost of Living Adjustment. Beginning on January 1, 2014
6 and annually on each January 1 thereafter, the Minimum Wage shall be
7 adjusted based on the increase, if any, in the cost of living, and rounded to the
8 nearest multiple of five cents. The increase in the cost of living shall be
9 calculated based on the percentage increase, if any, as of August of the
10 immediately preceding year over the level as of August of the previous year of
11 the Consumer Price Index (All Urban Wage Earners and Clerical Workers, U.S.
12 City Average for All Items) or its successor index as published by the U.S.
13 Department of Labor or its successor agency. The adjusted Tipped Minimum
14 Wage shall be calculated based on the adjusted Minimum Wage, and rounded
15 to the nearest multiple of five cents. The City shall publish the adjusted
16 Minimum Wage and the adjusted Tipped Minimum Wage for the forthcoming
17 year on its Internet home page by October 15 of each year, and they shall
18 become effective on January 1 of the forthcoming year.

19 **Section 4. NOTICE, POSTING AND RECORDS.**

20 (A) Notice to Employees. Every Employer shall post in a conspicuous
21 place at any workplace or job site where any Employee works a notice
22 published each year by the City Attorney informing Employees of the current
23 Minimum Wage rates and of their rights under this ordinance. Every Employer
24 shall post such notices in English and Spanish.

25 (B) Records. Employers shall maintain payroll records showing the hours
26 worked daily by and the wages paid to all Employees. Employers shall retain
27 payroll records pertaining to Employees for a period of three years. When the
28 Employer uses tips to meet the Minimum Wage for an Employee, the Employer
29 must have a Tip declaration signed by the Tipped Employee for each pay
30 period.

31 **Section 5. IMPLEMENTATION AND ENFORCEMENT.**

32 (A) Rulemaking. The City shall have the authority to coordinate
33 implementation and enforcement of this ordinance and may promulgate
appropriate guidelines or rules for such purposes. Any guidelines or rules

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1
2 promulgated by the City shall have the force and effect of law and may be
3 relied on by Employers, Employees, and other parties to determine their rights
4 and responsibilities under this ordinance. Any such guidelines or rules may
5 establish procedures for ensuring fair, efficient and cost-effective
6 implementation of this ordinance, including supplementary procedures for
7 helping to inform Employees of their rights under this ordinance and for
8 monitoring Employer compliance with this ordinance.

9 (B) Civil Enforcement. Any Employee receiving less than the wage to
10 which the Employee is entitled under this ordinance may bring a civil action in
11 a court of competent jurisdiction and, upon prevailing, shall recover the
12 balance of the wages owed, including interest thereon, and an additional
13 amount equal to twice the wages owed, and any other appropriate legal or
14 equitable relief. Any Employee who has suffered discrimination in any manner
15 or had adverse action taken against that Employee in retaliation for exercising
16 rights protected under this ordinance may bring a civil action in a court of
17 competent jurisdiction and, upon prevailing, shall recover actual damages
18 plus reinstatement in the case of discharge. In any case where an Employee
19 has been discharged in retaliation for exercising rights under this ordinance,
20 the period of violation extends from the day of discharge until the day the
21 Employee is reinstated, the day the Employee agrees to waive reinstatement
22 or, in the case of an Employee who may not be rehired, from the day of
23 discharge until the day legal judgment is final. The requirements of this
24 ordinance may also be enforced by the City Attorney. In such case, unpaid
25 wages and actual damages recovered shall be payable to the individual
26 Employee as to whom the violation occurred. A plaintiff prevailing in an
27 action to enforce this ordinance shall be entitled to recover his or her costs
28 and expenses of suit and reasonable attorney's fees.

29 Section 6. RELATIONSHIP TO OTHER REQUIREMENTS. This ordinance
30 provides for payment of Minimum Wage rates and shall not be construed to
31 preempt or otherwise limit or affect the applicability of any other law,
32 regulation, requirement, policy or standard that provides for payment of
higher or supplemental wages, benefits, or protections. Nothing contained in

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[-Bracketed/Strikethrough Material-] - Deletion

1
1 this ordinance prohibits an Employer from paying more than the Minimum
2 Wage rates established under this ordinance.

3 Section 7. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
4 clause, word or phrase of this ordinance is for any reason held to be invalid or
5 unenforceable by any court of competent jurisdiction, such decision shall not
6 affect the validity of the remaining provisions of this ordinance. The Council
7 hereby declares that it would have passed this ordinance and each section,
8 paragraph, sentence, clause, word or phrase thereof irrespective of any
9 provision being declared unconstitutional or otherwise invalid.

10 Section 8. COMPILATION. This ordinance shall be incorporated in and
11 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

12 Section 9. EFFECTIVE DATE. This ordinance shall take effect five days
13 after publication by title and general summary.

CITY OF SEATTLE
ORDINANCE 124490
COUNCIL BILL 118098

AN ORDINANCE relating to employment in Seattle; adding a new Chapter 14.19 to the Seattle Municipal Code; establishing minimum wage and minimum compensation rates for employees performing work in Seattle; and prescribing remedies and enforcement procedures.

WHEREAS, United States President Barack Obama has called addressing income inequality the "the defining issue of our time;"

WHEREAS, the noted economist Thomas Piketty wrote in his landmark book *Capital in the 21st Century*, the need to act on income inequality is profound as "[r]eal wages for most US workers have increased little if at all since the early 1970s, but wages for the top one percent of earners have risen 165 percent, and wages for the top 0.1 percent have risen 362 percent;"

WHEREAS, the tens of thousands of low wage workers in Seattle who struggle to meet their most basic needs, the increasing unaffordability of this city for so many of our citizens, and the hollowing-out of the middle class strike at the core of who we are as a community dedicated to democratic principles and economic advancement and opportunity;

Whereas, Seattle has one of the worst gender wage gaps in the country, where a majority of low wage workers tend to be women, and a higher minimum wage is a powerful tool to reduce the income disparity between women and men;

WHEREAS, many Seattle workers cannot fully participate in our community's dynamic civic life or pursue the myriad educational, cultural, and recreational opportunities that constitute a flourishing life because many struggle to meet their households' most basic needs;

WHEREAS, Seattle is home to many innovative and progressive employers who contribute significantly to the economic prosperity of the region;

WHEREAS, Seattle has a long and proud tradition of advocating for worker rights and promoting social and economic justice;



1 WHEREAS, minimum wage laws promote the general welfare, health, and prosperity of Seattle
2 by ensuring that workers can better support and care for their families and fully
3 participate in Seattle's civic, cultural, and economic life;

4 WHEREAS, the Mayor signed Executive Order 2014-01 directing all City of Seattle Department
5 Directors to prioritize and work in coordination with the City's Personnel Department
6 and Budget Office to develop a comprehensive implementation plan that ensures a
7 minimum hourly wage of \$15.00 for employees of the City of Seattle, and directing the
8 Personnel Department and Budget Office to seek concurrence and coordinate with the
9 City Council and the Mayor's Income Inequality Advisory Committee;

10 WHEREAS, the Mayor and City Council has convened a Labor Standards Advisory Committee
11 and the City expects the committee will provide feedback later in 2014 on recommended
12 approaches for enhancing the City's enforcement of various labor laws including, but not
13 limited to, minimum wage laws;

14 WHEREAS, the City is committed to evaluating options for securing progressive sources of
15 funding to ensure that non-profit human services providers with City-funded contracts
16 can provide both a living wage to their workforce and continue to provide critical
17 services for those in the greatest need;

18 WHEREAS, Seattle's employer and worker advocacy community have come together to respond
19 to the challenge of rising income inequality and ensure broadly shared prosperity in our
20 community;

21 NOW, THEREFORE,

22 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

23 Section 1. The City Council ("Council") makes the following findings of fact and
24 declarations:

25 1. Over 100,000 Seattle workers earn wages insufficient to support themselves and their
26 families;

27 2. In Seattle, the weight of income inequality falls disproportionately on people of color
28 and on women. More than 34 percent of all women and over 40 percent of African Americans
and Asian and Pacific Islander Americans rank among low wage workers in Seattle. For

Latinos, that number is nearly 50 percent, and it is 70 percent for Native Americans;



1 3. Over 24 percent of Seattle residents earn hourly wages of \$15.00 per hour or less and
2 approximately 13.6 percent of the Seattle community lives below the poverty level;

3 4. Some employers, in particular small businesses and not-for-profit organizations, may
4 have difficulty in accommodating the increased costs;

5 5. Numerous studies suggest minimum wages benefit employers and the economy as a
6 whole by improving employee performance, reducing employee turnover, lowering absenteeism,
7 and thereby improving productivity and the quality of the services provided by employees;

8 6. The Mayor formed an "Income Inequality Advisory Committee," a group comprised of
9 representatives from Seattle's employer, labor, and non-profit communities to address the
10 pressing issue of income inequality in Seattle;

11 7. The Income Inequality Advisory Committee was charged with delivering
12 recommendations on how best to increase the minimum wage in Seattle in a way that ensures
13 that our economy is vibrant enough and fair enough to embrace all who live and work here;

14 8. The Income Inequality Advisory Committee reviewed the impact of minimum wage
15 increases in other cities, relevant studies and other appropriate data, and hosted numerous public
16 engagement forums, including industry-specific forums and the "Income Inequality Symposium"
17 at Seattle University;

18 9. The Income Inequality Advisory Committee determined the following: Seattle's
19 minimum wage should be raised to \$15.00 per hour; the minimum wage should be phased in
20 over time, the first year of implementation of a phased increase of the minimum wage should
21 begin in 2015; once the minimum wage reaches \$15.00 per hour it should rise in concert with the
22 consumer price index; exemptions from the \$15.00 per hour minimum wage are limited to only
23 those allowed under the Washington State Minimum Wage Act; a benchmark of 500 employees
24 is appropriate as distinguishing between larger and smaller employers in recognition that smaller



1 businesses and not-for-profits would face particular challenges in implementing a higher
2 minimum wage;

3 10. The Income Inequality Advisory Committee also recognized a set of principles for a
4 strong enforcement and culturally competent worker and business education program that
5 integrates existing annual business license processes; creates significant penalties for intentional
6 and repeat violations; establishes worker and employer outreach and education programs through
7 contracts with 501(c)3 community-based organizations and business associations; develops an
8 incentive structure for businesses with solid labor practices; emphasizes culturally competent
9 communication with employees and employers; connects workers with the appropriate local,
10 state, and federal agencies; and establishes a business, labor, and community oversight
11 committee to monitor implementation of the City of Seattle's new labor standards education and
12 enforcement function. These principles will be forwarded to the City of Seattle's Labor
13 Standards Advisory Committee; and

14 11. The public welfare, health, and prosperity of Seattle require wages and benefits
15 sufficient to ensure a decent and healthy life for all Seattle workers and their families.

16
17 Section 2. A new Section 14.19.010 is added to the Seattle Municipal Code as follows:

18 **14.19.010 Definitions**

19 For the purposes of this Chapter:

20 A. "Actuarial value" means the percentage of total average costs for covered benefits that a
21 health benefits package will cover;

22 B. "Bonuses" means non-discretionary payments in addition to hourly, salary, commission,
23 or piece-rate payments paid under an agreement between the employer and employee;

24 C. "Commissions" means a sum of money paid to an employee upon completion of a task,
25 usually selling a certain amount of goods or services;



- 1 D. "Department" means the Department of Finance and Administrative Services;
- 2 E. "Director" means the Director of the Department of Finance and Administrative Services,
3 or his or her designee;
- 4 F. "Employ" means to permit to work;
- 5 G. "Employee" means "employee," as defined under Section 12A.28.200. Employee does
6 not include individuals performing services under a work study agreement;
- 7 H. "Employer" means any individual, partnership, association, corporation, business trust, or
8 any person or group of persons acting directly or indirectly in the interest of an employer in
9 relation to an employee;
- 10 I. "Franchise" means a written agreement by which:
- 11 1. A person is granted the right to engage in the business of offering, selling,
12 or distributing goods or services under a marketing plan prescribed or
13 suggested in substantial part by the grantor or its affiliate;
- 14 2. The operation of the business is substantially associated with a trademark,
15 service mark, trade name, advertising, or other commercial symbol;
16 designating, owned by, or licensed by the grantor or its affiliate; and
- 17 3. The person pays, agrees to pay, or is required to pay, directly or indirectly,
18 a franchise fee;
- 19 J. "Franchisee" means a person to whom a franchise is offered or granted;
- 20 K. "Franchisor" means a person who grants a franchise to another person;
- 21 L. "Hearing Examiner" means the official appointed by the Council and designated as the
22 Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro
23 Tem, etc.);
- 24 M. "Hourly minimum compensation" means the minimum compensation due to an employee
25 for each hour worked during a pay period;
- 26
- 27
- 28



1 N. "Hourly minimum wage" means the minimum wage due to an employee for each hour
2 worked during a pay period;

3 O. "Medical benefits plan" means a silver or higher level essential health benefits package,
4 as defined in 42 U.S.C. § 18022, or an equivalent plan that is designed to provide benefits that
5 are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under
6 the plan, whichever is greater;

7 P. "Minimum compensation" means the minimum wage in addition to tips actually received
8 by the employee and reported to the Internal Revenue Service, and money paid by the employer
9 towards an individual employee's medical benefits plan;

10 Q. "Minimum wage" means all wages, commissions, piece-rate, and bonuses actually
11 received by the employee and reported to the Internal Revenue Service;

12 R. "Piece-rate" means a price paid per unit of work;

13 S. "Rate of inflation" means the Consumer Price Index annual percent change for urban
14 wage earners and clerical workers, termed CPI-W, or a successor index, for the twelve months
15 prior to each September 1st as calculated by the United States Department of Labor;

16 T. "Schedule 1 Employer" means all employers that employ more than 500 employees in
17 the United States, regardless of where those employees are employed in the United States, and
18 all franchisees associated with a franchisor or a network of franchises with franchisees that
19 employ more than 500 employees in aggregate in the United States;

20 U. "Schedule 2 Employer" means all employers that employ 500 or fewer employees
21 regardless of where those employees are employed in the United States. Schedule 2 employers
22 do not include franchisees associated with a franchisor or a network of franchises with
23 franchisees that employ more than 500 employees in aggregate in the United States;

24 V. "Tips" means a verifiable sum to be presented by a customer as a gift or gratuity in
25 recognition of some service performed for the customer by the employee receiving the tip;



W. "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the Director. Commissions, piece-rate, and bonuses are included in wages. Tips and employer payments toward a medical benefits plan do not constitute wages for purposes of this Chapter.

Section 3. A new Section 14.19.020 is added to the Seattle Municipal Code as follows:

14.19.020 Employment in Seattle and Employer Schedule Determination

A. Employees are covered by this Chapter for each hour worked within the geographic boundaries of Seattle, provided that an employee who performs work in Seattle on an occasional basis is covered by this Chapter in a two-week period only if the employee performs more than two hours of work for an employer within Seattle during that two-week period. Time spent in Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle, with no employment-related or commercial stops in Seattle except for refueling or the employee's personal meals or errands, is not covered by this Chapter. An employee who is not covered by this Chapter is still included in any determination of the size of the employer.

B. For the purposes of determining whether a non-franchisee employer is a Schedule 1 employer or a Schedule 2 employer, separate entities that form an integrated enterprise shall be considered a single employer under this Chapter. Separate entities will be considered an integrated enterprise and a single employer under this Chapter where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

1. Degree of interrelation between the operations of multiple entities;
2. Degree to which the entities share common management;



1 3. Centralized control of labor relations; and

2 4. Degree of common ownership or financial control over the entities.

3 There shall be a presumption that separate legal entities, which may share some degree of
4 interrelated operations and common management with one another, shall be considered separate
5 employers for purposes of this section as long as (1) the separate legal entities operate
6 substantially in separate physical locations from one another, and (2) each separate legal entity
7 has partially different ultimate ownership. The determination of employer schedule for the
8 current calendar year will be calculated based upon the average number of employees employed
9 per calendar week during the preceding calendar year for any and all weeks during which at least
10 one employee worked for compensation. For employers that did not have any employees during
11 the previous calendar year, the employer schedule will be calculated based upon the average
12 number of employees employed per calendar week during the first 90 calendar days of the
13 current year in which the employer engaged in business.

14 C. The Director shall have the authority to issue a special certificate authorizing an
15 employer to pay a wage less than the City of Seattle minimum wage, as defined in this Chapter,
16 but above the Washington State minimum wage, as defined in RCW 49.46.020. Such special
17 certificates shall only be available for the categories of workers defined in RCW 49.46.060 and
18 shall be subject to such limitations as to time, number, proportion, and length of service as the
19 Director shall prescribe. Prior to issuance, an applicant for a special certificate must secure a
20 letter of recommendation from the Washington State Department of Labor and Industries stating
21 that the applicant has a demonstrated necessity pursuant to WAC 296-128.

22 D. The Director shall by rule establish the minimum wage for employees under the age of
23 eighteen years, provided that any percentage of the hourly rate established by rule shall not be
24 lower than the percentage applicable under state statutes and regulations.



Section 4. A new Section 14.19.030 is added to the Seattle Municipal Code as follows:

14.19.030 Hourly Minimum Wage – Schedule 1 Employers

A. Effective April 1, 2015, Schedule 1 employers shall pay each employee an hourly minimum wage of at least \$11.00. Pursuant to the following schedule, effective January 1 of each year thereafter, Schedule 1 employers shall pay any employee an hourly minimum wage as follows:

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$13.00
2017	\$15.00

Effective January 1, 2018, the hourly minimum wage paid by a Schedule 1 employer to any employee shall be increased annually on a percentage basis to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter.

B. Schedule 1 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 1 employer is in compliance with all applicable law. Where an employee is paid on a commission or piece-rate basis, wholly or partially, the amount earned on such basis in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for such period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. Where an employee is paid a bonus, the amount of the bonus in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for such period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. Pursuant to the following schedule, effective January 1, 2016,



Schedule 1 employers that pay toward an individual employee's medical benefits plan shall pay the employee an hourly minimum wage as follows:

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$12.50
2017	\$13.50
2018	\$15.00

Effective January 1, 2019, payment by the employer of health benefits for employees shall no longer affect the hourly minimum wage paid by a Schedule 1 employer.

Section 5. A new Section 14.19.040 is added to the Seattle Municipal Code as follows:

14.19.040 Hourly Minimum Wage -- Schedule 2 Employers

A. Effective April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum wage of at least \$10.00. Schedule 2 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law. Effective January 1 of 2016 and each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum wage that is the lower of (a) the applicable hourly minimum wage for Schedule 1 Employers or (b) the hourly minimum wage shown in the following schedule:

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$10.50
2017	\$11.00
2018	\$11.50



Brian Surratt/prml/de
MOS Minimum Wage ORD
May 29, 2014
Version # 3

2019	\$12.00
2020	\$13.50
2021	\$15.00
2022	\$15.75
2023	\$16.50
2024	\$17.25

Effective on January 1 of 2025, and January 1 of every year thereafter, the hourly minimum wage paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum wage requirements through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law.

Section 6. A new Section 14.19.050 is added to the Seattle Municipal Code as follows:

14.19.050 Hourly Minimum Compensation – Schedule 2 Employers

A. Effective April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum compensation of at least \$11.00. Effective January 1 of each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum compensation that is the lower of (a) the applicable hourly minimum wage for Schedule 1 Employers or (b) the hourly minimum compensation shown in the following schedule:



<i>Year</i>	<i>Hourly Minimum Compensation</i>
2016	\$12.00
2017	\$13.00
2018	\$14.00
2019	\$15.00
2020	\$15.75

Effective January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum compensation requirement through wages (including applicable commissions, piece-rate, and bonuses), tips and money paid by an employer towards an individual employee's medical benefits plan, provided that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.

C. Effective January 1, 2025, minimum compensation will no longer be applicable as defined in this Chapter.

Section 7. A new Section 14.19.060 is added to the Seattle Municipal Code as follows:

14.19.060 Enforcement

A. Powers and Duties

1. The Department shall investigate alleged violations of this Chapter as defined herein, and shall have such powers and duties in the performance of these functions as are defined in this Chapter and otherwise necessary and proper in the performance of the same and provided for by law.



1 2. The Director is authorized and directed to promulgate rules consistent with this
2 Chapter.

3 B. Exercise of Rights Protected; Retaliation Prohibited

4 1. It shall be a violation for an employer or any other person to interfere with,
5 restrain, or deny the exercise of, or the attempt to exercise, any right protected under this
6 Chapter.

7 2. It shall be a violation for an employer to discharge, threaten, harass, demote,
8 penalize, or in any other manner discriminate or retaliate against any employee because
9 the employee has exercised in good faith the rights protected under this Chapter. Such
10 rights include but are not limited to the right to file an oral or written complaint with the
11 Department about any employer's alleged violation of this Chapter; the right to inform
12 his or her employer, union or similar organization, and/or legal counsel about an
13 employer's alleged violation of this Chapter; the right to cooperate with the Department
14 in its investigations of alleged violations of this Chapter; the right to oppose any policy,
15 practice, or act that is unlawful under this Chapter; and the right to inform other
16 employees of his or her potential rights under this Chapter.

17 3. It shall be considered a violation for an employer to communicate to a person
18 filing a wage claim, directly or indirectly, explicitly or implicitly, the willingness to
19 inform a government employee that the person is not lawfully in the United States, report
20 or threaten to report suspected citizenship or immigration status of an employee or a
21 family member of the employee to a federal, state, or local agency because the employee
22 has exercised a right under this Chapter.

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C. Notice, Posting, and Records

1. Employers shall give notice to employees in English, Spanish and any other language commonly spoken by employees at the particular workplace that they are entitled to the minimum wage and minimum compensation; that retaliation against employees who exercise their rights under this Chapter is prohibited; and that each employee has the right to file a charge or bring a civil action if the minimum wage or minimum compensation as defined in this Chapter is not paid or the employee is retaliated against for engaging in an activity protected under this Chapter.

2. Employers may comply with this section by posting in a conspicuous place at any workplace or job site where any covered employee works a notice published each year by the Department informing employees of the current minimum wage and minimum compensation rates applicable in that particular workplace or jobsite and of their rights under this Chapter in English, Spanish and any other languages commonly spoken by employees at the particular workplace or job site.

3. Employers shall retain payroll records pertaining to covered employees for a period of three years documenting minimum wages and minimum compensation paid to each employee.

D. Charges and Investigation

1. The Department may investigate any violations of this Chapter. A charge alleging a violation of this Chapter should include a statement of the dates, places, and persons or entities responsible for such violation. A charge alleging a violation of this Chapter may also be filed by the Director on behalf of an aggrieved individual when the Director has reason to believe that a violation has occurred.

2. Charges filed under this Chapter must be filed within 3 years after the occurrence of the alleged violation. The applicable statute of limitations for civil actions is tolled



during the Department's investigation and any administrative enforcement proceeding under this Chapter based upon the same facts.

3. The Director shall cause to be served or mailed by certified mail, return receipt requested, a copy of the charge on the respondent within 20 days after the filing of the charge and shall promptly make an investigation thereof.

4. The investigation shall be directed to ascertain the facts concerning the alleged violation of this Chapter, and shall be conducted in an objective and impartial manner.

5. During the investigation the Director shall consider any statement of position or evidence with respect to the allegations of the charge which the charging party or the respondent wishes to submit. The Director shall have authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, and the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the employer subpoenaed.

E. Findings of Fact and Notice of Violation.

1. The results of the investigation shall be reduced to written findings of fact, and a written determination shall be made by the Director that a violation of this Chapter has occurred. The findings of fact shall be furnished promptly to the respondent and charging or aggrieved party in the form of a notice of violation.

2. Within sixty days of a notice of violation, the Director shall confer with the parties and determine an appropriate remedy, which shall include full payment of unpaid wages due to the charging or aggrieved party under the terms of this Chapter. Such remedy shall be reduced to writing in an order of the Director.



F. Remedies

1. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil penalty in an amount not to exceed \$125 for the first violation and \$250 for subsequent violations.

2. It is unlawful for any employer to willfully resist, prevent, impede or interfere with the Director in the performance of his or her duties under this Chapter. Conduct made unlawful by this section constitutes a violation and any employer who commits such a violation may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

3. For a first time violation of this Chapter, the Director shall issue a warning and may assess a civil penalty of up to \$500 for improper payment of minimum wage and minimum compensation as defined in this Chapter. For subsequent violations, the Director shall assess a civil penalty for improper payment of minimum wage and minimum compensation as defined in this Chapter. A civil penalty for a second time violation of this Chapter shall be not greater than \$1,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. A civil penalty for a third violation of this Chapter shall not be greater than \$5,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a violation of this chapter shall be \$20,000 per employee.

4. Within sixty days of a notice of violation of this Chapter, the Director shall confer with the parties and determine an appropriate remedy, which shall include full payment of unpaid wages and accrued interest due to the charging or aggrieved party under the terms of this Chapter. Such remedy shall be reduced to writing in an order of the Director.



1 G. Appeal Period and Failure to Respond

2 1. An employer may appeal the Director's order by requesting a contested hearing in
3 writing within 15 days of service. If an employer fails to appeal the Director's order
4 within 15 days of service, the Director's order shall be final and enforceable. When the
5 last day of the appeal period so computed is a Saturday, Sunday, or federal or City
6 holiday, the period shall run until 5:00 p.m. on the next business day.

7 H. Appeal Procedure and Failure to Appear

8 1. Contested hearings shall be conducted pursuant to the procedures for hearing
9 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing
10 Examiner for hearing contested cases. The Director shall have the burden of proof by a
11 preponderance of the evidence before the Hearing Examiner. Failure to appear for a
12 requested hearing will result in an order being entered finding that the employer cited
13 committed the violation stated in the Director's order. For good cause shown and upon
14 terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order
15 entered upon a failure to appear.

16 2. In all contested cases, the Hearing Examiner shall enter an order affirming,
17 modifying or reversing the Director's order.

18
19 Section 8. A new Section 14.19.070 is added to the Seattle Municipal Code as follows:

20 **14.19.070 Severability**

21 The provisions of this Chapter are declared to be separate and severable. If any clause,
22 sentence, paragraph, subdivision, section, subsection or portion of this Chapter, or the
23 application thereof to any employer, employee, or circumstance, is held to be invalid, it shall not
24 affect the validity of the remainder of this Chapter, or the validity of its application to other
25 persons or circumstances.



Section 9. A new Section 14.19.080 is added to the Seattle Municipal Code as follows:

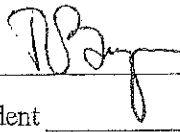
14.19.080 Other Legal Requirements

This Chapter provides minimum wage and minimum compensation requirements and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater wages or compensation; and nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this Chapter be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this Chapter affecting such person.

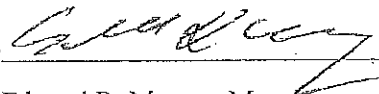


1 Section 10. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

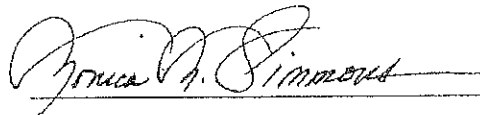
4 Passed by the City Council the 2nd day of June, 2014, and
5 signed by me in open session in authentication of its passage this
6 2nd day of June, 2014.

7 
8 _____
9 President _____ of the City Council

10 Approved by me this 3 day of June, 2014.

11 
12 _____
13 Edward B. Murray, Mayor

14 Filed by me this 3rd day of June, 2014.

15 
16 _____
17 Monica Martinez Simmons, City Clerk

18
19
20 (Seal)

Bruce Harrell/pml/de
RES
June 2, 2014
Version #6

CITY OF SEATTLE
RESOLUTION 31524

A RESOLUTION requesting that the Department of Finance and Administrative Services work with the City Council and other appropriate City departments and stakeholders to strengthen implementation of any local minimum wage ordinance.

WHEREAS, across the nation, low-wage workers have stepped forward to highlight their struggle to support themselves and their families; and

WHEREAS, Seattle workers and their advocates are leading the national dialogue about economic justice and the role of government in ensuring our communities have true opportunities for advancement out of poverty; and

WHEREAS, once an individual begins working, it can be difficult to go back to school or to start building the skills that will lead to additional, higher paid employment opportunities; and

WHEREAS, under the leadership of Mayor Ed Murray, an Income Inequality Advisory Committee (IIAC) was formed and charged with delivering a set of recommendations for increasing the minimum wage in Seattle, recognizing that Seattle businesses are of a diverse size and nature and operate under many different business models; and

WHEREAS, IIAC consisted of representatives from Seattle's employer, labor, and non-profit communities; and

WHEREAS, the City Council established a Select Committee on Minimum Wage and Income Inequality (MWII Committee) composed of all nine Councilmembers; and

WHEREAS, the IIAC and MWII Committee have conducted extensive outreach with employees and employers through public hearings, small stakeholder group meetings, and individual meetings with Councilmembers; and

WHEREAS, Seattle plans to join nine other local jurisdictions that have chosen to enact a local minimum wage; and

WHEREAS, the minimum wage policy goals must include support for the growth of all small businesses and recognition that smaller businesses face unique challenges in implementing a higher minimum wage; and

WHEREAS, in order to be effective a local minimum wage must be understood by both employees and employers; and



Bruce Harrell/pml/de
RES
June 2, 2014
Version #6

WHEREAS, Seattle invests significantly in worker training and support intended to boost the chances low-skilled, low experience workers will get a job and, ultimately, a career; and

WHEREAS, the City has convened an advisory committee to consider ways the City can increase compliance with and strengthen the enforcement of City labor standards;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE
MAYOR CONCURRING, THAT:

Section 1. In order to strengthen the implementation of the local minimum wage ordinance and consider supplementing its provisions, Council requests the following:

1. **Multilingual Mobile Application.** The Council requests that the Department of Finance, Information Technology and other appropriate City departments develop and implement a multilingual mobile application that will allow employees to: 1) determine the minimum wage and minimum compensation they are entitled to be paid each year, and the amount of health care benefits or tips that may be counted as part of the required minimum compensation; and 2) allow employees to file a wage-theft inquiry or complaint directly with the City on the mobile application. Work on the mobile application should begin immediately after passage of a local minimum wage act. A progress report to Council should be submitted no later than September 8, 2014.
2. **Multilingual Website.** The Council requests that the Department of Finance, Information Technology and other appropriate City departments develop and implement a multi-lingual user-friendly website where employers can: 1) determine the minimum wage and minimum compensation they are required to pay their employees each year, and the amount of health care benefits or tips that may be counted as part of the required



1 minimum compensation; and 2) determine all applicable employer requirements under
2 the ordinance. Work on the website should begin immediately after passage of a local
3 minimum wage act. A progress report to Council should be submitted no later than
4 September 8, 2014.

5 **3. Evaluation of the Local Minimum Wage Ordinance on Businesses and Workers.**

6 Council requests that the City Auditor contract with academic researchers who have a
7 proven track record of rigorous analysis of the impacts of minimum wage laws to conduct
8 an evaluation of the economic impacts of the local minimum wage in 2017 and 2019,
9 after two and four years of implementation. The evaluation should include an assessment
10 of the impact of the legislation on: employment among different classes of workers; rates
11 of business openings and closures; prices; business profits; compliance rates; whether
12 other worker benefits have reduced or remained unaffected; consumer spending; worker
13 turnover and productivity; demand for state and local public assistance; purchasing power
14 of employees covered by the law; gender and racial income disparities; and the economic
15 security of immigrant and refugee workers. The evaluation may require baseline data
16 collection in 2015. The review should pay particular attention to the immigrant-owned
17 businesses and small manufacturers, employer groups that have argued that the minimum
18 wage change in Seattle will affect them differently from other businesses. It should also
19 pay particular attention to the frequency of non-compliance through a review of formal
20 complaints to the City and an analysis of other relevant data sources that could show the
21 frequency of unreported non-compliance. The review should include analysis of the
22 available empirical data sets, such as from the United States Bureau of Labor Statistics or
23 Washington State Labor & Industries, and interviews with employers and employees and
24 other stakeholders when appropriate. The Council will consider the funding of this
25 evaluation as part of the 2015 budget process.

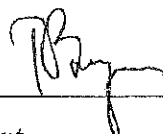


- 1 **4. Support for Education and Career Ladders.** Council requests that the Department of
2 Finance and Administrative Services work with the City Council, and other appropriate
3 City departments to establish an interdepartmental team (IDT) of City staff to determine
4 ways the City can: 1) assist low wage workers with the identification of pathways,
5 opportunities and financial aid to continue their education and skill training in ways that
6 can broaden their employment opportunities; and 2) explore mechanisms to assist
7 employers who support their employees through continuing education and job skills
8 training. The options the IDT should explore include expanding the definition of
9 minimum compensation to include credit for employer assistance in employee classes,
10 and vocational training. A workplan and anticipated schedule for this review and
11 evaluation should be submitted to the Mayor and Council no later than September 8,
12 2014.
- 13 **5. Minimum Wage Commission;** Council recommends the City establish a Minimum
14 Wage Commission (MWC) consisting of 15 members that will remain in existence for 5
15 years after the effective date of this ordinance. . The MWC shall be appointed by the
16 Mayor and Council, subject to confirmation by a majority vote of all members of the City
17 Council. The Commission shall have balanced representation of one-third labor, one-third
18 business, and one-third community representatives. Representation on the committee
19 should be diverse, including but not limited to ethnic minority owned businesses, women
20 owned businesses, low wage workers, representatives of immigrant and refugee
21 communities, and labor and business representatives from a variety of industries. It is
22 anticipated that the MWC will create an important opportunity for the community to
23 review the implementation of the new Local Minimum Wage Law. Subsequent
24 legislation will be required to create the MWC and establish functions and prescribe
25 duties.



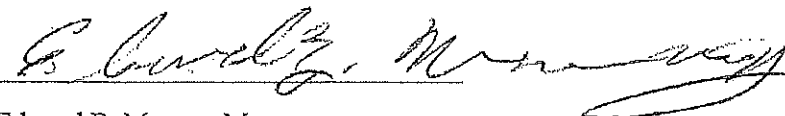
6. **City Employees and Contractors.** Council requests that the Executive return with a plan for how the City will meet its obligations under the new minimum wage schedule. This plan should indicate how the City's own low-wage employees will advance and any steps required to meet revised wage obligations. The plan should also address steps the City should take to ensure human services providers and others with City contracts will be able to meet policy and service objectives while also meeting the new wage schedules.

Adopted by the City Council the 2nd day of June, 2014, and signed by me in open session in authentication of its adoption this 2nd day of June, 2014.



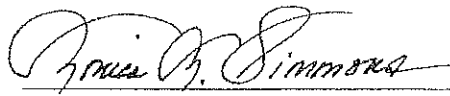
President _____ of the City Council

THE MAYOR CONCURRING:



Edward B. Murray, Mayor

Filed by me this 3rd day of June, 2014.



Monica Martinez Simmons, City Clerk

(Seal)



A City-Wide Minimum Wage in Portland Maine

A Report Compiled for the Mayor's Minimum Wage Advisory Committee

Michael Havlin

The Minimum Wage, a Brief History in the United States:

Nearly a decade after the financial crisis of 2007 the average worker has yet to experience significant economic recovery. The stagnation has forced many Americans to confront an omnipresent trend in our economy: ever growing inequality.

One tool that's been implemented over the last century to combat inequality and promote prosperity has been the minimum wage. Before the federal government established a minimum wage, it was in fact the states that lead the charge for a minimum wage. The first of which was Massachusetts in 1912 (NELP). Most of these early state minimum wage laws, like many state labor laws passed before the great depression, were struck down by conservative courts, though (Neumark and Wascher,). In 1938, despite a few contentious judicial challenges, the Fair Labor Standards Act established the first federal minimum wage of 25 cents per hour, or \$4.00 in 2013 dollars (US DOL, NELP, Neumark and Wascher).

During the first two and half decades following the establishment of the Fair Labor Standards Act "congress diligently approved regular increases in the minimum wage Act" which steadily increased the inflation adjusted (2013) wage to 10.56 an hour in 1968 (NELP, 2). High inflation in the late 60's and late 70's eroded much of this progress, and, unlike in the 40's and 50's, congress was reluctant to increase the wage; from 1938 to 1978 the longest period

without an increase was only six years, while from 1978 to 2013 there were two instances in which the drought exceeded nine years (US DOL, NELP). Additionally, the minimum wage increases, measured by percent change, post-1978 were both much smaller nominally and inflation-adjusted compared to the previous decades (US DOL). As a result, the federal minimum wage has lost 33% of its value since its peak in 1968 (NELP). The ratio of the federal minimum wage to the median wage, a useful comparative tool, was at an all-time high in 1968 of 55 percent (OECD). Today, the ratio is at a near low of 38% (OECD). Globally the minimum-median ratio has generally stayed within the 45-60% range, with France boasting one of the highest at 62% and the United States with one of the lowest (OECD).

In reaction to the lack of responsiveness by the federal government states have taken responsibility, as they did in the early 20th century, to preserve the minimum wage's value. Through the 80's, 90's, and 2000's over half of US states have, at some point, established a minimum wage that exceeded the federal minimum wage (CEPR, Soon). State minimum wages that exceed the federal rate range from 7.40 in Michigan to 9.32 in Washington (NELP). Similar to the federal government's response to the great depression in 1938, states have collectively fought recent stagnation and instability with wage hikes; on January first of 2014 there were 13 states who lifted the minimum wage further in excess of the federal wage, and several states will be implementing wage increases in the next few years, the most notable of which is \$11 in Massachusetts (NELP).

A more recent trend that has evolved in response to the state success with wage hikes has been an increased effort to enact local minimum wage laws (Soon). As of March of 2014 there were five municipalities with local minimum wage laws, four county laws, and two

pending municipal laws in Seattle and Richmond CA (Reich). Additionally, a number of municipal wage increases appear to be imminent. Two municipalities of which there is robust research is San Francisco and Santa Fe who, as pioneers in the method, first raised their minimum wages in 2004 (CEPR). Municipal wage increases have been enacted in a variety of forms, ranging from strong no exemption rates like in Albuquerque to the most recent of Seattle which has a plethora of exemptions, phase-ins, and relief valves (Reich, BDN).

Overview of the Recent Controversy Surrounding the Minimum Wage:

The minimum wage has naturally been a hot button issue among politicians and economist over the last century. A seminal book released in 1995 titled *Myths of Measurement: The New Economics of the Minimum Wage* by David Card and Alan Krueger sparked a revolution in minimum wage economics and reinvigorated the dispute between the economists on opposing sides of the issue (CEPR). The book and subsequent debates spawned a rich body of literature and economics that uses empirical evidence and new theories to discuss the minimum wage known as "New Minimum Wage Research (CEPR, 3)."

The majority of the research reveals that there is no statistically significant evidence to show job losses caused by minimum wage increases (CEPR). In fact, even the prominent studies that show negative employment effects admit that much of the evidence supporting employment losses is statistically insignificant (Neumark and Wascher). Statistically insignificant evidence means that changes in employment, either positive or negative, are so small that it is impossible to know whether employment actually changed or not. Several meta-analysis, which

aggregate dozens of statistical studies, have been done over the last two decades on the wide and rich spectrum of minimum wage employment effects; the results of these meta-analysis reveal that the distribution of employment effects is concentrated closely to a zero, many slightly above zero, and many slightly below, but almost all statistically insignificant (CEPR, Nuemark and Wachter).

Despite the majority of research showing that there is no empirical basis to support disemployment claims there is still a significant portion of the political and economic spectrum that assert there will be catastrophic repercussions to a wage floor. Most of this conjecture comes from theoretical disagreements regarding how labor markets function. Economists who claim employers will be forced to make negative adjustments, like layoffs, cuts to benefits, or higher prices, view the labor market as an efficient "nexus of contracts" that is always in equilibrium (Osterman, CEPR, McLaughlin). Refuting the efficient labor market hypothesis are economists who throw out the rational economic models for models that borrow concepts from sociology, psychology, behavioral economics, and organizational behavior, and in doing so show that businesses are vulnerable to a large number of frictions, tendencies, and imperfect competitions that prevent them from setting an efficient market wage (CEPR, McLaughlin, Mcntyre). The evidence suggests that latter group, known as intuitionists, are correct.

Issues and Results Surrounding Municipal Increases:

Legal aspects:

A concern for many cities considering its own minimum wage is the legal feasibility of the ordinance. Although most legal scholars argue that "cities may regulate minimum wages under their local home-rule authority to enact legislation to safeguard the health, safety and welfare of their communities (Soon, 6)," there is some case law where ordinances have been struck down. Although one of the first municipal ordinances, in New York City, was struck down, more recent rulings have disagreed with the 1962 New York City case.

In 1962 New York City passed a municipal minimum wage that exceeded the state wage by 25%. In 1964 the supreme appellate court of New York State determined that the municipal minimum wage was inconsistent with state law (*Wholesale Laundry Board of Trade V. City of New York*). This precedent was later used in the late 60's to justify ruling against a minimum wage ordinance in Baltimore; however, an appellate court would eventually reject its lower court's and parts of New York's reasoning (*Sitnick v. City of Baltimore*). The appellate court thought parts of the New York court's argument were legitimate because of state law specific to New York. The appellate court rejected the lower court's ruling using arguments regarding home-rule authority, and the argument that the local ordinance was using "concurrent powers" that amplified, not superseded, the state law (*Sitnick v. City of Baltimore*).

In *New Mexicans for Free Enterprise v. City of Santa Fe*, the most recent case regarding municipal wage ordinances, the appellate court cites *Sitnick v. Baltimore* in a robust and detailed defense of municipal wage ordinances, confirming the lower court's judgment that "The City has the power to set a minimum wage for private employers that is higher than that mandated by the state. The ordinance does not conflict with state law and is not otherwise unconstitutional (*New Mexicans for Free Enterprise V City of Santa Fe*)."

In the rulings supporting the city's right to a minimum wage ordinance the courts frequently cited Home-rule authority, which is the right of a municipality to "enact laws that are municipal in nature and that do not frustrate or run counter to a state law (Maine Municipal Association)." In 1969 the state of Maine amended the constitution to include a "strong" and "broad" home rule law (Main Municipal Association). According to the state constitution any law that is not in conflict with an existing state law, and is not specifically prohibited by the legislature, may be passed by municipalities (Maine Constitution Article VIII). Enforcement of a local minimum wage in Portland would have to be provided locally, as the Maine Department of Labor has already acknowledged that it will not recognize Portland's minimum wage over the state minimum wage when an infraction is reported (Title 26 chapter 7, Maine DOL).

Santa Fe and San Francisco: policy and results.

In 2004 Santa Fe and San Francisco became the first municipalities to implement local wage ordinances since Washington in 1995. Santa Fe, who successfully defended itself in court, by municipal legislation, and San Francisco by ballot initiative (Reich). Over the ten years that the ordinances have been in effect a robust amount of research has been developed. Santa Fe, taking an approach more similar to Seattle, implemented a series of exemptions while San Francisco, similar to Portland's plans, passed a strong ordinance with little to no exemptions (Reich).

Santa Fe passed an ordinance in 2003 that had a mixture of phase-ins and exemptions. Santa Fe's ordinance went into effect immediately for all for-profit businesses exceeding 25

employees. This initial hike was a substantial 80% jump from \$5.15 to \$8.50 (Reich). The wage hike increased the minimum wage to median wage ratio from 36%, similar to the national average, to 55% (BLS). By 2008 a full phase in for all businesses and workers (besides tipped workers who would continue to be paid 2.13) to \$9.50 had been completed. When the phase-in was completed the minimum-median ratio had risen to 64% (BLS, Reich). The wage was indexed to inflation, and now, after 5 years of inflation adjustments the minimum wage is at 68% of the median wage, a ratio higher than all but one nation (BLS, Reich).

San Francisco's wage increase was not as steep as Santa Fe's, but the breadth of the increase was wider. San Francisco's initial increase was a more modest increase from 6.75 to 8.5, or 26% (Reich). The 26% hike raised the ratio of minimum-median from 39% to 42%, much more mild than Santa Fe's increase (Reich, BLS). San Francisco, though, did have a more aggressive policy on who would be covered. Unlike Santa Fe, San Francisco did not provide an exemption for tipped-workers, meaning that any tips collected would be income in addition to the minimum wage (Reich). Additionally, although San Francisco did phase in small businesses and non-profits like Santa Fe, the phase in period was only one year, and by 2006 all employees had a minimum wage of 8.82, or 60% of the median wage (Reich, BLS). Overall the two year increase from 6.75 to 8.82 represented a 31% increase.

The results of these two municipalities' minimum wage laws are very encouraging. Overall, several empirical studies on the two cities have concluded that "no statistically significant negative effects on employment or hours" have occurred and "that minimum wage mandates raise the incomes of low-wage workers (Michael Reich, Ken Jacobs, and Annette Bernhardt)." Three independent analysis, one done by the Institute for Research on Labor and

Employment, one by the Center for Economics and Policy Research, and one by the Institute of Industrial Relations, all found that employment in the cities tracked consistently with employment in surrounding counties and with reference cities (Arindrajit Dube, Ethan Kaplan, Michael Reich and Felix Su, John Schmitt and David Rosnick, Arindrajit Dube, T. William Lester, and Michael Reich). While, contrary to employment, wages for the tenth percentile in San Francisco did not track with surrounding counties, increasing by a total of 5% from 2003-2012, despite the recession, as the surrounding counties decreased by 7% (Michael Reich, Ken Jacobs, and Annette Bernhardt). Similar results were found in Santa Fe where wage increases were consistently and statistically significantly in excess of reference cities, while there were no statistically significant decreases in employment (John Schmitt and David Rosnick). Furthermore, no statistically significant negative adjustments to employee compensation in any form (health benefits, etc.) can be found (Michael Reich, Ken Jacobs, and Annette Bernhardt).

Prior to the wage increases in San Francisco and Santa Fe, there were many businesses that warned and threatened that they would be forced to close shop and move elsewhere (Arindrajit Dube, Ethan Kaplan, Michael Reich and Felix Su). Fortunately, the catastrophic predictions did not hold. In Santa Fe there was no statistically significant difference in business closures compared to the surrounding counties, and in San Francisco there was actually a statistically significant decrease in business closures as compared to surrounding counties (Arindrajit Dube, Ethan Kaplan, Michael Reich and Felix Su).

There are a variety of reasons that explain why employers responded so well to the price floor, both on the cost side, and the revenue side. One significant reason on the cost side of the equation is that the high wages reduced employee turnover. A study by the Institute for

research on Labor and Employment found that “for a 10 percent minimum wage increase, the turnover rates decline by around 2.0 percent for teens and 2.1 percent for the restaurant workforce (Arindrajit Dube, T. William Lester, and Michael Reich).” Although 2% sounds minor, a variety of analysis on businesses shows that the total costs of finding a replacement employee range from \$1300 to \$4800 for low wage workers, and up to \$8000 for administrative positions (Hinkin and Tracey, Blake, Boushey and Glynn). Additionally, employers were able to find operational efficiencies after the wage increase that included higher employee morale and work ethic, better customer service, and lower absenteeism (Michael Reich, Ken Jacobs, and Annette Bernhardt). Overall, several analysis have found that total costs for businesses who experienced a significant minimum wage hike increased by only one to five percent (Michael Reich and Amy Laitinen, Sonn, Pollin).

Unfortunately there has been little ex-post empirical analysis on the wage increases effects on consumption expenditure and business sales; however, there are a number of credible economists, with strong theoretical foundations, who use statistical approaches to estimate an increase in expenditure, providing economic stimulus to the region (Michael Reich, Ken Jacobs, and Annette Bernhardt). The theoretical reasoning behind predicting an increase in consumption is that, since employment isn’t affected, productivity increases, and the amount of income allocated to a group with a high propensity to consume (low wage workers spend close to 100% of income) increases, aggregate demand for goods and services will increase. The increase in consumption and business revenues can be very substantial; a 2003 estimate by a regional development economist estimated that San Francisco’s 26% increase in the minimum wage would lead to a direct local injection of 45 million dollars in additional expenditure

(Lantsberg). Another method that could increase revenues in response to an increase in the minimum wage is inflation; however, there was no statistically significant difference between San Francisco's inflation rate and the inflation rate in surrounding counties, and a variety of studies on other areas have confirmed that substantial increases in the minimum wage result in only negligible prices increases (Michael Reich, Arindrajit Dube, and Suresh Naidu, Michael Reich, Ken Jacobs, Annette Bernhardt).

Overall the two minimum wage ordinances in Santa Fe and San Francisco have been tremendously successful and should serve as templates and examples to other cities around the country considering a municipal minimum wage. Municipal minimum wages are still highly experimental in the United States, but the results from San Francisco and Santa Fe demonstrate a range of feasibility. Results and data from the more recent ordinances in San Jose, Albuquerque, and Seattle will stimulate additional analyses.

Enforcement:

The various types of enforcement implemented by the five municipalities who have adopted local minimum wages vary significantly but fall into two broad categories; there is Santa Fe, San Francisco, and San Jose who share responsibility and duty with workers in enforcement, and Washington DC and Albuquerque who have left enforcement up to individual workers and the judicial system (Michael Reich, Ken Jacobs, and Annette Bernhardt, Dave Jamieson, San Jose DPW, John Schmitt and David Rosnick).

San Francisco, with the most aggressive enforcement mechanisms, administers the minimum wage with extensive advertising and education before the ordinance took effect, and bureaucratic and judicial processes after it took effect. San Francisco was able to utilize its Office of Labor Standards Enforcement, which had already been created to enforce other local labor laws, to enforce the minimum wage ordinance. The OLSE ultimately had to hire 7 additional contractors to enforce the ordinance for the 611,000 workers in the city, allocating 87,285 workers per officer (Michael Reich, Ken Jacobs, Annette Bernhardt). San Francisco's OLSE has proven to be much more strict and effective than state and federal enforcement, fulfilling the roles of investigator, enforcer, and legal counsel of those wronged. If the OLSE finds that an infraction has been found, penalties range from fines and judicial remedies, to revocation various permits and licenses necessary to do business in the city (Michael Reich, Arindrajit Dube and Suresh Naidu, Michael Reich, Ken Jacobs, Annette Bernhardt). Overall, the portion of OLSE's budget that goes towards the minimum wage enforcement and education cost 1.4 million dollars per year, and it returns roughly half a million dollars a year to workers (Michael Reich, Ken Jacobs, Annette Bernhardt).

San Jose, like San Francisco, used an existing administrative apparatus to enforce the minimum wage. San Jose's Office of Equality Assurance, an office created to enforce anti-discrimination ordinances and other labor laws, is charged to "investigate suspected violations where there appears to be a reasonable basis for the complaint" and then file a lawsuit on behalf of the workers if it appears there was a violation (San Jose DPW). The office also educates employers by mailing out information to all businesses when there is minimum wage change. Largely, the OEA operates passively and only when a complaint is made, but it does

require that employers keep extensive payroll information for four years in case the OEA needs to investigate (San Jose CMO). If a worker decides to seek legal action independently, he or she is entitled to recovery of legal fees and, in addition to lost wages, \$50 per day that he/she was underpaid (San Jose DPW).

Santa Fe does not do a significant amount of education or investigation, but the ordinance does have some hefty punishments for violation (Dave Jamieson, Santa Fe CS). The city ordinance makes it's a crime to pay sub-minimum wages, potentially punishable with a prison sentence (Santa Fe CS). The ordinance also stipulates that an individual seeking civil remedies is entitled to receive "twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs (Santa Fe CS)."

Contrary to Santa Fe, San Jose, and San Francisco, there is Washington DC and Albuquerque who have done essentially nothing to administer and enforce their minimum wage ordinances, which ultimately made the ordinances somewhat ineffective (Dave Jamieson, John Schmitt and David Rosnick). Although recently Washington DC has passed amendments to its minimum wage law that set up penalties and enforcement mechanisms, the original ordinance was so toothless that the "share of workers earning below the new minimum wage actually increased after the law went into effect. (DC.gov, John Schmitt and David Rosnick, 24)." In Albuquerque, where the Mayor has said it's not the city's responsibility to enforce the minimum wage law, and the city's attorney has said the city will not get involved with private employers and employees contracts, employees being paid sub-minimum wages is a common occurrence (Dave Jamieson). Minimum wage workers simply don't have the money or employment security to seek legal remedies on their own (Chavez).

Is a Rapidly phased in 10.68 the 'right' thing for Portland?

A low wage worker named Katie recently met with the Mayor's Minimum Wage Advisory Committee and explained how impossible it is to make it on the minimum wage. Katie, who works a few dollars over the minimum wage, explained that she just barley scrapes by on her wage and "can't imagine how people, especially those with children, can get by" on the minimum wage. Drew Joy, a director of the Southern Maine Workers Center, also explained how minimum and low wage workers have been forced out of the city because of unaffordable rents, taking with them their purchasing power.

These testimonies are indeed representative of a minimum wage worker's experience, and are certainly not hyperbolic, as the Massachusetts of Institute of Technology has calculated that a minimum wage worker in Portland would need to work 54 hours a week, every week, just to support themselves (MIT). A single mother with one child, a common demographic in the infamously low wage restaurant industry, would have to work an unfathomable 121 hours a week at minimum wage just to make ends meet (MIT, White House, and National Women's Law Center). The restaurant industry is one of the largest employers in Portland, employing approximately 15% of the labor force, and is also one of the lowest paying, with 25% of workers making less than \$8.50 per hour; a single mother working in the restaurant industry is likely a common demographic in Portland. Approximately 10% of the Greater Portland labor force works within \$1.50 of the minimum wage (Bureau of Labor Statistics). MIT's living wage database, last updated in 2010, calculates a living wage for an independent adult in Portland to

be \$10.03 per hour, or roughly \$10.60 in today's dollars. Approximately 16% of the labor force in the greater Portland area earns less than the \$10.60 an hour (Bureau of Labor Statistics, University of Illinois Chicago).

Portland's cost of living, and by definition its living wage, is very similar to some of the largest cities in United States. According to MIT, Portland actually has a higher cost of living than Seattle, by about 4% and Albuquerque by a substantial 18%. Santa Fe, a city about the size of Portland, also has a cost of living lower than Portland by about 7%. The largest US city, New York City, has a cost of living only 20% greater than Portland. San Francisco and San Jose both have cost of livings that are substantially higher than Portland's, with San Francisco 20% higher, and San Jose at 15%. Although Portland has a cost of living comparable to these major cities, it has a minimum wage substantially lower than all of them. Portland's current minimum wage is 70% of the living wage, while the average ratio in the cities that have passed minimum wage laws is 90% with a high of 108% in Santa Fe (MIT, Michael Reich, Ken Jacobs, and Annette Bernhardt).

A rapidly phased in \$10.68 would bring the minimum wage in line with the cost of living in Portland, and would do so in a way that is within reach of Santa Fe and San Francisco, the two most successful local wage experiments. The first potential increase to \$9.50 would represent a 26% increase in the minimum wage, exactly the proportion of San Francisco's first increase, and would set the minimum-living wage ratio at 90%, equal to the average ratio of the other municipal minimum-living wage ratios. The 26% increase is also approximately equal to the average first increase of all the municipalities who established minimum wage laws. The potential initial increase would raise Portland's minimum-median ratio from 43% to 55%, a

ratio that would be exactly equal to Santa Fe's after its initial increase. The final potential increase, tentatively planned for January 2017, to \$10.68 would put the minimum wage roughly equal to a living wage, and approximately 60% of the median wage, which is on par with Santa Fe's ending ratio. After 2017, the potential ordinance would stipulate the minimum wage be increased at the rate of inflation every year, effectively making Portland's minimum wage a living wage indefinitely.

As mentioned above the establishment of a minimum wage that is on par with a living wage would come to fruition in a way that isn't unprecedented. Although the municipal minimum wage is still in a highly experimental phase, there are a number of cities who have made the first leap to serve as examples and templates. Although not useful for precision's sake, using a multi-variant linear regression model can be used to compare Portland with the other cities and provide a correlating minimum wage. Using the variables cost of living, median wage, population, minimum wage before increase, and whether or not there will be exemptions, a multi-variant linear regression model calculates that an initial increase of \$10.04 correlates with Portland's variables, which is in the same ballpark of the potential initial increase of \$9.50.

San Francisco demonstrates that requiring tipped workers to be paid the full minimum wage by their employer is feasible; however, San Francisco did not suddenly raise the tipped wage from 2.13 an hour (federal rate) to its 2004 minimum wage of 8.50 overnight. Tipped-workers in San Francisco had been paid the full minimum wage long before it established a minimum wage in 2004, as this was the law in California (DOL, Reich). The San Francisco minimum wage law increased tipped workers by the same proportion of regular workers, 26%

(Reich). Requiring employers in Portland to pay the full wage even for tipped workers would represent a 153% wage cost increase for businesses that rely on tipped workers. A jump this large is unprecedented and could very likely push the boundaries of what is possible without causing disemployment effects; however, not increasing the tipped-wage at all could make the minimum wage ordinance somewhat ineffective given the percentage of restaurant workers in Portland. Additionally, given the nature of the restaurant industry, the low wages paid, and the high proportion of women working in the industry, it is a labor market most in need of a wage increase.

As illustrated by minimum wage experiments in other cities, establishing enforcement mechanisms is an important step for an ordinance's success; however, the fiscal impact of a bureaucratic enforcement agency may make the ordinance politically infeasible. Additionally, because of Portland's small size, an organization tasked with enforcement may simply be unnecessary. To ensure compliance, policy makers should work to find a creative solution to enforce the ordinance that would not increase the city's budget.

Conclusion:

With the federal government in gridlock, the real value of the minimum wage at a near all-time low, the high cost of living in Portland, numerous examples of successful municipal minimum wage laws, a preponderance of evidence refuting negative economic costs, and Portland's progressive culture, the city of Portland should join the other cities and establish a municipal minimum wage. To determine precisely what the optimal wage should be is impossible; however, given the evidence, a phased in 10.68 would provide real benefits to

workers without hurting the overall economy. Establishing a municipal minimum wage in Portland is a crucial first step towards building a local government that can continue to guide its citizens and economy in the presence of a gridlock at the State and Federal levels.

Wage and Payment

AN ORDINANCE relating to wages and employment in the city of Portland; adding a new chapter, 33, to Portland's municipal code and establishing new minimum wage rules in the city applicable to all those employed within the Portland.

WHEREAS, income and wealth inequality has reached levels not seen since the Great Depression

WHEREAS, the federal government is in a political gridlock that makes federal action on the minimum wage impossible.

WHEREAS, the real value of the minimum wage has fallen to levels not seen in over fifty years.

WHEREAS, the cost of living in Portland has increased to be on par with major U.S. cities where the minimum wage is much higher.

WHEREAS, M.I.T. has calculated that for a single adult to support themselves in Portland at the current minimum wage he or she would need to work over 50 hours a week

WHEREAS, rising housing costs are pushing low wage workers out of the city

WHEREAS, the majority of empirical economic research has shown that increases in the minimum wage do not increase unemployment or consumer prices

WHEREAS, other cities in the United States have passed local minimum wage laws which have proven immensely successful, increasing wages for many while not affecting unemployment.

WHEREAS, the proposed minimum wage is within the range of feasibility demonstrated by Santa Fe and San Francisco.

WHEREAS, the Mayor's Minimum Wage Advisory has met several times with business, non-profit, labor, and community leaders and has determined the proposed plan of action best represents the wants and needs of all stakeholders in the Portland community.

WHEREAS, Portland is the economic center of Maine.

NOW, THEREFORE

LET IT BE ORDAINED BY THE CITY OF PORTLAND

The city of Portland adds a new chapter, 33, titled Minimum Wage Ordinance to the City of Portland, Maine Code of Ordinances.

Chapter 33 sections:

33.1: Authority

33.2: Definitions

33.3: The Wage

33.4 Treatment of Tipped-Workers

Authority: The city of Portland has the authority to enforce a local minimum wage under Article VIII, Part Second, Section One of the Maine State Constitution.

33.2

Definitions:

A: Regular Employee: Employee is any person who performs any labor who can not be defined as a contractor or agent under federal law, and who does not collect more than \$30 per month in tips.

B: Tipped-Employee: A tipped-employee is any person who performs any labor who can not be defined as a contractor or agent under federal law, and who does collect more than \$30 per month in tips.

C: Employer: An employer is any person, persons, business, non-profit, franchise, legal entity, and/or institution located within the city of Portland who directly, or indirectly through other persons including temporary employment agencies, exercise control over the wages, hours, working conditions, and/or working location of an individual who performs labor who is defined as an employee under federal law.

D: Regular-Minimum-Wage: The regular-minimum-wage is the lowest dollar value that an employer may legally pay a regular-employee on an hourly basis; the regular-employee is always entitled to be paid at the very least the regular-minimum-wage.

E: Tipped-Minimum-Wage: The tipped-minimum-wage is the lowest dollar value that an employer may legally pay a tipped-employee on an hourly basis; the tipped-employee is always entitled to be paid at the very least the tipped-minimum-wage.

F: City Limits: City limits is defined as the physical boundaries of the municipality of Portland

G: Direct Employer: The entity to which an employee is most immediately employed by. For example, the direct employer of an individual who works for a franchised corporation would be the local franchise establishment that the employee performs labor for.

33.3

The Wage:

The regular-minimum-wage discussed in this section 33.3 shall apply to all hours worked in Portland by regular-employees within City limits, and to all hours worked by an employee whose direct employer's location is within City limits.

*On January 1st 2015, the regular-minimum-wage for regular-employees shall be established as \$9.50 per hour for all regular employees.

*On January 1st 2016, the regular-minimum-wage for regular-employees shall be raised to \$10.10 per hour for all regular employees.

*On January 1st 2017, the regular-minimum-wage for regular-employees shall be raised to \$10.68 per hour for all regular employees.

*On every January 1st following January 1st 2017, the regular-minimum-wage for regular-employees shall increase by the Consumer Price Index for All Urban Consumers (CPI-U) of the previous most up to date 12 months as reported by the Bureau of Labor Statistics. The sum of the most recent 12 months for which there is a calculated CPI-U reported by the BLS will be the rates to define the increase in the regular-minimum-wage. For example, if the BLS reports that every month from January 2017 to December 2017 experienced a .1% price increase, then the increase in the regular-minimum-wage would be 1.2%

Tipped-employees:

The tipped-minimum-wage discussed in this section 33.3 shall apply to all hours worked in Portland by tipped-employees within City limits, and to all hours worked by an employee whose direct employer's location is within City limits.

*For tipped-employees the wage shall always be at least consistent with state law. Additionally, in a given pay period if the tipped-employee does not receive tips that sum to an amount high enough where she/he is effectively being paid at least the regular-minimum-wage, then the tipped-employee's employer must pay her/him the difference so that the tipped-employee receives at least the regular-minimum-wage.

State Increases Effective 1/1/2014					
Region	Previous Wage	New Wage	% Increase	Cost of Living or Legislation?	
Arizona	\$7.80	\$7.90	1%	Cost of Living	
Colorado	\$7.78	\$8.00	3%	Cost of Living	
Connecticut*	\$8.25	\$8.70	5%	Legislation	
Florida	\$7.78	\$7.93	2%	Cost of Living	
Missouri	\$7.35	\$7.50	2%	Cost of Living	
Montana	\$7.80	\$7.90	1%	Cost of Living	
New Jersey	\$7.25	\$8.25	14%	Legislation	
New York*	\$7.25	\$8.00	10%	Legislation	
Ohio	\$7.85	\$7.98	1%	Cost of Living	
Oregon	\$8.95	\$9.10	2%	Cost of Living	
Rhode Island*	\$7.75	\$8.00	3%	Cost of Living	
Vermont*	\$8.60	\$8.78	2%	Cost of Living	
Washington	\$9.19	\$9.32	1%	Cost of Living	
Upcoming State Increases					
Region	Current Wage	Date of change	Future Wage	% Increase	
California	\$9.00	1/1/2016	\$10.00	11%	
Connecticut*	\$8.70	1/1/2015	\$9.15	5%	
Delaware	\$7.75	6/1/2015	\$8.25	6%	
Hawaii*	\$7.25	1/1/2015	\$7.75	7%	
Maryland*	\$7.25	1/1/2015	\$8.00	10%	
Massachusetts*	\$8.00	1/1/2015	\$9.00	13%	
Michigan	\$7.40	9/1/2014	\$8.15	10%	
Minnesota*	\$8.00	6/1/2015	\$9.00	13%	
New York*	\$8.00	12/31/2015	\$8.75	9%	
Rhode Island*	\$8.00	1/1/2015	\$9.00	13%	
Vermont*	\$8.73	1/1/2015	\$9.15	5%	
West Virginia*	\$7.25	12/31/2014	\$8.00	10%	
Municipal Minimum Wages					
Region	Original Wage	Date of Initial Increase	First Increase	% Increase	Current wage
Albuquerque*	\$5.15	1/1/2008	\$6.75	31%	\$8.60
Richmond, CA	\$9.00	1/1/2015	\$9.60	7%	\$9.60
San Francisco*	\$6.75	3/14/2004	\$8.50	26%	\$10.74
San Jose*	\$8.00	3/11/2013	\$10.00	25%	\$10.15
Santa Fe*	\$5.15	6/25/2004	\$8.50	65%	\$10.65
Washington DC	\$6.15	4/8/2005	\$6.60	7%	\$9.50
Seattle**	\$9.32	1/1/2015**	\$11.00	18%	\$9.32
Potential Municipal Wages					
Region	Current Wage	Potential Date	First Increase	% Increase	
Chicago	\$8.25	1/1/2018	\$11.00	58%	
Los Angeles	\$9.00	3/1/2015	\$15.00	67%	
Oakland	\$9.80	3/1/2015	\$12.25	36%	
Portland, ME*	\$7.50	1/1/2015	\$9.50	27%	
San Diego	\$9.00	1/1/2015	\$9.75	8%	
*Single asterisk indicates that the initial increase in the minimum wage is part of a phase in plan that will ultimately put the ending minimum wage in the \$10 to \$12 range, typically followed by inflation adjustments.					
**Seattle's passed an ordinance that will slowly raise the minimum wage to \$15 an hour over 7 years, in a staged fashion that will start with large business going to \$11 in 2015, and ending with small business paying \$15 an hour in 2021.					

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Local Minimum Wage Laws: Impacts on Workers, Families and Businesses

Report prepared for the Seattle Income Inequality Advisory Committee

March 2014

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Executive Summary

As cities and counties across the country increasingly debate whether to establish their own minimum wage laws, policymakers are understandably asking a host of questions. How are existing laws designed? What do we know about the impacts of local wage mandates on workers and their families? What does research tell us about the effect of local wage mandates on employment, and, in particular, do businesses move outside city or county borders in response? In this report, we address these and related questions.

Existing local minimum wage laws

- Nine localities in the United States currently have enacted minimum wage laws: Albuquerque, NM; Bernalillo County, NM; Montgomery County, MD; Prince George's County, MD; San Francisco, CA; San Jose, CA; Santa Fe, NM; Santa Fe County, NM; and Washington DC. (Richmond, CA, just voted to raise its minimum wage to \$12.30 an hour by 2017, and a final vote is pending to pass the law.)
- Current mandated wage levels range from \$8.50 in Bernalillo County to \$10.74 an hour in San Francisco. (New wage mandates in Washington DC and Santa Fe, Montgomery, and Prince George's Counties go into effect later this year.)
- On average, the existing local minimum wage laws have mandated total wage increases of 41.4 percent, many of them in multiple steps and the majority indexed to inflation thereafter. Localities with larger increases have been more likely to implement them in several steps. Across the localities, the average per-step minimum wage increase is 16.7 percent.
- The nine laws are similar in covering the large majority of work that is performed within the boundaries of their cities or counties. San Francisco delayed coverage of nonprofits and small businesses (less than 10 employees) for one year. Santa Fe initially exempted small businesses but later amended its law to cover all establishments.
- Two of the nine laws (San Francisco and San Jose) follow their state's law in treating tipped workers the same as non-tipped workers, maintaining a uniform minimum wage for both groups. The other seven laws follow their states' laws in maintaining a lower minimum wage for tipped workers (even as some increased the base wage for tipped workers). Several of the laws make similar provisions for commissioned workers.

How San Francisco enforces its minimum wage law

- San Francisco uses a variety of high-impact enforcement and education strategies to ensure that the city's minimum wage law has its intended effect.

- From the beginning of 2004 to mid-2012, San Francisco's enforcement agency processed 616 worker complaints related to the minimum wage and recovered \$5.8 million in back wages on behalf of 3,004 workers. These are higher benchmarks than typically achieved by state and federal enforcement agencies.
- San Francisco's Office of Labor Standards Enforcement assigns 7.5 compliance officers to minimum wage enforcement on behalf of approximately 611,000 people employed in the city. These officers share responsibility for enforcement of the city's paid sick leave law as well.
- Approximately \$979,000 supports the 7.5 positions devoted to minimum wage enforcement. In addition, \$462,125 is contracted to community organizations that provide education, outreach, and case referrals, largely focused on minimum wage violations.

Effects of minimum wage laws on workers and families

- Researchers consistently find that minimum wage laws raise pay for workers at the bottom rungs of the labor market. These increases include both directly affected workers (those earning between the old and the new minimum wage) as well as those indirectly affected (those earning above, but near, the new minimum wage).
- Raising the minimum wage also pushes up the wage floor relative to the median wage, thereby reducing pay inequality.
- Researchers consistently find that the affected workers are largely adults and disproportionately women and people of color.
- New research on the effect of minimum wage increases documents important reductions in family poverty rates and enrollments in public assistance programs, such as food stamps.
- Researchers have not estimated the amount of economic stimulus actually created by the new spending power of low-wage workers after minimum wage increases. We do know that low-wage workers and their families are likely to spend a significant portion of those increased earnings.

Effects of minimum wage laws on businesses

Economists have increasingly recognized that raising the minimum wage does not automatically mean that employment will fall. Increased labor costs can be absorbed through a variety of other channels, including savings from reduced worker turnover and improved efficiency, higher prices, and lower profits. Modern economics therefore regards the employment effect of a minimum wage increase as a question that is not decided by theory, but by empirical testing.

- Labor economists continue to debate the actual impacts of the minimum wage on employment and hours. We discuss in our assessment the most rigorous studies and offer a non-technical explanation of the nature of the disagreements in the research literature.
- To date, three rigorous studies have examined the employment impacts of San Francisco's and Santa Fe's local minimum wage laws. Each finds no statistically significant negative effects on employment or hours (including in low-wage industries such as restaurants).
- A larger body of economic research investigates the effects of state and federal minimum wage increases. These studies compare employment trends for states or counties that have different minimum wages. The best studies make comparisons to nearby states or counties to control for regional economic trends. These studies also find no statistically significant negative effects on employment or hours at an aggregate level or for low-wage industries such as restaurants and retail stores, or for specific groups of workers such as teens. These studies also do not find substitution effects (such as shifts in hiring away from black and Latino teens).
- Studies of the impact of minimum wage increases on restaurants' operating costs find that an increase of 10 percent in the minimum wage increases operating costs by about 1 to 2 percent.
- Researchers find small one-time price increases in the restaurant industry (of about 0.7 percent following a 10 percent minimum wage increase), but not in other industries.
- Researchers find that increases in the minimum wage reduce employee turnover, translating into a reduction in direct costs (recruitment, selection, and training of new workers) and a reduction in indirect costs (lost sales, lower quality service, and lost productivity as the new workers learn on the job). Some studies have also identified additional benefits of higher wages, including improved morale, improved work performance, and reductions in absenteeism.
- Researchers have not found evidence that employers absorbed minimum wage increases by reducing health benefits or pensions.

In summary, our assessment of the research evidence indicates that minimum wage mandates raise the incomes of low-wage workers and their families, and that the costs to businesses are absorbed largely by reduced turnover costs and by small price increases among restaurants. That said, it is important to emphasize that existing research is necessarily limited to the range of minimum wage increases that have been implemented to date. While these studies are suggestive, they cannot tell us what is likely to happen when minimum wages are increased significantly beyond current local, state, or general mandates.

1. Introduction

As cities and counties across the country increasingly debate whether to establish their own minimum wage laws, policymakers are understandably asking a host of questions. How are existing laws designed? What do we know about the impact on workers and their families? What does research tell us about the effect of local wage mandates on employment, and in particular, do businesses move outside city or county borders in response?

In this report, we address these and related questions. We first provide an overview of the nine existing local minimum wage laws in the United States. We summarize their wage levels and policy design features, such as phase-ins, coverage and exemptions, and treatment of tipped workers. Our assessment is that, taken together, these laws represent a consistent public policy model that establishes strong local wage standards covering the overwhelming majority of work performed within city or county boundaries. We also provide a case study of how one city, San Francisco, has enforced its minimum wage law.

Economists agree that minimum wage laws have large positive effects on workers' pay and their families' living standards. Raising the minimum wage increases earnings for workers at the low end of the labor market, the majority of whom are adults. Women and workers of color benefit disproportionately. In addition, new research on the effect of minimum wage increases documents important reductions in family poverty rates. Moreover, low-wage workers and their families are often forced to rely on public assistance programs; new research on food stamps finds that raising the minimum wage reduces their reliance on this program.

We then review the economic research on the impact of minimum wage laws workers, families, and businesses. In our assessment, the weight of the evidence suggests that moderate minimum wage increases have insignificant to non-existent negative effects on employment and hours, reduce worker turnover and increase worker retention, and result in small, one-time price increases in heavily-affected industries, such as restaurants. We also explain how conflicting findings on the employment impact of the minimum wage can be traced to differences in the rigor of the research methods.

2. Profile of existing local minimum wage laws

In this section, we give an overview of existing local minimum wage laws in the United States. Currently, there are nine such laws, with the majority passed in recent years. In this group, we include minimum wage laws passed by cities or counties that broadly cover most businesses and workers within their jurisdictions. We do not include local wage mandates with narrow

coverage, such as living wage laws restricted to city contractors or laws targeting airports or specific industries such as hotels. These are important policy models in their own right, but they are less relevant to assessing the economic impacts of local minimum wage laws that affect the large majority of employers and workers in a city or county.

We want to flag several important caveats. Given the short timeline for this report, we were not able to examine any regulatory interpretations of the laws; the below tables summarize statutory provisions. Similarly, we were not able to itemize provisions in the localities' respective state minimum wage laws that are implicitly followed by the city or county statutes. Finally, while we have done our best to be as accurate as possible in these tables, we are not lawyers and encourage verification by the City's legal staff.

Our overall assessment is that despite some variation in policy design, existing local minimum wage laws represent a consistent public policy model that establishes strong local wage standards and covers the majority of work performed within city or county boundaries.

The wage mandates

Table 1 provides an overview profile of the nine existing local minimum wage laws. (Richmond, CA, just voted to raise its minimum wage to \$12.30 an hour by 2017, and a final vote is pending to pass the law.) Note that the table summarizes current laws. In Albuquerque, Bernalillo County, and Washington DC, those laws updated older existing laws.

Six of the nine laws were enacted by a legislative process. The San Francisco, Albuquerque, and San Jose laws were enacted using ballot measures. The gaps between the enactment dates and initial implementation dates range from two months to one year. Current mandated wage levels range from \$8.50 in Bernalillo County to \$10.74 in San Francisco. (The more recent wage mandates in Washington DC and Santa Fe, Montgomery, and Prince George's Counties shown in Table 1 are not yet in effect). Seven of the nine localities increase their wage floors annually according to changes in a consumer price index.

Table 2 details the wage increases mandated by each of the laws, showing the variation in policy design. In this table, we include both current laws as well as older laws that have been superseded.

Some localities established their minimum wage in one step, while others phased in their mandate. For example, San Jose established its minimum wage in 2013, raising it from the state minimum wage (of \$8.00 an hour) to \$10.00 an hour in one step. San Francisco adopted

a hybrid model; it established its minimum wage in one step, going from \$6.75 to \$8.50 an hour in 2004, but delayed its mandate by one year for nonprofits and businesses with fewer than ten employees. Santa Fe combined those strategies, establishing its minimum wage in two steps (to \$8.50 an hour in 2004 and \$9.50 an hour in 2006) and initially exempting businesses with fewer than 25 employees, who were then covered in 2008.

Several localities recently updated their existing laws via new legislation or ballot initiatives. Washington DC's 2004 minimum wage law was implemented in several steps. It then passed a new law in 2014, at about the same time as neighboring Montgomery and Prince George's Counties. Albuquerque and Bernalillo County (Albuquerque's surrounding county) recently passed new ordinances superseding their older existing laws.

Table 3 summarizes the total mandated percentage wage increases for each of the nine laws, calculated to encompass all of the phase-in steps (these percentages do not include subsequent indexing to cost-of-living increases). Total increases range from a low of 13.3 percent in Albuquerque (2012) and Bernalillo County (2013) to a high of 84.5 percent in Santa Fe (2003).¹

On average, the nine local minimum wage laws increased their wage floors by 41.4 percent. As Tables 1 and 2 show, many of those increases occurred in multiple steps, and seven out of nine indexed to inflation thereafter. In general, localities with larger increases were somewhat more likely to implement them in several steps. Across the localities, the average per-step minimum wage increase was 16.7 percent.

Coverage and exemptions

Table 4 summarizes the businesses that are covered/exempted under the nine local minimum wage laws. The laws are similar in covering the large majority of work that is performed within the boundaries of their cities or counties. The laws vary in the reach of coverage to outside businesses that perform work in the city or county and how that coverage is specified.

In addition, San Francisco delayed coverage of nonprofits and small businesses for one year. Santa Fe initially exempted small businesses from its 2003 law, but in 2007 amended the law to cover all establishments regardless of size (it continues to exempt nonprofits whose primary source of funding is from Medicaid waivers). Several of the localities exempt state and federal agencies to varying degrees.

¹ The first Santa Fe increase, 65 percent, was followed by a smaller increase two years later. The large initial increase may overstate the impact of the law on wages. A small share of covered workers had wages at or near the minimum wage at the time of the increase (Pollin and Wicks-Lim 2005).

Table 4 also summarizes coverage and exemptions for workers. Several laws explicitly state that undocumented workers and various types of contingent workers (e.g., part-time and temporary agency workers) are covered. Groups of workers that are exempted by some localities include employers' family members; workers exempt under state minimum wage law; interns working for academic credit; workers enrolled in apprenticeship programs; persons working fewer than two hours a week in the city or county; and various other groups of workers.

Treatment of other forms of compensation

Table 5 summarizes treatment of tipped workers under the nine laws. Two of the nine laws (San Francisco and San Jose) follow their state's law and treat tipped workers the same as non-tipped workers, maintaining a uniform minimum wage for both groups. The other seven laws follow their states' laws in maintaining a lower minimum wage for tipped workers (even as some increased the base wage for tipped workers above the state level). These laws allow the employer to count the workers' tips in meeting the full minimum wage requirement (often called a "tip credit"). If a worker's tips do not suffice to meet the full minimum wage requirement, the employer must make up the difference. Several of the local minimum wage laws also make provisions for commissioned workers, along similar lines.

Finally, Table 5 lists provisions in a number of the laws pertaining to other forms of compensation. For example, three localities (Albuquerque, Bernalillo County, and Santa Fe) allow employers to include some or all of their payment of health benefits and childcare in the calculation of wages paid. Data are not available on the extent to which employers have made use of these provisions. In general, low-wage workers are less likely than higher-wage workers to have health coverage through an employer.

We were not able to find any references in the laws to how profit-sharing compensation systems should be treated in calculating hourly wages.

3. How San Francisco enforces its minimum wage law

In this section, we summarize an in-depth study of San Francisco's enforcement of its minimum wage law. Our summary draws from a more complete analysis by Dietz, Levitt, and Love (2014).

A. The Office of Labor Standards Enforcement

San Francisco's Office of Labor Standards Enforcement (OLSE), originally created to enforce the city's prevailing wage laws, expanded its scope as San Francisco passed new labor standards. After the city's minimum wage was passed by ballot initiative in 2003, four of five positions previously assigned to enforce the city's living wage law were reassigned to enforce the new minimum wage law. As of February 2014, 7.5 contract compliance officers are assigned to minimum wage enforcement on behalf of approximately 611,000 people employed in the city of San Francisco. Each of these compliance officers share responsibility for enforcement of the city's paid sick leave law as well.

B. Strategies for minimum wage enforcement

OLSE investigates minimum wage cases by engaging in company-wide investigations. When a worker files a complaint, either directly with the office or through one of the community partners under contract with OLSE, an officer interviews the employee first. The officer arrives at the employer unannounced; he or she then interviews the employer and other employees, audits payroll records, and reviews other relevant documents to determine if the employer violated the labor rights of the original claimant or any other employee. If the officer finds a violation, he or she develops a case against the employer on behalf of *all* employees whose rights were violated and sends a letter of determination to the employer. If the employer disagrees with the OLSE findings or simply ignores the letter, the office must initiate a formal hearing process, which can take months to complete.² However, such a hearing process can result in hefty additional fines for the employer. As a result, in most cases OLSE reaches a settlement with the employer without resorting to the lengthy formal process.

This strategy contrasts with the common state and federal enforcement practice of acting as an arbiter rather than investigator. In many cases, these other enforcement agencies' main role is to engage in reconciliation (often a phone call to the employer) or set up an informal settlement conference between the employer and the individual employee. The San Francisco strategy of investigating all labor standards and on behalf of all workers can be more time consuming, but it has a better chance of recovering full back wages for the worker. This strategy focuses on fixing business practices in the long-run, rather than fixing one-off issues quickly.

Other strategies that OLSE considers important for its effectiveness include:

² Subsequent laws were written such that employers must take action within 15 days if they disagree with OLSE's determination by filing a request for a hearing; otherwise OLSE's determination is final.

- *Engaging in education and outreach to employers and workers.* Posters announce the new inflation-adjusted minimum wage on public transport at the beginning of every year, and all city businesses with employees are sent the required notices for posting. All OLSE staff spend time responding to questions from hotlines and emails, and setting up meetings to educate workers and employers. Multilingual outreach and announcements are especially important given the linguistic diversity in San Francisco.
- *Building trust with workers.* The same officer handles a case from start to finish, building trust and ensuring that workers are not lost in the process. The office collects back-up contact information from a friend or relative, and has successfully maintained contact with and provided back wages to workers who have moved, even when they move across international borders.
- *Working with other departments.* OLSE has worked with the city and district attorneys' offices to prosecute particularly egregious labor standards violators. OLSE also works with the city's Department of Health, which conducts investigations and administrative hearings related to restaurant health permits. The threat of revoking a health permit has helped OLSE enforce existing agreements for back pay and to resolve disputes with intransigent employers engaged in negotiations with the office.

C. Measures of effectiveness

From the beginning of 2004 to mid-2012, OLSE received 616 worker complaints related to the minimum wage and recovered \$5.8 million in back wages on behalf of 3,004 workers. In just 2011, OLSE opened 77 cases and collected \$638,171 in back wages. While the amount collected in that year was not necessarily for cases opened in that year, this measure still provides a useful metric to compare to other jurisdictions. Wages collected per case opened in 2011 were \$8,288, or \$2,041 per claimant. In comparison, Washington DC collected \$766 per claim, and California's Department of Labor Standards Enforcement (DLSE) collected \$995 per case opened. Two factors explain OLSE's high average amount collected: (a) OLSE investigates on behalf of all workers and often ends up including more than the original worker(s) who filed the claim, and (b) in all but a handful of cases OLSE successfully recovered all of the back wages owed. In other enforcement offices, the amount of wages *due* often differs significantly from the wages *collected*.

Penalties may be levied against employers found to be in violation of minimum wage laws. To reach settlements with employers the office never negotiates away back wages, but may forgo penalties or recovering the cost of investigations. As a result, actual penalties collected are

relatively low: about \$310,000 in penalties have been collected for minimum wage and paid sick leave violations since FY 2008-09.

D. Fiscal cost to San Francisco

In FY 2013-14, the budget for OLSE totaled \$3.7 million. This amount supports 19 positions and three professional services contracts, including one for web-based certified payroll reporting. However, the office is also tasked with enforcing a number of other labor standards beyond the minimum wage: for city contractors—prevailing wage, living wage and living health, sweat-free contracting, and the displaced worker protection act; for all employers—paid sick leave, a health spending requirement, and a family-friendly workplace ordinance. OLSE estimates that approximately \$979,000 supports the 7.5 positions devoted to minimum wage enforcement—about \$753,000 in salaries and benefits and \$226,000 in overhead, not including clerical support. In addition to this cost, \$462,125 goes to community organizations that provide education, outreach, and referrals to OLSE, largely focused on minimum wage violations.

4. The research literature on minimum wage effects

In the following two sections, we summarize the empirical evidence on the effects of minimum wage laws on workers, families, and businesses. Where possible, we highlight research on local minimum wage laws. However, since most of the existing local laws have been in place a short time, the data that are needed for rigorous research on the recent laws are not yet available. To date, rigorous economic impact studies exist only for San Francisco and Santa Fe (UC Berkeley researchers are currently studying the impact of San Jose's law). The San Francisco impact study (Dube, Naidu and Reich 2007, 2014) in particular stands out as well-designed and well-suited to informing the City of Seattle's Advisory Committee, given the many similarities between Seattle and San Francisco.

We also draw upon the much larger body of research on the impacts of state and federal minimum wage increases. Recent studies that compare adjacent counties from different states with different minimum wages are especially relevant. The findings from these studies speak directly to policymakers' concerns that businesses might relocate employment outside their city's borders in response to a local minimum wage law.

5. The effects of minimum wage laws on workers and families

The primary goal of raising the minimum wage is, of course, to raise the pay of low-wage

workers. A broad consensus in the economic research literature agrees that minimum wage laws raise pay for workers on the bottom rungs of the labor market (for an extensive review, see Belman and Wolfson 2014). Researchers also consistently find that the affected workers are largely adults and disproportionately women and people of color. In addition, new research on the effect of minimum wage increases shows important reductions in family poverty rates, especially among working families. Finally, we review what is known about reliance on public assistance programs by low-wage workers and their families.

This section focuses on summarizing what we have learned about the effects of minimum wage increases on workers and families.

A. Impact on low-wage workers' earnings

In assessing the impact of a minimum wage increase on low-wage workers' earnings, it is important to keep two facts in mind. First, many low-paid workers earn wages somewhere above the old minimum wage level but below the new level. Consequently, not all workers who are directly affected by an increase will receive the full amount of that increase. Second, researchers have also documented a "ripple effect" from minimum wage increases in which employers give raises to workers who are earning above, but near, the new minimum wage. (Wicks-Lim 2006). As a result, it is not completely straightforward to estimate either how many workers benefit from minimum wage increases or the policy's impact on their earnings.

Evidence from local minimum wage laws

Dube, Naidu and Reich (2007) assessed San Francisco's minimum wage law when it was first implemented in 2004, using a before-and-after survey of restaurant employers in San Francisco and in nearby parts of neighboring Alameda County. They found that the average wage of workers at surveyed restaurants rose from \$10.22 before to \$11.01 after the increase, with pay rising twice as much among fast-food restaurants compared to table-service restaurants. They also found evidence that the increase compressed the wage distribution among restaurant workers by raising the bottom of the distribution (not by hurting pay for higher-wage workers). Before the policy, 49.7 percent of restaurant workers earned less than \$8.50; afterward, only 5 percent did. The authors also tested whether compliance with minimum wage laws decreased after the law passed. They found no evidence of decreased compliance.

Jacobs and Reich (2014) recently conducted a longer-term assessment of San Francisco's minimum wage law. They estimate that 55,000 workers in the city receive higher pay because of the ordinance, amounting to a cumulative increase of \$1.2 billion in wages in the ten years

since the laws' inception. They also found additional evidence that the law had a significant impact on workers' earnings over time. As shown in Figure 1, the wages of San Francisco workers earning at the bottom of the distribution (the 10th percentile) jumped in 2004, when the law was implemented. This wage, when measured to take account of inflation, did not change even during the recession that began in December 2007 because the city's minimum wage standard is indexed to inflation. By contrast, the 10th percentile wage in the surrounding counties, without an indexed minimum wage, declined over that same time period.

Additional lessons can be gleaned from Santa Fe, the other city whose minimum wage law has been extensively studied. Pollin's (2004) detailed prospective study of the city's 2004 law estimated that 17,000 workers would be directly or indirectly affected and that the directly affected workers would see an average increase of \$2,647 in annual earnings. In a more recent prospective study, Reich (2012) estimated that San Jose's minimum wage increase from \$8 to \$10 would lead to higher pay for about 69,000 of the city's 388,000-person workforce (18.9 percent).

Schmitt and Rosnick (2011) studied the wage impacts of both the San Francisco and Santa Fe laws. These authors found that wages increased in a range of low-wage industries in both cities.³ In San Francisco, for example, the average wage of fast-food workers increased 9 to 11 percent by the third year of the ordinance, and as much as 12 percent in low-wage industries overall. Pay for fast-food workers in Santa Fe increased by similar amounts, together with wage increases of 2 to 9 percent in the retail industry and 5 to 15 percent for low-wage industries overall. (See also Reynis, Segal and Bleeker (2005) for similar findings.)

Finally, a broader literature has looked at state and federal minimum wage increases and estimated their impact on workers' earnings. In their comprehensive review of existing research, Belman and Wolfson (2014) estimate that changes in the minimum wage typically affect about 10 to 20 percent of the labor force (and sometimes as much as 30 percent), counting both direct and indirect effects. The average wage increase per impacted worker depends on the size of the minimum wage increase and what the average worker was earning beforehand. As a concrete example, Schmitt (2013) analyzed federal minimum wage increases from 1989 to 2009 and estimates that impacted workers' wages rose between 8.4 and 13.6 percent. Research consistently finds that the pay of both adults and teens is affected by minimum wage increases (Allegretto, Dube and Reich 2011; Giuliano 2013).

³ The authors also examined the impact of the 1993 minimum wage law in Washington DC, but found that the size of the increase was too small to raise wages in those industries (too few workers were affected). They conclude that the law therefore did not constitute a meaningful policy experiment.

We also note broad agreement among economists that raising the minimum wage reduces income inequality, by pushing up the wage floor relative to the median wage (Lee 1999; Autor, Manning and Smith 2010).

B. Demographics of affected workers

Evidence on who benefits from minimum wage increases comes mainly from prospective studies (conducted when a minimum wage law is first being considered). In these studies, researchers analyze government survey data and estimate the number and characteristics of workers likely to be affected, given wage thresholds being considered by law makers.

For example, drawing on results in Reich and Laitinen (2003), Lantsberg (2003) conducted a prospective study of San Francisco's first minimum wage increase in 2004 (from \$6.75 to \$8.50). He estimated that about 55,700 workers (14 percent of private sector workers) would benefit from the law, with 70 percent age 26 or older. Lantsberg also found differences by race and ethnicity. He estimated that while 9 percent of white workers would be affected, the corresponding figures were 18 percent of African American workers, 21 percent of Asian workers, and 22 percent of Hispanic workers. In his prospective study of Santa Fe's 2004 minimum wage law, Pollin (2004) similarly found that the increase would benefit mainly adult workers (many of them primary bread-winners) and especially workers of color.

More recently, the Council of Economic Advisers (2014) analyzed the likely effects of the Harkin/Miller bill to raise the current federal minimum wage from \$7.25 to \$10.10 by 2016. The CEA found that the proposal would raise wages for 28.2 million workers (19 million directly, the remainder indirectly), or 21.4 percent of the U.S. workforce. CEA estimates that the majority of affected workers are women (55 percent) and aged 20 or older (88 percent). The CEA also estimates that black and Hispanic workers will benefit more than white workers, and that 46 percent of affected families have incomes under \$35,000 a year.

In an earlier study, Bernstein and Schmitt (1998) examined the characteristics of workers and families that benefitted from the federal minimum wage increase in the mid-1990s (from \$4.25 to \$4.75 in 1996 to \$5.15 in 1997). The researchers found that the two-step increase raised the wages of 9.9 million workers, largely adults (71 percent) and disproportionately women and black and Hispanic workers. About half of the beneficiaries worked full time, and an additional third worked 20-34 hours a week. Moreover, the average affected worker contributed 54 percent of his or her household earnings. In aggregate, 58 percent of the benefits from the minimum wage increase were received by households in the bottom 40 percent of the family income distribution.

C. Effects on poverty and use of public assistance programs

Impact on poverty

Compared to the large volume of research on the employment effects of minimum wage laws, few studies have examined the impact on poverty. A recent paper by Arindrajit Dube shows important reductions in family poverty rates from minimum wage laws.

Specifically, Dube (2013) finds that higher minimum wages increase incomes at the bottom of the family income distribution, reduce the percent of individuals living below the poverty line, and, in particular, reduce extreme poverty (families with incomes less than one-half the poverty line). The reductions in poverty are somewhat larger for black and Latino individuals, for those with less education, and for children under 18.

Based on state-of-the-art econometric methods, Dube's estimates predict that the Harkin-Miller proposal (to raise the federal minimum wage from \$7.25 to \$10.10 an hour) would reduce the number of people living in poverty in the U.S. by 4.6 million. These Americans constitute about a fifth of the working poor. Other recent studies, using less sophisticated statistical methods, also show that raising the minimum wage reduces poverty. The Council of Economic Advisers (2014) predicts that the proposal would raise incomes for an estimated 12 million now in poverty, lifting 2 million of them out of poverty. The Congressional Budget Office (2014) estimates that the Harkin-Miller proposal would lift 900,000 people out of poverty.

Impact on use of public assistance programs

Until recently, economists have typically not assessed the impact of minimum wage increases on the use of public assistance programs by low-wage workers and their families.

Across several years in the 2000s, researchers in four states used a consistent methodology to estimate the portion of working poor families enrolled in public assistance programs. The research teams considered major programs such as Medicaid, EITC (Earned Income Tax Credit), Food Stamps, SCHIP (State Children's Health Insurance Program), TANF (Temporary Aid to Needy Families), and subsidized child care. Their findings were remarkably consistent across the four states:

- *New York*: In 2001-2004, an estimated 890,000 working families were enrolled in at least one public assistance program, accounting for 33 percent of all public benefits spending in the state, or \$5.2 billion annually (Bernhardt, Chaddha and McGrath 2008).
- *Illinois*: In 2001-2004, an estimated 475,000 working families were enrolled in at least one public assistance program, accounting for 37 percent of all public benefits spending in the state, or \$2.2 billion annually (Theodore and Doussard 2006).
- *Wisconsin*: In 2001-2004, an estimated 178,000 working families were enrolled in at least one public assistance program, accounting for 45 percent of all public benefits spending in the state, or \$837 million annually (Center on Wisconsin Strategy 2006).
- *California*: In 2002, an estimated 2 million working families were enrolled in at least one public assistance program, accounting for 48 percent of all public benefits spending in the state, or \$10.1 billion annually (Zabin, Dube and Jacobs 2004).

In all four states, low wages were the leading predictor of enrollment in public assistance programs by working families.

More recently, researchers using a similar methodology found that 60 percent of spending on food stamps and 47 percent of spending on TANF nationally is provided to members of working families. The researchers further found that more than half (52 percent) of families of fast-food workers are enrolled in one or more public programs, at an annual cost of nearly \$7 billion. Again, low wages were the main predictor of public program enrollment (Allegretto, Doussard, Graham-Squire, et al. 2013).

Does raising the minimum wage reduce reliance on means-tested public assistance programs? The answer may seem obvious, but West and Reich (2014) point out that the research question is more complex. If, for example, raising the minimum wage causes increased unemployment, more workers and families would have to rely on programs such as food stamps. The authors analyze state and federal minimum wage increases from 1990-2012 and find that, on average, a 10 percent increase in the minimum wage reduces food stamp program enrollment by between 2.4 and 3.2 percent, and reduces program expenditures by 1.9 percent.⁴ They predict that an increase of the federal minimum wage to \$10.10 would reduce enrollment in the food stamp

⁴ Several studies have examined the relationship between the minimum wage and the Earned Income Tax Credit, or EITC. Neumark and Wascher (2011) find that a higher minimum wage increases EITC benefits for families in deep poverty, while reducing EITC benefits for some subgroups. Lee and Saez (2012) argue that the minimum wage and EITC are complementary policies, not substitutes. The Congressional Budget Office (2014) argues that a minimum wage increase will not have a substantial effect on EITC spending, while Rothstein (2010) examines whether the positive effect of the EITC on female labor supply has lowered wages. While these studies are of interest, the EITC is quite different from programs such as food stamps. The EITC has a substantial phase-in period during which benefits increase and a long phase-out period, with eligibility ending completely at an annual income of about \$48,000 for a family of four—quite a bit above the reach of the minimum wage.

program by about 3.5 million people and reduce federal expenditures on food stamps by about \$4.2 billion per year.

More generally, since eligibility for programs such as SNAP and Medicaid are tied to the federal poverty level, Dube's (2013) finding that higher minimum wages reduce the poverty rate suggests that we might also expect reductions in enrollments in public assistance programs.

D. Effects on the economy

A common question is whether raising the minimum wage might act as an economic stimulus and engine of job growth, as low-wage workers spend their increased earnings in local communities. Unfortunately, the economic research literature has not addressed this question. Consequently it is not possible to make a confident assessment of these broader economic impacts of minimum wage laws.

A few studies have attempted such estimates with prospective studies. For example, Lantsberg (2003) estimated that the first minimum wage increase in San Francisco would result in \$45 million in additional spending by low-income families on food, clothing, and other items, likely in local neighborhood businesses. Similarly, Pollin (2004) estimated that Santa Fe's 2004 minimum wage increase would result in an additional \$15 million of spending, potentially boosting retail sales in local neighborhoods by 5 percent.

More recently, researchers at the Federal Reserve Bank of Chicago analyzed how a future federal minimum wage increase would affect aggregate household spending. The authors calculate that a \$1.75 increase in the federal minimum wage (from \$7.25 to \$9.00 an hour) would raise aggregate household spending by roughly \$48 billion in the short term, increasing GDP by 0.3 percent (Aaronson and French 2013). In a similar vein, the Economic Policy Institute recently estimated that the Harkin/Miller bill would result in an additional \$35 billion in wages paid to affected workers by 2016. This projected rise in consumer spending would provide a net increase in GDP of \$22.1 billion, creating roughly 85,000 new jobs (Cooper 2013).

These prospective estimates require a series of assumptions about the future behaviors of workers, owners, and consumers and their interactions that are difficult to validate. For local laws, the size of the locality and the proportion of workers who live and spend their income in the locality are also important. We do know that low-wage workers and their families are likely to spend a significant portion of their increased earnings from a minimum wage increase (Johnson, Parker and Soueles 2004).

6. The effects of minimum wage laws on businesses

The impact of the minimum wage on businesses—how many workers they hire, whom they hire, the prices they charge for their goods and services, their location decisions—is one of the most researched topics in economics, with hundreds of studies published over the decades. We do not attempt to summarize the full literature in this report; for recent reviews see Brown (1999), Neumark and Wascher (2006), Schmitt (2013), and Belman and Wolfson (2014).

Economists' understanding of minimum wage effects has undergone significant changes over the past 20 years. This shift began with the groundbreaking work of Card and Krueger (1994), who analyzed employment in fast-food restaurants near the New Jersey and Pennsylvania border after New Jersey increased its state minimum wage. Card and Krueger found no measurable negative impact on employment.

Since then, economists have increasingly recognized that raising the minimum wage does not automatically mean that employment will fall. Increased labor costs can be absorbed through a variety of other channels. For example, if turnover declines, employers save on recruiting and training costs at the same time that they reap the benefits of more experienced workers who are more productive. When a cost increase affects all firms in an industry, firms can also raise their prices rather than reduce the number of employees. They may also experience lower profits. Modern economics therefore regards the employment effect of a minimum wage increase as a question that is not decided by theory, but by empirical testing.

In what follows we summarize the research that in our opinion is best suited to assessing the effects of minimum wage increases on businesses; we also give an intuitive explanation of the nature of the disagreements in the research literature about those effects.

Before proceeding, it is important to mention that existing research has only studied moderate increases in the minimum wage, of the size discussed in previous sections. These studies can only be suggestive of what might occur when minimum wages are increased significantly beyond existing local, state, or federal mandates.

A. Impact on employment and hours

Evidence from local minimum wage laws

To our knowledge, there are three rigorous studies of the employment impacts of existing city minimum wage laws. Dube, Naidu and Reich (2007) studied the impact of San Francisco's

minimum wage law after it increased from \$6.75 to \$8.50 an hour in 2004, using a unique quasi-experimental research design. They surveyed a sample of restaurants before the wage increase, and then re-surveyed the same businesses nine to ten months after. The sample included restaurants from San Francisco as well as neighboring East Bay cities that were not covered by the policy, allowing the researchers to compare outcomes at restaurants affected by the minimum wage mandate with those that were not. The study also was able to compare outcomes at fast-food restaurants with outcomes at full-service restaurants.

After controlling for a variety of potential confounding factors, the authors found no statistically significant negative effects on either employment or the proportion of full-time jobs as a result of the San Francisco law. This finding holds for both full-service and fast-food restaurants (one might expect more sensitivity to a higher minimum wage in the latter). We show in Figure 2 the results from a follow-up study (Jacobs and Reich 2014). Restaurant employment in San Francisco rose slightly faster than in surrounding counties after the minimum wage increase, and again after San Francisco implemented two additional policies (paid sick leave and a health spending requirement).⁵

Potter (2006) studied the impact of Santa Fe's minimum wage law after it increased from \$5.15 to \$8.50 in 2004, a substantial increase of 65 percent (at that time, only businesses with 25 or more employees were covered). Potter also uses a quasi-experimental research design to compare changes in employment at Santa Fe businesses before and after the ordinance went into effect and to changes in employment in nearby Albuquerque over the same time period.⁶ Potter found no statistically significant negative impact of Santa Fe's minimum wage increase on Santa Fe employment, both at an absolute level and relative to Albuquerque. This finding held for the most affected industries of accommodation and food services, which had the highest proportion of minimum wage workers. Potter did find a decline in construction employment in both cities, with the decline stronger in Santa Fe; he ascribes this finding to differences in the timing of an overall slowing of the region's construction boom.⁷

Finally, Schmitt and Rosnick (2011) studied the impact of the above two laws, comparing employment trends in these cities before and after their minimum wage increases to control

⁵ Trends in overall employment in San Francisco closely matched those in the surrounding counties during the same time period, indicating that the differential trends in restaurant employment were not caused by differences in economic growth between the two areas. Restaurant closed in San Francisco at a 2.8 percent lower rate than in nearby areas not covered by the law. This difference, however, was not statistically significant.

⁶ Albuquerque did not have a city minimum wage law at that time.

⁷ In Santa Fe, net store closings were 1.1 percent higher in businesses covered by the law than among those that were not. This difference was not statistically significant.

groups of surrounding suburbs and nearby metropolitan areas.⁸ The authors found no discernible negative effects on employment, even three years after the respective ordinances were implemented. The authors focused on fast-food restaurants, food services, retail trade, and other low-wage industries.

Several additional studies of Santa Fe and San Francisco have been produced by the restaurant industry-backed Employment Policies Institute. In a study of Santa Fe, Yelowitz (2005a, 2005b) found an increase in the probability of unemployment for low-skilled workers and evidence of replacement of low-skilled adults by teens. In his study of San Francisco, Yelowitz (2012) found the opposite result: a decrease in teen work hours and no discernible effect on overall employment.

Unfortunately, both studies suffer from serious methodological problems that make the results unreliable.⁹ Since higher wages are likely to increase the labor supply, unemployment *rates* can increase even as the number of people who are employed also increases. Pollin and Wicks-Lim (2005) replicate Yelowitz's (2005a) study but look at employment, rather than unemployment. They find no negative impact on employment. Furthermore, even if the reported results for each of the studies held, total compensation for teens and low-skilled workers would still have increased. Any employment or hours reductions would be more than offset by the increase in hourly earnings (Pollin and Wicks-Lim 2005; National Employment Law Project 2012).

Evidence from state and federal minimum wage laws

If the findings of the small number of case studies discussed above are taken on their own, it would be difficult to draw broad conclusions about the impact of minimum wage laws. However, the results from studies of city and county minimum wage laws are corroborated by detailed research on state and federal minimum wage laws that provide a much larger sample of events to study.

⁸ The authors also examined the impact of the 1993 minimum wage law in Washington DC, but found that the size of the increase was too small to raise wages in those industries (too few workers were impacted). They conclude that the law therefore does not constitute a meaningful policy experiment.

⁹ Detailed critiques of the studies were made by Pollin and Wicks-Lim (2005) and the National Employment Law Project (2012). Among other issues, the data used in the San Francisco study starts one year after the law was implemented and fails to capture pre-trends or the first year of implementation. The study compares San Francisco to 20 other "superstar" cities. As with Neumark and Wascher (2008), the results may be biased by underlying regional differences that are unrelated to minimum wage policies. Coila, Dow and Dube (2014) solve this problem by comparing trends in earnings and employment between a similar group of central cities and their peripheral counties from 2002 to 2010. They find no evidence that increasing the minimum compensation standard led to a decrease in employment in San Francisco.

Two innovative studies conducted by researchers from UC Berkeley, University Massachusetts-Amherst, and UNC-Chapel Hill are especially relevant (Dube, Lester and Reich 2010, 2013; Allegretto, Dube, Reich and Zipperer 2013). This research team looked at every state and federal minimum wage increase in the U.S. between 1990 and 2011 and identified several hundred pairs of adjacent counties that were located on different sides of a state border with a minimum wage difference.

This research design compares the employment trends of the most affected groups – teens and restaurants – across adjacent counties that were exposed to different minimum wage levels. It is therefore an excellent test of whether businesses relocate employment outside county borders to avoid being subject to a higher minimum wage. Using this research design, Dube, Lester and Reich (2010, 2013) and Allegretto, Dube, Reich and Zipperer (2013) find no statistically significant effects of minimum wage increases on either employment or hours in restaurants and other low-wage industries, controlling for a range of regional and local differences that previous research did not include.

Allegretto (2013) uses the same dataset to examine the effects of the subminimum wage for tipped workers (which has remained at \$2.13 an hour at the federal level for more than two decades, but varies significantly across states). Focusing on restaurants, she finds no statistically significant evidence of negative employment effects in states with higher (or no) subminimum wages for tipped workers.

We highlight these studies because they combine state-of-the art econometric methods with the most detailed datasets available, allowing researchers to accurately control for differences in local economic conditions that could confound the analysis.

That said, the economics literature includes conflicting findings on the employment impacts of the minimum wage. Even if the employment impacts of minimum wage are zero, we would expect to find case studies clustered around that point, with some finding positive and others finding negative impacts (Schmitt 2013). However, most of the broader studies that find negative effects, as reviewed in Neumark and Wascher (2008), fail a fundamental necessary condition for identifying statistically unbiased estimates of minimum wage effects. The key issue is that their research design assumes that states that increase minimum wages are otherwise not different from those that do not increase minimum wages. Dube, Lester and Reich (2010) and Allegretto, Dube, Reich and Zipperer (2013) show that this assumption is incorrect. In the states that increased their minimum wages, employment among low-wage workers was already growing more slowly two years before the implementation of the minimum wage increases, compared to states that did not increase minimum wages. Existing

differences in regional employment trends that are unrelated to minimum wage policy can explain the differences in outcomes after the increases. As Allegretto, Dube, Reich and Zipperer (2013) document, local comparisons make sense because nearby areas are much more similar than areas that are farther away. And when minimum wage effects are estimated using local comparisons—such as across adjacent counties on a state border—the negative effect on employment disappears.¹⁰

Belman and Wolfson (2014) provide the most extensive summary of the minimum wage research since Card and Krueger. They conclude that the employment effects of the minimum wage in the United States are “both vanishingly small and not statistically significant in even the most generous test” (p. 168). A separate review of minimum wage research by Schmitt (2013) similarly finds “the minimum wage has little or no discernible effect on the employment prospects of low-wage workers.”

Impact on which workers are hired

In his review of minimum wage research, Schmitt (2013) considers several channels through which employers might adjust to increases in the minimum wage. One possible scenario is that employers will simply switch to hiring more skilled workers, thereby hurting the employment prospects of less educated workers and, in particular, black and Latino teens. Schmitt reviews several studies that have explicitly researched this question, some of which yield conflicting findings. Again, research design matters a lot here, and studies that thoroughly control for regional or local differences do not find evidence of labor substitution. For example, Allegretto, Dube and Reich (2011) examine the impact of the minimum wage on the employment of white, black, and Hispanic teens, covering the period from 1990 to 2009. After improving on previous research by controlling for regional differences, they find no statistically significant negative effects on employment or hours for teens, regardless of race or gender. In their contiguous counties dataset, Dube, Lester and Reich (2013) similarly find no evidence of such substitution by either age or gender.

¹⁰ A recent report by the Congressional Budget Office (2014) projects that a \$10.10 national minimum wage would raise wages for 16 million Americans, lift 900,000 out of poverty, and result in a reduction in jobs of 500,000. The report claims to synthesize recent research on teen employment, but it does so without making adjustments for research quality. The CBO’s estimated elasticity for adult employment is unsupported by the recent empirical research, including that of Neumark and Wascher (2008), which found no measurable employment impact for adults.

B. Impacts on firms' costs

The impact of minimum wages on the overall cost structure of a business varies significantly by industry. The impact of the minimum wage on a firm's operating costs will depend on the share of the workforce at or below the new minimum wage rate, their average wage before the increase, and the share of labor costs in total operating costs. Operating costs include not only labor, but also materials, rent, maintenance, supplies, taxes, utilities, and energy costs. An industry may have large numbers of low-wage workers, but if labor is a relatively small share of the total costs of the firm the wage increase will have a correspondingly small impact on the overall cost structure of the firm.

In a prospective study of the San Francisco minimum wage, Reich and Laitinen (2003) carried out a representative survey of establishments. They estimated that a 25.9 percent increase in the minimum wage from \$6.75 to \$8.50 would result in a 1.1 percent increase in the overall wage bill. When viewed from the perspective of operating costs, a 26 percent increase would result in 82.0 percent of establishments experiencing an increase in operating costs of less than 1 percent or more, and 95.2 percent experiencing an increase in operating costs of less than 5 percent. Breaking down results by industry, they estimated that 17.9 percent of restaurants would experience an increase in operating costs of 5 percent or more, as would 8.6 percent of retail establishments. For manufacturing, entertainment, hotel, and personal service firms, the estimated increase in operating costs was close to zero.

Pollin (2004) similarly estimated that the average increase in firms' costs relative to sales under Santa Fe's 2003 minimum wage ordinance would be 1 percent; the average cost increase for hotels relative to sales would be 3 percent.

Benner and Jayaraman (2012) analyzed the impact of a proposed increase in the federal minimum wage from \$7.25 to \$10.10 (a 39 percent increase, not accounting for inflation during the phase-in) on the food industry. They estimated a maximum increase in operating costs for the food service and drinking establishment industry of 2.25 percent over three years, and 1 percent in the retail food industry.

To put these results in context, consider the following hypothetical example of how a 10 percent increase in the minimum wage might affect costs in the restaurant industry. If one-third of restaurant workers were paid exactly the minimum wage or up to no more than 10 percent above the minimum wage (and if wages were evenly distributed), then these workers would receive a pay increase that would average half of the 10 percent increase in the statutory minimum. The increase in the wage bill would thus be one-third of 5 percent, or 1.67 percent.

Moreover, labor costs comprise about one-third of operating costs in the restaurant industry. A 10 percent increase in the minimum wage would therefore increase operating costs by one-third of 1.67 percent, or 0.56 percent. A larger minimum wage increase would imply a greater increase in costs. In the retail industry, the proportion of low-wage workers is lower than in restaurants; the proportion making exactly the minimum wage is also lower; and labor costs are only about 10 percent of operating costs (compared to about one-third in restaurants). So the effect on costs in the retail industry would be even smaller. The research results we summarized above are consistent with these hypothetical examples.

C. Impacts on prices

Since a higher minimum wage applies to all employers, a firm that serves the local market, like a restaurant, will be able to pass through a share of the higher costs without suffering a disadvantage relative to its competitors. Belman and Wolfson (2014) survey seven studies of price effects of the minimum wage, all of which found some impacts on prices in industries highly affected by the minimum wage, namely restaurants. Dube, Naidu and Reich (2007) found that restaurant prices in San Francisco rose 2.8 percent more than those in neighboring Alameda County, following the implementation of a 26 percent increase in the city's minimum wage law. Using a very small sample, Hirsch, Kaufman and Zelenska (2011) found that two-thirds of the cost increase for quick serve restaurants in Georgia and Alabama were offset by increases in price. Aaronson (2001) found that a 10 percent increase in the minimum wage results in a 0.7 percent increase in restaurant prices.

Price effects outside the restaurant industry are largely negligible. Benner and Jayaraman (2012) provide estimates of price impacts across industries for a \$10.10 federal minimum wage increase. They estimate that if the entire cost were passed through to prices, restaurant prices would increase 2.5 percent over three years, retail food 1 percent, warehouse and storage and accommodations 0.7 percent, and administrative and support services 0.9 percent. In most other industries, price increases could not be detected.

When these small price increases are considered in the context of who receives the wage increases, research shows a redistribution effect towards lower income families. Jacobs, Graham-Squire and Luce (2011) estimated the impact of a \$12 minimum wage for large retailers on employees and consumers. They found that if the entire cost were passed through to consumers, Wal-Mart would increase prices 1.1 percent. The increased costs would be shared by consumers across the income spectrum, with 28.1 percent borne by shoppers in lower income households. By contrast, they found that the increase in workers' earnings would

be large and concentrated, with 41.4 percent going to workers in families with incomes below 200 percent of the federal poverty line.

D. Impact on employee turnover

The relationship between low wages and high employee turnover is well documented (Cotton and Tuttle 1986). In 2011, 37 percent of food service workers and workers in hotels and accommodations voluntarily quit their jobs (Boushey and Glynn 2012). In an extensive study of minimum wage impacts on employment flows, Dube, Lester and Reich (2013) found that a 10 percent increase in the minimum wage results in a 2.1 percent reduction in turnover for restaurant workers and a 2.0 percent reduction in turnover for teens. Dube, Naidu and Reich (2007) found an increase in the average tenure of workers in limited-service restaurants of three and a half months.

Three studies analyzed the impact of living wage laws on employee turnover. A study of the Los Angeles Living Wage Ordinance (Fairris 2005) found a 35 percent reduction in turnover in firms that increased wages as a result of the law, with an average increase of 23 percent. Reich, Hall and Jacobs (2005) found an overall decrease in turnover at the San Francisco International Airport of 60 percent for firms that were highly impacted by mandated pay increases. Turnover of airport screeners fell by 80 percent following a 55 percent wage increase, from \$5.75 to \$10 per hour. Howes (2005) found a 17 percent decrease in turnover following a 13 percent wage increase for homecare workers in San Francisco. Putting the living wage studies together, Jacobs and Graham-Squire (2010) estimate that for every 1 percent increase in wages in low-wage service positions, turnover declines by an average of 1.45 percent. The impact may be smaller for broad minimum wage laws where all employers in a market increase their wages at the same time and the wage difference between firms remains the same (Manning 2011).

Employers incur significant costs from employee turnover. This includes both direct costs for recruitment, selection, and training of workers and the indirect costs associated with lost sales, poor customer relations, and lost productivity as new workers learn on the job. The cost of worker replacement varies based on compensation, firm size, and skill level of the job. Hinkin and Tracey (2000) conducted a detailed study of non-managerial staff at four hotels, two in Boston and two in Chicago. Taking into account both direct and indirect costs, they estimated replacement costs ranging from \$1,322 for room service wait staff and \$2,077 for a line cook to \$7,658 for an administrative assistant in sales and catering. A study of the cost of supermarket turnover by the Coca Cola Research Council estimated the replacement cost for an \$8 an hour non-union worker at \$4,199 (Blake 2000). Boushey and Glynn (2012) find that the median cost of replacement for jobs paying \$30,000 a year or less is 16.1 percent of an employee's annual

salary. A statistical analysis of California businesses by Dube, Freeman and Reich (2010) obtained similar results. Jacobs and Graham-Squire (2010) estimate that 18 percent of the costs of a wage increase for school cafeteria workers would be offset by lower turnover costs.

E. Impacts on firms' operations and productivity

A higher minimum wage may reduce costs through additional channels that improve firm performance. In a small case study of quick service restaurants in Georgia and Alabama, Hirsch, Kaufman and Zelenska (2011) suggest how firms adjust to higher wage mandates. These authors analyzed detailed payroll data and also surveyed managers and employees about human resource practices. The authors found no negative effect from the minimum wage increase on employment or hours worked. Managers reported they could offset 23 percent of the labor cost increase through operational efficiencies. Ninety percent of the employers reported they had or would increase performance standards, including requiring better attendance, requiring more proficient and faster performance of job duties, having workers take on additional tasks, and more quickly terminating workers who were not performing. Managers reported economizing on non-labor inputs, including water, electricity, and food wastage.

Reich, Hall and Jacobs (2005) surveyed employers and employees at the San Francisco International Airport following the implementation of higher mandated compensation standards. Employers reported improvements in overall work performance (35%), employee morale (47%), absenteeism (29%), reductions in grievances (45%), reductions in disciplinary issues (44%), improvements in equipment maintenance (29%), reductions in equipment damage (24%), and improvements in customer service (45%). Employees reported that more skills were required of them (50%), that they were working harder on the job (44%), that they were experiencing greater stress on the job (43%) and that the pace of work had increased (37%).

F. Impacts on retail businesses

The retail industry is the second most intensive user of minimum wage and near-minimum wage workers (after Accommodation and Food Services). A few studies have examined the effects of minimum wages on the retail sector. In her research on the retail industry, Zeynep Ton (2012) finds that highly successful retail chains "not only invest heavily in store employees but also have the lowest prices in their industries, solid financial performance and better customer service than their competitors." Using *County Business Patterns* data and their border-county pair research design, Dube, Lester and Reich (2010) found no negative effects of

minimum wages on retail employment. In a related study, Dube et al. (2006) compared the number of national retailers operating in San Francisco before and after the city minimum wage policy was implemented. They found that the number of top retailers grew, as did the number of stores. Overall retail employment did not decline in San Francisco or Santa Fe, nor did employment in individual retail sectors, such as grocery stores, general merchandise stores, or clothing and accessories.¹¹

G. Impacts on health benefits and pensions

If employers are required to increase their wages, they may compensate by reducing other benefits. For this reason, some of the local minimum wage laws count contributions towards health care towards meeting the minimum compensation requirement. Schmitt (2013) summarizes the empirical research, finding “small or no effects along these lines,” either on the receipt of health insurance, on provision of family health insurance, or whether or not the employer paid the full premium. Dube, Naidu and Reich (2007) did not detect any decrease in the provision of health benefits in restaurants in San Francisco.¹² Belman and Wolfson’s (2014) detailed survey of minimum wage research found that the evidence was “thin,” and that any effect on health insurance provision was concentrated in smaller firms. They find no impact on employer-provided pensions, which is not surprising given that this benefit is rare among low-wage workers. Since the provision of employment-based health benefits are closely correlated with wage, effects could be larger at higher minimum wage rates.

7. Conclusion

In 1994 David Card and Alan Krueger published a groundbreaking study that changed how many economists view the minimum wage. Card and Krueger (1994) looked at employment in fast-food restaurants across the New Jersey and Pennsylvania border after New Jersey increased its state minimum wage. They found no measurable negative impact on employment. As we reviewed above, a large body of research has since built upon their methodology. As a result, we have learned a great deal about how employers respond to increases in the minimum wage.

First, paying workers more can change their work performance. It can change their productivity, their attitude about their job, how hard they work, and their ability to make it to the job on time. Second, low-wage labor markets have high levels of job churning. Turnover levels are high as workers leave jobs looking for better wages or because they are unable to stay in their

¹¹ However, data were not available for comparisons to areas not covered by the minimum wage policy.

¹² Their surveys were carried out sufficiently prior to San Francisco’s proposal to establish an employer minimum health spending requirement to avoid any contamination of the results.

jobs due to poverty-related problems such as difficulties with transportation, child care, or health. As a result, rather than eliminating jobs, raising the minimum wages can reduce turnover and increase job stability. Third, firms can absorb higher labor costs through other means as well. They can pass on some of the increased costs to consumers through higher prices or earn lower profits. In short, firms use a combination of strategies to adjust to higher minimum wages without cutting jobs or hours (Schmitt 2013).

Nonetheless, it is important to emphasize again that the existing research literature is necessarily limited to the range of minimum wage increases that have been actually been implemented. While these studies are suggestive, they cannot tell us what might occur when minimum wages are increased significantly beyond existing local, state, or federal mandates.

Finally, raising the minimum wage is not a cure-all, especially in the face of larger forces generating inequality that require national attention. Still, our assessment of the research evidence is that these policies have worked well. They raise the incomes of low-wage workers and their families. The costs to businesses are absorbed largely by reduced turnover costs and by small price increases among restaurants. Additional benefits, such as reduced spending on public assistance programs and the local stimulus of additional spending by low-income families, might also occur. But we do not yet have enough definitive research on these effects.

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Figure 1. Inflation-Adjusted Hourly Wages for the 10th Decile of Bay Area Workers

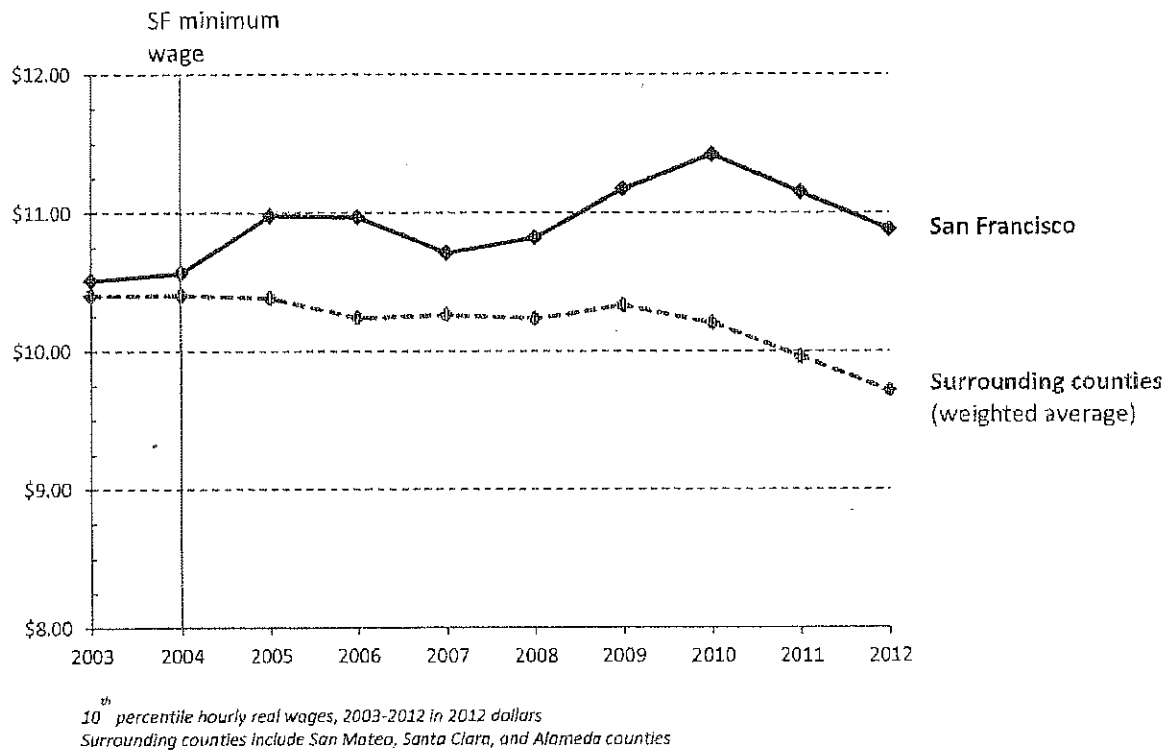


Figure 2. Bay Area Restaurant Employment

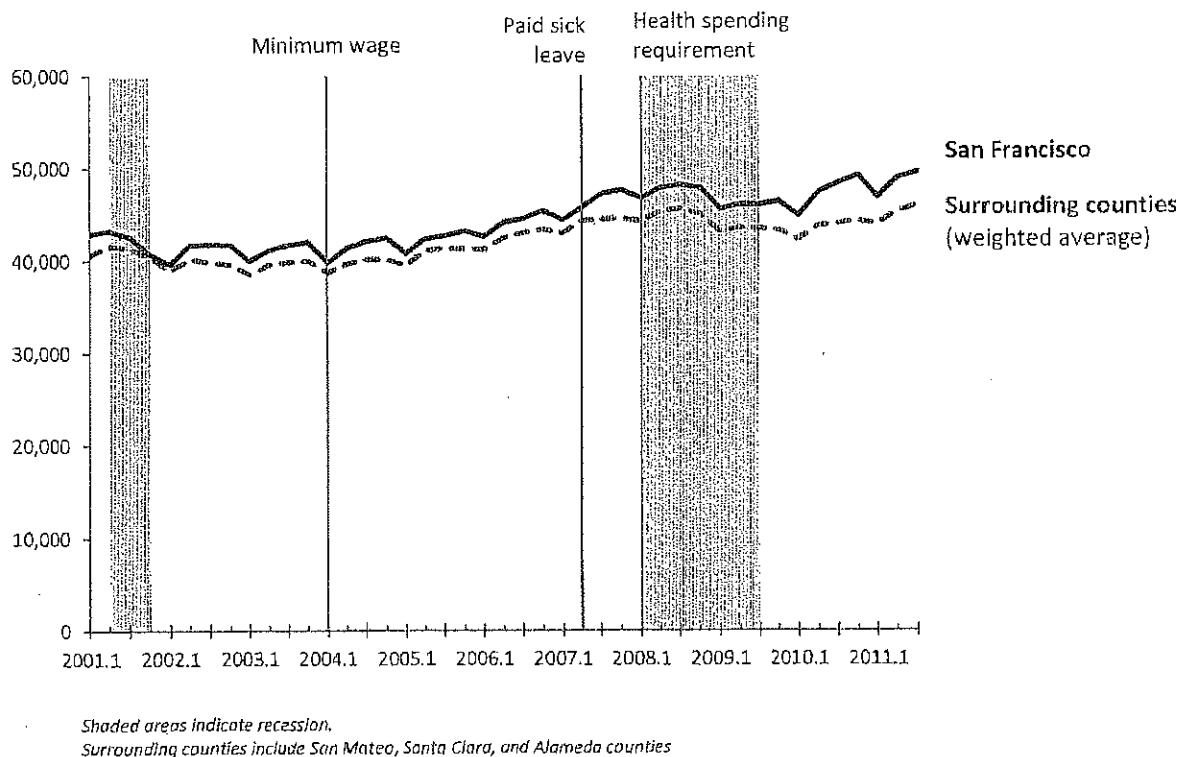


Table 1. Current Local Minimum Wage Laws

	Date Passed	How Enacted	Date First Implemented	Geographic Scope	Current Value	Remaining phase-in	Indexed?	To What (Specific CPI)
Albuquerque, NM	11/6/2012 (superseded previous law from 2006)	ballot	1/1/2013	city	\$8.60	n/a	yes	CPI for Urban Wage Earners and Clerical Workers, U.S. City Average for All Items
Bernalillo County, NM	4/23/2013 (superseded previous law from 2006)	legislative	7/1/2013	unincorporated areas outside city limits	\$8.50	n/a	yes	Consumer Price Index
Montgomery County, MD	11/26/2013	legislative	10/1/2014	county	\$8.40 (in Oct 2014)	\$11.50 (in Oct 2017)	no	n/a
Prince George's County, MD	12/17/2013	legislative	10/1/2014	county	\$8.40 (in Oct 2014)	\$11.50 (in 2017)	no	n/a
San Francisco, CA	11/4/2003	ballot	1/1/2004	city	\$10.74	n/a	yes	CPI for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose, CA Metropolitan Statistical Area
San Jose, CA	11/6/2012	ballot	3/11/2013	city	\$10.15	n/a	yes	CPI for Urban Wage Earners and Clerical Workers, U.S. City Average for All Items
Santa Fe, NM	2/27/2003	legislative	6/25/2004	city	\$10.66	n/a	yes	CPI for the Western Region for Urban Wage Earners and Clerical Workers
Santa Fe County, NM	2/25/2014	legislative	4/26/2014	unincorporated areas outside city limits	\$10.66 (in April 2014)	n/a	yes	CPI for the Western Region for Urban Wage Earners and Clerical Workers
Washington D.C.	1/15/2014 (superseded previous law from 2004)	legislative	7/1/2014	city	\$9.50 (in July 2014)	\$11.50 (in July 2016)	yes	Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area

Table 2. Detailed Wage Increases in Local Minimum Wage Laws

Locality (date of enactment)	Pre-ordinance min wage	1st min wage	1st min wage DATE	% increase	2nd min wage	2nd min wage DATE	% increase	3rd min wage	3rd min wage DATE	% increase	4th min wage	4th min wage DATE	% increase
Albuquerque (2006)	\$5.15	\$6.75	1/1/07	31.1	\$7.15	1/1/08	5.9	\$7.50	1/1/09	4.9			
Albuquerque (2012)	\$7.50	\$8.50	1/1/13	13.3 *									
Bernalillo County (2006)	\$5.15	\$6.75	1/07	31.1	\$7.15	1/1/08	5.9	\$7.50	1/1/09	4.9			
Bernalillo County (2013)	\$7.50	\$8.00	7/1/13	6.7	\$8.50	1/1/14	6.3 *						
Montgomery County (2013)	\$7.25	\$8.40	10/1/14	15.9	\$9.55	10/1/15	13.7	\$10.75	10/1/16	12.6	\$11.50	10/1/17	7.0
Prince George's County (2013)	\$7.25	\$8.40	10/1/14	15.9	\$9.55	10/1/15	13.7	\$10.75	10/1/16	12.6	\$11.50	10/1/17	7.0
San Francisco (2003)	\$6.75	\$8.50	2/24/04	25.9 *									
San Francisco (2003) <i>nonprofits and small businesses</i> <i>(Implementation delayed until 2005)</i>	\$6.75	\$7.75	1/1/05	14.8	\$8.82	1/1/06	13.8 *						
San Jose (2012)	\$8.00	\$10.00	3/11/13	25.0 *									
Santa Fe (2003) <i>large businesses only</i>	\$5.15	\$8.50	6/25/04	65.0	\$9.50	1/1/06	11.8 *						
Santa Fe (2003) <i>small businesses</i> <i>(not covered until 2008)</i>	\$5.85	\$9.50	1/1/08	62.4 *									
Santa Fe County (2014)	\$7.50	\$10.66	4/27/14	42.1 *									
Washington D.C. (2004)	\$6.15	\$6.60	4/8/05	7.3	\$7.00	1/1/06	6.1	\$7.55	7/24/08	7.9 **	\$8.25	7/24/09	9.3 **
Washington D.C. (2014)	\$8.25	\$9.50	7/1/14	15.2	\$10.50	7/1/15	10.5	\$11.50	7/1/2016	9.5 *			

* Indexed to CPI thereafter

** Minimum wage level tied to increase in the federal minimum wage

Table 3. Total Mandated Wage Increases in Local Minimum Wage Laws

Locality (date of enactment)	Total percentage increase	Phase-in
Albuquerque (2006)	45.6	yes
Albuquerque (2012)	13.3	no
Bernalillo County (2006)	45.6	yes
Bernalillo County (2013)	13.3	yes
Montgomery County (2013)	48.3	yes
Prince George's County (2013)	58.6	yes
San Francisco (2003) <i>Initial increase delayed implementation for nonprofits and small businesses</i>	25.9	no
<i>Nonprofits and small businesses phased-in in 2005</i>	30.7	yes
San Jose (2012)	25.0	no
Santa Fe (2003) <i>Only large businesses were covered until 2008</i>	84.5	yes
<i>Small businesses were covered in 2008</i>	62.4	no
Santa Fe County (2014)	42.1	no
Washington D.C. (2004)	34.1	yes
Washington D.C. (2014)	39.4	yes
<i>Average, total ordinance increase</i>	41.4	
<i>Average, per-step increase</i>	16.7	

Table 4. Coverage and Exemptions of Local Minimum Wage Laws Specified in Ordinances

	Business Coverage	Business Exemptions	Worker Coverage	Worker Exemptions
Albuquerque	- any employer required to have a business license or business registration from the city of Albuquerque and who directly or indirectly employs or exercises control over the wages, hours or working conditions of any employee - specifically includes the city of Albuquerque		includes part-time, seasonal, and temporary workers	- persons working fewer than 2 hours a week in the city - those excluded from the definition of employee under [section of NM statutes dealing with agricultural workers] in the NM Minimum Wage Act (except those employed by the City of Albuquerque) - interns working for academic credit or work-study students - those who received certificate from state labor commissioner pursuant to [statute dealing with workers with disabilities]
Bernalillo County	- any person required to have a business registration from Bernalillo County and who directly or indirectly employs or exercises control over the wages, hours or working conditions of any employee - specifically includes the county as an employer		includes part-time, seasonal, and temporary workers	- persons working fewer than 2 hours a week within the unincorporated limits of the county - those excluded from the definition of employee under [section of NM statutes dealing with agricultural workers] in the NM Minimum Wage Act (except those employed by the county of Bernalillo) - interns working for academic credit or work-study students - those who received certificate from state labor commissioner pursuant to [statute dealing with workers with disabilities] - those employed by parent, spouse, or sibling - those performing babysitting services in the employer's home on a casual basis - any employee under the age of 16
Montgomery County	- businesses that employ two or more persons in the county - includes Montgomery County government	excludes US government, state government, or any other local government	those who perform work in the county	- those exempt from state or federal minimum wage - those under age 19 and employed no more than 20 hours per week - those subject to an opportunity wage under state or federal act
Prince George's County	- any employer in Prince George's County - includes governmental units "employer" includes a person who acts directly or indirectly in the interest of another employer with an employee			- those exempt from state or federal minimum wage - those under age 19 and employed no more than 20 hours per week

	Business Coverage	Business Exemptions	Worker Coverage	Worker Exemptions
San Francisco	work performed in the city of San Francisco	nonprofit and small businesses (<10 employees) exempt in year one only; phased in year 2; year 3 same as other businesses	- work performed in the city of San Francisco - undocumented workers - those covered by collective bargaining agreement, but this can be waived	- parents, spouses, children of employers - those not eligible for state minimum wage - those who work fewer than 2 hours a week in the city
San Jose	- any business with a facility in San Jose or that is required to pay the San Jose business tax must pay minimum wage for work performed in the city of San Jose - state and federal agencies including school districts when the work performed is not related to their governmental function	- employers who neither have a facility within San Jose nor are subject to the San Jose business tax - state and federal agencies including school districts, when the work performed is related to their government function	- work performed in the city of San Jose - undocumented workers - those covered by collective bargaining agreement, but this can be waived	- parents, spouses, children, domestic partners of employers - those not eligible for state minimum wage - those who work fewer than 2 hours a week in the city
Santa Fe	- the city of Santa Fe (for its full-time permanent workers, but this may be superseded by union contracts) - contractors, including construction service but excluding purchase of goods, for work with the city $\geq$ \$30,000 (for both direct employees and subcontractors) - businesses receiving economic development assistance $>$\$25,000, for the duration of the assistance - businesses required to have a business license or business registration from the city of Santa Fe	- businesses with <25 employees exempted until 2008 - nonprofits whose primary source of funds is from Medicaid waivers	specifically includes contingent or contracted workers, or those working through temporary service agencies	- persons related by blood or marriage to their employer - interns working for academic credit at an accredited school - persons working in connection with a court-ordered community service program - workers in an apprenticeship program in a 501c(3) organization

	Business Coverage	Business Exemptions	Worker Coverage	Worker Exemptions
Santa Fe County	- businesses required by Santa Fe County Ordinance to have a business license - Santa Fe County government (though this may be superseded by union contracts) - businesses with contracts with Santa Fe County government for services including construction services - businesses that undertake an economic development project and execute a project participation agreement with Santa Fe County, for the duration of the project	the United States, the state or any political subdivision of the state other than Santa Fe County	- all part-time, full-time and temporary workers at covered businesses - specifically includes contingent or contracted workers, or those working through temporary service agencies	- an individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not exist or where the services rendered are on a voluntary basis - apprentices in a state- or federally-registered apprentice program; G.I. bill trainees during training; "significant" apprenticeships offered by 501C(3)s - temporary employees of an educational, charitable or religious youth camp or retreat where room and board is provided to the employee, or if a day camp, where board only is provided; employer needs state certificate - Parent, spouse, child or other member of the employer's immediate family; the employer shall include the principal stockholder of a family corporation - Interns working for academic credit at an accredited school, college or university - Persons working in connection with a court-ordered community service program
Washington D.C.	any employer in the District of Columbia	- federal government - District of Columbia government	Covers: - Those who spend more than 50% of working time in DC OR - Those whose employment is based in D.C. and who spend substantial amount of working time in DC and not more than 50% of working time in any particular state	- volunteers in educational, charitable, religious, or nonprofit organization - lay member elected or appointed to office of religious organization - casual babysitter, in or about the residence of the employer "handicapped" worker with certificate from US DOL - bona fide executive, administrative or professional, or outside salesman - newspaper deliverers

Table 5. Treatment of Other Forms of Compensation by Local Minimum Wage Laws Specified in Ordinances

	Tipped Workers	Commissioned Workers	Other
Albuquerque	- tipped wage: \$5.16; must be at least 60% of minimum wage (higher than state tipped minimum wage) - employer must make up the difference if wages and tips don't add up to the minimum wage (ordinance is specific about how this will be determined) - tipped worker definition: customarily and regularly receives tips from customers	- Unclear - In earlier ordinance, it had been the same policy as for tipped workers - In 2013 ordinance, the word "tipped" was added as follows, leaving ambiguity as to whether commissioned workers had alternative minimum wage: "tips or commissions received and retained by a <i>tipped</i> employee may be counted as wages and credited toward partial satisfaction of the minimum wage" [emphasis added] - if applicable, it is the same as tipped wage: \$5.16; must be at least 60% of minimum wage	If employer provides childcare or healthcare benefits in excess of annualized rate of \$2,500, the minimum wage is \$1.00 per hour less.
Bernalillo County	- tipped wage: \$2.13 (federal minimum) - employer must make up the difference if wages and tips don't add up to the minimum wage - tipped worker definition: customarily and regularly receives tips from customers		If employer provides childcare or healthcare benefits in excess of annualized rate of \$2,500, the minimum wage is \$1.00 per hour less.
Montgomery County	- tipped wage: \$3.63 (same as state); must be at least half of the state minimum wage - employer must make up the difference if wages and tips don't add up to the minimum wage - tipped worker definition: customarily and regularly receives more than \$30 a month in tips		
Prince George's County	- policy is the same as state tipped minimum wage - tipped wage: \$3.63 (same as state) - definition of tipped worker: receives \$30 a month in tips (per state policy: not specified in ordinance)		
San Francisco	no tip credit	- commissions are considered to be part of wages - employer must make up difference if minimum wage not met during pay period. "Whether the employer may thereafter recover any amounts based on commissions that the employee earns in a later pay period, or which are paid at a later date, depends on whether the employer and employee have an enforceable written agreement"	- employers are allowed to offset a portion of the minimum wage for housing and meal costs "non-discretionary performance bonuses" included in definition of wages - Welfare-to-Work participants' cash benefits divided by hours worked must be at least minimum wage; if policy does not allow for participants' hours to be reduced to meet the minimum wage requirement, their cash benefits must be increased

	Tipped Workers	Commissioned Workers	Other
San Jose	no tip credit	- commissions are considered to be part of wages - employer must make up difference if minimum wage not met during pay period. "Whether the employer may thereafter recover any amounts based on commissions that the employee earns in a later pay period, or which are paid at a later date, depends on whether the employer and employee have an enforceable written agreement"	- employers are allowed to offset a portion of the minimum wage for housing and meal costs "non-discretionary performance bonuses" included in definition of wages - Welfare-to-Work participants' cash benefits divided by hours worked must be at least minimum wage.
Santa Fe	- tipped wage: \$2.13 (federal minimum) - tipped worker definition: customarily receive more than \$100 per month in tips	- commissioned worker wage: \$2.13 (tipped federal minimum) - commissioned worker definition: customarily receive more than \$100 per month in commissions	health benefits and childcare are considered to be elements of wages
Santa Fe County	- tipped wage: \$6.40; must be at least 60% of minimum wage (higher than state tipped minimum wage) - employer must make up the difference if wages and tips don't add up to the minimum wage - tipped worker definition: customarily and regularly receive more than \$30 a month in tips	- commissioned worker wage: \$6.40; must be at least 60% of minimum wage - employer must make up the difference if wages and commissions don't add up to the minimum wage - commissioned worker definition: customarily and regularly receive more than \$30 a month in commissions	
Washington D.C.	- tipped wage: \$2.77 - employer must make up the difference if wages and tips don't add up to the minimum wage - the ordinance created a detailed process to validate earnings of tipped workers	- Minimum wage ordinance is not violated if the employee works for a retail or service establishment and: 1) the regular rate of pay is in excess of 1.5 times the minimum hourly rate AND 2) more than 1/2 of the employee's compensation for a representative period (not less than 1 month) represents commission on goods or services	

Portland Public Schools October 31, 2013

School Name	Sch. ID #	Enrollment	Free	Reduced	Total	Percent Free &
						Reduced
Deering High	1357	932	468	35	503	53.97%
Casco Bay High	1904	336	136	5	141	41.96%
Portland High	1356	878	422	34	456	51.94%
King Middle	1353	536	269	21	290	54.10%
Lincoln Middle	1354	481	224	21	245	50.94%
Moore Middle	1355	501	244	33	277	55.29%
East End Elementary	1939	428	317	11	328	76.64%
East End PreK = 17						
Hall Elementary	1347	449	179	13	192	42.76%
Longfellow Elementary	1348	369	88	9	97	26.29%
Longfellow PreK = 18						
Lyseth Elementary	1351	519	167	20	187	36.03%
Ocean Ave Elementary	2626	438	202	9	211	48.17%
Peaks Island Elementary	1349	52	5	6	11	21.15%
Presumpscot Elementary	1350	282	201	14	215	76.24%
Reiche Elementary	1358	364	263	8	271	74.45%
Riverton Elementary	1359	457	325	13	338	73.96%
Riverton PreK = 35						
TOTALS		7022	3510	252	3762	53.57%
Cliff Island Elementary	1345	4				

11/8/2013

* Enrollment figures taken on 10/31/13

Intended for internal use only for Portland Public Schools Food Service Program.

Per the State West Students are accounted for in their sending schools as West is a program not a school.

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Business and Finance > Economy > U.S. Economy and the Federal Budget

Share

Cost of Living Index for Selected U.S. Cities¹

The following table shows the cost of living in U.S. cities according to percent of income spent on goods, including groceries, housing, utilities, transportation, health care, and more.

Urban Area	100% Composite Index	13 % Grocery Items	29 % Housing	10% Utilities	12 % Transportation	4% Health Care	32 % Miscellaneous Goods and Services
Anniston-Calhoun, County, AL	91.2	101.2	74.8	111.2	88.8	89.3	96.6
Akron OH	100.2	105.1	99.7	107.9	107.1	86.8	96.0
Albany, GA	90.1	108.7	74.8	82.0	98.6	89.8	96.8
Albany, NY	108.1	105.0	112.5	101.0	102.8	111.7	108.6
Alexandria, LA	85.1	96.0	92.7	89.9	97.2	92.9	98.2
Amarillo, TX	89.5	89.9	89.4	80.4	92.1	95.2	90.8
Americus, GA	88.3	105.5	71.0	88.2	99.8	103.7	91.3
Ames, IA	96.8	93.7	104.8	82.3	101.8	98.4	93.7
Anchorage, AK	128.4	134.5	142.9	94.1	122.0	135.7	124.8
Anderson, SC	91.8	103.4	77.0	101.8	92.3	99.7	95.9
Appleton, WI	93.3	93.0	81.8	102.3	104.4	104.7	96.0
Ardmore, OK	87.3	92.9	77.3	84.8	101.3	93.7	89.8
Arlington, TX	99.3	94.4	89.4	109.9	98.3	105.4	108.4
Asheville, NC	101.1	104.6	97.8	113.1	94.2	104.7	100.6
Ashland, OH	88.5	100.7	72.1	92.1	98.2	88.8	94.2
Atlanta, GA	95.6	96.2	90.7	86.3	99.3	103.3	100.3
Auburn-Opelika, AL	98.9	104.6	90.2	101.3	92.9	88.4	106.5
Augusta-Aiken, GA- SC	93.2	106.0	79.4	92.1	93.9	101.4	99.4
Austin, TX	95.5	89.3	85.1	110.7	100.2	100.3	100.4
Bakersfield, CA	103.4	107.6	98.4	104.3	111.3	107.2	103.1
Baltimore, MD	119.4	110.8	155.4	112.5	105.3	97.9	100.0
Baton Rouge, LA	96.1	100.4	102.2	78.2	90.4	97.7	95.8
Beaufort, SC	105.2	106.9	103.5	114.3	99.6	95.7	106.0
Beaumont, TX	95.7	87.1	95.0	92.5	100.4	98.7	98.1
Bellingham, WA	113.0	114.9	135.9	83.8	113.2	115.3	100.8
Bergen-Passaic, NJ	131.3	112.1	174.0	128.9	102.4	106.3	113.8
Bethesda- Gaithersburg- Frederick, MD	130.5	108.5	184.2	120.6	110.1	104.0	104.4
Binghamton, NY	98.4	92.4	92.8	112.8	104.4	114.3	97.7
Birmingham, AL	90.8	93.5	73.2	105.7	93.5	87.9	100.3
Bismarck-Mandan, ND	85.3	105.9	91.5	70.1	102.6	100.5	99.4
Blacksburg, VA	95.0	91.5	94.9	102.3	91.1	97.5	95.1
Boise, ID	97.2	98.5	84.0	98.5	108.0	106.6	103.3
Boston, MA	132.5	116.7	152.7	138.5	104.5	123.5	128.6
Bowling, Green, KY	90.7	93.3	78.2	104.3	96.7	95.8	84.0
Bozeman, MT	102.0	107.3	101.8	89.1	101.6	102.4	104.0
Bradenton, FL	95.8	106.6	90.2	80.4	101.3	98.8	96.1
Brazoria, County, TX	89.3	87.9	75.8	100.8	96.0	95.6	85.6

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Brownsville, TX	85.8	88.6	71.0	93.1	95.0	96.5	91.4
Buffalo, NY	95.8	91.8	97.4	115.6	104.8	92.0	87.6
Burlington, IA	97.0	93.8	94.6	108.6	98.6	89.9	97.1
Burlington, NC	94.6	98.6	86.0	82.3	97.5	102.5	102.5
Burlington-Chittenden, Co, VT	120.5	112.9	138.7	122.2	102.5	104.6	114.2
Camden, SC	97.4	103.4	87.8	107.5	86.0	93.1	104.3
Cape, Coral-Fort, Myers, FL	95.6	107.9	87.5	83.7	103.0	98.7	98.9
Carlsbad, NM	95.4	102.6	86.6	89.3	95.3	96.0	98.9
Cedar, City, UT	88.7	102.5	73.9	83.7	97.8	85.5	95.5
Cedar, Rapids, IA	92.0	94.8	79.1	101.6	97.1	94.4	97.5
Champaign-Urbana, IL	96.9	98.5	90.8	97.1	98.2	100.5	100.7
Chapel, Hill, NC	113.0	100.9	127.0	85.7	122.8	105.8	112.1
Charleston, WV	92.7	88.8	89.3	96.7	102.9	93.9	92.9
Charleston-N, Charleston, SC	98.3	105.7	92.6	96.6	93.9	104.4	101.5
Charlotte, NC	93.2	97.1	79.5	91.2	95.7	110.3	101.4
Charlottesville, VA	107.0	101.2	122.6	100.8	90.6	94.5	104.0
Chattanooga, TN	91.1	97.4	84.0	82.5	96.4	93.3	95.7
Cheyenne, WY	100.5	101.7	107.9	98.3	95.0	98.3	98.5
Chicago, IL	116.9	111.2	134.8	117.3	116.5	108.5	104.4
Cincinnati, OH	93.8	96.4	81.9	103.8	98.0	95.8	98.7
Clarksburg, WV	95.0	95.2	93.1	92.2	103.8	89.5	95.5
Clarksville, TN	93.0	87.9	86.0	86.5	93.9	98.7	102.3
Cleveland, OH	101.0	108.1	93.3	109.0	101.4	104.3	102.1
Cleveland, TN	93.4	101.6	87.7	103.4	91.9	91.3	92.9
Colorado, Springs, CO	92.8	95.4	92.0	86.8	96.2	102.3	92.1
Columbia, MO	91.8	92.6	81.4	90.4	96.3	96.4	99.1
Columbia, SC	100.4	105.2	82.3	109.0	102.0	106.2	110.6
Columbus, OH	92.0	91.6	86.2	100.2	99.1	107.7	90.6
Conroe, TX	91.4	89.4	80.1	96.1	93.8	95.0	99.7
Conway, AR	86.6	97.9	78.8	92.0	96.6	89.8	84.0
Cookeville, TN	85.7	86.7	71.4	82.9	87.5	87.1	98.2
Corpus, Christi, TX	90.8	82.4	79.5	113.5	93.3	92.8	96.0
Covington, KY	87.8	86.0	76.8	100.2	99.9	90.6	90.3
Dallas, TX	91.9	96.2	70.7	105.5	100.9	103.8	100.4
Danville, IL	91.1	94.6	74.2	116.4	109.3	95.8	90.7
Dare, County, NC	107.3	111.7	116.7	92.9	110.2	111.7	100.4
Davenport-Moline-Rock, Is, IA-IL	96.8	98.7	98.7	81.4	104.3	97.9	96.8
Dayton, OH	91.4	89.2	74.5	106.1	103.1	93.2	99.0
Decatur, IL	91.4	89.1	88.2	92.2	96.7	91.9	93.3
Decatur-Hartselle, AL	89.2	98.5	74.2	90.6	96.7	85.5	96.6
Denver, CO	103.2	101.0	107.5	101.9	95.4	105.9	102.7
Des, Moines, IA	80.9	90.9	89.6	90.2	95.9	90.8	90.9
Detroit, MI	89.4	92.7	95.2	129.5	101.3	94.2	96.6
Dodge, City, KS	89.3	90.0	77.6	85.5	95.6	89.9	96.5
Dothan, AL	89.8	100.3	80.1	79.7	91.8	81.7	97.9
Douglas, GA	88.6	104.1	88.5	97.9	89.3	81.3	96.6
Dover, DE	99.7	110.4	90.9	108.8	97.5	103.0	100.7
Dubuque, IA	95.9	98.1	86.5	105.2	99.5	96.5	99.5

Durham, NC	96.6	97.9	86.8	95.3	105.5	108.5	100.6
Dutchess County, NY	120.4	109.8	141.3	118.8	109.3	110.4	111.1
Dyersburg, TN	88.6	93.4	73.8	95.2	92.9	86.3	96.7
Eau Claire, WI	93.7	97.6	90.5	84.8	103.1	105.5	93.5
Edmond, OK	91.6	88.7	82.8	90.2	97.7	94.3	98.9
El Paso, TX	90.4	99.9	86.0	88.1	97.0	95.4	88.5
Elkhart-Goshen, IN	94.0	91.4	92.7	84.5	99.7	92.6	97.5
Enid, OK	93.6	103.5	77.4	96.1	99.5	99.5	100.7
Erie, PA	92.1	96.4	91.1	96.0	98.4	91.2	88.4
Eugene, OR	109.8	93.8	132.3	85.3	110.0	118.2	102.9
Evansville, IN	96.2	97.9	86.3	120.0	97.1	97.4	96.4
Everett, WA	111.3	112.0	128.1	85.4	110.4	129.1	102.1
Fairbanks, AK	137.4	127.9	148.5	193.1	118.7	144.9	118.8
Fargo-Moorhead, ND-MN	92.7	99.8	87.4	78.7	95.8	102.4	96.6
Farmington, NM	97.0	101.8	97.1	87.1	96.4	98.6	98.2
Fayetteville, AR	92.1	95.3	77.3	99.8	95.2	92.7	100.6
Fayetteville, NC	95.2	105.1	82.5	92.8	96.0	117.9	100.1
Findlay, OH	94.3	102.3	77.0	95.8	100.6	91.2	104.3
Fitchburg-Leominster, MA	103.3	99.3	97.1	140.6	99.9	112.3	98.6
Flagstaff, AZ	114.9	108.6	148.3	92.5	105.5	100.0	99.5
Florence, AL	90.2	96.6	79.6	91.0	94.5	84.1	96.3
Fort Lauderdale, FL	115.7	112.5	144.0	92.5	106.3	102.4	103.7
Fort Smith, AR	86.1	92.5	74.5	90.5	87.9	87.5	91.7
Fort Wayne-Alien, County, IN	94.4	93.3	89.3	87.3	106.9	93.4	98.0
Fort Worth, TX	91.1	89.8	78.0	106.2	97.6	93.8	96.1
Framingham-Natick, MA	134.5	109.4	177.2	131.9	105.0	116.1	118.8
Fresno, CA	117.3	115.8	131.2	123.6	114.5	106.8	105.9
Gainesville, FL	99.8	106.3	101.8	99.2	103.3	92.7	95.5
Galesburg, IL	93.0	99.7	80.0	103.1	96.1	97.3	97.2
Garden City, KS	89.7	91.2	79.9	85.5	94.0	89.6	97.5
Glens Falls, NY	112.3	105.4	105.9	128.0	107.0	97.3	119.3
Glenwood Springs, CO	124.0	103.3	169.0	89.0	110.9	112.0	108.7
Grand Junction, CO	98.3	101.9	105.4	85.4	99.1	103.8	93.1
Grand Rapids, MI	90.7	102.7	77.6	100.6	103.7	94.4	90.0
Green Bay, WI	95.1	88.8	83.5	118.6	100.2	105.9	97.7
Greenville, NC	98.5	105.9	84.4	108.5	97.6	113.5	103.3
Greenville, SC	90.3	102.7	72.9	90.1	97.1	98.2	97.7
Gunnison, CO	110.0	110.6	134.5	85.7	99.0	97.3	100.6
Hammond, LA	95.9	99.0	95.8	84.8	93.0	97.4	98.9
Hampton Roads-SE, Virginia, VA	111.7	106.6	121.9	108.4	104.1	109.6	108.4
Hartlingen, TX	82.8	81.5	75.8	105.6	88.7	95.2	79.1
Harrisburg, PA	99.7	97.8	91.5	110.5	100.2	93.8	105.1
Harrisonburg, VA	97.0	97.5	96.8	96.8	90.4	100.8	98.6
Hartford, CT	121.8	120.7	137.8	120.7	109.0	113.0	113.5
Hastings, NE	93.4	103.7	89.1	94.0	87.6	85.8	95.6
Hattiesburg, MS	91.9	100.5	74.8	110.3	96.9	95.4	95.2
Hays, KS	89.4	92.0	78.8	92.4	97.5	90.7	94.2

Hickory, NC	92.9	101.1	91.3	92.3	86.5	93.8	93.0
Hilton, Head, Island, SC	114.1	111.4	119.8	100.4	101.6	110.7	118.5
Honolulu, HI	165.7	160.1	249.0	146.6	126.2	120.0	117.9
Hot Springs, AR	93.8	97.3	85.3	95.7	85.6	84.8	102.9
Houston, TX	92.2	85.1	82.0	97.7	99.2	94.6	99.9
Huntsville, AL	91.2	94.9	78.7	86.1	99.7	92.0	99.8
Hutchinson, KS	94.0	89.0	92.3	84.4	96.5	94.2	98.6
Idaho, Falls, ID	90.6	99.5	78.0	84.9	102.1	93.2	96.3
Indiana, County, PA	93.3	99.7	84.2	97.7	97.7	91.1	96.4
Indianapolis, IN	87.2	91.4	73.4	86.7	100.5	93.8	93.1
Iowa, City, IA	96.2	94.9	97.3	80.1	102.8	95.4	99.0
Ithaca, NY	102.8	102.9	104.4	110.4	104.7	106.6	98.1
Jackson, MS	90.9	93.0	94.0	118.1	92.0	95.7	96.1
Jackson-Madison, County, TN	90.2	91.1	74.2	98.9	100.0	91.6	98.1
Jacksonville, FL	92.9	102.8	80.0	91.9	103.6	94.5	97.3
Jacksonville, NC	96.5	103.2	88.0	99.2	97.8	101.2	99.6
Janesville, WI	96.2	95.0	91.3	99.3	99.3	103.1	98.2
Jefferson, City, MO	92.9	93.9	78.5	97.6	93.3	95.0	103.4
Johnson, City, TN	86.7	92.3	74.4	89.1	91.7	91.5	92.6
Johnstown, PA	92.9	97.7	79.4	101.0	101.6	90.4	98.1
Joliet-Will, County, IL	102.2	100.9	102.3	116.1	111.3	106.5	95.2
Jonesboro, AR	88.9	97.5	75.1	91.1	88.8	85.9	97.3
Joplin, MO	88.8	92.2	75.9	108.1	91.8	89.5	92.0
Juneau, AK	136.5	133.1	165.7	135.1	121.2	144.4	118.1
Kalamazoo, MI	91.2	95.6	81.3	101.5	99.4	92.5	92.4
Kalispell, MT	98.8	116.3	95.5	82.0	103.6	104.8	97.8
Kansas, City, MO-KS	97.8	94.8	89.2	99.8	100.8	97.2	105.1
Kennewick-Richland-Pasco, WA	92.6	90.9	85.9	85.1	106.1	109.9	95.2
Kinston, NC	93.8	102.5	76.1	108.8	96.7	102.9	99.3
Knoxville, TN	89.4	91.4	82.0	95.1	84.2	88.4	95.1
Kodiak, AK	128.7	149.4	127.8	131.9	143.4	130.7	115.4
Lafayette, IN	98.2	95.6	82.4	116.5	106.2	116.3	102.7
Lafayette, LA	99.2	93.5	110.1	81.2	104.0	88.8	97.3
Lake, Charles, LA	97.4	99.8	103.4	89.5	97.1	84.4	85.4
Lake, Havasu, City, AZ	111.8	107.0	139.3	95.9	93.5	98.0	101.7
Lancaster, PA	106.8	101.3	118.4	111.0	99.7	95.1	100.9
Laramie, WY	97.0	105.1	102.3	90.5	91.6	97.5	92.7
Las, Cruces, NM	100.6	103.7	104.4	93.7	99.0	86.5	99.1
Las, Vegas, NV	101.9	106.6	94.1	97.7	104.9	109.0	106.2
Lawrence, KS	94.6	89.1	96.0	91.9	96.2	97.5	95.6
Lawton, OK	93.8	96.3	87.0	87.5	106.9	95.2	96.6
Lexington, KY	92.8	86.9	88.7	93.9	97.6	93.7	97.1
Lexington-Buena, Vista-Rockbridge, VA	93.7	82.1	97.8	94.3	91.2	90.7	91.7
Lima, OH	93.1	101.9	69.8	102.5	100.7	107.7	103.2
Little, Rock-North, Little, Rock, AR	95.5	92.9	92.2	104.1	94.0	93.5	100.4
Logan, UT	95.6	104.7	68.4	85.3	113.6	97.2	113.7
Los, Alamos, NM	109.7	97.1	128.1	91.2	110.7	102.6	104.7
Los, Angeles-Long,							

Beach, CA	136.4	106.0	207.1	101.7	113.6	109.1	107.0
Louisville, KY	87.7	81.6	78.7	89.1	96.9	87.2	91.9
Loveland, CO	91.0	102.7	79.3	89.6	91.4	100.3	95.7
Lubbock, TX	89.1	80.0	80.4	74.8	97.6	98.3	97.1
Lufkin, TX	92.4	87.8	83.4	88.7	94.0	105.5	96.3
Lynchburg, VA	95.1	90.7	92.7	109.7	88.8	100.1	95.8
Manchester, NH	116.8	102.3	117.0	124.5	100.1	116.1	125.0
Manhattan, KS	95.0	92.5	98.7	86.9	99.0	91.6	94.4
Mankato, MN	93.0	93.8	76.5	113.5	103.1	104.3	96.4
Marietta, GA	94.8	96.8	84.7	90.3	97.1	107.9	101.9
Marion-McDowell, County, NC	92.1	103.1	87.8	94.0	89.5	96.3	90.9
Marshfield, WI	94.2	95.3	92.2	99.9	96.8	103.8	91.7
Marlinsburg- Berkeley, County, WV	89.6	91.5	82.7	85.9	103.9	99.9	90.6
Marlinsville-Henry, County, VA	87.1	94.0	77.6	89.1	82.9	87.6	93.2
Mason, City, IA	89.1	89.4	73.1	105.6	99.5	94.8	94.2
McAllen, TX	85.0	79.8	77.6	103.1	92.4	97.9	84.3
Memphis, TN	88.2	92.7	76.2	86.9	91.5	98.6	95.2
Miami-Dade, County, FL	106.0	110.9	107.7	91.9	108.8	105.7	106.2
Middlesex- Monmouth, NJ	124.8	108.9	154.1	128.6	103.9	108.9	112.2
Midland, TX	93.2	89.7	89.2	93.4	95.7	98.7	96.6
Milwaukee- Waukesha, WI	101.9	98.1	112.7	98.6	99.2	106.1	94.8
Minneapolis, MN	111.0	111.6	116.8	104.7	103.7	105.4	110.4
Minot, ND	99.9	99.3	95.9	73.5	98.2	91.0	113.6
Missoula, MT	99.4	110.2	92.2	98.3	102.2	107.2	100.1
Mobile, AL	92.7	102.7	80.4	104.4	93.0	86.5	96.7
Monroe, LA	92.7	95.8	83.0	89.1	97.5	96.0	99.3
Montgomery, AL	99.2	102.9	96.0	108.4	99.6	88.0	99.1
Morgantown, WV	100.5	93.9	111.9	89.9	100.7	96.1	97.1
Morristown, TN	90.9	91.6	81.5	80.5	83.9	90.1	101.4
Muncie, IN	91.0	91.0	80.3	98.5	94.5	87.4	97.6
Murfreesboro- Smyrna, TN	88.2	94.3	76.2	81.0	92.7	95.8	96.2
Muskogee, OK	86.0	98.0	68.3	97.5	80.8	96.7	93.5
Myrtle Beach, SC	95.2	105.7	78.4	104.5	94.7	100.4	102.4
Nacogdoches, TX	92.5	91.0	83.3	97.7	93.8	102.6	98.0
Nashville-Franklin, TN	88.9	91.7	71.3	82.6	92.6	87.3	104.5
Nassau, County, NY	145.7	123.0	206.7	140.7	113.1	119.7	115.3
New Haven, CT	122.1	117.9	134.9	123.5	106.3	112.7	117.9
New York, (Brooklyn), NY	181.7	130.6	317.8	165.0	103.0	111.5	119.5
New York, (Manhattan), NY	216.7	154.3	386.7	169.6	120.3	130.2	145.7
New York, (Queens), NY	159.0	128.3	230.8	172.0	108.8	118.0	123.9
Newark-Elizabeth, NJ	129.7	111.6	168.5	129.2	103.9	103.1	113.9
Norman, OK	94.4	95.3	88.7	91.6	104.0	96.6	96.8
Oakland, CA	139.1	116.8	198.8	94.7	113.6	119.9	119.0
Odessa, TX	90.9	81.2	88.1	88.8	93.6	95.6	92.4

Oklahoma, City, OK	91.7	92.9	86.0	88.1	92.6	99.4	96.2
Olympia, WA	104.1	107.4	102.2	82.1	114.9	120.5	108.0
Omaha, NE	88.3	92.0	79.3	89.9	100.0	96.8	89.7
Orange, County, CA	146.4	104.5	242.8	103.2	114.6	111.6	105.2
Orlando, FL	97.8	97.8	85.4	108.5	101.8	95.5	104.5
Paducah, KY	87.3	94.8	75.8	96.5	86.8	90.3	91.3
Palm, Springs, CA	121.8	111.5	154.2	112.7	110.2	100.8	106.1
Panama, City, FL	93.4	93.7	101.5	99.7	108.8	94.5	97.6
Paris, TX	88.9	93.5	80.0	87.4	94.1	94.0	93.0
Pascagoula, MS	92.3	101.0	84.3	91.4	97.4	91.6	94.6
Peoria, IL	96.3	93.4	85.0	97.2	101.4	95.8	96.8
Philadelphia, PA	126.5	124.9	141.3	135.9	105.8	108.2	119.5
Phoenix, AZ	100.7	108.1	90.4	96.6	108.9	108.8	104.6
Pittsburgh, PA	91.5	104.1	74.4	97.0	105.9	90.1	95.8
Pittsfield, MA	110.6	115.0	96.2	161.9	98.9	105.0	110.0
Plano, TX	97.4	101.3	85.2	103.9	101.8	102.9	102.6
Plattsburgh, NY	100.1	98.9	95.1	119.4	105.5	113.0	95.9
Ponca, City, OK	90.0	94.8	76.6	93.0	94.4	94.4	97.0
Portland, ME	116.5	101.8	143.0	102.9	111.8	109.7	105.5
Portland, OR	111.3	105.8	130.8	87.1	105.8	113.5	105.1
Prescott-Prescott, Valley, AZ	103.7	95.2	118.1	91.8	100.3	97.8	99.7
Providence, RI	123.3	113.4	129.0	129.0	102.5	113.2	128.1
Pryor, Creek, OK	84.5	95.0	71.5	82.7	86.6	86.0	91.5
Pueblo, CO	85.6	100.5	71.5	80.1	93.8	94.1	90.1
Quincy, IL	95.5	97.4	94.5	95.5	94.2	96.8	95.5
Raleigh, NC	98.2	104.2	88.8	105.6	96.7	101.0	101.9
Reno-Sparks, NV	101.1	105.4	101.5	91.2	107.3	101.8	100.0
Richmond, IN	90.8	83.3	84.6	106.4	98.4	95.1	91.7
Richmond, VA	104.5	103.6	103.2	113.9	100.8	112.6	103.2
Rio, Rancho, NM	95.1	92.0	90.3	88.6	94.7	100.2	101.8
Riverside, City, CA	112.5	104.9	136.3	99.9	113.4	104.4	99.1
Roanoke, VA	94.1	89.7	92.2	104.1	91.1	97.9	94.8
Rochester, MN	99.2	89.6	91.1	104.8	106.3	109.5	105.0
Rochester, NY	100.0	94.6	94.2	114.4	108.7	99.7	100.2
Rockford, IL	92.4	92.6	74.7	111.2	105.8	103.3	96.8
Roswell, NM	95.9	105.6	82.9	104.3	97.5	101.2	99.9
Round, Rock, TX	89.7	81.9	78.0	107.0	87.6	96.6	97.6
Sacramento, CA	116.2	114.7	135.7	109.6	114.4	110.8	102.8
Salina, KS	86.9	86.9	76.0	87.0	94.7	94.9	93.1
Salt, Lake, City, UT	100.6	100.1	108.0	72.5	102.1	98.8	102.9
San, Angelo, TX	92.4	89.3	84.0	106.0	97.6	96.7	94.9
San, Antonio, TX	95.7	84.9	95.3	82.8	100.7	99.9	102.2
San, Diego, CA	132.3	105.5	194.4	101.9	113.1	111.5	105.8
San, Francisco, CA	164.0	111.9	281.0	94.5	113.0	117.0	124.3
San, Jose, CA	156.1	115.3	260.3	137.2	114.0	119.0	109.9
San, Marcos, TX	94.8	88.7	100.1	86.8	90.1	92.6	96.8
Sarasota, FL	101.5	107.7	102.9	97.4	102.5	105.2	98.1
Savannah, GA	93.5	94.7	84.0	94.0	98.4	99.0	99.1
Seattle, WA	121.4	115.1	140.3	85.7	118.8	119.9	119.1
Seguin, TX	90.7	90.7	76.5	103.8	95.6	96.9	95.1

Sheboygan, WI	101.4	94.3	97.5	117.3	105.9	105.5	100.8
Shreveport-Bossier, City, LA	95.3	95.2	93.5	89.4	93.4	93.1	89.6
Sierra Vista, AZ	97.9	96.5	99.7	97.2	104.0	98.1	95.5
Sioux Falls, SD	94.1	91.5	86.6	101.6	86.9	102.2	100.6
Slidell-St., Tammany, Parish, LA	97.0	95.1	101.0	82.2	96.2	93.4	99.4
South, Bend, IN	91.9	91.3	84.2	92.3	95.4	96.3	97.3
Spokane, WA	93.9	92.4	85.7	89.5	109.1	110.0	96.5
Springfield, IL	85.8	89.7	70.1	79.8	104.5	106.5	91.7
Springfield, MO	88.0	93.2	76.8	83.2	96.8	95.3	93.8
St., Cloud, MN	98.3	101.7	80.7	117.2	99.9	102.0	105.8
St., George, UT	95.9	99.9	94.2	85.9	100.4	87.8	98.4
St., Joseph, MO	92.3	95.4	86.5	93.7	90.1	94.9	96.0
St., Louis, MO-IL	90.4	98.4	74.6	92.9	99.0	100.8	96.5
St., Paul, MN	110.0	107.0	112.9	106.8	103.4	106.7	112.2
Stamford, CT	146.9	121.8	212.6	121.3	110.0	113.3	122.1
Staunton-Augusta, County, VA	98.2	98.3	93.7	100.0	94.5	98.1	96.8
Stillwater, OK	90.1	95.5	81.2	97.9	88.8	95.7	93.1
Sumter, SC	96.3	103.4	90.2	108.4	97.8	91.3	95.3
Syracuse, NY	101.5	96.6	91.4	118.4	108.3	97.8	104.8
Tacoma, WA	109.5	111.3	116.6	83.1	109.0	115.1	110.2
Tampa, FL	92.4	96.3	84.7	93.8	103.3	98.4	93.4
Temple, TX	87.4	83.7	71.8	107.6	97.9	91.2	92.8
Thomasville-Lexington, NC	89.2	105.5	77.2	80.7	88.8	109.1	93.5
Topeka, KS	91.8	92.9	84.0	85.8	97.4	93.2	98.1
Troy-Miami, County, OH	95.4	96.4	83.9	123.3	99.2	89.2	96.2
Truckee-Nevada, County, CA	148.9	132.2	208.3	114.3	121.5	112.0	120.5
Tucson, AZ	96.5	97.2	91.9	86.7	104.6	99.2	100.5
Tulsa, OK	88.4	91.9	66.5	85.2	99.1	94.6	100.5
Tupelo, MS	88.1	91.1	72.3	110.1	93.8	86.6	92.7
Tuscaloosa, AL	94.6	104.9	80.6	105.9	102.8	90.2	97.4
Twin, Falls, ID	91.5	95.5	81.4	97.0	99.2	93.3	94.6
Tyler, TX	96.3	92.7	91.5	102.1	100.2	93.1	99.3
Valdosta, GA	94.1	111.8	35.3	89.0	96.7	102.2	94.5
Vancouver, WA	94.8	96.9	82.2	91.8	106.1	114.3	100.1
Vero, Beach-Indian, River, FL	97.4	109.1	83.5	104.5	97.8	97.7	102.5
Waco, TX	88.9	81.8	88.5	85.3	97.6	90.9	90.5
Washington-Arlington-Alexandria, DC-VA	140.1	107.9	226.4	97.3	109.3	103.4	103.7
Waterloo-Cedar, Falls, IA	91.7	89.5	89.6	88.2	99.4	95.9	92.8
Wausau, WI	96.5	100.0	89.5	98.4	97.5	101.3	99.7
Weatherford, TX	91.4	95.9	79.7	107.4	96.2	93.1	93.3
Wichita, Falls, TX	86.5	91.9	84.0	84.4	82.5	94.5	87.4
Wichita, KS	91.8	90.5	83.6	89.7	100.6	96.7	97.1
Williamsport-Lycoming, Co, PA	100.7	103.5	96.3	127.7	91.8	92.6	98.9
Wilmington, DE	105.2	108.1	102.0	115.4	98.6	108.7	105.2
Wilmington, NC	98.8	108.0	89.7	108.5	97.6	100.1	100.3

Winchester, VA-WV	102.3	104.6	94.5	98.2	96.8	105.0	110.9
Winston-Salem, NC	92.4	98.5	82.9	88.5	83.3	99.3	101.5
Wooster, OH	92.6	99.5	72.1	123.4	103.0	94.6	95.2
Yakima, WA	95.8	99.8	86.9	86.8	105.5	117.1	99.2
York, County, PA	102.1	98.4	106.0	102.6	97.7	96.8	102.0
Youngstown-Warren, OH	90.4	92.6	77.7	110.2	92.4	86.9	94.4
Yuma, AZ	101.2	107.4	96.4	112.2	104.6	107.8	97.6

1. Data are from 2010.

2. Indicates relative price levels for consumer goods and services. The average composite index for the nation is 100%, and each city's index is read as a percentage of the overall average.

3. Miscellaneous goods and services readily available across the U.S., including fast food, haircut, toiletries, denim jeans, newspaper subscription, movie ticket, beer, and wine.

Source: C2ER, Arlington, VA, ACCRA Cost of Living Index, Annual Average 2010.

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U.S. Economy and the Federal
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Maine	FY14 HOUSING WAGE	HOUSING COSTS			AREA MEDIAN INCOME (AMI)				RENTER HOUSEHOLDS				
	Hourly wage needed to afford 2 BR FMR ²	2 BR FMR	Annual income needed to afford 2 BR FMR	Full-time jobs at minimum wage needed to afford 2 BR FMR	Annual AMI ³	Monthly rent affordable at AMI ⁴	30% of AMI ⁵	Monthly rent affordable at 30% of AMI	Renter Households (2008-2012)	% of total households (2008-2012)	Estimated hourly mean renter wage (2014)	Monthly rent affordable at mean renter wage	Full-time jobs at mean renter wage needed to afford 2 BR FMR
Maine	\$16.19	\$842	\$38,671	2.2	\$62,761	\$1,569	\$18,828	\$471	154,463	28%	\$9.99	\$520	1.6
Combined Nonmetro Areas	\$14.22	\$740	\$29,584	1.9	\$55,137	\$1,378	\$16,541	\$414	56,348	24%	\$9.00	\$468	1.6
<u>Metropolitan Areas</u>													
Bangor HMFA	\$16.56	\$861	\$34,440	2.2	\$60,800	\$1,520	\$18,240	\$456	15,253	40%	\$9.47	\$492	1.7
Cumberland County HMFA	\$16.85	\$876	\$35,040	2.2	\$68,400	\$1,710	\$20,520	\$513	5,082	23%	\$11.50	\$598	1.5
Lewiston-Auburn MSA	\$14.46	\$752	\$30,080	1.9	\$56,100	\$1,403	\$16,830	\$421	14,989	34%	\$9.58	\$498	1.5
Penobscot County HMFA	\$13.08	\$680	\$27,200	1.7	\$51,200	\$1,280	\$15,360	\$384	5,067	21%	\$9.47	\$492	1.4
Portland HMFA	\$19.46	\$1,012	\$40,480	2.6	\$77,900	\$1,933	\$23,190	\$580	35,155	34%	\$11.40	\$593	1.7
Sagadahoc County HMFA	\$16.58	\$862	\$34,480	2.2	\$71,900	\$1,783	\$21,390	\$535	3,559	24%	\$9.59	\$499	1.7
York County HMFA	\$16.85	\$876	\$35,040	2.2	\$68,900	\$1,723	\$20,670	\$517	14,717	28%	\$9.66	\$502	1.7
York-Kittery-South Berwick HMFA	\$20.19	\$1,050	\$42,000	2.7	\$81,000	\$2,025	\$24,300	\$608	4,293	24%	\$9.66	\$502	2.1
<u>Counties</u>													
Aroostook County	\$12.25	\$637	\$25,480	1.6	\$50,800	\$1,265	\$15,180	\$380	8,636	28%	\$8.28	\$431	1.5
Franklin County	\$12.75	\$663	\$26,520	1.7	\$51,100	\$1,278	\$15,330	\$383	2,886	24%	\$8.63	\$449	1.5
Hancock County	\$15.83	\$823	\$32,920	2.1	\$62,800	\$1,570	\$18,840	\$471	5,996	25%	\$8.92	\$464	1.8
Kennebec County	\$14.85	\$772	\$30,880	2.0	\$60,400	\$1,510	\$18,120	\$453	14,832	29%	\$9.42	\$490	1.6
Knox County	\$17.00	\$884	\$35,360	2.3	\$60,300	\$1,508	\$18,090	\$452	3,438	21%	\$8.13	\$423	2.1
Lincoln County	\$17.65	\$918	\$36,720	2.4	\$60,800	\$1,520	\$18,240	\$456	2,315	15%	\$10.78	\$561	1.6
Oxford County	\$13.40	\$697	\$27,880	1.8	\$51,000	\$1,275	\$15,300	\$383	4,920	21%	\$7.94	\$413	1.7
Piscataquis County †	\$12.50	\$650	\$26,000	1.7	\$47,100	\$1,178	\$14,130	\$353	1,669	21%			
Somerset County	\$13.58	\$708	\$28,240	1.8	\$49,500	\$1,238	\$14,850	\$371	4,808	22%	\$9.92	\$516	1.4
Waldo County	\$14.15	\$736	\$29,440	1.9	\$53,900	\$1,348	\$16,170	\$404	3,550	22%	\$9.03	\$469	1.6
Washington County	\$12.77	\$664	\$26,560	1.7	\$45,700	\$1,143	\$13,710	\$343	3,298	23%	\$8.75	\$455	1.5

† Wage data not available (See Appendix A).

1: BR = Bedroom

2: FMR = Fiscal Year 2014 Fair Market Rent (HUD, 2013).

3: AMI = Fiscal Year 2014 Area Median Income (HUD, 2013).

4: "Affordable" rents represent the generally accepted standard of spending not more than 30% of gross income on rent and utilities.

5: The federal standard for extremely low income households. Does not include HUD-specific adjustments.

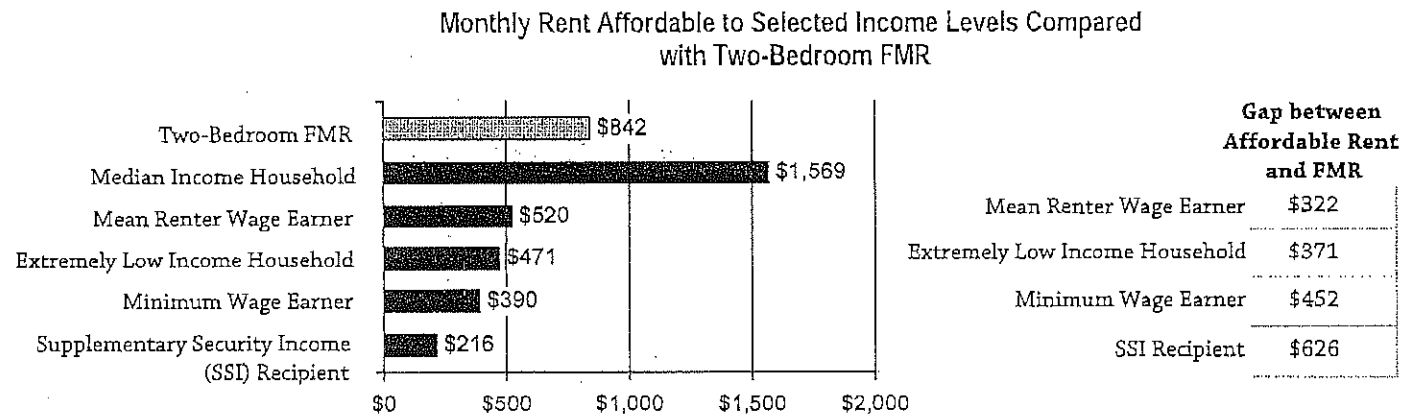
Maine

In Maine, the Fair Market Rent (FMR) for a two-bedroom apartment is \$842. In order to afford this level of rent and utilities – without paying more than 30% of income on housing – a household must earn \$2,806 monthly or \$33,671 annually. Assuming a 40-hour work week, 52 weeks per year, this level of income translates into a Housing Wage of:

\$16.19

In Maine, a minimum wage worker earns an hourly wage of \$7.50. In order to afford the FMR for a two-bedroom apartment, a minimum wage earner must work 86 hours per week, 52 weeks per year. Or a household must include 2.2 minimum wage earners working 40 hours per week year-round in order to make the two-bedroom FMR affordable.

In Maine, the estimated mean (average) wage for a renter is \$9.99. In order to afford the FMR for a two-bedroom apartment at this wage, a renter must work 65 hours per week, 52 weeks per year. Or, working 40 hours per week year-round, a household must include 1.6 workers earning the mean renter wage in order to make the two-bedroom FMR affordable.



Towns within Maine FMR Areas

Bangor, ME HMFA

Penobscot County

Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island Reservation, Veazie town

Cumberland County, ME (part) HMFA

Cumberland County

Baldwin town, Bridgton town, Brunswick town, Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town

Lewiston-Auburn, ME MSA

Androscoggin County

Auburn city, Durham town, Greene town, Leeds town, Lewiston city, Lisbon town, Livermore Falls town, Livermore town, Mechanic Falls town, Minot town, Poland town, Sabattus town, Turner town, Wales town

Penobscot County, ME (part) HMFA

Penobscot County

Alton town, Argyle UT, Bradford town, Bradley town, Burlington town, Carmel town, Carroll plantation, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penobscot UT, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Howland town, Hudson town, Kingman UT, Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Newport town, North Penobscot UT, Passadumkeag town, Patten town, Plymouth town, Prentiss UT, Sebocis plantation, Springfield town, Stacyville town, Stetson town, Twombly UT, Webster plantation, Whitney UT, Winn town, Woodville town

Portland, ME HMFA

Cumberland County

Cape Elizabeth town, Casco town, Cumberland town, Falmouth town, Freeport town, Frye Island town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town

York County

Buxton town, Hollis town, Limington town, Old Orchard Beach town

Sagadahoc County, ME HMFA

Sagadahoc County

Arrowsic town, Bath city, Bowdoin town, Bowdoinham town, Georgetown town, Perkins UT, Phippsburg town, Richmond town, Topsham town, West Bath town, Woolwich town

York County, ME (part) HMFA

York County

Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town

York-Kittery-South Berwick, ME HMFA

York County

Berwick town, Eliot town, Kittery town, South Berwick town, York town

This information is provided for New England states only, because only in these states do FMR and metropolitan areas include portions of counties, rather than entire counties.

2014 MOST EXPENSIVE JURISDICTIONS

States ¹	Housing Wage for Two-Bedroom FMR
Hawaii	\$31.54
District of Columbia	\$28.25
California	\$26.04
Maryland	\$24.94
New Jersey	\$24.92
New York	\$24.87
Massachusetts	\$24.08
Connecticut	\$23.02
Alaska	\$21.63
Virginia	\$20.93

Metropolitan Areas	Housing Wage for Two-Bedroom FMR
San Francisco, CA HMFA ³	\$37.62
Honolulu, HI MSA ⁴	\$35.00
San Jose-Sunnyvale-Santa Clara, CA HMFA	\$31.71
Orange County, CA HMFA	\$31.62
Nassau-Suffolk, NY HMFA	\$31.02
Santa Cruz-Watsonville, CA MSA	\$30.71
Oakland-Fremont, CA HMFA	\$30.35
Danbury, CT HMFA	\$30.31
Stamford-Norwalk, CT HMFA	\$29.83
Oxnard-Thousand Oaks-Ventura, CA MSA	\$28.44

Counties ²	Housing Wage for Two-Bedroom FMR
Marin County, CA	\$37.62
San Francisco County, CA	\$37.62
San Mateo County, CA	\$37.62
Honolulu County, HI	\$35.00
Nantucket County, MA	\$34.60
Santa Clara County, CA	\$31.71
Orange County, CA	\$31.62
Nassau County, NY	\$31.02
Suffolk County, NY	\$31.02
Kauai County, HI	\$30.71

Combined Nonmetro Areas	Housing Wage for Two-Bedroom FMR
Massachusetts	\$29.73
Hawaii	\$22.69
Alaska	\$19.27
Maryland	\$19.18
Connecticut	\$18.47
New Hampshire	\$18.47
California	\$17.93
Colorado	\$16.46
Vermont	\$16.11
Delaware	\$16.04

¹ Includes the District of Columbia.

² Excludes metropolitan counties in New England.

³ HMFA = HUD Metro Fair Market Rent (FMR) Area. This term indicates that a portion of the Office of Management & Budget (OMB) defined core-based statistical area is in the area to which the income limits and FMRs apply. HUD is required by OMB to alter the name of the metropolitan geographic entities it derives from the Core Based Statistical Area (CBSA) when the geography is not the same as that established by the OMB. CBSA is a collective term meaning both metro and micro

⁴ MSA = Metropolitan Statistical Area. Geographic entities defined by OMB for use by the federal statistical agencies in collecting, tabulating, and publishing federal statistics. A metro area contains an urban core of 50,000 or more in population.

CITY OF PORTLAND

MEMORANDUM

TO: Chair Mavodones and Members of the Finance Committee

CC: Mayor Brennan and Members of the Portland City Council

FROM: Danielle P. West-Chuhta, Corporation Counsel

DATE: November 13, 2014

RE: **Proposed Minimum Wage Ordinance Research re: home rule and constitutional challenges**

THE VALIDITY OF A MINIMUM WAGE ORDINANCE FOR PORTLAND

Recently, a number of municipalities across the nation have enacted local ordinances that provide minimum or living wages greater than that provided by state or federal law. This movement is in response to the lack of political will in the federal and state governments to pass laws that provide minimum wages in step with the steadily increasing costs of living. For example, as recently as 2013, Maine's legislature passed a bill that would have raised the state minimum wage and tied it to the consumer price index. This bill did not survive the governor's veto.¹

When considering whether to enact a minimum wage ordinance, a municipality must consider authority, preemption and constitutionality. First, the municipality must have the authority to enact the ordinance. Next, the ordinance must not be preempted by state law. Overall, the ordinance must be constitutional and not impair contract obligations, nor violate equal protection or other rights.

I. State-Granted Authority to Enact a Minimum Wage Ordinance

Maine's home rule power is authorized in the State Constitution and implemented by statute. Although this imparts a robust home rule regime, these two authorities grant

¹ An Act To Adjust Maine's Minimum Wage Annually Based on Cost-of-living Changes, 2013 Maine House Paper No. 430, Maine One Hundred Twenty-Sixth Legislature - First Regular Session.

somewhat different, and conflicting, levels of power: the scope of home rule under the Constitution is tempered by limiting language, whereas the statutory grant is plenary and limited only where “expressly denied.”² The Law Court has clarified that the operative standards are those under the statutes.³

In terms of models of home rule, Maine’s Constitution aligns with what is known as the imperio model, which balances state and municipal powers by delegating them according to interest.⁴ “The idea behind the imperio model is to render to the state what properly belongs to the state, and to render to local governments what properly belongs to local governments.”⁵ It is often difficult to discern what is primarily of state or local concern; this piece is defined in the courts.⁶ The imperio model grants municipalities more power than the traditional “Dillon’s Rule” model, which generally limits municipal authority to that which the state affirmatively grants; but it confers less power than the legislative model, which recognizes that municipalities have broad power to enact ordinances, as long as they are not expressly denied by any laws.⁷

Thus, a municipality in an imperio-type of a home rule state generally may enact an ordinance that is municipal in nature, as is iterated in Maine’s Constitution;⁸ however, the Law Court has recognized that the legislature “broadened the scope of municipal home rule authority set out in the Maine Constitution by permitting local legislation in areas beyond those ‘local and municipal in character.’”⁹

² See 30-A M.R.S. § 3001.

³ See *infra*, n.

⁴ Darin M. Dalmat, *Bringing Economic Justice Closer to Home: The Legal Viability of Local Minimum Wage Laws Under Home Rule*, 39 Colum. J.L. & Soc. Probs. 93, 104 and FN 30 (2005).

⁵ Dalmat at 104.

⁶ Dalmat at 105.

⁷ Dalmat at 102, 106.

⁸ Maine’s constitutional language states that municipalities “shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character.” *Me. Const. art. VIII, pt. 2, § 1*.

⁹ *Sch. Comm. of Town of York v. Town of York*, 626 A.2d 935, 938, 939 (Me. 1993) (“Municipal legislation will be invalidated only where the Legislature has expressly prohibited local regulation, or where the Legislature has intended to exclusively occupy the field and the legislation would frustrate the purpose of a state law”), citing *Central Maine Power Co. v. Town of Lebanon*, 571 A.2d 1189, 1193 (Me. 1990); see also *City of Bangor v. Diva’s, Inc.*, 2003 ME 51, ¶¶ 13, 24 (upholding the enactment of an ordinance that prohibited nude entertainment without a certificate of occupancy, “[b]ased on the City’s home rule authority and the absence of an express prohibition or preemption by the Legislature).

Thus, in Maine, even though home rule authority is limited in the state constitution to those matters “local and municipal in character,” the Law Court has made it clear that municipalities in Maine no longer have to ask whether an enactment is “local and municipal in character”; they have the authority to enact ordinances that are not expressly denied.¹⁰

Here, the Legislature has not expressly denied the City’s ability to enact a local minimum wage law.¹¹

Also, because Portland may address those matters which are local and municipal in nature, it should be entitled to enact a local minimum wage law since municipal purposes of a minimum wage ordinance for Portland seem to directly bear on the general health, safety and welfare of the community.¹² “[M]inimum wage laws [can] address local needs and concerns. Indeed, the local costs of living often vary dramatically within a state... [t]hus, a statutory flat-rate minimum wage is unlikely to accommodate the needs of local residents throughout the state, because it is politically implausible that the statutory rate will reflect the cost of living in the most expensive parts of the state.”¹³

II. The Lack of Preemption by Maine State Law.

In addition to establishing the authority to enact a local ordinance, a municipality must also establish that an enactment is not preempted by state law. Under Maine law, whether a municipal ordinance is preempted involves determining whether (1) the legislature intended to occupy the field, and (2) the ordinance would frustrate the purpose of state law.¹⁴

A. The Legislature’s Intention to Occupy the Field

¹⁰ See, e.g., *New Mexicans for Free Enter. v. The City of Santa Fe*, 126 P.3d 1149, 1157-58 (N.M. App. 2005) (applying legislative model of home rule to uphold a municipal minimum wage ordinance, because this type of law is not expressly denied by the state law).

¹¹ See M.R.S. 26, § 661, et seq.

¹² The cost of living index for housing in Portland is exceptionally high (143 as compared to a national average baseline of 100). U.S. Census Bureau, *Statistical Abstract of the United States: 2012, Table 728. Cost of Living Index – Selected Urban Areas, Annual Average: 2010*, <http://www.census.gov/compendia/statab/2012/tables/12s0728.pdf> (visited October 10, 2014).

¹³ Dalmat at 112.

¹⁴ *Intl. Paper Co. v. Town of Jay*, 665 A.2d 998, 1002 (Me. 1995) (more stringent local emission standards upheld because they were expressly not preempted and advanced State environmental objectives), citing *Sch. Comm. of Town of York v. Town of York*, 626 A.2d 935, 939 (Me. 1993).

The legislature must intend to occupy the field exclusively. In Sch. Comm. of Town of York v. Town of York, the Court quoted the Legislative Committee Report that underlies Maine's statutory home rule authority:

"The mere fact that there is a state law, or even a multitude of state laws on a subject is by itself irrelevant; the key is whether the Legislature intended to exclusively occupy the field and thereby deny a municipality's home rule authority to act in the same area."¹⁵

Maine's minimum wage laws are quite thorough,¹⁶ and warrant a fairly extensive analysis of whether the legislature intended to occupy the field. This would include a look at the statute's legislative history as well as particular provisions of the ordinance itself, such as its applicability, definitions and the framing of other specific provisions. For example, the statute allows the state minimum wage to match the federal minimum wage if it becomes greater, but this increase cannot exceed \$1 per hour.¹⁷ The purpose of this provision could reveal the legislature's intent. That is, is the limit to curb state spending, or to protect certainty for employers?

In Maine, the minimum wage law sets a minimum hourly wage, prohibiting the payment of wages below \$7.50 per hour. The minimum wage law does not "permit" only its rate, establish any type of comprehensive wage scheme, express any need for uniformity or prohibit higher local minimum wage rates. A local minimum wage ordinance could therefore be viewed as complementary and not antagonistic towards the State law's policy of ensuring that all workers are paid at least \$7.50 per hour. In this way, a local ordinance would not be in conflict with the State law and would seem to most likely be permitted.

Despite the above analysis, those in opposition to a local minimum wage ordinance may argue that the State has "occupied the [wage] field" since the local

¹⁵ 626 A.2d 935, 938-939, 941 (Me. 1993) (quoting Report of the Joint Standing Committee on Local and County Government on the Revision of Title 30, at 8 (Dec. 1986)).

¹⁶ For example, they include livable wage provisions, and rules for "Fair Minimum Wage Rates on State Construction Projects" and "Executive, Administrative, and Professional Exemptions from Minimum Wage and Overtime."

¹⁷ 26 M.R.S.A. § 664 ("If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than \$1 per hour.")

ordinance frustrates the purpose of a unified state wage law. Maine law makes clear, however, that when local law requires a more stringent standard, both state and local law advance the same purpose, and thus, purpose of state law is not frustrated by enforcement of local law. See Central Maine Power Co. v. Town of Lebanon, 571 A.2d 1189, 1194-95 (Me. 1990).

Here, the State's stated purpose for its minimum wage law is to ensure that Maine's workers "receive wages sufficient to provide adequate maintenance and to protect their health, and to be fairly commensurate with the value of the services rendered." The City's proposed local minimum wage law, which would put in place a higher wage would advance the same purpose as the State law (i.e. to ensure that Maine workers are adequately compensated), and so the purpose of Maine's law would not be frustrated and the City's proposed ordinance.

B. Frustrating the Purpose of State Law

Maine's municipal ordinance statute additionally states that municipalities may exercise powers that are not denied "by clear implication."¹⁸ This standard of preemption is explained in the statute as thus: "The Legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the municipal ordinance in question would frustrate the purpose of any state law."¹⁹

The Law Court will "view municipal action as preempted only when the application of the municipal ordinance prevents the efficient accomplishment of a defined state purpose,"²⁰ but efficient accomplishment does not require that the easiest or least expensive option must be available. In Smith v. Town Of Pittston, the Court reversed a Superior Court decision and upheld a local ordinance because its prohibition on one option for septic waste disposal did not frustrate the purpose of Maine's Hazardous

¹⁸ 30-A M.R.S.A. § 3001.

¹⁹ 30-A M.R.S.A. § 3001(3).

²⁰ Smith v. Town Of Pittston, 820 A.2d 1200, 1206-1207 (Me. 2003) (internal quotations omitted), citing School Comm. of Town of York v. Town of York, 626 A.2d 935, 938 n. 8 (Me.1993) (quoting the legislative committee report regarding the home rule statute).

Waste, Septage and Solid Waste Management Act “to provide for safe and effective waste management.”²¹

The majority reasoned that (1) the municipality had met its requirement to provide for its septage disposal, (2) other methods of private septage disposal were available, even if they were not as easy and inexpensive as land spreading, and (3) the statute requires that municipalities share the authority to approve septage disposal sites (which must comply with local ordinances, zoning and land use laws.)²² Thus, even though the other methods may have been more difficult and expensive, the purpose of the statute “to provide for safe and effective waste management” was not frustrated.

Just as the majority recognized that additional restrictions in a local ordinance still allowed the state statute to function and fulfill its purposes on a broad scale, so too would a local minimum wage ordinance allow the purpose of the state minimum wage statute to continue to be effective. A local minimum wage ordinance would further the State’s public policy that “workers employed in any occupation should receive wages sufficient to provide adequate maintenance and to protect their health, and to be fairly commensurate with the value of the services rendered.”²³

III. The Constitutionality of Portland’s Minimum Wage Ordinance

Finally, local minimum and living wage ordinances have also been constitutionally challenged under the Contract, Equal Protection, Due Process, and Takings Clauses.²⁴ While the initial prong of the Contract Clause analysis may be implicated by a local minimum wage ordinance, it is likely to hold up under the remaining two prongs. The other constitutional challenges, thus far, have also not been

²¹ 820 A.2d 1200 (Me. 2003), 38 M.R.S.A. § 1302. Notably, while the policy statement in large part addresses “solid waste,” which does not include septage, it does discuss “waste management,” which is defined as the “purposeful, systematic and unified control of the handling and transportation” of waste, including septage. The decision does not appear to address the unified control element of the definition.

²² *Smith* at 1207-1209.

²³ 26 M.R.S.A. § 661.

²⁴ *RUI One Corp. v. City of Berkeley*, 371 F.3d 1137, 1141 (9th Cir. 2004) (expanded applicability of municipal living wage ordinance upheld under the Contract, Equal Protection and Due Process Clauses); *New Mexicans for Free Enter. v. The City of Santa Fe*, 126 P.3d 1149, 1166-68 (N.M. App. 2005) (municipal minimum wage ordinance upheld under Equal Protection and Takings Clauses).

strong enough to succeed, especially considering that local ordinances enjoy a presumption of reasonableness and constitutional validity.²⁵

A. The Contracts Clause

The Contracts Clause states, “No State shall... pass any... Law impairing the Obligation of Contracts,”²⁶ and the analysis involves three steps. First, the “threshold inquiry is ‘whether the [] law has, in fact, operated as a substantial impairment of a contractual relationship.’”²⁷ If it has, then a court determines whether there is a “significant and legitimate public purpose behind the regulation.”²⁸ Finally, government involvement in “[adjusting] the rights and responsibilities of contracting parties [must be based] upon reasonable conditions and [be] of a character appropriate to the public purpose justifying [the legislation’s] adoption.”²⁹

1. The Threshold Inquiry – Substantial Impairment of a Contractual Relationship

When the Supreme Court analyzes a state law under the Contract Clause, the threshold inquiry is whether the law has “operated as a substantial impairment of a contractual relationship.”³⁰ This analysis has been applied by the Ninth Circuit in the context of a municipal living wage ordinance in RUI One Corp. v. City of Berkeley, 371 F.3d 1137, (9th Cir. 2004). The court in that case found that expansion of the ordinance’s applicability to certain employers located on public trust lands did not impair any contractual terms of a restaurant’s lease agreement with the City, including that which required the restaurant to use its best judgment and ability to maximize profits.³¹ The recognized components of this initial inquiry are “whether there is a contractual relationship, whether a change in law impairs that contractual relationship, and whether the impairment is substantial.”³²

²⁵ Goldblatt v. Town of Hempstead, N. Y., 369 U.S. 590, 595-96 (1962).

²⁶ United States Const. art. I, § 10, cl. 1.

²⁷ Energy Reserves Group, Inc. v. Kansas Power and Light Co., 459 U.S. 400, 411 (1983), quoting Allied Structural Steel Co. v. Spannaus, 438 U.S. 234, 244 (1978).

²⁸ Energy Reserves at 411.

²⁹ Id. at 412.

³⁰ Gen. Motors Corp. v. Romein, 503 U.S. 181, 186 (1992).

³¹ RUI at 1148-53.

³² RUI at 1147, quoting Romein at 186.

The existence of a contractual relationship turns on whether the parties have manifested assent to the specific issue addressed by the law.³³ Although the ordinance in RUI did not impair the lease contract with the City, no question was raised with regard to the employer's contracts with its employees. An employer may argue that where the terms of an employment agreement are based on a certain rate of pay, the parties have necessarily manifested assent to the specific issue addressed by a minimum wage ordinance, and a contractual relationship may be found. It may be further argued that a minimum wage ordinance impairs the contractual relationship because it affects a basic term of the contract on which the employer relied.³⁴

Even if there is a contractual relationship that has been impaired, the severity of the impairment is informed by existing regulations. "In determining the extent of the impairment, we are to consider whether the industry the complaining party has entered has been regulated in the past."³⁵ Minimum wage regulations have steadily broadened in legislative source and application along with changing societal circumstances across several decades.³⁶ Thus, it could be argued that an employer can reasonably expect continued regulatory changes, and any impairment should be considered to be insubstantial.

2. Legitimate Public Purpose

If a municipal minimum wage ordinance is found to be a substantial impairment of a contractual relationship, then it must serve a legitimate public purpose in order to be valid. "[T]he court must inquire whether 'the [legislative body], in justification, [has] a significant and legitimate public purpose behind the regulation, such as the remedying of

³³ Romein at 188 (finding no contractual relationship where, in negotiating employment contracts, the parties would not have been able to consider the future effects of fluctuating state law on benefits); RUI at 1148 (finding no contractual relationship regarding specific wage amounts where a restaurant's lease with the City required the use of best judgment in management to maximize profits).

³⁴ See Spannaus at 246.

³⁵ Energy Reserves at 411, 416 (finding no impairment of a contractual relationship where (1) contracts for natural gas stated that their terms were subject to "present and future state and federal law," and (2) the "regulation existed and was foreseeable as the type of law that would alter contract obligations").

³⁶ See United States Department of Labor, History of Changes to the Minimum Wage Law, <http://www.dol.gov/whd/minwage/coverage.htm> (accessed October 6, 2014); Changes in Basic Minimum Wages in Non-Farm Employment Under State Law: Selected Years 1968 to 2013, <http://www.dol.gov/whd/state/stateMinWageHis.htm> (accessed October 22, 2014).

a broad and general social or economic problem,' to guarantee that 'the State is exercising its police power, rather than providing a benefit to special interests.'"³⁷

The public purpose iterated by Maine's legislature in implementing the state minimum wage is that "workers employed in any occupation should receive wages sufficient to provide adequate maintenance and to protect their health, and to be fairly commensurate with the value of the services rendered."³⁸ Wages sufficient to provide adequate maintenance vary both temporally and by locality. Federal and State minimum wages have increased over time in an attempt to keep up with the cost of living across the nation and within states broadly.³⁹ As the cost of living in a particular locality differs from these broad averages over time, so do the "wages sufficient to provide adequate maintenance."

The public purpose of a minimum wage for Portland would also include the consideration that wages are "sufficient to provide adequate maintenance" at the locality. A municipal minimum wage ordinance would help provide adequate maintenance for Portland residents by mitigating the overall relatively high cost of living in Maine's largest city, which, unlike most other Maine localities, is exacerbated by an increasingly limited housing supply. Thus, a minimum wage ordinance in Portland would have a "significant and legitimate public purpose," and the requirements of the second prong of the Contract Clause analysis are likely to be found to be met.

3. Reasonable Conditions and Appropriate Character

"Finally, the court must inquire whether the adjustment of the rights and responsibilities of contracting parties is based upon reasonable conditions and is of a character appropriate to the public purpose justifying the legislation's adoption. [It] is customary in reviewing economic and social regulation [that] courts properly defer to legislative judgment as to the necessity and reasonableness of a particular measure."⁴⁰

³⁷ RUI at 1147, quoting Energy Reserves at 411-12, 417 (upholding a state statute that may have impaired contracts somewhat by capping intrastate prices, but that also had a purpose "to protect consumers from the escalation of natural gas prices caused by deregulation").

³⁸ 26 M.R.S. § 661 (2014).

³⁹ See *supra*, n. 13.

⁴⁰ RUI at 1147 (internal quotations omitted), quoting Energy Reserves at 412-13.

In addressing the public purpose to provide workers with wages sufficient for their adequate maintenance, a local minimum wage ordinance is a contractual adjustment of appropriate character because minimum wages generally have borne the test of time on both national and state scales as regulation of acceptable character. Increasingly, municipalities across the nation are also implementing minimum wages, and where challenged thus far, their legitimacy has been upheld.⁴¹ Furthermore, the presumption of validity applied to duly enacted local ordinances, under Maine's home rule, supports the appropriate character of a minimum wage ordinance to ensure local wage sufficiency.

Portland's municipal minimum wage ordinance will be based upon reasonable conditions because its parameters will reflect standards common to locally enacted legislation and include considerations of precedent, compatibility, and constitutionality. Thus, the requirements of the third prong of the Contract Clause analysis are likely to be found to be met, and no violation of the clause should be found to exist.

B. Due Process

Although historical economic due process analysis has been replaced by the modern Contract Clause analysis described above,⁴² other due process claims may be attempted.⁴³ The living wage ordinance in RUI included an opt-out provision for employers that were subject to bargaining agreements, and the plaintiffs claimed that this was an unconstitutional delegation of legislative authority to the unions.⁴⁴ This argument did not pass muster because the court recognized that the legislative body created the law in the first instance, and the opt-out provision was "simply a condition of the ordinance's application."⁴⁵

Though due process claims against municipal minimum wage ordinances may be attempted, the common law generally stacks up against them, and such claims should not be successful. "[That the] power under the Constitution to restrict freedom of contract...

⁴¹ Id. at 1151 (expansion of municipal minimum wage applicability did not "impair[] 'the very value bargained for' in the agreement" between restaurateur and the City); New Mexicans at 1173 ("The City has the power to set a minimum wage for private employers that is higher than that mandated by the state. The ordinance does not conflict with state law and is not otherwise unconstitutional.")

⁴² RUI at 1141-42, 1151.

⁴³ The Fourteenth Amendment states, "nor shall any State deprive any person of life, liberty, or property, without due process of law". United States Const. amend. XIV, § 1.

⁴⁴ RUI at 1156.

⁴⁵ Id. at 1157 (internal quotations omitted).

may be exercised in the public interest with respect to contracts between employer and employee is undeniable.”⁴⁶ “Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process.”⁴⁷

C. Equal Protection

Equal Protection challenges have been similarly unsuccessful. These have involved claims of unfair targeting as well as arbitrariness in implementation of local wage ordinances. As long as fundamental rights or suspect classes are not implicated, the rational basis level of scrutiny allows municipalities sufficient leeway to craft ordinances that effect their public purposes.

In RUI, the plaintiffs claimed that the minimum wage expansion unfairly targeted them because it affected only a limited number of employers that were located in a particular geographic area.⁴⁸ The Ninth Circuit recognized that the case did not involve a suspect class nor a fundamental right, that it addressed “social and economic policy,” and recognized that any rational basis for the legislation would support it.⁴⁹ The court then went on to quote precedent that accepted implementations of laws that were incremental or phased in approach, or targeted particular sectors or geographic regions, and held that the reasons stated in the City’s findings provided a rational basis.⁵⁰

In New Mexicans, the plaintiffs claimed that the exemption for businesses with less than 25 employees was arbitrarily selected and violated state equal protection. The court acknowledged that similarly situated individuals, such as small businesses with slightly more or less than 25 employees, would be treated differently and applied rational basis scrutiny. The Council’s desire to reduce the number of small businesses impacted while affecting the number of employees to a lesser degree was an acceptable basis as a “tradeoff” that constituted “classic line-drawing in legislative policymaking.”⁵¹

⁴⁶ W. Coast Hotel Co. v. Parrish, 300 U.S. 379, 392-93 (1937) (upholding Washington’s minimum wage statute and recognizing that the “essential limitation of liberty in general governs freedom of contract in particular”).

⁴⁷ W. Coast Hotel at 391.

⁴⁸ RUI at 1154.

⁴⁹ Id.

⁵⁰ Id. at 1155-56.

⁵¹ New Mexicans at 1167.

A municipal minimum wage ordinance for Portland is not likely to be found to violate the Equal Protection Clause, as long as the details of its implementation do not trigger a higher level of constitutional scrutiny (which they do not appear to do at this stage in the process).

D. Takings

Finally, in response to a plaintiff's claim that Santa Fe's minimum wage ordinance constituted a taking of private property under New Mexico's Constitution, the Court of Appeals surveyed federal case law and found direct conflict with the claim.⁵² The court went on to acknowledge that:

"Plaintiffs have not directed us to any authority, and we have found none, in which a minimum wage law has been viewed as a violation of either the federal or a state takings clause. We decline to be the first, particularly where we cannot identify any limiting principle that would prevent such a holding from potentially converting the vast majority of public health, safety, and welfare regulations, which typically burden businesses with some additional costs, into takings of private property by the state."⁵³

Generally, takings jurisprudence requires a much higher level of impact on personal property rights than would be implicated by Portland's proposed minimum wage ordinance, and therefore such arguments would most likely fail as well.

IV. Conclusion

Overall, a local minimum wage ordinance would seem to pass muster under all the legal tests described above. With that said, I am still concerned that this issue has not yet been litigated in Maine, and that future enforcement of the proposed ordinance may prove difficult.

⁵² New Mexicans at 1169 ("See Connolly v. Pension Benefit Guar. Corp., 475 U.S. 211, 222-23 [] (1986) (providing minimum wage laws as an example of regulations that do not constitute a taking); see also McGrew v. Indus. Comm'n, 96 Utah 203, 85 P.2d 608, 611 (Utah 1938) (holding that a minimum wage law is not a taking because an employer is neither required nor forbidden to employ anyone and no property right is being taken from the employer). In Commonwealth Edison Co. v. United States, 271 F.3d 1327, 1339 (Fed.Cir.2001) (in banc), the Court of Appeals for the Federal Circuit extracted from the plurality opinion in Eastern Enterprises v. Apfel, 524 U.S. 498 [] (1998), the conclusion that a majority of the United States Supreme Court has "rejected the theory that an obligation to pay money constitutes a taking." Commonwealth Edison Co., 271 F.3d at 1339.")

⁵³ New Mexicans at 1169.

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6, (BUILDINGS AND BUILDING REGULATIONS),
AND CHAPTER 10, (FIRE PREVENTION AND PROTECTION)
Re: Inspection of Rental Units**

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

1. That Chapter 6, Sections 6-1, 6-2, 6-106, 6-116 to 6-125, 6-127, 6-129, 6-130, 6-150 to 6-153 and Chapter 10, Sections 10-2, 10-3 and 10-17 of the Portland City Code are hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 6-1. Penalties.

Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the provisions set forth in Chapter 6 is liable for the penalties set forth in this section.

- (a) *Penalties.* Except for paragraph g., monetary penalties shall be assessed on a per-day basis for each day on which a violation exists:

...

9. In addition to the other penalties in this section, the building authority or a housing safety official designated by the city manager may suspend a contractor's, owner's, or developer's right to obtain building permits or work on any project in the city if the building authority or a housing safety official designated by the city manager determines that a contractor's, owner's, or developer's violation or violations of any provision in articles II,

III, or IV of this chapter create such a threat to life or safety that a structure must be posted against occupancy or that the violation or violations render a structure uninhabitable. The suspension authorized by this subparagraph 8 shall be lifted when the building authority or a housing safety official designated by the city manager determines that the violation or violations have been fixed.

- (b) *Proceedings brought for benefit of municipality.* All fines resulting from these proceedings shall be paid to the city.

Sec. 6-2. Fees for reinspections.

Following the issuance of a notice of violation and an order to correct violations, the enforcement authority or a housing safety official designated by the city manager will reinspect once for no fee in order to determine whether the violations have been fixed in compliance with this chapter. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a fee as set forth in section 6-17 for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.

...

ARTICLE V. HOUSING CODE

Sec. 6-106. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Basement shall mean the portion of a building next below the ground floor having not more than half of its clear height below the adjoining grade.

Dwelling shall mean any house, building or part thereof which is occupied or intended to be occupied, in whole or in part, for living and sleeping by one (1) or more occupants. A dwelling may include one (1) or more dwelling units or rooming units or a combination of both.

Dwelling premises shall mean the land and auxiliary buildings thereon used or intended to be used in conjunction with a dwelling.

Dwelling unit shall mean one (1) or more rooms forming a single unit including food preparation, living, sanitary and sleeping facilities used or intended to be used by two (2) or more persons living in common or by a person living alone.

Enforcement authority means and includes the building authority, a housing safety official designated by the city manager, the health authority, and the director of planning and urban development.

...

Sec. 6-116. Minimum standards for safety.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with Chapter 10 of this code, including but not limited to the following minimum standards for safety from fire.

- (a) No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing, storing or producing flammable liquids, toxic gas vapors or fibrous materials, such as asbestos, which may endanger the lives or safety of the occupants.
- (b) Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level in accordance with applicable statutes, regulations and ordinances.
- (c) Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.
- (d) Storage rooms and storage lockers shall not be used for storage of refuse, rubbish or waste.
- (e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with

all other applicable state statutes and regulations. ~~The enforcement authority's inspection obligation under this subsection shall be limited to notify and eite the owner or any designated responsible party for violations relating to fire/smoke detectors and fire alarms systems.~~

- (f) When the health or building authority or a housing safety official designated by the city manager determines that a dwelling contains friable asbestos material in an amount and/or location which presents an unacceptable health hazard to the occupants and/or the general public, the owner of the dwelling, upon notification from the health or building authority or a housing safety official designated by the city manager, shall remove that material or encapsulate it. Removal or encapsulation shall be conducted in accordance with all applicable federal, state and local laws and regulations.

Sec. 6-117. Inspections.

The health or building authority or a housing safety official designated by the city manager, upon proper identification, shall have the right to enter at any and all reasonable times into or upon any dwelling or dwelling premises within the city for the purpose of inspecting the dwelling or dwelling premises in order to determine compliance with the provisions of this article and for the purpose of examining and inspecting any work performed under the provisions of this article, and it shall be a violation of this article for any person to interfere with or prevent such inspection.

Sec. 6-118. Notices.

When any violation is found to exist within the meaning of this article, the health or building authority or a housing safety official designated by the city manager shall give the owner, operator or occupant, or both a written order or notice which shall set forth the violation and shall contain a reasonable time limit for the correction thereof.

Sec. 6-119. Reinspections.

After the expiration of the time for correction of a violation, the health or building authority or a housing safety

official designated by the city manager shall make a reinspection of the premises, and if the violation has not been corrected and no appeal is pending as hereinafter provided, such authority may make such further order as he deems advisable or he may proceed to take legal action against the person liable for such violation.

Sec. 6-120. Properties unfit for human habitation; and posted against occupancy.

Any dwelling, dwelling unit, rooming house, rooming unit, or any structure or portion thereof being used for human habitation which is in violation of the provisions of this article to the extent that it is unfit for human habitation according to the standards contained herein or other applicable standards may be condemned for habitation and posted against occupancy by the building authority or a housing safety official designated by the city manager. Property unfit for human habitation shall include but not be limited to:

- (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;

...

Sec. 6-121. Notice of condemnation and posting; order to vacate.

The building authority or a housing safety official designated by the city manager shall give notice in writing to the property owner or operator of such condemnation and posting, and in the event such property is occupied, he or she shall give like notice to the occupant, which shall also include a reasonable time limit within which such property shall be vacated.

Sec. 6-122. Property not to be occupied again for habitation.

No property which has been condemned and posted against occupancy shall again be used for the purpose of habitation until the building authority or a housing safety official designated by the city manager shall in writing approve of its use and shall likewise authorize the removal of the posted notice.

Sec. 6-123. Notices not to be removed; property not to be used or let; exception.

It shall be a violation of this article for any person to deface or remove any such posted notice without the prior approval of the building authority or a housing safety official designated by the city manager, and it shall also be a violation of this article for any person to occupy or let to another for occupancy any property which has been condemned and posted as provided above without receiving the prior approval of the building authority or a housing safety official designated by the city manager.

...

Sec. 6-125. Restriction on conveyance of property; exception.

It shall be a violation of this article for any person to sell, transfer, or otherwise dispose of any property against which an order has been issued by the building authority or a housing safety official designated by the city manager under the provisions of this article unless he or she shall first furnish to the grantee a true copy of any such order and shall at the same time notify the building authority or a housing safety official designated by the city manager in writing of the intent to so transfer either by delivering the notice to the building authority or a housing safety official designated by the city manager and receiving a receipt therefor or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed. In the event of a violation of this section, such person shall be subject to a penalty as provided in section 1-15, in addition to any penalty which may be imposed for failure to comply with any order of the building authority or a housing safety official designated by the city manager.

...

Sec. 6-127. Appeals.

An appeal from any final decision of the building authority or a housing safety official designated by the city manager, if available by statute or otherwise by law, under the provisions of this article may be taken by an aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

...

Sec. 6-129. Exception for island properties.

The building authority or a housing safety official designated by the city manager may permit the use of buildings located on the islands for dwelling purposes which do not meet the minimum standards set forth in this article when he or she finds that it is not feasible or practicable to provide such minimum standards and the health, safety or general welfare of the occupants or the public will not be adversely affected.

Sec. 6-130. Violations.

Any person violating any of the provisions of this article or failing or neglecting or refusing to obey any order or notice of the building authority or a housing safety official designated by the city manager issued hereunder shall be subject to a penalty as provided in section 6-1.

...

ARTICLE VI. DISCLOSURE OF BUILDING OWNERSHIP

Sec. 6-150. Purpose.

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of multiunit-residential rental properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. This article is intended to require the disclosure of the ownership of such property and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises, and to ensure that owners and tenants comply with chapters 6 and 10 of the City Code.

Sec. 6-151. Registration required.

(a) For purposes of this Article, a rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. A Single-Family Home, Condominium, or Apartment that is occupied

by the owner or owners, and of which no portion is rented or available for rent, is not a rental unit. Any portion of a Single-Family Home, Condominium, or Apartment that is rented to or available to be rented to an individual or individuals who are not the owner or owners is a rental unit. Dwelling units and rooming units as defined in §6-106 are, without limitation, rental units.

(b) Registration of ownership. The owner or owners of all buildings containing one (1) or more rental unitsthree (3) or more dwelling units, rooming units, or any combination thereof within the city shall register their ownership interest, address, and telephone number, and e-mail address, as well asand the name, address and telephone number of the person or entity responsible for managing the property, or cause such interest to be registered, with a housing safety official designated byb the city managerthe building authority as provided in section 6-152 by January 1, 2016within ninety (90) days of the effective date of this article or within thirty (30) days of purchase of the property and/or building, whichever occurs later.

The registration required hereunder shall be updated or withdrawn within thirty (30) days of transfer of ownership, change in management or change in registered agent as provided in section 6-152. Each and every owner of the property shall be responsible for the filing of the registration and for updating prior filings as required.

(c) Fee for Registration. The owner or owners shall pay to a housing safety official designated by the city manager a fee of \$35 per rental unit at the time of registration. Failure to pay this fee by January 1, 2016 shall constitute a violation pursuant to section 6-153.

(d) Annual Renewal and Fee. The owner or owners shall renew their registration annually by updating the information provided in their initial registration and by payment to the City through a housing safety official designated by the City Manager of a fee of \$35 per rental unit. Failure to update information or pay the annual renewal fee by January 1 shall constitute a violation pursuant to section 6-153.

(e) Registration of management companies. Any individual, firm, corporation or purchaser under a land installment contract pursuant to Title 13 M.R.S.A. § 481 et seq. as may be amended from time to time, managing property subject to the registration

requirements of subsection (a) shall register with the building authority its management responsibility ~~within thirty (30) days of the effective date of this article by January 1, 2016 or within thirty (30) days of assuming management responsibility.~~ Any filing shall be updated, at least annually, if there are any changes whatsoever with regard to the information supplied. Failure to register management responsibility or update the information supplied regarding such management responsibility shall constitute a violation pursuant to section 6-153.

Sec. 6-152. Registration form; information.

~~A housing safety official designated by the city manager~~The building authority shall provide forms to be completed by the owners and managers of properties subject to registration under this article and shall maintain a file containing all registrations made under this article.

(a) The registration form for owners shall include, at a minimum, the following:

1. The street address of the building;
2. The assessor's chart, block and lot of the property on which the building is located;
3. The names, addresses, and telephone numbers, and e-mail addresses of all individual persons having any ownership interest in the property including, without limitation, all partners, all officers or trustees of any real estate trusts; and including the residential street address, e-mail address and home phone number of at least one (1) such individual person;
4. The name, address and telephone number of the manager of the property or the person or persons responsible for its regular maintenance or repair;
5. The name, and address, and e-mail address of a person designated as the agent of the owner or owners for the service of notices and civil process by the city. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or

owners designating that person in any litigation pertaining to the premises.

(b) The registration form for managers of property shall include, at a minimum, the following:

1. The name, address, e-mail address and local telephone number of the management company and of at least one (1) such individual, including the residential street address, e-mail address and home telephone number of that individual; and
2. A list of all buildings for which the person or firm is responsible, including the street address and chart, block and lot description of the property and the name of the owner of that building.

Sec. 6-153. Violations.

- (a) Any person business entity or other organization failing to timely file the required registration or failing to timely pay, in full, the registration fee or annual renewal fee, or failing to timely file any required update to the registration shall be in violation of this Article for which a fine of \$100.00 per day each day the violation continues shall be assessed. or filing a false statement on any registration shall be guilty of an offense. It
- (b) Any person providing false information with respect to registration shall be in violation of this article for which a fine of \$1,000.00 shall be assessed.
- (c) It shall shall also be a violation of this article for which a fine of \$100.00 per day each day the violation continues shall be assessed for any owner or manager to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises.
~~(a)~~ (d)—No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article. ~~Each day's continuing failure to file such a registration, to update such registration or permitting the continued occupancy of such premises~~

Chapter 10. FIRE PREVENTION AND PROTECTION*

ARTICLE I. LIFE SAFETY CODE

...

Sec. 10-2. Definitions.

Wherever the words "authority having jurisdiction" are used in the Life Safety Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.

Wherever the word "municipality" or "city" is used in the Life Safety Code, it shall be held to mean the City of Portland.

Special hazard dwelling unit shall mean any structure containing twelve (12) or more dwelling units.

Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is amended, modified and deleted in the following respects:

- (a) Section 3.3.32.8 shall be amended to read as follows:

Historic Building: A building designated a Landmark or Contributing Building within a local or National Register historic district, pursuant to Article IX of the Portland City Code.

...

- (m) The provisions of the Life Safety Code shall ~~not~~ apply to all rental units as that phrase is defined in Portland City Code Chapter 6, §6-151~~one and two-family occupancies existing prior to the adoption of this ordinance, unless such structures are being used for a~~

~~purpose which requires a state or municipal license, including, but not limited to, daycare facilities, or are rented in their entirety and are the subject of a complaint to the City's Office of Building Inspections and Code Enforcement.~~

...

Sec. 10-17. Definitions.

(a) Wherever the word "municipality" or "city" is used in the Fire Prevention Code, it shall be held to mean the City of Portland.

(b) Wherever the words "authority having jurisdiction" are used in the Fire Prevention Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.

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 6, (BUILDINGS AND BUILDING REGULATIONS),
AND CHAPTER 10, (FIRE PREVENTION AND PROTECTION)

Re: Inspection of Rental Units

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

1. That Chapter 6, Sections 6-1, 6-2, 6-106, 6-116 to 6-125, 6-127, 6-129, 6-130, 6-150 to 6-153 and Chapter 10, Sections 10-2, 10-3 and 10-17 of the Portland City Code are hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 6-1. Penalties.

Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the provisions set forth in Chapter 6 is liable for the penalties set forth in this section.

- (a) Penalties. Except for paragraph g., monetary penalties shall be assessed on a per-day basis for each day on which a violation exists:

...

9. In addition to the other penalties in this section, the building authority or a housing safety official designated by the city manager may suspend a contractor's, owner's, or developer's right to obtain building permits or work on any project in the city if the building authority or a housing safety official designated by the city manager determines that a contractor's, owner's, or developer's violation or violations of any provision in articles II,

III, or IV of this chapter create such a threat to life or safety that a structure must be posted against occupancy or that the violation or violations render a structure uninhabitable. The suspension authorized by this subparagraph 8 shall be lifted when the building authority or a housing safety official designated by the city manager determines that the violation or violations have been fixed.

- (b) *Proceedings brought for benefit of municipality.* All fines resulting from these proceedings shall be paid to the city.

Sec. 6-2. Fees for reinspections.

Following the issuance of a notice of violation and an order to correct violations, the enforcement authority or a housing safety official designated by the city manager will reinspect once for no fee in order to determine whether the violations have been fixed in compliance with this chapter. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a fee as set forth in section 6-17 for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.

...

ARTICLE V. HOUSING CODE

Sec. 6-106. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Basement shall mean the portion of a building next below the ground floor having not more than half of its clear height below the adjoining grade.

Dwelling shall mean any house, building or part thereof which is occupied or intended to be occupied, in whole or in part, for living and sleeping by one (1) or more occupants. A dwelling may include one (1) or more dwelling units or rooming units or a combination of both.

Dwelling premises shall mean the land and auxiliary buildings thereon used or intended to be used in conjunction with a dwelling.

Dwelling unit shall mean one (1) or more rooms forming a single unit including food preparation, living, sanitary and sleeping facilities used or intended to be used by two (2) or more persons living in common or by a person living alone.

Enforcement authority means and includes the building authority, a housing safety official designated by the city manager, the health authority, and the director of planning and urban development.

...

Sec. 6-116. Minimum standards for safety.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with Chapter 10 of this code, including but not limited to the following minimum standards for safety from fire.

- (a) No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing, storing or producing flammable liquids, toxic gas vapors or fibrous materials, such as asbestos, which may endanger the lives or safety of the occupants.
- (b) Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level in accordance with applicable statutes, regulations and ordinances.
- (c) Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.
- (d) Storage rooms and storage lockers shall not be used for storage of refuse, rubbish or waste.
- (e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with

all other applicable state statutes and regulations. ~~The enforcement authority's inspection obligation under this subsection shall be limited to notify and cite the owner or any designated responsible party for violations relating to fire/smoke detectors and fire alarms systems.~~

- (f) When the health or building authority or a housing safety official designated by the city manager determines that a dwelling contains friable asbestos material in an amount and/or location which presents an unacceptable health hazard to the occupants and/or the general public, the owner of the dwelling, upon notification from the health or building authority or a housing safety official designated by the city manager, shall remove that material or encapsulate it. Removal or encapsulation shall be conducted in accordance with all applicable federal, state and local laws and regulations.

Sec. 6-117. Inspections.

The health or building authority or a housing safety official designated by the city manager, upon proper identification, shall have the right to enter at any and all reasonable times into or upon any dwelling or dwelling premises within the city for the purpose of inspecting the dwelling or dwelling premises in order to determine compliance with the provisions of this article and for the purpose of examining and inspecting any work performed under the provisions of this article, and it shall be a violation of this article for any person to interfere with or prevent such inspection.

Sec. 6-118. Notices.

When any violation is found to exist within the meaning of this article, the health or building authority or a housing safety official designated by the city manager shall give the owner, operator or occupant, or both a written order or notice which shall set forth the violation and shall contain a reasonable time limit for the correction thereof.

Sec. 6-119. Reinspections.

After the expiration of the time for correction of a violation, the health or building authority or a housing safety

official designated by the city manager shall make a reinspection of the premises, and if the violation has not been corrected and no appeal is pending as hereinafter provided, such authority may make such further order as he deems advisable or he may proceed to take legal action against the person liable for such violation.

Sec. 6-120. Properties unfit for human habitation; and posted against occupancy.

Any dwelling, dwelling unit, rooming house, rooming unit, or any structure or portion thereof being used for human habitation which is in violation of the provisions of this article to the extent that it is unfit for human habitation according to the standards contained herein or other applicable standards may be condemned for habitation and posted against occupancy by the building authority or a housing safety official designated by the city manager. Property unfit for human habitation shall include but not be limited to:

- (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;

...

Sec. 6-121. Notice of condemnation and posting; order to vacate.

The building authority or a housing safety official designated by the city manager shall give notice in writing to the property owner or operator of such condemnation and posting, and in the event such property is occupied, he or she shall give like notice to the occupant, which shall also include a reasonable time limit within which such property shall be vacated.

Sec. 6-122. Property not to be occupied again for habitation.

No property which has been condemned and posted against occupancy shall again be used for the purpose of habitation until the building authority or a housing safety official designated by the city manager shall in writing approve of its use and shall likewise authorize the removal of the posted notice.

Sec. 6-123. Notices not to be removed; property not to be used or let; exception.

It shall be a violation of this article for any person to deface or remove any such posted notice without the prior approval of the building authority or a housing safety official designated by the city manager, and it shall also be a violation of this article for any person to occupy or let to another for occupancy any property which has been condemned and posted as provided above without receiving the prior approval of the building authority or a housing safety official designated by the city manager.

...

Sec. 6-125. Restriction on conveyance of property; exception.

It shall be a violation of this article for any person to sell, transfer, or otherwise dispose of any property against which an order has been issued by the building authority or a housing safety official designated by the city manager under the provisions of this article unless he or she shall first furnish to the grantee a true copy of any such order and shall at the same time notify the building authority or a housing safety official designated by the city manager in writing of the intent to so transfer either by delivering the notice to the building authority or a housing safety official designated by the city manager and receiving a receipt therefor or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed. In the event of a violation of this section, such person shall be subject to a penalty as provided in section 1-15, in addition to any penalty which may be imposed for failure to comply with any order of the building authority or a housing safety official designated by the city manager.

...

Sec. 6-127. Appeals.

An appeal from any final decision of the building authority or a housing safety official designated by the city manager, if available by statute or otherwise by law, under the provisions of this article may be taken by an aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

...

Sec. 6-129. Exception for island properties.

The building authority or a housing safety official designated by the city manager may permit the use of buildings located on the islands for dwelling purposes which do not meet the minimum standards set forth in this article when he or she finds that it is not feasible or practicable to provide such minimum standards and the health, safety or general welfare of the occupants or the public will not be adversely affected.

Sec. 6-130. Violations.

Any person violating any of the provisions of this article or failing or neglecting or refusing to obey any order or notice of the building authority or a housing safety official designated by the city manager issued hereunder shall be subject to a penalty as provided in section 6-1.

...

ARTICLE VI. DISCLOSURE OF BUILDING OWNERSHIP

Sec. 6-150. Purpose.

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of ~~multiunit~~ residential rental properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. This article is intended to require the disclosure of the ownership of such property and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises, and to ensure that owners and tenants comply with chapters 6 and 10 of the City Code.

Sec. 6-151. Registration required.

(a) For purposes of this Article, a rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. A Single-Family Home, Condominium, or Apartment that is occupied

by the owner or owners, and of which no portion is rented or available for rent, is not a rental unit. Any portion of a Single-Family Home, Condominium, or Apartment that is rented to or available to be rented to an individual or individuals who are not the owner or owners is a rental unit. Dwelling units and rooming units as defined in §6-106 are, without limitation, rental units.

(b)Registration of ownership. The owner or owners of all buildings containing one (1) or more rental unitsthree (3) or more dwelling units, rooming units, or any combination thereof within the city shall register their ownership interest, address, and telephone number, and e-mail address, as well asand the name, address and telephone number of the person or entity responsible for managing the property, or cause such interest to be registered, with a housing safety official designated byb the city managerthe building authority as provided in section 6-152 by January 1, 2016within ninety (90) days of the effective date of this article or within thirty (30) days of purchase of the property and/or building, whichever occurs later.

The registration required hereunder shall be updated or withdrawn within thirty (30) days of transfer of ownership, change in management or change in registered agent as provided in section 6-152. Each and every owner of the property shall be responsible for the filing of the registration and for updating prior filings as required.

(c) Fee for Registration. The owner or owners shall pay to a housing safety official designated by the city manager a fee of \$35 per rental unit at the time of registration. Failure to pay this fee by January 1, 2016 shall constitute a violation pursuant to section 6-153.

(d) Annual Renewal and Fee. The owner or owners shall renew their registration annually by updating the information provided in their initial registration and by payment to the City through a housing safety official designated by the City Manager of a fee of \$35 per rental unit. Failure to update information or pay the annual renewal fee by January 1 shall constitute a violation pursuant to section 6-153.

(e)Registration of management companies. Any individual, firm, corporation or purchaser under a land installment contract pursuant to Title 13 M.R.S.A. § 481 et seq. as may be amended from time to time, managing property subject to the registration

requirements of subsection (a) shall register with the building authority its management responsibility ~~within thirty (30) days of the effective date of this article by January 1, 2016 or~~ within thirty (30) days of assuming management responsibility. Any filing shall be updated, at least annually, if there are any changes whatsoever with regard to the information supplied. Failure to register management responsibility or update the information supplied regarding such management responsibility shall constitute a violation pursuant to section 6-153.

Sec. 6-152. Registration form; information.

A housing safety official designated by the city manager~~The building authority~~ shall provide forms to be completed by the owners and managers of properties subject to registration under this article and shall maintain a file containing all registrations made under this article.

(a) The registration form for owners shall include, at a minimum, the following:

1. The street address of the building;
2. The assessor's chart, block and lot of the property on which the building is located;
3. The names, addresses, and telephone numbers, and e-mail addresses of all individual persons having any ownership interest in the property including, without limitation, all partners, all officers or trustees of any real estate trusts; and including the residential street address, e-mail address and home phone number of at least one (1) such individual person;
4. The name, address and telephone number of the manager of the property or the person or persons responsible for its regular maintenance or repair;
5. The name, and address, and e-mail address of a person designated as the agent of the owner or owners for the service of notices and civil process by the city. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or

owners designating that person in any litigation pertaining to the premises.

(b) The registration form for managers of property shall include, at a minimum, the following:

1. The name, address, e-mail address and local telephone number of the management company and of at least one (1) such individual, including the residential street address, e-mail address and home telephone number of that individual; and
2. A list of all buildings for which the person or firm is responsible, including the street address and chart, block and lot description of the property and the name of the owner of that building.

Sec. 6-153. Violations.

- (a) Any person business entity or other organization failing to timely file the required registration or failing to timely pay, in full, the registration fee or annual renewal fee, or failing to timely file any required update to the registration shall be in violation of this Article for which a fine of \$100.00 per day each day the violation continues shall be assessed. or filing a false statement on any registration shall be guilty of an offense. It
- (b) Any person providing false information with respect to registration shall be in violation of this article for which a fine of \$1,000.00 shall be assessed.
- (c) It shall shall also be a violation of this article for which a fine of \$100.00 per day each day the violation continues shall be assessed for any owner or manager to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises.
~~(a)~~ (d) No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article. Each day's continuing failure to file such a registration, to update such registration or permitting the continued occupancy of such premises

Chapter 10 FIRE PREVENTION AND PROTECTION*

ARTICLE I. LIFE SAFETY CODE

...

Sec. 10-2. Definitions.

Wherever the words "authority having jurisdiction" are used in the Life Safety Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.

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Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is amended, modified and deleted in the following respects:

- (a) Section 3.3.32.8 shall be amended to read as follows:

Historic Building: A building designated a Landmark or Contributing Building within a local or National Register historic district, pursuant to Article IX of the Portland City Code.

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- (m) The provisions of the Life Safety Code shall ~~not~~ apply to all rental units as that phrase is defined in Portland City Code Chapter 6, §6-15 ~~one and two-family occupancies existing prior to the adoption of this ordinance, unless such structures are being used for a~~

~~purpose which requires a state or municipal license, including, but not limited to, daycare facilities, or are rented in their entirety and are the subject of a complaint to the City's Office of Building Inspections and Code Enforcement.~~

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Sec. 10-17. Definitions.

(a) Wherever the word "municipality" or "city" is used in the Fire Prevention Code, it shall be held to mean the City of Portland.

(b) Wherever the words "authority having jurisdiction" are used in the Fire Prevention Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.



Executive Department
Julie Sullivan, Acting Chief of Staff

MEMORANDUM

TO: Public Safety, Health & Human Services Committee, City Council
FROM: Julie Sullivan, Acting Chief of Staff
DATE: June 9, 2015
RE: Fire/Code Task Force Recommendations/Proposed Housing Safety Office

I am pleased to present for your consideration and action the following Staff recommendations and responses regarding the Fire/Code Task Force's proposed Housing Safety Office.

Former Acting City Manager Sheila Hill-Christian convened the Task Force in November 2014 following the tragic Noyes Street fire. The Task Force was charged "...to recommend improvements to better ensure the safety of the city's rental housing stock." The Task Force presented recommendations to this Committee in February 2015 and returned to the Committee in March to answer questions posed by the Committee. Since then, Staff have been researching and gathering additional data to provide greater insight into the implementation questions Councilors have had regarding the Task Force's recommendations.

To that end, this table details Staff recommendations, responses to outstanding questions, an action plan and timeline including points of communication with the Committee.

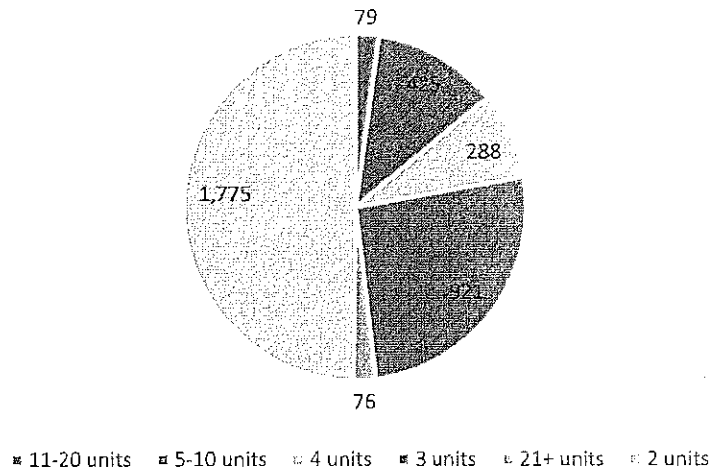
Area	General Issue(s)	Staff Recommendation	Time Frame
Ordinance changes	Authority	Add to Chs. 6 and 10; please see Attachment A.	June 9 PSHHS meeting
	Landlord registration – fee, possible discounts, required data, fine schedule	Add to Ch. 6 (please see Att. A) Housing Safety Officer (<i>please note – not hired until 9/1 or later</i>) will develop specific criteria for discounted fees	June 9 PSHHS Present proposed discount schedule to PSHHS Nov. 10
	Definition of rental unit – condos, single-family, Air BnB	Add to Ch. 6 (please see Att. A)	June 9 PSHHS
	Tenant accountability, especially re disabling smoke alarms	We currently have the statutory authority to hold tenants accountable and the Housing Safety Office will assign responsibility based on what they find during inspections.	HSO to develop operating policies and procedures for City Manager approval by November.

Area	General Issue(s)	Staff Recommendation	Time Frame
	Other – add “knowingly” re provision of false information; not require list of every member with ownership interest	Change made (Att. A); ability to utilize a registered agent for multi-owner properties: §6-152(a)(3) already provides that for multi-owner properties, all names must be listed, but only one must provide contact information; §6-152(a)(5) provides for designation of a registered agent.	June 9 PSHHS
	Allowing the Fire Department to inspect one- and two-unit buildings as well as three-plus	Change made (Att. A)	June 9 PSHHS
Organization	Should the Housing Safety Office report to the City Manager’s Office; report to the Planning & Urban Development Department Head; or be part of a new, combined Inspections Department	Staff recommends allowing this important, new endeavor to incubate during its first year without tying it to a significant and complex restructuring, or adding it to an already overburdened department. Thus, Staff recommends that the Committee uphold the Task Force’s intention that the Housing Safety Office report to the City Manager’s Office.	June 9 PSHHS
		Staff suggests that the Housing Safety Officer and the Planning & Urban Development Director engage in a thoughtful, collaborative process to evaluate inspections functions and recommend possible restructuring, also considering any other restructuring initiatives put forth by the new City Manager.	January 2016
	Performance standards, evaluation, frequency of inspections, roles of Fire companies and Fire Prevention, flow charts and decision trees	The Housing Safety Office should use their experience and expertise to research, define and propose specific performance standards, policies and procedures, and a rigorous annual evaluation of the program. The HSO will collaborate with the Fire Department to create and set measurable goals.	Ongoing; to City Manager with regular updates to PSHHS
	Other organizational and functional questions regarding	Please see Attachment B	

Area	General Issue(s)	Staff Recommendation	Time Frame
	Fire and Inspections		

The pie chart below is in response to a Councilor question regarding the number and type of rental housing units. Please note that this data is at best an estimate; it is one of the reasons the Task Force emphasized the landlord registration, so that the City can have accurate data regarding the number of type of rental housing.

Estimated Number of Buildings by Number of Units



In response to questions regarding who does what (please also see Attachment B):

- Fire Dept Line Companies proactively inspect buildings with a basic Life Safety review.
- Fire Prevention responds to life safety-related complaints.
- Inspections Division responds to housing complaints.
- Proposed Housing Safety Office will begin with risk-based prioritization of all rental housing and work toward a regular, proactive inspection cycle. Complaints regarding housing safety will go to this office once it is fully staffed.

ATTACHMENT A

In order to carry out the Task Force's recommendations and the Council's goal of increased and more effective housing inspections, Staff recommends two sets of Ordinance changes.

The first set of Ordinance changes will accommodate the existence of a Housing Safety Office and provide officials in that office the authority to do inspections under both the Housing Code, in Chapter 6 and the Life Safety and Fire Codes in Chapter 10. This authority will not replace the authority of the Building Authority or the Fire Department to do inspections, but be supplemental to it.

Specifically:

- Chapter 6 will be amended in several places to add "or a housing safety official authorized by the City Manager" to the building authority as officials entitled to do inspections and enforce Chapter 6;
- Chapter 10 would also require that "or a housing safety official authorized by the City Manager" to the "authority having jurisdiction" section of Chapter 10 again to permit that official to do inspections and enforce Chapter 10;
- Given that the official would be cross-trained and expected to enforce provisions of the Life Safety Code to all rental units, § 10-3 will be amended to apply the Life Safety Code to all rental units.

The second set of Ordinance changes will substantially augment the presently existing but not enforced Registration Ordinance. It will be administered by the Housing Safety Office and will provide an effective means of acquiring an accurate census of rental properties in the City, provide information that will make enforcement of the housing and life safety codes more efficient, and through rental fees will help defray the cost of adding the Housing Safety Office.

Specifically, the Staff's recommended amendments:

- Establish a definition of *rental unit* which encompasses all rented portions of residential structures rented for any period of time;
- Require that the owner or owners of buildings with 1 or more rental units register their ownership interest, address, telephone number, e-mail address, as well as information regarding their property manager by January 1, 2016. For multiple ownership situations, only one owner is required to provide this information. And in all circumstances a registered agent shall be designated for service of process;
- Establish a \$35 annual fee for registration and obligation for owners to update their information annually;
- Provide that the City Manager or designee shall promulgate regulations providing for discounts to the \$35 fee for those situations where such practices as alternative inspections or certain lease conditions mitigate public safety risks and the costs to the City;
- Provide a \$100 per day fine for failure to register, renew or pay the per unit fee;
- Provide a \$1000 fine for knowingly providing false information;

Finally, staff has considered issues expressed by landlords with the provision of insurance information and is recommending that, instead of requiring such information of all owners, only owners in violation of either Chapter 6 or Chapter 10 be required to provide their insurance information.

ATTACHMENT A

ARTICLE VI. DISCLOSURE OF BUILDING OWNERSHIP

Sec. 6-150. Purpose.

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of multiunit residential properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. This article is intended to require the disclosure of the ownership of such property and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises.
(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89)

Sec. 6-151. Registration required.

(a) For purposes of this Article, a rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. A Single-Family Home, Condominium, or Apartment that is occupied by the owner or owners, and of which no portion is rented or available for rent, is not a rental unit. Any portion of a Single-Family Home, Condominium, or Apartment that is rented to or available to be rented to an individual or individuals who are not the owner or owners is a rental unit. Dwelling units and rooming units as defined in § 6-106 are, without limitation, rental units.

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(b) ~~(a) Registration of ownership.~~ The owner or owners of all buildings containing one (1) or more rental units ~~three (3) or more dwelling units, rooming units, or any combination thereof within the city shall register their ownership interest, address, and telephone number, e-mail address, and the as well as the name, address and telephone number of the person or entity responsible for managing the property, or cause such interest to be registered, with a housing safety official designated by the City Manager, the building~~

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authority as provided in section 6-152 by ~~October 1, 2015~~ by January 1, 2016 ~~within ninety (90) days of the effective date of this article or within thirty (30) days of purchase of the property and/or building, whichever occurs later.~~

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- (c) *Fee for registration.* The owner or owners shall pay to a housing safety official designated by the City Manager a fee of \$35 per rental unit at the time of registration. Failure to pay this fee by ~~October 1, 2015~~ January 1, 2016 shall constitute a violation pursuant to section 6-153.

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- (d) *Annual Renewal and Fee.* The owner or owners shall renew their registration annually by updating the information provided in their initial registration and by payment to a housing safety official designated by the City Manager of a fee of \$35 per rental unit. Failure to update information or pay the annual renewal fee by ~~October~~ January 1 shall constitute a violation pursuant to section 6-153.

- (e) *Discounts.* The City Manager or his or her designee shall promulgate and administer regulations to provide discounted registration and renewal fees based on and corresponding to the public safety risks and financial costs mitigated by such practices as alternative inspections and lease conditions.

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~~The registration required hereunder shall be updated or withdrawn within thirty (30) days of transfer of ownership, change in management or change in registered agent as provided in section 6-152. Each and every owner of the property shall be responsible for the filing of the registration and for updating prior filings as required.~~

(d~~e~~) *Registration of management companies.* Any individual, firm, corporation or purchaser under a land installment contract pursuant to Title 13 M.R.S.A. § 481 et seq. as may be amended from time to time, managing property subject to the registration requirements of subsection (a) shall register with the building authority its management responsibility ~~within thirty (30) days of the effective date of this article by October~~ January 1, 2016 or within thirty (30) days of assuming management responsibility. Any filing shall be updated, at least annually, if there are any changes whatsoever with regard to the information supplied. Failure to register management responsibility or update the information supplied regarding such

management responsibility shall constitute a violation pursuant to section 6-153.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. No. 246-97, 4-9-97)

Sec. 6-152. Registration form; information.

A housing safety official designated by the City Manager~~The building authority~~ shall provide forms to be completed by the owners and managers of properties subject to registration under this article and shall maintain a file containing all registrations made under this article.

(a) The registration form for owners shall include, at a minimum, the following:

1. The street address of the building;
2. The assessor's chart, block and lot of the property on which the building is located;
3. The names, addresses, and telephone numbers, and e-mail addresses, of all individual persons having any ownership interest in the property including, without limitation, all partners, all officers or trustees of any real estate trusts; and including the residential street address, e-mail address and home phone number of at least one (1) such individual person;
4. The name, address and telephone number of the manager of the property or the person or persons responsible for its regular maintenance or repair;
5. The name, e-and-address, telephone number and e-mail address of a person designated as the agent of the owner or owners for the service of notices and civil process by the city. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or owners designating that person in any litigation pertaining to the premises.

(b) The registration form for managers of property shall include, at a minimum, the following:

1. The name, address, e-mail address and local telephone number of the management company and of at least one (1) such individual, including the residential street address, e-mail address and home telephone number of that individual; and
2. A list of all buildings for which the person or firm is responsible, including the street address and chart, block and lot description of the property and the name of the owner of that building.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89)

Sec. 6-153. Violations.

- (a) Any person failing to timely file the required registration or failing to timely pay, in full, the registration fee or annual renewal fee, or failing to timely file any required update to the registration or filing a false statement on any registration shall be guilty of an offense shall be in violation of this Article for which a fine of \$100 per day each day the violation continues shall be assessed.
- (b) Any person knowingly providing false information with respect to registration shall be in violation of this article for which a fine of \$1000 shall be assessed.
- (c) It shall also be a violation of this article for which a fine of \$100 per day each day the violation continues shall be assessed, for any owner or manager to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises.
- (d) No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article. Each day's continuing failure to file such a registration, to update such registration or permitting the continued occupancy of such premises shall be a separate offense.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89)

Sec. 6-154. Reserved.
Sec. 6-155. Reserved.
Sec. 6-156. Reserved.

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Sec. 6-164. Reserved.

ATTACHMENT G

Question	Fire Dept Line Companies	Fire Dept Prevention Bureau	Inspections Division, Planning Dept
What types of inspections are conducted?	• Life Safety (refers to specific NFPA code and Ch. 10 of City code) inspections on apartment buildings with 3 or more units • Monthly school inspections • Fire permit inspections • Inspect SSRs (System Shut Down Reports) for compliance and document findings	• Final Certificate of Occupancy (CO) inspections • Fire permit inspections • Fire alarm systems • Sprinkler system inspections • Life Safety-related complaint inspections • Legalization (of a previously nonconforming unit) inspections • Business Licensing inspections • Correspond w/ owners • Inspect public property for mass gatherings	• Foundation inspections including setbacks, footings, rebar, backfill • Framing inspections • Plumbing inspections • Electrical Inspections • Final Certificate of Occupancy (CO) inspections • Complaint inspections • Outdoor dining inspections • Street artist compliance inspections • Vacant building inspections • Inspect public property for mass gatherings • Monitor cruise ship area activities • Legalization inspections of nonconforming dwelling units • Trash, junk vehicles on private property • Zoning violations (such as illegal businesses, illegal dwelling units, etc.) • Respond to referrals from Police, Fire, Public Services, Public Health, and General Assistance when necessary • Inspect ice/snow-related hazards over public property • Demolition inspections • On call 24 hours to respond to emergency calls from Police and/or Fire such as multifamily fires, severe structural fires, building collapses, etc.

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Question	Fire Dept Line Companies	Fire Dept Prevention Bureau	Inspections Division, Planning Dept
What are the roles/expectations and performance standards?	• Make initial contact and set appointment for inspection • Research property prior to inspection • Conduct Life Safety inspection of said property • Document and record inspection results in Urban Insight software program • Follow-up may be requested from Fire Prevention	• Coordinate, schedule and work closely with Inspections Division for final CO inspections • Support the Fire Companies with training, coordination, documentation, resources, etc. • Respond to complaints within 24-48 hours, depending upon severity of risk • Work with other City Departments as needed • Conduct plans review and approve building permits • Development review with Planning Dept • Post unfit housing units against occupancy • Appear in court when necessary	• Perform intake and process all applications for the Planning and Historic Preservation Divisions and process all building, plumbing, HVAC, subsurface, internal plumbing, electrical, sprinkler, fire alarm, and fire suppression permit applications • Process all Zoning Board of Appeals applications for the Department; staff the Board of Appeals • Enter all applications into Urban Insight and create and upload all applications into E-Plan • Enter complaints received via email or phone • Assist the public in performing records research • Schedule inspections • Conduct building plan review for all permits • Conduct zoning reviews • Issue all permits • Issue stop work orders • Post unfit housing units against occupancy • Maintain SeeClickFix database • Issue summons when necessary • Appear in court when necessary • Maintain the no-rent list for G/A • Maintain the vacant building list • Code Enforcement Officers are

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Question	Fire Dept Line Companies	Fire Dept Prevention Bureau	Inspections Division, Planning Dept
			expected to obtain training and certifications within 1 year of hire and maintain those certifications • Acts as the lead agency in coordinating with all other City departments on building permit inspections, Certificates of Occupancy, legalizations, complaints, etc. • Responds to over 10,000 incoming administrative phone calls per year
What is the level of training?	• Basic understanding of Life Safety code and practices • Line Company Officers received advanced training in April 2015 in Apartment Building chapter from National Fire Protection Agency • Line Company Officers trained in Urban Insight software April 2015	• More advanced training in the Life Safety Code NFPA 101 & 1 • MIS provides additional training and support to FPB staff • Additional seminars in Fire Alarms, Sprinkler Systems, Fire Investigations, Burn Prevention, Juvenile Fire Setters when money is available	All Code Enforcement Officers, Plan Reviewers and Directors are required by law to have the following State certifications: • Legal Issues in Code Enforcement • Commercial Building Code • Residential Building Code • Energy Code for Residential Construction • Energy Code for Commercial Construction • Ventilation Code for Residential Construction • Ventilation Code for Commercial Construction • Residential Radon Code • Internal Plumbing Code • External Plumbing Code • Shoreland Zoning (plan reviewers) • Land Use (plan reviewers) • 80K Legal Certification (Directors)

ATTACHMENT G

Question	Fire Dept Line Companies	Fire Dept Prevention Bureau	Inspections Division, Planning Dept
			CEOs and Plan Reviewers must maintain 11 to 13 areas of certification over a 5-year period by earning continuing education units in each discipline.
What is the scheduled cycle or frequency for inspections?	- Depending on the risk level and occupancy, every 1-3 years - Monthly school inspections - Annual fire permit inspections - Apartment buildings every 1-3 years	- Monthly business renewal inspections - New business licensing as they come in - Life safety-related complaints as they come in – 24-48 hours depending on severity of risk - Annual fire permits - Final CO inspections on new projects as they are completed - Legalization inspections on request	- Building inspections (setback, electrical, plumbing, backfill, close-ins, final, etc.) are performed when ready for all issued permits (building, plumbing, etc.) - Complaints are scheduled after being reported; high-risk are 24 hours, others can be over a week due to volume of complaints - Outdoor dining permits are inspected one day per week during the summer season or by complaint - Street artists issues are inspected one day per week or by complaint - Vacant buildings are inspected once a month or per complaint - When requested by Fire, Police, Public Services, General Assistance, Public Health, Elder Services, etc.
How many inspections are done?	<u>Proactive Inspections Totals for Dept:</u> - CY 2011 3,402 - CY 2012 2,949 - CY 2013 2,067 - CY 2014 510 (suspension of inspection program for	<u>Total Inspections for FP Bureau</u> - CY 2012 161 - CY 2013 461 - CY 2014 570	<u>Totals for Inspection Division</u> - CY 2012 2,405 - CY 2013 4,312 - CY 2014 4,954

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Question	Fire Dept Line Companies	Fire Dept Prevention Bureau	Inspections Division, Planning Dept
In addition to Inspection duties:	upgrades and improvements) <u>Calls for Service:</u> • CY 2013 15,929 • CY 2014 15,916 <u>Dept-wide training 2015:</u> • Jan. 601 hrs • Feb. 402 hrs • Mar. 1,092 hrs • Apr. 921 hrs • May. 645 hrs <u>Station Maintenance:</u> • Avg. 1.5 hrs per person per day <u>Vehicle Checks & Maintenance:</u> • Avg. 1.0 hrs per person per day <u>Equipment Maintenance:</u> • Avg. 1.0 hrs per person per day		
When do the Fire Dept and Inspections Division inspect together?	• Not applicable to Line Companies	• Scheduled final CO Inspections • Legalization inspections • After significant fire in a structure • When there are both life safety and building code issues • Inspecting public property for mass gatherings	
What is the compensation?	• Firefighter EMT-B new hire: Union Pay Plan \$14.83 hr • Firefighter EMT-B 1yr: Union Pay	• Fire Prevention Lieutenant: Union Pay Plan \$25.17 hr • Fire Prevention Captain: Union Pay	• Code Enforcement Officer new hire: CEBA Pay Plan \$19.09 hr • Certified Code Enforcement Officer 1yr:

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Question	Fire Dept Line Companies	Fire Dept Prevention Bureau	Inspections Division, Planning Dept
	Plan \$16.25 hr	Plan \$27.14 hr Includes \$50 weekly stipend for being assigned to Fire Prevention	CEBA Pay Plan \$21.91 hr