Regular City Council Meeting
July 20, 2015

1. City Council Meeting Agenda Only

   Documents: 2015-07-20 AGENDA ONLY.PDF

2. City Council Meeting Agenda And Packet

   Documents: 2015-07-20 AGENDA AND PACKET.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
JULY 20, 2015

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) July 6, 2015, Regular City Council Meeting Minutes

PROCLAMATIONS:

Proc 1-15/16 (Tab 2) **Proclamation Honoring Officer Mark Kezal as Police Officer of the Month for June 2015 – Sponsored by Mayor Michael F. Brennan.**

Proc 2-15/16 (Tab 3) **Proclamation Honoring Officer Brent Abbott – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

CONSENT ITEMS:

Order 16-15/16 (Tab 4) **Amending Order Declaring New England Cannabis Farmers Market Festival – Sponsored by Jon P. Jennings, City Manager.**

This event has already been declared a festival by the City Council; however, the organizer is now requesting permission to charge an admission fee of $10 and to fence off the grass area around the Deering Oaks bandstand (about 200 feet north in front of the bandstand, crossing Farmers Market Road, to 100 feet east and west of the bandstand). The swinging gate across Farmers Market Road will act as the main entrance to the event.

The amended order also reflects that the sale of cannabis, smoking or any other ingestion of cannabis will not be permitted at the New England Cannabis Farmers Market Festival.

Five affirmative votes are required for passage after public comment.

LICENSES:

Order 17-15/16 (Tab 5)

Order Granting Municipal Officers' Approval of Poplar & Company LLC d/b/a Roustabout. Application for a Class XI Restaurant/Lounge License with Entertainment with Dance at 59 Washington Ave. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/22/15. New City and State applications. Former location of Mittapheap International Market.

Five affirmative votes are required for passage after public comment.

Order 18-15/16 (Tab 6)

Order Granting Municipal Officers' Approval of Scales LLC d/b/a Scales. Application for a Class I FSE License at 68-70 Washington Ave. - Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/16/15. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 19-15/16 (Tab 7)

Order Granting Municipal Officers' Approval of Tomaso's Canteen, Inc. d/b/a Tomaso's Canteen. Application for a Class A Lounge License at 18 Hampshire St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/15/15. New City and State applications. Former location of Sangillo's Tavern.

Five affirmative votes are required for passage after public comment.

Order 20-15/16 (Tab 8)

Order Granting Municipal Officers' Approval of Fizz LLC d/b/a Vena's Fizz House. Application to add Outdoor Dining on Public Property at 345 Fore St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/19/15. New City application. Applicant holds current Class II (Spirits) license. The original application has been modified to allow for a smaller outdoor seating area, which has been reviewed and approved by City staff.

Five affirmative votes are required for passage after public comment.

Order 21-15/16 (Tab 9) **Order Granting Municipal Officers' Approval of RB Portland Master Subtenant LLC d/b/a Westin Portland Harborview. Application to add Outdoor Dining on Public Property at 157 High St. – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 6/19/15. New City application. Applicant holds current Class IA 40+ Rooms License with Entertainment with Dance.

Five affirmative votes are required for passage after public comment.

Order 22-15/16 (Tab 10) **Order Granting Municipal Officers' Approval of Woodford F&B LLC d/b/a Woodford F&F. Application for a Class I FSE License at 660 Forest Avenue – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 6/15/15. New City and State applications.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

PUBLIC HEARING:

COMMUNICATIONS:

RESOLUTIONS:

Resolve 1-14/15 (Tab 11) **Resolution Approving the Master Plan of the Franklin Street Feasibility Study – Phase II from the Franklin Street Redesign Project Advisory Committee - Sponsored by the Transportation, Sustainability and Energy Committee, Councilor David A. Marshall, Chair.**

City Council approval is sought by staff for a Resolution approving the overall design recommendations of the Franklin Street Redesign Project Advisory Committee (PAC). The Council-appointed PAC has been working with staff and the Consultant over the past two years on design development for specific improvements for the Franklin Street Corridor. Key elements of the design include improved realignment, reconnected streets, enhanced streetscapes, improved bike, pedestrian and transit accommodations, gateway intersections, an expanded Lincoln Park, mixed-use urban infill opportunities, and added vehicular capacity at the intersection with I-295 Exit 7.

Staff is seeking City Council endorsement of the overall Master Plan. Additionally our design team will be completing the Preliminary Design Report (PDR) for this project, which is already funded. The PDR phase will incorporate the design of the intersection of Franklin Street at Marginal Way, a critical location to the forthcoming Marginal Way Storage Conduit.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 9-15/16 (Tab 12) **Order Approving Purchase and Sale Agreement with Bottling Group, LLC for 250 Canco Road – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services (DPS) Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery.

City owned DPS Bayside occupied properties by use include the following:

Property Address/Acreage	City Use	Status
44 Hanover St.	Fleet Services	Active DPS Use
82 Hanover St.	Lower Garage	Active DPS Use
56 Parris St.	Employee Parking	Active DPS Use
55 Portland St.	Administration	Active DPS Use
71 Hanover St.	Satellite Sand/Salt Operation	Site Sold
65 Hanover St./52 Alder St.	Trades/Traffic	Marketed for Sale

City staff recommendation is to proceed with a two-phased approach to relocate remaining DPS use out of Bayside, with the exception of the DPS administration and other support activities located at 55 Portland Street, as follows:

PHASE 1 (estimated cost is $4.33 million including property acquisition)

See Phased Development Plan and Budget in the agenda backup, which includes:

- Purchase 250 Canco Road property at $2.7 Million –proposed Purchase and Sale Agreement.
- Acquire portion of JB Brown property shown on the attached plan under a proposed land swap.
- Relocate a DPS operations housed in 82 Hanover Street to 250 Canco Road which frees this property up for sale.
- Relocate the DPS satellite sand/salt shed operation located at 71 Hanover Street to the JB Brown property.
- Shared entrance drive, through 250 Canco Road, to JB Brown property.

PHASE 2 (estimated cost is $8+ Million)

- Requires a community referendum.

- No required property acquisition needed.
- Relocate Fleet Services operations located at 44 Hanover Street to a new addition to 250 Canco Road which frees 44 Hanover Street for sale.

An overview of the financial impacts in the form of sources and uses of funds to support Phase 1 are provided below.

Uses		
250 Canco Road	Acquisition Cost	$2.7 Million
JB Brown Property	Acquisition Cost	$0 due to land swap under negotiations.
Redevelopment Cost for 250 Canco Road and Quarry Road Properties		$1.63 Million
Total Uses:		**$4.33 Million**

Sources		
Existing Real Estate Sales	$930,000	
New City Debt	$3.4 Million	
Total Sources:		**$4.33 Million**

At this time, City staff is not seeking any action from the HCDC, Finance Committee, and City Council on a community referendum. Decisions to proceed with Phase Two, requiring a community referendum, will be made in the future.

At its meeting on June 10, the HCDC voted unanimously (4-0) to recommend to the City Council that it authorize staff to execute the Purchase and Sale Agreement for the City's purchase of 250 Canco Road.

At its meeting on June 11, 2015, the Finance Committee voted unanimously (4-0) to recommend to the City Council that it authorize the financial appropriation of existing real estate sale proceeds at $930,000 and new debt authorization in the amount $3.4 million for a total of $4.33 million for the purchase and development of 250 Canco Road.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 10-15/16 (Tab 13)

Order Authorizing General Obligation Bonds in an Amount not to Exceed $3,400,000 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This order authorizes the General Obligation Bonds in an amount not to exceed three million four hundred thousand dollars ($3,400,000) to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately four-acre parcel of land known as the Quarry Road property

and all other costs related to the relocation of the City's Department of Public Services Bayside activities.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 11-15/16 (Tab 14) **Order Appropriating $3,400,000 of Bond Proceeds – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

This order appropriates the sum of $3,400,000 of bond proceeds to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately four-acre parcel of land known as the Quarry Road property for the relocation the City's Department of Public Services Bayside activities.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 12-15/16 (Tab 15) **Order Appropriating $930,000 of Land Sale Revenue - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

This order appropriates the amount of $930,000 from the Committed Fund Balance holding proceeds generated by the sale of City property for the purpose of paying a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate, and equip an approximately four-acre parcel land known as the Quarry Road property in the relocation of the City's Department of Public Services Bayside activities.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 13-15/16 (Tab 16) **Order Amending Bayside Tax Increment Financing District - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

This order amends the existing Bayside Tax Increment Financing (TIF) District to expand the allowable uses of municipal TIF revenues. The reason for these amendments is to expand City options to invest Bayside TIF revenue to support near term work for sea level adaption, along with

creating options to fund future public infrastructure and environmental assessment remediation work.

The existing Bayside TIF District was recently amended to expand its geography to align with the *Bayside Vision* Plan boundaries.

This TIF amendment would expand allowable uses of municipal TIF revenue to fund costs of public transportation improvement projects, including traffic signals, costs associated with environmental site assessment and remediation to support commercial development, and costs associated with environmental sea level adaption planning and public infrastructure to support commercial development.

To date, TIF District revenues have been used to invest in the following:

- Credit Enhancement Agreement for the Intermed Building
- Credit Enhancement Agreement for the Bayside Student Housing Project
- Infrastructure for Whole Foods
- HUD 108 Loan Repayment

In addition, the City will realize savings in tax sheltering benefits from the Bayside TIF District in an annual amount of approximately $680,307.

City Council and Maine Department of Economic and Community Development (MDECD) approval of this TIF District amendment expands options to invest TIF District revenue.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 14-15/16 (Tab 17) **Amendment to Zoning Map Re: 802 Ocean Avenue - Sponsored by the Planning Board, Stuart O'Brien, Chair.**

On June 9, 2015, the Planning Board voted unanimously (6-0, Dundon absent) to recommend to the City Council zoning map amendments for 802 Ocean Avenue and to repeal conditional zone agreement #34.

OBO Hawthorn Development LLC and Lenity Architecture, LLC sought proposed zoning map amendments and R-5A zoning text amendments for the property at 802 Ocean Avenue in order to construct a 150 suite congregate care facility (also referred to as independent senior housing) called Portland Retirement Residence.

The proposed facility would be a four-story building with four accessory garages and parking areas for a total of 104 spaces. Currently, the property is regulated under a conditional zoning agreement for the Graves Hill development, which permits a 98 condominium unit project with two mid-rise buildings with a maximum height of 100 feet.

The proposed rezoning seeks to incorporate 8.16 acres into the Recreational Open Space (ROS), to encompass 10.17 acres as Residential R-5A zone, and to repeal the current conditional zone agreement (C #34). As part of the original application, the applicant also sought text amendments to the R-5A zone.

The City Council adopted R-5A text amendments on June 15, 2015, which are consistent with the applicant's request and accommodate this project. The Planning Board unanimously recommended the text amendments to the City Council on June 9th and as part of the McAuley Place application. Since the Council has acted upon the text amendments, the text amendments are not reiterated in this request form or in the Planning Board report.

On June 9, 2015, the Planning Board voted 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 15-15/16 (Tab 18) **Order Repealing Conditional Zone Agreement Re: 802-828 Ocean Avenue – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

This is a companion order to Order 14-15/16 above.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

ORDERS

Order 23-15/16 (Tab 19) **Order Setting Election Date on Citizen Initiative Amendment to Chapter 33 Re: An Ordinance Toward a Living Wage – Sponsored by Katherine L. Jones, City Clerk.**

A petition was filed on June 19, 2015 in the City Clerk's office regarding an Amendment to the Portland City Code Chapter 33 Minimum Wage Re: An Ordinance Toward a Living Wage. The petition contains the signatures of 1,500 voters of the City of Portland. The required number of signatures to put this question on the ballot is fifteen hundred (1,500); therefore, the City Clerk has deemed the petition sufficient.

Pursuant to section 9-39 of the Portland City Code, the Council has the ability to send the Ordinance to the voters for their approval or send the ordinance to the voters for their approval along with a proposed competing measure, as well as to enact the proposed Citizen Initiative Ordinance (see next two agenda items).

Chapter 9 of the City Code (section 9-26) requires that a public hearing be held by the City Council prior to its vote on submittal of the Citizen's

Initiated Amendment to Chapter 33 to the voters. This public hearing is being held during consideration of this Order 23-15/16.

This order sends the proposed Citizen Initiative Ordinance to the voters on November 3, 2015, at the regularly scheduled election and it also authorizes the City Clerk to place a summary of the proposed ordinance on the ballot.

Additionally, this order authorizes the City Clerk to print only the summary of the proposed Living Wage ordinance on the ballot. With Ranked Choice Voting, City Council Candidates, School Board Candidates, Peaks Island Council, Casco Bay Lines Directors, there is already a need for two (2) ballots.

Five affirmative votes are required for passage after public comment.

Order 24-15/16 (Tab 20) **Order Enacting Citizen Initiative Amendment to Portland City Code Chapter 33 Re: An Ordinance Toward a Living Wage – Sponsored by Katherine L. Jones, City Clerk.**

This is a companion order to Order 23-15/16 above and enacts the Citizen Initiative Amendment to Chapter 33 Re: An Ordinance Toward a Living Wage.

Five affirmative votes are required for passage after public comment.

Order 25-15/16 (Tab 21) **Order Setting Election Date on Amendment to Chapter 33 Re: Minimum Wage and Sending a Competing Measure to the Voters – Sponsored by Katherine L. Jones, City Clerk.**

This order allows the City Council to offer a competing measure to the Citizen Initiative referendum question and submits the measure to the voters of the City of Portland on November 3, 2015, at the regularly scheduled election. This order also authorizes the City Clerk to place a summary of the proposed ordinance on the ballot.

Five affirmative votes are required for passage after public comment.

Order 26-15/16 (Tab 22) **Order Setting Public Hearing on Citizen Initiative Amendment to Chapter 14, Article III Re: Scenic Viewpoint Protection - by Katherine L. Jones, City Clerk.**

Save the Soul of Portland turned their petition pages in on July 6, 2015. On July 10, 2105, the City Clerk deemed their petition sufficient since they had obtained the required number of signatures (1,500).

In order for this item to appear on the November ballot, the public hearing for this item must be scheduled for August 3, 2015. This Order, if approved

by the City Council, sets the Public Hearing for review of this initiative for August 3, 2015, at 7:00 p.m.

Order 27-15/16 (Tab 23) **Order Granting Revocable License to Redfern Bayside, LLC – Sponsored by Jon P. Jennings, City Manager.**

Redfern Bayside, LLC requests a revocable license in order to allow a grease trap associated with a proposed restaurant at their building planned at 89 Anderson Street, the East Bayside Lofts, in the Fox Street right-of-way. The site plan and subdivision plat for the proposed building were approved by the city's Planning Board on May 26, 2015, with the condition that the applicant obtain the license as proposed.

The area of the proposed license agreement is shown in the Exhibit Sketch in the agenda backup. The area is proposed to extend 8.5 feet into the public right-of-way for a distance of 18 linear feet near the corner of Fox and Anderson Streets.

Since the area of the grease trap does not qualify as habitable space, no remuneration has been requested.

Five affirmative votes are required for passage after public comment.

Order 28-15/16 (Tab 24) **Order Approving Temporary One-Way Traffic Flow on Portland Street between Preble and Alder Streets – Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.**

Pursuant to the City Code, the Department of Public Services, supported by the Department of Planning and Urban Development, is requesting that Portland Street between Alder Street and Preble Street be converted to one-way flow only for eastbound traffic (towards Preble). This would be done on a temporary ninety (90) day basis, and will be evaluated for safety and impacts.

If this temporary change is found to be effective, City staff would then seek City Council approval to make this temporary change permanent.. This temporary change was unanimously approved by the Transportation, Sustainability and Energy Committee at their June 17, 2015 meeting.

City staff recommends that this order be passed as an emergency effective on July 21, 2015, which requires 7 votes of the City Council.

Order 29-15/16 (Tab 25) **Order Authorizing Land Swap with J.B. Brown & Sons and Fore River Warehousing & Storage Co. and the City of Portland Re: Canco Road Site for Department of Public Services Facility - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

No funds are needed to support the City and JB Brown land exchange transaction and easement. Acquiring JB Brown property is needed to support establishment of a 13+ acre campus, including 212 and 250 Canco Road properties, to create a single location for DPS and other essential City service delivery.

This is a companion to Order to Order 9-15/16 above.

There is a City Council approved Lease/Purchase Option with financial appropriation to acquire 212 Canco Road in 2017, and the City Council is scheduled to take action on acquisition of 250 Canco Road on July 20, 2015.

Portland Trails is supportive of the City acquiring JB Brown Parcel 5 to formally establish a trail connection from Canco Road to connect with an existing Portland Trails easement through Parcel 5.

The Housing and Community Development Committee met on July 8, 2015, and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Five affirmative votes are required for passage after public comment.

Order 30-15/16 (Tab 26) **Order Granting Easement to J.B. Brown & Sons and Fore River Warehousing & Storage Co. for Vehicle and Pedestrian Access to Canco Road Site and Approving Construction of Roadway – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

This is also a companion or to order 9-15/15 and Order 29-15/16. It establishes an easement across 250 Canco Road to allow vehicle and pedestrian access from Canco Road to JB Brown-owned property.

The Housing and Community Development Committee met on July 8, 2015, and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Five affirmative votes are required for passage after public comment.

Order 297-15/16 (Tab 27) **Amendment to Portland City Code Chapter 33 (Minimum Wage) – Reconsideration – Sponsored by Councilor Jill C. Duson.**

Per City Council Rule 18, Order 297-14/15 has been placed on the agenda for reconsideration. This Order was approved at the July 6, 2015, City Council meeting, and the reconsideration of this Order may involve, among other things, a proposed amendment to the tip credit Section 33.(72).

Before Order 297-14/15 as amended can be taken up and discussed on its merits by the Council, the Council must move to reconsider this item. The

motion to reconsider must be made by one of the Councilors who voted in the affirmative on Order 297-14/15.
The motion to reconsider is not open to public comment. It can be debated by the Council and requires five (5) votes to pass.

The reconsideration passes by the required (5) votes then Order 297-14/15 as amended is back before the Council for discussion and action, after public comment is taken. If the motion fails, then the order is not before the Council for action, and the Council will move on to the next item.

If the reconsideration motion passes, City staff recommends that this item be postponed to September 9, 2015.

Order 31-15/16 (Tab 28)

Order Approving Addendum 1 to Purchase and Sale Agreement with Patrons Oxford Insurance Company for Sale of Unit 4 in Portland Technology Park – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

The proposed Addendum 1 to the Purchase and Sale Agreement (included in the agenda backup) is to sell Unit 4, instead of Unit 1, located in the City-owned and developed Portland Technology Park (PTP), to Patrons Oxford Insurance Company for $365,000.

It is noted that the Council previously approved entering into a Purchase and Sale on January 5, 2015 for the Sale of Unit 1 for $625,000. The reason for the change from Unit 1 to Unit 4 is to accommodate Patrons Oxford's Project and provide the company a higher visibility site from Interstate 95. Units 2 and 3 are not large enough to accommodate this Project.

Also, it is noted that PTP road and utility extensions of approximately one hundred (100) feet are needed to access Unit 4. Patrons Oxford is willing to take on responsibility to extend Technology Park Drive and utilities. The cost of that extension is estimated to be $215,000, based upon Woodard and Curran estimates for engineering and construction. The proposed public-private partnership is to provide Patrons Oxford a fixed credit against the sale price to take on this responsibility. The difference between Unit 4 sale price and the road/utility extension credit of $215,000 is $150,000.

A financial overview of the Portland Technology Park is included in the agenda backup.

Patrons Oxford Insurance Company is currently located in Auburn, Maine in close proximity to Maine Turnpike Exit 75 with over forty (40) employees. Patrons Oxford is planning to construct a new 20,000 square foot building, with future expansion plans, to relocate their company to the Portland Technology Park in 2016.

Five affirmative votes are required for passage after public comment.

Order 32-15/16 (Tab 29) **Order Appropriating $150,000 of Revenue from the Sale of Portland Technology Park Unit 4 – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

This order appropriates revenue from the sale of Unit 4 at the Portland Technology Park to pay a broker commission, as well as to install natural gas lines to Portland Technology Park; extend electricity down Technology Park Drive from Rand Road; revise subdivision plat; modify permits; and pay legal fees.

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

Order 33-15/16 (Tab 30) **Order to Approve Maine Department of Transportation/City Agreement for Exit 6, Forest Avenue Interchange – Sponsored by Jon Jennings, City Manager.**

MaineDOT is currently under construction of traffic safety modifications at Exit 6 at Forest Avenue to eliminate vehicular High Crash Locations. The needed pedestrian lighting within the underpasses cannot be accomplished within the MaineDOT's project budget.

City staff and the MaineDOT agree that a structural pavement treatment is beneficial to do at this time within the interchange area.

The City created a CIP account as part of the FY13 CIP to anticipate such work. This agreement will allow expenditures from the account for the purposes of accomplishing the lighting ($81,548.00; 8% local share) and paving work (approximately $40,000; 10% local share) as part of the MaineDOT project.

This item must be read on two separate days. Since this project is well under way, staff is asking that the second reading be waived and acted as an emergency. Seven votes are required to waive the second reading and enact as an emergency. If the Council waives the second reading, it will take public comment prior to Council action on the item. Five votes will be required to approve the order.

Order 34-15/16 (Tab 31) **Order Approving the Fiscal Year 2016 Sustainable Transportation Fund Appropriation Schedule - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.**

The Sustainable Transportation Fund was established in 2010 in conjunction with the Fee-in-lieu of Parking Ordinance. Expending the funds requires an annual expenditure plan to be approved by the City Council after endorsement from the Transportation, Sustainability and Energy Committee (TS&E).

The Transportation, Sustainability, and Energy Committee endorsed the proposed expenditure plan at its April and June 2016 meetings for three specific projects and allows for some discretionary expenditures by staff.

The recommended expenditure plan for 2015 is as follows:

- Western Sub-district: None at this time or anticipated in 2015.
- Central Sub-district: Up to $40,000 for Cumberland Avenue Sidewalk and Lighting Project; up to $40,000 for Congress Street Bus Priority Corridor.
- Eastern Sub-district: Up to $80,000 for pedestrian safety improvements in the vicinity of the Washington Avenue/Fox-Walnut Streets intersection.
- All Sub-districts: Discretionary expenditures by staff for up to 10% of existing STF account balance for permitted expenditures to respond flexibly to opportunities as they arise.

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

Order 35-15/16 (Tab 32)

Order Allocating $462,262 in Home Investment Partnerships Program Funds to Developers Collaborative for a Senior Rental Housing Project at 605 Stevens Avenue – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

In response to a recent RFP for housing development proposals, the Developers Collaborative submitted a request for Home Investment Partnership Program (HOME) funds to help support the redevelopment of the historic Motherhouse building as part of a larger multi-phased development project. The Motherhouse will consist of 88 rental units for households 55 years or older with 66 of these units to be reserved as affordable to low-income seniors earning 50% - 60% of Area Mean Income (AMI). The remaining 22 units will be market rate at approximately $1,200 per month. The applicant also committed to offering a preference to homeless seniors and will be working with Opportunity Alliance to provide services.

The location of the Motherhouse project offers an opportunity to provide affordable housing for seniors in a relatively high income neighborhood with excellent access to amenities like public transportation, open space, and retail options. By creating greater economic diversity in the available housing stock, the project will help fulfill one of the many housing goals of the City.

The project is fairly far along in its approval and funding process. It is well positioned to be very competitive for 4% Low-Income Housing Tax Credit ("LIHTC") funding, as well as for state and federal historic tax credits. The project has been part of a larger community process for the redevelopment of the surrounding site.

The applicant has been working with local community members and city staff to modify the original proposal to ease concerns in the neighborhood related to density.

The developer received additional financing through an existing Tax Increment Financing District established in 2009. The terms of the McAuley Place district are noted below.
The TIF was created to assist in the renovation of the Motherhouse. The terms and boundaries of the district will not be adjusted.

Duration: 30-year term (FY10 through FY29)
Percentages: 60% to Recipient; 40% to City General Fund
Location: 605 Stevens Avenue

The Housing and Community Development Committee met on July 8, 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.

Order 36-15/16 (Tab 33)

Order Allocating $136,961 in Investment Partnerships Program Funds to Portland Housing Development Corporation for a Housing Project at 58 Boyd Street – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

In response to a recent RFP for housing development proposals, the Portland Housing Authority is proposing to construct approximately 48 units of mixed-income rental housing. The project will offer 4 efficiency units, 24 one-bedroom units, 8 two-bedroom units, and 12 three-bedroom units. Within the project, 45% of the units will be available to households earning at or below 0% of the area median income and 15% of the units will be market rate. The owner/developer is the Portland Housing Development Corporation (PHDC), a subsidiary of the Portland Housing Authority (PHA).

The review committee supports the positive impact this development will have on the surrounding neighborhood. The project has the potential to be part of a larger multi-phased project that could include up to approximately 90 units of housing. The viability of a larger project will likely depend on the realignment of Franklin Street and its effect on the size of the land immediately adjacent to 58 Boyd Street. The project has been designed in a way to allow for future development should the realignment of Franklin Street make such a project feasible.

The Housing and Community Development Committee met on July 8, 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 days. This is its first reading.

Order 37-15/16 (Tab 34)

Order Designating 17 Carleton Street Affordable Housing Development District and Tax Increment Financing District and Adopting the Municipal Development Program for the District – Sponsored by Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

17 Carleton Street Affordable Housing TIF (AHTIF) Development District is being proposed for property located on Carleton Street. The development consists of 37 affordable units.

The proposal is for a 22-year TIF with 65% of the total projected new taxes captured, annual estimated average at $33,098 over the 22-year TIF, as a reimbursement to the Developer through a CEA. The Developer's share of TIF revenue will be used to pay operating costs for the project.

The remaining TIF revenues will be allocated to the City's General Fund.

A recommendation of approval of an Affordable Housing Tax Increment Financing District (AHTIF) from the HCDC to the Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Approval of an AHTIF will be contingent on the project's final approval by the Planning Board.

The Housing and Committee Development Committee met on June 10, 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.

Order 38-15/16 (Tab 35)

Order Approving and Authorizing the City Manager to Enter into the 17 Carleton Street Credit Enhancement Agreement with Avesta Carlton LP – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This item is a companion Order to Order 37-15/16 above.

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

AMENDMENTS:

LICENSE RENEWALS:

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

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

AGENDA
REGULAR CITY COUNCIL MEETING
JULY 20, 2015

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) July 6, 2015, Regular City Council Meeting Minutes

PROCLAMATIONS:

Proc 1-15/16 (Tab 2) **Proclamation Honoring Officer Mark Kezal as Police Officer of the Month for June 2015 – Sponsored by Mayor Michael F. Brennan.**

Proc 2-15/16 (Tab 3) **Proclamation Honoring Officer Brent Abbott – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

CONSENT ITEMS:

Order 16-15/16 (Tab 4) **Amending Order Declaring New England Cannabis Farmers Market Festival – Sponsored by Jon P. Jennings, City Manager.**

This event has already been declared a festival by the City Council; however, the organizer is now requesting permission to charge an admission fee of $10 and to fence off the grass area around the Deering Oaks bandstand (about 200 feet north in front of the bandstand, crossing Farmers Market Road, to 100 feet east and west of the bandstand). The swinging gate across Farmers Market Road will act as the main entrance to the event.

The amended order also reflects that the sale of cannabis, smoking or any other ingestion of cannabis will not be permitted at the New England Cannabis Farmers Market Festival.

Five affirmative votes are required for passage after public comment.

LICENSES:

Order 17-15/16 (Tab 5)

Order Granting Municipal Officers' Approval of Poplar & Company LLC d/b/a Roustabout. Application for a Class XI Restaurant/Lounge License with Entertainment with Dance at 59 Washington Ave. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/22/15. New City and State applications. Former location of Mittapheap International Market.

Five affirmative votes are required for passage after public comment.

Order 18-15/16 (Tab 6)

Order Granting Municipal Officers' Approval of Scales LLC d/b/a Scales. Application for a Class I FSE License at 68-70 Washington Ave. - Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/16/15. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 19-15/16 (Tab 7)

Order Granting Municipal Officers' Approval of Tomaso's Canteen, Inc. d/b/a Tomaso's Canteen. Application for a Class A Lounge License at 18 Hampshire St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/15/15. New City and State applications. Former location of Sangillo's Tavern.

Five affirmative votes are required for passage after public comment.

Order 20-15/16 (Tab 8)

Order Granting Municipal Officers' Approval of Fizz LLC d/b/a Vena's Fizz House. Application to add Outdoor Dining on Public Property at 345 Fore St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/19/15. New City application. Applicant holds current Class II (Spirits) license. The original application has been modified to allow for a smaller outdoor seating area, which has been reviewed and approved by City staff.

Five affirmative votes are required for passage after public comment.

Order 21-15/16 (Tab 9)

Order Granting Municipal Officers' Approval of RB Portland Master Subtenant LLC d/b/a Westin Portland Harborview. Application to add Outdoor Dining on Public Property at 157 High St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/19/15. New City application. Applicant holds current Class IA 40+ Rooms License with Entertainment with Dance.

Five affirmative votes are required for passage after public comment.

Order 22-15/16 (Tab 10)

Order Granting Municipal Officers' Approval of Woodford F&B LLC d/b/a Woodford F&F. Application for a Class I FSE License at 660 Forest Avenue – Sponsored by Katherine L. Jones, City Clerk.

Application filed 6/15/15. New City and State applications.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

PUBLIC HEARING:

COMMUNICATIONS:

RESOLUTIONS:

Resolve 1-14/15 (Tab 11)

Resolution Approving the Master Plan of the Franklin Street Feasibility Study – Phase II from the Franklin Street Redesign Project Advisory Committee - Sponsored by the Transportation, Sustainability and Energy Committee, Councilor David A. Marshall, Chair.

City Council approval is sought by staff for a Resolution approving the overall design recommendations of the Franklin Street Redesign Project Advisory Committee (PAC). The Council-appointed PAC has been working with staff and the Consultant over the past two years on design development for specific improvements for the Franklin Street Corridor. Key elements of the design include improved realignment, reconnected streets, enhanced streetscapes, improved bike, pedestrian and transit accommodations, gateway intersections, an expanded Lincoln Park, mixed-use urban infill opportunities, and added vehicular capacity at the intersection with I-295 Exit 7.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 9-15/16 (Tab 12)

Order Approving Purchase and Sale Agreement with Bottling Group, LLC for 250 Canco Road – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services (DPS) Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery.

City owned DPS Bayside occupied properties by use include the following:

Property Address/Acreage	City Use	Status
44 Hanover St.	Fleet Services	Active DPS Use
82 Hanover St.	Lower Garage	Active DPS Use
56 Parris St.	Employee Parking	Active DPS Use
55 Portland St.	Administration	Active DPS Use
71 Hanover St.	Satellite Sand/Salt Operation	Site Sold
65 Hanover St./52 Alder St.	Trades/Traffic	Marketed for Sale

City staff recommendation is to proceed with a two-phased approach to relocate remaining DPS use out of Bayside, with the exception of the DPS administration and other support activities located at 55 Portland Street, as follows:

PHASE 1 (estimated cost is $4.33 million including property acquisition)

See Phased Development Plan and Budget in the agenda backup, which includes:

- Purchase 250 Canco Road property at $2.7 Million –proposed Purchase and Sale Agreement.
- Acquire portion of JB Brown property shown on the attached plan under a proposed land swap.
- Relocate a DPS operations housed in 82 Hanover Street to 250 Canco Road which frees this property up for sale.
- Relocate the DPS satellite sand/salt shed operation located at 71 Hanover Street to the JB Brown property.
- Shared entrance drive, through 250 Canco Road, to JB Brown property.

PHASE 2 (estimated cost is $8+ Million)

- Requires a community referendum.
- No required property acquisition needed.

- Relocate Fleet Services operations located at 44 Hanover Street to a new addition to 250 Canco Road which frees 44 Hanover Street for sale.

An overview of the financial impacts in the form of sources and uses of funds to support Phase 1 are provided below.

Uses		
250 Canco Road	Acquisition Cost	$2.7 Million
JB Brown Property	Acquisition Cost	$0 due to land swap under negotiations.
Redevelopment Cost for 250 Canco Road and Quarry Road Properties		$1.63 Million
Total Uses:		**$4.33 Million**

Sources		
Existing Real Estate Sales	$930,000	
New City Debt	$3.4 Million	
Total Sources:		**$4.33 Million**

At this time, City staff is not seeking any action from the HCDC, Finance Committee, and City Council on a community referendum. Decisions to proceed with Phase Two, requiring a community referendum, will be made in the future.

At its meeting on June 10, the HCDC voted unanimously (4-0) to recommend to the City Council that it authorize staff to execute the Purchase and Sale Agreement for the City's purchase of 250 Canco Road.

At its meeting on June 11, 2015, the Finance Committee voted unanimously (4-0) to recommend to the City Council that it authorize the financial appropriation of existing real estate sale proceeds at $930,000 and new debt authorization in the amount $3.4 million for a total of $4.33 million for the purchase and development of 250 Canco Road.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 10-15/16 (Tab 13)

Order Authorizing General Obligation Bonds in an Amount not to Exceed $3,400,000 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This order authorizes the General Obligation Bonds in an amount not to exceed three million four hundred thousand dollars ($3,400,000) to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately four-acre parcel of land known as the Quarry Road property and all other costs related to the relocation of the City's Department of Public Services Bayside activities.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 11-15/16 (Tab 14)

Order Appropriating $3,400,000 of Bond Proceeds – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This order appropriates the sum of $3,400,000 of bond proceeds to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately four-acre parcel of land known as the Quarry Road property for the relocation the City's Department of Public Services Bayside activities.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 12-15/16 (Tab 15)

Order Appropriating $930,000 of Land Sale Revenue - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This order appropriates the amount of $930,000 from the Committed Fund Balance holding proceeds generated by the sale of City property for the purpose of paying a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate, and equip an approximately four-acre parcel land known as the Quarry Road property in the relocation of the City's Department of Public Services Bayside activities.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 13-15/16 (Tab 16)

Order Amending Bayside Tax Increment Financing District - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This order amends the existing Bayside Tax Increment Financing (TIF) District to expand the allowable uses of municipal TIF revenues. The reason for these amendments is to expand City options to invest Bayside TIF revenue to support near term work for sea level adaption, along with creating options to fund future public infrastructure and environmental assessment remediation work.

The existing Bayside TIF District was recently amended to expand its geography to align with the *Bayside Vision* Plan boundaries.

This TIF amendment would expand allowable uses of municipal TIF revenue to fund costs of public transportation improvement projects, including traffic signals, costs associated with environmental site assessment and remediation to support commercial development, and costs associated with environmental sea level adaption planning and public infrastructure to support commercial development.

To date, TIF District revenues have been used to invest in the following:

- Credit Enhancement Agreement for the Intermed Building
- Credit Enhancement Agreement for the Bayside Student Housing Project
- Infrastructure for Whole Foods
- HUD 108 Loan Repayment

In addition, the City will realize savings in tax sheltering benefits from the Bayside TIF District in an annual amount of approximately $680,307.

City Council and Maine Department of Economic and Community Development (MDECD) approval of this TIF District amendment expands options to invest TIF District revenue.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 14-15/16 (Tab 17)

Amendment to Zoning Map Re: 802 Ocean Avenue - Sponsored by the Planning Board, Stuart O'Brien, Chair.

On June 9, 2015, the Planning Board voted unanimously (6-0, Dundon absent) to recommend to the City Council zoning map amendments for 802 Ocean Avenue and to repeal conditional zone agreement #34.

OBO Hawthorn Development LLC and Lenity Architecture, LLC sought proposed zoning map amendments and R-5A zoning text amendments for the property at 802 Ocean Avenue in order to construct a 150 suite congregate care facility (also referred to as independent senior housing) called Portland Retirement Residence.

The proposed facility would be a four-story building with four accessory garages and parking areas for a total of 104 spaces. Currently, the property is regulated under a conditional zoning agreement for the Graves Hill development, which permits a 98 condominium unit project with two mid-rise buildings with a maximum height of 100 feet.

The proposed rezoning seeks to incorporate 8.16 acres into the Recreational Open Space (ROS), to encompass 10.17 acres as Residential R-5A zone, and to repeal the current conditional zone agreement (C #34).
As part of the original application, the applicant also sought text amendments to the R-5A zone.

The City Council adopted R-5A text amendments on June 15, 2015, which are consistent with the applicant's request and accommodate this project. The Planning Board unanimously recommended the text amendments to the City Council on June 9th and as part of the McAuley Place application. Since the Council has acted upon the text amendments, the text amendments are not reiterated in this request form or in the Planning Board report.

On June 9, 2015, the Planning Board voted 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

Order 15-15/16 (Tab 18) **Order Repealing Conditional Zone Agreement Re: 802-828 Ocean Avenue – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

This is a companion order to Order 14-15/16 above.

This item must be read on two separate days. It was given a first reading on July 6. Five affirmative votes are required for passage after public comment.

ORDERS

Order 23-15/16 (Tab 19) **Order Setting Election Date on Citizen Initiative Amendment to Chapter 33 Re: An Ordinance Toward a Living Wage – Sponsored by Katherine L. Jones, City Clerk.**

A petition was filed on June 19, 2015 in the City Clerk's office regarding an Amendment to the Portland City Code Chapter 33 Minimum Wage Re: An Ordinance Toward a Living Wage. The petition contains the signatures of 1,500 voters of the City of Portland. The required number of signatures to put this question on the ballot is fifteen hundred (1,500); therefore, the City Clerk has deemed the petition sufficient.

Pursuant to section 9-39 of the Portland City Code, the Council has the ability to send the Ordinance to the voters for their approval or send the ordinance to the voters for their approval along with a proposed competing measure, as well as to enact the proposed Citizen Initiative Ordinance (see next two agenda items).

Chapter 9 of the City Code (section 9-26) requires that a public hearing be held by the City Council prior to its vote on submittal of the Citizen's Initiated Amendment to Chapter 33 to the voters. This public hearing is being held during consideration of this Order 23-15/16.

This order sends the proposed Citizen Initiative Ordinance to the voters on November 3, 2015, at the regularly scheduled election and it also authorizes the City Clerk to place a summary of the proposed ordinance on the ballot.

Additionally, this order authorizes the City Clerk to print only the summary of the proposed Living Wage ordinance on the ballot. With Ranked Choice Voting, City Council Candidates, School Board Candidates, Peaks Island Council, Casco Bay Lines Directors, there is already a need for two (2) ballots.

Five affirmative votes are required for passage after public comment.

Order 24-15/16 (Tab 20)

Order Enacting Citizen Initiative Amendment to Portland City Code Chapter 33 Re: An Ordinance Toward a Living Wage – Sponsored by Katherine L. Jones, City Clerk.

This is a companion order to Order 23-15/16 above and enacts the Citizen Initiative Amendment to Chapter 33 Re: An Ordinance Toward a Living Wage.

Five affirmative votes are required for passage after public comment.

Order 25-15/16 (Tab 21)

Order Setting Election Date on Amendment to Chapter 33 Re: Minimum Wage and Sending a Competing Measure to the Voters – Sponsored by Katherine L. Jones, City Clerk.

This order allows the City Council to offer a competing measure to the Citizen Initiative referendum question and submits the measure to the voters of the City of Portland on November 3, 2015, at the regularly scheduled election. This order also authorizes the City Clerk to place a summary of the proposed ordinance on the ballot.

Five affirmative votes are required for passage after public comment.

Order 26-15/16 (Tab 22)

Order Setting Public Hearing on Citizen Initiative Amendment to Chapter 14, Article III Re: Scenic Viewpoint Protection - by Katherine L. Jones, City Clerk.

Save the Soul of Portland turned their petition pages in on July 6, 2015. On July 10, 2105, the City Clerk deemed their petition sufficient since they had obtained the required number of signatures (1,500).

In order for this item to appear on the November ballot, the public hearing for this item must be scheduled for August 3, 2015. This Order, if approved by the City Council, sets the Public Hearing for review of this initiative for August 3, 2015, at 7:00 p.m.

Order 27-15/16 (Tab 23)

Order Granting Revocable License to Redfern Bayside, LLC – Sponsored by Jon P. Jennings, City Manager.

Redfern Bayside, LLC requests a revocable license in order to allow a grease trap associated with a proposed restaurant at their building planned at 89 Anderson Street, the East Bayside Lofts, in the Fox Street right-of-way. The site plan and subdivision plat for the proposed building were approved by the city's Planning Board on May 26, 2015, with the condition that the applicant obtain the license as proposed.

The area of the proposed license agreement is shown in the Exhibit Sketch in the agenda backup. The area is proposed to extend 8.5 feet into the public right-of-way for a distance of 18 linear feet near the corner of Fox and Anderson Streets.

Since the area of the grease trap does not qualify as habitable space, no remuneration has been requested.

Five affirmative votes are required for passage after public comment.

Order 28-15/16 (Tab 24)

Order Approving Temporary One-Way Traffic Flow on Portland Street between Preble and Alder Streets – Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

Pursuant to the City Code, the Department of Public Services, supported by the Department of Planning and Urban Development, is requesting that Portland Street between Alder Street and Preble Street be converted to one-way flow only for eastbound traffic (towards Preble). This would be done on a temporary ninety (90) day basis, and will be evaluated for safety and impacts.

If this temporary change is found to be effective, City staff would then seek City Council approval to make this temporary change permanent.. This temporary change was unanimously approved by the Transportation, Sustainability and Energy Committee at their June 17, 2015 meeting.

City staff recommends that this order be passed as an emergency effective on July 21, 2015, which requires 7 votes of the City Council.

Order 29-15/16 (Tab 25)

Order Authorizing Land Swap with J.B. Brown & Sons and Fore River Warehousing & Storage Co. and the City of Portland Re: Canco Road Site for Department of Public Services Facility - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

No funds are needed to support the City and JB Brown land exchange transaction and easement. Acquiring JB Brown property is needed to support establishment of a 13+ acre campus, including 212 and 250 Canco Road properties, to create a single location for DPS and other essential City service delivery.

This is a companion to Order to Order 9-15/16 above.

There is a City Council approved Lease/Purchase Option with financial appropriation to acquire 212 Canco Road in 2017, and the City Council is scheduled to take action on acquisition of 250 Canco Road on July 20, 2015.

Portland Trails is supportive of the City acquiring JB Brown Parcel 5 to formally establish a trail connection from Canco Road to connect with an existing Portland Trails easement through Parcel 5.

The Housing and Community Development Committee met on July 8, 2015, and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Five affirmative votes are required for passage after public comment.

Order 30-15/16 (Tab 26)

Order Granting Easement to J.B. Brown & Sons and Fore River Warehousing & Storage Co. for Vehicle and Pedestrian Access to Canco Road Site and Approving Construction of Roadway – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This is also a companion or to order 9-15/15 and Order 29-15/16. It establishes an easement across 250 Canco Road to allow vehicle and pedestrian access from Canco Road to JB Brown-owned property.

The Housing and Community Development Committee met on July 8, 2015, and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Five affirmative votes are required for passage after public comment.

Order 297-15/16 (Tab 27)

Amendment to Portland City Code Chapter 33 (Minimum Wage) – Reconsideration – Sponsored by Councilor Jill C. Duson.

Per City Council Rule 18, Order 297-14/15 has been placed on the agenda for reconsideration. This Order was approved at the July 6, 2015, City Council meeting, and the reconsideration of this Order may involve, among other things, a proposed amendment to the tip credit Section 33.(72).

Before Order 297-14/15 as amended can be taken up and discussed on its merits by the Council, the Council must move to reconsider this item. The motion to reconsider must be made by one of the Councilors who voted in the affirmative on Order 297-14/15.
The motion to reconsider is not open to public comment. It can be debated by the Council and requires five (5) votes to pass.

The reconsideration passes by the required (5) votes then Order 297-14/15 as amended is back before the Council for discussion and action, after public comment is taken. If the motion fails, then the order is not before the Council for action, and the Council will move on to the next item.

If the reconsideration motion passes, City staff recommends that this item be postponed to September 9, 2015.

Order 31-15/16 (Tab 28)

Order Approving Addendum 1 to Purchase and Sale Agreement with Patrons Oxford Insurance Company for Sale of Unit 4 in Portland Technology Park – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

The proposed Addendum 1 to the Purchase and Sale Agreement (included in the agenda backup) is to sell Unit 4, instead of Unit 1, located in the City-owned and developed Portland Technology Park (PTP), to Patrons Oxford Insurance Company for $365,000.

It is noted that the Council previously approved entering into a Purchase and Sale on January 5, 2015 for the Sale of Unit 1 for $625,000. The reason for the change from Unit 1 to Unit 4 is to accommodate Patrons Oxford's Project and provide the company a higher visibility site from Interstate 95. Units 2 and 3 are not large enough to accommodate this Project.

Also, it is noted that PTP road and utility extensions of approximately one hundred (100) feet are needed to access Unit 4. Patrons Oxford is willing to take on responsibility to extend Technology Park Drive and utilities. The cost of that extension is estimated to be $215,000, based upon Woodard and Curran estimates for engineering and construction. The proposed public-private partnership is to provide Patrons Oxford a fixed credit against the sale price to take on this responsibility. The difference between Unit 4 sale price and the road/utility extension credit of $215,000 is $150,000.

A financial overview of the Portland Technology Park is included in the agenda backup.

Patrons Oxford Insurance Company is currently located in Auburn, Maine in close proximity to Maine Turnpike Exit 75 with over forty (40) employees. Patrons Oxford is planning to construct a new 20,000 square foot building, with future expansion plans, to relocate their company to the Portland Technology Park in 2016.

Five affirmative votes are required for passage after public comment.

Order 32-15/16 (Tab 29)

Order Appropriating $150,000 of Revenue from the Sale of Portland Technology Park Unit 4 – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

This order appropriates revenue from the sale of Unit 4 at the Portland Technology Park to pay a broker commission, as well as to install natural gas lines to Portland Technology Park; extend electricity down Technology Park Drive from Rand Road; revise subdivision plat; modify permits; and pay legal fees.

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

Order 33-15/16 (Tab 30)

Order to Approve Maine Department of Transportation/City Agreement for Exit 6, Forest Avenue Interchange – Sponsored by Jon Jennings, City Manager.

MaineDOT is currently under construction of traffic safety modifications at Exit 6 at Forest Avenue to eliminate vehicular High Crash Locations. The needed pedestrian lighting within the underpasses cannot be accomplished within the MaineDOT's project budget.

City staff and the MaineDOT agree that a structural pavement treatment is beneficial to do at this time within the interchange area.

The City created a CIP account as part of the FY13 CIP to anticipate such work. This agreement will allow expenditures from the account for the purposes of accomplishing the lighting ($81,548.00; 8% local share) and paving work (approximately $40,000; 10% local share) as part of the MaineDOT project.

This item must be read on two separate days. Since this project is well under way, staff is asking that the second reading be waived and acted as an emergency. Seven votes are required to waive the second reading and enact as an emergency. If the Council waives the second reading, it will take public comment prior to Council action on the item. Five votes will be required to approve the order.

Order 34-15/16 (Tab 31)

Order Approving the Fiscal Year 2016 Sustainable Transportation Fund Appropriation Schedule - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

The Sustainable Transportation Fund was established in 2010 in conjunction with the Fee-in-lieu of Parking Ordinance. Expending the funds requires an annual expenditure plan to be approved by the City Council after endorsement from the Transportation, Sustainability and Energy Committee (TS&E).

The Transportation, Sustainability, and Energy Committee endorsed the proposed expenditure plan at its April and June 2016 meetings for three specific projects and allows for some discretionary expenditures by staff.

The recommended expenditure plan for 2016 is as follows:

- Western Sub-district: None at this time or anticipated in 2015.
- Central Sub-district: Up to $40,000 for Cumberland Avenue Sidewalk and Lighting Project; up to $40,000 for Congress Street Bus Priority Corridor.
- Eastern Sub-district: Up to $80,000 for pedestrian safety improvements in the vicinity of the Washington Avenue/Fox-Walnut Streets intersection.
- All Sub-districts: Discretionary expenditures by staff for up to 10% of existing STF account balance for permitted expenditures to respond flexibly to opportunities as they arise.

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

Order 35-15/16 (Tab 32)

Order Allocating $462,262 in Home Investment Partnerships Program Funds to Developers Collaborative for a Senior Rental Housing Project at 605 Stevens Avenue – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

In response to a recent RFP for housing development proposals, the Developers Collaborative submitted a request for Home Investment Partnership Program (HOME) funds to help support the redevelopment of the historic Motherhouse building as part of a larger multi-phased development project. The Motherhouse will consist of 88 rental units for households 55 years or older with 66 of these units to be reserved as affordable to low-income seniors earning 50% - 60% of Area Mean Income (AMI). The remaining 22 units will be market rate at approximately $1,200 per month. The applicant also committed to offering a preference to homeless seniors and will be working with Opportunity Alliance to provide services.

The location of the Motherhouse project offers an opportunity to provide affordable housing for seniors in a relatively high income neighborhood with excellent access to amenities like public transportation, open space, and retail options. By creating greater economic diversity in the available housing stock, the project will help fulfill one of the many housing goals of the City.

The project is fairly far along in its approval and funding process. It is well positioned to be very competitive for 4% Low-Income Housing Tax Credit ("LIHTC") funding, as well as for state and federal historic tax credits. The project has been part of a larger community process for the redevelopment of the surrounding site.

The applicant has been working with local community members and city staff to modify the original proposal to ease concerns in the neighborhood related to density.

The developer received additional financing through an existing Tax Increment Financing District established in 2009. The terms of the McAuley Place district are noted below.
The TIF was created to assist in the renovation of the Motherhouse. The terms and boundaries of the district will not be adjusted.

Duration:	30-year term (FY10 through FY29)
Percentages:	60% to Recipient; 40% to City General Fund
Location:	605 Stevens Avenue

The Housing and Community Development Committee met on July 8, 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.

Order 36-15/16 (Tab 33)

Order Allocating $136,961 in Investment Partnerships Program Funds to Portland Housing Development Corporation for a Housing Project at 58 Boyd Street – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

In response to a recent RFP for housing development proposals, the Portland Housing Authority is proposing to construct approximately 48 units of mixed-income rental housing. The project will offer 4 efficiency units, 24 one-bedroom units, 8 two-bedroom units, and 12 three-bedroom units. Within the project, 45% of the units will be available to households earning at or below 0% of the area median income and 15% of the units will be market rate. The owner/developer is the Portland Housing Development Corporation (PHDC), a subsidiary of the Portland Housing Authority (PHA).

The review committee supports the positive impact this development will have on the surrounding neighborhood. The project has the potential to be part of a larger multi-phased project that could include up to approximately 90 units of housing. The viability of a larger project will likely depend on the realignment of Franklin Street and its effect on the size of the land immediately adjacent to 58 Boyd Street. The project has been designed in a way to allow for future development should the realignment of Franklin Street make such a project feasible.

The Housing and Community Development Committee met on July 8, 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 days. This is its first reading.

Order 37-15/16 (Tab 34)

Order Designating 17 Carleton Street Affordable Housing Development District and Tax Increment Financing District and Adopting the Municipal Development Program for the District – Sponsored by Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

17 Carleton Street Affordable Housing TIF (AHTIF) Development District is being proposed for property located on Carleton Street. The development consists of 37 affordable units.

The proposal is for a 22-year TIF with 65% of the total projected new taxes captured, annual estimated average at $33,098 over the 22-year TIF, as a reimbursement to the Developer through a CEA. The Developer's share of TIF revenue will be used to pay operating costs for the project.

The remaining TIF revenues will be allocated to the City's General Fund.

A recommendation of approval of an Affordable Housing Tax Increment Financing District (AHTIF) from the HCDC to the Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Approval of an AHTIF will be contingent on the project's final approval by the Planning Board.

The Housing and Committee Development Committee met on June 10, 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.

Order 38-15/16

Order Approving and Authorizing the City Manager to Enter into

(Tab 35) **the 17 Carleton Street Credit Enhancement Agreement with Avesta Carlton LP – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**

This item is a companion Order to Order 37-15/16 above.

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

AMENDMENTS:

LICENSE RENEWALS:

Tab 1 7/20/15

ANNOUNCEMENTS: Mayor Brennan announced that he would be taking up Order 297, Minimum Wage after the regular City Council Agenda.

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Marshall and seconded by Councilor Donoghue to approve the minutes of June 15th City Council meeting and the June 24th Special City Council meeting as amended. Passage 9-0.

PROCLAMATIONS:

APPOINTMENTS:

Order 1-15/16 **Order Appointing Special Council Committees through Remainder of 2015 – Sponsored by Mayor Michael F. Brennan.**

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

Order 2-15/16 **Order Appointing Anita LaChance as Deputy City Manager and Setting Annual Salary - Sponsored by Michael J. Sauschuck, Acting City Manager.**

Motion was made by Councilor Marshall and seconded by Councilor Suslovic for passage. Passed as an emergency 9-0.

Order 3-15/16 **Order Appointing Constable for 2015 Re: Parking Division – Sponsored by Michael J. Sauschuck, Acting City Manager.**

Motion was made by Councilor Marshall and seconded by Councilor Suslovic to amend Order 3 by deleting "or issue parking tickets". Passage 9-0.

Motion was made by Councilor Suslovic and seconded by Councilor Marshall to pass as an emergency. Passage 9-0.

Motion was made by Councilor Marshall and seconded by Councilor Donoghue for passage. Passed as an emergency 9-0.

CONSENT ITEMS:

Order 4-15/16 **Amending Order Declaring Tall Ships Portland 2015 as a Festival – Sponsored by Michael J. Sauschuck, Acting City Manager.**

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

LICENSES:

Order 5-15/16 **Order Granting Municipal Officers' Approval of Sunshine Acres LLC d/b/a The Corner Room. Application to add Outdoor Dining on Public Property to Class I FSE License with Entertainment without Dance at 110 Exchange Street – Sponsored by Katherine L. Jones, City Clerk.**

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

BUDGET ITEMS:

COMMUNICATIONS:

Com 1-15/16 **Communication Re: Memorandum of Understanding with Greater Portland Transit District ("METRO") - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall.**

Com 2-15/16 **Communication Re: Fats, Oils, and Grease Program – Sponsored by Michael J. Sauschuck, Acting City Manager.**

RESOLUTIONS:

UNFINISHED BUSINESS:

Resolve 7-14/15 **Resolution Adopting Council Rules for 2014-2015 as Amended – Sponsored by the Nominating Committee, David Brenerman, Chair. This item was given first reading on June 15, 2015.**

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

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 item was given first reading on June 1, and postponed on June 15, 2015.**

Motion was made by Councilor Costa and seconded by Councilor Donoghue to amend Order 275 by adopting the Exhibit 1 dated 7-1-15 map change amendment and specifically rezoning the R-5 Zone in the Proposed R-5A area in the figure below to R-5A Zone. Passage 9-0.

Motion was made by Councilor Suslovic and seconded by Councilor Hinck for passage. Passed as amended 9-0.

Order 295-14/15 **Traffic Schedule Amendment Re: Motorcycle and Motor Scooter Parking Spaces – Sponsored by the Transportation, Sustainability and Energy Committee, David A. Marshall, Chair. This item was given first reading on June 15, 2015.**

Motion was made by Councilor Marshall and seconded by Councilor Costa to pass as an emergency. Passed 9-0.

Order 298-14/15 **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. This item was given first reading on June 15, 2015.**

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

ORDERS:

Order 6-15/16 **Order Amending Personnel Policies and Procedures Re: Non-Permanent Employment, Promotions, Acting Capacity, Health Insurance, Conversion of Sick Leave and Appendix A Update - Sponsored by the Nominating Committee, Councilor David Brenerman, Chair.**

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

Order 7-15/16 **Order Approving One-Year Extension of Standard Operating and Building Lease Agreement with Jetport Signatory Airlines – Sponsored by Michael J. Sauschuck, Acting City Manager.**

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

Order 8-15/16 **Order Setting Public Hearing on Citizen Initiative Amendment to Chapter 33 of the Portland City Code Re: An Ordinance Toward a Living Wage – Sponsored by Katherine L. Jones, City Clerk.**

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

Order 9-15/16 **Order Approving Purchase and Sale Agreement with Bottling Group, LLC for 250 Canco Road – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**
This is its first reading.

Order 10-15/16 **Order Authorizing General Obligation Bonds in an Amount not to Exceed $3,400,000 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**
This is its first reading.

Order 11-15/16 **Order Appropriating $3,400,000 of Bond Proceeds – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**
This is its first reading.

Order 12-15/16 **Order Appropriating $930,000 of Land Sale Revenue - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair, and the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**
This is its first reading.

Order 13-15/16 **Order Amending Bayside Tax Inerement Financing District - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.**
This is its first reading.

AMENDMENTS:

Order 14-15/16 **Amendment to Zoning Map Re: 802 Ocean Avenue - Sponsored by Planning Board, Stuart O'Brien, Chair.**
This is its first reading.

Order 15-15/16 **Order Repealing Conditional Zone Agreement Re: 802-828 Ocean Avenue – Sponsored by the Planning Board, Stuart O'Brien, Chair.** This is its first reading.

Order 297 was taken out of Order.

Order 297-14/15 **Amendment to Portland City Code Chapter 33 (Minimum Wage) – Sponsored by Mayor Michael F. Brennan and the Finance Committee, Councilor Nicholas M. Mavodones, Jr. This item was given first reading on June 15, 2015.**

Motion was made by Councilor Suslovic and seconded by Councilor Mavodones to postpone Order 297 to July 20, 2015 City Council meeting. Motion failed 3-6 (Hinck, Brenerman, Donoghue, Marshall, Costa, Brennan).

Motion was made by Councilor Hinck and seconded by Councilor Costa to amend Order 297 by adding "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 CUUR0000SAO.

In section 33.7 Minimum Wage section (b) Tipped Employees: deleting paragraph "but not more than $5.12 per hour maximum tip credit as specified in the Fair Labor Standards Act (FLSA")".

In section 33.7 Minimum Wage section changing section (i) Beginning on January 1, 2016 the regulars Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to $10.10 per hour changing section

By changing section (ii) Beginning on January 1, 2017, the regular Minimum Wage for all Employees, including, but not limited to, tipped Employees, shall be raised to $10.68 per hour; and changing section

By changing section (iii) Beginning on every first day on July following January 1, 2018, and every first day of July 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 prior year. If there is no increase, the Minimum Wage will be unchanged. The percentage increase in the annual CPI-U for the previous calendar year from the annual CPI-U for the calendar year preceding that shall be the percentage by which the Minimum Wage is increased on the first day of July 2018 and every July 1 thereafter. Passage 9-0.

Motion was made by Councilor Mavodones and seconded by Councilor Brenerman for passage as amended. Passage 6-3 (Mavodones, Brenerman, Suslovic)

Motion was made by Councilor Donoghue and seconded by Councilor Duson to adjourn. Passage 9-0, 11:30 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Item 1 - 15116
Tab 2 7/20/15

PROCLAMATION

HONORING

OFFICER MARK KEZAL

WHEREAS, **Officer Kezal** has been with the Police Department since 2001 and is currently assigned to the Patrol Unit. He is a member of the Special Reaction Team and has been a certified firearms instructor; and

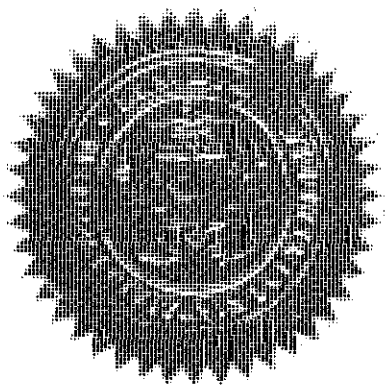
WHEREAS, **Officer Kezal** served four years in the United States Marine Corps as an infantryman whose service included multiple overseas deployments including time with a scout-sniper platoon; and

WHEREAS, **Officer Kezal** is recommended for Officer of the Month for June for his assistance in detaining a subject during the joint execution of a search warrant with the Federal Bureau of Investigation; and

WHEREAS, **Officer Kezal** is described by his superiors as an excellent law enforcement officer who is always willing to help others and is a reliable comrade.

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 Mark Kezal** as **Officer of the Month for June 2015**.

Signed and sealed this 20th day of July 2015



Michael F. Brennan, Mayor
City of Portland, Maine

Doc 2-15/16
Tab 3 7-20-15

PROCLAMATION

HONORING

OFFICER BRENT ABBOTT

WHEREAS, **Officer Abbott** joined the Portland Police Department in 2011 and is currently assigned to a footbeat patrol in the Downtown District during the summer months; and

WHEREAS, **Officer Abbott** joined nearly 3000 runners on Saturday, July 11th to participate in the Shipyard Brewing Company Old Port Half Marathon; and

WHEREAS, **Officer Abbott** ran 13.1 miles in 2 hours and 43 minutes in full uniform placing 2,573rd out of 2,950 runners overall; and

WHEREAS, **Officer Abbott** participated in this event for the greater good and worked to promote the City of Portland's exceptional Police Department; and

WHEREAS, **Officer Abbott** is recognized for fostering goodwill in his community through social media and #footbeat.

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 Brent Abbott for his commitment to the City of Portland.**

Signed and sealed this 20th day of July 2015

Michael F. Brennan, Mayor
City of Portland, Maine

Order 16-15/16
Tab 4 7-20-15

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)

AMENDING ORDER 291-14/15 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 sale of cannabis shall not be permitted at the New England Cannabis Farmers Market Festival in the Festival area, and

BE IT FURTHER ORDERED, that smoking or any other ingestion of cannabis shall not be permitted at the New England Cannabis Farmers Market Festival in the Festival area, 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.

Michael J. Bobinsky
Director of Public Services

TO: Michael Sauschuck, Acting City Manager

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 FROM: Michael Bobinsky, Director of Public Services
DATE: July 7, 2015
RE: **New England Cannabis Farmers Market Festival in the industry, to be held at Deering Oaks Park, 9am – 7pm. (This event has already been declared a festival by City Council, however, the organizer recently asked for a change to the event: requesting permission to charge an admission fee and to fence off the grass area around the Deering Oaks Bandstand.)**

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 be 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 $10. Must be 18 years or older (if younger, accompanied by an adult). 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 - $125).

The sale of cannabis, smoking of cannabis, and ingestion cannabis shall not be permitted at the New England Cannabis Farmers Market Festival.

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).

In addition, the grass area surrounding the Bandstand (about 200 feet north in front of the bandstand, crossing Farmers Market Rd., to 100 feet east and west of the bandstand), will be fenced in. This gated/fenced area will require a $10 admission charge. The swinging gate across Farmers Market Road will act as the main entrance to the event.

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.

Michael J. Bobinsky
Director of Public Services

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.).

Gated/fenced area where admission charge is required for admittance, is to be the Bandstand, and 200 feet north in front of the bandstand, crossing Farmers Market Rd. into the grass area beyond, and 100 feet east and west of the bandstand (forming a rectangle to enclose the bandstand).

These areas 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.

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 at the New England Cannabis Farmers Market Festival in the Festival area.
- 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
- New World Organics is approved to fence off a portion of Deering Oaks Park (around the Bandstand) and to charge an admission fee to this area of the festival.

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

Michael J. Bobinsky
Director of Public Services

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
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	April 13 2015 Revised: 4-14, 7-7	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 Maine's 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. Caregivers will not be selling cannabis. They will be organized by the 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 will put up temporary fencing around the festival and charging a $10 admission fee. Attendees will enter the festival through an admission booth set up on Farmers Market rd. We will be checking Ids to make sure that everyone is over 18 or accompanied by an adult. Attendees will be given a bracelet when they pay and security will watch for anyone sneaking in. Odins Kindered which is a licensed and insured security company will provide security. While volunteers help to insure that the festival runs smoothly. Security and volunteers will be identifiable by security and volunteer shirts.

We will be donating 10% of the proceeds to the city of Portland. 5% will go to a local homeless shelter and the remaining 5% will go to Friends of Deering oaks Park.

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, Cannabis will not be sold

T-shirts, novelty items, artwork for SALE

IS THERE A REGISTRATION FEE?	$10 admission fee. Participating Vendors do pay a fee to participate.	
IF YES, HOW MUCH?	FEE	$125 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-restroooms 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 ildren'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.

AVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	JO	DATE	4/13/15

ASSUMPTION OF RISK & LIABILITY
Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	JO	DATE	4/13/15

CREDIT CARD INFORMATION							
Visa or MasterCard Number				3158	Exp Date (Mon/Yr)	10	18
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 11-15/16
Tab 5 7-2015

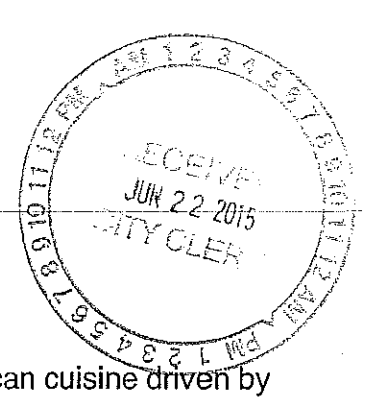
MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

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:

Poplar & Company LLC d/b/a Roustabout. Application for a Class XI Restaurant/Lounge License with Entertainment with Dance at 59 Washington Ave.



Attention: Mayor of portland and Members of city council.
Subject: Roustabout

Roustabout

Roustabout is a New England inspired eatery serving Italian American cuisine driven by innovation and consistency. We will celebrate Maine's blue collar roots and rugged, hearty New England sensibilities. We will honor tradition & craft with the design in our menus. Where each detail is meant to evoke a sense of story, place and delight. Roustabout is located in the historic JJ Nissen Building at 59 Washington Ave. Part restaurant, bar, café, we will be open continuously seven days a week from 11 am-12 am, sunlight to candlelight. Roustabout combines the elegance of an old world cafe with the casual nature of a neighborhood bar. It will be a light filled space for a replenishing lunch of shared dishes or a spot for a late night digestif. The atmosphere of a lively dinner party will be created by Roustabout's knowledgeable and disarming staff.

Both Christopher Paschal and Anders Tallberg have a long history in the food and beverage industry, and look forward to bringing our considerable experience to a new concept together. Balancing care and thoughtfulness with a hearty, rugged New England sensibility, Roustabout will feature excellence in hospitality and a well considered bar program in a relaxed atmosphere. Culture comes first for Paschal and Tallberg, and they look forward to being a fun and vibrant hub in the growing East Bayside / Munjoy Hill community.

Best
Christopher
Anders

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

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

RECEIVED JUN 22 2015 CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Roostabout	Phone:	508-364-8371
Location Address:	59 Washington Ave Portland	Zip:	04101
If new, what was formerly at this location:	Mihapheap International Market		
Mailing Address:	59 Washington Ave Portland	Zip:	04101
Contact Person:	Christopher Paschal	Phone:	508-364-8371
Contact Person Email:	KitPaschal@gmail.com		
Manager of Establishment:	Christopher Paschal	Phone:	508-364-8371
Owner of Premises (Landlord):	Cotton Street Holdings LLC		
Address of Premises Owner:	80 Exchange St suite 30 Portland	Zip:	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		
Poplar & Company LLC	59 Washington Ave Portland	Zip:	04101
Contact Person:	Christopher Paschal	Phone:	(508) 364-8371

Principal Officers	Title	Date of Birth	Residence Address
Christopher Paschal	Manager	11/10/78	59 Cumberland Ave #3 Portland 04101
Anders Tallberg	Manager	6/13/80	62 Cumberland #2 Portland 0410
Beth Paschal	Owner	11/4/75	26 Andrew St Salem Ma. 01970

About Your Establishment

Class of Liquor License:	Class IV Restaurant/Lounge
Type of food served:	Italian
'ease circle all that will be served:	(Beer) (Wine) (Liquor)
Projected percentage of sales:	Generated from Food: 60% Generated from Alcohol: 40%
Hours & days of operation:	11:30 am - 1 am 7 Days

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)/N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.) Y	(Y)/N
Will you permit dancing on the premises? Y	(Y)/N
Will you permit dancing after 1:00 a.m.?	Y/(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/(N)
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/(N)
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	9/10/15
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y/(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/(N)
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	Y/(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	(Y)/N
If Yes, please explain: Christopher was arrested in 2000 for OUI in Mass, Resolved with CWOF	

I Christopher Peschel 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 _____ Title Manager Date 6/20/15

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

Portland, Maine — Vacationland

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

RECEIVED JUN 22 2015 CITY CLERK

Supplemental Application for Dancing and Entertainment License

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☒ Entertainment without Dancing: $270 ☒ Entertainment with Dancing: $485 ☐ After-Hours (1 a.m. to 3 a.m.): $545

Business Information			
Business Name (d/b/a):	Roustabout	Phone: 508	364-8371
Location Address:	59 Washington Ave Portland	Zip:	04101

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: full service restaurant/Bar with the ability of Hosting events fe Weddings ect.	
Will music be electric, acoustical, or both? (Circle)	
Will amplification be used?	Y/N
If yes, where and at what level? under 90 decibels	
Will music by played (Circle all that apply): Inside Outside	
Will you permit dancing on the premises?	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 300 feet	
What is your targeted opening date?	9/1/15
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	

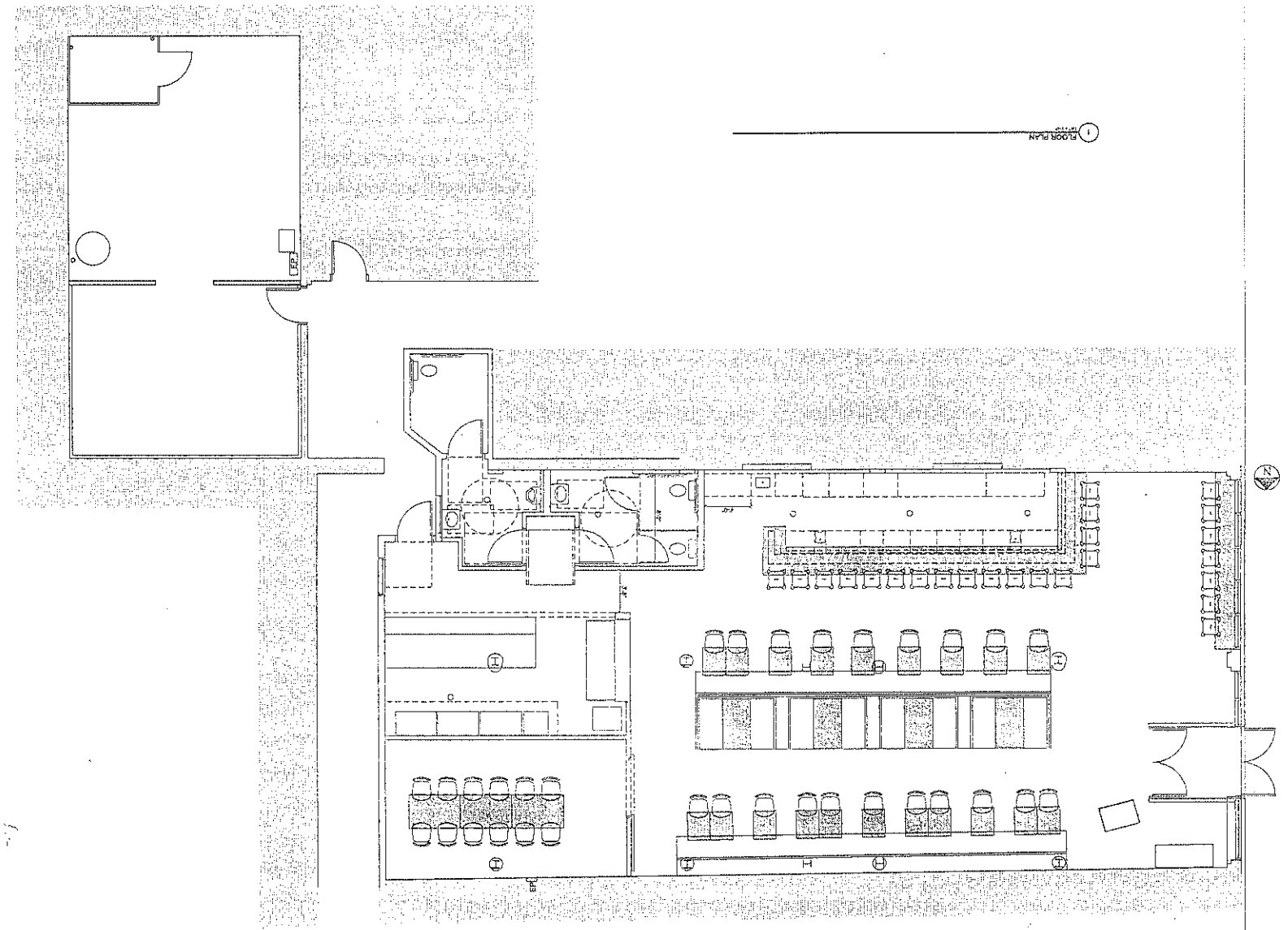
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts 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 _____ Title Owner/Manager Date 9/22/15

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov


1 FLOOR PLAN
SCALE: 1/4" = 1'-0"

Roustabout Menu

Veggies:

Grilled Bitter Greens–Red wine vinegar/ olive oil/ walnuts–
Whole Leaf Ceasar–Grana/preserved lemon/ marinated anchovies (or not)–
Pasta fagioli–farm vegetables/ pancetta/ sulfar beans–
Roasted and Dressed mushrooms–Trumpet, Beech, and Hen of the woods/–

Fish:

Spicy Squid–tomato sauce/ orange jam/ crispy onions–
roasted Char–salsa verde/ raab/ roasted garlic–
Roasted Clams–spinach/ spicy pork/ pickled shallots
Shrimp–parsely/lemon/ breadcrumbs–

Meat:

Steak Tartar–egg yolk/ mustard fruits / saltines–
Roast Chicken–roasted peppers/ button mushrooms/ white wine–
Bavette–capers and tomatoes/ seared cauliflower–
Pork Chop–pepperonata/ buttermilk/ golden raisins–

Pasta:

Smoked Baby backs–Rigatoni/ tomato sauce/ Grana–
Clams–Linguini / chilies/ Garlic crumbs–
Peas–Penne/ Tasso/ Cream
Lobster–Spaghetti/ crushed red pepper/ (corn)Breadcrumbs–

Bread:

Garlic /herbs/ grana (garlic bread for the table)–
Nduja/ salsa verde(crostini)–
Smoked Bluefish/ pickle mayo(chunk of bread w/bluefish salad and tartar)

Dessert:–

Crostini–Lemon curd/ blueberries/ clotted cream
Gallette–roasted fruit/ larded crust/ whipped ricotta
Mess–salted caramel/ brownies/ ice cream/ jimmies

Department of Public Safety

Division

Liquor Licensing & Inspection

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

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

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

- ☐ RESTAURANT (Class I,II,III,IV)
- ☐ HOTEL-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.) DOB:	2. Business Name (D/B/A)
Splurge Company LLC DOB:	Roustabout
DOB:	Location (Street Address) 59 Washington AV
Address 59 Washington Ave	City/Town: Portland; State: Me; Zip Code: 04101
Portland Me 04101	Mailing Address: 59 Washington Ave
City/Town: 508 364-8371; State: N/A; Zip Code	City/Town: Portland; State: Me; Zip Code: 04101
Telephone Number; Fax Number	Business Telephone Number: 508 364 8371; Fax Number: N/A
Federal I.D. # 47-386-1542	Seller Certificate #

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

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

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

complete Supplementary Questionnaire ,If YES

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

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

8. If business is NEW or under new ownership, indicate starting date: 9/10/15

Requested inspection date: 9/1/15 Business hours: 11:30 - 1 am

9. Business records are located at: 59 Washington Ave Portland Me

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
Christopher Paschal	11/10/78	Middletown Ct
Anders Tallberg	6/13/80	Attleboro MA
Beth Paschal	11/4/75	Middletown CT

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

Beth Paschal - Salem Ma. / Christopher Paschal - Portland Me - Boston Ma
Anders Tallberg - Portland Me - [redacted] Meredith Nh

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

Name: Christopher Paschal Date of Conviction: Dec. 2000

Offense: OUI Location: Boston Ma.

Disposition: CWOF

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:
Cotton Street Holding LLC 80 Exchange St Portland ME

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 2,800 sq feet
75 Seats including Bar area

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

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .3 miles 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: Katahdin Trust, PDC, Community Concepts

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

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

Dated at: Portland Me (Town/City, State) on 6/22/15 (Date), 20 15

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

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

Supplemental Information Required for Business Entities Who Are Licensees

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:

   Poplar 84 Company LLC

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

   Roostabout

3. Date of filing with the Secretary of State: 4/27/15

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 %
	See attached Sheet		

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 [X] No [ ]

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: Christopher Paschal

Date of Conviction: Dec 2000

Offense: OUI

Location of Conviction: Boston Ma.

Disposition: CWOF

Signature:

Signature of Duly Authorized Person

6/22/15
Date

Christopher Paschal
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

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituous, Vinous and Malt CLASS I: Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	$ 900.00
Class I-A	Spirituous, Vinous and Malt, Optional Food (Hotels Only) CLASS I-A: Hotels only that do not serve three meals a day.	$1,100.00
Class II	Spirituous Only CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	$ 550.00
Class III	Vinous Only CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	$ 220.00
Class IV	Malt Liquor Only CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	$ 220.00
Class V	Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) CLASS V: Clubs without catering privileges.	$ 495.00
Class X	Spirituous, Vinous and Malt – Class A Lounge CLASS X: Class A Lounge	$2,200.00
Class XI	Spirituous, Vinous and Malt – Restaurant Lounge CLASS XI: Restaurant/Lounge; and OTB.	$1,500.00
FILING FEE		$ 10.00

UNORGANIZED TERRITORIES $10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164. Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

Christopher Paschal
Title: Owner / Manager
DOB - 11/10/1978
Current Address- 519 Cumberland Ave #3 Portland Me. 04101
Previous Address- - 35 Mead St #3 Charlestown Ma. 02129
Ownership: 65%

Anders Tallberg
Title: Owner / Manager
6/13/80
Current Address- 62 Cumberland Ave #2 Portland ME. 04101
Previous Address- 72 Pinnacle Park Rd.Meredith NH. 03253
Ownership: 25%

Beth Paschal
Title: Owner
DOB - 11/4/75
Current Address- 26 Andrew St Salem MA. 01970
Ownership: 10%

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 #: MIQ99C536337

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :

Inquiries Name(s) BETH PASCHAL (1975-11-04)

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 #: MIQ99C536336

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :
Inquiries Name(s) ANDERS TALLBERG (1980-06-13)

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 #: MIQ99C536335

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :

Inquiries Name(s) CHRISTOPHER PASCHAL (1978-11-10)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - ROUSTABOUT - PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 6/28/2015 9:19 PM
Subject: ROUSTABOUT - PENDING Business License Approval

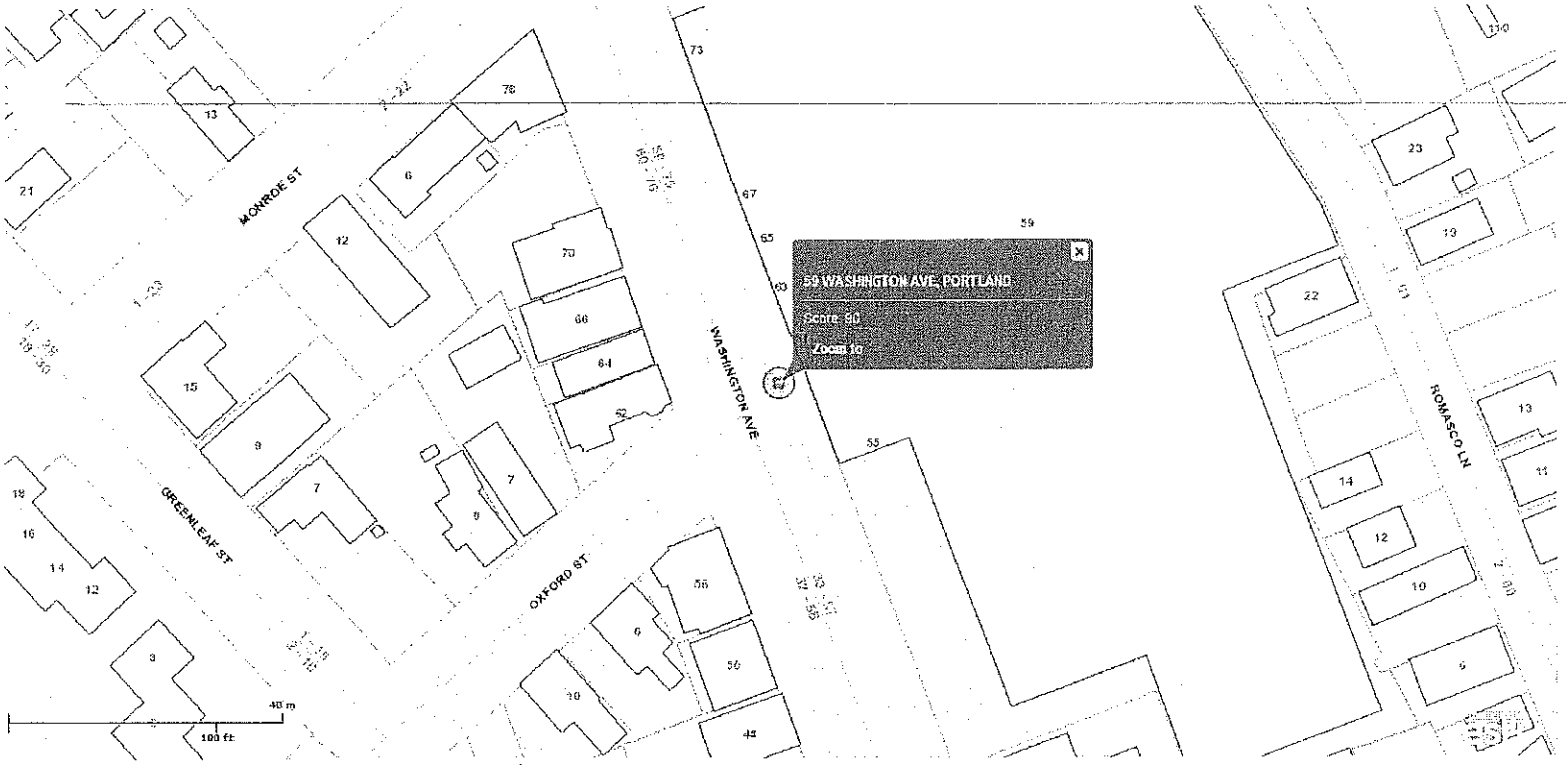
ROUSTABOUT - PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 6/28/2015

Zone:
Comments:

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

My Map



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

July 8, 2015

Poplar & Company LLC d/b/a Roustabout
Attn: Christopher Paschal
59 Washington Ave.
Portland, ME 04101

Re: Poplar & Company LLC d/b/a Roustabout. Application for a Class XI Restaurant/Lounge License with Entertainment with Dance at 59 Washington Ave.

Dear Mr. Paschal,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, July 20th, at 7:00 p.m.** for the review of your application for a Class XI Restaurant/Lounge License with Entertainment with Dance at 59 Washington Ave. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

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

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Order 18-15/16
Tab 6 9-20-15

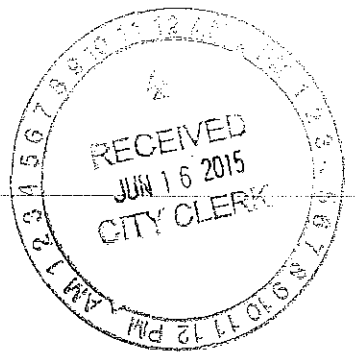
MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

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:

Scales LLC d/b/a Scales. Application for a Class I FSE License at 68-70 Washington Ave.



June 9, 2015

Mayor Brennon and the Portland City Council,

My name is Dana Street I am the owner of two restaurants in town: Street & Co and Fore Street Restaurants. As the current owner of two liquor licenses in the city of Portland, I'm writing you for permission to obtain a third. I'm opening a restaurant on the waterfront that is inspired by the notion of a classical, turn of the last century, New England seafood restaurant. We will be a full service lunch and dinner venue, open 7 days a week, with approximately 145 seats inside, that would like to have a full liquor license as would be traditional with this type of establishment.

I greatly appreciate your time and consideration in this matter.

Sincerely,

Dana Street
President, Nauset Associates

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

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

RECEIVED
JUN 1 2015
CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Scales	Phone: 207	761-0380
Location Address:	68-70 Commercial Street, Portland, ME	Zip:	04101
If new, what was formerly at this location:	NA		
Mailing Address:	72 Commercial Street Portland, ME	Zip:	04101
Contact Person:	Cynthia Thayer	Phone: 207	761 0380
Contact Person Email:	cthayer@streetdining.com		
Manager of Establishment:	NA	Phone:	
Owner of Premises (Landlord):	Maine Wharf LLC		
Address of Premises Owner:	P.O. Box 535 Buxton, ME	Zip:	04093

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		
Scales LLC	72 Commercial Street Portland, ME	Zip:	04101
Contact Person: Cynthia Thayer	Cthayer@streetdining.com	Phone: 207	761 0380

Principal Officers	Title	Date of Birth	Residence Address
Dana Street	President	11/5/47	110 Park Street Portland, ME 04101
Victor Leon	Secretary	8/27/48	577 Bridge Street Dedham, MA 02026
Samuel Hayward	NA	2/4/49	102 Brown's Point Rd, Bowdoinham, ME 0400

About Your Establishment

Class of Liquor License:	Class I Restaurant / Catering
Type of food served:	Traditional seafood and land fare
Please circle all that will be served:	(Beer) (Wine) (Liquor)
Projected percentage of sales:	Generated from Food: 73% Generated from Alcohol: 27%
Hours & days of operation:	7 days/wk 10:00 AM - 11:00 PM

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)N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y(N)
Will you permit dancing on the premises?	Y(N)
Will you permit dancing after 1:00 a.m.?	Y(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	J.S. Y(N)
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	J.S.
Will you have any amusement devices (pinball, video games, juke box)?	Y(N)
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? 8/1/15	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	(Y)N
If Yes, please list business name(s) and location(s): Street & Company, 33 Wharf St, Portland, ME Fore Street Restaurant 288 Fore St. Portland, ME	
Is any principal officer under the age of 21?	Y(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y(N)
If Yes, please explain:	

I Dana B. Street 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 DS Title Pres Date Jan 15 '15

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
164 STATE HOUSE STATION
AUGUSTA, ME 04333-0164

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

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

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☑ MALT ☑ SPIRITUOUS ☑ VINOUS

INDICATE TYPE OF LICENSE:

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

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.)	2. Business Name (D/B/A)
Scales LLC DOB:	Scales
DOB:	
DOB:	Location (Street Address) 108-70 Commercial Street
Address 72 Commercial street	City/Town Portland State ME Zip Code 04101
	Mailing Address 72 Commercial Street Bldg. #5
City/Town Portland State ME Zip Code 04101	City/Town Portland, State ME Zip Code 04101
Telephone Number 207 318 9100 Fax Number	Business Telephone Number 207 761 0380 Fax Number
Federal I.D. # 30-0855178	Seller Certificate #

3. If premises is a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS $ 0 FOOD $ 0 LIQUOR $ 0
5. Is applicant a corporation, limited liability company or limited partnership? YES ☑ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☑
7. If manager is to be employed, give name: _____
8. If business is NEW or under new ownership, indicate starting date: 8-1-15
   Requested inspection date: 7/20/15 Business hours: 10 A.M. - 1 P.M.
9. Business records are located at: 72 Commercial Street Building #5

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
Dana Street	11/5/47	Dallas, Tx
Samuel Hayward	8/27/48	Bowling Green, OH
Victor Leon	2/4/49	Boston, MA

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 then minor traffic violations, of any State of the United States? YES ☐ NO ☑

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

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

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☑ If **No** give name and address of owner: Marine Wharf LLC P.O. Box 535 Buxton, ME 04093

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) New Restaurant
See first floor plan, attached

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☑ Applied for: 6/5/15

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? 0.4 miles 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: Construction loans Bangor Savings Bank

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

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

Dated at: Portland, ME (Town/City, State) on June 9 (Date), 20 15

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Dana B Street
Priut Name

Signature of Applicant or Corporate Officer(s)

Print Name

State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:
License #:
Date Filed:

Supplemental Information Required for Business Entities Who Are Licensees

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:
   Scales LLC

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

3. Date of filing with the Secretary of State: 6·1·14

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 %
Dana Street	110 Park Street Portland ME 04101	11/5/47	50
Victor Leon	577 Bridge Street Dedham, MA 02026	8/27/48	30
Samuel Hayward	102 Brown's Point Rd. Bowdoinham, ME 04008	2/4/49	20

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:

DB [signature]
Signature of Duly Authorized Person

June 9 '15
Date

Dana B Street
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

SAMPLE MENU

Note: This draft menu is for planning purposes only, but it represents the range of items that will appear. The actual menu will change with the local availability of seafood species.

SCALES
(MENU DRAFT)

ICE BAR: Oysters; Hard clams; Chilled lobsters; Chilled Maine crab; Chilled, waved whelks; Chilled raw, marinated, or cured fish ssp; Maine lobster "PEI" style.

GARDE-MANGER: Salads – changing combinations according to season and availability.

SOUPS AND STEWS

FISH CHOWDER

CLAM CHOWDER

CRAB BISQUE

"JFK" LOBSTER STEW

STARTERS

FINNAN HADDIE

GRILLED BIVALVES

TOASTS WITH BROILED MACKEREL OR HERRING

PAN-ROASTS: SHRIMP; OYSTERS; SEASONAL SPECIALTIES

PLATES

BROILED, BAKES, PAN-SEARED FISH FILETS

GRILLED STEAK FISH (tuna; sword)

TRADITIONAL

FRIED: CLAMS; OYSTERS; SCALLOPS (in two portion sizes)

FRIED BATTERED HAKE, HADDOCK, OR CUSK

MIXED FRIED FISH "CONE"

STEAMED MAINE LOBSTER

BAKED STUFFED LOBSTER

SCALES BAKE

COD CAKES (Scales baked Jacob's Cattle beans, fresh brown bread, greens)

SCALES LOBSTER ROLL

VEGETABLES

BAKED JACOB'S CATTLE BEANS; HAND-CUT FRIES; ESCALLOPED POTATOES; BRAISED GREENS; SEASONAL STALK VEGETABLES; SUCCOTASH; ONION RINGS; ROASTED ROOT VEGETABLES

MEATS

GRILLED LAMB CHOP (by the each) GRILLED

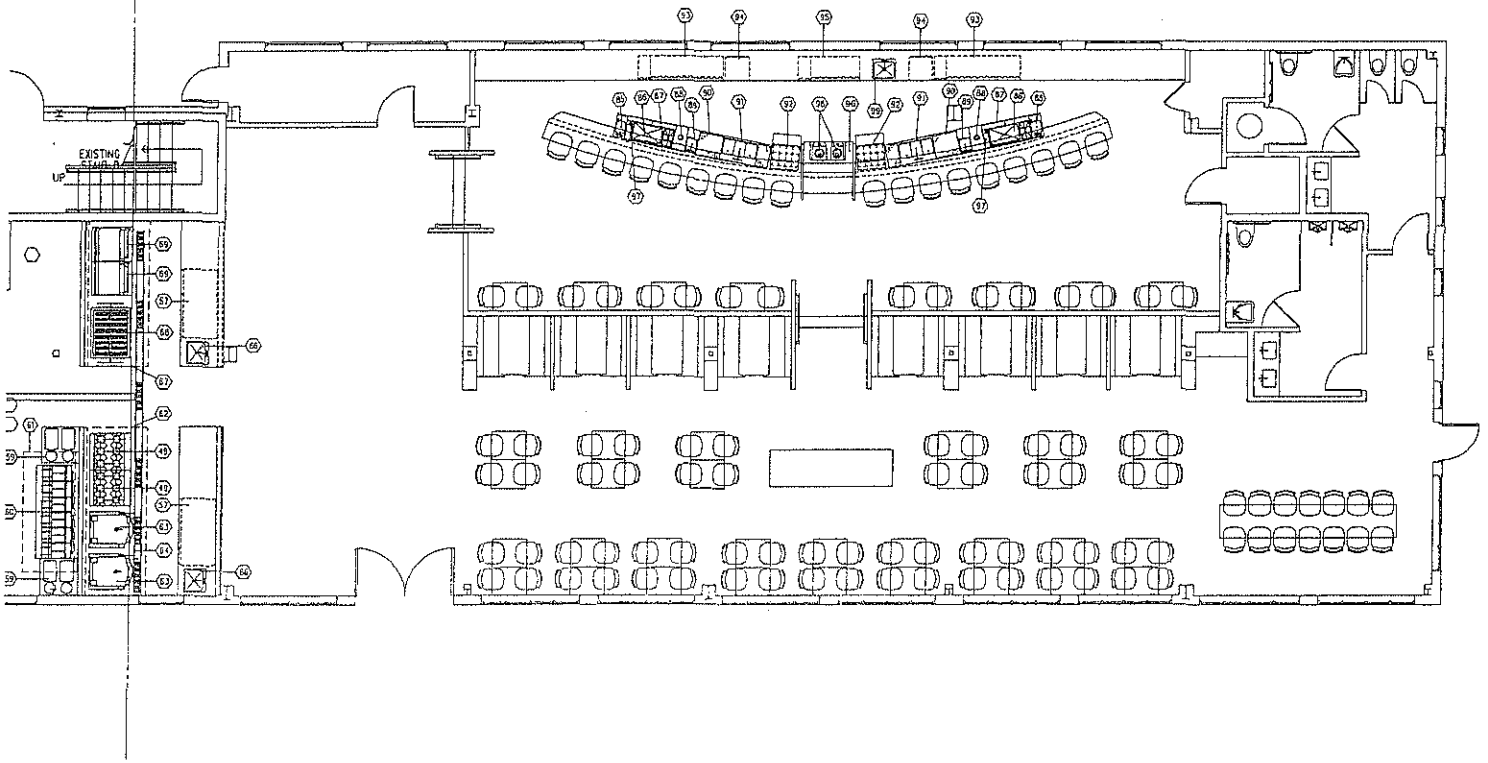
DRY-AGED STEAK (2 portion sizes)

CHICKEN, QUAIL, OR DUCK (Changing preparations)

SWEETS

FROZEN CUSTARD (and derived desserts)

FRUIT PIES, CRISPS, BUCKLES (according to season)



1 | FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"

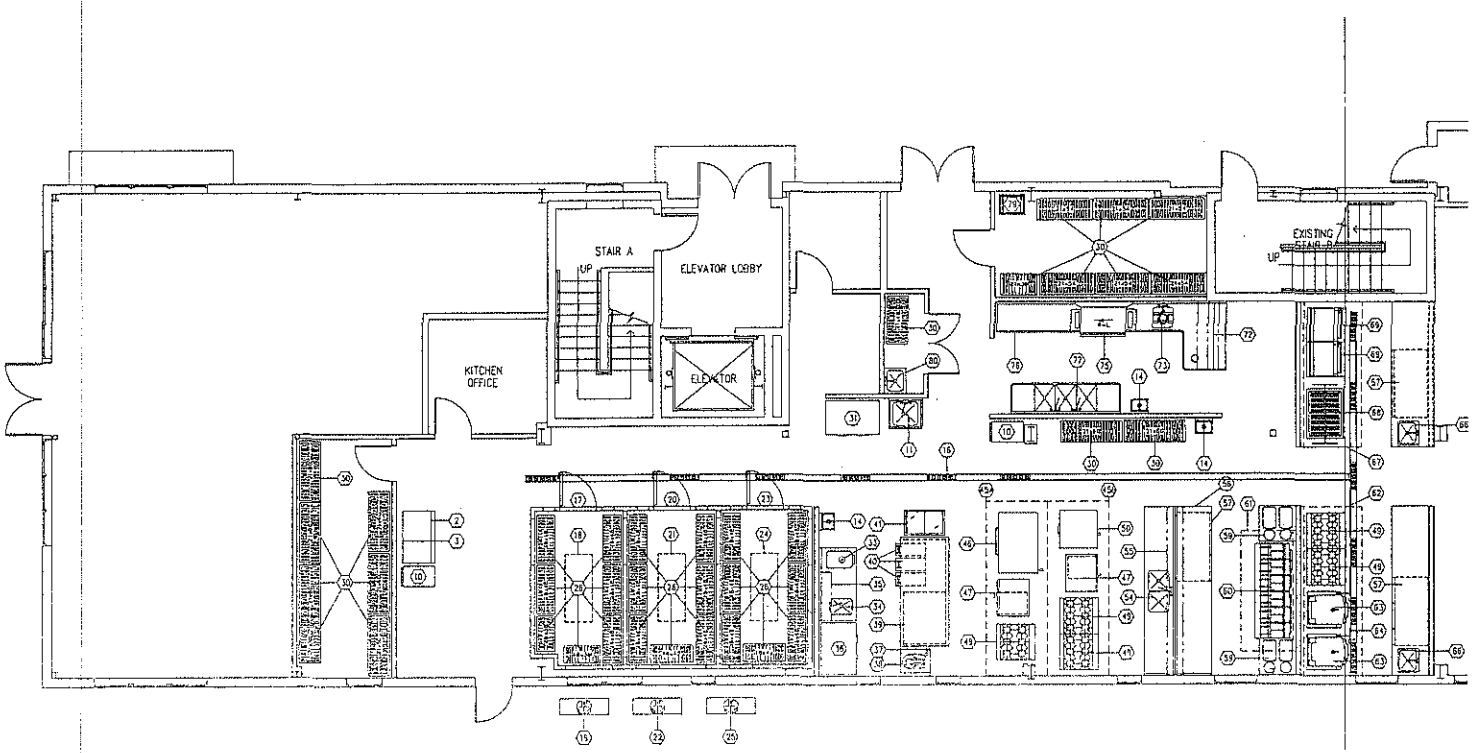
Project North
W E S

Maine Wharf Restaurant

Fondservice Equipment Floor Plan & Schedule

Date: 12 Nov. 2014
Scale: 1/4" = 1'-0"

FS-1B



EQUIPMENT SCHEDULE

MK.	QTY	DESCRIPTION
1	-	-- SPARE NUMBER --
2	1	ICE STORAGE BIN
3	1	ICE CUBER
4	-	-- SPARE NUMBER --
5	-	-- SPARE NUMBER --
6	-	-- SPARE NUMBER --
7	-	-- SPARE NUMBER --
8	-	-- SPARE NUMBER --
9	-	-- SPARE NUMBER --
10	2	UTILITY CART
11	1	SINK, 1-COMPARTMENT
12	-	-- SPARE NUMBER --
13	-	-- SPARE NUMBER --
14	2	HAND SINK
15	-	-- SPARE NUMBER --
16	1	FLOOR DRAIN
17	1	WALK-IN COOLER
18	1	EVAPORATOR COIL COOLER
19	1	COMPRESSOR, COOLER
20	1	WALK-IN COOLER
21	1	EVAPORATOR COIL COOLER
22	1	COMPRESSOR, COOLER
23	1	WALK-IN COOLER
24	1	EVAPORATOR COIL COOLER
25	1	COMPRESSOR, COOLER
26	21	SHELVING UNIT
27	-	-- SPARE NUMBER --
28	-	-- SPARE NUMBER --
29	-	-- SPARE NUMBER --
30	17	SHELVING UNIT
31	1	FREEZER, 2-SECTION
32	-	-- SPARE NUMBER --
33	1	BATCH ICE CREAM FREEZER
34	1	WORK TABLE W/SINK
35	2	WALL SHELF
36	1	REFRIGERATOR, 2-SECTION
37	1	MIXER STAND
38	1	MIXER, 20-QUART
39	1	WORK TABLE, WOOD TOP
40	1	INGREDIENT BIN
41	1	ICE CREAM DIPPING CABINET
42	-	-- SPARE NUMBER --
43	-	-- SPARE NUMBER --
44	-	-- SPARE NUMBER --
45	1	EXHAUST HOOD
46	1	OVEN, DECK
47	2	OVEN, DOUBLE
48	-	-- SPARE NUMBER --
49	5	RANGE, 6-BURNER
50	1	OVEN, CONVECTION, GAS
51	-	-- SPARE NUMBER --
52	-	-- SPARE NUMBER --
53	-	-- SPARE NUMBER --
54	-	-- SPARE NUMBER --
55	1	WORK TABLE W/SINKS
56	1	DIVERSHELF, DOUBLE
57	1	WORK TABLE
58	3	REFRIGERATOR, UNDERCOUNTER
59	-	-- SPARE NUMBER --
60	7	BREADING CABINET
61	1	FRYER, BATTERY W/BUILT-IN FILTER
62	1	EXHAUST HOOD
63	1	EXHAUST HOOD
64	3	TILTING SKILLET, 30-GALLON
65	-	-- SPARE NUMBER --
66	-	-- SPARE NUMBER --
67	2	SINK, 1-COMPARTMENT, DROP-IN
68	1	EXHAUST HOOD
69	1	MIXER/PM GRAT
70	2	UPRIGHT BROILER
71	-	-- SPARE NUMBER --
72	-	-- SPARE NUMBER --
73	1	ADJUSTABLE SCALE
74	1	DISPENSER
75	-	-- SPARE NUMBER --
76	1	DISHWASHER, CONVEYOR-TYPE
77	1	ADJUSTABLE SCRAM
78	1	SINK, 3-COMPARTMENT
79	-	-- SPARE NUMBER --
80	1	SHEET PAN RACK
81	1	MOP SINK
82	-	-- SPARE NUMBER --
83	-	-- SPARE NUMBER --
84	-	-- SPARE NUMBER --
85	-	-- SPARE NUMBER --
86	-	-- SPARE NUMBER --
87	2	UNDERBAR, HAND SINK
88	2	UNDERBAR, ICE BIN
89	2	UNDERBAR, SPEED RAIL
90	2	UNDERBAR, GRT WASTE CHUTE
91	3	UNDERBAR, BLENDER STATION
92	2	UNDERBAR, DRAINBOARD/SLIDE RACK
93	2	UNDERBAR, SINK, 3-COMP.
94	2	REFRIGERATED SANDWICH UNIT
95	2	BACK BAR COOLER
96	2	DISHWASHER, UNDERCOUNTER
97	1	BACK BAR COOLER
98	1	WORK COUNTER
99	2	UNDERBAR, SODA GUN HOLDER
100	2	INDUCTION COOK TOP
101	1	SINK, 1-COMPARTMENT, DROP-IN

NOTES:

1. ELECTRICAL CONTRACTOR TO WIRE CONTROL WIRING BETWEEN EVAPORATORS AND REMOTE CONDENSING UNITS FOR WALK-IN COOLER AND FREEZER. CO-ORDINATE WITH KITCHEN EQUIPMENT CONTRACTOR (KEC).

2. ELECTRICAL CONTRACTOR TO INSTALL SEAL-OFF FITTINGS ON ALL CONDUIT PENETRATING WALK-IN COOLER AND FREEZER.

3. ELECTRICAL CONTRACTOR TO PROVIDE 115 VOLT W/R RECEPTACLE in FREEZER FOR DRAIN LINE HEAT TAPE. HEAT TAPE FURNISHED AND INSTALLED BY ELECTRICAL CONTRACTOR.

4. PLUMBING CONTRACTOR TO INSTALL VACUUM BREAKER, SOLENOID VALVE, AND FLOW CONTROL VALVE (FURNISHED) IN COLD WATER LINE TO DISPENSER.

5. KITCHEN EQUIPMENT CONTRACTOR TO PROVIDE GAS REGULATING VALVES FOR ALL GAS OPERATED KITCHEN EQUIPMENT.

6. FLOOR DRAIN REQUIRES FLOW RATE OF 5 G.P.M.

7. PLUMBING CONTRACTOR TO INSTALL ALL DRAINS AND FAUCETS SUPPLIED BY KITCHEN EQUIPMENT CONTRACTOR.

8. PLUMBING CONTRACTOR TO FURNISH AND INSTALL ALL INDIRECT DRAIN PIPEFITTING TO FLOOR DRAINS.

9. PLUMBING CONTRACTOR TO INSTALL GAS REGULATORS ON ALL GAS EQUIPMENT REGULATORS BY K.E.C.

10. PLUMBING CONTRACTOR TO IGNITE ALL GAS PILOTS AND ASSIST K.E.C. AND FACTORY REP'S IN START-UP AND DEMONSTRATION OF EQUIPMENT.

11. ELECTRICAL CONTRACTOR TO INTERWIRE SOLENOID VALVE AND CONTROL PANEL TO DISPENSER.

12. GENERAL CONTRACTOR TO PROVIDE ALL REQUIRED WALL BACKING AS DIRECTED BY K.E.C.

13. GENERAL CONTRACTOR TO PROVIDE ALL REQUIRED SLEEVES THROUGH WALLING FOR REMOTE REFRIGERATION LINES. REFRIGERATION LINES BY K.E.C.

1 FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"

Project North

Prepared for:
TEXT
Address
City, State

Consulting Engineer:

Architect:
ARCHETYPE Architects
413 Main Street Portland, Maine 04101
(207) 772-4022 Fax (207) 772-4026

Project:
Maine Wharf Restaurant
ADDRESS
Portland, Maine

Revisions:

Date: 12 Nov. 2014
Scale: 1/4" = 1'-0"
Foodservice Equipment
Floor Plan & Schedule
FS-1A

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 #: MIQ99C536340

Criminal History Record

Introduction

This criminal history record was produced in response to the following request **(Produced on 2015-06-24) :**
Inquiries Name(s) DANA STREET (1947-11-05)

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 #: MIQ99C536344

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (**Produced on 2015-06-24**) :
Inquiries Name(s) SAMUEL HAYWARD (1949-02-04)

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 #: MIQ99C536338

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on **2015-06-24**) :
Inquiries Name(s) VICTOR LEON (1948-08-27)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - SCALES - PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 6/28/2015 9:18 PM
Subject: SCALES - PENDING Business License Approval

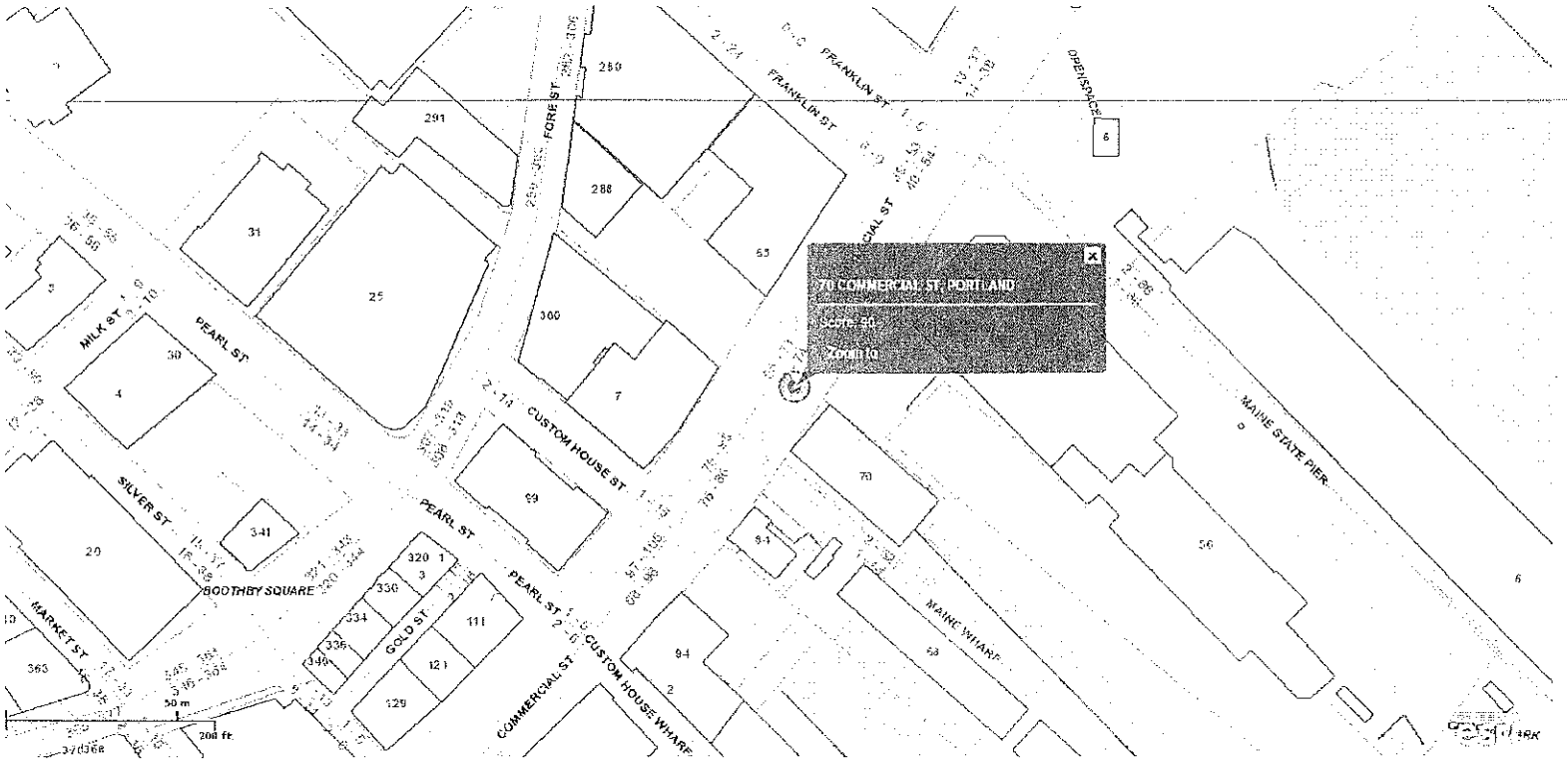
SCALES - PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 6/28/2015

Zone:
Comments:

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

My Map



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

July 14, 2015

Scales LLC d/b/a Scales
Attn: Cynthia Thayer
72 Commercial St.
Portland, ME 04101

Re: Scales LLC d/b/a Scales. Application for a Class I FSE License at 68-70 Commercial St.

Dear Ms. Thayer,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, July 20th, at 7:00 p.m.** for the review of your application for a Class I FSE License at 68-70 Commercial Street. 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,

Melissa Caiazzo

Melissa Caiazzo
Business License Assistant
207-756-8386
bl@portlandmaine.gov

Order 7-15/16
Tab 7 7-20-15

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

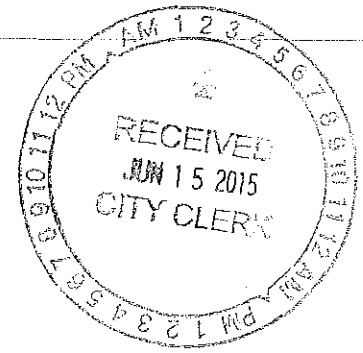
CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS' APPROVAL OF:

Tomaso's Canteen, Inc. d/b/a Tomaso's Canteen. Application for a Class A Lounge License at **18 Hampshire St.**

Tomaso's Canteen
Sam Minervino
sminerv@hotmail.com
(207) 831-3634



June 8, 2015

Mayor Brennan and City Council
389 Congress Street
Portland, ME 04101

Dear Mayor Brennan and the Portland City Council:

My name is Sam Minervino and I am writing to apply for a Class A Lounge license for Tomaso's Canteen, a neighborhood tavern I plan to open at 18 Hampshire Street.

I've owned restaurants in Portland for 35 years. I opened Sam's Harbor Lunch on Commercial Street in 1980. I eventually relocated it to Morrill's Corner, where I now own and operate Samuel's Bar & Grill. I'm excited for the chance to return to the peninsula with this new venture.

Tomaso's is named for my great grandfather who immigrated to America from Italy over 100 years ago. He was a cabin boy in Italy, then joined the Coast Guard after arriving here. He lived at 95 India Street, just a couple blocks away from where I hope to open up. I lived in that house, too, in my early years, along with grandparents, parents, aunt and sister. This early commune-like arrangement was pretty typical in Little Italy, as the neighborhood was then called because of all the Italian immigrants. The décor will pay homage to the history of the neighborhood. My goal is to create a comfortable neighborhood gathering place, where those who live and work nearby can come frequently for a drink and a reasonably priced bite to eat.

I plan to completely renovate the interior of the building (formerly occupied by Sangillo's Tavern) and add a kitchen that will serve a small menu of burgers, sandwiches and appetizers prepared from fresh, local ingredients whenever possible. There will be a full bar serving liquor, beer and wine. Hours will be 11:30 a.m. to 1 a.m., seven days a week. We plan to serve food until closing time every night.

Thank you for your consideration.

Sincerely,

Samuel T. Minervino

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

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

RECEIVED JUN 15 2015 CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	TOMASO'S CANTEEN	Phone:	207 776-1015
Location Address:	18 HAMPSHIRE ST	Zip:	04101
If new, what was formerly at this location:	SANGILLO'S TAVERN		
Mailing Address:	31 OAKLEY ST PORTLAND, ME	Zip:	04103
Contact Person:	SAMUEL MINERVINO	Phone:	207 776-1015
Contact Person Email:	SMINERV1@HOTMAIL.COM		
Manager of Establishment:	MARGARET MINERVINO Date of Birth: 3/11/86	Phone:	207 749-8199
Owner of Premises (Landlord):	NICOLINO CICCOMANCINI		
Address of Premises Owner:	43 WALTON ST PORTLAND, ME	Zip:	04103

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		
TOMASO'S CANTEEN, INC	31 OAKLEY ST, PORTLAND, ME	Zip:	04103
Contact Person: SAMUEL MINERVINO		Phone:	207 776-1015

Principal Officers	Title	Date of Birth	Residence Address
SAMUEL MINERVINO	PRESIDENT	7/3/57	31 OAKLEY ST, PORTLAND, ME 04103

About Your Establishment

Class of Liquor License:	CLASS X: CLASS A LOUNGE
Type of food served:	BURGERS, WINGS, SANDWICHES
Please circle all that will be served:	(Beer) (Wine) (Liquor)
Projected percentage of sales:	Generated from Food: 40% Generated from Alcohol: 60%
Hours & days of operation:	11:30 A.M. - 1 A.M., 7 DAYS A WEEK

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(N)
If No, please explain: APPETIZERS + PUB FOOD THAT CAN BE EATEN W/ HANDS	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y(N)
Will you permit dancing on the premises?	Y(N)
Will you permit dancing after 1:00 a.m.?	Y(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y(N)
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, (juke box))?	(Y)N
If yes, please list: # of pinball machines: _____ # of amusements: 1 # of pool tables: _____	
What is your targeted opening date? AUG. 1, 2015	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	(Y)N
If Yes, please list business name(s) and location(s): SAMUEL'S BAR+GRILL - 1160 FOREST AVE; SAM'S HARBOR LUNCH - FOREST AVE + COMMERCIAL ST	
Is any principal officer under the age of 21?	Y(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y(N)
If Yes, please explain:	

I SAMUEL MINERVINO **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 Samuel T. Minervino Title PRESIDENT Date 6/4/15

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.

Tomaso's Canteen
[draft menu]

Bar snacks $5
Tater tots with gravy or bacon and cheese
Fried pickles
Fried stuffed olives
Half order of wings
Haddock bites

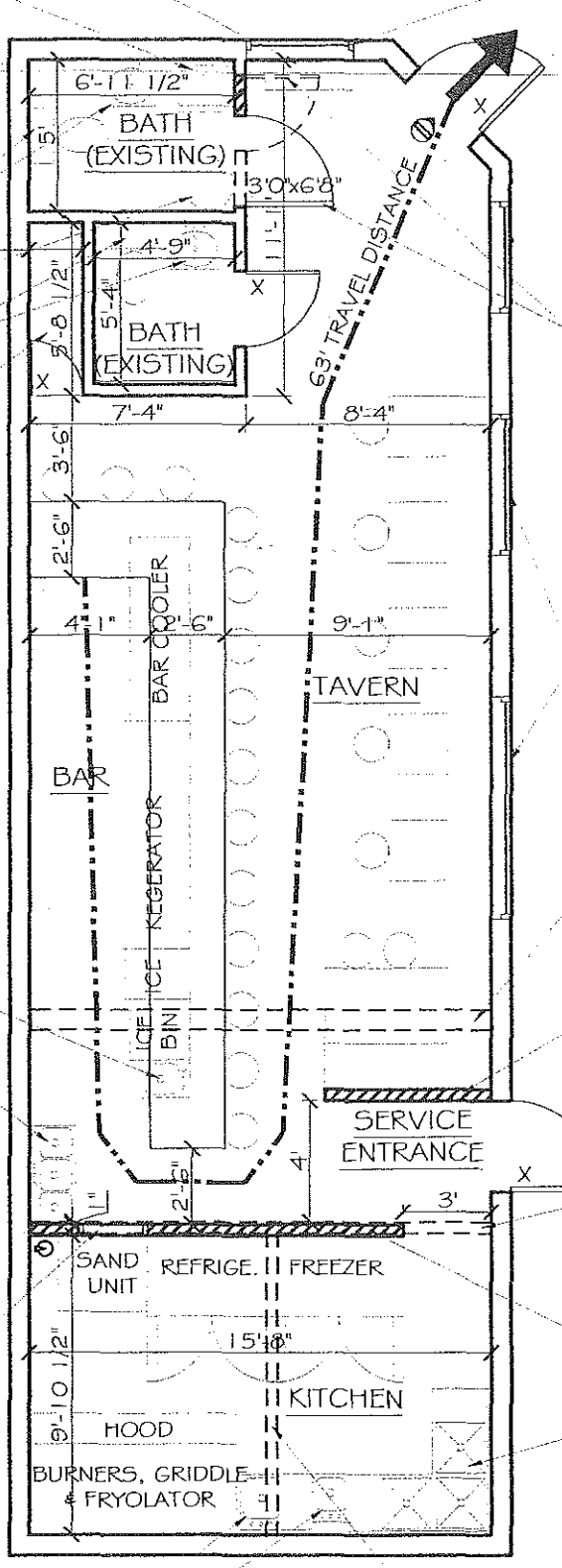
Wings $10
Buffalo, dirty, Thai chili or naked

Burgers (fresh-ground custom butcher blend)
Single $4
Double $6
Triple $8

Add cheese $1
Add bacon $1

Housemade Italian sausage sub with peppers and onions $9
Red hotdogs $3
Haddock sandwich (fried or blackened) $8
Philly chicken sub $8

Add a bag of Humpty Dumpty chips (plain or BBQ) $1
Add a side of tots $2



MOP SINK
WALL MOUNTED HOT WATER HEATER ABOVE)

EXISTING BATHROOM FIXTURES TO REMAIN

EXISTING HOT WATER HEATER TO BE REMOVED

EXISTING BATHROOM FIXTURES TO REMAIN

EXISTING SERVICE CLOSET TO REMAIN

HAND SINK

3-BAY GLASS SINK

FOOD PASS-THROUGH WINDOW

FOOD SINK

HAND SINK

REPLACE EXISTING WINDOWS WITH UNITS WITHIN EXISTING OPENINGS (TYPICAL ALL WINDOWS)

REMOVE EXISTING DOOR AND REPLACE WITH DOOR IN NEW LOCATION

REPLACE EXISTING WINDOWS WITH UNITS WITHIN EXISTING OPENINGS (TYPICAL ALL WINDOWS)

EXISTING NON-STRUCTURAL WALL TO BE REMOVED

INFILL WALL W/ 2X FRAMING AND GWB ON EACH SIDE

EXISTING NON-STRUCTURAL WALL TO BE REMOVED

INFILL WALL W/ 2X FRAMING AND GWB ON EACH SIDE

3-BAY POT SINK

EXISTING NON-STRUCTURAL WALL TO BE REMOVED

GENERAL NOTES:

EXISTING BUILDING ENVELOPE WALLS AND ROOF TO REMAIN

10
A1.1 A1.1

PROPOSED PLAN

0 4'-0"

SCALE: 1/4" = 1'-0"

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 NEW APPLICANT

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.)			2. Business Name (D/B/A)		
Tomaso's Canteen Inc DOB:			TOMASO'S CANTEEN		
DOB:					
DOB:			Location (Street Address) 18 HAMPSHIRE ST		
Address 31 OAKLEY ST			City/Town PORTLAND	State ME	Zip Code 04101
			Mailing Address 31 OAKLEY ST		
City/Town PORTLAND	State ME	Zip Code 04103	City/Town PORTLAND	State ME	Zip Code 04103
Telephone Number 207 776-1015	Fax Number		Business Telephone Number 207 776-1015		Fax Number
Federal I.D. # N/A			Seller Certificate # N/A		

3. If premises is a hotel, indicate number of rooms available for transient guests: _____

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

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

If YES, complete Supplementary Questionnaire

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

7. If manager is to be employed, give name: MARGARET MINERVINO

8. If business is NEW or under new ownership, indicate starting date: 8/1/15

Requested inspection date: 7/25/15 Business hours: 11:30 AM - 1 A.M.

Business records are located at: YARMOUTH PAYROLL PLUS, INC, 245 MAIN ST, YARMOUTH, ME 04096

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
SAMUEL T. MINERVINO	7/3/57	PORTLAND, ME
MARGARET C. MINERVINO	3/11/86	PORTLAND, ME

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

PORTLAND, ME

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

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

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☑ If **No** give name and address of owner: NICOLINO CICCOMANCINI, 43 WALTON ST, PORTLAND, ME 04103

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

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

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .1 MILES 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 p taining to the business, for which this liquor license is requested, and also such books, records and returns during the year in wh 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 $2,000 or both."

Dated at: PORTLAND, ME (Town/City, State) on 6/4 (Date), 20 15

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

SAMUEL T. MINERVINO
Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituous, Vinous and Malt **CLASS I:** Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	$ 900.00
Class I-A	Spirituous, Vinous and Malt, Optional Food (Hotels Only) **CLASS I-A:** Hotels only that do not serve three meals a day.	$1,100.00
Class II	Spirituous Only **CLASS II:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	$ 550.00
Class III	Vinous Only **CLASS III:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	$ 220.00
Class IV	Malt Liquor Only **CLASS IV:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	$ 220.00
Class V	Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) **CLASS V:** Clubs without catering privileges.	$ 495.00
Class X	Spirituous, Vinous and Malt – Class A Lounge **CLASS X:** Class A Lounge	$2,200.00
Class XI	Spirituous, Vinous and Malt – Restaurant Lounge **CLASS XI:** Restaurant/Lounge; and OTB.	$1,500.00
FILING FEE		$ 10.00

UNORGANIZED TERRITORIES $10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganiz ritories shall submit along with their application evidence of payment to the County Treasurer.

State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:

License #: _____

Date Filed: _____

Supplemental Information Required for Business Entities Who Are Licensees

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:

   TOMASO'S CANTEEN, INC

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

   TOMASO'S CANTEEN

3. Date of filing with the Secretary of State: 4/15/15

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 %
SAMUEL MINERVINO	31 OAKLEY ST PORTLAND, ME 04103	7/3/57	100

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

   Yes ☐ No ☑

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

Name: _____ Agency: _____

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

Yes ☐ No ☑

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

_____

Signature:

_____ 6/4/15
Signature of Duly Authorized Person Date

SAMUEL T. MINERVINO
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 Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

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 #: MIQ99C536343

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :
Inquiries Name(s) MARGARET MINERVINO (1986-03-11)

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 #: MIQ99C536342

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :

Inquiries Name(s) SAMUEL MINERVINO (1957-07-03)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - TOMASO'S CANTEEN - PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 6/28/2015 9:18 PM
Subject: TOMASO'S CANTEEN - PENDING Business License Approval

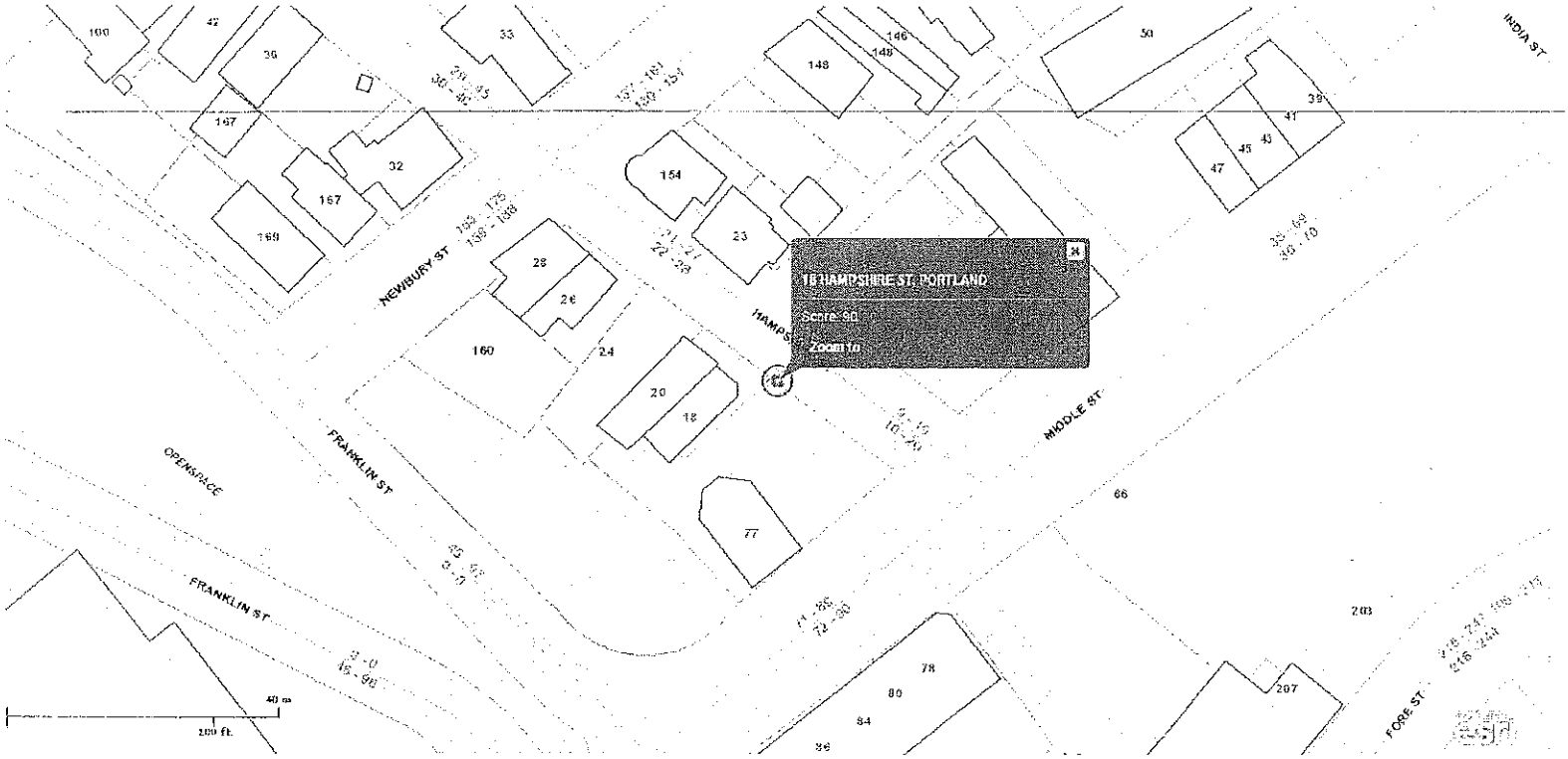
TOMASO'S CANTEEN - PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 6/28/2015

Zone:
Comments:

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

My Map



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

July 8, 2015

Samuel Minervino
31 Oakley St.
Portland, ME 04103

Re: Tomaso's Canteen, Inc. d/b/a Tomaso's Canteen. Application for a Class A Lounge License at 18 Hampshire St.

Dear Mr. Minervino,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, July 20th, at 7:00 p.m.** for the review of your application for a Class A Lounge License at 18 Hampshire 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

Order 20-15/16
Tab 8 7-20-15

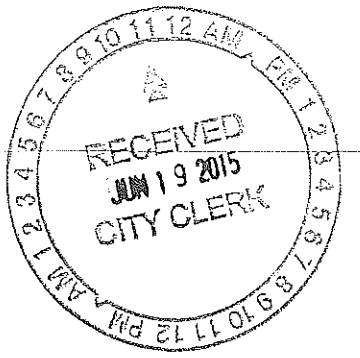
MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

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:

Fizz LLC d/b/a Vena's Fizz House. Application to add Outdoor Dining on Public Property at 345 Fore St.



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

June 19, 2015

Dear Mr. Mayor and City of Portland Council Members,

Vena's Fizz House is nearly two years old (July 10, 2013). We started out as a retail mixology store with a non-alcoholic bar, and are still exactly this, with the addition of night time sales of cocktails (no beer or wine). We are now wanting to add tables and chairs outside on the sidewalk our store. Our intent, with your permission, is to add tables and chairs during business hours, which this summer, will grow to be 7 days a week, and possibly 6 nights a week.

Steven Corman
co-owner of Fizz LLC
dba Vena's Fizz House

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

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

RECEIVED
JUN 19 2015
CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	VENA'S FIZZ House	Phone: 207	747-4901
Location Address:	345 Fore St. Portland ME	Zip: 04101	
If new, what was formerly at this location:			
Mailing Address:	same as above	Zip:	
Contact Person:	Steven Corman	Phone:	
Contact Person Email:	steve@venasfizzhouse.com		
Manager of Establishment:	Steve Corman Date of Birth: 10-31-56	Phone: 207	409-2936
Owner of Premises (Landlord):	Gerald Knecht		
Address of Premises Owner:	322 Fore St PO Box 682 · Ptld, ME	Zip: 04104	

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	
FIZZ LLC	345 Fore St Portland ME	Zip: 04101
Contact Person: STEVEN CORMAN	Phone: 207	747-4901

Principal Officers	Title	Date of Birth	Residence Address
STEVEN CORMAN	CO-OWNER	10-31-56	28 Colonial Rd Portland ME 04101
JOHANNA CORMAN	"	11-16-62	"

About Your Establishment

Class of Liquor License:	CLASS II - SPIRITUOUS ONLY
Type of food served:	CLASS A RESTAURANT → APPS, ENTREES
Please circle all that will be served:	Beer Wine (Liquor)
Projected percentage of sales:	Generated from Food: 25% Generated from Alcohol: 20%
Hours & days of operation:	non-alcoholic drinks 20% retail - 35% by ALCOHOL 5-11 PM TUES → SATURDAY

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? JUST WHEN WE SERVE ALCOHOL	(Y)/N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y/(N)
Will you permit dancing on the premises?	Y/(N)
Will you permit dancing after 1:00 a.m.?	Y/(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	(Y)/N
If yes, will the outside dining be on (PUBLIC) or PRIVATE property (circle one). SIDEWALK	
Will you have any amusement devices (pinball, video games, juke box)?	Y/(N)
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? ASAP	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	(Y)/N
If Yes, please list business name(s) and location(s): FIZZ LLC PEARLS SEASIDE MARKET + CAFE	
Is any principal officer under the age of 21?	Y/(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/(N)
If Yes, please explain:	

I STEVEN CORMAN 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 _____ Title CO-OWNER Date 6-19-15

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.

Outdoor Dining Permit Application

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

☑ **New** Application for Outside Dining
☐ **Renewal** Application for Outside Dining

City Clerk signature for liquor license approval: _____

Pending Council Date: 7/20/15

Location Name & Address:	Chart	Block	Lot
Vena's Fizz House 345 Fore St Portland, ME 04101	029	B	4

Owner & Phone #:	Total Square Footage of Proposed Seating Area:[1]
Steven & Johanna Corman c 409 2936 w 747 4901	~~77~~ 21 (sc)

Applicant *must* be owner or lessee	Annual Fee: $80
Name: FIZZ LLC	Total Sq. Ft.: ~~77~~ 21 (sc)
Address: 345 Fore St.	Sq. Ft. Fee: (sq ft x $2) $_____ (*Due when issued*)
City, State & Zip: Portland, ME 04101	**Total Fees:** $_____ (Permit not issued until all fees are paid)
E-Mail: steve@venasfizzhouse.com	

Current use: Wide open sidewalk

Business name: FIZZ LLC

Seating area dimensions: See drawing

How many chairs? ~~8~~ 10 How many tables? 5

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

Who should we contact for the pre-inspection: Steve Corman

Mailing address: 345 Fore St. Prtld. ME 04101 Phone: 207 409-2936

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

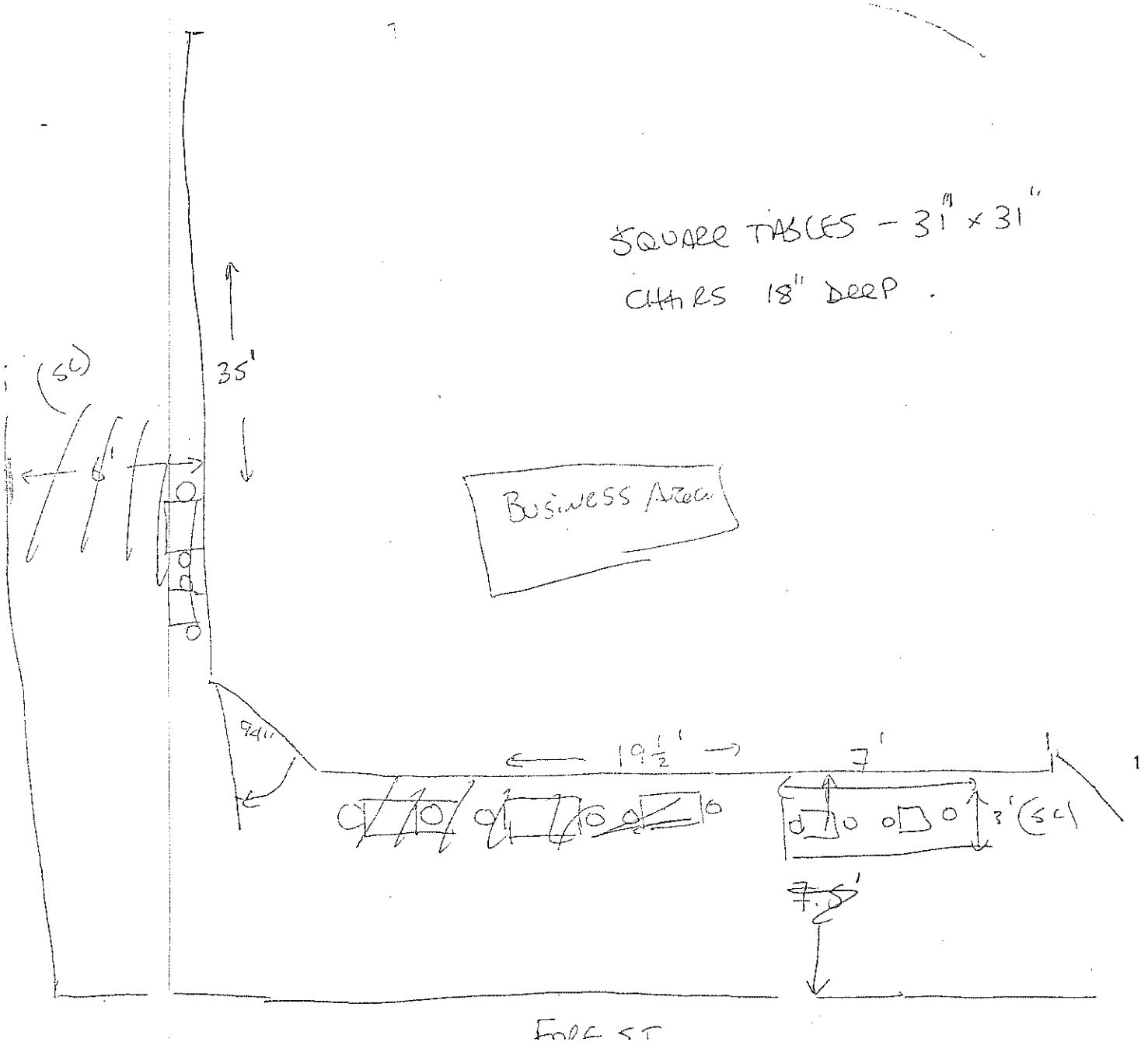
In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room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

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

Signature of Applicant: _____ Date: 5-28-15

[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.*

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


SQUARE TABLES - 31" x 31"
CHAIRS 18" DEEP.
(SC)
35'
6'
Business Area
94'
19½'
7'
3' (SC)
7.5'
FOLC ST

VENAS-1 OP ID: CH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/19/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Varney Agency-Scarborough 383 US Rt 1, Suite 1E, Box 5 Scarborough, ME 04074 Kari Meidahl	CONTACT NAME: Kari Meidahl PHONE (A/C, No, Ext): 207-883-8229 FAX (A/C, No): 207-883-4752 E-MAIL ADDRESS: kmeidahl@varneyagency.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A : HANOVER INSURANCE COMPANY — 22292
INSURED Vena's Fizz House 345 Fore Street Portland, ME 04101	INSURER B :
	INSURER C :
	INSURER D :
	INSURER E :
	INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE OCCUR	X		OBPA627638	05/07/2015	05/07/2016	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
	X Business Owners						MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N / A (Mandatory in NH)						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Buisness Owners Po			OBPA627638	05/07/2015	05/07/2016	PROPERTY	45,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is additional insured in regards to General Liability as required by written contract or agreement.

CERTIFICATE HOLDER

City of Portland
389 Congress Street
Portland, ME 04101

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Kari Meidahl

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Business Licensing - VENAS FIZZ HOUSE Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 6/28/2015 9:17 PM
Subject: VENAS FIZZ HOUSE Business License Approval

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

Date: 6/28/2015

Zone:
Comments: Out door dining.

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

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

July 8, 2015

Steven Corman
345 Fore St.
Portland, ME 04101

Re: Fizz LLC d/b/a Vena's Fizz House. Application to add Outdoor Dining on Public Property at 345 Fore St.

Dear Mr. Corman,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, July** 20th, at 7:00 p.m. for the review of your application to add Outdoor Dining on Public Property at 345 Fore 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

Order 21-15/16
Tab 9 7-20-15

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

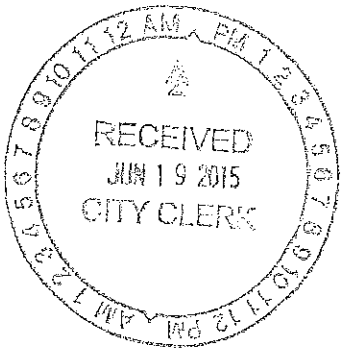
CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS' APPROVAL OF:

RB Portland Master Subtenant LLC d/b/a Westin Portland Harborview. Application to add Outdoor Dining on Public Property at 157 High St.

Letter of Intent for Proposed Extension of Alcoholic Beverages License to Cover Outdoor Dining at Congress Squared Restaurant, The Westin Portland Harborview Hotel



June 19, 2015

To: Portland Mayor Michael Brennan
Members of the City Council
369 Congress St.
Portland ME 04101

We are proposing serving alcoholic beverages at outdoor dining tables at Congress Squared restaurant. Congress Squared restaurant is located on the street level of The Westin Portland Harborview Hotel at 157 High Street, Portland.

The proposed hours for serving of alcoholic beverages at the outdoor dining tables are Monday – Saturday 6:30a.m. to 12a.m. and Sunday 9a.m. to 12a.m. The restaurant currently holds a liquor license for serving alcoholic beverages indoors.

This letter is to request extension of the current liquor license #4150 to include Congress Squared guests seated in the designated outdoor dining area facing High Street.

Regards,

Dawn Clemens

Dawn Clemens
Director of Restaurants
The Westin Portland Harborview Hotel
157 High St.
Portland ME 04101

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

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

RECEIVED
JUN 19 2015
CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Weston Portland Harborview Congress Squared Rstrnt/Hotel	Phone:	207-775-5411
Location Address:	157 High St, Portland	Zip:	04101
If new, what was formerly at this location:			
Mailing Address:	157 High St, Portland	Zip:	04101
Contact Person:	Dawn Clemens	Phone:	207-517-8827
Contact Person Email:	dawn.clemens@westonportlandharborview.com		
Manager of Establishment:	JC Clough	Phone:	207-775-5411
Owner of Premises (Landlord):	RB Portland Master Subtenant LLC		
Address of Premises Owner:	Jennifer Clough (officer of LLC) 157 High St, Portland ME	Zip:	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		
RB Portland Master Subtenant LLC	157 High St, Portland ME	Zip:	04101
Contact Person: Jennifer Clough (JC)		Phone:	207-775-5411

Principal Officers	Title	Date of Birth	Residence Address
See schedule A - no changes -			

About Your Establishment

Class of Liquor License:	Class I-A - current license #4150
Type of food served:	Breakfast, Lunch, Dinner, IRD, Banquets
Please circle all that will be served:	(Beer) (Wine) (Liquor)
Projected percentage of sales:	Generated from Food: 75% Generated from Alcohol: 25%
Hours & days of operation:	Hotel - 24/7, Restaurant Food 6:30am - 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)/N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	(Y)/N
If yes, give the distance: 85'	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	(Y)/N
Will you permit dancing on the premises?	(Y)/N
Will you permit dancing after 1:00 a.m.?	Y/(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required) in process	(Y)/N
If yes, will the outside dining be on (PUBLIC) or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/(N)
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? already open	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	(Y)/N
If Yes, please list business name(s) and location(s): currently hold one for this business already	
Is any principal officer under the age of 21?	Y/(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/(N)
If Yes, please explain:	

I Dawn Clemens 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 Dawn Clemens Title Director of Restaurants Date 4/19/15

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

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: [redacted]: 7/20 (S) per city clerk

Location Name & Address: Westin Portland Harborview 157 High St, Portland ME 04101	Chart Block Lot
Owner Name: RB Portland Master Subtenant LLC **Owner Phone #:** 207-775-5411	**Total** Square Footage of Proposed Outdoor Dining Area:[1] 210
Applicant ***must*** **be owner or lessee** (OFFICER OF LLC) Name: JENNIFER CLOUGH Address: 157 HIGH ST City, State & Zip: PORTLAND ME 04101 E-Mail: JC.CLOUGH@WESTINPORTLANDHARBORVIEW.COM	Fee: $80 (Public-Annual) $125 (Private IX) Total Sq. Ft.: 210 Sq. Ft. Fee: (sq ft x $2) $ 420 (sq ft x $6 for public parks) **Total Fees:** $ 500 (Permit not issued until all fees are paid)

Current use: Hotel + Restaurant
Business name: Westin Portland Harborview Hotel
Seating area dimensions: 6' x 35'
How many chairs? 16 How many tables? 4
☒ Yes Alcohol is served.
☐ No Alcohol being served.

Who should we contact: Dawn Clemens Phone: 517-8827
Address: 157 High St, Portland ME E Mail: dawn.clemens@westinportlandharborview.com

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.

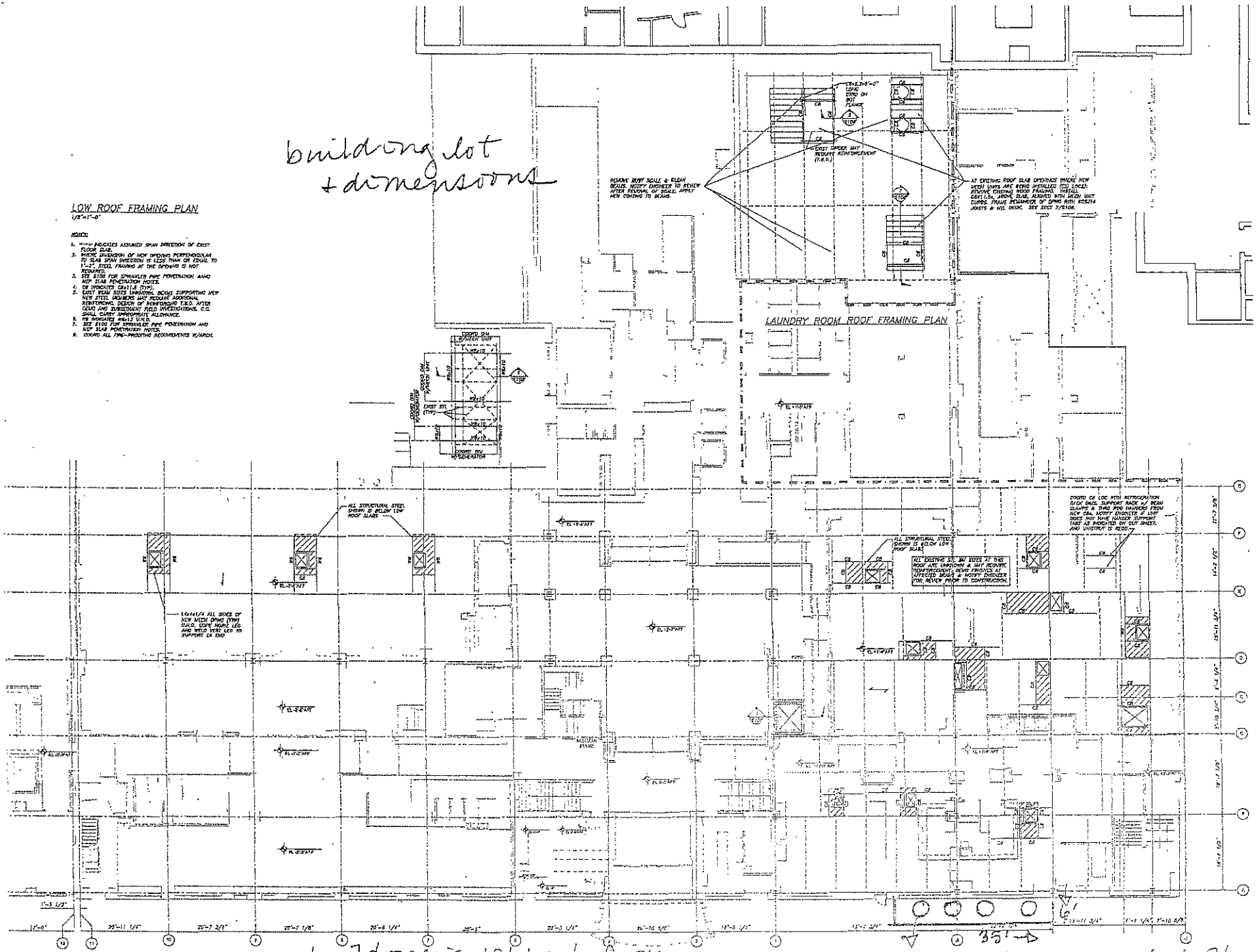
In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 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: _____ Date: 6/18/15

[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.*

building lot + dimensions


LOW ROOF FRAMING PLAN
1/8"=1'-0"
NOTES:
1. ---- INDICATES ASSUMED SPAN DIRECTION OF DECK FLOOR SLAB.
2. PHOTO EVIDENCE OF NEW OPENING PERPENDICULAR TO SLAB SPAN DIRECTION IS LESS THAN OR EQUAL TO 1'-0". STEEL FRAMING AT THE OPENING IS NOT REQUIRED.
3. SEE S106 FOR SPRINKLER PIPE PENETRATION AND NEW SLAB PENETRATION NOTES.
4. OE INDICATES CENTER LINE (TYP).
5. EXIST W16X STEEL UNKNOWN INCASE SUPPORTING NEW NEW STEEL MEMBERS MAY REQUIRE ADDITIONAL REINFORCING. DESIGN OF REINFORCING T.B.D. AFTER DEMO AND SUBSTANTIAL FIELD INVESTIGATIONS. E.C. SHALL CARRY APPROPRIATE ALLOWANCE.
6. ⅝ø INDICATES ø5/8 U.N.O.
7. SEE S106 FOR SPRINKLER PIPE PENETRATION AND NEW SLAB PENETRATION NOTES.
8. COORD ALL FIRE-PROOFING REQUIREMENTS W/ARCH.
REMOVE RUST SCALE & FLOW SCALE. NOTIFY ENGINEER TO REVIEW AFTER REMOVAL OF SCALE. APPLY NEW COATING TO BEAMS.
AT EXISTING ROOF SLAB OPENINGS WHERE NEW MECH UNITS ARE BEING INSTALLED TO LOCATE: REMOVE EXISTING WOOD FRAMING. INSTALL C6X13.5# ABOVE SLAB, ADJACENT WITH NEW UNIT CURBS. FRAME REMAINDER OF OPNG WITH HSS2X4 JOISTS @ 4'0" OCENT. SEE S007 7/S106.
LAUNDRY ROOM ROOF FRAMING PLAN
ALL STRUCTURAL STEEL SHOWN IS BELOW LOW ROOF SLABS
ALL EXISTING STL BM SIZES AT THIS ROOF ARE UNKNOWN & MAY REQUIRE REINFORCING. NOTIFY ENGINEER IF REJECTED BEAMS & NOTIFY ENGINEER FOR REVIEW PRIOR TO CONSTRUCTION.
COORD OE LOC WITH REFRIGERATION EQUIP SPEC. SUPPORT BACK of BEAM CLAMPS & THRU ROD HANGERS FROM NEW C8x11.5. NOTIFY ENGINEER IF JOIST MAY HAVE HANGER SUPPORT TABS AS INDICATED ON CUT SHEET, AND UNSTRUT IS REQ'D
1 4x4x1/4 ALL SIDES OF NEW MECH OPNG (TYP) (U.N.O.). CUT 1 SIDE LEG AND WELD VERT LEG TO SUPPORT EA END
EL.+24'-0"
EL.+12'-0"
EL.+0'-0"
EL.-2'-0"
EL.-12'-0"
EL.-14'-0"
EL.-24'-0"
EL.-26'-0"
EL.-36'-0"
EL.-38'-0"
EL.-48'-0"
EL.-50'-0"
EL.-60'-0"
EL.-62'-0"
EL.-72'-0"
EL.-74'-0"
EL.-84'-0"
EL.-86'-0"
EL.-96'-0"
EL.-98'-0"
EL.-108'-0"
EL.-110'-0"
EL.-120'-0"
EL.-122'-0"
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EL.-146'-0"
EL.-156'-0"
EL.-158'-0"
EL.-168'-0"
EL.-170'-0"
EL.-180'-0"
EL.-182'-0"
EL.-192'-0"
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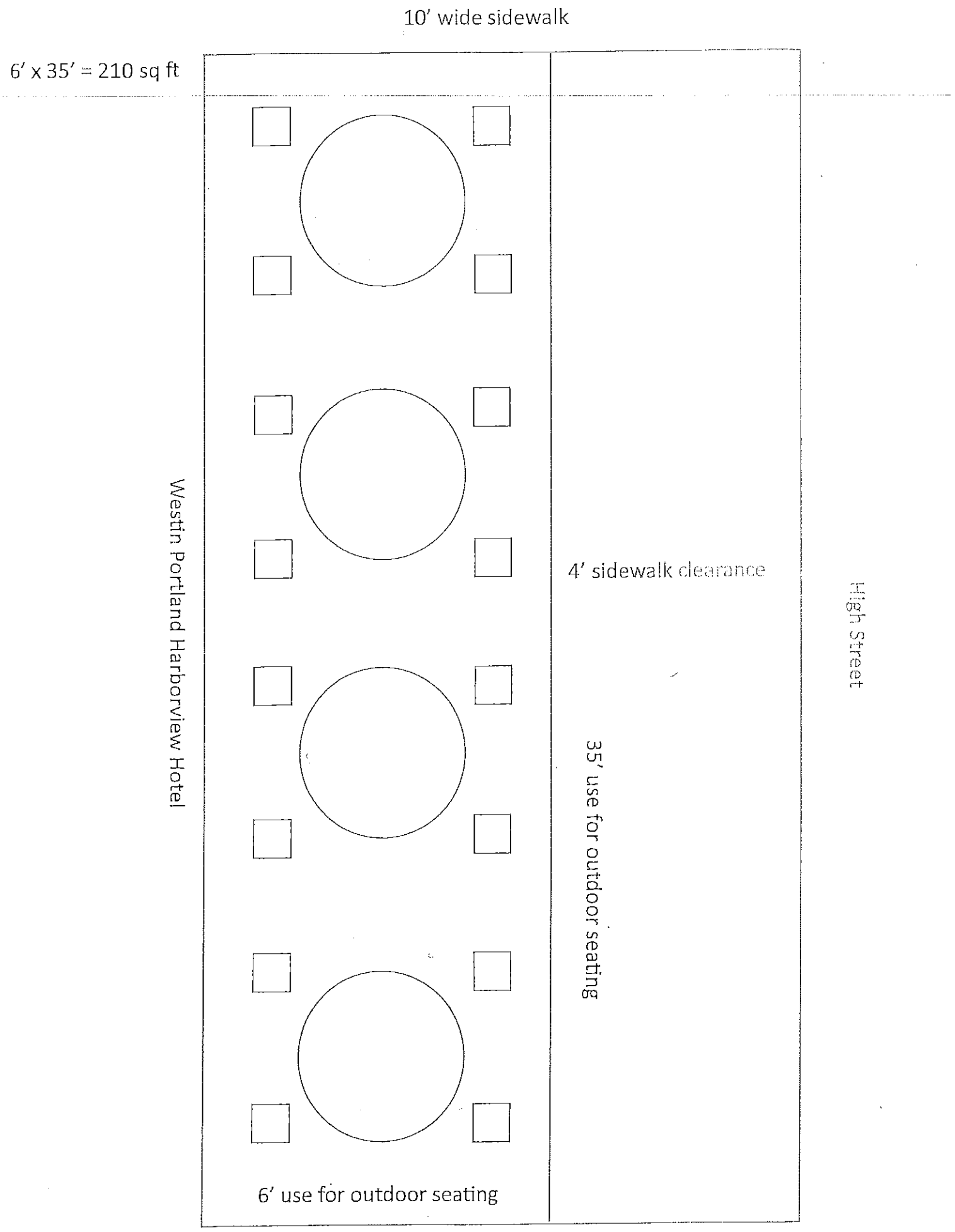
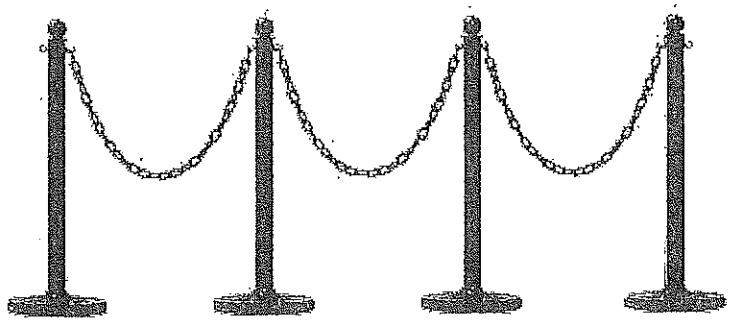
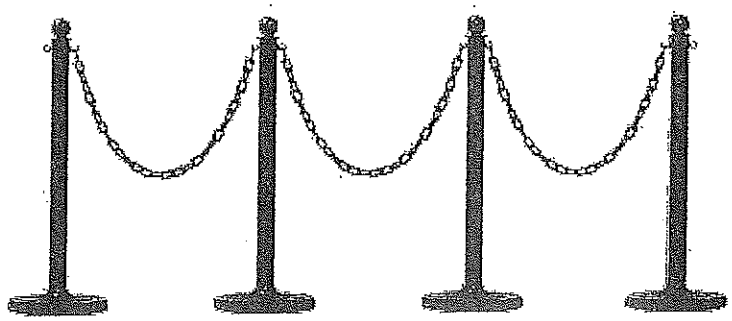
EL.-206'-0"
EL.-216'-0"
EL.-218'-0"
EL.-228'-0"
EL.-230'-0"
EL.-240'-0"


10' wide sidewalk
6' x 35' = 210 sq ft
Westin Portland Harborview Hotel
4' sidewalk clearance
35' use for outdoor seating
High Street
6' use for outdoor seating



Black Stanchions
per barrier
Solution



Business Licensing - Re: Westin Portland Harborview - Outdoor Dining

From: Deb Andrews
To: Business Licensing
Date: 6/25/2015 9:17 AM
Subject: Re: Westin Portland Harborview - Outdoor Dining

Looks good.

>>> Business Licensing 6/24/2015 4:01 PM >>>
Deb,

My apologies - there was another page (attached) to the outdoor dining application that I didn't include in the original email.

Janice

>>> Deb Andrews 6/24/2015 3:53 PM >>>

The application does not indicate how they propose to cordon off the area. We require a description or sketch of their barrier system. Also, barriers must be self-supporting and not attached to the building in any way.

Deb
>>> Business Licensing 6/24/2015 2:51 PM >>>
Hello,

For your approval: Westin Portland Harborview has submitted an application to add outdoor dining on public property to their Class IA 40+ Rooms license at 157 High St. They wish to go before Council on July 20th.

Contact: Dawn Clemens - 517-8827 or dawn.clemens@westinportlandharborview.com

Chuck, please let me know if this is approved before we put it before Council.

Application is attached. Please put feedback into UI.

Thanks!
Janice

Business Licensing - WESTIN PORTLAND HARBORVIEW Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 6/28/2015 9:15 PM
Subject: WESTIN PORTLAND HARBORVIEW Business License Approval

WESTIN PORTLAND HARBORVIEW is Approved for their Business License Inspection by the Police Dept.

Date: 6/28/2015

Zone:
Comments: Outdoor dining.

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

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

July 8, 2015

Westin Portland Harborview
Attn: Dawn Clemens
157 High St.
Portland, ME 04101

Re: RB Portland Master Subtenant LLC d/b/a Westin Portland Harborview.
Application to add Outdoor Dining on Public Property.

Dear Dawn,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, July 20th, at 7:00 p.m.** for the review of your application to add Outdoor Dining on Public Property. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

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

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Order 22-15/16
Tab 10 7-20-15

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

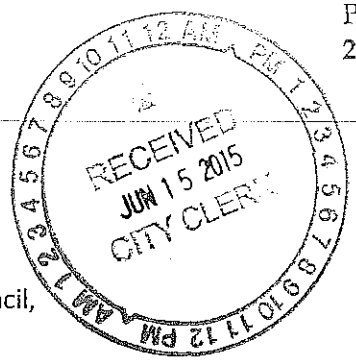
CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS' APPROVAL OF:

Woodford F&B LLC d/b/a Woodford F&B. Application for a Class I FSE License at 660 Forest Ave.

Woodford F&B LLC
660 Forest Avenue
Portland, Maine 04103
207-200-8503



Mayor Brenan and Members of the City Council
254 Commercial Street
Suite 119_A
Portland, Maine 04101

06/15/2015

Dear Mayor Brenan and Members of the City Council,

Please accept this letter of intent on behalf of Woodford F&B, LLC located at 660 Forest Avenue. Woodford F&B will be an eighty-five (85) seat full-service restaurant serving updated dining classics to the surrounding neighborhoods. Located squarely astride Woodford's Corner, we intend to serve lunch and dinner 7 days a week, from 10am to 11pm.

As nearby residents and seasoned hospitality veterans, we firmly believe that there is a real need for additional quality dining options in the area. Our goal is to address that need by returning a classically-styled neighborhood eatery to the original Valle's Steak House location. In doing so, we aim to build a steadfast neighborhood business, contribute vibrancy to our surrounding community and add something notable to Portland's already stellar food and beverage scene.

Thank you for your time & your consideration of our application for Food and Liquor licensing.

Sincerely Yours,

Birch Shambaugh
General Manager
Woodford F&B, LLC

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

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

RECEIVED
JUN 15 2015
CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Woodford F: B	Phone:	207 200 8503
Location Address:	660 Forest Ave	Zip:	04103
If new, what was formerly at this location:			
Mailing Address:	same	Zip:	
Contact Person:	Birch Shambaugh	Phone:	207 200 8503
Contact Person Email:	birch@woodfordfb.com		
Manager of Establishment:	Birch Shambaugh Date of Birth:	Phone:	207 200 8503
Owner of Premises (Landlord):	~~Fred Kramer~~ OLD Wells LLC BGS		
Address of Premises Owner:	263 Blanchard Rd. Cumberland, Me 04021	Zip:	

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		
Woodford F: B LLC	660 Forest Ave Portland, Me 04103	Zip:	
Contact Person: Birch Shambaugh		Phone:	207 200 8503

Principal Officers	Title	Date of Birth	Residence Address
Birch Shambaugh	Manager	06-21-73	92 William St Portland, Me 04103
Mary Fayth Prayer	Manager	07-28-76	92 William St Portland, Me 04103

About Your Establishment

Class of Liquor License:	Class I Restaurant / Catering
Type of food served:	Updated dining classics; Lunch, dinner
Please circle all that will be served:	(Beer) (Wine) (Liquor)
Projected percentage of sales:	Generated from Food: 75 Generated from Alcohol: 25
Hours & days of operation:	7 days, 10am to 11 pm

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)N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y(N)
Will you permit dancing on the premises?	Y(N)
Will you permit dancing after 1:00 a.m.?	Y(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y(N)
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y(N)
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? Oct. 15, 2015	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y(N)
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y(N)
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	Y(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y(N)
If Yes, please explain:	

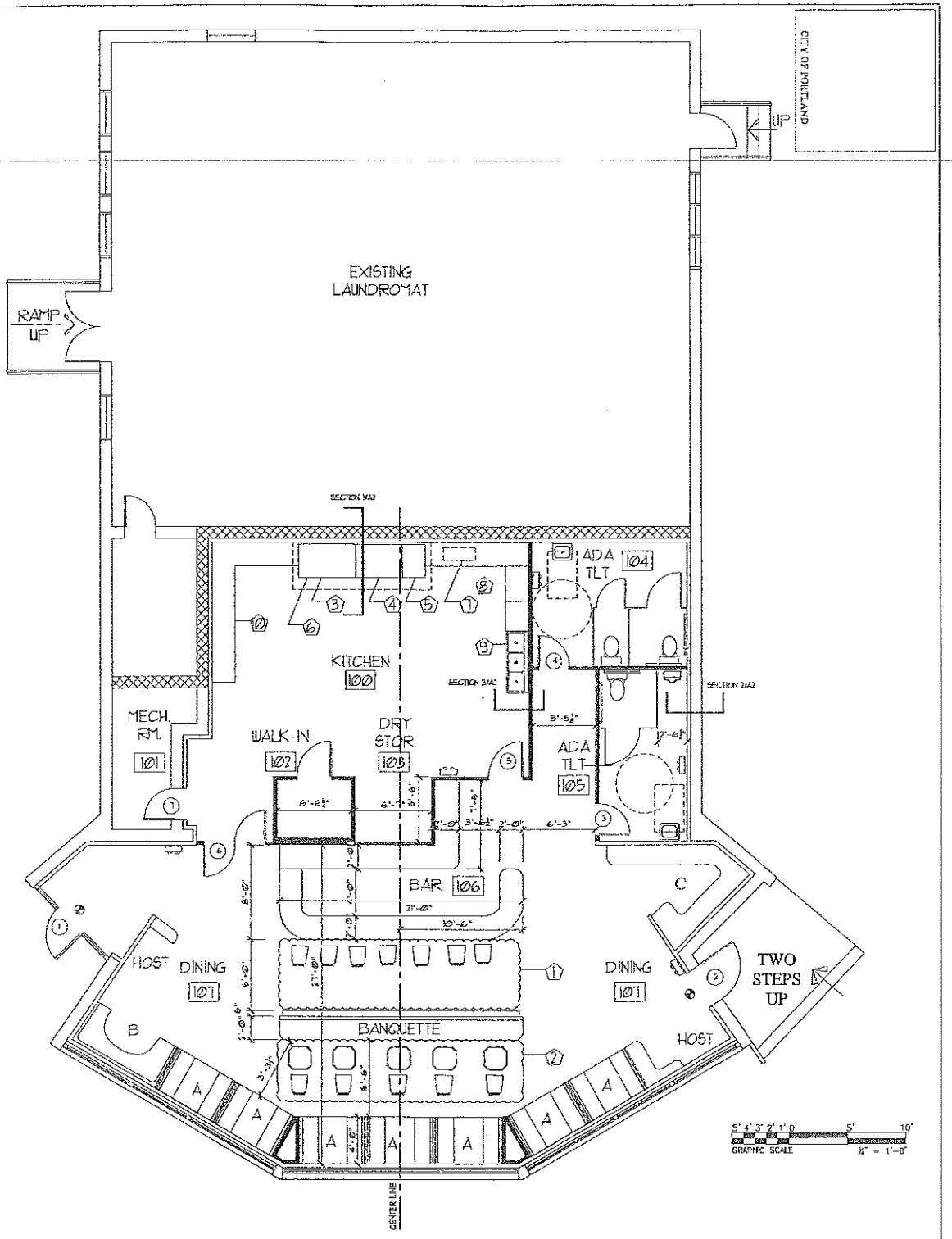
I Birch Shawbaugh do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require 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 [signature] Title Manager Date 6/15/2015

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



SQUARE FOOTAGES

BUILDING INTERIOR SF	4,713 SF
TENANT FIT-UP INTERIOR SF	2,506 SF

LEGEND:

EXISTING WALL OR ITEM TO REMAIN

NEW WALL

EXISTING DEMISING WALL - 1'-0" CMU W/2X4 STUD WALL W/G.B. FINISH ON RESTAURANT SIDE - 3 HOUR FIRE RESISTANCE RATING.

EXIT SIGN

EMERGENCY LIGHTING

KEYED NOTES:

1. ENCLOSED AREA INDICATES AREA OF CONCENTRATED USE, WITHOUT FIXED SEATING. ONE OCCUPANT PER 7 SQUARE FEET.
2. ENCLOSED AREA INDICATES AREA OF LESS CONCENTRATED USE, WITHOUT FIXED SEATING. ONE OCCUPANT PER 15 SQUARE FEET.
3. 60" WIDE 10 BURNER RANGE W/CONVECTION OVENS
4. 48" WIDE COMBO GRILL / GRIDDLE
5. 24" WIDE FRYER
6. 4'-0" X 12'-0" HOOD - SHOWN DASHED.
7. FLOOR MOUNTED GREASE TRAP - SHOWN DASHED.
8. 36" WIDE DISHWASHER
9. 3 BAY SINK
10. PREPARATION COUNTER

FOR REVIEW

A-1	Drawing: FLOOR PLAN	Date: 6/11/15	Scale: 1/4" = 1'-0"	Architect: SHIELDS ARCHITECTURE, CUMBERLAND, MAINE (207) 776-8926	Builder: HARDYPOND CONSTRUCTION, 7 TEE DRIVE, PORTLAND, MAINE 04103
		Project: INTERIOR FIT-UP, 660 FOREST AVENUE, PORTLAND, MAINE			

Woodford F&B Sample Menu

APPS / SALADS

OYSTERS Roast or Raw

ROATATING PICKLE SAMPLER

STEAK TARTARE
w/ traditional accompaniments

CHARRED SQUID
hearts of palm relish

DEVILED CRAB & SHRIMP
crab, shrimp, red onion, celery, paprika, cucumber

RADICCHIO SALAD
apple, pear, mint, buttermilk dressing

MARKET GREENS

MAINS

GRILLED SALMON
kale, meyer lemon pico de gallo.

SPICY FISHERMAN'S STEW
crab, mussel, shrimp in shellfish broth, with grilled sourdough

MOULELS FRITES

FRIED CHICKEN
with seasonal potatoes, gravy, and spicy honey

GRILLED BAR STEAK
with fries, arugula, horseradish cream, and chimichurri

PORK CHOP
broccoli rabbe, salsa verde, spicy grits

BURGER
on brioche roll with lettuce, tomato, onion, pickle, and fries (add bacon and/or cheese)

FRENCH DIP
filet mignon on baguette with horseradish sauce, au jus, with fries

WILD MUSHROOM GARGANELLI
wild mushrooms, white wine, cream, grana padano

DAILY SPECIALED DESERTS

Department of Public Safety

Division

Liquor Licensing & Inspection

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

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

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☑ MALT ☑ SPIRITUOUS ☑ VINOUS

INDICATE TYPE OF LICENSE:

☑ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-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.)	2. Business Name (D/B/A)
Woodford F:B LLC DOB: 5/7/2015	Woodford F:B
DOB:	660 Forcat Ave
DOB:	Location (Street Address) Portland, Me 04103
Address 660 Forcat Ave	City/Town State Zip Code same
Portland Me 04103	Mailing Address
City/Town State Zip Code	City/Town State Zip Code
Telephone Number Fax Number 207 200 8503	Business Telephone Number Fax Number 207 200 8503
Federal I.D. # 47-3945255	Seller Certificate #

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

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

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

complete Supplementary Questionnaire ,If YES

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

7. If manager is to be employed, give name: Birch Shambaugh

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

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 660 Forcat Ave Portland, Me 04103

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
Brian Shambaugh	06-21-73	New Hampshire
Mary Faith Preyer	07-28-76	New Jersey

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

92 William St
Portland, Me 04103

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

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

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

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

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Liquor service will be provided in the dining room's bar area. Storage will be in back of house.

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

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 645 Feet Which of the above is nearest? Church

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

If YES, give details: _____

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

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

Dated at: Portland, Me (Town/City, State) on June 14 (Date), 20 15

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

For Office Use Only:
License #:
Date Filed:

Supplemental Information Required for Business Entities Who Are Licensees

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:

   Woodford f: B LLC

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

   Woodford f: B

3. Date of filing with the Secretary of State: May, 7 2015

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 %
Birch Shambaugh	92 William St	6-21-73	50
Mary Faith Preyer	92 William St	7-28-76	50

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

   Yes ☐ No ☑

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

   Name: _____ Agency: _____

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

Yes ☐ No ☑

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

_____

Signature:

Mary Faythe Dreyer
Signature of Duly Authorized Person

6/14/15
Date

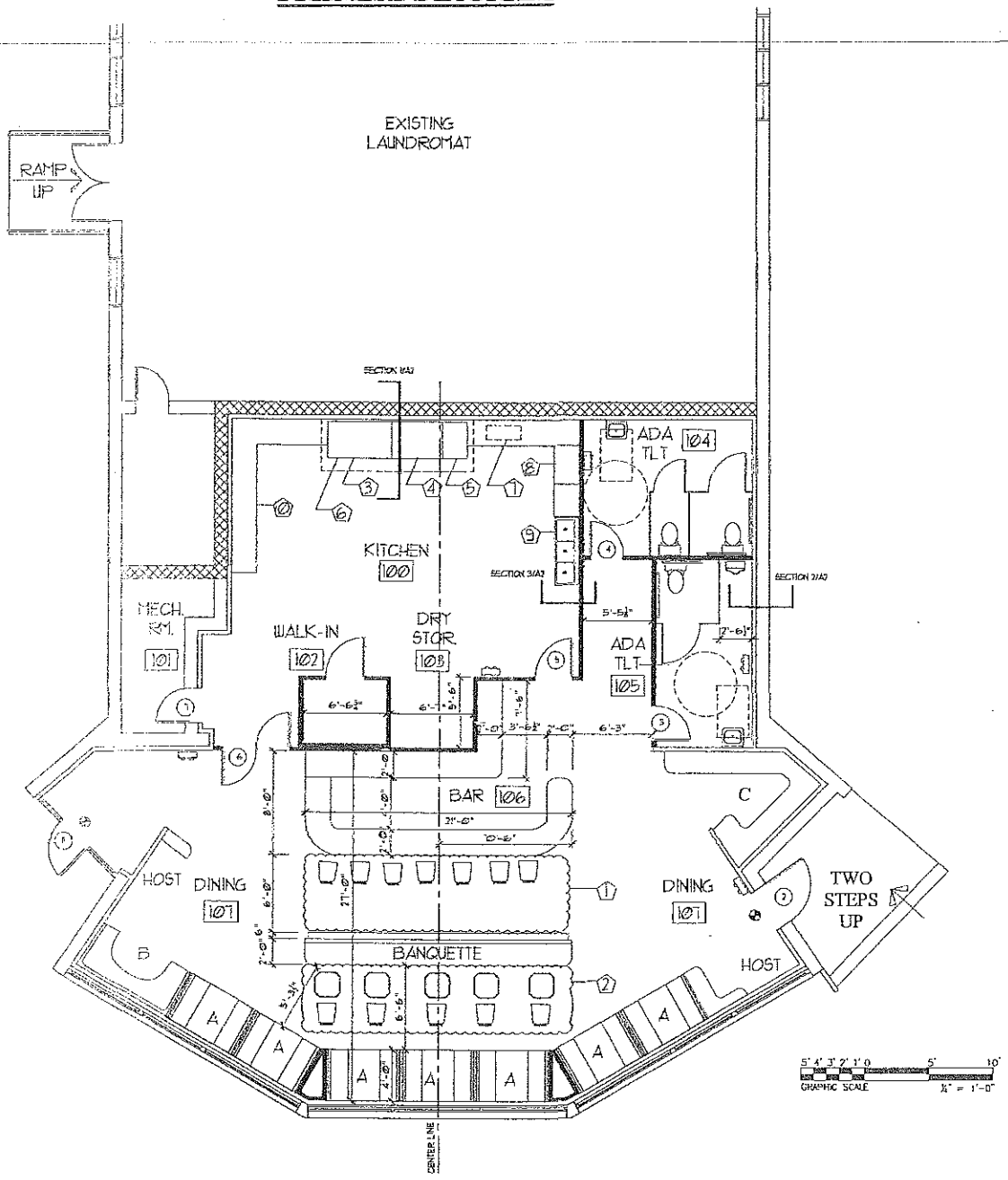
Mary Faythe Dreyer
Print Name of Duly Authorized Person

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

PREMISE DIAGRAM



SQUARE FOOTAGES

BUILDING INTERIOR SF	4,713 SF
TENANT FIT-UP INTERIOR SF	2,506 SF

LEGEND:

EXISTING WALL OR ITEM TO REMAIN

NEW WALL

EXISTING DEMISING WALL - 1'-0" CMU W/2X4 STUD WALL W/G.B. FINISH ON RESTAURANT SIDE - 3 HOUR FIRE RESISTANCE RATING.

EXIT SIGN

EMERGENCY LIGHTING

KEYED NOTES:

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3. 60" WIDE 10 BURNER RANGE W/CONVECTION OVENS
4. 48" WIDE COMBO GRILL / GRIDDLE
5. 24" WIDE FRYER
6. 4'-0" X 12'-0" HOOD - SHOWN DASHED.
7. FLOOR MOUNTED GREASE TRAP - SHOWN DASHED.
8. 36" WIDE DISHWASHER
9. 3 BAY SINK
10. PREPARATION COUNTER

FOR REVIEW

A-1	Drawing: FLOOR PLAN	Date: 6/1/15	Scale: 1/4" = 1'-0"	Architect: SHIELDS ARCHITECTURE, CUMBERLAND, MAINE (207) 776-8926	Builder: HARDYPOND CONSTRUCTION, 7 TEE DRIVE, PORTLAND, MAINE 04103
		Project: INTERIOR FIT-UP, 660 FOREST AVENUE, PORTLAND, MAINE			

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 #: MIQ99C536341

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :
Inquiries Name(s) BIRCH SHAMBAUGH (1973-06-21)

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 #: MIQ99C536346

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-06-24) :
Inquiries Name(s) MARY F PREYER (1976-07-28)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - WOODFORD F & B - PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 6/28/2015 9:16 PM
Subject: WOODFORD F & B - PENDING Business License Approval

WOODFORD F & B - PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 6/28/2015

Zone:
Comments:

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

My Map

Copyright 2011 Esri. All rights reserved. Wed Jul 8 2015 08:32:17 AM.

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

July 8, 2015

Fayth Preyer & Birch Shambaugh
92 William St.
Portland, ME 04103

Re: Woodford F&B LLC d/b/a Woodford F&B. Application for a Class I FSE License at 660 Forest Ave.

Dear Fayth & Birch,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, July 20th, at 7:00 p.m.** for the review of your application for a Class I FSE License at 660 Forest Ave. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

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

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Resolve 1-15/16
Tab 11 4-20-15

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 APPROVING THE MASTER PLAN OF THE FRANKLIN STREET FEASIBILITY STUDY – PHASE II FROM THE FRANKLIN STREET REDESIGN PROJECT ADVISORY COMMITTEE

WHEREAS, the Franklin Street Redesign Project Advisory Committee, appointed by the City Council and meeting over the last two years, has prepared a Master Plan of the Franklin Street Feasibility Study – Phase II recommending alterations to Franklin Street; and

WHEREAS, this plan details improved street design and traffic coordination; reconnected streets; enhanced streetscapes; improvements for bicycle and pedestrian use; and an expansion of Lincoln Park;

NOW, THEREFORE, BE IT RESOLVED that, pursuant to Portland City Code §14-526, the City Council of the City of Portland, Maine, hereby approves the Master Plan of the Franklin Street Feasibility Study – Phase II from the Franklin Street Redesign Project Advisory Committee.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: **Michael J. Bobinsky**, Director of Public Services

DATE: **July 8, 2015**

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

SUBJECT: **Resolution Approving the Franklin Street Redesign Recommendations**

SPONSOR: **David Marshall, Chair of the Transportation Sustainability and Energy Committee**

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading **July 20, 2015** Final Action July 20, 2015

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

Staff seeks Council endorsement of the overall concept design comprising the Franklin Street Master Plan now so direction can be given to the transportation consultant to complete the Preliminary Design Report (PDR) required as an element of the project. The PDR is needed now to inform final design of specific intersection elements of the Marginal Way Storage Conduit and of the Bayside Transportation Master Plan work that is about to begin; the PDR is also necessary as part of our funding agreement with PACTS and MaineDOT. Staff, the Consultant and the Chair of the Project Advisory Committee presented the design recommendations to the City Council at a July 6 Council workshop and answered questions about the overall concept. We are now ready for the City Council endorsement in order to move the project forward to complete the design work only at this time.

PRESENTATION: Brief summary provided by Michael Bobinsky/Jeremiah Bartlett and Markos Miller if needed

I. SUMMARY OF ISSUE (Agenda Description)

City Council approval is sought by staff for a Resolution approving the overall design recommendations of the Franklin Street Redesign Project Advisory Committee (PAC). The Council-appointed PAC has been working with staff and the Consultant over the past two years on design development for specific improvements for the Franklin Street Corridor. Key elements of the design include improved realignment, reconnected streets, enhanced streetscapes, improved bike, pedestrian and transit accommodations, gateway intersections, an expanded Lincoln Park and mixed-use urban infill opportunities. Staff is now prepared to seek City Council endorsement of the overall Master Plan so that our design team can complete the

Preliminary Design Report (PDR), which is already funded. The PDR phase will incorporate the design of the intersection of Franklin Street at Marginal Way, a critical location to the forthcoming Marginal Way Storage Conduit.

II. REASON FOR SUBMISSION

The Project Advisory Committee (PAC), appointed by the City Council, has been working with the transportation design consultant, City staff, MaineDOT and PACTS officials over the past two years on the design recommendations for improving the Franklin Street corridor. The PAC endorsed the final design recommendations at their meeting in April 2015; now with staff, PACTS and MaineDOT support, Project Management staff are now seeking City Council approval of the overall design recommendations to complete the required Preliminary Design Report, an element of the project scope of work with the transportation consultant, IBI Group.

III. INTENDED RESULT

Passage of a City Council resolution approving the design concepts as a Master Plan so that staff can have the transportation consultant complete the already funded and required Preliminary Design Report (PDR) and incorporate the Report into the City's Comprehensive Plan. Final design is needed to establish future opportunities for funding the implementation of the Plan.

IV. COUNCIL GOAL ADDRESSED

Implementing Complete Streets into the redesign of Franklin Street; improving mobility for all users of the transportation system, improving neighborhood access and incorporating the design report into the City's Comprehensive Plan.

V. FINANCIAL IMPACT

Funding for the PDR as outlined in the contract with the IBI Group is already approved and available; the design report will complete the required scope of work with the project and the three (3) party agreement between the City, MaineDOT and PACTS. MaineDOT has endorsed the overall design concept and in fact is working with City Staff to obtain additional funding through PACTS to allow the PDR to incorporate the entire corridor and not just the intersection of Franklin Street, Marginal Way/Somerset Street. Completing the PDR will enable the design team to refine the cost estimate which presently is based only on the concept plan. MaineDOT strongly supports this Plan, up to and including the Department's Commissioner.

Overall the cost of implementing the improvements is significant and with a future CSO and Stormwater separation project needed in Franklin Street the current concept estimate is $34.3 million. The project scale calls for a phasing approach with specific segments of the improvements being built over time. In addition, specific funding strategies is recommended such as through local and development fees, public private partnerships and tax increment funding; leveraging local sources of funds with state and federal funds would be part of the financing strategy such as through a special USDOT TIGER Grant.

VI. STAFF ANALYSIS

The project design concept has gone through a significant public engagement process over a number of years when the earlier Phase I work is accounted for. The PAC, co-led by Markos Miller, and City Councilor Kevin Donoghue, has been very engaging and inclusive to a wide range of transportation, community development and neighborhood access concerns. The consultant has done an outstanding job of addressing those issues and concerns into the overall concept design and has received endorsement from the PAC.

Recognizing the actual cost of implementing this project is significant, as it is only at the concept stage. A preliminary design report will aid in refining that cost estimate and will allow City staff to seek funding options in the future for implementing the redesign. Future funding in the form of special transportation TIGER grant funds, TIF funds, infrastructure funds, public property sales and specific state and local capital funding would be sought; building the project in phases is an option as well.

VII. RECOMMENDATION

Staff recommends endorsement of the City Council Resolution endorsing the overall design recommendations from the Project Advisory Committee in order to finish the initial project design phase.

VIII. LIST ATTACHMENTS

- -Memorandum from Michael Bobinsky, Director of Public Services dated July 8, 2015
- -Copy of PowerPoint slides presented to the City Council at the July 6, City Council workshop
- Amended Future Construction Phasing Plan
- -City Council Resolution

Prepared by:

Date:

Bean/agendamemo/rev1-8-15

Portland, Maine Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

To: Mayor Michael Brennan and City Councilors
CC: Jon Jennings, City Manager
From: Michael J. Bobinsky, Director of Public Services
Date: July 8, 2015 *Revised July 17, 2015*
Subject: Franklin Street Phase II Redesign Recommendation

A presentation (attached) was made by our design team along with the Chair of the Project Advisory Committee on the recommended design changes for the Franklin Street Corridor to the City Council at July 6, 2015 City Council workshop. The presentation provided an opportunity for the Council to review the overall design features recommended for a future Franklin Street which builds around the City's Complete Streets policies. Key elements of the design include improved realignment, reconnected streets, enhanced streetscapes, improved bike, pedestrian and transit accommodations, gateway intersections, an expanded Lincoln Park, mixed use development opportunities, and added vehicular capacity at the intersection with I-295 Exit 7.

Overall the cost of implementing the improvements is significant; and with a future CSO and Stormwater separation project needed in Franklin Street, the current concept estimate is $34.3 million. The project scale calls for a phasing approach with specific segments of the improvements being built over time. In addition, specific funding strategies is recommended such as through local and development fees, public private partnerships and tax increment funding; leveraging local sources of funds with state and federal funds would be part of the financing strategy such as through a special USDOT TIGER Grant.

Staff is now seeking City Council endorsement of the overall design recommendations as we proceed with completion of the Preliminary Design Report (PDR) for a northern segment of Franklin Street. The Project Advisory Committee has endorsed the final design recommendations. In addition, our Design Review Team made up of staff representatives from MDOT, PACTS and the City endorse the recommended design plans. TS&E Committee members endorsed the recommended Franklin Street Phase II design project as presented at the May 20, 2015 Committee meeting.

The full draft Study Report entitled "Franklin Street Feasibility Study – Phase II" can be found on the City's website via this link:
http://www.portlandmaine.gov/documentcenter/view/8757
Additional materials assembled during this Study can be found at:
http://www.portlandmaine.gov/660/Franklin-Street-Committee-Phase-2

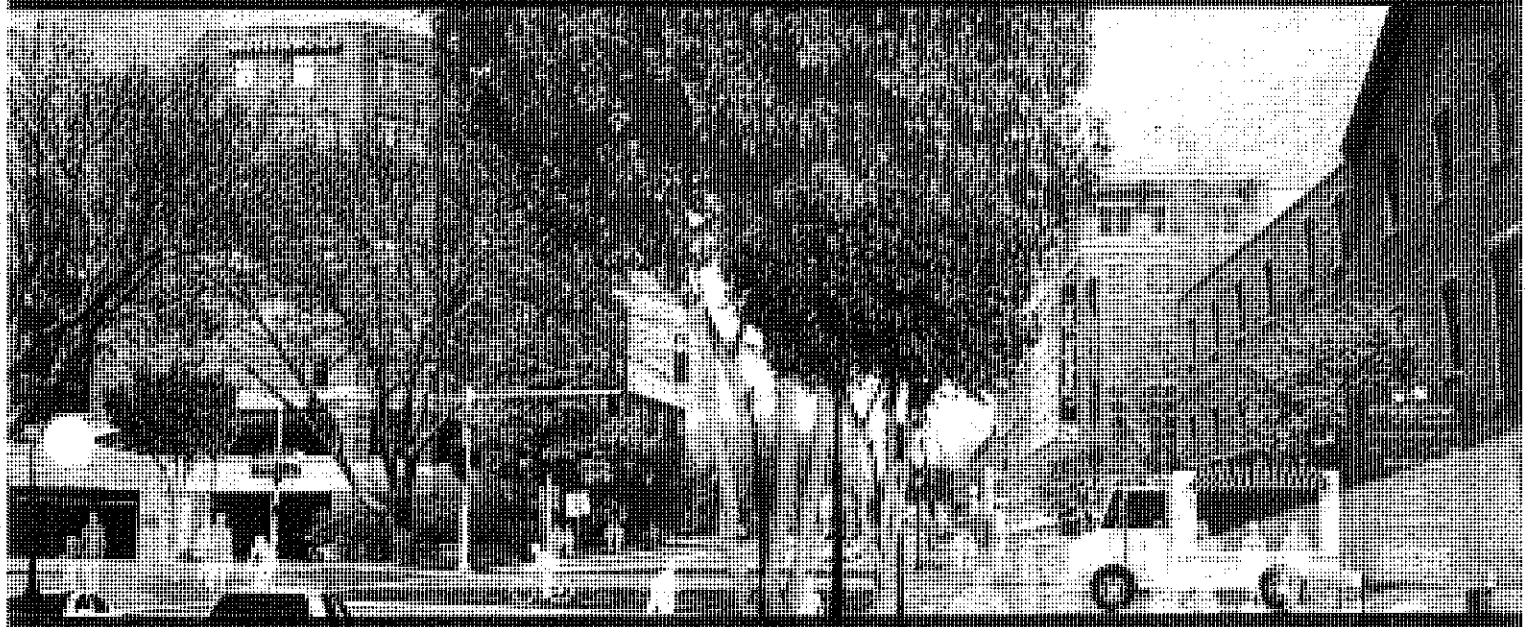
We look forward to the July 20 City Council meeting as we seek the City Council's endorsement of the design recommendations by the PAC, consultant and City staff. This endorsement will enable staff to utilize the final design report and PDR for guidance as implementation opportunities arise. City staff recommends City Council approval of this design report as a Master Plan for Franklin

Portland, Maine Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

Street.

IBI

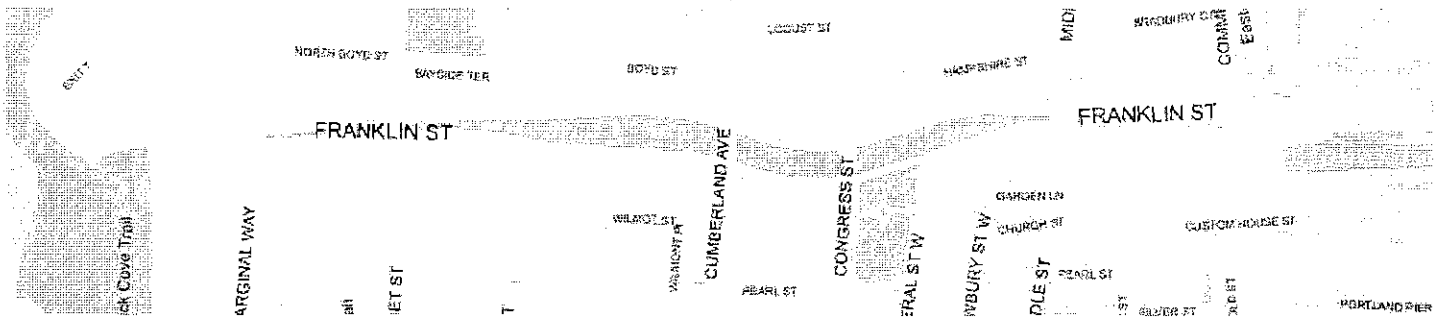


PRESENTATION
Franklin Street Feasibility Study - Phase II

VISION

- Linking I-295 and Back Cove to waterfront
- Attractive gateway to the City Vibrant, active and walkable urban corridor
- Mixed-use development
- Attractive streetscapes
- Design for all modes of travel

PHASE II DESIGN CONCEPT



EXISTING CONDITIONS

- Divides existing neighborhoods and land uses
- Scale and balance of existing development is inconsistent and inappropriate
- Opportunity to repurpose underutilized land for public open space
- Poor bicycle and pedestrian accommodations
- No gateways to corridor
- Poor traffic operations to/from I-295

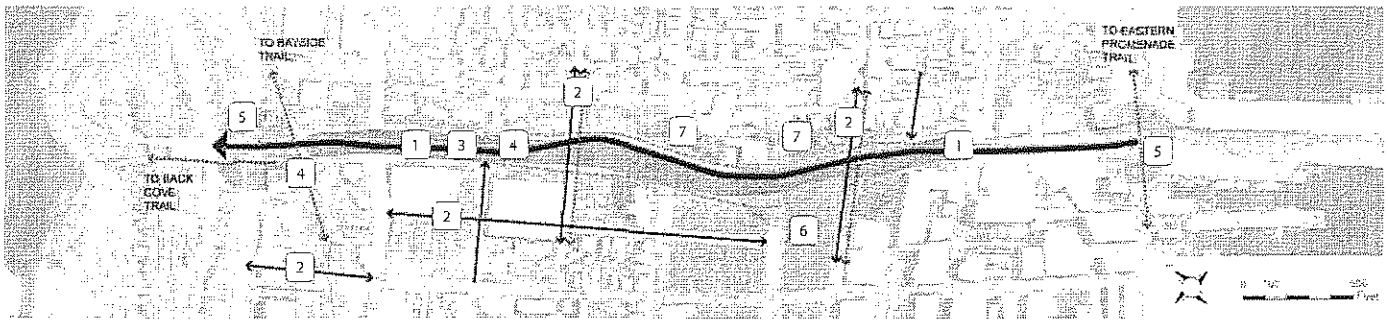
PHASE II DESIGN CONCEPT

PROPOSED CONCEPT

- Improved east-west connectivity
- Supports appropriate nodal development
- Major bicycle and pedestrian improvements
- Gateways at north and south ends of corridor
- Required traffic capacity maintained

FRANKLIN STREET DESIGN CONCEPT

KEY IDEAS

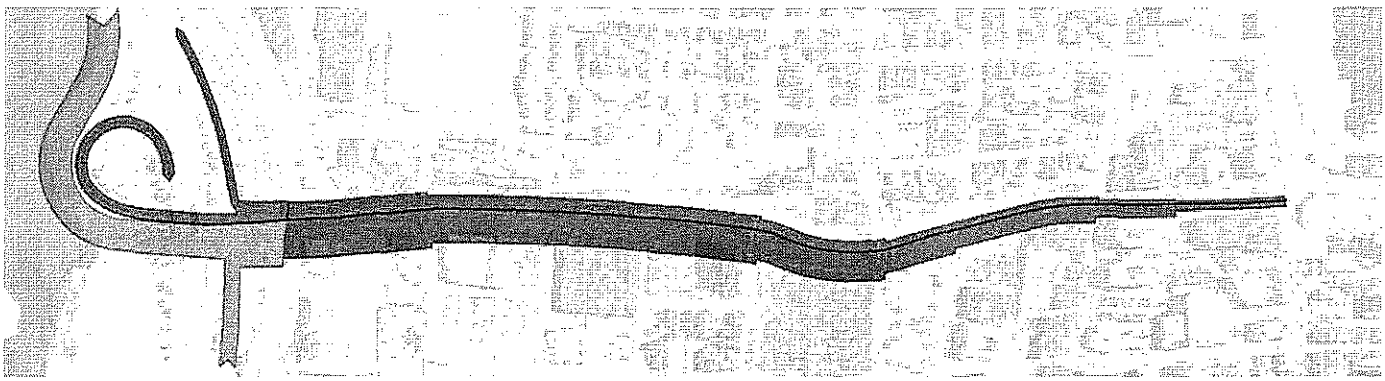


1. Realignment
2. Reconnections
3. Streetscape Design
4. Bike And Pedestrian Circulation
5. Gateway Intersection Improvements
6. Restoring Lincoln Park
7. Nodal Development

LEGEND

- Existing Street Alignment
- Proposed Street Alignment (with bike lanes)
- Proposed Lane Reduction
- Proposed Median Removal
- Proposed Re-connections
- Proposed Bike Connections
- Priority Development Nodes
- Proposed Gateway Intersection Improvements
- Proposed Open Space Enhancements

TRAFFIC AND CAPACITY



AM PEAK VOLUMES IN 2035

INTERAGENCY AGREEMENTS REQUIRE:

- Preserving necessary capacity (MaineDOT)
- Preventing backups onto mainline of I-295 (FHWA)

LESS CAPACITY REQUIRED TO THE SOUTH

LEGEND

OFF RAMPS SUBJECT TO FHWA AGREEMENT

1000
0
VEHICLES PER HOUR

CAPACITY AND LEVEL OF SERVICE

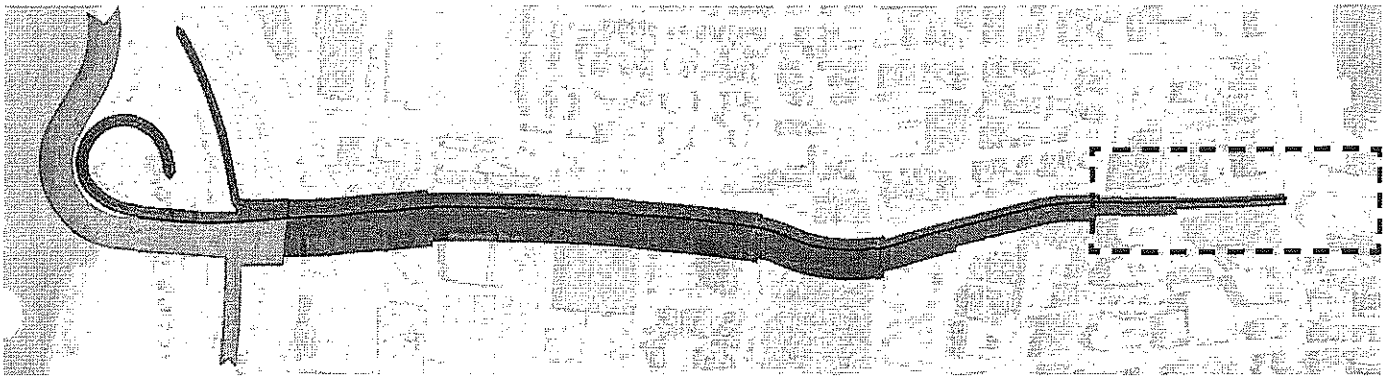
- Plan satisfies agreement to preserve LOS
  - Intersection delays reduced vs. No Build in 2035
  - Travel times (both directions combined) slightly less

- Improves Level Of Service for a spectrum of other modes
  - Pedestrian, Bicycle, Transit

COMPARISON OF OVERALL FACILITY SCORES (MULTIMODAL LEVEL OF SERVICE)

	MODE	AM PEAK					PM PEAK				
		2035 NP		2035 WP4		CHANGE IN SCORE	2035 NP		2035 WP4		CHANGE IN SCORE
		SCORE	LOS	SCORE	LOS		SCORE	LOS	SCORE	LOS	
NB	Auto	0.45	D	0.32	E	-0.13	0.21	F	0.18	F	-0.03
	Transit	6.46	F	3.05	C	-3.41	6.50	F	3.83	D	-2.67
	Bicycle	3.47	C	2.73	B	-0.74	3.66	D	2.90	C	-0.76
	Pedestrian	3.04	C	2.62	B	-0.42	3.33	C	2.91	C	-0.42
SB	Auto	0.38	E	0.39	E	0.01	0.27	F	0.39	E	0.12
	Transit	6.48	F	3.00	C	-3.48	6.47	F	3.22	C	-3.25
	Bicycle	3.80	D	2.91	C	-0.89	3.69	D	2.87	C	-0.82
	Pedestrian	3.21	C	2.94	C	-0.27	3.13	C	2.87	C	-0.26

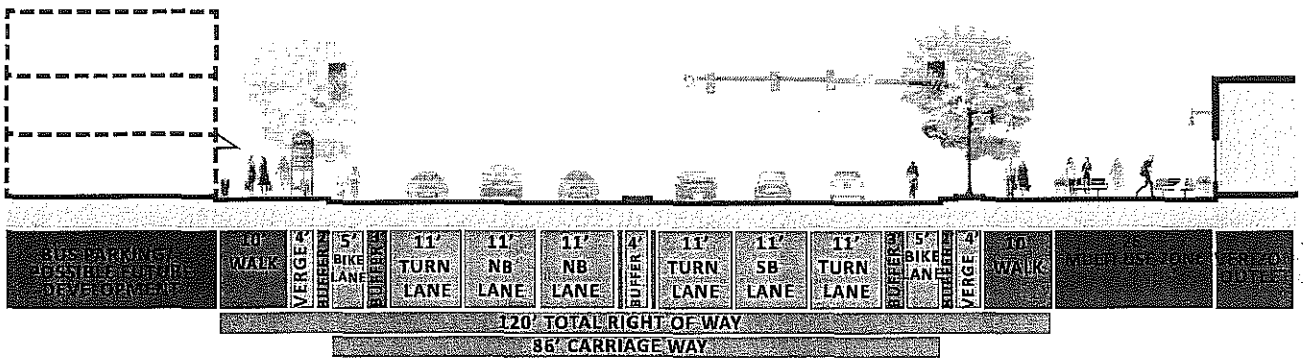
TRAFFIC AND CAPACITY: LOWER FRANKLIN



AM PEAK VOLUMES IN 2035

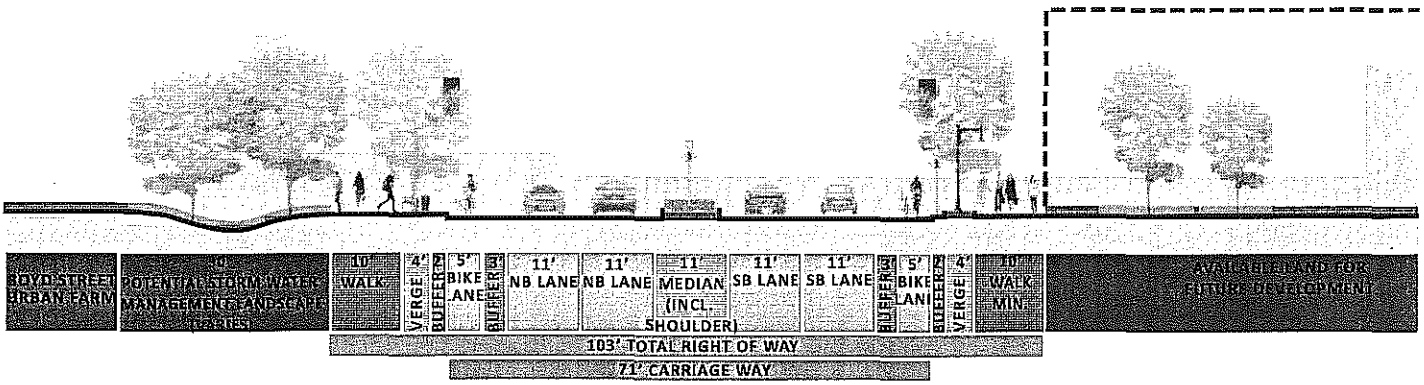
- Study assumed robust growth of 1.7 million SF development by 2035 in Eastern Waterfront.
- Sensitivity analysis by City demonstrates Lower Franklin design would accomodate traffic demand in 2035 even if assumed growth projections were doubled.
- Design accomodates increased pedestrian activity trend:
  - Comparison of PM Peak Hour data - 2002 vs. 2011
    - Pedestrian activity increased 15% per year
    - Vehicular activity decreased 2% per year
- Design provides 17,300 SF additional pedestrian space (Fore to Commercial)

SECTION A-A'



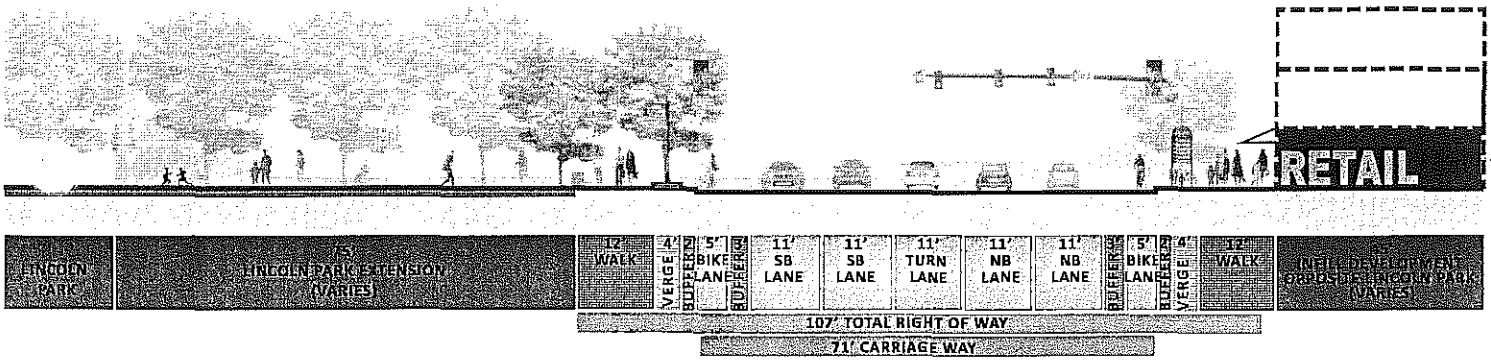
Section AA'Through Franklin Street Near Somerset St. Looking South

SECTION B-B'



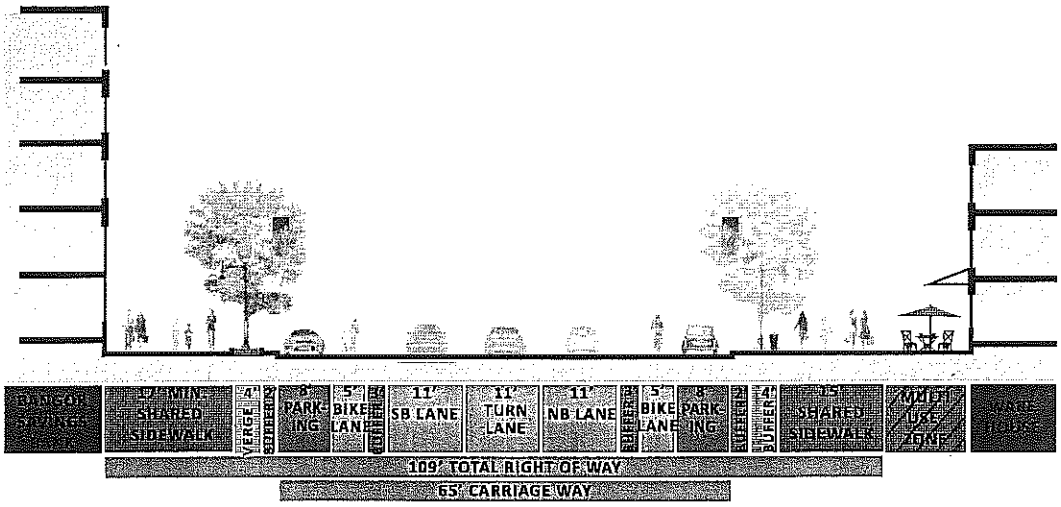
Section BB' Through Franklin Street Near Oxford St. Looking South

SECTION C-C'

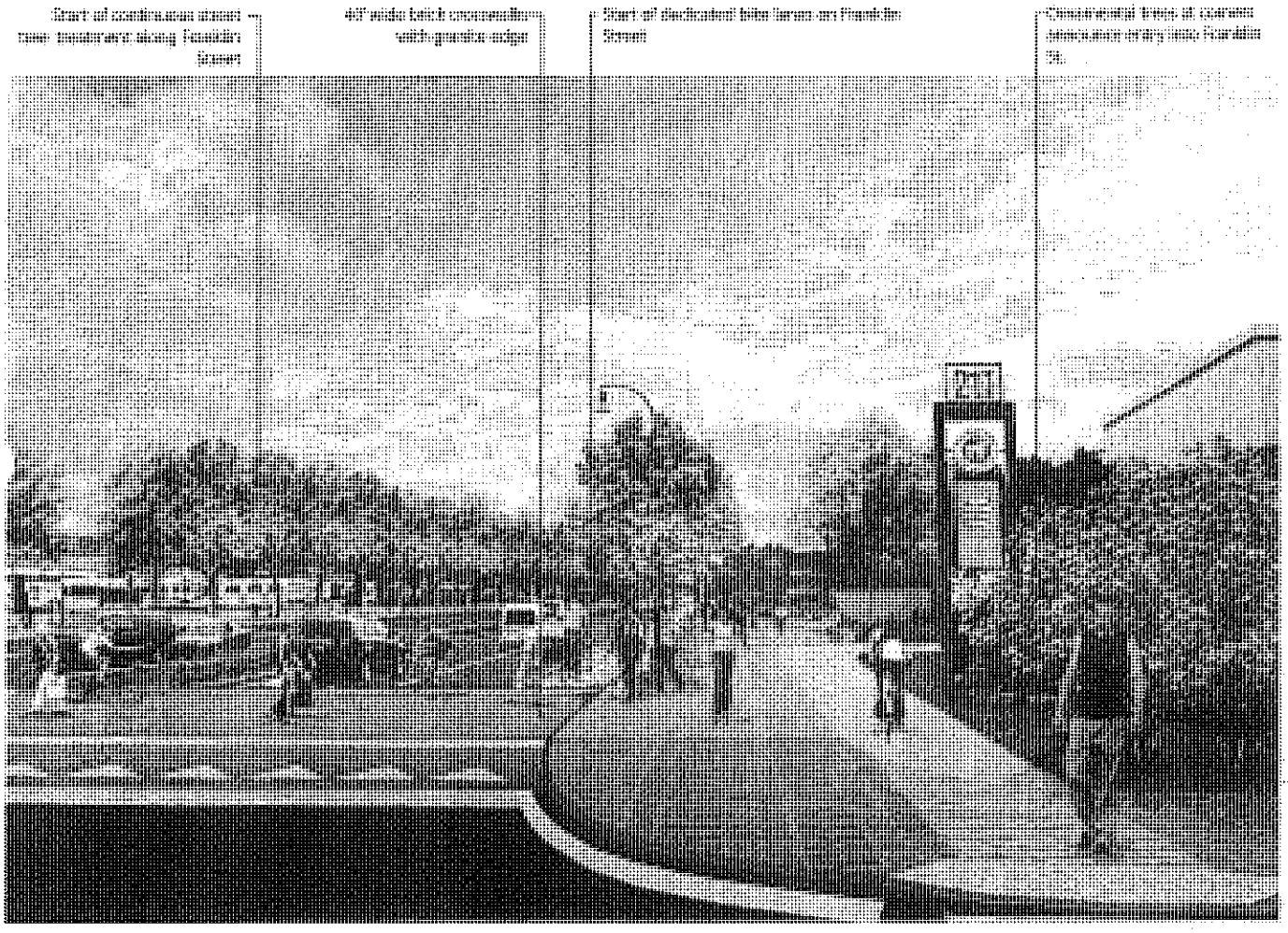


Section CC'Through Franklin Street Near Lincoln Park Looking North

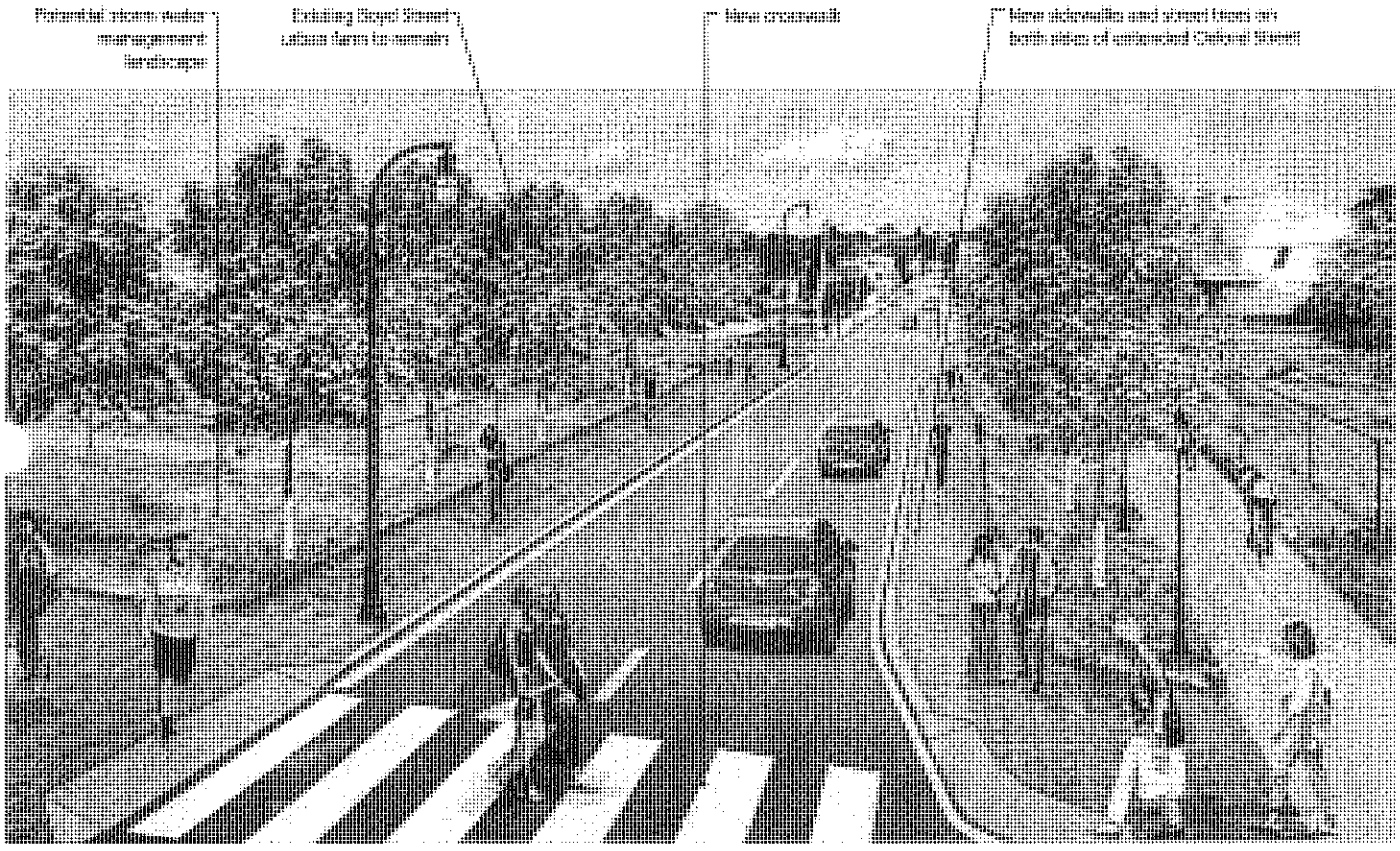
SECTION D-D'



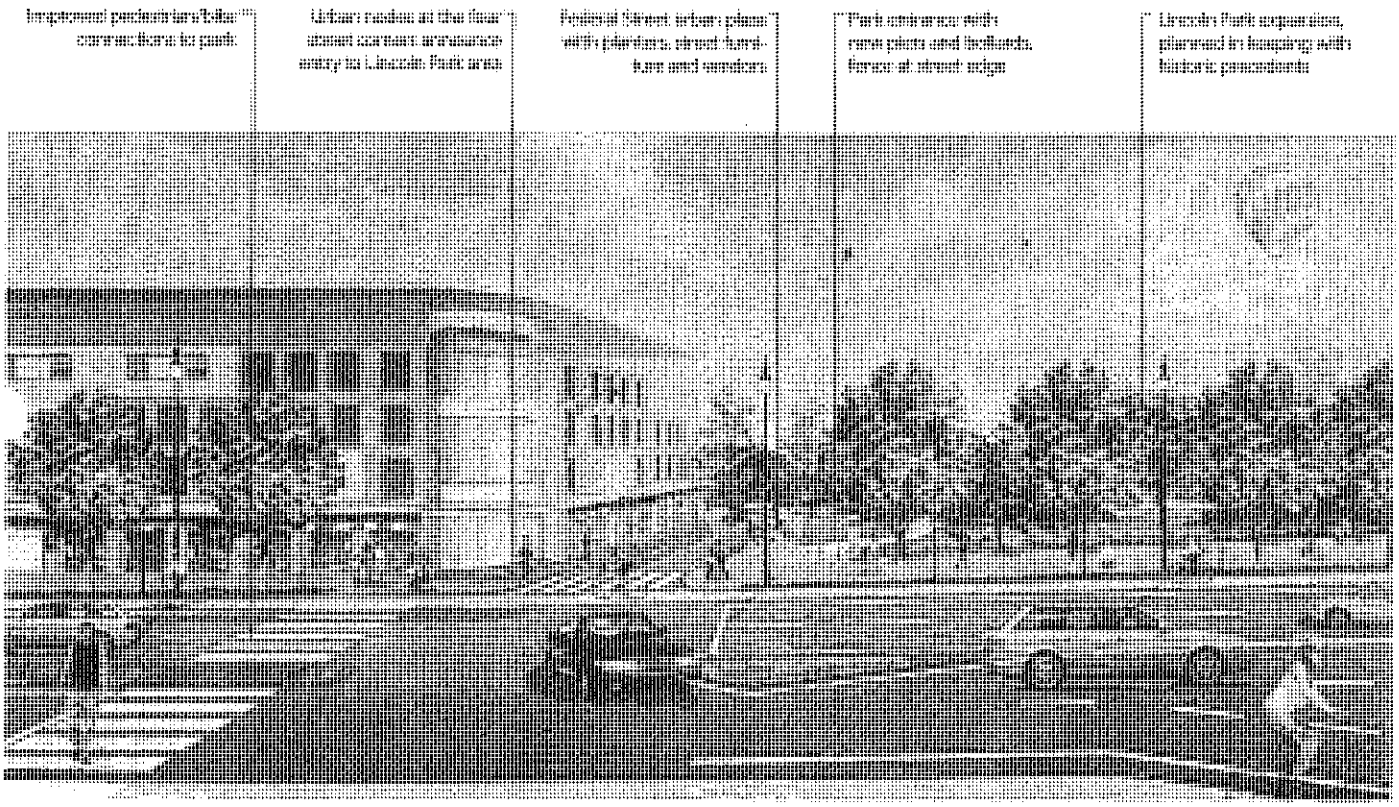
Section DD' Through Franklin Street Near Fore St. Looking North



Proposed View of Pedestrian Friendly Marginal Way Intersection



Proposed View of Extended Oxford Street Connecting Franklin Street



Proposed View of Extension to Federal Street along Lincoln Park

Proposed View of Commercial Street Roundabout

COST ESTIMATE AND FUNDING STRATEGIES

Total Franklin Street Project Cost	=	**$26.3 Million**
Stormwater/Sewer (CSO) Upgrade	=	**$ 8.0 Million**
Combined Project Cost	=	**$34.3 Million**

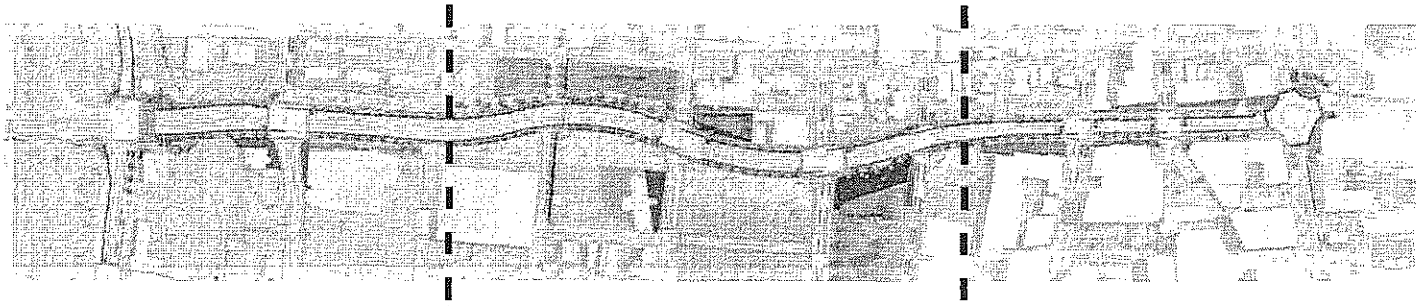
Identify Local Funding Sources

- Municipal/Local Funds (e.g. developer fees)
- Private (Partnership) Funds
- Sale of real estate emerging out of ROW realignment
- Tax Increment Funding (TIF)

Leverage (e.g. w/ matching) Local Sources with State & Federal Funds

- Federal Highway Administration (FHWA) Formula Funds
- USDOT TIGER Grant Program
- State Highway Fund
- State TransCap Trust Fund
- State Multimodal Transportation Fund
- Office of Community Development
- State General Obligation Bonding
- TIFIA credit program
- State Revolving Loan Funds (for Stormwater/Sewer (CSO) Upgrade Project)

PHASING PLAN



PHASE 2	PHASE 3	PHASE 1
I-295 EXIT TO OXFORD	OXFORD / LANCASTER TO MIDDLE	MIDDLE TO COMMERCIAL
$15.5 Million (project costs include $7.5 million Stormwater/Sewer CSO Upgrade) Starts Year 4 Duration 1 year	$10 Million (project costs) Starts Year 5 Duration 1 year	$8.5 Million (project costs include $.5M CSO upgrade) Starts Year 3 Duration 1 year

POTENTIAL COST REDUCTIONS & OFFSETS

- Estimate based on full reconstruction; potential for extent of reconstruction to be reduced based on PDR and full survey/geotechnical data.
- Opportunity to streamline cost/ maximize efficiencies with concurrent construction of CSO upgrade.
- The cost estimate includes city standards for streetscape materials which may be considered for value engineering.
- Land emerging out of the ROW re-alignment offers potential revenue of $1.9 million - $2.9 million.
- Additional property tax revenue attributed to incremental property value along corridor (TIFF).
- Consideration for expanding Portland Downtown District to address long term maintenance.

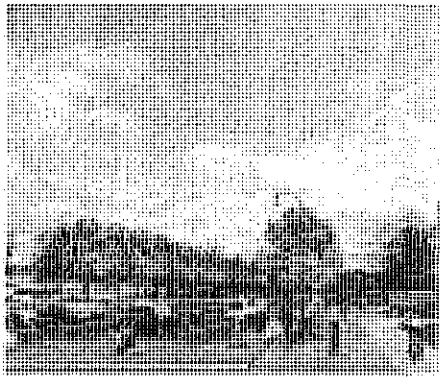
NEXT STEPS

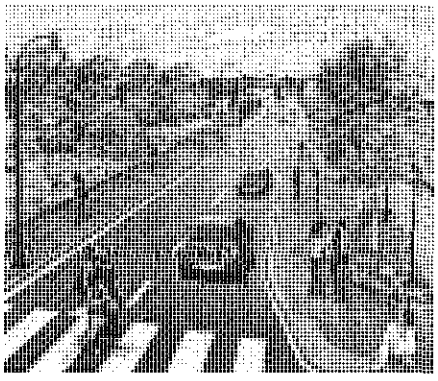
- SEEKING CITY COUNCIL ENDORSEMENT OF PROPOSED DESIGN RECOMMENDATIONS: JULY

- PRELIMINARY DESIGN: AUGUST - OCTOBER

Other Projects dependent on Franklin Street Study and Preliminary Design:

- Marginal Way Conduit Replacement
- Bayside Transportation Master Plan





ACKNOWLEDGEMENTS

Franklin Street Feasibility Study Phase II was based on a cooperative agreement between the City of Portland, Maine Department of Transportation (MaineDOT), and Portland Area Comprehensive Transportation System (PACTS). It was funded through federal, state, and local funds. The successful completion of the project required extensive involvement from all three parties as well as a significant time commitment from members of the public that made up the Public Advisory Committee (PAC).

The consultant team, including IBI Group, Gorrill-Palmer Consulting Engineers, Inc., Morris Communications, S.W. Cole Engineering, Inc., and Titcomb Associates, would like to thank the City, MaineDOT, and PACTS, specifically the staff that attended most meetings and guided the study process.

Jeremiah Bartlett, Study Manager, Transportation Systems Engineer, City of Portland

Mike Bobinsky, Director of Public Services, City of Portland

Darryl Belz, Safety and Scoping Unit, MaineDOT

Carl Eppich, Senior Transportation Planner, PACTS

Other key City of Portland staff that participated in the process include:

Katherine Earley, Engineering Services Manager

Bruce Hyman, Transportation Program Manager

Jeff Levine, Director of Planning and Urban Development

Bill Needelman, Waterfront Coordinator

Alex Jaegerman, Director, Planning Division

Other staff occasionally attended and provided feedback from MaineDOT, such as Ed Hanscome, and we additionally thank them for their important feedback at various stages.

We would also like to thank Kevin Hooper and Associates for performing the update to the PACTS Regional Travel Demand Model to develop the future no-build case, the three alternatives, and the final version needed for the study.

Finally, we would like to thank the representatives of the public who served on the PAC and were extremely important partners in this project.

Markos Miller – Committee Co-Chair
Kevin Donoghue – District 1 Councilor / Co-Chair
Mark Adelson – Portland Housing Authority
Hank Berg – Casco Bay Lines
Ethan Boxer-Macomber – Off Peninsula Portland Resident
Sam Cohen – Munjoy Hill Neighborhood Association
Jon Graback – Franklin Towers
Bill Hall – Island Representative
Steve Hewins - Portland Downtown District
Elizabeth Hoglund – Off Peninsula Portland Resident
Alex Landry – Bayside Neighborhood Organization
Christian MilNeil – East Bayside Neighborhood Organization
Hugh Nazor – India Street Neighborhood Organization
Chris O'Neil – Portland Chamber of Commerce
Sally Oldham – Greater Portland Landmarks
Jamie Parker – Portland Trails
Bob Stevens – Maine Real Estate and Development Association

Their work included providing input from the very beginning of the project to update the vision, during the many stages of analysis, and through to the end by refining the final recommendations. Members of the PAC actively participated in both PAC and public meetings and provided feedback on all deliverables. In particular, one of the co-chairs of the PAC, Markos Miller, attended many of the coordination meetings between the City, MaineDOT, PACTS, and the consultant team. It is only based on this extensive participation and collaboration that this vision for Franklin Street could be created.

Order 9-15/16
~~Tab 14 7-6-15~~
Tab 12 7-20-15

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 PURCHASE AND SALE AGREEMENT WITH BOTTLING GROUP, LLC FOR 250 CANCO ROAD

ORDERED, that the Acting City Manager or the City Manager is hereby authorized to execute the Purchase and Sale Agreement with Bottling Group, LLC for 250 Canco Road, in substantially the form attached hereto; and

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

Portland, Maine Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: June 22, 2015

SUBJECT: **Department of Public Services Bayside Relocation Plan/Purchase and Development of 250 Canco Road:**

- **Order Authorizing Purchase and Sale Agreement for City to Purchase 250 Canco Road;**
- **Order Authorizing the Issuance of General Obligations Bonds not to exceed $3.4 Million for the purchase of 250 Canco Road**
- **Order Authorizing the Appropriation of General Obligations Bonds for the purchase and development of 250 Canco Road**
- **Order Authorizing the Appropriation of $930,000 in Land Sale Revenue for the purchase and development of 250 Canco Road**

SPONSORS: Finance Committee/Councilor Mavodones, Chair
Housing and Community Development Committee/Councilor Donoghue, Chair

Council Meeting at which action is requested:
1st Reading: July 6, 2015
2nd Reading/Final Action: July 20, 2015

Can action be taken at a later date? No. **If no, why not?** The property at 250 Canco Road is currently on the market and City action is needed to allow for this transaction to move forward.

I. SUMMARY OF ISSUE

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services (DPS) Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery. This memorandum outlines an approach to address this City policy.

City owned DPS Bayside occupied properties by use include the following:

Property Address/Acreage	City Use	Status
44 Hanover St.	Fleet Services	Active DPS Use
82 Hanover St.	Lower Garage	Active DPS Use
56 Parris St.	Employee Parking	Active DPS Use
55 Portland St.	Administration	Active DPS Use
71 Hanover St.	Satellite Sand/Salt Operation	Site Sold
65 Hanover St./52 Alder St.	Trades/Traffic	Marketed for Sale

City staff recommendation is to proceed with a two phased approach to relocate remaining DPS use out of Bayside, with the exception of the DPS administration and other support activities located at 55 Portland Street, as follows:

PHASE 1 (estimated cost is $4.33 million including property acquisition)
See attached Phased Development Plan and Budget which includes:

- Purchase 250 Canco Road property at $2.7 Million – see attached proposed Purchase and Sale Agreement.
- Acquire portion of JB Brown property shown on the attached plan under a proposed land swap.
- Relocate all DPS operations housed in 82 Hanover Street to 250 Canco Road which frees this property up for sale.
- Relocate the DPS satellite sand/salt shed operation located at 71 Hanover Street to the JB Brown property.
- Shared entrance drive, through 250 Canco Road, to JB Brown property.

PHASE 2 (estimated cost is $8+ Million)

- Requires a community referendum.
- No required property acquisition needed.
- Relocate Fleet Services operations located at 44 Hanover Street to a new addition to 250 Canco Road which frees 44 Hanover Street for sale.

Here is why the phased approach makes sense.

- Acquiring 250 Canco Road and a portion of JB Brown's property is a ***strategic investment*** in creating a 13+ acre City DPS/City Department campus which is centrally located for service delivery to on Peninsula demands. The timing of acquiring 250 Canco Road needs to be made now because of the site is on the market for sale.

- Relocating DPS operations located in 82 Hanover Street frees up one more DPS Bayside property for sale in addition to the City Council approved sale of 71 Hanover (to Bayside Bowl) and the City's announced interest to sell 65 Hanover/52 Alder Street. Selling 82 Hanover Street creates a significant real estate critical mass (combined with the sale of 71

Hanover Street and 65 Hanover/52 Alder Street properties) to attract new private sector investment to this area of Bayside in need of "catalyst" use type projects like the Bayside Bowl/new Squash Center investment.

II. REASON FOR SUBMISSION

City Council authorization is required to proceed with real estate acquisition and financing options.

III. INTENDED RESULT

The intended result will enable the City to relocate a portion of DPS to a centralized location near the peninsula where a majority of the demand for City governmental services is needed.

IV. COUNCIL GOAL ADDRESSED

It is the goal of the *Bayside Vision 2000 Plan* to relocate Public Services Bayside operations out of Bayside to support mixed use 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

An overview of the financial impacts in the form of sources and uses of funds to support Phase 1 are provided below.

Uses		
250 Canco Road	Acquisition Cost	$2.7 Million
JB Brown Property	Acquisition Cost	$0 due to land swap under negotiations.
Redevelopment Cost for 250 Canco Road and Quarry Road Properties		$1.63 Million
Total Uses:		**$4.33 Million**

Sources		
Existing Real Estate Sales	$930,000	
New City Debt	$3.4 Million	
Total Sources:		**$4.33 Million**

At this time, City staff is not seeking any action from the HCDC, Finance Committee, and City Council on a community referendum. Decisions to proceed with Phase Two, requiring a community referendum, will be made in the future.

VI. STAFF ANALYSIS

City staff has been working on evaluating real estate and facility options, over a number of years, to accomplish the complete relocation of most or all of Public Service Bayside Department activities

combined with other departments to a single centralized location to provide City services on or near the Peninsula where a majority of demand for City governmental services are needed. See Attachment C from Sebago Technics for an overview of the proposed redevelopment of the Canco/Quarry Road properties for City use.

250 Canco Road

An overview of 250 Canco Road transaction with comments includes:

Property Location: The property is located in a "central service delivery location" in an industrially zoned property with adjacent industrial users.

Property Size: 5.0966 acres

Building Square Footage/Acres: 63,780 sq. ft. building, on 5.1 acres

Municipal Assessed Value: $3,009,990

Purchase Price: $2,700,000

Market Appraisal: $2,870,000

J.B. Brown Quarry Road Property Land Swap

An overview of Quarry Road transaction with comments includes:

Property to Acquire

Property Location: The property is located in a "central service delivery location" in an industrially zoned property with adjacent industrial users. See Attachment B - map highlighting two J.B. Brown properties to be acquired by the City.

Property Size: 4 +/- Acres

Purchase Price: Under negotiation. Expected City and JB Brown property trade with collaborating on providing JB Brown property truck access through 250 Canco Road property with the goal of no funds changing hands.

City Property to Swap

Property Location: 0 Cornell Street, 151A-A-13 (City Tax-Acquired)

Property Size: 3.1 Acres

It is noted that the City Council approved a lease/purchase option for 212 Canco Road (Nelson Small building), which can be exercised as of March 1, 2017. City operations located at 65 Hanover/52 Alder Street are planned to be relocated to 212 Canco Road. The Fire Department is an existing tenant at 212 Canco Road.

VII. RECOMMENDATION

Staff presented this to both the HCDC and FC for their recommendations to the City Council. The following represents the Committee recommendations:

Housing and Community Development

At its meeting on June 10, the HCDC voted unanimously (4-0) to recommend to the City Council that it authorize staff to execute the Purchase and Sale Agreement for the City's purchase of 250 Canco Road, as substantially in the form as attached.

Finance Committee

At its meeting on June 11, 2015, the Finance Committee voted unanimously (4-0) to recommend to the City Council that it authorize the financial appropriation of existing real estate sale proceeds at $930,000 and new debt authorization in the amount $3.4 Million for a total of $4.33 Million for the purchase and development of 250 Canco Road.

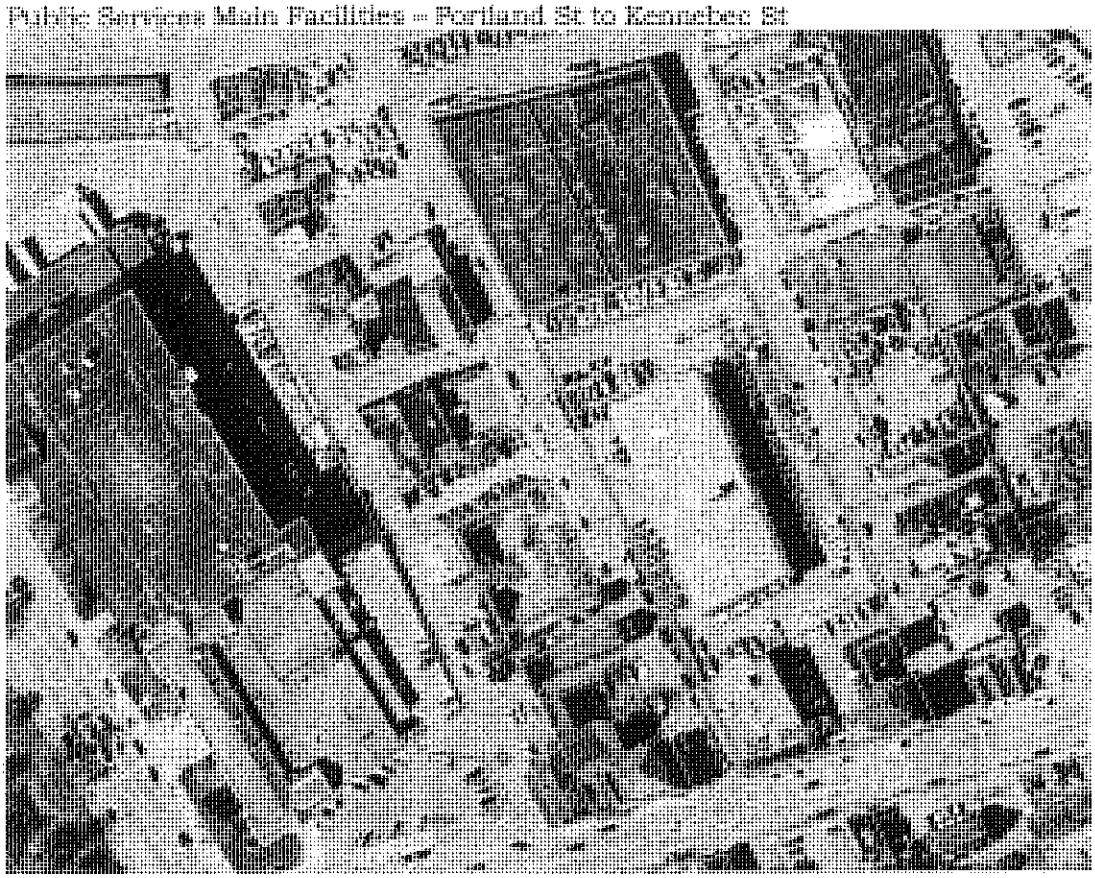
VIII. LIST ATTACHMENTS

A. Map of DPS Bayside Property
B. Map of Canco/Quarry Road Property
C. Canco/Quarry Road Phased Development Plan
D. Purchase and Sale Agreement for 250 Canco Road

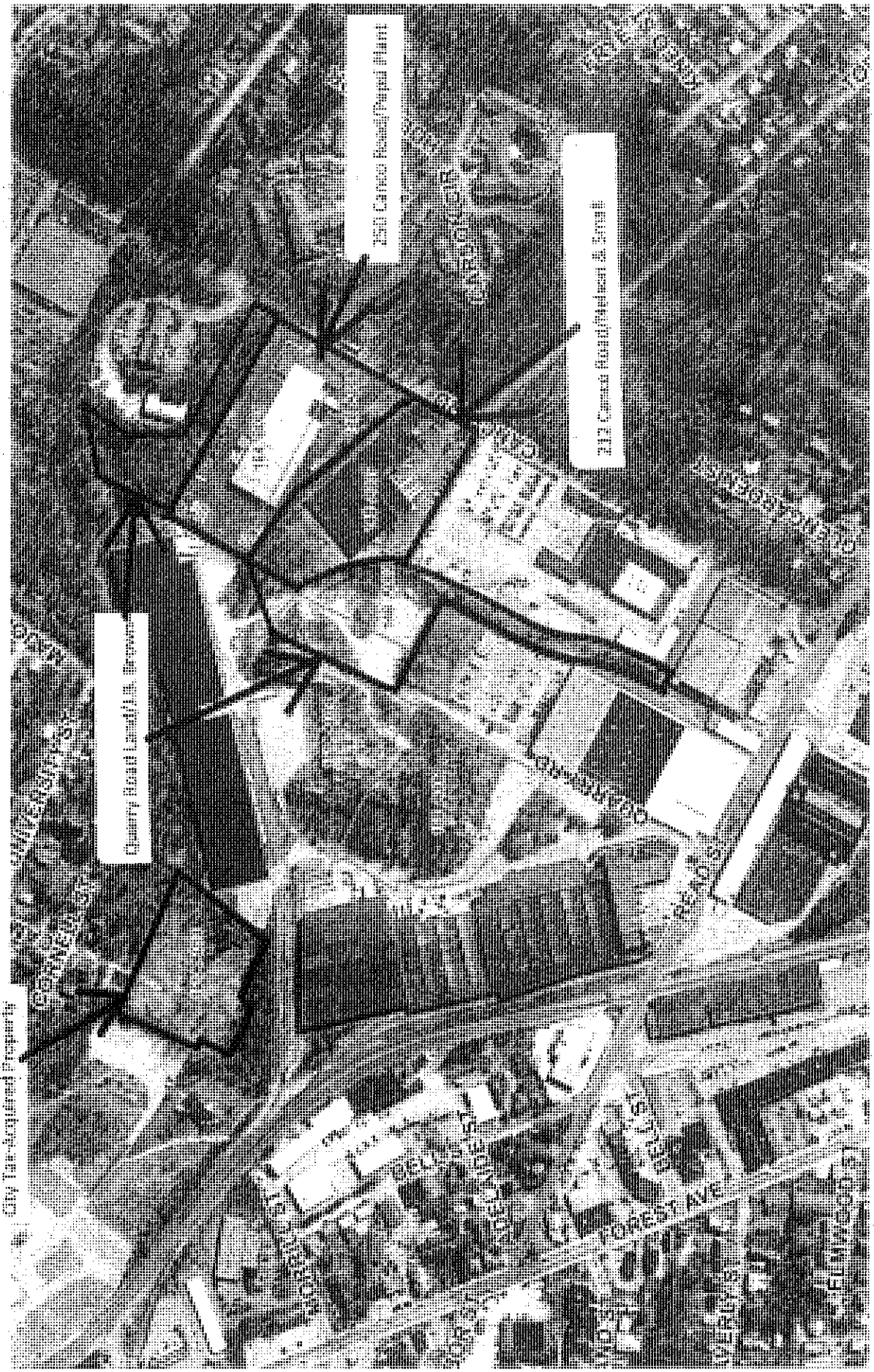
ATTACHMENT A

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St



ATTACHMENT B



SEBAGO TECHNICS

July 1, 2015
15056

Michael J. Bobinsky, Director
Department of Public Services
City of Portland
55 Portland Street
Portland, ME 04101

Memorandum of Master Planning – Relocation of Public Services to Canco Road, Portland, Maine

Dear Michael:

Sebago Technics, Inc. has been retained by the City of Portland to assist in the master planning for the potential relocation of various Public Services operations to Canco and Quarry Road properties. The purpose of this memorandum is to provide a general summary of the space planning completed to date, together with findings for consideration.

Introduction:

Over the past several years, the City of Portland has continued to actively evaluate alternatives for the phased relocation of Public Services from Hanover Street in the Bayside area of Portland. The relocation effort is part of an overall vision to vacate several city properties in the Bayside area for redevelopment. In addition to relocating Public Services, other essential City services would also be relocated to Canco Road as outlined this report. Locating the majority of City Public Services into one combined campus provides a unique and important opportunity for consolidation of an operation that has space limitations and is somewhat fragmented by having various operations in multiple locations through-out the City.

The selection of a new site is a difficult task in itself since a Public Services operation is industrial in nature and therefore must be located in a compatible area where zoning and neighboring uses are consistent with the proposed use (generally industrial or commercial in nature). In addition, the selected location must provide sufficient land area to accommodate a large fleet of vehicles, equipment, and sand/salt distribution, refueling, materials and laydown storage. The location must also provide for adequate circulation areas to move large equipment including temporary parking/storage of large equipment.

The City has been presented with a suitable relocation site that meets the programming requirements and is centrally located and easily accessible. The proposed location off Canco Road is located in the IM Zone and partially a contract zone (C50). The identified parcels are

commonly known as the Nelson & Small property (212 Canco Road), Seltzer and Rydholm property (250 Canco Road) and open land owned by J.B. Brown are the focus of this master planning effort.

Operations to be relocated to Canco Road: The following provides an overview of immediate and long-term City Public Service operations that may be relocated to the Canco Road property over a period of time in a phased approach.

1. Seltzer & Rydholm & JB Brown Parcels.

    - Fleet Maintenance
    - Construction Company
    - Dispatch
    - Districting
    - Forestry & Horticulture
    - Sand/Salt Storage
    - Fuel Dispensing
    - Vehicle and Equipment Wash Facility
    - Parking for employees
    - Outside storage for equipment and materials storage

2. Nelson & Small Parcel

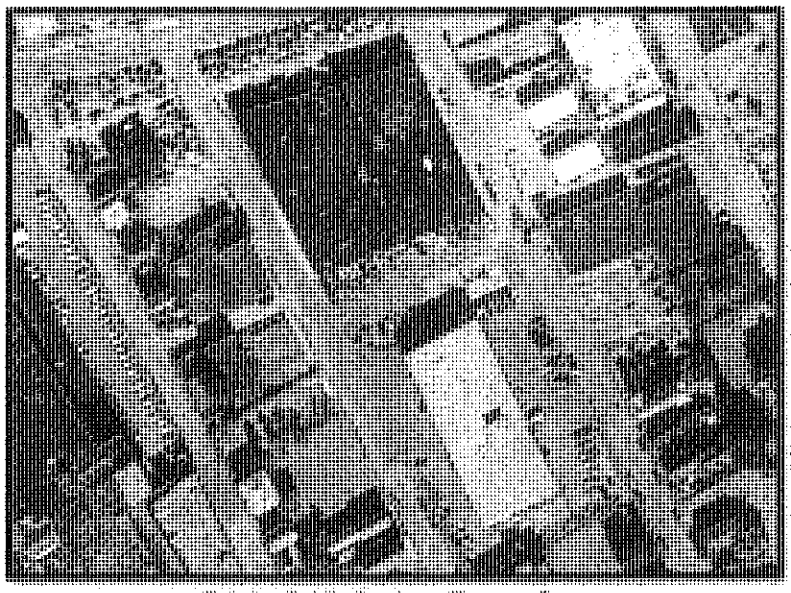
    - Facilities/Recreation Administration
    - Building & Trades Personnel
    - Fire Department Electrical & Communications
    - Traffic
    - Parks Operations

Location & Space Requirements:

The Portland DPS is essentially a large industrial operation that operates on a 24/7 basis providing city wide services. As a result, the selection of a location for DPS requires careful consideration of many factors including appropriateness of the general area (industrial zoning), access to major streets, available property and building space. The location must also provide easy and convenient access to the downtown and outlying areas. When considering these attributes both individually and collectively, the options within the City of Portland are limited for locating a large DPS facility.

The following provides a general overview of the existing space currently utilized by the DPS and the proposed location located off Canco Road.

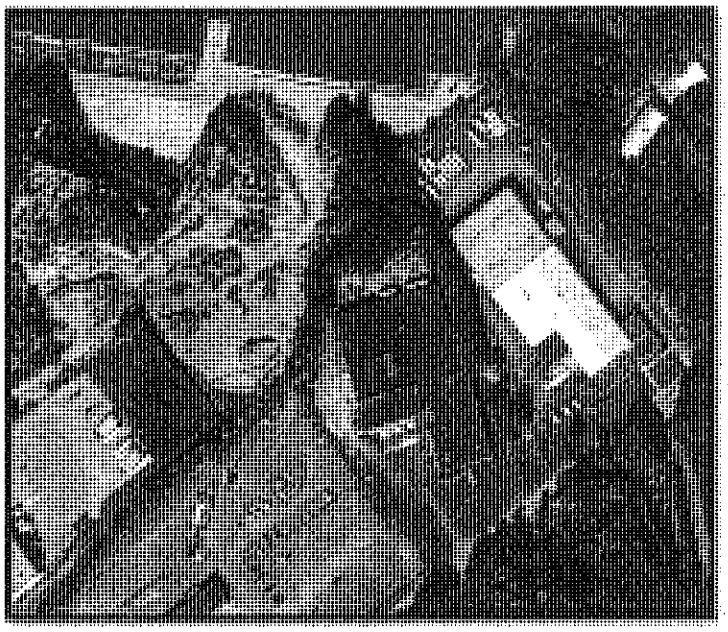
Existing Bayside Public Services Site: Presently, the City of Portland Department of Public Services (DPS) generally operates within a 4 acre area located between Hanover Street and Parris Street as shown on the adjacent photo.



Existing Public Services - Hanover Street

The location is an inner City Urban area that has numerous logistical challenges. The site is constrained with limited out of door parking areas for equipment, staging, and employee parking which extends into the neighborhood. During winter operations, the DPS utilizes both Hanover and Parris Streets for vehicular queuing and as an operational area. It is not uncommon for both streets to have large vehicles maneuvering around parked cars on these narrow urban streets. The site has become further constrained due to the elimination of the sand and salt storage areas to accommodate recent commercial development. Due to the limited space, the City requires some activities to be remotely located such as storage of equipment and vehicles at the Portland Ocean Terminal and at the City-owned Outer Congress Street property.

Canco Road Properties:
The Canco Road properties provides the City of Portland with an opportunity to acquire existing property and buildings to relocate its Department of Public Services operations. In the future, the relocation will require the construction of a new fleet maintenance building due to special operational characteristics of a fleet maintenance building.



Canco Road Properties

This area of Portland is one of the few locations that is compatible and well suited to DPS operations. The Canco

Road properties are within an industrial setting and location well suited to a DPS operations. Both the Nelson and Small and Pepsi properties are located in the I-M Industrial Zone with the abutting JB Brown property located in a Contract Zone (designated at C50). The general area has served as an industrial and commercial area of Portland for many decades and includes land area that is suitable for a DPS operation. Accommodating the full DPS operation must include the acquisition of all three land and building areas to combine into an overall tract of land suitable for the proposed operations. A concept master development plan is appended to this letter.

Comparative Area Summary:

The following chart provides a general comparative summary of the land and building holding that the City currently utilizes for DPS at the Hanover Street Facility and Portland Ocean Terminal.

Summary of Existing Public Services Space Utilization			
Location	Area of Property Acres	Existing Bldg. S.F.	Open Lot Area S.f.
65 Hanover Street	0.465	7,217	13,600
52 Alder Street	0.218	5,792	3,700
44 Hanover Street Fleet Maintenance/Admin. Engineering & Administration	1.928	18,500	46,656
71 Hanover Street (Recently Sold)	0.347		15,102
82 Hanover Street 36,227 (garage) & 4,541 (storage)	0.843	40,768	0
Portland Ocean Terminal (Maine State Pier)	0.106	4,600	0
56 Parris Street - bought 2010	0.234		10,213
Totals	*4.141*	*76,877*	*89,271*

Summary of Canco Road Property			
Location	Area of Property Acres	Existing Bldg. S.F.	Open Lot Area S.f.
Seltzer & Rydholm Building *Future Fleet Maintenance*	5.100	63,780 13,000	158,376
Nelson & Small Building	4.170	76,500	105,145
JB Brown	4 +/-		41,360
Totals	13.27 +/-	153,280	304,881

The Portland Department of Public Services currently operates predominately out of the Hanover Street facilities. The available land area in the Hanover Street area is approximately 4 acres and has presented numerous operational challenges due to the space restraints. Equipment and parking is limited as well as operational areas needed for fueling, staging, loading/unloading and general circulation. Both Hanover Street and Parris Street are frequently utilized for operations to include employee parking, vehicle stacking, loading of sand and salt and queuing for fueling and moving large vehicles. It should be noted the sand and salt storage lot was recently sold and is no longer available for use.

By nature, a Public Services Department requires significant land area for buildings, circulation, parking equipment & vehicles, storing seasonal equipment, stockpiling materials and for winter operations. For reference purposes Sebago Technics, Inc. is currently working with the cities of Westbrook and South Portland for new Public Services facilities. These communities, which are smaller than Portland have gone through a facility programming process that has identified land areas in excess of 15 acres that are required for facility operations. The total cost of Westbrook and South Portland new Public Works facilities are $9 Million and $15.2 Million dollars respectively, not including real estate costs.

When considering the combined land area of the various parcels, the City of Portland's current operations occur on approximately 10 to 12 acres of land area including the snow dump at Outer Congress Street. The outer Congress Street Parcel, despite its size, is not practical for development due to natural resources and potential air navigation considerations since it is in the approach and departure path of the Jetport. This City owned property currently houses: sand/salt operation; sanitation; snow dump.

It is noted that not all of the Departments operations can be accommodated at the Canco Road Property. Through the land planning and facility programing process, we determined that the Water Resource Division of the Department currently located at 55 Portland Street and 82

Hanover Street would be best suited at the outer Congress Street site. To that end, plans are for the Water Resources operations and asset management staffing to be housed at remodeled storage space at outer Congress Street and is funded in the FY16 CIP Sewer Budget.

Canco/Quarry Road Property Master Plan

Accompanying this report is a conceptual level Masterplan layout accommodating DPS needs utilizing the previously discussed Canco and Quarry Road properties. The masterplan demonstrates the need for combining parcels to form a tract of land suitable for DPS.

The relocation process as with any project of substantive size will require development planning and permitting.

Summary:

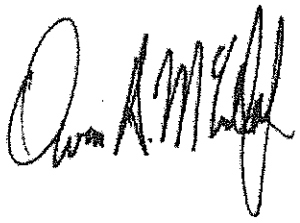
This report has been prepared for the City of Portland to better understand the adaptive space re-use of the three parcels located off Canco Road. The combination of three tracks of land together with buildings is expected to meet the current and foreseeable needs for Portland Public Services.

Should the City decide to move forward with the land and building acquisition, improvements for each of the properties will be needed for adapting the existing sites to the specific needs of a public service operation. This adaptation is expected to occur in a phased manner with the eventual construction of a new building for fleet services and associated site improvements.

Upon review of this report, please feel free to contract us if there are any questions or if we can be of further assistance. Best wishes as you consider this important project.

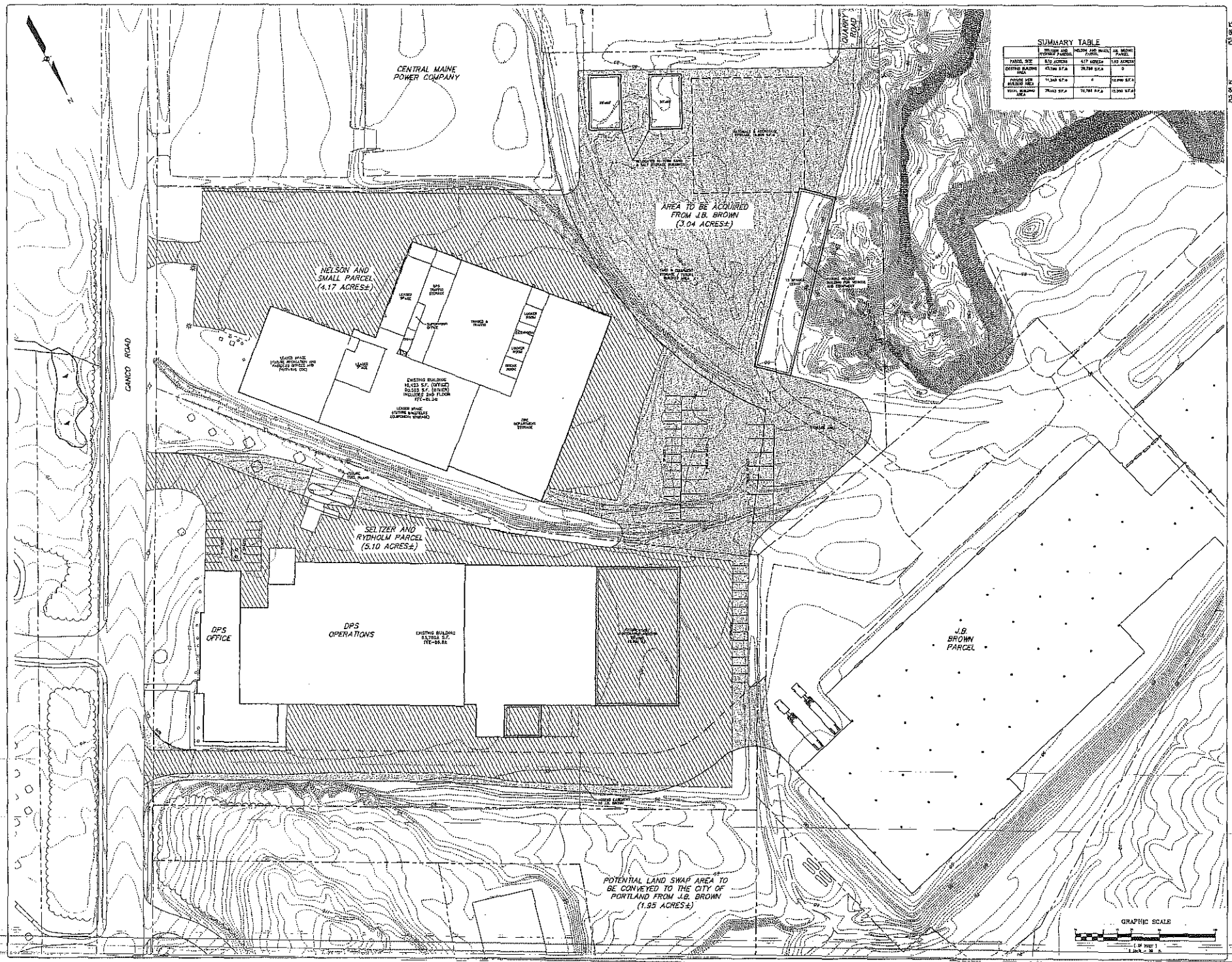
Sincerely,

SEBAGO TECHNICS, INC.



Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development
OAM: oam

Cc: Greg Mitchell
Kathy Alves


CENTRAL MAINE POWER COMPANY
QUARRY ROAD
CANCO ROAD
AREA TO BE ACQUIRED FROM J.B. BROWN (3.04 ACRES±)
NELSON AND SMALL PARCEL (4.17 ACRES±)
SELTZER AND RYDHOLM PARCEL (5.10 ACRES±)
DPS OFFICE
DPS OPERATIONS
J.B. BROWN PARCEL
POTENTIAL LAND SWAP AREA TO BE CONVEYED TO THE CITY OF PORTLAND FROM J.B. BROWN (1.95 ACRES±)
SUMMARY TABLE
GRAPHIC SCALE
PROGRESS PRINT
NOT FOR CONSTRUCTION
SEBAGO TECHNICS
CONCEPTUAL SITE DEVELOPMENT PLAN
PORTLAND PUBLIC SERVICES
CANCO ROAD
PORTLAND, MAINE
FOR:
CITY OF PORTLAND
389 CONGRESS STREET
PORTLAND, ME 04101
PROJECT NO. 15054
SCALE 1"=40'
SHEET 1 OF 1

ATTACHMENT D

AGREEMENT OF PURCHASE AND SALE

Between

BOTTLING GROUP, LLC

Seller

and

CITY OF PORTLAND

Purchaser

Premises: 250 Canco Road, Portland, Maine

Dated: July ___, 2015

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE ("Agreement") is made and entered into as of July ___, 2015 (the "Effective Date"), between **BOTTLING GROUP, LLC**, a Delaware limited liability company, as seller ("Seller"), and **CITY OF PORTLAND**, a Maine municipality, as purchaser ("Purchaser").

RECITALS

A. Seller is the owner of the Property (hereinafter defined).

B. Seller desires to sell the Property to Purchaser and Purchaser desires to purchase the Property on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller and Purchaser agree as follows: **Purchase and Sale.**

Subject to all of the terms and conditions of this Agreement, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase and acquire from Seller that certain real property located in the City of Portland, County of Cumberland, in the State of Maine, more particularly described on Exhibit "A" hereto, together with all rights, privileges and easements appurtenant thereto (if any), including, without limitation, any easements, rights-of-way, or other rights appurtenant thereto or used in conjunction therewith, if any (collectively, the "Land"), together with all buildings, improvements, structures and fixtures located therein or thereon (collectively, the "Improvements") now or hereafter located on the Land (the Land and the Improvements are collectively referred to herein as the "Property"). Exhibit A is a copy of the Deed to Seller, which is recorded at Book 21872, Page 312, in the Cumberland County Registry of Deeds.

1. Purchase Price.

The purchase price ("Purchase Price") to be paid by Purchaser for the Property is **TWO MILLION SEVEN HUNDRED THOUSAND and 00/100 DOLLARS ($2,700,000.00)**, payable as follows:

(a) Within two (2) business days after the Effective Date, Purchaser shall deposit with Escrow Agent (hereinafter defined), by wire transfer or by check made payable to Escrow Agent, the sum of **TWENTY-FIVE THOUSAND and 00/100 DOLLARS ($25,000.00)** (the "Deposit"). The Deposit, subject to collection, shall be (a) non-

refundable except as otherwise expressly provided in this Agreement in connection with a termination of this Agreement, and (b) credited to the Purchase Price at Closing (hereinafter defined). If the transaction contemplated by this Agreement fails to close, the Deposit shall be paid to Seller or to Purchaser as provided in this Agreement.

(b) At the Closing, Purchaser shall deliver the balance of the Purchase Price in the amount of **TWO MILLION SIX HUNDRED AND SEVENTY-FIVE THOUSAND and 00/100 DOLLARS ($2,675,000.00)**, less or plus the net debit or credit to Purchaser by reason of any prorations or allocations set forth herein, to Escrow Agent, by certified or cashier's check or, at Escrow Agent's option, by wire transfer of immediately available funds to an account designated by Escrow Agent.

3. **Title and Survey.**

(a) On or before the last day of the Feasibility Period (as defined in Section 13 below), Purchaser, at Purchaser's expense, shall cause CUMBERLAND TITLE COMPANY [1](in its capacity as title agent and settlement agent, the "Title Company") to issue a title insurance commitment relating to the Property (the "Title Report") and to deliver a copy of same to Seller. Any exceptions to title or other matters shown on the Title Report shall be referred to herein as the "Exceptions". Purchaser may, on or before the last day of the Feasibility Period (the "Title Decision Date"), disapprove by notice to Seller any Exceptions which are unsatisfactory to Purchaser. Purchaser's failure to provide such notice on or before the Title Decision Date shall constitute approval of the Exceptions. Within three (3) business days after Seller's receipt of Purchaser's notice of such disapproval, if any, Seller shall deliver a notice to Purchaser (the "Seller's Title Notice") stating that: (i) Seller has removed such disapproved Exceptions such that title shall be marketable, as well as insurable at standard premium rates or will covenant to do so as of or before Closing, or (ii) Seller will not remove such disapproved Exceptions. If Seller does not remove or covenant to remove the disapproved Exceptions as aforesaid, Purchaser shall have the option, by notice to Seller given within two (2) business days after the date of Seller's Title Notice, to: (i) terminate this Agreement as of the date of Seller's Title Notice (upon which the Deposit shall be returned to Purchaser, together with any interest earned thereon, and neither party shall have any further rights or obligations under this Agreement, other than those expressly provided to survive such termination) or waive its objection to the disapproved Exception(s) in question and proceed to Closing, in which case Seller shall have no obligation to remove any such disapproved Exceptions. Notwithstanding the foregoing, Purchaser's right to receive a return of the Deposit shall be subject to Purchaser providing copies to Seller of all Assessment Reports (as defined below) and returning to Seller all Materials provided to Purchaser, each as a pre-condition to the return of such amount.

[1] Contact is Molly C. Litz, Esq., Staff Attorney, molly@cumberlandtitleme.com, 178 Middle St, Suite 402, Portland, ME 04101, 207.899.4907

(b) The Property shall also be conveyed subject to such state of facts as a current, accurate survey of the Property would disclose as of the last day of the Feasibility Period. The Purchaser may, at its sole expense, cause a survey of the Property to be prepared during the Feasibility Period, and may object to matters shown thereon which are unsatisfactory to Purchaser ("Survey Exceptions"). Following the expiration of the Feasibility Period Purchaser shall have no right to object to any matter shown on any survey of the Property or which a current, accurate survey of the Property would disclose as of the last day of the Feasibility Period (collectively, a "Survey"). Purchaser may, on or before the last day of the Feasibility Period (the "Survey Decision Date"), notify Seller in writing of any Survey Exceptions. Purchaser's failure to provide such notice on or before the Survey Decision Date shall constitute approval of the Survey Exceptions. Within three (3) business days after Seller's receipt of Purchaser's notice of such disapproval, if any, Seller shall deliver a notice to Purchaser (the "Seller's Survey Notice") stating that: (i) Seller has removed such Survey Exceptions or will covenant to do so as of or before Closing, or (ii) Seller will not remove such Survey Exceptions. If Seller does not remove or covenant to remove the Survey Exceptions, Purchaser shall have the option, by notice to Seller given within two (2) business days after the date of Seller's Survey Notice, to: (i) terminate this Agreement as of the date of Seller's Survey Notice (upon which the Deposit shall be returned to Purchaser, together with any interest earned thereon, and neither party shall have any further rights or obligations under this Agreement, other than those expressly provided to survive such termination) or waive its objection to the Survey Exception(s) in question and proceed to Closing, in which case Seller shall have no obligation to remove any such Survey Exceptions. Notwithstanding the foregoing, Purchaser's right to receive a return of the Deposit shall be subject to Purchaser providing copies to Seller of all Assessment Reports (as defined below) and returning to Seller all Materials provided to Purchaser, each as a pre-condition to the return of such amount.

(c) At the Closing, Seller shall convey to Purchaser fee simple title to the Property by a duly executed and acknowledged quitclaim deed with covenant (the "Deed"), subject to (i) the Exceptions and Survey Exceptions not removed or required to be removed by Seller hereunder, and (ii) all laws and governmental regulations and ordinances that affect the Property (collectively, the "Permitted Exceptions"). Notwithstanding anything to the contrary contained herein, the existence of any mortgages, liens or encumbrances other than the Permitted Exceptions shall not be objections to title provided that properly executed instruments in recordable form necessary to satisfy the same are delivered to the Title Company at the Closing. Further, unpaid liens for taxes, water and sewer charges and assessments shall not be objections to title, subject to the provisions of this Agreement pertaining to apportionments.

(d) Acceptance of the Deed by Purchaser shall constitute an acceptance of all of the obligations of Seller hereunder except such as may be expressly stated herein to survive of the delivery of the Deed.

4. **Closing.**

(a) The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place on a mutually agreed upon business day not later than thirty (30) days following the last day of the Feasibility Period (the "Closing Date") by means of the Title Company's standard escrow closing procedures, **TIME BEING OF THE ESSENCE** with respect to Purchaser's obligation to close title on the Closing Date.

(b) At the Closing, Seller shall deliver to Purchaser the Deed and the Non-Foreign Affidavit attached hereto as Exhibit "B" hereto. In addition, Purchaser and Seller shall each deliver such other instruments, funds and prorations as are reasonably required by Seller to close the transactions contemplated by this Agreement and to consummate the transfer of the Property in accordance with the terms hereof, including, without limitation, any necessary transfer tax forms, title affidavits, bills of sale, assignments of contracts and similar documents.

(c) The following prorations shall be made as of 12:01 a.m. on the day the Closing occurs on the basis of a 365 day year:

(i) Real estate taxes and municipal assessments shall be prorated as of the Closing on the basis of the most recent tax and assessment statements for the Property. If real estate tax and/or assessment prorations are not made on the basis of the current tax year or if supplemental taxes are assessed after the Closing for the period prior to the Closing, the parties shall make any necessary adjustment promptly after the Closing.

(ii) Any other items which are customarily apportioned in commercial real estate closings in Cumberland County, Maine.

5. **Representations and Warranties.**

(a) Seller represents and warrants to and agrees with Purchaser as follows:

(i) Seller is a limited liability company duly formed and existing and in good standing under the laws of the State of Delaware, and has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by Seller in connection herewith are or when delivered will be duly authorized, executed and delivered by Seller.

(ii) The representations and warranties of Seller set forth in Section 5(a) are true and correct as of the date of execution of this Agreement and shall be true and correct as of the Closing.

(b) Purchaser represents and warrants to Seller as follows:

(i) Purchaser is a Maine municipality existing under the laws of the State of Maine, and has the power and authority to purchase and own the property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by Purchaser in connection herewith are or when delivered will be duly authorized, executed and delivered by Seller.

(ii) The representations and warranties of Purchaser set forth in Section 5(b) are true and correct as of the date of execution of this Agreement and shall be true and correct as of the Closing.

6. **Closing Costs.**

(a) Seller shall bear the costs of one-half Escrow Agent's fee for settlement services, if any, the cost of Seller's legal counsel, the Brokers' commissions, as more particularly provided in Section 11 below, its portion of any real estate transfer taxes payable in connection with the transfer of the Property, and any additional costs and charges customarily payable by sellers in accordance with common real estate practices in Cumberland County, Maine, except to the extent such costs are Purchaser's express obligation under Section 6(b) below.

(b) Purchaser shall bear the costs of the title search and the title insurance premiums for fee title insurance and any mortgage insurance relating to the Property, the fee for recordation of the Deed and any mortgage or other security instrument, one-half Escrow Agent's fee for settlement services, if any, the cost of Purchaser's legal counsel, accountants and other experts, the cost of any Survey or environmental inspection performed in connection with transfer of the Property, and any additional costs and charges customarily payable by buyers in accordance with common real estate practices in Cumberland County, Maine.

7. **"As Is".**

Purchaser acknowledges that, subject only to the Assessment to be performed during the Feasibility Period pursuant to Section 13 below, it has inspected the Property and is fully familiar with the physical condition and state of repair of the Land and the Improvements, and that Purchaser is taking the Property, in its "as is" condition as of the Closing Date. In no event shall Seller be liable to Purchaser for any latent or patent defects in the Property or any part thereof, or required to remove any violations which may have been posted with regard to the Property. Purchaser acknowledges that, except as specifically set forth in Section 5 of this Agreement, Seller, its members, officers, agents, employees and representatives and their respective successors and assigns (together, the "Seller Parties") have made no representations or warranties to Purchaser, with respect to the past, present or future condition of all or any portion of the Property. Acceptance of the Deed by Purchaser shall constitute an acceptance of all of the obligations of Seller

hereunder except such as may be expressly stated herein to survive the delivery of the Deed. Purchaser represents and acknowledges that Seller Parties have made no representations, warranties or agreements (and Purchaser has not relied, directly or indirectly, upon any such representations, warranties or agreements), as to (i) the condition of the Property or any Improvements thereon, (ii) the Property's value, utility, fitness, suitability, use, or economic attributes, or (iii) any other matter. Without limiting the generality of the foregoing, Seller makes no representations, warranties, statements or covenants as to the size or configuration of the Land, the Improvements or any part thereof. Accordingly, Purchaser, on behalf of itself and all of its officers, directors, shareholders, employees, representatives and affiliated entities (collectively, the "Releasors") hereby expressly waives and relinquishes any and all rights and remedies Releasors may now or hereafter have against any of the Seller Parties, whether known or unknown, which may arise from or be related to (a) the physical condition, quality, quantity and state of repair of the Property and the operation of the Property, (b) the property information, the Property's compliance or lack of compliance with any federal, state or local laws or regulations, and any past, present or future presence or existence of Hazardous Materials on, under or about the Property or with respect to any past, present or future violation of any rules, regulations or laws, now or hereafter enacted, regulating or governing the use, handling, storage or disposal of Hazardous Materials, including, without limitation, (i) any and all rights and remedies Releasors may now or hereafter have under the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, and the Toxic Substance Control Act, all as amended, and any similar state, local or federal environmental law, rule or regulation, and (ii) any and all claims, whether known or unknown, now or hereafter existing, with respect to the Property under Section 107 of CERCLA (42 U.S.C.A. §9607). For purposes hereof, the term "Hazardous Materials" shall be deemed to mean any or all of the following: any substance that is toxic, ignitable, reactive or corrosive or that is identified or defined as a hazardous material, hazardous substance, a hazardous waste, a contaminant or a solid waste by any local government, the State of Maine, or the United States government as such identification or definition may be amended from time to time.

8. Inability To Perform.

If Seller shall be unable to perform its obligations under this Agreement for any reason whatsoever other than Seller's willful breach of its obligations under this Agreement, Purchaser's sole and exclusive remedy shall be either to (i) accept such title as Seller is able to convey, without abatement or reduction of the Purchase Price or any credit or allowance on account thereof, or (ii) terminate this Agreement on written notice to Seller, upon which the Deposit shall be returned to Purchaser, and neither party shall have any further rights or obligations under this Agreement, other than those expressly provided to survive such termination.

9. **Default.**

(a) If Seller shall default in the performance of its obligation to convey the Property to Purchaser in accordance with this Agreement, then Purchaser shall have all rights and remedies available at law or in equity.

(b) If Purchaser shall default in the performance of any of its obligations under this Agreement, Seller shall have all rights and remedies available at law or in equity.

10. **Escrow of Deposit.**

(a) The Deposit has been or shall be delivered to the Title Company (in its capacity as escrow agent and escrow closer, the "Escrow Agent"), and shall be held by Escrow Agent until the Closing or sooner termination of this Agreement in accordance with the provisions of this Section 10.

(b) Escrow Agent shall promptly place the Deposit into an IOLTA account or accounts pending disbursement in accordance with the terms of this Section 10. At the Closing, the Deposit shall be paid to Seller. If, for any reason, the Closing does not occur and either party makes a written demand upon Escrow Agent for payment of the Deposit, Escrow Agent shall give written notice to the other party of such demand. If Escrow Agent does not receive such written objection from the other party to the proposed payment within ten (10) days after the giving of such notice, Escrow Agent is authorized to make such payment to the requesting party. If Escrow Agent does receive such written objection within such ten (10) day period, or if for any other reason Escrow Agent is uncertain as to its obligations or the rights of the parties hereunder, Escrow Agent shall continue to hold the Deposit until otherwise directed either (i) by written instructions signed by both Seller and Purchaser, or (ii) in accordance with the provisions of a final judgment of a court of competent jurisdiction. In addition, Escrow Agent shall have the right at any time after notice to Seller and Purchaser to deposit the Deposit with the clerk of the court having jurisdiction in the city or in the county in which the Escrow Agent is located. In any such event, Escrow Agent shall give written notice of such deposit to Seller and Purchaser, and upon such deposit, Escrow Agent shall thereby be fully relieved and discharged of its obligations hereunder.

(c) The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience and that Escrow Agent shall not be deemed to be the agent of either of the parties. Seller and Purchaser shall indemnify and hold Escrow Agent harmless from and against any and all claims, liabilities, losses, costs, damages and expenses, including, without limitation, reasonable attorneys' fees, disbursements and court costs incurred in connection with the performance of Escrow Agent's duties hereunder, except with respect to actions or omissions taken or suffered by Escrow Agent in willful disregard of this Agreement or involving gross negligence on the part of Escrow Agent. Purchaser's indemnification obligation is made without waiver of Purchaser's rights under the Maine Tort Claim Act, all of Purchaser's rights thereunder being expressly reserved.

(d) Escrow Agent may act upon any writing believed by it in good faith to be genuine and to be signed and presented by the proper person or entity, and shall not be liable in connection with the performance of any duties imposed upon Escrow Agent by the provisions of this Agreement, except for Escrow Agent's own willful default or gross negligence. Escrow Agent shall have no duties or responsibilities except those set forth herein.

11. Broker.

(a) Seller represents and warrants to the Purchaser that Seller has not dealt with any brokers or finders in connection with the transfer of the Property other than NAI The Dunham Group (the "Broker"). Seller shall pay the commission owed to the Broker if, as and when the Closing occurs pursuant to a separate agreement. Seller agrees to indemnify and hold harmless the Purchaser against any loss, liability, damage, cost, claim or expense (including, without limitation, reasonable attorneys' fees, disbursements and court costs) incurred by the Purchaser by reason of the breach by Seller of the foregoing representation.

(b) Purchaser represents and warrants to the Seller that (i) neither Purchaser nor anyone on behalf of Purchaser has dealt with any brokers or finders in connection with the transfer of the Property other than the Broker. Purchaser agrees to indemnify and hold harmless the Seller against any loss, liability, damage, cost, claim or expense (including, without limitation, reasonable attorneys' fees, disbursements and court costs) incurred by the Seller by reason of the breach by Purchaser of any of either of the foregoing representation. The provisions of this Section 11 shall survive the delivery of the Deed.

12. Notices.

For purposes of the payment of any amounts due hereunder and all other notices and communications between the parties, the addresses of Seller and Purchaser shall be as follows:

Seller: Bottling Group, LLC
c/o Pepsi Beverages Company
1 Pepsi Way
Somers, New York 10589-2201
Attn: Cynthia M. Poggiogalle, Director of Real Estate
FAX: (914) 767-1076
Email: cindy.poggiogalle@pepsico.com

with a copy to:

Law Offices of Dale J. Lois, PLLC
2 Jefferson Plaza, Suite 100
Poughkeepsie, New York 12601
FAX: (845) 473-2200
Email: dale@levinelevinelaw.com

Purchaser: Michael Sauschuck, Acting City Manager
Portland City Hall
389 Congress St.
Portland, Maine 04101
FAX: (207) 874-8669
Email: mjs@portlandmaine.gov

with a copy to:

Danielle West-Chuhta, Esq.
Corporation Counsel
City Hall
389 Congress St
Portland, ME 04101
FAX (207) 74-8497
Email: DWCHUHTA@portlandmaine.gov

Any notices and other communications to be delivered by either party to the other pursuant to this Agreement shall be in writing and shall be deemed delivered as follows, except as otherwise specifically provided in this Agreement: (a) when hand delivered or telecopied (provided that telecopied notices must be confirmed within any applicable time period plus two (2) days by one of the following methods of notice); (b) one (1) business day after mailing by Federal Express or other overnight courier service; or (c) three (3) business days after deposit in the United States mail by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to be charged with notice at the above-recited address or the above-recited telecopier number or such other address or telecopier number as either party from time to time may designate by notice delivered to the other; provided, however, that no notice of change of address or telecopier number shall be deemed given until received by the party to be notified. Except as otherwise specifically provided herein, in the computation of any period of time which shall be required or permitted hereunder or under any law for any notice or other communication or for the performance of any term, condition, covenant or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.

13. **Feasibility Period**.

(a) Subject to the terms of Sections 13(c)- 13(e), from the Effective Date to and including the date which is forty-five (45) days after the Effective Date (the "Feasibility Period"), Purchaser, and its licensed (where applicable) and insured consultants (collectively, the "Consultants") shall have the right to conduct due diligence on the Property (the "Assessment"), which shall include, without limitation, the right to enter onto the Property to conduct such tests, inspections and assessments as the Purchaser may desire of the Property at Purchaser's sole cost and expense. In its capacity as Purchaser, in no event shall Purchaser have the right to request a change the zoning status of the Property or enter into any agreement or restriction which would be binding upon, encumber or restrict Seller or the Property prior to Closing. This provision shall not be binding on the City of Portland to its boards as a municipality or its board, respectively, to change the zoning status of the Property.

(b) **Expiration of Feasibility Period**. If the Assessment reveals any condition on, in, under or regarding the Property which is unsatisfactory to Purchaser, Purchaser shall have the right, subject as hereinafter provided, to terminate this Agreement by giving written notice to that effect to Seller and Escrow Agent on or before 5:00 p.m. (in the time zone in which the Escrow Agent is located) on the date of expiration of the Feasibility Period. If Purchaser exercises such right, this Agreement shall terminate and be of no further force and effect, subject to and except for Purchaser's liability pursuant to Section 13(d) and any other provision of this Agreement which survives such termination, and Escrow Agent shall forthwith return the Deposit to Purchaser (subject to Purchaser's obligation under Section 13(e)(ii) to provide copies to Seller of all Assessment Reports (as defined below) and to return to Seller all Materials provided to Purchaser, each as a pre-condition to the return of such amount). If Purchaser fails to provide Seller with written notice of termination prior to the expiration of the Feasibility Period in strict accordance with the notice provisions of this Agreement, Purchaser's right to terminate under this Section 13(b) shall be permanently waived and this Agreement shall remain in full force and effect, the Deposit shall be non-refundable, and Purchaser's obligation to purchase the Property shall be non-contingent. For purposes of this Agreement, "Assessment Reports" means any reports, studies or other information prepared or compiled for Purchaser by any Consultant in connection with Purchaser's Assessment of the Property.

(c) **Conduct of Investigation**. Purchaser shall not permit any mechanic's or materialmen's liens or any other liens to attach to the Property by reason of the performance of any work or the purchase of any materials by Purchaser or any other party in connection with the Assessment conducted by or for Purchaser. Purchaser shall give notice to Seller a reasonable time prior to entry onto the Property and shall permit Seller to have a representative present during each entry onto the Property in connection with the Assessment. Purchaser shall cause the Consultants to conduct the Assessment in such a manner as to avoid any damage or disturbance to the Property. In the event any such damage or disturbance is created by Purchaser or a Consultant, Purchaser agrees to restore and repair same at Purchaser's sole cost and expense. All information made available by Seller to Purchaser in accordance with this Agreement or obtained by Purchaser in the course of its Assessment shall be treated as confidential information by both Seller and Purchaser, and, prior to the purchase of the Property by Purchaser, Purchaser shall use its best efforts to prevent the Consultants from divulging such information to any unrelated third parties except as reasonably necessary to third parties engaged by Purchaser for

the limited purpose of analyzing and investigating such information for the purpose of consummating the transaction contemplated by this Agreement. The provisions of this Section 13(c) shall survive the termination of this Agreement, and if not so terminated shall survive (except for the confidentiality provisions of this Section 13(c) as related to Purchaser) the Closing and delivery of the Deed to Purchaser.

(d) **Purchaser Indemnification.**

(i) Purchaser shall reimburse Seller for any actual losses for any and all damages, losses, demands, costs and expenses (including reasonable attorneys' fees, including the cost of in-house counsel and appeals) (collectively, "Losses") arising from or related to Purchaser's or any Consultant's entry onto the Property, and the Assessment or other matters performed by Purchaser with respect to the Property during the Feasibility Period or otherwise.

(ii) Notwithstanding anything in this Agreement to the contrary, Seller shall have the right, without limitation, to disapprove any and all aspects of the Assessment (including, without limitation, a Phase II environmental study of the Property) that in Seller's reasonable judgment could result in any injury to the Property or breach of any contract, or expose Seller to any Losses or violation of applicable law, or otherwise adversely affect the Property or Seller's interest therein. No consent by the Seller to any such activity shall be deemed to constitute a waiver by Seller or assumption of liability or risk by Seller. Purchaser hereby agrees to restore, at Purchaser's sole cost and expense, the Property to the same condition existing immediately prior to Purchaser's exercise of its rights pursuant to this Section 13. Purchaser shall cause all Consultants to maintain (a) casualty insurance and comprehensive public liability insurance with coverages of not less than $1,000,000.00 for injury or death to any one person and $3,000,000.00 for injury or death to more than one person and $500,000.00 with respect to property damage, by water or otherwise, and (b) worker's compensation insurance for all of their respective employees in accordance with the law of the state in which the Property is located.

(e) **Property Materials.**

(i) Not later than five (5) business days after the Effective Date, and subject to Section 13(e)(ii), Seller agrees to provide the following to Purchaser: Phase _ Environmental Site Assessment dated _____ prepared by _____ (the "Materials").

(ii) The Materials are not, and shall not be, certified to Purchaser by any party, and are provided to Purchaser for informational purposes only. In providing the Materials to Purchaser, Seller makes no representation or warranty, express, written, oral, statutory, or implied, and all such representations and warranties are hereby expressly excluded and disclaimed. The above Materials, and any further Materials provided by Seller to Purchaser under the terms of this Agreement are for informational purposes only and, together with all Assessment Reports, shall be returned by Purchaser to Seller as a condition to return of the Deposit to Purchaser (if Purchaser is otherwise entitled to such Deposit pursuant to the terms of this Agreement) if this Agreement is terminated for any reason. Purchaser recognizes and agrees that the Materials and other documents and information delivered or made available by Seller

pursuant to this Agreement may not be complete or constitute all of such documents which are in Seller's possession or control. Purchaser will not rely on such Materials or other documents as being a complete and/or accurate source of information with respect to the Property, and will instead in all instances rely exclusively on its own Assessment and Consultants with respect to all matters which it deems relevant to its decision to acquire, own and operate the Property.

(iii) The provisions of this Section 13(e) shall survive the Closing and delivery of the Deed to Purchaser.

14. **Risk of Loss or Casualty.**

(a) **Major Damage.** In the event that the Property is damaged or destroyed by fire or other casualty prior to Closing, and the cost of repair is more than $50,000, then Seller shall have no obligation to repair such damage or destruction and shall notify Purchaser in writing of such damage or destruction (the "Damage Notice"). Within 10 days after Purchaser's receipt of the Damage Notice, Purchaser may elect at its option to terminate this Agreement by delivering written notice to Seller, and if Purchaser so terminates this Agreement shall recover the Deposit hereunder (subject to Purchaser's obligation to provide copies of all Assessment Reports and return all Materials to Purchaser as a pre-condition to the return of the Deposit). In the event Purchaser fails to terminate this Agreement within the foregoing 10-day period, this transaction shall be closed in accordance with the terms of this Agreement for the full Purchase Price notwithstanding any such damage or destruction and Purchaser shall receive an assignment of all insurance proceeds pertaining thereto at Closing.

(b) **Minor Damage.** In the event that the Property is damaged or destroyed by fire or other casualty prior to the Closing, and the cost of repair is less than $50,000, this transaction shall be closed in accordance with the terms of this Agreement, notwithstanding the damage or destruction; provided, however, Seller shall make such repairs to the extent of any recovery from insurance carried on the Property if they can be reasonably effected before the Closing. Subject to Section 14(c), if Seller is unable to effect such repairs, then Purchaser shall receive an assignment of all insurance proceeds pertaining thereto at Closing.

(c) **Repairs.** To the extent that Seller elects to commence any repair, replacement or restoration of the Property prior to Closing, then Seller shall be entitled to receive and apply available insurance proceeds to any portion of such repair, replacement or restoration completed or installed prior to Closing, with Purchaser being responsible for completion of such repair, replacement or restoration after Closing from the balance of any available insurance proceeds. The provisions of this Section 14(c) shall survive the Closing and delivery of the Deed to Purchaser.

15. **Eminent Domain.**

In the event that, at the time of Closing, any material part of the Property is (or previously has been) acquired, or is about to be acquired, by any governmental agency by the powers of eminent domain or transfer in lieu thereof (or in the event that at such time there is any notice of any such acquisition or intent to acquire by any such governmental agency), Purchaser shall have the right, at Purchaser's option, to terminate this Agreement by giving written notice

within 10 days after Purchaser's receipt from Seller of notice of the occurrence of such event, and if Purchaser so terminates this Agreement shall recover the Deposit hereunder (subject to Purchaser's obligation to provide copies of all Assessment Reports and return all Materials to Purchaser as a pre-condition to the return of the Deposit). If Purchaser fails to terminate this Agreement within such 10-day period, this transaction shall be closed in accordance with the terms of this Agreement for the full Purchase Price and Purchaser shall receive the full benefit of any condemnation award. It is expressly agreed between the parties hereto that this Section shall in no way apply to customary dedications for public purposes which may be necessary for the development of the Property.

16. General Provisions.

(a) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument. Neither Seller nor Purchaser shall have any right, duty or obligation under this Agreement unless and until this Agreement or counterparts hereof have been executed and delivered by both Seller and Purchaser.

(b) This Agreement contains the entire agreement between the parties respecting the subject matter of this Agreement and supersedes all prior understandings and agreements, whether oral or in writing, between the parties with respect to the subject matter of this Agreement.

(c) This Agreement shall be governed by the laws of the State of Maine.

(d) If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any other person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

(e) The waiver by one party of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by the waiving party of any other covenant or condition under this Agreement. The waiver by either or both parties of the time for performing any act under this Agreement shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

(f) Time shall be of the essence as to all dates and times of performance under this Agreement.

(g) Purchaser shall not assign its rights or delegate its duties or obligations hereunder, except to an entity owned or controlled by Purchaser. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to this Agreement.

(h) In the event of any litigation involving the parties to this Agreement to enforce any provision of this Agreement, to enforce any remedy available upon default under this Agreement, or seeking a declaration of the rights of either party under this Agreement, the prevailing party shall be entitled to recover from the other such attorneys' fees and costs as may be reasonably incurred, including the costs of reasonable investigation, preparation and professional or expert consultation, by reason of such litigation.

(i) Each party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party as the source of the language in question. Headings used in this Agreement are for convenience of reference only and shall not be used in construing this Agreement.

(j) Purchaser represents, warrants and covenants that neither Purchaser nor any of its partners, officers, directors, members or shareholders (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (***"OFAC"***) pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (***"Order"***) and all applicable provisions of Title III of the USA Patriot Act (Public Law No. 107-56 (October 26, 2001)); (ii) is listed on the Denied Persons List and Entity List maintained by the United States Department of Commerce; (iii) is listed on the List of Terrorists and List of Disbarred Parties maintained by the United States Department of State, (iv) is listed on any list or qualification of "Designated Nationals" as defined in the Cuban Assets Control Regulations 31 C.F.R. Part 515; (v) is listed on any other publicly available list of terrorists, terrorist organizations or narcotics traffickers maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to the Order, the rules and regulations of OFAC (including without limitation the Trading with the Enemy Act, 50 U.S.C. App. 1-44; the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06; the unrepealed provision of the Iraq Sanctions Act, Publ. L. No. 101-513; the United Nations Participation Act, 22 U.S.C. § 2349 as-9; The Cuban Democracy Act, 22 U.S.C. §§ 60-01-10; The Cuban Liberty and Democratic Solidarity Act, 18 U.S.C. §§ 2332d and 233; and The Foreign Narcotic Kingpin Designation Act, Publ. L. No. 106-120 and 107-108, all as may be amended from time to time); or any other applicable requirements contained in any enabling legislation or other Executive Orders in respect of the Order (the Order and such other rules, regulations, legislation or orders are collectively called the ***"Orders"***); (vi) is engaged in activities prohibited in the Orders; or (vii) has been convicted, pleaded nolo contendere, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes or in connection with the Bank Secrecy Act (31 U.S.C. §§ 5311 et seq.).

(k) Seller and Purchaser each expressly acknowledge and agree that the transactions contemplated by this Agreement and the terms, conditions, and negotiations concerning the same will be held in the strictest confidence by each of them until Closing and

will not be disclosed by either of them to any party outside their respective organizations, except to their respective legal counsel, investors, lenders, accountants and consultants, and except and only to the extent that such disclosure may be necessary for their respective performances hereunder. Nothing contained in this Section will preclude or limit either party to this Agreement from disclosing or accessing any information otherwise deemed confidential under this Section (i) which is, at the time of such disclosure, a part of the public domain through no violation or breach of the confidentiality provisions contained herein, (ii) in response to lawful process or subpoena or other valid or enforceable order of a court of competent jurisdiction or any filings with governmental authorities required by reason of the transactions provided for herein pursuant to an opinion of counsel or (iii) in connection with Purchaser obtaining due diligence information.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

SELLER: BOTTLING GROUP, LLC

By: _____
Name: Cynthia M. Poggiogalle
Its: Director of Real Estate
Date Signed: April/May __, 2015

PURCHASER: **CITY OF PORTLAND**

By: _____
Name: Michael Sauschuck
Its: Acting City Manager
Date Signed:
May __, 2015

AGREED TO AND ACCEPTED:

ESCROW AGENT: Cumberland Title Company

By: _____
Name:
Its:
Date Signed:_____

Exhibit "A"

Legal Description of Land

[Deed recorded at Book 21872, Page 312, in the Cumberland County Registry of Deeds]

Exhibit "B"

Non-Foreign Affidavit

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by the transferor, the undersigned hereby certifies the following on behalf of the transferor named below:

1. The transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. The transferor's U.S. employer identification number is _____.

3. The transferor's office address is c/o Pepsi Beverages Company, 1 Pepsi Way, Somers, New York 10589-2201.

The transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of the transferor.

transferor*	name of person signing*	signature	date

* PRINT OR TYPE

The transferee must retain this certificate until the end of the fifth taxable year following the taxable year in which the transfer takes place and make it available to the Internal Revenue Service when requested.

Order 10-15/16
~~Tab 18 7-6-15~~
Tab 13 7-20-15

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 GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED $3,400,000

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

ORDERED THAT:

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Three Million Four Hundred Thousand Dollars ($3,400,000) to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately 4 acre parcel of land known as the Quarry Road property and all other costs (as defined herein) related and ancillary thereto (the "Project") in furtherance of the relocation of the City's Department of Public Services Bayside activities.

BE IT FURTHER ORDERED

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of $3,400,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

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

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

4. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

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

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

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

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

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

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-

entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

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

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

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

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

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

16. That the term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Projects; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable

in connection with the Projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Projects; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

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

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

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

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

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

22. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and

manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

Order 11-15-16
~~Tab 19 9-6-15~~
Tab 14 7-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROPRIATING $3,400,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of $3,400,000 be and hereby is appropriated to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately 4-acre parcel of land known as the Quarry Road property in furtherance of the relocation of the City's Department of Public Services Bayside activities.

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

Order 12-15/16
~~Tab 30 9-6-15~~
Tab 15 7-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROPRIATING $930,000 OF LAND SALE REVENUE

IT IS HEREBY ORDERED THAT the amount of $930,000 be and hereby is appropriated from the Committed Fund Balance holding proceeds generated by the sale of City property for the following purpose: to pay a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately 4-acre parcel of land known as the Quarry Road property in furtherance of the relocation of the City's Department of Public Services Bayside activities..

Order 13-15/16
~~Tab 31 9-6-15~~
Tab 16 9-20-15

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 BAYSIDE TAX INCREMENT FINANCING DISTRICT

ORDERED, that the Bayside Tax Increment Financing District approved by City Council Order 135-03/04 and as amended by Orders 255-04/05, 239-05/06, 224-06/07, 242-07/08, 262-08/09, 217-09/10 and 86-14/15, is hereby further amended in substantially the form attached hereto; and

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

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 3, 2015

SUBJECT: **Order Authorizing Amending the Bayside TIF District to Expand Allowable Uses of Municipal TIF Revenue**

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

Council meeting at which action is requested:

1st reading: July 6, 2015;
2nd reading/final action: July 20, 2015

Can action be taken at a later date? Yes.

Presentation: Greg Mitchell/5 Minutes

I. SUMMARY OF ISSUE

This matter is being presented to the City Council for review and authorization to amend the existing approved Bayside Tax Increment Financing (TIF) District to expand the allowable uses of municipal TIF revenues. The reason for these amendments is to expand City options to invest Bayside TIF revenue to support near term planned work for sea level adaptation planning, along with creating options to fund future public infrastructure and environmental assessment and remediation work.

The existing Bayside TIF District was recently amended to expand its geography to align with the *Bayside Vision* Plan boundaries.

This TIF amendment would expand allowable uses of municipal TIF revenue to fund costs of public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and remediation to support commercial development, and costs associated with environmental sea level adaptation planning and public infrastructure to support commercial development. Table 1 in the attached amended TIF application includes these additional uses, as well as those originally approved.

To date, TIF District revenues have been used to invest in the following:

- Credit Enhancement Agreement for the Intermed Building
- Credit Enhancement Agreement for the Bayside Student Housing Project
- Infrastructure for Whole Foods
- HUD 108 Loan Repayment

II. REASON FOR SUBMISSION

Amendments to TIF Districts require City Council authorization.

III. INTENDED RESULT

The intended result is to expand the allowable investment of municipal Bayside TIF funds to include public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and remediation to support commercial development, and costs associated with environmental sea level adaptation planning and public infrastructure to support commercial development.

IV. COUNCIL GOAL ADDRESSED

Implement TIF Programs that focus 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.

V. FINANCIAL IMPACT

City Council and Maine Department of Economic and Community Development (MDECD) approval of this TIF District amendment expands options to invest TIF District revenue. The City will realize savings in tax sheltering benefits from the Bayside TIF District in an annual amount of approximately $680,307.

VI. STAFF RECOMMENDATION

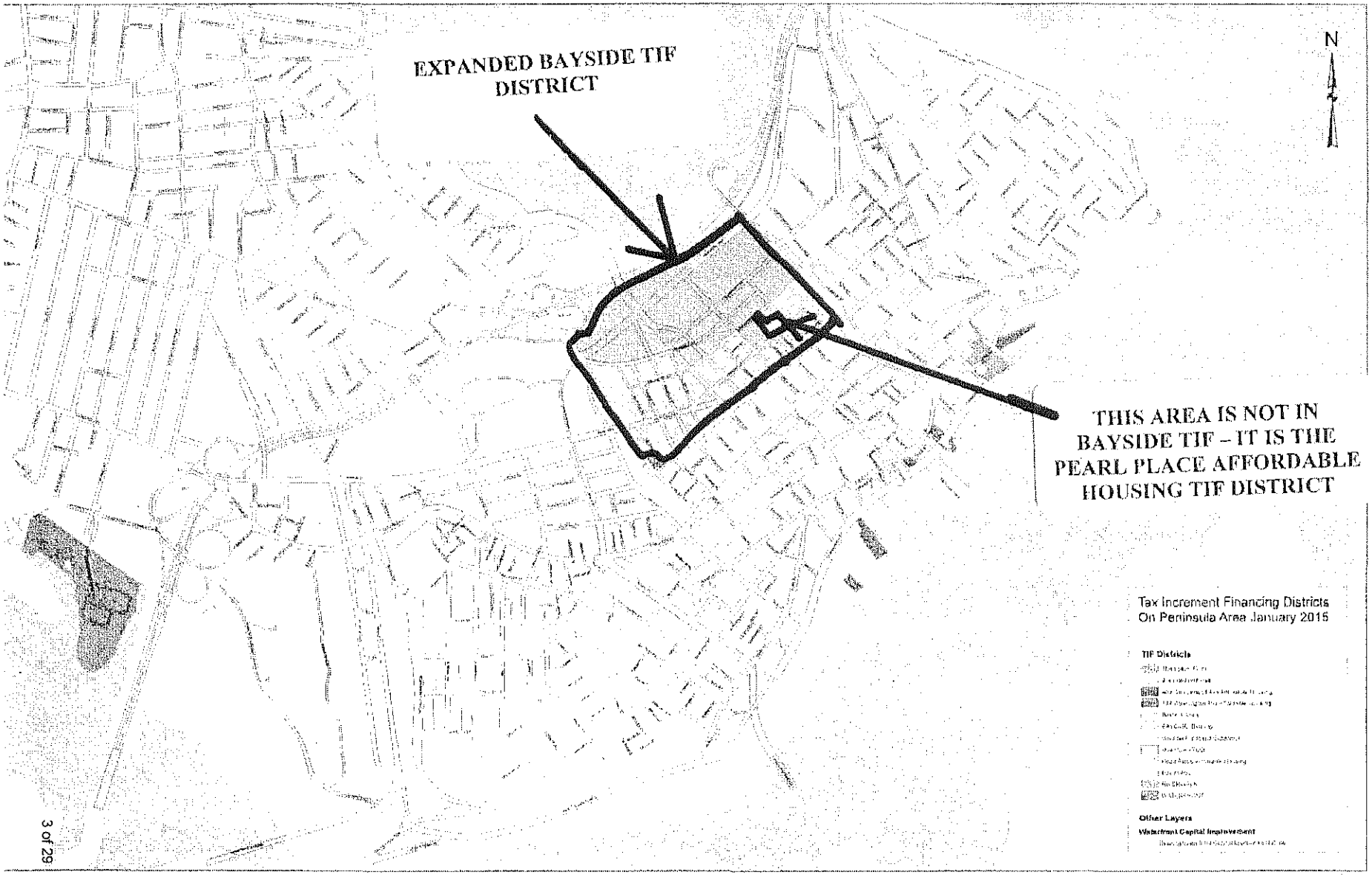
Staff recommended to the HCDC that it forward the proposed Bayside TIF Amendment to expand allowable municipal use of TIF revenues.

VII. HCDC RECOMMENDATION

The HCDC reviewed this item at its June 10 and unanimously recommended (4-0) to forward this to the City Council with a recommendation for approval in substantially the form as presented.

VIII. LIST ATTACHMENTS

- Existing Bayside TIF District Map
- Amended and Restated Bayside TIF District Program in Marked Revision Format
- Amended and Restated Bayside TIF District Program in Clean Format
- Spreadsheets for TIF Models


EXPANDED BAYSIDE TIF DISTRICT
N
THIS AREA IS NOT IN BAYSIDE TIF – IT IS THE PEARL PLACE AFFORDABLE HOUSING TIF DISTRICT
Tax Increment Financing Districts
On Peninsula Area January 2015
TIF Districts
Other Layers
Waterfront Capital Improvement

I. Introduction/Updated 2014

East and West Bayside continue to be gateways to Portland's peninsula. A lot of changes to East and West Bayside have occurred since the Bayside (West) TIF District was adopted by the City Council on March 17, 2003. Relocation of one scrap yard and the addition of new medical office buildings, new housing for college students, planned market rate housing and commercial space associated with the Federated Midtown Project, two new grocery stores, pharmacies, and financial institutions have transformed West Bayside's industrial heritage to a more compact urban development pattern, which extends the Central Business District to I-295. East Bayside has been experiencing its own transformation with new coffee shops, artist studios, and new housing. Continued attention to the West Bayside TIF District is needed to fulfill the *Bayside Vision*.

History

In 1996, the process began when the City of Portland obtained funding from the Environmental Protection Agency (EPA) to undertake a Brownfield's Pilot Project in Bayside. The City designated a ten-lot, 14-acre parcel between Oxford Street and Marginal Way as the Bayside Brownfield's Project Area and has since created a $500,000 loan fund for the express purpose of cleaning up the site to clear the way for future development. The study area was subsequently enlarged to incorporate the area from Congress Street to I-295, and from Franklin Arterial to Forest Avenue, which is approximately 129 acres.

Since 1996, the City of Portland has been working with a team of consultants on planning for opportunities for the reuse of the Bayside land. An extensive public participation process, which involved hundreds of participants, produced a plan entitled "A New Vision for Bayside". The Bayside plan identifies the following eleven development principles and five critical actions in order to transform this area into a vital, productive and diverse urban neighborhood:

Development Principles

- Urban Gateway
- Economic and Employment Opportunities
- A Walkable District
- A Critical Mass of Dwellings
- Transit Oriented Development
- Multi-level Parking Structures
- A Neighborhood Center
- Recreation and Open Space
- A Social Service Network
- Environmental Remediation
- Scrap yard Redevelopment

Critical Actions

- Acquire the Railroad Property
- Redevelop the Scrap yard Parcels
- Build More Housing
- Create Transit Oriented Development
- Secure the Future of Portland's Social Service Network

Public participation continues to be an ongoing aspect of the Plan's implementation. The Bayside Neighborhood Association and the Bayside Community Development Corporation include neighborhood property owners, residents, commercial owners and tenants.

Since adopting the Bayside Vision Plan in December 1999 as a part of the Comprehensive Plan, the City has moved forward on several of the identified critical actions. After several years of complex negotiations with Guilford Transportation and the Maine Department of Transportation, the City purchased the Railroad property. Using Housing and Urban Development ("HUD") and Economic Development Administration ("EDA") funding, this 6+ acre parcel made the City a major property owner in the area of Bayside slated primarily for commercial redevelopment.

EDA and City Capital Improvement Funds have been used to rebuild the sewer system along Somerset Street, adjacent to the railroad parcel, as well as to extend Chestnut Street from Somerset Street to Marginal Way. These improvements were key infrastructure investments for new development in Bayside. The City continues to be committed to investing in Bayside as funding becomes available, but clearly a variety of financing mechanisms have been and will continue to be needed.

With these first actions completed, attention has been focused on the need for structured parking associated with the Federated Midtown Project. At meeting after meeting, then Bayside Development Committee (BDC) members stated unequivocally that the Bayside Plan cannot be implemented to its fullest without structured parking; and that the entire redevelopment plan hinges upon the relocation of the scrap metal recycling facilities. Furthermore, it is clear that the private sector cannot afford to make new investments in Bayside that include the cost of creating structured parking, nor can the market alone bear the cost of relocating the scrap metal recycling facilities.

The first such private development project which included constructing garages occurred on property that was sold by the City to two private developers (Capital, LLC and Southern Maine Student Housing, LLC) who planned a then estimated $38,400,000 in new taxable commercial investment. The project consisted of a 72,000 sq. ft. office building, perched upon a 430 space parking garage with ground floor retail, alongside a 405 bed student housing facility with a 130 space parking garage. The cost of constructing the structured parking added more costs to the project than market rents could support, so financing relief was sought through the use of Credit Enhancement Agreements (Exhibit 5) so that the project moved forward with the density sought for Bayside. This entire investment occupies just over 3 acres by reducing the footprint and allowing for vertical expansion.

The purpose of this Amendment #7 to this~~ed~~ TIF application is to ~~create an increased revenue source that can meet these needs~~amend the Development Program to include municipal use of TIF funds for costs of public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and

remediation work to support commercial development, costs associated with environmental sea level adaptation planning and public infrastructure to support commercial development, as well as other development principles and critical actions items contained in the *Bayside Vision Report I and II*, and to expand the District to include all of the Bayside area included in the *Bayside Vision*.
This Amended TIF District will assist in accomplishing the goals of the *Bayside Vision*.

The public benefits associated with an amendedexpanded Bayside TIF District include:

- Provide support for Portland's **continued economic development;**
- Help increase the **vibrancy and stability of the Bayside neighborhood;**
- Create **employment opportunities** for area residents;
- Produce **tax shift benefits** averaging an estimated savings to the City of $680,307 annually;
- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

II. Amended Development Program

A. The Amended Project

With this amended and restated Development Program, the City of Portland seeks to expandamend the Bayside Redevelopment Tax Increment Financing District to add additional municipal uses of TIF revenue consistent align with the area of Bayside contained in the *Bayside Vision Plans I and II* asfor the purposes of (and further detailed in Table 1 in Section II(D) below.):

- create additional parking structures
- entering into Credit Enhancement Agreements (CEA) with developers to facilitate the construction of new taxable commercial investment in Bayside, all as per City of Portland TIF Policy, approved by City Council on 2/4/2013 (attached as Exhibit 7), which limits CEAs to a maximum of 65% captured value, and a maximum term of 20 years – or the remaining term of this Amended District, whichever is less.
- relocation of the one remaining scrap metal recycling facility and acquisition of scrap metal yard site
- infrastructure (roadway and sidewalk) located in District
- pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances Bayside investment
- public infrastructure improvements for both pedestrians and transit, lighting, and open space/trails
- supporting the Economic Development Department with funds to market and prepare for redevelopment land in Bayside

- ~~cover the City's Economic Development Department staff costs~~

The success of these efforts will enhance the City's ability to attract new investment to Bayside, leading to a densely developed commercial district, which will create new taxable value and provide expanded opportunities for employment. The City's Economic Development Department will market the City's land as potential building sites to prospective businesses and developers, in addition to promoting Bayside as a whole.

B. *The ~~Amended~~ Development District*

Properties that are to be designated as part of the ~~Amended~~ TIF District ~~and are the subject of this application~~ are shown on the ~~revised~~ attached map (Exhibit 4), containing approximately 129.186~~7~~ acres with an original assessed value as shown on Exhibit 11 as $122,318,180~~of $78,251,800 – real property value only – as of March 31, 2014. When this 67 acres is added to the existing Bayside TIF District of 62.18, the Amended District would total 129.18 acres. Note: The City is now adjusting the previously submitted approved acreage of 77 to 62.18 based on current City GIS mapping. This adjustment is reflective of the properties which make up the original assessed value for the district as of 3/31/2007 of $44,066,380 – real and personal property value.~~

The ~~Amended~~ TIF District will apply to only new value generated within the District and will not affect the current property tax base.

C. *The Amended Development Program*

The City of Portland, by designating the Amended Bayside Redevelopment TIF District, will potentially capture all new investments made within the Amended District. The City is projecting to capture up to 100% of the new assessed value over the original assessed value, and retain from the district the new tax revenues generated from that captured assessed value. These revenues will be allocated to the Project Cost Account for the purposes described in II.A. above and further detailed in Section II(D) below. Each year, the City Council may adjust the specific amount to be captured and retained for purposes of this Amended TIF, based upon the needs of the Amended District, and the commitments made through Credit Enhancement Agreements, collateral for loan or bond repayment, and the like.

~~Note: As noted in Section II(B), the Original Bayside District of 62.18 captures increased assessed value of real and personal property, and this will continue; the added property of 67 acres will only capture increased assessed value of real property.~~

D. *The Projects*

The City of Portland seeks authorization to utilize the revenues generated from the Amended Bayside TIF District to support economic development in Bayside, all as

more detailed in Table 1 below: See Table 1 Below for Municipal Use of TIF Revenues, Statutory Citation, and Cost Estimates – Citations all refer to Title 30-A, Chapter 206, Section 5225.

Table 1

Municipal Use of TIF Revenues	Statutory Citation	Cost Estimate
In District: Create Additional Parking Structures	(1)(A)	$10,000,000
In District: Existing Credit Enhancement Agreements ~~(Approved prior to Amended District)~~; others as negotiated, executed with public process per Section II A	(1)(A)	$6,000,000 over life of TIF District for existing CEAs
In District: Relocate one remaining scrap metal recycling facility and acquisition of scrap metal yard site	(1)(A)	T/B/D
In District: Infrastructure (roadway, ~~and~~ sidewalk, and transportation improvement projects) located in District	(1)(A)	T/B/D
In District: Pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances public Bayside investment	(1)(A)	$6,000,000 over life of TIF District
In District: Public infrastructure improvements for both pedestrians and transit, lighting, and open space/trails	(1)(A)	T/B/D
In District: Funding the Economic Development Department, including salaries, to market and prepare for Bayside Redevelopment	(1)(A)	$500,000
In and out of District: a.) Cover the City's Economic Development Department costs, including salaries*; b.) Environmental site assessment and remediation to support commercial development; c.) Environmental sea level adaptation planning and public infrastructure to support commercial development	(1)(A) and (1)(C)(1) (1)(C)(2) (1)(C)(2)	$250,000/annual or $4,500,000 over life of TIF District $150,000 T/B/D
Total:		**$27,15000,000**

*This item is not unique to this TIF District; it is also included in the Riverwalk TIF District~~, UNUM TIF District,~~ and the Waterfront TIF District.

E. Operational Components

1. Public Facilities

The City will invest in projects to further goals of the *Bayside Vision,* as outlined in Table 1 above.

2. Uses of Private Property

The Amended Bayside Economic Redevelopment Program and TIF District includes both public and private property. The funds generated from this district will be used to support commercial investment on both public and private land, the latter through the use of CEA as noted II.(D) above.

3. Plans for relocation of persons displaced by development activities.

Though not contemplated at this point, any possible relocation costs of displaced persons resulted from one or more City projects funded through this Amended Development Program shall be covered by the City as required.

4. Transportation Improvements

A description of the transportation-related improvements to be financed through this Amended Development Program is set forth above in Table 1 of the Development Program Section II(D).

5. Environmental Controls

The Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

6. Plan of Operation of Amended District

During the life of the Amended Tax Increment Financing District, the City of Portland, City Council, or their designee, will be responsible for the administration of the District.

III. Physical Description

As noted previously, properties that are to be designated as part of the Amended TIF District ~~and are the subject of this application~~ are shown on the ~~revised~~ attached map (Exhibit 4), ~~with the added property to the original District containing approximately 67 acres with an original assessed value of $78,251,800 – real property value only – as of March 31, 2014. When this 67 acres is added to the existing Bayside TIF District of 62.18, the Amended District would~~ totaling 129.18 acres ~~Note: The City is now adjusting the previously submitted approved acreage of the original District of 77 to 62.18 based on current City GIS mapping. This adjustment is reflective of the properties which make up the original assessed value for the district as of 3/31/2007 of $44,066,380 – real and personal property value.~~

~~The Amended District is shown on Exhibit 4 – which highlights the original District in orange, and the amended/added properties in pink. Both of these areas in orange and pink make up the Amended District.~~ The statutory threshold limits addressing

the conditions for approval mandated by 30-A M.R.S.A. Section 5223(3) are set forth in Exhibit 6.

Enclosed municipal maps:

1. Area map showing site location of the Amended TIF District in relation to geographic location of municipality (Exhibit 3).

2. Site map showing tax map locations of the Amended TIF District (Exhibit 4).

IV. Financial Plan

A. Costs and Sources of Revenues

With Amendment #6 to this TIF District, the acreage was increased to 129.18 acres, with an associated OAV set at $122,318,180 as set forth in Exhibit 11. Exhibit 11 details the OAV from the inception of the Bayside TIF District, to its 1st expansion via Amendment 1, and 2nd expansion via Amendment 6. ~~The original Bayside TIF District comprised an area of approximately 11 acres of real property with an original assessed value of $1,608,190 as of March 31, 2002. On July 6, 2005, the City Council authorized an expansion of the TIF District as shown on Exhibit 4 to a total of 62.18 acres (see explanation in II.B above), with a revised original assessed value of $44,066,380 as of March 31, 2007 – real and personal property value.~~ Exhibit 4 is the map which ~~also~~ highlights the ~~Amended~~ District encompassing the entire 129.18~~the original 62.18~~ acres.~~, as well as the 67 acres for this expansion. The real property value in this expanded area of 67 acres has an Original Assessed Value as of March 31, 2014, of $78,251,800.~~

The Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the District to be captured and designated as TIF Revenues. The City will apply the retained revenues to the economic development activities described in the Amended Development Program. To date, these activities are included~~ and noted~~ in Table 1, Section II(D) above.~~:~~

- ~~Assisting with the Financing for Parking Structures – est. $10,000,000+~~
- ~~Credit Enhancement Agreements with Capital, LLC and Southern Maine Student Housing, LLC for the construction of 550 structured parking spaces - $6,000,000 ($450,000 per year for 10 years, and $300,000 per year for an additional 5 years).~~
- ~~Relocate one remaining scrap metal recycling facility and acquisition of scrap metal yard site~~
- ~~Infrastructure (roadway and sidewalk) located in District~~
- ~~Pledging TIF revenue as a repayment source for HUD or any other agency or entity that finances Bayside investment ($400,000 per year for 15 years).~~

- ~~Public infrastructure improvements for both pedestrians and transit, lighting and open space/trails;~~
- ~~Economic Development Department Staffing and Land Preparation and Marketing – est. $500,000;~~
  ~~Cover the City's Economic Development Department staff costs – est. $250,000/annually~~

The attached ~~Revised~~ Exhibit 1 details the projections of retained revenues based upon the anticipated assessed value increases within the District. ~~Revised~~ Exhibit 1 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

B. *Development Program Account*

This Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227(3).

The Bayside TIF Development Program Account is established consisting of a project cost account ("Project Cost Account") pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of Company Cost Subaccounts (Company Cost Subaccount), pledged to and charged with payment to authorized companies under the terms of an approved Credit Enhancement Agreement for reimbursements for eligible project costs, and a City Cost Subaccount (the "City Cost Subaccount") pledged to, and charged with, payment to the City for the cost of approved economic development expenses.

C. *Financing Plan*

The original TIF District comprised an area of approximately 11 acres of real and personal property. The value of the real and personal property within the district as of March 31, 2002 was established as the original assessed value. With the subsequent expansion (Amendment 1), the value of the additional real and personal property within the district expansion as of March 31, 2007 was established as the original assessed value, with that value being $44,066,380. With the~~is~~ additional expansion via Amendment 6 from 62.18 to add 67 acres to the District, for a total of 129.18~~6~~ acres, the value of real property within the expanded District of 67 acres has a March 31, 2014 date established as the original assessed value, or $78,251,800 as detailed in Section IV.A. above, for a total OAV of the District at $122,318,180.

The developments within the described Amended Bayside TIF District will add significant new taxable value in the City of Portland. TIF revenues will be allocated as described on ~~Revised~~ Exhibit 1 to finance the costs described in the Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained, or a specific amount to be

retained within the Amended District, and the actual annual assessed value within the Amended District, to be determined by the City Council on a yearly basis.

V. Amended Financial Data (See Statutory Requirements & Thresholds, Exhibit 6)

A. Estimate of increased assessed value by year after implementation of the development program: See ~~Revised~~ Exhibit 1

B. Percentage of increased assessed value to be applied to the development program fund: See ~~Revised~~ Exhibit 1

C. Estimated annual tax increment: $1,717,654 (Average)

D. Total average annual value of development program fund: $1,717,654 (Average)

E. Annual principal and interest payment of bonded indebtedness: N/A at this time

F. Financial assumptions and safeguards: The City of Portland is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit.

VI. Tax Shifts (See Exhibit 2)

A. Average Annual Amount:

General Purpose Aid to Education Tax Shift: $593,812

Municipal Revenue Sharing Tax Shift: $47,751

County Tax Shift: $38,745

Total Average Annual Savings: $680,307

VII. Municipal Approvals

A. Public Hearing Notice

The City of Portland did giver proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §5253. The notice was published on ~~November 3~~, 2015~~4~~, in a newspaper of general circulation (see Exhibit 8).

B. *Public Hearing*

A Public Hearing at which the proposed Amended Bayside Municipal Tax Increment Financing District was discussed was held on ~~November 17,~~ 2015~~4~~, in the Portland

City Council Chambers. A copy of the minutes of that meeting is included as Exhibit 9.

C. *Authorizing Votes*

An attested copy of the resolution of the Portland City Council designating the Amended Municipal TIF district created for the implementation of the Bayside Redevelopment Program is included as Exhibit 10.

D. *Assessor's Certification*

An attested copy of the certification by the City of Portland Tax Assessor as to the revised Original Assessed Value of the expanded Bayside Municipal Tax Increment Financing District is included as Exhibit 11.

I. Introduction/Updated 2014

East and West Bayside continue to be gateways to Portland's peninsula. A lot of changes to East and West Bayside have occurred since the Bayside (West) TIF District was adopted by the City Council on March 17, 2003. Relocation of one scrap yard and the addition of new medical office buildings, new housing for college students, planned market rate housing and commercial space associated with the Federated Midtown Project, two new grocery stores, pharmacies, and financial institutions have transformed West Bayside's industrial heritage to a more compact urban development pattern, which extends the Central Business District to I-295. East Bayside has been experiencing its own transformation with new coffee shops, artist studios, and new housing. Continued attention to the West Bayside TIF District is needed to fulfill the *Bayside Vision*.

History

In 1996, the process began when the City of Portland obtained funding from the Environmental Protection Agency (EPA) to undertake a Brownfield's Pilot Project in Bayside. The City designated a ten-lot, 14-acre parcel between Oxford Street and Marginal Way as the Bayside Brownfield's Project Area and has since created a $500,000 loan fund for the express purpose of cleaning up the site to clear the way for future development. The study area was subsequently enlarged to incorporate the area from Congress Street to I-295, and from Franklin Arterial to Forest Avenue, which is approximately 129 acres.

Since 1996, the City of Portland has been working with a team of consultants on planning for opportunities for the reuse of the Bayside land. An extensive public participation process, which involved hundreds of participants, produced a plan entitled "A New Vision for Bayside". The Bayside plan identifies the following eleven development principles and five critical actions in order to transform this area into a vital, productive and diverse urban neighborhood:

Development Principles

- Urban Gateway
- Economic and Employment Opportunities
- A Walkable District
- A Critical Mass of Dwellings
- Transit Oriented Development
- Multi-level Parking Structures
- A Neighborhood Center
- Recreation and Open Space
- A Social Service Network
- Environmental Remediation
- Scrap yard Redevelopment

Critical Actions

- Acquire the Railroad Property
- Redevelop the Scrap yard Parcels
- Build More Housing
- Create Transit Oriented Development
- Secure the Future of Portland's Social Service Network

Public participation continues to be an ongoing aspect of the Plan's implementation. The Bayside Neighborhood Association and the Bayside Community Development Corporation include neighborhood property owners, residents, commercial owners and tenants.

Since adopting the Bayside Vision Plan in December 1999 as a part of the Comprehensive Plan, the City has moved forward on several of the identified critical actions. After several years of complex negotiations with Guilford Transportation and the Maine Department of Transportation, the City purchased the Railroad property. Using Housing and Urban Development ("HUD") and Economic Development Administration ("EDA") funding, this 6+ acre parcel made the City a major property owner in the area of Bayside slated primarily for commercial redevelopment.

EDA and City Capital Improvement Funds have been used to rebuild the sewer system along Somerset Street, adjacent to the railroad parcel, as well as to extend Chestnut Street from Somerset Street to Marginal Way. These improvements were key infrastructure investments for new development in Bayside. The City continues to be committed to investing in Bayside as funding becomes available, but clearly a variety of financing mechanisms have been and will continue to be needed.

With these first actions completed, attention has been focused on the need for structured parking associated with the Federated Midtown Project. At meeting after meeting, then Bayside Development Committee (BDC) members stated unequivocally that the Bayside Plan cannot be implemented to its fullest without structured parking; and that the entire redevelopment plan hinges upon the relocation of the scrap metal recycling facilities. Furthermore, it is clear that the private sector cannot afford to make new investments in Bayside that include the cost of creating structured parking, nor can the market alone bear the cost of relocating the scrap metal recycling facilities.

The first such private development project which included constructing garages occurred on property that was sold by the City to two private developers (Capital, LLC and Southern Maine Student Housing, LLC) who planned a then estimated $38,400,000 in new taxable commercial investment. The project consisted of a 72,000 sq. ft. office building, perched upon a 430 space parking garage with ground floor retail, alongside a 405 bed student housing facility with a 130 space parking garage. The cost of constructing the structured parking added more costs to the project than market rents could support, so financing relief was sought through the use of Credit Enhancement Agreements (Exhibit 5) so that the project moved forward with the density sought for Bayside. This entire investment occupies just over 3 acres by reducing the footprint and allowing for vertical expansion.

The purpose of this Amendment #7 to this TIF application is to amend the Development Program to include municipal use of TIF funds for costs of public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and remediation work to support commercial development, costs associated

with environmental sea level adaptation planning and public infrastructure to support commercial development, as well as other development principles and critical actions items contained in the *Bayside Vision Report I and II*

The public benefits associated with an amended Bayside TIF District include:

- Provide support for Portland's **continued economic development;**
- Help increase the **vibrancy and stability of the Bayside neighborhood;**
- Create **employment opportunities** for area residents;
- Produce **tax shift benefits** averaging an estimated savings to the City of $680,307 annually;
- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

II. Amended Development Program

A. The Amended Project

With this amended and restated Development Program, the City of Portland seeks to amend the Bayside Redevelopment Tax Increment Financing District to add additional municipal uses of TIF revenue consistent *Bayside Vision Plans I and II* as detailed in Table 1 in Section II(D) below.

The success of these efforts will enhance the City's ability to attract new investment to Bayside, leading to a densely developed commercial district, which will create new taxable value and provide expanded opportunities for employment. The City's Economic Development Department will market the City's land as potential building sites to prospective businesses and developers, in addition to promoting Bayside as a whole.

B. The Development District

Properties that are to be designated as part of the TIF District are shown on the attached map (Exhibit 4), containing approximately 129.18 acres with an original assessed value as shown on Exhibit 11 as $122,318,180

The TIF District will apply to only new value generated within the District and will not affect the current property tax base.

C. The Amended Development Program

The City of Portland, by designating the Amended Bayside Redevelopment TIF District, will potentially capture all new investments made within the Amended

District. The City is projecting to capture up to 100% of the new assessed value over the original assessed value, and retain from the district the new tax revenues generated from that captured assessed value. These revenues will be allocated to the Project Cost Account for the purposes described in II.A. above and further detailed in Section II(D) below. Each year, the City Council may adjust the specific amount to be captured and retained for purposes of this Amended TIF, based upon the needs of the Amended District, and the commitments made through Credit Enhancement Agreements, collateral for loan or bond repayment, and the like.

D. The Projects

The City of Portland seeks authorization to utilize the revenues generated from the Amended Bayside TIF District to support economic development in Bayside, all as more detailed in Table 1 below: See Table 1 Below for Municipal Use of TIF Revenues, Statutory Citation, and Cost Estimates – Citations all refer to Title 30-A, Chapter 206, Section 5225.

Table 1

Municipal Use of TIF Revenues	Statutory Citation	Cost Estimate
In District: Create Additional Parking Structures	(1)(A)	$10,000,000
In District: Existing Credit Enhancement Agreements; others as negotiated, executed with public process per Section II A	(1)(A)	$6,000,000 over life of TIF District for existing CEAs
In District: Relocate one remaining scrap metal recycling facility and acquisition of scrap metal yard site	(1)(A)	T/B/D
In District: Infrastructure (roadway, sidewalk, and transportation improvement projects) located in District	(1)(A)	T/B/D
In District: Pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances public Bayside investment	(1)(A)	$6,000,000 over life of TIF District
In District: Public infrastructure improvements for both pedestrians and transit, lighting, and open space/trails	(1)(A)	T/B/D
In District: Funding the Economic Development Department, including salaries, to market and prepare for Bayside Redevelopment	(1)(A)	$500,000
In and out of District: a.) Cover the City's Economic Development Department costs, including salaries*; b.) Environmental site assessment and remediation to support commercial development; c.) Environmental sea level adaptation planning and public infrastructure to support commercial development	(1)(A) and (1)(C)(1) (1)(C)(2) (1)(C)(2)	$250,000/annual or $4,500,000 over life of TIF District $150,000 T/B/D
Total:		**$27,150,000**

*This item is not unique to this TIF District; it is also included in the Riverwalk TIF District and the Waterfront TIF District.

E. Operational Components

1. Public Facilities

The City will invest in projects to further goals of the *Bayside Vision,* as outlined in Table 1 above.

2. Uses of Private Property

The Amended Bayside Economic Redevelopment Program and TIF District includes both public and private property. The funds generated from this district will be used to support commercial investment on both public and private land, the latter through the use of CEA as noted II.(D) above.

3. Plans for relocation of persons displaced by development activities.

Though not contemplated at this point, any possible relocation costs of displaced persons resulted from one or more City projects funded through this Amended Development Program shall be covered by the City as required.

4. Transportation Improvements

A description of the transportation-related improvements to be financed through this Amended Development Program is set forth above in Table 1 of the Development Program Section II(D).

5. Environmental Controls

The Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

6. Plan of Operation of Amended District

During the life of the Amended Tax Increment Financing District, the City of Portland, City Council, or their designee, will be responsible for the administration of the District.

III. Physical Description

As noted previously, properties that are to be designated as part of the Amended TIF District are shown on the attached map (Exhibit 4), totaling 129.18 acres
The statutory threshold limits addressing the conditions for approval mandated by 30-A M.R.S.A. Section 5223(3) are set forth in Exhibit 6.

Enclosed municipal maps:

1. Area map showing site location of the Amended TIF District in relation to geographic location of municipality (Exhibit 3).

2. Site map showing tax map locations of the Amended TIF District (Exhibit 4).

IV. Financial Plan

A. Costs and Sources of Revenues

With Amendment #6 to this TIF District, the acreage was increased to 129.18 acres, with an associated OAV set at $122,318,180 as set forth in Exhibit 11. Exhibit 11 details the OAV from the inception of the Bayside TIF District, to its 1st expansion via Amendment 1, and 2nd expansion via Amendment 6. Exhibit 4 is the map which highlights the District encompassing the entire 129.18 acres.

The Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the District to be captured and designated as TIF Revenues. The City will apply the retained revenues to the economic development activities described in the Amended Development Program. To date, these activities are included in Table 1, Section II(D) above.

The attached Exhibit 1 details the projections of retained revenues based upon the anticipated assessed value increases within the District. Exhibit 1 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

B. Development Program Account

This Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227(3).

The Bayside TIF Development Program Account is established consisting of a project cost account ("Project Cost Account") pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of Company Cost Subaccounts (Company Cost Subaccount), pledged to and charged with payment to authorized companies under the terms of an approved Credit Enhancement Agreement for reimbursements for eligible project costs, and a City Cost Subaccount (the "City Cost Subaccount") pledged to, and charged with, payment to the City for the cost of approved economic development expenses.

C. Financing Plan

The original TIF District comprised an area of approximately 11 acres of real and personal property. The value of the real and personal property within the district as of March 31, 2002 was established as the original assessed value. With the subsequent expansion (Amendment 1), the value of the additional real and personal property within the district expansion as of March 31, 2007 was established as the original assessed value, with that value being $44,066,380. With the additional expansion via Amendment 6 from 62.18 to add 67 acres to the District, for a total of 129.18 acres,

the value of real property within the expanded District of 67 acres has a March 31, 2014 date established as the original assessed value, or $78,251,800 as detailed in Section IV.A. above, for a total OAV of the District at $122,318,180.

The developments within the described Amended Bayside TIF District will add significant new taxable value in the City of Portland. TIF revenues will be allocated as described on Exhibit 1 to finance the costs described in the Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained, or a specific amount to be retained within the Amended District, and the actual annual assessed value within the Amended District, to be determined by the City Council on a yearly basis.

V. Amended Financial Data (See Statutory Requirements & Thresholds, Exhibit 6)

A. Estimate of increased assessed value by year after implementation of the development program: See Exhibit 1

B. Percentage of increased assessed value to be applied to the development program fund: See Exhibit 1

C. Estimated annual tax increment: $1,717,654 (Average)

D. Total average annual value of development program fund: $1,717,654 (Average)

E. Annual principal and interest payment of bonded indebtedness: N/A at this time

F. Financial assumptions and safeguards: The City of Portland is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit.

VI. Tax Shifts (See Exhibit 2)

A. Average Annual Amount:

General Purpose Aid to Education Tax Shift: $593,812

Municipal Revenue Sharing Tax Shift: $47,751

County Tax Shift: $38,745

Total Average Annual Savings: $680,307

VII. Municipal Approvals

A. Public Hearing Notice

The City of Portland did giver proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §5253. The notice was published on _____, 2015, in a newspaper of general circulation (see Exhibit 8).

B. *Public Hearing*

A Public Hearing at which the proposed Amended Bayside Municipal Tax Increment Financing District was discussed was held on _____, 2015, in the Portland City Council Chambers. A copy of the minutes of that meeting is included as Exhibit 9.

C. *Authorizing Votes*

An attested copy of the resolution of the Portland City Council designating the Amended Municipal TIF district created for the implementation of the Bayside Redevelopment Program is included as Exhibit 10.

D. *Assessor's Certification*

An attested copy of the certification by the City of Portland Tax Assessor as to the revised Original Assessed Value of the expanded Bayside Municipal Tax Increment Financing District is included as Exhibit 11.

City of Portland - TIF Values for Bayside TIF Year 1 to 3, or Tax Years 2003 to 2005

Original Area: 11 Acres

OAV a/o 3/31/2002: 1,608,190

Table Reflects:

1) Actual Percentages Captured
2) Actual Mill Rate
3) Actual Yearly Property Values

Bayside TIF - Years 1 to 3 (FY04 to FY06) - City of Portland- TIF Table (OAV ao 3/31/2002 $1,608,190)										
Various Percent Sheltered from Original Bayside TIF - Years 1 to 3										
TIF Year	Tax Year- April 1	City Fiscal Year	Increased Assessed Value Real & PP Prop.	% of Value Captured	Captured Valuation	Mill Rate	Total New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues
1	2003	2003/2004	$6,191,580	1.00%	$61,916	26.83	$1,661	$0	$1,661	$164,434
2	2004	2004/2005	$7,295,740	1.00%	$72,957	26.53	$1,936	$0	$1,936	$191,620
3	2005	2005/2006	$9,171,480	54.00%	$4,952,599	20.13	$99,696	$0	$99,696	$84,926
3 Year TIF Total			$22,658,800		$5,087,472		$103,292	$0	$103,292	$440,981
Average Annual							$34,431	$0	$34,431	$146,994

City of Portland TIF Values for Bayside TIF

Original Area w 1st Expansion: 62.18 Acres

OAV a/o 3/31/2007: $44,066,380

Table Reflects:

1) Actual Percentages Captured Years 4 to 12
2) Projected 100% Captured Years 13 to 30
3) Actual Yearly Property Valuation Years 4 to 12
4) Projected Increase Property Valuation of 1% Years 13 to 30
5) Projected Increase of Mill Rate of 2% Years 13 to 30

Orignal Bayside TIF - Actual Years 4 to 12 (FY07 to FY15); Projections Years 13 to 30 (FY16 to FY33) - City of Portland- TIF Projection Table (OAV AO 3/31/2007 OF $44,066,380)

Actual Various Percent Sheltered from Original Bayside TIF Years 4 to 12; 100% Sheltered Years 13 to 30)

TIF Year	Tax Year- April 1	City Fiscal Year	Increased Assessed Value Real & PP Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account*	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues	Captured Revenue for CEA: Atlantic Bayside Trust (Max. Allowed)	Captured Revenue for CEA: Bayside Student Housing (Max. Allowed)
4	2006	2006/2007	$11,052,960	28.00%	$3,094,829	16.31	$50,477	$0	$50,477	$129,797		
5	2007	2007/2008	$23,657,250	1.00%	$236,573	17.10	$4,045	$0	$4,045	$400,494		
6	2008	2008/2009	$49,496,900	100.00%	$49,496,900	17.74	$878,075	$475,000	$403,075	$0	$355,000	$120,000
7	2009	2009/2010	$69,217,260	78.00%	$53,989,463	17.74	$957,773	$475,000	$482,773	$270,141	$355,000	$120,000
8	2010	2010/2011	$68,355,920	71.00%	$48,532,703	17.92	$869,706	$475,000	$394,706	$355,232	$355,000	$120,000
9	2011	2011/2012	$62,808,110	73.00%	$45,849,920	18.28	$838,137	$475,000	$363,137	$309,996	$355,000	$120,000
10	2012	2012/2013	$66,477,790	47.00%	$31,244,561	18.82	$588,023	$475,000	$113,023	$663,089	$355,000	$120,000
11	2013	2013/2014	$65,716,350	98.00%	$64,402,023	19.41	$1,250,043	$475,000	$775,043	$25,511	$355,000	$120,000
12	2014	2014/2015	$65,131,890	83.00%	$54,059,469	20.00	$1,081,189	$475,000	$606,189	$221,448	$355,000	$120,000
13	2015	2015/2016	$66,223,873	100.00%	$66,223,873	20.40	$1,350,967	$475,000	$875,967	$0	$355,000	$120,000
14	2016	2016/2017	$67,326,775	100.00%	$67,326,775	20.81	$1,400,936	$475,000	$925,936	$0	$355,000	$120,000
15	2017	2017/2018	$68,440,707	100.00%	$68,440,707	21.22	$1,452,597	$475,000	$977,597	$0	$355,000	$120,000
16	2018	2018/2019	$69,565,778	100.00%	$69,565,778	21.65	$1,506,005	$325,000	$1,181,005	$0	$325,000	
17	2019	2019/2020	$70,702,099	100.00%	$70,702,099	22.08	$1,561,217	$325,000	$1,236,217	$0	$325,000	
18	2020	2020/2021	$71,849,784	100.00%	$71,849,784	22.52	$1,618,291	$325,000	$1,293,291	$0	$325,000	
19	2021	2021/2022	$73,008,946	100.00%	$73,008,946	22.97	$1,677,287	$325,000	$1,352,287	$0	$325,000	
20	2022	2022/2023	$74,179,699	100.00%	$74,179,699	23.43	$1,738,267	$325,000	$1,413,267	$0	$325,000	
21	2023	2023/2024	$75,362,160	100.00%	$75,362,160	23.90	$1,801,295	$0	$1,801,295	$0		
22	2024	2024/2025	$76,556,445	100.00%	$76,556,445	24.38	$1,866,438	$0	$1,866,438	$0		
23	2025	2025/2026	$77,762,673	100.00%	$77,762,673	24.87	$1,933,762	$0	$1,933,762	$0		
24	2026	2026/2027	$78,980,964	100.00%	$78,980,964	25.36	$2,003,339	$0	$2,003,339	$0		
25	2027	2027/2028	$80,211,437	100.00%	$80,211,437	25.87	$2,075,241	$0	$2,075,241	$0		
26	2028	2028/2029	$81,454,215	100.00%	$81,454,215	26.39	$2,149,542	$0	$2,149,542	$0		
27	2029	2029/2030	$82,709,421	100.00%	$82,709,421	26.92	$2,226,320	$0	$2,226,320	$0		
28	2030	2030/2031	$83,977,179	100.00%	$83,977,179	27.46	$2,305,653	$0	$2,305,653	$0		
29	2031	2031/2032	$85,257,615	100.00%	$85,257,615	28.00	$2,387,625	$0	$2,387,625	$0		
30	2032	2032/2033	$86,550,855	100.00%	$86,550,855	28.56	$2,472,319	$0	$2,472,319	$0		
27 Year TIF Total			**$481,914,430**		**$350,905,441**		**$40,044,566**	**$6,375,000**	**$33,669,566**	**$2,375,708**	**$5,175,000**	**$1,200,000**
Average Annual							$1,483,132	$236,111	$1,247,021	$87,989	$345,000	$120,000

*See Column Labeled "Captured Revenue for CEA"/This is the maximum allowable return for each CEA listed.

City of Portland - TIF Values - For Expanded Area Only of Bayside TIF for TIF remaining years of FY16 to FY33

2nd Expanded Area: 67 acres

OAV a/o 3/31/2014: $78,251,800

Model Assumes:

1) 1% Yearly Increase in Valuation;
2) 2% Yearly Increased in Tax Rate; and,
3) 100% Yearly Capture Rate

City of Portland- Expanded Bayside TIF Projection Table - For Add'l 67 Acres; OAV $78,251,800										
TIF Year	Tax Year- April 1	City Fiscal Year	Increased Assessed Value Real Prop. At 1%/Yr.	% of Value Captured	Captured Valuation	Projected Mill Rate (inc. 2%/Yr)	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues
13	2015	2015/2016	$782,518	100.00%	$782,518	20.20	$15,804	$0	$15,804	$0
14	2016	2016/2017	$1,572,861	100.00%	$1,572,861	20.60	$32,401	$0	$32,401	$0
15	2017	2017/2018	$2,371,108	100.00%	$2,371,108	21.01	$49,822	$0	$49,822	$0
16	2018	2018/2019	$3,177,337	100.00%	$3,177,337	21.43	$68,097	$0	$68,097	$0
17	2019	2019/2020	$3,991,628	100.00%	$3,991,628	21.86	$87,260	$0	$87,260	$0
18	2020	2020/2021	$4,814,063	100.00%	$4,814,063	22.30	$107,344	$0	$107,344	$0
19	2021	2021/2022	$5,644,721	100.00%	$5,644,721	22.74	$128,383	$0	$128,383	$0
20	2022	2022/2023	$6,483,686	100.00%	$6,483,686	23.20	$150,414	$0	$150,414	$0
21	2023	2023/2024	$7,331,041	100.00%	$7,331,041	23.66	$173,473	$0	$173,473	$0
22	2024	2024/2025	$8,186,870	100.00%	$8,186,870	24.14	$197,599	$0	$197,599	$0
23	2025	2025/2026	$9,051,256	100.00%	$9,051,256	24.62	$222,831	$0	$222,831	$0
24	2026	2026/2027	$9,924,287	100.00%	$9,924,287	25.11	$249,211	$0	$249,211	$0
25	2027	2027/2028	$10,806,048	100.00%	$10,806,048	25.61	$276,780	$0	$276,780	$0
26	2028	2028/2029	$11,696,626	100.00%	$11,696,626	26.13	$305,582	$0	$305,582	$0
27	2029	2029/2030	$12,596,111	100.00%	$12,596,111	26.65	$335,664	$0	$335,664	$0
28	2030	2030/2031	$13,504,590	100.00%	$13,504,590	27.18	$367,070	$0	$367,070	$0
29	2031	2031/2032	$14,422,154	100.00%	$14,422,154	27.72	$399,851	$0	$399,851	$0
30	2032	2032/2033	$15,348,893	100.00%	$15,348,893	28.28	$434,056	$0	$434,056	$0
18 Year TIF Total			**$141,705,797**		**$141,705,797**		**$3,601,642**	**$0**	**$3,601,642**	**$0**
18 Year Averages							**$200,091.20**		**$200,091.20**	

City of Portland - TIF Tax Shifts for Bayside TIF Year 1 to 3, or Tax Years 2003 to 2005

Original Area: 11 Acres

OAV a/o 3/31/2002: 1,608,190

Table Reflects:

1) 1% Capture Yr 1; 1% Capture Yr 2; 54% Capture Yr 3
2) Mill Rates: Yr 1-26.83; Yr 2-26.53; Yr 20.13

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland-Bayside Original TIF for Years 1 to 3 (FY04 to FY06)

Various Percent Sheltered From Original Bayside TIF - Years 1 to 3 (FY04 to FY06)

TIF Year	Tax Year-April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
					Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2003	2003/2004	$6,191,580	$61,916	$502	$40	$33	$575
2	2004	2004/2005	$7,295,740	$72,957	$591	$48	$39	$677
3	2005	2005/2006	$9,171,480	$4,952,599	$40,116	$3,226	$2,621	$45,963
3 Year TIF Total			**$22,658,800**	**$5,087,472**	**$41,209**	**$3,314**	**$2,693**	**$47,215**
Average Annual				$1,695,824.13	$13,736	$1,105	$898	$15,738

City of Portland TIF Tax Shifts for Bayside TIF
Original Area w 1st Expansion: 62.18 Acres
OAV a/o 3/31/2007: $44,066,380

Table Reflects:
1) Actual Percentages Captured Years 4 to 12
2) Projected 100% Captured Years 13 to 30
3) Actual Yearly Property Valuation Years 4 to 12
4) Projected Increase Property Valuation of 1% Years 13 to 30
5) Projected Increase of Mill Rate of 2% Years 13 to 30

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model

Actual Percent Sheltered From Bayside TIF Years 4 to 12 (FY07 to FY15); 100% Projected Capture TIF Years 13 to 30 (FY16 to FY33)

TIF Year	Tax Year-April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation: Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
4	2006	2006/2007	$11,052,960	$3,094,829	$25,068	$2,016	$1,638	$28,722
5	2007	2007/2008	$23,657,250	$236,573	$1,916	$154	$125	$2,196
6	2008	2008/2009	$49,496,900	$49,496,900	$400,925	$32,240	$26,169	$459,333
7	2009	2009/2010	$69,217,260	$53,989,463	$437,315	$35,166	$28,541	$501,021
8	2010	2010/2011	$68,355,920	$48,532,703	$393,115	$31,612	$25,660	$450,386
9	2011	2011/2012	$62,808,110	$45,849,920	$371,384	$29,864	$24,243	$425,491
10	2012	2012/2013	$66,477,790	$31,244,561	$253,081	$20,351	$16,527	$289,959
11	2013	2013/2014	$65,716,350	$64,402,023	$521,656	$41,948	$34,036	$597,640
12	2014	2014/2015	$65,131,890	$54,059,469	$437,882	$35,212	$28,577	$501,671
13	2015	2015/2016	$66,223,873	$66,223,873	$536,413	$43,135	$34,997	$614,545
14	2016	2016/2017	$67,326,775	$67,326,775	$545,347	$43,853.22	$35,579	$624,779
15	2017	2017/2018	$68,440,707	$68,440,707	$554,370	$44,578.78	$36,166	$635,115
16	2018	2018/2019	$69,565,778	$69,565,778	$563,483	$45,311.60	$36,760	$645,554
17	2019	2019/2020	$70,702,099	$70,702,099	$572,687	$46,051.74	$37,359	$656,098
18	2020	2020/2021	$71,849,784	$71,849,784	$581,983	$46,799.28	$37,964	$666,747
19	2021	2021/2022	$73,008,946	$73,008,946	$591,372	$47,554.30	$38,576	$677,503
20	2022	2022/2023	$74,179,699	$74,179,699	$600,856	$48,316.87	$39,193	$688,366
21	2023	2023/2024	$75,362,160	$75,362,160	$610,433	$49,087.06	$39,817	$699,337
22	2024	2024/2025	$76,556,445	$76,556,445	$620,107	$49,864.96	$40,447	$710,419
23	2025	2025/2026	$77,762,673	$77,762,673	$629,878	$50,650.64	$41,083	$721,611
24	2026	2026/2027	$78,980,964	$78,980,964	$639,746	$51,444.17	$41,725	$732,915
25	2027	2027/2028	$80,211,437	$80,211,437	$649,713	$52,245.64	$42,374	$744,332
26	2028	2028/2029	$81,454,215	$81,454,215	$659,779	$53,055.12	$43,029	$755,863
27	2029	2029/2030	$82,709,421	$82,709,421	$669,946	$53,872.70	$43,690	$767,509
28	2030	2030/2031	$83,977,179	$83,977,179	$680,215	$54,698.45	$44,359	$779,272
29	2031	2031/2032	$85,257,615	$85,257,615	$690,587	$55,532.46	$45,033	$791,153
30	2032	2032/2033	$86,550,855	$86,550,855	$701,062	$56,375	$45,715	$803,152
27 Year TIF Total			$1,852,035,056	$1,721,027,067	$13,940,319	$1,120,989	$909,379	$15,970,688
Average Annual					$516,308	$41,518	$33,681	$591,507

City of Portland - TIF Tax Shifts For Expanded Area Only of Bayside TIF for TIF remaining years of FY16 to FY33

2nd Expanded Area: 67 acres

OAV a/o 3/31/2014: $78,251,800

Model Assumes:

1) 1% Yearly Increase in Valuation;
2) 2% Yearly Increased in Tax Rate; and,
3) 100% Yearly Capture Rate

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- Expanded Area Only of Bayside - TIF Projection Model								
					Avoided Formula Impacts from Sheltering of Valuation			
TIF Year	Tax Year-April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
13	2015	2015/2016	$782,518	$782,518	$6,338	$510	$414	$7,262
14	2016	2016/2017	$1,572,861	$1,572,861	$12,740	$1,024	$833	$14,597
15	2017	2017/2018	$2,371,108	$2,371,108	$19,206	$1,544	$1,255	$22,006
16	2018	2018/2019	$3,177,337	$3,177,337	$25,736	$2,070	$1,682	$29,488
17	2019	2019/2020	$3,991,628	$3,991,628	$32,332	$2,600	$2,113	$37,045
18	2020	2020/2021	$4,814,063	$4,814,063	$38,994	$3,136	$2,548	$44,678
19	2021	2021/2022	$5,644,721	$5,644,721	$45,722	$3,677	$2,988	$52,387
20	2022	2022/2023	$6,483,686	$6,483,686	$52,518	$4,223	$3,432	$60,173
21	2023	2023/2024	$7,331,041	$7,331,041	$59,381	$4,775	$3,880	$68,037
22	2024	2024/2025	$8,186,870	$8,186,870	$66,314	$5,333	$4,333	$75,979
23	2025	2025/2026	$9,051,256	$9,051,256	$73,315	$5,896	$4,790	$84,001
24	2026	2026/2027	$9,924,287	$9,924,287	$80,387	$6,464	$5,252	$92,103
25	2027	2027/2028	$10,806,048	$10,806,048	$87,529	$7,039	$5,719	$100,286
26	2028	2028/2029	$11,696,626	$11,696,626	$94,743	$7,619	$6,190	$108,551
27	2029	2029/2030	$12,596,111	$12,596,111	$102,028	$8,204	$6,666	$116,899
28	2030	2030/2031	$13,504,590	$13,504,590	$109,387	$8,796	$7,146	$125,330
29	2031	2031/2032	$14,422,154	$14,422,154	$116,819	$9,394	$7,632	$133,845
30	2032	2032/2033	$15,348,893	$15,348,893	$124,326	$9,997	$8,122	$142,446
18 Year TIF Total			**$141,705,797**	**$141,705,797**	**$1,147,817**	**$92,300**	**$74,995**	**$1,315,112**
18 Year TIF Averages					**$63,767.61**	**$5,127.77**	**$4,166.37**	**$73,061.75**

Order 14-15/16
~~Tab 22 9-6-15~~
Tab 17 7-20-15

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

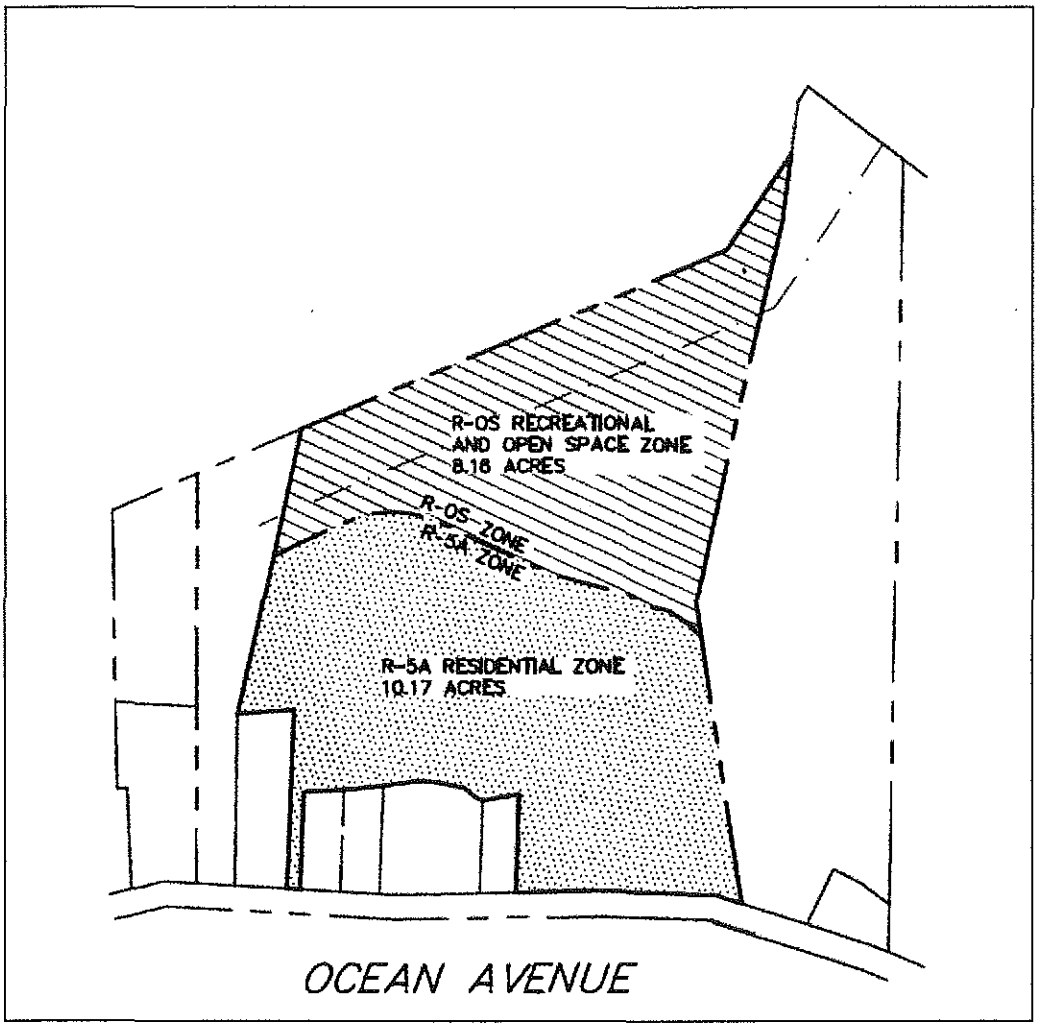
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO ZONING MAP
RE: 802 OCEAN 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-5a and Recreation Open Space (ROS) area in the figure below.



MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Jeff Levine, Director, Planning and Urban Development

DATE: June 24, 2015

DISTRIBUTION: Michael Sauschuck, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Jennifer Thompson, Nancy English, Julie Sullivan

SUBJECT: R-5A and ROS Map Amendments for 802 Ocean Ave, Portland Retirement Residence

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 6, 2015 Final Action July 20, 2015

Can action be taken at a later date: _____ Yes __X__ No (If no why not?) Public Noticing will be sent for the second reading, and the applicant is seeking consideration in order to move forward with the proposal to the development review stage.

PRESENTATION: Stuart O'Brien, Chair Planning Board, 5 minute presentation. Applicant available to answer questions

I. SUMMARY OF ISSUE (Agenda Description)

On June 9, 2015, the Planning Board voted unanimously (6-0, Dundon absent) to recommend to the City Council zoning map amendments for 802 Ocean Avenue and to repeal conditional zone agreement #34. OBO Hawthorn Development LLC and Lenity Architecture, LLC sought proposed zoning map amendments and R-5A zoning text amendments for the property at 802 Ocean Avenue in order to construct a 150 suite congregate care facility (also referred to as independent senior housing) called Portland Retirement Residence. The proposed facility would be a four story building with four accessory garages and parking areas for a total of 104 spaces. Currently, the property is regulated under a conditional zoning agreement for the Graves Hill development, which permits a 98 condominium unit project with two mid-rise buildings with a maximum height of 100 feet.

The proposed rezoning seeks to incorporate 8.16 acres into the Recreational Open Space (ROS), to encompass 10.17 acres as Residential R-5A zone, and to repeal the current conditional zone agreement (C #34). As part of the original application, the applicant also sought text amendments to the R-5A zone. The City Council adopted R-5A text amendments on June 15, 2015, which are consistent with the applicant's request and accommodate this project. The Planning Board unanimously recommended the text amendments to the City Council on June 9th and as part of the McAuley Place application. Since the Council has acted upon the text

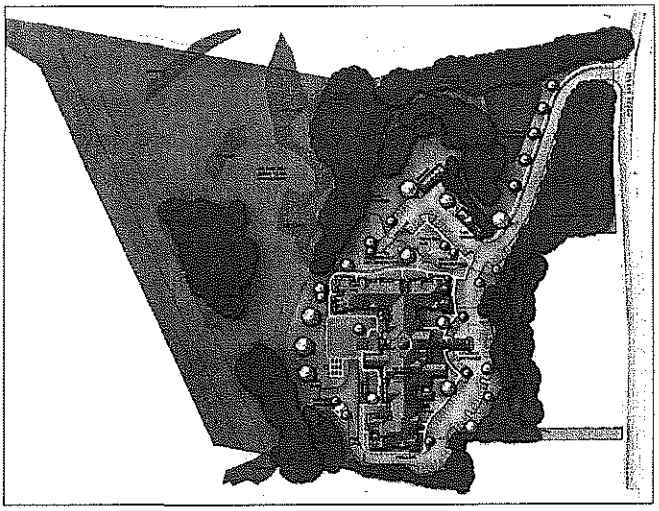
amendments, the text amendments are not reiterated in this request form nor in the Planning Board report.

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

The roughly 18 acre parcel at 802 Ocean Avenue is wooded and has one of the highest elevations in Portland. The property is regulated under a conditional zoning agreement (C #34) for the Graves Hill development, which permits a 98 condominium unit project with two mid-rise buildings with a maximum height of 100 feet. Prior to the approval of the conditional zone agreement, the property was zoned R-3 with the flexible housing overlay. As with the pending proposal, the conditional zone agreement zoned 10.17 acres as R-5A and the remainder of the site's 8.155 acres as ROS, with provisions for public access to the ROS land. The conditional rezoning agreement does not have an expiration date nor does it allow construction of another development. It also does not have a reversion clause to a specified zone should the designated project not move forward. Thus, the applicant is seeking and the Planning Board unanimously recommends to the City Council adoption of the proposed map amendments to ROS and R-5A, as shown on the map inserted in the recommendation below, and repeal of the conditional rezoning agreement.

III. INTENDED RESULT

The proposed R-5A zoning map change, in association with the R-5A text amendments adopted by the Council on June 15, 2015, would enable Hawthorn Development LLC to build a 150 suite congregate care facility on this site, preserve natural features, and offer publically accessible trails on the upper portion of the site. Access is provided with a single driveway from Ocean Avenue. The facility is located on the southerly side of the site to limit impacts on wetlands and preserve vegetation along Ocean Avenue and the perimeter of the property.



The congregate facility will be an independent living facility that will not offer medical or nursing care; however there will be an emergency communications system for access to the on-site manager. Residents will pay a monthly rent to cover the cost of their suite and the proposed services for the facility, which includes three meals per day, housekeeping, laundering service, van transportation and various social and physical activities. There is a mix of studio, one bedroom and two bedroom units with no kitchens provided. A variety of common areas are proposed including a central kitchen, dining area, central atrium, multi-purpose room, beauty shop, exercise room, crafts room, media/computer room, movie theater, and lounges. The wings and central entrance step down from the three and four stories of the main structure to one and two-story sections. The proposed maximum height of the building is roughly 48 feet as measured by the zoning code.

IV. COUNCIL GOAL ADDRESSED

The proposed congregate care facility for senior citizens addresses the Council Goal to 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 map amendment would allow moderate density residential development that would be market rate and serve the senior citizen component of the housing market.

VI. BOARD ANALYSIS

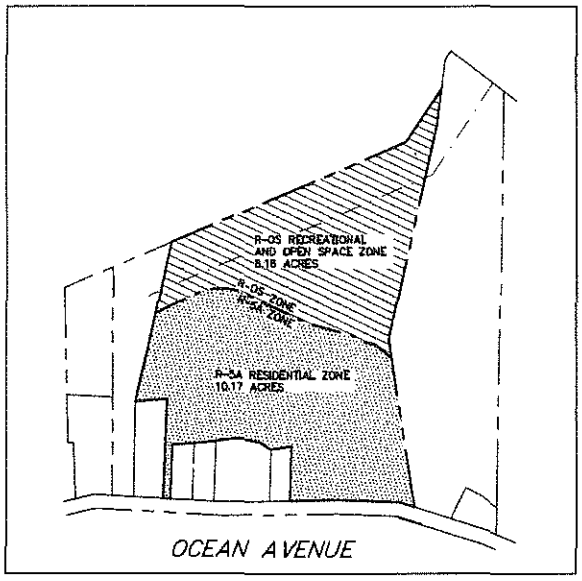
The Planning Board held a public hearing on June 9, 2015. Bobbi Cope asked about the length of the proposed building and Mr. Nadzo, representing Aldens Walk Condominiums, spoke in favor of the project.

The Board members found the proposed development to be a vast improvement over the revised proposal considered last year for 98 units of residential development. The R-5A zone is intended for suitable locations off peninsula that have natural amenities; proximity to the peninsula; adequate municipal services and can accommodate a more intensive use of land while being compatible with surrounding neighborhoods. The Ocean Avenue site was previously zoned R-3 with the Flexible Housing Overlay zone, which would have allowed manufactured home parks or subdivisions at a moderate density. The 2004 conditional rezoning agreement was for a 98 unit residential development in two mid-rise buildings (up to 100 feet). The Board members stated that the R-5A zone, with the associated text amendments recently adopted by City Council, lends it itself to the type of moderate density development for off-peninsula locations, such as 802 Ocean Avenue, which are called for in the Comprehensive Plan. The development site accesses a major roadway, is near the services and amenities of both the peninsula and off-peninsula and adds to a broad spectrum of housing options. The Board found that the R-5A zone text amendments and the proposed map amendment meet the goals of the comprehensive plan and serves broader public policies rather than focusing on a single project. The revisions to the text also simplify the code and remove regulatory barriers by creating a dimensional chart and removing the requirement for a conditional rezoning agreement in order to rezone land to R-5A.

The purpose statement for the ROS zone states the zone is intended to preserve and protect open space as a limited and valuable resource. It also allows for the reasonable use of open space while preserving open space characteristics to assure the continued availability for public use as scenic, recreation and natural resource areas. The land area proposed within the ROS zone would encompass one of the highest points in Portland, known as Graves Hill, with views of Casco Bay. The area was designated as ROS as part of the conditional rezoning agreement #34 in order to preserve the area and allow for trails through the forested area. Hawthorn Development is committed to the same vision for the area and proposed retaining this area in the ROS after the removal of the conditional rezoning agreement. The applicant is offering an easement for trail access to be held by Portland Trails, which will be put into an escrow account until the time of closing. The Planning Board clearly stated their appreciation for the preservation of open space and the extension of trails in the proposed ROS portion of the site, which are stated policies of the comprehensive plan.

VII. RECOMMENDATION

On June 9, 2015, the Planning Board voted 6-0 (Dundon absent) that the proposed rezoning for the property located at 802 Ocean Avenue is consistent with the Comprehensive Plan for the City of Portland and recommends to City Council approval of the zoning map amendment for 802 Ocean Avenue from Conditional Rezoning Agreement #34 to R5A Residential Zone for 10.17 acres and to ROS Recreation and Open Space for 8.55 acres as shown on the map.



The Planning Board also recommended unanimously to City Council (6-0, Dundon absent) that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Urban Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, be amended to reflect the repeal of the conditional rezoning #34 for 802 Ocean Avenue and the rezoning of 802 Ocean Avenue to R5A Residential Zone for 10.17 acres and to ROS Recreation and Open Space for 8.55 acres as set forth above.

VIII. LIST ATTACHMENTS

1. Order for Zoning Map Amendment to Rezone 802 Ocean Avenue to ROS and R-5A
2. Order to Repeal Conditional Rezoning Agreement #34
3. Planning Board Report to City Council

Prepared by: Barbara Barhydt, Development Review Services Manager
Date: June 24, 2015

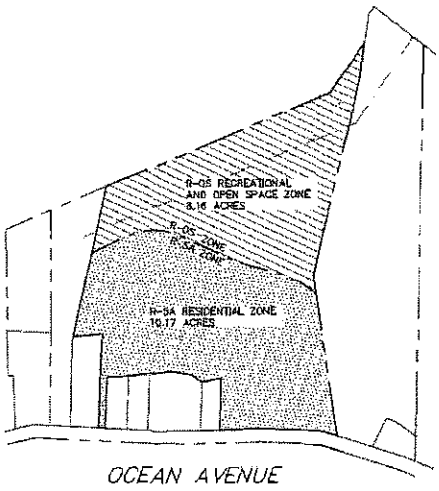
CITY COUNCIL REPORT
PORTLAND, MAINE

Portland Retirement Residence
802 Ocean Avenue
R-5A and ROS Map Amendments
2015-039
OBO Hawthorn Development LLC – Lenity Architecture, LLC. Applicant

Submitted to: Portland City Council FROM: Portland Planning Board First Reading: July 6, 2015 Second Reading: July 20, 2015	Prepared by: Barbara Barhydt, Development Review Services Manager Date: June 28, 2015

I. INTRODUCTION

On June 9, 2015, the Planning Board voted unanimously (6-0, Dundon absent) to recommend to the City Council the adoption of zoning map amendments for 802 Ocean Avenue and the repeal of conditional zone agreement #34. OBO Hawthorn Development LLC and Lenity Architecture, LLC sought proposed zoning map amendments and R-5A zoning text amendments for the property at 802 Ocean Avenue in order to construct a 150 suite congregate care facility (also referred to as independent senior housing) called Portland Retirement Residence. The proposed facility would be a four story building with four accessory garages and parking areas for a total of 104 spaces. Currently, the property is regulated under a conditional zoning agreement for the Graves Hill development, which permits a 98 condominium unit project with two mid-rise buildings with a maximum height of 100 feet (Attachment 1).



The applicant is seeking to rescind the existing conditional zone and replace it with map amendments to zone 8.16 acres of the site as Recreational Open Space (ROS) and 10.17 acres as Residential R-5A zone. These proposed zone designations represents the same configuration as adopted as part of the 2004 conditional rezoning agreement.

As part of the original application, the applicant also sought text amendments to the R-5A zone. The City Council adopted R-5A text amendments on June 15, 2015, which are consistent with the applicant's request and accommodate this project for 150 congregate care facility. Since the Council has acted upon the text amendments as part of the McAuley Place application, the text amendments are not reiterated in this report from the Planning Board.

The Planning Board held a workshop on this proposal on April 28, 2015 and a public hearing on June 9, 2015.

Applicant:	OBO Hawthorn Development LLC and Lenity Architecture, LLC, represented by Mark Lowen
Property Owner:	Graves Hill Land Company LLC
Engineer:	Robert McSorely, P.E., Sebago Technics
Architect:	Daniel Roach, Lenity Architecture LLC

II. PUBLIC COMMENT

Notices were sent to 333 residents and the interested citizen list and appeared in the Portland Press Herald. The notice will appear in the Portland Press Herald for the Council's second reading on July 6 and 7th, as well as being posted on the City's web page. The applicant held introductory neighborhood meetings and the required neighborhood meeting was held on Wednesday, April 29th at 7 p.m. at the Presumpscot elementary school gymnasium. A copy of the neighborhood minutes is included in the applicant's submission.

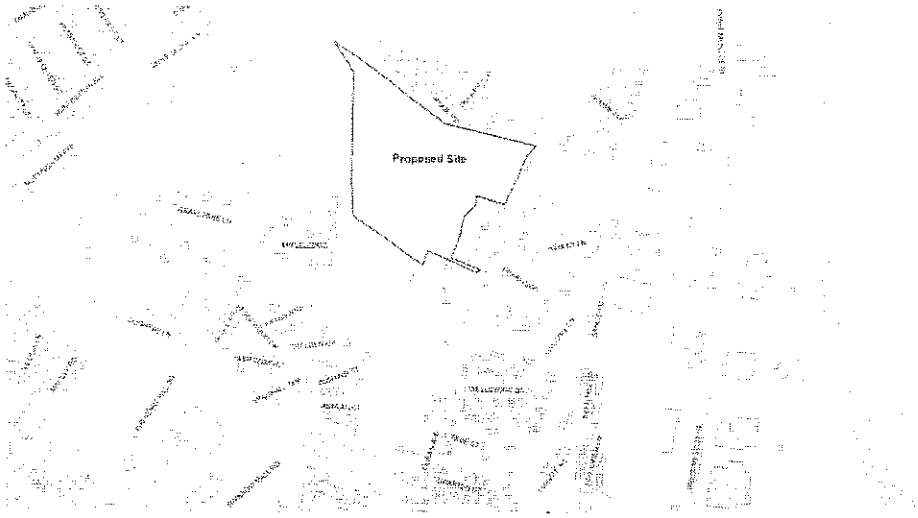
The office has received one e-mail as public comment from Mr. Perkins, which is attachment 6 to this report. He refers to a hand written note that was part of the Casco Heights Review in 2014. Questions were raised by residents at the Planning Board workshop regarding the traffic and stormwater management. At the public hearing, one resident asked abont the length of the proposed structure. Mr. Nadzo, representing the Alden's Walk condominium Association, stating that they were pleased with the applicant's cooperation and whole heartedly support the rezoning and extinguishing the contract zone. They look forward to participating in the subdivision/site plan review to address development issues, such as traffic.

III. PROJECT DATA

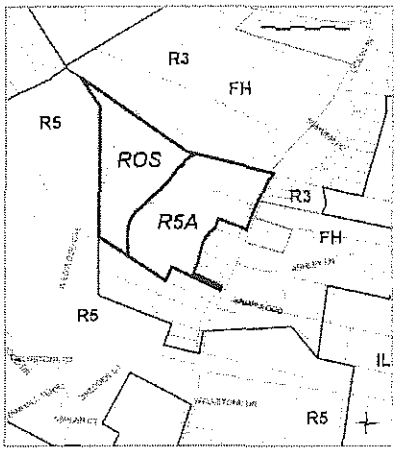
Existing Zoning	R-5A (10. 167 acres) and ROS (8.155 acres) with Conditional Zone Agreement
Proposed Zoning	R-5A (10.167 acres) and ROS (8.155 acres)
Existing Use	Vacant wooded site
Proposed Use	150 suite Congregate Care Facility
Parcel Size	18. 32 acres
Impervious Surface Area	
Total Ground Floor Area	39,869 sf building with a total of 43,035 (includes a garage and van garage)
Total Building Floor Area	136,646 sf
Total Number of Units	150 suites
Bedroom Mix	
Studio	57
One Bedroom	78
Two Bedroom	15
Vehicle Parking	
Total Parking spaces	104 spaces: 87 surface spaces, 12 covered
Handicapped Spaces	5 handicap accessible
Chart Block and Lot	411 A007, 416 A, lots 6, 7 and 21

IV. BACKGROUND

The roughly 18 acre parcel at 802 Ocean Avenue is a wooded site that has one of the highest elevations in Portland with views of Casco Bay. There is a 135 foot CMP easement along the rear property line that is located within the ROS land as designated in the conditional zone agreement. The parcel abuts single family homes along Ocean Avenue. The Ocean Ridge Condominium project is located to the north of the site along Ocean Avenue. The rear boundary abuts the condominiums located in the Alden's Walk project on Wildwood Circle. There are single family homes and condominium projects along the easterly side of Ocean Avenue in the vicinity of the site.



The conditional rezoning agreement adopted by the City Council in 2004 (Attachment 1) changed the underlying Residential R-3 with the Flexible Housing Overlay zone to Residential R-5A for 10.167 acres adjoining Ocean Avenue and to ROS for approximately 8 acres at the site. The agreement as passed by the City Council allowed for up to 98 units in two towers with a maximum height of 100 feet and addressed trails for community access within the ROS zone. The 2004 map amendment showing the two zones is inserted here. The Planning Board is recommending that the conditional rezoning agreement be rescinded and to apply the ROS and R-5A zoning map amendments, which are the same map configuration as adopted in 2004.



Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Ovelay to R5A and ROS

The City Council adopted R-5A text amendments on June 15, 2015 that were developed concurrently for McAuley Place and Portland Retirement Residence. At the June 9, 2015 Planning Board public hearing, the Board unanimously (6-0, Dundon absent) supported the text amendments, since the proposed R-5A text amendments were pending before the City Council at that time. With the City Council's adoption of the R-5A text amendments, the discussion of text amendments as they pertain to Portland Retirement Residence are only summarized in this report.

V. PROPOSED DEVELOPMENT - 2015

Hawthorn Development LLC is proposing a congregate care facility for the site (refer to Applicant's submission). The facility will not offer medical or nursing care; however there will be emergency pull cords and voice communications in each suite for access to the on-site manager. The proposed services for the facility include three meals per day, housekeeping, laundering service, van transportation and various social and physical activities. As stated in their application, the residents will pay a monthly rent to cover the cost of their suite, all meals, services, transportation, and utilities. The units will not have kitchens. There is a mix of studio, one bedroom and two bedroom units. The common areas of the facility include a central kitchen, dining area, central atrium, multi-purpose room, beauty shop, exercise room, crafts room, TV room, media/computer room, movie theater and lounges.

As noted in the applicant's description, the proposal is for a four-story building. As shown in the exterior elevation drawings, the building's wings and its central entrance area step down from three and four stories to one and two-story sections. The proposed maximum height of the building is measured to the half-way point of the peak (per

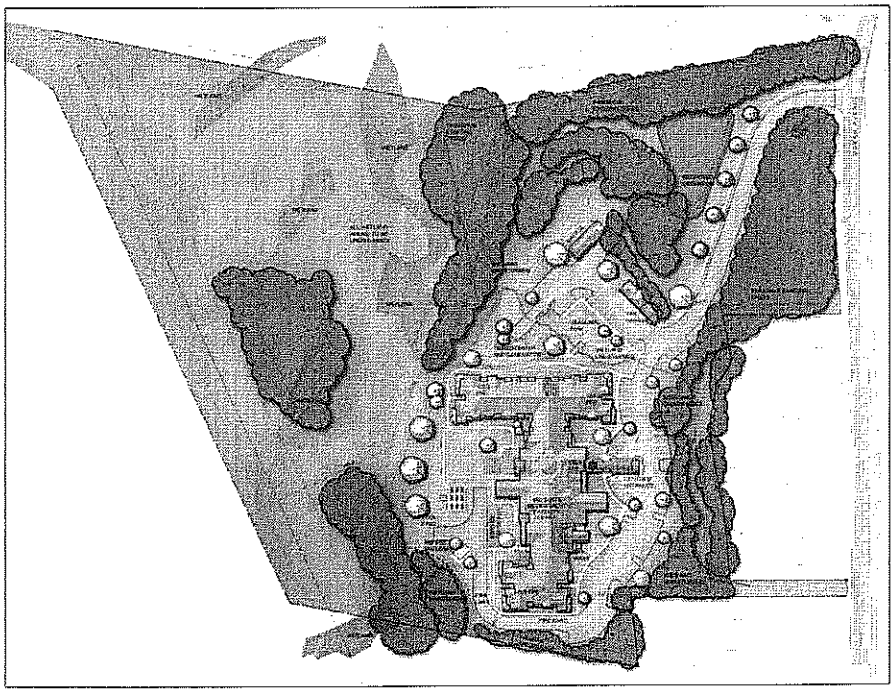
zoning definition) and is roughly 47 feet and 8 inches, which is within the 55 maximum height of the R-5A text revisions. The floor areas for each floor and the entire facility are as follows:

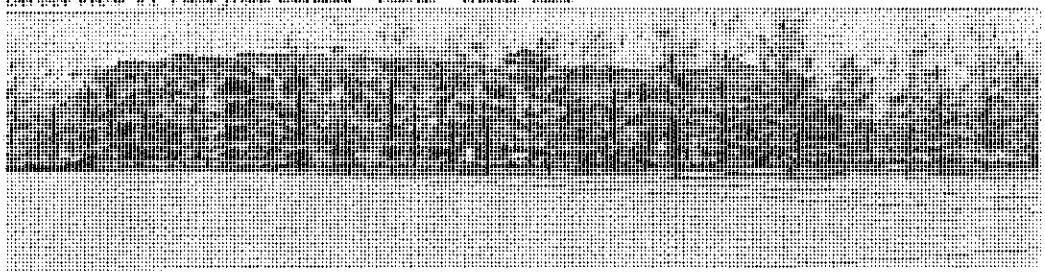
1. First Floor, 39,869 sq. ft.;
2. Second Floor, 31,552 sq. ft.;
3. Third Floor, 32,911 sq. ft.;
4. Fourth Floor, 30,314 sq. ft.;
5. Total Floor Area, 134,646 sq. ft.

The exterior materials proposed for the building include horizontal siding along with rock or brick along the first level. There are two accessory structures proposed. A garage for 12 vehicles is proposed and a van garage is proposed. Both of these accessory structures are one-story buildings.

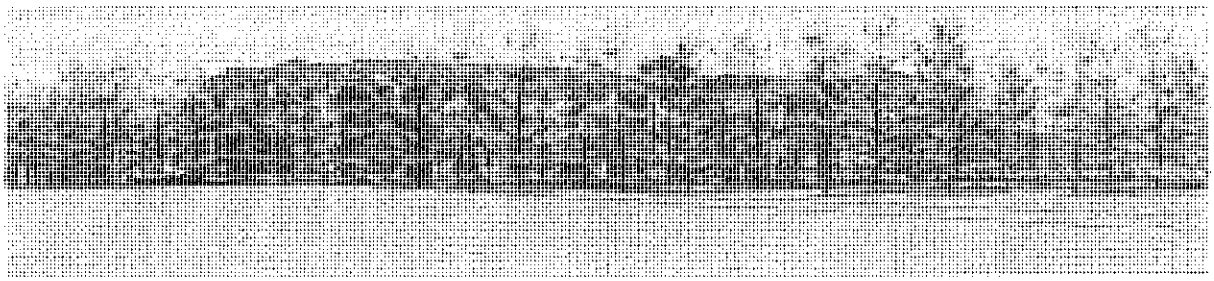
Access to the proposed facility is provided with a single driveway from Ocean Avenue, which leads to the structure on the southerly half of the site. Surface parking and fire lanes are shown around three sides of the building. The facility is situated to limit impacts on wetlands and preservation of vegetation is shown along the perimeter and along Ocean Avenue. A storm water detention basin is shown near the driveway on the northerly side of the site. A sidewalk is shown along the proposed drive and around the development. All of the development is proposed within the proposed 10.17 acres of R-5A zone. The proposed ROS area is shown undisturbed. The proposed development will require site plan review under the City's land use code.

The applicant proposed to retain the vegetation along the perimeter of the site. The rendered site plan is presented here. They have submitted winter perspectives of the proposed development in context with the neighborhood and to depict the proposed height limits in relationship to this project. The two perspectives on the following page depict the winter view (less foliage) that are taken from the north, from the Ocean Ridge condos, and from Ocean Avenue. The full set of perspectives submitted from the entrance going south along Ocean Avenue are included in the plan set. The exterior elevations showing the proposed building height and the potential building height of 55 feet as proposed in the text amendments is inserted below and is part of the applicant's plan set.

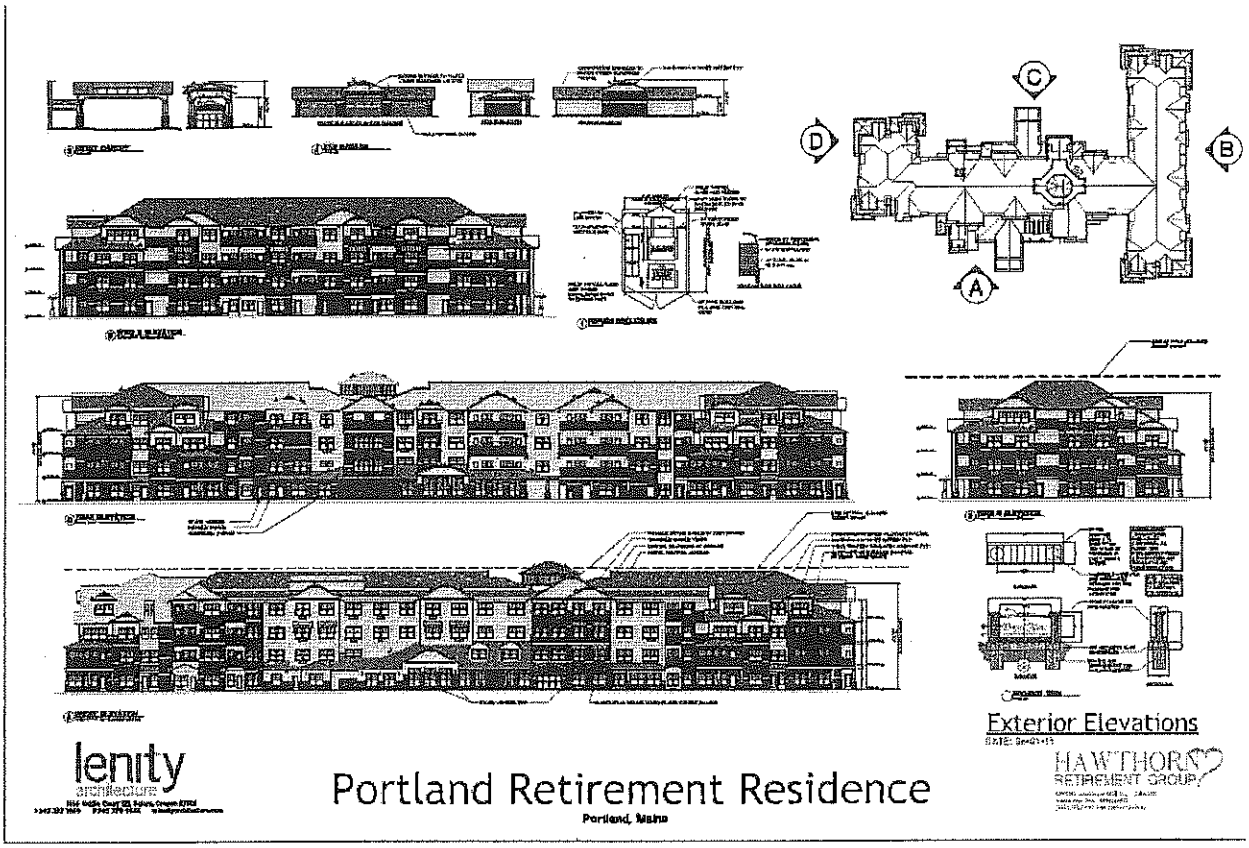




Street View #2 – From Ocean Avenue- winter view



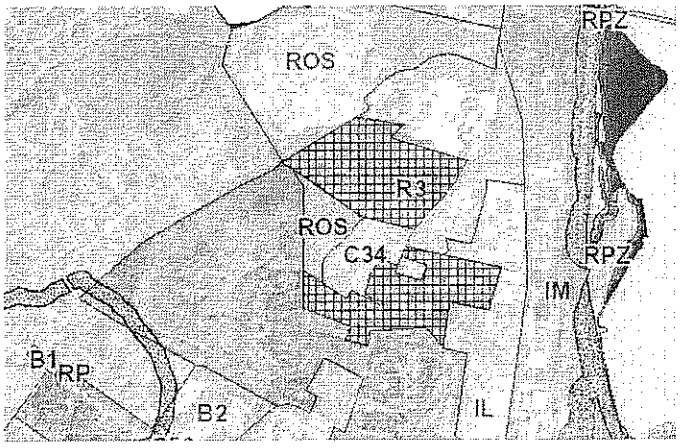
Building Elevations



VI. PROPOSED ZONING MAP AMENDMENTS

A. Background

The current zoning map shows the site at 802 Ocean Avenue split between the ROS zone and a conditional zoning agreement (#34). Prior to the approval of the CZA, the property was zoned R-3 with the flexible housing overlay. It designated 10.17 acres as R-5A for the Graves Hill condominium project and the remainder of the 8.155 acres of the site as ROS, with provisions for public access to the ROS land. The conditional rezoning agreement does not have an expiration date nor does it allow construction of another



development. It also does not have a reversion clause to a specified zone should the designated project not move forward. Thus the Planning Board, on the advice of Jennifer Thompson, Associate Corporation Counsel, recommends that the conditional rezoning agreement be rescinded and recommends that following map amendments to ROS and R-5A.

As shown on the zoning map, the property to the west (abutting the proposed ROS area) is zoned R-5 for Alden's Walk. Prior to the conditional rezoning agreement, the project site had been zoned R-3 with the Flexible Housing Overlay Zone. The abutting properties to the north, east and south are zoned Residential R-3 zone with the Flexible Housing Overlay zone. The purpose of the Flexible Housing Zone is as follows:

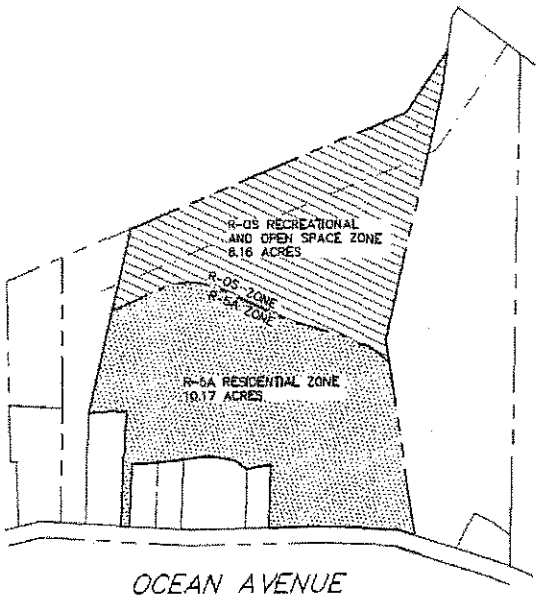
> *The intention of this division is to establish an overlay zone in which manufactured housing development is permitted in addition to those uses permitted in the underlying residential zone. The purpose of this division is to accommodate additional housing types in appropriate areas of the city, while protecting the value and integrity of established residential neighborhoods and ensuring a balanced and orderly pattern of residential development.*

The Flexible Housing Zone allows manufactured housing parks or subdivisions. The properties to the north and east of the applicant's site have been developed as planned residential unit developments under the R-3 provisions. There are single family homes abutting the site along Ocean Avenue and to the south. The Flexible Housing Zone does not address the development scheme contemplated by the applicant.

B. ROS and R-5A Map Amendments

The applicant intends to develop the R-5A portion of the site for a congregate care facility and seeks to retain the rear of the site in ROS. Each proposed map amendment for 802 Ocean Avenue is presented below.

1. **<u>Recreation Open Space (ROS)</u>**
The Planning Board recommends that the City Council rezone the rear portion of the property (8.155 acre) to ROS, which has the following purpose statement



(a) *The purpose of this division is:*

1. *To preserve and protect open space as a limited and valuable resource;*
2. *To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of urban development;*
3. *To coordinate with and carry out federal, state, regional, and city recreation and open space plans;*
4. *To provide a suitable location for large-scale regional sports and athletic facilities; and*
5. *To develop an open space system throughout the downtown, which provides the highest quality parks, plazas, and pedestrian environment.*

(b) The recreation open space zone may include parcels of public property, and private property legally restricted from intensive use or development through deed, covenant, or otherwise.

The proposed ROS zone would encompass one of the highest points in Portland, known as Graves Hill, with views of Casco Bay. The land is near the ROS land owned by the City, which includes trails and a dog park, but the two properties do not appear to be adjoining. The proposed ROS portion of the site is next to Alden's Walk condominiums (R-5 to the west) and the Ocean Ridge Condominiums (R-3 and FH to the north).

The ROS purpose statement indicates that the ROS can be applied to privately held land within protective deed covenants. The applicant has prepared an easement to be granted to Portland Trails, which will be put into escrow until the time of closing. At the time of closing, it will be recorded. Hawthorn Development LLC has indicated that they would provide for pedestrian access to this land and there is a sidewalk shown from Ocean Avenue to the facility. The pedestrian network for the proposal would be part of the development review process.

2. **Residential R-5A**

a) Purpose Statement

The purpose statement for R-5A 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 site does possess a high degree of natural site amenities that can provide a unique residential living experience. The land surrounding the site is either Residential R-3 with a Flexible Housing overlay or Residential R-5. In addition, the site is near the city land off Ocean Avenue that has trails and a dog park. While the proposed use does not propose affordable housing, the concept is to address the growing housing needs of senior citizens with a congregate care facility. This site addresses the applicable locations for the R-5A zone.

b) R-5A Build-out Potential and Traffic Impacts

The applicant has provided calculations of the maximum build out potential of the site under the existing conditional zoning agreement with 98 units; the proposed 150 unit congregate care facility and the maximum number of units under the current and proposed net residential density calculations. The projected build-out for the proposed R-5A land of 10.17 acres (refer to Applicant's submission) under the current net density definition is 188 and under the net residential density calculations (as part of the R-5A text and zoning definition amendments), the maximum number of units would be 225.

The applicant has provided Tom Errico, P.E. Consulting Traffic Engineer, with the estimated trips (Applicant's submission and Tom's comments Attachment 2) that would be generated under all of the above scenarios. Tom Errico's comments are as follows:

I have reviewed the application materials including the trip generation comparison analysis between the current contract zone agreement and the proposed project. The following summarizes my initial comments.

- The applicant has provided an estimate of trips for three scenarios; the proposed project, under the current contract zone agreement, and under the proposed R5-A zoning. My comments on the trip generation estimate are noted below:

- The proposed project is not projected to generate a significant level of new trips to the area street system (23 AM peak hour trips and 36 PM peak hour trips). This level of traffic generation would not require a Traffic Movement Permit, and likely would not require a detailed traffic impact study. I would note that the trip generation estimate is preliminary and I would need to review specific project characteristics and confirm that the ITE Trip Manual appropriately matches the proposed project.
- The current contract zone agreement allows for the construction of 98 residential units. According to the applicant, assuming the residential units are condominium units, 51 trips would be generated during the AM peak hour and 60 trips during the PM peak hour. This level of traffic is approximately twice as high at that predicted for the proposed project. Accordingly, the proposed project would have less impact to the public street system.
- Assuming a R5-A zone and the possibility for construction of 225 residential condominium units, the site would generate 99 trips during the AM peak hour and 117 trips during the PM peak hour. This level of traffic is significantly greater than the previous two scenarios and would require a Traffic Movement Permit. A full traffic impact study would be required and may require review of the Washington Avenue/Ocean Avenue intersection and the Ocean Avenue/Presumpscot Street intersection. I would also note that other locations could be included if safety problems were identified through a review of crash data.

In general I find the layout of the site to be acceptable. The project provides a sidewalk along the driveway to Ocean Avenue. The key traffic issues that will be need to be considered at this site will be the location of the driveway on Ocean Avenue and how it complies with standards for driveway spacing and sight distance. In addition pedestrian accommodations on Ocean Avenue would need to be reviewed. Given that there is a gap in the sidewalk on the south side on Ocean Avenue, improvements will need to be considered. I want to emphasize that the pedestrian generation includes both residents and employees of the site.

c) Other R-5A Locations

The R-5 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 R-5A zone was created as a floating zone and it is applied to a site through a conditional zoning agreement for PRUD development. Following are the existing and proposed R-5A locations:

1. 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 allowed for 98 residential condominiums in two towers with a maximum height of 100 feet.
2. Canco Woods (Conditional Zone Agreement- C-42): Canco Woods was the second conditional rezoning agreement that zoned the land to R-5A. 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 R-5A 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 R-5A zone.
3. McAuley Place has requested an R-5A zone for their proposal at 605 Stevens Avenue in order to support the redevelopment of the convent to affordable independent senior citizen housing and for the construction of a congregate care facility along with additional age-restricted independent living units. This map amendment is pending before the City Council.

As noted above, the R-5A zone is intended for suitable locations off peninsula that have natural amenities; proximity to the peninsula; have adequate municipal services and can accommodate a more intensive use of

land and be compatible with surrounding neighborhoods and increase affordable housing opportunities. The R-5 and R-3 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.

VI. SUMMARY OF TEXT AMENDMENTS

In conjunction with the requested map amendments, the applicant had requested R-5A text amendments to accommodate the proposed development. The planning staff began working with Hawthorn Development LLC at a pre-application meeting in November 2014 and they submitted their text amendments on March 9, 2015. After receiving this application, the McAuley Place pending application was revised from a request for R-6A to R-5A. The staff and Planning Board worked to integrate the requests into one set of text amendments. On May 12, 2015, the Planning Board voted unanimously to recommend the R-5A map and accompanying zoning text amendments for McAuley Place to the City Council for adoption. The City Council adopted the R-5A text amendments on June 15, 2015, which also serve the development objectives of Portland Retirement Residence. The text amendments are not reiterated in this report.

VII. CONSISTENCY WITH COMPREHENSIVE PLAN

The applicant lists how their proposal addresses the State goals contained in Portland's Comprehensive Plan. Please refer to the applicant's submission. Below is the Planning Board analysis of relevant comprehensive plan policies for the proposed map amendments.

A. 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.

B. Goals and Policies from Volume I

The Planning Board found the following goals and policies contained in Portland's Comprehensive are relevant to the proposed map and text amendments.

Housing Sustaining Portland's Future

Housing Policy #1

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.

- 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:
  - Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
  - 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;
- 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.
- 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.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Housing Policy #3

Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
    - Evaluate and update, as needed, the current zoning and subdivision codes to encourage new residential development that:
        - Offers diverse and quality living options;
        - Provides traditional neighborhood elements;
        - Promotes a walkable city; and
        - Is compatible with Portland's existing neighborhoods.
- 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
- Encourage neighborhood populations that are economically, socially, culturally and ethnically diverse.
    - Encourage a mix of housing types for all ages, household sizes, and incomes throughout the city.
    - Increase density where appropriate in order to achieve neighborhood diversity.
- Locate and design housing to reduce impacts on environmentally sensitive areas.

Housing Policy #5

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.

- 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.
- 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.
    - Encourage new housing near neighborhood schools and in proximity of public parks and athletic facilities throughout the city.
- 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.

<u>Green Spaces, Blue Edges: An Open Space and Recreation Plan</u>

Conservation of natural resources should include a complete array of natural features and habitats, so that the public may learn about and experience the full realm of Portland's natural environment.

- Develop high point parks, open spaces located on the higher elevations of the city, in neighborhoods throughout the city such as the Ocean Avenue landfill, hilltop on Ocean Avenue by rock shop, Rocky Hill and hills in Stroudwater.

C. Growth and Rural Areas of Future Land Use Plan

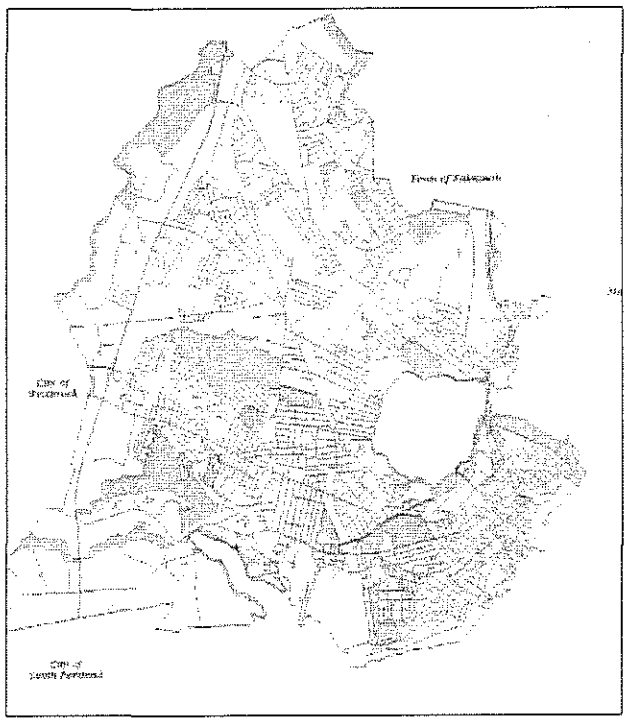
Under Portland's Future Land Use Plan contained within Volume II, the state's growth management definitions for growth and rural area in 2005 were listed. Following is the excerpt of those definitions from the Comprehensive Plan.

Land areas designated as "growth areas" 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 are redevelopment. (Growth area may include land areas that physically unsuitable for development or redevelopment if such areas such as 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.*

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 other 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 (yellow) and rural (green) areas copied from the

Comprehensive Plan is included here. The land on either side of Ocean Avenue is designated as a growth area, except for the city land near the municipal boundary with Falmouth.

D. 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:

> **R-5a Residential**
> **Location:** There is one R-5a 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 are very similar to those in the R-5zone, 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.

E. Findings of Consistency with the Comprehensive Plan

In making a recommendation to the City Council, the Planning Board is asked to determine if the proposed zoning map 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. As Corporation Counsel's office has previously explained,

> *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.*

In determining whether, a rezoning (either through a text/map amendment or a Conditional Zone Agreement) is in basic harmony with the plan as a whole, 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.

VIII. PLANNING BOARD RECOMMENDATION

The R-5A zone is intended for suitable locations off peninsula that have natural amenities; proximity to the peninsula; have adequate municipal services and can accommodate a more intensive use of land and be compatible with surrounding neighborhoods; and increase affordable housing opportunities. The Ocean Avenue site was previously zoned R-3 with the Flexible Housing Overlay, which would have allowed manufactured home parks or subdivisions at a moderate density. The Planning Board noted that Ocean Avenue is one of Portland's major roadways, which offers opportunities for a moderate density infill project near the peninsula and near off-peninsula services and amenities.

The purpose statement for the ROS zone states the zone is intended to preserve and protect open space as a limited and valuable resource. It also allows for the reasonable use of open space while preserving open space characteristics to assure the continued availability for public use as scenic, recreation and natural resource areas. The land area proposed within the ROS zone would encompass one of the highest points in Portland, known as Graves Hill, with views of Casco Bay. The land is near (not directly abutting) the ROS land owned by the City. In addition, the proposed ROS portion of the site is next to Alden's Walk condominiums (R-5 to the west) and the Ocean Ridge Condominiums (R-3 and FH to the north). Hawthorn Development are committed to the same vision for the area and proposed retaining this area in the ROS after the removal of the conditional rezoning agreement. The applicant has offered an easement for trail access to be held by Portland Trails and to put this into an escrow account until the time of closing.

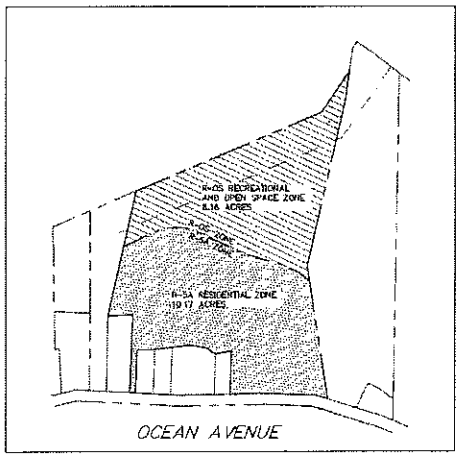
The Planning Board determined that the proposed R-5A map amendment is consistent with the Comprehensive Plan goals and policies and the rezoning lends itself well to the proposed development. The Board also stated that the development proposal is a vast improvement over the past proposals and is in keeping with the adjoining neighborhood. Chair O'Brien summarized at the public hearing that there is strong support from the Planning Board and the neighborhood for the proposed R-5A map amendment, which is tied to policy versus a project. Board member Jack Soley stated his appreciation for the amount of open space proposed to be preserved in this proposal. The Planning Board voted unanimously to recommend to City Council the map amendments to zone 10.17 acres to R5A and to zone 8.55 acres to ROS. The Board unanimously supported the repeal of the 2004 conditional rezoning agreement.

On June 9, 2015, the Planning Board voted unanimously (6-0, Dundon absent) that on the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan, public comment, the information provided in public hearing on June 9, 2015 for the project #2015-039 (802 Ocean Avenue), and/or other findings as follows:

1. **Map Amendment from Conditional Rezoning Agreement #34 Residential to R5A Residential and ROS Recreation and Open Space:**

The Planning Board found unanimously (6-0, Dundon absent) that the proposed rezoning for the a property located at 802 Ocean 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 802 Ocean Avenue from Conditional Rezoning Agreement #34 to R5A Residential Zone for 10.17 acres and to ROS Recreation and Open Space for 8.55 acres as area shown below.



2. **Repeal Conditional Rezoning Agreement #34- 802 Ocean Avenue**

The Planning Board unanimously (6-0, Dundon absent) recommends to City Council that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Urban Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, be amended to reflect the repeal of the conditional rezoning #34 for 802 Ocean Avenue and to show the rezoning of 802 Ocean Avenue to R5A Residential Zone for 10.17 acres and to ROS Recreation and Open Space for 8.55 acres as set forth above.

Report Attachments
1. C-34 Order as passed 04-05-# 67
2. Thomas Errico, P.E. Traffic Engineering Reviewer 4/23/2015

Public Comments
PC1 Richard Perkins, e-mail, April 23, 2015

Applicant's Submittal
A. Application
B. Narrative
C. Proposed R-5A Text Amendments
D. P & S Agreement
E. Vesting Deed
F. Net Density Calculations for full site
G. Net Density Calculations for R-5A
H. Net Density Calculations proposed Net Density
I. Traffic Projects
J. Neighborhood Packet

Plans
P1. Portland ALTA Survey
P2. Site Plan
P3. Exterior Elevations
P4. Floor Plans
P5. Perspective – drive entry
P6. Perspective- Street view 2
P7. Perspective- Street view 3
P7a. Perspective – Street view 3- winter view
P8. Perspective- Street view 4
P8a. Perspective- Street view 4- winter view
P9. Perspective- View from north condos
P10. Exterior Building Elevations and Height
P11. Site Plan – Rendered

Order 67 – 04/05
Given first reading 9/20/04
Postponed on 10/4/04
Public Hearing and Passage 10/18/04 7-1 (Smith abstaining, O'Donnell opposed)

NATHAN H. SMITH (MAYOR)(3)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

PETER E. O'DONNELL (A/L)
JAMES F. CLOUTIER(A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER AUTHORIZING AMENDMENT TO CITY CODE SEC. 14-49 (ZONING MAP AMENDMENT) RE: CONDITIONAL REZONING FOR 802-828 OCEAN AVENUE

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective thirty (30) days following this rezoning.

CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC

This Agreement made this _____ day of _____, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in Saco, Maine (hereinafter "**GRAVES HILL**").

WITNESSETH:

WHEREAS, GRAVES HILL owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, GRAVES HILL proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, GRAVES HILL has requested the rezoning of 10.167 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 8.155 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS) ; and

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY,** by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

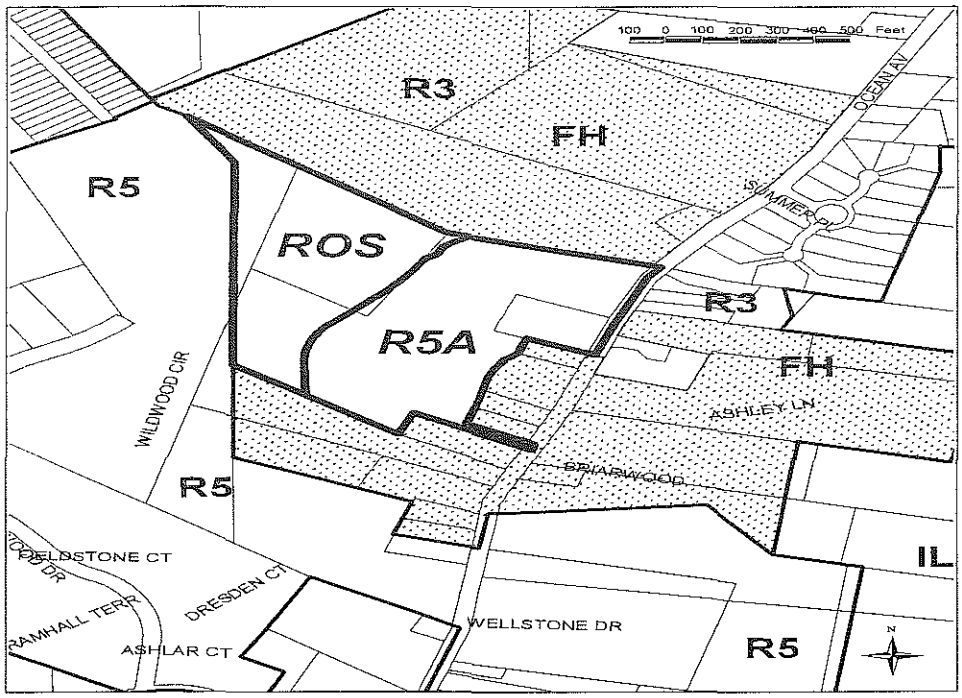
it is necessary and appropriate to impose with **GRAVES HILL's** agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 200_, by City Council Order No._____, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, GRAVES HILL has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **GRAVES HILL**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **GRAVES HILL** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-3 zone.



Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Ovelay to R5A and ROS

July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the **R-5A** portion of the property:

a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight (98) residential units within the Property; and

b. a community room in each building available for use by the residents of the PRUD; and

c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and

d. a fitness and special events room in each building available for use by the residents of the PRUD; and

e. a cross country ski center/locker room in each building available for use by the residents of the PRUD; and

f. parking in an amount of not less than 2 spaces per residential unit, plus at least 28 additional surface visitor parking spaces; and

g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine (49) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine (49) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **GRAVES HILL** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

> a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **GRAVES HILL** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking

dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, Graves Hill Condominium Owners' Association, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **GRAVES HILL** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid . The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to Portland Trails and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Graves Hill entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **GRAVES HILL** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **GRAVES HILL** shall instead contribute funds

equal to the cost of installing sidewalk and granite curbs as aforesaid to the CITY for the CITY to apply toward installing gramite curbs and sidewalk in the vicinity of the **PROPERTY**.

GRAVES HILL shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **GRAVES HILL** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **GRAVES HILL** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which GRAVES HILL and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, **GRAVES HILL** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 49

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II

Minimum recreation open space area: Outdoor passive recreation in the form of

pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY**'s zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **GRAVES HILL** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **GRAVES HILL'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **GRAVES HILL** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the

request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **GRAVES HILL** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS: GRAVES HILL LAND COMPANY, LLC

_____ By:_____
Diane Doyle
Its Manager

STATE OF MAINE
CUMBERLAND, SS. _____, 200_

Then personally appeared the above-named Diane Doyle, Manager of GRAVES HILL LAND COMPANY, LLC as aforesaid, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,

_____
Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

Barbara Barhydt - 802 Ocean Avenue - Portland Retirement Residence

From: Tom Errico <thomas.errico@tylin.com>
To: Barbara Barhydt <BAB@portlandmaine.gov>
Date: Thursday, April 23, 2015 10:26 AM
Subject: 802 Ocean Avenue - Portland Retirement Residence
CC: "Margolis-Pineo, David" <DMP@portlandmaine.gov>, "Earley, Katherine" <KA...

Hi Barbara – I have reviewed the application materials including the trip generation comparison analysis between the current contract zone agreement and the proposed project. The following summarizes my initial comments.

- The applicant has provided an estimate of trips for three scenario's; the proposed project, under the current contract zone agreement, and under the proposed R5-A zoning. My comments on the trip generation estimate are noted below:
  - The proposed project is not projected to generate a significant level of new trips to the area street system (23 AM peak hour trips and 36 PM peak hour trips). This level of traffic generation would not require a Traffic Movement Permit, and likely would not require a detailed traffic impact study. I would note that the trip generation estimate is preliminary and I would need to review specific project characteristics and confirm that the ITE Trip Manual appropriately matches the proposed project.
  - The current contract zone agreement allows for the construction of 98 residential units. According to the applicant, assuming the residential units are condominium units, 51 trips would be generated during the AM peak hour and 60 trips during the PM peak hour. This level of traffic is approximately twice as high at that predicted for the proposed project. Accordingly, the proposed project would have less impact to the public street system.
  - Assuming a R5-A zone and the possibility for construction of 225 residential condominium units, the site would generate 99 trips during the AM peak hour and 117 trips during the PM peak hour. This level of traffic is significantly greater than the previous two scenarios and would require a Traffic Movement Permit. A full traffic impact study would be required and may require review of the Washington Avenue/Ocean Avenue intersection and the Ocean Avenue/Presumpscot Street intersection. I would also note that other locations could be included if safety problems were identified through a review of crash data.

- In general I find the layout of the site to be acceptable. The project provides a sidewalk along the driveway to Ocean Avenue. The key traffic issues that will be need to be considered at this site will be the location of the driveway on Ocean Avenue and how it complies with standards for driveway spacing and sight distance. In addition pedestrian accommodations on Ocean Avenue would need to be reviewed. Given that there is a gap in the sidewalk on the south side on Ocean Avenue, improvements will need to be considered. I want to emphasize that the pedestrian generation includes both residents and employees of the site.

If you have any questions or comments, please contact me.

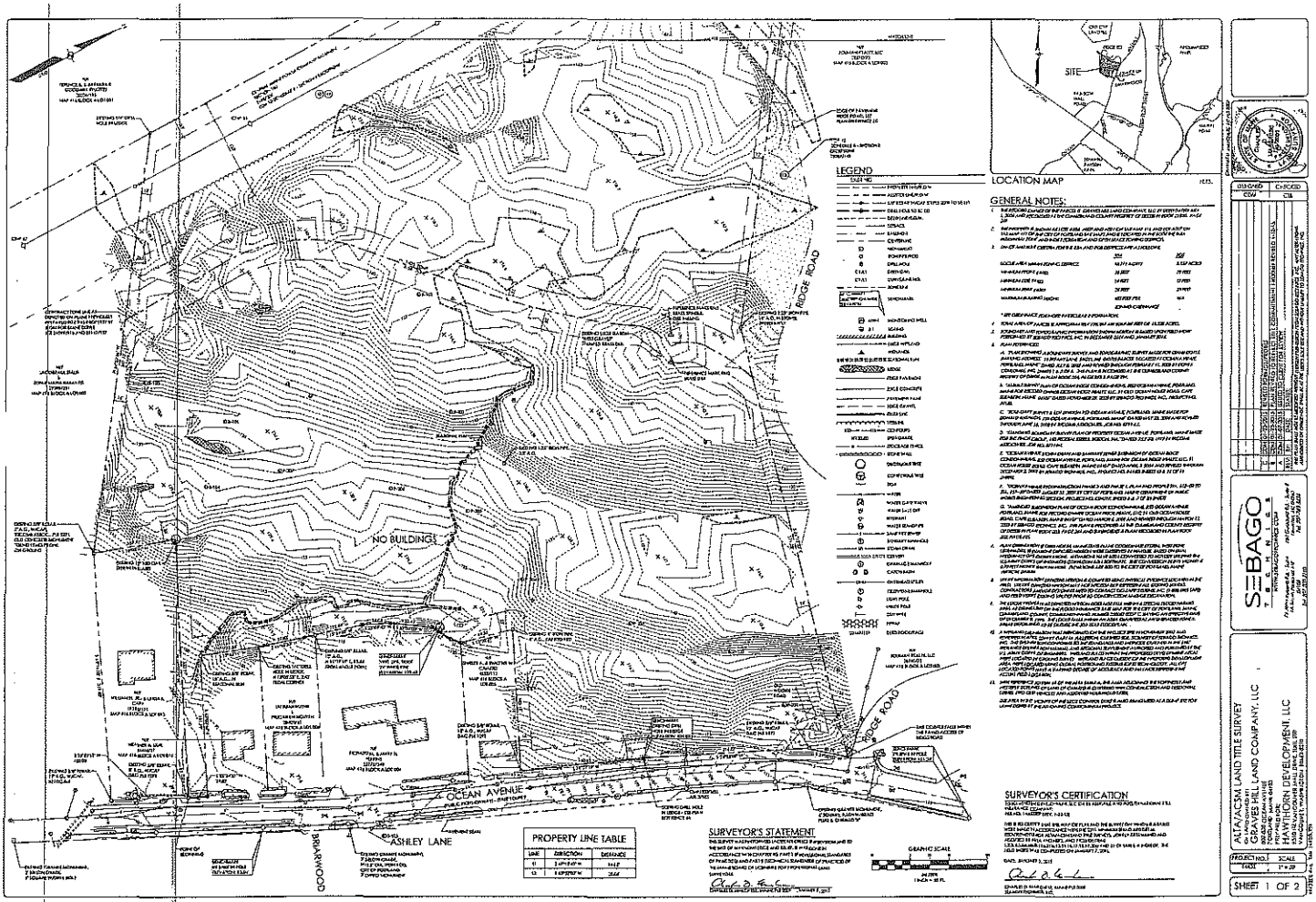
Best regards,

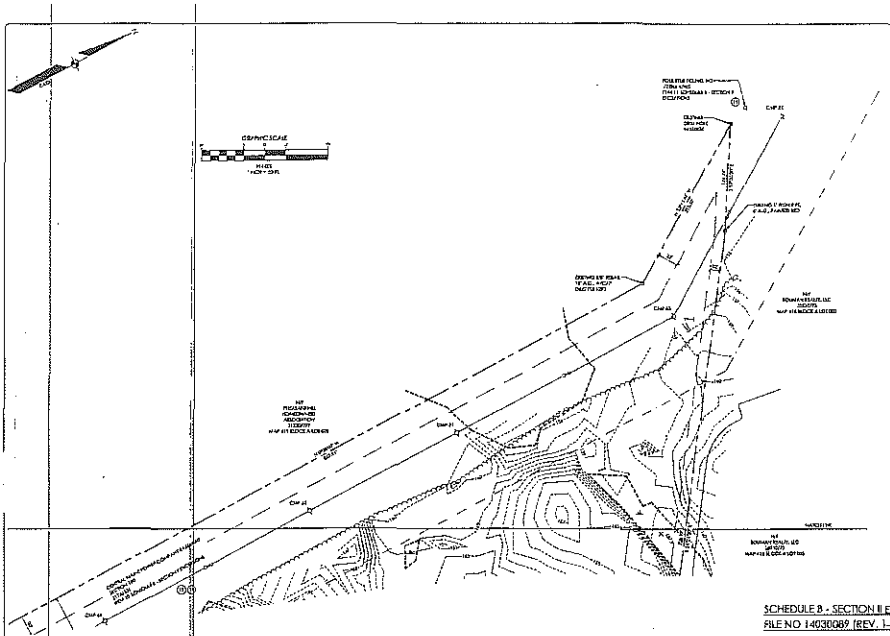
Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director

From: Richard Perkins <rperkins3@maine.rr.com>
To: Barbara Barhydt <BAB@portlandmaine.gov>
Date: Thursday, April 23, 2015 10:17 PM
Subject: OBO Hawthorn Development - Workshop April 28th - Perkins @ 794 Ocean (#416-A-4)

Thank you,Barbara, for acknowledging my hand-written letter to you of June 30,2014 and inserting my home in future plans for developement and review of vacant site 802 Ocean Ave. (#416-A-21). As my letter outlined ,I am the most immediate drainage down-site abutter. There already is substantial water run-off and at certain times rains are barely able to be contained within my rear boundary and the adjacent side bordered by my neighbor,. Tai Huynh @ 784 Ocean Ave. (416-A-15). I will be interested to review the Hydrological Analysis, and hopefully a Hydro Cad is being prepared that my engineer will be able to review and advise me. We don't want any problems, do we, that can be planned for ahead of time and thus averted.

I look forward to the workshop and to talking with you,
Sincerely yours, Dick Perkins


NO BUILDINGS
OCEAN AVENUE
ASHLEY LANE
RIDGE ROAD
RIDGE ROAD
BRIARWOOD
LEGEND
LOCATION MAP
SITE
GENERAL NOTES:
SURVEYOR'S STATEMENT
SURVEYOR'S CERTIFICATION
PROPERTY LINE TABLE
GRAPHIC SCALE
ALTA/ACSM LAND TITLE SURVEY
GRAVES HILL LAND COMPANY, LLC
SEBAGO TECHNICS
SHEET 1 OF 2



LEGEND

LOCATION MAP

GENERAL NOTES:

LEGAL DESCRIPTION

LEGAL DESCRIPTION CONTINUED

SCHEDULE B - SECTION II EXCEPTIONS

FILE NO 14030069 (REV. 1-12-15)

SURVEYOR'S STATEMENT

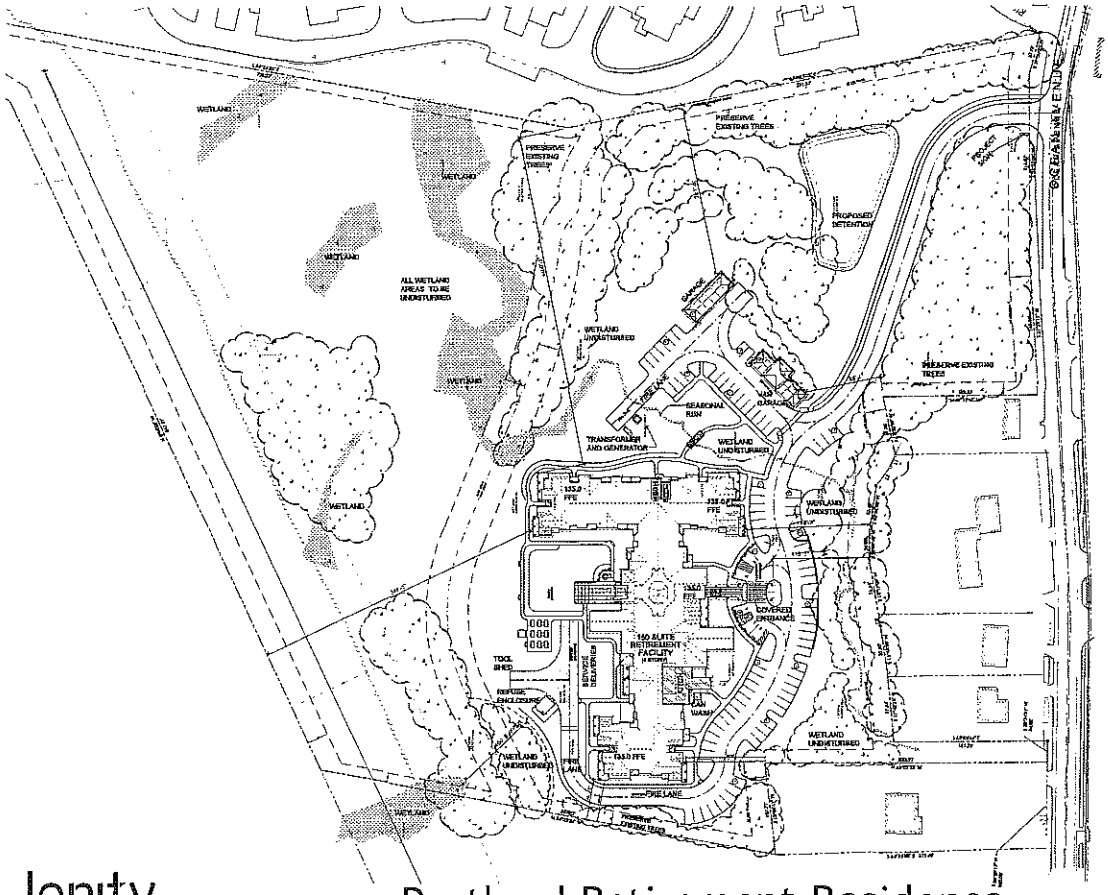
SURVEYOR'S CERTIFICATION

ALTA/ACSM LAND TITLE SURVEY
GRAVES HILL LAND COMPANY, LLC
PORTSMOUTH AVENUE
EXETER, NEW HAMPSHIRE
PREPARED FOR:
HAWTHORN DEVELOPMENT, LLC
30 WALNUT STREET, SUITE 203
WINCHESTER, MASSACHUSETTS 01890

SEBAGO TECHNICS
PORTLAND, MAINE
WWW.SEBAGOTECHNICS.COM

PROJECT NO. 14033
SCALE 1" = 50'

SHEET 2 OF 2

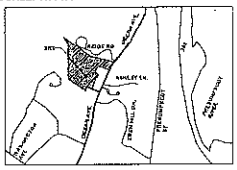


Portland Retirement Residence

Portland, Maine

Portland Vicinity Map

SCALE: N.T.S.



PROJECT STATISTICS:

PROJECT AREA:

TOTAL AREA 18.33 ACRES NET	798,363 SQ. FT.	
TOTAL BUILDING COVERAGE:	43,035 SQ FT	5.5%

AREA CALCULATIONS:

RETIREMENT BUILDING:	39,885 SQ. FT.	5.0%
GARAGES:	3,022 SQ. FT.	0.4%
ACCESSORY BUILDINGS:	128 SQ. FT.	0.1%
DRIVES:	61,106 SQ. FT.	7.6%
WALKS AND PATIOS:	20,480 SQ. FT.	2.5%
LANDSCAPED OPENSPACE:	673,742 SQ. FT.	84.4%

PERVIOUS / IMPERVIOUS AREA

IMPERVIOUS AREA: 15.6% PERVIOUS AREA: 84.4%

PARKING:

RETIREMENT PROJECT:
87 OPEN SPACES
12 COVERED SPACES
5 ACCESSIBLE SPACES
104 TOTAL SPACES

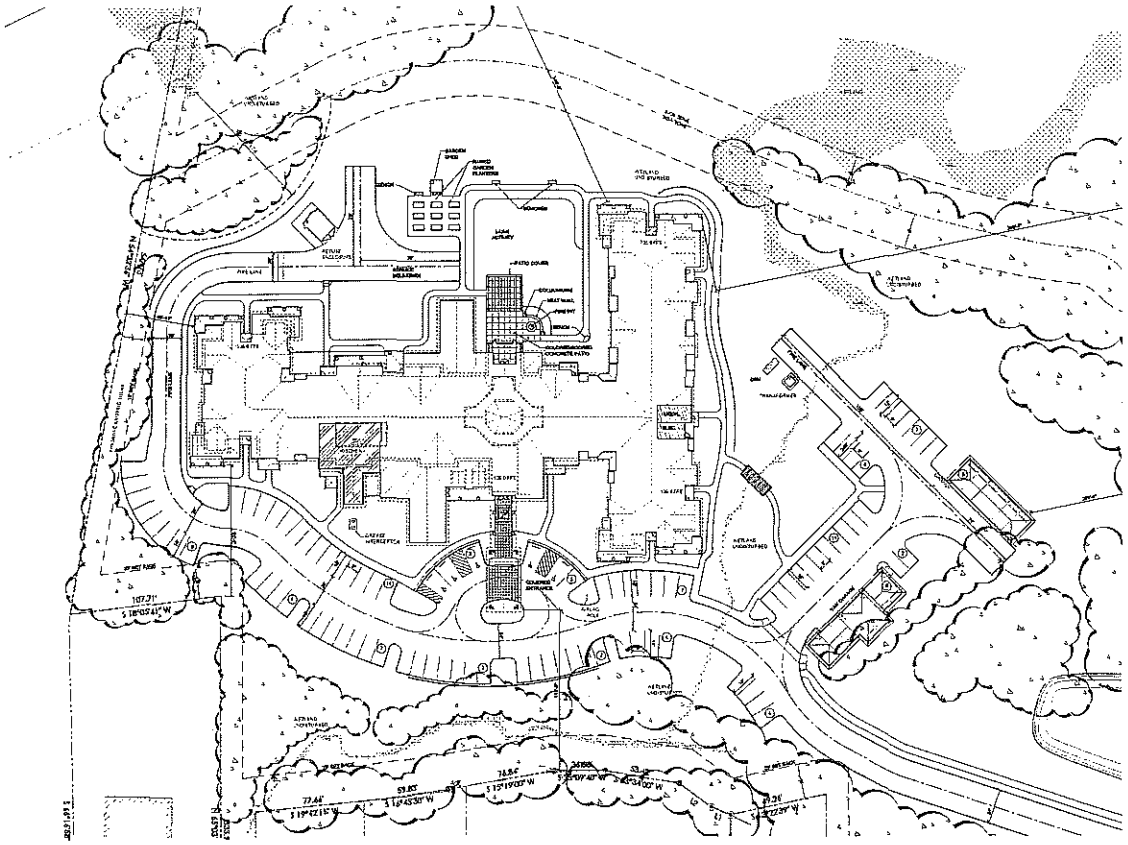
REFERENCE SITE PLAN

DATE: 06 Feb 2015
SCALE: 1" = 60'-0"

0 30 60 90 120

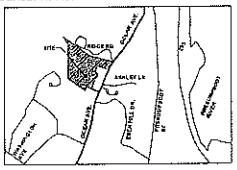
lenity architecture
3150 Kettle Court SE, Salem, Oregon 97301
p 503 399 1090 f 503 399 0565 w lenityarchitecture.com

HAWTHORN RETIREMENT GROUP
9510 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-6710
(360) 813-1650 Fax (503) 213-1646



Portland Vicinity Map

SCALE: N.T.S.



PROJECT STATISTICS:

PROJECT AREA:

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TOTAL BUILDING COVERAGE:	43,035 SQ FT	5.5%

AREA CALCULATIONS:

RETIREMENT BUILDING:	38,885 SQ. FT.	5.0%
GARAGES:	3,022 SQ. FT.	0.4%
ACCESSORY BUILDINGS:	126 SQ. FT.	0.1%
DRIVES:	61,106 SQ. FT.	7.6%
WALKS AND PATIOS:	20,480 SQ. FT.	2.5%
LANDSCAPED OPENSPACE:	673,742 SQ. FT.	84.4%

PERVIOUS / IMPERVIOUS AREA

IMPERVIOUS AREA: 15.6% PERVIOUS AREA: 84.4%

PARKING:

RETIREMENT PROJECT:
87 OPEN SPACES
12 COVERED SPACES
5 ACCESSIBLE SPACES
104 TOTAL SPACES

SITE PLAN

DATE: 6 Feb 2015
SCALE: 1" = 30'-0"

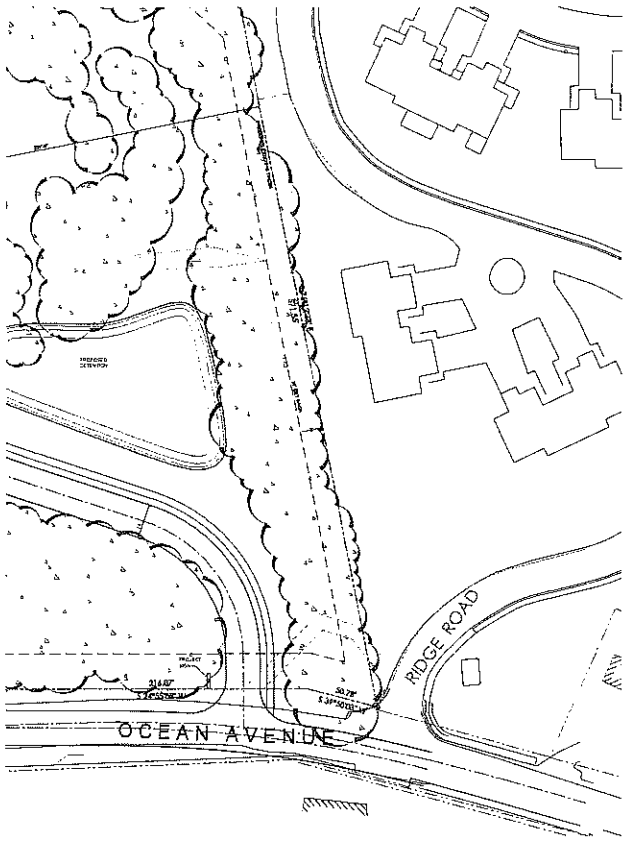
0 15 30 60 90

lenity architecture
3156 Kettle Court SE, Salem, Oregon 97301
p 503 399 1090 f 503 399 0565 lenityarchitecture.com

Portland Retirement Residence

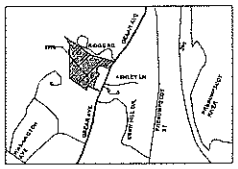
Portland, Maine

HAWTHORN RETIREMENT GROUP
8510 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-6210
(360) 213-1350 Fax (360) 213-1510



Portland Vicinity Map

SCALE: N.T.S.



PROJECT STATISTICS:

PROJECT AREA:

TOTAL AREA 18.33 ACRES NET	798,393 SQ. FT.	
TOTAL BUILDING COVERAGE:	43,035 SQ FT	5.5%

AREA CALCULATIONS:

RETIREMENT BUILDING:	39,885 SQ. FT.	5.0%
GARAGES:	3,022 SQ. FT.	0.4%
ACCESSORY BUILDINGS:	128 SQ. FT.	0.1%
DRIVES:	61,106 SQ. FT.	7.6%
WALKS AND PATIOS:	20,480 SQ. FT.	2.5%
LANDSCAPED OPENSPACE:	673,742 SQ. FT.	84.4%

PERVIOUS / IMPERVIOUS AREA

IMPERVIOUS AREA: 15.6% PERVIOUS AREA: 84.4%

PARKING:

RETIREMENT PROJECT:
- 87 OPEN SPACES
- 12 COVERED SPACES
- 5 ACCESSIBLE SPACES

104 TOTAL SPACES

SITE PLAN

DATE: 06 Feb 2015

SCALE: 1" = 30'-0"

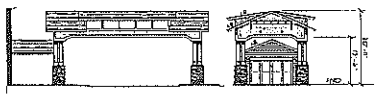
0 15 30 60 90

lenity architecture
3150 Kettle Court SE, Salem, Oregon 97301
P 503 399 1090 F 503 399 0565 W lenityarchitecture.com

Portland Retirement Residence

Portland, Maine

HAWTHORN RETIREMENT GROUP
6310 NE Vancouver Mall Dr., Suite 230
Vancouver, WA 98662-6210
(360) 213-1950 Fax (360) 213-1948



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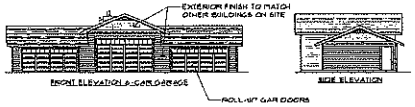
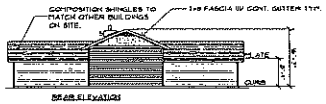
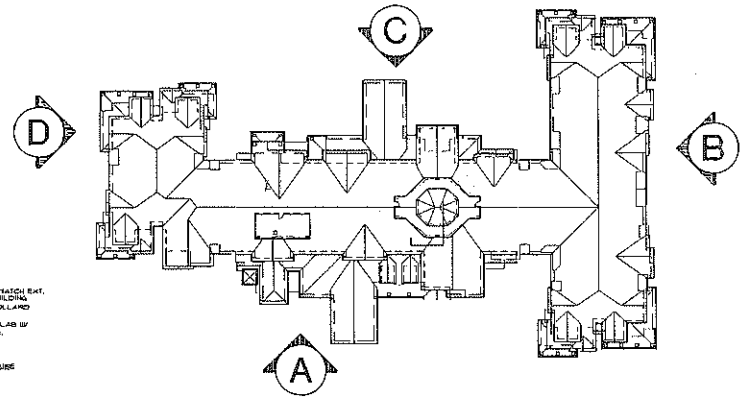
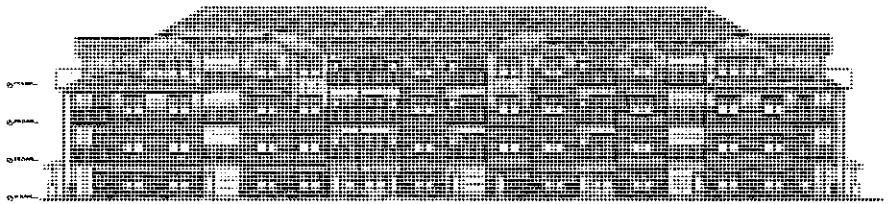


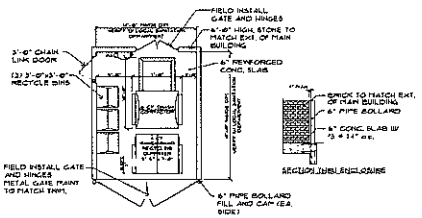
⑨ VAN GARAGE







⑧ WING B ELEVATION



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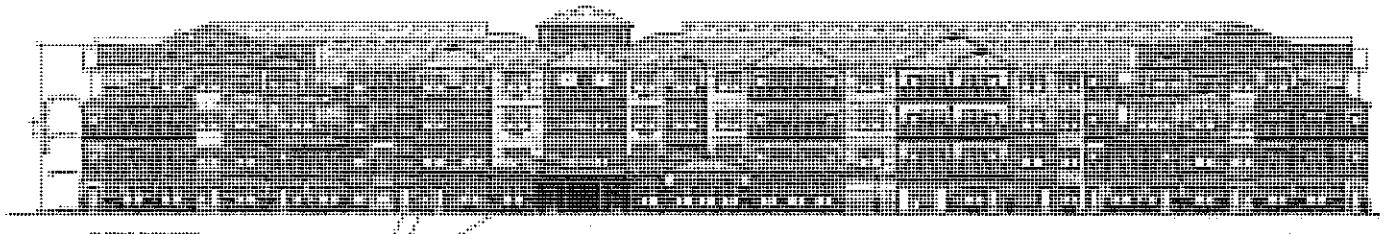

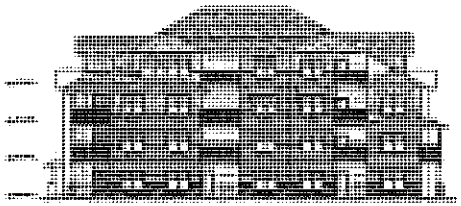

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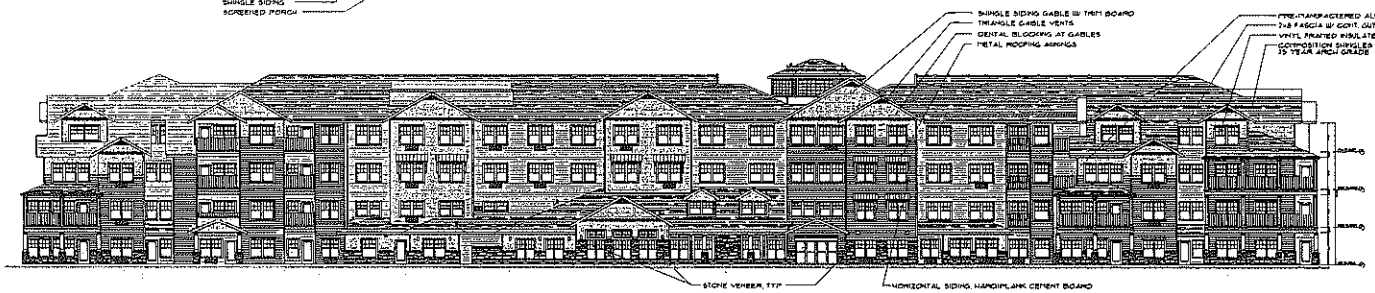
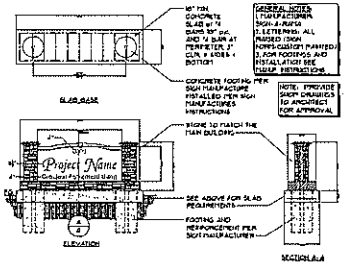


Ⓐ FRONT ELEVATION



PROJECT SIGN

Exterior Elevations

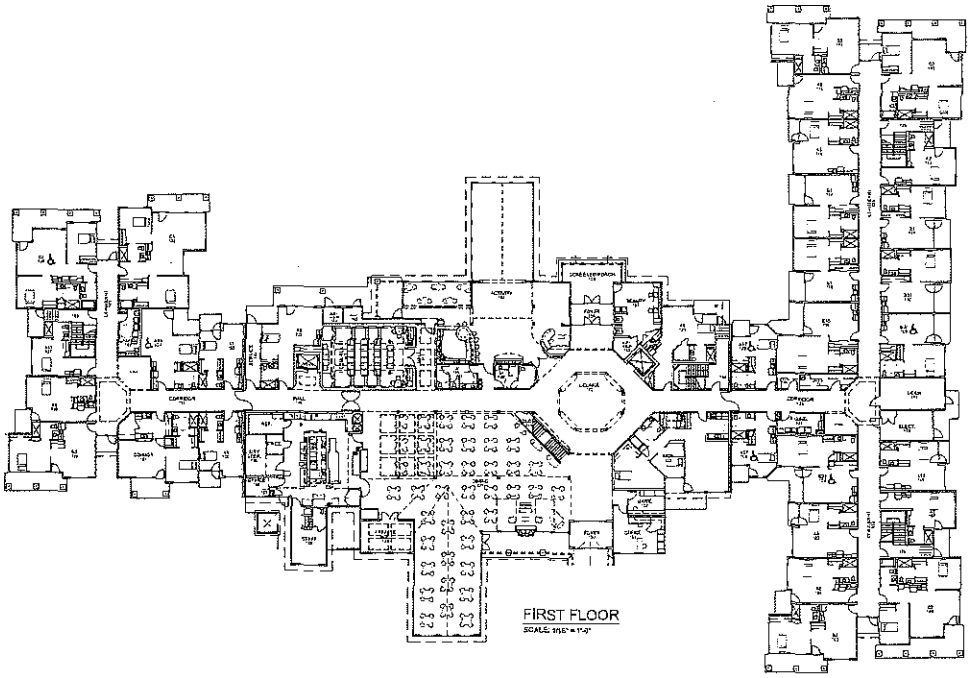
DATE: 02-17-15

lenity architecture
3150 Kettle Court SE, Salem, Oregon 97301
p 503 399 1090 f 503 399 0565 w lenityarchitecture.com

Portland Retirement Residence

Portland, Maine

HAWTHORN RETIREMENT GROUP
9310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-8210
(360) 213-1550 Fax (360) 213-1540

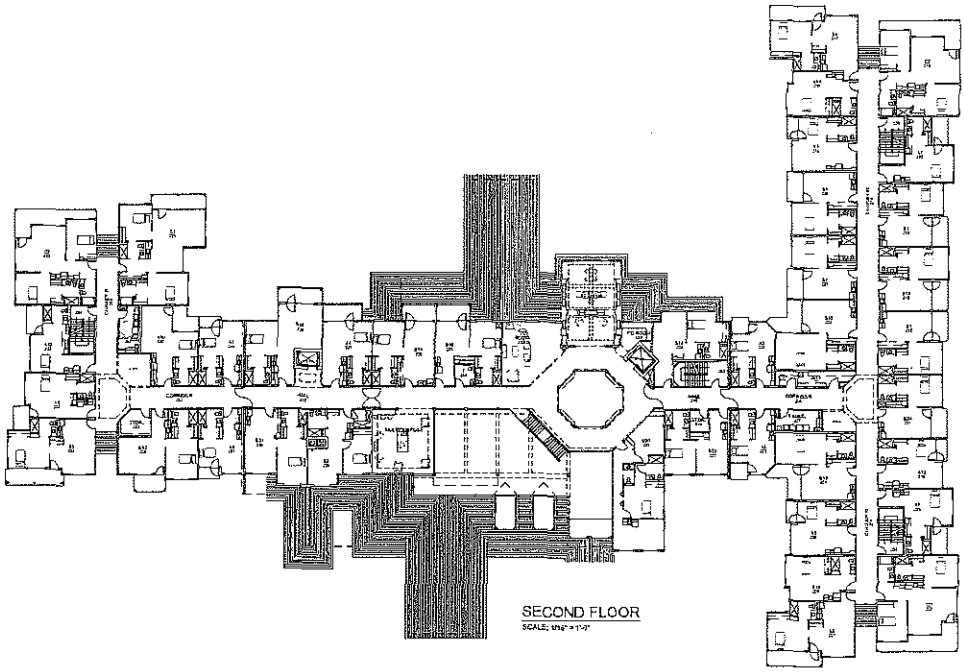


lenity
architecture
3150 Kettle Court SE, Salem, Oregon 97301
P 503 399 1090 F 503 399 0665 W lenityarchitecture.com

Portland Retirement Residence

Portland, ME

HAWTHORN
RETIREMENT GROUP
8310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-8210
(360) 213-1253 Fax (360) 213-1546



lenity
architecture
3550 Kettle Court SE, Salem, Oregon 97301
p 503 399 1090 f 503 399 0565 w lenityarchitecture.com

Portland Retirement Residence

Portland, ME

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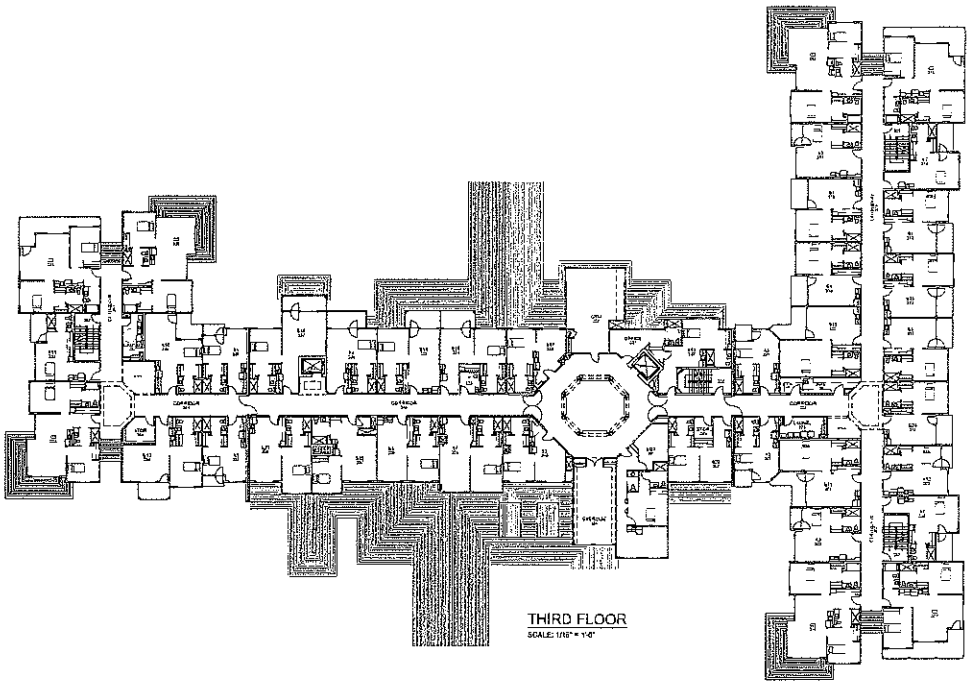
RETIREMENT GROUP
9310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-8210
(360) 313-1330 Fax (360) 313-1596



lenity
architecture
2050 Kettle Court SE, Salem, Oregon 97302
p 503 399 1090 f 503 399 0666 lenityarch@actcva.com

Portland Retirement Residence

Portland, ME

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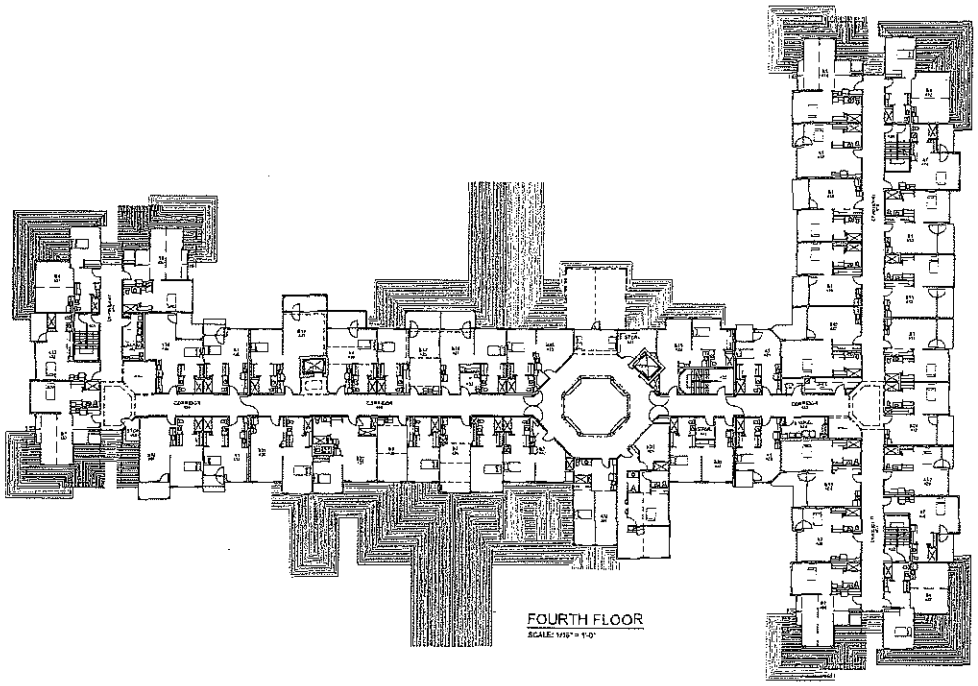
9210 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-6610
(360) 213-1530 Fax (360) 213-1540



lenity
architecture
2350 Kettle Court SE, Salem, Oregon 97301
p 503 399 1090 f 503 399 0585 www.lenityarchitecture.com

Portland Retirement Residence

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9210 NE Vancouver Mall Dr., Suite 200
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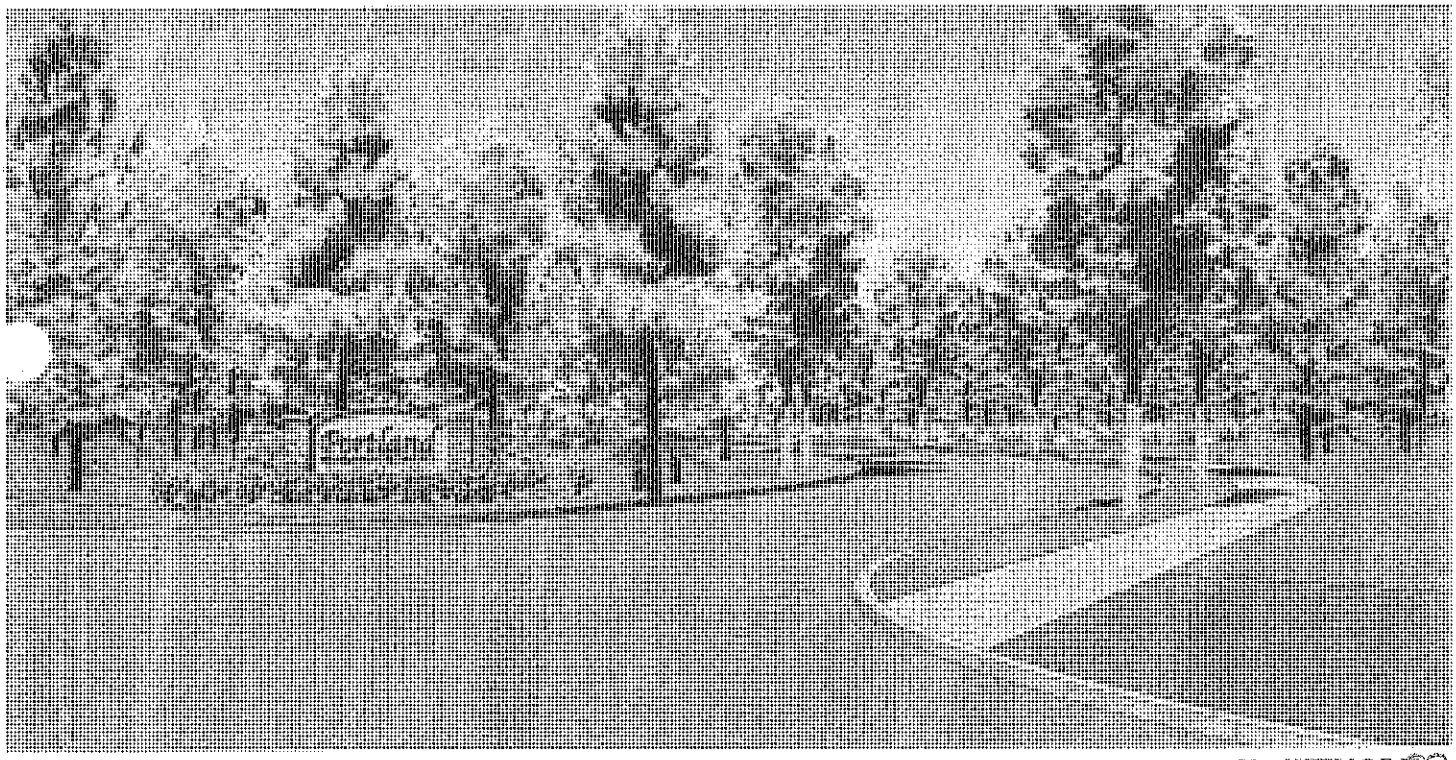
(360) 213-1550 Fax (360) 213-1560



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Portland Retirement Residence

Portland, Maine

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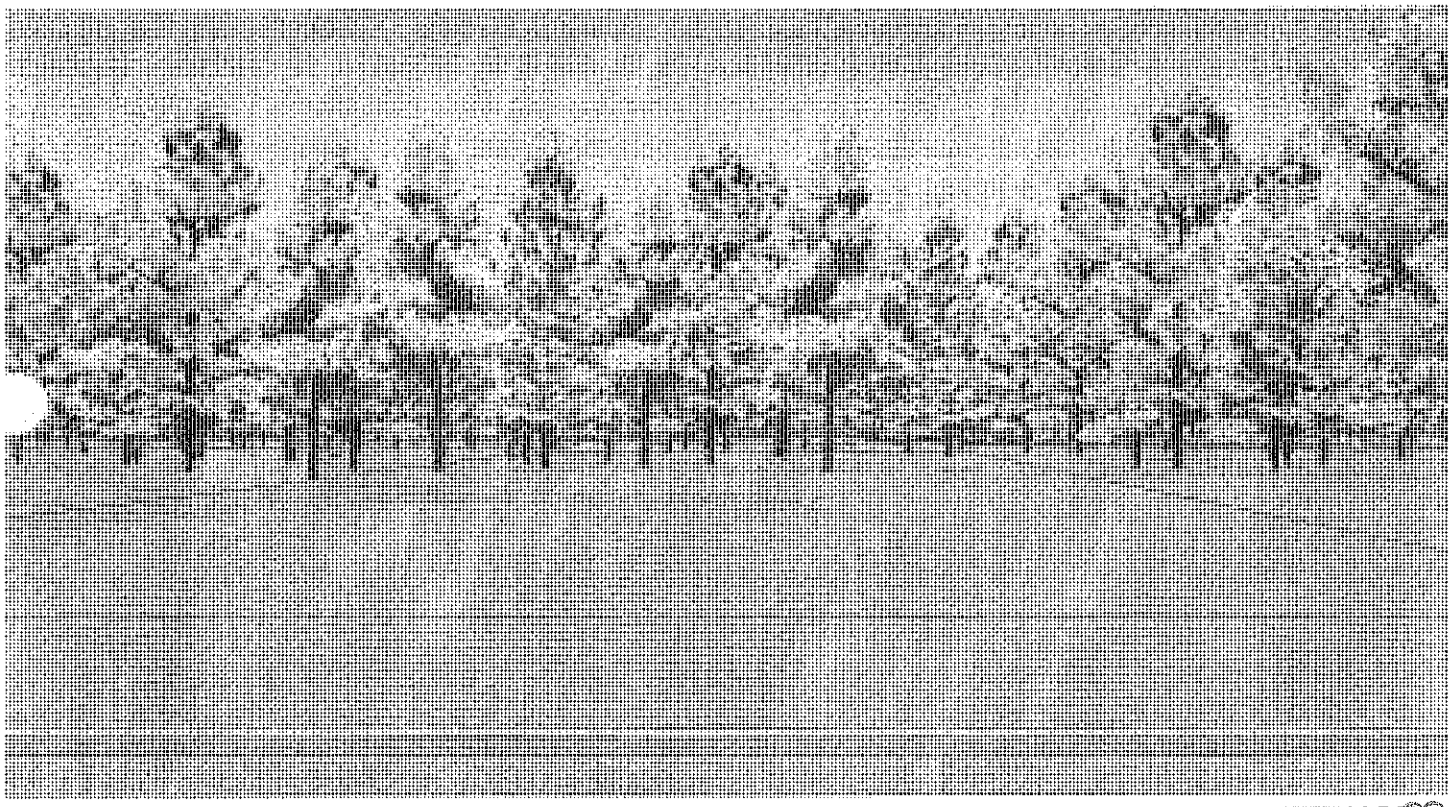

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Portland Retirement Residence

Portland, Maine

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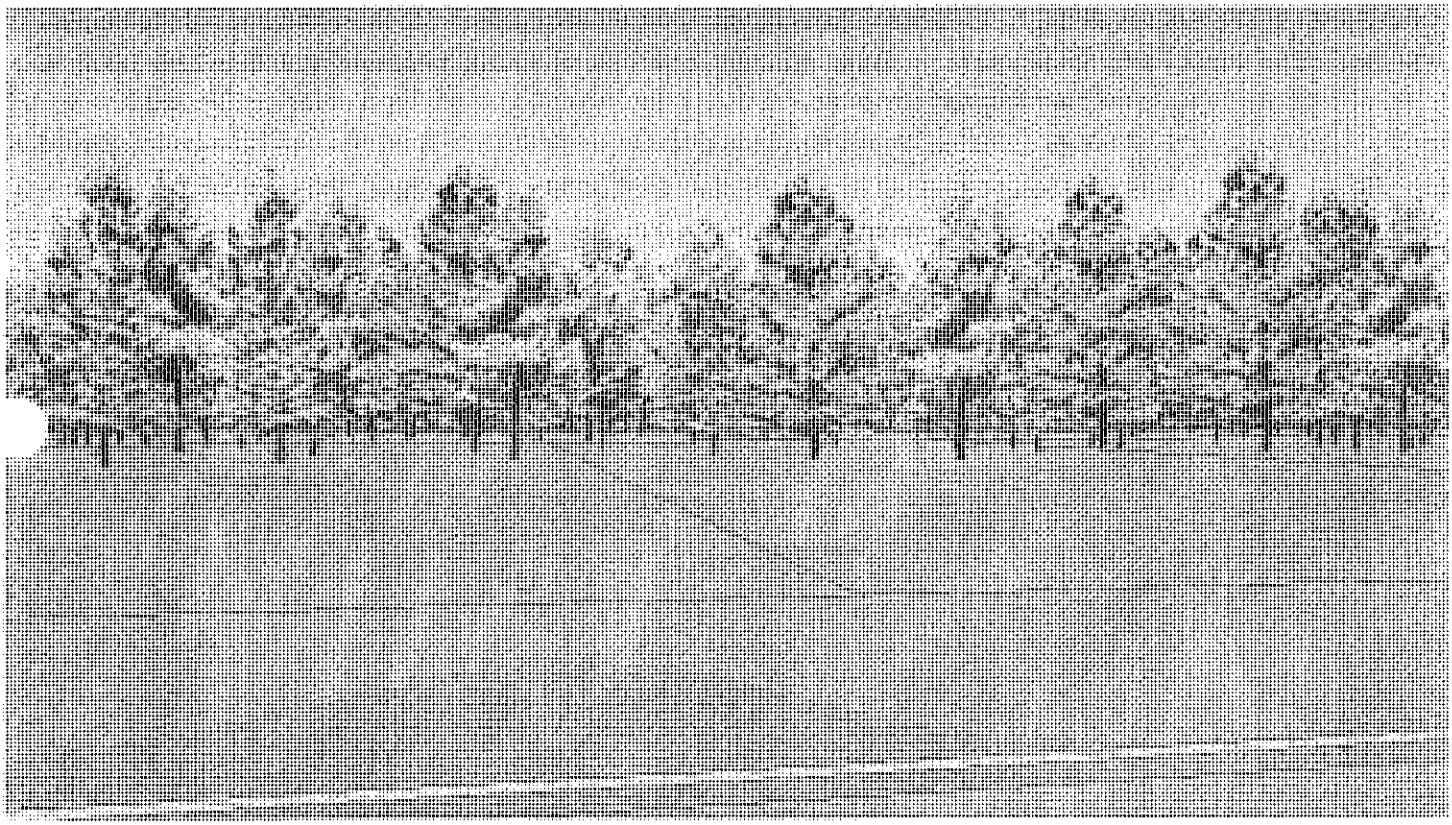

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Portland Retirement Residence

Portland, Maine

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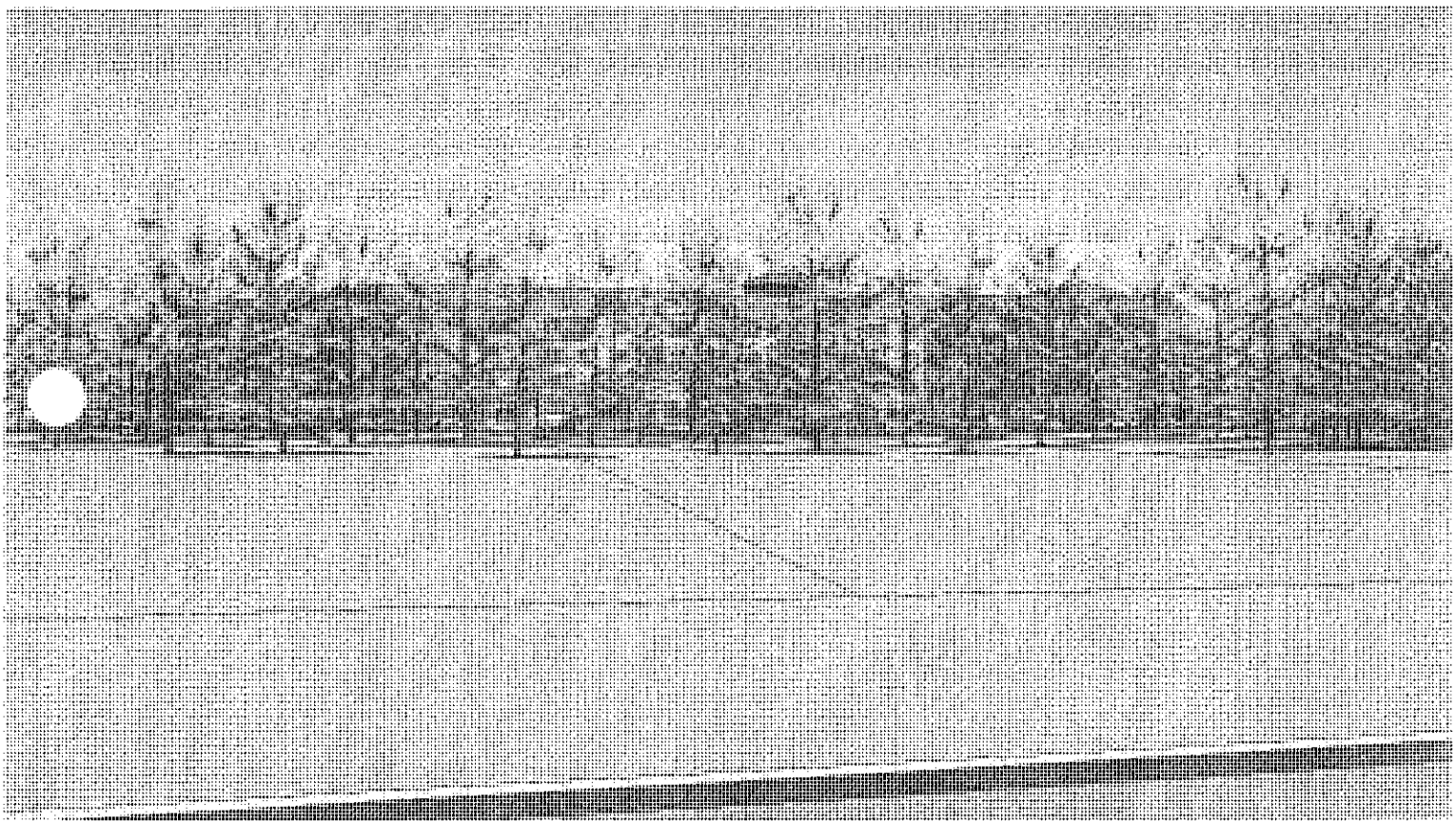

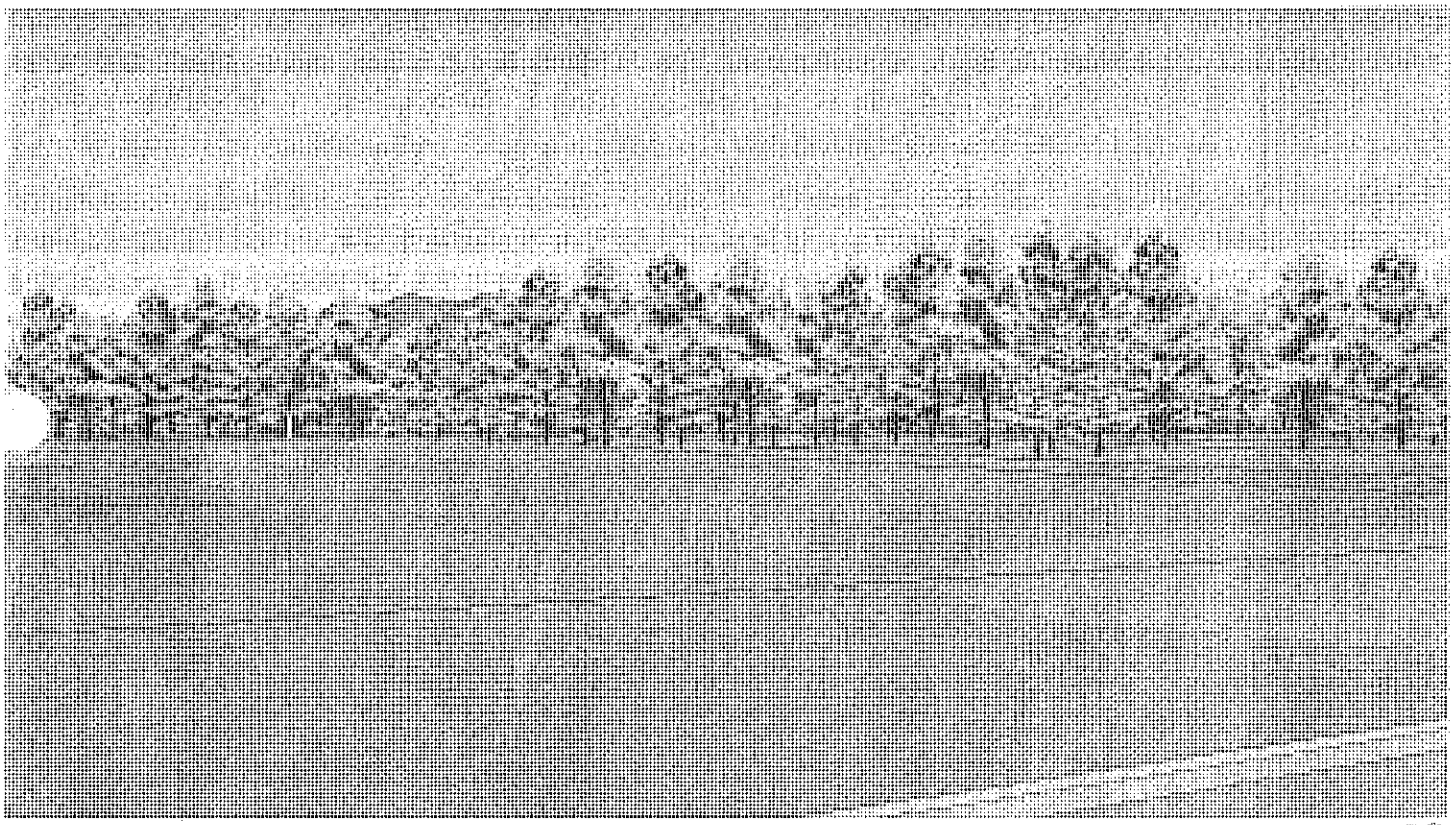

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Portland, Maine

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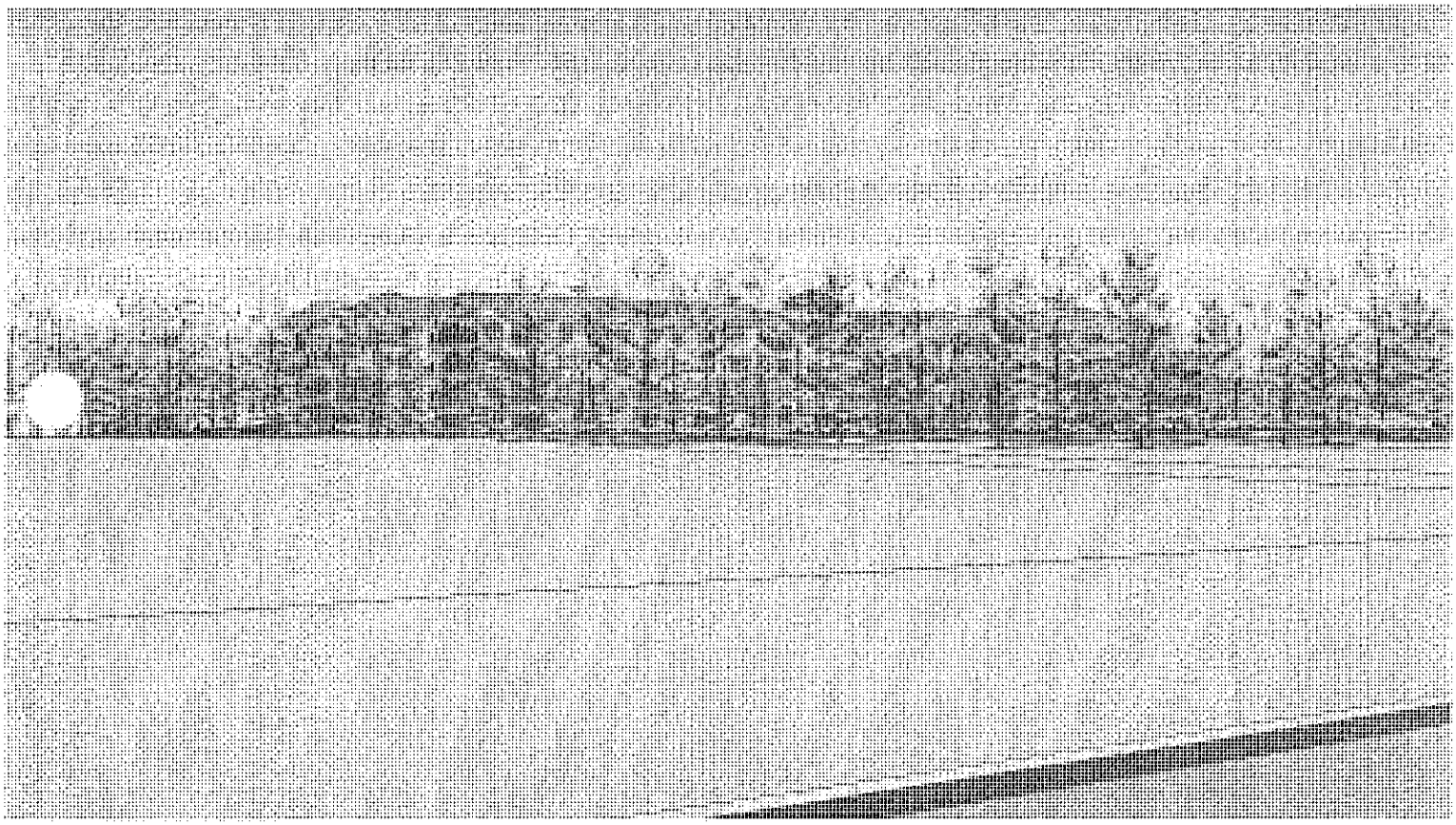

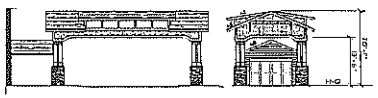

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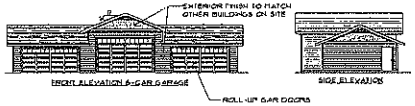
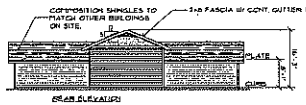
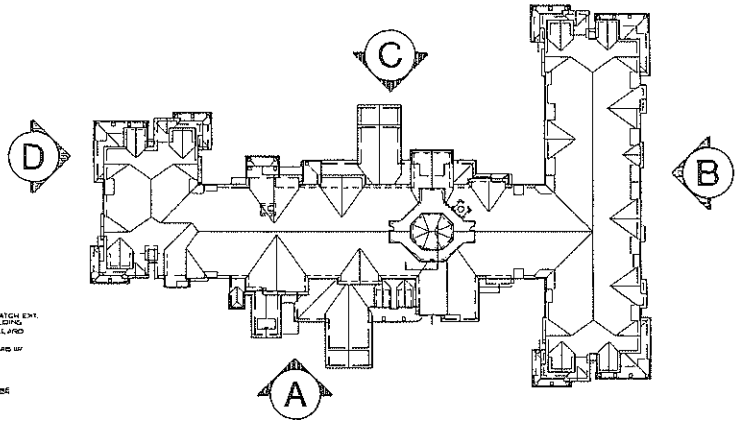
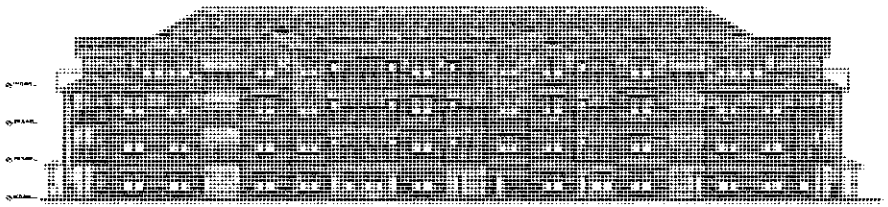


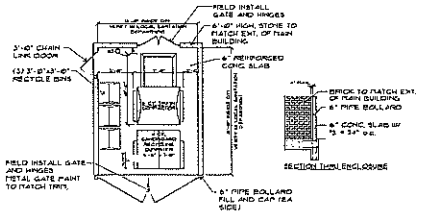
③ VAN GARAGE







⑧ WING B ELEVATION



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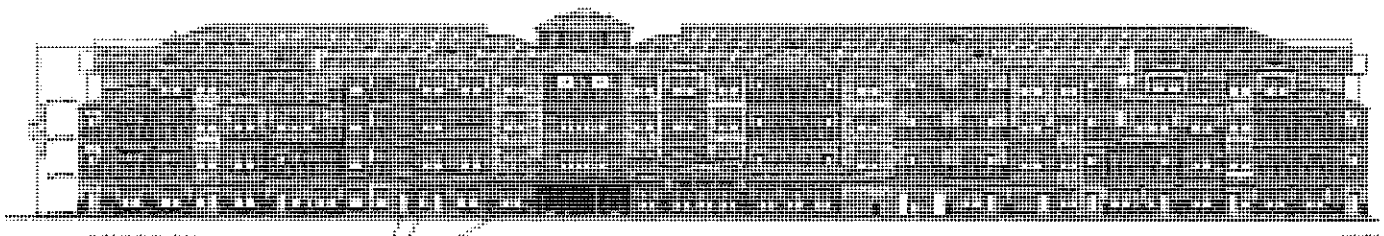

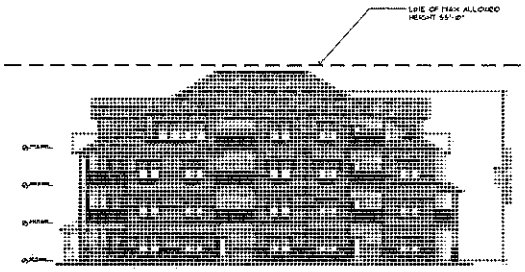

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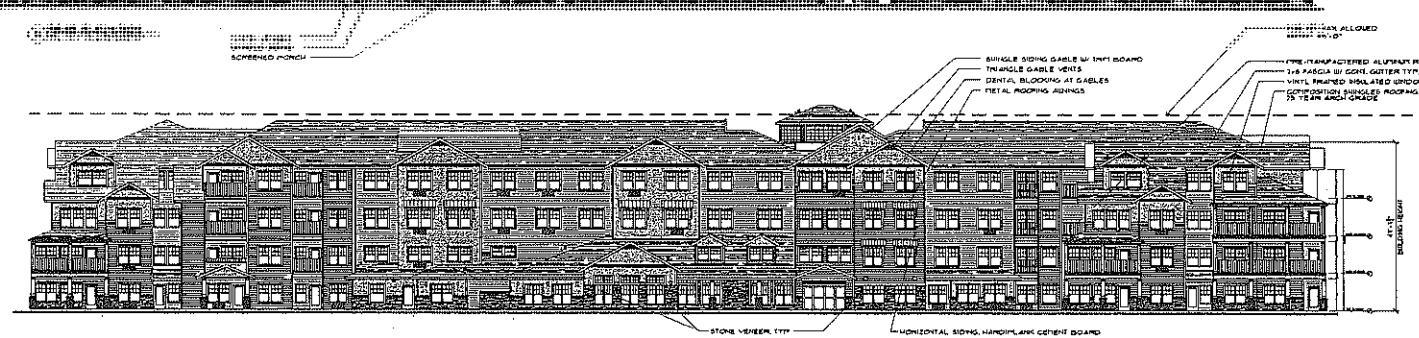

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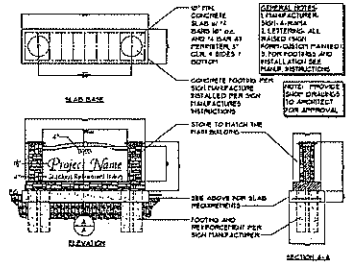

E PROJECT SIGN

Exterior Elevations

DATE: 06-01-15

lenity architecture
3150 Kettle Court SE, Salem, Oregon 97301
p 503 399 1090 f 503 399 0565 w lenityarchitecture.com

Portland Retirement Residence

Portland, Maine

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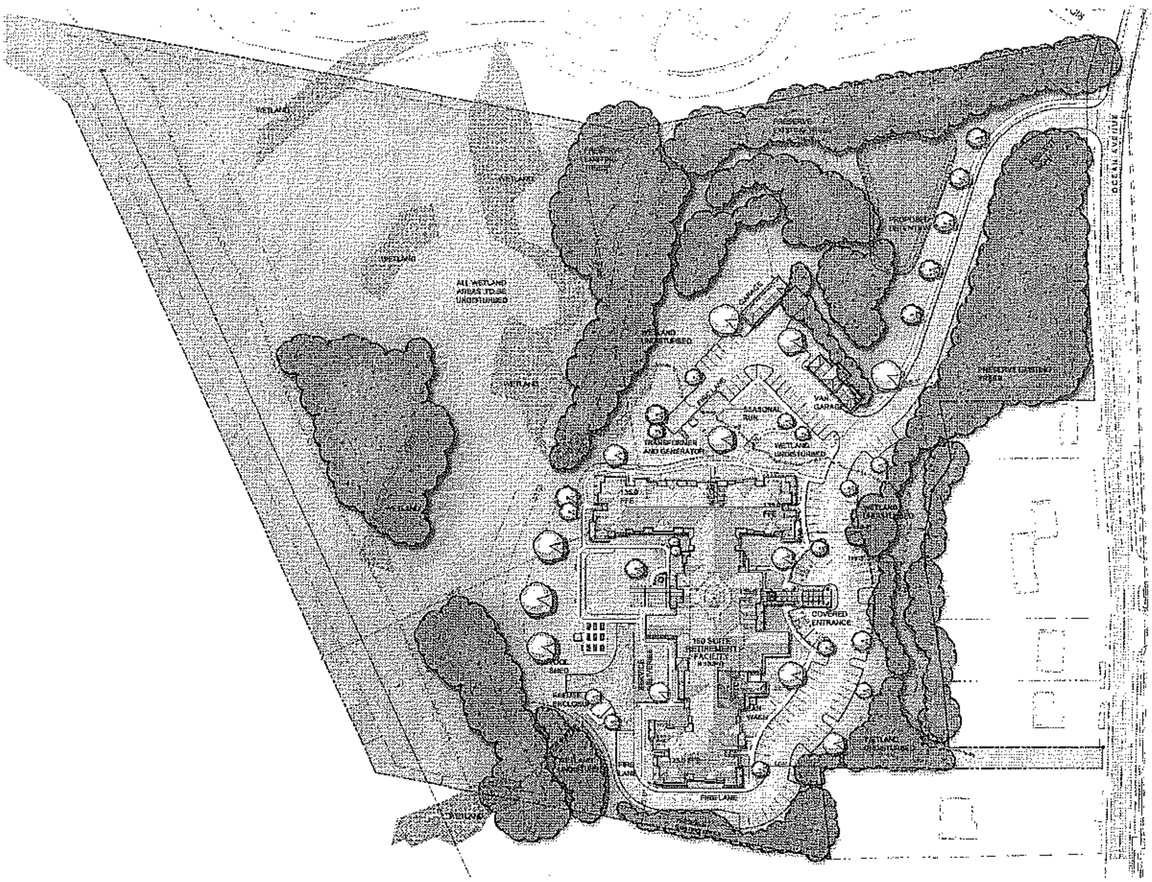
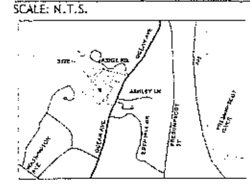


Portland Vicinity Map

SCALE: N.T.S.



PROJECT STATISTICS:

PROJECT AREA:

TOTAL AREA 18.33 ACRES NET 798,363 SQ. FT.

TOTAL BUILDING COVERAGE: 43,035 SQ FT 5.5%

AREA CALCULATIONS:

RETIREMENT BUILDING:	39,885 SQ. FT.	5.0%
GARAGES:	3,022 SQ. FT.	0.4%
ACCESSORY BUILDINGS:	128 SQ. FT.	0.1%
DRIVES:	61,106 SQ. FT.	7.6%
WALKS AND PATIOS:	20,480 SQ. FT.	2.5%
LANDSCAPED OPENSPACE:	673,742 SQ. FT.	84.4%

PERVIOUS / IMPERVIOUS AREA

IMPERVIOUS AREA: 15.6% PERVIOUS AREA: 84.4%

PARKING:

RETIREMENT PROJECT:
87 OPEN SPACES
12 COVERED SPACES
5 ACCESSIBLE SPACES
104 TOTAL SPACES

REFERENCE SITE PLAN

DATE: 06 Feb 2015

SCALE: 1" = 60'-0"

0 30 60 90 120

lenity architecture

Portland Retirement Residence

Portaind, Maine

HAWTHORN RETIREMENT GROUP

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: Portland Retirement Reisdence

PROPOSED DEVELOPMENT ADDRESS:

802-828 Ocean Ave, Portland ME 04103

PROJECT DESCRIPTION: 150 Suite (Living Unit) 4 Story, Congregate Care Facility
1) Requesting Text Amendment to the Division 6.5, R-5A Residential Zone adding Congregate Care to the 14-127 Allowed Uses, and amend the dimensional standards to accomodate this use

2) Rescind and extinguish the existing C-34 Contract Zone for the R-5A portion of this site. Document #88949 Recorded in Book 21999. Pages 113-138

CHART/BLOCK/LOT: Tax Map 411, Block A, Lot 7
Tax Map 416, Block A Lots 6, 7 & 21
Cumberland County Registry of Deeds, Book 21500. Page 269

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer) Name: Mark D. Lowen / Lenity Architecture OBO Hawthorn Development LLC Business Name, if applicable: Lenity Architecture LLC Address: 3150 Kettle Court SE City/State : Salem, Oregon Zip Code: 97301	Applicant Contact Information Work # 503-399-1090 Home# Cell # 503-586-4104 Fax# 503-399-0565 e-mail: markl@lenityarchitecture.com
Owner – (if different from Applicant) Name: Graves Hill Land Company LLC Address: 16 Tiffany Lane City/State : Saco, Maine Zip Code: 04072	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Malone Commercial Brokers, Joe Malone / Jennifer Small Address: 5 Moulton Street, Suite #3 City/State : Portland, Maine Zip Code: 04101	Agent/Representative Contact Information Work # 207-773-6000 Cell # Joe - 207-773-2254 Jennifer - 307-233-6752 e-mail: joe@maloneccb.com jennifer@maloneccb.com
Billing Information Name: Lenity Architecture LLC / Mark D. Lowen Address: 3150 Kettle Court SE City/State : Salem, Oregon Zip Code: 97301	Billing Information Work # 503-399-1090 Cell # 503-586-4104 Fax# 503-399-0565 e-mail: markl@lenityarchitecture.com

Engineer Name: Sebago Technics - Rob McSorley Address: 75 John Roberts Road, Suite 1-A City/State : Portland Maine Zip Code: 04106	**Engineer Contact Information** Work # 207-856-0277 Cell # 207-939-1809 Fax# 207-856-2206 e-mail:
Surveyor Name: Sebago Technics - Charles D. Marchese Address: 75 John Roberts Road, Suite 1-A City/State : Portland Maine Zip Code: 04106	**Surveyor Contact Information** Work # 207-200-2100 Cell # Fax# 207-856-2206 e-mail:
Architect Name: Lenity Architecture LLC - Daniel S. Roach Address: 3150 Kettle Court SE City/State : Salem, Oregon Zip Code: 97301	**Architect Contact Information** Work # 503-399-1090 Cell # 503-871-5908 Fax# 503-399-0565 e-mail: dan@lenityarchitecture.com
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:

Hawthorn Development is a purchaser under contract. See attached

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:

Undeveloped

Current Zoning Designation(s): R-5A / C34 (10.167) Acres & R-OS (8.155 Acres)

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.

4 Story, 145,000 sq. ft (+/-) Congregate Care Facility with 2-4 single story accessory buildings. Associated driveways, parking, walkways, stromwater and other necessary on site improments

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEES:

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

Zoning Map Amendment ___ $2,000.00 (from _____ zone to _____ zone) **Zoning Text Amendment** ___ $2,000.00 (to Section 14-_____) **Combination Zoning Text Amendment and Zoning Map Amendment** ___ $3,000.00 **Conditional or Contract Zone** ___ $3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	The City invoices separately for the following: • Notices ($.75 each) • Legal Ad (% of total Ad) • Planning Review ($40.00 hour) • Legal Review ($75.00 hour) • Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.

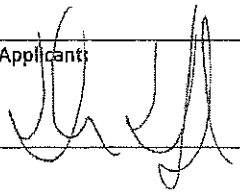
APPLICATION SUBMISSION:

1. All plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file names which can be found on the **Electronic Plan and Document Submittal** page of the City's website at http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal

2. **The submission shall include the following materials:**
   a. One (1) paper set of the zoning amendment application, concept plan and written narrative.
   b. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations and compatible with the surrounding neighborhood.

APPLICANT SIGNATURE:

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

Signature of Applicant:	Date:
	3/2/15

Portland Maine Retirement Residence
Proposed Zoning Map & Text Amendments

I. INTRODUCTION – PORTLAND MAINE RETIREMENT RESIDENCE

Site Description
The subject parcel is located on 18.33 acres located at 802 - 828 Ocean Ave in Portland Maine. The proposed site is irregular in shape with a combined frontage of 452' (+/-)

Abutted by:

- A few single family homes on large lots & undeveloped land along the southerly and easterly portion of the site.
- A 135' wide Central Maine Power Company right of way along the westerly side of the site that abuts Alden's Walk Subdivision
- Ocean Ridge Condominium Development to the north of the site

Current Zoning:
R5-A Residential with a Contract / Conditional Rezone Agreement
C-34 the (Easterly 10.17 acres)
ROS: Recreation and Open Space (Westerly 8.16 Acres)

Current Use: Vacant Wooded Site

Chart/Block/Lot: Tax Map #411, Block A, Lot 7
Tax Map #416, Block A, Lots 6, 7 & 21

Acreage
The parcel is 18.33 acres (798,363 Sq Ft) in size and is currently undeveloped.

Proposed Development
Hawthorn Development LLC proposes a Zoning Map / Text Amendment to allow the use of Congregate Care Facility for this site, with the intent to develop a 150-suite, 4-story, Congregate Care / Independent Senior Housing Facility.

Independent Senior Housing / Congregate Care Facility Concept
The Congregate Care concept is designed for residents with an average age of 82 who are still ambulatory. The facility does not offer medical or nursing care. This development will be privately funded and operated, and will not receive government subsidies.

Each private suite offers the advantages of independent living while the services included provide support, security, and friendship. The private suites include studio, one, and two bedroom versions. Suites do not contain kitchens, therefore they are not dwelling units, and all resident meals are served in a central dining room.

Services for residents include three prepared meals daily, housekeeping, laundering service, private van transportation, and various social and physical activities. The Management Team lives on the premises and is available to residents 24 hours a day. The residents monthly rent payment covers the cost of their private suite, all meals, services and utilities, no "buy in fee" is required.

Our typical resident is a single woman in her late 70's or 80's who lives within 10 miles of the site. Approximately 10% of suites will be rented by couples resulting in a total building population of approximately 165.

Fewer than 20% of the residents will be driving their own cars. Because most of our residents prefer not to drive, we provide private van transportation for their use. Van service is included in the monthly rent, available 24/7 and offers residents independence and mobility while providing their families peace of mind.

This type of use does not create the problems typically associated with higher density developments, such as traffic, noise, or increased demand on public services.

Site Design

The Site design and configuration has taken into account the need for efficient land use in order to provide careful conservation of the onsite and nearby natural resources. The location of the building, accessory structures, parking, drive access, and other site improvements have been intentionally located in order to protect environmentally sensitive areas on the site. Additional care and attention has been devoted to providing substantial buffers and the preservation of natural site amenities benefiting both our residents and the surrounding neighbors.

Building Design

The building is designed to be residential in nature. Neighborhood compatibility is achieved in the site planning and building design process. The wing ends and the building center step down from four and three stories to two to one-story sections. This arrangement provides for privacy and a gentle change of scale. Care is taken to minimize the impact to the existing community as well as to complement the surrounding local architecture. Exterior siding materials will include horizontal siding and rock or brick. The roofing material will be architectural composition shingles.

The retirement residence building features common areas for a variety of uses; A central dining room and kitchen for shared meals, multi-purpose room, beauty shop, crafts room, TV room, media/computer room, movie theater, lounges, and an exercise room. The circulation is organized around a central atrium. The common areas are the "social hub" and an essential part of the residents' lifestyle.

Residents will be able to contact the manager with both emergency pull cords and voice communications in each suite.

Proposed vehicle access is provided from a single access point on Ocean Avenue. Since our residents prefer not to drive and van service is available at all times, the traffic impact to Ocean Avenue and the surrounding area will be minimal. Peak-hour traffic impact is very low as our resident's mealtime and activities take place on site during those hours.

II ZONING, LAND USE AND DENSITY

Intent of the proposed Zoning Map Amendment / Text Amendment

The current land use for this site is a combination of R-5A / C-34 for the front (Easterly) 10.17 acres and ROS for the back (Westerly) 8.16 acres.
It is our intent to maintain the existing R-5A / ROS zoning designations and add the use of Congregate Care Facility to the R-5A zoning classification as an allowed use. We propose amending the Ordinance definition for Congregate Care Facility for clarity, and amending the dimensional standards to accommodate this use. Additionally the existing C-34 Contract / Conditional Rezoning Agreement would be rescinded in order to allow the development of our Congregate Care Facility.

III. COMPATIBILITY WITH THE PORTLAND COMPREHENSIVE PLAN

The Portland Retirement Residence is in harmony with the Portland's Comprehensive Plan. Our proposed development addresses the planning goals of the Portland Comprehensive Plan (November 2002, updated 2005) as follows:

Goal "A" – Encourage Orderly Growth

This Development will contribute to the inventory of Senior Housing in the Greater Portland Area. The growing senior demographic both nationally and in Portland and the surrounding area is increasing demand for this and other senior housing options.

The proposed site design carefully considers the most efficient layout, emphasizing minimal impact to environmentally sensitive areas.

Goal "B" – Accommodate Anticipated Growth

Senior Housing, as stated in Goal "A", is a critical segment of future housing inventory options for Portland. Our proposed Congregate Care Facility allows for lower impact on traffic, utilities, schools, and other public infrastructures compared with other possible uses for this site.

Goal 'C" – Promote Economic Development

Short Term: The development and construction budget for the proposed Portland Retirement Residence is approximately $15,000,000. A large amount of these funds will be spent locally- hiring local trades and consultants as well as purchasing building materials and services.

Long Term: Upon completion, the Portland Retirement Residence will provide:

18 - Full time employees
17 - Part time employees

Estimated local contributions annually:

Wages, taxes and benefits costs of approximately $675,000
Expenditures for energy and utility cost of approximately $175,000
Local contracts for services and supplies estimated at $36,000.
Properly Tax contribution $280,000

Goal "D" –Encourage Decent Housing

The Portland Retirement Residence will meet the "wide variety of new housing" recommendation as called out in Goal "D". It also addresses the policy objective of "insuring a diverse mix of housing types that offers a continuum of options" and the goal to Identify vacant and redevelopment land opportunities throughout the city to facilitate the construction of new housing".

More specifically, this site will address a portion of item 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".

Goal "E" – Protect Water Resources

The design of the onsite stormwater facilities will serve to protect water resource areas from increased or negative impact.

Sanitary Sewer outflow volumes are much less that other possible development on this site, creating less overall impact that other allowed uses.

Goal "F" – Protect Critical Natural Resources

The site design protects the onsite natural resources, by:

A) Setting aside over 8 acres under a ROS, Residential Open Space zoning designation
B) Minimizing the building footprint and hard surfaces to avoid wetlands and other sensitive areas
C) Site design allows for approximately 84% of the site to stand as landscaped and open spaces, providing ample opportunity and protection for flourishing wetlands, wildlife and critical natural resources.

Goal "G" – Protect Marine Resources

The location of this site does not create any direct impact on local marine resources. The onsite stormwater facilities will include pretreatment features to outflow lessening any downstream impact.

Goal "H" – Safeguard Agricultural and Forrest Resources

The ROS zoning designation as well as the substantial amount of open and landscape areas of the overall site contributes to further safeguarding the forest resources on the site.

Goal "I" – Protect Historic and Archeological Resources

As a part of the early development process we have contacted the Maine Historical Commission and confirmed that this site does not have any historical or archeological significance.

Note: Near the north central portion of the site a USGS Reference Disk and two additional reference markers are located. These are identified as the "West Graves" USGS marker. The site design will leave this area untouched but accessible.

Goal "J" – Promote Outdoor Recreation

The ROS zoned portion of the site (8.16 acres) establishes over 45% of the Portland Retirement Residence site as undisturbed open space for future recreational opportunities.

Compatibility with the Portland Comprehensive- Summary:

Our Congregate Care Facility will be an important part of future housing in the Greater Portland area. The Portland Retirement Residence uses careful site placement to complement the surrounding community and to co-exist with the natural environment. Additionally, it meets housing needs for local seniors and contributes to the local economy.

IV. DESIGN STANDARDS

Access

The point of access will be from Ocean Avenue near the Northeast corner of the site. (See site plan)

Building Height

Proposed Building Height will not exceed 50 feet as defined in the City of Portland Maine Code of Ordinances, Chapter 14 Land Use

Building, height of: *The vertical measurement from grade, or the predevelopment grade on the islands, to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest*

point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

Parking

104 parking spaces proposed:
- 87 open spaces
- 12 covered spaces
- 5 accessible spaces

Parking Ratio: 0.70 spaces per living unit

Hawthorn Retirement Group has developed over 300 retirement residences in North America. Experience from this extensive portfolio has shown that 0.70 parking space per suite ratio is an ideal parking space standard for our residents, staff, and visitors. In part, the reason for this parking ratio is because most of our residents do not drive, (less than 20%) therefore we provide private van transportation for their use. The van is available to take the residents to places they need to visit, such as church, banks, medical offices, shopping areas, etc.

Additionally this parking ratio allows us to increase landscaping and open space areas on the site to create a better residential environment for our residents and adjacent property owners.

Site Parking		
Classification	**Current Standard**	**Proposed Parking**
Congregate Care Facility	One (1) parking space for every three (3) living units = 50 Parking Spaces	104 Parking Spaces

Area Regulations		
	Current Standard	**Provided**
Minimum Lot Size	3 Acres	18.33 acres
Minimum Lot Area Per DU (LU) **	1600 sq ft	2934 sq ft
Minimum Front Setback	35 feet	92 ft.
Minimum Side Setback	16 feet	South 48 ft. North 390 ft.
Minimum Rear Setback	25 feet	344 ft.

Maximum Building Height	NA	4 stories / 50 feet
Maximum Bld Coverage	30%	5.5%
Minimum Recreational / Open Space Areas	200 ft per LU	440,053 sq ft

**based on net calculated area of 440,053 sq ft

Dedications
Any additional easements, rights of ways or agreements to accommodate rights of way, utilities, and services to the site will be accommodated as needed.

Fences & Screening
Fences and screening will be provided per the City of Portland Ordinances.

IV. Overview and Summary

Existing Zoning:	R-5A / C-34 & ROS
Proposed Zoning:	R-5A & ROS
Land Area:	18.33 acres (798,363 sq ft) 10.17 acres (442,954 sq ft) - R-5A 8.16 (355,409 sq ft) - ROS
Existing Use:	Undeveloped
Proposed Use:	150-suite Congregate Care Facility
Proposed Parking:	104 total spaces: 87 open spaces 12 covered spaces 5 handicap accessible (Ratio of 0.70 spaces per living unit/suite)

V. PHASING

This 150-suite retirement facility and accessory buildings will be developed in a single phase.

Construction expected in 2016 - 2017

VI. SUPPORTING DOCUMENT AND DRAWINGS

Drawings Provided (24' x 36") – 1 copy folded + Digital Disk

- Signed Zoning Map & Text Amendment Application
- Draft R5A Zone Text Amendment (Word Format)
- Portland Application Narrative
- Redacted Purchase and Sale Agreement
- Vesting Deed
- ALTA Survey
- Conceptual Portland Retirement Residence Site Plans for reference
- Conceptual Portland Retirement Residence Exterior Elevations for reference
- Conceptual Portland Retirement Residence Floor Plans for reference

VII. JUSTIFICATION

We respectfully request a Zoning Map Amendment and Text Amendment for the 18.33-acre site located at 802 - 828 Ocean Avenue in Portland Maine. This land use action is sought to allow the development of a 150-suite Congregate Care Facility on the site. This development will provide a positive, quality, low impact addition to the neighborhood and the greater community of Portland.

This site is ideally suited for our senior housing use. It has close proximity to services such as shopping, recreation, and medical services while being near established residential uses. The proposed residence provides an attractive and quiet home that meets the growing demand for senior housing in the Greater Portland Area. This benefits local seniors by providing a quality option to "age in place" within their own community.

Hawthorn Development intends to utilize the Zoning Map Amendment, Text Amendment, and Site Plan Approval Process to acquire the approvals needed to develop a 150-suite Congregate Care Facility for seniors. This process also provides assurance to the City of Portland and the adjacent neighbors as to what will be developed on this site. These approvals will prevent a more intensive use from occurring on the site without input from the community as well as the required reviews and approvals from the City of Portland.

This proposed development is an important component in meeting the current needs and changing demands of seniors in Portland and the surrounding community.

This project offers benefits, which include:

- Large open spaces and generous setbacks - Over 84% of the site will be landscaped open space, providing a park-like setting and ample buffers to neighboring properties.

- Quiet Senior Residential Use – The proposed retirement residence has 150-suites, which include studios, one bedroom, and two bedroom types.

- Low Traffic Generation – Our project will generate less than 30 peak hour trips per day.

- Increases Local Tax Base – It is estimated that this project will contribute:
  $280,000 annually in taxes
  $650,000 annually in salaries and benefits to local staff
  $180,000 annually in additional local utility and service contracts
  This project is privately funded. It will not receive tax credits or government assistance.

- Low Impact on Public Services - Including parks, schools, libraries, utilities, and transportation systems.

- Fulfills Need for Retirement Housing - Our research has found there is a high demand in the area for Hawthorn Retirement's unique program. Recent reports by the HGAC have determined that the demand for senior housing outpaces development in the coming years. This development will complement other senior housing choices available in the area and allows seniors in Portland to remain near neighborhoods they have enjoyed for many years.

VIII. CONCLUSION

In conclusion, this site is ideally suited for this use and the proposed retirement residence would be a positive addition to Portland and the surrounding community.

Thank you for your consideration.

Rev #1 (3-12-15)

PROPOSED DRAFT AMENDMENTS TO CITY OF PORTLAND CODE OR ORDINANCES, ZOING ORDINANCES 14-47, AMENDING THE DEFINITION OF "CONGREGATE CARE FACILITY, 14-127(a) ZONE CLASSIFICATION R-5A AMENDING THE ALLOWED USES AND 14-130, DIMENSIONAL STANDARDS:

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.

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:*

Add:

6. Congregate Care

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: 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.

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.

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.

(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 or attached accessory structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

Principal and accessory attached structure (PRUD): Thirty-five (35) feet.

Principal or attached accessory structure for Congregate Care and Intermediate, extended or long-term care facilities*:* Fifty (50) 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 PRUD, Congregate Care, and Intermediate, extended or long-term 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.

HAWTHORN DEVELOPMENT LLC
Real Estate and Acquisition Dept.
Vancouver, WA

OFFER AND CONTRACT TO PURCHASE REAL ESTATE

DATE: October 13, 2014

TO: Graves Hill Land Company LLC, 16 Tiffany Lane, Saco, Maine 04072, Owner of Record of the following described property in Portland, Cumberland County, Maine

THROUGH: Malone Commercial Brokers, 5 Moulton Street, Suite 3, Portland, Maine 04101, Joe Malone, Phone: 207-773-2554, Email: joe@malonecb.com; and Jennifer Small, Phone: 207-233-6782, Email: jennifer@malonecb.com.

Malone Commercial Brokers, 5 Moulton Street, Suite 3, Portland, Maine 04101, Mark Malone, Phone: 207-773-6000, Email: mark@malonecb.com.

The following constitutes a firm offer by HAWTHORN DEVELOPMENT LLC or its assignee ("Purchaser") to purchase property located in Portland, Maine, from GRAVES HILL LAND COMPANY LLC, the owner of record, ("Seller") under the following conditions:

1. PROPERTY DESCRIPTION

Approximately 18.3 acres of land with an address of 802 Ocean Avenue in Portland, Cumberland County, Maine ("the Property") as shown on Exhibit A.

The Property is further identified by Assessor's Parcel ID Number 411A007001.

2. TOTAL CONSIDERATION

[redacted]

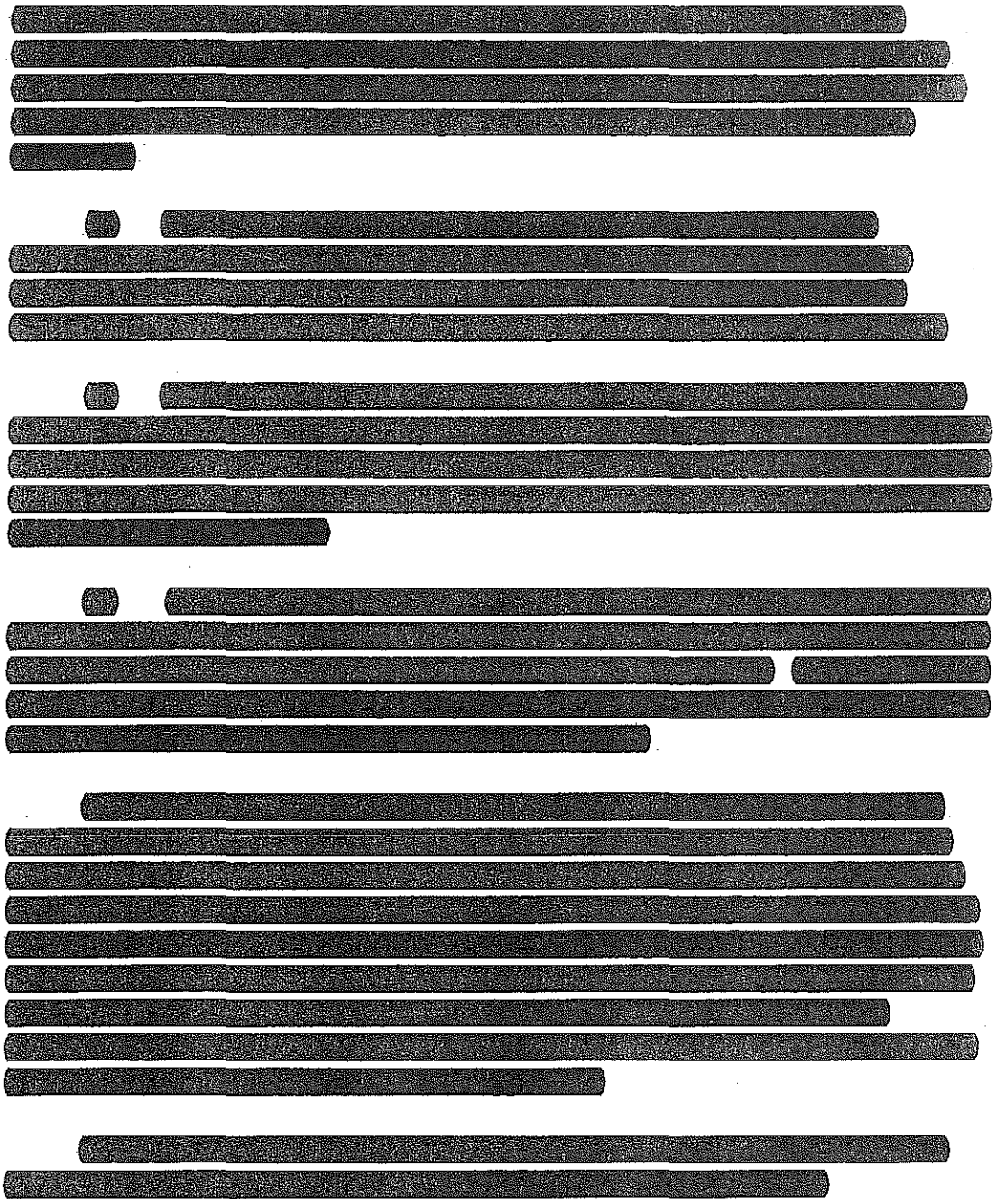
3. TERMS OF PAYMENT

[redacted]

4. CONDITIONS OF PURCHASE

Purchaser's obligation to close is subject to Purchaser's satisfaction of the following conditions at its sole discretion: [redacted]

[redacted]



[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted] REPORT

A. As a courtesy, Purchaser will provide to Seller a written status report ("Status Report") outlining the known outstanding issues that relate to the entitlement process for Purchaser's intended use. [redacted]

[redacted]

6. CLOSING/ POST CLOSING

[redacted]

9. REMEDIES

IN THE EVENT OF PURCHASER'S DEFAULT UNDER THIS CONTRACT, AND PROVIDED THAT SELLER HAS FULLY PERFORMED ALL OF ITS OBLIGATIONS HEREUNDER, THE EARNEST MONEY SHALL BE PAID TO SELLER AS FULL LIQUIDATED DAMAGES AND PURCHASER SHALL BE RELEASED FROM ALL LIABILITY OR OBLIGATION HEREUNDER TO SELLER AND NO OTHER REMEDY, INCLUDING THE REMEDY OF SPECIFIC PERFORMANCE, SHALL BE AVAILABLE FOR PURCHASER'S BREACH OF THIS CONTRACT. PURCHASER AND SELLER ACKNOWLEDGE THAT IT WOULD BE DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY SELLER AS A RESULT OF ANY DEFAULT BY PURCHASER AND AGREE THAT SUCH LIQUIDATED DAMAGES ARE AN AGREED UPON REASONABLE ESTIMATE OF THE AMOUNT OF LOSS SELLER WOULD SUFFER AS A RESULT OF PURCHASER'S DEFAULT, AND ARE NOT INTENDED AS A PENALTY.

IF SELLER DEFAULTS AT CLOSING, THEN THE EARNEST MONEY AND ANY OTHER DEPOSITS THERETOFORE MADE BY PURCHASER SHALL BE RETURNED TO PURCHASER IMMEDIATELY AND PURCHASER MAY CLAIM DAMAGES AGAINST SELLER FOR THE AMOUNT NO GREATER THAN $25,000, OR, AT PURCHASER'S OPTION, PURCHASER MAY SEEK THE REMEDY OF SPECIFIC PERFORMANCE.

/s/ Myrle M. Davis _____ _____

Purchaser Seller

10. TERMINATION

Unless accepted by Seller in writing, this offer shall expire at 5:00 p.m. Pacific time, seven (7) days from the date of this letter.

Seller agrees that after acceptance of the offer contained herein and until the Contract is terminated, it shall not sell, contract to sell, nor enter into a letter of

intent or negotiate for the sale of Property to another party, and that there shall be no material change to the Property through the date of closing.

The parties hereby agree that copies of this document, and signatures, transmitted by telecopier (fax), and electronic mail (email) shall be for all purposes considered as originals. This Contract may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

The ("Effective Date") of this Contract for the purposes of performance of all obligations is the date the escrow agent receipts this Contract after all parties execute this Contract.

If the time for the performance of any obligation or taking any action under this Contract expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action will be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday. Time is of the essence of this agreement.

Sincerely,

HAWTHORN DEVELOPMENT LLC
/s/ Myrle M. Davis
Myrle M. "Mick" Davis
Representative Agent for Purchaser

AGREED AND ACCEPTED:

Seller By:_____

Date:_____

By:_____

Date:_____

By:_____

Date:_____

ESCROW RECEIPT:

Escrow agent acknowledges receipt of the Contract on this date:

_____ (Effective Date) and earnest money in the

amount of $_____ in the form of _____

on _____.

Escrow Agent:_____

By:_____

Address:_____

_____

Phone:_____

Fax:_____

Email:_____

9. REMEDIES

IN THE EVENT OF PURCHASER'S DEFAULT UNDER THIS CONTRACT, AND PROVIDED THAT SELLER HAS FULLY PERFORMED ALL OF ITS OBLIGATIONS HEREUNDER, THE EARNEST MONEY SHALL BE PAID TO SELLER AS FULL LIQUIDATED DAMAGES AND PURCHASER SHALL BE RELEASED FROM ALL LIABILITY OR OBLIGATION HEREUNDER TO SELLER AND NO OTHER REMEDY, INCLUDING THE REMEDY OF SPECIFIC PERFORMANCE, SHALL BE AVAILABLE FOR PURCHASER'S BREACH OF THIS CONTRACT. PURCHASER AND SELLER ACKNOWLEDGE THAT IT WOULD BE DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY SELLER AS A RESULT OF ANY DEFAULT BY PURCHASER AND AGREE THAT SUCH LIQUIDATED DAMAGES ARE AN AGREED UPON REASONABLE ESTIMATE OF THE AMOUNT OF LOSS SELLER WOULD SUFFER AS A RESULT OF PURCHASER'S DEFAULT, AND ARE NOT INTENDED AS A PENALTY.

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/s/ Myrle M. Davis

Purchaser

_____

Seller

10. TERMINATION

Unless accepted by Seller in writing, this offer shall expire at 5:00 p.m. Pacific time, seven (7) days from the date of this letter.

Seller agrees that after acceptance of the offer contained herein and until the Contract is terminated, it shall not sell, contract to sell, nor enter into a letter of

intent or negotiate for the sale of Property to another party, and that there shall be no material change to the Property through the date of closing.

The parties hereby agree that copies of this document, and signatures, transmitted by telecopier (fax), and electronic mail (email) shall be for all purposes considered as originals. This Contract may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

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Sincerely,

HAWTHORN DEVELOPMENT LLC
/s/ Myrle M. Davis
Myrle M. "Mick" Davis
Representative Agent for Purchaser

AGREED AND ACCEPTED:

Seller By:_____

Date:_____

By:_____

Date:_____

By:_____

Date:_____

9. REMEDIES

IN THE EVENT OF PURCHASER'S DEFAULT UNDER THIS CONTRACT, AND PROVIDED THAT SELLER HAS FULLY PERFORMED ALL OF ITS OBLIGATIONS HEREUNDER, THE EARNEST MONEY SHALL BE PAID TO SELLER AS FULL LIQUIDATED DAMAGES AND PURCHASER SHALL BE RELEASED FROM ALL LIABILITY OR OBLIGATION HEREUNDER TO SELLER AND NO OTHER REMEDY, INCLUDING THE REMEDY OF SPECIFIC PERFORMANCE, SHALL BE AVAILABLE FOR PURCHASER'S BREACH OF THIS CONTRACT. PURCHASER AND SELLER ACKNOWLEDGE THAT IT WOULD BE DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY SELLER AS A RESULT OF ANY DEFAULT BY PURCHASER AND AGREE THAT SUCH LIQUIDATED DAMAGES ARE AN AGREED UPON REASONABLE ESTIMATE OF THE AMOUNT OF LOSS SELLER WOULD SUFFER AS A RESULT OF PURCHASER'S DEFAULT, AND ARE NOT INTENDED AS A PENALTY.

IF SELLER DEFAULTS AT CLOSING, THEN THE EARNEST MONEY AND ANY OTHER DEPOSITS THERETOFORE MADE BY PURCHASER SHALL BE RETURNED TO PURCHASER IMMEDIATELY AND PURCHASER MAY CLAIM DAMAGES AGAINST SELLER FOR THE AMOUNT NO GREATER THAN $25,000, OR, AT PURCHASER'S OPTION, PURCHASER MAY SEEK THE REMEDY OF SPECIFIC PERFORMANCE.

s/ Myrtle M. Davis s/ Myrtle M. Doyle s

Purchaser Seller

10. TERMINATION

Unless accepted by Seller in writing, this offer shall expire at 5:00 p.m. Pacific time, seven (7) days from the date of this letter.

Seller agrees that after acceptance of the offer contained herein and until the Contract is terminated, it shall not sell, contract to sell, nor enter into a letter of

intent or negotiate for the sale of Property to another party, and that there shall be no material change to the Property through the date of closing.

The parties hereby agree that copies of this document, and signatures, transmitted by telecopier (fax), and electronic mail (email) shall be for all purposes considered as originals. This Contract may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

The ("Effective Date") of this Contract for the purposes of performance of all obligations is the date the escrow agent receipts this Contract after all parties execute this Contract.

If the time for the performance of any obligation or taking any action under this Contract expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action will be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday. Time is of the essence of this agreement.

Sincerely,

HAWTHORN DEVELOPMENT LLC
/s/ Myrle M. Davis
Myrle M. "Mick" Davis
Representative Agent for Purchaser

AGREED AND ACCEPTED:

Seller By:_____

Date: 10/17/14

By:_____

Date:_____

By:_____

Date:_____

EXISTING CONDITIONS

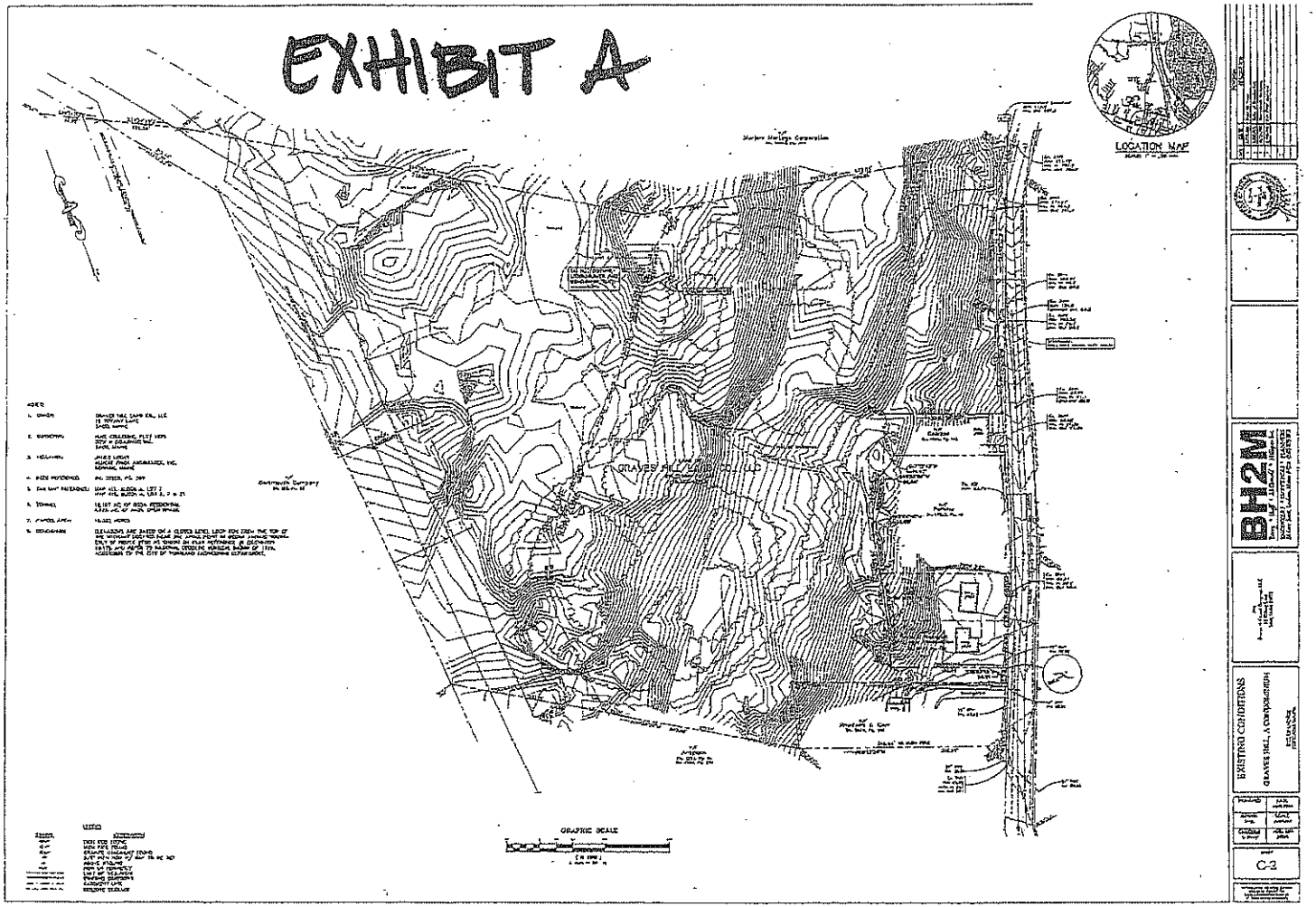
A full size electronic copy of this Existing Conditions Plan conducted in 2009 is available on request.

Contact broker for a copy and further details that may be available.

Broker:

Mark Malone, CCIM
(207) 773-6000 direct
(207) 358-7912 direct fax
mark@malonecb.com

EXHIBIT A



HAWTHORN DEV.

Doc#: 51655 Bk:21500 Pg: 269

Att. E

QUITCLAIM DEED WITH COVENANT

Leo J. Delicata and Jeanne B. Delicata, husband and wife, both of Portland, Cumberland County, Maine, for consideration paid, grant to

Graves Hill Land Company, L.L.C. a Maine Limited Liability Company with a principle place of business in Saco, York County, Maine

whose mailing address is:
16 Tiffany Lane, Saco, Maine 04072

with quitclaim covenants,

A certain lot or parcel of land comprising 18 acres more or less, located on the Northwesterly side of Ocean Avenue in Portland, Maine more particularly bounded and described on a survey plan entitled Plan Showing Boundary Survey and Topographic Survey made for Diane Doyle by Dow & Coulombe, Inc. Land Surveyors & Land Planners dated July 8, 2002 and recorded in the Cumberland County Registry of Deeds in Plan Book 204, Pages 293 and 294.

Meaning and intending to convey a portion of the real property described in a Deed from CRE I Real Estate Corp. to the Grantors herein dated August 14, 1992 and recorded in the Cumberland County Registry of Deeds in Book 10226 Page 236.

Witness our hands and seals this 1st day of July, 2004.

SIGNED, SEALED, AND DELIVERED
in the presence of

Leo J. Delicata

Jeanne B. Delicata

State of Maine
Cumberland, ss

July 1 2004

Personally appeared before me the above named Leo J. Delicata and Jeanne B. Delicata and acknowledged the foregoing instrument to be his or her free act and deed.

Notary Public SEAL

JAMES B. BARNS
Notary Public, Maine
My Commission Expires October 26, 2008

Received
Recorded Register of Deeds
Jul 02,2004 02:23:37P
Cumberland County
John B OBrien

SEBAGO TECHNICS, INC.
75 John Roberts Road Suite 1A
South Portland, Maine 04106
Tel. (207) 200-2100

JOB 14432 Property Calculation
SHEET NO. 1 OF 2
CALCULATED BY RAM DATE 3/5/2015
FILE NAME 14432 Net Res Calc PRNT DATE 3/5/2015

Site located in the R-3 residential zone in Portland, Maine (Division 4, Sec 14-86 to 14-96)					
Total parcel area	798184.49	SF	18.324		
Per Section 14-47 definition of Net Land Area as set forth in Sec 14-90					
Subtract the following from the gross area					
a.1 Stormwater Retention Area	12325.91	SF			
a.2 Stormwater Detention Area	13779.76	SF			
b Existing watercourses	0	SF	assumed at 0		
c Inaccessible Areas	0	SF	assumed at 0		
d Wetlands	36851	SF			
e Areas encumbered by easements, etc.	139137	SF	CMP		
f Slopes of >25%	46025	SF			
Subtotal a-f	*248118.67*	*SF*			
Net land with a-f deduct	*550065.82*				
g 20% of area remaining after deductions a-f above	110013.164	SF			
NET LAND AREA	440052.66	SF			
MIN AREA PER LOT	1600	SF			
NET DENSITY	440052.66	SF	=	275.03	
	1600	SF			
			275.00		
* areas of overlap, such as wetlands within easement, the deduction was made once under the steep slopes, to excluding "double dipping"					

SEBAGO TECHNICS, INC.
75 John Roberts Road Suite 1A
South Portland, Maine 04106
Tel. (207) 200-2100

JOB 14432 Residential Zoned Property
SHEET NO. 2 OF 2
CALCULATED BY RAM DATE 3/5/2015
FILE NAME 14432 Net Res Calc PRNT DATE 3/5/2015

Site located in the R-3 residential zone in Portland, Maine (Division 4, Sec 14-86 to 14-96)						
Total parcel area		442874.52	SF			
Per Section 14-47 definition of Net Land Area as set forth in Sec 14-90						
	Subtract the following from the gross area					
a.1	Stormwater Retention Area	12325.91	SF			
a.2	Stormwater Detention Area	13779.76	SF			
b	Existing watercourses	0	SF	assumed at 0		
c	Inaccessible Areas	0	SF	assumed at 0		
d	Wetlands	6481	SF			
e	Areas encumbered by easements, etc.	0	SF	CMP		
f	Slopes of >25%	32650	SF			
	Subtotal a-f	*65236.67*	*SF*			
	Net land with a-f deduct	*377637.85*				
g	20% of area remaining after deductions a-f above	75527.57	SF			
	NET LAND AREA	302110.28	SF			
	MIN AREA PER LOT	1600	SF			
	NET DENSITY	302110.28	SF	=	188.82	
		1600	SF			
				188.00		
*	areas of overlap, such as wetlands within easement, the deduction was made once under the steep slopes, to excluding "double dipping"					

Att. G

SEBAGO
TECHNICS
75 John Roberts Road, Suite 1A
South Portland, Maine 04106
(207) 200-2100 FAX (207) 856-2206

JOB Portland Retirement - Hawthorn
SHEET NO. 1 OF 1
CALCULATED BY RAM DATE 4/17/15
CHECKED BY DATE
FILE NAME 14432 Net Res Calc SCALE

Site located in the R-5A residential zone in Portland, Maine (Division 4, Sec 14-86 to 14-96)

Total parcel area	442,875	SF	10.17	AC

Per Section 14-47 definition of Net Land Area as set forth in Sec 14-90

PER CURRENT NET RESIDENTIAL DEFINITION

Subtract the following from the gross area				
a.1 Stormwater Retention Area	12,326	SF		
a.2 Stormwater Detention Area	13,780	SF		
b Existing watercourses	0	SF	Assummed at 0	
c Inaccessible Areas	0	SF	Assummed at 0	
d Wetlands	6,481	SF		
e Areas encumbered by easements, etc.	0	SF	CMP Easement	
f Slopes of >25%	32,650	SF		
Subtotal a-f	65,237	SF		
Net land with a-f deduct	377,638	SF		
g 20% of area remaining after deductions a-f above	75,528	SF		
Net Land Area	302,110	SF		
Min Area per Unit	1600	SF/Unit		

Net Density = 302,110 SF / 1600 SF/Unit = **188.82** **units**

Att. H

SEBAGO TECHNICS
75 John Roberts Road, Suite 1A
South Portland, Maine 04106
(207) 200-2100 FAX (207) 856-2206

JOB Portland Retirement - Hawthorn
SHEET NO. 1 OF 1
CALCULATED BY RAM DATE 4/17/15
CHECKED BY DATE
FILE NAME 14432 Net Res Calc SCALE

Site located in the R-5A residential zone in Portland, Maine (Division 4, Sec 14-86 to 14-96)

Total parcel area	442,875	SF	10.17	AC

Per Section 14-47 definition of Net Land Area as set forth in Sec 14-90

PER PROPOSED NET RESIDENTIAL DEFINITION

Subtract the following from the gross area

a.1	Stormwater Retention Area	0	SF	
a.2	Stormwater Detention Area	0	SF	
b	Existing watercourses	0	SF	Assummed at 0
c	Inaccessible Areas	0	SF	Assummed at 0
d	Wetlands	36,851	SF	
e	Areas encumbered by easements, etc.	0	SF	CMP Easement
f	Slopes of >25%	46,025	SF	
	Subtotal a-f	82,876	SF	
	Net land with a-f deduct	359,999	SF	
g	20% of area remaining after deductions a-f above	0	SF	
	Net Land Area	359,999	SF	
	Min Area per Unit	1600	SF/Unit	

Net Density = 359,999 SF / 1600 SF/Unit = **225.00** **units**

HAWTHORN
RETIREMENT GROUP
9310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-6210
(360) 213-1550 Fax (360) 213-1540

Att. I

PROPOSED 150 SUITE ASSISTED LIVING LAND USE 254							
BY NUMBER OF BEDS	BEDS	RATE (Trips/Bed)	TOTAL	ENTER (%)	EXIT (%)	ENTER#	EXIT#
Weekday	165	2.66	438.9	50.00%	50.00%	219.5	219.5
Weekday Morning Peak Hour of Roadway	165	0.14	23.1	65.00%	35.00%	15.0	8.1
Weekday Afternoon Peak Hour of Roadway	165	0.22	36.3	44.00%	56.00%	16.0	20.3
Saturday	165	2.20	363.0	50.00%	50.00%	181.5	181.5
Saturday Peak Hour	165	0.33	54.5	46.00%	54.00%	25.0	29.4

Reference - ITE Trip Generation Manual, 7th Edition.

PROPOSED 150 SUITE CONGREGATE CARE FACILITY LAND USE 253							
BY NUMBER OF DWELLING UNITS	UNITS	RATE (Trips/Bed)	TOTAL	ENTER (%)	EXIT (%)	ENTER#	EXIT#
Weekday	150	2.02	303.0	50.00%	50.00%	151.5	151.5
Weekday Morning Peak Hour of Roadway	150	0.06	9.0	59.00%	41.00%	5.3	3.7
Weekday Afternoon Peak Hour of Roadway	150	0.02	2.6	55.00%	45.00%	1.4	1.1
Saturday	150	NA	NA	NA	NA	NA	NA
Saturday Peak Hour	150	NA	NA	NA	NA	NA	NA

Reference - ITE Trip Generation Manual, 7th Edition.

HAWTHORN
RETIREMENT GROUP
9310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-6210
(360) 213-1550 Fax (360) 213-1540

PROPOSED 98 UNIT CONDOMINIUM USE 230							
BY NUMBER OF BEDS	BEDS	RATE (Trips/Bed)	TOTAL	ENTER (%)	EXIT (%)	ENTER#	EXIT#
Weekday	98	Ln(T)=0.85Ln(X)+2.55	630.95	50.00%	50.00%	315.5	315.5
Weekday Morning Peak Hour of Roadway	98	Ln(T)=0.80Ln(X)+0.26	50.80	17.00%	83.00%	8.6	42.2
Weekday Afternoon Peak Hour of Roadway	98	Ln(T)=0.80Ln(X)+0.26	59.13	67.00%	33.00%	39.6	19.5
Saturday	98	T=3.62(X)+427.93	782.69	50.00%	50.00%	391.3	391.3
Saturday Peak Hour	98	T=0.29(X)+42.63	71.05	54.00%	46.00%	38.4	32.7

Reference - ITE Trip Generation Manual, 7th Edition.

HAWTHORN
RETIREMENT GROUP
8310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-8210
(360) 213-1550 Fax (360) 213-1648

PROPOSED 225 UNIT CONDOMINIUM USE 230							
BY NUMBER OF BEDS	BEDS	RATE (Trips/Bed)	TOTAL	ENTER (%)	EXIT (%)	ENTER#	EXIT#
Weekday	225	Ln(T)=0.85Ln(X)+2.55	1,278.81	50.00%	50.00%	639.4	639.4
Weekday Morning Peak Hour of Roadway	225	Ln(T)=0.80Ln(X)+0.26	98.78	17.00%	83.00%	16.8	82.0
Weekday Afternoon Peak Hour of Roadway	225	Ln(T)=0.80Ln(X)+0.26	116.89	67.00%	33.00%	78.3	38.6
Saturday	225	T=3.62(X)+427.93	1,242.43	50.00%	50.00%	621.2	621.2
Saturday Peak Hour	225	T=0.29(X)+42.63	107.88	54.00%	46.00%	58.3	49.6

Reference - ITE Trip Generation Manual, 7th Edition.

SEBAGO

Portland Retirement Residence
Zone Buidout Gross 15-04-17

HAWTHORN
RETIREMENT GROUP
9310 NE Vancouver Mall Dr., Suite 200
Vancouver, WA 98662-8210
(360) 213-1550 Fax (360) 213-1540

PROPOSED 189 UNIT CONDOMINIUM USE 230							
BY NUMBER OF BEDS	BEDS	RATE (Trips/Bed)	TOTAL	ENTER (%)	EXIT (%)	ENTER#	EXIT#
Weekday	189	Ln(T)=0.85Ln(X)+2.55	1,102.66	50.00%	50.00%	551.3	551.3
Weekday Morning Peak Hour of Roadway	189	Ln(T)=0.80Ln(X)+0.26	85.92	17.00%	83.00%	14.6	71.3
Weekday Afternoon Peak Hour of Roadway	189	Ln(T)=0.80Ln(X)+0.26	101.31	67.00%	33.00%	67.9	33.4
Saturday	189	T=3.62(X)+427.93	1,112.11	50.00%	50.00%	556.1	556.1
Saturday Peak Hour	189	T=0.29(X)+42.63	97.44	54.00%	46.00%	52.6	44.8

Reference - ITE Trip Generation Manual, 7th Edition.

SEBAGO

Portland Retirement Residence
Zone Buidout Net 15-04-17

Order 15-15/16
~~Tab 23 7-6-15~~
Tab 18 7-20-15

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 REPEALING CONDITIONAL ZONE AGREEMENT
RE: 802-828 OCEAN AVENUE

ORDERED, that the conditional zone agreement with Graves Hill Land Company, LLC regarding 802-828 Ocean Avenue authorized by Order 67-04/05 is hereby repealed; and

BE IT FURTHER ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Urban Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect the repeal of the conditional rezoning.

Order 23-15/16
Tab 19 1-20-15

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 SETTING ELECTION DATE ON CITIZEN INITIATIVE AMENDMENT TO CHAPTER 33 RE: AN ORDINANCE TOWARD A LIVING WAGE

ORDERED, that pursuant to Section 9-39 of the Portland City Code, the citizen initiative amendment to Chapter 33 of the Portland City Code Re: An Ordinance Toward a Living Wage, shall be submitted to the voters of the City on November 2, 2015 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to provide a summary in substantially the form attached hereto of the proposed ordinance on the ballot.

Office of the City Clerk
Katherine L. Jones, CCM

MEMORANDUM

TO: Mayor Michael Brennan and the Portland City Council
DATE: July 10, 2015
FROM: Katherine L. Jones, City Clerk
RE: Living Wages

Mayor Brennan and Members of the Portland City Council, Living Wage turned in their petition pages on June 19, 2015. The City Clerk's office deemed them sufficient.

The City Code, Chapter 9, section 9-39. Time of Election.

At the first regular council meeting held after the public hearing, the city council shall submit the question to the voters of the city at the next regular federal, state or municipal election which is not less than ninety (90) calendar days after such council meeting: provided however that such election shall not include a special municipal election on whether to adopt the municipal school budget. Notwithstanding the foregoing, if the time period before the next election would exceed ninety (90) calendar days in the case of an initiative or people's veto petition, the council may, in its discretion, schedule a special election on the issue.
In order for this item to appear on November ballot, the public hearing needs to be on July 20, 2015.

The City Code, Chapter 9, section 9-36 section (f) also states that a Notice of the hearing shall be published in a newspaper days prior to the hearing and shall contain the text of the petition. This was posted in the Portland Press Herald on July 8, 2015.

The City Code, Chapter 9 section 9-41 Form of Ballot (b) Title and Summary only. At any point in the process after a petition has been certified as sufficient but no less than sixty (60) calendar days prior to the election, the City Clerk shall report to the City Council if he or she determines that it is not reasonably possible to reproduce the full text and summary of the proposed ordinance on the ballot. In such case, the summary provided with the petition shall accompany the title on the ballot in place of the full text.

I am asking the City Council vote to allow me to print the summary only. With Ranked Choice Voting, City Council Candidates, School Board Candidates, Peaks Island Council, Casco Bay Line Directors we already have to have two ballots.

The Portland City Code Chapter 9 section 9-41 (3) In the event that the City Council adopts a competing measure to an initiated ordinance, the questions shall be presented to the voters substantially as follows: "Do you favor one (1) of the two (2) city ordinances set forth below: A: as proposed by citizen petitions; B: as enacted by the city council; or should both be rejected as provided in C". This will be a decision made by the City Council at the July 20, 2015 City Council meeting.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION
OF CITIZEN INITIATIVED LIVING WAGE

RE: Amendments to Portland City Code Of Ordinances
Chapter 33 Wages.

I HEREBY CERTIFY that the petition filed on April 1, 2015 in my office regarding amendments to the Portland City Code of Ordinances Chapter 33: Wages, contains the signatures of Fifteen Hundred voters (1500) of the City of Portland. The required number of signatures to put this question on the ballot is 1500 and deem this petition sufficient.

Exhibit A

An Ordinance relating to employment in Portland; adding a new Chapter, Chapter 33: Wages, to the City of Portland Code of Ordinances; establishing minimum wages and minimum compensation rates for employees performing work in Portland.

AN ORDINANCE TOWARD A LIVING WAGE

Art. I. Purpose

Art. II. Definitions

Art. III. Minimum Wage

Art. IV. Notice, Posting and Records

Art. V. Enforcement and Violations

Art. VI. Relationship To Other Requirements

Art. VII. Severability Clause

Art. VIII. Effective Date

SUMMARY:

This ordinance will ensure that all workers in Portland will earn at least $15 per hour by 2019. Employers having 500 employees or fewer will transition over four years. Employers having more than 500 employees will transition by 2017. The applicable tip credit allowed by the State is not changed, meaning that tipped workers must be paid at least $11.25 per hour plus tips, but not totaling less than the normal $15 per hour minimum wage. After 2019, the minimum wage will be adjusted every year to keep pace with inflation. The minimum wage will be enforced by the Portland City Manager and/or designees of the City manager. An exemption is included stating that City employees are not protected by this minimum wage, but this exemption may be removed by the City at any time.

ARTICLE I 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 and those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, small, locally owned businesses are essential to a thriving economy because they keep assets within the community and offer opportunities for citizens to become entrepreneurs; and

WHEREAS, people living at or near poverty can not regularly patronize businesses because they do not have sufficient disposable income or assets; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of Maine's minimum wage workers are among the City off Portland's 65,000 wage and salary earners; and

WHEREAS, more than 50 percent of Portland public school students live in families that can not afford to provide lunches for their children without subsidies; and

WHEREAS, rising housing costs, including an increase in the median home price from $125,200 in 2000 to $238,400 in 2012 and a similar increase in the costs of renting, are pushing low wage workers out of the City; and

WHEREAS, an increase in wages will better permit citizens to participate in the economy; and

WHEREAS, after years of inaction by the United States Congress and Maine Legislature it is time for municipalities to do what they can to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, the income of large businesses nationally has been sufficient to support salaries of CEOs that average 774 times as much as minimum wage earners, establishing that on average larger businesses are better able to afford the cost of more quickly increasing worker wages; and

WHEREAS, phasing in the wage increase over time will allow all businesses to increase wages as their revenue from increased citizen support increases; and

WHEREAS, changes to wages of City employees can not be made through the citizen initiative process and so City employees must, regretfully, be left out of this ordinance;

NOW, THEREFORE, to promote the health, safety and welfare of its citizens and businesses, 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 **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.

Employee: Any person who performs work for an Employer for monetary compensation within the City limits. "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. Employees include but are not limited to Tipped Employees.

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.

Franchise: A written agreement by which an individual or any other entity or group of persons or entities is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate, and by which the operation of the business is substantially associated with a trademark, service mark, trade name, advertising, or other commercial symbol, and by which the person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee.

Franchisee: An individual or any other entity or group of persons or entities to whom a Franchise is offered or granted.

Franchisor: An individual or any other entity or group of persons or entities who grants a Franchise to someone else.

Schedule A Employer: Any Employer that employs more than 500 Employees in the United States, regardless of where those Employees are employed in the United States, or is a Franchisee associated with a Franchisor or a network of Franchises with Franchisees that employ more than 500 Employees in the United States, regardless of where those Employees are employed in the United States.

Schedule B Employer: Any Employer that is not a Schedule A Employer.

Minimum Wage: The minimum hourly rate of monetary compensation that an Employer shall legally pay an Employee for work within the City.

Schedule A Minimum Wage: The *Minimum* Wage for Schedule A Employers.

Schedule B Minimum Wage: The Minimum Wage for Schedule B Employers.

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 engaged in an occupation in which he or she customarily and regularly receives more than $30.00 a month in Tips from customers.

The BLS: The Bureau of Labor Statistics in the United State Department of Labor.

The CPI: With respect to a year, the average, for the twelve months in that year, of the unadjusted, U.S. City Average, Consumer Price Index for All Urban Consumers, for all items, using the 1982-1984 index base period, Series ID CUUR0000SA0, as reported by the BLS.

Article III. Minimum Wage.

(a) Minimum wage payment required:

(i) Except as provided herein, all Employers, including Schedule A Employers and Schedule B Employers, shall pay all Employees no less than the Schedule A Minimum Wage or Schedule B Minimum Wage, respectively, established by this ordinance for each hour worked within the City Limits.

(ii) Except as provided herein, all Employers, including Schedule A Employers and Schedule B Employers, whose principal place of business is in the City Limits, shall pay all Employees who work primarily or substantially within the City Limits no less than the Schedule A Minimum Wage or Schedule B Minimum Wage, respectively, established by this ordinance for each hour worked, regardless of where that hour is worked.

(iii) The City, considered as an Employer, shall be exempt from the requirements described in subsections (a)(i) and (a)(ii). Nothing in this ordinance shall be deemed to place requirements on, change, or affect the amounts the City pays its Employees. Notwithstanding City of Portland Code of Ordinances Chapter 9 §9-46, it is expressly provided that this subsection, (a)(iii), may be amended or repealed by the City Council at any time by any appropriate process.

(b) Tipped Employees:

(i) 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 maximum amount allowed as a tip credit by 26 M.R.S. §664(2).

(ii) An Employer who elects to use the tip credit described in subsection (b)(i) 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.

(iv) This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement among Employees that is consistent with the federal Fair Labor Standards Act and regulations made pursuant to that Act.

(c) Minimum Wage rate:

(i) Beginning on July 1, 2016, the Schedule A Minimum Wage shall be established as $12.00 per hour;

(ii) Beginning on July 1, 2016, the Schedule B Minimum Wage shall be established as $10.00 per hour;

(iii) Beginning on July 1, 2017, the Schedule A Minimum Wage shall be raised to $15.00 per hour;

(iv) Beginning on July 1, 2017, the Schedule B Minimum Wage shall be raised to $12.00 per hour;

(v) Beginning on July 1, 2018, the Schedule B Minimum Wage shall be raised to $13.50 per hour;

(vi) Beginning on July 1, 2019, the Minimum Wage paid by all Employers, including Schedule A Employers and Schedule B Employers, to all Employees, shall be $15.00 per hour.

(vii) Beginning on every first day of July following July 1, 2019, and every first day of July thereafter, the Minimum Wage for all Employees shall be set to the product of $15.00 per hour and the CPI for the previous calendar year, divided by the CPI for 2014, unless such change would result in a decrease in the Minimum Wage, in which case the Minimum Wage shall not change. For example, the BLS reports that the CPI for 2014 was 236.736; if the CPI for 2019 is 245.555, then beginning on July 1, 2020, the Minimum Wage shall be set as $15.56 per hour, unless it was previously higher, in which case it shall not change.

(d) Overtime.

(i) The Minimum Wage set out in this ordinance is 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 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 in retaliation for exercising any right under this ordinance.

ARTICLE IV. **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. 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 a notice advising the Employee of the current Minimum Wage under this ordinance and of the Employee's rights under this ordinance.

ARTICLE V. **Enforcement and Violations.**

(a) Enforcement.

(i) The City Manager or his/her designee shall enforce the provisions of this Ordinance.

(ii) The City Manager is authorized to adopt rules and regulations for the proper administration and enforcement of this Ordinance.

(b) Complaint Process.

(i) Any 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 shall 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 or his/her designee 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 per affected Employee 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, 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.

ARTICLE VI. **Relationship To Other Requirements.**

(a) This Ordinance provides for payment of minimum wage rates within the City, and to the extent any provision of this Ordinance conflicts with any provision of another City ordinance applicable to the Minimum Wage, the provisions of this Ordinance shall control and apply.

(b) Any exemptions implied or expressed by any other City ordinance or City policy to the requirements and obligations described in Article III shall be considered null.

(c) Except as specified in §(a) and §(b), this Ordinance shall not be construed to preempt, limit, or affect the applicability of other law, including any that provides for payment of higher wages and/or benefits.

(c) Nothing contained in this Ordinance prohibits an employer from paying more than the Minimum Wage rates established herein.

ARTICLE VII. **Severability Clause.**

(a) If any section, paragraph, sentence, word or phrase or 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.

(b) If any court holds for any reason that it is illegitimate or unenforceable to differentiate, in all cases or in some cases, between Schedule A Employers and Schedule B Employers as described in Article II, or to establish different Minimum Wages for different Employers as described in Article III §(c), then all Employers shall be treated as Schedule B Employers, and the rates for, values of, and changes to the Schedule B Minimum Wage described in Article III §(c) shall be held to describe the Minimum Wage applying to all Employers.

ARTICLE VIII. **Effective Date.**

This ordinance shall take effect thirty (30) days after the declaration of the results of the election in which it is voted upon, as described in the City of Portland Code of Ordinances Chapter 9 §9-42.

Chapter 9 ELECTIONS*

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*Charter reference(s)--Elections, art. IV.

Cross reference(s)--Administration, Ch. 2.

State law reference(s)--Elections generally, 21 M.R.S.A. § 1 et seq.; city officials and elections, 30 M.R.S.A. § 5351 et seq.

Art. I. In General, §§ 9-1--9-15
Art. II. Precincts, §§ 9-16--9-35
Art. III. Initiation and Referendum, §§ 9-36--9-47
Art. IV. Peaks Island Council, §§ 9-51--9-60

ARTICLE I. IN GENERAL

Sec. 9-1. Council districts.

(a) *Map included.* The districts and precincts of the City for all elections of the City shall be as shown on the map dated January 29, 2014, on file in the Office of the City Clerk.

(b) *Narrative description of districts.* The districts shown on the map as enacted by this section are further described below. Any reference to Census Tracts, Block Groups, and/or Blocks refers to Census 2010 defined areas. The descriptions are as follows:

District 1. Beginning at the center of the mouth of Back Cove at the centerline of Tukey's Bridge and I-295; thence easterly, southeasterly, and then southerly along the northerly and easterly edges of Census Tracts 1, 2, and 3, around the northeasterly end of the Portland Peninsula, until it intersects with the Portland/South Portland boundary near the mouth of the Fore River in Portland Harbor, said point being southerly of Fish Point and northwesterly of Bug Light; thence following the Portland/South Portland boundary southwesterly to the centerline of Casco Bay Bridge; thence northwesterly along the centerline of the Casco Bay Bridge to a point directly above the shoreline of Portland Harbor; thence northeasterly along the shore of Portland Harbor and the southeasterly edge of the piers, bulkheads, and wharfs to Hobson's Wharf; thence northwesterly along the street on Hobson's Wharf to Commercial Street; thence southwesterly along the

centerline of Commercial Street until it intersects the centerline of High Street; thence northwesterly along the centerline of High Street to the centerline of Park Avenue; thence northwesterly along the centerline of the extension of High Street, that passes through Deering Oaks, to the centerline of Forest Avenue; thence northwesterly along the centerline of Forest Avenue to the centerline of Dartmouth Street; thence northeasterly along the centerline of Dartmouth Street to the centerline of Baxter Boulevard; thence easterly along the centerline of Baxter Boulevard to a point on said centerline that is northerly of Forest Park and is on the easterly edge of Census Block 003, of Census Tract 15, Block Group 1; thence northerly to Back Cove along the easterly edge of Census Block 003, of Census Tract 15, Block Group 1; thence westerly and northwesterly along Back Cove which is also the northeasterly edge of Census Block 003, of Census Tract 15, Block Group 1 to a point along Back Cove, that is easterly o the intersection of Belmont Street and Baxter Boulevard; thence northeasterly along the boundary between Census Tract 15 and 18 to a point in Back Cove; thence southeasterly following the boundary between Census Tract 15 and 18 to a point in Back Cover where the boundaries of Census Tracts 15, 18, and 5 intersect; thence northeasterly along the boundary between Census Tract 18 and 5 to a point in Back Cover where the boundaries of Census Tracts 23, 18, and 5 intersect; thence continuing northeasterly along the boundary between Census Tracts 23 and 5 to the centerline of I-295 on Tukey's Bridge; thence southerly along the centerline of I-295 to the point of beginning. In addition to this area, District 1 includes all islands within the City limits.

District 2. Beginning at the intersection of the Casco Bay Bridge and the boundary between Portland and South Portland; thence following the Portland/South Portland boundary southwesterly, westerly, northwesterly along the Fore River until said Portland/South Portland boundary intersects a projection of Danforth Street's centerline to the southwest of the intersection of Danforth Street and West Commercial Street; thence following said projection of Danforth Street and the centerline of Danforth Street itself in a northeasterly direction to where the centerline of Danforth Street cross the railroad tracks of Portland Terminal Company, said intersection also being at the boundary between Census Tracts 3 and 13; thence northerly along the westerly edge of Census Tract 13 and the Portland Terminal Company's railroad tracks to a point, just north of the Congress Street grade crossing with the Portland Terminal Company's tracks, where the Union Branch tracks diverge from the mainline tracks, said point is southerly of Park Avenue and westerly of Saint John Street; thence along the

northwesterly edge of Census Tract 13 and along the railroad tracks of the Union Branch to the centerline of Deering Avenue; thence northwesterly along the centerline of Deering Avenue to the intersection of Dartmouth St. Thence northeasterly along the centerline of Dartmouth Street to the centerline of Forest Avenue; thence southwesterly along the centerline of Forest Avenue to its intersection with the centerline of the extension of High Street, that passes through Deering Oaks; thence southeasterly along the centerline of said extension of High Street, to the intersection of High Street and Park Avenue; thence southeasterly along the centerline of High Street to the centerline of Commercial Street; thence northeasterly along the centerline of Commercial Street to its intersection with the street on Hobson's Wharf; thence southeasterly along the street on Hobson's Wharf to the end of said wharf; thence southeasterly along the piers, wharfs, bulkheads, and shore of Portland Harbor, such that the piers, wharfs, and bulkheads in their entirety will be contained in District 2, to the Casco Bay Bridge; thence along the centerline of the Casco Bay Bridge to the Portland/South Portland boundary and the point of beginning.

District 3. Beginning on the Portland/South Portland boundary where it would intersect a projection of Danforth Street's centerline if projected southwesterly of the intersection of Danforth Street and West Commercial Street; thence northwesterly and westerly along the Portland/South Portland boundary, in the Fore River, to the centerline of I-295 as it crosses the Fore River; thence westerly along the Portland/South Portland boundary to the point where the Portland/South Portland and the Portland/Westbrook boundaries meet; thence northerly along the Portland/Westbrook boundary to where said town line intersects the Boston and Maine Railroad's location, this point of intersection is westerly of Riverside Street, southerly of Warren Avenue, and northerly of Larrabee Road; thence easterly along the Boston and Maine Railroad's location to where it crosses Capisic Brook; thence westerly and southerly along the Capisic Brook to where it intersects the boundary between Census Tracts 21.02 and 20.01, said boundary is a line running parallel with Birchwood Drive in a northwesterly to southeasterly orientation and lies southerly of the homes on the southerly side of Birchwood Drive; thence southeasterly, then northerly, and southeasterly again along the boundary between Census Tracts 21.02 and 20.01, and northerly of Penwood Drive and Woodvale Street, to a point on said Census Tract boundary and the southerly boundary of Evergreen Cemetery; thence southeasterly along the southerly boundary of Evergreen Cemetery as it runs north of the homes on the northerly side of Ludlow Street,

said line is also the boundary between Census Tracts 21.02 and 20.01, to the point where this course intersects the boundary of Evergreen Cemetery that lies westerly of and roughly parallel to Hamblet Avenue; thence southeasterly along Wayside Rd. to Brighton Avenue. Thence southeasterly along the centerline of Brighton Avenue to the centerline of Columbia Road; thence northeasterly along the centerline of Columbia Road to the centerline of Ludlow Street; thence southeasterly and then northeasterly along the centerline of Ludlow Street to the centerline of Stevens Avenue; thence southerly along the centerline of Stevens Avenue to the centerline of Woodford Street; thence easterly along the centerline of Woodford Street to the centerline of Clifton Street; thence northeasterly along the centerline of Clifton Street to the centerline of Vannah Avenue; thence easterly along the centerline of Vannah Avenue to the centerline of Baxter Boulevard; thence southerly along the centerline of Baxter Boulevard to the intersection of the centerlines of Baxter Boulevard and Belmont Street; thence easterly along the boundary of Census Tracts 15 and 18 to a point on the shore of Back Cove; thence southeasterly along the shore of Back Cove, which is also the easterly edge of Census Block 003, of Census Tract 15, Block Group 1, to a point that is northerly of Forest Park and is on the easterly edge of Census Block 003, of Census Tract 15, Block Group 1 at the shore of Back Cove; thence southerly to the centerline of Baxter Boulevard and along the easterly edge of Census Block 003, of Census Tract 15, Block Group 1; thence westerly along the centerline of Baxter Boulevard to the centerline of Dartmouth Street; thence southwesterly along the centerline of Dartmouth Street to the centerline of Deering Avenue; thence southeasterly along the centerline of Deering Avenue to the railroad tracks of the Union Branch at the northerly edge of Census Tract 13; thence southwesterly along the railroad tracks of the Union Branch and the northwesterly edge of Census Tract 13 to a point, just north of the Congress Street grade crossing with the Portland Terminal Company's tracks, where the Union Branch tracks diverge from the mainline tracks, said point is southerly of Park Avenue and westerly of Saint John Street; thence southerly along the westerly edge of Census Tract 13 and the Portland Terminal Company's railroad tracks to a point where the centerline of Danforth Street cross the railroad tracks of Portland Terminal Company, said intersection also being at the boundary between Census Tracts 3 and 13 and said point is southeasterly of the easterly end of Veterans Memorial Bridge; thence southwesterly along the centerline of Danforth Street and a projection of Danforth Street's centerline to the Portland/South Portland boundary and the point of beginning.

District 4. Beginning at the intersection of the centerlines of Lawn Avenue and Woodford Street; thence easterly along the centerline of Woodford Street to the centerline of Clifton Street; thence northeasterly along the centerline of Clifton Street to the centerline of Vannah Avenue; thence easterly along the centerline of Vannah Avenue to the centerline of Baxter Boulevard; thence southerly along the centerline of Baxter Boulevard to the intersection of the centerlines of Baxter Boulevard and Belmont Street; thence easterly along the boundary of Census Tracts 15 and 18 to a point on the shore of Back Cove; thence northeasterly along the boundary between Census Tract 15 and 18 to a point in Back Cove; thence southeasterly following the boundary between Census Tract 15 and 18 to a point in Back Cove where the boundaries of Census Tracts 15, 18, and 5 intersect; thence northeasterly along the boundary between Census Tract 18 and 5 to a point in Back Cover where the boundaries of Census Tracts 23, 18, and 5 intersect; thence continuing northeasterly along the boundary between Census Tracts 23 and 5 to the centerline of I-295 on Tukey's Bridge; thence northerly to a point at the northerly shoreline at the mouth of Back Cove; then easterly and northeasterly along the shoreline of Casco Bay, between the mouth of Back Cove and the mouth of the Presumpscot River, to the Portland/Falmouth boundary at the Presumpscot River and the Route 1 Bridge at Martins Point; thence northwesterly by the Falmouth/Portland boundary and the Presumpscot River to a point easterly of the intersection of Interstate 295 and the Portland/Falmouth boundary; then westerly along the Portland/Falmouth boundary, crossing Interstate 295, and continuing in a generally westerly direction by the Portland/Falmouth boundary until said town boundary intersects the centerline of Allen Avenue; thence southwesterly along the centerline of Allen Avenue to the centerline of Forest Avenue; thence southerly along the centerline of Forest Avenue to the centerline of Stevens Avenue; thence southerly along the centerline of Stevens Avenue to the centerline of Pleasant Avenue; thence easterly along the centerline of Pleasant Avenue to the centerline of Lawn Avenue; thence southerly along the centerline of Lawn Avenue to the point of beginning.

District 5. Beginning at the intersection of the centerlines of Lawn Avenue and Woodford Street; thence northerly along the centerline of Lawn Avenue to the centerline of Pleasant Avenue; thence westerly along the centerline of Pleasant Avenue to the centerline of Stevens Avenue; thence northerly along the centerline of Stevens Avenue to the centerline of Forest Avenue; thence northerly along the centerline of Forest Avenue to the

centerline of Allen Avenue; thence northeasterly along the centerline of Allen Avenue to the Portland/Falmouth boundary; thence northwesterly and then northeasterly along the Portland/Falmouth boundary to the Presumpscot River; thence along the Portland/Falmouth boundary and the Presumpscot River to the Falmouth Spur of the Maine Turnpike; thence southwesterly along the Falmouth Spur of the Maine Turnpike to a point where the Portland/Falmouth boundary changes direction and heads northwesterly across the Falmouth Spur of the Maine Turnpike, this point being northerly of Alice Court; thence southwesterly along the Portland/Falmouth boundary, again crossing the Falmouth Spur of the Maine Turnpike, to a point on the Portland/Falmouth boundary where said town line boundary turns northwesterly; thence northwesterly along the Portland/Falmouth boundary to the Portland/Falmouth Boundary along the Presumpscot River; thence southwesterly along the Portland/Falmouth boundary and the Presumpscot River to the point where the Portland/Falmouth boundary intersects the Portland/Westbrook boundary along the Presumpscot River; thence continuing southwesterly along the Portland/Westbrook boundary and the Presumpscot River to the point where the Portland/Westbrook boundary along the Presumpscot River turns southeasterly and leaves the river; thence southeasterly along the Portland/Westbrook boundary to where said town line intersects the Boston and Maine Railroad's location, this point of intersection is westerly of Riverside Street, southerly of Warren Avenue, and northerly of Larrabee Road; thence easterly along the Boston and Maine Railroad's location to where it crosses Capisic Brook; thence westerly and southerly along the Capisic Brook to where it intersects the boundary between Census Tracts 21.02 and 20.01, said boundary is a line running parallel with Birchwood Drive; thence southeasterly, then northerly, and southeasterly again along the boundary between Census Tracts 21.02 and 20.01, and northerly of Penwood Drive and Woodvale Street, to a point on said boundary and the southerly boundary of Evergreen Cemetery; thence southeasterly along the southerly boundary of Evergreen Cemetery as it runs north of the homes on the northerly side of Ludlow Street, said line is also the boundary between Census Tracts 21.02 and 20.01, to the point where this course intersects the boundary of Evergreen Cemetery that lies westerly of and roughly parallel to Hamblet Avenue; thence southwesterly to the centerline of Ludlow Street; thence northeasterly along the centerline of Ludlow Street to a point beyond the easterly side of Wayside Rd. to the intersection of Brighton Avenue; thence southeasterly along the centerline of Brighton Avenue to the centerline of Columbia Road; thence northeasterly along the centerline of Columbia Road to the

centerline of Ludlow Street; thence southeasterly and then northeasterly along the centerline of Ludlow Street to the centerline of Stevens Avenue; thence southerly along the centerline of Stevens Avenue to the centerline of Woodford Street thence easterly along the centerline of Woodford Street to the centerline of Lawn Avenue and the point of beginning.

(c) *Conflicts between map and description.* In the event of any conflict between the above map and the preceding description, the map provision shall control.

(Ord. No. 375-84, § 1, 11-16-84; Ord. No. 219-93, § 1, 2-2-93; Ord. No. 81-93, 8-16-93; Ord No. 191, 1-20-99; Ord. No. 124-99, 12-20-99; Ord. No. 36-01/02, 8-20-01; Ord. No. 174-01/02, 3-4-02; Ord. No. 25-02/03, 8-19-02; Ord. No. 145-03/04, 2-2-04; Ord. No.20-04/05, 9-2-04; Ord. No. 149-08/09, 2-2-09; Ord. No. 144-13/14, 2-24-14)

Charter reference(s)--Election districts, Art. II, § 1.

Sec. 9-2. Reserved.
Sec. 9-3. Reserved.
Sec. 9-4. Reserved.
Sec. 9-5. Reserved.
Sec. 9-6. Reserved.
Sec. 9-7. Reserved.
Sec. 9-8. Reserved.
Sec. 9-9. Reserved.
Sec. 9-10. Reserved.
Sec. 9-11. Reserved.
Sec. 9-12. Reserved.
Sec. 9-13. Reserved.
Sec. 9-14. Reserved.
Sec. 9-15. Reserved.

ARTICLE II. PRECINCTS*

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*Editor's note--Ord. No. 375-84, §§ 2 and 3, adopted Nov. 16, 1984, amended § 9-16 in its entirety and repealed §§ 9-17--9-21, relative to election precincts. Formerly, §§ 9-16--9-21 derived from Code 1968, § 105.1 and Ord. No. 105-79, adopted Feb. 22, 1979.

Sec. 9-16. Generally.

The districts of the city established by section 9-1 of this

Code pursuant to section 1 of article II of the charter are for voting purposes divided into the precincts shown on the map incorporated into said section 9-1 with voting places within or near each such precinct as hereinafter designated by order of the council.
(Ord. No. 375-84, § 2, 11-16-84)

Sec. 9-17. Reserved.
Sec. 9-18. Reserved.
Sec. 9-19. Reserved.
Sec. 9-20. Reserved.
Sec. 9-21. Reserved.
Sec. 9-22. Reserved.
Sec. 9-23. Reserved.
Sec. 9-24. Reserved.
Sec. 9-25. Reserved.
Sec. 9-26. Reserved.
Sec. 9-27. Reserved.
Sec. 9-28. Reserved.
Sec. 9-29. Reserved.
Sec. 9-30. Reserved.
Sec. 9-31. Reserved.
Sec. 9-32. Reserved.
Sec. 9-33. Reserved.
Sec. 9-34. Reserved.
Sec. 9-35. Reserved.

ARTICLE III. INITIATION AND REFERENDUM

Sec. 9-36. How invoked.

(a) *In general.* The submission to the vote of the people of any proposed ordinance dealing with legislative matters on municipal affairs or of any such ordinance enacted by the city council and which has not yet gone into effect may be accomplished by the presentation of a petition therefor to the city council in the manner hereinafter provided and signed by at least one thousand five hundred (1,500) voters. The submission of a proposed ordinance, or amendment or repeal, in whole or in part, of an ordinance already in effect shall be hereinafter referred to as the direct initiation of legislation or "initiative." The submission of a petition to override any ordinance passed by the city council but which has not yet gone into effect shall be hereinafter referred to as the "people's veto."

(b) *Applicability.* Neither this article nor ordinances dealing with appropriations, tax levy, or with wages or hours of city employees shall be subject to the initiative and "people's veto" referendum provisions herein established.

(c) *Petition procedure.* Any ten (10) registered voters of the city may file with the city clerk an affidavit stating:

(1) That the ten (10) registered voters will constitute the petitioners' committee;

(2) The names and addresses of the ten (10) registered voters;

(3) The address to which all notices to the committee are to be sent; and

(4) That the ten (10) registered voters will circulate the petition and file it in proper form.

Upon filing of such affidavit by ten (10) such voters, the city clerk shall have seven (7) calendar days to prepare the proper petition forms pursuant to section 9-37 below with a copy of the submitted ordinance either printed on the petition or attached thereto and shall provide such petition to members of the petitioners' committee and to any other registered city voter who wishes to circulate it. The petition may be circulated for signature by registered voters of the city for eighty (80) calendar days from the original date of issuance of the petition, which date shall be noted by the clerk on each blank form; provided, however, that any petition for the "people's veto" of an ordinance not in effect must be filed with the city clerk prior to the effective date of such ordinance or within thirty (30) calendar days after passage by the city council, whichever is less. Any "people's veto" petition not so filed is void. All provisions as to the filing and the form of petitions in this article, other than the aforementioned time frame, shall apply to both initiative and "people's veto" petitions.

(d) *Filing of petition.* The petition must be returned to the city clerk for filing by close of business within eighty (80) calendar days from the date of issuance thereof. If the eightieth day is a Saturday, Sunday or holiday, such petition shall be filed by the close of business of the next immediate business day. All petition forms not so submitted are void. The petition forms shall

be assembled as one (1) instrument, with each page numbered, attached to a written statement from the petitioners' committee stating the number of petition forms being filed. The clerk shall certify the date of filing and the number of forms returned.

(e) *Verification of petition.*

(1) Within fifteen (15) calendar days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by certified mail, return receipt requested, or by hand delivery, and shall file a copy with the city council.

(2) A petition certified insufficient may be amended once, if the petitioners' committee files a written notice of intention to amend it with the clerk within eight (8) calendar days after mailing by certified mail, return receipt requested, or hand delivery of the copy of the clerk's certificate. Within ten (10) calendar days after this notice of intention is filed, the petitioners' committee may file a supplementary petition to correct technical deficiencies in the original which shall, in form and content, comply with the requirements for an original petition but which shall not contain additional signatures of voters.

(3) Within five (5) calendar days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.

(4) Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots.

(5) The clerk's decision as to the sufficiency of the petitions shall be a final determination, reviewable as provided by law.

(f) *Hearing.* At its first regular meeting after receipt of a report that a petition is sufficient and has at least one thousand five hundred (1,500) valid signatures of the registered voters of the city, the city council shall set a date for public hearing,

which hearing shall be held within thirty (30) calendar days thereafter. Notice of the hearing shall be published in a newspaper having general circulation in the city at least ten (10) calendar days prior to the hearing and shall contain the text of the petition. As provided by section 9-39, the city council shall take the necessary steps to submit to the voters of the city the ordinance proposed in the petition; provided that, in the case of the "people's veto" referendum, the entire repeal by the city council of the ordinance sought to be referred and, in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under the petition. (Code 1968, § 102.1; Ord. No. 349-75, 6-16-75; Ord. No. 508-81, §§ 1, 2, 2-2-81; Ord. No. 262-91, 3-4-91)

Sec. 9-37. Form of petition.

(a) *Form.* The petition used to originate the initiative or the "people's veto" referendum shall be substantially in the following form on paper of uniform size with as many individual sheets as reasonably necessary:

PETITION TO THE CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy and summary of which is printed hereon or attached hereto, be adopted/repealed (as applicable)?

We, the undersigned, being duly qualified voters of the City of Portland residing respectively at the addresses placed opposite our names, hereby petition the city council to submit the foregoing question to the voters of the City of Portland.

Signature	Printed Name	Residence (Street Address)	Date

City Clerk

Date of Issuance of Petition

(To be filled in by city clerk as original date of issuance of petition for signatures.)

Each signature must be in ink or other indelible instrument and must be followed by the printed name and the residence of the voter with street and number and the date of signing.

(b) *Ordinance and summary.* At the time of submitting the proposed ordinance, the petitioners must submit a summary to accompany the proposed ordinance on the petition. The summary shall clearly and objectively describe the content of the proposal and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposal. In the event sufficient signatures are obtained to submit the ordinance to the voters, the summary included on the petition shall accompany the title and text of the ordinance on the ballot, except as otherwise provided in section 9-41(b) below.

(c) *Circulator verification.* Each petition form shall have printed on its back an affidavit, which shall be executed by the circulator stating:

(1) That the circulator personally circulated the form;

(2) The number of signatures on that petition form and that all the signatures were signed in the circulator's presence; and

(3) That the circulator believes them to be genuine signatures of the persons whose names they purport to be.

Signatures on the petition shall be verified pursuant to the same standards applicable to state initiative and "people's veto" referendum petitions pursuant to 21-A M.R.S.A., § 901 et seq., except that each petitioner must be a registered voter of the city

at the time of signing the petition.
(Code 1968, § 102.2; Ord. No. 262-91, 3-4-91; Ord. No. 101-06/07, 11-20-06)

Sec. 9-38. Effect of petition.

Whenever there has been filed with the clerk a petition, which is facially valid with at least one thousand five hundred (1,500) signatures, for the reference to the people of any ordinance passed by the city council, which ordinance has not yet gone into effect, i.e. the "people's veto" petition, such ordinance shall be suspended from going into operation until it has either been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on the question or the petition, after opportunity for amendment and inspection, [or] has been found to be insufficient; whichever occurs first. In the event the required number of signatures are not obtained prior to the date when such ordinance goes into effect, such petition shall be null and void. Once an enacted ordinance has gone into effect, it shall be amended or repealed only through the initiative process.
(Code 1968, § 102.3; Ord. No. 262-91, 3-4-91)

Sec. 9-39. Time of election.

At the first regular council meeting held after the public hearing, the city council shall submit the question to the voters of the city at the next regular federal, state or municipal election which is not less than ninety (90) calendar days after such council meeting; provided however that such election shall not include a special municipal election on whether to adopt the municipal school budget. Notwithstanding the foregoing, if the time period before the next election would exceed ninety (90) calendar days in the case of an initiative or people's veto petition, the council may, in its discretion, schedule a special election on the issue.
(Code 1968, § 102.4; Ord. No. 262-91, 3-4-91; Ord. 56-11/12, 11-21-11)

Sec. 9-40. Publication of ordinance.

(a) *Publication.* Whenever any ordinance is required by the provisions of this article to be submitted to the voters of the city at any election, the city council must order one (1) publication of the complete title, text and summary thereof to be made in one (1) or more newspapers of the city, such publication to be made not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the election.

(b) *Posting.* In addition to the foregoing, a copy of the complete title, text and summary of the ordinance to be submitted shall be posted in the city clerk's office at least fourteen (14) calendar days prior to the date of the election. In addition to the foregoing, a copy of the complete title, text and summary of the ordinance submitted to the voters shall be posted at each polling place on election day.
(Code 1968, § 102.5; Ord. No. 262-91, 3-4-91)

Sec. 9-41. Form of ballot.

(a) *In general.* The ballot shall contain the full title and text of the proposed ordinance and the summary included on the petition, except as provided below.

(b) *Title and summary only.* At any point in the process after a petition has been certified as sufficient but no less than sixty (60) calendar days prior to the election, the city clerk shall report to the city council if he or she determines that it is not reasonably possible to reproduce the full text and summary of the proposed ordinance on the ballot. In such case, the summary provided with the petition shall accompany the title on the ballot in place of the full text.

(c) *Wording of questions.* Ballots for a vote on an initiative or "people's veto" referendum question shall set out the question to be voted upon in the following form:

(1) With respect to an initiative question, the question shall be presented to the voters substantially as follows: "Do you favor the change in the city ordinance(s) proposed by citizen petition as provided below?"

(2) With respect to a "people's veto" question, the question shall be presented to the voters substantially as follows: "Do you favor repealing the city ordinance(s) enacted by the city council on (insert date)?"

(3) In the event that the city council adopts a competing measure to an initiated ordinance, the questions shall be presented to the voters substantially as follows: "Do you favor one (1) of the two (2) city ordinances set forth below: `A' as proposed by citizen petition; `B' as enacted by the city council; or should both be rejected as provided in `C'?"

(Code 1968, § 102.6; Ord. No. 262-91, 3-4-91)

Sec. 9-42. Result of election

If a majority of the qualified voters voting on a proposed initiative ordinance or a referred ordinance shall vote in favor thereof, such ordinance shall take effect thirty (30) calendar days after the declaration of the official canvass of the return of such election. Notwithstanding the foregoing, such effective date shall not be deemed to prohibit a retroactive effective date of an initiated ordinance, to the extent permitted by law, if such retroactive date is specifically provided for in the petition and/or the question approved by the voters. Any such date in the petition shall be included in the question on the ballot. Such retroactive date shall not be earlier than the date of filing of the affidavit originating the petition which is finally submitted to the voters, if any.
(Code 1968, § 102.7; Ord. No. 262-91, 3-4-91)

Sec. 9-43. Conflicting ordinances.

Any number of proposed or referred ordinances may be voted upon at the same election. If two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall be paramount, and all questions of construction shall be determined accordingly.
(Code 1968, § 102.8; Ord. No. 262-91, 3-4-91)

Sec. 9-44. Order upon ballot.

If two (2) or more ordinances are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the city council on its own initiative.
(Code 1968, § 102.9; Ord. No. 262-91, 3-4-91)

Sec. 9-45. City council may initiate ordinance.

The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in section 9-36(b) above) to be voted upon at any regular or special municipal election, and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed or amended

accordingly.

In the event the council submits a proposition to the voters hereunder, it shall provide a summary to accompany the full title and text. Such summary shall clearly and objectively describe the content of the proposition and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposition. The ballot shall contain the full title, text and summary of the proposition except as otherwise provided in section 9-41. The complete title, text and summary of the proposition shall be published and posted prior to the election as provided in section 9-40.
(Code 1968, § 102.10; Ord. No. 262-91, 3-4-91)

Sec. 9-46. Repeal or amendment of ordinance.

An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide. After five (5) years from the effective date of the ordinance, the city council after public hearing may repeal or amend such ordinance by vote of five (5) of its members.
(Code 1968, § 102.11; Ord. No. 262-91, 3-4-91)

Sec. 9-47. Public hearing.

Whenever a public hearing is required to be held in accordance with the provisions of this article, notice of the time, place and purpose of the hearing shall be published in one (1) of the newspapers of the city, such publication to be not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the date of the hearing.
(Code 1968, § 102.12; Ord. No. 262-91, 3-4-91)

Sec. 9-48. Polling places.

The number of voting or polling places in any election shall be at least the number of voting places in each city council district as used in the June 10, 2008 election. The city council may consolidate voting places only in accordance with the provisions of 21-A M.R.S.A. § 631-A, after public notice and hearing, and consolidation shall be made only upon a specific finding that the voter turnout in the election is likely to be unusually small, as in the case of a special election for

Portland Water District Trustee. There shall be no consolidation of voting places in any election where any state or federal office is to be filled, or in any state wide referendum. (Ord. No. 25-A, 8-18-08)

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*Editor's Note: This ordinance preserves or restores the number of voting places prior to the planned reduction in voting places based on cuts adopted in the FY'09 budget.

Sec. 9-49. Reserved.

Sec. 9-50. Reserved.

ARTICLE IV. PEAKS ISLAND COUNCIL

Sec. 9-51. Formation of council.

(a) *Purpose.* In order to provide the residents of Peaks Island with a different method of gathering input from its residents as to issues of concern to them and to provide such input to the members of the Portland city council, there is hereby established the Peaks Island council.

(b) *Members.* The Peaks Island council shall consist of seven (7) voting members elected at large from and by the duly registered voters of Peaks Island, beginning at the regular municipal election in November, 2007 and each regular municipal election in November thereafter. In 2007 two members shall be elected for a term of one year, two members shall be elected for a term of two years, and three members shall be elected for a term of three years with the initial terms being based on the number of votes received by each candidate, such that those candidates receiving the highest number of votes will win the longest terms. At the expiration of each initial term, subsequent terms shall be for a period of three years. Each member shall serve without compensation.

(c) *Terms.* The terms of each member shall run from the date of the inaugural meeting for three (3) full years, except as provided above for the initial terms. Members shall be sworn into their positions on the same day as members of the city council and shall serve until a successor is elected and qualified.

(d) The district 1 city councilor and school committee

member shall be ex-officio non-voting members of the Peaks Island council and attend its regular meetings. If they cannot attend a meeting they shall designate an alternate to attend.
(Ord. No. 16-07/08, 7-16-07)

Sec. 9-52. Nomination of members.

(a) *Petitions.* The nominations of all candidates for elective offices for membership on the Peaks Island council shall be by written petition to be provided by the city clerk, in substantially the same form as the petition for at-large candidates for the city council as provided in article IV of the city charter. Said petition shall be signed by not less than fifty (50) Peaks Island residents who are registered voters on the island nor more than one hundred (100) such voters. All candidates must be residents of Peaks Island for a period of at least three (3) months prior to the date on or before which nomination papers are to be filed.

(b) *Signatures.* 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.

(c) *Filing.* The city clerk shall make nomination petitions available to the candidates one hundred and twenty (120) days prior to the election except that in 2007 the petitions shall be made available one hundred and twelve (112) 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 seventy-eight (78) nor later than sixty-four (64) 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 said 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 be

nominated, nor shall any person consent to being nominated, at the same election for any other elective office provided for by the city charter.
(Ord. No. 16-07/08, 7-16-07)

Sec. 9-53. Election.

(a) The city clerk shall provide specimen ballots, absentee ballots and ballots for election of the members of the Peaks Island council in substantially the same form and at the same time as those for members of the city council. All voting shall take place in the regular polling place for registered voters on Peaks Island and the election, count of the ballots and canvass of returns shall be administered by the city clerk in the same manner as provided by city charter for members of the city council. Any dispute as to election results shall be resolved by the city clerk using the same standards provided by city charter and state law for disputed municipal elections, and the decision of the city clerk shall be final and shall not be appealable to court or any other entity.

(b) Following the declaration of the election results by the city clerk, the successful candidates shall be sworn in by the city clerk on or before the inaugural meeting of the Peaks Island council.
(Ord. No. 16-07/08, 7-16-07)

Sec. 9-54. Powers and duties.

(a) *Authority.* The Peaks Island council may exercise any powers and perform any functions on Peaks Island including but not limited to:

(1) Advisory or delegated substantive authority, or both, to hold public hearings, gather community input and make recommendations to the city council with respect to such programs as transportation initiatives and parking, community action programs, construction, expansion, location or relocations of public facilities, proposed public works projects, planning and zoning actions, fire safety, crime prevention and juvenile delinquency programs, health services, code inspection and city-sponsored recreational programs, law enforcement, harbor control and management, and education;

(2) Self-help projects, (such as supplemental refuse collection, beautification) fundraising for local improvements or events and similar volunteer efforts;

(3) Participation in the selection of the island/neighborhood liaison, and Peaks Island representatives on the island advisory committee, and the island coalition;

(4) Recommendations for the allocation of funds designated or appropriated by the city or received from other sources for transportation or parking initiatives or other purposes;

(5) Control and spend funds designated or appropriated by the city or received from other services for the operation of the Peaks Island council or its programs;

(6) Recommendations for ordinance amendments; and

(7) Creation of such subcommittees as it deems necessary.

(b) *Regular agenda item.* The city council shall on its regular agenda schedule timely discussion and opportunity for adoption of recommendations made by the Peaks Island council. City council votes on such recommendations shall be carried out in the same manner as votes on other matters on the city council agenda.
(Ord. No. 16-07/08, 7-16-07)

Sec. 9-55. Procedure of Peaks Island council.

(a) *Inaugural meetings.* In 2007 the inaugural meeting of the Peaks Island council shall be held on the first Tuesday following the election at 7:00 p.m. at the Peaks Island elementary school. In subsequent years the date, time and place of the meeting shall be established by the written rules adopted by the Peaks Island council.

(b) *Regular meetings.* The Peaks Island council shall meet at least once every month. The time, date and place of such regular meeting shall be established by written rules of Peaks Island council to be adopted no later than December 15 of each year. Notice of meetings shall be advertised on the city of Portland calendar and shall be posted in at least two public places on Peaks Island.

(c) *Special meetings.* Special meetings may be called by the chairperson, and in case of his or her absence, disability, or refusal may be called by a majority of the members of the council. Notice of such meeting shall be served in person or left at the residence of each member of the council and posted in at least two public places on Peaks Island at least seventy-two (72) hours before the time for holding said special meeting.

(d) *Quorum.* Four (4) members shall constitute a quorum for the transaction of business and is authorized to transact business at all times, including when there is a vacancy on the council. Final passage of any item shall require four (4) affirmative votes. All votes and actions taken by the Peaks Island council shall be transmitted in a timely manner to the city council, but shall not bind the citizenry or the city council and shall not be enforceable against any person in the courts of the state unless and until adopted by the city council. Such Peaks Island council actions shall not be considered final governmental action for purposes of appeal to court under Rule 80B or any successor rule or statute.

(e) *Rules.* Unless a contrary rule is adopted by the Peaks Island council in writing, the meetings of the Peaks Island council shall be governed by Roberts Rules of Procedure.

(f) *Chairperson.* A member of the Peaks Island council shall be selected annually at the inaugural meeting by a vote of not less than four (4) members to serve as chairperson of the meetings and to rule on procedural issues which may arise. In the event of vacancy in the position of chairperson a chairperson pro tem shall be elected to serve for the duration of the chairperson's term by no less than four (4) votes of the remaining members. IF the chairperson is unable to attend a meeting for reasons that do not create a vacancy, the chairperson may designate an acting chairperson for that meeting.

(g) *Vacancies.* A vacancy in the membership of the Peaks Island 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 island; (4) the conviction of a member of a felony while in office; or (5) the recall of a member pursuant to any provision for recall established by the council. The Peaks Island council shall declare a vacancy in its membership to exist upon the failure of a member to attend any three (3) consecutive regular

meetings of the council, or at least forty (40%) percent of the regular meetings of the council held in any one calendar year unless said member shall be excused (by a vote of at least four (4) other members) for health reasons or other good cause.

A member may in writing addressed to the Peaks Island council resign his or her office effective at a future date specified in said written resignation. Once submitted to the council, said resignation may not be withdrawn, and said member's office shall become vacant on said specified future date.

If a vacancy in the membership of the Peaks Island 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 one hundred and twenty (120) days after the date the vacancy occurs or is declared unless the city council, by a vote of six (6) of its members, calls a special election on an earlier date following a request from the Peaks Island council. The notice of election for such special election shall upon vote of the city council be issued by a member of the city council by vote designated for that duty. Such election shall be called and held and nominations made as in other elections.

When a vacancy occurs, the Peaks Island council may appoint an interim councilor, who shall be sworn into office and who shall serve with full powers and duties until a successor is elected as provided above and sworn into office.
(Ord. No. 16-07/08, 7-16-07; Ord. No. 139-09/10, 1-4-10, emergency enacted)

Sec. 9-56. Effective date.

This ordinance shall go into effect on July 17, 2007.

Sec. 9-57. Reserved.
Sec. 9-58. Reserved.
Sec. 9-59. Reserved.
Sec. 9-60. Reserved.

Order 29-15/16
Dated 9-21-15

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 ENACTING CITIZEN INITIATIVE AMENDMENT TO PORTLAND CITY CODE CHAPTER 33 RE: AN ORDINANCE TOWARD A LIVING 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, which said Articles read as follows:

Chapter 33 AN ORDINANCE TOWARD A LIVING WAGE

Art. I. Purpose
Art. II. Definitions
Art. III. Minimum Wage
Art. IV. Notice, Posting and Records
Art. V. Enforcement and Violations
Art. VI. Relationship To Other Requirements
Art. VII. Severability Clause
Art. VIII. Effective Date

ARTICLE I. 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 and those who work within the City's borders is an endeavor that plainly meets this criterion; and

WHEREAS, small, locally owned businesses are essential to a thriving economy because they keep assets within the community and offer opportunities for citizens to become entrepreneurs; and

WHEREAS, people living at or near poverty cannot regularly patronize businesses because they do not have sufficient disposable income or assets; and

WHEREAS, an estimated 20,000 workers in the State of Maine work for minimum wage, and a substantial number of Maine's minimum wage workers are among the City off Portland's 65,000 wage and salary earners; and

WHEREAS, more than 50 percent of Portland public school students live in families that cannot afford to provide lunches for their children without subsidies; and

WHEREAS, rising housing costs, including an increase in the median home price from $125,200 in 2000 to $238,400 in 2012 and a similar increase in the costs of renting, are pushing low wage workers out of the City; and

WHEREAS, an increase in wages will better permit citizens to participate in the economy; and

WHEREAS, after years of inaction by the United States Congress and Maine Legislature it is time for municipalities to do what they can to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, the income of large businesses nationally has been sufficient to support salaries of CEOs that average 774 times as much as minimum wage earners, establishing that on average larger businesses are better able to afford the cost ofmore quickly increasing worker wages; and

WHEREAS, phasing in the wage increase over time will allow all businesses to increase wages as their revenue from increased citizen support increases; and

WHEREAS, changes to wages of City employees cannot be made through the citizen initiative process and so City employees must, regretfully, be left out of this ordinance;

NOW, THEREFORE, to promote the health, safety and welfare of its citizens and businesses, 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 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.

Employee: Any person who performs work for an Employer for monetary compensation within the City limits. "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. Employees include but are not limited to Tipped Employees.

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.

Franchise: A written agreement by which an individual or any other entity or group of persons or entities is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate, and by which the operation of the business is substantially associated with a trademark, service mark, trade name, advertising, or other commercial symbol, and by which the person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee.

Franchisee: An individual or any other entity or group of persons or entities to whom a Franchise is offered or granted.

Franchisor: An individual or any other entity or group of persons or entities who grants a Franchise to someone else.

Schedule A Employer: Any Employer that employs more than 500 Employees in the United States, regardless of where those Employees are employed in the United States, or is a Franchisee associated with a Franchisor or a network of Franchises with Franchisees that employ more than 500 Employees in the United States, regardless of where those Employees are employed in the United States.

Schedule B Employer: Any Employer that is not a Schedule A Employer.

Minimum Wage: The minimum hourly rate of monetary compensation that an Employer shall legally pay an Employee for work within the City.

Schedule A Minimum Wage: The Minimum Wage for Schedule A Employers.

Schedule B Minimum Wage: The Minimum Wage for Schedule B Employers.

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 engaged in an occupation in which he or she customarily and regularly receives more than $30.00 a month in Tips from customers.

The BLS: The Bureau of Labor Statistics in the United State Department of Labor.

The CPI: With respect to a year, the average, for the twelve months in that year, of the unadjusted, U.S. City Average, Consumer Price Index for All Urban Consumers, for all items, using the 1982-1984 index base period, Series ID CUUR0000SA0, as reported by the BLS.

Article III. Minimum Wage.

(a) Minimum wage payment required:

(i) Except as provided herein, all Employers, including Schedule A Employers and Schedule B Employers, shall pay all Employees no less than the Schedule A Minimum Wage or Schedule B Minimum Wage, respectively, established by this ordinance for each hour worked within the City Limits.

(ii) Except as provided herein, all Employers, including Schedule A Employers and Schedule B Employers, whose principal place of business is in the City Limits, shall pay all Employees who work primarily or substantially within the City Limits no less than the Schedule A Minimum Wage or Schedule B Minimum Wage, respectively, established

by this ordinance for each hour worked, regardless of where that hour is worked.

(iii) The City, considered as an Employer, shall be exempt from the requirements described in subsections (a)(i) and (a)(ii). Nothing in this ordinance shall be deemed to place requirements on, change, or affect the amounts the City pays its Employees. Notwithstanding City of Portland Code of Ordinances Chapter 9 §9-46, it is expressly provided that this subsection, (a)(iii), may be amended or repealed by the City Council at any time by any appropriate process.

(b) Tipped Employees:

(i) 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 maximum amount allowed as a tip credit by 26 M.R.S. §664(2).

(ii) An Employer who elects to use the tip credit described in subsection (b)(i) 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 tipsreceived 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.

(iv) This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement among Employees that is consistent with the federal Fair Labor Standards Act and regulations made pursuant to that Act.

(c) Minimum Wage rate:

(i) Beginning on July 1, 2016, the Schedule A Minimum Wage shall be established as $12.00 per hour;

(ii) Beginning on July 1, 2016, the Schedule B Minimum Wage shall be established as $10.00 per hour;

~~(iii) Beginning on July 1, 2017, the Schedule A Minimum~~ Wage shall be raised to $15.00 per hour;

(iv) Beginning on July 1, 2017, the Schedule B Minimum Wage shall be raised to $12.00 per hour;

(v) Beginning on July 1, 2018, the Schedule B Minimum Wage shall be raised to $13.50 per hour;

(vi) Beginning on July 1, 2019, the Minimum Wage paid by all Employers, including Schedule A Employers and Schedule B Employers, to all Employees, shall be $15.00 per hour.

(vii) Beginning on every first day of July following July 1, 2019, and every first day of July thereafter, the Minimum Wage for all Employees shall be set to the product of $15.00 per hour and the CPI for the previous calendar year, divided by the CPI for 2014, unless such change would result in a decrease in the Minimum Wage, in which case the Minimum Wage shall not change. For example, the BLS reports that the CPI for 2014 was 236.736; if the CPI for 2019 is 245.555, then beginning on July 1, 2020, the Minimum Wage shall be set as $15.56 per hour, unless it was previously higher, in which case it shall not change.

(d) Overtime.

(i) The Minimum Wage set out in this ordinance is 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 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 in retaliation for exercising any right under this ordinance.

ARTICLE IV. 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. 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 a notice advising the Employee of the current Minimum Wage under this ordinance and of the Employee's rights under this ordinance.

ARTICLE V. Enforcement and Violations.

(a) Enforcement.

(i) The City Manager or his/her designee shall enforce the provisions of this Ordinance.

(ii) The City Manager is authorized to adopt rules and regulations for the proper administration and enforcement of this Ordinance.

(b) Complaint Process.

(i) Any 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 shall 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 or his/her designee 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 per affected Employee 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, 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.

ARTICLE VI. Relationship To Other Requirements.

(a) This Ordinance provides for payment of minimum wage rates within the City, and to the extent any provision of this Ordinance conflicts with any provision of another City ordinance applicable to the Minimum Wage, the provisions of this Ordinance shall control and apply.

(b) Any exemptions implied or expressed by any other City ordinance or City policy to the requirements and obligations described in Article III shall be considered null.

(c) Except as specified in §(a) and §(b), this Ordinance shall not be construed to preempt, limit, or affect the applicability of other law, including any that provides for payment of higher wages and/or benefits.

(c) Nothing contained in this Ordinance prohibits an employer from paying more than the Minimum Wage rates established herein.

ARTICLE VII. Severability Clause.

(a) If any section, paragraph, sentence, word or phrase or 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.

(b) If any court holds for any reason that it is illegitimate or unenforceable to differentiate, in all cases or in some cases, between Schedule A Employers and Schedule B Employers as described in Article II, or to establish different Minimum Wages for different Employers as described in Article III §(c), then all Employers shall be treated as Schedule B Employers, and the rates for, values of, and changes to the Schedule B Minimum Wage described in Article III §(c) shall be held to describe the Minimum Wage applying to all Employers.

ARTICLE VIII. Effective Date.

This ordinance shall take effect thirty (30) days after the declaration of the results of the election in which it is voted upon, as described in the City of Portland Code of Ordinances Chapter 9 §9-42.

Order 25-15/16
Tab 21 7-20-15

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 SETTING ELECTION DATE ON AMENDMENT TO CHAPTER 33 RE: MINIMUM WAGE AND SENDING A COMPETING MEASURE TO THE VOTERS

ORDERED, that pursuant to Section 9-39 of the Portland City Code, the amendment to Chapter 33 of the Portland City Code Re: Minimum Wage shall be submitted to the voters of the City in substantially the form attached hereto on November 3, 2015 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to provide a summary of the proposed ordinance on the ballot.

Order 26-15/16
Tab 22 7-20-15

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 SETTING PUBLIC HEARING ON CITIZEN INITIATIVE AMENDMENT TO CHAPTER 14, ARTICLE III RE: SCENIC VIEWPOINT PROTECTION

ORDERED, that a public hearing on a citizen initiative amendment to the Portland City Code regarding amendments to Chapter 14, Article III, shall be held by the City Council on August 3, 2015, at 7:00 p.m., or as soon as possible after said time, in City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine.

Order 27-15/16
Tab 23 7-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER GRANTING REVOCABLE LICENSE TO REDFERN BAYSIDE, LLC

ORDERED that a revocable license agreement from the City to Redfern Bayside, LLC to allow a grease trap at a proposed building at 89 Anderson Street is hereby granted in substantially the form attached hereto as Attachment 1; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager to execute said document and any other related documents necessary or convenient to carry out the intent of said document and this Order.

MEMORANDUM
City Council Agenda Item

TO: **Mayor and** City Council

FROM: Jeff Levine, Planning Division Director

DATE: July 8, 2015

DISTRIBUTION: Mayor Michael Brennan; Michael Sauschuck, Assistant City Manager; Danielle West-Chuhta, Corporation Counsel; Jennifer Thompson, Associate Corporation Counsel; Sonia Bean, Nancy English, and Julie Sullivan

SUBJECT: Revocable License Agreement to Redfern Bayside LLC for grease trap

SPONSOR:

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_____ Final Action July 20, 2015_____

Can action be taken at a later date: _____ Yes ___X___ No (If no why not?)
This license is needed prior to the start of construction.

PRESENTATION: (Jeff Levine, Barbara Barhydt, or other Planning Staff, 2 minute presentation)

I. SUMMARY OF ISSUE

The Department of Planning and Urban Development presents a request from Redfern Bayside LLC for a revocable license agreement in order to allow a grease trap associated with a proposed restaurant at their building planned at 89 Anderson Street, the East Bayside Lofts, in the Fox Street right-of-way. The site plan and subdivision plat for the proposed building were approved by the city's Planning Board on May 26, 2015, with the condition that the applicant obtain the license as proposed. The area of the proposed license agreement is shown in the Exhibit Sketch in the draft agreement attached. The area is proposed to extend 8.5 feet into the public right-of-way for a distance of 18 linear feet near the corner of Fox and Anderson Streets. Since the area of the grease trap does not qualify has habitable space, no remuneration has been requested.

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

This license requires City Council approval and, per Corporation Counsel, qualifies as a one-reading item.

III. INTENDED RESULT

The request is for the approval of the license agreement and authorization of the City Manager to grant the license on the city's behalf.

IV. COUNCIL GOAL ADDRESSED

Granting the proposed license and thus allowing this mixed use project, which includes 53 units of rental housing, to proceed will promote housing availability.

V. FINANCIAL IMPACT

The project will ultimately result in tax revenue to the city.

VI. STAFF ANALYSIS & RECOMMENDATION

The Corporation Counsel's office has reviewed the amended license agreement and has approved the draft as presented here. As noted above, the Planning Board approved the proposed development on May 26, 2015 on the condition of the proposed license.

VIII. ATTACHMENTS

1. Draft License Agreement between City of Portland and Redfern Bayside LLC, including Exhibits

Prepared by:

___Nell Donaldson, Planner_____	__July 8, 2015_____
Signature	Date

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Jeff Levine, Planning Division Director

DATE: July 8, 2015

DISTRIBUTION: Mayor Michael Brennan; Michael Sauschuck, Assistant City Manager; Danielle West-Chuhta, Corporation Counsel; Jennifer Thompson, Associate Corporation Counsel; Sonia Bean, Nancy English, and Julie Sullivan

SUBJECT: Revocable License Agreement to Redfern Bayside LLC for grease trap

SPONSOR: Department of Planning and Urban Development

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_____ Final Action July 20, 2015

Can action be taken at a later date: ____ Yes __X__ **No (If no why not?)**
This license is needed prior to the start of construction.

PRESENTATION: (Jeff Levine, Barbara Barhydt, or other Planning Staff, 2 minute presentation)

I. SUMMARY OF ISSUE

The Department of Planning and Urban Development presents a request from Redfern Bayside LLC for a revocable license agreement in order to allow a grease trap associated with a proposed restaurant at their building planned at 89 Anderson Street, the East Bayside Lofts, in the Fox Street right-of-way. The site plan and subdivision plat for the proposed building were approved by the city's Planning Board on May 26, 2015, with the condition that the applicant obtain the license as proposed. The area of the proposed license agreement is shown in the Exhibit Sketch in the draft agreement attached. The area is proposed to extend 8.5 feet into the public right-of-way for a distance of 18 linear feet near the corner of Fox and Anderson Streets. Since the area of the grease trap does not qualify has habitable space, no remuneration has been requested.

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

Licenses require City Council approval, unless the license is temporary and can be revoked with a notice of sixty (60) days.

III. INTENDED RESULT

The request is for the approval of the license agreement and authorization of the City Manager to grant the license on the city's behalf.

IV. COUNCIL GOAL ADDRESSED

Granting the proposed license and thus allowing this mixed use project, which includes 53 units of rental housing, to proceed will promote housing availability.

V. FINANCIAL IMPACT

The project will ultimately result in tax revenue to the city.

VI. STAFF ANALYSIS & RECOMMENDATION

The Corporation Counsel's office has reviewed the amended license agreement and has approved the draft as presented here. As noted above, the Planning Board approved the proposed development on May 26, 2015 on the condition of the proposed license.

VIII. ATTACHMENTS

1. Draft License Agreement between City of Portland and Redfern Bayside LLC, including Exhibits

Prepared by:

___Nell Donaldson, Planner_____	__July 8, 2015_____
Signature	Date

REVOCABLE LICENSE FOR INSTALLATION and MAINTENANCE OF EXTERNAL GREASE TRAP

This revocable license is granted by the City of Portland "CITY" to _____ hereinafter "OWNER" for the OWNER'S installation of the following external grease trap on property owned by the City in the vicinity of 89Anderson Street, Portland, Maine, as more particularly shown on Exhibit A attached hereto (hereinafter the "Property"). The installation and maintenance of the external grease trap shall be governed by the terms of this License Agreement.

1. The external grease trap shall be installed in/on the Property as shown on Exhibit A attached hereto.

2. OWNER is hereby permitted to occupy the Property for the placement of an external grease trap, and shall be responsible for the proper installation and proper maintenance of said external grease trap.

3. In the event of damage to the external grease trap and/or the Property, OWNER shall promptly repair/restore the same. Prior to such repair/restoration, OWNER shall notify the City (in writing and by telephone) at least forty-eight hours before it will plans to repair/restore the external grease trap and shall work with City staff on the closure of various City streets in the vicinity of the Property in order to conduct such repair/restoration.

4. OWNER shall procure and maintain liability insurance in an amount of not less than Four Hundred Thousand Dollars ($400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage occurring on, in or in the vicinity of the area covered by this License Agreement, arising out of the presence in and use by the OWNER of the area covered by this License Agreement and shall name the CITY as an additional insured with respect to such coverage.

5. OWNER, by execution of this License Agreement, hereby agrees to assume responsibility for any and all claims and/or damage to persons or property arising out of or in any way related to its entry upon the Property pursuant to this License, and does hereby forever waive, release, relinquish, remise and discharge the CITY, its agents, employees, successors, agents and assigns from any and all losses, costs or expenses (including reasonable attorneys' fees), damages, demands, liabilities, claims, actions, causes of action, suits, or judgments (collectively, "Claims") whatsoever of every name and nature, in law and in equity, including without limitation those related in any manner to any accident or injury to, or death of, any person, or any damage to property occurring on, in or in the vicinity of the area covered by this License Agreement, arising out of the presence in and use by the OWNER of the area covered by this License Agreement.

6. This License may be revoked upon one (1) month written notice from the CITY to the OWNER and shall automatically terminate in the event that the building at 89 Anderson Street is destroyed, removed and/or otherwise ceases to exist on the site.

CITY OF PORTLAND

Date_____

_____
Michael Sauschuck,
Acting City Manager

OWNER

_____

Print Name: _____

STATE OF MAINE
CUMBERLAND, ss.

Dated:_____

Personally appeared the above-named Michael Sauschuck, and gave oath that the foregoing statements made by him are true to the best of his knowledge, information and belief, and where based upon information and belief, he believes the same to be true.

Before me,

_____
Notary Public/Attorney-at-Law

STATE OF MAINE
CUMBERLAND, ss.

Dated:_____

Personally appeared the above-named _____ and gave oath that the foregoing statements made by him/her are true to the best of his/her knowledge, information and belief, and where based upon information and belief, he/she believes the same to be true.

Before me,

Notary Public/Attorney-at-Law

Nadeau Land Surveys

Professional Land Surveyors

Certified Floodplain Managers

Proposed Description For An Easement Deed

City Of Portland

To

(2141510DR1)

Revocable License For Installation And Maintenance Of External Grease Trap

A certain lot or parcel of land, situated on the southeasterly sideline of Fox Street, in the City of Portland, County of Cumberland, and State of Maine, being more particularly bounded and described as follows:

Beginning on the apparent southeasterly sideline of Fox Street at the easterly corner of the herein described parcel, being S48°42'11"W along said southeasterly sideline of Fox Street, a distance of one hundred one and seventy-two hundredths (101.72') feet from a #5 steel rebar with survey cap #2124 to be set at the northerly corner of land described in a deed from Patrick J. Lee and Sharon A. Lee to Perigee, LLC, dated January 11, 2007 and recorded at the Cumberland County Registry of Deeds in Book 24750, Page 45, as depicted on a plan entitled, "*Plan Depicting The Results Of A Boundary, Topographic & Existing Conditions Survey Made For Redfern Properties, LLC, Southeasterly Sideline Of Fox Street, Northeasterly Sideline Of Anderson Street, & Northwesterly Sideline Of Everett Street, Portland, Maine*", dated July 21, 2014, last revised March 30, 2015, by Nadeau Land Surveys, Portland, Maine;

Thence N41°17'49"W through land of the herein grantor, a distance of eight and fifty hundredths (8.50') feet to the northerly corner of the herein described parcel;

Thence S48°42'11"W continuing through land of the herein grantor, a distance of eighteen and no hundredths (18.00') feet to the westerly corner of the herein described parcel;

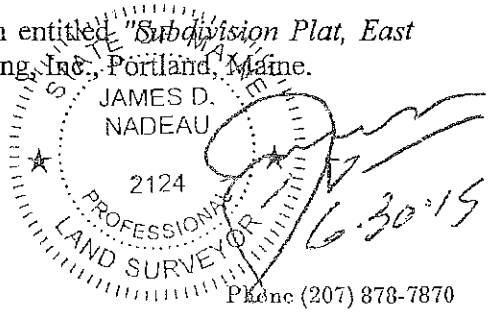
Thence S41°17'49"E continuing through land of the herein grantor, a distance of eight and fifty hundredths (8.50') feet to the southerly corner of the herein described parcel on said southeasterly sideline of Fox Street, being N48°42'11"E along said southeasterly sideline of Fox Street, a distance of thirty-nine and twenty-four hundredths (39.24') feet from a #5 steel rebar with survey cap #2124 to be set at the apparent westerly corner of said land of Perigee, LLC per Anderson Street Monuments as depicted on said plan;

Thence N48°42'11"E along said southeasterly sideline of Fox Street, a distance of eighteen and no hundredths (18.00') feet to the point of beginning.

Total area of the herein described parcel equals 153 square feet. The bearings in this description are based on Grid North, MSPC NAD83, 1802 (West Zone).

Meaning and intending to describe a portion of the Fox Street right of way to be used for a Revocable License For Installation And Maintenance Of External Grease Trap.

For additional information, reference is made to a preliminary plan entitled "*Subdivision Plat, East Bayside Lofts, Redfern Bayside, LLC, Portland, Maine*", by Acorn Engineering, Inc., Portland, Maine.



918 Brighton Avenue
Portland, Maine 04102

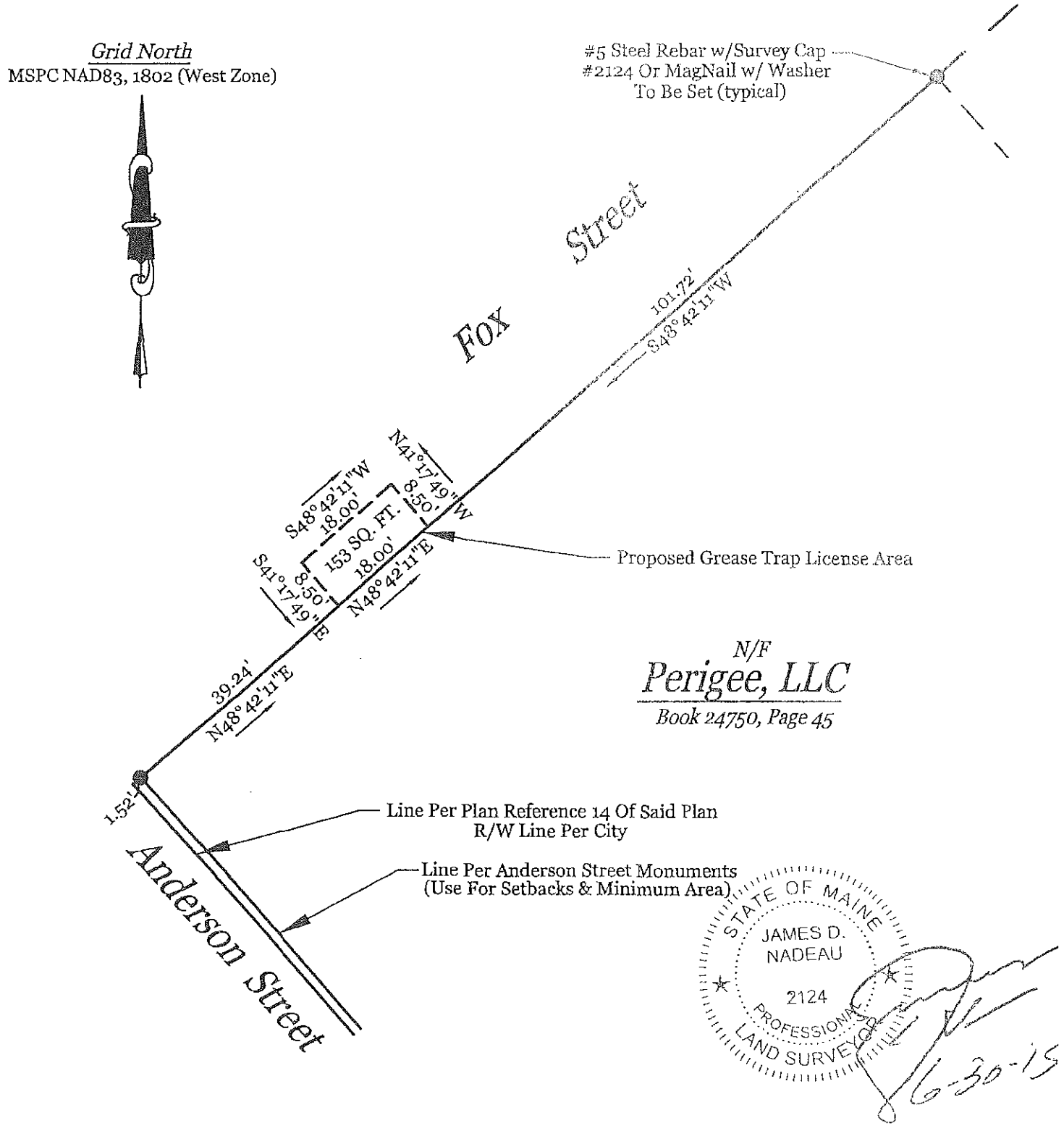
www.nadeaulandsurveys.com

Phone (207) 878-7870
Fax (207) 878-7871

Exhibit Sketch: Proposed Revocable License For Installation And Maintenance Of External Grease Trap

City of Portland to _____
Southeasterly Sideline of Fox Street, Portland, Maine
1" = 20' June 23, 2015, Revised June 29, 2015 Job #2141510R1

Boundary lines based on a plan entitled "Plan Depicting The Results Of A Boundary, Topographic & Existing Conditions Survey Made For Redfern Properties, LLC, Southeasterly Sideline Of Fox Street, Northeasterly Sideline Of Anderson Street, & Northwesterly Sideline Of Everett Street, Portland, Maine", dated July 21, 2014, last revised March 30, 2015, by Nadeau Land Surveys, Portland, Maine.



REVOCABLE LICENSE FOR INSTALLATION and MAINTENANCE OF EXTERNAL GREASE TRAP

This revocable license is granted by the City of Portland "CITY" to Redfern Bayside, LLC hereinafter "OWNER" for the OWNER'S installation of the following external grease trap on property owned by the City in the vicinity of 89Anderson Street, Portland, Maine, as more particularly shown on Exhibit A attached hereto (hereinafter the "Property"). The installation and maintenance of the external grease trap shall be governed by the terms of this License Agreement.

1. The external grease trap shall be installed in/on the Property as shown on Exhibit A attached hereto.

2. OWNER is hereby permitted to occupy the Property for the placement of an external grease trap, and shall be responsible for the proper installation and proper maintenance of said external grease trap.

3. In the event of damage to the external grease trap and/or the Property, OWNER shall promptly repair/restore the same. Prior to such repair/restoration, OWNER shall notify the City (in writing and by telephone) at least forty-eight hours before it will plans to repair/restore the external grease trap and shall work with City staff on the closure of various City streets in the vicinity of the Property in order to conduct such repair/restoration.

4. OWNER shall procure and maintain liability insurance in an amount of not less than Four Hundred Thousand Dollars ($400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage occurring on, in or in the vicinity of the area covered by this License Agreement, arising out of the presence in and use by the OWNER of the area covered by this License Agreement and shall name the CITY as an additional insured with respect to such coverage.

5. OWNER, by execution of this License Agreement, hereby agrees to assume responsibility for any and all claims and/or damage to persons or property arising out of or in any way related to its entry upon the Property pursuant to this License, and does hereby forever waive, release, relinquish, remise and discharge the CITY, its agents, employees, successors, agents and assigns from any and all losses, costs or expenses (including reasonable attorneys' fees), damages, demands, liabilities, claims, actions, causes of action, suits, or judgments (collectively, "Claims") whatsoever of every name and nature, in law and in equity, including without limitation those related in any manner to any accident or injury to, or death of, any person, or any damage to property occurring on, in or in the vicinity of the area covered by this License Agreement, arising out of the presence in and use by the OWNER of the area covered by this License Agreement.

6. This License may be revoked upon one (1) month written notice from the CITY to the OWNER and shall automatically terminate in the event that the building at 89 Anderson Street is destroyed, removed and/or otherwise ceases to exist on the site.

CITY OF PORTLAND

Date_____

_____
Jon P. Jennings
City Manager

REDFERN BAYSIDE, LLC

_____

Print Name: _____

STATE OF MAINE
CUMBERLAND, ss.

Dated:_____

Personally appeared the above-named Jon P. Jennings, and gave oath that the foregoing statements made by him are true to the best of his knowledge, information and belief, and where based upon information and belief, he believes the same to be true.

Before me,

_____
Notary Public/Attorney-at-Law

STATE OF MAINE
CUMBERLAND, ss.

Dated:_____

Personally appeared the above-named _____ and gave oath that the foregoing statements made by him/her are true to the best of his/her knowledge, information and belief, and where based upon information and belief, he/she believes the same to be true.

Before me,

_____
Notary Public/Attorney-at-Law

Order 28-15/16
Tab 24 9-20-15

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 TEMPORARY ONE-WAY TRAFFIC FLOW ON PORTLAND STREET BETWEEN PREBLE AND ALDER STREETS

ORDERED, that the City Traffic Engineer is hereby authorized and directed to temporarily place signs limiting traffic to one-way from Alder to Preble streets on Portland Street, pursuant to Portland City Code §28-26; and

BE IT FURTHER ORDERED, that one-way traffic is hereby approved and shall be effective immediately upon the placing of the signs; and

BE IT FURTHER ORDERED, that this one-way traffic rule shall terminate after 90 days unless sooner terminated by direction of the City Traffic Engineer; and

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

MEMORANDUM
Agenda request

TO: **Portland City Council**

FROM: Jeremiah Bartlett, Transportation Systems Engineer

DATE: July 10, 2015

DISTRIBUTION: John Jennings, City Manager
Michael Brennan, Mayor
Michael Bobinsky, Director of Public Services
John Peverada, Parking Manager
Katherine Earley, PE, Engineering Services Manager

SUBJECT: **Endorse** Amendment to Traffic Schedule – Portland St Traffic flow conversion

SPONSORS: Michael Bobinsky, Director, Public Services Department
Jeff Levine, Director of Planning & Urban Development

COUNCIL MEETING DATE ACTION IS REQUESTED:
1ST Reading: July 20, 2015 Final Action: July 20, 2015

Can this Action be taken at a later date? __Yes __X__ **No (if no, why not)** – timely action is required to complete the experiment in advance of the upcoming school year.

PRESENTATION:

I. SUMMARY OF ISSUE

The Department of Public Services, supported by the Department of Planning and Urban Development, are requesting that Portland Street between Alder Street and Preble Street be converted to one-way flow only for eastbound traffic (towards Preble). This would be done on a provisional basis until a few weeks into the fall school season, and evaluated for safety and impacts. If found effective, the change would be made permanent. This change was presented to the Transportation, Sustainability and Energy Committee at their June 17, 2015 session and was unanimously approved.

II. REASON FOR SUBMISSION

The intersection of Portland, Oxford and Alder streets is an awkward configuration, and it requires westbound Portland Street traffic to stop and slowly creep into the intersection, looking for westbound Oxford Street traffic. This results in drivers often not focused on pedestrian activities or the school facility at Portland and Alder streets.

The one-way flow would make the configuration of Portland Street simpler and easier to control for the school pickups and drop offs. This change would also allow for the inclusion of angled parking on this section of Portland Street, adding more supply to an area with significant demand.

It should also be noted that the pending PACTS-funded Bayside Transportation Study will examine the potential of a two-way Oxford Street through Bayside, and such a change would almost certainly necessitate this change for Portland Street. We bring this one-way flow conversion forward now as this recently paved street provides a fresh 'canvas' for this experimental change to take place as the Bayside Transportation Study evaluates long-term solutions.

III. INTENDED RESULT

The configuration, as shown in the attached sketch, will allow for the placement of angled parking and, ultimately, a buffered bike lane.

The resulting one-way vehicular flow should also make pedestrian crossings of Portland Street at both Alder and Preble Street safer and more predictable.

IV. COUNCIL GOAL ADDRESSED

This proposed change addresses the Council goal of advancing opportunities for bicycle use, and makes walking safer.

V. FINANCIAL IMPACT

Signage Materials: $150
Pavement Markings (Temporary): $250
Pavement Markings (Permanent): $500
Staff Time (Equivalent): $800
Total: $1,700

VI. STAFF ANALYSIS & RECOMMENDATION

The Departments of Public Services and Planning & Urban Development and the School Department have reviewed this change and concur with this action.

VII. LIST ATTACHMENTS

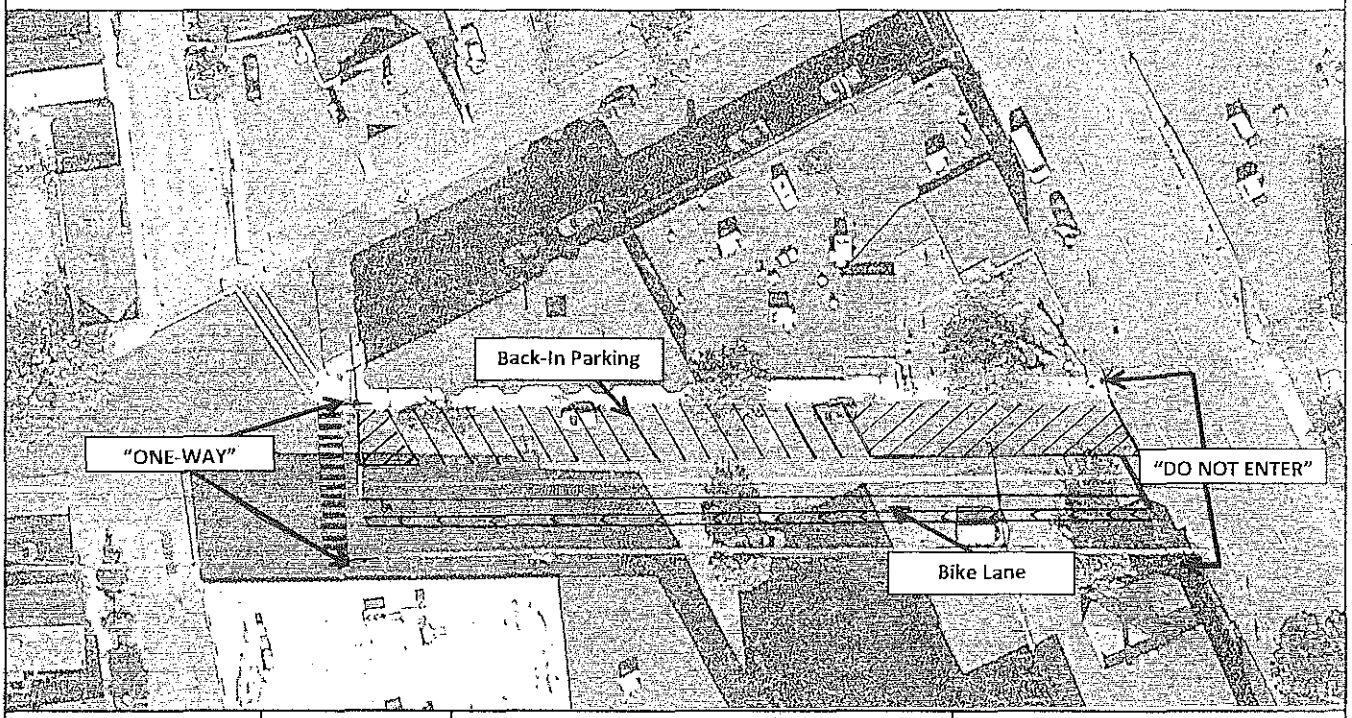
- Exhibit A: Council Order
- Exhibit B: Graphic

Prepared by:

Signature

July 10, 2015
Date

Portland Street One-Way Eastbound Concept: Alder to Preble



Draft: DPS/JJB	Date: 6/10/15	Typical Section Looking East Back-In Angle Pkg. 18' / Travel Lane 15'-15' / BL 8' / Buffer 3' / Parallel Pkg. 8' Scale: 1" = 10'	Scale: 1" = 30'

Order 9-15/16
Tab 25 9-21-15

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 LAND SWAP WITH J.B. BROWN & SONS AND FORE RIVER WAREHOUSING & STORAGE CO. AND THE CITY OF PORTLAND RE: CANCO ROAD SITE FOR DEPARTMENT OF PUBLIC SERVICES FACILITY

ORDERED, that the Land Exchange Agreement between J.B. Brown & Sons and Fore River Warehousing & Storage Co. and the City of Portland is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager to execute said document and any other related documents necessary or convenient to carry out the intent of said documents; and

BE IT FURTHER ORDERED, that the Finance Director is authorized to execute a release deed to J.B. Brown & Sons and/or Fore River Warehousing & Storage Co. and to accept a release deed from J.B. Brown & Sons and/or Fore River Warehousing & Storage Co. following the land exchange authorized herein.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: July 9, 2015

SUBJECT: **Department of Public Services Bayside Relocation Plan/ City of Portland and JB Brown Property Transaction Action:**

- **Order Authorizing City of Portland and JB Brown Property Exchange at no cost; and**
- **Order Authorizing Establishing an Easement Across 250 Canco Road Property to allow JB Brown Vehicle and Pedestrian Access.**

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading (one reading item) and action: July 20, 2015

Can action be taken at a later date? Yes

PRESENTATION: Greg Mitchell/5 Minutes

I. SUMMARY OF ISSUE

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services (DPS) Bayside activities, and combine other City Department activities, to a single centralized location to support on peninsula City government service delivery. This memorandum outlines an approach to address this City policy.

City owned DPS Bayside occupied properties by use include the following:

Property Address/Acreage	City Use	Status
44 Hanover St.	Fleet Services	Active DPS Use
82 Hanover St.	Lower Garage	Active DPS Use
56 Parris St.	Employee Parking	Active DPS Use
55 Portland St.	Administration	Active DPS Use
71 Hanover St.	Satellite Sand/Salt Operation	Site Sold
65 Hanover St./52 Alder St.	Trades/Traffic	Marketed for Sale

See Attachment A for a map of DPS occupied Bayside properties.

City staff recommendation is to proceed with a phased approach to relocate remaining DPS use out of Bayside, with the exception of the DPS administration and other support activities located at 55 Portland Street.

Acquiring JB Brown property, per the attached Land Exchange Agreement (Attachment B), is needed to support establishment of a 13+ acre campus, including 212 and 250 Canco Road properties, to create a single location for DPS and other essential City service delivery. It is noted that there is a City Council approved Lease/Purchase Option with financial appropriation to acquire 212 Canco Road in 2017, and the City Council is scheduled to take action on acquisition of 250 Cauco Road on July 20, 2015.

It is noted that Portland Trails is supportive of the City acquiring JB Brown Parcel 5 (See Attachment B – Land Exchange Agreement, 154-B-045) to formally establish a trail connection from Canco Road to connect with an existing Portland Trails easement through Parcel 5 (154-B-045).

II. REASON FOR SUBMISSION

City Council authorization is required to proceed with real estate transactions.

III. INTENDED RESULT

The intended result will enable the City to relocate a portion of DPS to a centralized location near the peninsula where a majority of the demand for City governmental services is needed, as well as provide an easement for JB Brown across 250 Canco Road.

IV. COUNCIL GOAL ADDRESSED

It is the goal of the *Bayside Vision 2000 Plan* to relocate Public Services Bayside operations out of Bayside to support mixed use development.

V. FINANCIAL IMPACT

No funds are needed to support the City and JB Brown land exchange transaction and easement.

VI. STAFF ANALYSIS

City staff has been working on evaluating real estate and facility options, over a number of years, to accomplish the complete relocation of most or all of Public Service Bayside Department activities, combined with other Departments, to a single centralized location to provide City services on or near the Peninsula where a majority of demand for City governmental services are needed. See Attachment D from Sebago Technics for an overview of the proposed redevelopment of the Canco/Quarry Road properties for City use.

J.B. Brown Quarry Road Property Land Swap

An overview of Quarry Road transaction with comments includes:

Property to Acquire

Property Location: See Attachment C - map highlighting three J.B. Brown properties (Parcels 3, 4, and 5) to be acquired by the City.

Property Size: 5 +/- Acres

Purchase Price: No cost.

City Property to Swap

Property Location: 0 Cornell Street, 151A-A-13 (City Tax-Acquired)

Property Size: 3.1 Acres

Sale Price: No cost.

250 Canco Road Easement

The real estate transaction with JB Brown includes establishing an easement across 250 Canco Road as shown on Attachment C to allow vehicle and pedestrian access from Canco Road to JB Brown owned property.

Canco/Quarry Road Redevelopment Plan

Attached is a Sebago Technics plan showing the proposed Canco/Road Redevelopment Plan as Attachment D.

VII. RECOMMENDATION

Staff recommends the City Council approve the Land Exchange Agreement with JB Brown.

After review of this item, the HCDC unanimously voted (3-0), at its July 8, 2015 meeting, to forward this to the City Council for approval of the Land Exchange Agreement with JB Brown and the

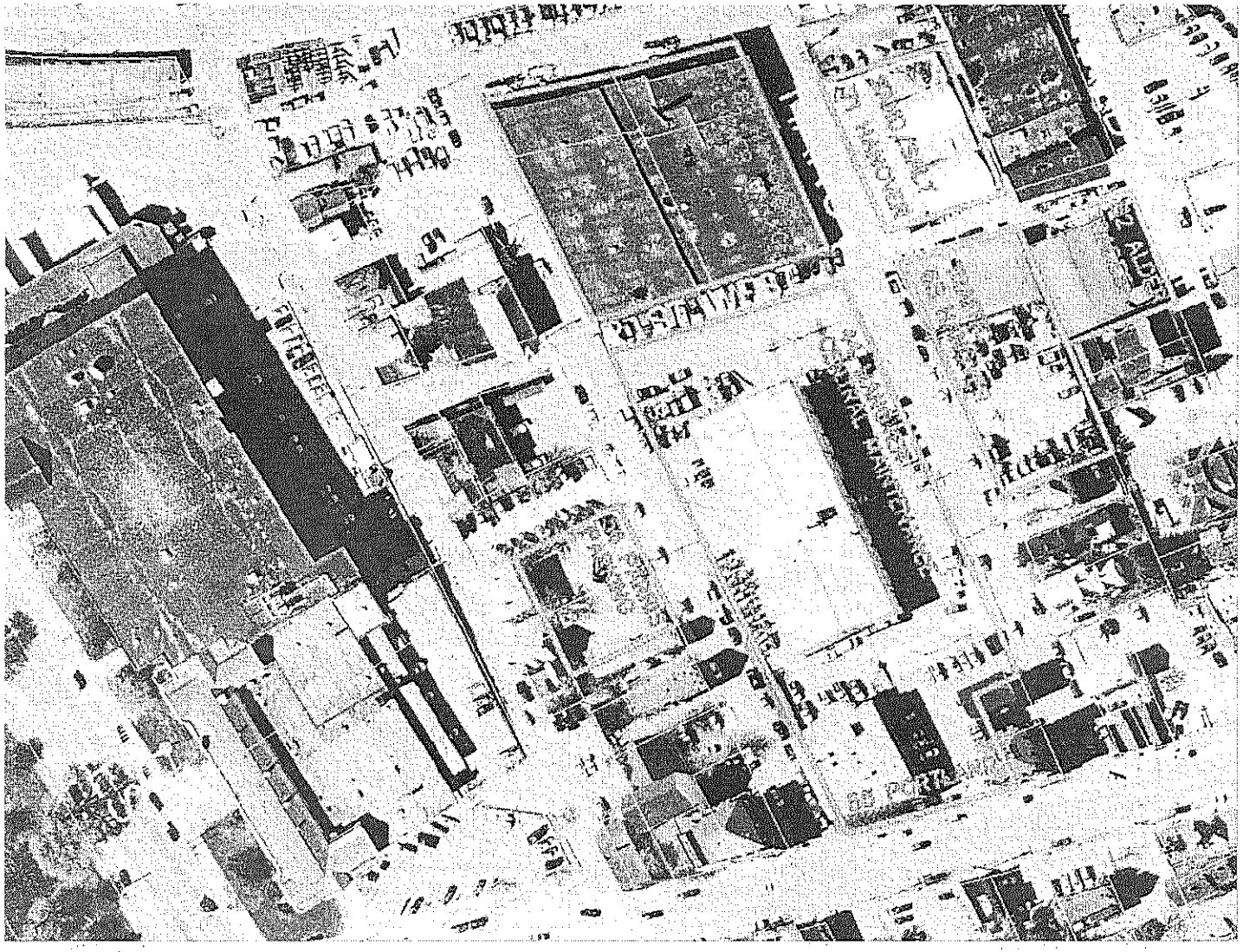
Easement to JB Brown over the 250 Canco Road property, all in substantial conformance to the attached Land Exchange Agreement.

VIII. LIST ATTACHMENTS

A. Map of DPS Bayside Property
B. Land Exchange Agreement for City of Portland and JB Brown Property Transaction
C. Map of JB Brown/City Property
D. Sebago Technics Canco/Quarry Road Phased Development Plan

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St



3/13/2014

ATTACHMENT A

LAND EXCHANGE AGREEMENT

This Land Exchange Agreement (this "Agreement") is made as of the ___ day of July, 2015, by and between the J.B. BROWN & SONS ("JBB") and FORE RIVER WAREHOUSING & STORAGE CO., INC. ("FRW&S"), each a Maine corporation with offices in Portland, Maine, and their respective successors and permitted assigns (JBB and FRW&S shall be collectively referred to herein as "JBBrown"), and CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 ("City").

Section 1. Introduction.

Each of the parties owns real property in Portland, Maine. The parties have agreed to exchange certain property, and to provide for certain appurtenant easements in connection with the exchange, all on the terms and conditions set forth in this Agreement. Exhibit A is an aerial photograph that generally depicts the properties that are the subject of the exchange.

Section 2. Property to be Exchanged.

In the exchange:

(i) City will convey to JBBrown the parcel of land acquired from Norman S. Reef and Raymond H. Reef as Trustees of the R.F. Investment Trust, located at or near Cornell Street and Morrill Street (Tax Map 151A-A-013) and depicted on Exhibit A as "Parcel 1";

(ii) City will convey to JBB and FRW&S an access easement deed for vehicle and pedestrian ingress and egress from and to Canco Road across the City's property located at or near 250 Canco Road (Tax Map 154-B-001) to JBB's and FRW&S' respective properties located on Quarry Road, which easement area shall be constructed and maintained by the City and is depicted on Exhibit A as "Parcel 2";

(iii) JBBrown will convey to City the parcel of land depicted on Exhibit A as Parcel 3 and identified as Tax Map 148-A-002 ("Parcel 3");

(iv) JBBrown will convey to City a portion of the parcel of land depicted on Exhibit A as Parcel 4 and identified as Tax Map 151A-A-014 ("Parcel 4");

(v) JBBrown will convey to City the parcel of land depicted on Exhibit A as Parcel 5 and identified as Tax Map 154-B-045 ("Parcel 5");

All of these conveyances will be on the terms and conditions set forth in this Agreement.

Section 3. Equivalent Value.

The parties agree that (i) the value of the property and the easement that City is conveying to JBBrown in this exchange is equivalent to the value of the properties that JBBrown is conveying to City in this exchange, and (ii) each party's conveyance is in full consideration of the other party's conveyance. Except as provided in Section 10 below (regarding closing adjustments), neither party is any monetary payment to the other party in connection with the exchange.

Section 4. Property Being Exchanged "As-Is".

(a) Parcel 1. Except as hereinafter set forth, JBBrown acknowledges that it is acquiring Parcel 1 "as is" and that City has made no representations or warranties of any kind whatsoever with respect to the condition of Parcel 1 or the compliance of Parcel 1 with any laws, rules, regulations, or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Notwithstanding the foregoing, it shall be a condition of JBBrown's obligations to close that (i) Parcel 1 is no longer subject to a Contract Zone Agreement, and (ii) JBBrown is satisfied with the title and environmental condition (including as to any hazardous materials as described in an environmental report to be provided to JBBrown by the City).

(b) Parcel 2. City will construct and maintain the easement for JBBrown (Parcel 2) described in Section 2(ii). JBBrown shall have the right to install signage at the Canco Road entrance way to the easement across Parcel 2 that will indicate the easement roadway is an entrance to JBBrown properties, provided that such signage has all necessary permits and complies with all applicable legal requirements. All such signage shall be installed and maintained by JBBrown at JBBrown's sole cost and expense.

(c) Parcels 3, 4 and 5. City acknowledges that it is acquiring Parcels 3, 4 and 5 "as is" and that JBBrown has made no representations or warranties of any kind whatsoever with respect to the condition of Parcels 3, 4 and 5 or the compliance of Parcels 3, 4 and 5 with any laws, rules, regulations or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Notwithstanding the foregoing, it shall be a condition of City's obligations to close that City is satisfied with the title and environmental condition of Parcels 3, 4 and 5.

Section 5. Title.

(a) Title Examinations; Objections. The parties will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the sixtieth (60^{th}) day after the date of this Agreement (the "Due Diligence Period") to complete their respective title examinations. Title shall be good, marketable and insurable title, free and clear of all encumbrances except (i) as set forth in Exhibit B, (ii) easements for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Each party will have until the end of the Due Diligence Period to deliver to the other party any written objections to matters (other

than the permitted exceptions identified herein) that materially affect marketability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the date of this Agreement may be made at any time prior to the closing.

(b) Option to Cure. In the event of a title objection, the party owning the property that is the subject of the title objection will have the option, but not the obligation, to cure the objection and will notify the other party of its election within ten (10) business days after receipt of the title objection. In the event that the party owning the property that is the subject of the objection elects to cure the title objection, that party thereupon will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the party owning the property that is the subject of the objection does not elect to cure the objection, or having elected to cure the objection fails to timely do so, the other party will have the option either to terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement) or to waive the objection and close.

Section 6. Conditions Precedent to Closing.

(a) Parcel 1 is subject to JBBrown's satisfactory review of an Environmental Report (Phase I).

(b) The City shall cause the termination or provide satisfactory evidence to JBBrown that a certain Contract Zone affecting Parcel 1 has terminated.

(c) JBBrown is satisfied in its sole discretion in the condition or plans for the construction of the easement as described above over Parcel 2.

(d) Parcels 3, 4 and 5 are subject to City's satisfactory review of environmental issues.

Section 7. Closing.

The closing will be on or before the thirtieth (30^{th}) day after the later to occur of: (i) the expiration of the Due Diligent Period, and (ii) the date on which the Conditions to Closing described in Section 6 above are completed to the satisfaction of each party to this Agreement, to be held at Verrill Dana, LLP, One Portland Square, Portland, Maine, or on such other date or at such other place as the parties may agree.

Section 8. Deeds.

(a) Deed to City. At the closing, JBBrown will deliver to City a fully-executed Quitclaim Deed conveying Parcels 3, 4 and 5.

(b) Deed to JBBrown. At the closing, City will deliver to JBBrown a fully-executed Municipal Quitclaim Deed conveying Parcel 1; and City will deliver to JBB and FRW&S a fully-executed Easement Deed as to Parcel 2.

(c) Property Descriptions. The property descriptions contained in each deed will be survey descriptions based on a survey plan (the "Plan") that will more specifically describe the properties shown on Exhibit A hereto. The Plan will be distributed to the parties hereto prior the expiration of the Due Diligence Period and the parties will agree on property descriptions prior to the closing.

(d) Abutter Status. Each deed will recite that the grantee is an abutter to the grantor.

Section 9. Closing Deliverables.

(a) City Deliverables. At the closing, and as a condition to closing, City will deliver in connection with its conveyance to JBBrown:

(i) the executed contract zone termination described in Section 6(b) above;

(ii) the executed deed described in Section 8(b) above;

(iii) an executed State of Maine Real Estate Transfer Tax Declaration;

(iv) an executed notice pursuant to 38 M.R.S.A. § 563(6) stating that, to the best of City's knowledge, no underground storage facility for the storage of oil or petroleum exists on the property being conveyed to JBBrown;

(v) documentation acceptable to JBBrown indicating that this transaction has been duly authorized and that the person executing documents on behalf of City and City's general partner is duly authorized to do so;

(vi) an executed owner's affidavit indicating no tenants or other occupants presently in possession and indicating no debts due for labor or services performed or materials used that could give rise to mechanic's liens.

(b) JBBrown Deliverables. At the closing, and as a condition to closing, JBBrown will deliver in connection with its conveyance to City:

(i) the executed deed described in Section 8(a) above;

(ii) an executed State of Maine Real Estate Transfer Tax Declaration;

(iii) an executed notice pursuant to 38 M.R.S.A. § 563(6) stating that, to the best of JBBrown's knowledge, no underground storage facility for the storage of oil or petroleum exists on the property being conveyed to City;

(iv) documentation acceptable to City indicating that this transaction has been duly authorized and that the person executing documents on behalf of JBBrown is duly authorized to do so;

(v) an executed certificate of non-foreign and Maine Residency status; and

(vi) an executed owner's affidavit indicating no tenants or other occupants presently in possession and indicating no debts due for labor or services performed or materials used that could give rise to mechanic's liens.

Section 10. Closing Costs and Apportionments.

(a) Real Estate Taxes and Assessments. The parties acknowledge that the City is exempt from taxes or assessments on its property and that Parcels 1 and 2 are exempt from real estate taxes for fiscal year 2016. As to Parcels 3, 4 and 5, JBBrown shall be liable for all real estate taxes and assessments for fiscal year 2016. JB Brown shall pay all such taxes on or before the closing date.

(b) Real Estate Transfer Tax. Each real estate transfer tax declaration will state that the value of the properties that is the subject of the declaration is the assessed value, and JBBrown will pay its share of real estate transfer taxes. The parties acknowledge that, pursuant to 36 M.R.S.A. § 4641-C(1), City is exempt from real estate transfer taxes.

(c) Recording Fees. City will pay the recording fees for the termination of contract zone, if necessary, and for the deed from JBBrown on Parcels 3, 4 and 5. JBBrown will pay the recording fee for the deeds from City on Parcels 1 and 2.

(d) Legal Fees and Expenses. The parties each will bear the cost of their respective legal fees and expenses.

Section 11. Representations and Warranties.

(a) City. City represents and warrants that:

(i) It has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by City and is a legal, valid, and binding agreement of City, enforceable in accordance with its terms. The execution, delivery, and performance of this Agreement by City will not violate any judgment or order applicable to City or City's instruments of organization, governance or operation, and will not result in any material breach of, or constitute a material default under, or result in the creation of any material lien, charge, security interest, or other encumbrance upon Parcel 1 or any note, bond, indenture, mortgage,

deed of trust, bank loan, or credit agreement to which City is a party or by which Parcel 1 is bound.

(iii) City has not received any written notice of any pending condemnation, violation of law, or other legal action of any kind materially and adversely affecting Parcel 1.

(iv) City has no knowledge of any pending or threatened litigation, administrative action, or governmental investigation or examination (including, but not limited to, environmental investigations, examinations, claims, and demands) concerning Parcel 1.

(v) No third party has any right to acquire all or any part of Parcel 1.

(b) JBBrown. JBBrown represents and warrants that:

(i) JBBrown has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by JBBrown and is a legal, valid, and binding agreement of JBBrown, enforceable in accordance with its terms. The execution, delivery, and performance of this Agreement by JBBrown will not violate any judgment or order applicable to JBBrown or result in any material breach of or constitute a material default under any agreements to which JBBrown is a party.

(iii) JBBrown has not received any written notice of any pending condemnation, violation of law, or other legal action of any kind materially and adversely affecting Parcels 3, 4 and 5.

(iv) JBBrown has no knowledge of any pending or threatened litigation, administrative action, or governmental investigation or examination (including, but not limited to, environmental investigations, examinations, claims, and demands) concerning Parcels 3, 4 and 5.

(v) No third party has any right to acquire all or any part of Parcels 3, 4 or 5.

(c) Survival. All representations and warranties contained herein are intended to remain true and correct as of the closing, are deemed to be restated at the closing, and will survive the closing.

Section 12. General Provisions.

(a) Assignment. Neither this Agreement nor any of the rights or obligations of any party pursuant to this Agreement may be assigned withont the prior written consent of the other party.

(b) Brokers. Each party will indemnify and hold harmless the other from and against any claims for brokerage commissions arising out of any brokerage agreements entered into by the indemnifying party.

(c) Governing Law. This Agreement is governed by, and is to be construed and enforced in accordance with, the laws of the State of Maine (without regard to conflicts-of-laws principles that would require the application of any other law).

(d) Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the exchange of the property that is the subject of this Agreement, supersedes all prior oral or written offers, negotiations, agreements, understandings, and courses of dealing between the parties relating thereto, and is subject to no understandings, conditions or representations other than those expressly stated herein. This Agreement may be modified or amended only by means of a writing signed by the parties.

(e) Notices. Notices in connection with this Agreement must be in writing, delivered by certified mail or by Federal Express or a similar overnight delivery carrier to the addresses set forth below:

To JBBrown:

Vincent P. Veroneau
J.B. Brown & Sons
36 Danforth Street
P.O. Box 207
Portland, Maine 04112-0207

with a copy to:

David L. Galgay, Jr., Esq.
Verrill Dana

Mailing address: P.O. Box 586
Portland, Maine 04112-0586

Street address: One Portland Square
Portland, Maine 04101

To City:

Gregory A. Mitchell
Director of Economic Development
City of Portland
389 Congress Street
Portland, Maine 04101

with a copy to:

Danielle West-Chuhta, Esq.
Corporate Counsel
City of Portland
389 Congress Street
Portland, Maine 04101

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the day and year first above written.

J.B. Brown & Sons

By: _____
Vincent P. Veroneau
Its President

Fore River Warehousing & Storage Co., Inc.

By: _____
Vincent P. Veroneau
Its President

City of Portland

By: _____
Jon P. Jennings
Its City Manager

Parcel 1 – City Tax-Acquired Property to J.B. Brown
Parcel 5 – J.B. Brown to City
Parcel 2 – Approximate Easement Area to J.B. Brown
Parcel 4 – Approximate Area - J.B. Brown to City
Parcel 3 – J.B. Brown to City
151A A013
154 B045
154 B001
151A A014
148 A008
148 A007
148 A002
150 A008
TAMARLANE
QUARRY RD
READ ST
BELL ST
GLENGARDEN ST
KINEO ST
LORAINE ST
HALL ST
FRYE ST

EXHIBIT A

ATTACHMENT C

ATTACHMENT D

SEBAGO
TECHNICS

July 1, 2015
15056

Michael J. Bobinsky, Director
Department of Public Services
City of Portland
55 Portland Street
Portland, ME 04101

Memorandum of Master Planning – Relocation of Public Services to Canco Road, Portland, Maine

Dear Michael:

Sebago Technics, Inc. has been retained by the City of Portland to assist in the master planning for the potential relocation of various Public Services operations to Canco and Quarry Road properties. The purpose of this memorandum is to provide a general summary of the space planning completed to date, together with findings for consideration.

Introduction:

Over the past several years, the City of Portland has continued to actively evaluate alternatives for the phased relocation of Public Services from Hanover Street in the Bayside area of Portland. The relocation effort is part of an overall vision to vacate several city properties in the Bayside area for redevelopment. In addition to relocating Public Services, other essential City services would also be relocated to Canco Road as outlined this report. Locating the majority of City Public Services into one combined campus provides a unique and important opportunity for consolidation of an operation that has space limitations and is somewhat fragmented by having various operations in multiple locations through-out the City.

The selection of a new site is a difficult task in itself since a Public Services operation is industrial in nature and therefore must be located in a compatible area where zoning and neighboring uses are consistent with the proposed use (generally industrial or commercial in nature). In addition, the selected location must provide sufficient land area to accommodate a large fleet of vehicles, equipment, and sand/salt distribution, refueling, materials and laydown storage. The location must also provide for adequate circulation areas to move large equipment including temporary parking/storage of large equipment.

The City has been presented with a suitable relocation site that meets the programming requirements and is centrally located and easily accessible. The proposed location off Canco Road is located in the IM Zone and partially a contract zone (C50). The identified parcels are

commonly known as the Nelson & Small property (212 Canco Road), Seltzer and Rydholm property (250 Canco Road) and open land owned by J.B. Brown are the focus of this master planning effort.

Operations to be relocated to Canco Road: The following provides an overview of immediate and long-term City Public Service operations that may be relocated to the Canco Road property over a period of time in a phased approach.

1. Seltzer & Rydholm & JB Brown Parcels.

    - Fleet Maintenance
    - Construction Company
    - Dispatch
    - Districting
    - Forestry & Horticulture
    - Sand/Salt Storage
    - Fuel Dispensing
    - Vehicle and Equipment Wash Facility
    - Parking for employees
    - Outside storage for equipment and materials storage

2. Nelson & Small Parcel

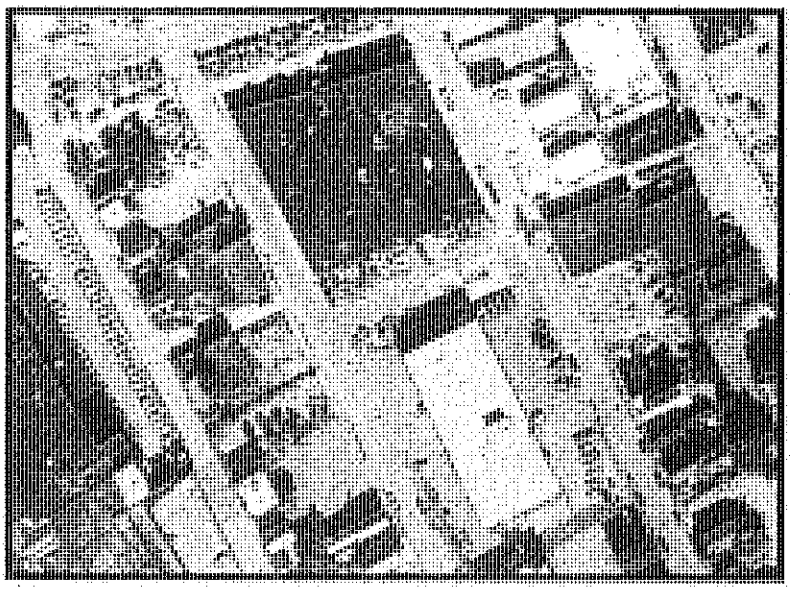
    - Facilities/Recreation Administration
    - Building & Trades Personnel
    - Fire Department Electrical & Communications
    - Traffic
    - Parks Operations

Location & Space Requirements:

The Portland DPS is essentially a large industrial operation that operates on a 24/7 basis providing city wide services. As a result, the selection of a location for DPS requires careful consideration of many factors including appropriateness of the general area (industrial zoning), access to major streets, available property and building space. The location must also provide easy and convenient access to the downtown and outlying areas. When considering these attributes both individually and collectively, the options within the City of Portland are limited for locating a large DPS facility.

The following provides a general overview of the existing space currently utilized by the DPS and the proposed location located off Canco Road.

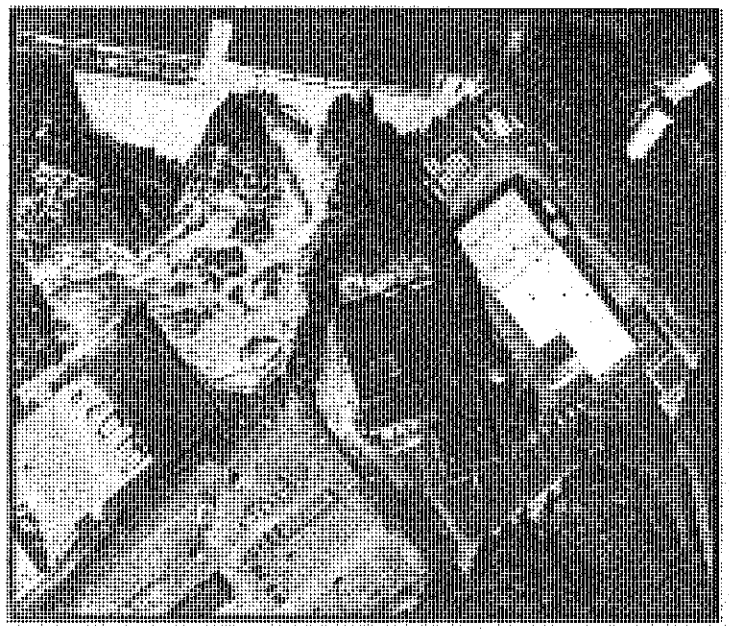
Existing Bayside Public Services Site: Presently, the City of Portland Department of Public Services (DPS) generally operates within a 4 acre area located between Hanover Street and Parris Street as shown on the adjacent photo.



Existing Public Services - Hanover Street

The location is an inner City Urban area that has numerous logistical challenges. The site is constrained with limited out of door parking areas for equipment, staging, and employee parking which extends into the neighborhood. During winter operations, the DPS utilizes both Hanover and Parris Streets for vehicular queuing and as an operational area. It is not uncommon for both streets to have large vehicles maneuvering around parked cars on these narrow urban streets. The site has become further constrained due to the elimination of the sand and salt storage areas to accommodate recent commercial development. Due to the limited space, the City requires some activities to be remotely located such as storage of equipment and vehicles at the Portland Ocean Terminal and at the City-owned Outer Congress Street property.

Canco Road Properties:
The Canco Road properties provides the City of Portland with an opportunity to acquire existing property and buildings to relocate its Department of Public Services operations. In the future, the relocation will require the construction of a new fleet maintenance building due to special operational characteristics of a fleet maintenance building.



Canco Road Properties

This area of Portland is one of the few locations that is compatible and well suited to DPS operations. The Canco

Road properties are within an industrial setting and location well suited to a DPS operations. Both the Nelson and Small and Pepsi properties are located in the I-M Industrial Zone with the abutting JB Brown property located in a Contract Zone (designated at C50). The general area has served as an industrial and commercial area of Portland for many decades and includes land area that is suitable for a DPS operation. Accommodating the full DPS operation must include the acquisition of all three land and building areas to combine into an overall tract of land suitable for the proposed operations. A concept master development plan is appended to this letter.

Comparative Area Summary:

The following chart provides a general comparative summary of the land and building holding that the City currently utilizes for DPS at the Hanover Street Facility and Portland Ocean Terminal.

Summary of Existing Public Services Space Utilization

Location	Area of Property Acres	Existing Bldg. S.F.	Open Lot Area S.f.
65 Hanover Street	0.465	7,217	13,600
52 Alder Street	0.218	5,792	3,700
44 Hanover Street Fleet Maintenance/Admin. Engineering & Administration	1.928	18,500	46,656
71 Hanover Street (Recently Sold)	0.347		15,102
82 Hanover Street 36,227 (garage) & 4,541 (storage)	0.843	40,768	0
Portland Ocean Terminal (Maine State Pier)	0.106	4,600	0
56 Parris Street - bought 2010	0.234		10,213
Totals	*4.141*	*76,877*	*89,271*

Summary of Canco Road Property			
Location	Area of Property Acres	Existing Bldg. S.F.	Open Lot Area S.f.
Seltzer & Rydholm Building *Future Fleet Maintenance*	5.100	63,780 13,000	158,376
Nelson & Small Building	4.170	76,500	105,145
JB Brown	4 +/-		41,360
Totals	13.27 +/-	153,280	304,881

The Portland Department of Public Services currently operates predominately out of the Hanover Street facilities. The available land area in the Hanover Street area is approximately 4 acres and has presented numerous operational challenges due to the space restraints. Equipment and parking is limited as well as operational areas needed for fueling, staging, loading/unloading and general circulation. Both Hanover Street and Parris Street are frequently utilized for operations to include employee parking, vehicle stacking, loading of sand and salt and queuing for fueling and moving large vehicles. It should be noted the sand and salt storage lot was recently sold and is no longer available for use.

By nature, a Public Services Department requires significant land area for buildings, circulation, parking equipment & vehicles, storing seasonal equipment, stockpiling materials and for winter operations. For reference purposes Sebago Technics, Inc. is currently working with the cities of Westbrook and South Portland for new Public Services facilities. These communities, which are smaller than Portland have gone through a facility programming process that has identified land areas in excess of 15 acres that are required for facility operations. The total cost of Westbrook and South Portland new Public Works facilities are $9 Million and $15.2 Million dollars respectively, not including real estate costs.

When considering the combined land area of the various parcels, the City of Portland's current operations occur on approximately 10 to 12 acres of land area including the snow dump at Outer Congress Street. The outer Congress Street Parcel, despite its size, is not practical for development due to natural resources and potential air navigation considerations since it is in the approach and departure path of the Jetport. This City owned property currently houses: sand/salt operation; sanitation; snow dump.

It is noted that not all of the Departments operations can be accommodated at the Canco Road Property. Through the land planning and facility programing process, we determined that the Water Resource Division of the Department currently located at 55 Portland Street and 82

Hanover Street would be best suited at the outer Congress Street site. To that end, plans are for the Water Resources operations and asset management staffing to be housed at remodeled storage space at outer Congress Street and is funded in the FY16 CIP Sewer Budget.

Canco/Quarry Road Property Master Plan

Accompanying this report is a conceptual level Masterplan layout accommodating DPS needs utilizing the previously discussed Canco and Quarry Road properties. The masterplan demonstrates the need for combining parcels to form a tract of land suitable for DPS.

The relocation process as with any project of substantive size will require development planning and permitting.

Summary:

This report has been prepared for the City of Portland to better understand the adaptive space re-use of the three parcels located off Canco Road. The combination of three tracks of land together with buildings is expected to meet the current and foreseeable needs for Portland Public Services.

Should the City decide to move forward with the land and building acquisition, improvements for each of the properties will be needed for adapting the existing sites to the specific needs of a public service operation. This adaptation is expected to occur in a phased manner with the eventual construction of a new building for fleet services and associated site improvements.

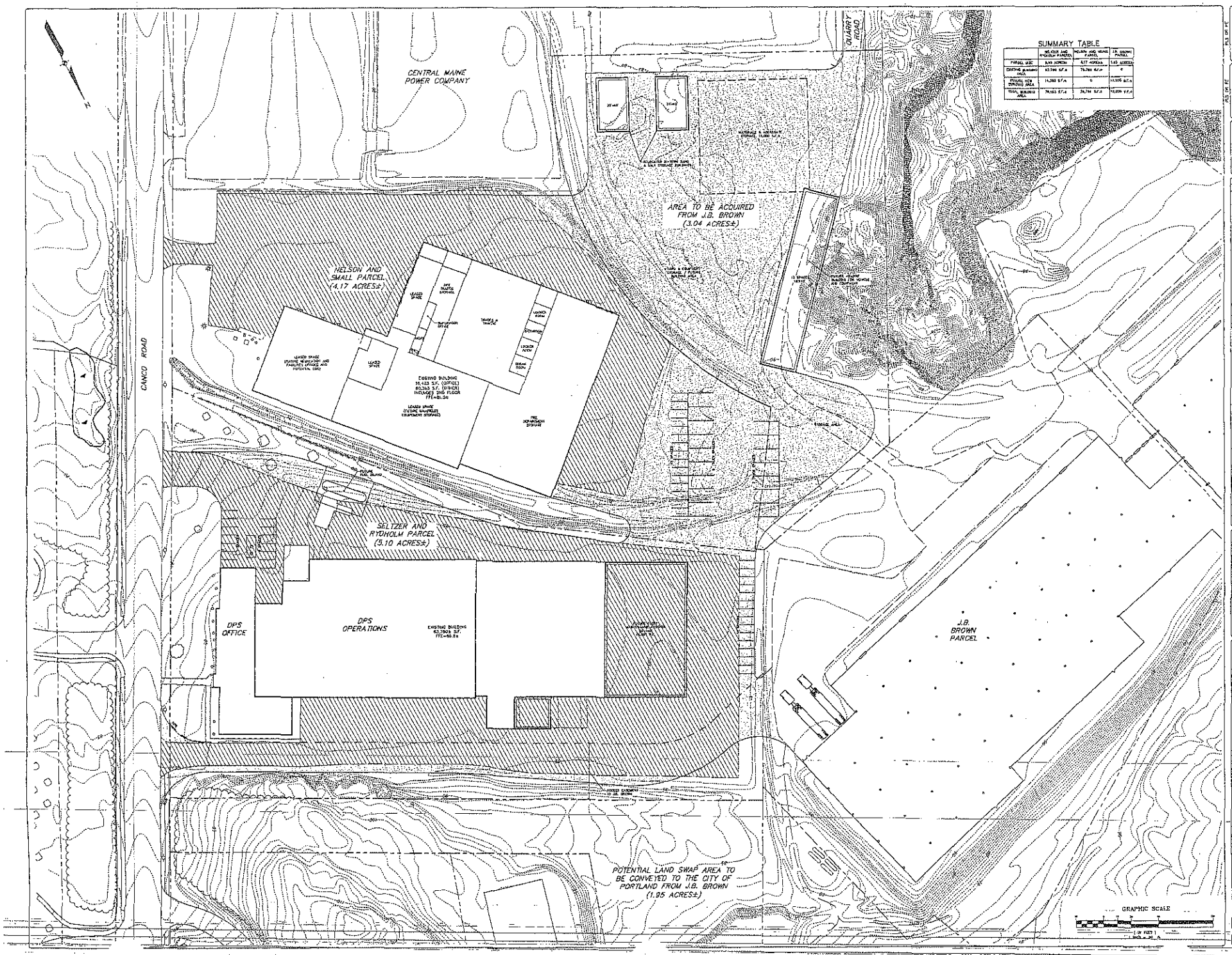
Upon review of this report, please feel free to contract us if there are any questions or if we can be of further assistance. Best wishes as you consider this important project.

Sincerely,

SEBAGO TECHNICS, INC.

Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development
OAM: oam

Cc: Greg Mitchell
Kathy Alves


CENTRAL MAINE POWER COMPANY
QUARRY ROAD
AREA TO BE ACQUIRED FROM J.B. BROWN (3.04 ACRES±)
NELSON AND SMALL PARCEL (4.17 ACRES±)
CANCO ROAD
SELTZER AND RYDHOLM PARCEL (5.10 ACRES±)
DPS OFFICE
DPS OPERATIONS
J.B. BROWN PARCEL
POTENTIAL LAND SWAP AREA TO BE CONVEYED TO THE CITY OF PORTLAND FROM J.B. BROWN (1.95 ACRES±)
SUMMARY TABLE
GRAPHIC SCALE
PROGRESS PRINT
NOT FOR CONSTRUCTION
SEBAGO TECHNICS
CONCEPTUAL SITE DEVELOPMENT PLAN
PORTLAND PUBLIC SERVICES
FOR:
CITY OF PORTLAND
PORTLAND, ME 04101
PROJECT NO. 15054
SCALE 1"=50'
SHEET 1 OF 1

Order 35 -15/16
Tab 26 7-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER GRANTING EASEMENT TO J.B. BROWN & SONS AND FORE RIVER WAREHOUSING & STORAGE CO. FOR VEHICLE AND PEDESTRIAN ACCESS TO CANCO ROAD SITE AND APPROVING CONSTRUCTION OF ROADWAY

ORDERED, that an easement, as detailed in the Land Exchange Agreement attached hereto, is hereby granted to J.B. Brown & Sons and Fore River Warehousing & Storage Co for vehicle and pedestrian access to property on Canco Road owned by those two entities across land owned by the City; and

BE IT FURTHER ORDERED, that the City shall construct and maintain a roadway on the easement; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents.

Order 297-15/16
Feb 27 1-20-15

Order 297-14/15
Passage as Amended: 5-3 (Mavodones, Brenerman, Suslovic) on 7/6/2015
Effective 1/1/2016

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 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.

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 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).

(c) *Minimum Wage rate:*

(i) Beginning 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;

(ii) Beginning on January 1, 2017, the regular Minimum Wage for all Employees, including, but not limited to, Tipped Employees, shall be raised to $10.68 per hour; and

(iii) Beginning on every first day of July following January 1, 2018, and every first day of July 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 prior year. If there is no increase, the Minimum Wage will be unchanged. The percentage increase in the annual CPI-U for the previous calendar year from the annual CPI-U for the calendar year preceding that shall be the percentage by which the Minimum Wage is increased on the first day of July 2018 and every July 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) The 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.

Order 31-15/16
Tab 28 9-20-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
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CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING ADDENDUM 1 TO PURCHASE AND SALE AGREEMENT WITH PATRONS OXFORD INSURANCE COMPANY FOR SALE OF UNIT 4 IN PORTLAND TECHNOLOGY PARK

ORDERED, that Addendum 1 to the Purchase and Sale Agreement with Patrons Oxford Insurance Company for Unit 4, located in Portland Technology Park, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Addendum 1 and whatever other documents are necessary to effect the intent and purpose of the Agreement.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: July 9, 2015

SUBJECT: Recommendation to the City Council for Approval on the following:

A. Order Approving Addendum 1 to the Purchase and Sale Agreement with Patrons Oxford Insurance Company for Portland Technology Park Unit 4;
B. Order Authorizing Patrons Oxford Insurance Company, Under Addendum 1, to Extend Technology Park Drive to Unit 4 in the Portland Technology Park.
C. Order Appropriating Revenue from the Sale of Unit 4 at the Portland Technology Park.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading: July 20, 2015; 2nd Reading and Action: August 3, 2015

Can action be taken at a later date? No, time-is-of-the-essence for Patrons Oxford Insurance to begin construction.

PRESENTATION: Greg Mitchell/5 Minutes

I. SUMMARY OF ISSUE

The attached proposed Addendum 1 to the Purchase and Sale Agreement (Attachment 2) is to sell Unit 4, instead of Unit 1, located in the City-owned and developed Portland Technology Park (PTP), to Patrons Oxford Insurance Company for $365,000. It is noted that the Council previously approved entering into a Purchase and Sale on January 5, 2015 for the Sale of Unit 1 for $625,000. The reason for the change from Unit 1 to Unit 4 is to accommodate Patrons Oxford's Project and provide the company a higher visibility site from Interstate 95. Units 2 and 3 are not large enough to accommodate this Project. Also, it is noted that PTP road and utility extensions of approximately one hundred (100) feet are needed to access Unit 4. Patrons Oxford is willing to take on responsibility to extend Technology Park Drive and utilities. The cost of that extension is estimated to be $215,000, based upon Woodard and Curran estimates for engineering and construction. The proposed public-private partnership is to provide Patrons Oxford a fixed credit against the sale price to take on this

responsibility. The difference between Unit 4 sale price and the road/utility extension credit of $215,000 is $150,000.

A financial overview of the Portland Technology Park is attached (Attachment 1) to this memorandum.

Patrons Oxford Insurance Company Profile. The company is currently located in Auburn, Maine in close proximity to Maine Turnpike Exit 75 with over forty (40) employees. Patrons Oxford is planning to construct a new 20,000 square foot building, with future expansion plans, to relocate their company to the PTP in 2016.

II. REASON FOR SUBMISSION

City Council action is needed to:

A) Approve Addendum 1 to the City of Portland and Patrons Oxford Purchase and Sale Agreement;

B) Authorize Patrons Oxford, under Addendum 1, to construct the extension of Technology Park Drive and utilities to access Unit 4, under the City's supervision, and authorize the cost of the extension to be reflected in a reduction in the sales price of Unit 4; and,

C) Authorize the appropriation of funds from the sale of Unit 4 for the purposes of installing natural gas lines to the PTP, extending electricity down Technology Park Drive from Rand Road, revising the Subdivision Plat, modifying PTP permits and payment of legal fees.

III. INTENDED RESULT

City Council approval of proposed Addendum 1 to Purchase and Sale Agreement will result in the first sale of property in the PTP. The net funds from the sale of Unit 4 will cover the cost of bringing natural gas and electricity into the PTP and other expenses associated with preparing this business park for occupancy.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

Sale of Unit 4 for $365,000 minus the PTP road/utility credit of $215,000 along with the commercial broker fee of $30,000, will net the City $120,000. Payment of this fee would be to a Boulos commercial broker who has been involved in this transaction from day one. It is noted that City staff, under the direction of the HCDC, selected NAI The Dunham Group as the commercial brokers for PTP Units 1, 2 and 3 under a seven (7) percent broker commission.

VI. STAFF ANALYSIS

The purchase of Unit 4 by Patrons Oxford Insurance would be the first sale at the Portland Technology Park, initially bringing 40 jobs to the City and providing an anchor that would encourage future sales. The sale price of $365,000 for Unit 4 (1.46 acres) is on the high end of fair market value for this property at $250,000 an acre.

City staff has confidence in the $215,000 estimate, which includes Woodard and Curran's cost estimate for the PTP one hundred foot road/utility extension ($207,500) plus $7,500 for the electric line extension and tree removal. Patrons Oxford has agreed to take on all of these costs for a fixed price of $215,000.

VII. RECOMMENDATION

HCDC unanimously voted (4-0), at its July 8, 2015, meeting to forward this to the City Council for approval of Addendum 1 in substantial conformance as attached.

Action on the financial appropriation of PTP property sale proceeds will be presented to the Finance Committee on July 23rd for their approval (in the form of a recommendation) and then to the City Council for a first reading on July 20th and a second reading on August 3rd.

VIII. LIST ATTACHMENTS

- Attachment 1: Financial Overview of Portland Technology Park
- Attachment 2: Addendum 1 to Purchase and Sale Agreement
    - Exhibit A: Amended Subdivision Plat
    - Exhibit B: Unit 4 site location
    - Exhibit C: Patrons Oxford Proposed Project Site Plan
- Attachment 3: Purchase and Sale Agreement Dated March 19, 2015
- Attachment 4: Extension to Purchase and Sale Agreement
- Attachment 5: Second Extension to Purchase and Sale Agreement

Economic Development Department
Gregory A. Mitchell, Director

ATTACHMENT 1

Financial Overview of Portland Technology Park Project as of July 2, 2015

COSTS TO DATE

Development

The Portland Technology Park (PTP) is a fully permitted condominium business park developed by the City. Phase I of the project was completed, with a 975 foot road and utilities opening up three development sites (Units 1-3). Engineering and permitting for the entire project (Phases I and II) along with construction of Phase I was financed with a grant from the Economic Development Administration (EDA) of $624,000 and matched 1:1 by the City. Portland's total local investment in the PTP, to date, has been $712,000. That amount is greater than the EDA match because some of the utility expenses and pre-grant design/engineering work were not eligible for federal matching funds. The Portland Development Corporation (PDC) approved UDAG funds to cover the gap. The PDC oversees the use of UDAG funds for loans and other economic development purposes. Additionally, payment of a wetlands impact fee of $162,760 will be due to the Maine Development of Environmental Protection once a development impact threshold of 15,000 square feet is reached.

Land Acquisition

Acquisition by the City of 40 acres of land on Rand Road was $1.47 million. The City Council voted to rezone 14 of those acres to Resource Protection for conservation as forested open space. Just 26 acres were zoned Office Park (OP) for development. The acquisition cost of those developable acres was $956,000.

FUTURE INVESTMENT

Proposed Sale of Unit 4

The proceeds of $365,000 from the sale of Unit 4 to Patrons Oxford Insurance Company, minus the PTP road/utility credit of $215,000 to extend the road and utilities 100 feet, along with the broker fee of $30,000, will net the City $120,000. Appropriation of that $120,000 will cover the remaining costs to prepare the PTP for occupany, including the cost of installing a natural gas line from the main on Westbrook Street to the PTP, extending electricity down Technology Park Drive, revising the Subdivision Plat, modifying PTP permits and payment of legal fees. This would represent City investment of $365,000.

Future Completion Of Phase II

In the future, the estimated cost to complete Phase II (opening up units 5-7 for development) of the PTP will be about $660,000. Assuming that Portland will be able to access grant matching funds from EDA, the cost to the City would be about $340,000. Therefore, development of the PTP once completed, including Phase II, will require an investment from Portland of $2.5 million, which includes the land acquisition cost of almost $1 million. With federal grant funds associated with

Phases I and II, the total cost for acquisition and development of the PTP would be about $3.5 million.

PTP RETURN TO CITY

Natural Gas Usage Reimbursements
Relative to the Unitil tariff, given that the City will have paid for the cost of bringing natural gas to the PTP, over the first 5 years that gas is available as gas users come on line, during their first 12 months of service if their usage is high enough (based on a net present value analysis), Unitil will return a portion of the proceeds to the City. For example, if the analysis yields $13,000, minus the cost of the hookup from the road to their building (e.g., $4,000), the return to the City would be $9,000. Should four users come on line at the PTP over the next 5 years, it could yield as much as $30,000 in funds reimbursed to the City. The City's investment in bringing natural gas to the PTP will total about $100,000, some of which was invested during Phase I.

Note: Extending the natural gas line to the PTP (from the main onWestbrook Street) brings natural gas service closer to the Pine Tree Industrial Park tenants, some of which have expressed interest in using natural gas, which is currently not available to them.

Real Estate Taxes.
The real estate taxes associated with the 20,000 square foot building proposed for Unit 4, are estimated to be $60,000 per year. When Units 1-3 are sold and buildings are constructed on them, in addition to Unit 4, a total of about $180,000 in real estate taxes will be generated annually. In the future, once Phase II of the road is completed and units 5-7 are sold and buildings are constructed, annual real estate taxes from the Technology Park will generate close to $300,000 annually.

Jobs
Patrons Oxford will bring 40 jobs to the City of Portland with expections of growth within the first 1-2 years. Among the reasons that the company wants to move to Portland is to access Portland's educated labor pool.

At full buildout, the PTP has the potential to generate over 250 quality jobs that pay good salaries. These employees are likely to purchase products and services in the City of Portland, and, for some, an investment in home ownership and resulting City real estate taxes.

Future Sales of Other Units
NAI The Dunham Group is the real estate broker for the sale of Units 1, 2 and 3 at the PTP. Based on the listed purchase price of these units, their sale would generate close to $1 million. Once Phase II of the PTP is constructed, opening up development of Units 5-7, their sale would generate another $900,000 for the City.

Table Format on Financials
The table on the following page provides a quick reference on sources and uses for Phase I, including a City return on investment analysis.

Sources and Uses – Portland Technology Park - Phase I Only (as of 7/1/15)

Costs

	City	Federal Grant (Phase I)
Real Estate Acquisition (26 acres)	$ 956,000	
Public Infrastructure Costs (975 feet of road and utility extensions for Phase I)	$ 712,000	$ 624,000
Subtotal	$1,668,000	$ 624,000
Road Extension (100 additional feet) plus utilities (CMP, Water, Sewer, Telecommunications duct work)	$ 365,000	
Subtotal	2,033,000	
Wetland Impact Fee (after 15,000 sf impact)	$162,760	
Grand Total	2,195,760	$ 624,000

Return on Investment

Units 1,2 3 Sales (One-time estimate)	$1,000,000
Taxes (Annual)	
- Unit 4 (Patrons Oxford)	$ 60,000
- Units 1, 2, and 3 (Estimate)	$ 120,000
Subtotal on taxes	$ 180,000

Analysis

Total Cost to City	$2,195,000
Units 1, 2 ,3 Sales	$1,000,000
Net Total Cost to City	$1,195,000

$1,195,000 (net total cost to the city) /$180,000 (estimated property taxes associated with developed Lots 1,2,3 &4) = Depending upon the timing for development of Lots 1,2 and 3, City direct financial payback would be greater than seven years for financial return on investment to the breakeven point. This analysis does not factor in local spending associated with the PTP employment wage compensation. Further, this analysis does not factor in Phase II development expense or sales revenue from lots 5, 6, and 7.

Addendum 1 to Purchase and Sale Agreement

This Addendum 1 to Purchase and Sale Agreement ("Addendum 1") dated as of July ___, 2015, supplements and amends that certain Purchase and Sale Agreement dated March 19, 2015 by and between Patrons Oxford Insurance Company, as Buyer, and the City of Portland, as Seller, as amended by that certain Extension to Purchase and Sale Agreement dated April 29, 2015 and that certain Second Extension to Purchase and Sale Agreement dated June 7, 2015 (collectively, the "Agreement") to which Agreement this Addendum 1 is attached and incorporated therein by reference. In the event that any provision in this Addendum 1 shall conflict in whole or in part with any of the terms contained in the Agreement, the provisions of this Addendum 1 shall control and any conflicting terms of the Agreement are hereby considered amended and revised hereby:

1) The first two recitals in the main body of the Agreement are hereby deleted in their entirety and replaced with the following:

WHEREAS, Seller owns a parcel of land located at the Portland Technology Park, City of Portland, County of Cumberland, State of Maine, being known as Unit 4 and LCE #4 on that certain Subdivision Plat of Portland Technology Park Condominium, Rand Road, Portland, Maine dated September 29, 2011 and last revised on May 1, 2015, prepared by SGC Engineering, LLC for the City of Portland – Declarant, approved by the City of Portland Planning Board on March 10, 2015 and recorded in the Cumberland County Registry of Deeds on June 19, 2015 in Book 215, Page 250 (the "Plan," a copy of which is attached hereto as Exhibit A) and being further described as Unit 4 of the condominium known as the Portland Technology Park Condominium of which the Seller is the declarant as described in that certain Declaration of Condominium for the Portland Technology Park to be recorded in the Cumberland County Registry of Deeds (the "Declaration of Condominium"), together with all improvements, fixtures and rights appurtenant thereto, all as more particularly shown and depicted as the cross-hatched lot on the Condominium Plat of Portland Technology Park Condominium dated September 29, 2011 and last revised on March 17, 2014, prepared by SGC Engineering, LLC for the City of Portland – Declarant shown on Exhibit B attached hereto and made part hereof (the "Condominium Plat"). Title reference is made to a deed from Simon A. Snyder et alia to the City of Portland dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31; and

WHEREAS, at Buyer's request, and subject to approval by the Portland Planning Board, Seller intends to make amendments to the Plan and the Condominium Plat including adjusting the boundaries of Unit #4, LCE #4, and Easement Area 1 as generally depicted on the Proposed Site Plan , which is attached hereto as Exhibit C and made a part hereof, in order to accommodate Buyer's planned development of Unit #4 and LCE #4 (Unit #4 and LCE #4 as amended and generally depicted on Exhibit C are referred to collectively as the "Property"); and

WHEREAS, subject to approval by the Portland Planning Board of amendments to the Plan and the Condominium Plat adjusting the boundaries of Unit #4, LCE #4, and Easement Area 1 in substantially the manner depicted on Exhibit C, Seller intends to sell and Buyer desires to acquire the Property.

It is therefore the intent hereof that all previous references in the Agreement to Unit 1 and LCE #1 are hereby deleted and replaced with references to Unit 4 and LCE #4. It is further the intent hereof that the new Exhibit A and Exhibit B attached hereto shall replace the original such Exhibits attached to the main body of the Agreement.

2) Section 2 of the main body of the Agreement is hereby deleted in its entirety and replaced with the following:

The consideration for the property shall be One Hundred Fifty Thousand Dollars ($150,000.00) (the "Purchase Price") payable as follows:

(a) A deposit of Twenty Thousand Dollars ($20,000.00) has been paid by Buyer and will continue to be held by Buyer's agent, Andrew Ingalls of CBRE The Boulos Company, until closing and applied to the Purchase Price (or, if applicable, until returned to Buyer pursuant to this Agreement) (the "Deposit"); and

(b) The Purchase Price, less the Deposit, to be paid by Buyer to Seller at closing by wire transfer, certified check or bank cashier's check, subject to the adjustments provided for in this Agreement.

This is a cash purchase and no financing is required.

3) Section 8 of the main body of the Agreement is hereby deleted in its entirety and replaced with the following:

The sale price of $150,000 has been discounted by a fixed amount of $215,000, which represents the Buyer's cost of extending to the Property the public road and utilities located in Easement Area 1, per Section 4 of this Addendum. The closing of this transaction shall take place on or before that date which is ninety (90) days after the date of full execution of this Addendum 1, at the offices of Bernstein Shur, 100 Middle Street, Portland, Maine. Time is of the essence of this Agreement.

4) Section 10(b) of the main body of the Agreement is hereby deleted in its entirety and replaced with the following:

Seller shall, at its sole cost and expense, complete any and all additional work necessary to finalize the Declaration of Condominium in order to convey the Property and to delineate the boundaries of the same, which conveyance and delineation shall ensure that the Property is a conforming and approved lot under the City of Portland's zoning and land use laws, ordinances and regulations and not in violation of the State of Maine's subdivision laws, including, but not limited to, M.R.S.A. 30-A § 4401. In addition, Seller shall, at its sole cost and expense, obtain final, unappealable approval from the Portland Planning Department or Board, as may be required, for the amendments to the Plan and the Condominium Plat including adjustments to the boundaries of Unit #4, LCE #4, and Easement Area 1 as generally depicted on said Exhibit C, in order to accommodate Buyer's planned development of the Property.

5) The following new Section 18 is hereby added to the Agreement:

18. **Extension of Right-of-Way and Utilities.** Upon Buyer's closing on the purchase of the Property pursuant to this Agreement, the Seller hereby agrees and acknowledges that Buyer shall have the obligation, at its sole cost and expense, to design and construct an extension of the existing right-of-way and utilities (including water, sewer, electricity, and telecommunications) within the Condominium (which right-of-way is known as Easement Area 1 and is shown on the Plan) from its current terminus at the end of the so-called "Phase 1" (as shown on the Plan) for an additional one hundred feet (100') to the first entrance to the Property, all as generally depicted and described on Exhibit C (the 100' section of said right-of-way and the associated utility facilities are referred to herein collectively as the "New Road"). Prior to commencing its construction of the New Road, Buyer shall first obtain Seller's written approval for the final plans and specifications for such improvements, which approval shall not be unreasonably withheld, conditioned or delayed. The construction of the New Road shall be completed by Buyer's contractors in a good workmanlike manner and in accordance with all applicable federal, state, and local laws, rules, regulations, and ordinances. In order to ensure that Buyer is able to complete such construction and extension of the New Road pursuant to this Section 18, Seller hereby agrees to cooperate with Buyer at all times and to deliver, and if applicable and where appropriate, to assign, to Buyer and Buyer's contractor any information, reports, permits, approvals, or other due diligence materials in its possession which will reasonably assist Buyer and Buyer's contractors in the completion of the work described in this Section 18. In addition, if and when required, the Seller shall grant to Buyer any necessary easements or licenses which may be required by Buyer in order complete such construction and extension of said right-of-way and/or obtain the necessary permits and approvals in connection with the same. Any such easements and licenses shall be in a form satisfactory to the Seller. The terms and conditions of this Section 18 shall expressly survive the closing on the purchase of the Property pursuant to this Agreement.

6) The following new Section 19 is hereby added to the Agreement:

19. **Right of Seller to Repurchase Property**. If construction of the New Road is not completed, pursuant to the terms and conditions of this Agreement, within 18 months after the closing date, the Seller shall have the right, but not the obligation to repurchase the Property at the Purchase Price. This option to repurchase shall survive the closing on the purchase of the Property pursuant to this Agreement, shall be included in Seller's deed to Buyer, and shall run with the land.

7) Except as specifically modified hereby, all other terms and conditions of the Agreement remain in full force and effect.

SELLER	BUYER
City of Portland	Patrons Oxford Insurance Company
By: _____	By: _____
Name: Date	Name: Mark A. Pettingill Date
Title:	Title: President

EXHIBIT A

VICINITY MAP: (NOT TO SCALE)

GENERAL NOTES:

1) THIS PLAN AND ALL WORK ASSOCIATED WITH IT WAS PERFORMED BY SGC ENGINEERING, LLC PURSUANT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN WOODARD & CURRAN, INC. AND SGC ENGINEERING LLC DATED SEPTEMBER 6, 2010 AND SIGNED MARCH 14, 2011

2) REFERENCE DEED FOR THE LOCUS PARCEL IS SIMON A. SNYDER, JASON A. SNYDER, RONALD A. BARRIS, TRUSTEE OF THE THERESE BARRIS MARITAL TRUST, CYNTHIA E. BAKER, TRUSTEE OF THE THEODORE BARRIS TRUST, RONALD A. BARRIS AND CYNTHIA E. BAKER, CO-TRUSTEES OF THE BARRIS FAMILY TRUST TO THE CITY OF PORTLAND, DATED DECEMBER 7, 1999 AND RECORDED IN DEED BOOK 15211, PAGE 031 AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS.

3) THE BEARINGS SHOWN HEREON ARE REFER TO GRID NORTH AND ARE BASED ON PLAN REFERENCED TO UNDER MAP REFERENCES, NOTE 1.

4) THE LOCUS PARCEL IS DEPICTED AS LOTS 1 & 2 IN BLOCK A ASSESSORS MAP 248. ABUTTING PROPERTY OWNER INFORMATION REFERENCED HEREON WAS TAKEN FROM THE CITY OF PORTLAND ASSESSOR'S DATA AS OF THE DATE OF THIS PLAN.

5) RAND ROAD IS A PUBLIC HIGHWAY. THE SIDELINE LOCATIONS ARE BASED ON THE PLAN REFERENCED UNDER NOTE 1 OF MAP REFERENCES BELOW AND MAINE TURNPIKE AUTHORITY PLANS ON FILE AT THE OFFICES FOR THE MAINE TURNPIKE AUTHORITY.

6) NO SUBSURFACE INVESTIGATION HAS BEEN PERFORMED BY SGC ENGINEERING, LLC. DIG-SAFE SHOULD BE CONTACTED PRIOR TO COMMENCING ANY EXCAVATION (888-344-7233).

7) THE BOUNDARY INFORMATION ON THIS PLAN IS BASED ON THE PLAN REFERENCED UNDER NOTE 1 OF MAP REFERENCES. SGC ENGINEERING FIELD CREWS COMPLETED A SURVEY OF THE PIPELINE LOCATIONS WITHIN THE PORTLAND PIPELINE COMPANY EASEMENT AND EXISTING MONUMENTATION FOUND AND SET BY PREVIOUS SURVEY COMPLETED BY LAND SERVICES, INC., FOR THE PURPOSE OF VERIFYING THEIR EXISTENCE AND TO OVERLAY DESIGN INFORMATION WITHIN BOUNDARIES DETERMINED BY LAND SERVICES, INC. SGC ENGINEERING DID NOT CONFIRM PERIMETER BOUNDARIES BEYOND LOCATION OF MONUMENTATION.

8) REFERENCE IS HEREBY MADE TO THE PORTLAND TECHNOLOGY PARK CONDOMINIUM DECLARATION OF CONDOMINIUM, INCLUSIVE OF BYLAWS, TO BE RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS AT BOOK _____, PAGE _____.

9) ELEVATIONS ARE BASED ON NAVD 1988 DATUM

10) CLEARING LIMITS SHALL BE RESTRICTED TO LIMITED COMMON ELEMENT AREAS, EASEMENT AREA 1 ASSOCIATED WITH THE SITE ROADWAY, EASEMENT AREA 2 ASSOCIATED WITH ACCESS TO THE TRAIL HEAD PARKING, AND EASEMENT AREA 3 ASSOCIATED WITH THE TRAIL HEAD PARKING, AND 20 FT WIDE EASEMENT AREA FOR THE GAS LINE (TO EASEMENT AREA 1 NEAR LCES 5 & 7). MANAGEMENT OF THE FORESTED COMMON AREAS OUTSIDE OF THE CLEARING LIMITS SHALL BE PERFORMED IN ACCORDANCE WITH A FOREST MANAGEMENT PLAN PREPARED FOR THE CITY OF PORTLAND AND APPROVED BY THE CITY ARBORIST. MONUMENTATION OF THE CLEARING LIMIT BOUNDARIES SHALL OCCUR PRIOR TO THE START OF CONSTRUCTION.

11) PHASE 1 INCLUDES CONSTRUCTION OF ALL PROPOSED RIGHT-OF-WAY IMPROVEMENTS IN RAND ROAD; 180 LF OF PARK ROADWAY WITHIN EASEMENT AREA 1; TEMPORARY GRAVEL TRAIL HEAD PARKING AREA WITHIN EASEMENT AREA 1; TRAIL HEAD PARKING AREA WITHIN EASEMENT AREA 3; LIMITED COMMON ELEMENT AREAS 1, 3 AND 5. PHASE 2 INCLUDES CONSTRUCTION OF REMAINING 480 LF OF PARK ROADWAY WITHIN EASEMENT AREA 1 AND LIMITED COMMON ELEMENT AREAS 4, 2, 6, AND 7.

12) PROJECT IS SUBJECT TO THE CONDITIONS SET FORTH IN CITY OF PORTLAND SITE PLAN APPROVAL, SUBDIVISION APPROVAL, AND TRAFFIC MOVEMENT PERMIT; MAINE DEP NATURAL RESOURCES PROTECTION ACT AND SITE LOCATION OF DEVELOPMENT ACT DEPARTMENT ORDER; AND US ARMY CORPS OF ENGINEERS MAINE GENERAL PERMIT AUTHORIZATION. COPIES OF THESE DOCUMENTS ARE AVAILABLE THROUGH THE CITY OF PORTLAND ECONOMIC DEVELOPMENT OFFICE

13) PROJECT IS SUBJECT TO THE PLANS APPROVED UNDER SITE PLAN REVIEW BY THE CITY OF PORTLAND PLANNING AUTHORITY. COPIES OF THESE DOCUMENTS ARE AVAILABLE THROUGH THE CITY OF PORTLAND ECONOMIC DEVELOPMENT OFFICE.

14) RESPONSIBILITIES FOR STORMWATER MANAGEMENT SYSTEM INSPECTIONS AND MAINTENANCE ARE IDENTIFIED WITHIN THE DECLARATION OF CONDOMINIUM. STORMWATER MANAGEMENT SYSTEM INSPECTION AND MAINTENANCE REQUIREMENTS ARE IDENTIFIED IN A STORMWATER MANAGEMENT PLAN AVAILABLE THROUGH THE CITY OF PORTLAND ECONOMIC DEVELOPMENT OFFICE.

MAP REFERENCES:

1) A PLAN ENTITLED "PLAN OF STANDARD BOUNDARY SURVEY, PROPERTY OF THE CITY OF PORTLAND, WESTBROOK STREET, PORTLAND, MAINE" DATED OCT. 1997 AND LAST REVISED OCT. 23, 2002, PREPARED BY LAND SERVICES INC.

LEGEND: LINETYPES & HATCH PATTERN

ADJACENT LOT LINE
ADJACENT R.O.W. LINE
LOCUS BOUNDARY LINE
OLD TRACT LINE
EASEMENT LINE
CONTROLLED ACCESS
OVERHEAD ELECTRIC LINE
SANITARY SEWER LINE
LIMITED COMMON ELEMENT YARD LINE
SWALE

LEGEND: POINT TYPES & SYMBOLS

CONCRETE BOUND
GRANITE BOUND TO BE SET
PIPE
REBAR
SOLID SMOOTH ROD
RAILROAD SPIKE
HANDICAPPED SYMBOL
UTILITY POLE
SQUARE CATCH BASIN
ROUND CATCH BASIN
DRAIN MANHOLE
LIMITED COMMON ELEMENT — LCE
SINGLE POST SIGN
ELECTRIC MANHOLE
LIGHT POST
GAS VALVE
GAS VENT PIPE
SEWER MANHOLE
HYDRANT
WATER MANHOLE
WATER SHUT-OFF
WATER VALVE
DECIDUOUS TREE

GRAPHIC SCALE: 1" = 100'

100 50 0 100 200 300

EASEMENT AREA 1

CURVE TABLE

CURVE	RADIUS	LENGTH	BEARING	CHORD DIST.
C1	250.00	30.49	S05°16'18"W	30.47
C2	74.38	64.29	N39°19'36"W	62.33
C3	170.00	56.13	N14°27'34"E	55.87
C4	1180.00	80.50	N63°30'52"E	80.35

LINE TABLE

LINE	LENGTH	BEARING
L1	20.07	S35°24'43"E
L2	35.73	N24°30'45"W
L3	78.36	S14°13'31"W
L4	2.94	N15°02'00"W
L5	23.23	N32°26'18"E

EASEMENT AREA 2

CURVE TABLE

CURVE	RADIUS	LENGTH	BEARING	CHORD DIST.
C5	76.54	37.59	S62°48'45"E	37.21
C6	24.00	77.50	S59°44'31"E	24.00
C7	114.00	116.35	N59°44'31"W	114.01
C8	20.00	8.26	N41°24'36"W	8.27

LINE TABLE

LINE	LENGTH	BEARING
L6	48.59	S29°44'44"E
L7	40.00	S20°34'10"E
L8	51.04	N29°44'44"W

CERTAIN PLANNING BOARD CONDITIONS OF SUBDIVISION APPROVAL

a) THIS APPROVAL ENTITLES THE APPLICANT AND FUTURE DEVELOPERS OF THE OFFICE PARK UNITS TO DEVELOP THE MAXIMUM NUMBER AND SIZE OF PARKING SPACES AS SHOWN ON THE SUBDIVISION PLAT AND OVERALL SITE PLAN SUBJECT TO PROVIDING CONFIRMATION OF THE NEED FOR THESE SPACES AND SPACE DIMENSIONS (VIA A PARKING ANALYSIS) AT THE TIME THAT THE UNIT IS UNDER SITE PLAN REVIEW; AND

b) THAT THE CONDOMINIUM ASSOCIATION SHALL DEVELOP AND MANAGE A TRANSPORTATION DEMAND MANAGEMENT (TDM) PLAN ACCEPTABLE TO THE PLANNING AUTHORITY, REVIEWED AS PART OF THE INITIAL AND SUBSEQUENT SITE PLAN APPROVALS FOR EACH BUILDING UNIT WITHIN THE LIMITED COMMON ELEMENT AREAS; AND

c) THAT THE DEVELOPMENT OF LIMITED COMMON ELEMENT AREAS AND UNITS IS SUBJECT TO REVIEW AND APPROVAL BY THE CITY OF PORTLAND PLANNING AUTHORITY FOR CONFORMANCE WITH THE PORTLAND TECHNOLOGY PARK DESIGN GUIDELINES AND CITY OF PORTLAND CODE OF ORDINANCES, CHAPTER 14 LAND USE, ARTICLE V. SITE PLAN FOR BUILDING ARCHITECTURE, SITE LANDSCAPING, SITE PEDESTRIAN CIRCULATION, BICYCLE PARKING, LAMP SPECIFICATIONS AND SIGNAGE AND ANY CHANGES OR ALTERATIONS TO APPROVED TRAFFIC, PARKING, ACCESS, UTILITY, EXTERIOR LIGHTING, TREE PRESERVATION AND STORMWATER FEATURES; AND

d) THE CLEARING LIMITS SHALL BE RESTRICTED TO LIMITED COMMON ELEMENT (LCE) AREAS, EASEMENT AREA 1 ASSOCIATED WITH THE SITE ROADWAY; EASEMENT AREA 2 ASSOCIATED WITH ACCESS TO THE TRAIL HEAD PARKING, AND EASEMENT AREA 3 ASSOCIATED WITH THE TRAIL HEAD PARKING, AND THE 20 FT WIDE EASEMENT AREA FOR THE GAS LINE (TO EASEMENT AREA 1 NEAR LCES 5 & 7); AND

e) THAT THE APPLICANT AND ALL ASSIGNS SHALL COMPLY WITH THE CONDITIONS OF CHAPTER 32 STORMWATER INCLUDING ARTICLE III, POST-CONSTRUCTION STORMWATER MANAGEMENT, WHICH SPECIFIES THE ANNUAL INSPECTIONS AND REPORTING REQUIREMENTS. THE DEVELOPER/CONTRACTOR/SUBCONTRACTOR MUST COMPLY WITH CONDITIONS OF THE CONSTRUCTION STORMWATER MANAGEMENT PLAN AND SEDIMENT & EROSION CONTROL PLAN BASED ON CITY STANDARDS AND STATE GUIDELINES; AND

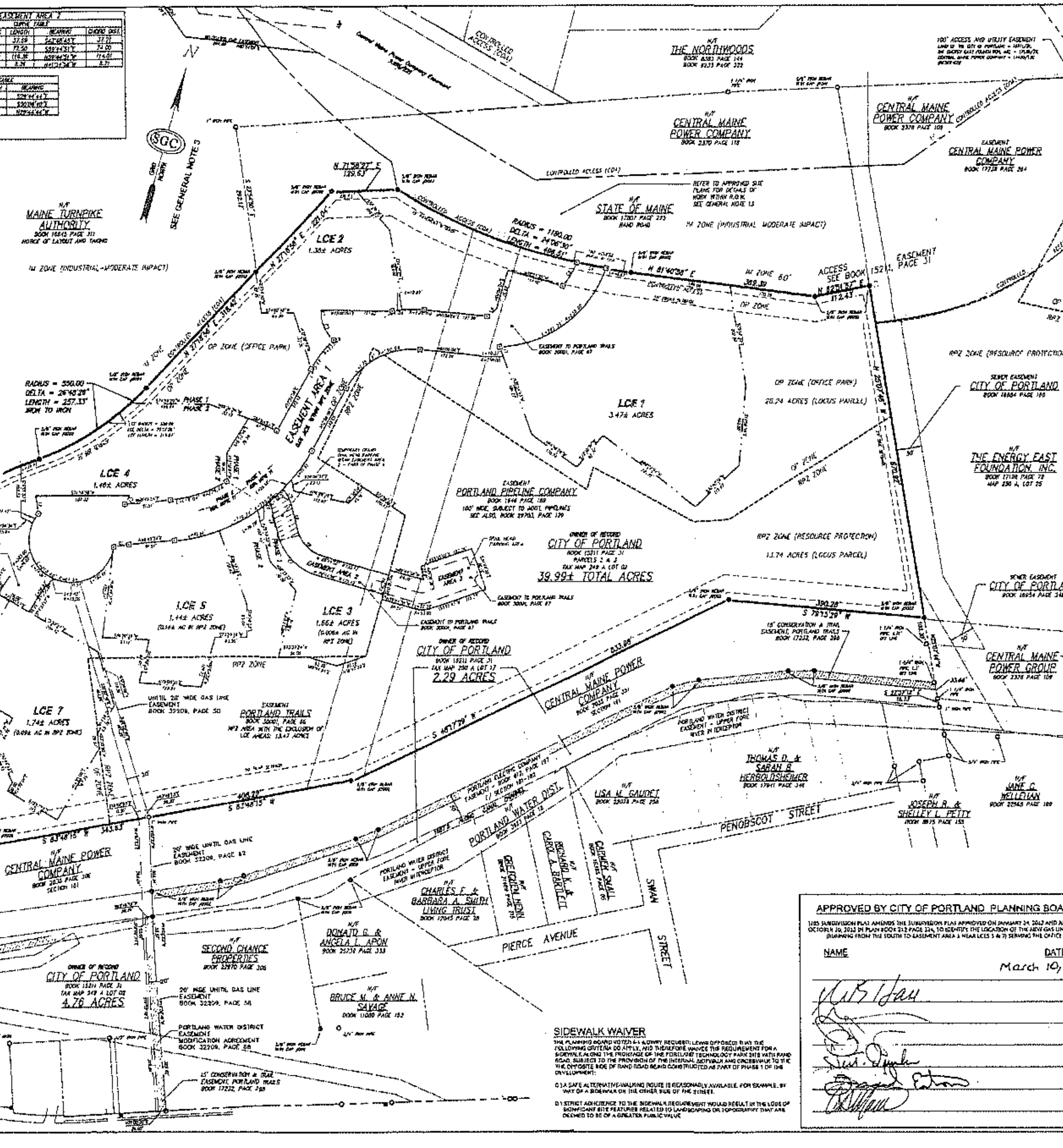
f) THAT THE PROPOSED LIMITED COMMON ELEMENTS, SHOWN AS "LCE" ON THE PLAN, BE MARKED WITH PERMANENT MARKERS SUCH AS FENO MARKERS IN THE FIELD PRIOR TO ANY WORK ON THE SITE TO ENSURE THAT THE LIMITS OF CLEARANCE AND TREE PRESERVATION AREAS ARE CLEAR ON THE SITE; AND

g) THAT THE RPZ ZONE LINE, TRAILHEAD PARKING AREA, SIGNIFICANT TREE AREAS AND PARTICULAR TREE SAVES (AS IDENTIFIED ON THE TREE PRESERVATION PLAN) BE MARKED OR LOCATED IN THE FIELD PRIOR TO ANY SITE WORK.

CERTAIN PLANNING BOARD CONDITIONS OF SITE PLAN APPROVAL

a) THAT WHEN INDIVIDUAL UNITS ARE PROPOSED FOR SITE PLAN REVIEW THE APPLICANTS SHOULD SUBMIT DETAILED SPECIFICATIONS FOR SNOW STORAGE MANAGEMENT/PROTECTION OF GRAVEL WETLANDS, EXTERIOR LAMP FIXTURES (INCLUDING WALL MOUNTED), AND CONSIDER THE OPPORTUNITY FOR TRAIL LINKS WITH THE WIDER TRAIL NETWORK ON THE RPZ OPEN SPACE PART OF THE SITE; AND

b) THAT THE SITE PLANS FOR THE INDIVIDUAL UNITS SHALL BE BROUGHT BEFORE THE PLANNING BOARD FOR REVIEW AND APPROVAL, AND THE BOARD RESERVES THE RIGHT TO REVIEW INDIVIDUAL UNITS UNDER THE STANDARDS OF THE SITE PLAN ORDINANCE.



SIDEWALK WAIVER

THE PLANNING BOARD VOTED 6-1 (LOWRY RECUSED; LEWIS OPPOSED) THAT THE FOLLOWING CRITERIA DO APPLY, AND THEREFORE WAIVES THE REQUIREMENT FOR A SIDEWALK ALONG THE FRONTAGE OF THE PORTLAND TECHNOLOGY PARK SITE WITH RAND ROAD, SUBJECT TO THE PROVISION OF THE INTERNAL SIDEWALK AND CROSSWALK TO THE THE OPPOSITE SIDE OF RAND ROAD BEING CONSTRUCTED AS PART OF PHASE 1 OF THE DEVELOPMENT:

C) A SAFE ALTERNATIVE WALKING ROUTE IS REASONABLY AVAILABLE, FOR EXAMPLE, BY WAY OF A SIDEWALK ON THE OTHER SIDE OF THE STREET.

D) STRICT ADHERENCE TO THE SIDEWALK REQUIREMENT WOULD RESULT IN THE LOSS OF SIGNIFICANT SITE FEATURES RELATED TO LANDSCAPING OR TOPOGRAPHY THAT ARE DEEMED TO BE OF A GREATER PUBLIC VALUE

APPROVED BY CITY OF PORTLAND PLANNING BOARD

THIS SUBDIVISION PLAT AMENDS THE SUBDIVISION PLAT APPROVED ON JANUARY 24, 2012 AND RECORDED ON OCTOBER 10, 2012 IN PLAN BOOK 212 PAGE 324, TO IDENTIFY THE LOCATION OF THE NEW GAS LINE EASEMENT (RUNNING FROM THE SOUTH TO EASEMENT AREA 1 NEAR LCES 5 & 7) SERVING THE OFFICE PARK

NAME	DATE
[signature]	March 10, 2015
[signature]	
[signature]	
[signature]	
[signature]	

CUMBERLAND COUNTY, ss REGISTRY OF DEEDS
Received: June 19 2015
at 12 h 57 m P M and
Filed in Plan Book 215 Page 250
ATTEST: [signature] Register

11 of 25

REVISIONS:

NO.	DATE	
1	8-30-2011	SUBMITTAL FOR CONCEPTUAL REVIEW
2	10-17-2011	SECOND SUBMISSION FOR REVIEW
3	1-11-2012	THIRD SUBMISSION FOR REVIEW
4	1-19-2012	FINAL SUBMISSION FOR REVIEW
5	8-22-2012	REVISED PER WOODARD & CURRAN, INC
6	2-23-2015	ADD GAS EASEMENT
7	5-5-2015	REVISED PER PLANNING BOARD/READINGS

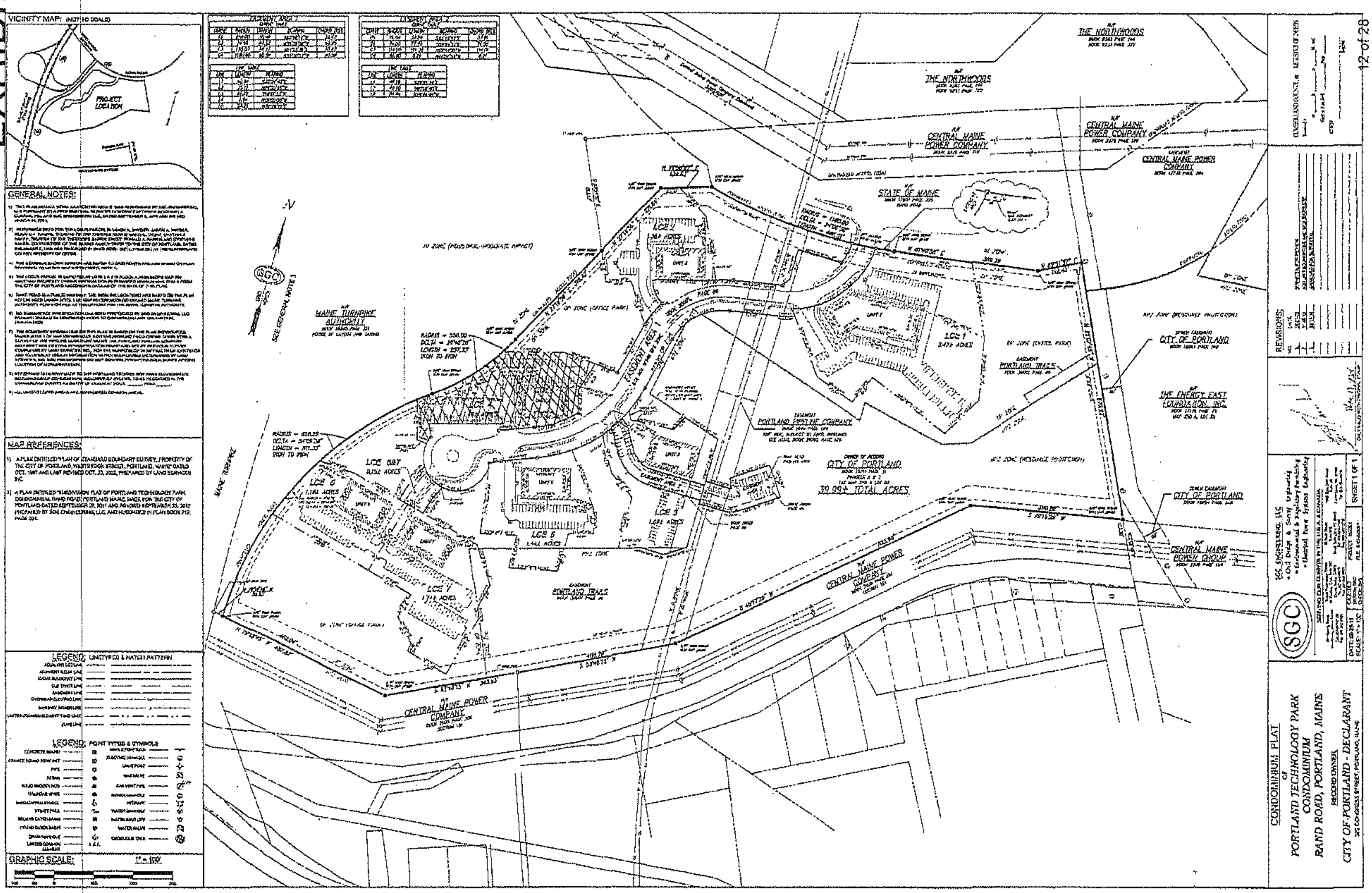
SEAL
[signature] June 5, 2015
ONLY VALID WITH ORIGINAL STAMP

SGC ENGINEERING, LLC
• Civil Design & Survey Engineering
• Environmental & Regulatory Permitting
• Electrical Power Systems Engineering
SERVING OUR CLIENTS IN THE U.S.A. & CANADA

DATE: 08-29-11 | SCALE: 1" = 100' | CALC: DXD | DRAWN: DXD | CHECK: XXX | PROJECT: | FILE: | SHEET 1 OF 1

FIRST AMENDED SUBDIVISION PLAT OF PORTLAND TECHNOLOGY PARK CONDOMINIUM
RAND ROAD, PORTLAND, MAINE
RECORD OWNER: CITY OF PORTLAND - DECLARANT
389 CONGRESS STREET, PORTLAND, MAINE

EXHIBIT B


VICINITY MAP: (NOT TO SCALE)
PROJECT LOCATION
GENERAL NOTES:
MAP REFERENCES:
1) A PLAN ENTITLED "PLAN OF STANDARD BOUNDARY SURVEY, PROPERTY OF THE CITY OF PORTLAND, WESTBROOK STREET, PORTLAND, MAINE" DATED OCT. 1997 AND LAST REVISED OCT. 23, 2002, PREPARED BY LAND SERVICES INC.
2) A PLAN ENTITLED "SUBDIVISION PLAT OF PORTLAND TECHNOLOGY PARK CONDOMINIUM, RAND ROAD, PORTLAND, MAINE MADE FOR THE CITY OF PORTLAND DATED SEPTEMBER 27, 2011 AND REVISED SEPTEMBER 25, 2012 PREPARED BY SGC ENGINEERING LLC AND RECORDED IN PLAN BOOK 212, PAGE 221.
LEGEND: LINETYPES & HATCH PATTERN
LEGEND: POINT TYPES & SYMBOLS
GRAPHIC SCALE: 1" = 100'
THE NORTHWOODS
CENTRAL MAINE POWER COMPANY
STATE OF MAINE
MAINE TURNPIKE AUTHORITY
SEE GENERAL NOTE 3
EASEMENT AREA 1
LCE 1 3.47± ACRES
LCE 5
LCE 6
LCE 7
PORTLAND PIPELINE COMPANY
CITY OF PORTLAND
39.99± TOTAL ACRES
PORTLAND TRAILS
THE ENERGY EAST FOUNDATION, INC.
CENTRAL MAINE POWER GROUP
MAINE TURNPIKE
REVISIONS:
SGC
SGC ENGINEERING, LLC
SHEET 1 OF 1
CONDOMINIUM PLAT
OF
PORTLAND TECHNOLOGY PARK
CONDOMINIUM
RAND ROAD, PORTLAND, MAINE
RECORD OWNER
CITY OF PORTLAND - DECLARANT
12 of 28

Building 4: Proposed:

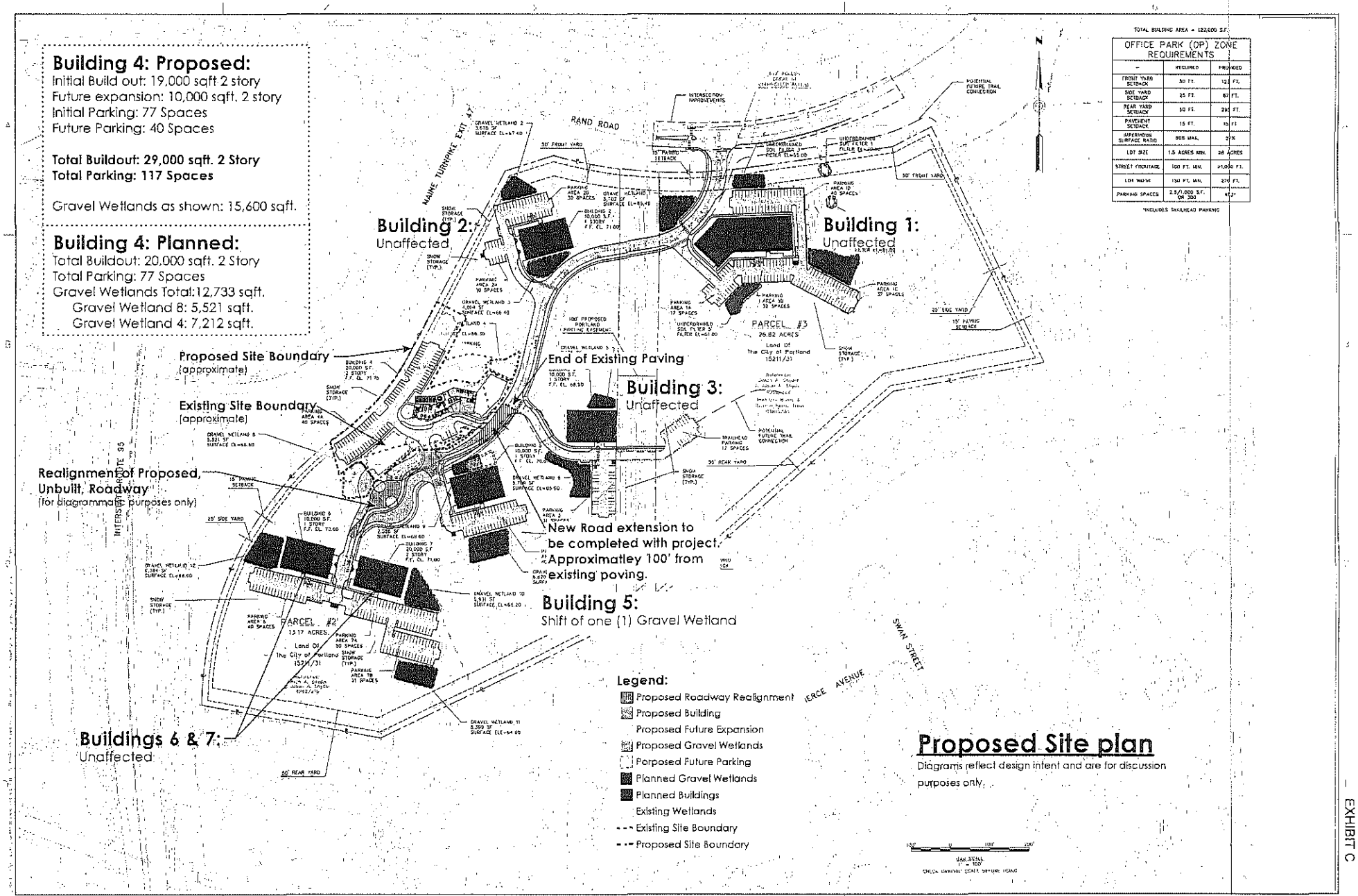
Initial Build out: 19,000 sqft 2 story
Future expansion: 10,000 sqft. 2 story
Initial Parking: 77 Spaces
Future Parking: 40 Spaces

Total Buildout: 29,000 sqft. 2 Story
Total Parking: 117 Spaces

Gravel Wetlands as shown: 15,600 sqft.

Building 4: Planned:

Total Buildout: 20,000 sqft. 2 Story
Total Parking: 77 Spaces
Gravel Wetlands Total:12,733 sqft.
Gravel Wetland 8: 5,521 sqft.
Gravel Wetland 4: 7,212 sqft.



TOTAL BUILDING AREA = 122,000 S.F.

OFFICE PARK (OP) ZONE REQUIREMENTS

–	REQUIRED	PROVIDED
FRONT YARD SETBACK	50 FT.	121 FT.
SIDE YARD SETBACK	25 FT.	87 FT.
REAR YARD SETBACK	50 FT.	390 FT.
PAVEMENT SETBACK	15 FT.	15 FT.
IMPERVIOUS SURFACE RATIO	80% MAX.	37%
LOT SIZE	1.5 ACRES MIN.	38 ACRES
STREET FRONTAGE	100 FT. MIN.	>1,000 FT.
LOT WIDTH	150 FT. MIN.	270 FT.
PARKING SPACES	2.5/1,000 S.F. OR 300	423*

*INCLUDES TRAILHEAD PARKING

Proposed Site plan

Diagrams reflect design intent and are for discussion purposes only.

EXHIBIT C

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made this 19th day of March, 2015 by and between the **CITY OF PORTLAND,** a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as "Seller"), and **PATRONS OXFORD INSURANCE COMPANY**, a Maine insurance corporation, having its principal place of business at Auburn, Maine (hereinafter referred to as "Buyer").

WITNESSETH:

WHEREAS, Seller owns an approximately 3.47 acre parcel of land located at the Portland Technology Park, City of Portland, County of Cumberland, State of Maine, being known as Unit 1 and LCE #1 on that certain Subdivision Plat of Portland Technology Park Condominium, Rand Road, Portland, Maine dated September 29, 2011 and last revised on September 25, 2012, prepared by SGC Engineering, LLC for the City of Portland – Declarant, approved by the City of Portland Planning Board on January 24, 2012 and recorded in the Cumberland County Registry of Deeds on October 10, 2012 in Book 212, Page 324 (the "Plan," a copy of which is attached hereto as Exhibit A) and being further described as Unit 1 of the condominium known as the Portland Technology Park Condominium of which the Seller is the declarant as described in that certain Declaration of Condominium for the Portland Technology Park to be recorded in the Cumberland County Registry of Deeds (the "Declaration of Condominium"), together with all improvements, fixtures and rights appurtenant thereto, all as more particularly shown and depicted as the cross-hatched lot on the condominium plat shown on Exhibit B attached hereto and made part hereof (the "Property"). Title reference is made to a deed from Simon A. Snyder et alia to the City of Portland dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31; and

WHEREAS, Seller intends to sell and Buyer desires to acquire the Property.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. SALE.

Seller agrees to sell the Property, and Buyer agrees to purchase the Property in accordance with the provisions hereof. It is hereby agreed and acknowledged that the actual description of the Property shall be determined based on the title and related due diligence work to be completed by Buyer pursuant to this Agreement and that such description shall be subject to Buyer's and Seller's final review and approval before including the same in the Deed (as that term is defined below) to be delivered by Seller to Buyer as set forth and described below.

2. CONSIDERATION.

The consideration for the property shall be Six Hundred Twenty-Five Thousand

Dollars ($625,000.00) payable as follows:

(a) A deposit of Twenty Thousand Dollars ($20,000.00) to be paid by Buyer within two (2) business days of the Effective Date and held by Buyer's agent, Andrew Ingalls of CBRE The Boulos Company, until closing and applied to the Purchase Price (or, if applicable, until returned to Buyer pursuant to this Agreement) (the "Deposit"); and

(b) The Purchase Price, less the Deposit, to be paid by Buyer to Seller at closing by wire transfer, certified check or bank cashier's check, subject to the adjustments provided for in this Agreement.

This is a cash purchase and no financing is required.

3. **TITLE.**

Seller shall convey the Property to Buyer at the closing in fee simple with good and marketable title or insurable title, subject to: (a) easements, privileges, restrictions, conditions, development rights, special declarant rights, and agreements created by or referred to in the Declaration of Condominium, as well as the matters shown or disclosed on the Plan, as may be amended; (b) provisions of (i) the Maine Condominium Act, and all amendments thereto; and (ii) the Declaration of Condominium, the bylaws and the plats and plans for The Portland Technology Park Condominium Association and all amendments or modification thereto; (iii) building, zoning and land use ordinances; (c) all restrictions required because the roadway serving the Portland Technology Park Condominium (including the Property), which roadway will continue to be owned by the Seller, was improved, in part, with funding from the United States Economic Development Administration (EDA), United States Department of Commerce, a copy of which restrictions is attached hereto as Exhibit C; and (d) such taxes and assessments, including common expenses allocable to the Property, if any, as are due and payable on the date of delivery of the Deed. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the purchase price, a Municipal Quitclaim Deed without Covenant (the "Deed"). In the event that Seller is unable to convey title as aforesaid, Seller shall be given a reasonable period of time, not to exceed sixty (60) days, in which to remedy any title defects. In the event that said defects cannot be corrected or remedied or in the event that Seller elects not to remedy same, then the Deposit shall be returned to Buyer and this Agreement, and Seller's and Buyer's obligations hereunder, will terminate. Buyer may, at Buyer's option elect to close notwithstanding such defects as may exist. Seller and Buyer understand and agree that any mortgages and liens on the Property shall not be considered title defects provided that the same shall be discharged at or prior to closing at Seller's expense. Seller may use purchase money proceeds for this purpose. The Property shall be sold and conveyed strictly on an "as is", "where is" and "with all defects" basis, and, except as set forth below, without representation, warranty or covenant, express, implied or statutory, of any kind whatsoever, including, without limitation, representation, warranty or covenant as to condition, past or present use, tax ramifications or consequences, compliance with law, merchantability or fitness or suitability for any purpose, all of which are hereby expressly disclaimed.

4. POSSESSION.

Full possession of the Property will be delivered to Buyer at the transfer of title free and clear of all tenancies or occupancies by any person or entity.

5. REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.

Buyer shall be liable for all real estate taxes beginning, as of the closing date, with fiscal year 2015-16 and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed for fiscal year 2014-15 and no taxes will be prorated at the closing, provided, however, that any assessments and utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. Seller is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C.

6. RISK OF LOSS.

The risk of loss or damage to the Property by fire or otherwise, until transfer of title hereunder, is assumed by the Seller. The Property is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event Seller is not able to deliver the Property as stated, Buyer may terminate this Agreement and receive a refund of the Deposit.

7. INSPECTIONS AND SELLER REPRESENTATIONS AND WARRANTIES.

Buyer may enter into any part of the Property at all reasonable times prior to the closing in order to inspect the Property, conduct surveys, test borings and engineering studies and to do such other things as are reasonably necessary with respect to the acquisition and development of the Property. Buyer agrees to return the Property as nearly as possible to its original condition after the completion of all of such tests and inspections. In the event that the inspection reveals defects or conditions which are unacceptable to Buyer, Buyer may terminate this Agreement and receive back the Deposit.

Subject to all matters disclosed in any document delivered to Buyer by Seller or on any exhibit attached hereto, and subject to any information discovered by Bnyer or other information disclosed to Buyer by Seller in writing or any other person after the date hereof and prior to the closing, Seller represents and warrants to Buyer that to Seller's actual knowledge, the following are true as of the date of this Agreement and will be true as of the closing:

(a) Except as set forth in the Plan, as may be amended, there are no outstanding pending or threatened liens, claims, rights of first refusal, licenses or encumbrances against or affecting the Property.

(b) All outstanding bills and/or accounts payable concerning the Property are either paid or will be paid prior to or at the time of closing.

(c) There are no outstanding claims, losses or demands against Seller by any person respecting Seller's ownership, use or occupancy of the Property.

(d) The Property has not been used for any dumping of waste materials or landfilling and are free of special wastes, undergronnd storage tanks, radon, asbestos, lead substances, and any hazardous, biomedical, radioactive or toxic, substances, materials or wastes. The terms used in the foregoing sentence shall include, without limitation, all substances, materials, etc., designated by such terms under any laws, ordinances or regulations, whether federal, state or local.

(e) Seller has no knowledge of any boundary disputes or encroachments affecting the Property.

(f) There are rights of ingress and egress in perpetuity from the Property to public highways and roads for vehicular and pedestrian traffic and utilities, except that Seller is currently in the process of obtaining required easements to connect natural gas service to the Portland Technology Park Condominium.

(g) There are no endangered or threatened wildlife or plant habitats and no rivers, streams, great ponds, other bodies of water or wetlands or coastal sand dunes on or adjacent to the Property which, under applicable law would prohibit, limit or restrict Buyer's intended use of the Property.

(h) Seller has received no notices of violation from any Federal or State agency alleging a violation of any environmental law, rule or regulation with respect to the Property;

(i) Seller will have absolute right to sell, assign or transfer the Property to Buyer, after the Portland City Council has approved the sale under the terms herein stated.

All representations and warranties made by Seller herein are made based on Seller's actual knowledge and shall survive the closing of this transaction. Except as set forth herein, Buyer acknowledges that Seller makes no other representations or warranties regarding the Property.

8. CLOSING.

The closing of this transaction shall take place on that date which is sixty (60) days after the Effective Date, at the offices of Bernstein Shur, 100 Middle Street, Portland, Maine. Time is of the essence of this Agreement.

9. DEFAULT AND REMEDIES.

(a) In the event of Buyer's default under any of the terms, covenants or conditions of this Agreement, Seller shall have the right to retain the Deposit and any interest accrued thereon as aforesaid as liquidated damages for the breach and not as a penalty therefor. The Buyer and Seller acknowledge and agree that (i) it is not feasible to determine accurately the measure of damages that will be

caused to Seller by the Buyer's breach because the uniqueness of the Property at its location preclude the utility of comparable figures to determine the extent of damages and (ii) that the amount stated as liquidated damages is agreed to reasonably forecast the amount necessary to compensate Seller for its loss in the light of the circumstances stated in clause (i) and the attendant uncertainties in marketing the Property to another purchaser.

(b) In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer may, as its sole remedy therefor, and subject to the terms of this paragraph, either (i) enforce specific performance of this Agreement against Seller, or (ii) terminate this Agreement and receive the Deposit, plus all interest earned or accrued thereon, except that in the case of any breach of a covenant, representation or warranty of Seller, Buyer shall be entitled, as its sole remedy, to recover its actual damages therefor. Buyer agrees that any recovery against Seller for any breach of Seller's covenants, representations, or warranties hereunder or under any other document delivered by Seller to Buyer or under any law applicable to the Property or this transaction, shall be limited to Buyer's actual damages and that in no event shall Buyer be entitled to seek or obtain any other damages of any kind, including, without limitation, consequential, indirect or punitive damages.

10. **CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE.**

The obligation of Buyer to close is subject to the satisfaction at or before the closing of all of the following conditions:

(a) All representations and warranties of Seller contained in this Agreement shall be true as of the closing.

(b) Seller shall, at its sole cost and expense, complete any and all additional work necessary to finalize the Declaration of Condominium in order to convey the Property and to delineate the boundaries of the same, which conveyance and delineation shall ensure that the Property is a conforming and approved lot under the City of Portland's zoning and land use laws, ordinances and regulations and not in violation of the State of Maine's subdivision laws, including, but not limited to, M.R.S.A. 30-A § 4401.

(c) Buyer shall determine, in its sole and absolute discretion, that the Property may be used for the construction and operation of a two (2) story, 30,000 square foot, professional office building and that it is satisfied with all local, state and federal zoning and land use laws, ordinances and regulations affecting the Property, including, but not limited to, setback, lot coverage, traffic and parking requirements and, if necessary, the Buyer's ability to construct and install a local, state and federal approved curb cut into the Property from the right of way shown and identified as Easement Area 1 on the Plan.

(d) Buyer shall determine, in its sole and absolute discretion, that it is satisfied with the terms and conditions of the Declaration of Condominium and the bylaws,

plats and plans of said Portland Technology Park Condominium, it being hereby agreed and acknowledged that Seller shall deliver copies of the same to Buyer for review within five (5) days of the Effective Date and that to the extent any modifications are made to said documents pursuant to subsection (b) above, Seller shall promptly notify Buyer of the same.

(e) In the event that any of the foregoing conditions is not satisfied, as determined by Buyer in its sole and absolute discretion, Buyer shall have the option of terminating this Agreement and receiving back the Deposit, except that should any of Seller's representations or warranties prove untrue, then Buyer shall have the right to require Seller, at Seller's expense, to make the Property conform thereto.

11. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

12. ENTIRE AGREEMENT.

This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by Seller and Buyer.

13. HEADINGS AND CAPTIONS.

The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

14. GOVERNING LAW.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine.

15. NOTICE.

Any notice required or permitted under this Agreement shall be deemed sufficient if mailed with first class postage affixed or delivered in person to:

FOR THE SELLER: City of Portland
Attention: City Manager
389 Congress Street
Portland, ME 04101

FOR THE BUYER: Patrons Oxford Insurance Company
P.O. Box 1960
Auburn, Maine 04210
Attn: Mark A. Pettingill, President

Either party may change his address for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

16. SIGNATURES; MULTIPLE COUNTERPARTS.

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. A signature in a faxed, pdf or other reproduced or electronic document shall be considered the equivalent of an original signature.

17. BROKERS.

Seller and Buyer each represents and warrants that neither has dealt with a real estate broker in connection with this transaction, other than Andrew Ingalls of CBRE The Boulos Company ("CBRE"), whose commission will be paid by Seller pursuant to the terms of a separate agreement to be negotiated between Seller and CBRE. Buyer agrees to indemnify and hold harmless Seller from any claims made by any broker should Buyer's representation in this paragraph be false. Seller agrees to indemnify and hold harmless Buyer from any claims made by any broker should Seller's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

CITY OF PORTLAND

Sonia Bean
WITNESS

By: Sheila Hill-Christian
Its Acting City Manager

APPROVED AS TO FORM:
CORPORATION COUNSEL'S OFFICE

PATRONS OXFORD INSURANCE COMPANY

Clifford B. Biondi
WITNESS

By: Mark A. Pettingill
Its President

Exhibit A

[See Attached Subdivision Plat of Portland Technology Park Condominium]

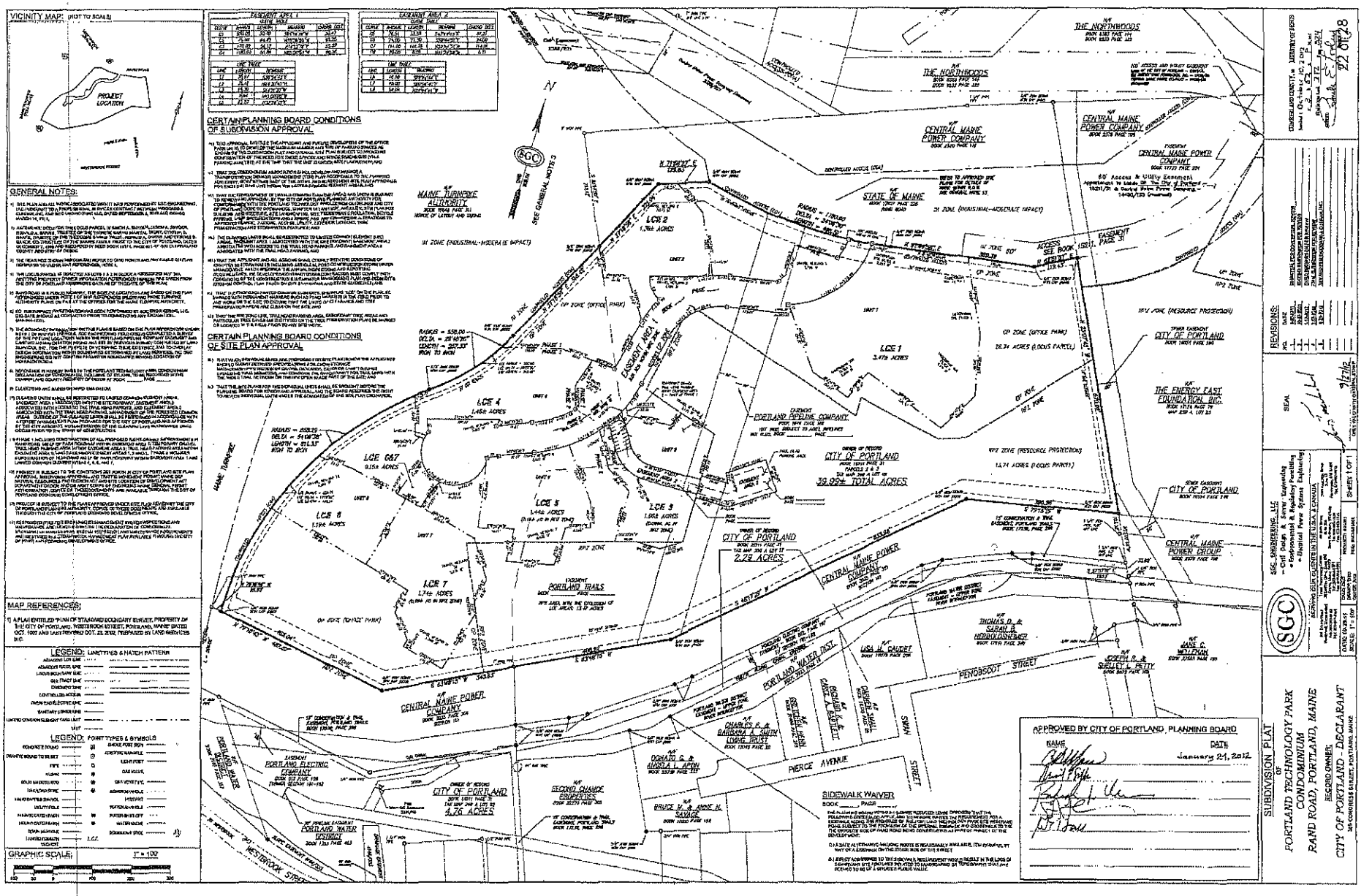

VICINITY MAP
PROJECT LOCATION
GENERAL NOTES:
CERTAIN PLANNING BOARD CONDITIONS OF SUBDIVISION APPROVAL
CERTAIN PLANNING BOARD CONDITIONS OF SITE PLAN APPROVAL
MAP REFERENCES:
LEGEND: LINETYPES & HATCH PATTERNS
LEGEND: POINT TYPES & SYMBOLS
GRAPHIC SCALE
1" = 100'
LOT 1
3.47± ACRES
LOT 2
1.76± ACRES
LOT 3
1.66± ACRES
LOT 4
1.45± ACRES
LOT 5
1.44± ACRES
LOT 6&7
0.15± ACRES
LOT 7
1.74± ACRES
39.95± TOTAL ACRES
CITY OF PORTLAND
2.29 ACRES
CITY OF PORTLAND
4.26 ACRES
THE NORTHWOODS
CENTRAL MAINE POWER COMPANY
STATE OF MAINE
MAINE TURNPIKE AUTHORITY
CITY OF PORTLAND
THE ENERGY EAST FOUNDATION, INC.
PORTLAND PIPELINE COMPANY
PORTLAND TRAILS
PORTLAND WATER DISTRICT
PORTLAND ELECTRIC COMPANY
SECOND CHANCE PROPERTIES
CHARLES E. & BARBARA A. SMITH LIVING TRUST
DONALD G. & ANGELA L. APON
BRUCE W. & ANNE H. SAVAGE
THOMAS D. & SARAH B. HERBOLSHEIMER
USA M. GAUDET
JOSEPH R. & SHIRLEY L. PETTY
MARK G. WELTMAN
WESTBROOK STREET
PIERCE AVENUE
PENOBSCOT STREET
SIDEWALK WAIVER
APPROVED BY CITY OF PORTLAND, PLANNING BOARD
January 21, 2012
SUBDIVISION PLAT OF PORTLAND TECHNOLOGY PARK CONDOMINIUM
RAND ROAD, PORTLAND, MAINE
RECORD OWNER:
CITY OF PORTLAND - DECLARANT
389 CONGRESS STREET, PORTLAND, MAINE
REVISIONS
SEAL
SGC, SWEDENBERG, LLC
- Civil Design & Survey Engineering
- Environmental & Regulatory Permitting
- Electrical Power Systems Engineering
SHEET 1 OF 1

Exhibit B

[See Attached Plan Depicting Property]

Exhibit B to P&S with Patrons Oxford

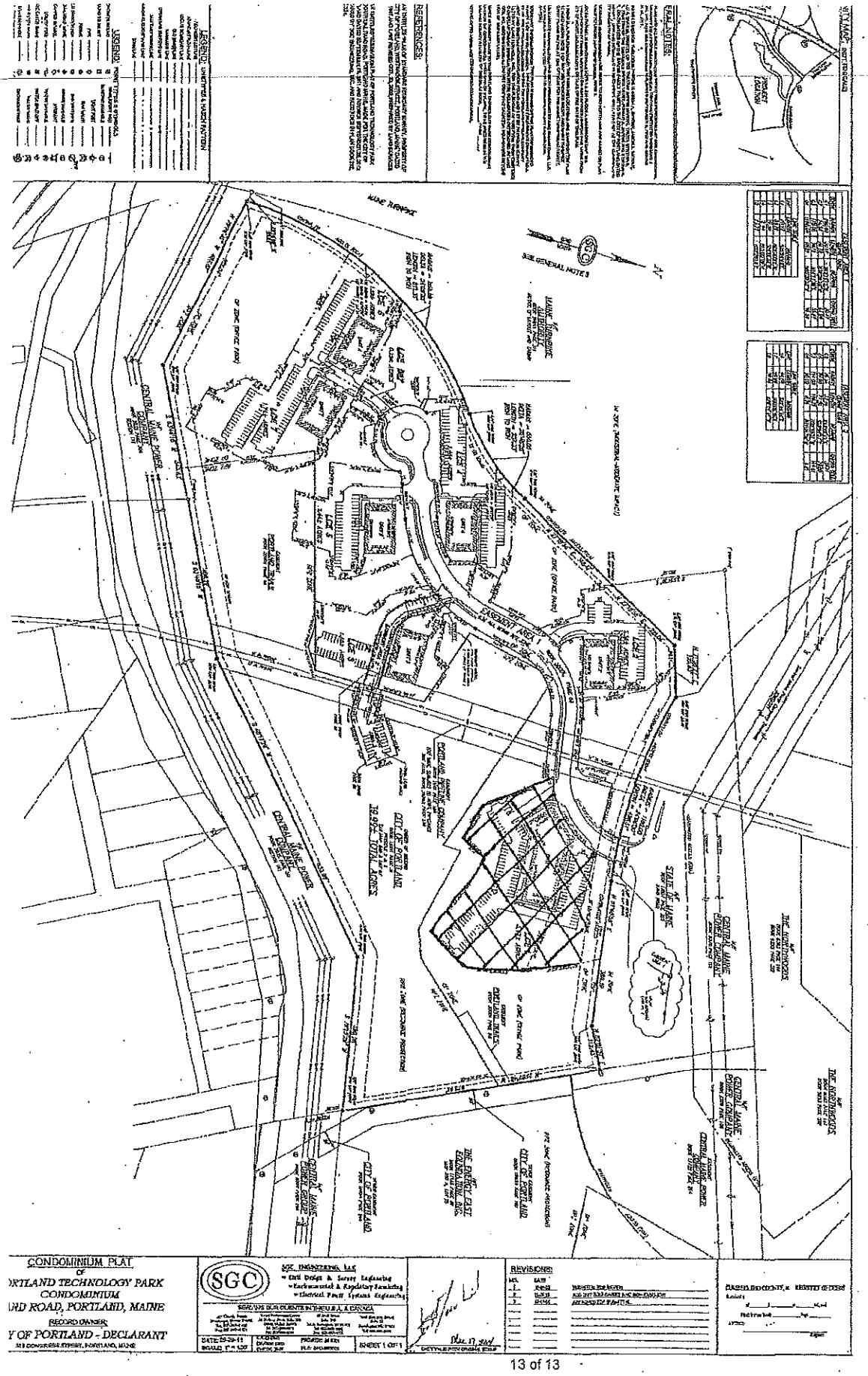


Exhibit C

COMPLIANCE WITH EDA RESTRICTIVE COVENANTS

The Seller and Buyer acknowledge that the Property was improved, in part, with funding from the United States Economic Development Administration (EDA), United States Department of Commerce, EDA Project Number 01-01-08630 and is snbject to the terms and conditions of the EDA financial assistance award. Consequently, all recipients or owners and/or their successors and assigns, agree as follows:

Real Property or tangible Personal Property improved with EDA Investment Assistance must be used in a manner that is consistent with the authorized general and specific purposes of the Award, in this case, commercial purposes and EDA policies concerning adequate consideration and environmental compliance; and any applicable provisions of 13 CFR §314. It may not be used in violation of the nondiscrimination requirements set forth in 13 C.F.R. §302.20 or for inherently religious activities prohibited by applicable federal law.

Buyer agrees to provide Seller and/or EDA with any document, evidence or report required to assure compliance with federal and state law, including, but not limited to, applicable federal and state environmental laws.

The use of the Property, (improved with EDA assistance), for any purpose other than the authorized purpose of the EDA grant, which in this case is commercial uses, is prohibited. This covenant shall remain in effect for a period of twenty (20) years.

Extension to Purchase and Sale Agreement

The terms and conditions of this Extension to Purchase and Sale Agreement (the "Extension") shall apply to the Purchase and Sale Agreement dated March 19, 2015 by and between Patrons Oxford Insurance Company, as Buyer, and the City of Portland, as Seller (the "Agreement") to which Agreement this Extension is attached and incorporated therein by reference. In the event that any provision in this Extension shall conflict in whole or in part with any of the terms contained in the main body of the Agreement, the provisions of this Extension shall control and any conflicting terms of the Agreement are hereby considered deleted and expressly waived by both Buyer and Seller. Buyer and Seller hereby agree as follows:

1. Closing: The closing of this transaction is hereby extended to on or before June 15, 2015.

2. Except as specifically modified hereby, all other terms and conditions of the Agreement remain in full force and effect.

SELLER: City of Portland

By: Sheila Hill-Christian 4/29/15
Sheila Hill-Christian, its Acting City Manager Date

APPROVED AS TO FORM:
CORPORATION COUNSEL'S OFFICE

BUYER: Patrons Oxford Insurance Company

By: 4/30/15
Mark A. Pettingill, its President Date

Second Extension to Purchase and Sale Agreement

The terms and conditions of this Second Extension to Purchase and Sale Agreement (the "Second Extension") shall apply to the Purchase and Sale Agreement dated March 19, 2015 by and between Patrons Oxford Insurance Company, as Buyer, and the City of Portland, as Seller, as amended by that certain Extension to Purchase and Sale Agreement dated April 29, 2015 (the "Agreement") to which Agreement this Second Extension is attached and incorporated therein by reference. In the event that any provision in this Second Extension shall conflict in whole or in part with any of the terms contained in the main body of the Agreement, the provisions of this Second Extension shall control and any conflicting terms of the Agreement are hereby considered deleted and expressly waived by both Buyer and Seller. Buyer and Seller hereby agree as follows:

1. Closing: The closing of this transaction is hereby extended to on or before July 31, 2015.

2. Except as specifically modified hereby, all other terms and conditions of the Agreement remain in full force and effect.

SELLER: City of Portland

By: _____ 6-05-15
Michael J. Sauschuck, its Acting City Manager Date

APPROVED AS TO FORM
CORPORATION COUNSEL'S OFFICE

BUYER: Patrons Oxford Insurance Company

By: _____ 6/7/15
Mark A. Pettingill, its President Date

July 9, 2015

Greg Mitchell
Economic Director
City of Portland
389 Congress Street
Portland, ME 04101

RE: Commission Agreement
Patrons Oxford Insurance Company at Portland Technology Park

Dear Greg:

This letter confirms in the event a Sale is completed between the City of Portland or related entity ("Seller") and Patrons Oxford Insurance Company or related entity ("Buyer") for a parcel of land located known as Unit 4, located at the Portland Technology Park, the Seller shall pay CBRE | The Boulos Company an amount equal to $30,000.

It is understood and agreed the commission shall be due and payable, in full, upon transfer of ownership.

The parties to this agreement acknowledge that Andrew Ingalls of CBRE | The Boulos Company represents the Buyer in the transaction.

ACCEPTED AND AGREED TO:

CBRE | The Boulos Company

_____ Date: 7/9/15

By: Andrew Ingalls
Senior Broker

City of Portland

_____ Date: _____

By:
Title:

Order 32-15/16
Tab 29 7-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROPRIATING $150,000 OF REVENUE FROM THE SALE OF PORTLAND TECHNOLOGY PARK UNIT 4

ORDERED, that the amount of $150,000 be and hereby is appropriated from the revenue generated by the sale of Portland Technology Park Unit 4 to pay for the installation of natural gas and electricity on Technology Park Drive, revision of the Subdivision Plat, modification of Portland Technology Park permits and payment of legal fees.

Order 33-15/16
Tab 30 9-21-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER TO APPROVE
MAINE DEPARTMENT OF TRANSPORTATION/CITY AGREEMENT
FOR EXIT 6, FOREST AVENUE INTERCHANGE

ORDERED, that a two-party agreement and any other documents necessary between the City of Portland and the Maine Department of Transportation, in substantially the form attached, to install pedestrian lighting on Forest Avenue next to north- and south-bound Exit 6 on I-295 and to pave within the project area is hereby approved; and

BE IT FURTHER ORDERED, that the 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: Mayor and City Council

FROM: Bruce Hyman, Transportation Program Manager

DATE: July 15, 2015

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

SUBJECT: **Municipal/State Agreement, Exit 6, Forest Ave. Interchange**

SPONSOR: **Jon Jennings, City Manager**

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_____ **Final Action** ____7/20/15 request waive of 1st reading

Can action be taken at a later date: _____ Yes __X____ No (If no why not?)
MaineDOT needs the agreement at the earliest date to accomplish the project.

PRESENTATION:
Bruce Hyman, Transportation Program Manager, verbal presentation, 2 minutes.

I. SUMMARY OF ISSUE (Agenda Description)
MaineDOT is currently under construction of traffic safety modifications at Exit 6 at Forest Avenue to eliminate vehicular High Crash Locations. The needed pedestrian lighting within the underpasses cannot be accomplished within the MaineDOT's project budget.

City staff and the MaineDOT agree that a structural pavement treatment is beneficial to do at this time within the interchange area.

The City created a CIP account as part of the FY13 CIP to anticipate such work. This agreement will allow expenditures from the account for the purposes of accomplishing the lighting and paving work as part of the MaineDOT project.

II. REASON FOR SUBMISSION (Summary of Issue/Background)
MaineDOT is currently under construction of traffic safety modifications at Exit 6 at Forest Avenue to eliminate vehicular High Crash Locations. As part of the plan, they agreed to integrate bicycle and pedestrian and related improvements along Forest Avenue within the interchange area to the extent cost-feasible. The entirety of the needed pedestrian lighting within the underpasses cannot be accomplished within the MaineDOT's project budget. These lighting improvements were envisioned as part of the Transforming Forest Avenue Plan, an adopted element of the city's comprehensive plan. They will be similar to the lighting systems installed at Preble Street Extension under I-295 and on Park Avenue under the Pan Am rail line.

City staff and the MaineDOT agree that a structural pavement treatment is beneficial to do at this time within the interchange area due to the existing pavement condition, the extensive curb work being done and the new traffic and bike lane configurations that will result from the project.

The city's local share (80%) to accomplish the lighting is up to $81,548.00 of the total cost of $101,935. The city's local share (10%) to accomplish the paving is approximately $40,000 of the total paving cost of approximately $400,000. The City created a CIP account, C13102, to anticipate such work. This agreement will allow expenditures from the account to accomplish the city's share of the project's costs.

III. INTENDED RESULT

Authorizing the City Manager to execute the documents that may be needed for the purpose of this project. Authorize expenditures from CIP account C13102.

IV. COUNCIL GOALS ADDRESSED

Improving safety, livability and sustainability.

V. FINANCIAL IMPACT

No anticipated additional impact beyond drawing down from the established CIP account for the purposes for which it was established.

VI. STAFF ANALYSIS

The pedestrian lighting under the I-295 underpasses will significantly increase the safety, function and aesthetics of this area. These lighting improvements were envisioned as part of the Transforming Forest Avenue Plan, an adopted element of the city's comprehensive plan. This addresses a long-standing, persistent citizen request to improve the safety and comfort for pedestrians and bicyclists through this interchange area.

Paving at this time will reduce further disruption to traffic patterns and help achieve the safety benefits traffic and bike lane configurations within the project area.

VII. RECOMMENDATION

Staff recommends approval of the municipal-state agreement.

VIII. LIST ATTACHMENTS

MaineDOT Municipal/State Agreement

Prepared by: Bruce Hyman, Transportation Program Manager, Planning and Urban Development Dept.

Date: July 15, 2015

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

MaineDOT

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT

PROPOSED IMPROVEMENTS TO I-295, EXIT 6, FOREST AVE. INTERCHANGE

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 10557.01
Federal Aid Project #: HP-295-1055(701)

Estimated Municipal Share: $81,548.00
Vendor Customer #: 17A12684
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 "MaineDOT") and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to I-295, Exit 6, Forest Ave. Interchange, 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. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT 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. MaineDOT shall be the sole administrator of this contract. MaineDOT will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.

C. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT 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, MaineDOT 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, MaineDOT will submit the information to the Municipality, who

will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns during the time allotted all decisions pertaining to the aeceptanee of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

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 MaineDOT. 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 MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. 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. All work shall be completed at night. Night work shall begin no sooner than 9:00 p.m. and end no later than 6:00 a.m. Night time ramp closures are permitted from 10:00 p.m. to 5:00 a.m. A 48-hour advance notice is required for night time ramp closures.

3. The Municipality will comment on their concerns/issues (two week timeframe allowed).

4. The PM & Designer will incorporate these comments where practical based on engineering judgment.

5. 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. The contractor shall note that the City of Portland, Department of Public Service permits are required for this project. The contractor is required to obtain any and all City permits or waivers required for this project.

6. 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 MaineDOT, 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 MaineDOT 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 MaineDOT'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 MaineDOT 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. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to MaineDOT'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 MaineDOT, 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 MaineDOT, 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. MaineDOT 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 MaineDOT 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 MaineDOT.

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 MaineDOT 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 MaineDOT.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

By: _____
Jon Jennings, City Manager

_____
(Date Signed)

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
William A. Pulver, Director
Bureau of Project Development

_____
(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 I-295 Exit 6, Forest Avenue Interchange

FEDERAL AID PROJECT NO. HP-295-1055(701)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 10557.01

Project Scope: Modify off-ramps, island & pedestrian facilities located at the I-295, Exit 6, Forest Avenue interchange.

Funding Outline: The Total Project Estimated Cost is $ 1,999,993.87 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share: Federal Portion		Project Share: MaineDOT (State) Portion		Total Cost
	%	$	%	$	%	$	$
Preliminary Engineering	0.0%	$ -	80.0%	$ 118,380.87	20.0%	$ 29,595.22	**$ 147,976.09**
Right of Way	0.0%	$ -	80.0%	$ 8,000.00	20.0%	$ 2,000.00	**$ 10,000.00**
Construction	0.0%	$ -	80.0%	$ 1,272,066.22	20.0%	$ 318,016.56	**$ 1,590,082.78**
Construction Engineering	0.0%	$ -	80.0%	$ 120,000.00	20.0%	$ 30,000.00	**$ 150,000.00**
Bollard Lighting for Pedestrian Facilities	80.0%	$ 81,548.00		$ -	20.0%	$ 20,387.00	**$ 101,935.00**
PROJECT SHARES		$ 81,548.00		$ 1,518,447.10		$ 379,611.77	**$ 1,999,993.87**
Total Cost of Additional Work Requested by Municipality (Below)	100.0%						
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		$ 81,548.00					

(Check if applicable)

☐ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
TYPE OF WORK			
TYPE OF WORK		$ -	
TYPE OF WORK		$ -	
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		**$ -**	

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Upon execution of the contract, 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.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT'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 MaineDOT 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:

	Municipality Name	Receivable Amount	Estimated Invoice Date
	City of Portland	$81,548.00	Upon Execution of Agreement
	INSERT MUNICIPALITY NAME	$0.00	
	INSERT MUNICIPALITY NAME	$0.00	
	Total Receivable Amount:	**$81,548.00**	

Order 34-15/16
Tab 31 7-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING THE FISCAL YEAR 2016 SUSTAINABLE TRANSPORTATION FUND APPROPRIATION SCHEDULE

ORDERED that, pursuant to Portland City Code §14-346.2, the Fiscal Year 2016 Sustainable Transportation Plan and Appropriation Schedule of the Sustainable Transportation Fund is hereby approved in substantially the form attached hereto.

FISCAL YEAR 2016 SUSTAINABLE TRANSPORTATION FUND
APPROPRIATION SCHEDULE

1. Central Sub-district: Up to $40,000 for Cumberland Avenue Sidewalk and Lighting project; up to $40,000 for Congress Street Bus Priority Corridor.

2. Eastern Sub-district: Up to $80,000 for pedestrian safety improvements in the vicinity of the Washington Avenue/Fox-Walnut Streets intersection.

3. All Sub-districts: Discretionary expenditures by staff for up to 10% of existing Sustainable Transportation Fund account balance for permitted capital transportation expenditures to respond flexibly to opportunities as they arise.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Bruce Hyman, Transportation Program Manager

DATE: July 15, 2015

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

SUBJECT: Sustainable Transportation Fund Expenditure Plan for FY 2016

SPONSOR: David Marshall, Chair, Transportation, Sustainability and Energy Committee (April 18, 2015 and June 17, 2015 – unanimous)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 20, 2015 Final Action August 3, 2015

Can action be taken at a later date: _____ Yes __X___ No (If no why not?)
A project reliant on this funding seeks to go out to bid in early August.

PRESENTATION: (Bruce Hyman, Transportation Program Manager, verbal, 5 minutes)

I. SUMMARY OF ISSUE (Agenda Description)

The Sustainable Transportation Fund was established in 2010 in conjunction with the Fee-in-lieu of Parking ordinance. Expending the funds requires an annual expenditure plan to be approved by the City Council after endorsement from the Transportation, Sustainability and Energy Committee.

The TS&E Committee endorsed the proposed expenditure plan at its April and June 2015 meetings for 3 specific projects and allows for some discretionary expenditures by staff.

The recommended expenditure plan for FY16 is as follows:

- Western Sub-district: None at this time or anticipated in 2015.
- Central Sub-district: Up to $40,000 for Cumberland Avenue Sidewalk and Lighting project; up to $40,000 for Congress Street Bus Priority Corridor.
- Eastern Sub-district: Up to $80,000 for pedestrian safety improvements in the vicinity of the Washington Avenue/Fox-Walnut Streets intersection
- All Sub-districts: Discretionary expenditures by staff for up to 10% of existing STF account balance for permitted expenditures to respond flexibly to opportunities as they arise.

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

Expending the funds requires an annual expenditure plan to be approved by the City Council after endorsement from the Transportation, Sustainability and Energy Committee.

III. INTENDED RESULT

An approved expenditure plan for the Sustainable Transportation Fund for 2015.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

No direct operating budget or capital budget impact. The STF off-sets what would otherwise generally be CIP or operating budget expenditures.

VI. STAFF ANALYSIS

Staff developed the requested expenditure plan based upon discussions with councilors at the Transportation, Sustainability and Energy Committee meetings (April and June 2015)

VII. RECOMMENDATION

Staff recommends the TS&E endorsed STF expenditure plan.

VIII. LIST ATTACHMENTS

Staff Memo

Prepared by: Bruce Hyman, Transportation Program Manager, Planning and Urban Development Dept.

Date: July 15, 2015

Bean/agendamemo/rev1-8-15

Jeff Levine, AICP
Director, Planning & Urban Development Department

MEMORANDUM

July 15, 2015

To: Mayor and City Council

From: Bruce Hyman, Transportation Program Manager, Planning and Urban Development Dept.

Re: Proposed Sustainable Transportation Fund Expenditure Plan for FY 2016

Overview

In 2010, the Portland City Council adopted a fee-in-lieu of parking provision in the city ordinance (Sec. 14-345) for non-residential zones on the peninsula. It also adopted provisions for a Sustainable Transportation Fund to administer the funds generated by the fee in lieu and other sources (voluntary contributions, grants, etc). Geographic sub-districts (3 on the peninsula – see attached map) were developed to guide distribution of the funds in proximity to the location where the funds were actually generated. Funds are to be used within 10 years. The ordinance specifies that annually the Transportation, Sustainability and Energy Committee shall recommend and refer an appropriations schedule for the use of the funds to the full council for their action.

In December 2014, the first deposit of $83,700 was made into the Sustainable Transportation Fund from Avesta Housing's 409 Cumberland Avenue project. Other contributions are expected later this year or early next year.

Permitted Expenditures

Two categories of expenditures are defined in the ordinance: 1) funds that are derived from the fee-in-lieu of parking and 2) funds deposited from other sources. Language from the ordinance is guiding regarding permitted expenditures based upon source.

"Sec. 14-346.2 (b) *Permitted expenditures of the fund.*
The Sustainable Transportation Fund may only be expended on the activities as described below:

1. Funds collected as ***fees in-lieu of parking*** shall be expended toward capital transportation improvements on the Portland Peninsula. Such capital improvements shall include but are not limited to the following:

a. Parking Infrastructure
   i. Shared-use, publicly accessible parking facilities;

Jeff Levine, AICP
Director, Planning & Urban Development Department

ii. Publicly accessible bicycle racks and bicycle parking shelters;

b. Transit Capital Improvements and Expenses
i. Bus shelters, bus turnouts, transit signage and other transit amenities;
ii. Buses and transit vehicles;
iii. Transit and transportation information systems;
iv. Fixed guide way and/or rail transit systems;

c. Pedestrian and Bicycle Infrastructure
i. Multi-use trails, and non-vehicular transportation corridors;
ii. Pedestrian infrastructure and amenities located on publicly accessible rights of way including, but not limited to crosswalks, signalization, landscaping, street furniture, wayfinding signage, traffic calming, and lighting;
iii. New public sidewalks and new bicycle lanes along publicly accessible rights of way or corridors where such facilities are not previously provided;

d. Other such improvements intended to enhance transportation choice and promote transit and non-automotive transport on the Portland Peninsula.

2. Funds collected or appropriated ***by means other than from a fee in-lieu of parking*** may be used for any of the capital transportation improvements listed above in (b)(1), and for any of the following uses:

a. Transportation Demand Management Program administration;

b. On or off-peninsula transit and/or nonautomotive transportation capital or operating expenses;

c. Transit and/or non-automotive transportation promotion and education material; and

d. Other such programs or improvements intended to enhance transportation choice and promote transit and non-automotive transport for the City of Portland."

The map of the 3 approved Sustainable Transportation Fund Sub-districts is included in this packet.

Jeff Levine, AICP
Director, Planning & Urban Development Department

Proposed Sustainable Transportation Fund Expenditure Plan for FY 2016

Where funds are currently available or expected in the near future, an "up to" amount of authorization is sought for individual initiatives with an overall "not to exceed" amount. In addition, discretionary authorization is sought by staff to expend up to 10% of an available STF balance for authorized uses. These provisions together would enable staff to respond flexibly as circumstances and opportunities arise.

Western Sub-District: No existing funds; no known future expected funds.

Central Sub-District: $83,700 existing funds (December 2015); no known future expected funds.

Proposed for Approved Expenditures – not to exceed $83,700 total.

Congress Street Bus Priority Corridor Project – up to $40,000 to supplement existing CIP funds.

The full build out of the project requires phasing due to cost estimates exceeding capital funds.

Supplemental funds would allow additional sidewalk and curb ramp work to be constructed locations with poor conditions.

This project 'prioritizes' bus travel and access on Congress Street by:

- converting multiple bus stops to in-lane bus stops by constructing curb extensions
- adding bus shelters
- removing traffic signals at Casco and Brown Streets
- reconstructing curb ramps and sidewalks to achieve ADA-accessibility at bus stop/bus route locations.

Cumberland Avenue Sidewalk and Lighting – up to $40,000 to supplement existing CIP and CDBG funds.

The original scope of work can be accomplished with the existing funds (approximately $475,000). Based upon Crosswalk Committee and Bayside neighborhood input, the pedestrian crossings at three locations are deemed very important to improve to increase pedestrian safety across Cumberland Avenue to the downtown.

Supplemental funds would allow 2 additional enhanced crosswalks to be built that were designed but are not currently in the base bid, but are 'Bid Alternates' should additional

funding be found or bid prices lower than estimated. (This Cumberland Avenue project directly abuts and benefits the housing project that is contributing the requested STF appropriation.)

Eastern Sub-District: No existing funds; $80,000 anticipated in late 2015 or 2016 (134 Washington Avenue, Avesta Housing.)

Proposed for Approved Expenditures – not to exceed $80,000 total.

DPS and Planning/Transportation Division staff have been working on a concept plan to increase pedestrian and traffic safety in the vicinity of the Fox-Walnut Streets at Washington Avenue intersection as well as to re-locate/enhance the 2 bus stops in coordination with METRO. Staff have been working with Avesta Housing to build upon (and extend) the modifications required as part of their site plan approval along their project's frontage to the NW corner of Fox-Washington Avenue. Other parts of the concept plan would be implemented as other funding become available.

Authorization is sought for expending up to the full amount of $80,000 should the STF funds become available in 2015. The total costs for the anticipated modifications to the intersection exceed $100,000. The estimated cost for the extension of the work from the 134 Washington Avenue frontage to Fox Street is up to $20,000. (This project directly abuts and benefits the housing project that is contributing the requested STF appropriation as well as the greater neighborhood.)

All Sub-Districts: Discretionary expenditures by staff for up to 10% of the available STF balance within a sub-district for permitted expenditures.

Rather than needing TS&E and full council approval for every individual expenditure, staff requests that it have the ability to use a small portion of STF to flexibly respond to opportunities as they arise. Discretionary expenditures (those not explicitly listed above by sub-district) would need the approval of the Director of the Planning and Urban Development Department.

Order 35-15/16
Tab 32 7-20-15

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 ALLOCATING $462,262 IN HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS TO DEVELOPERS COLLABORATIVE FOR A SENIOR RENTAL HOUSING PROJECT AT 605 STEVENS AVENUE

ORDERED, that $462,262 in the HOME Investment Partnerships Program (HOME) Funds is hereby allocated to Developers Collaborative for an affordable senior rental housing project at 605 Stevens Avenue, contingent on the final approval of the Portland Planning Board for the project and on compliance with all HOME program regulations and requirements.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division.

DATE: July 8, 2015

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

SUBJECT: Order Authorizing Financial Assistance in HOME Program Funds to the Developers Collaborative: Senior Rental Housing Project at 605 Stevens Avenue, the Sisters of Mercy Motherhouse building (Motherhouse building).

SPONSOR: Kevin Donoghue, Chair
Housing and Community Development Committee
(Pending Committee approval from their July 8, 2015 meeting)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 20, 2015 **Final Action** August 3, 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)

Tyler Norod, Housing Planner of the Housing and Community Development Division will be available to provide information as requested.

I. SUMMARY OF ISSUE (Agenda Description)

In response to a recent RFP for housing development proposals, the Developers Collaborative submitted a request for HOME funds to help support the redevelopment of the historic Motherhouse building as part of a larger multi phased development project. The Motherhouse will consist of 88 rental units for households 55 years or older with 66 of these units to be reserved as affordable to low-income seniors earning 50% - 60% of Area Mean Income (AMI). The remaining 22 units will be market rate at approximately $1,200 per month. The applicant also committed to offering a preference to homeless seniors and will be working with Opportunity Alliance to provide services.

The location of the Motherhouse project offers an opportunity to provide affordable housing for seniors in a relatively high income neighborhood with excellent access to amenities like public transportation, open space, and retail options. By creating greater economic diversity in the available housing stock the project will help fulfill one of the many housing goals of the City.

The project is fairly far along in the stage of its approval and funding process. It is well positioned to be very competitive for 4% LIHTC funding as well as for state and federal historic tax credits. The project has been part of a larger community process for the redevelopment of the surrounding site. The applicant has been working with local community members and City staff to modify the original proposal to ease concerns in the neighborhood related to density.

The developer received additional financing through an existing Tax Increment Financing District established in 2009. The terms of the McAuley Place district are noted below. The TIF was created to assist in the renovation of the Motherhouse. The terms and boundaries of the district will not be adjusted.

Duration: 30 year term (FY10 thru FY29)
Percentages: 60% to Recipient; 40% to City General Fund
Location: 605 Stevens Avenue

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

The City Council must authorize the use of HOME funds for housing development projects.

III. INTENDED RESULT

Investment of $462,262 of HOME Program funds to assist in the historic preservation of the Motherhouse building with the development of 88 rental units for households 55 years or older with 66 of these units to be reserved as affordable to low-income seniors earning 50% - 60% of AMI. The remaining 22 units will be rented at market rates.

IV. COUNCIL GOAL ADDRESSED

Promote housing production by removing regulatory barriers, providing or expanding financing programs and investigating the use of City owned land for housing purposes.

Portland's future development should enhance and balance the city's needs for adequate and affordable housing, a diversified tax base by promoting commercial and industrial development and being the home for a large array of educational, recreational, cultural and artistic institutions.

V. FINANCIAL IMPACT

HOME funds request: $426,262, 0% interest rate loan, deferred for 30 years or until the sale or transfer of the property.

City Investment/unit $16,225.25 City Investment/sq ft $12.47

VI. STAFF ANALYSIS

As part of the RFP process the City received two applications for housing projects. Both proposals are quality projects that are in line with the City's goals for housing. However, the Motherhouse received more points during the review process in part because the project was considered to be more ready to use the funds and the site would provide affordable housing in a relatively affluent neighborhood that lacks this type of housing stock. In order to remain feasible

the Motherhouse project requires that their request be fulfilled without a significant reduction in funds. Because they scored best according to the City's criteria staff recommends awarding the Motherhouse project their full request at $426,262 of HOME funds.

As part of the Maine State Housing Authority's (MSHA) Qualified Allocation Plan (QAP) application due in October, the developers are requesting letters of commitment of support for their projects prior to the September QAP submission deadline. If the Committee agrees with the staff recommendation, this letter would be conditioned on the completion of all standard commitment requirements, and the following additional recommendations:

1. The commitment will be subject to compliance with all HOME Program regulations including, but not limited to, cost allocation, designation of HOME units and compliance with the new HOME Final Rule (effective August 23, 2013) and the Consolidated and Further Continuing Appropriations Acts of 2012 and 2013.

2. The commitment will include the requirement that the environmental review process be satisfactorily completed. The City's agreement to provide funds will be conditioned on the determination to proceed with, modify or cancel the project based on the results of the environmental review.

3. Commitment of funds to be stated as "an amount up to the funding request based on maximization of LIHTC equity raise", to ensure that the City's contribution is leveraged to the maximum extent possible.

4. Documentation acceptable to the City that the acquisition cost is reasonably related to market value. This is a HOME Program requirement.

5. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted and the City reserves the right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.

6. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the committee and the council for review and approval.

A recommendation for City HOME funding from HCDC to the Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Any funding awarded will be contingent on the project's final approval by the Planning Board.

VII. RECOMMENDATION

Staff is recommending approval of this request.

It is requested that the City Council set the Public Hearing on this item for the City Council meeting scheduled on August 3, 2015 at 7:00 p.m.

VIII. LIST ATTACHMENTS

The attachment contains a summary of the Motherhouse HOME funds application and the McAuley Place TIF District Map.

Prepared by:

Tyler Norod, Housing Planner
Housing and Community Development Division

Date: July 8, 2015

Attachment - Developers Collaborative Proposal

City of Portland
Affordable Housing Development
HOME Funds Application
Motherhouse Associates LP
June 12, 2015

DEVELOPERS
COLLABORATIVE

A. Project Summary

The Sisters of Mercy Motherhouse is located at 605 Stevens Ave just south of Morrill's Corner. It has been vacant for almost 10 years, and the sisters have been searching for a viable reuse plan for almost 20 years. The Motherhouse is part of the larger Sisters of Mercy campus, which has been in operation since the 1870s and includes the McAuley School.

John Wasileski of Sea Coast Management has been working with the Sisters for over a decade on redevelopment options, culminating in a contract to purchase all of the existing campus (except St. Catherine's, which will be retained), signed in early 2014. The total redevelopment plan is an active adult, mixed-income retirement community, with ancillary new construction buildings complementing the iconic Motherhouse. The land will be subdivided into up to 5 parcels and developed as market conditions dictate. However, without the Motherhouse redevelopment, the future disposition of the site will remain in question.

The Motherhouse is the first phase of the overall project. It will be an 88 unit 55+ development, with 66 units affordable to low income seniors at 50%-60% area median income (AMI), and with the remaining 22 units at a market-rate of approximately $1,200. The Motherhouse project is a partnership of John Wasileski and Kevin Bunker, two experienced developers who have formed a limited partnership to utilize low-income housing tax credits (LIHTC) as well as state and federal historic credits (HTCs).

The Motherhouse currently sits on a waitlist for the competitive 9% LIHTC credit. However, it is only one of three projects state-wide to be eligible for a special non-competitive walk-in round of 4 LIHTC credits. City HOME funds are necessary because dropping from a 9% competitive credit to a 4% automatic credit causes a funding gap of about $5,000,000, with only $2,500,000 in subsidy to make up the gap. The remainder of the gap must be filled by a variety of sources. We have worked hard to cut over $1,000,000 from the budget, which goes a long way toward filling the gap. Further, we are prepared to defer (forego) $461,002 in developer fee to contribute as a source. The majority of the additional estimated $613,000 is raised by lowering profit, reducing cash flow margins by taking on additional amortizing debt. This leaves a gap of $426,262 that can be filled by City of Portland HOME funds. More information on the sources of financing and the 4% funding round is found throughout, especially in Section 13.

This is a chance to leverage millions of dollars in additional funds for the benefit of Portland and the creation of additional affordable housing units. This is a tremendous opportunity for Portland, as many of the developers competing for the 9% credits are active in Portland; notably Avesta Housing, Community Housing of Maine, Szanton Companies, and Portland Housing Authority, among others. Removing the Motherhouse from the competitive round will not only greatly increase its chances for construction but also enable other Portland projects to move up in the scoring. The 4% offerings are irregular as they depend on other resources and circumstances, but when they come out, they are undeniably a "growing of the pie" of housing resources available to the state. As Portland competes for increasingly scarce state dollars in multiple arenas, in housing and beyond, it is a huge win to be able to capture such a significant chunk of these additional resources to meet its housing needs. In the event the project is not approved in the 4% round, the funds will still be very important in the fall 9% round as scoring increases based on the amount of outside, or "leveraged" funds, a project can bring in.

This project will also save one of Portland's most significant historic buildings and an anchor to the Deering Center Neighborhood and the Stevens Ave. streetscape. The Motherhouse, with its golden dome directly

over an ornate chapel, features incredible architecture that goes far beyond even the impressive historic fabric of most of Portland's historic building stock. The current owner has made efforts, but at some point the deferred maintenance will begin to accelerate, creating a downward cycle that is difficult to reverse.

The project will provide much-needed senior housing. It is probably the case that any application for these funds will demonstrate great need; since all types of affordable housing continue to be desperately needed in the City. However, we propose to directly leverage 88 units with our request (and indirectly leverage more new development), which is a very efficient use of these funds on a per-unit basis. We are also serving multiple income bands with the project; we have units at 50% and 60% of AMI but are also serving a market rate segment with one quarter of the units. More information on this and the economic diversity to be created in this relatively high income part of Portland is found in section 16. Finally, we have already committed to offer a preference to homeless seniors and will be working with Opportunity Alliance to provide services. The Motherhouse will also be 100% smoke-free.

This will be a greener project than any new construction undertaking. It has been said that "the greenest buildings are the ones you don't have to build." It is true that technology has made quite a lot possible in the realm of green new construction. But preservation is an inherently green strategy because the building is already there, and it is well-located. The Motherhouse has an incredible amount of embodied energy latent in its structure, which will be re-used, saving a massive amount of materials that would otherwise be needed to house 88 units of seniors. The Motherhouse is also located on existing infrastructure with capacity, and near two major bus lines.

The Motherhouse site is ideal for redevelopment. There have been some neighbor concerns based on the density of the total project, but we have been working hard to work with those willing to listen that the impacts of senior housing are far less than standard housing units. Traffic for example, is over three times the impact during the peak hour for standard units as it is for seniors. This location is also rare among in-town sites in that is adjacent to two of the City's largest and most-loved open spaces, Baxter Woods and Evergreen Cemetery, which provide amenities for new residents as they help mitigate any impacts on existing ones. We have also worked hard to carefully design and scale buildings around the Motherhouse, making them complementary in size and placing taller buildings far back from the Motherhouse and not visible from the street. The Motherhouse itself will activate this part of Stevens Ave. from a pedestrian perspective, making it more walkable for all. Motherhouse residents will also support the variety of local businesses in the neighborhood and City-wide. Finally, additional density will support efforts to increase transit up major avenues such as Stevens and Forest.

The Motherhouse redevelopment is in tune with many strands of forward-thinking City policy. It is new affordable housing, and reasonable market rate housing, needs noted by the recent GPCOG study, and in a period of ever-increasing rents. It is historic preservation. it supports transit and furthers the goals of the City's Transforming Forest Avenue study, by increasing density and creating a pedestrian-friendly urban node of activity. It is additional density off-Peninsula, in a location that makes sense, which has been a long-held goal of the City. It is a project taken on by proven developers with a track record in the community, and have contributed significant additional resources alongside the City to help to close the funding gap. It is simply the right project, at the right time, and the right use of the City's HOME funds for this year.

Print

Ad

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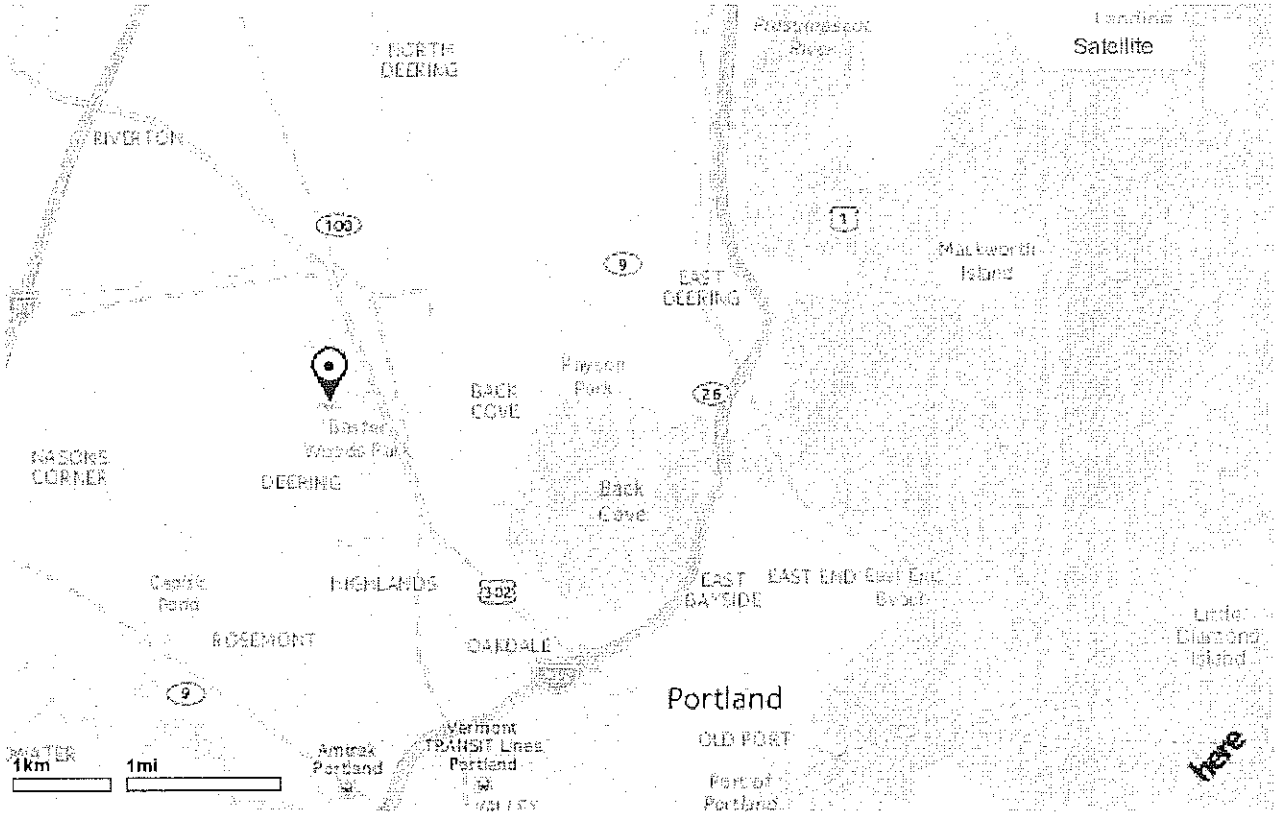
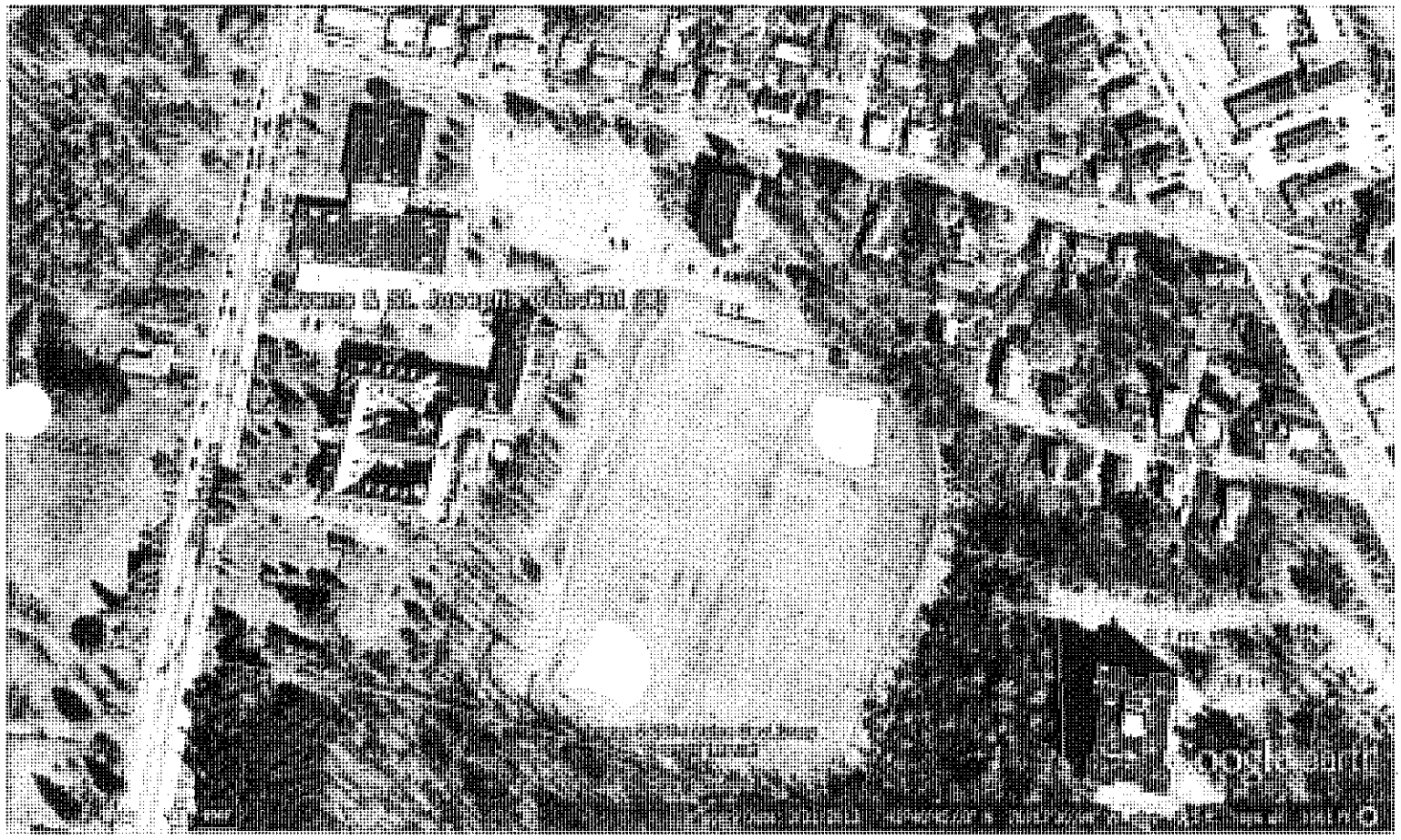
YAHOO! MAPS

605 Stevens Ave, Portland, ME 04103-2661

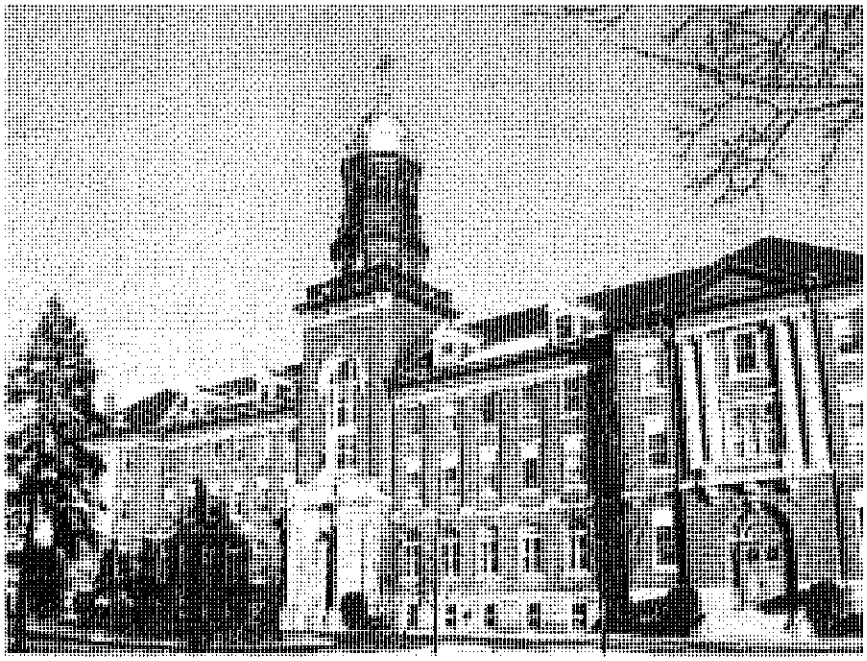
Enter notes here



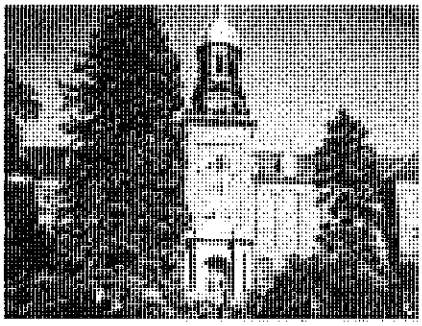
When using any driving directions or map, it is a good idea to double check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning

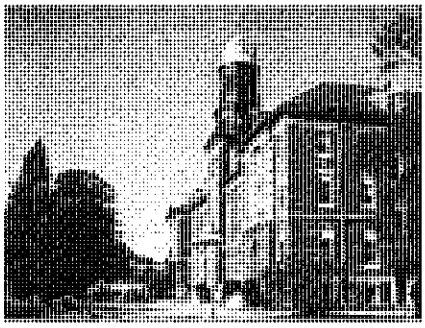


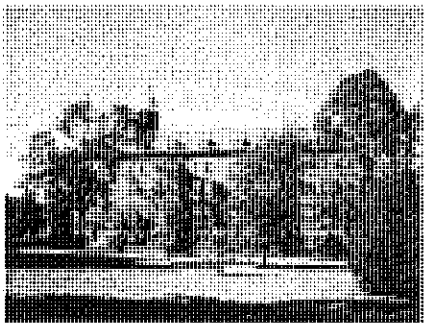
Sisters of Mercy -- St. Joseph's Convent

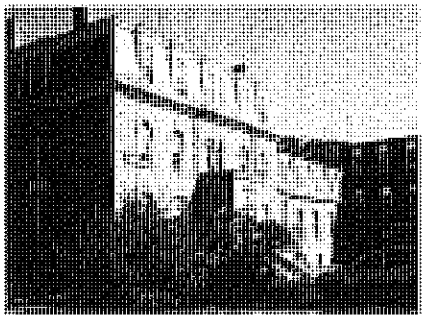


Exterior Views of Motherhouse

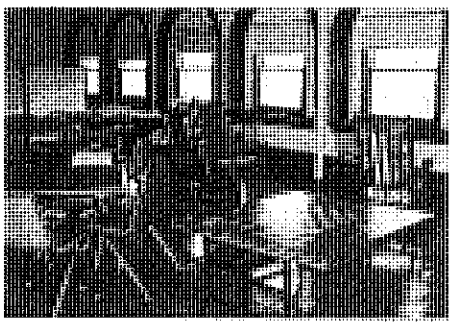


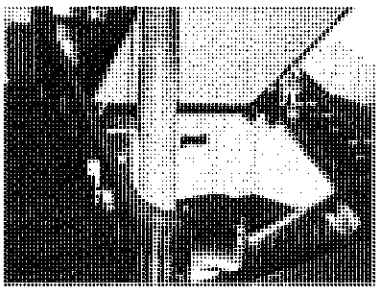


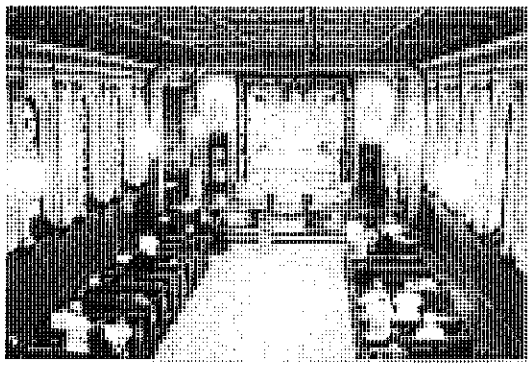


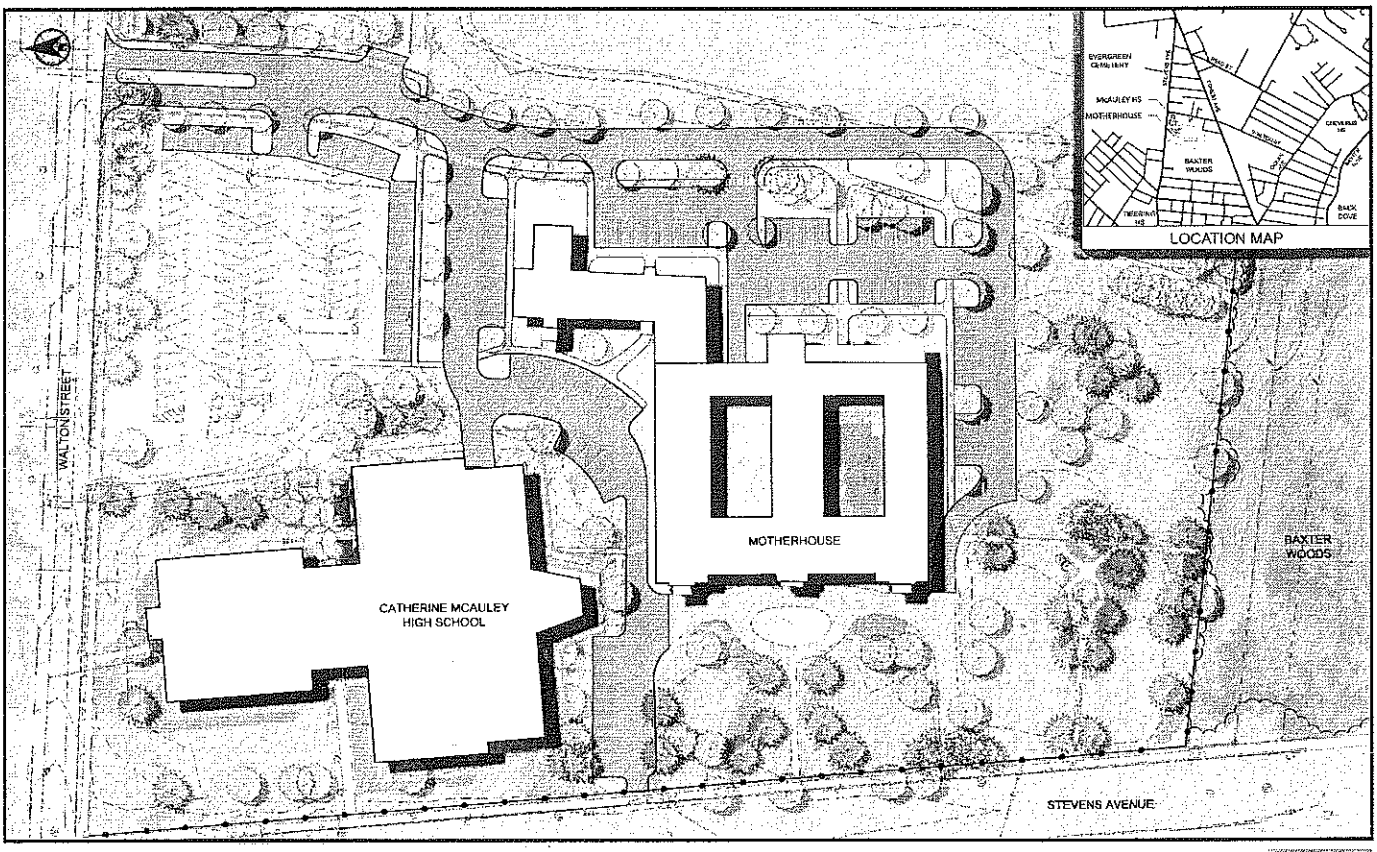


Interior Views of Motherhouse









MOTHERHOUSE SENIOR HOUSING

CONCEPTUAL SITE PLAN

SCALE: 1"=30'-0"

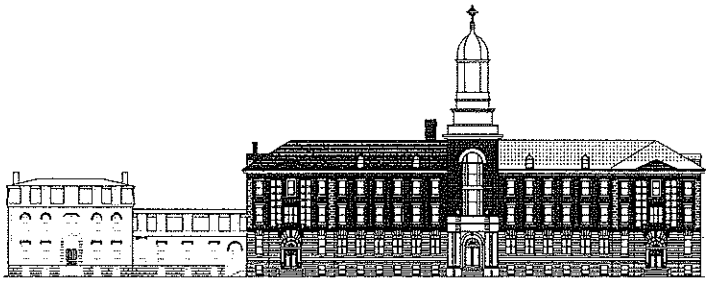
OWNER:

Motherhouse Associates LP
C/O Developers Collaborative
100 commercial St. Suite 414
Portland ME 02101

SISTERS OF MERCY

605 STEVENS AVENUE
PORTLAND, ME

Maine Housing
Maine State Housing Authority



DRAWING LIST

CIVIL DRAWINGS
C-101 AMENDED SITE PLAN

ARCHITECTURAL DRAWINGS
A1.01 FIRST FLOOR PLAN
A1.02 SECOND FLOOR PLAN

A2.01 SOUTH ELEVATION

DATE OF ISSUE

PRE-APPLICATION DRAWINGS – 15 AUGUST 2014
APPLICATION DRAWINGS – OCTOBER 2014

ACCESSIBILITY CODE

SIGNATURES:

OWNER: _____ DATE: _____

ARCHITECT: _____ DATE: _____

CONTRACTOR: _____ DATE: _____

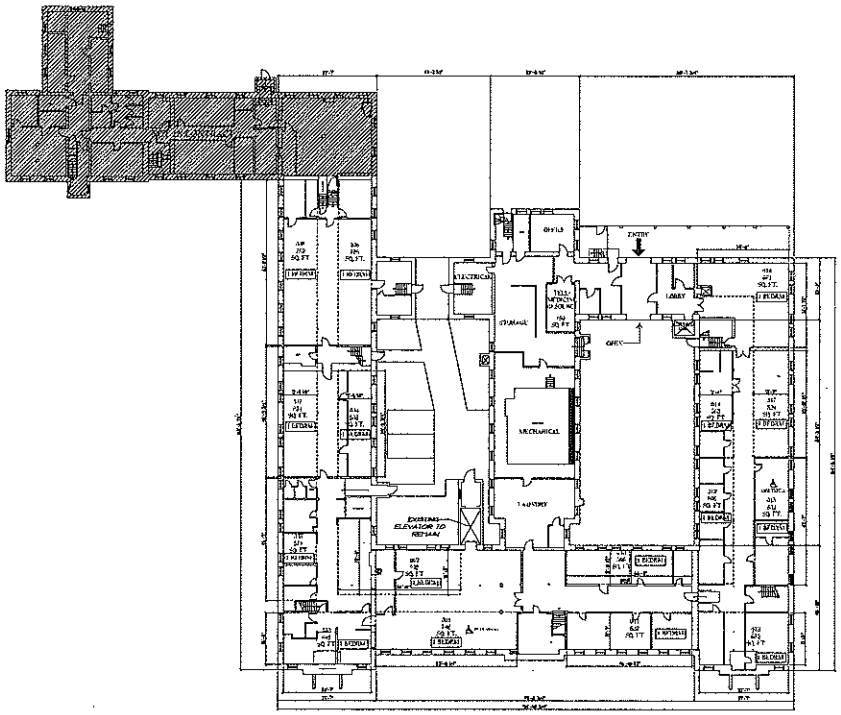
MAINE HOUSING: _____ DATE: _____

CONSTRUCTION LENDER: _____ DATE: _____

CONTACTS

Developer:
Developers Collaborative
100 Commercial Street
Portland, Maine 04101
(207) 854-6805

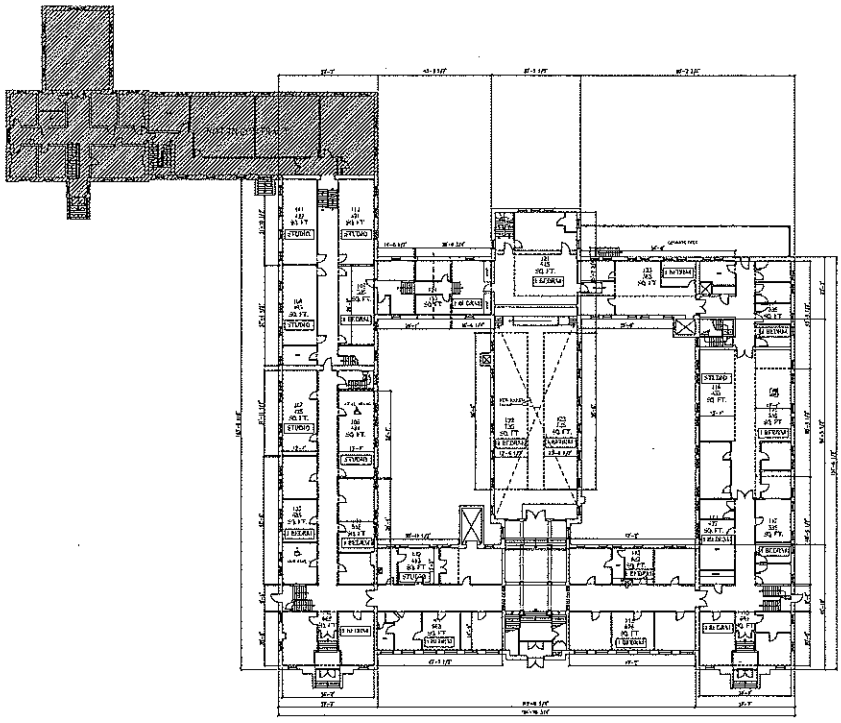
Architect:
Archetype Architects
48 Union Wharf
Portland, ME 04101
(207) 772-6022



GROUND FLOOR PLAN
16 UNITS
16 1 BEDROOM UNITS
GROSS AREA = 34, 047 SQ. FT.
APARTMENTS NET AREA = 10,419 SQ. FT

PROJECT TOTALS
36 UNITS
20 STUDIO UNITS, 16 1 BEDROOM UNITS

Architect: ARCHETYPE Architects, 48 Union Wharf, Portland, Maine 04101, (207) 772-0423 Fax (207) 772-0456
Consulting Engineers:
Owner: Developer:
Project: SISTERS OF MERCY APARTMENTS, PORTLAND, MAINE
Revisions:
Date: 05 July 2012
Scale: 1/4" = 1'-0"
GROUND FLOOR PLAN
A1.01



FIRST FLOOR PLAN

34 UNITS
7 STUDIO UNITS, 27 1 BEDROOM UNITS
GROSS AREA = 24,313 SQ. FT.
APARTMENTS NET AREA = 14,859 SQ. FT

Client: Developer

Consulting Engineer:

Architect: ARCHETYPE
architects
84 Hillcrest Street Portland, Maine 04103
(207) 773-2112 Fax (207) 772-2076

Project: SISTERS OF MERCY APARTMENTS
PORTLAND, MAINE

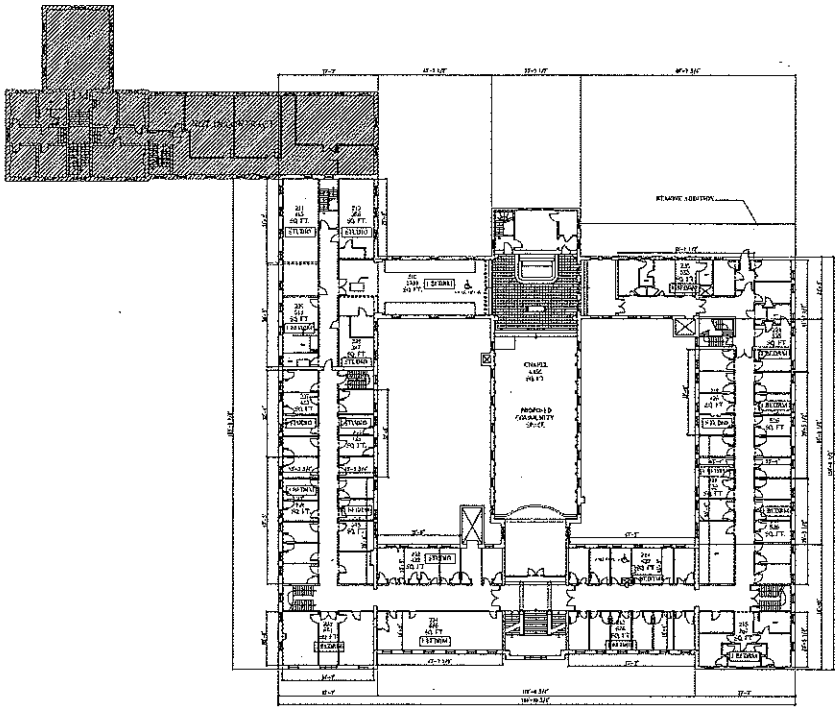
Revisions:

Scale: 1/8" = 1'-0"

Date: 09 July 2012

FIRST FLOOR PLAN

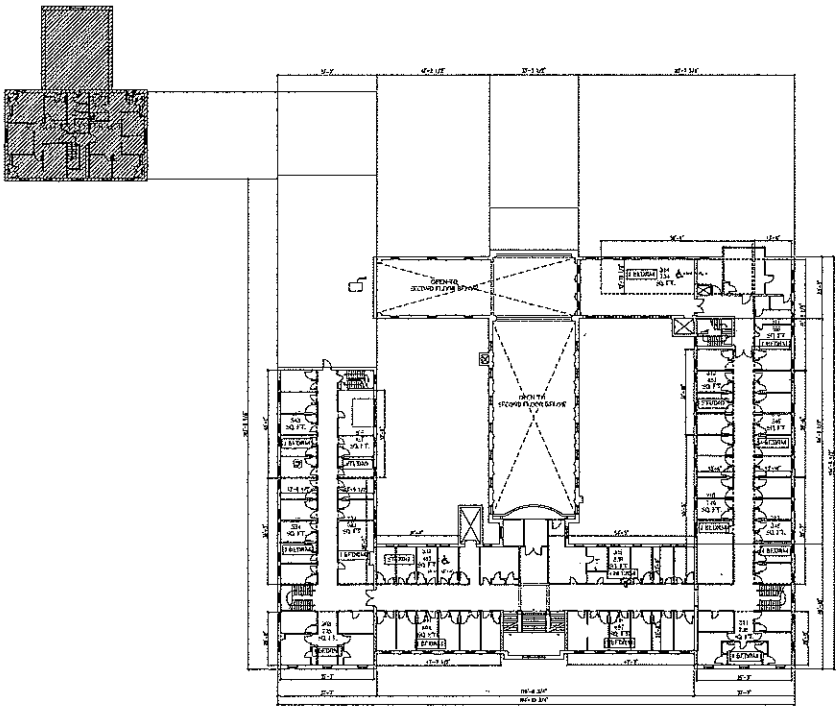
A1.02



SECOND FLOOR PLAN

33 UNITS
7 STUDIO UNITS, 14 1 BEDROOM UNITS
GROSS AREA (INCL. CHAPEL) = 24, 133 SQ. FT.
GROSS AREA (NOT INCL. CHAPEL) = 18, 233 SQ. FT
APARTMENTS NET AREA = 10,664 SQ. FT

Architects: ARCHETYPE ARCHITECTS
Owner:
Developer:
Consulting Engineers:
Project: SISTERS OF MERCY APARTMENTS
PORTLAND, MAINE
Revisions:
Date: 09 July 2012
Scale: 1/8" = 1'-0"
SECOND FLOOR PLAN
A1.03



THIRD FLOOR PLAN

16 UNITS
3 STUDIO UNITS, 13 1 BEDROOM UNITS
GROSS AREA (INCL. CHAPEL) = 31, 018 SQ. FT
GROSS AREA (NOT INCL. CHAPEL) = 16, 535 SQ. FT
APARTMENTS NET AREA = 9,621 SQ. FT

Owner: Block 4 part

Consulting Engineer:

Architect: ARCHETYPE ARCHITECTS 48 Union Wharf Portland, Maine 04101 (207) 772-6823 Fax (207) 772-6824

Project: SISTERS OF MERCY APARTMENTS PORTLAND, MAINE

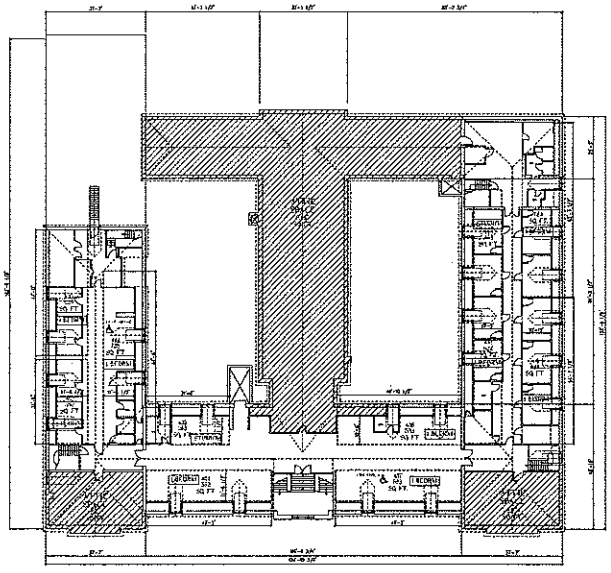
Revisions:

Scale: 1/8" = 1'-0"

Date: 09 July 2012

THIRD FLOOR PLAN

A1.04



FOURTH FLOOR PLAN

11 UNITS
3 STUDIO UNITS, 8 1 BEDROOM UNITS
GROSS AREA (INCL. ATTIC) = 21, 018 SQ. FT
GROSS AREA (NOT INCL. ATTIC) = 13, 275 SQ. FT
APARTMENTS NET AREA = 6,340 SQ. FT

Architect: ARCHETYPE Architects, 48 Union Street, Portland, Maine 04101, (207) 774-6648, Fax (207) 774-6649

Consulting Engineers:

Owner: Developer

Permits: SISTERS OF MERCY APARTMENTS, SOUTH PORTLAND, MAINE

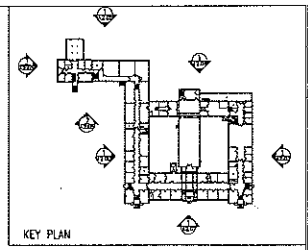
Revisions:

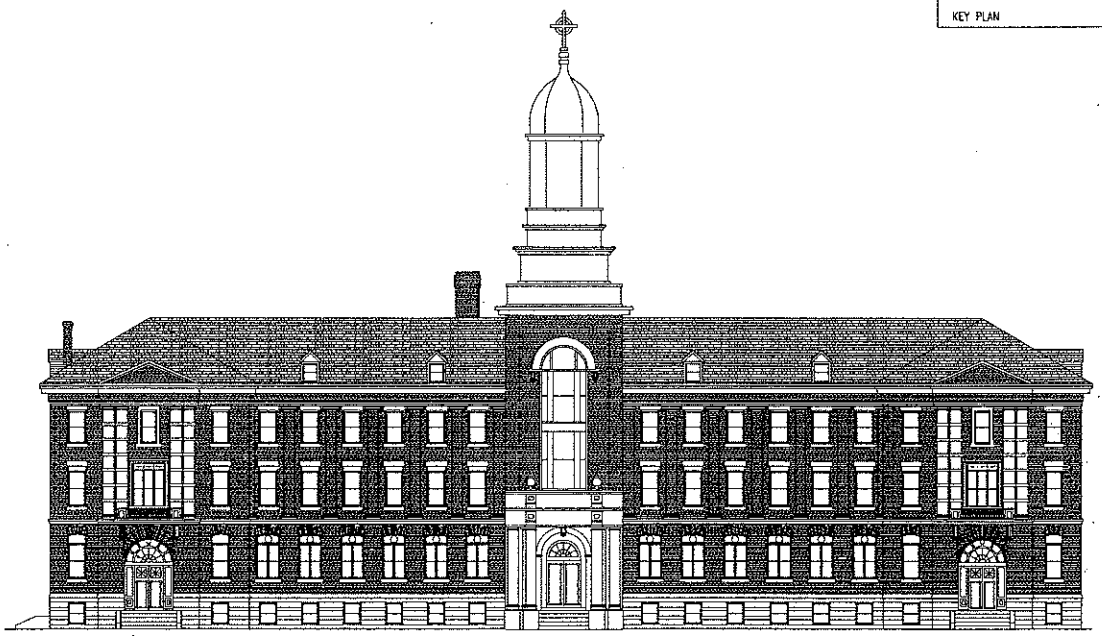
Date: 09 July 2012

Scale: 1/8" = 1'-0"

FOURTH FLOOR PLAN

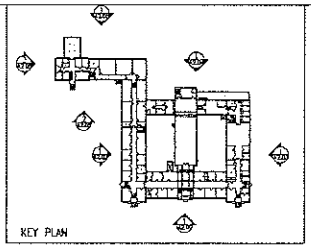
A1.05

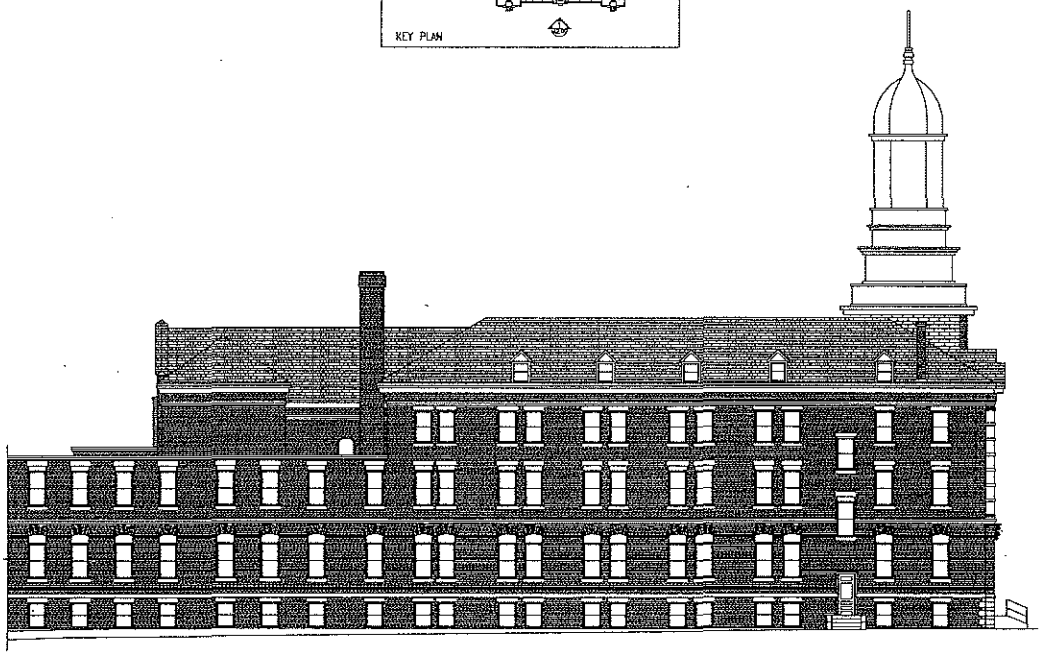




1 | SOUTH ELEVATION

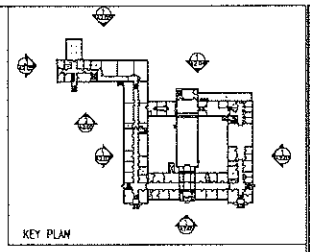
Owner:
Developer:
Consulting Experts:
Architect:
ARCHETYPE
Architects
Project:
SISTERS OF MERCY
APARTMENTS
PORTLAND, MAINE
Revisions:
Scale: 1/8" = 1'-0"
Date: 24 SEP 2014
SOUTH ELEVATION
A2.01





1 | WEST ELEVATION

Architect: ARCHETYPE ARCHITECTS
Consulting Engineers:
Owner:
Developer:
Project: SISTERS OF MERCY APARTMENTS
PORTLAND, MAINE
Revisions:
Scale: 1/8" = 1'-0"
Date: 24 SEP 2010
WEST ELEVATION
A2.02



1 EAST ELEVATION

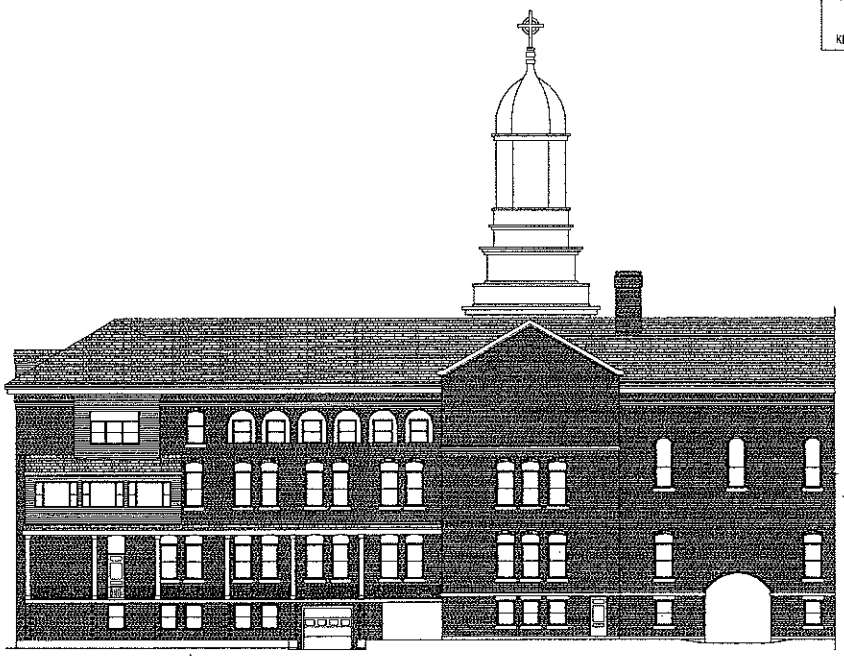
Consultant: ARCHETYPE
49 Dana Street Portland, Maine 04101
(207) 775-6825 Fax (207) 775-6826

Project: SISTERS OF MERCY APARTMENTS
PORTLAND, MAINE

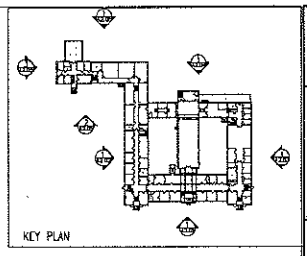
Date: 24 SEP 2014
Scale: 1/8" = 1'-0"

EAST ELEVATION

A2.03



1 NORTH ELEVATION 1



Architect
ARCHETYPE Architects
47 Wilmot Street Portland, Maine 04101
(207) 772-4802 Fax (207) 772-4804

Consulting Engineer

Landscape Developer

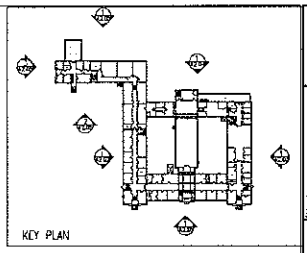
Project
SISTERS OF MERCY APARTMENTS
PORTLAND, MAINE

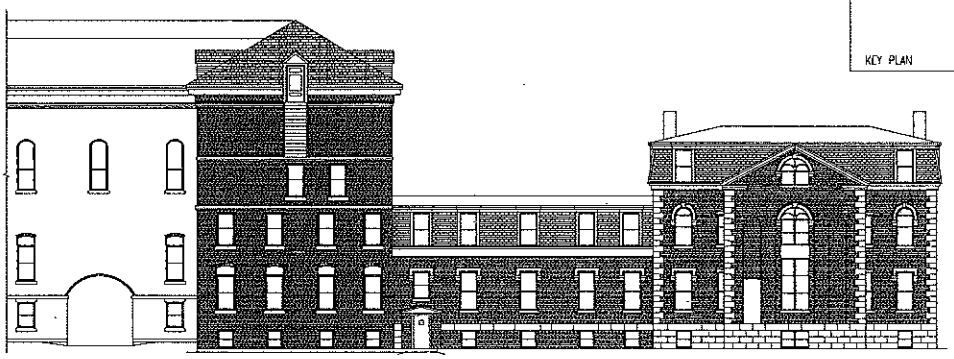
Submissions

Date: 24 SEP 2014
Scale: 1/4" = 1'-0"

NORTH ELEVATION

A2.04





1 NORTH ELEVATION 2

2 WEST ELEVATION

3 SOUTH ELEVATION

Architect: ARCHITYPE
Project: SISTERS OF MERCY APARTMENTS
PORTLAND, MAINE
Drawing Element: ELEVATIONS
Date: 24 SEP 2014
Scale: 1/8" = 1'-0"
A2.05

3) A project schedule showing critical path events and their timeframe for completion.

6/12/15 - Application for HOME funds

6/15/15 - Rezone approval

6/30/15 - Application for LIHTC/RLP (MaineHousing)

8/11/15 - Site Plan and Subdivision Approval

8/15/15 - Notice to Proceed from MaineHousing

11/15/15 - Part 2 HPCA submission

1/15/16 - Part 2 HPCA approval

2/15/15 - Construction Loan Closing

2/16/15 - Construction Start

2/16/16 - Construction Completion

8/16/16 - Full Occupancy

2/16/17 - Stabilized Occupancy

SOURCES AND USES OF FUNDS

SOURCES OF FUNDS	Permanent	Construction Period	Terms/Comments		
Amortizing Debt			Rate	Term	Paymnt
MSHA RLP	3,500,000		5.50%	30	$192,500
Private Financing 15 year					
Credit Enhancement 15-year			5.00%	15	$0
Subtotal Amortizing Debt	3,500,000				$192,500
Soft Debt					
City FedHome	426,262	426,262	-	NPV	
MSHA RLP	2,500,000	1,250,000	0.0%	30	$0
MSHA Part E	-	-			
		-			
Subtotal Soft Debt	2,926,262	1,676,262			
Construction Loan		10,165,200			
Total Debt Financing	6,426,262	11,841,462			
Deferred Developer Fee	461,002				
LIHTC Syndication Proceeds	2,555,415	504,605			
Federal Historic Credit Proceeds	2,508,771	495,395		Total Fed	5,064,186
State Historic Credit Proceeds	3,597,469	719,494	2,877,976	Total Hist	6,106,241
TOTAL SOURCES	15,548,919	13,560,956			

USES OF FUNDS	Total	Construction Period
Acquisition/Demo	515,999	515,999
Construction	11,268,242	11,268,242
Soft Costs	845,010	845,010
Financing Fees	312,500	312,500
Other Soft Costs	177,205	177,205
Development Fee	1,831,002	442,000
Reserves	598,962	-
TOTAL USES	15,548,920	13,560,956
DEVELOPMENT CONTINGENCY (GAI	**(0)**	-

MOTHERHOUSE SENIOR HOUSING

DEVELOPMENT BUDGET AND LOW INCOME HOUSING TAX CREDITS				Office % 0.000%	
Development Budget	**Total**	**4% Basis**	**9% Basis**	**Historic**	
ACQUISITION/DEMOLITION		-			
Land	103,200				
Buildings	412,799	412,799	-		
Demolition	-	-	-		
Subtotal Acquisition/Demo	515,999	412,799	-		
CONSTRUCTION	-				
Site Work	625,039	-	625,039	84,225	
Gen'l Requirements		-	-		
Structures	9,448,817		9,448,817	9,298,317	
OH & P			-		
Construction Contingency	1,024,386		1,024,386	870,728	
Bond			-	-	
Abatement	170,000		170,000	170,000	
	-		-	-	
				-	
Subtotal Construction	11,268,242	-	11,268,242	10,423,270	
SOFT COSTS					
Permits & fees	90,000		90,000	90,000	
Engineer/Survey	70,000	-	70,000	70,000	
Architect	430,000	-	430,000	430,000	
Real Estate Attorney	75,000		75,000	75,000	
Title Insurance & Recording	12,000		12,000	12,000	
Accounting/ Cost Certification	20,000	-	20,000	20,000	
Soft Cost Contingency	20,010		20,010	20,010	
TIF Consultant	8,000		8,000	8,000	
Const. Taxes & Insurance	120,000		60,000	60,000	
Subtotal Soft Costs	845,010	-	785,010	785,010	
FINANCING EXPENSES					
Constr. Loan Orig. Fee	127,000	-	127,000	127,000	
Construction Legal & Inspection	-		-	-	
Construction Interest	112,500	-	112,500	112,500	
Other Financing Expenses	-				
Perm. Loan Orig. Fee	73,000	-	-		
Subotal Financing	312,500	-	239,500	239,500	
OTHER SOFT COSTS					
Market Study	5,000		5,000	5,000	
Property Appraisals	10,000		10,000	10,000	
Environmental Report & Testing	20,000	-	20,000	20,000	
Construction Oversight	-		-	-	
Historic Consultant	25,000		25,000	25,000	
Tax Credit Fees	49,205		-	-	
FFE	60,000		60,000		
Organizational Legal	8,000			-	
Subtotal Other	177,205		120,000	60,000	
DEVELOPER'S FEES					
Developer's Ovhd. & Profit	1,831,002	-	1,831,002	1,831,002	
Consultant		-	-		
Subtotal development fees	1,831,002	-	1,831,002	1,831,002	
PROJECT RESERVES					
Rent Up & Marketing Reserve	50,000	-	-	-	
Operating Reserve	370,981	-	-	-	
Replacement Reserve	100,316	-	-	-	
Prepaid Taxes & Insurance	77,665	-	-	-	
Prepaid Monitoring	-	-		-	
Subtotal Reserves	598,962	-	-	-	
TOTAL PROJECT COST	15,548,920	412,799	14,243,754	13,338,782	
ELIGIBLE BASIS		412,799	14,243,754		
LESS FEDHOME			-	Fed Historic	State Historic
LIHTC ELIGIBLE BASIS			14,243,754	13,338,782	13,338,782
APPLICABLE FRACTION	75.00%		less fed HTC	20%	31%
QUALIFIED BASIS		309,599	11,575,997	2,667,756	4,135,022
QUALIFIED CT ADJUSTMENT	100%		8,681,998		
CREDIT PERCENTAGE		3.19%	3.19%		
ANNUAL LIHTC ELIGIBLE		9,876	276,956	95.00%	87.00%
			286,832		
ANNUAL LIHTC ALLOCATED			286,832		
NET PROCEEDS	90.00%	98.99%	2,555,415	2,508,771	3,597,469

MOTHERHOUSE SENIOR HOUSING

Affordability Analysis & Rent Schedule

Affordable Rents

Unit Type	HHLD Size	Fed Home	LIHTC Rent	UA	Max. Net Rent
0 BR @ 50%	1		675	37	$638
1 BR @ 50%	1.5		723	45	$678
2 BR @ 50%	3		867	54	$813
3BR @ 50%					
4 BR@ 50%					
0 BR @ 60%	1		810	37	$773
1 BR @ 60%	1.5		867	45	$822
2 BR @ 60%	3		1,041	54	$987
3BR @ 60%					
0 BR Market	1		817	37	$780
1 BR Market	1.5		1,194	45	$1,149
2 BR Market	3		1,400	54	$1,346

Rent Schedule

Unit Type	# Units	Net Rent	Utility Allow.	Gross Rent	Afford. @ % Med. Inc.
0 BR @ 50%	9	$638	37	$675	
1 BR @ 50%	31	$678	45	$723	
2 BR @ 50%	0	$813	54	$867	
3 BR @ 50%					
0 BR @ 60%	5	$773	37	$810	
1 BR @ 60%	21	$822	45	$867	
2 BR @ 60%	0	$987	54	$1,041	
3 BR @ 60%					
0 BR Market	6	$780	37	$817	
1 BR Market	16	$1,149	45	$1,194	
2 BR Market	0	$1,346	54	$1,400	
TOTAL	88				

Bedroom Mix	0 BR	1 BR	2 BR		Total
	20	68	0		88

Income Mix		50%AMI	60%AMI	Market	Total
Number		40	26	22	88
Percent		45%	30%	25%	

MOTHERHOUSE SENIOR HOUSING

Operating Income & Expense			
Effective Gross Income		**Monthly**	**Annual**
Gross Potential Rental Income		70,951	851,412
Less Vacancy & Collection Loss	5.0%	(3,548)	(42,571)
TIF Income		4,173	50,078
Effective Gross Income		71,577	858,919

Annual Expenses	**Per Unit**	**Total**
ADMINISTRATIVE EXPENSES		
Management Fee	597	52,575
Legal	54	4,000
Audit	91	8,000
Marketing	100	8,800
Site Manager	244	21,500
Resident Services	352	31,000
Subtotal Administrative	1,430	125,875
OPERATING EXPENSES		
Water/Sewer	300	26,400
Electric	225	19,800
Heat/HW	725	63,800
Subtotal Operating	1,250	110,000
MAINTENANCE		
Building Maintenance	975	85,800
Janitorial	300	26,400
Supplies/Exterminating	180	15,840
Painting/Decorating	75	6,600
Grounds	325	28,600
Snow Removal	275	24,200
Trash Removal	175	15,400
Subtotal Maintenance	2,305	202,840
GENERAL EXPENSES		
Property taxes	948	83,463
Insurance	350	30,800
General Expenses	300	26,364
Subtotal General	1,598	140,627
REPLACEMENT RESERVE		
Housing	450	39,600
TOTAL RESERVES		39,600
TOTAL EXPENSES PLUS RESERVES	7,033	618,942

Net Income Calculation	**Annual**
Net Operating Income	239,978
Debt Service	$192,500
Cash Flow	47,478
Debt Service Coverage	1.25
Cash Flow as % of Expenses	7.7%
Cash Flow PUPA	540

Income/Expenses ratio
1.39

MOTHERHOUSE SENIOR HOUSING

15-YEAR PROFORMA OPERATING INCOME AND EXPENSE STATEMENT

	Trend Rate	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
			2%	2%	2%	2%	2%	2.5%	2.5%	2.5%	2.5%	2.5%	3%	3%	3%	3%	3%
INCOME	2.00%																
Gross Rental Income	2.00%	425,709	861,412	868,440	885,809	903,525	921,596	944,636	968,252	992,458	1,017,269	1,042,701	1,073,982	1,106,201	1,139,388	1,173,569	1,208,776
Office	2.00%																
Vacancy & Collection Loss	5.00%	(21,285)	(42,571)	(43,422)	(44,290)	(45,176)	(46,080)	(47,232)	(48,413)	(49,623)	(50,863)	(52,135)	(53,699)	(55,310)	(56,969)	(58,678)	(60,439)
TIF Income	2.00%	-	50,078	51,079	52,101	53,143	54,206	55,290	56,396	57,524	58,674	59,848	61,045	62,265	63,511	64,781	66,077
EFFECTIVE INCOME		404,421	868,919	876,098	893,620	911,492	929,722	952,694	976,236	1,000,359	1,025,080	1,050,414	1,081,327	1,113,157	1,145,929	1,179,672	1,214,414
EXPENSES																	
Administrative	3.00%	89,112	125,875	129,651	133,540	137,547	141,673	145,923	150,301	154,810	159,454	164,239	169,165	174,240	179,467	184,851	190,397
Operating	3.00%	77,000	110,000	113,300	116,699	120,200	123,806	127,520	131,346	135,286	139,345	143,525	147,831	152,266	156,834	161,539	166,385
Maintenance	3.00%	141,989	202,840	208,925	215,193	221,649	228,298	235,147	242,202	249,468	256,952	264,660	272,600	280,778	289,201	297,877	306,814
General	3.00%	98,439	140,627	144,846	149,191	153,667	158,277	163,025	167,916	172,953	178,142	183,486	188,991	194,661	200,500	206,515	212,711
Replacement reserve	3.00%	27,720	39,600	40,788	42,012	43,272	44,570	45,907	47,284	48,703	50,164	51,669	53,219	54,816	56,460	58,154	59,899
TOTAL EXPENSES		433,259	618,942	637,510	656,635	676,334	696,624	717,523	739,049	761,220	784,057	807,579	831,806	856,760	882,463	908,937	936,205
NET OPERATING INCOME		(28,839)	239,978	238,588	236,984	235,158	233,097	235,171	237,186	239,138	241,023	242,835	249,522	256,397	263,466	270,735	278,209
DEBT SERVICE		96,250	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500	192,500
CASH FLOW		(125,089)	47,478	46,088	44,484	42,658	40,597	42,671	44,686	46,638	48,523	50,335	57,022	63,897	70,966	78,235	85,709
			540	524	506	485	461	485	508	530	551	572	648	726	806	889	974

13) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.

Funding Sources Overview

MaineHousing has made complete, one-stop walk-in, non-competitive packages available for three specific projects, one of which is the Motherhouse. All housing-related sources are included in this package and are therefore committed when the application is accepted. Our application has been uploaded to MaineHousing and we can finalize it as soon as we are advised of the status of this HOME funds application. Upon Notice to Proceed from MaineHousing, we can then proceed directly to detailed design and land use approvals. The non-housing related sources include Historic Tax Credits (HTCs), and Deferred (Contributed) Developer Fee. The HTCs are automatically available as long as preservation guidelines are adhered to and the Deferred Developer Fee is hereby a commitment of the Applicant. City HOME funds are proposed to be loaned into the project on a 30 year deferred basis with a junior mortgage.

The following sources will comprise the capital stack for the Motherhouse redevelopment:

MaineHousing Amortizing Debt	3,500,000
City of Portland HOME Funds	426,262
MaineHousing Bond Funds	2,500,000
Deferred Developer Fee	461,002
LIHTC Equity	2,555,415
Federal HTC Equity	2,508,771
State HTC Equity	3,597,469
TOTAL	15,548,919

More information on the specific sources of financing are below.

Kevin Bunker of Developers Collaborative has great experience raising capital to finance projects of this type. As noted elsewhere, he is Maine's most experienced historic tax credit developer. He is also the second largest LIHTC developer, behind only Avesta Housing. Except for projects currently on the MaineHousing 9% waitlist, he has a 100% success rate financing 9% projects (8-for-8) and additionally has financed two 4% projects. All told, he has personally closed financing on 329 LIHTC affordable units, from Waterville to Biddeford.

1. Low Income Housing Tax Credits (LIHTC):

This is where the Motherhouse is far more ready to proceed than any other tax credit project. This is because it has been approved for a special non-competitive "walk-in" round at

MaineHousing, and if application for HOME funds is successful, will not have to be competitively scored against other projects.

The project was originally conceived a "9% competitive" LIHTC project, like many others with which you may be familiar. These projects are scored at the state level and are very competitive; it is not uncommon to fail 2 or 3 times before being funded, if funding is to be available at all. The project does currently sit on the 9% wait list, along with 7 other projects. Absent another funding source, it will have to compete again with these projects as well as all the new projects which will be submitted in the annual fall funding round. 9% credits are sharply limited by a state's population and only provide enough equity to build perhaps 5 projects per year, despite providing about 70% of the equity needed to build a typical project.

However, a special funding round was recently issued by MaineHousing which will enable the housing to be built now, without the uncertainty and time associated with a competition. This round is for "4% automatic" LIHTCs. These are a much weaker credit than the 9%s, providing perhaps 30% of the equity needed, but they are unlimited; MaineHousing may issue as many as they want. They are limited in practice by the need to pair them with significant additional subsidy resources. MaineHousing has issued an automatic walk-in RFP for these matching funds, and will commit up to $2,500,000 per project. There is a cap on the total subsidy offering of $5,000,000 but MaineHousing has stated that if demand runs past this cap, they will try to find the money to do all the projects.

Only three projects are eligible for this money: a project in Yarmouth, a project in Westbrook, and the Motherhouse. These projects were chosen off the waitlist specifically for their financial feasibility relative to the rest of the wait list; each has resources attached to it that make MaineHousing's limited resources leverage much more effectively. In the Motherhouse's case it is the availability of state and federal historic tax credits.

We have included a Letter of Intent from Northern New England Housing Investment Fund (NNEHIF) to purchase both the LIHTC and federal Historic credits in this section. The Limited Partner will purchase these credits and form 98.99% of the Limited Partnership that will own the project.

2. Federal Historic Tax Credits (FHTC):

The Motherhouse has been deemed eligible to be listed on the National Register of Historic Places, and therefore eligible for FHTCs. We have included a copy of this determination as well as the Letter of Intent from NNEHIF to purchase these credits.

3. State Historic Tax Credits (SHTC):

These credits "piggyback" on the FHTC in the sense that the physical requirements are the same: an eligible building, and compatible construction. However they structured differently from a financial perspective, using a Special Limited Partner (SLP) that will form 1.00% of the ownership entity. This entity will then receive a MaineHousing bridge loan that will serve as the SHTC equity

component. More information on this arrangement is included in the Letter of Intent described above.

4. MaineHousing Tax-Exempt Bonds:

MaineHousing has made up to $2,500,000 per project in bond proceeds available to match the 4% LIHTCs and this money is available on a walk-in basis.

5. MaineHousing Amortizing Debt:

MaineHousing's standard underwriting guidelines dictate the amount of amortizing debt a given project can support. This debt is automatically available with the financing package of LIHTCs and Tax Exempt Bonds.

6. Deferred Developer Fee:

The project developers have committed to defer an amount of fee equal to the amount of HOME funds received and are thereby investing alongside the City. A letter evidencing this commitment is included in this application.

7. Construction Loan:

The loan will be administered by MaineHousing as well and is automatically available with the financing package of LIHTCs and Tax Exempt Bonds. It will be taken out at Permanent Loan Closing (PLC).

14) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services.

The Motherhouse has committed to maintain a waitlist preference for seniors who are homeless. The service provider will be The Opportunity Alliance (OA), a local non-profit. A letter from OA is included in this Section. These services will be performed by existing OA staff and as such will be funded by OA out of their general operating budget.

The Motherhouse Project will serve low-income tenants, and as such, make resident services available to those tenants at no charge. Those services will be administered by Avesta Housing. More information on the Resident Services Plan, as well as the commitment, is found in this section. These services will be funded out of the operating budget for the project and can be found as such. The estimated annual cost is $31,000 per year.

16) An analysis and discussion of market demand justifying the need for the proposed project.

This project fully meets all the criteria in the scoring category "Proposed use of funds to achieve the City of Portland's goals and address demonstrated need". Information on the first two, market demand and economic diversity, is found here. Information on smoking prohibition is found in Section 15 (management).

There is overwhelming demand for affordable senior housing in the Portland market. Included in this section is a market study conducted last fall for the project. From the study:

> *In order to achieve full occupancy, the project must capture 0.6% to 4.6% of the total income-eligible senior rental market in the region (varies by bedroom size depending rent, target population, and subsidy arrangement).*
>
> *Because the project is new, and will have the latest appliances and design elements; because the site is ideal for senior housing, combining a rural-type setting with urban services; because existing capacity is full, and vacancy rates in senior projects is 1.2%; because it is serving a population group that is growing by 170 households a year in this decade; we project that the project will capture 25% of area movers in the appropriate income, age, and household size categories (for the tax credit units), and achieve full occupancy within 6 months.*

More information is included in the study, but generally speaking, the project will not even make much of a dent in the demand. This is consonant with the GPCOG's recent study performed on behalf of the City and entitled, "Portland: 2030 Workforce Housing Demand".

While this study did not specifically target 55+ housing, perhaps its key conclusion which has begun to drive policy in the City is that median income housing (100%-120% AMI) is in short supply and appears to be a gap in the market; only the upper and lower ends are really being served at all. The 22 market-rate units in the Motherhouse are targeted at this band, with projected rents of $1,149 per month. This is above the 100% AMI 2013 rent of $911 as found in the GPCOG study, but found to be the achievable rent in our market study. The achievable rent is strongly encouraged by MaineHousing as it supports a higher level of debt, and therefore requires less subsidy for the affordable units.

Recent senior housing developments in the area have garnered some attention but are not targeted at the same population. The new planned community on Ocean Ave is an entirely different market segment, and Park Danforth and Deering Pavilion, two sites recently upzoned to R-6A, serve different bands as well. Park Danforth is mixed income like the Motherhouse, but the affordable units serve a much deeper affordability (30% of income, no matter how low) and the market-rate units are currently listed at between $2,205 and $3,642 per month, much higher than the market-rate units in the Motherhouse. Deering Pavilion is a HUD Section 8 development, meaning it serves a much lower income band than the Motherhouse, much like the affordable units at Park Danforth. Therefore, despite the new proposals, nothing at all is being built for seniors from 50% AMI all the

way up to 120% or so of AMI, and the Motherhouse is targeted directly at this segment, filling which has been identified as a high priority action item for the City.

This project also supports the economic diversity goals of the City. The Deering Center neighborhood is relatively affluent compared to the City as a whole. Census Tract 19, which boundaries do not exactly correspond with the neighborhood but roughly align with it, had a median household income of $54,958 in 2013, significantly (23.6%) higher than the City figure of $44,458.

Further, this census tract had the 5th lowest poverty rate (10%) of all of Portland's 20 tracts. 2 of the 4 tracts that had an even lower poverty rate than this tract were adjacent to it: Tract 18 (4% poverty, starts across the street from the project), and Tract 17 (8% poverty, starts at Woodford Street, just below the project). This is contrasted with Portland's Peninsula tracts which have poverty rates as high as 54% (Tract 5, East Bayside/India Street) and 47% (Tract 6, Bayside).

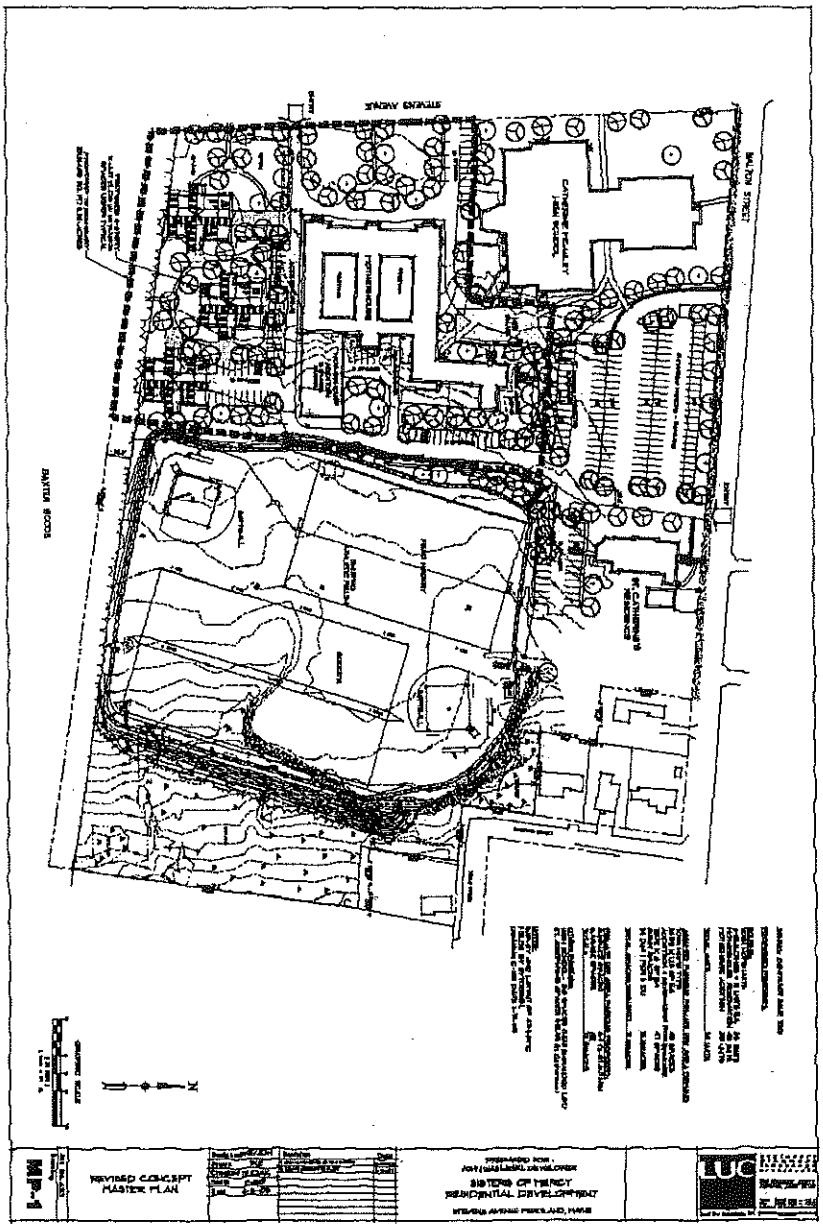
The City's economic diversity goals will also be served by locating affordable housing in an area with relatively high housing prices, and relatively high owner-occupied rates. Tract 19 has a higher median home price ($10,000 higher) and percentage of owner-occupied units (57% vs 45%) than the City as a whole.

Attachment - McAuley Place TIF District Map

EXHIBIT B

PROPERTY DESCRIPTION AND CONFIGURATION OF DISTRICT

The McAuley Place Municipal Development and Tax Increment Financing District is located in Portland, Maine and consists of the portion of the parcels (Tax Map 136-E-6, 143-F-4 and 144-B-1) shown on the Plan of the District, a copy of which is attached hereto. The District does not include the portion of such parcels that comprises St. Catherine's Residence, Catherine McAuley High School or the athletic fields.



Order 36-15/16
Tab 33 9-20-15

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 ALLOCATING $136,961 IN HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS TO PORTLAND HOUSING DEVELOPMENT CORPORATION FOR A HOUSING PROJECT AT 58 BOYD STREET

ORDERED, that $136,961 in the HOME Investment Partnerships Program (HOME) Funds is hereby allocated to Portland Housing Development Corporation (PHDC) for an affordable housing project at 58 Boyd Street, contingent on the final approval of the Portland Planning Board forthe project, on compliance with all HOME program regulations and requirements and on approval of Portland Housing Authority, of which PHDC is a subsidiary, as a Community Housing Development Organization.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: July 8, 2015

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

SUBJECT: Order Authorizing Financial Assistance in HOME Program Funds to the Portland Housing Authority: Mixed-income Rental Housing at 58 Boyd Street, East Bayside.

SPONSOR: Kevin Donoghue, Chair
Housing and Community Development Committee
(Pending Committee approval from their July 8, 2015 meeting)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 20, 2015 **Final Action** August 3, 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)

Tyler Norod, Housing Planner of the Housing and Community Development Division will be available to provide information as requested.

I. SUMMARY OF ISSUE (Agenda Description)

In response to a recent RFP for housing development proposals, The Portland Housing Authority is proposing to construct approximately 48 units of mixed-income rental housing. The project will offer 4 efficiency units, 24 one-bedroom units, 8 two-bedroom units, and 12 three-bedroom units. Within the project, 45% of the units will be available to households earning at or below 50% of the area median income, 40% of the units will be available to households earning at or below 60% of the area median income, and 15% of the units will be market rate. The owner/developer is the Portland Housing Development Corporation (PHDC), a subsidiary of the Portland Housing Authority (PHA).

The review committee supports the positive impact this development will have on the surrounding neighborhood. The project has the potential to be part of a larger multi-phased project that could include up to approximately 90 units of housing. The viability of this larger project will likely depend on the realignment of Franklin Street and its effect on the size of the land immediately adjacent to 58 Boyd Street. The project has been designed in a way to allow for future development should the realignment of Franklin Street make such a project feasible.

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

The City Council must authorize the use of HOME funds for housing development projects.

III. INTENDED RESULT

Investment of $136,961 of HOME Program funds that must be reserved for Community Housing Development Organizations (CHDO) to assist in building 48 mixed-income rental units.

IV. COUNCIL GOAL ADDRESSED

Promote housing production by removing regulatory barriers, providing or expanding financing programs and investigating the use of City owned land for housing purposes.

Portland's future development should enhance and balance the city's needs for adequate and affordable housing, a diversified tax base by promoting commercial and industrial development and being the home for a large array of educational, recreational, cultural and artistic institutions.

V. FINANCIAL IMPACT

HOME funds request: $136,961, 0% interest rate loan, deferred for 30 years or until the sale or transfer of the property.

City Investment/unit = $7,500 City Investment/sq ft - $6.31

VI. STAFF ANALYSIS

As part of the RFP process the City received two applications for housing projects. Both proposals are quality projects that are in line with the City's goals for housing. Although the Portland Housing Authority is not currently certified as a CHDO, staff believes that they are CHDO eligible. As such, staff recommends that the City allocate the full $136,961 in HOME funding reserved for CHDOs to the 58 Boyd Street project with the provision that the Portland Housing Authority become certified as a CHDO organization within the next 12 months.

As part of the Maine State Housing Authority's (MSHA) Qualified Allocation Plan (QAP) application due in October, the developers are requesting letters of commitment of support for their projects prior to the September QAP submission deadline. If the Committee agrees with the staff recommendation, this letter would be conditioned on the completion of all standard commitment requirements, and the following additional recommendations:

1. The commitment will be subject to compliance with all HOME Program regulations including, but not limited to, cost allocation, designation of HOME units and compliance with the new HOME Final Rule (effective August 23, 2013) and the Consolidated and Further Continuing Appropriations Acts of 2012 and 2013.

2. The commitment will include the requirement that the environmental review process be satisfactorily completed. The City's agreement to

provide funds will be conditioned on the determination to proceed with, modify or cancel the project based on the results of the environmental review.

3. Commitment of funds to be stated as "an amount up to the funding request based on maximization of LIHTC equity raise", to ensure that the City's contribution is leveraged to the maximum extent possible.

4. Documentation acceptable to the City that the acquisition cost is reasonably related to market value. This is a HOME Program requirement.

5. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted and the City reserves the right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.

6. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the committee and the council for review and approval.

A recommendation for City HOME funding from HCDC to the Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Any funding awarded will be contingent on the project's final approval by the Planning Board.

VII. RECOMMENDATION

Staff is recommending approval of this request.

It is requested that the City Council set the Public Hearing on this item for the City Council meeting scheduled on August 3, 2015 at 7:00 p.m.

VIII. LIST ATTACHMENTS

The attachment contains a summary of the 58 Boyd Street HOME funds application.

Prepared by:

Tyler Norod, Housing Planner
Housing and Community Development Division

Date: July 8, 2015

Attachment - Portland Housing Authority Proposal

PORTLAND HOUSING DEVELOPMENT CORPORATION

City of Portland, Maine
Affordable Housing Development
HOME Funds Application
2015-2016

58 Boyd Street Apartments

June 12, 2015

Contact:
Jay Waterman
Development Director
Portland Housing Authority
14 Baxter Boulevard
Portland, Maine 04101

PORTLAND HOUSING DEVELOPMENT CORPORATION
14 Baxter Boulevard
Portland, Maine 04101

June 12, 2015

Mary Davis
City of Portland - Housing and Community Development Division
389 Congress Street
Portland, Maine 04101

Subject: 58 Boyd Street Apartments Affordable Housing Development
Response to RFP – HOME Funds 2015-2016

Dear Mary,

Portland Housing Development Corporation is pleased to submit this response to the City of Portland's Affordable Housing Development HOME Funds Application. 58 Boyd Street Apartments is a 48 unit multi-family development in the heart of the East Bayside neighborhood that will compliment our Bayside Anchor project nearby.

This project is one of the first steps in Portland Housing Authority's master planning process looking at the renovation and redevelopment of up to 1000 units of housing throughout Portland and the creation of new affordable housing on under-utilized parcels of land within PHA's portfolio. PHA's East Bayside campus is at the forefront of planning efforts in the area that include a recently awarded Brownfields study grant, the Franklin Street redevelopment study, a Bayside transportation planning study and the East Bayside neighborhood plan.

Portland Housing Development Corporation and the PHA are excited that 58 Boyd Street Apartment will potentially be a part of the growth of this wonderful part of Portland.

Thank you for your consideration.

Sincerely,

Mark B. Adelson, President

Project Summary
June 2015

Overview of Development Proposal
Portland Housing Development Corporation is initiating the next phase of development in the East Bayside neighborhood to continue to strive for one of our strategic planning goals of increasing the supply of affordable housing in the City of Portland, while utilizing the newly zoned R-7 that was approved during the Bayside Anchor planning process.

It is important to note that Portland Housing Authority is implementing a master planning process for its entire portfolio of almost 1000 units of housing across Portland. We have engaged with the planning and design firm Utile, from Boston, and are creating an inventory of existing properties, their conditions, the potential for renovation or re-development and various financing opportunities.

Unit Mix and Affordability
We are proposing to develop a 48 unit mixed-income multi-family apartment building for families with the following tentative unit mix:
Efficiency – 4 units; 1-bedroom – 24 units; 2-bedroom – 8 units; 3-bedroom – 12 units
TOTAL - 48 units

45% of the units will be for households making at or below 50% of the Area Median Income (about $38,550 for a family of 4). 40% of the units will be for households earning up to 60% AMI. 15% of the units will be market rate.

The project will have a homeless or disabled preference for 20% of the units and between 25% and 50% of the units are targeted for project based vouchers.

Responsive of the Proposal to Selection Criteria

Criterion 1 - Achieving City Goals and Addressing Demonstrated Need
Market demand – Please see our market demand analysis in Tab B.16 (Hard copy Tab 13) that demonstrates the inadequacy of the existing supply of apartments to meet demand.

Economic diversity - Our program includes seven market rate units (15%) in a census tract that had 54% of its residents living below the poverty line as of the 2010 Census. We have also discounted our market rate rents from 10%-15% below what a recent market study showed for market-rate rents. By doing this, we are trying to reach the "workforce housing" households that the City is targeting in their recent housing needs study. Remaining units are targeted to households earning 50% and 60% of area median income allowing for additional income diversity.

No smoking - 58 Boyd Street Apartments will prohibit smoking in units and interior common areas as well as having a non-smoking clause in tenant leases. Additional information on management's smoking policy can be found in Tab B.9 (Hard copy Tab 9).

Criterion 2 - Financial Feasibility
The financial projections included herein have been developed directly with our architectural design team and looking at current development and operating budgets of acive projects. Hard and soft costs of

development are based on both the specifics of the conceptual plans as well as experience with comparable developments in Portland. Operating expenses are consistent with area developer experience and using data from partners on the Bayside Anchor project. Rents are 11% to 64% below market (ensuring a strong competitive position within the market). Finally, the financial projections - including prefunded replacement and operating reserves - conform to MSHA underwriting standards and the project characteristics should yield an extremely competitive application in the upcoming LIHTC round at MSHA.

Criterion 3 - Applicant Ability and Project Readiness

The development team assembled for 58 Boyd Street Apartments features many of the most experienced and capable players in affordable housing in Portland and Maine.

Owner/Developer **PHDC** is the development subsidiary of Portland Housing Authority (PHA) PHA is the largest landlord in Portland and also manages the largest Section 8 program in Maine. **Jay Waterman**, PHDC's Director of Development, brings 6 years of experience as Avesta Housing's Director of Development and another 6 years as a leader in green building construction while a Senior Associate at Thornton Tomasetti, an international engineering and green building consulting firm based in New York. Jay developed one of the recent affordable multi-family communities in the Bayside neighborhood, Pearl Place Phase I.

The project's Management Agent, **Avesta Housing Management Corporation** manages properties and reviews operating budgets for over 2,000 units in Maine including several hundred in Portland. PHDC will work closely with Avesta to ensure a financially viable project for the long-term.

CWS Architects is the premier architectural firm in the Portland area working on the design of multi-family buildings. They are designing the first ever multi-family *Passive House* project in the State of Maine and will use this knowledge to design 58 Boyd Street Apartments to the same standard.

58 Boyd Street Apartments is well positioned to move from planning and design into production upon receipt of City and LIHTC funding. HUD approval for the transfer of the site will be received in advance of the LIHTC award, which will allow for unimpeded progress through the local development review process. The team plans to work through the planning board process during the course of late-Summer and Fall 2015 and will be ready for construction in the summer of 2016.

Criterion 4 - Impact on Surrounding Neighborhood, Design Compatibility and Environmental Issues

The site is located in an existing residential neighborhood with a mix of owner-occupied and rental housing. Multifamily rental is appropriate for and compatible with the site.

58 Boyd Street Apartments' design is consistent with the massing historically found in East Bayside and other residential neighborhoods on the Peninsula. Replacing a relocating office building and Head Start School with a high performance, human-scaled apartment building represents a significant step in the process of restoring the neighborhood fabric that existed in East Bayside before Urban Renewal.

Units are designed to serve the needs of residents with a focus on comfortable temperatures and high air quality. Amenities include community facilities, common laundry room and community/event space.

58 Boyd Street Apartments' design will meet and significantly exceed the City's Green Building Code. The team's design professionals (CWS Architects) are leaders in the *Passive House* ultra-low-energy building movement including Community Housing of Maine's first Passive House building in the State of Maine, scheduled to open in 2016. 58 Boyd Street Apartments employs the *Passive House* principles of plentiful fresh air, passive solar design, superinsulation and airtightness, used in conjunction with highly efficient energy recovery ventilation, to dramatically reduce energy demand and simplify overly complex and expensive multifamily mechanical systems.

58 Boyd St, Portland, ME

Search nearby: hotels·restaurants

58 Boyd St
Portland, ME 04101

Directions Save

Explore this area
Search nearby

Add a missing place

At this location

Traffic, Bicycling, Transit

(Marginal Way), ME

West Marine

E Perry Iron & Metal

Earle W Noyes & Sons
Moving Specialists

Etz Chaim Synagogue /
Maine Jewish Museum

The Cathedral of the
Immaculate Conception

Congress Plaza

58 Boyd St

Coffee By Design

World Gym

Rising Tide
Brewing Company

Kennedy Park

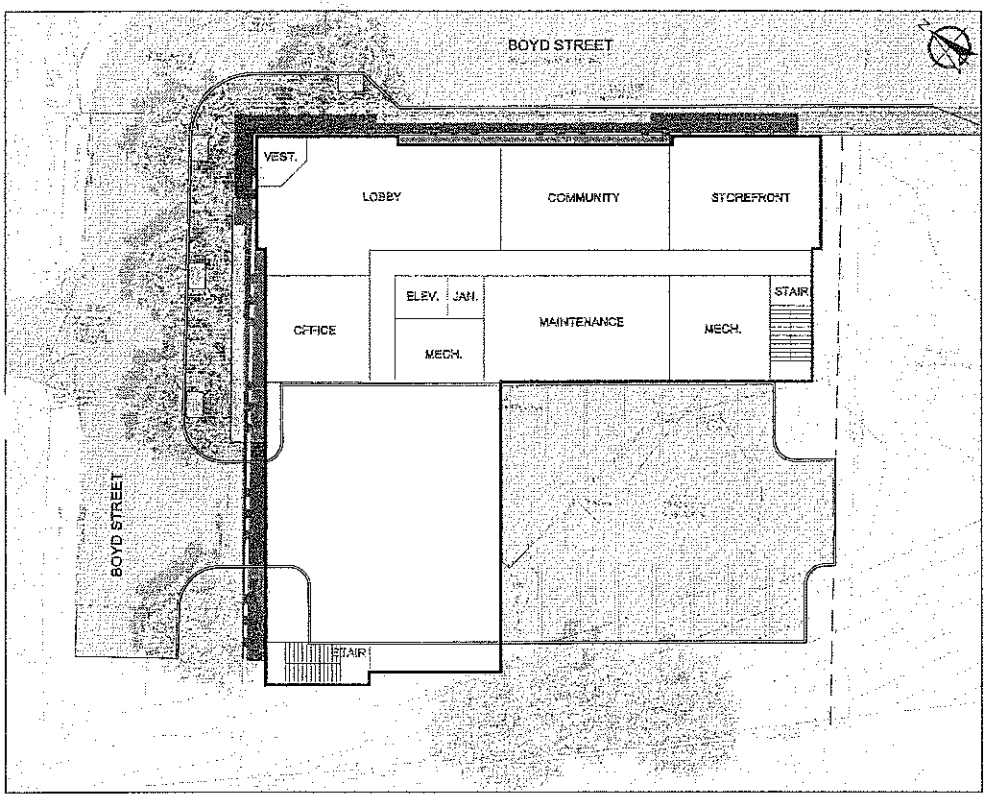
fireless
r Sales

Franklin St

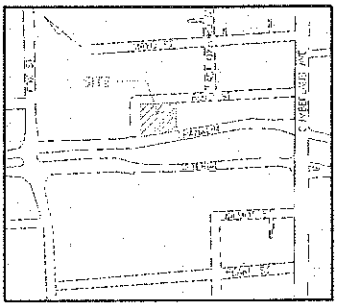
Cumberland Ave

Earth

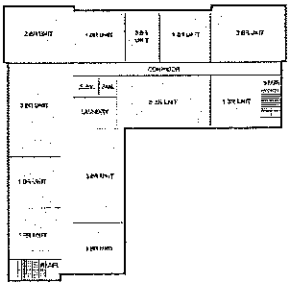
Map data ©2015 Google Terms



SITE PLAN
SCALE: 1"=10'-0"



LOCATION MAP
SCALE: NTS



FLOOR PLAN LEVEL 2-5
SCALE: 1"=20'-0"

OWNER:

58 BOYD STREET, LP
14 BAXTER BLVD.
PORTLAND, ME 04101

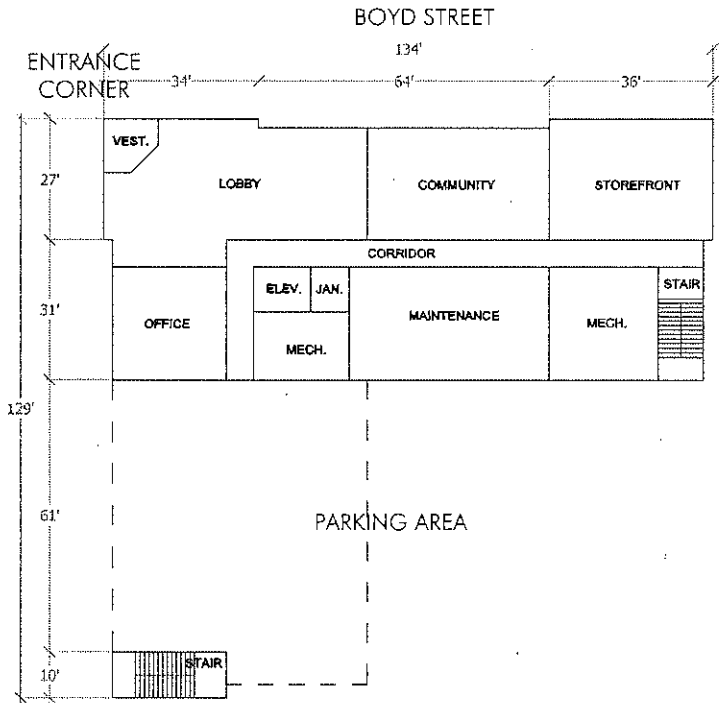
ARCHITECT:

CWS ARCHITECTS
434 CUMBERLAND AVE
PORTLAND, ME 04101

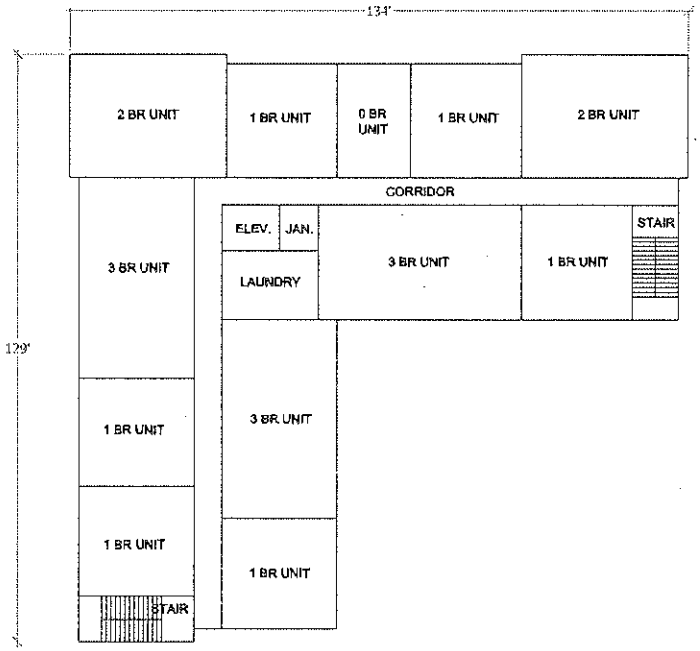
58 BOYD ST APARTMENTS

Portland, ME

JUNE 12, 2015



FLOOR PLAN: LEVEL 1



FLOOR PLAN: LEVELS 2-5

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14 BAXTER BLVD.
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CWS ARCHITECTS
434 CUMBERLAND AVE
PORTLAND, ME 04101

58 BOYD ST APARTMENTS

Portland, ME

JUNE 12, 2015

58 Boyd Street Apartments

Project Schedule
June 2015

Activity	Actual/Scheduled Date Month/Year
A. SITE	
Option/Contract	06/12/15
Site Acquisition	07/01/16
Zoning Approval	11/15/15
Site Analysis	08/01/15
B. FINANCING	
Construction Loan Commitment	04/15/16
Permanent Loan Commitment	06/01/16
Other Sources Committed	06/01/16
C. PLANS AND SPECIFICATIONS	
50%	10/01/15
90%	03/01/16
100%	05/01/16
D. CONSTRUCTION LOAN CLOSING	07/01/16
E. CONSTRUCTION START	07/02/16
F. COMPLETION OF CONSTRUCTION	06/01/17
G. LEASE-UP	
Initial Lease-up	06/15/17
Sustained (95%) Occupancy	12/01/17

58 Boyd Street Apartments

Financing – Sources and Uses

PHDC is requesting $360,000 from the City of Portland Fed HOME RFP as gap financing for this project. The funds would be in the form of a 0%, deferred loan with a 30 year term.

PHDC plans to submit this project to MaineHousing for their Fall 2015 Low Income Housing Tax Credit round. LIHTC equity and associated MaineHousing Federal HOME funds will make up the bulk of the financing with amortizing debt from MaineHousing and City HOME funds filling any gap.

We are requesting funds as of the June 12 deadline in the hopes that our project would have a commitment letter from the City to use as leveraged funds in our tax credit application.

Preliminary Source and Uses

Sources	
MH Interest Only Mortgage	994,047
MH Subsidy	1,400,000
City FedHOME	360,000
Net Syndication	5,885,960
Developer Fee Loan	0
Total	8,640,007
Uses	
Construction	6,609,750
Soft Costs	669,225
Finance Costs	63,522
Miscellaneous	136,943
Acquisition	0
Reserves	390,567
Developer Fee	770,000
Total	8,640,007

58 Boyd Street Apartments

Financial Analysis
June 2015

Preliminary Development Budget

		PRO FORMA DEVELOPMENT BUDGET	
		Residential	Per Unit
Site Improvements		400,000	8,333
Construction		5,460,000	113,750
General Requirements		0	0
Builder Overhead		250,000	5,208
Builder Profit		150,000	3,125
Bond Premium		35,000	729
Construction Contingency	5%	314,750	6,557
Subtotal Construction Costs		**6,609,750**	**137,703**
Building Permits and Fees		175,020	3,646
Survey & Engineering		25,170	524
Architectural & Design		330,000	6,875
Legal		58,000	1,208
Title & Recording		15,000	313
Accounting		5,300	110
Construction Period Tax		7,500	156
Construction Period Insurance		25,000	521
Soft Cost Contingency		28,235	588
Subtotal Soft Costs		**669,225**	**13,942**
Construction Loan Origination Fees		0	0
Construction Loan Interest		43,750	911
Constr Partic. Fee/Perm Loan Fee		19,772	412
Lend Inspec, Const legal, Letter of Credit		0	0
Subtotal Finance Costs		**63,522**	**1,323**
Market Survey		6,500	135
Appraisal		6,000	125
Environmental Study		2,500	52
LIHTC Fees/ prepd monitor		39,693	827
Commissioning		64,250	1,339
FF&E		18,000	375
Subtotal Miscellaneous		**136,943**	**2,853**
Acquisition: Buildings		0	0
Acquisition: Land		0	0
Acquisition: Legal		0	0
Subtotal Acquisition		**0**	**0**
Operating Deficit Escrow		225,000	4,688
Pre-funded Replacements		58,950	1,228
Tax & Insurance Escrow		51,617	1,075
Working Capital		0	0
GP Contribution		0	0
Developer Overhead		430,000	8,958
Developer Profit		340,000	7,083
Rent-up & Marketing		55,000	1,146
Subtotal Fee and Reserves		**1,160,567**	**24,178**
Total Development Costs		**8,640,007**	**180,000**

Preliminary Rent Schedule

PROPOSED RENT SCHEDULE

Type		AMI	# Units	Rents from Applicant	Program Max Rents	Gross Rent	Market Rent	Utility Allow.	Total Rent
Efficiency		40% LIHTC	0	541	541	541	$955	30	0
		Low HOME	0	677	677	677	$955		0
		50% LIHTC	3	677	677	677	$955	30	23,292
		60% HOME	0	813	813	813	$955	30	0
		60% LIHTC	0	813	813	813	$955	30	0
	4	Market	1	$860	$860	860	$955	30	9,954
1BR		40% LIHTC	0	580	580	580	$1,120	40	0
		50% HOME	0				$1,120		
		50% LIHTC	10	725	725	725	$1,120	40	82,200
		High HOME	0	831	831	831	$1,120	40	0
		60% LIHTC	10	870	870	870	$1,120	40	99,600
	24	Market	4	$1,008	$1,008	1,008	$1,120	40	46,464
2BR		40% LIHTC	0	696	696	696	$1,430	50	0
		50% HOME	0				$1,430		
		50% LIHTC	3	870	870	870	$1,430	50	29,520
		High HOME	0	1019	1019	1,019	$1,430	50	0
		60% LIHTC	3	1,044	1,044	1,044	$1,430	50	35,784
	8	Market	2	$1,287	$1,287	1,287	$1,430	50	29,688
3BR		50% HOME	0				$1,500	60	0
		50% LIHTC	6	920	920	920	$1,500	60	61,920
		60% HOME	0				$1,500	60	0
		60% LIHTC	6	1094	1094	1,094	$1,500	60	74,448
	12	Market	0	$1,350	$1,350	1,350	$1,500	60	0
4BR		50% HOME					$0	0	0
		50% LIHTC					$0	0	0
		60% HOME					$0	0	0
		60% LIHTC					$0	0	0
	0	Market							0
Other:									0
									0
Subtotals			48						492,870
				Vacancy Rate		5%			-24,644
				Other Op Ex					0
				Other Income		Laundry			4,800
				Effective Gross Income					473,027

Preliminary Operating Schedule

OPERATING EXPENSES			
Expense	Annual	Annual Per Unit	Monthly Per Unit
Administrative Expenses:			
Management Fees	28,382	591	49
Management Charges	28,382	591	49
Marketing Expenses	500	10	1
Legal Expenses	2,500	52	4
Auditing Expenses	5,700	119	10
Other Administrative Expenses	0	0	0
Administrative Expenses	65,463	1,364	114
Operating Expenses:			
Janitorial Payroll	0	0	0
Janitorial Supplies and Equipment	0	0	0
Janitorial Contractual Services	17,500	365	30
Propane Heat & HW	24,000	500	42
Electricity	35,000	729	61
Water and Sewer	32,500	677	56
Garbage and Trash Removal	9,000	188	16
Vehicle and Equipment Expenses	0	0	0
Other Operating Expenses	0	0	0
Operating Expenses	118,000	2,458	205
Maintenance Expenses:			
Grounds Maintenance Payroll	0	0	0
Grounds Tools and Supplies	0	0	0
Grounds Contractual Services	7,500	156	13
Miscellaneous Ground Maintenance	0	0	0
Tenant Damage Charges - Grounds	0	0	0
Building Maintenance Payroll	0	0	0
Building Tools and Supplies	5,500	115	10
Building Contractual Services	25,000	521	43
Building Systems Maintenance	31,000	646	54
Miscellaneous Building Maintenance	500	10	1
Tenant Damage Charges - Building	0	0	0
Maintenance Expenses	69,500	1,448	121
General Expenses:			
Property Taxes	62,400	1,300	108
Property and Liability Insurance	17,500	365	30
Tenant Computer Network Expense	2,500	52	4
Tenant Service Expenses	25,000	521	43
General Expenses	107,400	2,238	186
Replacement Reserve Funding	21,600	450	38
Commercial Expenses (if applicable)	0	0	0
Total	381,963	7,958	663

15-year Operating Pro Forma

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT

	2 Months	2	14	26	38	50	62	74	86	98	110	122
	10/16/17	12/31/17	12/31/18	12/31/19	12/30/20 F	12/31/21	12/31/22	12/31/23	12/30/24 F	12/31/25	12/31/26	12/31/27
Effective Gross Income		78,838	432,497	462,137	501,985	532,075	552,255	568,818	585,886	602,462	620,477	640,885
Less Operating Expense		63,661	323,432	405,226	417,381	429,803	442,630	454,084	468,767	483,830	499,375	513,337
Net Operating Income		15,177	89,065	56,912	84,598	82,116	79,452	79,232	78,992	78,557	78,101	77,552
Less RLP Repay		9,940	59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643
Less Other Repay		0	0	0	0	0 F	0 F	0 F	0 F	0 F	0 F	0
Cash Flow		5,237	29,422	27,269	24,955	22,473	19,817	19,589	19,350	18,914	18,459	17,910
Cash Flow per Unit		655	613	568	520	468	413	408	402	394	385	373
Debt Coverage Ratio(RLP)		1.53	1.49	1.46	1.42	1.38	1.33	1.33	1.32	1.32	1.31	1.30
MH Subsidy	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000
MH Interest Only Mortgage	994,047	992,053	979,734	966,644	952,746	937,992	922,328	905,697	888,041	869,286	849,364	828,206
Principal Balance(RLP)	2,394,047	2,392,053	2,379,734	2,366,644	2,352,746	2,337,992	2,322,328	2,305,697	2,288,041	2,269,286	2,249,364	2,228,206
Operating Reserve Balance	226,000	236,260	246,063	256,468	273,489	287,163	301,672	316,586	332,427	349,049	366,501	384,326

	Yr 15											
		12/30/28	12/31/29	12/31/30	12/31/31	12/30/32	12/31/33	12/31/34	12/31/35	12/30/36 F	12/31/37	12/31/38
Effective Gross Income		609,651	629,805	646,332	662,291	683,936	683,592	709,259	730,538	752,417	775,017	798,267
Less Operating Expense		526,728	544,585	562,926	577,754	595,086	613,934	631,327	650,267	669,775	689,868	710,564
Net Operating Income		76,935	76,214	75,397	74,477	73,450	75,654	77,923	80,261	82,669	85,149	87,703
Less RLP Repay		59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643	59,643
Less Other Repay	F	0 F	0 F	0 F	0 F	0 F	0 F	0 F	0 F	0 F	0 F	0
Cash Flow		17,292	16,571	15,754	14,834	13,807	16,011	18,280	20,618	23,026	25,506	28,060
Cash Flow per Unit		360	345	328	309	288	334	381	430	480	531	585
Debt Coverage Ratio(RLP)		1.29	1.28	1.26	1.25	1.23	1.27	1.31	1.35	1.39	1.43	1.47
MH Subsidy	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000
MH Interest Only Mortgage	828,266	806,634	782,018	756,753	728,682	701,390	671,132	639,000	604,904	568,806	530,265	489,440
Principal Balance(RLP)	2,228,266	2,204,634	2,182,018	2,156,753	2,129,589	2,101,363	2,071,132	2,039,089	2,004,904	1,968,805	1,930,265	1,889,440
Operating Reserve Balance	384,626	404,066	424,271	445,485	467,759	491,147	515,704	541,489	568,564	596,992	626,842	658,184

PORTLAND HOUSING AUTHORITY

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Thomas Valleau, Commissioner

Mark B. Adelson
Executive Director

14 Baxter Boulevard
Portland, Maine 04101
Office: 207-773-4753
Fax: 207-761-5886
www.porthouse.org

June 12, 2015

Mary Davis
City of Portland - Housing and Community Development Division
389 Congress Street
Portland, Maine 04101

Subject: **58 Boyd Street Apartments**
Financial Capacity to Develop Affordable Housing

Dear Mary,

The purpose of this letter is to self-certify that Portland Housing Development Corporation (PHDC), an affiliate of the Portland Housing Authority, has the financial capacity to develop the 58 Boyd Street Apartments affordable housing development.

Pre-Development:
Portland Housing self-finances pre-development expenses with unrestricted funds, and is then reimbursed at the construction loan closing.

Construction Financing:
Portland Housing Development Corporation will seek financing from one of the Portland-area community banks. PHDC and PHA have long standing relationships with various community banks and will request proposals from these banks, including Gorham Savings Bank, Bangor Savings Bank, Norway Savings Banks and TD Bank. For our Bayside Anchor project, we had four banks competing to provide the construction financing. We have not been denied a construction loan on any previous project.

Permanent Financing
Portland Housing Development Corporation scored the second highest score of all LIHTC applications to MaineHousing in the 2014 application round. This project was also awarded first place in a national competition from Deutsche Bank and the Enterprise Foundation entitled "Lower the Cost of Housing" for creative ways to reduce both construction and operating costs in affordable multi-family housing

development. These are examples of the success that PHDC has had in the past, financing these types of projects.

PHDC also recently hired Jay Waterman as their new Director of Development. Jay has been developing affordable housing for over 15 years and was the Director of Development at Avesta Housing when that agency developed Logan Place, Fore River Apartments and the first phase of Pearl Place, among others. Jay has successfully submitted application for various financing sources for affordable housing including Low Income Housing Tax Credits, Federal HOME funds, Federal Home Loan Bank Affordable Housing Program grants and subsidized advances, HUD 202 grants, RD 515 funds and local and national foundation grants.

This HOME funds application would be the first commitment of funds for this project, but it is a critical piece as it allows the project to achieve extra points in MaineHousing's Qualified Allocation Plan for leveraged funds. The LIHTC application is due at MaineHousing on October 8, 2015 and then they should notify the project of an award of tax credits and HOME subsidy within 60 days of that application date. Please refer to the project schedule included in this application for the timeline for other financing commitments.

Respectfully Submitted,

Mark B. Adelson
Executive Director

58 Boyd Street Apartments

Analysis of Market Demand
June 2015

The development team has commissioned a market study for 58 Boyd Street Apartments in preparation for the October 8, 2015 LIHTC application to MaineHousing. However, PHDC and Avesta Management Corporation, as our management company, operate hundreds of affordable apartments. We experience firsthand the shortage of affordable and even market-rate apartments in Portland.

Our experience is corroborated by third-party analysis. In October 2014, Portland Housing hired the Signal Group to perform a market study for its Bayside Anchor development. The market study analyzed market rents as well as demand for studio, 1BR and 2BR apartments (the same mix of unit sizes as 58 Boyd Street, except for 3 bedroom units).

The Bayside Anchor market study found that:

1. An estimated supply of 18,427 rental units in Portland, occupied and vacant, is inadequate for the projected demand of 18,831 units in 2019.
2. 5,860 households in Portland are income-eligible for the LIHTC units; 3,706 of those households need rental assistance to afford the higher range of LIHTC rents.
3. Of 48 rental apartment projects surveyed by the Signal Group for this study, only 6 properties did not have a wait list.
4. There were nine vacant units out of 3,049 subsidized units surveyed in Portland - an occupancy rate of 99% .
5. Market rents are $955 for efficiency units, $1,120 for one-bedroom units and $1,430 for two bedroom units (includes all utilities). Extrapolating for three-bedroom units, we estimate market rate rents are a minimum of $1,550.

Regarding the three-bedroom unit, Portland Housing Authority is the largest landlord for the immigrant community in Maine, that typically has larger family sizes. We have requests for larger units regularly and cannot find our clients enough 3-, 4-, and 5-bedroom units. We are absolutely sure the three-bedroom units will rent up immediately.

Portland , Westbrook and South Portland housing authorities have a combined waiting list for Section 8 vouchers of over 5,000 households.

PHA plans to include between 12 and 24 Project Based Section 8 Vouchers in the project to reach a more diverse income group for this property. While the targeting is from 50% of Area Median Income (AMI) to market rate units (above 100% AMI), having these vouchers will allow households with extremely low income to afford these apartments. As noted above, over 63% of LIHTC-eligible households cannot afford the required rent.

The 58 Boyd Street Apartment program includes rents targeted to a range of income

levels in recognition of the strong demand and need for apartments at all income levels. The table below summarizes the budgeted rents for the project in comparison to market rents. Note that even our market rate rents are targeted at least 10% below the true market rents for the area.

58 Boyd Street Apartments Comparison to Market Rate Rents in Portland

Type	AMI	# Units	Rent from Applicant	Market Rent	% Above or Below
Efficiency	50% LIHTC	3	$ 677	$ 955	-41%
	60% LIHTC	0	$ 813	$ 955	-17%
4	Market	1	$ 860	$ 955	-11%
1BR	50% LIHTC	10	$ 725	$ 1,120	-54%
	60% LIHTC	10	$ 870	$ 1,120	-29%
24	Market	4	$ 1,008	$ 1,120	-11%
2BR	50% LIHTC	3	$ 870	$ 1,430	-64%
	60% LIHTC	3	$ 1,044	$ 1,430	-37%
8	Market	2	$ 1,287	$ 1,430	-11%
3BR	50% LIHTC	6	$ 920	$ 1,500	-63%
	60% LIHTC	6	$ 1,094	$ 1,500	-37%
12	Market	0	$ 1,350	$ 1,500	-11%
Total/ Average		48	$ 960	$ 1,251	-30%

Order 37-15/16
Tab 34 9-20-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER DESIGNATING 17 CARLETON STREET AFFORDABLE HOUSING DEVELOPMENT DISTRICT AND TAX INCREMENT FINANCING DISTRICT AND ADOPTING THE MUNICIPAL DEVELOPMENT PROGRAM FOR THE DISTRICT

WHEREAS, the City of Portland is authorized pursuant to Chapter 206, Subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, to designate specified areas within the City as an Affordable Housing Development Tax Increment Financing District, and to adopt a Development Program for such District; and

WHEREAS, there is a need for affordable housing in the City of Portland and the surrounding region; and

WHEREAS, Avesta Carleton LP intends to construct certain improvements within the 17 Carleton Street Affordable Housing Development Tax Increment Financing ("TIF") District, including 37 units of affordable housing; and

WHEREAS, the City of Portland will utilize 35% of the tax revenues generated in the District in its General Fund; and

WHEREAS, there is a need to provide continuing affordable housing opportunities for the citizens of Portland and the surrounding region; to improve and broaden the tax base of the City of Portland; and to improve the general economy of the City of Portland, the surrounding region and the State of Maine; and

WHEREAS, the 17 Carleton Street Affordable Housing Development TIF District will help improve and broaden the tax base in the City of Portland; and improve the economy of the City of Portland and the State of Maine; and

WHEREAS, the City held a public hearing on the question of establishing the District in accordance with the requirements of 30-A M.R.S.A. § 5223, upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and

WHEREAS, the City Council has considered the comments provided at the public hearing, both for and against the designation of the 17 Carleton Street Affordable Housing Development TIF District, if any; and

WHEREAS, it is expected that approval will be sought and obtained from the Maine State Housing Authority, approving the designation of the 17 Carleton Street Affordable Housing Development TIF District and Development Program for the District;

NOW THEREFORE BE IT HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

That, under and pursuant to the provisions of Title 30-A, Chapter 206, Subchapter 3 of the Maine Revised Statutes as amended, the development program and financial plan entitled "17 Carleton Street Affordable Housing Development District" as presented to this meeting and a copy of which is hereby incorporated herein by reference and as part of the minutes of this meeting, is hereby approved in substantially the form as presented as the Development Program for the District and for the reasons set forth therein, the City, after considering whether the District and the Development Program will contribute to the expansion of affordable housing opportunities within the City and to the betterment of the health, welfare or safety of the inhabitants of the City and whether any detriment to any existing property interest in the City, finds and determines that: designation of the District and pursuit of the Development Program will make a contribution to the expansion of affordable housing opportunities within the City and the betterment of the health, welfare or safety of its inhabitants, constituting good and valid public purposes and any adverse economic effect on or detriment to any existing property interests is outweighed by the contribution made by the District and the Development Program to the availability of affordable housing within the City and to the betterment of the health, welfare and safety of its inhabitants, and the City further makes the other findings and determinations as set forth in said Development Program and the Exhibits thereto; and

BE IT FURTHER ORDERED, that the area of the City of Portland entitled "17 Carleton Street Affordable Housing Development District" as more particularly described in said Development Program is hereby designated as an affordable housing development district and such designation shall automatically become final and shall take full force and effect upon receipt by the City of approval of the District by the Director of the Maine State Housing Authority, without the requirement of any further action by the City, the Municipal Officers or any party; and

BE IT FURTHER ORDERED, that the percentage of increased assessed value of said District to be retained as captured assessed value in accordance with the Development Program is hereby established as set forth in the Development Program and Financial Plan; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized and directed, on behalf of the City of Portland, Maine to execute and submit to Director of the Maine State Housing Authority for approval such applications and further documentation as may be necessary or appropriate for final approval and establishment of the "17 Carleton Street Affordable Housing Development District" and its Development Program and Financial Plan pursuant to 30-A M.R.S.A. chapter 206, Subchapter 3; and the City Manager be, and hereby is, authorized and empowered, at his discretion, from time to time, to make such technical revisions to the Development Program for the District as he or she deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District by the Director of the Maine State Housing Authority, so long as such revisions are not inconsistent with this Order or the basic structure and intent of the Development Program; and

BE IT FURTHER ORDERED, that the City's Planning and Urban Development Director is authorized to submit annual reports on the status of the "17 Carleton Street Affordable Housing Development District" on behalf of the municipal legislative body; and

BE IT FURTHER ORDERED, that upon approval of the Director of the Maine State Housing Authority, the City Manager is hereby authorized and directed on behalf of the City of Portland to execute and deliver a Credit Enhancement Agreement substantially in the form attached to the Development Program hereby approved, with such changes thereto as deemed appropriate by the City Manager.

MEMORANDUM
City Council Agenda Item

TO: Members of the Portland City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: July 15, 2015

DISTRIBUTION: (City Manager, Mayor, Corporation Counsel, Sonia Bean, Nancy English)

SUBJECT: **(1) Order Designating 17 Carleton Street Affordable Housing Development District and Tax Increment Financing District and Adopting the Municipal Development Program for the District**

(2) Order Approving Credit Enhancement Agreement with Avesta Carleton LP

SPONSOR: Kevin Donoghue, Chair
Housing and Community Development Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 20 Final Action August 3

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

Due to public notice requirements, the City Council meeting for public hearing and vote has been advertised for August 3, 2015 at 7:00 p.m.

PRESENTATION: (List the presenter(s), type and length of presentation)

Mary Davis, Housing and Community Development Division Director will be available to provide information as requested.

I. SUMMARY OF ISSUE (Agenda Description)

17 Carleton Street Affordable Housing TIF (AHTIF) Development District is being proposed for property located on Carleton Street. The development consists of 37 affordable units.

The proposal is for a 22-year TIF with 65% of the total projected new taxes captured, annual estimated average at $33,098 over the 22-year TIF, as a reimbursement to the Developer through a CEA. The Developer's share of TIF revenue will be used to pay operating costs for the project.

The remaining TIF revenues will be allocated to the City's General Fund, average annual estimated at $18,441.

At its meeting on June 10, 2015, the Housing and Committee Development Committee voted 4-0 to recommend this AHTIF request to the City Council for approval.

A recommendation of approval of an Affordable Housing Tax Increment Financing District (AHTIF) from the HCDC to the Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Approval of an AHTIF will be contingent on the project's final approval by the Planning Board.

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

The City Council must: (1) authorize the creation of the AHTIF District; and
(2) approve the Credit Enhancement Agreement

III. INTENDED RESULT

The intended result from the establishment of this AHTIF District is the creation of 37 units of rental housing, 5 of which will be available to households at or below 40% of the area median income, 18 units will be available to households at or below 50% of the area median income and 14 units will be available to households at or below 60% of the area median income.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

When completed, this project's new assessed value is estimated at $2.5 Million, which will yield approximately $2,238,340 in increased annual property assessed value over the course of the 22-year TIF District. 65% of the increased taxes will be captured and returned to the Developer through a Credit Enhancement Agreement. The remaining revenue will be returned to the City's General Fund.

Here is an overview of the TIF proposal related to the share of future estimated property taxes.

	Dev. Share	City General Fund Share
Years 1-22	$728,156 or 65%	$405,694

Total development costs are estimated at $6,541,371. At full build-out, the development is projected to pay approximately $51,539 annually in increased property taxes.

In addition, with the tax sheltering benefits of TIF Districts, overall savings to the City during the term of the district averages an estimated annual amount of $11,203+, or $246,484+ over the life of the district.

VI. STAFF ANALYSIS

Public Benefits In reviewing this TIF request, staff notes the public benefit associated with the TIF District of an additional 37 units of mixed income housing all of which will be available to households at or below 60% of the area median income.

VII. RECOMMENDATION

Staff recommends approval of this request and asks that the City Manager be authorized to sign and submit the documents, in substantially the form as enclosed, to Maine Housing for approval.

It is requested that the City Council set the Public Hearing for the 17 Carleton Street AHTIF District and approval of the Credit Enhancement Agreement for the City Council meeting on August 3, 2015 at 7:00 p.m.

VIII. LIST ATTACHMENTS

Maine State Housing Authority's Affordable Housing TIF Application
17 Carleton Street Affordable Housing Tax Increment Financing Development Program
Credit Enhancement Agreement.
Declaration of Covenants
TIF Projection Table
TIF District Map

Prepared by:

Mary P. Davis, Director
Housing and Community Development Division

July 15, 2015
Date

MAINE STATE HOUSING AUTHORITY

APPLICATION

Affordable Housing Tax Increment Financing

The Municipal Affordable Housing Development Districts statute, 30-A M.R.S.A. §§5245 – 5250-G, referred to as the "TIF Statute" in this Application, applies to affordable housing tax increment financing in Maine. The TIF Statute provides that before a municipality's designation of an affordable housing development district and its adoption of the associated affordable housing development program for the district become effective, MaineHousing must review the proposed district and development program to ensure compliance with the TIF Statute.

All applications to MaineHousing for review of an affordable housing development district and its associated development program must be on this form and include all eight Attachments noted below.

Sections 1 and 2 below are in fillable PDF format and may be completed on-line. After you have completed Sections 1 and 2, please print the Application and sign where indicated in Section 1.

This Application, with Attachments 1 through 8, may be submitted to MaineHousing in one of two ways:

By e-mail to Anne Paré sent to apare@mainehousing.org, or
By mail to: Anne Paré, MaineHousing, 353 Water Street, Augusta, Maine 04330

In this Application "district" means an affordable housing development district and "development program" means an affordable housing development program.

SECTION 1 – APPLICANT INFORMATION

1-1 Name of applicant city or town: City of Portland, Maine

1-2 Municipal official submitting this Application:

Printed name Jon P. Jennings — Title City Manager

Mailing address 389 Congress Street, Portland, Maine 04101

Phone number 207-874-8689 — E-mail address jpj@portlandmaine.gov

The municipal official named above certifies that he/she has the authority to submit this Application to MaineHousing and further certifies that to the best of his/her knowledge, the information contained in this Application and its Attachments is true.

Signature **Date**

1-3 Municipal official with authority to submit annual reports to MaineHousing on the status of the district:

Printed name Jeff Levine **Title Director, Planning & Urban Development Department**

Mailing address 389 Congress Street, 4th Floor, Portland, Maine 04101

Phone number 207 874-8430 **E-mail addressjlevine@portlandmaine.gov**

SECTION 2 – NOTICE AND HEARING

Before designating a district or adopting a development program, the municipal legislative body must

(a) hold at least one public hearing,

(b) publish notice of the hearing at least 10 days before the date of the hearing in a newspaper of general circulation in the municipality,

(c) at the hearing, consider

(i) whether the district and development program will contribute to the expansion of affordable housing or the betterment of the health, welfare or safety of the residents,

(ii) any claim by a party that the district or development program will be detrimental to that party's property interests for which substantial evidence is produced, and whether any adverse economic effect is outweighed by the availability of affordable housing or the betterment of resident health, welfare or safety.

2-1 Date of public notice: July 22, 2015

Attachment 1 – Newspaper Notice

Include as **Attachment 1** *a copy of the newspaper page showing the public notice and the newspaper name and date.*

2-2 Date of public hearing: August 3, 2015

Attachment 2 – Public Hearing Record

Include as **Attachment 2** *the record of the meeting at which the public hearing was held, certified by the municipal clerk.*

Attachment 3 – Additional Documents

Include as **Attachment 3** *all documentation submitted to, or prepared by, the municipality relating to items (c)(i) and (c)(ii) above.*

SECTION 3 – MUNICIPAL APPROVAL

Conditions of municipal approval of district and development program

The TIF Statute sets out conditions for the designation of a district and adoption of a development program by a city or town. A municipality must designate a district and adopt a development program meeting these conditions.

To assist municipalities in ensuring that districts and development programs comply with the conditions of the TIF Statute, we have set out below a **Checklist in Appendix A** that can be used in designating a district and adopting a development program. The Checklist covers the conditions in the TIF Statute that need to be met in approving the district and development program. While MaineHousing does not require municipalities to fill in or follow the format of the Checklist, in reviewing a district and development program approved by a municipality, we will look for specific information in the Application materials (including the Attachments) the city or town submits to us showing compliance with all the conditions of the TIF Statute.

IMPORTANT NOTE: Because the TIF Statute defines a district as "a specified area within the corporate limits of a municipality that has been designated . . . to be developed" under a development program, a development program must, at a minimum, include new construction of affordable housing or rehabilitation of existing housing **inside** the district, or both. A municipality may not create a district for the sole purpose of capturing tax increment revenues that would result only from inflationary adjustments to property values with no development of new housing or rehabilitation of existing housing in the district.

Attachment 4 – Municipal Approval

Include as **Attachment 4** *a copy of the order or resolution and vote of the municipal legislative body approving the district and development program, certified by the municipal clerk.*

Attachment 5 – District Maps

Include as **Attachment 5** *a municipal map and tax map showing the district boundaries.*

Attachment 6 – Certification of Original Assessed Value of District

Include as **Attachment 6** *a dated certification signed by the municipal assessor showing the original assessed value of the district. "Original assessed value" means the taxable assessed value of the district as of the March 31st before municipal approval of the district.*

Attachment 7 – Development Program

Include as **Attachment 7** *a copy of the development program approved by the municipality's legislative body.*

Attachment 8 – Credit Enhancement or Other Agreement

Include as **Attachment 8** *a copy of the credit enhancement agreement or other tax increment revenue sharing agreement, whether or not executed.*

See Appendix A below for Checklist for Approval of District and Development Program

Appendix A
Checklist for Approval of District and Development Program

The TIF Statute sets out conditions for the designation of a district and adoption of a development program by a city or town. A municipality must designate a district and adopt a development program meeting these conditions.

To assist municipalities in ensuring that districts and development programs comply with the conditions of the TIF Statute, we have set out below a **Checklist** that can be used in designating a district and adopting a development program. The Checklist covers the conditions in the TIF Statute that need to be met in approving the district and development program. While MaineHousing does not require municipalities to fill in or follow the format of the Checklist, in reviewing a district and development program approved by a municipality, we will look for specific information in the Application materials (including the Attachments) the city or town submits to us showing compliance with all the conditions of the TIF Statute.

SEE NARRATIVE ATTACHED.

NARRATIVE

DISTRICT AND DEVELOPMENT PROGRAM DESCRIPTION

17 CARLETON STREET AFFORDABLE HOUSING TIF DEVELOPMENT DISTRICT

District Description:

The 17 Carleton Street Affordable Housing TIF Development District is a .5722 acre site located on the east side of Carleton Street, between Pine and West Streets in the West End neighborhood of the City of Portland. The development will include the construction of a new building with thirty-seven (37) rental housing units with a thirty-one (31) space surface parking lot. The new building will be four stories along Carleton Street with the surface parking at the rear of the property. The site is located in the Residential R-6 zone and is in the West End Historic District. Permitted uses in the R-6 zone include single and multi-family dwellings. 100% of the district acreage is suitable for residential use. A municipal map and a tax map identifying the district are included as Attachment 5.

District Acreage:

The total district acreage of .5722 is .0000462% of the total municipal acreage of 12,386. The total acreage of all development districts is 4.84 of which there are two municipal development districts that are exempt for the acreage maximum. The exempt districts are a transit oriented district and a downtown/transit oriented district which have a combined acreage of 3.65%.

The original assessed value (OAV) of the district as of March 31, 2015 is $261,660. The OAV of all existing and proposed affordable housing development districts as a percentage of all taxable property value is .0002%. A Certification of Original Assessed Value is included as Attachment 6.

Development Program Dates:

First tax year of development program: July 1, 2015
Last tax year of development program: June 30, 2037
The municipal fiscal year is July 1 through June 30.

The Development Program Agreement is included as Attachment 7.

Does the development program meet an identified housing need in the City of Portland?:

The proposed development is consistent with the Housing Component of the City of Portland's Comprehensive Plan in that it helps to meet the goal of ensuring 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." The district will be a primarily residential development which will create thirty-seven (37) units of rental housing, of which 100% of the units will be available to households earning at or below 60% of the area median income. Recent market studies, including a recent analysis completed for the Avesta Washington Avenue project, substantiate the need for a diversity of affordable housing options and also highlight a significant need for affordable, efficiency apartments for the increasingly large number of single-person households in the Portland area.

Mechanism to ensure ongoing affordability:

The development within the district will remain affordable for 30 years. A Declaration of Covenants and Restrictions, requiring income affordability, as noted in the chart below, will be recorded in the Cumberland County Registry of Deeds.

17 Carleton Street		
Efficiency Units (12)	at or below 40% area median income	5
	at or below 50% area median income	4
	at or below 60% area median income	3
1-Bedroom Units (23)	at or below 40% area median income	0
	at or below 50% area median income	14
	at or below 60% area median income	9
2-Bedroom Units (2)	at or below 40% area median income	0
	at or below 50% area median income	0
	at or below 60% area median income	2
Total Units		**37**

Operation of housing and facilities in the district:
TIF revenue will be used by the developer as an operating cost subsidy. The property will be operated and managed by Avesta Housing Management Corporation.

Specific uses of TIF revenue:
The operating costs of the development will be financed with a combination of rental income, income from on-site laundry facilities and TIF revenue in the estimated amount of $29,969 annually.

Financial plan for each year the development will be in effect:
Attachment 9 outlines the estimate of increased assessed value of the district and a calculation of estimated tax shifts showing the effect on the City of Portland's state revenue sharing, education subsidies and county taxes resulting from creation of the district and the capture of increased assessed value. The development will be financed with a combination of local, state and federal funding including low income housing tax credits. Approximately $5,167,534 will be funded through syndication of the tax credits and the remaining $1,373,836 will be financed through the state funding agency. An itemized development budget showing all sources and uses of funds for development is included in Attachment 9.

Estimated total tax increment revenues $728,156
Total annual revenue sharing tax shift $948
Total annual education subsidy tax shift $3,928
Total annual county tax shift $770

Allocation of total tax increment revenues from the district:
65% of the total tax increment revenues from the district will be allocated to the project owner.
0% of the total tax increment revenues from the district will allocated to the municipality. A copy of the Credit Enhancement Agreement is attached as Attachment 8.

Relocation plan for persons temporarily or permanently displaced by development activities:
Not applicable. Property to be developed is currently used as a surface parking lot.

Description of environmental controls to be applied:
The developer has submitted a Level III application for site plan and subdivision review that is currently under review by the local Planning Board and local Historic Preservation Board. The project is being reviewed subject to the Site Plan and Subdivision Ordinance of the Land Use Code. The project will also be reviewed by the local Historic Preservation Board for the design of the building and compatibility with the neighborhood. The proposed development has been reviewed by municipal staff for conformance with the relevant review standards of the local Subdivision Ordinance and applicable regulations. Staff comments will be submitted for review to the local Planning Board and local Historic Preservation Board.

Development program consistent with comprehensive planning:
Date of comprehensive plan final adoption November, 2015.
Is the proposed development consistent with the plan? Yes
Does the development program comply with Maine law limiting growth-related capital investments (30-A MRSA §4349-A) Yes
Is the district in conflict with the municipal charter? No

List of Attachments
Attachment 1 – Newspaper Notice
Attachment 2 – Public Hearing Record
Attachment 3 – Documentation of Municipal consideration of (i) whether the district and development program will contribute to the expansion of affordable housing or the betterment of the health, welfare or safety of the residents (ii) any claim by a party that the district or development is detrimental to that party's property interests for which substantial evidence is produced, and whether adverse economic effect is outweighed by the availability of affordable housing or the betterment of resident health, welfare or safety.
Attachment 4 – Municipal Approval
Attachment 5 – District Maps
Attachment 6 – Certification of Original Assessed Value of District
Attachment 7 – Development Program
Attachment 8 – Credit Enhancement Agreement
Attachment 9 – Financial Plans

CITY OF PORTLAND

17 CARLETON STREET AFFORDABLE HOUSING DEVELOPMENT DISTRICT

DEVELOPMENT PROGRAM

DRAFT

TABLE OF CONTENTS

17 Carleton Street Affordable Housing Development District Development Program

Article I. Introduction and Summary of Benefits

Article II. Development Program Narrative and Designation of the District

Section 2.01 Statement of Means and Objectives
Section 2.02 Brief Discussion of Financial Plan
Section 2.03 Project Cost Descriptions
Section 2.04 City Use Descriptions
Section 2.05 Relocation Plan
Section 2.06 Environmental Controls
Section 2.07 District Operation
Section 2.08 Assurance of Compliance
Section 2.09 Program Duration
Section 2.10 Approval Considerations and Characteristics of the District
Section 2.11 Designation of the District

Article III. Financial Plan

Section 3.01 Cost Estimates for the Development Program
Section 3.02 Amount of Indebtedness to be Incurred
Section 3.03 Sources of Anticipated Revenues
Section 3.04 Estimated Increased Assessed Value; Portion Applied to Development Program
Section 3.05 Description of Terms and Conditions of Agreements
Section 3.06 Calculation of Tax Shifts

Article IV. Municipal Approvals

Section 4.01 Public Hearing
Section 4.02 Authorizing Votes

Exhibits

Exhibit A Estimated Allocation of Tax Increment and Estimated Tax Increment Revenues
Exhibit B Estimated Development Costs
Exhibit C Property Description and Configuration of the District
Exhibit D Certificate of Assessor
Exhibit E Credit Enhancement Agreement
Exhibit F Tax Shift Computations
Exhibit G Notice of Public Hearing
Exhibit H City Council Orders
Exhibit I Declaration of Covenants, Conditions and Restrictions

17 Carleton Street Affordable Housing Development District Development Program

Article I. Introduction and Summary of Benefits.

A. Affordable Housing Development District. This Development Program provides for the creation of an Affordable Housing Development District located at 17 Carleton Street in Portland. The area includes approximately .5722 acres. By providing for the reinvestment of a portion of the new or incremental tax revenues in the District, the District will provide an impetus for affordable housing development within the District and the development of affordable, livable housing and the containment of the costs of unplanned growth in the City.

B. Benefits of the District.

1. Affordable Housing. This Development Program will provide for the development of affordable housing in the City and the containment of the costs of unplanned growth.

2. No City Bonds or Risks. The District will not involve any borrowings by or the issuance bonds of the City to pay for any of the costs of the Development Program and will not affect existing tax revenues in any way.

3. Additional Tax Revenues. Creation of the District and Development Program will result in additional tax revenues for the City.

4. Shelter of New Tax Base Growth. The captured assessed value of the District will be sheltered from the otherwise negative impacts of new development that result in increased county taxes and loss of State aid to education and revenue sharing when new development occurs without the creation of a Affordable Housing Tax Increment Financing District. The sheltered portion of the tax increment revenues will be used to pay Project Costs.

Article II. Development Program Narrative and Designation of the District.

Section 2.01: Statement of Means and Objectives. The City of Portland ("the City"), like many other Maine municipalities, desires to provide affordable housing in the City and to contain costs of unplanned growth by providing the facilities described in this Development Program.

In order to fulfill these goals, certain property has been proposed as the 17 Carleton Street Affordable Housing Development District (the "District"). The Development Program described herein will serve the purpose of administering the District as an Affordable Housing Development District pursuant to Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended (the "Development Program"). Upon approval by the City of Portland designating the District and adoption of this Development Program by the City, the designation of the District and adoption of the Development Program will become final immediately, subject only to approval by the Director of the Maine State Housing Authority. The Development Program provides for affordable housing similar in some respects to the economic development incentives called municipal tax increment financing ("TIF") similar to that adopted by a number of other Maine municipalities including the City. An Affordable Housing Development District involves the creation of a geographically defined district in the City and the "capture" or reinvestment of some of the new increased or "incremental" tax revenues generated on the increased assessed value of property in the District to pay certain costs of the development.

The District is designed to stimulate development of affordable housing in the City by allocating certain tax revenues generated on the increased assessed value in the District to Project Costs, consisting of allowable operating costs per 30-A M.R.S.A. §5249 and described in Section 2.03 hereof by Avesta Carleton, LP, its successors and assigns (the "Developer"). Under the Development Program, the City will make portions of the tax increment revenues as set forth in Section 3.04 hereof and under the Credit Enhancement Agreement attached hereto as Exhibit E hereto from the District available to the Developer pursuant to such Credit Enhancement Agreement (the "Credit Enhancement Agreement"). These revenues will be used either to pay or reimburse the Developer for Project Costs per Section 2.03 directly. All additional Project Costs will be the responsibility of the Developer, its successors or assigns. All tax increment revenues following expiration of the term of the Credit Enhancement Agreement will go directly into the City's general fund.

The District will result in significant new tax revenues for the City.

The Development Program thus will provide significant public benefit to the City by providing for the development of affordable housing in the City and for new tax revenues. The means and objectives of the Development Program are to provide: financial assistance towards Project Costs, and the development of affordable housing in the City.

The City, by adopting this Development Program, finds that the Development Program described herein, including the Capital Project, will provide substantial affordable housing in the City, thereby accomplishing an important public purpose.

Section 2.02: Brief Discussion of Financial Plan. The following is a brief summary of the Financial Plan. The Financial Plan is set forth in greater detail in Article III of this Development Program. As described in Section 3.04 hereof and Exhibit A hereof, the property taxes assessed by the City upon the Increased Assessed Value of property in the District (the "Tax Increment") resulting from the investments by the Developer will be captured or used by the City under the Development Program to pay Project Costs described in Section 2.03 hereof. The development costs and sources and uses of funds associated with the Development Program within the District are described in Article III. The Project Costs and any continuing investment by Developer will be financed by Developer through equity of the Developer, its successors or assigns and the tax increment revenues from the District. As part of the Development Program, the City and Developer will enter into a Credit Enhancement Agreement pursuant to which the City will pay to Developer the percentage of Tax Increment Revenues from the Increased Assessed Value with respect to property in the District, described herein as the Tax Increment Revenues (Developer's Share) for the term of the District to pay Project Costs related thereto. All tax revenues from the District not payable to Developer under the Credit Enhancement Agreement will be paid to the General Fund of the City. Any tax revenues presently generated on existing property in the District will continue to be paid to the General Fund of the City. The Development Program costs will be paid only from the Tax Increment on assessed value produced by new development in the District occurring after the tax year ending on the March 31st prior to adoption of this Development Program.

Section 2.03: Project Costs Descriptions. A. Project General Description. The Capital Project at 17 Carleton Street involves the redevelopment of approximately .5722 acres, into an affordable housing neighborhood. The objective of the project is that 100% of the units in the District will be affordable housing, meaning a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 60% of the median income for the area as defined by the United States Department of Housing and Urban Development. This project consists of 37 units of low income housing tax credit apartments, the targeting for those units will be 5 of the units at 40% Area Median Income, 18 of the units at 50% Area Median Income and 14 of the units at 60% of the Area

Median Income. The zoning for the project assures that this number of units and this affordability objective will be met.

The project includes the new construction of 37 efficiency apartments in one elevator building.

The 17 Carleton Street project is projected to have a total local increased assessed valuation at build out of approximately $2,500,000 based upon current real estate values and City assessment practices. Based upon the estimated tax rate upon completion, the project will pay approximately $29,969 in increased property taxes to the Developer at 65% capture in year 3 at full build out. A portion of this new revenue would be offset by increased county taxes and reduced state revenue sharing and education funding resulting from the increased state valuation, were it not included in a Development District.

"Project Costs" as defined in Title 30-A, Chapter 206, Section 5249 of the Maine Revised Statutes will include operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account.

B. Need for the Affordable Housing TIF. Over the 22-year TIF, the estimated average annual payment is $33,098 (as set forth in Exhibit A). Developer's Share of the Tax Increment Revenue is designated to pay operating costs for the project at 17 Carleton Street. The Tax Increment Revenue described in section 3.04 will help pay for operating costs over a period of twenty-two (22) years. Without the TIF and these other funding sources the project could not go forward.

The Municipal Affordable Housing Development District law enacted by the Maine Legislature in 2003 creates an opportunity to fill this gap in the project financing through the mechanism of the TIF program. The program operates essentially the same way that the traditional commercial TIF program has with a few exceptions. The Affordable Housing TIF program is administered by the Maine State Housing Authority.

Section 2.04: Relocation Plan. No businesses or persons will be displaced or relocated as a result of the development activities proposed in the District.

Section 2.05: Environmental Controls. All environmental controls required by law shall apply to development in the District, including any applicable requirements of the City of Portland Zoning Ordinance and all applicable State and Federal environmental laws and regulations.

Section 2.06: District Operation. The day-to-day operations of the District will require no substantial efforts by the City. The Developer, its successor or assigns, will operate the improvements constructed by Developer and pay all maintenance and operational expenses of its facilities. The City, however, will be responsible for maintenance and operation of any part of the District that may become a public road or other public facility

Section 2.07: Assurance of Compliance. The City hereby determines that the District and this Development Program complies with the provisions of 30-A M.R.S.A. § 4349-A (growth management). The proposed development in the District is consistent with the Comprehensive Plan for the City of Portland which includes the City's Housing Plan, which calls for additional affordable housing in the City.

Section 2.08: Program Duration. The duration of the District will be 22 years from the designation of the District and the effective date of the approval of the District by the Director of the Maine State Housing Authority.

Section 2.09: Approval Considerations and Characteristics of the District. A. Statutory Considerations for Approval. Before designating the District and before establishing this Development Program, the City has considered any evidence presented at such public hearing and has considered whether the District and Development Program will contribute to the expansion of affordable housing opportunities within the City and to the betterment of the health, welfare or safety of the inhabitants of the City. The City hereby determines and finds that the District created hereunder and this Development Program will make a contribution to the expansion of affordable housing opportunities within the City and the betterment of the health, welfare or safety of its inhabitants, constituting good and valid public purposes and that any adverse economic effect on or detriment to any existing property interests is outweighed by the contribution made by the District and the Development Program to the availability of affordable housing within the City and to the betterment of the health, welfare and safety of its inhabitants.

B. Statutory Conditions for Approval; Physical Characteristics. The City hereby finds and determines that the District satisfies the conditions imposed under Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, as a prerequisite to designation of the District, including those relating to the physical description of the District and to certain financial and statistical information as follows:

(i) All of the land in the District is suitable for residential uses, is zoned for residential uses, and is in need of rehabilitation or redevelopment and therefore at least 25%, by area, of the real property within the District meets at least one of the following statutory criteria: (1) be suitable for residential use; (2) be a blighted area; or (3) be in need of rehabilitation or redevelopment;

(ii) The total area of the District is approximately .5722 acres and thus such area represents less than 2% of the total acreage of the City. The total area of the District and the total area of all development districts in the City (which combined total is 599.85 acres) is 4.84%, which includes 3.65% included in two exempt districts, a transit oriented district and a downtown/transit oriented district, of the total acreage of the City and thus does not exceed 5% of the total acreage of the City; the total area of all existing and proposed affordable housing development districts in the City is 0.0182% of the total acreage of the City and does not exceed 5% of the total acreage of the City;

(iii) The Original Assessed Value of the District is as set forth in Exhibit D hereto and the Original Assessed Value of all existing and proposed affordable housing development districts within the City is $1,533,510 and such amount of Original Assessed Value does not exceed 5% of the total value of taxable property within the City as of April 1st preceding the date of the designation of the District;

(iv) The aggregate value of municipal general obligation indebtedness financed by the proceeds from affordable housing development districts within Cumberland County does not exceed $50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 2002 to the date of calculation; and

C. Community Housing Need. The City finds that this Capital Program will meet a community housing need identified in the City's Housing Plan and Comprehensive Plan. The Credit Enhancement Agreement provides a mechanism to ensure the ongoing affordability for a period of at least 30 years for

rental units, which mechanism is the Declaration attached hereto as Exhibit I. The District is primarily a residential development on which 100% of the dwelling units will be affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development. The Developer and the City shall comply with any rules adopted by the Maine State Housing Authority and with any conditions of approval imposed by the Maine State Housing Authority following designation of the District. The City shall report annually to the Director of the Maine State Housing Authority regarding the status of the District, including the following matters as required by law: (a) certify that the public purpose of the District is being met; (b) account for any sales of property within the District; and (c) certify that rental units within the District remain affordable.

Section 2.10: Designation of the District. The City, by adoption of this Development Program, hereby designates the 17 Carleton Street Affordable Housing Development District as an Affordable Housing Development District and as an Affordable Housing Tax Increment Financing District. A plan depicting the District is attached hereto as Exhibit C and the District is further described therein.

Article III. Financial Plan.

Section 3.01: Cost Estimates for the Development Program. The estimated expenses of the Project Costs are set forth in Exhibit B.

Section 3.02: Amount of Indebtedness to be Incurred. The City will not incur any indebtedness in connection with the Development Program. The Development Program will be financed through a combination of funds of the Developer, its successors and assigns, various loans and the Tax Increment of the District.

Section 3.03: Sources of Anticipated Revenues. The source of the revenue to be used to pay the Project Costs of this Development Program is a portion of the Tax Increment on the Increased Assessed Value of the District. Tax Increment means all Property Taxes assessed by the City, in excess of any state, county or special district tax, upon the Increased Assessed Value of all property in the District. Increased Assessed Value means the valuation amount by which the Current Assessed Value of the District exceeds the Original Assessed Value of the District. Current Assessed Value means the assessed value of the District certified by the municipal assessor as of April 1st of each year that the District remains in effect. Property Taxes means any and all ad valorem property taxes levied, charged or assessed against property by the City or on its behalf.

Original Assessed Value means the assessed value of the District as of March 31, 2015. Attached hereto as Exhibit D is the anticipated form of certification of Original Assessed Value by the Assessor of the City of Portland in accordance with the requirements of Title 30-A § 5250-A of the Maine Revised Statutes. All Property Tax on the Original Assessed Value shall continue to be deposited in the general fund of the City.

The City will deposit the Tax Increment Revenues (Developer's Share) as described in Section 2.02 and Section 3.04 hereof and in Exhibit A into the Developer's Project Cost Account of the Affordable Housing Development Program Fund and pay such Tax Increment (Developer's Share) to Developer in accordance with the terms of the Credit Enhancement Agreement to be entered between the City and the Developer.

Section 3.04: Estimated Increased Assessed Value; Portion Applied to Development Program. The percentage of the Increased Assessed Value of the District to be retained as Captured Assessed Value in

each year is 65%. Such Captured Tax Increment Revenues will be returned to the Developer each year in the manner described below.

The Tax Increment Revenues (Developer's Share) to be paid to the Developer each year during the term of this Development Program will be an amount which shall be captured and retained to reimburse the Developer for Project Costs pursuant to the Credit Enhancement Agreement. The Tax Increment Revenues (Developer's Share) shall be equal to the corresponding fiscal year's projected allocation percentage for each payment according to Exhibit A, but Developer's Share will be the entire amount of the 65% of captured revenue. The percentage determination of the Tax Increment Revenues (Developer's Share) as determined as described above shall apply regardless whether the actual Tax Increment Revenues are more or less than the estimated or projected Tax Increment Revenues set forth in Exhibit A.

"Tax Shift Formulas" mean the formulas utilized by the State of Maine in calculating: (a) the county tax payable in accordance with 30-A M.R.S.A. § 706 and 36 M.R.S.A. §§ 305(1), 381, as amended, and any successor provisions; (b) the municipal revenue sharing distribution of the Local Government Fund in accordance with 30-A M.R.S.A. §5681, as amended, and any successor provision, provided, however, that distribution of the Disproportionate Tax Burden Fund (the Revenue II fund), if any, shall not be taken into consideration in such calculation since taxes assessed on captured value within a tax increment financing district are included in the amounts of the property assessed in determining allocations of such Disproportionate Tax Burden Fund; and (c) State aid to education, including aid for total operating costs, total program cost allocation (taking into account the maximum local share or circuit breaker) and total debt service cost allocation (taking into account the maximum local share or circuit breaker), but not taking into account any hold harmless or hardship cushion that results in additional State aid to education to the prior years level even through the calculation would have resulted in a reduction, all as computed in accordance with Maine Department of Education Form ED 261 or any successor form.

The amount of Tax Increment from the total Increased Assessed Value that is to be paid each year to the Developer under Credit Enhancement Agreement to pay or reimburse Project Costs is hereinafter called the "Tax Increment Revenues (Developer's Share)."

The table attached hereto as Exhibit A also sets forth: (i) the annual estimates of the Increased Assessed Value of the District resulting from implementation of the Development Program; (ii) the estimated annual Tax Increment Revenues per year on the Increased Assessed Value following implementation of the Development Program, stated respectively as (a) a total, and (b) the estimated amount of the Tax Increment Revenues (Developer's Share)

Based on the manner in which Tax Increment Revenues (Developer's Shares) are defined, a share of the incremental property tax revenues derived from the increased valuation will be returned to the Developer to cover the Project Costs as described in Section 2.03 hereof.

To comply with the provisions of the State of Maine, the Credit Enhancement Agreement includes a provision for the recapture of certain amounts relating to any affordable rental housing units that are not maintained as affordable for a period of at least thirty years.

The amount of the Tax Increment Revenues on the Increased Assessed Value of all property in the District for each year during the term of the District to be allocated and paid to the Developer each year pursuant to the Credit Enhancement Agreement shall be equal to the product for each year during the term of the District of (a) the relevant Developers Percentage Allocation of the Tax Increment (Developer

Share) for each year as computed as described above, times (b) the actual amount of the Tax Increment for each year. Such percentage allocations shall apply regardless of whether the actual Tax Increment Revenues each year are more or less than the Tax Increment Revenues as estimated or projected in Exhibit A of this Development Program, provided that in no fiscal year will the Developer's Share be less than 65% of the captured revenue through the term of the District.

An Affordable Housing Development Program Fund shall be established by the City consisting of a Project Cost Account. The Project Cost Account shall consist of the Developer's Project Cost Account (the "Developer's Project Cost Account"). The Developer's Project Cost Account will be pledged to and charged with payment of amounts due to Developer under the Credit Enhancement Agreement. Upon receipt of each payment of property tax with respect to property in the District, the City shall deposit into the Developer's Project Cost Account according to the terms of the Credit Enhancement Agreement that portion of each payment constituting the percentage of total actual Tax Increment for such year equal to the Tax Increment Revenues (Developer's Share). The amounts in the Developer's Project Cost Account shall be used and applied solely to fund the payments to Developer under the Credit Enhancement Agreement.

Section 3.05: Description of Terms and Conditions of Agreements. A description of the terms and conditions of the agreements, contracts and obligations to be entered into by the City is set forth in the Credit Enhancement Agreement to be entered into by the City and the Developer which will be substantially in the form attached hereto as Exhibit E. The Credit Enhancement Agreement sets forth the obligations of the City to pay to Developer each year during the term of that Agreement Tax Increment Revenues (Developer's Share) from all Property Tax with respect to all property in the District, as provided in such Credit Enhancement Agreement.

Section 3.06: Calculation of Tax Shifts. In accordance with Maine statutes governing the establishment of affordable housing development districts, Exhibit F identifies the estimated tax shifts which will result during the term of the District from the establishment of the District, using formulas approved by the Director of the Maine State Housing Authority. Exhibit F also contains a summary of the methodology and calculations utilized in calculating such estimated tax shifts.

The 17 Carleton Street project will pay property taxes to the City based upon the local assessed valuation of the project and the City's annual tax rate. Exhibit A shows the estimated property taxes that will be paid by the project over the next 22 years based upon the estimated local assessed valuation and the estimated tax rate of $19.80/$1000 for the first year of the District. The amount of property taxes paid by owners of property in the District to City will be the same whether the project is included in a TIF district or not.

If the project is not part of a TIF, some of these new tax revenues will be offset by what are commonly called tax shifts. Since the City's total state valuation will be higher as a result of the project, its share of Cumberland County taxes will increase. The increased valuation and population will change the amount the City receives in State Revenue Sharing. The increased valuation and increased school enrollment will change the amount the City receives in state education aid.

Exhibit F thus shows the estimated amount of these tax shifts compared to what they would be if the new valuation is "sheltered' in a TIF and, therefore, does not get counted in the City's state valuation that is used in calculating county tax, revenue sharing and state education aid.

The actual extent and amount of the tax shifts can vary from this estimate since they are controlled by factors outside the City's control such as the rate of increase in the County budget, the amount of state

sales and income tax collected, the amount of funding provided by the state for education aid, and the formula used to distribute that aid. So the extent and value of the shifts could be more or less than estimated.

Article IV. Municipal Approvals.

Section 4.01: Public Hearing. Before designating the District, the City legislative body of the City held a public hearing. Notice of the hearing was published on July 22, 2015, a date that was at least 10 days before the hearing, in The Portland Press Herald, a newspaper of general circulation within the City. Attached hereto as Exhibit G is a copy of the Notice of Public Hearing. The Public hearing was held in accordance with the requirements of 30-A M.R.S.A. § 5250 on August 3, 2015. At the public hearing, interested parties were given a reasonable opportunity to present testimony concerning the District and the Development Program.

Section 4.02: Authorizing Votes. Attached as Exhibit H is a copy of the Orders proposed for adoption by the City Council of the City of Portland at a meeting thereof duly called and held on August 3, 2015 designating the District and adopting the Development Plan.

The undersigned, being the City Manager of the City of Portland, certifies that all of the information contained herein is true and correct to the best of my knowledge.

Dated: August _____, 2015

_____
Jon P. Jennings, City Manager, City of Portland

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CREDIT ENHANCEMENT AGREEMENT

This Credit Enhancement Agreement, dated as of August _____, 2015, between the City of Portland, Maine, a municipal body corporate and politic and a political subdivision of the State of Maine (the "City"), and Avesta Carleton LP, a Maine limited partnership (the "Developer").

W I T N E S S E T H T H A T

WHEREAS, the City designated the 17 Carleton Street Affordable Housing Development District (the "District") pursuant to Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, by vote of the City Council at a meeting held on August 3, 2015 and pursuant to the same City Council Meeting action adopted a development program and financial plan for the District (the "Development Program"), and

WHEREAS, the Director of the Maine State Housing Authority has reviewed and approved the District and the Development Program, and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the City and the Developer and the City approved the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to such City Council Meeting approval and a resolution of the Municipal Officers, adopted August 3, 2015 by vote of the City Council and the City and the Developer desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated by and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Affordable Housing Development Program Fund" means the Affordable Housing Development Program Fund described in Article III of the Development Program and established and maintained pursuant to Article II hereof.

"Agreement" means this Credit Enhancement Agreement between the City and the Developer.

"Captured Assessed Value" means the amount, stated as percentages or stated sums, of the Increased Assessed Value that is utilized from year to year to finance the Capital Program and Public Improvements described in the Development Program; the Captured Assessed Value of the District shall be 65% of the Increased Assessed Value.

"City" means the City of Portland, Maine, a municipality duly organized and existing under the laws of the State of Maine, its successors and assigns.

"Current Assessed Value" means the assessed value of the District certified by the municipal assessor as of April 1st of each year that the District remains in effect.

"Developer" means Avesta Carleton LP, its successors and assigns.

"Development Program" means the Development Program for the District as adopted by the City at a meeting of the City Council held on August 3, 2015.

"District" means the 17 Carleton Street Affordable Housing Development District designated by the City pursuant to Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, by vote of its City Council at a meeting held on August 3, 2015.

"Financial Plan" means the financial plan described in Article III of the Development Program.

"Fiscal Year" means July 1 to June 30 each year or such other fiscal year as the City may establish.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value of the District exceeds the Original Assessed Value of the District. If the Current Assessed Value is equal to or less than the Original Assessed Value, there is no Increased Assessed Value.

"Original Assessed Value" means the assessed value of the District as of March 31, 2015, which amount was Two Hundred Sixty-One Thousand Six Hundred Sixty Dollars ($261,660).

"Project" means the design, planning, development, acquisition, construction, financing and installation of the Development Program as described in Section 2.03 of said Development Program.

"Project Costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249 of title 30-A of the Maine Revised Statutes and included in the Development Program.

"Project Cost Account" means the Developer's Project Cost Account described in Article III of the Development Program and established and maintained pursuant to Article II of this Agreement.

"Property Taxes" means any and all ad valorem property taxes levied, charged or assessed against real estate in the District by the City or on its behalf.

"Qualified Investments" means any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Tax Increment" means all Property Taxes assessed by the City, in excess of any state, county or special district tax, upon the Increased Assessed Value of all property in the District.

"Tax Increment Revenues (Developer's Share)" means that percentage of the Tax Increment with respect to real estate now or hereafter located in the District retained pursuant to the terms of the Development Program to pay Project Costs of the Capital Program, and which amount is to be deposited each year during the term of this Agreement in the Developer's Project Cost Account to fund payments to the Developer due pursuant to this Agreement. The Tax Increment Revenues (Developer's Share) is sixty-five percent (65%). The Tax Increment Revenues (Developer's Share) will be calculated each year as more particularly described herein and in Exhibit A of the Development Program and will be based on the Increased Assessed Value of the District which percentage or amount shall be captured and retained to pay to the Developer the costs of the Capital Program described in the Development Program.

"Tax Shift" means the sum of the following amounts as calculated under the Tax Shift Formulas, as hereafter defined: (a) the difference between (i) the county tax payable by the City if the Captured

Assessed Value that under the then existing Tax Shift Formulas is not included in the actual calculation of County Tax were included in the City's valuation in calculating the county tax, and (ii) the county tax payable by the City to the extent that the Captured Assessed Value is excluded from the City's valuation in calculating the county tax; plus (b) the difference between (i) the State aid to education that would be received by the City if the Captured Assessed Value that under the then existing Tax Shift Formulas is not included in the actual calculation of State aid to education were included in the City's valuation in calculating State aid to education, and (ii) the State aid to education that received by the City to the extent that the Captured Assessed Value is excluded from the City's valuation in calculating such amounts of State aid to education; plus (c) the difference between (i) the State revenue sharing that would be received by the City if the Captured Assessed Value that under the then existing Tax Shift Formulas is not included in the actual calculation of State revenue sharing were included in the City's valuation in calculating the amount of State revenue sharing, and (ii) the State revenue sharing received each year to the extent that the Captured Assessed Value is excluded in the City's valuation in calculating such amounts of revenue sharing. Examples of the calculation of the estimated Tax Shifts based on the current Tax Shift Formulas are attached as Exhibit F to the Development Program.

"Tax Shift Formulas" means the formulas utilized by the State of Maine in calculating (a) the county tax payable in accordance with 30-A M.R.S.A. § 706 and 36 M.R.S.A. §§ 305(1), 381, as amended, and any successor provisions; (b) the municipal revenue sharing distribution of the Local Government Fund in accordance with 30-A M.R.S.A. §5681, as amended, and any successor provision, provided, however, that distribution of the Disproportionate Tax Burden Fund (the Revenue II fund), if any, shall not be taken into consideration in such calculation since taxes assessed on captured value within a tax increment financing district are included in the amounts of the property assessed in determining allocations of such Disproportionate Tax Burden Fund; and (c) State aid to education, including aid for total operating costs, total program cost allocation (taking into account the maximum local share or circuit breaker) and total debt service cost allocation (taking into account the maximum local share or circuit breaker), but not taking into account any hold harmless or hardship cushion that results in additional State aid to education to the prior year's level even through the calculation would have resulted in a reduction, all as computed in accordance with Maine Department of Education Form ED 261 or any successor form.

"Tax Payment Date" means the date(s) on which Property Taxes levied by the City are due and payable from owners of property located within the City.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), limited liability companies, trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time. All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.

(f) If any clause, provision, Article or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision, Article or Section shall not affect any of the remaining provisions hereof.

ARTICLE II: DEVELOPER'S PROJECT COST ACCOUNT OF THE AFFORDABLE HOUSING DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Developer's Project Cost Account of the Affordable Housing Development Program Fund. The City hereby confirms the creation and establishment of (a) the 17 Carleton Street Affordable Housing Development District Affordable Housing Development Program Fund; and (b) a segregated fund in the name of the City designated as the "17 Carleton Street Affordable Housing Development District Developer's Project Cost Account of the Affordable Housing Development Program Fund" (the "Developer's Project Cost Account") pursuant to, and in accordance with the terms and conditions of the Development Program. The Affordable Housing Development Program Fund shall consist of the Developer's Project Cost Account as described in the Development Program.

Section 2.2. Deposits into Developer's' Project Cost Account of the Affordable Housing Development Program Fund. The City shall deposit into the Developer's Project Cost Account contemporaneonsly with each payment of Property Tax by owners of property in District during the term of the District an amount equal to that portion thereof constituting the Tax Increment Revenues (Developer's Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to Developer under Article III of this Agreement.

Section 2.3. Use of Monies in Developer's Project Cost Account of the Affordable Housing Development Program Fund. Monies deposited in the Developer's Project Cost Account shall be used and applied exclusively to fund the City's payment obligation described in Article III hereof.

Section 2.4. Monies Held in Trust. All monies required to be deposited with or paid into the Developer's Project Cost Account to fund payments of the Developer under the provisions bereof and the provisions of the Development Program, shall be held by the City in trust, for the benefit of the Developer.

Section 2.5. Investments. The monies in the Developer's Project Cost Account shall be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Developer's Project Cost Account.

Section 2.6. Liens. The City shall not hypothecate or grant or create any liens, security interests, encumbrances, or other interests of any nature whatsoever, with respect to the Developer's Project Cost Account or any funds therein, other than the interest granted to the Developer hereunder in and to the amounts on deposit therein.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments. (a) The term of this Agreement shall be for twenty-two (22) years as described below. The City agrees to pay to the Developer within 30 days of the end of each fiscal year (ends June 30 each year) this Agreement is in effect payments equal to the Tax Increment Revenues (Developer's Share) beginning with the designation and approval of the District by the Director of the Maine State Housing Authority, that being the City Fiscal Year beginning July 1, 2015 and ending June 30, 2016 (FY16) and continuing with each Fiscal Year of the City thereafter through and including June 30, 2037 (FY37). The City shall make all such payments of the Tax Increment Revenues (Developer's Share) to the Developer, its successors and assigns according to Exhibit A of the Development Program, based upon the corresponding fiscal year's projected allocation percentage for each payment. The Developer's share will be 100% of the captured revenue (based on 65% of the value captured) as indicated on Exhibit A. The obligation of the City to make such payments shall be a limited obligation payable solely from that portion of the Tax Increment Revenues (Developer's Share) payable to the Developer hereunder, whether or not actually deposited into the Developer's Project Cost Account, and shall not constitute a general debt or obligation on the part of the City or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine or any political subdivision thereof.

(b) If, with respect to any Tax Payment Date, the owner or owners of property in the District fail(s) to pay any portion of the Property Taxes assessed by the City, because of a valuation dispute or otherwise, the Property Taxes actually paid with respect to such Tax Payment Date shall first be applied to taxes due on account of the Original Assessed Value and second shall constitute Tax Increment Revenues.

(c) Annually, Developer will provide operating cash flow statements as back-up documentation of Projects Costs for its TIF payments, which documentation will be kept confidential by the City.

Section 3.2. Completion of Development Program. Prior to receiving the first payment under this Agreement, Developer shall provide evidence reasonably satisfactory to the City of the Company's ability to complete the Project in accordance with State law. Reasonably satisfactory evidence shall include the Company's having closed on the financing for the Project.

Section 3.3. Failure to Make Payment. In the event the City should fail to, or be unable to, make any of the payments required under Section 3.1 hereof, the item or installment so unpaid shall continue from year-to-year, as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid and the City agrees to pay the same with interest thereon at the rate equal to the interest rate per annum payable by owners of property in the City on Property Taxes that are not paid when due, but only from Tax Increment Revenues (Developer's Share) paid to the City by the Developer from time to time, and any earnings thereon, whether or not deposited into the Developer's Project Cost Account of the Affordable Housing Development Program Fund. Payments shall be applied first against accrued interest and then against principal. The Developer shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to deposit all Tax Increment Revenues (Developer's Share) to the Developer's Project Cost Account and its obligation to make payments to the Developer.

Section 3.4. Manner of Payments. The payments provided for in this Article III shall be paid in immediately available funds directly to the Developer in the manner provided hereinabove for its own use and benefit, for qualified Project Costs.

Section 3.5. Obligations Unconditional. The obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have

against the Developer. The City shall not suspend or discontinue any such payment or terminate this Agreement for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration or frustration of purpose or any damage to or destruction of the Project or any change in the tax or other laws of the United States, the State of Maine or any political subdivision of either thereof.

Section 3.6. Limited Obligation. The City's obligations of payment hereunder shall be limited obligations of the City payable solely from monies on deposit in the Developer's Project Cost Account, and any earnings thereon, pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of the Tax Increment Revenues (Developer's Share) payable to the Developer hereunder, and any earnings thereon, whether or not actually deposited into the Developer's Project Cost Account. This Agreement shall not directly or indirectly or contingently obligate the City, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation or to levy or to make any appropriation for their payment, excepting the City's obligation to levy Property Taxes upon the property in the District and the pledge of the Tax Increment Revenues (Developer's Share), and earnings thereon, established under this Agreement.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of Developer's Project Cost Account. In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge to the Developer the Developer's Project Cost Account to the extent of Developer's Rights under this Agreement to receive funds from the Developer's Project Cost Account and all sums of money and other securities and investments now or hereafter therein.

Section 4.2. Perfection of Interest. The City authorizes the Developer to file and, if necessary, shall cooperate with the Developer in causing appropriate financing statements and continuation statements naming the Developer as pledgee of all amounts from time to time on deposit in the Developer's Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder. To the extent deemed necessary by the Developer, the City will at such time and from time to time as requested by Developer establish the Developer's Project Cost Account as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect Developer's interest therein.

Section 4.3. Further Instruments. The City shall, upon the reasonable request of the Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City.

Section 4.4. No Disposition of Developer's Project Cost Account. Except as permitted hereunder, the City shall not sell, lease, pledge, grant a security interest in, assign or otherwise dispose, encumber or hypothecate any interest in the Developer's Project Cost Account and will promptly pay or

cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part hereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the inonies, revenues and receipts on deposit or required to be deposited into the Developer's Project Cost Account shall at all reasonable times be open to inspection by the Developer, its agents, lenders, designees and employees.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default:"

(a) any failure by the City to pay any amounts due to Developer when the same shall become due and payable;

(b) any failure by the City to make deposits into the Affordable Housing Development Program Fund or the Developer's Project Cost Account as and when due;

(c) any failure by the City or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or the Developer to be observed or performed, provided, however, that failure of Developer or any other owner of property in the District to pay Property Taxes when due shall not constitute an event of default hereunder; or

(d) if a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the City's affairs shall have been entered against the City or the City shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the City or of or relating to all or substantially all of its property, including without limitation, the filing of a voluntary petition in bankruptcy by the City or the failure by the City to have a petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the City.

Section 5.2. Remedies on Default. Whenever any Event of Default referred to in Section 6.1 hereof shall have occurred and be continuing, the non-defaulting party may take any one or more of the following remedial steps: (a) the non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect any amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the non-defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder; and (b) the Developer shall also have the right to exercise any rights and remedies available to a secured party under the laws of the State of Maine.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any relinquishment for the future of the rights to insist

upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the City with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Agreement to Pay Attorneys' Fees and Expenses. Notwithstanding the application of any other provision hereof, in the event any party should default under any of the provisions of this Agreement and the non-defaulting party shall require and employ attorneys or incur other expenses or costs for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the City or the Developer herein contained, the defaulting party shall, on demand thereof pay to the non-defaulting party the reasonable attorneys fees, costs and expenses so incurred by the non-defaulting party.

Section 5.5. Disputes. The parties agree that in the event of any dispute or disagreement hereunder the City shall continue to make payment of all amounts due hereunder in the manner and at the times specified herein until final resolution of such dispute, whether by mutual agreement or final decision of a court, arbitrator or other dispute resolution mechanism. The City hereby waives any right to withhold, suspend or setoff payments during the pendency of any such dispute, this waiver being limited and expressly intended to affect only those rights necessarily related to or arising directly under the terms of this Agreement.

ARTICLE VI: EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof for the entire term of this Agreement and shall expire upon the payment of all amounts due to the Developer hereunder and the performance of all obligations on the part of the City and the Developer hereunder.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement and following full payment of all amounts due and owing to the Developer hereunder or provision for payment thereof and of all other fees and charges having been made in accordance with the provisions to this Agreement, the City and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1. Consent to Pledge and/or Assignment. The City hereby acknowledges that it is the intent of the Developer to pledge and assign and to grant security interests in and to this Agreement and the amounts payable to Developer hereunder and Developer's right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Developer to make such assignment or pledge or to grant such security interests. Recognizing this intention, the City does hereby consent and agree to the grant of such security interests and to the pledge and assignment of all the Developer's right, title and interest in, to and under this Agreement and in and to the payments to be made to Developer hereunder, to third parties as collateral or security for indebtedness and other obligations or otherwise, on one or more occasions during the term hereof.

Section 7.2. Pledge, Assignment or Security Interest. The City hereby consents to the pledge, assignment or granting of a security interest by the Developer (or the pledge and assignment by any one Developer) of its right, title and interest in, to and under this Agreement. The City agrees to execute and

deliver any assignments, pledge agreements, consents or other confirmations required by the prospective secured party, pledgee or assignee, including without limitation, recognition of the secured party, pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such secured party, pledgee or assignee the position of such secured party, assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the secured party, pledgee or assignee such rights and/or remedies as it may deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.3. Assignment. Except as provided in this Article VII, the Developer shall not have the right to transfer and assign to any person or entity all or any portion of its rights in, to and under this Agreement; provided however, that any transfer of the real property within the District shall carry with it the benefit of this Agreement so long as (i) the rental units within the District remain affordable after such transfer; (ii) the prospective owner establishes to the reasonable satisfaction of the City that the financial benefits provided by this Agreement are still necessary to maintain the viability of the Project and (iii) the City Council approves the transfer.

ARTICLE VIII: MISCELLANEOUS

Section 8.1. Successors. The covenants, stipulations, promises and agreements set forth herein shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

Section 8.2. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.3. No Personal Liability of Officials of the City. No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his individual capacity and neither the members of the City Council of the City nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.5. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.6. Notices. All notices, certificates, requests, requisitions or other communications by the City or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when hand delivered or mailed by first class mail, postage prepaid, addressed as follows:

If to the City: City Manager
City Portland
389 Congress Street
Portland, Maine 04101

If to the Developer: Avesta Carleton LP

c/o Avesta Housing Development Corporation
307 Cumberland Avenue
Portland, ME 04101

Any of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.7. Amendments. This Agreement may be amended only with the concurring written consent of the parties hereto.

Section 8.8. Net Agreement. This Agreement shall be deemed and construed to be a "net agreement," and the City shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without any abatement, deductions or setoffs.

Section 8.9. Benefit of Assignees or Pledgees. The City agrees that this Agreement is executed in part to induce secured parties, assignees or pledgees to provide financing for the Project and accordingly all covenants and agreements on the part of the City as to the amounts payable hereunder are hereby declared to be for the benefit of any such secured parties, assignee or pledgee from time to time of the Developer's right, title and interest herein.

Section 8.10. MaineHousing Rules and Requirements. The Developer and the City shall comply with any rules adopted by the Maine State Housing Authority and with any conditions of approval imposed by the Maine State Housing Authority following designation of the District. The City shall report annually to the Director of the Maine State Housing Authority regarding the status of the District, including the following matters as required by law: (a) certify that the public purpose of the District is being met; (b) account for any sales of property within the District; and (c) certify that rental units within the District remain affordable. The parties shall comply with the rule provisions for recovery of public revenue if conditions for approval of the District are not maintained for the duration of the District, as provided by rules adopted by the Maine State Housing Authority in accordance with applicable law. The Developer agrees to provide all information as required by the City to satisfy its reporting obligations.

Section 8.11. Affordability Covenants. The Developer and the City shall, in order to assure the continued affordability of the rental units as required by the Development Program, Maine State Housing Authority and applicable laws, regulations and ordinances, execute a declaration which is substantially in the same form as the "Declaration of Covenants, Conditions and Restrictions which is attached to the Development Program as Exhibit I.

Section 8.12 Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment, estimated amounts of the Tax Increment Revenues (Developer's Share), estimated development costs and other estimates. The City and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Developer's property for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.13. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and the

Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and their respective seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS

CITY OF PORTLAND

_____

By:_____
Jon P. Jennings, Its City Manager

AVESTA CARLETON LP

BY: Pinetree Housing Development I LLC,
its General Partner

_____

By:_____
Dana Totman, Its President

O:\HCD\HCD Staff\Mary\AHTIF\Carleton Street\Council Packet\Revised Packet\Draft CEA Revised 7-15-15.docx

Declaration of Covenants, Conditions and Restrictions

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is entered into by and between the City of Portland, a public body corporate and politic with its principal place of business at 389 Congress Street, Portland, Maine, 04101 ("City") and Avesta Carleton LP ("Developer") with a mailing address of 307 Cumberland Avenue, Portland, Maine 04101.

W I T N E S S E T H

WHEREAS, the Developer acknowledges that City is providing Affordable Housing Tax Increment Financing to the Developer (the "AHTIF") for project operating costs associated with the development of a total of thirty-seven (37) units of affordable rental housing located at 17 Carleton Street (the "Development"); and

WHEREAS the Developer acknowledges City's resulting beneficial interest in the Development, and Developer acknowledges that its ownership and operation of the Development are in furtherance of discharge of the public trust; and

WHEREAS, City has provided the AHTIF to Developer in consideration of the Developer's agreement to abide by the provisions of this Declaration.

NOW THEREFORE, City and the Developer agree as follows:

1. The covenants and restrictions of the Developer set forth herein are intended to be and shall be considered covenants which run with the real estate described in Exhibit A attached hereto and shall bind all subsequent owners of the real estate described in Exhibit A attached hereto, except to the extent provided herein.

2. The covenants of the Developer set forth herein are enforceable by City as a contract beneficiary whether or not the Developer is or remains indebted to City under the AHTIF, except to the extent provided herein.

3. The covenants of the Developer set forth herein shall survive a sale, transfer, or other disposition of the Development by the Developer, foreclosure or transfer of title in lieu of foreclosure, , except to the extent provided herein, but shall cease to apply to the Development in

the event of involuntary noncompliance caused by fire or other substantial destruction, seizure, requisition or other event that prevents City from enforcing the Developer's covenants contained herein.

4. The term "Qualified Project Period" as used herein shall mean the period beginning on the date of completion of the construction of the Development, as determined by City, and terminating on a date twenty-two (22) calendar years thereafter, except for the shorter period provided in subsection (f) below, for a portion of the Development.

5. The Developer agrees to comply with this Declaration throughout the Qualified Project Period.

6. The Developer hereby covenants and represents to City as follows:

a. The Development shall be located on the real estate described in Exhibit A attached hereto and shall consist of the facilities described in Developer's application to City.

b. The Development shall consist of the land described in Exhibit A together with a building or a portion of a building or structure or several proximate and interrelated buildings or structures and facilities functionally related and subordinated thereto:

i. each containing one or more similarly constructed units and facilities which are functionally related and subordinate to such units; and

ii. all of the thirty-seven residential units of which will, on a continuous basis, be rented or available on a non-transient basis for rental to members of the general public.

c. The total housing costs including rent and utilities of tenants occupying the rent restricted units in Development as of the date of this Declaration may not increase for twelve months beginning on the date of this Declaration.

d. The Developer shall maintain all of the units included in the Development rented or available for rental on a continuous basis to members of the general public throughout the Qualified Project Period.

e. The Developer acknowledges and represents to City that the Development consists of thirty-seven (37) residential rental units. Throughout the Qualified Project Period, the thirty-seven (37) residential units in the Development must be occupied by individuals or families with the following income requirements:

5 units occupied by households at or below 40% of area median income
18 units occupied by households at or below 50% of area median income
14 units occupied by households at or below 60% of area median income

In its operation of the Project, Grantor agrees to comply with all applicable federal, state and local laws and regulations.

i. Income and area median income shall be as determined by the United States Department of Housing and Urban Development and income limits shall be adjusted for family size.

ii. At least annually, City shall determine whether the income, based on the current income, of the tenants residing in the Development exceeds the applicable income limits as described in this Section 6 (the "Determination"). The Developer shall furnish to City such information as City shall require, including certification of occupancy and tenant income, in order to assure that the covenants set forth herein are being fully satisfied. Income certifications and related information submitted to and accepted by Maine State Housing Authority shall be acceptable to the City for purposes of this subsection.

iii. A unit occupied by a tenant who, at the commencement of occupancy, met the applicable income limitations shall continue to be treated as occupied by a qualified tenant even though the tenant's income may exceed the applicable income limitations at the time of the most recent Determination.

iv. After initial occupancy but upon again becoming vacant, a unit shall be treated as occupied by an individual or family meeting the applicable income limitations until occupied, at which time the character of the unit shall be redetermined in light of the new occupants income, other than occupancy by another tenant for a temporary period not to exceed thirty-one (31) days.

f. Developer shall not make any change in the nature, size, number or location of the units in the Development or the amount of commercial or non-residential space.

7. Developer agrees to furnish to City such information as City may require in form acceptable to City, including without limitation certifications and/or verification of occupancy and tenant income certifications (subject to Section 6(e)(ii) above), to determine Developer's compliance with the covenants set forth herein.

8. Developer shall maintain and keep current all books, documents, plans and records concerning the Development, including, but not limited to, books and records related to compliance with the covenants contained in this Declaration. Such books, records, documents and plans shall be kept for: (a) a minimum of six (6) years after the expiration of the Qualified Project Period for those books, records, documents and plans pertaining to the rent and occupancy requirements described in Section 6 of this Declaration and the rent roll for all units in the Development; and (b) for a minimum of six (6) years after the end of the fiscal year or calendar year, as applicable, for all other books, records, documents and plans pertaining to the Development. Upon reasonable notice, City may audit and examine these books, records, documents and plans, and may inspect the buildings, grounds, equipment offices of the Development.

9. Developer shall use tenant lease forms acceptable to City, or, if there are no written leases, written and signed certifications by tenants to determine whether tenants meet the applicable income limits. Such leases or certifications shall contain clauses wherein each tenant certifies as to the accuracy of statements made relating to income and agrees that family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy, that the tenant will comply with all requests for information with respect thereto from the Developer or City, and that failure to provide accurate information or refusal to comply with a request for information shall be deemed a violation of the tenancy. Lease forms which have been approved by Maine State Housing Authority shall be deemed approved by City.

10. Developer agrees that it shall pay real estate taxes, as assessed by City, on Development. In the event that ownership of the Development or a portion thereof becomes tax exempt, either by transfer, conversion or otherwise, an amount shall be paid annually to City, equal to the amount that would have been assessed as real estate taxes had the Development or a portion thereof remained taxable. Developer shall notify any party to whom it transfers any of its interest in the Development of this requirement.

11. Developer covenants and agrees to take such action as City deems necessary to comply with the covenants herein or to correct or cure any failure of the Developer to comply with the covenants herein, including, without limitation, the eviction of any tenant in accordance with applicable law. The Developer shall immediately notify City if the Developer anticipates that occupancy may fall below the limits set forth in Section 6(e) of this Declaration and agrees to take such action as City deems necessary to prevent non-compliance with such paragraph.

12. In the event the Developer fails to comply with the covenants set forth herein, and fails to cure such non-compliance within any applicable cure period, City shall be able to exercise any of its rights under the documents executed in connection with the AHTIF, maintain an action in law or in equity against the Developer to recover damages incurred by City from such failure, and to require the Developer (through injunctive relief or specific performance) to comply with the provisions and covenants set forth herein and to immediately cure any failure to comply with the covenants set forth herein by the Developer.

13. Developer shall indemnify and hold City and its agents harmless from and against any and all claims, demands, liability, loss, cost or expense (including, but not limited to

attorney's fees and other costs of litigation) which may be incurred by City arising out of or in any way related to the Developer's breach of any of its obligations under this Declaration as a result of such breach. The obligations survive the termination or expiration of this Declaration as necessary to effect its provisions.

14. This Declaration may be amended or modified in whole or in part only by written agreement of Developer and City clearly expressing the intent to modify this Declaration.

15. The validity of any clause, part or provision of this Declaration shall not effect the validity of the remaining portions of thereof.

16. This Declaration shall be binding upon Developer's respective heirs, personal representatives, executors, administrators, successors and assigns and shall inure to the benefit of and be enforceable by City, its successors, transferees and assigns.

17. This Declaration is created pursuant to, and shall be construed in accordance with and governed by the laws of the State of Maine, including but not limited to 33 M.R.S.A. § 121 et. seq.

IN WITNESS WHEREOF, this Declaration has been duly executed by the Developer and City effective _____, 2015.

CITY OF PORTLAND

Witness _____

_____
Jon P. Jennings
Its City Manager

AVESTA CARLETON LP

BY: Pinetree Housing Development I LLC
Its General Partner

By: Dana Totman
Its: President

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STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2015

Personally appeared the above named Jon P. Jennings, City Manager to the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of Portland.

Before me,

_____
Notary Public/Attorney-at-Law

_____
(Print or type name)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2015

DRAFT

Personally appeared the above named Dana Totman, President of Pinetree Housing Development I LLC, General Partner of Avesta Carleton L.P., a Maine limited partnership, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited partnership and corporation.

Before me,

_____

Notary Public/Attorney-at-Law

_____

(Print or type name)

DRAFT

Exhibit A

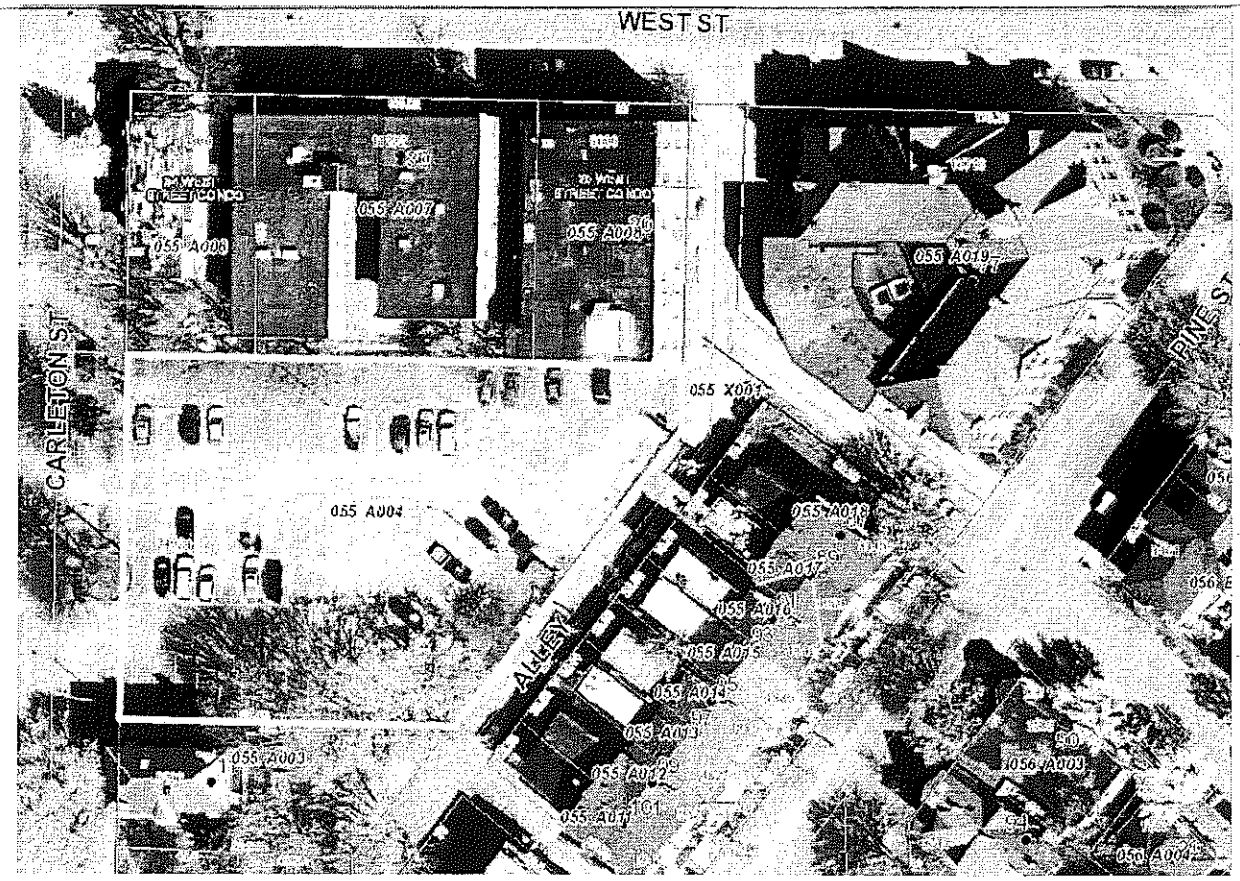
Property Description
17 Carleton Street, Portland, Maine

DRAFT

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model for 17 Carleton Street AH TIF							
0% Sheltered - Years 1 and 2 with 100% to City General Fund; 65% to Developer Project Account Years 3 to 22, and 35% to City General Fund Years 3 to 22							
				Avoided Formula Impacts from Sheltering of Valuation			
TIF Year	Tax Year- April 1	Total Added Valuation	Sheltered Valuation	Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2015	$138,340	$0	$0	$0	$0	$0
2	2016	$538,340	$0	$0	$0	$0	$0
3	2017	$2,238,340	$1,454,921	$0	$948	$770	$1,718
4	2018	$2,238,340	$1,454,921	$3,928	$948	$770	$5,646
5	2019	$2,238,340	$1,454,921	$7,857	$948	$770	$9,574
6	2020	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
7	2021	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
8	2022	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
9	2023	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
10	2024	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
11	2025	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
12	2026	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
13	2027	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
14	2028	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
15	2029	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
16	2030	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
17	2031	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
18	2032	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
19	2033	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
20	2034	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
21	2035	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
22	2036	$2,238,340	$1,454,921	$11,785	$948	$770	$13,503
22 Year TIF Total		**$45,443,480**	**$29,098,420**	**$212,127**	**$18,953**	**$15,403**	**$246,484**
Annual Average:				**$9,642**	**$862**	**$700**	**$11,204**

AH TIF for 17 Carleton Street
OAV a/o 3/31/2015: $261,600

City of Portland- TIF Projection Table for 17 Carleton St AHTIF									
0% Sheltered - Years 1 and 2 with 100% to City General Fund; 65% to Developer Project Account Years 3 to 22, and 35% to City General Fund Years 3 to 22									
TIF Year	Tax Year- April 1	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues
1	2015	$138,340	0.00%	$0	19.80	$0	$0	$0	$2,739
2	2016	$538,340	0.00%	$0	20.19	$0	$0	$0	$10,871
3	2017	$2,238,340	65.00%	$1,454,921	20.60	$29,969	$29,969	$0	$16,137
4	2018	$2,238,340	65.00%	$1,454,921	21.01	$30,568	$30,568	$0	$16,460
5	2019	$2,238,340	65.00%	$1,454,921	21.43	$31,179	$31,179	$0	$16,789
6	2020	$2,238,340	65.00%	$1,454,921	21.86	$31,803	$31,803	$0	$17,125
7	2021	$2,238,340	65.00%	$1,454,921	22.30	$32,439	$32,439	$0	$17,467
8	2022	$2,238,340	65.00%	$1,454,921	22.74	$33,088	$33,088	$0	$17,816
9	2023	$2,238,340	65.00%	$1,454,921	23.20	$33,749	$33,749	$0	$18,173
10	2024	$2,238,340	65.00%	$1,454,921	23.66	$34,424	$34,424	$0	$18,536
11	2025	$2,238,340	65.00%	$1,454,921	24.13	$35,113	$35,113	$0	$18,907
12	2026	$2,238,340	65.00%	$1,454,921	24.62	$35,815	$35,815	$0	$19,285
13	2027	$2,238,340	65.00%	$1,454,921	25.11	$36,531	$36,531	$0	$19,671
14	2028	$2,238,340	65.00%	$1,454,921	25.61	$37,262	$37,262	$0	$20,064
15	2029	$2,238,340	65.00%	$1,454,921	26.12	$38,007	$38,007	$0	$20,465
16	2030	$2,238,340	65.00%	$1,454,921	26.65	$38,767	$38,767	$0	$20,875
17	2031	$2,238,340	65.00%	$1,454,921	27.18	$39,543	$39,543	$0	$21,292
18	2032	$2,238,340	65.00%	$1,454,921	27.72	$40,334	$40,334	$0	$21,718
19	2033	$2,238,340	65.00%	$1,454,921	28.28	$41,140	$41,140	$0	$22,153
20	2034	$2,238,340	65.00%	$1,454,921	28.84	$41,963	$41,963	$0	$22,596
21	2035	$2,238,340	65.00%	$1,454,921	29.42	$42,802	$42,802	$0	$23,047
22	2036	$2,238,340	65.00%	$1,454,921	30.01	$43,658	$43,658	$0	$23,508
22 Year TIF Total		**$45,443,480**		**$29,098,420**		**$728,156**	**$728,156**	**$0**	**$405,694**
Annual Average							**$33,098**		**$18,441**


WEST ST
CARLETON ST
PINE ST
ALLEY
055 A007
055 A008
055 A009
055 A019
055 X001
055 A004
055 A018
055 A017
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055 A013
055 A003
055 A002
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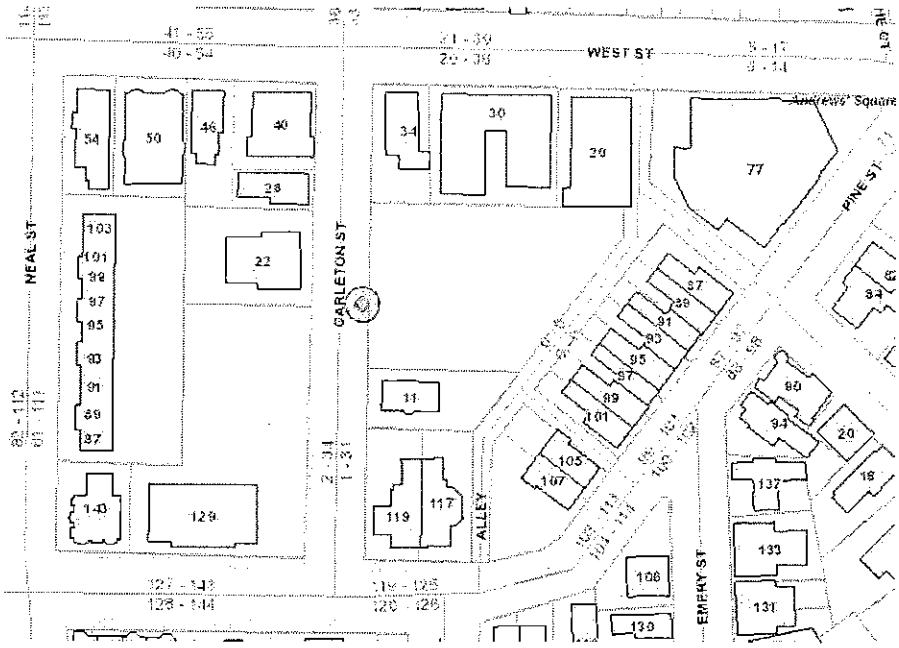
056 A004


WEST ST
MEAL ST
CARLETON ST
ALLEY
EMERY ST
PINE ST
54
50
46
40
38
34
30
28
77
22
11
119
117
129
140
108
131
133
20
18

Order 38-15/16
Tab 35 1-26-15

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 AND AUTHORIZING THE CITY MANAGER TO ENTER INTO THE 17 CARLETON STREET CREDIT ENHANCEMENT AGREEMENT WITH AVESTA CARLETON LP

ORDERED, that the credit enhancement agreement between the City of Portland and Avesta Carleton LP related to the 17 Carleton Street Affordable Housing Tax Increment Financing District is hereby approved and the City Manager is authorized to sign the agreement in substantially the same form as attached hereto and any other related documents that are necessary or convenient to carry out the intent of said agreement.