Regular City Council Meeting
May 16, 2016

1. Agenda Only

   Documents: 2016-05-16 AGENDA ONLY.PDF

2. Agenda And Packet

   Documents: 2016-05-16 AGENDA AND PACKET.PDF

3. Addendum: Backup Information For Tab 32, Order To Approve Proposed Amendments To The City And Federated Companies Bayside “Midtown” Project Partnership Documents

   Documents: BACKUP INFORMATION FOR TAB - 32.PDF

ETHAN K. STRIMLING (MAYOR)	DAVID BRENERMAN (5)
BELINDA S. RAY (1)	JILL C. DUSON (A/L)
SPENCER THIBODEAU (2)	JON HINCK(A/L)
EDWARD J. SUSLOVIC (3)	NICHOLAS M. MAVODONES, JR. (A/L)
JUSTIN COSTA (4)	

AGENDA
REGULAR CITY COUNCIL MEETING
MAY 16, 2016

The Portland City Council will hold a regular City Council Meeting at 5:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) May 2, 2016 Regular City Council Meeting Minutes

PROCLAMATIONS:

Proc 28-15/16
(Tab 2) **Proclamation Honoring Culture Club-Portland and Portland Public Schools – Sponsored by Mayor Ethan K. Strimling.**

Proc 29-15/16
(Tab 3) **Proclamation Honoring Officer Christopher Dyer as Police Officer of Month for April 2016 – Sponsored by Mayor Ethan K. Strimling.**

Proc 30-15/16
(Tab 4) **Proclamation Honoring Eli Chase, Police Department, as Employee of the Month for April 2016 – Sponsored by Mayor Ethan K. Strimling.**

Proc 31-15/16
(Tab 5) **Proclamation Proclaiming May 15-21, 2016 as Emergency Medical Services Week – Sponsored by Mayor Ethan K. Strimling.**

APPOINTMENTS:

Order 255-15/16
(Tab 6) **Order Appointing Constables for 2016 Re: Department of Public Works and Parks, Recreation and Facilities – Sponsored by Jon P. Jennings, City Manager.**

This order appoints Dawn Davidson as a Constable for the Department of Public Works. Dawn is charged with enforcing ordinances related to the proper disposal of solid waste and recycling.

This requires her to have the ability to issue citations to individuals who dump illegally or refuse to remove improper items from the curb after proper notice.

Further, this order appoints Jeffrey Knox, Kyle O'Neil, Gina Mannarino and Jill Mulkern as Constables for the Department of Public Works.

These appointments shall be effective from the effective date of this order until 12:00 midnight, December 31, 2016.

These appointments are made pursuant to Portland City Code, Sections 20-19 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 256-15/16
(Tab 7)

Order Setting the Time for Opening Polls on June 14, 2016 Re: June Primary – Sponsored by Katherine L. Jones, City Clerk.

Pursuant to 21-A M.R.S. §621, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

Notices are then posted in each district and at City Hall.

Five affirmative votes are required for passage after public comment.

Order 257-15/16
(Tab 8)

Order Declaring Saturday, June 25, 2016 as Rock Lobster Relay Festival – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the Rock Lobster Relay Festival to be held on Saturday, June 25, 2016 from 10:00 a.m. to 6:30 p.m. There will be a beer garden in the Moon Tide Garden, the park adjacent to the Ocean Gateway receiving building, from 10:00 a.m. through 6:30 p.m.

Order 258-15/16
(Tab 9)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Thell Brown – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $640.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Thell Brown.

This money was seized during a drug investigation conducted by the Maine Drug Enforcement Agency in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account.

The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

Order 259-15/16
(Tab 10)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Matthew Bradley – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $928.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Matthew Bradley.

Order 260-15/16
(Tab 11)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Donald Alfreds – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $560.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Donald Alfreds.

Order 261-15/16
(Tab 12)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Ziq Danquah – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $668.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Ziq Danquah.

Order 262-15/16
(Tab 13)

Order Re: Residential Parking Permit Extension – Sponsored by Jon P. Jennings, City Manager.

In June of 2008, the City Council approved a new residential parking zone, IR (Island Resident). A total of twenty-nine (29), two-hour parking spaces on both sides of Thames St. easterly of Hancock Street were signed accordingly. Vehicles displaying an IR (island resident) permit are exempt from the time limit parking regulation and can be left there all day.

Since the development of the proposed condominiums at the corner of Thames and Hancock Streets was on hold, 10 on-street spaces on the westerly side of Hancock St between Fore & Thames and the 16 on-street parking spaces on the north side of Thames St. between India and Hancock St. were signed 2-hour parking (rather than metered), so that islanders with an IR permit could use them on a temporary year-to-year basis until the condominium development is started or another project in its place. This gave the islanders an additional 26 on-street parking spaces convenient to Casco Bay Lines that would cause minimal interference with area businesses and residents.

There is now a proposed hotel development to be built on that lot. The situation will be reassessed next spring prior to requesting another extension. The current one-year extension expires on June 30, 2016.

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

LICENSES:

Order 219-15/16
(Tab 14)

Order Granting Municipal Officers' Approval of Local Food 1, LLC d/b/a B. Good Restaurant at15 Exchange St. Application to Expand Existing Alcohol Service Area on August 14, 2016 for B Good Block Party Festival – Sponsored by Katherine L. Jones, City Clerk.

Application submitted on 4/12/16.

At the April 25 Council meeting this item was postponed to this meeting. Staff is requesting that this order be postponed indefinitely.

Five affirmative votes are required for passage after public comment.

Order 262A-15/16
(Tab 14A)

Order Granting Municipal Officers' Approval of Seamusfinn, LLC d/b/a Petite Jacqueline. Application for a Class I FSE License with Outside Dining on Public Property at 46 Market Street – Sponsored by Katherine L. Jones, City Clerk.

Application submitted on 4/5/16. The Class I FSE license with Outside Dining on Public Property for this establishment was approved by City Council on February 17, 2016. Since that time, the applicant has changed the name of the LLC, but the principal officers remain the same.

Five affirmative votes are required for passage after public comment.

ORDERS:

Order 263-15/16
(Tab 15)

Order Establishing the Pesticide and Fertilizer Task Force – Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair.

The Energy and Sustainability Committee has been examining the use of pesticides within the City of Portland for the past several months.

The members have requested that the City Council create a task force comprised of diverse and knowledgeable stakeholders who can examine the draft pesticide ordinance under review in South Portland, ordinances in other jurisdictions, as well as scientific literature regarding the effects of pesticides on public health and the environment. The committee would be tasked with reporting its findings and recommending a course of action to reduce the impacts of chemical pesticides on the environment and public health. In addition, the task force would be charged with examining the use of chemical fertilizers in the City of Portland and studying the impacts they have on the environment, particularly waterways including Casco Bay. Based on these findings, the task force will be asked to recommend a course of action to minimize this impact.

In order to expedite work of the task force, the Energy and Sustainability Committee requests that this order by passed as an emergency. Seven votes are required for passage as an emergency after public comment.

Order 264-15/16 (Tab 16) **Order Appointing Members of the Pesticide and Fertilizer Task Force - Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair.**

This is a companion order to Order 263-15/16 above.

The following representatives shall be appointed to the Pesticide and Fertilizer Task Force.

Nicholas M. Mavodones, Jr., Portland City Councilor and Task Force Chair;
Fred Dillon, involved in the development of the South Portland Pesticide ordinance;
Devon Morrill, licensed pesticide and fertilizer applicator;
Avery Yale Kamila, advocate for pesticide and fertilizer reform;
Tim Currier, manager of Maine Hardware;
Cathy Ramsdell, executive director of Friends of Casco Bay;
Dr. Joe Staples, lecturer in the Department of Environmental Science, University of Southern Maine;
Wendy Harmon, commercial property owner;
Jesse O’Brien, Portland residential property owner;
Dr. Rachel Bouvier, Portland residential property owner;
Bob Searle, Maine Golf Course Superintendents Association; and
Seana Cullinan, professional gardener.

The Pesticide and Fertilizer Task Force shall report back to the City Council’s Energy and Sustainability Committee by July 11, 2016 and formally present to the Committee at its July 20, 2016 meeting a draft Pesticide and Fertilizer Ordinance and any other related recommendations; however, the Task Force may request an extension by the City Council of both dates, which if reasonable, shall not be denied.

In order to expedite work of the task force, the Energy and Sustainability Committee requests that this order by passed as an emergency. Seven votes are required for passage as an emergency after public comment.

AMENDMENTS:

Order 265-15/16 (Tab 17) **Traffic Schedule Amendments Re: Forest Avenue and Washington Avenue Traffic – Sponsored by Jon P. Jennings, City Manager.**

This order amends the Traffic Schedule in certain locations on Forest Avenue and Washington Avenue to mitigate documented safety issues and facilitate transportation improvements to both corridors as part of annual striping and repaving projects during the 2016 construction season.

This item must be read on two separate days. This is its first reading. Staff is recommending that this Order be passed as an Emergency as part of action at the second reading. This will enable the changes to parking to take place concurrently with the annual striping of Forest Avenue, anticipated to be prior to the 30 days the change would normally take effect following Council action.

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

Order 243-15/16 (Tab 18) **Order Approving Fiscal Year 2017 Administrative Fees in Various Departments – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This order authorizes certain administrative charges.

The increases and new fees are located in the following departments and / or divisions: **Parking:** Elm Street & Spring Street Garage (Garage Monthly & Hourly Parking) and Angelo’s Acre Daily Parking; **Public Works:** Street Opening Permits and Permanent Pavement Restoration Fees; **Parks Recreation and Facilities:** Ice Arena Skate Sharpening Fees and Recreation’s Community Center Rental Fees.

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 244-15/16 (Tab 19) **Order Authorizing City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2017 Human Resources and Certain Fringe Benefits Budgets – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This order authorizes the City Manager to enter into standard agreements and amendments to standard agreements with providers of services for the fiscal year 2017 in order to implement portions of human resources, medical, workers' compensation, and liability budgets.

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 245-15/16
(Tab 20)

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

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

At the May 2 City Council meeting, this item was postponed to this to meeting coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 246-15/16
(Tab 21)

Order Authorizing the Director of Parks, Recreation and Facilities to Set Fees and Enter Rental Agreements for City Facilities – Sponsored by Jon P. Jennings, City Manager.

Staff has historically set fees and signed rental agreements for City facilities such as Merrill Auditorium, the Portland Exposition Building and Ocean Gateway. These facilities host 100s of events on an annual basis and while many events are similar in nature, all are also somewhat unique and require different staffing levels and services, and are therefore priced accordingly. The City's legal department has created a standard rental agreement.
Any changes to the terms of standard agreement, other than pricing, are reviewed by legal prior to being changed.
This order would authorize the Director or her/his designee to continue to sign such agreements and reaffirm this long-standing practice.

Also these venues and others, such as the Riverside Golf Course, Riverside Grill and Troubh Ice Arena are run in a business-like manner and need the flexibility to be able to offer specials and adjust pricing based on market conditions. This order will further reaffirm the practice of these fees being set administratively.

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 247-15/16
(Tab 22)

Order Authorizing City Manager to Enter into Certain Agreements to Implement Fiscal Year 2017 Health and Human Services Budget - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

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

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

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 248-15/16
(Tab 23)

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

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

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 249-15/16
(Tab 24)

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

This item will give Corporation Counsel a standing authorization to undertake civil actions to collect any delinquent personal property taxes that arise during the course of the fiscal year.

Otherwise it would be necessary for the City Council to specifically authorize each individual legal action. This general authorization will take the place of the case by case approach.

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 250-15/16
(Tab 25)

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

This Order authorizes the City Manager to make a 2% pay adjustment for all non-union employees effective July 3, 2016.

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

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

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 251-15/16 **Order Designating Fiscal Year 2017 Funds for Specific Island Services**
(Tab 26) **- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

The municipal budget includes $40,000 for use on Peaks Island in addition to the funds used to pay for direct and indirect city services. Pursuant to a request from the Peaks Island Council these funds will be used as follows in FY17:

Item A:	Transfer monies to the Portland School Department to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for the Peaks Island public middle and high school students to 12-month passes.	$4,300
Item B:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for Island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed $750.	$750
Item C:	Issue vouchers in the amount of $84 per voucher per student to the parents of children attending private schools off-island.	$450
Item D:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase tickets for needs-based Peaks Island Residents. To receive Needs-Based Tickets, recipients must fit defined criteria developed by the Peaks Island Council.	$5,000
Item E:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase bicycle tickets for a summer bike ticket program on Peaks Island.	$500
Item F:	Expend monies from the Parking and Transportation Fund payable to The Loretta Voyer Fund, to be used to help provide transportation for members in the community with cancer and other life-limiting diseases.	$1,000
Item G:	ITS: a.k.a., Island “Taxi”: Provide an allocation to the Island Transportation System for continued support of the only transportation service available to residents.	$16,000
Item H:	Provide an allocation to Peaks Island Tax & Energy Assistance (PITEA) for the express purposes of assisting eligible island residents with heating costs.	$3,150
Item I:	Provide an allocation to the Peaks Island Food Pantry for the express purposes of assisting eligible island residents with basic food needs. The Food Pantry is associated with the Brackett Memorial Church, and Brackett Memorial Church will be the	$1,150

	actual recipient of funds designated to the Food Pantry.	
Item J:	Provide an allocation to the City of Portland Recreation Division as a contribution towards the establishment of a Skateboard Park on Peaks Island.	$1,000
Item K:	Provide an allocation to the Peaks Island Environmental Team (PEAT) for the purposes of printing existing two different visitor-education brochures: One pertaining to general environmental awareness, and one specifically addressing Invasive Plants on Peaks Island and efforts towards their eradication.	$400
Item L:	Provide an allocation to the Peaks Island Council for the express purposes of designing & producing visitor-education signage for display at the mainland Casco Baylines Ferry Terminal.	$300
Item M:	Provide an allocation to Peaks Island Council Communication Committee for the research and development of an Island Website, to include an interactive calendar of community events, links to Island organizations and businesses, and historical info.	$2,000
Item N:	Provide an allocation to the Peaks Island Council for Administrative Expenses.	$4,000

This item must be read on two separate days. It was give a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 252-15/16 (Tab 27) **Order for Fiscal Year 2017 Appropriating $280,000 from Excess Fund - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Appropriating $280,000 from the Casco Bay Island Transit District (CBITD) Excess Fund. Pursuant to the lease agreement between the City and CBITD, the Excess Fund, as defined in the agreement, is accumulated and held until such time as the Council may appropriate amounts for purposes outlined in the agreement.

CBITD has requested $230,000, to be used in providing a local match, for Phase 2 of the Casco Bay Island Transit District's (CBITD) ferry terminal renovations.

This is permissible under the agreement as CBITD has first priority to request usage of available funds for their capital costs associated with public transportation in the City. An additional $50,000 from the Excess Fund shall be used to fund mass transportation needs of the City.
This is also permissible under the agreement as second priority for Excess Fund usage is for all other mass transportation needs and is not limited to capital expenditures.

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

RELATED ORDINANCE AMENDMENT:

Order 253-15/16 (Tab 28) **Amendment to Portland City Code Re: Various Fee Increases for Fiscal Year 2017 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.**

Part 1 adds the following new fee in Chapter 10 §18:

Chapter 10	**Description**	**Current Fee**	**Proposed Fee**
Sec. 10-18	**Amendments:**		
(c)	**Tier II Hazardous Materials**	NA	$250

Part 2 amends the fees in Chapter 14 §§54, 465, 530 and 677 as follows:

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-54	***Zone change / zone map fees:***		
(a) (1)	**Zoning Map Amendments:**	$2,000	$3,000
(a) (2)	**Zoning Text Amendments:**	$2,000	$3,000
(a) (3)	**Combination Zoning Map and Text Amendments:**	$3,000	$4,000
(a) (4)	**Conditional Rezoning:**	$3,000	$5,000

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-465	**Zoning Determination Fee:**	$150	$250

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-530	***Development review fees and post approval requirements:***		
(a)	***Development Review Fees:***		
(a) (4)	***Site Plan Review Expenses:***		
(a) (4) (d*)*	***Level III: Site Plan***		
(a) (4) (d) (i)	**Level III Site Plan Review Under 50,000 SF:**	$500	$750

(a) (4) (i)	***Fee for Development Review Services***		
(a) (4) (i) (i)	**Planning fee per hour**	$40	$50
(a) (4) (j)	***State Delegated Review Fees***		
(a) (4) (j) (i)	**Site Location of Development, except for residential projects which will be $200 per lot.**	$3,000	$3,500
(a) (4) (j) (ii)	**Traffic Movement Permit:**	$1,000	$1,500
(a) (4) (l)	***Inspection Fees, as required in Section 14-530 (b) (5)***		
(a) (4) (l) (i)	**Level I: Site Alteration, Level II and Level III: 2% of the performance guarantee or as assessed by Planning or Public Works Engineer (…at $) an hours with minimum inspection fee of $300 Level I: Minor Residential Inspection Fee $100 (flat fee).**	$45	$50

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-677	***Costs:***		
(a)	***Project Review***		
(a) (1)	**Administrative Review:**	$50	$65
(a) (2)	**Historical Preservation board review**	$100	$125

Part 3 amends the Sewer user charge.

The proposed sewer rate for January 1, 2017 is $9.35 per hundred cubic feet.

For the average 2-person household (estimated usage 4.3 HCF per month) this is an increase of $20.64 annually from the 2016 rates.

Part 4 amends the street opening excavator license fee from $500 annually to $1,000 annually.

Chapter 25 §133	**Description**	**Current Fee**	**Proposed Fee**
25 §133 (b)	**Excavations during winter:**	$500	$1,000

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 253A (Tab 29) **Order Requiring India Street Health Center and Portland Community Health Center Patients Involvement in Transition Planning – Sponsored by Councilor Justin Costa.**

This order requires that two (2) patients from the India Street Health Center and two (2) patients from the Portland Community Health Center, as chosen and appointed by the respective Centers, shall be involved in the planning of the transition of services from the India Street Health Center to the Portland Community Health Center.

Five affirmative votes are required for passage after public comment.

Order 253B (Tab 30) **Order Requiring Quarterly Briefings on the Transition of Services from the India Street Health Center to the Portland Community Health Center – Sponsored by Councilor Jill C. Duson.**

This order requires that City Manager or his/her designee provide quarterly briefings to the Health and Human Services Committee on the transition of services from the India Street Health Center to the Portland Community Health Center.

Five affirmative votes are required for passage after public comment.

APPROPRIATION RESOLVE:

Order 254-15/16 (Tab 31) **Fiscal Year 2016-2017 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This item brings forward the Appropriation Resolve for FY2017 for action by the City Council.

The Resolve contains the Finance Committee’s recommended budget for FY2017 for general municipal purposes in the amount of $236,271,786. In addition it contains the Finance Committee’s recommended budget for FY2017 for school purposes.

The Finance Committee reviewed the Board of Education's recommended budget on April 7, 2016, by a vote of 3-0 recommended support for certain amendments and a final budget amount of $103,602,884.

The tax levy based upon the Finance Committee's recommended School Budget and City Manager's amended budget recommendations and for municipal purposes is $83,952,883 and $80,331,376 for school purposes. This would result in a combined tax levy of $164,284,259 for FY 2017. The tax rate based on the combined levies would be $21.12 per $1,000 of assessed value, a 2.4% increase.

The Appropriation Resolve also directs the Assessor of Taxes to assess a tax upon all real and personal property liable to be taxed as of April 1, 2016 and sets September 9, 2016, as the tax due date, which may be paid in two installments due on September 9, 2016, and March 10, 2017.

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

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

RESOLUTIONS:

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ORDERS:

Order 266-15/16
(Tab 32)

Order Approving and Authorizing the City Manager to Sign Amendments of the Purchase and Sale Agreement, the Corporate Guaranty and the Parking Garage Contribution Agreement Re: The Federated Companies LLC Midtown Project – Sponsored by Jon P. Jennings, City Manager.

The Federated Companies Bayside "Midtown" Project includes for its Midtown project new construction of 440+ market rate apartments; 90,000 sq. ft. +/- retail/restaurant space; and one 840 space parking garage.

The entire Project is expected to be constructed within three years.

The City public policies goals associated with this public-private partnership include:

- Redevelopment of Bayside,

- Stimulate large scale market rate apartment development to support population growth on Portland’s Peninsula and support expansion of the city’s workforce,
- Construction of a large parking structure to support additional mixed use investment in Bayside and
- Invest in public road and utility improvements.

City investment in the Midtown Project includes this following sources and uses included in the below tables.

Five affirmative votes are required for passage after public comment.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

DAVID BRENERMAN (5)
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ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

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Proc 30-15/16 (Tab 4) **Proclamation Honoring Eli Chase, Police Department, as Employee of the Month for April 2016 – Sponsored by Mayor Ethan K. Strimling.**

Proc 31-15/16 (Tab 5) **Proclamation Proclaiming May 15-21, 2016 as Emergency Medical Services Week – Sponsored by Mayor Ethan K. Strimling.**

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This requires her to have the ability to issue citations to individuals who dump illegally or refuse to remove improper items from the curb after proper notice.

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These appointments shall be effective from the effective date of this order until 12:00 midnight, December 31, 2016.

These appointments are made pursuant to Portland City Code, Sections 20-19 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 256-15/16 (Tab 7) **Order Setting the Time for Opening Polls on June 14, 2016 Re: June Primary – Sponsored by Katherine L. Jones, City Clerk.**

Pursuant to 21-A M.R.S. §621, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

Notices are then posted in each district and at City Hall.

Five affirmative votes are required for passage after public comment.

Order 257-15/16 (Tab 8) **Order Declaring Saturday, June 25, 2016 as Rock Lobster Relay Festival – Sponsored by Jon P. Jennings, City Manager.**

This order authorizes the Rock Lobster Relay Festival to be held on Saturday, June 25, 2016 from 10:00 a.m. to 6:30 p.m. There will be a beer garden in the Moon Tide Garden, the park adjacent to the Ocean Gateway receiving building, from 10:00 a.m. through 6:30 p.m.

Order 258-15/16 (Tab 9) **Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Thell Brown – Sponsored by Jon P. Jennings, City Manager.**

This order authorizes the City Council to approve the transfer of $640.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Thell Brown.

This money was seized during a drug investigation conducted by the Maine Drug Enforcement Agency in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account.

The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

Order 259-15/16
(Tab 10)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Matthew Bradley – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $928.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Matthew Bradley.

Order 260-15/16
(Tab 11)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Donald Alfreds – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $560.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Donald Alfreds.

Order 261-15/16
(Tab 12)

Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: State of Maine v. Ziq Danquah – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $668.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Ziq Danquah.

Order 262-15/16
(Tab 13)

Order Re: Residential Parking Permit Extension – Sponsored by Jon P. Jennings, City Manager.

In June of 2008, the City Council approved a new residential parking zone, IR (Island Resident). A total of twenty-nine (29), two-hour parking spaces on both sides of Thames St. easterly of Hancock Street were signed accordingly. Vehicles displaying an IR (island resident) permit are exempt from the time limit parking regulation and can be left there all day.

Since the development of the proposed condominiums at the corner of Thames and Hancock Streets was on hold, 10 on-street spaces on the westerly side of Hancock St between Fore & Thames and the 16 on-street parking spaces on the north side of Thames St. between India and Hancock St. were signed 2-hour parking (rather than metered), so that islanders with an IR permit could use them on a temporary year-to-year basis until the condominium development is started or another project in its place. This gave the islanders an additional 26 on-street parking spaces convenient to Casco Bay Lines that would cause minimal interference with area businesses and residents.

There is now a proposed hotel development to be built on that lot. The situation will be reassessed next spring prior to requesting another extension. The current one-year extension expires on June 30, 2016.

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

LICENSES:

Order 219-15/16 (Tab 14) **Order Granting Municipal Officers' Approval of Local Food 1, LLC d/b/a B. Good Restaurant at15 Exchange St. Application to Expand Existing Alcohol Service Area on August 14, 2016 for B Good Block Party Festival – Sponsored by Katherine L. Jones, City Clerk.**

Application submitted on 4/12/16.

At the April 25 Council meeting this item was postponed to this meeting. Staff is requesting that this order be postponed indefinitely.

Five affirmative votes are required for passage after public comment.

Order 262A-15/16 (Tab 14A) **Order Granting Municipal Officers' Approval of Seamusfinn, LLC d/b/a Petite Jacqueline. Application for a Class I FSE License with Outside Dining on Public Property at 46 Market Street – Sponsored by Katherine L. Jones, City Clerk.**

Application submitted on 4/5/16. The Class I FSE license with Outside Dining on Public Property for this establishment was approved by City Council on February 17, 2016. Since that time, the applicant has changed the name of the LLC, but the principal officers remain the same.

Five affirmative votes are required for passage after public comment.

ORDERS:

Order 263-15/16 (Tab 15) **Order Establishing the Pesticide and Fertilizer Task Force – Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair.**

The Energy and Sustainability Committee has been examining the use of pesticides within the City of Portland for the past several months.
The members have requested that the City Council create a task force comprised of diverse and knowledgeable stakeholders who can examine the draft pesticide ordinance under review in South Portland, ordinances in other jurisdictions, as well as scientific literature regarding the effects of pesticides on public health and the environment. The committee would be tasked with reporting its findings and recommending a course of action to reduce the impacts of chemical pesticides on the environment and public health. In addition, the task force would be charged with examining the use of chemical fertilizers in the City of Portland and studying the impacts they have on the environment, particularly waterways including Casco Bay. Based on these findings, the task force will be asked to recommend a course of action to minimize this impact.

In order to expedite work of the task force, the Energy and Sustainability Committee requests that this order by passed as an emergency. Seven votes are required for passage as an emergency after public comment.

Order 264-15/16 (Tab 16) **Order Appointing Members of the Pesticide and Fertilizer Task Force - Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair.**

This is a companion order to Order 263-15/16 above.

The following representatives shall be appointed to the Pesticide and Fertilizer Task Force.

Nicholas M. Mavodones, Jr., Portland City Councilor and Task Force Chair;
Fred Dillon, involved in the development of the South Portland Pesticide ordinance;
Devon Morrill, licensed pesticide and fertilizer applicator;
Avery Yale Kamila, advocate for pesticide and fertilizer reform;
Tim Currier, manager of Maine Hardware;
Cathy Ramsdell, executive director of Friends of Casco Bay;
Dr. Joe Staples, lecturer in the Department of Environmental Science, University of Southern Maine;
Wendy Harmon, commercial property owner;
Jesse O'Brien, Portland residential property owner;
Dr. Rachel Bouvier, Portland residential property owner;
Bob Searle, Maine Golf Course Superintendents Association; and
Seana Cullinan, professional gardener.

The Pesticide and Fertilizer Task Force shall report back to the City Council's Energy and Sustainability Committee by July 11, 2016 and formally present to the Committee at its July 20, 2016 meeting a draft Pesticide and Fertilizer Ordinance and any other related recommendations; however, the Task Force may request an extension by the City Council of both dates, which if reasonable, shall not be denied.

In order to expedite work of the task force, the Energy and Sustainability Committee requests that this order by passed as an emergency. Seven votes are required for passage as an emergency after public comment.

AMENDMENTS:

Order 265-15/16
(Tab 17)

Traffic Schedule Amendments Re: Forest Avenue and Washington Avenue Traffic – Sponsored by Jon P. Jennings, City Manager.

This order amends the Traffic Schedule in certain locations on Forest Avenue and Washington Avenue to mitigate documented safety issues and facilitate transportation improvements to both corridors as part of annual striping and repaving projects during the 2016 construction season.

This item must be read on two separate days. This is its first reading. Staff is recommending that this Order be passed as an Emergency as part of action at the second reading. This will enable the changes to parking to take place concurrently with the annual striping of Forest Avenue, anticipated to be prior to the 30 days the change would normally take effect following Council action.

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

Order 243-15/16
(Tab 18)

Order Approving Fiscal Year 2017 Administrative Fees in Various Departments – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes certain administrative charges.

The increases and new fees are located in the following departments and / or divisions: **Parking:** Elm Street & Spring Street Garage (Garage Monthly & Hourly Parking) and Angelo's Acre Daily Parking; **Public Works:** Street Opening Permits and Permanent Pavement Restoration Fees; **Parks Recreation and Facilities:** Ice Arena Skate Sharpening Fees and Recreation's Community Center Rental Fees.

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 244-15/16
(Tab 19)

Order Authorizing City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2017 Human Resources and Certain Fringe Benefits Budgets – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the City Manager to enter into standard agreements and amendments to standard agreements with providers of services for the fiscal year 2017 in order to implement portions of human resources, medical, workers' compensation, and liability budgets.

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 245-15/16 (Tab 20) **Order Re: Self-Insured Liability Program – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

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

At the May 2 City Council meeting, this item was postponed to this to meeting coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 246-15/16 (Tab 21) **Order Authorizing the Director of Parks, Recreation and Facilities to Set Fees and Enter Rental Agreements for City Facilities – Sponsored by Jon P. Jennings, City Manager.**

Staff has historically set fees and signed rental agreements for City facilities such as Merrill Auditorium, the Portland Exposition Building and Ocean Gateway. These facilities host 100s of events on an annual basis and while many events are similar in nature, all are also somewhat unique and require different staffing levels and services, and are therefore priced accordingly. The City's legal department has created a standard rental agreement.
Any changes to the terms of standard agreement, other than pricing, are reviewed by legal prior to being changed.
This order would authorize the Director or her/his designee to continue to sign such agreements and reaffirm this long-standing practice.

Also these venues and others, such as the Riverside Golf Course, Riverside Grill and Troubh Ice Arena are run in a business-like manner and need the flexibility to be able to offer specials and adjust pricing based on market conditions. This order will further reaffirm the practice of these fees being set administratively.

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 247-15/16
(Tab 22)

Order Authorizing City Manager to Enter into Certain Agreements to Implement Fiscal Year 2017 Health and Human Services Budget - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

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

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

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 248-15/16
(Tab 23)

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

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

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 249-15/16
(Tab 24)

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

This item will give Corporation Counsel a standing authorization to undertake civil actions to collect any delinquent personal property taxes that arise during the course of the fiscal year.

Otherwise it would be necessary for the City Council to specifically authorize each individual legal action. This general authorization will take the place of the case by case approach.

At the May 2 City Council meeting, this item was postponed to this to meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

Order 250-15/16
(Tab 25)

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

This Order authorizes the City Manager to make a 2% pay adjustment for all non-union employees effective July 3, 2016.

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

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

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 251-15/16
(Tab 26)

Order Designating Fiscal Year 2017 Funds for Specific Island Services - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

The municipal budget includes $40,000 for use on Peaks Island in addition to the funds used to pay for direct and indirect city services. Pursuant to a request from the Peaks Island Council these funds will be used as follows in FY17:

Item A:	Transfer monies to the Portland School Department to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for the Peaks Island public middle and high school students to 12-month passes.	$4,300
Item B:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for Island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed $750.	$750
Item C:	Issue vouchers in the amount of $84 per voucher per student to the parents of children attending private schools off-island.	$450
Item D:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase tickets for needs-based Peaks Island Residents. To receive Needs-Based Tickets, recipients must fit defined criteria developed by the Peaks Island Council.	$5,000
Item E:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase bicycle tickets for a summer bike ticket program on Peaks Island.	$500
Item F:	Expend monies from the Parking and Transportation Fund payable to The Loretta Voyer Fund, to be used to help provide transportation for members in the community with cancer and other life-limiting diseases.	$1,000
Item G:	ITS: a.k.a., Island "Taxi": Provide an allocation to the Island Transportation System for continued support of the only transportation service available to residents.	$16,000
Item H:	Provide an allocation to Peaks Island Tax & Energy Assistance (PITEA) for the express purposes of assisting eligible island residents with heating costs.	$3,150
Item I:	Provide an allocation to the Peaks Island Food Pantry for the express purposes of assisting eligible island residents with basic food needs. The Food Pantry is associated with the Brackett Memorial Church, and Brackett Memorial Church will be the	$1,150

	actual recipient of funds designated to the Food Pantry.	
Item J:	Provide an allocation to the City of Portland Recreation Division as a contribution towards the establishment of a Skateboard Park on Peaks Island.	$1,000
Item K:	Provide an allocation to the Peaks Island Environmental Team (PEAT) for the purposes of printing existing two different visitor-education brochures: One pertaining to general environmental awareness, and one specifically addressing Invasive Plants on Peaks Island and efforts towards their eradication.	$400
Item L:	Provide an allocation to the Peaks Island Council for the express purposes of designing & producing visitor-education signage for display at the mainland Casco Baylines Ferry Terminal.	$300
Item M:	Provide an allocation to Peaks Island Council Communication Committee for the research and development of an Island Website, to include an interactive calendar of community events, links to Island organizations and businesses, and historical info.	$2,000
Item N:	Provide an allocation to the Peaks Island Council for Administrative Expenses.	$4,000

This item must be read on two separate days. It was give a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 252-15/16
(Tab 27)

Order for Fiscal Year 2017 Appropriating $280,000 from Excess Fund - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Appropriating $280,000 from the Casco Bay Island Transit District (CBITD) Excess Fund. Pursuant to the lease agreement between the City and CBITD, the Excess Fund, as defined in the agreement, is accumulated and held until such time as the Council may appropriate amounts for purposes outlined in the agreement.

CBITD has requested $230,000, to be used in providing a local match, for Phase 2 of the Casco Bay Island Transit District's (CBITD) ferry terminal renovations.

This is permissible under the agreement as CBITD has first priority to request usage of available funds for their capital costs associated with public transportation in the City. An additional $50,000 from the Excess Fund shall be used to fund mass transportation needs of the City.
This is also permissible under the agreement as second priority for Excess Fund usage is for all other mass transportation needs and is not limited to capital expenditures.

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

RELATED ORDINANCE AMENDMENT:

Order 253-15/16 (Tab 28) **Amendment to Portland City Code Re: Various Fee Increases for Fiscal Year 2017 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.**

Part 1 adds the following new fee in Chapter 10 §18:

Chapter 10	**Description**	**Current Fee**	**Proposed Fee**
Sec. 10-18	**Amendments:**		
(c)	**Tier II Hazardous Materials**	NA	$250

Part 2 amends the fees in Chapter 14 §§54, 465, 530 and 677 as follows:

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-54	***Zone change / zone map fees:***		
(a) (1)	**Zoning Map Amendments:**	$2,000	$3,000
(a) (2)	**Zoning Text Amendments:**	$2,000	$3,000
(a) (3)	**Combination Zoning Map and Text Amendments:**	$3,000	$4,000
(a) (4)	**Conditional Rezoning:**	$3,000	$5,000

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-465	**Zoning Determination Fee:**	$150	$250

Chapter 14	**Description**	**Current Fee**	**Proposed Fee**
Sec. 14-530	***Development review fees and post approval requirements:***		
(a)	***Development Review Fees:***		
(a) (4)	***Site Plan Review Expenses:***		
(a) (4) (d)	***Level III: Site Plan***		
(a) (4) (d) (i)	**Level III Site Plan Review Under 50,000 SF:**	$500	$750

(a) (4) (i)	***Fee for Development Review Services***		
(a) (4) (i) (i)	**Planning fee per hour**	$40	$50
(a) (4) (j)	***State Delegated Review Fees***		
(a) (4) (j) (i)	**Site Location of Development, except for residential projects which will be $200 per lot.**	$3,000	$3,500
(a) (4) (j) (ii)	**Traffic Movement Permit:**	$1,000	$1,500
(a) (4) (l)	***Inspection Fees, as required in Section 14-530 (b) (5)***		
(a) (4) (l) (i)	**Level I: Site Alteration, Level II and Level III: 2% of the performance guarantee or as assessed by Planning or Public Works Engineer (…at $) an hours with minimum inspection fee of $300 Level I: Minor Residential Inspection Fee $100 (flat fee).**	$45	$50

Chapter 14	Description	Current Fee	Proposed Fee
Sec. 14-677	***Costs:***		
(a)	***Project Review***		
(a) (1)	**Administrative Review:**	$50	$65
(a) (2)	**Historical Preservation board review**	$100	$125

Part 3 amends the Sewer user charge.

The proposed sewer rate for January 1, 2017 is $9.35 per hundred cubic feet.

For the average 2-person household (estimated usage 4.3 HCF per month) this is an increase of $20.64 annually from the 2016 rates.

Part 4 amends the street opening excavator license fee from $500 annually to $1,000 annually.

Chapter 25 §133	**Description**	**Current Fee**	**Proposed Fee**
25 §133 (b)	**Excavations during winter:**	$500	$1,000

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

Order 253A (Tab 29) **Order Requiring India Street Health Center and Portland Community Health Center Patients Involvement in Transition Planning – Sponsored by Councilor Justin Costa.**

This order requires that two (2) patients from the India Street Health Center and two (2) patients from the Portland Community Health Center, as chosen and appointed by the respective Centers, shall be involved in the planning of the transition of services from the India Street Health Center to the Portland Community Health Center.

Five affirmative votes are required for passage after public comment.

Order 253B (Tab 30) **Order Requiring Quarterly Briefings on the Transition of Services from the India Street Health Center to the Portland Community Health Center – Sponsored by Councilor Jill C. Duson.**

This order requires that City Manager or his/her designee provide quarterly briefings to the Health and Human Services Committee on the transition of services from the India Street Health Center to the Portland Community Health Center.

Five affirmative votes are required for passage after public comment.

APPROPRIATION RESOLVE:

Order 254-15/16 (Tab 31) **Fiscal Year 2016-2017 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This item brings forward the Appropriation Resolve for FY2017 for action by the City Council.

The Resolve contains the Finance Committee's recommended budget for FY2017 for general municipal purposes in the amount of $236,271,786. In addition it contains the Finance Committee's recommended budget for FY2017 for school purposes.

The Finance Committee reviewed the Board of Education's recommended budget on April 7, 2016, by a vote of 3-0 recommended support for certain amendments and a final budget amount of $103,602,884.

The tax levy based upon the Finance Committee's recommended School Budget and City Manager's amended budget recommendations and for municipal purposes is $83,952,883 and $80,331,376 for school purposes. This would result in a combined tax levy of $164,284,259 for FY 2017. The tax rate based on the combined levies would be $21.12 per $1,000 of assessed value, a 2.4% increase.

The Appropriation Resolve also directs the Assessor of Taxes to assess a tax upon all real and personal property liable to be taxed as of April 1, 2016 and sets September 9, 2016, as the tax due date, which may be paid in two installments due on September 9, 2016, and March 10, 2017.

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

This item must be read on two separate days. It was given a first reading on May 2. Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

RESOLUTIONS:

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ORDERS:

Order 266-15/16
(Tab 32)

Order Approving and Authorizing the City Manager to Sign Amendments of the Purchase and Sale Agreement, the Corporate Guaranty and the Parking Garage Contribution Agreement Re: The Federated Companies LLC Midtown Project – Sponsored by Jon P. Jennings, City Manager.

The Federated Companies Bayside "Midtown" Project includes for its Midtown project new construction of 440+ market rate apartments; 90,000 sq. ft. +/- retail/restaurant space; and one 840 space parking garage.

The entire Project is expected to be constructed within three years.

The City public policies goals associated with this public-private partnership include:

- Redevelopment of Bayside,

- Stimulate large scale market rate apartment development to support population growth on Portland's Peninsula and support expansion of the city's workforce,
- Construction of a large parking structure to support additional mixed use investment in Bayside and
- Invest in public road and utility improvements.

City investment in the Midtown Project includes this following sources and uses included in the below tables.

Five affirmative votes are required for passage after public comment.

Tab 1 - 5-16-16

ROLL CALL: Mayor Strimling called the meeting to order at 5:00 P.M. (Duson,Thibodeau arrived after the roll call.)

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Costa and seconded by Councilor Ray to approve the minutes of April 25, 2016, Special City Council Meeting. Passage 9-0.

PROCLAMATIONS:

Proc 27-15/16 **Proclamation Honoring Officer Jonathan Lackee as Police Officer of the Month for March 2016 – Sponsored by Mayor Ethan K. Strimling.**

APPOINTMENTS:

CONSENT ITEMS:

Order 236-15/16 **Order Declaring Lincoln Park Summer Concert Series 2016 as a Festival – Sponsored by Jon P. Jennings City Manager.**

Motion was made by Councilor Suslovic and seconded by Councilor Thibodeau for passage of the consent items. Passage 9-0.

LICENSES:

Order 237-15/16 **Order Granting Municipal Officers' Approval of Rising Tide Brewing Company LLC d/b/a Rising Tide Brewing Company LLC. Application for a Brewery Alcohol Service with Outdoor Dining on Private Property, Entertainment without Dance, and Food Service Establishment without Preparation License at 103 Fox Street – Sponsored by Katherine L. Jones, City Clerk.**

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

Order 238-15/16 **Order Granting Municipal Officers' Approval of Peter Bissell & Noah Bissell d/b/a Bissell Brothers. Application for a Brewery Alcohol Service with Outdoor Dining on Private Property and Entertainment without Dance License at 4 Thompson's Point – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage. Passage 9-0.

Order 239-15/16 **Order Granting Municipal Officers' Approval of Alizarin Inc. d/b/a Sweetgrass Winery & Distillery. Application for a Winery Alcohol Service License at 324 Fore Street – Sponsored by Katherine L. Jones, City Clerk.**

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

ORDERS:

Order 240-15/16 **Order Approving the Five-Year Signatory Airline Operating Agreement and Lease for Jetport Signatory Airlines- Sponsored by Jon P. Jennings, City Manager.**

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

Order 241-15/16 **Order Approving Lease with Bay Ferries Limited Re: Ocean Gateway - Sponsored by the Economic Development Committee, Councilor David Brenerman, Chair.**

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

Order 242-15/16 **Order Referring the Golf Cart Ordinance to the Health and Human Services Committee – Sponsored by Councilor Belinda Ray.**

Motion was made by Councilor Mavodones and seconded by Councilor Duson to refer the Golf Cart Ordinance to the Health and Human Services Committee. Passage 8-0 (Costa out).

BUDGET ITEMS:

PUBLIC COMMENT WILL BE TAKEN ON ALL SCHOOL BUDGET ORDERS.

Order 228-15/16 **Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY2017 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

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

Order 229-15/16 **Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2017 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

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

Order 230-15/16 **Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2017– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

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

Order 231-15/16 **Order Approving Total School Operating Budget for Portland Schools for FY2017– Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

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

Order 232-15/16 **Order Appropriating and Raising Funds for Adult Education for FY 2017 as Required by the Maine Revised Statutes, Title 20-A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

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

Order 233-15/16 **Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2017 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

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

Order 233-A 15/16 **Order Authorizing the Disposition of Any Additional State Subsidy Received for Portland Schools in Fiscal Year 2017 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on April 25, 2016.**

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage Passage 9-0.

PUBLIC COMMENT WILL BE TAKEN ON ALL MUNICIPAL BUDGET ORDERS.

Motion was made by Councilor Mavodones and seconded by Councilor Costa to continue the City Budget public hearing and move non-agenda public hearing to the end of the agenda. Passage 8-1 (Ray).

Order 243-15/16 **Order Approving Fiscal Year 2017 Administrative Fees in Various Departments – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Motion was made by Councilor Costa and seconded by Councilor Duson to postpone Order 243 to the May 16th City Council meeting. Passage 9-0.

Order 244-15/16 **Order Authorizing City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2017 Human Resources and Certain Fringe Benefits Budgets – Sponsored by the Finance Committee, Councilor Nicholas M Mavodones, Jr., Chair.**

This is its first reading.

Order 245-15/16 **Order Re: Self-Insured Liability Program – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Motion was made by Councilor Costa and seconded by Councilor Brenerman to postpone Order 245 to the May 16th City Council meeting. Passage 9-0.

Order 246-15/16 **Order Authorizing the Director of Parks, Recreation and Facilities Management to Set Fees and Enter Rental Agreements for City Facilities – Sponsored by Jon P. Jennings, City Manager.**

Motion was made by Councilor Costa and seconded by Councilor Duson to postpone Order 246 to the May16th City Council meeting. Passage 9-0.

Order 247-15/16 **Order Authorizing City Manager to Enter into Certain Agreements to Implement Fiscal Year 2017 Health and Human Services Budget - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

IN COUNCIL REGULAR MEETING MAY 2, 2016 VOL. 132 PAGE 108

Order 248-15/16 **Order Authorizing City Manager to Accept Scholarship Trust Donations and Enter into Trust Agreements - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Motion was made by Councilor Costa and seconded by Councilor Duson to postpone Order 248 to the May 16ht City Council meeting. Passage 9-0.

Order 249-15/16 (Tab 22) **Order Authorizing Corporation Counsel to Undertake Civil Actions to Collect Delinquent Personal Property Taxes - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

Motion was made by Councilor Costa and seconded by Councilor Thibodeau to postpone Order 249 to the May 16th City Council meeting. Passage 9-0.

Order 250-15/16 **Order Authorizing Non-Union Wage Adjustment - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

Order 251-15/16 **Order Designating Fiscal Year 2017 Funds for Specific Island Services - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

Order 252-15/16 **Order for Fiscal Year 2017 Appropriating $280,000 from Excess Fund - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

RELATED ORDINANCE AMENDMENT:

Order 253-15/16 **Amendment to Portland City Code Re: Various Fee Increases for Fiscal Year 2017 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.**

This is its first reading.

APPROPRIATION RESOLVE:

Order 254-15/16 **Fiscal Year 2016-2017 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**

This is its first reading.

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Motion was made by Councilor Costa and seconded by Councilor Ray to adjourn. Passage 9-0, 8:21 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Proc 28-15/16
Tab 2 5-16-16

PROCLAMATION

HONORING

CULTURE CLUB-PORTLAND AND PORTLAND PUBLIC SCHOOLS

****

WHEREAS, Culture Club-Portland is a consortium including Portland Museum of Art, Portland Ovations, Portland Stage and the Portland Symphony Orchestra; and

WHEREAS, Culture Club-Portland works with Portland Public Schools and Portland Education Foundation in order to achieve the goal to provide four unique arts experiences each year for each student in Portland Public Schools; and

WHEREAS, Culture Club-Portland has come together to deliver accessible, consistent, diverse, high quality arts experiences to students in Portland Public Schools (K-12); and

WHEREAS, Culture Club-Portland is in its fourth year of providing arts and cultural experiences to students in Portland's public schools at no additional cost to the school district as a result of the generosity of an anonymous onor; and

WHEREAS, Culture Club-Portland was created in response to growing concerns about the dwindling presence of cultural experiences for students in public schools; and

WHEREAS, The City of Portland and the Portland Board of Public Education recognize the incredible and unique opportunity Portland Public Schools has to access world-class arts and culture often within walking distance; and

WHEREAS, Community organizations are increasingly valuable partners who help deliver high quality educational opportunities to students in public schools; and

WHEREAS, Portland Public Schools has benefited from four years of outside investment in support of Culture Club-Portland totaling nearly two million dollars.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland and members of the City Council do hereby recognize Culture Club-Portland for ensuring access to world-class arts for all students in Portland Public Schools.

Signed and sealed this 16th day of May, 2016

Ethan K. Strimling, Mayor
City of Portland, Maine

Proc 29-15/16
Tab 3 5-16-16

PROCLAMATION

HONORING

OFFICER CHRISTOPHER DYER

WHEREAS: **Officer Dyer** joined the Portland Police department in 2008 and currently serves in Patrol after an assignment with the Maine Drug Enforcement Agency for over a year. He is a skilled member of the department's Special Reaction Team and is qualified as a Field Training Officer; and

WHEREAS: **Officer Dyer** is recognized for his integral role as an MDEA agent in the successful execution of a search warrant in April 2016 leading to multiple arrests and additional warrants being issued; and

WHEREAS: **Officer Dyer** worked to identify targets of a known illegal operation that were a source of multiple neighborhood complaints; and

WHERAS: **Officer Dyer** spent countless hours gathering intelligence and helping to build a case leading to the successful execution of this search warrant, ultimately increasing the quality of life in part of our community; and

WHEREAS: **Officer Dyer** is commended for his exemplary performance and outstanding representation of the Portland Maine Police Department.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Officer Christopher Dyer** as **Officer of the Month for April 2016**.

Signed and sealed this 16th day of May 2016

Ethan K. Strimling, Mayor
City of Portland, Maine

Proc 30-15/16
Tab 4 5-16-16

PROCLAMATION

Honoring

Eli Chase
Employee of the Month

April 2016

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

WHEREAS: This award is presented in recognition of **Eli's** work as a Police Detective with over 13 years of service. As a computer forensics detective **Eli** has attended numerous trainings to reach a high level of proficiency. **Eli** currently investigates a variety of computer-related crimes, as well as crimes that require cell phone examination. **Eli** not only examines computers for the Portland Police Department, but also for surrounding police departments as well. **Eli's** intellect is unsurpassed and he has gained a reputation as one of the most knowledgeable computer forensic detectives within the State of Maine and in New England; and

WHEREAS: Despite **Eli's** caseload, he always makes time for others if they need assistance on other computer/cell phone related cases. As a result of more than a decade of impressive work, **Eli** has examined a substantial number of computers that contain inappropriate content that involve children and minors. Although the evidence involved in **Eli's** investigations is often graphic and disturbing, **Eli** never waivers from his assignment; and

WHEREAS: **Eli** is commended for his unwavering professional conduct, and we are pleased to further recognize that **Eli's** investigations almost always result in guilty pleas. Ultimately, our friends, families and neighbors here in the City of Portland are safer due to his efforts. **Eli** truly is an asset to the Police Department and to the City.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Eli Chase** as **City Employee of the Month, April 2016.**

Signed and Sealed this 16th day of May, 2016

Ethan K. Strimling, Mayor
City of Portland, Maine

Proc 31-15/16
Tab 5 5-16-16

PROCLAMATION

PROCLAIMING
MAY 15-21, 2016
EMERGENCY MEDICAL SERVICES WEEK

WHEREAS: emergency medical services is a vital public service; and

WHEREAS: the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS: access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS: emergency medical services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and

WHEREAS: the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and

WHEREAS: the members of emergency medical services teams, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS: it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week;

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine and the members of the Portland City Council do hereby proclaim the week of May 15-21, 2016, as **EMERGENCY MEDICAL SERVICES WEEK** with the theme, ***EMS Strong: Called to Care,*** and encourage the community to observe this week with appropriate programs, ceremonies and activities.

Signed and sealed this 16th day of May, 2016

Ethan K. Strimling, Mayor
City of Portland, Maine

Order 255-15/16
Tab 6 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPOINTING CONSTABLES FOR 2016 RE: DEPARTMENTS OF PUBLIC WORKS AND PARKS, RECREATION AND FACILITIES

ORDERED, that Jeffrey Knox, Kyle O'Neil, Gina Mannarino and Jill Mulkern, Park Rangers for the Department of Public Works, and Dawn Davidson from the Department of Parks, Recreation and Facilities are hereby appointed as constables for the remaining calendar year 2016; and

BE IT FURTHER ORDERED, that these appointments shall be effective from the effective date of this order until 12:00 midnight, December 31, 2016; and

BE IT FURTHER ORDERED, that these appointments are made pursuant to Sections 20-19 and 20-19.5, Portland City Code, and Jeffrey Knox, Kyle O'Neil, Gina Mannarino, Jill Mulkern, and Dawn Davidson are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets.

Order 256-15/16
Tab 7 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 TIME FOR OPENING OF POLLS ON JUNE 14, 2016
RE: JUNE PRIMARY

ORDERED, that pursuant to 21-A M.R.S. Sec. 626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on Tuesday, June 14, 2016, for the June Primary.

Portland, Maine Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Strimling and Members of the
Portland City Council

FROM: Katherine L. Jones, City Clerk

DATE: April 21, 2016

RE: Setting the time for opening the polls on June 14, 2016

Pursuant to 21-A M.R.S.A. §621, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

Notices are then posted in each district and at City Hall.

Order 257-15/16
Tab 8 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER DECLARING JUNE 25, 2016 AS THE ROCK LOBSTER RELAY FESTIVAL

ORDERED, that June 25, 2016 between 10:00 a.m. and 6:30 p.m. is hereby declared to be the Rock Lobster Relay Festival, sponsored by GiddyUp Productions, LLC; and

BE IT FURTHER ORDERED, that the Rock Lobster Relay Festival area shall be the Eastern Prom Trail, the Amethyst Lot and Moon Tide Park at Ocean Gateway; and

BE IT FURTHER ORDERED, that the Rock Lobster Relay Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to GiddyUp Productions, LLC under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager or the Acting City Manager and to the following specific conditions:

1. GiddyUp Productions, LLC shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of $400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. ORGANIZER shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area, except in an enclosed Beer and Wine Garden for people 21-years-old and older, located in Moon Tide Park to be run and staffed by Public Assembly Facilities Division staff;

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 Assembly Facilities Officer shall be adhered to;

4. GiddyUp Productions, LLC shall pay for any city staff assistance required, including Public Assembly Facility staff;

5. GiddyUp Productions, LLC shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Rock Lobster Relay 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 GiddyUp Productions, LLC has agreed shall participate; and

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

Portland, Maine Yes. Life's good here.

Sally L. DeLuca
Director
Department of Recreation & Facilities Management

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Andrew Downs, Director of Public Assembly Facilities
DATE: Monday May 2nd, 2016
RE: Giddy Up Productions – Rock Lobster Relay

I am requesting that the following order be placed on the May 16th 2016 City Council agenda: order authorizing Giddy Up Productions, LLC Rock Lobster Relay as a "Festival", scheduled for Saturday June 25, 2016.

The Rock Lobster Relay is a for-profit event, however, local non-profit organization, Candace Cares and thirty five other non-profit sponsors will benefit from the Rock Lobster Relay proceeds.

This is the first year of the Rock Lobster Relay.

The Rock Lobster Relay is a two-hundred (200) mile relay race from Bar Harbor to Portland. Runners will have staggered start times out of Bar Harbor on Friday June 24th, 2016 between 6:00 am and 3:30 pm.

The overnight race is split into 36 (11.0 – 20.6 mile) legs. Each team will consist of 6-12 runners. The maximum number of teams is 200 (=2400 runners). Each runner will run 3 legs of the course. Exchange points are set up along the course route at schools, parks and businesses. Teams should finish between 20 and 36 hours after their start times.

In Portland, the final hand off (exchange #35) will take place at Martin's Point Healthcare on US Rte. 1 with a finish line at Ocean Gateway Amethyst Lot.

It is estimated that finishers will be crossing the finish line between 10:00 am and 6:30 pm on Saturday June 25th, 2016.

The order should include the following three major items:

(1) The Rock Lobster Relay be authorized for Saturday June 25th 2016 from 10:00 am thru 6:30 pm, in Portland, along City streets and trails.
(2) A beer garden to be authorized in Moon Tide Garden, the park adjacent to the Ocean Gateway Receiving building from 10:00 am thru 6:30 pm on Saturday June 25th 2016. The 21+ beer garden will be staffed by the City Public Assembly Facilities Division. Local non-profit, Candace Cares – which supports cancer programs in Portland will be the beer garden sponsor.
(3) Control of vendors - all vendors will be required to have the appropriate permits and licenses.

All Security will be provided by Public Assembly Facilities Division Staff.

Portland, Maine Yes. Life's good here.

Sally L. DeLuca
Director
Department of Recreation & Facilities Management

Andrew J. Downs
Director
Public Assembly Facilities Division

The route for the Rock Lobster Relay is as follows:

- At mile 197 runners enter Portland from Falmouth on Rte. 1 (South) via Martin's Point Bridge.
- Runners will continue to Rte. 1 (staying on left sidewalk facing traffic), taking a left on Marine Hospital Rd (Martin's Point Healthcare Driveway) and stop at Exchange #35 – Martin's Point Health Care.
- After the exchange runners will continue on internal sidewalks back to Rte. 1 at traffic light, they will take a left on Rte. 1 South via the crosswalk.
- Runners will bear right on Veranda Street (staying on right sidewalk with traffic)
- Left on Washington Ave after using crosswalks to cross over Washington Ave and then Bates Street
- Merge onto Back Cove Trail that passes underneath the I-295 ramps
- Continue on the trail going south across Tukey's Bridge, taking a right on Eastern Prom Trail that passes under Tukey's Bridge
- Continuing on the Eastern Prom Trail all the way to the finish line at the Amethyst Parking lot

This race will require no street closures.

While running in the busy part of town, runners will be on sidewalks and not in the roads.

Runners will use crosswalks at every intersection and abide by traffic light signals.

Runners will be directed by various types of navigation signs placed on sidewalks and roadsides at key intersections along the course – not volunteers. Each sign will consist of a 42' tall delineator cone with an 8" wide by 40" tall corroplast sign attached vertically.

The City Manager is authorized to issue a revocable permit under Section 25-26 thru 25-30 of Portland City Code to the race organizer subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right of ways during said event, other than what is approved by the City Council (Saturday Beer Garden), taking place at Mood Tide Garden under the Direction of Public Assembly Facilities staff.
- Giddy Up Productions, LLC will be providing a PA system for pre-recorded music and announcements on Saturday June 25th (10:00 am thru 6:30 pm) in Ocean Gateway Amethyst lot and Moon Tide Garden. Any and all public announcements and amplified music shall be maintained at a reasonable level and be configured by the event organizer and the City to focus volume away from residential housing, limiting any sound impacts in residential areas.
- Race organizer 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 (as well as alcohol liability coverage) in the amount of at least $400,000.00 per

occurrence for personal or bodily injury, death or property for said purposes;

- Conditions for use of grounds specified in the Operating Agreement from Public Assembly Facilities shall be adhered to;
- Race organizers shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the Festival;
- City permit fees and license fees and cost for City Staff assistance will be paid by the race organizer

This is the first year for this event, however, Giddy Up Productions, LLC has held similar type of events over the past few years which have all been successful. City staff feel we can manage this event and recommend its approval.

CITY OF PORTLAND, DEPARTMENT OF PUBLIC WORKS
PUBLIC PARK & SPACE APPLICATION (5 pages)

55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 / 8751 (Event Office) ~ Fax 207-874-8816
tym@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	9/22/15 Revised: 11-17, 12-22	**ORGANIZATION NAME**	GiddyUp Productions LLC				
ORGANIZATION ADDRESS	141 School St	**CITY**	South Portland	**STATE**	ME	ZIP	04106

CONTACT NAME(S)	**Erik Boucher**	**TITLE**	**President**

HOME #		**WORK**		**CELL**	210-8655	**FAX**	
EMAIL	erik@justgiddyup.com	**EMAIL**					

PARK AREA OR PUBLIC SPACE REQUESTED	Amethyst Park, Moontide Park, Ocean Gateway Queuing Lanes Sides of Portland Streets.... BC Pathway, E P Trail				
EVENT DAY & DATE(S)	Friday 6-24-16 & Saturday 6-25-16	**RAIN DAY & DATE(S)**	NA		
EVENT START TIME (i.e. set-up start time)	On 6/24 7:00 AM	**EVENT END TIME** (i.e. when event cleanup is complete)	On 6/25 8:00 PM	**ACTUAL START & END TIME OF EVENT**	On 6/25 10:00 AM start 7:30 PM end

EVENT NAME	**EXPECTED ATTENDANCE**
ock Lobster Relay	1,500

DESCRIPTION OF EVENT: Please be specific regarding **area of public space/park** and describe event in detail.

This is a 200 mi relay race from Bar Harbor to Portland. Runners will have staggered start times out of Bar Harbor on Friday 6/24 between 6:00am – 3:30pm & will run through the night.

The race is split into 36 (11.0 - 20.6 mi) legs. Teams have 12 runners each. Maximum # of teams is 200 (= 2400 runners). Each runner runs 3 legs of the course. Exchange points are set up along the course route at schools, parks & businesses. Teams should finish 20-36 hrs from their start time.

Locally, the final hand-off (exchange #35) will take place at Martin's Point Healthcare on US Rte. 1. From there, runner of final leg proceeds along Rte. 1 South, merging onto Veranda St., turns left onto Washington Ave., merging onto Back Cove Trail, continues over Tukey's Bridge, turns right onto E. Prom. Trail (under bridge) & follows trail to finish line at Ocean Gateway Amethyst Lot.

Finishers should be arriving on Saturday, 6/25 between 10:00am – 6:30pm.

See Below For Greater Detail

The Rock Lobster Relay is a 200-mile relay race that starts in Bar Harbor and ends in Portland. Teams of 6 to 12 people compete against other teams. One person from each team runs a leg of the course at a time. The runner stops at an exchange point and hands a baton to another runner who runs the next leg. Participants will start on Friday 6/24/16, run throughout the night, and finish on Saturday 6/25/16.

- **Event capacity: 200 teams**
- **Allowable team sizes: 6 to 12 people/ team**
- **Maximum Registrants (year 1): 2,400**
- **Start & Finish: Friday 6/24/16 & Saturday 6/25/16**
- **Start Location: Athletic Fields (near YMCA), Bar Harbor**
- **Finish Location: Ocean Gateway, Portland**
- **Sunset On Friday: 8:24pm (Twilight @9:00pm)**
- **Sunrise On Saturday: 4:55am (Twilight @4:18am)**

How It Works

1. **Twelve friends form a team and travel together in 2 passenger vans**
2. **Van#1 transports team members 1 to 6; Van#2 transports members 7 to 12**

3. Each team determines their team pace (miles/minute) based on the average of each team member's best 10km or half marathon time
4. Each team is assigned a start wave time slot based on their team pace
5. The first wave starts at 6:00am and the last wave at 3:30pm
6. The race course is split into 36 segments (legs) each leg is 2.5 to 9.3 miles
7. Exchange points (where one leg ends and another starts) are set up along the course at places like schools, YMCAs, parks, and businesses
8. Team member #1 runs leg #1 and then hands-off a slap bracelet to team member#2 who runs leg #2. The process continues to leg #12, then repeats
9. Team member #1 runs leg #13, member #2 runs leg #14, etc.
10. Each team member runs a total of 3 legs for a total of 11.0 to 20.6 miles
11. The race ends when each team completes the 200 mile course
12. The fastest team will finish in 20 hours, the slowest team in 36 hours

How Wave Starts Work

Not everyone will start at the same time. Each team will be assigned a start wave time-slot based on their predicted team pace. At 6:00am the first wave of runners will start. There will be no more than 20 runners per wave. Each wave will be separated by 30 minutes. The last wave of runners will start at 3:30pm. The wave start schedule is designed to ensure that runners are spread out on the course. Normally a runner will be by themselves on the road with lots of space in-between each person.

Basic Rules Of The Road (Runners)

- Run in the left lane facing traffic unless directed otherwise
- Stop at all traffic lights, go when light is green
- Use crosswalks when directed
- Carry all trash in vans and dispose in designated areas at exchange points
- Participants must be courteous and respectful of residences in each town
- Starting at 8:30pm on Friday 6/24 until 4:30am on Saturday 6/25 all participants outside a van will be required to wear reflective vests, a forward facing light, and a flashing light on their back

Basic Rules Of The Road (Team Vans)

- Vans may not park in the road or in any place where parking is not permitted
- Vans may not block private driveways or commercial entrances
- Vans may not slow down traffic behind them by shadowing a runner
- Vans must adhere to all applicable local vehicle safety laws
- There must be enough seat belts for all passengers
- Vehicles wider than 6'6" or longer than 20' are not permitted
- Motor-homes, RV's, campers, trailers, buses or limos are not permitted

rn-By-Turn Directions

- At Mile 197 runners enter Portland from Falmouth on Rt 1 (South) via Martin's Point Bridge
- Continue on Rt 1 (staying on left sidewalk facing traffic)
- Left on Marine Hospital Rd (Martin's Point Healthcare driveway)
- Stop at Exchange #35 – Martin's Point Healthcare
- Continue on internal sidewalks back to Rt 1 at traffic light
- Left on Rt 1 South after using crosswalk to get to other side (staying on right sidewalk with traffic)
- Bear right on Veranda Ave (staying on right sidewalk with traffic)
- Left on Washington Ave after using crosswalks to cross over Washington Ave and then Bates St
- Merge onto Back Cove Trail that passes underneath the I-295 ramps
- Continue on trail South across Tukey's Bridge
- Right on Eastern Prom trail that passes under Turkey's Bridge
- Continue on the Eastern Prom trail all the way to the Ocean Gateway
- End race in Amethyst Park (lot)

Exchange #35 – Martin's Point Healthcare

- Exchange #35 is located near Mile 197 at the Martin's Point Healthcare center
- Runners will pass through the exchange from 10:00am to 6:30pm on Saturday 6/25/16
- A relay exchange zone will be set up on a sidewalk inside the hospital grounds using orange 42" delineator cones and caution tape
- Two runners from each team will hand-off a baton in the zone
- All other participants will be required to stand behind a cordoned-off area around the exchange zone and not in the road
- Vans will be continuously entering and exiting the parking area
- A maximum of 26 vans will flow in and out of the zone during a 30 minute period. In the first year the number will be much less.
- Additional portable toilets will be set up near the parking lot
- While in the busy part of town runners will be on the sidewalk and not the roads
- Runners will use crosswalks at every intersection and abide by traffic light signals

Parking Plan

- Participants will be finishing at different times throughout the day on Saturday 6/24/16
- Staff parking in Thames St lot with parking pass
- Participants parking in queuing lanes <3pm with parking pass
- Additional participant parking in Thames St lot
- Additional participant parking in Ocean Gateway Garage

Navigation Signs

Runners will be directed by various types of navigation signs placed on sidewalks and roadsides at key intersections along the

course -- not volunteers. A sign will consist of a 42" tall delineator cone with an 8" wide x 40" tall corroplast sign attached vertically.

IS THERE A REGISTRATION FEE COLLECTED FOR THIS EVENT?	Yes	
YES FOR FEES, HOW MUCH?	**FEE**	$100 per person

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?
Staff to park in Thames St lot (~15 vehicles). Participants will park in queuing lanes (before 3:00pm) and nearby parking garages.

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: **10**	**X**		
*	Do you wish to set up a **tent(s)**? (a canopy or tent larger than 10x10 needs to be approved by Public Works and a Tent Permit issued from Inspections Division; please call Inspections – 874-8693 - for information on their application process / PLEASE give them at least a 2-week notice). Public Works will contact Inspections once the tent location is approved so that the Tent Permit Application may go forward. State size(s): **20x40** Exact Location(s) of Tent Placement Requested: **Amethyst Park** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233.	**X**		
*	Will you be setting up **tables and/or chairs**? How many tables: **40** chairs: **200**	**X**		
*	Are other items or equipment being placed on City property? Please List: **barricades, finish line structure, feather flags, air dancer, sign posts, sound system and speakers**	**X**		
*	Will there be **refreshments** at the event? **Yes** Do you wish to **sell food? Yes** (If so, you will need approval from Public Works) List food and drink: **beer, pizza, lobster rolls, food trucks** 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 Works, 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: **shirts, glass mugs, hats**	**X**		
*	Are you setting up a **PA (sound) system? Yes** Are you planning on having **Amplified Music? Yes Band? No DJ? Yes** If so, your event requires a concert license from the City Clerk's Office (874-8557). 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. Elec. at these areas is turned off. Some of these electrical boxes need a key for access.	**X**		
*	Are you planning on bringing a **Grill for a Barbecue**?		X	
*	Will the event require **reserved parking spaces / parking meters**?		X	
*	Will your event need **safety vests, signs, barricades and/or cones**? Please list what you would like to borrow: **barricades** A few orange vests and cones may usually be borrowed from Public Works, Event Office. Barricades and signs are borrowed from Public Works, Customer Service.	**X**		
*	Will your event require **street closures**?		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**		

	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,			

PUBLIC WORKS POLICIES

ELECTRICITY

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.

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 (including East End Beach). If over 150 people are expected to attend the event, a $25 user fee is required (paid to Public Works). 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). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). 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 Works 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 a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	**TYPE INITIALS**	**EB**	**DATE**	**9/22/15**

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**	EB	**DATE**	9/22/15

FEE SCHEDULE – UPDATED JULY 1, 2015

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): $50/hour Event with registration or pledges & attendance 25 – 300: $100/hr Event with registration or pledges & attendance 301+: $200/hr Public Space/Park Security Deposit/Sound Security Deposit: $100 -$1000	Impact/Street Closure Fee (variable based on impact): $0-$500 Admin/Staff Fee (support for events): $30/hour Porta Restroom User Fee (if attendance is 150+): $25

CREDIT CARD INFORMATION

Visa or MasterCard Number				0948	Exp Date (Mon/Yr)	07	17

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: $50 - $200 per hour (i.e. a 3 hour event at $50 totals $150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however $50 is non-refundable) Number of Hours of Use:	$?	Vest/Cone Deposit: $10 per/item Barricade Deposit: $25 per/item	$?

Admin/Staff Fee (support for events): $30/hour	$ **?**	Public Space / Park Security Deposit: Sound Security Deposit $100 - $1000	$ **?**
Key Deposit: $50 per key	$ **N/A**	Other (Porta-Restroom User Fee: $25, etc.)	$ **25?**
Impact/Street Closure Fee (variable based on impact): 100-$500	$ **N/A**		

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	**9-22-15**	DATE REC'D INSURANCE	**NEED**	PERMIT FEE AMT REC'D	$ **NEED**	SECURITY DEPOSIT	$ **NEED**

PAYMENT TYPE

VISA	$	MC	$	CK #		CK AMOUNT	$	CASH AMT	$

Order 258-15/16
Tab 9 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: THELL BROWN

ORDERED, that the City Council hereby accepts the amount of $640.00 in forfeited assets in the case of State of Maine vs. Thell Brown from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-7536

State of Maine

v.

Thell Brown,
Defendant

AND
$640.00 US CURRENCY

DEFENDANT IN REM

City of Portland
Approval of Transfer
15 M.R.S. §5824(3)
and §5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely $640.00 US Currency, **or any portion thereof**, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: ____________

____
Mayor

(Impress Legislative Body Seal Here)

Order 259-15/16
Tab 10 5-16-16

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING TRANSFER OF FUNDS UNDER 15 M.R.S. §§ 5824(3) and 5826(6)
RE: MATTHEW BRADLEY

ORDERED, that the City Council hereby accepts the amount of $928.00 in forfeited assets in the case of State of Maine vs. Matthew Bradley from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-5385

State of Maine

v.

Matthew Bradley,
Defendant

AND
$928.00.00 US CURRENCY

DEFENDANT IN REM

}
}
}
}
}
}
}
}
}

City of Portland
Approval of Transfer
15 M.R.S. §5824(3)
and §5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely $928.00.00 US Currency, **or any portion thereof**, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem*, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: ____________

____
Mayor

(Impress Legislative Body Seal Here)

Order 260-15/16
Tab 11 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING TRANSFER OF FUNDS UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: DONALD ALFREDS

ORDERED, that the City Council hereby accepts the amount of $560.00 in forfeited assets in the case of State of Maine vs. Donald Alfreds from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-7020

State of Maine

v.

Donald Alfreds,
Defendant

AND
$560.00 US CURRENCY
DEFENDANT IN REM #1

City/Town Of Portland
Approval Of Transfer
15 M.R.S.A. §5824(3)
and §5826(6)

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely $560.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: __________

____
Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

Order 261-15/16
Tab 12 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING TRANSFER OF FUNDS UNDER 15 M.R.S. §§ 5824(3) and 5826(6)
RE: ZIQ DANQUAH

ORDERED, that the City Council hereby accepts the amount of $668.00 in forfeited assets in the case of State of Maine vs. Ziq Danquah from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-6846

State of Maine

v.

Ziq Danquah,
Defendant

AND
$668.00 US CURRENCY

DEFENDANT IN REM

City of Portland
Approval of Transfer
15 M.R.S. §5824(3)
and §5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant(s) *In Rem*, namely $668.00 US Currency, **or any portion thereof**, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) *In Rem,* to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6).

Dated: ____________

____
Mayor

(Impress Legislative Body Seal Here)

Order 262-15/16
Tab 13 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER RE: RESIDENTIAL PARKING PERMIT EXTENSION

ORDERED, that Schedule XXVIII, Residential Parking Permit Area, District IR established pursuant to Order 306-07/08 passed on June 16, 2008 and amended by Order 278-08/09 on June 1, 2009, Order 246-09/10 on June 7, 2010, Order 270-10/11 on June 20, 2011, Order 217-11/12 on June 18, 2012, Order 235-12/13 on June 3, 2013, Order 265-13/14 on June 16, 2014, and Order 289-14/15 on June 15, 2015, is hereby amended, as follows:

By extending the one-year period that will expire on June 30, 2016 to June 30, 2017.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: John Peverada, Parking Manager

DATE: May 4, 2016

DISTRIBUTION: Jon Jennings, City Manager
Ethan Strimling, Mayor
Danielle West Chuhta, Corporation Counsel
Julie Sullivan, Chief of Staff
Michael Murray, Assistant to the City Manager
Sonia Bean , Senior Administrative Assistant
Judy Rosen, Senior Administrative Assistant
Nancy English, Executive Legal Assistant

SUBJECT: Residential Parking Permit Extension

SPONSOR: Councilor Kevin Donoghue

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading _____ Final Action June 6, 2016

I. SUMMARY OF ISSUE

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

Additionally since the development of the proposed condominiums at the corner of Thames and Hancock Streets was on hold, 10 on street spaces on the westerly side of Hancock St between Fore & Thames and the 16 on street parking spaces on the north side of Thames St. between India and Hancock St. were signed 2 hour parking (rather than metered), so **that people with a IR permit could use them on a temporary year to year basis until the condominium development is started or another project in it's place.** This gave the islanders an additional 26 on street parking spaces convenient to Casco Bay Lines, that would cause minimal interference with area businesses and residents. As you know there is now a proposed hotel development to be built on that lot. The planners have told me that at this time there is no problem extending this, as the hotel will not be completed for a year, and the developer of the hotel does not have any preference for time limited parking versus meters on this block at this time. Obviously we will reassess the situation next spring, prior to requesting another extension.

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

The current one year approval to allow the 26 spaces surrounding the development that is on hold at the corner of Thames & Hancock Streets to be included in the Island Residential Zone expires on June 30, 2016.

III. INTENDED RESULT

Extend the approval to maintain the 26 spaces, at the corner of Thames & Hancock Streets, signed 2 hour parking, for another year, until June 30, 2017.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

None

VI. STAFF ANALYSIS

Staff has determined that the additional on street parking will benefit Island residents, and will be a good use of the on street parking in this area until new development occurs.

VII. RECOMMENDATION

The Parking Division and Island and Neighborhood Administrator recommend passage.

VIII. LIST ATTACHMENTS

Order 219-15/16
~~Tab 15~~ ~~4-25-16~~
Tab 14 5-16-16

ETHAN STRIMLING (MAYOR)
BELINDA RAY (1)
SPENCER THIBODEAU (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:

Local Food 1, LLC d/b/a B Good Restaurant at 15 Exchange St. Application to expand existing alcohol service area on August 14, 2016 for B Good Block Party Festival.

Dear Mayor Strimling, 4/10/16

Thank you for taking the time to read this letter, my name is Bill Zolper I am the owner of bgood Portland and South Portland. Last year we had an incredible event in the historic district of the Old Port on the lower section of Exchange st. for our family foundation. We raised $4,000, which we then donated to a local charity connected with Maine Hatha Yoga to improve the lives of those faced with addiction.

In 2016 we are pleased to be doing the 2nd annual bgood block party and look forward to bringing more good into our community by simply bringing the community together for a day. Over the years we have raised over $60,000 by doing block parties such as these in the South End in Boston as well as on Exchange St.

Thank you for your consideration.

Best,

Bill Zolper

4/10/16

RECEIVED
APR 11 2016
CITY CLERK

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

RECEIVED
APR 11 2016
CITY CLERK

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

Single Concert/Dance Permit Application

Permit Fee: $36/Day

If the concert/dance is proposed for outdoors, in a park, or on city property, you must obtain the necessary permits from Public Services Event Office. They can be reached at: 207-874-8826.

Applicant Information:	
Business/Group Name(s):	Local Food 1, LLC DBA bgood
Business Address:	15 Exchange St. Portland, ME 04101
Applicant/Contact Person's Name:	Bill Zolper
Daytime Phone Number: Phone Number Day of Event:	207-949-0935
Email Address:	bill@bgood.com

Event Information:			
Name of Festival/Event:	bgood block party		
Location of Event:	15 Exchange St Portland, ME 04101		
Date of Event:	August 14th, 2016		
Time of Event (start to finish):	Noon to 5 PM	Estimated Attendees:	1500
Style of Music: (ex. DJ, Live, Acoustic)	Live, family bands		
NOTE: Please utilize back of page if a number of bands or musicians are performing.			
Premises Owner's Name and Address:	City of Portland, lower section of Exchange & Milk sts		
Does the award of this license benefit any City employee?			Y [✓ N]
If yes, list name(s) and department(s):			

Read Carefully & Sign:
I/we, understand that any misstatement of material fact in the above application may result in denial of this license or revocation if a license has already been issued.

Signature ______________________ Date 4/10/16

For more information about City Codes regarding Single Concert/Single Dance permits, please see Chapter 4 of the Code of Ordinances at www.portlandmaine.gov.

Email Sent:

Dept. **Approval Received:**
Fire ________
PD ________
Public Services ________
Treasury ________
Zoning ________

Fee: $36 due
Cash: ________
Check #: ________
CC: ✓

REVISED 3/16/15

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

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

RECEIVED
APR 11 2016
CITY CLERK

Single Concert/Dance Permit Application

Permit Fee: $36/Day

If the concert/dance is proposed for outdoors, in a park, or on city property, you must obtain the necessary permits from Public Services Event Office. They can be reached at: 207-874-8826.

Applicant Information:	
Business/Group Name(s):	Local Food 1, LLC DBA bgood
Business Address:	15 Exchange St. Portland, ME 04101
Applicant/Contact Person's Name:	Bill Zolper
Daytime Phone Number: Phone Number Day of Event:	207-949-0935
Email Address:	bill@bgood.com

Event Information:			
Name of Festival/Event:	bgood block party		
Location of Event:	15 Exchange St Portland, ME 04101		
Date of Event:	August 14th, 2016		
Time of Event (start to finish):	Noon to 5 PM	Estimated Attendees:	500
Style of Music: (ex. DJ, Live, Acoustic)	Live, family bands		
NOTE: Please utilize back of page if a number of bands or musicians are performing.			
Premises Owner's Name and Address:	City of Portland, lower section of Exchange & Milk sts		
Does the award of this license benefit any City employee?	Y [✓ N]		
If yes, list name(s) and department(s):			

Read Carefully & Sign:
I/we, understand that any misstatement of material fact in the above application may result in denial of this license or revocation if a license has already been issued.

Signature ______________________ Date 4/10/16

For more information about City Codes regarding Single Concert/Single Dance permits, please see Chapter 4 of the Code of Ordinances at www.portlandmaine.gov.

Email Sent:	**Dept.**	**Approval Received:**
________	Fire	________
________	PD	________
________	Public Services	________
________	Treasury	________
________	Zoning	________

Fee: $36 due
Cash: ________
Check #: ________
CC: ✓

REVISED 3/16/15

Order 262A-15/16
Tab 14A 5-16-16

ETHAN STRIMLING (MAYOR)
BELINDA RAY (1)
SPENCER THIBODEAU (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:

Seamusfinn, LLC d/b/a Petite Jacqueline. Application for a Class I FSE License with Outside Dining on Public Property at 46 Market St.

May 11, 2016

Dear Mayor Strimling and Members of the City Council,

We Petite Jacqueline, have recently been granted a liquor license for our new space at 46 Market st . We have since decide to change the name of our LLC and have been asked to resubmit our application for your approval. We hope this will not cause any change in your opinion to grant us our license,

Thanks you for understanding.

Sincerely ,
Steve and Michelle Corry

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
APR 5 2018
CITY CLERK

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Petite Jacqueline	Phone: 207	553 2555
Location Address:	46 Market St	Zip: 04101	
If new, what was formerly at this location:			
Mailing Address:	Same	Zip:	
Contact Person:	Liz Keith	Phone: 207	321 8052
Contact Person Email:	ewkayo@gmail.com		
Manager of Establishment:	Date of Birth:	Phone:	
Owner of Premises (Landlord):	Joe Porta / Port Properties		
Address of Premises Owner:	105 Grant St	Zip: 04101	

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

Name of Owner(s)	**Date of Birth**	**Residence Address**
~~Seamusfinn, LLC~~		

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

Corporate Name	**Corporate Mailing Address**	
Seamusfinn, LLC	46 Market St	Zip: 04101

Contact Person:	Liz Keith	Phone: 207	321 8052

Principal Officers	**Title**	**Date of Birth**	**Residence Address**
Michelle Corry	owner	2/7/73	Scarborough, ME
Steve Corry	owner	5/31/69	"
Elizabeth Keith	gm	11/30/80	Portland

About Your Establishment

Class of Liquor License:	Class I
Type of food served:	French
Please circle all that will be served:	[✓ Beer] [✓ Wine] [✓ Liquor]
Projected percentage of sales:	Generated from Food: 750 000 Generated from Alcohol: 250000
Hours & days of operation:	9am - 10pm 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/[✓ 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? 5/15/16

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): 555 Restaurant 555 Congress 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 Elizabeth Keith 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 goveming 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 4/5/16

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov.

BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008

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

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

DEPARTMENT USE ONLY

LICENSE NUMBER: **CLASS:**

DEPOSIT DATE

AMT. DEPOSITED: **BY:**

CK/MO/CASH:

PRESENT LICENSE EXPIRES________________

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTINONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: ________________

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) **DOB:**	**2. Business Name (D/B/A)** Petite Jacqueline
Seamusfinn LLC **DOB:**	46 Market St
46 Market St **DOB:**	**Location (Street Address)**
Address	Portland ME 04101 **City/Town State Zip Code**
Portland, ME 04101 **City/Town State Zip Code**	same **Mailing Address**
	City/Town State Zip Code
Telephone Number 207 553 2555 **Fax Number**	**Business Telephone Number** 207 553 2555 **Fax Number**
Federal I.D. # 472167321	**Seller Certificate #**

EMAIL ADDRESS: ewkayo@gmail.com

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 $ X FOOD $ 780,000 LIQUOR $ 250,000
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: 5/15/10
Requested inspection date: 4/30/10 Business hours: 9am - 10pm

9. Business records are located at: 555 Congress St Portland, Me 04101

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**
Elizabeth Keith	11/30/80	Portland, ME
Michelle Derasse Corry	2/7/73	Philadelphia, PA
Stephan Corry	5/31/69	Quincy, MA

Residence address on all of the above for previous 5 years (Limit answer to city & state
Elizabeth K - Portland, Maine
Steve & Michelle Corry - Scarborough, 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 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: Port Property / Joe Porta 105 Grant St Portland, Me

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Full Service Restaurant serving breakfast, lunch & dinner - French Bistro

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 mile Which of the above is nearest? Church

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

If YES, give details: ______

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns 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 his 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 (Town/City, State) on 4/5 (Date), 20 16

Please sign in blue ink

E Keith
Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

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

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:
Seamusfinn, LLC

2. Other business name for your entity (DBA), if any:
Petite Jacqueline / Portland Patisserie

3. Date of filing with the Secretary of State: Oct 2014

4. State in which you are formed: ME

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

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

Name	Address for Previous 5 years	Date of Birth	Ownership %
Elizabeth Keith	Portland, ME	11/30/80	10
Michelle Corry	Scarborough, ME	2/7/78	45
Steve Corry	Scarborough ME	5/31/69	45

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:

E Keith
Signature of Duly Authorized Person

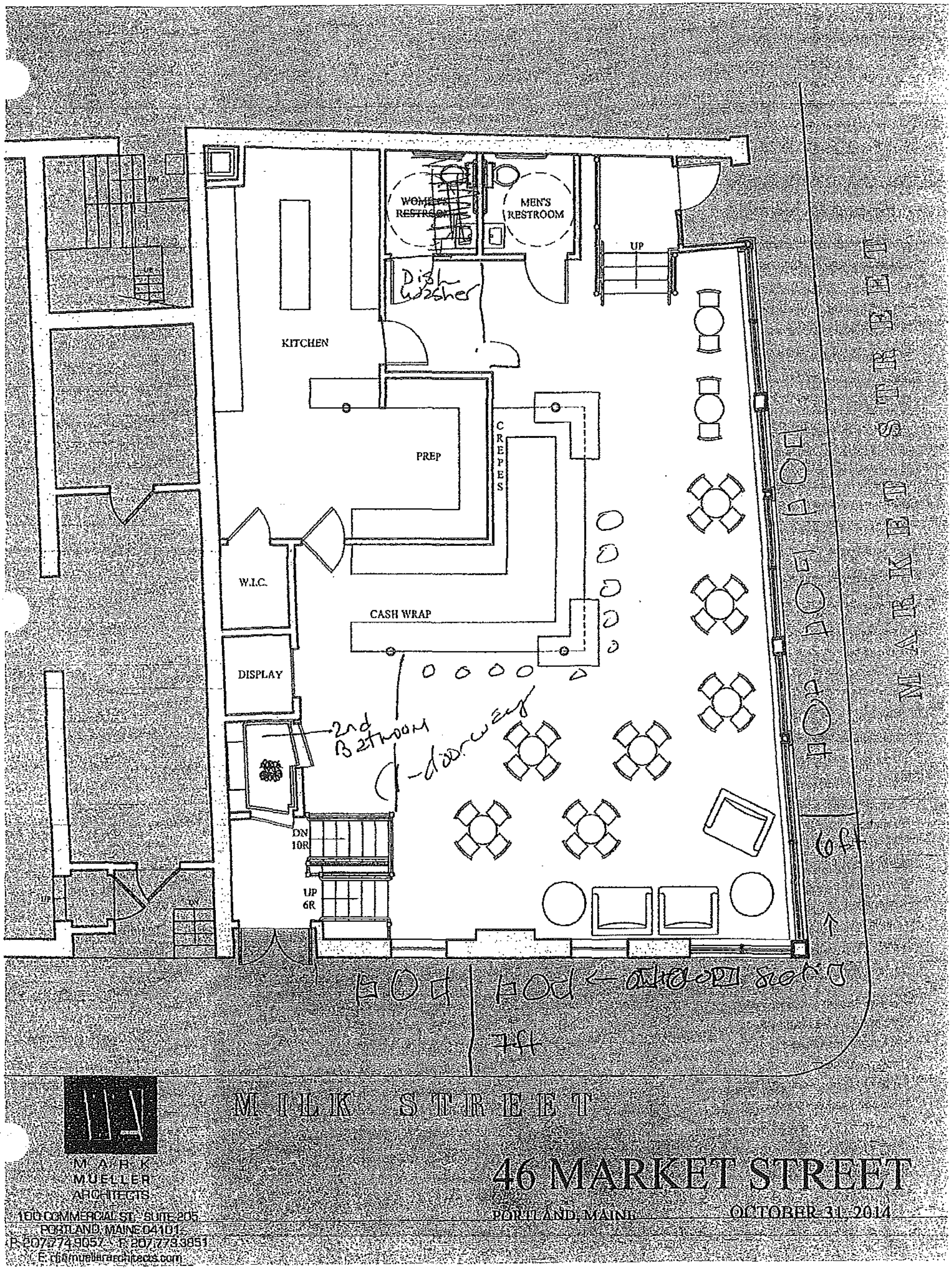
4/5/16
Date

E Keith
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



M A R K
MUELLER
ARCHITECTS
100 COMMERCIAL ST., SUITE 205
PORTLAND, MAINE 04101
P: 207.774.9057 F: 207.779.3851
E: cb@muellerarchitects.com

46 MARKET STREET

PORTLAND, MAINE

OCTOBER 31, 2014

Portland, Maine Yes. Life's good here.

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

May 11, 2016

Petite Jacqueline/Portland Patisserie
Attn: Elizabeth Keith
46 Market St.
Portland, ME 04101

Re: Seamusfinn, LLC d/b/a Petite Jacqueline. Application for a Class I FSE License with Outside Dining on Public Property at 46 Market St.

Dear Ms. Keith,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, May 16th, at 5:00 p.m.**, for the review of your application for a Class I FSE License with Outside Dining on Public Property at 46 Market 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 263-15/16
Tab 15 5-16-16

ORDER ESTABLISHING THE PESTICIDE AND FERTILIZER TASK FORCE

WHEREAS, the overuse of pesticides and fertilizers can create hazards for all forms of life and can pollute bodies of water, degrade the soil and spread through the atmosphere; and

WHEREAS, chemical pesticides and fertilizers, when used appropriately, can provide benefits for the control of pests, weeds and invasive species; and

WHEREAS, the City of South Portland has proposed an ordinance that regulates the use of pesticides within its City limits to limit misuse and overuse; and

WHEREAS, the Portland City Council wants to learn how pesticides and fertilizers are now impacting residents, pets, wildlife and the land and water in and around the City of Portland, so that it may best improve and protect the health, safety and the quality of the environment in the City;

THEREFORE, BE IT ORDERED, that the Pesticide and Fertilizer Task Force is hereby established to review the South Portland draft ordinance and assess its appropriateness for adoption in the City of Portland; evaluate whether chemical fertilizers should also be addressed; consider other measures from other jurisdictions regulating pesticide and fertilizer use; and consider the costs and benefits of adopting new regulations; and

BE IT FURTHER ORDERED, that the following representatives shall be appointed to the Pesticide and Fertilizer Task Force by the Mayor subject to approval by the City Council at the next regularly scheduled City Council meeting:

One Portland City Councilor, who is not a member of the Energy and Sustainability Committee, to be Chair;
One individual involved in the development of the South Portland Pesticide ordinance;
One Licensed Pesticide and Fertilizer Applicator;
One Advocate for Pesticide and Fertilizer Reform;
One Pesticide and Fertilizer Retail Representative;
One Representative from the Friends of Casco Bay and/or Casco Bay Estuary Partnership; and

One Researcher or Academic with expertise on the efficacy, environmental effects, and cost/benefits of pesticide and/or fertilizer use;
One commercial property owner;
Two residential property owners;
One individual with experience in the upkeep of Golf Courses, Recreational fields and/or Athletic fields; and
One Master Gardener;

BE IT FURTHER ORDERED, that the Pesticide and Fertilizer Task Force shall report back to the City Council's Energy and Sustainability Committee by July 11, 2016 and formally present to the Committee at its July 20, 2016 meeting a draft Pesticide and Fertilizer Ordinance and any other related recommendations, however the Task Force may request extension by the City Council of both dates, which request, if reasonable, shall not be denied; and

BE IT FURTHER ORDERED, that the Pesticide and Fertilizer Task Force will terminate on October 18, 2016 unless its term is extended by order of the City Council, however the Task Force may request extension by the City Council of the termination date, which request, if reasonable, shall not be denied; 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 and allow the Task Force to begin work promptly.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Troy Moon

DATE: 5/3/2016

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

SUBJECT: Order Establishing the Pesticide and Fertilizer Task Force And companion order; Order Appointing Member of the Pesticide and Fertilizer Task Force

SPONSOR: Jon Hinck, Chair, Energy and Sustainability Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading____________ Final Action May 16, 2016

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

In order to expedite the work of the task force the Energy and Sustainability Committee requests that this order be passed as an emergency.

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY OF ISSUE (Agenda Description)

The Energy and Sustainability Committee has been examining the use of pesticides within the City of Portland for the past several months. The members have requested that the City Council create a task force comprised of diverse and knowledgeable stakeholders who can examine the draft pesticide ordinance under review in South Portland, ordinances in other jurisdictions, as well as scientific literature regarding the effects of pesticides on public health and the environment. The committee would be tasked with reporting their findings and recommending a course of action to reduce the impacts of chemical pesticides on the environment and public health. In addition, the task force would be charged with examining the use of chemical fertilizers in the City of Portland and studying the impacts they have on the environment, particularly waterways including Casco Bay. Based on their findings, the task force will be asked to recommend a course of action to minimize this impact.

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

The order establishes a task force charged with studying the use of chemical pesticides and fertilizers in the City of Portland and recommending a course of action to reduce their impacts on the environment. It authorizes the Mayor to appoint members with confirmation by a vote of the City Council.

III. INTENDED RESULT

The Task Force will present recommendations for limiting the impacts of chemical pesticides and fertilizers on the environment and public health to the Energy and Sustainability Committee, who will review the recommendations and suggest appropriate Council action.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS

The community conversation around the use of chemical pesticides and fertilizers has been ongoing for several years. Stakeholders have a broad range of perspectives on this issue and the creation of a task force to clearly identify the negative effects they have on the environment as well as appropriate measures to mitigate these impacts will assist the City Council in establishing effective public policy.

VII. RECOMMENDATION

We recommend approval of the order establishing the Pesticide and Fertilizer Task Force.

VIII. LIST ATTACHMENTS

Order Establishing the Pesticide and Fertilizer Task Force
Order Appointing Member of the Pesticide and Fertilizer Task Force

Prepared by: Troy Moon

Date: 5/3/2016

Bean/agendamemo/rev7/20/15

Order 264-15/16
Tab 16 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPOINTING MEMBERS OF THE PESTICIDE AND FERTILIZER TASK FORCE

ORDERED, that the following representatives shall be appointed to the Pesticide and Fertilizer Task Force:

Nicholas M. Mavodones, Jr., Portland City Councilor and Task Force Chair;
Fred Dillon, involved in the development of the South Portland Pesticide ordinance;
Devon Morrill, licensed pesticide and fertilizer applicator;
Avery Yale Kamila, advocate for pesticide and fertilizer reform;
Tim Currier, manager of Maine Hardware;
Cathy Ramsdell, executive director of Friends of Casco Bay;
Dr. Joe Staples, lecturer in the Department of Environmental Science, University of Southern Maine;
Wendy Harmon, commercial property owner;
Jesse O'Brien, Portland residential property owner;
Dr. Rachel Bouvier, Portland residential property owner
Bob Searle, Maine Golf Course Superintendents Association; and
Seana Cullinan, professional gardener.

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.

Order 265-15/16
Tab 17 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

TRAFFIC SCHEDULE AMENDMENTS
RE: FOREST AND WASHINGTON AVENUE TRAFFIC

ORDERED, that the City of Portland's Traffic Schedule be and hereby is amended as follows:

Deleted: **Washington Avenue** - From a point 110 feet easterly of Ocean Avenue to Presumpscot Street Parking is prohibited between the hours of 7:00 A.M. and 9:00 A.M. **Schedule III – Restricted Parking**

Added: **Washington Avenue** – Southside - From a point 110 feet easterly of Ocean Avenue to a point 82 feet easterly of West Kidder Street. – **Schedule I – No Parking**

Added: **Washington Avenue**– Southside- From Johansen Street to Presumpscot Street - **Schedule I –No Parking**

Deleted: **Washington Avenue** - Northside - From a point 80 feet westerly of Presumpscot Street to a point 145 feet easterly of Ray Street. Parking prohibited between the hours of 4:00 P.M. to 6:00 P.M.
Schedule VII - Restricted Parking

Added: **Washington Avenue**– Northside - From Presumpscot Street to a point 170 feet westerly of Presumpscot Street – **Schedule 1 – No Parking**

Added: **Washington Avenue** – Northside - From Ocean Avenue to a point 145 feet easterly of Ray Street. Parking prohibited between the hours of 4:00 P.M. to 6:00 P.M.
Schedule VII – Restricted Parking

Deleted: **Washington Avenue** - Northside - From a point 28 feet easterly of Oakley Street to a point 25 feet westerly of Oakley Street. **Schedule I – No Parking**

Added: **Washington Avenue**– Northside - From a point 177 feet easterly of Oakley Street to Ocean Avenue – **Schedule 1 – No Parking**

Added: **Forest Avenue** –Westside – From a point 305 feet southerly of Stevens Avenue to a point 10 feet southerly of Holly Street. **Schedule I – No Parking**

Added: **Forest Avenue** –Westside – From a point 21 feet southerly of Hartley Street to a point 10 feet northerly of Pleasant Ave. **Schedule I – No Parking**

Added: **Forest Avenue-** Eastside – From a point 10 feet northerly of Pleasant Avenue to a point 85 feet northerly of Hartley Street– **Schedule I – No Parking**

Added: **Forest Avenue** – Eastside – From a point 781 feet northerly of Hartley Street to a point 57 feet northerly of Adelaide Street– **Schedule I - No Parking**

BE IT FURTHER ORDERED, that this appointment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and resolve ongoing safety issues for vehicles pulling into Forest Avenue traffic as well as to coincide with street striping and paving.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: **Kristine Keeney, Bicycle and Pedestrian Program Coordinator**

DATE: **5/2/2016**

SUBJECT: **Endorse** Amendment to Traffic Schedule- Forest Avenue and Washington Avenue

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_____5/16/2016_____ Final Action__6/6/2016____

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

There is an immediate need to prohibit parking on key portions of Forest Avenue due to safety issues caused by on-street parking blocking the view of oncoming traffic for vehicles pulling out of driveways and side streets. Staff is seeking Council endorsement of amendments to the Traffic Schedule ahead of annual striping activities set to begin June 1st on Forest Avenue.

Staff is also seeking amendments to the traffic schedule on Washington Avenue in order to finalize the design plans for a paving project scheduled for construction in mid-July.

This is a two-read item, and this is its first reading. Staff is recommending that the amendment be passed as an Emergency as part of action at the second reading. This will enable the changes to parking to take place concurrently with the annual striping of Forest Avenue, anticipated to be prior to the 30 days the change would normally take effect following Council action. Seven votes are required to pass as an Emergency.

The changes to parking are also being taken to enable an expansion and upgrade of the bicycle lane network on both streets.

PRESENTATION: Kristine Keeney, 10 minutes verbal presentation

I. ONE SENTENCE SUMMARY

The Department of Urban Planning & Development, supported by the Department of Public Works, Back Cove Neighborhood Association and businesses wish to convert parking on Forest Avenue (southbound on both sides of the street between Morrill Street and the beginning of Baxter Woods and northbound from Pleasant Ave to Hartley Street) and Washington Avenue (southbound from Ocean Avenue and Presumpscot Street) to No Parking Anytime to mitigate documented safety issues and facilitate transportation improvements to both corridors as part of annual striping and repaving projects during the 2016 construction season.

II. AGENDA DESCRIPTION

Staff is seeking Council endorsement to amend the Traffic Schedule in certain locations on Forest Avenue and Washington Avenue to mitigate documented safety issues and facilitate transportation improvements to both corridors in conjunction with planned annual striping and paving projects to reduce the financial impact and accomplish the changes in a timely manner.

II. BACKGROUND

The Portland Area Comprehensive Transportation System (PACTS), the regional Metropolitan Planning Organization (MPO), funded a planning study entitled the Bike Network Expansion for the feasibility and implementation of the 2009 Regional Bicycle & Pedestrian Plan Update and the Pedestrian and Bicycle Chapter of the 2012 Portland Comprehensive Plan. Significant data collection was performed including 14 parking counts and analysis of crash data on both roadways.

Staff determined that there are several safety issues on Forest Avenue including impaired sight distance of oncoming traffic for vehicles exiting driveways and side streets by on-street parking and a high frequency of rear-end vehicle crashes due to vehicles stopping in the travel lane to make left turning movements.

There are also several blocks of Forest Avenue and Washington Avenue that have low-parking utilization based on parking counts that can be allocated to other uses to increase the transportation efficiency on these key travel corridors.

City staff coordinated a working group session with the public and stakeholders to develop the proposed street cross sections and produced concept layouts for Forest Avenue and Washington Avenue. City staff then held public meetings on April 12, 2016 and May 5th, 2016 to gather public input on the proposed pavement marking and parking changes. Staff determined there was a sufficient amount of public support to move forward and took the public's comments into account to finalize the proposed designs and have determined that changes to the Traffic Schedule are essential to the implementation of the proposed roadway reconfigurations.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Amendments to the Traffic Schedule will allow new roadway reconfigurations to be implemented as part of annual restriping on Forest Avenue and a paving project on Washington Avenue to mitigate existing safety issues for all road users and increase transportation options and efficiency on major travel corridors in Portland.

V. FINANCIAL IMPACT

Changes to Forest Avenue would be implemented during annual striping activities by the Department of Public Works. In order to install the two-way center turn lane, the existing centerline would need to be ground out for an additional cost to the annual striping program of approximately $8,200. An additional one-time cost of approximately $7,000 would also be required for signage, paint, and labor for DPW crews to layout the new configuration. The total financial impact of reconfiguring Forest Avenue is approximately $15,200.

There will be minimal costs associated with additional striping and signage on Washington Avenue which will be covered by an upcoming paving project.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

There are several documented safety issues on Forest Avenue for all modes of transportation including the frequency of rear-end crashes related to left-turning vehicles, as well is sight distance issues at driveways and side streets. In a three year period within the project area, there were 307 crashes on Forest Avenue with 201 or almost 66% of those crashes being rear-end collisions with left turning vehicles. There were also 31 bicycle crashes from 2005-2015 within the project area on Forest Avenue.

Staff has also received several complaints from businesses owners and residents on Forest Avenue that drivers cannot adequately see oncoming traffic on Forest Avenue when pulling out of driveways and side streets due to on-street parking in certain locations particularly in the vicinity of Waverly Street and Elmwood Street. Staff believes that removing the parking in strategic locations on Forest Avenue and installing a two-way center turn lane for vehicles will significantly improve safety for all road users on Forest Avenue.

Staff is also recommending that parking is removed in locations on Forest Avenue of low utilization. Average parking utilization is approximately 8% in the morning and 11.5% in the evening based on seven parking counts. By replacing the underutilized parking with higher quality bicycle facilities, the street space will be used more efficiently and actively so that bicycling will be a safer and more realistic option for transportation on Forest Avenue.

Based on seven parking counts on Washington Avenue, average parking utilization is approximately 1.5% in the morning and less than 2% in the evening due to the availability of off-street parking at residential homes. Replacing the underutilized parking in key locations with high quality bicycle facilities on Washington Avenue will allow for the street space to be used more efficiently and actively providing a new transportation option along a major travel corridor in Portland.

There were also 35 bicycle crashes from 2005-2015 on the Washington Avenue corridor as a whole from Allen Avenue to Veranda Street. Cyclists are currently using the existing parking lanes as bike lanes because there is such low parking demand and utilization. When cyclists encounter a parked car they have to go out into the travel lane to go around the vehicle. Striping buffered bike lanes on Washington Avenue would allow for more predictability and thus a safer environment for cyclists and vehicles on this roadway.

VII. RECOMMENDATION

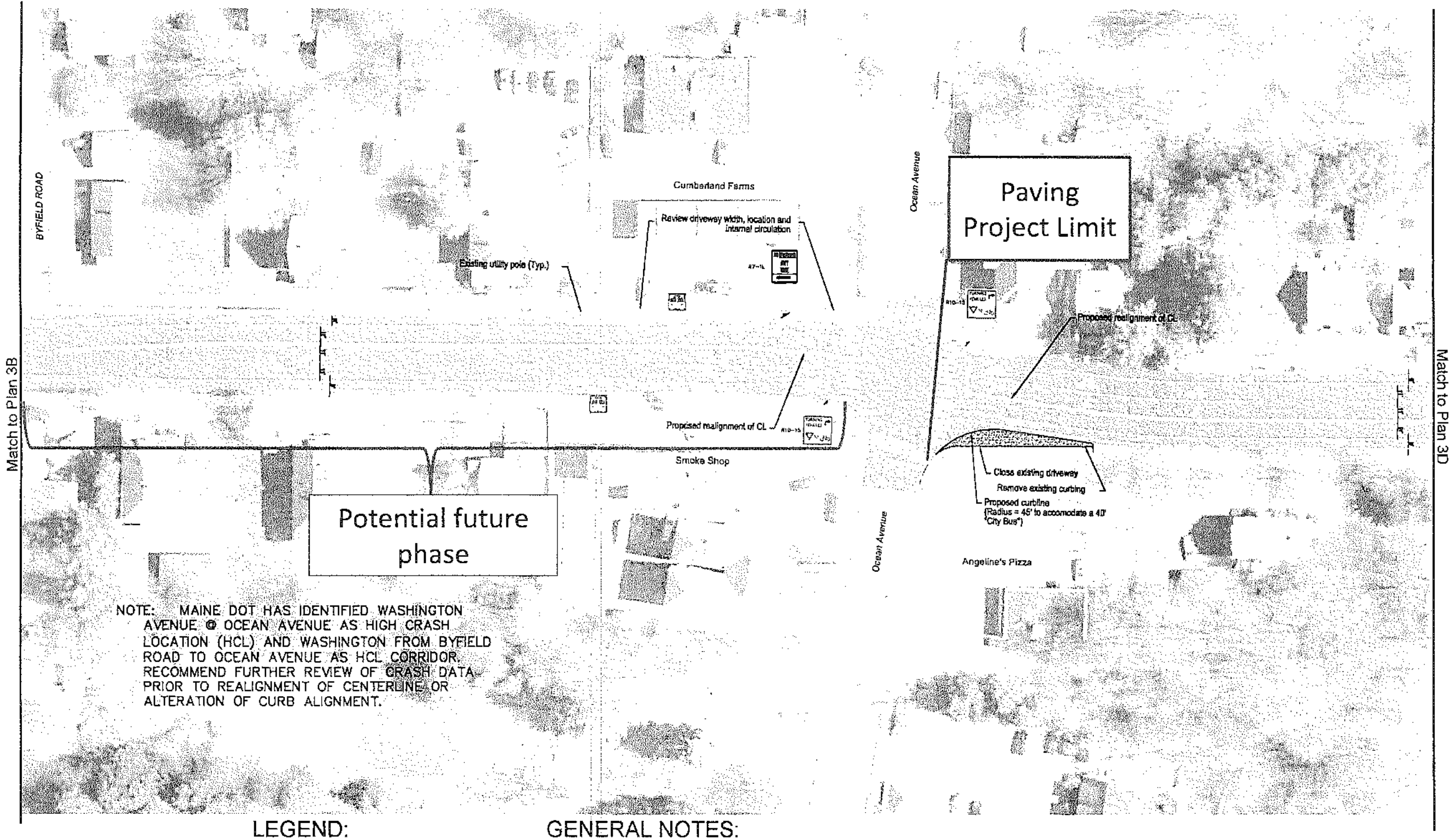
Staff is recommending the Council endorse amendments to the Traffic Schedule to allow for the reconfiguration of Forest Avenue by removing parking in strategic locations (southbound on both sides of the street between Morrill Street and the beginning of Baxter Woods and northbound on both sides of the street from Pleasant Ave to Hartley Street) in order to mitigate existing safety issues and increase transportation options on this major transportation corridor. Parking would be retained in areas of high demand including abutting Samuel's Bar & Grill and in the area of Baxter Woods on both sides of Forest Avenue.

Staff is recommending the Council endorse amendments to the Traffic Schedule to allow for the reconfiguration of Washington Avenue by removing parking in strategic locations (from Ocean Avenue to Presumpscot Street) in order to mitigate existing safety issues and increase transportation options on this major corridor. Parking would be retained in areas with demand including the frontage of St. Peter's Church and between Oakley Street and Presumpscot Street.

VIII. LIST ATTACHMENTS (Forthcoming)

1) **Washington Avenue layouts**
2) **Forest Avenue layouts**
3) **Parking Counts for Forest Ave & Washington Ave**
4) **Kyocera Document Solutions Maine, LLC Letter of Support**
5) **Back Cove Neighborhood Association Letter of Support**

Prepared by: Kristine Keeney
Date: 5/2/16



NOTE: MAINE DOT HAS IDENTIFIED WASHINGTON AVENUE @ OCEAN AVENUE AS HIGH CRASH LOCATION (HCL) AND WASHINGTON FROM BYFIELD ROAD TO OCEAN AVENUE AS HCL CORRIDOR. RECOMMEND FURTHER REVIEW OF CRASH DATA PRIOR TO REALIGNMENT OF CENTERLINE OR ALTERATION OF CURB ALIGNMENT.

LEGEND:

🚏 EXISTING TRANSIT STOPS

0 30 60 Feet

GENERAL NOTES:

1. BUS/BIKE TURN LANE LENGTH NOMINAL 50'
2. BIKE LANE BUFFER DISCONTINUED ON APPROACH TO RIGHT TURNS TO SIDE STREETS TO COMPLY WITH MAINE STATUTE TITLE 29–A, CHAPTER 19 / 2060 "TURNING AT INTERSECTIONS".
3. PHOTO BASE MAP: WORLD IMAGERY (ESRI)

vhb

Project Plan
Washington Avenue@ Ocean Avenue
Portland, Maine
1/26/16

Plan 3C

NOT FOR CONSTRUCTION

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NOTE: RECOMMEND TRAFFIC VOLUMES AND SPEEDS BE REVIEWED PER MUTCD SECTION 3B.18.08 BEFORE REMOVING MID-BLOCK PEDESTRIAN CROSSING AND REMAINING CROSSING LOCATION ADJUSTED AS APPROPRIATE.

LEGEND:

▣ EXISTING TRANSIT STOPS

0 30 60 Feet

GENERAL NOTES:

1. BUS/BIKE TURN LANE LENGTH NOMINAL 50'
2. BIKE LANE BUFFER DISCONTINUED ON APPROACH TO RIGHT TURNS TO SIDE STREETS TO COMPLY WITH MAINE STATUTE TITLE 29-A, CHAPTER 19 / 2060 "TURNING AT INTERSECTIONS".
3. PHOTO BASE MAP: WORLD IMAGERY (ESRI)

vhb

Project Plan
Washington Avenue@ Ocean Avenue
Portland, Maine
1/26/16

Plan 3D

NOT FOR CONSTRUCTION

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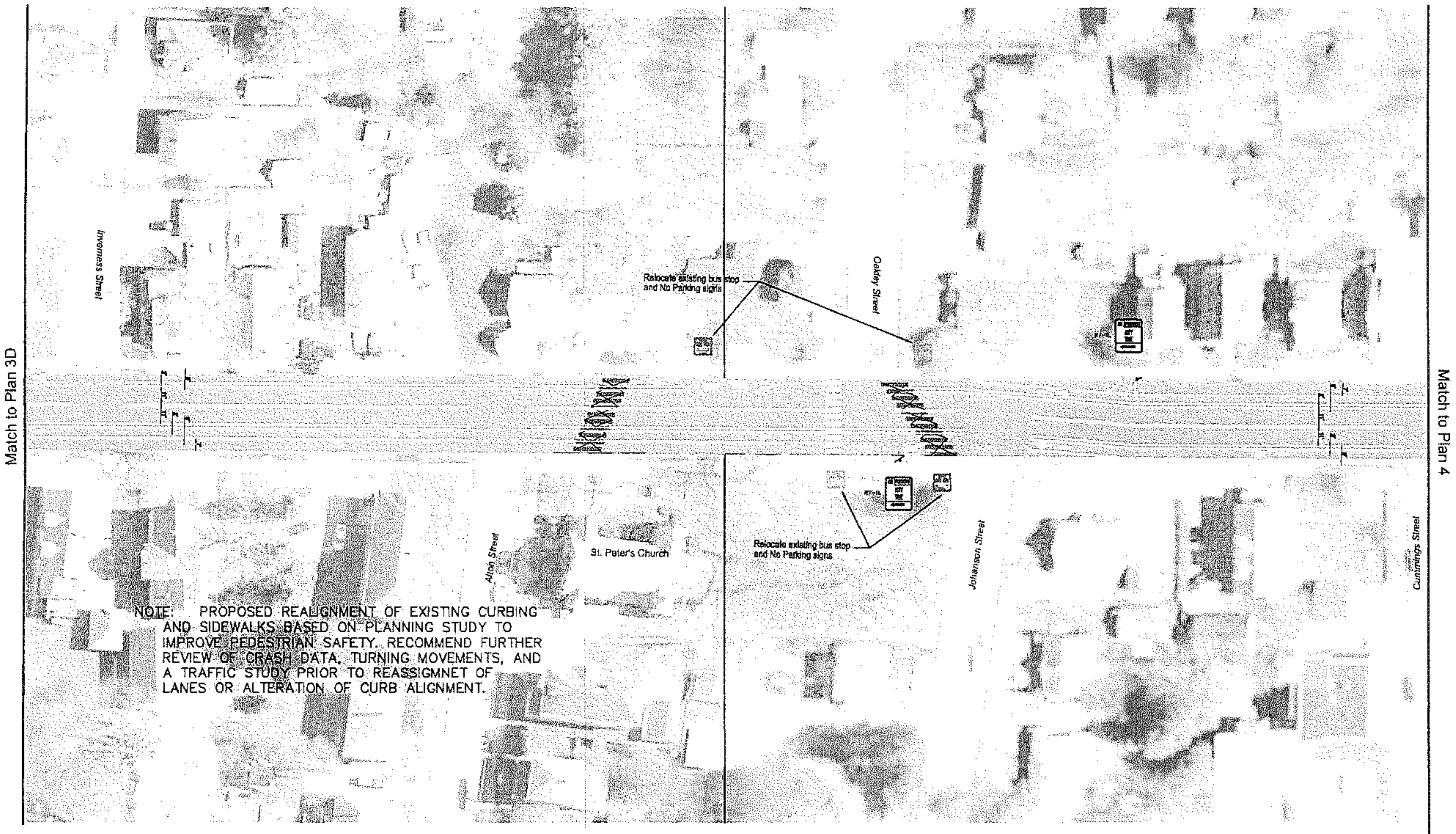


NOTE: PROPOSED REALIGNMENT OF EXISTING CURBING AND SIDEWALKS BASED ON PLANNING STUDY TO IMPROVE PEDESTRIAN SAFETY. RECOMMEND FURTHER REVIEW OF CRASH DATA, TURNING MOVEMENTS, AND A TRAFFIC STUDY PRIOR TO REASSIGMNET OF LANES OR ALTERATION OF CURB ALIGNMENT.

LEGEND:

🚏 EXISTING TRANSIT STOPS

0 30 60 Feet

GENERAL NOTES:

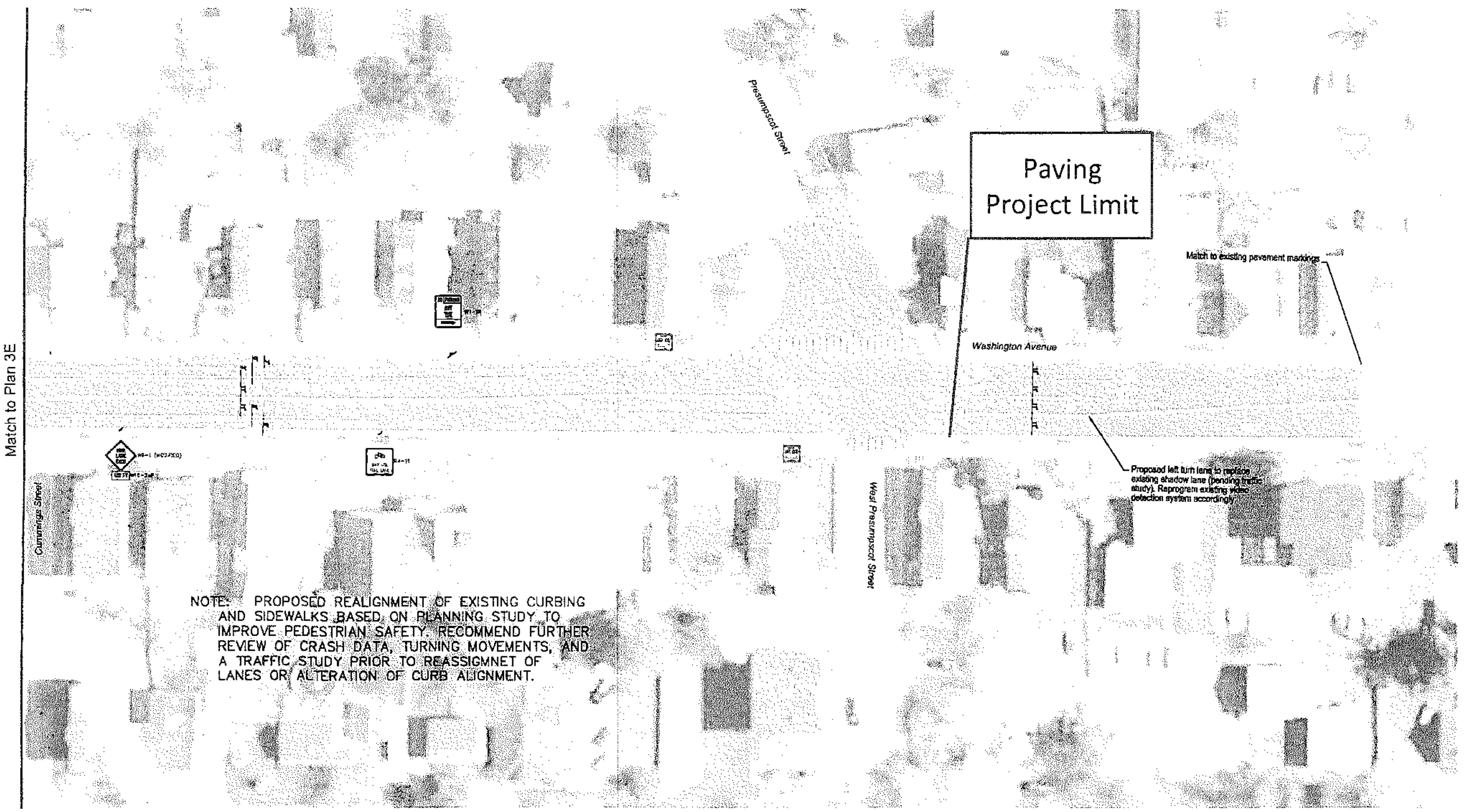
1. BUS/BIKE TURN LANE LENGTH NOMINAL 50'
2. BIKE LANE BUFFER DISCONTINUED ON APPROACH TO RIGHT TURNS TO SIDE STREETS TO COMPLY WITH MAINE STATUTE TITLE 29-A, CHAPTER 19 / 2060 "TURNING AT INTERSECTIONS".
3. PHOTO BASE MAP: WORLD IMAGERY (ESRI)

vhb

Project Plan
Washington Avenue@ Ocean Avenue
Portland, Maine
1/26/16

PLAN 3E

NOT FOR CONSTRUCTION



NOTE: PROPOSED REALIGNMENT OF EXISTING CURBING AND SIDEWALKS BASED ON PLANNING STUDY TO IMPROVE PEDESTRIAN SAFETY. RECOMMEND FURTHER REVIEW OF CRASH DATA, TURNING MOVEMENTS, AND A TRAFFIC STUDY PRIOR TO REASSIGMNET OF LANES OR ALTERATION OF CURB ALIGNMENT.

0 30 60 Feet

LEGEND:

🚌 EXISTING TRANSIT STOPS

GENERAL NOTES:

1. BUS/BIKE TURN LANE LENGTH NOMINAL 50'
2. BIKE LANE BUFFER DISCONTINUED ON APPROACH TO RIGHT TURNS TO SIDE STREETS TO COMPLY WITH MAINE STATUTE TITLE 29-A, CHAPTER 19 / 2060 "TURNING AT INTERSECTIONS".
3. PHOTO BASE MAP: WORLD IMAGERY (ESRI)

vhb

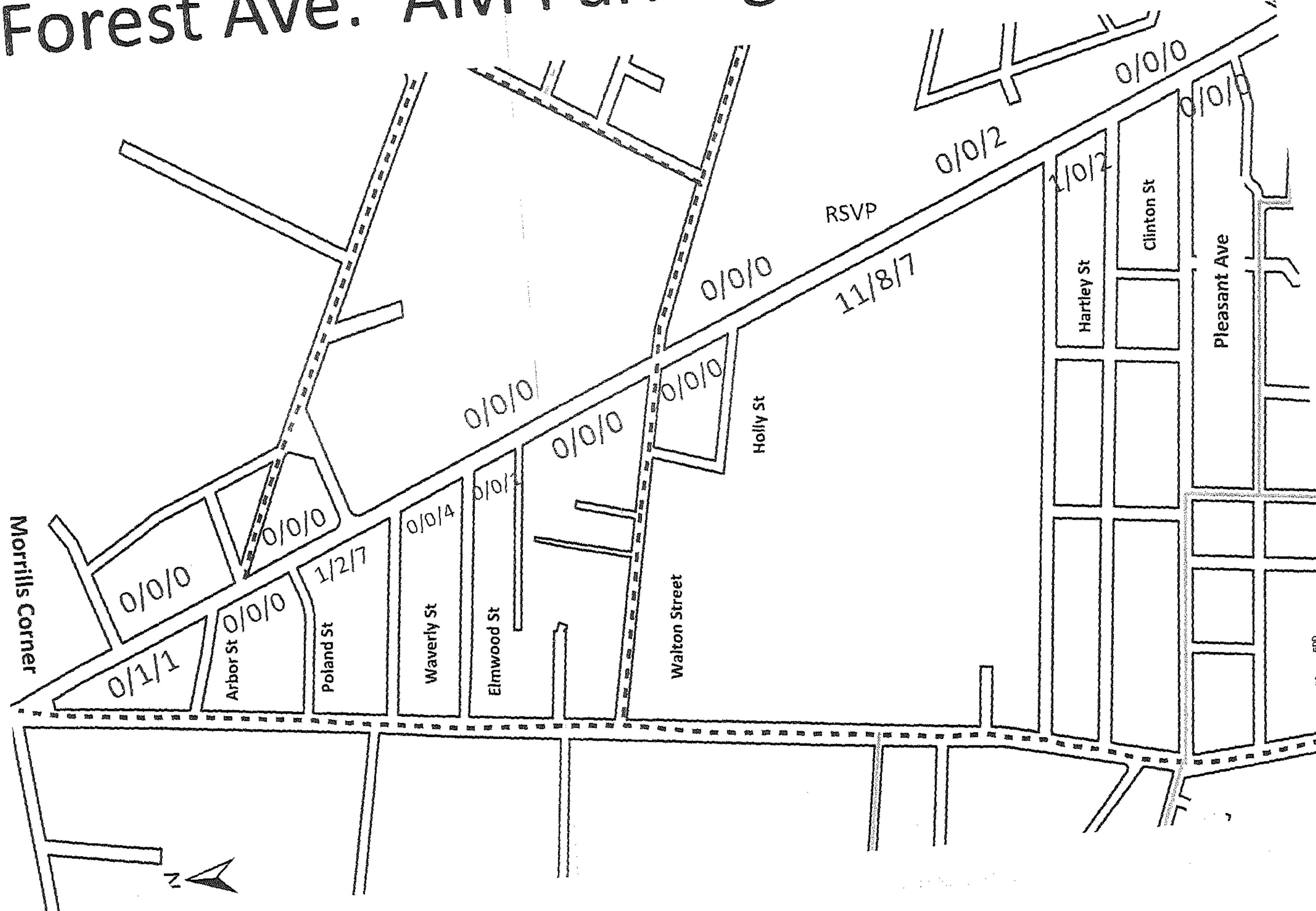
Project Plan
Washington Avenue@ Presumpscot Street
Portland, Maine
1/26/16

PLAN 4

NOT FOR CONSTRUCTION

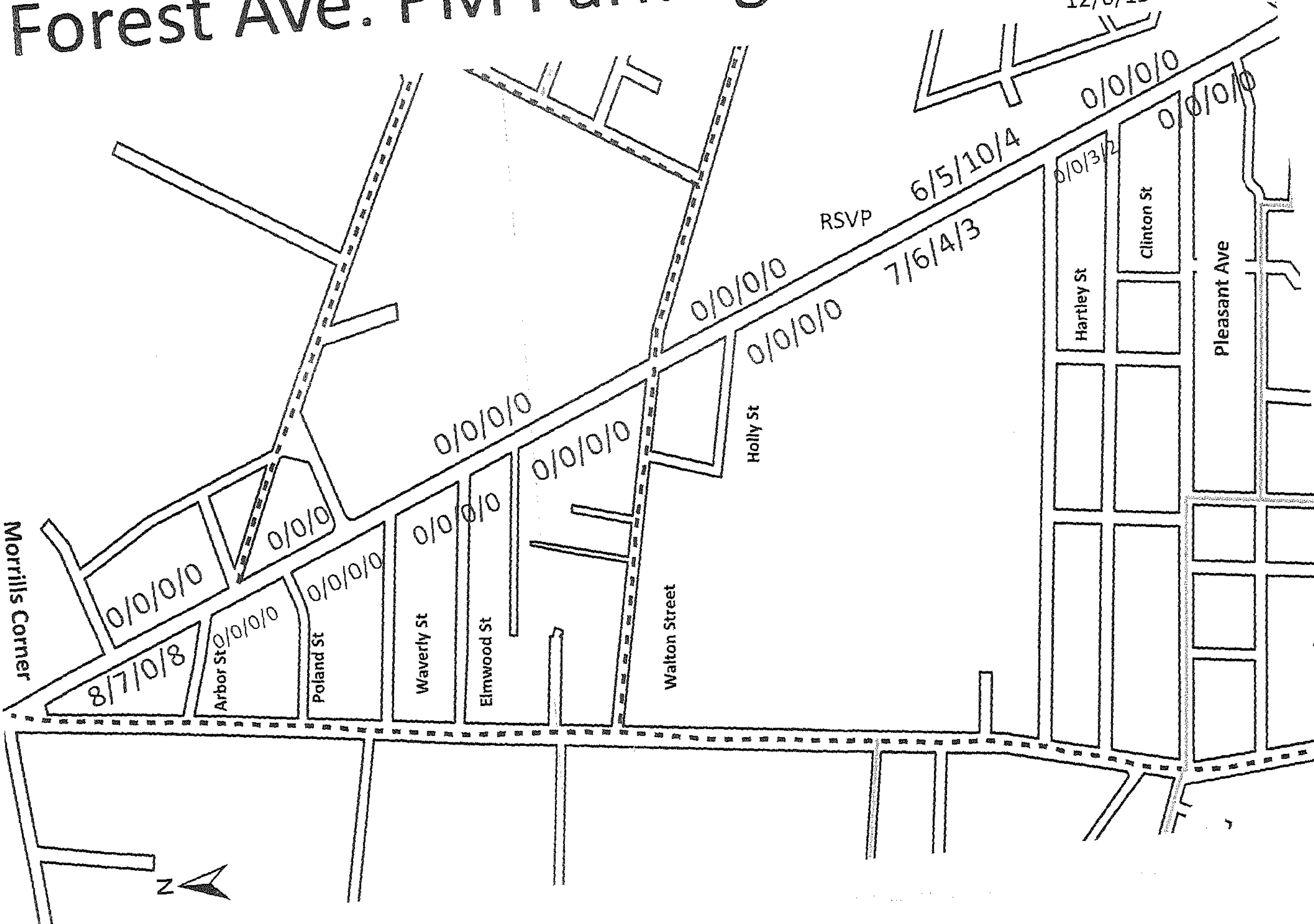
Forest Ave: AM Parking Counts

6/5/15	8-9am
6/8/15	8-9am
4/6/16	10-11am



Forest Ave: PM Parking Counts

6/4/15	4-5pm
6/9/15	3-4pm
11/30/15	7:00pm
12/6/15	4:30pm

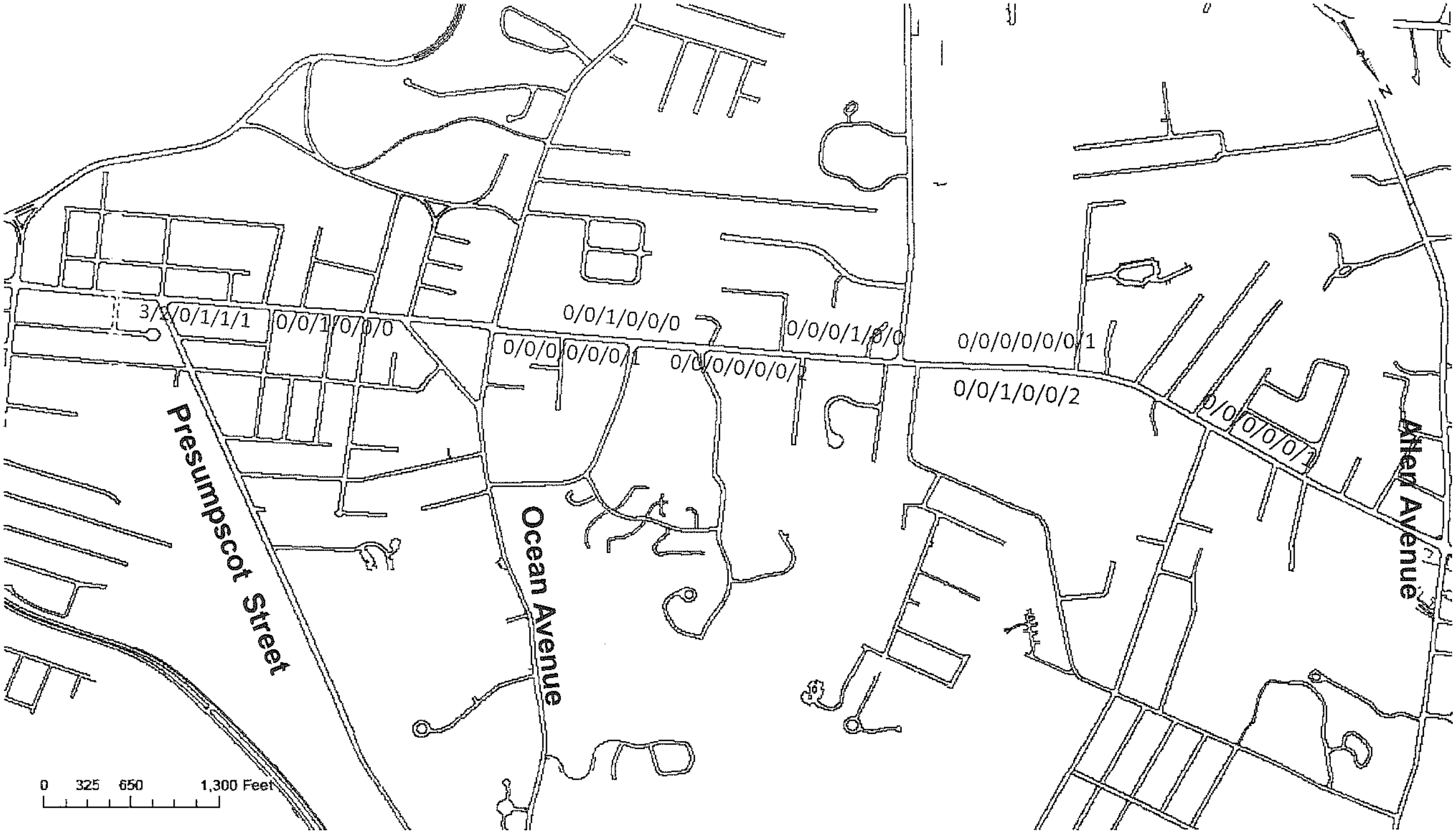


Washington Ave: AM Parking Counts

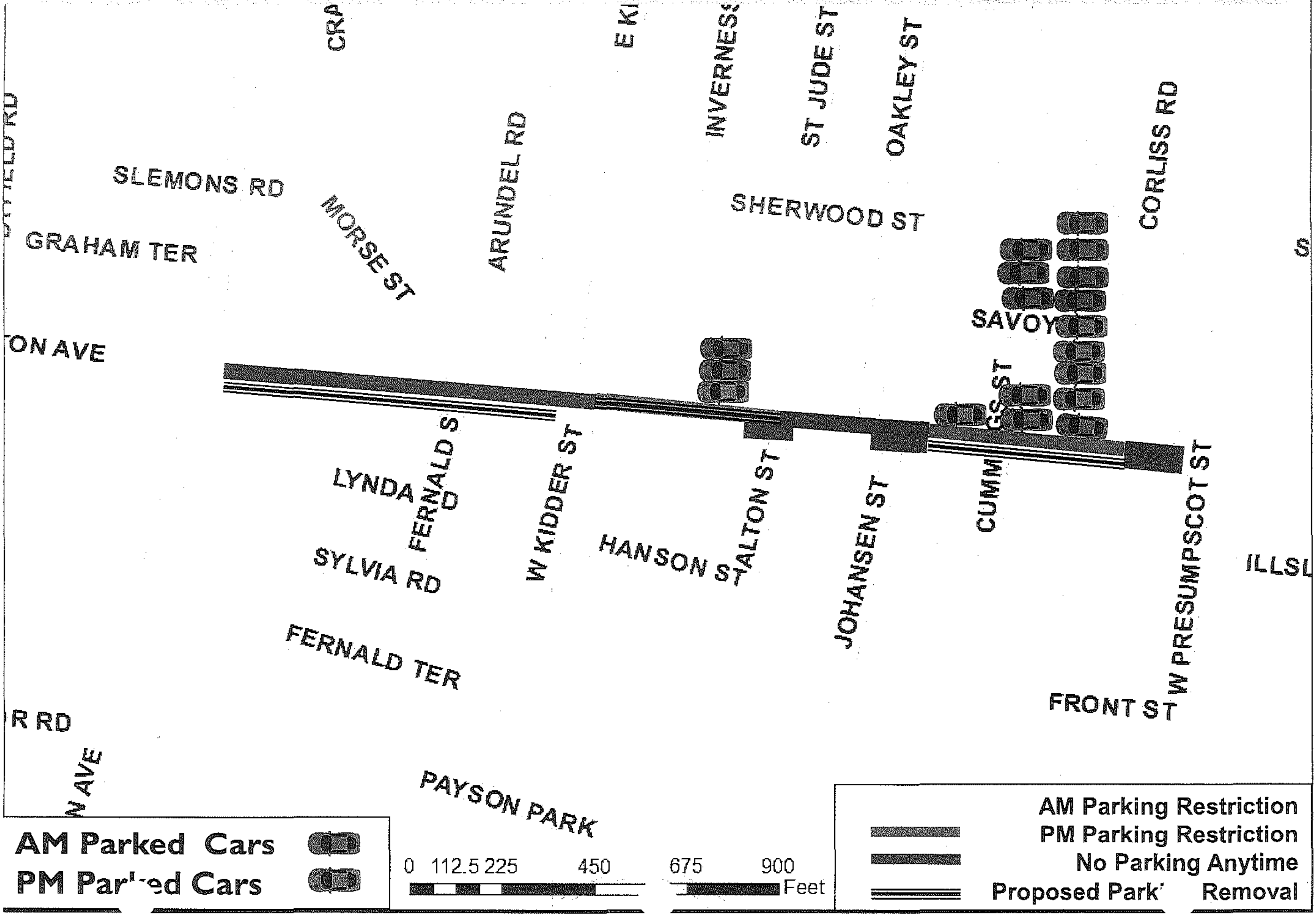
9/29/15	8:00am
10/22/15	7:30am
5/4/16	11:50am
5/5/16	10:45am

Washington Ave: PM Parking Counts

10/20/15	5:30 pm
11/17/15	6:15 pm
11/30/15	7:00 pm
1/6/16	6:20 pm
1/7/16	6:30 pm
5/3/16	7:20 pm



Parking Counts- Ocean Avenue to Presumpscot Street



KYOCERA

KYOCERA Document Solutions Maine, LLC

Portland City Council
389 Congress Street
Portland, Maine 04101

Members of the City Council:

I am writing to you on behalf of Portland Computer Copy and Cyber Copy located at 1024 and 1006 Forest Avenue, respectively. As you know, Forest Avenue is one of the most heavily travelled streets in the City of Portland if not the State of Maine. Recently, we have witnessed an increasing number of vehicles parking alongside the east bound lane of Forest Avenue from the vicinity of Starbucks at 1080 Forest Avenue through our places of business. We have been located here for over 30 years, and we have never seen anyone parking in this area until the Fall of 2015.

Based on previous conversations with both the Parking Division and the Department of Public Works, there are no enforceable parking restrictions. However, we have grown increasingly concerned with the safety issues that this creates for our nearly 60 employees, many daily customers, various delivery vehicles servicing our business, and fleet of 27 service and delivery vehicles of our own which must exit and enter our parking lot throughout the day. Vehicles parked near our entrance make the turn into our lot much sharper, and vehicles waiting to pull out onto Forest Avenue simply cannot see through these parked cars. Moreover, the METRO bus is unable to pull over at the stop between Waverly Street and our parking lot to allow passengers to board/deboard safely. This became an increasingly more dangerous situation during the winter months.

We support the proposed road configuration and pavement marking changes discussed at the neighborhood meeting on April 12 and consider this situation to be very urgent and ask that you act on it quickly. Thank you for your consideration.

Regards,

Gary Plante
Controller

BACK
COVE
Neighborhood
Association

Portland City Council
City Council Chambers
City Hall, 2nd Floor
389 Congress Street
Portland, ME 04101

May 9, 2016

Dear Members of the Portland City Council:

My name is Alyssa Lodewick, and I currently serve as the President of the Back Cove Neighborhood Association (BCNA). On behalf of the BCNA's executive committee, I am writing to express support for the pavement marking and parking changes that the City of Portland is considering for Forest Avenue (from Morrill Street to Pleasant Avenue).

In reviewing the materials presented at the April 12th public meeting regarding the proposed pavement striping project, BCNA board members have been alarmed by the crash statistics for Forest Avenue. We are concerned about the 307 crashes that took place between 2012 to 2014 and the 31 bicycle accidents that have occurred in the last decade.

Because we fear that the number of similar car and bike crashes will only rise in future years if no action is taken, we encourage the City to proceed with the proposed pavement marking changes, which scientific studies and data analyses have indicated will increase safety levels for automobile and bike operators.

We understand that some parking spaces will be lost in the course of completing the proposed project. While we realize that the loss of these spaces may prove inconvenient, we believe that safeguarding the lives of Portland residents and visitors is a matter of utmost concern.

We therefore urge the City Council to approve the proposed plans for modifications to Forest Avenue's pavement markings.

Thank you for your time and consideration.

All best wishes,

Alyssa Lodewick
On behalf of the Back Cove Neighborhood Association Executive Committee

/

Order 243-15/16
~~Tab 16 5-2-16~~
Tab 18 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER APPROVING FISCAL YEAR 2017 ADMINISTRATIVE FEES IN VARIOUS DEPARTMENTS

ORDERED, that the administrative fees in the Parking Division for monthly and hourly parking at Elm Street and Spring Street Parking Garages and Angelo's Acre Daily Parking; in the Department of Public Works for Street Opening Permits and Permanent Pavement Restoration Fees; and in the Department of Recreation and Facilities Management for Ice Arena Skate Sharpening Fees and Community Center Rental Fees, as shown in the schedules attached hereto, are hereby approved; and

BE IT FURTHER ORDERED, that all other administrative fees currently in effect that are not otherwise changed herein shall remain in effect for Fiscal Year 2017.

CITY OF PORTLAND

MEMORANDUM

TO: BRENDAN O'CONNELL, DIRECTOR OF FINANCE

FROM: JOHN PEVERADA, PARKING MANAGER

DATE: APRIL 7, 2016

RE: FY17 PROPOSED PARKING GARAGE RATE INCREASES

We are proposing to increase the hourly rates at the Spring St. and Elm. St. Parking Garages from $1.75 to $2.00 per hour and the monthly rate from $110 to $120 per month. As illustrated in the rate survey below, most of the privately operated garages have rates beyond ours.

Note that we remain committed to keeping our rates affordable to support the downtown businesses by considering business retention and keeping us competitive with the suburbs. We do not want to give the community a message that money has a higher priority than good customer service.

We are also planning on installing a Pay & Display machine in the Angelo's Acre Lot on Commercial St (at Park St.) and charge $5 per day.

Garage Rates as of November 1, 2015

Garage	Hourly Rate	Monthly Rate
By The Bay Parking Garage	$1.75	$110
Casco Bay Garage	$4.50	$150
Chestnut Street Garage	n/a	$80
Cumberland Co Courthouse Garage	$2.50	$120
Custom House Square	$4.50	$145
Elm Street Garage	$1.75	$110
Fore Street Garage	$5 1st hr & $4 ea add	$150
Gateway Garage	$3.50 hour	$120
Midtown Parking Lot	$1.75	
Monument Square Garage	$1.75	$120
Ocean Gateway Garage	$3.50 first hour, $2.50 each additional	$130
One City Center Garage	$2.00	$115
Public Market Garage	$2 hour	$110
Spring Street Garage	$1.75	$110
Temple Street Garage	$4.50 hour	$145
Top of the Old Port Lot	$2.00	$85

CC Jon Jennings, City Manger

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FY17 REVENUE FEE SCHEDULE CHANGE

Department: Parking

Account #	Revenue Description	Current Fee	FY17 Proposed Fee
100-1803-364-01-00	Garages, Lots, Meters / Elm Street Garage Hourly Parking	$1.75	$2.00
100-1804-364-01-00	Garages, Lots, Meters / Spring Garage Hourly Parking	$1.75	$2.00
100-1803-364-02-00	Garages, Lots, Meters / Elm Street Garage Monthly Parking	$110.00	$120.00
100-1804-364-02-00	Garages, Lots, Meters / Spring Street Garage Monthly Parking	$110.00	$120.00
100-1801-364-06-00	Garages, Lots, Meters/ Angelo's Acre Daily Rate	NA	$5.00

Revised: 04/07/16

Portland, Maine Yes. Life's good here.

To: Jon Jennings, City Manager

From: Bob Leeman, Acting Director, Department of Public Works

Date: April 8, 2016

Subject: Administrative Fee Increases – Street Openings

A fee increase in street opening permits of $65.00 per permit is being proposed. This fee includes $50.00 to cover a new cost to us from On Target for Dig Safe. This will significantly improve our own staff efficiency by not having to pull someone off of a work site to go to a dig site to perform unplanned "locates". The remaining $15.00 in permit fee increase is to cover increasing costs of this self-funded program. Permit fee revenue is expected to increase (net of digsafe expense) approx. $30,000. Other permit fees (ie: sidewalk) have also increase proportionally.

A pavement restoration fee increased from $45 sy to $55 sy is proposed to cover projected three year costs associated with such. Current trench repair contract with Coastal Roadway is $48sy.

55 Portland Street / www.portlandmaine.gov / tel, 207-874-8801 / tty, 207-874-8936 / fax, 207-874-8816

FY17 REVENUE FEE SCHEDULE CHANGE

Administrative Fees

Department Public Works/Street Openings

Account #	**Revenue Description**	**Current Fee**	**FY17 Proposed Fee**
247-3100-321-03-00	Street Opening Permits:		
	1. Street opening permit	$295.00	$360.00
	2. Combo permit	$295.00	$360.00
	3. Sidewalk opening permit	$206.50	$252.00
	4. Esplanade/other permit	$147.50	$180.00
247-3100-321-06-00	Permanent Pavement Restoration	$ 45.00	$ 55.00

Prepared: 02/18/2016

Memo

To: Jon Jennings, City Manager
Anita Lachance, Deputy. City Manager
From: Joanna Coey, Principal Financial Officer
CC: Jennifer Lodge, Budget Analyst
Sally Deluca, Director of Recreation & Facilities Management
Date: April 06, 2016
Re: Parks,Recreation Facilities's Fee Increases for FY '17

Recreation:

We are recommending minor increases in Community Center Rentals to reflect cost of living increases, and are no longer offering " discounts " for additional hours of use..

We have also changed the name of our before/after school program to Before and after the Bell.

Troubh Ice Arena:

The only increase at this time is in Skate Sharpening to keep us within the current market rates.

DEPARTMENT OF PARKS, REC. & FACILITIES MANAGEMENT

Recreation Division

FY '17 REVENUE FEE SCHEDULE CHANGE

Account #	Revenue Description	FY16 Proposed Fee	FY17 Proposed Fee
	Camp Fees		
100-3314-347-10-00	Camp Play All Day (K - 1st grade), per week	$162.50	$162.50
100-3314-347-10-00	Camp Play All Day (K - 1st grade), all summer	$1,000.00	$1,000.00
100-3314-347-10-00	Camp Xperience (2rd & 4th grade), per week	$175.00	$175.00
100-3314-347-10-00	Camp Xperience (2nd & 4th grade), all summer	$1,100.00	$1,100.00
100-3314-347-10-00	Camp Xtreme (5th grade - 7th grade), per week	$200.00	$200.00
100-3314-347-10-00	Camp Xtreme (5th grade - 7th grade), all summer	$1,300.00	$1,300.00
	Before and After The Bell Program Fees*		
100-3314-347-20-00	Before and After the Bell Combination	$94.00	$94.00
100-3314-347-20-00	After School Program, per week	$69.00	$69.00
100-3314-347-20-00	Before School Program, per week	$25.00	$25.00
100-3314-347-20-00	Registration - One Time fee	$25.00	$25.00
	Community Center Fees		
	Community Center Gyms (for profit):		
100-3314-363-00-00	East End, Riverton Adult Resident per Hour	$77.00	$80.00
100-3314-363-00-00	East End, Riverton Adult Non Resident per Hour	$82.00	$85.00
100-3314-363-00-00	East End, Riverton Adult additional hourly (Res & Non)	$30.00	n/a
100-3314-363-00-00	East End, Riverton Youth Hourly	$17.00	$25.00
100-3314-363-00-00	Reiche Adult Resident per Hour	$52.00	$60.00
100-3314-363-00-00	Reiche Adult Non-Resident per Hour	$57.00	$85.00
100-3314-363-00-00	Reiche Adult additional hourly (Res & Non)	$20.00	n/a
100-3314-363-00-00	Reiche Youth Hourly	$12.00	$12.00
	Community Center Gyms (non Profit):		
100-3314-363-00-00	East End, Riverton Portland Non-profit per hour	$32.00	$40.00
100-3314-363-00-00	East End, Riverton Non Portland per hour	$37.00	$45.00
100-3314-363-00-00	East End, Riverton additional hourly (Portland and Non Portland)	$20.00	n/a
100-3314-363-00-00	Reiche Portland non-profit 1st hour	$27.00	$30.00
100-3314-363-00-00	Reiche Non Portland non profit 1st hour	$32.00	$35.00
100-3314-363-00-00	Reiche additional hourly (Portland and Non Portland)	$15.00	n/a
	Community Center Room Rental:		
100-3314-363-00-00	Large Recreation Community Center Room hourly	$32.00	$40.00
100-3314-363-00-00	Small Recreation Community Center Room hourly	$17.00	$25.00
100-3314-363-00-00	Recreational Staff fees if needed hourly rate	$22.00	$25.00
100-3314-363-00-00	School Custodial fees if needed hourly rate three hour minimum	$27.00	$81.00

*** Program Title Change:** Previously Titled "Before & After School Program"

DEPARTMENT OF PARKS, REC. & FACILITIES MANAGEMENT

Ice Arena

FY '17 REVENUE FEE SCHEDULE CHANGE

Account #	Revenue Description	FY16 Current Fee	FY17 Proposed Fee
	Services		
100-3307-346-20-00	Skate Sharpening - Hockey Skates	$5.00	$6.00
100-3307-346-20-00	Skate Sharpening - Figure Skates	$6.00	$7.00
100-3307-346-20-00	Skate Sharpening - Radius	$15.00	$20.00
100-3307-346-20-00	Skate Sharpening - Flat Bottom	NA	$10.00
100-3307-346-20-00	Skate Sharpening - Custom Sharpening	NA	$12.00
100-3307-346-20-00	Skate Rentals - All Users	$2.00	$2.00
	Ice Rentals		
100-3307-346-50-00	Public Skating, per Session - Adults	$5.00	$5.00
100-3307-346-50-00	Public Skating, per Session - Youth & Seniors	$3.00	$3.00
100-3307-346-50-00	Hourly Ice Rental - Resident	$210.00	$210.00
100-3307-346-50-00	Hourly Ice Rental - Non Resident	$225.00	$225.00
100-3307-346-50-00	Hourly Ice Rental - 9:00 pm - 6:00 am - All Users	$205.00	$205.00
100-3307-346-50-00	Hourly Ice Rental - Portland Public Schools	$180.00	$180.00
100-3307-346-50-00	Hourly Ice Rental - Cheverus High School	$185.00	$185.00
100-3307-346-50-00	Hourly Ice Rental - Non-Resident Schools	$190.00	$190.00
	ISIA Group Skating Lessons - 9 week sessions		
100-3307-346-50-00	- Tots (4 & 5 years)-Resident	$68.00	$68.00
100-3307-346-50-00	- Tots (4 & 5 years) Non-Resident	$78.00	$78.00
100-3307-346-50-00	- Pre-Alpha through Gamma-Resident	$95.00	$95.00
100-3307-346-50-00	- Pre-Alpha through Gamma-Non-Resident	$105.00	$105.00
100-3307-346-50-00	- Delta & Freestyle-Resident	$105.00	$105.00
100-3307-346-50-00	- Delta & Freestyle-Non-Resident	$115.00	$115.00
100-3307-346-50-00	- Open Freestyle Practice-Resident	$77.00	$77.00
100-3307-346-50-00	- Open Freestyle Practice-Non-Resident	$87.00	$87.00
	Figure Skating Lessons - per session		
100-3307-346-50-00	- Pre-Registered	$11.00	$11.00
100-3307-346-50-00	- Walk-on	$12.00	$12.00

Prepared: 03/16/16

Order 244-15/16
~~Tab 19 5-2-16~~
Tab 19 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 THE CITY MANAGER TO ENTER INTO CERTAIN AGREEMENTS TO IMPLEMENT THE FISCAL YEAR 2017 HUMAN RESOURCES AND CERTAIN FRINGE BENEFITS BUDGETS

ORDERED, that the City Manager is authorized to enter into standard agreements and amendments to standard agreements with providers of services for Fiscal Year 2017 as needed in order to implement the Human Resources, Medical, Worker's Compensation and Liability budgets.

Portland, Maine   Yes. Life's good here.

Human Resources Department
Gina M. Tapp, SPHR
Director

Memorandum

TO: Jon P. Jennings, City Manager

FROM: Gina Tapp, Director of Human Resources

DATE: April 15, 2016

RE: FY17 Budget Order Re: Implementing Human Resources and Fringe Benefit Budgets

Please have the attached Council Order accompany the FY17 budget. This item should be given a first reading on May 2, 2016 and postponed to the May 16, 2016 meeting along with other budget related items.

STATEMENT OF FACT:

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

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

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

The Medical budget contains contracted services for claims and wellness program administration.

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

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

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

Order 245-15/16
~~Tab 18 5-2-16~~
Tab 20 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER RE: FISCAL YEAR 2017 SELF-INSURED LIABILITY PROGRAM

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

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

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

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

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

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

CITY OF PORTLAND, MAINE

Memorandum

TO: Jon P. Jennings, City Manager

FROM: Danielle West-Chuhta, Corporate Counsel DWC

DATE: April 13, 2016

RE: RESOLUTION RE: SELF-INSURED LIABILITY PROGRAM

STATEMENT OF FACT:

This item is requested upon the recommendation of the Office of the Corporation Counsel. The intent is to clearly indicate that the City's limit of liability is that imposed by the Maine Tort Claims Act, notwithstanding the fact that the annual appropriation or the cumulative reserve may exceed $400,000. This item should be given a first reading on May 2, 2016 and then postponed to the May 16, 2016 meeting along with other budget related items.

cc: Nancy English, Paralegal
Jennifer Lodge, Budget Analyst

DWC: jlr

Order 246-15/16
~~Tab 19 5-2-16~~
Tab 21 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 THE DIRECTOR OF PARKS, RECREATION AND FACILITIES MANAGEMENT TO SET FEES AND ENTER RENTAL AGREEMENTS FOR CITY FACILITIES

ORDERED, that the Director of Parks, Recreation and Facilities Management or his or her designee is hereby authorized to set fees and enter rental agreements for City facilities.

MEMORANDUM
City Council Agenda Item

TO: **Mayor & Members of the City Council**

FROM: **Anita LaChance, Deputy City Manager**

DATE: **April 15, 2016**

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

SUBJECT: **Order Authorizing the Director of Parks, Recreation and Facilities Management to Set Fees and Enter into Rental Agreements for City Facilities**

Staff has historically set fees and signed rental agreements for City facilities such as Merrill Auditorium, the Portland Exposition Building and Ocean Gateway. These facilities host 100s of events on an annual basis and while many events are similar in nature, all are also somewhat unique and require different staffing levels and services, and are therefore priced accordingly. The City's legal department has created a standard rental agreement. Any changes to the terms of standard agreement, other than pricing are reviewed by legal prior to being changed. This order would authorize the Director or her/his designee to continue to sign such agreements and reaffirm this long-standing practice.

Also these venues and others, for such as the Riverside Golf Course, Riverside Grill and Troubh Ice Arena are run in a business-like manner and need the flexibility to be able to offer specials and adjust pricing based on market conditions. This order will further reaffirm the practice of these fees being set administratively.

Order 247-15/16
~~Tab 26 5-2-16~~
Tab 22 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 THE CITY MANAGER TO ENTER INTO CERTAIN AGREEMENTS TO IMPLEMENT FISCAL YEAR 2017 HEALTH & HUMAN SERVICES BUDGET

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

1. Standard agreements and amendments to standard agreements with other governmental agencies for Fiscal Year 2017 to implement the Health & Human Services operating budget; and

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

City of Portland, Maine
Memorandum

To: Jon P. Jennings, Acting City Manager
From: Brendan O'Connell, Finance Director BTO Bren T O'Connell
Date: 04/13/16
Re: FY17 Budget Council Order – HHS Agreements

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

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

I have asked Corporation Counsel to prepare the necessary order for inclusion on the May 2nd agenda.

O'Connell: jlr 04/13/16

Order 248-15/16
~~Tab 21 5-2-16~~
Tab 23 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
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JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER AUTHORIZING THE CITY MANAGER TO ACCEPT SCHOLARSHIP TRUST DONATIONS AND ENTER INTO TRUST AGREEMENTS

ORDERED, that the City Manager is authorized to accept donations for existing and new scholarship trusts in Fiscal Year 2017; and

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

Order 249 - 15/16
~~Tab 22 5-2-16~~
Tab 24 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

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

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

City of Portland

Memo

To: Jon P. Jennings, City Manager

From: Brendan O'Connell, Finance Director BTO

Date: April 13, 2016

Re: Agenda Item Request – Authorizing Collection Actions

Please place the attached order on the City Council agenda for first reading and public hearing on May 2nd and second reading and passage on May 16, 2016. I am recommending we present this to the City Council for action as it is related to the financial business of the upcoming fiscal year. We have passed this order annually with the budget approved since fiscal year 2003.

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

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

I have asked Corporation Counsel to prepare the necessary order for inclusion on the May 2nd agenda.

O'Connell: jlr 04/13/16

Order 250-15/16
~~Tab 23 5-2-16~~
~~Tab~~ 25 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER AUTHORIZING NON-UNION WAGE ADJUSTMENT

ORDERED, that a two percent (2%) wage increase effective July 3, 2016 is hereby approved for non-union employees and the non-union pay plan adjusted accordingly.

Portland, Maine Yes. Life's good here.

Human Resources Department
Gina M. Tapp, SPHR
Director

MEMORANDUM

TO: Jon P. Jennings, City Manager

FROM: Gina Tapp, Director of Human Resources

DATE: April 15, 2016

RE: FY17 Budget Order Re: Implementing Non-Union Wage Adjustment

Please have the attached Council Order accompany the FY17 budget. This item should be given a first reading on May 2, 2016 and a second reading on the May 16, 2016 meeting along with other budget related items.

ORDER APPROVING SALARY INCREASE FOR NON-UNION PERSONNEL

This Order authorizes the City Manager to make a 2% pay adjustment for all non-union employees effective July 3, 2016.

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

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

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

GT: jlr

Order 251-15/16
~~Tab 24 5-2-16~~
Tab 26 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER DESIGNATING FISCAL YEAR 2017 FUNDS FOR SPECIFIC ISLAND SERVICES

ORDERED, that $40,000 from the Fiscal Year 2017 municipal budget is hereby designated to pay for the Peaks Island services specified in list attached hereto.

Item A:	Transfer monies to the Portland School Department to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for the Peaks Island public middle and high school students to 12-month passes.	$4,300
Item B:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for Island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed $750.	$750
Item C:	Issue vouchers in the amount of $84 per voucher per student to the parents of children attending private schools off-island.	$450
Item D:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase tickets for needs-based Peaks Island Residents. To receive Needs-Based Tickets, recipients must fit defined criteria developed by the Peaks Island Council.	$5,000
Item E:	Expend monies from the Parking and Transportation Fund payable to Casco Bay Lines to purchase bicycle tickets for a summer bike ticket program on Peaks Island.	$500
Item F:	Expend monies from the Parking and Transportation Fund payable to The Loretta Voyer Fund, to be used to help provide transportation for members in the community with cancer and other life-limiting diseases.	$1,000
Item G:	ITS: a.k.a., Island "Taxi": Provide an allocation to the Island Transportation System for continued support of the only transportation service available to residents.	$16,000
Item H:	Provide an allocation to Peaks Island Tax & Energy Assistance (PITEA) for the express purposes of assisting eligible island residents with heating costs.	$3,150
Item I:	Provide an allocation to the Peaks Island Food Pantry for the express purposes of assisting eligible island residents with basic food needs. The Food Pantry is associated with the Brackett Memorial Church, and Brackett Memorial Church will be the actual recipient of funds designated to the Food Pantry.	$1,150
Item J:	Provide an allocation to the City of Portland Recreation Division as a contribution towards the establishment of a Skateboard Park on Peaks Island.	$1,000
Item K:	Provide an allocation to the Peaks Island Environmental Team (PEAT) for the purposes of printing existing two different visitor-education brochures: One pertaining to general environmental awareness, and one specifically addressing Invasive Plants on Peaks Island and efforts towards their eradication.	$400
Item L:	Provide an allocation to the Peaks Island Council for the express purposes of designing & producing visitor-education signage for display at the mainland Casco Baylines Ferry Terminal.	$300
Item M:	Provide an allocation to Peaks Island Council Communication Committee for the research and development of an Island Website, to include an interactive calendar of community events, links to Island organizations and businesses, and historical info.	$2,000
Item N:	Provide an allocation to the Peaks Island Council for Administrative Expenses.	$4,000

Prepared by Lisa Penalver, PIC Chair- Feb 25, 2016.

Motion: The Peaks Island Council requests the Portland City Council to allocate the following funds to the **PIC FY 17** Parking and Transportation Fund in the amount of $40,000 in accordance with the following items:

Item A: The Peaks Island Council requests the City Manager or his designee to transfer to the Portland School Department <u>$4,300</u> to cover the cost of extending Portland School Department issued 10-month Casco Bay Lines passes for Peaks Island public middle and high schools students to 12-month passes. *(3rd year)*

Jon Jennings, Portland City Manager Date

Item B: The Peaks Island Council requests the City Manager or his designee to expend monies from the Parking and Transportation Fund payable to Casco Bay Lines for island resident college students: for up to 3 monthly stickers per student @ $82.45/sticker, not to exceed <u>$750</u> . For the purposes of PIC transportation support, a college student shall be defined as a full-time island resident carrying a full-time course load at a Portland-area institution of higher education. *(2nd year)*

Jon Jennings, Portland City Manager Date

Item C: The Peaks Island Council requests the City Manager or his designee to issue vouchers in the amount of <u>$84</u> per voucher per student to the parents of children attending private schools off-island. Criteria for determination of residency will be directed through the Island/Neighborhood Administrator's Office. Total cost allocated is <u>$450</u> . *(3rd year)*

Jon Jennings, Portland City Manager Date

Prepared by Lisa Penalver, PIC Chair- Feb 25, 2016.

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

________________________________ ____________________

Jon Jennings, Portland City Manager Date

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

________________________________ ____________________

Jon Jennings, Portland City Manager Date

Item F: The Peaks Island Council requests the City Manager or his designee to expend monies from the Parking and Transportation Fund payable to **The Loretta Voyer Fund**, to be used to help provide transportation for members in the community with cancer and other life-limiting diseases. Starting in 2000, this program has been providing car ferry tickets plus 1 passenger ticket per treatment trip, as needed. If a car/driver is needed, Board members find a volunteer to help, with the goal of providing a quiet and less-taxing boat ride during this stressful time. The total is not to exceed __$1,000__. *(New category)*

________________________________ ____________________

Jon Jennings, Portland City Manager Date

Item G: ITS: a.k.a., Island "Taxi" The Peaks Island Council requests the City Manager of his designee to provide an allocation of $16,000 to the **Island Transportation System** for continued support of the only transportation service available to residents. *(3rd year)*

________________________________ ____________________

Jon Jennings, Portland City Manager Date

Item H: The Peaks Island Council requests the City Manager of his designee to provide an allocation of <u>\$3,150</u> to **Peaks Island Tax & Energy Assistance (PITEA)** for the express purposes of assisting eligible island residents with heating costs. Applications for eligibility approved by Peaks Island Clergy, and monies are paid by PITEA directly to the fuel company. *(3rd year)*

______________________________ _______________________

Jon Jennings, Portland City Manager Date

Item I: The Peaks Island Council requests the City Manager or his designee to provide an allocation of <u>\$1,150</u> to the **Peaks Island Food Pantry** for the express purposes of assisting eligible island residents with basic food needs. The Food Pantry is associated with the Brackett Memorial Church, and Brackett Memorial Church will be the actual recipient of funds designated to the Food Pantry. *(3rd year)*

______________________________ _______________________

Jon Jennings, Portland City Manager Date

Item J: The Peaks Island Council requests the City Manager of his designee to provide an allocation of <u>\$1,000</u> to the City of Portland Recreation Division as a contribution towards the establishment of a **Skateboard Park** on Peaks Island. *(3rd year)*

______________________________ _______________________

Jon Jennings, Portland City Manager Date

Item K: The Peaks Island Council requests the City Manager of his designee to provide an allocation of <u>\$400</u> to the **Peaks Island Environmental Team (PEAT)** for the purposes of printing existing two different **visitor-education brochures**: One pertaining to general environmental awareness, and one specifically addressing Invasive Plants on Peaks Island and efforts towards their eradication. *(New category)*

______________________________ _______________________

Jon Jennings, Portland City Manager Date

Prepared by Lisa Penalver, PIC Chair- Feb 25, 2016.

Item L: The Peaks Island Council requests the City Manager of his designee to provide an allocation of _\$300__to the Peaks Island Council for the express purposes of designing & producing **visitor-education signage** for display at the mainland Casco Baylines Ferry Terminal. (Topics to be covered would include street etiquette, low island speed limits, care of sensitive shoreline ecosystems, and the need for family-friendly behavior while in an existing year-round residential community). *(New category)*

____________________________ ____________________
Jon Jennings, Portland City Manager Date

Item M: The Peaks Island Council requests the City Manager of his designee to provide an allocation of _\$2,000__to Peaks Island Council Communication Committee for the research and development of an **Island Website**, to include an interactive calendar of community events, links to island organizations and businesses, and historical info. *(New category)*

____________________________ ____________________
Jon Jennings, Portland City Manager Date

Item N: The Peaks Island Council requests the City Manager of his designee to provide an allocation of \$4,000 to the Peaks Island Council for **Administrative Expenses.** *(All previous years.)*

____________________________ ____________________
Jon Jennings, Portland City Manager Date

Peaks Island Council
March 1, 2016

Order 252 - 15/16
~~Tab 25 5-2-16~~
Tab 27 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER FOR FISCAL YEAR 2017 APPROPRIATING $280,000 FROM EXCESS FUND

ORDERED, that the City Council hereby authorizes and appropriates $280,000 from the Casco Bay Island Transit District Excess Fund pursuant to the lease agreement between the City of Portland and the Casco Bay Island Transit District, of which $230,000 is hereby appropriated to provide a local matching fund for Phase 2 of the Casco Bay Island Transit District's ferry terminal renovation and $50,000 is hereby appropriated to fund mass transportation needs of the City.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: **Finance**

DATE: **4/27/16**

SUBJECT: Appropriating $280,000 from Excess Fund for Public Transporation - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

SPONSOR: Jon Jennings
(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading______5/2_______ Final Action____5/16____

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

Action is required by 5/16 to keep the budget on schedule

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

This request authorizes funding out of the Casco Bay Garage Excess Fund in accordance with the existing lease.

II. AGENDA DESCRIPTION

Appropriating $280,000 from the Casco Bay Island Transit District (CBITD) Excess Fund. Pursuant to the lease agreement between the City and CBITD, the Excess Fund, as defined in the agreement, is accumulated and held until such time as the Council may appropriate amounts for purposes outlined in the agreement. CBITD has requested $230,000, to be used in providing a local match, for Phase 2 of the Casco Bay Island Transit District's (CBITD) ferry terminal renovations. This is permissible under the agreement as CBITD has first priority to request usage of available funds for their capital costs associated with public transportation in the City. An additional $50,000 from the Excess Fund shall be used to fund mass transportation needs of the City. This is permissible under the agreement as second priority for Excess Fund usage is for all other mass transportation needs and is not limited to capital expenditures.

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

III. BACKGROUND

Devisions as to the distribution and disbursement of Excess Funds shall be made annually as part of the City's budget process and the burden is on Casco Bay Island Transit District to justify its need for funds in excess of the Maintenance Fund which shall continue to be available solely for their use.

Excess funds are available on a priority basis: First to Casco Bay Island Transit District for capital costs associated with its public transportation operations in Casco Bay; and then to be disbursed by the City to all other mass transportation needs and not limited to capital expenditures.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

To satisfy the financial request from Casco Bay Island Transit District and meet mass transportation needs of the City in accordance with the lease. This includes both ferry and bus operations funding for FY17.

V. FINANCIAL IMPACT

Transportation needs funded as intended in the lease and financial appropriations set in the annual budget as required.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

None

VII. RECOMMENDATION

Move passage

VIII. LIST ATTACHMENTS

Request email from Casco Bay Lines

CBITD request for Casco Bay Ferry Garage Excess Funds 2016

To: Finance Staff
From: Hank Berg, General Manager of Casco Bay Lines

Hi,

This is a request for the City of Portland to consider, during the 2016 annual budgeting process, providing CBITD $230,000 from the Casco Bay Parking Garage Excess fund to be used as a portion of the local match funding for Phase 2 of the Casco Bay Island Transit District's (CBITD) ferry terminal renovations.

CBITD developed a terminal master plan with Scott Simons Architects in mid 2012. At that time there was not enough funding to complete the whole project so it was split into two phases. Phase 1 of the terminal renovations has been completed with a primary focus on the passenger waiting area and the exterior part of the marine infrastructure with over $3,500,000 invested in improvements in the City owned facility.

Phase 2 will primarily be focused on site improvements but will also complete the repair/replacement of the marine infrastructure and complete the building renovation.

The Federal Transit Administration (FTA) will provide 80% of the funding, approximately $5,000,000, the MaineDOT will provide $320,000 for a portion of the local share and an earlier distribution of $320,000 from the Casco Bay Parking Garage Excess fund will also be applied for a portion of the local share.

This capital improvement project is included in the approved CBITD Long Range Capital Improvement Plan and the Portland Area Comprehensive Transportation (PACTS) Transit Six Year Capital Plan.

As you know CBITD provides essential public transportation services to the Casco Bay Islands and serves over 1,000,000 passengers annually but unlike Metro, CBITD receives no subsidization from Portland with the exception of the Casco Bay Garage Maintenance and Excess funds, when available. Any assistance in the local match of CBITD's capital grants is greatly appreciated and would help CBITD continue to provide its existing services that the islanders rely on.

Please do not hesitate to let me know if you have any questions or if you need more information.

-- Hank

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

Order 253-15/16
~~Tab 26 5-2-16~~
Tab 28 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
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CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO PORTLAND CITY CODE
Re: VARIOUS FEE INCREASES FOR FISCAL YEAR 2017

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

1. That Section 10-18 is hereby amended to read as follows:

Sec. 1018. Amendments.

The Fire Prevention Code adopted by section 1016 is amended, modified and deleted in the following respects:

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

. . .

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

. . .

Permit	**Fire Prevention Code Section**	**Permit Fee**
Application for Flammable Finishes	1.12.7	$166.00 (D)
Bulk Waste Storage	1.12.7	$166.00 (D)
Certificate of Fitness for Fire Alarm Service and Installation Company	1.12.7	$250.00 each
Cutting and Welding (Permanent Facilities)	1.12.7	$62.00 (D)

Dry Cleaning Plants	1.12.7	$62.00 (D)
Fire Alarm Inspections Sticker	1.12.7	$20.00 each
Fireworks Display	1.12.7	$141.00**
Flammable or combustible liquids, other than motor fuel dispensing	1.12.7	$166.00*(D)
Hazardous materials	1.12.7	$62.00 (D)
Tier II Hazardous Materials	1.12.7	$250.00 (D)
Hot work (Temporary)	1.12.7	$25.00
Motor Fuel Dispensing and Refueling	1.12.7	$166.00 (D)
Special Type Dispensing Systems, other than Flammable or Combustible Liquids	1.12.7	$166.00 (A) (D)
Repair Garages and Service Stations	1.12.7	$166.00 (D)
Woodworking and Lumber Storage Plants	1.12.7	$104.00 (D)

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

(B) Imposed by state statutes.

(C) Building permit required.

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

**Equal to fee charged by state

. . .

2. That Sections 14-54, 14-465, 14-530 and 14-677 are hereby amended to read as follows:

Sec. 1454. Zone change/zone map fees.

(a) One or more of the following fees will be charged by the city for applications for changes of zone according to the following major zoning classifications and pertinent data relating to the specific zone change:

(1) Zoning Map Amendments: $~~2,000.00~~3,000.00

(2) Zoning Text Amendments: $~~2,000.00~~3,000.00

(3) Combination Zoning Map and Text Amendments: $~~3,000~~4,000.00

(4) Conditional Rezoning: $~~3,000.00~~5,000.00

(5) Applicant shall pay a fee to cover the professional and administrative costs for review and analysis associated with the zoning amendment, including but not limited to planning, legal, engineering or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of city costs. The city shall periodically invoice the applicant for such costs incurred by the city, which invoice shall be paid promptly by the applicant.

. . .

Sec. 14-465. Zoning Determination Fee.

Upon request of any person and payment of a $~~150.00~~ 250.00 fee, the building authority shall issue a written decision, determination or interpretation regarding the zoning code. The fee shall not apply to any such decision, determination or interpretation made in regard to a single-family residence which is owned and occupied by the person making the request.

. . .

Sec. 14-530. Development review fees and post approval requirements.

(a) *Development Review Fees.*

1. Payment of fees and costs: Prior to the issuance of permits of any kind or the release of a signed subdivision plat for recording for any project whose permit fee is governed by this ordinance, all current charges due under this ordinance shall be paid and the developer must otherwise be in compliance with the provisions of the City Code.

. . .

4. *Site Plan Review Expenses.*

a.	Level I: Minor Residential	$300(flat fee)
b.	Level I: Site Alteration	$200
c.	Level II: Site Plan	$400
d.	Level III: Site Plan	
	i. Under 50,000 sf	$~~500~~750
	ii. 50,000-100,000 sf	$1,000
	iii. 100,000-200,00 sf	$2,000
	iv. 200,000-300,000 sf	$3,000
	v. Over 300,000 sf	$5,000
	vi. Parking lots over 100 spaces	$1,000

. . .

i.	Fee for Development Review Services	
	i. Planning fee per hour	$~~40~~50
	ii. Legal fee per hour	$75

iii. Third-party Review Fees assessed by the Third Party Professional

j. State Delegated Review Fees

i. Site Location of Development $~~3,000~~3,500, except for ——residential projects which will be $200 per lot.

ii. Traffic Movement Permit $~~1,000~~1,500

iii. Stormwater Quality Permit $250

k. Performance Guarantee

1. As required in Section 14-530 (b)(4).

l. Inspection Fees, as required in Section 14-530 (b) (5)

i. Level I: Site Alteration, Level II and Level III: 2% of the performance guarantee or as assessed by Planning or Public Works Engineer at $~~45~~50 an hour~~s~~ with minimum inspection fee of $300 Level I: Minor Residential Inspection Fee $100 (flat fee).

m. Street vacation $2,000

. . .

Sec. 14677. Costs.

Any project may be subject to one or more of the following fees:

(a) Project Review.

1. Administrative review, $~~50.00~~65.00.

2. Historic Preservation board review: $~~100.00~~125.00.

3. Historic preservation board review for projects involving new construction or building additions exceeding 1000 square feet or comprehensive rehabilitation or redesign of existing structures: $750.00.

. . .

3. That Section 24-72 is hereby amended to read as follows:

Sec. 2472. Sewer user charges.

(a) *Applicability.* There are levied upon all parcels of land charges for cost of treatment of wastewater and for the operation and maintenance of the wastewater system.

(b) *Billing.* Bills for all charges under this article may be sent to the record owner, or to the person requesting water service. Bills shall be sent to each such owner or person every month, except that persons billed quarterly or seasonally by the Portland Water District for water service may be billed quarterly or seasonally for all charges under this article. All payments shall be credited against the oldest outstanding bill sent to such owner or person. Any payments made to the Portland Water District or its agents, which do not indicate to which account they are to be applied, shall be applied as provided by contract between the city and the Portland Water District.

Bills shall contain an amount for sewer user charges, and if delinquent as provided in section 116 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes.

(c) *Computation.* The user charges shall be computed in accordance with the following schedule, as from time to time amended, which shall be sufficient to meet costs of the eligible purposes for which such charges may be used. ~~For user charges under this section for both dwelling units and commercial units, the rate shall be nine dollars and seventy cents ($9.70) per hundred cubic feet of volume for connected parcels of land.~~ ~~Beginning~~ From January 1, 2016, user charges under this section for both dwelling units and commercial units shall be eight dollars and twenty cents ($8.20) per hundred cubic feet of volume for connected parcels of land. Beginning January 1, 2017, user charges under this section for both dwelling units and commercial units shall be nine dollars and thirty-five cents ($9.35) per hundred cubic feet of volume for connected parcels of land. The user charge for developed but unconnected parcels of land shall be one dollar and seventy-one cents ($1.71) per hundred cubic feet of volume. Each metered billing unit shall have a minimum charge of at least one hundred (100) cubic feet per month.

Portland, Maine Yes. Life's good here.

To: Members of the City Council

From: Jon Jennings

Date: May 2, 2016

Subject: Stormwater and Sewer Rates for FY2017

The City continues to fund projects related to the DEP mandated Combined Sewer Overflow ("CSO") program through both Tier II and Tier III approved projects. Estimated cost of Tier III CSO projects have increased from $170M (2011 estimate) to over $200M (2016 estimate), based on rising costs of construction and other factors. These costs will need to be financed via bondings over the next 15-25 years, paid back via stormwater service charges and sewer user fees. In 2014 the Sustainable Stormwater Funding Task Force presented proposed stormwater service charges and sewer rates for future periods through 2019. My recommendations for the sewer rate are in alignment with the amounts previously presented. However, I am proposing no increase in the stormwater service charge which differs slightly from the Task Force's 2014 recommendation of a FY17 increase of $0.30.

The stormwater service charge went into effect on January 1, 2016 and its implementation has not been without challenges. We are still working to fully educate the public on the stormwater program and the important reasons for its existence. We are also working to be more effective at our newly adopted function of being in the utility billing business (sewer fee billing is handled by Portland Water District). Notification of property ownership changes, which are received on a lag from the Registry of Deeds, added to an already complex billing process. The addition of more advanced online bill payment functionality, envelopes with the bills, and an additional informational pamphlets will significantly improve the billing experience for customers in FY17. Nonetheless, I did not feel it was appropriate to increase the stormwater service charge at this time. It will remain at $6.00 for FY17 and this will still generate enough revenue for us to operate the stormwater program effectively. I do expect a fee increase in FY18 based on upcoming increases in CSO abatement work and the related CSO debt service payments.

The Sewer Rate will be increasing to $9.35 as outlined in the 2014 Task Force presentation. This is an increase of 4.5% from the FY16 average rate and will result in an additional cost to a single family of $20.64 per year (based on estimated average usage of 4.3 hfc per month).

. . .

4. That Section 25-133 is hereby amended to read as follows:

Sec. 25133. Excavations during winter.

(a) No person or utility shall be granted a street opening permit or open any paved area from the time of November fifteenth of each year to April fifteenth of the following year unless an emergency or special condition exists and permission is obtained in writing from the city.

(b) Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation or special condition existing to the city before a permit application will be considered for approval. If an emergency condition which could endanger life or property exists, excavation work shall not be delayed by this section; however, a written explanation shall be delivered to the city as part of the street opening permit application made in accordance with §25-128. In the rare event that a non-emergency permit is issued between the aforementioned dates for an excavation into a paved area, a moratorium surcharge of ~~five hundred~~ one thousand dollars ($~~500.00~~1,000.00) will be added to the regular permit fee. This moratorium surcharge may be waived by the director if specific weather conditions exist and paved area restorations are in compliance with normal construction season standards, as described in the rules and regulations.

Order 253A
Tab 29 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 REQUIRING INDIA STREET HEALTH CENTER AND PORTLAND COMMUNITY HEALTH CENTER PATIENTS INVOLVEMENT IN TRANSITION PLANNING

ORDERED, that the City Council hereby requires that the two (2) patients from the India Street Health Center and two (2) patients from the Portland Community Health Center, as chosen and appointed by the respective Centers, shall be involved in the planning of the transition of services from the India Street Health Center to the Portland Community Health Center.

Order 253 B
Tab 30 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 REQUESTING QUARTERLY BRIEFINGS ON THE TRANSITION OF SERVICES FROM THE INDIA STREET HEALTH CENTER TO THE PORTLAND COMMUNITY HEALTH CENTER

ORDERED, that the City Council hereby requesting that the City Manager or his/her designee provide quarterly briefings to the Health and Human Services Committee on the transition of services from the India Street Health Center to the Portland Community Health Center.

Order 254-15/16
~~Tab 29 5-2-16~~
Tab 31 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

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

FISCAL YEAR 2016-2017 APPROPRIATION RESOLVE

RESOLVED, that the sum of **$236,271,786** is hereby appropriated for Fiscal Year 2017 for General Municipal purposes; and

BE IT FURTHER RESOLVED, that the sum of **$103,602,884** is hereby appropriated for Fiscal Year 2017 for School purposes; and

BE IT FURTHER RESOLVED, that the Assessor of Taxes of the City of Portland be and hereby is directed to assess a tax upon all real estate liable to be taxed therein and to assess the owner of, or such other persons as may be liable by law for, personal property liable to be taxed therein on the first day of April, 2016 and not exempt from taxation, to the aggregate amount of $83,952,883 for municipal purposes and **$80,331,376** for school purposes for a total tax levy of **$164,284,259** resulting in a tax rate of **$21.12** per $1,000 of valuation (a **2.4%** increase) and in accordance with the provisions of the Statutes of Maine; and

BE IT FURTHER RESOLVED, all taxes assessed as above and committed to the Director of Finance shall be due on September 9, 2016, and payable in two equal installments, the first due on the 9th day of September, 2016, and the second installment due on the 10th day of March, 2017. The delinquency rate of interest shall be seven percent (7%) per annum on all payments received after the respective due dates and the abatement rate of interest shall be three percent (3.0%) per annum.

AMENDMENT TO ORDER 254-15/16
FISCAL YEAR 2016-2017 APPROPRIATION RESOLVE
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR RAY
RE: CONTINUATION OF LEASE PAYMENTS FOR NEEDLE EXCHANGE, STD/HIV TESTING AND FREE CLINIC SERVICES

RESOLVED, that the sum of $~~**236,271,786**~~ 236,290,786 is hereby appropriated for Fiscal Year 2017 for General Municipal purposes; and

BE IT FURTHER RESOLVED, that the sum of **$103,602,884** is hereby appropriated for Fiscal Year 2017 for School purposes; and

BE IT FURTHER RESOLVED, that the Assessor of Taxes of the City of Portland be and hereby is directed to assess a tax upon all real estate liable to be taxed therein and to assess the owner of, or such other persons as may be liable by law for, personal property liable to be taxed therein on the first day of April, 2016 and not exempt from taxation, to the aggregate amount of ~~**$83,952,883**~~ 83,971,883 for municipal purposes and **$80,331,376** for school purposes for a total tax levy of $~~**164,284,259**~~ 164,303,259 resulting in a tax rate of **$21.12** per $1,000 of valuation (a **2.4%** increase) and in accordance with the provisions of the Statutes of Maine; and

BE IT FURTHER RESOLVED, all taxes assessed as above and committed to the Director of Finance shall be due on September 9, 2016, and payable in two equal installments, the first due on the 9th day of September, 2016, and the second installment due on the 10th day of March, 2017. The delinquency rate of interest shall be seven percent (7%) per annum on all payments received after the respective due dates and the abatement rate of interest shall be three percent (3.0%) per annum.

Administration

Portland Public Schools
LEARNING TO SUCCEED

Jeanne Crocker, Interim Superintendent
Becky Foley, Chief Academic Officer
Ellen Sanborn, Chief Financial Officer
Craig Worth, Deputy Chief Operations Officer
Kim Brandt, Director of School Management
Sharon Pray, Director of Student Support Services
Barbara Stoddard, Director of Human Resources
Grace Valenzuela, Director of Multilingual and Multicultural

May 5, 2016

Dear Councilor Suslovic,

The Portland Public Schools would be happy to accept a School Resource Officer for Casco Bay High School/PATHS through the city's budget for the 2016-2017 school year. It would seem prudent to review the overall SRO allocation during the FY18 budget preparation and deliberations.

Sincerely,

Jeanne Crocker
Interim Superintendent of Schools

pc: Board Chair Marnie Morrione
City Manager Jon Jennings

ANSWERS TO
May 9th CITY COUNCIL WORKSHOP

Budget Workshop Requests for Information

Requested	Info	Page Number
Ed	Timeline on how the budget was unveiled to Mayor & City Council	1-2
Jill	Describe patient discharge planning process	3-6
Justin	What is the grant cycle for Ryan White ? What are the likely requirements the City would have to meet ? What happens if the City is not awarded the grant ?	7-8
Belinda	Prepare an amendement to keep Needle Exchange, Testing & Free Clinic at India St indefinitely	9-10
Ed	Redistribute the PCHC & India St HRSA reviews to the full City Council	11-17
Nick	Memo describing the City Manager's recommendation on how Bike-Ped issues would be handles vs. FC recommendation	18
	Estimate of Electronic Health Record Implementation Cost	19

To: Mayor & Members of the City Council

From: Anita R. LaChance, Deputy City Manager

CC: Jon Jennings, City Manager

Subject: India St. Timeline

Date: May 10, 2016

At the City Council workshop on the budget, Councilor Suslovic asked that we lay out the timeline for unveiling the City Manager's recommended budget. As you know, the City Manager presented his budget publicly at the April 4 City Council meeting. There were a variety of meetings leading up to April 4, as follows:

February 25 Meeting with Mayor Strimling to seek budget input prior to formulating budget recommendation. Topics discussed included a discussion of City Council goals and the transition of India St.

Attending: Mayor Strimling, Jon Jennings, Anita LaChance, Brendan O'Connell.

Series of meetings with Mayor Strimling, Jon Jennings and individual City Councilors. Topics discussed included India St:

March 11 Councilor Costa

March 21 Councilor Duson

March 22 Councilor Hinck

March 23 Councilor Thibodeau

March 24 Councilor Brenerman (10:00 a.m.)

March 24 Councilor Ray (2:00 p.m.)*

March 24 Councilor Mavodones (4:00 p.m.)

March 25 Councilor Suslovi

* Mayor Strimling was unavailable for this meeting.

March 30	Meeting with Mayor Strimling to review recommended budget in detail. Attending: Jon Jennings, Anita LaChance, Brendan O'Connell, Jessica Grondin, Gina Tapp.
March 31	Meeting with Department Directors to review recommended budget highlights
March 31	Meeting with Union Presidents to review recommended budget highlights and impacts on workforce

India Street Clinic Individualized Discharge Planning Process

Ryan White Patients

May 2016 – October 2016

- Upon budget passage City of Portland and Greater Portland Health (PCHC) post a previously drafted message on Websites and clinics bulletin boards regarding outcome of Council vote on City Budget – specifically the India Street Clinic
- During regular appointments each clinician will discuss each individual patient's various resources / options based on their unique needs and geography regarding their continuing care;
- Together the clinician and patient would decide on the best provider to meet the individual needs of the patient going forward;
- The patient would then sign a release to allow India Street to release their medical records to their chosen new provider;
- The patient would also be presented with the option to sign a release allowing the City to follow up by phone or mail with the patient quarterly for one year post discharge to assess transition.
- Throughout this period, Portland CHC will also be hosting open house style events where all India Street patients and staff will be invited to meet and experience what Portland CHC has to offer.

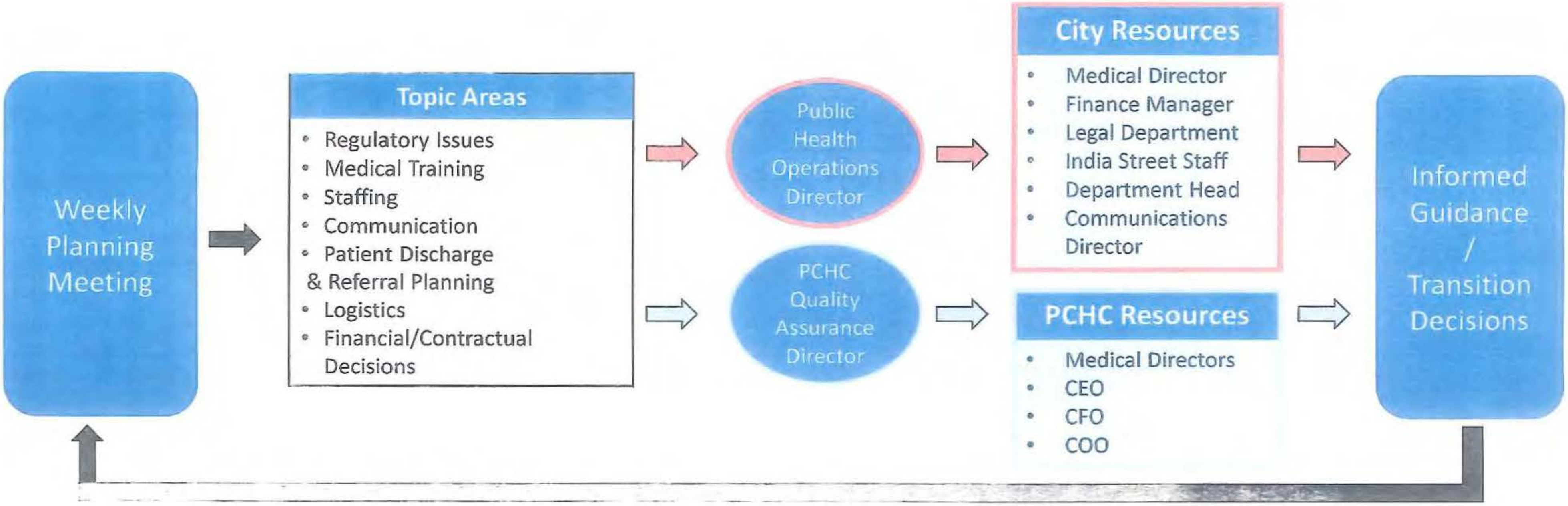
June 2016 - December 2016 – India St. Clinician/Staff Transition Tasks

- Clinician will prepare a thorough summary of patient records;
- India Street staff will transmit patient records to the new provider;
- India Street staff will assist with making appointments with new provider.

October 2016 – January 2018

- India St. staff will monitor the status of transfer over the period
- The City will assess success of transfer via phone or mail quarterly for one year post transfer. Reporting on the transition will occur to the Health & Human Services Committee quarterly.

India Street Transition Plan: Weekly Deliverables & Responsibilities



Weekly Planning Meeting

Topic Areas

- Regulatory Issues
- Medical Training
- Staffing
- Communication
- Patient Discharge & Referral Planning
- Logistics
- Financial/Contractual Decisions

Public Health Operations Director

PCHC Quality Assurance Director

City Resources

- Medical Director
- Finance Manager
- Legal Department
- India Street Staff
- Department Head
- Communications Director

PCHC Resources

- Medical Directors
- CEO
- CFO
- COO

Informed Guidance / Transition Decisions

April 1

Portland Community Health Center

December 31

Pc4

Portland
Community
Health
Center

India Street Transition Plan

On May 16, 2016 the City Council will determine which India Street services will transition to Portland CHC. Once this is known we will engage in detailed planning discussions and create a comprehensive work plan, timeline and associated action items.

Clinical
Develop staffing plan
Review and update provider credentialing and privileging
Assess provider and staff training needs and provide training as needed
Transfer of medical records to Portland CHC EHR (NextGen)
Hold team meetings to assume continuity of care in transfer of high risk patients

Medical Equipment/Office and Medical Supplies
Review current clinical supply list at India Street
Review current Portland CHC supply list
Determine what medical equipment and office supplies would be moved from India Street to Portland CHC
Assess and purchase additional equipment and supply needs

Lab
Review current staffing structure at Public Health Lab
Assess staffing and capacity needs at Portland CHC, directly or through existing contracts
Review current laboratory services through Public Health Lab

Pharmacy
Portland CHC's 340 B drug purchasing
Review stock of medications and determine need
Transfer medication stock to Portland CHC

Legal
Complete legal agreements compliant with healthcare and FQHC requirements, both for corporate and clinical transfer of patients and records

Space
Assess space needs for integration of services
Determine which Portland CHC sites will house services
Floor plan changes at 180 Park Ave site

Telecommunications
Determine additional phone needs (lines and handsets)
Assess needed system changes or upgrades to phone and cabling system

Computers/IT
Determine laptop and software needs
Purchase laptops and configure new computers
Purchase additional NextGen licenses
Assess need for any modifications in NextGen

Furniture
Determine what/if any furniture would be moved from India Street to Portland CHC
Assess and purchase other furniture needs

Administrative
Conference calls and other communication with HRSA Project Officers
Portland CHC submit HRSA change in scope
Transfer of grant(s)
Establish hours
Transfer of billing information to Portland CHC
DEA license
Other licensing (e.g. biohazards)

MOUs
Review all current MOUs and contracts with India Street and partners (e.g. Frannie Peabody and Planned Parenthood)
Review all current MOUs and contracts with Portland CHC and partners (e.g. Maine Medical Center's Virology Treatment Center, Mercy Hospital, Opportunity Alliance, Dental, Nordx, etc..)
    Revise and expand as needed

Marketing and Communication
Internal communication with Portland CHC staff
Communication with current India Street staff
Communication with India street patients
Community relationship management
Press

Federal Criteria for Successful Ryan White Grant Award

The Ryan White Grant cycle originally was every five years for a competitive application. It was subsequently moved to every three years and currently is every two years. The notice is predicted to be released in May 2016 with applications due in July 2016 and the award announced in November 2016 to begin in January 2017.

In a recent (May 10th) conversation with our Federal Ryan White Grant Manager at HRSA the topic of transferring the Grant prior to the grant cycle was discussed. This would make it more likely that the Ryan White grant would continue to be awarded to Portland and to the Federally Qualified Health Center. Transferring the grant would also facilitate the possibility of Federal transition funding to both the City and to Portland Community Health Center to enable a smooth transfer and also provide Federal technical assistance. We will receive a response from our Grant Manager with recommendations as to how to proceed with this request.

There are three categories that the Federal Dept. of Health & Human Services – Health Resources and Services Admin. (HRSA) uses in evaluating Ryan White Grant applications; Administrative, Clinical and Fiscal. Below are the specific sub categories and criteria.

Administrative

- Administrative Structure and Management: Grantee maintains a fully staffed management and clinical team as appropriate for the size and needs of the program.
- Data Reporting: Grantee has an Electronic Health Record system which accurately collects and organizes data for program reporting and which supports management decision making.
- System Coordination: Grantee makes efforts to establish and maintain collaborative relationships with state and local providers to render services that ensure a coordinated and comprehensive model of care.
- Accessibility, Confidentiality and Cultural Competency: Grantee has policies and procedures that address HIV/AIDS related confidentiality and program processes.

Clinical

- HIV Counseling, Testing, Referral, and Patient Enrollment: Grantee maintains formal linkages to HIV Counseling, Testing, Referral and partner counseling either on site or from other sources that are available and accessible to the targeted population(s).
- HIV Medical Care: Grantee provides a comprehensive continuum of outpatient HIV primary care services within a targeted area that attempts to link persons with HIV disease as early in the course of infection as possible and retain them in medical care.
- Other services to Support HIV Clinical Outcomes: Grantee ensures access, either directly or via referral, to oral health care, adherence counseling, outpatient mental health care and substance use treatment, nutritional services, specialty medical care, and medical case management.
- Clinical Quality Management Program: Grantee has established a clinical quality management (CQM) program that assesses the extent to which HIV health services are consistent with performance standards as defined by HHS benchmarks and quality indicators. Grantee's CQM program includes an evaluation component that measures performance and continuously plans, implements, evaluates, and incorporates strategies to improve the delivery of care.

Fiscal

- Ryan White HIV/AIDS Program Budget and Use of Funds: Grant funds are budgeted and expended for approved activities in alignment with applicable Federal legislation and program requirements.
- Financial Management and Oversight: Grantee maintains accounting and internal control systems appropriate to the size and complexity of the organization reflecting Generally Accepted Accounting Principles (GAAP) and separates functions appropriate to organizational size to safeguard assets, maintain financial stability and account for the appropriate expenditure of Ryan White funds.
- Third Party Reimbursement: Billing, collections, and Program Income Reporting: Grantee has systems in place to identify and maximize collections and reimbursement for its costs in providing health services.

Portland, Maine Yes. Life's good here.

To: City Council

From: Brendan O'Connell, Finance Director

Date: May 10, 2016

Subject: Budget Amendment – Keeping Needle Exchange / STD / HIV Services at India St

At the May 9th, 2016 City Council workshop Councilor Ray expressed her intent to propose a budget amendment to maintain the Needle Exchange as well as STD / HIV testing services at India Street for the forseeable future. This amendment would cover full lease payments at India Street through 6/30/17 (funding for any period beyond 6/30/17 must be appropriated in a future budget approval) and will allow the Needle Exchange / STD / HIV testing to remain at India Street for a full year during FY17. This amendment will also allow the Free Clinic, a separate 501c3 organization, to remain in their India Street space should they choose to do so, with the City continuing to cover the cost of rent and electricity.

The requested amendment, as drafted by Corporation Counsel for the City of Portland, is attached to this memo. Because the Finance Committee recommended budget assumed wind down of Needle Exchange / STD / HIV testing no later than 6/30/17, an additional appropriation of $19,000 is required by this amendment. Adoption of the amendment, when combined with the Finance Committee recommended budget, will result in no change in the tax rate or the percentage tax rate increase.

Attachment: **AMENDMENT TO ORDER 254-15/16 FISCAL YEAR 2016-2017 APPROPRIATION RESOLVE PREPARED BY CORPORATION COUNSEL FOR COUNCILOR RAY RE: CONTINUATION OF LEASE PAYMENTS FOR NEEDLE EXCHANGE, STD/HIV TESTING AND FREE CLINIC SERVICES**

AMENDMENT TO ORDER 254-15/16
FISCAL YEAR 2016-2017 APPROPRIATION RESOLVE
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR RAY
RE: CONTINUATION OF LEASE PAYMENTS FOR NEEDLE EXCHANGE, STD/HIV TESTING AND FREE CLINIC SERVICES

RESOLVED, that the sum of $236,290,786 is hereby appropriated for Fiscal Year 2017 for General Municipal purposes; and

BE IT FURTHER RESOLVED, that the sum of **$103,602,884** is hereby appropriated for Fiscal Year 2017 for School purposes; and

BE IT FURTHER RESOLVED, that the Assessor of Taxes of the City of Portland be and hereby is directed to assess a tax upon all real estate liable to be taxed therein and to assess the owner of, or such other persons as may be liable by law for, personal property liable to be taxed therein on the first day of April, 2016 and not exempt from taxation, to the aggregate amount of $83,971,883 for municipal purposes and **$80,331,376** for school purposes for a total tax levy of $164,303,259 resulting in a tax rate of **$21.12** per $1,000 of valuation (a **2.4%** increase) and in accordance with the provisions of the Statutes of Maine; and

BE IT FURTHER RESOLVED, all taxes assessed as above and committed to the Director of Finance shall be due on September 9, 2016, and payable in two equal installments, the first due on the 9th day of September, 2016, and the second installment due on the 10th day of March, 2017. The delinquency rate of interest shall be seven percent (7%) per annum on all payments received after the respective due dates and the abatement rate of interest shall be three percent (3.0%) per annum.

India Street HRSA review

Ryan White Site Visit Report

Summary:

Every five to seven years, HRSA, (Health Resources and Services Administration), conducts site visits with its grantees. Positive Health Care, the HIV primary care program at 103 India St., had a site visit in December of 2014.

The purpose of the site visit is to assess a grantee's compliance with the Ryan White HIV/AIDS Program Part C legislative requirements. Programs are evaluated on fiscal, administrative and clinical components.

Deficits cited during the site visit were limited to the administrative aspects of the program. These deficits are explained below and have all been addressed. After submitting a Corrective Action Plan at the request of the site visit team, the program received a site visit close out letter. (see attached). This letter states that our responses appropriately addressed the findings of the site visit.

It should be noted that patient or "consumer" interviews were overwhelmingly positive. (see page 3 of site visit report) *"The consumers uniformly applauded the care they received with the grantee, stating it was the best they had encountered-some noted that they felt like family."*

Findings:

1. Requirement – Administrative Structure and Management: Not Met
   The Grantee does not have policies and procedures in place to assist with strategically planning Ryan White Part C Program expected operations and services
   Response – Program policies and procedures updated and approved by Ryan White Program Officer

2. Requirement – Data Reporting: Not Met
   The Grantee does not have full access or privileges to run accurate data reports needed from its electronic data system (CareWare)
   Response – CareWare is a software program used by Ryan White grantees to manage data. All Ryan White Grantees in Maine use this software on a shared server that is managed by the Maine Centers for Disease Control. Since 2004, our program has asked HRSA for technical assistance to address the limitations we have using CareWare on a shared server. HRSA has never had the funding to provide the needed technical assistance. Clinical program staff within the City of Portland's Public Health Division have asked the City to implement an Electronic Medical Record System, (EMR), since 2005. A Request for Proposal was issued in 2015 and a contract was signed with Athena Health to implement an EMR within the Division. This contract was terminated in 2016 because of budget deficits within the City.

3. System Coordination: Partially Met
   The Program is not evaluating and collaborating with other community organizations to ensure services are coordinated within the needs of the HIV population. The program should implement a consumer advisory board
   Response – This finding was in error. We consistently collaborate with Frannie Peabody Center, the largest agency in Maine providing case management and housing services to those living with HIV disease. Program staff also serve on the State of Maine HIV Advisory Committee. We used to operate a joint consumer advisory board with Frannie Peabody Center but that board dissolved due to low consumer participation. Stigma around HIV status combined with the high incidence

India Street HRSA Review

of mental illness and substance abuse disorders in our patient population make the formation of a strong consumer advisory board unrealistic.

4. Accessibility, Confidentiality, and Cultural Competency: Met

5. HIV Counseling, Testing, Referral, and Patient Enrollment: Met

6. HIV Medical Care: Partially Met
   The Grantee must develop clinical policies and procedures and ensure that all staff review and update these policies and procedures routinely.
   Response: All clinical policies and procedures have been updated and approved by our HRSA Project Officer

7. Other Services to Support HIV Clinical Outcomes: Partially Met
   Grantee does not have documentation to show that dental care and case management services, (MCM) exist or a tracking system for referrals.
   Response: This finding was in error. Documentation and systems provided to HRSA Project Officer and no follow up was required

8. Clinical Quality Management Program: Partially Met
   Findings: Grantee does not have policies and procedures in place to govern their CQM Program.
   Response: This finding was in error. Quality Management Plan provided to HRSA Project Officer and no follow up was required

9. Ryan White HIV/ AIDS Program Budget and Use of Funds: Met

10. Financial Management and Oversight: Partially Met
    Findings: Financial meetings did not have formal minutes and contract with our psychiatrist needed to be amended.
    Response: Minutes from our financial meetings were submitted and no follow up was required. The line item for psychiatric services was removed from the Ryan White budget and moved to the program's reimbursement fund, eliminating the need to amend the contract. No follow up was required.

11. Third Party Reimbursement: Billing, Collections, and Program Income Reporting: Met

12. Sliding Fee Discounts and Annual Cap on Charges: Partially Met
    Findings: There are no policies related to the annual cap on patient charges
    Response: A policy and procedure was developed and submitted to our HRSA Project Officer which was approved. No follow up required.

Portland CHC HRSA Review

DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services Administration

Rockville MD 20857

SITE VISIT CLOSE-OUT LETTER

HIV/AIDS Bureau

City of Portland Maine
103 India Street
Portland, ME 04101-3571

FAIN H76HA00530

Dear Julianne Sullivan:

This letter confirms receipt of (*City of Portland Maine*) your completed Corrective Action Plan that includes your final responses to the [*Technical Assistance Site Visit/Comprehensive Site Visit*] conducted at your agency (*December 10, 2014-12/11/2014*). Your responses appropriately addressed the clinical, fiscal, and administrative findings of the visit. No further response is required at this time. I will continue to work closely with your program to ensure continuous improvement of your HIV program.

We hope that this review was helpful for your program. Thank you for hosting the Site Visit Team and for your ongoing efforts to provide comprehensive primary health care to individuals and families living with HIV disease. If you have any questions, please contact me at *(301) 443-8047*, or via e-mail at vwalker-marable@*hrsa.gov*.

Sincerely,

Viven Walker-Marable, Project Officer
Northeast Regional Branch
Division of Community HIV/AIDS Programs

cc: Shaun Chapman, Regional Branch Chief
India Smith, Division of Grants Management Operations

Portland CHC HRSA Review

PROGRAM NARRATIVE

Introduction

The Public Health Division, Health and Human Services Department, of the City of Portland Maine's Public Health Department has received Ryan White Part C funding since 1999. The program is named Positive Health Care (PHC). Our service area is southern Maine and covers the counties of Cumberland and York, although we provide services to patients from all area of the state. The majority of our patients live in Portland, the most populous city in Maine. With South Portland, these two cities comprise the largest Metropolitan Statistical area (MSA) in the state. PHC is located in a Public Health Clinic in downtown Portland, and shares space with other complementary programs including: 1) HIV/STD prevention program; 2) immunization program; 3) needle exchange; and 4) a free clinic for uninsured working adults. PHC is the only healthcare practice in Maine where an HIV positive person can access primary medical care, HIV specialty care, psychiatric care, HIV and STD testing, and counseling services at one clinic site. We are the largest primary care provider for persons living with HIV and AIDS in the State of Maine.

WORK PLAN PROGESS SUMMARY

Access to Care (Entire HIV Program)	CY2014 Objective (# only)	CY2014 Actual (# only)	FY 2015 Objective (# only)	FY2015 Actual (# only)
1. Total Number of HIV Patients	225	233	230	243
2. # New patients enrolled in HIV care	45	29	40	34
Comprehensive, Coordinated Primary HIV Medical Care	**CY 2014 Objective (# only)**	**CY2014 Actual (# only)**	**FY2015 Objective (# only)**	**FY2015 Actual (# only)**
1. # of patients receiving Medical Services	225	233	230	243
2. # of patients receiving Mental health screening	225	233	230	243
3. # of patients receiving Mental health treatment	115	119	135	97
4. # of patients receiving Substance abuse screening	225	233	230	243
5. # of patients receiving Substance abuse treatment	35	26	30	28
6. # of patients receiving oral health care	60	65	85	52
7. # of clients receiving treatment adherence services provided by licensed clinician	220	199	218	215
Clinical Quality Management Program (Entire HIV Program)	**CY 2014 Objective**	**CY 2014 Actual %**	**CY 2015 Objective**	**CY 2015 Actual %**
1. Viral Load Suppression Numerator: # of patients in the denominator with a HIV viral load (< 200 copies/mL) at last HIV viral load test during the measurement year Denominator: # of patients, regardless of age, with a diagnosis of HIV with at least one medical visit in the	202 / 95%	200 / 94%	218 / 95%	232 / 95%

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Bitland CHC HRSA Review

measurement year				
2. HIV Medical Visit Frequency Numerator: # of patients in the denominator who had at least one medical visit in each six month period of the 24 month measurement period with a minimum of 60 days between the 1st medical visit in the prior 6 month period and the last medical visit in the subsequent 6 month period Denominator: # of patients, regardless of age, with a diagnosis of HIV with at least one medical visit in the first 6 months of the 24 month measurement period	135 / 60%	119 / 58%	149 / 65%	135 / 55%
3.Antiretroviral Therapy (ART) Among Persons in HIV Medical Care Numerator: # of persons with an HIV diagnosis who are prescribed ART in the 12-month measurement period Denominator: # of person with an HIV diagnosis and who had at least one HIV medical care visit in the 12-month measurement period	213/95%	226 / 96%	218 / 95%	238 / 97%
4. Cervical cancer screening Numerator: # of female patients with a diagnosis of HIV who had a Pap screen results documented in the measurement year. Denominator: # of female patients with a diagnosis of HIV who were >18 years old in the measurement year or reported having a history of sexual activity, and had a medical visit with a provider with prescribing privileges at least once in the measurement year.	33 / 75 %	37 / 78%	33 / 75% (based on estimate of 45 female patients)	41 / 93% (44 female patients)
5. Percent of clients with HIV infection on HAART who had a fasting lipid panel in the measurement year Numerator: # of patients who had a fasting lipid panel in the measurement year Denominator: # of patients, regardless of age, who are prescribed HIV antiretroviral therapy and who had a medical visit with a provider with prescribing privileges at least once in the measurement year.	149 / 70%	149 / 65%	161 / 70%	165 / 69%

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Portland CHC HRSA Review

Portland Community Health Center
Bureau of Primary Health Care Site Visit Report Executive Summary

HRSA Operational Site Visits Overview

Operational Site Visits (OSVs) are one of the oversight mechanisms that the Health Resources and Services Administration (HRSA) plays in overseeing the Bureau of Primary Health Care's (BPHC) Health Center Program. OSVs provide an objective assessment and verification on the status of each Program grantee's compliance with the statutory and regulatory requirements of the Health Center Program, and review progress on clinical and financial performance.

There are 19 Key Health Center Program Requirements that OSV health centers are assessed on during OSVs. The 19 requirements are divided into four categories: Need, Services, Management & Finance, and Governance.

OSVs are conducted at least once every three years for each health center grantee. Portland Community Health Center's (CHC) most recent OSV that focused on Health Care for the Homeless (HCH) program took place in September 2014. Highlights from the report include:

- Positive feedback from the reviewer with no negative findings;
- Three emerging national best practices identified; and
- Chief Medical Officer, Dr. Renee Fay-LeBlanc, was recognized for her tremendous work with the homeless population and was requested to assist a new grantee of Healthcare for the Homeless in Nevada as a result. Following her consultation, the Nevada Health Center scored well on their OSV.

HCH Program OSV Summary

Dates of Visit: September 28-29, 2014

Purpose of Visit: The purpose of the TA was to assess the status of the HCH program implementation post-transition based on the original Service Area Competition (SAC) application, including compliance with key clinical and HCH-related program requirements, and to provide clinical support as appropriate given the grantee's status as a "new" HCH provider. The HRSA intent for the TA is evaluative and supportive. The standard framework used for the Clinical TA is the clinical program requirements. Portland CHC was found in compliance with all areas reviewed and was noted for innovation and best practices in three areas. There were no "unmets" or "partially mets" in any area.

Innovation/Best Practices Identified:

- PCHC Governing Board – Section 330 Governance Program Requires Annual Review Calendar: (2014) The Board prepares an Action Item Agenda for the Governance Requirements
- Plan-Do-Study-Act process to improve colon cancer screenings (for general population/homeless)
- Pilot new patient group visit in French (63 Preble location)

Overview: Adult Homeless Site. The Preble Street site is centrally located to a vast array of programs and resources designed for the Portland homeless population. The Portland PCHC staff interacts daily with those involved in the continuum of homeless services and visit shelters and other locations reaching out to the homeless for initial and ongoing services.

Site Visit Participants: 11 individuals interviewed (representation from Board, leadership team, staff, and state primary care association).

Documents Reviewed: 45

Consultant's Visit Activities: In addition to conducting stakeholder interviews and reviewing selected documents, the Consultant conducted onsite observation of staff and services provided. The Consultant also visited nearby shelters and Preble Street Resource Center.

Portland CHC HRSA Review

Program Requirements Findings Summary

Section 1. Need

#1 - Needs Assessment: PCHC maintains up-to-date needs data, including internal and external data, internal quality and clinical measure data and Service Area homeless data. MET

Section 2. Services

#2 - Required and Additional Services: PCHC provides all the required and additional services, either on site or through referral using signed, dated and requisite/compliant agreements. The program has been designated a Patient-Centered Medical Home by NCQA. MET

#3 - Staffing: PCHC directly employs the necessary staffing to carry out the day-to-day operations for required services and for meeting patient needs (including the needs of the homeless and refugee populations). MET

#4 - Accessible Hours of Operation / Locations: PCHC offers a generous array of hours of operation. PCHC provides evening and Saturday hours of operation. MET

#5 - After Hours Coverage: PCHC provides after-hours coverage through a contract for after-hours professional services. MET

#6 - Hospital Admitting Privileges and Continuum of Care: PCHC has systems in place and compliant agreements (through written agreements with local hospitals) to ensure inpatient and emergency coverage for all PCHC patients. MET

#8 - Quality Improvement / Assurance Plan: PCHC has a well-developed QI/QA program directed by the CMO (with ongoing Board participation). MET

Section 3. Management and Finance

#9 - Key Management Staff: PCHC employs a well-educated, well-prepared, experienced management team. The management team is adequate for the size of the organization and includes an experienced middle management team. MET

#10 - Contractual/Affiliation Agreements: PCHC exercises appropriate oversight and authority over all contracted services. MET

#11 - Collaborative Relationships: PCHC has an extensive network of partners (that support the organization's commitment to vulnerable populations including the homeless). MET

#16 - Scope of Project: PCHC maintains its funded scope of project in terms of sites, services, service area, target population, and providers. MET

Section 4. Governance

#17 - Board Authority: The PCHC Board meets monthly (in compliance with PIN 2014-1) and maintains board minutes of the monthly meetings. The PCHC Board includes the formerly homeless and members working in the homeless continuum of services. MET

#18 - Board Composition: The PCHC Board is in compliance with all board composition requirements. MET

#19 - Conflict of Interest Policy: The PCHC Bylaws include a board-approved conflict of interest policy. MET

Portland, Maine   Yes. Life's good here.

Jeff Levine, AICP
Director, Planning & Urban Development Department

Memorandum

To: Mayor and City Council

From: Jeff Levine, Director

Date: May 11, 2016

Re: Strategy for Accomplishing Bicycle/Pedestrian Projects in Manager's Budget

You asked for more information on the plan in the City Manager's proposed budget for completing bicycle and pedestrian projects without a Bicycle/Pedestrian Coordinator.

The Manager's proposed budget included increased capacity for project management of transportation construction within the Department of Public Works. This increased capacity would allow the Transportation Program Manager to do less direct project management in FY2017 and focus on design, planning and development review issues. These could include some portion of what the Bicycle-Pedestrian Coordinator worked on in FY16.

The Transportation Program Manager's responsibilities would include the following:

- ✓ Representing the City at PACTS & MaineDOT planning, funding & policy activities;
- ✓ Working on specific transportation planning projects such as a proposed joint study with South Portland along the transportation corridor from Morrill's Corner to Bug Light. For example, in FY2016, he managed the Bayside Transportation Master Plan and the HubLink transit improvement study;
- ✓ Completing street design projects such as those planned in Bayside and working with stakeholders as project such as Woodfords Corner move into construction;
- ✓ Developing cost-effective and sustainable improvements to our bicycle and pedestrian network, such as extending the Neighborhood Byway project; managing the study to extend the Bayside Trail behind or through Deering Oaks Park; and working on a design for state-funded improvements to the Dartmouth Street/Forest Avenue area.
- ✓ Negotiating improvements and mitigation for major projects both within Portland and in neighboring communities (such as Dirigo Plaza in Westbrook) as part of our development review process.

This position would therefore be able to cover much of what the current Bicycle-Pedestrian Coordinator works on. There may remain other bicycle or pedestrian projects that the City is unable to work on due to staffing limitations, but this strategy would allow us to cover the core transportation planning responsibilities.

Estimate of Implementing an Electronic Health Record at the India Street Clinic

The Public Health Division's recent RFP for a web-based electronic health record yielded six responses, ranging from $53,000 to $487,000 in start-up and annual costs. Were the City to retain the Positive Health Care program, it is likely that a web-based electronic health record could be insufficient for the robust federal reporting required of that program. Thus, understanding the costs of both a web-based and an in-office option are important.

A federal study (Agency for Healthcare Research and Quality, 2011) examined 26 primary care practices over 2.5 years, and provided the following:

- $162,000 plus an additional $85,000 in maintenance expenses for a 5-provider practice (This is close to what India Street would be billing for, with 4 providers: an MD, an NP, an RN, and a psychiatrist.)
    - One-time hardware costs were $25,000 for internet switches, cables and wireless internet connections
    - An additional $7,000 per physician for personal computers, printers and scanners
    - Software and maintenance costs (beginning at implementation) came to about $17,100 per physician annually.
- In addition, there were over 134 hours of nonfinancial costs (representing $10,325 in salaries) for each provider and support staff for entering information from paper records, including 481 hours ($28,025 in salaries) for the practice's implementation team. There is also lost revenue due to the decreased patient availability during implementation.

Thus, it is fair to estimate that it would cost at least $32,409 (per the AHRQ study) per provider = $129,636, plus $32,000 for hardware, plus $17,100 per provider for software and maintenance = **$230,036 in year one.**

Order 266-15/16
Tab 32 5-16-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 SIGN AMENDMENTS OF THE PURCHASE AND SALE AGREEMENT, THE CORPORATE GUARANTY AND THE PARKING GARAGE CONTRIBUTION AGREEMENT RE: THE FEDERATED COMPANIES LLC MIDTOWN PROJECT

ORDERED, that Amendments of the Purchase and Sale Agreement, the Corporate Guaranty and the Revised Parking Garage Contribution Agreement with FEDEQ DV001, LLC are hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager or his or her designee is hereby authorized to execute whatever other documents are necessary to effect the intent and purpose of the Amendments and this Order.

Backup for this item will be posted during the day on Friday, May 13, 2016.

Portland, Maine Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

TO: Mayor and City Council

FROM: Gregory A. Mitchell, Economic Development Director

DATE: May 11, 2016

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

SUBJECT: **Order to Approve Proposed Amendments to the City and Federated Companies Bayside "Midtown" Project Partnership documents**

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading and final action: May 16, 2016

Can action be taken at a later date: No, because the Proposed Amendments to the Federated Bayside "Midtown" Project documents need to be approved by the City Council on May 16th, 2016 to support the City sale of the Bayside property to the Federated Companies no later this May 31, 2016.

PRESENTATION: Greg Mitchell will be available for a presentation and to respond to questions.

I. ONE SENTENCE SUMMARY. Amendments to the City of Portland and Federated Companies Bayside "Midtown" Project documents are needed to support the planned sale of City property to Federated Companies no later than May 31, 2016.

II. AGENDA DESCRIPTION (Agenda Description). The Federated Companies Bayside "Midtown" Project includes new construction of 440+ market rate apartments; 90,000 sq. ft. +/- retail/restaurant space; and one 840 space parking garage. See attached rendering.

The entire Project is expected to be constructed within three years.

The City public policies goals associated with this public-private partnership include:

- Redevelopment of Bayside,
- Stimulate large scale market rate apartment development to support population growth on Portland's Peninsula and support expansion of the city's workforce,
- Construction of a large parking structure to support additional mixed use investment in Bayside and
- Invest in public road and utility improvements.

City investment in the "Midtown" Project includes this following sources and uses included in the two below tables.

Project	**Sources**	
Parking Garage @ 840 Spaces	**City**	**Federated Companies**
	$9.07 Million	$ Remaining Project Costs

Project	**Sources**	
Upgrade Somerset Street (Elm Street to Pearl Street Extension)	**City**	**Federated Companies**
	$1 Million Bayside TIF District	$1.3 Million
	$1 Million HUD 108 Loan and BEDI Grant	
	$700,000 Approved City Council Debt	
Total	**$2.7 Million**	**$1.3 Million**

Amendments to the City and Federated Companies Bayside Project documents are needed to proceed with the City and Federated Companies public-private partnership to support the planned City property closing by May 31, 2016. Major proposed amendments and the reasons for requested amendments include the following:

i. **City Right to Repurchase Real Estate *(*Documents requiring amendment include the *Parking Garage Contribution Agreement* and the *Purchase and Sale Agreement).*** It is proposed that the City eliminate its right to repurchase property where approved residential structures will be located (on non-parking garage property) because it creates Project financing complications. It is noted that the City retains it rights to repurchase the parking garage and associated parking garage property in the case of a default. It is noted that a Federated Companies Corporate Guaranty is in place to provide the City protection, through a Federated Companies corporate guaranty, to cover the cost of city investment in this Project. See attached 4th Amendment of Purchase and Sale Agreement, 2nd Amendment of Parking Garage Contribution and Funding Agreement, and 3rd Amendment to Corporate Guaranty Agreement.

ii. **Park and Shop Program (Document requiring amendment includes the *Parking Garage Contribution Agreement*).** It is proposed that the City eliminate the requirement to participate in the Park and Shop Program because this Program has been suspended for one year and is under consideration for elimination. See attached 4th Amendment of Purchase and Sale Agreement, 2nd Amendment of Parking Garage Contribution and Funding Agreement, and 3rd Amendment to Corporate Guaranty Agreement.

iii. **Midtown Project Value (Document requiring amendment includes the *Corporate Guaranty Agreement*).** It is proposed that the Federated Companies commit to complete construction of specific project buildings, including the parking garage, as a project value guaranty. See attached 4th

Amendment of Purchase and Sale Agreement, 2nd Amendment of Parking Garage Contribution and Funding Agreement, and 3rd Amendment to Corporate Guaranty Agreement.

III. BACKGROUND. The City and Federated Companies have a long standing public-private partnership in place to support the Federated Companies Bayside "Midtown" Project. Amendments to the partnership documents are needed to prepare this Project to move forward.

IV. INTENDED RESULT OR COUNCIL GOAL ADDRESSED. The intended result is to secure City Council approval on the proposed document amendments to support the sale of the City Bayside property to Federated Companies by no later than May 31, 2016, to support Project construction and completion.

V. FINANCIAL IMPACT. No financial appropriation action is required related to City Council approval of the proposed document amendments.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION. City staff has reviewed the proposed document amendments and feel that the City has adequate protections in place with remaining partnership Project document provisions and are, therefore, recommending City Council approval of the proposed document amendments. Corporation Counsel has prepared the proposed document amendments.

VII. RECOMMENDATION. City staff recommends City Council approval of the proposed amendments to the referenced City and Federated Companies documents.

VIII. LIST ATTACHMENTS.

a. Midtown Project Rendering
b. 4th Amendment of Purchase and Sale Agreement, 2nd Amendment of Parking Garage Contribution and Funding Agreement, and 3rd Amendment to Corporate Guaranty Agreement.
c. 2nd Amended and Restated 3rd Amendment of Purchase and Sale Agreement of 4/26/2016
d. Amended and Restated 3rd Amendment of Purchase and Sale Agreement of 2/22/2016
e. 3rd Amendment of Purchase and Sale Agreement of 10/13/2015
f. 2nd Amendment of Corporate Guaranty Agreement of 2/2/2015
g. 2nd Amendment of Purchase and Sale Agreement and Amendment of Guaranty and Parking Garage Contribution and Funding Agreement
h. Corporate Guaranty Agreement of 10/15/2012

Prepared by: Greg Mitchell

Date: 5/6/2016

midtown

Portland, ME

Site perspective view

A1 16 October 2014 cbt

THE FEDERATED COMPANIES

FOURTH AMENDMENT OF PURCHASE & SALE AGREEMENT,
SECOND AMENDMENT OF PARKING GARAGE CONTRIBUTION
AND FUNDING AGREEMENT, &
THIRD AMENDMENT TO CORPORATE GUARANTY AGREEMENT

THIS FOURTHAMENDMENT OF PURCHASE AND SALE AGREEMENT, SECOND AMENDMENT OF PARKING GARAGE CONTRIBUTION AND FUNDING AGREEMENT, & THIRD AMENDMENT TO CORPORATE GUARANTY AGREEMENT ("Fourth and Related Amendments"), dated May 16, 2016, is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (the "Seller"), **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("Buyer"), and **LEGACY PARK APARTMENTS, LLC** a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy").

RECITALS

WHEREAS, Seller and The Federated Companies, LLC ("Federated) entered into a certain June 23, 2011 Purchase and Sale Agreement ("P&S"), as variously assigned and amended by a First Amendment to Purchase and Sale Agreement dated October 15, 2012 (the "First Amendment"), a Second Amendment of Purchase and Sale Agreement and Amendment of Guaranty and Parking Garage Contribution and Funding Agreement dated October 14, 2014 (the "Second Amendment"), a Third Amendment of Purchase and Sale Agreement dated October 13, 2015 (the "Third Amendment"), an Amended & Restated Third Amendment of Purchase and Sale Agreement dated February 22, 2016 ("Amended Third Amendment"), and a Second Amended & Restated Third Amendment of Purchase and Sale Agreement dated April 26, 2016 ("Second Amended Third Amendment") (the P&S, as amended, is referred to herein as the "P&S"); and

WHEREAS, Federated assigned its rights as buyer under the P&S to Legacy pursuant to a certain Assignment and Assumption Agreement dated June 27, 2011 (the "Assignment"), and Legacy subsequently assigned its rights to and under the P&S and its Related Agreements to Buyer as set forth in a certain Assignment and Assumption Agreement dated October 14, 2014;

WHEREAS, the Seller, Legacy, Federated and Buyer are parties to certain Related Agreements, including a Corporate Guaranty Agreement dated October 15, 2012 (Corporate Guaranty) as amended by the Second Amendment and subsequently by a Second Amendment of Corporate Guaranty Agreement dated February 2, 2015 ("Second Guaranty Amendment") under which Legacy is the guarantor, a Job Creation Agreement dated October 15, 2012, and a Parking Garage Contribution and Funding Agreement dated October 15, 2012 ("Garage Agreement") as amended by the Second Amendment;

WHEREAS, the parties hereto agreed in Paragraph 2 of the Second Guaranty Amendment to execute a further amendment to the P&S and any other documents that may be required to document a change in the definition of the Land subject to the P&S as set forth in section 2(a) of the Second Amendment arising from review and approval by the Portland Planning Board of Buyer's new site plan application and amended subdivision plan;

WHEREAS, on March 3, 2015 Buyer received conditional approval ("Planning Board Approval") of its new site plan application and an amended subdivision plan pertaining to a portion of the Land set forth in the P&S which changes the definition of the same, and in recognition of the foregoing the parties wish to amend the definition of the Land within the P&S;

WHEREAS, the parties wish to make certain additional amendments to the P&S and Related Agreements as hereinafter described;

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the P&S and Related Agreements are hereby amended as follows:

I. The P&S, as amended, is hereby further amended as follows. Such amendment shall be known as the "Fourth Amendment of the P&S":

1. DEFINITION OF LAND.

   Section 2(a) of the Second Amendment is hereby deleted in its entirety and replaced with the following:

   The definition of the Land subject to the P&S is hereby amended to read as follows: Certain real property located on Somerset Street, in Portland, Maine depicted as lots 1, 3, 6 and 7 on that certain "AMENDED SUBDIVISION RECORDING PLAT FOR MiDTOWN DEVELOPMENT" prepared for FEDEQ DV001, LLC by Owen Haskell, Inc., last revised for City submission and signature on 05.10.16 and as approved by vote of the Portland Planning Board on March 3, 2015 (the "Amended Subdivision Plan") subject to all rights and easements of Seller and the public and all other matters set forth on the Amended Subdivision Plan, a copy of which is attached hereto as Exhibit A.

2. REPURCHASE REMEDIES.

   Section G of the First Amendment, which deleted and replaced section 15 of the P&S, is hereby deleted in its entirety and replaced with the following:

   "Section 15. Rights of Seller to Repurchase Undeveloped Property.

If Buyer, its successors and assigns have not reached the commencement of the "Start-up Phase," as that term is defined within the Garage Agreement, within two (2) years after the date on which a total of $1,000,000.00 in City Grant Funds has been requisitioned by and disbursed to Buyer or its nominee pursuant to the Garage Agreement, Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default, and Buyer shall have ninety (90) days thereafter to cure such default. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

If Buyer fails to cure a default under this section within said 90 day period, Seller shall have the right or remedy, but not the obligation, which is described in this paragraph in concept: namely, to repurchase lot 6 on the Amended Subdivision Plan, or such other lot that the Garage is constructed on, together with all buildings and improvements thereon, at Buyer's purchase price (prorated with respect to the quantity of land, as necessary). Seller may at the closing of such repurchase, use such consideration (that is, the prorated portion of Buyer's purchase price) to pay-off and remove any and all then existing mortgages, liens, assessments or other encumbrances on the property being repurchased. Any amounts by which such then existing mortgages, liens, assessments and other encumbrances exceed such consideration shall continue to be the obligations of Buyer, its successors and assigns; and Buyer, its successors or assigns, shall indemnify Seller with respect to such excess amounts.

The City acknowledges that Buyer will most likely use the entire Property as collateral for a construction loan for the purpose of developing and building all portions of the project. The City therefore agrees to work on documents at the time of such financing, with Buyer and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing.

The rights and obligations under the Corporate Guaranty and the Related Agreements are cumulative and in addition to the rights described herein.

II. The Garage Agreement, as amended, is hereby further amended as follows. Such amendment shall be known as the "Third Garage Amendment":

1. REAL PROPERTY.

The first paragraph of Section 9 of the Garage Agreement is hereby amended by deletion of the phrase "related real property" and replacing it with "Lot 6 within the Amended Subdivision Plan or such other property depicted on such Plan, as may be further amended, on which Buyer constructs a garage pursuant to the Garage Agreement."

Further, any land proposed to be encumbered by Seller's option to repurchase in the Garage Agreement shall be limited to Lot 6 within the Amended Subdivision Plan or such other property depicted on such Plan, as may be further amended, on which Buyer constructs a garage pursuant to the Garage Agreement."

2. PARK-AND-SHOP.

Section 5(b)(ii) of the Garage Agreement is hereby deleted in its entirety.

III. The Corporate Guaranty Agreement, as amended, is hereby further amended as follows. Such amendment shall be known as the "Third Amendment of Corporate Guaranty Agreement":

1. SECTION 1

Section 1 of the Second Guaranty Amendment is hereby deleted and the following is added as Section 1 to the Corporate Guaranty in its place:

Subject to Planning Board approval, FEDEQ shall construct the Midtown Project in a single phase in substantially the form described in the "Midtown Project Description." The parties agree that the Midtown Project shall consist of four buildings and will include not less than four hundred (400) residential apartments, not less than 85,000 square feet of retail space, and a parking garage containing not less than 840 spaces. Notwithstanding anything to the contrary in the Midtown Project Description, the parties agree that the specifications shown on a plan as may be approved by the Planning Board shall be deemed to satisfy the design guidelines and specifications required by the terms of the Guaranty, provided that the Midtown Project, as approved, is in substantially the form described in the Midtown Project Description. Within three years after the date on which the Buyer shall have requisitioned a total of one million dollars ($1,000,000.00) in City Grant Funds, exclusive of funds requisitioned by the City or by the Buyer for environmental remediation costs (the "Guaranty Deadline") Buyer shall have constructed a portion of the Midtown Project to include not less than 180 residential apartments, not less than 840 parking spaces, and not less than 50,000 gross square feet of first floor commercial space (the foregoing portion of the Midtown Project shall be referred to as the "Guaranteed Project Portion") . The annual penalty for not completing construction of the Guaranteed Project Portion on or before the Guaranty Deadline shall be limited to Guarantor paying to City, on an annual basis for a maximum term of seventeen (17) years, the annual difference between the actual tax revenue realized from the portion of the Guaranteed Project Portion as constructed, and the tax revenue that the City would have received had the Guaranteed Project Portion been substantially completed (the "Guaranteed Project Portion Value") by the Guaranty Deadline. The parties acknowledge the intent of this amendment is to clarify that the valuation differential, if any, shall not be calculated on the basis of the full MiDTOWN project approved by the Portland Planning Board and shall, instead, be limited to the Guaranteed Project Portion Value set forth herein. The Guaranteed Project Portion Value shall be the City of Portland Assessor's estimated assessed value of the real and personal property included in the Guaranteed Project Portion, had it been completed, made on the April 1 following the Guaranty Deadline..

Notwithstanding anything in the foregoing, this Guaranty is contingent on the full $9,007,000.00 in City Grant Funds being contributed to Guarantor for the construction of the Garage or the environmental remediation work addressed in the Third Amendment. Guarantor's aggregate, maximum penalty liability under this Guaranty shall not exceed $9,007,000.00. Finally, regardless of when substantial completion of the Guaranteed Project Portion, as defined above, is achieved, this Guaranty shall automatically terminate, Guarantor shall have zero financial liability under this Guaranty and City shall provide Guarantor with a release from any financial liability under this Guaranty effective as of the earlier of the date that the City of Portland Assessor's estimated assessed value of the Midtown Project reaches $45,000,000.00 or the Guaranteed Project Portion, as defined above, reaches substantial completion as that phrase is defined below, whichever shall first occur, or as of the date of the timely and valid exercise of the City's right to repurchase under the P&S or the Parking Garage Agreement, as amended. For purposes of this Guaranty, "substantial completion" is deemed to mean those structures within the Guaranteed Project Portion having received a Certificate of Occupancy from the City of Portland, exclusive of the ancillary retail space, such space to be delivered in shell condition and subject to tenant "fit-out."

IV. Miscellaneous Provisions

1. EFFECT OF TERMINATION OF SECOND AMENDED & RESTATED THIRD AMENDMENT.

In the event Buyer elects to terminate the Third Amendment as the same has been or may hereafter be amended and/or restated from time to time, pursuant to Section 1 thereof, this Fourth and Related Amendments agreement shall be null and void,, and the P&S as well as its Related Agreements shall have the same force and effect as they had at the time just prior to the Third Amendment's execution as though the Third Amendment, the Amended Third Amendment, the Second Amended Third Amendment, and these Fourth and Related Amendments never existed.

2. DEFINED TERMS

All terms capitalized but not defined herein shall have the meanings defined in the P&S and its Related Agreements and any amendments thereto.

3. CONFLICTS

Except as amended hereby, the P&S and its Related Agreements as well as any amendments, exhibits and attachments thereto, remain in full force an effect and are hereby ratified. In the event of any conflict between the terms of this Fourth and Related Amendments and the terms of the P&S or its Related Agreements and any amendments thereto, the terms of this Fourth and Related Amendments shall govern and control so long as this Fourth and Related Amendments is in effect. The recitals set forth above are incorporated herein by reference and made a part of this Fourth and Related Amendments.

4. COUNTERPARTS

This Fourth and Related Amendments may be signed in counterparts, which shall be construed together as one document.

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

CITY OF PORTLAND

By: ______________________________
Name: Jon P. Jennings
Its: City Manager

____
Approved to Form: Corp. Counsel

FEDEQ DV001, LLC

By: ________________________________
Jonathan Cox
Its: Manager

LEGACY PARK APARTMENTS, LLC

By: ________________________________
Jonathan Cox
Its: Manager

EXHIBIT A

AMENDED SUBDIVISION PLAN

LAST REVISED 5.10.2016

LICENSE NOTES

1. THE FOLLOWING LICENSES SET FORTH IN NOTES 1A, 1B, 1C, AND 1D ARE NOT SHOWN ON THIS PLAN. THE LOCATION AND TERMS AND CONDITIONS OF SUCH LICENSES ARE FURTHER DESCRIBED IN CITY COUNCIL ORDER 142–15/16 OR AS OTHERWISE DESCRIBED BELOW.

1A. A LICENSE FOR SUBSURFACE PILINGS, PILE CAPS AND BUILDING FOUNDATIONS GENERALLY ALONG THE NORTHERLY, EASTERLY AND SOUTHERLY PROPERTY LINE OF LOT 3 AND BURDENING LOT 4 AND THE CHESTNUT STREET AND SOMERSET STREET RIGHTS OF WAY.

1B. A LICENSE FOR SUBSURFACE PILINGS, PILE CAPS, AND BUILDING FOUNDATIONS GENERALLY ALONG THE NORTHWESTERLY AND SOUTHEASTERLY PROPERTY LINES OF THE SOMERSET RIGHT OF WAY AND LOT 6 AND 7 AND BURDENING THE SOMERSET STREET RIGHT OF WAY AND LOT 9.

1C. LICENSES FOR THE FEDEQ DV001, LLC ("FEDERATED") OR ITS DESIGNATED ASSIGNEES TO MAINTAIN STEPS, RAMPS AND THE RELATED ACCESSIBLE LANDINGS AND TO MAINTAIN PLANTERS WITHIN PORTIONS OF THE ELM STREET, CHESTNUT STREET AND SOMERSET STREET RIGHTS OF WAY, AND UPON THE AREA DESIGNATED AS THE POTENTIAL EXTENSION OF PEARL STREET, AS WELL AS THE RIGHTS TO CONSTRUCT AND MAINTAIN PHYSICAL IMPROVEMENTS TO BE ADDED TO THE TRAIL SYSTEM UPON LOTS 4 AND 9.

1D. A LICENSE BENEFITING LOTS 1, 3, 6 AND 7 TO CONSTRUCT, OPERATE AND MAINTAIN WATER QUALITY TREATMENT SYSTEMS UPON PORTIONS OF THE SOMERSET STREET, CHESTNUT STREET, ELM STREET, AND PEARL STREET.

EASEMENT NOTES

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

GENERAL NOTES

1. THIS AMENDED SUBDIVISION PLAN AMENDS AND REPLACES THE SUBDIVISION RECORDING PLAT ENTITLED "SUBDIVISION RECORDING PLAT OF PROPERTY LOCATED ON BAYSIDE RAILYARD, PORTLAND, MAINE PREPARED FOR DOWNTOWN PORTLAND CORPORATION BY SGC ENGINEERING, LLC. DATED OCTOBER 30, 2008 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 209, PAGE 36 (THE "PRIOR APPROVED SUBDIVISION PLAN") IN ALL RESPECTS AND SUCH PRIOR SUBDIVISION IS HEREBY EXTINGUISHED.

2. THE CITY OF PORTLAND SHALL RETAIN A FOUR FOOT WIDE STRIP OF LAND ALONG THE NORTHERLY SIDELINE OF SOMERSET STREET TO BE ADDED TO THE SOMERSET STREET RIGHT OF WAY, IN ORDER TO INCREASE THE WIDTH OF SOMERSET STREET ADJOINING LOTS 3, 6 & 7 FROM 50 FEET TO 54 FEET.

3. THIS AMENDED SUBDIVISION PLAN AMENDS LOTS 1 THROUGH 8 FROM THE PRIOR APPROVED SUBDIVISION PLAN. THE EASTERLY SIDE OF LOT 9 REMAINS UNCHANGED FROM THE PRIOR APPROVED SUBDIVISION PLAN AND IS SHOWN ON THE PRIOR APPROVED SUBDIVISION PLAN. THERE IS NO LONGER A LOT 2, 5 & 8 IN THE SUBDIVISION.

4. ALL WATER QUALITY TREATMENT DEVICES ASSOCIATED WITH THE midtown PROJECT AND LOCATED IN THE PUBLIC R.O.W. PURSUANT TO A LICENSE AGREEMENT SHALL BE PRIVATELY MAINTAINED BY THE DEVELOPER, ITS HEIRS OR ASSIGNS.

5. ALL RAMPS, STAIRS, PLANTERS AND RETAINING WALLS ASSOCIATED WITH THE midtown PROJECT AND LOCATED IN THE PUBLIC R.O.W. PURSUANT TO A LICENSE AGREEMENT SHALL BE PRIVATELY MAINTAINED BY THE DEVELOPER, ITS HEIRS OR ASSIGNS.

6. REFER TO AMENDED SUBDIVISION RECORDING PLAT FOR MIDTOWN DEVELOPMENT, PLAN SHEET 2 OF 2 (C–1.21), FOR CITY OF PORTLAND PLANNING BOARD CONDITIONS OF APPROVAL.

7. LOTS 1, 3, 6 AND 7 ARE LOCATED IN ZONE 'C' "AREAS OF MINIMAL FLOODING", AS DEFINED ON FLOOD INSURANCE RATE MAP FOR THE CITY OF PORTLAND, COMMUNITY–PANEL NUMBER 230051 0013 B, WITH AN EFFECTIVE DATE OF JULY 17, 1986.

8. THE SURVEYED PREMISES ARE LOCATED IN THE B–7 URBAN COMMERCIAL BUSINESS DISTRICT AS SHOWN ON THE OFFICIAL ZONING MAP FOR THE CITY OF PORTLAND PREPARED IN JUNE 2008.

9. EXISTING AND PROPOSED UTILITIES ARE SHOWN ON PLAN SHEETS C–4.1, C–4.2, C–4.3 UTILITY PLANS AS INCLUDED IN PLANNING BOARD APPROVAL MARCH 3, 2015 FOR MIDTOWN PROJECT.

10. LOT DATA INCLUDING TOTAL NUMBER OF RESIDENTIAL UNITS ARE SHOWN ON PLAN SHEETS C–1.5, C–1.6 AND C–1.7.

LEGEND

▒	AREA TO BE INCLUDED IN CHESTNUT STREET ROW
▨	MEWS – ACCESS EASEMENT BENEFITING THE CITY OF PORTLAND
▩	PORTION OF PROPOSED ROW NOT CONTROLLED BY CITY OF PORTLAND
▦	ACCESS, GRADING, DRAINAGE AND UTILITY LICENSE FOR LOTS 1, 3, 6 & 7
○	LIMITED OPEN SPACE USE EASEMENT BENEFITING THE CITY OF PORTLAND
▣	PROPOSED 3' O/S MONUMENT

GRAPHIC SCALE
0 20' 40' 80'

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE (FEET)
L1	N 50°11'34" E	3.39'
L2	S 39°48'26" E	7.89'
L3	N59°04'41"E	58.90'
L4	S40°58'52"E	0.25'
L5	N 50°11'34" E	11.40'
L6	DELETED	
L7	S40°58'52"E	2.53'
L14	DELETED	
L15	DELETED	
L16	DELETED	
L17	DELETED	
L18	DELETED	
L19	DELETED	
L20	DELETED	
L21	N41°00'32"W	21.94'
L22	N42°22'19"E	136.00'
L23	N39°22'54"E	72.27'
L24	N49°00'22"E	20.02'
L25	S87°16'35"E	27.70'
L26	S40°59'38"E	5.00'
L27	N84°05'10"E	20.69'
L28	N28°31'08"E	15.21'
L29	N59°22'54"E	31.41'
L30	S61°28'51"E	5.00'
L31	S40°59'38"E	6.82'
L32	S49°00'22"W	24.24'
L33	N40°59'38"W	48.99'
L34	S49°00'22"W	108.00'
L35	S41°00'32"E	15.29'
L36	S42°22'19"W	64.94'
L37	S39°22'54"W	10.86'
L38	N40°59'38"W	20.61'

APPROVAL - CITY OF PORTLAND
PLANNING BOARD

DATE

CHAIRPERSON

CERTIFICATE:

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

DATE

JOHN W. SWAN, PLS NO. 1038

OWNER OF RECORD:
CITY OF PORTLAND C.C.R.D. BOOK 27870 PAGE 299

05.10.16	REVISED PER CITY COMMENTS
04.14.16	FINAL SUBDIVISION PLANS WITH CONDITIONS OF APPROVAL
02.23.16	FINAL SUBDIVISION PLANS WITH CONDITIONS OF APPROVAL
02.17.16	FINAL SUBDIVISION PLANS WITH CONDITIONS OF APPROVAL
01.21.15	REVISED PER CITY COMMENTS AND RESUBMITTED FOR CITY REVIEW
12.01.14	REVISED FOR LEVEL III SUBMISSION AND RESUBMITTED FOR CITY REVIEW
11.14.14	FINAL LEVEL III SUBMISSION TO CITY OF PORTLAND
10.17.14	PRELIMINARY LEVEL III SUBMISSION

AMENDED SUBDIVISION RECORDING PLAT FOR
MiDTOWN DEVELOPMENT, PLAN SHEET 1 OF 2
ON
SOMERSET STREET, PORTLAND, MAINE
MADE FOR
FEDEQ DV001, LLC
PO BOX 37008 MIAMI FL, 33137–4110

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

Drwn By	EB	Date	Job No.
Trace By	JLW	APRIL 10, 2013	2012–180 P
Check By	JWS	Scale	Drwg. No.
Book No.	FILE	1" = 40'	C–1.2

V:\1953\active\195350127\3062B\Cadd\Permit Set\dwg\3062-SUBDIVISION Midtown OHI.dwg dedavis 5/12/2016 11:11 AM

SECOND AMENDED & RESTATED THIRD AMENDMENT OF PURCHASE AND SALE AGREEMENT

THIS SECOND AMENDED & RESTATED THIRD AMENDMENT OF PURCHASE AND SALE AGREEMENT ("Amendment") dated April 26, 2016 is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (the "Seller"), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("Buyer").

RECITALS

WHEREAS, The Seller and The Federated Companies, LLC ("Federated') entered into a certain June 23, 2011 Purchase and Sale Agreement, as amended by a First Amendment to Purchase and Sale Agreement dated October 15, 2012 (the "P&S") and a Second Amendment Of Purchase And Sale Agreement And Amendment of Guaranty And Parking Garage Contribution And Funding Agreement dated October 14, 2014 (the "Second Amendment"), and a Third Amendment of Purchase and Sale Agreement dated October 13, 2015 (the "Third Amendment"), as well as an Amended & Restated Third Amendment of Purchase and Sale Agreement dated February 22, 2016 ("Amended Third Amendment") (the P&S, as amended, is referred to herein as the "P&S"); and

WHEREAS, Federated assigned its rights as buyer under the P&S to Legacy Park Apartments, LLC ("Legacy") pursuant to a certain Assignment and Assumption Agreement dated June 27, 2011 (the "Assignment"), and Legacy subsequently assigned its rights to and under the P&S and its Related Agreements to Buyer as set forth in a certain Assignment and Assumption Agreement dated October 14, 2014;

WHEREAS, the Seller, Legacy, Federated, and Buyer are parties to certain Related Agreements; and

WHEREAS, the parties wish to amend the P&S as hereinafter described;

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the P&S is hereby amended as follows:

1. CLOSING.

Notwithstanding anything to the contrary in the P&S, the parties agree that the Closing date shall be determined by deleting the first and second sentences of Section 8 of the P&S and replacing them with the following:

The Closing shall be held and completed at 10:00 A.M. on May 31, 2016, at the office of the Buyer's lender's counsel in Portland, Maine or through electronic communication or by mail by agreement of the parties (the "Closing Date"). Notwithstanding the foregoing, in no event shall Buyer be obligated to close sooner than thirty (30) days after the issuance of a building permit for the Midtown Project (the "Building Permit").

In the event that the Buyer has not received the Building Permit by the date that is thirty (30) days prior to the Closing Date, then, at the Buyer's option, Buyer shall either (1) by notifying Seller in writing at least five (5) days prior to the Closing Date, elect to terminate this Amendment, or (2) agree to proceed to Closing without the Building Permit. In the event that Buyer elects to terminate this Amendment, this Amendment shall be deemed null and void and the P&S as well as its Related Agreements shall have the same force and effect as they had at the time just prior to the Third Amendment's execution as though the Third Amendment never existed.

2. ENVIRONMENTAL REMEDIATION AND INDEMNIFICATION.

Section 5 of the P&S and section 2.e. of the Second Amendment are hereby amended to transfer environmental remediation responsibility to Buyer and relieve the City of its remaining environmental remediation responsibilities set forth in the P&S, except as otherwise noted herein. Buyer acknowledges that it has had the opportunity to conduct any environmental tests, inspections, and assessments of the Property that it desires and that it has been provided with an assessment of known remediation needs as embodied in copies of all of the documents referenced in Exhibit B to the P&S, the DEP's November 1, 2010 Commissioner's Certification of Completion of Remedial Actions Under a Voluntary Response Action Plan, Woodard & Curran's March 29, 2013 Self-Implementing Cleanup and Disposal Plan under 40 CFR 761.61(a) Former New England Metal Recycling Site (the "Scrapyard Cleanup and Disposal Plan"), and the EPA's September 18, 2013 letter to the City of Portland regarding PCB Cleanup and Disposal Approval under 40 CFR 761.61(a) and (c) Former New England Metals Recycling Portland, Maine (the "EPA Scrapyard Approval Letter") and all attachments thereto, which documents are attached again to this Amendment as Exhibit A (the information described above and contained in Exhibit A is referred to hereafter collectively as the "Known Environmental Remediation Needs"). Buyer agrees that it shall be responsible for complying with all Known Environmental Remediation Needs, which responsibility shall survive closing. Nothing herein is intended to alter Seller's continuing responsibility, under the P&S and otherwise, to provide and satisfy any and all conditions, including provision of environmental liability insurance, associated with Pan Am/Guilford's release of prior deed restrictions related to the Land or Property including but not limited to a restriction on residential uses.

Notwithstanding anything to the contrary above, nothing in this Amendment is intended to alter the financial responsibilities of the parties for environmental remediation as set forth in the P&S, and excepting only the Seller's obligation to pay the first $50,000 of remediation expense for the Scrapyard, Buyer shall be responsible for all costs of remediation required under the P&S. The City shall satisfy its payment obligation by providing Buyer a credit toward the Purchase Price in the amount of $50,000.

Furthermore, Buyer, the Federated Companies, LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"), and Legacy Park Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy"), jointly and severally, hereby covenant and agree, at their sole cost and expense, to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding (collectively, "Claims"), that may at any time be imposed upon, incurred by or asserted or awarded against City arising out of or relating to the Buyer's compliance with Known Environmental Remediation Needs subsequent to this Amendment's mutual execution (the above duties of Buyer, Federated, and Legacy to defend, indemnify and hold the City harmless are collectively referred to as "Buyer's Environmental Indemnity"). Buyer's Environmental Indemnity shall not apply to any such Claims to the extent they relate to actions taken to comply with Known Environmental Remediation Needs prior to this Amendment's mutual execution, or are caused by the City's own negligence or wrongdoing, and shall not apply to any Claims related to matters beyond the Known Environmental Remediation Needs as outlined above. Buyer and Seller acknowledge and agree the limited purpose of Buyer's Environmental Indemnity is to ensure that, following transfer of remediation responsibility from Seller to Buyer, the Known Environmental Remediation Needs are satisfactorily complied with, and that it is not a general indemnity related to other real or potential environmental liabilities associated with the Property or Seller's status in the chain of title thereto. Buyer's Environmental Indemnity shall survive Closing and shall be binding upon Buyer's, Legacy's and Federated's successors and assigns.

3. All terms capitalized but not defined herein shall have the meanings defined in the P&S and its Related Agreements and any amendments thereto.

4. Except as amended hereby, the P&S and its Related Agreements as well as any amendments, exhibits and attachments thereto, remain in full force an effect and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the P&S or its Related Agreements and any amendments thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect. The recitals set forth above are incorporated herein by reference and made a part of this Amendment.

5. This Amendment may be signed in counterparts, which shall be construed together as one document.

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

CITY OF PORTLAND

By: ________________________________
Name: Jon P. Jennings
Its: City Manager

____
Approved to Form: Corp. Counsel

FEDEQ DV001, LLC

By: ________________________________
Jonathan Cox
Its: Manager

JOINDER OF THE FEDERATED COMPANIES, LLC AND LEGACY PARK APARTMENTS, LLC

THE FEDERATED COMPANIES LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated") and Legacy Park Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy") hereby joins in this Amendment for the purpose of acknowledging and accepting their obligations concerning the Buyer's Environmental Indemnity set forth in Section 2 above.

IN WITNESS WHEREOF, Federated and Legacy have caused this Joinder to be executed by their duly authorized representative as of the day and year first written above.

WITNESS:

THE FEDERATED COMPANIES, LLC

By:____________________

Name: Jonathan Cox

Title: Manager

WITNESS:

LEGACY PARK APARTMENTS, LLC

By:____________________

Name: Jonathan Cox

Title: Manager

AMENDED & RESTATED THIRD AMENDMENT OF PURCHASE AND SALE AGREEMENT

THIS AMENDED & RESTATED THIRD AMENDMENT OF PURCHASE AND SALE AGREEMENT ("Amendment") dated February 22, 2016 is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (the "Seller"), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("Buyer").

RECITALS

WHEREAS, The Seller and The Federated Companies, LLC ("Federated') entered into a certain June 23, 2011 Purchase and Sale Agreement, as amended by a First Amendment to Purchase and Sale Agreement dated October 15, 2012 (the "P&S") and a Second Amendment Of Purchase And Sale Agreement And Amendment of Guaranty And Parking Garage Contribution And Funding Agreement dated October 14, 2014 (the "Second Amendment"), and a Third Amendment of Purchase and Sale Agreement dated October 13, 2015 (the "Third Amendment") (the P&S, as amended, is referred to herein as the "P&S"); and

WHEREAS, Federated assigned its rights as buyer under the P&S to Legacy Park Apartments, LLC ("Legacy") pursuant to a certain Assignment and Assumption Agreement dated June 27, 2011 (the "Assignment"), and Legacy subsequently assigned its rights to and under the P&S and its Related Agreements to Buyer as set forth in a certain Assignment and Assumption Agreement dated October 14, 2014;

WHEREAS, the Seller, Legacy, Federated, and Buyer are parties to certain Related Agreements; and

WHEREAS, the parties wish to amend the P&S as hereinafter described;

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the P&S is hereby amended as follows:

1. CLOSING.

Notwithstanding anything to the contrary in the P&S, the parties agree that the Closing date shall be determined by deleting the first and second sentences of Section 8 of the P&S and replacing them with the following:

The Closing shall be held and completed at 10:00 A.M. on April 29, 2016 or at such earlier time as may be agreed to by the parties in writing, at the office of the Buyer's lender's counsel in Portland, Maine or through electronic communication or by mail by agreement of the parties (the "Closing Date"). Notwithstanding the foregoing, in no event shall Buyer be obligated to close sooner than thirty (30) days after the issuance of a building permit for the Midtown Project (the "Building Permit").

In the event that the Buyer has not received the Building Permit by the date that is thirty (30) days prior to the Closing Date, then, at the Buyer's option, Buyer shall either (1) by notifying Seller in writing at least five (5) days prior to the Closing Date, elect to terminate this Amendment, or (2) agree to proceed to Closing without the Building Permit. In the event that Buyer elects to terminate this Amendment, this Amendment shall be deemed null and void and the P&S as well as its Related Agreements shall have the same force and effect as they had at the time just prior to this Amendment's execution as though this Amendment never existed.

2. ENVIRONMENTAL REMEDIATION AND INDEMNIFICATION.

Section 5 of the P&S and section 2.e. of the Second Amendment are hereby amended to transfer environmental remediation responsibility to Buyer and relieve the City of its remaining environmental remediation responsibilities set forth in the P&S, except as otherwise noted herein. Buyer acknowledges that it has had the opportunity to conduct any environmental tests, inspections, and assessments of the Property that it desires and that it has been provided with an assessment of known remediation needs as embodied in copies of all of the documents referenced in Exhibit B to the P&S, the DEP's November 1, 2010 Commissioner's Certification of Completion of Remedial Actions Under a Voluntary Response Action Plan, Woodard & Curran's March 29, 2013 Self-Implementing Cleanup and Disposal Plan under 40 CFR 761.61(a) Former New England Metal Recycling Site (the "Scrapyard Cleanup and Disposal Plan"), and the EPA's September 18, 2013 letter to the City of Portland regarding PCB Cleanup and Disposal Approval under 40 CFR 761.61(a) and (c) Former New England Metals Recycling Portland, Maine (the "EPA Scrapyard Approval Letter") and all attachments thereto, which documents are attached again to this Amendment as Exhibit A (the information described above and contained in Exhibit A is referred to hereafter collectively as the "Known Environmental Remediation Needs"). Buyer agrees that it shall be responsible for complying with all Known Environmental Remediation Needs, which responsibility shall survive closing. Nothing herein is intended to alter Seller's continuing responsibility, under the P&S and otherwise, to provide and satisfy any and all conditions, including provision of environmental liability insurance, associated with Pan Am/Guilford's release of prior deed restrictions related to the Land or Property including but not limited to a restriction on residential uses.

Notwithstanding anything to the contrary above, nothing in this Amendment is intended to alter the financial responsibilities of the parties for environmental remediation as set forth in the P&S, and excepting only the Seller's obligation to pay the first $50,000 of remediation expense for the Scrapyard, Buyer shall be responsible for all costs of remediation required under the P&S. The City shall satisfy its payment obligation by providing Buyer a credit toward the Purchase Price in the amount of $50,000.

Furthermore, Buyer, the Federated Companies, LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"), and Legacy Park Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida

33137 ("Legacy"), jointly and severally, hereby covenant and agree, at their sole cost and expense, to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding (collectively, "Claims"), that may at any time be imposed upon, incurred by or asserted or awarded against City arising out of or relating to the Buyer's compliance with Known Environmental Remediation Needs subsequent to this Amendment's mutual execution (the above duties of Buyer, Federated, and Legacy to defend, indemnify and hold the City harmless are collectively referred to as "Buyer's Environmental Indemnity"). Buyer's Environmental Indemnity shall not apply to any such Claims to the extent they relate to actions taken to comply with Known Environmental Remediation Needs prior to this Amendment's mutual execution, or are caused by the City's own negligence or wrongdoing, and shall not apply to any Claims related to matters beyond the Known Environmental Remediation Needs as outlined above. Buyer and Seller acknowledge and agree the limited purpose of Buyer's Environmental Indemnity is to ensure that, following transfer of remediation responsibility from Seller to Buyer, the Known Environmental Remediation Needs are satisfactorily complied with, and that it is not a general indemnity related to other real or potential environmental liabilities associated with the Property or Seller's status in the chain of title thereto. Buyer's Environmental Indemnity shall survive Closing and shall be binding upon Buyer's, Legacy's and Federated's successors and assigns.

3. All terms capitalized but not defined herein shall have the meanings defined in the P&S and its Related Agreements and any amendments thereto.

4. Except as amended hereby, the P&S and its Related Agreements as well as any amendments, exhibits and attachments thereto, remain in full force an effect and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the P&S or its Related Agreements and any amendments thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect. The recitals set forth above are incorporated herein by reference and made a part of this Amendment.

5. This Amendment may be signed in counterparts, which shall be construed together as one document.

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

CITY OF PORTLAND

By: ______________________
Name: Jon P. Jennings
Its: City Manager

____
Approved to Form: Corp. Counsel

FEDEQ DV001, LLC

By: ______________________
Jonathan Cox
Its: Manager

JOINDER OF THE FEDERATED COMPANIES, LLC AND LEGACY PARK APARTMENTS, LLC

THE FEDERATED COMPANIES LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated") and Legacy Park Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy") hereby joins in this Amendment for the purpose of acknowledging and accepting their obligations concerning the Buyer's Environmental Indemnity set forth in Section 2 above.

IN WITNESS WHEREOF, Federated and Legacy have caused this Joinder to be executed by their duly authorized representative as of the day and year first written above.

WITNESS:

THE FEDERATED COMPANIES, LLC

By:

Name: Jonathan Cox

Title: Manager

WITNESS:

LEGACY PARK APARTMENTS, LLC

By:

Name: Jonathan Cox

Title: Manager

THIRD AMENDMENT OF PURCHASE AND SALE AGREEMENT

THIS THIRD AMENDMENT OF PURCHASE AND SALE AGREEMENT (“Amendment**”)** dated October 13, 2015 is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (the “Seller”), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 (“Buyer”).

RECITALS

WHEREAS, The Seller and The Federated Companies, LLC (“Federated’) entered into a certain June 23, 2011 Purchase and Sale Agreement, as amended by a First Amendment to Purchase and Sale Agreement dated October 15, 2012 (the “P&S”) and a Second Amendment Of Purchase And Sale Agreement And Amendment of Guaranty And Parking Garage Contribution And Funding Agreement dated October 14, 2014 (the “Second Amendment”) (the P&S, as amended, is referred to herein as the “P&S”); and

WHEREAS, Federated assigned its rights as buyer under the P&S to Legacy Park Apartments, LLC (“Legacy”) pursuant to a certain Assignment and Assumption Agreement dated June 27, 2011 (the “Assignment”), and Legacy subsequently assigned its rights to and under the P&S and its Related Agreements to Buyer as set forth in a certain Assignment and Assumption Agreement dated October 14, 2014;

WHEREAS, the Seller, Legacy, Federated, and Buyer are parties to certain Related Agreements; and

WHEREAS, the parties wish to amend the P&S as hereinafter described;

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the P&S is hereby amended as follows:

1. CLOSING.

   Notwithstanding anything to the contrary in the P&S, the parties agree that the Closing date shall be determined by deleting the first and second sentences of Section 8 of the P&S and replacing them with the following:

   The Closing shall be held and completed at 10:00 A.M. on February 29, 2016 or at such earlier time as may be agreed to by the parties in writing, at the office of the Buyer’s lender’s counsel in Portland, Maine or through electronic communication or by mail by agreement of the parties (the “Closing Date”). Notwithstanding the foregoing, in no event shall Buyer be obligated to close sooner than thirty (30) days after the issuance of a building permit for the Midtown Project (the “Building Permit”).

   In the event that the Buyer has not received the Building Permit by the date that is thirty (30) days prior to the Closing Date, then, at the Buyer’s option, Buyer shall either (1) by notifying Seller in writing at least five (5) days prior to the Closing Date, elect to terminate this Amendment, or (2) agree to proceed to Closing without the Building Permit. In the event that Buyer elects to terminate this Amendment, this Amendment shall be deemed null and void and the P&S as well as its Related Agreements shall have the same force and effect as they had at the time just prior to this Amendment's execution as though this Amendment never existed.

2. ENVIRONMENTAL REMEDIATION AND INDEMNIFICATION.

Section 5 of the P&S and section 2.e. of the Second Amendment are hereby amended to transfer environmental remediation responsibility to Buyer and relieve the City of its remaining environmental remediation responsibilities set forth in the P&S, except as otherwise noted herein. Buyer acknowledges that it has had the opportunity to conduct any environmental tests, inspections, and assessments of the Property that it desires and that it has been provided with an assessment of known remediation needs as embodied in copies of all of the documents referenced in Exhibit B to the P&S, the DEP's November 1, 2010 Commissioner's Certification of Completion of Remedial Actions Under a Voluntary Response Action Plan, Woodard & Curran's March 29, 2013 Self-Implementing Cleanup and Disposal Plan under 40 CFR 761.61(a) Former New England Metal Recycling Site (the "Scrapyard Cleanup and Disposal Plan"), and the EPA's September 18, 2013 letter to the City of Portland regarding PCB Cleanup and Disposal Approval under 40 CFR 761.61(a) and (c) Former New England Metals Recycling Portland, Maine (the "EPA Scrapyard Approval Letter") and all attachments thereto, which documents are attached again to this Amendment as Exhibit A (the information described above and contained in Exhibit A is referred to hereafter collectively as the "Known Environmental Remediation Needs"). Buyer agrees that it shall be responsible for complying with all Known Environmental Remediation Needs, which responsibility shall survive closing. Nothing herein is intended to alter Seller's continuing responsibility, under the P&S and otherwise, to provide and satisfy any and all conditions, including provision of environmental liability insurance, associated with Pan Am/Guilford's release of prior deed restrictions related to the Land or Property including but not limited to a restriction on residential uses.

Notwithstanding anything to the contrary above, nothing in this Amendment is intended to alter the financial responsibilities of the parties for environmental remediation as set forth in the P&S, and excepting only the Seller's obligation to pay the first $50,000 of remediation expense for the Scrapyard, Buyer shall be responsible for all costs of remediation required under the P&S. The City shall satisfy its payment obligation by providing Buyer a credit toward the Purchase Price in the amount of $50,000.

Furthermore, Buyer, the Federated Companies, LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"), and Legacy Park Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy"), jointly and severally, hereby covenant and agree, at their sole cost and expense, to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding (collectively, "Claims"), that may at any time be imposed upon, incurred by or asserted or awarded against City arising out of or relating to the Buyer's compliance with Known Environmental Remediation Needs subsequent to this Amendment's mutual execution (the above duties of Buyer, Federated, and Legacy to defend, indemnify and hold the City harmless are collectively referred to as "Buyer's Environmental Indemnity"). Buyer's Environmental Indemnity shall not apply to any such Claims to the extent they relate to actions taken to comply with Known Environmental Remediation Needs prior to this Amendment's mutual execution, or are caused by the City's own negligence or wrongdoing, and shall not apply to any Claims related to matters beyond the Known Environmental Remediation Needs as outlined above. Buyer and Seller acknowledge and agree the limited purpose of Buyer's Environmental Indemnity is to ensure that, following transfer of remediation responsibility from Seller to Buyer, the Known Environmental Remediation Needs are satisfactorily complied with, and that it is not a general indemnity related to other real or potential environmental liabilities associated with the Property or Seller's status in the chain of title thereto. Buyer's Environmental Indemnity shall survive Closing and shall be binding upon Buyer's, Legacy's and Federated's successors and assigns.

3. All terms capitalized but not defined herein shall have the meanings defined in the P&S and its Related Agreements and any amendments thereto.

4. Except as amended hereby, the P&S and its Related Agreements as well as any amendments, exhibits and attachments thereto, remain in full force an effect and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the P&S or its Related Agreements and any amendments thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect. The recitals set forth above are incorporated herein by reference and made a part of this Amendment.

5. This Amendment may be signed in counterparts, which shall be construed together as one document.

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

CITY OF PORTLAND

By: ______________________________
Name: Jon P. Jennings
Its: City Manager

____
Approved: Finance Director

____
Approved to Form: Corp. Counsel

FEDEQ DV001, LLC

By: ______________________________
Jonathan Cox
Its: Manager

JOINDER OF THE FEDERATED COMPANIES, LLC AND LEGACY PARK APARTMENTS, LLC

THE FEDERATED COMPANIES LLC, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated") and Legacy Park Apartments, LLC, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy") hereby joins in this Amendment for the purpose of acknowledging and accepting their obligations concerning the Buyer's Environmental Indemnity set forth in Section 2 above.

IN WITNESS WHEREOF, Federated and Legacy have caused this Joinder to be executed by their duly authorized representative as of the day and year first written above.

WITNESS: THE FEDERATED COMPANIES, LLC

________________________________ By:____________________________

Name: Jonathan Cox

Title: Manager

WITNESS: LEGACY PARK APARTMENTS, LLC

________________________________ By:____________________________

Name: Jonathan Cox

Title: Manager

EXHIBIT A

KNOWN ENVIRONMENTAL REMEDIATION NEEDS

All of the documents referenced in Exhibit B to the P&S: List of Bayside Rail Yard Related Environmental Reports

1. Site Assessment and Environmental Analysis: Phase 1 of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

2. Environmental Remediation Plan, Phase Ill of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

3. Phase II Environmental Site Assessment, Union Branch Rail Line Property, Portland, Maine, Haley & Aldrich, Inc. Dec. 2000

4. Environmental Conditions at the Proposed DHS Building Land annex, Portland, Maine, Tewhey Associates, August 2003

5. Tewhey Associates Memo from J. Tewhey to M. Adelson of the City of Portland Re: Results of Testing of Excavated Soil at the Former Rail Yard Site in Bayside, Tewhey Associates, December 13, 2003

6. Subsurface Soil Observations and Testing at Northern End of Proposed Chestnut Street Extension, Tewhey Associates, Jan 2005

7. Phase 1 Environmental Site Assessment, Rail Yard Subdivision Lots 1,2,3,4 and 9 Somerset Street, Portland, Maine, Tewhey Associates, Dec. 2008

8. VRAP Completion Document, Bayside Trail Project, Former Union Branch Rail Line, Portland, Maine, Tewhey Associates, August 2010

9. Bayside Rail Yard DEP VRAP, July 2001

10. Bayside Rail Yard DEP VRAP, November 2008

11. Chestnut Street Extension DEP VRAP, May 2005

12. DHS Annex Property DEP VRAP Certification, Apri12004

13. Soil Remediation Consideration, Tewhey Associates, January 2002

14. Stockpiled Group 2 Soils at Brownfields Property Site, June 2005

15. NEMR Concrete Pad Sampling, September 2008

16. NEMR Phase 1 Environmental Site Assessment, February 2009

17. NEMR Phase II Soil Investigation, February 2007

18. NEMR Phase II Soil Investigation, July 2009

Documents additional to those referenced in Exhibit B to the P&S.

19. The DEP's November 1, 2010 Commissioner's Certification of Completion of Remedial Actions Under a Voluntary Response Action Plan;

20. Woodard & Curran's March 29, 2013 Self-Implementing Cleanup and Disposal Plan under 40 CFR 761.61(a) Former New England Metal Recycling Site (the "Scrapyard Cleanup and Disposal Plan"); and

21. The EPA's September 18, 2013 letter to the City of Portland regarding PCB Cleanup and Disposal Approval under 40 CFR 761.61(a) and (c) Former New England Metals Recycling Portland, Maine (the "EPA Scrapyard Approval Letter") and all attachments thereto.

SECOND AMENDMENT OF CORPORATE GUARANTY AGREEMENT

THIS AGREEMENT dated FEBRUARY 2, 201~~4~~5 is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), **LEGACY PARK APARTMENTS, LLC**, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy" or "Buyer"), **THE FEDERATED COMPANIES LLC**, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"), and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of PO BOX 370008 , Miami, Florida 33137 ("FEDEQ").

RECITALS

WHEREAS, The City and Federated entered into a certain June 3, 2011 Purchase and Sale Agreement, as amended by a First Amendment to Purchase and Sale Agreement dated October 15, 2012 (the "P&S") and a Second Amendment Of Purchase And Sale Agreement And Amendment of Guaranty And Parking Garage Contribution And Funding Agreement dated October 14, 2014 (the "Second Amendment") (the P&S, as amended, is referred to herein as the "P&S"), and

WHEREAS, Federated has assigned its rights as buyer under the P&S to Legacy pursuant to a certain Assignment and Assumption Agreement dated June 27, 2011 (the "Assignment"), and Legacy has assigned its right to purchase the Property to a Maine limited liability company known as FEDEQ DV001, LLC by a certain Assignment and Assumption Agreement dated October 14, 2014 (the "FEDEQ Assignment"); and

WHEREAS, the City, Legacy, Federated, and FEDEQ are parties to a certain October 15, 2012 Corporate Guaranty Agreement dated October 15, 2012, as amended by the Second Amendment (the Corporate Guaranty Agreement, as amended, is referred to herein as the "Guaranty Agreement"); and

WHEREAS, the City, Legacy, and FEDEQ are parties to a certain Parking Garage Contribution and Funding Agreement dated October 15, 2012, as amended by the Second Amendment (the Parking Garage Contribution and Funding Agreement, as amended, is referred to herein as the "Parking Garage Agreement"); and

WHEREAS, as a result of a pending lawsuit filed by certain Portland residents against the City, Federated, and Legacy, Federated has submitted to the City's Planning Department a site plan application and amended subdivision plan with a redesigned plan for the development of its Midtown Project on the Property. The redesigned Midtown Project is described in a certain "Midtown Project Description" by CBT Architects, a copy of which is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the City, Legacy, Federated and FEDEQ now wish to amend certain provisions of the Guaranty Agreement and the Second Amendment as set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Guaranty Agreement and the Second Amendment are hereby amended as follows:

1. Section 1 of the Guaranty Agreement and sections 3(a) & (b) of the Second Amendment are hereby deleted and the following is added to the Guaranty Agreement as section 1:

   Subject to Planning Board approval, FEDEQ shall construct the Midtown Project in a single phase in substantially the form described in the Midtown Project Description. The parties agree that the Midtown Project shall consist of four buildings and will include not less than four hundred (400) residential apartments, not less than 85,000 square feet of retail space, and a parking garage containing not less than 800 spaces. Notwithstanding anything to the contrary in the Midtown Project Description, the parties agree that the specifications shown on a plan as may be approved by the Planning Board shall be deemed to satisfy the design guidelines and specifications required by the terms of the Guaranty, provided that the Midtown Project, as approved, is in substantially the form described in the Midtown Project Description. The Midtown Project shall be substantially complete within three years after the date on which the Buyer shall have requisitioned a total of one million dollars ($1,000,000.00) in City Grant Funds, exclusive of funds requisitioned by the City or by the Buyer for environmental remediation costs (the “Guaranty Deadline”). The annual penalty for not meeting the Guaranty Deadline shall be limited to Guarantor paying to City, on an annual basis for a maximum term of seventeen (17) years, the annual difference between the actual tax revenue realized from the Midtown Project, as constructed, and the Midtown Project’s tax revenue the City would have received had the Midtown Project been substantially completed (the “Midtown Project Value”) by the Guaranty Deadline. The Midtown Project Value shall be the City of Portland Assessor’s estimated assessed value of the Midtown Project property (real and personal) made on the April 1 following the Guaranty Deadline, and based on the Midtown Project as it may be approved by the Planning Board. Notwithstanding anything in the forgoing, this Guaranty is contingent on the full $9,007,000.00 in City Grant Funds being contributed to Guarantor for the construction of the Garage. Guarantor’s aggregate, maximum penalty liability under this Guaranty shall not exceed $9,007,000.00. Finally, regardless of when substantial completion of the Midtown Project is achieved, this Guaranty shall automatically terminate, Guarantor shall have zero financial liability under this Guaranty and City shall provide Guarantor with a release from any financial liability under this Guaranty effective as of the earlier of the date that the City of Portland Assessor’s estimated assessed value of the Midtown Project reaches $45,000,000.00 or as of the date of the timely and valid exercise of the City’s right of repurchase under Section 9 of the Parking Garage Agreement, as amended. For purposes of this Guaranty, “substantial completion” is deemed to mean all structures having received a Certificate of Occupancy from the City of Portland, and the complete ‘fit-out’ of all commercial portions of the Midtown Project.

   The rights and obligations under the P&S and under the Parking Garage Agreement are cumulative and in addition to the rights described herein.

2. The parties recognize that the definition of the Land subject to the P&S, as set forth in section 2(a) of the Second Amendment, is likely to change following review by the Planning Board of the new site plan application and amended subdivision plan. The parties hereby agree to execute a further amendment to the P&S and any other documents that may be required to document such a change.

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

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

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

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

CITY OF PORTLAND

By: ______________________
Name: Sheila Hill-Christian
Its: Acting City Manager

SMKnight
____
Approved: Acting Finance Director

____
Approved to Form: Corp. Counsel

LEGACY PARK APARTMENTS LLC

By: ____________________________________

Jonathan Cox
Its: Manager

THE FEDERATED COMPANIES LLC

By: ____________________________________

Jonathan Cox
Its: Manager

FEDEQ DV001, LLC

By: ____________________________________

Jonathan Cox
Its: Manager

EXHIBIT A

MIDTOWN PROJECT DESCRIPTION

ATTACHMENT A

MIDTOWN PROJECT DESCRIPTION

The proposed project is a mixed-use residential/retail development in the Bayside area of Portland. It consists of four buildings designated "midtownOne", "midtownTwo", "midtownThree", and midtownFour" further described below. The project will contribute about 87,200 square feet of direct street access retail space at the ground level, about 440 new apartments ranging from 400 square foot studios to 1,050 square foot two-bedroom units, and structured off street parking for about 800 vehicles.

The project site is bound on the north by the Bayside Trail, on the East by Pearl Street, on the South by Somerset Street, and on the West by Elm Street, Chestnut Street bisects the site. Immediately neighboring uses consist of Whole Foods to the southeast at Somerset and Franklin, warehousing and open land along Somerset Street opposite the project and low-rise retail and commercial development supported by surface parking extending from the Bayside Trail to Marginal Street to the North. Low and mid-rise residential development extends up the slope from Somerset Street to Portland's downtown district along Congress Street.

The proponent's intent is to lead the way in creating a compact walkable mixed-use residential "main street" anchoring the Bayside neighborhood with continuous retail frontage along Somerset Street, while also improving the trail.

Concurrent with the project, both Somerset Street and the Bayside Trail will be raised above flood level from Pearl Street to Elm Street. Future projects may be expected to raise this infrastructure to the East and West of the project site. Pearl Street to the north of Somerset Street has been designed in such a way as to allow its extension to Marginal Street in the future.

midtownOne and Two are located between Pearl and Chestnut Street. They are separated by a mews and courtyard providing public access between Somerset Street and the Bayside Trail. midtownOne will be a six-story building containing 80 dwelling units in a mix of studio, one, and two bedroom apartments with a main entrance on Pearl Street and a secondary entrance on the courtyard. The ground floor retail space is provided with frontage on Somerset Street, the mews, and the courtyard. midtownOne's façade will be a mix of cement fiberboard and enameled metal panels.

midtownTwo is a seven story-parking garage. The entire ground floor is retail space accessible from Somerset Street, Chestnut Street, and the Trail. Elevator and stair cores are located in the northeast and southwest corners to provide access and egress to the mews/courtyard at one end and the corner of Somerset and Chestnut streets at the other. Garage vehicular entrance and retail service access is located at the eastern end to allow the greatest flexibility in retail leasing. Building B's facades will consist of architectural precast concrete, painted railings, and "green screen" living plant panels.

The four buildings abut public space on all sides and therefore do not have "fronts" and "backs". All facades of each building are composed of the same materials.

midtownThree is located between Chestnut Street and the Bayside Trailhead connection at the intersection of Elm and Somerset Streets. It consists of 260 apartments in a mix of one and two bedroom dwelling units in a pair of five story buildings over a continuous one-story retail base. The retail space has frontage on all four sides, although access to/from the trail is prevented by a six-foot high berm containing contaminated soil abutting the building along most of its trailside facade. Apartments are accessed through a lobby and elevators on Chestnut Street. Service is located at a single point along Somerset Street contiguous with the apartment building cores. The unobstructed retail space west of these core functions allows the greatest possible flexibility to attract the variety and high quality of merchants who will make the project a success and contribute to the pedestrian desirability of Somerset Street.

midtownFour is of similar construction to midtownOne and Three; five stories of residential development over one story of retail space. This building will have 100 studio or loft apartment units with a lobby entry facing Elm Street near the trail. Retail frontage will face Elm Street and the trail. The buildings service entrance will be located to the east adjacent to the building's entrance. Move in/move out, delivery and trash/recycling vehicles will use the pull-off provided on Elm St for convenient access to these entrances. This building's façade will also be composed of a combination of enameled metal panels and cement fire boards constructed as an energy efficient "rain-screen" enclosure.

In total the project will consist of approximately 87,200 square feet of retail space in the four buildings, approximately 440 new apartments in three building to provide housing for 500-600 residents, and about 800 off-street parking spaces, providing one space per dwelling unit and four spaces per thousand square feet of retail space. The development of the midtown buildings will provide essentially continuous active street frontage along Somerset, Chestnut, Pearl, and Elm Streets and along the Bayside Trail. The height of the residential buildings at 72 feet, and of the parking garage at 92 feet, are substantially lower than the 105 and 125 foot heights allowed by the B-7 height overlay for these parcels. The design of the buildings will be in keeping with planning guidelines for the district. This project will bring great enhancement to Somerset Street, provide residential development immediately adjacent and overlooking the Bayside Trail, and will provide the catalyst for a walkable retail district from Whole Foods to Trader Joe's in the spirit of Portland's other great streets.

Prepared by

David Hancock
CBT Architects

midtown

Portland, ME

Site perspective view

A1 16 October 2014 cbt

THE FEDERATED COMPANIES

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

THIS AGREEMENT dated March Oct. 14, 2014 is made by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), **LEGACY PARK APARTMENTS, LLC**, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy" or "Buyer"), **THE FEDERATED COMPANIES LLC**, a Florida limited liability company with a principal place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Federated"), and FEDEQ DV001, LLC, a Maine limited liability company with a mailing address of PO BOX 370008 , Miami, Florida 33137 ("FEDEQ").

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Signature page follows.)

CITY OF PORTLAND

By: ______________________________
Name: Sheila Hill-Christian
Its: Acting City Manager

____
Approved: Suzanne Knight, Acting Finance Director

MB
____
Approved to Form: Corp. Counsel

LEGACY PARK APARTMENTS LLC

By: ______________________________
Jonathan Cox
Its: Manager

THE FEDERATED COMPANIES LLC

By: ______________________________
Jonathan Cox
Its: Manager

SMKnight
____
Finance Director
City of Portland, Maine

FEDEQ DV001, LLC

By: ______________________________
Jonathan Cox
Its: Manager

EXHIBIT A
to 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT TO FEDEQ

(TO BE PROVIDED)

EXHIBIT "A"

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT dated Oct. 14, 2014 is made by and between **LEGACY PARK APARTMENTS, LLC**, a Florida limited liability company with a place of business at 3301 NE 1st Avenue, Suite M-302, Miami, Florida 33137 ("Legacy" or "Assignor") and **FEDEQ DV001, LLC**, a Maine limited liability company with a mailing address of P.O. Box 370008, Miami, Florida 33137 ("FEDEQ" or "Assignee").

RECITALS

WHEREAS, The City of Portland, Maine ("Seller") and The Federated Companies LLC ("Federated") entered into a certain Purchase and Sale Agreement (the "Purchase and Sale Agreement") effective June 23, 2011; and

WHEREAS, Federated subsequently assigned its rights and obligations as buyer under the Purchase and Sale Agreement to Legacy, by virtue of an Assignment and Assumption Agreement dated June 27, 2011; and

WHEREAS, Seller and Legacy entered into a certain First Amendment to Purchase and Sale Agreement dated October 15, 2012 (the "First Amendment") and a Second Amendment of Purchase and Sale Agreement and Amendment of Guaranty and Parking Garage Contribution and Funding Agreement dated _______________, 2014 (the "Second Amendment") (the original Purchase and Sale Agreement, the First Amendment and the Second Amendment are hereinafter collectively referred to as the "P&S"); and

WHEREAS, the Seller, Legacy and Federated are also parties to a certain Corporate Guaranty Agreement (the "Guaranty"), the Seller and Legacy are parties to a certain Parking Garage Contribution and Funding Agreement (the "Parking Agreement") and the City and Legacy are parties to a certain Job Creation Agreement ("Job Creation Agreement"), each dated October 15, 2012 (the Guaranty, Parking Agreement and Job Creation Agreement are hereinafter collectively referred to as the "Related Agreements"); and

WHEREAS, Legacy has formed FEDEQ DV001, LLC, a Maine limited liability company, to acquire the property and to undertake the development thereof, and in connection therewith, Legacy desires to assign its rights to and obligations under the P&S and the Related Agreements to FEDEQ, and FEDEQ desires to assume the same.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. ASSIGNMENT. Assignor hereby assigns, transfers, sets over and conveys to Assignee all of Assignor's right, title and interest in, to and under the P&S and the Related Agreements, other than the Guaranty.

2. ASSUMPTION. Assignee does hereby assume and agree to perform all of the Assignor's obligations with respect to the P&S and the Related Agreements, other than the Guaranty, accruing from and after the date hereof. Assignee acknowledges that Assignor has posted the required deposit under the P&S, and agrees that such deposit shall be refunded to the Assignor upon Assignee's closing on the acquisition under the P&S.

3. EFFECT ON GUARANTY. The Assignor and Assignee recognize that Assignee shall be the nominee of the Assignor under the Guaranty to be the "Receiving Entity" as defined therein. Notwithstanding the foregoing, nothing set forth in this Assignment and Assumption Agreement shall in any way alter or affect the obligations of Assignor or of The Federated Companies, LLC, under the Guaranty, and the Assignor and The Federated Companies, LLC shall remain obligated under the Guaranty notwithstanding this Assignment.

4. WARRANTIES AND REPRESENTATIONS. In connection with the foregoing assignment and assumption of the P&S and the Related Agreements, the Assignor does hereby make the following warranties and representations:

a. The P&S and the Related Agreements remain in full force and effect and have not been modified, amended or terminated except as set forth herein; and

b. Neither the Assignor nor, to the best of Assignor's knowledge without inquiry, the Seller, is in default under the P&S or the Related Agreements.

5. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the Assignor and the Assignee and their respective successors and assigns.

6. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7. AMENDMENTS. This Agreement may not be amended in any respect except by further agreement, in writing, fully executed by each of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives under seal as of the date first written above.

ASSIGNOR:

LEGACY PARK APARTMENTS, LLC

By: ______________________________
Jonathan Cox
Its Manager

ASSIGNEE:

FEDEQ DV001, LLC

By: ____________________________________

Name: Jonathan Cox

Its: Manager

Consenting to the terms hereof:

THE FEDERATED COMPANIES, LLC

By: ____________________________________

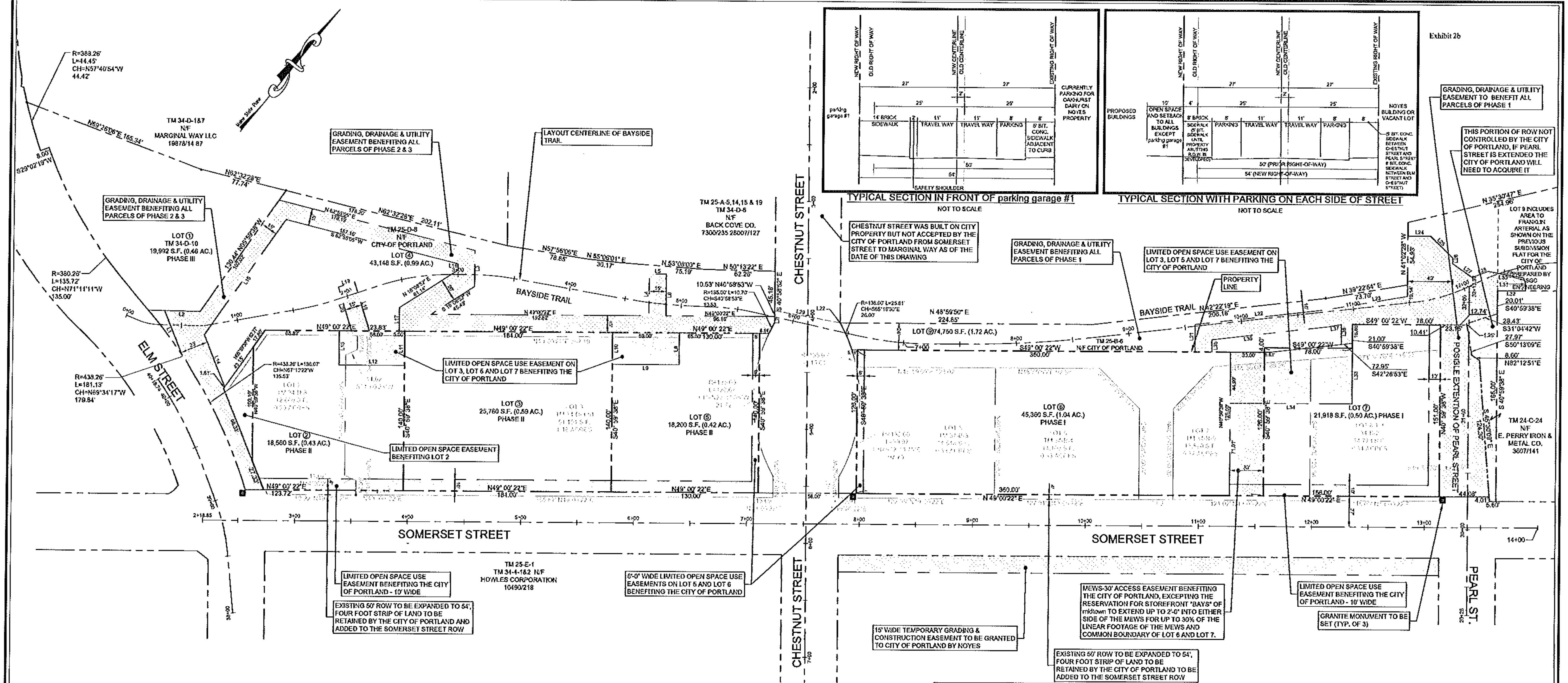
Jonathan Cox

Its Manager

EXHIBIT B
TO 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

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

EXHIBIT B



EASEMENT NOTES

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

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

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

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

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

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

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

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

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

3. ALL EASEMENTS CREATED BY AND SHOWN ON THE PRIOR APPROVED SUBDIVISION PLAN THAT ARE NOT EXPRESSLY SHOWN OR REFERENCED ON THIS PLAN ARE EXTINGUISHED, INCLUDING, WITHOUT LIMITATION, THE UNDERPASS EASEMENT ON LOT 1 AND 2, GEOTHERMAL EASEMENTS, FORMER LOCATION OF THE TRAIL CORRIDOR EASEMENT AND ALL OTHER EASEMENTS ON LOTS 1, 3, 5, 6, AND 7 CREATED BY AND SHOWN ON THE PRIOR AMENDED SUBDIVISION PLAN.

GENERAL NOTES

1. THIS AMENDED SUBDIVISION PLAN AMENDS AND REPLACES THE SUBDIVISION RECORDING PLAT ENTITLED "SUBDIVISION RECORDING PLAT OF PROPERTY LOCATED ON BAYSIDE RAILYARD, PORTLAND, MAINE PREPARED FOR DOWNTOWN PORTLAND CORPORATION BY SGC ENGINEERING, LLC. DATED DATED OCTOBER 30, 2008 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 209, PAGE 36 (THE "PRIOR APPROVED SUBDIVISION PLAN") IN ALL RESPECTS AND SUCH PRIOR SUBDIVISION IS HEREBY EXTINGUISHED.

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

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

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

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

GRAPHIC SCALE

0 20' 40' 80'

EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE (FEET)
L1	N53°10'10"W	42.17'
L2	N50°11'34"E	31.53'
L3	S40°59'35"E	31.58'
L4	N40°59'38"W	36.58'
L5	N49°00'22"E	15.00'
L6	S40°59'38"E	36.58'
L7	S40°55'55"E	5.53'
L8	S40°59'38"E	28.00'
L9	S49°00'22"W	69.00'
L10	N40°59'38"W	28.00'
L11	S40°59'38"E	30.00'
L12	N49°00'22"E	58.00'
L13	N40°59'38"E	30.00'
L14	S63°10'10"E	49.23'
L15	S05°59'38"E	120.09'
L16	N40°59'38"W	5.72'
L17	N40°59'24"W	20.63'
L18	N58°28'02"W	44.98'
L19	S31°32'00"W	15.00'
L20	N41°00'32"W	24.80'
L21	N42°22'19"E	117.46'
L22	N39°22'54"E	72.27'
L23	N40°59'38"W	10.14'
L24	N49°00'22"E	20.02'
L25	S87°16'35"E	27.70'
L26	S40°59'79"E	5.00'
L27	N84°06'10"E	20.69'
L28	N28°31'06"E	15.21'
L29	N59°22'54"E	31.41'
L30	S61°28'51"E	5.00'
L31	S40°59'35"E	6.82'
L32	S49°00'22"W	24.24'
L33	N40°59'38"W	45.99'
L34	S49°00'22"W	108.00'
L35	S41°00'32"E	10.72'
L36	S42°22'19"W	104.49'
L37	S39°22'54"W	10.66'
L38	N40°59'38"W	17.42'

SUVEYOR WILL STAMP DRAWING UPON APPROVAL OF THE CITY

APPROVAL - CITY OF PORTLAND PLANNING BOARD

DATE

CHAIRPERSON

CERTIFICATE:

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

DATE

JOHN W. SWAN, PLS NO. 1038

LEGEND

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

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

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

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

Drwn By	EB	Date	Job No.
Trace By	JLW	APRIL 10, 2013	12012-180 P
Check By	JWS	Scale	Drwg. No.
Book No.	FILE	1" = 40'	C-1.2

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EXHIBIT C
TO 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

Cost Sharing Arrangement for Somerset Street Improvements

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

THIS AGREEMENT dated Oct. 14, 2014 is made by and between THE **CITY OF PORTLAND**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), and **FEDEQ DV001**, **LLC**, a Maine limited liability company with a mailing address of PO BOX 370008, Miami, Florida 33137 ("FEDEQ" or "Buyer").

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

   d. City shall make disbursements to FEDEQ only after such certification and verification, and with a certified payroll, all the same must be correct and complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement.

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

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

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

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the City and FEDEQ, by their representatives duly authorized, have caused this instrument to be executed as of Oct. 14, 2014.

FEDEQ DV001, LLC

By________________,
Jonathan Cox
Its: Manager

CITY OF PORTLAND

By________________
Sheila Hill-Christian, Acting City Manager

By SMKnight
Suzanne Knight, Acting Finance Director

By MLO
Corporation Counsel Attorney

ATTACHMENT A

Budget Site Construction Cost Estimate Peer Review

Midtown - Somerset Street Improvements

12/5/2013

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

Notes:

1) Cost segregation assumes Site Development Costs include off-site drainage piping/structures required for on-site stormwater treatment system.
   a) Cost to raise existing storm drainange manholes/catch basins is included in the Somerset Street Costs.
2) Cost segregation assumes Site Development Costs will include electrical trenching, backfill and precast concrete light pole bases.
   a) Infrastructure and utility company fees to relocate overhead electrical/communication utilities are shared based on scope of work.
3) Cost segregation assumes Site Development Costs will include new and existing granite curbing along Somerset, Elm, Chestnut and Pearl Streets.
   a) Cost for approximately 1,080 CY of lightwieght concrete fill under new sidewalks is included in the Site Development Costs.
   b) Cost to remove and re-set approximately 1,120 LF of existing granite curb on the southeast side is included in the Somerset Street Costs.
4) Cost segregation assumes Site Development Costs will include all brick pavers, concrete ramps/planters/stairs/rails and trees.
5) Cost segregation assumes Site Development Costs will include all site lighting concrete bases, light poles, luminaires and wiring.
6) Contractor General Conditions (not included in PC estimate) may range in the amount of 8-10% depending on schedule and concurrent activities.
7) Contractor OH&P, Insurance, Bonds and Contingency (not included in PC estimate) may range in the amount of 10-12%.
8) Allowance has been included for electrical utility company fees for relocating existing overhead electrical services to underground.
   a) CMP Phase 1 cost assumes Site Development Costs include (1)-2000 & (1)-500 KVA pad mount transformers, 500 CU cable and junction pole.
   b) CMP Phase 1 cost assumes Somerset Street Costs include (1)-1000 KVA submersible transformer, 500 CU cable and riser poles.
   c) CMP Phase 2 cost assumes Site Development Costs include (3)-2000 & (1)-500 KVA pad mount transformers and 500 CU cable.
   d) CMP Phase 2 cost assumes Somerset Street Costs include 500 CU primary cable at Elm Street.
9) Allowance has been included for water utility company fees for new Site Development fire and domestic water services.
10) No allowances have been included for gas, telephone and cable utility company fees since there should be no charge for this work.
11) No allowances have been included for unsuitable soils or contaminated groundwater treatment/disposal.
12) No allowances have not been included for offsite improvements or traffic control signalization.

ATTACHMENT B TO COST SHARING ARRANGEMENT

TIMELINE FOR PROJECT -

TO BE PROVIDED

EXHIBIT D
TO 2nd AMENDMENT TO PURCHASE AND SALE AGREEMENT

Midtown Phase I Plan" last revised November 22, 2013 and prepared for The Federated Companies

Exhibit 2v

TYPICAL SECTION IN FRONT OF parking garage #1

NOT TO SCALE

TYPICAL SECTION WITH PARKING ON EACH SIDE OF STREET

NOT TO SCALE

NOTE 6:
Trees and the granite tree wells and loam will not be installed.

NOTE 5:
ADA ramps and tactile warning strips.

NOTE 8:
A 5 foot wide bituminous concrete walk will be constructed along Somerset Street at 19.42 to 24.42 feet left (i.e. adjacent to the curb in areas of parking) between Elm and Chestnut Street. A five foot wide bituminous sidewalk will also be constructed along the westerly side of Chestnut Street north of Somerset Street to the Bayside trail).

GRADING, DRAINAGE & UTILITY EASEMENT BENEFITING ALL PARCELS OF PHASE 2 & 3

LAYOUT CENTERLINE OF BAYSIDE TRAIL

NOTE 10:
Loam, seed, and establishment of ground cover in unpaved areas left of the centerline to the face of the future Phase 2 buildings.

GRADING, DRAINAGE & UTILITY EASEMENT BENEFITING ALL PARCELS OF PHASE 2 & 3

CHESTNUT STREET WAS BUILT ON CITY PROPERTY BUT NOT ACCEPTED BY THE CITY OF PORTLAND FROM SOMERSET STREET TO MARGINAL WAY AS OF THE DATE OF THIS DRAWING

GRADING, DRAINAGE & UTILITY EASEMENT TO BENEFIT ALL PARCELS OF PHASE 1

THIS PORTION OF ROW NOT CONTROLLED BY THE CITY OF PORTLAND, IF PEARL STREET IS EXTENDED THE CITY OF PORTLAND WILL NEED TO ACQUIRE IT

GRADING, DRAINAGE & UTILITY EASEMENT BENEFITING ALL PARCELS OF PHASE 1

LIMITED OPEN SPACE USE EASEMENT ON LOT 3, LOT 5 AND LOT 7 BENEFITING THE CITY OF PORTLAND

PROPERTY LINE

IRON ROD TO BE SET (TYP. OF 7)

LIMITED OPEN SPACE USE EASEMENT ON LOT 3, LOT 5 AND LOT 7 BENEFITING THE CITY OF PORTLAND

NOTE 2:
The curbing will be installed with ramps at the locations depicted on the midtown drawings.

LIMITED OPEN SPACE EASEMENT BENEFITING LOT 2

NOTE 1:
All utility relocations and services including street lights (since parking will be available) except the potential of gas services which cannot be installed until the buildings are constructed.

LIMITED OPEN SPACE USE EASEMENT BENEFITING THE CITY OF PORTLAND - 10' WIDE

EXISTING 50' ROW TO BE EXPANDED TO 54', FOUR FOOT STRIP OF LAND TO BE RETAINED BY THE CITY OF PORTLAND AND ADDED TO THE SOMERSET STREET ROW

6'-0" WIDE LIMITED OPEN SPACE USE EASEMENTS ON LOT 5 AND LOT 6 BENEFITING THE CITY OF PORTLAND

Loam, seed, and established turf cover is timed between Phase II and Phase II if time exceeds 6 months.

NOTE 4:
All drainage systems including laterals and under drains for the wall drain along the Noyes building face. The exception will be the scuppers behind the ramps and landings at the northeast corner of the Elm and Somerset Street intersection. This work will include all water quality measures proposed for the midtown project on Somerset and Chestnut Streets.

NOTE 3:
All changes in elevation including placement of the lightweight concrete across the full width of the right of way.

NOTE 7:
Binder pavement with castings and valve covers set at binder grade.

NOTE 9:
All proposed work on Chestnut Street south of Somerset Street.

15' WIDE TEMPORARY GRADING & CONSTRUCTION EASEMENT TO BE GRANTED TO CITY OF PORTLAND BY NOYES

MEWS-30' ACCESS EASEMENT BENEFITING THE CITY OF PORTLAND, EXCEPTING THE RESERVATION FOR STOREFRONT "BAYS" OF midtown TO EXTEND UP TO 2'-0" INTO EITHER SIDE OF THE MEWS FOR UP TO 30% OF THE LINEAR FOOTAGE OF THE MEWS AND COMMON BOUNDARY OF LOT 6 AND LOT 7.

EXISTING 50' ROW TO BE EXPANDED TO 54', FOUR FOOT STRIP OF LAND TO BE RETAINED BY THE CITY OF PORTLAND TO BE ADDED TO THE SOMERSET STREET ROW

LIMITED OPEN SPACE USE EASEMENT BENEFITING THE CITY OF PORTLAND - 10' WIDE

GRANITE MONUMENT TO BE SET (TYP. OF 3)

NOTE 2:
The curbing will be installed with ramps at the locations depicted on the midtown drawings.

CONSTRUCTION OF SOMERSET STREET BETWEEN AND INCLUDING WORK WESTERLY OF THE WESTERLY CURB LINE OF CHESTNUT STREET WILL INCLUDE THE FOLLOWING WORK:

1. ALL UTILITY RELOCATIONS AND SERVICES INCLUDING STREET LIGHTS (SINCE PARKING WILL BE AVAILABLE) EXCEPT THE POTENTIAL OF GAS SERVICES WHICH CANNOT BE INSTALLED UNTIL THE BUILDINGS ARE CONSTRUCTED.
2. THE CURBING WILL BE INSTALLED WITH RAMPS AT THE LOCATIONS DEPICTED ON THE MIDTOWN DRAWINGS.
3. ALL CHANGES IN ELEVATION INCLUDING PLACEMENT OF THE LIGHTWEIGHT CONCRETE ACROSS THE FULL WIDTH OF THE RIGHT OF WAY.
4. ALL DRAINAGE SYSTEMS INCLUDING LATERALS AND UNDER DRAINS FOR THE WALL DRAIN ALONG THE NOYES BUILDING FACE. THE EXCEPTION WILL BE THE SCUPPERS BEHIND THE RAMPS AND LANDINGS AT THE NORTHEAST CORNER OF THE ELM AND SOMERSET STREET INTERSECTION. THIS WORK WILL INCLUDE ALL WATER QUALITY MEASURES PROPOSED FOR THE MIDTOWN PROJECT ON SOMERSET AND CHESTNUT STREETS.
5. ADA RAMPS AND TACTILE WARNING STRIPS.
6. TREES AND THE GRANITE TREE WELL AND LOAM WILL NOT BE INSTALLED.
7. BINDER PAVEMENT WITH CASTINGS AND VALVE COVERS SET AT BINDER GRADE.
8. A 5 FOOT WIDE BITUMINOUS CONCRETE WALK WILL BE CONSTRUCTED ALONG SOMERSET STREET AT 19.42 TO 24.42 FEET LEFT (I.E. ADJACENT TO THE CURB IN AREAS OF PARKING) BETWEEN ELM AND CHESTNUT STREET. A FIVE FOOT WIDE BITUMINOUS SIDEWALK WILL ALSO BE CONSTRUCTED ALONG THE WESTERLY SIDE OF CHESTNUT STREET NORTH OF SOMERSET STREET TO THE BAYSIDE TRAIL).
9. ALL PROPOSED WORK ON CHESTNUT STREET SOUTH OF SOMERSET STREET.
10. LOAM, SEED, AND ESTABLISHMENT OF GROUND COVER IN UNPAVED AREAS LEFT OF THE CENTERLINE TO THE FACE OF THE FUTURE PHASE 2 BUILDINGS.

LIST OF THE WORK WHICH WILL BE POSTPONED UNTIL THE CONSTRUCTION OF PHASE 2 AND 3 OF MIDTOWN (I.E. WORK THAT WILL NOT BE CONSTRUCTED DURING PHASE 1):

1. THE RAMPS, PLANTERS, STEPS, AND LANDINGS AT THE NORTHEAST CORNER OF SOMERSET AND ELM STREET;
2. THE GRINDING, SHIM AND OVERLAY ON ELM STREET TO MATCH THE NEW SOMERSET STREET PROFILE WITH APPROPRIATE TAPERS;
3. THE FINAL PAVEMENT AND SETTING CASTINGS AND VALVE COVERS AT FINISH PAVEMENT GRADE BETWEEN ELM AND CHESTNUT STREET;
4. REMOVAL OF THE BITUMINOUS SIDEWALKS ON THE NORTH SIDE OF SOMERSET STREET (BETWEEN ELM AND CHESTNUT STREET).
5. REMOVAL OF THE BITUMINOUS SIDEWALK ON THE WESTERLY SIDE OF CHESTNUT STREET FOR SOMERSET STREET TO THE TRAIL.
6. THE BRICK SIDEWALKS, RAISED PLANTER, CURBING, TREES, AND HARDSCAPE IMPROVEMENTS; AND
7. GAS SERVICES TO THE PHASES 2 AND 3 BUILDINGS.

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE (FEET)
L21	N42°22'19"E	117.46'
L22	N39°22'54"E	72.27'
L23	N40°59'38"W	10.14'
L24	N49°00'22"E	20.02'
L25	S87°16'35"E	27.70'
L26	S40°59'79"E	5.00'
L27	N84°05'10"E	20.69'
L28	N28°31'08"E	15.21'
L29	N59°22'54"E	31.41'
L30	S61°28'51"E	5.00'
L31	S40°59'38"E	6.82'
L32	S49°00'22"W	24.24'
L33	N40°59'38"W	48.99'
L34	S49°00'22"W	108.00'
L35	S41°00'32"E	10.72'
L36	S42°22'19"W	104.49'
L37	S39°22'54"W	10.86'
L38	N40°59'38"W	17.42'

NORTH

GRAPHIC SCALE

40 0 20 40 80

(IN FEET)
1 inch = 40 ft.

NOTES:

1. THIS DRAWING SHOWS THE RESIDENTIAL SUBDIVISION OF LOT 7. REFER TO THE AMENDED SUBDIVISION/RECORDING PLAN ON SOMERSET STREET, PORTLAND, MAINE MADE FOR FAY, SPOFFORD & THORNDIKE BY OWEN HASKELL, INC. LAST REVISED 12.20.2013.
2. ALL WORK DEPICTED ON THE MIDTOWN DRAWINGS WHICH IS NORTH OF THE SOMERSET STREET RIGHT OF WAY AND EAST OF CHESTNUT STREET IS TO BE COMPLETED AS PART OF PHASE 1 INCLUDING LANDSCAPING, HARDSCAPE, BIKE RACKS, AND STREET FURNISHINGS.
3. ALL LANDSCAPING SHOWN ON MP-L1.0 WILL BE INSTALLED AS PART OF PHASE 1. REFER TO THIS DRAWING.
4. WORK WEST OF SOMERSET STREET AND THE CHESTNUT STREET CENTERLINE REPRESENT PARTIAL RAISING AND RECONSTRUCTION OF THE STREET. PHASE 2 AND PHASE 3 OF THE MIDTOWN PROJECT WILL COMPLETE IMPROVEMENTS WITHIN THE RIGHT-OF-WAY OF SOMERSET AND WESTERLY SIDE OF CHESTNUT AND ELM STREET
5. IF THE CITY RECONSTRUCTS AND EXTENDS PEARL STREET IN THE FUTURE THE TURNOUT AT THE ENTRANCE TO MIDTOWNONE SHALL BE ELIMINATED AND A STANDARD CURBSIDE DROP-OFF AREA SHALL BE IMPLEMENTED.
6. ALL UTILITY RELOCATIONS AND SERVICES INCLUDING STREET LIGHTS ALONG SOMERSET STREET AND CHESTNUT STREET WILL BE CONSTRUCTED DURING PHASE 1. THE FUTURE GAS SERVICES CANNOT BE INSTALLED UNTIL THE BUILDINGS ARE CONSTRUCTED.
7. STREET LIGHTS WILL BE INSTALLED IN FRONT OF PHASE II BUILDINGS EVEN IF NOT SHOWN ON MP-L1.0.
8. CONTOURS ARE SHOWN ON SEPARATE DRAWINGS WHICH ACCOMPANY THE MIDTOWN MASTER PLAN AND LEVEL III SITE PLAN DRAWINGS.
9. THE MATERIALS FOR CONSTRUCTION OF THE IMPROVEMENTS IN THE PUBLIC RIGHT OF WAY WILL INCLUDE THE MATERIALS SHOWN ON DRAWING C-7.0 AND WILL MEET THE CITY OF PORTLAND TECHNICAL MANUAL AND MDOT STANDARD SPECIFICATIONS. WHERE A DIFFERING MATERIAL IS SPECIFIED, THE MORE STRINGENT SHALL BE USED.
10. UTILITIES, LOCATIONS, SIZES, AND MATERIALS ARE SPECIFIED ON DRAWINGS C-4.0 TO C-4.4B AND PROFILES C-9.0 TO C-9.3 OF THE ACCOMPANYING LEVEL III SITE PLANS.
11. THE SITE IS NOT IN AN AREA CURRENTLY DESIGNATED AS A FLOOD HAZARD ZONE.
12. STORM DRAIN INFORMATION AND SCHEDULES ARE PROVIDED ON DRAWINGS C-3.0 TO C-3.17 OF THE ACCOMPANYING MIDTOWN MASTER PLAN AND LEVEL III SITE PLANS.

APPROVAL - CITY OF PORTLAND
PLANNING BOARD

DATE

CHAIRPERSON

EXHIBIT D

REV	DATE	DESCRIPTION
1	11.22.13	PHASE I ILLUSTRATION

REVISIONS

STATE OF MAINE
WILLIAM G. HOFFMAN
No. 4105
LICENSED PROFESSIONAL ENGINEER

P.E. WILLIAM G. HOFFMAN
LIC. #38824

PROJECT
midtown
PORTLAND, MAINE

SHEET TITLE
PHASE1: LOT 6 AND 7 SITE PLAN OFFSITE IMPROVEMENTS AND RESIDENTIAL SUBDIVISION OF LOT 7

CLIENT
THE FEDERATED COMPANIES

ENGINEERS FST Since 1914
FAY, SPOFFORD & THORNDIKE, INC.
ENGINEERS · PLANNERS · SCIENTISTS
778 MAIN ST, SUITE 8, SOUTH PORTLAND, ME 04106
FORMERLY DELUCA-HOFFMAN ASSOCIATES, INC.

DRAWN: KEW
DATE: NOV. 2013
DESIGNED: WGH
SCALE: 1" = 40'
CHECKED: WGH
JOB NO. 3062
FILE NAME: 3062-PHASED BASE
SHEET C-1.5A

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September 6, 2012 by LCW
O:\Bayside - Federated Companies\Corporate Guaranty\2final redline of CORPORATE GUARANTY AGREEMENT for Execution.docx

CORPORATE GUARANTY AGREEMENT

THIS CORPORATE GUARANTY AGREEMENT, (this "Guaranty"), is made as of the 15th day of Oct., 2012, by **LEGACY PARK APARTMENTS, LLC**, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131 ("Guarantor"), and, jointly and severally, by **THE FEDERATED COMPANIES LLC** , a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, see below and **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101, ("City").

WHEREAS Guarantor is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, ("Agreement"), as amended, for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7,8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a $9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park Apartments, LLC from funds being provided to the City by the U.S. Department of Housing and Urban Development, ("HUD Funds"), toward the expense of the design, development and construction of a garage, with no fewer than 700 parking spaces on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage"), pursuant to the terms of a Parking Garage Contribution and Funding Agreement of even or near date hereto between City and Guarantor. ("Parking Garage Agreement").

WHEREAS City, in order to induce Guarantor to enter into this Guaranty and a Job Creation Agreement, hereby agrees to pay the City Grant Funds to Guarantor, Legacy Park Apartments, LLC or its nominee ("Receiving Entity") in accordance with the terms of the Parking Garage Agreement.

WHEREAS Guarantor, contingent on receiving the City Grant Funds, hereby makes the following Guaranty, subject to the conditions contained herein.

NOW THEREFORE in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City hereby agrees to pay the City Grant Funds to the Receiving Entity and Guarantor guarantees to City that:

1. Guaranty: Guarantor shall construct and substantially complete Phase I of the Project, as more particularly described in the attached Phase I Site Plan, Design Guidelines, and Specifications Sheet, ("Exhibit 4," parts 1, 2, and 3), within three (3) years after the date of on which a total of $1,000,000.00 in City Grant Funds has been requisitioned by the Receiving Entity and disbursed by the City to the Receiving Entity ("Guaranty Deadline"). The annual penalty for not meeting the Guaranty Deadline shall be limited to Guarantor paying to City, on an annual basis for a maximum term of 17 years, the annual difference between the actual tax revenue realized from Phase I, as constructed, and the Phase I tax revenue the City would have received had Phase I been substantially completed (The "Phase I Projected Value") by the Guaranty Deadline. The Phase I Projected Value shall be the City of Portland Asessor's estimated assessed value of the Phase I property (real and personal), made on the April 1 following the Guaranty Deadline, and based on the

description of Phase I in Exhibit 4, and the related specifications and design guidelines provided by the Guarantor on or about July 1, 2012. Notwithstanding anything in the forgoing, this Guaranty is contingent on the full $9,007,000.00 in City Grant Funds being contributed to Guarantor for the construction of the Garage. Guarantor's aggregate, maximum penalty liability under this Guaranty shall not exceed $9,007,000. Finally, regardless of when substantial completion of all buildings in Phase I is achieved, this Guaranty shall automatically terminate, Guarantor shall have zero financial liability under this Guaranty and City shall provide Guarantor with a release from any financial liability under this Guaranty effective as of the earlier of the date of substantial completion of Phase I or as of the date of the timely and valid exercise of the City's right of repurchase under Section 9 of the Parking Garage Agreement, as amended. For purposes of this Guaranty, "substantial completion" is deemed to mean a structure having received a Certificate of Occupancy from the City of Portland, and the complete 'fit-out' of all commercial portions of Phase I.

The rights and obligations under the Agreement between the parties hereto, and under the Parking Garage Contribution Agreement of near or even date, are cumulative and in addition to the rights described herein.

2. Warranties and Representations: In connection with the foregoing, City and Guarantor hereby make the following warranties and representations:

(a) The financial liability limitations of this Guaranty are intended by the parties to supersede and amend the defense and indemnification obligations of the Buyer/Guarantor to City in regard to the City Grant under Section 11 of the Agreement. Similarly, the provisions of the Job Creation Agreement are intended by the parties to supersede and amend the job creation duties and obligations of the Buyer/Guarantor to City under Section 11 of the Agreement. Accordingly, this Guaranty is contingent upon the City paying the City Grant Funds to Guarantor in accordance with the terms of the Parking Garage Agreement, irrespective of the source of funds utilized by the City for such City Grant Funds.

(b) Apart from the express modifications stated in this Guaranty, the Parking Garage Agreement and Job Creation Agreement, the Agreement for the purchase of the Land, as assigned and amended, remains in full force and effect and has not been otherwise modified, amended or terminated.

(c) Attached as Exhibit 1 to this Guaranty is a true, accurate and complete copy of the Purchase and Sale Agreement and First Amendment thereto.

(d) Attached as Exhibit 2 to this Guaranty is a true, accurate and complete copy of the Assignment.

(e) Attached to Exhibit 3 to this Guaranty is a true, accurate and complete copy of the Parking Garage Agreement.

(f) Attached as Exhibit 4 to this Guaranty is the, Phase I Site Plan, Design Guidelines, and Specifications Sheet.

(g) Attached as Exhibit 5 to this Guaranty is a true, accurate and complete copy of the Job Creation Agreement.

(h) Neither the Guarantor, nor the City is in default of the Agreement.

3. Successors and Assigns and Enforcement: This Guaranty shall be binding upon and inure to the benefit of the Guarantor's respective successors and assigns. Guarantor pledges that:

(a) it will not assign its rights hereunder without the City's consent, and only to a related entity;

(b) it will permit the City's Corporation Counsel, Manager, Director of Economic Development and Finance Director to review balance sheet, to satisfy themselves of the strong solvency and net worth of both the Guarantor and The Federated Companies LLC;

(c) it will not substantially change such strong solvency and net worth without notifying the City of such changes;

(d) it will not alter its corporate structure or transfer substantially all its assets without providing the City a replacement Guaranty from another entity with strong solvency and net worth, or in the alternative, a letter of credit for the obligations hereunder; and

(e) In any legal proceeding with respect to the obligations created by this Guaranty, all parties hereto waive jury trial, agree that the Maine Superior Court shall have exclusive jurisdiction, that the substantive and choice of law used shall be Maine law and that the prevailing party shall be awarded the reasonable attorneys' fees and costs incurred in regard to any legal proceeding arising out of the obligations created by this Guaranty, including, should the City prevail, a reasonable hourly fee for the services of the City's employee attorneys, that is, its Corporation Counsel.

(f) This Agreement and the performance hereof by Guarantor will not contravene any law, judgment, order, injunction, decree or any contractual restriction or arrangement binding on Guarantor, at the time execution hereof. All parties hereto acknowledge that this Agreement is a legally enforceable instrument and the obligations stated herein are likewise legally enforceable, and that at the time of execution hereof they have no reason to believe otherwise.

4. Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5. Amendments: This Guaranty may not be amended in any respect whatsoever except by a further agreement, in writing, fully executed by each of the parties.

(Signature page follows on p. 4.)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of October 04, 2012.

LEGACY PARK APARTMENTS LLC, a Florida limited liability company

Brett DePetrillo
COMMISSION # DD992811
EXPIRES: MAY 17, 2014
WWW.AARONNOTARY.com

By:____________________
Jonathan Cox, Manager

CITY OF PORTLAND

By:____________________
Mark H. Rees
City Manager

JOINDER

THE FEDERATED COMPANIES LLC, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, hereby joins in this Guaranty, agreeing that it is jointly and severally liable for, and hereby makes, the same guaranty and other obligations as described in the paragraphs numbered 1, 2 and 3 above, subject to the terms and conditions stated therein.

THE FEDERATED COMPANIES, LLC, a Florida limited liability company

By:____________________
Jonathan Cox, Manager

____
Finance Director
City of Portland, Maine

APPROVED AS TO FORM:
____
CORPORATION COUNSEL'S OFFICE

EXHIBIT 1

[P&S]

EXHIBIT 2

[Assignment to Legacy Park]

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT, ("Amendment"), is entered into as of Oct. 15, 2012, by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 ("Seller") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company with a place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, or its nominee or assignee ("Buyer"). (Seller and Buyer are also hereinafter referred to individually as "party" or, collectively, "parties").

WHEREAS Buyer is the assignee, by virtue of an Assignment and Assumption Agreement, ("Assignment"), effective June 27, 2011 of a Purchase and Sale Agreement, effective June 23, 2011, between The Federated Companies LLC and Seller ("Agreement"). Assignment and Agreement are attached hereto and incorporated herein by reference, collectively, as Exhibit "A".

WHEREAS Section 11 of the Agreement requires that the Seller and Buyer enter into a formal agreement stipulating to the terms and conditions of the Seller's contribution of HUD Funds during the Inspection Period.

WHEREAS Section 11 of the Agreement provides that the Inspection Date shall be extended until the parties have reached agreement on the use of HUD Funds for the garage.

NOW THEREFORE for good and valuable consideration, including the mutual promises made below, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that the Agreement is amended as follows:

A. Section 4 of the Agreement is amended by deletion of the original text of Paragraph 2 and insertion of the following text in its place:

"The term "Inspection Date" means midnight on the sixtieth (60th) day following full execution by the parties and HUD approval, if HUD approval is required, of the formal agreement stipulating the terms and conditions of the HUD Funds contribution identified under Section 11 of this Agreement."

B. Section 5 of the Agreement is amended by deletion of the original text and insertion of the following in its place:

C. Section 5. **Use Restrictions and Environmental Matters**. Buyer understands that lots 1, 2, 3, 5 and a portions of lot 6 and a portion of lot 9 were encumbered with deeds restrictions, including but not limited to a restriction on residential uses on a portion of the Property. Pan Am/Guilford, the holder of those restrictions has released these restrictions, and before the start of construction by Buyer the Seller will secure environmental liability insurance on the Railyard to protect Pan

Am/Guilford, which was a condition of its releasing these restrictions.

The Seller, through its consultant and others has undertaken a number of environmental studies which are referenced in Exhibit B to this Amendment. The Maine Department of Environmental Protection (hereinafter "DEP") has issued one or more letter(s) confirming their approval of a Voluntary Response Action Program ("VRAP") Plan for the former rail yard property which is contained within lots 1, 2, 3, 5 and a portion of lot 6 and a portion of lot 9 (hereinafter "Railyard"). The VRAP includes a remediation plan approved on the Railyard property by the DEP. As part of the development plan for the Railyard property, Buyer is responsible for complying with the remediation VRAP Plan for the Property. To the extent required by law, the approval of the U.S. Environmental Protection Agency shall also be obtained for both of these VRAP Plans.

The Seller has commenced review of the environmental conditions for on the portion of Property which is contained within a portion of Lot 6 and Lots 7, 8 and a portion of Lot 9, (hereinafter "Scrapyard"). The Seller will secure a VRAP for the Scrapyard (subject to Buyer's input and approval) and Buyer shall undertake remediation in accordance with the VRAP. The Seller will reimburse Buyer for its first Fifty Thousand Dollars ($50,000.00) of actual expense for such remediation, and all other costs of remediation, which shall fully comply with such VRAP, shall be paid by the Buyer from City Grant Funds received from City. The Seller will work together with the Buyer to ensure the timely remediation in accordance with the Buyer's development plans.

Although Buyer is under no obligation to obtain such environmental liability insurance, should Buyer, at Buyer's sole election, secure environmental liability insurance on the Scrapyard and/or any other portion of the Property, Buyer will use best efforts to secure for the Seller the option to obtain coverage under such insurance policy(ies) as an Additional Insured, by endorsement in any other form; provided, however, that any additional cost for such additional coverage shall be paid by the Seller and shall not relieve Seller of the duty of providing the environmental liability insurance required to provide on the Railyard for the benefit of PanAm/Guilford described above.

D. Section 6 of the Agreement is amended by adding, at the end of the existing first sentence, "including but not limited to Site Plan approval from the City of Portland, Subdivision Approval Amendment(s) from the City of Portland, and any amendments to the Land Use Code of the City of Portland."

E. The first sentence of Section 11 of the Agreement is amended by deleting the existing text, and replacing it with the following:

Contingent on the full disbursement of $9,007,000.00 in City Grant Funds from Seller to Buyer as provided in the Parking Garage Contribution Agreement, and as a condition of this sales transaction, the Buyer will construct, at its expense, a parking garage on (approximately, as the exact location is not yet set), a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9 which shall contain not less than 700 parking spaces, ("Garage").

F. Section 11 of the Agreement is amended by deleting the original text of numbered Paragraph 4 and the insertion of the following text in its place:

"Buyer shall construct the Garage using sustainable and energy efficient construction methods, including, but not limited to, energy efficient lighting."

G. Section 15 of the Agreement is amended by deletion of the original text and insertion of the following in its place:

"Section 15. Rights of Seller to Repurchase Undeveloped Property.

(a) If three years after the substantial completion of the Garage, construction activity has not been commenced and diligently pursued on any other portions of the Property, the Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default and Buyer shall have ninety (90) days thereafter to cure such default. Provided, however, that there shall be no event of default by Buyer if the City is in default of any provision of the Parking Garage Contribution Agreement. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

(b) If the Garage does not reach substantial completion within three years after the date of closing on the purchase by Buyer of the Property related to the Garage then the Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default and Buyer shall have ninety (90) days thereafter to cure such default. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

If Buyer fails to cure a default under either 15(a) or 15(b) above, the Seller shall have the right or remedy, but not the obligation, which is described in this paragraph in concept: namely, to repurchase any or all such portions of the undeveloped Property at Buyer's Purchase Price (prorated with respect to the quantity of land, as necessary). Seller may, at the closing of such repurchase, use such consideration (that is, the prorated portion of Buyer's Purchase Price) to pay-off and remove any and all then existing mortgages, liens, assessments or other encumbrances on the undeveloped Property being repurchased. Any amounts by which such then existing mortgages, liens, assessments and other encumbrances exceed such consideration, shall continue to the obligations of Buyer, or its successors or assigns; and Buyer, its successors or assigns, shall indemnify Seller with respect to such excess amounts.

The City acknowledges that Legacy Park will most likely use the entire Property as collateral for a construction loan for the purpose of developing and building all portions of the project. The City therefore agrees to work on documents at the time of such financing, with Buyer and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing. Buyer agrees that while this right or remedy exists as described in the paragraph above no portion of the Property will not be mortgaged for any purpose other than development and construction of the Project.

It is noted here that the 'Parking Garage Contribution Agreement' contains Seller's remedies with respect re-acquisition of the parking garage portion of the Property, and the Rights created by this Section do not pertain to that property." The rights and obligations under the Corporate Guaranty Agreement and the Parking Garage Contribution Agreement, both of near or even date are cumulative and in addition to the rights described herein.

H. The original description of the Land in the Purchase and Sale Agreement is hereby modified to include this conveyance a portion of Lot 9, and the "Exhibit ~~A~~ C" to the Purchase and Sale Agreement is hereby replaced with the "Exhibit ~~A~~ C to the Purchase and Sale Agreement, [2012]" attached hereto.

Except as amended above, all other terms and conditions of the Agreement remain unaffected by this Amendment, are in full force and effect between the parties and are hereby ratified by the parties.

All terms capitalized herein shall have their original meaning as defined in the Agreement unless otherwise defined herein. In the event of conflicting provisions or language in this Amendment and the Agreement, this Amendment is intended to control.

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

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

SELLER:

CITY OF PORTLAND

By: Mark H Rees
Name: Mark H. Rees
Title: City Manager
Date of Execution: 10-15-12

BUYER:

THE FEDERATED COMPANIES, LLC

By:
Name: Jonathan Cox
Title: Manager
Date of Execution: 10/5/12

September 6, 2012 by LCW
O:\Bayside - Federated Companies\Purchase and Sale Agreement\2final FIRST AMENDMENT TO PURCHASE AGREEMENT for Execution.doc

Approved: Ellen Sanborn, Finance Director

Approved as to Form: Corp. Counsel

EXHIBIT "A"
TO FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT

[insert Assignment AND P&S]

EXHIBIT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of the 27th day of June, 2011, by and between **THE FEDERATED COMPANIES, LLC**, a Florida limited liability company, with an address of 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 (together, the "Assignor") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company, with an address of 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 (the "Assignee").

For and in consideration of the sum of One Dollar ($1.00) and other valuable consideration to it in hand paid by the Assignee to the Assignor and the mutual covenants herein contained, the receipt and sufficiency of the foregoing consideration being hereby acknowledged, the parties hereto agree as follows:

1. ASSIGNMENT: The Assignor hereby assigns, transfers, sets over and conveys to the Assignee all of the Assignor's right, title and interest in, to and under that certain Purchase and Sale Agreement by and between The City of Portland, Maine (the "City") and Assignor, with respect to certain real property described therein (the "Purchase Agreement").

2. ASSUMPTION: The Assignee does hereby assume and agree to perform all of the Assignor's obligations with respect to the Agreement accruing from and after the date hereof. Assignee acknowledges that Assignor has posted the required deposit under the Purchase Agreement and agrees that such deposit shall be refunded to Assignor upon Assignee's closing on the acquisition under the Purchase Agreement.

3. WARRANTIES AND REPRESENTATIONS: In connection with the foregoing assignment and assumption of the Purchase Agreement, the Assignor does hereby make the following warranties and representations:

(a) The Purchase Agreement remains in full force and effect and has not been modified, amended or terminated;

(b) Attached as Exhibit A to this Agreement is a true, accurate and complete copy of the Purchase Agreement; and

(c) Neither the Assignor nor, to the best of Assignor's knowledge without inquiry, the City is in default of the Purchase Agreement.

With the exception of the foregoing warranties, this Assignment is made without recourse or representation or warranty, express, implied or by operation of law, of any kind and nature whatsoever.

4. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and inure to the benefit of the Assignor and the Assignee and their respective successors and assigns.

5. **COUNTERPARTS**: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. **AMENDMENTS**: This Agreement may not be amended in any respect whatsoever except by a further agreement, in writing, fully executed by each of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of June 27, 2011.

ASSIGNOR:

THE FEDERATED COMPANIES, LLC, a Florida
limited liability company

By:______________________________
Jonathan Cox, Manager

ASSIGNEE:

LEGACY PARK APARTMENTS LLC, a Florida
limited liability company

By:______________________________
Jonathan Cox, Manager

Exhibit A

PURCHASE AND SALE AGREEMENT

This Purchase Agreement (this "Agreement"), is entered into as of the Effective Date, as defined below, by and between The City of Portland, Maine a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 ("Seller") and The Federated Companies LLC, a Florida limited liability company with a place of business at 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 or its nominee or assignee ("Buyer").

WHEREAS, Seller is the Owner of a certain real property located on Somerset Street, Portland, Maine which contains approximately 3.25 acres and which is known as lots 1, 2, 3, 5, 6, 7 and 8, which land is further described in Exhibit A, attached hereto and incorporated herein (collectively "the Land") and

WHEREAS, Seller seeks to sell the Land for development purposes; and

WHEREAS, Buyer desires to acquire the Land from Seller, and Seller seeks to sell the same to Buyer on such terms as are set out herein,

Now Therefore, in consideration of the foregoing and for good and valuable consideration, the parties intend to be legally bound as follows:

Section 1. Property. The Land, all rights and privileges appurtenant to the Land and all improvements located on the land, are referred to collectively as the "Property." The Seller agrees to sell the Property to Buyer on the terms and conditions contained herein. The parties understand and agree that a portion of land representing a trail access from Somerset Street as shown on Exhibit A-1, may need to be adjusted depending on the nature and extent of development on Lots 6 and 7. The trail access adjustment shall be subject to the mutual agreement of the parties on the placement of the lot lines and the trail access

Section 2. Purchase Price and Deposit. The "Purchase Price" for the Property shall be Seven Hundred Thousand Dollars ($700,000) per acre and shall be paid in cash (or by certified or bank check or federal funds wire transfer) at the Closing as defined in Section 8 of this Agreement subject to the adjustments described in this Agreement. The calculation of the acreage of the Property shall be made by the Seller providing, not later than forty-five (45) days after the Effective Date, an ALTA survey, satisfactory to Buyer and Buyer's lender, of the Property, excluding that portion of land utilized for trail access as described above. Within ten (10) business days after the Effective Date of this Agreement, Buyer shall deliver to a nationally-recognized title company ("Escrow Agent") the sum of Twenty Five Thousand Dollars ($25,000) (the "Initial Deposit"), which shall be held in escrow in accordance with the terms of Section 14 of this Agreement. The Initial Deposit, and any other deposits made by Buyer under the terms of this Agreement shall be held by the Escrow Agent, and is referred to collectively as the "Deposit." The Deposit shall be applied toward the Purchase Price at the Closing unless otherwise forfeited by the Buyer pursuant to the terms of this Agreement.

Section 3. Title.

(a) Seller shall convey its interest in the Property to Buyer by a good and sufficient quitclaim deed with covenant (the "Deed"). The Deed shall convey insurable title to the Property and be free of encumbrances except (i) zoning, environmental and subdivision laws, rules, regulations and restrictions and other land use matters; and (ii) any "Defects of Title" (as defined below) accepted or waived by Buyer pursuant to Section 3(b). Buyer acknowledges that: the deed of conveyance shall contain a restriction lasting for 30 years, including the 30th year, starting on the closing date, that, in the event that the property or any portion thereof shall be exempt from real and personal property taxes then a yearly payment by the then-owner of the exempt portion shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the exempt portion of the real and personal property situated on Property, which restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates and the like as are accorded owners of real and personal property in Maine. For purposes of this Agreement, insurable title means title which an insurance company with a rating of B+ or better by Standard & Poor's (or other comparable rating by another rating organization) licensed to do business in Maine is willing to insure upon payment of a premium at customary and filed rates on a standard ALTA Form B Policy (rev. October 17, 1992) with no exceptions listed on Schedule B, Part I thereof, except for the standard exceptions and Defects of Title pursuant to paragraph 3(b) below, with no indemnification or legal opinion to be required from Buyer to issue such policy, and with the creditor's rights exception deleted.

(b) On or before the date that is forty-five (45) days after the Effective Date, Buyer shall notify Seller of any defects in title that would make Seller unable to give title to the Property as herein stipulated or which would otherwise adversely affect Buyer's intended development of the Land (any of which is called herein a "Defect of Title"). Buyer shall be deemed to have waived any objection to any Defect of Title that existed as of the Effective Date if Buyer fails to notify Seller of such Defect of Title on or before the end of such 45-day period. With respect to the existence of any Defect of Title that does not exist on the Effective Date but which arises prior to the Closing Date, Buyer shall notify Seller of any such Defect of Title on or prior to the Closing Date as defined in Section 8 hereof. Seller shall have, at its option, a period of not more than sixty (60) days after receipt of notice(s) of any defect in title within which to remedy or cure any Defect of Title and Seller agrees to use good faith efforts to cure such Defect of Title. If the Closing Date shall fall within the said 60-day period, it shall be extended to the date that is the date that is ten (10) business days after the expiration of such 60-day period or after the date such Defect of Title is cured to Buyer's reasonable satisfaction (but in no event shall the Closing Date be earlier than is otherwise provided herein). Buyer shall have ten (10) business days after receipt of notification by Seller that the Defect of Title has been cured to advise Seller whether it is satisfied with the title defect cure. If such Defects of Title are not corrected or remedied within such 60-day period, then Buyer shall elect by written notice to the Seller on or before the Closing Date, as the same may be extended, either (i) to accept title to the Property subject to the uncured Defects of Title without reduction of the purchase price and without any right to damages and without any other liability on the part of Seller, or (ii) to terminate this Agreement, whereupon the Deposit shall be returned to Buyer and all obligations of the parties hereunder shall cease and neither party shall have any claim against the other by reason of this Agreement, except with respect to any provision hereof that expressly survives the termination of this Agreement. For purposes of this subsection (b), Seller may elect to cure or remedy any Defect of Title by providing Buyer with a binding commitment from a title insurance company licensed to do business in Maine committing to issue an endorsement to Buyer's owner's title insurance policy providing affirmative coverage for such Defect of Title at no additional premium to Buyer beyond any premium required for such title policy without such endorsement; and Buyer agrees to accept such affirmative coverage as a cure or remedy for such Defect of Title provided that the form and content of such affirmative coverage is satisfactory to Buyer and its advisors in their reasonable discretion; or the Seller may cure by other means satisfactory to the Buyer.

Any time taken to cure any defect in title shall extend by the same amount of time the Inspection Date described by section 4 of this Agreement.

(c) Seller represents and warrants to Buyer, effective as of the date of this Agreement and also effective as of the date of Closing, that: (i) Seller holds good and clear, record and marketable title to the Property in fee simple; (ii) there are no uncorrected violations of any laws or codes with respect to the Property, its condition, or use; (iii) no options, rights of first refusal, or other contracts have been granted or entered into which give any other party a right to purchase or acquire any interest in the Property or obligate the Seller in any respect; (iv) there are no leases, licenses, or other occupancy agreements in effect with respect to any part of the Property, other than a deed restriction preventing residential use and other uses as required which Seller shall seek to lift before Closing; (v) Seller has not received written notice of any planned or threatened condemnation or eminent domain proceedings with respect to the Property; (vi) the Property abuts a public way which imposes no access restrictions; (vii) this Agreement has been duly authorized by all requisite action and is not in contravention of any law or organizational documents and this Agreement has been duly executed by a duly authorized officer or official of Seller; (vii) Seller's execution of this Agreement does not violate any other contracts, agreements, or any other arrangements of any nature whatsoever that Seller has with third parties and (ix) the Seller shall seek to obtain, at its sole cost and expense, such environmental insurance as may be agreed upon by Seller and PanAm/Guilford, as a prior titleholder, that is sufficient to get PanAm/Guilford to lift the current deed restrictions on uses. Seller will not cause nor, to the best of Seller's ability, permit any action to be taken which would cause any of Seller's representations or warranties to be false as of Closing, and in any event shall notify Buyer of any change in these representations and warranties. Seller's representations and warranties shall survive the Closing and the delivery of the Deed.

Section 4. Inspection of Property. Buyer, and those parties controlled by Buyer or associated with Buyer, shall have the right to access the Property to inspect its condition, including, without limitation, making surveys, testing the geotechnical quality of soils and whether any Hazardous Materials exist (including sub-surface), and pursuing permits and approvals. Seller shall cooperate with Buyer, without material cost to Seller, in connection with all such inspections and actions by Buyer, including without limitation, by delivering to Buyer within ten (10) days of the effective date of this agreement, copies of any and all surveys, permits, title reports, hazardous waste reports, environmental assessments, geotechnical reports, samplings and investigations, all contracts and leases affecting the Property, any documents relating to the physical condition of the Property (including, without limitation, any improvements located thereon) and the status of the Property's compliance with applicable building code, zoning, land use and environmental laws, rules and regulations, feasibility studies (including financing), building and site plans, floor plans, property inspections, elevation studies, appraisals or other such pertinent information Seller has compiled related to the property and/or the proposed development that is in the Seller's possession or control, and signing any consents or authorizations for permit applications that may be required. If Buyer does not purchase the Property for any reason then Buyer shall promptly repair any damage that it may have caused.

The term "Inspection Date" means midnight on the sixtieth (60th) day following the Effective Date.

If Buyer is not satisfied with the condition of the Property for any reason, or no reason, in its sole discretion, then Buyer may terminate this Agreement by delivering written notice of such termination to Seller no later than five (5) days after the Inspection Date, in which event the Escrow Agent shall immediately return the Initial Deposit to Buyer. However, if Buyer does not so terminate this Agreement, then the parties shall proceed forward in this transaction. Upon Buyer's election to move forward, the Buyer shall deposit, within five (5) days, an additional Twenty Five Thousand Dollars ($25,000) in escrow with the Escrow Agent as Additional Earnest Money ("Additional Deposit"). Both the Deposit and the Additional Deposit shall be deemed non-refundable except in the event that the Seller fails to perform or the Buyer is unable to obtain the permits and approvals. The Deposit and the Additional Deposit shall be credited against the purchase price upon closing unless forfeited as otherwise provided in this Agreement.

Section 5. Covenants of the Seller. The Seller, through its consultant and others have undertaken a number of environmental studies which are referenced in Exhibit B to this agreement. The Maine Department of Environmental Protection (hereinafter "DEP") has issued one or more letter(s) confirming their approval of a Voluntary Response Action Program ("VRAP") Plan for the former rail yard property which is contained within lots 1, 2, 3, 5 and a portion of 6 (hereinafter "Railyard"). The VRAP includes a remediation plan approved on the Railyard property by the DEP. As part of the development plan for the Railyard property, Buyer shall be responsible for complying with the remediation plan for the property.

Buyer understands that lots 1, 2, 3, 5 and a portion of lot 6 are encumbered with deed restrictions, including but not limited to a restriction on residential uses on a portion of the Property. Pan Am/Guilford, a prior owner of the property has the sole discretion and is under no obligation to remove said deed restrictions. Provided that Pan Am/Guilford is in agreement with the insurance coverage provided by the Seller, the Seller will secure environmental liability insurance on the Railyard portion of the Property which will permit Pan Am/Guilford and the Seller to remove the deed restrictions on the property for residential and other uses, as required by Buyer.

The Seller has commenced review of the environmental conditions on the portion of the Property which is contained within a portion of Lot 6 and Lots 7 and 8 (hereinafter "Scrapyard"). The Seller will secure a VRAP for the Scrapyard (subject to Buyer's input and approval) and shall undertake remediation at its sole cost and expense in accordance with the VRAP. The Seller will work together with the Buyer to ensure the timely remediation in accordance with the Buyer's development plans. Buyer understands and agrees that no residential uses shall be approved on Lots 7 and 8 of the Scrapyard, even if such uses are allowed by the VRAP.

Section 6. Permit Period. Buyer shall have an additional One Hundred and Eighty (180) days following the Inspection Date (the "Permit Period") in which to obtain the permits and approvals that are necessary or desirable for Buyer's contemplated development of the Property for a mixed-use project including a parking garage as described in Section 11 of this Purchase Agreement. Buyer shall work with the City on the development of a master plan of all properties. Subject to the mutual agreement of the parties, the master plan may, but is not required to, include the elimination of the accessway from Somerset St to the Bayside Trail between Lots 6 and 7 or the 20ft wide accessway from Somerset St. to the Bayside Trail running through Lot 3, and the purchase of the underlying property in the accessway between Lots 6 and 7 by Buyer. It is the intent of the Buyer to build a mixed-use project which incorporates goals proposed by the City in its "A New Vision for Bayside", including, but not limited to, provide commercial and/or retail space on the first floor to allow for a user friendly neighborhood. If, by the end of the Permit Period, Buyer has not obtained all such permits and approvals, with all appeal periods with respect to such permits and approvals having expired with no appeal having been taken (or if taken, then with such appeal having been resolved to Buyer's satisfaction), then Buyer may terminate this Agreement by delivering written notice of such termination to Seller no later than five (5) business days after the end of the Permits Period, in which event the Deposit shall be returned to Buyer as provided in the Escrow Agreement. However, if Buyer does not so terminate this Agreement then the parties shall proceed forward in this transaction in accordance with the terms of this Agreement and the Deposit shall become non-refundable (except in the event of a Seller default, or because the Closing does not occur due to the failure of a condition precedent or as otherwise provided in this Agreement), but the Deposit shall always remain applicable to the Purchase Price unless otherwise provided by this Agreement.

During the Permit Period, as soon as practicable but no later than the same time as the Buyer presents its formal application for site plan approval, the Seller will present its plan for subdivision amendments to the Land consistent with the needs of the Buyer's site plan approval. The Seller shall be the applicant for the subdivision amendment, whether the review is done administratively or otherwise. Buyer shall provide, at its sole cost and expense, all required surveys in connection with the necessary subdivision amendments.

Notwithstanding anything in the foregoing to the contrary, Buyer shall have the right to extend the Permit Period up to three times, each extension for a period of thirty (30) days, by notifying Seller in writing of such extension within five (5) business days after the end of the then-current Permits Period, and depositing with Escrow Agent an additional deposit of Three Thousand Dollars ($3,000) per extension (the "Permit Extension Deposit"). The Permit Extension Deposit shall be considered part of the Deposit and shall non-refundable (except in the event of a Seller default, or because the Closing does not occur due the failure of a condition precedent or if Buyer/Seller is unable to obtain the permits and approvals or as otherwise provided in this Agreement), but the Deposit shall always remain applicable to the Purchase Price as provided herein. All references in this Agreement to the Permit Period shall mean the Permit Period as the same may be extended in accordance with the terms of this paragraph.

Section 7. Conditions Precedent to Closing. Seller and Buyer's obligation to Close hereunder are conditioned upon the satisfaction of the following conditions:

(a) there shall be no pending or threatened action, suit, litigation, hearing or administrative proceeding relating to Seller, any entity comprising Seller, or to all or any portion of the Property;
(b) the Property shall be free and clear of any leases, licenses, occupancy agreements, and any other parties in possession;
(c) Seller shall have delivered to Buyer such documentary and other evidence as the Buyer's title company may reasonably require evidencing Seller's authority, the absence of mechanic's liens and parties in possession, and any other matters that the title company may reasonable require;
(d) all of Seller's obligations under this Agreement shall have been performed and all its representations and warranties shall be true and correct;
(e) the condition of the Property (including without limitation the condition of the Property with respect to title and survey matters, as well as the presence of fixtures, equipment, and other personal property that is to be transferred at the Closing as elected by Buyer) shall be as required by this Agreement and no changes shall have occurred to such condition of the Property since the date of this Agreement (Buyer shall have the right to re-inspect the Property prior to the Closing to confirm the foregoing);
(e) notwithstanding anything in this Agreement to the contrary, Buyer shall have obtained any and all permits and approvals necessary or desirable for its contemplated development of the Property, with all appeal periods with respect to such permits and approvals having expired with no appeal having been taken (or if taken, then with such appeal having been resolved to Buyer's satisfaction);
(f) any hazardous materials on the property shall be handled in accordance with the requirements of the applicable VRAP agreement and this Agreement;
(g) Seller shall have paid, or will pay at or prior to Closing, all taxes, assessments, charges, fees, levies and impositions, coming due prior to the Closing Date;
(h) if any subdivision or other governmental approval is required in order to convey the Property as a separate parcel or lot then Seller shall have obtained all such subdivisions and/or other governmental approvals and shall have recorded any and all required plans in connection with the same;
(i) from and after the Effective Date, there shall have occurred no material adverse change to the Property (or any material portion thereof) which is continuing at the date and time scheduled for Closing which could have an adverse impact on Buyer's intended use of the Property; and
(k) Buyer shall have secured all permits, licenses and approvals (not subject to further action) necessary to construct its proposed mixed-use facility and parking garage on the Property.

Section 8. Closing. The Closing shall be held and completed at 10:00 A.M. or at such other time as may be agreeable to the parties at the office of the Buyer's lender's counsel in Portland, Maine, or through electronic communication or by mail by agreement of the parties, on the date that is thirty (30) days (or such shorter period of time as Buyer may elect upon five (5) days written notice to Seller) following the end of the Permit Period, time being of the essence. Notwithstanding the foregoing, in no event shall Buyer be obligated to close sooner than the fifth (5th) day following the satisfaction of the conditions precedent set forth in this Agreement. At the Closing, Seller shall cause the release of the Property from all loans and other monetary encumbrances secured by the Property, including, without limitation, municipal liens and utility fees of all kinds, and Seller shall pay all prepayment penalties or fees assessed by the holders of such loans and encumbrances, if any.

Seller is exempt from real estate transfer tax pursuant to 36 M.R.S.A. § 651. Seller shall pay the brokerage commission due to the brokers(s) described below, and all of its costs incurred.

Buyer shall pay its share of the real estate transfer tax and for all recording costs, Buyer shall be responsible for all of its own costs incurred, including, without limitation, the cost of studies or inspections desired by Buyer. The real estate taxes and other customary items of proration and adjustment shall be computed as of the date of Closing and added to or deducted from the net proceeds as the case may be. In the event accurate prorations or other adjustments cannot be made at Closing because of the lack of necessary information, the parties shall prorate and adjust based on the best available information, subject to prompt modification upon the receipt of the necessary information. At the Closing, Seller shall deliver to Buyer: (i) a Quitclaim Deed with covenant (ii) releases of any real estate liens or other instruments or agreements to be cancelled pursuant to the terms of this Agreement, in form appropriate for recording; (iii) an updated certification of the warranties and representations contained herein; (iv) an assignment of permits and warranties; (v) a Bill of Sale (if applicable), in form and substance satisfactory to Buyer, transferring to Buyer, without additional charge, all fixtures, equipment, and other personal property located at the Property (except for any fixtures, equipment and other personal property that Buyer has directed Seller in writing to remove on or before the date of the Closing, which Seller shall so remove, without causing damage to the Property); (vi) an assignment, transferring ownership of all the permits, plans and approvals which are part of the Property and (vii) such other documents required under the terms of this Agreement or customarily delivered at closings in the State of Maine. On or before Closing, Seller shall terminate any contracts relating to the Property that Buyer has not agreed to assume and shall pay all costs associated with such contracts. On or before Closing, Seller will do, make, execute and deliver all such additional and further acts, instruments and documents as may be consistent with this Agreement and customarily and reasonably required by Buyer and/or the Buyer's title company to complete the transactions described in this Agreement.

Section 9. Condemnation and Casualty. If, prior to Closing, all or any part of the Property or access to the Property shall become subject to condemnation through eminent domain by governmental or other lawful authority, or should be subject to damage or destruction by fire or other casualty, then Buyer shall have the option of either (a) completing the purchase, in which event all condemnation proceeds or claims thereof (or, in the event of a fire or other casualty, all casualty insurance proceeds, together with a credit against the Purchase Price for the amount of any insurance deductible) shall be assigned to Buyer, or (b) terminating this Agreement, in which event, notwithstanding any provision herein to the contrary, the Deposit shall be returned to the Buyer, and this Agreement shall have no further force or effect. Seller shall bear the risk of loss to the Property due to condemnation or casualty until the Closing and the recording of the Deed. Seller shall keep the Property insured at its presently insured levels from the date of this Agreement until the Closing and the recording of the Deed.

Section 10. Broker. At the Closing, Seller shall pay any and all fees or other commissions due and payable to CBRE| The Boulos Company (the "Broker"), pursuant to separate agreement. Except for the Broker, Seller and Buyer represent and warrant to each other that neither has dealt with any other real estate broker, agent, or salesperson. Seller agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Seller. Buyer agrees to defend, indemnify and hold Seller harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons (other than the Broker) claiming real estate brokerage fees through Buyer. The indemnities set forth in this Section shall survive Closing.

Section 11. Conditions Which Survive Closing As a condition of this sales transaction, the Buyer will construct, at its expense, a parking garage on a portion of Lot 6 and all of Lots 7 and 8 which shall contain not fewer than 500 parking spaces. The Seller shall make a contribution to the cost of construction from the funds being provided to the Seller from the U.S. Department of Housing and Development (the "HUD Funds") in accordance with and to the extent allowed by federal law and regulations, including HUD's regulations. During the inspection period described in Section 4 above, the Seller and the Buyer shall enter into a formal agreement stipulating the terms of this contribution and the conditions of the contribution, which are expected to include the following:

1. The garage shall be open during reasonable hours 7 days per week subject to modification from time to time by buyer based on historical and projected volume of usage of the garage.
2. The garage shall have shared use with residents 7 days a week, 24 hours per day.
3. During snow bans, garage shall be available for snow ban parking and the overnight snow ban parking rate shall not exceed 50% of the then current daily maximum rate charged for parking at the garage.
4. The garage shall be made available for special event parking during off hours.
5. The garage shall provide turnover parking for the general public.
6. Rates shall be based upon market conditions.

7. The garage shall participate in the Park & Shop program.
8. The garage must accept both cash and credit card payments.
9. The garage must remain as a public parking facility for a minimum of 30 years.

The agreement referred to in this section shall further provide that Buyer shall comply with all the terms and conditions related to the use of HUD funds including, but not limited to, providing documentation of job creation. The Inspection Date shall be extended until the parties have reached agreement on these issues.

The agreement shall further provide that HUD has to approve the use of its funds for the garage and that if such approval is obtained, Buyer or any nominees, assigns or successors in interest shall be responsible for complying with any conditions required by HUD in addition to the conditions listed above and shall defend and indemnify Seller against any actions brought by HUD to enforce any HUD conditions and any sanction or fines resulting from an enforcement action.

In return for the use of HUD funds, the garage and any attached structures or units in it designed for non garage use shall comply with and be certified by the U.S. Green Building Counsel's (USGBC) Leadership in Energy and Environmental Design (LEED) Silver Standard, and shall achieve the minimum LEED optimize energy performance points necessary to meet the targets of the 2030 challenge as published by Architecture 2030, pursuant to the City of Portland's City Code, Section 6, Article VII.

Section 12. Default.

(a) Buyer Default. If Buyer defaults and fails to perform its obligations under this Agreement under this Agreement, Seller, at no cost, shall receive the Deposit and all interest thereon, as well as the results and reports of all development studies, testing reports, construction and design documents related to the garage, and surveys of the Property completed by the Buyer. The parties agree that the Deposit and development studies and surveys are a reasonable liquidated measure of Seller's damages and not a penalty and shall be Seller's sole and exclusive remedy at law and in equity because of the difficulty in ascertaining the exact amount of damages sustained by Seller.

(b) Seller's Default. If Seller defaults and fails to perform its obligations under this Agreement, then Buyer may, without limitation of its other rights and remedies, terminate this Agreement upon written notice to Seller, upon which event the Deposit and all interest thereon shall be immediately refunded to Buyer, and/or exercise all of its available remedies at law or in equity, including, but not limited to, the right to seek a judgment compelling the specific performance of this Agreement and/or an action for damages.

(c) Attorney Fees. In the event of litigation, the substantially prevailing party shall be entitled to receive its reasonable legal fees and court costs from the other party. This provision shall survive the Closing and delivery of the Deed.

Section 13. Miscellaneous. This Agreement (i) constitutes the entire agreement between the parties hereto with respect to the transaction contemplated herein and it supersedes all prior discussions, undertakings or agreements between the parties; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to Seller, at Portland City Hall, 389 Congress Street, Portland, Me 04101, Attn: City Manager facsimile 207-874-8669, email: pfinnigan@portlandmaine.gov , with a copy to , the Director of Economic Development facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address (facsimile 207-874-8497), email: gary@portlandmaine.gov; and to Buyer c/o The Federated Companies, 404 Washington Ave, Floor 8, Miami Beach, FL 33139, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j_cox@federatedcompanies.com with a copy to Marc Shandler, Esq., The Federated Companies, 404 Washington Ave, Floor 8, Miami Beach, FL 33139, facsimile (800) 523-5931, email: m_shandler@federatedcompanies.com .

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

The term "Effective Date" as used in this Agreement shall mean the first date upon which both Buyer and Seller have executed a final counterpart of this Agreement and delivered the same to the other party.

The term “day” or “days” as it relates to a time or timeline for performance shall mean business days and shall not include weekends or state or federal holidays.

Buyer shall be entitled without Seller's consent to assign all of its right, title and interest in and to this Agreement to any primary lender or to any entity in which Buyer maintains a controlling interest. Buyer shall also be entitled with Seller’s consent, which shall not be unreasonably withheld, to assign all or part of its right, title and interest in and to this Agreement to any other entity. Buyer may also take title in the name of a nominee at the closing in which case the nominee shall be subject to all obligations of Buyer under this Agreement, and all rights of Seller. If the end of any time period herein, or if any specified date, falls on a weekend or state or federal holiday, then the end of such time period, or such date, as the case may be, shall be extended to the next business day thereafter. At the request of either party, Buyer and Seller agree to reasonably cooperate with the other and Escrow Agent in structuring and documenting the sale of the Property to effect a tax deferred exchange in accordance with the provisions of Section 1031 of the Internal Revenue Code and its corresponding regulations. Such cooperation shall be at no cost to the other party. In no event shall such cooperation require a delay of the Closing. The Section headings as used in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement.

Section 14. Escrow Provisions. As an inducement to Escrow Agent to act as escrow agent, Buyer and Seller agree that: (a) Escrow Agent will hold the Deposit in an interest-bearing account at a banking institution with which Escrow Agent has an established banking relationship, and such interest shall follow the disposition of the Deposit in accordance with the terms of this Agreement; (b) the Escrow Agent shall disburse the Deposit (and the interest earned thereon) only in accordance with this Agreement; (c) Escrow Agent will not be liable for any error or judgment, or for any act or omission under this Agreement made in good faith, except for Escrow Agent's own gross negligence or willful misconduct; (d) Buyer and Seller will jointly and severally indemnify and hold harmless Escrow Agent from and against any claim, costs, damages, attorneys' fees, expenses, obligations, or charges made against Escrow Agent by reason of its action or failure to act in connection with any of the transactions contemplated by this Agreement, unless caused by Escrow Agent's gross negligence or willful misconduct; (e) Escrow Agent will have no liability for any claim, costs, damage, attorneys' fees, expenses, obligations, or charges resulting from a delay in the electronic wire transfer of funds, unless such matters arise as a result of Escrow Agent's gross negligence or willful misconduct; and (f) in the event Escrow Agent receives or becomes aware of conflicting instructions, demands, or claims with respect to this Agreement or the Deposit, Escrow Agent may file a suit in interpleader, and upon the filing of such suit in interpleader and placing of the Deposit with a court of competent jurisdiction, Escrow Agent shall be fully released and discharged from all further obligations imposed by this Agreement with respect to the Deposit.

Section 15. Right of Seller to Repurchase the Property. If construction activity is not commenced and diligently pursued on any or all lots within two years of the date of receipt by the Buyer of final site plan approval, the Seller shall have the right, but not the obligation, to repurchase said lots at Buyer's purchase price

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth next to their respective signatures below.

[Signature page to follow]

PURCHASER:

The Federated Companies LLC

By: ______________________________
Jonathan Cox, Manager
Date of Execution: 6/23/11

SELLER:

City of Portland

By: Patricia A Finnigan
Patricia A. Finnigan
Acting City Manager
Date of Execution: 6.16.2011

JOINDER OF ESCROW AGENT

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent hereunder and to handle the Deposit in accordance with the terms and conditions set forth herein.

ESCROW AGENT:

____

By: ______________________________
Name: ______________________________
Title: ______________________________
Date: ______________________________

PURCHASER:

The Federated Companies LLC

By: ______________________

Jonathan Cox, Manager

Date of Execution: 6/23/11

SELLER:

City of Portland

By: Patricia A. Finnigan

Patricia A. Finnigan

Acting City Manager

Date of Execution: 6·16·2011

JOINDER OF ESCROW AGENT

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent hereunder and to handle the Deposit in accordance with the terms and conditions set forth herein.

ESCROW AGENT:

Monument Title Company

By: ______________________

Name: Karen L. Pelletier

Title: Managing Director/Exec VP

Date: July 1, 2011

EXHIBITS

A - Description of Land
A-1 Proposed Somerset Street Subdivison plan, showing possible trail access
B – index of environmental studies

EXHIBIT A

Description of Land Being Purchased:

Lots 1,2, 3, 5, 6, 7 and 8 as shown on a subdivision plan entitled "Bayside Railyard Portland, Maine" prepared for the Downtown Portland Corporation by SGC Engineering, LLC as approved by the Portland Planning Board on December 9, 2008 and recorded in the Cumberland County Registry of Deeds on 1/27/09 in Book 209, Page 36.

EXHIBIT A-1

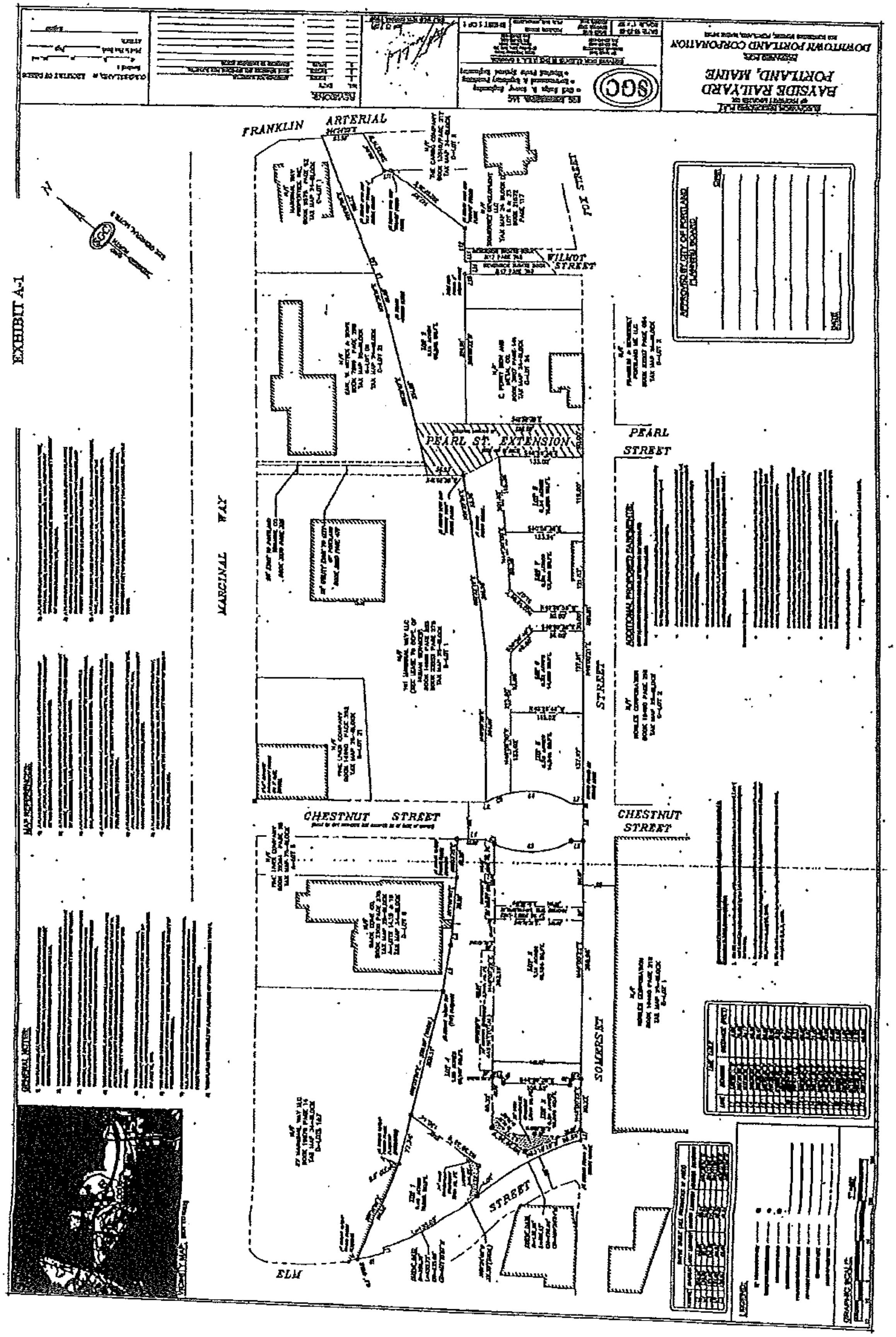
BAYSIDE RAILYARD
PORTLAND, MAINE
DOWNTOWN PORTLAND CORPORATION
SGC
FRANKLIN ARTERIAL
FOX STREET
WILMOT STREET
PEARL ST. EXTENSION
PEARL STREET
MARGINAL WAY
CHESTNUT STREET
SOMERSET STREET
ELM STREET
N

Exhibit B

List of Bayside Rail Yard Related Environmental Reports

Site Assessment and Environmental Analysis: Phase I of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

Environmental Remediation Plan, Phase III of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

Phase II Environmental Site Assessment, Union Branch Rail Line Property, Portland, Maine, Haley & Aldrich, Inc. Dec. 2000

Environmental Conditions at the Proposed DHS Building Land annex, Portland, Maine, Tewhey Associates, August 2003

Tewhey Associates Memo from J. Tewhey to M. Adelson of the City of Portland Re: Results of Testing of Excavated Soil at the Former Rail Yard Site in Bayside, Tewhey Associates, December 13, 2003

Subsurface Soil Observations and Testing at Northern End of Proposed Chestnut Street Extension, Tewhey Associates, Jan 2005

Phase I Environmental Site Assessment, Rail Yard Subdivision Lots 1,2,3,4 and 9 Somerset Street, Portland, Maine, Tewhey Associates, Dec. 2008

VRAP Completion Document, Bayside Trail Project, Former Union Branch Rail Line, Portland, Maine, Tewhey Associates, August 2010

Bayside Rail Yard DEP VRAP, July 2001

Bayside Rail yard DEP VRAP, November 2008

Chestnut Street Extension DEP VRAP, May 2005

DHS Annex Property DEP VRAP Certification, April 2004

Soil Remediation Consideration, Tewhey Associates, January 2002

Stockpiled Group 2 Soils at Brownfields Property Site, June 2005

NEMR Concrete Pad Sampling, September 2008

NEMR Phase I Environmental Site Assessment, February 2009

NEMR Phase II Soil Investigation, February 2007

NEMR Phase II Soil Investigation, July 2009

EXHIBIT "B"
TO FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

[insert Environmental Studies]

Exhibit B

List of Bayside Rail Yard Related Environmental Reports

Site Assessment and Environmental Analysis: Phase I of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

Environmental Remediation Plan, Phase III of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

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NEMR Concrete Pad Sampling, September 2008

NEMR Phase I Environmental Site Assessment, February 2009

NEMR Phase II Soil Investigation, February 2007

NEMR Phase II Soil Investigation, July 2009

September 6, 2012 by LCW
O:\Bayside - Federated Companies\Purchase and Sale Agreement\2final FIRST AMENDMENT TO PURCHASE AGREEMENT for Execution.doc

Amended Exhibit ~~A~~ C to the Purchase and Sale Agreement

[2012]

Description of the Land Being Purchased

Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9 as shown on a subdivision plan entitled "Bayside Railyard, Portland, Maine" prepared for Downtown Portland Corporation by SGC Engineering, LLC as approved by the Portland Planning Board on December 9, 2008, and recorded in the Cumberland County Registry of Deeds in on January 27, 2009, in Plan Book 209, Page 36; the portion of Lot 9 included is that portion which is within 120 feet of northwesterly sideline of Somerset Street.

EXHIBIT 3

[Parking Garage Agreement]

September 6, 2012, 2012 by LCW
O:\Bayside - Federated Companies\Parking Garage Cntrbtn Agrmt\2Final Parking Contribution and Funding Agreement For Execution.doc

PARKING GARAGE CONTRIBUTION AND FUNDING AGREEMENT

This Parking Contribution and Funding Agreement (the "Parking Garage Agreement") is made this 15th day of October, 2012, by and between the **CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine (hereinafter "City") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company with a place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131 (hereinafter "Legacy Park").

WHEREAS Legacy Park is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, ("Agreement"), for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7,8 and a portion of Lot 9,(collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a $9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park from funds being provided to the City by the U.S. Department of Housing and Urban Development pursuant to the Bayside Redevelopment Project, Maine BEDI Grant and Section 108 Loan Program, ("HUD Funds"), toward the expense of the construction of a garage, with no fewer than 700 parking spaces and at least thirty thousand square feet of retail space on the first floor on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage");

WHEREAS Section 11 of the Agreement requires City and Legacy Park to enter into a formal Parking Garage Agreement stipulating the terms and conditions of the contribution of the City Grant Funds to Legacy Park for the construction of the Garage.

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration the parties covenant and agree in this Parking Garage Agreement as follows:

1. Garage Construction. Subject to the terms and conditions of this Parking Garage Agreement and the City contributing City Grant Funds as described below, Legacy Park or its nominee shall construct the Garage in the location depicted on the plan attached hereto and incorporated herein by reference as Exhibit "A". The Garage shall have reached "Start-up Phase" as defined below within two (2) years after the date on which a total of $1,000,000.00 in City Grant Funds has been requisitioned by Legacy Park and disbursed by the City to Legacy Park. Notwithstanding the above, Legacy Park will diligently work to have constructed a sufficient percentage of the Garage so as to permit Legacy Park to requisition the City Grant Funds in full by November 31, 2014, so as to allow full disbursement of the City Grant Funds by December 31, 2014. If Legacy Park informs the City, in good faith, before October 1, 2014 that Legacy Park will not meet this requisition timetable, with evidence and reasons for this, the City will use its best

efforts to obtain an extension of this disbursement deadline for the HUD Funds from HUD, and if it obtains such an extension, it shall immediately transmit to Legacy Park evidence of this extension by HUD, and this timetable shall thereby be correspondingly changed, without further action of the parties hereto being required.

Legacy Park shall construct the Garage and any attached structures or units designed for non-garage use using sustainable and energy efficient construction methods, including, but not limited to, energy efficient lighting.

2. City Grant Funds. The City shall provide a grant to Legacy Park or its nominee of Nine Million Seven Thousand Dollars ($9,007,000.00) in City Grant Funds for use by Legacy Park for the City Grant Funds Uses as defined below. This funding is being provided in part as an incentive to build the Garage which would otherwise not be commercially viable. Accordingly, the City agrees that the first $9,007,000.00 of City Grant Funds Uses, disbursed in accordance with this Parking Garage Agreement, shall be City Grant Funds, but subject to and less the retainage described below. The City Grant Funds may be used for all purposes related to the Garage allowed with such HUD Funds, including but not limited to design, planning, permitting, environmental testing and remediation, and construction ("City Grant Funds Uses").

3. Legacy Park Contribution. Following the disbursement of City Grant Funds, less the retainage, Legacy Park shall provide sufficient additional funds for completion of the construction of the Garage, ("Legacy Park Contribution"). The Legacy Park Contribution shall either come from its own equity or financing from a construction lender. The Legacy Park Contribution, in addition to the City Grant Funds will cover the complete cost of constructing the Garage to completion.

4. Procedures for Making Disbursements (Payments). With respect to all requisitions for disbursements of the City Grant Funds, the City and Legacy Park agree as follows:

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

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

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

(d) City shall make disbursements to Legacy Park only after such certification and verification, and with a certified payroll, all the same must be correct and complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement. If the City fails to make any disbursement within fifteen (15) calendar days after such requisition with all required and correct and complete paperwork as delineated in this Parking Garage Agreement, such disbursement shall be paid with interest at a rate of one-quarter of one percent per month, from that date until the disbursement is in fact made ("Interest For Late Payment"). If any such Interest For Late Payment is owed then such amount shall be in addition to the City Grant Funds.

(e) City shall retain ten percent (10%) of the City Grant Funds as retainage, which shall be disbursed to Legacy Park upon receipt of the Certificate of Occupancy for the Garage or as mutually agreed upon between the City and Legacy Park.

5. Garage Operations.

(a) Key Card. The Garage shall be equipped with a "key card" system (or its equivalent) whereby weekly, monthly or longer term users shall have 24-hour access to the Garage 7 days a week, it being understood that certain users may only have access at certain hours based on contractual agreements with the owners of Garage. Legacy Park shall make the Garage available for public (hourly access) use during the "Start-Up Phase" at such times as established by Legacy Park during reasonable commercial business hours, which shall at a minimum be from 7 a.m. to 7 p.m., Monday through Saturday, and 10 a.m. to 7 p.m., Sundays and Holidays. The expression "Start-Up Phase" shall mean that period commencing when the Garage receives a Certificate of Occupancy allowing operation of the parking garage portion of the Garage facility and ending the date when the first other building (and not merely the retail portion within the parking garage structure) within the Project is issued a Certificate of Occupancy and that building starts using parking in the Garage. During and after the Start-Up Phase the Garage shall be open during reasonable hours, seven days per week, subject to modification from time to time by Legacy Park based on historical and projected volume of usage.

(b) Additional Requirements:

(i) Hourly and monthly rates for the Garage shall be based upon prevailing market rates, defined as follows: in no event shall rates be greater than 110% of the average market rates charged by City at City-owned and operated garages or the average of the three highest rates charged by garages within the City, excluding any garages that may be owned by Legacy Park or any of its affiliates;

(ii) The Garage shall participate in the Park and Shop Program;

(iii) The Garage shall be available for City snow ban parking, and the overnight (i.e. 5:00 p.m. to 8:00 a.m.) snow ban parking rate per hour shall not exceed three times the then-current maximum hourly rate charged by the Garage;

(iv) Upon written request of the City in each such instance, the Garage shall be available at customary rates for parking for special events held on the Portland Peninsula after 5:30 pm on weekdays and if requested, at requested reasonable times on weekends.

(v) The Garage shall have shared use with the public 7 days a week, 24 hours per day.

(vi) The Garage shall provide a minimum of 200 hourly turnover parking to the general public, and will provide within 2 days upon request data and information, including the number of non-turnover parkers present in the Garage at any given time, in order for the City to verify compliance with this condition.

(vii) The Garage will accept both cash and credit card payments.

(viii) The Garage will be maintained so long as it is a public parking facility, in accordance with the then current edition of the National Parking Association's "Parking Garage Maintenance Manual (now in its Fourth Edition) , and in particular in accordance with the Recommended Maintenance Checklist contained therein.

(c) The Garage will remain a public parking facility for a minimum of thirty (30) years.

These requirements (a) through (c) shall be a covenant contained in the deed to Lots 6 and 7and the covenant shall run with the Land for the stated thirty (30) year period from the date of conveyance of Lots 6 and 7 from the City to Legacy Park and thereafter shall automatically expire.

7. Payments in Lieu of Taxes. In consideration of the City Grant Funds paid to Legacy Park by the City, Legacy Park agrees, for itself and its successors, assigns and lessees for a period of thirty (30) years starting on the closing date of the purchase of the Land, that in the event that any portion of the Land is ever exempt from real or personal property tax, then a yearly payment by the then owner of the exempt portion shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the exempt portion of the real and personal property situated on the property. This requirement shall be a covenant contained in the deed to the Land and the covenant shall run with the land for the stated thirty (30) year period.

8. Compliance with HUD requirements.

(a) Job Creation. HUD regulations require that the City, as the original grantee of the HUD Funds, document all jobs created through the use of HUD Funds disbursed to Legacy Park as City Grant Funds. Legacy Park recognizes that one of the primary goals of City's contribution of the City Grant Funds is the creation of jobs, and Legacy Park agrees to create the required number of jobs necessary for the City's use of the HUD Funds and to provide City with timely and complete documentation of all jobs created or caused to be created as a result of receiving the City Grant Funds, and requirements related to job creation shall be contained in a Job Creation Agreement to be entered into between the parties.

(b) Section 108 Compliance. Legacy Park, its employees, assigns, agents and subcontractors for this project, at all times shall comply with the requirements of the Section 108 Loan Guarantee and Brownfields Economic Development Initiative Grant program and Federal Labor Standards pursuant to Davis Bacon and related Acts, specifically including:

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

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

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

9. Default. In the event that Legacy Park is in default of a material provision on any of the obligations contained in this Parking Garage Agreement, and Legacy Park fails to cure said default within ninety (90) days of receipt of written notice issued by the City, then Legacy Park shall, if requested to do so by the City, convey to the City the Garage and the related real property, on these terms and conditions:

- This conveyance to the City shall be without the requirement of further legal action by the City.
- The cost to the City for this purchase will, in concept, be the sum of the cost of construction of the Garage and all related improvements associated with the Garage, plus the cost to the cost to Legacy Park for the related land upon which the Garage sits (the "Garage Land"), less the amount of the City Grant Funds actually disbursed up to the time of this purchase.
- The City acknowledges that Legacy Park will most likely use the Garage and the Garage Land as collateral for a construction loan for the purpose of finishing the construction of the Garage and other costs and improvements related to the project. The City therefore agrees to work on documents at the time of such financing, with Legacy Park and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing.

The City agrees that Legacy Park's obligations under this Parking Garage Agreement are "non-recourse" and that any recovery by the City shall be limited to the Garage. None of Legacy Park, its officers, members, employees, attorneys, agents or affiliates (collectively, "Legacy Park Persons") shall be personally liable for the performance of this Parking Garage Agreement, and the City shall not commence or prosecute any action against any Legacy Park Person, for payment or performance of any obligations under this Parking Garage Agreement. The City shall not seek, obtain, or enforce a deficiency judgment against any Legacy Park Person. Notwithstanding this provision, the rights and obligations under the Agreement between the parties and the Corporate Guaranty Agreement of near or even date are cumulative and in addition to the rights described herein.

In the event of an alleged default by the City, Legacy Park, at its sole election, shall have the right to seek specific performance and any and all other relief to be provided by a Court, at law or in equity, including, but not limited to, common law writs. City expressly consents to the jurisdiction of the Maine Courts in the event of an alleged City breach under this Parking Garage Agreement.

10. Assignment. Legacy Park shall be entitled, without the City's consent, to assign all of its right, title, interest and obligations in and to this Parking Garage Agreement to any lender or to any entity in which Legacy Park maintains a majority interest and management control. The City must be notified within thirty (30) days or Legacy Park will be in default of this Parking Garage Agreement as described in Section 9 of this Agreement.

11. Termination. In the event that the Parking Garage Agreement is terminated on account of Legacy Park's default, the obligation of the City to provide the City Grant Funds described herein is terminated.

12. Miscellaneous Provisions. In the event of litigation, the prevailing party shall be entitled to receive its reasonable legal fees and court costs from the other party. This provision shall survive the Closing and delivery of the Deed pursuant to the Agreement.

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

14. Notices. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, email: MHR@portlandmaine.gov, with a copy to, the Director of Economic Development, facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), email: gary@portlandmaine.gov , and to Buyer c/o The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j_cox@federatedcompanies.com

15. Severability. In the event any one or more of the provisions contained in this Parking Garage Agreement shall be for any reason held invalid, illegal or unenforceable in any

respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Parking Garage Agreement, and this Parking Garage Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Parking Garage Agreement.

In Witness Whereof, the parties have hereunto executed this Parking Garage Agreement as of the day and year set forth next to their respective signatures below.

LEGACY PARK APARTMENTS LLC

By: Jonathan Cox
Its: Member
Date of Execution: 10/15/12

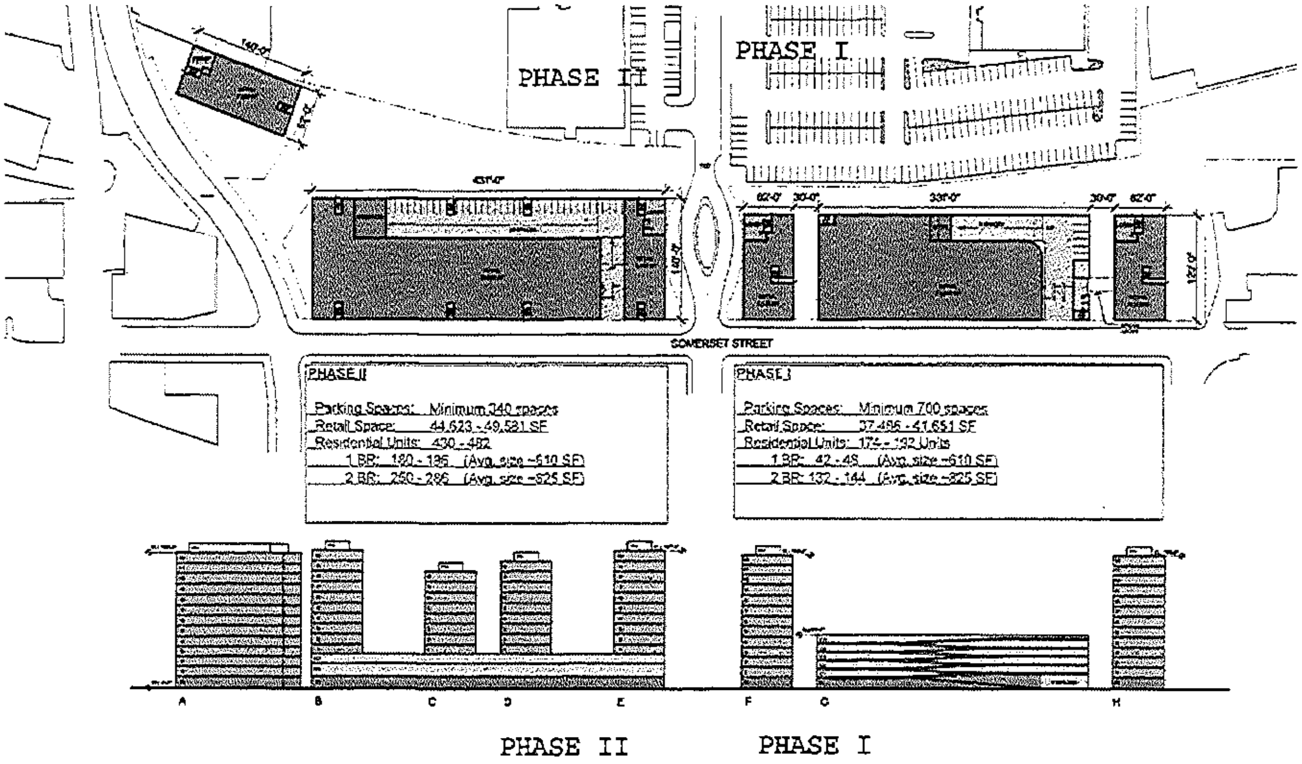
CITY OF PORTLAND

Mark W. Rees
By: Mark Rees
Its: City Manager
Date of Execution: 10-15-12

Approved: Ellen Sanborn, Finance Director

Approved as to Form: Corp. Counsel

For Execution.doc



PHASE II

Parking Spaces: Minimum 340 spaces
Retail Space: 44,623 - 49,581 SF
Residential Units: 430 - 482
1 BR: 180 - 196 (Avg. size ~610 SF)
2 BR: 250 - 286 (Avg. size ~825 SF)

PHASE I

Parking Spaces: Minimum 700 spaces
Retail Space: 37,486 - 41,651 SF
Residential Units: 174 - 192 Units
1 BR: 42 - 48 (Avg. size ~610 SF)
2 BR: 132 - 144 (Avg. size ~825 SF)

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THE FEDERATED COMPANIES

BAYSIDE DEVELOPMENT
PORTLAND | MAINE

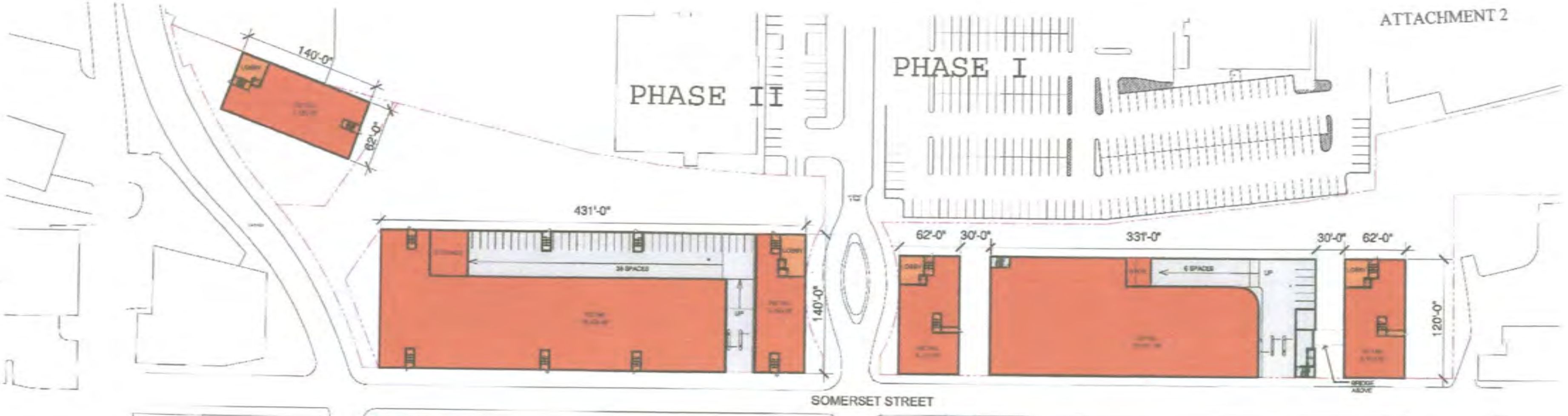
SITE DIAGRAM - GROUND FLOOR
JULY 23, 2012
SCALE: 1" = 100'-0"

Exhibit A

EXHIBIT 4 (part 1 of 3)

[Phase I Site Plan]

ATTACHMENT 2



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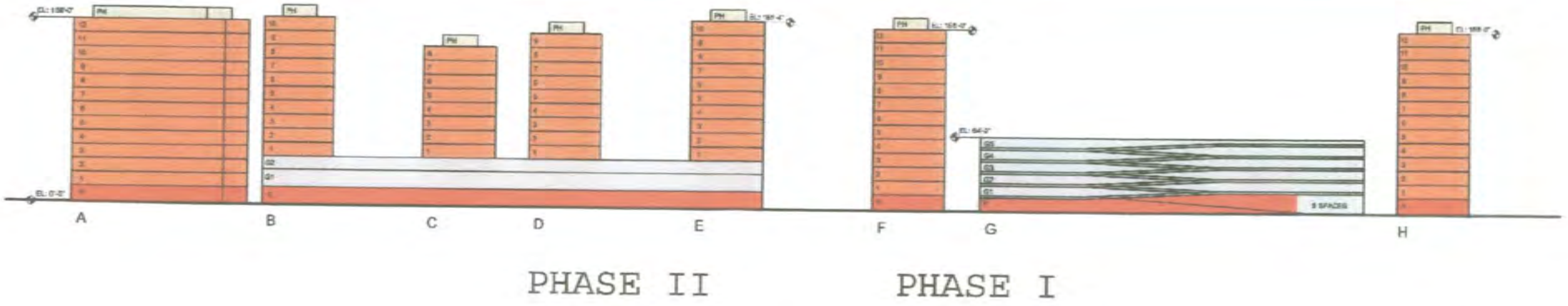

THE FEDERATED COMPANIES

BAYSIDE DEVELOPMENT
PORTLAND | MAINE

SITE DIAGRAM - GROUND FLOOR
JULY 23, 2012
SCALE: 1" = 100'-0"

EXHIBIT 4 (part 2 of 3)

[Phase I Design Guidelines]

1. Introduction

The emphasis of the Guidelines is on the public spaces. The goal of the Guidelines is to provide high quality, attractive and active spaces that employ contemporary techniques but connect to the unique history of the site and Portland, ME as a whole. To this end, the Guidelines are focused on the impact of buildings on the public environment. These Guidelines seek to create spaces, not projects. The goal is to create an ever□changing, lively atmosphere with visual appeal throughout (this is not a traditional business or residential district). The focus is on the pedestrian □ to provide a human scale, good way finding, and a comfortable walking environment. The Guidelines are also intended to create visual interest from near and far. Up close, ground level design standards produce comfortable, inviting, and stimulating environments. From afar, a variable skyline of roof edges, vertical shafts, and signage create interest.

2. Use

2.1 Active Ground Floor Uses

Active uses that engage pedestrians shall be located along all street frontages. Ground level land uses shall be established and designed to animate public sidewalks, the wharf and alleys/mews to provide visual appeal. In required active ground floor areas, the following uses are acceptable:

- Commercial uses, such as retail stores, retail service establishments, food and beverage establishments; and/or entertainment facilities, and
- Lobbies for above grade uses such as office, residential, and hotel with an emphasis on high quality design, visual transparency, and where possible, uses that engage the street.

3. Massing

The Guidelines describe the overarching design principles for all future construction in the Project Area. The Guidelines define the intended quality, characteristics and coherence of the urban elements, which regulate how the site shall be used for civic and commercial purposes. The Guidelines define building mass, street wall heights, and façade articulation necessary to create a lively urban waterfront environment.

Building setbacks above the lower levels should be employed to help limit the perceived mass of the structure and to insure that buildings maintain a human scale and a consistent street wall throughout. Setbacks for upper stories may vary in accordance with the Master Development Plan.

The buildings will have three basic components: base; middle; and top. The base will be designed in a scale and articulation that is related directly to the pedestrian. The middle portion of the building will provide scale to the buildings both horizontally and vertically. And finally, the top will be designed in a manner to provide unique articulation that visually terminates the top of the building.

3.1 Build□to□Lines

Street walls on public rights□of□way are encouraged to vary in height and express distinguishable facade types to evoke multiple buildings/uses. A minimum of 75% of the lineal length of the mandatory building frontage shall be set at the parcel boundary line or within 10 feet there from. The first two stories of a building are required to be set at this mandatory front parcel line. Variation in street wall facades is encouraged along upper levels and roof lines. In areas where active ground floor uses are required, building entrances should be located at least every 75 feet (preferably every 30□35 feet).

The character and scale of facades forming the street wall may involve the combined use of traditional and innovative materials to express a transition from a historical□era to a more modern□era design vernacular. The character, height and massing of street walls should include:

- Commercial uses, such as retail stores, retail service establishments, food and beverage establishments; and/or entertainment facilities, and
- Define a continuous street and highly articulated building by building wall mass along all build□to lines (i.e., zero front yard setbacks along public rights of way)
- Encourage projections, canopies, signage, lighting, and variation of building size
- Discourage projecting balconies
- Encourage balconies recessed within or integral with the façade wall where balconies are proposed.
- Encourage articulation of the façade that could include changing design treatment and/or materials to reduce the apparent mass of long building facades.

Encroachments on the sidewalk will be designed to encourage pedestrian activity and will be human scale. The encroachment will not impede the visual.

4.0 Circulation & Service.

Streetscapes in the Project Area are meant to be pedestrian friendly environments, featuring a consistent pallet of signage, lighting, paving, and furniture. Streets should be well lit, active, human scaled, and feel safe day and night.

The City's streetscape standards will be used for public sidewalks, streetlights, street furniture, fencing and walls, landscaping and signage in order to create a unified image of the neighborhood.

Street lighting shall comply with the *Technical and Design Standards and Guidelines.*

4.1 Parking

The provision of off□street parking within the Project Area will be as set forth in the approved planned unit development.

Parking structures will be designed to be compatible and integral to adjacent architecture in form, bulk, massing, articulation, and materials; incorporating design elements that provide visual interest on all sides visible from public rights of way.

Parking structures will be designed above grade and in a way to provide natural ventilation.

The entrance to parking structures will minimize impact on the pedestrian realm and be designed to maximize driver and pedestrian safety.

4.2 Refuse Collection

Refuse collection areas and dumpster locations shall be fully enclosed within portions of principal buildings for which they proposed to serve and shall be screened from view so as not to affect other views from around the site.

5. Architectural Features

Design references to Portland's are encouraged. The design of new buildings and structures should be timeless and enduring, seeking inspiration from the rich industrial and architectural precedents of Portland's downtown and waterfront and should seek to uphold its strong history.

5.1 Edges

Special care and design attention along with more decorative treatment and materials are desired for all edges of buildings. These are the most visible part of the urban scene. Edges include roof lines, canopies, cornices, and more prominent window openings and entrances.

5.2 Bases

Buildings should be articulated to respond to individual users. The diversity of storefront articulation will break down the scale of the overall project and street wall. The first level of buildings should be articulated by material change to express a building base and use other elements such as color, design detail, smaller scale, and higher quality materials to provide visual interest. Building ground floor bases, typically 25□40’, should emphasize the ground floor activity and provide the highest quality of pedestrian environment.

5.3 Storefront and Retail Facades

See Article 9.

5.4 Corners

Corners are particularly visible and are suggested to be made more noticeable. Changes in orientation, shapes, additional materials, colors, and projections are all favored means of adding special visual appeal to interesting streets, wharf, and public spaces.

5.5 Cornices

A crowning projection, or cornice, shall be encouraged at the top of a building along the street wall (top of the building for those under 60’, and at the setback for those over). These elements can be very modest in detail.

5.6 Appurtenances

Canopies, awnings, and marquees are permitted and encouraged as they provide weather protection and provide visual interest and delight to the streetscape environment. These elements are to be decorative and light weight. Variety and non□repetitive design are desired. Canopies can be constructed of a variety of materials including both fabric and metal. Fabric awnings can be retractable.

Lettering and logos are permitted on the valence flap of the awning but lettering is generally discouraged on the main body of the awning. It is desirable for these projecting elements to incorporate outdoor heating systems to lengthen the comfortable use of outdoor spaces.

Backlit awnings and canopies are expressly prohibited. Awnings and canopies may be lit from the exterior.

5.7 Skyline

A goal for the project is to create a varied and highly decorative skyline as seen from afar. The varied rooflines can be achieved by changing heights, also by varying roof types, roof angles, and the addition of vertical elements to contrast with the roofs.

Rooftop terrace structures shall not be enclosed and are not considered an additional building level. Rooftop terraces are encouraged to take advantage of views.

All exposed mechanical equipment and bulkheads shall be mounted on roofs. Equipment should be integrated into the roof design and screened in a method that is integral to the architectural design of the building and adds visual interest to the skyline. All venting of HVAC equipment shall occur on the interior of development parcels. All venting runs for cooking fans shall be fully enclosed and incorporated into the interior of proposed buildings and vented though the highest roof of the building podium.

5.8 Back Sides of Buildings.

The back sides of buildings will be designed with high quality facade materials, transparent windows, operable building entrances, and other design features consistent with the primary facades of the building. Utility meters, exhaust vents, fire escapes etc. will be designed in a manner to be unobtrusive.

6. Materials

6.1 Building Materials and Color

Use of innovative building technologies is encouraged throughout the project and should be contrasted with traditional building materials that reference Portland's history.

Recent innovations in building materials can showcase advancements in environmentally conscious design and provide a sense of excitement for project visitors.

New buildings shall be constructed with materials common throughout the Portland's downtown and waterfront rich architectural history. Use of materials such as brick, stone, steel and wood is required for the first 40 vertical feet of a building's base, especially on pedestrian□oriented street wall facades. The use of these high□quality materials is intended to convey a solid, lasting look. Buildings should employ industrial materials as a way of visually and conceptually evoking the industrial/working heritage of Portland's downtown and waterfront. These include timber, forged and cast metals as well as rough hewn stone and metal cables.

The use of cement fiber shingles, imitation stone, imitation brick, stucco or exterior insulation finish systems will be considered on any building façade above the first 40 vertical feet of the buildings.

Facade coloration shall be achieved by use of the inherent color of building materials rather than the application of color to the surface of materials. Paint should be reserved for trims and accents on metal, wood, cornices, frames and the like. Use of material's inherent color sets a standard of authenticity associated with industrial structures. Examples of this type of façade coloration desired are a variety of earth tones achieved through the use of unglazed brick, wood, concrete and steel.

Masonry facades shall include the use of stone as architectural accents for lintels, sills, copings and keystones. Foundation bases, sills and lintels shall to the greatest extent possible use local (within 500 mile radius) stone or limestone. Masonry finishes are encouraged to be natural rather than highly finished or polished.

6.2 Glass and Fenestration

The base of buildings should feature the use of glass for the first story to emphasize the importance of the ground level active use (only one level of active use is required). Glazing and openings shall promote a flexibility of ground floor uses and the potential for change over time. Proportion of glazing to overall wall area shall be a minimum of 75% on ground level street wall frontages facing public rights□of□way. The first floor windows and storefronts will be transparent with active uses visible behind them. Opaque glass shall not be used at the first floor level. Window openings shall express sills and headers of metal or stone. Storefronts should be integrated into the design and materials of the entire building. The storefront's bulkhead/knee wall should be constructed of a durable and evocative material. Transoms are encouraged for larger window units. In all building facades windows are encouraged to be set back from the wall surface a minimum of six inches from the surface of masonry to the glazing. Tinted or reflective glass will not be utilized.

Window proportions, groupings and rhythms shall be integral elements of the design of each building facade and urban street□wall. Punched windows are desired above the 2nd floor. Curtain walls are discouraged unless used to define a vertical corner or other discreet architectural emphasis. Glazing systems shall be designed to promote area□wide visibility, accessibility and safety during evening hours and during the winter season. Well designed fenestration patterns that evoke historic fenestration are preferred over attempts to replicate historic patterns.

7. Signage

Signage lighting should come from direct shielded light sources and be carefully integrated into the overall design of the building so as to provide visibility and safety but avoid creating glare or light distribution that adversely affects motorists or pedestrians. Backlit signage is generally discouraged.

Neon signs may be allowed so long as they are carefully designed in size, shape and color that complement the architecture of the building and the district.

8. Lighting

The vision for Bayside seeks a maximum amount of light that creates a variety of environments and experiences. Lighting should be used for artistic purposes and carefully integrated with the architecture and buildings, such as to accent edges.

The commercial buildings are intended to be inviting to the public, to encourage visitors to enter the site from the city streets, to shop at the retail stores and eat at the restaurants, and to generally stay longer and take full advantage of the waterfront area. Balanced against an appropriate level of street illumination, there is a need to limit light that is cast up and into upper floors of buildings or the atmosphere. Lighting fixtures should be scaled to the pedestrian and have a distinctive industrial character. Architectural accent lighting should highlight corners and roof edges.

Storefront lighting is one of the best sources of sidewalk lighting in urban areas. It is warm and welcoming, and contributes to a sense of activity and watchfulness. It also generally provides a greater amount of light directly onto the sidewalk than do street□level luminaries. Retail storefronts are an effective way to provide lighting from the buildings.

The first four feet inside any retail or restaurant establishment shall have decorative lighting, preferably with visible point sources. Occupancies on the first floor that do not have active, bright window displays shall be designed to provide visual articulation from lighting at no greater than 25 feet intervals. This can be accomplished in a variety of ways, such as:

- Decorative luminaries mounted to walls, posts, brackets, etc.
- Lighting surfaces, textures and objects such as pilasters, wall features, banners, sculptures, graphics, etc.
- Internally lighted glowing architectural or graphic elements such as glass block, display cases, signage panels, canopies, transparencies, etc.
- Lighting at entryways (especially if they are recessed).
- Lighting property addresses.

9. Retail

9.1 Retail Storefront Requirements

All buildings with retail on the first floor shall incorporate a traditional storefront design with a large display window or windows of clear glass, bulkheads, recessed entries (where appropriate), transom windows, and suitable locations for signs at their ground levels. Blank walls should be minimized and static displays (including photographs) will discouraged in display windows. Modern and creative design solutions may be employed as long as the traditional storefront proportions are referenced. Multiple storefronts within the same building should be visually compatible in terms of scale, alignment, color and materials. The intent is to encourage creativity by individual retailers to add to the character and place making of Bayside.

9.1.1 Storefront Character

Storefronts should be individual expressions of a tenant's identity; however, tenants will be discouraged from using national brand standard storefronts and/or representations of their identity in an effort to create a retail environment that is uniquely Bayside Storefronts should be integral to the building design but should also provide a distinct retail identity at the ground level.

9.1.2 Storefront Entries and Doors

Door placement and design are an integral part of each storefront, as they are the prevalent method of entry into each space. Placement and design should provide a direct "connection" to the sidewalks and streets. Restaurants tenants are encouraged to provide a clear thru□way and a visual connection to exterior seating areas, if any.

9.1.3 Storefront Materials

The design, fit, and finish of all components for each storefront should be of the highest quality. Additional focus should be on window design to create a visual connection between the interior and exterior. Durable materials should be utilized for storefront construction as these are especially critical at street level where pedestrian contact will be considerable. Storefronts should be pre□dominantly glass to provide views into the store, but glass should not be the exclusive material.

9.1.4 Storefront Lighting

Night lighting of retail will help animate Bayside, prolong street life after business hours, and increase pedestrian safety. Storefront facades, recessed doorways, outdoor spaces and passageways should be well lit. Sign lighting, including flat□mounted signs, blade and banner signs, must be lit with concealed lighting or from above with down□lighting. Fixtures should be located and angled to ensure that they spotlight the tenant's merchandise and do not point toward the window or cause distracting reflections. Include "after hour" lighting within the front of stores to contribute to pedestrian lighting and provide for a comfortable night time strolling experience.

9.1.5 Storefront Canopies and Awnings

Design and placement should complement the scale of the store facade design. Collective placement of canopies and/or awnings along a street should maintain overall design integrity and avoid a uniform layout providing weather protection at a minimum of 20 feet at all storefront and building entrances. Canopies shall be constructed of permanent, durable materials, with glass and steel preferred. Awning material should be of a woven fabric or other material that projects the natural appearance of canvas, metal, glass, etc. Retractable or open side awnings are acceptable. Vinyl awnings and internally lit awnings are not allowed.

9.1.6 Storefront Signage

Creativity in signage design is encouraged and adds to the ground level experience at Bayside. Non□descript box signs are discouraged.

10. Sustainability

The project will be designed in accordance with the energy standards of the building codes and using new sustainability construction practices.

EXHIBIT 4 (part 3 of 3)
[Phase I Specifications Sheet]

Standard Features

EXTERIOR FEATURES
- Pile / Grade Beam Foundation Construction
- Parapet roof design
- Multi-ply Insulated Roofing Membrane system
- Parking Garage access
- Direct access to ground floor retail
- Connecting walkways to Bayside trail
- Multi material exterior facade; brick, exterior insulated finish systems, glazing and metals

BATHROOMS
- 2- Bedroom Units shall have 2 baths; 1- Bedroom Units shall have 1 ½ baths
- Polished Brass/Chrome Fixtures & Accessories in Bathrooms
- Surface mount brushed nickel/brass vanity lights
- Half Baths/Powder rooms Pedestal Sink
- Full and ½ baths shall have White Laminate Cabinets and solid surface vanity tops with integral sink
- Baths shall have ceramic on floor and walls
- Elongated Commodes in all Baths
- Handicapped Units equipped per code
- Energy Star Rated Bathroom Fans per specification

KITCHEN
- Maple Cabinets with 30" – 42" Upper Wall Cabinets
- Premium grade Formica Counter Tops with 3 ½" backsplash
- Single Bowl Stainless Steel Drop in Sink
- Garbage disposal
- Single Lever Polished Chrome Faucet with spray
- Energy Efficient Appliance Package to include: Dishwasher, Self-Cleaning Oven, Microwave with re-circulating exhaust fan, Side x Side Refrigerator
- Appliance Packages to be Profile or Stainless Steel
- Surface mount light in Kitchen and Dining areas

ENERGY EFFICIENCY
- Energy Star Forced Warm Air High Efficiency Electric Furnace with Central Air Conditioning per unit
- Energy Star Rated 45 Gallon Electric Hot Water Heater per unit
- Energy Star Rated Efficient Double Glazed Double Hung Vinyl Tilt Windows with Screens and Grilles
- Energy Star Rated Insulation in Attic ceiling areas and Interior Walls

FLOORING
- Vinyl Flooring in Foyer, Kitchen, Laundry and Baths
- Carpeting in Hallways, Bedrooms, Dining Room, Living Room and Closets

INTERIOR FEATURES
- Six Panel Masonite Interior Doors with Brushed Nickel/Brass Hardware
- All doors, windows and cased openings shall be trimmed with 2 ½" casing. Baseboard shall be 3 ¼"
- Walls are painted one prime and one matte flat finish Sherwin Williams Linen White; trim is painted one prime and two coats semi-gloss latex Sherwin Williams White. Ceilings are smooth finish and painted white
- Ventilated Shelving in closets
- Washer and Electric Dryer per unit
- Approximately 8' Ceiling Height on all levels
- Cable/Data/Telephone ports in all bedrooms and living areas
- Outlets per code

COMMON AREAS

- Vestibules and lobby areas shall have tile and carpet flooring and painted walls
- Common hallways shall have carpeting and painted walls
- Centralized elevator lobby location (pedestrian and service) per building
- Centralized mail center per building
- Fully furnished amenity areas
- Management/Leasing Office on-site
- Private ground floor door entry with security system

CONSTRUCTION FEATURES

- Type I Construction, steel and concrete frame
- Concrete/Metal decking Flooring system
- Panelized exterior wall system; EIFS, glazing, brick
- Concrete/Metal decking Flooring system
- Interior Walls and Ceilings are gypsum wall board per code
- Closed Loop Mechanical System
- 150 Amp Electrical Service per unit
- Hard wired smoke and heat detectors with battery backup and one combination smoke/carbon monoxide detector per code
- Ground Fault Interrupt (GFI) installed per code
- Fire Suppression designed per code
- STC Rating designed per code

EXHIBIT 5

[Job Creation Agreement]

JOB CREATION AGREEMENT

THIS JOB CREATION AGREEMENT made this 15th day of October between **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, its nominee or assignee, ("Legacy Park"), and **CITY OF PORTLAND, MAINE** a municipal corporation located at 389 Congress Street, Portland, Maine 04101 ("City").

WHEREAS Legacy Park is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, (collectively, "Agreement"), as amended, for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a $9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park from funds being provided to the City by the U.S. Department of Housing and Urban Development pursuant to the Bayside Redevelopment Project, Maine BEDI Grant and Section 108 Loan Program, ("HUD Funds"), toward the expense of the construction of a garage, with no fewer than 700 parking spaces and approximately thirty thousand square feet of commercial space on the first floor on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage");

WHEREAS Section 11 of the Agreement requires Legacy Park to comply with all the terms and conditions related to the use of the HUD Funds contributed by the City as City Grant Funds to Legacy Park for the construction of the Garage related to providing documentation of job creation in accordance with the terms of this Job Creation Agreement.

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration the parties covenant and agree in this Job Creation Agreement as follows:

1. Job Creation Requirement:

    (a) Legacy Park shall create a minimum of 40 new[1] permanent, full-time or full-time equivalent jobs[2] in the Bayside neighborhood resulting from or related to the disbursement of the City Grant Funds for the construction of the Garage. ("Job Creation Requirement"). For the purpose of this Jobs Creation Agreement, Legacy Park may meet the Job Creation Requirement with jobs related to the operation of the Garage or jobs related to new or existing Bayside neighborhood business activity created or increased by the operation of the Garage. The new jobs may be, but are not required to be, employees of Legacy Park, or its lessees,

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[1] In accord with HUD law and regulations, these must be new jobs, and not re-located jobs.

[2] Per currently applicable regulations, full time jobs require a worker to work at least 1750 hours per year. Part time jobs require a worker to work at least 875 hours but less than 1750 hours per year. Part-time jobs **must** be converted to Full Time Equivalents (FTE). An FTE can be defined as two part time jobs. Also or said another way, no more than two part-time jobs can equal one full-time job.

City agrees to assist Legacy Park with information required by Legacy Park to meet the Reporting Requirements of this Job Creation Agreement related to Job Creation Requirement. In particular, when 'countable' new jobs are created by businesses that are not lessees of Legacy Park, the City will use best efforts to assist Legacy Park to obtain the necessary documentation from such employers or otherwise, to 'count' these jobs to, in part, meet this Job Creation Requirement; Legacy Park, however, acknowledges that this Job Creation Requirement (and the related reporting) remains its obligation. The jobs must be created within two (2) years from the issuance of the Certificate of Occupancy for the Garage.

(b) Legacy Park shall be deemed to have met the Job Creation Requirement and this Job Creation Agreement shall terminate upon submission to the City of a Position Summary Quarterly Report identifying the 40th full time or full time equivalent new job created in accordance with the provisions of Section 1(a) of this Job Creation Agreement, and verification and approval of the same by the City.

2. <u>Reporting Requirements</u>:

Legacy Park shall submit a Position Summary Quarterly Report, (Attachment A), for all new jobs created under this Job Creation Agreement on a quarterly basis until the Job Creation Requirement is met:

(a) total number of full time persons employed as a result of the completion of the Garage;

(b) total number of part time persons employed as a result of the completion of the Garage; and

(c) the employee name, job title, and average number of hours worked per week for the previous quarter.

AND EITHER (Choose 1 or 2 to be used for Legacy Park and it's Lessees reporting job creation):

1) Applicant/employer certifications (Attachment B) to be completed by all potential employees and the employer;

OR

2) A copy of the companies' payrolls. A baseline payroll must be submitted prior to the completion of the Garage.

3. <u>Default</u>. Legacy Park shall be deemed to be in default of this Job Creation Agreement if there is a failure to comply with any of the terms, conditions, provisions, or covenants of this Job Creation Agreement, or its obligations hereunder, including its obligation to meet

the Job Creation Requirement set forth herein. Any default will be considered a breach of this Job Creation Agreement and Section 9 of the Parking Garage Contribution Agreement. If Legacy Park informs the City, in good faith, at least 3 months before the deadline for its meeting this Job Creation Requirement that Legacy Park may not meet this deadline, with evidence and reasons for this, the City will use its best efforts to obtain an extension of this deadline from HUD or to otherwise change this requirement, such as a reduction in the number of required new jobs, and if it obtains such an extension or change, it shall immediately transmit to Legacy Park evidence of this extension or change by HUD, and this timetable shall thereby be correspondingly changed, without further action of the parties hereto being required.

4. Records. Legacy Park agrees to maintain a copy of all records related to the creation of jobs as required by this Job Creation Agreement for a period of four years after the creation of the 40th job. Legacy Park will, at any time during normal business hours, and as often as the City may deem necessary, permit the City, HUD or its designee to have full and free access to Legacy Park's records related to the new jobs identified in the Position Summary Quarterly Reports submitted under this Job Creation Agreement and to make copies of same at no cost or expense to the City. This right also extends to verification of the wages paid related to the new jobs. City agrees to review and maintain copies of such employment related records in complete confidentiality and in accordance with all State and Federal laws related to employment information and records.

5. Compliance with Laws and Regulations. Legacy Park, as the recipient City Grant Funds, shall comply with all applicable requirements of Federal laws related to the HUD Funds received by the City including, but not limited to, the applicable provisions of Title 24 Code of Federal Regulations, Section 570, state or local laws, regulations or ordinances and further agrees to abide by Title VIII of the Civil Rights Act of 1968 barring discrimination upon the basis of race, color, religion, familial status, sex or national origin, in the sale, lease, rental, use or occupancy of Legacy Park's property

6. Entire Agreement. This Job Creation Agreement and the Parking Garage Contribution Agreement constitute the entire agreement between the parties arising out of or related to Section 11 of the Agreement, as assigned and amended, and supersedes all prior representations and understandings of the parties. No modifications or amendments of the Job Creation Agreement shall be binding unless executed in writing by all the parties.

7. Waiver. No waiver of any of the provisions of this Job Creation Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

8. Successors. This Job Creation Agreement shall be binding upon and shall inure to the benefit of, the parties, their respective personal representatives, heirs, successors and assigns.

9. Assignment. Legacy Park shall not have the right to assign this Job Creation Agreement, or any rights hereunder, to any person or entity without the express written consent of the City. Such consent by the City shall not be unreasonably withheld.

10. Governing Law. This Job Creation Agreement shall be governed by and construed in accordance with the State of Maine.

11. Notices. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, email: MHR@portlandmaine.gov, with a copy to, the Director of Economic Development, facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), email: gary@portlandmaine.gov , and to Buyer c/o The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j_cox@federatedcompanies.com.

12. Counterparts. This Job Creation Agreement may be executed in any number of counterparts, which together shall constitute one document.

13. Paragraph Headings. The paragraph headings hereof are for convenience only and shall not form a part of this Job Creation Agreement or be used in the interpretation hereof.

IN WITNESS WHEREOF, the parties have executed this Job Creation Agreement as of the date first written above.

Legacy Park Apartments LLC:

Witness

By: Jonathan Cox
Its: Member

City of Portland, Maine

Judith Rosen
Witness

Mark H Rees
By: Mark H. Rees
Its: City Manager

Approved: Ellen Sanborn/Finance Director

LCW
Approved as to Form/Corp. Counsel

ATTACHMENT A

POSITION SUMMARY QUARTERLY REPORT

This report summarizes all the *new* employee information you have collected for new positions created since your last report. Please list all new employees hired. *Do not include new employees hired to fill job vacancies caused by an employee who left.* The report should be completed as of the last day of each quarter (March 31, June 30, September 30, and December 31) and submitted to avp@portlandmaine.gov by the 10th of the month following the quarterly period covered. The report is to be submitted by Legacy Park with either: 1) the Applicant/ Employer Certifications (attachment B) or 2) a copy of the company's payroll, including all weeks in the quarter. If you decide to submit the company payrolls you will need to provide a baseline payroll prior to utilizing the garage. If you have any questions, please do not hesitate to call at 207-874-8731.

Date: ______________________

Company Name: ________________________

Employee's Name	**Job Title**	**Work Hours per Week**

Number of Full Time Employees at End of Last Quarter ________

Number of Part Time Employees at End of Last Quarter ________

Number of New Full Time Positions Filled in this Quarter ________

Number of New Part Time Positions Filled in this Quarter ________

Total Full Time and Part Time Employees Ending this Quarter ________
(No more than two part time jobs can be added to create one full time equivalent.)

Employer Certification
To the best of my knowledge, I certify that the information contained in this position Summary Report is true and accurate.

____________________ ____________________
Quarter Ending Signature/Title

____________________ ____________________
Date Company

ATTACHMENT B

Applicant/Employer Certification

This employer has received funding from the City of Portland for business expansion that will create new jobs. The funding for this program comes from the U.S. Department of Housing and Urban Development. One of the requirements of this program is that we must report information about potential employees. Please complete the information requested below and return it to the employer. The information will not be used to evaluate you for this position.

Thank you in advance for your cooperation. If you have any questions about completing this form, please feel free to contact us at 207-874-8731.

APPLICANT CERTIFICATION

Name:____________________________Address:__________________________________

Employer:__________________________Job Applied For: __________________________

How many persons live in your household? ___
The Head of Household is female ___ or male___

Check all that apply. I am:
_____ Hispanic or Latino
_____ American Indian or Alaskan Native
_____ Asian
_____ Black or African American
_____ Native Hawaiian or Other Pacific Islander
_____ White

Date: ____________ Signature: ________________________________

EMPLOYER CERTIFICATION

Job Title: ___________________________________

Full Time ______Part Time _____ # of Hours per Week _________

Starting Pay/Hourly Rate $

Date Interviewed: __/__/__Date Hired: __/__/

Employer Name__________________________ Signature/Title________________________