Regular City Council Meeting
November 21, 2016

1. City Council Agenda Only

   Documents:

   11-21-16 AGENDA.PDF

2. Agenda And Packet 2016-11-21

   Documents:

   AGENDA AND PACKET 2016-11-21 - COPY.PDF

3. Addendum To Order 88

   Documents:

   2016 11 17 LTR HINCK.PDF

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

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

AGENDA
REGULAR CITY COUNCIL MEETING
NOVEMBER 21, 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:

PRESENTATIONS:

Mayor Strimling Will Present a New Bicycle to Elijah Wentzell, Age 6, Passport to Play Winner.

The Passport to Play program was designed in partnership with Portland Parks, Recreation & Facilities and the Health & Human Services Department to encourage children to get outside to play and exercise. Children were asked to find a special post in ten different parks and make an etching of the plaque in their passport. Once completed, passports are returned to Portland Recreation and entered into a drawing. All children participating receive a pass for a free swim at one of the city's public pools or a free skate at the Troubh Ice Arena. A drawing is held in October, and the winner receives a new bicycle.

RECOGNITIONS:

"Arts in the Chamber", Genevieve Curtis Singer/Song Writer and Student at Maine Academy of Modern Music.

ANNUAL MEETING

(Tab 1) **Annual Meeting of the Corporator of Creative Portland (CP) – Sponsored by Mayor Ethan K. Strimling.**

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After the Board meeting, City administration advised Creative Portland that it would need to be postponed to November 21, 2016 due to Election Day on November 8th.

This year's Annual Meeting agenda includes:

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This year's Annual Meeting Agenda includes:

1. Accepting PDC FYE 2016 Activity and Financial Reports;
2. Transaction of other business as may be deemed necessary.

For FY2016, the PDC invested over $500,000 in 15 businesses and economic development projects, which leveraged over $1.2 million in private sector funds associated with creating 28 jobs and retaining 11 jobs. FY16 loan activity included a public to private investment ratio of 1:3. Additionally, at the end of the first quarter of FY17, the PDC closed on three loans totaling over $187,000, leveraging just under $500,000 in private investment associated with the creation of 19 jobs.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 3) November 7, 2016, Regular City Council Meeting Minutes

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Proc 15-16/17
(Tab 4) **Proclamation Honoring Detective Andjelko Napijalo as Police Officer of the Month – Sponsored by Mayor Ethan K. Strimling.**

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<u>COMMUNICATIONS:</u>

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On October 25, 2016, the Economic Development Committee met and voted unanimously (3-0) to forward this report to the City Council as a Communication.

City Tax Increment Financing (TIF) Policy, adopted by the City Council on February 4, 2013, requires the preparation and presentation of an annual TIF district activity report. The FY2016 TIF Annual Report represents the fourth year of reporting.

Highlights of this year's report notes City Council TIF actions during FY2016. This includes that the Council's Housing and Community Development Committee, at the end FY2015, reviewed and recommended to the Council approval of the 17 Carleton Street Affordable Housing TIF and Credit Enhancement Agreement (CEA). The City Council reviewed and approved this TIF and CEA at its August 3, 2015 meeting. The Council then brought it back for reconsideration on September 9, 2015 and postponed it at that meeting to September 21, 2015, at which meeting it voted to reapprove the District and Credit Enhancement Agreement.

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According to Rule 30 of the Portland City Council Rules of Procedure, notice for any potential amendment to the Rules of Procedure must be provided at the preceding meeting. This communication provides that notice. Mayor Strimling is appointing Councilors Mavodones, Duson, Costa and Mayor Strimling (Chair) to serve on an Ad Hoc Committee to review the City Council Rules and determine if any amendments or changes are recommended.

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The Economic Development Committee reviewed this item at its October 25, 2016, meeting and voted unanimously (3-0) to forward it to the City Council with a recommendation for passage.

Changes in corporate entities are taking place to support the redevelopment of the Motherhouse Project and surrounding property located in the McAuley Place TIF District.

This necessitates City Council approval to assign the McAuley Place TIF CEA to a new business entity which is permitted under the existing City Council approved CEA per Section 7.3.

Five affirmative votes are required for passage after public comment has been given.

Order 88-16/17 (Tab 10) **Order Accepting the Portland International Jetport Sustainable Airport Master Plan – Sponsored by the Energy & Sustainability Committee, Councilor Jon Hinck, Chair.**

The Energy & Sustainability Committee met on April 27, 2016 and voted (3-0) to send this item to the City Council with a recommendation for passage.

The Portland International Jetport received an Airport Improvement Program (AIP) grant from the FAA to conduct a Sustainable Airport Master Plan in 2014. The Jetport was selected to participate in the pilot sustainable airport master plan program due to its track record of sustainable initiatives and due to the need to update its prior 2008 master plan.

A sustainable airport master plan follows the same planning process as a traditional airport master plan while fully integrating sustainability into the planning process. Airport master plans are typically conducted every ten years to ensure needed safety and capacity improvements are planned. The City Council established a 24 member Planning Advisory Committee (PAC) in August of 2014 to provide community, business, tourism, regulatory, airline, and general aviation stakeholder input throughout the plan development.

Work on the sustainable airport master plan commenced in September of 2014. The planning process which included five PAC meetings and four public workshops over 19 months was largely concluded in April 2016 when the Energy & Sustainability Committee voted to send the plan to the City Council for acceptance. In June 2016 the City Council held a workshop on the Sustainable Airport Master Plan. Following this workshop Jetport staff conducted additional outreach and response to public comments received.

The Sustainable Airport Master Plan is now complete and provides a capital improvement program to meet both safety and capacity required improvements over the next twenty years.

The plan is broken into improvements for short term (years 1-6), intermediate term (years 7-11), and long term (years 12-20). The total cost of the capital program over the next 20 years in inflation adjusted numbers is $312.3 million.

The program is covered solely through federal FAA, state, and local Jetport funds. A detailed financial analysis completed as part of the plan indicates the Jetport is fully capable of generating sufficient revenues to offset the proposed future expenditures.

Five affirmative votes are required for passage after public comment.

Order 89-16/17 (Tab 11) — **Order Approving Extension of Lease with General Services Administration Re: Transportation Security Administration Office Space at Jetport – Sponsored by Jon P. Jennings, City Manager.**

The Transportation Security Administration's current lease for office space at the Portland International Jetport will expire on December 31, 2017. The General Services Administration (GSA) on the TSA's behalf has agreed to extend the current lease for an additional year.
All terms of the current lease outlined below will remain in effect; the only change will be an extension of the term by one year. The terms of the lease are as follows:

- Term: One year
- Area: The lease premises include 8,215 square feet of office space on the second level of the Jetport's terminal building and 15 parking spaces in the short term section of the parking garage.
- Rate: The rate is $38.70 per square foot annually. This equates to a total annual payments of $317,920.50. This rate is comparable to the airport terminal rate currently being paid by the airlines under the Jetport's airline signatory lease agreement previously approved by the City Council.

Five affirmative votes are required for passage after public comment.

Order90-16/17 (Tab 12) **Order Authorizing Salary Increase for Corporation Counsel and and the City Clerk – Sponsored by the Legislative/Nominating Committee, Councilor Justin Costa, Chair.**

Annual performance appraisals were conducted by the City Council with Corporation Counsel Danielle West-Chuhta and the City Clerk Katherine Jones on Wednesday, October 5, 2016.

A recommendation and approval is needed to grant Corporation Counsel and the City Clerk compensation adjustments as follows, retroactive to July 3, 2016.

Corporation Counsel: 2% COLA adjustment; 3% Merit adjustment based on annual evaluation; 6% equity adjustment.

City Clerk: 2% COLA adjustment; 3% Merit adjustment based on annual evaluation; 12% equity increase.

Five affirmative votes are required for passage after public comment.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 73-16/17 (Tab 13) **Moratorium Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula – Sponsored by Councilor Belinda Ray.**

All parks have elements which contribute to their essential character, such as views and sightlines, landscape features, historic associations, trails, athletic fields, meadowlands, and wildlife habitat.

Development that occurs adjacent to public parks can affect one or more of these defining elements, thereby compromising the essential character of a park and decreasing the quality and availability of open space in the City.

Councilor Belinda Ray has proposed that the City Council consider a 90-day moratorium on the approval of site plans and subdivisions from October 5, 2016 until January 4, 2017, in order to allow time to draft ordinances that could guard against such infringement on the essential character and open space of city parks.

The moratorium would affect only projects on properties that directly abut city parks, and not any on properties across a city street. It would only apply to such properties in the R-6 Zone in the 1st Council District on the Portland Peninsula. According to the Planning and Urban Development Department, this moratorium would affect one project currently under consideration.

Should the City Council approve the moratorium, staff would follow up by developing language designed to limit the potential for damage caused by development projects to the essential character and primary assets of the city's parks in the defined area. That language would likely return to the City Council for review and approval prior to the expiration of the moratorium.

This item must be read on two separate days. It was given a first reading on October 17, 2016. At the November 7, 2016, City Council meeting it was postponed to this meeting. Seven affirmative votes are required for passage as an emergency after public comment.

Order 81-16/17 (Tab 14)

Order Approving Collective Bargaining Agreement with Professional and Technical City Employee Association (Pro-Tech) - Sponsored by Jon P. Jennings, City Manager.

The collective bargaining agreement with the Professional and Technical City Employee Association expired on July 2, 2016. The Association is comprised of approximately 140 Professional and Technical employees.

The City staff has reached a tentative agreement for a three-year contract. Terms of the three-year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018.

The general wage increases are consistent with guidance received by the City Council on July 6, 2016 and again on September 19, 2016.

The members of Pro Tech have ratified the three-year tentative agreement.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Five affirmative votes are required for passage after public comment.

Order 82-16/17 (Tab 15) **Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors – Sponsored by Jon P. Jennings, City Manager.**

City staff has reached a tentative one (1) year agreement with American Federation of State, County and Municipal Employees (AFSCME) Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from the City Council on August 1, 2016.

The parties have tentatively agreed to a one (1) year contract extension with a general wage increase of 2% effective July 3, 2016. In consideration of the above, the union has tentatively agreed to the City's proposed Direct Deposit and paperless pay stub system.

The contract term is July 3, 2016 through July 1, 2017. The total direct cost of the general wage increase is approximately $39,500.00.

The members of AFSCME Local 481-07 Supervisors have ratified the one-year tentative agreement.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Five affirmative votes are required for passage after public comment.

Order 83-16/17 (Tab 16) **Order Accepting a Housing and Urban Development Lead Hazard Control Grant and Appropriating $1,814,867 for Lead Abatement in Cumberland County Residential Housing – Sponsored by Jon P. Jennings, City Manager.**

This order seeks the City Council’s authorization to appropriate $1,814,867 in HUD Lead Hazard Control and Healthy Home Supplemental Funding to abate lead in 88 residential units throughout Cumberland County.

Grant goals include testing on 90 units, abatement in 88 units, 22 community outreach/education events and training 50

Environmental Protection Agency Renovation, Repair and Painting certified workers. The grant will be for three years and will expire in 2019.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Five affirmative votes are required for passage after public comment.

Order 84-16/17 (Tab 17) **Moratorium Re: Retail Marijuana Establishments and Social Clubs – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

On November 8, 2016, Maine voters approved the Marijuana Legalization Act (the "Act"), allowing for consumption, distribution and business development of and for marijuana products.

The Act allows municipalities to regulate the licensing of retail marijuana establishments, including stores, cultivation facilities, retail testing facilities, and also marijuana social clubs. The proposed moratorium on these businesses will allow the City of Portland and the State of Maine to draft rules for licenses and other ordinances that would limit where in the City the businesses can operate, among other things.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Seven affirmative votes are required for passage as an emergency after public comment.

BREAK FOR DINNER:

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

UNFINISHED BUSINESS:

Order 76-16/17 (Tab 18) **Amendment to Portland City Code Chapter 6, Building & Building Regulations Re: Tenant Housing Rights - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and Councilor David Brenerman, Vice Chair.**

On September 28, 2016, the Housing Committee voted unanimously (5-0) to recommend a package of five (5) housing insecurity policy items to the Council for their consideration and incorporation into the City Code. The package includes the following items:

1. Increase notification for residential rent increases from 45 days to 75 days for all tenants-at-will and prior to the end of an existing lease.
2. Landlords and tenants must sign a document to be drafted by the City explaining tenancy-at-will.

3. Creation of a leaflet outlining tenant/landlord rights and responsibilities that must be distributed to all tenants.
4. Establish a tenant/landlord commission comprised of 7 members and co-chaired by one landlord and one tenant representative.
5. Incorporation of Maine Human Rights Act prohibition against income discrimination into City ordinance.

This item must be read on two separate days. At the October 17, 2016, City Council meeting, it was postponed to this meeting. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 91-16/17 (Tab 19) **Order Approving Purchase and Sale Agreement with CPB2 LLC for for Sale of City Property – Sponsored by the Economic Development Committee, Councilor David Brenerman, Chair.**

The Economic Development Committee met on November 1, 2016, and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

City Council approval is needed to authorize the City Manager to enter into a proposed Purchase and Sale Agreement between the City and CPB2 LLC (Portland Company Developers) to sell 12,116 +/- square feet of City property for $400,000 at $33.00 per square foot for the purpose of providing access, through Thames Street and planned Thames Street extension, to the Portland Company Site.

Public benefits associated with this transaction include:

Road and utility extension to attract private sector investment to support the Portland Company site and position the City-owned property located across from Ocean Gateway for sale at the highest value, and to support redevelopment of the super municipal block bounded by Fore, Hanover, and Thames Street and the new proposed Connector Road;

Improved public access to City-owned remaining Thames Street Property, CPB2/Portland Company property, and other adjacent privately owned properties;

Improved public access to the waterfront and Amethyst Lot which is planned to become future public open space; and

Real estate sale proceeds in the amount of $400,000 at $33.00 per square foot.

Five affirmative votes are required for passage after public comment.

Order 92-16/17 **(Tab 20)**

Order Approving the Collective Bargaining Agreement with the City Employees Benefit Association (CEBA) of the American Federation of State, County and Municipal Employees (AFSCME) Local 1373 - Sponsored by Jon P. Jennings City Manager.

City staff has reached a tentative three (3) year agreement with CEBA AFSCME Local 1373 representing approximately 500 city employees.

The CEBA contract expired on July 2, 2016. Terms of the three year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018.

The general wage increases are consistent with guidance received by Council on August 1, 2016 and they are consistent with other negotiated contracts for the same period. The contract term is July 3, 2016 through June 30, 2019. The total direct cost of the general wage increase is $1,105,000.00.

The union membership has ratified the tentative agreement.

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

AMENDMENTS:

Order 93-16/17 **(Tab 21)**

Amendment to Zoning Map Re: 10 Washington Avenue to India Street Form-Based Code Zone – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

On October 25, 2106, the Planning Board met and unanimously voted 6-0 (Boepple absent) to forward this item to the City Council with a recommendation for passage.

The proposed map amendment relates to the IS-FBC zone boundary on-peninsula on Washington Avenue. The proposal would make the three adjacent parcels owned by the applicant Hay Runner, LLC one consistent zone (IS-FBC) with an Urban Active sub district designation (UA). This requires a zoning map amendment for the third parcel at 10 Washington Avenue from B-2b to IS-FBC.

The proposed zoning map amendment would increase the boundary of the India Street Form-based Code zone to include one additional parcel. That parcel is one of three parcels held by the applicant whose combined development site straddles B-2b and IS-FBC zones.

Currently, two of those parcels – 221 Congress Street and 6 Washington Avenue – are in the IS-FBC UA zone. The parcel under consideration here – 10 Washington Avenue – is adjacent to these parcels but is in the B-2b zone. The map amendment will allow consistent zoning standards to apply across the applicant's development lot.

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

Order 94-16/17 (Tab 22)

Amendment to Portland City Code Chapter 2 Administration Re: Authorization for Finance Director to Accept and Execute Certain Licenses and Easements – Sponsored by Jon P. Jennings, City Manager.

As part of an effort to streamline the development process, staff is proposing a change to Chapter 2 of the Portland City Code to permit the City Manager and Finance Director to execute certain licenses and easements.

It is common in an urban environment for developments to require licenses for foundations (below ground) and/or for steps, ADA-compliant ramps, overhangs, or similar appurtenances on public sidewalks or rights of way. These licenses and easements are often requirements of site plan approval by the Planning Board and have been publicly vetted through that process to protect the public interest.

This change would eliminate the requirement that these licenses and easements go to the City Council for approval and instead authorize City staff to administratively approve them.

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Order90-16/17 (Tab 12) **Order Authorizing Salary Increase for Corporation Counsel and and the City Clerk – Sponsored by the Legislative/Nominating Committee, Councilor Justin Costa, Chair.**

Annual performance appraisals were conducted by the City Council with Corporation Counsel Danielle West-Chuhta and the City Clerk Katherine Jones on Wednesday, October 5, 2016.

A recommendation and approval is needed to grant Corporation Counsel and the City Clerk compensation adjustments as follows, retroactive to July 3, 2016.

Corporation Counsel: 2% COLA adjustment; 3% Merit adjustment based on annual evaluation; 6% equity adjustment.

City Clerk: 2% COLA adjustment; 3% Merit adjustment based on annual evaluation; 12% equity increase.

Five affirmative votes are required for passage after public comment.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 73-16/17 (Tab 13) **Moratorium Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula – Sponsored by Councilor Belinda Ray.**

All parks have elements which contribute to their essential character, such as views and sightlines, landscape features, historic associations, trails, athletic fields, meadowlands, and wildlife habitat.

Development that occurs adjacent to public parks can affect one or more of these defining elements, thereby compromising the essential character of a park and decreasing the quality and availability of open space in the City.

Councilor Belinda Ray has proposed that the City Council consider a 90-day moratorium on the approval of site plans and subdivisions from October 5, 2016 until January 4, 2017, in order to allow time to draft ordinances that could guard against such infringement on the essential character and open space of city parks.

The moratorium would affect only projects on properties that directly abut city parks, and not any on properties across a city street. It would only apply to such properties in the R-6 Zone in the 1st Council District on the Portland Peninsula. According to the Planning and Urban Development Department, this moratorium would affect one project currently under consideration.

Should the City Council approve the moratorium, staff would follow up by developing language designed to limit the potential for damage caused by development projects to the essential character and primary assets of the city's parks in the defined area. That language would likely return to the City Council for review and approval prior to the expiration of the moratorium.

This item must be read on two separate days. It was given a first reading on October 17, 2016. At the November 7, 2016, City Council meeting it was postponed to this meeting. Seven affirmative votes are required for passage as an emergency after public comment.

Order 81-16/17 (Tab 14) **Order Approving Collective Bargaining Agreement with Professional and Technical City Employee Association (Pro-Tech) - Sponsored by Jon P. Jennings, City Manager.**

The collective bargaining agreement with the Professional and Technical City Employee Association expired on July 2, 2016. The Association is comprised of approximately 140 Professional and Technical employees.

The City staff has reached a tentative agreement for a three-year contract. Terms of the three-year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018.

The general wage increases are consistent with guidance received by the City Council on July 6, 2016 and again on September 19, 2016.

The members of Pro Tech have ratified the three-year tentative agreement.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Five affirmative votes are required for passage after public comment.

Order 82-16/17 (Tab 15) **Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors – Sponsored by Jon P. Jennings, City Manager.**

City staff has reached a tentative one (1) year agreement with American Federation of State, County and Municipal Employees (AFSCME) Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from the City Council on August 1, 2016.

The parties have tentatively agreed to a one (1) year contract extension with a general wage increase of 2% effective July 3, 2016. In consideration of the above, the union has tentatively agreed to the City's proposed Direct Deposit and paperless pay stub system.

The contract term is July 3, 2016 through July 1, 2017. The total direct cost of the general wage increase is approximately $39,500.00.

The members of AFSCME Local 481-07 Supervisors have ratified the one-year tentative agreement.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Five affirmative votes are required for passage after public comment.

Order 83-16/17 (Tab 16) **Order Accepting a Housing and Urban Development Lead Hazard Control Grant and Appropriating $1,814,867 for Lead Abatement in Cumberland County Residential Housing – Sponsored by Jon P. Jennings, City Manager.**

This order seeks the City Council's authorization to appropriate $1,814,867 in HUD Lead Hazard Control and Healthy Home Supplemental Funding to abate lead in 88 residential units throughout Cumberland County.

Grant goals include testing on 90 units, abatement in 88 units, 22 community outreach/education events and training 50

Environmental Protection Agency Renovation, Repair and Painting certified workers. The grant will be for three years and will expire in 2019.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Five affirmative votes are required for passage after public comment.

Order 84-16/17 (Tab 17) **Moratorium Re: Retail Marijuana Establishments and Social Clubs – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

On November 8, 2016, Maine voters approved the Marijuana Legalization Act (the "Act"), allowing for consumption, distribution and business development of and for marijuana products.

The Act allows municipalities to regulate the licensing of retail marijuana establishments, including stores, cultivation facilities, retail testing facilities, and also marijuana social clubs. The proposed moratorium on these businesses will allow the City of Portland and the State of Maine to draft rules for licenses and other ordinances that would limit where in the City the businesses can operate, among other things.

This item must be read on two separate days. It was given a first reading on November 7, 2016. Seven affirmative votes are required for passage as an emergency after public comment.

BREAK FOR DINNER:

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

UNFINISHED BUSINESS:

Order 76-16/17 (Tab 18) **Amendment to Portland City Code Chapter 6, Building & Building Regulations Re: Tenant Housing Rights - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and Councilor David Brenerman, Vice Chair.**

On September 28, 2016, the Housing Committee voted unanimously (5-0) to recommend a package of five (5) housing insecurity policy items to the Council for their consideration and incorporation into the City Code. The package includes the following items:

1. Increase notification for residential rent increases from 45 days to 75 days for all tenants-at-will and prior to the end of an existing lease.
2. Landlords and tenants must sign a document to be drafted by the City explaining tenancy-at-will.

3. Creation of a leaflet outlining tenant/landlord rights and responsibilities that must be distributed to all tenants.
4. Establish a tenant/landlord commission comprised of 7 members and co-chaired by one landlord and one tenant representative.
5. Incorporation of Maine Human Rights Act prohibition against income discrimination into City ordinance.

This item must be read on two separate days. At the October 17, 2016, City Council meeting, it was postponed to this meeting. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 91-16/17 (Tab 19) — **Order Approving Purchase and Sale Agreement with CPB2 LLC for for Sale of City Property – Sponsored by the Economic Development Committee, Councilor David Brenerman, Chair.**

The Economic Development Committee met on November 1, 2016, and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

City Council approval is needed to authorize the City Manager to enter into a proposed Purchase and Sale Agreement between the City and CPB2 LLC (Portland Company Developers) to sell 12,116 +/- square feet of City property for $400,000 at $33.00 per square foot for the purpose of providing access, through Thames Street and planned Thames Street extension, to the Portland Company Site.

Public benefits associated with this transaction include:

Road and utility extension to attract private sector investment to support the Portland Company site and position the City-owned property located across from Ocean Gateway for sale at the highest value, and to support redevelopment of the super municipal block bounded by Fore, Hanover, and Thames Street and the new proposed Connector Road;

Improved public access to City-owned remaining Thames Street Property, CPB2/Portland Company property, and other adjacent privately owned properties;

Improved public access to the waterfront and Amethyst Lot which is planned to become future public open space; and

Real estate sale proceeds in the amount of $400,000 at $33.00 per square foot.

Five affirmative votes are required for passage after public comment.

Order 92-16/17 **(Tab 20)**

Order Approving the Collective Bargaining Agreement with the City Employees Benefit Association (CEBA) of the American Federation of State, County and Municipal Employees (AFSCME) Local 1373 - Sponsored by Jon P. Jennings City Manager.

City staff has reached a tentative three (3) year agreement with CEBA AFSCME Local 1373 representing approximately 500 city employees.

The CEBA contract expired on July 2, 2016. Terms of the three year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018.

The general wage increases are consistent with guidance received by Council on August 1, 2016 and they are consistent with other negotiated contracts for the same period. The contract term is July 3, 2016 through June 30, 2019. The total direct cost of the general wage increase is $1,105,000.00.

The union membership has ratified the tentative agreement.

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

AMENDMENTS:

Order 93-16/17 **(Tab 21)**

Amendment to Zoning Map Re: 10 Washington Avenue to India Street Form-Based Code Zone – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

On October 25, 2106, the Planning Board met and unanimously voted 6-0 (Boepple absent) to forward this item to the City Council with a recommendation for passage.

The proposed map amendment relates to the IS-FBC zone boundary on-peninsula on Washington Avenue. The proposal would make the three adjacent parcels owned by the applicant Hay Runner, LLC one consistent zone (IS-FBC) with an Urban Active sub district designation (UA). This requires a zoning map amendment for the third parcel at 10 Washington Avenue from B-2b to IS-FBC.

The proposed zoning map amendment would increase the boundary of the India Street Form-based Code zone to include one additional parcel. That parcel is one of three parcels held by the applicant whose combined development site straddles B-2b and IS-FBC zones.

Currently, two of those parcels – 221 Congress Street and 6 Washington Avenue – are in the IS-FBC UA zone. The parcel under consideration here – 10 Washington Avenue – is adjacent to these parcels but is in the B-2b zone. The map amendment will allow consistent zoning standards to apply across the applicant's development lot.

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

Order 94-16/17 (Tab 22)

Amendment to Portland City Code Chapter 2 Administration Re: Authorization for Finance Director to Accept and Execute Certain Licenses and Easements – Sponsored by Jon P. Jennings, City Manager.

As part of an effort to streamline the development process, staff is proposing a change to Chapter 2 of the Portland City Code to permit the City Manager and Finance Director to execute certain licenses and easements.

It is common in an urban environment for developments to require licenses for foundations (below ground) and/or for steps, ADA-compliant ramps, overhangs, or similar appurtenances on public sidewalks or rights of way. These licenses and easements are often requirements of site plan approval by the Planning Board and have been publicly vetted through that process to protect the public interest.

This change would eliminate the requirement that these licenses and easements go to the City Council for approval and instead authorize City staff to administratively approve them.

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

Tab 1 11-21-16

Portland, Maine   Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM
City Council Agenda Item

TO: Mayor and Members of the City Council

FROM: Dinah Minot, Executive Director/Creative Portland
Sondra Bogdonoff, President/Creative Portland Board

DATE: October 31, 2016

SUBJECT: Annual Meeting of Corporator of Creative Portland (CP)

SPONSOR: Mayor Ethan K. Strimling

COUNCIL MEETING DATE ACTION IS REQUESTED: November 21, 2016

Can action be taken at a later date? Yes.

PRESENTATION: Sondra Bogdonoff, President/Creative Portland Board, 5 Minutes

I. SUMMARY OF ISSUE

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

1. Accepting CP FYE 2016 Activity and Financial Reports – see attached.

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

At the October 5, 2016, meeting of the Creative Portland Board of Directors, the Board set the date for the Annual Meeting of the Corporator as November 7, 2016. After that Board meeting, City administration advised Creative Portland that it would need to be postponed to November 21, 2016 due to Election Day on November 8th.

III. INTENDED RESULT

The intended result of the Annual Meeting of the Corporator would be for it to receive and accept the annual Activity and Financial Report.

IV. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

There is no financial impact associated with these actions.

VI. STAFF ANALYSIS AND RECOMMENDATION

Creative Portland Board and its staff recommend that the Corporator hold the Annual Meeting of Creative Portland on November 21, 2016, to review and accept the annual Activity and Financial Report.

VIII. LIST ATTACHMENTS

- CP FYE16 Activity and Financial Report

CREATIVE**PORTLAND**ME

CREATIVE PORTLAND CORPORATION BOARD OF DIRECTORS

FISCAL YEAR 2016 ANNUAL REPORT

The Creative Portland Corporation (CP) submits this Annual Report to the Portland City Council, Corporator of Creative Portland, on November 4, 2016. This is the seventh Annual Report submitted as CP ended its sixth fiscal year of operations on June 30, 2016. A financial summary of Creative Portland's FY16 revenue and expenses is included with this document.

The Creative Portland Board of Directors thanks the Portland City Council for allotting TIF funds in the amount of $100,000 during FY16 from the Creative Portland Development and Arts TIF District. With this investment, CP was able to leverage additional funding from various public and private sources in cash grants and donations just over $68,600, plus $8,930 in specific in-kind donations and additional thousands of hours of in-kind support and countless hours contributed by dozens of volunteers.

This year in particular CP is very appreciative of discussions with the City Manager and the Director of the Economic Development Department that resulted in the city taking on the payroll distribution and benefits for our employees and agreeing to move forward with leasing Creative Portland city-owned space at 84 Free Street.

Creative Portland is the lead for the City of Portland's Economic Development Plan section, **Enrich the Creative Economy**. The plan tasks Creative Portland with leading a task force to create a brand identity for Portland, developing a web and social media plan on a national level, creating incentives to attract and retain artists and entrepreneurs for development of live/work residences or common workspace and housing, and developing creative financing mechanisms to help support major new, expanded, or rehabilitated cultural facilities, among others.

MISSION & VISION

Creative Portland was founded by Portland City Council to grow and support the creative economy. In 2009, the organization adopted the visionary goal of attracting 10,000 people to the city who value and support creativity, innovation and arts and culture. CP programs were designed to attract and connect people to the creative community and to provide support to the artists and creative entrepreneurs who make up that community.

This year we interviewed 17 key stakeholders and asked what they believed should be CP's goals. In response to those interviews we have shifted focus, continuing to attract and connect creatives, but also addressing some of the unintended consequences of growth. With the increased number of arts organizations we also wanted to work together and think strategically about Portland economic growth and creative sustainability. CP hopes you will see that reflected in some of our new initiatives. The city has made a substantial investment in Creative Portland, and we committed this year to an ambitious plan for growth. It is up to us to realize that potential in the years ahead.

NOTABLE ACCOMPLISHMENTS FY16

New initiatives

Challenge of Change – Are We Loving Portland to Death?

This one-day conference was co-hosted by CP, the Portland Society for Architecture (PSA) and GrowSmart Maine and raised approximately $5,000 from the private sector with several thousand provided in-kind by the University of Southern Maine.

More than 200 community members registered for the event and heard from the Mayor of Asheville, NC about their similar challenges as a growing small city. There was also a panel of knowledgeable professionals in the planning and economic development fields and break-out groups where the public was given the opportunity to express their views on the effects of growth and change in the City of Portland. Due to the positive feedback garnered in a follow-up evaluation, Creative Portland continues to partner with the PSA and others to present educational forums where the public can learn about the impacts of growth and hear various viewpoints.

Portland Arts Cultural Challenge

In our first Portland Arts Challenge (PAC) 30 creative partners hosted over 287 individual arts events between March 1 - 26, 2016. Fifteen teams of 6 each competed to attend as many events as possible to be crowned the Portland Arts Champions. From March 1st 26th, teams received daily emails with event listings and links. These events were also posted on the official PAC Facebook event page and listed on the Dispatch Magazine website. Teams had to post on the Facebook event page with team #s to earn points.

CP collected prizes (all donations) from our creative partners to give to award winners. All told, the Challenge brought in approximately $9,000 in in-kind gifts.

Updating Portland's Cultural Plan: Grant from Maine Arts Foundation

In March we applied for, and were later awarded, a $10,000 grant from the Maine Arts Commission to update Portland's 1998 Cultural Plan. With the tremendous growth in the arts community over the last 20 years and the recent investments in creative economy strategies by the City of Portland via Creative Portland, it is time to invite our peers into a formal, facilitated set of conversations about what challenges remain and how best to invest and leverage limited resources. This first grant from the Commission is the first step toward the possibility of a much larger state contribution. Once a cultural plan is complete, in 2017, the City of Portland will be eligible to apply for a $75,000 grant from the Commission to implement recommendations identified in the plan.

Ongoing initiatives

2 Degrees Portland & Live Work Portland programs

Started in January 2011, the 2 Degrees Portland program, a referral and networking service for people who are interested in living and working in the city, continues to serve 20-30 people every month. The database of people who live and/or work in Portland volunteering to be "connectors" also grows every month. There are now over 250 connectors who are willing to connect with, and assist, people who are interested in moving here. In FY16, 300 people from as far away at California and Australia contacted 2 Degrees for information and connections as they considered a move to the Portland area.

In partnership with companies like Northeast Bank (Lead Sponsor), Vitalius Real Estate (Lead Sponsor), LL Bean, Intermed, MaineHealth, Diversified Communications, Red Thread/Steelcase and others to apply our services like 2 Degrees and LiveWorkPortland.org to their recruitment efforts. These "business partnerships" that come with cash commitments represent direct leveraging of public funds.

We also organize six events each year at creative businesses and organizations throughout the city, including artist studios, co-working spaces, cultural institutions and historic buildings, as a means to introduce newcomers to Portland and encourage them to invest in these industries.

Creative Portland has collected dozens of testimonials of people whose decision to move to Portland was influenced and facilitated by the services on the LiveWork Portland website and 2 Degrees.

First Friday Art Walk

Now in its 17th year, the Art Walk continues to attract thousands to downtown Portland every month for Maine's largest monthly free cultural event. Based on research conducted in 2011, we estimate that the Art Walk brings $1 million to the local economy every year, as consumers spend an average of $28 per person when attending a Portland cultural event.

Creative Portland promotes and manages the Art Walk with free listings online and in print, generously sponsored by the Portland Phoenix and several organizational partnerships, including Portland Ovations, Portland Museum of Art and the Maine College of Art. In 2015, we were awarded a $10,000 grant from the Davis Family Foundation to increase promotion of the Art Walk, which funded handmade signs designed and produced by the Portland-based Open Bench Project.

We also worked with a USM undergraduate class in cultural tourism in 2015 to gather attendees' perspectives of the Art Walk, which demonstrated that many people who attend the

Art Walk purchase art during the event. We will be working with this class again to continue our research on the Art Walk's economic and community impact.

Americans for the Arts and Economic Impact Survey

For the third time, the City of Portland via Creative Portland is participating in a national economic development survey conducted by AFTA (Americans for the Arts) that repeats every five years. Now that Portland has participated a few times, the City will have some valuable trend data to share with the community, funders and other stakeholders. Specifically, it provides data on who attends arts events, what they pay and what financial contributions Portland's nonprofit arts groups are making to the local economy in terms of direct dollars as well as tax revenue in the form of sales taxes. It can be valuable as an advocacy tool in demonstrating how large and significant the nonprofit arts community is in Portland. This data will be part of the Cultural Plan process mentioned above and a way to engage some of the larger nonprofits (who contributed financially to the survey process) to help design a way to leverage the final data.

Fiscal Sponsorships

An important way we serve the creative community is as the fiscal sponsor for creative initiatives who require a 501C3 organization to apply for grants and accept donations. In FY 16 we were fiscal sponsors for organizations including:

- Fork Food Lab, a membership organization and community kitchen that connects food makers with food lovers.
- Maine Start-up and Create Week, a week long event that generated national publicity (NYT opED) highlighting the entrepreneurial spirit and growth in Portland.
- Bluestocking Film Festival, founded in 2011, is an annual event exclusively showcasing provocative short films featuring women and produced & directed by women.
- Portland Mural Initiative brings contemporary art into the public spaces of Portland and its surrounding areas by working with emerging and established artists that have a strong connection to Maine, to create innovative murals and architectural interventions.
- Work in Place Initiative, whose mission is to change the culture of work through programs and policies that benefit remote workers, organizations, and communities. A national conference to be held in Portland is planned for 2017.

CREATIVE PORTLAND FORMATION HISTORY

The City Council, by Order #92 passed November 17, 2008, authorized the establishment of Creative Portland (CP) as an economic development initiative to support Portland's creative economy. Formation of the Board of Directors was complete, in the summer of 2009, with City Council appointments to the Board of Directors.

One city councilor serves as the City Council representative and Greg Mitchell, Portland's Economic Development Director, serves as the City Manager's representative on the CP Board. As of December 1, 2016, the members of Creative Portland's Board of Directors are:

Peter Bass, Random Orbit, *Treasurer*

Sondra Bogdonoff, artist, *President*

Zeke Callanan, Opticliff Law

Patrick Costin, Canal 5 Studio

Randy Ferrell, Ocean Gate Realty

Arthur Fink, Arthur Fink Photography

Dee Dee Germain, Construction

Penny Harris, Consulting

Tim Honey, consultant, *Vice President*

Alex Jaegerman, City of Yarmouth

Alice Kornhauser, Portland Chamber Music Festival, *Imm. Past President*

Pat May, Crossover Touring

Greg Mitchell, City of Portland

Genie O'Brien, arts educator, past director, Portland Ballet

Mark Rubin, consultant/actor

Brianna Volk, Hunt and Alpine

The City Council, by Order #94 passed November 17, 2008, established the Creative Portland Development and Arts Tax Increment Financing (TIF) District, as a ten-year program, to provide annual "seed" financing to support CP operations. In 2012, the Council voted to extend that funding to 15 years.

Creative Portland
Balance Sheet
As of June 30, 2016

	Jun 30, 16	Jun 30, 15	$ Change
ASSETS			
Current Assets			
Checking/Savings			
1010 · Creative Portland Checking	123,463.70	13,769.26	109,694.44
1015 · Petty Cash	182.77	287.43	(104.66)
1030 · Investment Account	12.52	8.04	4.48
Total Checking/Savings	123,658.99	14,064.73	109,594.26
Accounts Receivable			
1100 · Accounts Receivable	73,285.00	13,928.00	59,357.00
Total Accounts Receivable	73,285.00	13,928.00	59,357.00
Other Current Assets			
1300 · Security Deposit	600.00	600.00	-
1600 · Prepaid expenses	335.40	195.00	140.40
Total Other Current Assets	935.40	795.00	140.40
Total Current Assets	197,879.39	28,787.73	169,091.66
Fixed Assets			
1400 · Fixed Assets	-	176.81	(176.81)
Total Fixed Assets	-	176.81	(176.81)
TOTAL ASSETS	197,879.39	28,964.54	168,914.85
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
2000 · Accounts Payable	128,662.11	558.88	128,103.23
Total Accounts Payable	128,662.11	558.88	128,103.23
Other Current Liabilities			
2105-01 · Accrued Payroll Liablity	5,948.61	2,290.74	3,657.87
2106-01 · Accrued Earned Time	-	4,123.35	(4,123.35)
Total Other Current Liabilities	5,948.61	6,414.09	(465.48)
Total Current Liabilities	134,610.72	6,972.97	127,637.75
Total Liabilities	134,610.72	6,972.97	127,637.75
Equity			
31000 · Unrest'd Net Assets	(8,265.76)	28,433.55	(36,699.31)
32000 · Temporarily Rest'd Net Assets	30,116.65	10,622.04	19,494.61
32221 · Loss/Gain on Investment	-	(84.56)	84.56
Net Income	41,417.78	(16,979.46)	58,397.24
Total Equity	63,268.67	21,991.57	41,277.10
TOTAL LIABILITIES & EQUITY	197,879.39	28,964.54	168,914.85

Creative Portland
Profit & Loss Budget vs. Actual FY15
July 2015 through June 2016

	Jul '15 - Jun 16	Budget	$ Over Budget
Ordinary Income/Expense			
Income			
4100 · Operations (unrestricted)			
4110 · Annual Fund			
4111 · Individual	5,310.00		
4112 · Board Challenge	5,700.00		
4110 · Annual Fund - Other	-	9,000.00	(9,000.00)
Total 4110 · Annual Fund	11,010.00	9,000.00	2,010.00
4114 · Special Event	-	7,000.00	(7,000.00)
4115 · Arts District TIF Funding	100,000.00	100,000.00	-
4120 · Business Partnerships	8,000.00	15,000.00	(7,000.00)
4140 · Corporate Sponsorships	24,250.00	22,500.00	1,750.00
4150 · Fiscal Sponsor Agent Fee	15,900.65		
Total 4100 · Operations (unrestricted)	159,160.65	153,500.00	5,660.65
4200 · Programs (restricted)			
4250 · PEDPIP Committee Match	8,500.00		
4265 · Event & Project Sponsorships	6,945.24		
4270 · Grants & Foundations			
4275 · CP Grants	-	12,500.00	(12,500.00)
4280 · Other Grants	35,000.00		
Total 4270 · Grants & Foundations	35,000.00	12,500.00	22,500.00
Total 4200 · Programs (restricted)	50,445.24	12,500.00	37,945.24
4300 · Other	1,075.72		
5100 · Fiscal Sponsor Inc (restricted)			
5130 · The New Guard	5,000.00		
5140 · Maine Startup	209,910.00		
5170 · Mural Project	8,005.15		
5180 · Bluestocking Film	15,000.00		
Total 5100 · Fiscal Sponsor Inc (restricted)	237,915.15		
5300 · Interest	4.48		
Total Income	448,601.24	166,000.00	282,601.24
Expense			
7100 · Personnel			
7101 · Executive Director	60,405.22	60,000.00	405.22
7102 · Program Assistant	22,824.81	26,880.00	(4,055.19)
7103 · Employee Benefits	14,288.42	18,000.00	(3,711.58)
7104 · Payroll Fee	1,249.00	1,300.00	(51.00)
7105 · Payroll Taxes	6,054.50	5,500.00	554.50
Total 7100 · Personnel	104,821.95	111,680.00	(6,858.05)
7500 · Professional Services			
7510 · Consulting	12,300.00		
7520 · Graphic Design	5,684.82	11,000.00	(5,315.18)
7530 · Legal Fees	70.00	250.00	(180.00)
7540 · Photography & Video	150.00		

Creative Portland
Profit & Loss Budget vs. Actual FY15
July 2015 through June 2016

	Jul '15 - Jun 16	Budget	$ Over Budget
7545 · Project Management	1,000.00		
7560 · Accounting	9,700.00	10,000.00	(300.00)
7565 · Fundraising	-	500.00	(500.00)
7570 · Technical Support	-	1,000.00	(1,000.00)
7575 · Website Editing and Bloggin	720.00	5,000.00	(4,280.00)
7580 · Other	-	5,000.00	(5,000.00)
Total 7500 · Professional Services	29,624.82	32,750.00	(3,125.18)
8110 · Rent			
8111 · Office Rent	7,326.00	5,000.00	2,326.00
8112 · Electricity	363.60	300.00	63.60
Total 8110 · Rent	7,689.60	5,300.00	2,389.60
8120 · Telecommunications			
8122 · Cell Phone Reimbursements	-	480.00	(480.00)
8123 · Landline	500.92	300.00	200.92
8124 · Software	440.78	200.00	240.78
8125 · Email	288.42	350.00	(61.58)
8126 · Internet	375.81	375.00	0.81
8127 · Website	441.77	500.00	(58.23)
Total 8120 · Telecommunications	2,047.70	2,205.00	(157.30)
8130 · Printing and Reproduction	792.94	1,000.00	(207.06)
8135 · Meetings	200.74		
8137 · Travel - airfare	386.70		
8140 · Food and Venue			
8141 · Venue	715.00		
8142 · Food	3,450.95	5,500.00	(2,049.05)
Total 8140 · Food and Venue	4,165.95	5,500.00	(1,334.05)
8170 · Supplies & Equipment			
8171 · Major Equipment & Furniture	-	500.00	(500.00)
8172 · Office Supplies	636.10	500.00	136.10
Total 8170 · Supplies & Equipment	636.10	1,000.00	(363.90)
8180 · Postage and Delivery	312.42	200.00	112.42
8200 · Professional Development			
8205 · Conferences Attended	167.37		
8210 · Staff Development	1,337.80	250.00	1,087.80
8215 · Travel	463.58		
Total 8200 · Professional Development	1,968.75	250.00	1,718.75
8230 · Dues & Memberships	1,270.00	1,000.00	270.00
8235 · Board Expense	-	50.00	(50.00)
8240 · Insurance			
8241 · Workmen's Compensation	562.75	600.00	(37.25)
8242 · D & O	1,040.00	1,100.00	(60.00)
8243 · General Liability Insurance	2,028.00	2,000.00	28.00
Total 8240 · Insurance	3,630.75	3,700.00	(69.25)
8250 · Bank Service Charges	242.82		

Creative Portland
Profit & Loss Budget vs. Actual FY15
July 2015 through June 2016

	Jul '15 - Jun 16	Budget	$ Over Budget
8260 · Marketing			
8261 · Communications	1,260.00		
8262 · Promotion	92.48		
Total 8260 · Marketing	1,352.48		
8270 · Depreciation Expense	176.81	500.00	(323.19)
8400 · Miscellaneous	314.43	500.00	(185.57)
9000 · Fiscal Sponsorship Disbursement			
9120 · Bluestocking Film Series	15,000.00		
9300 · The New Guard	5,000.00		
9600 · Maine Startup and Create Week	179,793.35		
9900 · Mural Project	8,005.15		
9910 · NEA Grant	39,750.00		
Total 9000 · Fiscal Sponsorship Disbursement	247,548.50		
Total Expense	407,183.46	165,635.00	241,548.46
Net Ordinary Income	41,417.78	365.00	41,052.78
Other Income/Expense			
Other Income			
4700 · In-Kind Donations	8,929.70		
Total Other Income	8,929.70		
Other Expense			
9950 · In-Kind Expenses	8,929.70		
Total Other Expense	8,929.70		
Net Other Income	-		
Net Income	41,417.78	365.00	41,052.78

Creativ ›rtland
Profit & Loss by Class
July 2015 through June 2016

	General Operating	Fundraising	Programs	Fiscal Sponsorship	TOTAL
Ordinary Income/Expense					
Income					
4100 · Operations (unrestricted)					
4110 · Annual Fund					
4111 · Individual	5,310.00	0.00	0.00	0.00	5,310.00
4112 · Board Challenge	5,700.00	0.00	0.00	0.00	5,700.00
Total 4110 · Annual Fund	11,010.00	0.00	0.00	0.00	11,010.00
4115 · Arts District TIF Funding	100,000.00	0.00	0.00	0.00	100,000.00
4120 · Business Partnerships	7,000.00	0.00	1,000.00	0.00	8,000.00
4140 · Corporate Sponsorships	500.00	0.00	23,750.00	0.00	24,250.00
4150 · Fiscal Sponsor Agent Fee	15,900.65	0.00	0.00	0.00	15,900.65
Total 4100 · Operations (unrestricted)	134,410.65	0.00	24,750.00	0.00	159,160.65
4200 · Programs (restricted)					
4250 · PEDPIP Committee Match	0.00	0.00	5,000.00	3,500.00	8,500.00
4265 · Event & Project Sponsorships	375.00	0.00	6,570.24	0.00	6,945.24
4270 · Grants & Foundations					
4280 · Other Grants	0.00	0.00	0.00	35,000.00	35,000.00
Total 4270 · Grants & Foundations	0.00	0.00	0.00	35,000.00	35,000.00
Total 4200 · Programs (restricted)	375.00	0.00	11,570.24	38,500.00	50,445.24
4300 · Other	1,075.72	0.00	0.00	0.00	1,075.72
5100 · Fiscal Sponsor Inc (restricted)					
5130 · The New Guard	0.00	0.00	0.00	5,000.00	5,000.00
5140 · Maine Startup	0.00	0.00	0.00	209,910.00	209,910.00
5170 · Mural Project	0.00	0.00	0.00	8,005.15	8,005.15
5180 · Bluestocking Film	0.00	0.00	0.00	15,000.00	15,000.00
Total 5100 · Fiscal Sponsor Inc (restricted)	0.00	0.00	0.00	237,915.15	237,915.15
5300 · Interest	4.48	0.00	0.00	0.00	4.48
Total Income	135,865.85	0.00	36,320.24	276,415.15	448,601.24

Creativ ›rtland
Profit & Loss by Class
July 2015 through June 2016

	General Operating	Fundraising	Programs	Fiscal Sponsorship	TOTAL
Expense					
7100 · Personnel					
7101 · Executive Director	49,852.43	4,421.66	6,131.13	0.00	60,405.22
7102 · Program Assistant	1,262.45	831.65	20,730.71	0.00	22,824.81
7103 · Employee Benefits	8,928.15	876.82	4,483.45	0.00	14,288.42
7104 · Payroll Fee	780.44	76.65	391.91	0.00	1,249.00
7105 · Payroll Taxes	3,783.17	371.54	1,899.79	0.00	6,054.50
Total 7100 · Personnel	64,606.64	6,578.32	33,636.99	0.00	104,821.95
7500 · Professional Services					
7510 · Consulting	1,562.15	153.40	10,584.45	0.00	12,300.00
7520 · Graphic Design	0.00	0.00	5,684.82	0.00	5,684.82
7530 · Legal Fees	43.73	4.30	21.97	0.00	70.00
7540 · Photography & Video	0.00	0.00	150.00	0.00	150.00
7545 · Project Management	0.00	0.00	1,000.00	0.00	1,000.00
7560 · Accounting	6,061.07	595.25	3,043.68	0.00	9,700.00
7575 · Website Editing and Bloggin	253.06	24.85	442.09	0.00	720.00
Total 7500 · Professional Services	7,920.01	777.80	20,927.01	0.00	29,624.82
8110 · Rent					
8111 · Office Rent	4,577.67	449.56	2,298.77	0.00	7,326.00
8112 · Electricity	227.21	22.31	114.08	0.00	363.60
Total 8110 · Rent	4,804.88	471.87	2,412.85	0.00	7,689.60
8120 · Telecommunications					
8123 · Landline	313.00	30.74	157.18	0.00	500.92
8124 · Software	99.97	290.62	50.19	0.00	440.78
8125 · Email	180.22	17.70	90.50	0.00	288.42
8126 · Internet	234.84	23.06	117.91	0.00	375.81
8127 · Website	195.45	19.19	227.13	0.00	441.77
Total 8120 · Telecommunications	1,023.48	381.31	642.91	0.00	2,047.70
8130 · Printing and Reproduction	0.00	48.94	744.00	0.00	792.94
8135 · Meetings	125.43	12.32	62.99	0.00	200.74
8137 · Travel - airfare	0.00	0.00	386.70	0.00	386.70

Creativ ›rtland
Profit & Loss by Class
July 2015 through June 2016

	General Operating	Fundraising	Programs	Fiscal Sponsorship	TOTAL
8140 · Food and Venue					
8141 · Venue	0.00	0.00	715.00	0.00	715.00
8142 · Food	13.63	1.34	3,435.98	0.00	3,450.95
Total 8140 · Food and Venue	13.63	1.34	4,150.98	0.00	4,165.95
8170 · Supplies & Equipment					
8172 · Office Supplies	212.04	57.60	366.46	0.00	636.10
Total 8170 · Supplies & Equipment	212.04	57.60	366.46	0.00	636.10
8180 · Postage and Delivery	195.22	19.17	98.03	0.00	312.42
8200 · Professional Development					
8205 · Conferences Attended	107.37	60.00	0.00	0.00	167.37
8210 · Staff Development	1,337.80	0.00	0.00	0.00	1,337.80
8215 · Travel	463.58	0.00	0.00	0.00	463.58
Total 8200 · Professional Development	1,908.75	60.00	0.00	0.00	1,968.75
8230 · Dues & Memberships	1,270.00	0.00	0.00	0.00	1,270.00
8240 · Insurance					
8241 · Workmen's Compensation	562.75	0.00	0.00	0.00	562.75
8242 · D & O	1,040.00	0.00	0.00	0.00	1,040.00
8243 · General Liability Insurance	2,028.00	0.00	0.00	0.00	2,028.00
8240 · Insurance - Other	-1,362.05	222.79	1,139.26	0.00	0.00
Total 8240 · Insurance	2,268.70	222.79	1,139.26	0.00	3,630.75
8250 · Bank Service Charges	141.68	13.91	87.23	0.00	242.82
8260 · Marketing					
8261 · Communications	515.50	53.08	691.42	0.00	1,260.00
8262 · Promotion	25.00	0.00	67.48	0.00	92.48
Total 8260 · Marketing	540.50	53.08	758.90	0.00	1,352.48
8270 · Depreciation Expense	110.45	10.83	55.53	0.00	176.81
8400 · Miscellaneous	40.26	3.93	270.24	0.00	314.43

Creativ ›rtland
Profit & Loss by Class
July 2015 through June 2016

	General Operating	Fundraising	Programs	Fiscal Sponsorship	TOTAL
9000 · Fiscal Sponsorship Disbursement					
9120 · Bluestocking Film Series	0.00	0.00	0.00	15,000.00	15,000.00
9300 · The New Guard	0.00	0.00	0.00	5,000.00	5,000.00
9600 · Maine Startup and Create Week	0.00	0.00	0.00	179,793.35	179,793.35
9900 · Mural Project	0.00	0.00	0.00	8,005.15	8,005.15
9910 · NEA Grant	0.00	0.00	0.00	39,750.00	39,750.00
Total 9000 · Fiscal Sponsorship Disbursement	0.00	0.00	0.00	247,548.50	247,548.50
Total Expense	85,181.67	8,713.21	65,740.08	247,548.50	407,183.46
Net Ordinary Income	50,684.18	-8,713.21	-29,419.84	28,866.65	41,417.78
Other Income/Expense					
Other Income					
4700 · In-Kind Donations	8,929.70	0.00	0.00	0.00	8,929.70
Total Other Income	8,929.70	0.00	0.00	0.00	8,929.70
Other Expense					
9950 · In-Kind Expenses	8,929.70	0.00	0.00	0.00	8,929.70
Total Other Expense	8,929.70	0.00	0.00	0.00	8,929.70
Net Other Income	0.00	0.00	0.00	0.00	0.00
	50,684.18	-8,713.21	-29,419.84	28,866.65	41,417.78

Tab 2 11-21-16

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

To: **Mayor and Members of the City Council**

From: **Gregory A. Mitchell, Economic Development Director**

cc: **Drew Swenson, President/Portland Development Corporation Board of Directors**

Date: **October 31, 2016**

Sponsor: **Mayor Ethan Strimling**

Subject: **Annual Meeting of Corporator of Portland Development Corporation (PDC)**

1. Council meeting at which action is requested: November 21, 2016
2. Can action be taken at a later date? No.

   If no, why not? At the October 20, 2016 meeting of the Portland Development Corporation Board of Directors, the Board set the date for the Annual Meeting of the Corporator as November 21, 2016.

PRESENTATION: Drew Swenson, PDC Board President/5 Minutes

I. SUMMARY OF ISSUE/AGENDA DESCRIPTION

Pursuant to the bylaws of the Portland Development Corporation (PDC), the Portland City Council, as Corporator of the Portland Development Corporation, shall hold its annual meeting in the month of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Order accepting PDC FYE 2016 Activity and Financial Reports;
2. Transaction of other business as may be deemed necessary.

For FY2016, the PDC invested over $500,000 in 15 businesses and economic development projects, which leveraged over $1.2 Million in private sector funds associated with creating 28 jobs and retaining 11 jobs. FY16 loan activity included a public to private investment ratio of 1:3. Additionally, at the end of the first quarter of FY17, the PDC closed on three loans totaling over $187,000, leveraging just under $500,000 in private investment associated with the creation of 19 jobs.

II. REASON FOR SUBMISSION

At the PDC Board of Directors Annual Meeting held on October 20, 2016, the PDC Board set the date of the Annual Meeting of the Corporator as November 21, 2016.

III. INTENDED RESULT

The intended result of the Annual Meeting of the Corporator would be for it to receive the Annual Activity and Financial Report of the PDC for FYE2016.

VI. COUNCIL GOAL ADDRESSED

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

V. FINANCIAL IMPACT

See enclosed FYE2016 reports.

VI. STAFF ANALYSIS AND RECOMMENDATION

Staff recommends the Corporator hold its Annual Meeting on November 21, 2016 and accept the PDC's FYE 2016 Annual Activity and Financial Report.

Attachments:

- PDC Board FYE 2016 Activity Report and Financial Report (Preliminary and Subject to Audit)

Portland Development Corporation

Board of Directors

Fiscal Year End 2016 Annual Report

The Economic Development Department provides the primary staff support to the Portland Development Corporation (PDC) with legal assistance from Corporation Counsel. The Economic Development Department is responsible for marketing and administration of the PDC's Commercial Loan and Grant Programs and marketing City-owned real estate to attract private sector investment.

The PDC Board of Directors met eight times over the course of the fiscal year, not including its Annual Awards Reception held on December 1, 2015 – detailed further below. It is noted that the PDC invested over $500,000 in FY16 in 15 businesses and economic development projects, which leveraged over $1.2 Million in private sector funds associated with creating 28 jobs and retaining 11 jobs. FY16 loan activity included a public to private investment ratio of 1:3. Additionally, at the end of the first quarter of FY17, the PDC closed on three loans totaling over $187,000, leveraging just under $500,000 in private investment associated with the creation of 19 jobs.

FY14, FY15, and FY16 Loan and Grant Activity Totals:

	FY14	FY15	FY16
No. of Loans Made	7	8	5
Total Amt. of Funds Lent	$814,289	$607,033	$370,000
Total Private Investment Leveraged	$48,505,172	$3,467,095	$1,139,361
Jobs Created	65	40	8
Jobs Retained	13	55	11
No. of Dev. Action Grants	3	1	0
Total Amt. of Grants	$75,000	$10,650	$0
No. of Business Assistance Grants for Job Creation	5	8	7
Total Amt. of Grants	52,200	$140,000	$100,000
Jobs Created	6	13	20
No. of Portland Econ. Dev. Plan Implementation Grants	3	8	3
Total Amt. of Grants	$43,309	$98,820	$37,300
PDC Total Investment	**$984,798**	**$856,503**	**$502,300**

PDC Fiscal Year 2016 Loan and Grant Detailed Activity

FY16 Loans Closed

FY16 was a year in which the PDC loan portfolio grew with five loans closed for a total of $370,000. The PDC's loans invested in four Portland businesses – one business received two different loans - thereby retaining 11 jobs and creating 8 new jobs. In addition, these loans leveraged over $1.1 Million in private commercial investment. Types of businesses provided loan assistance included two auto repair businesses, with one selling pre-owned vehicles, as well as a paddle boat business on Portland's waterfront, and a heating business.

During the past seven years, FY10 through FY16, the PDC has extended 46 loans for a total of over $3.4 Million, while leveraging over $60 Million in private investment and creating and retaining over 450 jobs.

PDC Loan Portfolio

For the first time in PDC history, its outstanding loan portfolio exceeds $2.5 Million. At of the end of FY16, the PDC has 32 loans outstanding. This loan portfolio of $2.5 Million leverages $59.3 Million in private investment in Portland, for a leverage of $24 of private funds to each dollar of public funds. These loans also retained 112 jobs and created 178 jobs, and include a diverse mix of PDC investments in businesses noted above, as well as food manufacturers, hospitality, energy, fitness, retail, and service.

As a result of a successful grant application, beginning in 2012, funds from the U.S. Treasury's State Small Business Credit Initiative (SSBCI) became available to the City as a lending source. Through FY2016, the PDC has utilized $822,500 in SSBCI funds for loans to five Portland businesses. When the SSBCI Program expires in early 2017, all of those funds, once paid off by the borrowers, will become the City's, expanding the PDC loan pool by what will likely be over $1 million.

PDC Lending History

Since its inception, the PDC has made 149 loans to diverse businesses including manufacturing (e.g., breweries and biosciences), restaurants, retail, and service, among others. The following table provides an overall view of the activities:

Total Amounts of Funds Lent:	**$9,213,035**
Leveraged Amount of Private Financing:	**$106,099,062**
Jobs Retained:	**1,251**
Jobs Created:	**760**
16 Loans Defaulted*	**$499,664**

*Default amount of $499,664 is 5.4% of total amount of funds lent.

Brownfields Grant Award from the United States Department of Environmental Protection (EPA)

The City of Portland applied for a Brownfields Grant from the EPA during FY2016. At the beginning of FY17, the City was awarded a grant up to $800,000 to support loan and grant investments in environmental assessments and site cleanup. The City Council accepted and appropriated these funds to recapitalize the Brownfields Revolving Loan and Grant program. The funds will be used as loans to for-profit developers, and, if desired, as grants to non-profits for the clean up of Brownfields sites throughout the City, with special attention to the Peninsula.

Portland Economic Development Plan Implementation Program (PEDPIP) Grant Fund

The PEDPIP Grant Fund was created during FY12 to provide grant funds to invest in economic development projects and programs that carry out Portland's Economic Development Vision and Plan ("Plan"), and its companion Work Plan which is updated every two years. Grants must be matched by an equal or greater dollar amount from funding sources other than the PDC.

The PEDPIP grants fund planning studies and other "soft" costs associated with economic development projects and programs that advance the initiatives spelled out in the Plan. PEDPIP does not invest in "hard" costs for public infrastructure or private development projects. Its focus is on expenditures for economic development projects and programs.

The PEDPIP program was capitalized by PDC funds in the amount of $250,000 in FY12. The maximum grant amount was originally $75,000. During FY2015, the PDC Board recommended to the City Council, and the City Council approved, amending the maximum grant amount to $15,000, and establishing a yearly cap at the beginning of each fiscal year at 10% of available/uncommitted, unrestricted PDC loan funds beginning with FY16.

Since its inception through FY16, the PDC Board approved grants in the total amount of $367,013, as follows:

Portland Community Chamber for Growing Portland Initiative
Creative Portland for the following projects:

- Branding Portland
- LiveWork Website Update
- Creative Economy Metrics
- Artspace Survey
- Creative Map and Guide
- Creative Space (inventory, web-based clearing house, resource guides)

- UNESCO Creative Cities Application
- Work in Place Summit
- Green Light Series Finale
- Update to Portland Cultural Plan

Portland Performing Arts Festival
Portland Community Chamber for Scorecard Updates (2014; 2015)
City of Portland staff to participate in the Maine International Trade Center Mission to Iceland and UK
Portland Community Chamber for Startup and Create Week (2014; 2015)
World Affairs Council for its Celebrate Immigration Initiative
City of Portland/Portland Community Chamber – Industry Sector Research Conducted by the Maine Center for Business and Economic Research
City of Portland – Greater Portland Economic Development Corporation (GPEDC) - Maine International Trade Center/Invest in Maine Program
Cultivating Communities/Local Food Cluster Acceleration Project (Withdrawn by applicant)
Cooperative Development Institute – Institutional Food Service and Procurement
Maine Center for Enterprise Development – Top Gun Overhaul and Preflight

Business Assistance Grant Program for Job Creation

The Business Assistance Program for Job Creation offers grants to new and expanding Portland businesses for projects that result in the creation of permanent net new jobs for low/moderate income Portland residents. A private match is required in an amount that is at least equal to the grant requested. The maximum grant amount request per recipient is $20,000. For every $10,000 of grant funds, one full-time permanent job must be created.

This program was originally capitalized with $100,000 from Community Development Block Grant (CDBG) funds and launched in May 2012. It was re-capitalized by the CDBG program in FY14 and FY16 with an additional $100,000 each of those years.

During FY16, seven grants were awarded for a total amount of $100,000. Grants approved since the Program's inception through FY16 total $$325,000 to 20 recipients, resulting in the creation of 70 full-time jobs. The program has provided assistance to a diverse group of start-up and existing businesses, ranging from restaurants, bakeries, and a food production incubator, to clothing manufacturer/retailer, pharmacy, IT services, music venue, bicycle sales and services, and auto repair.

PDC Annual Awards Program

At the 20th Annual Awards Reception on December 1, 2016, the PDC provided awards for Small Business of the Year, Business of the Year, and an Economic Achievement Award – as follows:

- The ***Small Business of the Year*** award was given to ***SeaBags***

Located on the working waterfront in Portland, Maine, Sea Bags™ was started in 2000 by Hannah Kubiak and is now co-owned and operated by Hannah and business partner, Beth Shissler. Sea Bags designs and manufactures totes and accessories using real sails collected from sailing communities located all over the world. Sea Bags, through its signature totes and home accessories, breathes new life into recently retired sails that have lived their life on the sea. Sea Bags believes in recycling - every bag and all packaging come from recycled materials. The company employs about 12 people in its company headquarters (retail shop and production space) at 25 Custom House Wharf. It recently opened a second retail store in Freeport.

The company's mission: We believe in recycling because it works. Each of our bags comes from recycled sails. We believe in working for a cause and a cure: We donate to SailMaine scholarship fund for children to learn to sail and we are working with Maine Cancer Foundation. We support our working waterfront. We gladly take on repair work for the local Portland community. We value our employees as a team and as individuals. We want to make an impact locally & globally. Over the past 15 years, Sea Bags has saved over 500 tons of material from going into landfills.

- The ***Business of the Year*** award was given to ***WinXnet.***

Winxnet is an IT outsourcing and consulting firm with headquarters in Portland, Maine and other offices across New England and the Southeast. It works with corporations, healthcare organizations, non-profits and public sector entities of all sizes, providing IT services to keep information secure and systems and devices operational. The business is based on establishing relationships with its clients, understanding the challenges, and then helping solve even the most complex of problems.

In 2015, Winxnet was named to Inc. Magazine's "Inc. 5000" list for the fourth consecutive year. This list is of the nation's fastest growing private companies. It was also recognized in 2012 and again in 2013 as one of the best places to work in Maine.

Since 1999, Winxnet has been driven by the principles of integrity, innovation and excellence – working with clients' individual IT needs which will drive Winxnet's technology recommendations for their client to reach their strategic objectives. Winxnet is now located at 68 Marginal Way with over 100 full-time employees.

- The *Economic Development Achievement* award was given to the ***Portland Farmers' Market Association***

The Portland Farmers' Market has been recognized by Travel & Leisure Magazine as one of America's Best Farmers' Markets, and is one of the longest running markets in the country. This year is its 247th year of operation. While the City used to oversee the market to some extent, since 2010 the Portland Farmers' Market Association was formed and has been running things ever since. This cooperatively run non-profit formed by all the farmers of the market, manages, promotes and supports the market. They added the Market Information Booth as a way of making stronger connections with the community and increasing access to it by accepting food stamps, credit and debit cards, and in 2011, adding the Portland Winter Farmers' Market. The Association has grown the market to 43 farms, offering farm products exclusively so shoppers can trust that everything at the market was grown and produced in the great state of Maine.

The market features fresh, locally grown foods including vegetables, fruits, herbs, meats (beef, pork, chicken, duck, goat, lamb), dairy (milk, yogurt, butter, cheese, kefir), cider, eggs, honey, grains, breads, jams, and fermented foods such as sauerkraut, kimchi, and tempeh. There are also plants, flowers, and fiber. Operations are year round. The summer market runs from late April to late November in Deering Oaks Park every Saturday (7:00 am-1 pm) and Monument Square every Wednesday (7:00 to-1 pm). The winter market runs from December to April at the Urban Farm Fermentory at 200 Anderson Street in East Bayside (9:00 am-1 pm). Having been in existence since 1768, the Portland Farmers' Market is proud to continue to offer the Portland community a place to come together and enjoy the bounty of Maine's harvest. A fascinating history of the Portland Farmers' Market from its beginnings can be found at the market's website http://www.portlandmainefarmersmarket.org/

Summary

The PDC looks forward to continuing to assist in attracting investment in Portland area businesses. With grant programs, its loan portfolio growing, and loan funds available to invest, the PDC would like to thank the City Council for its continued support.

PDC Board of Directors: Mayor Ethan Strimling
Barry Sheff, President
Drew Swenson, Treasurer
Jere Shaw, Secretary
Tim Agnew
Shelley Carvel
Jon Jennings, City Manager
Neil Kiely
Jess Knox
Dennis Martin
Heather Sanborn

PDC Staff:	Greg Mitchell, Economic Development Director Nelle Hanig, Business Programs Manager Lori Paulette, Senior Executive Assistant Michael Goldman, Associate Corporation Counsel

PORTLAND DEVELOPMENT CORPORATION
Balance Sheet
June 30, 2016

(Preliminary and Subject to Audit)

ASSETS

Assets				
Cash			1,889,853	
Loans receivable		1,935,281		
Allowance for uncollectable loans		(290,292)	1,644,989	
Total Assets				$ 3,534,842

LIABILITIES

Liabilities				
Accounts payable				
Total Liabilities				$ -
Fund Equity				
Reserved:				
for Loans Rec.			1,644,989	
Reserved:				
for Economic Development Fund	270		60,478	
for Unrestricted UDAG	271		565,705	
for Restricted CIP	272		245,688	
for Unrestricted CIP	274		112,367	
for FAME	277		109,967	
for EPA Revolving Loan Fund	278		326,558	
for FAME SSBCI	279		469,090	
Total Fund Equity				$ 3,534,842
Total Liabilities and Fund Equity				$ 3,534,842

Downtown Portland Corporation
Statement of Revenues, Expenditures,
and Changes in Fund Balance
For the Year Ended
June 30, 2016

(Preliminary and Subject to Audit)

	Revenues/Financing Sources	
Interest payments on loans		98,256
Interest Income		5,754
Application Fees		3,695
Federal		
State		
Total Revenues		107,705
	Expenditures	
Admin. expense - FAME	10,354	
Contributions	123,376	
Consulting	12,439	
Transfers out	22,616	
Bad Debt Expense	(34,730)	
Total Expenditures		134,055
Excess (deficiency) of revenues over expenditures		(26,350)
Fund Balance, June 30, 2014, restated		3,561,192
Fund Balance, June 30, 2015		3,534,842

Tab 3 11-21-16

ROLL CALL: Mayor Strimling called the meeting to order (All Councilors present).

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Suslovic and seconded by Councilor Costa for approval of the minutes of October 17, 2016, Regular City Council Meeting. Passage 9-0.

PROCLAMATIONS:

Proc 14-16/17 **Proclamation Honoring Police Officers Kate Phelan and Zach Grass as Police Officers of the Month for September 2016 – Sponsored by Mayor Ethan K. Strimling.**

APPOINTMENTS:

CONSENT ITEMS:

Order 77-16/17 **Order Declaring the Portland Downtown Light Up Your Holidays Festival – Sponsored by Jon P. Jennings, City Manager.**

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

LICENSES:

Order 78-16/17 **Order Granting Municipal Officers' Approval of Forq LLC d/b/a Fork Food Lab. Application for a Class III & IV Beer and Wine Restaurant at 270 Lancaster Street – Sponsored by Michael Russell, Permitting and Inspections Director.**

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

Order 79-16/17 **Order Granting Municipal Officers' Approval of Minato, LLC d/b/a Izakaya Minato. Application for a Class I License with Outdoor Dining on Public Property at 54 Washington Avenue – Sponsored by Michael Russell, Permitting and Inspections Director.**

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

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Motion was made by Councilor Ray and seconded by Councilor Suslovic to take Order 73 out of order. Passage 9-0.

UNFINISHED BUSINESS:

Order 73-16/17 **Moratorium Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula – Sponsored by Councilor Belinda Ray. This item was given first reading on October 17, 2016.**

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to postpone Order 73 to the November 21, 2016 City Council meeting. Passage 9-0.

Order 59-16/17 **Order Appropriating Funds from the Sale of City-Owned Bayside Property on Somerset Street – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on October 5, 2016.**

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

Order 59A-16/17 **Order Approving the Agreement with Tyler Technologies, Inc. for Public Administration Systems Software – Sponsored by Jon P. Jennings, City Manager.**

Councilor Thibodeau disclosed that his company has done work with Tyler Technologies and has no direct benefit.

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

Order 67-16/17 **Amendment to Portland City Code Chapter 6 Buildings and Building Regulations Re: Building Energy Use Disclosure Ordinance – Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair. This item was given first reading on October 5, 2016.**

Motion was made by Councilor Hinck and seconded by Councilor Duson for passage.

Motion was made by Councilor Hinck and seconded by Councilor Duson to amend Order 67 by adding start date of benchmarking requirements. Passage 9-0.

Motion was made by Councilor Hinck and seconded by Councilor Duson to amend Order 67 by adding exclusion of separate single and 2-family dwellings from Benchmarking requirements. Passage 9-0.

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

Order 74-16/17 **Amendment to Portland City Code Chapter 14 Land Use, Article V. Site Plan Re: Street Trees – Sponsored by the Planning Board, Elizabeth Boepple, Chair. This item was given first reading on October 17, 2016.**

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

Order 75-16/17 **Amendment to Portland City Code Chapter 14 Land Use, Article X. Alternative Energy Re: Solar Energy Generation – Sponsored by the Planning Board, Elizabeth Boepple, Chair. This item was given first reading on October 17, 2016.**

Motion was made by Councilor Costa and seconded by Councilor Suslovic to amend Order 75 by clarifying the zone. Passage 9-0.

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

ORDERS:

Order 80-16/17 **Order Approving License to Eight Middle Land Company LLC - Sponsored by Jon P. Jennings, City Manager.**

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

Order 81-16/17 **Order Approving Collective Bargaining Agreement with Professional and Technical City Employee Association (Pro-Tec) - Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

Order 82-16/17 **Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors – Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

Order 83-16/17 **Order Accepting a Housing and Urban Development Lead Hazard Control Grant and Appropriating $1,814,867 for Lead Abatement in Cumberland County Residential Housing – Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

Order 84-16/17 **Moratorium on Retail Marijuana Establishment and Social Clubs.**

Motion was made by Councilor Susloivc and seconded by Councilor Costa to take up an unagenda item. Passage 9-0.

Motion was made by Councilor Suslovic and seconded by Councilor Ray to waive the first reading. Motion failed 3-6 (Duson, Brenerman, Hinck, Costa, Thibodeau, Strimling.)

Motion was made by Councilor Costa and seconded by Councilor Ray to adjourn. Passage 9-0, 8:30 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Proc 15-16/17
Tab 4 11-21-16

PROCLAMATION

HONORING

DETECTIVE ANDJELKO NAPIJALO

WHEREAS, **Detective Napijalo** has been with the Portland Police Department since 2004 and is a member of the Hazardous Devices Unit. He currently serves in the Criminal Investigation Divisions; and

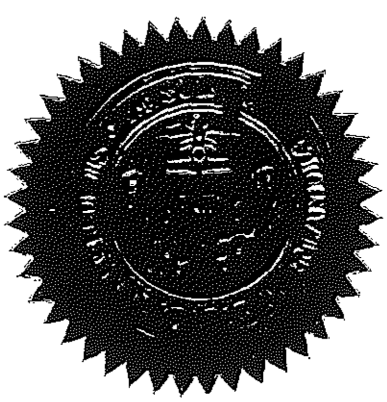
WHEREAS, **Detective Napijalo** is recognized by his supervisors for his proactive approach handling a heavy case load with exceptional results; and

WHEREAS, **Detective Napijalo** has identified, arrested and interviewed two burglary suspects this month that are anticipated to close additional felony cases; and

WHEREAS **Detective Napijalo** made significant strides in a theft case with more than $11,000 in electronics stolen and within the first day a majority of items were recovered; and

WHEREAS, **Detective Napijalo** is commended for his exemplary performance and clear commitment to a higher standard of public service and public safety.

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 **Detective Andjelko Napijalo** as **Officer of the Month for October 2016**



Signed and sealed this 21st day of November 2016

Ethan K. Strimling, Mayor
City of Portland, Maine

Order 85-16/17
Tab 5 11-21-16

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Battery Steele Brewing, LLC d/b/a Battery Steele Brewing. Application for a Brewery Alcohol Service License with Outdoor Dining on Private Property at 1 Industrial Way, Suite 12.

Battery Steele Brewing

1 Industrial Way

Portland, ME 04103

Council Members,

We at, Battery Steele Brewing have acquired a unit in the industrial park at 1 Industrial Way. This area is home to many breweries such as, Allagash, Geary's, Foundation and Austin St. Other breweries that have been at 1 Industrial Way include Maine Beer Company, Rising Tide and Bissell Brothers.

At this location we plan on turning 1,500 square feet into a small brewery with a tap room. Our brew house will be a 10bbl system. We plan on having a small area for people to congregate. Initially we plan to be open from Wednesday thru Sunday. Normal operating hours would be from noon to 6pm. Day to day operations will be executed by Jacob Condon and Shane Noble. Both Jake and Shane previously worked at Gritty McDuff's. With 25 years of combined experience in the beer business and a team of wonderful assets we feel we are well positioned to continue the wonderful reputation that Portland is known by in the craft beer market throughout the world.

We would appreciate very much the opportunity to do work in the city of Portland, Maine. We look forward to be able to be an environmental, social and morally conscious company that continues to grow with the market and with the great city of Portland, Maine.

Regards,

Battery Steele Brewing

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

Permitting and Inspections Department
Michael A. Russell, MS, Director
389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Brewery, Winery and Distillery Alcohol Service License

License expiration date concurrent with that of State of Maine Dept. of Liquor Licensing & Enforcement License.

Business Information			
Business Name (d/b/a):	Battery Steele Brewing	Phone:	207.409.5334
Location Address:	1 Industrial Way Suite 12 Portland	Zip:	04103
If new, what was formerly at this location:	Bone Dry Carpet Cleaning		
Mailing Address:	554 Highland Ave. South Portland, ME	Zip:	04106
Contact Person:	Jacob Condon	Phone:	207.409.5334
Contact Person Email:	jc@batterysteele.com		
Manager of Establishment:	Jacob Condon Date of Birth: 11-7-78	Phone:	207.409.5334
Owner of Premises (Landlord):	AIM Properties		
Address of Premises Owner:	531 East Chapman Ave. Orange, CA	Zip:	92866

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name	Corporate Mailing Address		
Battery Steele Brewing, LLC	554 Highland Ave. South Portland	Zip:	04106
Contact Person:	Jacob Condon	Phone:	207.409.5334

Principal Officers	Title	Date of Birth	Residence Address
Jacob Condon	Owner/Ops	11-7-78	554 Highland Ave. South Portland, ME 04106
Shane Noble	Owner/Brewer	6-24-84	11 Frederic St. Apt.3 Portland, ME 04102
Scott Kenney	Owner	1-5-75	21 Timber Creek Gray, ME 04039
Lee Thibodeau	Owner	10-1-51	23 Ledge Rd. Cumberland, ME 04021

About Your Establishment

Type of Establishment:	Brewery Winery Distillery
Hours & days of operation:	Wednesday - Sunday Noon-6pm

QUESTIONS	Y/N
Will food be made, served, and/or sold on the premise by this establishment?	Y/N
If yes, please submit a City of Portland Food Service Establishment license application.	
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? Late January 2017	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	Y/N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N
If Yes, please explain:	

I Jacob Condon do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature ____________________ Title Owner/Operations Date 10-12-16

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.

Outdoor Dining Permit Application

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

Check all that apply: ☐New Application for Outdoor Dining
or ☐ **Renewal** Application for Outdoor Dining
☑Application for dining on **Private Property**
☐Outdoor Dining in a **Public Park** ☐ If **Renewal,** are there changes to previous permit?
☐Outdoor Dining in a **Historic District** ☐Yes ☐No
☐**Petition** for Exception for Special Circumstances
☐**Liquor License** required?
City Clerk signature for liquor license approval: ____________
OR Pending Council Date: ________

Location Name & Address: 1 Industrial Way Suite 12	**Chart** **Block** **Lot**
Owner Name: Jacob Condon **Owner Phone #:** 207.409.5334	**Total Square Footage of Proposed Outdoor Dining Area:**[1] 280 sq ft
Applicant *must* be owner or lessee Name: Jacob Condon Address: 554 Highland Ave City, State & Zip: South Portland ME 04106 E-Mail: jc@batterysteele.com	Fee: $80 (Public-Annual) $125 (Private 1X) Total Sq. Ft.: ________ Sq. Ft. Fee: (sq ft x $2) $________ (sq ft x $6 for public parks) **Total Fees:** $________ **(Permit not issued until all fees are paid)**

Current use: Vacant
Business name: Battery Steele Brewing
Seating area dimensions: ____________
How many chairs? _______ How many tables? _______
☒ Yes Alcohol is served.
☐ No Alcohol being served.

Who should we contact: Jacob Condon Phone: 207.409.5334
Address: 554 Highland Ave. South Portland 04106 E Mail: jc@batterysteele.com

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit. New applications and renewals are reviewed on an annual basis and should be submitted no later than June 1st.

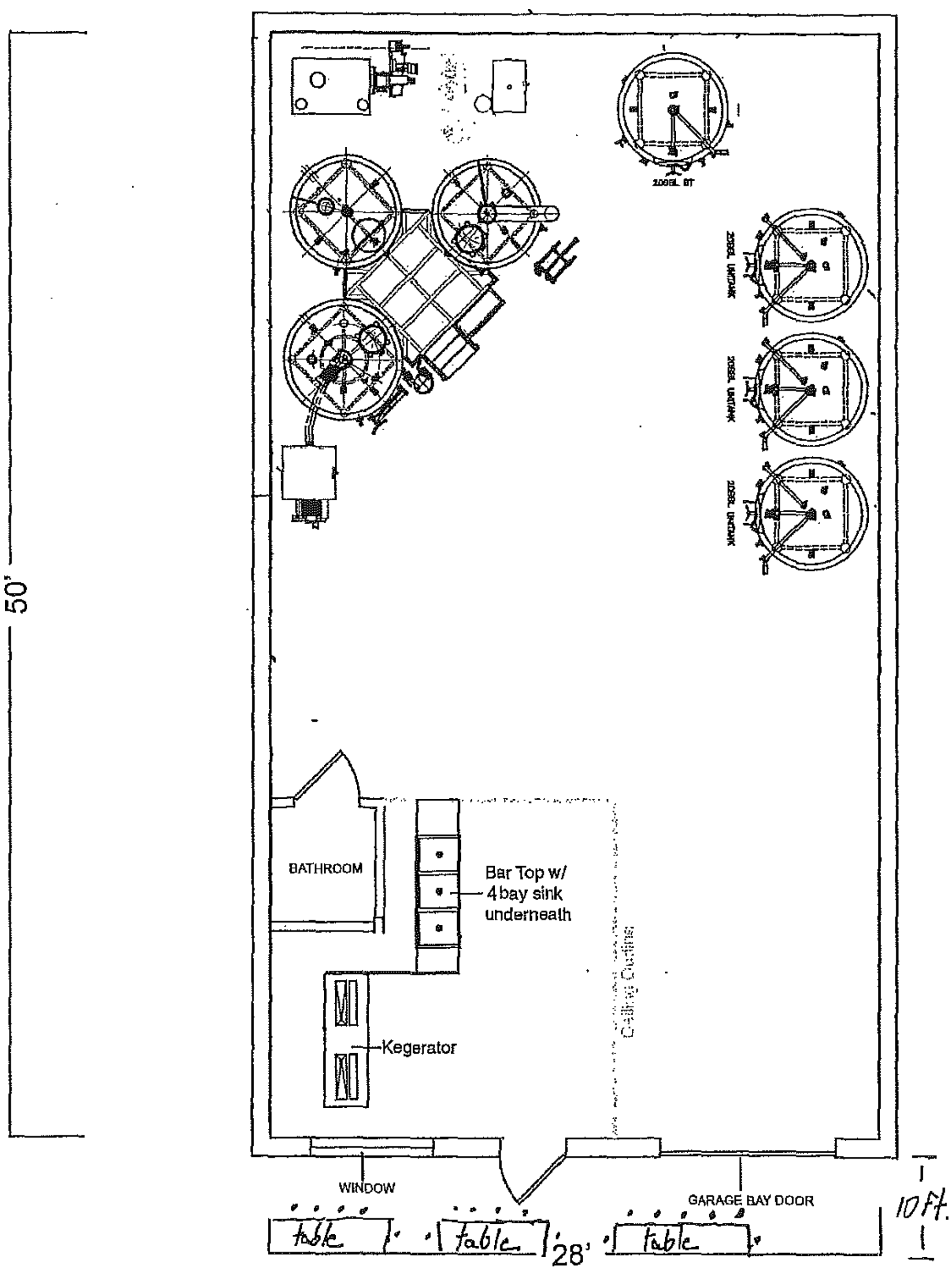
In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room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

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

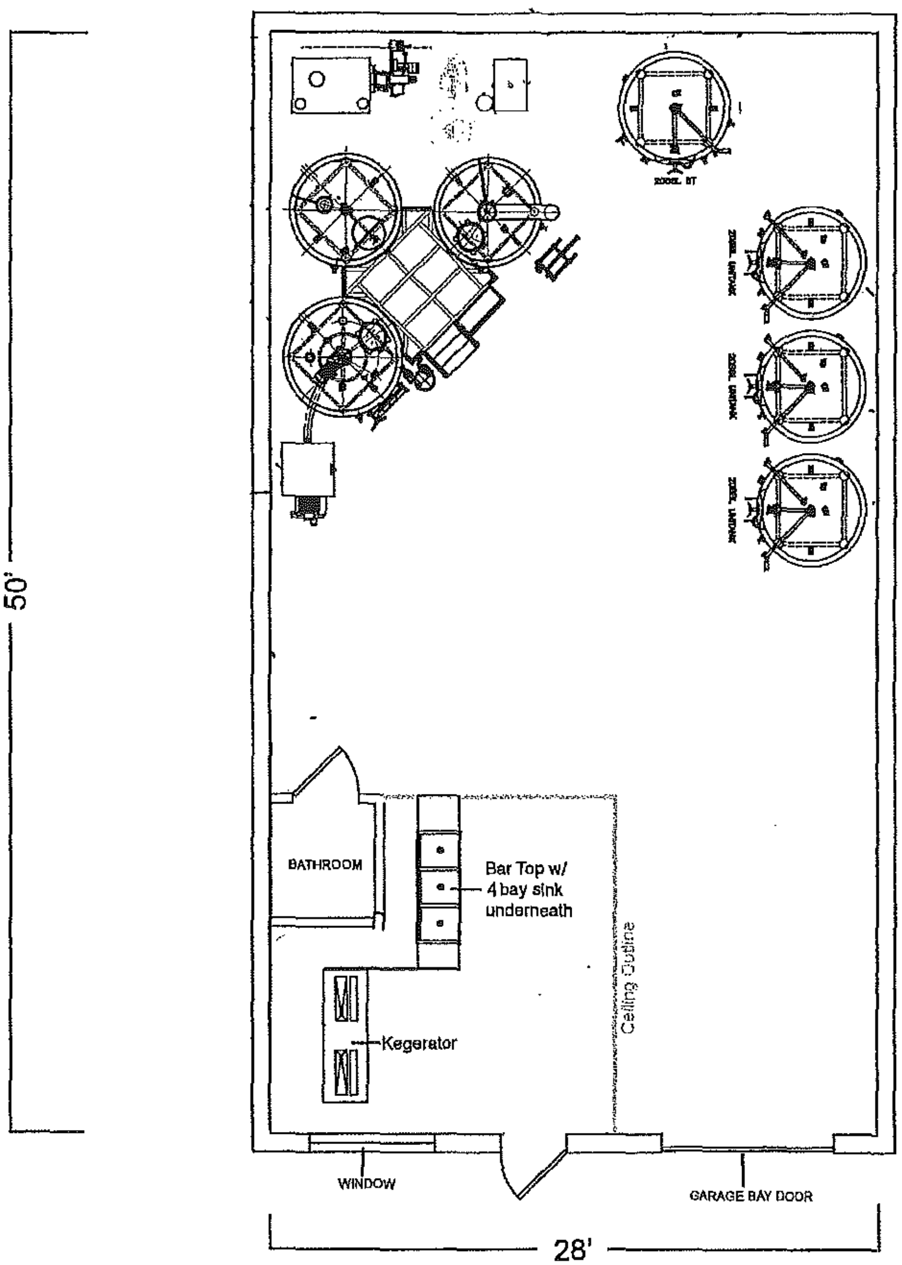
Signature of Applicant: ____________ Date: 10-24-16

[1] *In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.*

Revised 04-02-15 **This is not a permit; you may not commence ANY work until the permit is issued.**


50'
BATHROOM
Bar Top w/
4 bay sink
underneath
Kegerator
WINDOW
GARAGE BAY DOOR
table
table
table
28'
10 Ft.

From: shane@batterysteele.com
Subject: updated layout to 4 bay sink
Date: Oct 12, 2016, 4:17:08 PM
To: <JC@batterysteele.com> JC@batterysteele.com



Battery Steele Brewing

Battery Steele Brewing

From Kevin Cashman-Police Department

11/2/2016

Jessica,

The one I received for Battery Steele Brewing was approved by me on 11/01 but I cannot get the email portion to work.

Kevin C.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

MELISSA CAIAZZO
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D042657

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-24) :

Inquiries Name(s) JACOB CONDON (1978-11-07)

NO MATCH WAS FOUND FOR YOUR REQUEST.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

MELISSA CAIAZZO
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D042656

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-24) :

Inquiries Name(s) SCOTT KENNEY (1975-01-05)

NO MATCH WAS FOUND FOR YOUR REQUEST.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

MELISSA CAIAZZO
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D042666

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-24) :

Inquiries Name(s)	SHANE NOBLE (1984-06-24)

NO MATCH WAS FOUND FOR YOUR REQUEST.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

MELISSA CAIAZZO
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D042660

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-24) :

Inquiries Name(s) LEE THIBODEAU (1951-10-01)

NO MATCH WAS FOUND FOR YOUR REQUEST.

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

Permitting and Inspections Department
Michael A. Russell, MS, Director

October 28, 2016

Battery Steele Brewing, LLC
Attn: Jacob Condon
554 Highland Ave
South Portland, ME 04106

Re: Battery Steele Brewing, LLC d/b/a Battery Steele Brewing. Application for a Brewery Alcohol Service License with Outdoor Dining on Private Property at 1 Industrial Way, Suite 12.

Dear Mr. Condon,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, November 21st at 5:00 p.m.**, for the review of your application for a Brewery Alcohol Service License with Outdoor Dining on Private Property at 1 Industrial Way, Suite 12. 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, jhanscombe@portlandmaine.gov

Sincerely,

Jessica Hanscombe
Business License Specialist
207-874-8783
jhanscombe@portlandmaine.gov

Legal Advertisement
Notice of Public Hearing
City of Portland

A Public Hearing will be held on November 21st at 5:00 P.M., in City Council Chambers, 389 Congress St., on Battery Steele Brewing, LLC d/b/a Battery Steele Brewing. Application for a Brewery Alcohol Service License with Outdoor Dining on Private Property at 1 Industrial Way, Suite 12. Sponsored by Michael Russell, Director of Permitting and Inspections.

Order 86-16/17
Tab 6 11-21-16

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Baharat, LLC d/b/a Baharat. Application for a Class I FSE at 91 Anderson Street.

Clayton Norris
CN Shawarma
89 Anderson #205
Portland, ME 04101

October, 11 2016

To Mayor Strimling and Members of the City Council:

I, Clayton Norris, intend to open a 30-seat, Eastern Mediterranean restaurant, *Baharat*, at 91 Anderson Street in Portland. As a cook and chef for the last 13 years, most recently as owner/operator of CN Shawarma (a Portland food truck), I believe I can draw on my experience to create another positive addition to Portland's growing East Bayside neighborhood, and overall food scene.

Thank you for your time and consideration.

Sincerely,

Clayton Norris
Owner/Operator
CN Shawarma

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

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

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	BAHARAT	Phone:	207 844 0167.
Location Address:	91 ANDERSON ST	Zip:	04101
If new, what was formerly at this location:	NEW BUILDING. FORMER SITE OF 36's AUTO		
Mailing Address:	~~2011~~ 89 Anderson St. # 205	Zip:	04101
Contact Person:	CLAYTON NORRIS	Phone:	207 844 0167
Contact Person Email:	cnshawarma@gmail.com		
Manager of Establishment:	JENNA FRIEDMAN	Phone:	207 841 7059
Owner of Premises (Landlord):	REDFERN PROPERTIES		
Address of Premises Owner:	PO BOX 8816 PORTLAND, ME	Zip:	04104

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name	Corporate Mailing Address		
BAHARAT LLC	91 Anderson St. # 205	Zip:	04103
Contact Person:	CLAYTON NORRIS	Phone:	207 844 0167

Principal Officers	Title	Date of Birth	Residence Address
CLAYTON NORRIS	OWNER	2/25/81	89 Anderson St. # 205 PORTLAND, ME 04101

About Your Establishment

Class of Liquor License:	/
Type of food served:	CASUAL MIDDLE EASTERN FARE
Please circle all that will be served:	Beer Wine Liquor
Projected percentage of sales:	Generated from Food: 85 Generated from Alcohol: 15
Hours & days of operation:	TUES - THURS 12-8 pm / FRI & SAT 12-10 pm / SUNDAY 12-9 pm

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/N
If yes, give the distance: 2500 ft	2500 Ft
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?	Nov 2016
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): CN SHAWARMA 34 CLINTON ST. APT. 3 PORTLAND 04103 MOBILE UNIT	
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 CLAYTON NORRIS do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature ____________ Title OWNER Date 9/29/16

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 ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☑ Yes ☐ No

PRESENT LICENSE EXPIRES ____________

INDICATE TYPE OF PRIVILEGE: ☑ MALT ☑ VINOUS ☑ SPIRITUOUS

INDICATE TYPE OF LICENSE:

☑ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL NO FOOD (Class I-A)
☐ CLUB w/o Catering (Class V) ☐ CLUB with CATERING (Class I) ☐ GOLF COURSE (Class I,II,III,IV)
☐ TAVERN (Class IV) ☐ QUALIFIED CATERING ☐ OTHER: ____________

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: Baharat, LLC	Business Name (D/B/A) Baharat
APPLICANT(S) -(Sole Proprietor) DOB:	Physical Location: 91 Anderson St.
DOB:	City/Town Portland State ME Zip Code 04101
Address 89 Anderson St. #205	Mailing Address 34 CLINTON ST. APT. 3
City/Town Portland State ME Zip Code 04101	City/Town PORTLAND State ME Zip Code 04103
Telephone Number (207) 844-0167 Fax Number	Business Telephone Number 207 844 0167 Fax Number —
Federal I.D. # 81-3879952	Seller Certificate #: or Sales Tax #: 1181453
Email Address: Please Print cnshawarma@gmail.com	Website: —

If business is NEW or under new ownership, indicate starting date: Nov. 1, 2016

Requested inspection date: ~~Nov~~ OCT 30, 2016 Business hours: 12-8

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: 0
2. State amount of gross income from period of last license: ROOMS $ NA FOOD $ N/A LIQUOR $ N/A
3. Is applicant a corporation, limited liability company or limited partnership? YES ☑ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☑
5. If manager is to be employed, give name: Jenna Friedman
6. Business records are located at: 34 Clinton St. #3 Portland ME 04103
7. Is/are applicants(s) citizens of the United States? YES ☑ NO ☐
8. Is/are applicant(s) residents of the State of Maine? YES ☑ NO ☐

9. 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
Clayton Norris	2/25/81	Boothbay, ME
Jenna Friedman	5/13/84	Brunswick, ME

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

- Portland, ME
- Windham, ME

10. 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: __________ (use additional sheet(s) if necessary)

11. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes ☐ No ☒ If Yes, give name: __________

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

13. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Redfern Properties PO Box 8816 Portland ME 04104

14. Describe in detail the premises to be licensed: (On Premise Diagram Required) LUNCH/DINNER RESTAURANT, LOCATED ON GROUND LEVEL OF APARTMENT BUILDING

15. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES ☐ NO ☒ Applied for: 9/26/16

16. 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? 2500 FT Which of the above is nearest? SCHOOL

17. 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: BANK LOAN W/SBA APPROVAL

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

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

Dated at: PORTLAND, ME (Town/City, State) on OCT 5 (Date), 2016

Please sign in blue ink

[signature]
Signature of Applicant or Corporate Officer(s)

CLAYTON NORRIS
Print Name

____
Signature of Applicant or Corporate Officer(s)

____
Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications).. **$ 10.00**

Class I — Spiritous, Vinous and Malt .... $ 900.00
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.

Class I-A — Spirituous, Vinous and Malt, Optional Food (Hotels Only) $1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II — Spirituous Only .... $ 550.00
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.

Class III — Vinous Only .... $ 220.00
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.

Class IV — Malt Liquor Only .... $ 220.00
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.

Class V — Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) .... $ 495.00
CLASS V: Clubs without catering privileges.

Class X — Spirituous, Vinous and Malt – Class A Lounge $2,200.00
CLASS X: Class A Lounge

Class XI — Spirituous, Vinous and Malt – Restaurant Lounge $1,500.00
CLASS XI: Restaurant/Lounge; and OTB.

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

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

All fees must accompany application, make check payable to the **Treasurer, State of Maine.**

This application must be completed and signed by the Town or City and mailed to:
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, ME 04333-0008.
Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

STATE OF MAINE

Dated at: ______________________ ; Maine ______________________
City/Town (County)

On: ______________________
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the

☐City ☐ Town ☐ Plantation ☐ Unincorporated Place of: ______________________, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and herby approve said application.

______________________ ______________________

______________________ ______________________

______________________ ______________________

THIS APPROVAL EXPIRERS IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

Division of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement

Corporate Information Required for Business Entities Who Are Licensees

For Office Use Only:
License #: ____________
SOS Checked: ____________
100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: BAHARAT, LLC

2. Doing Business As, if any: BAHARAT

3. Date of filing with Secretary of State: 9/9/2016 State in which you are formed: ME

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

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

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %.
CLAYTON NORRIS	WINDHAM, ME PORTLAND, ME	2/25/81	OWNER	100

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: ________________ (list primary officers in the above boxes)

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

Yes ☐ No ☒ If Yes, Name: ____________________ Agency: ________________

8. 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 ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: ______________________

Date of Conviction: ______________

Offense: ______________________

Location of Conviction: ______________________

Disposition: ______________________

____

Signature:

______________________ 9/17/16
Signature of Duly Authorized Person Date

CLAYTON NORRIS
Print Name of Duly Authorized Person

Submit Completed Forms To:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

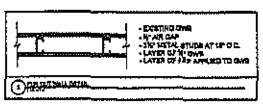
DIVISION USE ONLY
☐ Approved
☐ Not Approved
BY:

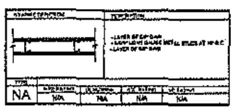
ON PREMISE DIAGRAM

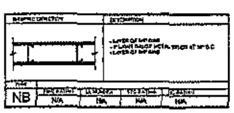
In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

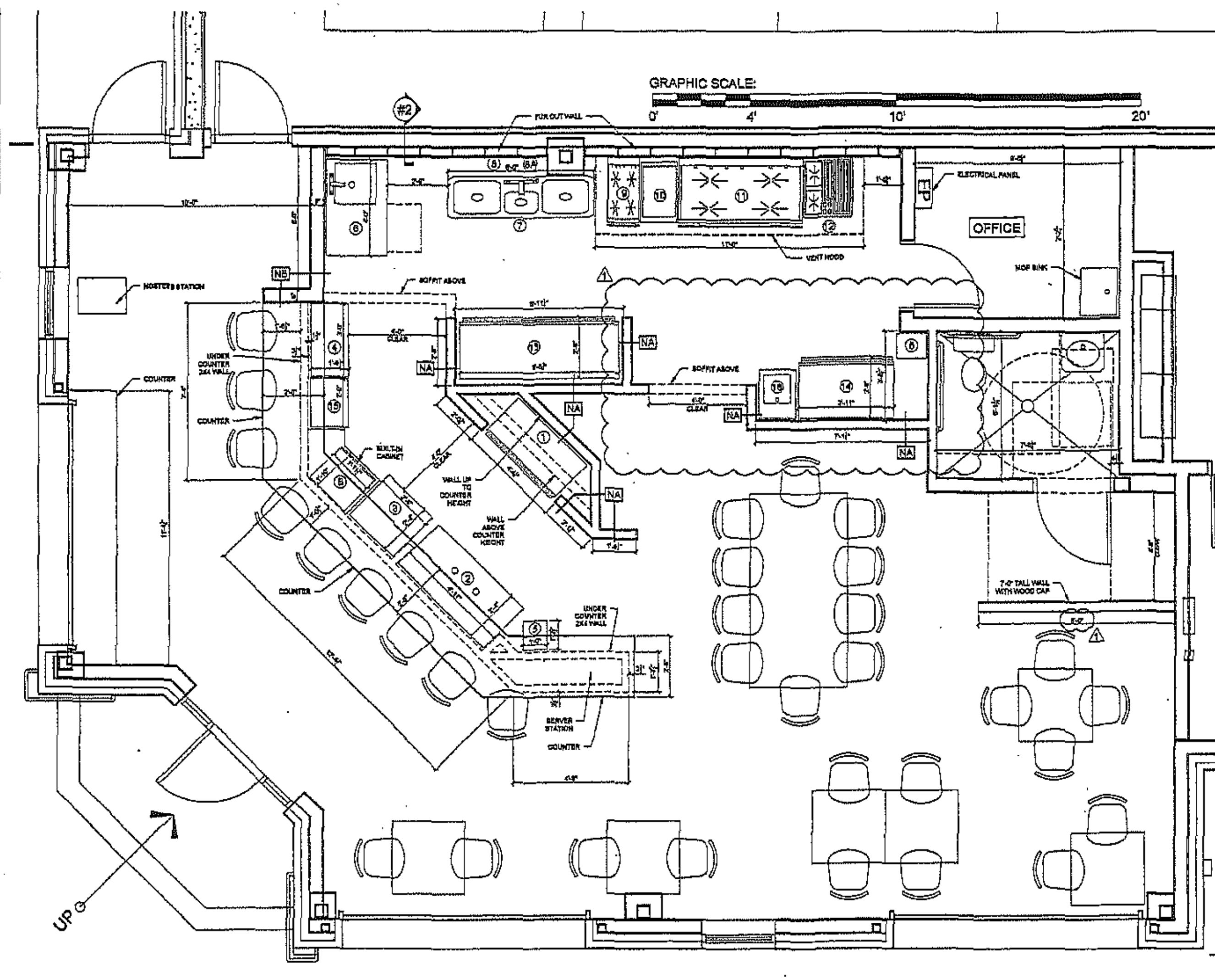
Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.

	RESTAURANT APPLIANCE SCHEDULE:
#1)	BEER COOLER (TRUE): TBB-24(?)AL-48G-LD - 15 AMP DEDICATED OUTLET - 4'-0" W x 2'-6" D
#2)	TAP SYSTEM (TRUE): TDD-2 - 15 AMP DEDICATED OUTLET - 5'-4" W x 2'-6" D
#3)	ICE MAKER (MANITOWOC / NEO): U-310 - 15 AMP DEDICATED OUTLET - 2'-6" W x 2'-4" D - (RECOMMENDED 6" CLEARANCE) - NEED ⅜" INLET AND ¾" DRAIN
#4)	3 BAY SINK (KROWNE): 1800 SERIES - 5'-0" W x 1'-6½" D x 34" H
#5)	HANDWASH SINK (JOHN BOOS): PBHS-W-0909 - 1'-0" W x 1'-2½" D x 10" TALL OFF COUNTER
#6)	DISH TABLE (ADVANCED TABCO): DTU-U60-48R - 4'-0" W x 2'-6" D
#7)	DISH WASHER SINK (JOHN BOOS): E3S8-18-14 - 6'-2½" W x 1'-6½" D
#8)	T & S BRASS: B-0133-CC0-CR
#8A)	T & S BRASS: B-0156
#9)	FRYER (PITCO): SG14R - NATURAL GAS HOOK UP REQUIRED - 1'-4" W x 3'-0" D (4'-0" DEEP WHEN DOOR OPEN)
#10)	VERTICAL BROILER (STAR): VBG 30 - NATURAL GAS HOOK UP REQUIRED - 1'-4½" W x 2'-1" D x 2'-6" H
#11)	OVEN (SOUTH BEND): S60DD-2GT - NATURAL GAS HOOK UP REQUIRED - 5'-1" W x 2'-10" D
#12)	GRILL - TABLE TOP (STAR): 624RCBF - NATURAL GAS HOOK UP REQUIRED - 2'-0" W x 2'-6" D
#13)	REACH-IN REFRIGERATOR (TRUE): T-72 - 15 AMP DEDICATED OUTLET - 6'-4" W x 2'-6" D (4'-6" DEEP WHEN DOOR OPEN)
#14)	UNDER-COUNTER REFRIGERATOR (TRUE): TUC-48 - 15 AMP DEDICATED OUTLET??? - 4'-0" W x 2'-6" D
#15)	ICE SINK (DRAIN REQUIRED BUT NOT WATER SUPPLY)
#16)	PRODUCE WASHING SINK









1 FLOOR PLAN

© 2015 RYAN SENATORE ARCHITECTURE

RESTAURANT
91 ANDERSON STREET
PORTLAND, MAINE

RSA
RYAN SENATORE ARCHITECTURE

CONSULTANTS:

REVISIONS:
REVISION #1 - OCT 13, 2015

DATE: OCTOBER 13, 2015
PROJECT No.
DRAWN BY: RRT / RJS
CHECKED BY: RJS
SCALE: AS NOTED
SHEET TITLE:

R1-0

Baharat – Draft Menu
10/3/16

Starters

Seasonal Soup
Pita with Traditional Dips
Fresh Pita with choice of Hummus, Baba Ganoush or Roasted Beet Puree
Filo Cigars
Filo Dough, filled with seasoned chickpeas and Syrian Cheese, Fried
Turkish Street Mussels
Local Mussels in a sauce of roasted chilis, with pita and fresh herbs
Fattoush Salad
Traditional Chopped salad, with pita croutons and sumac-buttermilk dressing

Sides

Basmati Rice
Seasoned Lentils
Ful
Traditional Stewed Fava Beans, with garlic confit and pita
Blackened Eggplant
Charred baby eggplants with pomegranate molasses, pine nuts and mint
Pickle Plate
Selection of pickles from the larder
Fried Potatoes
Fried skin-on potatoes, tossed with salt and sumac, topped with toum
Pita
Fresh Pita from Ameera Bread, with olive oil

Mains

Chicken Shawarma
Slow roasted chicken, marinated in Lebanese seasoning. Served with pita and side
Lamb Kofta
Freshly ground lamb, seasoned with herbs and warm spices. Served with pita and side
Falafel
Chickpea fritter, with Lebanese yogurt, pickled turnip. Served with pita and side
Kabob
Daily meat, fish and vegetable options. Served with pita, sauces and sides

Dessert

Baklava Cheesecake
Filo Crust, Cinnamon, walnuts and Fruit
Chocolate Tahini Sandwich Cookies
A Baharat Whoopie Pie
Warm Bulger Pudding
Sweet Labneh, Fruit, warm spices

Beverages

Coffee, Tea (Iced and Hot)
Soft Drinks
Bottled Water

Beer
Wine
Liquor


FOX ST
ANDERSON ST
N GREENLEAF ST
EVERETT ST
N GREENLEAF ST
GREENLEAF ST
MADISON ST
DIAMOND ST
91
89
87
esri

Portland Maine | Yes. Google's good here.

Melissa Caiazzo <mcaiazzo@portlandmaine.gov>

Re: Baharat-91 Anderson St

Kevin Cashman <kevindc@portlandmaine.gov> Tue, Oct 25, 2016 at 11:21 PM
To: Melissa Caiazzo <mcaiazzo@portlandmaine.gov>
Cc: Craig Messinger <crm@portlandmaine.gov>, dmp@portlandmaine.gov, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Gary Rogers <garyr@portlandmaine.gov>, Keith Gautreau <kng@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Rachel Smith <rms@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Help Desk <help@portlandmaine.gov>

Hello,

I went on urban insight this evening and approved this. I received a message stating the email did not go through. If this could be looked at again so that I can approve these without issue i would appreciate it.

Thanks, Kevin C.

On Tue, Oct 25, 2016 at 9:13 AM, Melissa Caiazzo <mcaiazzo@portlandmaine.gov> wrote:

> Hello,
>
> For your approval:
>
> Baharat, LLC d/b/a Baharat. Application for a Class I FSE at 91 Anderson Street. They wish to go before Council on 11/21/16.
>
> Owner
> Baharat, LLC:
> Clayton Norris 2/25/1981
>
> Contact: Clayton Norris 844-0167 or cnshawarma@gmail.com
>
> The application is attached. Please put feedback into UI.
>
> Thanks!
>
> Melissa Caiazzo
> Business License Assistant
> 389 Congress Street
> Portland, ME 04101
> (P) 874-8557
> (F) 756-8111

--
Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

MELISSA CAIAZZO
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D042654

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-24) :

Inquiries Name(s) JENNA FRIEDMAN (1984-05-13)

NO MATCH WAS FOUND FOR YOUR REQUEST.

MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

MELISSA CAIAZZO
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D042655

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-24) :

Inquiries Name(s) CLAYTON NORRIS (1981-02-25)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Permitting and Inspections Department
Michael A. Russell, MS, Director

October 28, 2016

Baharat, LLC
Attn: Jenna Friedman
89 Anderson Street #205
Portland, ME 04101

Re: **Baharat, LLC d/b/a Baharat. Application for a Class I FSE at 91 Anderson Street.**

Dear Ms. Friedman,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, November 21st at 5:00 p.m.**, for the review of your application for a Class I License at 91 Anderson Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Business License Specialist
207-874-8783
jhanscombe@portlandmaine.gov

Legal Advertisement
Notice of Public Hearing
City of Portland

A Public Hearing will be held on November 21st at 5:00 P.M., in City Council Chambers, 389 Congress St., on Baharat, LLC d/b/a Baharat. Application for a Class I FSE at 91 Anderson Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

Com 4-16/17
Tab 9 11-21-16

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Gregory A. Mitchell, Economic Development Director

DATE: October 31, 2016

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

SUBJECT: **Communication Item for November 21, 2016 City Council Meeting – FYE2016 Tax Increment Financing Annual Report**

SPONSOR: Economic Development Committee/Councilor Brenerman, Chair
Meeting on October 25, 2016

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading and Final Action: November 21, 2016

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

PRESENTATION: Greg Mitchell/5 Minutes

I. ONE SENTENCE SUMMARY

Pursuant to the City of Portland TIF Policy, an Annual Report is to be submitted to the City Council.

II. SUMMARY OF ISSUE/AGENDA DESCRIPTION

City Tax Increment Financing (TIF) Policy adopted by the City Council on February 4, 2013, requires the preparation and presentation of an annual TIF district activity report. The FYE2016 TIF Annual Report represents the fourth year of reporting.

Highlights of this year's Report notes City Council TIF actions during FY2016. This includes the Council's Housing and Community Development Committee, at the end FY2015, reviewed and recommended to the Council approval of the 17 Carleton Avenue Affordable Housing TIF and Credit Enhancement Agreement (CEA). The City Council reviewed and approved this TIF and CEA at its August 3, 2015 meeting. The Council then brought it back for reconsideration on September 9, 2015 and postponed it at that meeting to September 21, 2015, at which meeting it voted to reapprove the District and Credit Enhancement Agreement.

This year's Report also has a table showing the past four years to see trends, as well as an Appendix which lists all the current TIFs and the activity numbers associated with them.

III. REASON FOR SUBMISSION

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

IV. INTENDED RESULT

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

V. FINANCIAL IMPACT

There is no financial impact with this item.

VI. STAFF ANALYSIS AND RECOMMENDATION

The EDC Committee voted unanimously (3-0) to forward the Report to the City Council as a communication, requesting that Appendix D of the Report list the individual CEAs under the area-wide TIF Districts.

Portland, Maine   Yes. Life's good here.

Tax Increment Financing

Fiscal Year End (FYE) 2016 Annual Report
(July 1, 2015 through June 30, 2016)

Prepared by the Economic Development Department

(Report prepared 10/2016)

Table of Contents

1. **Introduction**

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

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

2. **Definitions**

Commonly used terms, included in this Report, include:

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

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

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

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

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

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

"***Original Assessed Value (OAV)***" means the assessed value of the property in the TIF District as of March 31 of the year that it was created. For instance, if a TIF District was approved as of the date of this report, or October 2016, the OAV would be the assessed value of the property on March 31, 2016. All taxes from the OAV go into the City's General Fund for any City use.

"***Property Taxes***" means any and all ad valorem property taxes levied, charged or assessed against the property by the City or on its behalf and actually paid to the City, but excluding any county, state, or special District taxes that are separately levied, charged, or assessed against the property.

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

"***Tax Year***" means April 1 to March 31.

3. Tax Increment Financing Overview and Value

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

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

The two property tax components associated with TIF Districts include:

- ***New Property Taxes***. TIF revenue is generated from new increased municipal assessed value and associated new property taxes. TIFs can be established for up to thirty (30) years and new or "captured assessed value" in the TIF District can range from 1% to 100% of the amount of new property taxes.

- ***Original Assessed Property Value (OAV)***. The taxes from property base or "Original Assessed Value" reverts to the municipal general fund and is not captured in a TIF District.

4. TIF District Approval Process

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

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

5. City Council Actions During FY2016

City Council actions taken during FY2016 include:

(a) The Council's Housing and Community Development Committee, at the end FY2015, reviewed and recommended to the Council approval of the 17 Carleton Avenue Affordable Housing TIF and Credit Enhancement Agreement. The City Council's review and approval occurred during FY2016 at its August 3, 2015 meeting. The Council then brought it back for reconsideration on September 9, 2015 and postponed it at that meeting to September 21, 2015, at which meeting it voted to reapprove the District and Credit Enhancement Agreement.

(b) It is noted that during FY2016, the Council's Economic Development Committee reviewed and recommended to the City Council creating a TIF District and associated Credit Enhancement Agreement for ImmuCell. The City Council's review and approval occurred during FY2017 at its September 19, 2016 meeting.

6. **Statutory Limits for TIF Districts**

There are two State statutory limitations which include:

- ***Acreage:*** No single TIF District, including Affordable Housing Districts, can be larger than 2% of a municipality's total acreage, or in the case of Portland, 2% of Portland's 12,386 acres is 247 acres. Also, all active TIF Districts have to be less than 5% of a municipality's total acreage, or in the case of Portland, 5% is 619 acres. Based upon active TIF Districts, including Affordable Housing TIF Districts, as of FYE2016, Portland has the ability to include 471 additional acres in TIF Districts.

- ***Value:***

    - **Commercial/Area Wide TIF Districts:** The OAV of all these TIF Districts in a municipality cannot be more than 5% of its total aggregate value (FY16 aggregate value: $7,996,350,000), or in the case of Portland, 5% is $399,817,500. Based upon active TIF Districts as of FYE2016, Portland has the ability to include an additional $266.5 Million of property value in TIF Districts.

    - **Affordable Housing TIF Districts:** The OAV of all Affordable Housing TIF Districts cannot be more than 5% of the total aggregate value (FY16 aggregate value: $7,996,350,000), or in the case of Portland, 5% is $399,817,500. Based upon active Affordable Housing Districts as of FYE2016, Portland has the ability to include an additional $398 Million of property value in Affordable Housing TIF Districts.

It is noted that the amount of acreage and value to include in TIF Districts fluctuates as TIF districts are created, expired, and/or terminated.

There are exemptions from State limitations for Transit Oriented Development (TOD) and Downtown TIF Districts, for which Portland now has two: Thompson's Point TOD TIF, and the Downtown TOD and Omnibus TIF, the latter created in FY15 and activated in FY16.

7. Tax Sheltering Benefits

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

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

This amount of "savings" is significant and one of the most important benefits of establishing TIF Districts.

For Portland, tax shelter savings is conservatively estimated at 30%, meaning that for every new tax dollar, Portland saves 30 cents which would otherwise be lost for property tax value not included in a TIF district. Portland's estimated total tax shelter savings for all active TIF Districts is just over $715,000 for FYE2016, which is approximately $600,000 less than FY2015 due largely to the UNUM TIF expiring in FY2015 with the City not capturing $61 Million of increased assessed value in FY2016, and the City capturing a smaller percentage of the increased assessed value for the Bayside TIF – from 83% in FY15 to 55% in FY16. It is also noted that the total sheltering value decreased by $73 Million from FYE2015 to FYE2016, or $160 Million in FYE2015 and $87 Million in FYE16. Again, this was largely due to the UNUM TIF District's expiration in FY2015, and a decrease in the captured value percentage from the Bayside TIF District. The captured value percentage for area TIFs is adjusted yearly based on City use of TIF funds needed for public infrastructure projects, as well as debt service for payment of the Bayside HUD loan and for Ocean Gateway associated debt expenses.

8. TIF Districts in Portland

A listing of all approved TIF Districts is provided as Item B in the Report Appendix. This listing includes four expired TIF Districts – Auto Europe, Shipyard Brewery, Nichols Portland, and UNUM. This listing also includes two TIF Districts which were terminated by the City Council during FY15 – those being the Village at Oceangate (Bay House), and the Fore India Middle LLC TIF District.

It is noted that after expiration and termination of the above TIF Districts, 100% of their property tax revenue reverts to the City's General Fund.

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

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

Item C in the Appendix provides a map showing the location for each active TIF District.

A listing of approved active individual site specific TIF Districts, area-wide TIF Districts, Downtown TOD TIF, Thompson's Point TOD TIF, non-active TIF Districts, and terminated TIF Districts by name are provided below.

Active Approved Individual Site Specific TIF Districts

As of FYE2016, the City has eight, single site active TIF Districts with associated CEAs, namely:

- Holt Hall
- Riverwalk/Ocean Gateway
- PowerPay/Portland Public Market
- Baxter Library
- Avesta/Pearl Place Affordable Housing TIF
- 409 Cumberland Avenue Affordable Housing TIF
- 134 Washington Avenue Affordable Housing TIF
- 17 Carleton Street Affordable Housing TIF

Active Approved Area Wide TIF Districts and Associated CEAs

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

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

Approved Downtown and/or Transit-Oriented Development (TOD) TIF Districts

- Downtown TOD TIF

The City retains a portion of the TIF funds for public infrastructure, Creative Portland, and transit projects for the Downtown TOD TIF. This Downtown TOD TIF was approved during FY2015 and was activated with FY2016. There is no CEA associated with it at this time.

- Thompson's Point TOD TIF and CEA

For the Thompson's Point TOD TIF, the City retains a portion of TIF Funds for transit projects. This TOD TIF also has an associated CEA with Thompson's Point Development Company, Inc. for development of Thompson's Point, which is not yet active. Activation of this TIF CEA will occur when the Increased Assessed Value is at least $5 Million.

Non-Active Approved TIF District

In FY09, the City Council approved a TIF District that is expected to be activated with the McAuley Place senior housing project.

Terminated TIF Districts

The City Council has terminated two TIF Districts, namely:

- Fore India Middle LLC – This TIF project had not come to fruition and, therefore, was terminated by the City Council in November 2014; and,
- The Village at Oceangate, LLC (Bay House) – This TIF District was also terminated by the City Council in November 2014 due to this District's use being converted into residential condominiums which is not an allowable TIF District use.

9. TIF District Financial Overview for FYE2016, including FY2013, FY2014, and FY15

See below for financial comparison of FYE2016, 2015, FYE2014, and FY2013 for then active TIF Districts:

	FYE2013	FYE2014	FYE2015	FYE2016
City General Fund-Taxes from OAV	$5.8 Million	$6.1 Million	$6.3 Million	$22.8 Million
City General Fund-Taxes from Non-Captured Value	$1.1 Million	$341,000	$720,000	$2.4 Million
Total TIF Taxes From Captured Value	$2.7 Million	$3.5 Million	$3.2 Million	$1.8 Million
- TIF Taxes to CEAs	$1.9 Million	$2.0 Million	$2.0 Million	$1 Million
- TIF Taxes to Public Infrastructure/Arts	$.8 Million	$1.5 Million	$1.2 Million	$.8 Million
Total Tax Sheltering Value	$143 Million	$180 Million	$160 Million	$87 Million
Estimated Annual Average Tax Sheltering Savings	$1.3 Million	$1.6 Million	$1.3 Million	$.7 Million

Table Explanations:

City General Fund-Taxes from OAV - The above table shows a yearly increase in taxes from the OAV into the General Fund. For FYE 2013 through FYE2015, this is based on increases in tax rates. FYE2016's higher increase is due to the Downtown TOD TIF Activation, where the OAV is just under $1 Billion, and associated taxes with that OAV at $20 Million (which also includes the property values previously in the Arts District and associated \$5 Million in taxes). As noted earlier in the definition section, all taxes from the OAVs go to the General Fund.

City General Fund-Taxes from Non-Captured Value – The number fluctuates based on each CEA, as well as the City's budget needs for public infrastructure/Economic Development Department staff salaries/debt service. The captured value percentages for the area wide TIF Districts - Bayside and Waterfront - are adjusted yearly based on those needs. The captured value percentage for the Downtown TOD TIF was set at 12% for the first year (FY2016) and then set at 22% for years 2 through 30. The increase in this table for FYE2016, is due to capturing 12% from the Downtown TOD TIF and having the remaining non-captured 88% go into the General Fund. Non-captured increased assessed value taxes flow into the General Fund.

Total TIF Taxes From Captured Value – The percentage of captured value varies yearly based on CEAs and the City's financial needs. This TIF Revenue is then allotted to the various CEAs, and then to the City public infrastructure projects/arts.

Total Tax Sheltering Value – This number represents the total percentage of the increased assessed of value (IAV) all TIF Districts that has been captured. This value decreased from FYE2015, which was largely due to the UNUM TIF District's expiration in FY2015, and a decrease in the captured value percentage from the Bayside TIF District. The captured value percentage for area TIFs is adjusted yearly based on City use of TIF funds needed for public infrastructure projects, as well as debt service for payment of the Bayside HUD loan and for Ocean Gateway associated debt expenses.

Estimated Tax Sheltering Savings – As noted earlier in Section 7, this number decreased by \$.7 Million from FYE2015. This is, again, due to the UNUM TIF District expiring, and a smaller percentage of IAV captured from the Bayside TIF.

Appendix D is a spreadsheet showing the FYE 2016 TIF Districts funding allocation and individual CEA annual payments.

10. Strategies and Recommendations to Optimize use of TIF Districts

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

PORTLAND TIF POLICY

February 4, 2013

INTRODUCTION

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

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

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

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

STATE TIF LIMITATION

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

PURPOSE

The primary purposes of the TIF Policy include:

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

GENERAL PRINICPLES

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

A. Investment

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

B. Jobs Associated with Commercial and Industrial Development

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

C. Maximize Tax Sheltering Benefits

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

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

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

APPROACH, POLICY, and TERM REQUIREMENTS

Must meet or exceed the below requirements.

A. Approach

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

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

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

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

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

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

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

B. Policy for the Three Approaches

1. Policy for Municipal Economic Development Programs.

Requires annual review and City Council financial appropriations.

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

a) Area wide TIF will be established for infrastructure investment which has applications beyond one individual project.

b) City TIF emphasis will be placed upon the following general "Priority Revitalization Areas" to support commercial development, housing development, redevelopment, or to support buildings in need to redevelopment, address blight or historic preservation:

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

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

c) Market Rate Housing. Market rate rental housing projects must be located in priority revitalization areas to stimulate housing investment for the purpose of attracting 24/7 pedestrian activity. Pursuant to State Law, TIF for condominium projects are not allowed.

d) Affordable Housing. Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis.

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

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

Allowable uses of AHTIF revenues are defined by State law.

e) City preference is to invest in area wide public infrastructure TIF districts versus establishing individual private site specific TIF districts.

f) Area wide TIF districts also should seek to maximize the benefit of downtown and transit oriented development (TOD) districts which are exempt from State TIF law for acreage and value limitations.

g) Terms for area wide TIF districts will be considered for up to 100% of new tax revenue and upwards of thirty (30) years, the maximum allowed by State law, due to the long-term need to invest in neighborhood infrastrucutre.

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

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

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

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

i) City Green Building Code

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

ii) Affordable Housing

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

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

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

Allowable uses of AHTIF revenues are defined by State law.

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

i) Financial Necessity.

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

ii) Financial Capacity.

The applicant must demonstrate financial capacity to support their project.

iii) Fees

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

C. Terms for CEA Projects

1) Maximum Percentages.

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

2) Maximum Number of Years.

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

3) Use of Maine Services for CEA Projects Encouraged.

TIF APPLICATION AND ADMINISTRATION PROCESS

A. Application Information and Contact.

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

B. Approval Process.

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

C. Annual Report to City Council.

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

SUMMARY OF ALL APPROVED

TAX INCREMENT FINANCING (TIF) DISTRICTS

IN THE CITY OF PORTLAND A/O FYE2016 (June 30, 2016)

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

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

1. Nichols Portland (Economic Development TIF) **(Expired FY14)**

Duration: 20 year term (FY95 through FY14)
Percentages: Years 1 to 5, 90% to Recipient, 10% to City General Fund; years 6 to 10, 75% to Recipient, 25% to City General Fund; years 11 to 20, 50% to Recipient, 50% to City General Fund.
Location: 2400 Congress Street

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

2. Shipyard/Longfellow (Economic Development TIF) **(Expired FY07)**

Duration: 12 year term (FY96 through FY07). Please note this TIF has expired and the City General Fund is receiving 100% of the real estate taxes.
Percentages: 50% to Recipient; 50% to City General Fund
Location: Newbury Street

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

3. Auto Europe (Economic Development TIF) **(Expired FY11)**

Duration: 15 year term (FY97 through FY11). Please note this TIF has expired and the City General Fund is receiving 100% of the real estate taxes.
Percentages: 75% to Recipient; 25% to City General Fund
Location: Commercial Street across the street from Casco Bay Lines, former Galt Block building.

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

4. **Bramhall/Holt Hall** (Economic Development TIF)

Duration: 20 year term (FY00 through FY19)
Percentages: 75% to Recipient; 25% to City General Fund, plus a Payment in Lieu of Taxes (PILOT) associated with first floor space.
Location: 794 Congress Street

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

5. **UNUM** (Economic Development TIF) **(Expired FYE15)**

Duration: 15 year term (FY01 through FY15)
Percentages: 100% capture of increased value with 75% going to the Recipient, and 25% going to economic development projects for the City.
Location: Outer Congress Street.

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

6. **Waterfront TIF** (Economic Development TIF)

Duration as originally approved March 18, 2002: 10 year term (FY03 to FY12)
Duration Extended as of June 7, 2010 for a 30-year term: FY03 to FY32
Percentage: 100% TIF capture. Annually, the City Council has adjusted this TIF capture rate to place property tax revenue in the City General Fund.
Location: Selected waterfront properties.

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

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

Duration: 20-year term (FY12 through FY31)
Percentage: 63% years 1 through 5; 64% years 6 through 10; 55% years 7 through 15; 45% years 16 and 17; 40% years 18 and 19; and, 35% year 20 – with a maximum cumulative TIF payment numeric cap not to exceed $2,870,058.
Location: 252 Commercial Street on the Portland waterfront.

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

7. <u>**Bayside TIF**</u> (Economic Development TIF)

Duration: 30 year term (FY04 through FY33)
Percentages: 100% TIF capture. Annually, the City Council has adjusted this TIF capture rate to place property tax revenue in the City General Fund.

The geographic area of this TIF District was expanded by City Council vote on November 17, 2014, expanding it from 62 acres, to 129 acres, to align with the area of Bayside contained in the *Bayside Vision Plans I* and *II.*

This is a municipal TIF to be used for public infrastructure improvements, relocation of the one remaining scrap metal recycling facility and acquisition of the scrap metal yard site, business recruitment marketing for the Bayside area, pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances Bayside investment, and administrative and staff costs for the Economic Development Department. Investments from this TIF also include two Credit Enhancement Agreements (CEA's) with the following:

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

Duration: 15 year term (FY09 through FY23)
Percentage: 100% to return, to Developer, to an annual maximum cap of $355,000 and annual debt service threshold test.
Location: Bayside next to I-295

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

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

Duration: 11 year term (FY08 through FY18)
Percentage: 100% to return, to Developer, to a maximum annual cap of $120,000 and annual debt services threshold test.
Location: Bayside next to I-295

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

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

Duration: 12 year term (FY07 through FY19)
Percentages: Formula based percentages in Credit Enhancement Agreement
Location: Hancock and Fore Street area

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

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

Duration: 30 year term (FY08 through FY37)
Percentages: Various percentages captured value to return to Developer based on Maine State Housing Authority Certificate of Approval, to a maximum of $22,000 annual cap.
Location: Oxford and Pearl Streets

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

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

NOTE: ***This area wide TIF District was reduced/renamed by the City Council on February 19, 2015, reducing the geography to just the Baxter Library property (see #10a below), and renaming it the Baxter Library TIF District with the term ending FY19; this will take effect with FY16).***

Original Duration: 15-year term (FY10 through FY24); ***Term amended as noted above to end FY19.***
Original Percentages: 100% capture; annually, the City Council may adjust this TIF capture rate to place property tax revenue in the City General Fund; ***Percentage amended to reflect the 65% capture for the Baxter Library project.***
Original Location: Multiple properties included in the Downtown Area; ***Location amended as noted above to be only the Baxter Library property.***

This TIF was ***originally*** created to assist in maintaining the creative economy businesses through the creation of the Creative Portland Corporation and TIF funds to assist in funding its administrative personnel and program of activities up to a maximum of $100,000 annually. ***This element of the original TIF District is now included in the recently created Downtown Transit Oriented Development (TOD) TIF District – See Item #18 below.***

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

Duration: 9-year term (FY11 through FY19)
Percentage: Lesser of annual 65% to return to Developer or amount necessary to service project debt. Adjustments to annual payment if project refinancing occurs.
Location: 621 Congress Street

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

11. McAuley Place (Economic Development TIF)

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

This TIF was created to assist in the renovation of the former Mother House/Convent (built over 100 years ago) on Stevens Avenue into a market rate independent senior living community, including 45 to 50 apartments in the renovated Convent; 25 to 30 apartments (new construction) in an addition to the Convent; and, 36 units (new construction) located in three townhouse/cottages adjacent to the Convent.

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

Duration: 30 year term (FY11 through FY40)
Percentages: Years 1 through 8 – 75% to Developer, 25% to City General Fund; Years 9 through 30 – 50% to Developer, 50% to City General Fund.
Location: 25 Preble Street

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

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

Duration: 30 year term (FY15 through FY44).

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

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

Location: Thompson's Point

This Transit-Orient Development (TOD) Tax Increment Financing (TIF) District was created to support Thompson's Point Development Company Inc.'s redevelopment of

Thompson's Point into the **Forefront at Thompson's Point.** Additionally, the TOD will assist to expand and improve transit connections between Thompson's Point and key commercial locations within Portland (i.e. Jetport, Portland Transportation Center and Portland's Downtown) and around the region.

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

The Forefront at Thompson's Point is a proposed mixed-use development that will transform a blighted and grossly underutilized 30-acre parcel located along Interstate 295 into a highly visible gateway destination event center that is expected to generate significant economic activity within the District and throughout Portland. The Company plans to redevelop Thompson's Point in a manner that includes a substantial investment in public infrastructure, including construction of an above-ground parking garage with approximately 700 spaces, road extensions and widenings, rail crossings upgrade, utility investments, and expanded walking and biking trails.

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

This TIF was terminated by the City Council on November 3, 2014 due to the conversion of market rate apartments into condominiums which is not allowable use of TIF funds.

Duration: 11 year term (FY14 through FY25)
Percentages: Years 1 through 5 – 75% to Developer, 25% to City General Fund; Years 6 through 10 - 65% to Developer, 35% to City General Fund. Total revenue to developer is capped at $647,971 over the term of the District.
Location: Hancock Street, between Newbury and Middle Streets.

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

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

This TIF was terminated by the City Council on November 3, 2014 due to the project not coming to fruition.

Duration: 4 year term (FY14 through FY17)
Percentages: Years 1 and 2 – 50% to Developer, 10% to City TIF Project; 40% to City General Fund; Year 3 - 40% to Developer, 10% to City TIF Project; 50% to City General Fund; Year 4 – 40% to Developer, 60% to City General Fund. Total revenue to developer is capped at $650,000 over the term of the District.
Location: Portion of block surrounded by Fore, India, and Middle Streets.

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

16. 409 Cumberland Avenue (Affordable Housing TIF)

Duration: 22 year term (FY14 through FY35)
Percentage: 50% to Developer; 50% to City Housing Affordable Housing Revolving Loan Fund

Location: 409 Cumberland Avenue

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

17. 134 Washington Avenue (Affordable Housing TIF)

Duration: 20 year term (FY15 through FY34)
Percentages: 50% to Developer; 50% to City General Fund.

This Affordable Housing TIF District supports the development of an 18-unit residential rental project. TIF revenues will be used by Developer to pay for operating costs for the project.

18. Downtown Transit Oriented Development (TOD) TIF (Economic Development TIF District)

Duration: 30 year term (FY16 through FY45)
Percentages: 12% Year One; 22% years 2 through 30; 88% to General Fund Year One; 78% to General Fund Years Two through Thirty.

This Downtown TOD TIF will support various municipal and other development projects, including sidewalk and pedestrian enhancements, streetscape, lighting, yearly funding of up to $100,000 for Creative Portland to assist in funding its administrative personnel and program of activities (see Item #10 above), street alignment, utilities, bicycle improvements, public transit, wayfinding, and administrative and staff costs for the Economic Development Department.

19. 17 Carleton Street (Affordable Housing TIF)

Duration: 22 year term (FY16 through FY37)
Percentages: Years 1 and 2: 0% to Developer; 100% to City. Years 3 through 22: 65% to Developer; 35% to City General Fund.

This Affordable Housing TIF District supports the development of a 37-unit residential rental project. TIF revenues will be used by Developer to pay for operating costs for the project.

Tax Increment Financing Districts
June 30, 2016
TIF Districts
N
0
1,000
2,000
4,000
Feet

FY16 ANNUAL REPORT TO COUNCIL

FY 16 Tax Rate: 0.02063

TIF Name / SITE Specific with CEA:	Starts/ Ends-FY	TERM	TIF PLAN YEAR	TOTAL ASSESSED	ORIGINAL ASSESSED	Increased Assessed value	PERCENT APPLIED	Total Cpt. Value	PROCEEDS TO OWNER	City TIF Funds	City General Fund (OAV and Non-Captured Taxes from IAV))
HOLT HALL	00/19	20 YEARS	17	4,956,760	349,110	4,607,650	67%	3,070,538	63,345	0	38,913
- FY16 Taxes				102,258	7,202	95,056		63,345			
Baxter Library (f/k/a Arts)	42693	9 YEARS	6	2,502,600	0	2,502,600	65%	1,626,690	33,559	0	18,070
- FY16 Taxes				51,629	0	51,629		33,559			
AVESTA	08/37	30 YEARS	9	3,576,320	646,050	2,930,270	36%	1,054,897	21,763	0	52,017
- FY16 Taxes				73,779	13,328	60,451		21,763			
OCEAN GATEWAY	07/19	13 YEARS	10	12,946,800	1,085,550	11,861,250	52%	6,215,295	128,101	0	138,991
- FY16 Taxes				267,092	22,395	244,698		128,222			
PowerPay/Ptld Pub Mkt	11/40	30 YEARS	6	6,259,500	1,862,600	4,396,900	75%	3,297,675	68,031	0	61,102
- FY16 Taxes				129,133	38,425	90,708		68,031			
McAuley/Inactive	10/29	30 YEARS	6	0	0	0	60%	0	0	0	0
Thompson's Point TOD	15/44	30 YEARS	2	5,516,870	4,970,470	546,400	25%	136,600	0	2,818	110,995
- FY16 Taxes				113,813	102,541			2,818			
409 Cumberland Ave. AH	14/35	22 YEARS	3	3,717,960	470,200	3,247,760	100%	3,247,760	33,501	33,501	9,700
- FY16 Taxes				76,702	9,700	67,001		67,001			
134 Washington Ave. AH	15/34	20 YEARS	2	184,000	155,600	28,400	50%	14,200	293	0	3,503
- FY16 Taxes				3,796	3,210	586		293			
17 Carleton St. AH	16/37	22 YEARS	1	261,600	261,600	0	0%	0	0	0	5,397
- FY16 Taxes					5,397						
Area-Wide TIFs, with CEA											
BAYSIDE	**04/33**	**30 YEARS**	13	**189,680,720**	**122,318,180**	**67,362,540**	**55%**	**36,766,474**	**463,749**	**294,743**	**3,154,621**
FY16 Taxes				**3,913,113**	**2,523,424**			**758,492**			
- CEA/Atlantic Bayside Trust	09/23	15 YEARS	8	29,268,370	0	29,268,370	Formula		355,000		
- CEA/Blue Atlantic	08/18	11 YEARS	9	16,312,380	0	16,312,380	Formula		108,749		
WATERFRONT	**03/32**	**30 YEARS**	14	**41,426,010**	**7,667,340**	**33,758,670**	**69%**	**23,188,830**	**185,047**	**293,339**	**376,233**
FY16 Taxes				854,619	158,177			478,386			
- CEA/Waterfront Maine	12/31	20 YEARS	5	15,187,300	950,930	14,236,370	63%		185,047		
DOWNTOWN TOD TIF	16/45	30 YEARS	1	1,040,381,920	968,136,850	72,245,070	12%	8,669,408		178,850	21,284,229
FY16 Taxes				21,463,079	19,972,663	1,490,416		178,850			

Total Value:				**1,311,149,460**	**1,107,923,550**	**203,487,510**		**87,288,368**			
Total Taxes:				**27,049,013**	**22,856,463**	**4,197,947**		**1,800,759**	**997,388**	**803,251**	**25,253,772**

Com 5-16/17
Tab 8 11-21-16

MEMORANDUM
City Council Agenda Item

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

FROM: **Mayor Ethan Strimling**

DATE: **November 15, 2016**

SUBJECT: **Communication re: Formation of an Ad Hoc Committee to Study Rules**

SPONSOR: Mayor Ethan Strimling
(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____11/21/2016___ Final Action________

Can action be taken at a later date: ____ Yes _X_ No (If no why not?) Passage requires notice; final rules will be on the December 5, 2016 agenda

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

I. ONE SENTENCE SUMMARY

The Mayor is appointing Councilors Mavodones, Duson, Costa and Mayor Strimling (Chair) to serve on an Ad Hoc Council Committee to review the City Council Rules and determine if any amendments or changes are recommended in time for approval by the Council at the December 5, 2016 Inaugural City Council Meeting.

II. AGENDA DESCRIPTION

According to Rule 30 of the Portland City Council Rules of Procedure, notice for any potential amendment to the Rules of Procedure must be provided at the preceding meeting. This communication provides that notice. Mayor Strimling is appointing Councilors Mavodones, Duson, Costa and Mayor Strimling (Chair) to serve on an Ad Hoc Committee to review the City Council Rules and determine if any amendments or changes are recommended.

III. BACKGROUND

At the first City Council meeting in December annually, new Councilors are sworn in, Council Committees are filled and the City Council adopts its Rules of Procedure. The rules have been amended over the years to allow applause for any honors or recognitions, for example. Last year the Rules were amended to set the meeting time at 5:00 p.m. The Rules govern how items are approved and follow the City Charter's requirements for first and second readings and various votes. The rules also govern the conduct of City Council meetings including public comment. Last year the Rules were changed to provide the public with a set time for comments on anything not listed on the meeting's agenda. This allowed anyone wishing to speak to know when that would be allowed instead of, as previously was the case, having to wait for the end of a meeting.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

N/A.

V. FINANCIAL IMPACT

None; other than the staff time used to create and address the amendments to the City Council Rules of Procedure.

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

N/A.

VII. RECOMMENDATION

N/A.

VIII. LIST ATTACHMENTS

City Council Rules of Procedure

Prepared by: Nancy English
Date: November 14, 2016

RULES OF PROCEDURE OF THE CITY COUNCIL
As Amended December 7, 2015

Rule 1. Regular Meetings and Council Workshop Sessions

A. The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 5:00 p.m. on the first and third Mondays of each calendar month. When said Monday is a holiday, an election day, or the first Monday in December, the regular meeting shall be held on the following Wednesday, at the same time and place. The date or the time of any regular meeting may be changed by an order passed at a previous meeting of the Council or by warrant for a special meeting called in lieu of a regular meeting; provided however, that said change in date will still provide for two regular meetings in one month. Unless otherwise changed by an order passed at a preceding meeting or by the calling of a special meeting at a different time or place, for like purposes, the Council shall also regularly meet at 12:00 noon on the first Monday of December of each year for the purpose of the inauguration of Portland City Council, the swearing in of Councilors-elect, filling Council committees, adopting rules and orders, and transacting such other business as it may deem appropriate. The public hearing of any item shall not commence after 10:00 p.m. of the day of said regular meeting unless five (5) members consent to such consideration. The Council deliberation and action on any item shall not commence after 10:00 p.m. of the day of said regular meeting unless five (5) members consent to such consideration.

B. With proper notice, workshop sessions of the City Council may be called by five (5) members of the City Council, the Mayor or the City Manager, as the case may be, for obtaining legal, administrative or policy guidance or for the presentation of information by the City Manager, the City Clerk or Corporation Counsel or their staff. The City Council shall not take votes in workshop sessions; however, the Council may be polled at the workshop to obtain an unofficial sense of the position of the Council on an issue being discussed at the workshop. To the maximum extent possible, materials for such sessions shall be provided to the City Council at least two (2) days prior to the scheduled workshop. All such workshop sessions shall be open to the public, in accordance with 1 M.R.S. §400 et seq. ("FOAA").

Rule 2. Quorum; Adjourned Meetings

A majority of the members shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken.

Rule 3. Enactments

The Council shall act only by ordinance, order, or resolve. Final passage of any item shall require five (5) affirmative votes except where a greater number is required by Charter or Ordinance. All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title. The appropriation order or resolve shall be confined to the subject of appropriations only.

Rule 4. Ordinance; Style

All ordinances passed by the Council shall be termed "amendments to the Portland City Code" and the enacting style shall be: "Be it ordained by the City Council of the City of Portland, Maine, in City Council assembled."

Rule 5. Order and Resolve; Style

In all votes of command, the form of expression shall be "ordered"; and of opinions, principles, facts or purposes, the form shall be "resolved".

Rule 6. Readings

The reading of any ordinance, order, or resolve shall be by title of the ordinance, order or resolve only, if no member objects.

Rule 7. Reading on Two Separate Days; Waiver

No ordinance, no appropriation resolve, and no order authorizing the expenditure of $5,000.00 or more shall be passed until it has been read on two separate days, except when the requirement of reading on two separate days has been dispensed with by a vote of seven (7) of the members.

Rule 8. Yeas and Nays Taken; When

The yeas and nays shall be taken upon the passage of all ordinances and orders authorizing the expenditure of money in the amount of $5,000.00 or more and upon any motion to adjourn and entered upon the record of the proceedings of the Council by the Clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member.

Rule 9. Ordinances; Effective When

No ordinance shall take effect until thirty (30) days after its passage by the Council, except in the case of emergency ordinances.

Rule 10. Order, Resolve; Effective When

No order or resolve shall take effect until ten (10) days after its passage, except in the case of emergency orders and resolves.

Rule 11. Emergency Ordinances, Orders and Resolves

The Council may, by vote of seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the Council shall be conclusive.

Rule 12. Item for Meetings; Filed When

No ordinance, order, resolve, or other document shall be in order for action at any regular meeting of the Council unless such ordinance, order, resolve, or other document shall appear on the Council Agenda. Items for the

Agenda shall be received in the office of the City Manager on or before close of the work day ten (10) days prior to the scheduled Council meeting.

Rule 13. Presiding Officer to Chair Meetings

The Presiding Officer shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called, and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business.

Rule 14. Preserve Order Decide All Questions of Order

The Presiding Officer shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided.

Rule 15. Declare Votes; Cause Return of Votes

The Presiding Officer shall declare all votes, but if any member doubts a vote, the Presiding Officer shall cause a return of the members voting in the affirmative and in the negative; without debate.

Rule 16. Debate; Rules of

When a question is under debate, the Presiding Officer shall receive no motion but to adjourn, or for the previous question, or to lay on the table, or to postpone to a day certain or to refer to a committee or some administrative official, or to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged.

Rule 17. Motion to Adjourn; Lay on Table

The Presiding Officer shall consider a motion to adjourn as always in order except on immediate repetition; and that motion and the motion to lay on the table, or to take from the table, shall be decided without debate.

Rule 18. Reconsideration

When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote to move a reconsideration thereof, at the time, or the next stated meeting, but not afterwards, and when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next stated meeting unless an item to that effect is contained in the agenda for such next stated meeting or unless seven of the members consent to such reconsideration. A citizen petition, or zone change petition, once presented to and finally acted upon by the Council shall not again be received by the Council in the same or substantially the same form for a period of one year next succeeding the Council's final action on the original petition. A member voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

A liquor license or special entertainment permit, or an amendment proposed by the licensee to an existing license or permit that has been denied by the Council shall not be received by the Council in the same or substantially the same form for one year from the date of such action unless a shorter period is required by state law.

Rule 19. Failure to Pass for Lack of Required Votes

When an item fails to finally pass for lack of the required five (5), or seven (7) affirmative votes, as applicable, and is not otherwise disposed of, the item shall appear on the Agenda as unfinished business at the next succeeding meeting.

Rule 20. Motion for Previous Question

Upon the motion for the previous question being made and seconded, the Presiding Officer shall put the question in the following form: "Shall the main question be now put?". And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the Council shall be forthwith taken upon all pending amendments and then upon the main question. Neither is it susceptible of amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the Presiding Officer or not.

Rule 21. Manner of Speaking

When a member is about to speak, he or she shall rise in his or her place and respectfully address the Presiding Officer, confine himself or herself to the question under debate, and avoid personalities.

Rule 22. Length of Statements by Members

During the deliberation on any item, each member shall limit his or her remarks and/or questions, to a total of ten (10) minutes.

Rule 23. Not to Interrupt

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

Rule 24. Breach of Rules and Orders

When any member shall be guilty of a breach of any of the rules or orders of the Council, that member may, on motion, be required to make satisfaction therefor, and shall not be allowed to vote, or speak, except by way of excuse, until he or she has done so.

Rule 25. Member Excused From Voting; When

Every member present when a question is put shall vote unless the member is precluded from participation therein because of interest or the appearance of interest or unless she or he is otherwise prohibited by law from participation.

(a) Any member abstaining on grounds of interest or the appearance of interest must do so at the commencement of deliberations on the item under discussion and shall not participate in said deliberations or vote on such item.

(b) Any member abstaining as permitted hereunder shall clearly state such intent, the reason for such abstention and the legal or factual basis therefor prior to the commencement of deliberation on such item.

Rule 26. Motion to be Reduced to Writing; When

Any motion shall be reduced to writing if the Presiding Officer shall so direct.

Rule 27. Division of Question

Any member may require the division of a question when the sense will admit it.

Rule 28. Motion for Referral

A motion for referral to a Committee or administrative official, until it is decided, shall preclude all amendments of the main question.

Rule 29. Priority of Business

All questions relating to priority of business to be acted upon shall be decided without debate.

Rule 30. Suspension of Rules; Amendment or Repeal

The rules shall not be dispensed with or suspended unless two-thirds as of those present and voting consent thereto; provided, however, that when these rules expressly require a vote larger than said two-thirds such rules shall not be suspended except by an equal or greater vote. No rule of procedure shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Rule 31. Procedure for Addressing Council

Any person wishing to address the Council will be given an opportunity to do so in accordance with the following procedure:

1. No public comment shall be permitted on the following agenda items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior action of the Council where that prior action had permitted public comment.

2. On items other than those set forth in 1. above, public comment shall be permitted only once prior to final

Council action. Except as specifically decided by the Council, such public comment shall occur at the advertised public hearing or at the second reading of such item by the Council, where the item requires a second reading on a separate date.

3. Persons wishing to address the Council on an item which appears on the agenda, and upon which public comment is permitted under 1. and 2. above, shall wait until the Clerk announces the consideration of such item, at which time they may address the Council on that particular item. However, once the Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item.

4. Persons wishing to address the Council on an item not appearing on the agenda shall only do so at the 7:00 p.m. public comment period reserved on the City Council agenda for non-agenda items.

5. Any person wishing to address the Council shall signify such desire and, when recognized by the Presiding Officer, such person shall give his or her name and address and designate the subject matter on which he or she desires to address the Council.

6. When any person or entity is being honored or recognized by the Council, applause shall be permitted. In all other matters, persons present at Council meetings shall not interrupt, nor applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.

7. Persons addressing the Council on an item prior to start of deliberation on such item by the Council shall be permitted to speak only once on an item, and shall limit their remarks on each item to three (3) minutes. Such persons shall confine their remarks to the merits of the pending item. No members of the public shall comment on more than three (3) items at any Council meeting unless the Rules of the Council are suspended to allow for comment on each such additional item.

8. The Presiding Officer may limit or cut off any commentary that is not germane or that is scurrilous, abusive, or not in accord with good order and decorum.

9. Any person who shall continue to violate these rules, after warning by the Presiding Officer, may be ejected for the remainder of the meeting then in progress.

Rule 32. Parliamentary Proceedings

In all cases where the parliamentary proceedings are not determined by the foregoing rules, "Robert's Rules" shall be taken as authority to decide the course of the proceedings.

Rule 33. Council Committees

At the commencement of the municipal year, or as soon thereafter as possible, members shall be appointed to the following standing Committees, each Committee to consist of three (3) members of the Council except for the Housing Committee which shall have five (5) members:

1. Economic Development Committee;
2. Finance Committee;
3. Health and Human Services Committee;
4. Housing Committee;
5. Legislative/Nominating Committee; and
6. Sustainability and Energy Committee.

A majority of the members of the above standing Committees shall constitute a quorum for the transaction of business.

Rule 34. Council Committees; How Chosen

The members of the Council to serve on the above Committees shall be appointed by the Mayor. The Council may override one or more of such appointments by a vote of at least six (6) members.

Rule 35. Council Committees; Public Comment

The public will be given an opportunity to comment on any item under consideration by the below-named standing Council Committees prior to a final Committee action on that item. Any person addressing the Committee on an item shall be permitted to speak only once on an item, shall give his or her name and address, and shall limit their remarks on each item to three (3) minutes. This requirement for public comment shall apply to the following Committees:

1. Economic Development Committee;

2. Finance Committee;

3. Health and Human Services Committee;

4. Housing Committee;

5. Legislative/Nominating Committee; and

6. Sustainability and Energy Committee.

Nothing herein shall prevent or prohibit any other Committee from accepting public comment if said Committee determines that it wishes to do so.

Notwithstanding the foregoing, no public comment shall be required on the following items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior Committee action where that prior action had permitted public comment.

Rule 36. Smoking at Meetings

No person shall smoke in the Council Chamber or at any public meeting in the Portland City Hall. Any person continuing to smoke after warning by the Presiding Officer shall be ejected for the remainder of the meeting then in progress.

Rule 37. Confidentiality

No Councilor shall intentionally disclose or discuss information known to be confidential to or with any person not otherwise authorized or privileged to receive that information, including representatives of the media. For the purpose of this rule, "information known to be confidential" includes information in any form that has been designated, to the knowledge of the Councilor, as confidential by an employee or agent of the City of Portland, and that is within one or more of the exceptions to the definition of "public record" in the State's Freedom of Access law.

Confidential information includes statements made by individuals participating in executive sessions and includes any documents prepared specifically for an executive session, unless otherwise designated by the City Council in cases where the Council has the exclusive right to waive confidentiality.

Any Councilor who, following a due process hearing, is found to have violated this rule may be disciplined by reprimand.

Order 87-16/17
Tab 9 11-21-16

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER AUTHORIZING ASSIGNMENT OF TAX INCREMENT FINANCING DISTRICT CREDIT ENHANCEMENT AGREEMENT HELD BY MCAULEY PLACE AT BAXTER WOODS RETIREMENT COMMUNITY, INC.

ORDERED, that the City Council hereby approves the assignment of the Tax Increment Financing District Credit Enhancement Agreement held by McAuley Place at Baxter Woods Retirement Community, Inc. to Sea Coast at Baxter Woods Associates, LLC and to Motherhouse Associates LP; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor Strimling and Members of the Portland City Council

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

DATE: October 31, 2016

SUBJECT: **Order Authorizing the Assignment of the McAuley Place Tax Increment Financing District Credit Enhancement Agreement**

SPONSOR: Economic Development Committee, Councilor Brenerman/Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading and Final Action: November 21, 2016

Can action be taken at a later date: Yes

PRESENTATION: Greg Mitchell/5 Minutes

I. ONE SENTENCE SUMMARY

The request is to assign the McAuley Place Tax Increment Financing (TIF) District Credit Enhancement Agreement (CEA) from McAuley Place at Baxter Woods Retirement Community, Inc., to Sea Coast at Baxter Woods Associates, Inc. and Motherhouse Associates, LP.

II. AGENDA DESCRIPTION

Changes in corporate entities are taking place to support the redevelopment of the Motherhouse Project and surrounding property located in the McAuley Place TIF District. This necessitates City Council approval to Assign the McAuley Place TIF CEA which is permitted under the existing City Council approved CEA per Section 7.3.

III. BACKGROUND

The City Council approved the McAuley Place TIF District on May 16, 2009. The terms of this TIF District include returning sixty (60) percent of the new property taxes to the Motherhouse Project developer for a period of thirty (30) years and the remaining forty (40) percent will be placed in the City's General Fund. It is noted that this property is tax exempt because it is owned by St. Joseph Covenant and Hospital. Also, it is noted that the TIF District approval date started the TIF District term in 2009, but it was not activated at that time because the planned redevelopment project investment did not occur at that time. With the Project now preparing to move forward under different corporate entities, assignment of the approved McAuley Place TIF District CEA is needed. A summary of the affordable senior housing original development program (2009) compared with the latest development program (2016) along with TIF District property tax estimates includes:

Original Project (2009 Market Rate Affordable Senior Housing Project)

- 45 to 50 apartments in the renovated Motherhouse;
- 25 to 30 apartments (new construction) in an addition to the Motherhouse; and,
- 36 residential units (new construction) located in three townhouses/cottages between the Motherhouse and Baxter Woods.

TIF District Gross Property Tax Estimates

Years	Capture Rates	
	60% Project	40% City
1-30	$6.245 Million	$4.163 Million

Latest Project (2016 Low Income Housing Tax Credit Senior Project)

- 88 total (66 with affordable restrictions and 22 market rate) units located in the Motherhouse; and,
- 21 market rate residential units located between the Motherhouse and Baxter Woods.
- TIF funds dedicated to the operation of the Motherhouse Project were an essential leverage source to secure the Maine State Housing Authority Low Income Housing Tax Credit financing.

TIF District Gross Property Tax Estimates

Years	Capture Rates	
	60% Project	40% City
1-30	$4.156 Million	$2.770 Million

Non TIF District Property Tax Estimates

It is noted that 140 residential units are planned to be located on the remainder of the former McAuley Campus which are located outside the TIF District. The estimated total taxable value for this portion of the project when complete is $37,100,000 with property taxes at a 21.11 mil rate equals $783,181 per year on previously tax exempt property. These units and their corresponding tax revenues were not a part of the 2009 Development Plan.

IV. INTENDED RESULT OR COUNCIL GOAL ADDRESSED

City Council approval of the Assignment of the McAuley Place TIF District CEA.

V. FINANCIAL IMPACT

There is no financial impact related to City Council approval to assign the McAuley Place TIF District CEA.

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

Staff reviewed the request and determined that the requested McAuley Place TIF District CEA assignment is allowed under the City Council approved CEA. In addition, the assignment will affirm the investment of $426,262 in HOME funding to the project which was approved by the City Council at its August 3, 2015 meeting (Council Order 35-15/16).

VII. RECOMMENDATION

The Economic Development Committee reviewed this request at its October 25th meeting and voted unanimously (3-0) to forward this to the City Council with a recommendation that it approve the assignment of the McAuley Place TIF District CEA from McAuley Place at Baxter Woods Retirement Community, Inc., to Sea Coast at Baxter Woods Associates, Inc. and Motherhouse Associates, LP. The Committee also directed staff to include in the City Council packet the 2009 Original TIF District memo to the City Council with estimated property tax revenue return to the Developer and to the City, along with projected tax revenue for the 2016 project.

VIII. LIST ATTACHMENTS

- 2/25/2009 Memo to the Council and Spreadsheet
- Consent to Assignment of Credit Enhancement Agreement
- 2016 McAuley Project TIF Projection Table
- Assignment and Assumption of Credit Enhancement Agreement

Prepared by: Greg Mitchell

Date: October 31, 2016

Memorandum
Economic Development Division

To: **Mayor and Members of the City Council**

From: **Greg Mitchell, Economic Development Director**

Date: **February 25, 2009**

Re: **McAuley Place Senior Living Project TIF Request/Stevens Avenue**

Council Meeting at which action is requested: March 2, 2009, for a first reading; March 16, 2009 for a second reading, TIF public hearing, and vote.

Can action be taken at a later date? No.

If not, why? TIF applications need to be submitted to the Maine Department of Economic and Community Development by March 31, 2009, to establish the base valuation for the TIF District as of April 1st.

I. Summary of Issue

Project Overview

The Sisters of Mercy, in partnership with John B. Wasileski (Project Developer and Management), are proposing a market rate independent senior living community. The project includes the following:

A. 45 to 50 apartments in the renovated Convent;
B. 25 to 30 apartments (new construction) in an addition to the Convent; and,
C. 36 units (new construction) located in three townhouse/cottages adjacent to the Convent.

A new non-profit organization will be established to own this project. John B. Wasileski's role will be to serve as the project developer and management agent. The Sisters of Mercy will be donating the project associated real estate to the new non-profit organization.

An aerial map and proposed project plan are attached.

II. Reason for Submission

The development team, and staff concurs, that this project cannot go forward without the support of the City through a TIF District financing mechanism.

III. Intended Result

With the City supporting the project through a TIF district, it will have three important results:

1. preservation of an important historic structure;
2. generating tax revenue from tax exempt property and jobs; and,
3. establishing new market rate senior living units to create additional economic benefit.

IV. Financial Impact

Developer TIF Request and Evaluation

The project related real estate, currently, is tax exempt, meaning it generates no real estate revenue to the City of Portland. The proposed project will be taxable. A tax increment financing district (TIF) is proposed to assist with the project financing.

The developer's project budget shows an "all in" investment of $25,192,250 to include project design, regulatory approvals, legal, site work, construction, and contingency expenses. Project sources of funds include anticipated revenue from the sale of the 36 townhouse units, financing from a federal program for the Convent rental apartments, and anticipated financing from Federal and State Historic Tax Credits totaling $23,241,875 for a financing gap (short-fall) of $1,950,375. A TIF agreement is proposed to address the Project financing gap.

City staff reviewed a detailed project budget and determined that the Project met the "But For" test, meaning that the Project would not proceed except for the investment of TIF financing. Based upon the Project need, the following TIF agreement was negotiated to City Council approval:

Number of Years: 30

Developer and City Percentages of New Property Tax Revenue

Years	Developer	City	Total
1-30	60%	40%	100%

See attached TIF application and spreadsheet (Exhibit A to the TIF application) for annual estimates of Project investment, City mil. rates, real estate tax revenue, and Developer and City tax share agreement.

It should be noted that the City share of new property tax revenue, estimated at $4,163,362 over twenty years, will be placed in the City's General Fund.

Tax shelter benefits associated with this TIF agreement are attached. As you recall, when municipal valuation increases, Portland's State education aid is reduced, State municipal revenue sharing is reduced, and Portland will pay a higher percentage of the County budget. The average tax shelter for Portland is 35%, meaning that for every new tax dollar, Portland loses 35 cents. See attached sheets for detailed tax shelter analysis.

Also, it is important to note that the Sisters of Mercy have represented that this proposed Project is the "last and best hope" to reuse the Convent.

Recommendation

The CDC voted unanimously at its meeting on February 11, 2009, to forward this item to the City Council with a recommendation that it be approved as presented.

Attachments:

- Aerial Map
- Proposed Project Plan
- TIF Application

Exhibit A

St. Joseph's TIF Spreadsheet

TIF Years - Starts with FY10 in this template	Estimated Increased Assessed Value (Cumulative)	Est. Tax Rate (plus 2% per year)	Est. Increased Real Estate Taxes from Captured Value	TIF Revenue to Developer	Revenue to City	Developer Share at 60%	City General Fund at 40%
1	500,000	0.01809	9,045	60%	40%	5,427	3,618
2	3,000,000	0.01846	55,380	60%	40%	33,228	22,152
3	6,000,000	0.01883	112,980	60%	40%	67,788	45,192
4	10,000,000	0.01920	192,000	60%	40%	115,200	76,800
5	12,000,000	0.01959	235,080	60%	40%	141,048	94,032
6	15,250,000	0.01998	304,695	60%	40%	182,817	121,878
7	15,250,000	0.02038	310,795	60%	40%	186,477	124,318
8	15,250,000	0.02079	317,048	60%	40%	190,229	126,819
9	15,250,000	0.02120	323,300	60%	40%	193,980	129,320
10	15,250,000	0.02162	329,705	60%	40%	197,823	131,882
11	15,250,000	0.02206	336,415	60%	40%	201,849	134,566
12	15,250,000	0.02250	343,125	60%	40%	205,875	137,250
13	15,250,000	0.02295	349,988	60%	40%	209,993	139,995
14	15,250,000	0.02341	357,003	60%	40%	214,202	142,801
15	15,250,000	0.02388	364,170	60%	40%	218,502	145,668
16	15,250,000	0.02435	371,338	60%	40%	222,803	148,535
17	15,250,000	0.02484	378,810	60%	40%	227,286	151,524
18	15,250,000	0.02534	386,435	60%	40%	231,861	154,574
19	15,250,000	0.02584	394,060	60%	40%	236,436	157,624
20	15,250,000	0.02636	401,990	60%	40%	241,194	160,796
21	15,250,000	0.02689	410,073	60%	40%	246,044	164,029
22	15,250,000	0.02743	418,308	60%	40%	250,985	167,323
23	15,250,000	0.02797	426,543	60%	40%	255,926	170,617
24	15,250,000	0.02853	435,083	60%	40%	261,050	174,033
25	15,250,000	0.02910	443,775	60%	40%	266,265	177,510
26	15,250,000	0.03027	461,618	60%	40%	276,971	184,647
27	15,250,000	0.03087	470,768	60%	40%	282,461	188,307
28	15,250,000	0.03148	480,070	60%	40%	288,042	192,028
29	15,250,000	0.03210	489,525	60%	40%	293,715	195,810
30	15,250,000	0.03274	499,285	60%	40%	299,571	199,714
TOTAL						6,245,043	4,163,362
NPV @8%						$1,995,825	

Footnotes:
Original Assessed Value a/o of 3/31/09: $0
NPV = Net Present Value

Notes: 1. Assumes 2.0% annual increases in tax rates. 2. The City's Tax Assessor estimates total annual taxes of $275,000 if the project were fully completed as of April 1, 2009; the table above converts that estimate to the phase in of the improvements over an estimated 5 year development plan. 3. After Year 30, all of the Tax Increment shall be paid to the City and added to its General Fund. 4. The amount of the Tax Increment on the Increased Assessed Value of all real property and all personal property in the District for each year during the term of the District to be allocated and paid to McAuley Place Retirement Community each year pursuant to the Credit Enhancement Agreement shall be equal to the product for each year during the term of the District of (a) 60%, being the relevant percentage allocation for each year as set forth in column labeled "Tax Increment Revenues (McAuley Place Share) times (b) the actual amount of the Tax Increment for each year. Such percentage allocations shall apply regardless of whether the actual Tax Increment Revenues each year are more or less than the Tax Increment Revenues as estimated or projected in this Exhibit A of this Development Program.

Consent to Assignment of Credit Enhancement Agreement

Whereas, on May 16, 2009, the City Council of the City of Portland approved The McAuley Place Municipal Development and Tax Increment Financing District Development Program, which created a tax increment financing district with respect to property located at 605 Stevens Avenue, Portland, Maine and, following approval of the Development Program by the Maine Department of Economic and Community Development, a Credit Enhancement Agreement, dated May, 2009, (the "Agreement") was entered between the City of Portland and McAuley Place at Baxter Woods Retirement Community, Inc., its successors and assigns (hereinafter "McAuley Place");

Whereas, Section 7.3 of the Agreement provides that McAuley Place shall have the right to transfer and assign to any person or entity all or any portion of its rights in, to and under this Agreement, at any time, and from time to time, as McAuley Place may, in its sole discretion, deem appropriate and said right shall not be unreasonably withheld by the City; and

Whereas, St. Joseph Covenant and Hospital has agreed to sell all of the property in the TIF District to Sea Coast at Baxter Woods Associates, LLC, a Maine limited liability company ("Sea Coast"), and Sea Coast intends to sell a portion of such property to Motherhouse Associates, LP, a Maine limited partnership ("Motherhouse Associates"); and

Whereas, Sea Coast has submitted to the Economic Development Department of the City documentation of final project sources and uses demonstrating continued need for the level of TIF financing provided in the Agreement;

Now, therefor, the undersigned agree as follows:

1. The City hereby consents to the assignment of the Agreement by McAuley Place to Sea Coast, its successors and assigns, and to the assignment by Sea Coast to Motherhouse Associates of a portion of the tax increment revenues under the Agreement as set forth in the Credit Enhancement Partial Assignment Agreement attached hereto as Exhibit A.

2. Sea Coast assumes and agrees to perform all obligations of McAuley Place under the Agreement with respect to the property that it will own and Motherhouse Associates assumes and agrees to perform all obligations of McAuley Place under the Agreement with respect the property that it will own.

Dated as of this ___ day of _______, 2016.

City of Portland

By: ________________________
Its

Sea Coast at Baxter Woods Associates, LLC

By: ________________________
Its

Motherhouse Associates, LP

By: ________________________
Its

EXHIBIT A

CREDIT ENHANCEMENT PARTIAL ASSIGNMENT AGREEMENT
(Motherhouse Share)

This Credit Enhancement Partial Assignment Agreement (Motherhouse Share), dated as of ________ __, 2016, between Sea Coast at Baxter Woods Associates, LLC, a Maine limited liability company, with a mailing address c/o Ocean View Management Company, 20 Blueberry Lane, Falmouth, Maine ("Sea Coast"), and Motherhouse Associates, LP, a Maine limited partnership, with a mailing address c/o Developers Collaborative, 100 Commercial Street, Suite 414, Portland, Maine 04101 (hereinafter "Motherhouse").

WITNESSETH THAT

WHEREAS, the City of Portland (the "City") has designated the McAuley Place Municipal Development District and Tax Increment Financing District (the "District") pursuant to Chapter 207 of Title 30-A of the Maine Revised Statutes, as amended, and adopted a development program and financial plan, as amended for the District on March 16, 2009 (the "Development Program"), and

WHEREAS, pursuant to the Development Program, the City entered the Credit Enhancement Agreement, as defined herein, and Sea Coast desires to assign, allocate, and provide for payment to Motherhouse of a portion of the payments to be made by the City pursuant to the Credit Enhancement Agreement and all rights under the Credit Enhancement Agreement that pertain to the Motherhouse Property as defined herein being acquired by Motherhouse on this date;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS

Section 1.1 Definitions. The terms defined in this Article I or herein above shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Credit Enhancement Agreement" means the Credit Enhancement Agreement dated as of May, 2009, between the City of Portland, Maine and McAuley Place at Baxter Woods Retirement Community, Inc. (and assigned by McAuley Place at Baxter Woods Retirement Community, Inc. to Sea Coast by Assignment, dated ___________, 2016), all relating to the District.

"Current Assessed Value" means, for each Fiscal Year that the District remains in effect, the net assessed value (after deducting all exemptions, including homestead exemptions and veterans exemptions) of property, including the Motherhouse Property and the Sea Coast Property, as applicable hereunder, as certified by the municipal assessor of the City as of April 1st prior to such Fiscal Year.

"Fiscal Year" means July 1 to June 30 each year or such other fiscal year as the City may establish from time to time.

"Increased Assessed Value" means, for any Fiscal Year, the assessed valuation amount by which the Current Assessed Value of the District for such Fiscal Year exceeds $0 (the Original Assessed Value of the District).

"Increased Assessed Value (Motherhouse Share)" means, for each Fiscal Year during the term of this Agreement, (i) the then Current Assessed Value of the Motherhouse Property, minus (ii) $0 (the Original Assessed Value).

"Motherhouse Property" means the portion of the real estate located in the TIF District described in the deed of even date from Sea Coast to Motherhouse and recorded in the Cumberland County Registry of Deeds that is located in the District, which property consists of Unit #1 (the "Unit") of 605 Stevens Avenue Condominium created under the Declaration of Condominium, dated ________, 2016 and recorded in the Cumberland County Registry of Deeds, Book ___, Page _____, which unit consists of most of four-story Motherhouse or convent building that was designed in the Italian Renaissance style and constructed in 1908-1909 but excluding the portions thereof described as Common Elements or Limited Common Elements in such Declaration of Condominium and also excluding the portions thereof shown as Unit 2 (the 3 story Smith House wing) and Unit 3 (the Chapel located in the Motherhouse building). The Motherhouse Property has an assessed value, as of April 1, 2016, of $0.

"Original Assessed Value" means the original assessed value of the District, which amount is $0, which was the assessed value of the District as of March 31, 2008 (April 1, 2007) and as of March 31, 2017 (April 1, 2016).

"Property Taxes" means any and all ad valorem property taxes levied, charged or assessed against real property by the City.

"Sea Coast Property" means all of the real property located in the TIF District other than the Motherhouse Property. Accordingly, the Sea Coast Property consists of Unit 2 (the 3 story Smith House wing) and Unit 3 (the Chapel located in the Motherhouse building) of 605 Stevens Avenue Condominium created under the Declaration of Condominium, dated ________, 2016 and recorded in the Cumberland County Registry of Deeds, Book ___, Page _____, and the land located in the TIF District that is not part of said Condominium, said land being located between the Motherhouse and Baxter Woods. The Sea Coast Property has an assessed value, as of April 1, 2016, of $0.

"Tax Increment" means all Property Taxes assessed by the City, in excess of any state, county or special district tax, upon the Increased Assessed Value of all real property in the District that is not exempt from taxation.

"Tax Increment Revenues (McAuley Place Share)" means that percentage of the Tax Increment Revenues (McAuley Place Share), as defined in the Credit Enhancement Agreement. Such percentages are equal to 60% of the Tax Increment relating to all of the property in the TIF Districtfor each Fiscal Year for the period from July 1, 2017 through June 30, 2039.

"Tax Increment Revenues (Sea Coast Share)" means, computed separately for each Fiscal Year during the term of this Agreement, an amount equal to 60% of the Tax Increment for such Fiscal Year computed solely with respect to the Sea Coast Property located in the TIF District.

"Tax Increment Revenues (Motherhouse Share)" means, computed separately for each Fiscal Year during the term of this Agreement, an amount equal to 60% of the Tax Increment for such Fiscal Year computed solely with respect to the Motherhouse Property.

"Tax Map" means the tax maps of the City of Portland attached hereto as Exhibit A.

All terms and words that are capitalized herein and not otherwise defined herein shall have the meanings set forth in the Credit Enhancement Agreement.

ARTICLE II: PAYMENT OBLIGATIONS

Section 2.1. Assignment. Sea Coast hereby assigns to Motherhouse, its successors and assigns, the Tax Increment Revenues (Motherhouse Share) and all portions of the Credit Enhancement Agreement pertaining to or arising out the Motherhouse Property. Motherhouse hereby accepts the obligations of Sea Coast as to the Motherhouse Property and agrees faithfully to perform such obligations and to bound thereby, including without limitation the obligations to pay all Property Taxes on the Motherhouse Property when due.

Sea Coast hereby covenants and agrees with Motherhouse, its successors and assigns, as follows:

a. a true and complete copy of the Credit Enhancement Agreement with all amendments is attached hereto and that the Credit Enhancement Agreement has not been modified, changed, altered, assigned, supplemented or amended in any respect except identified herein;

b. the Credit Enhancement Agreement is a valid and binding obligation of the City and in full force and effect on the date hereof, and the City, to its actual knowledge, has no existing defenses or offsets against the enforcement of the Credit Enhancement Agreement;

c. no default is outstanding under the Credit Enhancement Agreement;

d. Sea Coast shall obtain any necessary consent of the City for the partial assignment and allocation of the Tax Increment Revenues (Motherhouse Share) identified in this Agreement;

e. Sea Coast is the sole holder of the interest of McAuley Place at Baxter Woods Retirement Community, Inc. in the Credit Enhancement Agreement;

f. Sea Coast has not granted any lien, security interest or other encumbrance covering the Credit Enhancement Agreement;

g. Sea Coast shall instruct the City to divide each future payment of Tax Increment Revenues under the Credit Enhancement Agreement into two checks, one to Motherhouse (or its successors of assigns) in the amount Tax Increment Revenues (Motherhouse Share) (the "Motherhouse Share"), and the remainder of the Tax Increment Revenues (McAuley Place Share) to Sea Coast (or its successors and assigns) (the "Sea Coast Share"). In the event the City fails to do so, then the party who received the other's share shall hold such share in trust and promptly remit it to the proper recipient;

h. any future amendments of the Credit Enhancement Agreement affecting in any way the amount of the Motherhouse Share will require the consent of both Sea Coast and Motherhouse or the then respective holders of the interest of Sea Coast and Motherhouse in the Credit Enhancement Agreement; and

i. Sea Coast and Motherhouse shall each pay, with respect to its share of the Tax Increment Revenues the 1% administrative fee due to the City of Portland under Section 3.7 of the Agreement, and the City may withhold or set off that 1% administrative fee from each payment.

Sea Coast and Motherhouse agree that the Tax Increment Revenues (Sea Coast Share) have not been assigned by Sea Coast to Motherhouse and are not subject to this Agreement, and Motherhouse shall have no rights with respect to the Tax Increment Revenues (Sea Coast Share). Sea Coast hereby agrees to faithfully perform the obligations under the Credit Enhancement Agreement and to hound thereby, including without limitation the obligations to pay or cause to be paid all real estate taxes on the non-Motherhouse Property when due.

Section 2.2. Payments. Sea Coast has notified the City that Sea Coast has assigned the Tax Increment Revenues (Motherhouse Share) to Motherhouse. The City is directed to pay the Tax Increment Revenues (Motherhouse Share) directly to Motherhouse, its successors and assigns, beginning with first half (September 2017 payment) of the Fiscal Year of the City beginning July 1, 2017 and ending June 30, 2018 and continuing with each fiscal year of the City thereafter through and including June 30, 2039.

ARTICLE III: BOOKS AND RECORDS

Section 3.1. Access to Books and Records. All books, records and documents in the possession of Sea Coast relating to the District, the Development Program, this Agreement and the Tax Increment Revenues (McAuley Place Share), the Tax Increment Revenues (Sea Coast Share) and the Tax Increment Revenues (Motherhouse Share) shall at all reasonable times be open to inspection by Motherhouse, its agents and employees.

ARTICLE IV: ASSIGNMENT AND PLEDGE OF MOTHERHOUSE' SHARE

Section 4.1. Consent to Pledge and/or Assignment. Sea Coast does hereby irrevocably consent and agree to the pledge and assignment by Motherhouse from time to time of its right, title and interest in, to and under this Agreement and in, and to the payments to be made to Motherhouse hereunder, to third parties as collateral or security for indebtedness incurred from time to time, on one or more occasions during the term hereof. Motherhouse shall give prompt written notice to the City and to Sea Coast of any pledge of or security interest granted with respect to this Agreement or any interest therein.

Section 4.2. Assignment: In addition to the rights of assignment in Sections 5.1 hereof, Motherhouse shall have the right to transfer and assign all or any portion of its rights in, to and under this Agreement, at any time, and from time to time as Motherhouse may, in its sole discretion, deem appropriate provided that Motherhouse shall first obtain the written consent of the City and Sea Coast of any assignment of this Agreement or any interest therein, which consents will not be unreasonably withheld.

ARTICLE V: MISCELLANEOUS

Section 5.1. Successors. The covenants, stipulations, promises and agreements set forth herein shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

Section 5.2. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 5.3. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 5.4. Notices. All notices, certificates, requests, requisitions or other communications by the Sea Coast or Motherhouse pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to Sea Coast: Sea Coast at Baxter Woods Associates, LLC
c/o Ocean View Management Company
20 Blueberry Lane
Falmouth, Maine

If to Motherhouse: Motherhouse Associates, LP
c/o Developers Collaborative
100 Commercial Street, Suite 414
Portland, Maine 04101

Any of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 5.5. Amendments. This Agreement may be amended only with the written consent of the parties hereto.

Section 5.6. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written or oral, between Sea Coast and Motherhouse relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

IN WITNESS WHEREOF, Sea Coast at Baxter Woods Associates, LLC and Motherhouse, LP have caused this Agreement to be executed in their respective names and their respective seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

Sea Coast at Baxter Woods Associates, LLC

____________________ By: ____________________
John B. Wasileski, its Manager

Motherhouse Associates, LP

____________________ By: ____________________
Kevin Bunker, Its General Partner

City of Portland - TIF Model
McAuley TIF

11/4/2016

2016 McAuley Project TIF Projection Table - 60% Sheltered to Developer; 40% Unsheltered to City General Fund										
TIF Year	Tax Year-April 1	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues
1	2009	$0	60.00%	$0	17.74	$0	$0	$0	$0
2	2010	$0	60.00%	$0	17.92	$0	$0	$0	$0
3	2011	$0	60.00%	$0	18.28	$0	$0	$0	$0
4	2012	$0	60.00%	$0	18.82	$0	$0	$0	$0
5	2013	$0	60.00%	$0	19.41	$0	$0	$0	$0
6	2014	$0	60.00%	$0	20.00	$0	$0	$0	$0
7	2015	$0	60.00%	$0	20.63	$0	$0	$0	$0
8	2016	$0	60.00%	$0	21.11	$0	$0	$0	$0
9	2017	$1,900,000	60.00%	$1,140,000	21.53	$24,547	$24,547	$0	$16,364
10	2018	$9,390,500	60.00%	$5,634,300	21.96	$123,745	$123,745	$0	$82,497
11	2019	$12,273,000	60.00%	$7,363,800	22.40	$164,965	$164,965	$0	$109,976
12	2020	$12,273,000	60.00%	$7,363,800	22.85	$168,264	$168,264	$0	$112,176
13	2021	$12,273,000	60.00%	$7,363,800	23.31	$171,629	$171,629	$0	$114,419
14	2022	$12,273,000	60.00%	$7,363,800	23.77	$175,062	$175,062	$0	$116,708
15	2023	$12,273,000	60.00%	$7,363,800	24.25	$178,563	$178,563	$0	$119,042
16	2024	$12,273,000	60.00%	$7,363,800	24.73	$182,134	$182,134	$0	$121,423
17	2025	$12,273,000	60.00%	$7,363,800	25.23	$185,777	$185,777	$0	$123,851
18	2026	$12,273,000	60.00%	$7,363,800	25.73	$189,492	$189,492	$0	$126,328
19	2027	$12,273,000	60.00%	$7,363,800	26.25	$193,282	$193,282	$0	$128,855
20	2028	$12,273,000	60.00%	$7,363,800	26.77	$197,148	$197,148	$0	$131,432
21	2029	$12,273,000	60.00%	$7,363,800	27.31	$201,091	$201,091	$0	$134,061
22	2030	$12,273,000	60.00%	$7,363,800	27.85	$205,113	$205,113	$0	$136,742
23	2031	$12,273,000	60.00%	$7,363,800	28.41	$209,215	$209,215	$0	$139,477
24	2032	$12,273,000	60.00%	$7,363,800	28.98	$213,399	$213,399	$0	$142,266
25	2033	$12,273,000	60.00%	$7,363,800	29.56	$217,667	$217,667	$0	$145,112
26	2034	$12,273,000	60.00%	$7,363,800	30.15	$222,021	$222,021	$0	$148,014
27	2035	$12,273,000	60.00%	$7,363,800	30.75	$226,461	$226,461	$0	$150,974
28	2036	$12,273,000	60.00%	$7,363,800	31.37	$230,990	$230,990	$0	$153,994
29	2037	$12,273,000	60.00%	$7,363,800	32.00	$235,610	$235,610	$0	$157,073
30	2038	$12,273,000	60.00%	$7,363,800	32.64	$240,322	$240,322	$0	$160,215
30 Year TIF Total		**$256,750,500**		**$154,050,300**		**$4,156,498**	**$4,156,498**	**$0**	**$2,770,998**
30 Year Average:						**$138,550**	**$138,550**	**$0**	**$92,367**

<u>Assignment and Assumption of Credit Enhancement Agreement</u>

This Assignment and Assumption of Credit Enhancement Agreement is made this ___ day of ________ 2016, by and between McAuley Place at Baxter Woods Retirement Community, Inc., a Maine nonprofit corporation ("Assignor") and Sea Coast at Baxter Woods Associates, LLC, a Maine limited liability company ("Assignee");

WHEREAS, Assignor is a party to the Credit Enhancement Agreement between the City of Portland (the "City") and Assignor, dated May 2009, a copy of which is attached hereto (the "Agreement");

WHEREAS, Assignor desires to assign to Assignee and Assignee desires to acquire from Assignor all of Assignor's interest in and to said Agreement and Assignee has agreed to assume all obligations of Assignor under said Agreement; and

WHEREAS, it is the intention of the parties hereto that Assignor's interest in and obligations under the Agreement be assigned to and assumed by Assignee as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. <u>Assignment and Assumption</u>. Assignor hereby sells, transfers, conveys, grants and assigns to Assignee, its successors and assigns, to the extent assignable, all right, title and interest of Assignor in and to the Agreement. Assignee hereby accepts such assignment and assumes all obligations of Assignor under the Agreement. This Assignment is granted with no representations or warranties by Assignor other than the fact that Assignor has not assigned or caused to be assigned such Agreement to any third party.

2. <u>Miscellaneous</u>. This Agreement shall be binding upon and shall inure to the benefit of Assignor and Assignee and their respective successors and assigns. Assignee acknowledges and agrees to accept all obligations of the Assignor under the Agreement and to be bound by all provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption of Credit Enhancement Agreement to be executed as a sealed instrument as of the date first above written.

Witness:

ASSIGNOR: McAuley Place at Baxter Woods Retirement Community, Inc.

____

By: ______________________________
, its

ASSIGNEE: Sea Coast at Baxter Woods Associates, LLC

____

By: ______________________________
John B. Wasileski, Its Manager

CREDIT ENHANCEMENT AGREEMENT

This Credit Enhancement Agreement, dated as of this ____ of May, 2009, between the City of Portland, Maine, a municipal body corporate and politic and a political subdivision of the State of Maine (the "City"), and McAuley Place at Baxter Woods Retirement Community, Inc., a Maine nonprofit corporation ("McAuley Place").

WITNESSETH THAT

WHEREAS, the City designated the McAuley Place Municipal Development District and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at City Council Meeting held on March 16, 2009 and pursuant to the same City Council Meeting action adopted a development program and financial plan for the District (the "Development Program") and Maine Department of Economic and Community Development has reviewed and approved the District and the Development Program, and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the City and McAuley Place and the City approved the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to such City Council Meeting approval, and the City and McAuley Place desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated by and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" means this Credit Enhancement Agreement between the City and McAuley Place.

"City" means the City of Portland, Maine, a municipality duly organized and existing under the laws of the State of Maine, its successors and assigns.

"Current Assessed Value" means the assessed value of the District certified by the municipal assessor as of April 1st of each year that the District remains in effect.

"Development Program" means the Development Program for the District as adopted by the City at a City Council Meeting held on March 16, 2009.

"Development Program Fund" means the development program fund described in the Development Program.

"District" means the McAuley Place Municipal Development District and Tax Increment Financing District designated by the City pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at its City Council Meeting held on March 16, 2009.

"Financial Plan" means the financial plan described in the Development Program.

"Fiscal Year" means July 1 to June 30 each year or such other fiscal year as the City may establish.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value of the District exceeds the Original Assessed Value of the District. If the Current Assessed Value is equal to or less than the Original Assessed Value, there is no Increased Assessed Value.

"McAuley Place" means McAuley Place, its successors and assigns, including any assignee of its rights under this Agreement.

"Original Assessed Value" means the taxable assessed value of the District as of March 31, 2008, which amount was $0.

"Project" means the design, planning, development, acquisition, construction, financing and installation of the Capital Program described in the Development Program.

"Project Costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 of title 30-A of the Maine Revised Statutes and included in the Development Program.

"Project Cost Account" means McAuley Place Project Cost Account described in the Development Program.

"Property Taxes" means any and all ad valorem property taxes levied, charged or assessed against real property by the City or on its behalf.

"Qualified Investments" means any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Tax Increment" means all Property Taxes assessed by the City, in excess of any state, county or special district tax, upon the Increased Assessed Value of all real property property in the District.

"Tax Increment Revenues (McAuley Place Share)" means that percentage of the Tax Increment, for each year during the term of this Agreement, with respect to real property in the District as described in Section 3.1 of this Agreement, which revenues shall be deposited by the City in the McAuley Place Project Cost Account and paid to McAuley Place pursuant to this Agreement.

"Tax Payment Date" means the date(s) on which Property Taxes levied by the City are due and payable from owners of property located within the City.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), limited liability companies, trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(f) If any clause, provision, Article or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision, Article or Section shall not affect any of the remaining provisions hereof.

ARTICLE II: MCAULEY PLACE PROJECT COST ACCOUNT OF THE DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of McAuley Place Project Cost Account of the Development Program Fund. The City hereby confirms the creation and establishment of (a) the McAuley Place Development District and Tax Increment Financing District Development Program Fund; and (b) a segregated fund within such Development Program Fund designated as the "McAuley Place Project Cost Account" (the "McAuley Place Project Cost Account") pursuant to, and in accordance with the terms and conditions of the Development Program. The Development Program Fund shall consist of the McAuley

Place Project Cost Account as described in the Development Program. The City's Share of the Tax Increment Revenues as described in the Development Program is not subject to this Agreement.

Prior to the commencement of construction, McAuley Place shall submit to the Economic Development Division of the City, for review and final approval, documentation of final project sources and uses demonstrating continued need for the level of TIF financing provided herein.

Section 2.2. Deposits into McAuley Place Project Cost Account. The City shall deposit into the McAuley Place Project Cost Account contemporaneously with each payment of Property Tax during the term of the District an amount equal to that portion thereof constituting the Tax Increment Revenues (McAuley Place Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to McAuley Place under Article III of this Agreement.

Section 2.3. Use of Monies in McAuley Place Project Cost Account of the Development Program Fund. Monies deposited in the McAuley Place Project Cost Account shall be used and applied exclusively to fund the City's payment obligation described in Article III hereof.

Section 2.4. Monies Held in Trust. All monies required to be deposited with or paid into the McAuley Place Project Cost Account to fund payments of the McAuley Place under the provisions hereof and the provisions of the Development Program shall be held by the City in trust, for the benefit of the McAuley Place.

Section 2.5. Investments. The monies in the McAuley Place Project Cost Account shall be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the McAuley Place Project Cost Account.

Section 2.6. Liens. The City shall not hypothecate or grant or create any liens, security interests, encumbrances, or other interests of any nature whatsoever, with respect to the McAuley Place Project Cost Account or any funds therein, other than the interest granted to the McAuley Place hereunder in and to the amounts on deposit therein.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments. The term of this Agreement shall commence on July 1, 2009 and shall end on June 30, 2039. The City agrees to pay to McAuley Place within 30 days following each Tax Payment Date or the date payment of

Property Tax is actually received by the City with respect to real property in the District, whichever is later, payments equal to the Tax Increment Revenues (McAuley Place Share), as hereafter defined, for each Fiscal Year of the City beginning with the first Fiscal Year of the City after the designation and approval of the District by the Maine Department of Economic and Community Development, being the Fiscal Year beginning July 1, 2009 and ending June 30, 2010 and continuing with each Fiscal Year of the City thereafter through and including the Fiscal Year ending June 30, 2039. The Tax Increment Revenues (McAuley Place Share) for each Fiscal Year during the term of this Agreement shall mean 60% of the entire Tax Increment for each Fiscal Year for the period from July 1, 2009 through June 30, 2039, all determined with respect to all real property located in the District. Such percentages for each year for the "Tax Increment Revenues (McAuley Place Share) are based on the fact that no property taxes are currently assessed in the District and thus the Original Assessed Value is equal to zero, due to the fact that the property in the District is currently exempt from taxation; if the City determines to ascribe any amount in excess of zero to the Original Assessed Value, the percentage of the Tax Increment Revenues (McAuley Place Share) set forth in this Section 3.1 for each year shall be increased to an amount so that the Tax Increment Revenues (McAuley Place Share) for each year is equal to 60% of the sum of the Increased Assessed Value plus the Original Assessed Value. The City shall make all such payments of the Tax Increment Revenues (McAuley Place Share) to the McAuley Place, its successors and assigns. The City shall retain up to 1% of the Tax Increment Revenues (McAuley Place Share) to pay administrative costs of the City relating to this Development Program.

The obligation of the City to make such payments shall be a limited obligation payable solely from that portion of the Tax Increment Revenues (McAuley Place Share) payable to McAuley Place hereunder, and any earnings thereon, whether or not actually deposited into the McAuley Place Project Cost Account, and shall not constitute a general debt or obligation on the part of the City or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine or any political subdivision thereof. The Tax Increment Revenues (McAuley Place Share) is computed based on the total Tax Increment of the District; thus the amount to be paid by the City to McAuley Place hereunder for any year shall be equal to the Tax Increment Revenues (McAuley Place Share) percentage set forth above of the total Tax Increment of the District for such year, which total Tax Increment amount includes any portion of the Tax Increment that is not retained or captured in the District.

Section 3.2. Tax Payments. McAuley Place shall pay when due all real property taxes assessed by the City on property owned by McAuley Place unless contested by the Company by appropriate proceedings pursuant to Maine law. No payments shall be made by the City under this Agreement unless McAuley Place has paid in full all real property taxes assessed by the City on McAuley place property when due.

Section 3.3. Failure to Make Payment. In the event the City should fail to, or be unable to, make any of the payments required under Section 3.1 hereof, the item or installment so unpaid shall continue from year-to-year, as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid and the City agrees to pay the same with interest thereon at the rate equal to the rate payable to the City by property tax payers on delinquent property taxes, as adjusted annually, but only from Tax Increment Revenues (McAuley Place Share) paid to the City by McAuley Place from time to time, and any earnings thereon, whether or not deposited into the McAuley Place Project Cost Account of the Development Program Fund. Payments shall be applied first against accrued interest and then against principal. McAuley Place shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to deposit all Tax Increment Revenues (McAuley Place Share) to the McAuley Place Project Cost Account and its obligation to make payments to McAuley Place.

Section 3.4. Manner of Payments. The payments provided for in this Article III shall be paid in available funds directly to McAuley Place in the manner provided hereinabove for its own use and benefit.

Section 3.5. Obligations Unconditional. The obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against McAuley Place. The City shall not suspend or discontinue any such payment or terminate this Agreement for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration or frustration of purpose or any damage to or destruction of the Project or any change in the tax or other laws of the United States, the State of Maine or any political subdivision of either thereof, or any failure of McAuley Place to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Agreement or the Development Program.

Section 3.6. Limited Obligation. The City's obligations of payment hereunder shall be limited obligations of the City payable solely from monies on deposit in the McAuley Place Project Cost Account, and any earnings thereon, pledged therefore under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of the Tax Increment Revenues (McAuley Place Share) payable to McAuley Place hereunder, and any earnings thereon, whether or not actually deposited into the McAuley Place Project Cost Account. This Agreement shall not directly or indirectly or contingently obligate the City, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation or to levy or to make any appropriation for their payment, excepting the City's obligation to levy Property Taxes upon the property in the District and the pledge of the Tax Increment Revenues (McAuley Place Share), and earnings thereon, established under this Agreement.

Section 3.7. Administrative Fee. McAuley Place shall pay to the City an annual administrative fee equal to 1% of the Tax Increment Revenues (McAuley Place Share).

Such payment shall be deducted pursuant to Section 3.1 of this Agreement contemporaneously with the payment by the City to McAuley Place.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of McAuley Place Project Cost Account. In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to McAuley Place by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in, and pledge to McAuley Place, the McAuley Place Project Cost Account to the extent of McAuley Place rights under this Agreement to receive funds from the McAuley Place Project Cost Account and all sums of money and other securities and investments now or hereafter therein.

Section 4.2. Perfection of Interest. The City authorizes McAuley Place to file and, if necessary, shall cooperate with the McAuley Place in causing appropriate financing statements and continuation statements naming McAuley Place as pledgee of all amounts from time to time on deposit in the McAuley Place Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder. To the extent deemed necessary by McAuley Place, the City will at such time and from time to time as requested by McAuley Place establish the McAuley Place Project Cost Account as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect McAuley Place interest therein.

Section 4.3. Further Instruments. The City shall, upon the reasonable request of McAuley Place, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City.

Section 4.4. No Disposition of McAuley Place Project Cost Account. Except as permitted hereunder, the City shall not sell, lease, pledge, grant a security interest in, assign or otherwise dispose, encumber or hypothecate any interest in the McAuley Place Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part hereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the McAuley Place Project Cost Account shall at all reasonable times be open to inspection by McAuley Place, its agents, lenders, designees and employees.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

(a) any failure by the City to pay any amounts due to McAuley Place when the same shall become due and payable and any failure by the City to make deposits into the Development Program Fund or the McAuley Place Project Cost Account as and when due;

(b) any failure by the City or McAuley Place to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or McAuley Place to be observed or performed, provided, however, that failure of McAuley Place to pay Property Taxes when due shall not constitute an event of default hereunder; or

(c) if a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the City's affairs shall have been entered against the City or the City shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the City or of or relating to all or substantially all of its property, including without limitation, the filing of a voluntary petition in bankruptcy by the City or the failure by the City to have a petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the City.

Section 5.2. Remedies on Default. Whenever any Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the non-defaulting party may take any one or more of the following remedial steps: (a) the non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect any amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the non-defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder; and (b) McAuley Place shall also have the right to exercise any rights and remedies available to a secured party under the laws of the State of Maine. Neither party has the right to terminate this Agreement.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the City with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Agreement to Pay Attorneys' Fees and Expenses. Notwithstanding the application of any other provision hereof, in the event any party should default under any of the provisions of this Agreement and the non-defaulting party shall require and employ attorneys or incur other expenses or costs for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the City or McAuley Place herein contained, the defaulting party shall, on demand thereof pay to the non-defaulting party the reasonable attorneys fees, costs and expenses so incurred by the non-defaulting party.

ARTICLE VI: EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof for the entire term of this Agreement and shall expire upon the payment of all amounts due to McAuley Place hereunder and the performance of all obligations on the part of the City and McAuley Place hereunder.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement and following full payment of all amounts due and owning to McAuley Place hereunder or provision for payment thereof and of all other fees and charges having been made in accordance with the provisions to this Agreement, the City and McAuley Place shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: ASSIGNMENT AND PLEDGE OF MCAULEY PLACE INTEREST

Section 7.1. Consent to Pledge and/or Assignment. The City hereby acknowledges that it is the intent of McAuley Place to pledge and assign and to grant security interests in and to this Agreement and the amounts payable to McAuley Place hereunder and McAuley Place right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on McAuley Place to make such assignment or pledge or to grant such security interests. Recognizing this intention, the City does hereby consent and agree to the grant of such security interests and to pledge and assignment of all of McAuley Place (or the pledge and assignment by any one McAuley Place of its) right, title and interest in, to and under this Agreement and in, and to the payments to be made to McAuley Place hereunder, to third parties as collateral or security for indebtedness and other obligations or otherwise, on one or more occasions during the term hereof.

Section 7.2. Pledge, Assignment or Security Interest. The City hereby consents to the pledge, assignment or granting of a security interest by McAuley Place (or the pledge and assignment by McAuley Place) of its right, title and interest in, to and under this Agreement. The City agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective secured party, pledgee or assignee, including without limitation, recognition of the secured party, pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such secured party, pledgee or assignee the position of such secured party, assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the secured party, pledgee or assignee such rights and/or remedies as it may deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.3. Assignment. McAuley Place also shall have the right to transfer and assign to any person or entity all or any portion of its rights in, to and under this Agreement, at any time, and from time to time, as McAuley Place may, in its sole discretion, deem appropriate and said right shall not be unreasonably withheld by the City.

ARTICLE VIII: MISCELLANEOUS

Section 8.1. Successors. The covenants, stipulations, promises and agreements set forth herein shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

Section 8.2. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.3. No Personal Liability of Officials of the City. No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his individual capacity and neither the members of the City Council of the City nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.5. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.6. Notices. All notices, certificates, requests, requisitions or other communications by the City or McAuley Place pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when hand delivered or mailed by first class mail, postage prepaid, addressed as follows:

If to the City: City Manager
City of Portland
389 Congress Street
Portland, ME 04101

If to McAuley Place: McAuley Place at Baxter Woods Retirement Community, Inc.

c/o Sea Coast Management Company
30 Governor's Way, Suite 100
Topsham, ME 04086

Any of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.7. Amendments. This Agreement may be amended only with the concurring written consent of the parties hereto.

Section 8.8. Net Agreement. This Agreement shall be deemed and construed to be a "net agreement," and the City shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without any abatement, deductions or setoffs.

Section 8.9. Benefit of Assignees or Pledgees. The City agrees that this Agreement is executed in part to induce secured parties, assignees or pledgees to provide financing for the Project and accordingly all covenants and agreements on the part of the City as to the amounts payable hereunder are hereby declared to be for the benefit of any such secured parties, assignee or pledgee from time to time of McAuley Place right, title and interest herein.

Section 8.10. Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment, estimated amounts of the Tax Increment Revenues (McAuley Place Share), estimated development costs and other estimates. The City and McAuley Place hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to

McAuley Place property for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.11. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and McAuley Place relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

IN WITNESS WHEREOF, the City and McAuley Place have caused this Agreement to be executed in their respective names and their respective seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS

City of Portland

By: ______________________
Joseph E. Gray, Jr.
Its City Manager

McAuley Place at Baxter Woods Retirement Community, Inc.

By: ______________________ RSM
Sr. Michele Aronica, RSM
Its President

Order 88-16/17
Tab 10 11-21-16

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 ACCEPTING THE PORTLAND INTERNATIONAL JETPORT SUSTAINABLE AIRPORT MASTER PLAN

ORDERED, that the Portland International Jetport Sustainable Airport Master Plan is hereby accepted substantially in the form attached hereto.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Paul Bradbury, Airport Director

DATE: October 24, 2016

DISTRIBUTION: Jon Jennings, City Manager; Mayor Strimling; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English; Julie Sullivan

SUBJECT: Council Acceptance of Portland International Jetport Sustainable Airport Master Plan

SPONSOR: Councilor Jon Hinck, Energy & Sustainability Committee Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading: __November 21, 2016______ **Final Action:** _November 21, 2016________

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

I. SUMMARY OF ISSUE (Agenda Description)

The Portland International Jetport received an Airport Improvement Program (AIP) grant from the FAA to conduct a Sustainable Airport Master Plan in 2014. The Jetport was selected to participate in the pilot sustainable airport master plan program due to its track record of sustainable initiatives and due to the need to update its prior 2008 master plan. A sustainable airport master plan follows the same planning process as a traditional airport master plan while fully integrating sustainability into the planning process. Airport master plans are typically conducted every ten years to ensure needed safety and capacity improvements are planned. The City Council established a 24 member Planning Advisory Committee (PAC) in August of 2014 to provide community, business, tourism, regulatory, airline, and general aviation stakeholder input throughout the plan development.

Work on the sustainable airport master plan commenced in September of 2014. The planning process which included five PAC meetings and four public workshops over 19 months was largely concluded in April 2016 when the Energy & Sustainability Committee voted to send the plan to the City Council for acceptance. In June 2016 the City Council held a workshop on the Sustainable Airport Master Plan. Following this workshop Jetport staff conducted additional outreach and response to public comments received.

The Sustainable Airport Master Plan is now complete and provides a capital improvement program to meet both safety and capacity required improvements over the next twenty years.

The plan is broken into improvements for short term (years 1-6), intermediate term (years 7-11), and long term (years 12-20). The total cost of the capital program over the next 20 years in inflation adjusted numbers is $312.3 million. The program is covered solely through federal FAA, state, and local Jetport funds. A detailed financial analysis completed as part of the plan indicates the Jetport is fully capable of generating sufficient revenues to offset the proposed future expenditures.

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

The FAA as part of the master planning process expects review and acceptance of the plan by the airport sponsor, which for the Jetport is the City of Portland.

III. INTENDED RESULT

The acceptance of the Jetport's Sustainable Airport Master Plan will allow the Jetport to commence the implementation of the safety and capacity projects outlined within the short term planning horizon years 1-6. The Jetport will also be able to provide the FAA needed guidance on anticipated grant expenditures at the Jetport over the next twenty years. This planning coordination allows the FAA to properly allocate and anticipate funding needed throughout the New England region.

IV. COUNCIL GOAL ADDRESSED

The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals. Acceptance of the Jetport's Sustainable Airport Master Plan allows Jetport Staff to begin implementing the important safety and capacity infrastructure projects needed at the Jetport in a methodical planned approach.

V. FINANCIAL IMPACT

Acceptance of the Jetport's Sustainable Airport Master Plan has no immediate direct financial impact. All grants and expenditures noted in the plan will come back to the City Council for approval as part of the annual budget process. Additionally all FAA Airport Improvement Grants will be submitted to the City Council for approval in advance of the grant request being filed.

VI. STAFF ANALYSIS AND RECOMMENDATION

The Sustainable Airport Master Plan was developed through an extensive process that included significant stakeholder input through a 24 member Public Advisory Committee, four public workshops, and review by the Council's Energy & Sustainability Committee. It provides a detailed plan for needed safety and capacity improvements over the next twenty years. Staff fully supports the plan, the process used to develop it, and highly recommends acceptance by the City Council.

VIII. LIST ATTACHMENTS

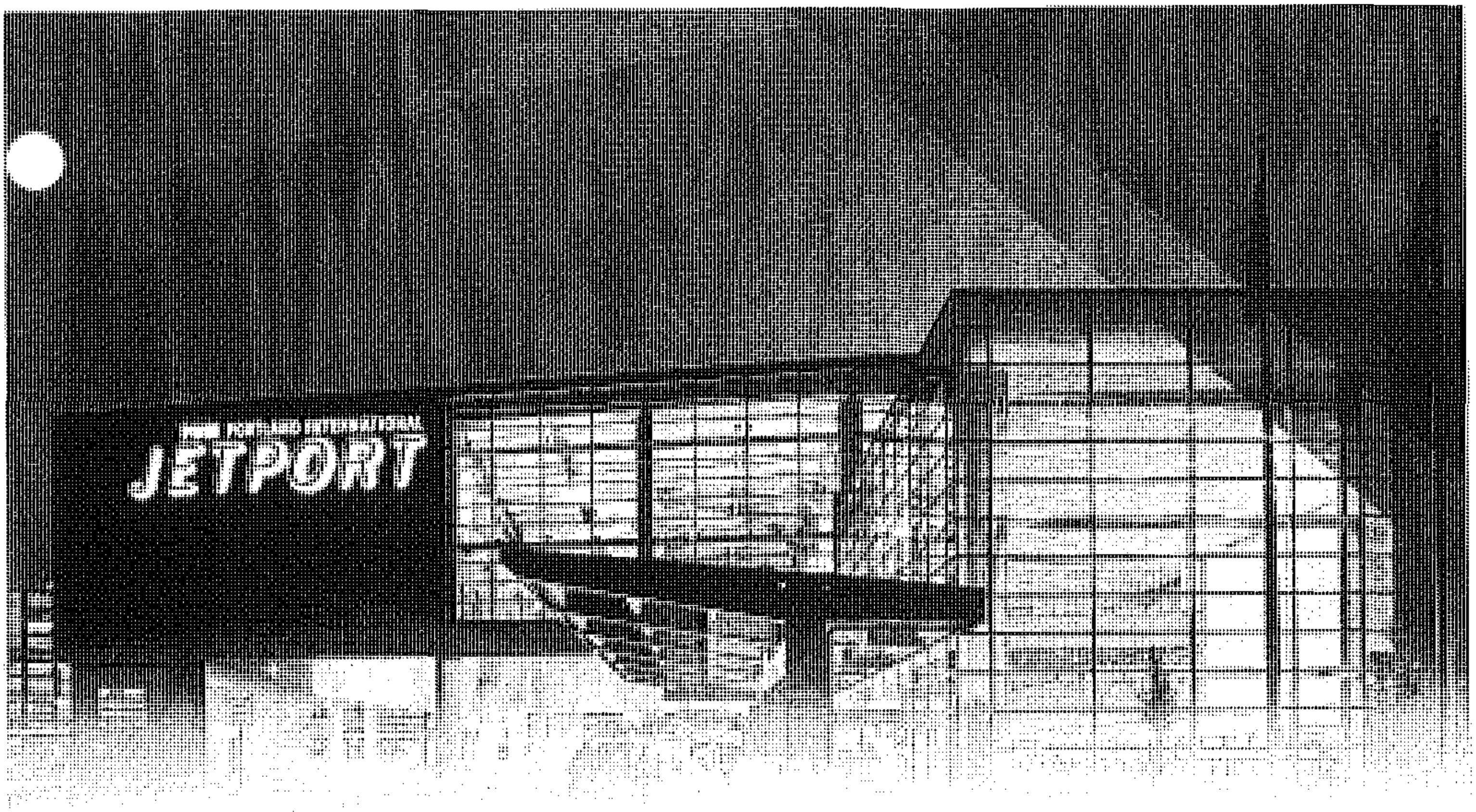
A copy of the Portland International Jetport's Sustainable Airport Master Plan Executive Summary is included. The complete Portland International Jetport Sustainable Airport Master Plan document is available at: http://thejetport.airportstudy.com/master-plan/

Prepared by:

Signature

October 24, 2016

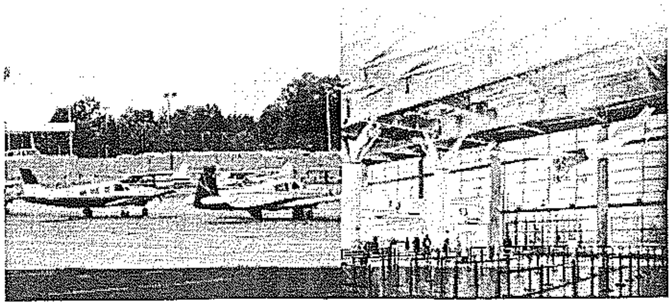
Date



Portland International Jetport

SUSTAINABLE AIRPORT MASTER PLAN

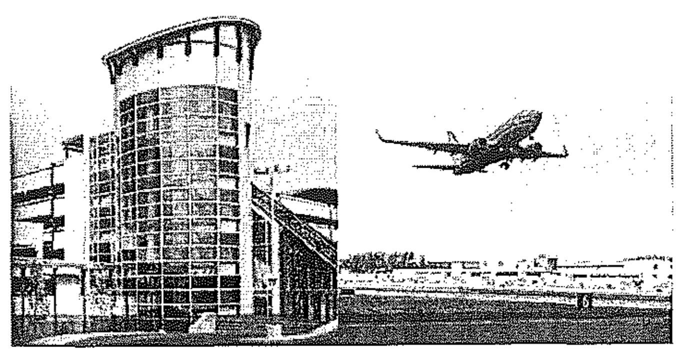
Executive Summary



2015

WINNER

Best Airport



SUSTAINABLE AIRPORT MASTER PLAN
EXECUTIVE SUMMARY

For

PORTLAND INTERNATIONAL JETPORT
Portland, Maine

Prepared for the

CITY OF PORTLAND

By

Stantec

In Association with

Coffman Associates, VHB, and MAC Consulting

April 2016

PORTLAND INTERNATIONAL JETPORT
SUSTAINABLE AIRPORT MASTER PLAN
PLANNING ADVISORY COMMITTEE

Ed Suslovic (Committee Chair)
District 3 Councilor
Representing: Portland City Council

Mike Anderson
Chief Pilot - General Dynamics/Bath Iron Works
Representing: Corporate Aviation

Jerry Angier, CLU, ChFC
Jerry Angier & Associates
Representing: Portland Regional Chamber

Scott Brown
WEX Inc.
Representing: Business

Mark Collins
Manager - Portland Airport Traffic Control Tower
Representing: FAA ATCT

Adrian Dowling
Representing: City of South Portland

John Duncan
Director - Portland Area Comprehensive
Transportation System (PACTS)
Greater Portland Council of Governments
Representing: PACTS

Michael Foley
Vice President & Councilor At-Large
Westbrook City Council
Representing: City of Westbrook

Mark Goodwin
General Manager - Northeast Air
Representing: General Aviation & Fixed Base
Operator

Stacie L. Haskell
Planning and Programming Manager
Bureau of Planning - Aviation Program
Maine Department of Transportation (MDOT)
Representing: MDOT

Andy Holmes
President Maine ASTA
Owner Worldwide Cruise Headquarters
Representing: American Society of Travel Agents

Dan Koloski
Stroudwater Village Association President
Representing: District 3

Cheryl Miner
Representing: District 1

Jeremy Morton, M.D.
Representing: District 2

Ralph Nicosia-Rusin
Capacity Program Manager
FAA New England Region
Representing: FAA Airports Division

Jan Overstreet
UNUM Travel Manager
Representing: Business

Michelle Ricci
Environmental Protection Specialist
FAA New England Region
Representing: FAA Airports Division

Judy Savage
Corporate Travel Manager
IDEXX Laboratories
Representing: Business

Anthony Searcy
Station Manager - American Airlines
Representing: PWM Airlines

Phil Spiller
Captain JetBlue Airways
Representing: Airline Pilots Association

Lynn Tillotson
President + CEO
Greater Portland Convention + Visitors Bureau
Representing: Greater Portland CVB

James T. Walsh
Cape Elizabeth Councilor
Representing: Cape Elizabeth

Mike Watson
Representing: Aircraft Owners & Pilots Association
(AOPA)

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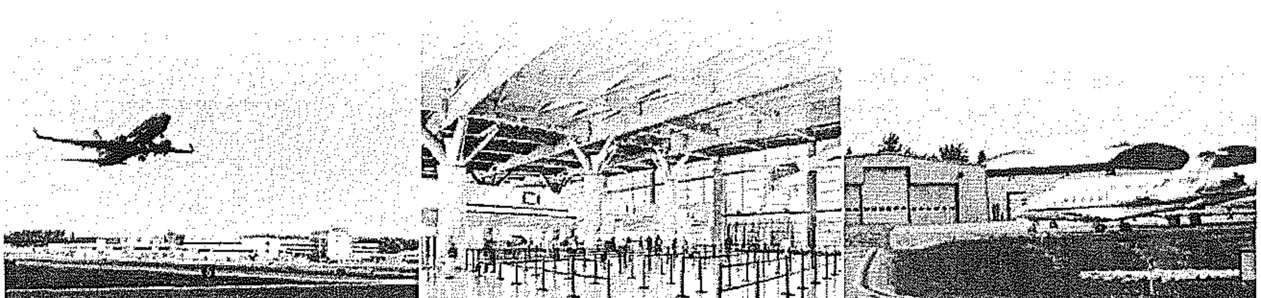
EXECUTIVE SUMMARY

Portland International Jetport (PWM) is a thriving small hub, commercial service airport serving the aviation demands of the greater Portland region and much of the State of Maine. In fact, the Jetport's Vision is to ***"Be the Airport of Choice for Maine!"***. From this vision, the Jetport has adopted the following as its Mission Statement:

"The Portland International Jetport commits to be a premier New England Airport. We will provide a convenient, safe, and environmentally conscious gateway that exceeds our travelers' expectations while reflecting the essence of the Maine experience."

This airport master plan update has been undertaken to assist in carrying out the Jetport's mission statement. The master plan update evaluates the airport's capabilities and role, reviews forecasts of future aviation demand, and plans for the timely improvement of facilities that may best meet that demand while maintaining compatibility with the surrounding environment. In general, an airport master plan provides systematic guidelines for the airport's overall development, maintenance, and operation for the next 20 years.

The master plan is intended to be a proactive document which identifies and then plans for future facility needs well in advance of the actual need for the improvements. This is done to ensure that the City of Portland and airport administration can coordinate environmental reviews, project approvals, design, financing, and construction to minimize the detrimental effects of maintaining and operating inadequate or inefficient facilities.



The City of Portland considers sustainability an integral part of the community. Accordingly, it commissioned an airport master plan update that incorporates sustainability and commits the Jetport to a long-term, comprehensive, and integrated approach that considers economic viability, operational efficiency, social responsibility, and natural resource conservation. Through this approach, the Jetport is also embracing a leadership role within the region and the airport industry to promote sustainability and improve related performance.

In recent years, the Jetport has demonstrated its commitment to sustainability through various activities. These notably include a terminal expansion that achieved Leadership in Energy and Environmental Design (LEED®) Gold certification, the installation of a geo-thermal heating and cooling system, the establishment of a deicing fluid recycling program to treat onsite and offsite spent glycol, wildlife deterrent and relocation efforts, and the creation of an exemplary customer service program.

In recognition of its historical and ongoing commitment to sustainability, the Jetport received a grant through the Federal Aviation Administration's Sustainable Master Plan Pilot Program to prepare this Sustainable Airport Master Plan (SAMP). With its first official sustainable master plan, the Jetport is taking the next step toward full sustainability integration and is recognizing the potential to improve its overall operating efficiency in an environmentally, economically, and socially responsible manner.

THE MASTER PLAN AND THE SUSTAINABLE PLANNING PROCESS

Making sustainability a part of the core objective of the planning process promotes design, project implementation, and financial decisions that identify ways to reduce energy consumption, environmental impacts, and the Jetport's carbon footprint. By incorporating sustainability issues into the master planning process, the airport can become a more environmentally friendly business place and neighbor. The plan will benefit all residents of the area by providing a single comprehensive plan which supports and balances aviation activities and the environmental preservation of the surrounding environs.

Sustainability, as part of an organizational strategy, has demonstrated measurable benefits at airports around the world. Some of these benefits include:

- Improved passenger experience;
- Better use of assets;
- Reduced development and/or operations and maintenance costs;
- Reduced environmental/ecological footprint;
- Facilitation of environmental approvals/permitting;
- Improved relationships within communities;
- Enhancement of regional economies;
- Creation of an engaged and enriched place to work; and
- Creation and utilization of new technologies through increased demand and investment in technologies that facilitate sustainable solutions.

As a result of incorporating sustainability issues into the master planning process, the airport can become a more environmentally friendly business place and neighbor. The plan will benefit all residents of the area by providing a single comprehensive plan which supports and balances aviation activities and the environmental preservation of the surrounding environs.

The sustainable airport master planning process integrates sustainability planning elements into the traditional airport master plan process (see **Figure A**). Combined, the sustainability and standard master planning processes provide the flexibility necessary to consider the Jetport's operational and financial constraints. They also provide a powerful planning tool to create a long-term development vision for the Jetport that considers sustainability performance measures. The combined PWM SAMP planning process began in the summer of 2014 with the purpose of the unified approach to:

- Ensure goals and initiatives developed as part of the sustainability planning process were used to drive the recommendations of the master plan; and
- Ensure standalone sustainability strategies are not at odds with the recommendations of the master planning process.

The Portland International Jetport Sustainable Airport Master Plan is of interest to many within the region. This includes local citizens, community organizations, airport users, airport tenants, area-wide planning agencies, and aviation organizations. As the Jetport is a strategic component of the regional, state, and national aviation systems, the Jetport Master Plan is of importance to both state and federal agencies responsible for overseeing air transportation.

To assist in the development of the SAMP, the City identified a group of community members and aviation interest groups (i.e., the Planning Advisory Committee [PAC]) to act in an advisory role in the development of the SAMP. To assist in the review process, draft working papers were prepared at various milestones in the planning process. The working paper process allowed for timely input and review during each step of the Airport Master Plan process to ensure that all planning issues were fully addressed as the recommended program developed. Members of the PAC were given ample opportunity to review draft working papers and provide comments throughout the process to ensure that a realistic, viable, and collaborative plan was developed.

The sustainability planning process incorporated input from three main stakeholder groups:

1. City and Jetport leadership
2. The study's PAC was composed of 24 members, including representatives from local municipalities, tenants and pilot organizations, the FAA and MDOT, and regional tourism organizations, among others (a list of the PAC members is included at the beginning of this document)
3. Jetport tenants, such as airlines, concessionaires, and fixed base operators (FBOs)

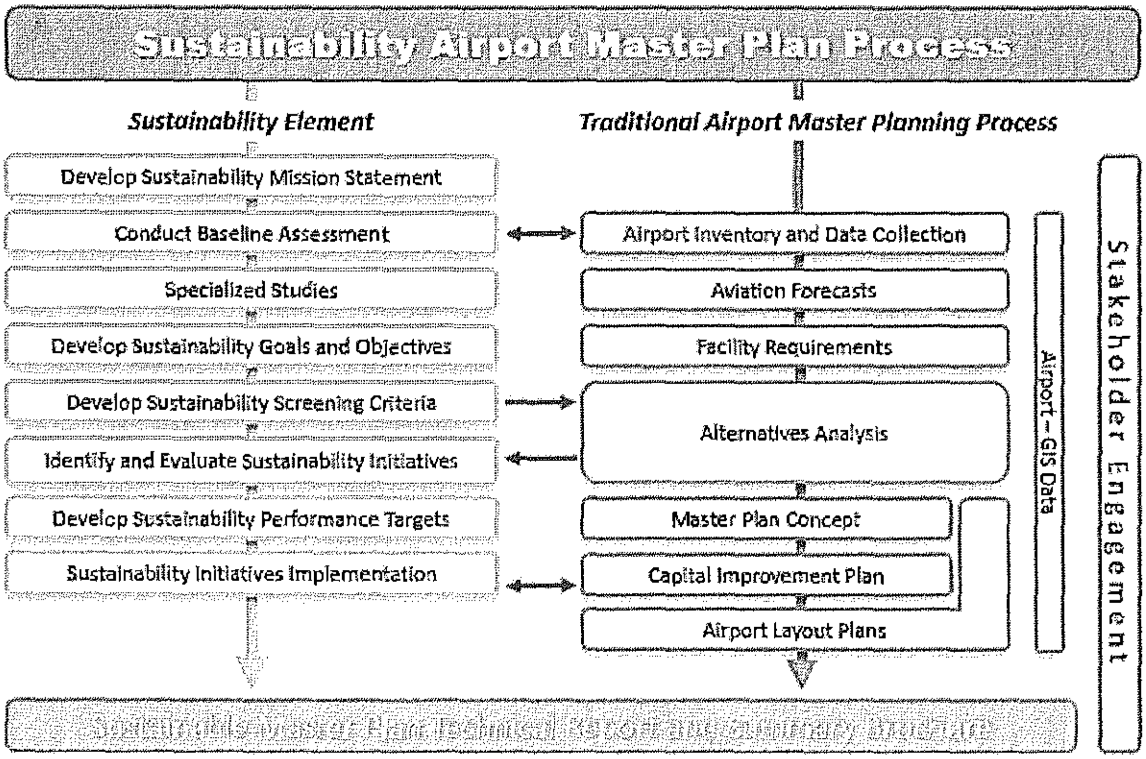


Figure A: Integration of sustainability into the master planning process

A series of public information workshops were also held as part of the coordination effort. The public information workshops were designed to allow any and all interested persons to become informed and provide input concerning the Sustainable Airport Master Plan process. Notices of meeting times and locations were advertised through local media as well as social media outlets. The draft working papers were also made available to the public through a project dedicated website: www.thejetport.airportstudy.com.

AIRPORT'S ECONOMIC BENEFITS

The Jetport is the primary aviation gateway for the State of Maine, welcoming commerce and visitors, while providing residents with access for outward travel to national and intercontinental destinations. The Jetport creates significant benefits that extend beyond the aviation community to impact economic growth and development as well as the quality of life of Maine residents. The availability of air transport is invariably listed by business executives as a key criterion for business location and expansion. Public safety and national security objectives are supported by aviation operations of police officers and government agencies. Medical transport, search and rescue, aerial mapping, air cargo, and express delivery services are all essential functions provided at Portland International Jetport every day of the year.

The Jetport creates significant benefits that extend beyond the aviation community to impact economic growth as well as the quality of life of Maine residents.

Airline travelers from across the nation or around the globe come to Maine to conduct business, meet with clients and suppliers, and place orders for goods and services produced in the state. Even greater numbers come for personal reasons, to visit friends and relatives, or to hike, fish, hunt, or simply vacation in the midst of world class scenery and recreation opportunities. General aviation flyers based at PWM enjoy the benefits of on-demand flight schedules to destinations within the state or any of the nearly 3,000 general aviation airports that provide access to large and small communities across the country.

Although qualitative advantages created by an airport are important, they are also challenging to measure. In studying the economic benefits of airports and aviation, regional analysts have emphasized economic benefits that can be quantified:

- **Employment** is the number of jobs supported by economic activity created by the presence of the Portland International Jetport.

- **Payroll** includes income to workers as employee compensation (the dollar value of payments received by workers as wages and benefits) and proprietor's income to business owners.

- **Output** is the value of the production of private firms and public agencies. For a private firm, output is equal to the annual value of revenue or gross sales at producer prices (before addition of further margins or transportation costs), including sales or excise taxes. Output, revenue, and sales are interchangeable synonymous terms used throughout this study and, in turn, these are equal to spending or expenditures from the perspective of the buyer. For government units, the agency budget is used as the measure of output.

The total annual economic benefits of the Portland International Jetport include 8,261 jobs with payroll of $269.6 million and output of $1.0 billion, incorporating all multiplier or secondary benefits. The secondary and total economic benefits flowing from the initial direct benefits of on-airport commercial service and general aviation activity are set out in **Table 1**.

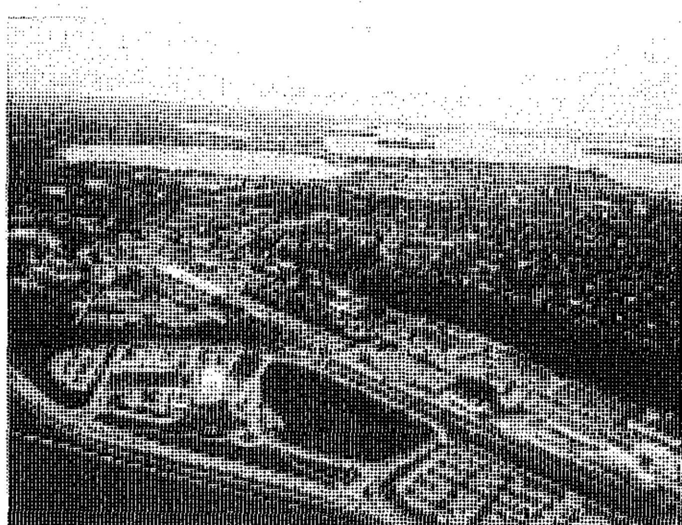
TABLE 1
Summary of Economic Benefits
Portland International Jetport

SOURCE	EMPLOYMENT	PAYROLL	OUTPUT
Direct Economic Benefits			
On-Airport Direct Benefits: Private Firms, Government Agencies & Capital Improvement Projects	1,329	$54,061,000	$487,999,000
Air Visitor Direct Benefits: Commercial Service and General Aviation Travelers	3,929	92,960,000	151,702,000
Direct Benefits	5,258	147,021,000	639,701,000
Secondary Economic Benefits			
Indirect Benefits: Activity by Suppliers & Vendors	1,571	65,377,000	225,311,000
Induced Benefits: Activity by Workers as Consumers	1,432	57,167,000	178,129,000
Secondary Benefits	3,003	122,544,000	403,440,000
Total Economic Benefits			
Total Benefits	8,261	$269,565,000	$1,043,141,000

Note: On-airport spending for auto rental is included as on-airport benefits and not included as air visitor spending off-airport. Secondary benefits are computed from the IMPLAN input-output model with Maine coefficients. Figures are in 2015 dollars.

JETPORT SETTING

Portland International Jetport is located in the southeastern portion of Cumberland County, approximately three miles from downtown Portland. The Jetport is uniquely situated on the corporate boundaries of Portland, South Portland, and Westbrook. In fact, portions of the 769- acre property abut or are located within both Portland, South Portland and Westbrook.



The Greater Portland area is located on the beautiful Maine coastline, but is also within close proximity of the State's rugged interior. While the City of Portland is situated on a peninsula that juts out into

Casco Bay, the mountains of Western Maine are located within a short 45-minute drive to the west. The region offers an appealing mix of activities associated with mountainous locales, including hiking and skiing, as well as coastal activities associated with the beach and watercraft. The regional setting is ideal for supporting tourism as well as local resident lifestyles.

With a combined population of approximately 91,600 residents, Portland and South Portland rank as the state's most populated locale. Cumberland County boasts a population of three times that amount, with nearly 300,000 residents. The Portland-South Portland Metropolitan Statistical Area (MSA), identified as Cumberland, Sagadahoc, and York Counties, contains a resident population of approximately 533,000 people. Larger regional population centers are situated relatively close and include Boston, MA 102 miles south and New York City, NY 277 miles southwest.

The City of Portland, as owner and operator of the Jetport, has an elected mayor and city council form of government. A standing three-person transportation committee oversees the city-wide infrastructure for the council. A full-time airport director, who reports to the City Manager, runs the facility, with the help of 51 total employed staff members.

AIRFIELD FACILITIES

Airfield facilities are those which facilitate aircraft movements between the air and ground. Generally, these facilities include runways, taxiways, airport lighting and markings, and navigational aids. **Exhibit 1** summarizes and depicts airfield facility information.

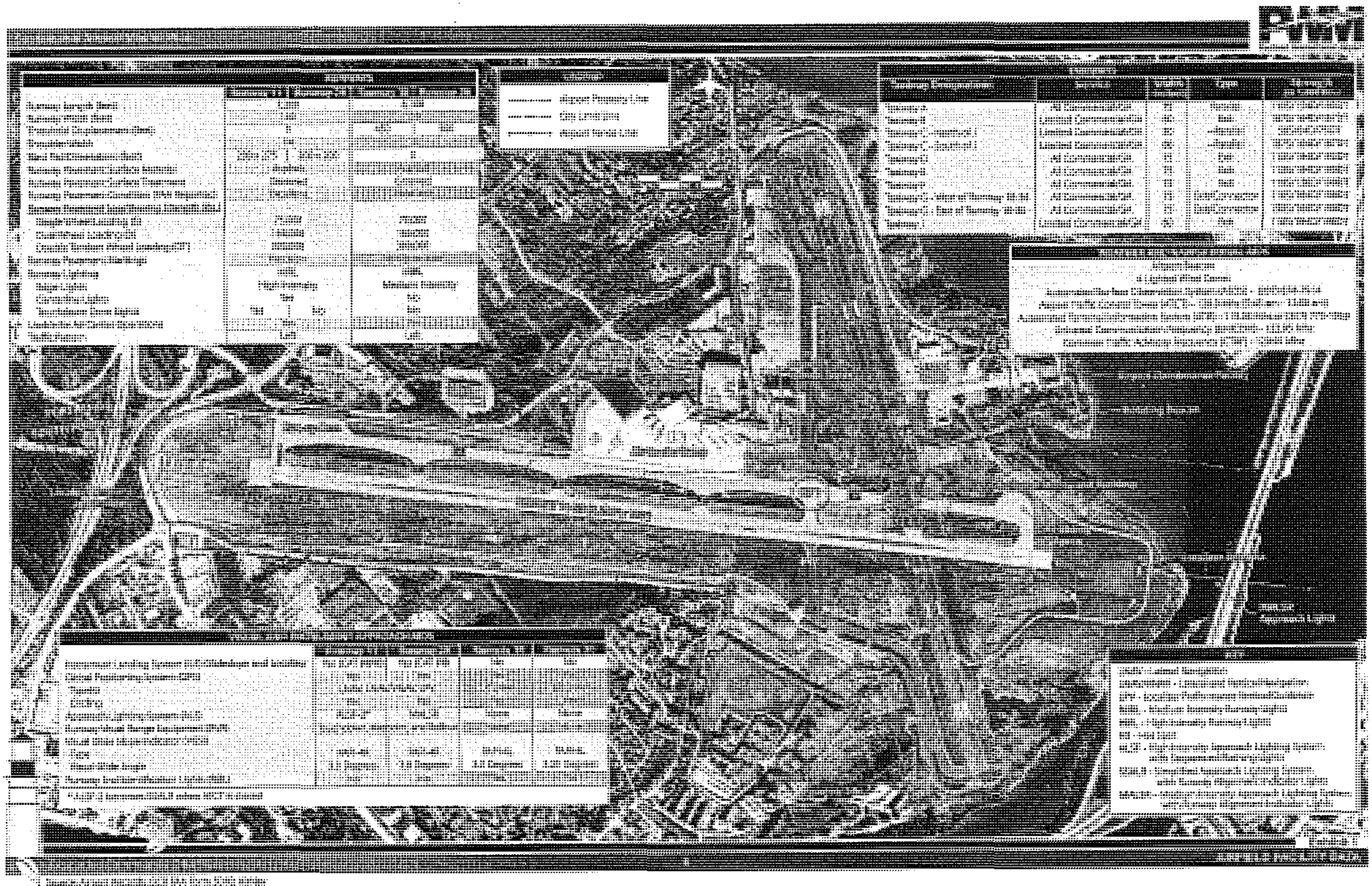
Portland International Jetport is served by two runways which intersect. Runway 11-29 is the airport's primary runway, and Runway 18-36 is the crosswind runway. Both runways are capable and certified to accommodate air carrier aircraft operations; however, air carrier operations are primarily conducted on Runway 11-29. The crosswind runway is used primarily during periods of high northerly/southerly winds, or when the primary runway is closed for any reason.

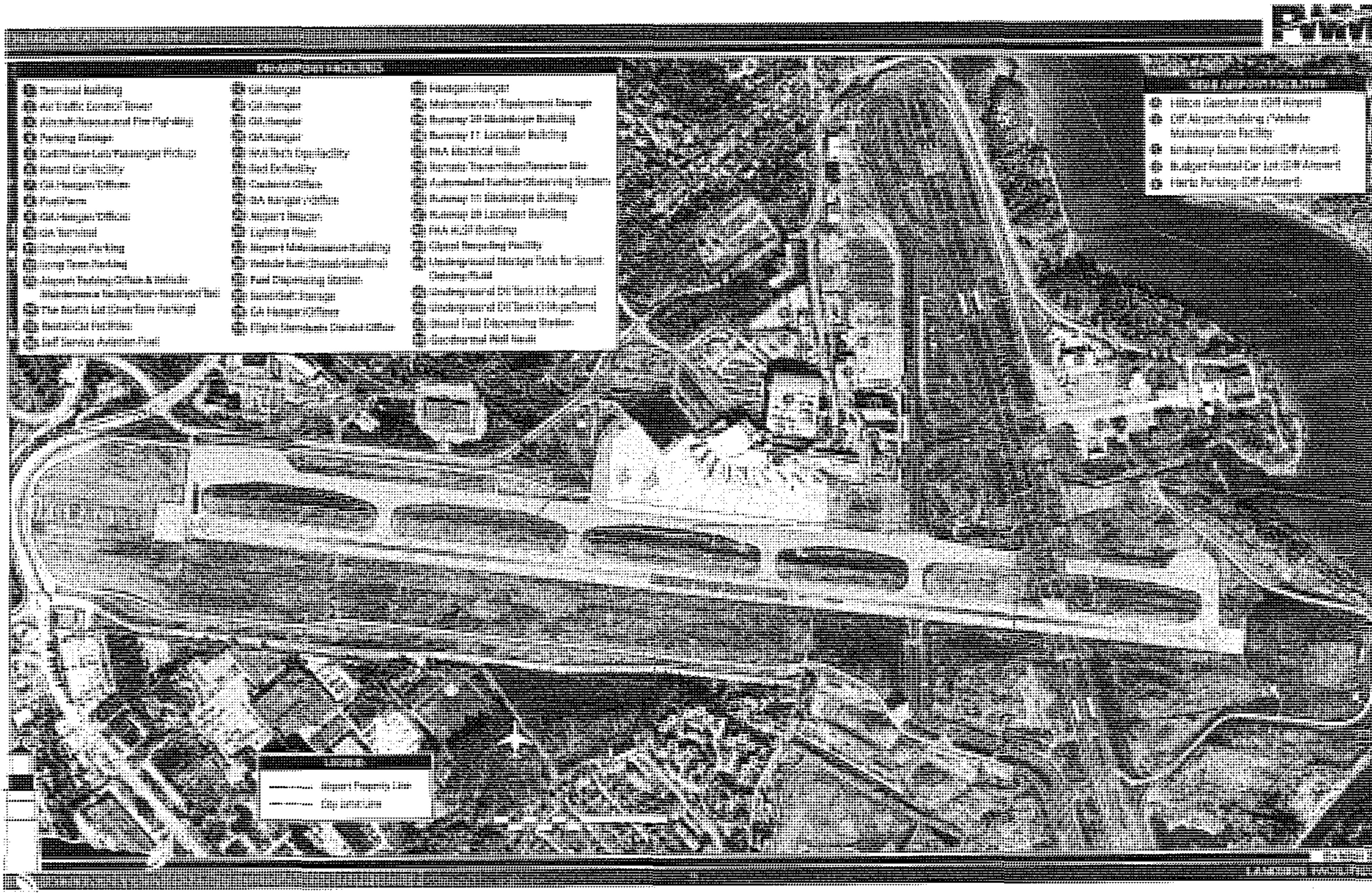
LANDSIDE FACILITIES

Landside facilities support the aircraft and pilot/passenger transition between air and ground. Typical landside facilities include the passenger terminal complex, general aviation facilities, and support facilities, such as fuel storage, automobile parking, roadway access, snow removal facilities, and aircraft rescue and firefighting. The landside facilities at Portland International Jetport are depicted on **Exhibit 2**.

PASSENGER TERMINAL COMPLEX

The passenger terminal is centrally located on the airfield along the north side of Runway 11-29 and west of Runway 18-36. The terminal complex has experienced several upgrades, with the most significant





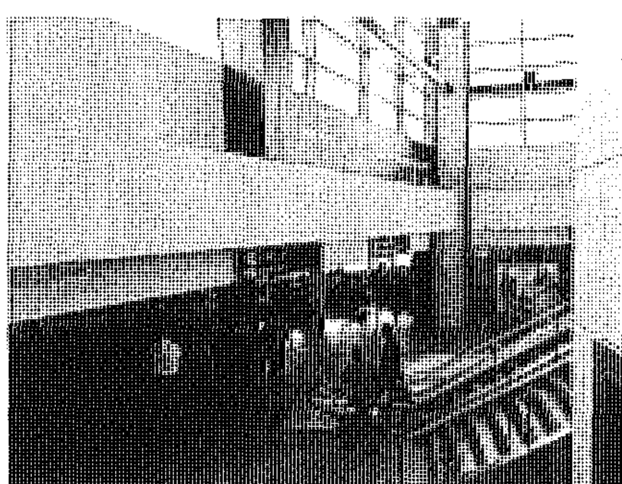
completed in 2012. The latest renovation completes the phased terminal complex renovation and expansion project which began in 1995. Over that period, improvements have included:

The terminal complex has experienced several upgrades with the most significant recently completed in 2012. The latest renovation completes the phased terminal complex renovation and expansion project which began in 1995.

- Expansion of the building by approximately 145,000 square feet;
- Renovation of main existing building;
- Addition of five passenger gates;
- State-of-the-art in-line checked bag screening system
- New security screening checkpoint;
- Renovated and expanded baggage claim facilities;
- Addition of elevators and escalators (from ticket counter lobby to screening);
- Revised inbound/outbound passenger circulation;
- Enclosed elevated walkway from parking garage to third level (near screening area);
- New food court;
- Increased retail spaces; and
- Increased surface parking lots

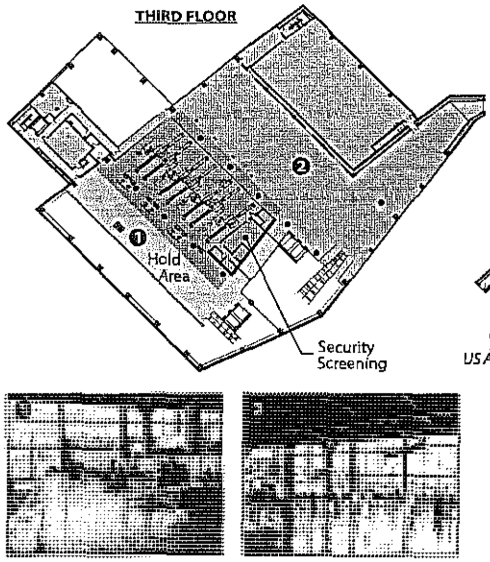
Terminal Building

The terminal is a three-level linear design structure. Departing passengers enter the terminal on ground level, generally through the west end of the terminal where all airline ticket counters are located. Passenger security processing is on the third level and is accessed east of the ticket counters via stairs, escalator, or elevator. Once through screening, passengers can proceed down to the secure second level concourse area where there are 10 aircraft gates, as well as restaurants and retail concessionaires.

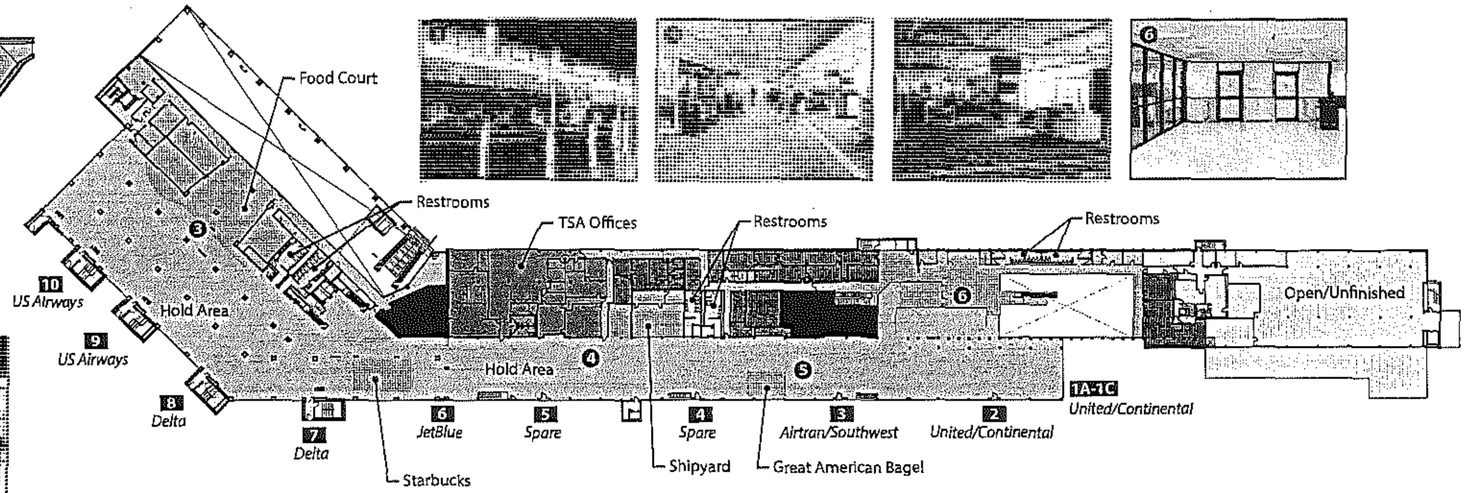


Arriving passengers exit the secured area via automated security doors designed to prevent reentry. Once outside security, arriving passengers transition back to the first floor, then east to the baggage claim area. At the foot of the escalator serving arriving passengers is a restaurant that serves passengers, greeters, and airport employees outside the secure area. Rental car customers proceed to the east end of the new parking garage, lower level. **Exhibit 3** illustrates the existing terminal building layout, including the first and second levels.

THIRD FLOOR



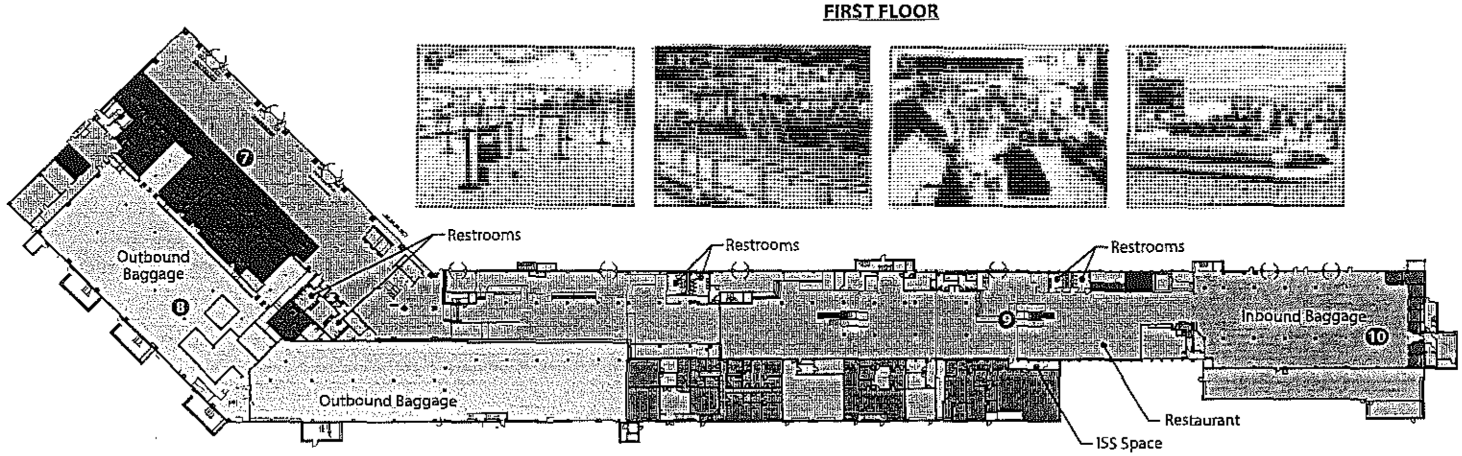
SECOND FLOOR



LEGEND

- Common Building Systems
- Public Areas
- Security
- Hold Areas
- City Offices
- Paradies Retail/Storage
- Host
- Ticketing
- TSA Offices
- USS-1 Office
- Vacant
- Open/Unfinished
- Baggage
  - Inbound
  - Outbound
  - Offices
- Gate Number
- Photograph Location

FIRST FLOOR



Access and Parking

The terminal can be accessed from two entrances. In the late 1990s, the access off Congress Street (Maine Route 9) was relocated from Westbrook Street to International Parkway. This entrance was developed to shift airport traffic from driving through the adjacent Stroudwater neighborhood. The Westbrook Street access is now blocked by a gate accessible only by emergency vehicles. Traffic approaching the airport from the east typically utilizes the International Parkway entrance. Traffic from the west and Interstate 95/295 will typically use the Jetport Boulevard entrance off Johnson Road. Both feed into the Jetport Access Road, which becomes a one-way loop around the parking lots, garage area, and terminal building entrances.

This entrance was developed to shift airport traffic from driving through the adjacent Stroudwater neighborhood. The Westbrook Street access is now blocked by a gate accessible only by emergency vehicles.

The passenger terminal complex is served by several parking areas including the six-level parking garage. This structure has five public levels of parking with short term parking spaces available on the ground level. An underground level is utilized for rental car pick-up and drop-off only. There are 180 public short term spaces located on the first level of the original garage, closest to the terminal building. The sub-level of the garage includes 238 spaces for rental car ready and return. The garage also offers a total of 1,982 long term spaces. A surface long term parking lot immediately west of the parking garage offers 343 spaces. A cell phone lot is located immediately north of the garage and offers 96 spaces. A discount parking lot offers 459 public spaces. Overall, the airport's lots provide a total parking capacity of 3,778 automobiles, including 63 handicap spaces.

AIR CARGO

The air cargo facility is located east of Runway 18-36. FedEx operates from an 8,000 square-foot air cargo building and an adjacent 6,600 square-yard aircraft ramp.

GENERAL AVIATION

A fixed base operator (FBO), Northeast Airmotive (Air), operates on the field, providing typical general aviation services. There are also two specialized aviation service operators (SASOs), Maine Aviation and Maine Aviation Sales, at the Jetport. The main offices of Northeast Air and Maine Aviation are located on the north general aviation ramp, west of Runway 18-36 and north of Runway 11-29, off Taxiway C. Public access to both businesses is off Westbrook Street. The primary offices for Maine Aviation Sales are located in a facility adjacent to the Jetport's FSDO ramp, which is situated at the end of Taxiway G, east of Runway 18-36. Public access to this business is off Yellowbird Road. Maine Aviation will be relocating to the general aviation area on the south side of the airport in the future

AREA LAND USE

Portland International Jetport is located in a mature area with most of the surrounding communities fully developed. Not unlike other urban airports in the United States, area land use surrounding PWM can have a significant impact on airport operations and growth. **Exhibit 4** illustrates the generalized land uses in the vicinity of the airport. By understanding the land use issues surrounding the airport, a better balance can be achieved through appropriate recommendations for the future of the airport.

Land surrounding the Jetport falls primarily under two jurisdictions: Portland and South Portland. Westbrook is located to the northwest of PWM. A large majority of property adjacent to the north and northeast of the airport is in residential use. This includes the neighboring Stroudwater Historic District. Smaller pockets of residential areas are also located to the east and south/southeast. Commercial land uses are heaviest to the west and southwest, with smaller pockets to the east and southeast. Industrial uses dot the airport vicinity with a large area immediately west/northwest of the airport. Coastal and other environmentally sensitive areas are indicated as "Resource Protection" on the exhibit.

An airport's compatibility with surrounding land uses is usually associated with the extent of the airport's noise impacts. Airport projects, such as those needed to accommodate fleet mix changes, an increase in operations at the airport, or air traffic changes, are examples of activities which can alter noise impacts and affect surrounding land uses. The FAA established noise thresholds for the evaluation of potential impacts associated with proposed development projects at airports. Additionally, the FAA provides funding through the 14 CFR Part 150 Airport Noise Compatibility Planning program. The Jetport has participated in this program, most recently updating its Noise Compatibility Program in 2006. Through continued noise abatement efforts, the Jetport has established a noise hotline and a system for receiving complaints. Additionally, the airport has established a Noise Advisory Committee by order of the Portland City Council. The Noise Advisory Committee reviews feedback on noise abatement projects and provides an overview for implementation of the Jetport's noise abatement programs. The Jetport also encourages airport operators to use voluntary flight procedures to reduce noise impacts within the vicinity of the airport.

The SAMP 2035 long term operational projections do not reach the 2017 operational levels used to generate the noise contours depicted on Exhibit 4.

The most recent noise exposure contours generated for the Jetport were prepared the *2009 Environmental Assessment (EA) for Airfield and Terminal Improvements*. **Exhibit 4** presents the noise contours from the EA for the plan year 2017. The contours were based upon forecasted operations at the time. The 2009 EA's forecast of total aircraft operations was 82,421 for 2017, 48,906 of which were projected to be by air carrier aircraft. It is important to point out that the total actual aircraft operational count for 2015 was 48,898 for PWM, with only 27,920 air carrier operations. Moreover, the SAMP 2035 long term operational projections do not reach the 2017 operational levels used to generate the noise contours depicted on **Exhibit 4**. Thus, the contours depicted are likely a very conservative estimation with actual noise levels lower than shown. It is anticipated that an

environmental assessment required prior to construction of certain improvements will include an update to the noise contours.

AVIATION DEMAND FORECASTS

The definition of demand that may reasonably be expected to occur during the useful life of an airport's key components (e.g., runways, taxiways, terminal buildings, etc.) is an important factor in facility planning. In airport master planning, this involves projecting potential aviation activity for at least a 20-year timeframe. Aviation demand forecasting for Portland International Jetport must consider commercial passenger service, air cargo, based aircraft, and aircraft operational activity forecasts.

Because of the cyclical nature of the economy, it is virtually impossible to predict with certainty year-to-year fluctuations in activity when looking five, ten, and twenty years into the future. Cost-effective, efficient, and orderly development of an airport should rely more upon actual demand at an airport than on a time-based forecast figure. In order to develop a master plan that is demand-based rather than time-based, a series of planning horizon milestones have been established that take into consideration the reasonable range of aviation demand projections. The planning horizons will be segmented as the Short Term (approximately years 1-6), the Intermediate Term (approximately years 7-11), and the Long Term (years 12-20 and possibly beyond).

It is important to consider that actual activity at the airport may be higher or lower than what the annualized forecast portrays. By planning according to activity milestones, the resultant plan can accommodate unexpected shifts or changes in the area's aviation demand. It is important for the plan to accommodate these changes so that airport officials can respond to unexpected changes in a timely fashion.

The service area of an airport is defined by its proximity to other airports providing similar service. The Jetport is currently one of six commercial service airports located in Maine, but the only one classified by the FAA at a primary hub service level. In addition to these airports, there are several more that serve only general aviation.

The primary commercial service area, as shown on **Exhibit 5**, is the area where air travelers would most likely choose the Jetport for air service, given available service from other airports. The secondary service area is an expanded area where the Jetport is likely to draw additional passengers, given that the Jetport has a higher level of service than other airports that may serve that area. The primary service area consists of Cumberland, York, Androscoggin, and Sagadahoc Counties. The secondary area includes the remainder of Maine, plus Coos and Carroll Counties in New Hampshire.

The primary service area consists of Cumberland, York, Androscoggin, and Sagadahoc Counties.

This does not mean that the Jetport would capture all air travelers from either service area. The fact is that other airports will draw some users from the same service area, especially those airports such as

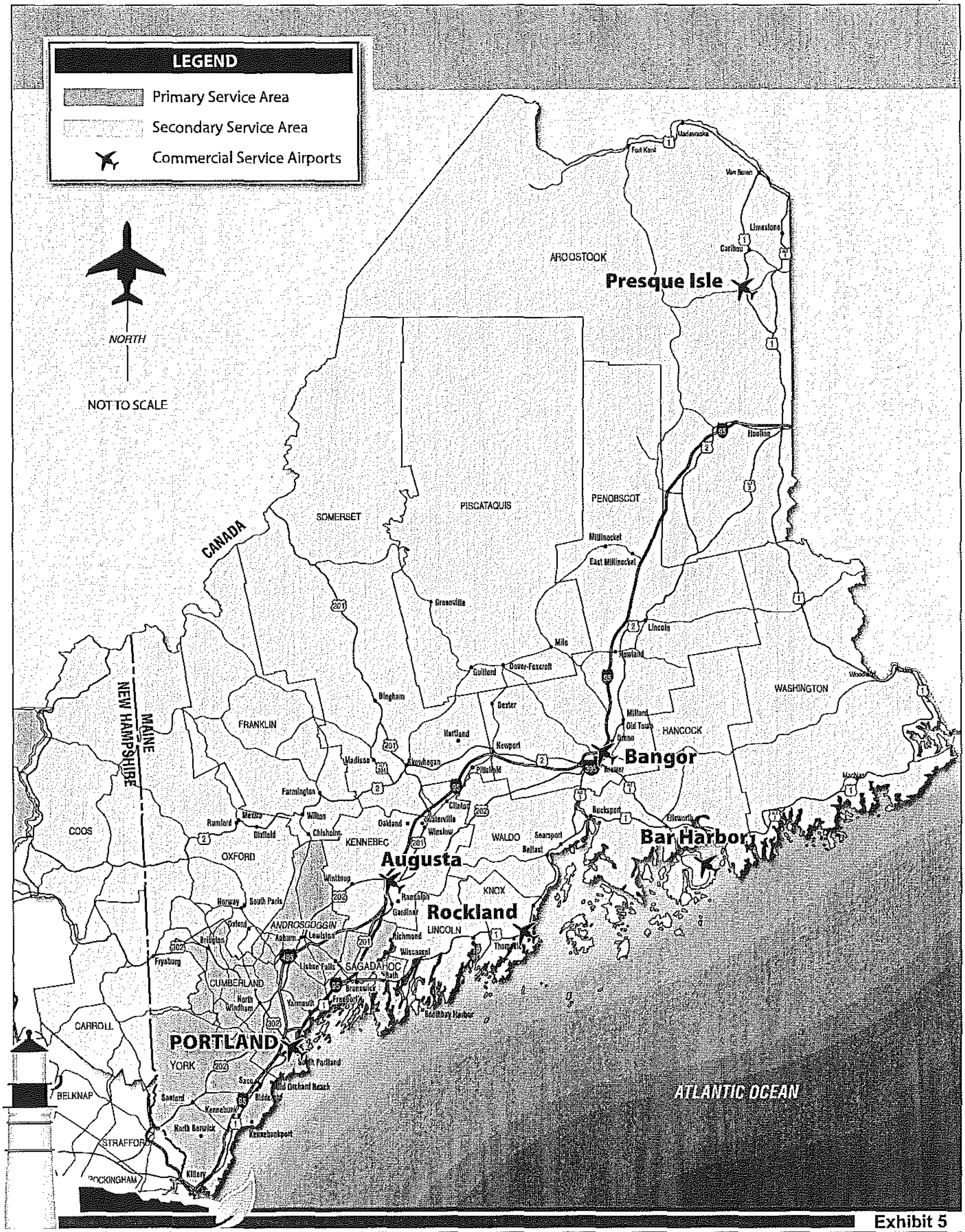

LEGEND
Primary Service Area
Secondary Service Area
Commercial Service Airports
NORTH
NOT TO SCALE
CANADA
MAINE
NEW HAMPSHIRE
AROOSTOOK
Presque Isle
SOMERSET
PISCATAQUIS
PENOBSCOT
FRANKLIN
WASHINGTON
HANCOCK
Bangor
Bar Harbor
WALDO
KENNEBEC
Augusta
KNOX
Rockland
LINCOLN
OXFORD
COOS
ANDROSCOGGIN
SAGADAHOC
CUMBERLAND
CARROLL
PORTLAND
YORK
BELKNAP
STRAFFORD
ROCKINGHAM
ATLANTIC OCEAN
Madawaska
Fort Kent
Van Buren
Limestone
Caribou
Houlton
Millinocket
East Millinocket
Lincoln
Greenville
Milo
Howland
Guilford
Dover-Foxcroft
Bingham
Dexter
Hartland
Newport
Milford
Old Town
Orono
Brewer
Madison
Skowhegan
Pittsfield
Farmington
Clinton
Bucksport
Ellsworth
Machias
Mexico
Wilton
Rumford
Dixfield
Chisholm
Oakland
Waterville
Winslow
Searsport
Belfast
Winthrop
Randolph
Norway
South Paris
Gardiner
Oxford
Auburn
Lewiston
Richmond
Bridgton
Wiscasset
Thomaston
Fryeburg
Lisbon Falls
Bath
Brunswick
North Windham
Yarmouth
Freeport
Boothbay Harbor
South Portland
Saco
Old Orchard Beach
Sanford
Biddeford
Kennebunk
North Berwick
Kennebunkport
Kittery

Exhibit 5

Boston and Manchester that provide more flights and destinations. This is commonly referred to as leakage.

Exhibit 6 presents a summary of the aviation forecasts selected in this study. The 2013 FAA *Terminal Area Forecasts* form the basis for many of the demand elements presented. The only variations are those of the air carrier, air cargo, and other air taxi operations which constitute the air carrier and commuter plus air taxi forecasts in the TAF. The variation has to do with the Master Plan evaluation of the aircraft mix, boarding load factors, and those that can be expected in the future. This results in a lower operational forecast than the TAF.

Airline passenger activity is anticipated to grow at an annual average rate of 1.5 percent. Small turboprops and 50-seat or less regional jets are no longer being produced, so they can be expected to transition out of the commercial service fleet over the coming years. Thus, a larger average seat capacity will result in slower growth in operations.

Air cargo activity can be expected to grow slowly in volume, possibly not even attaining previous highs when multiple cargo carriers operated at the airport. Other air taxi operations can be expected to continue to grow with increased use of fractional and for-hire aircraft. Military activity is expected to continue to be a small part of the mix at Portland International Jetport.

Based aircraft at PWM are expected to see some growth over the planning period. Business and corporate aircraft will spur most general aviation growth. The growth in smaller piston aircraft will be more limited.

SUSTAINABILITY BASELINE ASSESSMENT

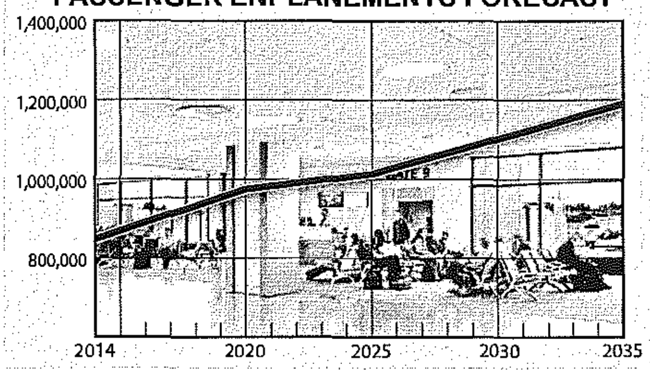
The purpose of the Baseline Assessment was to provide a look into the Jetport's current sustainability performance as determined by its related activities, policies, and procedures. This evaluation was an important first step in the development of the Jetport's long-term sustainability strategy to enable the Jetport to focus its future sustainability work on areas that are of importance and interest to the Jetport and the City, thereby ensuring the efficient use of limited resources. It will also enable the Jetport to measure, through existing and new metrics, its overall sustainability performance over time as well as the impact of individual initiatives.

To determine the focus areas for this sustainability plan, the Project Team first worked with the Jetport and its stakeholders to develop six priority categories for the PWM SAMP. These priority categories were those considered areas of primary importance that possess the greatest potential for improvement to the Jetport and its stakeholders. The Baseline Assessment then evaluated the Jetport's performance related to these categories, which include:

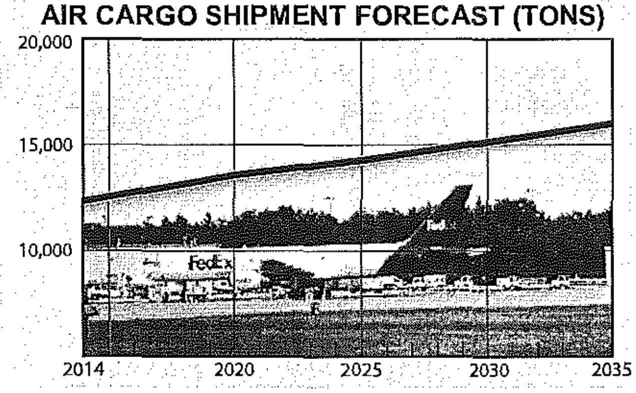
- Greenhouse Gas Emissions;
- Energy;
- Waste Management and Recycling;

	Base Year	2020	2025	2035
COMMERCIAL AIRLINE BOARDINGS				
PASSENGER ENPLANEMENTS	***843,944***	***971,324***	***1,010,139***	***1,187,969***
AIR CARGO SHIPMENTS				
Enplaned (Tons)	4,865	5,700	6,000	6,700
Deplaned (Tons)	7,396	7,800	8,200	9,200
TOTAL AIR CARGO SHIPPED	***12,261***	***13,500***	***14,200***	***15,900***
ANNUAL AIRCRAFT OPERATIONS				
ITINERANT OPERATIONS				
Air Carrier	26,068	28,800	29,800	32,000
Air Cargo	3,162	3,300	3,400	3,700
Other Air Taxi	5,299	5,900	6,900	9,000
General Aviation	15,173	17,400	18,400	20,500
Military	464	500	500	500
TOTAL ITINERANT OPERATIONS	*50,166*	*55,900*	*59,000*	*65,700*
LOCAL OPERATIONS				
General Aviation	1,890	3,400	3,400	3,500
Military	34	100	100	100
Total Local Operations	*1,924*	*3,500*	*3,500*	*3,600*
TOTAL OPERATIONS	***52,090***	***59,400***	***62,500***	***69,300***
BASED AIRCRAFT	***50***	***56***	***62***	***76***

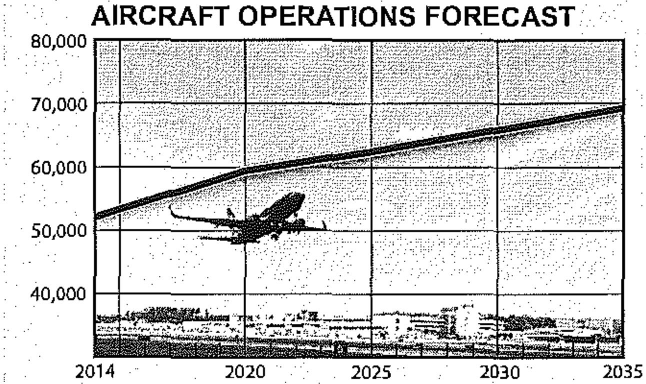
PASSENGER ENPLANEMENTS FORECAST



AIR CARGO SHIPMENT FORECAST (TONS)



AIRCRAFT OPERATIONS FORECAST



BASED AIRCRAFT FORECAST

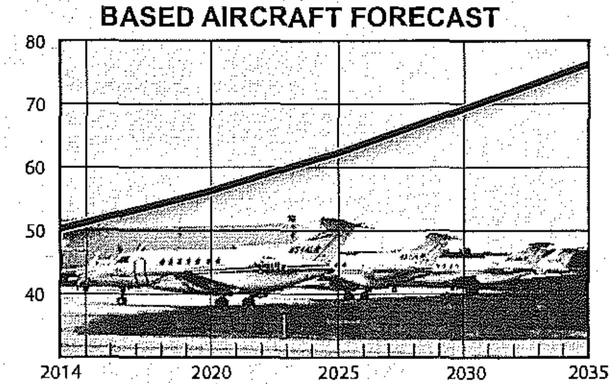


Exhibit 6

- Ground Access and Transportation;
- Social Responsibility; and
- Governance.

While noise and water quality remain areas of importance, the Jetport already performs well with respect to water quality (deicing recycling, use of water quality filters and a large water quality pond) and noise (standing Noise Advisory Committee and separate evaluation process available through *14 CFR Part 150 – Airport Noise Compatibility*). Therefore, they were not included to allow a greater focus on the other six categories. This does not mean that improvements will not be made to water quality and noise going forward. In fact, the recommendations within this master plan consider both.

A baseline assessment was conducted for each priority category to benchmark its sustainability performance, as determined by past and current activities, policies, and procedures. Through this process, along with feedback obtained from stakeholder groups, the Jetport established sustainability goals and objectives to reflect the unique operating conditions of the Jetport and align with the environmental priorities of the City of Portland, State of Maine, and larger airport industry. The following highlights the Jetport's goals for each priority sustainability category:

Greenhouse Gas Emissions – Become a national airport leader in climate change mitigation by supporting the reduction of greenhouse gas emissions generated from Jetport-controlled and influenced sources.

Energy - Become a national airport leader in energy conservation while considering opportunities for on-site renewable energy.

Waste Management and Recycling – Augment the Jetport's existing waste management practices to reduce waste generation and land disposal, and continuously improve its exemplary deicing fluid recovery and recycling program.

Ground Transportation and Access – Enhance the efficiency of regional and local access to and from the Jetport with an emphasis on high-occupancy modes of transportation and parking infrastructure that meets the needs of Jetport users.

Social Responsibility – Promote the well-being of the Jetport's employees and customers, while reflecting and supporting the social, economic, and cultural assets of the local community and greater region.

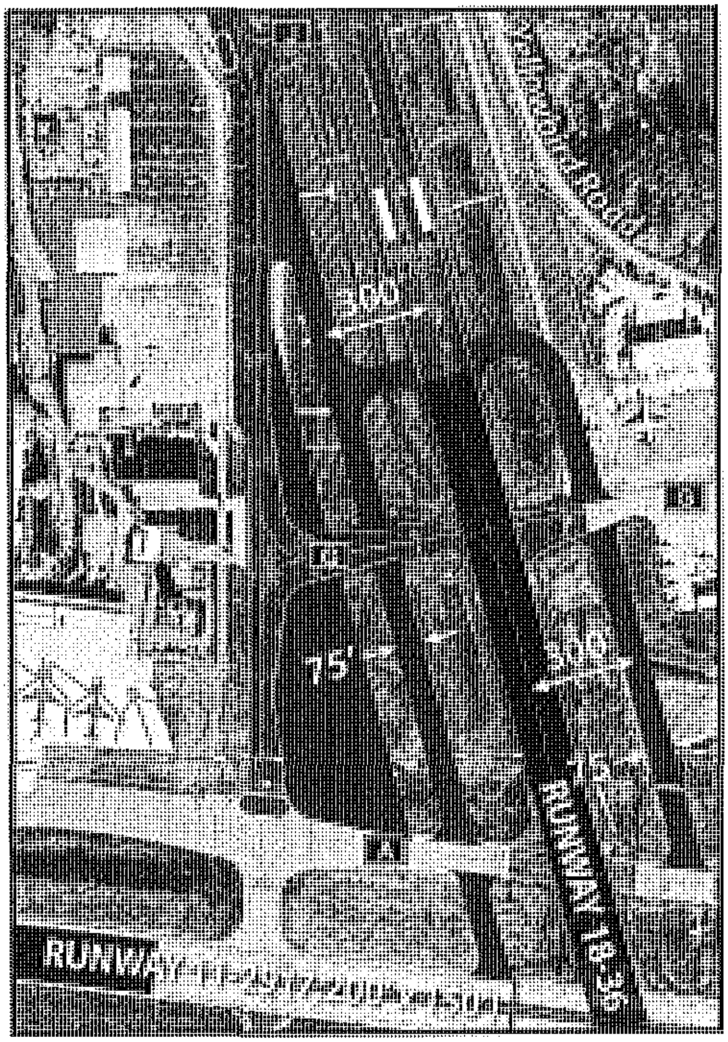
Governance – Integrate sustainability throughout the Jetport's organizational framework.

PROPOSED AIRPORT IMPROVEMENTS

The short term recommendations of the 2008 Master Plan led to the improvements that have occurred at the Jetport over the last several years. The major airfield improvements were the Runway 18-36 improvements and the construction of the east extended runway safety area on Runway 11-29. The terminal building and apron were expanded along with the parking garage. In addition, the south general aviation apron and access road were developed, setting the stage for a second fixed base operator (Maine Aviation).

The updated concept ensures that the Jetport can maintain its vision to *"Be the Airport of Choice for Maine"* and is driven by its mission statement: *"The Portland International Jetport commits to be a premier New England airport. We will provide a convenient, safe, and environmentally conscious gateway that exceeds our travelers' expectations while reflecting the essence of the Maine experience."* The recommended master plan concept, as shown on **Exhibit 7**, presents a long term configuration for the airport which preserves and enhances the role of the airport while meeting FAA design standards.

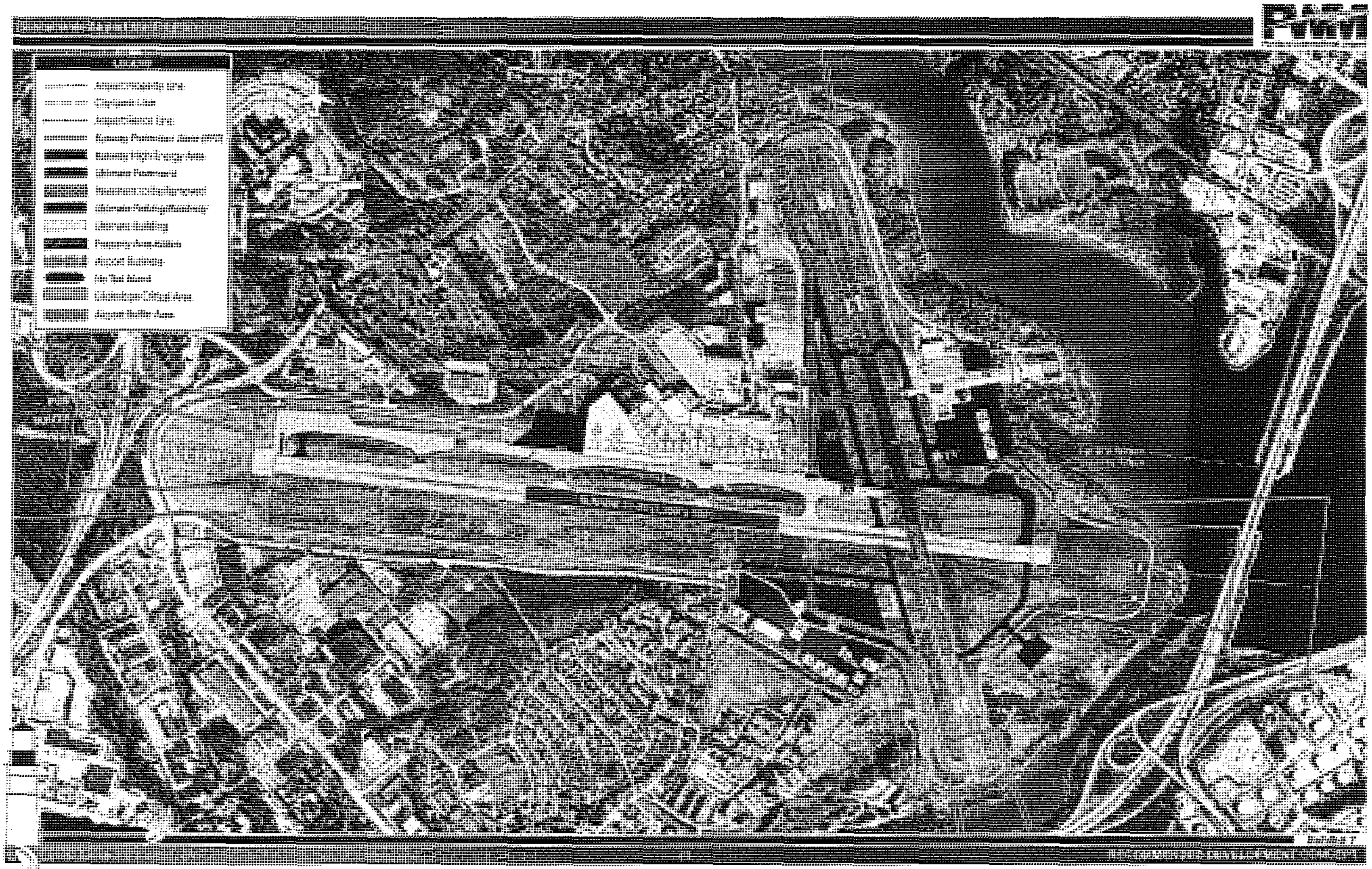
AIRFIELD IMPROVEMENTS



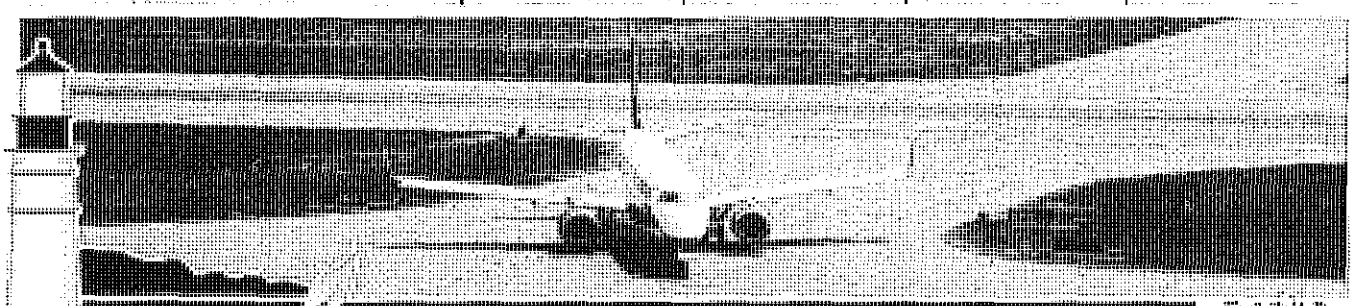
Improvements undertaken from the previous two master plans have essentially taken care of the physical requirements of the two runways, including their safety areas. **Exhibit 8** outlines the basic needs of the airfield through the planning period

Runway Length - Based on existing and projected uses, both runways are adequately sized to meet existing and long term demand. Moreover, both provide adequate safety areas to meet FAA design criteria. The long term plan maintains both runway pavements at their current lengths and widths.

Runway Pavement Strength - The existing pavement strength rating for Runway 11-29 is adequate to accommodate existing demand; however, it may need to be increased to meet future commercial airline operations. Three aircraft models that could serve the Jetport passenger market have a higher loading than the current pavement design. The Airbus 321, Boeing 737-800 and -900 models have maximum take-off weights up to 205,000 pounds on dual wheel gear (D). FedEx could also potentially shift to a Boeing 767-200 or the Airbus 300, and 310 models which have dual tandem wheel gear (DT) rating up to 375,000 pounds. Therefore, future planning includes increasing the Runway 11-29 pavement strength up to 205,000 pounds D and/or 375,000 pounds DT.

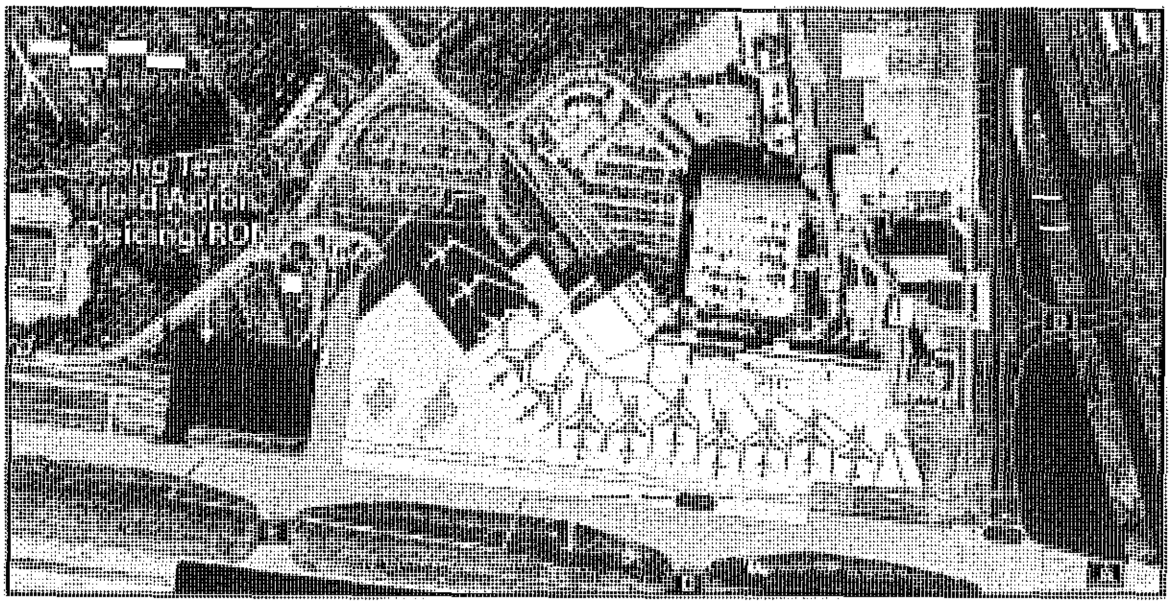


CATEGORY	EXISTING		RECOMMENDED IMPROVEMENTS OVER PLANNING PERIOD	
RUNWAYS	**Runway 11-29**	**Runway 18-36**	**Runway 11-29**	**Runway 18-36**
RDC	RDC C/D-IV-1200	RDC B-III-5000	Same	Same
Length x Width (in feet)	7,200 x 150	6,100 x 150	Same	Same
Pavement Strength (in pounds)				
Single Wheel Loading (S)	75,000	75,000	Same	Same
Dual Wheel Loading (D)	169,000	165,000	Increase up to 205,000	Same
Dual Tandem Wheel Loading (DT)	300,000	300,000	Increase up to 375,000	Same
Runway Protection Zones				
Owned/Airspace Control	Mostly	Mostly	Acquire if Feasible	
Incompatible Uses	Existing Public Roads	Residential/ Public Road	Non - if possible	
TAXIWAYS SERVING	**Runway 11-29**	**Runway 18-36**	**Runway 11-29**	**Runway 18-36**
TDG	5	3	Same	Same
Parallel Taxiway	Full Length	Full Length	Same	Same
Number of Entrance/Exits	Six	Four	Same	Same
Taxiway Widths (in feet)	75	50, 60, and 75	Same	Same
AIRFIELD GEOMETRY	**Runway 11-29**	**Runway 18-36**	**Runway 11-29**	**Runway 18-36**
Hot Spots Identified	Yes (Taxiway A & C Intersection)	Yes (Taxiway A & C Intersection)	Continue Runway Guard Lighting (RGL) and Enhanced Centerline Marking	
High Energy Runway Crossings	No	Yes (Taxiway A, G)	Consider Alternatives to Mitigate	
Direct Access Runway/Apron	Yes (Taxiway D)	Yes (Taxiway G)	Consider Alternatives to Mitigate	
NAVIGATION AND WEATHER AIDS				
	ASOS/ATIS, Four Lighted Wincones, Runway Visual Range (RVR) Equipment, Beacon		Same	
INSTRUMENT APPROACH PROCEDURES	**Runway 11-29**	**Runway 18-36**	**Runway 11-29**	**Runway 18-36**
ILS	CAT I, II, III (11); CAT I, II (29)	No	Same	Same
GPS LNAV	Yes	Yes	Same	Yes
GPS VNAV	Yes	No		
GPS LPV	Yes	LP only (No Vertical Component)	Same	Same
Other	None	None	Next Gen Approaches	Next Gen Approaches
LIGHTING AND MARKING	**Runway 11-29**	**Runway 18-36**	**Runway 11-29**	**Runway 18-36**
Runway Lighting	HIRL	MIRL	Same	Same
Centerline Lighting	Yes	No	Same	Same
Touchdown Zone Lights	Yes (11 Only)	No	Same	Same
Runway Marking	Precision	Non-precision	Same	Same
Taxiway Lighting	MITL	MITL	Same	Same
Approach Lighting System	ALSF-2 (11); MALSR (29)	REIL	Same	Same
Visual Approach Aids	PAPI-4R	PAPI-4L	Same	Same



Taxiway Improvements – Several airfield taxiway projects have been identified to satisfy FAA airfield geometrical standards. Proposed taxiway improvements shown on **Exhibit 7** include:

- Reconfigure the eastern portion of Taxiway A;
- Realignment of parallel Taxiway C to be fully parallel to Runway 18-36;
- Construction of a partial parallel taxiway on the east side of Runway 18-36 linking the cargo apron with parallel Taxiway A;
- Construction of a new connector taxiway linking Taxiway B to Runway 29 and a new aircraft run-up apron; and
- Closure of the Runway 11 hold apron to be replaced by a by-pass taxiway and enlarged long term holding/deicing apron

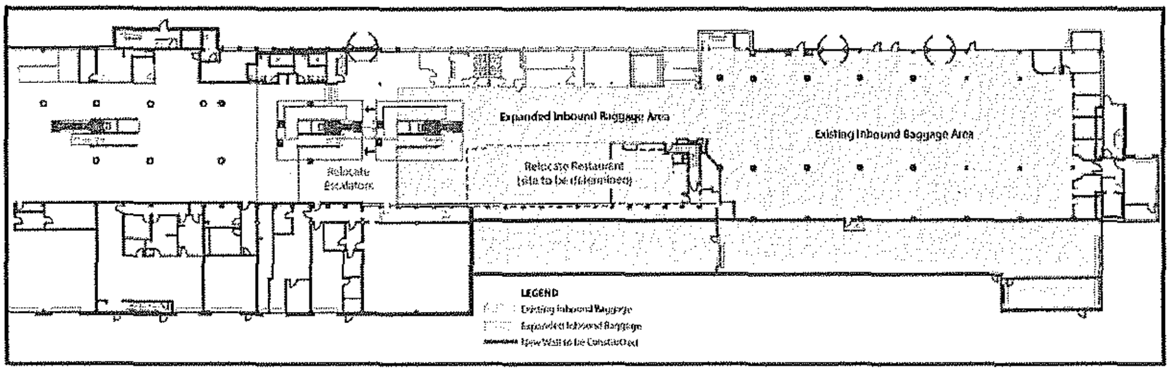


LANDSIDE IMPROVEMENTS

The primary goal of landside facility planning is to provide adequate space to meet reasonably anticipated passenger, cargo, and general aviation needs, while also optimizing operational efficiency and land use. Achieving these goals yields a development scheme which segregates functional uses while maximizing the airport's revenue potential. **Exhibit 7** presents a large scale view of the planned landside development for the airport.

Commercial Passenger Terminal Building – In accordance with previous terminal planning, the recommended plan shows an additional three gates to the northwest. The plan also provides for an easterly extension of the second level concourse to ultimately replace the Gate 1 boarding bridge structure. This would be practical if Taxiway C is reconfigured as proposed, thereby allowing for larger aircraft parking at Gate 1.

Three other terminal building modifications are also proposed: 1) Add baggage claim to the west into the current restaurant location to meet existing and long term needs; 2) Realign the existing aircraft gates to provide for the increased wingspans of the airline fleet, primarily due to increasing use of winglets to improve aircraft fuel efficiency. This change will only involve moving the loading bridges and applying new markings for aircraft parking positions. No internal building changes would be required; 3) Provide for the secure U.S. Border Protection and Customs space that would be needed for scheduled non-stop international flights at PWM. The plan would allow for international air service out of gate areas 4 and/or 5 and secured arrival passage to facilities on the main floor beneath the gate areas.



Automobile Parking Garage – The existing parking garage includes both public parking as well as rental car ready/return. The long term plan proposes the expansion of the garage to better serve rental car needs as well as provide additional public parking spaces. Consideration is also given to improving pedestrian access between the rental car ready/return and the terminal building.

Commercial Aircraft Apron - The commercial terminal apron is planned to be reconfigured to provide more parking width at all gates. The plan also includes an increased apron area adjacent to Gate 1 that would be feasible only if Taxiway C is reconfigured as proposed. The larger apron would be sufficient for Gate 1 to serve the full range of passenger aircraft operating or projected to operate at the Jetport. Ultimately, the plan considers the northwesterly expansion of the commercial ramp to serve future need for more gates. Again, the northwesterly growth would only occur as a response to increased demand generating a need for the gates and space.

Deicing Apron - The commercial terminal apron currently supports two deicing positions. These positions are generally adequate but do not meet demand during peak morning departures. The ultimate plan is for the apron to be equipped for "at-gate" de-icing and fluid recapture. This will be installed over time when pavement reconstruction is necessary. In the near term, additional deicing positions are planned to the west of the existing deicing area. As proposed, the apron would allow for two additional deicing positions, as well as serve long term holding and aircraft that remain overnight (RON).

Runway 11 Holding Apron - The existing configuration of the Runway 11 holding apron no longer conforms to FAA design standards and does not leave sufficient clearance for a perimeter roadway outside the aircraft movement area. This will become more critical when the fixed base operator opens on the south side of the airport. A by-pass taxiway would be installed to replace the holding apron.

Commercial Air Cargo - The recommended plan for future air cargo development is similar to the previous plan. As proposed, the plan provides for cargo apron fronting two future buildings. If the plan is followed, the existing air cargo building currently utilized by FedEx could be repurposed for airport maintenance.

General Aviation - The bulk of the Jetport's general aviation facilities are currently located on the north general aviation ramp, with some facilities on the cargo, or FSDO ramp. Recently, the airport approved a leasehold development for general aviation facility development south of Runway 11-29, as shown on **Exhibit 7**. Some additional general aviation needs can also be accommodated on the north ramp. These areas should be more than adequate to accommodate projected general aviation aircraft and associated facility needs.

SUSTAINABILITY MANAGEMENT PLAN

Through the stakeholder engagement process, the Jetport developed a list of potential sustainability actions that would improve its sustainability performance relative to its goals and objectives. Input was solicited from stakeholders to develop this list, which was then evaluated using the custom-built *Sustainability Action Evaluation Tool* to assess the estimated benefits of the actions (e.g., GHG emissions reductions, increases in energy conservation) relative to their estimated costs (i.e., initial capital costs, operations and maintenance, staffing hours, and return on investment). **Exhibit 9** identifies a select list of potential sustainability actions by category.

This *Sustainable Airport Master Plan* includes sustainability targets that will assist the Jetport in understanding the level of success it is achieving through the implementation of its sustainability program. In developing its sustainability targets, the Jetport considered its current performance and the potential effects of its identified sustainability actions, among other factors.

The Jetport is committed to report on its sustainability program on an annual basis. Through annual reporting, the Jetport will enhance transparency, promote accountability, build stakeholder trust, and convey its leadership in sustainability within its region and the larger airport industry.

GOALS	OBJECTIVES	ACTIONS	TARGETS
GREENHOUSE GAS EMISSIONS • Become a national airport leader in climate change mitigation by supporting the reduction of greenhouse gas emissions generated from Jetport-controlled and influenced sources	1. Reduce greenhouse gas emissions associated with Jetport-operated mobile and stationary sources on a per enplanement basis 2. Encourage greenhouse gas emission reduction strategies among the Jetport's employees, tenants, and customers	• Provide pre-conditioned air (PCA) at all commercial service aircraft gates • Encourage tenants to procure alternative fuel and/or fuel-efficient ground support equipment • Install public charging stations in the garage to accommodate electric vehicles • Prepare an annual Jetport-wide greenhouse gas emissions inventory, and voluntarily report the Jetport's carbon performance	• Install pre-conditioned air at 100 percent of all loading bridges by 2018 • Reduce Jetport-owned and controlled GHG emissions • Work with the tenants to develop a baseline of the Jetport's scope 3 GHG emissions by 2018
ENERGY • Become a national airport leader in energy conservation, while considering opportunities for on-site renewable energy generation	1. Reduce the energy intensity of Jetport-owned facilities 2. Pursue on-site generation of renewable energy, where feasible	• Upgrade the building envelope of the Old Terminal • Continue to upgrade lighting within the parking garage to LEDs • Install a pilot-controlled airfield lighting system • Retro-commission the building systems at the Old Terminal	• Begin to measure percent of energy generated from renewable sources by 2018 • Reduce the Jetport's energy use intensity below 2013 levels five percent by 2025 and 15 percent by 2035
WASTE MANAGEMENT AND RECYCLING • Augment the Jetport's existing waste management practices to reduce waste generation and land disposal, and continuously improve its exemplary deicing recovery and recycling program	1. Reduce the amount of Jetport-generated municipal solid waste on a per enplanement basis 2. Increase the percentage of Jetport-generated municipal solid waste diverted from regional landfills 3. Continue to recycle and reuse construction and demolition waste to the greatest extent practicable 4. Prioritize the purchase and use of environmentally preferable products and materials in both Jetport and tenant operations 5. Provide the resources necessary to support continuous improvement of tenant waste management practices	• Design and implement a recycling awareness campaign for employees and passengers • Make permanent the existing composting pilot program, and expand it beyond the Jetport's back-ofhouse food preparation to include the passenger/public organic waste stream • Increase the number of recycling bins and strategically co-locate them with standard trash receptacles throughout the Jetport's facilities and exterior spaces to maximize use	• Begin to measure the Jetport's composting rate by 2017 • Increase the Jetport's municipal solid waste recycling rate to 30 percent by 2020 • Continuously divert at least 90 percent of construction and demolition waste from landfills • Recapture and recycle at least 70 percent of deicing fluid • Reduce deicing fluid recycling operations cost
GROUND ACCESS AND TRANSPORTATION • Enhance the efficiency of regional and local access to and from the Jetport with an emphasis on highoccupancy modes of transportation and parking infrastructure that meets the needs of the Jetport's users	1. Provide choice to the Jetport's passengers by encouraging high-occupancy modes of transportation and the provision of adequate parking 2. Encourage the use of high-occupancy modes of transport among employees commuting to and from the Jetport 3. Leverage regional partners to enhance and promote bicycle, pedestrian, and high-occupancy modes of transportation available to Jetport employees, customers, and visitors	• Promote ridesharing for employee commutes • Administer an employee transportation survey • Continue to work with regional entities to enhance/expand public transportation service to the Jetport, and establish connections to local points of interest	• Appoint a transportation coordinator by 2017 • Identify the mode distribution of Jetport employees by 2018 • Identify the mode distribution of Jetport passengers by 2020
SOCIAL RESPONSIBILITY • Promote the well-being of the Jetport's employees and customers, while reflecting and supporting the social, economic, and cultural assets of the local community and greater region	1. Expand or enhance existing programs that support employee health and satisfaction 2. Continuously improve the Jetport's customer service experience 3. Foster a "sense of place" by incorporating regional representative elements into the Jetport's public-facing facilities 4. Increase opportunities for employee, customer, and community engagement 5. Continue the Jetport's support of the regional economy, and promote its economic impact	• Increase local collaborations by participating in local and regional partnerships and working groups • Create indoor landscaped areas that celebrate and display flora of Maine • Conduct regular employee satisfaction surveys	• Increase the number of Jetport employees participating in Jetport-sponsored health and wellness programs to 80 percent by 2020 • Hold three employee appreciation events per year beginning in 2016 • Continuously improve Airport Service Quality rankings, as applicable and where possible
GOVERNANCE • Integrate sustainability throughout the Jetport's organizational framework	1. Integrate sustainability criteria into the Jetport's decision-making processes 2. Promote sustainability considerations in the daily activities of Jetport employees 3. Drive accountability throughout all levels of the organization 4. Enhance internal and external transparency of operations	• Include a requirement on all capital improvement applications to identify a proposed project's sustainability elements and any known alternatives that serve the same purpose with greater efficiency and/or environmental/social performance • Incorporate sustainability guidelines into future tenant and vendor contracts, and provide training on these guidelines, as needed • Publish an annual "scorecard" to report on the Jetport's ongoing sustainability performance	• Present two sustainability-based employee recognition awards per year beginning in 2016 • Establish an internal Sustainability Working Group by 2017 • Ensure that 100 percent of capital projects are evaluated using sustainability criteria by 2017 • Engage three local organizations per year on the Jetport's sustainability program beginning 2017 • Participate in or establish a regional task force focused on sustainability by 2018

Exhibit 9

SUSTAINABILITY MANAGEMENT PLAN

CAPITAL IMPROVEMENT PLAN AND COST SUMMARIES

From the specific needs and improvements that have been established for the Jetport, a realistic schedule and the associated costs for implementing the plan can be determined. The implementation plan considers the interrelationships among the projects in the recommended alternative in order to determine a logistics sequence to minimize conflicts and establish a master schedule.

This section will examine the overall cost of each item in the recommended development alternative and present a development schedule. The implementation plan covers the same years as the forecasts in the planning effort. A CIP, programmed by years, has been developed to cover the first six years of the plan. The remaining projects will be grouped into intermediate (years 7-11) and long (years 12-20) term planning horizons. More detailed information is provided for the five-year horizon, with less detail for the longer planning periods. By utilizing planning horizons instead of specific years for intermediate and long term development, the Jetport will have greater flexibility to adjust capital needs as demand dictates.

A key aspect of this planning document is the use of demand-based planning milestones. The short term planning horizon contains items of highest need and/or priority. These items should be considered for development based on actual demand levels within the next five years. As short term horizon activity levels are reached, it will then be time to program for the intermediate term based upon the next activity milestones. Similarly, when the intermediate term milestones are reached, it will be time to program for the long term activity milestones.

Several development items included in the recommended alternative will need to follow demand indicators which essentially establish triggers for key improvements. For example, the recommended concept includes construction of new hangar aprons and taxilanes. Based aircraft will be an indicator for additional hangar needs. If based aircraft growth occurs as projected, additional hangars and associated aprons will likely need to be constructed to meet the demand. If growth slows or does not occur as projected, hangar pavement projects could be delayed. As a result, capital expenditures will be undertaken as needed, which leads to a responsible use of capital assets. Some development items do not depend on demand, such as pavement maintenance. These types of projects typically are associated with day-to-day operations and should be monitored and identified by Jetport management.

All airports receiving federal Airport Improvement Program (AIP) funding are required to maintain a current CIP with the FAA, which identifies projects to be undertaken at an airport over a specified period of time. The Jetport's CIP includes the projects recommended as part of this Sustainable Airport Master Plan (SAMP) from FY 2017 through FY 2036. **Table 2** presents the recommended CIP and its corresponding cost estimates, which are based on a planning level of detail. While accurate for master planning purposes, actual project costs will likely vary from these planning estimates once project design and engineering estimates are developed. The cost estimates presented in the table are in 2016 dollars, inflated at 2.7 percent annually and also include contingencies, design costs, and construction management costs. As shown in the table, the CIP is estimated at approximately $193.3 million in 2016 dollars and approximately $271.8 million in inflated dollars. This amount, combined with other capital equipment and maintenance projects, brings total capital investment to $224.1 million in 2016 dollar and approximately $312.3 million in inflated dollars.

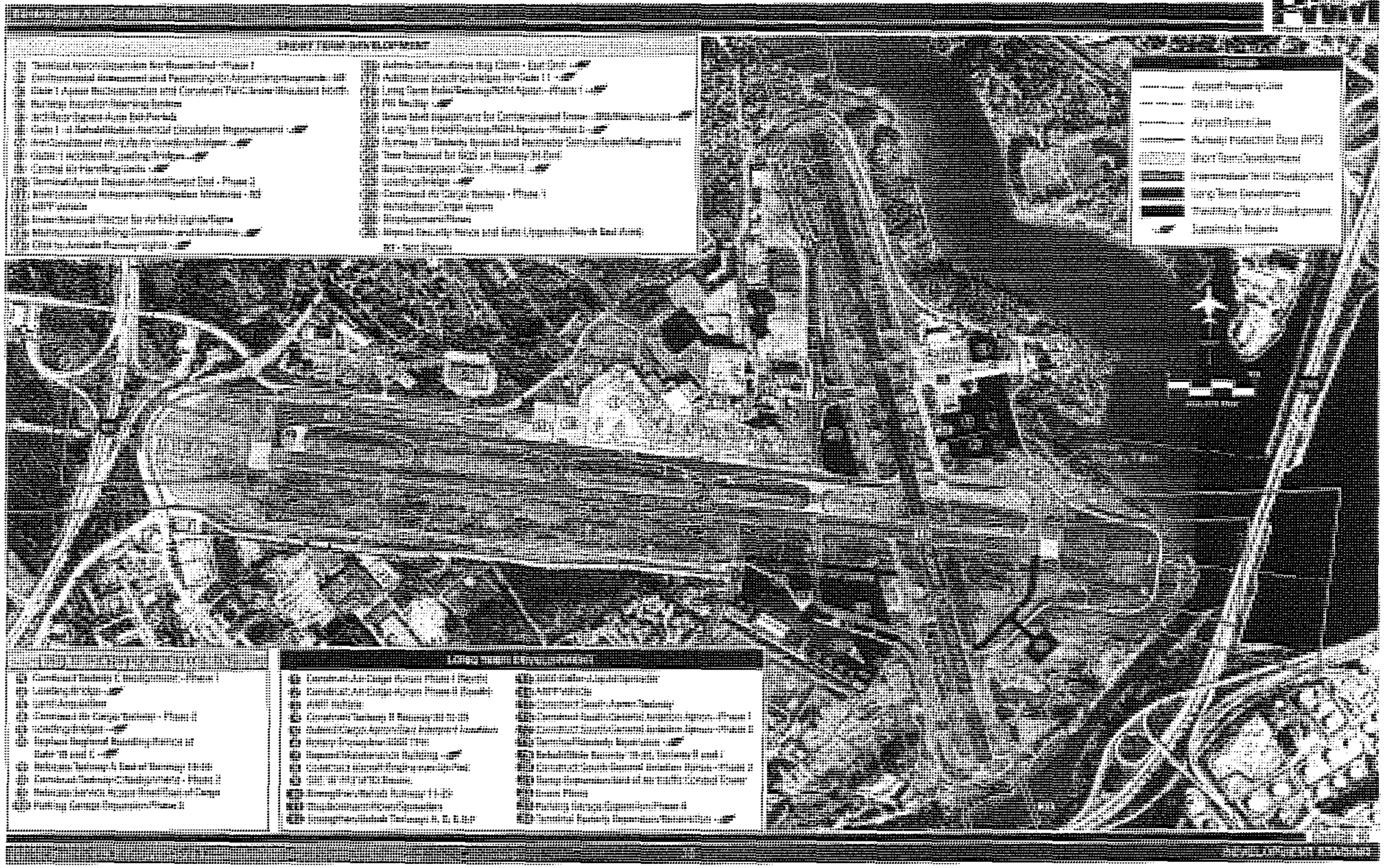
Exhibit 10 graphically presents the staging of master plan projects on an aerial photograph of the Jetport. The projects are color-coded by short term, intermediate, and long term planning horizons. A detailed financial evaluation was also completed. The analysis factored all proposed capital and operation/maintenance costs against proposed incomes. The result indicated that the Jetport is fully capable of generating sufficient revenues to offset future expenditures without the need for financial assistance from City of Portland taxing resources. The airport is currently and projected to remain financially self-sufficient.

TABLE 2
CIP Project Costs and Funding Sources
Portland International Jetport
[illegible]

Proj. No.	Description	Project Costs: 2016 $	Project Costs: Inflated	Funding Sources: AIP Grants	Funding Sources: State	Funding Sources: Local PFCs	Funding Sources: Local Airport
FISCAL YEAR 2017							
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	Environmental Assessment and Permitting for Airport Improvements	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FISCAL YEAR 2018							
3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FISCAL YEAR 2019							
10	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
11	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
15	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
16	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
17	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FISCAL YEAR 2020							
18	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
19	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

TABLE 3 (Continued)

FISCAL YEAR [illegible]							
20	Snow Melt Equipment for Deicer [illegible]	2,300	2,543	[illegible]	117	$0	[illegible]
21	Long Term Parking/Deicing/GOV Apron - Phase 2	2,480	[illegible]	[illegible]	130	0	130
22	Runway 11 Taxiway [illegible] Replace [illegible] Rehabilitation	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
23	Tree Removal for OCS on Runway 36 End	50	57	51	3	0	3
24	Expand Terminal [illegible] Phase 2	10,000	[illegible]	0	0	[illegible]	[illegible]
25	Loading Bridge	[illegible]	[illegible]	0	0	[illegible]	0
[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FISCAL YEAR [illegible]							
26	Construct Air Cargo Taxiway - Phase 1 [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
27	Rehab [illegible] Cargo Apron	2,440	2,868	2,577	141	0	141
28	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
29	Airport Security Fence and Gate Upgrades (North East Area)	245	288	255	14	0	14
[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
TOTAL SHORT TERM		$61,[illegible]	$68,627	$[illegible]	$1,[illegible]	$[illegible]	$5,[illegible]
INTERMEDIATE TERM							
1	Construct Taxiway C Realignment - Phase 1	[illegible]	27,5[illegible]	[illegible]	[illegible]	$0	[illegible]
2	Loading Bridge	[illegible]	666	0	0	666	0
3	[illegible]	2,340	[illegible]	[illegible]	[illegible]	0	124
4	Construct Air Cargo Taxiway - Phase 2	2,400	3,0[illegible]	2,745	153	0	153
5	Loading Bridges	[illegible]	2,770	0	0	2,770	0
6	Replace Regional Boarding Ramps at Gate [illegible] and [illegible]	350	445	0	0	445	0
7	[illegible] Runway [illegible]	[illegible]	6,7[illegible]	[illegible]	[illegible]	0	[illegible]
8	Construct Taxiway C Realignment - Phase 2	3,500	4,023	3,8[illegible]	201	0	201
9	Relocate Service Access Road East of Cargo	[illegible]	[illegible]	[illegible]	4[illegible]	0	[illegible]
10	Parking Garage Expansion Phase 1	15,000	20,108	0	0	0	20,108
TOTAL INTERMEDIATE TERM		$[illegible]	$40,[illegible]	$22,197	$1,[illegible]	$[illegible]	$21,[illegible]
LONG TERM							
1	Construct Air Cargo Apron Phase 1 (North)	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
2	Construct Air Cargo Apron Phase 1 (South)	3,000	[illegible]	3,712	207	0	207
3	ARFF Vehicle	1,500	[illegible]	[illegible]	[illegible]	0	[illegible]
4	Construct Taxiway B Runway 29 to 36	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
5	Extend Cargo Apron [illegible] Location	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
6	Rotary Snowplow 2000 TPH	550	779	700	39	0	39
7	Expand Maintenance Building	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
8	Construct Aircraft Engine Run-Up Pad	1,600	2,333	2,050	138	0	138
9	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
10	Strengthen/Rehab Runway 11-29	[illegible]	12,[illegible]	11,[illegible]	611	0	611
11	Replacement Plow/Spreaders	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
12	Strengthen/Rehab Taxiways A, D, E, & F	[illegible]	[illegible]	[illegible]	453	0	453
13	[illegible] Gallon Liquid Spreader	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
14	ARFF Vehicle	125	[illegible]	172	10	0	10
15	Construct South [illegible] Taxiway	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
16	Construct South General Aviation Apron - Phase 1	[illegible]	3,0[illegible]	[illegible]	183	0	183
17	Construct South General Aviation Apron - Phase 2	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
18	Terminal [illegible] Expansion	16,000	23,[illegible]	0	0	[illegible]	1,[illegible]
19	Rehabilitate Runway [illegible], Taxiway [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]
20	Construct South General Aviation Apron - Phase 3	[illegible]	4,[illegible]	4,479	249	0	249
21	[illegible] East of Air Traffic Control Tower	[illegible]	[illegible]	11,[illegible]	[illegible]	0	[illegible]
22	Snow Plows	[illegible]	1,1[illegible]	[illegible]	[illegible]	0	[illegible]
23	Parking Garage Expansion Phase [illegible]	[illegible]	14,[illegible]	0	0	0	14,[illegible]
24	Terminal Facility Expansion/Renovation	11,000	18,[illegible]	0	0	17,[illegible]	[illegible]
TOTAL LONG TERM		$[illegible]	$[illegible]	$[illegible]	$4,[illegible]	$[illegible]	$[illegible]
TOTAL CIP		$[illegible]	$[illegible]	$[illegible]	$7,[illegible]	$[illegible]	$[illegible]
PLUS: CAPITAL OUTLAY		$[illegible]	$[illegible]	$0	$0	$0	$[illegible]
TOTAL CIP AND CAPITAL OUTLAY		$[illegible]	$[illegible]	$[illegible]	$7,[illegible]	$[illegible]	$[illegible]

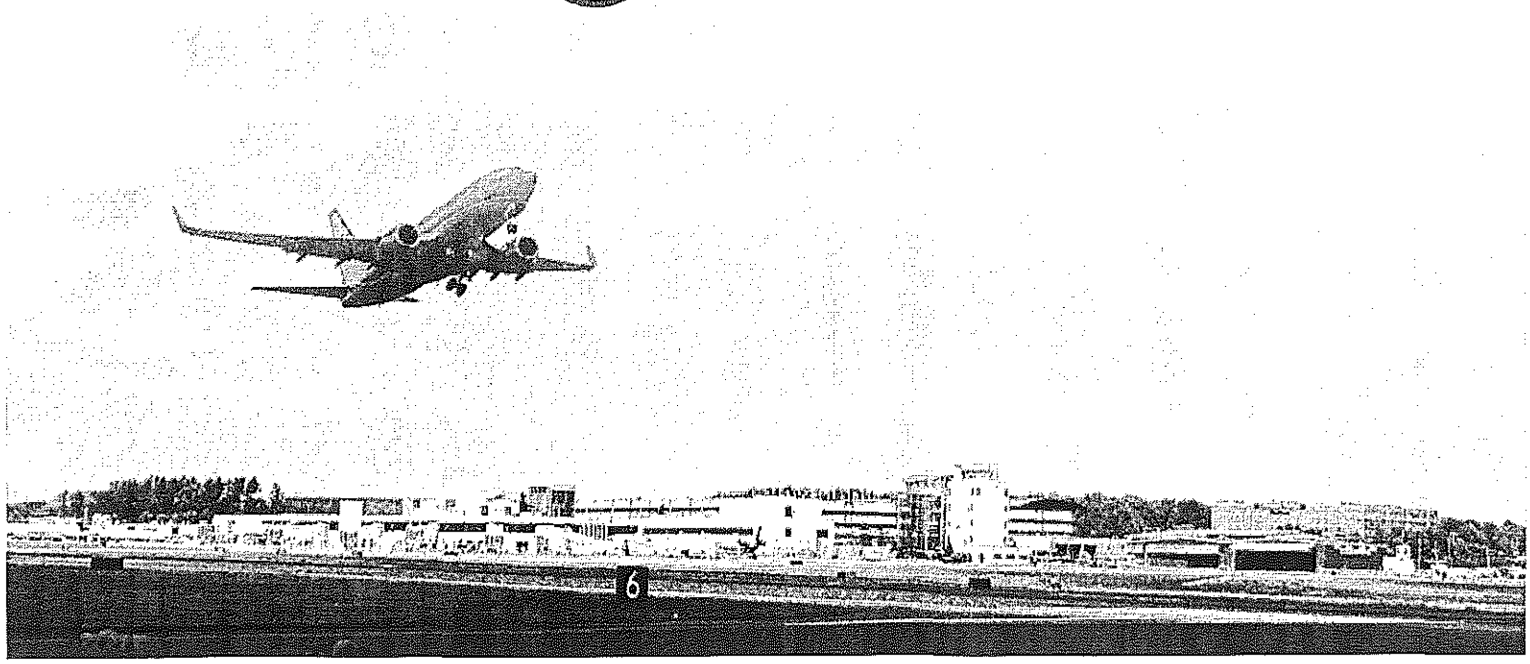


Stantec

Coffman Associates
Airport Consultants

vhb

MAC Consulting, LLC



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Tab 11 11-21-16

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 EXTENSION OF LEASE WITH GENERAL SERVICES ADMINISTRATION RE: TRANSPORTATION SECURITY ADMINISTRATION OFFICE SPACE AT JETPORT

ORDERED, that the one-year extension of lease, in substantially in the form attached, with the United States General Services Administration for office and administrative space at the Portland International Jetport for the Transportation Security Administration is hereby approved; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of this order.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Paul Bradbury, Airport Director

DATE: October 21, 2016

DISTRIBUTION: Jon Jennings, City Manager; Mayor Strimling; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English; Julie Sullivan

SUBJECT: Lease amendment to extend current TSA/GSA Lease at the Portland International Jetport by one year.

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading: ___November 7, 2016_______ **Final Action:** __November 7, 2016_________

Can action be taken at a later date: __X__ **Yes** _____ **No (If no why not?)**
Action can be taken at a later date, but should be taken in November to allow execution of the amendment prior to the lease expiration date of December 31, 2017.

I. SUMMARY OF ISSUE (Agenda Description)

The Transportation Security Administration's current lease for office space at the Portland International Jetport will expire on December 31, 2017. The General Services Administration (GSA) on the TSA's behalf has agreed to extend the current lease for an additional year. All terms of the current lease outlined below will remain in effect; the only change will be an extension of the term by one year. The terms of the lease are as follows:

- Term: One year
- Area: The lease premises include 8,215 square feet of office space on the second level of the Jetport's terminal building and 15 parking spaces in the short term section of the parking garage.
- Rate: The rate is $38.70 per square foot annually. This equates to a total annual payments of $317,920.50. This rate is comparable to the airport terminal rate currently being paid by the airlines under the Jetport's airline signatory lease agreement previously approved by the City Council.

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

All leases issued by the City of Portland that do not contain a termination for convenience clause must have City Council approval. The GSA requested a one year extension, and would not accept an extension containing a termination for convenience clause.

III. INTENDED RESULT

This will allow the TSA to continue to operate their administrative offices at the Portland International Jetport. This space currently has no other immediate use, and its highest and best use for the one year term of the lease is to continue in its current function as TSA administrative offices and TSA agent support space.

IV. COUNCIL GOAL ADDRESSED

The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals. Approval of this lease extension allows the Jetport to provide the administrative space required by the TSA to perform its security functions at the Jetport.

V. FINANCIAL IMPACT

If accepted by the City Council this lease will generate $317,920.50 in revenue to the Jetport over its one year term.

VI. STAFF ANALYSIS AND RECOMMENDATION

Since this is the highest and best use of this space and it is being leased at a comparable rate to the Jetport's airline leases, I recommend the City Council's approval of this item.

VIII. LIST ATTACHMENTS

None

Signature

October 21, 2016
Date

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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 SALARY INCREASE FOR CORPORATION COUNSEL AND THE CITY CLERK

ORDERED, that an annual salary of $131,235 is hereby approved for Corporation Counsel; and

BE IT FURTHER ORDERED, that an annual salary of $92,965.50 is hereby approved for the City Clerk; and

BE IT FURTHER ORDERED, both annual salaries shall be retroactive to July 3, 2016.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Gina Tapp, Director of Human Resources

DATE: November 14, 2016

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

SUBJECT: Annual Compensation Adjustment for Corporation Counsel and City Clerk

SPONSOR: Mayor Ethan Strimling

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading_______November 21, 2016______ **Final Action**_______________

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

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

Councilor Justin Costa, Chair of Legislative/Nominating Committee; presentation should take approximately five minutes, plus time for any comments other Councilors or the Mayor may wish to make.

I. SUMMARY OF ISSUE (Agenda Description)

Annual compensation adjustments for Corporation Counsel and City Clerk.

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

Annual performance appraisals were conducted by the City Council with Corporation Counsel Danielle West-Chuhta and the City Clerk Katherine Jones on Wednesday, October 5, 2016.

III. INTENDED RESULT

A recommendation and approval is needed to grant Corporation Counsel and the City Clerk compensation adjustments as follows, retroactive to July 3, 2016.

Corporation Counsel: 2% COLA adjustment; 3% Merit adjustment based on annual evaluation; 6% equity adjustment.

City Clerk: 2% COLA adjustment; 3% Merit adjustment based on annual evaluation; 12% equity increase.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

Prepared by:

Date:

TO: City Council
FROM: Gina Tapp, Director of Human Resources
DATE: November 15, 2016
RE: Compensation Information for Corporation Counsel and City Clerk

As the Council knows, we have been looking at compensation levels for multiple positions in an attempt to reduce staff turnover and create more equitable compensation levels across City departments. I am providing you with additional information on the recommended compensation adjustments for Corporation Counsel Danielle West-Chuhta and City Clerk Katherine Jones.

Corporation Counsel Danielle West-Chuhta: Danielle is currently earning a salary of $117,838.50.

We start by giving her a 2% COLA adjustment, which is consistent with what all other non-union employees – including all the Department Directors – received in July at the start of FY17. Then, add to that a 3% merit increase based on her annual performance evaluation. These two adjustments would bring her salary up to $123,805.50.

We have recently increased the compensation levels of the Associate Corporation Counsel positions because we were simply not able to attract the level of attorneys we needed to fill the two vacancies that occurred earlier in the year. In addition, we made an equity adjustment to the 3rd Associate level attorney in the office, which combined with an annual step increase of 3% and the COLA for non-union employees of 2%, resulted in an overall increase of approximately 11%.

Using this as a guide, an overall increase of 11% to Danielle's salary could be accomplished by giving her a 6% equity increase on top of the 2% COLA increase and the 3% merit increase, which would bring her salary up to $131,235. In comparison to other Department Directors within the City, this would be above the 4 highest paid who are at $116, 493, and below the Deputy City Manager salary who is at $143,559.

A quick Salary Survey of other New England Municipalities shows the following:

City	Position	Salary Range
Manchester, NH (pop. 110,229)	**City Solicitor**	**$103,933 - $152,629**
Burlington, VT (pop. 42,452)	City Attorney	$103,563 - $125,421
Nashua, NH (pop. 87,970)	Corporation Counsel	$67,547 - $113,556
Lowell, MA (pop. 110,699)	City Solicitor	$128,670 (actual FY17)
Newton, MA (pop. 88,817)	City Solicitor	$140,027 (actual FY17)

It should be pointed out that these other salaries are not necessarily an "apples to apples" comparison of actual job responsibilities, but rather an illustration of what other professional attorneys in a similar role make at other cities in New England. As you know, not many cities operate a Long Term Care facility, nor do they operate an International Airport. Danielle and her staff cover legal services for all the traditional municipal departments, as well as these additional areas. I am hopeful that our non-union salary study will provide us with more detailed and closely matched salaries for consideration, and

I believe moving Danielle to the higher salary proposed will not interfere in that process.

City Clerk Katherine Jones: Kathy is currently earning a salary of $78,994.76. The last MMA Salary Survey conducted in 2013 reported that City Clerks in Lewiston, South Portland, and Brunswick all earned a higher salary than Kathy. The most current MMA Salary Survey that was just released this month at the annual MMA Convention gives us the following data:

City	Actual Salary
Bangor	$83,245.50
Brunswick	$92,685.00

Lewiston did not respond to the survey in this category. We also know that the outgoing City Clerk at South Portland was earning $89,555 when she retired last October, and the new salary for their new City Clerk was offered a starting salary of $65,000.

For Kathy, the recommendation is to give her the 2% COLA increase that all other non-union employees – including Department Directors – received at the beginning of FY17, followed by an additional 3% merit increase tied to her annual performance evaluation. This would bring her salary up to $82,992. At this time, the lowest paid Department Director is $102,004.50. Kathy's scope and volume of work is definitely greater than that of the municipal City Clerks listed above, and therefore it would seem reasonable to give her an additional 12% equity increase, bringing her salary up to $92,956.50, which would provide for more internal and external equity.

Please let me know if you need any further information, or if you have any questions about any of this information.

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~~Tab 14 10-17-16~~
~~Tab 9 11-5-16~~
Tab 13 11-21-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
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Moratorium
Re: City Parks and Public Gronnds in the
R-6 Zone on the Portland Peninsula

WHEREAS, the Comprehensive Plan for the City of Portland acknowledges that "Being virtually encircled by water, Portland owes much of its beauty to the surrounding water bodies including freshwater rivers, the ocean, a working harbor and an enclosed cove"; and

WHEREAS, the Comprehensive Plan further describes the importance of "Vistas from Promenades and High Points," stating that City parks were established on the Eastern and Western Promenades "precisely because of the scenic views they afforded of Casco Bay, the Fore River, the surrounding countryside, and the White Mountains"; and

WHEREAS, Fort Sumner, which was first listed as a City park in 1934, offers unparalleled views not only of the cityscape but also of the Back Cove and Mount Washington while also providing Portland residents and visitors with the ability to experience open space, a view of the shoreline, long sightlines, and a feeling of expansiveness not often achieved in a public space in an urban environment; and

WHEREAS, a City master plan for Fort Sumner completed in 2006 includes elements designed to highlight the park's most valued asset: its view; and

WHEREAS, at present there is a lack of regulation in City Code to ensure that developments on parcels abutting City parks and public grounds as defined in City Code, Chapter 18, section 18-11 in the R-6 Zone of the 1st Council District (hereinafter "District 1") on the City of Portland Peninsula (hereinafter referred to as "City parks and public grounds") in Portland do not infringe upon the natural beauty or compromise the quality of open space provided by such City parks and public grounds; and

WHEREAS, development pressure concentrated in District 1 on the Portland Peninsula, which contains many public parks, has resulted in two (2) recent citizen initiative petitions to address and preserve parks and view corridors; and

WHEREAS, this development pressure has not been adequately accounted for in the existing Portland City Code; and

WHEREAS, there is a strong likelihood that District 1 on the Portland Peninsula, and specifically the R-6 zone located in that District, will continue to be subjected to this development pressure; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(A), the continued development of projects directly abutting City parks and public grounds in the R-6 Zone of District 1 on the Portland Peninsula pursuant to the existing City Code requirements could pose serious threats to the public health, safety and welfare of the residents of the City of Portland through the over-development of and overburdening of the City's public facility (i.e. public parks and grounds) which is reasonably foreseeable as a result of the development pressure; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(B), since the application of existing Portland City Code provisions or regulations or other applicable laws are inadequate to address the development pressure and prevent the public harm from the potential residential, commercial and/or industrial development in the R-6 zone of District 1 of the City of Portland on the Portland Peninsula; and

WHEREAS, after sufficient notice and a public hearing, there is strong support for this Moratorium on the City Council; and

WHEREAS, the City will need at least ninety (90) days to develop and implement the necessary amendments to the City Code to address these development pressures through-out the City of Portland; and

WHEREAS, in the judgment of the Portland City Council, these facts create an emergency within the meaning of 30-A M.R.S. § 4356(1) and the City Charter, and require the following Moratorium as immediately necessary for the preservation of the public health, safety and welfare;

NOW THEREFORE, pursuant to its authority in 30-A M.R.S. §§ 3001 and 4356, the Portland City Council hereby ordains that a Moratorium is imposed on any and all site plan or subdivision proposals for property located in the R-6 zone in District 1 on the Portland Peninsula [see map attached hereto as Exhibit A] which directly abuts a City park or public ground [i.e. directly touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground]; and

BE IT ORDERED, that no site plan or subdivision application shall be accepted or processed and no site plan or subdivision approval shall be issued or granted by the Planning Authority or the Planning Board for any and all property located in the R-6 zone of District 1 on the Portland Peninsula which directly abuts a City park and/or public ground, from and after October 5, 2016 to and including January 4, 2017; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect on October 5, 2016 and shall remain in effect until January 4, 2017, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall only apply to any site plan or subdivision proposal or application to develop property, excluding applications for building permits, located in the R-6 zone in District 1 on the Portland Peninsula which directly abuts [i.e. touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground] a City park and/or public ground, whether or not an application or proceeding to establish said development proposal would be deemed a pending proceeding under 1 M.R.S. § 302; and

BE IT FURTHER ORDERED, that to the extent any provision of this Moratorium is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium that shall remain shall be considered valid; and

BE IT FURTHER ORDERED, that in view of the emergency cited in the preamble above, that it is hereby found and determined by the Portland City Council that it is necessary that this Moratorium take effect immediately as an emergency pursuant to Article II, Section 8 of the City of Portland Charter.

AMENDMENT TO ORDER 73-16/17
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR RAY
RE: EXTENSION OF MORATORIUM TO FEBRUARY 6, 2017

Moratorium
Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula

WHEREAS, the Comprehensive Plan for the City of Portland acknowledges that "Being virtually encircled by water, Portland owes much of its beauty to the surrounding water bodies including freshwater rivers, the ocean, a working harbor and an enclosed cove"; and

. . .

WHEREAS, in the judgment of the Portland City Council, these facts create an emergency within the meaning of 30-A M.R.S. § 4356(1) and the City Charter, and require the following Moratorium as immediately necessary for the preservation of the public health, safety and welfare;

NOW THEREFORE, pursuant to its authority in 30-A M.R.S. §§ 3001 and 4356, the Portland City Council hereby ordains that a Moratorium is imposed on any and all site plan or subdivision proposals for property located in the R-6 zone in District 1 on the Portland Peninsula [see map attached hereto as Exhibit A] which directly abuts a City park or public ground [i.e. directly touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground]; and

BE IT ORDERED, that no site plan or subdivision application shall be accepted or processed and no site plan or subdivision approval shall be issued or granted by the Planning Authority or the Planning Board for any and all property located in the R-6 zone of District 1 on the Portland Peninsula which directly abuts a City park and/or public ground, from and after October 5, 2016 to and including ~~January 4, 2017~~February 6, 2017; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect on October 5, 2016 and shall remain in effect until ~~January 4, 2017~~ February 6, 2017, unless extended, repealed, or modified by the Portland City Council; and

. . .

MEMORANDUM
City Council Agenda Item

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

FROM: **Councilor Belinda S. Ray**

DATE: **October 6, 2016**

SUBJECT: Moratorium Re: City Parks and Public Grounds in the R-6 Zone in the 1st District on the Portland Peninsula

SPONSOR: Councilor Belinda S. Ray
(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 10/17/2016 **Final Action** 11/7/2016

Can action be taken at a later date: ____ **Yes** _X_ **No (If no why not?)** Action now is needed to prevent the acceptance of site plan or subdivision applications by the Planning and Urban Development Department for projects on properties affected by the moratorium. This will provide city staff with adequate time to craft regulations designed to preserve the essential character and open space of the city parks and public grounds in the geographic area defined in the moratorium.

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

I. ONE SENTENCE SUMMARY

This order would stop consideration of any site plan or subdivision applications submitted on or after October 5, 2016 on property adjacent to City parks in the R-6 Zone in the 1st District on the Portland Peninsula until January 4, 2017, in order to allow ordinances designed to preserve the essential character and open space of city parks in the defined area to be drafted and considered.

II. AGENDA DESCRIPTION

All parks have elements which contribute to their essential character, such as views and sightlines, landscape features, historic associations, trails, athletic fields, meadowlands, and wildlife habitat. Development that occurs adjacent to public parks can affect one or more of these defining elements, thereby compromising the essential character of a park and decreasing the quality and availability of open space in the City. Councilor Belinda Ray has proposed that the City Council consider a 90-day moratorium on the approval of site plans and subdivisions from

October 5, 2016 until January 4, 2017, in order to allow time to draft ordinances that could guard against such infringement on the essential character and open space of city parks.

The moratorium would affect only projects on properties that directly abut city parks, and not any on properties across a city street. It would only apply to such properties in the R-6 Zone in the 1st Council District on the Portland Peninsula. According to the Planning and Urban Development Department, this moratorium would affect now under consideration.

Should the City Council approve the moratorium, staff would follow up by developing language designed to limit the potential for damage caused by development projects to the essential character and primary assets of the city's parks in the defined area. That language would likely return to the City Council for review and approval prior to the expiration of the moratorium.

III. BACKGROUND

In response to a proposed development directly abutting Fort Sumner Park which—in its initial iteration—would have substantially blocked views from the park plaza, citizens began organizing to determine what they could do to ensure such a development would not have an adverse impact on the park. Fort Sumner has long been valued for its expansive views of the cityscape as well as the Back Cove. Thus it was surprising to find that there was no existing language in the City Code to protect and preserve the park's essential character and primary assets.

Open space is an extremely valuable commodity in an urban environment. This is recognized in Division 8.5 of Article III of the Portland City Code, Section 14-153, which defines the Recreation and Open Space (R-OS) Zone. It states the purpose of this Division is as follows:

1. To preserve and protect open space as a limited and valuable resource;
2. To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of urban development;
3. To coordinate with and carry out federal, state, regional, and city recreation and open space plans;
4. To provide a suitable location for large-scale regional sports and athletic facilities; and
5. To develop a open space system throughout the downtown, which provides the highest quality parks, plazas, and pedestrian environment.

In addition to traditional uses in the R-OS Zone (including but not limited to parks, picnic areas, playgrounds, cemeteries, scenic overlooks, trails, community gardens, sewage treatment facilities, and sports complexes) there are also provisions for conditional uses, such as wind energy systems and recreational facilities that are open to the public. However, written into the standards the Board of Appeals must consider for such conditional uses in the R-OS Zone is the following language:

> "Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site."

And yet, there are no such restrictions on developments on properties directly abutting R-OS Zones, even though such developments could have equally detrimental effects on R-OS Zone properties.

Likewise, when 52 parks and public grounds, including Fort Sumner, were officially dedicated and placed under the provisions of Article 1B of Chapter 18 of the City Code, the use and maintenance requirements for these properties were addressed, but the potential impact from development on abutting parcels, was not.

This is an oversight that requires remedy. In creating, protecting, and preserving open space within the city, both the footprints of public parks and grounds and the way in which these spaces interact with the surrounding landscape must be considered in the City Code.

Article III, Section 14-46* of the City Code, which states the purpose for all zoning in the city, specifically points to zoning as a tool for use in "providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city."

If approved, this 90-day moratorium will provide City staff time to develop language to protect and preserve open space in Portland by limiting the potential for negative impacts from developments abutting city parks in the defined area. Again—any language developed would be specific to the area defined in the moratorium: properties in the R-6 Zone in the 1st District on the Portland Peninsula that directly abut city parks.

While it is possible that information gleaned during this process could, in the future, be extrapolated to help create regulations to protect and preserve open space in other areas of the city, that is a long-term goal and not the focus of this moratorium.

* Below is the full text of Article III, Section 14-46:

"This article, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city."

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The intended result of the moratorium is to provide enough time for City staff to address the need to protect and preserve open space in the defined area in Portland.

The moratorium also allows the Council to begin to address one goal set for the Energy and Sustainability Committee in January 2016. This goal was tied for 5th place among ESC goals and highlighted with four dots:

Create a plan for protecting and investing in green space and parks.

While the strategies and language crafted to protect city parks and public grounds in this well-defined area of the moratorium may eventually be extrapolated in order to preserve the essential character and primary assets of other City parks and public grounds, it is important to be clear that at this time staff is not being asked to craft a comprehensive plan for protecting open space in Portland. They are being asked to look at the geographic area defined in the moratorium and to make recommendations for that area alone.

V. FINANCIAL IMPACT

This action may postpone development, thereby postponing any tax revenues that would have been generated by that development.

On the other hand, according to the American Planning Association, "Parks provide intrinsic environmental, aesthetic, and recreation benefits to our cities. They are also a source of positive economic benefits. They enhance property values, increase municipal revenue, bring in homebuyers and workers, and attract retirees. At the bottom line, parks are a good financial investment for a community."[1]

Thus, taking the time to craft language to preserve the essential character and primary assets of Portland's city parks, could ultimately have a positive financial impact on the city.

[1] Lewis, Megan. "How Cities Use Parks for Economic Development." *American Planning Association.* American Planning Association, 2007. Web. 10 Oct. 2016.

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

See information provided by Jeff Levine, Director, Department of Planning and Urban Development.

VII. RECOMMENDATION

The moratorium is approved as to form by Corporation Counsel.

VIII. LIST ATTACHMENTS

Order
Memo from Jeff Levine, Director of the Department of Planning and Urban Development

Prepared by: Nancy English
Date: 10/11/2016

Bean/agendarequestmemo/rev 11/2015

Portland, Maine Yes. Life's good here.

Jeff Levine, AICP
Director, Planning & Urban Development Department

Memorandum

To: City Council
Jon Jennings, City Manager

From: Jeff Levine, Director

Date: October 11, 2016

Re: Proposed Moratorium Re: City Parks and Public Grounds
R-6 Zone on the Portland Peninsula - Potentially Impacted Projects

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I have been asked to comment on the potential impact of the proposed moratorium on currently proposed development projects.

The directly applicable language in the order is as follows:

> *"BE IT ORDERED, that no site plan or subdivision application shall be accepted or processed and no site plan or subdivision approval shall be issued or granted by the Planning Authority or the Planning Board for any and all property located in the R-6 zone in the 1st District of the City of Portland on the Portland Peninsula which directly abuts a City park and public ground, from and after October 5, 2016 to and including December 5, 2016; and*
>
> *BE IT FURTHER ORDERED, that this Moratorium shall go into effect on October 5, 2016 and shall remain in effect until December 5, 2016, unless extended, repealed, or modified by the Portland City Council; and*
>
> *BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. §302, this Ordinance shall apply to any site plan or subdivision proposal or application to develop property, excluding applications for building permits, located in the R-6 zone in the 1st District of the City of Portland on the Portland Peninsula which directly abuts [i.e. touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground] a City park or public ground, whether or not an application or proceeding to establish said development proposal would be deemed a pending proceeding under 1 M.R.S. § 302..."*

I have consulted with staff in my office and the only project we are aware of to which this might apply would be the proposed development at 155 Sheridan Street next to Fort Sumner. This evaluation is based on the assumption that this language does not apply to Building Permits for projects that have already received Planning Board approval.

Please let me know if you have any questions.

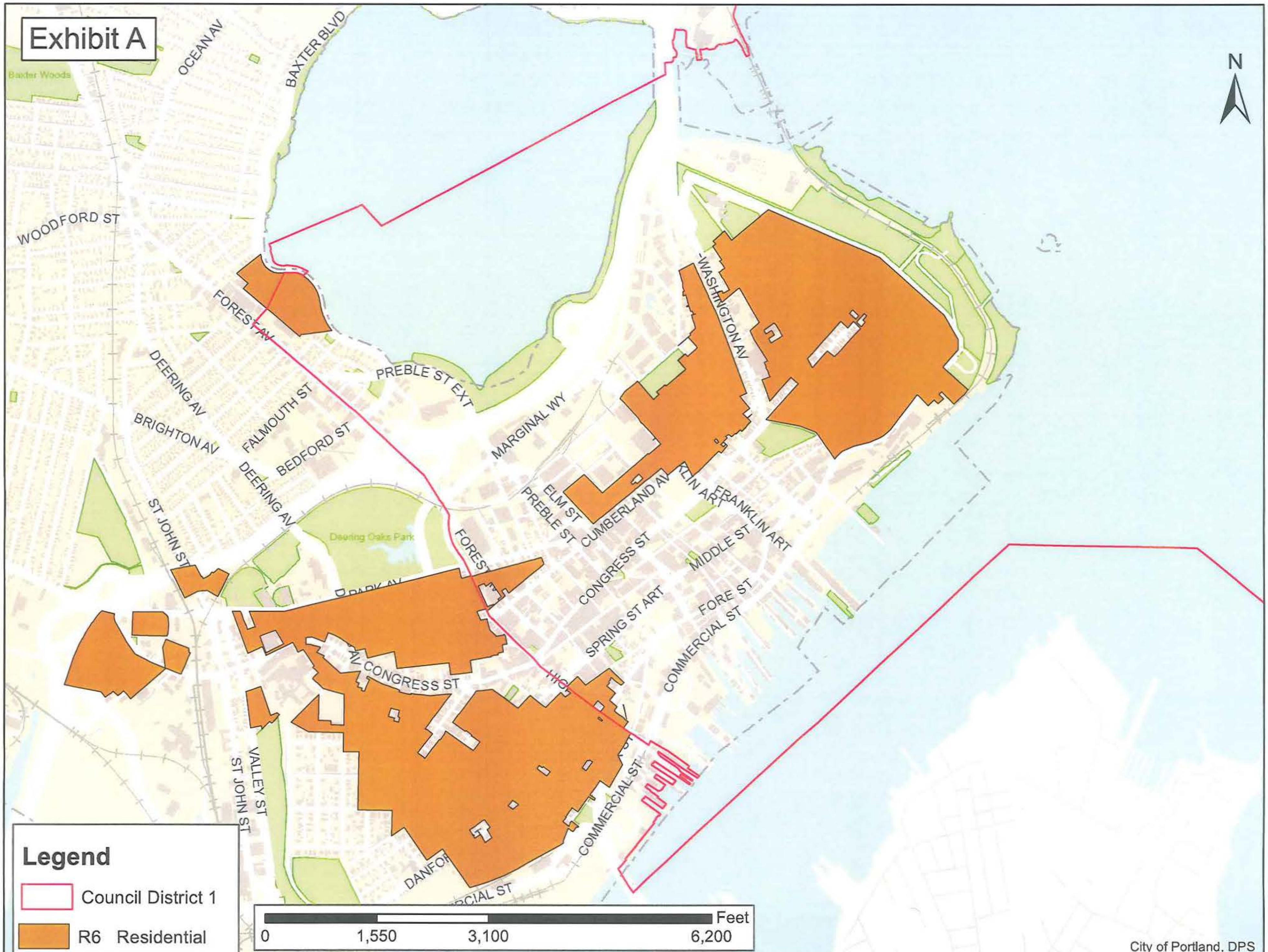


Exhibit A
N
Baxter Woods
OCEAN AV
BAXTER BLVD
WOODFORD ST
FOREST AV
DEERING AV
BRIGHTON AV
FALMOUTH ST
BEDFORD ST
PREBLE ST EXT
MARGINAL WY
WASHINGTON AV
ELM ST
PREBLE ST
CUMBERLAND AV
FRANKLIN ART
ST JOHN ST
Deering Oaks Park
PARK AV
CONGRESS ST
MIDDLE ST
FORE ST
SPRING ST ART
COMMERCIAL ST
VALLEY ST
Legend
Council District 1
R6 Residential
Feet
0
1,550
3,100
6,200
City of Portland, DPS

Order 81-16/17
~~Tab 13 11-7-16~~
Tab 14 11-21-16

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 THE COLLECTIVE BARGAINING AGREEMENT WITH THE PROFESSIONAL AND TECHNICAL CITY EMPLOYEE ASSOCIATION (PRO TECH)

ORDERED, that the attached Collective Bargaining Agreement with the Professional and Technical City Employee Association (Pro Tech) for July 3, 2016 through June 30, 2019, is hereby approved.

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Mayor Ethan Strimling and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager TAC

DATE: November 7, 2016

RE: Order/Second Reading of Professional and Technical City Employee Association (Pro Tech) Contract

The collective bargaining agreement with the Professional and Technical City Employee Association expired on July 2, 2016. The Association is comprised of approximately 140 Professional and Technical employees, namely engineers, nurses and nurse practitioners and other jobs located throughout the City.

The City staff has reached a tentative agreement for a three year contract. Terms of the three year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018. The general wage increases are consistent with guidance received by Council on July 6, 2016 and again on September 19, 2016.

Other terms of the tentative agreement include:

Article 10 – mandatory direct deposit and paperless pay stubs.
Article 11 – changes to comp time accruals and payouts. Small increases to shift differentials
Article 13 – changed the maximum vacation accumulation for employees with 20 plus years of service.
Article 20 – small increases and/or changes to clothing allowances.
Appendix A – upgraded Cook II from PT Grade 4 to Grade 5 and changed the title.

Other than 2016 wages, all other changes and/or additions to the contract are effective upon approval by Council.

The total direct cost for the three year agreement is approximately $821,000.

Pro Tech members have ratified the three (3) year tentative agreement.

Cc: Jon P. Jennings – City Manager
Anita LaChance – Deputy City Manager
Danielle West-Chuhta – Corporate Counsel
Anne Torregrossa – Associate Corporate Counsel
Chris Branch – Public Works Director
Paul Bradbury – Airport Director
Sally Deluca – Director of Parks, Recreation & Facilities Management
Gina Tapp – Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

Protech FY17-FY19

**Based on 118.9 FTEs*

ADMINISTRATIVE RECOMMENDATION

Item	Description		Base Cost	Year 1 FY17	% Incr	Year 2 FY18	% Incr	Year 3 FY19	% Incr	3 Yr Cumulative Cost Est.	Notes
#1	COLA (FY Increased Value; Non-Cumulative):		$6,311,622	$126,232	2.0%	$128,757	2.0%	$131,332	2.0%		City Proposed 2.0% COLA for 3 yrs
	Cumulative COLA Cost:			*$126,232*	*2.0%*	*$254,989*	*4.0%*	*$386,321*	*6.1%*	*$767,542*	*3 Yr COLA Cost: $767,542*
#2	Mid-Level Health Practitioner New 7th Yr Step (1 EE):	*	$28,002	$845	3.0%		---		---	$845	No Mid-Level Health Practitioners FTEs After 12/31/16
#3	Cook II Upgrade (from PT4 to PT5: 1 EE):	**	$44,753	$4,602	10.3%	$4,700	10.3%	$4,797	10.3%	$14,099	
#4	Airport Admin Coord 6% Stipend Aviation Masters Degree (Pos #951: 1 EE):	**	$50,558	$3,033	6.0%	$3,188	6.0%	$3,350	6.0%	$9,571	Implemented during FY16
#5A	Shift-Differential (Non-BC):		$5,603	$1,642	29.3%	$1,642	---	$1,642	---	$4,926	
	(a) 2nd Shift: $0.40 to $0.45/hr (+$0.05/hr)		*$2,655*	*$331*	*12.5%*	*$331*		*$331*			
	(b) 3rd Shift: $0.45 to $0.65 (+$0.20/hr)		*$2,948*	*$1,311*	*44.5%*	*$1,311*		*$1,311*			
	Wages:		**$6,317,225**	**$136,354**	**2.2%**	**$138,287**	**2.1%**	**$141,121**	**2.1%**	$796,983	
#6	Overtime		$200,000	$4,000	2.0%	$4,080	2.0%	$4,162	2.0%		Based on increase in base wages (OT Base: 2 Yr History)
	Cumulative OT Cost:			*$4,000*	*2.0%*	*$8,080*	*4.0%*	*$12,242*	*6.1%*	*$24,322*	*3 Yr OT Cost: $24,322*
	Direct Costs:		**$6,517,225**	**$140,354**	**2.2%**	**$142,367**	**2.1%**	**$145,282**	**2.1%**	**$821,305**	
	Health Insurance (FY Increased Value; Non-Cumulative):		$1,214,987	$121,499	10.0%	$133,649	10.0%	$147,013	10.0%		Inflationary increase Only
	Cumulative Health Insurance Cost:			*$121,499*		*$255,147*		*$402,161*		*$778,807*	*3 Yr Health Cost: $778,807*
	Health Insurance - Plan Changes			($40,095)	-3.0%	($44,104)	-3.0%		---	($84,199)	Projected 9% Savings less 3% Cost of Wellness Initiative
			8.50%	*9.50%*		*9.50%*		*9.50%*			
	Pension (FY Increased Value; Non-Cumulative):		$580,033	$52,437	9.0%	$13,525	2.1%	$13,802	2.1%		Based on increase in total wages w/ FY17 Pension Rate Increase
	Cumulative Pension Cost:			*$52,437*		*$25,517*		*$38,026*		*$115,980*	*3 Yr Pension Cost: $115,980*
	Workers' Compensation		$174,662	$3,762	2.2%	$3,815	2.1%	$3,894	2.1%	$11,471	Based on increase in total wages
	Indirect Costs:		**$1,969,682**	**$137,603**	**7.0%**	**$106,885**	**5.1%**	**$164,709**	**7.4%**	**$822,058**	
TOTAL:			**$8,486,907**	**$277,957**	**3.3%**	**$249,252**	**2.8%**	**$309,991**	**3.4%**	**$1,643,363**	

* Base Already Included in Initial Base Wages

** Base Changes w/ FY Step or Grade Movement (Base Already Included in Initial Base Wages)

Order 82-16/17
~~Tab 14 11-7-16~~
Tab 15 11-21-16

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 481-07 SUPERVISORS

ORDERED, that the attached Collective Bargaining One-Year Extension to Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors for July 3, 2016 through July 1, 2017, is hereby approved.

CITY OF PORTLAND
MEMORANDUM

To: Mayor Ethan Strimling and Members of the City Council

From: Thomas Caiazzo, Labor Relations Manager TMC

Date: November 7, 2016

RE: Order/Second Reading of AFSCME Local 481-07 Supervisors Contract

City staff has reached a tentative one (1) year agreement with AFSCME Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from Council on August 1, 2016.

The parties have tentatively agreed to a one (1) year contract extension with a general wage increase of 2% effective July 3, 2016. In consideration of the above, the union has tentatively agreed to the City's proposed Direct Deposit and paperless pay stub system.
The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 3, 2016 through July 1, 2017. The total direct cost of the general wage increase is approximately $39,500.00.

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

The Supervisors' members have ratified the one (1) year agreement.

Cc: Jon P. Jennings – City Manager
Anita LaChance – Deputy City Manager
Danielle West-Chuhta – Corporate Counsel
Anne Torregrossa – Associate Corporate Counsel
Chris Branch – Public Works Director
Paul Bradbury – Airport Director
Sally Deluca – Director of Parks, Recreation & Facilities Management
Gina Tapp – Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

- ADMINISTRATIVE RECOMMENDATION

ITEM	BASE COST	YEAR 1 (FY17)	% INCR	NOTES:
Base Wages	1,747,554	34,951	2.0%	
Night Shift Differential	2,496			
Specialty Pay	58,594			
Sub-Total Wages	**1,808,643**	**34,951**	**1.9%**	
Overtime	227,784	4,556	2.0%	Based on increase in base wages
Clothing Allowance				
Total Direct Costs	**2,036,427**	**39,507**	**1.9%**	
Health Insurance	348,164	34,816	10.0%	Inflationary increase only
Health Insurance-Plan Changes		-11,489	-3.0%	Projected 9% Savings less 3% Cost of Wellness Initiative
Pension	181,242	15,972	8.8%	Based on increase in total wages and MEPERS employer rate
Workers' Compensation	48,472	969	2.0%	Based on increase in total wages
Total Indirect Costs	**577,877**	**40,268**	**7.0%**	
Total	**2,614,305**	**79,775**	**3.1%**	

Tentative Agreement

City of Portland

and

AFSCME Local 481-07

Portland Supervisors

One year extension, no changes except the following:

Change all Public Services to Public Works

Change MIS Division to IT Division

11. WAGES AND SALARIES

Change 11.1 to read

11.1 Effective **July 2nd, 2016**, employees will receive a **2%** across the board increase in accordance with the classification and seniority step pay plan attached hereto as Appendices B(1) and B(2).

New 11.9

Effective upon the signing of this agreement and upon implementation of kiosks with printers available to the employees, the City shall implement a paperless pay stub system. Also effective upon the signing and as soon as the re-loadable debit cards are available , all current and newly hired employees will have mandatory direct deposit for all monies owed by the City. The re-loadable debit card will be supplied and replaced by the City at no cost to the employees. The City agrees to give a two week notice to all employees prior to implementation.

10-14-16

Order 83-16/17
~~Tab 15 11-7-16~~
Tab 16 11-21-16

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 ACCEPTING A HOUSING AND URBAN DEVELOPMENT LEAD HAZARD CONTROL GRANT AND APPROPRIATING $1,814,867 FOR LEAD ABATEMENT IN CUMBERLAND COUNTY RESIDENTIAL HOUSING

ORDERED, that the Housing and Urban Development (HUD) Lead Hazard Control and Healthy Homes Supplemental Grant of $1,814,867 is hereby accepted; and

BE IT FURTHER ORDERED, that $1,814,867 in funding to abate lead in Cumberland County residential units and to perform additional work as allowed and required during the administration of this grant is hereby appropriated for those purposes; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to act as the certifying officer for HUD environmental documents related to this grant and to execute said documents and any other related documents necessary or convenient to carry out the intent of said grant and this Order.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: **Planning and Urban Development Department**
Housing and Community Development Division

DATE: **October 24, 2016**

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

SUBJECT: Appropriation of $1,814,867 in Lead Hazard Control and Healthy Homes Supplement Grant Funding from the U.S. Department of Housing and Urban Development for the City of Portland/Cumberland County Lead Hazard Control Program

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading November 7th, 2016 Final Action November 21, 2016

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

HUD has established certain benchmarks and requirements that must be met before grant work can begin.

PRESENTATION: Mary Davis will be available

I. ONE SENTENCE SUMMARY: The City has been awarded a three year grant from U.S. Dept. of Housing and Urban Development Grant for Lead Hazard Control and Healthy Homes Supplement Funding in the amount of $1,814,867.

II. AGENDA DESCRIPTION: To seek the City Council's authorization to appropriate $1,814,867 in HUD Lead Hazard Control and Healthy Home Supplemental Funding to abate 88 residential units throughout Cumberland County. Grant goals include testing on 90 units, abatement in 88 units, 22 community outreach/education events and training 50 EPA RRP certified workers. The grant will be for three years and will expire in 2019.

III. BACKGROUND: The City of Portland, in partnership with Cumberland County, applied to the U.S. Department of Housing and Urban Development for $1,814,867 in Lead Hazard Control and Healthy Homes Supplement Funding. The grant will allow the City to complete lead abatement and healthy home inspections/assessments on 88 units throughout Cumberland County. The target areas are Portland and Westbrook, however, all of Cumberland County is eligible.

IV. INTENDED RESULT: The City will administer and lead hazard control program that will include a healthy homes assessment/inspection. Grant goals include testing on 90 units, abatement in 88 units, 22 community outreach/education events and training 50 EPA RRP certified workers. The grant will be for three years and will expire in 2019.

V. COUNCIL GOAL ADDRESSED: Assess the housing problem; look regionally; develop agreement on specific market goals and which kinds of housing need the most focus

VI. FINANCIAL IMPACT: Ten percent of the grant can be used for administrative expenses which include 1 new full time staff person to assist in the administration of the grant; salary and fringe benefits for this position will be paid for under the grant. In addition, twenty percent of the salary and fringe benefits of a public health nurse will be paid for under the grant.

VI. STAFF ANALYSIS: Maine CDC reports the highest incidence of children with elevated blood lead levels in Cumberland County are in the City of Portland and the City of Westbrook. This geographic area has the highest concentration of rental units built before 1960 and the highest concentrations of low/moderate income families with children under the age of 6 living in housing built before 1960. These grant funds will be used in conjunction with funds available through the City of Portland and the Cumberland County HOME Consortium's Housing Rehabilitation Program.

VII. RECOMMENDATION: The Housing and Community Development Division staff recommend that the City Council approve appropriating $1,814,867 in U.S. Dept. of HUD Lead Hazard Control and Healthy Homes Supplemental Funding.

VIII. LIST ATTACHMENTS: None

Prepared by: Mary Davis

Date: October 24, 2016

Order 84-16/17
~~Tab~~ ~~11-7-16~~
~~Tab~~ 17 11-21-16

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)

MORATORIUM
RE: RETAIL MARIJUANA ESTABLISHMENTS AND SOCIAL CLUBS

WHEREAS, the Marijuana Legalization Act (the "Act"), on the ballot in Maine on November 8, 2016, would legalize the recreational use of marijuana; and

WHEREAS, the Act allows a municipality to regulate or prohibit the operation of retail marijuana establishments (stores, cultivation facilities, products manufacturing facilities, and testing facilities) and retail marijuana social clubs (businesses selling marijuana for consumption on the premises) within the municipality's jurisdiction; and

WHEREAS, there are questions about the impact that this law may have on the City of Portland (the "City"); and

WHEREAS, the City needs time to understand any potential State rulemaking, and the impact of the Act on the City's existing rules and ordinances regarding, among other things, smoking and marijuana use before determining how, and if, it will regulate, among other things, the location and operation retail marijuana establishments and social clubs in the City; and

WHEREAS, the proposed State rule making process in the Act provides an opportunity for increased discussion within the City and State regarding recreational marijuana and the impacts on municipalities; and

WHEREAS, retail marijuana establishments and social clubs are a potential public safety and welfare concern that needs to be further reviewed by the City; and

WHEREAS, the potential for the increased use of marijuana, including through its cultivation, sale, and use in social clubs in the City as a result of the Act could place an additional burden on the City's public safety resources;

WHEREAS, a temporary prohibition on retail marijuana establishments and social clubs is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND AS FOLLOWS, that a moratorium on retail marijuana establishments and retail marijuana social clubs is hereby enacted as follows:

ARTICLE IX. MORATORIUM ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS

Sec. 17-120. Necessity.

Municipalities are authorized by 30-A M.R.S. § 4356(1)(a) and (b) to enact moratoria for the following reasons:

a. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

b. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent public harm from residential, commercial or industrial development in the affected geographic area.

In accordance with 30-A M.R.S. § 4356(1)(a) and (b) and for the reasons stated above, the Portland City Council hereby finds that a moratorium on retail marijuana establishments and retail marijuana social clubs is necessary and warranted in the City of Portland.

Sec. 17-121. Moratorium.

Retail marijuana establishments and retail marijuana social clubs, as defined in the Marijuana Legalization Act, are prohibited in the City of Portland. Furthermore, no approval including, but not limited to, site plan or subdivision approval, building permit, certificate of occupancy, or other permit or license shall be issued by the City of Portland for any such use.

Sec. 17-122. Term.

This moratorium shall continue for 180 days from the date of passage. It may be extended for additional 180 day periods by the City of Portland in accordance with 30-A M.R.S. § 4356(2).

Sec. 17-123. Applicability.

Notwithstanding the provisions of 1 M.R.S. § 302, this moratorium shall apply retroactively and include any and all actions and proceedings pending on November 8, 2016 or thereafter.

AND BE IT FURTHER ORDERED, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, to make it effective immediately in order to protect the public safety and welfare of the City of Portland.

MEMORANDUM
City Council Agenda Item

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

FROM: Danielle West-Chuhta, Corporation Counsel

DATE: **November 9, 2016**

SUBJECT: Moratorium on Retail Marijuana Establishments and Social Clubs

SPONSOR: Danielle West-Chuhta, Corporation Counsel
(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_____11/7/2017____ Final Action__11/21/2016__

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

The November 8, 2016 Election included a referendum on the legalization of marijuana. The full language of the "Marijuana Legalization Act," as it is known, allows municipalities to regulate the number of clubs and stores (§2449); the City should act now to review and draft rules and ordinances for the regulation of these new types of businesses.

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

I. ONE SENTENCE SUMMARY

A moratorium on the licensing of retail marijuana establishments, including stores, cultivation facilities, retail testing facilities, and marijuana social clubs, which are permitted in the Marijuana Legalization Act, will allow City staff and the State of Maine the time it needs to draft regulations in advance of the municipal and state licensing of these businesses.

II. AGENDA DESCRIPTION

On November 8, 2016, Maine voters approved the Marijuana Legalization Act (the "Act"), allowing for consumption, distribution and business development of and for marijuana products. The Act allows municipalities to regulate the licensing of retail marijuana establishments, including stores, cultivation facilities, retail testing facilities, and also marijuana social clubs. The proposed moratorium on these businesses will allow the City of Portland and the State of Maine to draft rules for licenses and other ordinances that would limit where in the City the businesses can operate among other things.

III. BACKGROUND

The lack of State regulations and potential safety concerns will be better understood as this Act becomes implemented by the State. Additional time would allow better coordination as well as understanding of the state and local regulations and the implementation of such regulations.

All of these issues have led many towns and cities in the State of Maine to approve moratoriums. Bangor has recently approved a moratorium, and Brewer, Gray, Kennebunk, New Gloucester and Westbrook are either considering or have also approved similar moratoriums.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

City staff request adequate time to consider implications and neighborhood needs in connection with the licensing of retail marijuana stores, cultivation facilities, retail testing facilities, and also marijuana social clubs, in order to draft any necessary rules and ordinances.

V. FINANCIAL IMPACT

No financial impact should result from enactment of this moratorium other than the staff time necessary to create rules and regulations addressing the Act for the City of Portland.

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

The moratorium is approved as to form by Corporation Counsel.

VII. RECOMMENDATION

The Director of Planning and Urban Development, the Police Chief, the City Manager, the Director of Permitting and Inspections and Corporation Counsel recommend approval of this Moratorium.

VIII. LIST ATTACHMENTS

Moratorium Re: Retail Marijuana Establishments and Social Clubs

The Marijuana Legalization Act

Prepared by: Nancy English
Date: 11/4/2016

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 417 is enacted to read:

CHAPTER 417

MARIJUANA LEGALIZATION ACT

§2441. Short title

This chapter may be known and cited as "the Marijuana Legalization Act."

§2442. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Advertising. "Advertising" means the act of providing consideration for the publication, dissemination, solicitation or circulation, visual, oral or written, to induce directly or indirectly any person to patronize a particular retail marijuana establishment or retail marijuana social club or to purchase particular retail marijuana or a retail marijuana product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

2. Applicant. "Applicant" means a person that has submitted an application for licensure as a retail marijuana establishment or retail marijuana social club pursuant to this chapter that was accepted by the state licensing authority for review but has not been approved or denied by the state licensing authority.

3. Batch. "Batch" means a specific quantity of cannabis harvested during a specified time period from a specified cultivation area.

4. Batch number. "Batch number" means any distinct group of numbers, letters or symbols, or any combination thereof, assigned by a retail marijuana cultivation facility or retail marijuana products manufacturing facility to a specific harvest batch or production batch of retail marijuana.

5. Cannabis. "Cannabis" means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including cannabis concentrate. "Cannabis" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis to prepare topical or oral administrations, food, drink or any other product. "Cannabis" also means marijuana.

6. Child-resistant. "Child-resistant" means special packaging that is:

A. Designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly;

B. Opaque so that the product cannot be seen from outside the packaging; and

C. Closable, for any product intended for more than a single use or containing multiple servings.

7. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

8. Container. "Container" means the sealed package in which retail marijuana or a retail marijuana product is placed for sale to a consumer and that has been labeled according to the requirements set forth in section 2446, subsection 1.

9. Department. "Department" means the Department of Agriculture, Conservation and Forestry.

10. Edible retail marijuana product. "Edible retail marijuana product" means any retail marijuana product that is intended to be consumed orally, including, but not limited to, any type of food, drink or pill.

11. Final agency order. "Final agency order" means an order of the state licensing authority issued in accordance with this chapter and the Maine Administrative Procedure Act following review of the initial decision and any exceptions filed thereto or at the conclusion of the declaratory order process.

12. Flowering marijuana plant. "Flowering marijuana plant" means the gametophytic or reproductive state of cannabis in which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

13. Good cause. "Good cause," for purposes of denial of an initial license application or denial of a renewal or reinstatement of a license application, means:

A. The licensee or applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, any rules adopted pursuant to it or any supplemental relevant state or local law, rule or regulation; or

B. The licensee or applicant has failed to comply with any special terms, consent decree or conditions that were placed upon the license pursuant to an order of the state licensing authority or the relevant municipality.

14. Harvest batch. "Harvest batch" means a batch of processed retail marijuana that is uniform in strain, cultivated using the same herbicides, pesticides and fungicides and harvested at the same time.

15. Identity statement. "Identity statement" means the name of the business as it is commonly known and used in any advertising.

16. Immature plant. "Immature plant" means a nonflowering retail marijuana plant that is taller than 24 inches and is wider than 18 inches.

17. Initial decision. "Initial decision" means a decision of a hearing officer in the department following a licensing, disciplinary or other administrative hearing.

18. Law enforcement agency. "Law enforcement agency" means any federal, state or municipal agency or any governmental agency or subunit of such agency or any state or federal court that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

19. Licensed premises. "Licensed premises" means the premises specified in an application for a license pursuant to this chapter that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, consume or test retail marijuana in accordance with the provisions of this chapter and rules adopted pursuant to this chapter.

20. Licensee. "Licensee" means a person licensed pursuant to this chapter or, in the case of a holder of an occupational license, a natural person licensed pursuant to this chapter.

21. Limited access area. "Limited access area" means a building, room or other contiguous area upon the licensed premises where retail marijuana is grown, cultivated, stored, weighed, packaged, sold or processed for sale under control of the licensee.

22. Marijuana. "Marijuana" means cannabis.

23. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana with solvents or gases.

24. Mother plant. "Mother plant" means a plant that is used solely by a cultivator for the taking of seedling cuttings.

25. Natural person. "Natural person" means a citizen of this State who has a verifiable social security number.

26. Occupational license. "Occupational license" means a license granted to a natural person by the state licensing authority.

27. Owner. "Owner" means a person whose beneficial interest in a retail marijuana establishment or retail marijuana social club is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a retail marijuana establishment or retail marijuana social club and has a controlling interest in a retail marijuana establishment or retail marijuana social club.

28. Person. "Person" means a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

29. Plant canopy. "Plant canopy" means the area upon the licensed premises dedicated to live plant cultivation, such as maintaining mother plants, propagating plants from seed to plant tissue, cloning and a maintaining a vegetative or flowering area. "Plant canopy" does not include areas such as space for storage of fertilizers, pesticides or other products, quarantine areas, office space, walkways, work areas and other similar areas.

30. Production batch. "Production batch" means a group of retail marijuana products created from a production run of retail marijuana products.

31. Propagation. "Propagation" means the reproduction of retail marijuana plants by seeds, cuttings or grafting.

32. Registered dispensary. "Registered dispensary" means a dispensary that is a nonprofit corporation organized under Title 13-B and registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act and holds one or more dispensary registrations.

33. Restricted access area. "Restricted access area" means a designated and secure area within the licensed premises in a retail marijuana store or retail marijuana social club where retail marijuana and retail marijuana products are sold, possessed for sale and displayed for sale and where no one under 21 years of age is permitted.

34. Retail marijuana. "Retail marijuana" means cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

35. Retail marijuana cultivation facility. "Retail marijuana cultivation facility" means an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

36. Retail marijuana establishment. "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

37. Retail marijuana product. "Retail marijuana product" means concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, bnt not limited to, edible products, ointments and tinctures.

38. Retail marijuana products manufacturing facility. "Retail marijuana products manufacturing facility" means an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

39. Retail marijuana social club. "Retail marijuana social club" means an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

40. Retail marijuana store. "Retail marijuana store" means an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

41. Retail marijuana testing facility. "Retail marijuana testing facility" means an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

42. Sample. "Sample" means any retail marijuana or retail marijuana product provided for testing or research purposes to a retail marijuana testing facility by a retail marijuana establishment or retail marijuana social club.

43. Seedling. "Seedling" means a nonflowering retail marijuana plant that is no taller than 24 inches and no wider than 18 inches.

44. State licensing authority. "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State pursuant to this chapter.

45. THC. "THC" means tetrahydrocannabinol.

46. Universal symbol. "Universal symbol" means the image established by the state licensing authority and made available to licensees through the state licensing authority's website for indicating that retail marijuana or a retail marijuana product is within a container.

47. Unreasonably impracticable. "Unreasonably impracticable" means that the measures necessary to comply with the rules require such a high investment of risk, money, time or any other resource or asset that the operation of a retail marijuana establishment or retail marijuana social club is not worth being carried out in practice by a reasonably prudent business person.

§2443. Exemption from criminal and civil penalties, seizure and forfeiture

Notwithstanding Title 17-A, chapter 45 or any other provision of law to the contrary and except as provided in this chapter, the actions specified in this chapter are legal under the laws of this State and do not constitute a civil or criminal offense under the laws of this State or the law of any political subdivision within this State or serve as a basis for seizure or forfeiture of assets under state law. This chapter may not be construed to shield any individual, partnership, corporation, firm, association or other legal entity from federal prosecution.

§2444. State licensing authority

For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State, the state licensing authority is the Department of Agriculture, Conservation and Forestry.

1. Commissioner is chief administrative officer. The Commissioner of Agriculture, Conservation and Forestry is the chief administrative officer of the state licensing authority and may employ such officers and employees as may be determined to be necessary. The state licensing authority has the authority to:

A. Grant or refuse licenses for the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products as provided by this chapter;

B. Suspend, fine, restrict or revoke licenses under paragraph A upon a violation of this chapter or any rule adopted pursuant to this chapter; and

C. Impose any penalty authorized by this chapter or any rule adopted pursuant to this chapter.

2. Adoption of rules. The state licensing authority shall adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of this chapter, not later than 9 months after the effective date of this Act, and shall adopt amended rules and such special rules and make findings as necessary. These rules are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following issues:

A. The hearing of contested state license denials at a public hearing, employing full due process, including the subpoena power, the taking of oaths, the calling of witnesses and the maintaining of the confidentiality of customer records. Provision must be made for the conduct of appeal hearings following license actions, including, but not limited to, the denial of a license renewal or of an initial license and license revocation and suspension, and hearings contesting the imposition of a fine;

B. The development of such forms, licenses, identification cards and applications as necessary for the administration of this chapter or of any of the rules adopted under this chapter;

C. The preparation and transmission annually, in the form and manner prescribed by this chapter, of a report to the Legislature accounting for the efficient discharge of all responsibilities assigned by law or rules to the state licensing authority;

D. Procedures consistent with this chapter for the issuance, renewal, suspension and revocation of licenses to operate retail marijuana establishments;

E. Limits on the concentration of THC and other cannabinoids per serving in any retail marijuana product;

F. Qualifications for licensure including, but not limited to, the requirement for a fingerprint-based criminal history record check for all owners, officers, managers, employees and other support staff of entities licensed pursuant to this chapter;

G. Security requirements for any licensed premises under this chapter including, at a minimum, lighting, physical security, alarm requirements and other minimum procedures for internal control as determined necessary by the state licensing authority to properly administer and enforce the provisions of this chapter, including reporting requirements for changes, alterations or modifications to the licensed premises. Security requirements may not be unreasonably impracticable; and

H. Securing and recording permission for a local fire department or the State Fire Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.

§2445. Independent testing and certification program

The state licensing authority shall establish, within a specific time frame, a retail marijuana and retail marijuana products independent testing and certification program. This program must require licensees to test retail marijuana and retail marijuana products to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

1. Content of testing. Testing must include, bnt is not limited to, analysis for residual solvents, poisons and toxins; harmful chemicals; dangerous molds and mildew; harmful microbes, such as Escherichia coli and salmonella; and pesticides.

2. Presence of injurious substance. In the event that test results indicate the presence of quantities of any substance determined to be injurious to health in any product, these products must be immediately quarantined and immediate notification to the persons responsible for enforcing the marijuana laws must be made. These products must be documented and properly destroyed.

3. THC potency. Testing must verify THC potency representations for correct labeling.

The establishment of an independent testing and certification program does not affect the adoption of rules in section 2444 or affect the implementation of cultivation, production and sale of retail marijuana and retail marijuana products.

§2446. Labeling; health and safety requirements; traiuing; identification cards

1. Labeling requirements for sales of retail marijuana and retail marijuana products. Labeling requirements for sales of retail marijuana and retail marijuana products include when applicable:

A. The license number of the retail marijuana cultivation facility license;

B. The license number of the retail marijuana store license;

C. An identity statement and a universal symbol;

D. The batch number;

E. A net weight statement;

F. THC potency and the potency of such other cannabinoids or other chemicals, including, but not limited to, cannabidiol, as determined relevant by the state licensing authority;

G. Warning labels;

H. Solvents used in marijuana extraction;

I. Amount of THC per serving and the number of servings per package for retail marijuana products;

J. A list of ingredients and possible allergens for retail marijuana products;

K. A recommended use date or expiration date for retail marijuana products; and

L. A nutritional fact panel for edible retail marijuana products.

2. Health and safety rules. The state licensing authority shall adopt health and safety rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and standards for the manufacture of retail marijuana products and the cultivation of retail marijuana, which must include:

A. Limitations on the display of retail marijuana and retail marijuana products;

B. Regulation of the storage of, warehouses for and transportation of retail marijuana and retail marijuana products; and

C. Sanitary requirements for retail marijuana establishments, including but not limited to sanitary requirements for the preparation of retail marijuana products.

3. Training for local jurisdictions and law enforcement officers. The state licensing authority shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and processes for training local jurisdictions and law enforcement officers in the law, including the requirements for inspections, investigations, searches, seizures, forfeitures and such additional activities as may become necessary from time to time.

4. Identification cards. The following provisions govern identification cards.

A. The state licensing authority shall adopt rules detailing the format of, and inclusion of information on, individual identification cards for owners, officers, managers, contractors, employees and other support staff of entities licensed pursuant to this chapter, including a fingerprint-based criminal history record check as may he required by the state licensing authority prior to issuing an identification card.

B. The state licensing authority shall specify those forms of photo identification that a retail marijuana store may accept when verifying a sale, including but not limited to government-issued identification cards.

C. The state licensing authority shall develop procedures for license renewals, reinstatements, initial licenses and the payment of licensing fees, as well as other matters that are necessary for the fair, impartial and comprehensive administration of this chapter.

D. Rules adopted pursuant to this subsection are routine technical rules, pursuant to Title 5, chapter 375, subchapter 2-A.

§2447. License application and issnance

An application for a license under the provisions of this chapter must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a license should be granted. The information must include the name and address of the applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without state licensing authority and municipal approval. If the applicant does not receive municipal approval within one year from the date of state licensing anthority approval, the license expires and may not be renewed. If an application is not approved by the municipality, the state licensing authority shall revoke the license.

1. Qualifications. The following provisions govern the qualifications for licensure as a retail marijuana establishment or retail marijuana social club. A person is not qualified to conduct licensed activities until the required annual fee has been paid.

A. An applicant who is a natural person must be at least 21 years of age. If an applicant is a corporation, all members of the board must comply with this paragraph.

B. A person who has been convicted of a disqualifying drug offense may not be a licensee. For purposes of this paragraph, "disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for 5 years or more. "Disqualifying drug offense" does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to application for licensure or an offense that consisted of conduct that is permitted under this chapter.

C. A person who has had a license for a retail marijuana establishment or retail marijuana social club revoked may not be a licensee.

D. A sheriff, deputy sheriff, police officer, prosecuting officer or an officer or employee of the state licensing authority or a municipality is ineligible to become a licensee.

E. The state licensing authority shall investigate all applicants for compliance with this chapter prior to issuing a license.

F. First priority for licensure must be given to registered caregivers who have been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act or who have experience serving as a principal officer or board member of a nonprofit medical dispensary registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. If an applicant, either a business entity or an individual, owns, has a financial interest in or controls the management of more than one dispensary in this State, that applicant may receive preference for only one license in each license class. As long as there are other preferred applicants for any or all license classes an applicant who owns, has a financial interest in or controls the management of more than one dispensary in this State is not eligible for multiple licenses in any class. Preference must be given to an applicant who has at least 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

G. The state licensing authority shall accept applications from registered caregivers and principal officers or board members of registered dispensaries who have continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act.

H. The state licensing authority shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, for a streamlined application process for registered caregivers and principal officers or board members of dispensaries registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act, which must include an initial site inspection confirming compliance with this chapter.

2. Investigation of qualifications. In investigating the qualifications of an applicant or a licensee, the state licensing authority and municipality may have access to criminal history record information furnished by a law enforcement agency subject to any restrictions imposed by that agency. In the event the state licensing authority or municipality considers the applicant's criminal history record, the state licensing authority or municipality shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a license.

At the time of filing an application for issuance of a retail marijuana establishment or retail marijuana social club license, an applicant shall submit a set of the applicant's fingerprints and personal history information concerning the applicant's qualifications for a license on forms prepared by the state licensing authority. The state licensing authority shall submit the fingerprints and the municipality may forward fingerprints to the State Bureau of Investigation for criminal history background information. The state licensing authority shall also forward the fingerprints to the Federal Bureau of Investigation for the purpose of conducting a federal fingerprint-based criminal history record check. The state licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to this chapter. The state licensing authority or municipality may verify any of the information an applicant is required to submit.

3. Applications; issuance. The following provisions govern applications for and issuance of a retail marijuana establishment or retail marijuana social club license.

A. An applicant shall file an application in the form required by the state licensing authority for the type of license sought, along with the application fee as set by the state licensing authority.

B. An applicant may apply for and be granted more than one type of license except that a person licensed as a retail marijuana testing facility may not hold any other retail marijuana establishment license. Registered caregivers and registered dispensaries who have held a registration in good standing for 2 years by the date of the application must be given priority in the granting of licenses for a retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana store license. The state licensing authority shall begin accepting and processing applications by 30 days after the adoption of rules under section 2444, subsection 2. If after 90 days those applications do not meet the maximum square footage allotment set by this chapter, the state licensing authority may begin accepting and processing applications by all other qualified applicants.

C. The state licensing authority shall issue or renew a license to operate a retail marijuana establishment or retail marijuana social club to an applicant who meets the requirements of the state licensing authority, which must include a review of the site plan, operating plan and relevant experience in the marijuana industry in this State, as set forth in rule, within 90 days of the date of receipt of the application unless:

(1) The state licensing authority finds the applicant is not in compliance with this section or rules adopted by the state licensing authority;

(2) The state licensing authority is notified by the relevant municipality that the applicant is not in compliance with an ordinance, rule or regulation in effect at the time of application; or

(3) The number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality has been limited pursuant to local ordinance or is limited by subsection 7 and the state licensing authority has already licensed the maximum number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality for the class of license that is sought.

D. The following provisions govern the situation when more than one application is received by the state licensing authority for establishment of a retail marijuana establishment or retail marijuana social club in the same municipality.

(1) If a greater number of applications are received from qualified applicants to operate a retail marijuana store in a municipality than are allowed under the limits enacted by that municipality pursuant to subsection 4, the state licensing authority shall solicit and consider input from the municipality as to the municipality's preferences for licensure. Within 180 days of the date the first application is received, the state licensing authority shall issue the maximum number of applicable licenses.

(2) In any competitive application process to determine which applicants receive licenses for any class of license, the state licensing authority shall give first preference to an applicant who has at least 2 years of previous experience cultivating marijuana in compliance with Title 22, section 2423 and who has been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. Preference must be given to an applicant who has 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

E. The state licensing authority may not grant a license for a retail marijuana establishment to a licensee who has already received a license to operate the same type of retail marijuana establishment if doing so would prevent another qualified applicant from receiving a license. The state licensing authority may not grant a license for a retail marijuana social club to a licensee who has already received a license to operate a retail marijuana social club if doing so would prevent another qualified applicant from receiving a license.

4. Limitation on number of retail marijuana stores. The state licensing authority may not limit the total number of retail marijuana stores in this State. A municipality may regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and retail marijuana social clubs and may prohibit the operation of retail marijuana establishments and retail marijuana social clubs within its jurisdiction.

5. Limitations on retail marijuana cultivation. The state licensing authority may establish limitations upon retail marijuana cultivation through one or more of the following methods:

A. Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the state licensing authority shall consider the reasonable availability of new licenses after a limit is placed or modified; and

B. Placing or modifying a limit on the amount of production permitted by a retail marijuana cultivation facility license or class of licenses based upon some reasonable metric or set of metrics, including, but not limited to, previous months' sales, pending sales or other reasonable metric as determined by the state licensing authority.

6. Limitation on retail marijuana cultivation facility size. The amount of space approved for marijuana cultivation at retail marijuana cultivation facilities is limited to 800,000 square feet of plant canopy, unless the state licensing authority determines that a greater amount may be needed to ensure an adequate supply to meet demand for various strains of marijuana throughout the State. An applicant must designate on the applicant's operating plan the size category of the licensed premises and the amount of actual square footage in the applicant's licensed premises that will be designated as plant canopy.

The state licensing authority shall license 2 types of retail marijuana cultivation facilities, those with 3,000 square feet or less of plant canopy and those with more than 3,000 square feet of plant canopy. The state licensing authority shall license marijuana cultivation at retail marijuana cultivation facilities by unit blocks of 10 feet by 10 feet, or 100 square feet, of plant canopy, with 40% of all licenses issued going to licensees of 30 unit blocks or less. The maximum amount of unit blocks allowed to a single licensee is 300.

An applicant who applies for a retail marijuana cultivation facility license for a facility with more than 3,000 square feet of plant canopy but is not licensed by the state licensing authority may be considered for a license for a facility with 3,000 square feet or less of plant canopy.

No more than 6 retail marijuana cultivation facilities or more than 300 unit blocks of plant canopy may be located on the same parcel of property.

The state licensing authority may reduce the number of unit blocks a retail marijuana cultivation facility is authorized to cultivate if 50% or fewer of the unit blocks a facility is authorized to cultivate are not used by the end of the first year of operation.

7. Restrictions on applications for licenses. The state licensing authority may not approve an application for the issuance of a license pursuant to this chapter:

A. If the application for the license concerns a location that is the same as or within 1,000 feet of a location for which, within the 2 years immediately preceding the date of the application, the state licensing authority denied an application for the same class of license due to the nature of the nse or other concern related to the location; or

B. Until it is established that the applicant is in or will be entitled to possession of the licensed premises for which application is made under a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

§2448. Classes of licenses; license provisions

1. State licensing authority may issue license. For the purpose of regulating the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products, the state licensing authority, in its discretion, upon receipt of an application in the prescribed form, may issue and grant to the applicant a license from one or more of the following classes, subject to the provisions aud restrictions provided by this chapter:

A. Retail marijuana store license;

B. Retail marijuana cultivation facility license;

C. Retail marijuana products manufacturing facility license;

D. Retail marijuana testing facility license;

E. Retail marijuana social club license; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the licensed premises, as determined by the state licensing authority.

2. Licensee to collect tax. A retail marijuana store licensee or retail marijuana social club licensee shall collect sales tax on all retail sales made at a retail marijuana store or retail marijuana social club, respectively.

3. Retail marijuana store license. The following provisions govern a retail marijuana store.

A. A licensed retail marijuana store may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel and marijuana-related products such as child-resistant containers, but is prohibited from selling or giving away any consumable product, including but not limited to cigarettes, alcohol and edible products that do not contain marijuana, including but not limited to sodas, candies and baked goods. Automatic dispensing machines that contain retail marijuana and retail marijuana products are prohibited.

B. A retail marijuana store licensee shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturing facility to the point of sale.

All retail marijuana and retail marijuana products sold at a licensed retail marijuana store must be packaged and labeled as required by rules of the state licensing authority and pursuant to section 2446, subsection 1. Notwithstanding the provisions of this section, a retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by rules of the state licensing authority and pursuant to section 2446, subsection 1.

C. A person must be 21 years of age or older to make a purchase in a retail marijuana store.

(1) Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid government-issued identification card, or other acceptable identification, showing that the purchaser is 21 years of age or older. If a person under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age may not be grounds for the revocation or suspension of any license issued under this chapter.

(2) The state licensing authority shall adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain signs, marketing and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under 21 years of age.

These rules may include:

(a) A prohibition on health or physical benefit claims in advertising, merchandising and packaging;

(b) A prohibition on unsolicited advertising on the Internet;

(c) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(d) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

(3) A magazine whose primary focus is marijuana or marijuana businesses may be sold only in a retail marijuana store or behind the counter in an establishment where persons under 21 years of age are present.

(4) A retail marijuana product may not contain an additive designed to make the product more appealing to children.

(5) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state sales tax.

(6) Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment or retail marijuana social club. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

D. Retail marijuana and retail marijuana products may be transported between a licensed retail marijuana store and retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

4. Retail marijuana cultivation facility license. The state licensing authority shall create a statewide licensure class system for retail marijuana cultivation facilities.

A. The following provisions govern retail marijuana cultivation facilities.

(1) A retail marijuana cultivation facility licensee is permitted to cultivate retail marijuana for sale and distribution only to licensed retail marijuana stores, retail marijuana products manufacturing facilities, other retail marijuana cultivation facilities or retail marijuana social clubs.

(2) A retail marijuana cultivation facility may have a retail marijuana store if it is located on the same licensed premises as the retail marijuana cultivation facility. If the retail marijuana cultivation facility chooses the option to have a retail marijuana store it must meet all requirements set by the state licensing authority and municipality in which it is located. A retail marijuana store located on the licensed premises of a retail marijuana cultivation facility does not count against any municipal limits on the number of retail marijuana stores.

(3) A retail marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase. The state licensing authority may not make rules that are unreasonably impracticable concerning the tracking of marijuana from seed or immature plant to wholesale purchase.

(4) A retail marijuana cultivation facility may provide, except as required by subsection 6, a sample of its products to a retail marijuana testing facility for testing and research purposes. A retail marijuana cultivation facility shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the retail marijuana testing facility and the testing results.

B. Retail marijuana may be transported between a licensed retail marijuana cultivation facility and retail marijuana stores, other retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

5. Retail marijuana products manufacturing facility license. The following provisions govern retail marijuana products manufacturing facilities and the preparation of retail marijuana products.

A. The following provisions govern retail marijuana products manufacturing facilities.

(1) A retail marijuana products manufacturing facility licensee is permitted to manufacture retail marijuana products pursuant to the terms and conditions of this chapter.

(2) A retail marijuana products manufacturing facility may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility. A retail marijuana products manufacturing facility licensee shall track all of its retail marijuana from the point it is either transferred from its retail marijuana cultivation facility or the point when it is delivered to the retail marijuana products manufacturing facility from a licensed retail marijuana cultivation facility to the point of transfer to a licensed retail marijuana store, retail marijuana social club or retail marijuana testing facility.

B. A retail marijuana products manufacturing facility licensee may not:

(1) Add any marijuana to a food product if the manufacturer of the food product holds a trademark to the food product's name, except that a retail marijuana products manufacturing facility licensee may use a trademarked food product if the licensee uses the product as a component or as part of a recipe and if the licensee does not state or advertise to the consumer that the final retail marijuana product contains a trademarked food product;

(2) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product;

(3) Label or package a product in a manner that violates any federal trademark law or regulation; or

(4) Include harmful additives in any retail marijuana product, including, but not limited to, those that are toxic, designed to make the product more addictive and designed to make the product more appealing to children or misleading to consumers, but not including common baking and cooking items.

C. The following provisions govern the preparation of retail marijuana products.

(1) Retail marijuana products must be prepared on licensed premises that are used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and prepared using equipment that is used exclusively for the manufacture and preparation of retail marijuana and retail marijuana products.

(2) All licensed premises in which retail marijuana products are manufactured must meet the sanitary standards for retail marijuana product preparation adopted pursuant to section 2446, subsection 2 and must be licensed as commercial kitchens by the Department of Health and Human Services.

(3) Retail marijuana products must be packaged, sealed and conspicuously labeled in compliance with this chapter and any rules adopted pursuant to this chapter.

(4) A retail marijuana products manufacturing facility licensee may provide a sample of the licensee's products to a licensed retail marijuana testing facility pursuant to subsection 6 for testing and research purposes. A retail marijuana products manufacturing facility licensee shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the testing facility and the results of the testing.

(5) A retail marijuana products manufacturing facility licensee may list ingredients and compatibility with dietary practices on an edible retail marijuana product.

(6) All retail marijuana products that require refrigeration to prevent spoilage must be stored and transported in a refrigerated environment.

D. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency may run a Maine criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

E. Retail marijuana products may be transported between a licensed retail marijuana products manufacturing facility and retail marijuana stores, other retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

6. Retail marijuana testing facility license. A retail marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products.

The state licensing authority shall adopt rules pursuant to its authority in section 2445 related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, chemical identification and other practices used in bona fide research methods.

A. A person that has an interest in a retail marijuana testing facility license from the state licensing authority for testing purposes may not have any interest in a registered dispensary, a registered caregiver, a licensed retail marijuana store, a licensed retail marijuana social club, a licensed retail marijuana cultivation facility or a licensed retail marijuana products manufacturing facility. A person that has an interest in a registered dispensary, a registered caregiver, a licensed retail marijuana store, a licensed retail marijuana social club, a licensed retail marijuana cultivation facility or a licensed retail marijuana products manufacturing facility may not have an interest in a facility that has a retail marijuana testing facility license. For purposes of this paragraph, "interest" includes an ownership interest or partial ownership interest or any other type of financial interest, such as being an investor or serving in a management position.

B. Retail marijuana and retail marijuana products may be transported between the licensed retail marijuana testing facility and retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

7. Retail marijuana social club license. The following provisions govern retail marijuana social clubs.

A. A licensed retail marijuana social club may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, marijuana-related products and edible products that do not contain marijuana, including but not limited to sodas, candies and baked goods, but may not sell or give away cigarettes or alcohol. All retail marijuana and retail marijuana products purchased at a licensed retail marijuana social club must be consumed or disposed of on and may not be taken off the licensed premises.

B. A retail marijuana social club shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail marijuana cultivation facility, retail marijuana store or retail marijuana products manufacturing facility to the point of sale.

C. The following provisions govern procedures for preventing sales to persons under 21 years of age.

(1) Prior to allowing a person onto the retail marijuana social club's licensed premises, an employee of the retail marijuana social club shall verify that the person has a valid government-issued identification card, or other acceptable identification, showing that the person is 21 years of age or older. If a person under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age may not be grounds for the revocation or suspension of any license issued under this chapter.

(2) The state licensing authority shall adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain signs, marketing and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under 21 years of age.

These rules may include:

(a) A prohibition on health or physical benefit claims in advertising, merchandising and packaging;

(b) A prohibition on unsolicited advertising on the Internet;

(c) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(d) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

(3) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state sales tax.

(4) Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency may run a Maine criminal history

record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

D. Retail marijuana and retail marijuana products may be transported between a licensed retail marijuana social club and other retail marijuana social clubs or retail marijuana testing facilities.

8. Inspection of books and records. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which must be open at all times during business hours for the inspection and examination by the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority. The auditor must have access to all books and records of the licensee, and the cost of the audit must he paid by the licensee.

The licensed premises, including any places of storage, where retail marijuana or retail marijuana products are stored, cultivated, sold, dispensed or tested are subject to inspection by the State or the municipality in which the licensed premises are located aud by the investigators of the State or municipality during all business hours and other times of apparent activity for the purpose of inspection or investigation. Access must be granted during business hours for examination of any inventory or books and records required to be kept hy a licensee. When any part of the licensed premises consists of a locked area, upon demand to the licensee this area must be made available for inspection, and, upon request by authorized representatives of the State or municipality, the licensee shall open tbe area for inspection.

Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period comprising the current tax year and the 2 immediately preceding tax years.

9. Product pricing. Nothing in this chapter may be construed as granting to the state licensing authority the power to fix prices for retail marijuana or retail marijuana products.

10. License fees. The state licensing authority shall determine the revenue needed to set up the licensing and enforcement operations of the department and set the fees applicable to the categories as outlined in subsection 1 within the ranges specified in the following schedule:

A. Retail marijuana store license, $250 to $2,500, with a $10 to $250 nonrefundable application fee;

B. Retail marijuana cultivation facility license, $10 to $100 per unit block, with a $10 to $250 nonrefundable application fee;

C. Retail marijuana products manufacturing facility license, $100 to $1,000, with a $10 to $250 nonrefundable application fee;

D. Retail marijuana testing facility license, $500, with a $10 to $250 nonrefundable application fee;

E. Retail marijuana social club license, $250 to $2,500, with a $10 to $250 nonrefundable application fee; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the licensed premises, as determined by the state licensing authority.

11. License terms. All licenses under this chapter are effective for one year from the date of issuance.

12. License renewal. The following provisions govern license renewals.

A. Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by first class mail at the licensee's address of record with the state licensing authority. A licensee may apply for the renewal of an existing license to the state licensing authority not less than 30 days prior to the date of expiration. Upon receipt of an application for renewal of an existing license and any applicable fees, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the application complies with all local restrictions on renewal of licenses.

B. The state licensing authority may not accept an application for renewal of a license after the date of expiration, except that the state licensing authority may extend the expiration date of the license and accept a late application for renewal of a license as long as the applicant has filed a timely renewal application with the municipality. The state licensing authority or the municipality, in its discretion, subject to the requirements of section 2447 and based upon reasonable grounds, may waive the 30-day time requirements set forth in this subsection.

C. Notwithstanding the provisions of paragraph A, a licensee whose license has been expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late application fee of $250 to the state licensing authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until the state licensing authority takes final action to approve or deny the licensee's late renewal application unless the state licensing authority summarily suspends the license pursuant to subsection 16, this chapter and rules adopted pursuant to this chapter.

D. The state licensing authority may administratively extend the expiration date of a license and accept a later application for renewal of a license at the discretion of the state licensing authority.

E. The state licensing authority may, for good cause, elect to not renew a license.

13. Inactive licenses. The state licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

14. Unlawful financial assistance. The state licensing authority shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each license issued under this chapter. This subsection is intended to prohibit and prevent the control of a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana social club by a person or party other than the persons licensed pursuant to the provisions of this chapter.

15. Denial of license. The state licensing authority may, for good cause, deny approval of a license application. Upon denial of a license application, the state licensing authority shall inform the applicant of the basis for denial and the right to appeal the denial in a hearing.

16. Disciplinary actions. In addition to any other sanctions prescribed by this chapter, or rules adopted pursuant to this chapter, the state licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the state licensing authority for a violation by the licensee, or by any of the agents or employees of the licensee, of the provisions of this chapter or any of the rules adopted pursuant to this chapter or of any of the terms, conditions or provisions of the license issued by the state licensing authority. The state licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary for a hearing that the state licensing authority is authorized to conduct.

The state licensing authority shall provide notice of suspension, revocation, fine or other sanction, as well as the required notice of the hearing required by this subsection, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished to the state licensing authority by the licensee. Except in the case of a summary suspension, a suspension may not be for a period longer than 6 months. If a license is suspended or revoked, a part of the fees paid must be retained by the state licensing authority.

Whenever a decision of the state licensing authority suspending a license for 14 days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it considers desirable and may, in its sole discretion, grant the petition if the state licensing authority is satisfied that:

A. The public welfare would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

B. The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

The fine imposed may not be less than $500 nor more than $10,000. Payment of a fine pursuant to the provisions of this subsection must be in the form of cash or in the form of a certified check or cashier's check made payable to the state licensing authority.

Upon payment of the fine pursuant to this subsection, the state licensing authority shall enter its order permanently staying the imposition of the suspension. Fines paid to the state licensing authority pursuant to this subsection must be transmitted to the Treasurer of State.

In connection with a petition pursuant to this subsection, the authority of the state licensing authority is limited to the granting of such stays as are necessary for the state licensing authority to complete its investigation and make its findings and, if the state licensing authority makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

If the state licensing authority does not make the findings required in this subsection and does not order the suspension permanently stayed, the suspension goes into effect on the operative date finally set by the state licensing authority.

No later than January 15th of each year, the state licensing authority shall compile a report of the preceding year's actions in which fines, suspensions or revocations were imposed by the state licensing authority. The state licensing authority shall include this information in its annual report to the Legislature.

17. Disposition of unauthorized retail marijuana or retail marijuana products and related materials. The following provisions apply to the disposition of unauthorized retail marijuana or retail marijuana products and related materials.

A. The provisions of this subsection apply in addition to any criminal, civil or administrative penalties and in addition to any other penalties prescribed by this chapter or any rules adopted pursuant to this chapter. Every licensee is deemed, by virtue of applying for, holding or renewing that licensee's license, to have expressly consented to the procedures set forth in this subsection.

B. If the state licensing authority issues a final agency order imposing a disciplinary action against a licensee pursuant to subsection 16, then, in addition to any other remedies, the state licensing authority's final agency order may specify that some or all of the licensee's marijuana or marijuana products is not retail marijuana or a retail marijuana product and is an illegal controlled substance. The order may further specify that the licensee loses any ownership interest in any of the marijuana or marijuana products even if the marijuana or marijuana products previously qualified as retail marijuana or a retail marijuana product. The final agency order may direct the destruction of any such marijuana and marijuana products. The authorized destruction may include the incidental destruction of any containers, equipment, supplies and other property associated with the marijuana or marijuana products.

C. A district attorney, or an assistant attorney general, shall notify the state licensing authority if an investigation of a retail marijuana establishment or retail marijuana social club is commenced. If the state licensing authority has received notification from a district attorney, or an assistant attorney general, that an investigation is being conducted, the state licensing authority may not destroy any marijuana or marijuana products from the retail marijuana establishment or retail marijuana social club until the destruction is approved by the district attorney or assistant attorney general.

D. A state or local agency may not be required to cultivate or care for any retail marijuana or retail marijuana products belonging to or seized from a licensee. A state or local agency is not authorized to sell marijuana, retail or otherwise.

18. Judicial review. Final agency actions by the state licensing authority are subject to judicial review pursuant to Title 5, section 11001, et seq.

§2449. Local licensing

1. Municipality may regulate retail marijuana establishments and retail marijuana social clubs. A municipality may regulate the location and operation of retail marijuana establishments and retail marijuana social clubs pursuant to Title 30-A, chapter 187, subchapter 3. A municipality may adopt and enforce regulations for retail marijuana establishments and retail marijuana social clubs that are at least as restrictive as the provisions of this chapter and any rule adopted pursuant to this chapter. Nothing in this chapter prohibits the registered voters of a municipality from calling for a vote on any regulations adopted by a municipal legislative body.

2. Municipal approval required. A retail marijuana establishment or retail marijuana social club may not operate until it is licensed by the state licensing authority pursuant to this chapter and approved by the municipality in which it is located. If an application is denied by the municipality, the licensee has 90 days to locate and obtain legal interest in another property in a municipality that approves of the retail marijuana establishment or retail marijuana social club before the license is revoked.

3. Notice and portion of fee must be given to municipality. When the state licensing authority receives an application for original licensing, or renewal of an existing license, for any retail marijuana establishment or retail marijuana social club, the state licensing authority shall, within 7 business days, provide a copy of the application and 50% of the licensing fee to the municipality in which the establishment or club is to be located. The municipality shall determine whether the application complies with the local land use ordinance and any other restrictions on time, place, manner and the number of marijuana businesses within the municipality. The municipality shall inform the state licensing authority whether the application complies with the local land use ordinance and other local restrictions.

4. Municipality may impose licensing requirement. A municipality may impose a separate local licensing requirement as a part of its restrictions on time, place, manner and the number of marijuana businesses. A municipality may decline to impose any local licensing requirements, but a municipality shall notify the state licensing authority that it either approves or denies each application forwarded to it within 14 business days.

5. Public hearing notice. The following provisions govern local public hearings and notice.

A. If a municipality issues local licenses for a retail marijuana establishment or retail marijuana social club, a public hearing on the application may be scheduled. If the municipality schedules such a hearing, it shall post and publish public notice of the hearing not less than 10 days prior to the hearing. The municipality shall give public notice by posting a sign in a conspicuous place on the premises identified in a local license application and by publication in a newspaper of general circulation in the county in which the premises are located.

B. If a municipality does not issue local licenses, the municipality may give public notice of the state application by posting a sign in a conspicuous place on the premises identified in the application and by publication in a newspaper of general circulation in the county in which the premises are located.

§2450. Transfer of ownership

A license granted under the provisions of this chapter is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 2451, subsection 7.

For a transfer of ownership, a licensee shall apply to the state licensing authority on forms prepared and furnished by the state licensing authority. Upon receipt of an application for transfer of ownership, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the transfer complies with any local restriction on transfer of ownership. In determining whether to permit a transfer of ownership, the state licensing authority shall consider only the requirements of this chapter, any rules adopted by the state licensing authority and any other local restrictions. The municipality may hold a hearing on the application for transfer of ownership. The municipality may not hold a hearing pursuant to this section until the municipality has posted a notice of hearing in the manner described in section 2449, subsection 5 on the licensed premises for a period of 10 days and has provided notice of the hearing to the applicant at least 10 days prior to the hearing. Any transfer of ownership hearing by the state licensing authority must be held in compliance with the requirements specified for a municipality in this section.

§2451. Licensing in general

The following provisions govern licensing in general.

1. Notice of new owner, officer, manager or employee. A retail marijuana establishment or retail marijuana social club shall notify the state licensing authority in writing of the name, address and date of birth of an owner, officer, manager or employee before the new owner, officer, manager or employee begins managing, owning or associating with the establishment or club. The owner, officer, manager or employee must pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification card prior to being associated with, managing, owning or working at the establishment or club.

2. Each license separate. Each license issued under this chapter is separate and distinct. A person may not exercise any of the privileges granted under a license other than the license that the person holds and a licensee may not allow any other person to exercise the privileges granted under the licensee's license. A separate license is required for each specific business or business entity and each geographical location.

3. Licensee to maintain possession of premises. At all times, a licensee shall possess and maintain possession of the licensed premises identified in the license by ownership, lease, rental or other arrangement for possession of the premises.

4. License specifics; display. A license issued pursuant to this chapter must specify the date of issuance, the period of licensure, the name of the licensee and the premises licensed. A licensee shall conspicuously place the license at all times on the licensed premises.

5. Computation of time. In computing any time prescribed by this chapter, the day of the act, event or default from which the designated time begins to run is not included. Saturdays, Sundays and legal holidays are counted as any other day except that any documents due to be submitted to state or local government on a date that falls on a Saturday, Sunday or legal holiday are due on the next business day.

6. Licensee to report transfer of interest. A licensee shall report each transfer or change of financial interest in the license to the state licensing authority and appropriate municipality and receive approval prior to any transfer or change pursuant to section 2450.

7. Relocation of licensed premises. A licensee may move the permanent location of licensed premises to any other place in this State once permission to do so is granted by the state licensing authority and municipality where the retail marijuana establishment or retail marijuana social club proposes to relocate. Upon receipt of an application for change of location, the state licensing authority shall, within 7 days, submit a copy of the application to the municipality to determine whether the transfer complies with all local restrictions on change of location. In permitting a change of location, the municipality where the retail marijuana establishment or retail marijuana social club proposes to relocate shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board of the municipality. Any such change in location must be in accordance with all requirements of this chapter and rules adopted pursuant to this chapter.

§2452. Personal use of marijuana

1. Person 21 years of age or older. A person 21 years of age or older may:

A. Use, possess or transport marijuana accessories and up to 2 1/2 ounces of prepared marijuana;

B. Transfer or furnish, withont remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older;

C. Possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings, and possess all the marijuana produced by the plants at the adult's residence;

D. Purchase up to 2 1/2 ounces of retail marijnana and marijuana accessories from a retail marijuana store; and

E. Purchase up to 12 seedlings or immature plants from a retail marijuana cultivation facility.

2. Home cultivation. The following provisions apply to the home cultivation of marijuana for personal use by a person who is 21 years of age or older.

A. A person may cultivate up to 6 flowering marijuana plants at that person's place of residence, on property owned by that person or on another person's property with written permission of the owner of the property.

B. A person who elects to cultivate marijuana shall ensure the marijuana is not visible from a public way without the use of binoculars, aircraft or other optical aids and shall take reasonable precautions to prevent unauthorized access by a person under 21 years of age.

3. Legible tag on each marijuana plant. A person 21 years of age or older must have a legible tag on each marijuana plant. The tag must include at least the person's name and Maine driver's license number or Maine identification number.

4. Exemptions. The following exemptions apply.

A. Marijuana cultivation for medical use is not considered cultivation for personal use under this chapter and is governed by Title 22, section 2423-A.

B. This section does not apply to cultivation by a registered dispensary licensed pursuant to Title 22, section 2428.

5. Use. A person may consume marijuana in a nonpublic place including a private residence.

A. The prohibitions and limitations on smoking tobacco products in specified areas in Title 22, chapters 262 and 263 apply to smoking marijuana.

B. A person who smokes marijuana in a public place other than as governed by Title 22, chapters 262 and 263 commits a civil violation for which a fine of not more than $100 may be adjudged.

C. This subsection may not be construed to shield any adult from federal prosecution.

D. This subsection may not be construed to allow any adult to possess or consume marijuana on federal property.

§2453. Unlawful acts and exceptions

1. Consumption; transfer. Except as otherwise provided in this chapter, a person may not:

A. Consume retail marijuana or retail marijuana products in a retail marijuana establishment. A retail marijuana establishment may not allow retail marijuana or retail marijuana prodncts to be consumed upon its licensed premises; or

B. Buy, sell, transfer, give away or acquire retail marijuana or retail marijuana products.

2. Limited access area; transfer of ownership. Except as otherwise provided in this chapter, a person licensed pursuant to this chapter may not:

A. Be within a limited access area unless the person's identification card is displayed as required by this chapter;

B. Fail to designate areas of ingress and egress for limited access areas and post signs in conspicuous locations as required by this chapter; or

C. Fail to report a transfer as required by section 2450.

3. Person licensed to sell retail marijuana or retail marijuana prodncts. A person licensed to sell retail marijuana or retail marijuana products pursuant to this chapter may not:

A. Display any signs that are inconsistent with local laws or regulations;

B. Use advertising material that is misleading, deceptive or false, or that is designed to appeal to a person under 21 years of age;

C. Have in that person's possession or upon the licensed premises any marijuana the sale of which is not permitted by the license;

D. Sell retail marijuana or retail marijuana products to a person under 21 years of age without checking the person's identification;

E. Except for a retail marijuana social club licensee, have on the licensed premises any retail marijuana, retail marijuana products or marijuana paraphernalia that shows evidence of the retail marijuana having been consumed or partially consumed; or

F. Violate the provisions of section 2450 or abandon the licensed premises or otherwise cease operation without notifying the state licensing authority and appropriate municipality at least 48 hours in advance and without accounting for and forfeiting to the state licensing authority for destruction all marijuana and products containing marijuana.

§2454. Construction

1. Relation to the Maine Medical Use of Marijuana Act. This chapter may not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act.

2. Employment policies. This chapter may not be construed to require an employer to permit or accommodate the use, consumption, possession, trade, display, transportation, sale or growing of cannabis in the workplace. This chapter does not affect the ability of employers to enact and enforce workplace policies restricting the use of marijuana by employees or to discipline employees who are under the influence of marijuana in the workplace.

3. School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person 21 years of age or older solely for that person's consuming marijuana outside of the school's, employer's or landlord's property.

4. Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interest of the minor child as set out in Title 19-A, section 1653, subsection 3.

Sec. 2. 22 MRSA §2383, sub-§1, as repealed and replaced by PL 2009, c. 652, Pt. B, §6, is repealed.

Sec. 3. 36 MRSA §1817 is enacted to read:

§1817. Taxes on retail marijuana and retail marijuana products

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Retail marijuana" has the same meaning as in Title 7, section 2442, subsection 34.

B. "Retail marijuana product" has the same meaning as in Title 7, section 2442, subsection 37.

C. "Retail marijuana social club" has the same meaning as in Title 7, section 2442, subsection 39.

D. "Retail marijuana store" has the same meaning as in Title 7, section 2442, subsection 40.

E. "State licensing authority" has the same meaning as in Title 7, section 2442, subsection 44.

2. Sales tax on retail marijuana and retail marijuana products. The sales tax on retail marijuana and retail marijuana products is 10% and is the only tax charged on the sale of retail marijuana and retail marijuana products at the point of final sale at a retail marijuana store or retail marijuana social club.

3. Returns; payment of tax; penalty. A retail marijuana store or retail marijuana social club shall file, on or before the last day of each month, a return on a form prescribed and furnished by the state licensing authority together with payment of the sales tax due under this section. The return must report all sales of retail marijuana and retail marijuana products within the State during the preceding calendar month. A retail marijuana store or retail marijuana social club shall keep a complete and accurate record at its principal place of business to substantiate all receipts and sales of retail marijuana and retail marijuana products.

4. Failure to make payments. The state licensing authority shall adopt rules to address the case in which a retail marijuana store or retail marijuana social club fails to make tax payments as required by this section, including fines and other penalties up to permanently revoking the retail marijuana store's or retail marijuana social club's license.

Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

5. Exemption. The tax on marijuana imposed pursuant to this section may not be levied on marijuana sold by a registered nonprofit dispensary or registered caregiver to a qualifying patient or primary caregiver pursuant to Title 22, chapter 558-C.

6. Records. The following records must be kept by a licensee and those records must be available for inspection by an agent of the state licensing authority:

A. The reports and transmittal of monthly sales tax payments by retail marijuana stores and retail marijuana social clubs; and

B. Authorization for the Bureau of Revenue Services to have access to licensing information to ensure sales, excise and income tax payment.

7. Application of tax revenues. All sales tax revenue collected pursuant to this section must be deposited in the General Fund. Sales tax revenue derived from the sale of retail marijuana and retail marijuana products may not be used to directly fund any new state programs except that this revenue may be appropriated to the Maine Criminal Justice Academy for the purpose of training law enforcement personnel on retail marijuana and retail marijuana products laws and rules. Funds appropriated to the Maine Criminal Justice Academy pursuant to this subsection may be used only for the actual costs incurred to provide the necessary education and training of law enforcement personnel.

SUMMARY

This initiated bill allows the possession and use of marijuana by a person 21 years of age or older. It provides for the licensure of retail marijuana facilities including retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities and retail marijuana stores. It also provides for the licensure of retail marijuana social clubs where retail marijuana products may be sold to consumers for consumption on the licensed premises. It provides for regulation and control of the cultivation, manufacture, distribution and sale of marijuana by the Department of Agriculture, Conservation and Forestry. It allows the department to establish limitations on retail marijuana cultivation. It allows a municipality to regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and to prohibit the operation of retail marijuana establishments in the municipality. It also allows a municipality to require separate local licensing of retail marijuana establishments.

The initiated bill allows a person 21 years of age or older to use, possess or transport marijuana accessories and up to 2 1/2 ounces of prepared marijuana; transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older; possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature marijuana plants and unlimited seedlings, and possess all the marijuana produced by the marijuana plants at that person's residence; purchase up to 2 1/2 ounces of marijuana and marijuana accessories from a retail marijuana store; and purchase up to 12 marijuana seedlings or immature marijuana plants from a retail marijuana cultivator. It allows the home cultivation of marijuana for personal use of up to 6 flowering marijuana plants hy a person 21 years of age or older.

The initiated bill allows a person to consume marijuana in a nonpublic place including a private residence. It provides that the prohibitions and limitations on smoking tobacco products in specified areas as provided by law apply to smoking marijuana and that a person who smokes marijuana in a public place other than as governed by law commits a civil violation for which a fine of not more than $100 may be adjudged.

The initiated bill places a sales tax of 10% on retail marijuana and retail marijuana products.

Order 76-16/17
~~Tab 16 10-17-16~~
Tab 18 11-21-16

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)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS,
Re: TENANT HOUSING RIGHTS

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

WHEREAS, the Portland City Council Housing Committee (the Committee) has been working on behalf of City residents who rent and/or reside in rental properties as their home, with the goal of educating these persons of their rights and seeking to ensure through the imposition of regulations, among other things, that their housing is secure; and

WHEREAS, according to public testimony given to the Committee, tenants have lost their homes as the price of real estate increased in the last few years, and the monthly rent has risen; and

WHEREAS, after taking a significant amount of public testimony and after researching and reviewing this issue for numerous months, the Committee recommends to the Portland City Council that it should enact certain tenant protections, including but not limited to a longer notice period of an impending rent increase and clear and straightforward written information to help tenants and also for the property owners who rent to tenants, maintain and improve their properties and who must comply with those protections; and

WHEREAS, these actions are necessary in order to protect the City of Portland residents' public health, and welfare;

NOW, THEREFORE, BE IT ORDERED, that, pursuant to its authority in 30-A M.R.S. §3001, the Code of Ordinances, City of Portland, Maine, is hereby amended by adding the following Article, to be numbered City of Portland General Provisions Code of Ordinances Chapter 6

Article IX, which shall read as follows:

ARTICLE XI. TENANT HOUSING RIGHTS

6-219. Purpose.

The purpose of this Article is to address housing insecurity in the City of Portland; to minimize the potential adverse impacts of un-noticed or short-notice rent increases; to educate at-will Tenants of their rights; and to help bring about through fair, orderly and lawful procedures, the opportunity of each person within the City of Portland without regard to, among other things, receipt of public benefits, to rent, enjoy and retain secure housing.

6-220. Applicability.

This article shall apply to any and all rental housing units in the City limits of Portland.

6-221. Definitions.

Discrimination means the unjust or prejudicial treatment of different categories of people, when those categories are protected from discrimination by municipal, state and federal law, including, but not limited to, categories based on race, color, religious creed, sex, sexual preference, national origin, age, physical handicap or mental handicap, and based on receipt of public assistance, as provided in 5 M.R.S. §4581-A and as amended from time to time.

Housing unit means one (1) or more rooms forming a single unit including food preparation, living, sanitary and sleeping facilities used or intended to be used by two (2) or more persons living in common or by a person living alone.

Landlord means an owner, manager, lessee, sublessee, managing agent or other person having the right to rent or sell or manage any housing unit or rental property or any agent of these individuals or entities.

Tenant means an individual, individuals, an entity, entities, a lessee or sub-lessee, or other person having the right to rent any housing unit or rental property or any agent of these individuals or entities. This definition includes a Tenant at will as described in 14 M.R.S. §6002, as amended from time to time.

6-222. Discrimination prohibited in sale or rental of housing units.

(a) A Tenant shall have the right to secure a rental housing unit without being refused that right on the basis of discrimination because of race, color, sex, sexual orientation, physical or mental disability, ancestry, national origin, or family status, pursuant to 5 M.R.S. Section 4581-A, et. seq., as amended from time to time.

(b) A Landlord shall not refuse to rent or impose terms of tenancy on any Tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as a recipient as described in 5 M.R.S. §4581-A(4), as amended from time to time.

6-223. Notification of rent increases.

Notwithstanding 14 M.R.S. Section 6015, a Landlord shall give seventy-five (75) days' written notice of any rent increase to a Tenant.

6-224. Protection of Tenants.

(a) The Planning Department or its designee shall create and make available on the City's publically accessible web site a plain language document that explains Tenancy at Will and the rights and responsibilities of Tenants and Landlords of rental housing units. That document shall also include a checklist of required notices concerning environmental lead hazards, energy efficiency or radon testing, pursuant to 14 M.R.S. Sections 6030-B, 6030-C, and 6030-D, respectively, as amended from time to time.

(b) The document referenced above shall be provided by Landlords to all Tenants in the City of Portland at the commencement of the rental of a housing unit and shall be provided again upon any update to the document made by the Planning Department.

(c) An acknowledgement of receipt of the documents described above must be signed by all Tenants, and a copy of the acknowledgement kept on file by the Landlord for at least three

(3) years and made available for inspection at the request of the City of Portland.

(d) At the time of the annual registration required by Chapter 6, Article VI of the City of Portland Code of Ordinances, all Landlords must certify to the City that they have provided the above-referenced documents to each of their respective Tenants.

6-225. Rental Housing Advisory Committee

(a) There is hereby created a Rental Housing Advisory Committee (the "Committee").

(b) The Committee shall be comprised of seven (7) members, including three (3) Landlord representatives, three (3) Tenant representatives and one (1) at-large resident representative who is neither a Tenant nor a Landlord of rental property, all of whom shall be appointed by the City Council. All members of the Committee shall be residents of the City of Portland and shall serve staggered terms set by City Council order.

(c) The Committee shall be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.

(d) The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Compile and provide the Housing Committee with City of Portland housing market data;
2. Report annually to the Housing Committee on the state of the housing market in the City of Portland; and
3. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City's housing ordinances or policies.

6-226. Variation by agreement.

No provision of, or right conferred by, this Article may be waived by a Tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage or induce a Tenant to waive any provision hereof or right hereby shall be a violation of this Article. Nothing herein shall be construed to void any term of a lease that offers greater rights than those conferred hereby.

6-227. Limitation of liabilities.

(a) Nothing in this Article shall be interpreted to contravene the general laws of the State of Maine; and

(b) Nothing in this Article shall be construed to create additional liabilities greater than those already existing under law or to create new private causes of action.

6-228. Enforcement and remedies.

(a) Any violation of sections 6-223, 6-224 and 6-225 of this Article may be considered a civil infraction and may be enforced pursuant to the Portland City Code Chapter 1, §1-15.

(b) Any violation of §6-222 of this Article shall be enforced as required by the Maine Human Rights Act, 5 M.R.S. §§4551, et seq.

6-229. Severability.

The provisions of this Article are severable. If any of its provisions are held invalid by act of competent jurisdiction, all other provisions of this Article shall continue in full force and effect.

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Tyler Norod, Housing Planner

DATED: August 19, 2016

RE: Tenant/Landlord Mediation Program

As part of the Housing Committee's public process, Councilor Jill Duson suggested that the Committee consider a tenant/landlord mediation program similar to the Maine Human Rights Commission's (MHRC) mediation program. Throughout the recent public process the general idea of a mediation program appeared to have support from both tenant advocates and the landlord community. The State's program establishes a framework for third party mediators to work towards resolutions between two willing parties. State staff administer the program and connect interested parties to trained mediators. All mediation services are voluntary and cannot be initiated without both sides agreeing to participate. Willing parties are required to pay for the mediation services which often are less expensive and offer faster resolutions than going to court. It is not required that both parties pay an equal amount. The mediator fee is set annually by the Commission and is paid as a set stipend to participating mediators. A portion of the fee will be designated by the Commission to help defray the costs of mediation for indigent parties. A small percentage of the funds are also collected to help defray administrative costs to the State.

To find out more about potential costs and needs of a mediation program, staff reached out to numerous individual mediators, the Maine Association of Mediators, the State's Court Alternative Dispute Resolution (CADRES) Program Manager, and Opportunity Alliance Mediation Service Manager. Mediation costs varied widely from pro bono services to several hundred dollars per hour for very complex business mediations. One overlapping theme was an acknowledgement of significant administrative work involved in administering a successful program. Without knowing how high the potential demand might be for a program like this, it is difficult to know precisely how costly a program may be. Several potential program frameworks are listed below:

1) The City could hire one full time administrator to oversee the program and help coordinate all mediation services. An Administrative Assistant under the CEBA contract would cost between $31,000 - $39,000 annually depending on experience. After factoring in benefits the total employee cost to the City would be between $43,000 - $54,000 annually. The City could also create a new position under the Health & Human Services Department that would cost the City between $34,000 - $43,000 annually in salary and between $47,000 - $59,000 total. The benefit would be that under Health & Human Services the new position may have better connection to oversight and existing City services that could aid eligible at risk households. The City would set a modest stipend rate for mediators similar to what is done through the State's CADRES

program that would be paid for by participants. Should the City decide to pay for the tenant's costs who meet certain income eligibility thresholds that would be an additional annual cost to the City. The City could establish an initial annual cap for expenditures that would help the City better understand potential demand and manage anticipated costs to the City.

2) Throughout the community process there was talk of the City hiring a tenant/landlord "ombudsman" to oversee disputes. It does not appear that hiring a single "ombudsman" would be the best approach for several reasons. First, the City should not be perceived as or be pressured to take sides in any mediation. This would likely prove disruptive to the chances of having a successful outcome through mediation. Second, the cost of employing a trained ombudsman would likely be higher than the administrator positions identified in option #1. Third, after a while landlords or tenants might come before a single ombudsman for more than one dispute. Right or wrong, this may lead to questions of fairness based on how parties perceived past mediation resolutions.
3) The City could partner with an existing organization who already provides the administrative capacity for managing mediation programs. This would require an RFP process to ensure fair opportunity to receive any City funding. Currently there are at least two local organizations that staff are aware of:
    a. Opportunity Alliance already provides mediation services to individuals in need. The non-profit offers mediation services for a variety of issues, including housing issues, on a sliding pay scale. The program is run largely through private donations and has the capacity to facilitate more mediations. In order to accommodate more cases through a Portland specific program, Opportunity Alliance would likely need funding for additional administrative support staff. Opportunity Alliance operates regionally, so prior to any potential funding there would need to be consideration for how best to reach Portland residents.
    b. The Maine Association of Mediators already administers a Residential Real Estate Program. This program is designed to address conflicts arising from the sale of private residential real estate between two parties. The program has a flat fee of $800 to be split between the two parties, with $150 per hour fee after the first three hours. Approximately $300 of the initial $800 goes towards administration costs. Given that tenant/landlord mediations targeted by the City may represent less financial exposure than the buying and selling of real estate it may be possible to design a real estate rental program at a reduced cost. It should be noted that administrative costs are consistently a significant portion of the costs associated with any mediation program.

MEMORANDUM
City Council Agenda Item

TO:	Mayor and City Council
FROM:	Planning and Urban Development Department Housing and Community Development Division
DATE:	September 30, 2016
DISTRIBUTION:	City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan
SUBJECT:	Order Approving the Housing Insecurity Package for Implementation into the City Code and Related Administrative Actions by City Staff.
SPONSOR:	Jill Duson, Chair, David Brenerman, Vice Chair Housing Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading October 17, 2016 **Final Action** November 7, 2016

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

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

Jeff Levine, Planning & Urban Development Director and Tyler Norod, Housing Planner will be available to provide information as requested.

I. SUMMARY OF ISSUE (Agenda Description)

On September 28, 2016, the Housing Committee voted to recommend a package of five (5) housing insecurity policy items to the Council for their consideration. The package includes the following items:

1. Increase notification for residential rent increases from 45 days to 75 days for all tenants-at-will and prior to the end of an existing lease.
2. Landlords and tenants must sign a document to be drafted by the City explaining tenancy-at-will.
3. Creation of a leaflet outlining tenant/landlord rights and responsibilities that must be distributed to all tenants.
4. Establish a tenant/landlord commission comprised of 7 members and co-chaired by one landlord and one tenant representative.
5. Incorporation of Maine Human Rights Act prohibition against income discrimination into City ordinance.

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

Over the past few months the Housing Committee has gathered public feedback and reviewed potential policy directions to recommend to the City Council. Following a robust public process two themes emerged for addressing housing concerns in Portland; housing insecurity and housing supply. The Housing Committee spent their most recent meetings examining potential policy directions for dealing with issues related to housing insecurity for tenants in Portland. The following policy package is the outcome of this effort. The Committee acknowledges more work needs to be done as it pertains to housing supply issues and anticipates working towards these measures in subsequent meetings.

III. INTENDED RESULT

The housing insecurity package is intended to engage and educate both landlords and tenants as to their rights and responsibilities while ensuring more predictability and stability for tenants.

IV. COUNCIL GOAL ADDRESSED

Assess the housing problem; look regionally; develop agreement on specific market goals and which kinds of housing needs the most focus.

To encourage and promote affordable, decent housing opportunities for all citizens.

V. FINANCIAL IMPACT

The creation of a tenant/landlord commission, will require additional staff resources. While the meetings themselves will not take much staff time, the additional requirement for staff to provide analysis, data collection, expertise, and organization for a new committee and all of its members will require staff support. Depending on the final design and requirements for the Committee, it is anticipated that the new Committee would require the equivalent of at least ¼ FTE of a Planner position. Additional recommendations from the Housing Committee may similarly require additional staff resources.

Given existing staff responsibilities and potential future workloads such as the development and implementation of short term rental regulations, continued zoning reforms and other policy additions that may come out of the Committees efforts there may be a need for a new planner position within the Housing & Community Development Division at some point. Traditionally similar Planning staff work has been funded through federal resources such as HOME and CDBG funds. Unfortunately, these funding sources are at capacity. The cost to the City would likely need to be paid through the general fund or some other source. Including benefits, a full time position would cost approximately $62,000 - $88,000 per year. Proportionately, the ¼ FTE required of this commission would therefore cost about $15,500-$22,000 per year.

VI. STAFF ANALYSIS

The following proposal outlines a housing insecurity package recommended by the Housing Committee.

<u>Proposed Housing Insecurity Package Items</u>

1) Increase notification for rent increases.
Increase minimum notifications for rent increases from 45 days to 75 days for both tenants-at-will and prior to the end of an existing lease.

2) For tenant at will, landlord and tenant must sign a document that explains what tenancy-at-will means.

This document will be created by the City and be available online for download/printing. The document will use easily understandable language. Signing the document indicates an understanding of the provisions of at-will-tenancies. A copy of this signed document must be kept on file by the landlord and be available to the City upon request.

During the annual landlord registration process, landlords will be required to check a box (online or on a document) stating that this form (explanation of terms of at-will tenancy) has been signed by both tenant and landlord and that they are maintaining a copy for their records. They will not be able to complete the registration process without checking this box.

At this time, there is no fine associated with this requirement, but if it is determined that landlords are not generally complying, a fine may be established at a future time.

3) The City will require landlords to distribute a leaflet outlining rights, responsibilities and privileges of tenants and landlords.

Links to the leaflet and expanded information will be available online for all. The City will develop a template for a rights and responsibilities leaflet based on similar existing documents such as "The Rights of Tenants in Maine", which was developed by Pine Tree Legal and has been attached to this memo.

Landlords will be asked to distribute this leaflet to tenants, and as with #2, above, they will need to check a box on their annual registration form stating that they have done so. They will not be able to complete the registration process without checking this box.

At this time no fine is being suggested with this requirement, but if it is determined that landlords are not generally complying, a fine may be established at some point in the future.

4) Establish a Landlord-Tenant Committee
The Landlord-Tenant Committee will work with City staff to collect housing market data, report annually on the state of the housing market, recommend policy changes, and report to the Council's Housing Committee. The Committee and staff will also act as a clearinghouse for tenants and landlords connecting them to resources such as mediators, legal services, advocates, and programs related to landlord or tenant issues.

The Committee shall meet not less than quarterly. Committee to be co-chaired by one tenant and one landlord elected from among the seven members. The seventh member will be neither a landlord nor tenant but must be a resident of Portland.

5) Incorporation of the Maine Human Rights prohibitions against income discrimination into City ordinance.

The following language based on the Maine Human Rights Act prohibiting discrimination against tenants based on their source of income will be incorporated into City ordinance. Language would be included requiring a complainant to follow the process outlined in the Maine Human Rights statute.

It will be prohibited for any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient.

Nothing in this ordinance may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting or in the furnishings of facilities or services in connection with the facilities that are consistent with business necessity and are not based on the receipt of public assistance payments by any prospective or actual purchaser, lessee, tenant or occupant. Nothing in this ordinance may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of loans or financial assistance that are consistent with business necessity and are not based the receipt of public assistance payments by the applicant for a loan or financial assistance or of any existing or prospective owner, lessee, tenant or occupant of housing accommodation.

VII. RECOMMENDATION

The Housing Committee is recommending approval of the five (5) items listed above as part of the housing insecurity package.

It is requested that the City Council set the Public Hearing on this item for the City Council meeting scheduled on November 7, 2016 at 7:00 p.m.

VIII. LIST ATTACHMENTS

- The related Housing Committee memo from September 28, 2016 outlining the proposed package.
- Pine Tree Legal's "The Rights of Tenants of Maine".

Prepared by:

Tyler Norod, Housing Planner
Housing & Community Development Division

Date: September 30, 2016

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Mary Davis, Division Director
Tyler Norod, Housing Planner
Housing and Community Development Division

DATE: September 23, 2016

SUBJECT: Housing Insecurity Package

Over the past few months the Housing Committee has gathered public feedback and reviewed potential policy directions to recommend to the City Council. Recently the Committee has focused on similarly themed policy ideas associated with housing insecurity. A variety of policy elements were discussed including but not limited to items listed below:

1. Rent control/Rent increase limitations
2. Increases to notification minimums for rent increases and non-renewal of leases
3. Voucher discrimination
4. Tenant/Landlord mediation/ombudsman
5. Tenant relocation payments
6. Restrictions on unit turn over in large buildings

Attached to this memo is also a chart outlining Corporation Counsel's past legal analysis to the Committee on many of the items listed above. The chart is intended to serve as a general reference to help the Committee keep in mind the various legal issues associated with each element as the discuss a possible package to recommend to the Council. For more detailed information about this legal analysis please see past memos written by Corporation Counsel to the Committee over the last several meetings.

The Committee received analysis and public testimony on these general topics. The next step is for the Committee to formulate a final package on housing insecurity issues to recommend to the Council for their consideration. To that end, the Committee Chair and Vice Chair have assembled a proposed package containing various elements of the items above aimed at mitigating concerns related to housing insecurity. The package is outlined below for further discussion and input by Committee members.

1. Increase notification for rent increases from 45-60 days.
2. Landlords and tenants must sign a document to be drafted by the City explaining tenancy-at-will.
3. Creation of a leaflet outlining tenant/landlord rights and responsibilities that must be distributed to all tenants.
4. Establish a tenant/landlord commission comprised of 6 members and co-chaired by one landlord and one tenant representative.
5. Incorporation of Maine Human Rights Act prohibition against income discrimination into City ordinance.

The Chair and Vice Chair also propose that the Committee take time to further study the potential implications and feasibility of instituting a Tenant Relocation Assistance Fund for households earning below 50% of Area Median Income (AMI) that are asked to relocate due to substantial rehabilitation or renovations to their unit. Outstanding questions that would need to be considered would include possible funding amounts/sources, definitions that trigger "substantial renovation", income thresholds, enforcement, and payment amounts.

The chart below represents a brief outline of Corporation Counsel's opinion as to the potential legal issues to be considered for any of the general proposed policy ideas described during recent public discussions. Please refer to Corporation Counsel's prior legal memos to the Housing Committee on each proposed ordinance provision mentioned in this chart for more specific information and legal research about each provision.

Most Likely Legal Under Maine Law (i.e. Maine law seems to specifically allow enactment of these possible ordinance requirements)*	**Maybe Legal Under Maine Law (i.e. these possible ordinance requirements have not been tested yet under Maine law)***	**Most Likely Not Legal Under Maine Law (i.e. the City Council does not have home rule authority to enact these possible ordinance requirements)***
Rent Control (i.e. similar to Westbrook's Ordinance for mobile home parks).	Extend Notice Provisions for Evictions and Rent Increases. (Please note that any violation of the proposed increased notice requirement would not impact an Forcible Entry and Detainer ("FED") action filed by a landlord, but would instead be enforced by the City through fines or some other penalty in a separate City-initiated court action).	Some of the Enforcement Provisions including the private right of action (since anything enacted would need to be enforced by the City itself), and anything that attempts to circumvent the Maine Human Rights Commission's required process for discrimination complaints.
Mediation Program (but may be redundant and unnecessary with other existing programs).	Requiring Acceptance of Housing Vouchers (including, but limited to, section 8 vouchers).	Entire Constructive Lease Section in the proposed ordinance.
Prohibit Discrimination based on source of income (but is redundant and unnecessary given the existing requirements in Maine law).	Tenant Relocation Payment Ordinance.	

PINE TREE LEGAL ASSISTANCE

The Rights of Tenants in Maine

Find more easy-to-read legal information at www.ptla.org

Contents Page

PTLA #639 (09/11; 10/15 updates)

How To Use This Guide

This guide gives you a quick look at Maine's landlord-tenant laws as of October 2015. The law is always changing. Also, you may need more information. If you have a problem with your landlord, ask for legal help. Call Pine Tree Legal or a lawyer you know.

If your rent is subsidized, read the "Subsidized Housing" section at page 26 first. **If you own your own mobile home and rent a lot**, go to "Mobile Home Parks" at page 26.

This handbook sometimes refers you to **Small Claims Court**. Call Pine Tree Legal or your local District Court for instructions.

Area Pine Tree Offices

Office	Telephone
Augusta	**622-4731**
Bangor	**942-8241**
Machias	**255-8656**
Lewiston	**784-1558**
Portland	**774-8211**
Presque Isle	**764-4349**

Multi-lingual language line: 774-8211
TTY: 711

Tips Before You Rent

- ✓ **Read the lease or rental agreement carefully before you sign or put money down.** Ask about anything you do not understand. Look for hidden charges or penalties. If you sign the lease, you may be stuck paying those charges.

- ✓ If something is important to you, get it in writing. Don't count on an oral promise.

- ✓ Make a list of major problems in the apartment. Include the condition of walls, floors, windows, and other areas. Try to get the landlord to sign your list. This will help protect you when it comes time to move out.

- ✓ If the building was built before 1978, beware of possible lead-based paint problems. Owners of these older buildings must tell you of any known lead-based hazards and show you any relevant records before you rent. Your landlord must give you a form notice explaining the dangers of lead-based paint. He must also give you a government pamphlet called "Protecting Your Family from Lead in Your Home." (See more at page 9.)

- ✓ Find out who pays for hot water, heat, electricity, parking, snow removal, and trash disposal.

- ✓ Find the utility controls. Ask questions. Where is the thermostat? Who controls it? Where is the electric box? Where is the hot water heater?

- ✓ You have the right to know the energy costs for the living unit before you rent. If you will be paying an energy bill (such as electric or heating oil), ask the energy supplier for billings on your unit for the past 12 months. The company must tell you. Or ask to see the landlord's "Energy Efficiency Disclosure Statement." (Contact the Maine Public Utilities Commission 1 (800) 452-4699 for more information about this law.)

- ✓ Be sure that all utilities and appliances are working right. Make sure the landlord agrees to fix appliances, furnace and all other building systems.

- ✓ Bedbugs are becoming a major issue in some parts of Maine. It is against the law for a landlord to rent a living unit with bedbugs. If you ask about when the building was last treated and declared free of bedbugs, the landlord must tell you. (Read more at page 10.)

- ✓ Your landlord must show you a written "smoking policy." This tells you where smoking is prohibited and identifies any smoker-friendly areas. Your landlord can include this in the lease or give you a separate notice to read and sign. You have the right to know this information before you pay a deposit or commit to a rental contract.

- ✓ If you share rent, remember that the landlord can charge you for all of the rent if your roommates don't pay their share.

- ✓ Try to talk with another tenant about the building and the landlord.

- ✓ Check about off-street parking, public transportation, and stores. Try to check the neighborhood at night.

- ✓ Check to see that all the windows and doors can be locked and are not broken. Are there window screens?

- ✓ Your landlord's insurance probably does not protect you from damage or loss of your furniture or other property. Consider buying tenant's insurance if you want this protection.

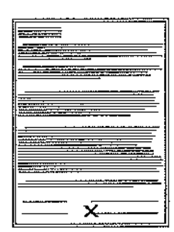
- ✓ Be careful about putting money down to "hold an apartment." If you decide later not to rent it, the landlord may refuse to return your money. You can sue him in Small Claims Court, but this will take time. Also, depending on how the judge interprets your agreement, you may not get all of your money back. For example, the court may decide that you put the money down as a security deposit. (See section on security deposits at page 4.)

- ✓ If a landlord suggests that you buy a surety bond, instead of paying a security deposit, be careful. A few basic rules about surety bonds:
    1. You cannot be forced to buy one. It is your choice.
    2. You will not get back the money you pay for the bond, even if you owe the landlord nothing when you move out.
    3. Although a surety bond can save you money in the short-run, it may cost you more in the long-run if you leave owing rent or damages. The surety company can choose to sue you for the money it pays to the landlord under the bond.
    4. Buying a bond will not save you from getting a bad mark on your credit report, if you leave owing the landlord money. Contact Pine Tree Legal for more information.

- ✓ **Get something to keep your records in. Keep in your file:**
    - ❑ your lease or rental agreement
    - ❑ security deposit receipt
    - ❑ dated list of things wrong with the apartment
    - ❑ rent receipts (or cancelled checks)
    - ❑ landlord's address and phone number
    - ❑ all other papers about your tenancy

Types of Rental Agreements

Leases



The agreement you make with your landlord affects what rights you will have. You may sign a written agreement called a lease. A lease lists the names of the landlord and tenant, the address of the apartment, the length of the lease, and the day the rent is due. Most leases contain much more than this. Read these "extra conditions" carefully and understand them before you sign. This handbook will give an idea of what to look for in a lease.

If you sign a lease, be aware that it sets out the rules you and your landlord agree to follow. For example, it will probably say whether the landlord can evict you before the lease ends, what reasons he must have, and what kind of notice he must give you. If the landlord is trying to evict you, a judge will look at what your lease says to decide the case. If something in a lease is grossly unfair to you, a judge **may** say that it can't be used against you. But **usually** your rights depend on what the lease says.

> **Note**: If you have a written agreement that does not have a "lease term" (a specific amount of time you will be renting), then you have a "rental agreement," not a lease. Our advice to you is the same. **Read the agreement and understand it before you sign!**

A new statute, effective September 2011, clarifies that either the landlord or the tenant can choose to end the lease if the other party has "materially breached" the lease. This requires a written 7-day notice, served in-hand, or, after 3 good faith efforts, mailed by first class mail, with a copy left at the other party's home. Read more about landlord's duty to seek a court order before evicting a tenant at page 14 "Evictions."

The Maine Attorney General's office posts a "model lease" form that landlords and tenants can use for reference: *maine.gov/ag/dynld/documents/clg16.pdf*

Tenancies at Will

When you rent without a lease, you become a "tenant at will." Maine law gives you certain rights we will tell you about here. For example, to evict you, your landlord must give you time after a written notice and must get a court order if you are still not out. Read more about this under "Evictions" at page 15.

Hotels, Motels, Inns, and Rooming Houses

Generally, if you are staying in a hotel or motel, you are not a tenant and do not have the rights of a tenant. A motel owner can evict you on short notice and without going to court.

If you live in a rooming house, are you a tenant? This is a gray area of the law. The owner may say that you are not a tenant because she has an "innkeeper's license" or runs a "lodging house." But there is more to it. If the owner acts like a motel owner by:

- providing clean sheets and towels
- cleaning your room
- signing guests in and out in a registry
- renting rooms by the day, rather than by the month

then you are probably not a tenant. But if the owner does **not** do these things, then he is probably a landlord, and you **do** have the rights of a tenant.

If you live in an inn or rooming house and you are not sure about your rights, call Pine Tree Legal (contact info. at page 2).

Security Deposits

What is a security deposit?

A security deposit is money you give to your landlord when you move in. Your landlord can use it to cover any unpaid rent or damages. You may not use your security deposit to cover your last month's rent unless your landlord agrees.

NOTE: A **surety bond** is very different from a security deposit. If your landlord suggests that you buy a surety bond, read our tips at page 3.

How much can my landlord charge for a security deposit?

Your landlord cannot charge more than two times your monthly rent. If you live in subsidized housing, your security deposit should be much less. Check with your housing authority.

Does my landlord have to return my security deposit to me?

If you owe back rent or you have damaged your apartment, your landlord may deduct those costs from your security deposit. If you owe your landlord more than the amount of your security deposit, he may sue you in court.

Does my landlord have to pay me interest when returning my security deposit?

No, not unless you both agreed to this. If you live in subsidized housing, check your lease or ask the housing authority. Your landlord **may** have to pay interest on your deposit. (See page 26 for mobile home park rules.)

Can my landlord keep my security deposit to pay for routine upkeep?

No, your landlord **cannot** keep your security deposit for "normal wear and tear." Examples of "normal wear and tear" could be:

- a worn carpet
- chipped paint
- worn finish on wood floor
- faded or dingy paint

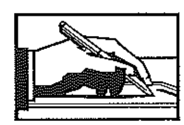
This means that your landlord cannot charge you for routine upkeep, such as periodic cleaning and painting.

The landlord can deduct the cost of fixing damages which are beyond "normal wear and tear." Examples of these damages could be:

- broken windows
- holes in the wall
- leaving trash or other items that have to be thrown away
- leaving your apartment so dirty that it's unhealthy or unsafe

If your apartment is damaged by a storm, a fire, or a vandal, tell your landlord right away. He cannot charge you for the repairs if you or your guests did not cause the damage. It is also a good idea to make a police report.

What kind of notice do I have to give if I am moving?



If you are a tenant at will (no written lease), you must give your landlord a 30 day written notice. The notice period should end on a rent day. You and your landlord can agree to a shorter notice period, if you agree in writing.

If you have a lease, read it to see what kind of notice you must give.

If you do not give the right notice, your landlord may try to charge you for time after you move. If you have a lease, she may try to charge you rent for the rest of the lease term. Again, this will depend on what the lease says.

Your landlord must try to re-rent your apartment as soon as she knows you have moved out. If she re-rents your apartment right away, she can only charge you for the time you were there and the time it took her to find a new tenant. For example, your rent is $500 a month and you moved out on the 10th day of the month without notice. Your landlord re-rents the apartment on the 15th of the month. You owe $250, or half a month's rent. Your landlord may also charge you reasonable expenses for re-renting the apartment if you did not give the right notice.

Note: If you are moving out because your landlord has "substantially breached" the lease, the rules are different. You must give the landlord a written 7-day notice, served in-hand, or, after 3 good faith efforts, mailed by first class mail, with a copy left at the landlord's home. The notice should explain your intention to leave based on the landlord's failure to uphold his duties under the lease. If you follow these rules, then the lease ends, and you have no more responsibilities under the lease.

When does my landlord have to return my security deposit?

Your landlord must either return all of your security deposit or send you a letter telling you why he is not giving some or all of it back. He must send this letter to your "last known address." Give your landlord your new address, or make sure your mail is being forwarded so that you will get the letter.

If you are a tenant at will (no written lease), your landlord must give back the deposit or send you the letter within **21 days** after you move out and return the key. **If you have a lease**, check to see what it says. If there is nothing in the lease about this, or if the lease gives more than 30 days, then your landlord has **30 days** to return the deposit. This is the legal limit.

What can I do if my landlord does not return my security deposit?

⇒**Step One**

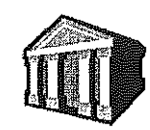
Contact your landlord and ask her to give back your deposit.

⇒**Step Two**

If the 21 or 30 days has gone by and you still don't have the deposit, send your landlord a letter asking for return of your deposit within 7 days. Write that if your deposit is not returned, you will bring legal action. Your landlord should return your full deposit. (We have a form letter you can use. Call Pine Tree Legal.)

⇒**Step Three**

Sue your landlord in Small Claims Court. Ask your District Court clerk for a pamphlet explaining the steps. In your written complaint, ask the Court to order your landlord to pay you **two times** the deposit amount plus your court costs. The judge will order this unless the landlord can show at the court hearing that she had good reason not to return the deposit to you.



Note: If your landlord lives in your building and there are 5 living units or fewer, then you can still sue to get your deposit back but you cannot get twice that amount.

If I take my landlord to court, can he/she sue me?

Keep in mind before you sue that if you owe your landlord money, he will probably bring these claims against you to counter your claim for return of the deposit. So, if you owe him more money than he owes you, suing in court is probably not a good idea. On the other hand, if he sues you, you can "counterclaim" for return of your deposit and for any other money he owes you.

Does my landlord have to keep my security deposit in any special account?

Yes. He has to keep security deposits in an account that is separate from his other accounts and safe from his creditors. This includes protecting your money from a lender who forecloses on the building and from a trustee in bankruptcy. If you ask, the landlord must tell you the name of the bank where the money is deposited and the account number.

What if my landlord doesn't follow these "separate account" rules for protecting my deposit?

You can take your landlord to court. If you win you can get:

- "actual damages" (your losses)
- $500, or
- one month's rent,

whichever is greatest, plus your court costs. Also, the court can order the landlord to pay your lawyer's fees.

This right to sue started on June 1, 2010 for all deposits paid after that date. For security deposits paid before that date, you can sue your landlord if he violates the rules after October 1, 2010. (This law gives landlords an extra four months to bring pre-existing accounts into compliance.)

What if my landlord sells my building?

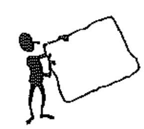
If your building is sold (or passes to a new owner for any reason), your landlord must give your security deposit to the new owner or give it back to you. If he gives it to the new owner, he must mail you a notice with that person's name and address and how much money was passed on to him. He can deduct charges for back rent or damages.

Remember, if you follow these tips you will have a better chance of getting your security deposit back.

- ☐ Get a payment receipt and keep it.
- ☐ When you move in, make a list of the defects. Keep the list and give a copy to your landlord.
- ☐ Clean your apartment and take away all of your things, including trash.
- ☐ Take pictures or write down what is right and what is wrong with the apartment when you leave. Have a witness look over the apartment just before you move out. (He can testify in case you have to go to court).
- ☐ If you don't get the deposit back right away, leave your new address with the landlord (so he can send you your deposit).
- ☐ Try not to owe any rent when you leave.

Rent

Should my landlord give me a receipt when I pay my rent?



If you pay any of your rent in cash, the landlord must give you a receipt at the same time. The receipt must include:

- the date
- the amount paid
- your name
- what the payment was for
- the landlord's signature

If you live in a building with 5 apartments or fewer and your landlord lives there, he does not have to give rent receipts. If your landlord won't give a receipt, try to pay with a check or money order and keep your own records.

Can my landlord charge interest on a late payment of rent?

Yes. If you do not pay your rent within 15 days after it is due, your landlord can charge a late fee. The fee cannot be more than 4% of one month's rent. For example, if your rent is $800 per month, the late charge cannot be more than $32. **To charge a late fee, your landlord must tell you about it in writing when you agree to rent from him.**

General Assistance

Does my landlord have to accept general assistance (GA) rent vouchers?

Yes. Your landlord cannot refuse your rent just because the town is paying some or all of it. (read more about General Assistance in Maine)

What if the landlord refuses to take GA vouchers?

First, find out why your landlord will not take GA vouchers. Maybe the problem is that the town only pays by the week but your landlord charges by the month. Ask the town to pay by the month or to agree with your landlord on a payment schedule. If the town will not help, call the General Assistance Unit at the Department of Health and Human Services in Augusta. Their toll free number is **1-800-442-6003**. If that does not help, call your local Pine Tree Legal office (listed on page 2).

Your landlord cannot refuse to take GA simply because he doesn't like city vouchers. You can file a discrimination complaint with the Maine Human Rights Commission in Augusta: **624-6050.** Pine Tree Legal can help you to file a complaint.

Rent Increases

Can my landlord increase my rent?

Yes, if you are a tenant at will (without a lease). Your landlord must give you a **45 day written notice** of any rent increase. If your landlord does not do this, you have two choices.

1. You can refuse to pay the increase, **or**
2. You can pay under protest and later sue your landlord for the amount you were overcharged. You can ask the court to order the landlord to pay for your court costs and lawyer's fees. Or you can sue in Small Claims Court without a lawyer.

If you choose not to pay the increase, your landlord may try to evict you. See "Evictions" at page 15.

If you have a lease, the landlord probably cannot increase the rent during the lease term. Read your lease to find out if it says something different.

If you live in subsidized housing, your rent is based on your income. So, your rent can be raised or lowered if your income changes. Also, there are special "earnings disregard" rules if you start working. Read your lease. Then contact Pine Tree Legal if you think you are paying too much.

Can my landlord increase my rent if there are serious problems with my apartment?

No. If there are serious problems, which are unsafe or could make you sick, the landlord must fix the problems before she can charge more rent. For example, your landlord cannot increase your rent if there is no heat in the winter. If you or your guests have caused the problems, then your landlord can still raise your rent. For more information about heating your apartment, see "How Much Heat and Other Utilities Does my

Landlord Have to Provide?"
http://ptla.org/how-much-heat-and-other-basic-utilities-does-my-landlord-have-provide

Unsafe or Unfit Housing

Does my landlord have to keep my home safe and in decent condition?

Yes. Maine law gives tenants an "implied warranty of habitability." This means that your landlord must promise that your home is safe and fit to live in.

Examples of landlord violations:

- undrinkable water
- no heat or too little heat in the winter
- a combination of problems, such as leaking ceilings, unsafe heating system, broken windows, and roaches

The heating system should be able to heat your living space to at least 68°. (For more details, ask for our pamphlet "How Much Heat?")

What can I do if my home is not safe?

⇒**Step One**
Ask your landlord to fix the problem. If he does nothing, you may want to follow up with a **written** demand. Keep a copy of your letter.

⇒**Step Two**

Call your city hall or town office and ask about any housing codes that may apply to your building. If your town has a building code enforcement officer, you can ask him to look at your home and send the landlord a letter demanding that he fix any code violations. State law also requires each town to have a health officer, who can inspect and require that unhealthy conditions be remedied (or the building vacated). Also, each town must have a local plumbing inspector to enforce state and local plumbing-related rules.

⇒**Step Three**
If you cannot get local help, you may be able to get some help, or other referrals, from these state agencies:

- Fire hazards:
  State Fire Marshall's Office
  Inspections Unit
  626-3880 TTY: 287-3659
- Electrical wiring problems:
  Senior Electrical Inspector
  624-8519 (leave a voicemail for inspector); for general inquiries, call
  624-8603 TTY: 1-888-557-6690
- Plumbing problems:
  Plumbing Inspector
  624-8639 TTY: 1-888-557-6690
- Wastewater, drinking water, and radon:
  DHHS Division of Environmental Health
  TTY: 1-800-606-0215
  Wastewater program: **287-5689**
  Drinking water: **287-2070**
  Mold, radon, indoor air quality: **287-5676**
- Mold:
  Office of Local Public Health: **287-6227**
  Health Inspection Program: **287-5671**

Also, the non-profit agency Maine Indoor Air Quality Council (**626-8115**) is a reliable resource and posts useful information here: www.maineindoorair.org

What if I think there is lead paint in my apartment?

You can be tested or have your children tested for lead. Ask your family doctor or clinic about lead tests. If your child's test shows a very high level of lead, the lab will tell the Childhood Lead Poisoning Prevention Program in Augusta (see below). They can inspect your home for free and order your landlord to remove the lead. This program gives other help and information as well.

If you want to check the paint or water in your home for lead, ask your landlord for help or call one of these state agencies:

- The Health and Environmental Testing Laboratory at **287-2727** (Water testing)
- Maine State Housing Authority **1-800-452-4668** (Paint testing; they can also test for lead in soil where your child plays.)

Some Community Action Programs (CAPs) can also help you with dust testing.

For more information contact:

➢ Childhood Lead Poisoning Prevention Program, DHHS: **1-866-292-3474**
➢ Lead Hazard Control Program, MSHA: **1-800-452-4668**
➢ **Lead Hazard Prevention Program, DEP: 1-800-452-1942**

If you have a young child who has been harmed by a landlord's failure to tell you about known lead hazards, or failure to give you other required warnings (see page 2), he may be fined or ordered to pay you damages. Get legal advice.

For all places built before 1978, a landlord must give you 30 days advance notice before doing any repairs or renovations that disturb lead-based paint. This notice includes postings on all exterior entry doors and a certified mail letter to all residential units in the building. Or the landlord can post the notices and get a signed written waiver from an adult in each unit. The waiver must contain specific warnings. Your landlord can be fined up to $500 for each violation of these notice rules. If you believe that you or your children have suffered harm because your landlord failed to notify you, you can report the violation to your local District Attorney or the Maine Attorney General's Consumer Protection Division: **1-800-436-2131.**

The purpose of this law is to make sure that you have the chance to protect yourself and your children from lead dust while the work is being done. Also, your landlord must use lead-safe practices so as to minimize the danger. Read more in our pamphlet: "What You and Your Family Should Know about Lead."

Bedbugs: What can I do to avoid them and get rid of them?

Bed bugs have become much more common in Maine. They are difficult to get rid of. As with other health and safety issues, the first step is to contact your landlord and ask him to have the building professionally treated. You and others in the building will also have to take steps to help combat the problem.

Before you rent:

It is illegal for a landlord to rent an apartment that he knows (or suspects) to have bedbugs. He must also tell you whether other nearby apartments in the building have bedbug problems.

Before you rent ask when the apartment and nearby units:

➢ were last inspected for bedbugs, and
➢ found to be free of bedbugs.

The landlord must give you an honest answer.

What happens if my apartment is infected with bedbugs after I move in?

First, you must tell your landlord right away. To create a record, it is probably a good idea to do this in writing. (Get a sample letter here.) After that, both you and your landlord must make efforts to fix the problem. Here is how it works:

- After you notify your landlord, he must inspect your apartment within 5 days.
- Next, your landlord must contact a state certified pest control expert within 10 days of inspecting and finding bedbugs.
- Then your landlord must take all reasonable steps to treat the problem, based on the expert's advice.
- Your landlord and the pest control expert will probably need access to your bed, furniture and other belongings. They must be respectful of your privacy but at the same time do whatever inspections are needed to take care of the problem. You need to cooperate to get rid of the bedbugs. Your landlord must tell you the costs of your participation in the process.

NOTE: Your landlord should always give you 24-hour advance notice before entering your apartment or sending pest control experts, unless it's an emergency. See "Landlord Entering Your Home" at page 25.

What if I can't afford to "cooperate?"

To help get rid of the bedbugs, you may be asked to move furniture, launder clothing and linens, or take other steps to assist in the process. If you cannot afford to do these things or are not able to do them, your landlord can go ahead with the necessary steps and charge you for any costs specific to you (such as moving your furniture or laundering your linens). If your landlord fronts these costs for you, after first telling you how much they will be, he can ask that you repay those costs over a 6-month period (or longer, by agreement).

What should I do if my landlord doesn't do anything to get rid of the bedbugs?

You can take your landlord to court. You can get at least $250 or your "actual damages" (whatever you lost). You must show that:

- you did not cause the problem;
- you gave your landlord oral or written notice of the problem when you learned about it;
- the landlord didn't take prompt steps to get rid of the bedbugs; and
- you did not owe the landlord any back rent when you gave the notice.

Note: If your landlord tries to evict you within six months of your complaint, the law may protect you. See "Retaliation Defenses" at page 17.

TIPS

- ✓ Make sure you have correctly identified the bug. You can send samples to the University of Maine Cooperative Extension's Insect Lab.
- ✓ Avoid picking up beds, mattresses and other old furniture off the street or from the dump.
- ✓ When moving to a new place from one with bed bugs, make sure that you are not bringing the bugs, or their eggs, with you in your belongings. (See article links below)

Here is a helpful resource on bed bugs, how to identify them, and how to get rid of them:

"Bed Bugs: University of Kentucky Entomology"
http://www2.ca.uky.edu/entomology/entfacts/ef636.asp

Some Maine landlords have been using high-heat treatment as a remedy. (Landlords and homeowners should consult with a qualified, experienced expert.)

What can I do about mold?

If you think you have mold, ask your landlord to find and fix the water problem that is allowing mold to grow, then to fix any water damage. If this doesn't work, follow the steps at page 9. Approach your landlord again with findings from your local health officer and your doctor, if you can get them.

The state's Health and Environmental Testing Laboratory is no longer doing mold testing. Some private labs will do testing, but it is expensive.

For More Information Contact:

- Office of Local Public Health **287-6227**
- The non-profit agency Maine Indoor Air Quality Council **(626-8115)** is a reliable resource and posts useful information here: www.maineindoorair.org
- The federal EPA posts "A Brief Guide to Mold, Moisture and Your Home" here: www.epa.gov/iaq/molds/moldguide.html

Does my landlord have to provide smoke and carbon monoxide alarms?

Yes. All apartments must have working smoke and carbon monoxide alarms in or near bedrooms. Any carbon monoxide alarm in an apartment that needs to be replaced after January 1, 2016 must be replaced with an alarm that runs on electricity with a battery backup or on a single-use battery that will last for 10 years. In apartment buildings with more than three stories, all hallways must have smoke alarms. All new smoke alarms put in after October 2009 must plug into the wall and have a battery backup.

Single-family homes built or renovated after 1981 must also have smoke alarms. Any renovation that adds a bedroom must include a carbon monoxide alarm. If that renovation is done after January 1st, 2016 (or if an alarm required by this law needs to be replaced after January 1, 2016), the new carbon monoxide alarm must run on electricity with a battery backup. All new smoke alarms put in after October 2009 must also plug into the wall and have a battery backup.

If you are deaf or hard-of-hearing, you may request a non-audible alarm. If your landlord refuses, you may put one in yourself and deduct the actual cost from your rent. (See "Can I fix the problem myself?" at page 13.)

Any smoke detectors located within 20 feet of kitchen or a bathroom containing a tub or shower must be photoelectric-type smoke detector.

Landlords may be fined up to $500 for each violation of these rules.

Tenants should:

- Test alarms periodically
- Make sure the batteries are working
- Not disable alarms, and
- Notify the landlord in writing when an alarm is not functioning properly.

How do I know if my building has dangerous radon levels?

Radon is a gas you can't see or smell that can be harmful to your health. According to Maine DHHS radon is the second leading cause of lung cancer. By March I, 2014, your landlord must test for radon in your building.. He must do this every 10 years at the request of a tenant, unless there is a working radon mitigation system Whoever tests your building must be registered with the state's Division of Environmental Health at DHHS. (There are some exceptions for landlord-or tenant-conducted testing.) Your landlord must notify you in writing about the results of the most recent radon test when you enter into a rental agreement. If asked, the landlord must tell a prospective tenant about the radon levels in the building. To help landlords comply, DHHS has issued a standard disclosure form: www.ptla.org/sites/default/files/Maine-radon-disclosure-info-renters.pdf

The landlord is not required to fix radon problems. A landlord who chooses to fix the problem must use a licensed radon mitigation person. If radon levels are over 4.0 picocuries per liter of air, a tenant may vacate the premises by giving a 30-day notice to the landlord.

Violation of these requirements can result in a $250 fine per violation. Failure to supply the required notice also means that the landlord has violated Maine's "implied warranty of fitness for human habitation." Landlords must also report results to Maine DHHS.
For more information contact:

DHHS Division of Environmental Health
287-5676 TTY: 1-800-606-0215

Can I fix the problem myself?

Sometimes if a repair is not too major, you can "repair and deduct." You can fix the problem and deduct the cost of the repair from your next month's rent. Here are the rules:

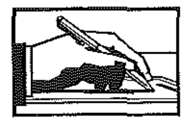
1. Your problem must be one that makes your home unhealthy or unsafe. Examples:

- no heat or not enough heat in the winter
- unsafe drinking water
- falling ceiling
- unsafe wiring

2. You must be able to fix the problem for less than $500, or half of your monthly rent, whichever is greater. For example:

- If your rent is $800 per month, you can spend up to $500 to do the repair.
- If your rent is $1200, you can spend up to $600.
- This amount is increased to two times your monthly rent if your building is in foreclosure.

3. You, your family, or your guests did not cause the problem.



4. Before you fix the problem, you must write a letter to your landlord. Send the letter by certified mail, return receipt requested. In the letter, ask your landlord to fix the dangerous condition within 14 days, **or sooner if it is an emergency**. Tell him that if he does not do the repair, you will have it fixed and deduct the cost from your rent. (We have a form letter you can use. Call Pine Tree Legal if you want a copy.) If your landlord offers to fix the problem, then you must let him into your home to do the repair. See "Landlord Entering Your Home" at page 25.

5. If you have the work done, both the work and the materials must be of good quality. If your problem is with the heating, plumbing, or electricity, you must get a licensed worker to do the repairs.

6. After the work is done, send the landlord a copy of the bill. Keep the original bill. Then you can deduct the cost from your rent payment.

Here are a few more "repair and deduct" limitations:

- You cannot use "repair and deduct" if your landlord lives in your building **and** there are fewer than 5 apartments.

- If you do the repairs yourself, you can deduct for parts and materials but not for your labor.
- Members of your immediate family cannot charge for labor either.

- You cannot hold your landlord responsible if anyone gets hurt doing the repairs.

What if the repairs cost more than $500.00 or half my monthly rent (or 2x monthly rent if building is in foreclosure)?

You and your neighbors may be able to use "repair and deduct" together to fix a bigger problem. For example, your building might have a bad roof or furnace that costs a lot to fix. If you had 8 tenants who each pay $800 per month, you could pay for a repair costing as much as $4000 (8 x $500).

Caution: We do not know of anyone who has tried this before in Maine. If you want to try a group "repair and deduct," try to talk with a lawyer first.

My landlord just stopped paying his utility bills. What can I do?

Your agreement was that the landlord would pay for utilities- such as lights, electric heat, fuel or water. Then he stopped paying. You can legally put the account in your name, pay the bill, and then deduct the cost from your rent.

If this doesn't work to make you even, you can sue the landlord for "actual damages" (your losses). The court can also order the landlord to pay the court costs and lawyer's fees.

Can I just refuse to pay my rent if my landlord won't fix things?

No. You will risk eviction and can still be charged for the rent while you are living there. Talk to a lawyer before you decide to stop paying rent.

Exception to the rule: If your apartment burns down or is so damaged that you can no longer live there (and it's not your fault), you do not have to pay rent from the day you are forced out.

I have tried all of the things you have suggested but my home still is not safe. What about suing my landlord in court?

Warning your landlord of court action may be enough to get him to fix the problem. If not, you may either want to move or to sue.

To win a lawsuit, you must meet these tests:

- ❑ Your problem must be serious--something that makes your home unsafe or unhealthy.
- ❑ You, your family or guests did not cause the problem.
- ❑ You must tell your landlord about the problem **in writing** within a reasonable time, and give her a reasonable time to get it fixed. (Telling the building manager or someone else who collects rent for the landlord may be good enough. But the best way to prove that your landlord knew about the problem is by giving her written notice and keeping a copy.) Get a sample form here.
- ❑ You should be fully up-to-date in your rent payments at the time you give the landlord written notice.

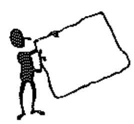
If your landlord does not fix the problem within a reasonable time after you give the written notice, talk to a lawyer about going to court or file a complaint in Small Claims Court yourself. (If you need quick action, going to Small Claims Court may take too long.)

At a court hearing the judge will decide whether your landlord has given you a safe and healthy place to live. The judge may order any of these remedies:

- that your landlord fix the apartment
- that your rent be less until the landlord does the repairs
- that your landlord pay you back some of the rent you have paid

Can my landlord make me agree to live in a home that is unsafe or unfit?

No. A landlord cannot force you to accept unsafe or unfit housing. You can agree **voluntarily** to live with certain unsafe or unfit conditions. The agreement does not stand unless:

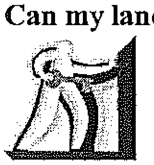


- ☐ it is in writing
- ☐ it says exactly what unsafe conditions you have agreed to live with
- ☐ it says exactly how much the rent was lowered because of the unsafe conditions

Learn more from our pamphlet: "How Much Heat and Other Basic Utilities Does My Landlord Have to Provide?"

Evictions

Can my landlord turn off my utilities or change the locks on my door or otherwise kick me out without first going to court?



No. It is illegal for your landlord to throw you out by force. Your landlord must get a court order before he evicts you. If your landlord tries get around this by changing the locks, taking your property, or shutting off any of your utilities, he has broken the law. If you take him to court and ask for immediate help, the court may stop the landlord and order him to pay you for your losses or $250.00, whichever is greater, plus your court costs. If you have a lawyer and you win the case, the court can also order your landlord to pay your attorney fees.

NOTE: The electric company must determine if tenants are living in a place before cutting off service at the owner's request. If you agree to put the service in your name, the electric company cannot cut you off.

Does my landlord have to have a reason to evict me?

This depends on whether you are a tenant at will or have a written lease.

If you have a written lease, your landlord probably has to have a reason to evict you. This is also the rule if you live in **subsidized housing** or own your own home in a **mobile home park.**

If you are a tenant at will (no lease), your landlord can evict you without giving a reason. However, he must give you 7 or 30 days notice in writing. There are some exceptions to this, explained below.

Does my landlord have to warn me before I can be evicted?

Yes. The type of notice he must give depends on what type of tenancy you have.

➢ If you have a written lease:

- Your landlord can evict you for a "material breach" of the lease. This means that you have violated one of your major duties under the lease, such as payment of rent, not disturbing other tenants in the building, not causing major damage, or some other "material" lease clause. **Know what your lease says so that you will know exactly what you have agreed to.** (Note: You have a similar right if your landlord "materially breaches" the lease. (Read more at page 3-4 under "Leases.")

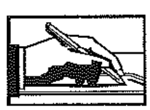
- If you have "materially breached" the lease, your landlord can serve you with a 7-day notice to quit. The notice must advise you of your right to contest the eviction in court. Read more about 7-day notice rules below.

- **End of lease term.** If your lease does not say that it automatically renews when the lease term ends, your landlord can go to court without giving you any notice. But he can do this only during the seven days following the end of your lease term. For example, you have a one year lease that ends on February 28. Your landlord may file a court complaint between March 1 and March 7, asking for an eviction order without giving you a notice first. (**If your rent is subsidized**, your lease probably renews automatically, so this paragraph does **not** apply to you.)

➢ If you are a tenant at will (no lease):

Your landlord must give you either a 30-day or 7-day written notice to leave, or he can combine both of these into one notice. Any notice must advise you of your right to contest the eviction in court. This is called a "Notice to Quit."

<u>30-day written notice</u>

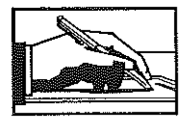


Your landlord can evict you with 30 days notice for almost any reason or no reason.

<u>**Exceptions:**</u> You may be able to stop the eviction if your landlord is evicting you because of "retaliation" or "illegal discrimination." Read "Retaliation defense" and "Discrimination defense" at page 18.

The notice must not terminate the tenancy until the last date for which rent has been paid, or later. For example, if your rent is paid through the end of June, your notice period cannot end before June 30th. Also, the notice must give you a full 30 days. (Example: A notice ending the tenancy on June 30 must be given to you no later than May 31.) If the notice does not follow these rules, you may be able to stop or delay the eviction. Get legal advice.

<u>7-day written notice</u>



To evict you with a 7-day notice, your landlord must have a reason and state that reason in writing. The reason must be one of these:

✓ You have **seriously** damaged the apartment and have not repaired the damage.

✓ You have been a "nuisance" to other tenants or neighbors. (Examples: You pick fights with your neighbors, don't let them sleep, or destroy their property.)

✓ You have made the apartment unlivable or unfit to live in.

✓ You have changed your door locks and have refused to give your landlord a duplicate key (see page 25).

✓ You are 7 days or more behind in rent.

If the reason is that you have not paid your rent, the notice **must include** these two sentences:

> **"If you pay the amount of rent due as of the date of this notice before this notice expires, then this notice as it applies to rent arrearage is void."**
>
> **"After this notice expires, if you pay all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually paid by the landlord before the writ of**

possession issues at the completion of the eviction process, then your tenancy will be reinstated."

This means that you can stop the eviction by paying the rent you owe. After 7 days, if you do not pay up what you owe before your next rent date, you have to pay both months' rent to stop the eviction. You can still stop the eviction by paying all rent owed even after the landlord takes you to court to get an eviction order. But to stop the eviction then, you have to pay all of the rent due **and** the landlord's court costs. These costs are:

- cost of serving the court papers
- court filing fee

Your last chance to stop the eviction is just before the court issues the "writ of possession." Your landlord can get this "writ" **7 days** after he gets the Court order.

Does the landlord, or his agent, have to give me the "Notice to Quit" in person?

Yes. In a tenancy at will, the landlord, or his agent, must deliver the 7-day or 30-day notice to the tenant in person. The notice does not have to be served by a sheriff.

> **Exception:** The landlord, or his agent, must make 3 good faith efforts to hand deliver you the notice. If he still cannot find you after 3 tries, he can mail you the notice and leave a copy at your home.

What if I rent my home from my employer?

If your landlord is also your employer, he may be able to go to court to evict you without first giving you a written notice to quit. Get legal advice. Your landlord must still go to court to evict you.

What if I do not move out after I get an eviction notice?

Your landlord must go to court to evict you! If you do not move out by the end of the notice period, then your landlord can have you served with court papers. The court case is called a "Forcible Entry and Detainer." (This does **not** mean that the landlord can enter your home by force or detain you.) The papers say that he is trying to evict you. They ask the court to hold a hearing, to decide if you can be evicted. If you want to fight the eviction, you have a right to be heard in court. A landlord **cannot** legally evict you without a court order.

Here is what will happen:

⇒ A deputy sheriff will give you court papers: a summons and a complaint. The landlord can have these papers served on you any time after the end of the notice period. The summons will tell you the date, time and place of the court hearing. You must get the papers at least 7 days before the court hearing. The officer must make a good faith effort to deliver the papers in hand at least 3 times on 3 different days. If that doesn't work, then the landlord may mail you the notice and leave a copy at your residence where you are likely to find it (such as posting on your door). Then the landlord must file an affidavit with the court swearing to the steps he has taken to notify you.

⇒ **Seek legal advice immediately.** (If you cannot get a lawyer, we have more information about facing an eviction on your own at: http://ptla.org/what-can-i-do-if-my-landlord-trying-evict-me.)

⇒ If you end up going to the hearing without a lawyer, ask for a **recorded hearing**. Send a letter to the court ahead of time. Your request should be at least

24 hours in advance. Then ask for a recording again when you get to court.

⇒ **Be on time for your hearing.**

⇒ The judge may tell you that you must go to "mediation" before having a court hearing. (Read more about this and other court procedures in our pamphlet on Evictions.) If you do not come to an agreement during mediation, then you will go on to a formal court hearing.

⇒ At the court hearing the landlord will tell the judge what notice he gave you and why he wants to evict you. Then you have a chance to explain why you should not be evicted. Here are some common defenses:

- **Improper notice defense**

Your landlord must follow all of the notice rules. (Most of the notice rules are explained above.) If you think that your notice to quit did not meet all of the rules, explain that to the judge. If the judge finds that your landlord did not follow all of the notice rules, then the landlord loses and he will have to start the eviction process all over again.

- **Unsafe or unfit housing defense**

If your landlord is trying to evict you because you are behind in paying rent, you may be able to stop the eviction if you didn't pay because of serious problems with your home that your landlord refused to fix. This is called a "warranty of habitability defense" because the landlord has broken his promise to rent you a safe home. (See "Unsafe or Unfit Housing" section at page 9.)

If the judge finds that the landlord has not fixed serious problems that you told him about, then you can ask the court:

✓ To let you out of your lease, **OR**

✓ To let you stay and to pay a lower rent until the landlord makes your home safe. If you stay, the judge will also decide how much back rent you must pay, at the lower rate.

- **Retaliation defense**

There are laws to protect you if your landlord tries to evict you because you asserted your rights. For example, if you can show that the landlord is trying to evict you because you:

➢ Complained to the city of code violations
➢ Asked your landlord in writing to do necessary repairs
➢ Filed a fair housing (discrimination) complaint with the government,
➢ Are the victim of domestic violence, sexual assault, stalking, or
➢ Started or joined a tenants' union

The judge should not let the landlord evict you.

Warning: If the landlord convinces the judge that he is trying to evict you for some other good reason (like causing a "nuisance"), then you may still be evicted. Also, the law does not allow this defense where the eviction is based on failure to pay rent or causing substantial damage to the premises unless you had tried to use "repair and deduct" because of bad living conditions. (See "Can I fix the problem myself?" at page 13.) Effective October 2015, different rules apply to protect victims of domestic violence, sexual assault or stalking. (Read more at page 22.)

You also have the right **not** to pay an unlawful rent increase and **not** to pay for common utilities. (See sections on "Rent" at page 7 and "Heat and Utility Charges for Common Areas" at page 24.) If your landlord is trying to evict you for one of these reasons, explain that to the judge. These defenses **might** stop the eviction.

- **Discrimination defense**

You should not be evicted because of your:

- race
- color
- sex
- sexual orientation
- physical or mental impairment
- religion
- ancestry or national origin
- getting welfare, or
- being a single parent, being pregnant or having children

Read more about "Discrimination" at page 22.

> **Note:** If you or someone in your family has a physical or mental impairment, most landlords must allow for "reasonable accommodations" to help you stay in your home. You can ask for this help even after you get an eviction notice. A court should not allow your landlord to evict you if your landlord has not tried a "reasonable accommodation." Try to get a lawyer to help you with this defense.

Caution: Your landlord may have more than one reason for trying to evict you. Even if you have a good defense to one of his complaints, the judge may still allow the eviction if the landlord has another good reason why he wants you to move out.

Will the court give me extra time to move?

Most judges do not believe that the law gives them the power to grant extra time where you have no legal defense. You may try to negotiate with the landlord or his lawyer for some extra time. Or, if you have the option to talk to a court mediator, you can try to get an agreement for extra time through mediation. But, unless you have an agreement, the court will probably not delay the eviction.

Can I be evicted during the winter or if I have children?

Yes. Maine law allows your landlord to evict you at any time during the year and even if you have children. However, you cannot be evicted **because** you have children. See "Discrimination" section at page 22.

NOTE: If you are evicted, your children still have the right to be in school. For more information, ask for our pamphlet: "Rights of Homeless Students to Attend School."

What happens if I do not go to the eviction hearing in court?

If you do not go to the court hearing and your landlord does, you will lose. The judge will most likely enter a "default judgment" against you. Then the landlord can go back to court 7 days later and get a "writ of possession."

If you owe the landlord money for rent or damages, he cannot get a court order for this at the eviction hearing. He can only ask for an eviction order. He can sue you later, if he wants to, for any money you owe him.

What happens if I go to court and lose?

If the court rules against you and you do not appeal, then your landlord can get a "writ of possession" from the court 7 days later.

What is a "writ of possession?"

This paper comes from the Court and gives the landlord the right to get his property back from you. Your landlord can ask a law enforcement officer to give you a copy of the "writ." You must move out of your apartment within 48 hours after getting the "writ." If you do not move out, you will become a trespasser. The landlord then, and only then, has the right to have the police remove you by force (and to put your things in storage at your expense).

Can I appeal my case?

Yes. You can appeal your case if you believe that the court's decision was wrong.

There is an appeal deadline. Any appeal must be filed before the "writ" issues (see above). To be safe, file the appeal with the District Court within **6 days** of the day the judge signed the order against you. (The absolute deadline is 30 days from judgment, if a "writ" was not issued earlier.)

On appeal you can have a new trial with a jury. To get a jury trial, you must prove to the Court that you and your landlord disagree about the **facts** of the case. If you only disagree about what the **law** means, the appeals court will only review the record of your first hearing to see if the judge made any legal mistakes in deciding the case.

Be prepared to pay rent to the landlord or into a court escrow account while your appeal is pending.

If you want to appeal, especially if you are going to ask for a jury trial, try to get a lawyer. This would be hard to do on your own. The court provides an appeal form, but completing and filing the form is only the first step of pursuing an appeal. The appeal form, CV-206, is posted here:
www.courts.maine.gov/fees_forms/forms/index.shtml#cv

Abandoned Property

What happens if I move and do not take all my property with me?

If you move out without taking your property with you, you could lose it. So take all your things with you when you leave if you can. Don't leave things behind to pick up later. If this is not possible, Maine law does offer some protections.

The law says your landlord must store your property in a safe, dry, secured place. Then she must mail a notice to your "last known address," saying she plans to get rid of your things and listing the items. (Leave a forwarding address if you want to get the notice.) You must claim your property within **7 days** after the notice was sent. If you do this, your landlord must store the property for at least **14 days from the date notice was sent**, giving you time to get your things. Pick up your things within the 14 days. If you do this, **your landlord cannot make you pay any rent owed, damages, or costs of storage as a condition for giving back your property.**

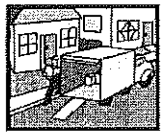
If you don't claim the property within 7 days, or don't pick it up within 14 days, your landlord may:

- sell the property for fair market value,
- get rid of anything he thinks has no fair market value, or
- return your property to you only if you pay for rent owed, damages, and costs of storage

If he sells your property, he must send any money left over to the State Treasurer in Augusta, after deducting what you owe him for rent, damages, and storage costs.

NOTE: Effective September 2011, there are new rules for mobile home park owners who claim that a tenant has abandoned a mobile home. Go to Mobile Home section to read more (page 26).

What if I can't get my things because I am hospitalized due to my disability?



Write to your landlord and ask him to make a "reasonable accommodation" for you, giving you more time or a chance to get someone to help you move your things.

Note: If you're not moving out voluntarily, your landlord must follow eviction rules to get you out.

> **Remember:** The best way to protect your property is to take it with you when you leave. Even though the law says that your landlord must protect your property, things can go wrong.
>
> - Sometimes it is hard to get back what you have lost or to prove what it is worth.
> - If your landlord does not have your current mailing address, you won't get his notice. Then you could easily miss the 7 day deadline for claiming your things.
> - If you fail to act within the deadline, your landlord can deduct for money you owe, which will be more as time goes on if there are storage fees.
> - If your landlord damages your property, it will be difficult to recover that loss.
> - Your landlord might ignore the law and get rid of your things illegally.

Sale or Foreclosure of Your Building

What happens if my landlord sells my building?

The sale of your building may affect your rights.

If you do not have a written lease, your old tenancy will end. The new owner must let you stay for at least as long as you have paid for. You and your new landlord can make a new agreement. If your new landlord accepts rent from you, then you have a new tenancy.

If you have a lease, you probably have the right to stay until the end of your lease term. Read your lease to see if it says anything different. If your lease term is for more than 2 years, you should record your lease in your county Registry of Deeds **before** the sale, to help protect your lease rights. This rule also applies if you have a long-term lease with no specific ending date.

Does the new landlord have to give me a notice to quit before evicting me?

Yes. Even if you are a tenant at will (no lease), your new landlord must give you a 30-day or a 7-day written notice, unless your old landlord already gave you the notice. (See "Eviction" section at page 15.)

What if my building is in foreclosure?

From May 2009 through December 2014, a federal law gave additional protections to renters living in foreclosed buildings. But that law has ended. Maine law does offer tenants in foreclosed buildings some notice protections. If the bank - or lender - takes the building back from your landlord, it must notify you in writing about the change in ownership. But this notice is not required until the lender has gotten a final court judgment in the foreclosure case.

A typical foreclosure - from initial notice to final court judgment - can take several months, sometimes years. Your landlord is still responsible for the building and its tenants during the foreclosure process. He can also bring an eviction action, following all of the normal eviction rules. This means that your original landlord can bring an eviction until such time as the court grants a change in ownership through the foreclosure action. At that point in time, the bank assumes responsibilities for the building and its tenants - along with the power to evict. The bank is required to give tenants written notice of the court's foreclosure order. The notice can be mailed, served by sheriff, or posted at each entrance to the building. The bank can bring an eviction action in court 21 days (or more) after giving that notice. Typically, the bank then sells the building to a new owner, who would then become your landlord if you are still living in the building. Again, this new owner either:

- assumes your lease, if you have one,
- decides to keep you on as a tenant, with a new agreement (where no ongoing lease), or
- decides to evict you.

If the new landlord chooses the third option, again, he must follow all of the normal eviction rules.

Discrimination

Landlords may not discriminate against you because of your:

- race
- color
- sex
- sexual orientation
- physical or mental impairment
- religion
- ancestry or national origin
- getting welfare
- being a single parent, being pregnant or having children

This means that a landlord cannot refuse to rent to you, charge you extra, or evict you for any of these reasons.

Note: The state law barring discrimination based on sexual orientation went into effect on December 28, 2005. This law also protects trans-gendered people. And it prohibits discrimination based on another person's belief that you are gay or trans-gendered, even if you are not.

If you think your landlord has illegally discriminated against you, contact Pine Tree Legal or one of these offices:

Maine Human Rights Commission
51 State House Station
Augusta, Maine 04333-0051
phone: **624-6290** TTY: **1-888-577-6690**

U.S. Fair Housing Office (HUD)
10 Causeway Street, Room 321
Boston, MA 02222-1092
phone: **1-617-994-8300**
toll-free: **1-800-827-5005**
TTY: **1-617-565-5453**

Pine Tree Legal has more information about how a landlord must treat you fairly if you have a mental or physical impairment. You can get that information from our offices, or visit our "Fair Housing for People with Disabilities" page: www.ptla.org/fair-housing-faq-housing-protection-people-disabilities

Victims of Domestic Violence, Sexual Assault and Stalking

Beginning October 15, 2015, a Maine tenant who is the victim of domestic violence, sexual assault, or stalking has new legal protections. Generally, this law is intended to lessen the impact on victims who are tenants by giving them more options around their living situations. More details below.

How do I let my landlord know that I am in an abusive situation?

A key part of this new law is communication with your landlord. Your landlord must protect your rights, but only after he knows they exist. You must also "verify" the situation by naming the abuser and giving your landlord some "proof." This "proof" can include things like a:

- statement signed by a sexual assault counselor or a victim witness advocate
- statement signed by a health care provider or law enforcement officer
- copy of a Protection from Abuse complaint or order
- copy of a Protection from Harassment complaint or order
- copy of a relevant police report, or
- copy of a criminal complaint, indictment or conviction

Once you have notified your landlord of your situation, the following rights come into play.

Won't I be in worse trouble with my landlord if I tell him?

Under the more general Maine landlord/tenant laws, an eviction can be based on: 1) nuisance, 2) damage to property, or 3) disturbance (to other tenants or neighbors). This new law says that your landlord cannot evict you for one of these reasons if the problem was caused by an abuser, and you are the victim of that abuse. Again, your landlord needs to know the facts of your situation so that he will know that this legal protection applies.

But what if my landlord tries to evict me because I told him about my situation?

The law says that your landlord cannot do this. This is called "illegal retaliation." So, once you notify your landlord of the abuse, the law assumes that, for the next 6 months, any attempted eviction is in retaliation. The court would not give your landlord an eviction order unless he proves that the eviction is for a different reason (like non-payment of rent). Read more about the Maine eviction process at page 15.

Can I be charged by my landlord if the abuser damages the property?

The answer depends on whether the abuser lives with you.

The abuser is also a tenant in your unit. Your landlord can charge you for any damage by taking it out of your joint security deposit. But he cannot charge you more than that amount. Again, notification to your landlord is the key. To invoke this protection, you must give your landlord notice and "proof" (see above, page 22-23) within 30 days of the relevant incident.

The abuser does not live in the unit. If you did not invite the abuser in or allow him to be there, you cannot be held responsible. Filing a police report can help to verify your lack of responsibility in this situation.

What if I need to move because of the abuse? Can I end my tenancy?

Yes. Again, you need to "document" the abuse. See above, page 22-23.

You are a "tenant at will" (no lease) or you have a lease for less than a year: You must give your landlord a written notice of your intent to move at least 7 days before you intend to move out.

You have a lease term for a year or more: You must give your landlord a written notice of your intent to move at least 30 days before you intend to move out.

After the 7 days, or 30 days, ends, you are no longer responsible for paying rent. (By giving the notice, you have ended your tenancy, so you must move.) If you have prepaid rent for the month, your landlord does **not** have to give you a refund.

Can I stay if the abuser is evicted?

Yes. In this situation, your landlord can evict the abuser, if he chooses to do that. Read about eviction procedures the landlord must use to evict the abuser at page 15. But your landlord cannot evict you – unless he has another allowable reason (such as non-payment of rent).

Going forward, you will still be responsible for paying the rent. If you get a rent subsidy (such as a Section 8 voucher) and your household income is now lower, you need to ask the Housing Authority for a recalculation of your rent based on the new household income.

Does the abuser have to pay me back for damages?

You can sue the abuser for the damages the abuser caused. You can also get court costs and attorney's fees against the abuser. This "attorney fee" part of the law is significant. This may make it easier for you to find a lawyer to help you to sue the abuser.

What if I need to change the locks to keep the abuser out?

The general rule in Maine is that a tenant who changes the locks to his rental unit must notify his landlord. And he must give the landlord a duplicate key within 48 hours. But in this case, you have 72 hours to provide your landlord with a duplicate key. You must pay for the work.

Heat and Utility Charges for Common Areas

Can the landlord make me pay for heat and utilities outside of my apartment?

If you live in an apartment building, you may find out that you are paying for heat, lights, or other utilities for "common areas," This includes, for example, hallways, basements, or a common hot water heater or furnace. It is illegal for your landlord to make you pay those costs alone. For example, the hall lights should not be hooked up to your meter.

If you find out that you are paying for heat or utilities going to "common areas" or to someone else's apartment, take these steps.

⇒ First talk to your landlord. Ask her to put in a separate meter or to lower your rent to make up for the extra money you are paying.

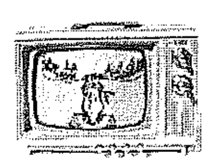
⇒ If you agree to lower your rent, do it in writing. Write down exactly how much less rent you will pay in exchange for paying for the extra heat or utility costs.

⇒ If you have been paying these extra charges for some time, ask your landlord to pay you back. If you cannot figure out how much you should be paid, check with your heating or utility company or city electrician to find out if they will help you.

⇒ If your landlord refuses to pay what is fair, you can sue. If you win, you can get $250.00 or your "actual damages" (how much you lost), whichever is more. The landlord will have to pay your court costs and lawyer's fees. Or you can file your claim in Small Claims Court on your own.

Caution: If you are not ready to move, think about whether you want to sue now or later. Read the section on "Evictions" at page 15. If you are not protected by a lease, then you may want to wait and sue after you have moved or are ready to move, in case the landlord retaliates with an eviction.

Cable TV, Dishes, Antennas



If I live in an apartment building, can my landlord stop me from getting cable TV, a satellite dish or an antenna?

Generally, no. Your landlord can refuse to allow these installations **only if** he has "good cause" to deny that company. "Good cause" could be:

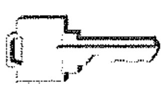
- if that company has broken agreements with the landlord before
- if that company has damaged the building before and has not fixed it
- some similar valid complaint against that company

Maine has detailed laws about how cable TV companies and landlords must deal with each other. Call Pine Tree Legal if you want a copy of that law.

The Federal Communications Commission also has rules allowing tenants to have small dishes (one meter or less in diameter) and certain types of "customer-end" antennas. But you must have "exclusive use" of the area where you install the dish or antenna, such as a balcony (not common areas, such as the roof of an apartment building, unless your landlord allows it).

More information from the FCC: https://www.fcc.gov/encyclopedia/faqs-satellite. If you still have questions, contact Pine Tree Legal for more information.

Landlord Entering Your Home



Can my landlord come into my apartment or house at any time?

No. If your landlord wants to come into your home to make non-emergency repairs, or to show or inspect the apartment, she must give you "reasonable notice." Normally, this means at least 24 hours notice.

Your landlord can come in only at "reasonable times." Generally, this means during the daytime or evening, not in the middle of the night. There may be other factors that make certain times "unreasonable" for you.

Exception: If there is an emergency, your landlord can enter after a shorter notice or without notice. For example, the pipes burst or there is a fire in your apartment.

What can I do if my landlord comes in without giving me reasonable notice?

If your landlord does not follow these rules, or if your landlord tries to come in without good reason to the point you feel harassed, you can sue your landlord. The judge can order your landlord to pay you for your "actual damages," or $100.00, whichever is more. She can also order the landlord to stop coming into your apartment without good reason and without fair notice. If you have a lawyer and you win at hearing, the court can also order your landlord to pay your lawyer fees.

If you cannot get a lawyer and if you need fast protection from serious, repeated harassment, you can file a Protection from Harassment complaint in District Court. Call Pine Tree Legal if you want more information about how to do this.

Is it legal to change the locks to keep my landlord out?

No. If you need to change your locks for any reason, you must notify your landlord. Also, you must give him a key within 48 hours of the change. Victims of domestic violence, sexual violence or stalking who need to change the locks for safety reasons have 72 hours to provide a new key to the landlord.

Your landlord may give you a 7-day eviction notice (see page 16) if you change the locks without following these rules. He can also charge you for any damage caused, if he needs to enter in an emergency and is locked out.

Subsidized Housing

If a housing authority or similar agency pays all of part of your rent, your housing is "subsidized." Your rent may be subsidized even if your house or apartment is owned by a private landlord. "Public housing" is also subsidized.

If you need to find out where to apply for subsidized housing in your area, contact:

Maine State Housing Authority
89 State House Station
353 Water Street
Augusta, Maine 04330
Toll-free phone: **1-800-452-4668**
TTY: **1-800-452-4603**

If you live in "subsidized housing," you should have a standard lease. This lease gives you more protections than most non-subsidized tenants have. For example, your lease may have a "grievance procedure" which gives you the right to an informal out-of-court hearing on a complaint you have against your landlord. **Your lease probably gives you more protections against eviction than the ones described in this "Rights of Tenants" Guide.** . It may say that your landlord cannot evict you unless he has "good cause" or unless he can prove you broke the lease.

If you are in one of the 3 major HUD subsidy programs (public housing, Section 8, or voucher choice), you cannot be evicted because you were the victim of domestic violence, dating violence, sexual assault or stalking. You may have other rights under federal law that are not explained in your lease.

Different subsidized housing programs have different rules and different form leases. **Read your lease!** If you are not sure of your rights under your lease or if you are being evicted from subsidized housing, **contact your local Pine Tree Legal office** (contact information at page 2).

Mobile Home Parks

Who is protected by the mobile home park laws?

This section applies to you if you **own your mobile home and rent a lot in a mobile home park.** Also, these "Rights of Tenants" Guidebook sections above apply to you:

If you **rent a mobile home,** you have the same rights as a tenant in an apartment building or house. Read the earlier sections of this handbook, which apply to you. To read about your security deposit, see below.

If you **own your mobile home and rent the land it sits on but not in a mobile home park**, you should talk to a lawyer if you have a problem. (Only some parts of this handbook apply to you.)

What is a mobile home park?

A mobile home park is a piece of land that has, or is laid out to have, two or more mobile homes on it.

How much can I be charged for a security deposit and how do I get it back?

The "Security Deposit" section at page 4 applies to you, with these exceptions:

- The park owner may charge up to 3 times the monthly rent for a security deposit.

- For the period before September 12, 2009, the landlord must pay 4% interest on your deposit. For later periods, the park owner must pay you a market-based rate of interest. Your landlord must put your money in a separate, protected bank account (which can be pooled with other deposits). You should get all of the interest earned on your deposit. In the alternative, your post 9/12/09 interest will be based on the Federal Reserve's secondary market 6-month CD rate for each year the landlord has been holding your deposit.

Read the "Security Deposit" section at page 4 to find out how to get your deposit back if the park owner refuses.

What kind of fees can I be charged?

The park owner may charge fees. Fees may include rent, utilities, incidental service charges, security deposit and an entrance fee. Before you move into the park, the park owner must explain all fees to you in writing. Before increasing any fees, he must give **all tenants** at least 30 days written notice.

If you are moving into a mobile home that is already in the park, the park owner cannot charge you more than 2 times the monthly rent for an entrance fee. He cannot call this fee something else, in order to get around this limit.

The park owner cannot require you to buy your oil or bottled gas from him. He cannot choose your dealer; that is **your** choice.

The park owner cannot require you to buy from him any under skirting, equipment for tying down mobile homes or any other equipment.

Park Rules

What kind of rules can the park owner have?

The rules must be reasonably related to keeping order and peace in the mobile home park. All park rules must be fair and reasonable. A rule is presumed to be unfair if it does not apply to all park tenants. (However, the park owner may be able to prove that a non-uniform rule is fair, if he has a compelling reason for the rule.) The park owner must give **all tenants** at least 30 days notice of any rule change before it takes effect.

These rules are **not** legal and a park owner **cannot** enforce them:

- A rule that says the park owner is not responsible for his own negligence
- A rule that says you have to pay the park owner's legal fees (in an eviction, for example)
- A rule that says you must give the park owner a lien on your property if you owe him money
- A rule that gives up your right to challenge the fairness of any park rule or any part of your lease or rental agreement

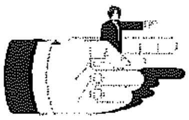
How do I find out what the park rules are?

Before you sign an agreement to rent, the park owner must give you:

☐ a copy of the mobile home park rules **and**

☐ a copy of the Maine mobile home park laws

Eviction



Does the park owner have to have a reason to evict me?

Yes. He must have a reason and he must be able to prove it in court. His reason must be on this list. (These rules apply to you, all household members, and your guests.)

1) You did not pay rent, utility charges or **reasonable** service charges. You will not be evicted if you pay the amount you owe **plus a fee** before the end of the notice period. The notice must give you at least 30 days. The fee is 5% of what you owe, up to a maximum of $5.00. (A 2005 law allows park owners to charge interest on late payments. See page 8. It is unclear how this new rule on interest charges intersects with this older $5 fee rule. Call Pine Tree Legal (see page 2) if you need advice on this issue.)

2) You broke a mobile home park law. Before giving you an eviction notice, the park owner must tell you in writing what law you have broken and give you a reasonable chance to comply.

3) You broke a **reasonable** park rule. (See section on "Park Rules.") Before giving you an eviction notice, the park owner must tell you in writing what rule you have broken and give you a reasonable chance to comply.

4) **You violated Paragraph 1, 2 or 3 above three times within 12 months. After 3 chances within a one-year period, you can be evicted even if you corrected all three violations.**

5) You damaged the property in some way. "Damage" does not include "normal wear and tear." Normal wear and tear is what happens to property over time from normal use.

6) You **repeatedly** disturbed the peace and quiet or safety of other tenants.

7) You violated a term of your written lease that the lease says you can be evicted for. **Read your lease before you sign!**

8) The park is condemned or changed to some other use. Before evicting you for "change of use," the park owner must have told you about this when you moved in or must give you a **one-year** written notice.

9) If the park owner wants to evict you because he plans to renovate the park, he must give you between 6 months to 12 months notice. He may also have to pay for your moving costs.

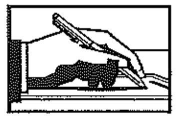
Exceptions:

- If there is a serious problem that is dangerous for tenants, the park owner can evict you "temporarily" with a shorter notice, if he pays your costs.
- If it is **not** an emergency, he can give a 30-day written notice to "temporarily" evict, if he pays your costs.
- If the government orders the park owner to do a major renovation that requires evictions, the park owner can give a shorter notice.

Note: If you are being evicted for reason #9 above, talk to a lawyer or Pine Tree Legal.

What kind of notice do I get?

Before taking you to court to get an eviction order, the park owner must give you a written notice to quit. The notice must:



- be in writing
- state the reasons for the eviction
- give you **45 days** before your tenancy ends

> **Note:** The notice period is different in some cases, like for nonpayment of rent (30 days). To find out these exceptions, read the list 1-9 above.

The park owner, or his agent, must give this notice to you in person.
Exception: He can send the notice by mail and leave a copy at your home if he has tried for 3 days to serve you in person and has not been able to find you. He must have a witness.

If someone has a lien on your mobile home (such as a seller to whom you are still making payments), the park owner may also notify the lien-holder of the eviction. If your contract with the lien-holder allows it, she may try to repossess your home to protect her interest in the property. Get legal advice.

What happens at the end of the notice period?

If you have not moved and the park owner still wants to evict you, she must file a complaint in District Court asking the court to allow the eviction. This is called a "Forcible Entry and Detainer" action. A deputy sheriff will serve you with a copy of the complaint and a court summons. The summons will tell you the date and time of the court hearing.

At the hearing, the judge will listen to both sides. If the judge finds that the park owner did not follow all of the notice rules or did not prove one of the reasons for eviction listed above, the judge will dismiss the case and you will not be evicted. But if the park owner gets the eviction order from the court, she can then ask the Sheriff's Department to evict you and your family **and to remove your mobile home from the lot.**

Talk to a lawyer right away if you get a notice to quit or a court complaint and summons.

What if the park owner is trying to evict me because I complained, because I am in a tenant group, or for some other unfair reason?

The Court should not evict you if you prove that the park owner's main reason for trying to evict you is that:

- You helped to start a tenant's organization or you belong to a tenant's organization; or
- You have complained about the park owner's violations of mobile home park laws.

If you think that the park owner is trying to evict you because you complained about unsafe conditions in the park, read the section above on "Retaliation Defense" at page 18. This defense to eviction **may** apply to you. If you believe that the park owner is illegally discriminating against you because of your:

- race
- color
- sex
- sexual orientation

- physical or mental impairment
- religion
- ancestry or national origin
- getting welfare
- being a single parent, being pregnant or having children

See "Discrimination" section at page 22.

What if I refused to pay rent because of bad living conditions in the park?

If the park owner is trying to evict you because you owe rent and there are unsafe living conditions in the park, you may have a good defense to the eviction. Read the section "Unsafe or unfit housing defense" under "Evictions" at page 17. These rules also apply to mobile home park tenants. In your case, the problem might be dangerous outside wiring or unsanitary septic system, instead of lack of heat.

Additional rule for mobile home parks: You must have given the park owner or his agent notice of the problem when your rent was paid up.

What if the court orders an eviction and I can't move my mobile home right away?

The park owner must mail you a "14-day notice" - sent first class mail, with proof of mailing. The notice tells you that the park owner plans to get rid of your mobile home. You have 14 days to claim the mobile home before this happens. The landlord must send this notice to your "last known address." In order to get the notice, you must let your landlord know where you are getting mail. Otherwise, the 14 days could lapse without your knowing about it.

If you claim the mobile home within 14 days, then the park owner must give you another 21 days to move it. If the weather or roads prevent you from moving the mobile home, then the park owner must give you more time to move it. But he can charge you for any actual costs he incurs as a result of the delay.

If you do not claim your mobile home within 14 days - or move it within the 21 days (or other agreed-upon time period) - then the park owner may treat the mobile home as "abandoned property."

The park owner can:

- Hold your mobile home until you pay all back rent, damages, legal fees, and storage costs; OR
- Sell the mobile home for a "reasonable fair market price." He can then deduct from the sale money his costs: back rent, damages, legal fees, storage costs, marketing expenses, and taxes. (He may also dispose of any property that has "no reasonable fair market value.")

If there is money left over after the sale and deduction of expenses, the park owner must send it to your last known address. If the mailing is returned by the post office, then the park owner must forward the money to the Treasurer of State. The park owner cannot keep any money that is left over.

Unsafe or Unfit Conditions

What areas must the park owner take care of?

A park owner must promise that the space he rents and its facilities are "fit for habitation." This means that they are safe and healthy. For example, if your septic system backs up or your park road becomes impassable, the park owner must fix the problems. On the other hand, you must fix problems inside your home, unless they were caused by the park owner.

What if the park facilities are unsafe or unhealthy?

You can file a court action against the park owner. Before going to court you should take these steps:

- ☐ Talk with the park owner or manager about the problem.
- ☐ Talk with other tenants about the problem and meet as a group with the owner or manager.
- ☐ Contact the local code enforcement officer, plumbing inspector or fire chief and ask for an inspection.
- ☐ Contact the Maine Manufactured Housing Board:
  35 State House Station
  Augusta, ME 04333
  Phone: **624-8612**
  TTY: **1-888-577-6690**

If you still cannot resolve the problem, talk to a lawyer or Pine Tree Legal before going to court. Also, read the section about suing your landlord in court at page 14. The procedures and remedies are very similar.

What happens if I am forced to leave my mobile home during repairs?

If you must leave for a short time so things can be fixed, the park owner cannot charge you any rent until you move back in. If the owner offers you a reasonable place to stay, then the court will not order the park owner to pay for your costs of staying somewhere else.

Sale of Your Mobile Home

Can the park owner interfere if I want to sell my mobile home?

No.

- The park owner **cannot** charge you a fee for selling, unless you asked him to sell it for you and signed a contract agreeing to pay him.
- The park owner **cannot** force you to hire him as your sales agent.
- The park owner **cannot** restrict any advertising you do, as long as it is reasonable.

You must tell the park owner before you put up any "For Sale" signs in the park.

If your mobile home was built before June 15, 1976, the park owner can require you to show that it meets the state standards.
If the buyer plans to stay in the park, he should make sure that the park owner will accept him as a tenant. He can back out of a sale agreement within the first 30 days if the park owner does not agree to rent the lot to him.

He can also back out of the deal if the park owner wants the home removed because it does not meet state or park standards. The park owner cannot require removal because of **park** standards unless these standards are clearly stated in the park rules **and** are reasonable.

Sale of Mobile Home Park

Does the park owner have to let me know if he is selling the park?

Yes, in most cases.

General rule: The park owner must give you and all other tenants 45 days written notice of his intent to sell. During the 45 days, he cannot contract to sell the park.

Exception: The park owner does not have to give the 45-day notice if the buyer's deed says that he cannot change the use of the park for two years after he buys it. This deed restriction must also say that tenants have the right to enforce it.

What if the new owner tries to close the park anyway?

You can sue the new owner in Superior Court and ask the judge to order the buyer to keep renting the lots for at least two years.

You can also make a money claim for any damages you have suffered. You can sue alone or as a group of tenants or as a tenant association. If you have a lawyer, the judge can order the park owner to pay your lawyer fees if you win.

Notice

Pine Tree Legal Assistance
September 2011; partially revised October 2015

We have tried to make this accurate as of the date above. Sometimes the laws change. We cannot promise that this information will always be up to date and correct. If the date above is not this year, call us to find out if there is an update.

This information is not legal advice. By sending you this, we are not acting as your lawyer.

AMENDMENT TO ORDER 76-16/17 RE: DISCRIMINATION

PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR SPENCER THIBODEAU, COUNCILOR JON HINCK, AND MAYOR STRIMLING

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS,
RE: TENANT HOUSING RIGHTS

. . .

Tenant-Based Rental Assistance means any and all forms of tenant-based rental assistance and vouchers, including but not limited to:

(a) Tenant-based rental assistance through the Section 8 Housing Choice Voucher Program, 42 U.S.C § 1437f (o)

(b) Tenant-based rental assistance through the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C § 12701 et seq.;

(c) Tenant-based rental assistance under the HUD-Veterans Affairs Supportive Housing (HUD-VASH), authorized by § 8 (o) (19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f (o) (19);

(d) Tenant-based rental assistance through the Shelter Plus Care Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11403-11407b, as amended;

(e) Tenant-based rental assistance through the Supportive Housing Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11381-11389, as amended;

(f) Tenant-based rental assistance through the Section 8 Disaster Voucher Program (DVP);

(g) Tenant-based rental assistance through the Housing Opportunities for Persons with AIDS (HOPWA) Program, 42 U.S.C. § 12901 - 12912 as amended;

(h) Tenant-based rental assistance through the Community Block Grant Program, 42 U.S.C. § 5301 et seq. as amended;

(i) Tenant-based rental assistance through the Continuum of Care Program authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11381-11389; and

(j) Tenant-based rental assistance through the Rural Development Voucher Program authorized through § 542 of the Housing Act of 1949, as amended. See 78 Fed. Reg. 49374 (Aug. 14, 2013) (proposed rule); and

(k) Tenant-based rental assistance through the Maine Bridging Rental Assistance Program, authorized by M.R.S. Title 34-B § 3011; and

(l) Tenant-based rental assistance through the Maine State Housing Authority Home To Stay Program, M.R.S. Title 30-A § 4771; and

(m) Tenant-based rental assistance through the Maine State Housing Authority Stability Through Engagement Program, M.R.S. Title 30-A § 4771; and

(n) Tenant-based rental assistance through the City of Portland's Tennant Based Rental Assistance Program, M.R.S. Title 30-A § 4771;

(o) Tenant-based rental assistance through the City of Portland's General Assistance Program, authorized by M.R.S. Title 22 § 4301 et seq.; and

(p) Such other Tenant-based rental assistance or rental vouchers or rental coupons as may be authorized under any federal, state, or local program.

6-222. Discrimination prohibited in sale or rental of housing units.

(a) A tenant shall have the right to secure a rental housing unit without being refused that right on the basis of discrimination because of race, color, sex, sexual orientation, physical or mental disability, ancestry, national origin, or family status, pursuant to 5 M.R.S. Section 4581-A, et. seq., as amended from time to time.

(b) A landlord shall not refuse to rent or impose terms of tenancy on any tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as a recipient as described in 5 M.R.S. §4581-A(4), as amended from time to time.

(c) It shall be prohibited for a landlord to refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any tenant because of the tenant's source of income or because of the requirements of any program providing the source of income;

(d) It shall be prohibited for or a landlord to refuse to participate in or comply with any federal, state, or local requirements of a tenant-based rental assistance program, including, but not limited to the following:

1) Refusing to allow inspections of a dwelling by the public housing authority or other entity administering a tenant-based rental assistance program;

2) Refusing to make reasonable repairs necessary for the dwelling to meet the housing quality standards of the tenant-based rental assistance program; such repairs will be considered reasonable if they do not substantially alter or change the housing unit or do not require repairs substantially different from those that would be required to bring the rental unit into compliance with the Maine Warranty of Habitability Act or local building or housing codes applicable for new construction

3) Refusing to complete any necessary paperwork, including but not limited to such documents as the *Request for Tenancy Approval* form, the *Housing Assistance Payments Contract*, and the *Tenancy Addendum* or applicable General Assistance forms; and

4) Refusing to provide information required by the public housing authority or other entity administering the source of income or tenant-based rental assistance program;

. . .

AMENDMENT TO ORDER 76-16/17 RE: TRANSLATION

PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR SPENCER THIBODEAU, COUNCILOR JON HINCK, AND MAYOR STRIMLING

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS,
RE: TENANT HOUSING RIGHTS

. . .

6-224. Protection of tenants.

(a) The Planning Department or its designee shall create and make available on the City's publically accessible web site a plain language document that explains Tenancy at Will and the rights and responsibilities of tenants and landlords of rental property. The document shall include a checklist of required notices concerning environmental lead hazards, energy efficiency or radon testing, pursuant to 14 M.R.S. Sections 6030-B, 6030-C, and 6030-D, respectively, as amended from time to time. **The document and any other documents produced in connection with this Article shall made available in multiple languages, including but not limited to: English, Somali, Arabic, Spanish, French, and Vietnamese. Additional languages may be included at the discretion of the City Manager or his/her designee.**

. . .

AMENDMENT TO ORDER 76-16/17 RE: LEEWAY IN TERMINATIONS

PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR SPENCER THIBODEAU, COUNCILOR JON HINCK, AND MAYOR STRIMLING

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS,
RE: TENANT HOUSING RIGHTS

. . .

6-224. Termination of Tenancies-At-Will

(1) In order to be terminated by a Landlord, tenancies-at-will must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:

(a) "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);

(b) Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;

(c) Holdover tenancies are exempt from the 90 day notice period outlined herein;

(d) Where a Landlord provides $500.00 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;

(e) Where a Landlord provides $1000 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.

(2) Reimbursement amounts outlined in subsections (c) and (d) above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

6-225. Protection of tenants.

. . .

6-226. Tenant-Landord Advisory Committee

. . .

6-227~~6~~. Variation by agreement.

. . .

6-228~~7~~. Limitation of liabilities.

. . .

6-229~~6~~. Enforcement and remedies.

. . .

6-230~~26~~. Severability.

. . .

AMENDMENT TO ORDER 76-16/17 RE: OMBUDSPERSON

PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR SPENCER THIBODEAU, COUNCILOR JON HINCK, AND MAYOR STRIMLING

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS,
RE: TENANT HOUSING RIGHTS

. . .

6-227. Housing Ombudsperson.

(a) Duties. The City Manager shall hire or appoint an employee to serve as the City's Housing Ombudsperson. The Ombudsperson shall responsible for fielding questions from landlords and tenants regarding federal, state, and local housing laws, rules and ordinances as well as furnishing a list of available resources, when needed. The Ombudsperson shall also be responsible for oversight and enforcement of the Leeway Program.

(b) Voluntary Tenant/Landlord Mediation. At the request of both the Landlord and Tenant the Ombudsperson may review disputes between the Landlord and Tenant regarding a tenancy and make recommendations regarding the resolution of the dispute. Neither party shall be prejudiced by seeking mediation through the Ombudsperson and it shall be non-binding be available to receive questions or complaints from either tenants or landlords.

. . .

Order 91-16/17
Tab 19 11-21-16

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 PURCHASE AND SALE AGREEMENT WITH CPB2 LLC FOR SALE OF CITY PROPERTY

ORDERED, that the Purchase and Sale Agreement with CPB2 LLC, for City-owned land adjacent to 58 Fore Street, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.

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

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and City Council

FROM: Gregory A. Mitchell, Economic Development Director

DATE: November 2, 2016

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

SUBJECT: **Order Authorizing Purchase and Sale Agreement to sell City Owned Property to CBP2 LLC (Portland Company Developers)**

SPONSOR: Economic Development Committee, Councilor Brenerman/Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading and Final Action: November 21, 2016

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

PRESENTATION: Greg Mitchell/5 Minutes

I. ONE SENTENCE SUMMARY

City Council approval is needed to authorize the City Manager to enter into the proposed Purchase and Sale Agreement between the City and CPB2 LLC (Portland Company Developers) to sell 12,116 +/- square feet of City property for the purpose of providing access, through Thames Street and planned Thames Street extension, to the Portland Company Site.

II. AGENDA DESCRIPTION

City Council approval is needed to authorize the City Manager to enter into a proposed Purchase and Sale Agreement between the City and CPB2 LLC (Portland Company Developers) to sell 12,116 +/- square feet of City property for $400,000 at $33.00 per square foot for the purpose of providing access, through Thames Street and planned Thames Street extension, to the Portland Company Site.

Public benefits associated with this transaction include:

- ***Road and utility extension to attract private sector investment*** to support the Portland Company site and position the City-owned property located across from Ocean Gateway for sale at the highest value, and to support redevelopment of the super municipal block bounded by Fore, Hanover, and Thames Street and the new proposed Connector Road;

- ***Improved public access*** to City-owned remaining Thames Street Property, CPB2/Portland Company property, and other adjacent privately owned properties;

- ***Improved public access*** to the waterfront and Amethyst Lot which is planned to become future public open space; and,

- ***Real estate sale proceeds*** in the amount of $400,000 at $33.00 per square foot.

III. BACKGROUND

City Policy and History.
The Eastern Waterfront Master Plan (EWMP) envisions the extension of public streets and utilities to support private development. The proposed sale of a portion of City property, included in the City and CPB2 LCC Purchase and Sale Agreement, is consistent with the EWMP.

The Portland Company redevelopment is contingent upon access from the existing City right of way at Thames Street. Thames Street currently terminates at the end of the Ocean Gateway Marine Passenger Terminal, leaving several hundred feet of City property situated between the current easterly end of the right of way and the westerly edge of the Portland Company property owned by CPB2. The boundary between the two parcels was formed during the railroad history of the Eastern Waterfront with an awkward curved property line extending from the shared boundary with the Maine Department of Transportation (MDOT) rail right of way to the south, to the Fore Street right of way to the north.

In order to both provide access to CPB2 property and to address the awkward geometry, CBP2 proposes to purchase a triangular shaped property totaling +/-12,116 square feet to square off the boundary between City and CPB2 property. CBP2 would use this property to construct and maintain a private road, at their expense, to access their development which is located adjacent to and parallel with the City owned Amethyst Lot and the MDOT right of way used for public trails and the Narrow Gauge Railroad. It is noted that without this public access, the Portland Company site can not be redeveloped. The remaining portion of the City acquired property would be added to developable land currently under CPB2 ownership to support Portland Company redevelopment plans.

Purchase and Sale Agreement and Public Meetings.
The Proposed Purchase and Sale Agreement has been negotiated under the direction of the EDC.

The terms of the proposed Purchase and Sale Agreement recognize that the majority (7,900 +/- square feet) of the City property sold to CPB2 will not be available for revenue generating development and will be used to construct a private road into the site which will be adjacent to public trails, the rail corridor, and the Amethyst Lot which is being planned to be redeveloped for public open space.

Also, the Proposed Purchase and Sale Agreement recognizes that the City will be taking responsibility to fund and construct the Thames Street extension with utilities (approximately 230 +/- feet.) The estimated cost of this investment is $1.2 million which will be included in next year's City Capital Improvement Plan (CIP). The City Council will vote on next year CIP early 2017 (January/February).

A later phase of road construction connecting the Thames Street extension to Fore Street will be negotiated at a future time. It is noted that the majority of the street right-of-way for the "Fore Street Connector" is under private ownership.

Public EDC meetings to discuss City plans to extend public infrastructure and City property planned to be sold were held, during 2016, on the following dates:

- April 5th (Eastern Waterfront Integrated Work Plan);
- May 3rd (tour of the Eastern Waterfront);
- July 26th (Review and Discussion of Possible Portland East End Public Infrastructure); and,

Additionally, the EDC held five executive sessions to finalize the business terms related to this transaction. Also, an executive session with the City Council was held on September 7, 2016 to provide a general update regarding a number of City property disposition matters.

III. INTENDED RESULT OR COUNCIL GOAL ADDRESSED

The proposed extension of streets and roadways facilitated by the proposed purchase of City property was established by the Master Plan for Redevelopment of the Eastern Waterfront (EWMP.) The EWMP was adopted by the City Council in 2004 as a component of the City's Comprehensive Plan.

IV. FINANCIAL IMPACT AND STAFF ANALYSIS

Purchase and Sale Agreement terms highlights include:

Sale Price. $400,000 or $33.00 per square foot. It is noted that the final sale price will be determined by a property survey at the agreed upon sale price of $33.00 per square foot.

The City commissioned a property appraisal for this property based upon the ***prospective* property value with public roads and utilities being in place (which is not the case today).** This property appraisal estimated a value of $70.00 per square foot. Staff analysis to agree upon the lower sale price per square foot includes the following:

- ***Lack of Public Infrastructure.*** Complete public infrastructure (Thames Street Extension and New Connector Road with utilities) is not in place to justify the higher per square foot price. The City property appraisal recognized this fact.

- ***Public Infrastructure Investment in this area of the city benefits the entire area and not just the Portland Company site.*** In fact, planned City investment to extend Thames Street partially addresses transportation and utility access to this area of the city. The new Connector Road will be needed to address future development needs of Ocean Gateway, support redevelopment of the super municipal block (located between Fore, Hancock, Thames Street, and the new Connector Road), along with the Portland Company site;

- ***Private Access Road Consumes Majority of the Site.*** The majority (approximately two thirds) of the City property proposed for sale to CPB2 will be used for a private access road, constructed and maintained at CPB2 expense, to serve as the primary access to the entire Portland Company Project. The majority use of the site for a private access road justifies the lower per square sale price. It is noted that the private access road will improve public access to the Amethyst Lot which is planned to become future public space;

- ***Small Site for Private Development.*** The remaining approximately one third of the site to be sold to CPB2 is available to support development. The total sale price of $400,000 divided by the development portion of the site (4,216 square feet), yields a price per square foot value of $94.88 assuming no value for the portion of the City site utilized for the private access road;

- ***Staff review of other recent property sale prices and appraisals***, in the general area of the Portland Company site, were based upon lower price per square foot values than the City property appraisal.

In summary, staff recommends the sale price of $33.00 per square or $400,000 (based upon a property survey) as a fair sale price for this City property to be sold in an "AS IS" condition.

Closing. The property closing is planned to be the earlier of the date 30 days after the City receives Thames Street extension approvals, or January 31, 2018.

Right to repurchase. The City retains a right to repurchase, at purchase price, in the event CPB2 fails to commence construction of the private access road within 36 months from property closing.

Environmental Liability. Property is being sold in an "As Is" condition. CPB2 agreed to provide an environmental indemnification to the City.

Conditions. Contingent upon City Council and financial appropriations, City investment and construction of extending Thames Street to terminate at the property line of the property proposed for sale. Construction of the road extension and utilities need to be coordinated with CPB2 Portland Company Project redevelopment plans. Also, a revocable license is proposed to allow temporary use of the Thames Street Extension right-of-way during the Portland Company Project construction if the Thames Street extension is not done.

V. RECOMMENDATION

The EDC, at its meeting on November 1, 2016, unanimously voted (3-0) to send this to the City Council with a recommendation to approve the proposed Purchase and Sale Agreement with CPB2 Management LLC, as presented, to sell a portion of City-owned property.

VI. LIST ATTACHMENTS

- Purchase and Sale Agreement between the City of Portland and CPB2 Management LLC with Exhibit A.

Prepared by: Greg Mitchell
Date: November 2, 2016

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made this ______ day of November, 2016 by and between the CITY OF PORTLAND, a body politic and corporate located in Cumberland County, Maine, (hereinafter referred to as "City"), and CPB2 LLC, a Delaware limited liability company, having a mailing address of c/o CPB2 Management LLC, P.O. Box 7987, Portland, Maine 04112 (hereinafter referred to as "CPB2").

RECITALS

WHEREAS, CPB2 is the owner of that certain real property known as 58 Fore Street in the City of Portland, County of Cumberland and State of Maine, which is more particularly described in deeds dated July 19, 2013 and April 1, 2014 and recorded in the Cumberland County Registry of Deeds in Book 30879, Page 75 and Book 31425, Page 267 respectively ("CPB2's Property"); and

WHEREAS, as contemplated by the City's Eastern Waterfront Master Plan ("EWMP"), the City is planning to extend Thames Street in an easterly direction to a point ("Thames Street Extension") and then in a northerly direction to connect to Fore Street ("Fore Street Connector"), as shown on the plan attached hereto as Exhibit A (the "Thames Street Plan"); and

WHEREAS, subject to its receipt of all necessary permits, regulatory approvals, rights of way and funding, the City plans to construct the Thames Street Extension and the Fore Street Connector; and

WHEREAS, the creation of the Thames Street Extension and Fore Street Connector results in an isolated triangular shaped residual parcel of City-owned land lying between the eastern boundary of the Fore Street Connector and the western boundary of CPB2'S Property, which parcel consists of approximately 12,116 square feet as generally depicted on the Thames Street Plan (said parcel of land being hereinafter referred to as the "Premises"); and

WHEREAS, the primary access to CPB2's Property (the "Access Road") is planned to be located over the Premises, the exact location of which will be determined through a master planning process or site plan process with the Portland Planning Board; and

WHEREAS, CPB2 desires to purchase the Premises, and the City desires to convey the Premises to CPB2, in order to provide CPB2 additional property for future development and pedestrian and vehicular access to CPB2's Property from the Thames Street Extension.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to CPB2, and CPB2 agrees to purchase the Premises, in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.

2. **CONSIDERATION.**

a. The purchase price for the Premises shall be Four Hundred Thousand Dollars ($ 400,000.00), subject to the adjustment in subsection b, which shall be made upon the parties' approval of the survey described in Section 3 below.

b. The purchase price will be increased or decreased based on the actual square footage of the Premises, which CPB2 shall purchase for Thirty-Three Dollars ($33.00) per square foot.

c. The City acknowledges receipt of CPB2's deposit in the amount of Five Thousand Dollars ($5,000.00) (the "Deposit") paid to it as of the date of this Agreement.

d. CPB2 shall pay the remainder of the Purchase Price to the City by wire transfer at closing.

3. TITLE.

a. Due Diligence Period. CPB2 will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is ninety (90) days after the date of this Agreement (the "Due Diligence Period") to complete its title examinations.

b. Survey. During the Due Diligence Period, CPB2 shall cause a survey to be prepared that will more specifically describe the Premises. CPB2 will provide such survey to City during the Due Diligence Period and the parties will agree on a metes and bounds description to be included in the deed prior to closing.

c. Title and Survey Objections. CPB2 will have until the end of the Due Diligence Period to deliver to City any written objections to title or survey matters (other than the permitted exceptions identified herein) that affect marketability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the date of this Agreement may be made at any time prior to the closing.

d. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify CPB2 of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have sixty (60) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to CPB2's reasonable satisfaction, CPB2 will have the option to (1) terminate this Agreement and obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (2) waive the objection and close, or (3) undertake the cure of such objection at its own expense (in which case it shall have 60 days to do so). In the event CPB2 elects to cure such objection, but CPB2 is unable to cure such objection to CPB2's reasonable satisfaction within said 60-day period, then CPB2 will have the option to (1) terminate this Agreement and obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (2) waive the objection and close.

e. City shall convey the Premises to CPB2 at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good, marketable and insurable title, free and clear of all encumbrances except (i) easements for utilities servicing the property, (ii) zoning ordinances, and (iii) real estate taxes not yet due and payable. CPB2 acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that CPB2 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.

4. **INSPECTIONS**.

a. During the Due Diligence Period, CPB2 and its employees, consultants, contractors and agents shall have the right, at CPB2's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as CPB2 determines, it is sole discretion, to be required to determine the suitability of the Premises for CPB2's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

b. CPB2 agrees to defend, indemnify and hold harmless the City against any mechanics' liens that may arise from the activities of CPB2 and its employees, consultants, contractors and agents on the Premises.

c. CPB2 shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and CPB2 hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by CPB2 of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.

d. CPB2 shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance and general public liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage and also Workers' Compensation Insurance coverage to the extent required by law.

e. In the event that CPB2 does not purchase the Premises, CPB2 agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that CPB2 shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.

f. The parties hereto acknowledge and agree that it is a condition to CPB2's obligations under this Agreement that the results of the Inspections be acceptable to CPB2 in its sole discretion. If the results of such due diligence are not acceptable to CPB2 in its sole discretion, and if CPB2 exercises its right to terminate this Agreement, then the City shall refund to CPB2 the Deposit, if previously paid, without interest, within thirty (30) days after receipt of CPB2's termination notice, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** CPB2 shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by CPB2 in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to CPB2's financing or closing shall be paid for by CPB2.

6. **DEFAULT AND REMEDIES**. In the event that CPB2 defaults hereunder for a reason other than the default of the City, City shall retain the deposit, it being understood, however, the City's acceptance thereof shall not constitute a waiver of any other legal or equitable remedy available to City. In the event City defaults under this Agreement, and if CPB2 is not then in default hereunder, CPB2 shall have the right to pursue specific performance, but at all times may elect in substitution therefor, as its sole remedy, the right to terminate this Agreement and obtain a refund

of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement).

7. **<u>RISK OF LOSS.</u>** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event City is not able to deliver the Premises as stated, CPB2 may terminate this Agreement and receive a refund of the Deposit without interest, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

8. **<u>PROPERTY SOLD "AS IS, WHERE IS</u>**." CPB2 acknowledges that CPB2 has had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by CPB2 of the Deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.

9. **<u>CLOSING</u>**. Time is of the essence in the performance of this agreement. The closing shall be held at the offices of CPB2's counsel at a time agreeable to the parties on or before the earlier of that date that is 30 days after the date that the City receives the last of the Thames Street Extension Approvals, as that term is defined below, or January 31, 2018. Provided, however, that if the City has not received the last of the Thames Street Extension Approvals by January 1, 2018, the closing date, may, upon the mutual agreement of the parties, be extended to a later date agreed to by the parties. At the closing:

    a. the City shall execute, acknowledge and deliver to CPB2 a municipal quitclaim deed conveying to CPB2 good and marketable title to the Premises, free and clear of all encumbrances other than those approved by CPB2 in its sole discretion;

    b. the City shall execute, acknowledge and deliver such affidavits and indemnifications, in form and substance reasonably satisfactory to the City and CPB2, regarding mechanics' liens, materialmens' liens and parties in possession sufficient to eliminate any title insurance exceptions for these matters;

    c. CPB2 shall deliver the balance of the Purchase Price to the City by wire transfer or otherwise provide documentation satisfactory to the City regarding any alternative consideration negotiated by the Parties; and

d. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.

10. **CITY CONDITIONAL COMMITMENT TO CONSTRUCT THAMES STREET EXTENSION.**

a. The City anticipates including the costs of construction of the Thames Street Extension in the 2017 Capital Improvements Program (CIP) to be presented to the Portland City Council for in the Spring of 2017.

b. Subject to the City's receipt of all necessary permits and regulatory approvals, and provided that the Portland City Council appropriates the funds necessary to do so (the "Thames Street Extension Approvals"), the City will, at its sole cost and expense, construct the Thames Street Extension and related utilities. The City currently anticipates constructing the Thames Street Extension during 2017 and 2018.

c. The City shall endeavor to coordinate construction of the Thames Street Extension with CPB2 in an effort to ensure that the construction is performed in a timely manner and does not unreasonably delay or interfere with the construction of the Access Road by CPB2 or the construction of the buildings and other improvements on CPB2's Property.

d. In the event that the City does not construct the Thames Street Extension prior to CPB2's commencement of construction on CPB2's Property, and provided that CPB2 is unable to access CPB2's Property from Fore Street, the City shall enter into a revocable license agreement with CPB2, in a form satisfactory to the City, in order to provide CPB2, its contractors, tenants, and invitees with access to CPB2's Property across City property. Such license agreement shall only be available to CPB2 from the time CPB2 loses access to its property from Fore Street until the City completes construction on the Thames Street Extension.

e. The provisions of this Section 10 shall survive the closing.

11. **ENVIRONMENTAL INDEMNIFICATION**. CPB2 covenants and agrees 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, claims, 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, that may at any time be imposed upon, incurred by or asserted or awarded against CPB2 or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of hazardous wastes or hazardous materials and affecting all or any portion of the Premises. This duty to indemnify, defend, and hold harmless shall be included in a

covenant in the deed and shall run with the land conveyed and be binding upon CPB2's successors, assigns, and transferees.

12. **RIGHTS OF CITY TO REPURCHASE PROPERTY**. If CPB2, its successors, assigns, or transferees fails to commence construction of the Access Road to the CPB2 Property within 36 months after the closing, the City shall have the right, but not the obligation, to repurchase the Premises at the Purchase Price. The City's deed to CPB2 shall include a reference to the City's option to repurchase the Premises.

13. **ENTIRE AGREEMENT.** This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by City and CPB2.

14. **NON-WAIVER.** No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

15. **HEADINGS AND CAPTIONS.** The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

16. **BINDING EFFECT**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

17. **TIME IS OF THE ESSENCE.** The City and CPB2 each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

18. **GOVERNING LAW**. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

19. **NOTICE**. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR THE City:	City of Portland ATTN: CITY MANAGER 389 Congress Street Portland, ME 04101
With a copy to:	The Office of the Corporation Counsel at the same address.
FOR CPB2:	CPB2 LLC c/o CPB2 Management LLC P.O. Box 7987 Portland, Maine 04112
With a copy to:	Bernstein, Shur, Sawyer & Nelson, P.A. Attention: Mary E. Costigan, Esq. 100 Middle Street, West Tower Portland, Maine 04101

20. **SIGNATURES; MULTIPLE COUNTERPARTS.** This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

21. **BROKERS.** City and CPB2 each represents and warrants that neither has dealt with a real estate broker in connection with this transaction. CPB2 agrees to indemnify and hold harmless City from any claims made by any broker should CPB2's representation in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to indemnify and hold harmless CPB2 from any claims made by any broker should City's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

City OF PORTLAND

____________________	______________________________
WITNESS	Jon P. Jennings Its City Manager

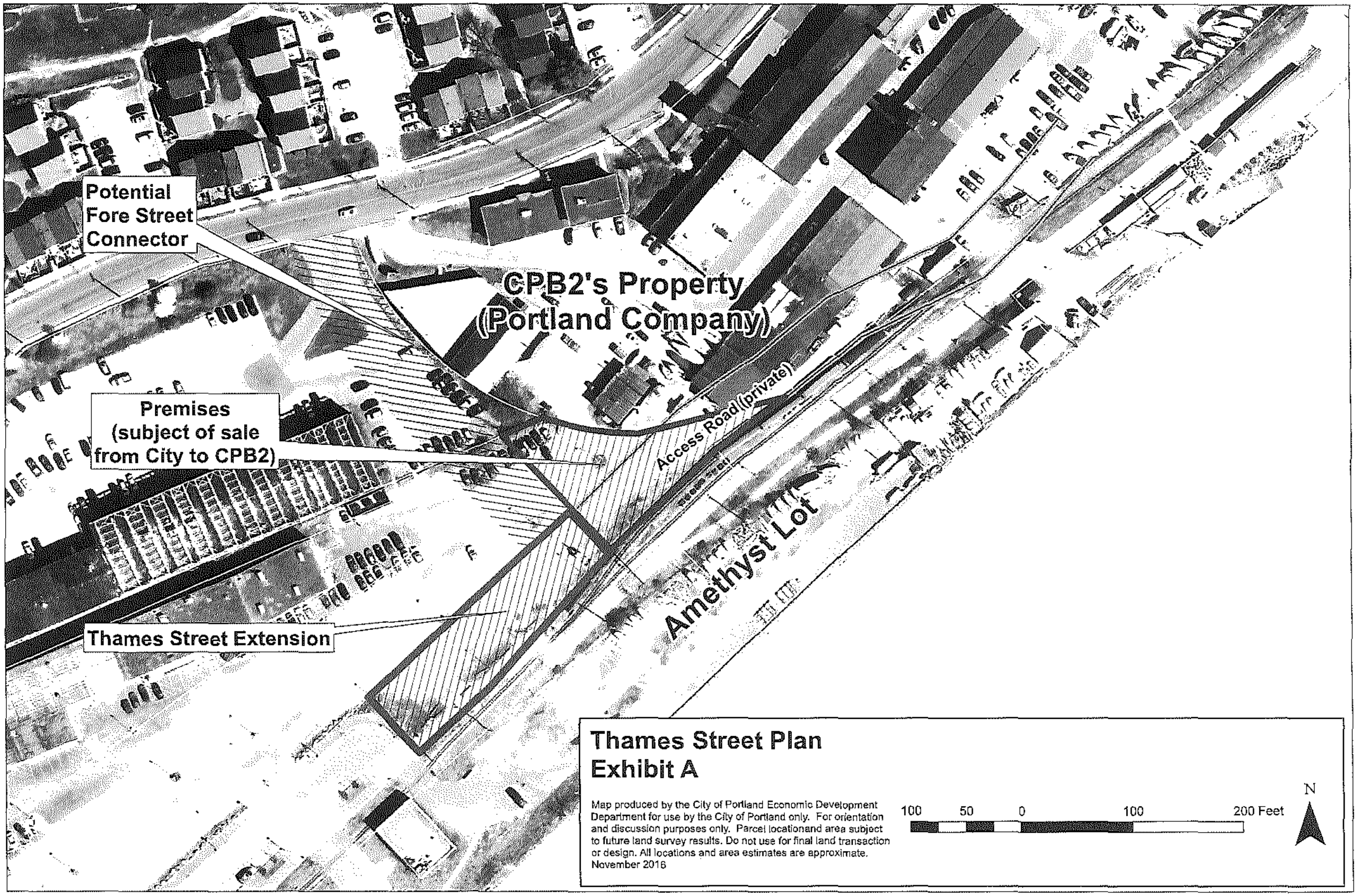
CPB2, LLC

____
WITNESS

____
Printed Name:______________
Its ______________________

Approved as to Form:

____
Corporation Counsel's Office



Potential Fore Street Connector
CPB2's Property (Portland Company)
Premises (subject of sale from City to CPB2)
Access Road (private)
Amethyst Lot
Thames Street Extension
Thames Street Plan
Exhibit A
Map produced by the City of Portland Economic Development Department for use by the City of Portland only. For orientation and discussion purposes only. Parcel locationand area subject to future land survey results. Do not use for final land transaction or design. All locations and area estimates are approximate.
November 2016
100 50 0 100 200 Feet
N

Order 92-16/17
Tab 20 11-21-16

CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH THE CITY EMPLOYEES BENEFIT ASSOCIATION (CEBA) OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 1373

ORDERED, that the attached Collective Bargaining Agreement with City Employees Benefit Association (CEBA) of the American Federation of State, County and Municipal Employees (AFSCME) Local 1373 for July 3, 2016 through June 30, 2019, is hereby approved in substantially the form attached hereto.

CITY OF PORTLAND
MEMORANDUM

To: Mayor Ethan Strimling and Members of the City Council

From: Thomas Caiazzo, Labor Relations Manager TAC

Date: November 7, 2016

RE: Order/First Reading of CEBA, AFSCME Local 1373

City staff has reached a tentative three (3) year agreement with our largest bargaining unit, CEBA AFSCME Local 1373 representing approximately 500 City employees. The CEBA contract expired on July 2, 2016. Terms of the three year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018. The general wage increases are consistent with guidance received by Council on August 1, 2016 and they are consistent with other negotiated contracts for the same period. The contract term is July 3, 2016 through June 30, 2019. The total direct cost of the general wage increase is $1,105,000.00.

Other terms of the tentative agreement include:

Article 11 – mandatory direct deposit and paperless pay stubs
Article 18 – higher class pay on the first day rather than on the eighth day of the assignment
Article 19 – 3% stipend for certification as a Master Electrician or a Master Plumber and other small increases to stipends and differentials
Article 26 – additions to the classifications that get clothing allowances and small changes to the amounts allowed each year
Appendix B1 – upgraded the following positions:
Water Quality Technician Grade 15 to Grade 17
One Administrative Assistant Grade 8 to Administrative Associate Grade 12

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

The union membership has ratified the tentative agreement.

This order will require a second reading at the December 5, 2016 Council meeting.

Cc: Jon P. Jennings – City Manager
Anita LaChance – Deputy City Manager
Danielle West-Chuhta – Corporate Counsel
Anne Torregrossa – Associate Corporate Counsel
Chris Branch – Public Works Director
Sally Deluca – Director of Parks, Recreation & Facilities Management
Gina Tapp – Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

CEBA-Administration Recommendation

ITEM	BASE	YEAR 1 (FY17)	%	YEAR 2 (FY18)	%	YEAR 3 (FY19)	%	Notes:
Base Wages	16,049,760	325,810	2.0%	327,510	2.0%	334,060	2.0%	
Stipends/Differentials	222,150	18,580	8.4%		0.0%		0.0%	
Reclassifications	-	29,540	0.2%	590	0.0%	600	0.0%	
Total Wages	16,271,910	373,930	2.3%	328,100	2.0%	334,660	2.0%	
Overtime	1,095,000	22,230	2.0%	22,350	2.0%	22,790	2.0%	Based on increase in total wages
Clothing	-	800	0.0%		0.0%		0.0%	
Total Direct Cost	17,366,910	396,960	2.3%	350,450	2.0%	357,450	2.0%	
Health Insurance	3,132,340	313,230	10.0%	344,560	10.0%	379,010	10.0%	Inflationary increase only
Health Insurance-Plan Changes		(103,370)	-3.0%	(103,370)	-3.0%			Proj 9% savings less 3% Wellness Cost
Pension	1,545,660	141,770	9.2%	33,260	2.0%	33,930	2.0%	Based on increase in total wages and pension rate increase in FY17
Workers' Compensation	465,430	10,700	2.3%	9,390	2.0%	9,570	2.0%	Based on increase in total wages
Total	22,510,340	759,290	3.4%	634,290	2.7%	779,960	3.3%	

Order 93-16/17
Tab 21 11-21-16

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

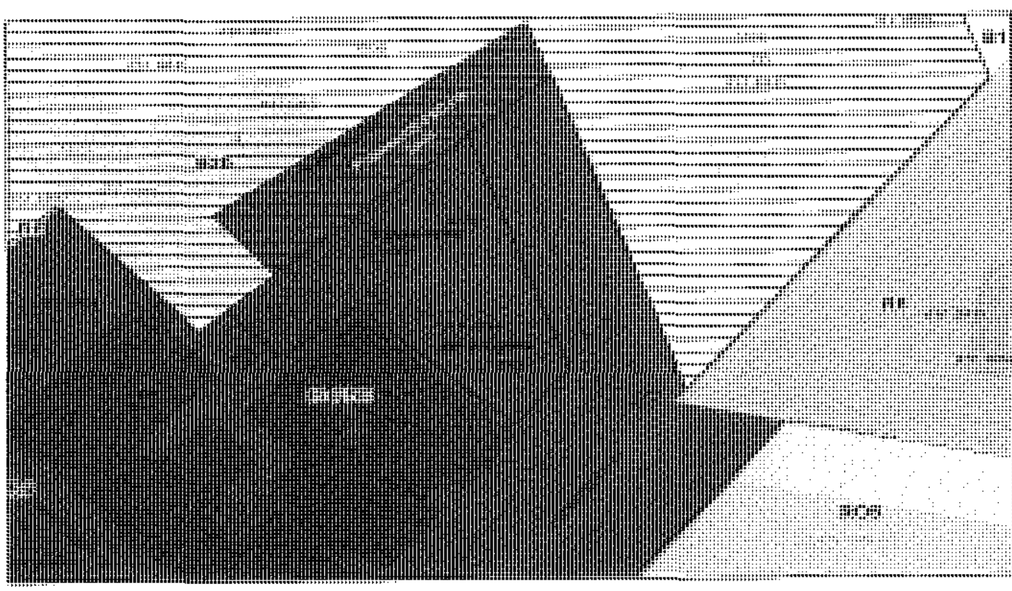
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO ZONING MAP
RE: 10 WASHINGTON AVENUE TO INDIA STREET FORM-BASED CODE ZONE

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

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning 10 Washington Avenue from the B-2b Zone to the India Street Form-Based Code Zone, as shown in the figure below.



MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Caitlin Cameron, Urban Designer, Planning and Urban Development Department

DATE: 10/26/2016

DISTRIBUTION: Jon Jennings, City Manager; Mayor Ethan Strimling; Anita Lachance, Assistant City Manager; Danielle West-Chuhta, Corporation Counsel; Victoria Morales, Associate Corporation Counsel; Sonia Bean, Nancy English, and Julie Sullivan

SUBJECT: Zoning Map Amendment to India Street Form-based Code (IS-FBC) Zone for 10 Washington Avenue

SPONSOR: Elizabeth Boepple, Portland Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading__11/21/16__________ Final Action___12/05/16_____

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

I. SUMMARY OF ISSUE (Agenda Description)
On October 25, 2016, the Planning Board unanimously voted (6-0, Boepple absent) to recommend to City Council the proposed map amendment to rezone the parcel at 10 Washington Avenue from B-2b to the India Street Form-based Code (IS-FBC) zone, Urban Active (UA) subdistrict.

II. REASON FOR SUBMISSION
The proposed map amendment relates to the IS-FBC zone boundary on-peninsula on Washington Avenue. The proposal would make the three adjacent parcels owned by the applicant Hay Runner, LLC one consistent zone (IS-FBC UA). This requires a zoning map amendment for the third parcel at 10 Washington Avenue from B-2b to IS-FBC.

The proposed zoning map amendment would increase the boundary of the India Street Form-based Code zone to include one additional parcel. That parcel is one of three parcels held by the applicant whose combined development site straddles B-2b and IS-FBC zones. Currently, two of those parcels – 221 Congress Street and 6 Washington Avenue – are in the IS-FBC zone with an Urban Active subdistrict designation. The parcel under consideration here – 10 Washington Avenue – is adjacent to these parcels but is in B-2b zone. The map amendment will allow consistent zoning standards to apply across the applicant's development lot.

III. INTENDED RESULT
The purpose of this amendment is provide consistent zoning for the development site owned by the applicant.

IV. COUNCIL GOAL ADDRESSED
Housing: The rezone will increase the housing density and building height (minimum and bonus story) allowed on the parcel.

V. FINANCIAL IMPACT

No financial impact is anticipated.

VI. STAFF ANALYSIS AND RECOMMENDATION

Staff from the Department of Planning & Urban Development support the recommendation to rezone the parcel from B-2b to IS-FBC UA as shown in Amended Figure 4 (attached). The Planning Board report (attached) provides the staff analysis. The recommendation comes in advance of a mixed-use new development proposed for the site.

VII. LIST ATTACHMENTS

1. Planning Board Report 10/21/16
2. Amended Figure 4: Proposed Zoning Map Amendment

Prepared by: Caitlin Cameron
Date: 10/26/16

Bean/agendarequestmemo/rev 11/2015

PLANNING BOARD REPORT
PORTLAND, MAINE

Proposed Zoning Map Amendment
10 Washington Avenue, CBL: 013 G005
from B-2b to IS-FBC
Hay Runner, LLC, Caleb Johnson, Applicant

Submitted to: Portland Planning Board Public Hearing Date: Oct. 25, 2016	Prepared by: Caitlin Cameron, Urban Designer Report Prepared: October 21, 2016

I. INTRODUCTION
A public hearing has been scheduled to consider a proposal to amend the zoning map of the India Street Form-based Code (IS-FBC) zone to include a parcel adjacent to the IS-FBC and currently zoned as B-2b. A copy of the proposed zoning map is shown as Figure 4. The applicant is Hay Runner, LLC.

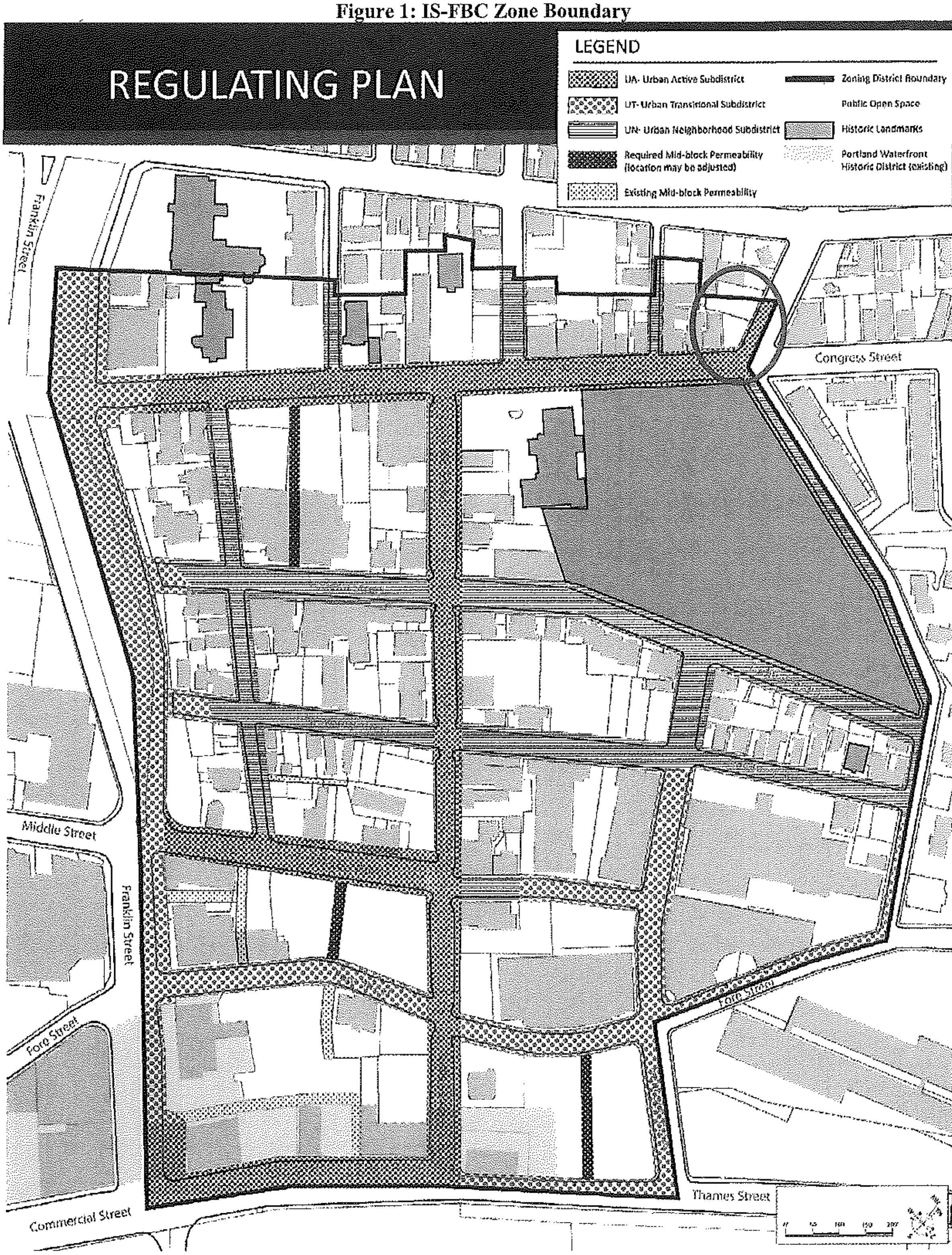
Notice of the public hearing consisted of newspaper advertisements in the *Portland Press Herald* and 198 notices sent to area property owners in the vicinity of 10 Washington Avenue.

II. BACKGROUND
The proposed map amendment relates to the IS-FBC zone boundary on-peninsula on Washington Avenue. The proposal would make the three adjacent parcels owned by the applicant one consistent zone (IS-FBC). This requires a zoning map amendment for the third parcel at 10 Washington Avenue from B-2b to IS-FBC.

The India Street Form-based Code Zone (IS-FBC) was created in 2015 in conjunction with the India Street Sustainable Neighborhood Plan. The boundary of the IS-FBC zone coincides with the boundary as defined for that neighborhood planning process. The applicant owns three adjacent parcels – 221 Congress Street, 6 Washington Avenue, and 10 Washington Avenue – with the intention of combining them into one development lot at the corner of Congress Street and Washington Avenue. Currently, all three parcels are vacant.

The proposed use of property is a five-story, mixed-use building that would cover all three lots (Figure 4). The ground floor is proposed to be retail/restaurant use with the upper floors to be 13 residential units. The proposed floor area is 25,300 sf above grade. Below grade structured parking is proposed.

Figure 1: IS-FBC Zone Boundary



III. PROPOSED AMENDMENTS

The proposed zoning map amendment would increase the boundary of the India Street Form-based Code zone to include one additional parcel. That parcel is one of three parcels held by the applicant whose combined development site straddles B-2b and IS-FBC zones. Currently, two of those parcels – 221 Congress Street and 6 Washington Avenue are in the IS-FBC zone with an Urban Active subdistrict designation. The parcel under consideration here – 10 Washington Avenue – is adjacent to these parcels but is in B-2b zone. The map amendment will allow consistent zoning standards to apply across the applicant's development lot.

Figure 2: Existing Zoning

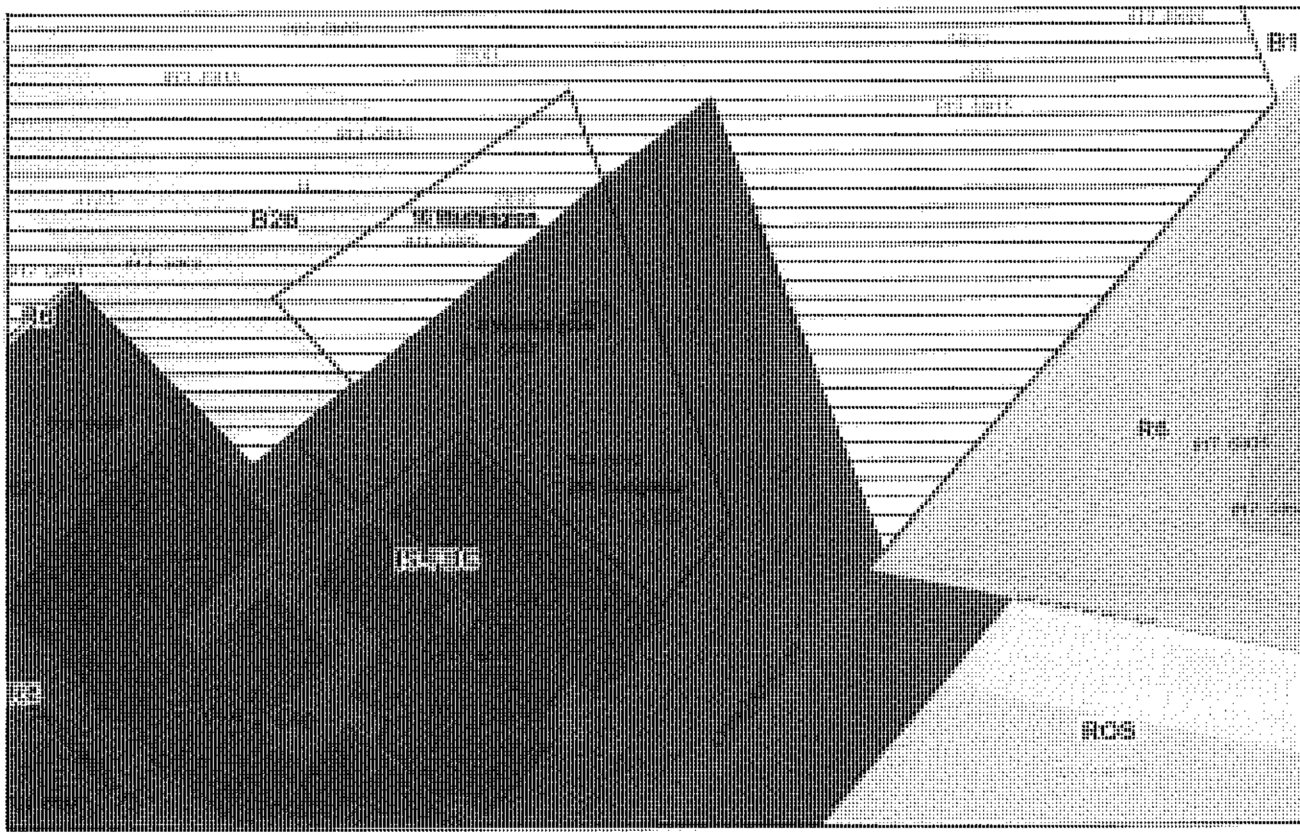


Figure 3: Future Development Proposal

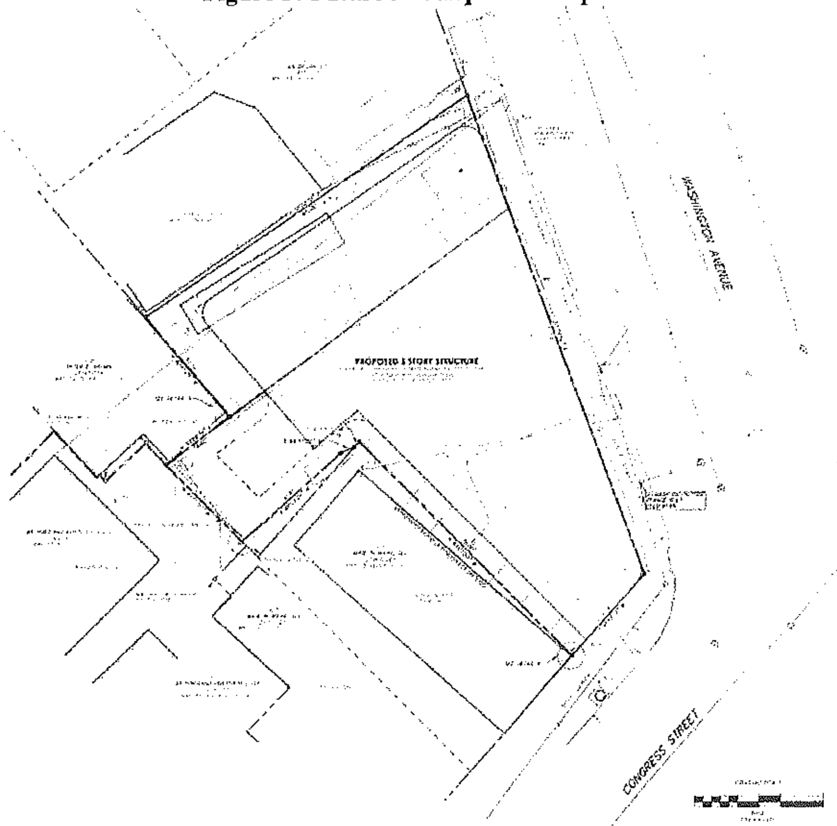
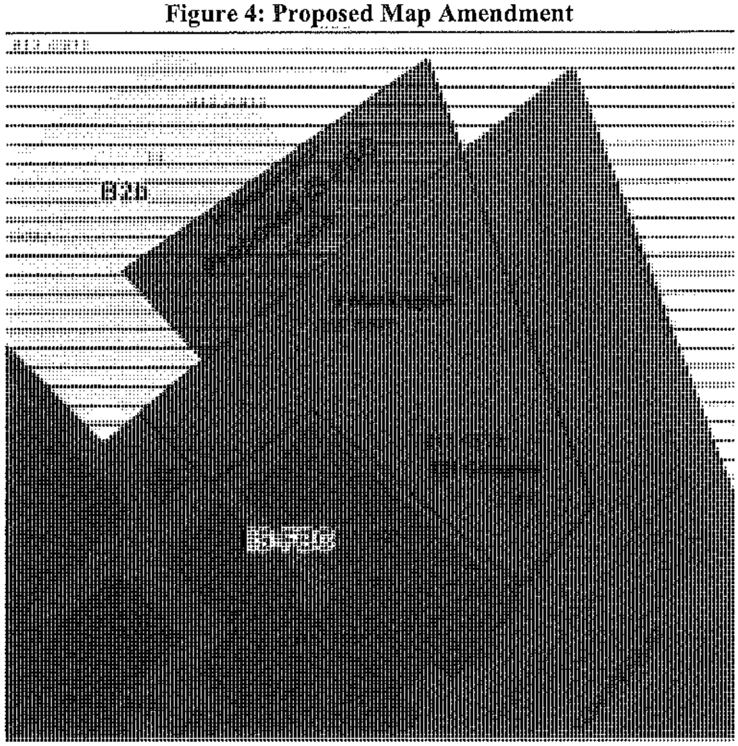


Figure 4: Proposed Map Amendment



IV. LAND USE POLICY

This section considers the zoning implications of changing the parcel in question from B-2b to IS-FBC Urban Active (UA).

Zone Comparison		
Standard	**B-2b (on-peninsula)**	**IS-FBC (UA)**
Purpose	Provide neighborhood and community retail, business, and service establishments that are oriented to and built close to the street. Appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in compatible commercial districts with a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.	Maintain and promote a moderate-scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings are more active and engage with the street at the ground level. Building frontages are transparent and entries are at sidewalk level with frontage types including storefronts and recessed doorways. The streetscape has stead street planting, and buildings set close to the street providing a consistent street wall.
Density	435 sf min lot area/du	n/a
Lot Coverage (max)	90%	90%
Height Min	n/a	3 stories
Height Max	45' 50' if commercial ground floor or affordable housing	50', 4 stories
Height Bonus	n/a	1 story
Setback - Front	0', 10' max.	0', 5' max
Setback – Side	0'	5'
Setback - Rear	10'	10'
Stepbacks	Above 35' height = 5' side, 15' rear	n/a
Ground Floor/ Active facade	75% of façade shall have an average depth of min. 20' for residential or commercial uses; all primary ground floor entries to multi-family buildings must orient to street	60%-90% fenestration; 12' clear height; at least one primary entrance at grade and oriented to UA street
Parking allowances	Fee-in-lieu	Fee-in-lieu First 3 residential units exempt
Parking dims	No parking within 35' of street	No parking within 35' of street
Parking access	No more than 25% of primary façade	Not allowed on primary façade; 20' setback for garage doors

The B-2b and IS-FBC are similar in their purpose statements and dimensional standards allowed for buildings. The key differences between the two zones include:

Density – B-2b limits the residential density to a minimum of 435 sf of lot area per dwelling unit (100 du/acre). The IS-FBC does not regulate density. Therefore, potentially more residential units can be built under the IS-FBC zone.

Minimum Height – B-2b does not have a minimum height whereas the IS-FBC requires at least 3 stories in the case of UA subdistrict. This effectively means the IS-FBC will result in more square footage, the possibility of more density an/or more housing units built on the parcel, and a building that relates to the historic and urban streetscape in a contextual way.

Maximum Height – B-2b allows up to 50' if the proposed building includes a commercial ground floor or affordable units. IS-FBC allows 50' maximum by right because commercial ground floors are encouraged by the dimensional standards.

Bonus Height – The B-2b does not have a provision for additional stories. The IS-FBC allows for up to 1 story of additional height if a public good is provided in the project (green roof, additional affordable housing, mid-block permeability, high residential density).

Parking – Both zones allow the use of a fee-in-lieu of parking. The IS-FBC provides one more area of flexibility – the first three residential units are exempt from providing on-site parking. Together these allowances make urban infill projects more feasible, especially when dealing with small lots.

The original boundary for the IS-FBC zone was drawn consistently to include two parcels deep past Congress Street (Figure 1) – the drafting of the original boundary should not be considered an argument against including this third parcel in the zone. It was determined at the time of the neighborhood planning process that Cumberland Avenue was part of the East Bayside neighborhood and that a depth of two parcels was a rational transition from the India Street neighborhood to East Bayside. The corner of Washington Avenue and Congress Street serves as a gateway location into the India Street neighborhood from the East End and East Bayside – there is an urban design argument to be made that a substantial, well-designed building should be on that corner to provide a strong anchor in that gateway location.

Specific to the development interests in this parcel, this map amendment would result in a larger development site with consistent zoning throughout. The applicant's development proposal will not be feasible without the map amendment because the project relies on a height bonus that is not available in the B-2b zone.

In summary, the two zones seek similar outcomes; IS-FBC is more permissive for density and some dimensional standards. IS-FBC encourages mixed-use development and infill projects with the potential to accommodate more residential units and square feet per building than the B-2b. The rationale for the original boundary of the IS-FBC does not preclude this parcel being included in the IS-FBC. Therefore, IS-FBC is an appropriate zoning designation for the parcel from a land-use perspective.

V. COMPREHENSIVE PLAN

The map amendment is found to be in compliance with the following Comprehensive Plan documents:

Comprehensive Plan (2005)

- A Community Vision for Portland - Build a Vibrant Small City: *Build upon the distinctive fabric of Portland's built environment by rehabilitating historic resources and by developing new buildings that respect the scale and character of traditional development patterns. New development shall be pedestrian oriented and accessible.*
- Goal B: Accommodate Anticipated Growth
- Goal D: Encourage Decent Housing

India Street Sustainable Neighborhood Plan (ISSNP) (2015)

- Goal – Vitality: *Vitality for this neighborhood can be achieved, in part, by encouraging and directing residential growth, especially small infill projects.*
- Goal – Strong Neighborhood Identity that Builds on its Heritage: *Streetscape and building improvements (both existing and historic) as well as new development should contribute to an identity that promotes the neighborhood to prospective residents, tourist, and adjacent neighborhoods as a destination.*
- Development Principle 1: Strong Neighborhood Identity

The map amendment will allow for a development proposal that advances these aforementioned goals and principles. In no instance would this map amendment conflict with the goals and principles from the Comprehensive Plan or the ISSNP neighborhood plan.

Housing: Sustaining Portland's Future

Policy #1: *Ensure an Adequate and Diverse Supply of Housing for All*

The map amendment will help the city to achieve more of its housing goals. The project will theoretically provide a higher number of residential units than if it were B-2b. This also means the project reaches the threshold to provide workforce housing under the inclusionary zoning ordinance – so at least one affordable unit or fee-in-lieu will be provided.

VI. STAFF RECOMMENDATION

Staff supports the proposed map amendment. Staff further recommends that the parcel be categorized as the Urban Active subdistrict within the IS-FBC to be consistent with the neighboring parcels and to create a consistent standard on Washington Avenue.

VII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant, the policies of the comprehensive plan, and the information provided in the Planning Board Report, the Board finds that:

1. The proposed zone change (is or is not) consistent with policies of the Comprehensive Plan.

   The Planning Board therefore (recommends or does not recommend) to the City Council approval of the proposed zoning map amendment from B-2b to IS-FBC UA as shown in Figure 4.

ATTACHMENTS

1. Applicant's Materials

Zoning Map/Text Amendment Application
Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees,** and are listed on the fee structure sheet.

I. APPLICATON SUBMITTAL

Pre-application meeting → Completed August 3rd, 2016

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, $40.00/ hour and Legal services: $75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of $1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with $300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each

(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division Fourth Floor, City Hall 389 Congress Street (207) 874-8721 or 874-8719	**Office Hours** Monday thru Friday 8:00 a.m. – 4:30 p.m.

PROJECT ADDRESS: 10 Washington Ave

CHART/BLOCK/LOT: 013 G005

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

Lot is currently in the B2b zone. We would like to change this lot to be IS-FBC (Urban ~~Additive~~ Subdistrict) to match the other two lots as part of the attached purchase & sale agreement. as lots will be in common ownership.

CONTACT INFORMATION:

	Applicant's Contact for electronic plans Name: Patrick Boothe e-mail Address: patrick@cjab.me work # 207-283-8777
Applicant – must be owner, Lessee or Buyer Name: Caleb Johnson Business Name, if applicable: Hay Runner, LLC Address: 265 Main Street Ste 201 City/State: Biddeford, ME Zip Code: 04005	**Applicant Contact Information** Work # 207-283-8777 Home# Cell # 207-590-2503 Fax# e-mail: caleb@cjab.me
Owner – (if different from Applicant) Name: Greg's Properties Wash Ave LLC Address: 26 Village Brook Rd City/State: Yarmouth, ME Zip Code: 04096	**Owner Contact Information** Work # Home# Cell # 914-261-4440 Fax# e-mail: alan.altman@kattenlaw.com
Agent/ Representative Name: Patrick Boothe, AIA Address: 265 Main Street, St City/State: Biddeford, ME Zip Code: 04005	**Agent/Representative Contact information** Work # 207-283-8777 Cell # 740-418-5475 e-mail: patrick@cjab.me
Billing Information Name: Hay Runner, LLC Address: 265 Main Street Ste 201 City/State: Biddeford, ME Zip Code: 04005	**Billing Information** Work # 207-283-8777 Cell # Fax# e-mail: amanda@cjab.me ap@cjab.me
Engineer Name: ~~[illegible]~~ Blais Civil Engineers Steve Blais, PE Address: 27 Gorham Rd #207 City/State: Scarborough, ME Zip Code: 04074	**Engineer Contact Information** Work # 207-730-7200 Cell # 207-837-8721 Fax# e-mail: sblais@blaisce.com

Surveyor Name: Sebago Technics (Charlie Marchese) or Jacob Bartlett Address: 75 John Roberts Road - Suite 1A City/State : South Portland, ME Zip Code: 04106	**Surveyor Contact Information** Work # 207-200-2069 Cell # 603-781-1405 Fax# e-mail: CMarchese@sebagotechnics.com
Architect Name: Patrick Boothe of Caleb Johnson Architects + Builders Address: 265 Main Street, Ste. 201 City/State : Biddeford, ME Zip Code: 04005	**Architect Contact Information** Work # 207-283-8777 Cell # 740-418-5475 Fax# e-mail: patrick@cjab.me
Attorney Pierce Atwood LLP Name: Rebecca Greenfield Address: 254 Commercial St. City/State : Portland, ME Zip Code: 04101	**Attorney Contact Information** Work # 207-791-1246 Cell # Fax# 207-791-1350 e-mail: rgreenfield@pierceatwood.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

HayRunner is currently under contract to purchase the property. Please see attached P&S agreement.

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

Vacant Land, Parking

Current Zoning Designation(s):

B2b

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

For the 3 lots in the Purchase & Sale Agreement, we are proposing a 5 story mixed use structure. Ground Floor to be Retail/Restaurant use and floors 2-5 to be residential. The proposed floor area is 25,300sf +/- above grade, 13 residential units. The project was presented at a pre-application meeting on August 3rd, 2016.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment _X_ $2,000.00 (from _B2b_ zone to _B-7_ zone)	**Fees Paid** (office use) ——	The City invoices separately for the following: • Notices ($.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review ($40.00 hour) • Legal Review ($75.00 hour) Third party review is assessed separately.
Zoning Text Amendment ___ $2,000.00 (to Section 14-_______) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (~~example~~) and language to be added is depicted as underline (<u>example</u>)	——	
Combination Zoning Text Amendment and Zoning Map Amendment ___ $3,000.00	——	
Conditional or Contract Zone ___ $3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	——	

Signature of Applicant:	**Date:**
P-B, AIA	9/19/2016

Further Information

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

CALEB JOHNSON
ARCHITECTS + BUILDERS

Portland Planning and Urban Development
4th Floor
389 Congress Street
Portland, ME 04101
207-874-8300

We are respectfully submitting this Zoning Map Amendment Application in request to change Lot 013 G005 from B2b Business Community Zone to IS-FBC (India Street Form Based Code) Urban Active subdistrict. The parent company of Caleb Johnson Architects, Hay Runner LLC, has a purchase and sale agreement for the above lot along with two contiguous lots to the south (Lots 7 and 12, P&S provided under separate cover). These two lots are currently IS-FBC Urban Active subdistrict.

We wish to develop all three lots into a mixed use 5 story residential and commercial building (additional design information is provided under separate cover). This project was presented at a Pre-Application Meeting on August 3rd, 2016 where the potential of a zoning map amendment was discussed. We are requesting the zoning map change as the three lots will be in common ownership and would allow, in our opinion, a more consistent architectural result with a consistent building height requirement and streamline approval processes.

We are happy to answer any questions regarding the project or the application.

Thank You,

Patrick Boothe, AIA
ME License #4204
Project Architect
patrick@cjab.me
207-283-8777
740-418-5475 cell

Purchase and Sale Agreement
6 & 10 Washington Avenue, Portland, Maine and
221 Congress Street, Portland, Maine

This Agreement, dated 7/20/2016, 2016, by and between **GREG'S PROPERTIES WASHAVE LLC**, a Maine limited liability company, whose mailing address is 26 Village Brook Road, Yarmouth, Maine 04096 (hereinafter referred to as "Seller") and **HAY RUNNER,LLC**, a Maine limited liability company, whose mailing address is 265 Main Street, Biddeford, Maine 04005 (hereinafter referred to as "Buyer")

Recitals:

A. Seller owns property situated in the City of Portland, County of Cumberland and State of Maine, located at 6 and 10 Washington Avenue and 221 Congress Street, as more particularly described in a Warranty Deed dated March 20, 2006 from Umbel Properties, LLC, recorded in Book 23771, Page 200 of the Cumberland County Registry of Deeds (the "Property" or the "Premises"). The Premises is also described by the City of Portland Tax Assessor as Tam Map 13, Block G, Lots 5, 7, and 12.

B. Buyer wishes to acquire the Property from the Seller and Seller wishes to convey the Property to the Buyer in exchange for the purchase price, all upon the terms and subject to the conditions hereinafter set forth.

Now, Therefore, in consideration of the mutual promises herein contained, and intending to be legally bound hereby, the parties hereby agree as follows:

1. **Closing**. The consummation of the transaction referred to in this Agreement (the "Closing") shall take place at the Law Offices of Robert E. Danielson, 65 West Commercial Street, Portland, Maine 04112-0545, thirty (30) days after the expiration of the Planning Board Approval and Financing Contingency Period, as hereinafter defined ("Closing Date"), or at such earlier time, date, and location as shall be mutually agreed upon by the parties.

2. **Sale of Real Estate**. Seller agrees to sell, convey, transfer and assign to Buyer and Buyer agrees to buy at the Closing, for the consideration hereinafter described, the Property.

3. **Title**. Seller shall convey the Premises at Closing in fee simple by a good and sufficient Quitclaim Deed With Covenant with good and marketable title, free and clear of all mortgages, liens, and encumbrances. Buyer agrees to complete its initial examination of title to the Property within Thirty (30) days from the Effective Date of this Agreement, and to give written notice to Seller if any matters appearing of record as of the date of Buyer's title search are objectionable to Buyer. Buyer hereby waives any matters not so objected to within Thirty (30) days from the Effective Date of this Agreement. Buyer shall also have the right to specify

in writing any additional objections to title not of record or otherwise known to Buyer as of the date of Buyer's initial title search, but appearing of record prior to Closing, except that if the same have been caused by Buyer, then the Buyer shall not be entitled to object to the same. If title to the Property to be conveyed hereunder should prove unmarketable, then Seller shall have a reasonable time beyond the date set for Closing to remedy the title defects. If Seller is unable or fails to remedy the title defects as to which notice is timely given hereunder, then Buyer may elect either (a) to terminate this Agreement, and all parties shall be relieved from all obligations and liabilities hereunder, or (b) to purchase the Property as contemplated herein without deduction from the Purchase Price, and accept such title as Seller can deliver to the Property.

Sellers may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any and all encumbrances or interests.

4. **Transfers at Closing.** Seller agrees to deliver to Buyer at the Closing:

(a) A Quitclaim Deed conveying to Buyer good and marketable title to the Property, free and clear of all encumbrances.

(b) All other documents and/or property as required by this Agreement to be delivered by Seller to Buyer.

5. **Sketch Plan and Bridge Loan Contingency.** Buyer shall have Thirty (30) days from the Effective Date of this Agreement (the "Sketch Plan and Bridge Loan Contingency Period") to obtain an initial bridge loan ("Bridge Loan") of One Hundred Thousand Dollars ($100,000.00) and obtain sketch plan approval ("Sketch Plan Approval") from the City of Portland for conceptual architectural plan for a 25 to 30 unit mixed use building that will conform to the City of Portland's Land-Use Ordinance (the 'Proposed Project"). If Buyer, using good faith efforts, is unable to obtain a Bridge Loan and Sketch Plan Approval, Buyer shall provide Seller with written notice within said Sketch Plan and Bridge Loan Contingency Period and this Agreement shall be terminated, the Deposit returned to Buyer, and neither party shall have any further obligations under this Agreement. If no such notice is given within such time period, the contingency referred to in this Paragraph 5 shall be deemed satisfied and waived by the Buyer.

6. **Planning Board Approval and Financing Contingency.** If Buyer has not terminated this Agreement at the expiration of the Sketch Plan and Bridge Loan Contingency Period in accordance with the provisions of Paragraph 5, Buyer shall have Sixty (60) days from the expiration of the Sketch Plan and Bridge Loan Contingency Period (the "Planning Board Approval and Financing Contingency Period") to obtain approval from the Planning Board of the City of Portland Planning ("Planning Board Approval") and to obtain financing for the Proposed Project ("Financing Approval") on terms and conditions that are satisfactory to Buyer in Bayer's sole discretion. If Buyer, using good faith efforts, is unable to obtain a Planning Board Approval and Financing Approval, Buyer shall provide Seller with written notice within said Planning Board Approval and Financing Contingency Period and this

Agreement shall be terminated, the Additional Deposit, as hereinafter defined, returned to Buyer, and neither party shall have any further obligations under this Agreement. If no such notice is given within such time period, the contingency referred to in this Paragraph 6 shall be deemed satisfied and waived by the Buyer.

7. **Purchase Price and Payment.** The total purchase price (the "Purchase Price") to be paid by Buyer to Seller upon receipt from them of the above instruments effecting the conveyance of the Property to Buyer, and subject to the conditions set forth herein, shall be Five Hundred Thousand Dollars ($500,000.00), which shall be paid by Buyer to Seller as follows:

(a) On the Effective Date Buyer shall deposit the sum of Twelve Thousand Five Hundred and 00/100 Dollars ($12,500.00) with The Law Offices of Robert E. Danielson to be held as an earnest money deposit (the "Deposit") in a non-interest-bearing escrow account, which Deposit shall be credited towards the Purchase Price at the Closing. Buyer and Seller agree to hold The Law Offices of Robert E. Danielson harmless from damages, losses or expenses arising out of this Agreement. Seller discloses and Buyer acknowledges that Seller is represented in this transaction by The Law Offices of Robert E. Danielson. In the event of Seller's non-acceptance, this earnest money shall be promptly returned to Buyer.

(b) If Buyer has not terminated this Agreement at the expiration of the Sketch Plan and Bridge Loan Contingency Period in accordance with the provisions of Paragraph 5, the Deposit shall become non-refundable but otherwise applicable towards the Purchase Price at the Closing, and Buyer shall deposit the additional sum of Twelve Thousand Five Hundred and 00/100 Dollars ($12,500.00) with The Law Offices of Robert E. Danielson to be held as an earnest money deposit (the "Additional Deposit") in a non-interest-bearing escrow account, which Additional Deposit shall be credited towards the Purchase Price at the Closing. The Additional Deposit shall become non-refundable at the expiration of the Planning Board Approval and Financing Contingency Period but shall otherwise be applied towards the Purchase Price at the Closing.

(c) At the Closing Buyer shall pay the sum of Seventy-Five Thousand and 00/100 Dollars ($75,000.00) directly to the Seller in the form of a certified check, bank cashier's check or wired funds.

(d) At the Closing Buyer shall execute and deliver to Seller a Promissory Note (the "Note") for the balance of the Purchase Price, Four Hundred Thousand Dollars ($400,000.00). Said Note shall be amortized over a twenty (20) year period, provide interest only payments for the first twenty-four (24) months, and bear interest at the rate of six percent (6.0%) per annum. The Note shall be secured by a junior priority mortgage on the Property (the "Mortgage"), subject only to the Buyer's first mortgage lender.

8. **No Representations, Warranties and Agreements of Seller.** Buyer acknowledges that Seller makes and has made no representation or warranty whatsoever,

including the suitability of the Premises for any particular purpose or the physical condition of the Premises. In particular and without limitation, Seller makes and has made no representation or warranty as to the presence or absence of any hazardous, toxic or special waste, substance, or material in, on, under, or about the Premises. Buyer acknowledges that in determining the suitability of the Premises for any purpose and with respect to the presence or absence of any of the aforementioned substances, Buyer will be relying solely on investigations conducted by it, its employees, agents or subcontractors.

9. **Additional Undertakings.** Each party to this Agreement shall execute and deliver or use its best efforts to cause to be executed and delivered such additional instruments as any other party may reasonably request for the purpose of carrying out the stated purposes of this Agreement.

10. **Notices.** Any notice or communication required or performed hereunder shall be sufficiently given if e-mailed, delivered in hand, or if sent by registered or certified mail, postage prepaid, to the following addresses, or to such other address as any party may designate:

If to the Seller:
Greg's Properties Washave LLC
Attn: Alec Altman
26 Village Brook Road
Yarmouth, Maine 04096
E-Mail: alec@bingaswingas.com
Tel: (914) 261-4440

with a copy to:
Robert E. Danielson, Esq.
The Law Offices of Robert E. Danielson
65 West Commercial Street
Portland, Maine 04112-0545

If to the Buyer:
Hay Runner, LLC
Attn: Caleb Johnson
265 Main Street, Biddeford, ME 04005
E-Mail: caleb@cjab.me
Tel: (207) 590-2503

with a copy to:
____
____
____
____

Any such notice shall be effective as of the second business day after the day of mailing thereof.

11. **Contents of Agreement.** This Agreement sets forth the entire understanding of the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement. It shall be changed or terminated only by an instrument executed by all parties hereto in writing. Neither party shall be bound by any terms, conditions, promises, statements or representations, oral or written, not herein contained.

12. **No Broker.** The Buyer and Seller represent to each other that neither of them has dealt with any broker in any connection with the sale contemplated hereby. Any commission claimed by any broker on account of the sale contemplated herein shall be the sole responsibility of the party who dealt with such real estate broker, or whose actions gave rise to such claim. This provision shall survive the closing and the delivery of the deed.

13. **Possession.** Buyer shall be entitled to possession of the Property at Closing.

14. **Real Estate Taxes.** Real estate taxes and other municipal assessments assessed by the City of Portland against the Property shall be prorated according to its tax year as of the Closing Date.

15. **Risk of Loss.** The risk of loss or damage to the Property by fire or otherwise is assumed by the Seller until Closing. In the event of substantial loss or damage to the Property prior to the date set for closing, Buyer shall be entitled to terminate this Agreement, but if Buyer elects to complete the Closing, the Buyer shall be entitled to all of insurance proceeds or eminent domain award attributable to such taking, less only the amounts actually expended or incurred by Seller in efforts to obtain such proceeds or such award.

16. **Transfer Taxes.** Each of Buyer and Seller shall pay at Closing one-half of the real property transfer tax imposed on the sale of the Property contemplated hereby.

17. **Default.** If Buyer fails to make any payment as agreed, or otherwise defaults hereunder for a reason other than the default of the Seller, Seller shall be entitled to pursue all available legal and equitable remedies. Should Seller default on its obligations under this Agreement, the Buyer's sole and exclusive remedy shall be to terminate this Agreement and all parties shall be relieved from all obligations and liabilities hereunder.

18. **Withholding**: Seller is aware that Maine law requires Buyer to withhold 2.5% of the sale proceeds unless Seller certifies residency in Maine at the time of closing or is otherwise exempt from this provision.

19. **Binding on Successors.** All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors, personal representatives, heirs and assigns of the parties hereto.

20. **Effective Date.** This Agreement is a binding contract when the last party has caused a paper or electronic copy of the fully executed Agreement to be delivered to the other party which shall be the Effective Date. Except as expressly set forth to the contrary, the use

of the term "days" in this Agreement, including all addenda made a part hereof, shall mean calendar days defined as including Saturday, Sundays and any observed Maine State/Federal holidays. Deadlines in this Agreement, including all addenda, expressed as "within x days" shall be counted from the Effective Date, unless another starting date is expressly set forth, beginning with the first days after the Effective Date, or such other established starting date, and ending at 5:00 p.m. Eastern Time on the last day counted

21. **Maine Law to Govern.** This Agreement is being delivered and is intended to be performed in the State of Maine and shall be construed and enforced in accordance with the laws of the State of Maine.

22. **Interpretation.** Wherever used herein the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The paragraph headings are included solely for convenience and shall in no event affect, or be used in connection with, the interpretation of this Agreement. Time is of the essence of each and every provision of this Agreement.

23. **Miscellaneous.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument. All parties hereby acknowledge that they have executed this Agreement after the opportunity for investigation and consultation with an attorney, and in executing this Agreement they have not been induced, persuaded or motivated by any promise or representation made by any other party, except as may expressly be set forth herein. No oral representations have been made by or on behalf of Seller to induce Buyer to sign this agreement. All provisions of this Agreement shall survive the Closing and the delivery of the Deed. No invalidity or unenforceability of any provision of this Agreement shall affect in any way the continued validity or enforceability of the remaining terms and provisions hereof. The use of captions in this Agreement is for purposes of convenience only, and no caption or paragraph heading shall be construed or interpreted so as to affect in any way the meaning of this Agreement.

In Witness Whereof, the parties have executed this Agreement as of the date below.

Buyer:	Seller:
Hay Runner, LLC	**Greg's Properties Washave LLC**
DocuSigned by:	By: DocuSigned by: Alec Altman
Caleb Johnson, Its Manager	Alec Altman, Its Manager
Date: 7/19/2016	Date: 7/20/2016

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (the "First Amendment") is made as of this ____ of August 2016, between **GREG'S PROPERTIES WASHAVE LLC**, a Maine limited liability company ("Seller"), and **HAY RUNNER, LLC**, a Maine limited liability company (the "Buyer").

RECITALS:

WHEREAS, Seller and Buyer entered into an Purchase and Sale Agreement with an effective date of July 20, 2016 (the "Original Contract"), relating to the purchase and sale of certain undeveloped property situated in the City of Portland, County of Cumberland, State of Maine, located at 6 and 10 Washington Avenue and 221 Congress Street, as more particularly described in the Original Contract (the "Property");

WHEREAS, pursuant to Section 3 and Section 5 of the Original Contract Buyer was afforded a thirty (30) day contingency period to review title and to obtain Sketch Plan Approval and a Bridge Loan and sixty (60) days to obtain Planning Board Approval and Financing Approval.

WHEREAS, Buyer has now requested, and Seller has agreed to provide, an extension of said contingency period and an expansion to cover certain typical due diligence period that a lender would require in connection with acquisition and construction financing, all upon the terms and conditions provided herein.

AGREEMENT:

NOW THEREFORE, in the consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to the following:

1. **Due Diligence Contingency Periods.** The Original Contract is hereby amended to provide for the following extensions and amendments:

(a) Section 3 of the Original Contract is amended to provide that the period during which Buyer may examine and object to title matters of record affecting the Property and existing as of the Effective Date shall be sixty (60) days from the Effective Date. Buyer shall also have until the date of Closing to object to any matters affecting title to the Property that either are not of record as of the Effective Date or first arise after the Effective Date, except that if the same have been caused by Buyer, then Buyer shall not be entitled to object to the same.

(b) The last sentence of the first paragraph of Section 3 is amended to provide that if the Agreement is terminated in accordance with the terms of such sentence then the Deposit shall be returned to Buyer.

(c) Section 5 of the Original Contract is amended to provide that the Sketch Plan and Bridge Loan Contingency Period shall be for a period of sixty (60) days from the Effective Date.

(d) Buyer shall have the right to do a complete investigation and analysis of the Property, at its own expense, within sixty (60) days from the Effective Date, (the "Due Diligence Period"). Such investigation and analysis may include such matters as Buyer deems appropriate or necessary, in its sole discretion, with respect to the acquisition of the Property and may include without limitation, environmental assessments, zoning analysis, physical inspections and preparation of survey. Buyer may seek information from independent professionals regarding any specific issue of concern, and Buyer and its agents and consultants may enter into and onto any part of the Property at their own risk at all reasonable times during the Due Diligence Period in order to inspect the Property, conduct assessments and studies, prepare surveys, and do such other things as are reasonably necessary with respect to Buyer's investigation and analysis. Buyer agrees that in the event it shall not purchase the Property, it shall restore the Property to the condition which existed immediately prior to such work being undertaken to the extent reasonable practicable. Buyer shall have the right to terminate this Agreement if Buyer determines, in its sole discretion, that it is not satisfied with the Property for any reason during the Due Diligence Period. To exercise such termination right, Buyer shall give written notice of termination to Seller on or before the last day of the Due Diligence Period. If Buyer gives notice of termination on or before either deadline, then this Agreement shall be deemed terminated as of the date on which Seller receives such notice, the Deposit shall be returned to Buyer, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

2. **Effect of This Amendment.** Except as amended or modified by this First Amendment, the Original Contract is hereby ratified and confirmed and all other terms of the Original Contract shall remain in full force and effect. In the event of any conflict between the provisions of the Original Contract and this First Amendment, the provisions of this First Amendment shall prevail.

3. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together will constitute one and the same instrument. Signatures by facsimile shall be as effective as originals.

4. **Capitalized Terms.** All capitalized terms set forth herein and not otherwise specifically defined herein shall have the meaning set forth in the Original Contract. The Original Contract, as amended hereby, shall be referred to as the "Agreement".

[Signature Page to First Amendment Follows]

IN WITNESS WHEREOF, the parties have duly executed this First Amendment as of the date first written above.

SELLER:

GREG'S PROPERTIES WASHAVE LLC,
a Maine limited liability company

By: ______________________
Alec Altman, Manager

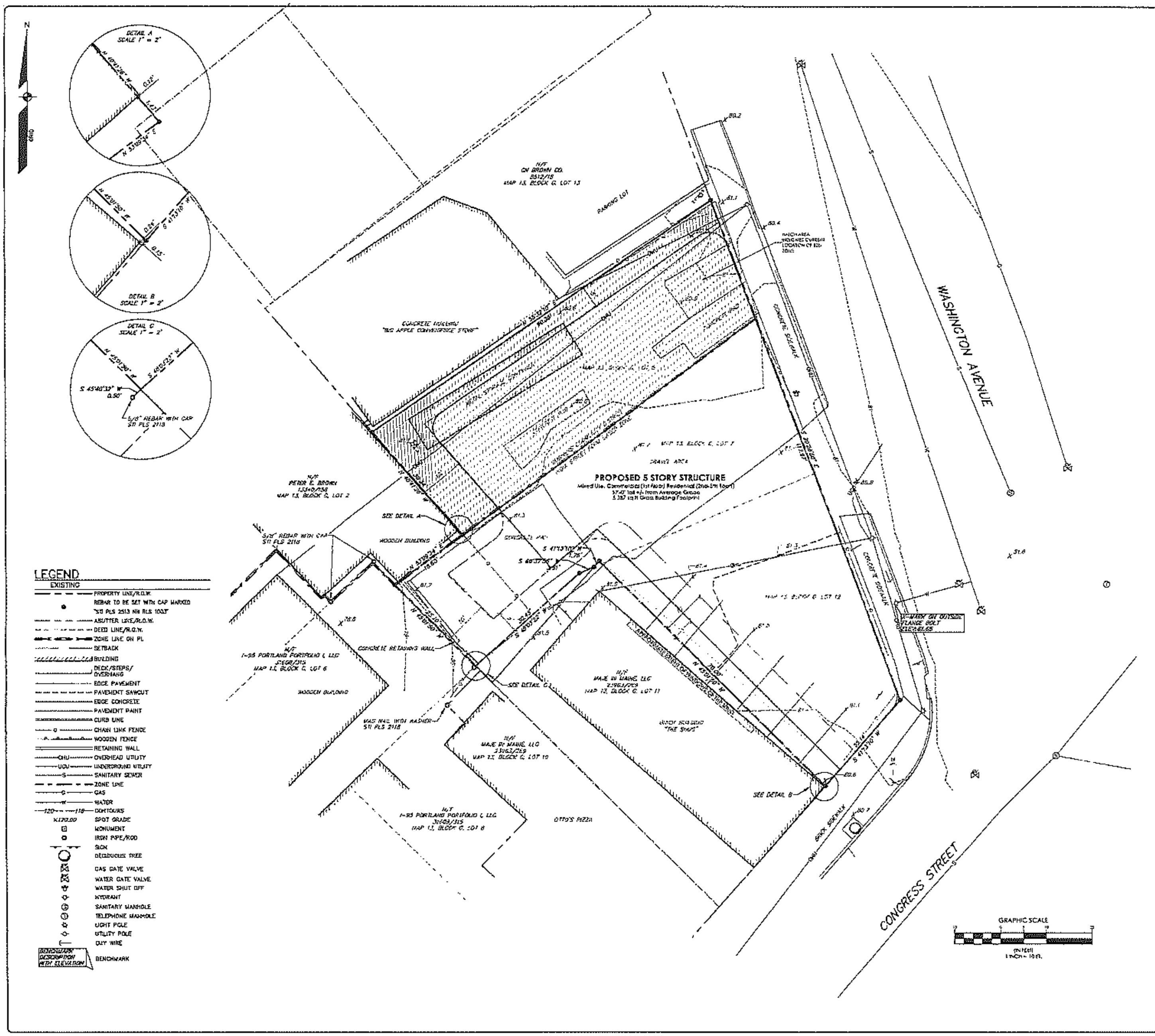
8/12/16

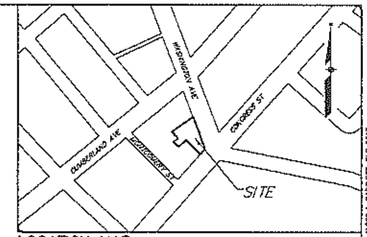
BUYER:

HAY RUNNERZ LLC,
a Maine limited liability company

By: ______________________
Caleb Johnson, Manager

{W5685264.1}





LOCATION MAP N.T.S.

GENERAL NOTES:

1. THE RECORD OWNER OF THE PARCEL IS GREG'S PROPERTIES WASHAVE LLC BY DEED DATED MARCH 20, 2006 AND RECORDED AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN BOOK 23771, PAGE 200.
2. THE PROPERTY IS SHOWN AS LOTS 12, 7, AND 5 ON THE CITY OF PORTLAND TAX MAP 13, BLOCK G AND IS LOCATED IN THE INDIA ST. FORM BASED(IS-FBC)-URBAN ACTIVE SUBDISTRICT, AND BUSINESS COMMUNITY (B2b) ZONES.
3. SPACE AND BULK CRITERIA FOR THE IS-FBC-URBAN ACTIVE ZONE ARE AS FOLLOWS:

NET RESIDENTIAL DENSITY:

MINIMUM LOT SIZE:	N/A
MINIMUM STREET FRONTAGE:	N/A
MAXIMUM FRONT YARD:	5 FEET
MINIMUM SIDE YARD:	5 FEET
MINIMUM REAR YARD:	10 FEET
MAXIMUM BUILDING HEIGHT:	50 FEET, UP TO 4 STORIES
MAXIMUM LOT COVERAGE:	90%

SPACE AND BULK CRITERIA FOR THE COMMUNITY BUSINESS ZONE ARE AS FOLLOWS:

NET RESIDENTIAL DENSITY:

MINIMUM LOT SIZE:	N/A
MINIMUM STREET FRONTAGE:	20 FEET
MINIMUM FRONT YARD:	NONE
MAXIMUM FRONT YARD:	10 FEET
MINIMUM SIDE YARD:	NONE
MINIMUM REAR YARD:	10 FEET
MAXIMUM BUILDING HEIGHT:	45 FEET
MAXIMUM LOT COVERAGE:	80%

\- SEE ORDINANCE FOR MORE PARTICULAR INFORMATION.

3. TOTAL AREA OF PARCEL IS APPROXIMATELY 7,120 SQUARE FEET.
4. BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED UPON FIELD WORK PERFORMED BY SEBAGO TECHNICS INC. IN AUGUST 2016 AND JUNE 2014.
5. PLAN REFERENCES:
   - A. LAND OF JOHN SWETT, ESQ. FILED AS PLAN 376/5 IN CITY OF PORTLAND PUBLIC WORKS ENGINEERING ARCHIVES.
   - B. "6 WASHINGTON AVE. GREG'S PROPERTIES WASHAVE LLC." DATED OCTOBER 17, 2007, SURVEYED BY THOMAS J. RAYMOND, PLS 1021 AND FILED AS PLAN 1008/5 IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
   - C. WASHINGTON AVENUE BLUE SHEET PAGE 1 FILED IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
   - D. "STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP WASHINGTON AVENUE PORTLAND CUMBERLAND COUNTY FEDERAL AID PROJECT NO. M-0079(1)" DATED MARCH 1984 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 163, PAGE 19.
   - E. FIELD NOTES IN RE-VALUATION FIELD BOOK VOLUME 1 FILED IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
   - F. FIELD NOTES FOR "WASHINGTON AVE. FROM CONGRESS ST. TO TUKEY ST. LOCATION OF LINE & TIES TO MONS PAVING SURVEY" DATED APRIL 21, 1947, AND FILED IN LEVEL BOOK VOLUME 473, PAGE 2 IN THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT ENGINEERING ARCHIVES.
6. DEED REFERENCES (ALL BOOK AND PAGE REFERENCES ARE TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS):
   - A. JOSHUA RICHARDSON TO SAMUEL M. QUINCEY, DATED JULY 10, 1828, AND RECORDED IN BOOK 113, PAGE 252.
   - B. JOSHUA RICHARDSON TO WILLIAM MOULTON, DATED AUGUST 21, 1828, AND RECORDED IN BOOK 115, PAGE 39.
   - C. MARY A. MEAD & MARY A. SWETT TO EDWARD DUDDY, DATED OCTOBER 5, 1922, AND RECORDED IN BOOK 1118, PAGE 120.
   - D. SIDNEY S. NASON, EUNICE NASON, ELIZA A. SMITH, AND ROSANNA COLLINS TO JOHN C. PRESTON, DATED NOVEMBER 16, 1881, AND RECORDED IN BOOK 482, PAGE 314.
   - E. SIDNEY S. NASON TO JOHN F. PROCTOR, DATED JANUARY 21, 1890, AND RECORDED IN BOOK 560, PAGE 376.
   - F. NOTICE OF LAYOUT AND TAKING, DATED APRIL 24, 1984 AND RECORDED IN BOOK 6444, PAGE 79.
7. PLAN ORIENTATION IS GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE 1802-NAD83. ELEVATIONS DEPICTED HEREON ARE NGVD29, CONVERTED (UTILIZING VERTCON FROM NOAA) FROM NAVD88, BASED ON DUAL FREQUENCY GPS OBSERVATIONS.
8. UTILITY INFORMATION DEPICTED HEREON IS COMPILED USING PHYSICAL EVIDENCE LOCATED IN THE FIELD AND WORK PERFORMED BY DIG SMART OF MAINE. UTILITIES DEPICTED HEREON MAY NOT NECESSARILY REPRESENT ALL EXISTING UTILITIES. CONTRACTORS AND/OR DESIGNERS NEED TO CONTACT DIG-SAFE SYSTEMS, INC. (1-888-DIG-SAFE) AND FIELD VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION AND/OR EXCAVATION.

Annotations for Zoning Map Amendment Application Provided by Caleb Johnson Architects

GRAPHIC SCALE (IN FEET) 1 INCH = 10 FT.

SURVEYOR'S STATEMENT

THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT WAS DONE IN ACCORDANCE WITH CHAPTER 90, PART 1 (PROFESSIONAL STANDARDS OF PRACTICE) AND PART 2 (TECHNICAL STANDARDS OF PRACTICE) OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS.

JACOB L. BARTLETT, PLS 2513 SEPTEMBER 15, 2016

DESIGNED	CHECKED
JB	DDM

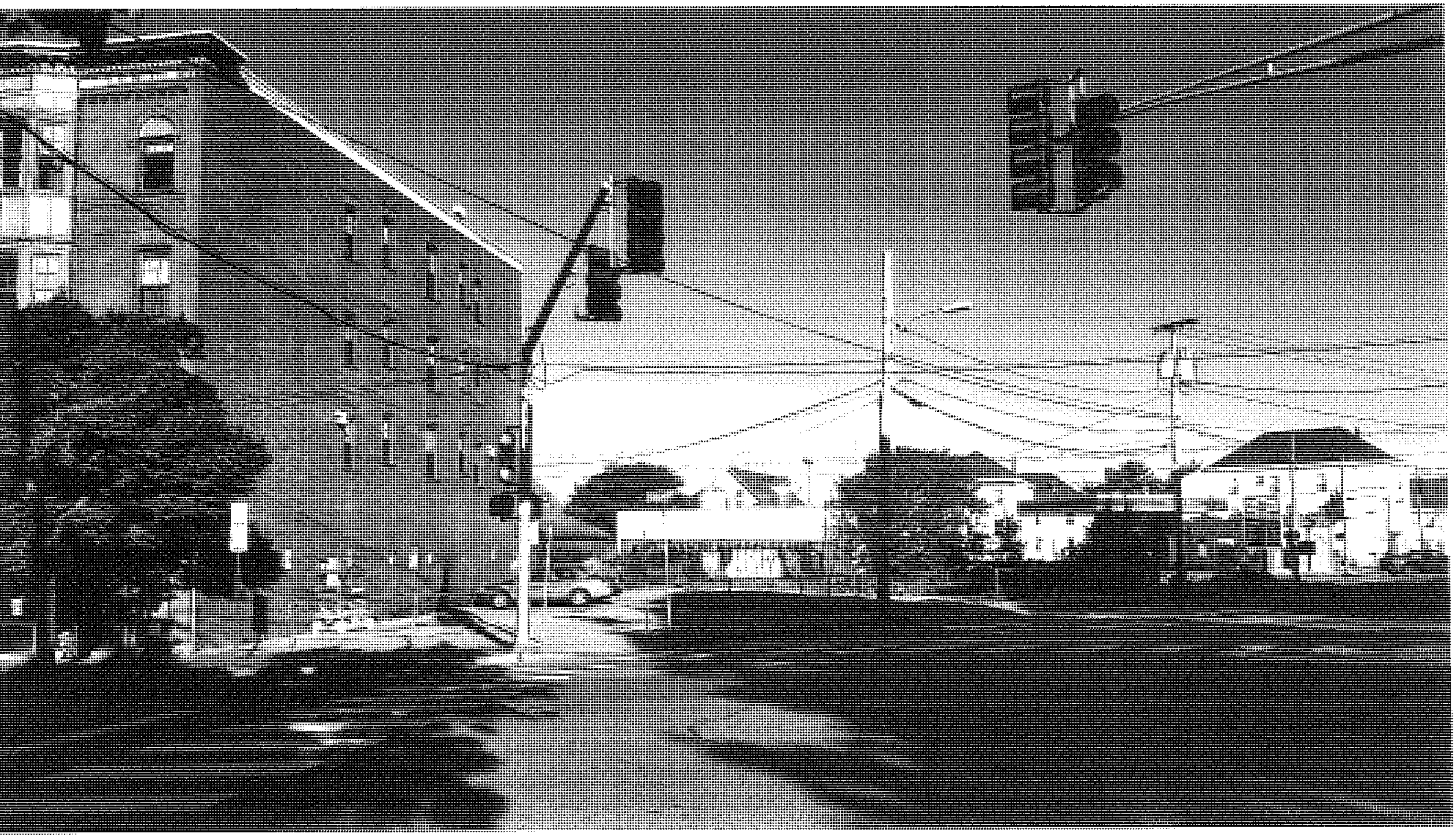
REV	BY	DATE	STATUS
A	JB	09-15-16	PRELIMINARY COPY ISSUED TO CLIENT FOR REVIEW

SEBAGO TECHNICS
WWW.SEBAGOTECHNICS.COM
75 John Roberts Rd. Suite 1A South Portland, ME 04106 Tel. 207-200-2100
250 Goddard Rd. Suite B Lewiston, ME 04240 Tel. 207-783-5656

EXISTING CONDITIONS SURVEY
OF LAND FOR RECORD OWNER:
GREG'S PROPERTIES WASHAVE LLC
221 CONGRESS STREET
PORTLAND, MAINE 04101
PREPARED FOR:
CALEB JOHNSON ARCHITECTS & BUILDERS
2065 MAIN STREET
BIDDEFORD, MAINE 04005

PROJECT NO.	SCALE
16314	1" = 10'

SHEET 1 OF 1



Order 94-16/17
Tab 22 11-21-16

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)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 2 ADMINISTRATION
RE: AUTHORIZATION FOR FINANCE DIRECTOR TO ACCEPT AND EXECUTE CERTAIN LICENSES AND EASEMENTS

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

1. That Section 2-17 and 2-313 are hereby amended to read as follows:

Sec. 2-17. Additional duties assigned.

In addition to the duties imposed on them by the Charter, state law and ordinance of the city, the City Council or the City Manager, the following officers shall perform the additional duties list below:

(a) *City Clerk:*

...

(f) *Director of Finance:* In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the Director of Finance to act to promote, secure and preserve the financial and property interests of the city. The Director of Finance shall:

1. Perform the duties and have and exercise the powers conferred or imposed upon Directors of Finance, Treasurers and Collectors of Taxes by State law, the City Charter and this Code;

...

5. ~~Reserved~~Under the direction of the City Manager, execute licenses and easements for foundations, footings, awnings, overhangs and similar appurtenances to private developments on, above,

or below City property or the public way~~.~~;

...

Sec. 2-313. Sale or disposal of real or personal property.

(a) Redemption of tax-acquired real property.

...

(c) Acceptance of certain licenses and~~sewer and drainage~~ easements. The Finance Director, upon approval ~~by~~ from the City Manager, shall have the authority to accept sewer and drainage easements, and licenses and easements for foundations, footings, awnings, overhangs and similar appurtenances to private developments on, above, or below the City property or the public way, and shall cause such easements and licenses, as necessary, to be recorded in the Cumberland County Registry of Deeds.

...

<u>MEMORANDUM</u>
<u>City Council Agenda Item</u>

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

FROM: Jeff Levine, Director, Planning & Urban Development

DATE: November 7, 2016

SUBJECT: Amendment to Code of Ordinances
Regarding Approval of Licenses & Easements

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading____11/21/16______ Final Action__12/5/16______

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Jon Jennings, brief overview; Jeff Levine, description of changes

I. ONE SENTENCE SUMMARY
Amendment to Portland City Code Chapter 2 re: approval of license and easements

II. AGENDA DESCRIPTION
As part of an effort to streamline the development process, staff is proposing a change to Chapter 2 of the Portland City Code to permit the City Manager and Finance Director to execute certain licenses and easements. It is common in an urban environment for developments to require licenses for foundations (below ground) and/or for steps, ADA-compliant ramps, overhangs, or similar appurtenances on public sidewalks or rights of way. These licenses and easements are often requirements of site plan approval by the Planning Board, and have been publicly vetted through that process to protect the public interest. This change would eliminate the requirement that these licenses and easements go to the City Council for approval, and instead authorize City staff to administratively approve them.

III. BACKGROUND
Until a few years ago, licenses and easements on public land were approved by the City Manager as "revocable" licenses under Chapter 25, Division 2. More recently Corporation Counsel has advised that these sorts of licenses and easements are not "revocable" and therefore need to be approved by the City Council.

Given the extensive public review of development projects at the Planning Board, staff believes that taking these licenses and easements to the City Council is not necessary. The site plan that is includes them has already been reviewed by the Planning Board with public comment. City staff has already consulted with DPW; Parks, Recreation & Facilities; and other relevant internal stakeholders. Bringing these license and easements to the City Council is an unnecessary additional step that adds cost and uncertainty to the development process.

Alternatives that have been studied include (1) retaining the existing system; (2) amending the definition of "revocable" easements in Chapter 25 to include these types of licenses and easements; (3) further refining which items would go to the Council but allowing smaller licenses and easements to be approved administratively; and (4) the current proposal. Staff believes the current proposal strikes the right balance between protecting the public interest and providing certainty and clarity to the development review process.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

This amendment will create a more efficient permitting process.

V. FINANCIAL IMPACT

By removing unnecessary steps in the development review process, this amendment will reduce administrative costs for preparing City Council agenda items, and also encourage additional taxable development.

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

VII. RECOMMENDATION

Staff recommends passage of the attached ordinance amendment.

VIII. LIST ATTACHMENTS

Proposed amendment to Chapter 2

Prepared by: Jeff Levine
Date: 11/7/16

Chapter 2 ADMINISTRATION*

***Charter reference(s)**--Powers and duties, art. I, § 2.

Cross reference(s)--Ordinances promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds in the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city saved from repeal, §1-4(1); ordinances making any appropriations saved from repeal, § 1-4(4); ordinances prescribing the number, classification or compensation of any city officers or employees saved from repeal, § 1-4(10); ordinances providing for retirement benefits saved from repeal, § 1-4(11); uniform procedure for collecting assessments, § 1-16; elections, Ch. 9; general assistance, Ch. 13; planning board, § 14-16 et seq.; administration and enforcement of zoning, § 14-461 et seq.; jurisdiction of board of appeals for zoning, § 14-471 et seq.; board of appeals, § 14-541 et seq.; historic preservation, § 14-600 et seq.; licenses and permits, Ch. 15; police, Ch. 20; special police, § 20-16 et seq.; administration and enforcement of traffic regulations, § 28-11 et seq.; traffic division, § 28 et seq.; traffic engineer, § 28-21 et seq.; parking division, § 28-41 et seq.

ARTICLE I. IN GENERAL

Sec. 2-1. City seal.

The design set forth below shall be the device of the city seal; and the motto shall be: *"RESURGAM, SIGILLUM, CIVITATIS PORTLANDIAE."*
(Code 1968, § 103.1)

State law reference(s)--Municipal authority to adopt a seal, 30 M.R.S.A. § 1902.

Sec. 2-2. Council members acting as agents in claims or actions against city prohibited.

No member of the City Council shall act as attorney, agent or representative for any person in any claim or demand against the City, nor in defending any person in any action brought by the City.
(Code 1968, § 202.3)

Charter reference(s)--No personal interest, art. VIII, § 1.

State law reference(s)--30 M.R.S.A. § 2251.

Sec. 2-3. Accidents to be reported.

Every officer and every employee, including the School Department, involved in any accident or other incident in which the City may be a party or having knowledge or notice, whether by hearsay or otherwise, of any such accident or incident shall immediately file a full report of such accident or other incident with the Corporation Counsel.
(Code 1968, § 202.4)

Sec. 2-4. thru 2-15. Reserved.

ARTICLE II. OFFICERS*

***Charter reference(s)**--Administrative officers, art. VI.
Cross reference(s)--Parking control officers, § 28-116.
State law reference(s)--Town officials, 30 M.R.S.A. § 2250 et seq.

DIVISION 1. GENERALLY

Sec. 2-16. Positions created.

In addition to the administrative officers and boards established by the Charter, there shall be the following additional administrative officers who shall be appointed in the manner provided in the Charter:

...

(f) *Director of Finance:* In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the Director of Finance to act to promote, secure and preserve the financial and property interests of the city. The Director of Finance shall:

1. Perform the duties and have and exercise the powers conferred or imposed upon Directors of Finance, Treasurers and Collectors of Taxes by State law, the City Charter and this Code;

2. Receive, file and keep in his or her custody all contracts, leases and other like documents not required to be filed elsewhere, and the Director shall not permit any such papers to be taken from his or her possession without obtaining a receipt therefor;

3. Keep and preserve all bonds required of officers and employees of the City, except his or her own bond which shall be kept by the City Clerk;

4. Under the direction of the City Council, seal and execute all deeds to City-owned property, and shall, after recording when necessary, file and preserve all deeds delivered to the city as purchaser;

5. ~~Reserved~~Under the direction of the City Manager, execute licenses and easements for foundations, footings, awnings, overhangs and similar appurtenances to private developments on, above, or below the public way.

6. Under direction of the City Council, authorize, sign and issue all obligations of the city, and shall keep and administer said documents;

7. Deposit the proceeds of all sales of bonds into the city treasury immediately after he or she shall have received the same, and until such deposit, he or she shall be responsible for the amount thereof;

8. Keep in proper books a full and accurate account of all the moneys received and disbursed by him in behalf of the City, specifying the time of receipt and disbursement, from whom disbursed and on what account received and disbursed and how paid, showing at all times the financial condition of the City;

9. Receive and have custody of all moneys paid to the city and shall then deposit and invest and reinvest the same with some reasonable banking or investment institution or institutions, and shall disburse City moneys upon authorization of the City Council, and may sell, purchase and otherwise trade all, securities, bonds, stocks or other negotiable instruments owned by or belonging to the City;

10. Report the default of any officer of the City to the City Manager, who shall direct the corporation counsel to take immediate legal measures for the recovery of the amount for which such officer may be in default;

11. Ensure that all banks and trust companies, now or hereafter holding deposits of the city, are requested, authorized and, directed to honor checks, drafts or other orders for the payment of money drawn in this corporation's name, including those payable to the individual order of any person or persons whose name or names appear thereon as signee or signers thereof, when bearing the signature or facsimile signature of the Director of Finance or such person as he or she shall identify to the aforementioned banks and trust companies; and further, that the Director of Finance shall cause the names of said designees and all other conditions of payment to be submitted in writing to the aforementioned banks and trust companies;

12. Demand and receive all moneys and fees owing to the City, whenever any person is indebted to the City in any manner and the means of collection of such debt is not otherwise provided for by law. When any claim shall not be collectible by other methods, he shall report the same to the corporation counsel for prosecution;

13. Pay City employees upon presentation of the properly certified payroll;

14. Transmit to the City Manager annually audited statements of cash on hand and of classified unencumbered appropriation balances for the City as a whole and such other financial statements as the City Manager may from time to time require. He or she shall keep every department, board, commission, and institution currently informed of its classified unencumbered appropriation balances;

15. Exercise general supervision over all officers of the City regarding the proper management of the fiscal concerns of their respective offices and:

    a. Examine the books of each department from time to time and see that they are kept in proper form;

    b. See that officers receiving money pay the same into the City Treasury when thereto required and that all necessary financial reports are made by officers, and shall report all delinquencies in such payments or reports to the City Manager and Council;

16. Examine, pay and audit the accounts of all officers and departments subject to the approval of the City Manager and appropriation by the Council;

17. Prescribe the forms of accounts and reports to be rendered to him or her;

18. Prepare estimates of revenues and expenditures as prescribed by the Charter and give such other assistance in the preparation of the budget as may be required by the City Manager;

19. Issue all permits and licenses required by ordinance to be issued by the Director of Finance or his designee;

20. Pay out to the persons duly entitled thereto on warrant of the Director of Finance, without appropriation by the Council, any money paid into the Treasury pursuant to special trust funds.

The Finance Director shall further have the authority to employ assistants to whom he or she may delegate duties as permitted by state law, the Charter and this Code.

DIVISION 3. SALE OR DISPOSAL OF REAL OR PERSONAL PROPERTY

Sec. 2-313. Sale or disposal of real or personal property.

(a) *Redemption of tax-acquired real property.*

(1) Property acquired by the City by reason of delinquent property taxes or sewer user charges may be reconveyed to the person or persons from whom the property was acquired after the expiration of the statutory period for redemption, upon the following conditions:

The payment of the full amount of all taxes, sewer user charges, and other charges and assessments of any kind owed on all property located within the city, owned by the person seeking to redeem the property.

(2) The City Manager may attach such further conditions as he or she may determine to be reasonable and appropriate for any reconveyance.

(3) Nothing herein shall be construed to create any entitlement to reconveyance.

(b) *Real property.*

(1) Subject to the provisions of section 2-313(a) above for redemption by the prior owner, the Finance Director shall promulgate rules and regulations for the review and disposition of all real property. Such properties may be offered for sale pursuant to said rules and regulations. All sales shall be subject to the approval of the City Council, except that the City Manager, upon review by the Finance Director, is authorized to sell:

a. Vacant lots that do not meet minimum lot size for construction and are less than five thousand dollars ($5,000.00) in value as determined by the assessor;

b. Tax-acquired properties that are residential land or residential buildings containing no more than three units and having an assessed value of no more than four hundred thousand dollars ($400,000.00), provided that such properties shall not be sold for less than the sum of:

i. All taxes and interest owed on the property and the amount of taxes and interest that would have been assessed had the property not been acquired by the city;

ii. The city's costs of the lien and foreclosure process;

iii. The city's costs of maintaining and disposing of the property, including, without limitation, attorneys' fees and marketing costs incurred in connection with the sale of the property;

iv. Unpaid sewer, water, storm water, or other charges and fees imposed by or incurred by the city; and

v. Any other costs incurred by the city related to the property; and

c. Such sales must be conducted in accordance with the City of Portland's Rules for the Disposition of City-Owned and Tax-Acquired Property and any other rules promulgated pursuant this section.

(2) All rules and regulations promulgated hereunder shall be effective upon approval by the City Manager, and a copy of all such rules and regulations shall be kept on file in the office of the Finance Director.

(3) Nothing herein shall limit or modify the discretion of the City Manager or the City Council to reject any sale or offer to purchase by any person should they deem it in the best interest of the City to do so.

(c) *Acceptance of certain licenses and~~sewer and drainage~~ easements.* The Finance Director, upon approval by the City Manager, shall have the authority to accept sewer and drainage easements, and licenses and easements for foundations, footings, awnings, overhangs and similar appurtenances to private developments on, above, or below the public way, and shall cause such easements to be recorded in the Cumberland County Registry of Deeds.—

(d) *Personal property.* The Finance Director shall conduct all disposal of personal property determined by the City Manager to be surplus, such disposal to be either:

(1) By competitive bid;

(2) By competitive negotiation including, but not limited to, trading property, the value of any single piece of which does not exceed five thousand dollars ($5,000.00);

(3) By public auction; or

(4) By discarding it as he or she determines to be in the best interest of the city, if he or she determines it to be of no

economic value.

(Ord. No. 376-90, § 3, 6-6-90; Ord. No. 244-93, § 3, 4-16-93; Ord. No. 142-96, 1-17-96; Ord. No. 131-00, 12-18-00; Ord. No. 191-15/16. 4-4-2016)

November 17, 2016

Jon Hinck, Chair, Energy and Sustainability Committee
c/o Jon Jennings, City Manager and Troy Moon
Portland City Hall
389 Congress Street
Portland, ME 04101

Re Jetport Sustainability Master Plan

Dear Jon:

Next week the City as owner/operator of the Jetport will be presenting to the full Council for approval a Jetport Sustainability Master Plan. Speaking on behalf of Stroudwater Village Association ("SVA"), at the first reading of the plan earlier this summer I offered by letter comments on the plan and for the reasons expressed in my letter urged the Council not to approve the plan in its then present form.

The SVA was concerned that the plan focused only on operations within the four corners of the Jetport property and had little if any sustainability analysis with respect to JetPort operations beyond its borders -- such as traffic, land use planning, trail potential, and noise mitigation. From the SVA's perspective, any comprehensive sustainability analysis should look at all impacts from Jetport operations, both internal and external. As an example, part of the study devoted pages to analyzing the energy consumption of vending machines. While SVA certainly supports the City's use of vending machines that use the least amount of energy, spending in equal amount of time analyzing present efforts to minimize offsite impacts would have had a more far reaching impact.

Since the first read, I have met with Paul Bradbury on several occasions and shared with him the SVA's concerns. Mindful that the funds for the report ($800,000) have been pretty much spent, we discussed steps the Jetport could take over the coming near years to address the above concerns. After some brain storming Paul arrived at proposed changes to the plan that in our view will provide meaningful steps if followed to address the concerns. In essence each of the steps will provide for some level of Jetport self-evaluation to help see whether the Jetport is using best practices with respect to such things as its Traffic Management Plan, Noise Abatement Programs, and exploring potential for trail development on some portion of the Jetport property along the river. We very much applaud Paul for working with us to arrive at a sensible solution to the issues SVA raised.

So with the proposed changes to the plan that I expect on Monday night Paul to call to your attention, the SVA is in favor of the Council adopting the plan as amended.

Sincerely,

David P. Silk.
Stroudwater Village Association Trustee