

Agenda
Special City Council Meeting
February 22, 2017

1. Agenda Only

Documents:

[AGENDA ONLY 2017-02-22.PDF](#)

2. Agenda With Packet

Documents:

[AGENDA AND PACKET 2017-02-22.PDF](#)

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

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

AGENDA
SPECIAL CITY COUNCIL MEETING
FEBRUARY 22, 2017

The Portland City Council will hold a Special City Council Meeting at 5:30 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

“Arts in the Chamber” – Ebenezer Akakpo

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) February 6, 2017 City Council Meeting Minutes

PROCLAMATIONS:

Proc 20-16/17 Proclamation Honoring Michael J. Sauschuck – Sponsored by
(Tab 2) Mayor Ethan K. Strimling.

Proc 21-16/17 Proclamation Recognizing Black History Month 2017 - Sponsored
(Tab 3) by Councilor Pious Ali and Co-sponsored by Mayor Ethan K.
Strimling, Councilors Belinda S. Ray, Spencer Thibodeau, Brian E.
Batson, Justin Costa, David Brenerman, Jill C. Duson, and Nicholas M.
Mavodones, Jr.

APPOINTMENTS:

CONSENT ITEMS:

Order 131-16/17 Order Approving Transfer of Funds Under 15 M.R.S. Sections 5824(3)
(Tab 4) and 5826(6) Re: Andrew Rupard – Sponsored by Jon P. Jennings, City
Manager

This order authorizes the City Council to approve the transfer of \$778.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Andrew Rupard.

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

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

**Order 132-16/17
(Tab 5)**

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This order declares Friday and Saturday, May 12 and 13, 2017, the Rappel for Rippleffect Festival.

Rappel for Rippleffect is a fundraiser for Rippleffect. Rippleffect staff is organizing the event. Participants raise \$1,000 each, which qualifies them to rappel down the side of One City Center. A professional rappelling company leads participants in the rappelling.

Approximately 10 participants will rappel on Friday, May 12, from 4:30 to 7:30 p.m. This is a VIP/Press event, but the public is invited. Approximately 70 participants will rappel on Saturday, May 13 from 9:00 a.m. to 5:00 p.m. Rain date for the event is Sunday, May 14.

There will be an outdoor beer and wine garden, to which access will be limited to those twenty-one (21) years old and over.

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(Tab 6)**

Order Declaring May 29, 2017 the Memorial Day Parade and Ceremony Festival - Sponsored by Jon Jennings, City Manager.

This order declares the Memorial Day Parade and Ceremony Festival to be held on May 29, 2017, on Congress Street from Longfellow Square to Monument Square from 10:15 a.m. to 12:00 p.m.

Street closings are included in the agenda backup.

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(Tab 7)**

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This order declares the Allagash Street Fair Festival to be held on Saturday, June 24, 2017 from 1:00 p.m. to 6:00 p.m.

Allagash Brewing Co. has asked to host a neighborhood block party/festival. The festival will be a ticketed event (\$20 adults, children under 12 free) and expected attendance is 2,000 people.

The event includes entertainment such as live music from several local bands. Eight breweries will be on site (stations set up on private property), along with food trucks and restaurant vendors.

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This order declares Friday, July 7, 2017 the Old Port Fitness & Health Exposition Festival which will be held at the Ocean Gateway Terminal from 2:00 p.m. to 8:00 p.m.

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For Saturday's race two Beer Gardens will be set up in Moon Tide Park, and another will be set up at the Amethyst Lot.

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This order declares Sundays on the Boulevard from May 7 through September 24, 2017, from 9:00 a.m. to 4:00 p.m., as festival. The Boulevard will be closed from Vannah Avenue to Payson Park. Street closures are included in the agenda backup material.

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This order declares Sunday, May 14, 2017 the Portland Sea Dogs Mother's Day 5K Race Day. The race begins at 9:15 a.m.

Runners will travel west down Park Avenue, continue onto outer Congress Street, take a right onto Stevens Avenue, take a right onto Brighton Ave., continue onto Deering Ave., then take a right into Fitzpatrick Stadium Entrance Gate and finish inside Hadlock Stadium on center field.

Street closures are included in the agenda backup.

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

LICENSES:

**Order 138-16/17
(Tab 11)**

Order Granting Municipal Officers' Approval of 363 LLC d/b/a Cheevitdee. Application for a Class XI Restaurant/Lounge License at 363 Fore Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 1/18/2017. New City and State applications. This location was formerly a Dunkin Donuts.

Five affirmative votes are required for passage after public comment.

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Order Granting Municipal Officers' Approval of Bayside Bowl, LLC d/b/a Bayside Bowl. Application to expand Outdoor Dining on Private Property at 58 Alder Street – Sponsored by Michael Russell, Permitting & Inspections Director.

Application was submitted on 1/23/2017. Applicant holds a current Class XI FSE Restaurant/Lounge License, Entertainment with Dance, and Outdoor Dining on Private Property at 58 Alder Street.

Five affirmative votes are required for passage after public comment.

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Application was submitted on 1/27/2016. New City and State Applications. This location was formerly Mainely Wraps.

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Order Granting Municipal Officers' Approval of Pom 2007, LLC d/b/a Pom's Thai Taste Restaurant and Noodle House. Application for a Class I FSE at 571 Congress Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 1/27/2017. Applicant holds a current Class III and Class IV License. They are upgrading to include spirituous liquors.

Five affirmative votes are required for passage after public comment.

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Order Granting Municipal Officers' Approval of Sun Y. Chung d/b/a Yobo. Application for a Class III & IV (Malt & Vinous) License at 23 Forest Avenue – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 1/30/2017. New City and State applications. This location was formerly Bibos Mad Apple Café.

Five affirmative votes are required for passage after public comment.

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(Tab 16)**

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Application was filed on 1/30/2017. Applicant applied previously and was approved on 4/28/2014 for a Class XI Restaurant/Lounge License. The State of Maine Division of Liquor Licensing and Enforcement requires new applications and approvals after one year, if the applicant did not open.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

**Order 123-16/17
(Tab 17)**

Order Granting Municipal Officers' Approval of The Pig Exchange, LLC d/b/a The Thirsty Pig. Application for a Class A Lounge License At 37 Exchange Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application filed on 1/11/2017. Applicant holds a current Class III and Class IV License which includes a license for Entertainment with no dance and Outdoor Dining. They are upgrading to include spirituous liquors for purposes of catering. At the February 6, 2017, City Council meeting this order was postponed to this meeting.

Five affirmative votes are required for passage after public comment.

**Order 126-16/17
(Tab 18)**

Order Approving Agreement between Portland and Maine Department of Transportation Re: Veranda Street Paving – Sponsored by Jon P. Jennings, City Manager.

City Council Order 103-16/17 previously authorized the City to enter into a three-party agreement with MaineDOT and Portland Area Comprehensive Transportation System. That agreement covered only the design phase for a specific paving project on Veranda St (between Wordsworth St. and the Martin's Point Bridge). This two-party agreement covers the bid and construction phase responsibilities.

This two-party agreement stipulates financial and other obligations related to highly leveraged Collector Road pavement preservation utilizing Federal and Local funds. Entering into this agreement allows MaineDOT to proceed with bidding and construction so paving will occur in 2017, inclusive of as-needed City Utility structure adjustments.

The City of Portland owes a 25% local match to this \$299,000 paving project; the agreement estimates that cost as \$74,750. Additionally, the City must pay 100% of its Utility systems costs estimated at \$12,000. The estimated City cost obligation is, therefore, \$86,750. These funds will be drawn from PACTS project capital funding in the city's Capital Improvement Program.

These costs are slightly higher than the estimate contained in the three-party agreement authorized by Order 103 16/17. The Local Match was reduced, but that was offset by the addition of the City's Utility systems costs.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative votes are required for passage after public comment.

**Order 127-16/17
(Tab 19)**

Amendment Portland City Code Chapter 10 Fire Prevention and Protection Re: Smoke Alarms, Re-inspection Fees, Open Burning, False Alarms and Inspection and Enforcement - Sponsored by the Health & Human Services Committee, Councilor Belinda Ray, Chair.

On January 10, 2017 the Health & Human Services Committee met and voted 3-0 to forward this item to the City Council with a recommendation for passage.

The Portland Fire Department proposes to make the following changes to Chapter 10:

- Amend the requirements for smoke alarms in existing one- and two-family dwellings;
- Increase re-inspection fees to make them consistent with re-inspection fees for other departments;
- Amend the open burning requirements to make them consistent throughout the City;
- Change the calculation for false alarms from calendar year to rolling 12-month basis; and
- Clarify inspection and enforcement provisions.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative are required for passage after public comment.

ORDERS:

Order 144-16/17 (Tab 20)

Order Approving an Agreement with Revision Energy LLC for Installation of Solar Power Array on Ocean Avenue Landfill – Sponsored by Jon P. Jennings, City Manager.

On September 7, the City Council unanimously endorsed Order 39-16/17, authorizing the City Manager to conclude negotiations with Revision Energy on agreements necessary to create a solar array on the closed and capped Ocean Avenue Landfill. The project was proposed by Revision Energy in response to an RFP the City issued in June, 2015 to explore solar power generation. Under Revision's proposal, which was the only proposal submitted in response to the RFP, Revision will install a 660 KW array. The City will purchase from Revision (or a third party financier) all power generated by the array under a power purchase agreement. After the first 6 years of the agreement, the City will have the option (but not the obligation) to purchase the array. In January, 2016 the City of South Portland joined the proposal in order to facilitate construction of an identical solar array on their closed landfill and to reduce overall project costs. Moving forward with the project will create one of the largest municipal solar arrays in Maine and underscore the City of Portland's commitment to supporting renewable energy.

Order 39-16/17 required that the final agreement with Revision be approved by the City Council. Staff is requesting that the Council waive the second reading of this item so work can begin expeditiously.

Seven affirmative votes are required for passage after public comment.

Order 145-16/17 (Tab 21)

Order Approving Agreement between Portland and Maine Department of Transportation RE: West Commercial Street Trail – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Manager to sign a Municipal-State Agreement with the MaineDOT for design and construction of the West Commercial Street Trail.

In 2012, the MaineDOT awarded Transportation Enhancements funding to the City of Portland's Department of Public Works for the design and construction of a portion of the West Commercial Street Trail. The shared use pathway, from the Star Match Building west to the Fore River Trail is a vital link in plans to create a circumferential shared use pathway network around the Portland Peninsula, and the planning work that preceded the application had begun two years earlier, with the West Commercial Street Trail Feasibility Study.

The city reaffirmed its commitment to completing the pathway segment, within the scope of the broader bicycle and trail planning for the peninsula, in the 2014 West Commercial Street Multi-Modal Corridor Study, which placed the pathway first on its list of priority recommendations. In June 2013, the City Council unanimously endorsed the funding of this project as part of the 2014 CIP. In 2016, the city agreed to oversee the pathway design and construction as a locally administered project, and the city's Department of Planning and Urban Development was selected to manage the project.

The Municipal-State Agreement formally commits both the city and MaineDOT to the West Commercial Trail project, with 20%/80% split through the Transportation Enhancements program.

Total Agreement Amount: \$353,488.00
Federal Share: \$282,790.40 (80%)
Municipal Share: \$ 70,697.60 (20%)

The local share for the West Commercial Street Pathway project is \$70,698. \$70,000 of this match is currently programmed in the city's CIP (Project ID# C14P01). Remaining funds are anticipated to come from the MDOT Quality Community Program account (C14114).

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

AMENDMENTS:

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

UNFINISHED BUSINESS CONTINUED:

Order 128-16/17 (Tab 22) Amendment to Portland City Code Chapter 14 Land Use, Article V. Site Plan Re: Fort Sumner Park Height Overlay – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

On January 24, 2017, the Planning Board met and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

The Moratorium Order 73-16/17, which placed a moratorium on development near Fort Sumner Park and which passed on November 21, 2016, expires on February 6, 2017. The Planning Staff recommends that the Council adopt the proposed amendments, including this order and the two orders following, retroactively to the expiration date of the moratorium.

City staff is requesting City Council approval of the proposed text amendment to the Division 7 R-6 Residential Zone, establishing the Fort Sumner Park Overlay Zone.

This text amendment would establish an absolute height limit for new developments and/or additions tied to the elevation of the viewing platform at Fort Sumner Park, 160.27 feet above mean sea level. Permissible building heights for developments occurring within this zone would be reduced by 1 vertical foot for every 25 feet the structure stands away from the identified apex point.

This text amendment also includes a provision for building setbacks of 15 feet and would require advisory review of all projects occurring within the proposed overlay zone by the Park Commission.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative votes are required for passage after public comment.

**Order 129-16/17
(Tab 23)**

**Amendment to Zoning Map Re: Fort Sumner Park R6 to ROS
– Sponsored by the Planning Board, Elizabeth Boepple, Chair.**

On January 24, 2017, the Planning Board met and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

City staff is requesting City Council approval of the proposed map amendment to rezone three parcels comprising Fort Sumner Park and a City held Land Bank property from R-6 Residential to ROS Recreation Open Space. This map amendment would extend between the centerlines of North Street and Sheridan Street and prohibit future incongruous development within this municipal park and would further protect its historic and scenic attributes.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative votes are required for passage after public comment.

**Order 130-16/17
(Tab 24)**

**Establishment of the Fort Sumner Park Overlay Zone – Sponsored by
the Planning Board – Elizabeth Boepple, Chair.**

On January 24, 2017, the Planning Board met and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

City staff is requesting City Council approval of the proposed map amendment to establish the Fort Sumner Park Overlay Zone. This map amendment would establish the geographic area linked with the proposed text amendment, establishing a zone in which additional regulatory standards, intended to protect the panorama at Fort Sumner Park, would apply. This zone would extend 200 feet from an identified key apex point located in the center of the viewing platform at Fort Sumner Park.

This zone would encompass areas roughly to the north, south and west of the apex point within a 180 degree arc whose line runs through the key apex point parallel to the centerline of Sheridan Street.
The proposed overlay zone does not encompass parcels located in either the B-2b or C-46 zone that fall within the 200-foot arc.

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Order 144-16/17 (Tab 20)

Order Approving an Agreement with Revision Energy LLC for Installation of Solar Power Array on Ocean Avenue Landfill – Sponsored by Jon P. Jennings, City Manager.

On September 7, the City Council unanimously endorsed Order 39-16/17, authorizing the City Manager to conclude negotiations with Revision Energy on agreements necessary to create a solar array on the closed and capped Ocean Avenue Landfill. The project was proposed by Revision Energy in response to an RFP the City issued in June, 2015 to explore solar power generation. Under Revision's proposal, which was the only proposal submitted in response to the RFP, Revision will install a 660 KW array. The City will purchase from Revision (or a third party financier) all power generated by the array under a power purchase agreement. After the first 6 years of the agreement, the City will have the option (but not the obligation) to purchase the array. In January, 2016 the City of South Portland joined the proposal in order to facilitate construction of an identical solar array on their closed landfill and to reduce overall project costs. Moving forward with the project will create one of the largest municipal solar arrays in Maine and underscore the City of Portland's commitment to supporting renewable energy.

Order 39-16/17 required that the final agreement with Revision be approved by the City Council. Staff is requesting that the Council waive the second reading of this item so work can begin expeditiously.

Seven affirmative votes are required for passage after public comment.

Order 145-16/17 (Tab 21)

Order Approving Agreement between Portland and Maine Department of Transportation RE: West Commercial Street Trail – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Manager to sign a Municipal-State Agreement with the MaineDOT for design and construction of the West Commercial Street Trail.

In 2012, the MaineDOT awarded Transportation Enhancements funding to the City of Portland's Department of Public Works for the design and construction of a portion of the West Commercial Street Trail. The shared use pathway, from the Star Match Building west to the Fore River Trail is a vital link in plans to create a circumferential shared use pathway network around the Portland Peninsula, and the planning work that preceded the application had begun two years earlier, with the West Commercial Street Trail Feasibility Study.

The city reaffirmed its commitment to completing the pathway segment, within the scope of the broader bicycle and trail planning for the peninsula, in the 2014 West Commercial Street Multi-Modal Corridor Study, which placed the pathway first on its list of priority recommendations. In June 2013, the City Council unanimously endorsed the funding of this project as part of the 2014 CIP. In 2016, the city agreed to oversee the pathway design and construction as a locally administered project, and the city's Department of Planning and Urban Development was selected to manage the project.

The Municipal-State Agreement formally commits both the city and MaineDOT to the West Commercial Trail project, with 20%/80% split through the Transportation Enhancements program.

Total Agreement Amount: \$353,488.00
Federal Share: \$282,790.40 (80%)
Municipal Share: \$ 70,697.60 (20%)

The local share for the West Commercial Street Pathway project is \$70,698. \$70,000 of this match is currently programmed in the city's CIP (Project ID# C14P01). Remaining funds are anticipated to come from the MDOT Quality Community Program account (C14114).

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

AMENDMENTS:

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

UNFINISHED BUSINESS CONTINUED:

Order 128-16/17 (Tab 22) Amendment to Portland City Code Chapter 14 Land Use, Article V. Site Plan Re: Fort Sumner Park Height Overlay – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

On January 24, 2017, the Planning Board met and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

The Moratorium Order 73-16/17, which placed a moratorium on development near Fort Sumner Park and which passed on November 21, 2016, expires on February 6, 2017. The Planning Staff recommends that the Council adopt the proposed amendments, including this order and the two orders following, retroactively to the expiration date of the moratorium.

City staff is requesting City Council approval of the proposed text amendment to the Division 7 R-6 Residential Zone, establishing the Fort Sumner Park Overlay Zone.

This text amendment would establish an absolute height limit for new developments and/or additions tied to the elevation of the viewing platform at Fort Sumner Park, 160.27 feet above mean sea level. Permissible building heights for developments occurring within this zone would be reduced by 1 vertical foot for every 25 feet the structure stands away from the identified apex point.

This text amendment also includes a provision for building setbacks of 15 feet and would require advisory review of all projects occurring within the proposed overlay zone by the Park Commission.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative votes are required for passage after public comment.

**Order 129-16/17
(Tab 23)**

**Amendment to Zoning Map Re: Fort Sumner Park R6 to ROS
– Sponsored by the Planning Board, Elizabeth Boepple, Chair.**

On January 24, 2017, the Planning Board met and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

City staff is requesting City Council approval of the proposed map amendment to rezone three parcels comprising Fort Sumner Park and a City held Land Bank property from R-6 Residential to ROS Recreation Open Space. This map amendment would extend between the centerlines of North Street and Sheridan Street and prohibit future incongruous development within this municipal park and would further protect its historic and scenic attributes.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative votes are required for passage after public comment.

**Order 130-16/17
(Tab 24)**

**Establishment of the Fort Sumner Park Overlay Zone – Sponsored by
the Planning Board – Elizabeth Boepple, Chair.**

On January 24, 2017, the Planning Board met and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

City staff is requesting City Council approval of the proposed map amendment to establish the Fort Sumner Park Overlay Zone. This map amendment would establish the geographic area linked with the proposed text amendment, establishing a zone in which additional regulatory standards, intended to protect the panorama at Fort Sumner Park, would apply. This zone would extend 200 feet from an identified key apex point located in the center of the viewing platform at Fort Sumner Park.

This zone would encompass areas roughly to the north, south and west of the apex point within a 180 degree arc whose line runs through the key apex point parallel to the centerline of Sheridan Street.
The proposed overlay zone does not encompass parcels located in either the B-2b or C-46 zone that fall within the 200-foot arc.

This item must be read on two separate days. It was given a first reading on February 6, 2017. Five affirmative votes are required for passage after public comment.

IN COUNCIL REGULAR MEETING FEBRUARY 6, 2017 VOL. 133 PAGE 56

ROLL CALL: Mayor Strimling called the meeting to order at 5:30 P.M. (Councilor Thibodeau absent).

ANNOUNCEMENTS:

RECOGNITIONS:

"Arts in the Chamber", The Flukes (Ukulele Group)

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Ray and seconded by Councilor Duson to approve the minutes of the January 18, 2017 City Council Meeting.
Passage 8-0.

PROCLAMATIONS:

Proc 19-16/17 Proclamation Honoring Officer Matthew Pavlis as Police Officer of the Month for December 2016 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

Because of an error in numbering, all order numbers have been revised.

CONSENT ITEMS:

Order 121-16/17 Order Approving Transfer of Funds Under 15 M.R.S. Section 5821(6) et seq. Re: Victor Kohutka – Sponsored by Jon P. Jennings, City Manager.

Order 122- 6/17 Order Approving Transfer of Funds Under 15 M.R.S. Sections 5824(3) and 5826(6) Re: Brandon York – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Batson and seconded by Councilor Costa for passage of the consent items. Passage 8-0.

LICENSES:

Order 123 -16/17 Order Granting Municipal Officers' Approval of The Pig Exchange, LLC d/b/a The Thirsty Pig. Application for a Class A Lounge License At 37 Exchange Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Motion was made by Councilor Ray and seconded by Councilor Duson to postpone order 105 to February 22, 2017. Passage 8-0.

BUDGET ITEMS:

ORDERS:

- Order 124 -16/17 Order Accepting 2016 Annual Report and 2017 Budget Plan of the Portland Public Art Committee - Sponsored by Lin Lisberger, Chair of the Portland Public Art Committee.**

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 8-0.

- Order 125-16/17 Order Granting a Utility License at the Portland Technology Park to Oxford County Telephone Service Co. – Sponsored by Jon P. Jennings, City Manager.**

Motion was made by Councilor Ray and seconded by Councilor Dusen for passage. Passage 8-0.

- Order 126-16/17 Order Approving Agreement Between Portland and Maine Department of Transportation Re: Veranda Street Paving – Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

AMENDMENTS:

- Order 127-16/17 Amendment Portland City Code Chapter 10 Fire Prevention and Protection Re: Smoke Alarms, Re-inspection Fees, Open Burning, False Alarms and Inspection and Enforcement - Sponsored by the Health & Human Services Committee, Councilor Belinda Ray, Chair.**

This is its first reading.

- Order 128-16/17 Amendment to Portland City Code Chapter 14 Land Use, Article V. Site Plan Re: Fort Sumner Park Height Overlay – Sponsored by the Planning Board, Elizabeth Boepple, Chair.**

This is its first reading.

- Order 129-16/17 Amendment to Zoning Map Re: Fort Sumner Park R6 to ROS – Sponsored by the Planning Board, Elizabeth Boepple, Chair.**

This is its first reading.

- Order 130-16/17 Establishment of the Fort Sumner Park Overlay Zone – Sponsored by the Planning Board – Elizabeth Boepple, Chair.**

This is its first reading.

Motion was made by Councilor Costa and seconded by Councilor Ali to adjourn. Passage 8-0, 6:05 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Proc 20-16/17
Tab 2 2-22-17

PROCLAMATION

Honoring

Michael J. Sauschuck

**On The Occasion of Being Named 2017 Police Chief of the Year
by the Maine Association of Police**

WHEREAS: **Michael J. Sauschuck**, Police Chief for the City of Portland, was named the 2017 Police Chief of the Year by the Maine Association of Police; and

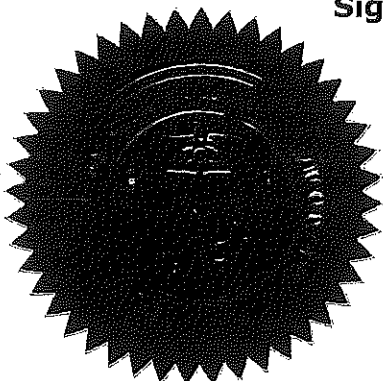
WHEREAS: Chief Sauschuck received the David W. Pickering Chief's Award in memory of former Cape Elizabeth Police Chief David W. Pickering who passed away in 2000 after a long battle with cancer, and was widely respected as an intelligent and fair administrator as well as an ardent supporter of Maine law enforcement; and

WHEREAS: Chief Sauschuck has served the City of Portland since 1997 when he began his career as a patrol officer and then rose through the ranks and was appointed Chief of Police in January of 2012; and

WHEREAS: Chief Sauschuck has served the City in a leadership role as a member of the City's Management Team and even as Interim City Manager, and as such, has served as an example to his peers, and the residents of this City and this State, both in his personal and professional achievements, with fairness and dedication;

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, take this opportunity to express our sincere and grateful appreciation, and hereby extend to Michael J. Sauschuck, our congratulations on this well-earned recognition and award, and our gratitude for his continued service to our city and leadership of overseeing a team of highly trained, professional men and women committed to the department's core values of leadership, integrity, and service.

Signed and Sealed this 22nd day of February, 2017



A handwritten signature in black ink, appearing to read "Ethan K. Strimling", is written over a horizontal line.

**Ethan K. Strimling, Mayor
City of Portland, Maine**

Dec 21-16/17
Tab 3 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

PROCLAMATION RECOGNIZING BLACK HISTORY MONTH 2017

WHEREAS, the national theme of Black History Month for 2017 is “The Crisis in Black Education”, which aims to further the dialogue on the critical role education plays in the advancement of the African-American community; and

WHEREAS, this crisis, which began in the days of slavery and persists today, must spur us to work tirelessly to find ways to narrow access and achievement gaps in education; and

WHEREAS, the first Africans were brought involuntarily to the shores of the Americas as early as the 17th century; and

WHEREAS, these Africans in America and their descendants are now known as African-Americans; and

WHEREAS, African-Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation and denial of basic, fundamental rights; and

WHEREAS, despite slavery, African-Americans in all walks of life have made significant contributions throughout the history of Portland and across the United States; and

WHEREAS, in the face of injustices, citizens of good will and of all races distinguished themselves with their commitment to the noble ideas upon which the United States was founded and courageously fought for the rights and freedom of African-Americans; and

WHEREAS, the birthdays of Abraham Lincoln and Frederick Douglass inspired the creation of Negro History Week, the precursor to Black History Month; and

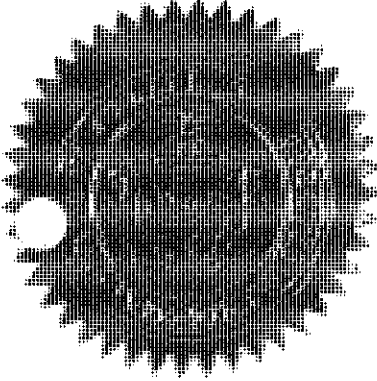
WHEREAS, Whereas Negro History Week represented the culmination of Dr. Carter G. Woodson's efforts to enhance knowledge of Black history started through the Journal of Negro History, published by Woodson's Association for the Study of African American Life and History; and

WHEREAS, the month of February is officially celebrated as Black History Month, which dates back to 1926 when Dr. Carter G. Woodson set aside a special period of time in February to recognize the heritage and achievement of Black Americans:

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:

- (1) recognize the significance of Black History Month as an important time to acknowledge and celebrate the contributions of African Americans in the Nation's history, and encourage the continued celebration of this month to provide an opportunity for all peoples of Portland to learn more about the past and to better understand the experiences that have shaped the Nation;
- (2) recognize that ethnic and racial diversity of the City of Portland enriches and strengthens our community; and
- (3) encourage all centers of education in Portland to include in their year-round educational curriculum the history and contributions of African-Americans in Portland, the United States and around the world.

Signed and Sealed this 22nd Day of February, 2017



**Ethan K. Strimling, Mayor
City of Portland, ME**

*Order 131-16/17
Tab 4 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING TRANSFER OF FUNDS UNDER
15 M.R.S. SECTIONS 5824(3) AND 5826(6)
RE: ANDREW RUPARD**

ORDERED, that the City Council hereby accepts the amount of \$778.00 in forfeited assets in the case of State of Maine vs. Andrew Rupard from the State of Maine to the City of Portland, pursuant to 15 M.R.S. Sections 5824(3) and 5826(6) and as provided in the attached Approval of Transfer.

MEMORANDUM
City Council Agenda Item

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

FROM: Michael J. Sauschuck, Chief of Police

DATE: February 3, 2017

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading next available Final Action

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

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

- I. **ONE SENTENCE SUMMARY.** The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)
- II. **AGENDA DESCRIPTION** State v. Andrew Rupard, CR-15-991 (\$778.00)
- III. **BACKGROUND.** The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.
- IV. **INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED.** Funds may be transferred to the Portland Police Department for deposit in the drug investigations account.
- V. **FINANCIAL IMPACT.** The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.
- VI. **STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION**
- VII. **RECOMMENDATION**
- VIII. **LIST ATTACHMENTS**

Prepared by: Tiffany Bates

Date: February 3, 2017

STATE OF MAINE
Cumberland, SS

State of Maine

v.

Andrew Rupard,
Defendant

AND
\$778.00 US CURRENCY
DEFENDANT IN REM #1

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-15-991

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

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$778.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

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

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

*Order 132-16/17
Tab 5 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING MAY 12 AND 13, 2017
THE RAPPEL FOR RIPPLEFFECT FESTIVAL**

ORDERED, that May 12 and May 13, 2017 with a Rain Date of May 14, 2017, are hereby declared to be the Rappel for Rippleffect Festival, sponsored by Rippleffect, Inc.; and

BE IT FURTHER ORDERED, that the Rappel for Rippleffect Festival area shall be Federal Street Extension, Temple Street sidewalks from Congress Street to Free Street, Monument Square and all those streets' adjacent sidewalks, including on Monument Way and outside of One City Center; and

BE IT FURTHER ORDERED, that Federal Street Extension shall be closed to traffic on May 12, 2017 from 3:00 p.m. to 7:30 p.m. and on May 13, 2017 from 6:00 a.m. to 6:00 p.m. (and for the same hours if the Festival is held on the Rain Date, May 14, 2017); and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival Area shall be towed at owner's expense; and

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

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

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

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area, except in an enclosed Beer and Wine Garden for people 21-years-old and older, to be run and staffed by Rippleffect, Inc. with Public Assembly Facilities staff assisting to verify identification;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from the Public Assembly Facilities Division shall be adhered to;
4. Rippleffect, Inc. will reimburse the City for all expenses incurred by City departments for the Festival;
5. Rippleffect, Inc. shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Rappel for Rippleffect Festival; and
6. In addition, the Department of Permitting and Inspections, Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Rippleffect, Inc. has agreed shall participate; and

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



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: February 3, 2017
RE: **Council Agenda Item – Rappel for Rippleffect Festival**

I am requesting that the following order be placed on the next City Council agenda:

**Order declaring Friday & Saturday, May 12 & 13, 2017,
as the Rappel for Rippleffect Festival, to be held at
Federal Street Ext. and Monument Square/One City Center sidewalks.**

The festival area will include: Federal Street Ext. and abutting sidewalks, Temple Street sidewalks (from Congress Street to Free Street), Monument Square sidewalk, and sidewalk areas at One City Center/Monument Way. An emergency lane (for Fire/Medcu/Police) will be kept available in the closed section of street.

Rappel for Rippleffect is a fundraiser for Rippleffect. Rippleffect Staff are organizing the event. Participants raise \$1000 each, which qualifies them to rappel down the side of One City Center (softly reaching the bottom at Federal Street Ext. sidewalk). A professional rappelling company (Over the Edge) leads participants in the rappelling. Approximately 10 participants will rappel on Friday, May 12 (4:30pm – 7:30pm) which is a VIP / Press Event although the public is invited, and approximately 70 participants will rappel on Saturday, May 13 (9am – 5pm). Rain date for the event is Sunday, May 14. Overall anticipated attendance: Friday - 125; Saturday - 600.

For both days, organizers will need to close Federal Street Ext. to vehicle traffic; they are working with One City Center and 2 Monument Square management (and Parking Garage management) to coordinate and notify downtown workers. Monument Square Parking Garage cars will use the Free Street Exit those days.

This event was held in 2015 and 2016, and was a big hit. Organizers again wish to include an outdoor Beer & Wine Garden (which would be open to the public, 21+ age) on the Friday event (Rippleffect being the non-profit sponsor). City Council needs to review and approve this outdoor alcohol service area.

(continued)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

For Friday's event: a large tent will be setup on Federal Street Ext. sidewalk and parking lane, with tables and chairs underneath; beer & wine garden for 21+, refreshments served, DJ playing music, VIPs and press on site, and a live video feed to TV monitors under the tent. For Saturday's event: sponsor's canopies and tables set up on the parking lane and sidewalks of Federal Street Ext., music/DJ on the sidewalk, pre-packaged food given away. Also for Saturday's event, organizer may opt to set up a large tent instead of canopies. So similar to Friday night event, an emergency lane will be left accessible, and the tent will be anchored with cement-filled buckets (not staked into the ground).

The Order should include the following items:

Rappel for Rippleffect Festival be authorized for Friday, May 12, 2017 and Saturday, May 13, 2017 (with a rain date of Sunday, May 14, 2017), to be held on Federal Street Ext. and abutting sidewalks, Temple Street sidewalks (from Congress Street to Free Street), Monument Square sidewalks, and sidewalk areas at One City Center and Monument Way.

This festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of festival organizers for the purpose of conducting the Rappel for Rippleffect Festival, subject to the direction and control of the City Manager.

In order to hold to event on city property, Federal Street Ext. needs to be closed to vehicle traffic: Friday, May 12, 2017 from 3-7:30pm; Saturday, May 13 from 6am – 6pm (if Sunday, May 14 needs to be used as a rain date: 6am – 6pm). The street would also be posted "No Parking" both days. Vehicles in violation of the "No Parking" signs shall be towed at owner's expense.

For the Friday event, Beer and Wine would be available (at a beer garden) in a restricted area on Federal Street Ext. sidewalk/parking lane, to which access would be limited to those twenty one (21 age) and over (it will be open to the public). All IDs will be checked by Public Assembly Facilities Management Staff. The event will also include merchandise and food vendors. All vendors will be required to obtain the appropriate permits and licenses.

(continued)



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Rippleffect for the use of the above-described area for said events, subject to the following conditions:

- Rippleffect organizers (Adam Shepard / Jack Lufkin) shall reimburse the City for all expenses incurred by City Departments for said Festival;
- Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival, other than an area and time approved by Portland City Council;
- Rippleffect organizers shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the festival;
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division, shall be adhered to; and
- Rippleffect organizers shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000 per occurrence** for personal or bodily injury, death or property damage, and alcohol liability coverage, for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the **"Rappel for Rippleffect"** activities.

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PAFD Event Coordinator

*Order 133-16/17
Tab 6 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING MAY 29, 2017
THE MEMORIAL DAY PARADE AND CEREMONY FESTIVAL**

ORDERED, that Monday, May 29, 2017 is hereby declared to be the Memorial Day Parade and Ceremony Festival, sponsored by the American Legion, Harold T. Andrews Post No. 17; and

BE IT FURTHER ORDERED, that the Memorial Day Parade and Ceremony Festival area, which includes the parade route down Congress Street and intersecting streets, shall be Congress Street from Mellen Street to Temple Street, State Street from Cumberland Avenue to Congress Street, Dow Street from Congress Street to Brackett Street, High Street from Spring Street to Deering Street, Forest Avenue from Cumberland Avenue to Congress Street, Casco Street from Shepley Street to Congress Street, Center Street from Free Street to Congress Street, Preble Street from Cumberland Avenue to Congress Street, and Federal Street Extension from Congress Square to Temple Street; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that in the Memorial Day Parade and Ceremony Festival Area the following streets shall be closed to traffic at the following times on May 29, 2017:

Staging Area – 9:00 a.m. – 12:00 p.m.

Congress Street (from Mellen Street to State Street)
State Street (from Cumberland Avenue to Congress Street)
Dow Street (from Congress Street to Brackett Street)

Parade – 10:15 a.m. – 12:00 p.m.

Congress Street (from State Street to Temple Street)
High Street (from Spring Street to Deering Street)
Forest Avenue (from Cumberland Avenue to Congress Street)
Casco Street (from Shepley Street to Congress Street)
Center Street (from Free Street to Congress Street)
Preble Street (from Cumberland Avenue to Congress Street)

Ceremony at Monument Square – 10:00 a.m. – 12:00 p.m.

Federal Street Extension (from Congress Square to Temple Street); and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs that may be posted in the Festival Area shall be towed at owner’s expense; and

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

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to American Legion, Harold T. Andrews Post No. 17 under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. American Legion, Harold T. Andrews Post No. 17 shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. American Legion, Harold T. Andrews Post No. 17 shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;
3. Permit Fees and Expenses for City Staff assistance shall be waived; and
4. Conditions for use of grounds, the positioning of volunteer flaggers at parade intersections, and requirements for food service, vending sales, and other items specified in permits issued from Public Assembly Facilities Division, shall be adhered to.

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



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: February 3, 2017
RE: **Council Agenda Item – Memorial Day Parade**

I am requesting that the following order be placed on the next City Council agenda:

Order declaring Memorial Day Parade be held Monday, May 29, 2017, on Congress Street from Longfellow Square to Monument Square, approving street closings for assembly area (from 9:00 a.m. – 12:00 p.m.) and along the parade route (from 10:30 a.m. – 12:00 p.m.), and declaring the parade and ceremony at Monument Square a Festival.

For many decades now, the Harold T. Andrew, Post No. 17, has organized the Memorial Day Parade activities to honor the dead and those Americans who have died in battle. The City of Portland assists this group by providing police officers (2 officers: lead and tail car), barricades, and preparing Monument Square for the ceremony which follows the parade. The parade route is Congress Street (both lanes), Longfellow Square to Monument Square. This year's parade is scheduled for Monday, **May 29, 2017**, from 10:30 a.m. to 12:00 p.m.

The parade route and Festival area will also be closed to street vendors pursuant to Section 19 -17 of the Portland City Code and is reserved for the use of the City's Public Assembly Facilities Division for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager.

There is no METRO Bus service that day.

Streets and adjoining sidewalks and squares that are to be closed for the event (and will act as the Festival grounds) are as follows:

Staging Area – 9:00 a.m. – 12:00 p.m.

Congress Street (from Mellen Street to State Street)

State Street (from Cumberland Ave. to Congress Street)

Dow Street (from Congress Street to Brackett Street)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

The above streets may be posted "no parking" at the discretion of parade organizers, so that the assembly area can be free of vehicles.

Parade – 10:15 a.m. – 12:00 p.m.

Congress Street (from State Street to Temple Street)

High Street (from Spring Street to Deering Street)

Forest Avenue (From Cumberland Avenue to Congress Street)

Casco Street (from Shepley Street to Congress Street)

Center Street (from Free Street to Congress Street)

Preble Street (from Cumberland Avenue to Congress Street)

The above streets may be posted "no parking" at the discretion of parade organizers.

Ceremony at Monument Square – 10:00 a.m. – 12:00 p.m.

Federal Street Extension (from Congress Square to Temple Street)

Federal Street Extension posted "no parking."

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Harold T. Andrews Post for the use of the above-described area for said parade and ceremony, subject to the following conditions:

- The Harold T. Andrew Post shall indemnify the city and hold it harmless from and against all claims arising out of activities during said parade and ceremony, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** combined single limit for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Memorial Day Parade and Ceremony,
- Permit Fees and Expenses for City Staff assistance, shall be waived,



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

- Conditions for use of grounds (positioning volunteer flaggers at parade intersections) and requirements for food service, vending sales, and other items specified in a permit issued from PAFD shall be adhered to, and
- Under no circumstances may alcoholic beverages be sold on the streets or public property of said area during said parade and ceremony.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PAFD Event Coordinator

*Order 134-16/17
Tab 7 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING JUNE 24, 2017
THE ALLAGASH STREET FAIR FESTIVAL**

ORDERED, that June 24, 2017 is hereby declared to be the Allagash Street Fair Festival, sponsored by Allagash Brewing Company; and

BE IT FURTHER ORDERED, that in the Allagash Street Fair Festival area shall be Industrial Way from Riverside Street for approximately 1,000 feet to the Office Max Parking Lot at 125 Industrial Way and Allagash Brewing Company property and adjacent business properties, and that Festival area will be reserved for festival attendees, musicians, performers and event staff; and

BE IT FURTHER ORDERED, that the following street shall be closed to traffic:

Industrial Way from Riverside to the Office Max Parking Lot at 125 Industrial Way; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival area shall be towed at owner's expense; and

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

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

1. Allagash Brewing Company shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Allagash Brewing Company shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. Alcoholic beverages may be sold on the street or public property during the Festival within the fenced-off Festival area and on private property, with sales restricted

to people 21-years-old and older and with the festival area staffed by private security and Allagash Brewing Company staff, subject to meeting all liquor licensing requirements;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from the Public Assembly Facilities Office, shall be adhered to;

4. Allagash Brewing Company shall have sole authority over which vendors may participate in the Festival and may charge a fee to vendors for the opportunity to vend at the Allagash Street Fair Festival;

5. In addition, the Department of Permitting and Inspections, Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate; and

6. City Departments including the Police Department will provide services at the Allagash Street Fair Festival, and Allagash Brewing Company will reimburse City Departments for the costs; and

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



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: February 3, 2017
RE: **Council Agenda Item – Allagash Street Fair**

I am requesting that the following order be placed on the next City Council agenda:
Order declaring Saturday, June 24, 2017, as the Allagash Street Fair Festival

Allagash Brewing Co. has asked to host their 3rd annual neighborhood block party/festival to be held Saturday, June 24, 2017, from 1pm-6pm. The festival makes use of the street (Industrial Way) as well as the adjacent businesses grounds. This event is identical to the one held in 2016. This is a ticketed event (\$20 adults/children under 12 free); expected attendance is 2,000 people. The event includes entertainment such as live music from several local bands. Eight breweries will be on site (stations set up on private property), along with food trucks and restaurant vendors.

A fenced perimeter will be set up around the festival grounds (which, similar to last year, has expanded to include the street itself as well as the area businesses). Organizer's staff (and private security staff) will ensure that only 21+ age wrist banded attendees will be able to purchase and consume alcohol. Organizer is obtaining the necessary "beer tasting" license from the state/city for serving beer, as well as other licenses from the city for food vendors (as needed), large tents, stages and other aspects for the event.

Industrial Way (at Riverside Street) would be closed to traffic for about 1000 feet, to the Office Max parking lot at 125 Industrial Way. Businesses in the closed section of street have endorsed the event with the exception of Maine Bay Canvas (organizers will keep the Maine Bay Canvas entrance/exit open for delivery trucks – as they did in 2016). The Brock Group will also still have access to their driveway/parking lot to conduct their normal business. Traffic management will consist of event staff-monitored barricades positioned at the intersection of Industrial Way and Riverside Street, as well as across the street at 125 Industrial Way, and security staff monitoring the fenced areas at Industrial Way businesses.

Unified Parking will provide a shuttle service for attendees of the festival, and the Bicycle Coalition of Maine will assist with bicycle parking. Organizers will use the Portland Color building as the turnaround for the shuttle drop-off and pick-up (as they did last year).

(continued)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

At least four Police Officers are required to be on site. Organizers will cover the cost of city staff.

In order for the **Allagash Street Fair** to be held, a portion of Industrial Way needs to be barricaded to vehicle traffic and the entire area fenced off (21+ age participants will be able to walk in the festival area with open beer containers). The Festival Zone is Industrial Way (from Riverside Street to 125 Industrial Way), as well as the businesses properties abutting Industrial Way.

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Allagash Brewing Company for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the "no parking" signs in the Festival Zones shall be towed (at owner's expense).

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Allagash Brewing Company for the use of the above-described area for said Festival, subject to the following conditions:

- Allagash Brewing Company shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Allagash Street Fair and its activities,
- Alcohol will only be permitted in the service area and on Industrial Way (Festival Zone), during said Festival (the alcohol area includes the street),
- City Council approves the service of alcohol in the designated "beer gardens" which are on private properties (grass area and parking lot areas of Allagash and participating Industrial Way businesses), pending a license from the State is issued to the festival organizer,

(continued)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

- Conditions for use of grounds and requirements for food service, vending sales, tents, stages, and other items specified in a permit issued from PAFD Office, shall be adhered to,
- Business Licensing Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival,
- Police Officers will be hired by organizers (Allagash Brewing Company), and
- Allagash Brewing Company shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Allagash Street Fair Festival.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met, regarding the operation of said event.

Document prepared by Ted Musgrave, PAFD Event Coordinator



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (4 pages)
212 Canco Rd. ~ Portland ~ ME ~ 04103
207-808-5400
Ted Musgrave tvm@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area
2. a security deposit required 3. insurance required
(There may be fees due and applications required from other City Departments)

TODAY'S DATE	11/22/2016 Revised: 12-1, 12-8	ORGANIZATION NAME	Allagash Brewing Company				
ORGANIZATION ADDRESS	50 Industrial Way	CITY	Portland	STATE	ME	ZIP	04103
CONTACT NAME(S)	Charli McGrew	TITLE	Events Coordinator				
HOME #	WORK 878-5385	CELL		FAX			
EMAIL	cmcgrew@allagash.com		EMAIL				

PARK AREA OR PUBLIC SPACE REQUESTED	Industrial Way				
EVENT DAY & DATE(S)	SAT 6-24-17	RAIN DAY & DATE(S) (50% added fee)	N/A		
EVENT START TIME (i.e. set-up start time)	8am	EVENT END TIME (i.e. when event cleanup is complete)	7pm	ACTUAL START & END TIME OF EVENT	1pm - 6pm Street completely closed to vehicles at 11am

EVENT NAME	EXPECTED ATTENDANCE
Allagash Street Fair - 3 rd Annual	2,000

DESCRIPTION OF EVENT:

This year we would like to host a street fair (closing down Industrial Way from Riverside intersection to 125 Industrial Way – Maine Bay Canvas entrance) with neighborhood breweries, local food vendors, crafts and music. It will be very similar to last year. Many canopies will be set up in the street. Stage with music will be set up in Allagash parking lot and other parking lots. A large tent will be set up on private property. 20 porta-toilets will be rented by organizer. A \$20 fee will be charged to enter the grounds.

The area for participants carrying beer around, is the same for last year: we would like to "snow fence" the entire perimeter of the event so that guests are free to roam the event with a beer rather than being in barricaded beer gardens. We would use wrist bands to distinguish under aged guests and would have ample private security and local PD patrolling the area. The Maine Bay Canvas driveway will be left open (barricades placed across Industrial Way just after the MBC driveway – so MBC Trucks and employees can access their driveway). The Brock Group will also need access to their driveway.

A MEETING with City Staff and organizers was held on 3-3-16 to discuss logistics of the 2016 event (including needs for PD/EMS support.... EMS will be on standby). The 2017 is identical to the 2016 event. POLICE: 3 officers + supervisor will be hired by organizers. A number of Allagash Security Staff will handle/monitor/oversee the security beer fence perimeter areas. Licenses will be secured by organizer, from the State, for liquor service areas.

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?	Please check: ☒ FEE ☐ PLEDGES	
IF YES FOR FEES, HOW MUCH?	FEE	\$20.00

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? Satellite Parking Lots will be used (shuttle bus), including Lyman Moore Middle School Lots (Auburn Street). The city is charging a rental fee for use of this parking lot.

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many: 20	X		
* Do you wish to set up a tent(s) ? (A canopy or tent larger than 10x10 needs to be approved by PAFD Office and a Tent Permit issued from Inspections Division; please call Inspections – 874-8703 – (buildinginspections@portlandmaine.gov) for information on their application process / PLEASE give them at least a 2-week notice). PAFD will contact Inspections once the tent location is approved so that the Tent Permit Application may go forward. State size(s): 20x30 Exact Location(s) of Tent Placement Requested: Allagash Front & Back Parking Lots + IAS Parking Lot In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233.	X		
* Will you be setting up tables and/or chairs ? How many tables: 30 chairs: 100	X		
* Are other items or equipment being placed on City property?		X	
* Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office) List food and drink / Food Trucks, etc.: Burgers, Sandwiches, Cupcakes, Beer PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served PLEASE give the BL Office at least a 2-week notice (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event.	X		
Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, you will need approval from PAFD Office, and you will need to apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557). List items you wish to sell: T-shirts	X		
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Y Band? Y DJ? N Boom Box? N If so, your event may require a concert license from BL Office (874-8557). A Sound Security Deposit may also be required for amplification.	X		
* Will your event require electricity ? Private source – not from City.	X		
* Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
* Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at PAFD Office, 212 Canco Rd.		X	
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from PAFD Office. Barricades and signs are borrowed from Public Works, Customer Service.		X	
* Will your event require street closures ? (See "Description of Event") Will your event affect METRO BUS ROUTES ? NO	X		
* Will your event require Police assistance?	X		
* Will your event require Fire/EMS assistance?	X		
* Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned?		X ORGANIZER RENTS	

INSURANCE CERTIFICATE INFORMATION

* Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X		
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♦ If you answered YES, you shall procure and maintain commercial and/or product liability insurance in an amount of at least \$400,000 combined single limit, covering claims for bodily injury, death, and property damage at your event. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement for coverage for the event, only in those areas where governmental immunity has been expressly waived by 14 M.R.S.A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit shall not be deemed a waiver of any immunities or limitations of damages available under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, or common law.

- ♦ The insurance certificate shall be sent to tvm@portlandmaine.gov and must state with no exceptions one of the following:
- 1) The policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).
 - 2) The policy contains a general liability extension endorsement by which the City of Portland is made an additional insured pursuant to the date of the event (and rain date).

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you not use electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by PAFD Office and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Porta-restrooms will need to be rented.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Event Organizers must not use Spray Paint or Spray Chalk when marking city property. Children's Art Chalk can be used with permission from PAFD Office.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

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

REVOCABLE PERMIT

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

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	CM	DATE	11/22/16
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ASSUMPTION OF RISK & LIABILITY

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

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	CM	DATE	11/22/16
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FEE SCHEDULE – UPDATED JULY 1, 2015

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

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

CREDIT CARD INFORMATION

Visa or MasterCard Number					Exp Date (Mon/Yr)		
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CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO “CITY OF PORTLAND”

♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use: 8 hours (11am – 7pm) + \$750 for use of school parking lot	\$ 1600 + \$750 DUE	Vest/Cone Deposit: \$10 per/item Barricade Deposit: \$25 per/item	\$???
Admin/Staff Fee (support for events): \$30/hour	\$???	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ 500 due
Key Deposit: \$50 per key	\$ N/A	Other (Porta-Restroom User Fee: \$25, etc.)	\$ N/A – renting 20 units
Impact/Street Closure Fee (variable based on impact): \$100-\$500	\$ N/A		

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	12-1-16	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ NEED	SECURITY DEPOSIT	\$ NEED
PAYMENT TYPE							
/ISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

*Order 135-16/17
Tab 8 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING JULY 7, 2017
THE OLD PORT FITNESS & HEALTH EXPOSITION
AND JULY 8, 2017 THE SHIPYARD OLD PORT HALF MARATHON AND 5K
ROAD RACE FESTIVALS**

ORDERED, that July 7, 2017 is hereby declared to be the Old Port Fitness & Health Exposition Festival, and July 8, 2017 is hereby declared to be the Shipyard Old Port Half Marathon & 5K Road Race Festival, sponsored by GiddyUp Productions, LLC; and

BE IT FURTHER ORDERED, that the Old Port Fitness & Health Exposition on Friday July 7, 2017 will take place in the Ocean Gateway Terminal from 2:00 p.m. to 8:00 p.m.; and

BE IT FURTHER ORDERED, that the races are authorized from 5:00 a.m. – 3:00 p.m. Saturday, July 8, 2017, to be held in Portland, along city streets and trails, with a concert to follow until 10:00 p.m.; and

BE IT FURTHER ORDERED, that the Half Marathon will start at 7:00 a.m. and the 5K Race will start at 7:15 a.m.; and

BE IT FURTHER ORDERED, that Runners will congregate for the start of the Half Marathon in the Ocean Gateway queuing lanes and in the Eastern Promenade area for the 5-K Road Race; the finish line for both races is at Ocean Gateway; and

BE IT FURTHER ORDERED, that the Old Port Fitness & Health Exposition and the Shipyard Old Portland Half Marathon & 5K Road Race Festival area shall be Ocean Gateway, Amethyst Lot, Moon Tide Park, the Eastern Promenade and City Streets and trails designated as the route of the race; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area (except in the Thames Street area) shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Old Port Fitness & Health Exposition and the Shipyard Old Portland Half Marathon & 5K Road Race Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

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

1. GiddyUp Productions, LLC shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. GiddyUp Productions, LLC shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event, other than in areas restricted to 21-year-old and older patrons in Moon Tide Park and also in Amethyst Lot, during the awards ceremony on July 8, 2017 from 9:00 a.m. to 1:30 p.m. and at the concert after the race, with security provided by Public Assembly Facilities staff;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from Public Assembly Facilities shall be adhered to;
4. GiddyUp Productions, LLC shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Old Port Fitness & Health Exposition and the Shipyard Old Portland Half Marathon & 5K Road Race Festival;
5. GiddyUp Productions, LLC shall hire police officers, Public Assembly Facilities Division staff and parking control officers to assist with directing traffic at street closures, and Public Assembly Facilities staff shall be hired to oversee the Amethyst Lot/Ocean Gateway/Moon Tide Park areas; and
7. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the GiddyUp Productions, LLC has agreed shall participate; and
8. Route of the course is subject to change, depending on construction projects along the course and police recommendations leading up to the race day; and

BE IT FURTHER ORDERED, the following streets will be closed to vehicular traffic on Saturday July 8, 2017:

- West-bound lane of Commercial St. (both lanes – from Franklin Street to Valley Street) will be closed to vehicular traffic (6:50 a.m. – 8:25 a.m.)
- Thames Street and Commercial Street (Hancock Street to Franklin Street) 6:50 a.m. – 7:10 a.m.), with traffic held back from approximately 7:00 a.m. – 7:10 a.m.);
- Eastern Promenade road (both lanes, from Morning Street to Washington Avenue) (7:05 a.m. – 7:35 a.m.)
- North Street (from Walnut Street to Eastern Promenade), (7:05 a.m. – 7:35 a.m.)
- Cutter Street (6:30 a.m. – 7:30 a.m.)
- North-bound traffic on Washington Avenue (at the intersection with Eastern Promenade road), will either be detoured or held back from 7:10 – 8:45a.m. (State Police will close the I-295 Exit 8 ramp onto Washington Avenue from 7:10 – 8:45a.m.)
- Danforth Street (both lanes, from Valley Street to Vaughan Street (7:10 a.m.– 8:05 a.m.).
- Danforth Street (west-bound lane, from Clark Street to Vaughan Street) (7:10 a.m. – 8:15a.m. (Church attendees detoured onto Clark, to Spring, to Emery Street)
- Western Promenade (both lanes from Vaughan Street to Bowdoin Street) (7:15 a.m. – 7:45a.m.)
- Beach Street (from York Street to Commercial Street) (7:10 a.m. – 8:10 a.m.)
- Sewage Plant Road (approximately 1,000 feet starting at the Eastern Prom Trail) 8:00 a.m. – 9:45 a.m.

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



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: February 3, 2017
RE: **Council Agenda Item – 2017 Shipyard Old Port Half Marathon**

I am requesting that the following order be placed on the next City Council agenda:

**Order declaring Friday, July 7, 2017: Old Port Fitness & Health Exposition, and
Saturday, July 8, 2017: Shipyard Old Port Half Marathon & 5K Road Race, as
Festivals.**

The Shipyard Old Port Half Marathon & 5K Road Race, as well as the Old Port Fitness & Health Expo are a for-profit event, however, Habitat for Humanity of Greater Portland, Cancer Community Center, and Portland Trails all benefit from the Shipyard Old Port Half Marathon proceeds.

This race has been held in the city for six (6) years now. Each successive year, attendance at the race increases; this year's Half Marathon should draw close to 3,500 runners; the 5K – approx. 1,300 runners.

The Order should include the following three major items:

- (1) The Shipyard Old Port Half Marathon & 5K Road Race be authorized for Saturday, July 8, 2017, from 5am - 3pm, to be held in Portland, along city streets and trails. Runners will congregate in the Ocean Gateway Cueing Lanes area (Half Marathon Start) and the Eastern Prom area (5K Race Start). The Half Marathon starts at 7am; the 5K Race starts at 7:15am.
- (2) For Saturday's race (July 8), 2 Beer Gardens will be setup: A 21+ beer garden will be set up in Moon Tide Park beside Ocean Gateway, and another set up at the Amethyst Lot. Both will be staffed by Public Assembly Facilities staff. Sponsor of the Beer Garden is Candace Cares, a non-profit supporting cancer programs in Maine. Proceeds benefit Habitat for Humanity of Greater Portland, Cancer Community Center, and Portland Trails. In addition to the 2 Beer Gardens on Saturday: an Awards Ceremony (9am – 1:30pm) will be held on site.

(continued)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

- (3) The Shipyard Old Port Health & Fitness Exposition (Friday, July 7) will take place at the Ocean Gateway Terminal, from 2 – 8pm. Runners will pick up their race packets and receive information about health & fitness. This area will also be overseen by Public Assembly Facilities Staff. The use of the Amethyst Lot and Ocean Gateway area for all these events is under separate contract with PAFD.

These areas will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and are reserved for the use of the race organizer, for the purpose of conducting the Shipyard Old Port Half Marathon & 5K Road Race and the Shipyard Old Port Health & Fitness Exposition, subject to the direction and control of the City Manager.

The route of the races are as follows: (Please also refer to Maps)

Half Marathon (start time 7am). Runners assemble in the OG Queuing Lanes (Start Line), runners go left onto Thames Street, continue west to Commercial Street (using the west-bound lane and center lane of Commercial Street – which will be coned off to traffic), run west on Commercial, round the corner at the end and take a right onto Valley Street, then right onto Danforth Street and left onto Vaughan Street, taking runners up onto the Western Prom streets, finally ending back on Beach Street headed back down to Commercial Street, where runners then turn left and continue east-bound on Commercial Street (running in just one lane of the west-bound lane), take a left onto Hancock Street, then a right onto Fore Street (heading east), run up to the Eastern Promenade, then down to Washington Ave. – crossing there and continuing around Back Cove Trail (clockwise), then crossing Tukey's Bridge and continuing down to Bayside Trail, then running a short distance on Sewage Plant Road and turning around, continuing back to run south onto the Eastern Prom Trail, ending back at the Ocean Gateway Visitors Center Parking Lot / Finish Line. 3500 runners.

5K (start time 7:15am). Runners assemble at top of Cutter Street area. Runners take a right at the top of Cutter St, head north onto Eastern Promenade Road, down the hill to Washington Ave, crossing over Washington Ave. and getting onto Bayside Trail, then getting onto the Eastern Prom Trail running south, and ending at Ocean Gateway Visitors Center Parking Lot / Finish Line. 1300 runners.

(continued)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

During the Shipyard Old Port Half Marathon & 5K Road Race, streets listed below will be closed to vehicular traffic, Saturday, July 8, 2017. (The Police Dept. has endorsed the closures. Many Police Officers and Parking Control Officers will be hired by organizer. Volunteers will also staff race intersections.)

The organizer will reach out to the many businesses along Commercial Street, to alert them to the street closures and traffic delays on Saturday morning.

For the Half Marathon, the west-bound lane of Commercial Street (from Franklin St. to Valley St.) will be closed to traffic from 6:50 – 8:25am. However, there will be a rolling opening of this closed lane, as runners are on their return trip from the Western Prom (approx. 8:09 – 8:25am). Traffic will still flow on the east-bound lane and access to the waterfront businesses will remain open (there will Police Officers on site at some intersections: Park St., Center St., Union St., Pearl St., and Franklin St., where vehicles can turn from the east-bound lane & center lane, onto these side streets – when space between runners allows).

During the wave start of the Half Marathon race at 7am, Thames St. and Commercial St. (both lanes - from Hancock St. to Franklin St.) will be closed to vehicular traffic, from approx. 6:50 – 7:10am. This section of Commercial Street – the water side, will be posted “No Parking.” Franklin Street (at Commercial St.) will also be closed to traffic while the 3500 runners cross through (approx. 7 – 7:10am). Vehicles needing to get to Casco Bay Ferry Lines, will be let through when space between runners allows.

For the wave start of the 5K race (7:15am), Eastern Promenade road (both lanes, from Morning St. to Washington Ave.) will be closed to vehicular traffic from approximately 7:05 - 7:35am. This will also necessitate during this time, the closure of North Street (from Walnut St. to E. Prom), other than local traffic to residences and East End School. Cutter Street (assembly area for 5K runners) will be closed to traffic from 6:30 – 7:30am.

North-bound traffic on Washington Ave. (at the intersection with Eastern Prom road), will either be detoured or held back from 7:10 - 8:45am. (State Police will close the I-295 Exit 8 ramp onto Washington Ave from 7:10 - 8:45am). This is so runners in both races can cross over Washington Ave.

Danforth Street (both lanes, from Valley St. to Vaughan St.) will be closed to traffic from approx. 7:10 – 8:05am.

(continued)



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

Danforth Street (west-bound lane, from Clark St. to Vaughan St.) will be closed to traffic from approx. 7:10 – 8:15am. (Church attendees detoured onto Clark, to Spring, to Emery St.).

Western Promenade (both lanes from Vaughan St. to Bowdoin St.) will be closed to traffic from 7:15 - 7:45am.

Beach Street (from York St. to Commercial St.) will be closed to traffic from 7:10 - 8:10am.

Sewage Plant Rd. (a segment approx. 1,000 ft. long starting from Eastern Prom Trail) will be closed to traffic from 8:00 – 9:45am. Employees at the plant will be allowed access.

In the event the start of the Half Marathon or 5k Race is delayed, then the ending times of the above street closures would also be delayed.

Some street areas of the race routes will need to be posted "No Parking." These include Thames Street, Fore Street, Cutter Street, Commercial Street, and spaces on streets at some race intersections. NOTE: Vehicles in the Thames Street area will not be towed.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Shipyard Old Port Half Marathon & 5K Road Race Old Port Fitness & Health Exposition organizer, for the use of the above-described area for said events, subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event, other than what is approved by City Council (Saturday's After-Race Festivities - Awards Ceremony) – taking place at Moon Tide Park and the Amethyst Lot under the direction of Public Assembly Facilities Staff;
- Waterfront Concerts will be providing PA Sound Production for Saturday's After-Race Festivities, which will include a DJ, as well as live bands. Also at Saturday's Races, there will be a number of locations where PA Systems will be set up; including OG Queuing Lanes, the CVB parking lot, Amethyst Lot, Preble Street Parking Lot, Eastern Prom Trail, East End Beach, Eastern Prom (top of Cutter Street), grass area underneath Casco Bay Bridge, and Moon

(continued)



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

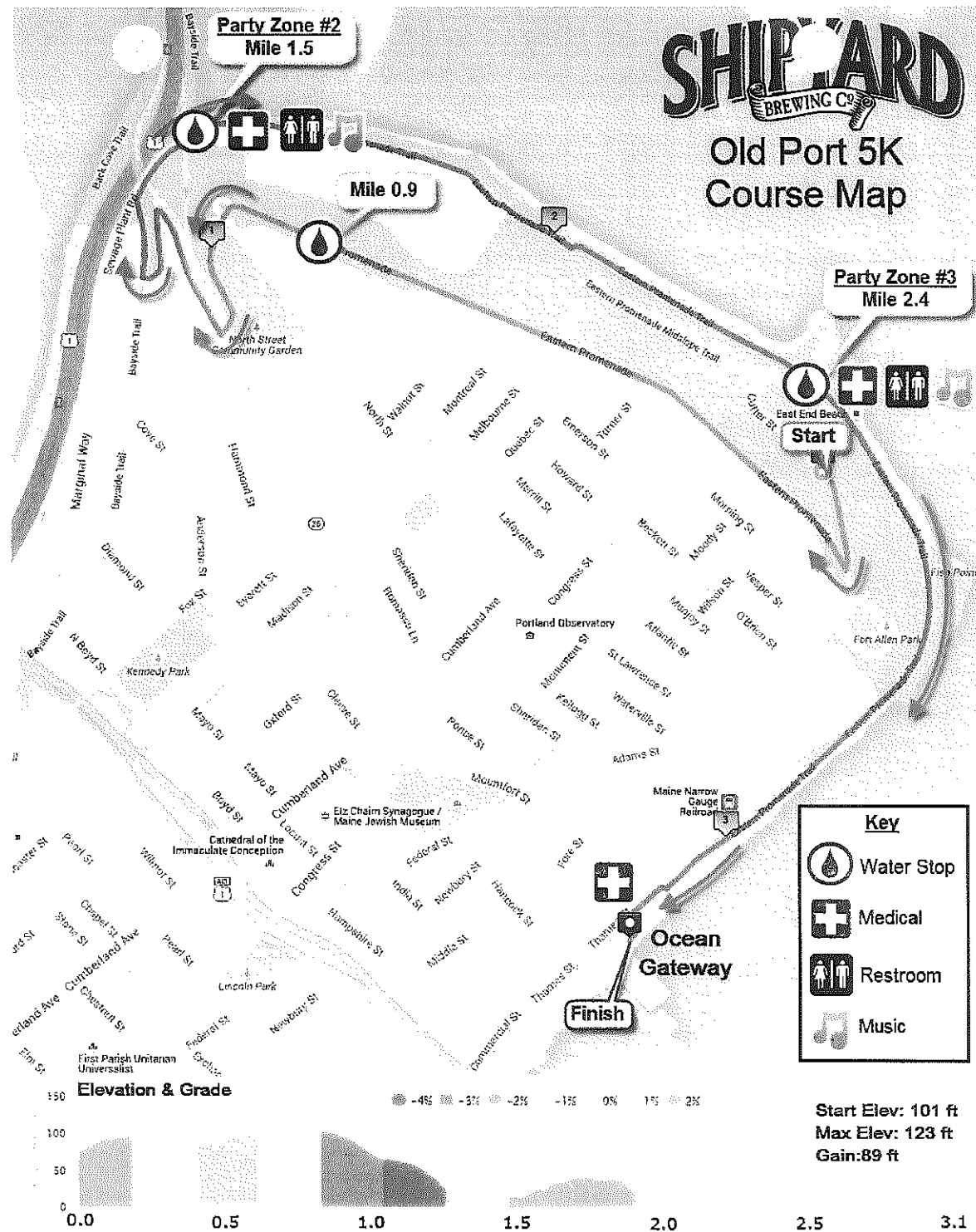
Public Assembly Facilities Division

Tide Park. Most of these areas will have a DJ playing music while runners pass by. Any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound shall be maintained under 92dB's and be configured by the event organizer and the City to focus volume away from residential housing, limiting any sound impacts in residential areas;

- Race organizer shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage (as well as alcohol liability coverage) in the amount of at least \$400,000 per occurrence for personal or bodily injury, death, or property for said purposes;
- Conditions for use of grounds, specified in your contract & permit issued from the Public Assembly Facilities Division, shall be adhered to;
- Race organizers shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the Festivals;
- City permit fees, license fees, and costs for city staff assistance will be paid by the race organizer (race organizer will hire many Police Officers and Parking Control Officers to assist with street closures, detours, race intersections, and hire Public Assembly Facilities staff to oversee the Amethyst Lot / Ocean Gateway / Moon Tide Park areas); and
- Route of the course is subject to change, depending on construction projects along the course and Police recommendations leading up to the race day.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said Festival.

Document prepared by Ted Musgrave, PAFD Event Coordinator



5k Course Map

Start on Cutter St

Right on Eastern Promenade

Cross over Washington Ave get onto new Back Cove Trail

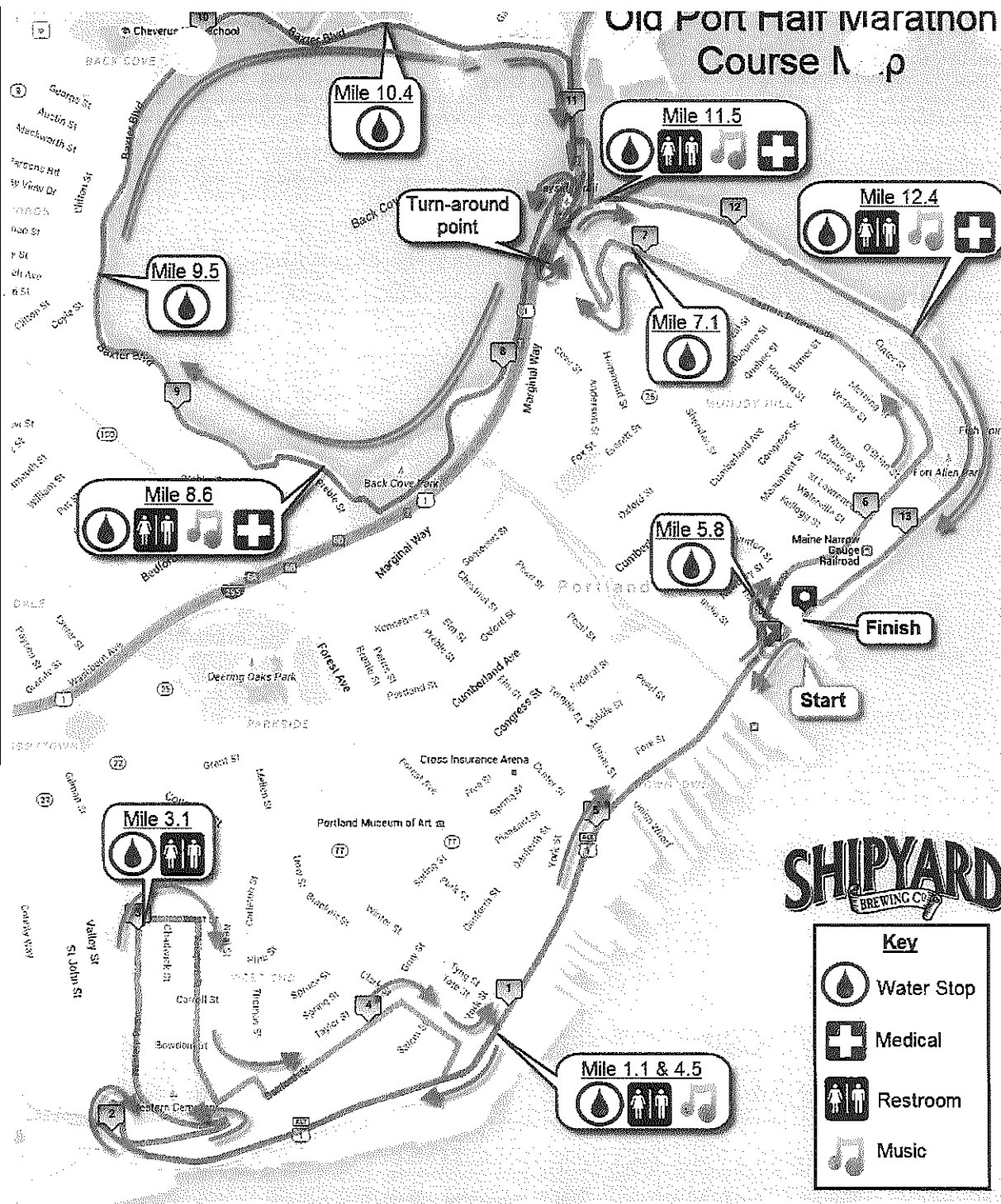
Left at Anderson St staying on

new Tukey Street Connector trail

Right on Bayside Trail

Right on Eastern Promenade Trail

Finish at Ocean Gateway



Start on Thames St / Cueing Lanes
 Straight on Commercial
 Continue on West Commercial
 Right on Valley
 Right on Danforth
 Left on Vaughan
 Left on Western Promenade
 Right on West
 Right on Vaughan
 Left on Orchard
 Right on Fletcher
 Left on Danforth
 Right on Clark
 Right on Beach
 Left on West Commercial
 Left on Hancock
 Right on Fore
 Straight on Eastern Promenade
 Cross over Washington Ave
 Right on new Back Cove Trail
 Cross over I-295 on Washington Ave bridge
 Sharp left on Back Cove trail
 Clockwise around Back Cove & cross bridge
 Sharp right on Bayside Trail
 Right on Sewage Plant Road
 Turn-around near U-haul before Plowman
 Right on Eastern Prom trail
 Straight at East End beach
 End on Thames St / Ocean Gateway

*Order 136-16/17
Tab 9 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING SUNDAYS ON THE BOULEVARD
FESTIVAL DAYS IN 2017**

ORDERED, that Sundays from May 7, 2017 to September 24, 2017 are hereby declared to be Sundays on the Boulevard Festival Days; and

BE IT FURTHER ORDERED, that the Sundays on the Boulevard Festival Days area shall be Baxter Boulevard from Vannah Avenue to Payson Park; and

BE IT FURTHER ORDERED, that Baxter Boulevard from Vannah Avenue to Payson Park, east entrance, and the Payson Park west entrance road from the tip of the grass triangle to Baxter Boulevard shall be closed to traffic from 9:00 a.m. to 4:00 p.m. on every Sunday from May 7, 2017 to September 24, 2017; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival Area (interior roadways) shall be towed at owner's expense; and

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

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit under §25-27 of the City Code to the Sundays on the Boulevard Committee, subject to the direction and control of the City Manager and to the following specific conditions:

1. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area; and
2. Assistance from City Departments will be in kind; and

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



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: February 3, 2017
RE: **Council Agenda Item – Sundays on the Boulevard**

I am requesting that the following order be placed on the next City Council agenda:

Order declaring "Sundays on the Boulevard" as a weekly festival event and declaring Baxter Boulevard (from Vannah Avenue to the entrance of Payson Park) be closed to traffic every Sunday, May 7 – September 24, 2017, 9am – 4pm, in order to allow the public to use that portion of the street as recreational space.

Since 2014, Portland City Council has approved the closing of Baxter Blvd. to vehicular traffic on Sundays in order to facilitate "Sundays on the Boulevard." The boulevard closed from Vannah Ave. to Payson Park, Sundays (9am – 4pm).

The "Sundays on the Boulevard" committee (which includes city staff as well as Portland Trails, Bicycle Coalition of Maine, and Back Cove Neighborhood Assoc. representatives), would like to continue this tradition of recreational opportunity to the public and requests permission to close the boulevard on Sundays, from May 7 – September 24, 2017, with a time frame of 9am – 4pm. On some of those Sundays, there may be programmed events happening: music, bicycle demos, yoga class, paddleboard demos, etc.

The closure will sometimes have city staff – when necessary, as well as volunteers from advocacy groups and the Back Cove Neighborhood Association, in attendance at the barricaded intersections.

For "Sundays on the Boulevard," streets listed below will be closed to vehicular traffic on Sundays (May 7 – September 24, 2017), 9am – 4pm:

Baxter Blvd. (From Vannah Ave. to Payson Park, boulevard east entrance)

Payson Park, west entrance road (from tip of Grass Triangle) down to Baxter Boulevard.

(continued)



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Sundays on the Boulevard Committee for the use of the above-described area for said Festival subject to the following conditions:

- Under no circumstances may alcoholic beverages be consumed or sold on the streets or park areas of said area during said festival;
- Assistance from City Departments will be in-kind.

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

Document prepared by Ted Musgrave, PAFD Event Coordinator

Order 137-16/17
Tab 10 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER DECLARING MAY 14, 2017 THE PORTLAND SEA DOGS
MOTHER'S DAY 5K RACE FESTIVAL**

ORDERED, that Sunday, May 14, 2017 is hereby declared to be the Portland Sea Dogs Mother's Day 5K Race Festival, sponsored by the Portland Sea Dogs; and

BE IT FURTHER ORDERED, that the Portland Sea Dogs Mother's Day 5K Race Festival area shall be Park Avenue from the Portland Exposition Building and Weymouth Street, west to Outer Congress Street, north on Stevens Avenue, southeast on Brighton Avenue; and south on Deering Avenue to the Fitzpatrick Stadium entrance; and

BE IT FURTHER ORDERED, that the following streets shall be closed at the following times:

- Both lanes of Park Avenue from Weymouth Street to St. John Street shall be closed to traffic from 8:50 a.m. to 9:20 a.m. for the start of the race;
- West-bound lanes of Park Avenue in front of William B. Trough Ice Arena shall be closed to traffic from 7:30 a.m. to 9:30 a.m.; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival Area shall be towed at owner's expense; and

BE IT FURTHER ORDERED, that the Portland Sea Dogs Mother's Day 5K Race Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Portland Sea Dogs under §§25-26 to 25-30 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Portland Sea Dogs shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The

Portland Sea Dogs shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from Public Assembly Facilities Division shall be adhered to;
4. The Portland Sea Dogs shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Mother's Day 5K Race Festival;
5. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Portland Sea Dogs has agreed shall participate; and
6. The Portland Sea Dogs is responsible for paying associated city costs including but not limited to Police assistance, Parking Control Officer assistance, MEDCU assistance, Public Works assistance, Public Assembly Facilities Division assistance and permit fees, Business Licensing permit fees and "No Parking" sign fees; and

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



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: February 3, 2017
RE: **Council Agenda Item – Sea Dogs Mother's Day Race**

I am requesting that the following order be placed on the next City Council agenda:
**Order declaring Sunday, May 14, 2017, as
Portland Sea Dogs Mother's Day 5K Race Day.**

For many years the Portland Sea Dogs have held their Mother's Day 5K Race. Attendance at the races is large: organizers expect 2,500 runners (race is capped at 3000 runners).

The Order should include the following items:

The **Portland Sea Dogs Mother's Day 5K Race** be authorized for **Sunday, May 14, 2017**, to be held in Portland, specifically, Park Ave. - in front of the Expo and Ice Arena, for the formation of runners and start line.

Route: Start at 9:15am, runners travel west down Park Ave., continue out onto outer Congress Street, take a right onto Stevens Ave., take a right onto Brighton Ave., continue onto Deering Ave., then take a right into Fitzpatrick Stadium Entrance Gate and finish inside Hadlock Stadium Field at 3rd base.

Park Ave. – both sides of the street need to be closed to traffic from the Expo / Weymouth Street to St. John Street (from 8:50am – 9:20am) for the start of the race.

Park Ave. – the west-bound lanes will be closed to traffic (in front of the ice arena) from 7:30 – 9:30am. The other side of the street (which is 2 lanes) will become a 2-way section so traffic will still flow on that part of the street (up until 8:50am, when road is shut down completely and traffic detoured).

Race organizers will work with METRO to ensure impacts to transit services is kept to a minimum, however, METRO will need to take detours.

(continued)



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

Police officers assist at some of the race intersections (and provide a lead and follow car), and Sea Dogs Staff (and city staff) assist at the Park Ave. street closure for the start of the race; volunteers (American Cancer Society volunteers) are stationed on outer Congress Street, Stevens Ave. side streets, and Brighton Ave. side streets. State Police also assist at the 295 Ramps (Congress Street).

Runners congregate on Park Avenue (sidewalks and both lanes of the street), in front of Expo and Ice Arena for the start of races. Race starts at 9:15am.

This area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of race organizers, for the purpose of conducting the Portland Sea Dogs Mother's Day 5K Race, subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Sections 25-26 thru 25-30 of Portland City Code to the Portland Sea Dogs Race organizers subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event;
- Portland Sea Dogs shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 combined single limit for personal or bodily injury, death, or property for said purposes;
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division, shall be adhered to;
- Race organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the race; and
- **Race organizer is responsible for paying associated city costs (such as Police assistance, PCO assistance, Medcu assistance, Public Works assistance, PAFD assistance, Business Licensing Fees and PAFD Permit fees / "No Parking" sign fees).**

(continued)



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

During the **Portland Sea Dogs Mother's Day 5K Race, Sunday, May 14, 2017**, streets listed below will be closed to vehicular traffic:

Park Ave. (from the Expo / Weymouth Street to St. John Street), 8:50am – 9:20am for the start of the race. The west-bound lanes of Park Ave. (in front of Portland Ice Arena), 7:30 – 9:30am.

Also, Congress Street (west bound lanes) from Park Ave. to Stevens Ave., 9am – 9:30am; Stevens Ave. (north bound lane) from Congress St. to Brighton Ave., 9:15am – 9:45am; Brighton Ave. (both lanes) from Stevens Ave. to Falmouth St., 9:15am – 10am; and Deering Ave. (both lanes) from Falmouth St. to Park Ave., 9:15am – 10:15am.

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

Document prepared by Ted Musgrave, Event Coordinator
Public Assembly Facilities Division

*Order 138-16/17
Tab 11 2-27-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**363 LLC d/b/a Cheevitdee. Application for a Class XI Restaurant/Lounge License at 363
Fore Street.**

363 LLC

D/B/A Cheevitdee

363 Fore Street
Portland, ME 04101

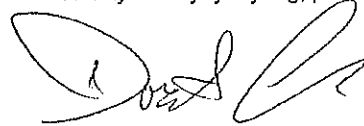
January 17, 2017

Mayor and Members of the City Council:

As the owners of 363 LLC, D/B/A Cheevitdee located at 363 Fore Street in Portland, please accept our letter of intent to operate as a Thai Food Restaurant with the sale of beer, wine and liquor. We thank you for your consideration of this request.



Nuttaya Suriyanyong, partner



Darit Chandpen, partner

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 Food Service Establishment with Alcoholic Beverages License

Business Information	363 LLC		
Business Name (d/b/a):	Cheevitdee	Phone:	425-559-1447
Location Address:	363 Fore ST Portland	Zip:	04101
If new, what was formerly at this location:	DUNKIN DONUTS		
Mailing Address:	363 Fore ST Portland	Zip:	04101
Contact Person:	Nuttaya Suriyayanyong	Phone:	425-559-1447
Contact Person Email:			
Manager of Establishment:	owner	Date of Birth:	6-22-77
Owner of Premises (Landlord):	Joe Soley		
Address of Premises Owner:	Zip:		

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
363 LLC DBA Cheevitdee		363 Fore st. Portland ME	
		Zip:	04101
Contact Person:	Nuttaya Suriyayanyong	Phone:	425 559 1447
Principal Officers	Title	Date of Birth	Residence Address
Nuttaya Suriyayanyong	owner	6-22-77	401 Cumberland Ave. Apt #403 Portland ME
Parit Chandpen	owner	3-28-87	29 Caldwell st. Portland ME 04103

About Your Establishment

Class of Liquor License:	Class XI	
Type of food served:	Thai	
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:	everyday 1130-10	

QUESTIONS

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N ☒
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/N ☒
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y/N ☒
Will you permit dancing on the premises?	Y/N ☒
Will you permit dancing after 1:00 a.m.?	Y/N ☒
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/N ☒
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	Y/N ☒
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? ASAP	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y/N ☒
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N ☒
If Yes, please list business name(s) and location(s): Mi Sen 630 Congress St	
Is any principal officer under the age of 21?	Y/N ☒
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N ☒
If Yes, please explain:	

I, Nuttaya Suriyayayong 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 Nuttaya Title owner Date 11/17/17

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: 363 LLC		Business Name (D/B/A) Cheevitdee	
APPLICANT(S) - (Sole Proprietor) DOB:		Physical Location: 363 Fore ST	
DOB:		City/Town Portland	State ME
Address 363 Fore ST		Mailing Address	
City/Town Portland	State ME	City/Town	State
Zip Code 04101		Zip Code	
Telephone Number 425-559-1447	Fax Number	Business Telephone Number	Fax Number
Federal I.D. # 81-2633727	Seller Certificate #: or Sales Tax #: Applied For		
Email Address: Please Print	Website:		

If business is NEW or under new ownership, indicate starting date: **ASAP**

Requested inspection date: **ASAP** Business hours: **1130 - 10**

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: **N/A**
2. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
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: _____

6. Business records are located at: **363 Fore ST Portland ME 04101**

7. Is/are applicant(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
Nuttaya Suriyayanyong	6-22-77	Thailand
Dorrit Chandpen	3-28-87	Thailand

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

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (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:
Joe Soley 363 Forest St Portland ME 04101

14. Describe in detail the premises to be licensed: (On Premise Diagram Required) See Attached

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

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? School Which of the above is nearest? 1/2 mile

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: _____

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

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1/2 mile Which of the above is nearest: School

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

If Yes, give details: _____

The Division of Liquor Licensing & 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 on January 17th, 20 17
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

NUTHAYA Sukriyayanyong
Print Name

Signature of Applicant or Corporate Officer(s)

Darrit Chandper
Print Name

FEE SCHEDULE

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

Class I Spirituous, 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.



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: 363 LLC
2. Doing Business As, if any: Cheevitdee
3. Date of filing with Secretary of State: 5-16-16 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

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 %
NUTTAYA Surriyayanyong	401 Cumberland Ave APT 403 Portland ME 04101	6-22-77	partner	70%
Darit Chandpen	29 Caldwell ST Portland ME 04103	3-28-87	partner	30%

(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:

Nuttan 11/17/17
Signature of Duly Authorized Person Date

Nuttaya Surriyayanyong
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

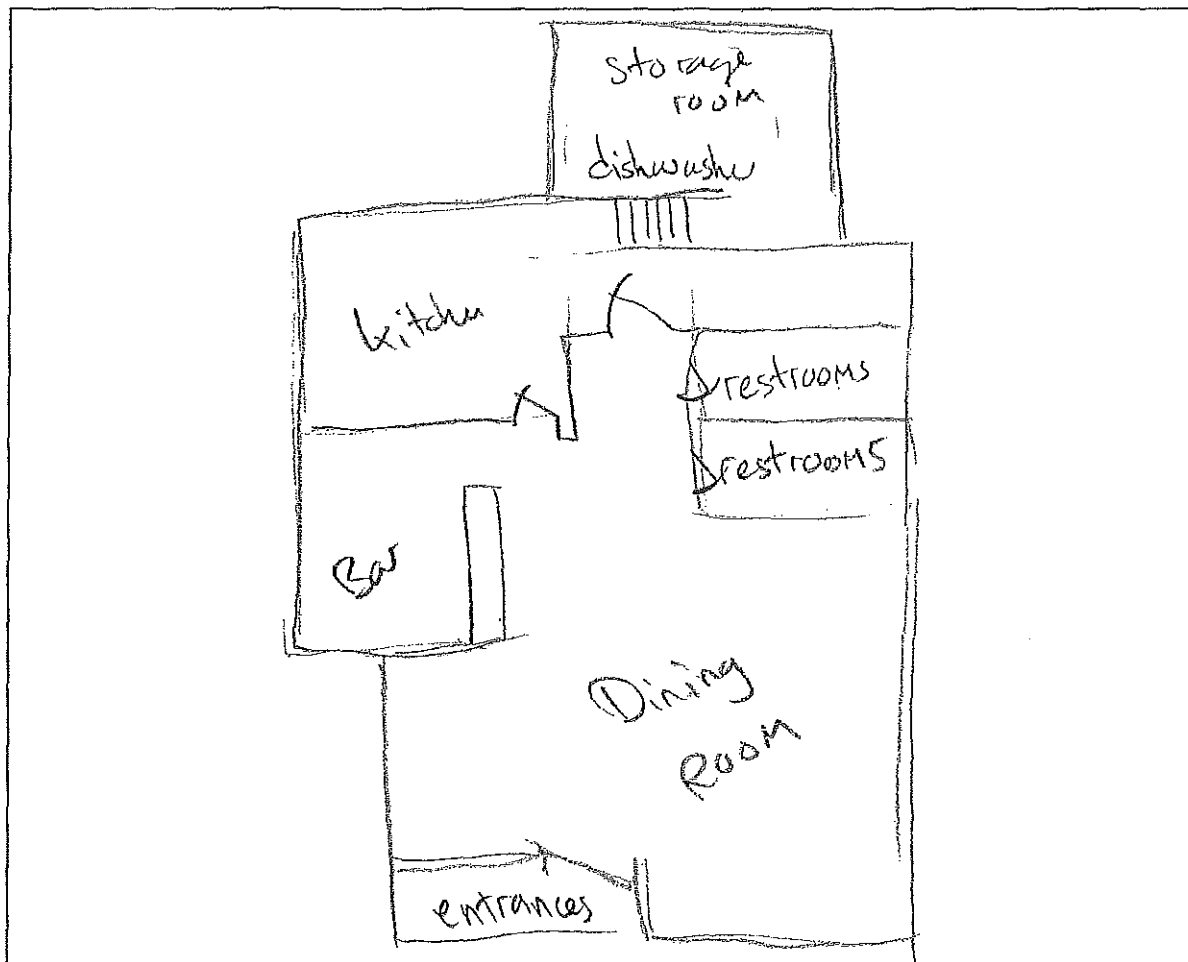
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

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.



Cheevitdee Menu

Appetizer

Fresh Roll - shrimp and vegetables wrapped in rice paper, served with spicy and sour dipping sauce

Salty Tofu - pan-fried organic tofu with sea salt and scallion

Lemongrass Chicken - grilled chicken marinated with lemongrass and wrapped in banana leaves

Steamed Egg - steamed egg topped with shrimp, onion, and lime dressing

Steamed Mussel - steamed mussel with thai hot basil leaves

Soup, Salad

Tom Yum Soup - clear sour soup with chicken, basil, and lemongrass

Vegetable Stew - tofu, mushroom and vegetables

Mushroom Salad - assorted mushroom mixed with spicy and sour dressing

Som Tum - spicy papaya salad with shrimp

Larb Salmon - raw salmon with onion mixed with chili and lime



Entree

Ping Ngob - grilled seafood curry with rice wrapped in banana leaves

Tom Yum Fried Rice - lobster fried rice with chili paste, onion, lemongrass, and tomato

Chicken Noodle Soup - thin rice noodle with clear chicken broth and meatballs

Kang Liang - mixed vegetables in spicy soup, served with rice

Suki - stir-fry mung bean noodle, assorted vegetables, with a spicy and sour sauce

salmon choo chee - red curry salmon with kaffir-lime leaves, served with rice



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

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D122430

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-01-19) :

Inquiries Name(s) DARIT CHANDPEN (1987-03-28)

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)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D122435

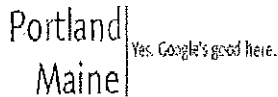
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-01-19) :

Inquiries Name(s) NUTTAYA SURIYAYANYONG (1977-06-22)

NO MATCH WAS FOUND FOR YOUR REQUEST.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Cheevitdee**Kevin Cashman** <kevindc@portlandmaine.gov>

Sat, Jan 21, 2017 at 7:04 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: John Brennan <brennanj@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>

No issues with PPD.

Kevin C.

On Thu, Jan 19, 2017 at 10:34 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Cheevitdee, 363 Fore Street for a Class XI Licesnse.

Owner is 363 LLC

NUTTAYA SURIYAYANYONG 6/22/1977

Darit Chandpen 3/28/1987

Contact is

NUTTAYA SURIYAYANYONG 425-559-1447

They will be going before council on 2/22 and would like to open as soon as possible. They were advised to contact all departments.

The information has been added to UI for approvals. Thanks Jessica

 Cheevitdee.pdf

Jessica B. Hanscombe

Business License Specialist

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

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

Portland, Maine



Yes. Life's good here.

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

January 19, 2017

363 LLC
Nuttaya Suriyayonyong
363 Fore Street
Portland ME 04101

Re: 363 LLC d/b/a Cheevitdee. Application for a Class XI Restaurant/Lounge License at 363 Fore Street.

Dear Nuttaya Suriyayonyong,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday February 22, 2017 at 5:30 p.m.**, for the review of your application for a Class XI Restaurant/Lounge License at 363 Fore 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 February 22nd at 5:30 P.M., in City Council Chambers, 389 Congress St., 363 LLC d/b/a Cheevitdee. Application for a Class XI Restaurant/Lounge License at 363 Fore Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 139-16/17
Tab 12 2-27-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Bayside Bowl, LLC d/b/a Bayside Bowl. Application to expand Outdoor Dining on Private Property at 58 Alder Street.



bayside bowl
portland, maine

January 23, 2017

Mayor Strimling and Members of the City Council,

Bayside Bowl has been proud to call Portland and the Bayside neighborhood our home for the last six years. In our time, we've seen many businesses come to Bayside and have seen the neighborhood grow. It is with the confidence in our staff and business that we are expanding. Bayside Bowl expansion will add eight additional lanes inside of a newly constructed building.

Atop the new building, we are constructing a 2,400 sq. ft. outdoor dining area with food and alcohol. We plan on opening up our rooftop deck in April or May of each year, when the weather permits, and close down when it's too cold. We have converted a classic Airstream into an all-electric cooking and assembly station, accompanied by a full bar, gas firepit and seating.

We believe that the rooftop deck will be an incredible attraction for the neighborhood, and would appreciate the opportunity to continue helping Bayside and the City of Portland grow.

Best,

Justin Alfond & Charlie Mitchell

Owners, Bayside Bowl

Portland, Maine



Yes. Life's good here.

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

Outdoor Dining Permit Application

Please circle all that apply:

New Application? (Yes/No) (Yes)
Renewal? (Yes/No) (Yes) → If yes, are there any changes? (Yes/No)
Private Property? (Yes/No) (Yes)
Historic District? (Yes/No) (Yes)
Liquor License Required? (Yes/No) (Yes) Permitting and Inspections Director Signature _____
OR Pending City Council Date _____ (D/M/Y)

Location Name: <u>BAYSIDE BOWL</u>	Chart	Block	Lot#
Address: <u>58 ALDER STREET</u>	<u>34</u>	<u>H</u>	<u>1</u>

Owner Name: <u>JUSTIN ALFORD</u>	Total Square Footage of Outdoor Dining Area: ¹
Phone #: <u>(207) 232-4187</u>	Length: (<u>80</u>) x Width (<u>30</u>) = <u>2,400</u>
Email: <u>jalford@gmail.com</u>	

Applicant must be owner or lessee.	Please pay before the permit can be issued.
Name: <u>BAYSIDE BOWL LLC</u>	\$125 (One-time Private Property fee) or
Address: <u>58 Alder Street</u>	\$80 (Annual Public Fee) + Total Sq. Ft.: _____ x
City: <u>Portland, ME</u>	(\$2) or (\$6 in public parks) =
State & Zip: <u>04102</u>	Total Fee of \$ <u>125</u>
E-Mail: <u>jalford@gmail.com</u>	

Current use: NEW OUTDOOR SPACE Business name: BAYSIDE BOWL
How many chairs? _____ How many tables? _____
Please circle one of the following: Alcohol is served = (Yes/No) (Yes)

Who should we contact?
Name: JUSTIN ALFORD
Phone: (207) 232-4187
Address: 58 ALDER STREET PORTLAND, ME E Mail: jalford@gmail.com

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. For further information, please visit www.portlandmaine.gov, email permits@portlandmaine.gov, call 874-8703 or stop by Room 315, City Hall. Applications and renewals are reviewed annually and must be submitted by June 1.

Signature of Applicant: Justin Alford

Date: 11/17

¹ The total dining area square footage shall equal no more than 10% of park space without Parks, Recreation and Facilities waiver. Contact Sally DeLuca, Director, @ 207-808-5400 for waiver.

Portland, Maine



Yes. Life's good here.

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

Electronic Signature and Fee Payment Confirmation

This is a legal document and your electronic signature is considered a legal signature per Maine state law. You will receive an e-mailed invoice from our office which signifies that your electronic permit application has been received and is ready for payment. Please pay by one of the following:

- Electronic check or credit card: portlandmaine.gov/payyourpermit
- Over the phone at (207) 874-8703.
- Drop off to Room 315, City Hall.
- Mail to:

**City of Portland
Permitting and Inspections Department
389 Congress Street, Room 315
Portland, Maine 04101**

By signing below, I understand the review process starts once my payment has been received. After all approvals have been completed, my permit will be issued via e-mail. Outdoor dining may not commence until permit is received.

Applicant Signature: _____

A handwritten signature in black ink, appearing to read "Just Ayf", is written over a horizontal line.

Date: _____

1/23/17

I have provided electronic copies and sent them on: _____

Date: _____

1/23/17

NOTE: All electronic paperwork must be delivered to permitting@portlandmaine.gov or on a thumb drive.



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

All outdoor dining permits are subject to the following:

Design and Construction

Existing Sidewalk Width (property line to curb)	Sidewalk Dining Allowed?	
< 8'0"	No	
≥ 8'0"	Yes – up to 60% of sidewalk width.	
Sidewalk Type	Sidewalk Passage Required	
	Width (minimum)	Height (minimum)
Standard sidewalk	4'0"	6'8"
Street corner	5'0"	6'8"

- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes to existing straight passage is at the discretion of the City.
- Egress must be maintained free of obstruction.
- Permanent fixtures, such as awnings, require a building permit separate from the Outdoor Dining permit and subject to approval by the Building Authority.
- Umbrellas do not require a permit.
- Umbrellas must be secured and maintain the height clearance for sidewalk passage.

Barriers

- Free-standing barriers are preferred. Physical attachments to a building are subject to administrative review, especially in historic districts.
- Stanchions and ropes are encouraged. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
- Shall not exceed 42" in height and may not include commercial signage.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- The permit holder is responsible for keeping the outdoor seating area clean.
- No food shall be prepared in the designated outdoor dining area.
- If alcohol is to be served, then the permit holder must be approved for outdoor dining by the City Council. To initiate the process, notify the Business Licensing Office at 874-8557.



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

- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- Adjacent on-street parking requires Parking Office review and Building Authority approval.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signed and acknowledged:

Date:

Printed name:

Establishment:

Location:

Justin Alford

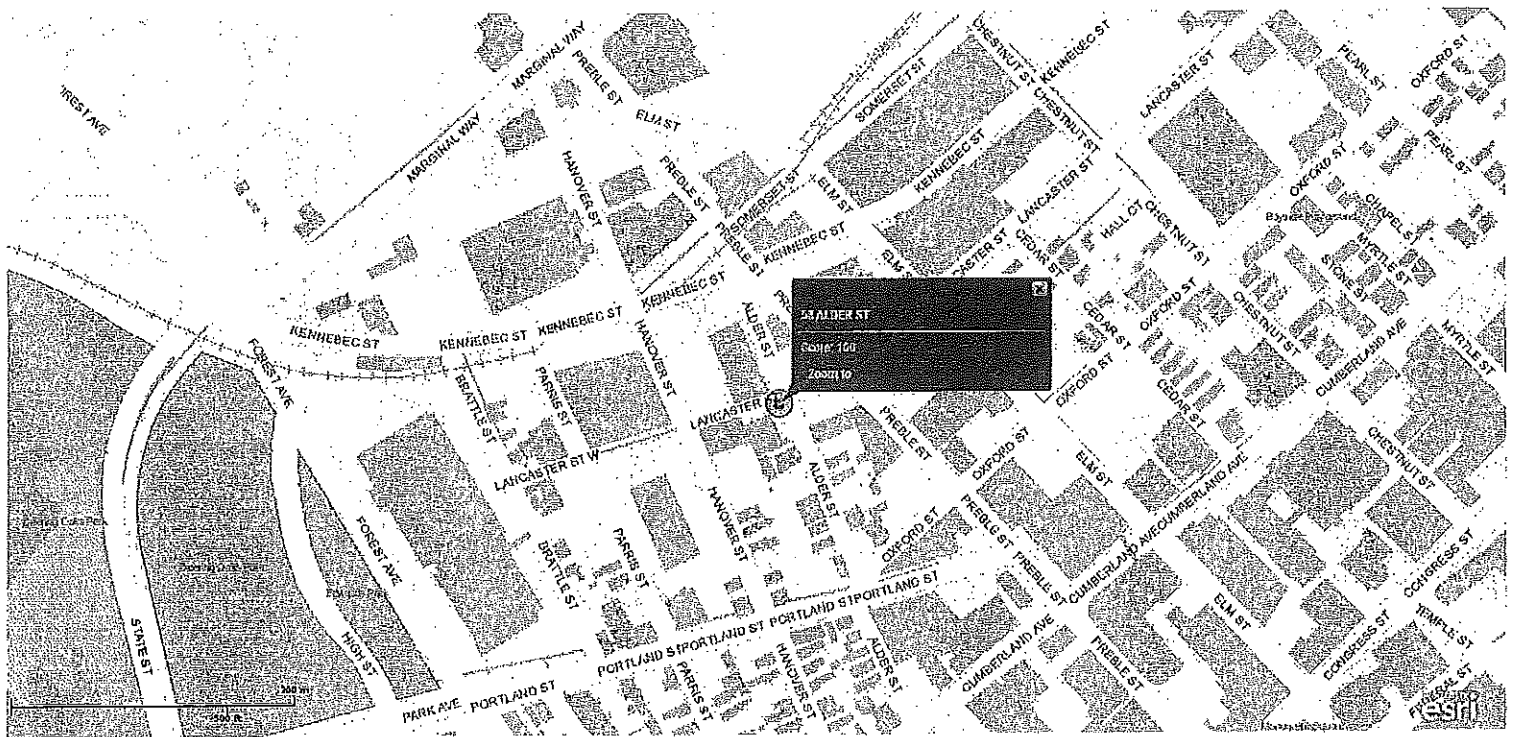
1/23/17

Justin Alford

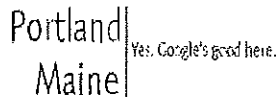
Bayside Bowl

58 Alder Street

Bayside Bowl



Copyright 2011 Esri. All rights reserved. Wed Jan 25 2017 08:47:48 AM.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Bayside Bowl

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Jan 28, 2017 at 4:31 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Gary Rogers <garyr@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Keith Gautreau <kng@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PD is all set.

On Wed, Jan 25, 2017 at 9:06 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Bayside Bowl, 58 Alder Street is requesting to add Outdoor dining. This will be a rooftop deck. I have attached the request that will be going before council on 2/22.

They also are requesting to expand their liquor consumption area within the building. I have attached the diagram with the highlighted areas for the expansion. The inside is just an internal approval.

Owner is Bayside Bowl LLC
Contact is Justin Alfond
207-232-4187
jalfond@gmail.com

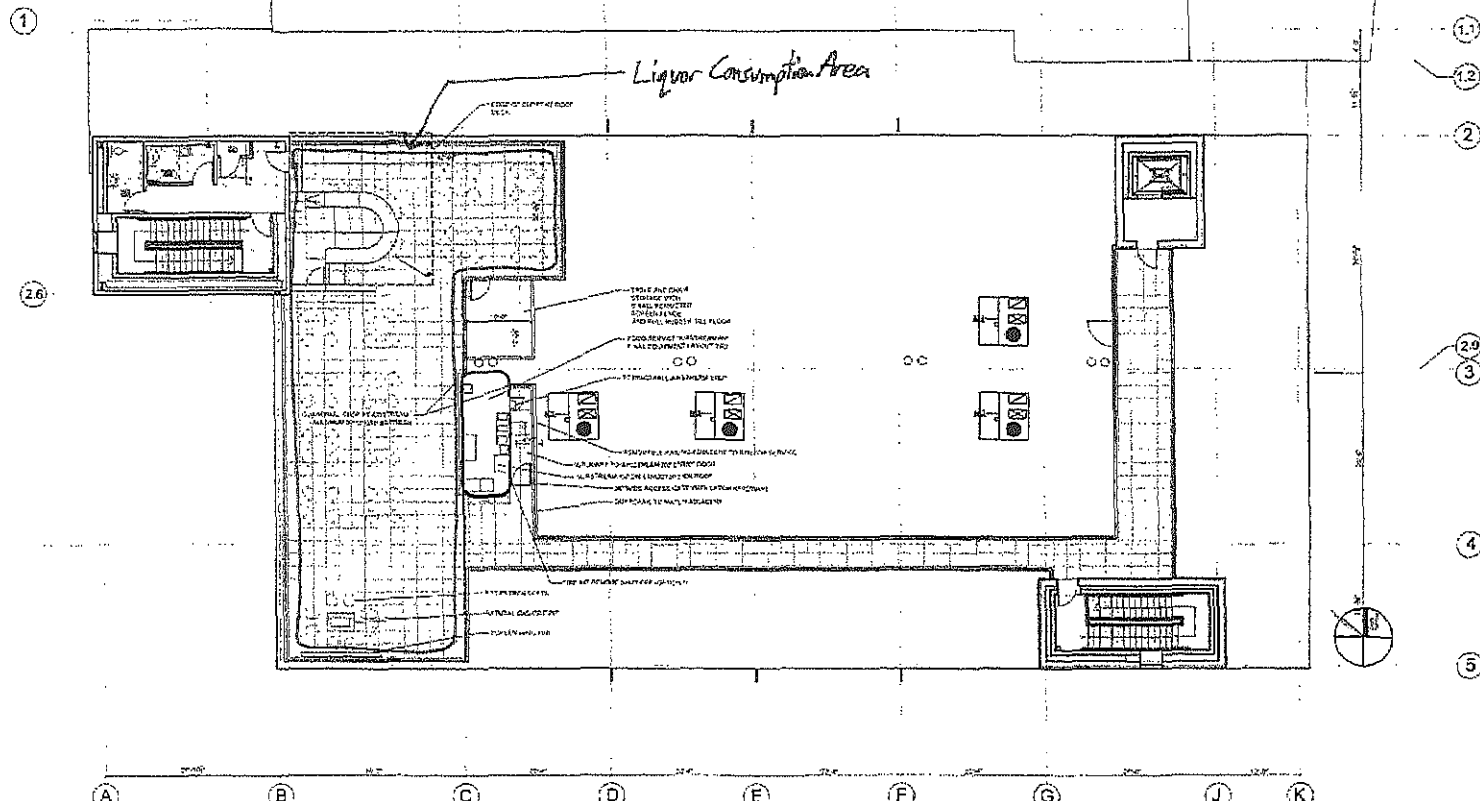
Please email me approvals. There are 2 separate things to approve, the inside consumption and the outdoor dining (rooftop deck).

Thank you Jessica

Jessica B. Hanscombe
Business License Specialist
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

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

ROOF PAPER SPECIFICATIONS:
 - HANOVER PLYCAST CONCRETE ROOF PANELS 24'0" X 24'
 - HANOVER ELEVATOR ROOF RAIL SYSTEM, FRONT CHAINS
 BRACING AND STAY CABLES
 - PROVIDE ALL REQUIRED ACCESSORIES FOR A FULL AND COMPLETE
 INSTALLATION



ADDITION TO BAYSIDE BOWL
 ALDER STREET
 PORTLAND, MAINE

RAA
 REGISTERED ARCHITECTURE
 1000 BAY STREET
 PORTLAND, ME 04101
 TEL: 207.774.1111
 WWW.RAA-MAINE.COM

DATE: MAY 4, 2019
 PROJECT NO: 190
 DRAWING: 24'-0" ROOF PLAN
 CHECKED BY: JLB
 DESIGNED BY: JLB
 SCALE: AS NOTED

ROOF PLAN

A1-4

Portland, Maine



Yes. Life's good here.

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

January 25, 2017

Bayside Bowl
Justin Alfond
58 Alder Street
Portland ME 04102

Re: Bayside Bowl, LLC d/b/a Bayside Bowl. Application to expand Outdoor Dining on Private Property at 58 Alder Street.

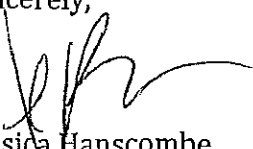
Dear Justin Alfond,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday February 22, 2017 at 5:30 p.m.**, for the review of your application for Outdoor Dining at 58 Alder 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 February 22nd at 5:30 P.M., in City Council Chambers, 389 Congress St., Bayside Bowl, LLC d/b/a Bayside Bowl. Application to expand Outdoor Dining on Private Property at 58 Alder Street. Sponsored by Michael Russell, Director of Permitting and Inspections.



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

SCANNED
1-23-17

OUTDOORDINING Permit Application & Checklist

A permit is required for expanding food service to the outside of all properties.

For public properties, the Outdoor Dining annual fee is \$80.00 plus \$2.00 per square foot of dining area on **streets, sidewalks or other public ways** and \$6.00 in **city parks**. Outdoor dining permits located on public property are only valid for a year.

The one-time private property fee is \$125.00 (\$25 application fee and \$100 for the Certificate of Occupancy). The fee is due with your permit application. Outdoor dining permits located on private property are valid with the applicant establishment permanently.

Outdoor dining is permitted from **April 1 - November 15**. Barriers must be removed no later than November 15 and furniture removed in inclement weather to allow for sidewalk maintenance.

Application Checklist:

- ✓ **New applicants provide a plot plan showing:**
 - Lot lines, where the building sits on the lot and dimensions of the building and lot.
 - Street location and the intersecting streets.
 - Sidewalk location, width, and curbing location.
 - Setback dimension from the sidewalk to the building.
 - Location of proposed outdoor dining area and its components (tables, chairs, barriers, etc.), including dimensions and total outdoor dining area in square feet. An outdoor dining installation cannot prevent a clear passageway for pedestrians (4 feet minimum and 5 feet for street corner).
- ✓ **Outdoor dining renewals do not require a plot plan.**
- ✓ **A drawing and/or specification of any proposed barrier solution.**
- ✓ **Proof of public liability insurance coverage (not required for private property):** The permit holder is required to produce at the time of submission and maintain public liability insurance coverage of not less than four hundred thousand dollars (\$400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured.
- ✓ **All documents provided in electronic form.**

Order 140-16/17
Tab 13 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Mami Food Truck LLC d/b/a Mami Restaurant. Application for a Class IV (Malt) License
at 339 Fore Street.**

To Whom It May Concern,

Mami Food Truck was formed on Tuesday, March 21 2015. Our mission has been to satisfy customers with our fresh and locally sourced food items. We want to please our guests to the highest degree, having them come back for more and assuring that our food is worth their spending. As a couple, we are also doing this for our family (the two of us, our daughter, son), each supporting the other, in hopes to create a family owned restaurant.

We plan on opening our restaurant, Mami, early spring of this year (2017) at 339 Fore Street, Portland Maine 04101. Our target market is the local community of the southern Maine region, specifically the Portland area. We will certainly aim to attract tourists as well, especially in the summer and fall seasons. However, one of our goals is to get our name out and get recognized as part of the Portland restaurant community. Our primary service is providing guests with appetizing, affordable, and unique Japanese street/pub food with efficient, friendly, and positive service. We will offer draft and bottle beer to compliment our food, we are a restaurant first and food is what we focus on. The beer we do provide will be curated from the local area, as we believe Maine beer is the best in the world! We wish to provide every guest with satisfaction, offering them knowledge about our products, receiving and acting upon feedback, catering to their preferences (i.e. food allergies or restrictions), all in an inviting and respectful manner. Our business differs from our competitors in that we will be serving Japanese street food, a type of cuisine that many people are not familiar with and we will gladly introduce it to both tourists and the local community. Although there are Japanese/Asian restaurants in Portland, there is nothing like what we aim to do. We will not be opening the typical ramen/sushi establishment, rather expand the current niche we have been carving. Our business systems allow us to demonstrate

our culinary skills, knowledge, experience, moral values, fast and efficient performance, and Japanese background. We have also gained a steady fan base due to the fact that we provide amazing unique food, that is comfortable to everyone, as well as our previous employment and friends yielded us the ability to generate supporters.

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 Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Mami Restaurant	Phone:	207 899-8689
Location Address:	339 Fore Street	Zip:	04108
If new, what was formerly at this location:	Mainely wraps		
Mailing Address:	339 Fore Street	Zip:	04108
Contact Person:	Austin Miller	Phone:	207-899-8689
Contact Person Email:	mamifoodtruck@gmail.com		
Manager of Establishment:	Hannah Tamaki	Date of Birth:	8/2/91
		Phone:	207 632-1348
Owner of Premises (Landlord):	Gerry Knecht		
Address of Premises Owner:	Boothby Square Properties LLC	Zip:	04104

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

Name of Owner(s)	Date of Birth	Residence Address
Austin Miller	8/6/87	146 Plymouth St. Portland, ME 04103
Hannah Tamaki	8/2/91	146 Plymouth St. Portland, ME 04103

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

Corporate Name		Corporate Mailing Address	
Mami Food Truck LLC		146 Plymouth St. Portland ME 04103	
Contact Person:	Austin Miller	Phone:	207-899-8689
Principal Officers	Title	Date of Birth	Residence Address
Austin Miller	owner	8/6/87	146 Plymouth St. Portland, ME 04103
Hannah Tamaki	owner	8/2/91	146 Plymouth St. Portland, ME 04103

About Your Establishment

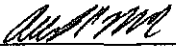
Class of Liquor License:	Malt IV		
Type of food served:	Izakaya Japanese		
Please circle all that will be served:	☒ Beer	☐ Wine	☐ Liquor
Projected percentage of sales:	Generated from Food: 80%	Generated from Alcohol: 20%	
Hours & days of operation:	S-S 11-10pm		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y
Will you permit dancing on the premises?	☒ Y
Will you permit dancing after 1:00 a.m.?	☒ Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	3/1/17
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y
If Yes, please list business name(s) and location(s):	
Mami Food Truck LLC Austin Miller, Hannah Tamaki 146 Plymouth St	
Is any principal officer under the age of 21?	☒ Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y
If Yes, please explain:	

I Austin Miller 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 1/21/17

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

BUREAU OF ALCOHOLIC BEVERAGES 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: MAINE.LIQUOR@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)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Mami food truck LLC</u>			Business Name (D/B/A) <u>Mami</u>		
APPLICANT(S) - (Sole Proprietor) <u>Austin Miller</u>		DOB: <u>8/6/87</u>	Physical Location: <u>339 Fore Street</u>		
Hannah Tamaki		DOB: <u>8/2/91</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
Address <u>146 Plymouth St</u>			Mailing Address <u>339 Fore Street #</u>		
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04103</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
Telephone Number <u>207-899-8689</u>		Fax Number	Business Telephone Number <u>207-899-8689</u>		Fax Number
Federal I.D. # <u>474042612</u>			Seller Certificate #: or Sales Tax #: <u>1177688</u>		
Email Address: Please Print <u>Mami food truck@gmail.com</u>			Website: <u>mami.foodtruck.com</u>		

If business is NEW or under new ownership, indicate starting date: 3/1/17

Requested inspection date: 2/20/17 Business hours: 5-5 11-10pm

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

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

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

If YES, complete Supplementary Questionnaire

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

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

9. Business records are located at: _____

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Austin Miller	8/6/87	Missoula, MT
Hannah Tamah	8/2/91	Portland, ME

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

Both Portland, ME

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☐ Applied for: Q11

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1 mile Which of the above is nearest? Church

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

If YES, give details: Father + uncle both loans

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: 1/26/2017 Portland, ME on Jan 26th, 20 17
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Austin Miller

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

NOTICE – SPECIAL ATTENTION

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

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

FILING FEE: (must be included on all applications)	\$ 10.00
Class I Spirituous, 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 fees must accompany application, made payable to the Treasurer of Maine. This application must be completed 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
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: Mami Food Truck LLC Austin Powell Miller
2. Doing Business As, if any: Mami Restaurant
3. Date of filing with Secretary of State: 3/27/15 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: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Austin Miller	146 Plymouth St Portland, ME 35 Bryants St 04103	8/6/87	owner	50
Hannah Tamaki	146 Plymouth St Portland, ME 35 Bryant St 04103	8/2/91	owner	50

(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:

Austin P Miller
Signature of Duly Authorized Person

1/22/17
Date

Austin P Miller
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

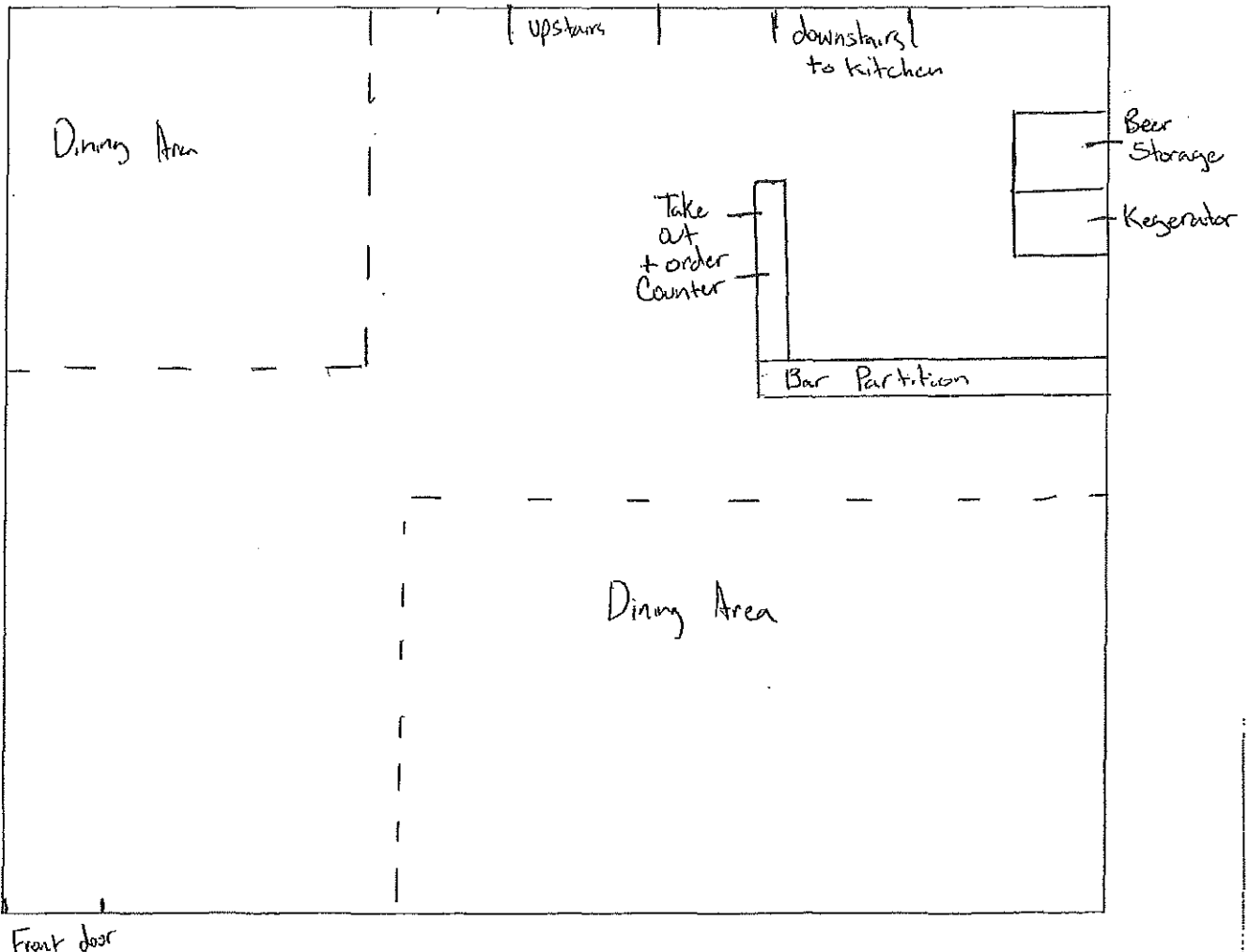
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

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, function rooms, decks and all areas that you are requesting approval from the Division for liquor consumption.



Mami Sample Menu

Okonomiyaki

Japanese savory pancake w/
your choices of vegetables
and meat, topped w/ okonomi
sauce, scallions katsuobushi,
and pickled ginger

\$12 vegetarian / \$15 meat

Yakisoba

Grilled soba noodles, yakisoba
sauce, your choice of vegetables
and meat.

\$10 vegetarian / \$12 meat

Onigiri

Grilled rice ball with rotating
fillings, miso and soy glazed,
wrapped in nori.

\$4-5

Takoyaki

Grilled octopus puffs, okonomi
sauce, scallions, and pickled ginger.
Topped w/ katsuobushi.

\$6 / 5 balls

Yakitori, Kushiya

Skewered and grilled
meats and vegetables, with
various seasonings

\$4 - \$6

Kobayashi

Japanese styled hot dog, topped
w/ pickled vegetables, spicy
okonomi sauce, nori, and scallions.

\$6

Nikuman

Rotating Steam buns, with different fillings

\$6

Udon

Rotating Udon noodle dishes

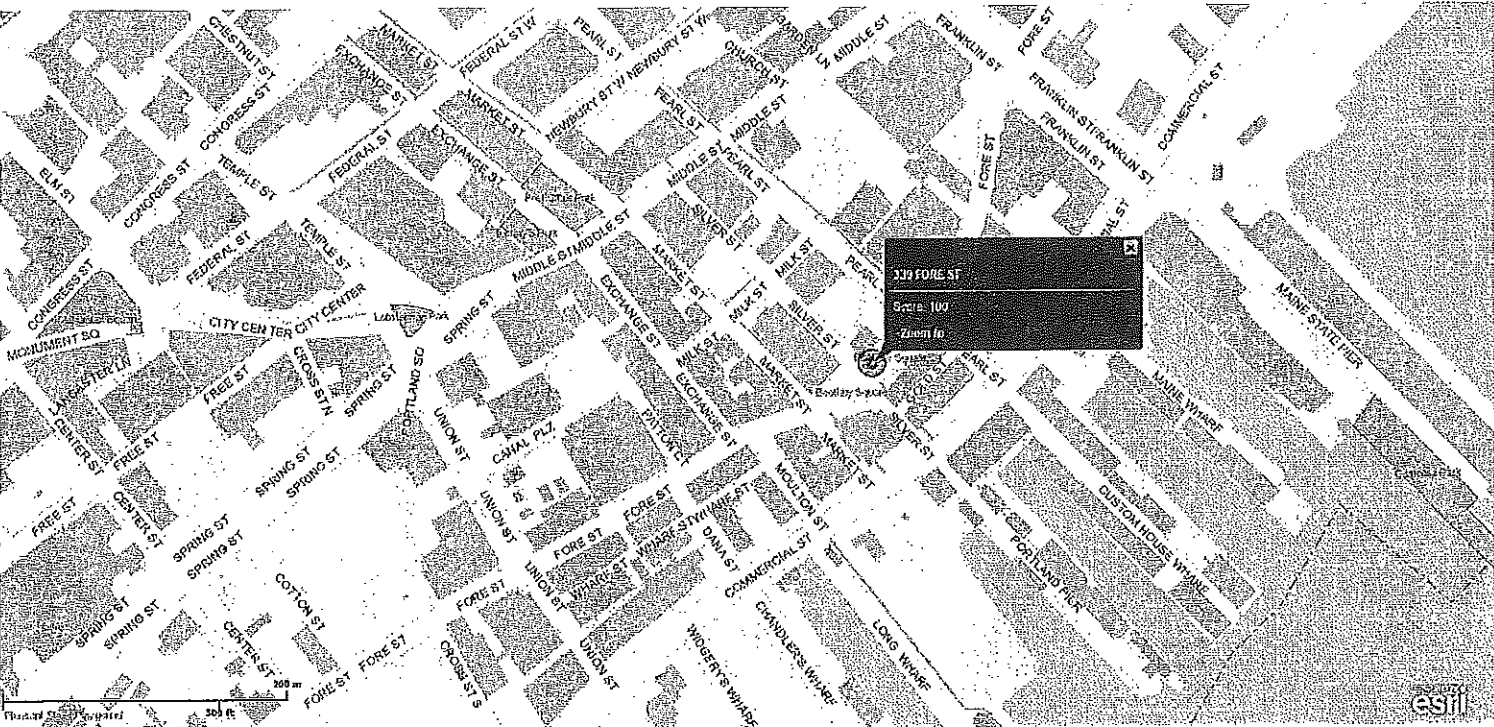
\$12-\$15

Big Mami

Our signature burger, Squid ink brioche, local beef, togarashi, aonori, katsuobushi, pickles,
ketchup, kewpie.

\$14

Mami Restaurant





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

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D130278

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-01-27) :

Inquiries Name(s) **HANNAH TAMAKI (1991-08-02)**

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)

traffic
violation

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D130277

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-01-27) :

Inquiries Name(s) AUSTIN MILLER (1987-08-06)

The information in this criminal history record is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Confirmation that convictions relate to person whose record has been requested requires fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing, credit, or other benefits or programs, the person making the eligibility determination using this record should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S. section 709.

****THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2017-01-27**

This record, effective September 1, 2000, contains information relating to persons arrested as fugitives from justice, 15 M.R.S section 201.4 or arrested or charged with Maine crimes. It does not include former crimes no longer classified as criminal, or Class D and E crimes in Title 12 or Title 29-A, former Title 29, unless the crime is alcohol-related or drug-related 25 M.R.S. section 1541.4-A.A. For information regarding excluded Marine Resources crimes in Title 12, contact the Department of Marine Resources. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. For information relating to excluded crimes in Title 29-A former Title 29, contact the Secretary of State, Motor Vehicle Division. A list of former crimes is available from this Bureau.

Identification

Subject Name/or potential Alias Name(s)

MILLER, AUSTIN POWELL

Subject Description (date information provided listed in parentheses)

State ID Number

ME0256751

DOC Number

Unknown/NA

Sex

Male

Race

White

Skin Tone

Unknown/NA

Height

600 (2013-02-06)
600

Weight

185 (2013-02-06)
185

Date of Birth

1987-08-06

Hair Color

Brown (2013-02-06)
Brown

Eye Color

Brown (2013-02-06)
Brown

Scars, Marks, and Tattoos

Code

TAT R ARM
TAT CHEST
TAT BACK

Description, Comments, and Images

NO DESCRIPTION
NO DESCRIPTION
NO DESCRIPTION

Place of Birth

MT

Citizenship

US (2013-02-06)

Residence

Residence as of
Address

2016-08-19
19 WHITE POINT ROAD
STANDISH, ME 04084

Residence as of
Address

2013-02-06
19 WHITES POINT RD
STANDISH, ME US

Caution Information

Firearms Disqualified

X - Unknown

Criminal History

Cycle 001

ATN/Tracking Number 012500B
Earliest Event Date 2013-02-06

Arrest No data supplied

Prosecutor Disposition (Cycle 001)
Prosecutor Agency DISTRICT ATTORNEY'S OFFICE PORTLAND;
ME003013A

Charge 2

Charge Number 012500B 002
Charge Tracking Number 012500B
Charge Description UNLAWFUL POSSESSION OF SCHEDULED DRUG (Charge
Class D)
Statute 17-A MRSA SUBSECTION 1107-A(1)(C)
State Sequence Code 8571
Severity Misdemeanor
Prosecutor Record ADDED
Modified/Updated

Court Disposition (Cycle 001)
Court Case Number CUMCDJR201301017
Court Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J

Charge 2

Charge Number 012500B 002
Charge Tracking Number 012500B
Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J
Charge Description UNLAWFUL POSSESSION OF SCHEDULED DRUG (Charge
Class D)
Statute 17-A MRSA SUBSECTION 1107-A(1)(C)
State Sequence Code 8571
Severity Misdemeanor
Disposition 2013-03-28; DISMISSED BY DA/AG - PLED OTHER CHARGE

Sentencing No data supplied

Corrections No data supplied

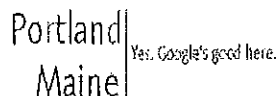
Index of Agencies

Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J
Agency Telephone 207-822-4113
Address 205 NEWBURY STREET
PORTLAND, ME 04112-0287

Agency DISTRICT ATTORNEY'S OFFICE PORTLAND;

ME003013A
Agency Telephone 207-871-8384
Address 142 FEDERAL ST
PORTLAND, ME 04101

Agency PORTLAND PD; ME0030500
Agency Telephone 207-874-8479
Address 109 MIDDLE ST
PORTLAND, ME 04111



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Mami Restautant

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Jan 28, 2017 at 4:33 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Gary Rogers <garyr@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Keith Gautreau <kng@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Melissa Calazzo <mcalazzo@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>

PS is all set.

On Fri, Jan 27, 2017 at 10:09 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Attached is an application for Mami Restaurant, 339 Fore Street. I had sent out for approvals for A FSE with Prep license last week. But now they are upgrading to add Malt. The business will be going before council on 2/22.

Owner is Mami Food Truck LLC
Austin Miller 207-899-8689
mamifoodtruck@gmail.com

The business is currently in UI. Please advise with approvals.

Thanks Jess

Jessica B. Hanscombe
Business License Specialist
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

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

Portland, Maine



Yes. Life's good here.

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

January 27, 2017

Mami Food Truck LLC
339 Fore Street
Portland ME 04101

Re: Mami Food Truck LLC d/b/a Mami Restaurant. Application for a Class IV (Malt) License at 339 Fore Street.

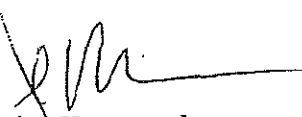
Dear Austin Miller,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday February 22, 2017 at 5:30 p.m.**, for the review of your application for a Class IV License at 339 Fore 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 February 22nd at 5:30 P.M., in City Council Chambers, 389 Congress St., Mami Food Truck LLC d/b/a Mami Restaurant. Application for a Class IV (Malt) License at 339 Fore Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 141-16/17
Feb 14 2 22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:**

**Pom 2007, LLC d/b/a Pom's Thai Taste Restaurant and Noodle House. Application for a
Class I FSE at 571 Congress Street.**

Pom 2007 LLC

d/b/a Pom's Thai Taste Restaurant and Noodle House
571 Congress Street
Portland, ME 04101
(207)939-3210

January 27, 2017

Ethan Strimling, Mayor of Portland
Members of Portland City Council
City Hall
Portland, ME

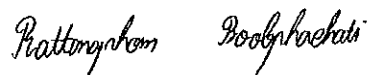
Dear Mayor and Council Members,

We formally, and respectfully, would like to request that you grant us an upgrade in our liquor license from the current "Malt & Vinous" License, to a "Class A Restaurant" License.

We haven't had any negative, unwanted issues related to serving alcohol in our restaurant in the past, and we don't anticipate any future unwanted issues with this upgrade in our license. Even though we do anticipate an increase in the sales volume of alcoholic beverages with the upgrade, it will be a gradual increase, and ultimately will be only a small percentage of our overall sales. Our focus will continue to be on the sale of high quality Thai food. In other words, we firmly believe that we will comfortably be able to control and manage the increase in sales of alcoholic beverages with this upgraded license.

We appreciate your consideration and would be happy to answer any questions or provide additional information, if necessary.

Very sincerely,



Rattanaphorn Boobphachati

Owner/Operator, Pom's Thai Restaurant and Noodle House

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 Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Pom's Thai Taste Restaurant and Noodle House Phone: (207) 772-7999
Location Address:	571 Congress Street Portland, Maine Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	435 Cottage Rd. So. Portland Maine Zip: 04106
Contact Person:	Rattanaphorn Boobphachati Phone:
Contact Person Email:	pomthaitaste@hotmail.com
Manager of Establishment:	Rattanaphorn Boobphachati Date of Birth: 11/4/1975 Phone: Cell (207) 939-3210
Owner of Premises (Landlord):	Venture Investment Co
Address of Premises Owner:	14 Maine Street Box 67 Brunswick, ME Zip: 04011

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	
Pom 2007, LLC.		435 Cottage Rd. So. Portland, ME Zip: 04106	
Contact Person:	Rattanaphorn Boobphachati	Phone:	(207) 931-3210
Principal Officers	Title	Date of Birth	Residence Address
Rattanaphorn Boobphachati	Owner & Manager	11/4/1975	3 Dermot Drive Cape Elizabeth, ME 04107

About Your Establishment

Class of Liquor License:	Class A Restaurant (Class I)		
Type of food served:	Thai Food		
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor		
Projected percentage of sales:	Generated from Food: 30%	Generated from Alcohol: 20%	
Hours & days of operation:	Monday - Thursday 11 - 9:30 pm, Friday 11 - 2:30 4:30 - 10 pm, Sat 11 am - 10 pm, Sunday Noon - 9:30 pm (Break 2:30 - 4:30 pm)		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y ☐ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y ☐ N
Will you permit dancing on the premises?	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y ☐ N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	12/5/2007
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): Pom 9 Thai Taste Restaurant and Noodle House - 571 Congress St. Portland, ME 04101	
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 Rattanaphon Boobphachati 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 Rattanaphon Boobphachati Title Owner & Manager Date 1/26/2017

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

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
164 STATE HOUSE STATION
AUGUSTA, ME 04333-0164**



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

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

DEPARTMENT USE ONLY

LICENSE NUMBER: _____ **CLASS:** _____

DEPOSIT DATE _____

AMT. DEPOSITED: _____ **BY:** _____

CK/MO/CASH: _____

PRESENT LICENSE EXPIRES 12/05/2017

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) Rattanaphorn Boobphachati DOB: 11/04/1975			2. Business Name (D/B/A) Pom2007, LLC, Dba Pom's Thai Taste Restaurant and Noodle House		
DOB:					
DOB:					
Address 3 Dermot Drive			Location (Street Address) 571 Congress Street		
City/Town Cape Elizabeth			State Maine		Zip Code 04107
City/Town Cape Elizabeth			City/Town South Portland		State Maine
State Maine			State Maine		Zip Code 04106
Zip Code 04107			Zip Code 04106		
Telephone Number 207-939-3210			Business Telephone Number 207-772-7999		
Fax Number			Fax Number 207-767-4599		
Federal I.D. # 26-0786905			Seller Certificate # 1130337		

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

4. State amount of gross income from period of last license: Oct , 2015 – Oct 30, 2016 : FOOD \$ _____ LIQUOR \$ _____

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

Complete Supplementary Questionnaire, If YES

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

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

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

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 435 Cottage Road, South Portland, ME 04106

10. Is/are applicants(s) citizens of the United States? YES X ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES X ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married. Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Rattanaphorn Boobphachati	11/04/1975	Bangkok, Thailand

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

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No X ☒ If Yes, give name: _____

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

16. Does/do applicant(s) own the premises? Yes ☐ No X ☒ If No give name and address of owner: Pachios Brother 14 Maine Street Box 67 Brunswick, ME 04011

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) A shared building which the entrance facing Congress Street.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES X ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 2 Blocks Which of the above is nearest? Maine College of Art

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

If YES, give details: _____

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

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

Dated at: Portland, Maine on November 11th 2016
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

NOTICE – SPECIAL ATTENTION

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

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, 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	Spirituos, 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	Spirituos 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	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE \$ 10.00

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

All fees must accompany application, made payable to the **Treasurer of Maine**. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 164 State House Station, Augusta ME 04333-0164. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

STATE OF MAINE

Dated at: _____, Maine _____ SS
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 hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise 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-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise 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-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c.589, §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:
 - A. Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]
 - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
 - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
 - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
 - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
 - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]
- [1993, c.730, §27 (amd).]
3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all license requirements and findings referred to in subsection 2.
 - A. [1993, c.730, §27 (rp).]
 4. No license to person who moved to obtain a license. (REPEALED)
 5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.
- An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.



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

**Supplemental Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Pom 2007, LLC

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

Pom's Thai Taste Restaurant and Noodle House

3. Date of filing with the Secretary of State: 08/22/07

4. State in which you are formed: Maine

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

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

Name	Address for Previous 5 years	Date of Birth	Ownership %
Rattaphorn Boobphachoti	4 Pamela Drive, So. Portland, Maine 04106	11/04/75	100

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

Yes

☐

No

☒

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

Name: _____ Agency: _____

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

Yes

☐

No

☒

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

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

Rattanaorn Boobphachati

Signature of Duly Authorized Person

SB

11/6/15 1/27/17

Date

Rattanaorn Boobphachati

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

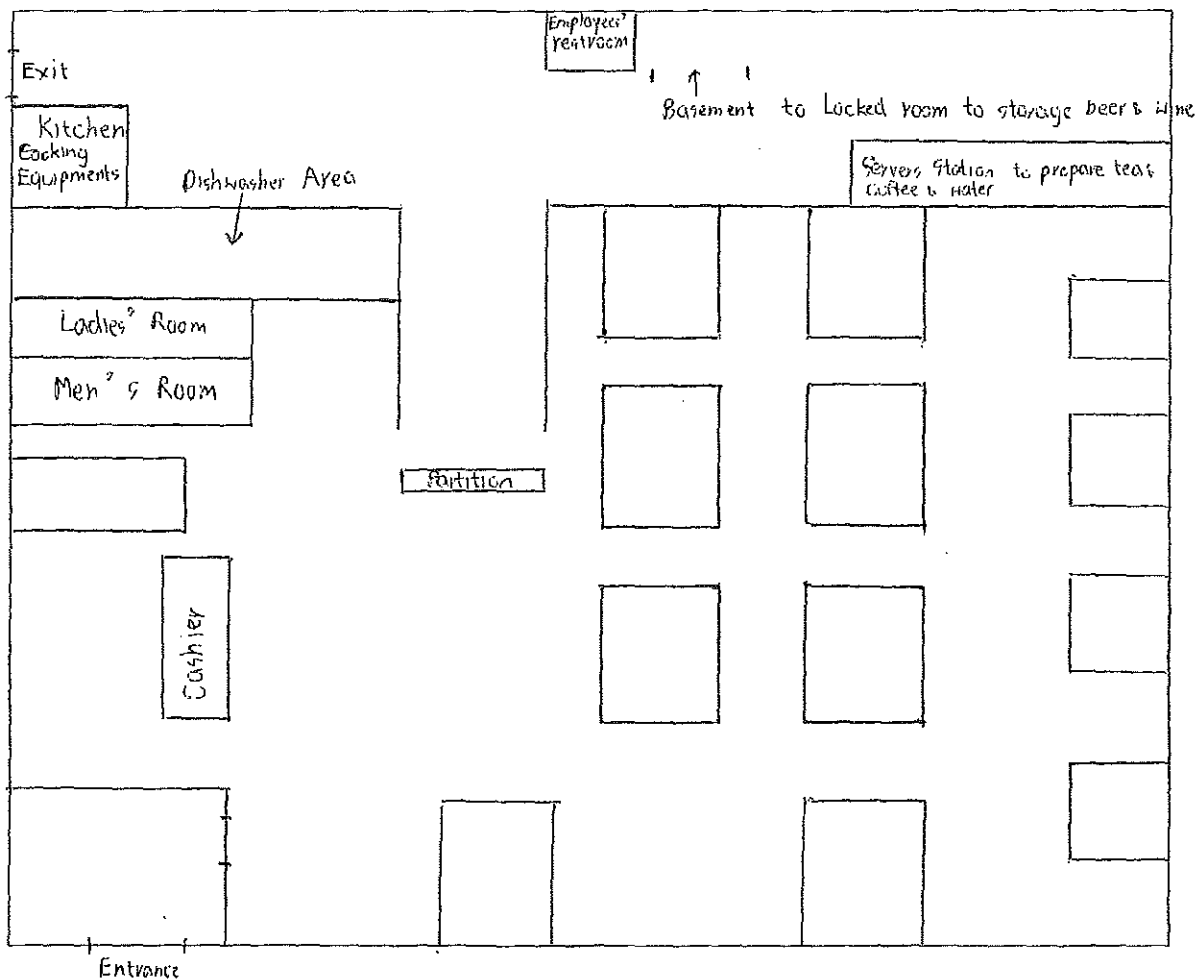
Bureau of Alcoholic Beverages and Lottery Operations
 Division of Liquor Licensing & Enforcement
 8 State House Station, Augusta, ME 04333-0008
 10 Water Street, Hallowell, ME 04347
 Tel: (207) 624-7220 Fax: (207) 287-3434
 Email Inquiries: MaineLiquor@maine.gov

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.





Pom's Thai Taste
 571 Congress Street
 Portland, ME 04101
 Tel: (207) 773-4723

7 Days a Week
 Lunch - 11:30 am - 2:30 pm
 Dinner Mon-Fri 4:30 - 9:30 pm
 Sat-Sun 12:00 - 9:30 pm
 Closed Wed 10 pm
 Closed Sunday
 Happy Hour - 4:30 pm

Free Delivery
 In Portland \$35 or less



2013 Wisconsin Restaurant
 Small Portland, ME 04106
 Tel: (207) 773-4723



- Fine Dining
- Take Out
- Catering

LUNCH

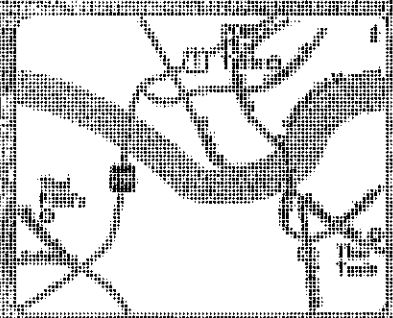
Mon-Fri 11 am - 2:30 pm

DINNER

Mon-Fri 4 pm - 9:30 pm
 Saturday 4 pm - 12 pm
 Sunday 12 pm - 9 pm
 Closed Wed 10 pm
 Closed Sun 10 pm

- Gluten-Free • Vegetarian
- Kid's Menu
- Gift Cards Available

We are only certified
 for 2013



www.pomsthai.com

How to Order Thai Food

Step 1: Choose your main dish
 Very Thin Rice Noodle, Sam Nue,
 Medium Rice Noodle, Red Curry,
 Thick Rice Noodle, Soft Curry,
 Yellow Rice Noodle, Red Curry,
 Bean Thread Noodle, Soft Curry

Step 2: Choose your meat or seafood

Chicken (Ground or Fillet) \$12.95 / 13.95
 Honey-Basted Pork \$12.95 / 13.95
 Beef (Ground or Fillet) \$14.95 / 15.95
 Tofu & Vegetables \$11.95 / 12.95
 Shrimp & Tofu \$13.95 / 14.95

Seared Shrimp, Scallops and Squid \$18.95 / 19.95

Gravy Pork \$10.95 / 11.95
 Lamb Chops \$14.95 / 15.95

Blazing Roasted Pork, Ground Beef

Step 3: Choose your broth

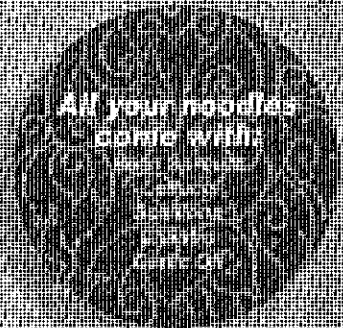
No broth (Red Thai Curry)
 Clear chicken broth, Red Curry

Two spicy flavor broth (Red Curry, Green Curry)
 Vegetable broth

Clear Pan Fried Noodle (Sweet & Sour, Red Curry)
 Red Pan Fried Noodle (Red Curry, Green Curry)

Step 4: With or without spicy sauce

Step 5: Choose your degree of spiciness



Facebook

APPETIZERS

1. FRESH SPRING ROLL (2) ②
Vegetables only ③ or Chicken 6.95
Shrimp 7.95
Fresh lettuce, carrots, cucumber, cilantro, mint leaves & rice noodles rolled in rice paper. Served w. sweet & sour sauce topped w. ground peanuts.
2. FRIED EGG ROLLS (4) ③ 6.25
Thai rolls w. specially prepared filling (bean thread, carrots, cabbage and celery), served w. sweet and sour fruit sauce.
3. TOFU TRIANGLE (8) ③ ② 6.95
Fresh tofu, triangle-shaped, slightly browned in vegetable oil, served w. thick sweet and sour sauce topped w. lots of ground-roasted peanuts.
4. VEGGIE DUMPLING (3) ③ 6.95
"Taste strong like scallion" (Deep-fried or Steamed) Thai style dumpling w. Asian Chives. Served w. ginger dumpling sauce.
- MINI VEGGIE DUMPLING (8) ③ 6.95
Deep-fried bite-size dumpling w. tofu and mixed vegetables. Served w. ginger dumpling sauce.
- SCALLION PANCAKE (8) ③ 6.95
Deep-fried scallion pancake made from wheat, corn starch, soy bean oil, sesame oil, white pepper, and Thai seasoning. Served with ginger dumpling sauce.
5. CURRY PUFF (8) ③ 6.95
Spring roll skin wrapped w. potatoes, green peas & carrots in Thai herbs and touch of curry powder. Fried till crispy. Served w. cucumber chutney.
6. CRAB RANGOON (6) 8.95
Real Maine crab meat w. cream cheese, carrots, and scallions wrapped in crispy wonton skin. Served w. sweet and sour sauce.
7. STEAMED BUTTERFLIES (8) Chicken Dumpling 7.95
Our signature appetizer which you couldn't find anywhere else. Steamed dumpling w. special filling (ground chicken breasts sautéed w. herbs, ground roasted peanuts and turnips). Served w. soy sauce.
8. CHICKEN SATAY (4) or DANCING SHRIMP ⑤ 8.95
Skewered chicken or shrimp, marinated in Thai herbs & coconut milk. Slowly grilled, served w. creamy peanut sauce.
9. THAI HOT WINGS (8) ③ 8.95
Deep fried chicken wings seasoned in sweet & sour sauce & Thai hot chili sauce sprinkled w. chopped scallion.
10. THAI CHICKEN WINGS (8) 8.95
Golden chicken wings marinated in Thai style, deep fried. Served w/ sweet & sour fruit sauce.
- SHRIMP IN THE BLANKET (4) 8.95
Stuffed whole shrimp w. marinated ground chicken, wrapped in spring roll skin and fried till crispy. Served w. sweet & sour fruit sauce.
12. KIA-TONG THONG (8) Crispy Cups 7.95
Crispy pastry cups filled with sautéed chicken, carrots, onions, green peas and corn with a slight touch of yellow curry powder and garlic, served with cucumber chutney.
13. TEMPURA 9.95
Squid & Vegetables, Shrimp & Vegetables, Chicken & Vegetables, Chicken Finger Vegetable Only ③, Sweet Potato Only ③
Breaded in Tempura batter mix then deep fried till golden brown, served with sweet and sour fruit sauce.
14. COCONUT SHRIMP (5) 9.95
Shrimp crusted w. coconut flakes, deep fried until golden brown. Served w. ginger salad dressing.
15. PORK DUMPLING (6) 6.95
A wonderful Thai style steamed dumpling stuffed w. marinated pork & shitake mushroom. Served w. house ginger dumpling sauce.
- POT STICKER (6) 6.95
A wonderful Thai style deep-fried dumpling stuffed w. marinated pork & shitake mushroom. Served w. house ginger dumpling sauce.
16. APPETIZERS SAMPLER (8 ITEM) For One 10.95
For Two 16.95
Chicken satay, Fried spring roll, Chicken tender, Onion ring, Crab rangoon, Mini Veggie dumpling, Curry puff and Chicken wing. Served with creamy peanut sauce, ginger dumpling sauce, and sweet & sour sauce.
- THAI CRAB CAKE (3) 9.95
Delicate Thai style crab cake, marinated Maine crab meat & ground chicken w. Thai spice, sweet red pepper, red onion, egg & scallion. Covered w. bread crumb and deep-fried. Served w. pineapple sauce & ginger salad dressing.

SIDE ORDERS

- EGG FRIED RICE with CHOPPED SCALLION 5.95
JASMINE WHITE RICE 1.95
JOW RICE 1.95
JY RICE 3.95
STEAMED RICE NOODLES 1.95
STEAMED MIXED VEGETABLES 5.95
CREAMY PEANUT SAUCE (4 oz.) 1.50
GREEN SALAD 5.95

Ask for LOBSTER or SOFT SHELL CRAB Mkt.

SOUPS

17. TOM YUM (Thai Hot & Sour Soup) ③ 4.95
Fresh Tofu, vegetables, Or Chicken 5.95
Shrimp 6.95
Seafood (Shrimp, Squid, Scallop & Mussel w. Basil) 6.95
Hot and sour soup flavored w. lemon grass, kaffir lime leaves, lemon juice, chili paste, mushroom, tomato and topped w. cilantro.
18. TOM KHA (Thai Galanga coconut Soup) ③ 4.95
Fresh Tofu, Vegetables, or Chicken 5.95
Shrimp 6.95
Seafood (Shrimp, Squid, Scallop & Mussel) 6.95
Your choice of meat with mushroom simmered in light coconut milk, flavored with galanga, lemon grass, kaffir lime leaves, and lemon juice. Topped with cilantro.
19. VEGETABLE SOUP WITH TOFU ③ 5.95
Assorted vegetables and fresh tofu in specially flavored broth. Topped with scallion & cilantro.
20. THAI WONTON SOUP 5.95
Wonton filled with ground chicken & shrimp. Served with lettuce on the bottom and topped with roasted pork, cilantro, and scallion in specially flavored broth.
21. THAI NOODLE SOUP ③ 4.95
(Add Chicken or Fresh Tofu for \$1.00)
Thai famous noodle soup with bean sprouts, scallions, cilantro and ground peanut.

AUTHENTIC THAI SALADS

All salad can be made Non-Spicy upon request

22. THAI TASTE SALAD ③ 8.95
Lettuce, tomatoes, cucumber slices, carrots, red onion, chicken and shrimp. Served w. ginger salad dressing or peanut sauce.
23. HOUSE SALAD ③ 7.95
Lettuce, tomatoes, cucumber slices, carrots, red onion, fried tofu. Served with ginger salad dressing or peanut sauce.
24. LARD CHICKEN ③ 12.95
Well known Thai salad mixed w. ground chicken, red onion, red pepper, scallion, cilantro, mint, lemon juice, chili powder, and ground roasted sweet rice which is blended w. kaffir lime leaves, and lemon grass. Served w. lettuce, tomato and cucumber.
25. NAM SOD ③ 12.95
Minced chicken breast, slowly cooked (without oil), flavored with lemon, fish sauce, chili powder, shredded ginger, red onion, red pepper, scallion, and roasted peanuts. Served with lettuce, tomato and cucumber.
26. YUM WOON SEN ③ 12.95
Bean thread noodle, shrimps, ground chicken, ginger, peanut, red onion, red pepper, scallion, flavored w. lemon juice, palm sugar, light fish sauce, and a touch of Nam Prik Pao. Garnished with cilantro, cucumber, tomato and lettuce.
27. PLAR KOONG ③ ② Spicy Shrimp Salad 14.95
Grilled shrimp mixed with lemon grass, red onion, red pepper, cucumber, tomatoes, mint leave and scallion, tossed in spicy & sour lemon dressing on a bed of lettuce.
28. YUM NUER ③ ② Spicy Beef Salad 12.95
Thinly slice of charcoal-broiled tender beef, mixed with lemon grass, red onion, red pepper, cucumber, tomatoes, mint leave and scallion, tossed in spicy & sour lemon dressing on a bed of lettuce.
29. SOM TUM ③ Green Papaya Salad 12.95
A country Thai style salad with shredded green papaya, carrot, tomatoes, and peanuts in fresh lime dressing. Topped w. grilled shrimp. Served on a bed of lettuce. Served w. sticky rice.

③ Please indicate the degree of spiciness desired
④ Touch of Spicy ⑤ Medium ⑥ Very Spicy ⑦ Very Spicy
⑧ Vegetarian dish
⑨ Dish without wheat (Gluten-Free)

OUR CHEF'S SPECIAL

- Lunch/Dinner
30. TAMARIND DUCK 10.95 / 19.95
"Slices of roasted duck for lunch" Half crispy roasted duck topped w. tantalizing blend tamarind sauce w. tomatoes, pineapples, chunks, onions, red peppers and scallions. Served w. steamed broccoli.
 31. DUCK CHOO-CHEE ③ 10.95 / 19.95
"Slices of roasted duck for lunch" Half crispy roasted duck topped w. Choo-Chee curry w. green beans and red peppers.
 32. SPICY CRISPY DUCK ③ 10.95 / 19.95
"Slices of roasted duck for lunch" Half crispy roasted duck topped w. mushrooms, onions, red and green peppers, and basil leaves in spicy chili-garlic sauce.
 33. GINGER CRISPY DUCK 10.95 / 19.95
"Slices of roasted duck for lunch" Half crispy roasted duck topped w. fresh ginger, mushrooms, onions, scallions, and red peppers in ginger sauce.

FRESH FI

38. SCALLOPS IN THE GARDEN
Scallops sautéed w. assorted
39. SHRIMP LOVE SCALLOP
Sautéed shrimp and scallop w. in garlic sauce.
40. TAMARIND SCALLOP or SHR
Lightly battered scallop or shrimp sauce w. tomatoes, pinea & scallions. Served w. steame 21-25 instead of jumbo shrimp
41. 3 FLAVORED JUMBO SHRIMP
Lightly battered jumbo shrimp spicy tamarind sauce. Served
42. THAI ORANGE JUMBO SHRIMP
Lightly battered jumbo shrimp sauce, on top of steamed bro green beans.
43. JUMBO SHRIMP CHOO-CHEE
Grilled jumbo shrimp (size 13 green beans & red peppers).
44. THAI ORANGE SEAFOOD
Lightly battered scallop, shrimp in Thai orange sauce on top o pers; carrot, and green bean.
45. VOLCANIC ERUPTION ③
Combination of scallops, shrimp sautéed w. onions, mushroom leaves in spicy chili-garlic sau
46. SEAFOOD PAN PONG KA-REE
Combination of scallops, shrimp sautéed w. carrots, onions, re curry powder in chili sauce.
47. PRIK PAO SEAFOOD ③
Combination of scallops, shrimp sautéed in Nam prik Pao (Chili mushrooms, carrots, red pepi
48. RED SEA ③
Combination of scallops, shrimp sautéed in red curry, garnish and basil leaves.
49. THREE FLAVORED SEAFOOD
Lightly battered scallop, shrimp w. red pepper in spicy tamarind vegetables.
50. TAMARIND SEAFOOD
Lightly battered scallop, shrimp w. tantalizing blend tamarind s onions, red peppers and scallio

FISH PRE

- Fillet of Haddock Lt
51. SPICY FISH ③
Lightly battered fillet of Haddock leaves in Prik-King curry sauce.
 - THAI TASTE FISH ③ Fish with
Lightly battered fillet of Haddock & green peppers and basil leaf
 52. GINGER FISH
Lightly battered fillet of Haddock, rooms, carrots, red peppers, and
 53. THREE-FLAVORED FISH ③
Lightly battered fillet of Haddock tamarind sauce. Served w. sti
 54. SALMON CHOO-CHEE ③ ②
Grilled skinless salmon fillet, s beans and red pepper.
 55. TAMARIND FISH
Lightly battered fillet of Haddock sauce w. tomatoes, pinea and scallions. Served w. stea

54. DRUNKEN CHICKEN ③ ③
Stir-fried ground chicken breas spicy sauce.
55. THAI ORANGE CHICKEN
Our Thai orange sauce is not paste, ketchup, orange juice, battered chicken sautéed in 11 broccoli, red and green peppe
- THAI GENERAL TSO'S CHICKEN
Lightly battered chicken sauté of Vietnamese chili paste, on green peppers, carrots, and si
56. CHICKEN PINEAPPLE
Sautéed chicken w. pineapple, scallions, and cashew nuts in
57. TRIPLE DELIGHT
Chicken, beef and roasted pot sorted vegetables in ginger sa

THE SEA

Lunch/Dinner
ables in garlic sauce 10.95/17.95
anger and assorted vegetables 10.95/17.95

opped w. tantalizing blend tamar-
chunks, onions, red peppers
coll. Attention!!! Shrimp size
inch. 10.95/17.95

13-15) topped w. red pepper in
amed mixed vegetables. 10.95/18.95

13-15) sauteed in Thai orange
ed & green peppers, carrots and
10.95/18.95

served in Choo-Chee curry w.
10.95/18.95

ild and fillet of haddock sauteed
ned broccoli, red & green pep-
11.95/19.95

ulds and New Zealand mussels,
& green peppers and basil
11.95/19.95

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ers, scallions and a touch of
11.95/19.95

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ers, scallions and a touch of
11.95/19.95

CURRIES WITH COCONUT MILK

Served with your choice of:
Tofu (Fried or Steamed) or Veggies..... 8.95/12.95
Chicken, Pork or Beef..... 8.95/12.95
Chicken & Shrimp..... 9.95/15.95
Shrimp, Squid or Scallop..... 10.95/17.95
Duck (Crispy or Not?)..... 10.95/19.95
Seafood (Shrimp, Squid and Scallop)..... 10.95/19.95
Soy Chicken Nuggets (Vegetarian)..... 12.95

56. RED OR GREEN CURRY (C) (2)
Flavored w. red or green chili paste w. bamboo shoot, green beans, red &
green peppers and sprinkled w. basil leaves. Green curry is slightly sweeter.

CHOO CHEE CURRY (C) (2)
Served w. green bean and red pepper without basil leaves w.
aroma of the lime leaves.

57. YELLOW CURRY (C) (2)
Flavored w. red chili paste w. addition of yellow curry powder,
tossed in w. potato cubes, pineapple chunks, tomatoes; snow pea,
and onion slices.

MANGO CURRY (C) (2)
Chicken and shrimp in yellow curry sauce w. mango cube, onion,
and snow peas.

58. PANANG CURRY (C) (2)
Flavored w. red chili paste w. additional flavor of coriander and
cumin, tossed in w. red peppers, baby corn, snow pea and basil
leaves. Panang is rather sweet type of curry.

59. MASSAMAN CURRY (C) (2)
Flavored w. red chili paste w. an addition of Persian spices, tossed
in w. potato cubes, carrots, onion slices and roasted peanuts. This
curry has a slight tangy sour tamarind taste.

60. CURRY DUCK (C) (2)
"Slices of roasted duck of lunch" Half crispy roasted duck topped
w. red curry, tossed in w. red peppers, tomatoes and pineapple
chunks, sprinkled w. basil leaves.

61. HOUSE SPECIAL CURRY (C) (2)
Scallops and shrimp in red curry tossed in w. red peppers, snow peas,
and carrots, served on a bed of fresh baby spinach.

ALA CARTE

Served with your choice of:
Tofu (Fried or Steamed) or Veggies..... 8.95/12.95
Chicken, Pork or Beef..... 8.95/12.95
Chicken & Shrimp..... 9.95/15.95
Shrimp, Squid or Scallop..... 10.95/17.95
Duck (Crispy or Not?)..... 10.95/19.95
Seafood (Shrimp, Squid and Scallop)..... 10.95/19.95
Soy Chicken Nugget (Vegetarian)..... 12.95

62. BROCCOLI
Sauteed broccoli, carrots, and mushrooms in well blended garlic sauce.

63. CASHW NUTS
Sauteed roasted cashew nuts, pineapple chunks, red peppers,
onions & scallions in brown sauce.

64. FRESH GINGER
Sauteed julienne ginger, mushroom, red peppers, onions and scal-
lion in black bean sauce.

65. PAD PRIK KING (C)
"The only curry without coconut milk" Sauteed green beans and red
peppers w. Prik King sauce.

66. BASIL LEAVES (C)
Sauteed w. onions, mushrooms, red & green peppers, and basil
leaves in chili-garlic sauce.

67. LEMON GRASS (C)
Sauteed w. fresh sliced lemon grass, onions, mushrooms, red &
green peppers and scallions in chili-garlic sauce.

68. SPICY BAMBOO (C)
Stir-fried bamboo slice, mushrooms, red and green peppers, on-
ions, and basil leaves in chili-garlic sauce.

69. SWEET & SOUR "Our sweet & sour sauce is not like Chinese.
It made from Thai orange sauce, ketchup, sugar, and brown sauce"
Sauteed onions, cucumber, tomatoes, pineapple chunks, red pep-
pers and scallions in sweet and sour ketchup sauce.

70. GARLIC SAUCE (THAI SCAMPI)
Sauteed onion and mushroom w. minced garlic and white peppers
in brown sauce and a touch of dark sweet sauce. Served w. lettuce
topped w. cilantro, tomatoes and cucumber slices.

71. PAD PRIK Bell Pepper
Sauteed w. red and green peppers, onions, mushrooms, and scal-
lions in brown sauce.

72. BABY CORN
Sauteed baby corn, mushrooms, carrots, onions, & scallions in brown sauce.

73. SNOW PEAS Sauteed snow peas, mushrooms, & carrots in brown sauce.

74. VEGETABLES DELIGHT
Sauteed w. fresh assorted vegetables from the local market in
brown sauce.

75. PEANUT CURRY (C) "No fish sauce or oyster sauce"
Steamed assorted vegetables and your choice of meat or tofu,
topped w. creamy peanut sauce.

Thai-Taste-Maine
www.thaitastemaine.com

NOODLES and FRIED RICE DISHES

Served with your choice of:
Tofu (Fried or Steamed) or Veggies..... 8.95/12.95
Chicken, Pork or Beef..... 8.95/12.95
Chicken & Shrimp..... 9.95/13.95
Shrimp, Squid or Scallop..... 10.95/14.95
Duck (Crispy or Not?)..... 10.95/15.95
Seafood (shrimp, Squid and Scallop)..... 10.95/16.95
Soy Chicken Nuggets (Vegetarian, no eggs)..... 12.95

76. PAD THAI (C)
Famous Thai noodles dish, stir-fried w. your choice of meat or tofu,
eggs, sprinkled w. ground peanuts, scallions and bean sprouts.

CRISPY PAD THAI..... 9.95/13.95
Crispy thin yellow egg noodles, stir-fried w. egg, chicken, shrimp, bean
sprout, ground peanut, and scallions in Pad Thai sauce.

CRAB MEAT PAD THAI (C)..... 10.95/14.95
Thai rice noodles dish, stir-fried w. egg, diced green bean, bean sprout,
ground peanut, & scallions in Pad Thai sauce. Topped w. Maine crab meat.

POM'S SPICY PAD THAI (C)..... 9.95/13.95
Rice noodles, stir-fried w. chicken, shrimp, egg, bean sprout, ground peanut &
scallions in Pad Thai sauce w. a touch of shrimp paste, paprika, & chili flakes.

77. PAD SEE-EW Pan Fried Rice Noodles
Soft wide rice noodles sauteed w. egg, carrots, & broccoli in brown
sauce w. a touch of dark sweet sauce, vinegar and minced garlic.

78. DRUNKEN NOODLE (C) Pad Khoo-Mao
Soft wide rice noodles sauteed in chili-garlic sauce w. red & green
peppers, onions, broccoli, carrots, & a touch of dark sweet sauce.

79. THAI PAD-NA
Slightly pan-fried soft rice noodles with or without egg in dark sweet
sauce, topped w. broccoli & carrots in Thai gravy sauce.

80. SINGAPORE NOODLE..... 9.95/13.95
Very thin rice vermicelli stir-fried w. egg, shrimp & honey-roasted
pork, julienne pepper, carrot, snow pea, bean sprout, and scallion
in brown sauce w. a touch of yellow curry powder

81. HOUSE LOHEIN
Stir-fried egg noodle w. your choice of meat, assorted vegetables in
special chef's sauce.

SESAME NOODLES..... 9.95/13.95
Chicken, shrimp, lohein noodle stir-fried w. bean sprout and assorted
vegetables in special chef's sauce. Sprinkled w. sesame seeds.

PAD WOON SEN..... 9.95/13.95
Chicken, shrimp, bean thread noodle (glass noodle) stir-fried w. egg,
bean sprout, tomato and assorted veggies in special chef's sauce.

SEAFOOD LO MEIN PAD SHA..... 10.95/16.95
Lightly battered shrimp, squid, scallop, haddock stir fried w. lohein,
onion, pepper, green bean, carrot, bean sprout and basil leaves in
chili-garlic sauce w. kra-chai and young green pepper corn

82. HOUSE FRIED RICE Khao Pad
Thai style fried rice w. egg, tomatoes, onion, and scallions, served
w. cucumber slices. Topped w. cilantro.

83. CURRY FRIED RICE
Fried rice w. egg, snow peas, carrots, onion, scallions, & tomatoes w. a
touch of carry powder. Served w. cucumber slices. Topped w. cilantro.

84. SPICY FRIED RICE (C) Basil Fried Rice
Fried rice w. red & green peppers, onions, broccoli, carrots, and
basil leaves in chili-garlic sauce, flavored w. fried rice sauce. Served
w. cucumber slices. Topped w. cilantro.

85. CRAB FRIED RICE..... 10.95/14.95
Thai style fried rice w. Maine crab meat, eggs, snow peas, carrots and
scallions. Served w. cucumber & tomatoes slices. Topped w. cilantro.

86. PINEAPPLE FRIED RICE..... 9.95/13.95
Fried rice w. shrimp, chicken, egg, pineapple chunks, cashew nuts,
scallions and raisin. Served w. fresh cucumber and tomatoes slices.
Topped w. cilantro.

MANGO FRIED RICE..... 9.95/13.95
Fried rice w. shrimp, chicken, egg, mango chunks, cashew nuts,
snow pea, carrot, scallions and a touch of yellow curry powder.
Served w. cucumber & tomatoes slices. Topped w. cilantro.

TOFU & VEGETABLE LOVER

"Ask for vegetarian sauce, if you do not want fish sauce & oyster sauce"
87. VEGETABLE FRIED RICE (C)..... 8.95/12.95
Thai style fried rice w. egg & a variety of fresh vegetables from the lo-
cal market. Served w. cucumber & tomatoes slices. Topped w. cilantro

88. TOFU NOODLE (C) (2)..... 8.95/12.95
Steamed rice noodles w. assorted vegetables and fried tofu, topped
w. peanut sauce.

89. VEGETABLE DELIGHT (C)..... 8.95/12.95
Assorted vegetables sauteed in well-blended garlic sauce

90. TOFU PAD PONG KA-REE (C) (C)..... 8.95/12.95
Sauteed fried tofu w. carrots, onions, red peppers, scallions & a
touch of curry powder in chili sauce.

91. EVIL PRINCE TOFU (C) (C)..... 8.95/12.95
Lightly fried tofu sauteed in chili sauce w. onion, carrots, red &
green peppers & scallions.

92. VEGETABLE CURRY (C)..... 8.95/12.95
Assorted vegetables in red curry sauce. Sprinkled w. basil leaves

93. TOFU CHOO-CHEE (C) (C)..... 8.95/12.95
Fried tofu served in Choo-Chee curry w. green beans & red pepper

94. TAMARIND TOFU..... 8.95/12.95
Sauteed fried tofu w. tantalizing blend tamarind sauce w. tomatoes, pine-
apples chunks, onions, red peppers & scallions. Served w. steamed broccoli.

95. TOFU WITH BEAN SPROUTS..... 8.95/12.95
Sauteed fried tofu w. bean sprouts and scallions in brown sauce and
minced garlic.

Lunch/Dinner
een beans, and basil leaves in
9.95/13.95

8.95/13.95

Chinese, it made from tomato
secret ingredients. Lightly
nge sauce on top of steamed
rots, and green beans.

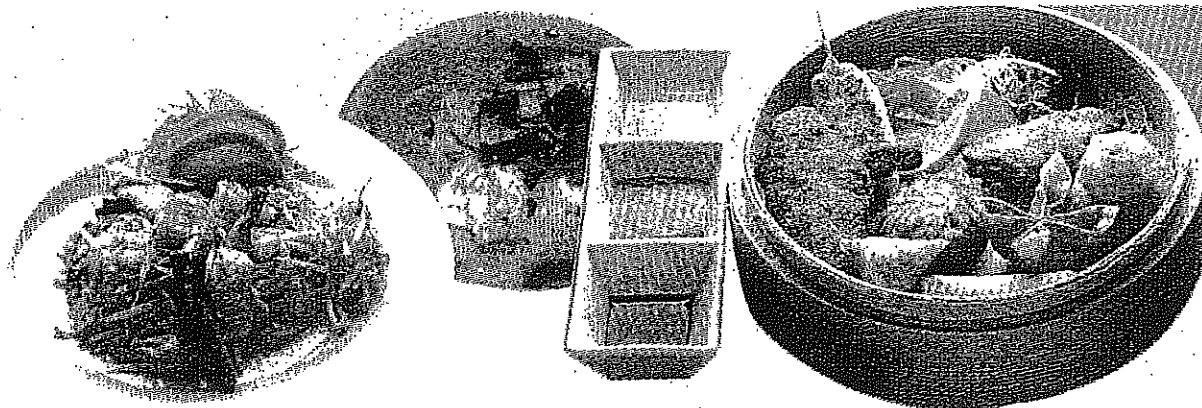
8.95/13.95

Thai Orange sauce w. a touch
steamed broccoli, red and

8.95/13.95

9.95/13.95

red w. fresh ginger and as-



POM'S SPECIAL

Lunch/Dinner

CHICKEN TERIYAKI 9.95/13.95
Grilled chicken breast, brush off w. Teriyaki sauce, sprinkle w. sesame seeds.
Served w. vegetable delight and green salad.

SALMON TERIYAKI 19.95
Grilled fillet of salmon, brush off w. Teriyaki sauce, sprinkle w. sesame seeds.
Served w. vegetable delight and green salad.

CHICKEN KATSU 9.95/13.95
Chicken deep fried w. Panko bread crumb. Served w. Katsu sauce (similar taste to
A1 steak sauce, but w. apple puree add into it) & house lomien.

SESAME BEEF 9.95/13.95
Tender slice of beef sauteed in fragrant sesame oil with sesame seeds, garlic, and
sliced mushrooms. Served with vegetable delight.

BBQ PORK Moo Yang 10.95/13.95
Thai style grilled pork loin (Marinated with cilantro, garlic, and brown sauce).
Served with sticky rice, spicy tamarind dipping sauce (c) and Thai sweet
chili sauce. (c)

FANCY CHICKEN (c) 8.95/13.95
White meat chicken sauteed with assorted veggies and cashew nuts in Nam Prik
Pao sauce (Chili paste in soy bean oil, a little bit sweet).

SHRIMP EMERALD 10.95/17.95
Shrimp sauteed with broccoli, asparagus, ginger, and scallion in brown sauce.

CHICKEN CHIANGMAI (c) 8.95/13.95
White meat chicken sauteed with green bean, red pepper, and cashew nut in Nam
Prik Pao sauce (Chili paste in soy bean oil, a little bit sweet).

KRA-POW GAI SUB (c) KAI DOW 9.95/13.95
Ground chicken meat infused w. aromatic Thai basil leaves. It's authentic & deli-
cious Thai food that Thais can eat every day. Complimented w. fried eggs (your
choice of well done or runny egg yolk.)

SPICY CRISPY CHICKEN CASHW NUT (c) 9.95/13.95
Lightly battered white meat chicken sauteed with cashew nut, onion, roasted chili,
and scallion in Prik Pao sauce.

CREATE YOUR OWN STIR-FRIED

Lunch/Dinner

Step 1: Choose your own meat or seafood

Tofu (Fried or Steamed) 8.95/12.95
Soy Chicken Nugget 12.95
Chicken, Pork or Beef 8.95/12.95
Chicken & Shrimp 9.95/15.95
Shrimp, Squid or Scallop 10.95/17.95
Crispy Duck 10.95/19.95
Seafood (Shrimp, Squid, Scallop) 10.95/19.95

Step 2: Choose your vegetables

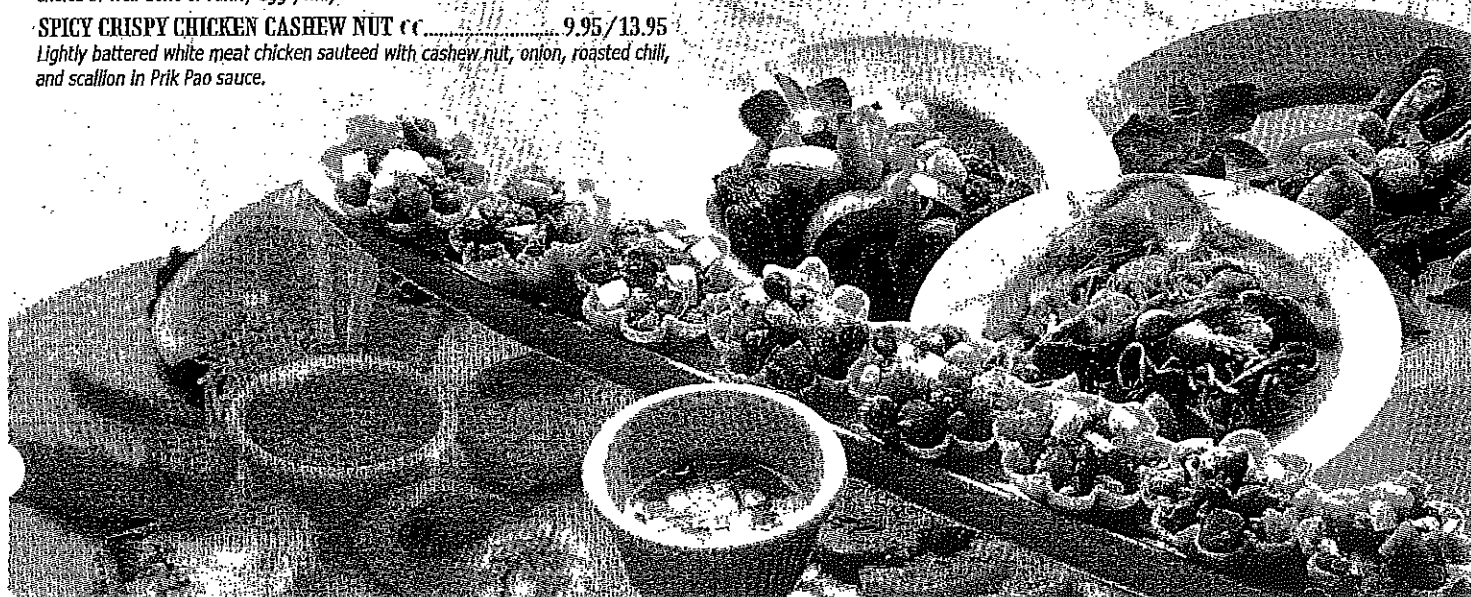
Asparagus, Baby corn, Bean sprout, Broccoli, carrot, Green bean,
Mushroom, Onion, Pineapple chunk, Red and green pepper,
Scallion, Snow pea.

Step 3: Choose your sauce

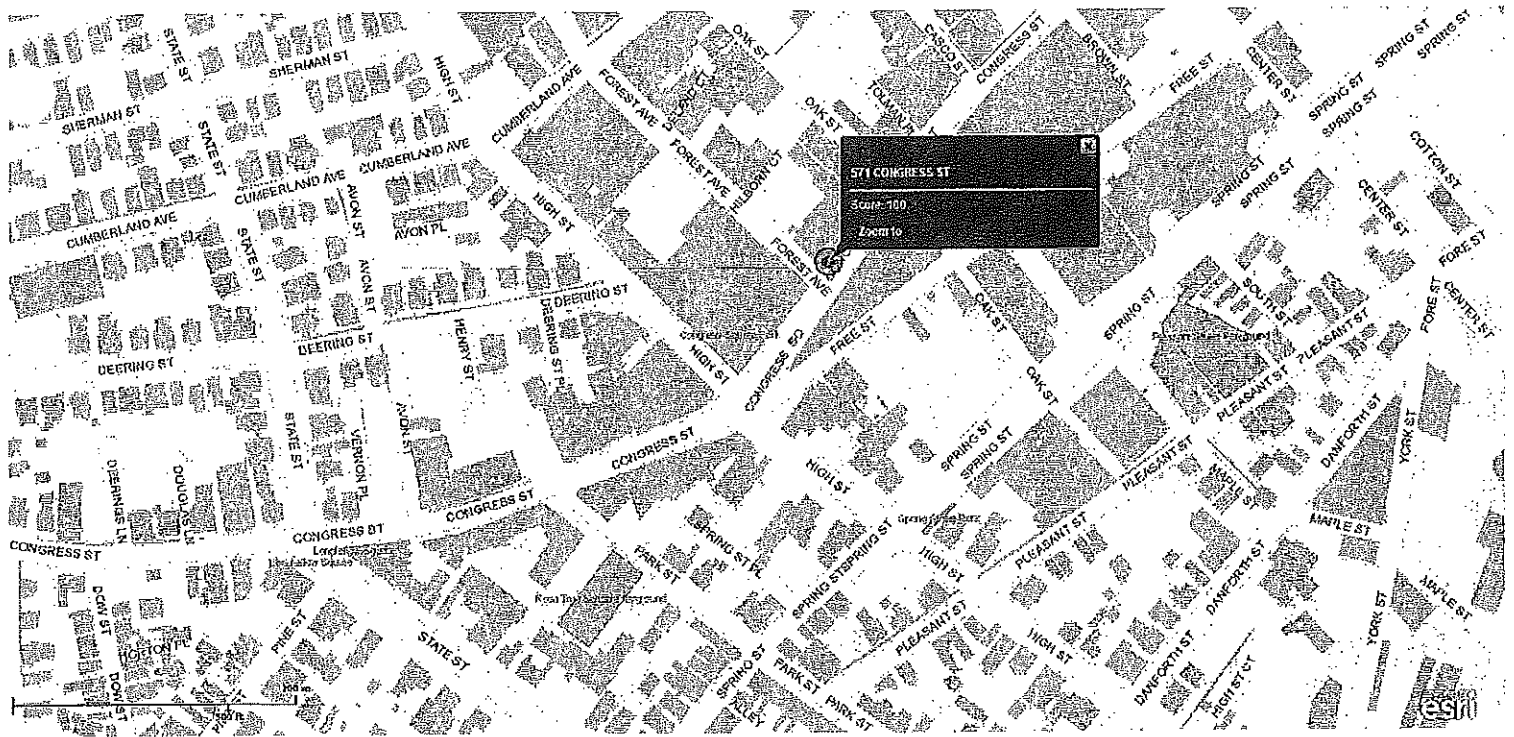
Garlic Sauce or Brown Sauce without Garlic
Ginger Sauce
Basil Sauce (c) with Basil leaves
Vegetarian Sauce, Wheat Free Soy Sauce

Step 4: White Rice or Brown Rice
or Steamed Noodles or Lomien Egg Noodles
or Vermicelli Noodles

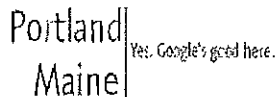
Your order served with Jasmine White Rice or Brown Rice
(Except Thai Fried Rice & Noodle Dishes)
Substitute Sticky Rice or Egg-Fried Rice Add \$ 2.95



Poms Thai



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Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Pom's Thai Taste

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Jan 28, 2017 at 4:33 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Gary Rogers <garyr@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Keith Gautreau <kng@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD is all set.

On Fri, Jan 27, 2017 at 2:15 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Pom's Thai Taste Restaurant and Noodle House, 571 Congress Street. She currently holds a Class III & IV license and is upgrading to a Class I restaurant to include spirituous. She will be going before council for approval on 2/22/2017.

Owner/manager/contact is:

Rattanaphorn Boobphachati

pomthaitaste@hotmail.com

207-939-3210

Please email me with approvals. Thanks Jessica

Jessica B. Hanscombe

Business License Specialist

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

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

Portland, Maine



Yes. Life's good here.

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

January 27, 2017

Pom 207 LLC
435 Cottage Road
South Portland ME 04106

**Re: Pom 2007, LLC d/b/a Pom's Thai Taste Restaurant and Noodle House.
Application for a Class I FSE at 571 Congress Street.**

Dear Rattanaphorn Boobphachati

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday February 22, 2017 at 5:30 p.m.**, for the review of your application for a Class I Restaurant License at 571 Congress 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 February 22nd at 5:30 P.M., in City Council Chambers, 389 Congress St., Pom 2007, LLC d/b/a Pom's Thai Taste Restaurant and Noodle House. Application for a Class I FSE at 571 Congress Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 142-16/17
Feb 15 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Sun Y. Chung d/b/a Yobo. Application for a Class III & IV (Malt & Vinous) License at 23 Forest Avenue.

Letter of Intent

To whom it may concern:

I, Sun Chung, have acquired a lease for the space located at 23 Forest Ave. (Formerly Bibo's Mad Apple Café) I wish to open a 35 seat sit-down restaurant named YOBO. YOBO will be a Korean-American style restaurant serving beer & wine only. Hours of operation will be Tuesday through Saturday serving dinner from 5-9 pm.

Thank you,

A handwritten signature in black ink, appearing to read 'Sun Chung', with a stylized, flowing script.

1-30-17

Sun Chung, owner

(603)361-2613

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 Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Yobo Phone: Zip:
Location Address:	23 FOREST AVE, PORTLAND ME 04101
If new, what was formerly at this location:	BIBOS MAD APPLE CAFE
Mailing Address:	126 EASTERN PROMENADE, APT 4. PORTLAND, ME 04101
Contact Person:	SUN Y. CHUNG Phone: 603 361-2613
Contact Person Email:	sungchung069@yahoo.com
Manager of Establishment:	KIM LULLY Date of Birth: 2-25-70 Phone: 603 361-2610
Owner of Premises (Landlord):	PORTLAND STAGE COMPANY
Address of Premises Owner:	PO BOX 1458, PORTLAND ME Zip: 04104

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

Name of Owner(s)	Date of Birth	Residence Address
SUN Y. CHUNG	6-13-68	15 RANDALL LN., HAMPSHIRE NH 03841

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

Corporate Name		Corporate Mailing Address	
		Zip:	
Contact Person:		Phone:	
Principal Officers	Title	Date of Birth	Residence Address

About Your Establishment

Class of Liquor License:	(III & IV) MALT & VINOUS	
Type of food served:	ASIAN (KOREAN-AMERICAN)	
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:	TUESDAY - SATURDAY 5pm - 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:	
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?	4-1-17
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, SUNYCHUNG do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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

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

Signature [Signature] Title OWNER Date 1-30-17

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

BUREAU OF ALCOHOLIC BEVERAGES 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: MAINE.LIQUOR@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)
☐ HOTEL-OPTIONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

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

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name:			Business Name (D/B/A) <u>YOCO</u>		
APPLICANT(S) - (Sole Proprietor) <u>SUN Y. CHUNG</u>		DOB: <u>6-13-68</u>	Physical Location: <u>23 FOREST AVE.</u>		
		DOB:	City/Town <u>PORTLAND</u>	State <u>ME</u>	Zip Code <u>04101</u>
Address <u>15 RANDALL LN.</u>			Mailing Address <u>126 EASTERN PROMENADE, APT. 4</u>		
City/Town <u>HAMPSTEAD, NH</u>	State <u>03841</u>	Zip Code	City/Town <u>PORTLAND</u>	State <u>ME</u>	Zip Code <u>04101</u>
Telephone Number <u>(603) 361-2613</u>		Fax Number	Business Telephone Number		Fax Number
Federal I.D. # <u>EIN: 02-0512356</u>			Seller Certificate #: or Sales Tax #:		
Email Address: Please Print <u>Sungchung069@yahoo.com</u>			Website:		

If business is NEW or under new ownership, indicate starting date: 4-1-17

Requested inspection date: 3-20-17 Business hours: TUESDAY-SATURDAY 5pm-9pm

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

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

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

If YES, complete Supplementary Questionnaire

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

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

9. Business records are located at: 23 FOREST AVE. PORTLAND ME 04101

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☒

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
SUN Y. CHUNG	6-13-68	SOUTH KOREA
KIM LULLY KIMBERLY A. LULLY	2-25-70	USA

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

SUN Y. CHUNG	HAMPSTEAD NH	CONCORD NH
KIMBERLY A. LULLY	HAMPSTEAD NH	CONCORD NH

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

PORTLAND STAGE COMPANY, PO BOX 1458, PORTLAND ME 04104

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

SEE ATTACHED FLOOR PLAN

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☒ Applied for: 1-30-17

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 4/1 Which of the above is nearest? _____

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

If YES, give details: _____

The Division of Liquor Licensing & 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 on 1-30, 20 17
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

SUN Y. CHUNG

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

NOTICE – SPECIAL ATTENTION

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

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

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

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

All fees must accompany application, made payable to the Treasurer of Maine. This application must be completed 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.

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) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

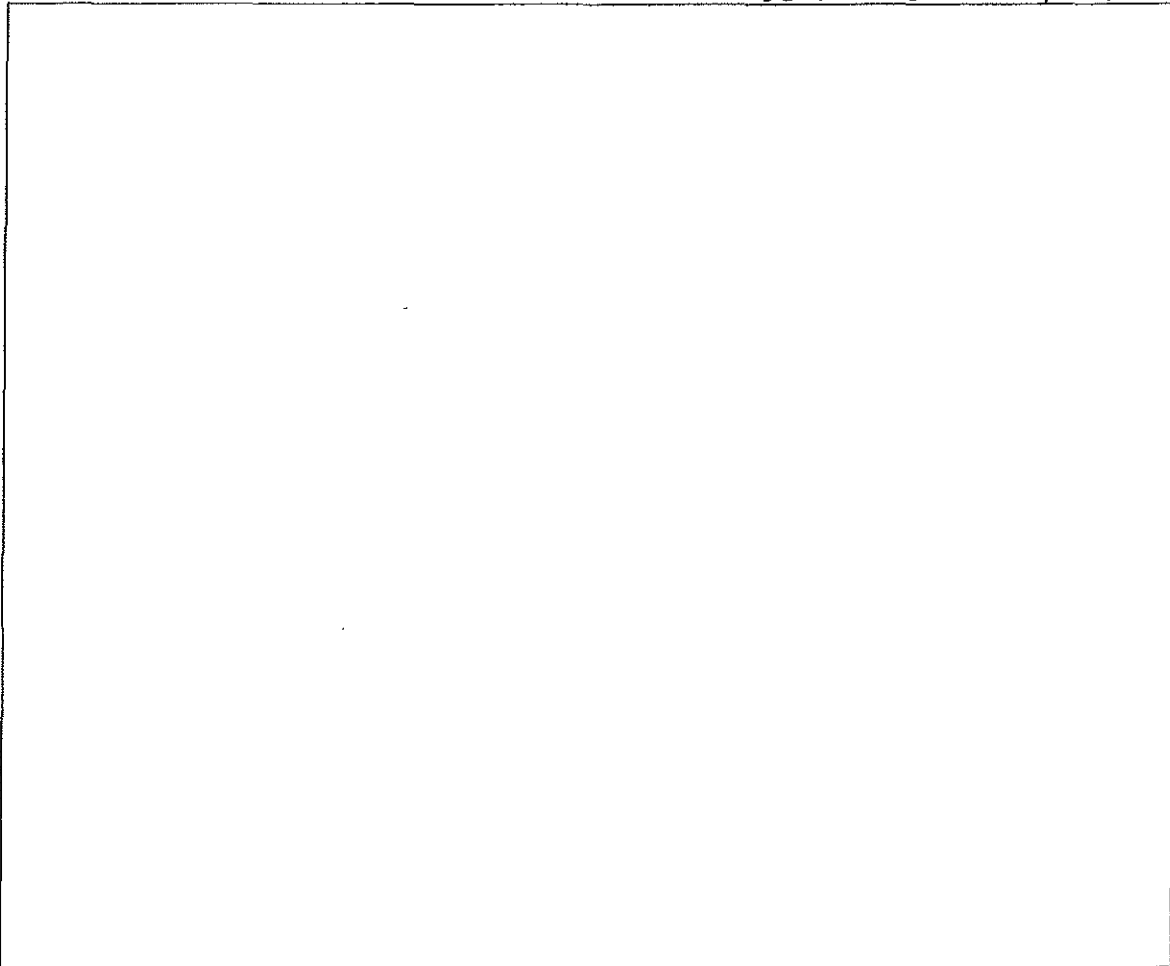
DIVISION USE ONLY	
☐	Approved
☐	Not Approved
BY:	

ON PREMISE DIAGRAM

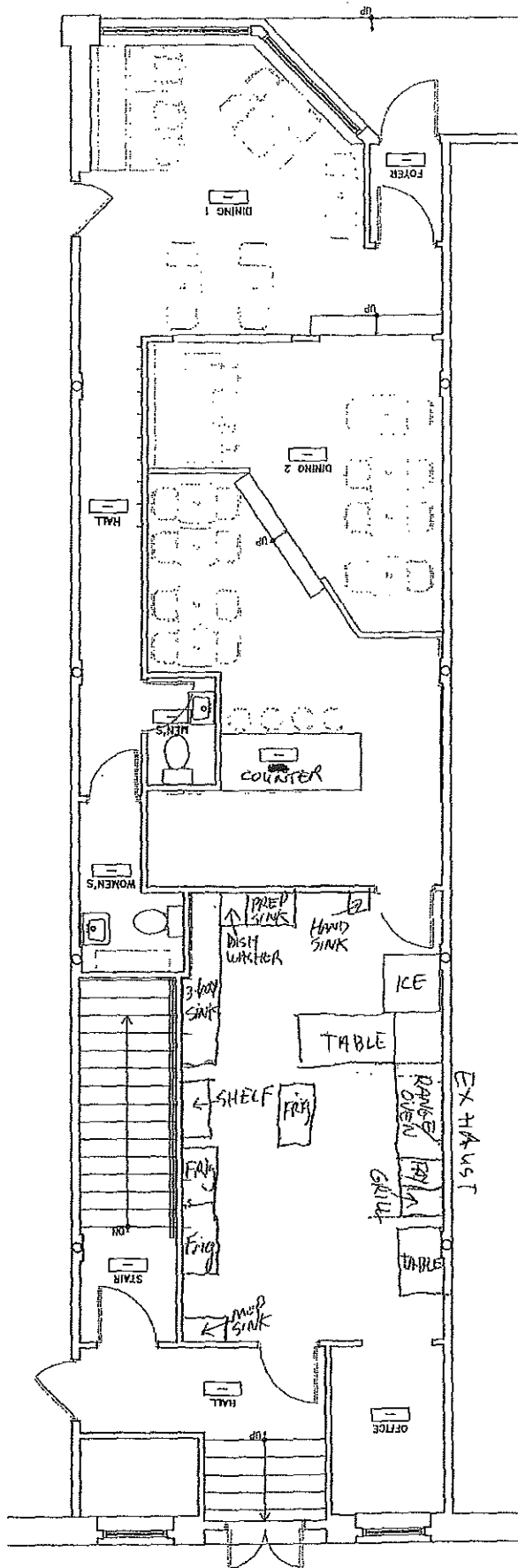
In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

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, function rooms, decks and all areas that you are requesting approval from the Division for liquor consumption.

PLEASE SEE ATTACHED FLOOR PLAN



YOCO
23 FOREST AVE.
PORTLAND, ME 0411



YOBO...sample menu

Plates

Baby greens and beets...shiro miso, rice wine, sesame vinaigrette 7

Caramelized Brussel sprouts...black vinegar, soy, crushed peanuts 8

Smashed maine fingerlings...aioli, bacon, pickled ginger 7

Potstickers...pork & cabbage 9

Mu shu smoked duck...hoisin, cuke, scallion 9

Korean food truck taco...bbq beef, gochujang, house kimchi 9

Bowls

Bangs island mussels...thai curry, basil 12

Angry shrimp...sambal, bean paste, lo mein 15

Fried chicken tikka masala...buttery rice 16

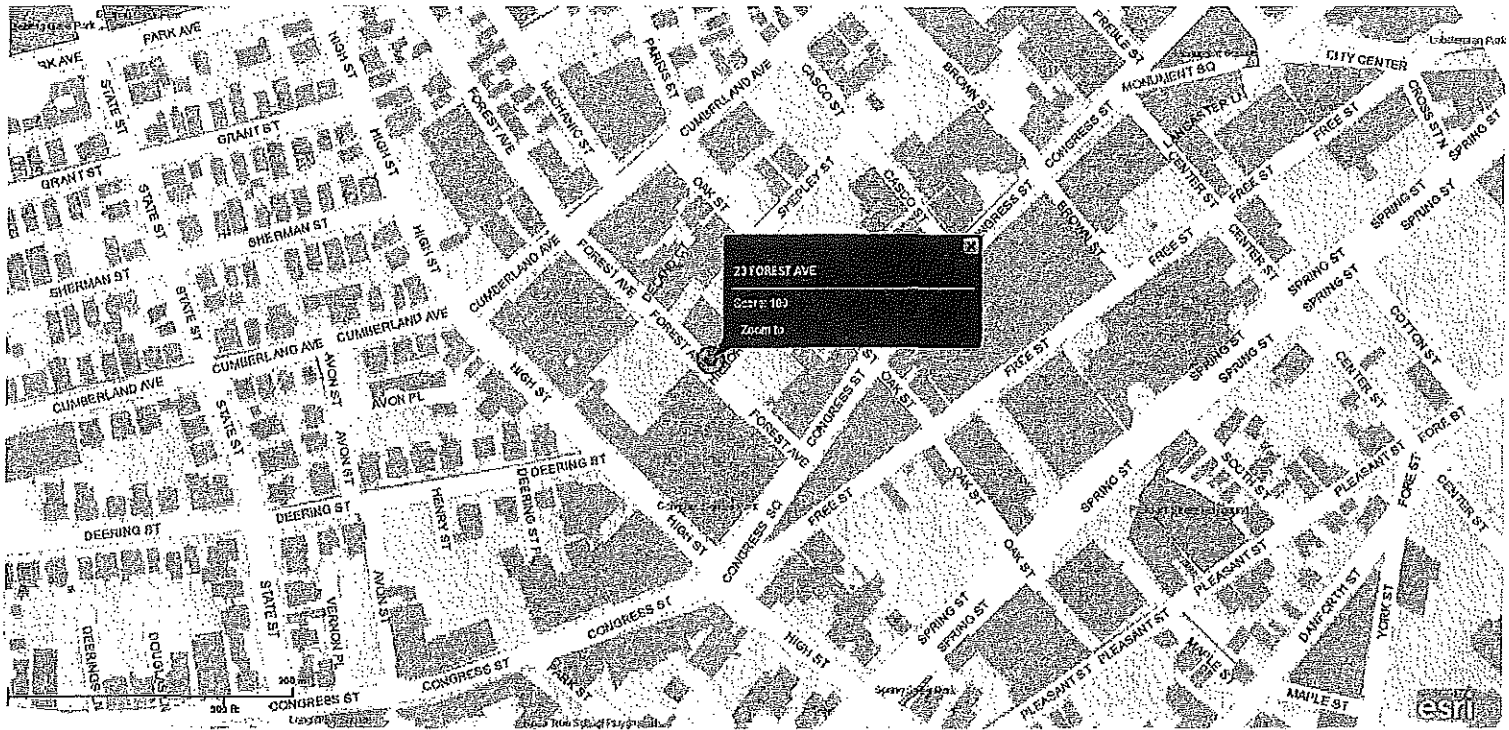
Beef short rib rending...coconut curry 18

"Maine Italian" pork belly bahn mi...pickles, herbs, pate 9

Unagi don...sweet onions, sushi rice 16

Bibimbap...tofu & veggies 15

YOBO





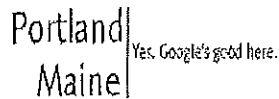
JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Criminal History Record

This criminal history record was produced in response to the following request (Produced on 2017-01-31) :

Inquiries Name(s) SUN CHUNG (1968-06-13)

NO MATCH WAS FOUND FOR YOUR REQUEST.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Yobo

1 message

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Jan 31, 2017 at 3:47 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Gary Rogers <garyr@portlandmaine.gov>, John Brennan <brennanj@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 <vvm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PD approves.

Kevin C.

On Tue, Jan 31, 2017 at 8:31 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Yobo, 23 Forest Avenue. They are applying for a Class III and IV license (malt & Vinous). Anticipated opening date is 4/1 and they will be going before council on 2/22.

Owner/Contact is:

Sun Y Chung

603-361-2613

sungchung069@yahoo.com

The information has been added to UI for approvals.

Thanks Jess

 yobo.pdf

Jessica B. Hanscombe

Business License Specialist

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

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

Portland, Maine



Yes. Life's good here.

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

January 31, 2017

Yobo
Sun Y Chung
126 Eastern Promenade Apt 4
Portland ME 04101

**Re: Sun Y. Chung d/b/a Yobo. Application for a Class III & IV (Malt & Vinous)
License at 23 Forest Avenue.**

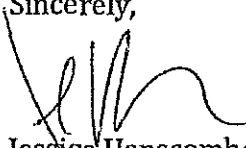
Dear Sun Y. Chung,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday February 22, 2017 at 5:30 p.m.**, for the review of your application for a Class III & IV License at 23 Forest Ave. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, 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 February 22nd at 5:30 P.M., in City Council Chambers, 389 Congress St., Sun Y. Chung d/b/a Yobo. Application for a Class III & IV (Malt & Vinous) License at 23 Forest Avenue. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 143-16/17
Feb 16 & 22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:**

**Lazzari LLC d/b/a Lazzari. Application for a Class XI Restaurant/Lounge License with
Outdoor Dining on Public Property at 618 Congress Street.**

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 Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Lazzari Phone:
Location Address:	618 Congress St. Portland Zip: 04101
If new, what was formerly at this location:	Mesa Verde
Mailing Address:	618 Congress St. Portland Zip: 04101
Contact Person:	Thomas Barr III Phone: 207-632-3242
Contact Person Email:	Thomasbarriiii@gmail.com
Manager of Establishment:	Thomas Barr III Date of Birth: 4/18/84 Phone: 207-632-3242
Owner of Premises (Landlord):	Geoff Rice / 614 Congress St. LLC
Address of Premises Owner:	614 Congress St. Portland Zip: 04101

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
Lazzari LLC		618 Congress St. Portland Zip: 04101	
Contact Person:	Thomas Barr III	Phone:	207-632-3242
Principal Officers	Title	Date of Birth	Residence Address
Thomas Barr III	Owner	4/18/84	176 Spurwink Rd. Scarborough, ME 04074

About Your Establishment

Class of Liquor License:	<u>X1</u>	
Type of food served:	<u>Italian</u>	
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>	
Projected percentage of sales:	Generated from Food: <u>50%</u>	Generated from Alcohol: <u>50%</u>
Hours & days of operation:	<u>9am-1am, 7 days a week</u>	

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?	<u>Y</u>
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	<u>Y</u>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	<u>Y</u>
Will you permit dancing on the premises?	<u>Y</u>
Will you permit dancing after 1:00 a.m.?	<u>Y</u>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	<u>Y</u>
If yes, will the outside dining be on <u>PUBLIC</u> or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	<u>Y</u>
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	<u>2017</u>
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	<u>Y</u>
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?	<u>Y</u>
If Yes, please list business name(s) and location(s): <u>NOSH - 551 Congress St.</u> <u>Blue Rooster - 10 Dana St.</u> <u>TACO ESCOBAR - 518 Congress St.</u>	
Is any principal officer under the age of 21?	<u>Y</u>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	<u>Y</u>
If Yes, please explain:	

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

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

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

Signature [Signature] Title Owner Date 1/26/17

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.



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

OUTDOORDINING Permit Application & Checklist

A permit is required for expanding food service to the outside of all properties.

For public properties, the Outdoor Dining annual fee is \$80.00 plus \$2.00 per square foot of dining area on streets, sidewalks or other public ways and \$6.00 in city parks. Outdoor dining permits located on public property are only valid for a year.

The one-time private property fee is \$125.00 (\$25 application fee and \$100 for the Certificate of Occupancy). The fee is due with your permit application. Outdoor dining permits located on private property are valid with the applicant establishment permanently.

Outdoor dining is permitted from April 1 - November 15. Barriers must be removed no later than November 15 and furniture removed in inclement weather to allow for sidewalk maintenance.

Application Checklist:

- ✓ **New applicants provide a plot plan showing:**
 - Lot lines, where the building sits on the lot and dimensions of the building and lot.
 - Street location and the intersecting streets.
 - Sidewalk location, width, and curbing location.
 - Setback dimension from the sidewalk to the building.
 - Location of proposed outdoor dining area and its components (tables, chairs, barriers, etc.), including dimensions and total outdoor dining area in square feet. An outdoor dining installation cannot prevent a clear passageway for pedestrians (4 feet minimum and 5 feet for street corner).
- ✓ **Outdoor dining renewals do not require a plot plan.**
- ✓ **A drawing and/or specification of any proposed barrier solution.**
- ✓ **Proof of public liability insurance coverage (not required for private property):** The permit holder is required to produce at the time of submission and maintain public liability insurance coverage of not less than four hundred thousand dollars (\$400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured.
- ✓ **All documents provided in electronic form.**

Portland, Maine



Yes. Life's good here.

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

Outdoor Dining Permit Application

Please circle all that apply:

New Application? ☒ (Yes) ☐ (No)
Renewal? ☒ (Yes) ☐ (No) → If yes, are there any changes? (Yes/No)
Private Property? ☒ (Yes) ☐ (No)
Historic District? ☒ (Yes) ☐ (No)
Liquor License Required? ☒ (Yes) ☐ (No) Permitting and Inspections Director Signature _____
OR Pending City Council Date _____ (D/M/Y)

Location Name: <u>Lazzari</u> Address: <u>1018 Congress St. Portland</u>	Chart _____ Block _____ Lot# _____
Owner Name: <u>Thomas Barr III</u> Phone #: <u>207-632-3242</u> Email: <u>thomasbarriiii@gmail.com</u>	Total Square Footage of Outdoor Dining Area: ¹ Length: <u>(17'6")</u> x Width <u>(6'6")</u> = <u>113.75</u>

Applicant must be owner or lessee. Name: <u>Thomas Barr III</u> Address: <u>176 Spurwink Rd.</u> City: <u>Scarborough</u> State & Zip: <u>Maine 04074</u> E-Mail: <u>thomasbarriiii@gmail.com</u>	Please pay before the permit can be issued. \$125 (One-time Private Property fee) or \$80 (Annual Public Fee) + Total Sq. Ft.: <u>113.75</u> x (\$2) or (\$6 in public parks) = Total Fee of \$ _____
--	---

Current use: Sidewalk Business name: Lazzari
How many chairs? 12 How many tables? 6
Please circle one of the following: Alcohol is served = ☒ (Yes) ☐ (No).

Who should we contact?
Name: Thomas Barr III
Phone: 207-632-3242
Address: 176 Spurwink Rd. Scarborough E-Mail: thomasbarriiii@gmail.com
ME, 04074

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. For further information, please visit www.portlandmaine.gov, email permitting@portlandmaine.gov, call 874-8703 or stop by Room 315, City Hall. Applications and renewals are reviewed annually and must be submitted by June 1.

Signature of Applicant: [Signature]

Date: 1/30/17

¹ The total dining area square footage shall equal no more than 10% of park space without Parks, Recreation and Facilities waiver. Contact Sally DeLuca, Director, @ 207-808-5400 for waiver.

Portland, Maine



Yes. Life's good here.

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

- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- Adjacent on-street parking requires Parking Office review and Building Authority approval.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signed and acknowledged:

[Signature]

Date: 01/30/17

Printed name:

Thomas Banzin

Establishment:

Lexus

Location:

618 Congress

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: <u>Lazzari LLC</u>			Business Name (D/B/A) <u>Lazzari</u>		
APPLICANT(S) - (Sole Proprietor) <u>Thomas Barr III</u>		DOB: <u>4/18/84</u>	Physical Location: <u>618 Congress St.</u>		
		DOB:	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
Address <u>176 Spunkin Rd.</u>			Mailing Address <u>Same</u>		
City/Town <u>Scarborough</u>	State <u>ME</u>	Zip Code <u>04074</u>	City/Town <u>Same</u>	State	Zip Code
Telephone Number <u>207-632-3242</u>		Fax Number	Business Telephone Number		Fax Number
Federal I.D. # <u>47-1719139</u>			Seller Certificate #: or Sales Tax #: <u>1182563</u>		
Email Address: Please Print <u>thomasbarrii@gmail.com</u>			Website:		

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

Requested inspection date: _____ Business hours: 9am - 7am / 7 days

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: N/A
- State amount of gross income from period of last license: ROOMS \$ N/A FOOD \$ N/A LIQUOR \$ N/A
- 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.

- Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
- If manager is to be employed, give name: N/A
- Business records are located at: onsite
- Is/are applicants(s) citizens of the United States? YES ☒ NO ☐
- 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
Thomas Barr III	4/18/84	Portland, ME

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

Thomas Barr III - 176 Sparhawk Rd. Scarborough, ME 04074

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (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: _____

Geoff Rice - 614 Congress St. LLC -> 614 Congress St. Portland, ME 04101

14. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

15. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☐ Applied for: _____

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? 600 ft Which of the above is nearest? Williston Immanuel Church

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: Mortgage

18. Does/do applicant(s) have all the necessary permits required by the Department of Health & Human Services?

YES ☐ NO ☐ Applied for on: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 600 ft Which of the above is nearest? Williston Immanuel Church

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

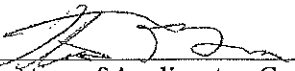
If Yes, give details: Mortgage

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, Maine on January 26, 20 17
Town/City, State Date

Please sign in blue ink


Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Thomas R. M.
Print Name

Print Name

FEE SCHEDULE

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

Class I Spirituous, 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 hereby approve said application.

THIS APPROVAL EXPIRES 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:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]

[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

Please be sure to include the following with your application:

Completed the application and sign the form.

Signed check with correct license fee and filing fee.

Your local City or Town's signature(s) are on the forms.

Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).

Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.

Complete the Corporate Information sheet for all ownerships except sole proprietorships.

If you have any questions regarding your application, please contact us at (207) 624-7220.

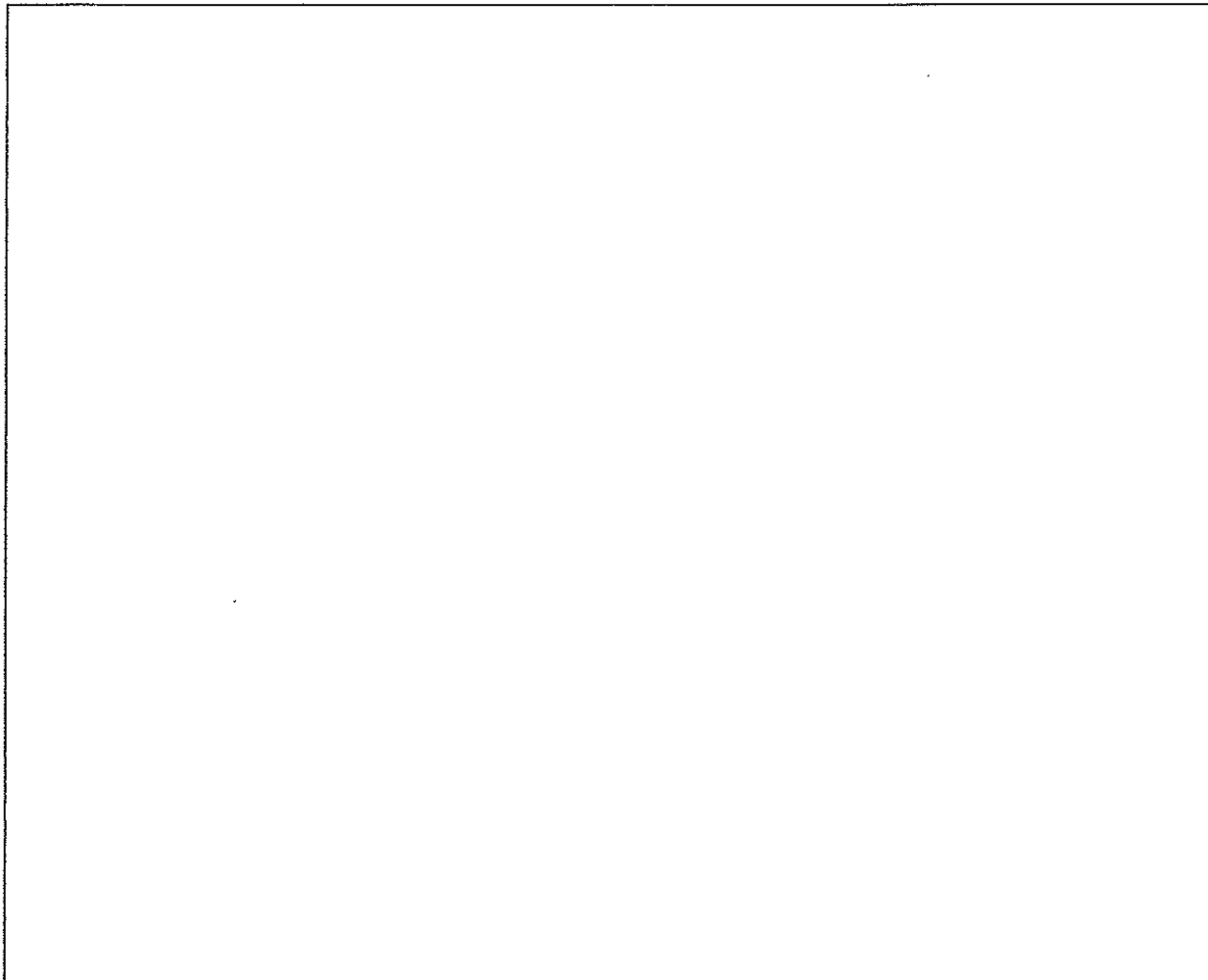
*Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov*

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.





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: Lazzari LLC
2. Doing Business As, if any: Lazzari
3. Date of filing with Secretary of State: _____ State in which you are formed: MAINE
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

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 %
Thomas Barr III	176 Spunk Rd. Scarborough, ME 04154	4/18/84	Owner	100%

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

6. If Co-Op # of members: N/A (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: _____

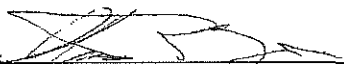
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person Date

1-26-17

Thomas Barish
Print Name of Duly Authorized Person

Submit Completed Forms to:

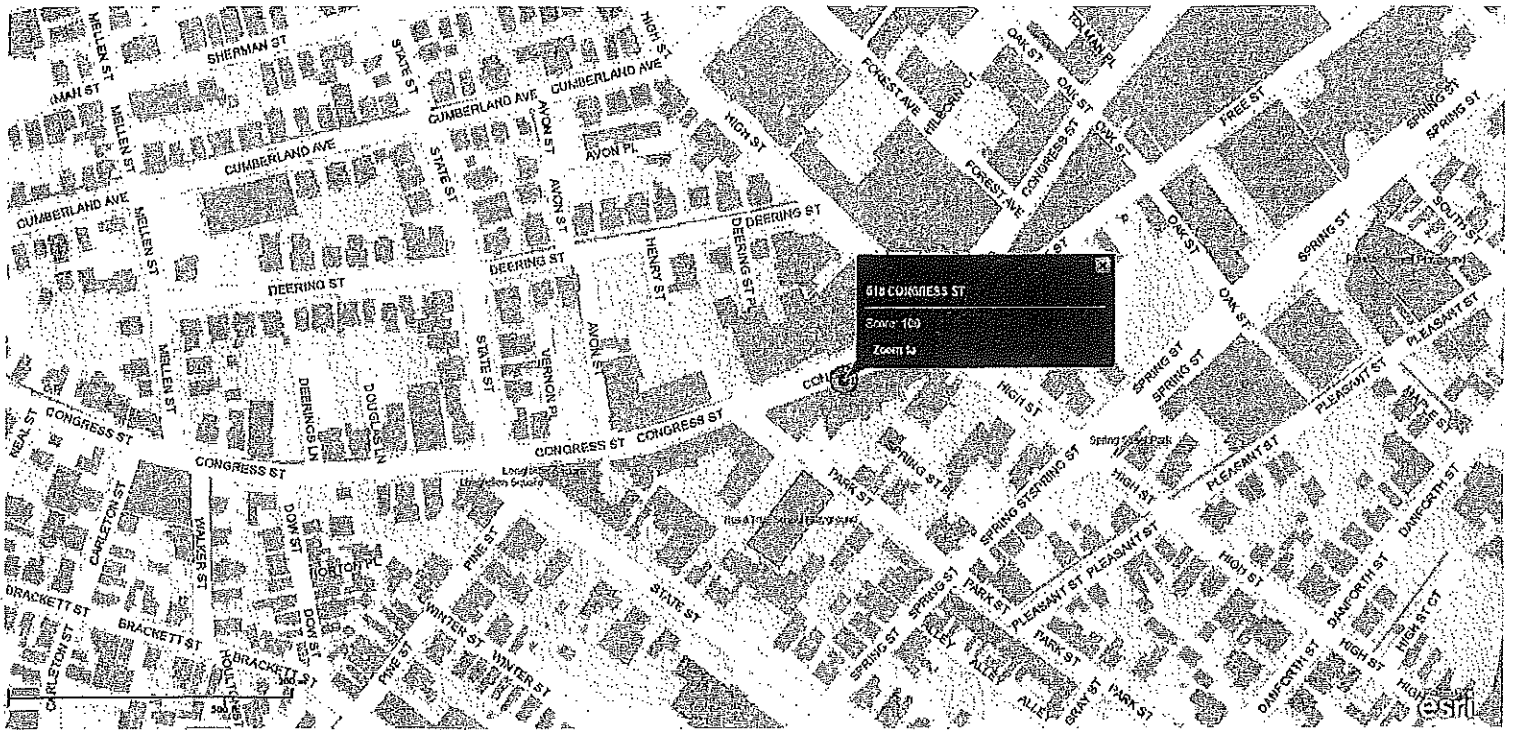
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

- X Farfusia: Rosemary, Sea Salt, Extra Virgin olive oil
- Δ Giardiniera: Mixed Pickled vegetables, Herbs, Extra virgin olive oil
- Δ Marinated olives: Mixed olives w/ chili, lemon, Herbs
- Bruschetta: Wood oven Roasted Caponata & Housemade Ricotta
- Ciccioni: Pork femur, Pickled chili & Fennel, Parsley, Grilled bread
- Δ Fried olives: Breaded & served w/ Lemon & Parsley
- Δ Salumi: 3 types, Pickles, Grilled bread
- Δ Cheese: 5 types, Comb Honey, ^{Pear} Mostarda, Grilled bread
- Δ Raw clams: Chili oil, lemon, oregano, Scallions
- Δ Heat Salad: Romaine, Arugula, Radicchio, Red wine vin, Parm
- Δ Grain Salad: Toasted Garro, chickery, Radish, Pickled Turnip, Red onion, Gorg. Dolce
- Meatballs: Beef & Pork, Tomato Sauce, Housemade Ricotta, Herbs, Pecorino
- Grilled Sausage: Sweet Pork Sausage, Marinated Peppers, Sherry Vin, Herbs, Grana
- Rapini: Sauteed w/ sausage, garlic, lemon and Marinated white Beans, Pecorino
- Swiss chard: Sauteed with garlic, lemon, chili, Fried chickpeas, Parm
- Steamed mussels: Garlic, vermouth pancetta, Fennel, white beans, Grilled bread
- Grilled beets: Tossed with Balsamic & Cherry peppers, Basil, mint, Red onions, aged goat
- Δ ■ Fried Calamari: Basil, Parsley, Fennel, Lemon Caper Aioli, Peperoncino
- Grilled octopus: Grilled fingerling potato, marinated Radicchio, Salsa verde, Pepproni oil
- Roasted Cauliflower: Lemon, chili, mint, Parsley, Garlic bread crumbs, Grana

Marinara: Tomato, Garlic, oregano
 Margherita: Tomato, Mozzarella, Basil
 White Clam: marinated clams, Mozzarella, Parsley, chili flake, Pecorino
 Pepperoni: Tomato, Mozzarella, Pepperoni, cherry peppers, Grana
 4 cheese: Ricotta, Mozzarella, Pecorino, Grana, Garlic, Black pepper, Arugula, Lemon
 Sausage & onion: Tomato, mozzarella, Sweet Sausage, Grilled onions, Pecorino
 Mushroom: Garlic, Ricotta, mozzarella, Roasted garlic, Roasted mushrooms, Thyme, Black pepper, Grana
 Brussel sprout: mozzarella, Brussel sprouts, Pancetta, Rosemary, Pickled shallots
 Suppresatta & olives: Tomato, mozzarella, Spicy Suppresatta, Cailleultrao olives, Grana
 Prosciutto & artichoke: Ricotta, mozzarella, marinated artichokes, Black pepper, Smoked prosciutto
 Roasted Squash & Sage: Ricotta, Mozzarella, Roasted Squash, Sage, brown butter, Parm
 Olive & Anchovy: Tomato, mozzarella, olives, Anchovy, Capers, chili, Basil
 Calzone: Ricotta, mozzarella, Parm, Pecorino, Tomato sauce, Basil

	<u>Add ons</u>	
Grilled onion	Pepperoni	Prosciutto
Roasted Mushroom	Mozzarella	Suppresatta
cherry Peppers	Ricotta	marinated clams
extra basil	Artichoke	
Capers	olives	
Mushrooms	Sausage	
Roasted garlic	Anchovy	
Arugula		
marinated Peppers		

Lazzari



Copyright 2011 Esri. All rights reserved. Tue Jan 31 2017 09:10:55 AM.

Re: Lazzari

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Jan 31, 2017 at 3:48 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Gary Rogers <garyr@portlandmaine.gov>, John Brennan <brennanj@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>

PD approves.

Kevin C.

On Tue, Jan 31, 2017 at 9:31 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Lazzari, 618 Congress Street for a Class XI license. They are also applying for outdoor dining. They will be going before council on 2/22 for approval with an anticipated opening in the next few weeks.

Please note that they applied 3 years ago with us for this location. After a year, the state licenses become void if the business has not opened. They had to reapply with new applications and approvals.

Owner/contact is:

Thomas Barr III

207-632-3242

thomasbarriii@gmail.com

The information has been added to UI for approvals.

Thanks Jess

 lazzari.pdf

Jessica B. Hanscombe

Business License Specialist

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman

Portland Police Department

Patrol Division

109 Middle St

Portland, Maine 04101

(O) 207-756-8294

kevindc@portlandmaine.gov.



JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Criminal History Record

Inquiries Name(s) THOMAS BARR (1984-04-18)

1/1

Portland, Maine



Yes. Life's good here.

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

January 31, 2017

Lazzari LLC
618 Congress Street
Portland ME 04101

Re: Lazzari LLC d/b/a Lazzari. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property.

Dear Thomas Barr III,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday February 22, 2017 at 5:30 p.m.**, for the review of your application for a Class XI Restaurant/Lounge License with Outdoor dining at 618 Congress 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 February 22nd at 5:30 P.M., in City Council Chambers, 389 Congress St., Lazzari LLC d/b/a Lazzari. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property. Sponsored by Michael Russell, Director of Permitting and Inspections.

Order 123-16/17
~~Tab 5-26-17~~
Tab 17 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**The Pig Exchange, LLC d/b/a The Thirsty Pig. Application for a Class A Lounge License
at 37 Exchange Street.**

January 4, 2017

To The Mayor of Portland and Members of the City Council,

In recent years The Thirsty Pig has expanded it's services beyond operating as a Restaurant and Bar to offering Catering services. The relationships we have built with local craft beer brewers has made for some wonderful collaborations that have generated revenue for the local economy and attracted local residents and out of town visitors to the local food and beer scene in Portland. The Thirsty Pig has had the honor of catering events at local breweries, each time filing for an individual event license with the City of Portland. This is the reason for wanting to file for a change in License from a Class III & IV to a Class X License. With a Class X License we would participate in more local collaborations with Maine breweries by catering their events, and be able to provide more catering services to local offices, businesses, and individuals. The Thirsty Pig will remain with the current alcoholic beverage options of Wine, Beer and Cider, there are no plans to have a full liquor bar in the restaurant. We look forward to continuing to serve the City of Portland high quality product and services, and connecting people with other local businesses to keep Portland thriving. Thank you for your time and consideration in this matter.

Sincerely,

Allison B. Stevens
Owner of The Thirsty Pig
37 Exchange Street
Portland, ME 04101

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 Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	The Thirsty Pig		Phone: 207-773-2469
Location Address:	37 Exchange Street		Zip: 04101
If new, what was formerly at this location:			
Mailing Address:	37 Exchange Street		Zip: 04101
Contact Person:	Allison B. Stevens	Phone:	207-245-4056
Contact Person Email:	allisonstevens56@hotmail.com		
Manager of Establishment:	Allison B. Stevens	Date of Birth: 10/11/80	Phone: 207-245-4056
Owner of Premises (Landlord):	Albert Palacci		
Address of Premises Owner:	4761 Broadway, NY, NY 10034		Zip: 10034

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
The Pig Exchange, LLC		37 Exchange Street Zip: 04101	
Contact Person:	Allison Booth Stevens	Phone:	207-245-4056
Principal Officers	Title	Date of Birth	Residence Address
Allison Booth Stevens	owner	10/11/80	Upper A. St., Peaks Island, ME

About Your Establishment

Class of Liquor License:	III IV Class A Lounge	
Type of food served:	Sausages, hot dogs, pub snacks	
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor	
Projected percentage of sales:	Generated from Food: 33.44%	Generated from Alcohol: 66.18%
Hours & days of operation:	Mon-Thur 11-10, Fri-Sat 11	

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: .25 miles from church	
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?	
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): Allison Booth Stevens, The Pig Exchange LLC, 37 Exchange Street	
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, Allison Stevens 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 1/3

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

Portland, Maine



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

Supplemental Application for Dancing and Entertainment License

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

☒ Entertainment without Dancing: \$281	☐ Entertainment with Dancing: \$504	☐ After-Hours (1 a.m. to 3 a.m.): \$567
--	--	--

Business Information	
Business Name (d/b/a):	<i>The Thirsty Pig</i>
Location Address:	<i>37 Exchange Street</i>
Phone:	<i>207 +773-2469</i>
Zip:	<i>04101</i>

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: <i>Restaurant/Bar serving house-made sausages + hot dogs, local craft beer and wine. Live music performed weekly - no dancing - just listening to music.</i>	
Will music be electric, acoustical, or both? (Circle)	<i>both</i>
Will amplification be used?	<i>Y</i>
If yes, where and at what level?	
Will music be played (Circle all that apply):	<i>Inside</i> <i>Outside</i>
Will you permit dancing on the premises?	<i>N</i>
Will you permit dancing after 1:00 a.m.?	<i>N</i>
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? <i>500 ft.</i>	
What is your targeted opening date?	<i>Business opened Jan 2011</i>
Does the issuance of this license directly or indirectly benefit any City employee(s)?	<i>N</i>
If Yes, list name(s) of employee(s) and department(s):	

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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature *[Signature]* Title *owner* Date *1/3/17*

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

BUREAU OF ALCOHOLIC 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: MAINE.LIQUOR@MAINE.GOV

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

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES 12/29/17

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS
INDICATE TYPE OF LICENSE:

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

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

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Pig Exchange, LLC</u>			Business Name (D/B/A) <u>The Thirsty Pig</u>		
APPLICANT(S) (Sole Proprietor) DOB: <u>Allison Booth Stevens</u> <u>10/11/80</u>			Physical Location: <u>37 Exchange Street</u>		
DOB:			City/Town State Zip Code <u>Portland</u> <u>ME</u> <u>04101</u>		
Address <u>37 Exchange Street</u>			Mailing Address <u>37 Exchange Street</u>		
City/Town State Zip Code <u>Portland</u> <u>ME</u> <u>04101</u>			City/Town State Zip Code <u>Portland</u> <u>ME</u> <u>04101</u>		
Telephone Number Fax Number <u>207-245-4056</u> _____			Business Telephone Number Fax Number <u>207-773-2469</u> _____		
Federal I.D. # <u>45-3969465</u>			Seller Certificate #: or Sales Tax #: <u>1154094</u>		
Email Address: Please Print <u>pig@thirstypigportland.com</u>			Website: <u>thirstypigportland.com</u>		

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

Requested inspection date: January Business hours: 11a-10p

3. If a premise is a hotel, indicate number of rooms available for transient guests: 0

4. State amount of gross income from period of last license: ROOMS \$ 0 FOOD \$ 212,510.40 LIQUOR \$ 492,546.87

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

If YES, complete Supplementary Questionnaire

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

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

9. Business records are located at: 37 Exchange Street, Portland, ME 04101

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Allison Booth Stevens	10/11/80	Watertown, NY

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

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

Albert Palacci, 4761 Broadway, NY, NY 10034

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

60 indoor seats, 36 seasonal outdoor seats

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 2.5 miles Which of the above is nearest? church

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

If YES, give details: _____

The Division of Liquor Licensing & 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 on 1/11, 20 17

Town/City, State

Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications).....	\$ 10.00
Class I Spirituous, 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
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: Pig Exchange, LLC
2. Doing Business As, if any: The Thirsty Pig
3. Date of filing with Secretary of State: 12/2011 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Allison Booth Stevens		10/11/80		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: _____

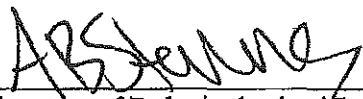
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

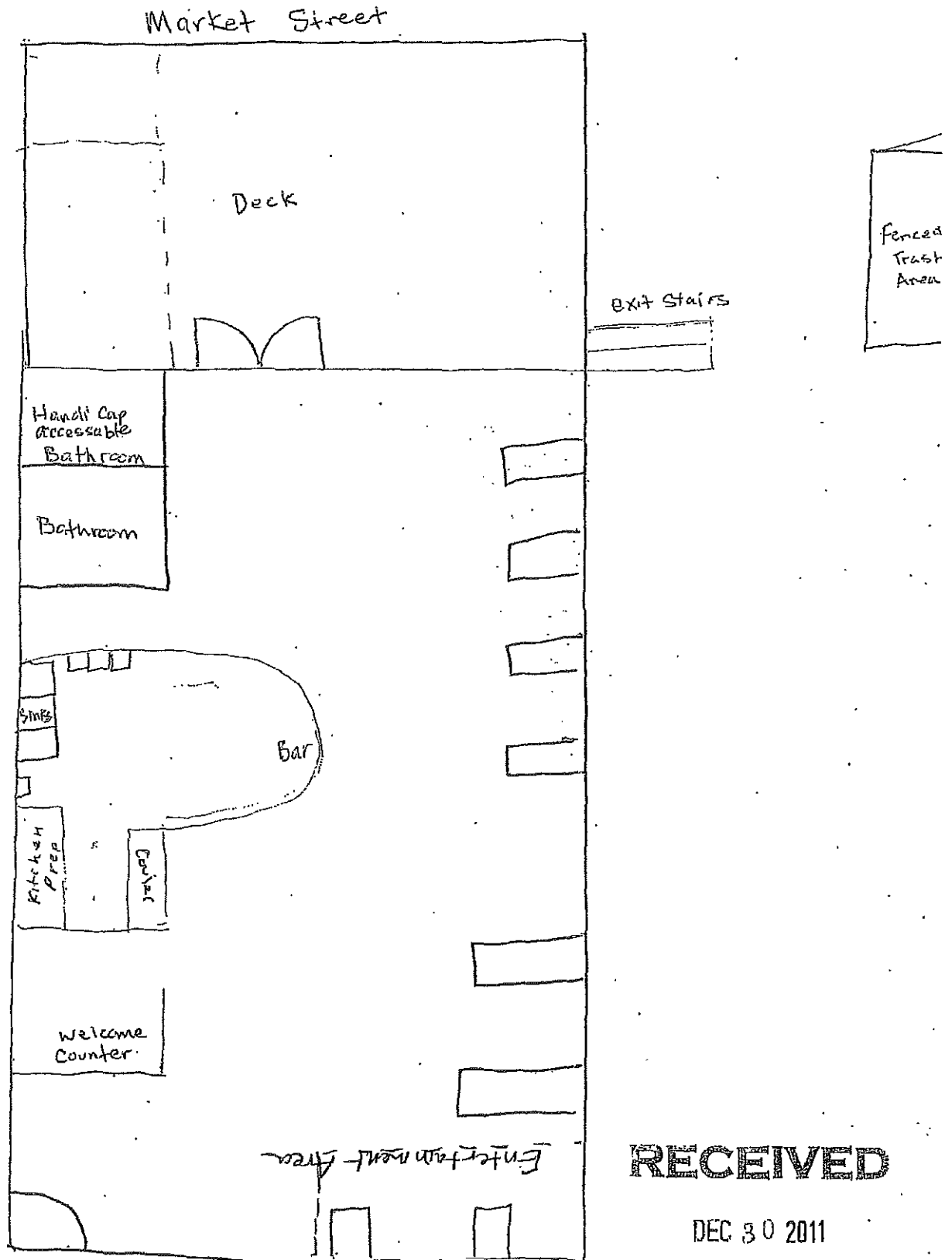
11/2/17
Date

Allison Stevens
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

PREMISE DIAGRAM

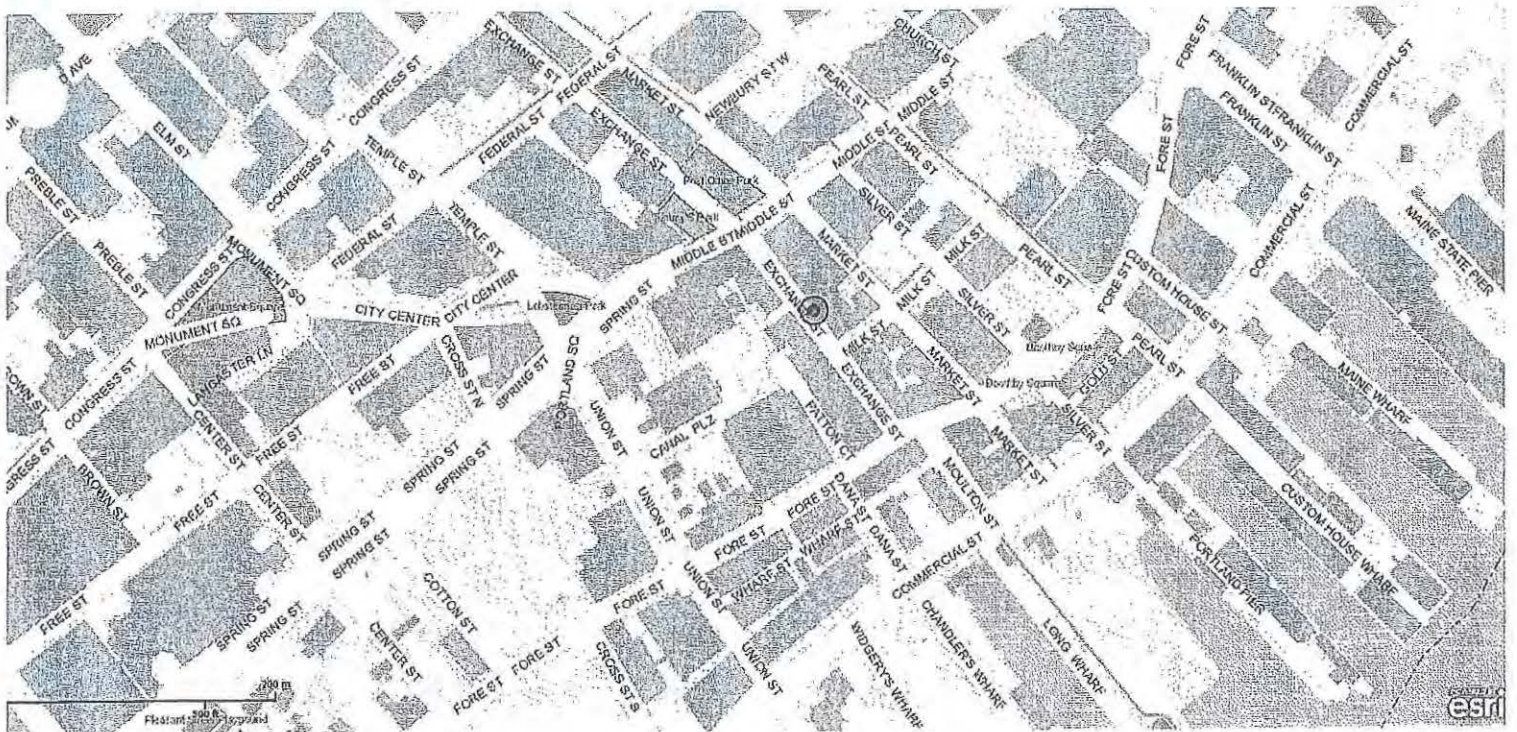


RECEIVED

DEC 30 2011

DEPT PUBLIC SAFETY
LIQUOR LICENSING & INSPECTION

EXCHANGE ST.
Public Safety





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: The Thirsty Pig Upgrade

Kevin Cashman <kevindc@portlandmaine.gov>

Fri, Jan 13, 2017 at 3:43 AM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: 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>, Melissa Calazzo <mcalazzo@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

No issues from PD.

Kevin C.

On Wed, Jan 11, 2017 at 11:22 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for the Thirsty Pig, 37 Exchange Street. They currently hold a Class III and Class IV License (malt & vinous) with Entertainment no dance and Outdoor dining. They are upgrading to a Class A Lounge for catering purposes.

They will be going before council on 2/6/2017

Same owner- The Pig Exchange LLC- Allison Stevens 207-245-4056 allisonstevens56@hotmail.com

Please advise via email with approvals. Thanks Jessica

 The Thirsty Pig.pdf

Jessica B. Hanscombe
Business License Specialist
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

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

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

Michael A. Russell, MS, Director

January 11, 2017

The Thirsty Pig
37 Exchange Street
Portland, Maine 04101

Re: The Pig Exchange, LLC d/b/a The Thirsty Pig. Application for a Class A Lounge License at 37 Exchange Street.

Dear Ms. Stevens,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday February 6th, 2017 at 5:30 p.m.**, for the review of your application for a Class A Lounge License at 225 Congress 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

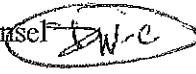
Sincerely,

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 February 6th at 5:30 P.M., in City Council Chambers, 389 Congress St., The Pig Exchange, LLC d/b/a The Thirsty Pig. Application for a Class A Lounge License at 37 Exchange Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

CITY OF PORTLAND MEMORANDUM

TO: Mayor Strimling and Members of the City Council
CC: Jon P. Jennings, City Manager; Michael Russell,
Director of Permitting and Inspections; Michael
Sauschuck, Police Chief
FROM: Danielle P. West-Chuhta, Corporation Counsel 
DATE: February 15, 2017
RE: Follow-up re: Liquor License Review

This memo is provided in response to several questions and requests for additional information with regard to The Thirsty Pig's liquor license application at the City Council's February 6, 2017 meeting. The following is a summary of the responses to those questions:

I. Applicable Legal Standard Regarding Liquor Licenses

First, as requested, attached please find a legal memorandum thoroughly describing the applicable standards and process of review regarding liquor licenses. (See Memo attached hereto as Exhibit A). As the memorandum states, under Maine law (28-A M.R.S. sections 653 and 654 attached hereto as Exhibit B) the City Council (acting as judges, not legislators) can either grant or deny a liquor license (but not conditionally grant a license). Finally, it is important to note that the Council may only deny a liquor license for one (1) of the reasons listed in section 653 or based on a combination of factors outlined in section 654 (See Exhibit B).

II. City Entertainment Licenses

Next, the City Code allows for the issuance of a City license for special entertainment with or without dancing. (See Ch. 4 of the Portland City Code, attached hereto as Exhibit C). These City licenses can be approved, denied, or approved with conditions by the City Council. (See Exhibit C Chapter 4, §4-57).

III. The Thirsty Pig License/Calls for Service

Finally, the Thirsty Pig currently has a Class III and IV FSE license with entertainment without dance and outdoor dining on private property. They are now applying for a Class A Lounge license to allow catering off-site. This new license is basically a catering enhancement to an existing liquor and entertainment license. In these types of situations, City staff (all departments) reviews the application and ensures

that the license application meets all the City Code/state law requirements and conducts a background records check on the business owners.

With regard to the calls for service on this property (located at 37 Exchange Street), the Police Department found a total of twenty (20) calls. (See Calls for Service Run Sheet attached hereto as Exhibit D). Eleven (11) of those calls were for "loud music." All of the calls occurred before 7:45 PM and seven (7) of them came in before 5:30 PM. None of the calls were found to be violating the current decibel level limits provided in the City Code, and most of the calls did appear to come from one (1) complainant. The Police Department did work with the staff of the Thirsty Pig to resolve these calls and the business did turn down the music when requested.

**CITY OF PORTLAND, MAINE
M E M O R A N D U M**

TO: Mayor Cohen and Members of the Portland City Council

FROM: Gary C. Wood, Corporation Counsel
Ext. 8480

DATE: December 19, 2005

RE: Criteria and Process for Denying Liquor Licenses

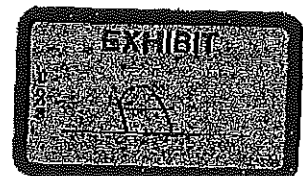
Legal Criteria.

On hearings before the Council for liquor licenses, the Council sits in a quasi-judicial capacity. You are judges not legislators. What that means is that you listen to the evidence presented by both sides and then reach a conclusion that the license should be granted or denied based upon the evidence that you have found convincing. The hearing is structured somewhat like a trial, but it is not as formal. The key is to make it fair by making sure that both sides get every reasonable opportunity to put in evidence and make comments. That does not mean these hearings have to go for hours, but they do take a lot longer than most items. That makes sense because someone's business is at risk.

If you decide to deny the liquor license based upon the evidence presented to you, you do not have to worry about legal technicalities like the Rules of Evidence because I will take your oral decision and put it into a final written form for you to review and approve.

I have attached a copy of the state statutes relevant to the analysis of liquor licenses that come up before you. The key section is Title 28-A M.R.S.A. Section 653(2). That section lists a number of criteria upon which you can base the denial of a liquor license. All of the subparagraphs (A-F) require the City to have some record (written evidence) upon which to base its action, but only subparagraphs (A) and (E) require an actual conviction for a legal violation before you can use those incidents as the basis for denying a license.

In other words, the police records of incidents of breaches of the peace is a sufficient record under subparagraph (D) upon which to base a denial. We do not have to have a conviction for each of the breaches noted in the police record to use it as the basis for a denial. **Subparagraph (D) is the paragraph that you should normally focus on and use in considering these applications.**



In addition to Section 653, the Sharky's decision in 1993, which found in favor of the Council's ruling to deny a liquor license, opened the door to the application of the criteria in Title 28-A Section 654 (also attached) as grounds for denial. That section does not require us to have a written record in order to apply the criteria nor does it require any convictions. Within that section the key subparagraphs to look at are (B), (C), and (D) in subsection (1). Once you determine the location of the business, identify particular problems that relate to that location, and identify the manner in which it has been operated, you can conclude that the combination of those factors makes this location an unsuitable place for a liquor license in the hands of the applicant before you and deny the license.

In making your findings and conclusions it is helpful if one or more of you specifically reference these two sections as you are addressing the standards.

Process.

The following process is what I recommend that the Mayor follow in these cases:

- (1) The applicant is given an opportunity to make an opening statement if they choose to before the Police Department presents its case;
- (2) The Police Department presents its case, usually through the officer who put together the report recommending denial; that report and supporting documents are in your agenda books. Usually the Police Department simply goes through that report and answers questions; the Council can ask questions at this point or any point through the Mayor;
- (3) The applicant presents his case through his attorney and any witnesses that the attorney chooses to call as well as members of the public who support the application; the applicant is also given an opportunity to submit whatever documents he or she chooses to the Council to be included in the record; as part of the presentation of the applicant's case, the applicant or his or her representative should be given an opportunity to pose questions to the Council that it would like the Police Department to answer (this takes the place of direct cross-examination which would occur in a courtroom);
- (4) The Police Department is given a chance to respond to the presentation made by the applicant and any questions raised by that presentation or the applicant;
- (5) Any other members of the public who wish to speak are given their regular opportunity to comment on the matter;

- (6) The applicant is given a final opportunity to make closing remarks or comments;
- (7) The public portion of the hearing is closed; a councilor makes a motion to grant or deny the application and all councilors comment on that motion stating their position; during this process any member of the Council can ask whatever questions they want of either the Police Department or the applicant;
- (8) The Council votes on the motion (roll call recommended);
- (9) If the Council denies the application, its decision goes into effect when the Liquor Bureau receives our written decision;
- (10) Corporation Counsel prepares a formal written decision for review and approval by Council members;
- (11) The written decision is sent to the Liquor Bureau and the applicant;
- (12) The applicant has 15 days to appeal to the Liquor Bureau; the filing of an appeal stays the Council decision;
- (13) The Bureau sets up a de novo hearing before a hearing examiner (usually within 20 days of the filing of the appeal);
- (14) The de novo hearing is held with Corporation Counsel presenting the City's case using the same evidence presented to the Council
- (15) The Bureau issues its decision (usually within 10 days);
- (16) The Bureau's decision can be appealed to Superior Court within 30 days. If the Bureau's decision supports denial, the Bureau normally issues a temporary license until the appeal period expires.
- (17) If the applicant's appeal, they have to get an injunction or the denial goes into effect.

GCW:tib
Enc.

O:\OFFICE\BOARY\Memos\LiquorLicenseDenial 12.19.05.doc

Maine Revised Statutes
Title 28-A: LIQUORS
Chapter 27: APPLICATION PROCEDURE

§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).]

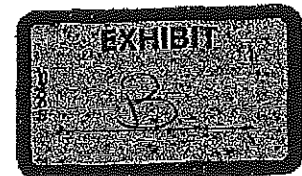
D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact 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:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]



C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. (2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD).]

[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license.

[1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §32 (AMD). 1987, c. 623, §8 (AMD). 1989, c. 592, §§3,4 (AMD). 1993, c. 730, §27 (AMD). 1995, c. 10, §1 (AMD). 1995, c. 140, §§4-7 (AMD). 1999, c. 547, §§78 (AMD). 1999, c. 547, §80 (AFF). 1999, c. 589, §1 (AMD). 2001, c. 500, §1 (AMD). 2003, c. 213, §1 (AMD). 2009, c. 81, §§1-3 (AMD).

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Maine Revised Statutes
Title 28-A: LIQUORS
Chapter 27: APPLICATION PROCEDURE

§654. ADDITIONAL CONSIDERATIONS FOR LICENSURE

1. Character; location; operation of business. In issuing or renewing licenses, the bureau, the municipal officers or the county commissioners, as the case may be, shall give consideration to:

- A. The character of any applicant; [1987, c. 45, Pt. A, §4 (NEW).]
- B. The location of the place of business; [1987, c. 45, Pt. A, §4 (NEW).]
- C. The manner in which the business has been operated; and [1997, c. 373, §63 (AMD).]
- D. Whether the operation has endangered the safety of persons in or on areas surrounding the place of business. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §63 (AMD) .]

2. Qualifications of corporations. The bureau, the municipal officers or the county commissioners, as the case may be, may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

[1997, c. 373, §63 (AMD) .]

3. Areas primarily for minors. Without limitation of its other powers, the bureau may not approve as a proper place for the exercise of the license privilege amusement areas primarily for minors, beaches or any other area designed primarily for use by minors.

[1997, c. 373, §63 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §63 (AMD) .

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City of Portland
Code of Ordinances
Sec. 4

Amusements
Chapter 4
Rev. 6-7-12

-1

Chapter 4 AMUSEMENTS*

*Cross reference(s)--Zoning regulation of adult business establishments, § 14-373 et seq.

State law reference(s)--Pinball machines, 8 M.R.S.A. § 441 et seq.

Art. I. In General, §§ 4-1--4-15

Art. II. Amusement Devices, §§ 4-16--4-40

Div. 1. Generally, §§ 4-16--4-25

Div. 2. License, §§ 4-26--4-40

Art. III. Music, Dancing and Special Entertainment, §§ 4-41--4-70

Div. 1. Generally, §§ 4-41--4-50

Div. 2. License, §§ 4-51--4-70

Art. IV. Gaming, §§ 4-71--4-82

Div. 1. Generally, §§ 4-71--4-80

Div. 2. License, §§ 4-81, 4-82

Art. V. Nudity in Licensed Businesses, §§ 4-83--4-96

Div. 1. Generally, §§ 4-83, 4-84

Div. 2. License, §§ 4-85--4-97

ARTICLE I. IN GENERAL

Sec. 4-1. Chapter 15 provisions apply.

Except to the extent that this chapter contains a contrary provision, all provisions of chapter 15 shall apply to and be additional to the provisions of this chapter.

(Ord. No. 165-06/07, 4-4-07)

Sec. 4-2. Reserved.

Sec. 4-3. Reserved.

Sec. 4-4. Reserved.

Sec. 4-5. Reserved.

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Sec. 4-6. Reserved.
Sec. 4-7. Reserved.
Sec. 4-8. Reserved.
Sec. 4-9. Reserved.
Sec. 4-10. Reserved.
Sec. 4-11. Reserved.
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Sec. 4-12. Reserved.
Sec. 4-13. Reserved.
Sec. 4-14. Reserved.
Sec. 4-15. Reserved.

ARTICLE II. AMUSEMENT DEVICES

DIVISION 1. GENERALLY

Sec. 4-16. Definitions.

Words used in this article shall have their common meaning, except that the definitions set forth in chapter 15, or in this section shall apply unless the context clearly indicates a different meaning:

Adult amusement device shall mean and include any device capable of showing by audio or visual reproduction, projection or otherwise, and used primarily to display material containing details, descriptions, or narrative accounts of acts of sexual stimulation, intercourse, or deviation, the dominant theme of which is an appeal to the prurient interest of the listener or viewer within a cubicle or other enclosed area. For the purpose of this article, each separate selection which may be made by the viewer requiring use of a different projection device shall make that projection device a separate adult amusement device.

Amusement device shall mean and include any vending machine, miniature pool and bowling machine, pinball machine, foosball, and any other device mechanical or otherwise which upon payment of a fee or insertion of a coin, disc, or other insertion piece, whether or not also manipulated by the operator, may be used by the public

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generally as a game, amusement or entertainment, whether or not registering a score and which does not dispense any form of pay-off, prize, or reward, other than an additional free use of the device itself.

(Code 1968, § 904.2; Ord. No. 231-80, 12-22-80)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

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Sec. 4-17. Gambling devices.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever which are otherwise prohibited or contrary to the law, or for which a license is required by article IV of this chapter.

(Code 1968, § 904.3; Ord. No. 231-80, 12-22-80)

Sec. 4-18. Minors prohibited from using adult amusement device.

No person under the age of eighteen (18) shall be permitted by the licensee to operate an adult amusement device.

(Code 1968, § 904.4; Ord. No. 231-80, 12-22-80)

Sec. 4-19. Reserved.

Sec. 4-20. Reserved.

Sec. 4-21. Reserved.

Sec. 4-22. Reserved.

Sec. 4-23. Reserved.

Sec. 4-24. Reserved.

Sec. 4-25. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s)--Licenses and permits generally, Ch. 15. -----

Sec. 4-26. Required.

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No person shall keep for public patronage or permit or allow the operation of any amusement device in or on any premises or location under his or her charge, control or custody, without having a license for each such device from the city.
(Code 1968, § 904.1; Ord. No. 231-80, 12-22-80)

Sec. 4-27. Notice and hearing.

The Department of Permitting and Inspections shall conduct a public hearing with respect to the grant of any original license issued under this division.
(Code 1968, § 904.5; Ord. No. 231-80, 12-22-80; Ord. 165-15/16, 3-7-2016)

Sec. 4-28. Reserved.

*Editor's Note-Pursuant to Order 165-06/07, passed on 4-4-07 this section was
relocated to Section 4-1.

Sec. 4-29. Reserved.
Sec. 4-30. Reserved.
Sec. 4-31. Reserved.
Sec. 4-32. Reserved.
Sec. 4-33. Reserved.
Sec. 4-34. Reserved.
Sec. 4-35. Reserved.
Sec. 4-36. Reserved.
Sec. 4-37. Reserved.
Sec. 4-38. Reserved.
Sec. 4-39. Reserved.
Sec. 4-40. Reserved.

ARTICLE III. MUSIC, DANCING AND SPECIAL ENTERTAINMENT*

*State law reference(s)--Dances, 8 M.R.S.A. § 161 et seq.; special permit for
music, dancing or entertainment, 28 M.R.S.A. § 702. -----

DIVISION 1. GENERALLY

Sec. 4-41. Purpose.

The purpose of this article is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the state to sell liquor as provided by state law, entertainment in bottle clubs, and permits for afterhours entertainment and to control the operation of dance halls, concert halls, single dances and single concerts.

(Code 1968, § 907.1; Ord. No. 231-80, 12-22-80; Ord. No. 34-95, 7-5-95; Ord. No. 165-06/07, 4-4-07)

Sec. 4-42. Definitions.

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Terms used in this article shall have their common meaning except that the definitions set forth in chapter 15 and/or in this section shall apply unless the context clearly indicates that a different meaning is intended.

After-hours entertainment shall mean music, dancing, or entertainment provided between the hours of 1:00 a.m. and 7:00 a.m.

Concert shall mean the presentation of live or amplified music for the entertainment of a live audience gathered specifically for that entertainment.

Concert hall shall mean any building, room or hall which is kept or used for concerts open to the public.

Dance shall mean every dance not held in a private residence; other than a class in which instruction in dancing is given for hire, or any dance held in a school hall under direct supervision of school authorities, or any dance conducted by and exclusively for the benefit of any bona fide charitable organization.

Dance hall shall mean any building, room, hall, or other public place which is kept or used for public dancing, or which for compensation paid directly or indirectly to the owner, manager, or operator thereof, men, women or children are permitted to engage in dancing.

Entertainment shall mean and include any amusement, performance, or exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value. (Code 1968, § 907.3; Ord. No. 231-80, 12-22-80; Ord. No. 34-95, 7-5-95; Ord. No. 165-06/07, 4-4-07)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 4-43. Reserved.

Sec. 4-44. Reserved.
Sec. 4-45. Reserved.
Sec. 4-46. Reserved.
Sec. 4-47. Reserved.
Sec. 4-48. Reserved.

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Sec. 4-49. Reserved.
Sec. 4-50. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s)--Licenses and permits generally, Ch. 15. -----

Sec. 4-51. Required.

(a) No person licensed by the state to sell liquor to be consumed on the premises, and no bottle club licensed by the city, shall permit on the premises any music except that produced by radio or mechanical device, any dancing, or entertainment of any sort without an entertainment license from the city. The license required by this subsection and state law authorizes entertainment only during the hours when state law permits the sale of alcohol for consumption on the premises.

(b) After-hours entertainment shall require a separate license as provided in this division subject to the following restrictions and requirements:

- (1) Operations under such separate license shall end at 3:00 a.m.
- (2) Establishments that have a liquor license shall limit attendance to individuals who are at least 21 years old. Establishments that do not have a liquor license shall limit attendance to individuals who are at least 18 years old.
- (3) Any applicant for an after-hours entertainment license shall meet with the police department for review of the

security plan and a site visit before the license is brought before the city council.

- (4) The license shall allow no more than twenty-four (24) after hour events per calendar year.
- (5) In addition to the after-hours license, at least seven (7) days in advance of each event, the license holder shall deliver a written notice to the Department of Permitting and Inspections during normal business hours specifying the date upon which the event will be held. The Department of Permitting and Inspections

will forward the notice immediately to the police department, track the number and frequency of events per licensee per calendar month and inform a licensee if an event is not allowed.

(c) *Exceptions:* Upon application for a license for a single event, the council may allow after hours entertainment to take place after 3:00 a.m. for a public purpose and may permit individuals under the age of 21 to attend the event, subject to such conditions, if any, that the council imposes to protect the public health, safety and welfare. Any events permitted under this paragraph will not count as one of the twenty-four events per year allowed by section (b)(4) above.

(d) No person shall conduct, maintain or operate a dance hall, a single dance, a concert hall or a single concert, as defined in section 4-42 of this code, without a license.

(Code 1968, § 907.2; Ord. No. 231-80, 12-22-80; Ord. No. 34-95, 7-5-95; Substitute Ord. No. 310-A-01, § 1, 8-20-01; Ord. No. 165-06/07, 4-4-07; Ord. No. 250-07/08, 5-19-08; Ord. No. 163-11/12, 5-7-12; Ord. No. 165-15/16, 3-72016)

**Editor's Note:* Sections 4-51.5 thru 4-51.7 *Moratorium on issuance of latenight entertainment licenses* expired on October 17, 2006, pursuant to Ord. No. 216-05/06, passed on 6-5-06.

Sec. 4-52. Application.

Application for a license under this division shall in addition to the requirements of chapter 15, contain the name of the owner or person in control of the building, the location of the premises, a plan of the premises, giving in detail the dimensions and diagram of space to be used for dancing, seating, dressing rooms, check rooms, toilet rooms, entrances, exits, stairways and fire escapes. (Code 1968, § 907.4; Ord. No. 231-80, 12-22-80; Ord. No. 34-95, 7-5-95)

Sec. 4-53. Hearings.

A public hearing shall be held prior to issuance of any original license under this division other than a single dance license or a single concert license.

(Code 1968, § 907.5; Ord. No. 231-80, 12-22-80; Ord. No. 34-95, 7-5-95)

Sec. 4-54. Appeals.

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Appeal from the denial, suspension revocation or issuance with a condition or conditions of an entertainment license to a person licensed by the state to sell liquor shall be taken to the municipal board of appeals within thirty (30) days of such denial, suspension or revocation. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, suspension or revocation was arbitrary or capricious. If a license is issued with a condition or conditions and the board concludes that the condition or conditions do not protect the public health, safety or welfare or are arbitrary or capricious, the board shall refer the license back to the city council to determine whether the license will issue without the condition or conditions or whether the application will be denied. The denial, suspension revocation or issuance with a condition or conditions of all other licenses or permits required hereunder shall be to the superior court under the provisions of Maine Rules of Civil Procedure 80B.

(Code 1968, § 907.6; Ord. No. 231-80, 12-22-80; Ord. No. 34-95, 7-5-95; Ord. No. 186-02/03, 4-7-03)

Sec. 4-55. Duration.

Licenses shall be granted, denied, suspended, revoked or granted with a condition or conditions in accordance with chapter 15, but in the case of a special entertainment license, it shall be deemed terminated upon expiration or revocation of the respective state license to sell alcoholic beverages or the municipal bottle club license, as the case may be, prior to the expiration of the one-year period. Chapter 15 notwithstanding, the city council may also grant temporary entertainment licenses for a period of less than one (1) year when, in its sole discretion, it determines that one (1) or more trial periods is necessary to evaluate the impact of the entertainment on the peace and quiet of the neighborhood and on the public health, safety and welfare.

(Code 1968, § 907.7; Ord. No. 231-80, 12-22-80; Ord. No. 92-95, 10-16-95; Ord. No. 186-02/03, 4-7-03; Ord. No. 165-06/07, 4-4-07)

Sec. 4-56. Reserved.

*Editor's Note: Pursuant to Order 165-06/07, passed on 4-4-07 this section was relocated to section 4-1.

Sec. 4-57. Conditions; sound and noise limitation.

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Any other provision of this Code notwithstanding, a licensee shall not allow the licensed activity or any other activities on the licensed premises to generate sound or noise that exceeds ninety-two (92) decibels, A-weighted, averaged over one (1) minute, when measured eight feet (8') from the means of egress located nearest to the noise source, or eight feet (8') from the noise source if it is generated outdoors.

The city council may impose conditions for protecting the public health, safety and welfare on any entertainment license it issues. (Ord. No. 34-95, 7-5-95; Ord. No. 186-02/03, 4-7-03; Ord. No. 23-10/11, 9-1310)

Sec. 4-57.1. Sound oversight committee.

(a) There shall be a sound oversight committee of four (4) members appointed by the city council. One (1) member shall be a city employee nominated by the city manager; one (1) member shall be a police officer nominated by Portland's Downtown District board; and one (1) member shall be an entertainment licensee nominated by the nightlife oversight committee. The police officer shall be the chair of the sound oversight committee and shall be a non-voting member, except that the police officer shall cast the tie-breaking vote in the event of a tie.

(b) The sound oversight committee shall meet with new entertainment license applicants when the license application is referred to the team either by the city council or by the nightlife oversight committee. The sound oversight committee shall make recommendations to the applicant regarding actions it can take to mitigate noise and shall make any recommendations regarding noise mitigation it deems necessary to the city council for consideration.

(c) Whenever the police receive two (2) or more verified noise complaints from two (2) separate individuals in any seven (7) day period or five (5) or more verified noise complaints in any thirty (30) day period regarding a particular entertainment licensed establishment, the police department shall notify the licensee to meet with the sound oversight committee within five (5) business days from the date of the written notification, or such other time as is agreed upon by the sound oversight committee, to identify ways in which the noise problems which have been identified can be mitigated. The sound oversight

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committee shall notify the complainants of the date and time of the meeting.

The licensee shall agree to take effective measures to address the noise issues as recommended by the sound oversight committee, which measures shall be memorialized in a written agreement at the conclusion of the meeting with the sound oversight committee and shall be implemented within one (1) week of said meeting unless another date is agreed upon by the sound oversight committee. Failure to implement the plan in a timely fashion or to comply with all recommendations in the plan will result in a recommendation by the sound oversight committee to the city council to place conditions on or revoke the establishment's entertainment license.

If the police receive two (2) or more verified noise complaints from two (2) separate individuals in any seven (7) day period or five (5) or more verified noise complaints in any thirty (30) day period regarding the same licensed establishment on a subsequent occasion, then the sound oversight committee is under no obligation to meet with the licensee but may make recommendations to the city council to place conditions on or revoke the entertainment license.

(d) The sound oversight committee may also meet with liquor license applicants upon referral by the city council or the nightlife oversight committee and may recommend noise mitigation measures to liquor licensees upon referral by the Portland police department or the city council.

(Ord. No. 23-10/11, 9-13-10)

Sec. 4-57.5. Restricted locations.

Notwithstanding any other provision of this article, no new licenses shall be issued in the B-3c zone to drinking establishments and chemical-free night clubs, as defined in section 14-47. For purposes of this section, renewal of an existing license by the party holding the license on the date of enactment shall not be considered a new license. Any transfer of ownership shall be considered a new license.

(Ord. No. 47-97, 8-4-97)

Sec. 4-58. Penalties.

In addition to suspending or revoking a license, the city may prosecute violations in court. A violation of this division shall be punished by a fine of five hundred dollars (\$500.00)

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for a first offense, one thousand dollars (\$1,000.00) for a second offense and two thousand dollars (\$2,000.00) for a third or subsequent offense regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this division by appropriate action. In addition to such penalty, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorneys' fees and investigative costs.

(Ord. No. 34-95, 7-5-95)

Sec. 4-59. Applicability.

This division shall not apply to events held: (a) in a private residence; (b) in a class in which instruction in music is given for hire; (c) in a school under supervision of school authorities; or (d) by and exclusively for the benefit of any bona fide charitable organization.

(Ord. No. 34-95, 7-5-95)

Sec. 4-60. Severability.

The provisions of section 1-14 of this Code shall apply to this division.

(Ord. No. 34-95, 7-5-95)

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*Editor's Note-Pursuant to Council Order No. 63, 06/07 passed 10-16-06, the moratorium issued for late-night entertainment expired on November 20, 2006.

Sec. 4-61. Reserved.
Sec. 4-62. Reserved.
Sec. 4-63. Reserved.
Sec. 4-64. Reserved.
Sec. 4-65. Reserved.
Sec. 4-66. Reserved.
Sec. 4-67. Reserved.
Sec. 4-68. Reserved.
Sec. 4-69. Reserved.
Sec. 4-70. Reserved.

ARTICLE IV. GAMING*

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*State law reference(s)--Beano or Bingo, 17 M.R.S.A. § 301 et seq.

DIVISION 1. GENERALLY

Sec. 4-71. Legislative findings and purpose.

It is the sense of the city council, having the power to consent to the operation or conduct of any beano or game of chance within the city, that such consent should be conditioned and exercised in accordance with the standards set forth in chapter 15, as modified by this article.

(Code 1968, § 909.1; Ord. No. 231-80, 12-22-80)

Sec. 4-72. Definitions.

Terms used in this article shall have their common meaning, except that definitions set forth in chapter 15 or in this section shall

apply unless the context clearly indicates that a different meaning is intended.

Beano shall mean and include bingo, any other form of lotto, or any other activity defined as being bingo or beano by the applicable licensing provision of the state for which the consent of the city council is required.

Game of chance shall mean and include any game, contest, scheme, or device other than beano where a person stakes or risks something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestant or participant may be a factor therein, or any game of chance, machine, raffle, or otherwise, defined and licensed as such by the applicable licensing provision of the state for which the consent of the city council is required.

(Code 1968, § 909.2; Ord. No. 231.80, 12-22-80)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 4-73. Reserved.

Sec. 4-74. Reserved.

Sec. 4-75. Reserved.

Sec. 4-76. Reserved.

Sec. 4-77. Reserved.

Sec. 4-78. Reserved.

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Sec. 4-79. Reserved.

Sec. 4-80. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s)--Licenses and permits generally, Ch. 15. -----

Sec. 4-81. Applications and fees.

Applications for a state license to conduct beano or a game of chance shall be deemed sufficient applications for the purpose of chapter 15 if accompanied by the fees prescribed therein. Upon compliance with this article and chapter 15, the Department of Permitting and Inspections shall signify the consent of the city council to such application.

(Code 1968, § 909.3; Ord. No. 231-80, 12-22-80; Ord. No. 165-15/16, 3-7-2016)

Sec. 4-82. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

(Code 1968, § 909.4; Ord. No. 231-80, 12-22-80)

ARTICLE V. NUDITY IN LICENSED BUSINESSES

DIVISION 1. GENERALLY

Sec. 4-83. Purpose.

The purpose of this article is to regulate nudity as a form of commercial activity. It has been enacted for purposes of promoting and protecting the general welfare, public safety and public order of the city and its citizens. It is not intended to suppress or inhibit free exchange of ideas or artistic expression.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-84. Definitions.

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Terms used in this article shall have their common meanings except that the definitions set forth in chapter 15 and/or in this section shall apply unless the context clearly indicates that a different meaning is intended.

Dancer shall mean a person under a licensee's control and dancing on the licensee's premises to entertain patrons, including patrons performing in a licensee-sponsored event.

Nude shall mean:

- (a) To show the human male or female genitals, pubic hair, buttocks, perineum or anus with less than a fully opaque covering; or
- (b) To show any portion of the female breasts at or below the areola thereof with less than a fully opaque covering.

Theater shall mean:

- (a) A building, playhouse, hall, or other place having a permanent stage upon which moveable scenery and theatrical or vaudeville or similar performances are given and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the stage; or
- (b) A building, room, hall, or other place whose primary function is to present movies or motion pictures and which has a permanent movie screen and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of such screen.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

DIVISION 2. LICENSE

Sec. 4-85. Required.

(a) No person shall permit public nude activity on the premises of any business subject to license under the Portland City Code without a nude activity license from the city, whether provided by professional entertainer(s), employees, or any other person, and without regard as to whether any compensation is

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paid by the management of the establishment in which the activity is performed.

(b) There shall be no physical contact on the premises between any patron and dancer. For the purposes of this section, physical contact does not include incidental touching between a dancer and patron, of a business or social nature, i.e., a handshake or the brief contact that occurs while a patron is giving a tip to a dancer.

(c) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.

(d) Dancers on the premises who remove any garments shall not toss or throw those garments at any patron.

(e) The licensee shall, at his own expense, post a security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) at each entrance and exit to the premises during each performance by dancers on the premises and for one-half hour after each such performance.

(f) No patron under twenty-one (21) years of age shall be permitted on the premises or portion of the premises where a performance by dancers is conducted during any such performance.
(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-86. Application.

Application for license under this division shall, in addition to the requirements of chapter 15, contain a plan of the premises showing the location, frequency and times of the nude activity.
(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-87. Hearings.

A public hearing shall be held by the city council prior to issuance of any license under this division.
(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-88. Duration/suspension and revocation.

A license shall be granted, denied, suspended or revoked in accordance with chapter 15 and this section unless suspended or revoked by a court, but it shall be deemed terminated upon

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expiration or revocation of any other license for the premises prior to the expiration of the one-year period. A license suspension shall be for a minimum of three (3) business days and a maximum of forty-five (45) business days following conviction or determination of a first offense under this article or chapter 15, and during the suspension period no other applications shall be

accepted by the city. Conviction or determination of a second offense at any time shall result in revocation, and the city shall not accept a subsequent application from the same applicant or anyone related to the applicant by blood, marriage, or business for a period of two (2) years, or at any time within the two-year period if the city determines that the purpose of the application is to circumvent the provisions of this section or section 4-94. After the two-year period, an application will be subject to the availability, if any, of a license.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-89. Minors prohibited.

No person under the age of eighteen (18) shall be permitted visual or physical access to activity licensed pursuant to this division.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-90. Prohibited activity.

No licensee shall permit any person to show the human male or female genitals, pubic hair, perineum or anus with less than a fully opaque covering.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-91. Location.

(a) Proximity requirements.

(1) The premises shall be at least one thousand (1,000) feet from the principal entrance of any other premises licensed pursuant to this division.

(2) The principal entrance of licensed premises shall be at least one thousand (1,000) feet from any public or private school, school dormitory, church, chapel or parish house in existence as such at the time the application is made.

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(3) Licensed premises may not be located within a residential zone, and the principal entrance of a licensed premises shall be at least one thousand (1,000) feet from any residential zone.

(b) *Method of measurement.* The distance must be measured from the main entrance of the premises, as measured in a straight line, without regard to intervening structures or objects.

(b) Notwithstanding any other provision of this Code, no nude activity license shall be issued for, and no nude activity shall be permitted in, any zone other than the B-4 zone.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95; Ord. No. 185-97, 1-22-97)

Sec. 4-92. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-93. Exceptions.

(a) This division shall not apply to a theater or similar establishment which is primarily devoted to theatrical performances or the presentation of movies.

(b) This division shall not apply to any act authorized or prohibited by any statute of the state.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-94. Penalty.

The violation of any provision of this division shall be punished by a fine of one thousand dollars (\$1,000.00) for a first offense, one thousand five hundred dollars (\$1,500.00) for a second offense and two thousand dollars (\$2,000.00) for a third or subsequent offense regardless of the time between offenses. Violations shall also be punished by license suspension for a minimum of three (3) business days and a maximum of forty-five (45) business days for a conviction or determination of a first offense, and license revocation for a conviction or determination of a second or subsequent offense. Any revocation shall be applied in accordance with section 4-88. Each act of violation and every day upon which any such

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violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this division by appropriate action. In addition to

such penalty, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, reasonable attorneys' fees and reasonable investigative costs.
(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-95. Application of violations to liquor licenses.

Any violation of this division may result in the nonrenewal by the city council of the liquor license held by the violator at the time the council first considers the liquor license following adjudication under this division.
(Ord. No. 217-95, 4-3-95)

Sec. 4-96. Severability.

The provisions of section 1-14 of this Code shall apply to this division.
(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-97. Prohibition on the issuance of new licenses.

Notwithstanding any other provision of this Code, no new nude activity licenses shall be issued after March 3, 1997. For purposes of this section, renewal of an existing license by the party holding the license on the date of enactment shall not be considered a new license. Existing licenses shall remain subject to the regulations set forth in this article, in addition to all other applicable state and local requirements.
(Ord. No. 225-97, 3-17-97)

Portland Police Department
Daily Calls For Service On

Date: 2/

EXHIBIT

A

50999

incident nbr	call time start	call time end	call type start	address	disposition
160230101	1/23/2016 09:05AM	1/23/2016 09:13AM	ALARM/BURGLARY	37 EXCHANGE ST	FALSE BURGLAR ALARM REPORT
160400424	2/9/2016 06:09PM	2/9/2016 06:52PM	PD CRASH	37 EXCHANGE ST	CRASH REPORT TAKEN
160470347	2/16/2016 04:06PM	2/16/2016 04:39PM	SHOPLIFTING	37 EXCHANGE ST	REPORT TAKEN
161080291	4/17/2016 04:13PM	4/17/2016 04:15PM	911 HANG UP CALLS	37 EXCHANGE ST	
161350311	5/14/2016 03:01PM	5/14/2016 03:27PM	LOUD MUSIC	37 EXCHANGE ST	PROVIDED SERVICE
161560496	6/4/2016 07:29PM	6/4/2016 08:22PM	LOUD MUSIC	37 EXCHANGE ST	UNFOUNDED CALL PROVIDED SERVICE
161580455	6/6/2016 06:49PM	6/6/2016 07:43PM	VEHICLE COMPLAINT	37 EXCHANGE ST	GOA
161640387	6/12/2016 04:11PM	6/12/2016 04:15PM	FIGHT	37 EXCHANGE ST	UNFOUNDED CALL
161680453	6/16/2016 05:41PM	6/16/2016 05:56PM	LOUD MUSIC	37 EXCHANGE ST	PROVIDED SERVICE
161680459	6/16/2016 05:24PM	6/16/2016 05:25PM	LOUD MUSIC	37 EXCHANGE ST	
161850330	7/3/2016 02:44PM	7/3/2016 04:13PM	LOUD MUSIC	37 EXCHANGE ST	PROVIDED SERVICE
161880459	7/6/2016 04:33PM	7/6/2016 04:55PM	LOUD MUSIC	37 EXCHANGE ST	
161880460	7/6/2016 04:33PM	7/6/2016 04:55PM	LOUD MUSIC	37 EXCHANGE ST	PROVIDED SERVICE
162030654	7/21/2016 07:41PM	7/21/2016 07:47PM	LOUD MUSIC	37 EXCHANGE ST	UNFOUNDED CALL
162040196	7/22/2016 09:27AM	7/22/2016 09:39AM	PROPERTY/FOUND	37 EXCHANGE ST	PROVIDED SERVICE
162470440	9/3/2016 05:07PM	9/3/2016 06:28PM	LOUD MUSIC	37 EXCHANGE ST	PROVIDED SERVICE
162470506	9/3/2016 06:38PM	9/3/2016 06:51PM	LOUD MUSIC	37 EXCHANGE ST	UNFOUNDED CALL
162550352	9/11/2016 02:49PM	9/11/2016 03:24PM	LOUD MUSIC	37 EXCHANGE ST	UNFOUNDED CALL
162590502	9/15/2016 06:30PM	9/15/2016 07:21PM	LOUD MUSIC	37 EXCHANGE ST	UNFOUNDED CALL
162740178	9/30/2016 09:52AM	9/30/2016 10:16AM	SUSPICIOUS ACTIVITY	37 EXCHANGE ST	PROVIDED SERVICE

11 Loud music
- all before 7:45
7 before 5:30

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 126-16/17
Tab 8 8-6-17
Tab 18 2-22-17*

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

**ORDER APPROVING AGREEMENT BETWEEN PORTLAND AND MAINE
DEPARTMENT OF TRANSPORTATION
RE: VERANDA STREET PAVING**

ORDERED, that the two-party agreement between the Maine Department of Transportation and the City of Portland, for construction on the section of Veranda Street between Wordsworth Street and the Martin's Point Bridge, WIN 018631, is hereby approved in substantially the form attached hereto; 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 and this Order.

MEMORANDUM
City Council Agenda Item

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

FROM: Kathi Earley, Engineering Manager/City Engineer

DATE: Jan 23, 2017 *RVSD Jan 26, 2017*

SUBJECT: Veranda St Paving – Two-Party Agreement with MaineDOT

SPONSOR:

(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 Feb 6, 2017 **Final Action** Feb 22, 2017

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

MaineDOT must receive City authorization prior to March 1, 2017 to meet targeted bid advertisement and construction dates.

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

N/A

I. ONE SENTENCE SUMMARY

Requesting City Council authorization for City Manager to enter into two-party agreement with MaineDOT to pave portion of Veranda St. in 2017.

II. AGENDA DESCRIPTION

City Council Order #103 16/17 previously authorized the City to enter into a three-party agreement with MaineDOT and PACTS. That agreement covered only the design phase for a specific paving project on Veranda St (between Wordsworth St. and the Martin's Point Bridge), and projected this two-party agreement to cover the bid and construction phase responsibilities.

This two-party agreement stipulates financial and other obligations related to highly leveraged Collector Road pavement preservation utilizing Federal and Local funds. Entering into this agreement allows MaineDOT to proceed with bidding and construction so paving will occur in 2017, inclusive of as needed City Utility structure adjustments.

III. BACKGROUND

This Collector Paving project is part of MaineDOT's 2017 Work Plan and was initially awarded via the PACTS 16-18 TIP. The project will result in a ¾" overlay of Veranda St between Wordsworth St. and the Martin's Point Bridge.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Utilizes federally funded paving program through PACTS to preserve & improve regionally important Transportation systems.

V. FINANCIAL IMPACT

The City of Portland owes a 25% Local Match to this \$299,000 paving project; the agreement estimates that cost as \$74,750. Additionally, the City must pay 100% of its Utility systems costs; that is estimated at \$12,000. The estimated City cost obligation is therefore \$86,750; these funds will be drawn from PACTS project capital funding in the City's CIP.

Please note that these costs are slightly higher than the estimate contained in the three-party agreement authorized by Order #103 16/17. The Local Match was reduced, but that was offset by the addition of the City's Utility systems costs.

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

MaineDOT is preparing a bid advertisement now with the goal of paving occurring sometime between June and September 2017. They are aware of the Maine Marathon event and will endeavor to coordinate activities if needed.

Please note this paving project was reduced in scope as MaineDOT is also preparing a major bridge project that will result in significant roadway realignments sometime in or after 2020. The City has therefore also held back on requesting significant additional improvements related to our Martin's Point Shared Use Path Feasibility Study completed in January 2016. We will be achieving specific pavement marking outcomes to improve the bicycle facility in this street segment.

VII. RECOMMENDATION

DPW recommends entering into this agreement & allowing MaineDOT to pave this portion of Veranda St in 2017.

VIII. LIST ATTACHMENTS

MaineDOT Municipal/State agreement for WIN #18631.00

Prepared by: Kathi Earley

Date: Jan 23, 2017



MaineDOT

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO VERANDA STREET

MaineDOT use only

TEDOCS #: _____
CT #: _____
CSN #: _____
PROGRAM: _____

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 18631.00
Federal Aid Project #: NHPP-1863(100)

Estimated Municipal Share: \$86,750.00
Vendor Customer #: 17A12984
Agreement Begin Date: _____
Agreement End Date: (3 years from the date last signed below)

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "MaineDOT") and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Veranda Street, in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Perpetual Landscape Maintenance
- ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage and associated light(s)
- ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance
- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

- A. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. MaineDOT shall be the sole administrator of this contract. MaineDOT will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project

because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by MaineDOT. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - 1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 - 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 - 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 - 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 - 5. The Municipality will have the opportunity to review and comment.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to MaineDOT's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with MaineDOT, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless MaineDOT, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by

MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of MaineDOT.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive* shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
William A. Pulver, Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO VERANDA STREET

FEDERAL AID PROJECT NO. NHPP-1863(100)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 18631.00

Project Scope: 3/4" overlay beginning at Wordsworth Street and extending 0.46 miles to Martins Point Healthcare entrance.

Funding Outline: The Total Project Estimated Cost is \$ 311,000.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			MPO	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25.0%	\$ 2,000.00	75.0%	\$ 6,000.00	0.0%	\$ -	\$ 8,000.00
Right of Way	25.0%	\$ -	75.0%	\$ -	0.0%	\$ -	\$ -
Construction	25.0%	\$ 62,750.00	75.0%	\$ 188,250.00	0.0%	\$ -	\$ 251,000.00
Construction Engineering	25.0%	\$ 10,000.00	75.0%	\$ 30,000.00	0.0%	\$ -	\$ 40,000.00
PROJECT SHARES		\$ 74,750.00		\$ 224,250.00		\$ -	\$ 299,000.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 12,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 86,750.00					

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Sewer Adjusts (12 EA @ \$1000)		\$	12,000.00
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	12,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

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

Municipality Name	Receivable Amount	Estimated Invoice Date
Portland	\$46,750.00	4/1/2017
Portland	\$40,000.00	12/1/2017
Portland	Balance	12/1/2018
Total Receivable Amount:	\$86,750.00	

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO VERANDA ST

FEDERAL AID PROJECT NO. NHPP-1863(100)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 18631.00

1. Description of Work Being Added to Project By The Municipality:
Sewer structure adjustments

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details"* and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the

responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

Ord 127-16/17
Sub 9 2-6-17
Sub 19 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 10 FIRE PREVENTION AND PROTECTION
Re: Smoke Alarms, Reinspection Fees, Open Burning, False
Alarms, and Inspections and Enforcement**

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

*1. That Chapter 10, Article I, Section 10-3 of the City of
Portland Code is hereby amended to read as follows:*

Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is
amended, modified and deleted in the following respects:

...

- (i) New smoke alarm installations must use photoelectric
technology.

Further, in new single or multiple-station smoke alarm
installations in buildings subject to NFPA 101,
Chapter 31, the primary power source must be the
building's electrical service and the smoke alarms
must be provided with a secondary (standby) power
source. Therefore, the following sections shall be
deleted:

Section 31.3.4.5.2
Section 31.3.4.5.4

...

- (n) Inspections. The authority having jurisdiction, upon
proper identification, shall have the right to enter
at any and all reasonable times for the purpose of
inspecting in order to determine compliance with the
provision of this Code into or upon any of the
following premises: any rental unit subject to

registration under section 6-151; any premises subject to this Article, with the exception of premises subject to Chapter 24 of NFPA 101; any premises when any governmental agency having jurisdiction over a particular premises should request it to do so; or any premises in response to a complaint regarding conditions governed by this Chapter. It shall be a violation of this article for any person either to interfere with or to prevent such inspection.

2. That Chapter 10, Article III, Sections 10-25 and 10-25.9 of the City of Portland Code are hereby amended to read as follows:

Sec. 10-25. Violations.

The authority having jurisdiction is authorized to institute, or cause to be instituted by the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of Chapter 10.

- (a) Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who shall violate any of the provisions of Chapter 10, including the codes adopted under this Chapter, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively pay a penalty as provided in section 1-15 of the city code and/or as provided under state law. The imposition of any penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of

prohibited conditions.

...

Sec. 10-25.9. Reinspection.

Following the issuance of a notice of violation and an order to correct violations, the authority having jurisdiction will reinspect once for no fee in order to determine whether the violations have been corrected in compliance with this chapter. If the violations have not been corrected in compliance with this chapter, the violator shall be assessed a fee of one hundred and fifty dollars (\$150.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property and the assessment and lien shall be collected and enforced pursuant to §1-16.

3. *That Chapter 10, Article VII, Sections 10-92, 10-94 and 10-95 of the City of Portland Code are hereby amended to read as follows:*

Sec. 10-92. Campfires in the City of Portland

Camp fires are permitted within the City of Portland with a valid burning permit. All such campfires shall comply with all State laws, this Chapter, and all rules and regulations promulgated pursuant to this Chapter for recreational outdoor fires. Any such burning permit may be cancelled for cause.

...

Sec. 10-94. Violations.

In addition to the process established by section 10-25, this article may also be enforced by the police chief, or his or her designee.

Sec. 10-95. Outdoor fireplaces.

(a) No permit shall be required to burn in a fixed outdoor fireplace that has been installed and is operated in accordance with this Chapter, all rules and regulations promulgated pursuant to this Chapter, and National Fire Protection Association 211 (2010); Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

(b) No permit shall be required to burn in a recreational fire appliance that is operated in accordance with this Chapter, all rules and regulations promulgated pursuant to this Chapter, and the manufacturer's instructions. This paragraph shall not apply to the use of an open fire ring.

(c) All outdoor fireplaces and recreational fire appliances allowed under this section must be set back at least fifteen (15) feet from all structures, combustible material, and adjacent property lines.

4. *That Chapter 10, Article VIII, Sections 10-100, 10-104 and 10-107 of the City of Portland Code are hereby amended to read as follows:*

Sec. 10-100. Purpose; definitions.

(a) Purpose. In order to protect public safety and welfare and ensure fully operational signaling systems for the protection of life and property, it is necessary to ensure that such systems are correctly designed, installed and maintained.

(b) For purposes of this article, the following definitions shall apply unless the context clearly implies otherwise:

Alarm number means any number assigned by the fire chief to a building which is connected by a fire alarm system to an approved private central station.

Alarm user means an owner of any building, or part thereof, that has a master box alarm system or an approved private central station, or an agent of the owner who is responsible for the building.

Approved private central station means any privately operated message monitoring service which is approved by Underwriters' Laboratories, Incorporated, and approved by the authority having jurisdiction.

Dispatch Center (also known as the public safety answering point "PSAP") means any place utilized by the City of Portland for the receipt, monitoring or dispatching of alarms.

False alarm means any signal emitted from an approved

private central station or master box alarm system that is not in response to heat, smoke or fire requiring an immediate response by the fire department. "False alarm" includes any signal emitted by a negligently activated alarm system, or by an alarm system deliberately activated when an immediate response by the fire department is not required, or by a malfunctioning alarm system. However, "false alarm" does not include any signal emitted by an alarm system activated by unusually severe weather conditions, or other cause beyond the control of the alarm user. In case of any dispute, it shall be the burden of the alarm user to demonstrate to the satisfaction of the fire chief that an alarm signal was not a "false alarm."

...

Sec. 10-104. False alarm penalties.

(a) *Third response.* Once a third false alarm at a building within any twelve-month period has been identified by the fire chief or his/her designee, the fire chief shall give written notice of the false alarm to the alarm user within ten (10) business days, and the alarm user shall file a written report with the chief within five (5) days thereafter stating the cause of the false alarm, if known, and describing corrective action taken, if any.

(b) *Fourth, fifth and sixth responses.* For the fourth, fifth and sixth false alarms at a building within any twelve-month period, the alarm user shall, upon demand, pay a penalty of two hundred dollars (\$200.00) per instance and shall, in the case of any equipment failure, file with the fire chief within three (3) days of notice to do so a signed statement by a qualified private alarm agent that the alarm system has been inspected and is in proper working order. In the case of human error or other cause, the alarm user shall file a written report with the fire chief describing corrective action taken, if any.

(c) *Seventh and subsequent responses.* For the seventh and subsequent false alarms at a building within any twelve-month period, the alarm user shall, upon demand, pay a penalty of three hundred and fifty dollars (\$350.00).

...

Sec. 10-107. Violations.

In addition to the process set forth in section 10-25, when the chief of the fire department, in his or her sole discretion, determines that the property owner has failed to take action to correct a faulty fire alarm system within four (4) hours of being notified of its deficiency, the chief shall have the authority, in person or through agents, to enter onto any property to have fire protection equipment repaired. The fire chief shall cause the condition to be corrected and shall send a notice of any action taken to correct an unsafe condition and the charges for the work done to the owner or the owner's authorized representative. The charges shall be payable to the city within thirty (30) days of the date of the notice. Any unpaid charges assessed under this section shall be enforceable by lien for the benefit of the city and shall be collected pursuant to section 1-16 of this Code.

MEMORANDUM
City Council Agenda Item

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

FROM: Chief David Jackson, Portland Fire Department

DATE: January 19, 2017

SUBJECT: Fire Prevention Amendments to Chapter 10, Fire Prevention and Protection

SPONSOR: Health and Human Services Committee
January 10, 2017
3-0 vote in favor of recommending the proposed changes be adopted

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ x _____ Final Action _____

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

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

I. ONE SENTENCE SUMMARY

These amendments make recommended changes to Chapter 10, Fire Prevention and Protection that concern smoke alarms, re-inspection fees, open-burning, false alarms and inspection and enforcement provisions.

II. AGENDA DESCRIPTION

The Portland Fire Department proposes to make the following changes to Chapter 10:

- Amend the requirements for smoke alarms in existing one- and two-family dwellings;
- Increase re-inspection fees to make them consistent with reinspection fees for other departments;
- Amend the open burning requirements to make them consistent throughout the City;
- Change the calculation for false alarms from calendar year to rolling 12-month basis; and
- Clarify inspection and enforcement provisions.

III. BACKGROUND

See attached memorandum.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

To adopt the proposed changes to Chapter 10.

V. FINANCIAL IMPACT

None anticipated, with the possible exception of a slight increase in reinspection fee revenue.

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

See attached memorandum.

VII. RECOMMENDATION

To adopt the changes, as recommended.

VIII. LIST ATTACHMENTS

- a. Memorandum
- b. Proposed changes to Chapter 10
- c. Excerpts from NFPA 101 (2009)

Prepared by:

Date:

Bean/agendarequestmemo/rev 11/2015

MEMORANDUM

TO: City of Portland City Council
FROM: Chief David Jackson Portland Fire Department
DATE: January 12, 2017
RE: Amendments to Chapter 10

Staff is proposing changes to Chapter 10, Fire Prevention and Protection, of the City of Portland Code of Ordinances to clarify certain provisions of the Chapter, and to provide for increased fire and life safety protections. A summary of the changes are as follows:

Smoke Alarms Requirements in Existing One- and Two-Families. The City has adopted NFPA 101 (2009), Fire and Life Safety Code, which allows existing one- and two-unit buildings to use battery operated smoke alarms, rather than having them hardwired. The current version of Chapter 10, however, alters this provision of NFPA 101 to require that all buildings in the City have hardwired smoke alarm systems.

When dealing with existing buildings, the cost and difficulty of upgrading to hardwired alarms can be significant. In staff's opinion, with current smoke alarm technology, battery operated, ten-year sealed battery smoke alarms provide sufficient detection in one- and two-family dwellings to address fire and life safety concerns. Additionally, this technology is more accessible to homeowners, enhancing the likelihood of compliance. Because of this, staff recommends adopting the default position in NFPA 101 that battery smoke alarms are sufficient in one- and two-family dwellings.

Re-inspection Fees. If a building or business fails an initial occupancy inspection, or a re-inspection for corrected violations, the Fire Department has the right to charge a fee for the second inspection to compensate for the additional staff time required. Currently, that fee is \$75.00. The proposed changes increase this fee to \$150.00 to standardize this with parallel fees for the Permitting and Inspections Department.

Open Burning. When the Council first amended the open burning requirements, there were conversations about making the rules uniform across the City, including the islands, and this is how the Fire Department has been enforcing those rules. The proposed language to accomplish that, however, was never included in the Council packet at the time and was, therefore, not adopted. The proposed changes rectify that oversight and clarify the types of permissible open burning, and the requirements for permits. No changes from current practice is intended.

Alarm Systems. False fire alarms are currently regulated on a calendar year basis, and staff recommends that the time period be changed to a rolling twelve-month period to help prevent the waste of City resources in responding to false alarms.

Inspection and Enforcement Provisions. The language regarding inspections and enforcement has been updated to clarify the Fire Department's authority to inspect and take enforcement action to ensure compliance with Chapter 10 and state law. No changes from current practice are intended.

CHAPTER 10

ARTICLE I. LIFE SAFETY CODE

Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is amended, modified and deleted in the following respects:

...

- (i) New smoke alarm installations must use photoelectric technology.

~~All Further, new single and/or multiple-station smoke alarm installations in buildings subject to NFPA 101, Chapter 31, the primary power source must be the building's electrical service and the smoke alarms must be provided with a secondary (standby) power source. s shall comply with section 9.6.2.10 without exception. New detectors shall not use ionization detection technology. Therefore, the following sections shall be deleted:~~

~~Section 24.3.4.3~~

~~Section 31.3.4.5.2~~

~~Section 31.3.4.5.4~~

...

- (n) Inspections. ~~The authority having jurisdiction, whenever any governmental agency having jurisdiction over a particular premises should request it to do so, upon proper identification, shall have the right to enter at any and all reasonable times into or upon any premises subject to this Code for the purpose of inspecting the premises in order to determine compliance with the provision of this Code into or upon any of the following premises: any rental unit subject to registration under section 6-151; any premises subject to this Article, with the exception of premises subject to Chapter 24 of NFPA 101; any premises when any governmental agency having jurisdiction over a particular premises should request it to do so; or any premises in response to a complaint regarding conditions governed by this Chapter. It shall be a violation of this article for any person either to interfere with or to prevent such inspection.~~

...

ARTICLE III. ENFORCEMENT AND APPEALS

Sec. 10-25. Violations.

The authority having jurisdiction is authorized to institute, or cause to be instituted by the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of Chapter 10. The provisions of Chapter 10 may be enforced by the authority having jurisdiction through the Uniform Summons and Complaint process or M.R.Cv.P. Rule 80K.

- (a) Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who shall violate any of the provisions of Chapter 10, including the codes adopted under this Chapter, the Fire Code and/or the Life Safety Code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively pay a penalty as provided in section 1-15 of the city code and/or as provided under state law. The imposition of any penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
- (b) Notwithstanding anything to the contrary in the foregoing, failure to obtain a permit required under this chapter or failure to correct an unsafe condition after receipt of written notice from the city of the need for such permit or for such correction shall be subject to the following minimum penalties:
 - (1) First offense: Five hundred dollar (\$500.00) fine;
 - (2) Second offense: One thousand dollar (\$1,000.00) fine;
 - (3) Third offense: One thousand five-hundred dollar (\$1,500.00) fine.
- (c) In addition to the foregoing, violators will be required to pay all unpaid permit fees and the city may enjoin or abate any violation by appropriate action.

Sec. 10-25.6. Restriction on conveyance of property; exception.

It shall be a violation of this article for any person to sell, transfer, or otherwise dispose of any property against which an order has been issued by the authority having jurisdiction under the provisions of this article unless he or she shall first furnish to the grantee a true copy of any such order and shall at

the same time notify the authority having jurisdiction in writing of the intent to so transfer either by delivering the notice to the authority having jurisdiction and receiving a receipt or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed. In the event of a violation of this section, such person shall be subject to a penalty as provided in section 1-15, in addition to any penalty which may be imposed for failure to comply with any order of the authority having jurisdiction.

Sec. 10-25.9. Reinspection.

Following the issuance of a notice of violation and an order to correct violations, the authority having jurisdiction will reinspect once for no fee in order to determine whether the violations have been corrected in compliance with this chapter. If the violations have not been corrected in compliance with this chapter, the violator shall be assessed a fee of ~~seventy-five~~ one hundred and fifty dollars (\$~~150~~75.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property and the assessment and lien shall be collected and enforced pursuant to §1-16.

ARTICLE VII. OPEN BURNING

Sec. 10-92. ~~Recreational Campfires on the~~ City of Portland ~~islands~~

~~Recreational Camp fires are may be permitted on islands of~~within the City of Portland with a valid burning permit. All such ~~recreational camp fires~~ shall be kindled below the mean high tide line and comply with all State laws, ~~this Chapter, and all rules and regulations promulgated pursuant to this Chapter and rules for open burning recreational outdoor fires.~~ Any such burning permit may be cancelled for cause.

Sec. 10-94. Violations.

~~A violation of any provision of this article shall be punishable as provided in section 1-15 of this code.~~

~~—In addition to the process established by section 10-25, This article may also be enforced by the fire chief or his or her designee, or by the police chief, or his designee through the Uniform Summons and Complaint process or M.R. Civ. P. Rule 80k.~~

Sec. 10-95. Outdoor fireplaces.

(a) ~~No permit shall be required to burn in a fixed outdoor fireplaces shall be permitted when that has been installed and is operated in accordance with Section 10-16 of the City Code~~this Chapter, all rules and regulations promulgated pursuant to this Chapter, and National Fire Protection Association (NFPA) 211 (2010); Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

(b) ~~No permit shall be required to burn in a recreational fire appliance that is operated in accordance with this Chapter, all rules and regulations promulgated pursuant to this Chapter, and the manufacturer's instructions. This paragraph shall not apply to the use of an open fire ring.~~

(c) ~~Setback of an outdoor fire place from adjacent property lines shall be five (5) feet. All outdoor fireplaces and recreational fire appliances allowed under this section must be set back at least fifteen (15) feet from all structures, combustible material, and adjacent property lines.~~

ARTICLE VIII. SIGNALING SYSTEMS FOR THE PROTECTION OF LIFE AND PROPERTY

Sec. 10-100. Purpose; definitions.

(a) Purpose. In order to protect public safety and welfare and ensure fully operational signaling systems for the protection of life and property, it is necessary to ensure that such systems are correctly designed, installed and maintained.

(b) For purposes of this article, the following definitions shall apply unless the context clearly implies otherwise:

Alarm number means any number assigned by the fire chief to a building which is connected by a fire alarm system to an approved private central station.

Alarm user means an owner of any building, or part thereof, that has a master box alarm system ~~y person whose building is connected to either the Dispatch Center of the City of Portland fire department or an approved private central station, or an agent of the owner who is responsible for the building.~~

Approved private central station means any privately operated message monitoring service which is approved by Underwriters' Laboratories, Incorporated, and approved by the authority having jurisdiction.

Dispatch Center (also known as the public safety answering point "PSAP") means any place utilized by the City of Portland for the receipt, monitoring or dispatching of alarms.

False alarm means any signal emitted from an approved private central station or master box alarm system that ~~which~~ is not in response to heat, smoke or fire requiring an immediate response by the fire department. "False alarm" includes any signals emitted by a negligently activated alarm system, or by an alarm system deliberately activated when an immediate response by the fire department is not required, or by a malfunctioning alarm system. However, "false alarm" does not include any signals emitted by an alarm system activated by unusually severe weather conditions, or other cause beyond the control of the alarm user. In case of any dispute, it shall be the burden of the alarm user to demonstrate to the satisfaction of the fire chief that an alarm signal was not a "false alarm."

Fire chief means the chief of the City of Portland fire department or his authorized representative or designee.

Master box alarm system means any mechanism or device, including protective signaling systems, designed for the detection of heat, smoke or fire requiring an immediate response by the fire department and which automatically emits a signal to the dispatch center.

Person means any individual, firm or corporation.

Sec. 10-104. False alarm penalties.

(a) *Third response.* Once a third ~~response to a false alarm at a building~~ within any calendar ~~year~~twelve-month period has been identified by the fire chief or his/her designee, the fire chief shall give written notice of the false alarm to the alarm user within ten (10) business days, and the alarm user shall file a written report with the chief within five (5) days thereafter stating the cause of the false alarm, if known, and describing corrective action taken, if any.

(b) *Fourth, fifth and sixth responses.* For the fourth, fifth and sixth ~~responses to a false alarms at a building by the fire department~~ within any calendar ~~year~~twelve-month period, the alarm user shall, upon demand, pay a penalty of two hundred dollars (\$200.00) per instance and shall, in the case of any equipment failure, file with the fire chief within three (3) days of notice to do so a signed statement by a qualified private alarm agent that the alarm system has been inspected and is in proper working order. In the case of human error or other cause, the alarm user shall file a written report with the fire chief describing corrective action taken, if any.

(c) *Seventh and subsequent responses.* For the seventh and subsequent ~~responses false alarms at a building by the fire department to a false alarm~~ within any calendar ~~year~~twelve-month period, the alarm user shall, upon demand, pay a penalty of three hundred and fifty dollars (\$350.00).

(d) *Written notice deemed complete.* Written notice by the fire chief shall be complete upon leaving such notice at or in the property at the time of response by the fire department or by mailing such notice within ten (10) business days by first class mail.

Sec. 10-107. Violations.

~~—A violation of any provision of this article, including the failure to pay any false alarm penalty, shall be punishable as provided in section 1-15 of this Code.~~

~~—This article may be enforced by the fire chief or his or her designee through the Uniform Summons and Complaint process or through M.R. Civ. P. 80k.~~

In addition to the process set forth ~~above~~in section 10-25, when the chief of the fire department, in his or her sole discretion, determines that the property owner has failed to take action to correct a faulty fire alarm system within four (4) hours of being notified of its deficiency, the chief shall have the authority, in person or through agents, to enter onto any property to have fire protection equipment repaired. The fire chief shall cause the condition to be corrected and shall send a notice of any action taken to correct an unsafe condition and the charges for the work done to the owner or the owner's authorized representative. The charges shall be payable to the city within thirty (30) days of the date of the notice. Any unpaid charges assessed under this section shall be enforceable by lien for the benefit of the city and shall be collected pursuant to section 1-16 of this Code.

24.2.5 Stairs, Ramps, and Guards.

24.2.5.1 Stairs, ramps, guards, and handrails shall be in accordance with 7.2.2 for stairs, 7.2.2.4 for guards, and 7.2.5 for ramps, as modified by 24.2.5.1.1 through 24.2.5.1.3.

24.2.5.1.1 The provisions of 7.2.2.5, 7.2.5.5, and 7.7.3 shall not apply.

24.2.5.1.2 If serving as a secondary means of escape, stairs complying with the fire escape requirements of Table 7.2.8.4.1 (a) or Table 7.2.8.4.1 (b) shall be permitted.

24.2.5.1.3 If serving as a secondary means of escape, ramps complying with the existing ramp requirements of Table 7.2.5.2 (b) shall be permitted.

24.2.5.2 Interior stairways shall be provided with means capable of providing artificial light at the minimum level specified by 7.8.1.3 for exit stairs, measured at the center of treads and on landing surfaces within 24 in. (610 mm) of step nosings.

24.2.5.3 For interior stairways, manual lighting controls shall be reachable and operable without traversing any step of the stair.

24.2.5.4 The clear width of stairs, landings, ramps, balconies, and porches shall be not less than 36 in. (915 mm), measured in accordance with 7.3.2.

24.2.5.5 Spiral stairs and winders in accordance with 7.2.2.2.3 and 7.2.2.2.4 shall be permitted within a single dwelling unit.

24.2.5.6 No sleeping rooms or living areas shall be accessible only by a ladder, a stair ladder, an alternating tread device, or folding stairs or through a trap door.

24.2.6 Hallways.

24.2.6.1 The width of hallways, other than existing approved hallways, which shall be permitted to continue to be used, shall be not less than 36 in. (915 mm).

24.2.6.2 The height of hallways, other than existing approved hallways, which shall be permitted to continue to be used, shall be not less than 7 ft (2135 mm) nominal, with clearance below projections from the ceiling of not less than 6 ft 8 in. (2030 mm) nominal.

24.2.7 Bulkheads.

24.2.7.1 Bulkhead Enclosures. Where provided, bulkhead enclosures shall provide direct access to the basement from the exterior.

24.2.7.2 Bulkhead Enclosure Stairways. Stairways serving bulkhead enclosures that are not part of the required primary means of escape, and that provide access from the outside finished ground level to the basement, shall be exempt from the provisions of 24.2.5.1 when the maximum height from the basement finished floor level to the finished ground level adjacent to the stairway does not exceed 8 ft (2440 mm), and the finished ground level opening to the stairway is covered by a bulkhead enclosure with hinged doors or other approved means.

24.3 Protection.

24.3.1 Protection of Vertical Openings. (No requirements.)

24.3.2 Reserved.

24.3.3 Interior Finish.

24.3.3.1 General. Interior finish shall be in accordance with Section 10.2.

24.3.3.2 Interior Wall and Ceiling Finish. Interior wall and ceiling finish materials complying with Section 10.2 shall be Class A, Class B, or Class C.

24.3.3.3 Interior Floor Finish. (No requirements.)

24.3.3.4 Contents and Furnishings. Contents and furnishings shall not be required to comply with Section 10.3.

24.3.4 Detection, Alarm, and Communications Systems. Smoke alarms or a smoke detection system shall be provided in accordance with either 24.3.4.1 or 24.3.4.2, as modified by 24.3.4.3.

24.3.4.1* Smoke alarms shall be installed in accordance with 9.6.2.10 in the following locations:

- (1) All sleeping rooms
- (2)* Outside of each separate sleeping area, in the immediate vicinity of the sleeping rooms
- (3) On each level of the dwelling unit, including basements

24.3.4.2 Dwelling units shall be protected by an approved smoke detection system in accordance with Section 9.6 and equipped with an approved means of occupant notification.

24.3.4.3 In existing one- and two-family dwellings, approved smoke alarms powered by batteries shall be permitted.

24.3.5* Extinguishment Requirements.

24.3.5.1 All new one- and two-family dwellings shall be protected throughout by an approved automatic sprinkler system in accordance with 24.3.5.2.

24.3.5.2 Where an automatic sprinkler system is installed, either for total or partial building coverage, the system shall be in accordance with Section 9.7; in buildings of four or fewer stories in height above grade plane, systems in accordance with NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height*, and with NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes*, shall also be permitted.

24.4 Reserved.**24.5 Building Services.****24.5.1 Heating, Ventilating, and Air-Conditioning.**

24.5.1.1 Heating, ventilating, and air-conditioning equipment shall comply with the provisions of Section 9.2.

24.5.1.2 Unvented fuel-fired heaters shall not be used unless they are listed and approved.

24.5.2 Reserved.**Chapter 25 Reserved****Chapter 26 Lodging or Rooming Houses****26.1 General Requirements.****26.1.1 Application.**

26.1.1.1* The requirements of this chapter shall apply to buildings that provide sleeping accommodations for fewer persons on either a transient or permanent basis, without meals, but without separate cooking facilities for individual occupants, except as provided in Chapter 24.

31.3.4.4.2 Automatic fire detection devices shall be installed as follows:

- (1) Smoke detectors shall be installed in all common areas and work spaces outside the living unit, such as exit stairs, egress corridors, lobbies, storage rooms, equipment rooms, and other tenantless spaces in environments that are suitable for proper smoke detector operation.
- (2) Heat detectors shall be located within each room of the living unit.

31.3.4.5 Smoke Alarms.

31.3.4.5.1* In buildings other than those equipped throughout with an existing, complete automatic smoke detection system, smoke alarms shall be installed in accordance with 9.6.2.10, as modified by 31.3.4.5.2, outside every sleeping area in the immediate vicinity of the bedrooms and on all levels of the dwelling unit, including basements.

31.3.4.5.2 Smoke alarms required by 31.3.4.5.1 shall not be required to be provided with a secondary (standby) power source.

31.3.4.5.3 In buildings other than those equipped throughout with an existing, complete automatic smoke detection system or a complete, supervised automatic sprinkler system in accordance with 31.3.5, smoke alarms shall be installed in every sleeping area in accordance with 9.6.2.10, as modified by 31.3.4.5.4.

31.3.4.5.4 Smoke alarms required by 31.3.4.5.3 shall be permitted to be battery powered.

31.3.4.6* Protection of Fire Alarm System. The provision of 9.6.1.8.1.3 shall not apply to the smoke detection required at each fire alarm control unit by 9.6.1.8.1(1).

31.3.5 Extinguishment Requirements.

31.3.5.1 Reserved.

31.3.5.2 Reserved.

31.3.5.3* Where an automatic sprinkler system is installed, either for total or partial building coverage, the system shall be installed in accordance with Section 9.7, as modified by 31.3.5.4 and 31.3.5.5. In buildings four or fewer stories above grade plane, systems in accordance with NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height*, shall be permitted.

31.3.5.4 In individual dwelling units, sprinkler installation shall not be required in closets not exceeding 24 ft² (2.2 m²) and in bathrooms not exceeding 55 ft² (5.1 m²). Closets that contain equipment such as washers, dryers, furnaces, or water heaters shall be sprinklered, regardless of size.

31.3.5.5 The draft stop and closely spaced sprinkler requirements of NFPA 13, *Standard for the Installation of Sprinkler Systems*, shall not be required for convenience openings complying with 8.6.8.2 where the convenience opening is within the dwelling unit.

31.3.5.6 Reserved.

31.3.5.7 Reserved.

31.3.5.8 Reserved.

31.3.5.9 Buildings using Option 3 shall be provided with automatic sprinkler protection installed in accordance with 31.3.5.9.1 through 31.3.5.9.4.

31.3.5.9.1 Automatic sprinklers shall be installed in the corridor, along the corridor ceiling, utilizing the maximum spacing requirements of the standards referenced by Section 9.7.

31.3.5.9.2 An automatic sprinkler shall be installed within every dwelling unit that has a door opening to the corridor, with such sprinkler positioned over the center of the door, unless the door to the dwelling unit has not less than a 20-minute fire protection rating and is self-closing.

31.3.5.9.3 The workmanship and materials of the sprinkler installation specified in 31.3.5.9 shall meet the requirements of Section 9.7.

31.3.5.9.4 Where Option 3 is being used to permit the use of 1¾ in. (44 mm) thick, solid-bonded wood-core doors in accordance with 31.2.2.1.3, sprinklers shall be provided within the exit enclosures in accordance with NFPA 13, *Standard for the Installation of Sprinkler Systems*.

31.3.5.10 Buildings using Option 4 shall be protected throughout by an approved automatic sprinkler system in accordance with 31.3.5.3 and meeting the requirements of Section 9.7 for supervision for buildings seven or more stories in height.

31.3.5.11* Where sprinklers are being used as an option to any requirement in this *Code*, the sprinklers shall be installed throughout the space in accordance with the requirements of that option.

31.3.5.12 High-Rise Building Sprinklers.

31.3.5.12.1 All high-rise buildings, other than those meeting 31.3.5.12.2 or 31.3.5.12.3 shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 31.3.5.3.

31.3.5.12.2 An automatic sprinkler system shall not be required where every dwelling unit has exterior exit access in accordance with 7.5.3.

31.3.5.12.3* An automatic sprinkler system shall not be required in buildings having an approved, engineered life safety system in accordance with 31.3.5.12.4.

31.3.5.12.4 Where required by 31.3.5.12.3, an engineered life safety system shall be developed by a registered professional engineer experienced in fire and life safety system design, shall be approved by the authority having jurisdiction, and shall include any or all of the following:

- (1) Partial automatic sprinkler protection
- (2) Smoke detection systems
- (3) Smoke control systems
- (4) Compartmentation
- (5) Other approved systems

31.3.5.13 Portable fire extinguishers in accordance with 9.7.4.1 shall be provided in hazardous areas addressed by 31.3.2.1, unless the building is protected throughout with an approved, supervised automatic sprinkler system in accordance with 31.3.5.3.

31.3.6 Corridors.

31.3.6.1* Walls. Exit access corridor walls shall consist of fire barriers in accordance with Section 8.5 having a minimum ½-hour fire resistance rating.

31.3.6.2 Doors.

31.3.6.2.1 Doors that open onto exit access corridors, other than those complying with 8.3.4 or in buildings meeting the

*Order 144-16/17
Tab 20 2-22-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING AN AGREEMENT WITH REVISION ENERGY LLC FOR
INSTALLATION OF SOLAR POWER ARRAY ON OCEAN AVENUE LANDFILL**

ORDERED, that a power purchase agreement and a related license agreement between the City and Revision Energy LLC for the installation of a solar power array on the Ocean Avenue Landfill is hereby approved in substantially the form attached hereto; 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 and this Order.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Troy Moon

DATE: 2/10/2017

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

SUBJECT: Order ...

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action X

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)

SUMMARY OF ISSUE (Agenda Description)

On September 7, the City Council unanimously endorsed Order 39-16/17, authorizing the City Manager to conclude negotiations with Revision Energy on agreements necessary to create a solar array on the closed and capped Ocean Avenue Landfill. The project was proposed by Revision Energy in response to an RFP the City issued in June, 2015 to explore solar power generation. Under Revision's proposal, which was the only proposal submitted in response to the RFP, Revision will install a 660 KW array. The City will purchase from Revision (or a third party financier) all power generated by the array under a power purchase agreement. After the first 6 years of the agreement, the City will have the option (but not the obligation) to purchase the array. In January, 2016 the City of South Portland joined the proposal in order to facilitate construction of an identical solar array on their closed landfill and to reduce overall project costs. Moving forward with the project will create one of the largest municipal solar arrays in Maine and underscore the City of Portland's commitment to supporting renewable energy.

Order 39-16/17 required the final agreement with Revision to receive endorsement by the City Council. Staff is requesting that the Council waive the second reading of this item so work can begin expeditiously.

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

To move forward, the City Council will need to authorize the City Manager to enter into the power purchase agreement with Revision Energy.

III. INTENDED RESULT

Approving the order will authorize the City Manager to enter into a power purchase agreement and any related agreements with Revision Energy in order to create 660 kW solar array on the closed and capped Ocean Avenue Landfill.

IV. COUNCIL GOAL ADDRESSED

The City Council has a stated goal of promoting renewable energy in the City of Portland.

V. FINANCIAL IMPACT

In order to monetize the value of a federal investment tax credit, the City cannot take ownership of the solar array for at least six years and would purchase the power generated by the private owner – Revision Energy or a third party financier – under the terms of a power purchase agreement. The term of the proposed contract sets an initial rate of \$0.1056 kWh with a 2.5% annual escalation. This is approximately \$0.02 higher than the City currently pays for electricity. In addition to purchasing power under the agreement, the City would also be responsible for the cost of installing electrical cable to connect the array to a nearby CMP pole, which is expected to cost about \$50,000.00. Once the City executes its option to purchase the array the cash flow becomes positive. Based on the pro-forma presented by Revision Energy, the City would recoup these costs and the project would become revenue positive in year 10. They also project the array to accrue a financial benefit to the City of over \$3 million during the 40 year projected life of the project. After receiving authorization from the Council to complete negotiations with Revision, the City Manager assigned staff to carefully review the assumptions presented in the pro-forma. As part of this effort the City contracted with Strategen Consulting to model how changes in energy prices, changes in regulations, equipment performance, and other factors would impact the finances of the proposed project. They created graphs projecting a worst case scenarios, a best case scenario, and a median case scenarios. While their conclusion is not as optimistic as the one presented by Revision Energy, Strategen concluded that the landfill project is likely to have a positive financial return over the life of the project.

VI. STAFF ANALYSIS

City staff members from Portland and South Portland have worked closely with the principals of Revision Energy on the proposal to develop solar arrays on each city's closed landfills. After considerable work, we have arrived at financial terms that make moving forward with the project feasible. This conclusion is affirmed by the third party review conducted by Strategen Consulting.

Closed landfills are ideal hosts for solar arrays because it allows a beneficial use of an area that cannot otherwise be developed. As proposed, the project would preserve the existing recreational uses in the area such as dog walking, bike riding, and bird watching. The Land Bank Commission approved siting the array at this location in January, 2016.

The City Council has established supporting renewable energy as a goal. Implementing this project would allow the City to host a facility generating 660 kW of electricity. The annual output of 1.2 million kWh per year represents approximately 3% of the City's annual consumption and is roughly equivalent to the power consumed by City Hall and Merrill Auditorium.

VII. RECOMMENDATION

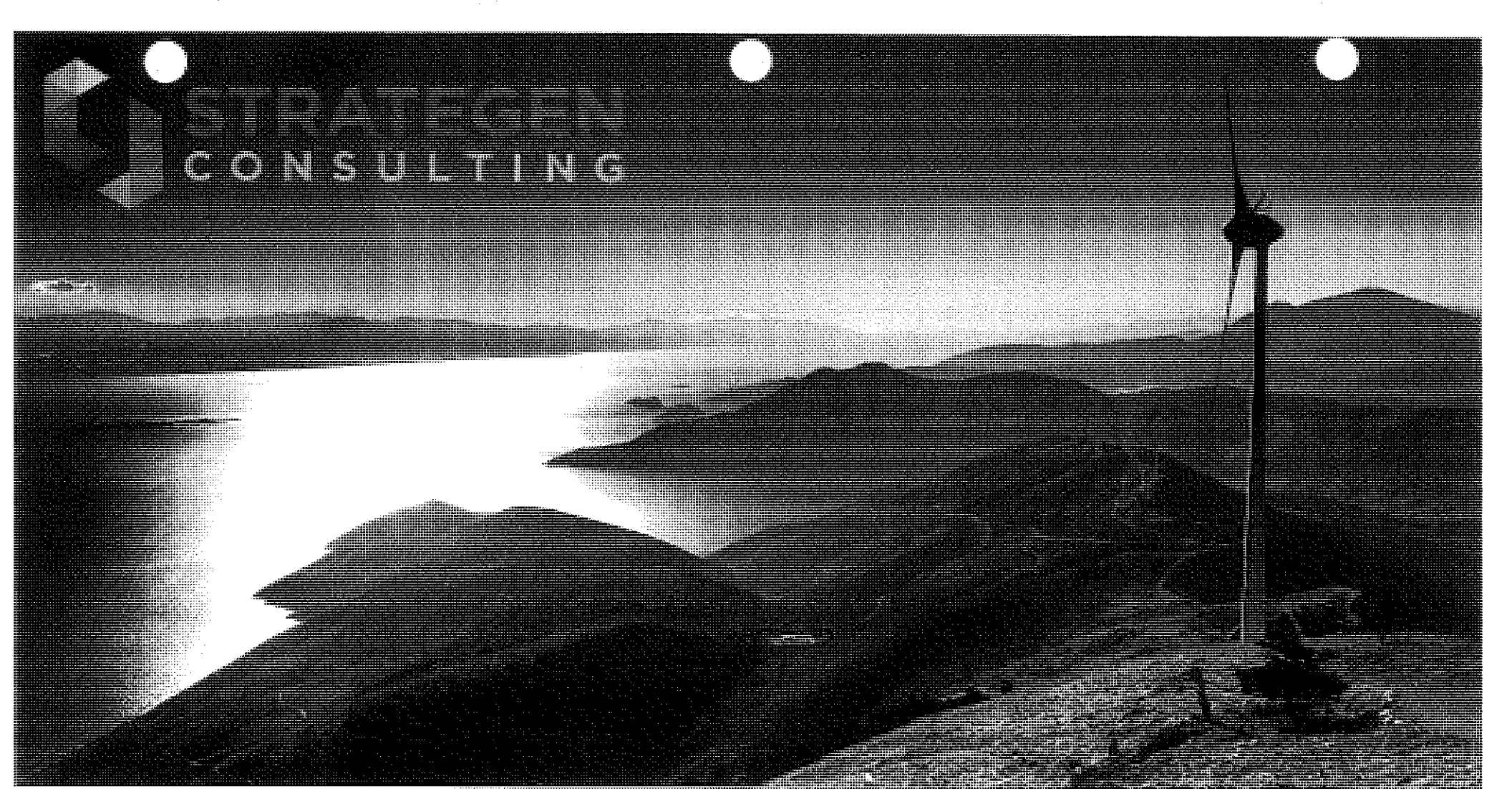
We recommend approval of the order authorizing the City Manager to execute the agreements necessary to implement the Ocean Avenue Solar Project.

VIII. LIST ATTACHMENTS

Power Purchase Agreement
Maintenance Agreement
Strategen Consulting Report

Prepared by: Troy Moon

Date: 2/10/2017



STRATEGEN
CONSULTING

Financial Analysis of a Proposed Solar Investment

11-10-16



Financial Analysis: Comparison

South Portland Project: Financial Analysis

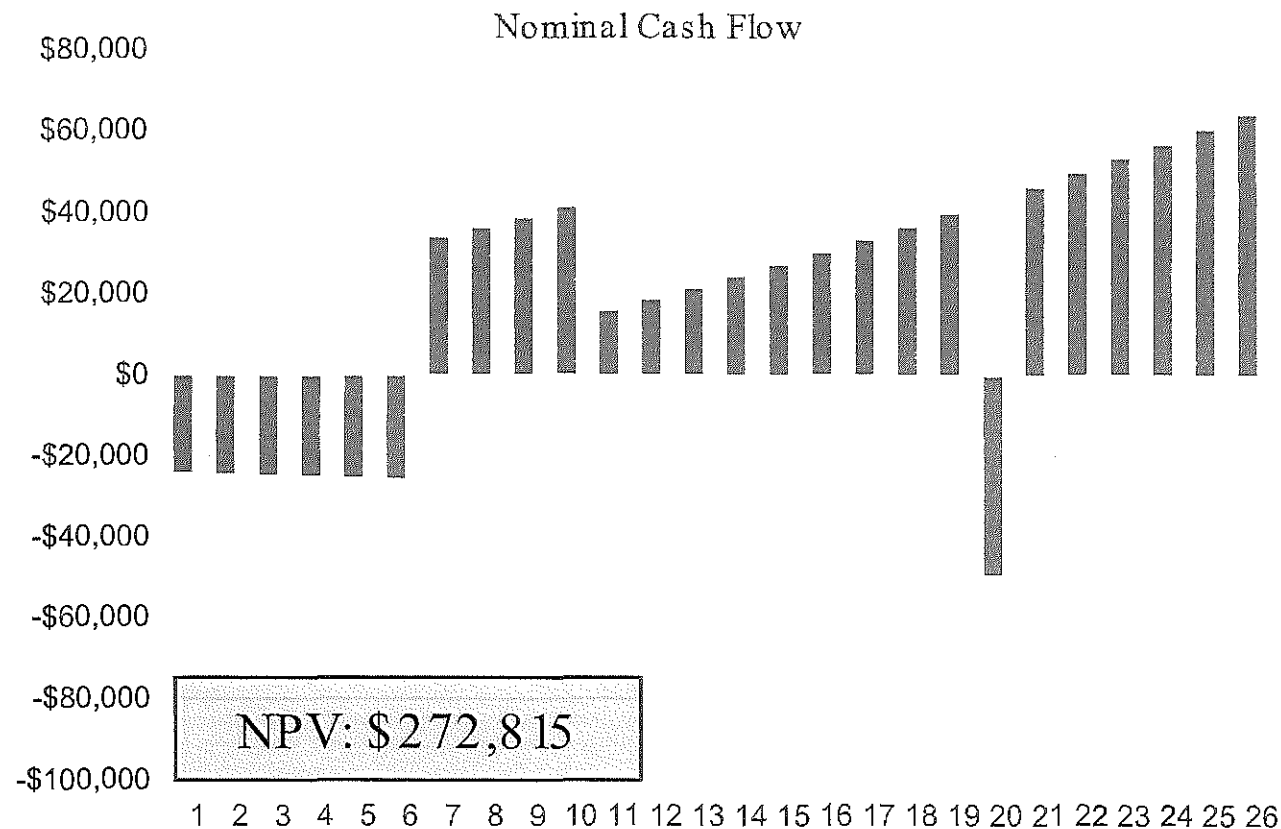
Portland Project: Financial Analysis

Conclusion

Appendix

Financial Analysis Comparison

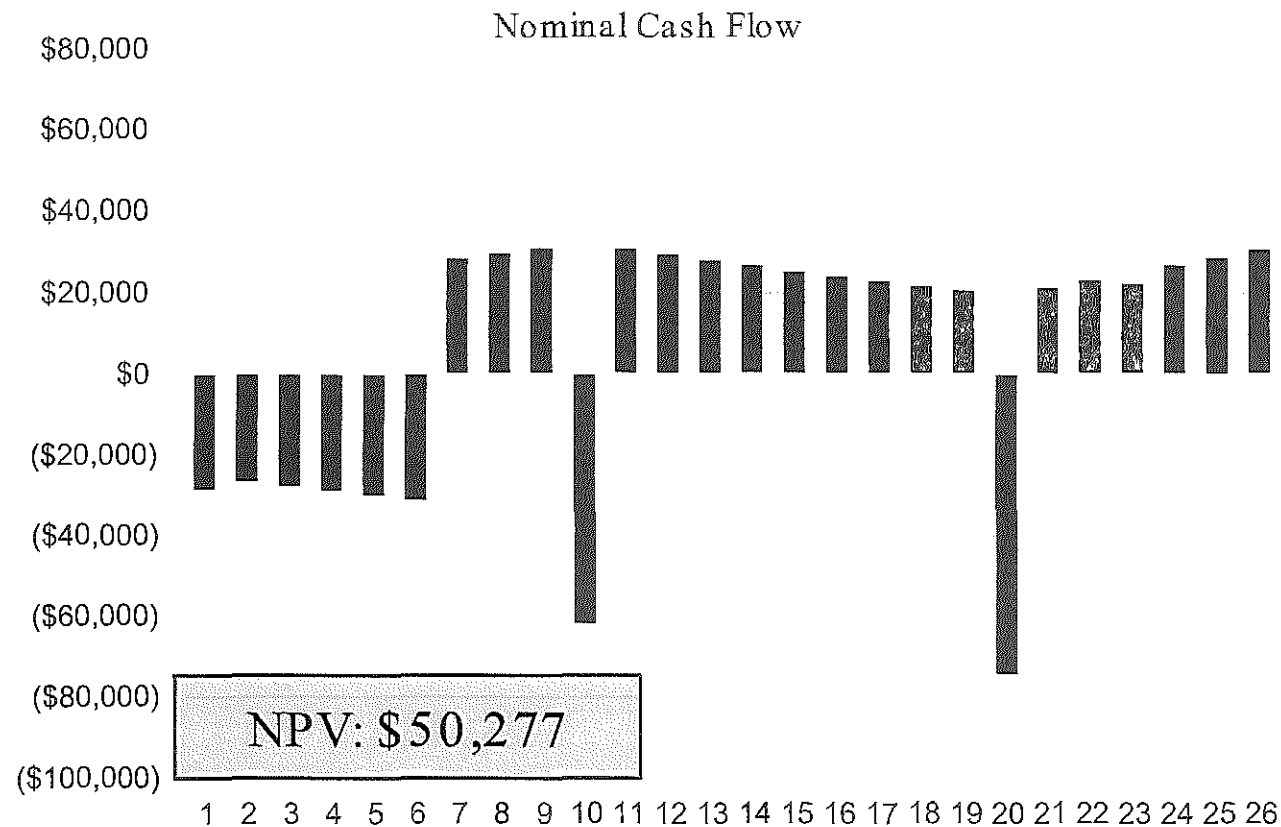
Revision's Financial Analysis: Base for City of Portland



Source:

Pro forma Financial Analysis from Pro Forma Sheet from Revision 20% SGS for Portland

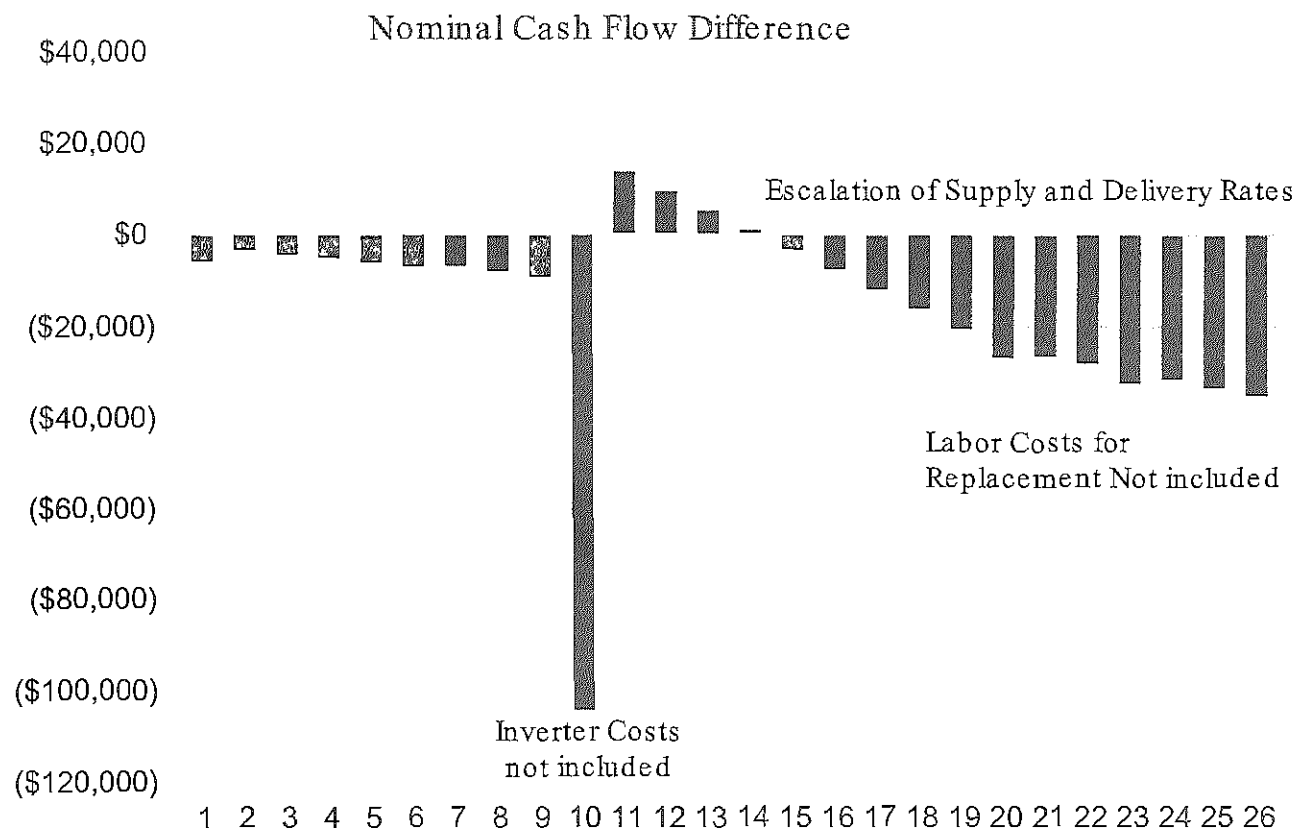
Strategen's Financial Analysis: Base for City of Portland



Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

Difference from Revision's Estimates



- Difference in supply and delivery rate escalation
- Inverter replacement in year 10 was not included
- RECs were assumed to not be limited to 40 quarters

Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

Points of Variation

	Strategen	Revision
Labor Cost for Inverter Replacement	\$1000/ Unit	N.A
Fixed O&M	\$7/kW-yr	\$5/kW-yr
Rate Escalation Applied (Supply)	2%	2.68%
Rate Escalation Applied (Delivery)	15%	2.68%
Sales Tax on Sale	5%	N.A
Property Tax	1.77%	N.A
Property Insurance	\$3500	N.A
Inverter Replacement	Year 10 & Year 20	Year 20

Scenarios do not include property tax, property insurance and sales tax on sale of system

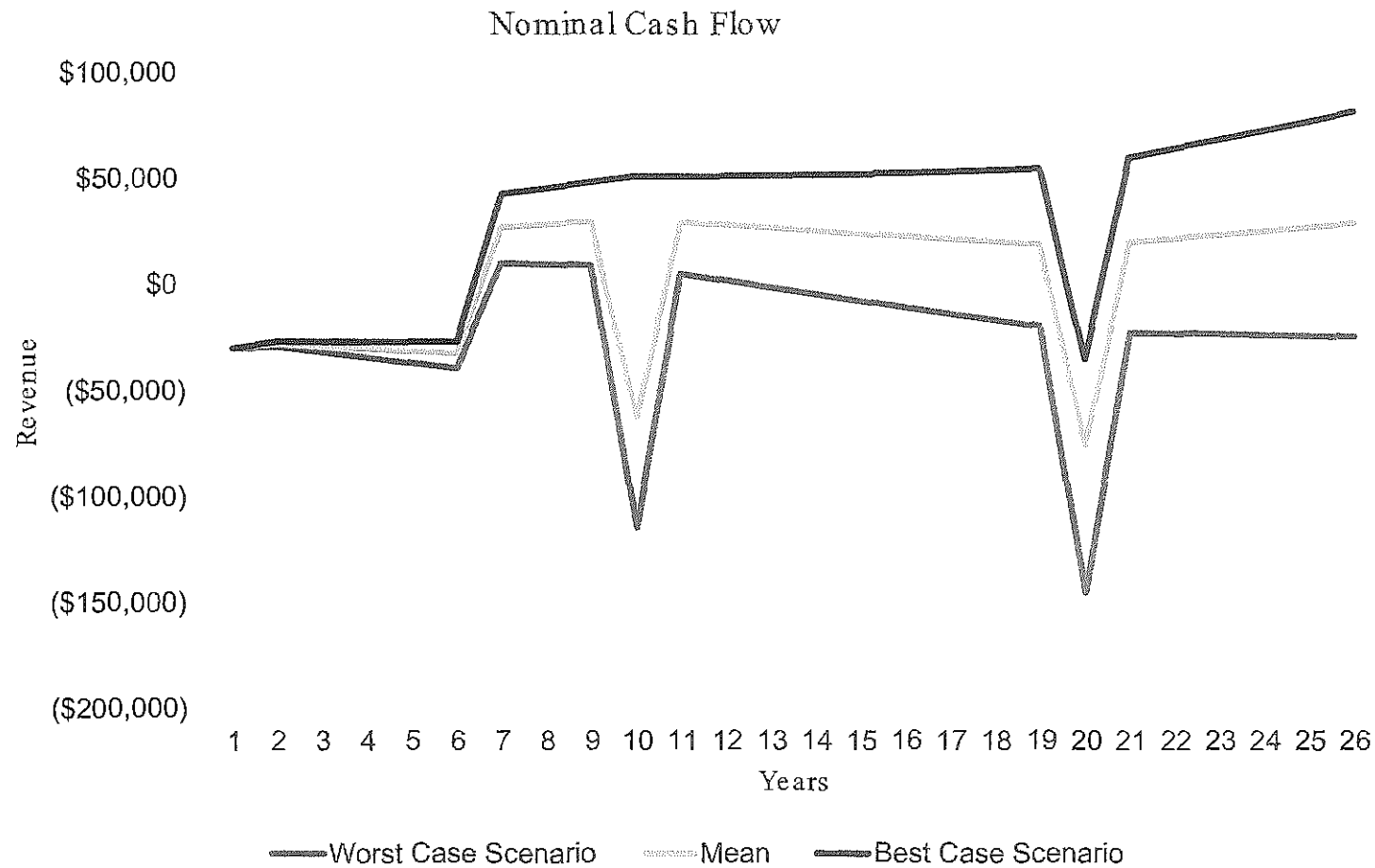
South Portland Status Quo

- Absent Commission Policy Change
- No Tranches
- Unlimited Grandfathering
- 18% SGS - 82% MGS

Variables

Variable	Worst Case	Base Case	Best Case
Degradation rate	0.80%	0.50%	0.50%
Inverter Rating	660 kW	660 kW	660 kW
Inverter Costs	140 \$/kW	100 \$/kW	100 \$/kW
Cost for System Replacement	1100 \$/unit	1000 \$/unit	900 \$/unit
Fixed O&M	11\$/kW-yr	7 \$/kW-yr	7 \$/kW-yr
PPA Escalator	2.50%	2.50%	2.50%
Market Rate	100%SGS	100%SGS	100%SGS
Supply Cost Escalator	0.5%	2%	3.0%
T&D Cost Escalator	0.5%	15%	3.0%
Inverter Replacement Year	10 Year	10 Year	20 Year

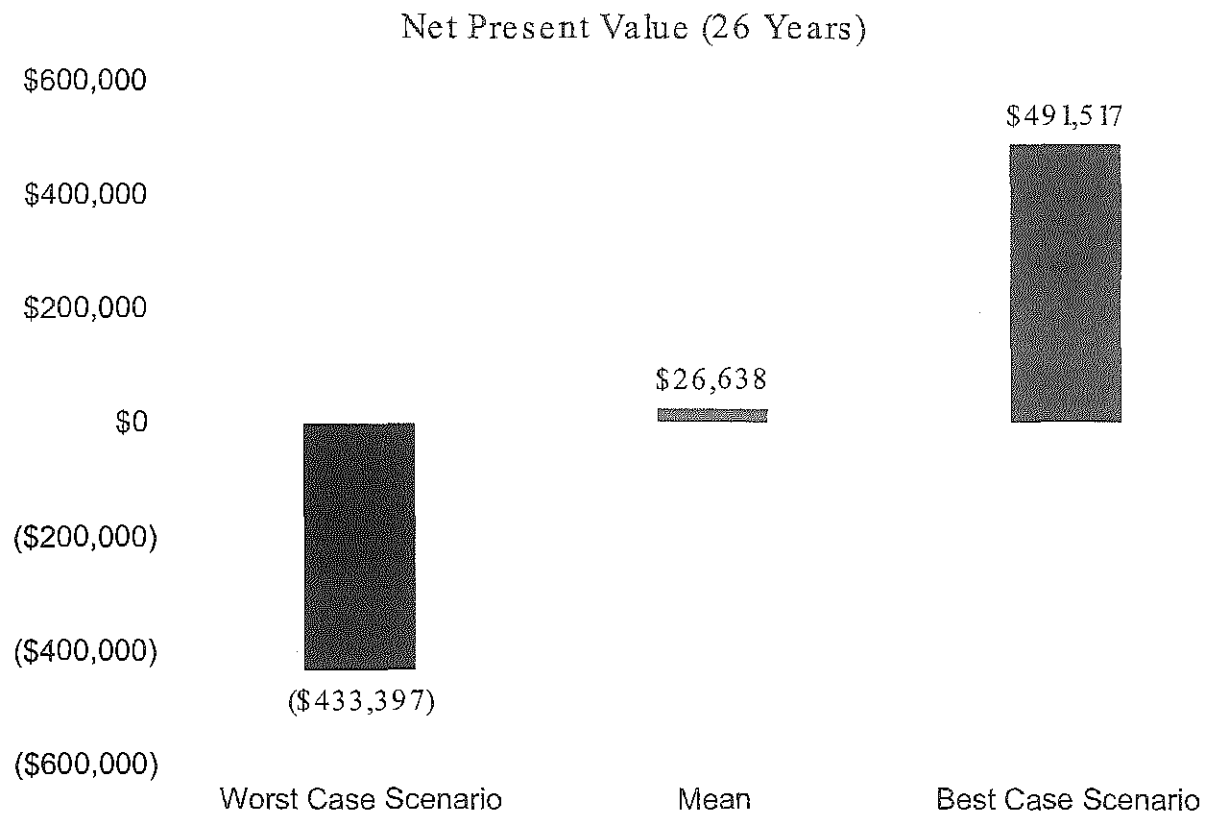
Cash Flow: South Portland Status Quo



Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

NPV: South Portland Status Quo



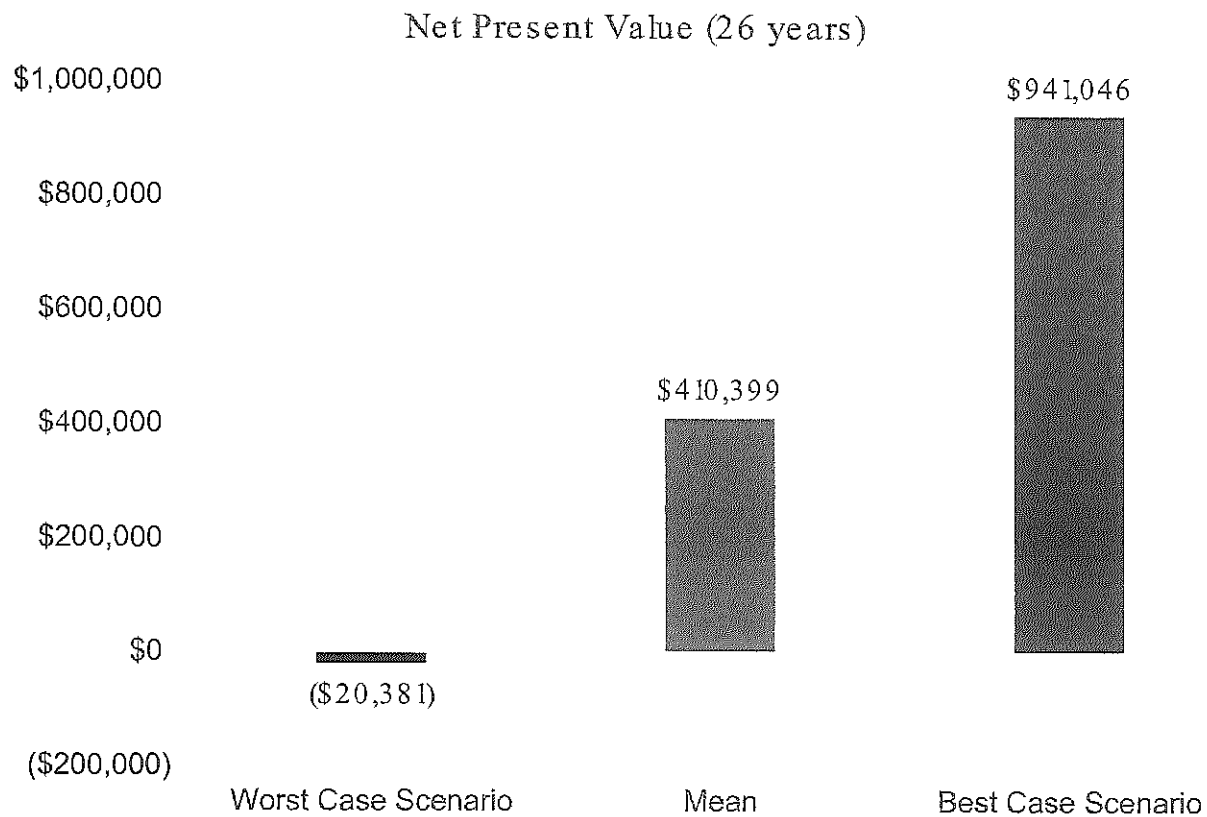
Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

South Portland Under Proposed PUC Policy

90% Credit on Delivery Charges
15 Year Grandfathering
100% SGS

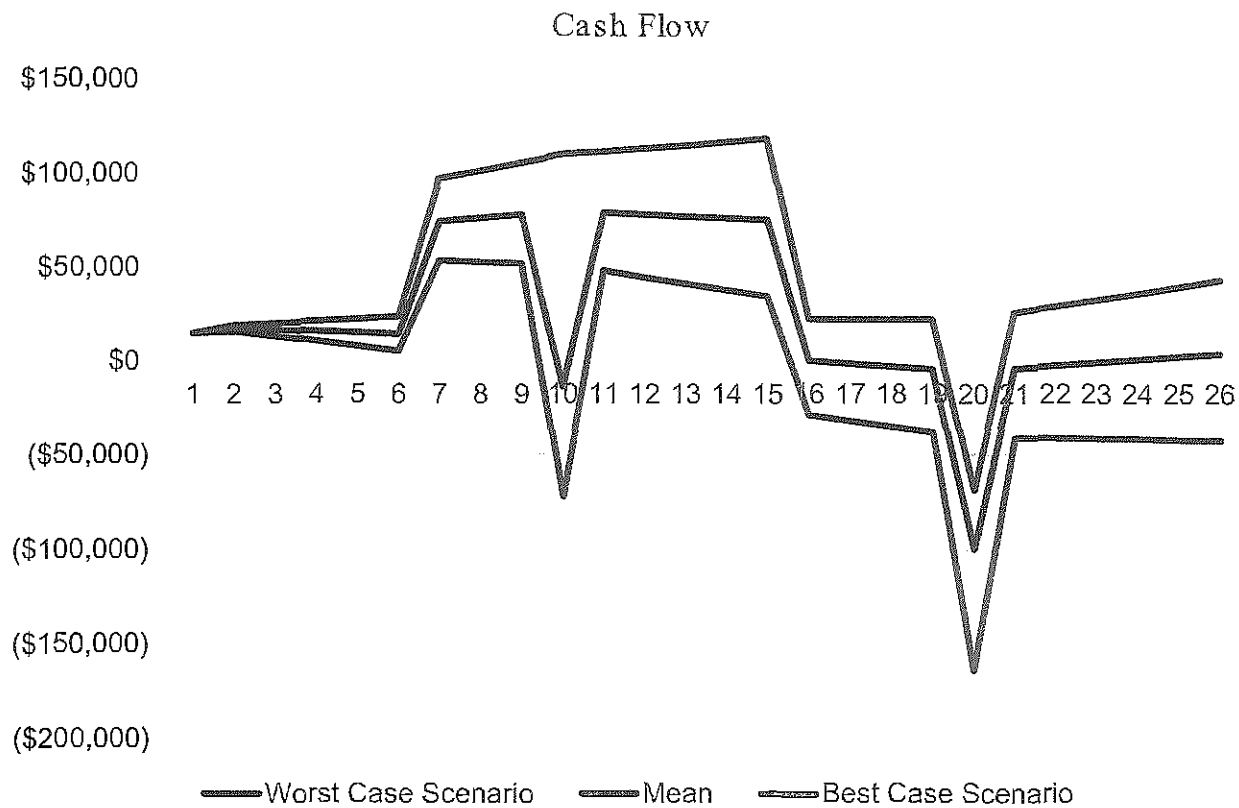
NPV: South Portland New Policy



Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

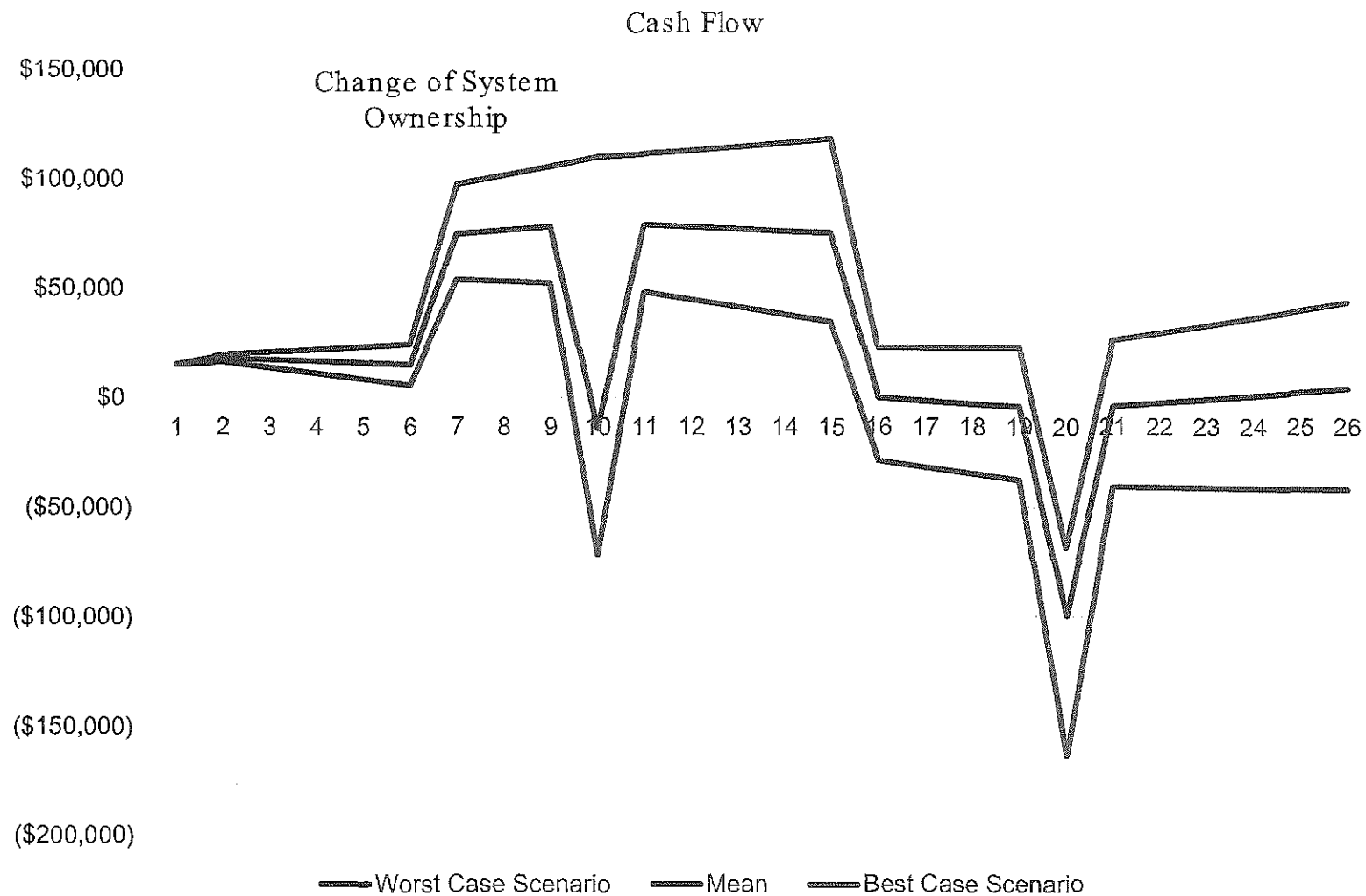
Cash Flow: South Portland New Policy



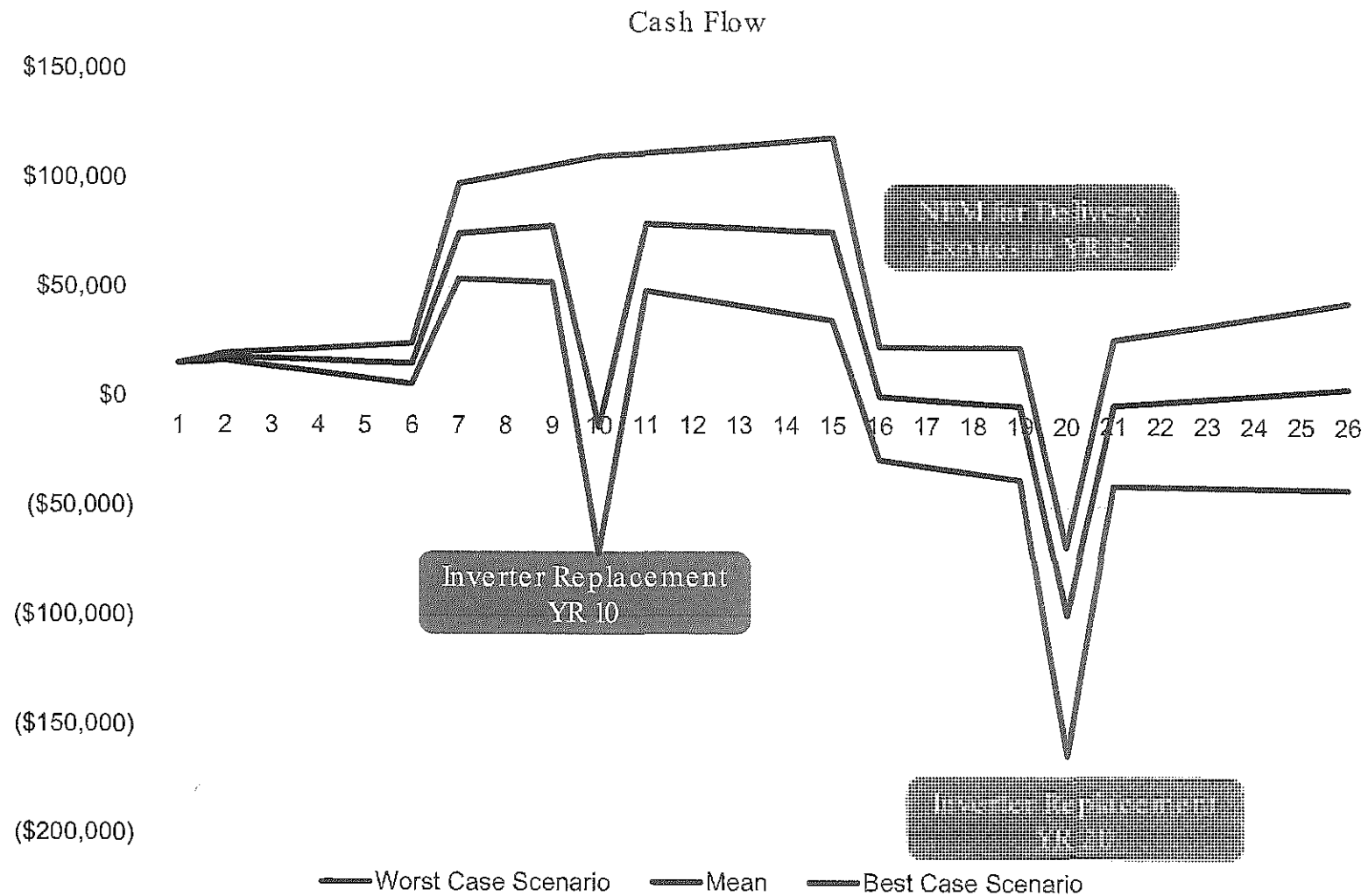
Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

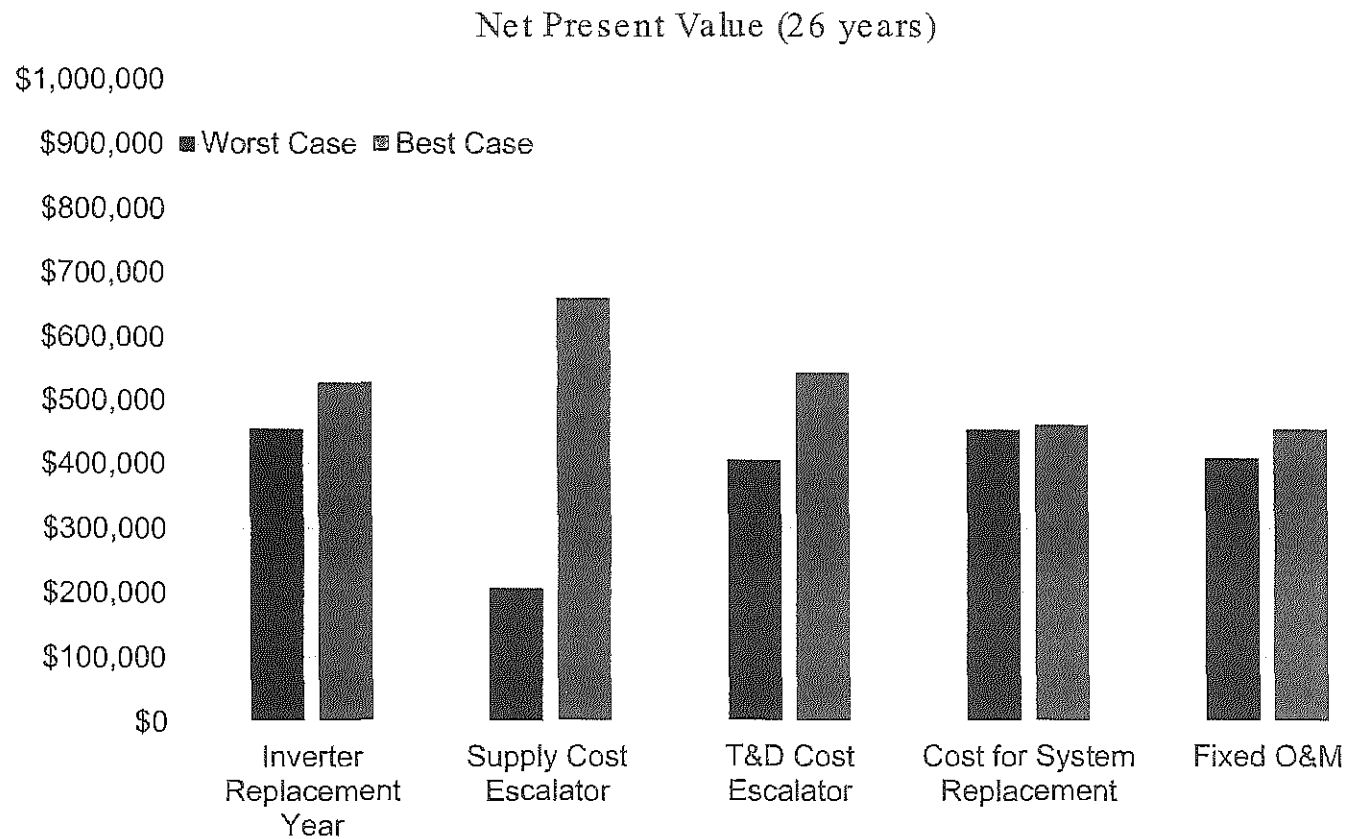
Cash Flow: South Portland New Policy



Cash Flow: South Portland New Policy



NPV Sensitivity



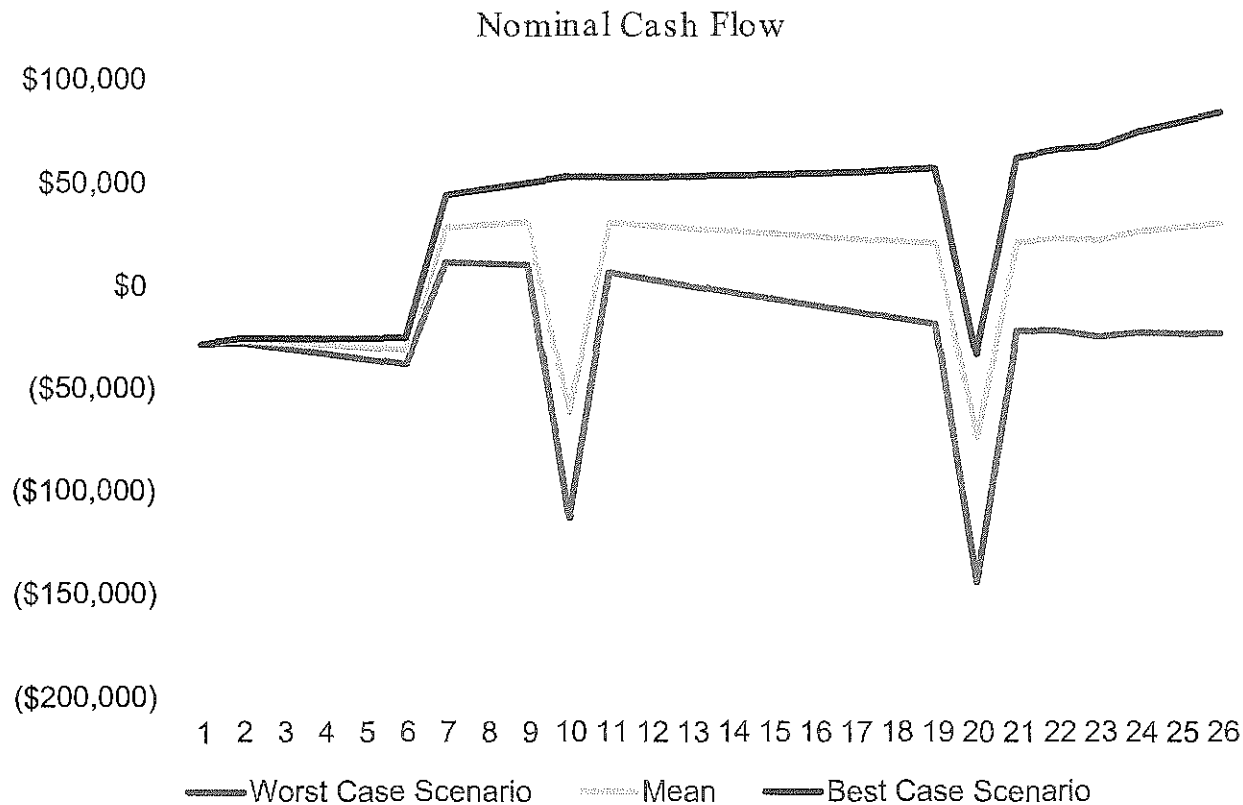
Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

City of Portland Status Quo

- Absent Commission Policy Change
- No Tranches
- Unlimited Grandfathering
- 20% SGS

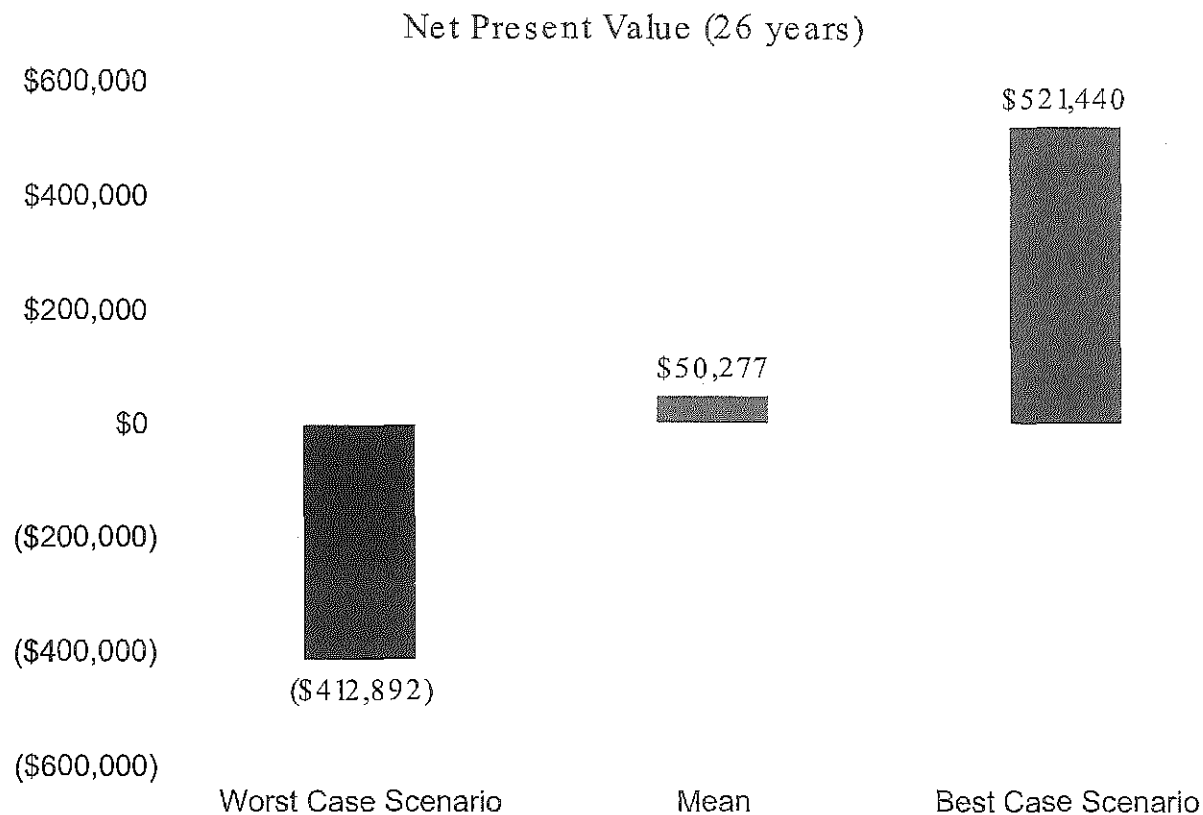
Cash Flow: Portland Status Quo



Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

NPV: Portland Status Quo



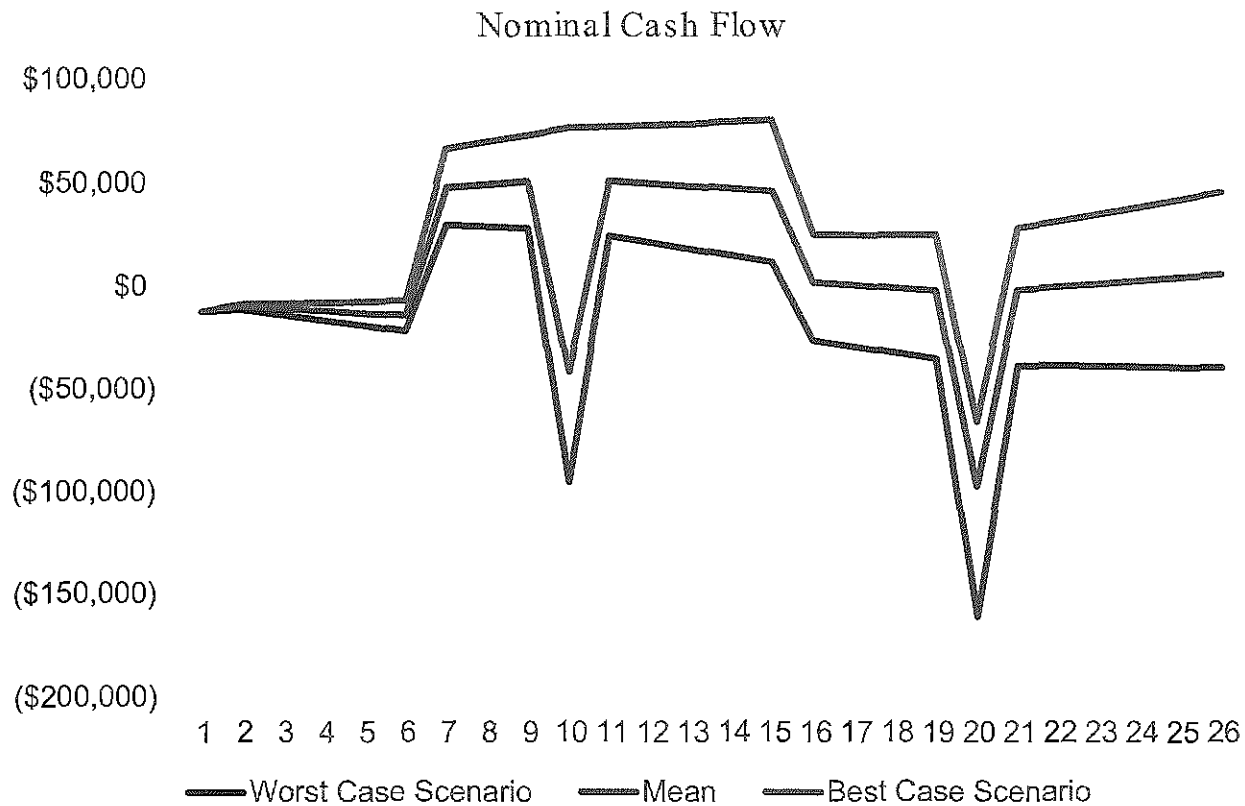
Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

City of Portland Under Proposed PUC Policy

- 90% NEM on Delivery Charges
- 15 Year Grandfathering
- 52% SGS

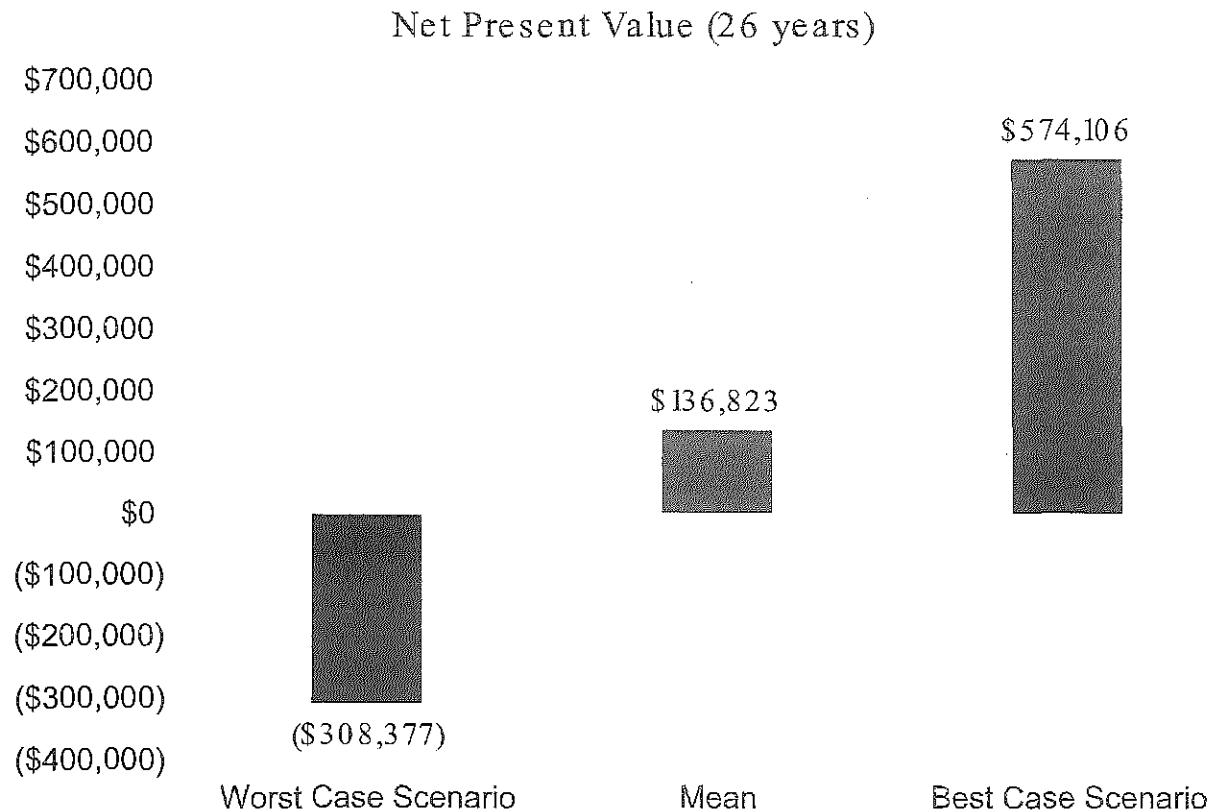
Cash Flow: Portland New Policy



Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

NPV: Portland New Policy



Assumption:

Does not include Property Tax, Property Insurance and Sales Tax on Sale of System

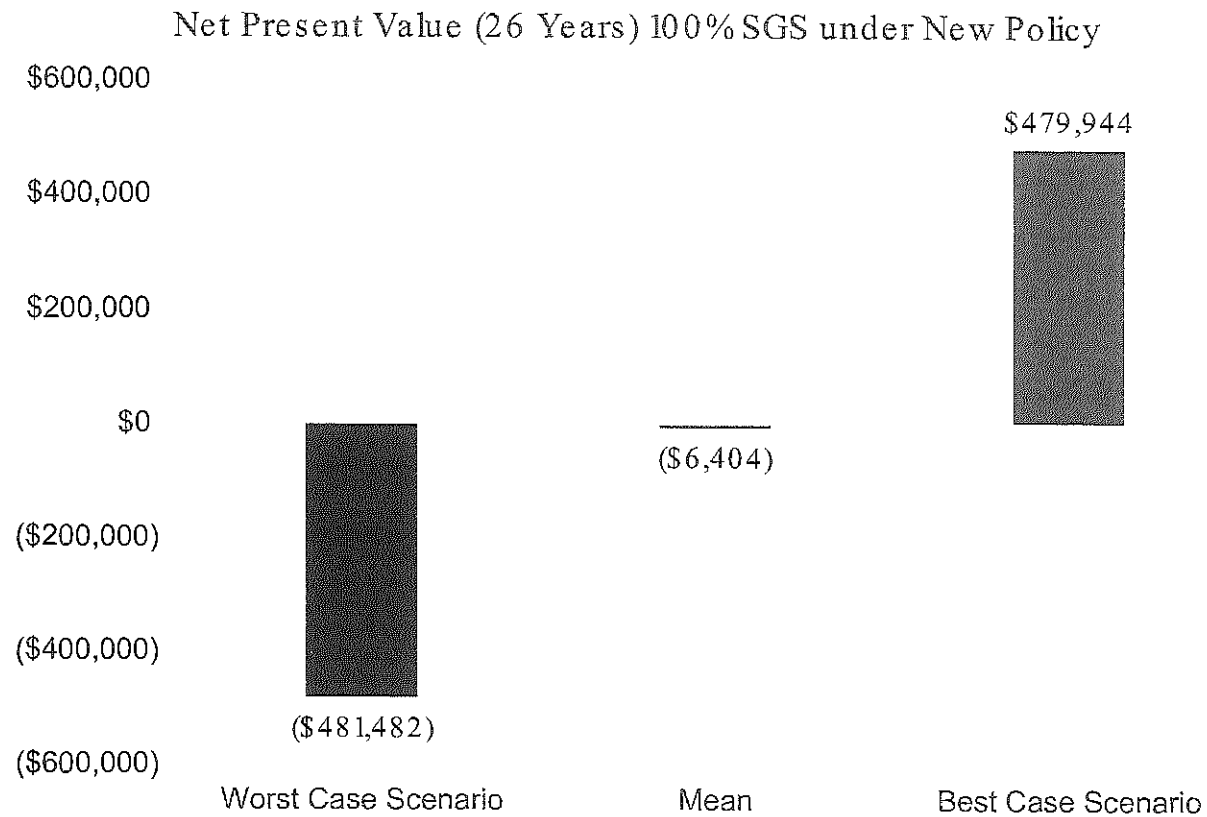
Conclusion

Key Takeaways

Net Present Value		
	Status Quo	New Policy
South Portland	\$29,506	\$457,565
Portland	\$50,277	\$136,823

- The projects likely stand to make a positive Net Present Value.
- The newly proposed Commission policy would remove restrictions on meter limit thus increase access to additional SGS meters. This improves project economics significantly.
- Sales and Property tax were not considered in the analysis however they will reduce project NPV. Negotiating for tax relief is key to improving NPV.
- Ability to sell RECs at cost even after year 10 is essential to improving NPV.
- Annual O&M costs should be kept under control, preferably under \$7/kW-yr.

Erosion of NPV under Taxes and Insurance



Points for Negotiation

Revision

- Annual O&M service contract capped at \$5/kW-yr to cover the following:
 - Wiring/ Electrical Inspection
 - Inverter Maintenance
 - Spares
- 20 Year warranty for inverter replacement
- Commitment to sell RECs at cost
- Solar production guarantee for 10-15 years
- No tax pass-through
- Reduced PPA escalator

Governmental Entities

- Property Tax Relief

Additional Analysis

- Analyze NPV change and create negotiating guidance under both scenarios for:
 - Rate of PPA Escalation
 - O&M contract
 - Inverter warranty

Solar Power Purchase Agreement

This Solar Power Purchase Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:	City of Portland	Seller:	Revision SunFill, LLC
Name and Address	City of Portland 389 Congress St. Portland, ME 04101 Attention: Jon Jennings, City Manager	Name and Address	Revision SunFill, LLC c/o ReVision Energy, LLC 142 Presumpscot St. Portland, ME 04103 Attention: Sam Lavallee, Director of Financing
Phone	(207) 874-8685	Phone	(207) 221-6342
Fax	(207) 874-8669	Fax	(207) 221-1535
E-mail	jjp@portlandmaine.gov	E-mail	sam@revisionenergy.com
Premises Ownership	Purchaser ☒ owns ☐ leases the Premises. List Premises Owner, if different from Purchaser: _____	Additional Seller Information	Revision SunFill, LLC is a wholly owned subsidiary of ReVision Energy, LLC

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the “**System**”), interconnected to the Purchaser’s facility described in **Exhibit 2** (the “**Facility**”), and installed on the property upon which the System and Facility are located as described in **Exhibit 6** (the “**Premises**”).

The exhibits listed below are incorporated by reference and made part of this Agreement.

<u>Exhibit 1</u>	Basic Terms and Conditions
<u>Exhibit 2</u>	System Description
<u>Exhibit 3</u>	Credit Information
<u>Exhibit 4</u>	General Terms and Conditions
<u>Exhibit 5</u>	Form of Memorandum of License
<u>Exhibit 6</u>	License Agreement

Purchaser: City of Portland

Seller: ReVision SunFill, LLC

By (signature): _____

By (signature): _____

Printed Name: _____

Printed Name: Fortunat Mueller _____

Title: _____

Title: Managing Member, ReVision SunFill, LLC _____

Date: _____

Date: _____

Exhibit 1
Basic Terms and Conditions

1. **Initial Term:** Twenty five (25) years, beginning on the Commercial Operation Date.
2. **Additional Terms:** One (1) Additional Term of five (5) years.
3. **Environmental Incentives and Environment Attributes:** Accrue to Seller. Seller may sell Environmental Incentives and Environment Attributes, including Renewable Energy Credits (RECs), to third parties.
4. **Contract Energy Price per kilowatt hour (\$/kWh):** Purchaser hereby agrees, for the duration of this Agreement, to purchase energy generated by the System at the fixed energy price per kWh (\$/kWh) set forth in the schedule below:

Contract Year	Estimated Energy Production (kWh)	Fixed Energy Price per \$/kWh
1	1,234,010	\$0.1056
2	1,227,840	\$0.1056
3	1,221,701	\$0.1082
4	1,215,592	\$0.1109
5	1,209,514	\$0.1137
6	1,203,467	\$0.1166
7	1,197,449	\$0.1195
8	1,191,462	\$0.1225
9	1,185,505	\$0.1255
10	1,179,577	\$0.1287
11	1,173,679	\$0.1319
12	1,167,811	\$0.1352
13	1,161,972	\$0.1386
14	1,156,162	\$0.1420
15	1,150,381	\$0.1456
16	1,144,629	\$0.1492
17	1,138,906	\$0.1529
18	1,133,212	\$0.1568
19	1,127,546	\$0.1607
20	1,121,908	\$0.1647
21	1,116,298	\$0.1688
22	1,110,717	\$0.1730
23	1,105,163	\$0.1774
24	1,099,637	\$0.1818
25	1,094,139	\$0.1863
26	1,088,669	\$0.1910
27	1,083,225	\$0.1958
28	1,077,809	\$0.2007
29	1,072,420	\$0.2057
30	1,067,058	\$0.2108

5. **Condition Satisfaction Date:** Dec. 31, 2017
6. **Anticipated Commercial Operation Date:** Dec. 31, 2017
7. **Purchaser Options to Purchase System.** ☐ None, or ☒ As set forth in Section 16.b of Exhibit 4.
8. **Outside Commercial Operation Date:** Dec. 31, 2018.
9. **System Installation:**

Includes:	☒ Design, professional stamped engineering, permitting, installation, monitoring, rebate application and paperwork processing of the System.
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	☒ Limited Warranty. ☐ List of Approved Subcontractors ☒ Any like substantive equipment, in the sole discretion of the Seller. ☐ State or Utility Rebate, if any. Describe: _____
Excludes:	Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to the Facility or utility electrical infrastructure, utility impact study if applicable, payment bonds, performance bond(s), prevailing wage construction, tree removal, tree trimming, or energy audit, if required.

Exhibit 2
System Description

1. **System Location:** Old City Landfill, Ridge Rd., Portland, ME 04103
2. **System Size:** 943.36 DC kW (panel nameplate capacity), 660.00 AC kW (inverter rating).
3. **Expected First Year Energy Production (kWh):** 1,234,010. Expected energy production shall be de-rated by one half of one percent (0.5%) annually. Annual energy production is based on maintenance of Insolation levels provided for in the Irradiance Zone and Shade Map and the Helioscope projections provided in Attachment A, below.
4. **Expected Structure:** ☒ Ground Mount ☐ Roof Mount ☐ Parking Structure ☐ Other
5. **Expected Module(s):**

<u>Manufacturer/Model</u>	<u>Quantity</u>
Hanwha QCell 335-watt, or equivalent, with 25-year manufacturer's performance warranty	2,816

6. **Expected Inverter(s):**

<u>Manufacturer/Model</u>	<u>Quantity</u>
SMA STP30000TL-US-10, or equivalent, with 15-year manufacturer's performance warranty	22

7. **Facility and System Layout:** See Exhibit 2, Attachment A

Aerial Image of Facility and Premises	See Attachment A: Drawing A01, Site Plan and Drawing A02, Site Layout.
Conceptual Drawing of the System	See Attachment A: Drawing E01, One-Line Drawing.
Location of System Components	Solar array to be located on the ground of the former landfill, as portrayed in Site Plan. Inverters to be co-located with array or other location as agreed upon by the Parties.
Delivery Point	On utility side of private meter/data logger as shown in One-Line Drawing.
Access Points	Access shall be by existing drives and ways and as mutually agreed by the parties. Access shall be adequate to allow full and timely access to the facility for installation and maintenance. See also Site Plan.

8. **Utility:** Central Maine Power

9. **Participating Meters:**

a. Generation Meter: New electrical service to be obtained by Purchaser.

b. Load Meters (account numbers and addresses shown):

- i. 4410290159013, Oxford Street Shelter
- ii. 4411438645011, Commercial St.
- iii. 4411439845011, Riverton Fire Barn
- iv. 4411440699011, 100 Yellowbird Rd.
- v. 4411451890011, Peaks Island Public Safety Building
- vi. 4411547278001, 1001 Westbrook St.
- vii. 4411606217001, Congress St.
- viii. 4411671746001, Brackett Ave.
- ix. 4411438715011, 109 Middle St.

Exhibit 3
Credit Information

Omitted by agreement of the Parties.

Exhibit 4
Solar Power Purchase Agreement
General Terms and Conditions

1. **Definitions and Interpretation.** Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement. The rule of construction that ambiguities in an agreement are to be construed against the drafter will not be invoked or applied in any dispute regarding the meaning of any provision of this Agreement.
2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the "Term"). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified in **Exhibit 2** (the "Delivery Point"). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser's electric requirements at the Facility exceed the output of the System. If pre-commissioning testing is requested by Seller or Seller's Financing Parties, any purchase, sale and/or delivery of electric energy generated by the System prior to the Commercial Operation Date shall be treated as purchase, sale and/or delivery of limited amounts of test energy only and shall not indicate that the System has been put in commercial operation by the purchase, sale and/or delivery of such test energy.
3. **Term and Termination.**
 - a. **Initial Term.** The initial term ("Initial Term") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1**, unless earlier terminated as provided for in this Agreement. The "Commercial Operation Date" is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Such notice shall be deemed effective unless Purchaser reasonably objects within five (5) days of the date of such notice. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the entity authorized and required under applicable law to provide electric distribution service to Purchaser at the Facility (the "Utility"), as set forth on **Exhibit 2**. This Agreement is effective as of the Effective Date and Purchaser's failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.
 - b. **Additional Terms.** Prior to the end of the Initial Term or of any applicable Additional Term, as defined below, if Purchaser has not exercised its option to purchase the System, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each such additional period, an "Additional Term"). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party's offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.
4. **Billing and Payment.**
 - a. **Monthly Energy Charges.** Purchaser shall pay Seller monthly (or quarterly, if Seller elects quarterly invoicing under subsection (d) of this Section 4) for the electric energy generated by the System and delivered to the Delivery Point at the \$/kWh rate shown in **Exhibit 1** (the "Contract Price"). The periodic payment for such energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of energy generated during each month of the applicable billing period, as measured by the System meter.
 - b. **[Intentionally Omitted]**

- c. **Monthly Invoices.** Seller shall invoice Purchaser monthly in arrears, by mail or electronic mail. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii) the energy and REC rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.
- d. **Seller's Option for Quarterly Invoicing.** Seller, at Seller's sole option, may elect to invoice Purchaser on a quarterly basis. If Seller exercises the option to invoice quarterly for one or more billing periods, it shall not prohibit Seller from invoicing Monthly thereafter. Seller shall provide Purchaser with at least thirty (30) days prior notice before changing the frequency of invoicing.
- e. **Taxes.** Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric distribution system, including property taxes on the System; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser for reasons other than Force Majeure or as a result of Purchaser's acts or omissions. For purposes of this Section 4.e, "Taxes" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility. The parties understand that the only taxes applicable under this Section 4.e are property taxes on the System.
- f. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. All correct portions of the invoice amount not paid when due and payable shall accrue interest at the rate of one percent (1.0%) per month (but not to exceed the maximum rate permitted by law).

5. **Environmental Attributes and Environmental Incentives.**

Unless otherwise specified in **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall pay such amounts over to Seller as soon as practicable.

RECs. Except for Contract Years in which Purchaser purchases RECs, Seller has the exclusive right to (i) claim that electric energy provided to Purchaser was generated by the Project, (ii) Seller is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Seller is entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. If public statements by the City Council of Purchaser in violation of this Section result in rejection, elimination or devaluation of RECs owned by Seller, Purchaser shall promptly compensate Seller for any such loss or reduction in the RECs market value.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (c) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags tradable renewable credits and Green-e® products.

“Environmental Incentives” means any and all credits, rebates, subsidies, payments or other incentives that relate to self-generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority, except in no case related to the levying or assessment of property taxes.

“Governmental Authority” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission, a state Public Utilities Commission or Independent System Operator), or any arbitrator with authority to bind a party at law.

“Tax Credits” means any and all (a) investment tax credits, (b) production tax credits and (c) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. Conditions to Obligations.

- a. **Conditions to Seller’s Obligations.** Seller’s obligations under this Agreement are conditioned on the completion of the following conditions to Seller’s reasonable satisfaction on or before the Condition Satisfaction Date:
- i. Completion of a physical inspection of the Facility and the property upon which the Facility is located (the “Premises”) including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;
 - ii. Seller has obtained financing for the System on terms and conditions deemed satisfactory by Seller in its sole and absolute discretion, and Seller’s Financing Parties have approved (A) this Agreement and (B) the Construction Agreement (if any) for the System; “Construction Agreement” as used in this subsection means an agreement between Seller and any contractor or subcontractor to install all or part of the System;
 - iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;
 - iv. Receipt of all necessary zoning, land use and building permits;
 - v. Execution of all necessary agreements with the Utility for interconnection of the System to Facility electrical system and/or the Utility’s electric distribution system.
- b. **Failure of Conditions.** If any of the conditions listed in subsection (a) are not satisfied by the Condition Satisfaction Date, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the Parties are unable to negotiate new dates then either Party may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.
- c. **Commencement of Construction.** Seller’s obligation to commence construction and installation of the System is conditioned on Seller’s receipt of (A) proof of insurance for all insurance required to be maintained by Purchaser under this Agreement, (B) written confirmation from any person holding a mortgage, lien or other encumbrance over the Premises or the Facility, as applicable, that such person will recognize Seller’s rights under this Agreement for as long Seller is not in default hereunder and (C), a signed and notarized original copy of the license agreement suitable for recording, substantially in the form attached hereto as **Exhibit 6** (the “License Agreement”).
- d. **Conditions to Purchaser’s Obligations.** Purchaser’s obligations under Section 4.a are conditioned on the occurrence of the Commercial Operation Date for the System by the Outside Commercial Operation Date.

7. Seller’s Rights and Obligations.

- a. **Permits and Approvals.** Seller, with Purchaser’s reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:
- i. any zoning, land use and building permits required to construct, install and operate the System;
 - ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Facility electrical system and/or the Utility’s electric distribution system; and

- iii. any agreements and approvals from the Utility or Public Utilities Commission necessary in order to group net meter energy produced by the System among Purchaser's various Utility meters and/or accounts.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals. Where required, Purchaser shall obtain all such agreements, permits and approvals in Purchaser's name to enable and benefit operation of the System, however, Seller shall pay or reimburse Purchaser for all fees required. Once all such permits and approvals are obtained, Seller agrees to promptly comply with all laws, ordinances, rules and regulations of governmental authorities (including, but not limited to, environmental and land use laws and ordinances) affecting the Premises, including but not limited to, installations, repairs, maintenance and alterations, whether structural or non-structural, foreseen or unforeseen, that are necessitated by any such laws, ordinances, rules and regulations.

- b. **Standard System Repair and Maintenance.** Seller shall construct and install the System at the Facility. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement. Seller shall not be responsible for any work done by Purchaser or Purchaser's contractor, agents or employees on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by Purchaser or Purchaser's contractor, agents or employees. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.
- c. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to conditions at the Premises or due to the inaccuracy of any information provided by Purchaser and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any necessary work in excess of normally expected work required to be performed by Seller. In such event, the Parties will meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to reach agreement on such amendments then either Party may submit the disagreement for dispute resolution pursuant to section 22.b of this Agreement.
- d. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System, provided that, notwithstanding anything to the contrary in this Agreement, Purchaser's failure to so notify Seller shall not be impose any liability whatsoever on Purchaser.
- e. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.
- f. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement, provided however, that such contractors and subcontractors shall be duly licensed and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors.
- g. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall defend, indemnify and hold Purchaser harmless for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises. Seller shall remove any lien or encumbrance filed by any third party in the Cumberland County Registry of Deeds that affects title to the Premises within forty-five (45) days of notification by Purchaser. Seller's obligations under this paragraph shall survive termination of this Agreement.

- h. **No Warranty.** NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise. The Manufacturers' Warranties described in Exhibit 2 to the Agreement and the Warranties in Section 14.c are excluded from the terms of this subparagraph 7.h.

8. **Purchaser's Rights and Obligations.**

- a. **License to the Premises; Facility Access Rights.** Subject to the terms and conditions of the License Agreement attached hereto as Exhibit 6, Purchaser grants to Seller and to Seller's agents, employees, contractors and assignees a revocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across only that portion of the Premises, as generally depicted in the Site Plan in Exhibit 2, Attachment A, as necessary for the sole purpose of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters necessary to interconnect the System to Purchaser's electric system at the Facility, to the Utility's electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of injury or damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "**License Term**"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the Premises and the Facility are preserved and protected. Purchaser shall not interfere with or willingly permit any third parties to interfere with such rights or access. At request of Seller, Purchaser shall execute a Memorandum of License, and which shall be in form and substance set forth **Exhibit 5**, or other form agreed to by the parties. Seller may, at its sole cost and expense, record such memorandum of License with the appropriate land registry or recorder's office.
- b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.
- c. **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the Utility's electric distribution system at all times and will not cause cessation of electric service to the Facility from the Utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.
- d. **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Facility which could adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. In addition, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during such disconnection or removal; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during such disconnection or removal; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during such disconnection or removal; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) would have received with respect to electric energy that would have been produced by the System during such disconnection or removal. Determination of the amount of energy that would have been produced during any disconnection or removal shall be in accordance with the procedures in Section 10.b. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

- e. **Outages.** Notwithstanding anything to the contrary in Section 8.d or elsewhere in this Agreement, Purchaser shall be permitted to be off line for a total of forty-eight (48) daylight hours (each, a “**Scheduled Outage**”) per calendar year during the Term, during which hours Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage, unless Purchaser determines that such outage is required on an emergency basis. In the event that Scheduled Outages exceed a total of forty-eight (48) daylight hours per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Purchaser shall pay Seller, for the period of time the outage exceeds 48 hours, an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during the outage; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during the outage; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during the outage; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller’s owners) would have received with respect to electric energy that would have been produced by the System during the outage. Determination of the amount of energy that would have been produced during the removal or disconnection shall be in accordance with the procedures in Section 10.b.
- f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys’ fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim. Notwithstanding anything else herein to the contrary, pursuant to Section 19.a, Seller may grant a lien on the System and may assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party.
- g. **Security.** As set forth in the License Agreement attached as Exhibit 6, Seller may install a fence around the System. Purchaser shall not be responsible for any damage caused to the System by third parties. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.
- h. **Insolation.** Purchaser understands that unobstructed access to sunlight (“**Insolation**”) is essential to Seller’s performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System’s Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System’s existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 8(h) against Purchaser. If Purchaser allows its vegetation to shade the System or causes any activity or condition that diminishes Insolation levels specified in Exhibit 2 Attachment A so as to cause energy generation of the System to fall more than 15% below projections in Exhibit 1, Purchaser and Seller agree that until the activity ceases or conditions are returned to Insolation levels specified in Exhibit 2 Attachment A, Seller may bill for energy based on the amount of energy that would have been produced in accordance with the procedures in Section 10.b.
- i. **Breakdown Notice.** Within twenty-four (24) hours following the discovery by a party of (i) any material malfunction in the operation of the System; or (ii) any occurrences that could reasonably be expected to adversely affect the System, the discovering party shall notify the other of such malfunction or occurrence. Upon the discovery of an emergency condition respecting the System, the discovering party shall notify the other of such condition immediately. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller’s repair or alteration at all times. Nothing herein imposes any obligation on the Purchaser to inspect or monitor the System, the Facility or the Premises at any time.

9. **Change in Law.**

“**Change in Law**” means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other

performance of the Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

10. Relocation of System.

- a. System Relocation. If Purchaser ceases to conduct business operations at the Facility, or otherwise vacates the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same utility district as the terminated System or in a location with similar utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System is relocated to; and (iii) Term, which will be equal to the remainder of the Term of this Agreement calculated starting at the shutdown of the System pursuant to such relocation, and shall toll until the relocated System achieves commercial operation of such new location. Such amended agreement shall be deemed to be a continuation of this Agreement without termination. In addition, Purchaser shall be obligated to provide a new executed and notarized license agreement covering the substitute premises in form and content substantially similar to the License Agreement. Purchaser shall also provide any new consents, estoppels, or acknowledgments reasonably required by Financing Parties in connection with the substitute premises.
- b. Costs of Relocation. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. In addition, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during the relocation; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during the relocation; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during the relocation; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) would have received with respect to electric energy that would have been produced by the System during the relocation. Determination of the amount of energy that would have been produced during the relocation shall be based, during the first Contract Year, on the estimated levels of production and, after the first Contract Year, based on actual operation of the System in the same period in the previous Contract Year, unless Seller and Purchaser mutually agree to an alternative methodology. "Contract Year" means the twelve month period beginning at 12:00 AM on the Commercial Operation Date or on any anniversary of the Commercial Operation Date and ending at 11:59 PM on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Contract Year shall begin on the Commercial Operation Date.
- c. Adjustment for Insolation; Termination. Seller shall remove the System from the vacated Facility prior to the termination of Purchaser's ownership, lease or other rights to use such Facility. Seller will not be required to restore the Facility to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to make an adjustment to Exhibit 1 such that Purchaser's payments to Seller are the same as if the System were located at the original Facility, increased to the extent necessary to compensate Seller for reduced revenues from Environmental Attributes and reduced Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller's owners) receive as a result of the relocation. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

11. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than one-hundred and twenty (120) days after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition to Purchaser's reasonable satisfaction. Seller shall not be obligated to remove below grade structures, including gravel, foundations and conduits, or roads, unless required to do so by law. Notwithstanding anything to the contrary herein, Seller shall be responsible for removing any above ground or floating concrete pads supporting the System. Seller shall leave the Facility in neat and clean order. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal, which Seller shall use at its own risk. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller's cost.

12. **Measurement.** Seller shall install one or more meter(s), as Seller deems appropriate, at or immediately before the Delivery Point to measure the output of the System. Such meter shall meet the general commercial standards of the solar photovoltaic industry or the required standard of the Utility. Seller shall maintain the meter(s) in accordance with industry standards. Seller shall provide a remote accessible data logging and reporting system during the Term to enable Seller and Purchaser to remotely record the amount of electric energy generated by the System. During such time the monitoring and/or reporting system ceases to function, but not longer than 180 days, Seller may reasonably estimate the amount of electric energy that was generated in accordance with Section 10.b and invoice Purchaser for such amount in accordance with Section 5. Within 180 days of invoicing estimated charges, the estimated production shall be compared to actual production based on a physical reading of the on-site meter and Seller shall issue an invoice or credit, as the case may be, to correct overages or underages that occurred during the period invoices were based on estimated production.

13. **Default, Remedies and Damages.**

- a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed to be the "**Defaulting Party**", the other Party shall be deemed to be the "**Non-Defaulting Party**", and each event of default shall be a "**Default Event**":
- i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within thirty (30) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");
 - ii. failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
 - iii. if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
 - iv. Purchaser loses its rights to occupy and enjoy the Premises unless such loss of right results from Seller's default under this Agreement, a Force Majeure event, or from the condemnation, eminent domain or other governmental taking of the Premises;
 - v. Purchaser revokes the license granted to Seller pursuant to this Agreement for a reason other than the expiration or earlier termination of this Agreement;
 - vi. a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect, and, if any such bankruptcy or other proceedings were initiated by a third party, if such proceedings have not been dismissed within sixty (60) days following receipt of a written notice from the Non-Defaulting Party demanding such cure; or

- vii. Purchaser (a) prevents Seller from installing the System or (b) otherwise fails to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.
- viii. Right to Cure. Both Parties shall have a right to cure any default as set forth in this subsection.
 - (1) Cure Period. Neither Party may exercise any right to terminate or suspend this Agreement unless it shall have given the defaulting Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the defaulting Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such default reasonably cannot be cured by the defaulting Party within such period and the defaulting Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.
 - (2) Continuation of Agreement. If the defaulting Party, within the time periods described in subsection a.vii.1 above, cures all defaults under this Agreement in the manner required by this Agreement, then such Party shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

b. Remedies.

- i. Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement upon five (5) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages.
- ii. Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement or suspend its performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. Notwithstanding any other provision of this Agreement, if Purchaser terminates this contract without cause prior to commencement of System installation, a design cancellation fee of up to five thousand dollars (\$5,000) of documented design expenses shall also apply in addition to any other remedy available to Seller.
- iii. Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):
 - A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty-five percent (35%), for the loss or recapture of (a) the investment tax credit equal to thirty percent (30%) of the System value; (b) MACRS accelerated depreciation equal to eighty five percent (85%) of the System value, (c) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (d) other financing and associated costs not included in (a), (b) and (c), (2) the net present value (using a discount rate of three and two tenths percent (3.20%)) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (3) removal costs as provided in Sections 11 and 13.b.iii.C, and (4) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser

would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

- B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (1) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility (but not including any differences in the price of delivered energy); (2) any removal costs incurred by Purchaser to return the Premises to its prior condition pursuant to Section 11, (3) all costs incurred by Purchaser in installing the Facility and connecting it to the Utility; and (4) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.
- C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the System and return the Premises to its prior condition pursuant to Section 11. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

14. **Representations, Warranties and Covenants.**

- a. **General Representations and Warranties.** Each Party represents and warrants to the other the following as of the Effective Date:
- i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
 - ii. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.
- b. **Purchaser's Representations, Warranties and Covenants.** Purchaser to its actual knowledge, represents and warrants to Seller the following as of the Effective Date and covenants that throughout the Term:
- i. License. Purchaser has title to the Premises. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility.
 - ii. Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
 - iii. Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated electricity requirements, is accurate in all material respects.
 - iv. Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.
 - v. No Pool Use. No electricity generated by the System will be used to heat a swimming pool.
- c. **Seller's Representations, Warranties and Covenants.** Notwithstanding any other provisions set forth in this Agreement, Seller warrants that its performance and provision of services, and the performance and provision of its

subcontractors and suppliers, under the terms of this Agreement will not infringe upon or violate any trademarks, patents, copyrights, trade secrets or other third party property (whether intellectual or otherwise) rights. Seller hereby agrees to indemnify and save the Purchaser, its affiliates, employees, directors, officers, agents, and contractors, harmless from and against, and defend such parties from, all liabilities, claims, costs and damages, including, but not limited to, reasonable attorneys' fees, arising out of any violation of the warranties provided in this paragraph, or otherwise, arising out of any assertion that provision or performance of any of the services, or the use of any of the services, constitutes an infringement upon or violates any patent, trademark, copyright, trade secret, or other intellectual property right. If any material, equipment, document, process, or apparatus provided by Seller, or if any of the services, or the use of any of the same, is held or determined to constitute an infringement upon or violation of any patent, trademark, copyright, trade secret, or other intellectual property right, or the use of any of the same is enjoined, Seller shall, within a reasonable time, secure for the Purchaser, at Seller's own expense, the right to continue to use such material, equipment, document, process, apparatus, and services by either obtaining the suspension or termination of any injunction, procuring for the Purchaser a license or other right to use the same, or obtaining the right in some other manner. In the alternative, and solely at the Purchaser's election, Seller shall, at Seller's expense and without injury or damage to any other property of the Purchaser: (i) replace such material, equipment, document, process, apparatus, and services with non-infringing items of the same quality and function; or (ii) modify such items so that they become non-infringing but perform the same functions and have the same quality as they had prior to such modification.

15. **System and Facility Damage and Insurance.**

a. **System and Facility Damage.**

- i. **Seller's Obligations.** If the **System** is damaged or destroyed other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System "AS-IS" at the Fair Market Value of the System or (2) the **Termination Payment**. In each case (A) and (B) shall be reduced by the amount of any insurance proceeds available to Seller.
- ii. **Purchaser's Obligations.** If the Facility or Premises is damaged or destroyed by casualty of any kind or any other occurrence other than Seller's gross negligence or willful misconduct, such that the operation of the System and/or Purchaser's ability to accept the electric energy produced by the System are materially impaired or prevented, Purchaser shall promptly repair and restore the Facility or Premises to its pre-existing condition; provided, however, that if more than 50% of the Facility is destroyed during the last five years of the Initial Term or during any Additional Term, Purchaser may elect either (A) to restore the Facility or (B) to pay the Termination Payment and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.

b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

- i. **Seller's Insurance.** Prior to the execution of this Agreement, Seller will procure and maintain Automobile Insurance, General Public Liability Insurance and Pollution Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, Two Million Dollars (\$2,000,000.00) in the aggregate, naming the Purchaser as an additional insured thereon; employer's liability insurance with coverage of at least \$1,000,000; and Workers' Compensation Insurance coverage to the extent required by law. With respect to the General Liability, Pollution Liability, and Automobile Liability Insurance, Seller shall name Purchaser as an additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available under the Maine Tort Claims Act, other Maine statutory law, judicial precedent or common law. With respect to the Liability Insurance, Seller will provide Purchaser a certificate of insurance evidencing such coverage in this way: certificate must say either: A) "the policy has been endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Extension Endorsement, by which the City of Portland is automatically made an additional insured." A Certificate which merely has a box checked under "Addl Insr," or the like, or which merely states the City of Portland is named as an Additional Insured, will not be acceptable. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of

Portland, its officers or employees. The Seller shall furnish the Purchaser, and thereafter maintain, certificates evidencing all such coverages, which certificates shall guarantee at least thirty (30) days' notice to Purchaser of termination of insurance from insurance provider or agent. All such policies of insurance shall be primary to any policies of insurance or self insurance of the Purchaser.

ii. **Purchaser's Insurance.** Under the Provisions of the Maine Tort Claims Act (14 M.R.S.A. § 8101, *et seq.*), and subject to the limitations of liability described therein, liability is imposed on a municipality for property damage, bodily injury and death in the maximum amount of four hundred thousand dollars (\$400,000.00) per occurrence (which includes automobile liability). Pursuant to this Act, Purchaser is a member of the Maine Municipal Association property and casualty risk pool. Purchaser self-insures for general liability in accordance with this statute under this program. Purchaser expressly reserves all immunity and discretionary rights, defenses and protections as provided by Maine law, including, but not limited to, the Maine Tort Claims Act.

c. **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance (A) not less than ten (10) days written notice before the insurance is cancelled, or terminated as a result of non-payment of premiums, or (B) not less than thirty (30) days written notice before the insurance is otherwise cancelled or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party.

d. **Certificates.** Upon the other Party's request each Party shall deliver the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

16. **Ownership; Option to Purchase.**

a. **Ownership of System.** Throughout the Term (except as otherwise permitted in Section 19), Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes (unless otherwise specified on Exhibit 1), and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller (or the designated assignee of Seller permitted under Section 19) is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located.

b. **Option to Purchase.** Beginning on the sixth (6th) anniversary of the Commercial Operation Date (i.e., beginning in the seventh Contract Year), provided Purchaser is not in default under this Agreement, Purchaser shall annually have the option to purchase the System from Seller at a price equal to the Fair Market Value of the System at such anniversary date, plus, if applicable, a sum equal to the repayment or recapture of Applicable Solar Program or other governmental payments occasioned by the exercise of such option. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Any such purchase shall be on an as-is, where-is basis, and Seller shall not provide any warranty or other guarantee regarding the performance of the System; provided, however, that (i) the Warranties in Section 14.c are excluded from the terms of this subparagraph 16.b and, therefore, shall survive any purchase of the System by Purchaser; and (ii) Seller shall assign to Purchaser any Manufacturers Warranties that are in effect as of the purchase, and which are assignable pursuant to their terms. Upon purchase, Seller shall provide all maintenance and operational records to Purchaser.

c. **Determination of Fair Market Value.** "Fair Market Value" means, in Seller's reasonable determination, the greater of: (i) the amount that would be paid in an arm's length, free market transaction, for cash, between an informed,

willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the System and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the valuation and further provided that the values of the License and the Interconnection Agreement shall be imputed and treated as costs for the purpose of the determination of Fair Market Value, and (ii) for any given Contract Year, the amount set forth on Exhibit 4, Attachment A attached hereto. Seller shall determine Fair Market Value within thirty (30) days after Purchaser has exercised its option to Purchase the System. Seller shall give written notice to Purchaser of such determination, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation and factual support for such assumptions, figures and values. If Purchaser reasonably objects to Seller's determination of Fair Market Value within thirty (30) days after Seller has provided written notice of such determination, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

17. Indemnification and Limitations of Liability.

- a. **General.** Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all third party loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") arising out of the performance of this Agreement or the breach of any representation or warranty set forth in Section 14 and resulting in injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c). Provided, however, the Purchaser expressly reserves all immunity and discretionary rights, defenses and protections as provided by Maine law, including but not limited to the Maine Tort Claims Act. The terms of this section 17.a shall survive termination of this Agreement.
- b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party shall assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.
- c. **Environmental Indemnification.** Seller shall indemnify, defend and hold harmless all of Purchaser's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 17(c)(d.i)) to the extent deposited, spilled, released, disturbed, or otherwise caused by Seller or any of its contractors or agents. Purchaser shall indemnify, defend and hold harmless all of Seller's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled, released, disturbed or otherwise caused by Seller or any of its contractors or agents. Provided, however, the Purchaser expressly reserves all immunity and discretionary rights, defenses and protections as provided by Maine law, including but not limited to the Maine Tort Claims Act.

- d. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises or the Premises generally or any deposit, spill or release of any Hazardous Substance.

i. **"Hazardous Substance"** means any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

ii. Each Party hereby agrees to defend, indemnify and hold harmless the other party hereto from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities (collectively, the "Claims") including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that indemnitee may suffer or incur due to the existence or discovery of any Hazardous Substances on the Premises or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment (collectively, the "Actions"), that arise from the indemnifying party's activities on or at the Premises. The indemnification obligations set forth in this Section 17.c specifically include, without limitation, costs incurred in connection with any investigation of site conditions and/or any cleanup, remedial, removal or restoration work required by any governmental authority.

The Parties acknowledge certain contractual and regulatory obligations are in place relating to the cleanup, remediation, and monitoring of the Premises. Purchaser and Seller each agree and covenant that at all times they shall comply with any and all obligations under the Landfill Closure and Remediation Program, 38 M.R.S.A. §1310-C *et. seq.*, and in respect of any agreements between Purchaser and its designated environmental consultant or other entity contracted to perform remediation and/or monitoring activities] (collectively the "Remediation Obligations"). Each party shall indemnify the other for any and all costs, damages or losses incurred by the indemnified party as a result of the failure of an indemnifying party to comply with such Remediation Obligations.

e. **Limitations on Liability.**

i. **No Consequential Damages.** Except with respect to indemnification for third party claims pursuant to this Section 17 and damages that result from the willful misconduct of a Party, neither Party nor its directors, officers, shareholders, partners, members, agents and employees, subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. The Parties agree that (1) in the event that Seller is required to recapture any Tax Credits or other tax benefits as a result of a breach of this Agreement by Purchaser, such recaptured amount shall be deemed to be direct and not indirect or consequential damages, and (ii) in the event that Seller is retaining the Environmental Attributes produced by the System, and a breach of this Agreement by Purchaser causes Seller to lose the benefit of sales of such Environmental Attributes to third parties, the amount of such lost sales shall be direct and not indirect or consequential damages. Further, the damages set forth under this Agreement, including but not limited to any applicable Termination Payment, will not be deemed indirect, special, incidental, exemplary, or consequential.

ii. **Actual Damages.** Except with respect to indemnification for third party claims pursuant to Section 17, available insurance coverage pursuant to Paragraph 15.b.i, and damages that result from the negligence or willful misconduct of Seller, Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section (17)(e)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against Seller must be brought within two (2) years after the cause of action accrues.

18. **Force Majeure.**

- a. **"Force Majeure"** means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the

production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

- b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.
- c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Purchaser's ability to make payment.
- d. If a Force Majeure event continues for a period of one-hundred and twenty (120) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then at any time during the continuation of the Force Majeure event, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid). Such termination shall not trigger a default under this Agreement.

19. Assignment and Financing.

- a. **Assignment.** This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party, (ii) assign this Agreement and the System to an affiliate or subsidiary of Seller, and (iii) assign this Agreement and the System to any entity providing financing or capital for the System or to any person succeeding to all or substantially all of the assets of Seller; provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee, and in the event of any such assignment under (ii) or (iii) that does not involve a sale and leaseback of the system by Seller, assignee has demonstrated to Purchaser's reasonable satisfaction that assignee has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. Purchaser's consent to such assignment shall not be unreasonably withheld. However, any assignment of Seller's right and/or obligations under this Agreement, shall not result in any change to Purchaser's rights and obligations under this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.
- b. **Financing.** The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. "**Financing Parties**" means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, means, if applicable, any person to whom Seller has transferred the ownership interest in the System, subject to a leaseback of the System from such person. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter in a material manner any of the terms of this Agreement. In connection with an assignment pursuant to Section 19(a)(i)-(iii), Purchaser agrees to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable to such Financing Parties.
- c. **Successor Servicing.** The Parties further acknowledge that in connection with any construction or long term financing or other credit support provided to Seller or its affiliates by Financing Parties, that such Financing Parties may require

that Seller or its affiliates appoint a third party to act as backup or successor provider of operation and maintenance services with respect to the System and/or administrative services with respect to this Agreement (the "**Successor Provider**"). Purchaser agrees to accept performance from any Successor Provider so appointed so long as such Successor Provider performs in accordance with the terms of this Agreement.

20. **[Intentionally Omitted]**

21. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. Neither Party shall make any public statements that inaccurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

22. **Miscellaneous Provisions**

- a. **Choice of Law.** The law of the State of Maine shall govern this Agreement without giving effect to conflict of laws principles.
- b. **Dispute resolution.** The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party. If, after such negotiation, the Dispute remains unresolved, and if the Parties mutually agree, Disputes arising in connection with or under this Agreement, may be finally resolved by binding arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules/Fast Track Procedures. Unless otherwise agreed in writing by the Parties, the proceedings shall be held in Cumberland County, Maine. If binding arbitration is approved by both parties in writing, any such decision rendered by the arbitrator shall be final, binding, and non-appealable. The prevailing party in any arbitration proceeding arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs. If the Parties agree, a mediator may be consulted prior to arbitration. In the event the parties do not resolve their dispute as set forth above, the parties hereby consent to the exclusive jurisdiction of the Superior Court (Cumberland County) 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.
- c. **Attorneys Fees.** The prevailing Party in any lawsuit arising out of this Agreement will be entitled to collect from the other Party the prevailing Party's reasonable attorneys' fees and costs. The court will determine the prevailing Party as the Party who recovered greater relief in the action; however, if the lawsuit is voluntarily dismissed or dismissed pursuant to a settlement of the case, there will be no prevailing Party for purposes of this Subsection 22.c.
- d. **Notices.** All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.
- e. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 4 (Representations and Warranties), Section 7(h) (No Warranty), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 22(a) (Choice of Law), Section 22(b) (Arbitration), Section 22(c) (Attorneys' Fees), Section 22(d) (Notices), Section 22(h) (Comparative Negligence), Section 22(i) (Non-Dedication of Facilities), Section 22(n) (Service Contract), Section 22(o) (No Partnership), Section 22(p) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 22(r) (No Third Party Beneficiaries).
- f. **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- g. **Right of Waiver.** Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); provided, however that neither Party shall

be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

- h. **Comparative Negligence.** It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- i. **Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 10 of this Agreement.
- j. **Estoppel.** Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- k. **Capacity & Ancillary Services.** Seller shall be entitled to receive any payments for electric capacity (including savings in the form of reduced demand charges) or ancillary services that may become available as a result of the construction or operation of the System. Purchaser shall provide reasonable assistance to Seller in order for Seller to receive such payments, and if Purchaser is deemed to be the owner or provider of such capacity or services, Purchaser shall assign the same to Seller, provided that Seller shall be responsible for the preparation and submission of any necessary applications or other documents. If Purchaser receives any payments in respect of capacity or such services it shall promptly pay them over to Seller.
- l. **No Resale of Electricity.** Except as contemplated by the provisions of this Agreement, the electricity purchased by Purchaser from Seller under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Seller, which approval shall not be unreasonably withheld, and Purchaser shall not take any action which would cause Purchaser or Seller to become a utility or public service company.
- m. **Seller Is Not A Utility.** Neither Party shall assert that Seller is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Seller's obligations or performance under this Agreement.
- n. **Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.
- o. **No Partnership.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

- p. **Full Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement, together with any Exhibits, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
- q. **Forward Contract.** The transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.
- r. **No Third Party Beneficiaries.** This Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person except for assignees and Financing Parties permitted under Section 19, and then only as to Section 19.
- s. **Bonding.**
- i. **Performance bond liability.** Any performance bond issued for a site or system will cease one (1) year from the completion of construction. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond one year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.
 - ii. **Payment bond liability.** Any payment bond issued will cease at the termination of any time required by law.
 - iii. **Performance Guarantee.** Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

Exhibit 4
Attachment A
Termination Payment

Contract Year	Termination Payment Amount	Fair Market Value
1	Section 13.b.iii.A	
2	Section 13.b.iii.A	
3	Section 13.b.iii.A	
4	Section 13.b.iii.A	
5	Section 13.b.iii.A	
6	Section 13.b.iii.A	
7	Section 13.b.iii.A	\$1,598,423
8	Section 13.b.iii.A	\$1,520,772
9	Section 13.b.iii.A	\$1,443,121
10	Section 13.b.iii.A	\$1,365,670
11	Section 13.b.iii.A	\$1,301,771
12	Section 13.b.iii.A	\$1,238,073
13	Section 13.b.iii.A	\$1,174,374
14	Section 13.b.iii.A	\$1,110,676
15	Section 13.b.iii.A	\$1,046,977
16	Section 13.b.iii.A	\$961,251
17	Section 13.b.iii.A	\$875,525
18	Section 13.b.iii.A	\$789,800
19	Section 13.b.iii.A	\$704,074
20	Section 13.b.iii.A	\$618,348
21	Section 13.b.iii.A	\$549,101
22	Section 13.b.iii.A	\$450,437
23	Section 13.b.iii.A	\$346,402
24	Section 13.b.iii.A	\$236,793
25	Section 13.b.iii.A	\$121,398
After Year 25	Fair Market Value	Fair Market Value

End of Exhibit 4

Exhibit 5
Form of Memorandum of License

NOTICE OF LICENSE AGREEMENT

Notice is hereby given that pursuant to a Solar Power Purchase Agreement between the parties listed below, dated as of [_____] (the "**Solar Agreement**"), such Solar Agreement includes a License Agreement between Purchaser and Seller, pursuant to the terms of the Solar Agreement. This notice may be executed in counterparts by the Parties to the Solar Agreement.

Parties to the Agreement:

Seller: ReVision SunFill, LLC
c/o ReVision Energy, LLC
142 Presumpscot St.
Portland, ME 04103

Purchaser: City of Portland
389 Congress St.
Portland, ME 04101

Date of Execution of Solar Agreement: [_____]

Description of Premises: See Exhibit 5, Attachment A [NOTE: City is not granting a license to entire former landfill site, only a portion thereof; description to be provided by City to include the fenced area generally depicted in Exhibit 2, Attachment A together with a right of access over the Access Road depicted in Exhibit 2, Attachment A]]

TERM OF AGREEMENT:

The term of the Agreement shall be until the last day of the calendar month in which the twenty-fifth (25th) anniversary of the Commercial Operation Date (as that term is defined in the Agreement) occurs, subject to any Additional Terms or early termination pursuant to the terms of the Agreement.

[signature pages follow]

Exhibit 5
Attachment A
Description of the Premises

[Insert Description from Purchaser's Deed]

[NOTE: City is not granting a license to entire former landfill site, only a portion thereof; description to be determined by City to include the fenced area generally depicted in Exhibit 2, Attachment A together with a right of access over the Access Road depicted in Exhibit 2, Attachment A]]

IN WITNESS WHEREOF, this License Agreement has been executed and delivered under seal on this _____ day of _____, 20__.

GRANTOR:

By: _____
Print Name: _____
Title: _____

STATE OF MAINE
County of Cumberland

_____, 2017

Personally appeared before me the above-named Jon P. Jennings, City Manager for the City of Portland, and acknowledged the foregoing instrument is his free act and deed in said capacity, and the free act and deed of the said City of Portland.

Notary Public/Attorney-At-Law

Typed or Printed Name: _____
Commission Expires: _____

STATE OF MAINE
County of Cumberland

_____, 2017

Personally appeared before me the above-named _____,
_____ for Revision SunFill, LLC and acknowledged the foregoing instrument is his or her free act and deed in said capacity, and the free act and deed of the said limited liability company.

Notary Public/Attorney-At-Law

Typed or Printed Name: _____
Commission Expires: _____

[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]

End of Exhibit 5

Exhibit 6
License Agreement

This LICENSE AGREEMENT (this “**Agreement**”) is made and entered into this _____ day of _____, 20____ (the “**Effective Date**”), by and between City of Portland (“**City**”), a municipality in the State of Maine with a mailing address of 389 Congress St, Portland, Maine 04101 and ReVision SunFill, LLC (“**Licensee**”), a Maine Limited Liability Company with a mailing address of 142 Presumpscot St., Portland, Maine 04103.

Recitals

A. City is the owner of those certain parcels or tracts of ground located in the City of Portland, County of Cumberland, State of Maine, and more particularly described by metes and bounds on **Attachment A** attached hereto and incorporated herein (all of which parcels or tracts of ground are referred to herein as the “**Premises**”). **[NOTE: City is not granting a license to entire former landfill site, only a portion thereof; description to be determined by City]**

B. City and Licensee entered into a certain Solar Power Purchase Agreement (the “**Solar Agreement**”) dated _____, 2017 pursuant to which Licensee has agreed to design, construct, install, operate and maintain a certain solar photovoltaic system on the Premises (the “**System**”) for the purpose of providing electric energy to the City.

C. Subject to the terms and conditions set forth herein, City desires to grant to Licensee the rights described herein for the purposes of designing, installing, operating, maintaining and removing the System on and from the Premises.

Agreement

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth below, and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged and confirmed by City, City and Licensee hereby agree as follows:

1. **Grant of License.** Subject to the terms and conditions of the Solar Agreement, City hereby grants unto Licensee, its successors and assigns, a non-exclusive license for the period of time set forth herein, across, over, under and above the Premises in order to construct, install, alter, protect, repair, maintain, replace, operate, maintain and remove the System, including any related interconnection equipment and any facilities or equipment appurtenant thereto as Licensee may from time to time require. City also hereby grants and conveys unto Licensee all other licenses across, over, under and above the Premises as reasonably necessary to provide access to and services reasonably required for Licensee’s performance under the Solar Agreement. The licenses granted hereunder shall run with and burden the Premises for the term of this Agreement.
2. **Term.** This Agreement shall be for a period commencing on the Effective Date and expiring on the date that is the earlier of (a) the thirtieth (30th) anniversary of the Effective Date, and (b) one hundred twenty (120) days following expiration or earlier termination of the Solar Agreement. No delay or interruption by Licensee in the use or enjoyment of any right or license hereby granted shall result in the loss, limitation or abandonment of any of the rights granted hereby.
3. **Obstructions.** In addition to the rights afforded Licensee under the Solar Agreement, and subject to the terms and conditions set forth therein, Licensee, with the City’s prior written consent, which shall not be unreasonably withheld, delayed, or conditioned, may from time to time remove structures, trees, bushes, or other obstructions within such portions of the Facility, and may level and grade such portions of the Premises, to the extent reasonably necessary to carry out the purposes set forth herein. The City covenants for itself, its heirs, successors and assigns that:
 - a. The City will not build or place, or allow to be built or placed, any structure or obstruction of any kind within such portions of the Premises on which is located any portion of the System, including any related interconnection equipment; and
 - b. If such a structure or obstruction is built or placed within any portion of the Premises on which is located any portion of the System, including any related interconnection equipment, the City will remove the same at the request of the Licensee at no cost to the Licensee. The Licensee may erect a fence on such portions of the Premises or the Facility on which any portion of the System, are located in order to exclude Grantor and others from accessing such areas provided that Grantor gives its prior written consent, such consent not to be unreasonably withheld, delayed or conditioned.

4. **Reservation of Rights.** The City reserves the right to use or authorize others to use the Premises in any manner not inconsistent with or which will not unreasonably interfere with the rights granted herein, provided, however, that the City shall not, nor shall willingly permit others to, disturb the System, including any related interconnection equipment, in any way without prior written approval of the Licensee. This instrument is a License and no provision hereof shall be construed as conveying an easement or other estate in land. The City reserves all other rights not inconsistent or incompatible with the rights granted herein to Licensee. Licensee acquires no other rights in and to the Property, except as set forth herein.
5. **Title.** The City represents and warrants to Licensee that (a) the City holds fee simple title to the Premises, free and clear of all liens and any other encumbrances, and (b) no lien or other encumbrance to which the Premises is subject would reasonably be expected to adversely impact Licensee's rights hereunder or under the Solar Agreement. The City further represents and warrants to Licensee that the City has the right to execute and deliver this Agreement and to grant to Licensee the licenses and other rights hereunder, and that such grant does not, and will not, violate or breach the City's organizational documents, any law, rule or regulation, or any contract, agreement or arrangement to which the City is a party or by or to which any of the City's assets or properties, including the Premises, is bound or subject. In the event that, after the date of this Agreement, the City duly grants a mortgage for additional value (the "**Subsequent Mortgage**"), the City shall, prior to and as a condition to the effectiveness of such grant of a mortgage, cause the mortgagee under the Subsequent Mortgage to execute and deliver to the Licensee an agreement, in customary form and in form and substance reasonably acceptable to Licensee, acknowledging the subordination of the Subsequent Mortgage to the grant of the license pursuant to this Agreement (the "**Subordination Agreement**").
6. **Recordation; Possession.** A memorandum of this Agreement may be recorded against the Premises by Licensee at Licensee's sole cost and expense. The City covenants and agrees, for itself and its assigns and successors, that the Licensee shall be entitled to exercise its rights under this Agreement upon execution and delivery of this Agreement by the Parties hereto, while this Agreement is in effect, whether or not this Agreement is recorded.
7. **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of Maine, without regard to conflicts of law principles.
8. **Severability.** All provisions of this Agreement are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions.
9. **Binding Effect; Successors and Assigns.** Licensee shall have the right to assign, apportion, or otherwise transfer any or all of its rights, benefits, privileges, and interests arising in this Agreement in accordance with the terms of the Solar Agreement. Without limiting the generality of the foregoing, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors and assigns. This Agreement may be amended, modified or terminated only by written instrument, executed and acknowledged by the Parties hereto.
10. **Headings.** The headings used herein are for convenience only and are not to be used in interpreting this Agreement.
11. **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereto and supersedes any prior written or oral agreements with respect to the matters described herein.
12. **Amendments; Acknowledgments.** The City shall cooperate in amending this Agreement from time to time to include any provision that may be reasonably requested by Licensee's lender, any assignee of rights under this Agreement, or the lender of any assignee hereunder, provided, however, that such amendments shall not result in any substantial change to the City's rights and obligations under this Agreement or the Solar Agreement.
13. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

[signature pages follow]

Exhibit 6

Attachment A

Description of the Premises and Facility

[Insert Description from Purchaser's Deed]

[NOTE: City is not granting a license to entire landfill site, only a portion thereof; description to be determined by City to include the fenced area generally depicted in Exhibit 2, Attachment A together with a right of access over the Access Road depicted in Exhibit 2, Attachment A]

IN WITNESS WHEREOF, this License Agreement has been executed and delivered under seal on this _____ day of _____, 20__.

CITY OF PORTLAND:

By: _____
Print Name: _____
Title: _____

STATE OF MAINE
County of Cumberland

_____, 2017

Personally appeared before me the above-named Jon P. Jennings, City Manager for the City of Portland, and acknowledged the foregoing instrument is his free act and deed in said capacity, and the free act and deed of the said City of Portland.

Notary Public/Attorney-At-Law

Typed or Printed Name: _____
Commission Expires: _____

REVISION SUNFILL, LLC

By: _____
Print Name: _____
Title: _____

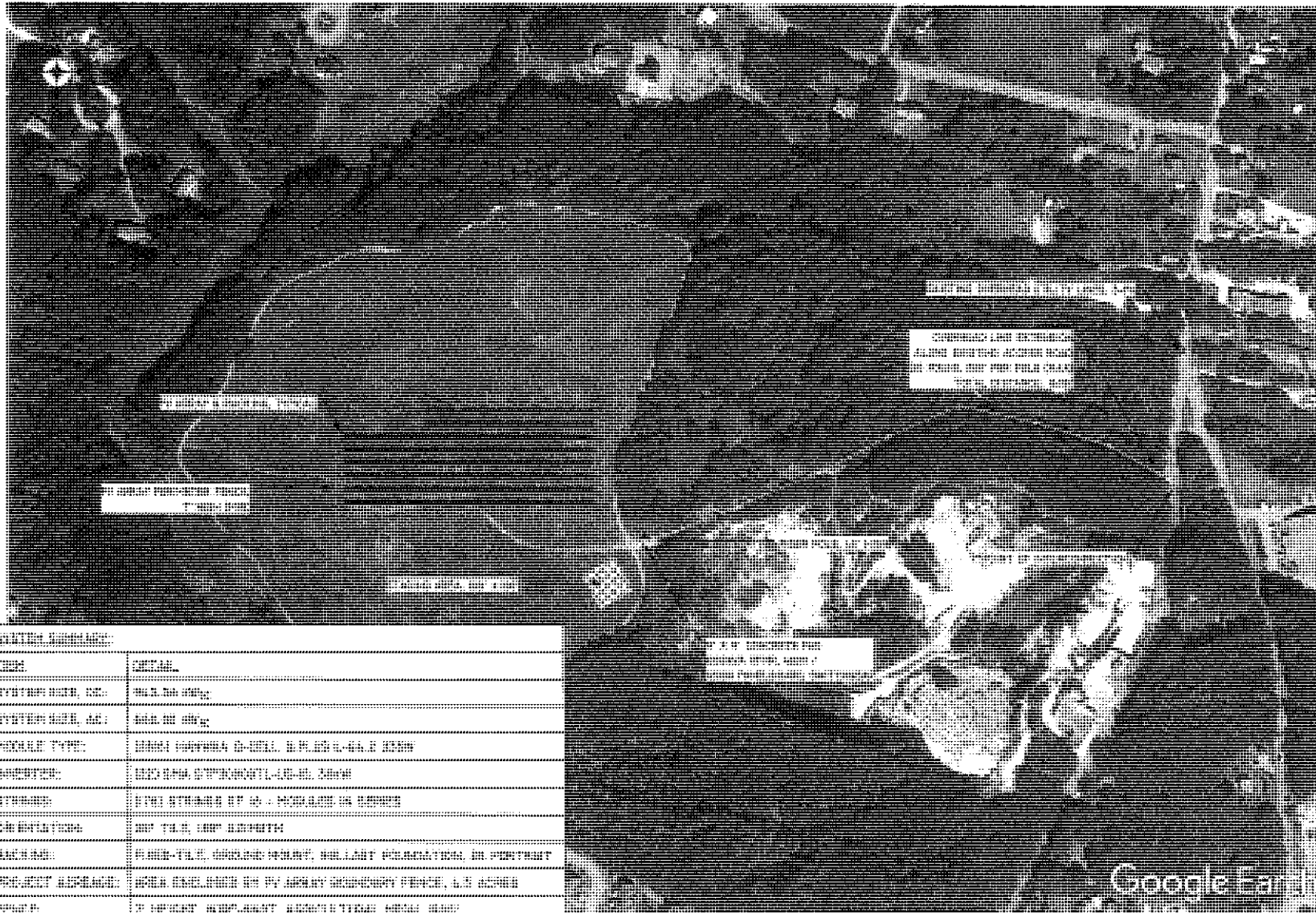
STATE OF MAINE
County of Cumberland

_____, 2017

Personally appeared before me the above-named _____,
_____ for Revision SunFill, LLC and acknowledged the foregoing instrument is his or her free act and deed in said capacity, and the free act and deed of the said limited liability company.

Notary Public/Attorney-At-Law

Typed or Printed Name: _____
Commission Expires: _____



142 PRESUMPCOT STREET
PORTLAND, ME 04103
(207) 221-6342

CLIENT:

CITY OF PORTLAND, ME

PROJECT ADDRESS:

OLD CITY LANDFILL
RIDGE ROAD
PORTLAND, ME 04103

SYSTEM TYPE:

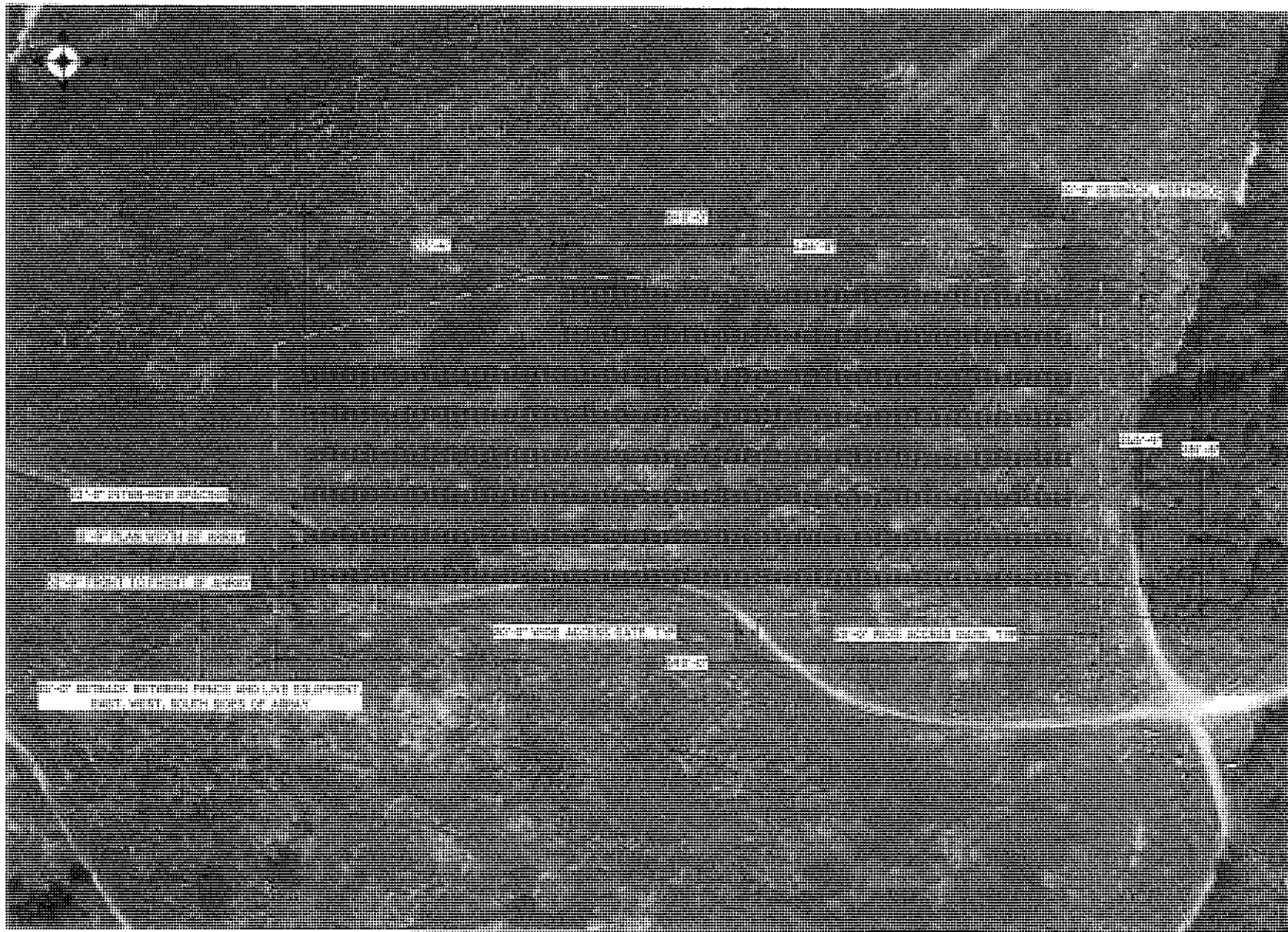
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PHOTOVOLTAIC ARRAY

NOT FOR CONSTRUCTION

DESIGNED BY:	LB
REVISION:	0
PRINT SIZE:	17" x 11"
SCALE:	1" = 250'
DATE:	OCTOBER 12, 2016
DWG TITLE:	SITE PLAN
DWG NUMBER:	AO1

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142 PRESUMPCOT STREET
PORTLAND, ME 04103
(207) 221-6342

CLIENT:

CITY OF PORTLAND, ME

PROJECT ADDRESS:

OLD CITY LANDFILL
RIDGE ROAD
PORTLAND, ME 04103

SYSTEM TYPE:

943.36 kW_{DC}
PHOTOVOLTAIC ARRAY

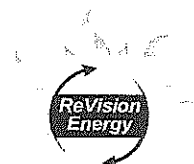
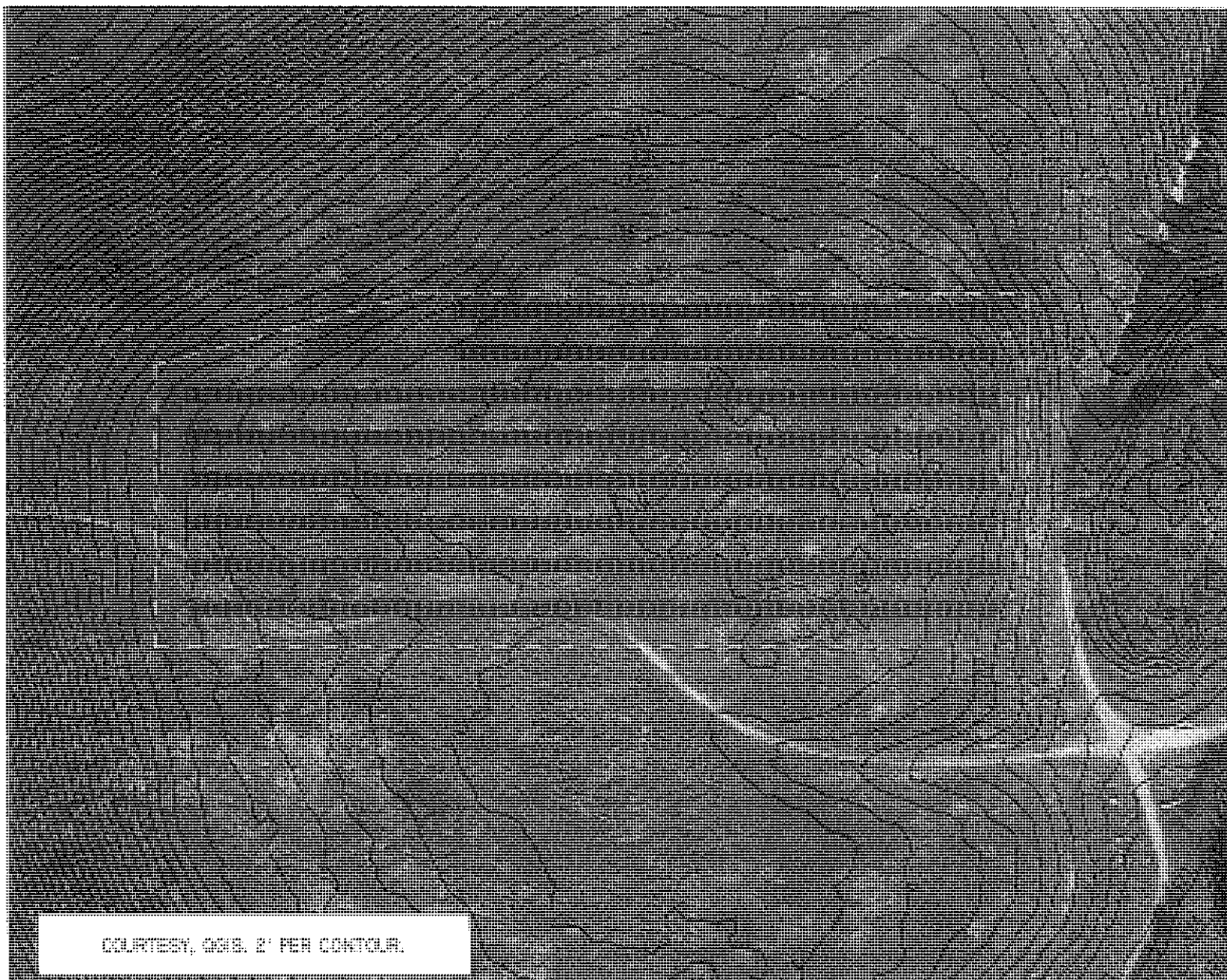
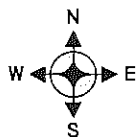
NOT FOR CONSTRUCTION

DESIGNED BY: LB
REVISION: 0
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SCALE: 1" = 75'
DATE: OCTOBER 12, 2016
DWG TITLE:
SITE LAYOUT

DWG NUMBER:
A02

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142 PRESUMPCOT STREET
PORTLAND, ME 04103
(207) 221-6342

CLIENT:

CITY OF PORTLAND, ME

PROJECT ADDRESS:

OLD CITY LANDFILL
RIDGE ROAD
PORTLAND, ME 04103

SYSTEM TYPE:

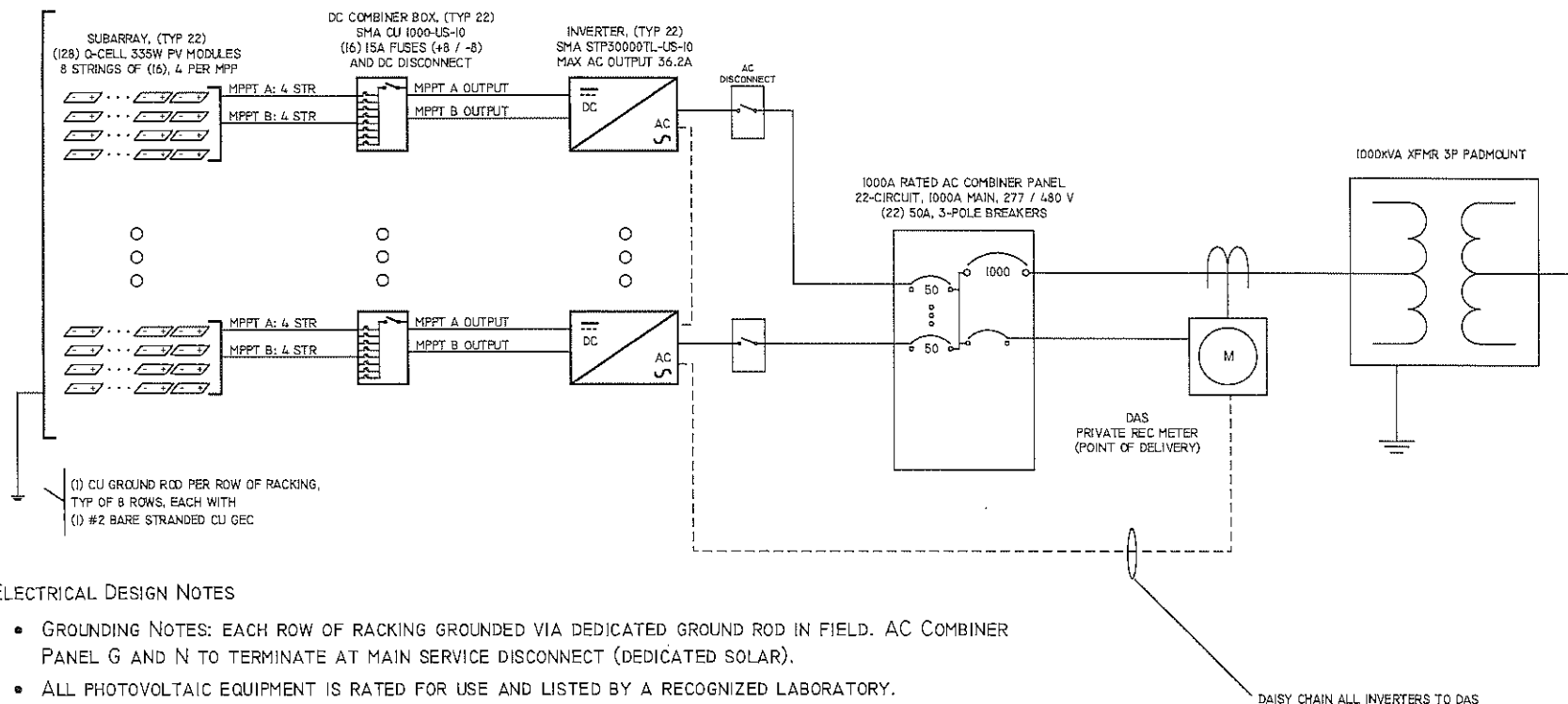
943.36 kW_{DC}
PHOTOVOLTAIC ARRAY

NOT FOR CONSTRUCTION

DESIGNED BY:	LB
REVISION:	0
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SCALE:	1" = 75'
DATE:	OCTOBER 12, 2016
DWG TITLE:	SITE TOPOGRAPHY
DWG NUMBER:	A03

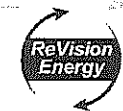
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ELECTRICAL DESIGN NOTES

- GROUNDING NOTES: EACH ROW OF RACKING GROUNDED VIA DEDICATED GROUND ROD IN FIELD. AC COMBINER PANEL G AND N TO TERMINATE AT MAIN SERVICE DISCONNECT (DEDICATED SOLAR).
- ALL PHOTOVOLTAIC EQUIPMENT IS RATED FOR USE AND LISTED BY A RECOGNIZED LABORATORY.
- ALL PHOTOVOLTAIC EQUIPMENT IS OUTDOOR RATED AND LISTED FOR 1000 VDC.
- LOWEST EXPECTED AMBIENT TEMPERATURE IS BASED ON ASHRAE EXTREME MIN FOR THE SPECIFIED LOCATION.
- AVERAGE HIGH TEMPERATURE IS BASED ON ASHRAE 2% AVG. FOR THE SPECIFIED LOCATION.
- SYSTEM-WIDE VOLTAGE DROP SHALL NOT EXCEED 5%.
- GROUNDING AND BONDING PROCEDURES FOR ALL PHOTOVOLTAIC EQUIPMENT COMPLY WITH NEC 2014.
- RAPID SHUTDOWN REQUIREMENTS ARE IN ACCORDANCE WITH NEC 690.12.
- CONDUCTORS GUARDED AT RACKING PER NEC 690.31(A).
- CONDUIT BETWEEN SUBARRAYS, COMBINERS, AND DISCONNECTS SHALL TAKE THE SHORTEST REASONABLE PATH.
- SPACE REQUIREMENTS FOR ELECTRICAL EQUIPMENT SHALL COMPLY WITH NEC ARTICLE 110.
- ANY PLAQUES SHALL BE OF METAL OR PLASTIC CONSTRUCTION, WITH ENGRAVED OR MACHINE PRINTED LETTERING, OR ELECTRO-PLATING, IN A RED BACKGROUND WITH WHITE LETTERING, A MINIMUM OF 3/8" HEIGHT AND ALL CAPITAL LETTERS.



142 PRESUMPCOT STREET
PORTLAND, ME 04103
(207) 221-6342

CLIENT:

CITY OF PORTLAND, ME

PROJECT ADDRESS:

OLD CITY LANDFILL
RIDGE ROAD
PORTLAND, ME 04103

SYSTEM TYPE:

943.36 kW_{DC}
PHOTOVOLTAIC ARRAY

NOT FOR CONSTRUCTION

DESIGNED BY: LB
REVISION: 0
PRINT SIZE: 17" x 11"
SCALE:
DATE: OCTOBER 12, 2016
DWG TITLE:
ONE-LINE DIAGRAM

DWG NUMBER:
E01

© COPYRIGHT REVISION ENERGY

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*Order 145-16/17
Feb 21 2017*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING AGREEMENT BETWEEN PORTLAND AND MAINE
DEPARTMENT OF TRANSPORTATION
RE: WEST COMMERCIAL STREET TRAIL**

ORDERED, that the two-party agreement between the Maine Department of Transportation and the City of Portland, for construction of the West Commercial Street Trail, WIN 18865.00, is hereby approved in substantially the form attached hereto; 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 and this Order.

MEMORANDUM
City Council Agenda Item

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

FROM: Jeff Levine, Director, Planning and Urban Development Department

DATE: 1/23/17

SUBJECT: Request to Authorize Municipal-State Agreement with MaineDOT for design and construction of West Commercial Street Pathway

SPONSOR: Jeff Levine, Director, Planning and Urban Development Department
(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 2/22/17 Final Action 3/6/17

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

PRESENTATION: (Jeff Levine or Nell Donaldson, 5 minute oral presentation)

I. ONE SENTENCE SUMMARY

This order authorizes the City Manager to sign a Municipal-State Agreement with the MaineDOT for design and construction of the West Commercial Street Trail.

II. AGENDA DESCRIPTION

In 2012, the Maine DOT awarded Transportation Enhancements funding to the City of Portland's Department of Public Works for the design and construction of a portion of the West Commercial Street Trail. The shared use pathway segment, from the Star Match Building west to the Fore River Trail, is a vital link in plans to create a circumferential shared use pathway network around the Portland Peninsula, and the planning work that preceded the application had begun two years earlier, with the *West Commercial Street Trail Feasibility Study*. The city reaffirmed its commitment to completing the pathway segment, within the scope of the broader bicycle and trail planning for the peninsula, in the 2014 *West Commercial Street Multi-Modal Corridor Study*, which placed the pathway first on its list of priority recommendations. In June 2013, the City Council unanimously endorsed the funding of this project as part of the 2014 CIP. In 2016, the city agreed to oversee the pathway design and construction as a locally-administered project, and the city's Department of Planning and Urban Development was selected to manage the project.

III. BACKGROUND

See above.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The Municipal-State Agreement formally commits both the city and MaineDOT to the West Commercial Street Trail project, with a 20%/80% split through the Transportation Enhancements program. The commitment will allow the city to leverage significant state and federal funds to make vital transportation improvements to West Commercial Street and support the development of a transportation system that advances healthy living, minimizes environmental impacts and promotes the local economy by advancing opportunities for mass transit, bicycle use, and walking.

V. FINANCIAL IMPACT

Total Agreement Amount: \$353,488.00

Federal Share: \$282,790.40 (80%)

Municipal Share: \$ 70,697.60 (20%)

The local share for the West Commercial Street Pathway project is \$70,698. \$70,000 of this match is currently programmed in the city's CIP (Project ID# C14P01). Remaining funds are anticipated to come from the MDOT Quality Community Program account (C14114).

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

None.

VII. RECOMMENDATION

Following review by Corporation Counsel, DPW, and Planning staff, Planning staff recommends approval of this agreement between Maine DOT and the City of Portland and authorization of the City Manager's signature.

VIII. LIST ATTACHMENTS

1. MaineDOT Agreement for a Federal-aid Locally Administered Project, West Commercial Street Trail: WIN 018865.00

Prepared by: Nell Donaldson

Date: 1/23/17

Bean/agendarequestmemo/rev 11/2015



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Paul R. LePage
GOVERNOR

David Bernhardt
COMMISSIONER

January 3, 2017

Helen Donaldson, Senior Planner
City of Portland Planning Division
389 Congress Street
Portland, ME 04101

Subject: Revised Agreement for West Commercial Street Trail, WIN 018865.00

Dear Ms. Donaldson:

Enclosed is the revised agreement between MaineDOT and the City of Portland for a locally administered project to design and construct a multi-use path along West Commercial Street, with federal funding. As you pointed out – and Patrick Adams, the MaineDOT bicycle and pedestrian program coordinator – clarified, the project description on the first page has been revised to include the existing sidewalk in front of the Portland Match Company building.

Once the agreement is approved, signed and dated by your City Manager, please return it as follows:

- ☐ Email a color, high-quality .pdf scan to me at michael.laberge@maine.gov; or
- ☐ Return the signed original to me by mail at the address below:
Michael Laberge, Local Projects Coordinator
Multimodal Program, Bureau of Project Development
16 State House Station
Augusta, ME 04333-0016

MaineDOT looks forward to receiving the signed and dated agreement back at the City's convenience.

Sincerely,

Michael Laberge
Local Projects Coordinator



MaineDOT use only

AMS ID: _____
CSN: _____
TEDOCS #: _____

Agreement for a Federal-aid Locally Administered Project

With the

City of Portland

Regarding

West Commercial Street Trail: WIN 018865.00

Total Agreement Amount: \$353,488	Federal Project #: TAP-1886(500)
Federal Share: \$282,790.40 (80%)	Federal Authorization Date: February 27, 2015
Municipal Share: \$70,697.60 (20%)	City's Vendor ID: VC1000073476
Begin Date: Upon MaineDOT's Signature	City's DUNS® Number: 07-174-7802
End Date: Refer to Article 9, "Expiration."	CFDA #20.205: Highway Planning & Construction

This Agreement for a federal-aid project is entered into by the State of Maine Department of Transportation ("**MaineDOT**,"), with its headquarters at 24 Child Street in Augusta, Maine, and the City of Portland ("the **City**,"), with its principal offices located at 389 Congress Street in Portland, Maine. **MaineDOT** and the **City** jointly shall be referred to as the "**Parties**."

WHEREAS, this Agreement shall apply to preliminary engineering, right-of-way, construction, and construction engineering work for a multi-use path along West Commercial Street, beginning at an existing sidewalk at the eastern entrance to the Portland Match Company building and continuing 0.41 mile to the end of the Fore River Parkway Trail (the "**Project**.")

WHEREAS, **MaineDOT** selected the **Project** for federal-aid funding and for inclusion in its Work Plan for calendar years 2016-2018; and

WHEREAS, the **City**, as a sub-recipient of federal-aid funding, shall deliver the **Project** as a Locally Administered Project, subject to oversight by **MaineDOT** to ensure that all federal and state requirements are met.

NOW, THEREFORE, in consideration of the foregoing statements, the **Parties** agree to the following terms and conditions:

The following attachments are hereby incorporated into this Agreement:

- ☒ Federal Funding Accountability and Transparency Act Form (signature required);
- ☒ Federal Title VI Assurances (signature required).

ARTICLE 1. ROLES AND RESPONSIBILITIES

1A. **ROLE OF CITY.** The **City** shall assign a full-time employee with appropriate qualifications and current Local Project Administration ("LPA") certification from **MaineDOT** to manage the **Project** and carry out the **City**'s responsibilities under this Agreement. This Local Project Administrator shall abide by the guidance in the latest edition of **MaineDOT**'s *Local Project Administration Manual & Reference Guide* ("LPA Manual.") If the certified administrator leaves the employment of the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will determine a course of action.

- ☐ Local Project Administrator for **City**: Helen Donaldson, Senior Planner
Email: hcd@portlandmaine.gov
Phone: (207) 874-8723

1B. **ROLE OF MAINEDOT.** **MaineDOT** will assign a Project Manager to carry out the State of Maine's responsibilities under this Agreement. This person will have the authority to request design changes to meet applicable laws and design standards; accept and reject invoices; review construction activities to ensure compliance with Agreement documents; and take all other action to ensure proper performance of this Agreement.

- ☐ Project Manager for **MaineDOT**: Brian Keezer, Senior Project Manager
Email: brian.keezer@maine.gov
Phone: (207) 624-3612

ARTICLE 2. FINANCIAL PROVISIONS

2A. **UPSET LIMIT.** The estimated cost of the **Project** is **\$353,488** ("Upset Limit.") **Project** costs eligible for federal financial participation shall not exceed this Upset Limit without **MaineDOT's** written approval, through an executed modification to this Agreement.

2B. **MAINEDOT SHARE.** **MaineDOT**, with funding from the Federal Highway Administration ("**FHWA**,") will share in all **Project** costs eligible for federal financial participation at the rate of **80%**, up to a maximum contribution at this rate of **\$282,790.40**.

2C. **LOCAL SHARE.** The **City** shall share in all costs eligible for federal financial participation at the rate of **20%**, or an estimated **\$70,697.60**. Additionally, the **City** shall be fully responsible for costs:

1. Exceeding the Upset limit of this Agreement set forth in Article 2A above;
2. Incurred before the date of notice to proceed, as set forth in Article 3A, "Authorization";
3. Deemed ineligible for federal financial participation.

2D. **MAINEDOT COSTS.** Costs that **MaineDOT** incurs for services performed for the **Project** shall be charged to the **Project**. The **City** shall share in these costs at the rate in Article 2C, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share of them from the final invoice payment.

2E. **INVOICING.** **MaineDOT** will reimburse the **City** for eligible costs incurred on the **Project** at the rate in Article 2B, "MaineDOT Share." The **City** shall submit invoices in the format provided in Communication 4 from the LPA Manual, as follows:

1. Invoices shall be submitted no more than monthly and no less than quarterly.
2. Each invoice shall document the charges incurred and proof of payment made.
3. Each invoice shall include a progress report for the service period of the invoice.
4. Each invoice shall show **MaineDOT's** and the **City's** portions of **Project** costs, including a running total of costs incurred to date.
5. The **City** must certify that amounts are correct and not claimed previously.
6. Payment of the final invoice from the **City** shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.

- 2F. FINAL COST. If the actual cost of the **Project** is less than the Upset Limit, the final amounts owed will be adjusted based on the percentages in articles 2B and 2C.
- 2G. REPAYMENT. If the **City** withdraws from the **Project**, leading to cancellation of the **Project** and the loss of federal financial participation, the **City** shall refund all invoice payments from **MaineDOT** and reimburse **MaineDOT** in full for the cost of services performed in connection with the **Project**. Additionally, **MaineDOT** will seek to recover from the **City** any payment made to the **City** for work later deemed ineligible for federal funding under this Agreement.
- 2H. SET-OFF. **MaineDOT** shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, **MaineDOT's** option to withhold for the purposes of set-off money due the **City** under a specific contract up to any amounts due and owed to **MaineDOT** with regard to this Agreement any other agreement with **MaineDOT**; money due the **City** any other agreement with any department or agency of the State of Maine, including any agreement for a term commencing before the term of this Agreement; and any amounts due and owed to the State for any reason including, but not limited to, tax delinquencies, fee delinquencies or monetary penalties relative thereto. **MaineDOT** shall exercise its set-off rights in accordance with standard practices of the State including, in cases of set-off pursuant to an audit, the finalization of such audit by **MaineDOT**, its representatives, or the State Controller.
- 2I. NON-APPROPRIATION. By law, all financial obligations assigned to **MaineDOT** in this Agreement are subject to budgetary appropriations. The **City** therefore acknowledges and agrees that if **MaineDOT** receives insufficient resources to support this **Project**, if funds programmed for this **Project** are de-appropriated, or if **MaineDOT** does not receive the legal authority to spend money otherwise programmed for this **Project**, **MaineDOT** shall be released from its obligation to make payment under this Agreement.

ARTICLE 3. PROJECT DEVELOPMENT

- 3A. AUTHORIZATION. The **City** shall receive written notice to proceed from **MaineDOT** before starting reimbursable work or executing any service contract under this Agreement. This notice shall be contingent upon **MaineDOT** receiving authorization for the **Project** from the **FHWA** and executing this Agreement.
- 3B. KICKOFF. The **Parties** shall hold a project kickoff to go over the scope of work, schedule, estimated cost, and legal requirements before reimbursable work may begin.
- 3C. PROGRESS REPORTS. The **City** shall provide **MaineDOT** with progress reports at intervals established by **MaineDOT's** Project Manager.
- 3D. CORRESPONDENCE. The **City** shall correspond with **MaineDOT** using Communication 1 through Communication 20 from the LPA Manual.
- 3E. CONSULTANT WORK. If the **City** intends to contract for consultant services under this Agreement, the **City** shall use a qualifications-based selection method in compliance with the regulations found in 23 CFR Part 172, "Procurement, Management, and Administration of Engineering and Design Related Services," and the guidance found in Section 2 of the LPA Manual, "Consultant Selection." The **City** agrees that:

1. Using price as a ranking factor in the selection of a consultant will render consultant work ineligible for reimbursement from **MaineDOT**.
2. The **City** shall obtain the **MaineDOT** Project Manager's written approval before awarding any contract.
3. The **City** shall include the provisions of the *Consultant General Conditions* in all contracts and insert Form FHWA-1273 into all contracts.
4. The **City** shall obtain **MaineDOT's** written approval before modifying a contract. Work performed on a contract outside of the original scope of work without an approved and executed modification in place shall be ineligible for reimbursement.
5. The **City** shall evaluate the performance of a consultant upon completion of its contract with the consultant. A copy of the evaluation shall be provided to **MaineDOT**.

3F. DESIGN. The **City**, or its contracted consultant, shall prepare design plans, specifications, estimates and contract documents for the **Project**, in accordance with the appropriate reference publications, including but not limited to **MaineDOT's** *Engineering Instructions*, *Highway Design Guide*, *Standard Specifications* and *Standard Details*, as well as the federal *Manual on Uniform Traffic Control Devices for Streets and Highways*. The design of the **Project** shall comply with the Americans with Disabilities Act (ADA).

1. The **City**, or its contacted consultant, shall submit a preliminary design report, design plan impacts, and the final plans, specifications and estimate package (PS&E) to **MaineDOT** for review and acceptance.
2. The **City** shall ensure that the contract book for the **Project** references **MaineDOT's** *Standard Specifications* and contains the following documents:
 - a. "Buy America" requirements;
 - b. Davis-Bacon prevailing wage rates;
 - c. Form FHWA-1273; and
 - d. Title VI Assurances.
3. The **City**, or its consultant, shall address to **MaineDOT's** satisfaction all changes requested or concerns expressed by **MaineDOT** before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising the **Project** without written authorization from **MaineDOT** shall render the entire **Project** *ineligible* for federal-aid funding.
4. **MaineDOT's** acceptance of the final PS&E package shall not relieve the Engineer of Record of responsibility for the quality of the engineering work for the **Project**.

3G. SURVEY. **MaineDOT** will perform all survey work if the **Project** is located on a state highway. Alternatively, the **City** may hire a surveyor pre-qualified by **MaineDOT** using one of the selection methods in Section 2 of the LPA Manual, "Consultant Selection."

3H. PUBLIC PARTICIPATION. The **City** shall give the public and all abutters the opportunity to learn about and comment on the **Project**, using a public process appropriate for the scope of work and acceptable to **MaineDOT's** Project Manager. The **City** shall provide **MaineDOT** with a public process certification, in the format provided in Communication 10 from the LPA Manual, as part of the **Project's** environmental package.

- 3I. ENVIRONMENTAL REVIEW. **MaineDOT** will prepare and submit to the FHWA all documentation required under the National Environmental Policy Act ("NEPA"). The **City** shall provide **MaineDOT** with signed Communication 11 from the LPA Manual and the completed NEPA Documentation Checklist to assist with this work.
- 3J. PERMITS. The **City** shall obtain all approvals, permits and licenses required to carry out the **Project**. The **City** shall provide **MaineDOT** with copies of all such documents and an environmental certification in the format of Communication 12 from the LPA Manual, as part of the final PS&E package for the **Project**.
- 3K. UTILITIES. The **City** shall coordinate the **Project** with any affected utility or railroad. The **City** shall provide **MaineDOT** with a utility certification in the format of Communication 13 from the LPA Manual, as part of the final PS&E package. MaineDOT's Utility Accommodation Rules (2014) shall apply to utility relocations.
- 3L. RIGHT OF WAY. The **Parties** will coordinate acquisition of right-of-way as follows:
1. **MaineDOT** will carry out the right-of-way process for sections of the **Project** located on a state highway, in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act.")
 2. The **City** shall carry out the right-of-way process for sections of the **Project** located off of the state highway system. In doing so, the **City** shall:
 - a. Follow the Uniform Act and the regulations found in 49 CFR, Part 24.
 - b. Use the federally approved MaineDOT "Right of Way Manual."
 - c. Provide a right-of-way map showing all rights obtained for the **Project**.
 - d. Provide **MaineDOT** with a signed right-of-way certification in the format of Communication 14 from the LPA Manual, as part of the final PS&E package.
 3. The **City** shall dedicate permanently to the **Project** for public use any municipal property needed for the **Project**.
- 3M. ADVERTISE. Upon receiving written authorization from **MaineDOT**, the **City** shall use competitive bidding to hire a construction contractor, as follows:
1. The **City** shall follow the procedures in MaineDOT's *Standard Specifications* (November 2014 Edition), Section 102, "Bidding."
 2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain written approval from **MaineDOT** before awarding a contract.
- 3N. AWARD. Upon receiving written approval from **MaineDOT**, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with MaineDOT's *Standard Specifications* (November 2014 Edition), Section 103, "Award and Contracting." The **City** shall administer the contract for the duration of the **Project**.
- 3O. CONSTRUCTION. During construction of the **Project**, the **City** shall:

1. Provide a Project Resident who is either a qualified municipal employee with LPA certification or a consultant hired through a qualifications-based selection method.
2. Hold a pre-construction / pre-utility meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work before any work begins.
3. Coordinate materials testing necessary to meet the Minimum Testing Requirements that **MaineDOT** established for the **Project**.
4. Submit contract modifications to **MaineDOT** for review and comment before they are executed. **MaineDOT** reserves the right not to reimburse the **City** for work under a contract modification executed without **MaineDOT's** review and approval.
5. If applicable, provide **MaineDOT** with revised as-built plans for the completed **Project**.

3P. MAINEDOT OVERSIGHT. **MaineDOT** may inspect construction activities, test materials and review documentation to ensure compliance with the **Project** specifications and terms of the construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.

3Q. MAINTENANCE. The **City** shall maintain the completed **Project** for its standard useful life or 20 years, whichever is longer. Maintenance shall consist of general upkeep and repairs necessary to preserve year-round public access to the facility and maintain a firm, stable and slip-resistant surface in all seasons.

ARTICLE 4 – RECORDS & AUDIT

4A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **3 years** from the date either of **MaineDOT's** acceptance of the final invoice for the **Project** or the termination of this Agreement. If any litigation, claim, negotiation or audit has begun before the end of this retention period, all **Project** records shall be kept at least until all issues arising from any such action are resolved.

4B. The **City** and any contracted party working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records, as reasonable times. Copies of records shall be furnished at no cost to the federal or state agencies requesting them.

4C. Audits shall be performed in accordance with generally accepted government auditing standards and federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

ARTICLE 5. GENERAL PROVISIONS

5A. GOVERNING LAW. The **Parties** agree to comply with all applicable federal, state and local laws, regulations, executive orders and ordinances including, but not limited to, the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), "Transportation"; Title 23 in the Code of Federal Regulations (CFR), "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

- 5B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law.
- 5C. CONFIDENTIALITY. The **City** shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the construction cost in accordance with the provisions of 23 M.R.S.A. Section 63, "Confidentiality of Records."
- 5D. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Agreement, the **City** agrees as follows:
1. The **City** shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. The **City** agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.
 2. The **City** shall state – in all solicitations or advertising for employees placed by or on behalf of the **City** relating to this Agreement – that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
 3. The **City** shall cause the foregoing provisions to be inserted in any contract for any work covered by this Agreement so that such provisions shall be binding upon each contractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- 5E. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- 5F. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 5G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 5H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

ARTICLE 6. CONFLICT OF INTEREST

- 6A. No person or entity with a direct or indirect financial or personal interest in any contract or subcontract for the **Project** shall negotiate, make, accept or approve any such contract or subcontract.
- 6B. The **City** shall refrain from hiring any engineer, lawyer, appraiser, inspector or other professional to provide services for the **Project** who has a direct or indirect financial or other personal interest in any contract or subcontract for the **Project**, other than the person's employment or retention by the **City**. No officer or employee of any such engineer, lawyer, appraiser, inspector or other professional retained by the **City** to work on the **Project** shall have a direct or indirect financial or other personal interest in any real property acquired for the **Project** unless such interest is openly disclosed to **MaineDOT** and such officer, employee or person has not participated in such acquisition for and in behalf of the **City**.
- 6C. No person or entity entering into a contract for the **Project** may have a direct or indirect financial or other interest in the **Project** or its outcome – other than the performance of the contract. This prohibition includes, without limitation: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

ARTICLE 7. DEBARMENT

- 7A. By signing this Agreement, the **City** certifies to the best of its knowledge and belief that it and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal department or agency.
- 7B. If the **City** contracts with any consultant, contractor or other party pursuant to this Agreement, the **City** shall require that party and its principals to certify that they:
1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and

3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

7C. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

ARTICLE 8 – TERMINATION

8A. **DEFAULT.** **MaineDOT** will send the **City** a Notice of Default, in accordance with Article 8B below, if the **City** commits any of the following actions:

1. Withdraws its support for the **Project**, resulting in cancellation of the **Project**;
2. Fails to advertise the **Project** within 3 years of the execution date of this Agreement;
3. Takes any action that renders the **Project** ineligible for federal-aid funding;
4. Uses **Project** funds for a purpose not authorized by this Agreement;
5. Misrepresents or falsifies any claim for reimbursement;
6. Fails to meet the standards of performance outlined in this Agreement.

8B. **FOR CAUSE.** **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 8A. **MaineDOT** will give the **City** a cure period of 14 calendar days, effective on the **City**'s receipt of Notice of Default. If the **City** fails to address all defaults within this cure period or such longer period as **MaineDOT** may authorize, **MaineDOT** may terminate this Agreement for cause, with these conditions:

1. **MaineDOT** will recover from the **City** all reimbursements made and costs incurred for work on the terminated **Project**.
2. The **City** shall forfeit all federal funds remaining in the terminated **Project**.

8C. **FOR CONVENIENCE.** The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:

1. **MaineDOT** will reimburse the **City** for federally eligible work performed under this Agreement until the effective date of termination for convenience. The **City**'s share of **MaineDOT**'s costs for work on the **Project** shall be deducted from the final invoice amount owed to the **City**.
2. **MaineDOT** will reprogram all federal funds remaining in the **Project**.

ARTICLE 9. EXPIRATION

This Agreement shall expire upon **MaineDOT**'s payment of the final invoice from the **City** or **5 years** from the final day of the month in which this Agreement was executed, whichever occurs first, except as follows:

1. Article 3Q, "Maintenance," shall be enforced for at least twenty (20) years.
2. Article 4, "Records & Audit," shall remain in effect until all activity pursuant to this provision is completed.

3. Article 5B, "Indemnification," shall remain in effect until specifically terminated by the **Parties** or negated by law.
4. Article 5C, "Confidentiality," shall remain in effect until negated by law.

ARTICLE 10. AGREEMENT APPROVAL

The undersigned municipal representative assures that the **City's** legislative body has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

City of Portland

Maine Department of Transportation

By: _____
Jon Jennings, City Manager

By: _____
William A. Pulver, P.E., Director,
Bureau of Project Development

Date: _____

Date: _____

I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my LPA Manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.

Federal Funding Accountability and Transparency Act

The **City of Portland** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five officers if:

- More than 80% of the **City's** annual gross revenues are from the U.S. Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal name and DUNS® number on file with the Central Contractor Registration (CCR):

City of Portland, Maine

07-174-7802

Sign and Print Legal CCR Name

DUNS® Number

Authorized Representative: _____

Jon Jennings, City Manager

U.S. Department of Transportation (U.S. DOT)
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

DOT Order No. 1050.2A

The **City of Portland** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

The City of Portland, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. **The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**
4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED _____

By _____
Jon Jennings, City Manager
City of Portland

Encl.: Appendices A and E

APPENDIX A TO THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **Federal Highway Administration**, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **Federal Highway Administration**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **Federal Highway Administration**, may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **Federal Highway Administration**, may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E TO THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Order 28-16/17
~~Tab 10 26-17~~
~~Tab 22 22-17~~

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 LAND USE, ARTICLE V. SITE PLAN
Re: Fort Sumner Park Height Overlay**

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

*That Chapter 14, Section 14-139 of the Portland City Code
is hereby amended to be repealed as follows:*

Sec. 14-139. Dimensional requirements.

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

...

R-6 Dimensional Requirements	
Maximum Height	Principal and attached accessory structure: 45 ft <u>except as provided under the Fort Sumner Park Height Overlay (Sec. 14-139 (d))</u> .
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.

...

(b) Townhouse Subdivisions.

Subdivisions consisting of horizontally attached dwellings

on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of June 15, 2015 shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

(d). Fort Sumner Park Overlay: This Overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park. There is established a key apex point in Fort Sumner Park at 43° 40' 2.3359"N. 70° 15' 4.3687"W. The Fort Sumner Park Overlay includes all land within 200 feet, or the R-6 zone boundary, whichever is closer, of this key apex point that is located closer to the middle line of Sheridan Street than said apex point.

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

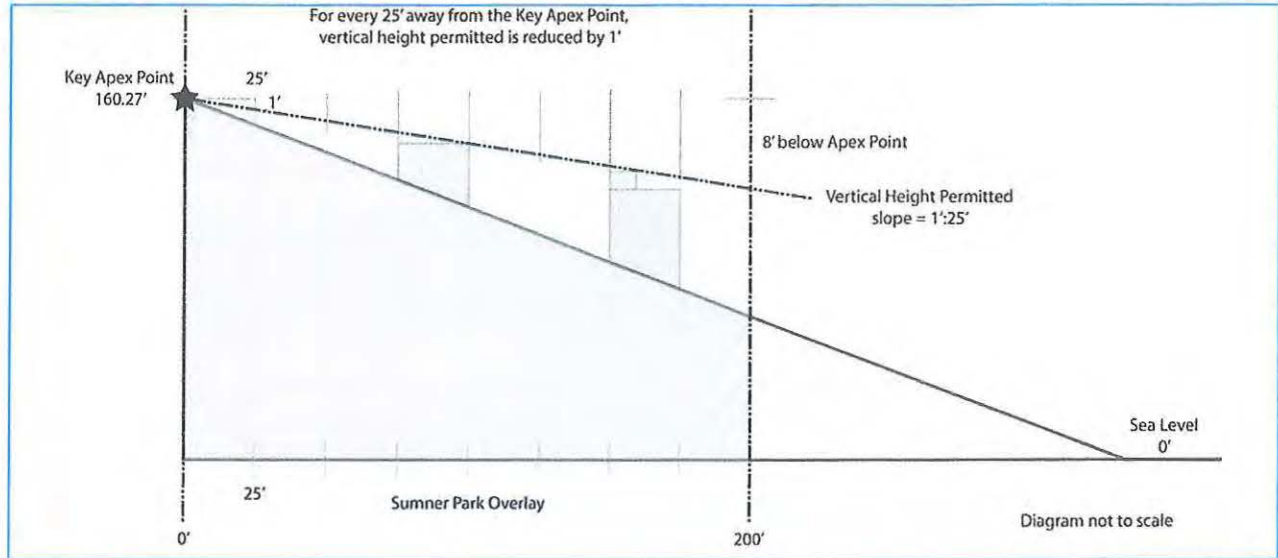
(1) The top of structures, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure below, Ordinance Height graphic); and

(2) The minimum building setback from the park property shall be 15 feet.

Any project within this Overlay shall also go to the Parks

Commission for a recommendation to the Planning Board regarding potential impacts on Fort Sumner Park.

Table 14-139 Fort Sumner Park Overlay Permissible Height



AMENDMENT TO ORDER 128-16/17
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR BELINDA RAY
RE: RETROACTIVE TO FEBRUARY 7, 2017

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 LAND USE, ARTICLE V. SITE PLAN
Re: Fort Sumner Park Height Overlay

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

That Chapter 14, Section 14-139 of the Portland City Code is hereby amended to be repealed as follows:

Sec. 14-139. Dimensional requirements.

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

...

R-6 Dimensional Requirements	
Maximum Height	Principal and attached accessory structure: 45 ft except as provided under the Fort Sumner Park Height Overlay (Sec. 14-139 (d)).
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.

...

(b) Townhouse Subdivisions.

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of June 15, 2015 shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

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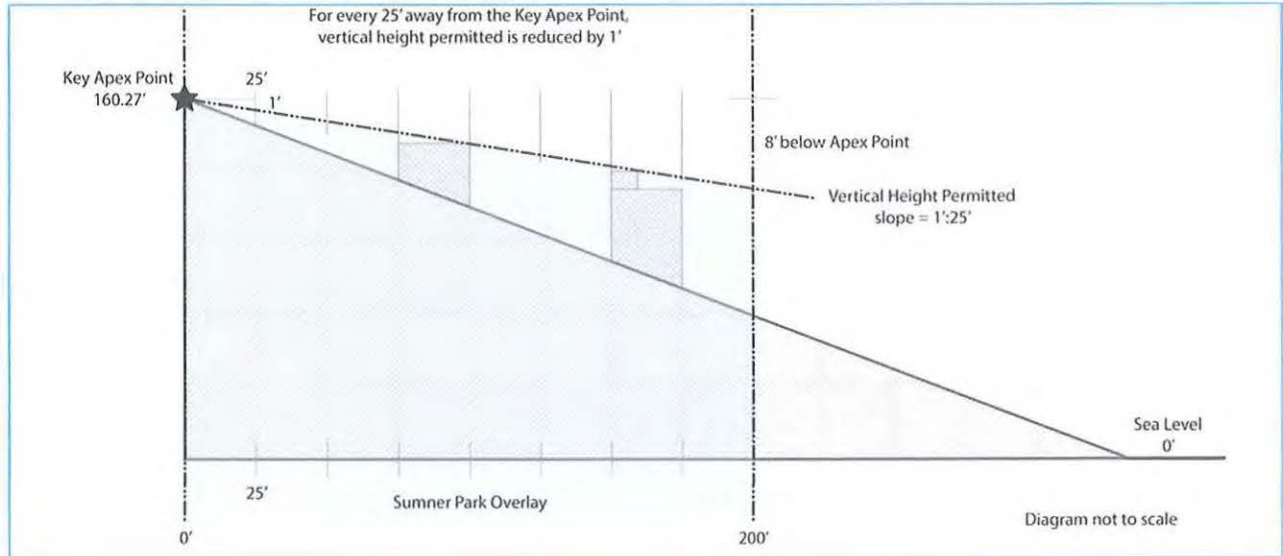
Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

(1) The top of structures, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure below, Ordinance Height graphic); and

(2) The minimum building setback from the park property shall be 15 feet.

Any project within this Overlay shall also go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Fort Sumner Park.

Table 14-139 Fort Sumner Park Overlay Permissible Height



(e) Notwithstanding the provisions of 1 M.R.S. § 302, this amendment shall apply retroactively and include any and all actions and proceedings pending on February 7, 2017 or thereafter.

MEMORANDUM
City Council Agenda Item

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

FROM: Jeff Levine, Director of Planning and Urban Development

DATE: January 25, 2017

SUBJECT: Text and Map Amendments to the Zoning Code in Regard to Fort Sumner Park

SPONSOR: Elizabeth Boepple, Chair, Portland Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading February 6, 2017 **Final Action** February 22, 2017

Can action be taken at a later date: ____ Yes X No (If no why not?)
Moratorium (Order #73-16/17) on November 21, 2016, expires on Feb. 6, 2017

PRESENTATION: (List the presenter(s), type and length of presentation)
Short presentation by Planning Board Chair. Short presentation by Planning Staff (if necessary).

I. ONE SENTENCE SUMMARY

The City is seeking text and map amendments to the City's Zoning Code in order to rezone three parcels comprising Fort Sumner Park and adjacent Land Bank property from R-6 Residential to ROS Recreation Open Space, and to establish the Fort Sumner Park Overlay Zone in the R-6 zone to protect the park's panorama.

II. AGENDA DESCRIPTION

- A. The Planning Board voted unanimously, 6-0 (Dundon absent), to recommend to City Council adoption of the proposed map amendment to rezone three parcels comprising Fort Sumner Park and adjacent Land Bank property from R-6 Residential to ROS Recreation Open Space. This map amendment would extend between the centerlines of North Street and Sheridan Street and prohibit future incongruous development within this municipal park and would further protect its historic and scenic attributes.
- B. The Planning Board voted unanimously, 6-0 (Dundon absent), to recommend to City Council adoption of the proposed text amendment to the Division 7 R-6 Residential Zone, establishing the Fort Sumner Park Overlay Zone. This text amendment would establish an absolute height limit for new developments and or additions tied to the elevation of the viewing platform at Fort Sumner Park, 160.27 feet above mean sea level.

Permissible building heights for developments occurring within this zone would be reduced by 1 vertical foot for every 25 feet the structure moves away from the identified apex point. This text amendment also includes a provision for building setbacks of 15 feet and would require advisory review of all projects occurring within the proposed overlay zone by the Parks Commission.

- C. The Planning Board voted unanimously, 6-0 (Dundon absent), to recommend to City Council adoption of the proposed map amendment to establish the Fort Sumner Park Overlay Zone. This map amendment would establish the geographic area linked with the proposed text amendment, establishing a zone in which additional regulatory standards, intended to protect the panorama at Fort Sumner Park, would apply. This zone would extend 200 feet from an identified key apex point located in the center of the viewing platform at Fort Sumner Park. This zone would encompass areas roughly to the north, south and west of the apex point within a 180 degree arc whose line runs through the key apex point parallel to the centerline of Sheridan Street. The proposed overlay zone does not encompass parcels located in either the B-2b or C-46 zone that fall within the 200-foot arc.

III. BACKGROUND

The City Council filed Order #73-16/17 on November 21, 2016, establishing a 90-day moratorium on all development of parcels immediately abutting public ground within District I on the peninsula in response to the perceived vulnerability of the Fort Sumner Park Panorama. In discussions with members of the City Council, the community action group "Friends of Fort Sumner Park" and the local community, city staff developed a regulatory solution that limits building and or addition heights, including rooftop appurtenances, within the proposed overlay zone to a height that shall not exceed the identified elevation of the viewing Platform at Fort Sumner Park, 160.27 feet above mean sea level. The proposed text amendment provides further protection through increased building setbacks, requisite Parks Commission advisory review and a gradual reduction in permissible height for every 25 feet radially away from the identified key apex point within the proposed overlay zone.

These items went before the Planning Board on January 10, 2017 as a workshop item, were presented to the public at a neighborhood meeting at the East End School on January 18, 2017 and was unanimously recommended by the Planning Board, 6-0 (Dundon absent), on January 24, 2017 as a Public Hearing item. Twenty written public comments largely in support of the city's proposal were received for the proposed text and map amendments. At the public hearing, 24 individuals gave public comment with the majority in support of the proposed amendments. Representatives of the developer suggested raising the height limit by 3 feet and allowing elevator overruns, which were not supported by the Board. The public input is attached to the Planning Board report.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The request supports the general Council goal to "Protect and Invest in Green Space and Parks".

V. FINANCIAL IMPACT

The granting of this proposal would have potential financial impacts on those individuals who own property within the proposed overlay zone. This proposal necessarily limits building heights within this zone to a maximum elevation of 160.27 feet above mean sea level, regardless of existing site grades. This figure is more restrictive than that of the current base zoning district.

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

The Planning Board unanimously recommended adoption, 6-0 (Dundon absent), of the requested text and map amendments as they support the currently approved Comprehensive Plan by strengthening the city's green infrastructure, providing key visual access to the city's water resources and preserving a panorama specifically highlighted within the Downtown Height Study adopted as part of the Comprehensive Plan.

VII. STAFF RECOMMENDATION

The Planning Staff recommend that the Council adopt the proposed amendments retroactively to the expiration date of the moratorium.

VIII. PLANNING BOARD RECOMMENDATION

- A. The Planning Board unanimously recommended adoption 6-0 (Dundon absent), of the zoning map amendment to rezone three parcels encompassing Fort Sumner Park and adjacent Land Bank property totaling 1.2027 acres from R-6 to Recreation Open Space (ROS), as this amendment supports key policies found in the Comprehensive Plan.
- B. The Planning Board unanimously recommended adoption, 6-0 (Dundon absent), of the zoning text amendments for the Fort Sumner Park Overlay Zone, including the Ordinance Height Graphic to Division 7- R-6 Residential Zone, as this amendment supports key policies found in the Comprehensive Plan.
- C. The Planning Board unanimously recommended adoption, 6-0 (Dundon absent), of the zoning map amendment to create the Fort Sumner Park Overlay Zone in the R-6 zone, as this amendment supports key policies found in the Comprehensive Plan.

IX. LIST ATTACHMENTS

- A. **Proposed Text and Map Amendment for the Fort Sumner Park Overlay Zone**
- B. **Planning Board Report to City Council with Attachments**

Prepared by: Matthew Grooms
Date: January 25, 2017



PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

Fort Sumner Park Overlay Ordinance Amendment (Within R-6 Zone)
Applicant: City of Portland

Submitted to: Portland City Council
First Reading: February 6, 2017
Second Reading: February 22, 2017

From: Portland Planning Board
Prepared by: Matthew Grooms, Planner
Date: January 26, 2017



Figure 1: Views from Fort Sumner Park at Present.

I. INTRODUCTION

In response to Order 73-16/17, which established a 90-day moratorium on developments within the R-6 Residential Zone in District 1 for properties directly abutting a City Park or Public Ground, the Planning Board is recommending the city's proposal for a map and text amendment to establish a height overlay zone intended to protect the existing sightlines at Fort Sumner Park. The proposed Fort Sumner Park Overlay Zone encompasses several parcels located within the R-6 Residential zone. At the present time, one can view Portland's

changing skyline as well as a variety of natural resources from this location, including Casco Bay, Back Cove and portions of the White Mountains. Recent development proposals for a six-story condominium complex at 155 Sheridan Street, have demonstrated the vulnerability of this vista under the current zoning and citywide height overlay.

II. BOARD'S RECOMMENDATION

On January 24, 2017, the Planning Board voted unanimously, 6-0 (Dundon absent), to approve the text and map amendments to rezone three properties comprising Fort Sumner Park and the adjacent Land Bank property from R-6 Residential to ROS Recreation Open Space, and to establish the Fort Sumner Park Overlay Zone within the R-6 zone. The board's decision was guided by plans and materials submitted by the City of Portland, the policies of the R-6 Residential Zone, the policies of the ROS Recreation and Open Space Zone, Portland's Comprehensive Plan, public comment, and information provided in the workshop and public hearing.

III. BACKGROUND

Originally, the site of an earth and timber fortification built in 1794, and later designated as a city park in 1934, Fort Sumner Park today constitutes an integral component of the open space portfolio for the Munjoy Hill neighborhood (Attachment 1). From its viewing platform, visitors are afforded quintessential vista of the region that serve to connect them with the city's ever changing landscape, its maritime resources and the distant mountains. At present, no clear and predictable mechanism is in place through zoning, adopted design standards or historic preservation that would preserve the existence of the panorama from this location.

According to the Comprehensive Plan's Future Growth Area Map, the parcels surrounding Sumner Park within

the proposed overlay zone have been designated as a target area for ongoing growth and development. Since the Comprehensive Plan's update in 2005, four new condominium buildings have been constructed along Sheridan Street between Walnut Street and Cumberland Avenue. In 2016, preliminary renderings were circulated to the public for the development of a condominium building that would be built on CBL 012 Q012, or the parcel located immediately to the northwest of Sumner Park along Sheridan Street. This development as originally envisioned by a developer could have potentially obstructed part of the view over Back Cove, the western foothills and White Mountains. Although language existed in the City's site plan and subdivision ordinances to address project context and visual impact, concern was raised that existing mechanisms did not go far enough to preserve the integrity of this vista.

The potential for redevelopment of 155 Sheridan Street and potential impact on Ft Sumner park raised significant concern among residents, the city council and staff. Neighborhood residents asked the city to designate the park as a historic landmark which would require the Planning Board to consider any negative externalities to the park from developments occurring within 100 feet of the park's parcel boundary. Additionally, on September 19, 2016, two petitions constituting more than 300 signatures were submitted to the City Council requesting that any proposed developments along Sheridan Street be properly vetted to ensure that there be no adverse impacts to views from the park. On November 7, 2016, the Portland City Council unanimously approved a 90-day moratorium for development review and consideration on projects located



Figure 2: Illustration of Ft. Sumner Lookout circa 1911

city skyline and water" as a vista to receive "special attention" (Portland Maine Downtown Height Study, pg.6). In addition, under Section IV, Green Space, Blue Edges, an Open Space and Recreation Plan for the City of Portland, 1995, updated 2001, in the 'Portland's Goals and Policies for the Future' document within the Comprehensive Plan, it states that a principle goal of the City is to "Develop a vision of the natural environment that enhances the full range of dynamic contrasts between the landscapes and built forms found in Portland, which will enrich the appearance and enliven the use of our city." Despite the history and intent to preserve this vista, little has been done to address formalizing this space; however, recent market pressures for new multi-family housing in the R-6 necessitate the development of a targeted regulatory solution at this time.

within the R-6 Zone in District 1, in instances where projects directly abut City Parkland and/or Public Grounds. This moratorium went into effect on November 21, 2016 and will expire on February 6, 2017 (Attachment 2). This moratorium cites several elements of the Comprehensive Plan as justification, including the importance of maintaining "vistas from promenades and high points" and properly valuing and celebrating the city's relationship with its water resources.

The vista from the site in the vicinity of the former Fort Sumner has been identified for its value as a panorama of the City of Portland, the Back Cove and western mountains for over 100 years (See Figure 2) In the Downtown Height Study completed in 1989, the Fort Sumner panorama was singled out for its "panoramic views of the



Figure 3: Downtown Height Study, Structure of Views, page 5. Fort Sumner Park panorama is highlighted.

The purpose of this proposed overlay zoning district is to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Sumner Park. In developing this overlay concept, the Planning and Parks staff researched overlay approaches used in Denver and San Antonio that are designed to protect viewsheds of natural features. In Portland, height overlays currently regulate maximum building heights within the B-3, B-6 and B-7 zoning districts.

IV. PUBLIC COMMENT

Eighteen written comments were received, (Attachment 2). A majority of emails received have expressed concerns regarding the potential obstruction of views at Fort Sumner Park by future development, and one comment was specifically in support of the proposed overlay zone (See Attachment

6). On January 18th, city staff held a neighborhood meeting at the East End School attended by 26 individuals. At this meeting, staff presented information regarding the context of the rezoning effort, the proposed text and map amendments and justification for the approaches taken by the City. Following the presentation, residents voiced a number of comments, questions and concerns. The neighborhood packet and meeting notes are included as Attachment 3.

At the public hearing, 24 individuals gave public comment, which were almost entirely in support of the proposed amendments and preserving the vista. A representative of the developer seeking to develop 155 Sheridan Street, located immediately to the north of Fort Sumner Park along Sheridan Street, submitted written comments and suggested at the hearing raising the height limit by 3 feet and allowing elevator overruns. These suggestions were not supported by the Board.

V. ZONING CONTEXT

The proposed text and map amendments would occur within a largely residential neighborhood composed of single-family, duplex and multi-family homes along with commercial activity along Washington Avenue. To the north, east and immediate south of Fort Sumner Park, properties are zoned R-6 Residential, while to the west, properties are zoned B-2b Community Business. In response to the request regarding the elevation of Sheridan Street, an excerpt of the city map with topography is shown below. The elevation as provided by William Clark, Surveyor with the Department of Public Works, shows Fort Sumner Park to be located at 160.27 feet, Sheridan Street to be located at 115 feet and Washington Avenue at 71.9 feet. Thus, the staff concluded that development within the B-2b zone, which has a maximum building height of 50 feet, would not intrude on the vista from Fort Sumner due to the significant change in elevations. Thus, the height overlay zone is recommended for the R-6 zone only.

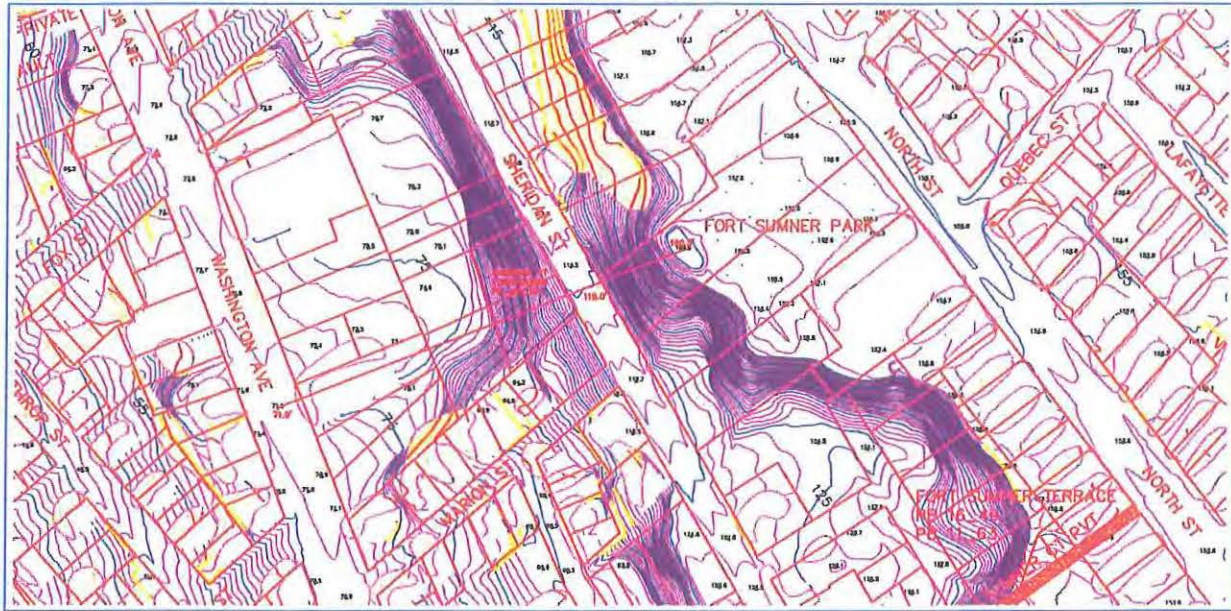


Figure 4: Topographic Map of Streetscape around Fort Sumner Park

The purpose of the R-6 zone, which can currently be found predominantly in the East and West Ends of the city, is to “set aside areas...for housing characterized primarily by multi-family dwellings at a high density” and to “conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses” (*Section 14-135*). Meanwhile, the B-2b zone is intended to provide neighborhood and community retail in a format cognizant of pedestrian character and scale (*Section 14-216*). According to the City of Portland, Maine Building Height Regulation Map, properties located within the R-6 zone are permitted building heights of 45’ for principal structures, while residential structures located in the B-2b zone are permitted a maximum height of 45’, with an option of going to 50’ if the first floor of the building is commercial. Within the R-6 and B-2b zones, building height is measured from the average grade of the site, allowing for instances where structure extrusion may surpass the aforementioned maximum heights.

VI. PROPOSED TEXT AND MAP AMENDMENT

The proposed text and map amendments presented below focuses on the height overlay provisions proposed to be included within the R-6 zone as well as the proposed rezoning of Fort Sumner Park from R-6 Residential to ROS Recreation Open Space.

A. Proposed Map Amendment: Recreation Open Space (ROS)

The city is seeking to rezone Fort Sumner Park (1.2027 acres) from R-6 Residential to ROS, which has the following purpose statement

- (a) *The purpose of this division is:*
1. *To preserve and protect open space as a limited and valuable resource;*
 2. *To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of urban development;*
 3. *To coordinate with and carry out federal, state, regional, and city recreation and open space plans;*
 4. *To provide a suitable location for large-scale regional sports and athletic facilities; and*
 5. *To develop an open space system throughout the downtown, which provides the highest quality parks, plazas, and pedestrian environment.*

- (b) *The recreation open space zone may include parcels of public property, and private property legally restricted from intensive use or development through deed, covenant, or otherwise.*

Fort Sumner Park currently operates as publicly accessible open space and yet at present is zoned R-6 Residential, a zone that allows by right the development of single-family, multi-family and limited commercial uses. The rezoning of this property to ROS Recreation Open Space would prohibit future developments incongruent with the existing character of Fort Sumner Park and emphasize the city's goal of preserving this site and the panorama available from the park as public space.

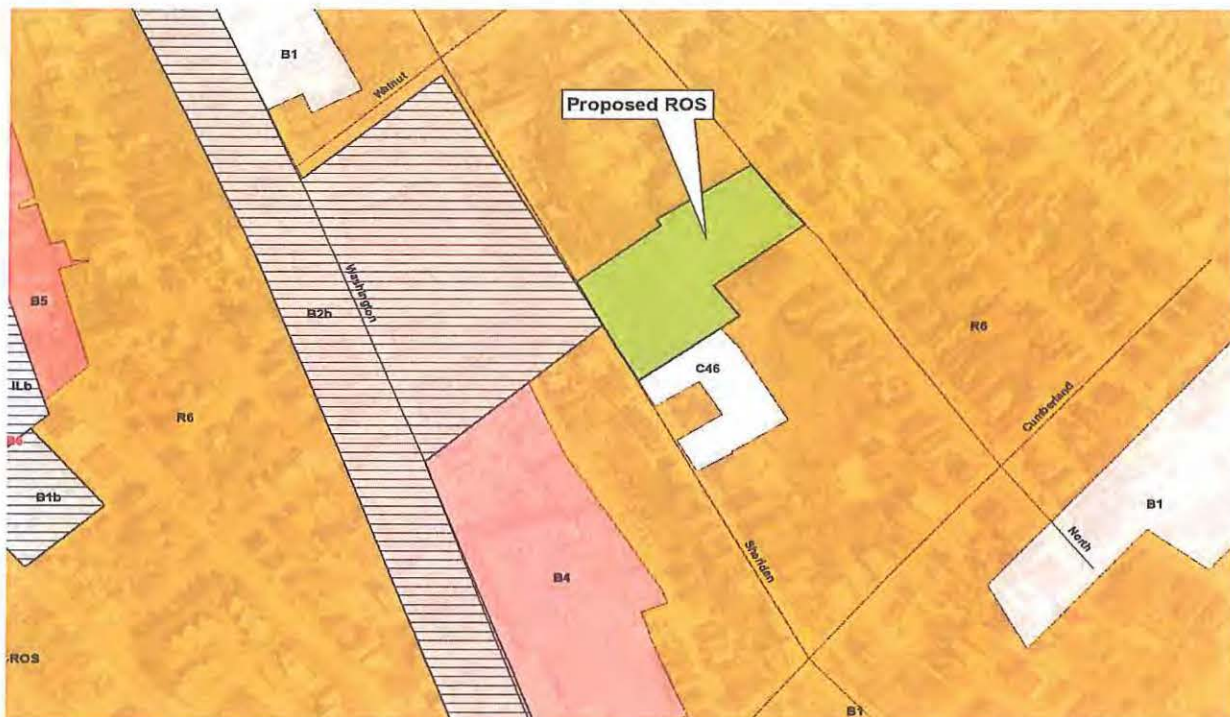


Figure 5: Proposed Rezoning from R-6 Residential to ROS Recreation Open Space

B. Proposed Text Amendment (Fort Sumner Overlay)

1. Amend: Section 139 (a) Dimensional Requirements.

Maximum Height	Principal and attached accessory structure: 45 ft, <i>except as provided under the Fort Sumner Park Height Overlay (Sec. 14-139 (d))</i>
-----------------------	---

2. Amend Section 139, by adding (d) R-6 Height Overlay Amendment (Fort Sumner Park)

Add a new section to 14-139 as follows:

(d). Fort Sumner Park Overlay: This Overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park. There is established a key apex point in Fort Sumner Park at 43° 40' 2.3359"N. 70° 15' 4.3687"W. The Fort Sumner Park Overlay includes all land within 200 feet, or the R-6 zone boundary, whichever is closer, of this key apex point that is located closer to the middle line of Sheridan Street than said apex point.

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

- The top of structures, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure below, Ordinance Height graphic).
- The minimum building setback from the park property shall be 15 feet.

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Sumner Park.

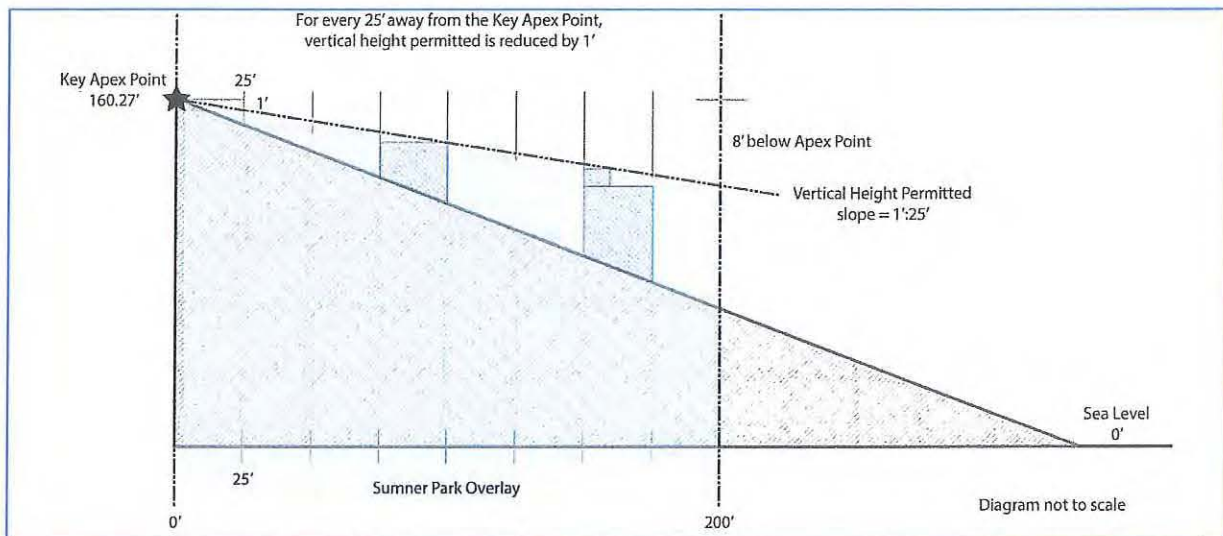


Figure: Ordinance height graphic. Note: Within the Overlay, permitted height is reduced by 1' for each 25' away from apex point (not to scale).

C. Proposed Map Amendment (Fort Sumner Overlay)



VII. POLICY ANALYSIS

The proposed text and map amendments will serve to preserve Fort Sumner Park and its quintessential vista while maintaining reasonable development potential for properties located within the proposed overlay zone. In addition to the historical documents cited in the background section of this report, the proposed amendments meet multiple goals of the city's Comprehensive Plan:

State Goal E: To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas.

A key goal within Portland's Open Space and Recreation Plan, Green Spaces, Blue Edges, is the development of an open space system that utilizes the natural forces of air, water, vegetation and landform to minimize negative impacts related to human development, including eyesores. This overlay zone supports the following policies from the plan:

- *Using scientific models and studies, determine the optimal organization of open space and vegetation to minimize the identified environmental problems.*

State Goal F: To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas. Further, it is stated under the State's Coastal Management Policies that critical habitat and natural areas of state and national significance should be maintained to preserve natural beauty, even in locations where development occurs. As with State Goal E, the City's Open Space and Recreation Plan, Green Spaces, Blue Edges, incorporates several policies intended to further these state goals. Those policies adhered to by the proposed overlay zone include:

- *Conservation of natural resources should include a complete array of natural features and habitats, so that the public may learn about and experience the full realm of Portland's natural environment.*
- *Develop High Point Parks, open spaces located on the higher elevations of the city, in neighborhoods throughout the city such as the Ocean Avenue Landfill, hilltop on Ocean Avenue by rock shop, Rocky Hill, and hills in Stroudwater.*

State Goal I: To preserve the State's historic and archeological resources.

As both a military installation and later as a public park, the defining feature of this site is its location along the ridge of Munjoy Hill, which has historically afforded visitors expansive views of the city, local water resources and the surrounding countryside. Portland's Historic Preservation Ordinance calls for the preservation of the city's architectural and historical heritage and the promotion of the city's educational, cultural, economic and general welfare, two goals supported by this proposed overlay zone, which would serve to protect one of the defining features of this park, its view. A few of the policies found within the HP ordinance taken into account by the proposed overlay zone include:

- *Create a mechanism to identify, preserve and enhance distinctive areas, sites, structures and objects that have historic, cultural, architectural and archaeological significance.*
- *Apply design standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's historical features and to insure compatible construction and rehabilitation in historic districts while not stifling change and development or forcing modern recreations of historic styles.*
- *Protect and enhance neighborhood character.*
- *Protect and enhance the attractiveness of the city to its home buyers, home owners, residents, tourists, visitors, businesses and shoppers.*
- *Foster and encourage preservation, restoration and rehabilitation that respect the historic, cultural, architectural and archaeological significance of distinctive areas, sites, structures and objects.*

Likewise, this overlay zone would meet the goals of the 1991 *Downtown Vision*, which state that the city should strive to "preserve and enhance the livability and walkability of Downtown Portland for residents, workers, shoppers, and visitors."

State Goal J: To promote and protect the availability of outdoor recreation opportunities for all Maine Citizens, including access to surface water. Similarly, the State's Coastal Management Policy calls for the expansion of opportunities for outdoor recreation and the encouragement of appropriate coastal tourist activities and development. Fort Sumner Park currently preserves a pivotal point of visual access for both visitors and residents to Maine's scenic landscapes and water bodies. This overlay zone would serve to perpetuate the following policies of the City's Open Space and Recreation Plan; Green Spaces, Blue Edges:

- *Neighborhoods should have open space focal points.*
- *Provide a wide range of recreation and open space opportunities to address the athletic, recreation, leisure, ecological and scenic needs of Portland's diverse population.*
- *Develop a vision of the natural and landscape environment that provides for the full range of dynamic contrasts found in our City that will enrich and enliven the use of our City and its built form.*

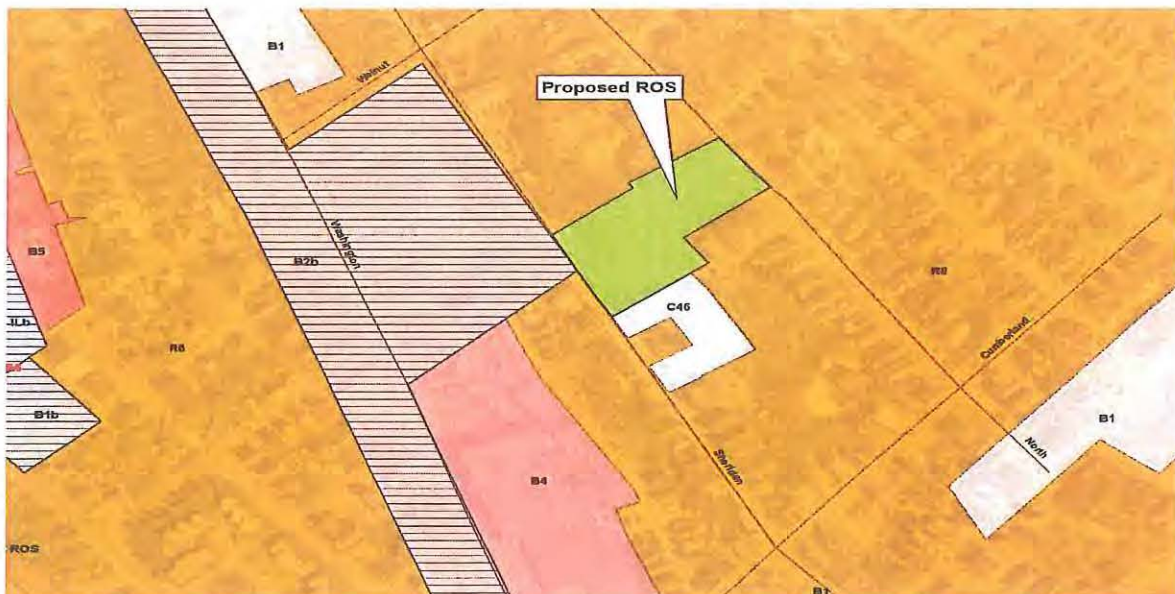
VIII. PLANNING BOARD'S RECOMMENDATION

On the basis of plans and materials submitted by the City of Portland, the policies of the R-6 Residential Zone, the policies of the ROS Recreation and Open Space Zone, Portland's Comprehensive Plan, public comment, the information provided in the public hearing on January 24, 2017 for the Fort Sumner Park Overlay, and/or other findings as follows:

A. Map Amendments from R-6 Residential to ROS Recreation Open Space:

The Planning Board finds that the proposed rezoning of Fort Sumner Park and adjoining City Owned Land Bank Property to ROS Recreation Open Space is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board unanimously recommends 6-0 (Dundon absent) to the City Council approval of the zoning map amendment for Fort Sumner Park and adjoining City Owned Land Bank Property from R-6 Residential to ROS Recreation Open Space for 1.2027 acres as area shown below.



B. Text Amendment R-6 Residential Zone

The Planning Board finds that the proposed text amendments for the Fort Sumner Park Overlay Zone including Figure 6, Ordinance Height Graphic, from this report to Division 7 R-6 Residential Zone, as presented in Attachment 1 of this report are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board unanimously recommends 6-0 (Dundon absent) to the City Council approval of the zoning text amendments to Division 7 R-6 Residential as presented in Attachment 1.

C. Map Amendment from R-6 Residential to R-6 Residential with Fort Sumner Park Overlay:

The Planning Board finds that the proposed zoning amendment to create the Fort Sumner Park Overlay Zone is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board unanimously recommends 6-0 (Dundon absent) to the City Council approval of the zoning map amendment to establish the Fort Sumner Park Overlay Zone as shown below.



IX. REPORT ATTACHMENTS

1. Proposed Fort Sumner Park Overlay Zone Text Amendment
2. Public Comments
3. Neighborhood Meeting Packet

A. Proposed Text Amendment (Fort Sumner Overlay)

1. Amend: Section 139 (a) Dimensional Requirements.

Maximum Height	Principal and attached accessory structure: 45 ft, <i>except as provided under the Fort Sumner Park Height Overlay (Sec. 14-139 (d))</i>
-----------------------	--

2. Amend Section 139, by adding (d) R-6 Height Overlay Amendment (Fort Sumner Park)

Add a new section to 14-139 as follows:

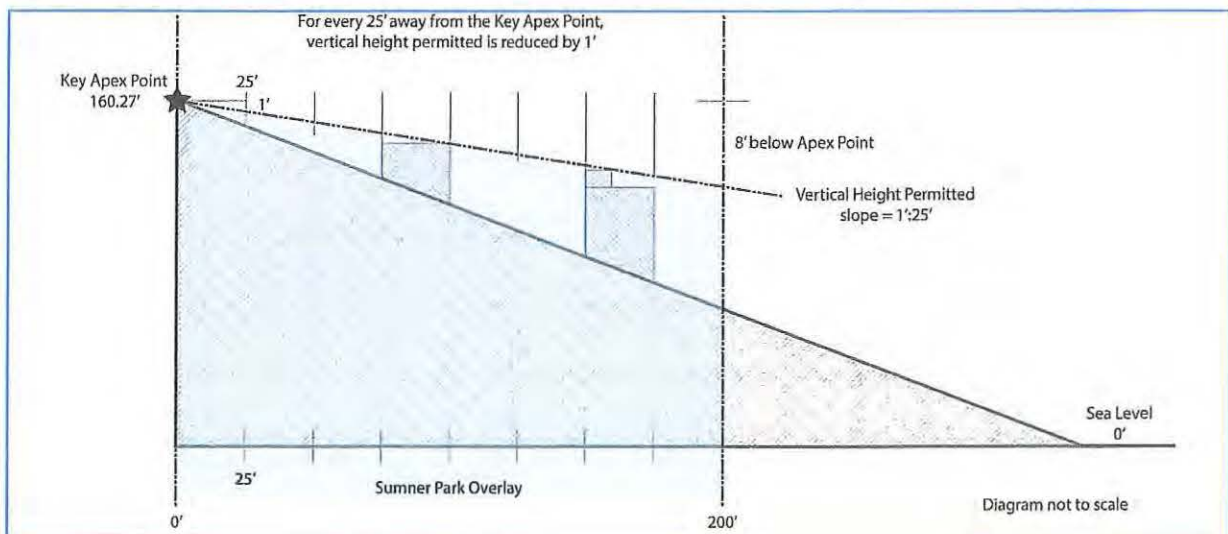
(d). Fort Sumner Park Overlay: This Overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park. There is established a key apex point in Fort Sumner Park at 43° 40' 2.3359"N. 70° 15' 4.3687"W. The Fort Sumner Park Overlay includes all land within 200 feet, or the R-6 zone boundary, whichever is closer, of this key apex point that is located closer to the middle line of Sheridan Street than said apex point.

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

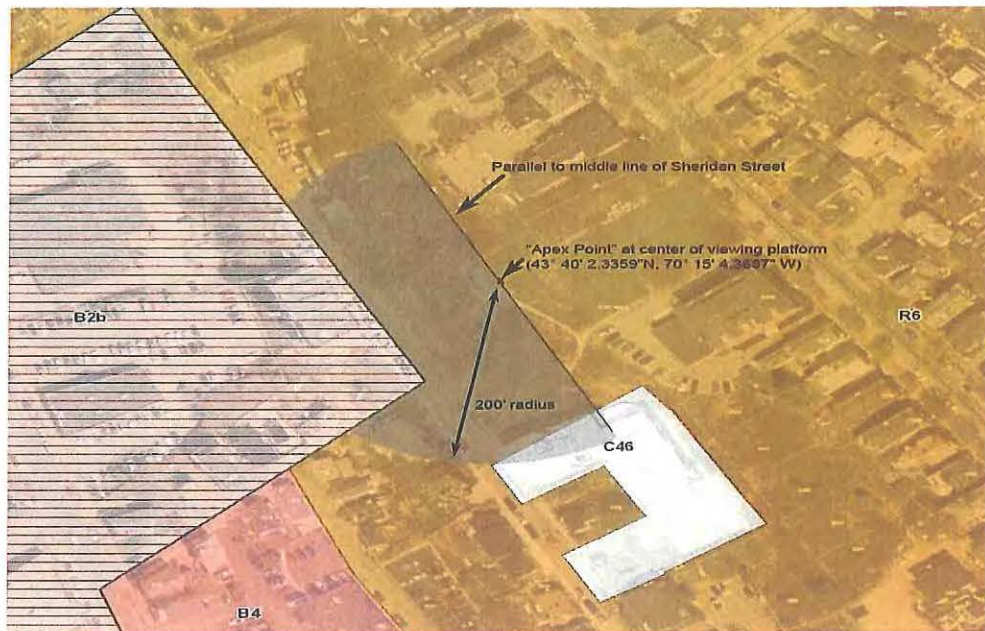
- The top of structures, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure below, Ordinance Height graphic).
- The minimum building setback from the park property shall be 15 feet.

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Sumner Park.

WITHIN THE OVERLAY, PERMITTED HEIGHT IS REDUCED BY 1' FOR EACH 25' AWAY FROM APEX POINT



B. Proposed Map Amendment (Fort Sumner Overlay)





Att. 2

PC1

Jennifer Munson <jmy@portlandmaine.gov>

Portland's historic Fort Sumner Park

1 message

Richard Peterson <rpeterson@une.edu>

Tue, Jan 3, 2017 at 10:18 AM

To: "planningboard@portlandmaine.gov" <planningboard@portlandmaine.gov>

Dear Elizabeth Boepple, Chair, and Members of the Portland City Planning Board,

I write to express my strong support of efforts to limit development near Munjoy Hill's Fort Sumner Park in order to preserve the park's spectacular aesthetic value known most powerfully through the view the park provides of our great city, and of the natural magnificence of the Back Bay landscape. It is the only place in Portland that affords such a view for the public and for all those who will continue into the future to call Portland home. It would be a travesty to block access to the beauty the park provides by allowing a single developer and a few tenants to claim for themselves what is now enjoyed by all.

Please find a solution that allows the developer to provide needed housing without stealing away from all of us the pleasure, appreciation, and solace that beautiful landscapes afford.

Sincerely,

Dr. Richard Peterson
93 Winding Way
Portland, ME 04102

Richard B. Peterson, Ph.D.
Associate Professor
Department of Environmental Studies
University of New England
(207) 602-2862
rpeterson@une.edu

This e-mail may contain information that is privileged and confidential. If you suspect that you were not the intended recipient, please delete it and notify the sender as soon as possible.

Google Groups

Fort Sumner Park Protection

Paula Hill <paulafhill60@gmail.com>

Jan 3, 2017 9:17 PM

Posted in group: **Planning Board**

Hello Planning Board Members!

I'm new to the Munjoy Hill neighborhood. I'm at the Ft Sumner Park every morning and evening, with my dog, Tyrus. We visit with neighbors and check out the vista. Not a day goes by where I don't meander over to the park to soak-up the lighting over the bluff. I fear the new development plan. It is far too close to the park and I believe will completely downgrade the view.

I see people on the park benches, enjoying the morning or nighttime scene. It would be a shame for us to not have this park and the extraordinary view, to enjoy in the future.

Thanks for allowing me in your IN box!

Paula

--

Paula F Hill
72 Melbourne Street #1
Portland, ME 04101

Sorted Affairs/Encore Life

<http://paulafhill.com/>

207-332-6197 (note the new number!!)

LinkedIn member

Facebook



Jennifer Munson <jmy@portlandmaine.gov>

Fort Sumner Park

1 message

Kate Lawrence <klawrence33@gmail.com>

Wed, Jan 4, 2017 at 1:26 PM

To: planningboard@portlandmaine.gov

Attn: Elizabeth Boepple, Chair, and Members of the Planning Board,

Dear Ms. Boepple,

I am a homeowner at 81 Quebec Street on Munjoy Hill, almost directly across from Ft. Sumner Park. The unrestricted views that the park provides are a rare find in a city like Portland. People go there daily to peacefully sit, watch the sunset, and enjoy the outdoor space. The proximity of the park, its beautiful views, and the chance to be near some green space, were a major factor in my family's decision to buy our home. I am very concerned that a proposed development will undermine the historic park and its view.

Thank you for taking the time to consider this message.

Best,

Kate

Kate M. Lawrence, Esq.
81 Quebec St. 2
Portland, ME 04101
(845) 544 4088



Jennifer Munson <jmy@portlandmaine.gov>

Ft. Sumner Park

1 message

'Dbird34' via Planning Board <planningboard@portlandmaine.gov>

Thu, Jan 5, 2017 at 9:46 AM

Reply-To: Dbird34 <dbird34@protonmail.com>

To: "planningboard@portlandmaine.gov" <planningboard@portlandmaine.gov>

Dear Elizabeth Boepple, Chair,
and Members of the Planning Board—

My wife and I moved to Portland three years ago, and our only regret is that we didn't do it ten years earlier. We love this city, not least the views over Casco Bay from the Eastern Prom and over downtown from Ft. Sumner Park. These views *must* be preserved. We recognize the need for new housing, and support most of the development that seeks to supply it. But, surely, this development can proceed without compromising the views from Ft. Sumner Park and elsewhere. It is the board's job to insist on that compromise. I urge you to do so, thus preserving Portland's unique esthetic.

Sincerely,
Richard Pollak

28 Melbourne Street
Portland, ME 04101
917-848-5843



Jennifer Munson <jmy@portlandmaine.gov>

Please preserve the view from Fort Sumner Park

1 message

Joyce Walworth <joycewalworth@gmail.com>

Thu, Jan 5, 2017 at 9:47 AM

To: planningboard@portlandmaine.gov

Dear Ms. Boepple and members of the Planning Board:

Having recently turned 70, I reflect daily on the urgency of what to preserve for future generations. Change is inevitable, but some changes are mistakes and cannot be undone. I believe it would be a mistake to block the view from Fort Sumner Park. The view - available to one and all - is spectacular. It's a spot for reflection and wonder but also appreciation for a thriving city below. I hope that tomorrow's children will not lose this view because of a developer's lack of concern for the historic value of Fort Sumner Park and the residents of Munjoy Hill.

Sincerely,

Joyce Walworth
135 Sheridan St
Portland, ME 04101

Google Groups

Fort Sumner Park

Fort Sumner <fortsumnerpark@gmail.com>

Jan 5, 2017 9:12 PM

Posted in group: **Planning Board**

To: Elizabeth Boepple, Chair and Members of the Planning Board

The Friends of Fort Sumner Park is extremely grateful for the work done by staff to preserve the views from Fort Sumner Park. We heartily endorse the concept of the overlay zone, keeping in mind that in 1983 the state legislature protected the park "solely for park and recreational purposes in perpetuity". We are also supportive of the establishment of a view cone which defines the panoramic view from the park, and also the graduated protection from foreground clutter in the proposed overlay.

While we would prefer a greater setback from the property line to preserve the quiet and tranquility of the park, we think the addition of vegetative screening in the "no build" area can provide additional visual and noise protection from air handling systems and all manner of HVAC equipment and systems on the building roofs.

With respect to the height limit, we would like to set this established at the historic altitude for the park lookout, which can be seen in an early twentieth century postcard, which was at the level of what we believe to have been the parade ground for Fort Sumner. The current bumped-up observation deck was added during the 1991 renovation of the park and we would like to see the original topography restored at some point, without the visual and noise intrusion of roof appliances and structures such as heat pumps or elevator shafts.

Finally, we would like to see the height limits to include landscaping. One new American elm could spoil the sunset view very quickly.

We urge you to endorse the staff recommendations, with the amendments suggested above. The view from Fort Sumner Park is unique and extraordinary, so much so that area hotels regularly send visitors up to the park in the summer to enjoy the sunset. We believe the McCarthy family, owners of the land at 155 and 165 Sheridan Street, as well as a developer, can make a good profit building on the land within the overlay zone. We look forward to working with city staff to enhance the recreational and historic value of Fort Sumner Park so that future generations will get to enjoy it as much as we do today.

Mayor Baxter, in his 1905 report, *The Park System of Portland*, made it clear that the view was the central defining feature of this park, established and designed in 1891:

"Some years ago, when the Mayor of Cork visited Portland, I took him to the Eastern Promenade, pausing at Fort Sumner Park, and while he was admiring the charming view of the city, which that lofty outlook affords, I ventured to outline to him some of the improvements which I was then considering and which Mr. Olmsted has so admirably embodied into his plans. "But why don't you do it?" asked the Mayor with the little brogue which made him most engaging. "Because," I replied, "our people are rather shy of taxes". "Taxes!" he exclaimed. "Why should they bother about that if they get their money's worth? What's money for but to get the good of it?" (Park System of Portland, City of Portland, 1911)

Respectfully yours,

Carolyn Young, President
Friends of Fort Sumner Park
207-899-2276

Re: Fort Sumner Park Development

Kobi Eng <kobieng47@gmail.com>

Jan 5, 2017 6:44 PM

Posted in group: **Planning Board**

Elizabeth Boepple, Chair, and Members of the Planning Board,

I apologize for the two unfinished messages I've sent to you, my computer is being problematic. I am writing in support of Fort Sumner Park, and asking that nothing be done that would obstruct the park's view or degrade its ambience. I am an 18-year-old student at Casco Bay High School, and I have lived on Munjoy Hill for almost ten years. Fort Sumner Park was the first place where I spent time outside in Portland, and it has been a significant location for me every year since. I have spent countless hours climbing its trees, playing hacky sack in it, resting on the grass, and enjoying its glorious view; in these ways it has become an important part of the city to me - just the way it is. I would be greatly saddened to see a building constructed very close to it, as this would detract from the park's aesthetic value. It would also make the park feel much more cramped and awkward, for I feel that it should maintain its wide-open quality and be surrounded by as much forest and nature as possible. I recognize that there are many incentives at play in this situation, but I plead that you take my concerns into consideration. Thank you very much.

Sincerely,

Kobi Eng

kobieng47@gmail.com

39 North Street

Portland, Maine 04101

On Thu, Jan 5, 2017 at 5:54 PM, Kobi Eng <kobieng47@gmail.com> wrote:

Elizabeth Boepple, Chair, and Members of the Planning Board,

On Thu, Jan 5, 2017 at 5:53 PM, Kobi Eng <kobieng47@gmail.com> wrote:

Elizabeth Boepple, Chair, and Members of the Planning Board,

Google Groups

Ada Mathews <beload@ yahoo.com>

Jan 5, 2017 10:37 PM

Posted in group: **Planning Board**

Please save Fort Sumner, Portland need this beautiful place for us Portland natives and others.

Thank you,

Ada Mathews

beload@ yahoo.com

ANNE B. PRINGLE

44 Neal Street Portland, ME 04102-3527
oldmayor@maine.rr.com

January 5, 2017

Portland Planning Board
389 Congress Street
Portland, ME 04101

Re: Proposed Sumner Park Overlay Ordinance

Dear Members of the Board:

I have lived in Portland for 43 years and learned early on that its wonderful network of parks and open spaces is a defining feature of our fabulous city. I chaired the Parks Commission for two years while serving on the City Council in the early 1990s and have been a vocal park advocate ever since.

That said, I must confess that until recently I was not fully aware of Fort Sumner Park and the truly exceptional public asset it represents. Anyone who visits, as I have done several times recently, can attest that the view is spectacular and unique in its scope. It is fully on par with the magnificent vistas seen from the historic Eastern and Western Promenades. It **must** be protected from encroachment!

I believe the proposed Sumner Park Overlay projects this unique public asset and urge the Planning Board to unanimously recommend it for adoption by the Portland City Council.

Very truly yours,





Jennifer Munson <jmy@portlandmaine.gov>

Fort Sumner Park

1 message

'Gunnel Larsdotter' via Planning Board <planningboard@portlandmaine.gov>

Thu, Jan 5, 2017 at 5:14 PM

Reply-To: Gunnel Larsdotter <glarsdotter@yahoo.com>

To: planningboard@portlandmaine.gov

Attention:

Elizabeth Boepple, Chair &
Members of the Planning Board
City of Portland, Maine

As a resident of Munjoy Hill, as well as longtime resident of both Portland and Peaks Island, I am writing to implore you to do what you possibly can to save Fort Sumner Park from becoming an embarrassment to the City. I'm referring here to that of the historic Union Station which no longer exists due to bad judgment by city managers.

PLEASE DO NOT TAKE THE JOY OUT OF MUNJOY HILL by allowing money hungry developers to ruin forever the magnificent view enjoyed by countless visitors who return again and again, year in and year out, to Fort Sumner Park. In 2014 my husband and I decided to move in order to live our senior years on Munjoy Hill. We love it here. Since then I have taken countless silhouette pictures (sample attached) of people all ages enjoying the peace and beauty of the park. Personally I am able to walk only a certain distance each day. I am sure I'm not the only 'senior person' with similar concern. Fort Sumner Park, or "Sunset Park" as we call it, has become our daily walk of joy. The very thought of losing the Park with its view is heart breaking, to say the least.

PLEASE DO EVERYTHING YOU CAN TO KEEP MUNJOY HILL FROM BECOMING A FUTURE
"MUNSORROW HILL".

Thanking you,
Sincerely,
Gunnel Larsdotter
46 Cumberland Avenue
Portland ME 04102
207-272-2076

Our grandson, Noah age 6, lives in Texas. He and his mother visit us on Munjoy Hill every year. The first thing he says when they arrive is -
"Can we go to Sunset Park?"

Sent from my iPhone

3 attachments



IMG_1756.JPG
102K



IMG_1729.JPG
88K



IMG_1727.JPG
52K



Jennifer Munson <jmy@portlandmaine.gov>

Fort sumner park

1 message

Elaine H Jones <jonesedj@gmail.com>

Fri, Jan 6, 2017 at 9:47 AM

To: planningboard@portlandmaine.gov

I implore you to keep the vista at this park. Portland's scenery and our sense of place is very important to the vibrancy of our city. We don't need to look like the canyons of large cities. Our open spaces and green spaces are an integral part of why we live here and so many people are moving here.

E. Jones...Portland native

Sent from my iPad



Jennifer Munson <jmy@portlandmaine.gov>

Letter in support of Fort Sumner park recommendations from staff

1 message

'Jean McManamy' via Planning Board <planningboard@portlandmaine.gov>

Fri, Jan 6, 2017 at 9:53 AM

Reply-To: Jean McManamy <ninimaine@aol.com>

To: planningboard@portlandmaine.gov

Dear Chair Boepple and members of the Planning Board:

I am writing to you as a neighbor and user of Fort Sumner Park. I have watched that park come back from a drug dealing haven three years ago to a much visited gathering spot, thanks to the vigilance of neighbors and the Portland Police. The view is, as you know, a defining feature of the park, and has been since the park's establishment in 1891. Enclosed is a postcard from the early 1900's showing the landscape at the time. While we, as a band of neighbors, came together originally to save the view, our research into the park has uncovered an unappreciated gem on North St: Fort Sumner Park was the site of a revolutionary era fortification, a citadel built as part of the coastal defense system in 1794 under George Washington, and finally an early piece of the city's park system in 1891.

Preservation of this view—the city, with glimpses of the harbor, back cove, the sunset, and Mount Washington—is the cornerstone to future enhancement of the park's historic and recreational value.

I believe that two amendments to the staff recommendations would make a difference in the visitor experience: a requirement for buffer plantings in the “no-build” zone between the setback and property line, and a lowering of the plane of the height limit in the new overlay zone to the level of the original parade ground—a difference of 2 or 3 feet. It would be nice to be able to restore the original topography of the site without intrusion of elevator shafts or solar panels into the view. This would open up the vista to visitors entering the park; it is now quite hidden until you approach the bumped-up observation deck (added in 1991).

Thank you.

Sincerely,
Nini McManamy
10 Willis St.



ft sumner gazebo postcard.pdf

233K



Portland, Maine, The Lookout, Fort Sumner Park.



Matthew Grooms <mgrooms@portlandmaine.gov>

Overlay for Fort Sumner Park

Douglas <jimdoog@gmail.com>
To: mgrooms@portlandmaine.gov

Sat, Dec 31, 2016 at 3:46 PM

Mr Grooms:

Our house is at 32 North St, so we're very close to Fort Sumner Park and we go there often. If you've been there you know it provides the unique spectacular view of the Peninsula and Maine and NH mountains, including Mt Washington.

Btw, what is an "overlay"?

Lastly, I have two suggestions for board:

ALL Portland residents have a stake in in the overlay issue, not just Munjoy Hill residents, and thus they should have received the notice for the meeting on Jan 10.

It is not Sumner Park, it is Fort Sumner Park.

Thank you,

James Douglas Cowie
Tel 321-8615

Google Groups

Make Portland a model for livability by maintaining historically significant height limitations.

Carol Parker <carolaparker@earthlink.net>

Jan 3, 2017 3:19 PM

Posted in group: **Planning Board**

Dear Elizabeth Boepple, Chair, and Members of the Planning Board:

Please restrict the height of new buildings so that it will be more in keeping with the Historical nature of Portland. It is also critical to the most stunning view of the sunset from Ft. Sumner Park. People gather there every night to watch the spectacular sunset over Portland. High rise buildings near Munjoy Hill would ruin one of the most beautiful community resources.

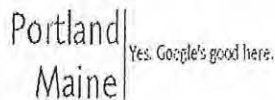
I know you must consider that the building would create jobs that would help employ many people. Lowering the height could still provide employment, but without destroying the view and historical nature of one of the most beautiful cities on the East Coast. Developers need to create livable cities that fit into the historical character of Portland.

Washington DC years ago placed a height limit so that one can see the Washington Monument and the Capitol from all over the city. When you come into Washington, it still is a welcoming, soothing city surrounded by green parks and trees. Let that be a model for Portland as well.

Please stand tough to create buildings and spaces that promote livability over profits for the few. You have the opportunity to create jobs, improve the tax base, while creating a strong precedence to integrate new buildings to enhance the community's beauty and historical significance to make the City of Portland a model jewel for others to follow.

Carol Parker
carolaparker@earthlink.net

18 North Street
Portland, ME 04101
703-405-2486 c



James Dealaman <jdealaman@portlandmaine.gov>

Fort Sumner Park and its value to the community

1 message

Judith Tierney <judy.tierney@gmail.com>
To: planningboard@portlandmaine.gov

Tue, Jan 10, 2017 at 2:45 PM

Hello Elizabeth and Planning Board members,

Thank you all for the work you do on behalf of our wonderful community and city.

As a 12 year resident of Munjoy Hill, a renter and recently semi-retired on a fixed income, I realize how blessed I am to be living in such a beautiful location with a vibrant community of folks who care deeply about one another as well as the life of the precious earth we share; green spaces, trees and the sky and water which is, in reality, our shared **home**.

There's a lot of development happening very quickly in Portland. I am not against development, only development that is pushed through without enough foresight for the long term values of everyone, not just those whose narrow focus is real estate development and profit margins in a hot market. It is difficult to quantify on paper the values of a **qualitative** nature.

If we lose our green spaces and parks to ever increasing, fast paced encroachments for (mostly) high end condominiums (built ever higher), what does that do to **quality of life for everyone**? There may be a few folks who enjoy a better quality (those who can afford the new residences and those who profit from selling and building them) but what about the greater number of all the citizens of Portland?

Please take these questions and considerations into your heart as well your minds as you make decisions that affect the quality of life for a great number of people.

Thank you again for good work and taking a moment to listen to these words.

Judith Tierney
10 Willis Street, #1
Portland, Maine 04101
judy.tierney@gmail.com
207 899-5238



Patrick Venne
Redwood Development Consulting, LLC
15 Monument Square
Portland, ME 04101

January 19, 2017

Via Email

Jeff Levine,
Director of Planning & Development
City of Portland

RE: *R-6 Height Overlay Proposal;*

Dear Mr. Levine:

I am writing on behalf of BD Sheridan, LLC, as contract purchaser and prospective developer of real property located at and around 155 Sheridan Street in Portland (the "Project").

The Project's development team appreciates your distribution of planning board materials related to the Fort Sumner Park Overlay ordinance proposed in response to the City's recent and related enactment of a 90-day development moratorium. This letter sets forth our response to the same, which we hope will be fully considered by staff, the Board, and Council prior to any formal action.

Rooftop Appurtenances –

While not without its complications or expense, the Project team is prepared to pursue design approaches which meet the spirit of the height limitations by incorporating traditional mechanical rooftop units into the body of the proposed Project. However, the rooftop elevator override penthouse represents an exception to this general point anchored in impracticality. In order for the Project to be ADA compliant, it must have an elevator. In order for the elevator to allow for safe maintenance, it must have an override. Without an exception for the elevator override, the Project will be forced to eliminate an entire floor of housing.

As such, we would respectfully ask the Board consider, and staff to support, a modification to the proposed ordinance language which allows rooftop elevator overrides alone to be exempt from the overlay restrictions otherwise applicable. While I know there has been discussion of this in the past, it bears emphasizing that such an allowance would still be subject to the 'no undue adverse impact' requirements of the existing subdivision ordinance. The proposal would neither permit as of right, nor completely prohibit, the enclosure. Instead, it would merely permit an opportunity to explore the options by allowing the eminently qualified Board to exercise its discretion in line with the intent of the overlay in order to reach a reasonable outcome that meets City expectations and works for the Project team as well.



Apex Point -

Our Project team notes that the proposed apex point appears to be tied to ground level. Further, it has reflected that if the intent of the proposed apex point is principally to preserve the cherished viewshed, it should be considered from the perspective of the viewing public. The lowest point at which someone visiting Fort Sumner Park would normally perceive the view, without lying down, is from a seated position while sitting on a park bench. This would call for an apex at eye level from that perspective, or approximately 163.77 (3 ½ feet above the proposed apex point). This apex point would also permit children old enough to appreciate the view to enjoy the same from a standing position.

From a Project benefits perspective, the increased height of the apex point reference would provide additional ceiling height (and thus bear upon the marketability of Project units), in addition to extending the extent to which the Project may remain four as opposed to three stories in height. As such, it would have a positive impact on marketability and may even increase the total number of housing units (by up to two additional residences).

It is important to stress that we understand and appreciate the public interest driving the proposed regulations, and in this letter have attempted to propose only such modifications which result in increased Project flexibility without impinging on that interest.

Thank you for your time and attention to these matters. Please let me know if I can answer any questions or clarify anything herein in advance of the public hearing next week.

Very Sincerely,

A handwritten signature in black ink, appearing to be 'P. Venne', with a horizontal line extending to the right.

Patrick Venne

Enclosures: Exhibit A: Requested modification to proposed Sec. 14-139(d)

CC: Stuart O'Brien, Planning Director, City of Portland
Matthew Grooms, Planner, City of Portland
planningboard@portlandmaine.gov
Bernard Saulnier, BD Sheridan, LLC
William Savage, Acorn Engineering
Ryan Senatore, Ryan Senatore Architecture



Exhibit A

Requested modification to proposed Sec. 14-139(d)

R-6 Height Overlay Ordinance Amendment (Fort Sumner Park)

Add a new section as follows:

14-139 (d) Fort Sumner Park Overlay: This Overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park. There is established a key apex point in Fort Sumner Park at 43° 40' 2.3349"N. 70° 15' 4.3687"W. The Fort Sumner Park Overlay includes all land within 200 feet, or the R-6 zone boundary, whichever is closer, of this key apex point that is located closer to the middle line of Sheridan Street than said apex point.

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

- *The top of structure, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (~~163.77'~~ ~~160.27'~~ City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure 4 below). Notwithstanding anything within this Section to the contrary, rooftop elevator equipment enclosures are permissible above the baseline vertical height of the apex point where the same are necessary for a building which is otherwise compliant with this Section to satisfy State or federal law, so long as they shall not cause any undue adverse impact on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park.*
- *The minimum building setback from the park property shall be 15 feet.*

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Sumner Park.

Google Groups

Fort Sumner Park and its value to the community

Judith Tierney <judy.tierney@gmail.com>

Jan 10, 2017 2:45 PM

Posted in group: **Planning Board**

Hello Elizabeth and Planning Board members,

Thank you all for the work you do on behalf of our wonderful community and city.

As a 12 year resident of Munjoy Hill, a renter and recently semi-retired on a fixed income, I realize how blessed I am to be living in such a beautiful location with a vibrant community of folks who care deeply about one another as well as the life of the precious earth we share; green spaces, trees and the sky and water which is, in reality, our shared **home**.

There's a lot of development happening very quickly in Portland. I am not against development, only development that is pushed through without enough foresight for the long term values of everyone, not just those whose narrow focus is real estate development and profit margins in a hot market. It is difficult to quantify on paper the values of a **qualitative** nature.

If we lose our green spaces and parks to ever increasing, fast paced encroachments for (mostly) high end condominiums (built ever higher), what does that do to **quality of life for everyone**? There may be a few folks who enjoy a better quality (those who can afford the new residences and those who profit from selling and building them) but what about the greater number of all the citizens of Portland?

Please take these questions and considerations into your heart as well your minds as you make decisions that affect the quality of life for a great number of people.

Thank you again for good work and taking a moment to listen to these words.

Judith Tierney
10 Willis Street, #1
Portland, Maine 04101
judy.tierney@gmail.com
207 899-5238



Jennifer Munson <jmy@portlandmaine.gov>

'Fort Sumner Park Overlay Zone Amendment'

1 message

TinytownWorkshop <tinytownworkshop@gmail.com>
To: planningboard@portlandmaine.gov

Fri, Jan 20, 2017 at 11:04 AM

Spoke with the city this am regarding the cryptic plan view drawings on the recent flyer sent out regarding 'Fort Sumner Park Overlay Zone Amendment'. I reminded them that humans are not drones or seagulls and do not look at the world in a plan view but in elevation. Therefore, I suggested that someone simply take a pano photo of the view standing on the outer edge of the viewing deck. Simply superimpose a bright line that boxes out what the new proposed maximum allowable structure is. Print it out approx 4feet x8 feet and post it in the ground on the down hill slope approx 10 feet from the edge of the existing viewing deck. In addition to planting this sign for visitors, demand that the city post it online and in the local newspaper. Ultimate goal is to insure that the entire shoreline of Back Cove will continue to be visible from the EXISTING LANDING (not a foolish built up monstrosity). This appears to have become a very time sensitive concern.

Logical to me.

You?

Neighborhood Meeting Certification

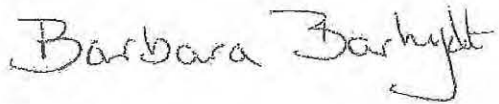
Fort Sumner Park Height Overlay Zone and Rezone from R-6 to ROS

I, Barbara Barhydt, Development Review Services Manager, hereby certify that a neighborhood meeting was held on January 18, 2017 at the East End School at 5:30 p.m.

I also certify that the notice was mailed on January 9, 2017, invitation were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was provided to the Planning Division (iym@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list.

Signed,

A handwritten signature in black ink that reads "Barbara Barhydt". The signature is written in a cursive, flowing style.

Attached to this certification are:

1. Copy of the invitation sent
2. Sign in Sheets
3. Meeting Minutes
4. Copy of Power Point Presentation



Fort Sumner Park Text and Map Amendments Sign-In Sheet | January 18, 2017

Name	Address	Email
Thomas Leonhardt	340 E. Prom	
Brent Adler	67 Montfort / Walnut	
Brendan O'Neil	105 Walnut St	
Kevin A'chochat	275 Sheridan St.	
David Cowie	32 North Street #3 Portland	
CA RPL McCracken	645 Congress St #207	
Douglas Cowie	32 North St # Portland	
Kelley Erickson	156 Sheridan St, #2A, Portland	04101
Rhonda Green	156 Sheridan St., #1A Portland	04101
Tim Baehr	105 North St #2	
Ann Landsberg	105 North St #2	
Neil Rouda	109 Sheridan St.	
Vania Casanova	105 North #1	
Rose Olmsted	73 North St	
Cynthia Cochran	17 Hammond St.	
HERB ADAMS	231 STATE ST.	
Arden Young	135 Sheridan St #201	

Neighborhood Meeting – January 18, 2017
Sumner Park Overlay Zone and Zone Change from R-6 to ROS for Sumner Park
East End School – 5:30

Matthew Grooms, Planner, presented the zoning amendments proposed by the city to regulate the heights of buildings near Sumner Park and to rezone the park from Residential R-6 to ROS (power point presentation attached). The proposed height overlay zone sets an elevation above sea level of 160.27 feet at the apex point in the park and extends in an arc 200 feet from this point within the R-6 zone or to the extent of the R-6 and B-2b line. Building heights and all appurtenances would need to be under the sight line as shown on the graphic and the allowable building height is decreased by 1 foot for every 15 feet from the apex point. The overlay zone establishes a 15 foot building setback from the park and development proposals will go to the Park Commission for a recommendation to be submitted to the Planning Board's project review.

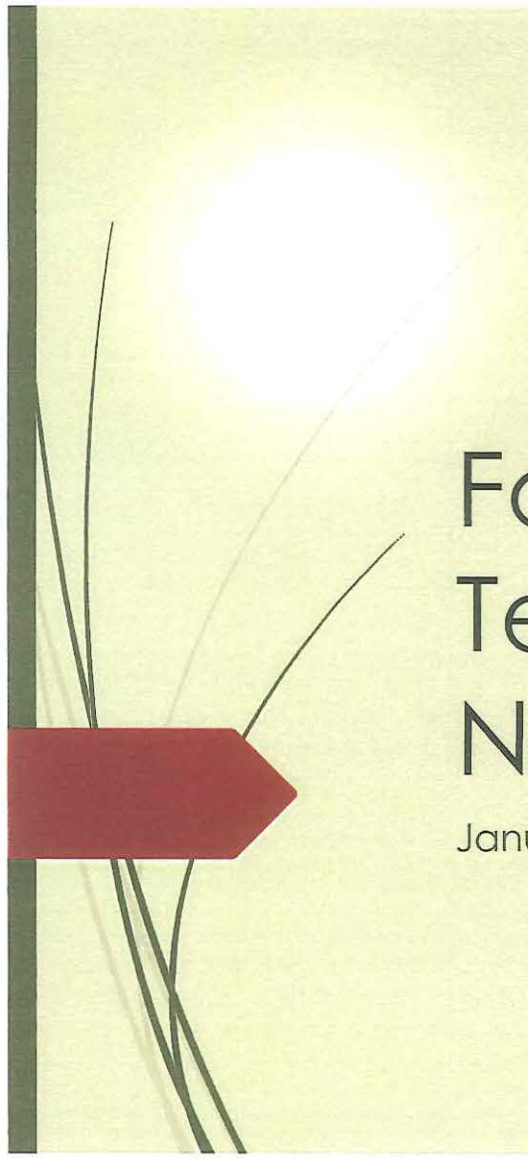
The Planning Board public hearing will be on January 24, 2017 at 7:00 p.m. and the Board's recommendation will be considered by the City Council on February 6, 2017.

Questions and Comments from the Public:

- Explain how the underlying zone with the 45-foot height limit and the overlay zone will work? The 45 foot building height is too high. What is the elevation of Sheridan Street? Want to see a virtual image of what will be looking at the maximum height. Show us what we will see.
- D. Cowie stated the purpose of the sloped line is to retain the sight line, so that building heights will not obstruct the vista. The proposal doesn't keep the shoreline near Marginal Way in view, but the water and the land on the far shore will be visible. The higher land and views of Mount Washington will be preserved.
- Is the newest house across the street from this site the highest that can be built in the B-2 zone along Sheridan Street? Discussion: The house is at the maximum height.
- Does the developer have to be in agreement with this proposal? Discussion: If adopted by the City Council, then this becomes part of the zoning ordinance and would regulate building height in this area. There is no pending application for the adjoining site.
- When does the moratorium end? Discussion Feb 6, 2017
- Will the B-2b zone be restricted by the height overlay? Discussion: The height overlay applies to the R-6 zone and does not extend into the B-2b.
- N. McManamy clarified that the steep slope between Sheridan Street and the park is owned by the City and would not be developed. The overlay zone sweeps to the right and will effect what is built. From the observation point in the park, there are views of Mount Washington. The building height

within the overlay zone would be roughly 8 to 10 feet lower than this point. Screening and landscaping can be used to buffer development. Convinced views of Mount Washington will be preserved.

- C. Cochran asked what is the height of Sheridan Street and where is it in relationship to the figure showing sight lines. Discussion: The planning staff will look into getting this information.
- Using the height overlay slide, B. Adler asked where the view lines are for the sunset and Mount Washington. Discussion: N. McManamy indicated on the slide the general sight lines for sunsets and views of Mount Washington.
- Why are the three lots beyond the overlay zone not included? Discussion: Due to the grades of the land in the B-2b zone, the maximum building height would not impact the sight lines.
- Concerned that building up the hill will be the problem and that the 45 foot height will block views. Discussion: The proposed overlay is based upon the sea level and not the grade of the street. The overlay zone will supersede the underlying R-6 height limit.
- Why not have overlay in B-2b zone? Discussion: Current zoning would apply and the buildings would not block the view.
- C. Cochran shared concern about the overlay zone not extending over B-2b because the zoning could change. What is the hesitation of extending the overlay zone?
- Putting a compass on the plan would help.
- R. Gan asked for clarification of the height in the B-2b zone, which is 45 feet and not 65 feet as had been stated earlier. He noted that building height is measured with the median height, but that the overlay zone and the sloping land will lower the building heights.
- P. Murray asked why the overlay zone did not go to the end of Sheridan Street to protect the views?
- C. Young asked to include the lot adjoining the park and held by the Land Trust to be included within the ROS. Discussion: The parcel has been included in the proposal.
- What is the significance of the 200 feet for the arc? Discussion: Beyond that there are no view impacts due to the slope of the land.
- C. Cochran asked what will happen with the elevation figure with sea level rise. Discussion: The ordinance could include a specific Portland datum of a particular date.
- Is it possible that the developer cannot build with this overlay zone. Discussion: Development will be possible on the parcel, but the height could not block the view.
- D. Cowie, representing Friends of Fort Sumner Park, is encouraged by the proposal and encourages residents to participate in the Planning Board public hearing on Feb. 24th and the City Council hearing on Feb 6th.



Fort Sumner Park Map and Text Amendments: Neighborhood Meeting

January 18, 2017

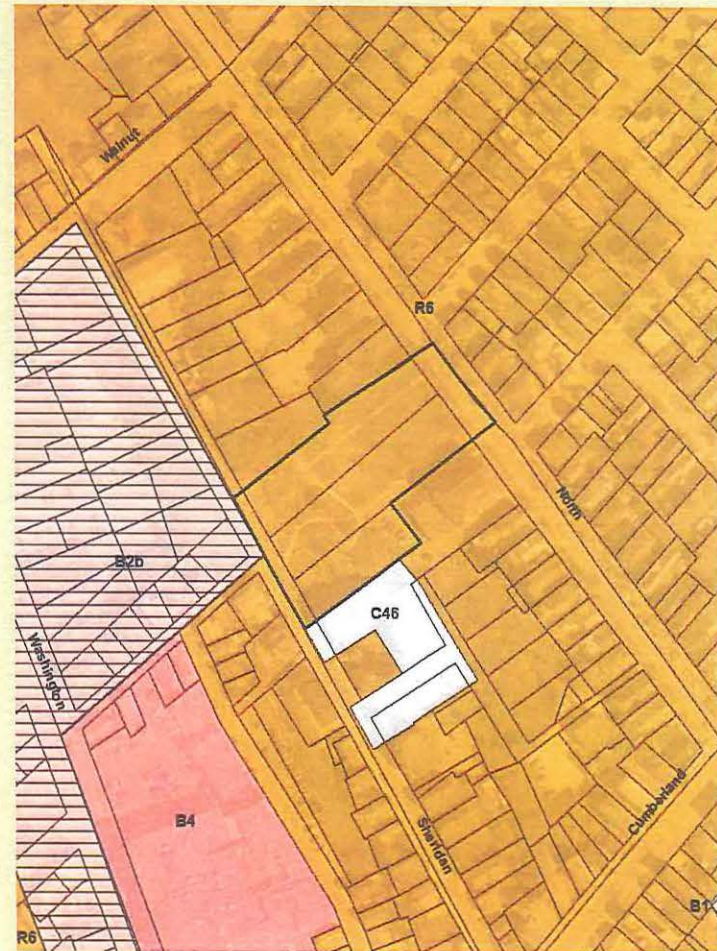
Introduction

- Provides Publicly Accessible 'Panorama'
- Lacks Sufficient Protection Under Zoning/Applicable Design Standards
- Recent Development Discussions Have Highlighted Vulnerability
- City Council Order 73-16/17

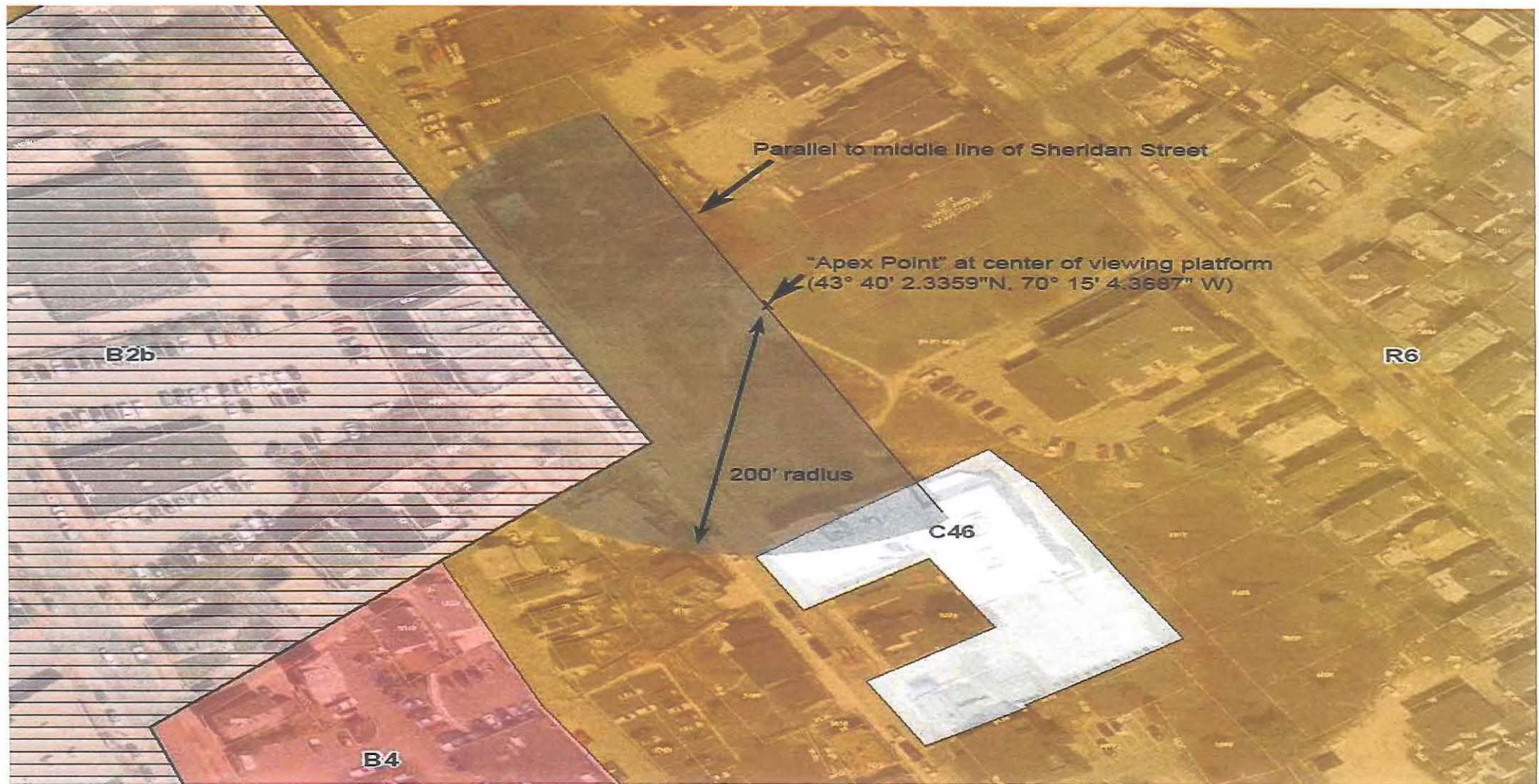


Zoning Context

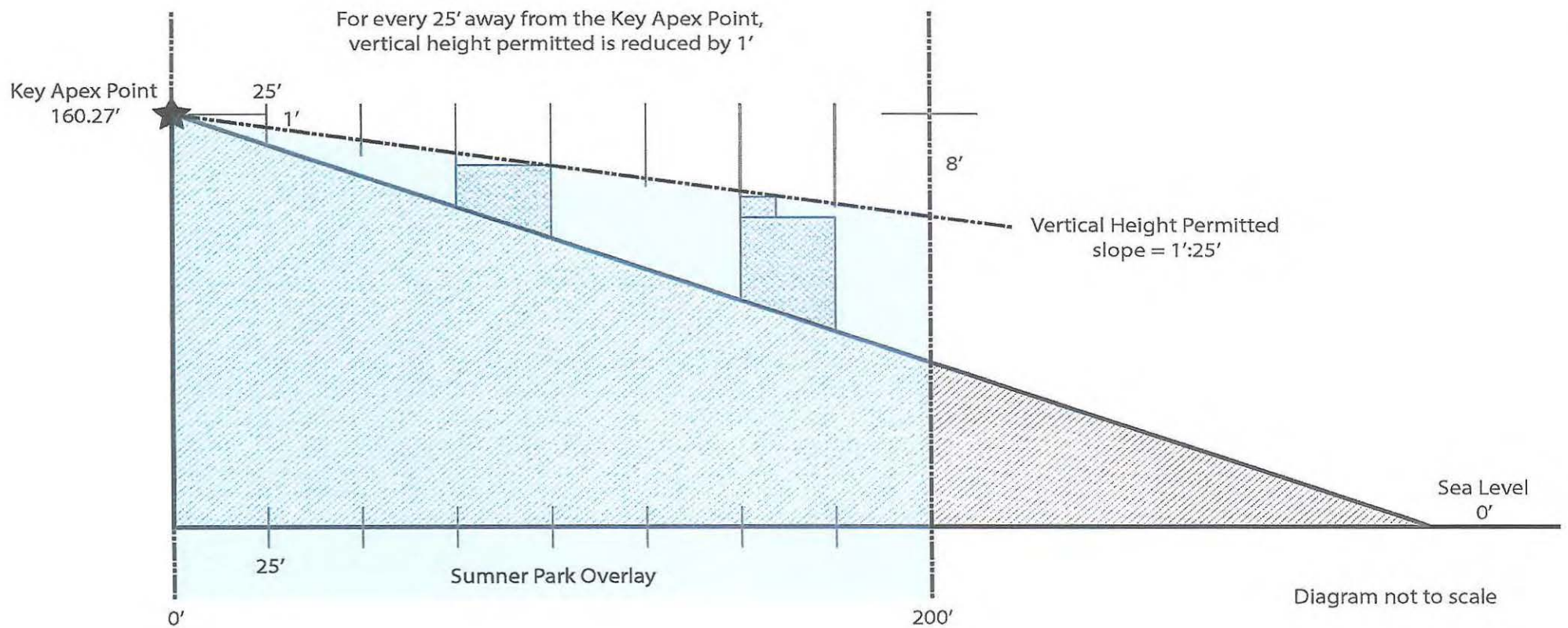
- Three parcels totaling 1.2027 acres
- Zoned R-6 Residential
- Permissible Heights within R6: 45 Feet
- Zoning Districts in the Immediate Vicinity:
 - R-6: Residential
 - B-2b: Neighborhood Business
 - B-4: Commercial Business
 - C46: Contract



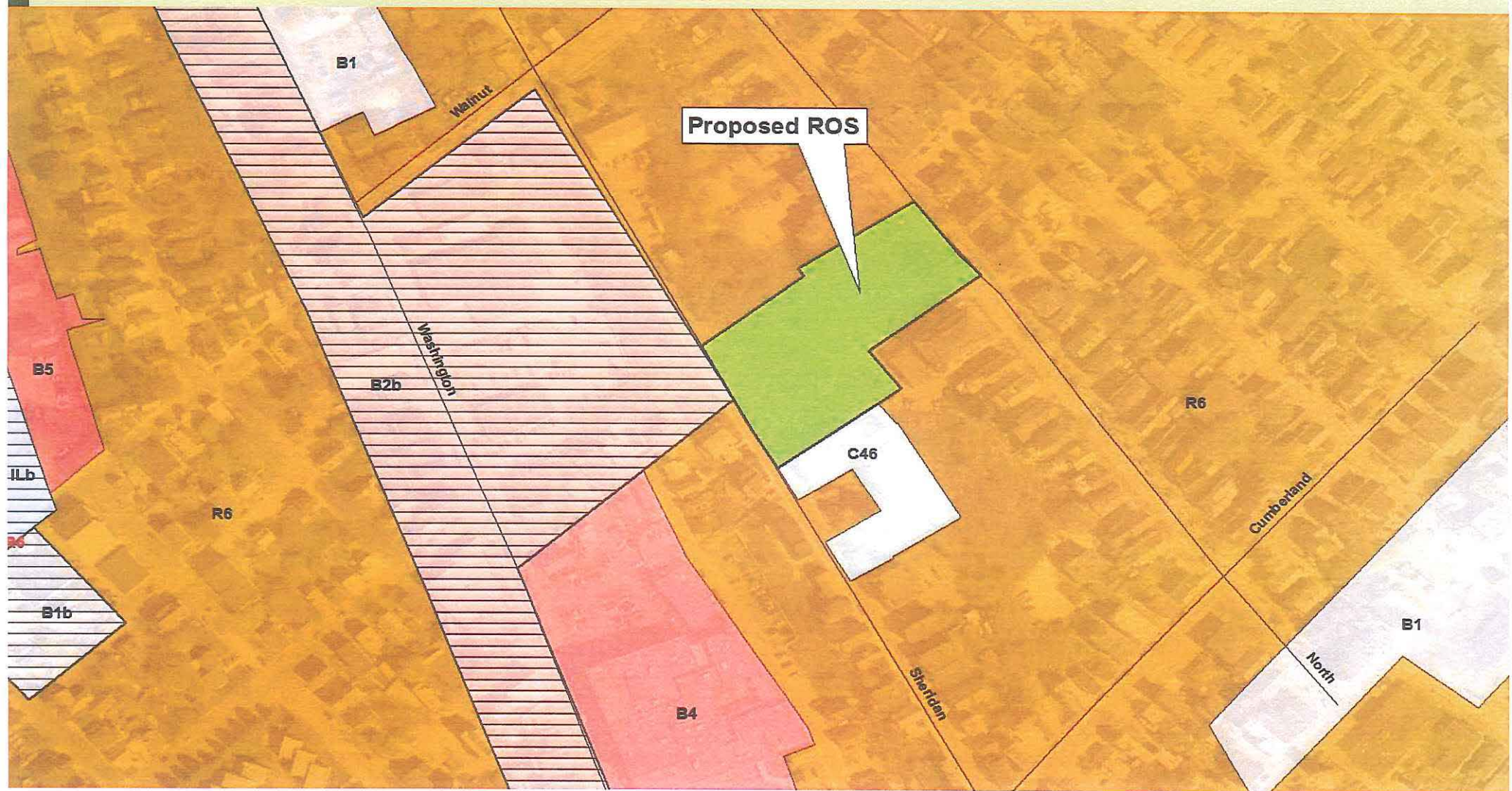
Proposed Map Amendment: Overlay Zone



Proposed Overlay Ordinance Graphic



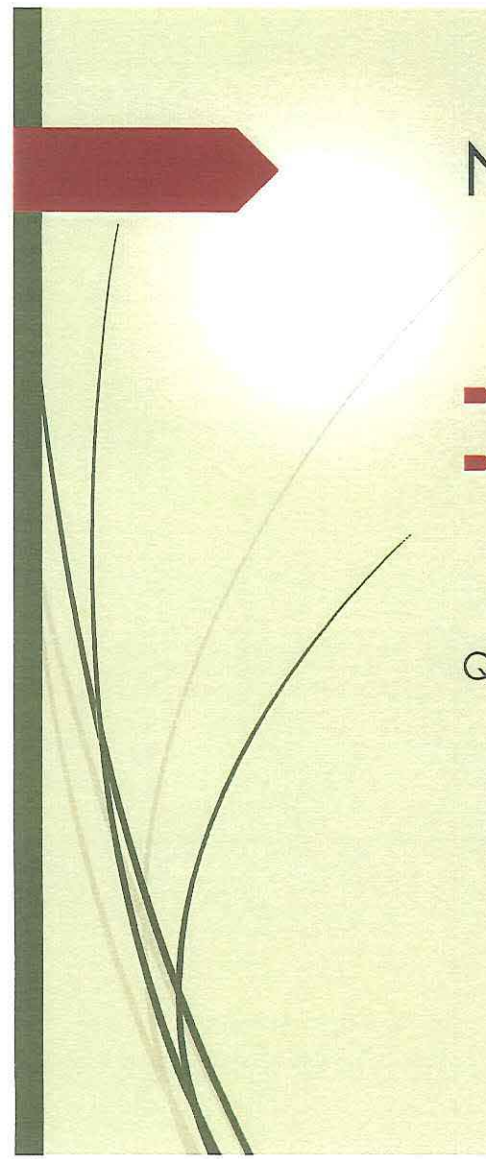
Proposed Map Amendment: ROS





Approach Justification

- Comprehensive Plan Calls For:
 - Preservation of Vistas From High Places
 - Celebration of Portland's Water Resources
 - Recreation/Open Space Opportunities that Address Scenic Needs
 - Public Access to Surface Water
- Downtown Height Study Highlights Fort Sumner Park Views for Preservation



Next Steps

- ▶ January 24th: Planning Board Public Hearing
- ▶ February 6th: City Council

QUESTIONS?

A. Proposed Text Amendment (Fort Sumner Overlay)

1. Amend: Section 139 (a) Dimensional Requirements.

Maximum Height	Principal and attached accessory structure: 45 ft, <i>except as provided under the Fort Sumner Park Height Overlay (Sec. 14-139 (d))</i>
-----------------------	--

2. Amend Section 139, by adding (d) R-6 Height Overlay Amendment (Fort Sumner Park)

Add a new section to 14-139 as follows:

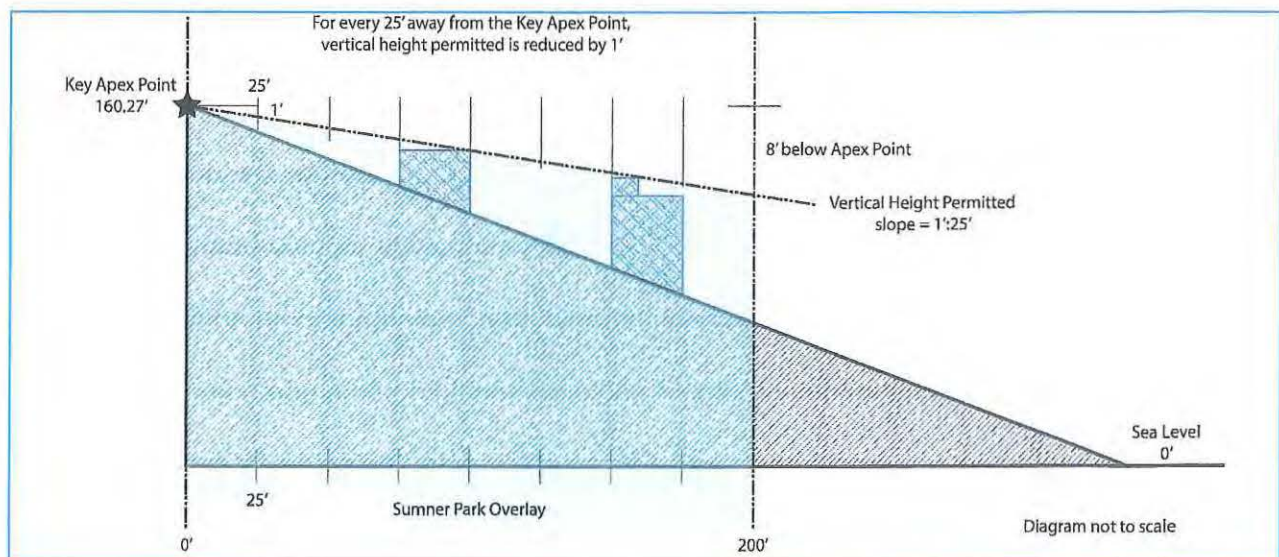
(d). Fort Sumner Park Overlay: This Overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park. There is established a key apex point in Fort Sumner Park at 43° 40' 2.3359"N. 70° 15' 4.3687"W. The Fort Sumner Park Overlay includes all land within 200 feet, or the R-6 zone boundary, whichever is closer, of this key apex point that is located closer to the middle line of Sheridan Street than said apex point.

Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

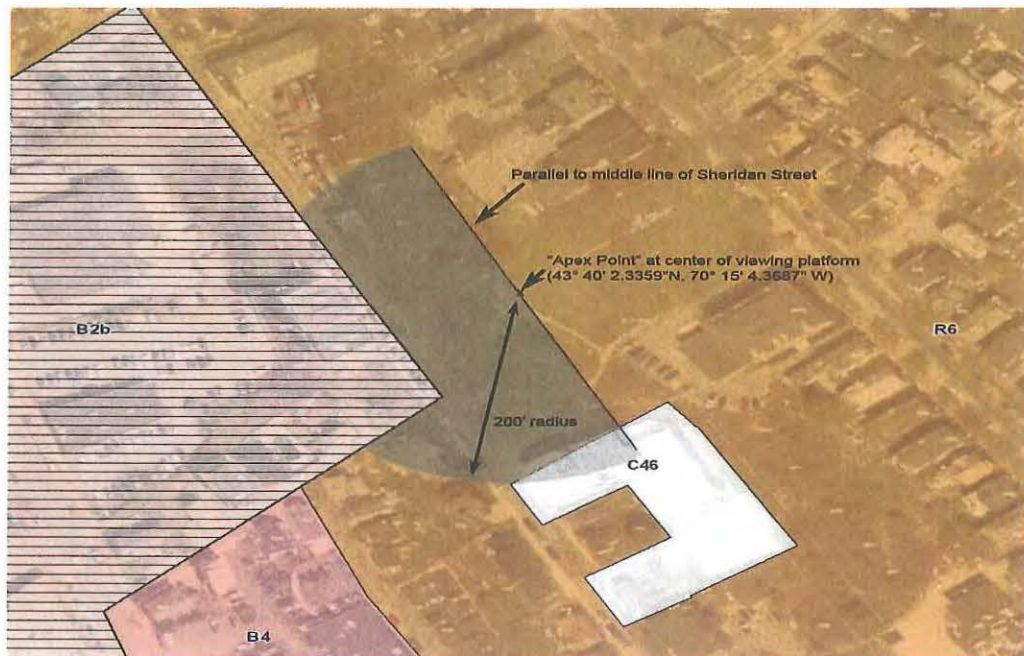
- The top of structures, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure below, Ordinance Height graphic).
- The minimum building setback from the park property shall be 15 feet.

Any project within this Overlay shall go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Sumner Park.

WITHIN THE OVERLAY, PERMITTED HEIGHT IS REDUCED BY 1' FOR EACH 25' AWAY FROM APEX POINT



B. Proposed Map Amendment (Fort Sumner Overlay)



Order 129-16/17
Tab 11 - 2-6-17
Tab 23 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

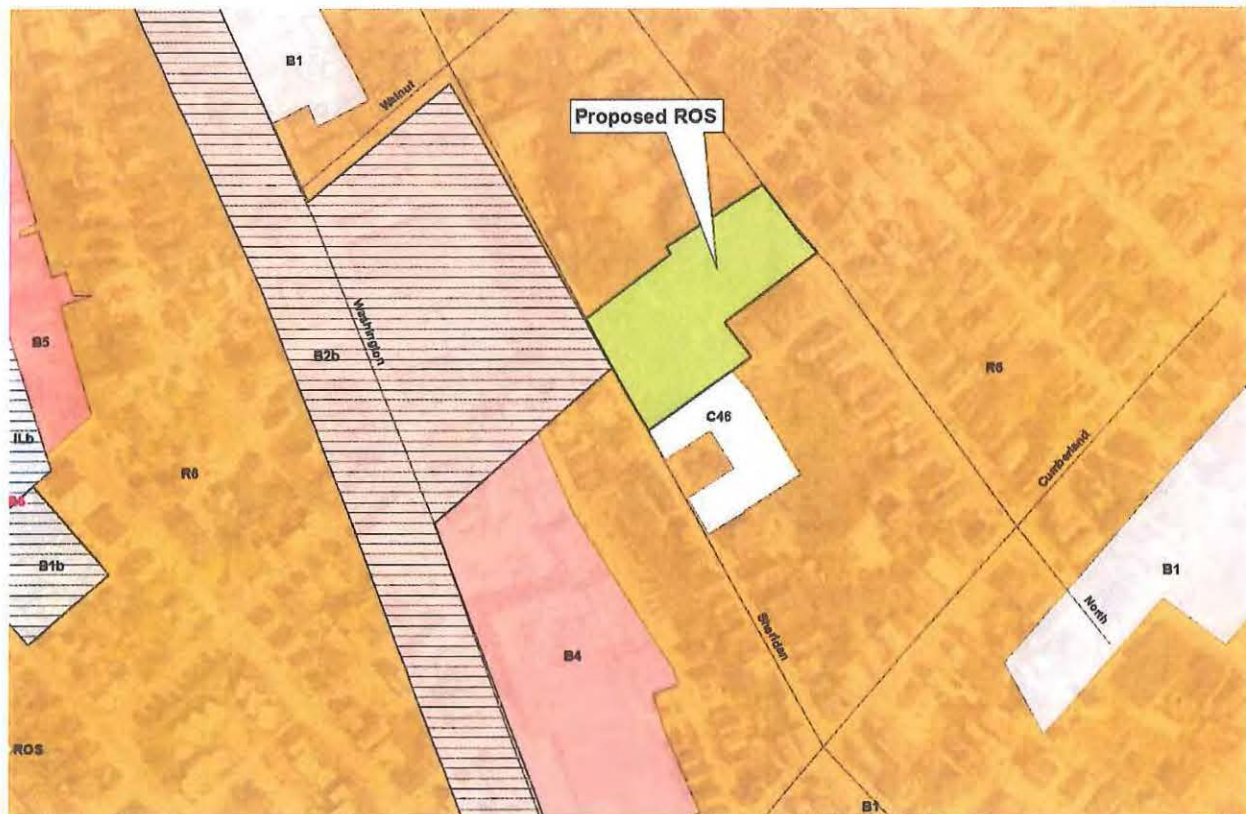
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO ZONING MAP
RE: FORT SUMNER PARK R6 to ROS

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 Fort Sumner Park from R6 to Recreation Open Space, as shown in the figure below.

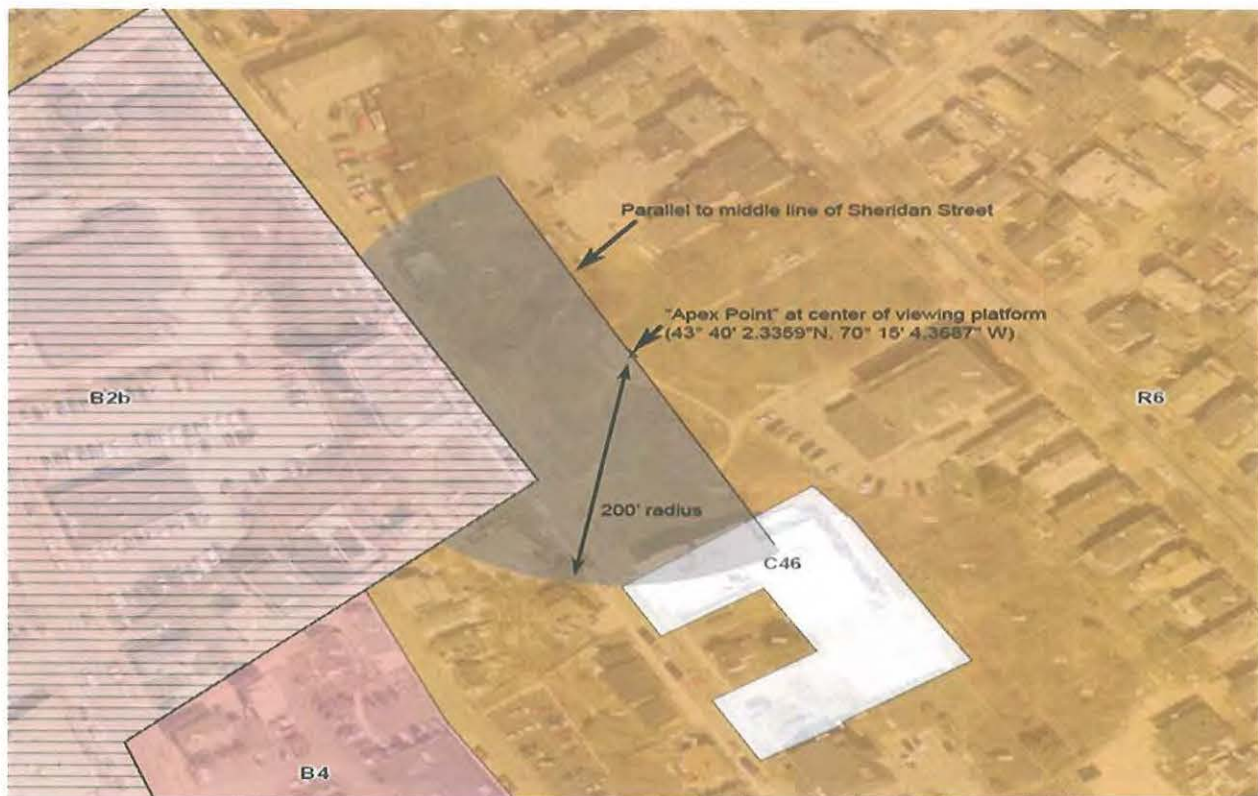


**AMENDMENT TO ORDER 130-16/17
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR BELINDA RAY
RE: RETROACTIVE TO FEBRUARY 7, 2017**

ESTABLISHMENT OF THE FORT SUMNER PARK OVERLAY

**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 specifically creating the Fort Sumner Park Overlay, as shown in the figure below.



BE IT FURTHER ORDERED, that, notwithstanding the provisions of 1 M.R.S. § 302, this amendment shall apply retroactively and include any and all actions and proceedings pending on February 7, 2017 or thereafter.

Order 138-16/17
~~Tab 12 2-6-17~~
Tab 24 2-22-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

ESTABLISHMENT OF THE FORT SUMNER PARK OVERLAY

**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 specifically creating the Fort Sumner Park Overlay, as shown in the figure below.

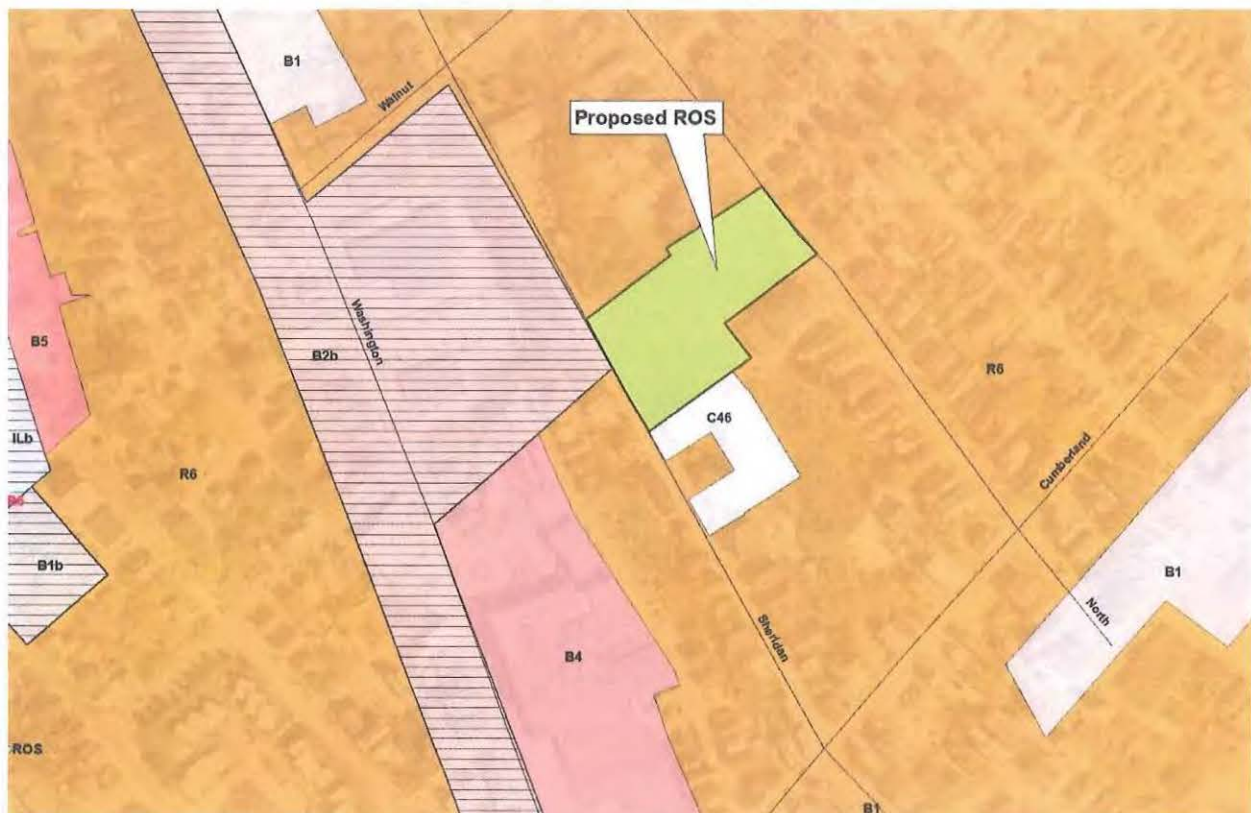


**AMENDMENT TO ORDER 129-16/17
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR BELINDA RAY
RE: RETROACTIVE TO FEBRUARY 7, 2017**

**AMENDMENT TO ZONING MAP
RE: FORT SUMNER PARK R6 TO ROS**

**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 Fort Sumner Park from R6 to Recreation Open Space, as shown in the figure below.



BE IT FURTHER ORDERED, that, notwithstanding the provisions of 1 M.R.S. § 302, this amendment shall apply retroactively and include any and all actions and proceedings pending on February 7, 2017 or thereafter.