

Special City Council Meeting
April 5, 2017

1. Agenda Only

Documents:

[AGENDA ONLY 04-05-17.PDF](#)

2. Agenda And Packet

Documents:

[AGENDA AND PACKET 2017-04-05.PDF](#)

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

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

AGENDA
SPECIAL CITY COUNCIL MEETING
APRIL 5, 2017

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

“Arts in the Chamber”, Pigeon – Street Artist and Speaker

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) March 27, 2017 Special City Council Meeting Minutes

PROCLAMATIONS:

**Proc 24-16/17 Proclamation Honoring Officer Christopher Coyne as Police
(Tab 3) Officer of the Month – Sponsored by Mayor Ethan K. Strimling.**

**Proc 25-16/17 Proclamation Recognizing Starting Strong Day, April 2017 –
(Tab 2) Sponsored by Mayor Ethan K. Strimling.**

**Proc 26-16/17 Proclamation Recognizing Longfellow Park’s 90th Anniversary -
(Tab 4) Sponsored by Mayor Ethan Strimling.**

APPOINTMENTS:

CONSENT ITEMS:

**Order 181-16/17 Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and
(Tab 5) 5826(6) Re: Wade Roma– Sponsored by Jon P. Jennings, City Manager.**

This order authorizes the City Council to approve the transfer of \$2,080.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Wade Roma.

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 182-16/17
(Tab 6)**

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

This order authorizes the City Council to approve the transfer of \$941.25 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Andrea Comeau.

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.

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

LICENSES:

**Order 183-16/17
(Tab 7)**

Order Granting Municipal Officers' Approval of Pizza Pie on the Fly dba Noble BBQ. Application for a Class I License at 1706 Forest Avenue – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 2/28/2017. New City and State applications. This location was formerly Taco Trio.

Five affirmative votes are required for passage after public comment.

Order 184-16//17 (Tab 8) **Order Granting Municipal Officer’s Approval of Portland Mash Tun LLC dba Portland Mash Tun. Application for Outdoor Dining on Public Property at 29 Wharf Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/2/2017. Applicant currently holds a Class XI FSE Restaurant/Lounge License.

Five affirmative votes are required for passage after public comment.

Order 185-16/17 (Tab 9) **Order Granting Municipal Officers’ Approval of Bujabelle LLP dba Bujabelle. Application for Class XI Restaurant/Lounge, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property at 249 St. John Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/8/2017. New City and State applications. This location was formerly Chez Okapi.

Five affirmative votes are required for passage after public comment.

Order 186-16/17 (Tab 10) **Order Approving Municipal Officers’ Approval of Nguoi Dep LLC dba Cong Tu Bot. Application for a Class I FSE License at 59 Washington Avenue – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/10/2017. New City and State applications. This location was formerly Maine Antiques & Architectural Salvage.

Five affirmative votes are required for passage after public comment.

Order 187-16/17 (Tab 11) **Order Granting Municipal Officers’ Approval of Bonfire LLC dba Bonfire Country Bar. Application for Entertainment with Dancing and After Hours Entertainment at 37 Wharf Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/2/2017. Applicant holds a Class A Lounge FSE License with Outdoor Dining on Public Property. Business is located in Downtown Entertainment Overlay District within 100' of another establishment with an entertainment license. Staff recommends that the application be DENIED, as the business does not meet the dispersal requirements of section 14-330.13.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

**Order 188-16/17
(Tab 12)**

Order Receiving and Referring City Manager's Fiscal Year 2018 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on the Fiscal Year 2018 Municipal Budget and Fiscal Year 2018 Appropriation Resolve – Sponsored by Jon P. Jennings, City Manager

Under this order the City Council receives the City Manager's proposed budget and refers it to the Finance Committee for review.

The Finance Committee will review the budget starting on April 6, 2017 at 5:30 p.m. in Room 209.

The City Manager will present an overview of the budget followed by the Mayor's comments as required in the City Charter.

Budget material will be distributed at the City Council meeting.

The Public Hearing on all municipal budget orders and the Appropriation Resolve will be held by the City Council on May 1, 2017, at 5:30 p.m. in City Council Chambers.

A City Council workshop to discuss the municipal budget will be held on Monday, May 8, 2017, at 5:30 p.m. at City Hall, City Council Chambers.

Final City Council action on the municipal budget will take place at the City Council meeting on May 15, 2017 at 5:30 p.m.

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 5-16/17
(Tab 13)**

Resolution Adopting the FY 2017-2018 Housing and Community Development Annual Action Plan Including Appropriations For Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program and Certifications Pertaining Thereto – Sponsored by Jon P. Jennings, City Manager.

This Resolution adopts the Fiscal Year 2018 annual action plan and appropriates funds to the identified programs.

The 2017/2018 Housing and Community Development Program will report in the Annual Action Plan to the Department of Housing and Urban Development (HUD) a total budget of \$3,929,739 funded by a Community Development Block Grant (CDBG) allocation of \$1,791,448 plus \$125,000

in program income, along with \$110,000 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$832,642; HOME Program income of \$200,000; Lead Safe Housing Program Income of \$170,866; local Housing Trust Funds of \$468,551; and an Emergency Solutions Grant (ESG) Allocation of \$161,232.

The CDBG Annual Allocation Committee, appointed by the City Council, reviewed each application and made funding recommendations. They are given an opportunity to make a presentation to the Council at this meeting, and citizens may comment on the City's plan for the use of CDBG, HOME and ESG funds. The City Manager also reviewed the Committee's recommendations and has submitted his own funding recommendations to the City Council.

As required by the City's citizen participation process, two (2) public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. This year the first public hearing was held at this meeting on March 27, 2017. The second will be held on April 5, 2017. The public hearings allow an opportunity for citizens to comment on the City's Consolidated Annual Action Plan.

This item must be read on two separate days and two public hearings must be held in order to comply with federal regulations. The first reading and public hearing on this item was held on March 27, 2017. Five affirmative votes are required for passage.

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

UNFINISHED BUSINESS:

**Order 153-16/17
(Tab 14) Order Authorizing General Obligation Bonds to Finance a Portion of the City's FY18 Capital Improvement Program in an Amount not to Exceed \$24,340,500 – Sponsored by Jon P. Jennings, City Manager.**

On February 16, 2017 and March 2, 2017, the Finance Committee considered the Fiscal Year 18 Capital Improvement Plan (CIP) proposal to authorize \$17.8M of general fund general obligation bonds and \$6.5M of sewer fund general obligation bonds. Upon recommendation of the FY18 CIP by the Finance Committee, this proposal is being forwarded to the full City Council at this meeting.

Two orders are required, one authorizing the FY18 CIP bonds, and another appropriating the bond proceeds. A complete listing of the projects being authorized is included in the agenda backup.

This item must be read on two separate days. It was given a first reading on March 6, 2017. On March 20, 2017, it was postponed to April 5, 2017. Public comment was taken at that meeting and will be taken again at this meeting. Seven affirmative votes will be required for passage.

**Order 154-16/17
(Tab 15)**

Order Appropriating Bond Proceeds, TIF Funds and Committed Fund Balance in an Amount not to Exceed \$26,965,460 for the City's FY18 Capital Improvement Program – Sponsored by Jon P. Jennings, City Manager.

This is a companion order to Order 153-16/17 above.

This item must be read on two separate days. It was given a first reading on March 6, 2017. On March 20, 2017, it was postponed to April 5, 2017. Public comment was taken at that meeting and will be taken at this meeting. Five affirmative votes are required for passage.

**Order 155-16/17
(Tab 16)**

Order Approving Longfellow, Lyseth, Presumpscot and Reiche Elementary School Renovation Projects with Total Project Costs not to Exceed \$64,260,000 and Authorizing General Obligation Bonds Therefore – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

On February 23, 2017 the Finance Committee voted (2-0) to recommend a \$64.26M proposal to substantially renovate four elementary schools.

The Finance Committee made their recommendations after an extensive process which included a Portland Public Schools Board of Education recommendation (6/21/16, 6-2 for a \$70.59M bond), a School Facilities Ad-Hoc Committee amendment and recommendation (1/19/17, 7-1 for a \$61M bond) and another Portland Public Schools Board of Education recommendation (1/31/17, 8-0 for a \$61M bond). The schools and amounts included in the current Finance Committee recommendation are:

Presumpscot: Modularity eliminated and classroom space added. Separate gym and cafeteria created. Adequate OT, PT, ELL, music, art, library, kitchen and restroom space added. Improved security and sightlines for the entrance. More functional parent drop off/bus loop constructed. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$13,628,000*

Longfellow: Building made fully ADA compliant with new, more secure entrance. Full asbestos abatement. Separate gym and cafeteria created. Adequate reading, ELL, Gifted & Talented, music, art, library, and kitchen

space. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$15,388,000*

Reiche: Acoustic and lighting problems corrected. Enclose classroom corridor walls and provide operable partitions. Maintain ability for open spaces for collaborative learning.

Appropriate health station created. Rightsize art, music and reading spaces. Pre-K, Title #1, OT, PT and Reading 180 spaces added. Upgraded learning technology, plumbing, electrical and sprinklers installed. Solar heater for the pool. LEED Certified. *Cost: \$17,246,000*

Lyseth: Modularity eliminated and classroom space added. Pre-K, Kindergarten and Gifted & Talented space created. Adequate ELL, speech, art, music, library, nurse's station and social worker space added. Separate gym and cafeteria created. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$17,998,000*

It should be noted that the allocation for each school is an estimate and the Finance Director will have the flexibility to adjust amounts between schools as long as the total bond is not exceeded.

The proposal from the School Board did not recommend any specific order/timing of school construction. The proposal does include an estimated timetable for construction from Oak Point Associates with School 1 estimated completion in fall 2020, School 2 in fall 2021, School 3 in fall 2023, and School 4 in fall 2024.

The proposal includes beginning design on the first school by the end of 2017 and therefore a 2017 referendum is required. It is important to note that any projects approved during a local referendum would become ineligible for State of Maine Department of Education Major Capital School Construction Funding.

Applications for a new round of State funding are due on April 14, 2017. Given the tight timeline and not knowing what action will be taken by the City Council, or ultimately might be taken by the voters, the School Department is applying for funding for these four schools. Sixteen projects were completed from the State's current priority list. Had the State continued with the list, Longfellow School and Reiche were #2 and #3. A preliminary priority list from this next funding round is expected in April 2018.

It is anticipated that the \$64.26M would be borrowed over a six-year time period. This would result in an estimated \$92M in debt service payments, principal and interest, spread over the next 26 years. The tax rate would rise an estimated 3.1% by FY24 due to these debt service payments. For a taxpayer with an average home value (\$240,000) there would be an estimated \$2,707 of total additional taxes over the 26 year life of the bonds, an average of approximately \$104 per year.

Additional details on the proposal including the presentation provided to the Finance Committee and all additional materials requested and considered by the Committee are included in the agenda backup.

Order 155-16/17 received a public hearing on March 20, 2017. It subsequently failed to pass by a vote of 6-3 (Mavodones, Duson, and Ray in opposition), short of the seven (7) affirmative votes required by the City Charter for passage of orders approving bonds. Pursuant to City Council Rule 19, this order automatically appears on the next City Council agenda as unfinished business.

This item was given a first reading on March 6, 2017. It was postponed to the April 5th, 2017 Council meeting on March 27, 2017. Seven affirmative votes are required for passage.

**Order 156-16/17
(Tab 17)**

Order Appropriating \$64,260,000 of Bond Proceeds – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This is a companion order to Order 155-16/17 above.

Five affirmative votes are required for passage. A public hearing for this item was held on March 20, 2017. It was postponed to the April 5, 2017 Council meeting on March 27, 2017.

**Order 157-16/17
(Tab 18)**

Order Submitting Elementary School Renovation Projects Bond Order to Referendum – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This is a companion order to Order 155 and Order 156 above. Five affirmative votes are required for passage. A public hearing for this item was held on March 20, 2017. It was postponed to the April 5, 2017 Council meeting on March 27, 2017.

**Order 174-16/17
(Tab 19)**

Order Approving Traffic Schedule Amendment Re: Cove Street to Two-Hour and No Parking - Sponsored by Jon P. Jennings, City Manager.

The Department of Public Works requests City Council approval to amend the Traffic Schedule to convert 15 spaces along the east side of Cove Street (from Anderson Street to the northern extent of the 71 Cove Street frontage) from unrestricted parking to two-hour parking.

This item must be read on two separate days. It was given a first reading on March 20, 2017. Five affirmative votes are required for passage after public comment.

**Order 175-16/17
(Tab 20)**

Order Approving Riverside Street Utility Receivable Agreement between the City of Portland and Maine Department of Transportation – Sponsored by Jon P. Jennings, City Manager.

This agreement between Maine Department of Transportation (MaineDOT) and the City of Portland obligates MaineDOT to adjust the City's sanitary sewer manhole frames and covers, as necessary, when MaineDOT's contractor paves Riverside Street. The agreement obligates the City to pay MaineDOT for the manhole frame and cover adjustment work, which is estimated to cost \$6,000.00.

The City is obligated to pay 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The cost of this work, estimated to be \$6,000.00, would be paid from a CIP account established for this project.

This item must be read on two separate days. It was given a first reading on March 20, 2017. Five affirmative votes are required for passage after public comment.

**Order 178-16/17
(Tab 21)**

Order Approving Agreement between Portland and the Maine Department of Transportation Re: Washington Avenue between Congress Street and Cumberland Avenue – Sponsored by Jon P. Jennings, City Manager.

Portland Area Comprehensive Transportation System (PACTS) approved funding in 2016 for the preliminary design of a portion of Washington Avenue from Congress Street to Cumberland Avenue, inclusive of roadway, sidewalk and signal design. Council Order 51-16/17, effective September 29, 2016, enacted the three-party funding agreement for this design-only project; at that time MaineDOT had responsibility to administer the project. This order assigns that responsibility to the City of Portland.

As per the previous three-party agreement, the financial responsibilities have been set forth, with a total funding of \$131,700 coming from PACTS and state/federal funds, and the remaining \$43,900 coming from local funding sources.

This item must be read on two separate days. It was given a first reading on March 20, 2017. Five affirmative votes are required for passage after public comment.

**Order 180-16/17
(Tab 22)**

Order Approving Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager.

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year.

This year the Portland Jetport has AIP entitlement funding totaling \$3.846 million based upon 858,649 enplaned passengers in 2015. In federal FY 2017 four projects have been planned by the Jetport with the following estimated costs:

- | | |
|--|--------------|
| • Gate 1 Aircraft Apron Reconstruction Phase 1 | \$ 2,545,000 |
| • Environmental Assessment and Permitting for Projects Phase 2 | \$ 513,000 |
| • Air Rescue and Firefighting Truck | \$ 1,083,000 |
| • Runway Incursion Warning System | \$ 132,000 |

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

This item must be read on two separate days. It was given a first reading on March 27, 2017. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 189-16/17
(Tab 23)**

Order Setting Time for Opening of Polls on May 9, 2017 Re: School Budget Referendum – Sponsored by Kathleen L. Jones, City Clerk.

Pursuant to 21-A M.R.S. Sec. 626, the hours of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 a.m. and close at 8:00 p.m. Notices are then posted in each district and at City Hall.

Five affirmative votes are required for passage after public comment.

**Order 190-16/17
(Tab 24)**

Order Approving and Authorizing the Fifth Amended Land Exchange Agreement between J.B. Brown & Sons and the City of Portland Upon the Signing of the Related Letter Agreement Re: Canco Road Site for Department of Public Works and Cotton Street Parking Lot – Sponsored by the Economic Development Committee, Councilor David Brenerman, Chair.

The Economic Development Committee met on March 7, 2017 and voted 2-0-1 (Councilor Thibodeau abstained) to forward this item to the City Council with a recommendation for passage.

The City Council approved the JB Brown and City of Portland original Land Exchange Agreement (LEA) on July 20, 2015 followed by City Council approval to amend the LEA on November 16, 2015. The fully executed Amended LEA is included in the agenda backup. At that time, this LEA established easements over City and JB Brown property and exchanged City and JB Brown property which was determined to be of equivalent value.

Under the direction of the Economic Development Committee (EDC) during 2016 and approval in 2017, amendments to the City Council approved JB Brown and City of Portland Land Exchange Agreement are proposed to substitute different City property included in this transaction, from the City's One Cambridge Street property to the possible sale of a City-owned surface parking lot located in the City block bounded by Center/Spring/Free and Cross Streets.

Five affirmative votes are required for passage after public comment.

**Order 191-16/17
(Tab 25)**

Order Accepting and Adopting the 2017 Housing Trust Fund Annual Plan - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on February 8, 2017, and voted 3-0 to forward this item to the City Council with a recommendation for passage.

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very low income households (at or below 50% of the area median income).

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit's affordability and reduce any risk of foreclosure.

It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property. The City should act prudently when deciding to invest these funds.

Five affirmative votes are required for passage after public comment.

**Order 192-16/17
(Tab 26)**

**Order Approving Collective Bargaining Agreement with
Communications Employee Association – Sponsored by Jon P.
Jennings, City Manager.**

Staff has reached a tentative agreement with the Communications Employee Association on a successor two (2) year contract. The prior collective bargaining agreement expired June 30, 2016.

The Communications Employee Association, which is comprised of 36 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist, and Telecommunications Supervisors has reached a tentative agreement with the city. The tentative agreement is within the guidance received by the City Council on August 1, 2016.

The tentative agreement has a 2.0% general wage increase for Fiscal Year 2017 retroactive to July 3, 2016 and a 2.0% general wage increase effective July 5, 2017

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

**Order 193-16/17
(Tab 27)**

Order Approving Lyseth Elementary School Renovation Project and Other Miscellaneous Improvements at Reiche, Ocean Avenue, Peaks Island and Riverton Elementary Schools, Lyman Moore and King Middle Schools, and Deering High School with Total Project Costs not to Exceed \$24,000,000 and Authorizing General Obligation Bonds Therefore Subject to the Conditions in This Order – Sponsored by Councilor Belinda Ray.

This \$24 Million Bond will fund a complete renovation of Harrison Lyseth Elementary school while also addressing short-term needs at seven other schools and preserving the City of Portland's opportunity to obtain state funding for the schools determined to have the best chance of obtaining that funding.

The projects to be addressed by this bond were identified in consultation with City Operations staff and are consistent with recommendations put forth in the Facilities Assessment of School Buildings Capital Plan recently completed by Sebago Technics and Lavallee Brensinger Architects.

Passing this bond will put the City of Portland in a position to continue addressing short-term school facility needs through its annual Capital Improvement Plan. It will also enable the City to create a long-term plan that makes the best use of local tax dollars and state funding to address the system's longer term needs, including large scale renovations at some schools.

Specifically, the bond will cover the following renovations, repairs, and upgrades:

Lyseth Elementary School: Complete renovation of existing facility. Modularity eliminated and classroom space added. Pre-K, Kindergarten and Gifted & Talented space created. ELL, speech, art, music, library, nurse's station, and social worker space added. Separate gym and cafeteria created.

Upgraded learning technology, plumbing, electrical, and sprinklers installed. Bus loop, field work, and drainage issues resolved.

Lyman Moore Middle School: Parking improvements. Engineering for Fire Alarm. Installation of Fire Alarm.

King Middle School: Engineering for Fire Alarm. Installation of Fire Alarm.

Ocean Avenue Elementary: Addition of four classrooms to add capacity and swing space within the district. As is state practice, Ocean Avenue was designed so that these classrooms could easily be added at a later date if the extra capacity became necessary. These four classrooms were first requested to address system capacity needs in 2011.

Reiche Elementary: Engineering and construction of a new Brackett Street entry to address student health and safety issues. The ramp on the Brackett Street side of the school will come down and a new entrance and staircase will be installed. The second story will be enclosed, further separating the community from the school.

Peaks Island: Ceiling & lighting upgrades throughout facility, addressing operations, maintenance, and energy efficiency issues.

Riverton: Installation of heat piping in new wing. Replacement of original rooftop AC.

Deering High: Installation of sprinkler system. Fire alarm upgrades.

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

**Order 194-16/17
(Tab 28)**

Order Appropriating \$24,000,000 of Bond Proceeds – Sponsored by Councilor Belinda Ray.

This item is a companion Order to Order 193 above.
This item must be read on two separate days. This is its first reading.

**Order 195-16/17
(Tab 29)**

Order Submitting Elementary School Renovation Projects Bond Order to Referendum – Sponsored by Councilor Belinda Ray.

This is a companion order to Order 193 and 194 above. This item must be read on two separate days. This is its first reading.

**Order 196-16/17
(Tab 30)**

Order Approving Lyseth and Presumpscot Elementary School Renovation Projects with Total Project Costs not to Exceed \$31,626,000 and Authorizing General Obligation Bonds Therefore Subject to the Conditions Contained in this Order – Sponsored by Councilors Nicholas M. Mavodones, Jr. and Jill C. Duson.

This order approves a bond in the amount of \$31,626,000 which would allow for construction of Lyseth and Presumpscot Elementary Schools, and for waiting to see where the Reiche and Longfellow Elementary Schools rank in the upcoming Spring 2018 State Department of Education Major Capital Construction Priority list (which provides State funding for construction of schools). If Reiche and Longfellow Elementary Schools rank highly on that list, the City would then be able to move forward with construction of all four elementary schools, with two of the schools being funded locally and two of the schools being funded by the State. Finally, however, this order would also allow for the City to be able to take the necessary steps to allow for local funding of Reiche and Longfellow Elementary Schools if State funding was not obtained."

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

**Order 197-16/17
(Tab 31)**

Order Appropriating \$31,616,000 of Bond Proceeds – Sponsored by Councilors Nicholas M. Mavodones, Jr. and Jill C. Duson.

This is a companion order to Order 197-16/17 above. This item must be read on two separate days. This is its first reading.

**Order 198-16/17
(Tab 32)**

Order Submitting Elementary School Renovation Projects Bond Order to Referendum – Sponsored by Nicholas M. Mavodones, Jr. And Jill C. Duson.

This is a companion Order to Order 196 and Order 197 above. This item must be read on two separate days. This is its first reading.

ETHAN K. STRIMLING (MAYOR)
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Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Andrea Comeau – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of \$941.25 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Andrea Comeau.

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.

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

LICENSES:

**Order 183-16/17
(Tab 7)**

Order Granting Municipal Officers' Approval of Pizza Pie on the Fly dba Noble BBQ. Application for a Class I License at 1706 Forest Avenue – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 2/28/2017. New City and State applications. This location was formerly Taco Trio.

Five affirmative votes are required for passage after public comment.

Order 184-16//17 (Tab 8) **Order Granting Municipal Officer’s Approval of Portland Mash Tun LLC dba Portland Mash Tun. Application for Outdoor Dining on Public Property at 29 Wharf Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/2/2017. Applicant currently holds a Class XI FSE Restaurant/Lounge License.

Five affirmative votes are required for passage after public comment.

Order 185-16/17 (Tab 9) **Order Granting Municipal Officers’ Approval of Bujabelle LLP dba Bujabelle. Application for Class XI Restaurant/Lounge, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property at 249 St. John Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/8/2017. New City and State applications. This location was formerly Chez Okapi.

Five affirmative votes are required for passage after public comment.

Order 186-16/17 (Tab 10) **Order Approving Municipal Officers’ Approval of Nguoi Dep LLC dba Cong Tu Bot. Application for a Class I FSE License at 59 Washington Avenue – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/10/2017. New City and State applications. This location was formerly Maine Antiques & Architectural Salvage.

Five affirmative votes are required for passage after public comment.

Order 187-16/17 (Tab 11) **Order Granting Municipal Officers’ Approval of Bonfire LLC dba Bonfire Country Bar. Application for Entertainment with Dancing and After Hours Entertainment at 37 Wharf Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 3/2/2017. Applicant holds a Class A Lounge FSE License with Outdoor Dining on Public Property. Business is located in Downtown Entertainment Overlay District within 100' of another establishment with an entertainment license. Staff recommends that the application be DENIED, as the business does not meet the dispersal requirements of section 14-330.13.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

**Order 188-16/17
(Tab 12)**

Order Receiving and Referring City Manager's Fiscal Year 2018 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on the Fiscal Year 2018 Municipal Budget and Fiscal Year 2018 Appropriation Resolve – Sponsored by Jon P. Jennings, City Manager

Under this order the City Council receives the City Manager's proposed budget and refers it to the Finance Committee for review.

The Finance Committee will review the budget starting on April 6, 2017 at 5:30 p.m. in Room 209.

The City Manager will present an overview of the budget followed by the Mayor's comments as required in the City Charter.

Budget material will be distributed at the City Council meeting.

The Public Hearing on all municipal budget orders and the Appropriation Resolve will be held by the City Council on May 1, 2017, at 5:30 p.m. in City Council Chambers.

A City Council workshop to discuss the municipal budget will be held on Monday, May 8, 2017, at 5:30 p.m. at City Hall, City Council Chambers.

Final City Council action on the municipal budget will take place at the City Council meeting on May 15, 2017 at 5:30 p.m.

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 5-16/17
(Tab 13)**

Resolution Adopting the FY 2017-2018 Housing and Community Development Annual Action Plan Including Appropriations For Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program and Certifications Pertaining Thereto – Sponsored by Jon P. Jennings, City Manager.

This Resolution adopts the Fiscal Year 2018 annual action plan and appropriates funds to the identified programs.

The 2017/2018 Housing and Community Development Program will report in the Annual Action Plan to the Department of Housing and Urban Development (HUD) a total budget of \$3,929,739 funded by a Community Development Block Grant (CDBG) allocation of \$1,791,448 plus \$125,000

in program income, along with \$110,000 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$832,642; HOME Program income of \$200,000; Lead Safe Housing Program Income of \$170,866; local Housing Trust Funds of \$468,551; and an Emergency Solutions Grant (ESG) Allocation of \$161,232.

The CDBG Annual Allocation Committee, appointed by the City Council, reviewed each application and made funding recommendations. They are given an opportunity to make a presentation to the Council at this meeting, and citizens may comment on the City's plan for the use of CDBG, HOME and ESG funds. The City Manager also reviewed the Committee's recommendations and has submitted his own funding recommendations to the City Council.

As required by the City's citizen participation process, two (2) public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. This year the first public hearing was held at this meeting on March 27, 2017. The second will be held on April 5, 2017. The public hearings allow an opportunity for citizens to comment on the City's Consolidated Annual Action Plan.

This item must be read on two separate days and two public hearings must be held in order to comply with federal regulations. The first reading and public hearing on this item was held on March 27, 2017. Five affirmative votes are required for passage.

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

UNFINISHED BUSINESS:

**Order 153-16/17
(Tab 14) Order Authorizing General Obligation Bonds to Finance a Portion of the City's FY18 Capital Improvement Program in an Amount not to Exceed \$24,340,500 – Sponsored by Jon P. Jennings, City Manager.**

On February 16, 2017 and March 2, 2017, the Finance Committee considered the Fiscal Year 18 Capital Improvement Plan (CIP) proposal to authorize \$17.8M of general fund general obligation bonds and \$6.5M of sewer fund general obligation bonds. Upon recommendation of the FY18 CIP by the Finance Committee, this proposal is being forwarded to the full City Council at this meeting.

Two orders are required, one authorizing the FY18 CIP bonds, and another appropriating the bond proceeds. A complete listing of the projects being authorized is included in the agenda backup.

This item must be read on two separate days. It was given a first reading on March 6, 2017. On March 20, 2017, it was postponed to April 5, 2017. Public comment was taken at that meeting and will be taken again at this meeting. Seven affirmative votes will be required for passage.

**Order 154-16/17
(Tab 15)**

Order Appropriating Bond Proceeds, TIF Funds and Committed Fund Balance in an Amount not to Exceed \$26,965,460 for the City's FY18 Capital Improvement Program – Sponsored by Jon P. Jennings, City Manager.

This is a companion order to Order 153-16/17 above.

This item must be read on two separate days. It was given a first reading on March 6, 2017. On March 20, 2017, it was postponed to April 5, 2017. Public comment was taken at that meeting and will be taken at this meeting. Five affirmative votes are required for passage.

**Order 155-16/17
(Tab 16)**

Order Approving Longfellow, Lyseth, Presumpscot and Reiche Elementary School Renovation Projects with Total Project Costs not to Exceed \$64,260,000 and Authorizing General Obligation Bonds Therefore – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

On February 23, 2017 the Finance Committee voted (2-0) to recommend a \$64.26M proposal to substantially renovate four elementary schools.

The Finance Committee made their recommendations after an extensive process which included a Portland Public Schools Board of Education recommendation (6/21/16, 6-2 for a \$70.59M bond), a School Facilities Ad-Hoc Committee amendment and recommendation (1/19/17, 7-1 for a \$61M bond) and another Portland Public Schools Board of Education recommendation (1/31/17, 8-0 for a \$61M bond). The schools and amounts included in the current Finance Committee recommendation are:

Presumpscot: Modularity eliminated and classroom space added. Separate gym and cafeteria created. Adequate OT, PT, ELL, music, art, library, kitchen and restroom space added. Improved security and sightlines for the entrance. More functional parent drop off/bus loop constructed. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$13,628,000*

Longfellow: Building made fully ADA compliant with new, more secure entrance. Full asbestos abatement. Separate gym and cafeteria created. Adequate reading, ELL, Gifted & Talented, music, art, library, and kitchen

space. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$15,388,000*

Reiche: Acoustic and lighting problems corrected. Enclose classroom corridor walls and provide operable partitions. Maintain ability for open spaces for collaborative learning.

Appropriate health station created. Rightsize art, music and reading spaces. Pre-K, Title #1, OT, PT and Reading 180 spaces added. Upgraded learning technology, plumbing, electrical and sprinklers installed. Solar heater for the pool. LEED Certified. *Cost: \$17,246,000*

Lyseth: Modularity eliminated and classroom space added. Pre-K, Kindergarten and Gifted & Talented space created. Adequate ELL, speech, art, music, library, nurse's station and social worker space added. Separate gym and cafeteria created. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$17,998,000*

It should be noted that the allocation for each school is an estimate and the Finance Director will have the flexibility to adjust amounts between schools as long as the total bond is not exceeded.

The proposal from the School Board did not recommend any specific order/timing of school construction. The proposal does include an estimated timetable for construction from Oak Point Associates with School 1 estimated completion in fall 2020, School 2 in fall 2021, School 3 in fall 2023, and School 4 in fall 2024.

The proposal includes beginning design on the first school by the end of 2017 and therefore a 2017 referendum is required. It is important to note that any projects approved during a local referendum would become ineligible for State of Maine Department of Education Major Capital School Construction Funding.

Applications for a new round of State funding are due on April 14, 2017. Given the tight timeline and not knowing what action will be taken by the City Council, or ultimately might be taken by the voters, the School Department is applying for funding for these four schools. Sixteen projects were completed from the State's current priority list. Had the State continued with the list, Longfellow School and Reiche were #2 and #3. A preliminary priority list from this next funding round is expected in April 2018.

It is anticipated that the \$64.26M would be borrowed over a six-year time period. This would result in an estimated \$92M in debt service payments, principal and interest, spread over the next 26 years. The tax rate would rise an estimated 3.1% by FY24 due to these debt service payments. For a taxpayer with an average home value (\$240,000) there would be an estimated \$2,707 of total additional taxes over the 26 year life of the bonds, an average of approximately \$104 per year.

Additional details on the proposal including the presentation provided to the Finance Committee and all additional materials requested and considered by the Committee are included in the agenda backup.

Order 155-16/17 received a public hearing on March 20, 2017. It subsequently failed to pass by a vote of 6-3 (Mavodones, Duson, and Ray in opposition), short of the seven (7) affirmative votes required by the City Charter for passage of orders approving bonds. Pursuant to City Council Rule 19, this order automatically appears on the next City Council agenda as unfinished business.

This item was given a first reading on March 6, 2017. It was postponed to the April 5th, 2017 Council meeting on March 27, 2017. Seven affirmative votes are required for passage.

**Order 156-16/17
(Tab 17)**

Order Appropriating \$64,260,000 of Bond Proceeds – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This is a companion order to Order 155-16/17 above.

Five affirmative votes are required for passage. A public hearing for this item was held on March 20, 2017. It was postponed to the April 5, 2017 Council meeting on March 27, 2017.

**Order 157-16/17
(Tab 18)**

Order Submitting Elementary School Renovation Projects Bond Order to Referendum – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This is a companion order to Order 155 and Order 156 above. Five affirmative votes are required for passage. A public hearing for this item was held on March 20, 2017. It was postponed to the April 5, 2017 Council meeting on March 27, 2017.

**Order 174-16/17
(Tab 19)**

Order Approving Traffic Schedule Amendment Re: Cove Street to Two-Hour and No Parking - Sponsored by Jon P. Jennings, City Manager.

The Department of Public Works requests City Council approval to amend the Traffic Schedule to convert 15 spaces along the east side of Cove Street (from Anderson Street to the northern extent of the 71 Cove Street frontage) from unrestricted parking to two-hour parking.

This item must be read on two separate days. It was given a first reading on March 20, 2017. Five affirmative votes are required for passage after public comment.

**Order 175-16/17
(Tab 20)**

Order Approving Riverside Street Utility Receivable Agreement between the City of Portland and Maine Department of Transportation – Sponsored by Jon P. Jennings, City Manager.

This agreement between Maine Department of Transportation (MaineDOT) and the City of Portland obligates MaineDOT to adjust the City's sanitary sewer manhole frames and covers, as necessary, when MaineDOT's contractor paves Riverside Street. The agreement obligates the City to pay MaineDOT for the manhole frame and cover adjustment work, which is estimated to cost \$6,000.00.

The City is obligated to pay 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The cost of this work, estimated to be \$6,000.00, would be paid from a CIP account established for this project.

This item must be read on two separate days. It was given a first reading on March 20, 2017. Five affirmative votes are required for passage after public comment.

**Order 178-16/17
(Tab 21)**

Order Approving Agreement between Portland and the Maine Department of Transportation Re: Washington Avenue between Congress Street and Cumberland Avenue – Sponsored by Jon P. Jennings, City Manager.

Portland Area Comprehensive Transportation System (PACTS) approved funding in 2016 for the preliminary design of a portion of Washington Avenue from Congress Street to Cumberland Avenue, inclusive of roadway, sidewalk and signal design. Council Order 51-16/17, effective September 29, 2016, enacted the three-party funding agreement for this design-only project; at that time MaineDOT had responsibility to administer the project. This order assigns that responsibility to the City of Portland.

As per the previous three-party agreement, the financial responsibilities have been set forth, with a total funding of \$131,700 coming from PACTS and state/federal funds, and the remaining \$43,900 coming from local funding sources.

This item must be read on two separate days. It was given a first reading on March 20, 2017. Five affirmative votes are required for passage after public comment.

**Order 180-16/17
(Tab 22)**

Order Approving Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager.

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year.

This year the Portland Jetport has AIP entitlement funding totaling \$3.846 million based upon 858,649 enplaned passengers in 2015. In federal FY 2017 four projects have been planned by the Jetport with the following estimated costs:

- | | |
|--|--------------|
| • Gate 1 Aircraft Apron Reconstruction Phase 1 | \$ 2,545,000 |
| • Environmental Assessment and Permitting for Projects Phase 2 | \$ 513,000 |
| • Air Rescue and Firefighting Truck | \$ 1,083,000 |
| • Runway Incursion Warning System | \$ 132,000 |

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

This item must be read on two separate days. It was given a first reading on March 27, 2017. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 189-16/17
(Tab 23)**

Order Setting Time for Opening of Polls on May 9, 2017 Re: School Budget Referendum – Sponsored by Kathleen L. Jones, City Clerk.

Pursuant to 21-A M.R.S. Sec. 626, the hours of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 a.m. and close at 8:00 p.m. Notices are then posted in each district and at City Hall.

Five affirmative votes are required for passage after public comment.

**Order 190-16/17
(Tab 24)**

Order Approving and Authorizing the Fifth Amended Land Exchange Agreement between J.B. Brown & Sons and the City of Portland Upon the Signing of the Related Letter Agreement Re: Canco Road Site for Department of Public Works and Cotton Street Parking Lot – Sponsored by the Economic Development Committee, Councilor David Brenerman, Chair.

The Economic Development Committee met on March 7, 2017 and voted 2-0-1 (Councilor Thibodeau abstained) to forward this item to the City Council with a recommendation for passage.

The City Council approved the JB Brown and City of Portland original Land Exchange Agreement (LEA) on July 20, 2015 followed by City Council approval to amend the LEA on November 16, 2015. The fully executed Amended LEA is included in the agenda backup. At that time, this LEA established easements over City and JB Brown property and exchanged City and JB Brown property which was determined to be of equivalent value.

Under the direction of the Economic Development Committee (EDC) during 2016 and approval in 2017, amendments to the City Council approved JB Brown and City of Portland Land Exchange Agreement are proposed to substitute different City property included in this transaction, from the City's One Cambridge Street property to the possible sale of a City-owned surface parking lot located in the City block bounded by Center/Spring/Free and Cross Streets.

Five affirmative votes are required for passage after public comment.

**Order 191-16/17
(Tab 25)**

Order Accepting and Adopting the 2017 Housing Trust Fund Annual Plan - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on February 8, 2017, and voted 3-0 to forward this item to the City Council with a recommendation for passage.

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance.

However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very low income households (at or below 50% of the area median income).

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit's affordability and reduce any risk of foreclosure.

It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property. The City should act prudently when deciding to invest these funds.

Five affirmative votes are required for passage after public comment.

**Order 192-16/17
(Tab 26)**

**Order Approving Collective Bargaining Agreement with
Communications Employee Association – Sponsored by Jon P.
Jennings, City Manager.**

Staff has reached a tentative agreement with the Communications Employee Association on a successor two (2) year contract. The prior collective bargaining agreement expired June 30, 2016.

The Communications Employee Association, which is comprised of 36 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist, and Telecommunications Supervisors has reached a tentative agreement with the city. The tentative agreement is within the guidance received by the City Council on August 1, 2016.

The tentative agreement has a 2.0% general wage increase for Fiscal Year 2017 retroactive to July 3, 2016 and a 2.0% general wage increase effective July 5, 2017

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

**Order 193-16/17
(Tab 27)**

Order Approving Lyseth Elementary School Renovation Project and Other Miscellaneous Improvements at Reiche, Ocean Avenue, Peaks Island and Riverton Elementary Schools, Lyman Moore and King Middle Schools, and Deering High School with Total Project Costs not to Exceed \$24,000,000 and Authorizing General Obligation Bonds Therefore Subject to the Conditions in This Order – Sponsored by Councilor Belinda Ray.

This \$24 Million Bond will fund a complete renovation of Harrison Lyseth Elementary school while also addressing short-term needs at seven other schools and preserving the City of Portland's opportunity to obtain state funding for the schools determined to have the best chance of obtaining that funding.

The projects to be addressed by this bond were identified in consultation with City Operations staff and are consistent with recommendations put forth in the Facilities Assessment of School Buildings Capital Plan recently completed by Sebago Technics and Lavallee Brensinger Architects.

Passing this bond will put the City of Portland in a position to continue addressing short-term school facility needs through its annual Capital Improvement Plan. It will also enable the City to create a long-term plan that makes the best use of local tax dollars and state funding to address the system's longer term needs, including large scale renovations at some schools.

Specifically, the bond will cover the following renovations, repairs, and upgrades:

Lyseth Elementary School: Complete renovation of existing facility. Modularity eliminated and classroom space added. Pre-K, Kindergarten and Gifted & Talented space created. ELL, speech, art, music, library, nurse's station, and social worker space added. Separate gym and cafeteria created.

Upgraded learning technology, plumbing, electrical, and sprinklers installed. Bus loop, field work, and drainage issues resolved.

Lyman Moore Middle School: Parking improvements. Engineering for Fire Alarm. Installation of Fire Alarm.

King Middle School: Engineering for Fire Alarm. Installation of Fire Alarm.

Ocean Avenue Elementary: Addition of four classrooms to add capacity and swing space within the district. As is state practice, Ocean Avenue was designed so that these classrooms could easily be added at a later date if the extra capacity became necessary. These four classrooms were first requested to address system capacity needs in 2011.

Reiche Elementary: Engineering and construction of a new Brackett Street entry to address student health and safety issues. The ramp on the Brackett Street side of the school will come down and a new entrance and staircase will be installed. The second story will be enclosed, further separating the community from the school.

Peaks Island: Ceiling & lighting upgrades throughout facility, addressing operations, maintenance, and energy efficiency issues.

Riverton: Installation of heat piping in new wing. Replacement of original rooftop AC.

Deering High: Installation of sprinkler system. Fire alarm upgrades.

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

**Order 194-16/17
(Tab 28)**

Order Appropriating \$24,000,000 of Bond Proceeds – Sponsored by Councilor Belinda Ray.

This item is a companion Order to Order 193 above.
This item must be read on two separate days. This is its first reading.

**Order 195-16/17
(Tab 29)**

Order Submitting Elementary School Renovation Projects Bond Order to Referendum – Sponsored by Councilor Belinda Ray.

This is a companion order to Order 193 and 194 above. This item must be read on two separate days. This is its first reading.

**Order 196-16/17
(Tab 30)**

Order Approving Lyseth and Presumpscot Elementary School Renovation Projects with Total Project Costs not to Exceed \$31,626,000 and Authorizing General Obligation Bonds Therefore Subject to the Conditions Contained in this Order – Sponsored by Councilors Nicholas M. Mavodones, Jr. and Jill C. Duson.

This order approves a bond in the amount of \$31,626,000 which would allow for construction of Lyseth and Presumpscot Elementary Schools, and for waiting to see where the Reiche and Longfellow Elementary Schools rank in the upcoming Spring 2018 State Department of Education Major Capital Construction Priority list (which provides State funding for construction of schools). If Reiche and Longfellow Elementary Schools rank highly on that list, the City would then be able to move forward with construction of all four elementary schools, with two of the schools being funded locally and two of the schools being funded by the State. Finally, however, this order would also allow for the City to be able to take the necessary steps to allow for local funding of Reiche and Longfellow Elementary Schools if State funding was not obtained."

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

**Order 197-16/17
(Tab 31)**

Order Appropriating \$31,616,000 of Bond Proceeds – Sponsored by Councilors Nicholas M. Mavodones, Jr. and Jill C. Duson.

This is a companion order to Order 197-16/17 above. This item must be read on two separate days. This is its first reading.

**Order 198-16/17
(Tab 32)**

Order Submitting Elementary School Renovation Projects Bond Order to Referendum – Sponsored by Nicholas M. Mavodones, Jr. And Jill C. Duson.

This is a companion Order to Order 196 and Order 197 above. This item must be read on two separate days. This is its first reading.

IN COUNCIL SPECIAL MEETING MARCH 27, 2017 VOL. 133 PAGE 73

ROLL CALL: Mayor Strimling called the meeting to order at 5:30 (All Councilors Present).

ANNOUNCEMENTS:

CDBG Annual Allocation Committee Presentation
City Manager Presentation
Mayor's Comments as required by City Charter

Motion was made by Councilor Duson and second by Councilor Thibodeau to suspend the rules and take up an un-agenda item.
Passage 9-0.

Order 173-A 16/17 Amendment to Order 173-16/17 Re: Number of MLK Task Force Members to 9 and Addition to Charge of the Task Force .

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

Motion was made by Councilor Thibodeau and seconded by Councilor Duson to take up an un-agenda item. Passage 9-0.

COM 9 16/17 Pursuant to Article II, Section 5, Subsection L of the City Charter this memo serves to communicated to the Council the appointees of the Dr. Martin Luther King Recognition Task Force.

Councilor Pious Ali (Chair)

Herb Adams
Danielle Conway
Merita McKenzie
Daniel Minter
Regina Phillips
Blanca Santiago
Matt Suslovic
Dawud Ummah

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Ray to amend Order 157 in the minutes by striking the word “passage” and adding “postponed to the March 27, 2017 City Council meeting”. Passage 8-0 (Duson out).

Motion was made by Councilor Brenerman and seconded by Councilor Mavodones for approval of the March 20, 2017, Regular City Council Meeting Minutes as amended. Passage 8-0 (Duson out).

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolve 5-16/17 Resolution Adopting the FY 2017-2018 Housing and Community Development Annual Action Plan Including Appropriations For Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program and Certifications Pertaining Thereto – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on March 27, 2017.

Motion was made by Councilor Duson and seconded by Councilor Ray to postpone Resolve 5 to April 5, 2017. Passage 9-0.

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

Order 180-16/17 Order Approving Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager.

This is its first reading.

IN COUNCIL SPECIAL MEETING MARCH 27, 2017 VOL. 133 PAGE 76

Order 176-16/17 Order Approving Agreement between Portland and Maine Department of Transportation Re: Franklin Street and Marginal Way Bayside Trail Enhancement – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on March 20, 2017.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage. Passage 8-0 (Costa out).

Order 177-16/17 Order Approving Agreement between Portland and Maine Department of Transportation Re: Bayside Trail and Eastern Promenade Intersection Improvements – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on March 20, 2017.

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

Order 179-16/17 Amendment to Portland City Code Chapter 6 and Chapter 14 Re: Short Term Rentals - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair. This item was given first reading on March 20, 2017.

Motion was made by Councilor Duson and seconded by Councilor Brenerman.

Motion was made by Councilor Batson to amend Order 179 by changing section 6-152 (C) increasing the fee schedule by 50 percent of Multi Unit non owner occupied.” Motion failed 4-5 (Duson, Mavodones, Brenerman, Costa, Ray).

Councilor Thibodeau had announced earlier in the meeting that he was going to amend Order 179 by changing the cap to 400 instead of 300. He withdrew his amendment.

Motion was made by Councilor Duson and seconded by Councilor Brenerman for passage. Passage 8-1 (Costa).

Motion was made by Councilor Thibodeau and seconded by Councilor Duson to adjourn. Passage 9-0, 8:20 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Proc 24- 16/17
Tab 2 4-5-17

PROCLAMATION
HONORING
OFFICER CHRISTOPHER COYNE

WHEREAS, **Officer Coyne** joined the Portland Police Department in January 2001. Prior to joining the police department, Officer Coyne served in the United States Army from 1996 to 2001; and

WHEREAS, **Officer Coyne** is a dedicated and dependable police officer. He was recently instrumental in taking a woman safely into custody. This woman was suffering health troubles and was both homicidal and suicidal. Officer Coyne's caring and compassionate style is an example to all; and

WHEREAS, **Officer Coyne** is well known throughout his neighborhood and is a true "community" police officer; and

WHEREAS, **Officer Coyne** has worked in many capacities of patrol in the police department; patrol, jetport, community policing, tactical enforcement unit as well as a canine officer; and

WHEREAS, **Officer Coyne** consistently strives to make a difference when it comes to serving the citizens of Portland and making Portland a safe place to live and visit. He is a Portland resident that takes pride in his daily duties; and

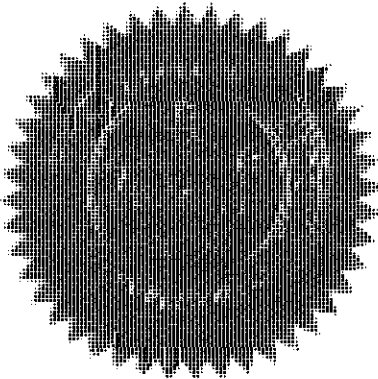
WHEREAS, **Officer Coyne** is commended for his exemplary performance and outstanding representation of the Portland Maine Police Department.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Officer Christopher Coyne** as **Officer of the Month for February 2017**.

Signed and sealed this 5th day of April 2017



Ethan K. Strimling, Mayor
City of Portland, Maine



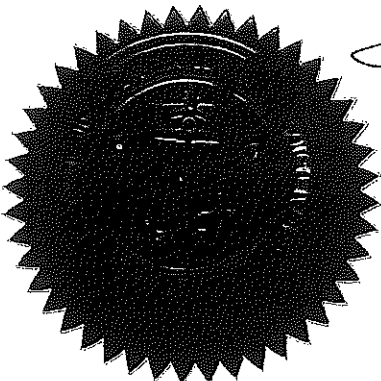
Proc 25-16/17
Tab 3 45-17

**PROCLAMATION
RECOGNIZING
STARTING STRONG DAY
APRIL 22, 2017**

- WHEREAS,** Portland strives to ensure that all young children are ready for success starting on day one of school; and
- WHEREAS,** A ready community identifies, nurtures, and supports families and children as its number one resource; and
- WHEREAS,** Ready schools and early care and education providers welcome families and children in environments that are safe and conducive to learning; and
- WHEREAS,** Ready families understand that they are their children's first and most influential teachers; and
- WHEREAS,** A ready child enters school healthy, eager to learn, and curious about others and the surrounding world; and
- WHEREAS,** This year's National Association for the Education of Young Children's *Week of the Young Child* will feature Portland's third "School Readiness Festival Rally" on April 22nd to ensure that all Portland children are "starting strong".

NOW, THEREFORE BE IT RESOLVED THAT I, Ethan K. Strimling, Mayor of the City of Portland, and Members of the City Council, do hereby recognize the efforts of Starting Strong's School Readiness Team and the Greater Portland Early Childhood Director's Group in promoting school readiness, and proclaim April 22, 2017, to be **STARTING STRONG DAY** throughout the City of Portland, and urge all citizens to recognize this observance.

Signed and sealed this 5th day of April, 2017.



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

*Proc 26-16/17
Tab 4 4-5-17*

**PROCLAMATION
RECOGNIZING
LONGFELLOW PARK'S 90TH ANNIVERSARY CELEBRATION
1927 ~ 2017**

WHEREAS: Longfellow Park will celebrate its 90th Anniversary in 2017, having been established by the City of Portland in 1927; and

WHEREAS: Longfellow Park came into being through the joint efforts of citizens and the city, its caring neighbors donating \$2,000.00 and the city \$4,500.00 toward its land purchase and preservation; and

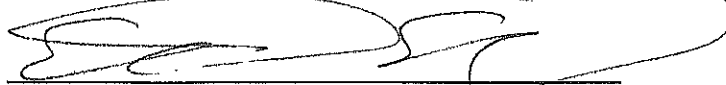
WHEREAS: Longfellow Park, at .37 acres, is welcoming and inclusionary, a green space for all to enjoy, home to plants, trees, and walkways, a gathering place for celebrations, remembrances, offers recreation and relaxation, rejuvenates ones spirit, a neighborhood gem, in the heart of busy and growing Oakdale and surrounding University neighborhoods; and

WHEREAS: The University Neighborhood Organization, a partnership between the University of Southern Maine's Phi Mu Delta Fraternity and residents, will host the 5th Annual "Longfellow Park Earth Day Clean-Up" event – upon Friday, April 21st in coordination with Portland Parks, Recreation & Facilities, and

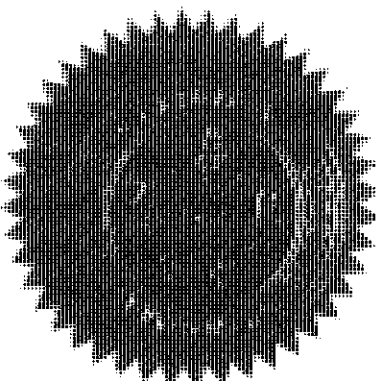
WHEREAS: The University Neighborhood Organization will host the 4th Annual "Longfellow Park Neighborhood Block Party", celebrating "Longfellow Parks 90th Anniversary Celebration" at 10 Longfellow Street, affectionately referred to as the triangle shaped park between Noyes, Longfellow & Oakdale Streets on Saturday, April 22nd.

NOW, THEREFORE, BE IT RESOLVED, THAT I Ethan K. Strimling, Mayor of the City of Portland and members of the City Council do hereby proclaim that the City of Portland recognizes Longfellow Parks' 90th Anniversary Celebration, with special thanks to community partners, University Neighborhood Organization and Phi Mu Delta Fraternity for their dedicated stewardship to Longfellow Park and community work.

Signed and sealed this 5th day of April, 2017



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



*Order 181-16/17
Tab 5 4-5-14*

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: WADE ROMA**

ORDERED, that the City Council hereby accepts the amount of \$2,080.00 in forfeited assets in the case of State of Maine vs. Wade Roma 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.

STATE OF MAINE
Cumberland, ss

SUPERIOR COURT
Docket No. CR-16-7493

STATE OF MAINE,)
Plaintiff,)
)
)
v.)
)
WADE ROMA,)
Defendant,)
)
AND)
)
\$2,080.00 in U.S. Currency,)
Defendant(s) *In Rem*)

CITY OF PORTLAND
APPROVAL OF TRANSFER
15 MRS §§ 5824(3) and 5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Sections 5824(3) and 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant *In Rem*, namely \$2,080.00 in US Currency, on the grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

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

Dated: _____, 2017.

Mayor

(Impress Legislative Body Seal Here)

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: March 10, 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. Wade Roma, CR-16-7493 and two thousand eighty dollars (\$2,080.00 US Currency)
- 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.
- VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION**
- VII. RECOMMENDATION**
- VIII. LIST ATTACHMENTS**

Prepared by: Michael J. Sauschuck
Date: February 27, 2017

STATE OF MAINE
Cumberland, SS

State of Maine

v.

Wade Roma,
Defendant

AND

\$2,080.00 US CURRENCY

DEFENDANT IN REM #1

UNIFIED CRIMINAL DOCKET

Criminal Action

Docket No. CR-16-7493

}

}

} City/Town Of Portland

} Approval Of Transfer

} 15 M.R.S.A. §5824(3)

} and §5826(6)

}

}

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$2,080.00 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 182-16/17
Tab 6 4-5-17*

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: ANDREA COMEAU**

ORDERED, that the City Council hereby accepts the amount of \$941.25 in forfeited assets in the case of State of Maine vs. Andrea Comeau 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.

STATE OF MAINE
Cumberland, ss

SUPERIOR COURT
Docket No. CR-16-518

STATE OF MAINE,)
Plaintiff,)
)
)
v.)
)
ANDREA COMEAU,)
Defendant,)
)
AND)
)
\$941.25 in U.S. Currency,)
Defendant(s) *In Rem*)

CITY OF PORTLAND
APPROVAL OF TRANSFER
15 MRS §§ 5824(3) and 5826(6)

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Sections 5824(3) and 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of the above captioned Defendant *In Rem*, namely \$941.25.00 in US Currency, on the grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

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

Dated: _____, 2017.

Mayor

(Impress Legislative Body Seal Here)

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: March 10, 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. Andrea Comeau, CR-16-518 and nine hundred forty-one dollars and twenty-five cents (\$941.25 US Currency)
- 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.
- VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION**
- VII. RECOMMENDATION**
- VIII. LIST ATTACHMENTS**

Prepared by: Michael J. Sauschuck
Date: March 10, 2017



**OFFICE OF THE DISTRICT ATTORNEY
CUMBERLAND COUNTY**

Stephanie Anderson
District Attorney

142 Federal Street, Portland, Maine, 04101
101 Meadows Road, West Bath, Maine, 04530-9704

Portland
(207) 871-8384

March 3, 2017

Bath
(207) 443-5104

Chief Michael Sauschuck
Portland Police Department
109 Middle Street
Portland, ME 04101

RE: State v. Andrea Comeau, CR-16-518
City of Portland Approval

Dear Chief:

Enclosed please find a City of Portland Approval form for the forfeiture of a portion of the money seized in this case. As you can see, the City/Town Council, or a representative thereof, needs to sign this form and return it to me so that I can provide you with a court order that will transfer a portion of the money that was seized to the City/Town. Please let me know if you have any questions for me.

Thank you.

Sincerely,

DEPARTMENT OF THE ATTORNEY GENERAL
State of Maine

By: *Lea-Anne Sutton*
Lea-Anne Sutton
Assistant Attorney General

#886

STATE OF MAINE
Cumberland, SS

State of Maine

v.

Andrea Comeau,
Defendant

AND

\$3,765.00 US CURRENCY
DEFENDANT IN REM

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-16-518

}
}
}
}
}
}
}
}

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 any portion of the above captioned Defendant(s) *In Rem*, **namely \$941.25**, 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 183-16/18
Tab 7 4-5-17

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:

Pizza Pie on the Fly dba Noble BBQ. Application for a Class I License at 1706 Forest Avenue.

Ryan Carey

434 Woodford St.
Portland, ME 04103
(207) 299 6995

Booking@FireandCompany.com

February 22, 2017

Dear Mayor Strimling and members of Portland's City Council,

I am writing today in hopes of laying out my plan of expanding my already existing business, Fire and Company. We've run a successful wood fired catering company based out of Southern Maine for the last three years, and hope to expand our business into a stationary brick and mortar restaurant in Portland, Maine.

We began a three year lease at 1706 Forest Avenue in Portland Maine on January 1st, 2017. We plan on using this space to run the commissary kitchen for our existing business Fire and Company. We also hope to open Noble BBQ, a gourmet sandwich and smoked meat eatery, by June 1st 2017 out of the same location. This will entail an eat-in or take-out option, offering our house smoked meats, sandwiches, sides, soft drinks, beer and wine. Our hours of operations would be Tuesday through Saturday, 11am - 8pm.

After running a successful wood fired catering operation in Southern Maine, it's been a vision of ours to offer a similar style menu at a Portland Maine location. If there is any questions or concerns, or further clarity we can offer, please feel free to contact me via email or phone. Otherwise, we look forward to hearing from the city and moving forward with our business. Thank you for your time.

Sincerely yours,

Ryan Carey

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):	Noble BBQ Phone: (207) 299-6995
Location Address:	1706 Forest Avenue Portland, ME 04103 Zip:
If new, what was formerly at this location:	Tree Trio
Mailing Address:	434 Woolford St. Portland, ME 04103 Zip:
Contact Person:	Ryan Carey Phone: (207) 299-6995
Contact Person Email:	Booking@FireandCompany.com
Manager of Establishment:	Richard Carey Date of Birth: 02/04/1984 Phone: (207) 299-6649
Owner of Premises (Landlord):	Karen Rasmussen
Address of Premises Owner:	130 Hillside Ave. South Portland, ME 04106 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	
Pizza Pie on the Fly		434 Woolford St. Portland, ME 04103 Zip:	
Contact Person:	Ryan Carey	Phone:	(207) 299-6995
Principal Officers	Title	Date of Birth	Residence Address
Ryan Carey	Owner	2/4/84	434 Woolford St. Portland, ME 04103

About Your Establishment

Class of Liquor License:	Class A Restaurant (Class 1)	
Type of food served:	Smoked meats, Sandwiches, Sides	
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor ☒	
Projected percentage of sales:	Generated from Food: \$200,000	Generated from Alcohol: \$40,000
Hours & days of operation:	Tuesday - Saturday 11am - 8pm	

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?	☒
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒
Will you permit dancing on the premises?	☒
Will you permit dancing after 1:00 a.m.?	☒
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒
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)?	☒
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	6/1/17
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒
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?	☒
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒
If Yes, please explain:	

I Ryan Cory 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 2-22-17

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 D)

☐ 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>Pizza Pie on the Fly</u>		Business Name (D/B/A) <u>Noble BBQ</u>	
APPLICANT(S) --(Sole Proprietor) DOB: <u>Ryan Carey</u> <u>02/04/1984</u>		Physical Location: <u>1706 Forest Ave</u>	
Address <u>434 Woodford St.</u>		Mailing Address <u>434 Woodford St.</u>	
City/Town <u>Portland</u>	State <u>ME</u>	City/Town <u>Portland</u>	State <u>ME</u>
Zip Code <u>04103</u>		Zip Code <u>04103</u>	
Telephone Number <u>(207) 299-6995</u>	Fax Number	Business Telephone Number <u>(207) 299-6995</u>	Fax Number
Federal I.D. # <u>45-2582314</u>		Seller Certificate #: or Sales Tax #: <u>45-2582314</u>	
Email Address: Please Print <u>Booking@FireandCompany.com</u>		Website: <u>FireandCompany.com</u>	

If business is NEW or under new ownership, indicate starting date: 06/01/2017

Requested inspection date: _____ Business hours: Tues-Sat 11am-8pm

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 ☐

#1108864

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
Richard L. Carey	2-4-84	Bangor, ME

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

Portland, Maine

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: _____

Karen Rasmussen 130 Hillside Ave South Portland, ME 04106

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: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .5 mile Which of the above is nearest? Riverton 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 on 2/28, 20 17
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Ryan Carey
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: Pizza Pie on The Fly, LLC
2. Doing Business As, if any: Noble Barbecue
3. Date of filing with Secretary of State: 7/11 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 %
RYAN Carcy	434 Woodford St Portland, ME	2-4-84	owner	100%

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

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

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

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

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

Yes ☐ No ☒

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

Name: _____

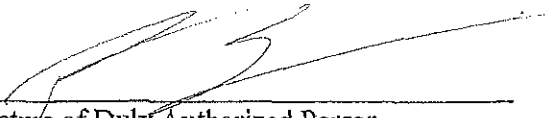
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

2-22-12

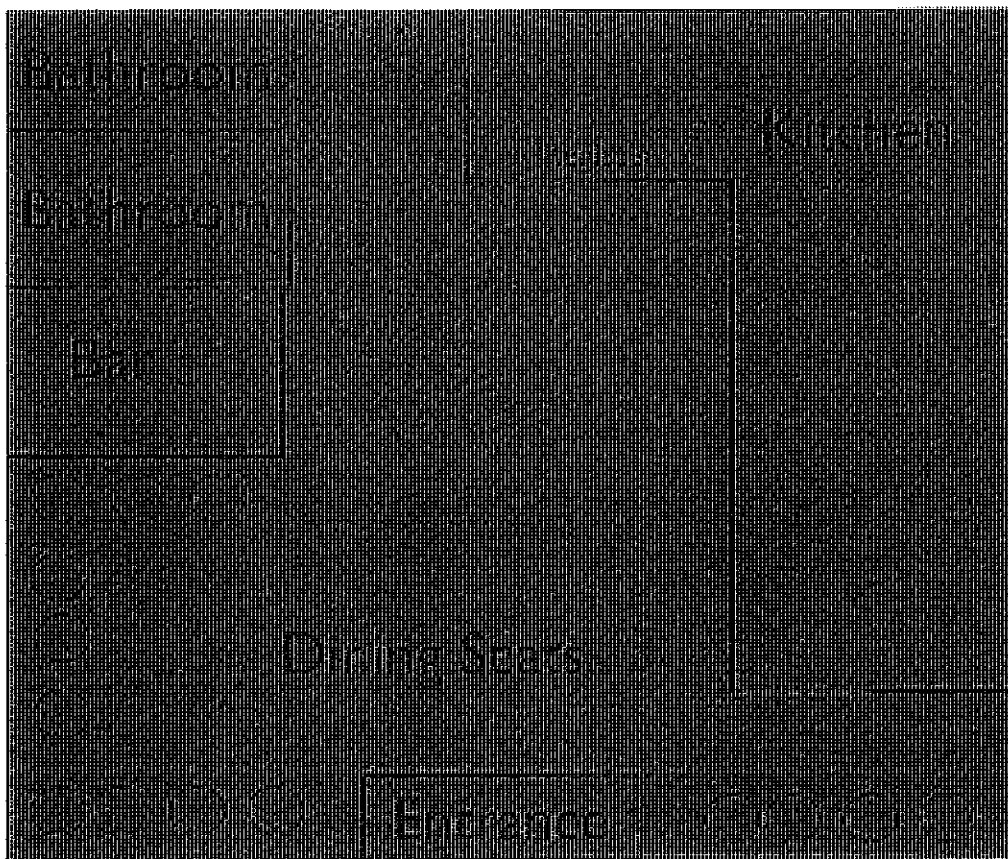
Date

RYAN Carey

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



Noble BBQ
in store menu

The Sandwiches

The Noble Cheese.

Smoked Tomato, Sharp Local Cheddar and Dill Creamcheese
on Butter Grilled Sourdough

Smoked Lobster Roll.

Wood Grilled and Smoked Maine Lobster,
Grilled Lemon Mayo
on Buttered Grilled New England Bun

Brisket.

Slow Smoked House Brisket,
served Naked or Sauced, and Piled High on
Grilled Sourdough

Pork.

Slow Smoked, Maple-Rubbed, Chopped Pork,
Carolina Sauce, Pickled Onions
on Grilled Brioche

Noble Pork.

Slow Smoked, Maple Rubbed, Chopped Pork,
Moxie Blueberry BBQ, House Cole Slaw
on Grilled Brioche

SpitFire Chicken.

Wood Fire Roasted, Mole Rubbed Chicken,
Sweet and Spicy Sauce, Farm Fresh Greens
on Grilled Brioche

Smoke House Sausage.

Smoked Pork and Beef Sausage,
House Deli Mustard, Farm Fresh Greens
on Buttered Grilled New England Bun.

BBQ by the Pound and Half Pound

The Meats

Texas Smoked Beef Brisket

Slow Smoked, Hand Sliced Beef Brisket
Deep Smokey Spice Rub

Smoked Chopped Pork

Slow Smoked, Coarse Chopped Pork Butt
Sweet and Spicy Maple Spice Bark

SpitFire Chicken

Wood Roasted, All Natural Chicken
Rich Cocoa Spice Mole Rub

Smoke House Sausage

House Made Pork and Beef Sausage
Slow Smoked, Hand Sliced

The Sauces

Noble Naked

Let the Meat Speak for Itself

Carolina Style

Tangy Mustard and Vinegar Based Sauce

Sweet and Spicy

Molasses and Tomato Based, Classic St. Louis Style Sauce

Texas Mop Sauce

A Light Blend on Vinegar, Beer and Peppers. Go Easy!

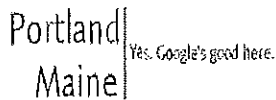
Maine Moxie Blueberry BBQ

Sweet and Spicy Tomato Based Sauce with Moxie and Maine Blueberries

Noble BBQ



Copyright 2011 Esri. All rights reserved. Tue Feb 28 2017 01:21:24 PM.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Noble BBQ

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 28, 2017 at 3:43 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 Caiazzo <mcaiazzo@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

On Tue, Feb 28, 2017 at 1:09 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Noble BBQ, 1706 Forest Avenue. They are applying for a Class I Restaurant and will go before council on 4/5. This location was formerly Taco Trio.

Owner is
Pizza Pie on the FLY
Ryan carey 2/4/1984Contact is
Richard Carey 2/4/1984
207-299-6649

The information has been updated in UI. Please advise. 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.
Hours - Saturday thru Tuesday (4pm-2am)



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 #: MIQ99D157583

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-02-28) :

Inquiries Name(s) RYAN CAREY (1984-02-04)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

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

February 28, 2017

Pizza Pie on the Fly
Att Ryan Carey
434 Woodford Street
Portland ME 04103

Re: Pizza Pie on the Fly dba Noble BBQ. Application for a Class I License at 1706 Forest Avenue.

Dear Ryan Carey,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday April 5, 2017 at 5:30 p.m.**, for the review of your application for a Class I Restaurant License at 1706 Forest Avenue. 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 April 5th at 5:30 P.M., in City Council Chambers, 389 Congress St., Pizza Pie on the Fly dba Noble BBQ. Application for a Class I License at 1706 Forest Avenue. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 184-16/17
Tab 8 4-5-17*

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:

**Portland Mash Tun LLC dba Portland Mash Tun. Application for Outdoor Dining on
public Property at 29 Wharf Street.**

March 2, 2017

Re: Portland Mash Tun Outdoor Seating Application

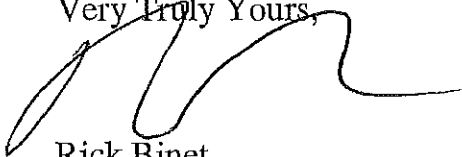
To Whom it may concern:

Portland Mash Tun at 29 Wharf Street has been open and operating for over a year now. Our first year saw us receive praise in Portland Eater and receive great reviews on Yelp and Google and Facebook. Our staff is totally committed to great customer service and we have been very proactive in ensuring a welcoming atmosphere for all patrons with a zero tolerance policy towards intoxicated individuals on the premises as well as disturbances of any kind. Our customers greatly appreciate the fun and inviting atmosphere and service that we provide. I believe Mash Tun has been a great addition to the Portland restaurant scene. Our value priced but very high quality burgers and tacos are wildly popular. We are honored and lucky to have the support of fantastic locals and visitors alike.

It is our hope that we will be able to add outdoor seating on wharf street during the warmer months to accommodate our patrons and to further enhance to ambience of Wharf street. We are seeking to have a seating area on par with that which our neighbors at Street and Co., Grittys and Bonfire currently enjoy. The holes for posts are already drilled in the sidewalk from the old Indian restaurant which had previously been at our address. We will have very attractive sun umbrellas mounted in the tables. It will add to the already attractive feel of Wharf street in the warmer months.

I look forward to appearing before the council to discuss this application at the next meeting.

Very Truly Yours,

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

Rick Binet

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):	Portland Mark Tin LLC Phone: 802-505-5115
Location Address:	29 Wharf Street Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	521 Cottage Road Zip: 04106
Contact Person:	RICK BINET Phone: 802-505-5115
Contact Person Email:	rickbinet@gmail.com
Manager of Establishment:	Rick Binet Date of Birth: 7/23/74 Phone:
Owner of Premises (Landlord):	416 Fore St LLC
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	
Portland Mark Tin LLC		521 Cottage Rd Zip: 04106	
Contact Person:	RICK BINET	Phone:	802-505-5115
Principal Officers	Title	Date of Birth	Residence Address
RICK BINET	Owner/Manager	7/23/74	521 Cottage Rd, South Portland 04106

About Your Establishment

Class of Liquor License:	X 1	
Type of food served:	Kung Pao & Jiao S	
Please circle all that will be served:	Beer Wine Liquor	
Projected percentage of sales:	Generated from Food: 50	Generated from Alcohol: 50
Hours & days of operation:	12-1 Monday through Sunday	

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?	already open just applying for outdoor seating
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):	Kung's Heat Market
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, BRICK Bines 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/manager Date 3/2/17

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.



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: Portland MASH TUN LLC

2. Doing Business As, if any: MASH TUN

3. Date of filing with Secretary of State: 10/31/14 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:
2/12/16

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 %
RICHARD BINET	521 Cottage Rd, South Portland, ME 7600 VT Rd 100, Wiscasset, VT	7/31/74	manager / owner? owner	100

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

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

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

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

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: _____ Chart _____ Block _____ Lot# _____
 Address: 29 Wharf Street

Owner Name: Rick Binet
 Phone #: 802-505-5115
 Email: Rickbinet@gmail.com

Total Square Footage of Outdoor Dining Area:¹

Length: () x Width () = 145 sq ft

Applicant must be owner or lessee.

Name: Rick Binet - Mash Tun
 Address: 29 Wharf Street
 City: Portland, Maine
 State & Zip: Maine - 04101
 E-Mail: Rickbinet@gmail.com

Please pay before the permit can be issued.

\$125. (One-time Private Property fee) or
 \$80 (Annual Public Fee) + Total Sq. Ft.: _____ x
 (\$2) or (\$6 in public parks) =

Total Fee of \$ _____

Current use: BAR- Restaurant Business name: Mash Tun
 How many chairs? 20 (5-4' Picnic Table) How many tables? 5
 Please circle one of the following: Alcohol is served = ☒ Yes ☐ No.

Who should we contact?

Name: Rick Binet
 Phone: 802-505-5115
 Address: 29 Wharf Street Portland, ME 04101 E Mail: Rickbinet@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: _____

Date: 2/15/17
3/2/17

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.



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.

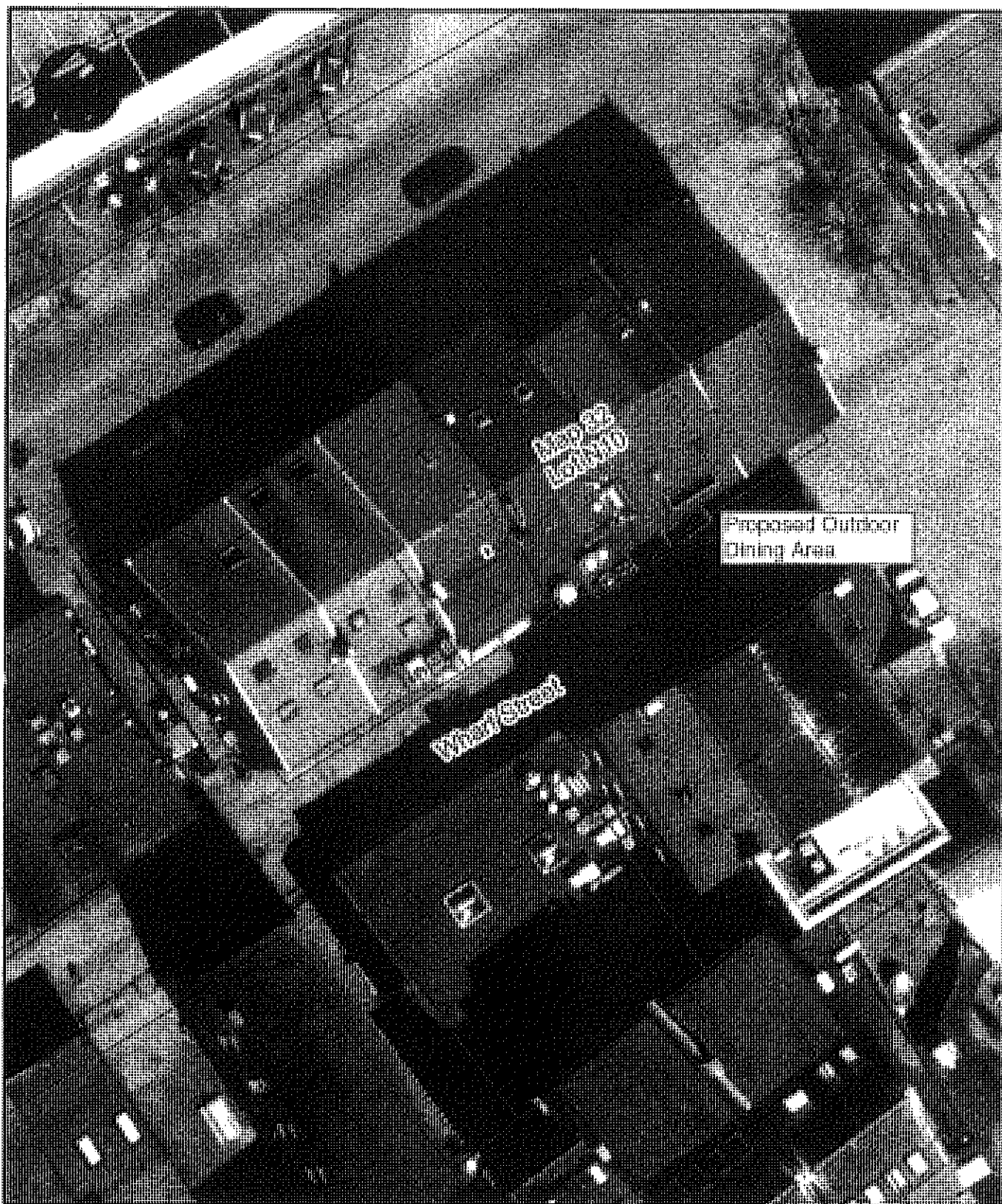
Signed and acknowledged: _____

Date: _____

Printed name: _____

Establishment: _____

Location: _____



Proposed Outdoor Dining of Portland Mash Tun For: City of Portland

SCALE: 1" = 33'

DATE: 9/1/2013

LOCATION:

33 West 2nd
Portland, ME 04101

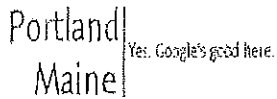
DESCRIPTION:

Figure 1

Portland Mash Tun



Copyright 2011 Esri. All rights reserved. Thu Mar 2 2017 01:03:04 PM.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Portland Mash Tun

Kevin Cashman <kevindo@portlandmaine.gov>

Sat, Mar 4, 2017 at 6:05 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Zoning <zoning@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Keith Gautreau <kng@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Chuck Fagone <psf@portlandmaine.gov>

No issues per PD.

Kevin C.

On Thu, Mar 2, 2017 at 12:54 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached Outdoor Dining application for Portland Mash Tun, 29 Wharf Street. This will be going before council on 4/5

Contact is
Rick Binet 802-505-5115

Please advise via email on 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
kevindo@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)

Portland, Maine



Yes. Life's good here.

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

March 2, 2017

Portland Mash Tun LLC
Rick Binet
521 Cottage Road
South Portland ME 04106

Re: Portland Mash Tun LLC dba Portland Mash Tun. Application for Outdoor Dining on public Property at 29 Wharf Street.

Dear Rick Binet,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday April 5, 2017 at 5:30 p.m.**, for the review of your application for Outdoor Dining at 29 Wharf 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,

A handwritten signature in black ink, appearing to read "J. Hanscombe", is written over the typed name.

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 April 5th at 5:30 P.M., in City Council Chambers, 389 Congress St., Portland Mash Tun LLC dba Portland Mash Tun. Application for Outdoor Dining on public Property at 29 Wharf Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 185-16/17
Tab 9 4-5-17*

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:

Bujabelle LLP dba Bujabelle. Application for Class XI Restaurant/Lounge, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property at 249 St. John Street.

TO Etham Strimling
Mayor of The City of Portland
Portland, Maine

03/04/2017

We are pleased to inform you that we have come in partnership to start a Restaurant Lounge business in the great City of Portland. Due to an increasing number of central Africans in the City we have decided to partner and open this great place in order to serve our peers and contribute to the economic development of Portland. Attached is our application and we hope the council will approve it in a timely manner. Thank you!

Sincerely Yours

Jerome Niryumwami

Jean Claude Nitunga

Thierry Mugabe

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):	BUJA BELLE LLP Phone: 605-3328
Location Address:	249 ST JOHN STREET Zip: 04101
If new, what was formerly at this location:	CHEZ OKAPI
Mailing Address:	249 S. John St. Zip:
Contact Person:	THIERRY MUGABE Phone: 207-615-3328
Contact Person Email:	
Manager of Establishment:	Date of Birth: Phone:
JEAN CLAUDE NITUNGA	9/17/1954 207 553-0658
Owner of Premises (Landlord):	DUC N. HO
Address of Premises Owner:	249 ST JOHN STREET Zip: 04102

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	
BUJABELLE		16 B STONE ST Zip: 04101	
Contact Person:	JEROME NIRYOMWAMI	Phone:	207-838-1287
Principal Officers	Title	Date of Birth	Residence Address
JEROME NIRYOMWAMI	PARTNER	12/12/1960	16 B STONE STREET PORTLAND ME 04101
THIERRY MUGABE	PARTNER	2/22/1980	2 LIBERTY LN unit 10 S.P. ME 04106
JEAN CLAUDE NITUNGA	PARTNER	9/17/1954	37 SAWYER ST #2 PORTLAND, ME 04113

About Your Establishment

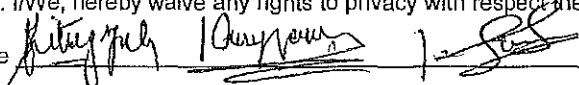
Class of Liquor License:	XI	
Type of food served:	AFRICAN FOODS	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 45%	Generated from Alcohol: 55%
Hours & days of operation:		

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?	
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 _____ 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 OWNERS / PARTNER Date 3/8/2017

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.

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):	BUDABELLE LLP	Phone:	615-3328
Location Address:	248 ST JOHN STREET	Zip:	04102

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:	
Will music be electric, acoustical, or both? (Circle)	
Will amplification be used?	Y/N
If yes, where and at what level?	
Will music be played (Circle all that apply): Inside Outside	
Will you permit dancing on the premises?	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place?	550 FT
What is your targeted opening date?	4/1/2017
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	

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 OWNERS/PARTNER Date 3/8/2017

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

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: BOJABELLE LLP
Address: 248 ST JOHN STREET

Chart

Block

Lot#

Owner Name: JEROME NINYUMWAMI
Phone #: 207-615-3328
Email: _____

Total Square Footage of Outdoor Dining Area:¹Length: 30 yard x Width (30 yard) = _____

Applicant must be owner or lessee.

Please pay before the permit can be issued.

Name: BOJABELLE (Lessee)
Address: 248 ST JOHN ST
City: PORTLAND ME 04101
State & Zip: 04101
E-Mail: _____

\$125 (One-time Private Property fee) or

\$80 (Annual Public Fee) + Total Sq. Ft.: _____ x
(\$2) or (\$6 in public parks) =

Total Fee of \$ _____

Current use: RESTAURANTBusiness name: BOJABELLEHow many chairs? 15How many tables? 3Please circle one of the following: Alcohol is served = (Yes/No).

Who should we contact?

Name: THERRY MUGABEPhone: 207-615-3328

Address: 248 ST JOHN STREET E Mail: _____
PORTLAND, ME 04101

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: _____

Date: 3/8/2017

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.

389 Congress Street, Room 315/Portland Maine 04101/www.portlandmaine.gov/tel: 207-874-8703/fax: 207-874-8716



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: [Signature] Date: 5/8/17

Printed name: AKYUNWANI Joeane

Establishment: BO DABELE LLP

Location: 249 ST JOHN ST PORTLAND, ME 04101

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)

☒ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL-OPTIONAL FOOD (Class I-A)

☐ HOTEL (Class I,II,III,IV)

☐ CLASS A LOUNGE (Class X)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ CLUB (Class V)

☐ GOLF CLUB (Class I,II,III,IV)

☐ TAVERN (Class IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: BUJABELLE LLP			Business Name (D/B/A) BUJABELLE		
APPLICANT(S) - (Sole Proprietor)		DOB:	Physical Location: 249 ST JOHN STREET		
		DOB:	City/Town PORTLAND	State ME	Zip Code 04101
Address 249 ST JOHN STREET			Mailing Address 249 ST JOHN STREET		
City/Town PORTLAND	State ME	Zip Code 04102	City/Town PORTLAND	State ME	Zip Code 04101
Telephone Number		Fax Number	Business Telephone Number 615-3328		Fax Number
Federal I.D. # 81-5390095			Seller Certificate #: or Sales Tax #:		
Email Address: Please Print			Website:		

If business is NEW or under new ownership, indicate starting date: 4/1/2017

Requested inspection date: _____ Business hours: _____

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

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: JEAN CLAUDE NIVONSA

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
JEROME NIRYUMWAMI	12/12/1980	BURUNDI
THIERRY MUGABE	2/22/1980	BURUNDI
JEAN CLAUDE NITUNGA	8/17/1954	BURUNDI

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: _____

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: DHHS license - pending

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? 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 on 3/8, 20 17
Town/City, State Date

Thierry Mugabe Please sign in blue ink
Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

THIERRY MUGABE JEAN CLAUDE NITUNGA
Print Name

JEROME NIRYUMWAMI
Print Name



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: BOJABELLE LLP
2. Doing Business As, if any: BOJABELLE LLP
3. Date of filing with Secretary of State: _____ 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 %
JEROME N. RYUMWAM	16 B. STONE STREET PORTLAND, ME 04101	12/12/60	PARTNER	33.33%
THIERRY MUGABE	2 LIBERTY LN #10 PORTLAND, ME 04106	2/22/80	PARTNER	33.33%
JEAN CLAUDE NITUNGA	37 SAWYER ST #2 PORTLAND, ME 04103	5/17/54	PARTNER	33.33%

(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

3/7/2017
Date

JEAN CLAUDE HITUNGA, JEROME NIYOMWAMI, THIERRY NUGABE
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

DINING
AREA

BATHROOM
2

BATHROOM
I

3 SINK

Grill

Fryer

TABLE

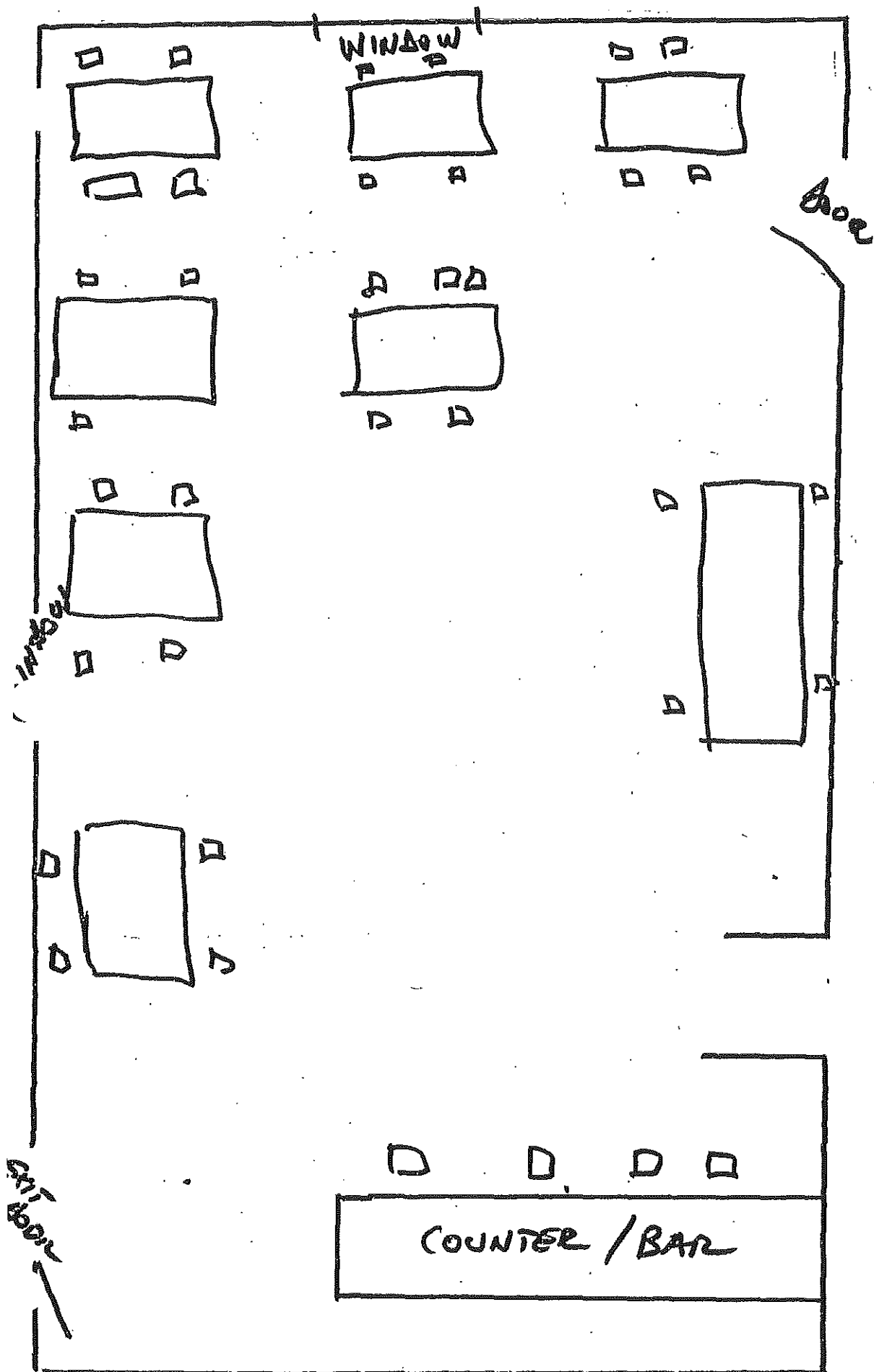
SINK

Basement

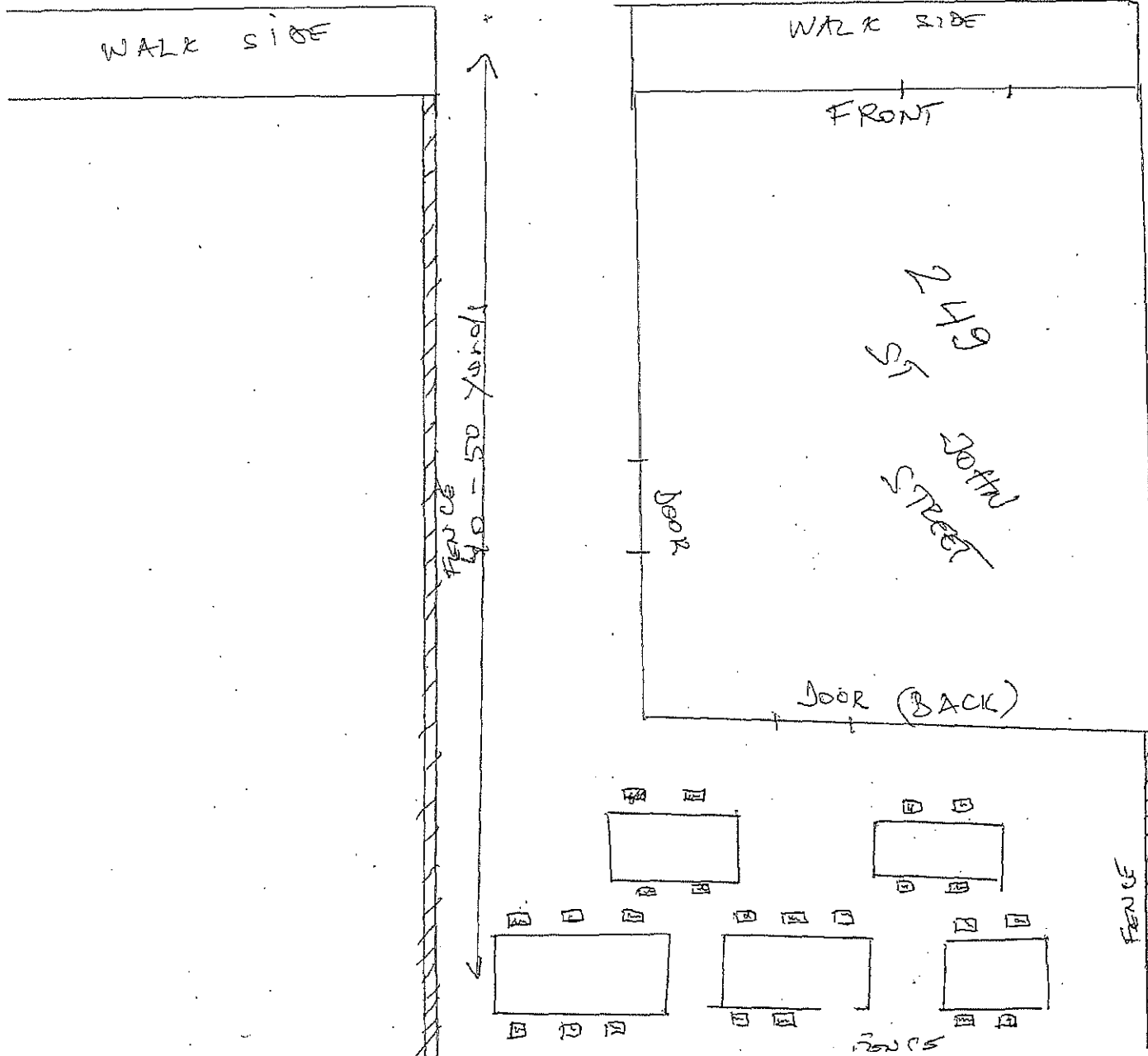
door

door

SINK



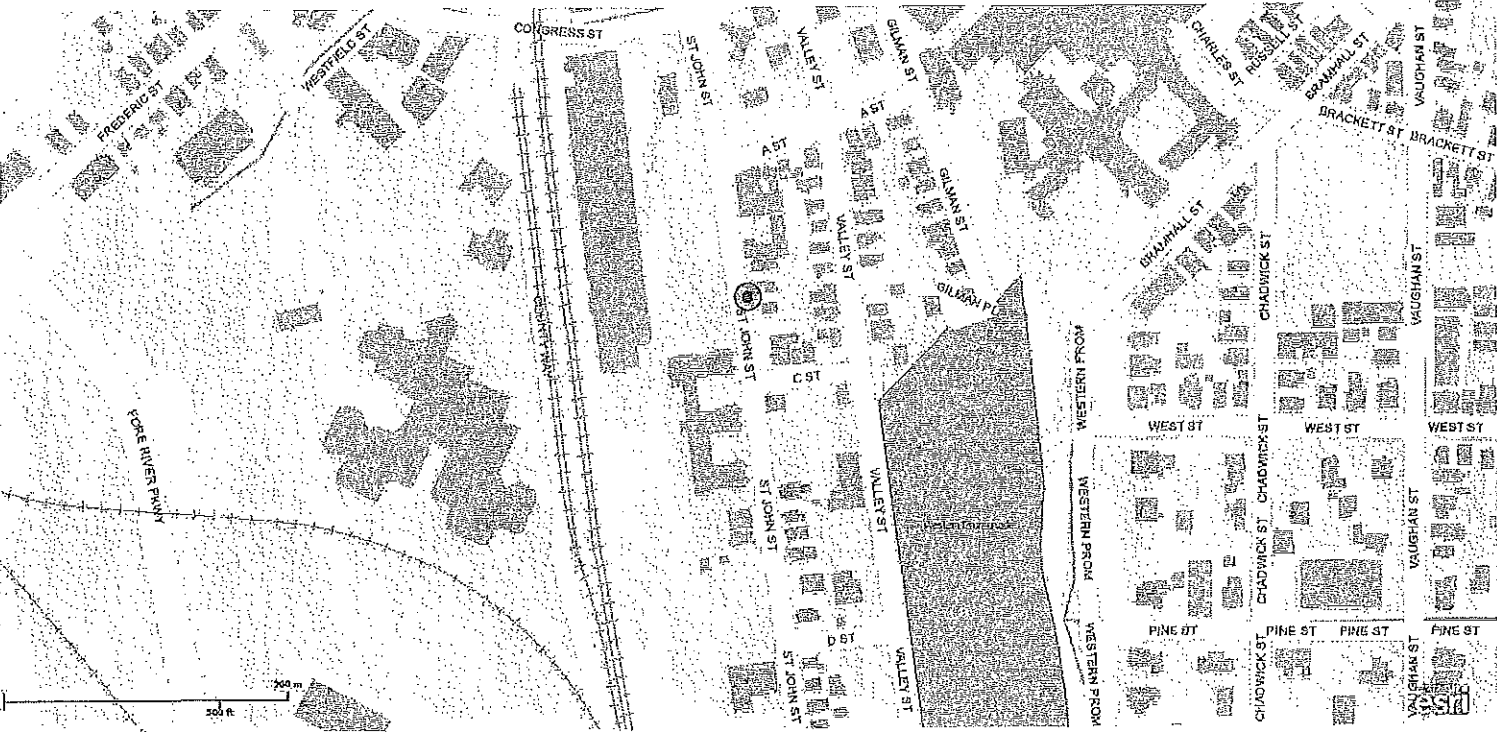
ST JOHN'S STREET



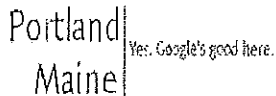
MENU PROPOSAL FOR Bujabelle Restaurant

- Chicken
- Brochette (beef)
- Brochette (chicken)
- Plantains
- Meat ball (fried)
- Beignets (African donuts)
- Potato sautés
- Cooked spinach
- Salmon cubes
- Yellow Rice
- Salad
- Sambusa (vegetable and spicy meat)
- Goat meat
- Fruits

Bujabelle



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Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Bujabelle

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Mar 11, 2017 at 8:05 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>

PD has no objections.
Kevin C.

On Wed, Mar 8, 2017 at 3:57 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Bujabelle, 249 St John Street, for a Class XI, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property. This will be going before City Council on 4/5 for approval.

Owner is
Bujabelle LLP
Jerome Niryumwami 12/12/1960
Thierry Mugabe 2/22/1980
Jean Claude Nitinga 9/17/1954Contact is Thierry Mugabe
207-615-3328

License has been added to UI for 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.
Hours - Saturday thru Tuesday (4pm-2am)



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 #: MIQ99D166258

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-03-08) :

Inquiries Name(s) JEAN CLAUDE NITUNGA (1954-09-17)

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 #: MIQ99D166252

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-03-08) :

Inquiries Name(s) JEROME NIRYUMWAMI (1960-12-12)

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 #: MIQ99D166255

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-03-08) :

Inquiries Name(s) THIERRY MUGABE (1980-02-22)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

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

March 2, 2017

Bujabelle LLP
249 St. John Street
Portland ME 04101

Re: Bujabelle LLP dba Bujabelle. Application for Class XI Restaurant/Lounge, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property at 249 St. John Street.

Dear Sirs,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday April 5, 2017 at 5:30 p.m.**, for the review of application for Class XI Restaurant/Lounge, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property at 249 St. John 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 April 5th at 5:30 P.M., in City Council Chambers, 389 Congress St., Bujabelle LLP dba Bujabelle. Application for Class XI Restaurant/Lounge, Entertainment with Dance, After Hours Entertainment and Outdoor Dining on Private Property at 249 St. John Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 186-16/17
Tab 10 4-5-17*

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:**

Nguoi Dep LLC dba Cong Tu Bot. Application for a Class I FSE License at 59 Washington Avenue.

CÔNG TỬ BÔT

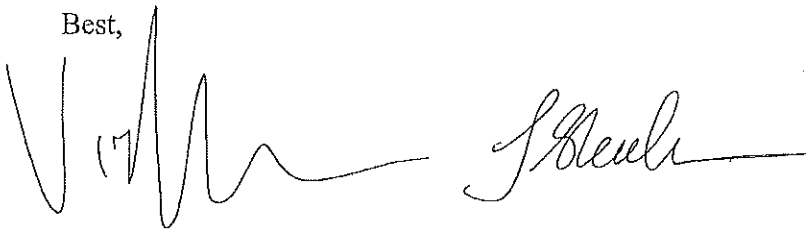
March 10, 2017

Mayor Strimling and Members of City Council,

I, Jessica Sheahan, along with my husband, Vien Dobui, plan to open our first restaurant, Cong Tu Bot, this spring. We are located at 59 Washington Ave, in the historic Nissen Building. Our menu focuses on noodle dishes commonly found in Saigon , as well as a selection of smaller side dishes and snacks to accompany our entrees. We intend to offer a selection of domestic and imported beers, a few wines, and sake. We do not intend to sell liquor on the premises.

We are excited to contribute to the local restaurant economy here in Portland. Using our combined experience and dedication to this project, we hope to create a restaurant that serves its customers, employees, and community with kindness and ardor. Thank you for your time and consideration regarding our business.

Best,

The block contains two handwritten signatures. The first signature, on the left, is for Vien Dobui and includes the date '3/17' written vertically. The second signature, on the right, is for Jessica Sheahan.

Vien Dobui & Jessica Sheahan
Owners, Cong Tu Bot

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):	Cong To Bot Phone: 925 413 0468
Location Address:	59 Washington Ave, Unit 11 Portland, ME Zip: 04101
If new, what was formerly at this location:	Repurposed: Maine Antiques + Architectural Salvage
Mailing Address:	48 Congress St. #3, Portland ME Zip: 04101
Contact Person:	Jessica Sheahan Phone: 925 413 0468
Contact Person Email:	jessica@congtobot.com
Manager of Establishment:	Jessica Sheahan Date of Birth: 02/28/85 Phone: 925 413 0468
Owner of Premises (Landlord):	Jed Harris
Address of Premises Owner:	75 Washington Ave, Suite 2H, 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	
Nguoi Dep LLC		48 Congress St. #3, Portland Zip: 04101	
Contact Person:	Vien Dobui	Phone:	408 806 1334
Principal Officers	Title	Date of Birth	Residence Address
Vien Dobui	Owner	06/27/1982	48 Congress St #3, Portland ME 04101
Jessica Sheahan	Owner	02/28/1985	48 Congress St #3, Portland ME 04101

About Your Establishment

Class of Liquor License:	Restaurant Class 1	
Type of food served:	Vietnamese	
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:	Thursday - Monday 10am - 10 pm closed Tues & Wed.	

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?	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?	May 2017
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s):	
Brakes + Shocks LLC d/b/a Tandem Coffee + Bakery 742 Congress St Portland ME 04102	
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 Jessica Sheahan 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 J Sheahan Title Owner Date 3/8/17

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: <u>Ngvoui Dep LLC</u>	Business Name (D/B/A) <u>Cong Tu Bot</u>
APPLICANT(S) - (Sole Proprietor) <u>Vien Dobui</u> DOB: <u>6/27/82</u>	Physical Location: <u>59 Washington Ave</u>
<u>Jessica Sheahan</u> DOB: <u>2/28/85</u>	City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>
Address <u>48 Congress St. #3</u>	Mailing Address <u>48 Congress St #3</u>
City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>	City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>
Telephone Number <u>925 413 0468</u> Fax Number <u>N/A</u>	Business Telephone Number <u>925 413 0468</u> Fax Number <u>N/A</u>
Federal I.D. # <u>81-3556923</u>	Seller Certificate #: <u>In progress.</u> or Sales Tax #:
Email Address: <u>jessica@congtubot.com</u> Please Print	Website: <u>congtubot.com</u>

If business is NEW or under new ownership, indicate starting date: May 2017

Requested inspection date: April 2017 Business hours: 10am - 10pm Thursday - Monday

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: 48 Congress St #3, 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
Vien Dobui	6/27/82	USA
Jessica Sheahan	2/28/85	USA

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

Portland, Maine.

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: Jed Harris
75 Washington Ave, Suite 2H Portland, ME 04101

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) please see On Premise
Diagram for drawing & details.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: Health 3/9/17

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? 0.3 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: Bank loan, investment.

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 March 8, 2017
Town/City, State Date

Jessica Sheahan
Signature of Applicant or Corporate Officer(s)
Jessica Sheahan
Print Name

Please sign in blue ink

Vien Dobui
Signature of Applicant or Corporate Officer(s)
Vien Dobui
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.

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



State of Maine
Bureau of Alcoholic Beverages
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: Ngvoi Dep LLC
2. Doing Business As, if any: Cong To Bot
3. Date of filing with Secretary of State: 5/13/16 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: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Vien Dobui	48 Congress St #3	06/27/82	Manager	59
Jessica Sheahan	Portland, ME 04101	02/28/85	Partner	3
Theresa Sheahan	7 Boston Post Rd	04/15/56	Partner	15
Jeffrey Sheahan	Amherst, NH 03631	09/23/53	(family trust)	
Tien Dobui	544 Bluefield Drive	5/27/63	Partner	15
	San Jose, CA 95136			
Joseph Zohn	122 Emery St #1, Portland 04102	6/26/89	Partner	5
	1525 8th Avenue SW			
	Olympia WA 98502			
Michael Kingra	14 Denwick Heights Rd	11/10/74	Partner	1.5
Katherine Kingra	Ithaca, NY 14850	11/10/82		1.5

(Ownership must equal 100% for Corporations, LLC's etc.)

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: _____

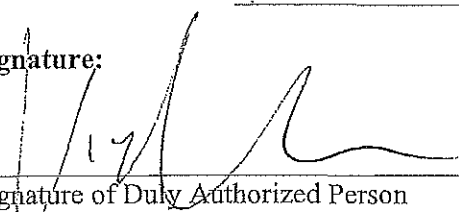
Date of Conviction: _____

Offense: _____

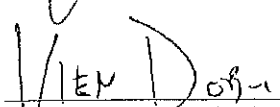
Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

3/10/17
Date

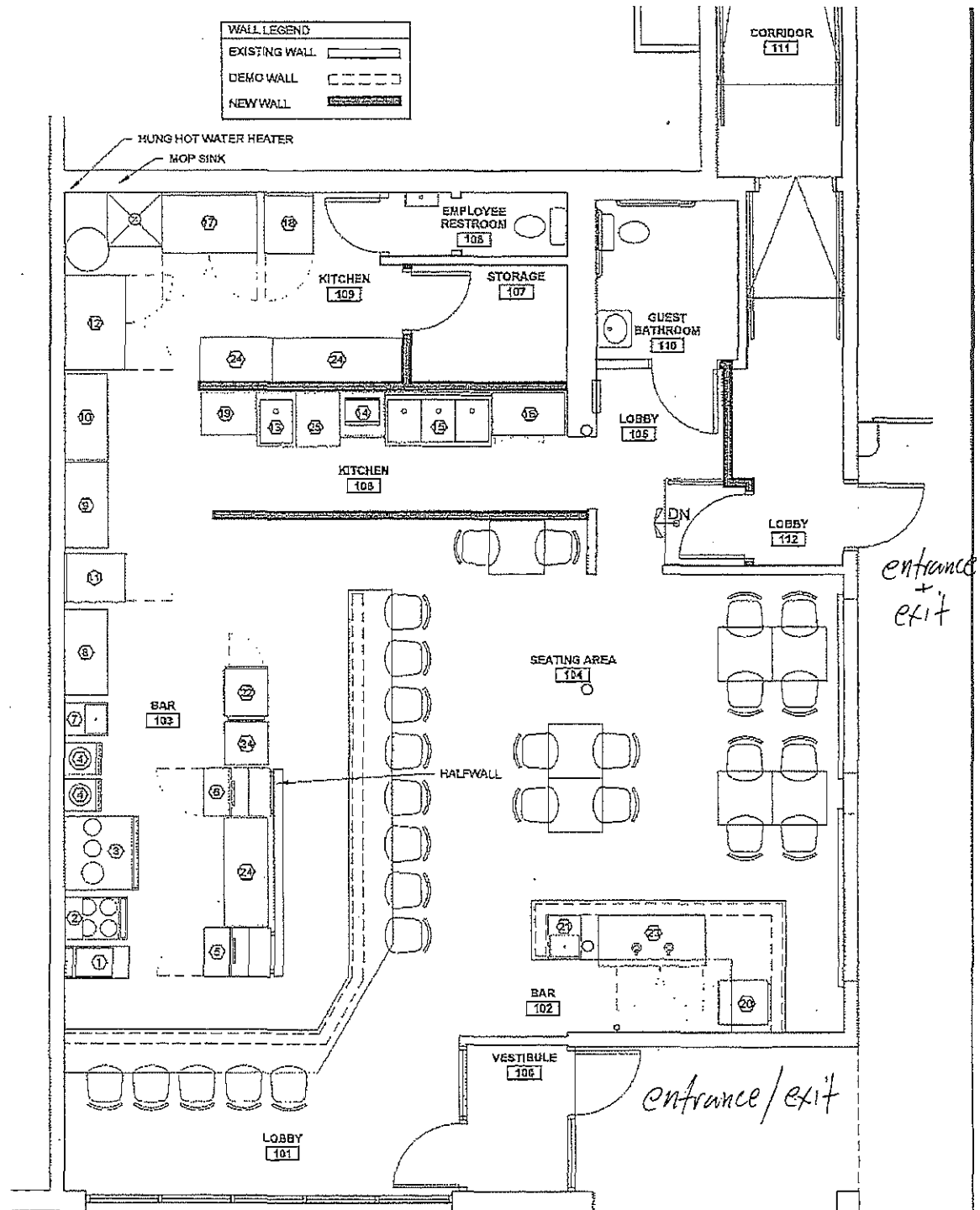

Print Name of Duly Authorized Person

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

RESTAURANT APPLIANCE SCHEDULE:

#	EQUIPMENT	DIMENSIONS (W x D x H)
#1	NOODLE BOILER	17.75" x 35.5" x 40.5"
#2	4 BURNER RANGE	23.625" x 34.5" x 57"
#3	DOUBLE WOK RANGE	41" x 48" x 36"
#4	SINGLE STOCK RANGE	17.75" x 20.75" x 24.5"
#5	PREP LOWBOY 1DR 1	27" x 38.375" x 45.5"
#6	PREP LOWBOY 1DR 2	27" x 38.375" x 45.5"
#7	HAND SINK	TBD
#8	METRO RACK SHELF	24" x 48"
#9	METRO RACK SHELF	24" x 48"
#10	METRO RACK SHELF	24" x 48"
#11	SINGLE DOOR REACH-IN	27.25" x 33.75" x 78"
#12	DOUBLE DOOR REACH-IN	52" x 33.75" x 78"
#13	PREP SINK	TBD
#14	DISHWASHER	25.25" x 25.25" x 78.75"
#15	3 COMPARTMENT SINK	TBD
#16	ICE MACHINE	38.5" x 23.625" x 33.5"
#17	DOUBLE DOOR REACH-IN	52" x 33.75" x 78"
#18	SINGLE DOOR FREEZER	27.25" x 33.75" x 78"
#19	METRO RACK SHELF	24" x 30"
#20	BACK BAR REFRIGERATOR	24" x 29.5" x 37.75"
#21	HAND SINK	TBD
#22	BACK BAR REFRIGERATOR	24" x 29.5" x 37.75"
#23	BEER DISPENSER	66" x 28.25" x 37.25"
#24	PREP TABLE	VARIOUS SIZES
#25	PREP TABLE	24" WIDE



CÔNG TỬ BỘT

SAMPLE

MÌ VÀ BÚN / Noodles

#1 - PHỞ GÀ \$XX

Slightly northern style chicken noodle soup.

#2 - CÀ RI CHAY \$XX

Coconut milk curry noodle soup. Tasty vegetables. See board.*^

#3 - HỦ TIẾU XÀO \$XX

Stir fried rice noodles. Tasty vegetables. See board.**^

#4 - BÚN CHẢ \$XX

Cold vermicelli noodles. *

Thêm Ích / Add-Ons

#6 - Thêm Gà

More chicken.

\$XX

#7 - Trứng Tươi

Poached egg in broth.

\$XX

#8 - Cha

Pork patty.

\$XX

Món Phụ / Sides

#10 - Cơm Chiên \$XX

Today's fried rice. See board.^

#11 - Gỏi Cải Bắp \$XX

Cabbage salad.^

#12 - Rau Cải Xào \$XX

Seasonal vegetable stir fry. Needs rice. See board.^

#13 - Đồ Chua \$XX

House pickles. See board.**

#14 - Bắp Rang \$XX

Popcorn. Needs booze.*

#15 - Đậu Phụng Rang \$XX

Peanuts. Needs booze.*^

#16 - Cơm \$XX

Steamed rice.^

Raw food is scary.

* = spicy

** = very spicy

^ = vegan/can be vegan

CÔNG TỬ BỘT

SAMPLE

Tráng Miệng / Desserts

#17 - Che Dâu Dừa \$XX
Rice pudding. Served warm. ^

#18 - Kem Ý \$XX
Coconut milk panna cotta.

Giải Khát / Drinks

Trà \$XX
Jasmine tea. Hot or iced.

Drip Coffee \$XX

Cà Phê Sữa Đá \$XX
Vietnamese iced coffee with condensed milk.
Add boba +\$XX

Michelada \$XX
Beer, hot sauce, and lime.
Served on ice. ***

333 Bia \$XX
Vietnam.

Modelo Especial \$XX
Mexico. 12oz Can.

Beer bottle A \$XX
Country.

***All beer available on ice. For real.

White wine A \$XX
Country.

White wine B \$XX
Country.

Raw food is scary.

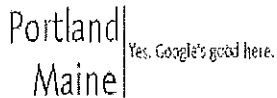
* = spicy

** = very spicy

^ = vegan/can be vegan

Cong Tu Bot





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Cong Tu Bot

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Mar 11, 2017 at 8:05 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 has no objections.

Kevin C.

On Fri, Mar 10, 2017 at 12:37 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Cong Tu Bot, 59 Washington Avenue. They will be going before Council on 4/5/2017.

This was formerly Maine Antique & Architectural Salvage.

Owner is
Nguoi Dep LLC
Vien Dobui 6/27/1982
Jessica Sheahan 2/28/1985Contact is
Jessica Sheahan
jessica@congtubot.com
925-413-0468

The Information has been added to IU for 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.
Hours - Saturday thru Tuesday (4pm-2am)



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 #: MIQ99D168390

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-03-10) :
Inquiries Name(s) VIEN DOBUI (1982-06-27)

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 #: MIQ99D168391

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2017-03-10) :

Inquiries Name(s) JESSICA SHEAHAN (1985-02-28)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

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

March 10, 2017

Nguoi Dep LLC
48 Congress Street #3
Portland ME 04101

Re: Nguoi Dep LLC dba Cong Tu Bot. Application for Class I FSE License at 59 Washington Avenue.

Dear Jessica Sheahan,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday April 5, 2017 at 5:30 p.m.**, for the review of your application for a Class I FSE License at 59 Washington Avenue. 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 April 5th at 5:30 P.M., in City Council Chambers, 389 Congress St., Nguoi Dep LLC dba Cong Tu Bot. Application for Class I FSE License at 59 Washington Avenue. Sponsored by Michael Russell, Director of Permitting and Inspections.

Order 187-16/17
Tab 11 4-5-17

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:

**Bonfire LLC dba Bonfire Country Bar. Application for Entertainment with Dancing and
After Hours Entertainment at 37 Wharf Street.**

Bonfire, LLC
37-39 Wharf Street
Portland, Maine 04101

December 8, 2016

City of Portland
389 Congress Street
Portland, Maine 04101

Dear Mayor Strimling and Members of the City Council:

I, Tanner Herget, would like to move my entertainment license with dance and after-hours entertainment from 51 Wharf Restaurant & Ultra Lounge Inc located at 45-51 Wharf Street to Bonfire LLC located two doors down to 37-39 Wharf Street

51 Wharf Restaurant & Ultra Lounge Inc, owned by The Herget Group, LLC has been in business for 11 years providing a safe venue with live entertainment. I would like to move this entertainment license to provide country singers and bands to be able to provide enjoyment of both locals and visitors which will add to the culture and ambience of the City of Portland.

I thank you for your time and consideration.

Sincerely,

Tanner Herget

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):	Bonfire Country Bar	Phone:	877.653-7678
Location Address:	37 Wharf Street, Portland, ME		Zip: 04101
If new, what was formerly at this location:			
Mailing Address:	37 Wharf Street, Portland, ME		Zip: 04101
Contact Person:	Tanner Herget	Phone:	877-243-7438 x9
Contact Person Email:	Tanner@OldPortNightlife.com		
Manager of Establishment:	Tanner Herget	Date of Birth: 07/23/1982	Phone: 877-243-7438 x9
Owner of Premises (Landlord):	428 Fore Street LLC		
Address of Premises Owner:	42 Chamberlain Ave, Portland, ME		Zip: 04101

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
Bonfire LLC		37 Wharf Street, Portland, ME Zip: 04101	
Contact Person:	Tanner Herget	Phone:	877.243.7438 x9
Principal Officers	Title	Date of Birth	Residence Address
The Herget Group, LLC	Sole-Member	04-11-2013	1712 Pioneer Ave, #120, Cheyenne, WY 82001

About Your Establishment

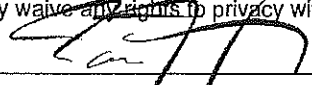
Class of Liquor License:	Class X		
Type of food served:	Appetizers, Burgers		
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor ☒		
Projected percentage of sales:	Generated from Food: 200,000.00	Generated from Alcohol: 500,000.00	
Hours & days of operation:	M-F 4pm-1am S-S 2pm-1am		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y ☒ N
If No, please explain: <u>Full course meals will not be provide all hours of operation</u>	
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: <u>1</u> # 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):	
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 Tanner Herget do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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

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

Signature  Title Manager Date 12/08/2016

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):	Bonfire Country Bar	Phone:	877.653.7678
Location Address:	37 Wharf Street, Portland, ME		Zip: 04101

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: <i>Live bands and singers</i>	
Will music be electric, acoustical, or <u>both</u> ? (Circle)	
Will amplification be used?	☒ Y ☒ N
If yes, where and at what level? <i>Inside and out at a level acceptable to city ordinances</i>	
Will music be played (Circle all that apply): <u>Inside</u> <u>Outside</u>	
Will you permit dancing on the premises?	☒ Y ☒ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☒ N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? <i>10 feet</i>	
What is your targeted opening date? <i>Currently open</i>	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☒ N
If Yes, list name(s) of employee(s) and department(s):	

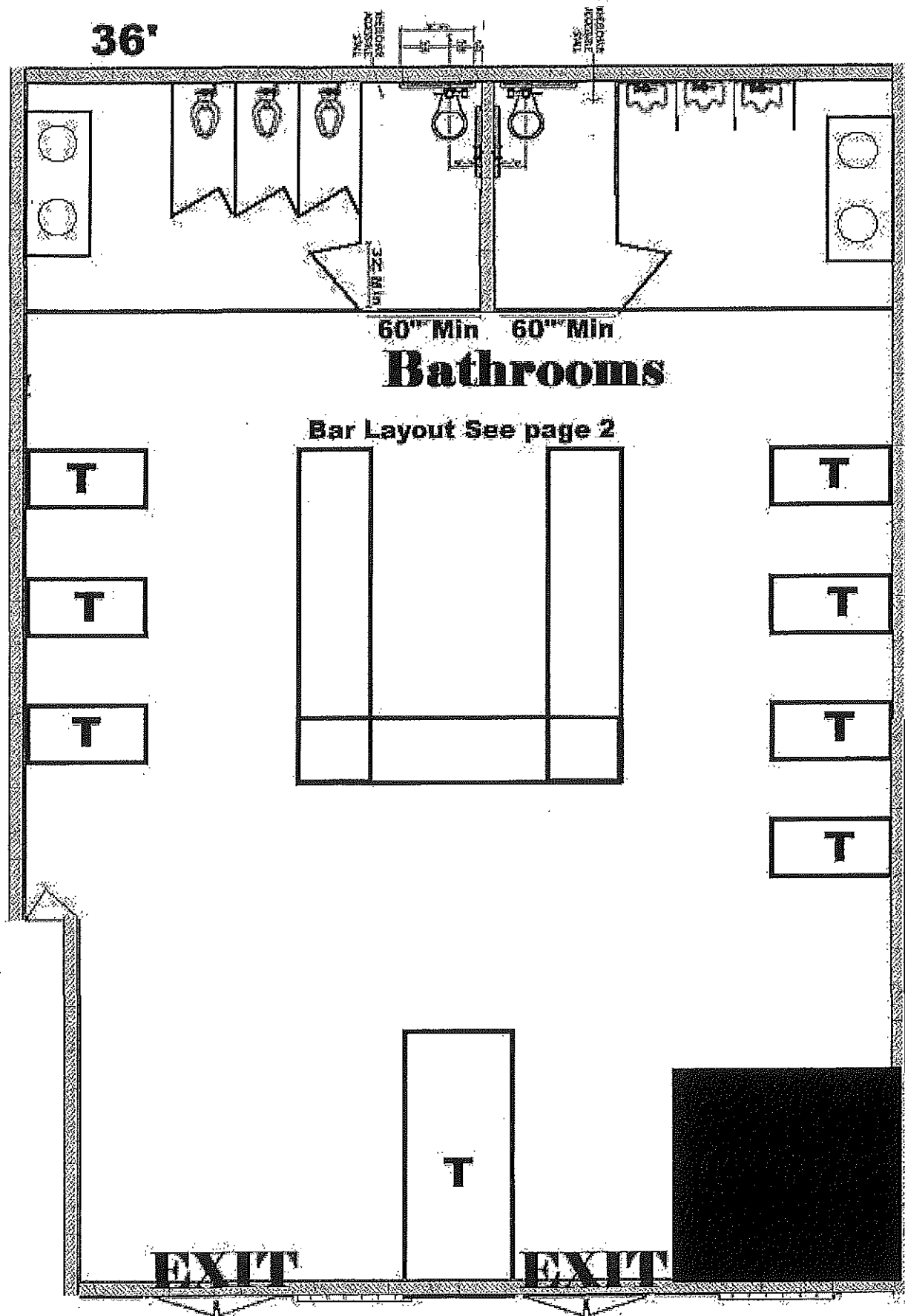
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature Title Manager Date 12/08/2016

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



■ = Stage Area for live entertainment

Bonfire



Portland, Maine



Yes. Life's good here.

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

Ann Machado, Zoning Administrator

TO: City of Portland City Council: Mayor Strimling
FROM: Ann Machado, Zoning Administrator *AM*
SUBJECT: Bonfire LLC, 37 Wharf Street (428 Fore) - 032-R-001
DATE: March 7, 2017

Bonfire, LLC has applied for an entertainment license for their business located at 37 Wharf Street. 37 Wharf Street is located in the B-3 Downtown Business Zone and within the Downtown Entertainment Overlay Zone. Division 19.8 of Chapter 14 of the City of Portland Code of Ordinances outlines the requirements for the overlay zone. Section 14-330.13 addresses "dispersal requirements for facilities with entertainment license in downtown entertainment overlay zone". It states:

*A business with an entertainment license as required or authorized by section 4-51(a) of this code located within the downtown entertainment overlay zone may not be located within 100 feet of another business with an entertainment license, as measured along or across public ways from the main entrance or entrances of each.
(Ord. No. 164-06/07, 4-4-07)*

It is my understanding that Oasis located at 42 Wharf Street has an entertainment license. The door to Oasis is located thirty-five feet from the door to Bonfire, LLC.

Section 14-330.14 of Division 19.8 does discuss an exemption to section 14-330.13. It states:

(a) A business with an entertainment license located in the downtown entertainment overlay zone on or before January 3, 2006 shall not have to comply with the requirements of this section and if located within 100 feet of another licensee shall be considered a non-conforming use controlled by chapter 14, division 23 of this code. Such a business is considered an entertainment business for the purpose of calculating dispersion requirements under section 14.330.13 for a new or relocating entertainment business in the downtown entertainment overlay zone.

*(b) A business with an entertainment license that does not allow amplified entertainment shall not have to comply with the dispersal requirement of section 14-330.13.
(Ord. No. 164-06/07, 4-4-07; Ord. No. 68-09/10, 10-19-09)*

It is my understanding that Bonfire occupied the space at 37 Wharf Street in 2014. Since this is after January 3, 2006, this exemption does not apply.

Under the Land Use Ordinance, Bonfire, LLC located at 37 Wharf Street cannot be granted an entertainment license because it is located within one hundred feet of an existing business that has an entertainment license and it does not meet the exemption of having had an entertainment license since January 3, 2006.

MEMORANDUM

TO: City of Portland City Council; Mayor Strimling
FROM: Anne Torregrossa, Associate Corporation Counsel
DATE: March 6, 2017
RE: Bonfire, LLC Entertainment License

Bonfire, LLC ("Bonfire") has applied for an entertainment license for Bonfire Country Bar, which is located at 37 Wharf Street, which is in the Entertainment Overlay Zone. Under the City Code, the City Council must hold a public hearing on each application for an entertainment license before granting it, and may choose to grant it, deny it, or grant it with conditions.

Entertainment licenses are required where a business with a liquor license also wishes to play live music, allow dancing, or have any other sort of entertainment. However, as set forth in the memoranda from the Business Licensing Specialist and Zoning Administrator (hereinafter "City staff"), entertainment licenses are limited in the Downtown Entertainment Overlay Zone. Within this zone, a business with an entertainment license may not be located within 100' of another business with an entertainment license. There are certain exemptions for businesses that held an entertainment license prior to January 3, 2006.

Bonfire is located within 100' of another business with an entertainment license in the Downtown Entertainment Overlay Zone, and has not previously held an entertainment license in order to qualify for the above described ordinance exemption. However, Bonfire does share common owners with another entity, 51 Wharf and Ultra Lounge, Inc. ("51 Wharf"); the Herget Group, LLC is the sole member of Bonfire, and 51 Wharf is also owned by the Herget Group, LLC.

51 Wharf also did hold an entertainment license for its bar at 51 Wharf Street, until the time it closed in the fall of 2016. As a result, Bonfire is now taking the position that it is allowed to move the entertainment license that 51 Wharf previously held to Bonfire's location at 37 Wharf Street because the two entities are, essentially, one.

Bonfire and 51 Wharf are not the same corporate entity, even if they share common owners. Under Maine law, and as a matter of public policy, corporations are separate legal entities.¹ In fact, Bonfire and 51 Wharf are not only separate entities, but are also separate types of entities -- one is a limited liability company ("LLC") and one is a corporation. Maine courts also will not allow an owner of a company to ignore the corporate entity, simply because an owner finds it is convenient to do so.² Therefore, Bonfire cannot take advantage of 51 Wharf's entertainment license, simply because they share common owners, and as City staff recommended that the entertainment license application be denied.

¹ *Johnson v. Exclusive Props. Unlimited*, 1998 ME 244, ¶ 5, 720 A.2d 568, 571 (citations omitted).

² What Bonfire now asks for is akin to "reverse piercing" of the corporate veil, which is where a shareholder seeks to disregard the corporate entity. However, reverse piercing has never been recognized in Maine. The only Law Court case to address it, specifically found that "the weight of authority is against reverse piercing." *Sturtevant v. Town of Winthrop*, 1999 ME 84, ¶ 21, 732 A.2d 264, 270. The case goes on to quote additional authority explaining that, "a person who has voluntarily adopted the corporate form to engage in business is precluded from asking courts to disregard that form merely because the person is disadvantaged by its use," and "a sole shareholder may not choose to ignore the corporate entity when it suits his or her convenience." *Id. citing* 1 FLETCHER CYCLOPEDIA OF THE LAW OF PRIVATE CORPORATIONS § 41.70, at 686, § 41.35, at 672-73.



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

TO: Mayor Ethan K. Strimling
Members of the Portland City Council

FROM: Jessica Hanscombe, Business License Specialist *John*

SUBJECT: Bonfire, LLC, 37 Wharf Street

DATE: March 3, 2017

Any business that has live Entertainment and serves liquor is required to have a license per Maine State Law, Title 28-A 1054. The City of Portland also has an Ordinance in Chapter 4 Sec 4-51 to regulate Music, Dancing and Special Entertainment. Bonfire, LLC, 37 Wharf Street applied for an Entertainment with Dance License on March 3, 2017 as required. Bonfire, is located in the B-3c, which is a restricted location for Entertainment licenses pursuant to Sec 4-57.5.

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)

Our division is recommending that Bonfire is not issued an Entertainment License, as they are located within one hundred feet of an existing business with an Entertainment License. This is in direct violation of our ordinance. I have enclosed a document with the distance listed.

Enclosure

CC: Michael Russell, Director of Permitting and Inspections
Anne Torregrossa, Associate Corporation Counsel

Measured Distance from Bonfire (37 Wharf Street) to Oasis (42 Wharf Street) on March 3, 2017. Distance from one door is 35 Feet. From the second door is 48 feet. This includes any steps up into the businesses.



Looking down Wharf Street. The two entrances to Bonfire on the right. Oasis on the left.



Bonfire's 2 entrances.



Oasis main entrance (Green Doors)

Portland, Maine



Yes. Life's good here.

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

March 3, 2017

Bonfire LLC
Tanner Herget
37 Wharf Street
Portland ME 04101

Re: Bonfire LLC dba Bonfire Country Bar. Application for Entertainment with Dancing and After Hours Entertainment at 37 Wharf Street.

Dear Tanner Herget,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Wednesday April 5, 2017 at 5:30 p.m.**, for the review of your application for Entertainment with Dancing and After Hours Entertainment at 37 Wharf 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 April 5th at 5:30 P.M., in City Council Chambers, 389 Congress St., Bonfire LLC dba Bonfire Country Bar. Application for Entertainment with Dancing and After Hours Entertainment at 37 Wharf Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 188-16/17
Tab 12 4-5-17*

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 RECEIVING AND REFERRING
CITY MANAGER'S FISCAL YEAR 2018 MUNICIPAL BUDGET
TO THE FINANCE COMMITTEE
AND SETTING DATE OF PUBLIC HEARING ON THE
FISCAL YEAR 2018 MUNICIPAL BUDGET AND
FISCAL YEAR 2018 APPROPRIATION RESOLVE**

ORDERED, that the City Manager's Fiscal Year 2018 Municipal Budget is hereby received and referred to the Finance Committee for review; and

BE IT FURTHER ORDERED, that the City Council will hold a Public Hearing on the Fiscal Year 2018 Municipal Budget and on the Fiscal Year 2018 Appropriation Resolve on Monday, May 1, 2017, in City Council Chambers, 389 Congress Street, at 5:30 p.m.

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)

Resolve 5-16-17
Tab 2 5-27-17
Tab 13 4-5-17

**RESOLUTION ADOPTING THE FY 2017-2018 HOUSING AND COMMUNITY
DEVELOPMENT ANNUAL ACTION PLAN INCLUDING APPROPRIATIONS FOR
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, HOME PROGRAM,
AND EMERGENCY SOLUTIONS GRANT PROGRAM AND CERTIFICATIONS
PERTAINING THERETO**

WHEREAS, the City of Portland, Maine has determined that there are pressing community and neighborhood needs for further federal assistance for housing and community development activities; and

WHEREAS, annual activities for the Consolidated Housing and Community Development Annual Action Plan have been recommended; and

WHEREAS, the City of Portland is anticipating an allocation from the United States Department of Housing and Urban Development (HUD) of \$1,791,448 of Community Development Block Grant ("CDBG") Entitlement Funds, for the program year 2017-2018 under Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) as amended from time to time; and the City has also received Community Development funds in the amount of \$125,000 in program income, along with \$110,000 in CDBG Housing Program Income, which is subject to the same regulations as the entitlement funds; a HOME Program Grant allocation of \$832,642, HOME Program income of \$200,000; Lead Safe Housing Program Income of \$170,866; local Housing Trust Funds of \$468,551; and \$161,232 of Emergency Shelter Grant funds; and

WHEREAS, the City Council of the City of Portland, Maine, desires to utilize these funds to support housing and community development activities;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Portland, Maine, hereby adopts the FY 2017-2018 Consolidated Housing and Community Development Annual Action Plan; and the sums of \$ 1,916,448 for the Community Development Block Grant Program, plus \$110,000 in CDBG Housing Program funding; \$1,032,642 for the HOME Program, \$170,866 in Lead Safe Housing Program Income, \$468,551 in local Housing Trust Funds and \$161,232 for the Emergency Shelter Grant Program are hereby appropriated for the purposes approved in the attached Plan and budgets as recommended by the City Manager; and

BE IT FURTHER RESOLVED, that the City of Portland, Maine, possesses legal authority to apply for the above referenced Community Development Block Grant Program Funds, HOME Program funds and Emergency Shelter Grant Program funds for the Program Year 2017-2018; and

BE IT FURTHER RESOLVED, that the City Manager or his designee be authorized to:

- 1) Apply for, accept and expend the Community Development Block Grant Entitlement Funds of \$1,791,448 and to expend \$125,000 in program income and \$110,000 in CDBG housing program income funds; \$832,642 of HOME Program funds and to expend \$200,000 of program income for a total of \$1,032,642; \$170,866 in Lead Safe Housing program income; \$468,551 in local Housing Trust Funds; and \$161,232 of Emergency Shelter Grant funds; and
- 2) Officially represent the City of Portland, Maine, in connection with the application, including the execution of contracts on behalf of the City; and
- 3) Act as the certifying officer for HUD environmental documents related to these grants and to execute said documents and any other related documents necessary or convenient to carry out the intent of said grants; and
- 4) Make adjustments to all proposed activities' budgets to be proportionately increased or decreased from the estimated funding levels to match actual allocation amounts; and

BE IT FURTHER RESOLVED, that the City of Portland, Maine certifies that it will comply with all of the attached assurances and provide such additional information as may be required by the U.S. Department of Housing and Urban Development; and

BE IT FURTHER RESOLVED, that the foregoing FY 2017-2018 Housing and Community Development Annual Action Plan funds are hereby appropriated pursuant to the Budget attached hereto.



Memorandum

Planning and Urban Development Department
Housing and Community Development Program

To: Mayor Strimling and the Portland City Council
Cc: Jeff Levine, Planning and Urban Development Director
Mary Davis, Housing and Community Development Director
From: Kristin Styles, HCD Program Manager
Date: March 27, 2017
Re: HUD's Consolidated Annual Action Plan 2017-2018

The Consolidated Annual Action Plan includes budgets for the Community Development Block Grant, HOME Program and the Emergency Solutions Grant. The total amount of funding the City of Portland is expected to allocate for the Consolidated Annual Action Plan is \$3,929,739, which includes allocations from the Department of Housing and Urban Development, program income, and our local housing trust fund, detailed below:

1. CDBG	\$ 1,791,448	Expected HUD Allocation 2017-2018
	\$ 22,000	CDBG Housing Program income for Administration
	\$ 125,000	CDBG Program Income
	\$ 70,000	CDBG Reprogrammed Funds
	\$ 2,008,448	Total Expected CDBG funds to Allocate for 2017-2018

CDBG Funds by Category

\$405,290	Administration and Planning
\$626,625	Social Services
\$976,533	Development Activity
\$2,008,448	

Attached you will find a CDBG recommendation letter from the City Manager (1a City Manager Recommendations), a recommendation letters from the CDBG Allocation Committee (1b CDBG AC Recommendations), a spreadsheet summarizing the recommendations of the Allocation Committee and City Manager (1c Summary Sheet), and a memo from the Office of Mayor Strimling (1d Mayor Strimling Memo). There were no appeals this year. Please note an additional \$100,000 in CDBG Program Income and \$70,000 in reprogrammed funds was able to be added to the City Manager's recommendations that were not included with the Allocation Committee recommendations.

2. HOME	\$ 832,642	Expected HUD Allocation 2017-2018
	\$ 200,000	HOME Program Income 2016-2017
	\$1,032,642	Total Expected HOME funds to Allocate for 2017-2018

Other Housing Funding

CDBG	\$ 88,000	CDBG Housing Program Income Funds
LEAD	\$ 170,866	Lead Safe Housing Program Income Funds
Trust	\$ 468,551	Local Housing Trust Funds
	\$ 727,417	

Attached you will find a Memo to the Mayor and City Council from Mary Davis explaining the Housing Budget (2 Housing Budget).

3. Emergency Solutions Grant:	
	\$161,232 Expected HUD Allocation 2017-2018

Attached you will find the proposed Emergency Solutions Grant budget (3 ESG Budget).

Portland, Maine



Yes. Life's good here.

Executive Department
Jon P. Jennings, City Manager

March 10, 2017

Members of the Portland City Council:

I am pleased to submit to you my recommendations for the Community Development Block Grant (CDBG) Program for the fiscal year beginning July 1, 2017 to June 30, 2018.

I would like to commend the CDBG Allocation Committee on their hard work and dedication to the City's Community Development Program. I have reviewed the Allocation Committee's recommendations and I acknowledge and commend the difficult scoring decisions that were made by the Committee. The recommendation letter from the Allocation Committee is attached. *[Committee Letter A1]*

The Allocation Committee is required to recommend full funding for applications according to score, which often results in the lowest funded applicant receiving partial funding. Set-asides are the exception to this scoring process. In the fall of 2015, the City Council approved a 60% Development Activities set-aside for Public Infrastructure, this set-aside along with previously approved \$150,000 set-aside for Community Policing, remain in place this year. You will notice that my recommendations closely align with the recommendations of the Allocation Committee. Given their limitations on partial funding, I carefully considered all the recommendations outlined in the Allocation Committee's recommendation letter.

Before releasing my recommendations to the full council and the public, I met with City staff and Mayor Strimling to discuss these recommendations. After reviewing my recommendations, Mayor Strimling had some thoughts and suggestions which he shared in a memo. In the following sections, I will discuss my recommendations and explain where my recommendations differ from the Mayor's suggestions. I would like to thank the Mayor for his input in this process. A summary of my recommendations are reflected on the attached spreadsheet. *[City Manager Recommendations A2]*.

1. *Social Services.* This year had a particularly strong set of social service applicants. I, as did the Allocation Committee, struggled greatly with this funding category. To put it simply, there are more deserving organizations than there are funds available. Before making my recommendations, I personally read each application, I considered the scores given to each applicant by the Allocation Committee, and I considered the role each of these programs will have on the health of the overall city.

The limited funding available in the social service category forced me to make some very difficult decisions. As you know, Portland is facing an opioid crisis, which takes a costly toll on our social service providers and emergency responders. The Amistad Peer Coaching Initiative

was a CDBG funded pilot program in 2014 and has shown tremendous success at collaborating with our shelters and hospitals to serve the members of our community who have severe and persistent mental illness along with substance use issues and homelessness. From a social service and a budgetary standpoint, cutting funds to a program like this is just not a decision I am willing to make. Therefore, I am recommending a 10% cut from all non-set-aside social service activities to reallocate \$51,946 to Amistad's Peer Coaching Initiative; it is my intention that a 10% cut is the fairest way to partially fund this program. I am also hopeful that Amistad will be able to raise the funds necessary to continue to run their Saturday services which falls just short of receiving CDBG funds this year.

I was disappointed to see that the Oxford Street Shelter –Housing Assistance for Long Term Stayers program did not score higher. This program plays a crucial role in providing the necessary follow up services to help our long term shelter stayers be successful once they move into a permanent home. I plan to work with the Health and Human Services Department in hopes of funding this program through other sources.

In Mayor Strimling's memo, he recommends funding Community Policing out of the City's operating budget instead of CDBG in future years. I can appreciate that the Mayor is a proponent of shifting funds used by the City back into the community's non-profit organizations, but I do not believe that should be the sole purpose of the CDBG program.

Creating a set-aside for Community Policing was a decision made by the City Council out of necessity to provide stable funding for this program. CDBG funds are intended to provide cities with the necessary resources to address their unique community needs. It is our job as the City to make sure all of those community needs are being addressed. All across the country, programs like Community Policing would go unfunded if not for CDBG. Last year, \$8.9 million dollars of CDBG funds were used across the U.S. for 'Crime Awareness and Prevention Programs' similar to our Community Policing program. By removing Community Policing from the City's CDBG applications, we run the risk of not being able to fully fund this essential program.

2. *Development Activities.* This year the CDBG Program has an additional \$100,000 in program income and \$70,000 in contingency funds available to 2017-2018 projects. Due to HUD imposed funding caps for social services and administration, these funds may only be applied to development activities. My recommendations align with the recommendations outlined in the Allocation Committee's letter with only one variation. This variation is the East Bayside Soccer Field Fencing and Futsal Court. The futsal court portion of this project has support from the East Bayside Neighborhood and the Portland Housing Authority. The futsal court is ADA accessible and would allow residents to play futsal or soccer in weather not suitable for grass. This project has the potential to have a very large community impact and therefore I would like to use the \$70,000 in contingency funds plus \$1,415 from program income to fund the futsal court portion of this project at \$71,415. I met with staff from the Recreation Division and they were able to revise the budget to \$115,000. They are confident that they can identify other resources for the remaining amount needed.

The 60% public infrastructure set-aside required the Allocation Committee to recommend \$201,332 to the Marginal Way Streetscape project. Their score for this project showed that they did not feel this was a strong application. While I support the work that needs to be done along Marginal Way, other applications showed a stronger community need. Therefore, I am following the Allocation Committee's recommendations and putting that \$201,332 into the next highest scoring projects; which include full funding for Youth and Family Outreach, and Catholic

Charities, and partial funding for Catherine Morrill Day Nursery. I am also using the majority of the \$100,000 in program income funds to increase the Catherine Morrill allocation to \$200,000; which is the minimum amount needed to complete the project. I would also like to keep with the Allocation Committee's recommendation that the remaining \$12,800 in program income go toward the Bayside Neighborhood Community Garden. It is a comparatively small request with a potentially large community impact.

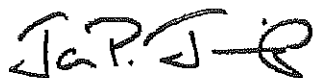
In the Mayor's memo, he suggests moving the \$210,000 allocated to Oxford St/Bayside Sidewalk Improvements to partially fund the Iris Network and LearningWorks. The allocation committee scored Oxford Street higher than both of these projects. He suggests funding the Oxford Street project out of the City's CIP (Capital Improvements Plan) budget. As you know, Portland, like many other cities has a very tight operating budget and limited CIP funds; this is where CDBG comes into play. Last year, 34.9% or \$1.14 billion of CDBG funds across the country were used for public improvements. We are far from the only city using our CDBG funds for public improvements. CDBG is a great tool to make sure our low to moderate income neighborhoods receive the much needed public infrastructure improvements that they deserve.

3. *Administration and Planning.* The Planning and Urban Development Department is required to submit a non-competitive application to the Allocation Committee. The Planning and Urban Development Department submitted a request of \$444,571 with the understanding that no more than the HUD imposed administration cap of 20% could be recommended for funding. These funds are used to both administer the program as well as fund long range planning work for the department. The staff have adjusted their budget to meet the FY17-18 cap of \$405,290; therefore I am recommending full funding to administer the program.

As of the date of this memo, HUD has not announced FY 17/18 allocation amounts for the CDBG, HOME and ESG Programs. The CDBG Program recommendations and the HOME and ESG Program budgets were created assuming that FY 17/18 allocations would remain at the same level as FY 16/17 allocations. We do not know when the FY 17/18 allocations will be announced. It is my recommendation that activities under the CDBG, HOME and ESG Programs be proportionately increased or decreased from the estimated funding levels to match the actual allocation amounts.

I thank you for the opportunity to share my recommendations. As I have stated earlier, all of the programs requesting funds are worthy, unfortunately there is not enough funds to support all of their efforts. I hope you accept my recommendations and join me in commending all of the good work being done in our city.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jon P. Jennings" with a stylized flourish at the end.

Jon P. Jennings
City Manager



Planning & Urban Development Department

February 3, 2017

Jon P. Jennings, City Manager
 City Hall
 389 Congress Street
 Portland, Maine 04101

Dear Mr. Jennings,

We are pleased to submit the CDBG Annual Allocation Committee's recommended budget allocations for Year 43 of the Community Development Block Grant (CDBG).

*On a national level, HUD has not released the 2017-2018 allocations, but we are hopeful that the funding will remain level with the previous year's funding.

CDBG ALLOCATION	*Year 43 FY 17-18
Planning and Administration Cap	\$405,290
Social Service Cap	\$626,625
Development Activities	\$806,533
TOTAL	\$1,838,448

As in past years, the need for CDBG funding continues to exceed the amount of funds available. The total funds requested are \$3,897,332 resulting in a gap of \$2,058,884 between CDBG funds available and project requests. As in prior years, we were faced with difficult choices in this year's recommendation process and struggled with which applications to recommend for funding. The Committee stayed focused on the scoring criteria and the information provided in each application in order to be fair to all applicants.

The following sections of this letter outline our funding recommendations. The first section explains the history and progress Portland's CDBG Program has undergone over the past several years. The second section provides a description of this year's process, how the applications were reviewed and scored, and finally our recommendations for funding.

HISTORY AND CURRENT STATUS OF THE CDBG PROGRAM

Over the last nine years, the CDBG program has undergone significant review. This review resulted in many changes to the allocation process. In 2008 the City Council established the CDBG Allocation Committee and a CDBG Priority Task Force. The Priority Task Force was asked to create a Ten Point Plan for improving the CDBG process. Over the next few years, a CDBG Working Group helped to implement the goals outlined in the Ten Point Plan. Additionally, the CDBG Working Group, CDBG

Allocation Committee, and City Staff continued to reviewed and update the CDBG process in order to continue the evolution of the CDBG Program. Some ideas, such as the creation of bonus points, grants for small businesses, set asides for basic needs, economic development, and childcare were introduced and then later removed. Other ideas, such as aligning with the City's purchasing ordinance, minimum and maximum grant requests for City projects as well as non-profits, and set-asides for community policing and public infrastructure have been effective and therefore remain in place. Though the Priority Task Force and CDBG Working Group have completed their tasks and no longer meet, the CDBG Allocation Committee, along with City Staff are continually looking for ways to improve the reach and efficiency of the CDBG program. A full list of program changes along dates and council order references are available on the City's CDBG website.

THE PROCESS AND REVIEW

CDBG Applications were made available on October 10, 2016. The mandatory applicant's meeting was held on October 11, 2016 at 5:30pm in the Merrill Auditorium Rehearsal Hall. All applications were due on Thursday, November 16, 2016 by 2:00pm.

We received seventeen (17) Development Activities applications and twenty (20) Social Service Applications, along with an Administration and Planning application, for a total of \$3,897,332 in funding requests through our annual request process. There was a total of \$2,278,961 in Development Activity requests with \$806,533 available, and \$1,173,800 in Social Service requests with \$626,625 available.

The Allocation Committee Review and Funding Methods

Our Committee first met for this funding year on December 1, 2016. The Committee met seven (7) times to discuss Administration and Planning, Development Activities, and Social Service applications.

The Committee read each application individually prior to the meeting. At the meeting, the Committee would discuss each proposal. If questions arose, staff documented the questions and forwarded them to the applicant to answer. The answers were then shared with the Committee.

Applications were organized by score from the highest to the lowest within each category. The City Council has directed the Committee to recommend full funding based on request for all applications; therefore each applicant was awarded full funding, until the funding was exhausted.

RECOMMENDATIONS

Administration and Planning Funding

The Committee reviews information regarding Administration and Planning, but does not score the application competitively. Administration funding is essential for operating the CDBG program and reporting to HUD. The Planning & Urban Development Department submitted a budget of \$444,571 with an understanding that the Committee can only recommend up to 20% of the entire CDBG budget be used for Administration and Planning. This year, we are anticipating the 20% cap to be \$405,290.

Development Activities Funding

The Committee received seventeen (17) Development Activities applications including construction and economic development, requesting a total of \$2,278,961 and only \$806,533 is available. The City Council's *85% Rule for Development Activities* is still in place, which specifies that a maximum of 85% of the Development Activity funding can go to fund City applicants, the remaining 15% must go to outside requests. In addition to the *85% rule* a public infrastructure set aside was introduced last year and remains in effect. The Public Infrastructure set aside is up to 60% of the City's maximum 85% request. The Committee's recommendations fall within these guidelines. The following table outlines the highest scoring applications, their requests and the recommended allocation from the Committee.

Organization	Program	Request	Points	Comm. Recomm.
Coastal Enterprises Inc.	Portland Microenterprises Assistance Program	\$45,000	89.25	\$45,000
City of Portland - Economic Development Department	Business Assistance Program for Job Creation	\$111,000	88.13	\$111,000
YMCA of Southern Maine	Boiler Replacement for Men's Dormitory	\$74,991	87.25	\$74,991
Youth and Family Outreach	Life and Safety Upgrades	\$204,182	82.75	\$164,210
Public Infrastructure Set-Aside				
City of Portland Public Works (Public Infrastructure Set-aside)	Oxford Street/ Bayside Sidewalk Improvements	\$210,000	81.00	\$210,000
City of Portland Public Works (Public Infrastructure Set-aside)	Marginal Way Master Plan Streetscape Phase 2	\$330,000	74.00	\$201,332

Though the CDBG Allocation Committee strongly supports the use of CDBG funds for public infrastructure improvements, the Committee feels that all development activity applications should be scored equally and funded according to their score, regardless of the public infrastructure set-aside. For example, the Oxford Street Sidewalk Improvements application was able to demonstrate a strong community need and scored high enough to be funded regardless of the set-aside, on the other hand, the Marginal Way Streetscape application did not score well and would not be funded without the set-aside.

The CDBG Allocation Committee would like to recommend that all development activity funding, including any additional funds from program income and the contingency fund be allocated to the applications receiving the highest scores. Given that most development activity applications request large dollar amounts, the Committee would like to recommend any remaining funds be given to the Bayside Neighborhood Association's Community Garden project; the request of this project is small, yet it creates a sustainable community impact.

Social Service Funding

The Committee received twenty (20) Social Service applications, including a \$150,000 request from Community Policing which will be funded through a set-aside. A total of \$1,173,800 in Social Service requests were received with only \$626,625 available. The City Council's *45% Rule for Social Services* is still in place, which specifies that a maximum of 45% of the Social Service funding can go to fund City applicants, the remaining 65% must go to outside requests. This rule did not affect the Committee's recommendations this year. The following table outlines the highest scoring applications, their requests and the recommend allocation from the Committee.

Organization	Program	Request	Points	Comm. Recomm
Police Department	Community Policing	\$150,000	Set-aside	\$150,000
Wayside Food Programs	Direct Service Programs	\$30,000	94.88	\$30,000
Preble Street	Florence House Women's Shelter	\$30,000	94.13	\$30,000
Preble Street	Food Programs	\$50,000	93.63	\$50,000
Preble Street	Resource Center	\$45,000	93.25	\$45,000
Preble Street	Joe Kreisler Teen Shelter	\$30,000	91.75	\$30,000
Catherine Morrill Day Nursery	Portland CDBG Childcare Voucher Collaborative	\$88,711	90.25	\$88,711
City of Portland Social Services Department	Family Shelter- After Hours Program	\$49,224	90.25	\$49,224
Milestone Foundation	HOME Team and Medical Outreach	\$130,000	90.25	\$130,000
City of Portland Social Services Department	Portland Opportunity Crew	\$18,931	86.38	\$18,931
Amistad Inc.	Peer Coaching Initiative	\$60,000	86.25	\$4,759

The Committee feels that every application received this year is worthy of CDBG funding, but given the limited funds available, the committee dedicated a lot of time and thought to discussing and scoring of each application. In reviewing this year's scores, as well as the scores from last year, the Committee noticed a trend that the priority categories seem to lean toward services such as food and shelter which service a population that is chronically in need, rather than other types of services such as pilot programs and services for New Americans, or the striving population of the City. Given that there were four applications serving New Americans and none scored high enough to receive funding, the Committee would like to recommend that if funding is reallocated to include one of these programs, that LearningWorks receive that funding. The Committee plans to explore ways to adjust the scoring convention in future years to address this trend.

Funding Caps

In past years, the funding caps were set at \$150,000 for social service applicants and \$250,000 for development activities. This year, the funding caps remain the same, with the exception of public infrastructure projects.

SUMMARY

All projects that requested funding would be beneficial to our City, however due to limited dollars, not all were recommended for funding through this program. This is a competitive process; each applicant competed against all other applicants. The projects that are not being recommended for funding scored lower in each of the evaluation categories, and therefore in total points. A spread sheet is attached which provides all scores for each application.

As always, the Committee will continue to look for ways to improve the efficiency, effectiveness and transparency of the program. We welcome comments, suggestions, and feedback both from the Council and the public.

We thank you for your commitment to this program and your patience through its transitions. We hope you are satisfied with the results.

We are especially grateful for our appointments to the Annual Allocation Committee, providing us with the opportunity to participate in this program, and offer our recommendations for your consideration. We look forward to seeing you on February 23rd and hearing your response.

Sincerely,

The CDBG Annual Allocation Committee for Program Year 2017-2018

Annette Rogers, Chair
Matthew Purington, Vice Chair
Maxwell Chikuta
Reverend Kenneth Lewis
Lucinda Pyne
D. Kelley Young
Amy Regan
Shima Kabirigi

Attachments: CDBG Allocation Committee Funding Recommendations 2017-2018 (spreadsheet)

CDBG Recommendations 2017-2018

Administration and Planning

Type	Priority	Organization	Program/ Project	Request	Priority Impact/ Goal 33 pts	Guiding Principles 30 pts	Capacity to Deliver 25 pts	Partner/ Collaborator 12 pts	Total	Committee Recommendation	City Manager Recommendation	Council Allocation
1	AP	All	Planning & Urban Dev Dept.	CDBG Admin and Planning	\$444,571					\$405,290	\$405,290	
				<i>Total Admin & Planning Available</i>	\$405,290				<i>Subtotal:</i>	\$405,290	\$405,290	\$0

Development, Economic Development and Construction

Type	Priority	Organization	Program/ Project	Request	33 pts	30 pts	25 pts	12 pts					
4	SET	NI	COP Public Works	Oxford St/ Bayside Sidewalk Improvements	\$210,000	29.75	25.88	18.13	7.25	81.00	\$210,000	\$210,000	\$0
3	SET	NI	COP Public Works	Marginal Way Master Plan Streetscape Phase 2	\$330,000	27.50	21.75	20.50	4.25	74.00	\$201,332		\$0
2	SET	NI	COP Public Works	High Street Sidewalk Improvements	\$250,000	23.00	20.13	17.63	3.38	64.13			\$0
18	ED	EO	Coastal Enterprises Inc. (CEI)	Portland Microenterprises Assistance Program	\$45,000	30.13	26.75	22.00	10.38	89.25	\$45,000	\$45,000	\$0
17	ED	EO	COP Economic Dev. Dept.	Business Assistance Program for Job Creation	\$111,000	29.25	26.25	22.25	10.38	88.13	\$111,000	\$111,000	\$0
15	CON	NI	YMCA of Southern Maine	Boiler Replacement for the Men's Dormitory	\$74,991	26.50	27.13	22.88	10.75	87.25	\$74,991	\$74,991	\$0
16	CON	NI	Youth and Family Outreach	Life and Safety Upgrades	\$204,182	26.25	26.00	19.63	10.88	82.75	\$164,210	\$204,182	\$0
7	CON	NI	Catholic Charities	Energy Efficiency Upgrades - Support and Recovery Services	\$47,145	24.71	24.29	21.29	10.14	80.43		\$47,145	\$0
6	CON	EO	Catherine Morrill Day Nursery	Toddler Classroom Expansion Project	\$235,156	25.63	25.00	19.00	10.38	80.00		\$200,000	\$0
14	CON	NI	Preble Street	Resource Center Rehabilitation Project	\$125,103	24.25	26.13	18.63	10.50	79.50			\$0
8	CON	NI	The Iris Network	Dormitory Accessibility for the Blind	\$157,500	23.38	21.63	22.00	10.88	77.88			\$0
5	CON	NI	Bayside Neighborhood Assoc.	Bayside: A Livable Neighborhood Community Garden	\$12,800	25.25	23.75	20.00	8.00	77.00		\$12,800	\$0
9	CON	EO	Learning Works	Renovation of Historic 181 Bracket Phase 2	\$73,759	23.63	23.00	19.38	10.50	76.50			\$0
12	CON	NI	COP Parks, Rec, and Facilities	East Bayside Soccer Field Fencing and Futsal Court	\$152,700	26.75	25.13	17.38	5.13	74.38		\$71,415	\$0
13	CON	NI	Port Resources	70/72 Emery Street Bathrooms and Roof Renovations	\$79,350	23.13	21.88	18.13	7.38	70.50			\$0
10	CON	NI	Mayo Street Arts	ADA Accessibility for Mayo Street Arts	\$113,075	21.63	22.75	18.13	3.63	66.13			\$0
11	CON	NI	COP Parks, Rec, and Facilities	Cliff Island School Playground	\$57,200	19.50	15.75	16.63	6.50	58.38			\$0
Total Development, Econ Dev. & Construction Requests				\$2,278,961									
Total HUD Allocated Development Funds Available				\$806,533									
Total Funds Available to City Manager and Council (HUD Funds + Program Income + Contingency)				\$976,533									
										Subtotal:	\$806,533		
										Subtotal:	\$976,533	\$0	

Social Service

Social Service

					Priority Impact/ Goal	Guiding Principles	Capacity to Deliver	Partner/ Collaborat ion	Total	Committee Recommendation	City Manager Recommendation	Council Allocation	
Type	Priority	Organization	Program/ Project	Request	33pts	30 pts	25 pts	12pts					
19	SET	NI	Police Department	Community Policing	\$150,000						\$150,000	\$150,000	\$0
38	SS	ANGHP	Wayside Foods Program	Direct Services Programs	\$30,000	31.75	28.88	23.25	11.00	94.88	\$30,000	\$27,000	\$0
34	SS	ANGHP	Preble Street	Florence House Women's Shelter	\$30,000	31.75	27.88	23.38	11.13	94.13	\$30,000	\$27,000	\$0
35	SS	ANGHP	Preble Street	Food Programs	\$50,000	31.50	28.25	23.25	10.63	93.63	\$50,000	\$45,000	\$0
37	SS	ANGHP	Preble Street	Resource Center	\$45,000	30.75	28.50	23.25	10.75	93.25	\$45,000	\$40,500	\$0
36	SS	ANGHP	Preble Street	Joe Kreisler Teen Shelter	\$30,000	31.25	26.75	22.88	10.88	91.75	\$30,000	\$27,000	\$0
24	SS	EO	Catherine Morrill Day Nursery	Portland CDBG Childcare Voucher Collaborative	\$88,711	30.75	26.63	22.13	10.75	90.25	\$88,711	\$79,840	\$0
27	SS	ANGHP	COP- Social Services Dept.	Family Shelter- After Hours Program	\$49,224	30.50	27.13	21.38	11.25	90.25	\$49,224	\$44,302	\$0
31	SS	ANGHP	Milestone	HOME Team & Medical Outreach	\$130,000	30.75	26.75	21.88	10.88	90.25	\$130,000	\$117,000	\$0
29	SS	EO	COP- Social Services Dept.	Portland Opportunity Crew	\$18,931	32.63	27.50	20.75	5.50	86.38	\$18,931	\$17,038	\$0
21	SS	ANGHP	Amistad Inc.	Peer Coaching Initiative	\$60,000	29.13	24.38	22.00	10.75	86.25	\$4,759	\$51,946	\$0
22	SS	ANGHP	Amistad Inc.	Peer Support and Recovery Center	\$35,000	28.88	25.50	22.63	8.00	85.00			\$0
30	SS	EO	LearningWorks	English Language Program	\$60,000	27.88	25.38	21.13	10.50	84.88			\$0
28	SS	ANGHP	COP- Social Services Dept.	Oxford Shelter- Housing Assistance- Long Term Stayers	\$51,541	26.00	25.50	20.63	11.25	83.38			\$0
32	SS	ANGHP	The Opportunity Alliance	Homeless Prevention Program (HPP)	\$54,000	29.88	24.88	20.38	8.25	83.38			\$0
33	SS	EO	Portland Adult Education	New American Skilled Professional Enhanced Services	\$75,379	27.88	23.50	20.13	11.25	82.75			\$0
25	SS	NI	Catholic Charities	Immigrant Legal Services	\$52,151	24.86	23.14	20.71	7.86	76.57			\$0
26	SS	NI	Catholic Charities	Independent Living Support Services	\$78,463	24.14	23.86	18.29	7.71	74.00			\$0
23	SS	NI	Bayside Neighborhood Assoc.	Programming to accompany Community Garden	\$10,400	21.38	21.75	19.75	8.00	70.88			\$0
20	SS	EO	Alpha One	Indep. Living for Portland New Americans w/ Disabilities	\$75,000	21.13	21.25	17.88	4.25	64.50			\$0

Total Social Services	\$1,173,800			\$0
Total Social Services Available	\$626,625	Subtotal:	\$626,625	\$626,625
ALL CDBG REQUESTS TOTAL	\$3,897,332	Allocation Total:	\$1,838,448	\$2,008,448
				\$0

Portland, Maine



Yes. Life's good here.

Office of the Mayor, Ethan K. Strimling

MEMORANDUM

To: Jon Jennings, City Manager
cc: Anita LaChance, Deputy City Manager
From: Ethan K. Strimling, Mayor
Date: March 2, 2017
Re: FY'18 CDBG Feedback

Once again, thank you for having staff meet with Jason and me to explain the FY'18 CDBG budget, the committee recommendations and your suggested changes. The meeting was very informative.

In regard to the particulars of your recommendations, overall I support the changes you discussed with me, especially in regard to "Social Services." Trying to more fully capture the Amistad Peer Coaching Initiative makes sense and your recommendation to reduce the allocation by 10% to other recipients strikes an appropriate balance. As we discussed, I share your concern that three programs which received funding last year are not going to receive any funding this year, so if there is a way to fulfill their requests, even partially, I would certainly support it.

In the future, I do believe we should explore transferring Community Policing to our operating budget. The importance and efficacy of this program cannot be overstated and I don't feel comfortable leaving it to the whim of a federal program that could be eliminated or redesigned (especially under the current administration and Congress). Additionally, having it in our annual budget will free up CDBG funds for many other worthy programs (such as the three that are being eliminated this year) and will also give our police chief more control in terms of how to operate the program.

In regard to "Development, Economic Development and Construction," I also support your recommendation to reallocate the Phase 2 Marginal Way allocation and to use the contingency and program income to fully fund the proposals from Catholic Charities and the Bayside Neighborhood Association, and partially fund Catherine Morrill and the Futsal Court in East Bayside. I have long been a proponent of shifting funds absorbed by the city back out into the community (as I suggest above with Community Policing) and the programs you suggest are more than worthy.

That said, it is a bit awkward to not honor the committee process and skip three agencies that the committee scored better than two of the above and leave them with no funding. To that end, the one change I would recommend is to find a way to pay for the Oxford Street/Bayside Sidewalk Improvements in this year's CIP (or whatever other path you suggest) and reallocate those funds down the list of those that scored highest.

My understanding from Preble Street (I received an email from them confirming this) is that they are no longer interested in receiving the possible funds for their building as they are actively looking to relocate and the restrictions placed on receiving CDBG funds would be too prohibitive. That would allow for \$157K to be allocated to The Iris Network for their accessibility needs and \$53K to partially fund LearningWorks for Phase 2 of the renovation of their facility, the next two on the list. It would also mean that 10 of the 14 applications would be funded (with one opting out).

One issue I want to address is the Iris Network and their need. One reason they didn't score higher is because it was said that they don't serve a lot of Portland residents in the dorm. While many of the clients who stay in the dorm are from outside the city when they enter the program, (as also true for the YMCA and Preble Street) a number choose to stay here as they seek employment. Having their building fully accessible will ensure that their services are open to more people and that Portland becomes a more welcoming place. This is certainly a goal which I believe you, I, and many on the Council all share.

One note for next year's CDBG process, as I mentioned during the process for CIP and as I recommend for the FY'18 budget, is that I would request to be included earlier in the development of your policy choices. This would better meet the intent and letter of the charter's language requiring you to "consult with and incorporate" my guidance as you prepare budgets for Council approval.

Once you have had an opportunity to review my guidance (please let me know if you have any questions), I look forward to reviewing your final recommendations so that I can compile my public comments to be given upon your presentation to the Council.

Once again, nice work. Your initial recommendations are strong and clearly well thought out. Thank you again.

Portland, Maine



Yes. Life's good here.

Mary Davis
Division Director, Housing & Community Development Division

TO: City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: March 20, 2017

SUBJECT: 2017-2018 Housing Program Budget

SUMMARY OF ISSUE – Council approval of the 2017-2018 Housing Program Budget is required. At their February 8, 2017 meeting, the Housing Committee voted 3-0 to forward this item to the City Council for passage.

INTENDED RESULT - HOME Program: The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received over \$18.9 million dollars in HOME funding. In 2009 the City became the lead entity in the Cumberland County HOME Consortium (CCHC). The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the “Lead Entity” and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County’s Municipal Oversight Committee controls the allocation of the County’s portion of the HOME funds.

When the Consortium was formed in 2009, it included a “hold harmless” clause to ensure that the City, as an existing HOME grantee, would continue to receive funding equal to its allocation prior to the formation of the consortium. The “hold harmless” formula was based on a comparison ratio to the HOME funding for the Lewiston/Auburn (L/A) Consortium. The formula identified Portland’s “hold harmless” amount at 118% of the HOME allocation for the L/A Consortium. The Cumberland County HOME Agreement did allow for adjustments to be made if the current level of funding to the L/A HOME Consortium varied from historic levels. Over the years the L/A allocation has decreased which has resulted in the Portland “hold harmless” amount to decrease. As a result, by agreement with the other members of the CCHC, the annual allocation is divided with 57% of allocation, after the administrative set-aside, to the City and 43% of the funding to the County.



Mary Davis
Division Director, Housing & Community Development Division

As a point of reference, if the City were a stand-alone grantee, the estimated HOME allocation for Portland (using a HUD HOME Allocation estimated calculation) would be approximately \$429,000. Of that amount 10% would be set aside for administrative costs (\$42,900) leaving \$386,100 for program funding. Under the current consortium agreement, the city receives the administrative set-aside along with approximately \$427,000 in program funds. Participation in the HOME consortium benefits Portland as well as the county as a whole.

HUD has not announced the allocation amount for FY 2017-2018. As we have done in the past, we are estimating the HUD HOME allocation at the same level as the previous year which is \$832,642. \$322,233 of this amount is reserved for County projects. The budget proposal was developed after a historical review of HOME funding allocations, previous year's budget allocations, program expenditures and program income (loan repayments) received. Currently, the City's HOME Program is divided into four funding categories:

1. Administration
2. Housing Rehabilitation
3. Tenant Based Rental Assistance (TBRA)
4. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

CDBG/Housing Development Fund: Housing and Community Development Division did not request funding in the FY 17/18 CDBG process. Staff and housing program costs normally funded through CDBG, are being funded through the Housing Development Fund (HDF). HDF is the program income account funded by CDBG housing loan repayments. Currently, the HDF fund is divided into two funding categories, administration and housing rehabilitation.

Lead Safe Housing Program Income: These funds result from repayment of loans given through prior Lead Hazard Control Grants from the U.S. Department of Housing and Urban Development and must be used to create additional lead-safe units.

Housing Trust Fund: The current balance in the Housing Trust Fund is primarily a result of fees generated by the Housing Replacement Ordinance. The balance of the Housing Trust Fund is \$468,551. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in this budget.

Portland, Maine



Yes. Life's good here.

Mary Davis
Division Director, Housing & Community Development Division

FINANCIAL IMPACT – As of the date of this memo, the U.S. Department of Housing and Urban Development has not announced FY 17/18 allocation amounts for the CDBG and HOME Programs. This budget was created assuming that FY 17/18 allocations would remain at the same level as FY 16/17 allocations along with HDF Program Income Account, Lead Safe Housing Program Income Account and the Housing Trust Fund.

STAFF ANALYSIS AND RECOMMENDATION – The City Manager has recommended that the proposed Housing Program Budget be proportionately increased or decreased from the estimated funding levels to match actual HUD allocation amounts. This budget is being forwarded to the full City Council for two Public Hearings, as part of the overall HCD budget. The final budget allocations and Annual Action Plan are submitted to HUD on May 15 for the fiscal year beginning July 1, 2017.

At this time staff is requesting City Council approval of the FY 17/18 Housing Program Budget as outlined in the attachment. If the HUD allocation amount is different from the estimate used in this budget, program budgets will be adjusted proportionately.

FY 17/18 Housing Program Budget – Attached

Prepared by: Mary P. Davis, HCD Division Director

March 20, 2017

2017-2018 HOUSING PROGRAM BUDGET HUD Final Allocation Date:

Draft 02.03.17

Total HUD HOME Entitlement Allocation 832,642
 Portland Portion 427,145
 County Portion 322,233

Recommended by HC (3-0) February 8, 2017
 Approved by Council (date)

REVENUES- Housing Programs

2017-18 HOME Consortium Admin (10% of allocation)
 2017-18 HOME Consortium Programming
 2016-17 HOME Program Income
 Re-Allocated HOME Funds (funding from previous years)
 2017-18 CDBG Administration
 2017-18 CDBG Programming
 2017-2018 Housing Trust Fund
 2016-17 HDF Program Income
 2016-17 Lead Safe Housing Program Income
REVENUE TOTALS (Portland)

HOME	CDBG	HDF**	LEAD Safe Housing Program Income***	Housing Trust Fund***	TOTAL BUDGET
83,264					83,264
427,145					427,145
200,000					200,000
					0
					0
					0
				468,551	468,551
		362,113			362,113
			170,866		170,866
710,409	0	362,113	170,866	468,551	1,711,939

EXPENDITURES SUMMARY- Housing Programs

Administration
 HOME Admin Allocation (2017-18)
 HDF/CDBG Housing Staff (2017-18)
Programming
 HOME Consortium (2017-18)
 HOME Program Income (2016-17)
 Re-Allocated HOME Funds
 CDBG Programming (2017-18)
 Housing Trust Fund (2017-18)
 HDF Program Income (2016-17)
 LEAD SAFE HOUSING Program Income (2016-17)
EXPENDITURES SUMMARY TOTALS (Portland)

HOME	CDBG	HDF**	LEAD Safe Housing Program Income***	Housing Trust Fund***	TOTAL BUDGET
83,264					133,612
		50,348			
					1,578,327
427,145					
200,000					
				468,551	
		311,765			
			170,866		
710,409	0	362,113	170,866	468,551	1,711,939

2017-18 HOUSING Budget by Activity (Portland)

Administration PL1801/QS1801
 Housing Rehabilitation (30 Units @ \$15,000/unit) QM1800/QB1800
 Homeownership Assistance QJ1800
 Tenant-Based Rental Assistance QT1801
 Affordable Housing Development QK1800/IN1114
 CHDO QL1800
 Lead Safe Housing PLL036

HOME	CDBG	HDF**	LEAD Safe Housing Program Income***	Housing Trust Fund***	TOTAL BUDGET
103,264		50,348			153,612
150,000		311,765			461,765
0					0
130,000					130,000
255,954				468,551	724,505
71,191					71,191
0			170,866		170,866
710,409	0	362,113	170,866	468,551	1,711,939

** Balance of Previously Budgeted Amounts + New Revenue

*** Balance of Previously Budgeted Amount

2017-18 HOME Consortium COUNTY - approved by MOC on (date)

County HOME Program budget provided for reference only;

Allocation of County funds is done by the County's Municipal Oversight Committee

REVENUES- Housing Programs

HOME Consortium
2017-18 HOME Consortium Non-Portland Programming
2016-17 HOME County Program Income
322,233

2017-18 HOUSING Budget by Activity

HOME County
Housing Rehabilitation (15 projects @ \$15,000/project) QP1800
Home Ownership QQ1800
Affordable Housing Development QD1800
CHDO QR1800
322,233

Emergency Solutions Grant 2013-2018

Program	ESG Budgeted Funding Amount by Fiscal Year					
	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Operations: Homeless Health	\$37,582	\$28,993	\$35,391	\$0	\$0	\$0
Essential Services: Family Shelter	\$28,327	\$21,853	\$26,675	\$28,327	\$28,327	\$28,327
Homeless Prevention: Family Shelter	\$28,326	\$21,853	\$26,675	\$52,369	\$52,369	\$52,369
Homeless Prevention: Oxford Street	\$12,242	\$8,972	\$10,952	\$13,800	\$13,244	\$13,244
Rapid Rehousing: Oxford Street	\$48,966	\$35,888	\$43,807	\$55,200	\$55,200	\$55,200
Administration and HMIS	\$12,603	\$5,600	\$6,838	\$12,138	\$12,092	\$12,092
<i>Total (Actual)</i>	\$168,046	\$123,159	\$150,338	\$161,834	\$161,232	\$161,232
<i>Admin/HMIS cap</i>	\$12,603	\$9,237	\$11,275	\$12,138	\$12,092	\$12,092.40

Explanation

Operations: Homeless Health	This program is no longer administered by the City of Portland
Essential Services: Family Shelter	Funds pay for staff who provides housing assistance by seeking affordable units, applying for eligible subsidies and accessing transitional housing opportunities and follow-up case management services by assisting with budgets, tenant/ landlord negotiations, and connecting to area resources.
Homeless Prevention: Family Shelter	Funds pay for staff who assist in preventing family homelessness. Services include advocating with their town of residency, landlord/tenant negotiations and family reunifications.
Homeless Prevention: Oxford Street Shelter	Funds pay for staff who assist in preventing individuals from becoming homeless and providing necessary case management and referrals.
Rapid Rehousing: Oxford Street Shelter	Funds pay for staff who assist persons who have become homeless by quickly moving them into permanent housing and providing the necessary case management and referrals the individual needs.
Administration and HMIS	Funding goes to pay for licenses to use HUD's Homeless Management and Information System. Licenses are provided by Maine Housing.

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 153-16/17
Feb 12 3-6-17
Feb 25 3-20-17
DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Feb 14 4-5-17

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S FY18 CAPITAL IMPROVEMENT
PROGRAM IN AN AMOUNT NOT TO EXCEED \$24,340,500**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Twenty Four Million Three Hundred Forty Thousand Five Hundred Dollars (\$24,340,500) to finance the items identified in the City's 2018 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED:

1. That the Finance Director be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$24,340,500 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Finance Director be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Finance Director be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That the Bonds and BANs issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such

terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Finance Director is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, instruments and other documents and certificates as may be necessary or appropriate, as determined and approved by the Finance Director, in connection with the financing of the Projects, including a loan agreement in usual and customary form with the Maine Municipal Bond Bank (the "Bond Bank"), to the extent any of the Bonds or BANs authorized herein are issued pursuant to the State of Maine Clean Water Revolving Loan Fund (CWSRF) program established under 30-A M.R.S.A. §6006-A and administered by the Department of Environmental Protection, which contracts, agreements, loan agreements, instruments and other documents and certificates shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Finance Director such approval to be conclusively evidenced by his execution thereof;

6. That the Finance Director be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Finance Director be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Finance Director be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Finance Director, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Finance Director be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Finance Director be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Finance Director be and hereby is authorized and empowered to enter into a Letter of Representation

or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Finance Director and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Finance Director and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Finance Director be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Project, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project for any other reason, the Finance Director is authorized, in his discretion to reallocate proceeds of the Bonds to any other listed Project or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan;

18. That the Finance Director, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Finance Director, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- a. That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.
- b. That the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards.

- c. That a final accounting shall be made to the Bond Bank of the total cost of each Project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built.
- d. That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan.
- e. That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee.
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.
- g. That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.
- h. That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient.
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project.
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

24. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Finance Director be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

FY18 CIP - General Fund

Exhibit A

	Bonded Amount	Other Funding
Transportation		
<i>PACTS/Match/Other Leveraged Funds</i>		
PACTS TIP Intersection Project - Brighton-Deering-Falmouth (USM Roundabout)	\$ 767,200	
PACTS RTMS (Regional Transportation Management Systems) - Traffic Signals	260,000	
PACTS TIP Congress Street Signals	110,313	
MPI PACTS paving - Allen Avenue	130,500	
PACTS Collector paving: Veranda Street	85,000	
<i>Traffic Signals / Lights</i>		
Traffic Signals at Various Locations	600,000	
Streetlights: Implement LED Conversion	500,000	
Traffic Signal Work in Support of Paving Programs	210,000	
<i>Streets/Sidewalks</i>		
Pavement Preservation Program	2,700,000	200,000
Thames Street Extension Engineering and Construction	1,400,000	-
Sidewalk Rehabilitation/Accessibility	500,000	100,000
CSO Compliance - SRF Ineligibles	600,000	-
Washington Ave Rehabilitation (Cumberland to E. Prom)	250,000	-
Somerset Street Project Phase 1B	-	240,000
Street Rehabilitation Program	200,000	-
Railroad Quiet Zone Improvements	25,000	-
Transportation Total	\$ 8,338,013	\$ 540,000
Facilities		
<i>Buildings/Garages</i>		
Waterproof Decking & Conditional Appraisal Repairs at Spring Street Garage	\$ 350,000	
Dectron Air Handling Replacement for Riverton Pool	300,000	
Three Air Handling Units at Public Safety	300,000	
Temple St Parking Garage Cond. Appraisal Repairs	240,000	
Masonry, Windows, remodel at Munjoy Public Safety building	200,000	
Homeless Shelter Planning	125,000	
Fire Station Paving Projects	50,000	
<i>Marine</i>		
Waterfront Fender Systems	1,000,000	
Floats at Cushing Island, Maine State Pier, East End Beach, Peaks	100,000	
Compass Park - Ongoing pile/ pier work	100,000	
<i>School Facilities</i>		
Deering High School Windows		750,000
PATHS/CBHS, Presumpscot, Longfellow, DHS & King Campus Paving		500,000
Lyman Moore - Boiler Replacement		300,000
East End Community School Wall Repair		250,000
Deering High School Functional Life Safety Space	66,040	84,960
Energy Management Control Upgrades		50,000
Deering High School Kitchen Remodel / Upgrade		50,000
Engineering for Roofs		40,000
King - Fire Alarm Replacement Engineering		20,000
Lyman Moore - Fire Alarm Replacement Engineering		20,000
PATHS - Technology / Network Engineering		20,000
Facilities Total	\$ 2,831,040	\$ 2,084,960
Parks, Fields, Trails		
<i>Parks, Fields, Trails</i>		
Lyman Moore Field Upgrades and Drainage	\$ 450,000	
Lincoln Park Fence Repair	300,000	
Amethyst Lot Engineering	300,000	
Congress Square Park	150,000	
Peaks Island, Great Diamond & Cliff Island Playground Replacements	110,200	
Deering Oaks and DHS -Tennis/Basketball Court Resurfacing	100,000	
Riverside Golf Course Culvert Repair/Replacement	50,000	
Parks, Fields, Trails Total	\$ 1,460,200	
Equipment and Vehicles		
<i>Equipment</i>		
District Phone System	225,000	
Chiller Replacement	225,000	
Phone System Upgrade	200,000	

Replace Patient Call System	116,000	
Virtualization, Storage and Redundancy Upgrade	55,000	
EMR and Wi Fi	54,497	
Power Line Connection for Ocean Avenue Solar Array	50,000	
Security Management System	35,000	
Portland Public Library - VOIP Conversion	35,000	
Vehicles		
Engine 6 Replacement - Fire 0279	700,000	
Scheduled Ambulance Replacement	480,000	
Loader 5112 and blower 7112 - DPW Winter	335,000	
Sidewalk Tractors Replacement (2)	280,000	
Police Cruisers (7)) Replacement - Police	266,000	
Rubbish Packer Replacement	265,000	
Rubbish Packer Replacement - Park Barrels 4042	250,000	
TA Dump Truck Replacement - DPW Winter 3098	205,000	
Wheel Loader Replacement - Parks/Winter 5101	195,000	
SA Plow Truck Replacement - Winter 3125	165,000	
SA Plow Truck Replacement - Winter 3036	165,000	
Rolloff Truck Replacement - Solid Waste 4000	150,000	
Replacement School Bus	132,000	
Bucket Truck Replacement - Traffic 5110	125,000	
Mower 16' Replacement - Parks 7155	95,000	
Toolcat DPW Winter 5004	70,000	
1 Ton Utility Truck Replacement - Traffic 2515	55,000	
GPS Locating for Winter Vehicles/Equipment	50,000	
Skidsteer Replacement - Districting/Winter 5102	45,000	
3/4 Ton Pickup Replacement - Barron Center 3908	38,000	
Replace Forestry Chipper	35,000	
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades - 2004	30,000	
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades 2003	30,000	
Refurbished Floor Scrubber for Canco Properties	18,000	
Equipment and Vehicles Total	5,174,497	
Sub-Total FY18 CIP (General Fund)	\$ 17,803,750	\$ 2,624,960

FY18 CIP - Sewer Fund

Sewer / Stormwater		
CMOM - Inflow and Infiltration Program	\$ 260,000	
CMOM - Sewer System Renewal	1,100,000	
CMOM - Pump Station Rehabilitation	670,000	
Engineering Services on Water Resource Projects	300,000	
Morrill's Corner Sewer Replacement	250,000	
Eastern Waterfront Sewer / Stormwater Extension & Outfall	175,000	
Integrated Planning LTCP and Post Construction Monitoring Program	1,000,000	
Stormwater Infrastructure Improvements	200,000	
Warren Ave Storm Drain - 517 Warren Ave to 659 Warren Ave	990,000	
Franklin Street Storm Drain	300,000	
Peaks Island Green Infrastructure	50,000	
Green Infrastructure	200,000	
Smart Cover Systems for SSO's	45,000	
Pole Camera	20,000	
PACTS Veranda St paving - ineligible Utility costs	18,000	
Pavement Preservation Program - Utility costs	200,000	
MPI Paving Program - Utility costs	13,750	
Street Sweepers Replacement	215,000	
Skidsteer w/ Attachments	75,000	
Tracked Jet Cleaner	45,000	
Midsized Wheel Loader	150,000	
Rubber Tired Excavator	200,000	
3/4T Pickup Truck	35,000	
Tank Truck	25,000	
Sewer / Stormwater Total	\$ 6,536,750	
TOTAL CIP (General Fund & Sewer Fund)	\$ 24,340,500	\$ 2,624,960
COMBINED TOTAL CIP (General Fund & Sewer Fund)	\$ 26,965,460	

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Brendan T O'Connell – Finance Director (submitting on behalf of Finance Committee)

DATE: 2/27/217

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

SUBJECT: Orders Authorizing and Appropriating the FY18 Capital Improvement Plan Funds

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading ____3/6/17____ Final Action ____3/20/17____

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

PRESENTATION: None

I. SUMMARY OF ISSUE (Agenda Description)

On February 16, 2017 and March 2, 2017 the Finance Committee considered the FY18 Capital Improvement Plan ("CIP") proposal to authorize \$17.8M of general fund general obligation bonds and \$6.5M of sewer fund general obligation bonds. Upon recommendation of the FY18 CIP by the Finance Committee this proposal will be taken up by the full City Council in March 2017. Two orders are required, one authorizing the FY18 CIP bonds, and another appropriating the proceeds. A complete listing of the projects being authorized is included within the orders.

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

The City Charter requires the City Manager "To prepare a five (5) year rolling capital improvement plan for annual presentation to the city council". Approval of these orders is a critical component of the one year CIP. City staff is working towards earlier approval of the CIP (last year's CIP was approved in late April 2016). Earlier CIP approval allows the City to get projects out to bid sooner before many of the best contractors have already filled calendars with spring, summer and fall work.

III. INTENDED RESULT

Approval of the FY18 CIP will allow staff to move forward immediately with the include projects, including many City and School projects which are slated to begin during 2017.

IV. COUNCIL GOAL ADDRESSED

As noted previously, the CIP is a requirement of the City Charter and a duty of the City Manager. These actions will trigger compliance with the City Charter requirements.

V. FINANCIAL IMPACT

For the past several fiscal years, the CIP borrowings have been designed to ensure no increases to the overall City budget for debt service. In the current year, a general fund borrowing of \$12.8M would have triggered no increase to the City debt service budget. However, due to an escalating backlog of City capital maintenance, the City manager has pushed forward with a recommendation of an additional \$5M of general fund capital improvement borrowing in the FY18 CIP. This additional general fund borrowing will trigger an approximately 6 cent increase in the mil rate beginning in FY19.

VI. STAFF ANALYSIS

The Capital Improvement Plan is a comprehensive process which began back in fall 2016. Each Department (including the School Department) performs a comprehensive analysis of their capital needs over the upcoming five or ten years. Each Department then ranks their needs based on priority and submits each project. The complete list of City wide needs is then reviewed as a whole, compared to available funding, and a one and five year CIP recommendation is produced. The current FY18 CIP represents the City Manager's recommended CIP after review and presentation of all Department submissions and consideration of input submitted by elected officials.

VII. RECOMMENDATION

We recommend approval of the two FY18 CIP orders.

VIII. LIST ATTACHMENTS

Two City Council orders, each includes an Exhibit A containing the detailed list of FY18 CIP projects

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 AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S FY18 CAPITAL IMPROVEMENT
PROGRAM IN AN AMOUNT NOT TO EXCEED \$24,340,500 \$22,940,500**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed ~~Twenty-Four Million Three Hundred Forty Thousand Five Hundred Dollars (\$24,340,500)~~ Twenty-two Million Nine Hundred Forty Thousand Five Hundred Dollars (\$22,940,500) to finance the items identified in the City's 2018 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED:

1. That the Finance Director be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$24,340,500 \$22,940,500 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, note inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Finance Director be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Finance Director be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That the Bonds and BANs issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such

terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Finance Director is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, instruments and other documents and certificates as may be necessary or appropriate, as determined and approved by the Finance Director, in connection with the financing of the Projects, including a loan agreement in usual and customary form with the Maine Municipal Bond Bank (the "Bond Bank"), to the extent any of the Bonds or BANs authorized herein are issued pursuant to the State of Maine Clean Water Revolving Loan Fund (CWSRF) program established under 30-A M.R.S.A. §6006-A and administered by the Department of Environmental Protection, which contracts, agreements, loan agreements, instruments and other documents and certificates shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Finance Director such approval to be conclusively evidenced by his execution thereof;

6. That the Finance Director be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Finance Director be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Finance Director be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Finance Director, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Finance Director be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Finance Director be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Finance Director be and hereby is authorized and empowered to enter into a Letter of Representation

or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Finance Director and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Finance Director and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Finance Director be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Project, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project for any other reason, the Finance Director is authorized, in his discretion to reallocate proceeds of the Bonds to any other listed Project or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan;

18. That the Finance Director, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Finance Director, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- a. That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.
- b. That the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards.

- c. That a final accounting shall be made to the Bond Bank of the total cost of each Project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built.
- d. That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan.
- e. That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee.
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.
- g. That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.
- h. That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient.
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project.
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

24. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Finance Director be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

FY18 CIP - General Fund**Exhibit A**

	Bonded Amount	Other Funding
Transportation		
<i>PACTS/Match/Other Leveraged Funds</i>		
PACTS TIP Intersection Project - Brighton-Deering-Falmouth (USM Roundabout)	\$ 767,200	
PACTS RTMS (Regional Transportation Management Systems) - Traffic Signals	260,000	
PACTS TIP Congress Street Signals	110,313	
MPI PACTS paving - Allen Avenue	130,500	
PACTS Collector paving: Veranda Street	85,000	
<i>Traffic Signals / Lights</i>		
Traffic Signals at Various Locations	600,000	
Streetslights: implement LED Conversion	500,000	
Traffic Signal Work in Support of Paving Programs	210,000	
<i>Streets/Sidewalks</i>		
Pavement Preservation Program	2,700,000	200,000
Thames Street Extension Engineering and Construction	1,400,000	-
Sidewalk Rehabilitation/Accessibility	500,000	100,000
CSO Compliance - SRF Ineligibles	600,000	-
Washington Ave Rehabilitation (Cumberland to E. Prom)	250,000	-
Somerset Street Project Phase 1B	-	240,000
Street Rehabilitation Program	200,000	-
Railroad Quiet Zone Improvements	25,000	-
Transportation Total	\$ 6,938,013	\$ 540,000
Facilities		
<i>Buildings/Garages</i>		
Waterproof Decking & Conditional Appraisal Repairs at Spring Street Garage	\$ 350,000	
Dectron Air Handling Replacement for Riverton Pool	300,000	
Three Air Handling Units at Public Safety	300,000	
Temple St Parking Garage Cond. Appraisal Repairs	240,000	
Masonry, Windows, remodel at Munjoy Public Safety building	200,000	
Homeless Shelter Planning	125,000	
Fire Station Paving Projects	50,000	
<i>Marine</i>		
Waterfront Fender Systems	1,000,000	
Floats at Cushing Island, Maine State Pier, East End Beach, Peaks	100,000	
Compass Park - Ongoing pile/pier work	100,000	
<i>School Facilities</i>		
Deering High School Windows		750,000
PATHS/CBHS, Presumpscot, Longfellow, DHS & King Campus Paving		500,000
Lyman Moore - Boiler Replacement		300,000
East End Community School Wall Repair		250,000
Deering High School Functional Life Safety Space	66,040	84,960
Energy Management Control Upgrades		50,000
Deering High School Kitchen Remodel / Upgrade		50,000
Engineering for Roofs		40,000
King - Fire Alarm Replacement Engineering		20,000
Lyman Moore - Fire Alarm Replacement Engineering		20,000
PATHS - Technology / Network Engineering		20,000
Facilities Total	\$ 2,831,040	\$ 2,084,960
Parks, Fields, Trails		
<i>Parks, Fields, Trails</i>		
Lyman Moore Field Upgrades and Drainage	\$ 450,000	
Lincoln Park Fence Repair	300,000	
Amethyst Lot Engineering	300,000	
Congress Square Park	150,000	
Peaks Island, Great Diamond & Cliff Island Playground Replacements	110,200	
Deering Oaks and DHS -Tennis/Basketball Court Resurfacing	100,000	
Riverside Golf Course Culvert Repair/Replacement	50,000	
Parks, Fields, Trails Total	\$ 1,460,200	
Equipment and Vehicles		
<i>Equipment</i>		
District Phone System	225,000	
Chiller Replacement	225,000	
Phone System Upgrade	200,000	
Replace Patient Call System	116,000	

Virtualization, Storage and Redundancy Upgrade	55,000
EMR and Wi Fi	54,497
Power Line Connection for Ocean Avenue Solar Array	50,000
Security Management System	35,000
Portland Public Library - VOIP Conversion	35,000

Vehicles

Engine 6 Replacement - Fire 0279	700,000
Scheduled Ambulance Replacement	480,000
Loader 5112 and blower 7112 - DPW Winter	335,000
Sidewalk Tractors Replacement (2)	280,000
Police Cruisers (7)) Replacement - Police	266,000
Rubbish Packer Replacement	265,000
Rubbish Packer Replacement - Park Barrels 4042	250,000
TA Dump Truck Replacement - DPW Winter 3098	205,000
Wheel Loader Replacement - Parks/Winter 5101	195,000
SA Plow Truck Replacement - Winter 3125	165,000
SA Plow Truck Replacement - Winter 3036	165,000
Rolloff Truck Replacement - Solid Waste 4000	150,000
Replacement School Bus	132,000
Bucket Truck Replacement - Traffic 5110	125,000
Mower 16' Replacement - Parks 7155	95,000
Toolcat DPW Winter 5004	70,000
1 Ton Utility Truck Replacement - Traffic 2515	55,000
GPS Locating for Winter Vehicles/Equipment	50,000
Skidsteer Replacement - Districting/Winter 5102	45,000
3/4 Ton Pickup Replacement - Barron Center 3908	38,000
Replace Forestry Chipper	35,000
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades - 2004	30,000
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades 2003	30,000
Refurbished Floor Scrubber for Canco Properties	18,000

Equipment and Vehicles Total	5,174,497	
Sub-Total FY18 CIP (General Fund)	\$ 16,403,750	\$ 2,624,960

FY18 CIP - Sewer Fund

Sewer / Stormwater

CMOM - Inflow and Infiltration Program	\$ 260,000
CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Engineering Services on Water Resource Projects	300,000
Morrill's Corner Sewer Replacement	250,000
Eastern Waterfront Sewer / Stormwater Extension & Outfall	175,000
Integrated Planning LTCP and Post Construction Monitoring Program	1,000,000
Stormwater Infrastructure Improvements	200,000
Warren Ave Storm Drain - 517 Warren Ave to 659 Warren Ave	990,000
Franklin Street Storm Drain	300,000
Peaks Island Green Infrastructure	50,000
Green Infrastructure	200,000
Smart Cover Systems for SSO's	45,000
Pole Camera	20,000
PACTS Veranda St paving - ineligible Utility costs	18,000
Pavement Preservation Program - Utility costs	200,000
MPI Paving Program - Utility costs	13,750
Street Sweepers Replacement	215,000
Skidsteer w/ Attachments	75,000
Tracked Jet Cleaner	45,000
Midsize Wheel Loader	150,000
Rubber Tired Excavator	200,000
3/4T Pickup Truck	35,000
Tank Truck	25,000

Sewer / Stormwater Total	\$ 6,536,750	
TOTAL CIP (General Fund & Sewer Fund)	\$ 22,940,500	\$ 2,624,960
COMBINED TOTAL CIP (General Fund & Sewer Fund)	\$ 25,565,460	

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 154-16/17
Tab 13 3-6-17
Tab 26 3-20-17
DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)
Tab 15-4-5-17

**ORDER APPROPRIATING BOND PROCEEDS, TIF FUNDS AND COMMITTED FUND
BALANCE IN AN AMOUNT NOT TO EXCEED \$26,965,460 FOR
THE CITY'S FY18 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

1. The sum of \$26,965,460 be and hereby is appropriated to finance the projects more particularly described in the project list for the City's 2018 Capital Improvement Program attached hereto as Exhibit A (the "2018 CIP Projects"), as follows:
 - a. Subject to paragraph 2 and 3 below, an amount not to exceed \$24,340,500 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs of the 2018 CIP Projects;
 - b. An amount not to exceed \$540,000 is appropriated from the City's Bayside TIF account to finance a portion of the costs of certain Street / Sidewalk improvements included in the 2018 CIP Projects, as listed on Exhibit A; and
 - c. An amount not to exceed \$2,084,960 is appropriated from the City's Committed Fund Balance to finance a portion of the costs of certain School Facilities improvements included in the 2018 CIP Projects, as listed on Exhibit A;
2. The appropriation set forth in paragraph 1(a) above is and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated in said paragraph 1(a) to be adjusted to reflect the principal amount of bonds or notes so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any 2018 CIP Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Director of Finance is authorized, in his discretion to reallocate proceeds of the bonds issued therefore to any other project listed on the 2018 CIP Project List or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

FY18 CIP - General Fund

Exhibit A

	Bonded Amount	Other Funding
Transportation		
<i>PACTS/Match/Other Leveraged Funds</i>		
PACTS TIP Intersection Project - Brighton-Deering-Falmouth (USM Roundabout)	\$ 767,200	
PACTS RTMS (Regional Transportation Management Systems) - Traffic Signals	260,000	
PACTS TIP Congress Street Signals	110,313	
MPI PACTS paving - Allen Avenue	130,500	
PACTS Collector paving: Veranda Street	85,000	
<i>Traffic Signals / Lights</i>		
Traffic Signals at Various Locations	600,000	
Streetlights: Implement LED Conversion	500,000	
Traffic Signal Work in Support of Paving Programs	210,000	
<i>Streets/Sidewalks</i>		
Pavement Preservation Program	2,700,000	200,000
Thames Street Extension Engineering and Construction	1,400,000	-
Sidewalk Rehabilitation/Accessibility	500,000	100,000
CSO Compliance - SRF Ineligibles	600,000	-
Washington Ave Rehabilitation (Cumberland to E. Prom)	250,000	-
Somerset Street Project Phase 1B	-	240,000
Street Rehabilitation Program	200,000	-
Railroad Quiet Zone Improvements	25,000	-
Transportation Total	\$ 8,338,013	\$ 540,000
Facilities		
<i>Buildings/Garages</i>		
Waterproof Decking & Conditional Appraisal Repairs at Spring Street Garage	\$ 350,000	
Dectron Air Handling Replacement for Riverton Pool	300,000	
Three Air Handling Units at Public Safety	300,000	
Temple St Parking Garage Cond. Appraisal Repairs	240,000	
Masonry, Windows, remodel at Munjoy Public Safety building	200,000	
Homeless Shelter Planning	125,000	
Fire Station Paving Projects	50,000	
<i>Marine</i>		
Waterfront Fender Systems	1,000,000	
Floats at Cushing Island, Maine State Pier, East End Beach, Peaks	100,000	
Compass Park - Ongoing pile/pier work	100,000	
<i>School Facilities</i>		
Deering High School Windows		750,000
PATHS/CBHS, Presumpscot, Longfellow, DHS & King Campus Paving		500,000
Lyman Moore - Boiler Replacement		300,000
East End Community School Wall Repair		250,000
Deering High School Functional Life Safety Space	66,040	84,960
Energy Management Control Upgrades		50,000
Deering High School Kitchen Remodel / Upgrade		50,000
Engineering for Roofs		40,000
King - Fire Alarm Replacement Engineering		20,000
Lyman Moore - Fire Alarm Replacement Engineering		20,000
PATHS - Technology / Network Engineering		20,000
Facilities Total	\$ 2,831,040	\$ 2,084,960
Parks, Fields, Trails		
<i>Parks, Fields, Trails</i>		
Lyman Moore Field Upgrades and Drainage	\$ 450,000	
Lincoln Park Fence Repair	300,000	
Amethyst Lot Engineering	300,000	
Congress Square Park	150,000	
Peaks Island, Great Diamond & Cliff Island Playground Replacements	110,200	
Deering Oaks and DHS -Tennis/Basketball Court Resurfacing	100,000	
Riverside Golf Course Culvert Repair/Replacement	50,000	
Parks, Fields, Trails Total	\$ 1,460,200	
Equipment and Vehicles		
<i>Equipment</i>		
District Phone System	225,000	
Chiller Replacement	225,000	
Phone System Upgrade	200,000	

Replace Patient Call System	116,000	
Virtualization, Storage and Redundancy Upgrade	55,000	
EMR and Wi Fi	54,497	
Power Line Connection for Ocean Avenue Solar Array	50,000	
Security Management System	35,000	
Portland Public Library - VOIP Conversion	35,000	
Vehicles		
Engine 6 Replacement - Fire 0279	700,000	
Scheduled Ambulance Replacement	480,000	
Loader 5112 and blower 7112 - DPW Winter	335,000	
Sidewalk Tractors Replacement (2)	280,000	
Police Cruisers (7)) Replacement - Police	266,000	
Rubbish Packer Replacement	265,000	
Rubbish Packer Replacement - Park Barrels 4042	250,000	
TA Dump Truck Replacement - DPW Winter 3098	205,000	
Wheel Loader Replacement - Parks/Winter 5101	195,000	
SA Plow Truck Replacement - Winter 3125	165,000	
SA Plow Truck Replacement - Winter 3036	165,000	
Rolloff Truck Replacement - Solid Waste 4000	150,000	
Replacement School Bus	132,000	
Bucket Truck Replacement - Traffic 5110	125,000	
Mower 16' Replacement - Parks 7155	95,000	
Toolcat DPW Winter 5004	70,000	
1 Ton Utility Truck Replacement - Traffic 2515	55,000	
GPS Locating for Winter Vehicles/Equipment	50,000	
Skidsteer Replacement - Districting/Winter 5102	45,000	
3/4 Ton Pickup Replacement - Barron Center 3908	38,000	
Replace Forestry Chipper	35,000	
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades - 2004	30,000	
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades 2003	30,000	
Refurbished Floor Scrubber for Canco Properties	18,000	
Equipment and Vehicles Total	5,174,497	
Sub-Total FY18 CIP (General Fund)	\$ 17,803,750	\$ 2,624,960

FY18 CIP - Sewer Fund

Sewer / Stormwater		
CMOM - Inflow and Infiltration Program	\$ 260,000	
CMOM - Sewer System Renewal	1,100,000	
CMOM - Pump Station Rehabilitation	670,000	
Engineering Services on Water Resource Projects	300,000	
Morrill's Corner Sewer Replacement	250,000	
Eastern Waterfront Sewer / Stormwater Extension & Outfall	175,000	
Integrated Planning LTCP and Post Construction Monitoring Program	1,000,000	
Stormwater Infrastructure Improvements	200,000	
Warren Ave Storm Drain - 517 Warren Ave to 659 Warren Ave	990,000	
Franklin Street Storm Drain	300,000	
Peaks Island Green Infrastructure	50,000	
Green Infrastructure	200,000	
Smart Cover Systems for SSO's	45,000	
Pole Camera	20,000	
PACTS Veranda St paving - ineligible Utility costs	18,000	
Pavement Preservation Program - Utility costs	200,000	
MPI Paving Program - Utility costs	13,750	
Street Sweepers Replacement	215,000	
Skidsteer w/ Attachments	75,000	
Tracked Jet Cleaner	45,000	
Midsize Wheel Loader	150,000	
Rubber Tired Excavator	200,000	
3/4T Pickup Truck	35,000	
Tank Truck	25,000	
Sewer / Stormwater Total	\$ 6,536,750	
TOTAL CIP (General Fund & Sewer Fund)	\$ 24,340,500	\$ 2,624,960
COMBINED TOTAL CIP (General Fund & Sewer Fund)	\$ 26,965,460	

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 APPROPRIATING BOND PROCEEDS, TIF FUNDS AND COMMITTED FUND
BALANCE IN AN AMOUNT NOT TO EXCEED ~~\$26,965,460~~ \$25,565,460 FOR
THE CITY'S FY18 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

1. The sum of ~~\$26,965,460~~ \$25,565,460 be and hereby is appropriated to finance the projects more particularly described in the project list for the City's 2018 Capital Improvement Program attached hereto as Exhibit A (the "2018 CIP Projects"), as follows:
 - a. Subject to paragraph 2 and 3 below, an amount not to exceed ~~\$24,340,500~~ \$22,940,500 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs of the 2018 CIP Projects;
 - b. An amount not to exceed \$540,000 is appropriated from the City's Bayside TIF account to finance a portion of the costs of certain Street / Sidewalk improvements included in the 2018 CIP Projects, as listed on Exhibit A; and
 - c. An amount not to exceed \$2,084,960 is appropriated from the City's Committed Fund Balance to finance a portion of the costs of certain School Facilities improvements included in the 2018 CIP Projects, as listed on Exhibit A;
2. The appropriation set forth in paragraph 1(a) above is and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated in said paragraph 1(a) to be adjusted to reflect the principal amount of bonds or notes so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any 2018 CIP Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Director of Finance is authorized, in his discretion to reallocate proceeds of the bonds issued therefore to any other project listed on the 2018 CIP Project List or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

FY18 CIP - General Fund**Exhibit A**

	Bonded Amount	Other Funding
Transportation		
<i>PACTS/Match/Other Leveraged Funds</i>		
PACTS TIP Intersection Project - Brighton-Deering-Falmouth (USM Roundabout)	\$ 767,200	
PACTS RTMS (Regional Transportation Management Systems) - Traffic Signals	260,000	
PACTS TIP Congress Street Signals	110,313	
MPI PACTS paving - Allen Avenue	130,500	
PACTS Collector paving: Veranda Street	85,000	
<i>Traffic Signals / Lights</i>		
Traffic Signals at Various Locations	600,000	
Streetlights: Implement LED Conversion	500,000	
Traffic Signal Work in Support of Paving Programs	210,000	
<i>Streets/Sidewalks</i>		
Pavement Preservation Program	2,700,000	200,000
Thames Street Extension Engineering and Construction	1,400,000	-
Sidewalk Rehabilitation/Accessibility	500,000	100,000
CSO Compliance - SRF Ineligibles	600,000	-
Washington Ave Rehabilitation (Cumberland to E. Prom)	250,000	-
Somerset Street Project Phase 1B	-	240,000
Street Rehabilitation Program	200,000	-
Railroad Quiet Zone Improvements	25,000	-
Transportation Total	\$ 6,938,013	\$ 540,000
Facilities		
<i>Buildings/Garages</i>		
Waterproof Decking & Conditional Appraisal Repairs at Spring Street Garage	\$ 350,000	
Dectron Air Handling Replacement for Riverton Pool	300,000	
Three Air Handling Units at Public Safety	300,000	
Temple St Parking Garage Cond. Appraisal Repairs	240,000	
Masonry, Windows, remodel at Munjoy Public Safety building	200,000	
Homeless Shelter Planning	125,000	
Fire Station Paving Projects	50,000	
<i>Marine</i>		
Waterfront Fender Systems	1,000,000	
Floats at Cushing Island, Maine State Pier, East End Beach, Peaks	100,000	
Compass Park - Ongoing pile/pier work	100,000	
<i>School Facilities</i>		
Deering High School Windows		750,000
PATHS/CBHS, Presumpscot, Longfellow, DHS & King Campus Paving		500,000
Lyman Moore - Boiler Replacement		300,000
East End Community School Wall Repair		250,000
Deering High School Functional Life Safety Space	66,040	84,960
Energy Management Control Upgrades		50,000
Deering High School Kitchen Remodel / Upgrade		50,000
Engineering for Roofs		40,000
King - Fire Alarm Replacement Engineering		20,000
Lyman Moore - Fire Alarm Replacement Engineering		20,000
PATHS - Technology / Network Engineering		20,000
Facilities Total	\$ 2,831,040	\$ 2,084,960
Parks, Fields, Trails		
<i>Parks, Fields, Trails</i>		
Lyman Moore Field Upgrades and Drainage	\$ 450,000	
Lincoln Park Fence Repair	300,000	
Amethyst Lot Engineering	300,000	
Congress Square Park	150,000	
Peaks Island, Great Diamond & Cliff Island Playground Replacements	110,200	
Deering Oaks and DHS -Tennis/Basketball Court Resurfacing	100,000	
Riverside Golf Course Culvert Repair/Replacement	50,000	
Parks, Fields, Trails Total	\$ 1,460,200	
Equipment and Vehicles		
<i>Equipment</i>		
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SA Plow Truck Replacement - Winter 3036	165,000
Rolloff Truck Replacement - Solid Waste 4000	150,000
Replacement School Bus	132,000
Bucket Truck Replacement - Traffic 5110	125,000
Mower 16' Replacement - Parks 7155	95,000
Toolcat DPW Winter 5004	70,000
1 Ton Utility Truck Replacement - Traffic 2515	55,000
GPS Locating for Winter Vehicles/Equipment	50,000
Skidsteer Replacement - Districting/Winter 5102	45,000
3/4 Ton Pickup Replacement - Barron Center 3908	38,000
Replace Forestry Chipper	35,000
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades - 2004	30,000
3/4 Ton Utility Van (Pickup to Van Replacement) - Trades 2003	30,000
Refurbished Floor Scrubber for Canco Properties	18,000

Equipment and Vehicles Total	5,174,497	
Sub-Total FY18 CIP (General Fund)	\$ 16,403,750	\$ 2,624,960

FY18 CIP - Sewer Fund

Sewer / Stormwater

CMOM - Inflow and Infiltration Program	\$ 260,000
CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Engineering Services on Water Resource Projects	300,000
Morrill's Corner Sewer Replacement	250,000
Eastern Waterfront Sewer / Stormwater Extension & Outfall	175,000
Integrated Planning LTCP and Post Construction Monitoring Program	1,000,000
Stormwater Infrastructure Improvements	200,000
Warren Ave Storm Drain - 517 Warren Ave to 659 Warren Ave	990,000
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PACTS Veranda St paving - ineligible Utility costs	18,000
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Skidsteer w/ Attachments	75,000
Tracked Jet Cleaner	45,000
Midsized Wheel Loader	150,000
Rubber Tired Excavator	200,000
3/4T Pickup Truck	35,000
Tank Truck	25,000

Sewer / Stormwater Total	\$ 6,536,750	
TOTAL CIP (General Fund & Sewer Fund)	\$ 22,940,500	\$ 2,624,960
COMBINED TOTAL CIP (General Fund & Sewer Fund)	\$ 25,565,460	

Order 155-16/17
Tab 16 4-5-17

Order 155-16/17

Public Hearing held March 20, 2017

Failed: 6-3 (Mavodones, Duson, Ray) on 3/20/2017

Motion to postpone to April 5, 2017: 9-0 on 3/27/2017

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 LONGFELLOW, LYSETH, PRESUMPCOT AND REICHE
ELEMENTARY SCHOOL RENOVATION PROJECTS
WITH TOTAL PROJECT COSTS NOT TO EXCEED \$64,260,000
AND
AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, IT IS HEREBY

ORDERED THAT:

There be and hereby is authorized and approved the renovation, furnishing and equipping of Longfellow, Lyseth, Presumpscot and Reiche elementary school with total project costs not to exceed \$64,260,000 (the "Elementary School Projects"), as follows:

Longfellow Elementary	\$15,388,000
Lyseth Elementary	17,998,000
Presumpscot Elementary	13,628,000
Reiche Elementary	17,246,000
Total	\$64,260,000

and that there be and hereby is authorized the issue and sale of the City's general obligation bonds in the aggregate principal amount not to exceed \$64,260,000 to finance the costs of such Project.

BE IT FURTHER ORDERED

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$64,260,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of one or more notes or renewal notes in anticipation of said Bonds

("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity of any BAN not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Elementary School Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Elementary School Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Elementary School Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Elementary School Projects is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Elementary School Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Elementary School Projects; (4) issuance costs, including

premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project;

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

Amendment to original bond order

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 LONGFELLOW, LYSETH, PRESUMPCOT AND REICHE
ELEMENTARY SCHOOL RENOVATION PROJECTS
WITH TOTAL PROJECT COSTS NOT TO EXCEED \$64,260,000
AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE SUBJECT TO THE
CONDITIONS CONTAINED IN THIS ORDER**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, IT IS HEREBY

ORDERED THAT, subject to the conditions contained in this Order:

There be and hereby is authorized and approved the renovation, furnishing and equipping of Longfellow, Lyseth, Presumpscot and Reiche elementary schools with total project costs not to exceed \$64,260,000 (the "Elementary School Projects"), as follows:

Longfellow Elementary	\$15,388,000
Lyseth Elementary	17,998,000
Presumpscot Elementary	13,628,000
Reiche Elementary	17,246,000
Total	\$64,260,000

and that there be and hereby is authorized the issue and sale of the City's general obligation bonds in the aggregate principal amount not to exceed \$64,260,000 to finance the costs of such Elementary School Projects.

BE IT FURTHER ORDERED, subject to the conditions contained in this Order:

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$64,260,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of one or more notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity of any BAN not to exceed 3 years from its date of issuance) and all other details of each

issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Elementary School Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Elementary School Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Elementary School Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Elementary School Projects is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Elementary School Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Elementary School Projects; (4) issuance costs, including

premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project;

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

24. If this Order is submitted to voter referendum election at the same time that either or both of Order 193-16/17 and Order 196-16/17 (the "Alternate School Orders") are also

submitted to voter referendum election, pursuant to Article VII, Section 16 of the City Charter, this Order shall be submitted subject to the following conditions:

- a. In the event this Order is approved by a majority of voters voting at the referendum election, and neither of the Alternate School Orders is approved by a majority of voters voting at the referendum election, the authority to issue the Bonds and BANs described in this Order shall be approved and shall be effective and issuance of the Bonds and BANs described herein shall be authorized as provided in this Order.
- b. In the event both this Order and either or both of the Alternate School Orders are approved by a majority of voters voting at the referendum election, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless this Order also shall have received more votes for this Order as compared to votes for each of the Alternate School Orders.
- c. In the event both this Order and either or both of the Alternate School Orders are approved by a majority of voters voting at the referendum election and this Order and one or more of the Alternate School Orders shall have received the same number of favorable votes, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless this Order also shall have received fewer votes against this Order as compared to votes against the Alternate School Order(s) that received the same number of favorable votes.
- d. Even if the total number of votes cast for and against this Order should be less than ten (10) percent of the registered voters of the City, the second sentence of Article VII, Section 16(d) of the City Charter shall not be applicable to this Order, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless the foregoing conditions in this paragraph, as applicable, are met.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Brendan T O'Connell – Finance Director

DATE: March 1, 2017

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

SUBJECT: \$64M Finance Committee Recommendation on School Capital Renovations – Three Orders

SPONSOR: Finance Committee, Nicholas M. Mavodones, Jr., Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading 3/6/17 Final Action 3/20/17

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

PRESENTATION: (Brendan T O'Connell – Finance Director – 5 minutes)

SUMMARY OF ISSUE (Agenda Description)

On February 23, 2017 the Finance Committee voted to recommend a \$64.26M proposal to substantially renovate four elementary schools (2-0). The Finance Committee made their recommendations after an extensive process which included a Portland Public Schools Board of Education recommendation (6/21/16, 6-2 for a \$70.59M bond), a School Facilities Ad-Hoc Committee amendment and recommendation (1/19/17, 7-1 for a \$61M bond) and another Portland Public Schools Board of Education recommendation (1/31/17, 9-0 for a \$61M bond). The schools and amounts included in the current Finance Committee recommendation are:

Presumpscot: Modularity eliminated and classroom space added. Separate gym and cafeteria created. Adequate OT, PT, ELL, music, art, library, kitchen and restroom space added. Improved security and sightlines for the entrance. More functional parent drop off/bus loop constructed. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$13,628,000*

Longfellow: Building made fully ADA compliant with new, more secure entrance. Full asbestos abatement. Separate gym and cafeteria created. Adequate reading, ELL, Gifted & Talented, music, art, library, and kitchen space. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$15,388,000*

Reiche: Acoustic and lighting problems corrected. Enclose classroom corridor walls and provide operable partitions. Maintains ability for open spaces for collaborative learning. Appropriate health station created. Rightsize art, music and reading spaces. Pre-K, Title I, OT, PT and Reading 180 spaces added. Upgraded learning technology, plumbing, electrical and sprinklers installed. Solar heater for the pool. LEED Certified. *Cost: \$17,246,000*

Lyseth: Modularity eliminated and classroom space added. Pre-K, Kindergarten and Gifted & Talented space created. Adequate ELL, speech, art, music, library, nurse's station and social worker space added. Separate gym

and cafeteria created. Upgraded learning technology, plumbing, electrical and sprinklers installed. LEED Certified. *Cost: \$17,998,000*

It should be noted that the allocation for each school is an estimate and the Finance Director will have the flexibility to adjust amounts between schools as long as the total bond is not exceeded.

The proposal from the School Board did not recommend any specific order / timing of school construction. The proposal does include an estimated timetable for construction from Oak Point Associates with School 1 estimated completion in fall 2020, School 2 in fall 2021, School 3 in fall 2023, and School 4 in fall 2024. The proposal includes beginning design on the first school by the end of 2017 and therefore a 2017 referendum is required. It is important to note that any projects approved during a local referendum would become ineligible for State of Maine Department of Education Major Capital School Construction Funding. Applications for a new round of State funding are due on April 14, 2017. Given the tight timeline and not knowing what action will be taken by the City Council, or ultimately might be taken by the voters, the School Department is applying for funding for these four schools. Sixteen projects were completed from the State's current priority list. Had the State continued with the list, Longfellow School and Reiche were #2 and #3. A preliminary priority list from this next funding round is expected in April 2018.

Additional details on the proposal including presentation provided to the Finance Committee and all additional materials requested and considered by the Committee are attached.

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

Article VII, Section 16(a)(1) of the City Charter, states that any orders or resolves "authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement" must be submitted for voter referendum. Based on the City's most recent State Valuation, this limit is approximately \$3.99M and therefore three orders must be approved by City Council in order for this item to move forward. A bond order (requires seven votes for approval), an appropriation order (requires five votes for approval) and an order sending the bond order to referendum (requires five votes for approval).

III. INTENDED RESULT

Achieve substantial renovations at Longfellow, Lyseth, Presumpscot and Reiche.

IV. COUNCIL GOAL ADDRESSED

The City Council has a stated goal of "Question on the ballot regarding elementary school renovations."

V. FINANCIAL IMPACT

It's anticipated that the \$64.26M would be borrowed over a six year time period. This would result in an estimated \$92M in debt service payments, principal and interest, spread over the next 26 years. The tax rate would rise an estimated 3.1% by FY24 due to these debt service payments. For a taxpayer with an average home value (\$240,000) there would be an estimated \$2,707 of total additional taxes over the 26 year life of the bonds, an average of approximately \$104 per year.

VI. STAFF ANALYSIS

No staff recommendation has been requested on the proposal.

VII. RECOMMENDATION

None requested

VIII. LIST ATTACHMENTS

- 1) \$64M Bond Recommendation from Finance Committee – Backup Materials for 3-6 and 3-20

\$64M Bond Proposal Backup Materials - Finance Committee questions
from 2/16/17 (updated) and 2/23/17 with responses in italics
PPS Presentation from 2/16 plus 2/23 amendment also attached (F)

1. What would an alternative proposal to address the elementary school needs while not sacrificing our best chances at State funding look like?

Based on the condition assessment recently performed on school facilities by Lavallee Brensinger Architects, the following schools were rated as having the best individual chances at state funding:

1. Reiche (72)
2. Longfellow (69)
3. PATHS (63)**
4. Lyseth (63)
5. Portland High (62)
6. Presumpscot (59)

This preliminary scoring is based only on the portions of the application dealing with the physical condition of the buildings, not those dealing with enrollments and program, which were beyond the scope of the assessment.

Applications for State funding are due to the Department of Education on April 14, 2017. Given the tight timeline and not knowing what action will be taken by the City Council, or ultimately might be taken by the voters, the school department is moving forward with applications on all 6 schools.

*If any of the schools are put to referendum **and** approved by the voters, they will no longer be eligible for state funding.*

*The State's proposed timeline for consideration of applications is attached (**Attachment A**). We would be notified of our positions on the State's priority list by April of 2018 and the list will be finalized in the summer. Recent history of priority list rankings is attached (**Attachment A-1**).*

***NOTE – Although no specific score was provided, Lavallee Brensinger recommended that 1) a joint PATHS / Casco Bay application should be submitted for State Funding along with 2) Reiche, 3) Longfellow, 4) Portland High School, 5) Lyseth*

2. Have there been any significant changes in the scoring for the applications in the current ratings cycle that would improve or detract from our chances to move up the State list??

In general there have been no significant changes to the State DOE's criteria for Major Capital School reconstruction. Response from State DOE website FAQ included below noting that only "slight" changes have been made scoring criteria:

<http://www.maine.gov/doe/facilities/construction/faqs2017-18ratingcyclequestionsanswers.html>

"A large volume of interest has been expressed throughout the State for this new rating cycle leading us to believe that there will be an extensive application pool. It is not possible to predict any school's rating on the list until all applications have been received and scored. In each new rating cycle there are always new applicants and some could demonstrate greater or less need than any applicant from a previous rating cycle. Each rating cycle generates its own priority list; previous placement on the list does not dictate one's placement on the new list. However, unless there have been significant changes aligned with the scoring system in a building, repeat applications typically fall within similar scoring ranges on the new proposed priority list compared with their placement on the previous priority list. After the 2010 – 2011 rating cycle slight changes to the scoring system occurred through the major substantive process. Those changes are listed below.

Changes to Scoring on the Major Capital Improvement Application

Eliminated "other" in all categories – no longer in Chapter 61

Priority A: Buildings and Grounds – total possible points from 85 to 90
Obsolete, Insufficient, and/or Unsuitable – 30 to 35 points
Group 1: Program Related Facility Deficiencies and Inefficiencies - 21 to 20 points
Group 2: Mechanical & Building System Deficiencies - 9 to 15 points

Priority B: School Population – total possible points 50 to 45
Overcrowding – 30 to 27 points
Group 1: Instructional Areas – 15 to 14 points
Group 2: Program Scheduling – 15 to 13 points
Enrollment Estimates and Population Shifts – 20 to 18 points
Group 1: Enrollment Estimates – 12 to 10 points
Group 2: Population Shifts – same (8 points)

Priority C: Program and Planning – same possible 65 points”

3. Can we obtain estimates of construction start and completion dates for each of the elementary schools included in the School Board recommendation and also prepare an “apples to apples” comparison of these dates with a two school referendum leaving open the possibility for potential state aid for two of the elementary schools?

Staff reached out to Oak Point for assistance with this request. The first scenario in the attached schedule (**Attachment B**) shows the schedule going forward for Hall School plus the proposed start/end dates for each of the four schools included in the referendum. The schedule was designed so that no more than two schools were in the design-construction cycle at any one time. Although this is not as fast as originally proposed, it is still an ambitious schedule.

Also noted on the schedule, in yellow, is the date for release of the State priority list which would occur during the design process for the first school.

The second scenario is the “apples to apples” comparison of a two school referendum plus waiting to see where the City places on the State DOE priority list. There are no major differences in potential school completion dates when comparing a 2017 four school referendum vs a 2017 two school referendum. The City would be able to retain the same construction timeline for Schools 1 and 2 (Presumpscot and Lyseth as presented by Oak Point) regardless of whether a four school referendum occurs in 2017 or a two school referendum occurs in 2017 with two more schools paid for by the State DOE or via second local referendum. The State DOE timeline has indicated a Summer 2018 release date of the Final Priority List. Under the “four schools in one referendum” scenario, we would not begin third school (Reiche) design until November 2020 and fourth school (Longfellow) design until November 2021. If we took the “wait and see” approach, and if Reiche and/or Longfellow schools are not deemed to be high enough on the new State funding list a second referendum could take place anytime between fall 2018 and spring 2020 and we’d still be on the same schedule as if all four schools had been in a single referendum. If one of the two rated well on the state list, it would also be possible to fund one additional school locally and meet the original schedule for 4 schools.

4. **Question:** Could we have staff prepare details on the financial impact of the bond, i.e what is the total impact to the operating budget / tax levy of the life of the bonds? These calculations should reflect Mayor Strimling's amendments to include everything not currently in the CIP.

Cost of a \$64M Bond to fund four schools – Executive Summary from Finance Director

*The bond package (as amended) will rise to \$64M+ after amendments. A \$64 million bond package would increase the mil rate by approximately 69 cents by 2024. Including principal and estimated interest, the total fixed costs added to the overall City tax levy would be approximately \$92 million over the life of the bonds. As a property owner, the estimated impact to your tax bill can most easily be calculated using your property valuation. For every \$100,000 of property you own, your taxes will go up by approximately \$1,128 over the life of the bonds. If you own a \$500,000 home, the impact would be 5x larger, and your taxes would increase by approximately \$5,639 over the life of the bonds. As of early 2017, the average property value within Portland is approximately \$240,000, so for an average homeowner the bond would increase taxes by \$2,707 over the bond life. For complete details please see the attached memo (**Attachment C**) which includes more details of the estimated impact and tax increases by fiscal year.*

5. **Could we get an update on the Pension Obligation Bond?**

*Response from Finance Director: See **Attachment D**, a debt service schedule for our Pension Obligation Bond. The FY18 budget will include \$13.6M of debt service related to the pension obligation bond, and this number increases by approximately \$900M annually until FY26 when our final debt service payments of \$22.3M are due.*

6. **Could we get a high level overview of our debt management policy and applicable State limits?**

*Response from Finance Director: See **Attachment E**, a summary memo from our Bond Adviser detailing our State and local debt limitations. In summary even if we borrowed \$64M to fund four elementary school constructions we wouldn't be at risk of violating any State or local rules around debt limits. Although we are not pushing up against any of our current limits there is a very low likelihood we could ever borrow to capacity due to the detrimental impact on the tax rate. An additional page has been added showing "capacity" before hitting each limit.*

7. **Why is the \$61M School Board recommendation on these four elementary schools not being included along with the City FY18-FY22 Capital Improvement Plan and measured against all of the other capital needs of the entire City?**

Response from Mayor Strimling: The school bond isn't included in the 5-year CIP because it will have to be voted upon by the electorate. Any borrowing for a specific item that is over (approximately \$3-4M) must be sent to the voters. This is the same process as was used in 1993 when \$15M, and then an additional \$1.2M, was allocated to rebuild our Middle Schools. However, all borrowing ultimately comes from the same pot, so City side needs and School side needs should be weighed together. That is why both are in front of the Finance Committee."

8. How much of the \$61M in projects as recommended by the School Board were deemed to be immediate / Year 1-5 needs in the November 2016 "Facilities Assessment of School Buildings" as performed by Sebago Technics and Lavalee/Brensinger? Which other items / schools in the "immediate / Year 0-5" needs are not being included in the proposed School Bond and potentially being "crowded out" of City debt borrowings?

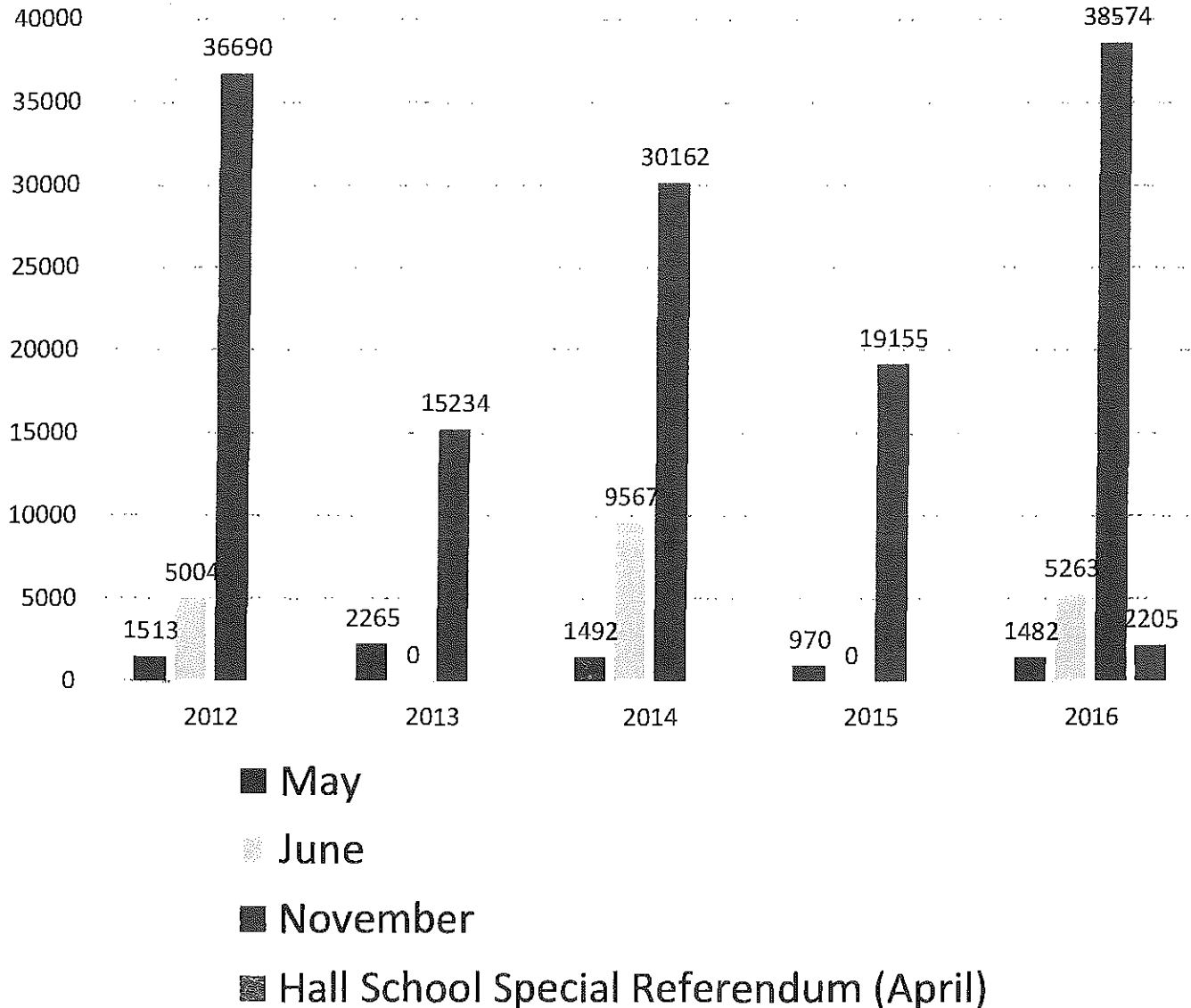
Excerpt from the facilities assessment noting Year 0-5 needs is attached below. As noted by the external engineers, only approximately \$0.89M of work is recommended at Presumpscot in the next five years compared to \$13.63M as proposed by the School Board. Approximately \$1.94M is being recommended by the external engineers at Lyseth over the next five years compared to \$17.98M as proposed by the School Board. For Reiche, \$2.38M is being recommended by the engineers over the next five years compared to \$17.25M as proposed by the School Board. For Longfellow, \$2.92M is being recommended by the engineers over the next five years compared to \$15.39M as proposed by the School Board. Although staff cannot state with certainty which other projects may be crowded out by the large bonding being proposed, the schedule below approximates all Year 0-5 needs at each City school.

	Immediate Recommendations	Short Term Recommendations	Years 0-5 TOTAL
	Year 0 2017	Years 1 - 5 2018 - 2022	
Elementary Schools			4 Schools in \$64M bond
Cliff Island	\$78,260	\$184,923	
East End Community	\$59,600	\$394,626	
Longfellow	\$132,597	\$2,789,969	\$2,922,566
Lyseth	\$6,023	\$1,936,873	\$1,942,896
Ocean Avenue	\$0	\$96,241	
Peaks Island	\$88,795	\$675,474	
Presumpscot	\$755	\$888,701	\$889,456
Reiche	\$33,905	\$2,347,145	\$2,381,050
Riverton	\$940	\$1,215,099	
Elementary Schools Subtotal	\$400,875	\$10,529,051	\$8,135,968
Middle Schools			
King	\$276,125	\$1,377,356	
Lincoln	\$40,859	\$1,824,068	
Moore	\$0	\$1,324,115	
Middle Schools Subtotal	\$316,984	\$4,525,539	
High Schools			
Portland Arts & Technology (PATHS)	\$169,702	\$6,480,694	
Deering	\$93,210	\$3,776,921	
Portland	\$491,480	\$2,882,423	
High Schools Subtotal	\$754,392	\$13,140,038	
Other Buildings			
District Office / Bayside Learning	\$20,000	\$577,336	
Central Kitchen	\$0	\$100,621	
Subtotal	\$20,000	\$677,958	
General District Items			
General District Items (from PPS 5-yr CIP)	\$0	\$6,337,065	
TOTAL	\$1,492,251	\$35,209,651	

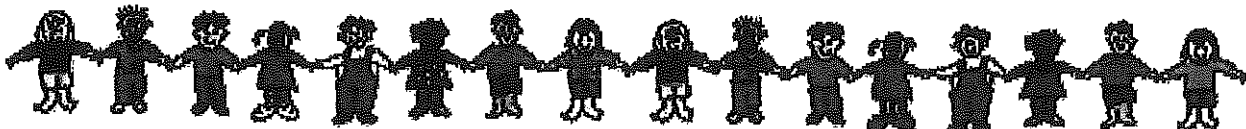
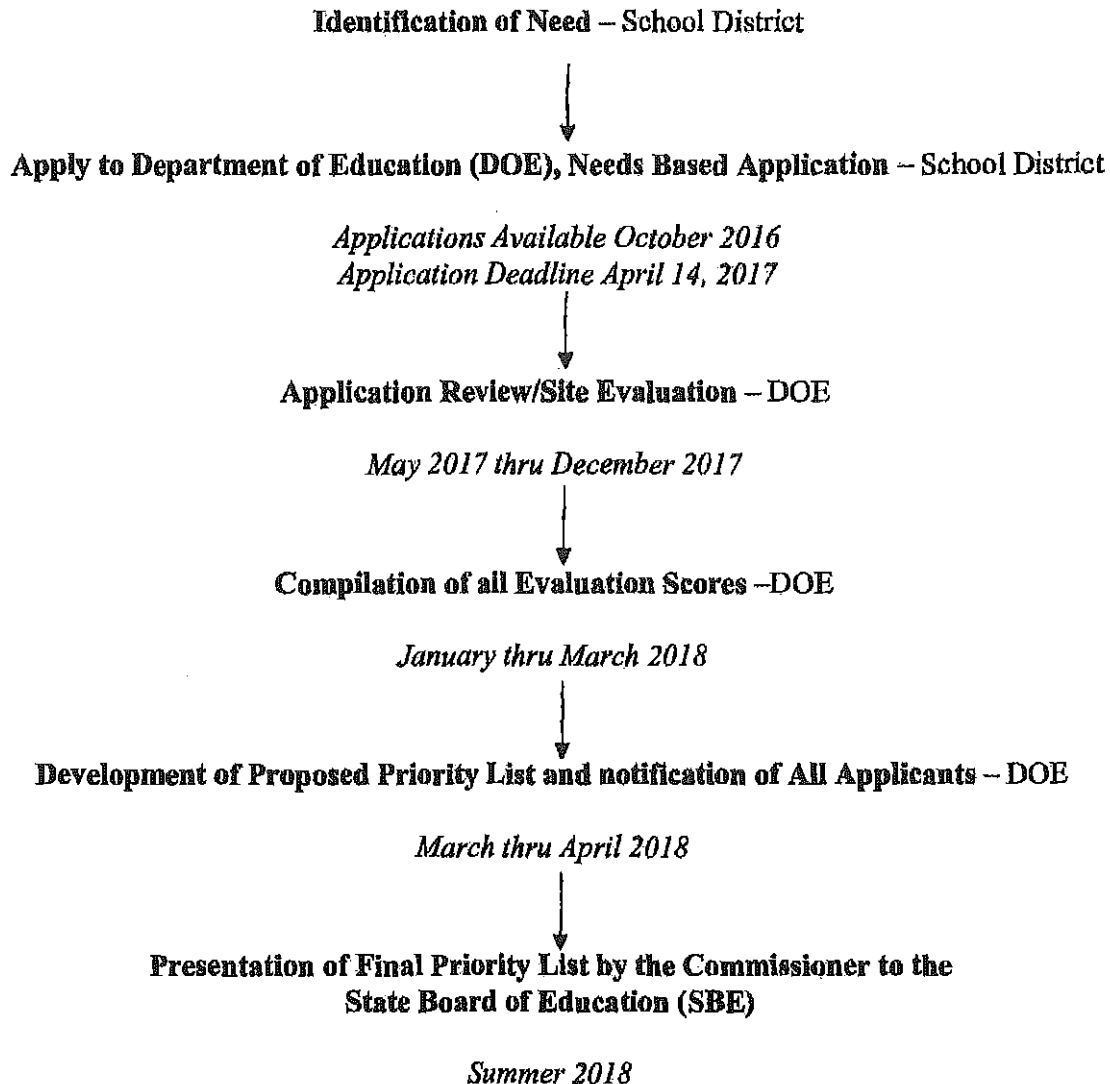
9. Can staff provide details of voter turnout in recent elections (5 year history is fine). Which elections have traditionally produced the highest levels of participation from the community?

See below for election turnout by month. If letting the voters decide by maximizing voter turnout is a desired outcome, a November 2017 election date should be selected. Spring elections have produced poor turnout amongst Portland voters. As noted previously by Oak Point, the school construction on the first school in the \$64M bond proposal would not begin until February 2018 so there is adequate time for a November 2017 referendum. A June referendum (assuming no State ballot questions) also adds significant unbudgeted costs to the City budget.

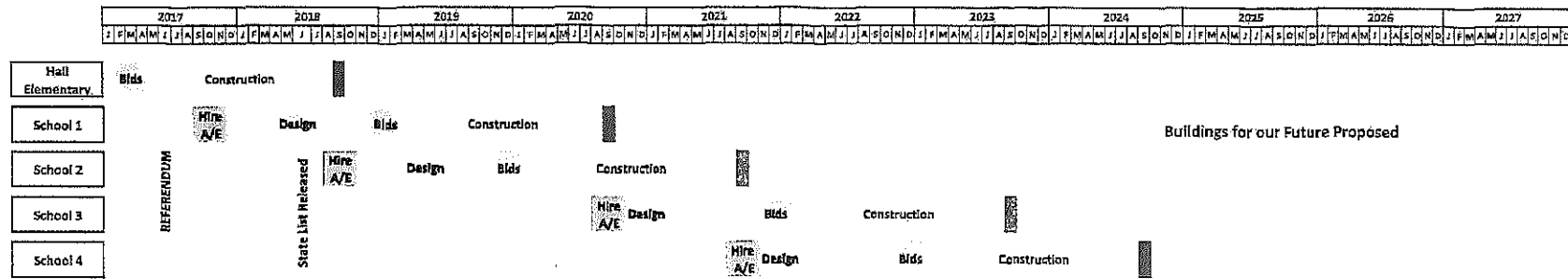
City of Portland Election Turnout 2012 through 2016



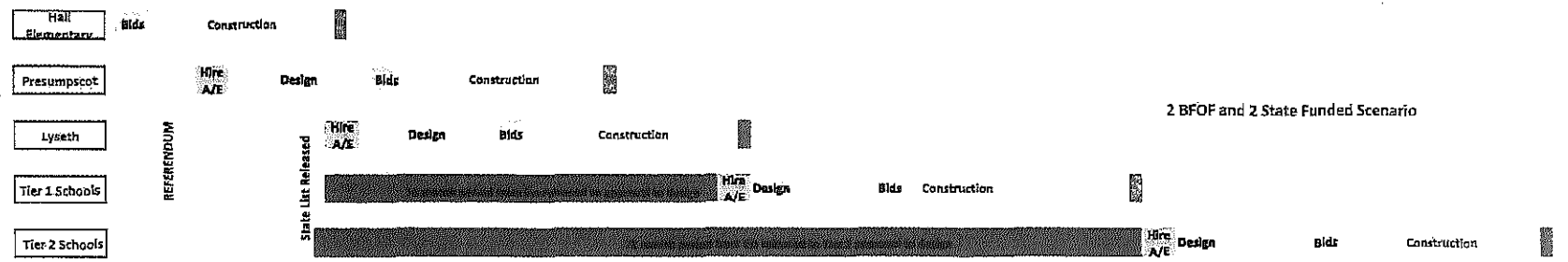
2017-2018 Rating Cycle Proposed Timeline



Scenario #1
All 4 Schools
in single
\$64M local
referendum



Scenario #2
1 Schools, 2 in
\$32M 2017
referendum,
State funds for
other schools
OR 2nd
referendum



The City would be able to retain the same construction timeline for Schools 1 and 2 (Presumpscot and Lyseth as presented by Oak Point) regardless of whether a four school referendum occurs in 2017 or a two school referendum occurs in 2017 with two more schools paid for by the State DOE or via second local referendum. The State DOE timeline has indicated a Summer 2018 release date of the Final Priority List. Under the "four schools in one referendum" scenario, we would not begin third school design until November 2020 and fourth school design until November 2021. If we took the "wait and see" approach, and if Reiche and/or Longfellow schools are not deemed to be high enough on the new State funding list a second referendum could take place anytime between fall 2018 and spring 2020 (a two year period) and we'd still be on the same schedule as if all four schools had been in a single referendum. If one of the two rated well on the state list, it would also be possible to fund one additional school locally and meet the original schedule for 4 schools.

Attachment B

Impact of \$64M Buildings for our Future on Tax Rate (includes proposed amendment from 2/23/17)

	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024
Valuation (as projected)	7,780,000,000	7,800,000,000	7,830,000,000	7,860,000,000	7,890,000,000	7,920,000,000	7,950,000,000	7,980,000,000
City Tax Levy (as projected)	83,862,689	87,116,012	90,998,732	94,299,153	99,247,580	104,707,427	107,805,150	110,038,220
City Tax Rate (as projected)	\$10.78	\$11.17	\$11.62	\$12.00	\$12.58	\$13.22	\$13.56	\$13.79
Rate Increase		0.39	0.45	0.38	0.58	0.64	0.34	0.23
% Increase		3.6%	4.1%	3.2%	4.8%	5.1%	2.6%	1.7%
School Tax Levy (as projected)	80,331,376	84,516,375	89,774,725	94,947,212	99,517,935	103,530,735	108,914,333	114,577,878
School Tax Rate (as projected)	\$10.33	\$10.84	\$11.47	\$12.08	\$12.61	\$13.07	\$13.70	\$14.36
Rate Increase		0.51	0.63	0.61	0.53	0.46	\$0.63	\$0.66
% Increase		4.9%	5.8%	5.4%	4.4%	3.5%	4.8%	4.8%
Total Tax Rate (as projected)	\$21.11	\$22.00	\$23.09	\$24.08	\$25.19	\$26.29	\$27.26	\$28.15
Rate Increase		0.89	1.08	0.99	1.11	1.10	0.97	0.89
% Increase		4.2%	4.9%	4.3%	4.6%	4.4%	3.7%	3.3%
Cumulative increase related to BFOF	\$ -	\$ -	\$ 0.12	\$ 0.24	\$ 0.36	\$ 0.47	\$ 0.58	\$ 0.69
Cumulative % increase related to BFOF			0.6%	1.1%	1.6%	2.2%	2.7%	3.1%
Increased Annual Taxes per \$100,000 of property value			\$ 12.41	\$ 24.46	\$ 36.14	\$ 47.45	\$ 58.42	\$ 69.02
Estimated Total Amount of Additional Taxes per \$100,000 of property value due to BFOF over life of the bonds								\$ 1,128
(If your home value was \$200,000, the impact to you would be 2x the numbers above. If your home value was \$500k, the impact would be 5x the above)								
Increased Annual Taxes on \$240,000 home (per tax year)			\$ 29.79	\$ 58.70	\$ 86.73	\$ 113.89	\$ 140.20	\$ 165.65
Estimated Total Amount of Additional Taxes on a \$240,000 home due to BFOF over the life of bonds								\$ 2,707

*Assumes no additional borrowing other than the \$64M BFOF project, included to illustrate the tax rate impact of the project

Attachment C

Attachment D

City of Portland, Maine
Multi-Modal Taxable General Obligation Bonds
Debt Service Schedule as of 07/17/2001

Date	Principal	Coupon	Interest	Debt Service	Annual Interest	Annual Debt Service	UAAL	Savings	Balance Outstanding
7/19/01									
12/1/01	-	4.919%	2,016,462	2,016,462	-	-	-	-	111,800,000
6/1/02	-	4.919%	2,749,721	2,749,721	4,766,183	4,766,183	5,717,120	950,937	111,800,000
12/1/02	-	4.664%	2,607,176	2,607,176	-	-	-	-	111,800,000
6/1/03	-	4.664%	2,607,176	2,607,176	5,214,352	5,214,352	6,060,148	845,796	111,800,000
12/1/03	-	4.989%	2,788,851	2,788,851	-	-	-	-	111,800,000
6/1/04	-	4.989%	2,788,851	2,788,851	5,577,702	5,577,702	6,423,756	846,054	111,800,000
12/1/04	-	5.334%	2,981,706	2,981,706	-	-	-	-	111,800,000
6/1/05	-	5.334%	2,981,706	2,981,706	5,963,412	5,963,412	6,809,182	845,770	111,800,000
12/1/05	-	5.610%	3,135,990	3,135,990	-	-	-	-	111,800,000
6/1/06	100,000	5.610%	3,135,990	3,235,990	6,271,980	6,371,980	7,217,732	845,752	111,800,000
12/1/06	-	6.003%	3,352,676	3,352,676	-	-	-	-	111,700,000
6/1/07	100,000	6.003%	3,352,676	3,452,676	6,705,351	6,805,351	7,650,796	845,445	111,700,000
12/1/07	-	6.419%	3,581,802	3,581,802	-	-	-	-	111,600,000
6/1/08	100,000	6.419%	3,581,802	3,681,802	7,163,604	7,263,604	8,109,844	846,240	111,600,000
12/1/08	-	6.862%	3,825,565	3,825,565	-	-	-	-	111,500,000
6/1/09	100,000	6.862%	3,825,565	3,925,565	7,651,130	7,751,130	8,596,436	845,306	111,500,000
12/1/09	-	7.331%	4,083,367	4,083,367	-	-	-	-	111,400,000
6/1/10	100,000	7.331%	4,083,367	4,183,367	8,166,734	8,266,734	9,112,222	845,488	111,400,000
12/1/10	-	7.829%	4,356,839	4,356,839	-	-	-	-	111,300,000
6/1/11	100,000	7.829%	4,356,839	4,456,839	8,713,677	8,813,677	9,658,954	845,277	111,300,000
12/1/11	-	8.357%	4,646,492	4,646,492	-	-	-	-	111,200,000
6/1/12	100,000	8.357%	4,646,492	4,746,492	9,292,984	9,392,984	10,238,492	845,508	111,200,000
12/1/12	-	8.903%	4,945,617	4,945,617	-	-	-	-	111,100,000
6/1/13	115,000	8.903%	4,945,617	5,060,617	9,891,233	10,006,233	10,852,800	846,567	111,100,000
12/1/13	-	8.903%	4,940,497	4,940,497	-	-	-	-	110,985,000
6/1/14	775,000	8.903%	4,940,497	5,715,497	9,880,995	10,655,995	11,503,968	847,973	110,985,000
12/1/14	-	8.903%	4,905,998	4,905,998	-	-	-	-	110,210,000
6/1/15	1,535,000	8.903%	4,905,998	6,440,998	9,811,996	11,346,996	12,194,206	847,210	110,210,000
12/1/15	-	8.903%	4,837,668	4,837,668	-	-	-	-	108,675,000
6/1/16	2,400,000	8.903%	4,837,668	7,237,668	9,675,335	12,075,335	12,925,858	850,523	108,675,000
12/1/16	-	8.903%	4,730,832	4,730,832	-	-	-	-	106,275,000
6/1/17	3,390,000	8.903%	4,730,832	8,120,832	9,461,663	12,851,663	13,701,410	849,747	106,275,000
12/1/17	-	8.903%	4,579,926	4,579,926	-	-	-	-	102,885,000
6/1/18	4,515,000	8.903%	4,579,926	9,094,926	9,159,852	13,674,852	14,523,494	848,642	102,885,000
12/1/18	-	8.903%	4,378,941	4,378,941	-	-	-	-	98,370,000
6/1/19	5,790,000	8.903%	4,378,941	10,168,941	8,757,881	14,547,881	15,394,904	847,023	98,370,000
12/1/19	-	8.903%	4,121,199	4,121,199	-	-	-	-	92,580,000
6/1/20	7,230,000	8.903%	4,121,199	11,351,199	8,242,397	15,472,397	16,318,598	846,201	92,580,000
12/1/20	-	8.903%	3,799,355	3,799,355	-	-	-	-	85,350,000
6/1/21	8,850,000	8.903%	3,799,355	12,649,355	7,598,711	16,448,711	17,297,714	849,004	85,350,000
12/1/21	-	8.903%	3,405,398	3,405,398	-	-	-	-	76,500,000
6/1/22	10,675,000	8.903%	3,405,398	14,080,398	6,810,795	17,485,795	18,335,578	849,783	76,500,000
12/1/22	-	8.903%	2,930,200	2,930,200	-	-	-	-	65,825,000
6/1/23	12,725,000	8.903%	2,930,200	15,655,200	5,860,400	18,585,400	19,435,712	850,312	65,825,000
12/1/23	-	8.903%	2,363,747	2,363,747	-	-	-	-	53,100,000
6/1/24	15,025,000	8.903%	2,363,747	17,388,747	4,727,493	19,752,493	20,601,856	849,363	53,100,000
12/1/24	-	8.903%	1,694,909	1,694,909	-	-	-	-	38,075,000
6/1/25	17,600,000	8.903%	1,694,909	19,294,909	3,389,817	20,989,817	21,837,966	848,149	38,075,000
12/1/25	-	8.903%	911,445	911,445	-	-	-	-	20,475,000
6/1/26	20,475,000	8.903%	911,445	21,386,445	1,822,889	22,297,889	23,148,244	850,355	20,475,000
Total	111,800,000		180,578,566	292,378,566	180,578,566	292,378,566	313,666,990	21,288,424	

FY18

FY26

In FY27, the City operating budget will no longer have any debt service related to the Pension Obligation Bond. The final debt service payments of \$22.2M represents an overall debt principal reduction of \$20.4M and the complete \$111.3M POB will have been repaid. This debt reduction could be replaced with new debt, the annual debt service could be moved into an operating account for capital maintenance paid with operating funds (instead of debt), or the City could choose not to replace the expenditure and simply reduce the mill rate by approximately \$2.87. These decisions and many others, including potential restructuring of the bonds, will be investigated over the next several fiscal years.

School Facilities Ad Hoc Committee Official Proposal 2/16/17

On January 19th, after eight public meetings including tours of all four schools and two public hearings, the School Facilities Ad Hoc Committee (SFC), consisting of the Mayor, three Councilors and four School Board Members, formally endorsed a modified school bond to renovate Presumpscot, Longfellow, Reiche and Lyseth. The proposal addresses significant deferred maintenance at all four schools, creates equity and modernizes learning environments. The vote was 7-1 (Mavodones opposed). On Jan. 31, the school board, after a public hearing, unanimously endorsed the same. The vote was 9-0, plus the three HS reps.

The SFC proposal trims the original package of \$70,967,00 by just over 14% to \$60,958,164. While the specific borrowing schedule will undoubtedly shift, the projected cumulative tax increase from the proposed bond is 3% phased in over six years. On an average (\$225,000) home, the total tax increase would be \$148.11 over the six years, or around \$25 (.5%) per year. For the projected life of the borrowing (27 years), the cost would be \$2,406 or \$89 a year on an average home.

The modified proposal upgrades the four schools in the following ways (highlights):

Presumpscot: Modularity eliminated and over 9,000ft² of classroom space added. Separate gym and lunchrooms created. Adequate OT, PT, ELL, music, art, library, kitchen and restroom space added. Improved security and sightlines for the entrance. More functional parent drop off/bus loop constructed. Upgraded learning technology, plumbing, electrical and sprinklers installed. Significant deferred maintenance addressed. LEED Certified. Cost: \$13,628,178

Longfellow: Building made fully ADA compliant with new, more secure entrance. Full asbestos abatement. Separate gym and lunchrooms created. Adequate reading, ELL, Gifted & Talented, music, art, library, and kitchen space. Upgraded learning technology, plumbing, electrical and sprinklers installed. Significant deferred maintenance addressed. LEED Certified. Cost: \$13,783,644

Reiche: Acoustic and lighting problems corrected. Enclose classroom corridor walls and provide operable partitions. Maintains ability for open spaces for collaborative learning. Appropriate health station created. Rightsize art, music and reading spaces. Pre-K, Title1, OT, PT and Reading 180 spaces added. Upgraded learning technology, plumbing, electrical and sprinklers installed. Solar heater for the pool. Significant deferred maintenance addressed. LEED Certified. Cost: \$17,246,276

2/16/17

Lyseth: Modularity eliminated and classroom space added. Pre-K, Kindergarten and Gifted & Talented space created. Adequate ELL, speech, art, music, library, nurse's station and social worker space added. Separate gym and lunchrooms created. Upgraded learning technology, plumbing, electrical and sprinklers installed. Significant deferred maintenance addressed. LEED Certified. Cost: \$16,300,065

Proposed Changes From the Original Package

The modifications from the original Buildings for Our Future proposal were developed in concert with school principals to ensure that the schools are maximizing learning environments, while making budget adjustments that did not have an adverse impact on the educational experience for future students. The modifications are:

- Realize savings through bulk purchasing of movable and built-in equipment.
- Reduce gyms to elementary size and remove locker rooms (Lys, Pre, Long).
- Eliminate playground upgrades and outdoor learning improvements.
- Shift some site and electrical work to state application or CIP.
- Add full time Project Coordinator to each school to lead renovation.
- Add operable partitions for collaborative instruction as appropriate.
- Eliminate 2nd floors from Lyseth and Presumpscot (retain ability for future additions).



7/18/2017

2/16/17

Proposed amendment to the Buildings for Our Future (BFOF) bond:

2/23/17

Adding \$1,080,484 for installation of an elevator and \$524,000 for masonry restoration, to the Longfellow School project for a new total of \$15,388,128, and

Adding \$1,697,489 for site improvements to the Lyseth project, for a new total of \$17,997,554.

Bringing the new total for the BFOF project to \$64,260,000

Passed 2-0 at Finance Committee on 2/23/17 (Mavodones absent)

Order 156-16/17
Feb 17 45-17

Order 156-16/17

Public Hearing held March 20, 2017

Motion to postpone to March 27, 2017: 9-0 on 3/20/2017

Motion to postpone to April 5, 2017: 9-0 on 3/27/2017

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 APPROPRIATING \$64,260,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of \$64,260,000 hereby is appropriated to finance the renovation, furnishing and equipping of Longfellow, Lyseth, Presumpscot and Reiche elementary school with total project costs not to exceed \$64,260,000 (the "Elementary School Projects"), as follows:

Longfellow Elementary	\$15,388,000
Lyseth Elementary	17,998,000
Presumpscot Elementary	13,628,000
Reiche Elementary	17,246,000
Total	\$64,260,000

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council (and, as necessary, the voters of the City of Portland) of general obligation bonds for such purpose (the amount appropriated to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project.

Amendment to original appropriation order

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 APPROPRIATING \$64,260,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of \$64,260,000 hereby is appropriated to finance the renovation, furnishing and equipping of Longfellow, Lyseth, Presumpscot and Reiche elementary schools with total project costs not to exceed \$64,260,000 (the "Elementary School Projects"), as follows:

Longfellow Elementary	\$15,388,000
Lyseth Elementary	17,998,000
Presumpscot Elementary	13,628,000
Reiche Elementary	17,246,000
Total	\$64,260,000

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council (and, as necessary, the voters of the City of Portland and the satisfaction of any necessary condition) of general obligation bonds for such purpose (the amount appropriated to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project.

Councilor Ray Amendment
(amends and replaces original appropriation order)

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 APPROPRIATING \$24,000,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of \$24,000,000 hereby is appropriated to finance the renovation, furnishing and equipping of Lyseth elementary school and other miscellaneous improvements at Reiche, Ocean Avenue, Peaks Island and Riverton Elementary Schools, Lyman Moore and King Middle Schools and Deering High School with total project costs not to exceed \$24,000,000 (the "School Projects"), as follows:

Lyseth	Substantially renovated and rehabilitated	\$16,362,275
Lyseth	Bus Loop, Field Work, and Drainage Issues	\$1,450,000
Lyseth & Lyman Moore	Moore Parking Improvements	\$247,489
Lyman Moore	Fire Alarm Installation and Upgrades	\$270,000
King	Fire Alarm Installation and Upgrades	\$270,000
Ocean Avenue	Four Classrooms	\$1,500,000
Reiche Elementary	New Brackett Street Entrance	\$2,400,106
Peaks Island & Riverton	Energy Efficiency Upgrades (Peaks: ceiling & lighting upgrades; Riverton: heat piping in new wing, replace original rooftop AC)	\$170,000
Deering High	Sprinklers & Fire Alarm Installation and Upgrades	\$1,330,130
TOTAL:		\$24,000,000

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council (and, as necessary, the voters of the City of Portland) of general obligation bonds for such purpose (the amount appropriated to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed School Project.

Councilor Mavodones/Councilor Duson Amendment
(amends and replaces original appropriation order)

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 APPROPRIATING \$31,626,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of \$31,626,000 hereby is appropriated to finance the renovation, furnishing and equipping of Lyseth and Presumpscot elementary school with total project costs not to exceed \$31,626,000 (the "Elementary School Projects"), as follows:

Lyseth Elementary	\$17,998,000
Presumpscot Elementary	13,628,000
Total	\$31,626,000

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council (and, as necessary, the voters of the City of Portland) of general obligation bonds for such purpose (the amount appropriated to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project.

Order 157-16/17
Feb 18 4-5-17

Order 157-16/17
Public Hearing held March 20, 2017
Motion to postpone to March 27, 2017: 9-0 on 3/20/2017
Motion to postpone to April 5, 2017: 9-0 on 3/27/2017

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 SUBMITTING ELEMENTARY SCHOOL RENOVATION PROJECTS
BOND ORDER TO REFERENDUM

WHEREAS, contemporaneously herewith the City Council adopted an order authorizing the the renovation, furnishing and equipping of Longfellow, Lyseth, Presumpscot and Reiche elementary school with total project costs not to exceed \$64,260,000 (the “Elementary School Projects”), and further authorizing issuance of the City’s bonds in an amount not to exceed \$64,260,000 to finance the costs of the Project (the “Elementary School Order”) and

WHEREAS, Article VII, Section 16 of the City Charter requires that the Elementary School Order be submitted to the voters of the City following a public hearing;

WHEREAS, the City Council held a public hearing on the Elementary School Order at its regular meeting held March 20, 2017;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF PORTLAND BE IT HEREBY ORDERED:

THAT the question of whether the voters approve and ratify Elementary School Order be submitted to the voters of the City of Portland in accordance with Article VII, Section 16 of the City Charter, at a municipal election to be held on June 13, 2017, substantially in the form attached hereto as Exhibit A.

THAT the City Manager, Director of Finance and Clerk be and hereby are authorized and directed to undertake all action necessary or appropriate to finalize the form of the referendum question, with such other information as may be required by law or, in the discretion of the Director of Finance, as may be permitted by law, and to place said Elementary School Order before the voters at such election.

Exhibit A

Question __: Shall the Order entitled "ORDER APPROVING LONGFELLOW, LYSETH, PRESUMPCOT AND REICHE ELEMENTARY SCHOOL RENOVATION PROJECTS WITH TOTAL PROJECT COSTS NOT TO EXCEED \$64,260,000 AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE", with provisions for early redemption as set forth in said Order be Approved?

Amendment to original referendum order

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 SUBMITTING ELEMENTARY SCHOOL RENOVATION PROJECTS
BOND ORDER TO REFERENDUM**

WHEREAS, contemporaneously herewith the City Council adopted an order authorizing the the renovation, furnishing and equipping of Longfellow, Lyseth, Presumpscot and Reiche elementary school with total project costs not to exceed \$64,260,136 (the "Elementary School Projects"), and further authorizing issuance of the City's bonds in an amount not to exceed \$64,260,136 to finance the costs of the Project (the "Elementary School Order") and

WHEREAS, Article VII, Section 16 of the City Charter requires that the Elementary School Order be submitted to the voters of the City following a public hearing;

WHEREAS, the City Council held a public hearing on the Elementary School Order at its regular meeting held March 20, 2017 and at a meeting held April 27, 2017;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF PORTLAND BE IT HEREBY ORDERED:

THAT the question of whether the voters approve and ratify Elementary School Order be submitted to the voters of the City of Portland in accordance with Article VII, Section 16 of the City Charter, at a municipal election to be held on ~~June 6~~ November 7, 2017, substantially in the form attached hereto as Exhibit A.

THAT the City Manager, Director of Finance and Clerk be and hereby are authorized and directed to undertake all action necessary or appropriate to finalize the form of the referendum question, with such other information as may be required by law or, in the discretion of the Director of Finance, as may be permitted by law, and to place said Elementary School Order before the voters at such election.

Exhibit A

Question __: Shall the Order entitled "ORDER APPROVING LONGFELLOW, LYSETH, PRESUMPCOT AND REICHE ELEMENTARY SCHOOL RENOVATION PROJECTS WITH TOTAL PROJECT COSTS NOT TO EXCEED \$64,260,136 AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE, SUBJECT TO THE CONDITIONS CONTAINED IN THIS ORDER", with provisions for early redemption as set forth in said Order be Approved?

Councilor Ray Amendment
(replaces original referendum order)

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 SUBMITTING ELEMENTARY SCHOOL RENOVATION PROJECTS
BOND ORDER TO REFERENDUM

WHEREAS, contemporaneously herewith the City Council adopted an order authorizing the the renovation, furnishing and equipping of Lyseth elementary school and other miscellaneous school improvements with total project costs not to exceed \$24,000,000 (the "School Projects"), and further authorizing issuance of the City's bonds in an amount not to exceed \$24,000,000 to finance the costs of the School Projects (the "School Order") and

WHEREAS, Article VII, Section 16 of the City Charter requires that the School Order be submitted to the voters of the City following a public hearing;

WHEREAS, the City Council held a public hearing on the School Order at its meeting held _____, 2017;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF PORTLAND BE IT HEREBY ORDERED:

THAT the question of whether the voters approve and ratify the School Order be submitted to the voters of the City of Portland in accordance with Article VII, Section 16 of the City Charter, at a municipal election to be held on June 6, 2017, substantially in the form attached hereto as Exhibit A.

THAT the City Manager, Director of Finance and Clerk be and hereby are authorized and directed to undertake all action necessary or appropriate to finalize the form of the referendum question, with such other information as may be required by law or, in the discretion of the Director of Finance, as may be permitted by law, and to place said School Order before the voters at such election.

Exhibit A

Question __: Shall the Order entitled "ORDER APPROVING LYSETH ELEMENTARY SCHOOL RENOVATION PROJECT AND OTHER MISCELLANEOUS IMPROVEMENTS AT REICHE, OCEAN AVENUE, PEAKS ISLAND AND RIVERTON ELEMENTARY SCHOOLS, LYMAN MOORE AND KING MIDDLE SCHOOLS, AND DEERING HIGH SCHOOL WITH TOTAL PROJECT COSTS NOT TO EXCEED \$24,000,000 AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE", with provisions for early redemption as set forth in said Order be Approved?

Councilor Mavodones/Councilor Duson Amendment
(replaces original referendum order)

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 SUBMITTING ELEMENTARY SCHOOL RENOVATION PROJECTS
BOND ORDER TO REFERENDUM

WHEREAS, contemporaneously herewith the City Council adopted an order authorizing the renovation, furnishing and equipping of Lyseth and Presumpscot elementary schools with total project costs not to exceed \$31,626,000 (the "Elementary School Projects"), and further authorizing issuance of the City's bonds in an amount not to exceed \$31,626,000 to finance the costs of the Project (the "Elementary School Order") and

WHEREAS, Article VII, Section 16 of the City Charter requires that the Elementary School Order be submitted to the voters of the City following a public hearing;

WHEREAS, the City Council held a public hearing on the Elementary School Order at its meeting held _____, 2017;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF PORTLAND BE IT HEREBY ORDERED:

THAT the question of whether the voters approve and ratify the Elementary School Order be submitted to the voters of the City of Portland in accordance with Article VII, Section 16 of the City Charter, at a municipal election to be held on June 6, 2017, substantially in the form attached hereto as Exhibit A.

THAT the City Manager, Director of Finance and Clerk be and hereby are authorized and directed to undertake all action necessary or appropriate to finalize the form of the referendum question, with such other information as may be required by law or, in the discretion of the Director of Finance, as may be permitted by law, and to place said Elementary School Order before the voters at such election.

Exhibit A

Question __: Shall the Order entitled "ORDER APPROVING LYSETH AND PRESUMPCOT ELEMENTARY SCHOOL RENOVATION PROJECTS WITH TOTAL PROJECT COSTS NOT TO EXCEED \$31,626,000 AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE", with provisions for early redemption as set forth in said Order be Approved?

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 174-16/17
Tab 19-3-20-17
Tab 19 4-5-17
DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**TRAFFIC SCHEDULE AMENDMENT
RE: COVE STREET TO TWO-HOUR AND NO PARKING**

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

By adding under Cove Street:

East Side, from a point 70 from Anderson Street to a point 170 feet from Anderson Street

- **Schedule XVIII** – 2 hour parking

East Side, from a point 170 from Anderson Street to a point 210 feet from Anderson Street

- **Schedule I** – No parking anytime

East Side, from a point 210 from Anderson Street to a point 410 feet from Anderson Street

- **Schedule XVIII** – 2 hour parking

East Side, from a point 410 from Anderson Street to a point 485 feet from Anderson Street

- **Schedule I** – No parking anytime

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: Jon Jennings, Ethan K. Strimling, Anita LaChance, Sonia Bean,
Danielle West-Chuhta, Nancy English, Julianne Sullivan,

FROM: Jeremiah Bartlett, PE, PTOE
Transportation Systems Engineer, Department of Public Works

CC: John Peverada, Parking Division
Mike Murray, Assistant to the City Manager
Christopher Branch, Director of Public Works
Kathi Earley, Engineering Manager, Public Works
Jeff Levine, Director of Planning & Urban Development

DATE: March 6, 2017

SUBJECT: Traffic Schedule Amendment: Convert Part of Cove Street to 2-Hour Parking

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading March 20, 2016 **Final Action:** April 5, 2016

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

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

I. ONE SENTENCE SUMMARY

The Department of Public Works requests City Council approval to amend the Traffic Schedule to convert 15 spaces along the east side of Cove Street (from Anderson Street to the northern extent of the Angela Adams frontage) from unrestricted parking to two-hour parking.

II. AGENDA DESCRIPTION

Cove Street is a street connecting Anderson Street to Marginal Way in the East Bayside neighborhood. The Council action would change the traffic schedule to make the east side of Cove Street from Anderson Street to the north end of the Angela Adams frontage, currently an unrestricted street, to a two hour parking street. (Please see Attachment 2 for a graphic of the affected area.

III. BACKGROUND

Changing land uses for businesses have driven a neighborhood desire for turnover parking, something Cove Street does not currently have.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The intended result of this change is to provide parking turnover during the day, in support of a growing number of businesses that desire access to street parking. In addition, if this portion of a Cove Street change proves successful, future turnover proposals for additional parts of East Bayside may be brought forward for Council review.

V. FINANCIAL IMPACT

The financial impact will be staff time and the placement of signage along the street, approximately \$500 for staff time and another \$500 in materials related to signage, and Dig Safe fees from On Target.

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

The original request came from the owner of Portland Power Yoga at 84 Cove Street, and additional support has come from the owner of Angela Adams at 65-71 Cove Street.

VII. RECOMMENDATION

DPW staff, with concurrence from Parking Division, recommend this change.

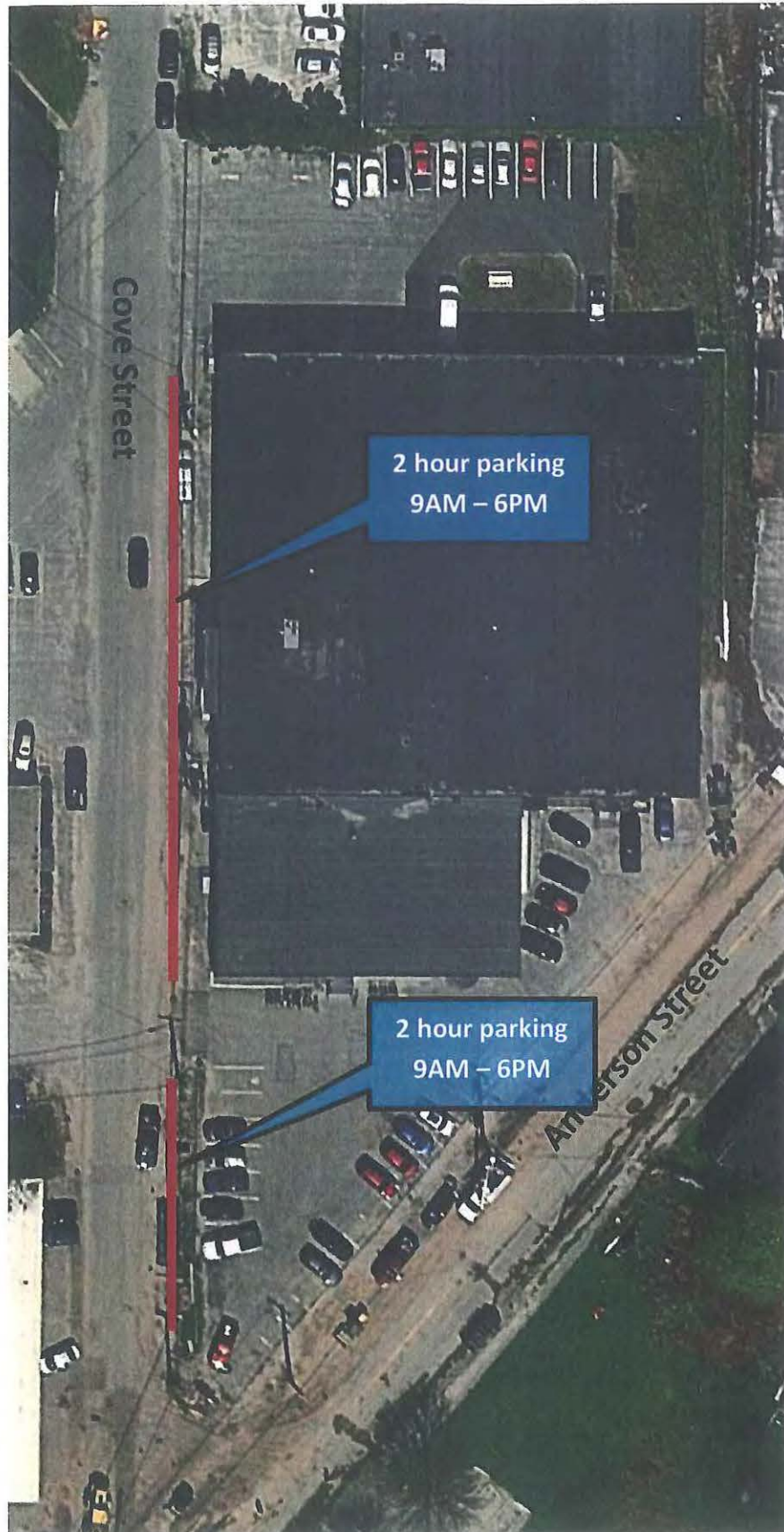
VIII. LIST ATTACHMENTS

1. Draft Council Order
2. Graphic

Prepared by: Jeremiah Bartlett

Date: 3/06/17

Parking Change Proposed for Cove Street



Order 175-16/17
~~*Tab 20 3-20-17*~~
Tab 20 4-5-17

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 RIVERSIDE STREET UTILITY RECEIVABLE
AGREEMENT BETWEEN THE CITY OF PORTLAND AND
MAINE DEPARTMENT OF TRANSPORTATION**

ORDERED, that the two-party agreement between the City of Portland and the Maine Department of Transportation (MaineDOT), for City of Portland payment for sewer manhole frames and covers required during the Maine DOT Riverside Street paving project, is hereby approved; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of 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: Michael Farmer, Senior Engineer, Department of Public Works

DATE: March 7, 2017

SUBJECT: Maine Department of Transportation Utility Receivable Agreement - Riverside Street Paving Project

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading: 3/20/2017 **Final Action:** 4/5/2017

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

This agreement must be approved by City Council and signed by the City Manager by 4/19/2017 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION: (List the presenter(s), type and length of presentation)
Not Applicable

I. ONE SENTENCE SUMMARY

City Council is being asked to approve this Utility Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave Riverside Street between Brighton Avenue and the Home Depot Driveway in 2017.

II. AGENDA DESCRIPTION

This agreement, between MaineDOT and the City of Portland, obligates MaineDOT to adjust the City's sanitary sewer manhole frames and covers, as necessary, when MaineDOT's contractor paves Riverside Street. The agreement obligates the City to pay MaineDOT for the manhole frame and cover adjustment work, which is estimated to cost \$6,000.00.

III. BACKGROUND

The Riverside Street paving project is part of MaineDOT's 2017 work plan. The scope of work include milling and paving with a 1 ½ inch hot mix asphalt overlay. Construction work on this project is scheduled to begin after June 15, 2017 and be completed in 2017. This project is classified as a pavement preservation project on an arterial street. As such, MaineDOT will

pay 100% of the cost of paving. The City will be responsible for only the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The Riverside Street paving project will improve the pavement surface and ride quality on a regionally important arterial roadway. Federal and State funds will pay for 100% of the paving costs.

V. FINANCIAL IMPACT

The City is obligated to pay 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The cost of this work, estimated to be \$6,000.00, would be paid from a FY17 CIP account established for this project: C17513.

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

Arterial paving projects such as this one, where MaineDOT pays 100% of the paving costs, are one of the best alternatives for the City in terms of getting the most street paving done for the least expense of City funds.

A site plan for the Dirigo Plaza development was recently approved by the Portland Planning Board. The project area straddles the Portland-Westbrook municipal boundary just south of the intersection of Riverside Street and Brighton Avenue. The site plan approval requires the developer to prepare plans for specific street and sidewalk improvements to Riverside Street, gain approval of the plans, and construct the improvements. City staff and MaineDOT staff are engaged in ongoing communications with the developer's team of consultants to assist the developer in meeting these requirements before MaineDOT's contractor completes the Riverside Street paving project.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave Riverside Street (from Brighton Avenue to Home Depot's driveway) in 2017.

VIII. LIST ATTACHMENTS

MaineDOT Utility Receivable Agreement for WIN # 18791.00

Prepared by: Michael Farmer

Date: March 7, 2017

MaineDOT Use Only

TEDOCS #: _____
CT#: _____
CSN#: _____
Program: _____

MAINE DEPARTMENT OF TRANSPORTATION UTILITY RECEIVABLE AGREEMENT

(MaineDOT Use Only)

Project Location: <u>Portland</u>	Estimated Agreement Amount: \$ <u>\$6,000.00</u>
State WIN #: <u>18791.00</u>	Vendor Customer #: _____
Federal Aid Project #: <u>NHPP-1879(100)</u>	Agreement Begin Date: _____
	Forecasted Agreement End Date: <u>10/31/2017</u>

THIS AGREEMENT, in duplicate originals entered into the last date signed herein at the end of this agreement, between the **Maine Department Of Transportation** (hereafter the "Department") and **City of Portland**, duly authorized and existing under the Laws of the State of Maine and having an office in the **City of Portland** County of **Cumberland** (the "Utility") (the Department and the Utility are collectively referred to as the "Parties").

1. The Department is implementing a transportation project identified as Federal Aid Project Number NHPP-1879(100); WIN: 18791.00 (the "Project") for highway improvements in the City of Portland, Cumberland County;
2. In connection with the Project, the Department has prepared plans and specification for the Project that resulted in the following determination:

 X The Department has identified the locations of existing utility facilities owned and maintained by the Utility and lawfully installed within the limits of the public highway right-of-way and the impact limits of the Project that must be relocated to accommodate the Project (the "Affected Facilities");

 The Utility has expressed an interest in installing new utility facilities within the limits of the public highway right-of-way and the impact limits of the Project (the "Affected Facilities").

3. The Affected Facilities consist of Sewer System Manholes.
4. The Utility has prepared and provided to the Department the scope of work necessary for relocating or installing the Affected Utilities (the "Utility Work") and the estimated costs

associated therewith, which are outlined in **Appendix A**, attached hereto and made a part hereof. The costs associated with the Utility Work are the sole responsibility of the Utility.

5. The Parties wish to establish a process for including the Utility Work in the Department's construction contract for the Project.

NOW, THEREFORE, the Parties agree as follows:

6. Plans, Specifications and Estimate:

- a. The Utility shall, at its own expense, perform and provide all engineering, design and related services related to the Utility Work necessary to enable the Department and/or its consultant to generate construction plans, specifications and an estimate of material quantities for the Utility Work to be included in the Project contract. The Utility will be responsible for locating and recording the location of all Utility Work, including services and other appurtenances within the Project area. To the extent possible and consistent with laws, practices and policies of the Department and the industry, the Utility Work shall be performed in accordance with the plans and specifications provided by the Utility and, if applicable, the most recent version of the Department's Standard Specifications.
- b. All plans shall be on sheets of the same size used by the Department and be reproducible by black and white printing. Specifications shall be on 8 ½ x 11-inch paper, suitable for binding with the Department's specifications. The estimate of quantities shall be in the form prescribed by the Department. In the event of field changes to the Utility Work, the Utility shall prepare any additional plans and specifications and the Department shall prepare a Project change order and amend this Agreement incorporating any changes therein. All plans and specifications will be marked with the Federal Aid Project Number referenced in this Agreement.
- c. The Utility will provide the Department with the plans, specifications and an updated estimate as described in Appendix A no later than one month prior to the scheduled advertise date for the Project.
- d. The Utility shall be responsible for obtaining a Utility Location Permit from the Department in accordance with Title 35-A M.R.S.A. Chapter 25 and for recording the location of all utilities in a manner and form to be specified by the Department.
- e. **Standard Approach:** The Department will prepare the Project contract documents to include the Utility Work specified in Appendix A. The Utility agrees to have these items included in the Department's Project construction contract. Bidders will be required to bid both the Project work and the Utility Work. The Utility Work will be paid for by the Utility, and any changes that increase the Utility Work estimate or

amount will be paid for through a written modification of this agreement approved by both the Utility and the Department.

7. Inspection:

- a. The Utility shall be responsible for providing all engineering and inspection associated with the Utility Work including computing quantities for payment and other incidental and related work unless otherwise stated herein. By the end of each work day, whenever Utility Work is performed, the Utility will provide the Department's on-site representative with an itemized summary of all the Utility Work completed.
- b. The Department shall provide inspection of the quality and compaction of backfill installed in connection with the construction contract, excluding bedding and other special backfills and materials used in the installation of the Utility Work.
- c. If the Utility Work is included in the Project contract pursuant to Section 6.e. above, the Utility agrees to the following:
 - i. Should the Utility find the Project contractor's materials or workmanship to be insufficient in any way, the Utility agrees to inform the Department's on-site representative as soon as possible, but no later than the end of the day in which the problem is identified.
 - ii. As administrator to the construction contract, the Department's on-site representative shall be responsible for authorizing all payments relating to the Utility Work, issuing all directives to the Project's contractor and making the final determination in the event of any disagreements.

8. Ownership of Completed Utilities: Upon completion of the Utility Work the Utility shall assume complete ownership of, and responsibility for, the utility facilities installed in connection with the Utility Work.

9. Claims: The Utility shall be responsible for the prompt review and settlement of any claims arising from or related to the Utility Work or its impact on the Project.

10. Indemnification: The Utility shall indemnify, defend and hold harmless the Department and its officers, employees, agents and assigns, from and against any and all claims, liability or expenses, including but not limited to reasonable attorney's fees and litigation costs (the "Claims"), to the extent such Claims are caused, or alleged to have been caused, by acts or omissions of the Utility or any of its officers, employees, agents, representatives, supervisors, contractors, subcontractors or consultants in connection with the performance of its obligations under this Agreement. Nothing in this Agreement is intended or shall be construed to waive any defense, immunity or limitation of liability that may be available to

the Department or the Utility pursuant to the Maine Tort Claims Act (14 M.R.S. § 8101 *et seq.*) or any other privileges or immunities provided by law. The terms outlined in this section shall survive any termination or expiration of this Agreement.

11. **Buy America Requirements:** This agreement is subject to the requirements of Buy America in accordance with Federal Regulation 23 CFR 635.410 Section 1518. Specific requirements are presented in MaineDOT Standard Specification Section 100, Appendix A, Section 3.A., Buy America which are incorporated and made a part hereof by reference.
12. **Subsequent Excavations and/or Installations:** Except in the case of an emergency, the Utility acknowledges and agrees to refrain from applying for a permit for the excavation of the highway within the limits of the Project for a period of at least **(3)** years following the completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. In all cases, whether an excavation moratorium as described above applies, or as in the case of Light Capital Paving projects where no excavation moratorium applies, the Utility further acknowledges and agrees that all subsequent excavations and/or installations within the right-of-way of the Project limits shall be regulated and controlled in the manner specified by the most recent version of the Department's "*Utility Accommodation Rules*", which are incorporated and made a part hereof by reference. The terms outlined in this section shall survive any termination or expiration of this Agreement.
13. **Non-Appropriation and Termination:** Anything herein to the contrary notwithstanding, the Utility acknowledges and agrees that, although the execution of this Agreement by the Department manifests the Department's 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 the Department in excess of such appropriations. In the event of unanticipated impacts on the Project, such as, changes in the Project design, or a loss in Project funding, or a delay in advertising or awarding of the contract, the Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Utility and in no event shall any such action be deemed a breach of contract.
14. **Payment:** If the Utility Work is included in the Project contract pursuant to Section 6.e. above, the Utility agrees to reimburse the Department for the full amount of the cost of the utility work. A detailed breakdown of the anticipated cost of the Utility Work is attached hereto and incorporated herein as Appendix A. The Department will issue a final invoice after all the Utility Work is complete, all quantities are verified and any required adjustments have been made. The Department, at its sole discretion, may issue periodic invoices for portions of the Utility Work as it is being completed. The final invoice will include any

remaining costs or credits. The Utility shall submit payment to the Department within 30 days from the invoice date.

15. Contact Information:

For the Department:

Name: David Lycette
Address: Maine DOT
16 State House Station
Augusta, ME 04333
E-mail: david.lycette@maine.gov
Telephone: (207) 592-1378

For the Utility:

Name: Michael Farmer
Address: Department of Public Services
55 Portland Street
Portland, ME 04101
E-mail: mfarmer@portlandmaine.gov
Telephone: (207) 874-8845

16. No Relief of Responsibilities: Nothing in this agreement is intended, nor shall be interpreted, to relieve the Utility of any responsibilities or duties imposed upon it by law.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in duplicate on the day and year first above written by its duly authorized representatives.

IN THE PRESENCE OF:

CITY OF PORTLAND

Witness

By: _____

Print Name: _____

Title: _____

Duly Authorized

DATE: _____

STATE OF MAINE

DEPARTMENT OF TRANSPORTATION

Witness

By: _____

Print Name: _____

Title: _____

Duly Authorized

DATE: _____

APPENDIX A
PROJECT SCOPE

MAINE DEPARTMENT OF TRANSPORTATION
UTILITY RECEIVABLE AGREEMENT

CITY OF PORTLAND – DEPARTMENT OF PUBLIC SERVICES

FEDERAL AID PROJECT NO. **NHPP-1879(100)**
STATE PROJECT IDENTIFICATION NUMBER (WIN) **18791.00**

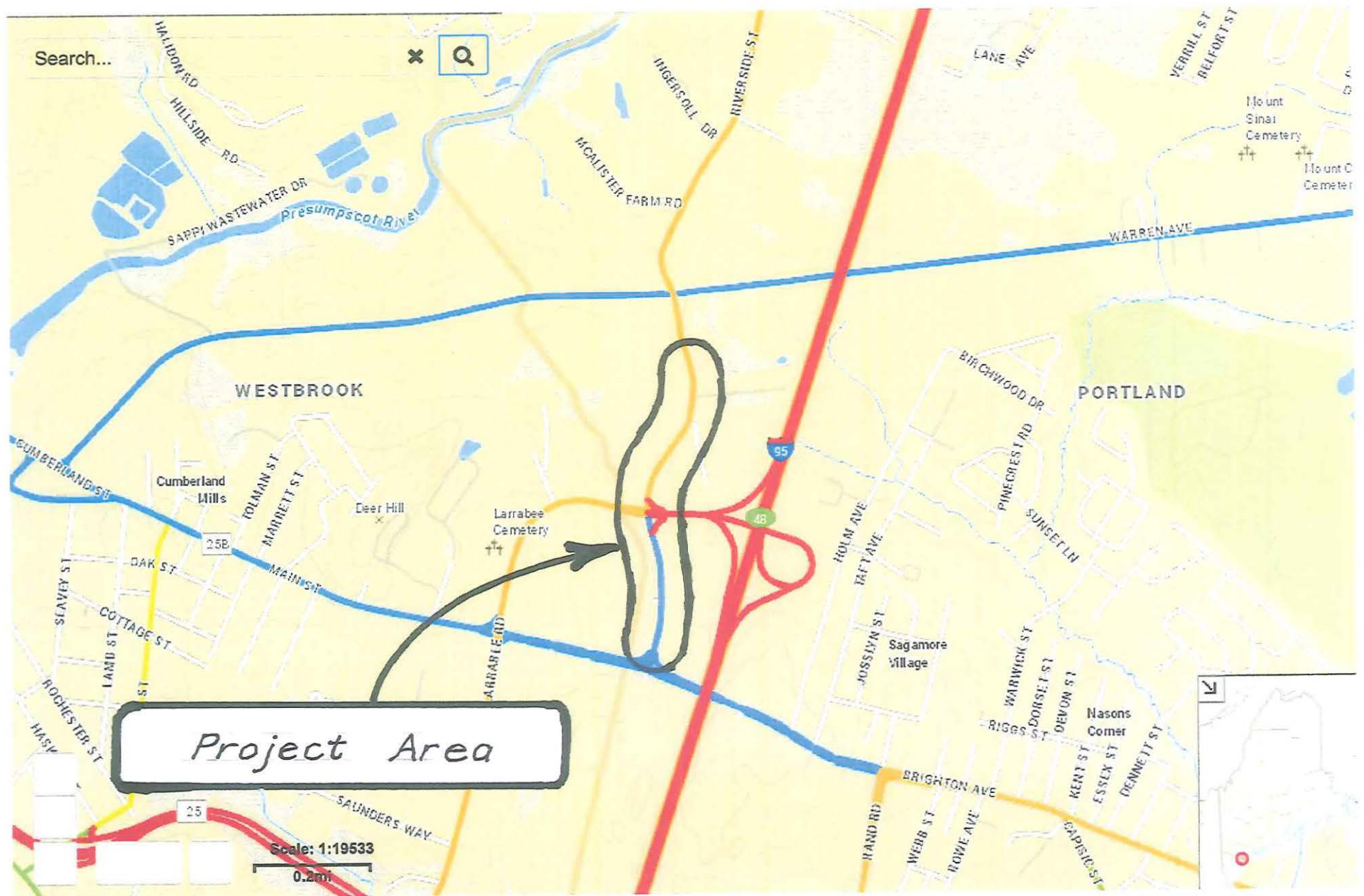
Project Scope: Lower all sewer manholes on the project if needed for milling and raise all sewer manholes on the project after shim to match new final surface paving.

ESTIMATE OF UTILITY WORK:

Item #	Pay Item	Estimated Quantity /Unit	Unit Price	Utility Cost
812.162	Adjusting Sewer Manhole to Grade	6 Each	\$1,000.00	\$6,000.00
		Total Cost:		\$6,000.00

ESTIMATED PAYMENT SCHEDULE:

Utility	Payment Amount	Estimated Invoice Date
City of Portland	\$6,000.00	After utility work is complete. On or after 6/15/2017.



Order 178-16/17
~~Tab 23 - 3-20-17~~
Tab 21 4-5-17

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 AGREEMENT BETWEEN PORTLAND AND MAINE
DEPARTMENT OF TRANSPORTATION
RE: WASHINGTON AVENUE BETWEEN CONGRESS STREET AND CUMBERLAND
AVENUE**

ORDERED, that the two-party agreement between the Maine Department of Transportation and the City of Portland, for design of traffic improvements to Washington Avenue between Congress Street and Cumberland Avenue, a project previously approved by a three-party agreement now in effect involving the Portland Area Comprehensive Transportation System by Order 51-16/17, is hereby approved in substantially the form attached hereto to include local administration; 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: Jon Jennings, Ethan K. Strimling, Anita LaChance, Sonia Bean,
Danielle West-Chuhta, Nancy English, Julianne Sullivan,

FROM: Jeremiah Bartlett, PE, PTOE
Transportation Systems Engineer, Department of Public Works

CC: Kathi Earley, Engineering Manager, Public Works
Christopher Branch, Director of Public Works
Brucy Hyman, Transportation Program Manager
Jeff Levine, Director of Planning & Urban Development
Mike Murray, Assistant to the City Manager

DATE: March 6, 2017

SUBJECT: Two-Party (City-MaineDOT) Agreement for Washington Avenue Preliminary
Engineering

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading March 20, 2016 **Final Action:** April 5, 2016

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

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

I. ONE SENTENCE SUMMARY

The Department of Public Works requests that the City Council approve a two-party agreement with MaineDOT to allow the City to locally manage the preliminary design only (PDR) project of Washington Avenue from Congress Street to Cumberland Avenue.

II. AGENDA DESCRIPTION

PACTS approved funding in 2016 for the preliminary design of a portion of Washington Avenue from Congress Street to Cumberland Avenue, inclusive of roadway, sidewalk and signal design. Council action 51-16/17, effective September 29, 2016 enacted the three-party funding agreement for this design-only project; at that time MaineDOT had responsibility to administer the project.

III. BACKGROUND

It has now been determined that City staff will manage the design project. This new agreement is required to set forth roles and responsibilities for project management.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The intended result of this action is to allow local staff to manage this project.

V. FINANCIAL IMPACT

As per the previous three-party agreement, the financial responsibilities have been set forth, with a total funding of \$131,700 coming from PACTS and state/federal funds, and the remaining \$43,900 coming from local funding sources.

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

The City has also requested FY18 CIP funds for \$250,000 to pay for design of Washington Avenue to the north of Cumberland Avenue, and applied to PACTS for funding of the same. DOT staff supports such a design approach, as it evaluates the entirety of Washington Avenue north of Cumberland Avenue all the way to Eastern Prom if these FY18 CIP funds are approved.

VII. RECOMMENDATION

DPW staff recommends approval of this Agreement to allow staff to proceed with a Request for Proposal for design services.

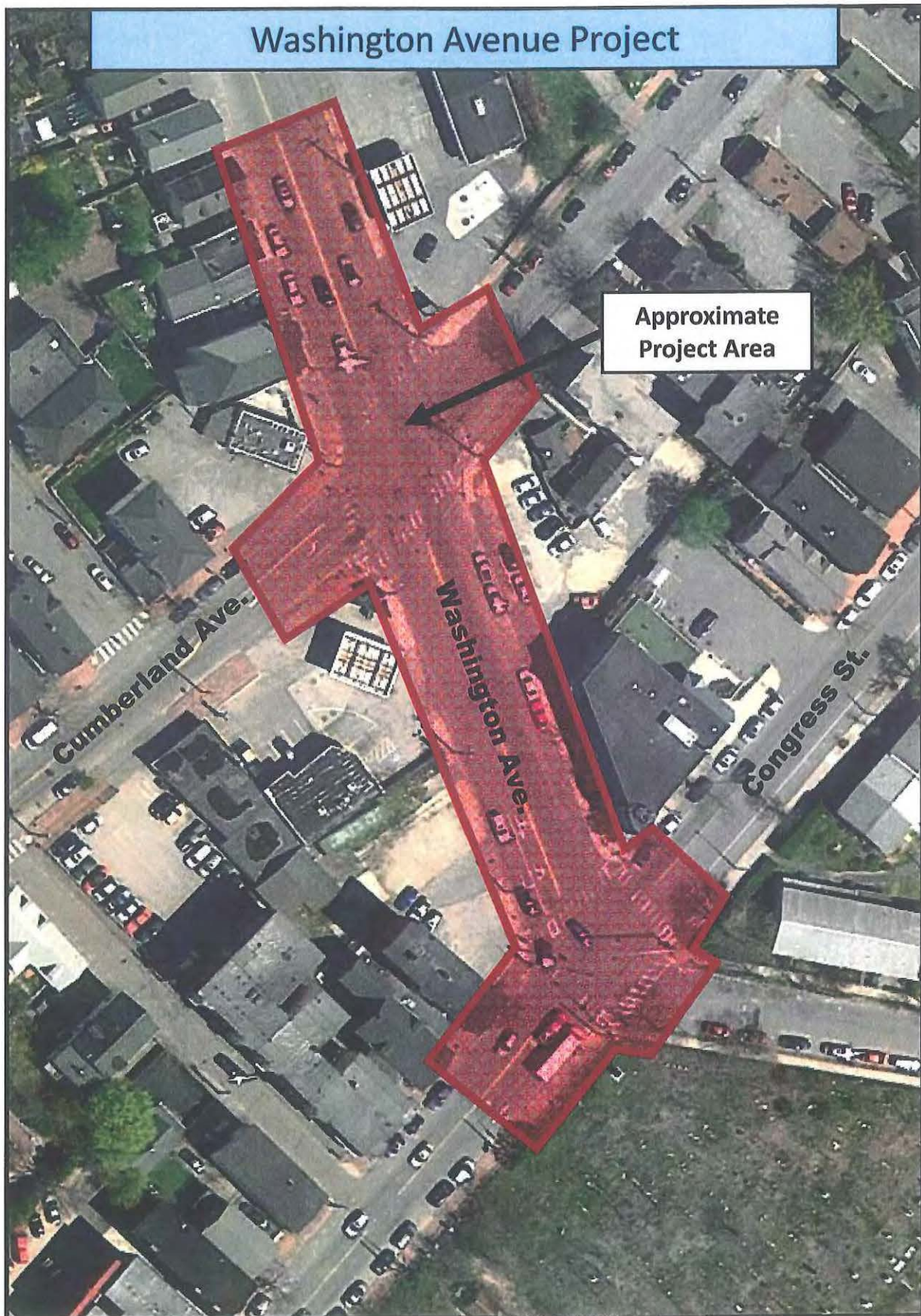
VIII. LIST ATTACHMENTS

1. LAP Agreement for WIN #22134.00

Prepared by: Jeremiah Bartlett

Date: 3-6-17

Washington Avenue Project



Project Scope Area





STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Paul R. LePage
GOVERNOR

David Bernhardt
COMMISSIONER

March 2, 2017

Jeremiah Bartlett, Transportation Systems Engineer
City of Portland Public Works
55 Portland Street
Portland, Maine, 04101

Subject: Washington Avenue Agreement, WIN 22134.00

Dear Mr. Bartlett:

Enclosed is an agreement between MaineDOT and the City of Portland for preliminary engineering and right-of-way work for reconstruction of a portion of Washington Avenue, from Congress Street to Cumberland Avenue.

Once the agreement is approved, signed and dated, please return it to me 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 Locally Administered Federal-aid Project
With the
City of Portland
Regarding
Reconstruction of a portion of Washington Avenue: WIN 22134.00

Agreement Upset Limit: \$175,600	Federal Project Number: 2213400
Federal Share: \$131,700 (75%)	Federal Authorization Date: February 15, 2017
Municipal Share: \$43,900 (25%)	City's Vendor ID: VC1000073476
Begin Date: Upon MaineDOT's Signature	City's DUNS® Number: 07-174-7802
End Date: December 31, 2021	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 390 Congress Street in Portland, Maine, which jointly shall be referred to as the "**Parties**."

WHEREAS, this Agreement shall apply to reconstruction of a portion of Washington Avenue, beginning at Congress Street and extending 0.06 of a mile to Cumberland Avenue, with signal improvements at the Congress/Cumberland intersection (the "**Project**"); and

WHEREAS, the **Project** was programmed for the **MaineDOT** Work Plan by the Portland Area Comprehensive Transportation System, the metropolitan planning organization for the Portland Urbanized Area, with its offices at 970 Baxter Boulevard in Portland, Maine ("the **MPO**"); and

WHEREAS, the **City** 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);
- ☒ Requirements for operation and maintenance of traffic signals.

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.

- ☐ **City** Local Project Administrator: Jeremiah Bartlett, Transportation Systems Engineer
Email Address: jbartlett@portlandmaine.gov
Phone Number: 207-874-8801

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**: John Rodrigue, Project Manager I
Email: john.rodrigue@maine.gov
Phone: (207) 592-0428

ARTICLE 2. FINANCIAL PROVISIONS

2A. **UPSET LIMIT.** The **MPO** programmed for preliminary engineering and right-of-way a total of **\$175,600** ("Upset Limit.") **Project** costs eligible for federal participation shall not exceed this Upset Limit without written approval from the **MPO** and **MaineDOT**.

2B. **MAINEDOT SHARE.** **MaineDOT**, using federal funding programmed by the **MPO**, will share in all **Project** costs eligible for federal participation at the rate of **75%**, up to a maximum contribution at this rate of **\$131,700**.

2C. **LOCAL SHARE.** The **City** shall share in all costs eligible for federal participation at the rate of **25%**, or **\$43,900**. Additionally, the **City** shall be fully responsible for expenditures:

1. Exceeding the Upset limit of this Agreement;
2. Incurred before the date of notice to proceed; and
3. Deemed ineligible for federal 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 **Project** costs eligible for federal financial participation 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 loss of federal participation, the **City** shall refund all invoice payments from **MaineDOT** and reimburse **MaineDOT** for the cost of services performed for the **Project**. Additionally, **MaineDOT** will seek to recover from the **City** any invoice payment made for work deemed to have been ineligible for reimbursement 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, the State's option to withhold for the purposes of set-off any monies due to the **City** under this Agreement up to any amounts due and owing to the State with regard to this Agreement or any other agreement with **MaineDOT**; any other agreement with any state department or agency, including any agreement for a term commencing prior to the term of this agreement; and any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. **MaineDOT** shall exercise its set-off rights in accordance with standard state practices 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 otherwise programmed for this **Project** are de-appropriated, or if **MaineDOT** does not receive the legal authority to spend money programmed for this **Project**, **MaineDOT** shall be released from its obligation to make payment under this Agreement.
- 2J. REMAINING FUNDS. **MaineDOT** shall make available to the **MPO** all federal funds remaining in the completed **Project**, once **MaineDOT** has paid the final invoice from the **City**. Additionally, any federal funds returned to **MaineDOT** by the **City** shall be made available to the **MPO** for reprogramming upon closeout of the **Project**.

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 Federal Highway Administration ("FHWA") and executing this Agreement.
- 3B. KICKOFF. The **Parties** shall hold a project kickoff to go over the scope of work, estimated cost, schedule, and legal requirements before design 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 process 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 on the **Project** 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**, in coordination with its contracted consultant if applicable, shall be responsible for preparing all design plans, specifications, estimates and contract documents for the **Project**, in accordance with appropriate reference publications that may include, but are not limited to, MaineDOT's Engineering Instructions, Highway Design Guide, Standard Specifications and Standard Details. The design of the **Project** shall comply with the Americans with Disabilities Act (ADA) and all other applicable regulations. Furthermore:

1. The **City** shall submit the following to **MaineDOT** for review and comment: a preliminary design report; design plan impacts; and final plans, specifications and estimate package (PS&E).
2. The **City**, in coordination with its contracted consultant if applicable, shall ensure that the contract book for the **Project** references MaineDOT's *Standard Specifications* and contains the following documents:
 - a. Davis-Bacon prevailing wage rates;
 - b. Form FHWA-1273; and
 - c. Signed Title VI Assurances.
3. **MaineDOT** will enforce all laws, regulations, construction standards and specifications that apply to the **Project** and will require changes if they are not met.
4. **MaineDOT** will give the **City** authorization to advertise for construction once the **City** addresses all comments from **MaineDOT** and **MaineDOT** accepts the final PS&E package as complete. Advertising the **Project** without written authorization from **MaineDOT** shall render the entire **Project** *ineligible* for federal-aid funding.

3G. SURVEY. **MaineDOT** will perform all survey work if the **Project** is located on a state highway. Alternatively, the **City** may hire a surveyor that has been pre-qualified by **MaineDOT**, using an appropriate selection method outlined in the LPA Manual.

- 3H. QUALITY CONTROL. The **City** or its contracted consultant, if applicable, shall be responsible for meeting all engineering standards and regulatory requirements that apply to the **Project**. The receipt of construction authorization from **MaineDOT** shall not relieve the **City** and its consultant, if applicable, of responsibility for meeting all such engineering standards and regulatory requirements.
- 3I. 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.
- 3J. 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.
- 3K. PERMITS. The **City** shall obtain all approvals, permits and licenses for 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**.
- 3L. 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.
- 3M. 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**.
- 3N. ADVERTISE. The **City** shall use competitive bidding to hire a construction contractor upon receiving written authorization to advertise from **MaineDOT**, 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.

3O. 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**.

3P. 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 meeting with notice of at least 5 working days with representatives of **MaineDOT**, the contractor, utilities and any other parties involved in or affected by the work.
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**.

3Q. 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.

3R. MAINTENANCE. The **City** shall operate and maintain the improvements under the terms of Attachment 3, "Requirements for Operation and Maintenance of Traffic Signals."

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, at 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 – in all solicitations or advertising for employees placed by or on behalf of the **City** relating to this Agreement – state 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 on 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 third 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** shall send the **City** a written Notice of Default, in accordance with Article 8B, if the **City**:

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 afford 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**, in accordance with Article 2G, "Repayment."
2. **MaineDOT** will make available to the **MPO** all federal funds remaining in the terminated **Project**, as well as all federal funds recovered from the **City**, in accordance with Article 2J, "Remaining Funds."

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 eligible work performed 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 make available to the **MPO** all federal funds remaining in the **Project**, in accordance with Article 2J, "Remaining Funds."

ARTICLE 9. EXPIRATION

This Agreement shall expire upon **MaineDOT's** payment of the final invoice from the **City** for the **Project** or **December 31, 2021**, whichever occurs first, except as follows:

1. Article 3R, "Maintenance," shall be enforced as set forth in Attachment 3 to this Agreement.
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 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 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.).

OPERATION & MAINTANCE OF TRAFFIC SIGNALS

- A. The **City of Portland** ("City") agrees to operate and maintain all traffic signals and related equipment installed pursuant to this Agreement to function as designed and installed as part of the above-referenced Locally Administered Project, unless approved otherwise as hereinafter provided or as necessary as follows:
1. All malfunctions and deficiencies in the traffic signal or any equipment appurtenant thereto shall be repaired or corrected expeditiously in accordance with the Institute of Transportation Engineer's (ITE) "Traffic Signal Installation and Maintenance Manual." Any failure to correct the traffic **signal to function as designed could, upon written notification from the MaineDOT**, result in the **MaineDOT** making all necessary repairs at the **City's** expense.
 2. The visibility of the traffic signal shall be preserved and maintained at all times by removing any visual impairment thereto.
 3. No change in operation or modification to the traffic signal or any equipment appurtenant thereto shall be made without the express written approval of the **MaineDOT**.
 4. The **MaineDOT** shall be notified in writing prior to any removal or replacement of the traffic signal or any equipment and appurtenant thereto. Upon removal, such traffic signal or equipment so removed shall be disposed of as deemed appropriate by mutual agreement of the MaineDOT and City without any cost to the **MaineDOT**, unless agreed otherwise in writing.
- B. The **City** agrees to be responsible for the electrical service for the traffic signals and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for the installation of such service.
- C. The **City** agrees to maintain all pavement markings (including stop bars, lane use arrows and all striping necessary to delineate the turning lane) and all traffic control signs as furnished under the project.
- D. The **City** agrees to allow the contractor for the project to control all traffic within all designated work areas at such times and in such a manner necessary to permit construction of the project and the installation of the traffic signal as specified in the traffic control plan approved by the **MaineDOT**.

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 180-16/17
Tab 3 3-27-17
Tab 22 4-5-17

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

ORDER APPROVING AIRPORT IMPROVEMENT PROGRAM GRANTS

ORDERED, that the following project grants from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) are hereby approved for the Portland International Jetport (Jetport):

- Gate 1 Aircraft Apron Reconstruction Phase 1 (\$2,545,000);
- Environmental Assessment and Permitting for Projects Phase 2 (\$513,000);
- Air Rescue and Firefighting Truck (\$1,083,000); and
- Runway Incursion Warning System (\$132,000); and

BE IT FURTHER ORDERED, that the funds for said projects are hereby appropriated from federal and state grant funding, and the local share of the projects shall be appropriated as part of the Jetport's budget; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Director of the Jetport to be the official representative for these AIP grants, as required by the FAA, and to execute grant documents and any other related documents necessary or convenient to carry out the intent of said documents.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Paul Bradbury, Airport Director

DATE: March 15, 2017

DISTRIBUTION: Jon Jennings, City Manager; Mayor Strimling; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English; Julie Sullivan

SUBJECT: Approval of FAA Airport Improvement Program Federal Fiscal Year 2017 Entitlement Grants totaling \$3,827,253 and naming the Airport Director as the City's official representative for the grants.

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: March 27, 2017 **Final Action:** April 5, 2017

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

Action can be taken at a later date, but must be taken prior to May 1, 2017. The FAA's deadline for Federal Fiscal Year 2017 grants is May 1, 2017.

I. SUMMARY OF ISSUE (Agenda Description)

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year. This year the Portland Jetport has AIP entitlement funding totaling \$3.846 million based upon 858,649 enplaned passengers in 2015. In federal FY 2017 four projects have been planned by the Jetport with the following estimated costs:

- | | |
|--|--------------|
| • Gate 1 Aircraft Apron Reconstruction Phase 1 | \$ 2,545,000 |
| • Environmental Assessment and Permitting for Projects Phase 2 | \$ 513,000 |
| • Air Rescue and Firefighting Truck | \$ 1,083,000 |
| • Runway Incursion Warning System | \$ 132,000 |

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

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

The FAA requires approval of AIP Grants and the AIP Grant Assurances by the airport sponsors governing body, which for the Jetport is the Portland City Council. Additionally, it requires the governing body to name the official representative for those grants, which for the Portland Jetport is the Airport Director.

The projects being proposed for FFY 2017 are included and scheduled within the 20 year capital program developed as part of the Jetport's Sustainable Airport Master Plan that was accepted by the Council in November 2016.

III. INTENDED RESULT

The approval of these grants will allow the Portland International Jetport to proceed with the aforementioned projects outlined in more detail below.

1. Gate 1 Apron Reconstruction Phase 1: The current gate 1 apron is bituminous and prone to rutting by aircraft nose gear especially in hot summer months. Gate 1 is the last section of bituminous paving on our main terminal aircraft parking apron. This project will replace approximately 64,500 square feet of this apron with concrete.
2. Environmental Assessment Phase 2: The environmental assessment and permitting project being proposed is needed to accommodate aircraft hold and deicing pads being planned in fiscal years 2019 – 2021.
3. Air Rescue Fire Fighting (ARFF) Truck: This new 1,500 gallon capacity truck will replace a 1989 Oshkosh T300 fire truck for which key components such as the main pump assembly are no longer available.
4. Runway Incursion Warning System: This is a GPS based system providing real time position information and warning notifications for vehicles approaching a runway.

IV. COUNCIL GOAL ADDRESSED

The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals. Approval of these grants allows the Portland Jetport to invest in needed infrastructure.

V. FINANCIAL IMPACT

If approved, the Portland International Jetport will receive \$3,845,984 in federal funding that will fund 90% of the project costs which total \$4,273,316. The \$427,332 that is not covered by the federal AIP grants will be covered equally by the Jetport's operating budget and the State in the amount of \$213,666 each. Approval of these grants has no impact to the City of Portland's general fund or the tax rate.

VI. STAFF ANALYSIS

Approval of these grants will provide for needed infrastructure investment in the Portland International Jetport, consistent with the Jetport's Sustainable Airport Master Plan.

VII. RECOMMENDATION

Jetport staff recommends the City Council approve this request for FFY 2017 AIP Grants totaling \$3,845,984 in federal funding.

VIII. LIST ATTACHMENTS

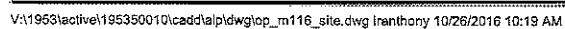
1. Gate 1 Aircraft Apron Reconstruction Phase 1 plan
2. Airport Improvement Program Grant Assurances document dated March 2014.



Signature

March 15, 2017

Date





ASSURANCES

Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

Specific Assurances

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

Footnotes to Assurance C.1.

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
 - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

*Order 189-16/17
Tab 23 4-5-17*

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 SETTING TIME FOR OPENING
OF POLLS ON MAY 9, 2017
RE: SCHOOL BUDGET REFERENDUM**

ORDERED, that pursuant to 21-A M.R.S. Sec. 626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on Tuesday, May 9, 2017, for the School Budget Referendum.



Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Strimling and Members of the
Portland City Council

FROM: Katherine L. Jones, City Clerk

DATE: March 24, 2017

RE: Setting the time for opening the polls on May 9, 2017 for the School
Budget Referendum.

Pursuant to 21-A M.R.S.A. §626, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

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

*Order 190-16/17
Tab 24 4-5-17*

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 AND AUTHORIZING THE
FIFTH AMENDED LAND EXCHANGE AGREEMENT
BETWEEN J.B. BROWN & SONS AND THE CITY OF PORTLAND UPON THE
SIGNING OF THE RELATED LETTER AGREEMENT
RE: CANCO ROAD SITE FOR
DEPARTMENT OF PUBLIC WORKS AND COTTON STREET PARKING LOT**

ORDERED, that the April 2017 Draft Letter Agreement between Fore River Warehousing & Storage Co., Quarry Warehouse, LLC and the City of Portland is hereby approved and accepted in substantially the form attached hereto; and

BE IT FURTHER ORDERED, upon the execution by all parties of the 2017 Letter Agreement approved above, the Fifth Amended and Restated Land Exchange Agreement between J.B. Brown & Sons and Fore River Warehousing & Storage Co. and the City of Portland is hereby approved and accepted 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.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

City Council Agenda Item

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

FROM: Greg Mitchell, Economic Development Director

DATE: March 16, 2017

SUBJECT: Order Authorizing Amendments to the JB Brown and City of Portland Land Exchange Agreement, including the possible sale of the City-owned surface parking lot located in the City block bounded by Center/Spring/Free and Cross Streets

SPONSOR: Economic Development Committee/Councilor David Brenerman, Chair; Committee met on March 7, 2017 and the vote was 2-0-1 (Councilor Thibodeau abstained)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading and Final Action: April 5, 2017

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

PRESENTATION: (List the presenter(s), type and length of presentation): Greg Mitchell/10 Minutes.

I. ONE SENTENCE SUMMARY

City acquisition of the JB Brown owned property, included in the JB Brown and City Land Exchange Agreement, is critically important to complete the new Canco Road Municipal Service Campus to house personnel from the Parks and Recreation, Public Works, and Public Facilities Departments.

II. AGENDA DESCRIPTION

The City Council approved the JB Brown and City of Portland original Land Exchange Agreement (LEA) on July 20, 2015 followed by City Council approval to amend the LEA on November 16, 2015. See attached fully executed Amended LEA. At that time, this LEA

established easements over City and JB Brown property and exchanged City and JB Brown property which was determined to be of equivalent value.

Under the direction of the Economic Development Committee (EDC) during 2016 and approval in 2017, amendments to the City Council approved JB Brown and City of Portland Land Exchange Agreement are proposed to substitute different City property included in this transaction, from the City's One Cambridge Street property to the possible sale of a City-owned surface parking lot located in the City block bounded by Center/Spring/Free and Cross Streets.

III. BACKGROUND

The City Council approved the JB Brown and City of Portland original Land Exchange Agreement (LEA) on July 20, 2015 followed by City Council approval to amend the LEA on November 16, 2015. See attached fully executed Amended LEA. At that time, this LEA established easements over City and JB Brown property and exchanged City and JB Brown property which was determined to be of equivalent value.

Acquisition of the JB Brown owned property, included in the JB Brown and City Land Exchange Agreement, is critically important to complete the new Canco Road Municipal Service Campus to house personnel from the Parks and Recreation, Public Works, and Public Facilities Departments.

Amendments are needed to the JB Brown and City Land Exchange Agreement in order to substitute the sale of the City-owned surface parking lot (located in the City block bounded by Center/Spring/ Free and Cross Streets) in place of the City-owned One Cambridge Street property to proceed with acquiring JB Brown property along with modifications to existing easements.

Under the direction of the Economic Development Committee (EDC) during 2016 and approval in 2017, amendments to the City Council approved JB Brown and City of Portland Land Exchange Agreement are proposed. Two major amendments to the approved City Council LEA and explanations for the amendments include:

1. The City owned Cotton Street property be substituted for the city's One Cambridge Street property because the Cambridge Street property cannot be utilized for JB Brown's expected industrial purposes. Also, staff recommends retaining the City's One Cambridge Street property to support future development opportunities located on available vacant land at Morrill's Corner; and,
2. City requested termination of the Access Easement over 250 Canco Road and reducing the number of years of the temporary storage easement because of two years of free use by JB Brown. Termination of the Access Easement allows the City to increase development utilization of the 250 Canco Road property.

IV. INTENDED RESULT

Discussion and vote to authorize the City Manager to execute the Amended and Restated LEA in substantial conformance with the attached document.

V. FINANCIAL IMPACT

Here is a comparison of the approved JB Brown and City Land Exchange Agreement to the Proposed Amended and Restated Land Exchange Agreement including all City financial impacts.

Approved JB Brown and City Land Exchange Agreement

The approved and executed Amended LEA (copy attached) included the transfer of one City-owned property, located at One Cambridge Street (see attached map), in exchange for two JB Brown owned properties (Parcel 1 & 2 on the attached map) and two easements (one located over JB Brown property and one located over City-owned property per the attached map). This land exchange was determined to be of equivalent value without any funds changing hands. See attached property location map for Canco and Quarry Road properties.

The primary changes to this Agreement include the following:

Property Substitution.

The sale of the City-owned Cotton Street Surface Parking Lot (located in the City block bounded by Center/Spring/Free and Cross Streets) is proposed in place of the City transferring the portion of One Cambridge property, which is not contaminated, to proceed with acquiring JB Brown property included in the Amended and Restated Agreement. See attached property location map for City-owned surface parking lot.

Easement Adjustment and Termination.

The City requested the termination of the "Transportation Access" permanent easement over 250 Canco Road (City-owned property) to allow vehicle and pedestrian access to Quarry Road warehouses. It is noted that the Quarry Road warehouses were owned by JB Brown at the time of Council approval of the Land Exchange Agreement, but they have since been sold to another party (Quarry Warehouse, LLC).

Additionally, a time frame adjustment is proposed to the five-year Temporary Storage Easement (over private property now associated with the Quarry Road warehouse ownership) related to the current location of the City's sand and salt sheds. This time frame adjustment is proposed to be reduced to two years. It is noted that the City began using this JB Brown property in the Fall of 2015 at no cost to the City to date.

Proposed Amended and Restated Land Exchange Agreement

Property market appraisals (executive summaries attached) support this property transaction. Here is the listing of property ownership associated with this transaction, including their related market values (see attached map for parcel references).

Property Ownership	Location	Agreement Reference	Market Value
JB Brown	Tax Map 151A-A-23	Parcel 1	\$215,000
JB Brown	Tax Map 154-B-45 and 151A-A-24	Parcel 2	\$80,000
City of Portland	38-A-14-15-16; 38-I-1-2-3-4	Parcel 3	\$1,675,000

Easements	Market Value
JB Brown to City for Temporary Storage	\$38,000 for five years, or \$7,600 per year.
City to JB Brown for transportation access + value adjustment to 90 Quarry Road	\$125,000

JB Brown is the logical buyer for the City-owned surface parking lot for the City to realize maximum sale price, because JB Brown owns property located on both sides of the City block, and JB Brown controls an access easement over the City property.

Also, combining the City surface parking lot ownership with JB Brown's adjacent property will enable this property redevelopment potential to be maximized at highest and best use instead of selling this property to a different owner.

Lastly, the Cotton Street surface parking lot operates as a single parking lot with 175 parking spaces (88 City + 87 JB Brown) versus two separate parking lots under separate property ownership. If the City property was managed as a separate parking lot, the number of parking spaces would be reduced to as few as sixty (60) spaces. This would result in a decrease in revenue and reduction of property market value. Also, the property appraisal does not discount the value of the property related to JB Brown's access easement over the City property.

It is noted that the City-owned Cotton Street property is tax exempt. Upon the sale of the City-owned surface parking lot to JB Brown, the property will become taxable next year. Property taxes on this property associated with existing parking use is estimated at a municipal tax assessed value of \$1,675,000, generates over \$35,000 annually. Annual property taxes related to a redeveloped site at a conservative municipal assessed tax value of \$25 million would generate over \$500,000 in additional property taxes.

Summary Financial Analysis:

City of Portland Cotton Street Parking Lot sale price (based upon Appraisal):	\$1,675,000
Reductions:	
City acquisition costs for JB Brown Parcels (1 and 2) (based upon Appraisals)	\$295,000
Value to terminate 250 Canco Road access easement + value adjustment to 90 Quarry Road (based upon Appraisal)	\$125,000
Compensation to JB Brown for City free use of temporary storage easement for two years (based upon Appraisal)	\$15,200
Estimated cost of lost rent to JB Brown for City free two year use of 4.295 acres of JB Brown Parcel 1 and Cotton Street value adjustment reduction associated with the Cotton Street appraised value.	\$64,800
Net to City:	\$1,175,000

VI. STAFF ANALYSIS

The proposed property transaction is supported by property market appraisals and has been determined to be a fair transaction for the City.

It is also noted that Federal HUD funds were utilized to create this surface parking lot, and parking lot revenue has been used to fund the City annual CDBG program investments. See enclosed Memorandum from Jeff Levine regarding this matter and restrictions placed upon use of property sale proceeds. Additionally, the City Manager is proposing recommendations for use of property sale proceeds to include:

- allocating \$100,000 to seed the improvements required to expand capacity at the Milestone Foundation facility, given the need for substance abuse addiction treatment is at a crisis level due to the rampant overdoses from opiates and the lack of facilities for treatment; and,
- \$25,000 for the panhandling pilot project set to begin this Spring, which initiative builds on successful models in other cities in which day labor at minimum wage, plus breakfast and lunch, are offered to panhandlers, who are then connected with needed services, and can continue building their work experience.

It is noted that a future City Council Public Hearing will be held to handle financial appropriation actions associated with HUD Fund investments should the City Council support approving the sale of the City's Cotton Street surface parking lot.

VII. RECOMMENDATION

The EDC voted to send this to the City Council with a recommendation that it authorize the City Manager to execute the proposed Amended Land Exchange Agreement, in substantially in the form as attached.

VIII. LIST ATTACHMENTS

- Map highlighting JB Brown Property, City Property, and Easements
- Map highlighting the City-owned surface parking lot (located in the City block bounded by Center/Spring/Free and Cross Streets)
- Memorandum from Jon P. Jennings regarding possible use of Sale Revenue Proceeds
- Memorandum – revised - from Jeff Levine regarding Federal HUD funds.
- Executive Summaries of Appraisals
- JB Brown and City of Portland Land Exchange Agreement dated November 30, 2015 as approved by the City Council.
- Access Easement Agreement dated March 22, 2016 between City, JB Brown, and Fore River Warehousing & Storage Co., Inc.
- Temporary Storage Easement of March 22, 2016 between City and JB Brown.
- Easement of December 7, 2015 between JB Brown and Central Maine Power.
- Proposed Amended and Restated Land Exchange Agreement.
- Amended Subdivision Plan for JB Brown of February 26, 2016.
- Plan of Topography for JB Brown of August 14, 1981.
- Draft Letter Agreement of April ____ 2016 between the City, Fore River Warehousing & Storage Co., Inc., and Quarry Warehouse, LLC.

**City
One Cambridge St Property**

**JB Brown to City
Easement
Temporary Storage**

**JB Brown to City
Parcel 1**

**City to JB Brown Easement
Transportation Access**

**JB Brown to City
Parcel 2**

**City Acquired for
DPW
and other
City Use**

Canco Road

Canco Road Properties

0 100 200 300 Feet

City to JB Brown
Parcel 3

Free Street

Sanitar Street

Spring Street

Cotton Street

Cotton Street, Free Street Lot

100 75 0 100 Feet





Executive Department
Jon P. Jennings, City Manager

MEMORANDUM

TO: Chair and Members of the Economic Development Committee

FROM: Jon P. Jennings, City Manager

DATE: March 3, 2017

SUBJECT: Possible Uses for Cotton St. Lot Proceeds

As the Cotton Street lot was developed using Community Development Block Grants (CDBG) funds, the proceeds must be used in accordance with CDBG guidance on such funds. The sale is expected to yield about \$1.175 million to the City. The U.S. Department of Housing and Urban Development (HUD), which administers the CDBG program, defines the sale proceeds as "miscellaneous revenues" and thus may be used for any eligible CDBG activity.

The accompanying memo from Jeff Levine details HUD requirements, as well as the City Planning and Urban Development Department's use of annual revenue from the Cotton Street parking lot.

To this end, I suggest the following considerations for the sale proceeds:

1. \$100,000 to seed the improvements required to expand capacity at the Milestone Foundation facility. The need for substance abuse addiction treatment is at a crisis level, given the rampant overdoses from opiates and the lack of facilities for treatment. The Greater Portland Addiction Collaborative, of which the City is a part, is also seeking federal funding, as there is significant renovation to complete to expand and strengthen Milestone's treatment services. The City can use this money as part of our commitment to address this challenge and to leverage additional public and private funding.
2. \$25,000 for the panhandling pilot set to begin this Spring. This initiative builds on successful models in other cities in which day labor at minimum wage, plus breakfast and lunch, are offered to panhandlers. They are then connected with needed services, and ideally can continue building their work experience. Five programs were researched and all have had compelling results.

Memorandum

To: Economic Development Committee

From: Jeff Levine, Planning & Urban Development Director
Mary Davis, Housing & Community Development Director

Date: March 3, 2017

Re: Cotton Street Lot- Community Development Impacts of Sale

Following up on our December 28, 2016 memo (attached) I offer a few different options for how to utilize some of the sales proceeds from the Cotton Street lot to maintain our community development programs.

As mentioned in that memo, we have received an average of \$119,426 annually over the last 5 years in revenue from that lot to fund our community development programs. Of those funds, approximately 20% are used for city staff and administration, and the balance goes into social services and development activities. This funding has been helpful in light of the 22% decline in CDBG funding since FY2010.

The net proceeds from sale of the Cotton Street lot are expected to be \$1,175,000. Of that amount, \$100,000 is recommended to be programmed for strategies to address the opioid crisis. In addition, \$65,000 will be programmed for emergency management (see additional memos.) That leaves \$1,010,000 of remaining sales proceeds.

Based on the assumption that the City would like to see these funds, or alternative funds, used to maintain our community development programs, I have outlined two possible options:

1. *Place the Funds in Escrow and Spend Down:* The City could place this \$1,010,000 in a special account and spend it down over several years. Assuming the current average expenditure of \$119,426, these funds would be available for eight years, with partial funding available for a ninth year. If the average expenditure were reduced to \$100,000 annually, these funds would last for ten years. After that time, the City would have to address the loss of these funds. Unfortunately, any interest that the funds earn would need to be returned to the federal government, so there is no incentive to create an endowment to help preserve the principal.

Advantages

- Maintains current funding levels for the short term
- Guaranteed return.

Disadvantages

- Funding will be eliminated in 8-10 years
2. *Use the Downtown TIF for Community Development Program Funding:* Under this approach, the sales proceeds would be expended in the short term for community development related programs and not necessarily retained in the long term. As an alternative funding stream for community development programs, a small portion of the Downtown TIF revenue stream would be devoted to community development related programs that are also eligible for TIF funding. The City would agree to set aside \$120,000 of the TIF revenue for community development programs over the life of the TIF. The Downtown TIF can be used for some community development programs, but not all of them (see attachment.) Most notably, these funds cannot be used for social service programs.

Advantages

- Fairly long term funding stream for community development program
- Would allow for a short term significant investment in community development activities as well as a long-term revenue stream

Disadvantages

- Funding would be limited to TIF-eligible activities rather than the full range of community development programs
 - Specifically, these funds could not currently be used for social service programs, resulting in a loss to these programs of about \$20,000 a year.
3. *A Hybrid Approach:* Both of these approaches have some advantages and disadvantages. Approach #1 provides the most flexible funding for community development programs in the short term, but is time limited. Approach #2 provides a more long-term solution but cannot fund certain community development activities, such as social services. A third approach would be a combination of the two. For example, the \$1,010,000 in sales proceeds could be committed to social service programs and other TIF-ineligible activities and supplemented with Downtown TIF funds to extend the life of those proceeds. If only \$20,000 a year were taken out of the \$1,010,000 to fund social services, and the balance of the \$119,426 were funded out of the Downtown TIF, for example, social service programs would be funded for 50 years. Given the fact that the CDBG program is 42 years old at present, that would be close to a permanent funding arrangement.

Advantages

- Provides a long-term strategy for funding all community development programs

- Provides flexibility if the City has an acute community development need in one particular year, as a larger amount could be pulled from the \$1,010,000 if needed.

Disadvantages

- More complex than either of the first two options

To: Economic Development Committee

From: Jeff Levine, Planning & Urban Development Director
Mary Davis, Division Director, Housing and Community Development

Date: December 28, 2016

Re: Cotton Street Parking Lot – CDBG Program Income

The Cotton Street parking lot is a City-owned parcel established many years ago, through the urban renewal program. The rental income from the lot is received by the City as CDBG program income and is incorporated into the annual CDBG budget.

Revenue History

Since Fiscal Year 2007, the CDBG Program has received \$1,061,069 in program income from this parking lot revenue. A review of the last five years is included in the table below.

Fiscal Year	Annual Program Income Received	Administration Adjustment	Social Service Allowance	Development Activity Adjustment
2011-2012	\$129,239.02	\$25,847.80	\$19,385.85	\$103,391.22
2012-2013	\$114,821.21	\$22,964.24	\$17,223.18	\$91,856.97
2013-2014	\$110,159.21	\$22,031.84	\$16,523.88	\$88,127.37
2014-2015	\$110,393.94	\$22,078.79	\$16,559.09	\$88,315.15
2015-2016	\$132,527.59	\$26,505.52	\$19,879.14	\$106,022.07

Use of Parking Lot Rental Revenue

We use this revenue to supplement our CDBG allocation to provide additional grants, social service programs, and to fund some staff to help run the program. Our annual CDBG allocation is about \$1,800,000, so this additional funding allows us to increase our CDBG program funding by about 7.0% annually. Those funds go towards physical improvements, like public works projects in eligible locations, as well as towards social service programs such as homeless services and community policing.

The long-term trend in CDBG funding has been downward, particularly when accounting for inflation. The City's CDBG allocation in FY10 at \$2,300,000, so the decline since that time has been about 22%.

All of the salaries and expenses of the Housing & Community Development division are funded through federal sources and revenue from federal investments, including

a portion of this parking lot revenue. In addition, a portion of other staff in the Planning & Urban Development Department is funded through CDBG funding. In FY2017, \$405,000 is allocated from CDBG sources for these City expenses. Of that \$405,000, around \$25,000 (6.25%) is coming from parking lot revenue from the Cotton Street lot.

Use of Sales Proceeds

We are permitted to sell the parking lot, but have been given the guidance that that any revenue received from the sale of the parking lot must be used for CDBG eligible activities. These include administrative costs, social service activities or development activities. HUD has confirmed that the use of a portion of the sale proceeds to purchase a site for the City's sand and salt shed is an eligible use of the funds. The use of this revenue must be identified in our HUD 5-Year Consolidated Plan and a separate accounting of these funds must be maintained.

A portion of the sales proceeds from the Cotton Street lot could continue to be used for eligible City operating expenses. However, unlike the annual rental revenue, this funding would not be recurring and would have to be programmed judiciously.

ELIGIBLE USES OF DOWNTOWN TOD TIF FUNDS

value (the “TIF Revenues”) to fund infrastructure improvements and other administrative costs, all as further described in Table 1 hereinbelow. The City reserves the right to capture less than the full 12% in year one and less than the 22% in years 2 through 30, depending on the then-current needs of the City with respect to the approved project costs. Any reduction in the captured value percentage shall adjust the amount of assessed value eligible for sheltering with respect to the tax shift benefit correspondingly. Although all TIF Revenues will be retained by the City at this time, the City reserves the right in the future to negotiate and execute credit enhancement agreements pursuant to City Council approved TIF Policy of up to twenty years, or limited to the balance of District term at that time, and up to sixty-five percent (65%) of the TIF Revenues, within sole Council discretion. City TIF Policy is attached as Exhibit B. Such future credit enhancement agreements would require a public hearing and City Council approval.

In designating the District and adopting this Development Program, the City can accomplish the following goals:

- Maintain existing tax revenues;
- Invest in the Downtown public infrastructure;
- Invest in the Creative Portland Corporation annually;
- Invest in new and enhanced transit services;
- Enjoy enhanced future tax revenues generated by new development within the District; and
- Create long-term, stable employment opportunities for area residents because of these TIF investments.

In addition, by creating the District, the City will “shelter” the increase in municipal valuation that development in the District will bring about. This tax shift benefit mitigates the adverse effect that the District’s increased assessed property value has upon the City’s share of state aid to education, municipal revenue sharing, and its county tax assessment. An estimate of the tax shift benefits is shown in Exhibit D-2 attached hereto.

The City’s designation of the District and pursuit of this Development Program constitute a good and valid public purpose pursuant to Chapter 206 of Title 30-A because it represents a substantial contribution to the economic well-being of both the City and the region by providing jobs, contributing to property taxes, and diversifying the region’s economic base.

B. The Projects

Development within the District will provide a revenue source for the City’s economic development projects. The City intends to use TIF Revenues to further its overall plan to attract and retain businesses that want to take advantage of Portland’s business-friendly location, while offering their employees a rich, dynamic, and high quality of life. This includes funding of Creative Portland Corporation, of which the City of Portland is the Corporator, of up to \$100,000 annually, as well as City plans to invest in its public infrastructure in these investment focus areas:

- Sidewalk and Other Pedestrian Enhancements
- Streetscape
- Lighting
- Street Alignment
- Utilities
- Bicycle Improvements
- Public Transit
- Wayfinding
- Economic Development Department administrative costs and staff salaries, and prorated salaries of the City Manager and Planning and Urban Development Director

The District projects at this time are highlighted in Table 1 below:

TABLE 1

NOTE 1: All Citations refer to Title 30-A, Chapter 206, Section 5225

NOTE 2: While this Development Program lists particular projects, the Development Program shall not serve as an appropriation of TIF Revenues for any of these specific purposes, nor shall it commit the City to completing any particular project. The projects will only be undertaken following proper appropriation through the annual budget process and any other applicable required approvals.

Project	Downtown Revitalization Plan Reference by page no.	Statutory Citation	Estimated Cost
In District: Capital Infrastructure Investments, for example: - Sidewalk and Other Pedestrian Enhancements - Roadway Realignments/Paving - Intersection Redesigns - Bicycle Infrastructure - Stormwater Management, including water and sewer upgrades - Communications Infrastructure improvements/enhancements - Wayfinding (signage) - Public plaza intersection improvements	5, 6, 7, 9, 34 5, 6, 34 5, 6 5, 9, 11 5, 34 5, 33 5, 9, 33 8, 34	(1)(A) (1)(A) (1)(A) (1)(A) (1)(A) (1)(A) (1)(A) (1)(A)	\$200K annually; \$6 Million over life of District

In and out of District: New and Enhanced Transit Services, including operational costs, for example (see Exhibit K – Transit Map): - Creation of high frequency bus service on Congress Street at 15-minute intervals between the Portland Transportation Center (PTC) and Washington Avenue; - Enhancing Stevens Avenue- Allen Avenue- Congress Street bus service areas; - Corresponding costs for these enhancements, including transit operator salaries; transit vehicle fuel, and transit vehicle parts replacements. - Transit capital costs including transit vehicles and related equipment; bus shelters and other related structures; benches; signs, and other transit-related infrastructure.	3, 6, 32, 33	(1)(A) and (1)(C)(7)	\$110K annually; \$3.3 Million over life of District
In and out of District: City Marketing and Promotion through Creative Portland Corporation (CPC), for example (see Exhibit M Arts District Map within Downtown TOD TIF District): - In District: Center for the Arts, including rental residential space; - In District: capital, financing, real property assembly and professional service costs; - In and out of District: CPC staffing, administrative and marketing expenses; revolving loan or investment fund.	7	(1)(C)(1)	Up to \$100K annually; \$3 Million over life of District

In and out of District: Economic Dev. Dept. administrative costs and staff salaries at 100%, and prorated salaries of City Manager and Planning Urban Development Director *	7	(1)(A)(5) and (1)(C)(1)	\$250K annually; \$7.5 Million over life of District
In District: Small Public Capital Infrastructure and Equipment, for example (Downtown Plan pp. 6 and 7) - Parking meters - Vehicles for Public Services Dept. (formerly Public Works Dept.), and Fire Dept., including ambulances	7	(1)(A)(1)(a)	\$100K
In District: Relocation of Displaced Persons (TIF Application, p. 6)	(see TIF application, p. 6)	1(A)(6)	Not budgeted/not anticipated at time of TIF application
In District: CEAs as Approved by City Council (TIF application p. 2)	(see TIF application p. 2)	(1)(A)	Unknown at time of TIF application
Total Estimate of TIF Revenue Expenditure over 30 year term:			\$19,900,000

*This item is not unique to this TIF District, it is also included in the Bayside TIF District, Waterfront TIF District, and Riverwalk TIF District.

C. Strategic Growth and Development

This Development Program and the Downtown Plan meld various studies and plans for the District into one document, thereby promoting those studies and plans and making investments at the appropriate time. The studies and plans noted in the Downtown Plan represent a series of community initiatives, both completed and underway, or in planning process. The Development Program and Project List ([Table 1](#)) noted hereinabove represents the best thinking of City staff about current opportunities for realizing the City's longstanding, evolving vision for its Downtown.

D. Improvements to the Public Infrastructure

As further set forth in [Table 1](#) hereinabove, the City may use certain TIF Revenues for sidewalk and other pedestrian improvements, roadway realignments/paving, intersection redesigns, bicycle infrastructure, stormwater management improvements (including water and sewer maintenance), communications infrastructure improvements/enhancements, wayfinding, and public plaza intersection improvements that are directly related and made necessary by development in the District.

Maineland

CONSULTANTS

REAL ESTATE APPRAISALS

July 5, 2016

City of Portland
Attn: Greg Mitchell
Economic Development Department
389 Congress Street
Portland, Maine 04101

Re: 2.325 ACRES- 256 CANCO ROAD
4.295 ACRES- QUARRY ROAD

Dear Mr. Mitchell:

In accordance with your request, I, Brian P. Diskin, inspected the above captioned property(s) for the purpose of forming an opinion as to the as is market value(s) as of June 7, 2016, the date of inspection.

The subject of this appraisal report is comprised of three separate parcels of land:

2.325 acres- 256 Canco Road, Portland Tax Map 151A Block A Lot 24 and Map 154 Block B Lot 45 located in the IM zone.

4.295 acres- Quarry Road, Portland Tax Map 151A Block A Lot 23 located in the IM and C-50 contract zone.

The analysis and conclusions within the attached report are based upon field research, interviews with market participants, and publicly available data collected by the appraiser. The accompanying report has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice. Included is a summary description and analysis of the real estate, all pertinent data, valuation methodology, supporting relevant exhibits, and addenda to the attached report.

It is our opinion that the as is market value(s) for the subjects' fee simple interest as of June 7, 2016 are:

256 CANCO ROAD
MARKET VALUE OPINION
AS OF JUNE 7, 2016
\$80,000
EIGHTY THOUSAND DOLLARS

"PARCEL 2"

QUARRY ROAD
MARKET VALUE OPINION
AS OF JUNE 7, 2016
\$215,000
TWO HUNDRED FIFTEEN THOUSAND DOLLARS

"PARCEL 1"

Extraordinary Assumption/Hypothetical Condition:

Canco Road

- 1.) That the site is as depicted on plan entitled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for Record Owner J.B. Brown & Sons 10 Free Street, Portland, Maine", dated February 26, 2016 and recorded in Plan Book 216 Page 83 at the Cumberland County Registry of Deeds. Any change from said plan could have a corresponding effect on value;
- 2.) The site has had a variety of uses and as such it is assumed that there are no hazardous conditions. Any information to the contrary could have a corresponding effect on value; and
- 3.) The site complies with all zoning on the date of recording.

The user of this appraisal is cautioned, as with any extraordinary assumption or hypothetical condition, if the conditions to the appraisal are not met or they change, it could have a direct impact on the values reported herein.

Quarry Road

- 1.) That the site is as depicted on plan entitled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for Record Owner J.B. Brown & Sons 10 Free Street, Portland, Maine", dated February 26, 2016 and recorded in Plan Book 216 Page 83 at the Cumberland County Registry of Deeds. Any change from said plan could have a corresponding effect on value;
- 2.) The site has had a variety of uses and as such it is assumed that there are no hazardous conditions. Any information to the contrary could have a corresponding effect on value;
- 3.) There is legal access over Quarry Road Extension; and
- 4.) The site complies with all zoning on the date of recording.

The user of this appraisal is cautioned, as with any extraordinary assumption or hypothetical condition, if the conditions to the appraisal are not met or they change, it could have a direct impact on the values reported herein.

Enclosed is our appraisal report which contains information in both narrative and tabular form. It describes the property being appraised, our opinion of its highest and best use, and the method by which all collected data has been utilized for our final value conclusion.

If we can be of any further assistance to you or if there are any questions concerning this appraisal report, please do not hesitate to contact our office.

Respectfully submitted,



Brian P. Diskin
Real Estate Appraiser
Maine Certified General
Appraiser Certification #CG585



David J. Harrigan
Supervisory Appraiser
Maine Certified General
Appraiser Certification #CG124

Maineland

C O N S U L T A N T S

R E A L E S T A T E A P P R A I S A L S

July 7, 2016

City of Portland
Attn: Greg Mitchell
Economic Development Department
389 Congress Street
Portland, Maine 04101

**Re: 250 Canco Road Easement
90 Quarry Road Easement
90 Quarry Road Improved
Portland, Maine 04104**

Dear Mr. Mitchell:

In accordance with your request, I, Brian P. Diskin, inspected the above captioned property(s) for the purpose of forming an opinion as to the as is market value(s) as of June 7, 2016, the date of inspection.

The subject of this appraisal report is comprised of three separate easement(s)/ improved property:

26,025 sf. easement on 250 Canco Road, Portland Tax Map 148 Block A Lot 8, Map 154 Block B Lot 1 located in the IM zone. The under lying land value of the easement's encumbered site area.

10,063 sf. easement on 90 Quarry Road, Portland Tax Map 151A Block A Lots 15, 22 located in the C-50 contract zone. A temporary "use" easement for 5 years.

171,000 sf. light industrial warehouse at 90 Quarry Road, Portland Tax Map 151A Block A Lots 15, 22 located in the C-50 contract zone. The before and after contributory value of an access easement into perpetuity (see Canco Road easement).

The analysis and conclusions within the attached report are based upon field research, interviews with market participants, and publicly available data collected by the appraiser. The accompanying report has been prepared in accordance with the *Uniform Standards of Professional Appraisal Practice*. Included is a summary description and analysis of the real estate, all pertinent data, valuation methodology, supporting relevant exhibits, and addenda to the attached report.

It is our opinion that the market value(s) for the subjects' fee simple interest as defined/appraised herein as of June 7, 2016 are:

**250 CANCO ROAD EASEMENT
UNDERLYING LAND AREA
MARKET VALUE OPINION
AS OF JUNE 7, 2016
\$50,000
FIFTY THOUSAND DOLLARS**

**90 QUARRY ROAD TEMPORARY EASEMENT
MARKET VALUE OPINION
AS OF JUNE 7, 2016
\$38,000
THIRTY-EIGHT THOUSAND DOLLARS**

**90 QUARRY ROAD IMPROVED
MARKET VALUE ENHANCEMENT
AFTER CONVEYED EASEMENT
AS OF JUNE 7, 2016
\$75,000
SEVENTY-FIVE THOUSAND DOLLARS**

Extraordinary Assumption/Hypothetical Condition:

250 Canco Road

- 1.) That the easement is as depicted on plan entitled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for Record Owner J.B. Brown & Sons 10 Free Street, Portland, Maine" dated February 26, 2016 and recorded in Plan Book 216 Page 83 at the Cumberland County Registry of Deeds. Any change from said plan could have a corresponding effect on value;
- 2.) The site (easement area) has had a variety of uses and as such it is assumed that there are no hazardous conditions. Any information to the contrary could have a corresponding effect on value; and
- 3.) The easement complies with all zoning on the date of recording.

The user of this appraisal is cautioned, as with any extraordinary assumption or hypothetical condition, if the conditions to the appraisal are not met or they change, it could have a direct impact on the values reported herein.

90 Quarry Road (easement)

- 1.) That the easement is as depicted on plan entitled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for Record Owner J.B. Brown & Sons 10 Free Street, Portland, Maine" dated February 26, 2016 and recorded in Plan Book 216 Page 83 at the Cumberland County Registry of Deeds. Any change from said plan could have a corresponding effect on value;
- 2.) The easement has had a variety of uses and as such it is assumed that there are no hazardous conditions. Any information to the contrary could have a corresponding effect on value;
- 3.) The easement complies with all zoning on the date of recording; and
- 4.) This is a temporary use easement for 5 years, upon expiration all property rights revert back to the fee title owner.

The user of this appraisal is cautioned, as with any extraordinary assumption or hypothetical condition, if the conditions to the appraisal are not met or they change, it could have a direct impact on the values reported herein.

90 Quarry Road (improved)

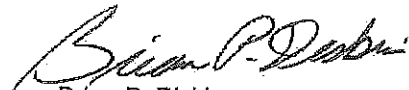
- 1.) That the site is as depicted on plan entitled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for Record Owner J.B. Brown & Sons 10 Free Street, Portland, Maine" dated February 26, 2016 and recorded in Plan Book 216 Page 83 at the Cumberland County Registry of Deeds. Any change from said plan could have a corresponding effect on value;
- 2.) The site has had a variety of uses and as such it is assumed that there are no hazardous conditions. Any information to the contrary could have a corresponding effect on value;
- 3.) The interior of the improvements were not inspected. We have relied upon public records. Any information to the contrary could have a corresponding effect on value; and
- 4.) The contributory value before and after of the Canco Road easement is limited to only 90 Quarry Road and its deeded property rights.

The user of this appraisal is cautioned, as with any extraordinary assumption or hypothetical condition, if the conditions to the appraisal are not met or they change, it could have a direct impact on the values reported herein

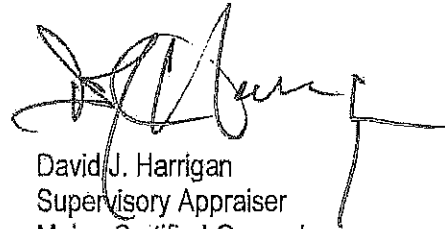
Enclosed is our appraisal report which contains information in both narrative and tabular form. It describes the property being appraised, our opinion of its highest and best use, and the method by which all collected data has been utilized for our final value conclusion.

If we can be of any further assistance to you or if there are any questions concerning this appraisal report, please do not hesitate to contact our office.

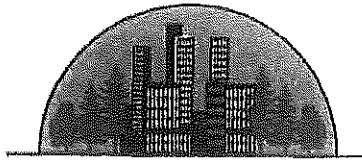
Respectfully submitted,



Brian P. Diskin
Real Estate Appraiser
Maine Certified General
Appraiser Certification #CG585



David J. Harrigan
Supervisory Appraiser
Maine Certified General
Appraiser Certification #CG124



Eastern Appraisal & Consulting, Inc.
Valuation & Advisory Services

August 18, 2016

Gregory Mitchell, Director
Portland Economic Development Dept.
389 Congress St.
Portland, ME 04101

RE: Appraisal of City of Portland real estate at Free, Cotton, Cross, Spring and Center
Streets, Portland, ME EAC Job #4695

Dear Mr. Mitchell,

As you requested, I have completed an appraisal of the property referenced above for the purpose of estimating the current market value of the fee simple interest. You require that the City of Portland tax lots and discontinued Cotton Street separating them be valued as a single entity since they abut one another and are a fundamental part of the Midtown Parking Lot. Valuation of these lots as an integrated whole reflects the highest and best use of the property as an independent marketable interest or as a contributing part of the larger parking lot of which they are a part. Ownership and management of the entire parking lot are shared by the City of Portland and J.B. Brown Parking, LLC, a prospective buyer of the City's 88 space portion of the parking lot.

Valuation of the subject property has been completed under the following City of Portland requests:

1. The lots are presently separate for assessment purposes, but are combined as one economic entity.
2. Discontinued Cotton Street with 9,500 SF is included in the subject property.
3. The Hatch access and egress easement from abutting property to discontinued Cotton Street is ignored for purposes of this appraisal, and that potential impact on value will be evaluated independently by the City of Portland.
4. Fee simple appraisal, ignoring the existing parking lot land lease between the City and J.B. Brown Parking.
5. Use of the 50%/50% split agreed by the City and J.B. Brown of net income generated by the combined parking lot.
6. Use of the 88 parking space allocation to the City of the 175 total spaces agreed by the City and J.B. Brown Parking.

The subject comprises the 34,220 SF parcel containing the six tax lots plus Cotton Street land that separates them. This includes the contributory value of parking lot improvements on that land and the pro rata share of net operating income and value produced by them.

The subject property is located in a key transitional area in the heart of the Portland CBD's key parking demand generators as well as very good appeal as a potential development

site. The neighborhood comprises a wide variety of commercial office, retail, hospitality, restaurant, residential, surface and garage parking and accessory uses. The neighborhood has enjoyed significant improvement and is poised for continuation of new construction and property upgrades. The subject is across Spring Street from another major surface parking facility of about four acres at Portland Square. It will have heavy influence on the trend and outcome of development here over the next five years.

My attached appraisal report describes, in tabular and narrative form, the most important characteristics of the subject property; a review of the competitive market for parking and new mixed commercial or residential development; an evaluation of the highest and best use; the appraisal methods considered and used; review and analyses of the most relevant market information; and the market value estimate.

This appraisal is presented in the narrative USPAP Report format you requested. USPAP also requires the appraiser, after discussion with the client, to determine an appropriate Scope of Work to carry out a credible appraisal. The Cost, Sales Comparison and Income Approaches have all been considered and used to varying degrees and importance. The Cost Approach is not a useful or reliable exercise for valuing a surface parking lot with few structures or other improvements, especially given its age and depreciation. Most owners do not rely on this method for this type of property. The Scope of Work is described in more detail in the accompanying appraisal report.

There are several USPAP Extraordinary Assumptions and Hypothetical Conditions underlying this appraisal, also described in this report. The most prominent are noted above.

The appraised value estimate is of the real estate and does not include any furniture, fixtures or equipment located on the premises. Any intangible business value or goodwill is not included. However, the income approach is used to value the parking lot. Any goodwill is inextricably intertwined in the land value. No business valuation has been requested or is necessary to isolate any potential intangible good will associated with this type of profitable use.

The value estimate is made subject to the Statement of General Assumptions and Limiting Conditions and other assumptions and special conditions contained in the enclosed report. The appraisal is also prepared in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) and Code of Ethics of the Appraisal Institute.

The intended users of this appraisal are you and authorized colleagues. The intended use of the appraisal is asset valuation and planning relative to a potential sale of the subject property that you are considering.

Based on the assumptions, facts, and conclusions in this report, it is my opinion that the market value of the fee simple interest on the last inspection of the subject property on July 31, 2016 was in a range of \$1,625,000 to \$1,725,000, or most probably:

One Million Six Hundred & Seventy- Five Thousand Dollars...\$1,675,000

Gregory Mitchell
August 18, 2016
Page Three

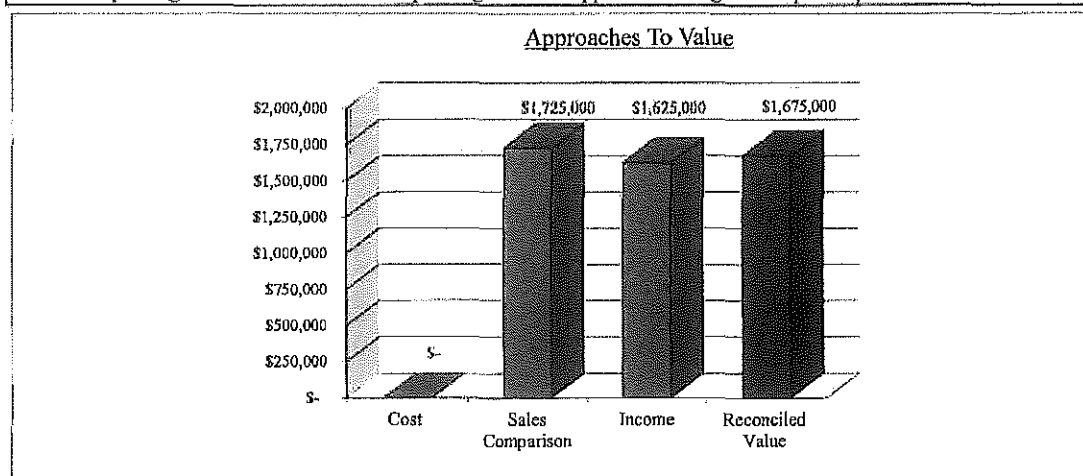
I look forward to any questions or comments after you have reviewed the appraisal.
Thank you for the opportunity to be of service.

Very truly yours,
EASTERN APPRAISAL & CONSULTING, INC.

H. Randolph Glennon, III

H. Randolph Glennon, III, MAI, AI-GRS, CRE, President

Exhibit Final Value Estimate City of Portland Portion of Midtown Parking Lot, Free St, Portland, ME Valuation Date: 7/31/16 Without Hatch Easement					
4695FSVE					
Approach	Estimate	\$/Space	SF of Land	Weight	Allocation
Cost	na	na	na	na	na
Sales Comparison	\$ 1,725,000	\$ 19,602	\$ 50.41	55.0%	\$ 948,750
Income	\$ 1,625,000	\$ 18,466	\$ 47.49	45.0%	\$ 731,250
Reconciled Value	\$ 1,675,000	\$ 19,034	\$ 48.95	100.0%	\$ 1,680,000
		88 Spaces	34,220 SF		
Note: 1. Income and sales comparison approaches reflect fee simple ownership interest with no easement. 2. Highest and best use is slightly more favorable to sales comparison of current development land. 3. Interim parking use also feasible until improving market supports evolving development plan.					



LAND EXCHANGE AGREEMENT

This Land Exchange Agreement (this "Agreement") is made as of the 30th day of November, 2015, by and between the J.B. BROWN & SONS ("JBB") and FORE RIVER WAREHOUSING & STORAGE CO., INC. ("FRW&S"), each a Maine corporation with offices in Portland, Maine, and their respective successors and permitted assigns (JBB and FRW&S shall be collectively referred to herein as "JBBrown"), and CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 ("City").

Section 1. Introduction.

Each of the parties owns real property in Portland, Maine. The parties have agreed to exchange certain property, and to provide for certain appurtenant easements in connection with the exchange, all on the terms and conditions set forth in this Agreement. Exhibit A is an aerial photograph that generally depicts the properties that are the subject of the exchange.

Section 2. Property to be Exchanged.

In the exchange:

- (i) City will convey to JBBrown the parcel of land acquired from Norman S. Reef and Raymond H. Reef as Trustees of the R.F. Investment Trust, located at or near Cornell Street and Morrill Street (Tax Map 151A-A-013) and depicted on Exhibit A as "Parcel 1," except that the City shall retain the portion of said parcel that is cross-hatched on Exhibit A. The City shall be solely responsible for the prompt remediation of all hazardous materials on Parcel 1 as described in a certain July 20, 2015 Phase I Environmental Site Assessment by Sebago Technics;
- (ii) City will convey to JBB and FRW&S an access easement deed for vehicle and pedestrian ingress and egress (including an area for the specific purpose of a safe and reasonable "turn around" for large commercial trucks, i.e., eighteen wheel tractor trailers), from and to Canco Road across the City's property located at or near 250 Canco Road (Tax Map 154-B-001) to JBB's and FRW&S' respective properties located on Quarry Road, which easement area shall be constructed and maintained by the City and is depicted on Exhibit A as "Parcel 2";
- (iii) JBBrown will convey to City the parcel of land depicted on Exhibit A as Parcel 3 and identified as Tax Map 148-A-002 ("Parcel 3");
- (iv) JBBrown will convey to City a portion of the parcel of land depicted on Exhibit A as Parcel 4A and identified as Tax Map 151A-A-014 and a portion of land identified as Tax Map 151A-A-23 ("Parcel 4A");
- (v) JBBrown will convey a five-year easement to the City over a portion of the parcel of

land depicted on Exhibit A as Parcel 4B and identified as Tax Map 151A-A-023 ("Parcel 4B"). The purpose of this easement shall be to grant the City vehicle and pedestrian access to the easement area, and to allow the City, without limitation, to construct, install, operate, maintain, replace, and repair salt sheds and other structures and equipment, and any appurtenances and fixtures thereto, that the City deems necessary to conduct its winter salt and sand operations, and any other rights the City deems reasonably necessary to effectuate the purpose of this easement.

(vi) JBBrown will convey to City the parcel of land depicted on Exhibit A as Parcel 5 and identified as Tax Map 154-B-045 ("Parcel 5"); and

(vii) JBBrown will convey to City the parcel of land depicted on Exhibit A as Parcel 6 and identified as Tax Map 151A-A-021, except that JBBrown shall retain the portion of said parcel that is cross-hatched on Exhibit A ("Parcel 6");

All of these conveyances will be on the terms and conditions set forth in this Agreement.

Section 3. Equivalent Value.

The parties agree that (i) the value of the property including the easement that JBBrown is conveying to the City and the easement that City is conveying to JBBrown in this exchange is equivalent to the value of the properties that JBBrown is conveying to City in this exchange, and (ii) each party's conveyance is in full consideration of the other party's conveyance. Except as provided in Section 10 below (regarding closing adjustments), neither party is seeking any monetary payment to the other party in connection with the exchange.

Section 4. Property Being Exchanged "As-Is".

(a) Parcel 1. Except as described in Section 2(i) above and as hereinafter set forth, JBBrown acknowledges that it is acquiring Parcel 1 "as is" and that City has made no representations or warranties of any kind whatsoever with respect to the condition of Parcel 1 or the compliance of Parcel 1 with any laws, rules, regulations, or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Notwithstanding the foregoing, it shall be a condition of JBBrown's obligations to close that (i) Parcel 1 is no longer subject to a Contract Zone Agreement and reverts to the I-L Industrial Zone, and (ii) JBBrown is satisfied with the title and environmental condition (including as to any hazardous materials as described in an environmental report to be provided to JBBrown by the City).

(b) Parcel 2. City will construct and maintain the easement for JBBrown (Parcel 2) described in Section 2(ii). The City will install a directional sign at a location chosen by the City on Parcel 2 or Parcel 5 near the Canco Road entrance way to Parcel 2 that will direct traffic to JBBrown properties, provided that such a sign is consistent with section 14-371(f) of the City's Land Use Ordinance, has all necessary permits, and otherwise complies with all applicable legal requirements. Upon approval by the City, the sign shall be installed by the City at JBBrown's sole cost and expense. JBBrown shall also be responsible for all costs associated with maintaining,

repairing, or replacing the sign. JBBrown's obligations under this paragraph shall survive the closing of the Agreement..

(c) Parcels 3, 4A&B, 5 and 6. City acknowledges that it is acquiring Parcels 3, 4A&B, 5 and 6 "as is" and that JBBrown has made no representations or warranties of any kind whatsoever with respect to the condition of Parcels 3, 4A&B, 5 and 6 or the compliance of Parcels 3, 4A&B, 5 and 6 with any laws, rules, regulations or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Notwithstanding the foregoing, it shall be a condition of City's obligations to close that City is satisfied with the title and environmental condition of Parcels 3, 4A&B, 5 and 6. Further, upon the expiration of the easement for Parcel 4B, the City shall ensure, prior to said expiration of the easement, that the City shall remedy any hazardous material contamination existing as a result of the City's use of Parcel 4B.

Section 5. Title.

(a) Title Examinations; Objections. The parties will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the sixtieth (60th) day after the date of this Agreement (the "Due Diligence Period") to complete their respective title examinations. Title shall be good, marketable and insurable title, free and clear of all encumbrances except (i) as set forth in Exhibit B, (ii) easements for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Each party will have until the end of the Due Diligence Period to deliver to the other party any written objections to matters (other than the permitted exceptions identified herein) that materially affect marketability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the date of this Agreement may be made at any time prior to the closing.

(b) Option to Cure. In the event of a title objection, the party owning the property that is the subject of the title objection will have the option, but not the obligation, to cure the objection and will notify the other party of its election within ten (10) business days after receipt of the title objection. In the event that the party owning the property that is the subject of the objection elects to cure the title objection, that party thereupon will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the party owning the property that is the subject of the objection does not elect to cure the objection, or having elected to cure the objection fails to timely do so, the other party will have the option either to terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement) or to waive the objection and close.

Section 6. Conditions Precedent to Closing.

(a) Parcel 1 is subject to JBBrown's satisfactory review of an Environmental Report (Phase I) described in Section 2(i) above.

(b) The City shall cause the termination or provide satisfactory evidence to JBBrown that a

certain Contract Zone affecting Parcel 1 has terminated, and that upon termination the Parcel 1 property shall be located in the City's I-L Industrial Zone.

(c) (i) JBBrown is satisfied in its sole discretion in the condition or plans for the construction of the easement as described above over Parcel 2, and (ii) the sign described in Section 4(b) above is authorized by the City to be installed.

(d) Parcels 3, 4A&B, 5 and 6 are subject to City's satisfactory review of environmental issues.

(e) The City is satisfied in its sole discretion that Parcel 6 conforms with applicable land use ordinances.

Section 7. Closing.

The closing will be on or before the thirtieth (30th) day after the later to occur of: (i) the expiration of the Due Diligent Period, and (ii) the date on which the Conditions to Closing described in Section 6 above are completed to the satisfaction of each party to this Agreement, to be held at Verrill Dana, LLP, One Portland Square, Portland, Maine, or on such other date or at such other place as the parties may agree.

Section 8. Deeds.

(a) Deed to City. At the closing, JBBrown will deliver to City a fully-executed Quitclaim Deed conveying Parcels 3, 4A&B, 5 and 6.

(b) Deed to JBBrown. At the closing, City will deliver to JBBrown a fully-executed Municipal Quitclaim Deed conveying Parcel 1; and City will deliver to JBB and FRW&S a fully-executed Easement Deed as to Parcel 2.

(c) Property Descriptions. The property descriptions contained in each deed will be survey descriptions based on a survey plan (the "Plan") that will more specifically describe the properties shown on Exhibit A hereto. The Plan will be distributed to the parties hereto prior to the expiration of the Due Diligence Period and the parties will agree on property descriptions prior to the closing.

(d) Abutter Status. Each deed will recite that the grantee is an abutter to the grantor.

Section 9. Closing Deliverables.

(a) City Deliverables. At the closing, and as a condition to closing, City will deliver in connection with its conveyance to JBBrown:

(i) the executed contract zone termination described in Section 6(b) above;

- (ii) the executed deed described in Section 8(b) above;
- (iii) an executed State of Maine Real Estate Transfer Tax Declaration;
- (iv) an executed notice pursuant to 38 M.R.S.A. § 563(6) stating that, to the best of City's knowledge, no underground storage facility for the storage of oil or petroleum exists on the property being conveyed to JBBrown;
- (v) documentation acceptable to JBBrown indicating that this transaction has been duly authorized and that the person executing documents on behalf of City and City's general partner is duly authorized to do so;
- (vi) an executed owner's affidavit indicating no tenants or other occupants presently in possession and indicating no debts due for labor or services performed or materials used that could give rise to mechanic's liens.

(b) JBBrown Deliverables. At the closing, and as a condition to closing, JBBrown will deliver in connection with its conveyance to City:

- (i) the executed deed described in Section 8(a) above;
- (ii) an executed State of Maine Real Estate Transfer Tax Declaration;
- (iii) an executed notice pursuant to 38 M.R.S.A. § 563(6) stating that, to the best of JBBrown's knowledge, no underground storage facility for the storage of oil or petroleum exists on the property being conveyed to City;
- (iv) documentation acceptable to City indicating that this transaction has been duly authorized and that the person executing documents on behalf of JBBrown is duly authorized to do so;
- (v) an executed certificate of non-foreign and Maine Residency status; and
- (vi) an executed owner's affidavit indicating no tenants or other occupants presently in possession and indicating no debts due for labor or services performed or materials used that could give rise to mechanic's liens.

Section 10. Closing Costs and Apportionments.

(a) Real Estate Taxes and Assessments. The parties acknowledge that the City is exempt from taxes or assessments on its property and that Parcels 1 and 2 are exempt from real estate taxes for fiscal year 2016. As to Parcels 3, 4A and B, 5 and 6, JBBrown shall be liable for all real estate taxes and assessments for fiscal year 2016. JBBrown shall pay all such taxes on or before the closing date.

(b) Real Estate Transfer Tax. Each real estate transfer tax declaration will state that the value of the properties that is the subject of the declaration is the assessed value, and JBBrown will pay its share of real estate transfer taxes. The parties acknowledge that, pursuant to 36 M.R.S.A. § 4641-C(1), City is exempt from real estate transfer taxes.

(c) Recording Fees. City will pay the recording fees for the termination of contract zone, if necessary, and for the deed from JBBrown on Parcels 3, 4 A and B, 5 and 6. JBBrown will pay the recording fee for the deeds from City on Parcels 1 and 2.

(d) Legal Fees and Expenses. The parties each will bear the cost of their respective legal fees and expenses.

Section 11. Representations and Warranties.

(a) City. City represents and warrants that:

(i) It has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by City and is a legal, valid, and binding agreement of City, enforceable in accordance with its terms. The execution, delivery, and performance of this Agreement by City will not violate any judgment or order applicable to City or City's instruments of organization, governance or operation, and will not result in any material breach of, or constitute a material default under, or result in the creation of any material lien, charge, security interest, or other encumbrance upon Parcel 1 or any note, bond, indenture, mortgage, deed of trust, bank loan, or credit agreement to which City is a party or by which Parcel 1 is bound.

(iii) City has not received any written notice of any pending condemnation, violation of law, or other legal action of any kind materially and adversely affecting Parcel 1.

(iv) City has no knowledge of any pending or threatened litigation, administrative action, or governmental investigation or examination (including, but not limited to, environmental investigations, examinations, claims, and demands) concerning Parcel 1.

(v) No third party has any right to acquire all or any part of Parcel 1.

(b) JBBrown. JBBrown represents and warrants that:

(i) JBBrown has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by

JBBrown and is a legal, valid, and binding agreement of JBBrown, enforceable in accordance with its terms. The execution, delivery, and performance of this Agreement by JBBrown will not violate any judgment or order applicable to JBBrown or result in any material breach of or constitute a material default under any agreements to which JBBrown is a party.

(iii) JBBrown has not received any written notice of any pending condemnation, violation of law, or other legal action of any kind materially and adversely affecting Parcels 3, 4 A and B, 5 and 6.

(iv) JBBrown has no knowledge of any pending or threatened litigation, administrative action, or governmental investigation or examination (including, but not limited to, environmental investigations, examinations, claims, and demands) concerning Parcels 3, 4 A and B, 5 and 6.

(v) No third party has any right to acquire all or any part of Parcels 3, 4A&B, 5 or 6.

(c) Survival. All representations and warranties contained herein are intended to remain true and correct as of the closing, are deemed to be restated at the closing, and will survive the closing.

Section 12. General Provisions.

(a) Assignment. Neither this Agreement nor any of the rights or obligations of any party pursuant to this Agreement may be assigned without the prior written consent of the other party.

(b) Brokers. Each party will indemnify and hold harmless the other from and against any claims for brokerage commissions arising out of any brokerage agreements entered into by the indemnifying party.

(c) Governing Law. This Agreement is governed by, and is to be construed and enforced in accordance with, the laws of the State of Maine (without regard to conflicts-of-laws principles that would require the application of any other law).

(d) Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the exchange of the property that is the subject of this Agreement, supersedes all prior oral or written offers, negotiations, agreements, understandings, and courses of dealing between the parties relating thereto, and is subject to no understandings, conditions or representations other than those expressly stated herein. This Agreement may be modified or amended only by means of a writing signed by the parties.

(e) Notices. Notices in connection with this Agreement must be in writing, delivered by

certified mail or by Federal Express or a similar overnight delivery carrier to the addresses set forth below:

To JBBrown:

Vincent P. Veroneau
J.B. Brown & Sons
36 Danforth Street
P.O. Box 207
Portland, Maine 04112-0207

with a copy to:

David L. Galgay, Jr., Esq.
Verrill Dana

Mailing address: P.O. Box 586
Portland, Maine 04112-0586

Street address: One Portland Square
Portland, Maine 04101

To City:

Gregory A. Mitchell
Director of Economic Development
City of Portland
389 Congress Street
Portland, Maine 04101 with

a copy to:

Danielle West-Chuhta, Esq.
Corporate Counsel
City of Portland
389 Congress Street
Portland, Maine 04101

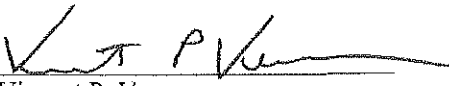
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the day and year first above written.

J.B. Brown & Sons

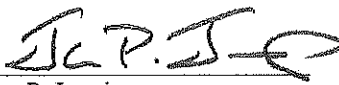
By:


Vincent P. Veroneau
Its President

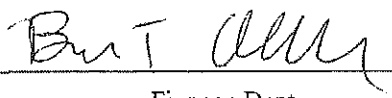
Fore River Warehousing & Storage Co., Inc.

By: 
Vincent P. Veroneau
Its President

City of Portland

By: 
Jon P. Jennings
Its City Manager

Approved as to Form: 
Corporation Counsel

Approved as to Funds: 
Finance Dept.

**Parcel 6 -- Approximate Area
-- J.H. Brown to City,
excepting hatched area**

**Parcel 1 - City Tax-Acquired
Property to J.H. Brown,
excepting hatched area**

Parcel 4B -- Approximate
Easement Area - J.D. Brown to
City

Panel 1 - J.L. Brown to City

Parcel 4A – Approximate Area - J.B. Brown to City

**Parcel 2 - Approximate
Easement Area - City to J.B.
Brown**

Parcel 3 - J.B. Brown to City

ACCESS EASEMENT AGREEMENT

THIS ACCESS EASEMENT AGREEMENT is made as of the 22nd day of March, 2016, by the **CITY OF PORTLAND**, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (hereinafter referred to as "**City**"), **J.B. BROWN & SONS**, a Maine corporation, having an office at 10 Free Street, Suite 100 in Portland, Maine and a mailing address of P.O. Box 207, Portland, Maine 04112-0207, **FORE RIVER WAREHOUSING & STORAGE CO., INC.**, a Maine corporation having an office at 10 Free Street, Suite 100 in Portland, Maine and a mailing address of P.O. Box 207, Portland, Maine 04112-0207 (hereinafter collectively referred to as "**JBBrown**").

WITNESSETH:

WHEREAS, JBBrown and City entered into a certain Land Exchange Agreement dated as of November 30, 2015, as amended by a First Amendment dated as of January 28, 2016, as amended by a Second Amendment dated as of February 8, 2016 (as amended from time to time, hereinafter referred to as the "**Land Exchange Agreement**"); and

WHEREAS, JBBrown owns property located on Quarry Road in Portland identified on the City of Portland tax maps as Lots 150-A-2, 150-A-3, 151A-A-16, 151A-A-22 and 151A-A-15 and identified as Lot 2 and Lot 3 on a plan titled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for record owner J.B. Brown & Sons, 10 Free Street, Portland, Maine" (the "**Plan**") dated February 26, 2016 by Owen Haskell, Inc. Falmouth, Maine and to be recorded in the Cumberland County Registry of Deeds. (collectively, the "**JBBrown Properties**"); and

WHEREAS, pursuant to the terms of the Land Exchange Agreement, the City is to convey to JBBrown an easement to access the JBBrown Properties over a portion of property the City owns known as 250 Canco Road, which portion is more particularly described on Exhibit A attached hereto (hereinafter referred to as the "**Easement Area**").

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, each to the other paid, it is hereby agreed as follows:

I. Access Easement for Benefit of JBBrown:

1. The City does hereby grant and convey unto JBBrown, its successors, assigns, to benefit the JBBrown Properties, its successors or assigns, and with any of their respective tenants or occupants of buildings located on the JBBrown Properties, an access easement over the Easement Area to and from the JBBrown Properties for vehicle and pedestrian ingress and egress, including for the specific purpose of a safe and reasonable "turn around" for large commercial trucks (i.e., eighteen wheel tractor trailers) (hereinafter referred to as the "**Access Easement**"). This Access Easement is not exclusive to JBBrown, and in particular, but not by way of limitation, the City retains the right to use the Easement Area for vehicle and pedestrian ingress and egress and to place or extend utilities of any and all types in the Easement Area and

to grant such rights to others, provided, however, that no building or any kind of permanent structure that would impede vehicle access to and across the Easement Area shall be erected on the Easement Area. The above easements and rights shall be perpetual and shall run with the JBBrown Properties.

2. The City will construct and maintain the Easement Area and install a directional sign at a location chosen by the City in the Easement Area, or on property that JBBrown will convey to the City pursuant to the terms of the Land Exchange Agreement that is adjacent to the Easement Area and identified on the City of Portland Tax Maps as Lot 154-B-045. The City will install the sign near the Canco Road entrance way to the Easement Area, and the sign will direct traffic only to the properties located on Lot 3 of the Plan, provided that such a sign is consistent with section 14-371(f) of the City's Land Use Ordinance, has all necessary permits, and otherwise complies with all applicable legal requirements. Upon approval by the City, the sign shall be installed by the City but at JBBrown's sole cost and expense. JBBrown shall also be responsible for all costs associated with maintaining, repairing or replacing the sign.

3. Except as set forth herein, JBBrown acknowledges that it is acquiring the Easement Area "as is" and that the City has made no representations or warranties of any kind whatsoever with respect to the condition of the Easement Area or the compliance of the Easement Area with any laws, rules, regulations or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials.

4. Except when injury, loss or property damage are the result of intentional or negligent acts or omissions of the City, its officers, employees or agents, JBBrown, its successors and assigns covenant and agree, to indemnify and hold the City, its successors and assigns, harmless for any personal injury, loss of property or damages (including the cost of defending against any such claims or enforcing this indemnity, including reasonable attorneys' fees) resulting from the use of the Easement area by JBBrown, its successors and assigns.

II. Miscellaneous

1. Grant of Easements Only. JBBrown and City are not hereby conveying any land or title thereto, but merely are granting the rights, privileges and easements hereinabove set forth.

2. Notices. Any notice, request or other communication required or permitted to be given hereunder must be in writing. All notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one Business Day after deposit with such courier, (b) sent by certified or regular U.S. mail, postage prepaid, in which case notice shall be deemed delivered two Business Days after deposit in such mails, (c) sent by facsimile or electronic mail, in which case notice shall be deemed delivered upon the mechanical confirmation of delivery or (d) sent by personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery, or if such receipt or delivery occurs on a day that is not a Business Day, on the next Business Day. All notices shall be addressed to each party at its address first set forth above. Any party may designate a change of address by written notice to the other party delivered at least ten (10) days before such change of address is to become effective.

3. Amendment. The provisions of this Agreement may be abrogated, modified, rescinded or amended in whole or in part only with the consent of the parties hereto, their successors and assigns, in a written instrument duly executed, delivered and recorded.

4. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced exclusively in accordance with the provisions hereof and the laws of the State of Maine.

5. Unilateral Termination Event. In the event the parties do not complete all of the transfers contemplated by the Land Exchange Agreement by September 30, 2016, the owner of the land on which the Easement Area is located may notify JBBrown in writing in accordance with Section II, paragraph 2 above, that unless the parties mutually agree in writing, the easement hereby granted shall be terminated in sixty (60) days by the owner of the burdened property with the recording of an affidavit in the Cumberland County Registry of Deeds certifying that the Land Exchange Agreement was not completed and that this Easement is terminated.

6. Binding Effect. The easement rights, obligations and restrictions created hereby shall be rights, obligations and restrictions running with the land and shall be binding upon and inure to the benefit of the owner of the Easement Area and the owner of the JBBrown Properties and their respective successors, assigns, and any other transferees.

Dated as of the date first above written.

J.B. BROWN & SONS

By: Vincent P. Veroneau
Vincent P. Veroneau
Its President

**FORE RIVER WAREHOUSING &
STORAGE CO., INC.,**

By: Vincent P. Veroneau
Vincent P. Veroneau
Its President

CITY OF PORTLAND

By: Jon P. Jennings
Jon P. Jennings
Its City Manager

STATE OF MAINE
County of Cumberland, ss.

March 22, 2016

PERSONALLY APPEARED before me the above-named Jon P. Jennings, the City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Sonia T. Bean
Notary Public

[affix notary seal]
Print Name: Sonia T. Bean

My commission expires: January 10, 2017

STATE OF MAINE
County of Cumberland, ss.

March 22 2016

PERSONALLY APPEARED before me the above-named Vincent P. Veroneau, the President of J.B. Brown & Sons, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of J.B. Brown & Sons.

Jude A. Cluff
Notary Public

[affix notary seal]
Print Name: JUDE A. CLUFF

NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020
My commission expires: _____

STATE OF MAINE
County of Cumberland, ss.

March 22 2016

PERSONALLY APPEARED before me the above-named Vincent P. Veroneau, the President of Fore River Warehousing & Storage Co., Inc., and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of J.B. Brown & Sons.

Jude A. Cluff
Notary Public

[affix notary seal]
Print Name: JUDE A. CLUFF

NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020
My commission expires: _____

Exhibit A

A certain lot or parcel of land, located along the northwesterly line of Canco Road in the City of Portland, County of Cumberland, and State of Maine, more particularly bounded and described as follows:

COMMENCING at an iron rod found along the northwesterly sideline of Canco Road at the most northeasterly corner of land conveyed by 212 Canco Realty LLC to the City of Portland and recorded in Deed Book 32914, Page 38 in the Cumberland County Registry of Deeds;

THENCE N 29° 15' 08" E 392.27 feet along the northwesterly sideline of Canco Road to the **POINT OF BEGINNING**;

THENCE N 60° 44' 52" W 261.15 feet through land conveyed by Bottling Group LLC to the City of Portland and recorded in Deed Book 32620, Page 185 in the Cumberland County Registry of Deeds to a point;

THENCE N 58° 25' 30" W 239.68 feet through said land conveyed by Bottling Group LLC to a point;

THENCE S 77° 30' 51" W 200.17 feet through said land conveyed by Bottling Group LLC to a point along land now or formerly of J.B. Brown and Sons;

THENCE N 29° 15' 08" E 163.34 feet along said land now or formerly of J.B. Brown and Sons to a point;

THENCE S 58° 25' 30" E 389.66 feet through said land conveyed by Bottling Group LLC to a point;

THENCE S 60° 44' 52" E 260.66 feet through said land conveyed by Bottling Group LLC to a point along the northwesterly sideline of Canco Road;

THENCE S 29° 15' 08" W 24.00 feet along the northwesterly sideline of Canco Road to the **POINT OF BEGINNING**.

Said lot or parcel of land contains 26,012 square feet, more or less, and is part of a lot or parcel of land conveyed by Bottling Group LLC to the City of Portland and recorded in Deed Book 32620, Page 185 in the Cumberland County Registry of Deeds and as shown on a plan titled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for record owner J.B. Brown & Sons, 10 Free Street, Portland, Maine" dated February 26, 2016 by Owen Haskell, Inc. Falmouth, Maine and to be recorded in the Cumberland County Registry of Deeds.

WHEN RECORDED RETURN TO:

VERRILL DANA, LLP
One Portland Square
Portland, ME 04112-0586
Attention: David L. Galgay, Jr.

TEMPORARY STORAGE EASEMENT AGREEMENT

THIS TEMPORARY STORAGE EASEMENT AGREEMENT is made as of the 22nd day of March, 2016, by **J.B. BROWN & SONS**, a Maine corporation, having an office at 10 Free Street, Suite 100 in Portland, Maine and a mailing address of P.O. Box 207, Portland, Maine 04112-0207 (hereinafter referred to as "**JBBrown**"), and **CITY OF PORTLAND**, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (hereinafter referred to as "**City**").

WITNESSETH:

WHEREAS, JBBrown and City entered into a certain Land Exchange Agreement dated as of November 30, 2015, as amended by a First Amendment dated as of January 28, 2016, as amended by a Second Amendment dated as of February 8, 2016 (as amended from time to time, hereinafter referred to as the "**Land Exchange Agreement**"); and

WHEREAS, pursuant to the terms of the Land Exchange Agreement, JBBrown will convey to City a portion of a certain parcel of land situated northeasterly of Read Street and northwesterly of Canco Road identified on the City of Portland Tax Maps as Lot 151A-A-23 (hereinafter referred to as "**Lot A-23**").

WHEREAS, a small portion of Lot A-23 shall be excluded from the conveyance described in the previous Whereas clause, which excluded portion is a certain trapezoid shaped parcel of land (approximately 10,062 square feet) and more particularly described on Exhibit A attached hereto (hereinafter referred to as the "**Temporary Easement Area**"); and

WHEREAS, the remaining portion of Lot A-23 excluding the Temporary Easement Area that will be conveyed to the City under the terms of the Land Exchange Agreement is hereinafter referred to as the "**Future City Property**"; and

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, each to the other paid, it is hereby agreed as follows:

I. Temporary Storage Easement for Benefit of City:

1. JBBrown does hereby grant and convey unto the City, for the benefit of the City, a temporary easement for the storage of its salt sheds and related items within the Temporary Easement Area (hereinafter referred to as the "**Temporary Storage Easement**"). The purpose of this Temporary Storage Easement shall be to grant to the City vehicle and pedestrian access to the Temporary Easement Area, and to allow the City, without limitation, to construct, install, operate, maintain, replace, and repair salt sheds and other structures and equipment, and any appurtenances and fixtures thereto, that the City deems necessary to conduct its winter salt and sand operations, and any other rights the City deems reasonably necessary to effectuate the purpose of this said easement. Access to the Temporary Easement Area shall be through the Future City Property. The easement hereby granted shall include during the Easement Term (as hereinafter defined in Section I, paragraph 4 below) the right to enter the Temporary Easement Area with persons and equipment for the above stated purposes at the City's sole cost and expense.

2. The City shall be solely responsible for all costs, expenses and other obligations associated with its work within the Temporary Easement Area.

3. City acknowledges that it is acquiring the Temporary Easement Area "as is" and that JBBrown has made no representations or warranties of any kind whatsoever with respect to the condition of the Temporary Easement Area or the compliance of the Temporary Easement Area with any laws, rules, regulations or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Further, upon the expiration of the Easement hereby granted, the City shall ensure, prior to said expiration of the Temporary Storage Easement, that the City shall remedy any hazardous material contamination existing as a result of the City's use of the Temporary Easement Area.

4. The "**Easement Term**" shall commence on the date hereof and expire on April 30, 2021, without any further notice or writing. At the end of the Easement Term, the City shall vacate the Temporary Easement Area and restore it to the same condition it was in prior to its use as described in paragraph 1 above.

5. Except when injury, loss or property damage are the result of intentional or negligent acts or omissions of JBBrown, its officers, employees or agents, City, its successors and assigns, covenant and agree, City will indemnify and hold JBBrown, its successors and assigns, harmless for any personal injury, loss of property or damages (including the cost of defending against any such claims or enforcing this indemnity, including reasonable attorneys' fees) resulting from City's use of the Temporary Easement Area and/or access thereto. The parties hereto agree that this provision is an indemnity agreement and nothing herein shall be construed to be a contract of insurance waiving the defense of governmental immunity, including

without limitation any defenses and immunities afforded the City by the Maine Tort Claims Act and other applicable law.

II. Miscellaneous

1. Grant of Easements Only. JBBrown and City are not hereby conveying any land or title thereto, but merely are granting the rights, privileges and easements hereinabove set forth.

2. Notices. Any notice, request or other communication required or permitted to be given hereunder must be in writing. All notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one Business Day after deposit with such courier, (b) sent by certified or regular U.S. mail, postage prepaid, in which case notice shall be deemed delivered two Business Days after deposit in such mails, (c) sent by facsimile or electronic mail, in which case notice shall be deemed delivered upon the mechanical confirmation of delivery or (d) sent by personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery, or if such receipt or delivery occurs on a day that is not a Business Day, on the next Business Day. All notices shall be addressed to each party at its address first set forth above. Any party may designate a change of address by written notice to the other party delivered at least ten (10) days before such change of address is to become effective.

3. Amendment. The provisions of this Agreement may be abrogated, modified, rescinded or amended in whole or in part only with the consent of the parties hereto, their successors and assigns, in a written instrument duly executed, delivered and recorded.

4. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced exclusively in accordance with the provisions hereof and the laws of the State of Maine.

5. Binding Effect. The easement rights, obligations and restrictions created hereby shall be rights, obligations and restrictions running with the land until the expiration of the Easement Term or earlier termination of this Easement and shall be binding upon and inure to the benefit of the owner of the Future City Property and the owner of the JBBrown Property land, and their respective successors and assigns.

6. Unilateral Termination Event. In the event the parties do not complete all of the transfers contemplated by the Land Exchange Agreement by September 30, 2016, the owner of the land on which the Temporary Easement Area is located may notify the City in writing in accordance with Section II, paragraph 2 above, that unless the parties mutually agree in writing, the easement hereby granted shall be terminated in sixty (60) days by the owner of the burdened property with the recording of an affidavit in the Cumberland County Registry of Deeds certifying that the Land Exchange Agreement was not completed and that this Easement is terminated.

[Signature Page Follows]

Dated as of the date first above written.

J.B. BROWN & SONS

By: Vincent P. Veroneau
Vincent P. Veroneau
Its President

"JBBrown"

CITY OF PORTLAND

By: Jon P. Jennings
Jon P. Jennings
Its City Manager

"City"

STATE OF MAINE
County of Cumberland, ss.

March 21, 2016

PERSONALLY APPEARED before me the above-named Jon P. Jennings, the City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Sonia T. Bean
Notary Public

[affix notary seal]

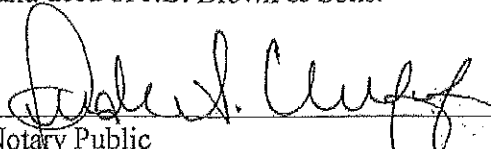
Print Name: Sonia T. Bean

My commission expires: January 10, 2017

STATE OF MAINE
County of Cumberland, ss.

March 22, 2016

PERSONALLY APPEARED before me the above-named Vincent P. Veroneau, the President of J.B. Brown & Sons, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of J.B. Brown & Sons.



Notary Public [affix notary seal]

Print Name: _____
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

My commission expires: _____

Exhibit A
(Temporary Easement Area)

A certain lot or parcel of land, located northwesterly of and not adjacent to Canco Road in the City of Portland, County of Cumberland, and State of Maine, more particularly bounded and described as follows:

COMMENCING at an iron rod found along the northwesterly sideline of Canco Road at the most northeasterly corner of land conveyed by 212 Canco Realty LLC to the City of Portland and recorded in Deed Book 32914, Page 38 in the Cumberland County Registry of Deeds;

THENCE N 39° 46' 52" W 417.34 feet along the northeasterly property line of said land conveyed to the City of Portland and land now or formerly of Bottling Group LLC to an iron rod found;

THENCE N 54° 31' 52" W 261.82 feet along said northeasterly property line and land now or formerly of Bottling Group LLC to the northwesterly corner of said land conveyed to the City of Portland;

THENCE N 54° 31' 52" W 9.77 feet along land now or formerly of J.B. Brown and Sons and land now or formerly of said Bottling Group LLC to the **POINT OF BEGINNING**;

THENCE S 87° 43' 50" W 210.40 feet along a proposed property line through land now or formerly of J.B. Brown and Sons to a point;

THENCE N 26° 22' 48" E 69.86 feet through land now or formerly of J.B. Brown and Sons to a point;

THENCE N 78° 31' 03" E 81.34 feet through land now or formerly of J.B. Brown and Sons to a point;

THENCE S 54° 41' 57" E 121.90 feet through land now or formerly of J.B. Brown and Sons to the **POINT OF BEGINNING**.

Said lot or parcel of land contains 10,063 square feet, more or less, and is part of Lot 3 as shown on a plan titled "Amended Subdivision Plan on Quarry Road, Portland, Maine made for record owner J.B. Brown & Sons, 10 Free Street, Portland, Maine" dated February 26, 2016 by Owen Haskell, Inc. Falmouth, Maine and to be recorded in the Cumberland County Registry of Deeds.

Easement

WO# 10300172988

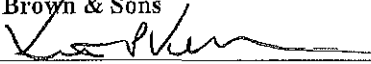
Form 1199, Rev. 07/08

J.B Brown & Sons, a Maine Company with a mailing address of 36 Danforth Street, P.O. Box 207, Portland, ME, (Grantor(s)), for consideration given, grants to CENTRAL MAINE POWER COMPANY, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336, and no telephone company, and their respective successors and assigns (collectively Grantees), with warranty covenants, the right and easement to erect, bury, maintain, rebuild, respace, patrol, operate, and remove and do all other actions involving electric and communication distribution equipment and facilities, consisting of poles, wires and cables, anchors, guywires or pushbraces, together with all necessary fixtures and appurtenances over, across and under a portion of the surface of the land of the Grantor(s) in the City/Town of Portland, Cumberland County, Maine. The said equipment and facilities are attached to a line commencing at Pole/Pad 4.7, Quarry Road, Portland and extending to include Pole(s)/Pad(s) 4.8, Quarry Road. This easement affects land conveyed to the Grantor(s) in a deed from Read Street Realty Corp, dated October 15, 1981, and recorded in the Cumberland County Registry of Deeds in Book 04869 Page 183. This easement is an easement in gross and is not for the sole purpose of serving the Grantor(s) or Grantor's land. The rights granted herein include the right to cut down and trim trees and other vegetation and to use formulations registered with the Environmental Protection Agency or its successor to eliminate vegetation, and modify the growth of trees, which vegetation or growth, in the judgment of Grantees, may interfere with the operation and maintenance of its equipment or facilities; and the right to restrict the construction of buildings, structures and improvements within 15 feet of its equipment and facilities; and the right to keep the surface of ground above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

WITNESS the hand(s) and seal(s) of Grantor(s) duly authorized representatives on December 7, 2015.

Signed, Sealed and Delivered in the presence of:

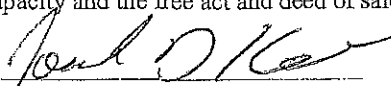
J.B Brown & Sons


Vincent P. Veroneau, President

State Of Maine

County Of Cumberland

The above-named Vincent P. Veroneau, personally appeared before me this 7th day of December, 2015 and acknowledged the foregoing instrument to be their free act and deed in their said capacity and the free act and deed of said J.B Brown & Sons.


Notary Public/Attorney

Printed Name:

My Commission Expires:

JOSEPH D. KANE

Notary Public, Maine

My Commission Expires July 24, 2021

WO# 10300172988

Easement
Aerial Rights Only

Form 1199, Rev. 07/08

J.B Brown & Sons, a Maine Company with a mailing address of P.O. Box 207, Portland, ME, 04112 (Grantor(s)), for consideration given, grants to CENTRAL MAINE POWER COMPANY, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336, and no telephone company, and their respective successors and assigns (collectively Grantees), with warranty covenants, the right and easement to erect, maintain, rebuild, respace, patrol, operate, and remove and do all other actions involving electric and communication distribution equipment and facilities, consisting of wires and cables, together with all necessary fixtures and appurtenances over a portion of the surface of the land of the Grantor(s) in the City/Town of Portland, Cumberland County, Maine. The said equipment and facilities are attached to Pole/Pad 4.7, Quarry Road, Portland. This easement affects land conveyed to the Grantor(s) in a deed from Fore River Warehousing and Storage CO, Inc., dated December 28, 1995, and recorded in the Cumberland County Registry of Deeds in Book 12284 Page 271. This easement is an easement in gross and is not for the sole purpose of serving the Grantor(s) or Grantor's land. The rights granted herein include the right to cut down and trim trees and other vegetation and to use formulations registered with the Environmental Protection Agency or its successor to eliminate vegetation, and modify the growth of trees, which vegetation or growth, in the judgment of Grantees, may interfere with the operation and maintenance of its equipment or facilities; and the right to restrict the construction of buildings, structures and improvements within 15 feet of its equipment and facilities; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

WITNESS the hand(s) and seal(s) of Grantor(s) duly authorized representatives on December 7, 2015.

Signed, Sealed and Delivered in the presence of:

J.B Brown & Sons

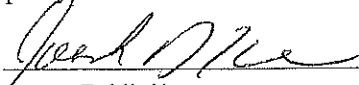


Vincent P. Veroneau, President

State Of Maine

County Of Cumberland

The above-named Vincent P. Veroneau, personally appeared before me this 7th day of December, 2015 and acknowledged the foregoing instrument to be their free act and deed in their said capacity and the free act and deed of said J.B Brown & Sons.


Notary Public/Attorney

Printed Name:

My Commission Expires:

JOSEPH D. KANE
Notary Public, Maine

My Commission Expires July 24, 2021

**AMENDED AND RESTATED
LAND EXCHANGE AGREEMENT**

THIS AMENDED AND RESTATED LAND EXCHANGE AGREEMENT is made as of the ____ day of April, 2017 by and between J.B. BROWN & SONS, a Maine corporation with offices in Portland, Maine, and its successors and permitted assigns ("JBBrown"), and the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 ("City"); and

WHEREAS, City, JBBrown and Fore River Warehousing & Storage Co., Inc. ("FRW&S") entered into a certain Land Exchange Agreement dated November 30, 2015 as amended by a First Amendment to Land Exchange Agreement dated January 28, 2016, a Second Amendment to Land Exchange Agreement dated February 8, 2016, a Third Amendment to Land Exchange Agreement dated March 22, 2016, a Fourth Amendment to Land Exchange Agreement dated August 30, 2016, and a Fifth Amendment to Land Exchange Agreement dated December 22, 2016 (collectively, the "Agreement") with respect to certain real property as more fully described in the Agreement; and

WHEREAS, because the Agreement has been amended on several occasions, FRW&S and its properties are no longer involved in the exchange, and the remaining parties propose to effect additional and material amendments thereto, the parties desire, for their mutual benefit and for administrative ease, to amend and restate the Agreement as provided for herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and JBBrown hereby agree to amend and restate the Agreement so that it reads in its entirety as follows:

Section 1. Introduction.

Each of the parties owns real property in Portland, Maine. The parties have agreed to exchange certain property on the terms and conditions set forth in this Agreement. Attached as Exhibit A hereto is a reduced copy of a certain survey entitled "Amended Subdivision Plan on Quarry Road, Portland, Maine" dated February 24, 2016 and recorded in the Cumberland County Registry of Deeds in Plan Book 216, Page 83 (the "Plan"), and said Plan includes Parcel 1 and Parcel 3 (as defined below) and generally depicts the properties that are to be transferred to the City.

Section 2. Property to be Exchanged.

In the exchange:

- (i) JBBrown will convey to City the parcel of land depicted on Exhibit A as the 4.295 +/- acres property - Tax Map 151A-A-23 ("Parcel 1"), which Parcel 1 has an agreed upon fair market value of \$215,000;

(ii) JBBrown will convey to City the parcel of land depicted on Exhibit A as the 2.325+/- Acre property - Tax Maps 154-B-045 and 151A-A-24 ("Parcel 2"), which Parcel 2 has an agreed upon fair market value of \$80,000; and

(iii) The City will convey to JBBrown that certain surface parking lot located in the City of Portland bounded by Fore, Cotton, Middle and Cross Streets and depicted in cross-hatching and outlined on a reduced copy of a "Plan of Topography" for J.B. Brown & Sons dated August 14, 1981 and attached hereto as Exhibit B ("Parcel 3"), which Parcel 3 has an agreed upon fair market value of \$1,470,000;

All of these conveyances will be on the terms and conditions set forth in this Agreement.

Section 3. Equivalent Value.

The parties agree that (i) the value of the Parcels 1 and 2 in this exchange have an aggregate value of \$295,000, and the value of Parcel 3 is \$1,470,000. At closing, JBBrown will be credited with the value of Parcel 1 and 2 (\$295,000) against the value of Parcel 3 (\$1,470,000). Accordingly, JBBrown will pay to the City at closing in lawful currency of the United States \$1,175,000 in readily available funds.

Section 4. Property Being Exchanged "As-Is".

(a) City acknowledges that it is acquiring Parcels 1 and 2 "as is" and that JBBrown has made no representations or warranties of any kind whatsoever with respect to the condition of Parcels 1 and 2 or the compliance of Parcels 1 and 2 with any laws, rules, regulations or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Notwithstanding the foregoing, it shall be a condition of City's obligations to close that City is satisfied with the title and environmental condition of Parcels 1 and 2.

(b) JBBrown acknowledges that it is acquiring Parcel 3 "as is" and that City has made no representations or warranties of any kind whatsoever with respect to the condition of Parcel 3 or the compliance of Parcel 3 with any laws, rules, regulations or ordinances, including (without limitation) any relating to zoning, the environment, or hazardous materials. Notwithstanding the foregoing, it shall be a condition of JBBrown's obligations to close that JBBrown is satisfied with the title and environmental condition of Parcel 3.

Section 5. Title.

(a) Title Examinations; Objections. The parties will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on May 31, 2017 (the "Due Diligence Period") to complete their respective title examinations. Title shall be good, marketable and insurable title, free and clear of all encumbrances except (i) as set forth in Exhibit B, (ii) easements for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Each party will have until the end of the Due Diligence Period to deliver to the other party any written objections to matters (other than the permitted exceptions identified herein) that materially affect marketability or use. Objections not made prior to the end

of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the date of this Agreement may be made at any time prior to the closing.

(b) Option to Cure. In the event of a title objection, the party owning the property that is the subject of the title objection will have the option, but not the obligation, to cure the objection and will notify the other party of its election within ten (10) business days after receipt of the title objection. In the event that the party owning the property that is the subject of the objection elects to cure the title objection, that party thereupon will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the party owning the property that is the subject of the objection does not elect to cure the objection, or having elected to cure the objection fails to timely do so, the other party will have the option either to terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement) or to waive the objection and close.

Section 6. Conditions Precedent to Closing.

The transfer of Parcel 3 by the City to JBBrown will terminate that certain Parking Lease Agreement dated August 10, 2009 (the "Parking Lease") between the City and JBB Parking Company, LLC, as assignee of Fore River Parking Company's lessee interest, and the City expressly hereby agrees that with the conveyance of Parcel 3 to JBBrown or its assignee, as contemplated hereby, that notwithstanding any alternative interpretation or construction of the language of the Parking Lease, the termination of the Parking Lease as a result of the conveyance of Parcel 3 to JBBrown shall NOT, under any circumstances, result in the reversion of the title to the City. After the termination of the Parking Lease and the conveyance of Parcel 3 to JBBrown, JBBrown hereby agrees to continue to operate the surface parking lot on Parcel 3 as a public parking lot until such time as JBBrown redevelops Parcel 3. JBBrown's obligations under this paragraph shall survive the closing on Parcel 3.

Section 7. Closing.

The closing will be on or before June 30, 2017, or such earlier date that the parties agree to in writing, to be held at Verrill Dana, LLP, One Portland Square, Portland, Maine, or on such other date or at such other place as the parties may agree.

Section 8. Deeds.

(a) Deed to City. At the closing, JBBrown will deliver to City a fully-executed Quitclaim Deed conveying Parcels 1 and 2.

(b) Deed to JBBrown. At the closing, City will deliver to JBBrown or its designee a fully-executed Municipal Quitclaim Deed conveying Parcel 3.

(c) Property Descriptions. The property descriptions contained in each deed will be survey descriptions based on surveys that will more specifically describe the properties shown on Exhibit A and Exhibit B. The survey descriptions will be distributed to the parties hereto prior

to the expiration of the Due Diligence Period and the parties will agree on property descriptions prior to the closing.

- (d) Abutter Status. Each deed will recite that the grantee is an abutter to the grantor.

Section 9. Closing Deliverables.

(a) City Deliverables. At the closing, and as a condition to closing, City will deliver in connection with its conveyance to JBBrown:

- (i) the executed deed described in Section 8(b) above;
- (ii) an executed State of Maine Real Estate Transfer Tax Declaration;
- (iii) an executed notice pursuant to 38 M.R.S.A. § 563(6) stating that, to the best of City's knowledge, no underground storage facility for the storage of oil or petroleum exists on the property being conveyed to JBBrown;
- (iv) documentation acceptable to JBBrown indicating that this transaction has been duly authorized and that the person executing documents on behalf of City is duly authorized to do so;
- (v) an executed owner's affidavit indicating no tenants or other occupants presently in possession and indicating no debts due for labor or services performed or materials used that could give rise to mechanic's liens.

(b) JBBrown Deliverables. At the closing, and as a condition to closing, JBBrown will deliver in connection with its conveyance to City:

- (i) the executed deed described in Section 8(a) above;
- (ii) an executed State of Maine Real Estate Transfer Tax Declaration;
- (iii) an executed notice pursuant to 38 M.R.S.A. § 563(6) stating that, to the best of JBBrown's knowledge, no underground storage facility for the storage of oil or petroleum exists on the property being conveyed to City;
- (iv) documentation acceptable to City indicating that this transaction has been duly authorized and that the person executing documents on behalf of JBBrown is duly authorized to do so;
- (v) an executed certificate of non-foreign and Maine Residency status; and
- (vi) an executed owner's affidavit indicating no tenants or other occupants presently in possession and indicating no debts due for labor or services performed or materials used that could give rise to mechanic's liens.

Section 10. Closing Costs and Apportionments.

(a) Real Estate Taxes and Assessments. The parties acknowledge that the City is exempt from taxes or assessments on its property and that Parcel 3 is exempt from real estate taxes for fiscal year 2016-17. As to Parcels 1 and 2, JBBrown shall be liable for all real estate taxes and assessments for fiscal year 2016-17. JBBrown shall pay all such taxes on or before the closing date.

(b) Real Estate Transfer Tax. Each real estate transfer tax declaration will state that the value of the properties that is the subject of the declaration is the assessed value, and JBBrown will pay its share of real estate transfer taxes. The parties acknowledge that, pursuant to 36 M.R.S.A. § 4641-C(1), City is exempt from real estate transfer taxes.

(c) Recording Fees. City will pay the recording fees for the deed from JBBrown on Parcels 1 and 2. JBBrown will pay the recording fee for the deed from City on Parcel 3.

(d) Legal Fees and Expenses. The parties each will bear the cost of their respective legal fees and expenses

(e) Payment in Full of Promissory Note. On or about January 30, 2015 JBBrown was assigned all of Fore River Company's interest as holder under that certain promissory note given by the City of Portland to Fore River Company in the original principal amount of \$56,220.25 dated January 10, 2010 ("City Note"). The City shall pay in full to JBBrown at closing the then outstanding balance of all unpaid principal, accrued interest and fees (if any) under the City Note.

Section 11. Representations and Warranties.

(a) City. City represents and warrants that:

(i) It has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by City and is a legal, valid, and binding agreement of City, enforceable in accordance with its terms. The execution, delivery, and performance of this Agreement by City will not violate any judgment or order applicable to City or City's instruments of organization, governance or operation, and will not result in any material breach of, or constitute a material default under, or result in the creation of any material lien, charge, security interest, or other encumbrance upon Parcel 1 or any note, bond, indenture, mortgage, deed of trust, bank loan, or credit agreement to which City is a party or by which Parcel 3 is bound.

(iii) City has not received any written notice of any pending condemnation, violation of law, or other legal action of any kind materially and adversely affecting Parcel 3.

(iv) City has no knowledge of any pending or threatened litigation, administrative action, or governmental investigation or examination (including, but not limited to, environmental investigations, examinations, claims, and demands) concerning Parcel 3.

(v) No third party has any right to acquire all or any part of Parcel 3.

(b) JBBrown. JBBrown represents and warrants that:

(i) JBBrown has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by JBBrown and is a legal, valid, and binding agreement of JBBrown, enforceable in accordance with its terms. The execution, delivery, and performance of this Agreement by JBBrown will not violate any judgment or order applicable to JBBrown or result in any material breach of or constitute a material default under any agreements to which JBBrown is a party.

(iii) JBBrown has not received any written notice of any pending condemnation, violation of law, or other legal action of any kind materially and adversely affecting Parcels 1 and 2.

(iv) JBBrown has no knowledge of any pending or threatened litigation, administrative action, or governmental investigation or examination (including, but not limited to, environmental investigations, examinations, claims, and demands) concerning Parcels 1 and 2.

(v) No third party has any right to acquire all or any part of Parcels 1 and 2.

(c) Survival. All representations and warranties contained herein are intended to remain true and correct as of the closing, are deemed to be restated at the closing, and will survive the closing.

Section 12. General Provisions.

(a) Assignment. Neither this Agreement nor any of the rights or obligations of any party pursuant to this Agreement may be assigned without the prior written consent of the other party.

(b) Brokers. Each party will indemnify and hold harmless the other from and against any claims for brokerage commissions arising out of any brokerage agreements entered into by the indemnifying party.

(c) Governing Law. This Agreement is governed by, and is to be construed and enforced in accordance with, the laws of the State of Maine (without regard to conflicts-of-laws principles that would require the application of any other law).

(d) Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the exchange of the property that is the subject of this Agreement, supersedes all prior oral or written offers, negotiations, agreements, understandings, and courses of dealing between the parties relating thereto, and is subject to no understandings, conditions or representations other than those expressly stated herein. This Agreement may be modified or amended only by means of a writing signed by the parties.

(e) Notices. Notices in connection with this Agreement must be in writing, delivered by certified mail or by Federal Express or a similar overnight delivery carrier to the addresses set forth below:

To JBBrown:

Vincent P. Veroneau
J.B. Brown & Sons
10 Free Street, Suite 100
P.O. Box 207
Portland, Maine 04112-0207

with a copy to:

David L. Galgay, Jr., Esq.
Verrill Dana LLP
One Portland Square
Portland, Maine 04112-0586

To City:

Gregory A. Mitchell
Director of Economic Development
City of Portland
389 Congress Street
Portland, Maine 04101

with a copy to:

Michael Goldman, Esq.
Corporation Counsel's Office
City of Portland
389 Congress Street
Portland, Maine 04101

Signature Page Follows

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the day and year first above written.

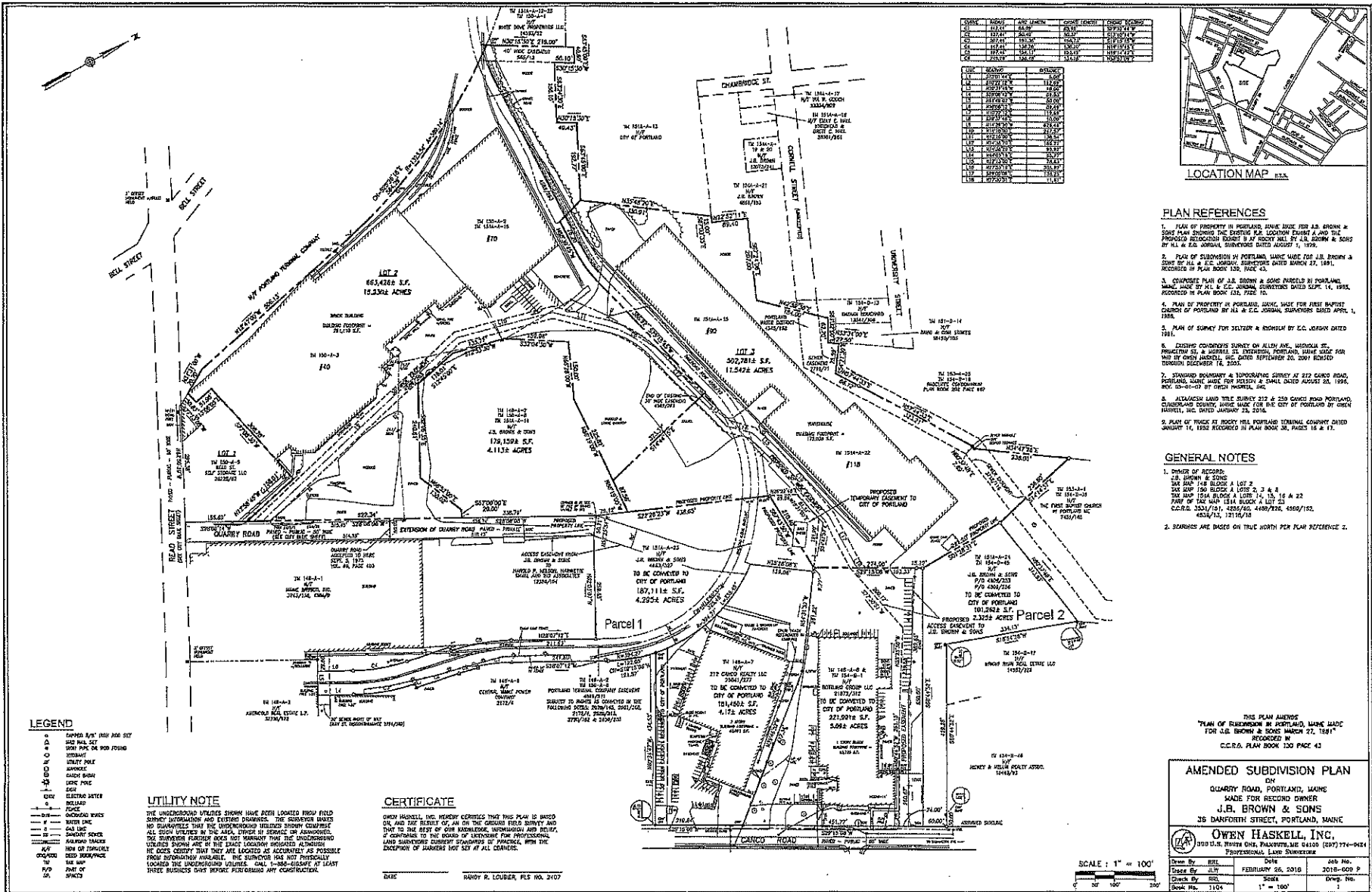
J.B. Brown & Sons

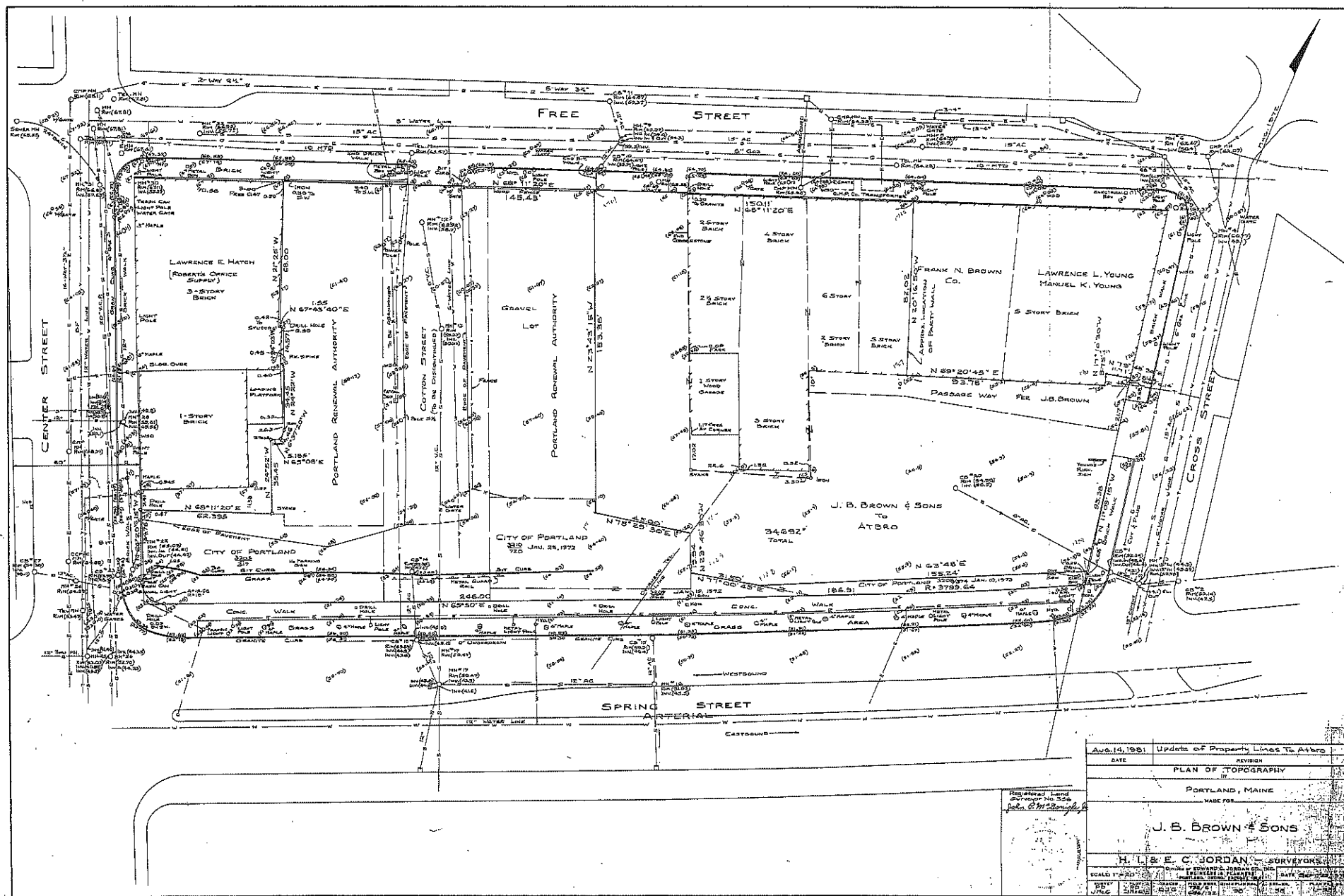
By: _____
Vincent P. Veroneau
Its President

City of Portland

By: _____
Jon P. Jennings
Its City Manager

EXHIBIT A





Aug. 14, 1931	Update of Property Lines to Atwood
DATE	REVISION
	PLAN OF TOPOGRAPHY
	PORTLAND, MAINE
	J. B. BROWN & SONS
	H. I. & E. C. JORDAN - SURVEYORS
SCALE 1"=20'	DESIGNED BY EDWARD C. JORDAN, INC.
BY J.M.C.	PLANNED & PLANNED
	DATE 11/14/33

ORIGINAL TO BOD. PATENT, VENTILL & DANA FOR RECORDING 11/14/33

Portland, Maine



Yes. Life's good here.

Executive Department
Jon P. Jennings, City Manager

April __, 2017

Vincent Veroneau, President
J.B. Brown & Sons
10 Free Street
Portland Maine 04101

Vincent Veroneau, President
Fore River Warehousing & Storage Co., Inc.
10 Free Street
Portland Maine 04101

Andrew Gilman, Manager
Quarry Warehouse, LLC
c/o Hyde Park Holdings, LLC
570 Lexington Avenue, 44th Floor
New York, NY 04101

RE: Access and Temporary Storage Easement Agreements

Dear Vin and Andrew:

This letter agreement is by and between the City of Portland ("City"), on the one hand, and J.B. Brown & Sons, a Maine corporation, and Quarry Warehouse, LLC, a Maine limited liability company as successor owner of the applicable real estate to Fore River Warehousing & Storage Co., Inc. (J.B. Brown & Sons and Quarry Warehouse, LLC collectively herein referred to as "JBBrown"), on the other, in reference to (i) an access easement over City property benefitting JBBrown, and (ii) a temporary storage easement on property owned by Quarry Warehouse, LLC benefitting the City.

The Temporary Storage Easement Agreement and the Access Easement Agreement were each dated March 22, 2016, and recorded in the Cumberland County Registry of Deeds in Book 32991, pages 25 and 31, respectively. Each of the easement agreements contains a unilateral termination provision allowing the owner of the burdened property the right to terminate the respective easement agreement if the City and J.B. Brown & Sons do not close the transfer of certain properties by

September 30, 2016, which deadline was extended by letter agreement dated September 30, 2016.

This letter memorializes our recent discussions and agreements on or about October 5, 2016 as follows:

1. J.B. Brown & Sons and Quarry Warehouse, LLC will execute a termination of the Access Easement in a recordable form as requested by City; and
2. The City and Quarry Warehouse, LLC shall execute a modified Temporary Storage Easement Agreement with a termination date of December 31, 2018 in a recordable form as agreed to by Quarry Warehouse, LLC and the City.

The parties shall execute and record the above-described documents at the closing on certain real property transfers contemplated by that certain Amended and Restated Land Exchange Agreement between the City and J.B. Brown & Sons dated _____, 2017. Please sign and date below to indicate your agreement with the terms hereinabove described. I appreciate your continued cooperation in this matter.

Sincerely,

Jon P. Jennings. City Manager

SEEN AND AGREED TO BY:

Vincent P. Veroneau, President,
J.B. Brown & Sons

Date: _____

Vincent P. Veroneau, President
Fore River Warehousing & Storage Co., Inc.

Date: _____

Andrew Gilman, Manager
Quarry Warehouse, LLC

Date: _____

*389 Congress Street, Room 211, Portland ME 04101
www.portlandmaine.gov / tel. 207.874.8480 / tty. 207.874.8936 / fax. 207.874.8497*

*Order 191-16/17
Tab 25 4-5-17*

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 ACCEPTING AND ADOPTING
THE 2017 HOUSING TRUST FUND ANNUAL PLAN**

ORDERED, that the 2017 Housing Trust Fund Annual Plan, attached hereto, is hereby accepted and adopted.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: March 20, 2017

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

SUBJECT: Order Approving the 2017 Housing Trust Fund Annual Plan

SPONSOR: Jill Duson, Chair, Housing Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading April 5th Final Action April 5th

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

PRESENTATION: Staff will be available to answer questions

I. SUMMARY OF ISSUE (Agenda Description)

The Housing Committee met on February 8, 2017 and voted 3-0 to forward the 2017 Housing Trust Fund Annual Plan to the City Council with a recommendation for passage.

II. AGENDA DESCRIPTION

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income). The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit's affordability and reduce any risk of foreclosure. It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property. The City should act prudently when deciding to invest these funds.

III. BACKGROUND

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated.

V. FINANCIAL IMPACT

This budget is based on the current balance in the Housing Trust Fund which is primarily a result of fees generated by the Housing Replacement Ordinance. The balance of the Housing Trust Fund is \$468,551. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in the 2017 Annual Plan as new funding commitments have not been received as of the date of this memo.

Sources and Uses of Housing Trust Fund:

DEPOSITS		EXPENDITURES	
Maine Medical Center 2002-2003	\$ 315,580	Avesta Oak Street Lofts 2011	\$ (380,585)
Sportsman's Grill 2002	\$ 40,000	Housing First Pre-Development RFP	\$ (75,000)
Berlin City Auto 2009	\$ 116,000	65 Hanover St	\$ (9,250)
Stop n Shop 2010	\$ 289,250	65 Munjoy ST	\$ (175,000)
Rockbridge/Eastland Park 2012	\$ 42,500		
Riverwalk/Ocean Gateway 2012	\$ 250,000		
118 Congress LLC April 2014	\$ 3,500		
Interest earned	\$ 51,556	Balance	\$ 468,551

VI. STAFF ANALYSIS

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2017-2018 includes \$327,145 in HOME funding for affordable housing development, \$150,000 for housing rehabilitation and \$362,113 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years. Homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

VII. RECOMMENDATION

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income). As always, the City should act prudently when deciding to invest these funds.

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit's affordability and reduce any risk of foreclosure. It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property.

Staff is requesting City Council approval of the proposed 2017 Housing Trust Fund Annual Plan for the balance of \$468,551 currently existing in the Housing Trust Fund. Any revenue generated above and beyond the existing balance will not be allocated without an amendment to the Annual Plan.

FY 2016 Income Limit Category	Persons in Family							
	1	2	3	4	5	6	7	8
50% Income Limits	26,900	30,750	34,600	38,400	41,500	44,550	47,650	50,700
Housing Expense at 30% of Income	673	769	865	960	1,038	1,114	1,191	1,268
100% Income Limits	53,970	61,680	69,390	77,100	83,268	89,436	95,604	101,772
Housing Expense at 30% of Income	1,349	1,542	1,735	1,928	2,082	2,236	2,390	2,544

VIII. LIST ATTACHMENTS

Copy of Chapter 14, Division 31, Sec. 14-489 of the City Code of Ordinances.

Housing Trust Fund Annual Plan

Prepared by: Mary P. Davis, Division Director, Housing and Community Development Division

Dated: March 20, 2017

any bonus received pursuant to this subsection, may not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the city's comprehensive plan.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10)

DIVISION 31. HOUSING TRUST FUND

Sec. 14-489. Housing trust fund.

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.
2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

Very low income household. A household having an income not exceeding fifty (50%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Low income household. A household having an income not exceeding eighty (80%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Moderate income household. A household having an income not exceeding one hundred twenty (120%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name

"City of Portland Housing Trust Fund." Deposits into the fund shall include:

1. Contributions from the city's housing replacement ordinance under 14-483(i);
2. Funds appropriated to be deposited into the fund by vote of the city council;
3. Voluntary contributions of money or other liquid assets to the fund;
4. Any federal, state or private grant or loan funds provided to the fund;
5. Interest from fund deposits and investments; and
6. Repayments of loans made from the fund.

(d) *Management of the trust fund.* The city manager, or his or her designee, shall serve as the manager of the housing trust fund. The responsibilities of the manager, subject to the orders of the city council, shall include:

1. Maintaining the financial and other records of the housing trust fund;
2. Disbursing and collecting housing trust fund monies in accordance with the housing trust fund annual plan; and
3. Monitoring the use of monies distributed to successful applicants for housing trust fund support to assure ongoing compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

(e) *Housing trust fund annual plan.* Each fiscal year, the city council shall adopt a housing trust fund annual plan. The city manager shall submit to the city council a recommended housing trust fund annual plan, utilizing the revenues of the housing trust fund as well as any other funds the manager may propose as appropriate. The housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

The housing trust fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the housing trust fund;
2. A description of how funds from the housing trust fund will be distributed among very-low-income, low-income and moderate income households; and
3. The amount of funds budgeted for programs funded in part or in full from the housing trust fund.

Priority for the expenditure of funds collected pursuant to the housing replacement ordinance (see Sec. 14-483) shall be given to the creation of new housing stock, through either new construction or conversion of non-residential buildings to residential use.

(f) *Distribution and use of the housing trust fund's assets.*

1. All distribution of principal, interest or other assets of the housing trust fund shall be made in furtherance of the public purposes set out in section 14-483.
2. During each year, the housing trust fund shall disburse as grants or loans so much of the housing trust fund's assets as the city council in its discretion has approved in the housing trust fund annual plan.
3. Funds shall not be used for city administrative expenses.
4. Funds shall not be used for property operating expenses or supporting services.
5. No grants or loans shall be awarded by the housing trust fund to corporations, partnerships or individuals who are delinquent, at the time of application in the payment of property taxes or other fees to the city of Portland, who have been convicted of arson, who have been convicted of discrimination in the sale or lease

of housing under the fair housing laws of the State of Maine, or who have pending violations of current city electrical, plumbing building or housing codes or zoning ordinances.

(g) *Term of affordability.*

1. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of thirty (30) years.
2. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the city of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the city of Portland.
3. The affordability restriction requirements described in this section shall run with the land and the city of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.

(Ord. No. 281-09/10, 7-19-10)

Sec. 14-490. Reserved.

ARTICLE IV. SUBDIVISIONS*

*Cross reference(s)--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

State law reference(s)--Land subdivisions, 30-A M.R.S.A. § 4403.

HOUSING TRUST FUND 2017 ANNUAL PLAN

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated. The plan is in line with City Council Goals from 2014: Promote Housing Availability – Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors and from 2016, Plan for five new "Housing First" projects.

This budget is based on the current balance in the Housing Trust Fund which is primarily a result of fees generated by the Housing Replacement Ordinance. The balance of the Housing Trust Fund is \$468,551. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in the 2017 Annual Plan.

Sources and Uses of Housing Trnst Fund:

DEPOSITS		EXPENDITURES	
Maine Medical Center 2002-2003	\$ 315,580	Avesta Oak Street Lofts 2011	\$ (380,585)
Sportsman's Grill 2002	\$ 40,000	Housing First Pre-Development RFP	\$ (75,000)
Berlin City Auto 2009	\$ 116,000	65 Hanover St	\$ (9,250)
Stop n Shop 2010	\$ 289,250	65 Munjoy ST	\$ (175,000)
Rockbridge/Eastland Park 2012	\$ 42,500		
Riverwalk/Ocean Gateway 2012	\$ 250,000		
118 Congress LLC April 2014	\$ 3,500		
Interest earned	\$ 51,556	Balance	\$ 468,551

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2017-2018 includes \$327,145 in HOME funding for affordable housing development, \$150,000 for housing rehabilitation and \$362,113 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years. Homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income). As always, the City should act prudently when deciding to invest these funds. Developments or projects requesting financing assistance from the Housing Trust Fund will be brought to the City Council for funding approval.

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit's affordability and reduce any risk of foreclosure. It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property.

Staff is requesting City Council approval of the proposed 2017-2018 Housing Trust Fund Annual Plan for the balance of \$468,551 currently existing in the Housing Trust Fund. Any revenue generated above and beyond the existing balance will not be allocated without an amendment to the Annual Plan.

*Order 192-16/17
Tab 26 4-5-17*

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 THE COLLECTIVE BARGAINING AGREEMENT WITH
COMMUNICATIONS EMPLOYEE ASSOCIATION**

ORDERED, that the attached Collective Bargaining Agreement with the Communications
Employee Association for July 1, 2016 through June 30, 2018 is hereby approved.

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Mayor Ethan Strimling and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager *TAC*

DATE: March 16, 2017

RE: Tentative Agreement with:
Communications Employee Association - 1st Reading

Staff has reached a tentative agreement with the Communications Employee Association on a successor two (2) year contract. The prior collective bargaining agreement expired June 30, 2016.

The Communications Employee Association, which is comprised of 36 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The Administration is requesting a first reading on April 5, 2017. The tentative agreement is within the guidance received by the City Council on August 1, 2016.

The City and the Communications Unit have reached a tentative agreement on a two (2) year contract with a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016 and a 2.0% general wage increase effective July 5, 2017. All other economic agreements will be implemented upon approval by Council. The duration of the contract and the COLA recommendations are consistent with the bargaining strategy previously discussed with the Council.

Other economic items tentatively agreed to are:

- Instead of being provided with clothing, employees will be reimbursed up to \$300.00 per fiscal year for the purchase of pants, belts and footwear.
- Employees may cash in accrued compensatory time for cash in blocks of eight hours.
- Eliminated the first step in the Telecommunications Supervisor pay scale to provide a greater incentive to be promoted.

The union has further agreed to accept the Direct Deposit system proposed by the City in consideration of the above economic agreements.

The union has voted to approve this Agreement, and once approved by Council the Agreement will govern the rights of the parties from July 1, 2016 through June 30, 2018.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the two (2) year agreement is approximately \$93,000.

Cc: Jon P. Jennings – City Manager
Danielle West-Chuhta – Corporate Counsel
Anne Torregrossa – Associate Corporate Counsel
Michael Sauschuck – Portland Police Chief
Vernon Malloch – Assistant Police Chief
David Jackson – Fire Chief
Andrew Dziegielewski – Emergency Communications Director
Gina Tapp – Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Employment Services Manager
Jennifer Lodge – Budget Analyst
Lori Schools – Payroll Manager

Order 193-16/17
Tab 2 4-5-17

Councilor Ray (new bond order)

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 LYSETH ELEMENTARY SCHOOL RENOVATION PROJECT AND
OTHER MISCELLANEOUS IMPROVEMENTS AT REICHE, OCEAN AVENUE, PEAKS
ISLAND AND RIVERTON ELEMENTARY SCHOOLS, LYMAN MOORE AND KING
MIDDLE SCHOOLS, AND DEERING HIGH SCHOOL
WITH TOTAL PROJECT COSTS NOT TO EXCEED \$24,000,000
AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE SUBJECT TO THE
CONDITIONS CONTAINED IN THIS ORDER**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, IT IS HEREBY

ORDERED THAT, subject to the conditions contained in this Order:

There be and hereby is authorized and approved the renovation, furnishing and equipping of Lyseth elementary school and other miscellaneous school improvements with total project costs not to exceed \$24,000,000 (the "School Projects"), as follows:

Lyseth	Substantially renovated and rehabilitated	\$16,362,275
Lyseth	Bus Loop, Field Work, and Drainage Issues	\$1,450,000
Lyseth & Lyman Moore	Moore Parking Improvements	\$247,489
Lyman Moore	Fire Alarm Installation and Upgrades	\$270,000
King	Fire Alarm Installation and Upgrades	\$270,000
Ocean Avenue	Four Classrooms	\$1,500,000
Reiche Elementary	New Brackett Street Entrance	\$2,400,106
Peaks Island & Riverton	Energy Efficiency Upgrades (Peaks: ceiling & lighting upgrades; Riverton: heat piping in new wing, replace original rooftop AC)	\$170,000
Deering High	Sprinklers & Fire Alarm Installation and Upgrades	\$1,330,130
TOTAL:		\$24,000,000

and that there be and hereby is authorized the issue and sale of the City's general obligation bonds in the aggregate principal amount not to exceed \$24,000,000 to finance the costs of such School Projects.

BE IT FURTHER ORDERED, subject to the conditions contained in this Order:

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$24,000,000 (the "Bonds") at one

time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of one or more notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity of any BAN not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the School Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same

maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the School Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the School Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the School Projects is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the School Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the School Projects; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project;

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds

hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

24. If this Order is submitted to voter referendum election at the same time that either or both of Order 155-16/17 and Order 196-16/17 (the "Alternate School Orders") are also submitted to voter referendum election, pursuant to Article VII, Section 16 of the City Charter, this Order shall be submitted subject to the following conditions:

- a. In the event this Order is approved by a majority of voters voting at the referendum election, and neither of the Alternate School Orders is approved by a majority of voters voting at the referendum election, the authority to issue the Bonds and BANs described in this Order shall be approved and shall be effective and issuance of the Bonds and BANs described herein shall be authorized as provided in this Order.
- b. In the event both this Order and either or both of the Alternate School Orders are approved by a majority of voters voting at the referendum election, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless this Order also shall have received more votes for this Order as compared to votes for each of the Alternate School Orders.
- c. In the event both this Order and either or both of the Alternate School Orders are approved by a majority of voters voting at the referendum election and this Order and one or more of the Alternate School Orders shall have received the same number of favorable votes, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless this Order also shall have received fewer votes against this Order as compared to votes against the Alternate School Order(s) that received the same number of favorable votes.
- d. Even if the total number of votes cast for and against this Order should be less than ten (10) percent of the registered voters of the City, the second sentence of Article VII, Section 16(d) of the City Charter shall not be applicable to this Order, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless the foregoing conditions in this paragraph, as applicable, are met.

Order 194-16/17
Tab 28 4-5-17

Councilor Ray (new appropriation order)

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 APPROPRIATING \$24,000,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of \$24,000,000 hereby is appropriated to finance the renovation, furnishing and equipping of Lyseth elementary school and other miscellaneous improvements at Reiche, Ocean Avenue, Peaks Island and Riverton Elementary Schools, Lyman Moore and King Middle Schools and Deering High School with total project costs not to exceed \$24,000,000 (the "School Projects"), as follows:

Lyseth	Substantially renovated and rehabilitated	\$16,362,275
Lyseth	Bus Loop, Field Work, and Drainage Issues	\$1,450,000
Lyseth & Lyman Moore	Moore Parking Improvements	\$247,489
Lyman Moore	Fire Alarm Installation and Upgrades	\$270,000
King	Fire Alarm Installation and Upgrades	\$270,000
Ocean Avenue	Four Classrooms	\$1,500,000
Reiche Elementary	New Brackett Street Entrance	\$2,400,106
Peaks Island & Riverton	Energy Efficiency Upgrades (Peaks: ceiling & lighting upgrades; Riverton: heat piping in new wing, replace original rooftop AC)	\$170,000
Deering High	Sprinklers & Fire Alarm Installation and Upgrades	\$1,330,130
TOTAL:		\$24,000,000

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council (and, as necessary, the voters of the City of Portland and the satisfaction of any necessary condition) of general obligation bonds for such purpose (the amount appropriated to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed School Project.

Order 195-16/17
Tab 29 45-11

Councilor Ray (new referendum order)

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 SUBMITTING ELEMENTARY SCHOOL RENOVATION PROJECTS
BOND ORDER TO REFERENDUM**

WHEREAS, contemporaneously herewith the City Council adopted an order authorizing the the renovation, furnishing and equipping of Lyseth elementary school and other miscellaneous school improvements with total project costs not to exceed \$24,000,000 (the "School Projects"), and further authorizing issuance of the City's bonds in an amount not to exceed \$24,000,000 to finance the costs of the School Projects (the "School Order") and

WHEREAS, Article VII, Section 16 of the City Charter requires that the School Order be submitted to the voters of the City following a public hearing;

WHEREAS, the City Council held a public hearing on the School Order at its meeting held April 24, 2017;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF PORTLAND BE IT HEREBY ORDERED:

THAT the question of whether the voters approve and ratify the School Order be submitted to the voters of the City of Portland in accordance with Article VII, Section 16 of the City Charter, at a municipal election to be held on November 7, 2017, substantially in the form attached hereto as Exhibit A.

THAT the City Manager, Director of Finance and Clerk be and hereby are authorized and directed to undertake all action necessary or appropriate to finalize the form of the referendum question, with such other information as may be required by law or, in the discretion of the Director of Finance, as may be permitted by law, and to place said School Order before the voters at such election.

Exhibit A

Question ____: Shall the Order entitled "ORDER APPROVING LYSETH ELEMENTARY SCHOOL RENOVATION PROJECT AND OTHER MISCELLANEOUS IMPROVEMENTS AT REICHE, OCEAN AVENUE, PEAKS ISLAND AND RIVERTON ELEMENTARY SCHOOLS, LYMAN MOORE AND KING MIDDLE SCHOOLS, AND DEERING HIGH SCHOOL WITH TOTAL PROJECT COSTS NOT TO EXCEED \$24,000,000 AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE SUBJECT TO THE CONDITIONS CONTAINED IN THIS ORDER", with provisions for early redemption as set forth in said Order be Approved?

Order 196-16/17
Tab 30 4-5-1,

Councilor Mavodones/Councilor Duson (new bond order)

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 LYSETH AND PRESUMPCOT ELEMENTARY SCHOOL
RENOVATION PROJECTS WITH TOTAL PROJECT COSTS NOT TO EXCEED \$31,626,000
AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE SUBJECT TO THE
CONDITIONS CONTINUED IN THIS ORDER**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, IT IS HEREBY

ORDERED THAT, subject to the conditions contained in this Order:

There be and hereby is authorized and approved the renovation, furnishing and equipping of Lyseth and Presumpscot elementary schools with total project costs not to exceed \$31,626,000 (the "Elementary School Projects"), as follows:

Lyseth Elementary	\$17,998,00 0
Presumpscot Elementary	13,628,000
Total	\$31,626,00 0

and that there be and hereby is authorized the issue and sale of the City's general obligation bonds in the aggregate principal amount not to exceed \$31,626,000 to finance the costs of such Elementary School Projects.

BE IT FURTHER ORDERED, subject to the conditions contained in this Order:

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$31,626,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of one or more notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity of any BAN not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Elementary School Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of

Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Elementary School Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Elementary School Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Elementary School Projects is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Elementary School Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Elementary School Projects; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project;

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

24. If this Order is submitted to voter referendum election at the same time that either or both of Order 155-16/17 and Order 193-16/17 (the "Alternate School Orders") are also submitted to voter referendum election, pursuant to Article VII, Section 16 of the City Charter, this Order shall be submitted subject to the following conditions:

- a. In the event this Order is approved by a majority of voters voting at the referendum election, and neither of the Alternate School Orders is approved by a majority of voters voting at the referendum election, the authority to issue the Bonds and BANs described in this Order shall be approved and shall be effective and issuance of the Bonds and BANs described herein shall be authorized as provided in this Order.
- b. In the event both this Order and either or both of the Alternate School Orders are approved by a majority of voters voting at the referendum election, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless this Order also shall have received more votes for this Order as compared to votes for each of the Alternate School Orders.
- c. In the event both this Order and either or both of the Alternate School Orders are approved by a majority of voters voting at the referendum election and this Order and one or more of the Alternate School Orders shall have received the same number of favorable votes, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless this Order also shall have received fewer votes against this Order as compared to votes against the Alternate School Order(s) that received the same number of favorable votes.
- d. Even if the total number of votes cast for and against this Order should be less than ten (10) percent of the registered voters of the City, the second sentence of Article VII, Section 16(d) of the City Charter shall not be applicable to this Order, the authority to issue the Bonds and BANs described in this Order shall not be approved and shall not be effective and issuance of the Bonds and BANs described herein shall not be authorized unless the foregoing conditions in this paragraph, as applicable, are met.

BE IT FURTHER ORDERED THAT if this Order is approved and becomes effective as provided in the foregoing paragraph and either or both of Longfellow and Reiche Elementary Schools (the "Additional Elementary Schools") are not included in the Department of Education's State subsidy Approved Projects List for school construction projects, expected to be finalized in 2018, such that such school construction projects, in the reasonable judgment of the City Council, would have a high likelihood of being completed by 2025, then the City Council will make good faith efforts to submit the question of school construction projects for the Additional Elementary Schools to the voters.

Order 197-16/17
Tab 31 4-5-17

Councilor Mavodones/Councilor Duson (new appropriation order)

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 APPROPRIATING \$31,626,000 OF BOND PROCEEDS

IT IS HEREBY ORDERED THAT:

1. Subject to paragraph 2 below, the sum of \$31,626,000 hereby is appropriated to finance the renovation, furnishing and equipping of Lyseth and Presumpscot elementary school with total project costs not to exceed \$31,626,000 (the "Elementary School Projects"), as follows:

Lyseth Elementary	\$17,998,000
Presumpscot Elementary	13,628,000
Total	\$31,626,000

2. The appropriation set forth in paragraph 1 above is and shall be contingent upon the approval by the City Council (and, as necessary, the voters of the City of Portland and the satisfaction of any necessary condition) of general obligation bonds for such purpose (the amount appropriated to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any Elementary School Project differs from the estimated cost set forth herein, whether due to completion, delay or abandonment of said Elementary School Project for any other reason, the Director of Finance is authorized, in his discretion, to allocate or reallocate proceeds of the Bonds to any other listed Elementary School Project.

Order 198-16/17
Tab 32 4-5-17

Councilor Mavodones/Councilor Duson (new referendum order)

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 SUBMITTING ELEMENTARY SCHOOL RENOVATION PROJECTS
BOND ORDER TO REFERENDUM**

WHEREAS, contemporaneously herewith the City Council adopted an order authorizing the renovation, furnishing and equipping of Lyseth and Presumpscot elementary schools with total project costs not to exceed \$31,626,000 (the "Elementary School Projects"), and further authorizing issuance of the City's bonds in an amount not to exceed \$31,626,000 to finance the costs of the Project (the "Elementary School Order") and

WHEREAS, Article VII, Section 16 of the City Charter requires that the Elementary School Order be submitted to the voters of the City following a public hearing;

WHEREAS, the City Council held a public hearing on the Elementary School Order at its meeting held April 24, 2017;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF PORTLAND BE IT HEREBY ORDERED:

THAT the question of whether the voters approve and ratify the Elementary School Order be submitted to the voters of the City of Portland in accordance with Article VII, Section 16 of the City Charter, at a municipal election to be held on November 7, 2017, substantially in the form attached hereto as Exhibit A.

THAT the City Manager, Director of Finance and Clerk be and hereby are authorized and directed to undertake all action necessary or appropriate to finalize the form of the referendum question, with such other information as may be required by law or, in the discretion of the Director of Finance, as may be permitted by law, and to place said Elementary School Order before the voters at such election.

Exhibit A

Question __: Shall the Order entitled "ORDER APPROVING LYSETH AND PRESUMPCOT ELEMENTARY SCHOOL RENOVATION PROJECTS WITH TOTAL PROJECT COSTS NOT TO EXCEED \$31,626,000 AND AUTHORIZING GENERAL OBLIGATION BONDS THEREFORE SUBJECT TO THE CONDITIONS CONTAINED IN THIS ORDER", with provisions for early redemption as set forth in said Order be Approved?